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1ST SESSION**H. R. 3963**

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IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2007

Received and read the first time

OCTOBER 26, 2007

Read the second time 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,*

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECU-**  
4 **RITY ACT; REFERENCES; TABLE OF CON-**  
5 **TENTS.**

6 (a) SHORT TITLE.—This Act may be cited as “Chil-  
7 dren's Health Insurance Program Reauthorization Act of  
8 2007”.

1 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 2 cept as otherwise specifically provided, whenever in this  
 3 Act an amendment is expressed in terms of an amendment  
 4 to or repeal of a section or other provision, the reference  
 5 shall be considered to be made to that section or other  
 6 provision of the Social Security Act.

7 (c) REFERENCES TO CHIP; MEDICAID; SEC-  
 8 RETARY.—In this Act:

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

13 (2) MEDICAID.—The term “Medicaid” means  
 14 the program for medical assistance established under  
 15 title XIX of the Social Security Act (42 U.S.C. 1396  
 16 et seq.).

17 (3) SECRETARY.—The term “Secretary” means  
 18 the Secretary of Health and Human Services.

19 (d) TABLE OF CONTENTS.—The table of contents of  
 20 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references; table of con-  
 tents.

Sec. 2. Purpose.

Sec. 3. General effective date; exception for State legislation; contingent effec-  
 tive 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 2008 through 2012.
- 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. 2-year initial availability of CHIP allotments.
- Sec. 106. Making permanent redistribution of unused fiscal year 2005 allotments to address State funding shortfalls; conforming extension of qualifying State authority; redistribution of unused allotments for subsequent fiscal years.
- 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. Denial of payments for coverage of children with effective family income that exceeds 300 percent of the poverty line.
- Sec. 115. State authority under Medicaid.
- Sec. 116. Preventing substitution of CHIP coverage for private coverage.

### 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.

### 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. Demonstration projects relating to diabetes prevention.
- Sec. 506. 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; disallowance for unauthorized expenditures.

##### 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. County Medicaid health insuring organizations; GAO report on Medicaid managed care payment rates.
- Sec. 615. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.
- Sec. 616. Moratorium on certain payment restrictions.
- Sec. 617. Medicaid DSH allotments for Tennessee and Hawaii.
- Sec. 618. Clarification treatment of regional medical center.
- Sec. 619. Extension of SSI web-based asset demonstration project to the Medicaid program.

##### Subtitle C—Other Provisions

- Sec. 621. Support for injured servicemembers.
- Sec. 622. Outreach regarding health insurance options available to children.

Sec. 623. Sense of Senate regarding access to affordable and meaningful health insurance coverage.

TITLE VII—REVENUE PROVISIONS

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

Sec. 702. Administrative improvements.

Sec. 703. 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 October 1, 2007, 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  
21 one or more additional requirements imposed by amend-  
22 ments made by this Act, the respective plan shall not be

1 regarded as failing to comply with the requirements of  
2 such title solely on the basis of its failure to meet such  
3 an additional requirement before the first day of the first  
4 calendar quarter beginning after the close of the first reg-  
5 ular session of the State legislature that begins after the  
6 date of enactment of this Act. For purposes of the pre-  
7 vious sentence, in the case of a State that has a 2-year  
8 legislative session, each year of the session shall be consid-  
9 ered to be a separate regular session of the State legisla-  
10 ture.

11 (c) CONTINGENT EFFECTIVE DATE FOR CHIP  
12 FUNDING FOR FISCAL YEAR 2008.—Notwithstanding any  
13 other provision of law, if funds are appropriated under any  
14 law (other than this Act) to provide allotments to States  
15 under CHIP for all (or any portion) of fiscal year 2008—

16 (1) any amounts that are so appropriated that  
17 are not so allotted and obligated before the date of  
18 the enactment of this Act are rescinded; and

19 (2) any amount provided for CHIP allotments  
20 to a State under this Act (and the amendments  
21 made by this Act) for such fiscal year shall be re-  
22 duced by the amount of such appropriations so allot-  
23 ted and obligated before such date.

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

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

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

## 18 **TITLE I—FINANCING**

### 19 **Subtitle A—Funding**

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

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

22 (1) in paragraph (9), by striking “and” at the  
23 end;

24 (2) in paragraph (10), by striking the period at  
25 the end and inserting a semicolon; and

1           (3) by adding at the end the following new  
2 paragraphs:

3           “(11) for fiscal year 2008, \$9,125,000,000;

4           “(12) for fiscal year 2009, \$10,675,000,000;

5           “(13) for fiscal year 2010, \$11,850,000,000;

6           “(14) for fiscal year 2011, \$13,750,000,000;

7 and

8           “(15) for fiscal year 2012, for purposes of mak-  
9 ing 2 semi-annual allotments—

10                   “(A) \$1,150,000,000 for the period begin-  
11 ning on October 1, 2011, and ending on March  
12 31, 2012, and

13                   “(B) \$1,150,000,000 for the period begin-  
14 ning on April 1, 2012, and ending on Sep-  
15 tember 30, 2012.”.

16 **SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES**  
17 **FOR FISCAL YEARS 2008 THROUGH 2012.**

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

19           (1) in subsection (b)(1), by striking “subsection  
20 (d)” and inserting “subsections (d) and (i)”;

21           (2) in subsection (c)(1), by striking “subsection  
22 (d)” and inserting “subsections (d) and (i)(4)”; and

23           (3) by adding at the end the following new sub-  
24 section:



1       “(i) ALLOTMENTS FOR FISCAL YEARS 2008  
2 THROUGH 2012.—

3               “(1) FOR FISCAL YEAR 2008.—

4                       “(A) FOR THE 50 STATES AND THE DIS-  
5 TRICT OF COLUMBIA.—Subject to the suc-  
6 ceeding provisions of this paragraph and para-  
7 graph (4), the Secretary shall allot for fiscal  
8 year 2008 from the amount made available  
9 under subsection (a)(11), to each of the 50  
10 States and the District of Columbia 110 per-  
11 cent of the highest of the following amounts for  
12 such State or District:

13                               “(i) The total Federal payments to  
14 the State under this title for fiscal year  
15 2007, multiplied by the allotment increase  
16 factor determined under paragraph (5) for  
17 fiscal year 2008.

18                               “(ii) The Federal share of the amount  
19 allotted to the State for fiscal year 2007  
20 under subsection (b), multiplied by the al-  
21 lotment increase factor determined under  
22 paragraph (5) for fiscal year 2008.

23                               “(iii) Only in the case of—

24                                       “(I) a State that received a pay-  
25 ment, redistribution, or allotment

1 under paragraph (1), (2), or (4) of  
2 subsection (h), the amount of the pro-  
3 jected total Federal payments to the  
4 State under this title for fiscal year  
5 2007, as determined on the basis of  
6 the November 2006 estimates certified  
7 by the State to the Secretary;

8 “(II) a State whose projected  
9 total Federal payments to the State  
10 under this title for fiscal year 2007,  
11 as determined on the basis of the May  
12 2006 estimates certified by the State  
13 to the Secretary, were at least  
14 \$95,000,000 but not more than  
15 \$96,000,000 higher than the projected  
16 total Federal payments to the State  
17 under this title for fiscal year 2007 on  
18 the basis of the November 2006 esti-  
19 mates, the amount of the projected  
20 total Federal payments to the State  
21 under this title for fiscal year 2007 on  
22 the basis of the May 2006 estimates;  
23 or

24 “(III) a State whose projected  
25 total Federal payments under this

1 title for fiscal year 2007, as deter-  
2 mined on the basis of the November  
3 2006 estimates certified by the State  
4 to the Secretary, exceeded all amounts  
5 available to the State for expenditure  
6 for fiscal year 2007 (including any  
7 amounts paid, allotted, or redistrib-  
8 uted to the State in prior fiscal  
9 years), the amount of the projected  
10 total Federal payments to the State  
11 under this title for fiscal year 2007,  
12 as determined on the basis of the No-  
13 vember 2006 estimates certified by  
14 the State to the Secretary,  
15 multiplied by the allotment increase factor  
16 determined under paragraph (5) for fiscal  
17 year 2008.

18 “(iv) The projected total Federal pay-  
19 ments to the State under this title for fis-  
20 cal year 2008, as determined on the basis  
21 of the August 2007 projections certified by  
22 the State to the Secretary by not later  
23 than September 30, 2007.

24 “(B) FOR THE COMMONWEALTHS AND  
25 TERRITORIES.—Subject to the succeeding provi-

1           sions of this paragraph and paragraph (4), the  
2           Secretary shall allot for fiscal year 2008 from  
3           the amount made available under subsection  
4           (a)(11) to each of the commonwealths and ter-  
5           ritories described in subsection (c)(3) an  
6           amount equal to the highest amount of Federal  
7           payments to the commonwealth or territory  
8           under this title for any fiscal year occurring  
9           during the period of fiscal years 1998 through  
10          2007, multiplied by the allotment increase fac-  
11          tor determined under paragraph (5) for fiscal  
12          year 2008, except that subparagraph (B) there-  
13          of shall be applied by substituting ‘the United  
14          States’ for ‘the State’.

15                 “(C) DEADLINE AND DATA FOR DETER-  
16                 MINING FISCAL YEAR 2008 ALLOTMENTS.—In  
17                 computing the amounts under subparagraphs  
18                 (A) and (B) that determine the allotments to  
19                 States for fiscal year 2008, the Secretary shall  
20                 use the most recent data available to the Sec-  
21                 retary before the start of that fiscal year. The  
22                 Secretary may adjust such amounts and allot-  
23                 ments, as necessary, on the basis of the expend-  
24                 iture data for the prior year reported by States  
25                 on CMS Form 64 or CMS Form 21 not later

1 than November 30, 2007, but in no case shall  
2 the Secretary adjust the allotments provided  
3 under subparagraph (A) or (B) for fiscal year  
4 2008 after December 31, 2007.

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

13 “(2) FOR FISCAL YEARS 2009 THROUGH 2011.—

14 “(A) IN GENERAL.—Subject to paragraphs  
15 (4) and (6), from the amount made available  
16 under paragraphs (12) through (14) of sub-  
17 section (a) for each of fiscal years 2009  
18 through 2011, respectively, the Secretary shall  
19 compute a State allotment for each State (in-  
20 cluding the District of Columbia and each com-  
21 monwealth and territory) for each such fiscal  
22 year as follows:

23 “(i) GROWTH FACTOR UPDATE FOR  
24 FISCAL YEAR 2009.—For fiscal year 2009,

1 the allotment of the State is equal to the  
2 sum of—

3 “(I) the amount of the State al-  
4 lotment under paragraph (1) for fiscal  
5 year 2008; and

6 “(II) the amount of any pay-  
7 ments made to the State under sub-  
8 section (j) for fiscal year 2008,  
9 multiplied by the allotment increase factor  
10 under paragraph (5) for fiscal year 2009.

11 “(ii) REBASING IN FISCAL YEAR  
12 2010.—For fiscal year 2010, the allotment  
13 of the State is equal to the Federal pay-  
14 ments to the State that are attributable to  
15 (and countable towards) the total amount  
16 of allotments available under this section  
17 to the State in fiscal year 2009 (including  
18 payments made to the State under sub-  
19 section (j) for fiscal year 2009 as well as  
20 amounts redistributed to the State in fiscal  
21 year 2009), multiplied by the allotment in-  
22 crease factor under paragraph (5) for fis-  
23 cal year 2010.

24 “(iii) GROWTH FACTOR UPDATE FOR  
25 FISCAL YEAR 2011.—For fiscal year 2011,

1 the allotment of the State is equal to the  
2 sum of—

3 “(I) the amount of the State al-  
4 lotment under clause (ii) for fiscal  
5 year 2010; and

6 “(II) the amount of any pay-  
7 ments made to the State under sub-  
8 section (j) for fiscal year 2010,  
9 multiplied by the allotment increase factor  
10 under paragraph (5) for fiscal year 2011.

11 “(3) FOR FISCAL YEAR 2012.—

12 “(A) FIRST HALF.—Subject to paragraphs  
13 (4) and (6), from the amount made available  
14 under subparagraph (A) of paragraph (15) of  
15 subsection (a) for the semi-annual period de-  
16 scribed in such paragraph, increased by the  
17 amount of the appropriation for such period  
18 under section 108 of the Children’s Health In-  
19 surance Program Reauthorization Act of 2007,  
20 the Secretary shall compute a State allotment  
21 for each State (including the District of Colum-  
22 bia and each commonwealth and territory) for  
23 such semi-annual period in an amount equal to  
24 the first half ratio (described in subparagraph

1 (D)) of the amount described in subparagraph  
2 (C).

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

14 “(i) the amount of the allotment to  
15 such State under subparagraph (A); to

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

19 “(C) FULL YEAR AMOUNT BASED ON  
20 REBASED AMOUNT.—The amount described in  
21 this subparagraph for a State is equal to the  
22 Federal payments to the State that are attrib-  
23 utable to (and countable towards) the total  
24 amount of allotments available under this sec-  
25 tion to the State in fiscal year 2011 (including



1 payments made to the State under subsection  
2 (j) for fiscal year 2011 as well as amounts re-  
3 distributed to the State in fiscal year 2011),  
4 multiplied by the allotment increase factor  
5 under paragraph (5) for fiscal year 2012.

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

9 “(i) the sum of—

10 “(I) the amount made available  
11 under subsection (a)(15)(A); and

12 “(II) the amount of the appro-  
13 priation for such period under section  
14 108 of the Children’s Health Insur-  
15 ance Program Reauthorization Act of  
16 2007; to

17 “(ii) the sum of the—

18 “(I) amount described in clause  
19 (i); and

20 “(II) the amount made available  
21 under subsection (a)(15)(B).

22 “(4) PRORATION RULE.—If, after the applica-  
23 tion of this subsection without regard to this para-  
24 graph, the sum of the allotments determined under  
25 paragraph (1), (2), or (3) for a fiscal year (or, in

1 the case of fiscal year 2012, for a semi-annual pe-  
2 riod in such fiscal year) exceeds the amount avail-  
3 able under subsection (a) for such fiscal year or pe-  
4 riod, the Secretary shall reduce each allotment for  
5 any State under such paragraph for such fiscal year  
6 or period on a proportional basis.

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

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

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

1 the beginning of the fiscal year involved, plus 1  
2 percentage point.

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

7 “(A) has submitted to the Secretary, and  
8 has approved by the Secretary, a State plan  
9 amendment or waiver request relating to an ex-  
10 pansion of eligibility for children or benefits  
11 under this title that becomes effective for a fis-  
12 cal year (beginning with fiscal year 2009 and  
13 ending with fiscal year 2012); and

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

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

1 preceding the beginning of the fiscal year;  
2 and

3 “(ii) the extent to which such addi-  
4 tional expenditures are projected to exceed  
5 the allotment of the State or District for  
6 the year,

7 subject to paragraph (4), the amount of the allot-  
8 ment of the State or District under this subsection  
9 for such fiscal year shall be increased by the excess  
10 amount described in subparagraph (B)(i). A State or  
11 District may only obtain an increase under this  
12 paragraph for an allotment for fiscal year 2009 or  
13 fiscal year 2011.

14 “(7) AVAILABILITY OF AMOUNTS FOR SEMI-AN-  
15 NUAL PERIODS IN FISCAL YEAR 2012.—Each semi-  
16 annual allotment made under paragraph (3) for a  
17 period in fiscal year 2012 shall remain available for  
18 expenditure under this title for periods after the end  
19 of such fiscal year in the same manner as if the al-  
20 lotment had been made available for the entire fiscal  
21 year.”.

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

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

1 “(j) CHILD ENROLLMENT CONTINGENCY FUND.—

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

9 “(2) DEPOSITS INTO FUND.—

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

15 “(i) for fiscal year 2008, an amount  
16 equal to 20 percent of the amount made  
17 available under paragraph (11) of sub-  
18 section (a) for the fiscal year; and

19 “(ii) for each of fiscal years 2009  
20 through 2011 (and for each of the semi-  
21 annual allotment periods for fiscal year  
22 2012), such sums as are necessary for  
23 making payments to eligible States for  
24 such fiscal year or period, but not in excess

1 of the aggregate cap described in subpara-  
2 graph (B).

3 “(B) AGGREGATE CAP.—The total amount  
4 available for payment from the Fund for each  
5 of fiscal years 2009 through 2011 (and for each  
6 of the semi-annual allotment periods for fiscal  
7 year 2012), taking into account deposits made  
8 under subparagraph (C), shall not exceed 20  
9 percent of the amount made available under  
10 subsection (a) for the fiscal year or period.

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

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

1           duce the amount in the Fund by the amount so  
2           made available.

3           “(3) CHILD ENROLLMENT CONTINGENCY FUND  
4           PAYMENTS.—

5                   “(A) IN GENERAL.—If a State’s expendi-  
6           tures under this title in fiscal year 2008, fiscal  
7           year 2009, fiscal year 2010, fiscal year 2011, or  
8           a semi-annual allotment period for fiscal year  
9           2012, exceed the total amount of allotments  
10          available under this section to the State in the  
11          fiscal year or period (determined without regard  
12          to any redistribution it receives under sub-  
13          section (f) that is available for expenditure dur-  
14          ing such fiscal year or period, but including any  
15          carryover from a previous fiscal year) and if the  
16          average monthly unduplicated number of chil-  
17          dren enrolled under the State plan under this  
18          title (including children receiving health care  
19          coverage through funds under this title pursu-  
20          ant to a waiver under section 1115) during  
21          such fiscal year or period exceeds its target av-  
22          erage number of such enrollees (as determined  
23          under subparagraph (B)) for that fiscal year or  
24          period, subject to subparagraph (D), the Sec-

1           retary shall pay to the State from the Fund an  
2           amount equal to the product of—

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

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

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

16                   “(i) for fiscal year 2008 is equal to  
17                   the monthly average unduplicated number  
18                   of children enrolled in the State child  
19                   health plan under this title (including such  
20                   children receiving health care coverage  
21                   through funds under this title pursuant to  
22                   a waiver under section 1115) during fiscal  
23                   year 2007 increased by the population  
24                   growth for children in that State for the  
25                   year ending on June 30, 2006 (as esti-



1 mated by the Bureau of the Census) plus  
2 1 percentage point; or

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

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

15 “(i) for fiscal year 2008 is equal to  
16 the average per capita expenditures (in-  
17 cluding both State and Federal financial  
18 participation) under such plan for the tar-  
19 geted low-income children counted in the  
20 average monthly caseload for purposes of  
21 this paragraph during fiscal year 2007, in-  
22 creased by the annual percentage increase  
23 in the projected per capita amount of Na-  
24 tional Health Expenditures (as estimated  
25 by the Secretary) for 2008; or

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

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

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

1 section 2105 shall apply to payments under this  
2 subsection in the same manner as they apply to  
3 payments under such section.

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

11 “(G) APPLICATION TO COMMONWEALTHS  
12 AND TERRITORIES.—No payment shall be made  
13 under this paragraph to a commonwealth or  
14 territory described in subsection (c)(3) until  
15 such time as the Secretary determines that  
16 there are in effect methods, satisfactory to the  
17 Secretary, for the collection and reporting of re-  
18 liable data regarding the enrollment of children  
19 described in subparagraphs (A) and (B) in  
20 order to accurately determine the common-  
21 wealth’s or territory’s eligibility for, and  
22 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 2008 and  
14 ending with fiscal year 2012), 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 Payments made under this paragraph may only  
25 be used to reduce the number of low-income

1 children who do not have health insurance cov-  
2 erage in the State.

3 “(B) AMOUNT FOR ABOVE BASELINE MED-  
4 ICAID CHILD ENROLLMENT COSTS.—Subject to  
5 subparagraph (E), the amount described in this  
6 subparagraph for a State for a fiscal year is  
7 equal to the sum of the following amounts:

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

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

1 under subparagraph (D)) for the State and  
2 fiscal year under title XIX.

3 “(C) NUMBER OF FIRST AND SECOND TIER  
4 ABOVE BASELINE CHILD ENROLLEES; BASELINE  
5 NUMBER OF CHILD ENROLLEES.—For purposes  
6 of this paragraph:

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

13 “(I) the monthly average  
14 unduplicated number of qualifying  
15 children (as defined in subparagraph  
16 (F)) enrolled during the fiscal year  
17 under the State plan under title XIX;  
18 exceeds

19 “(II) the baseline number of en-  
20 rollees described in clause (iii) for the  
21 State and fiscal year under title XIX;  
22 but not to exceed 3 percent of the baseline  
23 number of enrollees described in subclause  
24 (II).

1           “(ii) SECOND TIER ABOVE BASELINE  
2 CHILD ENROLLEES.—The number of sec-  
3 ond tier above baseline child enrollees for  
4 a State for a fiscal year under title XIX is  
5 equal to the number (if any, as determined  
6 by the Secretary) by which—

7           “(I) the monthly average  
8 unduplicated number of qualifying  
9 children (as defined in subparagraph  
10 (F)) enrolled during the fiscal year  
11 under title XIX as described in clause  
12 (i)(I); exceeds

13           “(II) the sum of the baseline  
14 number of child enrollees described in  
15 clause (iii) for the State and fiscal  
16 year title XIX, as described in clause  
17 (i)(II), and the maximum number of  
18 first tier above baseline child enrollees  
19 for the State and fiscal year under  
20 title XIX, as determined under clause  
21 (i).

22           “(iii) BASELINE NUMBER OF CHILD  
23 ENROLLEES.—Subject to subparagraph  
24 (H), the baseline number of child enrollees  
25 for a State under title XIX—

1           “(I) for fiscal year 2008 is equal  
2           to the monthly average unduplicated  
3           number of qualifying children enrolled  
4           in the State plan under title XIX dur-  
5           ing fiscal year 2007 increased by the  
6           population growth for children in that  
7           State for the year ending on June 30,  
8           2006 (as estimated by the Bureau of  
9           the Census) plus 1 percentage point;  
10          or

11          “(II) for a subsequent fiscal year  
12          is equal to the baseline number of  
13          child enrollees for the State for the  
14          previous fiscal year under title XIX,  
15          increased by the population growth  
16          for children in that State for the year  
17          ending on June 30 before the begin-  
18          ning of the fiscal year (as estimated  
19          by the Bureau of the Census) plus 1  
20          percentage point.

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



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

19                 “(E) AMOUNTS AVAILABLE FOR PAY-  
20                 MENTS.—

21                         “(i) INITIAL APPROPRIATION.—Out of  
22                         any money in the Treasury not otherwise  
23                         appropriated, there are appropriated  
24                         \$3,000,000,000 for fiscal year 2008 for

1 making payments under this paragraph, to  
2 be available until expended.

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

8 “(I) UNOBLIGATED NATIONAL  
9 ALLOTMENT.—

10 “(aa) FISCAL YEARS 2008  
11 THROUGH 2011.—As of December  
12 31 of fiscal year 2008, and as of  
13 December 31 of each succeeding  
14 fiscal year through fiscal year  
15 2011, the portion, if any, of the  
16 amount appropriated under sub-  
17 section (a) for such fiscal year  
18 that is unobligated for allotment  
19 to a State under subsection (i)  
20 for such fiscal year or set aside  
21 under subsection (a)(3) or (b)(2)  
22 of section 2111 for such fiscal  
23 year.

24 “(bb) FIRST HALF OF FIS-  
25 CAL YEAR 2012.—As of December

1 31 of fiscal year 2012, the por-  
2 tion, if any, of the sum of the  
3 amounts appropriated under sub-  
4 section (a)(15)(A) and under sec-  
5 tion 108 of the Children’s Health  
6 Insurance Reauthorization Act of  
7 2007 for the period beginning on  
8 October 1, 2011, and ending on  
9 March 31, 2012, that is unobli-  
10 gated for allotment to a State  
11 under subsection (i) for such fis-  
12 cal year or set aside under sub-  
13 section (b)(2) of section 2111 for  
14 such fiscal year.

15 “(cc) SECOND HALF OF FIS-  
16 CAL YEAR 2012.—As of June 30  
17 of fiscal year 2012, the portion,  
18 if any, of the amount appro-  
19 priated under subsection  
20 (a)(15)(B) for the period begin-  
21 ning on April 1, 2012, and end-  
22 ing on September 30, 2012, that  
23 is unobligated for allotment to a  
24 State under subsection (i) for  
25 such fiscal year or set aside

1 under subsection (b)(2) of section  
2 2111 for such fiscal year.

3 “(II) UNEXPENDED ALLOT-  
4 MENTS NOT USED FOR REDISTRIBU-  
5 TION.—As of November 15 of each of  
6 fiscal years 2009 through 2012, the  
7 total amount of allotments made to  
8 States under section 2104 for the sec-  
9 ond preceding fiscal year (third pre-  
10 ceding fiscal year in the case of the  
11 fiscal year 2006 and 2007 allotments)  
12 that is not expended or redistributed  
13 under section 2104(f) during the pe-  
14 riod in which such allotments are  
15 available for obligation.

16 “(III) EXCESS CHILD ENROLL-  
17 MENT CONTINGENCY FUNDS.—As of  
18 October 1 of each of fiscal years 2009  
19 through 2012, any amount in excess  
20 of the aggregate cap applicable to the  
21 Child Enrollment Contingency Fund  
22 for the fiscal year under section  
23 2104(j).

24 “(iii) PROPORTIONAL REDUCTION.—If  
25 the sum of the amounts otherwise payable

1           under this paragraph for a fiscal year ex-  
2           ceeds the amount available for the fiscal  
3           year under this subparagraph, the amount  
4           to be paid under this paragraph to each  
5           State shall be reduced proportionally.

6           “(F) QUALIFYING CHILDREN DEFINED.—  
7           For purposes of this subsection, the term  
8           ‘qualifying children’ means children who meet  
9           the eligibility criteria (including income, cat-  
10          egorical eligibility, age, and immigration status  
11          criteria) in effect as of July 1, 2007, for enroll-  
12          ment under title XIX, taking into account cri-  
13          teria applied as of such date under title XIX  
14          pursuant to a waiver under section 1115.

15          “(G) APPLICATION TO COMMONWEALTHS  
16          AND TERRITORIES.—The provisions of subpara-  
17          graph (G) of section 2104(j)(3) shall apply with  
18          respect to payment under this paragraph in the  
19          same manner as such provisions apply to pay-  
20          ment under such section.

21          “(H) APPLICATION TO STATES THAT IM-  
22          PLEMENT A MEDICAID EXPANSION FOR CHIL-  
23          DREN AFTER FISCAL YEAR 2007.—In the case of  
24          a State that provides coverage under paragraph  
25          (1) or (2) of section 115(b) of the Children’s

1 Health Insurance Program Reauthorization Act  
2 of 2007 for any fiscal year after fiscal year  
3 2007—

4 “(i) any child enrolled in the State  
5 plan under title XIX through the applica-  
6 tion of such an election shall be dis-  
7 regarded from the determination for the  
8 State of the monthly average unduplicated  
9 number of qualifying children enrolled in  
10 such plan during the first 3 fiscal years in  
11 which such an election is in effect; and

12 “(ii) in determining the baseline num-  
13 ber of child enrollees for the State for any  
14 fiscal year subsequent to such first 3 fiscal  
15 years, the baseline number of child enroll-  
16 ees for the State under title XIX for the  
17 third of such fiscal years shall be the  
18 monthly average unduplicated number of  
19 qualifying children enrolled in the State  
20 plan under title XIX for such third fiscal  
21 year.

22 “(4) ENROLLMENT AND RETENTION PROVI-  
23 SIONS FOR CHILDREN.—For purposes of paragraph  
24 (3)(A), a State meets the condition of this para-  
25 graph for a fiscal year if it is implementing at least

1 5 of the following enrollment and retention provi-  
2 sions (treating each subparagraph as a separate en-  
3 rollment and retention provision) throughout the en-  
4 tire fiscal year:

5 “(A) CONTINUOUS ELIGIBILITY.—The  
6 State has elected the option of continuous eligi-  
7 bility for a full 12 months for all children de-  
8 scribed in section 1902(e)(12) under title XIX  
9 under 19 years of age, as well as applying such  
10 policy under its State child health plan under  
11 this title.

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

15 “(i) ELIMINATION OF ASSET TEST.—  
16 The State does not apply any asset or re-  
17 source test for eligibility for children under  
18 title XIX or this title.

19 “(ii) ADMINISTRATIVE VERIFICATION  
20 OF ASSETS.—The State—

21 “(I) permits a parent or care-  
22 taker relative who is applying on be-  
23 half of a child for medical assistance  
24 under title XIX or child health assist-  
25 ance under this title to declare and

1 certify by signature under penalty of  
2 perjury information relating to family  
3 assets for purposes of determining  
4 and redetermining financial eligibility;  
5 and

6 “(II) takes steps to verify assets  
7 through means other than by requir-  
8 ing documentation from parents and  
9 applicants except in individual cases  
10 of discrepancies or where otherwise  
11 justified.

12 “(C) ELIMINATION OF IN-PERSON INTER-  
13 VIEW REQUIREMENT.—The State does not re-  
14 quire an application of a child for medical as-  
15 sistance under title XIX (or for child health as-  
16 sistance under this title), including an applica-  
17 tion for renewal of such assistance, to be made  
18 in person nor does the State require a face-to-  
19 face interview, unless there are discrepancies or  
20 individual circumstances justifying an in-person  
21 application or face-to-face interview.

22 “(D) USE OF JOINT APPLICATION FOR  
23 MEDICAID AND CHIP.—The application form  
24 and supplemental forms (if any) and informa-  
25 tion verification process is the same for pur-



1 poses of establishing and renewing eligibility for  
2 children for medical assistance under title XIX  
3 and child health assistance under this title.

4 “(E) AUTOMATIC RENEWAL (USE OF AD-  
5 MINISTRATIVE RENEWAL).—

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

21 “(ii) SATISFACTION THROUGH DEM-  
22 ONSTRATED USE OF EX PARTE PROCESS.—  
23 A State shall be treated as satisfying the  
24 requirement of clause (i) if renewal of eli-  
25 gibility of children under title XIX or this

1 title is determined without any require-  
2 ment for an in-person interview, unless  
3 sufficient information is not in the State’s  
4 possession and cannot be acquired from  
5 other sources (including other State agen-  
6 cies) without the participation of the appli-  
7 cant or the applicant’s parent or caretaker  
8 relative.

9 “(F) PRESUMPTIVE ELIGIBILITY FOR  
10 CHILDREN.—The State is implementing section  
11 1920A under title XIX as well as, pursuant to  
12 section 2107(e)(1), under this title.

13 “(G) EXPRESS LANE.—The State is imple-  
14 menting the option described in section  
15 1902(e)(13) under title XIX as well as, pursu-  
16 ant to section 2107(e)(1), under this title.

17 “(H) PREMIUM ASSISTANCE SUBSIDIES.—  
18 The State is implementing the option of pro-  
19 viding premium assistance subsidies under sec-  
20 tion 2105(e)(11) or section 1906A.”.

21 **SEC. 105. 2-YEAR INITIAL AVAILABILITY OF CHIP ALLOT-**  
22 **MENTS.**

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

25 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

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

4           “(A) for each of fiscal years 1998 through  
5 2007, shall remain available for expenditure by  
6 the State through the end of the second suc-  
7 ceeding fiscal year; and

8           “(B) for fiscal year 2008 and each fiscal  
9 year thereafter, shall remain available for ex-  
10 penditure by the State through the end of the  
11 succeeding fiscal year.

12           “(2) AVAILABILITY OF AMOUNTS REDISTRIB-  
13 UTED.—Amounts redistributed to a State under sub-  
14 section (f) shall be available for expenditure by the  
15 State through the end of the fiscal year in which  
16 they are redistributed.”.

17 **SEC. 106. MAKING PERMANENT REDISTRIBUTION OF UN-**  
18 **USED FISCAL YEAR 2005 ALLOTMENTS TO AD-**  
19 **DRESS STATE FUNDING SHORTFALLS; CON-**  
20 **FORMING EXTENSION OF QUALIFYING STATE**  
21 **AUTHORITY; REDISTRIBUTION OF UNUSED**  
22 **ALLOTMENTS FOR SUBSEQUENT FISCAL**  
23 **YEARS.**

24           (a) REDISTRIBUTION OF UNUSED FISCAL YEAR  
25 2005 ALLOTMENTS; EXTENSION OF QUALIFYING STATE

1 AUTHORITY.—Section 136(e) of Public Law 110–92 is  
2 amended to read as follows:

3 “(e) APPLICABILITY.—

4 “(1) REDISTRIBUTION OF UNUSED FISCAL  
5 YEAR 2005 ALLOTMENTS.—The amendment made by  
6 subsection (c) shall apply without regard to any limi-  
7 tation under section 106.

8 “(2) EXTENSION OF QUALIFYING STATE AU-  
9 THORITY.—The amendment made by subsection (d)  
10 shall be in effect through the date of the enactment  
11 of the Children’s Health Insurance Program Reau-  
12 thorization Act of 2007.”.

13 (b) REDISTRIBUTIONS OF UNUSED ALLOTMENTS  
14 FOR FISCAL YEARS AFTER FISCAL YEAR 2005.—Section  
15 2104(f) (42 U.S.C. 1397dd(f)) is amended—

16 (1) by striking “The Secretary” and inserting  
17 the following:

18 “(1) IN GENERAL.—The Secretary”;

19 (2) by striking “States that have fully expended  
20 the amount of their allotments under this section.”  
21 and inserting “States that the Secretary determines  
22 with respect to the fiscal year for which unused al-  
23 lotments are available for redistribution under this  
24 subsection, are shortfall States described in para-  
25 graph (2) for such fiscal year, but not to exceed the

1 amount of the shortfall described in paragraph  
2 (2)(A) for each such State (as may be adjusted  
3 under paragraph (2)(C)).”; and

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

6 “(2) SHORTFALL STATES DESCRIBED.—

7 “(A) IN GENERAL.—For purposes of para-  
8 graph (1), with respect to a fiscal year, a short-  
9 fall State described in this subparagraph is a  
10 State with a State child health plan approved  
11 under this title for which the Secretary esti-  
12 mates on the basis of the most recent data  
13 available to the Secretary, that the projected ex-  
14 penditures under such plan for the State for the  
15 fiscal year will exceed the sum of—

16 “(i) the amount of the State’s allot-  
17 ments for any preceding fiscal years that  
18 remains available for expenditure and that  
19 will not be expended by the end of the im-  
20 mediately preceding fiscal year;

21 “(ii) the amount (if any) of the child  
22 enrollment contingency fund payment  
23 under subsection (j); and

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

1           “(B) PRORATION RULE.—If the amounts  
2           available for redistribution under paragraph (1)  
3           for a fiscal year are less than the total amounts  
4           of the estimated shortfalls determined for the  
5           year under subparagraph (A), the amount to be  
6           redistributed under such paragraph for each  
7           shortfall State shall be reduced proportionally.

8           “(C) RETROSPECTIVE ADJUSTMENT.—The  
9           Secretary may adjust the estimates and deter-  
10          minations made under paragraph (1) and this  
11          paragraph with respect to a fiscal year as nec-  
12          essary on the basis of the amounts reported by  
13          States not later than November 30 of the suc-  
14          ceeding fiscal year, as approved by the Sec-  
15          retary.”.

16 **SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE**  
17                   **THE ENHANCED PORTION OF THE CHIP**  
18                   **MATCHING RATE FOR MEDICAID COVERAGE**  
19                   **OF CERTAIN CHILDREN.**

20          Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

21               (1) in paragraph (1)(A), as amended by section  
22          136(d) of Public Law 110–92—

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

1 (B) by striking “2007, or 2008” and in-  
2 serting “or 2007”; and

3 (2) by adding at the end the following new  
4 paragraph:

5 “(4) OPTION FOR ALLOTMENTS FOR FISCAL  
6 YEARS 2008 THROUGH 2012.—

7 “(A) PAYMENT OF ENHANCED PORTION OF  
8 MATCHING RATE FOR CERTAIN EXPENDI-  
9 TURES.—In the case of expenditures described  
10 in subparagraph (B), a qualifying State (as de-  
11 fined in paragraph (2)) may elect to be paid  
12 from the State’s allotment made under section  
13 2104 for any of fiscal years 2008 through 2012  
14 (insofar as the allotment is available to the  
15 State under subsections (e) and (i) of such sec-  
16 tion) an amount each quarter equal to the addi-  
17 tional amount that would have been paid to the  
18 State under title XIX with respect to such ex-  
19 penditures if the enhanced FMAP (as deter-  
20 mined under subsection (b)) had been sub-  
21 stituted for the Federal medical assistance per-  
22 centage (as defined in section 1905(b)).

23 “(B) EXPENDITURES DESCRIBED.—For  
24 purposes of subparagraph (A), the expenditures  
25 described in this subparagraph are expenditures

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

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

16          There is appropriated to the Secretary, out of any  
17          money in the Treasury not otherwise appropriated,  
18          \$13,700,000,000 to accompany the allotment made for the  
19          period beginning on October 1, 2011, and ending on  
20          March 31, 2012, under section 2104(a)(15)(A) of the So-  
21          cial Security Act (42 U.S.C. 1397dd(a)(15)(A)) (as added  
22          by section 101), to remain available until expended. Such  
23          amount shall be used to provide allotments to States under  
24          paragraph (3) of section 2104(i) of the Social Security Act  
25          (42 U.S.C. 1397dd(i)), as added by section 102, for the



1 first 6 months of fiscal year 2012 in the same manner  
2 as allotments are provided under subsection (a)(15)(A) of  
3 such section 2104 and subject to the same terms and con-  
4 ditions as apply to the allotments provided from such sub-  
5 section (a)(15)(A).

6 **SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES**  
7 **UNDER CHIP AND MEDICAID.**

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

13 “(4) EXCLUSION OF CERTAIN EXPENDITURES  
14 FROM PAYMENT LIMITS.—With respect to fiscal  
15 years beginning with fiscal year 2008, if Puerto  
16 Rico, the Virgin Islands, Guam, the Northern Mar-  
17 iana Islands, or American Samoa qualify for a pay-  
18 ment under subparagraph (A)(i), (B), or (F) of sec-  
19 tion 1903(a)(3) for a calendar quarter of such fiscal  
20 year, the payment shall not be taken into account in  
21 applying subsection (f) (as increased in accordance  
22 with paragraphs (1), (2), and (3) of this subsection)  
23 to such commonwealth or territory for such fiscal  
24 year.”.

1 (b) GAO STUDY AND REPORT.—Not later than Sep-  
2 tember 30, 2009, the Comptroller General of the United  
3 States shall submit a report to the Committee on Finance  
4 of the Senate and the Committee on Energy and Com-  
5 merce of the House of Representatives regarding Federal  
6 funding under Medicaid and CHIP for Puerto Rico, the  
7 United States Virgin Islands, Guam, American Samoa,  
8 and the Northern Mariana Islands. The report shall in-  
9 clude the following:

10 (1) An analysis of all relevant factors with re-  
11 spect to—

12 (A) eligible Medicaid and CHIP popu-  
13 lations in such commonwealths and territories;

14 (B) historical and projected spending needs  
15 of such commonwealths and territories and the  
16 ability of capped funding streams to respond to  
17 those spending needs;

18 (C) the extent to which Federal poverty  
19 guidelines are used by such commonwealths and  
20 territories to determine Medicaid and CHIP eli-  
21 gibility; and

22 (D) the extent to which such common-  
23 wealths and territories participate in data col-  
24 lection and reporting related to Medicaid and  
25 CHIP, including an analysis of territory partici-

1           pation in the Current Population Survey versus  
2           the American Community Survey.

3           (2) Recommendations regarding methods for  
4           the collection and reporting of reliable data regard-  
5           ing the enrollment under Medicaid and CHIP of  
6           children in such commonwealths and territories.

7           (3) Recommendations for improving Federal  
8           funding under Medicaid and CHIP for such com-  
9           monwealths and territories.

## 10       **Subtitle B—Focus on Low-Income** 11       **Children and Pregnant Women**

### 12       **SEC. 111. STATE OPTION TO COVER LOW-INCOME PREG-** 13               **NANT WOMEN UNDER CHIP THROUGH A** 14               **STATE PLAN AMENDMENT.**

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

### 18       **“SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-IN-** 19               **COME PREGNANT WOMEN THROUGH A STATE** 20               **PLAN AMENDMENT.**

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

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

4           “(1) MINIMUM INCOME ELIGIBILITY LEVELS  
5 FOR PREGNANT WOMEN AND CHILDREN.—The State  
6 has established an income eligibility level—

7           “(A) for pregnant women under subsection  
8 (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or  
9 (l)(1)(A) of section 1902 that is at least 185  
10 percent (or such higher percent as the State  
11 has in effect with regard to pregnant women  
12 under this title) of the poverty line applicable to  
13 a family of the size involved, but in no case  
14 lower than the percent in effect under any such  
15 subsection as of July 1, 2007; and

16           “(B) for children under 19 years of age  
17 under this title (or title XIX) that is at least  
18 200 percent of the poverty line applicable to a  
19 family of the size involved.

20           “(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR  
21 PREGNANT WOMEN LOWER THAN THE STATE’S MED-  
22 ICAID LEVEL.—The State does not apply an effective  
23 income level for pregnant women under the State  
24 plan amendment that is lower than the effective in-  
25 come level (expressed as a percent of the poverty line

1 and considering applicable income disregards) speci-  
2 fied under subsection (a)(10)(A)(i)(III),  
3 (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on  
4 the date of enactment of this paragraph to be eligi-  
5 ble for medical assistance as a pregnant woman.

6 “(3) NO COVERAGE FOR HIGHER INCOME PREG-  
7 NANT WOMEN WITHOUT COVERING LOWER INCOME  
8 PREGNANT WOMEN.—The State does not provide  
9 coverage for pregnant women with higher family in-  
10 come without covering pregnant women with a lower  
11 family income.

12 “(4) APPLICATION OF REQUIREMENTS FOR  
13 COVERAGE OF TARGETED LOW-INCOME CHILDREN.—  
14 The State provides pregnancy-related assistance for  
15 targeted low-income pregnant women in the same  
16 manner, and subject to the same requirements, as  
17 the State provides child health assistance for tar-  
18 geted low-income children under the State child  
19 health plan, and in addition to providing child health  
20 assistance for such women.

21 “(5) NO PREEXISTING CONDITION EXCLUSION  
22 OR WAITING PERIOD.—The State does not apply any  
23 exclusion of benefits for pregnancy-related assistance  
24 based on any preexisting condition or any waiting  
25 period (including any waiting period imposed to

1 carry out section 2102(b)(3)(C)) for receipt of such  
2 assistance.

3 “(6) APPLICATION OF COST-SHARING PROTEC-  
4 TION.—The State provides pregnancy-related assist-  
5 ance to a targeted low-income woman consistent  
6 with the cost-sharing protections under section  
7 2103(e) and applies the limitation on total annual  
8 aggregate cost sharing imposed under paragraph  
9 (3)(B) of such section to the family of such a  
10 woman.

11 “(7) NO WAITING LIST FOR CHILDREN.—The  
12 State does not impose, with respect to the enroll-  
13 ment under the State child health plan of targeted  
14 low-income children during the quarter, any enroll-  
15 ment cap or other numerical limitation on enroll-  
16 ment, any waiting list, any procedures designed to  
17 delay the consideration of applications for enroll-  
18 ment, or similar limitation with respect to enroll-  
19 ment.

20 “(c) OPTION TO PROVIDE PRESUMPTIVE ELIGI-  
21 BILITY.—A State that elects the option under subsection  
22 (a) and satisfies the conditions described in subsection (b)  
23 may elect to apply section 1920 (relating to presumptive  
24 eligibility for pregnant women) to the State child health

1 plan in the same manner as such section applies to the  
2 State plan under title XIX.

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

4 “(1) PREGNANCY-RELATED ASSISTANCE.—The  
5 term ‘pregnancy-related assistance’ has the meaning  
6 given the term ‘child health assistance’ in section  
7 2110(a) with respect to an individual during the pe-  
8 riod described in paragraph (2)(A).

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

12 “(A) during pregnancy and through the  
13 end of the month in which the 60-day period  
14 (beginning on the last day of her pregnancy)  
15 ends;

16 “(B) whose family income exceeds 185 per-  
17 cent (or, if higher, the percent applied under  
18 subsection (b)(1)(A)) of the poverty line appli-  
19 cable to a family of the size involved, but does  
20 not exceed the income eligibility level estab-  
21 lished under the State child health plan under  
22 this title for a targeted low-income child; and

23 “(C) who satisfies the requirements of  
24 paragraphs (1)(A), (1)(C), (2), and (3) of sec-  
25 tion 2110(b) in the same manner as a child ap-

1           plying for child health assistance would have to  
2           satisfy such requirements.

3           “(e) AUTOMATIC ENROLLMENT FOR CHILDREN  
4 BORN TO WOMEN RECEIVING PREGNANCY-RELATED AS-  
5 SISTANCE.—If a child is born to a targeted low-income  
6 pregnant woman who was receiving pregnancy-related as-  
7 sistance under this section on the date of the child’s birth,  
8 the child shall be deemed to have applied for child health  
9 assistance under the State child health plan and to have  
10 been found eligible for such assistance under such plan  
11 or to have applied for medical assistance under title XIX  
12 and to have been found eligible for such assistance under  
13 such title, as appropriate, on the date of such birth and  
14 to remain eligible for such assistance until the child at-  
15 tains 1 year of age. During the period in which a child  
16 is deemed under the preceding sentence to be eligible for  
17 child health or medical assistance, the child health or med-  
18 ical assistance eligibility identification number of the  
19 mother shall also serve as the identification number of the  
20 child, and all claims shall be submitted and paid under  
21 such number (unless the State issues a separate identifica-  
22 tion number for the child before such period expires).

23           “(f) STATES PROVIDING ASSISTANCE THROUGH  
24 OTHER OPTIONS.—



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

6           “(A) child health assistance through the  
7 application of sections 457.10, 457.350(b)(2),  
8 457.622(c)(5), and 457.626(a)(3) of title 42,  
9 Code of Federal Regulations (as in effect after  
10 the final rule adopted by the Secretary and set  
11 forth at 67 Fed. Reg. 61956–61974 (October 2,  
12 2002)), or

13           “(B) pregnancy-related services through  
14 the application of any waiver authority (as in  
15 effect on June 1, 2007).

16           “(2) CLARIFICATION OF AUTHORITY TO PRO-  
17 VIDE POSTPARTUM SERVICES.—Any State that pro-  
18 vides child health assistance under any authority de-  
19 scribed in paragraph (1) may continue to provide  
20 such assistance, as well as postpartum services,  
21 through the end of the month in which the 60-day  
22 period (beginning on the last day of the pregnancy)  
23 ends, in the same manner as such assistance and  
24 postpartum services would be provided if provided  
25 under the State plan under title XIX, but only if the

1 mother would otherwise satisfy the eligibility re-  
 2 quirements that apply under the State child health  
 3 plan (other than with respect to age) during such  
 4 period.

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

7 “(A) to infer congressional intent regard-  
 8 ing the legality or illegality of the content of the  
 9 sections specified in paragraph (1)(A); or

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

13 (b) ADDITIONAL CONFORMING AMENDMENTS.—

14 (1) NO COST SHARING FOR PREGNANCY-RE-  
 15 LATED BENEFITS.—Section 2103(e)(2) (42 U.S.C.  
 16 1397cc(e)(2)) is amended—

17 (A) in the heading, by inserting “**OR**  
 18 **PREGNANCY-RELATED ASSISTANCE**” after  
 19 “**PREVENTIVE SERVICES**”; and

20 (B) by inserting before the period at the  
 21 end the following: “or for pregnancy-related as-  
 22 sistance”.

23 (2) NO WAITING PERIOD.—Section  
 24 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is  
 25 amended—

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

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

5 (C) by adding at the end the following new  
6 clause:

7 “(iii) may not apply a waiting period  
8 (including a waiting period to carry out  
9 paragraph (3)(C)) in the case of a targeted  
10 low-income pregnant woman provided preg-  
11 nancy-related assistance under section  
12 2112.”.

13 **SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT**  
14 **CHILDLESS ADULTS UNDER CHIP; CONDI-**  
15 **TIONS FOR COVERAGE OF PARENTS.**

16 (a) PHASE-OUT RULES.—

17 (1) IN GENERAL.—Title XXI (42 U.S.C.  
18 1397aa et seq.) is amended by adding at the end the  
19 following new section:

20 **“SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT**  
21 **CHILDLESS ADULTS; CONDITIONS FOR COV-**  
22 **ERAGE OF PARENTS.**

23 “(a) TERMINATION OF COVERAGE FOR NONPREG-  
24 NANT CHILDLESS ADULTS.—

1           “(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-  
2           TENSIONS AT STATE OPTION THROUGH 2008.—Not-  
3           withstanding section 1115 or any other provision of  
4           this title, except as provided in this subsection—

5                   “(A) the Secretary shall not on or after the  
6                   date of the enactment of the Children’s Health  
7                   Insurance Program Reauthorization Act of  
8                   2007, approve or renew a waiver, experimental,  
9                   pilot, or demonstration project that would allow  
10                  funds made available under this title to be used  
11                  to provide child health assistance or other  
12                  health benefits coverage to a nonpregnant child-  
13                  less adult; and

14                  “(B) notwithstanding the terms and condi-  
15                  tions of an applicable existing waiver, the provi-  
16                  sions of paragraph (2) shall apply for purposes  
17                  of any period beginning on or after January 1,  
18                  2009, in determining the period to which the  
19                  waiver applies, the individuals eligible to be cov-  
20                  ered by the waiver, and the amount of the Fed-  
21                  eral payment under this title.

22           “(2) TERMINATION OF CHIP COVERAGE UNDER  
23           APPLICABLE EXISTING WAIVERS AT THE END OF  
24           2008.—

1           “(A) IN GENERAL.—No funds shall be  
2 available under this title for child health assist-  
3 ance or other health benefits coverage that is  
4 provided to a nonpregnant childless adult under  
5 an applicable existing waiver after December  
6 31, 2008.

7           “(B) EXTENSION UPON STATE RE-  
8 QUEST.—If an applicable existing waiver de-  
9 scribed in subparagraph (A) would otherwise  
10 expire before January 1, 2009, and the State  
11 requests an extension of such waiver, the Sec-  
12 retary shall grant such an extension, but only  
13 through December 31, 2008.

14           “(C) APPLICATION OF ENHANCED FMAP.—  
15 The enhanced FMAP determined under section  
16 2105(b) shall apply to expenditures under an  
17 applicable existing waiver for the provision of  
18 child health assistance or other health benefits  
19 coverage to a nonpregnant childless adult dur-  
20 ing the period beginning on the date of the en-  
21 actment of this subsection and ending on De-  
22 cember 31, 2008.

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

1           “(A) IN GENERAL.—Each State for which  
2 coverage under an applicable existing waiver is  
3 terminated under paragraph (2)(A) may sub-  
4 mit, not later than September 30, 2008, an ap-  
5 plication to the Secretary for a waiver under  
6 section 1115 of the State plan under title XIX  
7 to provide medical assistance to a nonpregnant  
8 childless adult whose coverage is so terminated  
9 (in this subsection referred to as a ‘Medicaid  
10 nonpregnant childless adults waiver’).

11           “(B) DEADLINE FOR APPROVAL.—The  
12 Secretary shall make a decision to approve or  
13 deny an application for a Medicaid nonpregnant  
14 childless adults waiver submitted under sub-  
15 paragraph (A) within 90 days of the date of the  
16 submission of the application. If no decision has  
17 been made by the Secretary as of December 31,  
18 2008, on the application of a State for a Med-  
19 icaid nonpregnant childless adults waiver that  
20 was submitted to the Secretary by September  
21 30, 2008, the application shall be deemed ap-  
22 proved.

23           “(C) STANDARD FOR BUDGET NEU-  
24 TRALITY.—The budget neutrality requirement  
25 applicable with respect to expenditures for med-

1           ical assistance under a Medicaid nonpregnant  
2           childless adults waiver shall—

3                   “(i) in the case of 2009, allow expend-  
4                   itures for medical assistance under title  
5                   XIX for all such adults to not exceed the  
6                   total amount of payments made to the  
7                   State under paragraph (3)(B) for 2008,  
8                   increased by the percentage increase (if  
9                   any) in the projected nominal per capita  
10                  amount of National Health Expenditures  
11                  for 2009 over 2008, as most recently pub-  
12                  lished by the Secretary; and

13                  “(ii) in the case of any succeeding  
14                  year, allow such expenditures to not exceed  
15                  the amount in effect under this subpara-  
16                  graph for the preceding year, increased by  
17                  the percentage increase (if any) in the pro-  
18                  jected nominal per capita amount of Na-  
19                  tional Health Expenditures for the year in-  
20                  volved over the preceding year, as most re-  
21                  cently published by the Secretary.

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

1           “(1) TWO-YEAR TRANSITION PERIOD; AUTO-  
2           MATIC EXTENSION AT STATE OPTION THROUGH FIS-  
3           CAL YEAR 2009.—

4           “(A) NO NEW CHIP WAIVERS.—Notwith-  
5           standing section 1115 or any other provision of  
6           this title, except as provided in this sub-  
7           section—

8           “(i) the Secretary shall not on or after  
9           the date of the enactment of the Children’s  
10          Health Insurance Program Reauthoriza-  
11          tion Act of 2007 approve or renew a waiv-  
12          er, experimental, pilot, or demonstration  
13          project that would allow funds made avail-  
14          able under this title to be used to provide  
15          child health assistance or other health ben-  
16          efits coverage to a parent of a targeted  
17          low-income child; and

18          “(ii) notwithstanding the terms and  
19          conditions of an applicable existing waiver,  
20          the provisions of paragraphs (2) and (3)  
21          shall apply for purposes of any fiscal year  
22          beginning on or after October 1, 2009, in  
23          determining the period to which the waiver  
24          applies, the individuals eligible to be cov-



1           ered by the waiver, and the amount of the  
2           Federal payment under this title.

3           “(B) EXTENSION UPON STATE RE-  
4           QUEST.—If an applicable existing waiver de-  
5           scribed in subparagraph (A) would otherwise  
6           expire before October 1, 2009, and the State  
7           requests an extension of such waiver, the Sec-  
8           retary shall grant such an extension, but only,  
9           subject to paragraph (2)(A), through Sep-  
10          tember 30, 2009.

11          “(C) APPLICATION OF ENHANCED FMAP.—  
12          The enhanced FMAP determined under section  
13          2105(b) shall apply to expenditures under an  
14          applicable existing waiver for the provision of  
15          child health assistance or other health benefits  
16          coverage to a parent of a targeted low-income  
17          child during fiscal years 2008 and 2009.

18          “(2) RULES FOR FISCAL YEARS 2010 THROUGH  
19          2012.—

20                 “(A) PAYMENTS FOR COVERAGE LIMITED  
21                 TO BLOCK GRANT FUNDED FROM STATE ALLOT-  
22                 MENT.—Any State that provides child health  
23                 assistance or health benefits coverage under an  
24                 applicable existing waiver for a parent of a tar-  
25                 geted low-income child may elect to continue to

1 provide such assistance or coverage through fis-  
2 cal year 2010, 2011, or 2012, subject to the  
3 same terms and conditions that applied under  
4 the applicable existing waiver, unless otherwise  
5 modified in subparagraph (B).

6 “(B) TERMS AND CONDITIONS.—

7 “(i) BLOCK GRANT SET ASIDE FROM  
8 STATE ALLOTMENT.—If the State makes  
9 an election under subparagraph (A), the  
10 Secretary shall set aside for the State for  
11 each such fiscal year an amount equal to  
12 the Federal share of 110 percent of the  
13 State’s projected expenditures under the  
14 applicable existing waiver for providing  
15 child health assistance or health benefits  
16 coverage to all parents of targeted low-in-  
17 come children enrolled under such waiver  
18 for the fiscal year (as certified by the State  
19 and submitted to the Secretary by not  
20 later than August 31 of the preceding fis-  
21 cal year). In the case of fiscal year 2012,  
22 the set aside for any State shall be com-  
23 puted separately for each period described  
24 in subparagraphs (A) and (B) of section  
25 2104(a)(15) and any reduction in the allot-

1           ment for either such period under section  
2           2104(i)(4) shall be allocated on a pro rata  
3           basis to such set aside.

4           “(ii) PAYMENTS FROM BLOCK  
5           GRANT.—The Secretary shall pay the State  
6           from the amount set aside under clause (i)  
7           for the fiscal year, an amount for each  
8           quarter of such fiscal year equal to the ap-  
9           plicable percentage determined under  
10          clause (iii) or (iv) for expenditures in the  
11          quarter for providing child health assist-  
12          ance or other health benefits coverage to a  
13          parent of a targeted low-income child.

14          “(iii) ENHANCED FMAP ONLY IN FIS-  
15          CAL YEAR 2010 FOR STATES WITH SIGNIFI-  
16          CANT CHILD OUTREACH OR THAT ACHIEVE  
17          CHILD COVERAGE BENCHMARKS; FMAP  
18          FOR ANY OTHER STATES.—For purposes  
19          of clause (ii), the applicable percentage for  
20          any quarter of fiscal year 2010 is equal  
21          to—

22                 “(I) the enhanced FMAP deter-  
23                 mined under section 2105(b) in the  
24                 case of a State that meets the out-  
25                 reach or coverage benchmarks de-

1 scribed in any of subparagraph (A),  
2 (B), or (C) of paragraph (3) for fiscal  
3 year 2009; or

4 “(II) the Federal medical assist-  
5 ance percentage (as determined under  
6 section 1905(b) without regard to  
7 clause (4) of such section) in the case  
8 of any other State.

9 “(iv) AMOUNT OF FEDERAL MATCH-  
10 ING PAYMENT IN 2011 OR 2012.—For pur-  
11 poses of clause (ii), the applicable percent-  
12 age for any quarter of fiscal year 2011 or  
13 2012 is equal to—

14 “(I) the REMAP percentage if—

15 “(aa) the applicable percent-  
16 age for the State under clause  
17 (iii) was the enhanced FMAP for  
18 fiscal year 2009; and

19 “(bb) the State met either of  
20 the coverage benchmarks de-  
21 scribed in subparagraph (B) or  
22 (C) of paragraph (3) for the pre-  
23 ceding fiscal year; or

24 “(II) the Federal medical assist-  
25 ance percentage (as so determined) in

1           the case of any State to which sub-  
2           clause (I) does not apply.

3           For purposes of subclause (I), the REMAP  
4           percentage is the percentage which is the  
5           sum of such Federal medical assistance  
6           percentage and a number of percentage  
7           points equal to one-half of the difference  
8           between such Federal medical assistance  
9           percentage and such enhanced FMAP.

10           “(v) NO FEDERAL PAYMENTS OTHER  
11           THAN FROM BLOCK GRANT SET ASIDE.—  
12           No payments shall be made to a State for  
13           expenditures described in clause (ii) after  
14           the total amount set aside under clause (i)  
15           for a fiscal year has been paid to the  
16           State.

17           “(vi) NO INCREASE IN INCOME ELIGI-  
18           BILITY LEVEL FOR PARENTS.—No pay-  
19           ments shall be made to a State from the  
20           amount set aside under clause (i) for a fis-  
21           cal year for expenditures for providing  
22           child health assistance or health benefits  
23           coverage to a parent of a targeted low-in-  
24           come child whose family income exceeds  
25           the income eligibility level applied under

1 the applicable existing waiver to parents of  
2 targeted low-income children on the date of  
3 enactment of the Children’s Health Insur-  
4 ance Program Reauthorization Act of  
5 2007.

6 “(3) OUTREACH OR COVERAGE BENCH-  
7 MARKS.—For purposes of paragraph (2), the out-  
8 reach or coverage benchmarks described in this  
9 paragraph are as follows:

10 “(A) SIGNIFICANT CHILD OUTREACH CAM-  
11 PAIGN.—The State—

12 “(i) was awarded a grant under sec-  
13 tion 2113 for fiscal year 2009;

14 “(ii) implemented 1 or more of the en-  
15 rollment and retention provisions described  
16 in section 2105(a)(4) for such fiscal year;  
17 or

18 “(iii) has submitted a specific plan for  
19 outreach for such fiscal year.

20 “(B) HIGH-PERFORMING STATE.—The  
21 State, on the basis of the most timely and accu-  
22 rate published estimates of the Bureau of the  
23 Census, ranks in the lowest  $\frac{1}{3}$  of States in  
24 terms of the State’s percentage of low-income  
25 children without health insurance.

1           “(C) STATE INCREASING ENROLLMENT OF  
2           LOW-INCOME CHILDREN.—The State qualified  
3           for a performance bonus payment under section  
4           2105(a)(3)(B) for the most recent fiscal year  
5           applicable under such section.

6           “(4) RULES OF CONSTRUCTION.—Nothing in  
7           this subsection shall be construed as prohibiting a  
8           State from submitting an application to the Sec-  
9           retary for a waiver under section 1115 of the State  
10          plan under title XIX to provide medical assistance to  
11          a parent of a targeted low-income child that was  
12          provided child health assistance or health benefits  
13          coverage under an applicable existing waiver.

14          “(c) APPLICABLE EXISTING WAIVER.—For purposes  
15          of this section—

16                 “(1) IN GENERAL.—The term ‘applicab-  
17                 ing waiver’ means a waiver, experimental, pilot, or  
18                 demonstration project under section 1115, grand-  
19                 fathered under section 6102(c)(3) of the Deficit Re-  
20                 duction Act of 2005, or otherwise conducted under  
21                 authority that—

22                         “(A) would allow funds made available  
23                         under this title to be used to provide child  
24                         health assistance or other health benefits cov-  
25                         erage to—

1                   “(i) a parent of a targeted low-income  
2                   child;

3                   “(ii) a nonpregnant childless adult; or

4                   “(iii) individuals described in both  
5                   clauses (i) and (ii); and

6                   “(B) was in effect on October 1, 2007.

7                   “(2) DEFINITIONS.—

8                   “(A) PARENT.—The term ‘parent’ includes  
9                   a caretaker relative (as such term is used in  
10                  carrying out section 1931) and a legal guard-  
11                  ian.

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

15                  (2) CONFORMING AMENDMENTS.—

16                  (A) Section 2107(f) (42 U.S.C. 1397gg(f))  
17                  is amended—

18                         (i) by striking “, the Secretary” and  
19                         inserting “:

20                         “(1) The Secretary”;

21                         (ii) in the first sentence, by inserting  
22                         “or a parent (as defined in section  
23                         2111(c)(2)(A)), who is not pregnant, of a  
24                         targeted low-income child” before the pe-  
25                         riod;



1 (iii) by striking the second sentence;  
2 and  
3 (iv) by adding at the end the following  
4 new paragraph:

5 “(2) The Secretary may not approve, extend,  
6 renew, or amend a waiver, experimental, pilot, or  
7 demonstration project with respect to a State after  
8 the date of enactment of the Children’s Health In-  
9 surance Program Reauthorization Act of 2007 that  
10 would waive or modify the requirements of section  
11 2111.”.

12 (B) Section 6102(c) of the Deficit Reduc-  
13 tion Act of 2005 (Public Law 109–171; 120  
14 Stat. 131) is amended by striking “Nothing”  
15 and inserting “Subject to section 2111 of the  
16 Social Security Act, as added by section 112 of  
17 the Children’s Health Insurance Program Re-  
18 authorization Act of 2007, nothing”.

19 (b) GAO STUDY AND REPORT.—

20 (1) IN GENERAL.—The Comptroller General of  
21 the United States shall conduct a study of wheth-  
22 er—

23 (A) the coverage of a parent, a caretaker  
24 relative (as such term is used in carrying out  
25 section 1931), or a legal guardian of a targeted

1 low-income child under a State health plan  
2 under title XXI of the Social Security Act in-  
3 creases the enrollment of, or the quality of care  
4 for, children, and

5 (B) such parents, relatives, and legal  
6 guardians who enroll in such a plan are more  
7 likely to enroll their children in such a plan or  
8 in a State plan under title XIX of such Act.

9 (2) REPORT.—Not later than 2 years after the  
10 date of the enactment of this Act, the Comptroller  
11 General shall report the results of the study to the  
12 Committee on Finance of the Senate and the Com-  
13 mittee on Energy and Commerce of the House of  
14 Representatives, including recommendations (if any)  
15 for changes in legislation.

16 **SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD**  
17 **PRESUMPTIVE ELIGIBILITY COSTS AGAINST**  
18 **TITLE XXI ALLOTMENT.**

19 (a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C.  
20 1397ee(a)(1)) is amended—

21 (1) in the matter preceding subparagraph (A),  
22 by striking “(or, in the case of expenditures de-  
23 scribed in subparagraph (B), the Federal medical  
24 assistance percentage (as defined in the first sen-  
25 tence of section 1905(b)))”; and

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

3 “(B) [reserved]”.

4 (b) AMENDMENTS TO MEDICAID.—

5 (1) ELIGIBILITY OF A NEWBORN.—Section  
6 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in  
7 the first sentence by striking “so long as the child  
8 is a member of the woman’s household and the  
9 woman remains (or would remain if pregnant) eligi-  
10 ble for such assistance”.

11 (2) APPLICATION OF QUALIFIED ENTITIES TO  
12 PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN  
13 UNDER MEDICAID.—Section 1920(b) (42 U.S.C.  
14 1396r–1(b)) is amended by adding after paragraph  
15 (2) the following flush sentence:

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

18 **SEC. 114. DENIAL OF PAYMENTS FOR COVERAGE OF CHIL-**  
19 **DREN WITH EFFECTIVE FAMILY INCOME**  
20 **THAT EXCEEDS 300 PERCENT OF THE POV-**  
21 **ERTY LINE.**

22 (a) IN GENERAL.—Section 2105(c) (42 U.S.C.  
23 1397ee(c)) is amended by adding at the end the following  
24 new paragraph:

1           “(8) DENIAL OF PAYMENTS FOR EXPENDI-  
2           TURES FOR CHILD HEALTH ASSISTANCE FOR CHIL-  
3           DREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS  
4           300 PERCENT OF THE POVERTY LINE.—

5                   “(A) IN GENERAL.—Except as provided in  
6           subparagraph (B), for child health assistance  
7           furnished after the date of the enactment of  
8           this paragraph, no payment shall be made  
9           under this section for any expenditures for pro-  
10          viding child health assistance or health benefits  
11          coverage for a targeted low-income child whose  
12          effective family income would exceed 300 per-  
13          cent of the poverty line but for the application  
14          of a general exclusion of a block of income that  
15          is not determined by type of expense or type of  
16          income.

17                   “(B) EXCEPTION.—Subparagraph (A)  
18          shall not apply to any State that, on the date  
19          of enactment of the Children’s Health Insur-  
20          ance Program Reauthorization Act of 2007, has  
21          an approved State plan amendment or waiver to  
22          provide expenditures described in such subpara-  
23          graph under the State child health plan.”.

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

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

3           (2) changing the flexibility provided States  
4           under such title to establish the income eligibility  
5           level for targeted low-income children under a State  
6           child health plan and the methodologies used by the  
7           State to determine income or assets under such  
8           plan.

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

10          (a) STATE AUTHORITY TO EXPAND INCOME OR RE-  
11          SOURCE ELIGIBILITY LEVELS FOR CHILDREN.—Nothing  
12          in this Act, the amendments made by this Act, or title  
13          XIX of the Social Security Act, including paragraph  
14          (2)(B) of section 1905(u) of such Act, shall be construed  
15          as limiting the flexibility afforded States under such title  
16          to increase the income or resource eligibility levels for chil-  
17          dren under a State plan or waiver under such title.

18          (b) STATE AUTHORITY TO RECEIVE PAYMENTS  
19          UNDER MEDICAID FOR PROVIDING MEDICAL ASSISTANCE  
20          TO CHILDREN ELIGIBLE AS A RESULT OF AN INCOME OR  
21          RESOURCE ELIGIBILITY LEVEL EXPANSION.—A State  
22          may, notwithstanding the fourth sentence of subsection  
23          (b) of section 1905 of the Social Security Act (42 U.S.C.  
24          1396d) or subsection (u) of such section—

1           (1) cover individuals described in section  
2           1902(a)(10)(A)(ii)(IX) of the Social Security Act  
3           and thereby receive Federal financial participation  
4           for medical assistance for such individuals under  
5           title XIX of the Social Security Act; or

6           (2) receive Federal financial participation for  
7           expenditures for medical assistance under Medicaid  
8           for children described in paragraph (2)(B) or (3) of  
9           section 1905(u) of such Act based on the Federal  
10          medical assistance percentage, as otherwise deter-  
11          mined based on the first and third sentences of sub-  
12          section (b) of section 1905 of the Social Security  
13          Act, rather than on the basis of an enhanced FMAP  
14          (as defined in section 2105(b) of such Act).

15 **SEC. 116. PREVENTING SUBSTITUTION OF CHIP COVERAGE**  
16 **FOR PRIVATE COVERAGE.**

17          (a) FINDINGS.—

18           (1) Congress agrees with the President that  
19           low-income children should be the first priority of all  
20           States in providing child health assistance under  
21           CHIP.

22           (2) Congress agrees with the President and the  
23           Congressional Budget Office that the substitution of  
24           CHIP coverage for private coverage occurs more fre-

1       quently for children in families at higher income lev-  
2       els.

3               (3) Congress agrees with the President that it  
4       is appropriate that States that expand CHIP eligi-  
5       bility to children at higher income levels should have  
6       achieved a high level of health benefits coverage for  
7       low-income children and should implement strategies  
8       to address such substitution.

9               (4) Congress concludes that the policies speci-  
10      fied in this section (and the amendments made by  
11      this section) are the appropriate policies to address  
12      these issues.

13      (b) ANALYSES OF BEST PRACTICES AND METHOD-  
14      OLOGY IN ADDRESSING CROWD-OUT.—

15              (1) GAO REPORT.—Not later than 18 months  
16      after the date of the enactment of this Act, the  
17      Comptroller General of the United States shall sub-  
18      mit to the Committee on Finance of the Senate and  
19      the Committee on Energy and Commerce of the  
20      House of Representatives and the Secretary a report  
21      describing the best practices by States in addressing  
22      the issue of CHIP crowd-out. Such report shall in-  
23      clude analyses of—

1 (A) the impact of different geographic  
2 areas, including urban and rural areas, on  
3 CHIP crowd-out;

4 (B) the impact of different State labor  
5 markets on CHIP crowd-out;

6 (C) the impact of different strategies for  
7 addressing CHIP crowd-out;

8 (D) the incidence of crowd-out for children  
9 with different levels of family income; and

10 (E) the relationship (if any) between  
11 changes in the availability and affordability of  
12 dependent coverage under employer-sponsored  
13 health insurance and CHIP crowd-out.

14 (2) IOM REPORT ON METHODOLOGY.—The  
15 Secretary shall enter into an arrangement with the  
16 Institute of Medicine under which the Institute sub-  
17 mits to the Committee on Finance of the Senate and  
18 the Committee on Energy and Commerce of the  
19 House of Representatives and the Secretary, not  
20 later than 18 months after the date of the enact-  
21 ment of this Act, a report on—

22 (A) the most accurate, reliable, and timely  
23 way to measure—

24 (i) on a State-by-State basis, the rate  
25 of public and private health benefits cov-



1 erage among low-income children with  
2 family income that does not exceed 200  
3 percent of the poverty line; and

4 (ii) CHIP crowd-out, including in the  
5 case of children with family income that  
6 exceeds 200 percent of the poverty line;  
7 and

8 (B) the least burdensome way to gather  
9 the necessary data to conduct the measure-  
10 ments described in subparagraph (A).

11 Out of any money in the Treasury not otherwise ap-  
12 propriated, there are hereby appropriated  
13 \$2,000,000 to carry out this paragraph for the pe-  
14 riod ending September 30, 2009.

15 (3) INCORPORATION OF DEFINITIONS.—In this  
16 section, the terms “CHIP crowd-out”, “children”,  
17 “poverty line”, and “State” have the meanings given  
18 such terms for purposes of CHIP.

19 (4) DEFINITION OF CHIP CROWD-OUT.—Section  
20 2110(e) (42 U.S.C. 1397jj(e)) is amended by adding  
21 at the end the following:

22 “(9) CHIP CROWD-OUT.—The term ‘CHIP  
23 crowd-out’ means the substitution of—

24 “(A) health benefits coverage for a child  
25 under this title, for

1           “(B) health benefits coverage for the child  
2           other than under this title or title XIX.”.

3           (c) DEVELOPMENT OF BEST PRACTICE REC-  
4           COMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is  
5           amended by adding at the end the following:

6           “(g) DEVELOPMENT OF BEST PRACTICE REC-  
7           COMMENDATIONS.—Within 6 months after the date of re-  
8           ceipt of the reports under subsections (a) and (b) of sec-  
9           tion 116 of the Children’s Health Insurance Program Re-  
10          authorization Act of 2007, the Secretary, in consultation  
11          with States, including Medicaid and CHIP directors in  
12          States, shall publish in the Federal Register, and post on  
13          the public website for the Department of Health and  
14          Human Services—

15                 “(1) recommendations regarding best practices  
16                 for States to use to address CHIP crowd-out; and

17                 “(2) uniform standards for data collection by  
18                 States to measure and report—

19                         “(A) health benefits coverage for children  
20                         with family income below 200 percent of the  
21                         poverty line; and

22                         “(B) on CHIP crowd-out, including for  
23                         children with family income that exceeds 200  
24                         percent of the poverty line.

1 The Secretary, in consultation with States, including Med-  
2 icaid and CHIP directors in States, may from time to time  
3 update the best practice recommendations and uniform  
4 standards set published under paragraphs (1) and (2) and  
5 shall provide for publication and posting of such updated  
6 recommendations and standards.”.

7 (d) REQUIREMENT TO ADDRESS CHIP CROWD-OUT;  
8 SECRETARIAL REVIEW.—Section 2106 (42 U.S.C. 1397ff)  
9 is amended by adding at the end the following:

10 “(f) REQUIREMENT TO ADDRESS CHIP CROWD-  
11 OUT; SECRETARIAL REVIEW.—

12 “(1) IN GENERAL.—Not later than 6 months  
13 after the best practice application date described in  
14 paragraph (2), each State that has a State child  
15 health plan shall submit to the Secretary a State  
16 plan amendment describing how the State—

17 “(A) will address CHIP crowd-out; and

18 “(B) will incorporate recommended best  
19 practices referred to in such paragraph.

20 “(2) BEST PRACTICE APPLICATION DATE.—The  
21 best practice application date described in this para-  
22 graph is the date that is 6 months after the date of  
23 publication of recommendations regarding best prac-  
24 tices under section 2107(g)(1).

1           “(3) SECRETARIAL REVIEW.—The Secretary  
2 shall—

3           “(A) review each State plan amendment  
4 submitted under paragraph (1);

5           “(B) determine whether the amendment  
6 incorporates recommended best practices re-  
7 ferred to in paragraph (2);

8           “(C) in the case of a higher income eligi-  
9 bility State (as defined in section  
10 2105(c)(9)(B)), determine whether the State  
11 meets the enrollment targets required under  
12 reference section 2105(c)(9)(C); and

13           “(D) notify the State of such determina-  
14 tions.”.

15       (e) LIMITATION ON PAYMENTS FOR STATES COV-  
16 ERING HIGHER INCOME CHILDREN.—

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

21           “(9) LIMITATION ON PAYMENTS FOR STATES  
22 COVERING HIGHER INCOME CHILDREN.—

23           “(A) DETERMINATIONS.—

24           “(i) IN GENERAL.—The Secretary  
25 shall determine, for each State that is a

1 higher income eligibility State as of April  
2 1 of 2010 and each subsequent year,  
3 whether the State meets the target rate of  
4 coverage of low-income children required  
5 under subparagraph (C) and shall notify  
6 the State in that month of such determina-  
7 tion.

8 “(ii) DETERMINATION OF FAILURE.—  
9 If the Secretary determines in such month  
10 that a higher income eligibility State does  
11 not meet such target rate of coverage, sub-  
12 ject to subparagraph (E), no payment shall  
13 be made as of October 1 of such year on  
14 or after October 1, 2010, under this sec-  
15 tion for child health assistance provided for  
16 higher-income children (as defined in sub-  
17 paragraph (D)) under the State child  
18 health plan unless and until the State es-  
19 tablishes it is in compliance with such re-  
20 quirement.

21 “(B) HIGHER INCOME ELIGIBILITY  
22 STATE.—A higher income eligibility State de-  
23 scribed in this clause is a State that—

24 “(i) applies under its State child  
25 health plan an eligibility income standard

1 for targeted low-income children that ex-  
2 ceeds 300 percent of the poverty line; or

3 “(ii) because of the application of a  
4 general exclusion of a block of income that  
5 is not determined by type of expense or  
6 type of income, applies an effective income  
7 standard under the State child health plan  
8 for such children that exceeds 300 percent  
9 of the poverty line.

10 “(C) REQUIREMENT FOR TARGET RATE OF  
11 COVERAGE OF LOW-INCOME CHILDREN.—

12 “(i) IN GENERAL.—The requirement  
13 of this subparagraph for a State is that  
14 the rate of health benefits coverage (both  
15 private and public) for low-income children  
16 in the State is not statistically significantly  
17 (at a  $p=0.05$  level) less than the target  
18 rate of coverage specified in clause (ii).

19 “(ii) TARGET RATE.—The target rate  
20 of coverage specified in this clause is the  
21 average rate (determined by the Secretary)  
22 of health benefits coverage (both private  
23 and public) as of January 1, 2010, among  
24 the 10 of the 50 States and the District of  
25 Columbia with the highest percentage of

1 health benefits coverage (both private and  
2 public) for low-income children.

3 “(iii) STANDARDS FOR DATA.—In ap-  
4 plying this subparagraph, rates of health  
5 benefits coverage for States shall be deter-  
6 mined using the uniform standards identi-  
7 fied by the Secretary under section  
8 2107(g)(2).

9 “(D) HIGHER-INCOME CHILD.—For pur-  
10 poses of this paragraph, the term ‘higher in-  
11 come child’ means, with respect to a State child  
12 health plan, a targeted low-income child whose  
13 family income—

14 “(i) exceeds 300 percent of the pov-  
15 erty line; or

16 “(ii) would exceed 300 percent of the  
17 poverty line if there were not taken into  
18 account any general exclusion described in  
19 subparagraph (B)(ii).

20 “(E) NOTICE AND OPPORTUNITY TO COM-  
21 PLY WITH TARGET RATE.—If the Secretary  
22 makes a determination described in subpara-  
23 graph (A)(ii) in April of a year, the Secretary—

24 “(i) shall provide the State with the  
25 opportunity to submit and implement a

1           corrective action plan for the State to come  
2           into compliance with the requirement of  
3           subparagraph (C) before October 1 of such  
4           year;

5           “(ii) shall not effect a denial of pay-  
6           ment under subparagraph (A) on the basis  
7           of such determination before October 1 of  
8           such year; and

9           “(iii) shall not effect such a denial if  
10          the Secretary determines that there is a  
11          reasonable likelihood that the implementa-  
12          tion of such a correction action plan will  
13          bring the State into compliance with the  
14          requirement of subparagraph (C).”.

15          (2) CONSTRUCTION.—Nothing in the amend-  
16          ment made by paragraph (1) or this section this  
17          shall be construed as authorizing the Secretary of  
18          Health and Human Services to limit payments  
19          under title XXI of the Social Security Act in the  
20          case of a State that is not a higher income eligibility  
21          State (as defined in section 2105(c)(9)(B) of such  
22          Act, as added by paragraph (1)).

23          (f) TREATMENT OF MEDICAL SUPPORT ORDERS.—  
24          Section 2102(b) (42 U.S.C. 1397bb(e)) is amended by  
25          adding at the end the following:



1           “(5) TREATMENT OF MEDICAL SUPPORT OR-  
2       DERS.—

3           “(A) IN GENERAL.—Nothing in this title  
4       shall be construed to allow the Secretary to re-  
5       quire that a State deny eligibility for child  
6       health assistance to a child who is otherwise eli-  
7       gible on the basis of the existence of a valid  
8       medical support order being in effect.

9           “(B) STATE ELECTION.—A State may  
10      elect to limit eligibility for child health assist-  
11      ance to a targeted low-income child on the basis  
12      of the existence of a valid medical support order  
13      on the child’s behalf, but only if the State does  
14      not deny such eligibility for a child on such  
15      basis if the child asserts that the order is not  
16      being complied with for any of the reasons de-  
17      scribed in subparagraph (C) unless the State  
18      demonstrates that none of such reasons applies  
19      in the case involved.

20          “(C) REASONS FOR NONCOMPLIANCE.—  
21      The reasons described in this subparagraph for  
22      noncompliance with a medical support order  
23      with respect to a child are that the child is not  
24      being provided health benefits coverage pursu-  
25      ant to such order because—

1                   “(i) of failure of the noncustodial par-  
2                   ent to comply with the order;

3                   “(ii) of the failure of an employer,  
4                   group health plan or health insurance  
5                   issuer to comply with such order; or

6                   “(iii) the child resides in a geographic  
7                   area in which benefits under the health  
8                   benefits coverage are generally unavail-  
9                   able.”.

10           (g) EFFECTIVE DATE OF AMENDMENTS; CONSIST-  
11   ENCY OF POLICIES.—The amendments made by this sec-  
12   tion shall take effect as if enacted on August 16, 2007.  
13   The Secretary may not impose (or continue in effect) any  
14   requirement, prevent the implementation of any provision,  
15   or condition the approval of any provision under any State  
16   child health plan, State plan amendment, or waiver re-  
17   quest on the basis of any policy or interpretation relating  
18   to CHIP crowd-out, coordination with other sources of  
19   coverage, target rate of coverage, or medical support order  
20   other than under the amendments made by this section.  
21   In the case of a State plan amendment which was denied  
22   on or after August 16, 2007, on the basis of any such  
23   policy or interpretation in effect before the date of the en-  
24   actment of this Act, if the State submits a modification  
25   of such State plan amendment that complies with title

1 XXI of the Social Security Act as amended by this Act,  
 2 such submitted State plan amendment, as so modified,  
 3 shall be considered as if it had been submitted (as so modi-  
 4 fied) as of the date of its original submission, but such  
 5 State plan amendment shall not be effective before the  
 6 date of the enactment of this Act and the exception de-  
 7 scribed in subparagraph (B) of section 2105(c)(8) of the  
 8 Social Security Act, as added by section 114(a), shall not  
 9 apply to such State plan amendment.

10 **TITLE II—OUTREACH AND**  
 11 **ENROLLMENT**

12 **Subtitle A—Outreach and**  
 13 **Enrollment Activities**

14 **SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUND-**  
 15 **ING FOR OUTREACH AND ENROLLMENT.**

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

19 **“SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLL-**  
 20 **MENT.**

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

23 **“(1) IN GENERAL.—**From the amounts appro-  
 24 priated under subsection (g), subject to paragraph  
 25 (2), the Secretary shall award grants to eligible enti-

1 ties during the period of fiscal years 2008 through  
2 2012 to conduct outreach and enrollment efforts  
3 that are designed to increase the enrollment and  
4 participation of eligible children under this title and  
5 title XIX.

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

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

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

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

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

21 “(ii) racial and ethnic minorities and  
22 health disparity populations, including  
23 those proposals that address cultural and  
24 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 2008 through  
18 2012, 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           (b) ENHANCED ADMINISTRATIVE FUNDING FOR  
8           TRANSLATION OR INTERPRETATION SERVICES UNDER  
9           CHIP AND MEDICAID.—

10           (1) CHIP.—Section 2105(a)(1) (42 U.S.C.  
11           1397ee(a)(1)), as amended by section 113, is  
12           amended—

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

19           (B) in subparagraph (D)—

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

22           (ii) by redesignating clause (iv) as  
23           clause (v); and

24           (iii) by inserting after clause (iii) the  
25           following new clause:

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

9           (2) MEDICAID.—

10           (A) USE OF MEDICAID FUNDS.—Section  
11           1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended  
12           by adding at the end the following new sub-  
13           paragraph:

14           “(E) an amount equal to 75 percent of so much  
15           of the sums expended during such quarter (as found  
16           necessary by the Secretary for the proper and effi-  
17           cient administration of the State plan) as are attrib-  
18           utable to translation or interpretation services in  
19           connection with the enrollment of, retention of, and  
20           use of services under this title by, children of fami-  
21           lies for whom English is not the primary language;  
22           plus”.

23           (B) USE OF COMMUNITY HEALTH WORK-  
24           ERS FOR OUTREACH ACTIVITIES.—

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

6 (ii) IN FEDERAL EVALUATION.—Sec-  
7 tion 2108(e)(3)(B) of such Act (42 U.S.C.  
8 1397hh(c)(3)(B)) is amended by inserting  
9 “(such as through community health work-  
10 ers and others)” after “including prac-  
11 tices”.

12 **SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF IN-**  
13 **DIANS.**

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

16 **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**  
17 **HEALTH CARE FOR INDIANS UNDER TITLES**  
18 **XIX AND XXI.**

19 “(a) AGREEMENTS WITH STATES FOR MEDICAID  
20 AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO  
21 INCREASE THE ENROLLMENT OF INDIANS IN THOSE  
22 PROGRAMS.—

23 “(1) IN GENERAL.—In order to improve the ac-  
24 cess of Indians residing on or near a reservation to  
25 obtain benefits under the Medicaid and State chil-

1       dren’s health insurance programs established under  
2       titles XIX and XXI, the Secretary shall encourage  
3       the State to take steps to provide for enrollment on  
4       or near the reservation. Such steps may include out-  
5       reach efforts such as the outstationing of eligibility  
6       workers, entering into agreements with the Indian  
7       Health Service, Indian Tribes, Tribal Organizations,  
8       and Urban Indian Organizations to provide out-  
9       reach, education regarding eligibility and benefits,  
10      enrollment, and translation services when such serv-  
11      ices are appropriate.

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

19           “(b) REQUIREMENT TO FACILITATE COOPERA-  
20      TION.—The Secretary, acting through the Centers for  
21      Medicare & Medicaid Services, shall take such steps as are  
22      necessary to facilitate cooperation with, and agreements  
23      between, States and the Indian Health Service, Indian  
24      Tribes, Tribal Organizations, or Urban Indian Organiza-  
25      tions with respect to the provision of health care items

1 and services to Indians under the programs established  
2 under title XIX or XXI.

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

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

14 “(C) NONAPPLICATION TO CERTAIN EX-  
15 PENDITURES.—The limitation under subpara-  
16 graph (A) shall not apply with respect to the  
17 following expenditures:

18 “(i) EXPENDITURES TO INCREASE  
19 OUTREACH TO, AND THE ENROLLMENT OF,  
20 INDIAN CHILDREN UNDER THIS TITLE AND  
21 TITLE xix.—Expenditures for outreach ac-  
22 tivities to families of Indian children likely  
23 to be eligible for child health assistance  
24 under the plan or medical assistance under  
25 the State plan under title XIX (or under



1 a waiver of such plan), to inform such  
 2 families of the availability of, and to assist  
 3 them in enrolling their children in, such  
 4 plans, including such activities conducted  
 5 under grants, contracts, or agreements en-  
 6 tered into under section 1139(a).”.

7 **SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN**  
 8 **EXPRESS LANE AGENCY TO CONDUCT SIM-**  
 9 **PLIFIED ELIGIBILITY DETERMINATIONS.**

10 (a) APPLICATION UNDER MEDICAID AND CHIP PRO-  
 11 GRAMS.—

12 (1) MEDICAID.—Section 1902(e) (42 U.S.C.  
 13 1396a(e)) is amended by adding at the end the fol-  
 14 lowing:

15 “(13) EXPRESS LANE OPTION.—

16 “(A) IN GENERAL.—

17 “(i) OPTION TO USE A FINDING FROM AN  
 18 EXPRESS LANE AGENCY.—At the option of the  
 19 State, the State plan may provide that in deter-  
 20 mining eligibility under this title for a child (as  
 21 defined in subparagraph (G)), the State may  
 22 rely on a finding made within a reasonable pe-  
 23 riod (as determined by the State) from an Ex-  
 24 press Lane agency (as defined in subparagraph  
 25 (F)) when it determines whether a child satis-

1           fies one or more components of eligibility for  
2           medical assistance under this title. The State  
3           may rely on a finding from an Express Lane  
4           agency           notwithstanding           sections  
5           1902(a)(46)(B) and 1137(d) and any dif-  
6           ferences in budget unit, disregard, deeming or  
7           other methodology, if the following require-  
8           ments are met:

9                   “(I) PROHIBITION ON DETERMINING  
10                   CHILDREN INELIGIBLE FOR COVERAGE.—

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

18                   “(II) NOTICE REQUIREMENT.—For  
19                   any child who is found eligible for medical  
20                   assistance under the State plan under this  
21                   title or child health assistance under title  
22                   XXI and who is subject to premiums based  
23                   on an Express Lane agency’s finding of  
24                   such child’s income level, the State shall  
25                   provide notice that the child may qualify

1 for lower premium payments if evaluated  
2 by the State using its regular policies and  
3 of the procedures for requesting such an  
4 evaluation.

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

15 “(IV) VERIFICATION OF CITIZENSHIP  
16 OR NATIONALITY STATUS.—The State shall  
17 satisfy the requirements of section  
18 1902(a)(46)(B) or 2105(c)(10), as applica-  
19 ble for verifications of citizenship or na-  
20 tionality status.

21 “(V) CODING.—The State meets the  
22 requirements of subparagraph (E).

23 “(ii) OPTION TO APPLY TO RENEWALS AND  
24 REDETERMINATIONS.—The State may apply the  
25 provisions of this paragraph when conducting

1 initial determinations of eligibility, redetermina-  
2 tions of eligibility, or both, as described in the  
3 State plan.

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

6 “(i) to limit or prohibit a State from tak-  
7 ing any actions otherwise permitted under this  
8 title or title XXI in determining eligibility for  
9 or enrolling children into medical assistance  
10 under this title or child health assistance under  
11 title XXI; or

12 “(ii) to modify the limitations in section  
13 1902(a)(5) concerning the agencies that may  
14 make a determination of eligibility for medical  
15 assistance under this title.

16 “(C) OPTIONS FOR SATISFYING THE SCREEN  
17 AND ENROLL REQUIREMENT.—

18 “(i) IN GENERAL.—With respect to a child  
19 whose eligibility for medical assistance under  
20 this title or for child health assistance under  
21 title XXI has been evaluated by a State agency  
22 using an income finding from an Express Lane  
23 agency, a State may carry out its duties under  
24 subparagraphs (A) and (B) of section

1           2102(b)(3) (relating to screen and enroll) in ac-  
2 cordance with either clause (ii) or clause (iii).

3           “(ii) ESTABLISHING A SCREENING  
4 THRESHOLD.—

5           “(I) IN GENERAL.—Under this clause,  
6 the State establishes a screening threshold  
7 set as a percentage of the Federal poverty  
8 level that exceeds the highest income  
9 threshold applicable under this title to the  
10 child by a minimum of 30 percentage  
11 points or, at State option, a higher number  
12 of percentage points that reflects the value  
13 (as determined by the State and described  
14 in the State plan) of any differences be-  
15 tween income methodologies used by the  
16 program administered by the Express Lane  
17 agency and the methodologies used by the  
18 State in determining eligibility for medical  
19 assistance under this title.

20           “(II) CHILDREN WITH INCOME NOT  
21 ABOVE THRESHOLD.—If the income of a  
22 child does not exceed the screening thresh-  
23 old, the child is deemed to satisfy the in-  
24 come eligibility criteria for medical assist-  
25 ance under this title regardless of whether

1 such child would otherwise satisfy such cri-  
2 teria.

3 “(III) CHILDREN WITH INCOME  
4 ABOVE THRESHOLD.—If the income of a  
5 child exceeds the screening threshold, the  
6 child shall be considered to have an income  
7 above the Medicaid applicable income level  
8 described in section 2110(b)(4) and to sat-  
9 isfy the requirement under section  
10 2110(b)(1)(C) (relating to the requirement  
11 that CHIP matching funds be used only  
12 for children not eligible for Medicaid). If  
13 such a child is enrolled in child health as-  
14 sistance under title XXI, the State shall  
15 provide the parent, guardian, or custodial  
16 relative with the following:

17 “(aa) Notice that the child may  
18 be eligible to receive medical assist-  
19 ance under the State plan under this  
20 title if evaluated for such assistance  
21 under the State’s regular procedures  
22 and notice of the process through  
23 which a parent, guardian, or custodial  
24 relative can request that the State  
25 evaluate the child’s eligibility for med-

1           ical assistance under this title using  
2           such regular procedures.

3                   “(bb) A description of differences  
4           between the medical assistance pro-  
5           vided under this title and child health  
6           assistance under title XXI, including  
7           differences in cost-sharing require-  
8           ments and covered benefits.

9                   “(iii) TEMPORARY ENROLLMENT IN CHIP  
10           PENDING SCREEN AND ENROLL.—

11                   “(I) IN GENERAL.—Under this clause,  
12           a State enrolls a child in child health as-  
13           sistance under title XXI for a temporary  
14           period if the child appears eligible for such  
15           assistance based on an income finding by  
16           an Express Lane agency.

17                   “(II) DETERMINATION OF ELIGI-  
18           BILITY.—During such temporary enroll-  
19           ment period, the State shall determine the  
20           child’s eligibility for child health assistance  
21           under title XXI or for medical assistance  
22           under this title in accordance with this  
23           clause.

24                   “(III) PROMPT FOLLOW UP.—In mak-  
25           ing such a determination, the State shall

1 take prompt action to determine whether  
2 the child should be enrolled in medical as-  
3 sistance under this title or child health as-  
4 sistance under title XXI pursuant to sub-  
5 paragraphs (A) and (B) of section  
6 2102(b)(3) (relating to screen and enroll).

7 “(IV) REQUIREMENT FOR SIMPLIFIED  
8 DETERMINATION.—In making such a de-  
9 termination, the State shall use procedures  
10 that, to the maximum feasible extent, re-  
11 duce the burden imposed on the individual  
12 of such determination. Such procedures  
13 may not require the child’s parent, guard-  
14 ian, or custodial relative to provide or  
15 verify information that already has been  
16 provided to the State agency by an Ex-  
17 press Lane agency or another source of in-  
18 formation unless the State agency has rea-  
19 son to believe the information is erroneous.

20 “(V) AVAILABILITY OF CHIP MATCH-  
21 ING FUNDS DURING TEMPORARY ENROLL-  
22 MENT PERIOD.—Medical assistance for  
23 items and services that are provided to a  
24 child enrolled in title XXI during a tem-  
25 porary enrollment period under this clause



1           shall be treated as child health assistance  
2           under such title.

3           “(D) OPTION FOR AUTOMATIC ENROLLMENT.—

4           “(i) IN GENERAL.—The State may initiate  
5           and determine eligibility for medical assistance  
6           under the State Medicaid plan or for child  
7           health assistance under the State CHIP plan  
8           without a program application from, or on be-  
9           half of, the child based on data obtained from  
10          sources other than the child (or the child’s fam-  
11          ily), but a child can only be automatically en-  
12          rolled in the State Medicaid plan or the State  
13          CHIP plan if the child or the family affirma-  
14          tively consents to being enrolled through affir-  
15          mation and signature on an Express Lane  
16          agency application, if the requirement of clause  
17          (ii) is met.

18          “(ii) INFORMATION REQUIREMENT.—The  
19          requirement of this clause is that the State in-  
20          forms the parent, guardian, or custodial relative  
21          of the child of the services that will be covered,  
22          appropriate methods for using such services,  
23          premium or other cost sharing charges (if any)  
24          that apply, medical support obligations (under  
25          section 1912(a)) created by enrollment (if appli-

1 cable), and the actions the parent, guardian, or  
2 relative must take to maintain enrollment and  
3 renew coverage.

4 “(E) CODING; APPLICATION TO ENROLLMENT  
5 ERROR RATES.—

6 “(i) IN GENERAL.—For purposes of sub-  
7 paragraph (A)(iv), the requirement of this sub-  
8 paragraph for a State is that the State agrees  
9 to—

10 “(I) assign such codes as the Sec-  
11 retary shall require to the children who are  
12 enrolled in the State Medicaid plan or the  
13 State CHIP plan through reliance on a  
14 finding made by an Express Lane agency  
15 for the duration of the State’s election  
16 under this paragraph;

17 “(II) annually provide the Secretary  
18 with a statistically valid sample (that is ap-  
19 proved by Secretary) of the children en-  
20 rolled in such plans through reliance on  
21 such a finding by conducting a full Med-  
22 icaid eligibility review of the children iden-  
23 tified for such sample for purposes of de-  
24 termining an eligibility error rate (as de-  
25 scribed in clause (iv)) with respect to the

1 enrollment of such children (and shall not  
2 include such children in any data or sam-  
3 ples used for purposes of complying with a  
4 Medicaid Eligibility Quality Control  
5 (MEQC) review or a payment error rate  
6 measurement (PERM) requirement);

7 “(III) submit the error rate deter-  
8 mined under subclause (II) to the Sec-  
9 retary;

10 “(IV) if such error rate exceeds 3 per-  
11 cent for either of the first 2 fiscal years in  
12 which the State elects to apply this para-  
13 graph, demonstrate to the satisfaction of  
14 the Secretary the specific corrective actions  
15 implemented by the State to improve upon  
16 such error rate; and

17 “(V) if such error rate exceeds 3 per-  
18 cent for any fiscal year in which the State  
19 elects to apply this paragraph, a reduction  
20 in the amount otherwise payable to the  
21 State under section 1903(a) for quarters  
22 for that fiscal year, equal to the total  
23 amount of erroneous excess payments de-  
24 termined for the fiscal year only with re-  
25 spect to the children included in the sam-

1           ple for the fiscal year that are in excess of  
2           a 3 percent error rate with respect to such  
3           children.

4           “(ii) NO PUNITIVE ACTION BASED ON  
5           ERROR RATE.—The Secretary shall not apply  
6           the error rate derived from the sample under  
7           clause (i) to the entire population of children  
8           enrolled in the State Medicaid plan or the State  
9           CHIP plan through reliance on a finding made  
10          by an Express Lane agency, or to the popu-  
11          lation of children enrolled in such plans on the  
12          basis of the State’s regular procedures for de-  
13          termining eligibility, or penalize the State on  
14          the basis of such error rate in any manner  
15          other than the reduction of payments provided  
16          for under clause (i)(V).

17          “(iii) RULE OF CONSTRUCTION.—Nothing  
18          in this paragraph shall be construed as relieving  
19          a State that elects to apply this paragraph from  
20          being subject to a penalty under section  
21          1903(u), for payments made under the State  
22          Medicaid plan with respect to ineligible individ-  
23          uals and families that are determined to exceed  
24          the error rate permitted under that section (as

1 determined without regard to the error rate de-  
2 termined under clause (i)(II)).

3 “(iv) ERROR RATE DEFINED.—In this sub-  
4 paragraph, the term ‘error rate’ means the rate  
5 of erroneous excess payments for medical as-  
6 sistance (as defined in section 1903(u)(1)(D))  
7 for the period involved, except that such pay-  
8 ments shall be limited to individuals for which  
9 eligibility determinations are made under this  
10 paragraph and except that in applying this  
11 paragraph under title XXI, there shall be sub-  
12 stituted for references to provisions of this title  
13 corresponding provisions within title XXI.

14 “(F) EXPRESS LANE AGENCY.—

15 “(i) IN GENERAL.—In this paragraph, the  
16 term ‘Express Lane agency’ means a public  
17 agency that—

18 “(I) is determined by the State Med-  
19 icaid agency or the State CHIP agency (as  
20 applicable) to be capable of making the de-  
21 terminations of one or more eligibility re-  
22 quirements described in subparagraph  
23 (A)(i);

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

1 “(III) notifies the child’s family—

2 “(aa) of the information which  
3 shall be disclosed in accordance with  
4 this paragraph;

5 “(bb) that the information dis-  
6 closed will be used solely for purposes  
7 of determining eligibility for medical  
8 assistance under the State Medicaid  
9 plan or for child health assistance  
10 under the State CHIP plan; and

11 “(cc) that the family may elect to  
12 not have the information disclosed for  
13 such purposes; and

14 “(IV) enters into, or is subject to, an  
15 interagency agreement to limit the dislo-  
16 sure and use of the information disclosed.

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

19 “(I) A public agency that determines  
20 eligibility for assistance under any of the  
21 following:

22 “(aa) The temporary assistance  
23 for needy families program funded  
24 under part A of title IV.

1 “(bb) A State program funded  
2 under part D of title IV.

3 “(cc) The State Medicaid plan.

4 “(dd) The State CHIP plan.

5 “(ee) The Food Stamp Act of  
6 1977 (7 U.S.C. 2011 et seq.).

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

9 “(gg) The Richard B. Russell  
10 National School Lunch Act (42  
11 U.S.C. 1751 et seq.).

12 “(hh) The Child Nutrition Act of  
13 1966 (42 U.S.C. 1771 et seq.).

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

17 “(jj) The Stewart B. McKinney  
18 Homeless Assistance Act (42 U.S.C.  
19 11301 et seq.).

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

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

1           “(II) A State-specified governmental  
2           agency that has fiscal liability or legal re-  
3           sponsibility for the accuracy of the eligi-  
4           bility determination findings relied on by  
5           the State.

6           “(III) A public agency that is subject  
7           to an interagency agreement limiting the  
8           disclosure and use of the information dis-  
9           closed for purposes of determining eligi-  
10          bility under the State Medicaid plan or the  
11          State CHIP plan.

12          “(iii) EXCLUSIONS.—Such term does not  
13          include an agency that determines eligibility for  
14          a program established under the Social Services  
15          Block Grant established under title XX or a  
16          private, for-profit organization.

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

19                 “(I) exempting a State Medicaid  
20                 agency from complying with the require-  
21                 ments of section 1902(a)(4) relating to  
22                 merit-based personnel standards for em-  
23                 ployees of the State Medicaid agency and  
24                 safeguards against conflicts of interest); or



1           “(II) authorizing a State Medicaid  
2           agency that elects to use Express Lane  
3           agencies under this subparagraph to use  
4           the Express Lane option to avoid com-  
5           plying with such requirements for purposes  
6           of making eligibility determinations under  
7           the State Medicaid plan.

8           “(v) ADDITIONAL DEFINITIONS.—In this  
9           paragraph:

10           “(I) STATE.—The term ‘State’ means  
11           1 of the 50 States or the District of Co-  
12           lumbia.

13           “(II) STATE CHIP AGENCY.—The  
14           term ‘State CHIP agency’ means the State  
15           agency responsible for administering the  
16           State CHIP plan.

17           “(III) STATE CHIP PLAN.—The term  
18           ‘State CHIP plan’ means the State child  
19           health plan established under title XXI  
20           and includes any waiver of such plan.

21           “(IV) STATE MEDICAID AGENCY.—  
22           The term ‘State Medicaid agency’ means  
23           the State agency responsible for admin-  
24           istering the State Medicaid plan.

1                   “(V) STATE MEDICAID PLAN.—The  
2                   term ‘State Medicaid plan’ means the  
3                   State plan established under title XIX and  
4                   includes any waiver of such plan.

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

10                  “(H) APPLICATION.—This paragraph shall not  
11                  apply to with respect to eligibility determinations  
12                  made after September 30, 2012.”.

13                  (2) CHIP.—Section 2107(e)(1) (42 U.S.C.  
14                  1397gg(e)(1)) is amended by redesignating subpara-  
15                  graphs (B), (C), and (D) as subparagraphs (C), (D),  
16                  and (E), respectively, and by inserting after sub-  
17                  paragraph (A) the following new subparagraph:

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

22                  (b) EVALUATION AND REPORT.—

23                         (1) EVALUATION.—The Secretary shall con-  
24                         duct, by grant, contract, or interagency agreement,  
25                         a comprehensive, independent evaluation of the op-

1       tion provided under the amendments made by sub-  
2       section (a). Such evaluation shall include an analysis  
3       of the effectiveness of the option, and shall include—

4               (A) obtaining a statistically valid sample of  
5               the children who were enrolled in the State  
6               Medicaid plan or the State CHIP plan through  
7               reliance on a finding made by an Express Lane  
8               agency and determining the percentage of chil-  
9               dren who were erroneously enrolled in such  
10              plans;

11             (B) determining whether enrolling children  
12             in such plans through reliance on a finding  
13             made by an Express Lane agency improves the  
14             ability of a State to identify and enroll low-in-  
15             come, uninsured children who are eligible but  
16             not enrolled in such plans;

17             (C) evaluating the administrative costs or  
18             savings related to identifying and enrolling chil-  
19             dren in such plans through reliance on such  
20             findings, and the extent to which such costs dif-  
21             fer from the costs that the State otherwise  
22             would have incurred to identify and enroll low-  
23             income, uninsured children who are eligible but  
24             not enrolled in such plans; and

1 (D) any recommendations for legislative or  
2 administrative changes that would improve the  
3 effectiveness of enrolling children in such plans  
4 through reliance on such findings.

5 (2) REPORT TO CONGRESS.—Not later than  
6 September 30, 2011, the Secretary shall submit a  
7 report to Congress on the results of the evaluation  
8 under paragraph (1).

9 (3) FUNDING.—

10 (A) IN GENERAL.—Out of any funds in the  
11 Treasury not otherwise appropriated, there is  
12 appropriated to the Secretary to carry out the  
13 evaluation under this subsection \$5,000,000 for  
14 the period of fiscal years 2008 through 2011.

15 (B) BUDGET AUTHORITY.—Subparagraph  
16 (A) constitutes budget authority in advance of  
17 appropriations Act and represents the obliga-  
18 tion of the Federal Government to provide for  
19 the payment of such amount to conduct the  
20 evaluation under this subsection.

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

24 “(dd) ELECTRONIC TRANSMISSION OF INFORMA-  
25 TION.—If the State agency determining eligibility for med-

1 ical assistance under this title or child health assistance  
2 under title XXI verifies an element of eligibility based on  
3 information from an Express Lane Agency (as defined in  
4 subsection (e)(13)(F)), or from another public agency,  
5 then the applicant’s signature under penalty of perjury  
6 shall not be required as to such element. Any signature  
7 requirement for an application for medical assistance may  
8 be satisfied through an electronic signature, as defined in  
9 section 1710(1) of the Government Paperwork Elimini-  
10 nation Act (44 U.S.C. 3504 note). The requirements of  
11 subparagraphs (A) and (B) of section 1137(d)(2) may be  
12 met through evidence in digital or electronic form.”.

13 (d) AUTHORIZATION OF INFORMATION DISCLO-  
14 SURE.—

15 (1) IN GENERAL.—Title XIX is amended—

16 (A) by redesignating section 1939 as sec-  
17 tion 1940; and

18 (B) by inserting after section 1938 the fol-  
19 lowing new section:

20 **“SEC. 1939. AUTHORIZATION TO RECEIVE RELEVANT IN-**  
21 **FORMATION.**

22 “(a) IN GENERAL.—Notwithstanding any other pro-  
23 vision of law, a Federal or State agency or private entity  
24 in possession of the sources of data directly relevant to  
25 eligibility determinations under this title (including eligi-

1 bility files maintained by Express Lane agencies described  
2 in section 1902(e)(13)(F), information described in para-  
3 graph (2) or (3) of section 1137(a), vital records informa-  
4 tion about births in any State, and information described  
5 in sections 453(i) and 1902(a)(25)(I)) is authorized to  
6 convey such data or information to the State agency ad-  
7 ministering the State plan under this title, to the extent  
8 such conveyance meets the requirements of subsection (b).

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

12 “(1) The individual whose circumstances are  
13 described in the data or information (or such indi-  
14 vidual’s parent, guardian, caretaker relative, or au-  
15 thorized representative) has either provided advance  
16 consent to disclosure or has not objected to disclo-  
17 sure after receiving advance notice of disclosure and  
18 a reasonable opportunity to object.

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

21 “(A) identifying individuals who are eligi-  
22 ble or potentially eligible for medical assistance  
23 under this title and enrolling or attempting to  
24 enroll such individuals in the State plan; and

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

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

5           “(A) prevents the unauthorized use, disclo-  
6           sure, or modification of such data and other-  
7           wise meets applicable Federal requirements  
8           safeguarding privacy and data security; and

9           “(B) requires the State agency admin-  
10          istering the State plan to use the data and in-  
11          formation obtained under this section to seek to  
12          enroll individuals in the plan.

13          “(c) PENALTIES FOR IMPROPER DISCLOSURE.—

14          “(1) CIVIL MONEY PENALTY.—A private entity  
15          described in the subsection (a) that publishes, dis-  
16          closes, or makes known in any manner, or to any ex-  
17          tent not authorized by Federal law, any information  
18          obtained under this section is subject to a civil  
19          money penalty in an amount equal to \$10,000 for  
20          each such unauthorized publication or disclosure.  
21          The provisions of section 1128A (other than sub-  
22          sections (a) and (b) and the second sentence of sub-  
23          section (f)) shall apply to a civil money penalty  
24          under this paragraph in the same manner as such

1 provisions apply to a penalty or proceeding under  
2 section 1128A(a).

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

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

16 (2) CONFORMING AMENDMENT TO TITLE XXI.—  
17 Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as  
18 amended by subsection (a)(2), is amended by adding  
19 at the end the following new subparagraph:

20 “(F) Section 1939 (relating to authoriza-  
21 tion to receive data directly relevant to eligi-  
22 bility determinations).”.

23 (3) CONFORMING AMENDMENT TO PROVIDE AC-  
24 CESS TO DATA ABOUT ENROLLMENT IN INSURANCE  
25 FOR PURPOSES OF EVALUATING APPLICATIONS AND



1 FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C.  
2 1396a(a)(25)(I)(i)) is amended—

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

8 (B) by inserting “under this title (and, at  
9 State option, child health assistance under title  
10 XXI)” after “the State plan”.

11 (e) AUTHORIZATION FOR STATES ELECTING EX-  
12 PRESS LANE OPTION TO RECEIVE CERTAIN DATA DI-  
13 RECTLY RELEVANT TO DETERMINING ELIGIBILITY AND  
14 CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall  
15 enter into such agreements as are necessary to permit a  
16 State that elects the Express Lane option under section  
17 1902(e)(13) of the Social Security Act to receive data di-  
18 rectly relevant to eligibility determinations and deter-  
19 mining the correct amount of benefits under a State child  
20 health plan under CHIP or a State plan under Medicaid  
21 from the following:

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

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

5           (f) EFFECTIVE DATE.—The amendments made by  
 6 this section are effective on January 1, 2008.

7           **Subtitle B—Reducing Barriers to**  
 8           **Enrollment**

9           **SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP**  
 10           **OR NATIONALITY FOR PURPOSES OF ELIGI-**  
 11           **BILITY FOR MEDICAID AND CHIP.**

12           (a) ALTERNATIVE STATE PROCESS FOR  
 13 VERIFICATION OF DECLARATION OF CITIZENSHIP OR NA-  
 14 TIONALITY FOR PURPOSES OF ELIGIBILITY FOR MED-  
 15 ICAID.—

16           (1) ALTERNATIVE TO DOCUMENTATION RE-  
 17 QUIREMENT.—

18           (A) IN GENERAL.—Section 1902 (42  
 19 U.S.C. 1396a), as amended by section 203(c),  
 20 is amended—

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

22           (I) by inserting “(A)” after  
 23 “(46)”;

24           (II) by adding “and” after the  
 25 semicolon; and

1 (III) by adding at the end the  
2 following new subparagraph:

3 “(B) provide, with respect to an individual de-  
4 claring to be a citizen or national of the United  
5 States for purposes of establishing eligibility under  
6 this title, that the State shall satisfy the require-  
7 ments of—

8 “(i) section 1903(x); or

9 “(ii) subsection (ee);” and

10 (ii) by adding at the end the following  
11 new subsection:

12 “(ee)(1) For purposes of subsection (a)(46)(B)(ii),  
13 the requirements of this subsection with respect to an indi-  
14 vidual declaring to be a citizen or national of the United  
15 States for purposes of establishing eligibility under this  
16 title, are, in lieu of requiring the individual to present sat-  
17 isfactory documentary evidence of citizenship or nation-  
18 ality under section 1903(x) (if the individual is not de-  
19 scribed in paragraph (2) of that section), as follows:

20 “(A) The State submits the name and social se-  
21 curity number of the individual to the Commissioner  
22 of Social Security as part of the program established  
23 under paragraph (2).

24 “(B) If the State receives notice from the Com-  
25 missioner of Social Security that the name or social

1 security number, or the declaration of citizenship or  
2 nationality, of the individual is inconsistent with in-  
3 formation in the records maintained by the Commis-  
4 sioner—

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

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

19 “(I) notifies the individual of such  
20 fact;

21 “(II) provides the individual with a  
22 period of 90 days from the date on which  
23 the notice required under subclause (I) is  
24 received by the individual to either present  
25 satisfactory documentary evidence of citi-

1 zenship or nationality (as defined in sec-  
2 tion 1903(x)(3)) or resolve the inconsis-  
3 tency with the Commissioner of Social Se-  
4 curity (and continues to provide the indi-  
5 vidual with medical assistance during such  
6 90-day period); and

7 “(III) disenrolls the individual from  
8 the State plan under this title within 30  
9 days after the end of such 90-day period if  
10 no such documentary evidence is presented  
11 or if such inconsistency is not resolved.

12 “(2)(A) Each State electing to satisfy the require-  
13 ments of this subsection for purposes of section  
14 1902(a)(46)(B) shall establish a program under which the  
15 State submits at least monthly to the Commissioner of So-  
16 cial Security for comparison of the name and social secu-  
17 rity number, of each individual newly enrolled in the State  
18 plan under this title that month who is not described in  
19 section 1903(x)(2) and who declares to be a United States  
20 citizen or national, with information in records maintained  
21 by the Commissioner.

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

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

7           “(ii) to provide for a determination of the con-  
8 sistency of the information submitted with the infor-  
9 mation maintained in the records of the Commis-  
10 sioner through such other method as agreed to by  
11 the State and the Commissioner and approved by  
12 the Secretary, provided that such method is no more  
13 burdensome for individuals to comply with than any  
14 burdens that may apply under a method described in  
15 clause (i).

16       “(C) The program established under this paragraph  
17 shall provide that, in the case of any individual who is  
18 required to submit a social security number to the State  
19 under subparagraph (A) and who is unable to provide the  
20 State with such number, shall be provided with at least  
21 the reasonable opportunity to present satisfactory docu-  
22 mentary evidence of citizenship or nationality (as defined  
23 in section 1903(x)(3)) as is provided under clauses (i) and  
24 (ii) of section 1137(d)(4)(A) to an individual for the sub-

1 mittal to the State of evidence indicating a satisfactory  
2 immigration status.

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

13               “(i) the information submitted by the individual  
14 is not consistent with information in records main-  
15 tained by the Commissioner of Social Security;

16               “(ii) the inconsistency is not resolved by the  
17 State;

18               “(iii) the individual was provided with a reason-  
19 able period of time to resolve the inconsistency with  
20 the Commissioner of Social Security or provide satis-  
21 factory documentation of citizenship status and did  
22 not successfully resolve such inconsistency; and

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

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

4             “(i) the State shall develop and adopt a correc-  
5 tive plan to review its procedures for verifying the  
6 identities of individuals seeking to enroll in the State  
7 plan under this title and to identify and implement  
8 changes in such procedures to improve their accu-  
9 racy; and

10            “(ii) pay to the Secretary an amount equal to  
11 the amount which bears the same ratio to the total  
12 payments under the State plan for the fiscal year for  
13 providing medical assistance to individuals who pro-  
14 vided inconsistent information as the number of in-  
15 dividuals with inconsistent information in excess of  
16 3 percent of such total submitted bears to the total  
17 number of individuals with inconsistent information.

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

22       “(D) Subparagraphs (A) and (B) shall not apply to  
23 a State for a fiscal year if there is an agreement described  
24 in paragraph (2)(B) in effect as of the close of the fiscal



1 year that provides for the submission on a real-time basis  
2 of the information described in such paragraph.

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

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

9 (i) by striking “plus” at the end of  
10 subparagraph (E) and inserting “and”,  
11 and

12 (ii) by adding at the end the following  
13 new subparagraph:

14 “(F)(i) 90 percent of the sums expended  
15 during the quarter as are attributable to the de-  
16 sign, development, or installation of such  
17 mechanized verification and information re-  
18 trieval systems as the Secretary determines are  
19 necessary to implement section 1902(ee) (in-  
20 cluding a system described in paragraph (2)(B)  
21 thereof), and

22 “(ii) 75 percent of the sums expended dur-  
23 ing the quarter as are attributable to the oper-  
24 ation of systems to which clause (i) applies,  
25 plus”.

1           (2) LIMITATION ON WAIVER AUTHORITY.—Not-  
2     withstanding any provision of section 1115 of the  
3     Social Security Act (42 U.S.C. 1315), or any other  
4     provision of law, the Secretary may not waive the re-  
5     quirements of section 1902(a)(46)(B) of such Act  
6     (42 U.S.C. 1396a(a)(46)(B)) with respect to a  
7     State.

8           (3) CONFORMING AMENDMENTS.—Section 1903  
9     (42 U.S.C. 1396b) is amended—

10           (A) in subsection (i)(22), by striking “sub-  
11     section (x)” and inserting “section  
12     1902(a)(46)(B)”; and

13           (B) in subsection (x)(1), by striking “sub-  
14     section (i)(22)” and inserting “section  
15     1902(a)(46)(B)(i)”.

16           (4) APPROPRIATION.—Out of any money in the  
17     Treasury of the United States not otherwise appro-  
18     priated, there are appropriated to the Commissioner  
19     of Social Security \$5,000,000 to remain available  
20     until expended to carry out the Commissioner’s re-  
21     sponsibilities under section 1902(ee) of the Social  
22     Security Act, as added by subsection (a).

23           (b) CLARIFICATION OF REQUIREMENTS RELATING  
24     TO PRESENTATION OF SATISFACTORY DOCUMENTARY  
25     EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

1           (1) ACCEPTANCE OF DOCUMENTARY EVIDENCE  
2 ISSUED BY A FEDERALLY RECOGNIZED INDIAN  
3 TRIBE.—Section 1903(x)(3)(B) (42 U.S.C.  
4 1396b(x)(3)(B)) is amended—

5           (A) by redesignating clause (v) as clause  
6 (vi); and

7           (B) by inserting after clause (iv), the fol-  
8 lowing new clause:

9           “(v)(I) Except as provided in subclause (II), a  
10 document issued by a federally recognized Indian  
11 tribe evidencing membership or enrollment in, or af-  
12 filiation with, such tribe (such as a tribal enrollment  
13 card or certificate of degree of Indian blood).

14           “(II) With respect to those federally recognized  
15 Indian tribes located within States having an inter-  
16 national border whose membership includes individ-  
17 uals who are not citizens of the United States, the  
18 Secretary shall, after consulting with such tribes,  
19 issue regulations authorizing the presentation of  
20 such other forms of documentation (including tribal  
21 documentation, if appropriate) that the Secretary  
22 determines to be satisfactory documentary evidence  
23 of citizenship or nationality for purposes of satis-  
24 fying the requirement of this subsection.”.

1           (2) REQUIREMENT TO PROVIDE REASONABLE  
2           OPPORTUNITY TO PRESENT SATISFACTORY DOCU-  
3           MENTARY EVIDENCE.—Section 1903(x) (42 U.S.C.  
4           1396b(x)) is amended by adding at the end the fol-  
5           lowing new paragraph:

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

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

19           (A) CLARIFICATION OF RULES.—Section  
20           1903(x) (42 U.S.C. 1396b(x)), as amended by  
21           paragraph (2), is amended—

22                   (i) in paragraph (2)—

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

1 (II) by redesignating subpara-  
2 graph (D) as subparagraph (E); and

3 (III) by inserting after subpara-  
4 graph (C) the following new subpara-  
5 graph:

6 “(D) pursuant to the application of section  
7 1902(e)(4) (and, in the case of an individual who is  
8 eligible for medical assistance on such basis, the in-  
9 dividual shall be deemed to have provided satisfac-  
10 tory documentary evidence of citizenship or nation-  
11 ality and shall not be required to provide further  
12 documentary evidence on any date that occurs dur-  
13 ing or after the period in which the individual is eli-  
14 gible for medical assistance on such basis); or”;

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

17 “(5) Nothing in subparagraph (A) or (B) of section  
18 1902(a)(46), the preceding paragraphs of this subsection,  
19 or the Deficit Reduction Act of 2005, including section  
20 6036 of such Act, shall be construed as changing the re-  
21 quirement of section 1902(e)(4) that a child born in the  
22 United States to an alien mother for whom medical assist-  
23 ance for the delivery of such child is available as treatment  
24 of an emergency medical condition pursuant to subsection

1 (v) shall be deemed eligible for medical assistance during  
2 the first year of such child's life.”.

3 (B) STATE REQUIREMENT TO ISSUE SEPA-  
4 RATE IDENTIFICATION NUMBER.—Section  
5 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended  
6 by adding at the end the following new sen-  
7 tence: “Notwithstanding the preceding sentence,  
8 in the case of a child who is born in the United  
9 States to an alien mother for whom medical as-  
10 sistance for the delivery of the child is made  
11 available pursuant to section 1903(v), the State  
12 immediately shall issue a separate identification  
13 number for the child upon notification by the  
14 facility at which such delivery occurred of the  
15 child's birth.”.

16 (4) TECHNICAL AMENDMENTS.—Section  
17 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

18 (A) in subparagraph (B)—

19 (i) by realigning the left margin of the  
20 matter preceding clause (i) 2 ems to the  
21 left; and

22 (ii) by realigning the left margins of  
23 clauses (i) and (ii), respectively, 2 ems to  
24 the left; and

25 (B) in subparagraph (C)—

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.

7 (c) APPLICATION OF DOCUMENTATION SYSTEM TO  
8 CHIP.—

9 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.  
10 1397ee(c)), as amended by sections 114(a) and  
11 116(c), is amended by adding at the end the fol-  
12 lowing new paragraph:

13 “(10) CITIZENSHIP DOCUMENTATION REQUIRE-  
14 MENTS.—

15 “(A) IN GENERAL.—No payment may be  
16 made under this section with respect to an indi-  
17 vidual who has, or is, declared to be a citizen  
18 or national of the United States for purposes of  
19 establishing eligibility under this title unless the  
20 State meets the requirements of section  
21 1902(a)(46)(B) with respect to the individual.

22 “(B) ENHANCED PAYMENTS.—Notwith-  
23 standing subsection (b), the enhanced FMAP  
24 with respect to payments under subsection (a)  
25 for expenditures described in clause (i) or (ii) of

1 section 1903(a)(3)(F) necessary to comply with  
2 subparagraph (A) shall in no event be less than  
3 90 percent and 75 percent, respectively.”.

4 (2) NONAPPLICATION OF ADMINISTRATIVE EX-  
5 PENDITURES CAP.—Section 2105(c)(2)(C) (42  
6 U.S.C. 1397ee(c)(2)(C)), as amended by section  
7 202(b), is amended by adding at the end the fol-  
8 lowing:

9 “(ii) EXPENDITURES TO COMPLY  
10 WITH CITIZENSHIP OR NATIONALITY  
11 VERIFICATION REQUIREMENTS.—Expendi-  
12 tures necessary for the State to comply  
13 with paragraph (9)(A).”.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—

16 (A) IN GENERAL.—Except as provided in  
17 subparagraph (B), the amendments made by  
18 this section shall take effect on October 1,  
19 2008.

20 (B) TECHNICAL AMENDMENTS.—The  
21 amendments made by—

22 (i) paragraphs (1), (2), and (3) of  
23 subsection (b) shall take effect as if in-  
24 cluded in the enactment of section 6036 of



1 the Deficit Reduction Act of 2005 (Public  
2 Law 109–171; 120 Stat. 80); and

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

8 (2) RESTORATION OF ELIGIBILITY.—In the  
9 case of an individual who, during the period that  
10 began on July 1, 2006, and ends on October 1,  
11 2008, was determined to be ineligible for medical as-  
12 sistance under a State Medicaid plan, including any  
13 waiver of such plan, solely as a result of the applica-  
14 tion of subsections (i)(22) and (x) of section 1903  
15 of the Social Security Act (as in effect during such  
16 period), but who would have been determined eligible  
17 for such assistance if such subsections, as amended  
18 by subsection (b), had applied to the individual, a  
19 State may deem the individual to be eligible for such  
20 assistance as of the date that the individual was de-  
21 termined to be ineligible for such medical assistance  
22 on such basis.

23 (3) SPECIAL TRANSITION RULE FOR INDIANS.—  
24 During the period that begins on July 1, 2006, and  
25 ends on the effective date of final regulations issued

1 under subclause (II) of section 1903(x)(3)(B)(v) of  
2 the Social Security Act (42 U.S.C.  
3 1396b(x)(3)(B)(v)) (as added by subsection  
4 (b)(1)(B)), an individual who is a member of a fed-  
5 erally-recognized Indian tribe described in subclause  
6 (II) of that section who presents a document de-  
7 scribed in subclause (I) of such section that is issued  
8 by such Indian tribe, shall be deemed to have pre-  
9 sented satisfactory evidence of citizenship or nation-  
10 ality for purposes of satisfying the requirement of  
11 subsection (x) of section 1903 of such Act.

12 **SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO EN-**  
13 **ROLLMENT.**

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

15 (1) by redesignating paragraph (4) as para-  
16 graph (5); and

17 (2) by inserting after paragraph (3) the fol-  
18 lowing new paragraph:

19 “(4) REDUCTION OF ADMINISTRATIVE BAR-  
20 RIERS TO ENROLLMENT.—

21 “(A) IN GENERAL.—Subject to subpara-  
22 graph (B), the plan shall include a description  
23 of the procedures used to reduce administrative  
24 barriers to the enrollment of children and preg-  
25 nant women who are eligible for medical assist-

1           ance under title XIX or for child health assist-  
2           ance or health benefits coverage under this title.  
3           Such procedures shall be established and re-  
4           vised as often as the State determines appro-  
5           prium to take into account the most recent in-  
6           formation available to the State identifying  
7           such barriers.

8                   “(B) DEEMED COMPLIANCE IF JOINT AP-  
9                   PLICATION AND RENEWAL PROCESS THAT PER-  
10                  MITS APPLICATION OTHER THAN IN PERSON.—  
11                  A State shall be deemed to comply with sub-  
12                  paragraph (A) if the State’s application and re-  
13                  newal forms and supplemental forms (if any)  
14                  and information verification process is the same  
15                  for purposes of establishing and renewing eligi-  
16                  bility for children and pregnant women for  
17                  medical assistance under title XIX and child  
18                  health assistance under this title, and such  
19                  process does not require an application to be  
20                  made in person or a face-to-face interview.”.

21 **SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLL-**  
22 **MENT AND COVERAGE PROCESS.**

23           (a) IN GENERAL.—In order to assure continuity of  
24 coverage of low-income children under the Medicaid pro-  
25 gram and the State Children’s Health Insurance Program

1 (CHIP), not later than 18 months after the date of the  
2 enactment of this Act, the Secretary of Health and  
3 Human Services, in consultation with State Medicaid and  
4 CHIP directors and organizations representing program  
5 beneficiaries, shall develop a model process for the coordi-  
6 nation of the enrollment, retention, and coverage under  
7 such programs of children who, because of migration of  
8 families, emergency evacuations, natural or other disas-  
9 ters, public health emergencies, educational needs, or oth-  
10 erwise, frequently change their State of residency or other-  
11 wise are temporarily located outside of the State of their  
12 residency.

13 (b) REPORT TO CONGRESS.—After development of  
14 such model process, the Secretary of Health and Human  
15 Services shall submit to Congress a report describing addi-  
16 tional steps or authority needed to make further improve-  
17 ments to coordinate the enrollment, retention, and cov-  
18 erage under CHIP and Medicaid of children described in  
19 subsection (a).

1 **TITLE III—REDUCING BARRIERS**  
2 **TO PROVIDING PREMIUM AS-**  
3 **SISTANCE**

4 **Subtitle A—Additional State Op-**  
5 **tion for Providing Premium As-**  
6 **sistance**

7 **SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING**  
8 **PREMIUM ASSISTANCE.**

9 (a) CHIP.—

10 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.  
11 1397ee(c)), as amended by sections 114(a), 116(c),  
12 and 211(c), is amended by adding at the end the fol-  
13 lowing:

14 “(11) STATE OPTION TO OFFER PREMIUM AS-  
15 SISTANCE.—

16 “(A) IN GENERAL.—A State may elect to  
17 offer a premium assistance subsidy (as defined  
18 in subparagraph (C)) for qualified employer-  
19 sponsored coverage (as defined in subparagraph  
20 (B)) to all targeted low-income children who are  
21 eligible for child health assistance under the  
22 plan and have access to such coverage in ac-  
23 cordance with the requirements of this para-  
24 graph. No subsidy shall be provided to a tar-  
25 getted low-income child under this paragraph

1 unless the child (or the child's parent) volun-  
2 tarily elects to receive such a subsidy. A State  
3 may not require such an election as a condition  
4 of receipt of child health assistance.

5 “(B) QUALIFIED EMPLOYER-SPONSORED  
6 COVERAGE.—

7 “(i) IN GENERAL.—Subject to clause  
8 (ii), in this paragraph, the term ‘qualified  
9 employer-sponsored coverage’ means a  
10 group health plan or health insurance cov-  
11 erage offered through an employer—

12 “(I) that qualifies as creditable  
13 coverage as a group health plan under  
14 section 2701(c)(1) of the Public  
15 Health Service Act;

16 “(II) for which the employer con-  
17 tribution toward any premium for  
18 such coverage is at least 40 percent;  
19 and

20 “(III) that is offered to all indi-  
21 viduals in a manner that would be  
22 considered a nondiscriminatory eligi-  
23 bility classification for purposes of  
24 paragraph (3)(A)(ii) of section 105(h)  
25 of the Internal Revenue Code of 1986

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

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

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

10 “(II) a high deductible health  
11 plan (as defined in section 223(c)(2)  
12 of such Code), without regard to  
13 whether the plan is purchased in con-  
14 junction with a health savings account  
15 (as defined under section 223(d) of  
16 such Code).

17 “(C) PREMIUM ASSISTANCE SUBSIDY.—

18 “(i) IN GENERAL.—In this paragraph,  
19 the term ‘premium assistance subsidy’  
20 means, with respect to a targeted low-in-  
21 come child, the amount equal to the dif-  
22 ference between the employee contribution  
23 required for enrollment only of the em-  
24 ployee under qualified employer-sponsored  
25 coverage and the employee contribution re-

1           required for enrollment of the employee and  
2           the child in such coverage, less any appli-  
3           cable premium cost-sharing applied under  
4           the State child health plan (subject to the  
5           limitations imposed under section 2103(e),  
6           including the requirement to count the  
7           total amount of the employee contribution  
8           required for enrollment of the employee  
9           and the child in such coverage toward the  
10          annual aggregate cost-sharing limit applied  
11          under paragraph (3)(B) of such section).

12           “(ii) STATE PAYMENT OPTION.—A  
13          State may provide a premium assistance  
14          subsidy either as reimbursement to an em-  
15          ployee for out-of-pocket expenditures or,  
16          subject to clause (iii), directly to the em-  
17          ployee’s employer.

18           “(iii) EMPLOYER OPT-OUT.—An em-  
19          ployer may notify a State that it elects to  
20          opt-out of being directly paid a premium  
21          assistance subsidy on behalf of an em-  
22          ployee. In the event of such a notification,  
23          an employer shall withhold the total  
24          amount of the employee contribution re-  
25          quired for enrollment of the employee and



1 the child in the qualified employer-spon-  
2 sored coverage and the State shall pay the  
3 premium assistance subsidy directly to the  
4 employee.

5 “(iv) TREATMENT AS CHILD HEALTH  
6 ASSISTANCE.—Expenditures for the provi-  
7 sion of premium assistance subsidies shall  
8 be considered child health assistance de-  
9 scribed in paragraph (1)(C) of subsection  
10 (a) for purposes of making payments  
11 under that subsection.

12 “(D) APPLICATION OF SECONDARY PAYOR  
13 RULES.—The State shall be a secondary payor  
14 for any items or services provided under the  
15 qualified employer-sponsored coverage for which  
16 the State provides child health assistance under  
17 the State child health plan.

18 “(E) REQUIREMENT TO PROVIDE SUPPLE-  
19 MENTAL COVERAGE FOR BENEFITS AND COST-  
20 SHARING PROTECTION PROVIDED UNDER THE  
21 STATE CHILD HEALTH PLAN.—

22 “(i) IN GENERAL.—Notwithstanding  
23 section 2110(b)(1)(C), the State shall pro-  
24 vide for each targeted low-income child en-  
25 rolled in qualified employer-sponsored cov-

1 erage, supplemental coverage consisting  
2 of—

3 “(I) items or services that are  
4 not covered, or are only partially cov-  
5 ered, under the qualified employer-  
6 sponsored coverage; and

7 “(II) cost-sharing protection con-  
8 sistent with section 2103(e).

9 “(ii) RECORD KEEPING REQUIRE-  
10 MENTS.—For purposes of carrying out  
11 clause (i), a State may elect to directly pay  
12 out-of-pocket expenditures for cost-sharing  
13 imposed under the qualified employer-spon-  
14 sored coverage and collect or not collect all  
15 or any portion of such expenditures from  
16 the parent of the child.

17 “(F) APPLICATION OF WAITING PERIOD  
18 IMPOSED UNDER THE STATE.—Any waiting pe-  
19 riod imposed under the State child health plan  
20 prior to the provision of child health assistance  
21 to a targeted low-income child under the State  
22 plan shall apply to the same extent to the provi-  
23 sion of a premium assistance subsidy for the  
24 child under this paragraph.

1           “(G) OPT-OUT PERMITTED FOR ANY  
2 MONTH.—A State shall establish a process for  
3 permitting the parent of a targeted low-income  
4 child receiving a premium assistance subsidy to  
5 disenroll the child from the qualified employer-  
6 sponsored coverage and enroll the child in, and  
7 receive child health assistance under, the State  
8 child health plan, effective on the first day of  
9 any month for which the child is eligible for  
10 such assistance and in a manner that ensures  
11 continuity of coverage for the child.

12           “(H) APPLICATION TO PARENTS.—If a  
13 State provides child health assistance or health  
14 benefits coverage to parents of a targeted low-  
15 income child in accordance with section  
16 2111(b), the State may elect to offer a pre-  
17 mium assistance subsidy to a parent of a tar-  
18 geted low-income child who is eligible for such  
19 a subsidy under this paragraph in the same  
20 manner as the State offers such a subsidy for  
21 the enrollment of the child in qualified em-  
22 ployer-sponsored coverage, except that—

23                   “(i) the amount of the premium as-  
24 sistance subsidy shall be increased to take  
25 into account the cost of the enrollment of

1 the parent in the qualified employer-spon-  
2 sored coverage or, at the option of the  
3 State if the State determines it cost-effec-  
4 tive, the cost of the enrollment of the  
5 child's family in such coverage; and

6 “(ii) any reference in this paragraph  
7 to a child is deemed to include a reference  
8 to the parent or, if applicable under clause  
9 (i), the family of the child.

10 “(I) ADDITIONAL STATE OPTION FOR PRO-  
11 VIDING PREMIUM ASSISTANCE.—

12 “(i) IN GENERAL.—A State may es-  
13 tablish an employer-family premium assist-  
14 ance purchasing pool for employers with  
15 less than 250 employees who have at least  
16 1 employee who is a pregnant woman eligi-  
17 ble for assistance under the State child  
18 health plan (including through the applica-  
19 tion of an option described in section  
20 2112(f)) or a member of a family with at  
21 least 1 targeted low-income child and to  
22 provide a premium assistance subsidy  
23 under this paragraph for enrollment in  
24 coverage made available through such pool.

1           “(ii) ACCESS TO CHOICE OF COV-  
2           ERAGE.—A State that elects the option  
3           under clause (i) shall identify and offer ac-  
4           cess to not less than 2 private health plans  
5           that are health benefits coverage that is  
6           equivalent to the benefits coverage in a  
7           benchmark benefit package described in  
8           section 2103(b) or benchmark-equivalent  
9           coverage that meets the requirements of  
10          section 2103(a)(2) for employees described  
11          in clause (i).

12          “(iii) CLARIFICATION OF PAYMENT  
13          FOR ADMINISTRATIVE EXPENDITURES.—  
14          Nothing in this subparagraph shall be con-  
15          strued as permitting payment under this  
16          section for administrative expenditures at-  
17          tributable to the establishment or oper-  
18          ation of such pool, except to the extent  
19          that such payment would otherwise be per-  
20          mitted under this title.

21          “(J) NO EFFECT ON PREMIUM ASSISTANCE  
22          WAIVER PROGRAMS.—Nothing in this para-  
23          graph shall be construed as limiting the author-  
24          ity of a State to offer premium assistance under  
25          section 1906 or 1906A, a waiver described in

1 paragraph (2)(B) or (3), a waiver approved  
2 under section 1115, or other authority in effect  
3 prior to the date of enactment of the Children’s  
4 Health Insurance Program Reauthorization Act  
5 of 2007.

6 “(K) NOTICE OF AVAILABILITY.—If a  
7 State elects to provide premium assistance sub-  
8 sidies in accordance with this paragraph, the  
9 State shall—

10 “(i) include on any application or en-  
11 rollment form for child health assistance a  
12 notice of the availability of premium assist-  
13 ance subsidies for the enrollment of tar-  
14 geted low-income children in qualified em-  
15 ployer-sponsored coverage;

16 “(ii) provide, as part of the applica-  
17 tion and enrollment process under the  
18 State child health plan, information de-  
19 scribing the availability of such subsidies  
20 and how to elect to obtain such a subsidy;  
21 and

22 “(iii) establish such other procedures  
23 as the State determines necessary to en-  
24 sure that parents are fully informed of the  
25 choices for receiving child health assistance

1 under the State child health plan or  
2 through the receipt of premium assistance  
3 subsidies.

4 “(L) APPLICATION TO QUALIFIED EM-  
5 PLOYER-SPONSORED BENCHMARK COVERAGE.—

6 If a group health plan or health insurance cov-  
7 erage offered through an employer is certified  
8 by an actuary as health benefits coverage that  
9 is equivalent to the benefits coverage in a  
10 benchmark benefit package described in section  
11 2103(b) or benchmark-equivalent coverage that  
12 meets the requirements of section 2103(a)(2),  
13 the State may provide premium assistance sub-  
14 sidies for enrollment of targeted low-income  
15 children in such group health plan or health in-  
16 surance coverage in the same manner as such  
17 subsidies are provided under this paragraph for  
18 enrollment in qualified employer-sponsored cov-  
19 erage, but without regard to the requirement to  
20 provide supplemental coverage for benefits and  
21 cost-sharing protection provided under the  
22 State child health plan under subparagraph  
23 (E).

24 “(M) SATISFACTION OF COST-EFFECTIVE-  
25 NESS TEST.—Premium assistance subsidies for

1 qualified employer-sponsored coverage offered  
2 under this paragraph shall be deemed to meet  
3 the requirement of subparagraph (A) of para-  
4 graph (3).

5 “(N) COORDINATION WITH MEDICAID.—In  
6 the case of a targeted low-income child who re-  
7 ceives child health assistance through a State  
8 plan under title XIX and who voluntarily elects  
9 to receive a premium assistance subsidy under  
10 this section, the provisions of section 1906A  
11 shall apply and shall supersede any other provi-  
12 sions of this paragraph that are inconsistent  
13 with such section.”.

14 (2) DETERMINATION OF COST-EFFECTIVENESS  
15 FOR PREMIUM ASSISTANCE OR PURCHASE OF FAM-  
16 ILY COVERAGE.—

17 (A) IN GENERAL.—Section 2105(c)(3)(A)  
18 (42 U.S.C. 1397ee(c)(3)(A)) is amended by  
19 striking “relative to” and all that follows  
20 through the comma and inserting “relative to

21 “(i) the amount of expenditures under  
22 the State child health plan, including ad-  
23 ministrative expenditures, that the State  
24 would have made to provide comparable  
25 coverage of the targeted low-income child



1 involved or the family involved (as applica-  
2 ble); or

3 “(ii) the aggregate amount of expendi-  
4 tures that the State would have made  
5 under the State child health plan, includ-  
6 ing administrative expenditures, for pro-  
7 viding coverage under such plan for all  
8 such children or families.”.

9 (B) NONAPPLICATION TO PREVIOUSLY AP-  
10 PROVED COVERAGE.—The amendment made by  
11 subparagraph (A) shall not apply to coverage  
12 the purchase of which has been approved by the  
13 Secretary under section 2105(c)(3) of the Social  
14 Security Act prior to the date of enactment of  
15 this Act.

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

18 “PREMIUM ASSISTANCE OPTION FOR CHILDREN  
19 “SEC. 1906A. (a) IN GENERAL.—A State may elect  
20 to offer a premium assistance subsidy (as defined in sub-  
21 section (c)) for qualified employer-sponsored coverage (as  
22 defined in subsection (b)) to all individuals under age 19  
23 who are entitled to medical assistance under this title (and  
24 to the parent of such an individual) who have access to  
25 such coverage if the State meets the requirements of this  
26 section.

1       “(b) QUALIFIED EMPLOYER-SPONSORED COV-  
2 ERAGE.—

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

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

10          “(B) for which the employer contribution  
11       toward any premium for such coverage is at  
12       least 40 percent; and

13          “(C) that is offered to all individuals in a  
14       manner that would be considered a nondiscrim-  
15       inatory eligibility classification for purposes of  
16       paragraph (3)(A)(ii) of section 105(h) of the  
17       Internal Revenue Code of 1986 (but determined  
18       without regard to clause (i) of subparagraph  
19       (B) of such paragraph).

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

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

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

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

10          “(c) PREMIUM ASSISTANCE SUBSIDY.—In this sec-  
11          tion, the term ‘premium assistance subsidy’ means the  
12          amount of the employee contribution for enrollment in the  
13          qualified employer-sponsored coverage by the individual  
14          under age 19 or by the individual’s family. Premium as-  
15          sistance subsidies under this section shall be considered,  
16          for purposes of section 1903(a), to be a payment for med-  
17          ical assistance.

18          “(d) VOLUNTARY PARTICIPATION.—

19                 “(1) EMPLOYERS.—Participation by an em-  
20                 ployer in a premium assistance subsidy offered by a  
21                 State under this section shall be voluntary. An em-  
22                 ployer may notify a State that it elects to opt-out of  
23                 being directly paid a premium assistance subsidy on  
24                 behalf of an employee.

1           “(2) BENEFICIARIES.—No subsidy shall be pro-  
2           vided to an individual under age 19 under this sec-  
3           tion unless the individual (or the individual’s parent)  
4           voluntarily elects to receive such a subsidy. A State  
5           may not require such an election as a condition of  
6           receipt of medical assistance. State may not require,  
7           as a condition of an individual under age 19 (or the  
8           individual’s parent) being or remaining eligible for  
9           medical assistance under this title, apply for enroll-  
10          ment in qualified employer-sponsored coverage under  
11          this section.

12           “(3) OPT-OUT PERMITTED FOR ANY MONTH.—  
13          A State shall establish a process for permitting the  
14          parent of an individual under age 19 receiving a pre-  
15          mium assistance subsidy to disenroll the individual  
16          from the qualified employer-sponsored coverage.

17           “(e) REQUIREMENT TO PAY PREMIUMS AND COST-  
18          SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In  
19          the case of the participation of an individual under age  
20          19 (or the individual’s parent) in a premium assistance  
21          subsidy under this section for qualified employer-spon-  
22          sored coverage, the State shall provide for payment of all  
23          enrollee premiums for enrollment in such coverage and all  
24          deductibles, coinsurance, and other cost-sharing obliga-  
25          tions for items and services otherwise covered under the

1 State plan under this title (exceeding the amount other-  
2 wise permitted under section 1916 or, if applicable, section  
3 1916A). The fact that an individual under age 19 (or a  
4 parent) elects to enroll in qualified employer-sponsored  
5 coverage under this section shall not change the individ-  
6 ual's (or parent's) eligibility for medical assistance under  
7 the State plan, except insofar as section 1902(a)(25) pro-  
8 vides that payments for such assistance shall first be made  
9 under such coverage.”.

10 (c) GAO STUDY AND REPORT.—Not later than Janu-  
11 ary 1, 2009, the Comptroller General of the United States  
12 shall study cost and coverage issues relating to any State  
13 premium assistance programs for which Federal matching  
14 payments are made under title XIX or XXI of the Social  
15 Security Act, including under waiver authority, and shall  
16 submit a report to the Committee on Finance of the Sen-  
17 ate and the Committee on Energy and Commerce of the  
18 House of Representatives on the results of such study.

19 **SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT AS-**  
20 **SISTANCE.**

21 (a) REQUIREMENT TO INCLUDE DESCRIPTION OF  
22 OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS  
23 RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE  
24 CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C.

1 1397bb(c)) is amended by adding at the end the following  
2 new paragraph:

3           “(3) PREMIUM ASSISTANCE SUBSIDIES.—In the  
4 case of a State that provides for premium assistance  
5 subsidies under the State child health plan in ac-  
6 cordance with paragraph (2)(B), (3), or (10) of sec-  
7 tion 2105(c), or a waiver approved under section  
8 1115, outreach, education, and enrollment assistance  
9 for families of children likely to be eligible for such  
10 subsidies, to inform such families of the availability  
11 of, and to assist them in enrolling their children in,  
12 such subsidies, and for employers likely to provide  
13 coverage that is eligible for such subsidies, including  
14 the specific, significant resources the State intends  
15 to apply to educate employers about the availability  
16 of premium assistance subsidies under the State  
17 child health plan.”.

18           (b) NONAPPLICATION OF 10 PERCENT LIMIT ON  
19 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-  
20 tion 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as  
21 amended by section 301(c)(2), is amended by adding at  
22 the end the following new clause:

23                           “(iv) EXPENDITURES FOR OUTREACH  
24                           TO INCREASE THE ENROLLMENT OF CHIL-  
25                           DREN UNDER THIS TITLE AND TITLE xix

1 THROUGH PREMIUM ASSISTANCE SUB-  
2 SIDIES.—Expenditures for outreach activi-  
3 ties to families of children likely to be eligi-  
4 ble for premium assistance subsidies in ac-  
5 cordance with paragraph (2)(B), (3), or  
6 (10), or a waiver approved under section  
7 1115, to inform such families of the avail-  
8 ability of, and to assist them in enrolling  
9 their children in, such subsidies, and to  
10 employers likely to provide qualified em-  
11 ployer-sponsored coverage (as defined in  
12 subparagraph (B) of such paragraph), but  
13 not to exceed an amount equal to 1.25 per-  
14 cent of the maximum amount permitted to  
15 be expended under subparagraph (A) for  
16 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          2007, 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                   2007, 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 2007, 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 2007, 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-

1           erwise) concerning the cost-effectiveness of  
 2           the State providing medical or child health  
 3           assistance through premium assistance for  
 4           the purchase of coverage under such group  
 5           health plan and in order for the State to  
 6           provide supplemental benefits required  
 7           under paragraph (10)(E) of such section  
 8           or other authority.”.

9       **TITLE           IV—STRENGTHENING**  
 10       **QUALITY OF CARE AND**  
 11       **HEALTH OUTCOMES**

12       **SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVI-**  
 13               **TIES FOR CHILDREN ENROLLED IN MED-**  
 14               **ICAID OR CHIP.**

15       (a) DEVELOPMENT OF CHILD HEALTH QUALITY  
 16 MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR  
 17 CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by  
 18 inserting after section 1139 the following new section:

19       **“SEC. 1139A. CHILD HEALTH QUALITY MEASURES.**

20           “(a) DEVELOPMENT OF AN INITIAL CORE SET OF  
 21 HEALTH CARE QUALITY MEASURES FOR CHILDREN EN-  
 22 ROLLED IN MEDICAID OR CHIP.—

23           “(1) IN GENERAL.—Not later than January 1,  
 24       2009, the Secretary shall identify and publish for  
 25       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 2007, 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, 2010, 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 2010, 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, 2012, 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, 2009, 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 2008 through 2012, 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 2007, 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 2007, 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 2008 through 2012.

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                  2009, 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                 2009, 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 2008 through 2012,

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 2008 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, 2008, 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, 2008.

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)”; and

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, 2008.

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 (69);

11 (B) by striking the period at the end of  
12 paragraph (70) and inserting “; and”; and

13 (C) by inserting after paragraph (70) the  
14 following new paragraph:

15 “(71) 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)(71) (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           2008.

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 abuse benefits, such plan shall ensure  
6 that the financial requirements and treatment  
7 limitations applicable to such mental health or  
8 substance abuse benefits are no more restrictive  
9 than the financial requirements and treatment  
10 limitations applied to substantially all medical  
11 and surgical benefits covered by the plan.

12 “(B) DEEMED COMPLIANCE.—To the ex-  
13 tent that a State child health plan includes cov-  
14 erage with respect to an individual described in  
15 section 1905(a)(4)(B) and covered under the  
16 State plan under section 1902(a)(10)(A) of the  
17 services described in section 1905(a)(4)(B) (re-  
18 lating to early and periodic screening, diag-  
19 nostic, and treatment services defined in section  
20 1905(r)) and provided in accordance with sec-  
21 tion 1902(a)(43), such plan shall be deemed to  
22 satisfy the requirements of subparagraph (A).”.

23 (b) CONFORMING AMENDMENTS.—Section 2103 (42  
24 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, 2008.

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 2008,  
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 2010, 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 January 1, 2009.

6 **SEC. 505. DEMONSTRATION PROJECTS RELATING TO DIA-**  
7 **BETES PREVENTION.**

8           There is authorized to be appropriated \$15,000,000  
9 during the period of fiscal years 2008 through 2012 to  
10 fund demonstration projects in up to 10 States over 3  
11 years for voluntary incentive programs to promote chil-  
12 dren’s receipt of relevant screenings and improvements in  
13 healthy eating and physical activity with the aim of reduc-  
14 ing the incidence of type 2 diabetes. Such programs may  
15 involve reductions in cost-sharing or premiums when chil-  
16 dren receive regular screening and reach certain bench-  
17 marks in healthy eating and physical activity. Under such  
18 programs, a State may also provide financial bonuses for  
19 partnerships with entities, such as schools, which increase  
20 their education and efforts with respect to reducing the  
21 incidence of type 2 diabetes and may also devise incentives  
22 for providers serving children covered under this title and  
23 title XIX to perform relevant screening and counseling re-  
24 garding healthy eating and physical activity. Upon comple-  
25 tion of these demonstrations, the Secretary shall provide

1 a report to Congress on the results of the State dem-  
2 onstration projects and the degree to which they helped  
3 improve health outcomes related to type 2 diabetes in chil-  
4 dren in those States.

5 **SEC. 506. CLARIFICATION OF COVERAGE OF SERVICES**  
6 **PROVIDED THROUGH SCHOOL-BASED**  
7 **HEALTH CENTERS.**

8 Section 2103(c) (42 U.S.C. 1397cc(c)), as amended  
9 by section 501(a)(1)(B), is amended by adding at the end  
10 the following new paragraph:

11 “(8) AVAILABILITY OF COVERAGE FOR ITEMS  
12 AND SERVICES FURNISHED THROUGH SCHOOL-  
13 BASED HEALTH CENTERS.—Nothing in this title  
14 shall be construed as limiting a State’s ability to  
15 provide child health assistance for covered items and  
16 services that are furnished through school-based  
17 health centers.”.

18 **TITLE VI—PROGRAM INTEGRITY**  
19 **AND OTHER MISCELLANEOUS**  
20 **PROVISIONS**

21 **Subtitle A—Program Integrity and**  
22 **Data Collection**

23 **SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

24 (a) EXPENDITURES RELATED TO COMPLIANCE WITH  
25 REQUIREMENTS.—



1           (1) ENHANCED PAYMENTS.—Section 2105(c)  
2           (42 U.S.C. 1397ee(c)), as amended by section  
3           301(a), is amended by adding at the end the fol-  
4           lowing new paragraph:

5           “(12) ENHANCED PAYMENTS.—Notwith-  
6           standing subsection (b), the enhanced FMAP with  
7           respect to payments under subsection (a) for ex-  
8           penditures related to the administration of the pay-  
9           ment error rate measurement (PERM) requirements  
10          applicable to the State child health plan in accord-  
11          ance with the Improper Payments Information Act  
12          of 2002 and parts 431 and 457 of title 42, Code of  
13          Federal Regulations (or any related or successor  
14          guidance or regulations) shall in no event be less  
15          than 90 percent.”.

16          (2) EXCLUSION OF FROM CAP ON ADMINISTRA-  
17          TIVE EXPENDITURES.—Section 2105(c)(2)(C) (42  
18          U.S.C. 1397ee(c)(2)C)), as amended by section  
19          302(b)), is amended by adding at the end the fol-  
20          lowing:

21                  “(iv) PAYMENT ERROR RATE MEAS-  
22                  UREMENT (PERM) EXPENDITURES.—Ex-  
23                  penditures related to the administration of  
24                  the payment error rate measurement  
25                  (PERM) requirements applicable to the

1 State child health plan in accordance with  
2 the Improper Payments Information Act of  
3 2002 and parts 431 and 457 of title 42,  
4 Code of Federal Regulations (or any re-  
5 lated or successor guidance or regula-  
6 tions).”.

7 (b) FINAL RULE REQUIRED TO BE IN EFFECT FOR  
8 ALL STATES.—Notwithstanding parts 431 and 457 of  
9 title 42, Code of Federal Regulations (as in effect on the  
10 date of enactment of this Act), the Secretary shall not cal-  
11 culate or publish any national or State-specific error rate  
12 based on the application of the payment error rate meas-  
13 urement (in this section referred to as “PERM”) require-  
14 ments to CHIP until after the date that is 6 months after  
15 the date on which a final rule implementing such require-  
16 ments in accordance with the requirements of subsection  
17 (c) is in effect for all States. Any calculation of a national  
18 error rate or a State specific error rate after such final  
19 rule in effect for all States may only be inclusive of errors,  
20 as defined in such final rule or in guidance issued within  
21 a reasonable time frame after the effective date for such  
22 final rule that includes detailed guidance for the specific  
23 methodology for error determinations.

24 (c) REQUIREMENTS FOR FINAL RULE.—For pur-  
25 poses of subsection (b), the requirements of this sub-

1 section are that the final rule implementing the PERM  
2 requirements shall—

3 (1) include—

4 (A) clearly defined criteria for errors for  
5 both States and providers;

6 (B) a clearly defined process for appealing  
7 error determinations by—

8 (i) review contractors; or

9 (ii) the agency and personnel de-  
10 scribed in section 431.974(a)(2) of title 42,  
11 Code of Federal Regulations, as in effect  
12 on September 1, 2007, responsible for the  
13 development, direction, implementation,  
14 and evaluation of eligibility reviews and as-  
15 sociated activities; and

16 (C) clearly defined responsibilities and  
17 deadlines for States in implementing any cor-  
18 rective action plans; and

19 (2) provide that the payment error rate deter-  
20 mined for a State shall not take into account pay-  
21 ment errors resulting from the State's verification of  
22 an applicant's self-declaration or self-certification of  
23 eligibility for, and the correct amount of, medical as-  
24 sistance or child health assistance, if the State proc-  
25 ess for verifying an applicant's self-declaration or

1 self-certification satisfies the requirements for such  
2 process applicable under regulations promulgated by  
3 the Secretary or otherwise approved by the Sec-  
4 retary.

5 (d) OPTION FOR APPLICATION OF DATA FOR STATES  
6 IN FIRST APPLICATION CYCLE UNDER THE INTERIM  
7 FINAL RULE.—After the final rule implementing the  
8 PERM requirements in accordance with the requirements  
9 of subsection (c) is in effect for all States, a State for  
10 which the PERM requirements were first in effect under  
11 an interim final rule for fiscal year 2007 may elect to ac-  
12 cept any payment error rate determined in whole or in  
13 part for the State on the basis of data for that fiscal year  
14 or may elect to not have any payment error rate deter-  
15 mined on the basis of such data and, instead, shall be  
16 treated as if fiscal year 2010 were the first fiscal year  
17 for which the PERM requirements apply to the State.

18 (e) HARMONIZATION OF MEQC AND PERM.—

19 (1) REDUCTION OF REDUNDANCIES.—The Sec-  
20 retary shall review the Medicaid Eligibility Quality  
21 Control (in this subsection referred to as the  
22 “MEQC”) requirements with the PERM require-  
23 ments and coordinate consistent implementation of  
24 both sets of requirements, while reducing  
25 redundancies.

1           (2) STATE OPTION TO APPLY PERM DATA.—A  
2 State may elect, for purposes of determining the er-  
3 roneous excess payments for medical assistance ratio  
4 applicable to the State for a fiscal year under section  
5 1903(u) of the Social Security Act (42 U.S.C.  
6 1396b(u)) to substitute data resulting from the ap-  
7 plication of the PERM requirements to the State  
8 after the final rule implementing such requirements  
9 is in effect for all States for data obtained from the  
10 application of the MEQC requirements to the State  
11 with respect to a fiscal year.

12           (3) STATE OPTION TO APPLY MEQC DATA.—For  
13 purposes of satisfying the requirements of subpart Q  
14 of part 431 of title 42, Code of Federal Regulations,  
15 as in effect on September 1, 2007, relating to Med-  
16 icaid eligibility reviews, a State may elect to sub-  
17 stitute data obtained through MEQC reviews con-  
18 ducted in accordance with section 1903(u) of the So-  
19 cial Security Act (42 U.S.C. 1396b(u)) for data re-  
20 quired for purposes of PERM requirements, but only  
21 if the State MEQC reviews are based on a broad,  
22 representative sample of Medicaid applicants or en-  
23 rollees in the States.

24           (f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC  
25 SAMPLE SIZES.—The Secretary shall establish State-spe-

1 cific sample sizes for application of the PERM require-  
2 ments with respect to State child health plans for fiscal  
3 years beginning with fiscal year 2009, on the basis of such  
4 information as the Secretary determines appropriate. In  
5 establishing such sample sizes, the Secretary shall, to the  
6 greatest extent practicable—

7           (1) minimize the administrative cost burden on  
8           States under Medicaid and CHIP; and

9           (2) maintain State flexibility to manage such  
10          programs.

11 **SEC. 602. IMPROVING DATA COLLECTION.**

12          (a)        INCREASED        APPROPRIATION.—Section  
13 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by strik-  
14 ing “\$10,000,000 for fiscal year 2000” and inserting  
15 “\$20,000,000 for fiscal year 2008”.

16          (b) USE OF ADDITIONAL FUNDS.—Section 2109(b)  
17 (42 U.S.C. 1397ii(b)), as amended by subsection (a), is  
18 amended—

19               (1) by redesignating paragraph (2) as para-  
20               graph (4); and

21               (2) by inserting after paragraph (1), the fol-  
22               lowing new paragraphs:

23                       “(2) ADDITIONAL REQUIREMENTS.—In addition  
24                       to making the adjustments required to produce the  
25                       data described in paragraph (1), with respect to

1 data collection occurring for fiscal years beginning  
2 with fiscal year 2008, in appropriate consultation  
3 with the Secretary of Health and Human Services,  
4 the Secretary of Commerce shall do the following:

5 “(A) Make appropriate adjustments to the  
6 Current Population Survey to develop more ac-  
7 curate State-specific estimates of the number of  
8 children enrolled in health coverage under title  
9 XIX or this title.

10 “(B) Make appropriate adjustments to the  
11 Current Population Survey to improve the sur-  
12 vey estimates used to determine the child popu-  
13 lation growth factor under section  
14 2104(i)(5)(B) and any other data necessary for  
15 carrying out this title.

16 “(C) Include health insurance survey infor-  
17 mation in the American Community Survey re-  
18 lated to children.

19 “(D) Assess whether American Community  
20 Survey estimates, once such survey data are  
21 first available, produce more reliable estimates  
22 than the Current Population Survey with re-  
23 spect to the purposes described in subparagraph  
24 (B).

1           “(E) On the basis of the assessment re-  
2           quired under subparagraph (D), recommend to  
3           the Secretary of Health and Human Services  
4           whether American Community Survey estimates  
5           should be used in lieu of, or in some combina-  
6           tion with, Current Population Survey estimates  
7           for the purposes described in subparagraph (B).

8           “(F) Continue making the adjustments de-  
9           scribed in the last sentence of paragraph (1)  
10          with respect to expansion of the sample size  
11          used in State sampling units, the number of  
12          sampling units in a State, and using an appro-  
13          priate verification element.

14          “(3) AUTHORITY FOR THE SECRETARY OF  
15          HEALTH AND HUMAN SERVICES TO TRANSITION TO  
16          THE USE OF ALL, OR SOME COMBINATION OF, ACS  
17          ESTIMATES UPON RECOMMENDATION OF THE SEC-  
18          RETARY OF COMMERCE.—If, on the basis of the as-  
19          sessment required under paragraph (2)(D), the Sec-  
20          retary of Commerce recommends to the Secretary of  
21          Health and Human Services that American Commu-  
22          nity Survey estimates should be used in lieu of, or  
23          in some combination with, Current Population Sur-  
24          vey estimates for the purposes described in para-  
25          graph (2)(B), the Secretary of Health and Human



1 Services, in consultation with the States, may pro-  
2 vide for a period during which the Secretary may  
3 transition from carrying out such purposes through  
4 the use of Current Population Survey estimates to  
5 the use of American Community Survey estimates  
6 (in lieu of, or in combination with the Current Popu-  
7 lation Survey estimates, as recommended), provided  
8 that any such transition is implemented in a manner  
9 that is designed to avoid adverse impacts upon  
10 States with approved State child health plans under  
11 this title.”.

12 **SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.**

13 Section 2108(c) (42 U.S.C. 1397hh(c)) is amended  
14 by striking paragraph (5) and inserting the following:

15 “(5) SUBSEQUENT EVALUATION USING UP-  
16 DATED INFORMATION.—

17 “(A) IN GENERAL.—The Secretary, di-  
18 rectly or through contracts or interagency  
19 agreements, shall conduct an independent sub-  
20 sequent evaluation of 10 States with approved  
21 child health plans.

22 “(B) SELECTION OF STATES AND MAT-  
23 TERS INCLUDED.—Paragraphs (2) and (3) shall  
24 apply to such subsequent evaluation in the

1 same manner as such provisions apply to the  
2 evaluation conducted under paragraph (1).

3 “(C) SUBMISSION TO CONGRESS.—Not  
4 later than December 31, 2010, the Secretary  
5 shall submit to Congress the results of the eval-  
6 uation conducted under this paragraph.

7 “(D) FUNDING.—Out of any money in the  
8 Treasury of the United States not otherwise ap-  
9 propriated, there are appropriated \$10,000,000  
10 for fiscal year 2009 for the purpose of con-  
11 ducting the evaluation authorized under this  
12 paragraph. Amounts appropriated under this  
13 subparagraph shall remain available for expend-  
14 iture through fiscal year 2011.”.

15 **SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS**  
16 **AND EVALUATIONS.**

17 Section 2108(d) (42 U.S.C. 1397hh(d)) is amended  
18 to read as follows:

19 “(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS  
20 AND EVALUATIONS.—For the purpose of evaluating and  
21 auditing the program established under this title, or title  
22 XIX, the Secretary, the Office of Inspector General, and  
23 the Comptroller General shall have access to any books,  
24 accounts, records, correspondence, and other documents  
25 that are related to the expenditure of Federal funds under

1 this title and that are in the possession, custody, or control  
 2 of States receiving Federal funds under this title or polit-  
 3 ical subdivisions thereof, or any grantee or contractor of  
 4 such States or political subdivisions.”.

5 **SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DIS-**  
 6 **ALLOWANCE FOR UNAUTHORIZED EXPENDI-**  
 7 **TURES.**

8 Nothing in this Act allows Federal payment for indi-  
 9 viduals who are not legal residents. Titles XI, XIX, and  
 10 XXI of the Social Security Act provide for the disallow-  
 11 ance of Federal financial participation for erroneous ex-  
 12 penditures under Medicaid and under CHIP, respectively.

13 **Subtitle B—Miscellaneous Health**  
 14 **Provisions**

15 **SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORREC-**  
 16 **TIONS.**

17 (a) CLARIFICATION OF REQUIREMENT TO PROVIDE  
 18 EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK  
 19 BENEFIT PACKAGES UNDER MEDICAID.—Section  
 20 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by sec-  
 21 tion 6044(a) of the Deficit Reduction Act of 2005 (Public  
 22 Law 109–171, 120 Stat. 88), is amended—

23 (1) in subparagraph (A)—

24 (A) in the matter before clause (i)—

1 (i) by striking “Notwithstanding any  
2 other provision of this title” and inserting  
3 “Notwithstanding section 1902(a)(1) (re-  
4 lating to statewideness), section  
5 1902(a)(10)(B) (relating to comparability)  
6 and any other provision of this title which  
7 would be directly contrary to the authority  
8 under this section and subject to sub-  
9 section (E)”;

10 (ii) by striking “enrollment in cov-  
11 erage that provides” and inserting “cov-  
12 erage that”;

13 (B) in clause (i), by inserting “provides”  
14 after “(i)”;

15 (C) by striking clause (ii) and inserting the  
16 following:

17 “(ii) for any individual described in  
18 section 1905(a)(4)(B) who is eligible under  
19 the State plan in accordance with para-  
20 graphs (10) and (17) of section 1902(a),  
21 consists of the items and services described  
22 in section 1905(a)(4)(B) (relating to early  
23 and periodic screening, diagnostic, and  
24 treatment services defined in section

1           1905(r)) and provided in accordance with  
2           the requirements of section 1902(a)(43).”;

3           (2) in subparagraph (C)—

4           (A) in the heading, by striking “**WRAP-**  
5           **AROUND**” and inserting “**ADDITIONAL**”; and

6           (B) by striking “wrap-around or”; and

7           (3) by adding at the end the following new sub-  
8           paragraph:

9           “(E) **RULE OF CONSTRUCTION.**—Nothing  
10          in this paragraph shall be construed as—

11           “(i) requiring a State to offer all or  
12           any of the items and services required by  
13           subparagraph (A)(ii) through an issuer of  
14           benchmark coverage described in sub-  
15           section (b)(1) or benchmark equivalent  
16           coverage described in subsection (b)(2);

17           “(ii) preventing a State from offering  
18           all or any of the items and services re-  
19           quired by subparagraph (A)(ii) through an  
20           issuer of benchmark coverage described in  
21           subsection (b)(1) or benchmark equivalent  
22           coverage described in subsection (b)(2); or

23           “(iii) affecting a child’s entitlement to  
24           care and services described in subsections  
25           (a)(4)(B) and (r) of section 1905 and pro-

1           vided in accordance with section  
2           1902(a)(43) whether provided through  
3           benchmark coverage, benchmark equivalent  
4           coverage, or otherwise.”.

5           (b) CORRECTION OF REFERENCE TO CHILDREN IN  
6 FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—  
7 Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–  
8 7(a)(2)(B)(viii), as inserted by section 6044(a) of the Def-  
9 icit Reduction Act of 2005, is amended by striking “aid  
10 or assistance is made available under part B of title IV  
11 to children in foster care and individuals” and inserting  
12 “child welfare services are made available under part B  
13 of title IV on the basis of being a child in foster care or”.

14           (c) TRANSPARENCY.—Section 1937 (42 U.S.C.  
15 1396u–7), as inserted by section 6044(a) of the Deficit  
16 Reduction Act of 2005, is amended by adding at the end  
17 the following:

18           “(c) PUBLICATION OF PROVISIONS AFFECTED.—  
19 With respect to a State plan amendment to provide bench-  
20 mark benefits in accordance with subsections (a) and (b)  
21 that is approved by the Secretary, the Secretary shall pub-  
22 lish on the Internet website of the Centers for Medicare  
23 & Medicaid Services, a list of the provisions of this title  
24 that the Secretary has determined do not apply in order  
25 to enable the State to carry out the plan amendment and

1 the reason for each such determination on the date such  
2 approval is made, and shall publish such list in the Fed-  
3 eral Register and not later than 30 days after such date  
4 of approval.”.

5 (d) EFFECTIVE DATE.—The amendments made by  
6 subsections (a), (b), and (c) of this section shall take effect  
7 as if included in the amendment made by section 6044(a)  
8 of the Deficit Reduction Act of 2005.

9 **SEC. 612. REFERENCES TO TITLE XXI.**

10 Section 704 of the Medicare, Medicaid, and SCHIP  
11 Balanced Budget Refinement Act of 1999, as enacted into  
12 law by division B of Public Law 106–113 (113 Stat.  
13 1501A–402) is repealed.

14 **SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OP-**  
15 **PORTUNITY ACCOUNT DEMONSTRATION PRO-**  
16 **GRAMS.**

17 After the date of the enactment of this Act, the Sec-  
18 retary of Health and Human Services may not approve  
19 any new demonstration programs under section 1938 of  
20 the Social Security Act (42 U.S.C. 1396u–8).

21 **SEC. 614. COUNTY MEDICAID HEALTH INSURING ORGANI-**  
22 **ZATIONS; GAO REPORT ON MEDICAID MAN-**  
23 **AGED CARE PAYMENT RATES.**

24 (a) IN GENERAL.—Section 9517(c)(3) of the Consoli-  
25 dated Omnibus Budget Reconciliation Act of 1985 (42

1 U.S.C. 1396b note), as added by section 4734 of the Om-  
2 nibus Budget Reconciliation Act of 1990 and as amended  
3 by section 704 of the Medicare, Medicaid, and SCHIP  
4 Benefits Improvement and Protection Act of 2000, is  
5 amended—

6 (1) in subparagraph (A), by inserting “, in the  
7 case of any health insuring organization described in  
8 such subparagraph that is operated by a public enti-  
9 ty established by Ventura County, and in the case  
10 of any health insuring organization described in such  
11 subparagraph that is operated by a public entity es-  
12 tablished by Merced County” after “described in  
13 subparagraph (B)”; and

14 (2) in subparagraph (C), by striking “14 per-  
15 cent” and inserting “16 percent”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall take effect on the date of the enact-  
18 ment of this Act.

19 (c) GAO REPORT ON ACTUARIAL SOUNDNESS OF  
20 MEDICAID MANAGED CARE PAYMENT RATES.—Not later  
21 than 18 months after the date of the enactment of this  
22 Act, the Comptroller General of the United States shall  
23 submit a report to the Committee on Finance of the Sen-  
24 ate and the Committee on Energy and Commerce of the  
25 House of Representatives analyzing the extent to which



1 State payment rates for medicaid managed care organiza-  
2 tions under title XIX of the Social Security Act are actu-  
3 arially sound.

4 **SEC. 615. ADJUSTMENT IN COMPUTATION OF MEDICAID**  
5 **FMAP TO DISREGARD AN EXTRAORDINARY**  
6 **EMPLOYER PENSION CONTRIBUTION.**

7 (a) IN GENERAL.—Only for purposes of computing  
8 the FMAP (as defined in subsection (e)) for a State for  
9 a fiscal year (beginning with fiscal year 2006) and apply-  
10 ing the FMAP under title XIX of the Social Security Act,  
11 any significantly disproportionate employer pension or in-  
12 surance fund contribution described in subsection (b) shall  
13 be disregarded in computing the per capita income of such  
14 State, but shall not be disregarded in computing the per  
15 capita income for the continental United States (and Alas-  
16 ka) and Hawaii.

17 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER  
18 PENSION AND INSURANCE FUND CONTRIBUTION.—

19 (1) IN GENERAL.—For purposes of this section,  
20 a significantly disproportionate employer pension  
21 and insurance fund contribution described in this  
22 subsection with respect to a State is any identifiable  
23 employer contribution towards pension or other em-  
24 ployee insurance funds that is estimated to accrue to  
25 residents of such State for a calendar year (begin-

1       ning with calendar year 2003) if the increase in the  
2       amount so estimated exceeds 25 percent of the total  
3       increase in personal income in that State for the  
4       year involved.

5           (2) DATA TO BE USED.—For estimating and  
6       adjustment a FMAP already calculated as of the  
7       date of the enactment of this Act for a State with  
8       a significantly disproportionate employer pension  
9       and insurance fund contribution, the Secretary shall  
10      use the personal income data set originally used in  
11      calculating such FMAP.

12          (3) SPECIAL ADJUSTMENT FOR NEGATIVE  
13      GROWTH.—If in any calendar year the total personal  
14      income growth in a State is negative, an employer  
15      pension and insurance fund contribution for the pur-  
16      poses of calculating the State's FMAP for a cal-  
17      endar year shall not exceed 125 percent of the  
18      amount of such contribution for the previous cal-  
19      endar year for the State.

20          (c) HOLD HARMLESS.—No State shall have its  
21      FMAP for a fiscal year reduced as a result of the applica-  
22      tion of this section.

23          (d) REPORT.—Not later than May 15, 2008, the Sec-  
24      retary shall submit to the Congress a report on the prob-  
25      lems presented by the current treatment of pension and

1 insurance fund contributions in the use of Bureau of Eco-  
2 nomic Affairs calculations for the FMAP and for Medicaid  
3 and on possible alternative methodologies to mitigate such  
4 problems.

5 (e) FMAP DEFINED.—For purposes of this section,  
6 the term “FMAP” means the Federal medical assistance  
7 percentage, as defined in section 1905(b) of the Social Se-  
8 curity Act (42 U.S.C. 1396(d)).

9 **SEC. 616. MORATORIUM ON CERTAIN PAYMENT RESTRIC-**  
10 **TIONS.**

11 Notwithstanding any other provision of law, the Sec-  
12 retary of Health and Human Services shall not, prior to  
13 January 1, 2010, take any action (through promulgation  
14 of regulation, issuance of regulatory guidance, use of fed-  
15 eral payment audit procedures, or other administrative ac-  
16 tion, policy, or practice, including a Medical Assistance  
17 Manual transmittal or letter to State Medicaid directors)  
18 to restrict coverage or payment under title XIX of the So-  
19 cial Security Act for rehabilitation services, or school-  
20 based administration, transportation, or medical services  
21 if such restrictions are more restrictive in any aspect than  
22 those applied to such coverage or payment as of July 1,  
23 2007.

1 **SEC. 617. MEDICAID DSH ALLOTMENTS FOR TENNESSEE**  
2 **AND HAWAII.**

3 (a) TENNESSEE.—The DSH allotments for Ten-  
4 nessee for each fiscal year beginning with fiscal year 2008  
5 under subsection (f)(3) of section 1923 of the Social Secu-  
6 rity Act (42 U.S.C. 1396r-4) are deemed to be  
7 \$30,000,000. The Secretary of Health and Human Serv-  
8 ices may impose a limitation on the total amount of pay-  
9 ments made to hospitals under the TennCare Section  
10 1115 waiver only to the extent that such limitation is nec-  
11 essary to ensure that a hospital does not receive payment  
12 in excess of the amounts described in subsection (f) of  
13 such section or as necessary to ensure that the waiver re-  
14 mains budget neutral.

15 (b) HAWAII.—Section 1923(f)(6) (42 U.S.C. 1396r-  
16 4(f)(6)) is amended—

17 (1) in the paragraph heading, by striking “FOR  
18 FISCAL YEAR 2007”; and

19 (2) in subparagraph (B)—

20 (A) in clause (i), by striking “Only with re-  
21 spect to fiscal year 2007” and inserting “With  
22 respect to each of fiscal years 2007 and 2008”;

23 (B) by redesignating clause (ii) as clause  
24 (iv); and

25 (C) by inserting after clause (i), the fol-  
26 lowing new clauses:

1           “(ii) TREATMENT AS A LOW-DSH  
2 STATE.—With respect to fiscal year 2009  
3 and each fiscal year thereafter, notwith-  
4 standing the table set forth in paragraph  
5 (2), the DSH allotment for Hawaii shall be  
6 increased in the same manner as allot-  
7 ments for low DSH States are increased  
8 for such fiscal year under clauses (ii) and  
9 (iii) of paragraph (5)(B).

10           “(iii) CERTAIN HOSPITAL PAY-  
11 MENTS.—The Secretary may not impose a  
12 limitation on the total amount of payments  
13 made to hospitals under the QUEST sec-  
14 tion 1115 Demonstration Project except to  
15 the extent that such limitation is necessary  
16 to ensure that a hospital does not receive  
17 payments in excess of the amounts de-  
18 scribed in subsection (g), or as necessary  
19 to ensure that such payments under the  
20 waiver and such payments pursuant to the  
21 allotment provided in this section do not,  
22 in the aggregate in any year, exceed the  
23 amount that the Secretary determines is  
24 equal to the Federal medical assistance  
25 percentage component attributable to dis-

1           proportionate share hospital payment ad-  
2           justments for such year that is reflected in  
3           the budget neutrality provision of the  
4           QUEST Demonstration Project.”.

5 **SEC. 618. CLARIFICATION TREATMENT OF REGIONAL MED-**  
6 **ICAL CENTER.**

7           (a) IN GENERAL.—Nothing in section 1903(w) of the  
8 Social Security Act (42 U.S.C. 1396b(w)) shall be con-  
9 strued by the Secretary of Health and Human Services  
10 as prohibiting a State’s use of funds as the non-Federal  
11 share of expenditures under title XIX of such Act where  
12 such funds are transferred from or certified by a publicly-  
13 owned regional medical center located in another State  
14 and described in subsection (b), so long as the Secretary  
15 determines that such use of funds is proper and in the  
16 interest of the program under title XIX.

17           (b) CENTER DESCRIBED.—A center described in this  
18 subsection is a publicly-owned regional medical center  
19 that—

20           (1) provides level 1 trauma and burn care serv-  
21           ices;

22           (2) provides level 3 neonatal care services;

23           (3) is obligated to serve all patients, regardless  
24           of ability to pay;

1           (4) is located within a Standard Metropolitan  
2           Statistical Area (SMSA) that includes at least 3  
3           States;

4           (5) provides services as a tertiary care provider  
5           for patients residing within a 125-mile radius; and

6           (6) meets the criteria for a disproportionate  
7           share hospital under section 1923 of such Act (42  
8           U.S.C. 1396r-4) in at least one State other than the  
9           State in which the center is located.

10 **SEC. 619. EXTENSION OF SSI WEB-BASED ASSET DEM-**  
11 **ONSTRATION PROJECT TO THE MEDICAID**  
12 **PROGRAM.**

13           (a) **IN GENERAL.**—Beginning on October 1, 2012,  
14 the Secretary of Health and Human Services shall provide  
15 for the application to asset eligibility determinations under  
16 the Medicaid program under title XIX of the Social Secu-  
17 rity Act of the automated, secure, web-based asset  
18 verification request and response process being applied for  
19 determining eligibility for benefits under the Supplemental  
20 Security Income (SSI) program under title XVI of such  
21 Act under a demonstration project conducted under the  
22 authority of section 1631(e)(1)(B)(ii) of such Act (42  
23 U.S.C. 1383(e)(1)(B)(ii)).

24           (b) **LIMITATION.**—Such application shall only extend  
25 to those States in which such demonstration project is op-

1 erating and only for the period in which such project is  
2 otherwise provided.

3 (c) RULES OF APPLICATION.—For purposes of car-  
4 rying out subsection (a), notwithstanding any other provi-  
5 sion of law, information obtained from a financial institu-  
6 tion that is used for purposes of eligibility determinations  
7 under such demonstration project with respect to the Sec-  
8 retary of Health and Human Services under the SSI pro-  
9 gram may also be shared and used by States for purposes  
10 of eligibility determinations under the Medicaid program.  
11 In applying section 1631(e)(1)(B)(ii) of the Social Secu-  
12 rity Act under this subsection, references to the Commis-  
13 sioner of Social Security and benefits under title XVI of  
14 such Act shall be treated as including a reference to a  
15 State described in subsection (b) and medical assistance  
16 under title XIX of such Act provided by such a State.

## 17 **Subtitle C—Other Provisions**

### 18 **SEC. 621. SUPPORT FOR INJURED SERVICEMEMBERS.**

19 (a) SHORT TITLE.—This section may be cited as the  
20 “Support for Injured Servicemembers Act”.

21 (b) SERVICEMEMBER FAMILY LEAVE.—

22 (1) DEFINITIONS.—Section 101 of the Family  
23 and Medical Leave Act of 1993 (29 U.S.C. 2611) is  
24 amended by adding at the end the following:



1           “(14) ACTIVE DUTY.—The term ‘active duty’  
2 means duty under a call or order to active duty  
3 under a provision of law referred to in section  
4 101(a)(13)(B) of title 10, United States Code.

5           “(15) COVERED SERVICEMEMBER.—The term  
6 ‘covered servicemember’ means a member of the  
7 Armed Forces, including a member of the National  
8 Guard or a Reserve, who is undergoing medical  
9 treatment, recuperation, or therapy, is otherwise in  
10 medical hold or medical holdover status, or is other-  
11 wise on the temporary disability retired list, for a se-  
12 rious injury or illness.

13           “(16) MEDICAL HOLD OR MEDICAL HOLDOVER  
14 STATUS.—The term ‘medical hold or medical hold-  
15 over status’ means—

16           “(A) the status of a member of the Armed  
17 Forces, including a member of the National  
18 Guard or a Reserve, assigned or attached to a  
19 military hospital for medical care; and

20           “(B) the status of a member of a reserve  
21 component of the Armed Forces who is sepa-  
22 rated, whether pre-deployment or post-deploy-  
23 ment, from the member’s unit while in need of  
24 health care based on a medical condition identi-

1           fied while the member is on active duty in the  
2           Armed Forces.

3           “(17) NEXT OF KIN.—The term ‘next of kin’,  
4           used with respect to an individual, means the near-  
5           est blood relative of that individual.

6           “(18) SERIOUS INJURY OR ILLNESS.—The term  
7           ‘serious injury or illness’, in the case of a member  
8           of the Armed Forces, means an injury or illness in-  
9           curred by the member in line of duty on active duty  
10          in the Armed Forces that may render the member  
11          medically unfit to perform the duties of the mem-  
12          ber’s office, grade, rank, or rating.”.

13          (2) ENTITLEMENT TO LEAVE.—Section 102(a)  
14          of such Act (29 U.S.C. 2612(a)) is amended by add-  
15          ing at the end the following:

16          “(3) SERVICEMEMBER FAMILY LEAVE.—Subject  
17          to section 103, an eligible employee who is the  
18          spouse, son, daughter, parent, or next of kin of a  
19          covered servicemember shall be entitled to a total of  
20          26 workweeks of leave during a 12-month period to  
21          care for the servicemember. The leave described in  
22          this paragraph shall only be available during a single  
23          12-month period.

24          “(4) COMBINED LEAVE TOTAL.—During the  
25          single 12-month period described in paragraph (3),

1 an eligible employee shall be entitled to a combined  
2 total of 26 workweeks of leave under paragraphs (1)  
3 and (3). Nothing in this paragraph shall be con-  
4 strued to limit the availability of leave under para-  
5 graph (1) during any other 12-month period.”.

6 (3) REQUIREMENTS RELATING TO LEAVE.—

7 (A) SCHEDULE.—Section 102(b) of such  
8 Act (29 U.S.C. 2612(b)) is amended—

9 (i) in paragraph (1), in the second  
10 sentence—

11 (I) by striking “section  
12 103(b)(5)” and inserting “subsection  
13 (b)(5) or (f) (as appropriate) of sec-  
14 tion 103”; and

15 (II) by inserting “or under sub-  
16 section (a)(3)” after “subsection  
17 (a)(1)”; and

18 (ii) in paragraph (2), by inserting “or  
19 under subsection (a)(3)” after “subsection  
20 (a)(1)”.

21 (B) SUBSTITUTION OF PAID LEAVE.—Sec-  
22 tion 102(d) of such Act (29 U.S.C. 2612(d)) is  
23 amended—

24 (i) in paragraph (1)—

1 (I) by inserting “(or 26 work-  
2 weeks in the case of leave provided  
3 under subsection (a)(3))” after “12  
4 workweeks” the first place it appears;  
5 and

6 (II) by inserting “(or 26 work-  
7 weeks, as appropriate)” after “12  
8 workweeks” the second place it ap-  
9 pears; and

10 (ii) in paragraph (2)(B), by adding at  
11 the end the following: “An eligible em-  
12 ployee may elect, or an employer may re-  
13 quire the employee, to substitute any of  
14 the accrued paid vacation leave, personal  
15 leave, family leave, or medical or sick leave  
16 of the employee for leave provided under  
17 subsection (a)(3) for any part of the 26-  
18 week period of such leave under such sub-  
19 section.”.

20 (C) NOTICE.—Section 102(e)(2) of such  
21 Act (29 U.S.C. 2612(e)(2)) is amended by in-  
22 serting “or under subsection (a)(3)” after “sub-  
23 section (a)(1)”.

1 (D) SPOUSES EMPLOYED BY SAME EM-  
2 PLOYER.—Section 102(f) of such Act (29  
3 U.S.C. 2612(f)) is amended—

4 (i) by redesignating paragraphs (1)  
5 and (2) as subparagraphs (A) and (B),  
6 and aligning the margins of the subpara-  
7 graphs with the margins of section  
8 102(e)(2)(A);

9 (ii) by striking “In any” and inserting  
10 the following:

11 “(1) IN GENERAL.—In any”; and

12 (iii) by adding at the end the fol-  
13 lowing:

14 “(2) SERVICEMEMBER FAMILY LEAVE.—

15 “(A) IN GENERAL.—The aggregate num-  
16 ber of workweeks of leave to which both that  
17 husband and wife may be entitled under sub-  
18 section (a) may be limited to 26 workweeks  
19 during the single 12-month period described in  
20 subsection (a)(3) if the leave is—

21 “(i) leave under subsection (a)(3); or

22 “(ii) a combination of leave under  
23 subsection (a)(3) and leave described in  
24 paragraph (1).

1           “(B) BOTH LIMITATIONS APPLICABLE.—If  
2           the leave taken by the husband and wife in-  
3           cludes leave described in paragraph (1), the  
4           limitation in paragraph (1) shall apply to the  
5           leave described in paragraph (1).”.

6           (E) CERTIFICATION.—Section 103 of such  
7           Act (29 U.S.C. 2613) is amended by adding at  
8           the end the following:

9           “(f) CERTIFICATION FOR SERVICEMEMBER FAMILY  
10          LEAVE.—An employer may require that a request for  
11          leave under section 102(a)(3) be supported by a certifi-  
12          cation issued at such time and in such manner as the Sec-  
13          retary may by regulation prescribe.”.

14          (F) FAILURE TO RETURN.—Section 104(c)  
15          of such Act (29 U.S.C. 2614(c)) is amended—

16                  (i) in paragraph (2)(B)(i), by insert-  
17                  ing “or under section 102(a)(3)” before  
18                  the semicolon; and

19                  (ii) in paragraph (3)(A)—

20                          (I) in clause (i), by striking “or”  
21                          at the end;

22                          (II) in clause (ii), by striking the  
23                          period and inserting “; or”; and

24                          (III) by adding at the end the  
25                          following:

1           “(iii) a certification issued by the  
2           health care provider of the servicemember  
3           being cared for by the employee, in the  
4           case of an employee unable to return to  
5           work because of a condition specified in  
6           section 102(a)(3).”.

7           (G) ENFORCEMENT.—Section 107 of such  
8           Act (29 U.S.C. 2617) is amended, in subsection  
9           (a)(1)(A)(i)(II), by inserting “(or 26 weeks, in  
10          a case involving leave under section 102(a)(3))”  
11          after “12 weeks”.

12          (H) INSTRUCTIONAL EMPLOYEES.—Sec-  
13          tion 108 of such Act (29 U.S.C. 2618) is  
14          amended, in subsections (c)(1), (d)(2), and  
15          (d)(3), by inserting “or under section  
16          102(a)(3)” after “section 102(a)(1)”.

17          (c) SERVICEMEMBER FAMILY LEAVE FOR CIVIL  
18          SERVICE EMPLOYEES.—

19          (1) DEFINITIONS.—Section 6381 of title 5,  
20          United States Code, is amended—

21                  (A) in paragraph (5), by striking “and” at  
22                  the end;

23                  (B) in paragraph (6), by striking the pe-  
24                  riod and inserting “; and”; and

25                  (C) by adding at the end the following:

1           “(7) the term ‘active duty’ means duty under a  
2 call or order to active duty under a provision of law  
3 referred to in section 101(a)(13)(B) of title 10,  
4 United States Code;

5           “(8) the term ‘covered servicemember’ means a  
6 member of the Armed Forces, including a member  
7 of the National Guard or a Reserve, who is under-  
8 going medical treatment, recuperation, or therapy, is  
9 otherwise in medical hold or medical holdover status,  
10 or is otherwise on the temporary disability retired  
11 list, for a serious injury or illness;

12           “(9) the term ‘medical hold or medical holdover  
13 status’ means—

14                   “(A) the status of a member of the Armed  
15 Forces, including a member of the National  
16 Guard or a Reserve, assigned or attached to a  
17 military hospital for medical care; and

18                   “(B) the status of a member of a reserve  
19 component of the Armed Forces who is sepa-  
20 rated, whether pre-deployment or post-deploy-  
21 ment, from the member’s unit while in need of  
22 health care based on a medical condition identi-  
23 fied while the member is on active duty in the  
24 Armed Forces;



1           “(10) the term ‘next of kin’, used with respect  
2 to an individual, means the nearest blood relative of  
3 that individual; and

4           “(11) the term ‘serious injury or illness’, in the  
5 case of a member of the Armed Forces, means an  
6 injury or illness incurred by the member in line of  
7 duty on active duty in the Armed Forces that may  
8 render the member medically unfit to perform the  
9 duties of the member’s office, grade, rank, or rat-  
10 ing.”.

11           (2) ENTITLEMENT TO LEAVE.—Section 6382(a)  
12 of such title is amended by adding at the end the  
13 following:

14           “(3) Subject to section 6383, an employee who  
15 is the spouse, son, daughter, parent, or next of kin  
16 of a covered servicemember shall be entitled to a  
17 total of 26 administrative workweeks of leave during  
18 a 12-month period to care for the servicemember.  
19 The leave described in this paragraph shall only be  
20 available during a single 12-month period.

21           “(4) During the single 12-month period de-  
22 scribed in paragraph (3), an employee shall be enti-  
23 tled to a combined total of 26 administrative work-  
24 weeks of leave under paragraphs (1) and (3). Noth-  
25 ing in this paragraph shall be construed to limit the

1 availability of leave under paragraph (1) during any  
2 other 12-month period.”.

3 (3) REQUIREMENTS RELATING TO LEAVE.—

4 (A) SCHEDULE.—Section 6382(b) of such  
5 title is amended—

6 (i) in paragraph (1), in the second  
7 sentence—

8 (I) by striking “section  
9 6383(b)(5)” and inserting “subsection  
10 (b)(5) or (f) (as appropriate) of sec-  
11 tion 6383”; and

12 (II) by inserting “or under sub-  
13 section (a)(3)” after “subsection  
14 (a)(1)”; and

15 (ii) in paragraph (2), by inserting “or  
16 under subsection (a)(3)” after “subsection  
17 (a)(1)”.

18 (B) SUBSTITUTION OF PAID LEAVE.—Sec-  
19 tion 6382(d) of such title is amended by adding  
20 at the end the following: “An employee may  
21 elect to substitute for leave under subsection  
22 (a)(3) any of the employee’s accrued or accu-  
23 mulated annual or sick leave under subchapter  
24 I for any part of the 26-week period of leave  
25 under such subsection.”.

1 (C) NOTICE.—Section 6382(e) of such title  
2 is amended by inserting “or under subsection  
3 (a)(3)” after “subsection (a)(1)”.

4 (D) CERTIFICATION.—Section 6383 of  
5 such title is amended by adding at the end the  
6 following:

7 “(f) An employing agency may require that a request  
8 for leave under section 6382(a)(3) be supported by a cer-  
9 tification issued at such time and in such manner as the  
10 Office of Personnel Management may by regulation pre-  
11 scribe.”.

12 **SEC. 622. 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. 623. SENSE OF SENATE REGARDING ACCESS TO AF-**  
6                   **FORDABLE 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                         **TITLE VII—REVENUE**  
18                                 **PROVISIONS**

19         **SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO**  
20                         **PRODUCTS.**

21           (a) CIGARS.—Section 5701(a) of the Internal Rev-  
22         enue Code of 1986 is amended—

23                 (1) by striking “\$1.828 cents per thousand  
24                 (\$1.594 cents per thousand on cigars removed dur-

1 ing 2000 or 2001)” in paragraph (1) and inserting  
2 “\$50.00 per thousand”,

3 (2) by striking “20.719 percent (18.063 percent  
4 on cigars removed during 2000 or 2001)” in para-  
5 graph (2) and inserting “52.988 percent”, and

6 (3) by striking “\$48.75 per thousand (\$42.50  
7 per thousand on cigars removed during 2000 or  
8 2001)” in paragraph (2) and inserting “\$3.00 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  
22 cigarette papers removed during 2000 or 2001)” and in-  
23 serting “3.13 cents”.

24 (d) CIGARETTE TUBES.—Section 5701(d) of such  
25 Code is amended by striking “2.44 cents (2.13 cents on

1 cigarette tubes removed during 2000 or 2001)” and in-  
2 serting “6.26 cents”.

3 (e) SMOKELESS TOBACCO.—Section 5701(e) of such  
4 Code is amended—

5 (1) by striking “58.5 cents (51 cents on snuff  
6 removed during 2000 or 2001)” in paragraph (1)  
7 and inserting “\$1.50”, and

8 (2) by striking “19.5 cents (17 cents on chew-  
9 ing tobacco removed during 2000 or 2001)” in para-  
10 graph (2) and inserting “50 cents”.

11 (f) PIPE TOBACCO.—Section 5701(f) of such Code is  
12 amended by striking “\$1.0969 cents (95.67 cents on pipe  
13 tobacco removed during 2000 or 2001)” and inserting  
14 “\$2.8126 cents”.

15 (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of  
16 such Code is amended by striking “\$1.0969 cents (95.67  
17 cents on roll-your-own tobacco removed during 2000 or  
18 2001)” and inserting “\$8.8889 cents”.

19 (h) FLOOR STOCKS TAXES.—

20 (1) IMPOSITION OF TAX.—On tobacco products  
21 (other than cigars described in section 5701(a)(2) of  
22 the Internal Revenue Code of 1986) and cigarette  
23 papers and tubes manufactured in or imported into  
24 the United States which are removed before January  
25 1, 2008, and held on such date for sale by any per-

1 son, there is hereby imposed a tax in an amount  
2 equal to the excess of—

3 (A) the tax which would be imposed under  
4 section 5701 of such Code on the article if the  
5 article had been removed on such date, over

6 (B) the prior tax (if any) imposed under  
7 section 5701 of such Code on such article.

8 (2) CREDIT AGAINST TAX.—Each person shall  
9 be allowed as a credit against the taxes imposed by  
10 paragraph (1) an amount equal to \$500. Such credit  
11 shall not exceed the amount of taxes imposed by  
12 paragraph (1) on January 1, 2008, for which such  
13 person is liable.

14 (3) LIABILITY FOR TAX AND METHOD OF PAY-  
15 MENT.—

16 (A) LIABILITY FOR TAX.—A person hold-  
17 ing tobacco products, cigarette papers, or ciga-  
18 rette tubes on January 1, 2008, to which any  
19 tax imposed by paragraph (1) applies shall be  
20 liable for such tax.

21 (B) METHOD OF PAYMENT.—The tax im-  
22 posed by paragraph (1) shall be paid in such  
23 manner as the Secretary shall prescribe by reg-  
24 ulations.

1           (C) TIME FOR PAYMENT.—The tax im-  
2           posed by paragraph (1) shall be paid on or be-  
3           fore April 1, 2008.

4           (4) ARTICLES IN FOREIGN TRADE ZONES.—  
5           Notwithstanding the Act of June 18, 1934 (com-  
6           monly known as the Foreign Trade Zone Act, 48  
7           Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-  
8           sion of law, any article which is located in a foreign  
9           trade zone on January 1, 2008, shall be subject to  
10          the tax imposed by paragraph (1) if—

11           (A) internal revenue taxes have been deter-  
12          mined, or customs duties liquidated, with re-  
13          spect to such article before such date pursuant  
14          to a request made under the 1st proviso of sec-  
15          tion 3(a) of such Act, or

16           (B) such article is held on such date under  
17          the supervision of an officer of the United  
18          States Customs and Border Protection of the  
19          Department of Homeland Security pursuant to  
20          the 2d proviso of such section 3(a).

21          (5) DEFINITIONS.—For purposes of this sub-  
22          section—

23           (A) IN GENERAL.—Any term used in this  
24          subsection which is also used in section 5702 of  
25          the Internal Revenue Code of 1986 shall have

1           the same meaning as such term has in such  
2           section.

3                   (B) SECRETARY.—The term “Secretary”  
4           means the Secretary of the Treasury or the  
5           Secretary’s delegate.

6                   (6) CONTROLLED GROUPS.—Rules similar to  
7           the rules of section 5061(e)(3) of such Code shall  
8           apply for purposes of this subsection.

9                   (7) OTHER LAWS APPLICABLE.—All provisions  
10          of law, including penalties, applicable with respect to  
11          the taxes imposed by section 5701 of such Code  
12          shall, insofar as applicable and not inconsistent with  
13          the provisions of this subsection, apply to the floor  
14          stocks taxes imposed by paragraph (1), to the same  
15          extent as if such taxes were imposed by such section  
16          5701. The Secretary may treat any person who bore  
17          the ultimate burden of the tax imposed by para-  
18          graph (1) as the person to whom a credit or refund  
19          under such provisions may be allowed or made.

20                   (i) EFFECTIVE DATE.—The amendments made by  
21          this section shall apply to articles removed (as defined in  
22          section 5702(j) of the Internal Revenue Code of 1986)  
23          after December 31, 2007.

1 **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

2 (a) PERMIT, REPORT, AND RECORD REQUIREMENTS  
3 FOR MANUFACTURERS AND IMPORTERS OF PROCESSED  
4 TOBACCO.—

5 (1) PERMITS.—

6 (A) APPLICATION.—Section 5712 of the  
7 Internal Revenue Code of 1986 is amended by  
8 inserting “or processed tobacco” after “tobacco  
9 products”.

10 (B) ISSUANCE.—Section 5713(a) of such  
11 Code is amended by inserting “or processed to-  
12 bacco” after “tobacco products”.

13 (2) INVENTORIES AND REPORTS.—

14 (A) INVENTORIES.—Section 5721 of such  
15 Code is amended by inserting “, processed to-  
16 bacco,” after “tobacco products”.

17 (B) REPORTS.—Section 5722 of such Code  
18 is amended by inserting “, processed tobacco,”  
19 after “tobacco products”.

20 (3) RECORDS.—Section 5741 of such Code is  
21 amended by inserting “, processed tobacco,” after  
22 “tobacco products”.

23 (4) MANUFACTURER OF PROCESSED TO-  
24 BACCO.—Section 5702 of such Code is amended by  
25 adding at the end the following new subsection:

26 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

1           “(1) IN GENERAL.—The term ‘manufacturer of  
2           processed tobacco’ means any person who processes  
3           any tobacco other than tobacco products.

4           “(2) PROCESSED TOBACCO.—The processing of  
5           tobacco shall not include the farming or growing of  
6           tobacco or the handling of tobacco solely for sale,  
7           shipment, or delivery to a manufacturer of tobacco  
8           products or processed tobacco.”.

9           (5) CONFORMING AMENDMENT.—Section  
10          5702(k) of such Code is amended by inserting “, or  
11          any processed tobacco,” after “nontaxpaid tobacco  
12          products or cigarette papers or tubes”.

13          (6) EFFECTIVE DATE.—The amendments made  
14          by this subsection shall take effect on January 1,  
15          2008.

16          (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCA-  
17          TION OF PERMITS.—

18               (1) DENIAL.—Paragraph (3) of section 5712 of  
19               such Code is amended to read as follows:

20               “(3) such person (including, in the case of a  
21               corporation, any officer, director, or principal stock-  
22               holder and, in the case of a partnership, a part-  
23               ner)—

24                       “(A) is, by reason of his business experi-  
25                       ence, financial standing, or trade connections or



1 by reason of previous or current legal pro-  
2 ceedings involving a felony violation of any  
3 other provision of Federal criminal law relating  
4 to tobacco products, cigarette paper, or ciga-  
5 rette tubes, not likely to maintain operations in  
6 compliance with this chapter,

7 “(B) has been convicted of a felony viola-  
8 tion of any provision of Federal or State crimi-  
9 nal law relating to tobacco products, cigarette  
10 paper, or cigarette tubes, or

11 “(C) has failed to disclose any material in-  
12 formation required or made any material false  
13 statement in the application therefor.”.

14 (2) SUSPENSION OR REVOCATION.—Subsection  
15 (b) of section 5713 of such Code is amended to read  
16 as follows:

17 “(b) SUSPENSION OR REVOCATION.—

18 “(1) SHOW CAUSE HEARING.—If the Secretary  
19 has reason to believe that any person holding a per-  
20 mit—

21 “(A) has not in good faith complied with  
22 this chapter, or with any other provision of this  
23 title involving intent to defraud,

24 “(B) has violated the conditions of such  
25 permit,

1           “(C) has failed to disclose any material in-  
2           formation required or made any material false  
3           statement in the application for such permit,

4           “(D) has failed to maintain his premises in  
5           such manner as to protect the revenue,

6           “(E) is, by reason of previous or current  
7           legal proceedings involving a felony violation of  
8           any other provision of Federal criminal law re-  
9           lating to tobacco products, cigarette paper, or  
10          cigarette tubes, not likely to maintain oper-  
11          ations in compliance with this chapter, or

12          “(F) has been convicted of a felony viola-  
13          tion of any provision of Federal or State crimi-  
14          nal law relating to tobacco products, cigarette  
15          paper, or cigarette tubes,

16          the Secretary shall issue an order, stating the facts  
17          charged, citing such person to show cause why his  
18          permit should not be suspended or revoked.

19          “(2) ACTION FOLLOWING HEARING.—If, after  
20          hearing, the Secretary finds that such person has  
21          not shown cause why his permit should not be sus-  
22          pended or revoked, such permit shall be suspended  
23          for such period as the Secretary deems proper or  
24          shall be revoked.”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall take effect on the date of the  
3           enactment of this Act.

4           (c) APPLICATION OF INTERNAL REVENUE CODE  
5 STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO  
6 EXCISE TAXES.—

7           (1) IN GENERAL.—Section 514(a) of the Tariff  
8           Act of 1930 (19 U.S.C. 1514(a)) is amended by  
9           striking “and section 520 (relating to refunds)” and  
10          inserting “section 520 (relating to refunds), and sec-  
11          tion 6501 of the Internal Revenue Code of 1986  
12          (but only with respect to taxes imposed under chap-  
13          ters 51 and 52 of such Code)”.

14          (2) EFFECTIVE DATE.—The amendment made  
15          by this subsection shall apply to articles imported  
16          after the date of the enactment of this Act.

17          (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN  
18 TOBACCO.—

19          (1) IN GENERAL.—Section 5702(o) of the In-  
20          ternal Revenue Code of 1986 is amended by insert-  
21          ing “or cigars, or for use as wrappers thereof” be-  
22          fore the period at the end.

23          (2) EFFECTIVE DATE.—The amendment made  
24          by this subsection shall apply to articles removed (as

1 defined in section 5702(j) of the Internal Revenue  
2 Code of 1986) after December 31, 2007.

3 (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-  
4 TURED TOBACCO PRODUCTS.—

5 (1) IN GENERAL.—Section 5703(b)(2) of such  
6 Code is amended by adding at the end the following  
7 new subparagraph:

8 “(F) SPECIAL RULE FOR UNLAWFULLY  
9 MANUFACTURED TOBACCO PRODUCTS.—In the  
10 case of any tobacco products, cigarette paper,  
11 or cigarette tubes produced in the United  
12 States at any place other than the premises of  
13 a manufacturer of tobacco products, cigarette  
14 paper, or cigarette tubes that has filed the bond  
15 and obtained the permit required under this  
16 chapter, tax shall be due and payable imme-  
17 diately upon manufacture.”.

18 (2) EFFECTIVE DATE.—The amendment made  
19 by this subsection shall take effect on the date of the  
20 enactment of this Act.

21 **SEC. 703. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
22 **TAXES.**

23 Subparagraph (B) of section 401(1) of the Tax In-  
24 crease Prevention and Reconciliation Act of 2005 is

1 amended by striking “114.75 percent” and inserting  
2 “113.75 percent”.

Passed the House of Representatives October 25,  
2007.

Attest:                      LORRAINE C. MILLER,  
*Clerk.*

Calendar No. 450

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3963**

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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.

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OCTOBER 26, 2007

Read the second time and placed on the calendar