

***In the Senate of the United States,***

*January 29, 2009.*

*Resolved,* That the bill from the House of Representatives (H.R. 2) entitled “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.”, do pass with the following

**AMENDMENT:**

Strike all after the enacting clause and insert the following:

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

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

7 (b) *AMENDMENTS TO SOCIAL SECURITY ACT.*—*Except*  
8 *as otherwise specifically provided, whenever in this Act an*  
9 *amendment is expressed in terms of an amendment to or*

1 *repeal of a section or other provision, the reference shall*  
 2 *be considered to be made to that section or other provision*  
 3 *of the Social Security Act.*

4 (c) *REFERENCES TO CHIP; MEDICAID; SECRETARY.—*  
 5 *In this Act:*

6 (1) *CHIP.—The term “CHIP” means the State*  
 7 *Children’s Health Insurance Program established*  
 8 *under title XXI of the Social Security Act (42 U.S.C.*  
 9 *1397aa et seq.).*

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

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

16 (d) *TABLE OF CONTENTS.—The table of contents of*  
 17 *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 effective*  
*date; reliance on law.*

#### *TITLE I—FINANCING*

##### *Subtitle A—Funding*

*Sec. 101. Extension of CHIP.*

*Sec. 102. Allotments for States and territories for fiscal years 2009 through 2013.*

*Sec. 103. Child Enrollment Contingency Fund.*

*Sec. 104. CHIP performance bonus payment to offset additional enrollment costs*  
*resulting from enrollment and retention efforts.*

*Sec. 105. Two-year initial availability of CHIP allotments.*

*Sec. 106. Redistribution of unused allotments.*

*Sec. 107. Option for qualifying States to receive the enhanced portion of the*  
*CHIP matching rate for Medicaid coverage of certain children.*

*Sec. 108. One-time appropriation.*

*Sec. 109. Improving funding for the territories under CHIP and Medicaid.*

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

*Sec. 111. State option to cover low-income pregnant women under CHIP through a State plan amendment.*

*Sec. 112. Phase-out of coverage for nonpregnant childless adults under CHIP; conditions for coverage of parents.*

*Sec. 113. Elimination of counting Medicaid child presumptive eligibility costs against title XXI allotment.*

*Sec. 114. Limitation on matching rate for States that propose to cover children with effective family income that exceeds 300 percent of the poverty line.*

*Sec. 115. State authority under Medicaid.*

**TITLE II—OUTREACH AND ENROLLMENT**

*Subtitle A—Outreach and Enrollment Activities*

*Sec. 201. Grants and enhanced administrative funding for outreach and enrollment.*

*Sec. 202. Increased outreach and enrollment of Indians.*

*Sec. 203. State option to rely on findings from an Express Lane agency to conduct simplified eligibility determinations.*

*Subtitle B—Reducing Barriers to Enrollment*

*Sec. 211. Verification of declaration of citizenship or nationality for purposes of eligibility for Medicaid and CHIP.*

*Sec. 212. Reducing administrative barriers to enrollment.*

*Sec. 213. Model of Interstate coordinated enrollment and coverage process.*

*Sec. 214. Permitting States to ensure coverage without a 5-year delay of certain children and pregnant women under the Medicaid program and CHIP.*

**TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE**

*Subtitle A—Additional State Option for Providing Premium Assistance*

*Sec. 301. Additional State option for providing premium assistance.*

*Sec. 302. Outreach, education, and enrollment assistance.*

*Subtitle B—Coordinating Premium Assistance With Private Coverage*

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

**TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES**

*Sec. 401. Child health quality improvement activities for children enrolled in Medicaid or CHIP.*

*Sec. 402. Improved availability of public information regarding enrollment of children in CHIP and Medicaid.*

*Sec. 403. Application of certain managed care quality safeguards to CHIP.*

**TITLE V—IMPROVING ACCESS TO BENEFITS**

*Sec. 501. Dental benefits.*

*Sec. 502. Mental health parity in CHIP plans.*

*Sec. 503. Application of prospective payment system for services provided by Federally-qualified health centers and rural health clinics.*

*Sec. 504. Premium grace period.*

*Sec. 505. Clarification of coverage of services provided through school-based health centers.*

*Sec. 506. Medicaid and CHIP Payment and Access Commission.*

**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. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.*

*Sec. 615. Clarification treatment of regional medical center.*

*Sec. 616. Extension of Medicaid DSH allotments for Tennessee and Hawaii.*

*Sec. 617. GAO report on Medicaid managed care payment rates.*

*Subtitle C—Other Provisions*

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

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

**TITLE VII—REVENUE PROVISIONS**

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

*Sec. 702. Administrative improvements.*

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

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

**1 SEC. 2. PURPOSE.**

2       *It is the purpose of this Act to provide dependable and*  
 3 *stable funding for children’s health insurance under titles*

1 *XXI and XIX of the Social Security Act in order to enroll*  
2 *all six million uninsured children who are eligible, but not*  
3 *enrolled, for coverage today through such titles.*

4 **SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE**  
5 **LEGISLATION; CONTINGENT EFFECTIVE**  
6 **DATE; RELIANCE ON LAW.**

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

13 (b) *EXCEPTION FOR STATE LEGISLATION.*—*In the case*  
14 *of a State plan under title XIX or State child health plan*  
15 *under XXI of the Social Security Act, which the Secretary*  
16 *of Health and Human Services determines requires State*  
17 *legislation in order for the respective plan to meet one or*  
18 *more additional requirements imposed by amendments*  
19 *made by this Act, the respective plan shall not be regarded*  
20 *as failing to comply with the requirements of such title sole-*  
21 *ly on the basis of its failure to meet such an additional*  
22 *requirement before the first day of the first calendar quarter*  
23 *beginning after the close of the first regular session of the*  
24 *State legislature that begins after the date of enactment of*  
25 *this Act. For purposes of the previous sentence, in the case*

1 *of a State that has a 2-year legislative session, each year*  
2 *of the session shall be considered to be a separate regular*  
3 *session of the State legislature.*

4 (c) *COORDINATION OF CHIP FUNDING FOR FISCAL*  
5 *YEAR 2009.—Notwithstanding any other provision of law,*  
6 *insofar as funds have been appropriated under section*  
7 *2104(a)(11), 2104(k), or 2104(l) of the Social Security Act,*  
8 *as amended by section 201 of Public Law 110–173, to pro-*  
9 *vide allotments to States under CHIP for fiscal year*  
10 *2009—*

11 (1) *any amounts that are so appropriated that*  
12 *are not so allotted and obligated before April 1, 2009*  
13 *are rescinded; and*

14 (2) *any amount provided for CHIP allotments to*  
15 *a State under this Act (and the amendments made by*  
16 *this Act) for such fiscal year shall be reduced by the*  
17 *amount of such appropriations so allotted and obli-*  
18 *gated before such date.*

19 (d) *RELIANCE ON LAW.—With respect to amendments*  
20 *made by this Act (other than title VII) that become effective*  
21 *as of a date—*

22 (1) *such amendments are effective as of such date*  
23 *whether or not regulations implementing such amend-*  
24 *ments have been issued; and*

1           (2) *Federal financial participation for medical*  
2 *assistance or child health assistance furnished under*  
3 *title XIX or XXI, respectively, of the Social Security*  
4 *Act on or after such date by a State in good faith re-*  
5 *liance on such amendments before the date of promul-*  
6 *gation of final regulations, if any, to carry out such*  
7 *amendments (or before the date of guidance, if any,*  
8 *regarding the implementation of such amendments)*  
9 *shall not be denied on the basis of the State’s failure*  
10 *to comply with such regulations or guidance.*

## 11           **TITLE I—FINANCING**

### 12           **Subtitle A—Funding**

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

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

15           (1) *in paragraph (10), by striking “and” at the*  
16 *end;*

17           (2) *by amending paragraph (11), by striking*  
18 *“each of fiscal years 2008 and 2009” and inserting*  
19 *“fiscal year 2008”; and*

20           (3) *by adding at the end the following new para-*  
21 *graphs:*

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

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

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

25           *“(15) for fiscal year 2012, \$14,982,000,000; and*

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

3                   “(A) \$2,850,000,000 for the period begin-  
4                   ning on October 1, 2012, and ending on March  
5                   31, 2013, and

6                   “(B) \$2,850,000,000 for the period begin-  
7                   ning on April 1, 2013, and ending on September  
8                   30, 2013.”.

9   **SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES FOR**  
10                   **FISCAL YEARS 2009 THROUGH 2013.**

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

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

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

16                   (3) by adding at the end the following new sub-  
17                   section:

18                   “(m) ALLOTMENTS FOR FISCAL YEARS 2009  
19                   THROUGH 2013.—

20                           “(1) FOR FISCAL YEAR 2009.—

21                                   “(A) FOR THE 50 STATES AND THE DIS-  
22                                   TRICT OF COLUMBIA.—Subject to the succeeding  
23                                   provisions of this paragraph and paragraph (4),  
24                                   the Secretary shall allot for fiscal year 2009  
25                                   from the amount made available under sub-



1            *section (a)(12), to each of the 50 States and the*  
2            *District of Columbia 110 percent of the highest*  
3            *of the following amounts for such State or Dis-*  
4            *trict:*

5            *“(i) The total Federal payments to the*  
6            *State under this title for fiscal year 2008,*  
7            *multiplied by the allotment increase factor*  
8            *determined under paragraph (5) for fiscal*  
9            *year 2009.*

10           *“(ii) The amount allotted to the State*  
11           *for fiscal year 2008 under subsection (b),*  
12           *multiplied by the allotment increase factor*  
13           *determined under paragraph (5) for fiscal*  
14           *year 2009.*

15           *“(iii) The projected total Federal pay-*  
16           *ments to the State under this title for fiscal*  
17           *year 2009, as determined on the basis of the*  
18           *February 2009 projections certified by the*  
19           *State to the Secretary by not later than*  
20           *March 31, 2009.*

21           *“(B) FOR THE COMMONWEALTHS AND TER-*  
22           *RITORIES.—Subject to the succeeding provisions*  
23           *of this paragraph and paragraph (4), the Sec-*  
24           *retary shall allot for fiscal year 2009 from the*  
25           *amount made available under subsection (a)(12)*

1           to each of the commonwealths and territories de-  
2           scribed in subsection (c)(3) an amount equal to  
3           the highest amount of Federal payments to the  
4           commonwealth or territory under this title for  
5           any fiscal year occurring during the period of  
6           fiscal years 1999 through 2008, multiplied by the  
7           allotment increase factor determined under para-  
8           graph (5) for fiscal year 2009, except that sub-  
9           paragraph (B) thereof shall be applied by sub-  
10          stituting ‘the United States’ for ‘the State’.

11           “(C)   ADJUSTMENT   FOR   QUALIFYING  
12          STATES.—In the case of a qualifying State de-  
13          scribed in paragraph (2) of section 2105(g), the  
14          Secretary shall permit the State to submit a re-  
15          vised projection described in subparagraph  
16          (A)(iii) in order to take into account changes in  
17          such projections attributable to the application of  
18          paragraph (4) of such section.

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

20                 “(A) IN GENERAL.—Subject to paragraphs  
21                 (4) and (6), from the amount made available  
22                 under paragraphs (13) through (15) of subsection  
23                 (a) for each of fiscal years 2010 through 2012,  
24                 respectively, the Secretary shall compute a State  
25                 allotment for each State (including the District

1           *of Columbia and each commonwealth and terri-*  
2           *tory) for each such fiscal year as follows:*

3                   “(i) *GROWTH FACTOR UPDATE FOR*  
4                   *FISCAL YEAR 2010.—For fiscal year 2010,*  
5                   *the allotment of the State is equal to the*  
6                   *sum of—*

7                           “(I) *the amount of the State allot-*  
8                           *ment under paragraph (1) for fiscal*  
9                           *year 2009; and*

10                           “(II) *the amount of any payments*  
11                           *made to the State under subsection (k),*  
12                           *(l), or (n) for fiscal year 2009,*  
13                   *multiplied by the allotment increase factor*  
14                   *under paragraph (5) for fiscal year 2010.*

15                   “(ii) *REBASING IN FISCAL YEAR*  
16                   *2011.—For fiscal year 2011, the allotment of*  
17                   *the State is equal to the Federal payments*  
18                   *to the State that are attributable to (and*  
19                   *countable towards) the total amount of al-*  
20                   *lotments available under this section to the*  
21                   *State in fiscal year 2010 (including pay-*  
22                   *ments made to the State under subsection*  
23                   *(n) for fiscal year 2010 as well as amounts*  
24                   *redistributed to the State in fiscal year*  
25                   *2010), multiplied by the allotment increase*

1           *factor under paragraph (5) for fiscal year*  
2           *2011.*

3           “(iii) *GROWTH FACTOR UPDATE FOR*  
4           *FISCAL YEAR 2012.—For fiscal year 2012,*  
5           *the allotment of the State is equal to the*  
6           *sum of—*

7                     “(I) *the amount of the State allot-*  
8                     *ment under clause (ii) for fiscal year*  
9                     *2011; and*

10                    “(II) *the amount of any payments*  
11                    *made to the State under subsection (n)*  
12                    *for fiscal year 2011,*  
13                    *multiplied by the allotment increase factor*  
14                    *under paragraph (5) for fiscal year 2012.*

15           “(3) *FOR FISCAL YEAR 2013.—*

16                    “(A) *FIRST HALF.—Subject to paragraphs*  
17                    *(4) and (6), from the amount made available*  
18                    *under subparagraph (A) of paragraph (16) of*  
19                    *subsection (a) for the semi-annual period de-*  
20                    *scribed in such paragraph, increased by the*  
21                    *amount of the appropriation for such period*  
22                    *under section 108 of the Children’s Health Insur-*  
23                    *ance Program Reauthorization Act of 2009, the*  
24                    *Secretary shall compute a State allotment for*  
25                    *each State (including the District of Columbia*

1           *and each commonwealth and territory) for such*  
2           *semi-annual period in an amount equal to the*  
3           *first half ratio (described in subparagraph (D))*  
4           *of the amount described in subparagraph (C).*

5           “(B) *SECOND HALF.*—Subject to para-  
6           *graphs (4) and (6), from the amount made*  
7           *available under subparagraph (B) of paragraph*  
8           *(16) of subsection (a) for the semi-annual period*  
9           *described in such paragraph, the Secretary shall*  
10          *compute a State allotment for each State (in-*  
11          *cluding the District of Columbia and each com-*  
12          *monwealth and territory) for such semi-annual*  
13          *period in an amount equal to the amount made*  
14          *available under such subparagraph, multiplied*  
15          *by the ratio of—*

16                   “(i) *the amount of the allotment to*  
17                   *such State under subparagraph (A); to*

18                   “(ii) *the total of the amount of all of*  
19                   *the allotments made available under such*  
20                   *subparagraph.*

21          “(C) *FULL YEAR AMOUNT BASED ON*  
22          *REBASED AMOUNT.*—The amount described in  
23          *this subparagraph for a State is equal to the*  
24          *Federal payments to the State that are attrib-*  
25          *utable to (and countable towards) the total*

1           *amount of allotments available under this section*  
2           *to the State in fiscal year 2012 (including pay-*  
3           *ments made to the State under subsection (n) for*  
4           *fiscal year 2012 as well as amounts redistributed*  
5           *to the State in fiscal year 2012), multiplied by*  
6           *the allotment increase factor under paragraph*  
7           *(5) for fiscal year 2013.*

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

11                 “(i) *the sum of—*

12                         “(I) *the amount made available*  
13                         *under subsection (a)(16)(A); and*

14                         “(II) *the amount of the appro-*  
15                         *priation for such period under section*  
16                         *108 of the Children’s Health Insurance*  
17                         *Program Reauthorization Act of 2009;*  
18                         *to*

19                         “(ii) *the sum of the—*

20                                 “(I) *amount described in clause*  
21                                 *(i); and*

22                                 “(II) *the amount made available*  
23                                 *under subsection (a)(16)(B).*

24           “(4) *PRORATION RULE.*—*If, after the application*  
25           *of this subsection without regard to this paragraph,*

1 *the sum of the allotments determined under para-*  
2 *graph (1), (2), or (3) for a fiscal year (or, in the case*  
3 *of fiscal year 2013, for a semi-annual period in such*  
4 *fiscal year) exceeds the amount available under sub-*  
5 *section (a) for such fiscal year or period, the Sec-*  
6 *retary shall reduce each allotment for any State*  
7 *under such paragraph for such fiscal year or period*  
8 *on a proportional basis.*

9 “(5) *ALLOTMENT INCREASE FACTOR.*—*The allot-*  
10 *ment increase factor under this paragraph for a fiscal*  
11 *year is equal to the product of the following:*

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

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

1           *the Bureau of the Census before the beginning of*  
2           *the fiscal year involved, plus 1 percentage point.*

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

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

13                   “(B) *has submitted to the Secretary, before*  
14                   *the August 31 preceding the beginning of the fis-*  
15                   *cal year, a request for an expansion allotment*  
16                   *adjustment under this paragraph for such fiscal*  
17                   *year that specifies—*

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



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

5           *subject to paragraph (4), the amount of the allotment*  
6           *of the State or District under this subsection for such*  
7           *fiscal year shall be increased by the excess amount de-*  
8           *scribed in subparagraph (B)(i). A State or District*  
9           *may only obtain an increase under this paragraph*  
10          *for an allotment for fiscal year 2010 or fiscal year*  
11          *2012.*

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

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

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

24           “(n) *CHILD ENROLLMENT CONTINGENCY FUND.—*

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

8           “(2) *DEPOSITS INTO FUND.*—

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

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

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

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

9           “(C) *INVESTMENT OF FUND.*—*The Secretary*  
10           *of the Treasury shall invest, in interest bearing*  
11           *securities of the United States, such currently*  
12           *available portions of the Fund as are not imme-*  
13           *diately required for payments from the Fund.*  
14           *The income derived from these investments con-*  
15           *stitutes a part of the Fund.*

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

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

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

1           “(i) the amount by which such average  
2           monthly caseload exceeds such target num-  
3           ber of enrollees; and

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

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

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

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

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

13           “(i) for fiscal year 2009 is equal to the  
14           average per capita expenditures (including  
15           both State and Federal financial participa-  
16           tion) under such plan for the targeted low-  
17           income children counted in the average  
18           monthly caseload for purposes of this para-  
19           graph during fiscal year 2008, increased by  
20           the annual percentage increase in the pro-  
21           jected per capita amount of National  
22           Health Expenditures (as estimated by the  
23           Secretary) for 2009; or

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

1           *year) is equal to the projected per capita ex-*  
2           *penditures under such plan for the previous*  
3           *fiscal year (as determined under clause (i)*  
4           *or this clause) increased by the annual per-*  
5           *centage increase in the projected per capita*  
6           *amount of National Health Expenditures*  
7           *(as estimated by the Secretary) for the year*  
8           *in which such subsequent fiscal year ends.*

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

16          “(E) *TIMELY PAYMENT; RECONCILIATION.—*  
17          *Payment under this paragraph for a fiscal year*  
18          *or period shall be made before the end of the fis-*  
19          *cal year or period based upon the most recent*  
20          *data for expenditures and enrollment and the*  
21          *provisions of subsection (e) of section 2105 shall*  
22          *apply to payments under this subsection in the*  
23          *same manner as they apply to payments under*  
24          *such section.*

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

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

20 **SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET**  
21                   **ADDITIONAL ENROLLMENT COSTS RESULT-**  
22                   **ING FROM ENROLLMENT AND RETENTION EF-**  
23                   **FORTS.**

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



1           “(3) *PERFORMANCE BONUS PAYMENT TO OFFSET*  
2 *ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT*  
3 *COSTS RESULTING FROM ENROLLMENT AND RETEN-*  
4 *TION EFFORTS.—*

5           “(A) *IN GENERAL.—In addition to the pay-*  
6 *ments made under paragraph (1), for each fiscal*  
7 *year (beginning with fiscal year 2009 and end-*  
8 *ing with fiscal year 2013), the Secretary shall*  
9 *pay from amounts made available under sub-*  
10 *paragraph (E), to each State that meets the con-*  
11 *dition under paragraph (4) for the fiscal year,*  
12 *an amount equal to the amount described in sub-*  
13 *paragraph (B) for the State and fiscal year. The*  
14 *payment under this paragraph shall be made, to*  
15 *a State for a fiscal year, as a single payment not*  
16 *later than the last day of the first calendar quar-*  
17 *ter of the following fiscal year.*

18           “(B) *AMOUNT FOR ABOVE BASELINE MED-*  
19 *ICAID CHILD ENROLLMENT COSTS.—Subject to*  
20 *subparagraph (E), the amount described in this*  
21 *subparagraph for a State for a fiscal year is*  
22 *equal to the sum of the following amounts:*

23           “(i) *FIRST TIER ABOVE BASELINE*  
24 *MEDICAID ENROLLEES.—An amount equal*  
25 *to the number of first tier above baseline*

1 *child enrollees (as determined under sub-*  
2 *paragraph (C)(i)) under title XIX for the*  
3 *State and fiscal year, multiplied by 15 per-*  
4 *cent of the projected per capita State Med-*  
5 *icaid expenditures (as determined under*  
6 *subparagraph (D)) for the State and fiscal*  
7 *year under title XIX.*

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

18 “(C) *NUMBER OF FIRST AND SECOND TIER*  
19 *ABOVE BASELINE CHILD ENROLLEES; BASELINE*  
20 *NUMBER OF CHILD ENROLLEES.—For purposes*  
21 *of this paragraph:*

22 “(i) *FIRST TIER ABOVE BASELINE*  
23 *CHILD ENROLLEES.—The number of first*  
24 *tier above baseline child enrollees for a*  
25 *State for a fiscal year under title XIX is*

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

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

9 “(II) the baseline number of en-  
10 rollees described in clause (iii) for the  
11 State and fiscal year under title XIX,  
12 respectively;

13 but not to exceed 10 percent of the baseline  
14 number of enrollees described in subclause  
15 (II).

16 “(ii) SECOND TIER ABOVE BASELINE  
17 CHILD ENROLLEES.—The number of second  
18 tier above baseline child enrollees for a  
19 State for a fiscal year under title XIX is  
20 equal to the number (if any, as determined  
21 by the Secretary) by which—

22 “(I) the monthly average  
23 unduplicated number of qualifying  
24 children (as defined in subparagraph  
25 (F)) enrolled during the fiscal year

1                    *under title XIX as described in clause*  
2                    *(i)(I); exceeds*

3                    “(II) *the sum of the baseline num-*  
4                    *ber of child enrollees described in*  
5                    *clause (iii) for the State and fiscal*  
6                    *year under title XIX, as described in*  
7                    *clause (i)(II), and the maximum num-*  
8                    *ber of first tier above baseline child en-*  
9                    *rollees for the State and fiscal year*  
10                   *under title XIX, as determined under*  
11                   *clause (i).*

12                   “(iii) *BASELINE NUMBER OF CHILD*  
13                   *ENROLLEES.—Subject to subparagraph (H),*  
14                   *the baseline number of child enrollees for a*  
15                   *State under title XIX—*

16                   “(I) *for fiscal year 2009 is equal*  
17                   *to the monthly average unduplicated*  
18                   *number of qualifying children enrolled*  
19                   *in the State plan under title XIX dur-*  
20                   *ing fiscal year 2007 increased by the*  
21                   *population growth for children in that*  
22                   *State from 2007 to 2008 (as estimated*  
23                   *by the Bureau of the Census) plus 4*  
24                   *percentage points, and further in-*  
25                   *creased by the population growth for*

1 *children in that State from 2008 to*  
2 *2009 (as estimated by the Bureau of*  
3 *the Census) plus 4 percentage points;*

4 *“(II) for each of fiscal years 2010,*  
5 *2011, and 2012, is equal to the base-*  
6 *line number of child enrollees for the*  
7 *State for the previous fiscal year under*  
8 *title XIX, increased by the population*  
9 *growth for children in that State from*  
10 *the calendar year in which the respec-*  
11 *tive fiscal year begins to the succeeding*  
12 *calendar year (as estimated by the Bu-*  
13 *reau of the Census) plus 3.5 percentage*  
14 *points;*

15 *“(III) for each of fiscal years*  
16 *2013, 2014, and 2015, is equal to the*  
17 *baseline number of child enrollees for*  
18 *the State for the previous fiscal year*  
19 *under title XIX, increased by the popu-*  
20 *lation growth for children in that State*  
21 *from the calendar year in which the re-*  
22 *spective fiscal year begins to the suc-*  
23 *ceeding calendar year (as estimated by*  
24 *the Bureau of the Census) plus 3 per-*  
25 *centage points; and*

1                   “(IV) for a subsequent fiscal year  
2                   is equal to the baseline number of child  
3                   enrollees for the State for the previous  
4                   fiscal year under title XIX, increased  
5                   by the population growth for children  
6                   in that State from the calendar year in  
7                   which the fiscal year involved begins to  
8                   the succeeding calendar year (as esti-  
9                   mated by the Bureau of the Census)  
10                  plus 2 percentage points.

11                  “(D) *PROJECTED PER CAPITA STATE MED-*  
12                  *ICAID EXPENDITURES.*—For purposes of sub-  
13                  paragraph (B), the projected per capita State  
14                  Medicaid expenditures for a State and fiscal  
15                  year under title XIX is equal to the average per  
16                  capita expenditures (including both State and  
17                  Federal financial participation) for children  
18                  under the State plan under such title, including  
19                  under waivers but not including such children  
20                  eligible for assistance by virtue of the receipt of  
21                  benefits under title XVI, for the most recent fiscal  
22                  year for which actual data are available (as de-  
23                  termined by the Secretary), increased (for each  
24                  subsequent fiscal year up to and including the  
25                  fiscal year involved) by the annual percentage

1           *increase in per capita amount of National*  
2           *Health Expenditures (as estimated by the Sec-*  
3           *retary) for the calendar year in which the respec-*  
4           *tive subsequent fiscal year ends and multiplied*  
5           *by a State matching percentage equal to 100 per-*  
6           *cent minus the Federal medical assistance per-*  
7           *centage (as defined in section 1905(b)) for the*  
8           *fiscal year involved.*

9                   “(E) AMOUNTS AVAILABLE FOR PAY-  
10                   MENTS.—

11                   “(i) INITIAL APPROPRIATION.—*Out of*  
12                   *any money in the Treasury not otherwise*  
13                   *appropriated, there are appropriated*  
14                   *\$3,225,000,000 for fiscal year 2009 for mak-*  
15                   *ing payments under this paragraph, to be*  
16                   *available until expended.*

17                   “(ii) TRANSFERS.—*Notwithstanding*  
18                   *any other provision of this title, the fol-*  
19                   *lowing amounts shall also be available,*  
20                   *without fiscal year limitation, for making*  
21                   *payments under this paragraph:*

22                                   “(I) UNOBLIGATED NATIONAL AL-  
23                                   LOTMENT.—

24   “(aa) FISCAL YEARS 2009  
25   THROUGH 2012.—*As of December*

1           31 of fiscal year 2009, and as of  
2           December 31 of each succeeding  
3           fiscal year through fiscal year  
4           2012, the portion, if any, of the  
5           amount appropriated under sub-  
6           section (a) for such fiscal year  
7           that is unobligated for allotment  
8           to a State under subsection (m)  
9           for such fiscal year or set aside  
10          under subsection (a)(3) or (b)(2)  
11          of section 2111 for such fiscal  
12          year.

13                 “(bb) *FIRST HALF OF FISCAL*  
14                 *YEAR 2013.—As of December 31 of*  
15                 *fiscal year 2013, the portion, if*  
16                 *any, of the sum of the amounts*  
17                 *appropriated under subsection*  
18                 *(a)(16)(A) and under section 108*  
19                 *of the Children’s Health Insurance*  
20                 *Reauthorization Act of 2009 for*  
21                 *the period beginning on October 1,*  
22                 *2012, and ending on March 31,*  
23                 *2013, that is unobligated for allot-*  
24                 *ment to a State under subsection*  
25                 *(m) for such fiscal year or set*



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

3           “(cc) *SECOND HALF OF FIS-*  
4           *CAL YEAR 2013.—As of June 30 of*  
5           *fiscal year 2013, the portion, if*  
6           *any, of the amount appropriated*  
7           *under subsection (a)(16)(B) for*  
8           *the period beginning on April 1,*  
9           *2013, and ending on September*  
10           *30, 2013, that is unobligated for*  
11           *allotment to a State under sub-*  
12           *section (m) for such fiscal year or*  
13           *set aside under subsection (b)(2)*  
14           *of section 2111 for such fiscal*  
15           *year.*

16           “(II) *UNEXPENDED ALLOTMENTS*  
17           *NOT USED FOR REDISTRIBUTION.—As*  
18           *of November 15 of each of fiscal years*  
19           *2010 through 2013, the total amount of*  
20           *allotments made to States under sec-*  
21           *tion 2104 for the second preceding fis-*  
22           *cal year (third preceding fiscal year in*  
23           *the case of the fiscal year 2006, 2007,*  
24           *and 2008 allotments) that is not ex-*  
25           *pended or redistributed under section*

1                   2104(f) during the period in which  
2                   such allotments are available for obli-  
3                   gation.

4                   “(III) *EXCESS CHILD ENROLL-*  
5                   *MENT CONTINGENCY FUNDS.*—As of Oc-  
6                   tober 1 of each of fiscal years 2010  
7                   through 2013, any amount in excess of  
8                   the aggregate cap applicable to the  
9                   Child Enrollment Contingency Fund  
10                  for the fiscal year under section  
11                  2104(n).

12                  “(IV) *UNEXPENDED TRANSI-*  
13                  *TIONAL COVERAGE BLOCK GRANT FOR*  
14                  *NONPREGNANT CHILDLESS ADULTS.*—  
15                  As of October 1, 2011, any amounts set  
16                  aside under section 2111(a)(3) that are  
17                  not expended by September 30, 2011.

18                  “(iii) *PROPORTIONAL REDUCTION.*—If  
19                  the sum of the amounts otherwise payable  
20                  under this paragraph for a fiscal year ex-  
21                  ceeds the amount available for the fiscal  
22                  year under this subparagraph, the amount  
23                  to be paid under this paragraph to each  
24                  State shall be reduced proportionally.

25                  “(F) *QUALIFYING CHILDREN DEFINED.*—

1           “(i) *IN GENERAL.*—For purposes of  
2           this subsection, subject to clauses (ii) and  
3           (iii), the term ‘qualifying children’ means  
4           children who meet the eligibility criteria  
5           (including income, categorical eligibility,  
6           age, and immigration status criteria) in ef-  
7           fect as of July 1, 2008, for enrollment under  
8           title XIX, taking into account criteria ap-  
9           plied as of such date under title XIX pursu-  
10          ant to a waiver under section 1115.

11          “(ii) *LIMITATION.*—A child described  
12          in clause (i) who is provided medical assist-  
13          ance during a presumptive eligibility period  
14          under section 1920A shall be considered to  
15          be a ‘qualifying child’ only if the child is  
16          determined to be eligible for medical assist-  
17          ance under title XIX.

18          “(iii) *EXCLUSION.*—Such term does  
19          not include any children for whom the State  
20          has made an election to provide medical as-  
21          sistance under paragraph (4) of section  
22          1903(v).

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

1        *respect to payment under this paragraph in the*  
2        *same manner as such provisions apply to pay-*  
3        *ment under such section.*

4            *“(H) APPLICATION TO STATES THAT IMPLE-*  
5        *MENT A MEDICAID EXPANSION FOR CHILDREN*  
6        *AFTER FISCAL YEAR 2008.—In the case of a State*  
7        *that provides coverage under section 115 of the*  
8        *Children’s Health Insurance Program Reauthor-*  
9        *ization Act of 2009 for any fiscal year after fis-*  
10       *cal year 2008—*

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

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

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

3                   “(4) *ENROLLMENT AND RETENTION PROVISIONS*  
4                   *FOR CHILDREN.—For purposes of paragraph (3)(A),*  
5                   *a State meets the condition of this paragraph for a*  
6                   *fiscal year if it is implementing at least 5 of the fol-*  
7                   *lowing enrollment and retention provisions (treating*  
8                   *each subparagraph as a separate enrollment and re-*  
9                   *tion provision) throughout the entire fiscal year:*

10                   “(A) *CONTINUOUS ELIGIBILITY.—The State*  
11                   *has elected the option of continuous eligibility for*  
12                   *a full 12 months for all children described in sec-*  
13                   *tion 1902(e)(12) under title XIX under 19 years*  
14                   *of age, as well as applying such policy under its*  
15                   *State child health plan under this title.*

16                   “(B) *LIBERALIZATION OF ASSET REQUIRE-*  
17                   *MENTS.—The State meets the requirement speci-*  
18                   *fied in either of the following clauses:*

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

23                   “(ii) *ADMINISTRATIVE VERIFICATION*  
24                   *OF ASSETS.—The State—*

1           “(I) permits a parent or caretaker  
2           relative who is applying on behalf of a  
3           child for medical assistance under title  
4           XIX or child health assistance under  
5           this title to declare and certify by sig-  
6           nature under penalty of perjury infor-  
7           mation relating to family assets for  
8           purposes of determining and redeter-  
9           mining financial eligibility; and

10           “(II) takes steps to verify assets  
11           through means other than by requiring  
12           documentation from parents and ap-  
13           plicants except in individual cases of  
14           discrepancies or where otherwise justi-  
15           fied.

16           “(C) *ELIMINATION OF IN-PERSON INTER-*  
17           *VIEW REQUIREMENT.*—The State does not require  
18           an application of a child for medical assistance  
19           under title XIX (or for child health assistance  
20           under this title), including an application for re-  
21           newal of such assistance, to be made in person  
22           nor does the State require a face-to-face inter-  
23           view, unless there are discrepancies or individual  
24           circumstances justifying an in-person applica-  
25           tion or face-to-face interview.

1           “(D) *USE OF JOINT APPLICATION FOR MED-*  
2           *ICAID AND CHIP.*—*The application form and*  
3           *supplemental forms (if any) and information*  
4           *verification process is the same for purposes of*  
5           *establishing and renewing eligibility for children*  
6           *for medical assistance under title XIX and child*  
7           *health assistance under this title.*

8           “(E) *AUTOMATIC RENEWAL (USE OF ADMIN-*  
9           *ISTRATIVE RENEWAL).*—

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

24           “(ii) *SATISFACTION THROUGH DEM-*  
25           *ONSTRATED USE OF EX PARTE PROCESS.*—

1           *A State shall be treated as satisfying the re-*  
2           *quirement of clause (i) if renewal of eligi-*  
3           *bility of children under title XIX or this*  
4           *title is determined without any requirement*  
5           *for an in-person interview, unless sufficient*  
6           *information is not in the State's possession*  
7           *and cannot be acquired from other sources*  
8           *(including other State agencies) without the*  
9           *participation of the applicant or the appli-*  
10          *cant's parent or caretaker relative.*

11           “(F) *PRESUMPTIVE ELIGIBILITY FOR CHIL-*  
12          *DREN.—The State is implementing section*  
13          *1920A under title XIX as well as, pursuant to*  
14          *section 2107(e)(1), under this title.*

15           “(G) *EXPRESS LANE.—The State is imple-*  
16          *menting the option described in section*  
17          *1902(e)(13) under title XIX as well as, pursuant*  
18          *to section 2107(e)(1), under this title.*

19           “(H) *PREMIUM ASSISTANCE SUBSIDIES.—*  
20          *The State is implementing the option of pro-*  
21          *viding premium assistance subsidies under sec-*  
22          *tion 2105(c)(10) or section 1906A.”.*



1 **SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOT-**  
2 **MENTS.**

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

5 “(e) *AVAILABILITY OF AMOUNTS ALLOTTED.—*

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

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

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

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

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

23 (a) *BEGINNING WITH FISCAL YEAR 2007.—*

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

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

3           “(1) *IN GENERAL.—The Secretary*”;

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

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

17          “(2) *SHORTFALL STATES DESCRIBED.—*

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

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

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

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

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

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

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

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

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

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

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

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

14           (3) in paragraph (6)—

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

16           and

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

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

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

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

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

6           (B) *by striking “2008, or 2009” and insert-*  
7 *ing “or 2008”; and*

8           (2) *by adding at the end the following new para-*  
9 *graph:*

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

12           “(A) *PAYMENT OF ENHANCED PORTION OF*  
13 *MATCHING RATE FOR CERTAIN EXPENDITURES.—*

14 *In the case of expenditures described in subpara-*  
15 *graph (B), a qualifying State (as defined in*  
16 *paragraph (2)) may elect to be paid from the*  
17 *State’s allotment made under section 2104 for*  
18 *any of fiscal years 2009 through 2013 (insofar as*  
19 *the allotment is available to the State under sub-*  
20 *sections (e) and (m) of such section) an amount*  
21 *each quarter equal to the additional amount that*  
22 *would have been paid to the State under title*  
23 *XIX with respect to such expenditures if the en-*  
24 *hanced FMAP (as determined under subsection*  
25 *(b)) had been substituted for the Federal medical*

1 assistance percentage (as defined in section  
2 1905(b)).

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

19 (b) REPEAL OF LIMITATION ON AVAILABILITY OF FIS-  
20 CAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section  
21 201(b) of the Medicare, Medicaid, and SCHIP Extension  
22 Act of 2007 (Public Law 110–173) is repealed.

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

24 There is appropriated to the Secretary, out of any  
25 money in the Treasury not otherwise appropriated,

1 \$11,706,000,000 to accompany the allotment made for the  
2 period beginning on October 1, 2012, and ending on March  
3 31, 2013, under section 2104(a)(16)(A) of the Social Secu-  
4 rity Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section  
5 101), to remain available until expended. Such amount  
6 shall be used to provide allotments to States under para-  
7 graph (3) of section 2104(m) of the Social Security Act (42  
8 U.S.C. 1397dd(i)), as added by section 102, for the first  
9 6 months of fiscal year 2013 in the same manner as allot-  
10 ments are provided under subsection (a)(16)(A) of such sec-  
11 tion 2104 and subject to the same terms and conditions as  
12 apply to the allotments provided from such subsection  
13 (a)(16)(A).

14 **SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES**  
15 **UNDER CHIP AND MEDICAID.**

16 *Section 1108(g) (42 U.S.C. 1308(g)) is amended by*  
17 *adding at the end the following new paragraph:*

18 “(4) *EXCLUSION OF CERTAIN EXPENDITURES*  
19 *FROM PAYMENT LIMITS.*—*With respect to fiscal years*  
20 *beginning with fiscal year 2009, if Puerto Rico, the*  
21 *Virgin Islands, Guam, the Northern Mariana Islands,*  
22 *or American Samoa qualify for a payment under*  
23 *subparagraph (A)(i), (B), or (F) of section 1903(a)(3)*  
24 *for a calendar quarter of such fiscal year, the pay-*  
25 *ment shall not be taken into account in applying sub-*

1        *section (f) (as increased in accordance with para-*  
2        *graphs (1), (2), and (3) of this subsection) to such*  
3        *commonwealth or territory for such fiscal year.”.*

4        ***Subtitle B—Focus on Low-Income***  
5        ***Children and Pregnant Women***

6        ***SEC. 111. STATE OPTION TO COVER LOW-INCOME PREG-***  
7        ***NANT WOMEN UNDER CHIP THROUGH A***  
8        ***STATE PLAN AMENDMENT.***

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

12        ***“SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-IN-***  
13        ***COME PREGNANT WOMEN THROUGH A STATE***  
14        ***PLAN AMENDMENT.***

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

20        *“(b) CONDITIONS.—A State may only elect the option*  
21        *under subsection (a) if the following conditions are satis-*  
22        *fied:*

23                *“(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR*  
24        *PREGNANT WOMEN AND CHILDREN.—The State has es-*  
25        *tablished an income eligibility level—*



1           “(A) for pregnant women under subsection  
2           (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A)  
3           of section 1902 that is at least 185 percent (or  
4           such higher percent as the State has in effect  
5           with regard to pregnant women under this title)  
6           of the poverty line applicable to a family of the  
7           size involved, but in no case lower than the per-  
8           cent in effect under any such subsection as of  
9           July 1, 2008; and

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

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

1           “(3) *NO COVERAGE FOR HIGHER INCOME PREG-*  
2           *NANT WOMEN WITHOUT COVERING LOWER INCOME*  
3           *PREGNANT WOMEN.—The State does not provide cov-*  
4           *erage for pregnant women with higher family income*  
5           *without covering pregnant women with a lower fam-*  
6           *ily income.*

7           “(4) *APPLICATION OF REQUIREMENTS FOR COV-*  
8           *ERAGE OF TARGETED LOW-INCOME CHILDREN.—The*  
9           *State provides pregnancy-related assistance for tar-*  
10          *geted low-income pregnant women in the same man-*  
11          *ner, and subject to the same requirements, as the*  
12          *State provides child health assistance for targeted*  
13          *low-income children under the State child health*  
14          *plan, and in addition to providing child health as-*  
15          *sistance for such women.*

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

23          “(6) *APPLICATION OF COST-SHARING PROTEC-*  
24          *TION.—The State provides pregnancy-related assist-*  
25          *ance to a targeted low-income woman consistent with*

1     *the cost-sharing protections under section 2103(e) and*  
2     *applies the limitation on total annual aggregate cost*  
3     *sharing imposed under paragraph (3)(B) of such sec-*  
4     *tion to the family of such a woman.*

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

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

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

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

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

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

7                   “(B) *whose family income exceeds 185 per-*  
8                   *cent (or, if higher, the percent applied under sub-*  
9                   *section (b)(1)(A)) of the poverty line applicable*  
10                  *to a family of the size involved, but does not ex-*  
11                  *ceed the income eligibility level established under*  
12                  *the State child health plan under this title for a*  
13                  *targeted low-income child; and*

14                  “(C) *who satisfies the requirements of para-*  
15                  *graphs (1)(A), (1)(C), (2), and (3) of section*  
16                  *2110(b) in the same manner as a child applying*  
17                  *for child health assistance would have to satisfy*  
18                  *such requirements.*

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

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

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

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

21 “(A) *child health assistance through the ap-*  
22 *plication of sections 457.10, 457.350(b)(2),*  
23 *457.622(c)(5), and 457.626(a)(3) of title 42,*  
24 *Code of Federal Regulations (as in effect after*  
25 *the final rule adopted by the Secretary and set*

1           *forth at 67 Fed. Reg. 61956–61974 (October 2,*  
2           *2002)), or*

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

6           *“(2) CLARIFICATION OF AUTHORITY TO PROVIDE*  
7           *POSTPARTUM SERVICES.—Any State that provides*  
8           *child health assistance under any authority described*  
9           *in paragraph (1) may continue to provide such as-*  
10           *istance, as well as postpartum services, through the*  
11           *end of the month in which the 60-day period (begin-*  
12           *ning on the last day of the pregnancy) ends, in the*  
13           *same manner as such assistance and postpartum serv-*  
14           *ices would be provided if provided under the State*  
15           *plan under title XIX, but only if the mother would*  
16           *otherwise satisfy the eligibility requirements that*  
17           *apply under the State child health plan (other than*  
18           *with respect to age) during such period.*

19           *“(3) NO INFERENCE.—Nothing in this subsection*  
20           *shall be construed—*

21           *“(A) to infer congressional intent regarding*  
22           *the legality or illegality of the content of the sec-*  
23           *tions specified in paragraph (1)(A); or*

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

4           (b) *ADDITIONAL CONFORMING AMENDMENTS.*—

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

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

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

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

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

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

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

22           “(iii) may not apply a waiting period  
23           (including a waiting period to carry out  
24           paragraph (3)(C)) in the case of a targeted  
25           low-income pregnant woman provided preg-

1                    *nancy-related assistance under section*  
 2                    *2112.”.*

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

6            *(a) PHASE-OUT RULES.—*

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

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

13            *“(a) TERMINATION OF COVERAGE FOR NONPREGNANT*  
 14 *CHILDLESS ADULTS.—*

15                    *“(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTEN-*  
 16                    *SIONS AT STATE OPTION THROUGH 2009.—Notwith-*  
 17                    *standing section 1115 or any other provision of this*  
 18                    *title, except as provided in this subsection—*

19                    *“(A) the Secretary shall not on or after the*  
 20                    *date of the enactment of the Children’s Health*  
 21                    *Insurance Program Reauthorization Act of 2009,*  
 22                    *approve or renew a waiver, experimental, pilot,*  
 23                    *or demonstration project that would allow funds*  
 24                    *made available under this title to be used to pro-*  
 25                    *vide child health assistance or other health bene-*



1 *fits coverage to a nonpregnant childless adult;*  
2 *and*

3 *“(B) notwithstanding the terms and condi-*  
4 *tions of an applicable existing waiver, the provi-*  
5 *sions of paragraph (2) shall apply for purposes*  
6 *of any period beginning on or after January 1,*  
7 *2010, in determining the period to which the*  
8 *waiver applies, the individuals eligible to be cov-*  
9 *ered by the waiver, and the amount of the Fed-*  
10 *eral payment under this title.*

11 *“(2) TERMINATION OF CHIP COVERAGE UNDER*  
12 *APPLICABLE EXISTING WAIVERS AT THE END OF*  
13 *2009.—*

14 *“(A) IN GENERAL.—No funds shall be avail-*  
15 *able under this title for child health assistance or*  
16 *other health benefits coverage that is provided to*  
17 *a nonpregnant childless adult under an applica-*  
18 *ble existing waiver after December 31, 2009.*

19 *“(B) EXTENSION UPON STATE REQUEST.—*  
20 *If an applicable existing waiver described in*  
21 *subparagraph (A) would otherwise expire before*  
22 *January 1, 2010, notwithstanding the require-*  
23 *ments of subsections (e) and (f) of section 1115,*  
24 *a State may submit, not later than September*  
25 *30, 2009, a request to the Secretary for an exten-*

1           *sion of the waiver. The Secretary shall approve*  
2           *a request for an extension of an applicable exist-*  
3           *ing waiver submitted pursuant to this subpara-*  
4           *graph, but only through December 31, 2009.*

5           “(C) *APPLICATION OF ENHANCED FMAP.—*  
6           *The enhanced FMAP determined under section*  
7           *2105(b) shall apply to expenditures under an*  
8           *applicable existing waiver for the provision of*  
9           *child health assistance or other health benefits*  
10           *coverage to a nonpregnant childless adult during*  
11           *the period beginning on the date of the enact-*  
12           *ment of this subsection and ending on December*  
13           *31, 2009.*

14           “(3) *STATE OPTION TO APPLY FOR MEDICAID*  
15           *WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT*  
16           *CHILDLESS ADULTS.—*

17           “(A) *IN GENERAL.—Each State for which*  
18           *coverage under an applicable existing waiver is*  
19           *terminated under paragraph (2)(A) may submit,*  
20           *not later than September 30, 2009, an applica-*  
21           *tion to the Secretary for a waiver under section*  
22           *1115 of the State plan under title XIX to provide*  
23           *medical assistance to a nonpregnant childless*  
24           *adult whose coverage is so terminated (in this*

1            *subsection referred to as a ‘Medicaid nonpreg-*  
2            *nant childless adults waiver’).*

3            “(B) *DEADLINE FOR APPROVAL.—The Sec-*  
4            *retary shall make a decision to approve or deny*  
5            *an application for a Medicaid nonpregnant*  
6            *childless adults waiver submitted under subpara-*  
7            *graph (A) within 90 days of the date of the sub-*  
8            *mission of the application. If no decision has*  
9            *been made by the Secretary as of December 31,*  
10           *2009, on the application of a State for a Med-*  
11           *icaid nonpregnant childless adults waiver that*  
12           *was submitted to the Secretary by September 30,*  
13           *2009, the application shall be deemed approved.*

14           “(C) *STANDARD FOR BUDGET NEU-*  
15           *TRALITY.—The budget neutrality requirement*  
16           *applicable with respect to expenditures for med-*  
17           *ical assistance under a Medicaid nonpregnant*  
18           *childless adults waiver shall—*

19                      “(i) *in the case of fiscal year 2010,*  
20                      *allow expenditures for medical assistance*  
21                      *under title XIX for all such adults to not*  
22                      *exceed the total amount of payments made*  
23                      *to the State under paragraph (2)(B) for fis-*  
24                      *cal year 2009, increased by the percentage*  
25                      *increase (if any) in the projected nominal*

1           *per capita amount of National Health Ex-*  
2           *penditures for 2010 over 2009, as most re-*  
3           *cently published by the Secretary; and*

4           “(i) *in the case of any succeeding fis-*  
5           *cal year, allow such expenditures to not ex-*  
6           *ceed the amount in effect under this sub-*  
7           *paragraph for the preceding fiscal year, in-*  
8           *creased by the percentage increase (if any)*  
9           *in the projected nominal per capita amount*  
10          *of National Health Expenditures for the*  
11          *calendar year that begins during the year*  
12          *involved over the preceding calendar year,*  
13          *as most recently published by the Secretary.*

14          “(b) *RULES AND CONDITIONS FOR COVERAGE OF PAR-*  
15          *ENTS OF TARGETED LOW-INCOME CHILDREN.—*

16                 “(1) *TWO-YEAR PERIOD; AUTOMATIC EXTENSION*  
17                 *AT STATE OPTION THROUGH FISCAL YEAR 2011.—*

18                         “(A) *NO NEW CHIP WAIVERS.—Notwith-*  
19                         *standing section 1115 or any other provision of*  
20                         *this title, except as provided in this subsection—*

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

1           *that would allow funds made available*  
2           *under this title to be used to provide child*  
3           *health assistance or other health benefits*  
4           *coverage to a parent of a targeted low-in-*  
5           *come child; and*

6           “(ii) *notwithstanding the terms and*  
7           *conditions of an applicable existing waiver,*  
8           *the provisions of paragraphs (2) and (3)*  
9           *shall apply for purposes of any fiscal year*  
10           *beginning on or after October 1, 2011, in*  
11           *determining the period to which the waiver*  
12           *applies, the individuals eligible to be cov-*  
13           *ered by the waiver, and the amount of the*  
14           *Federal payment under this title.*

15           “(B) *EXTENSION UPON STATE REQUEST.—*  
16           *If an applicable existing waiver described in*  
17           *subparagraph (A) would otherwise expire before*  
18           *October 1, 2011, and the State requests an exten-*  
19           *sion of such waiver, the Secretary shall grant*  
20           *such an extension, but only, subject to paragraph*  
21           *(2)(A), through September 30, 2011.*

22           “(C) *APPLICATION OF ENHANCED FMAP.—*  
23           *The enhanced FMAP determined under section*  
24           *2105(b) shall apply to expenditures under an*  
25           *applicable existing waiver for the provision of*

1 *child health assistance or other health benefits*  
2 *coverage to a parent of a targeted low-income*  
3 *child during the third and fourth quarters of fis-*  
4 *cal year 2009 and during fiscal years 2010 and*  
5 *2011.*

6 “(2) *RULES FOR FISCAL YEARS 2012 THROUGH*  
7 *2013.—*

8 “(A) *PAYMENTS FOR COVERAGE LIMITED TO*  
9 *BLOCK GRANT FUNDED FROM STATE ALLOT-*  
10 *MENT.—Any State that provides child health as-*  
11 *sistance or health benefits coverage under an ap-*  
12 *plicable existing waiver for a parent of a tar-*  
13 *geted low-income child may elect to continue to*  
14 *provide such assistance or coverage through fiscal*  
15 *year 2012 or 2013, subject to the same terms and*  
16 *conditions that applied under the applicable ex-*  
17 *isting waiver, unless otherwise modified in sub-*  
18 *paragraph (B).*

19 “(B) *TERMS AND CONDITIONS.—*

20 “(i) *BLOCK GRANT SET ASIDE FROM*  
21 *STATE ALLOTMENT.—If the State makes an*  
22 *election under subparagraph (A), the Sec-*  
23 *retary shall set aside for the State for each*  
24 *such fiscal year an amount equal to the*  
25 *Federal share of 110 percent of the State’s*

1           *projected expenditures under the applicable*  
2           *existing waiver for providing child health*  
3           *assistance or health benefits coverage to all*  
4           *parents of targeted low-income children en-*  
5           *rolled under such waiver for the fiscal year*  
6           *(as certified by the State and submitted to*  
7           *the Secretary by not later than August 31*  
8           *of the preceding fiscal year). In the case of*  
9           *fiscal year 2013, the set aside for any State*  
10           *shall be computed separately for each period*  
11           *described in subparagraphs (A) and (B) of*  
12           *section 2104(a)(16) and any reduction in*  
13           *the allotment for either such period under*  
14           *section 2104(m)(4) shall be allocated on a*  
15           *pro rata basis to such set aside.*

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

1           “(iii) *ENHANCED FMAP ONLY IN FIS-*  
2           *CAL YEAR 2012 FOR STATES WITH SIGNIFI-*  
3           *CANT CHILD OUTREACH OR THAT ACHIEVE*  
4           *CHILD COVERAGE BENCHMARKS; FMAP FOR*  
5           *ANY OTHER STATES.—For purposes of*  
6           *clause (ii), the applicable percentage for*  
7           *any quarter of fiscal year 2012 is equal*  
8           *to—*

9                       “(I) *the enhanced FMAP deter-*  
10           *mined under section 2105(b) in the*  
11           *case of a State that meets the outreach*  
12           *or coverage benchmarks described in*  
13           *any of subparagraph (A), (B), or (C)*  
14           *of paragraph (3) for fiscal year 2011;*  
15           *or*

16                      “(II) *the Federal medical assist-*  
17           *ance percentage (as determined under*  
18           *section 1905(b) without regard to*  
19           *clause (4) of such section) in the case*  
20           *of any other State.*

21           “(iv) *AMOUNT OF FEDERAL MATCHING*  
22           *PAYMENT IN 2013.—For purposes of clause*  
23           *(ii), the applicable percentage for any quar-*  
24           *ter of fiscal year 2013 is equal to—*

25                      “(I) *the REMAP percentage if—*



1           “(aa) the applicable percent-  
2           age for the State under clause  
3           (iii) was the enhanced FMAP for  
4           fiscal year 2012; and

5           “(bb) the State met either of  
6           the coverage benchmarks described  
7           in subparagraph (B) or (C) of  
8           paragraph (3) for fiscal year  
9           2012; or

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

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

21          “(v) NO FEDERAL PAYMENTS OTHER  
22          THAN FROM BLOCK GRANT SET ASIDE.—No  
23          payments shall be made to a State for ex-  
24          penditures described in clause (ii) after the

1           *total amount set aside under clause (i) for*  
2           *a fiscal year has been paid to the State.*

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

16           “(3) *OUTREACH OR COVERAGE BENCHMARKS.—*  
17           *For purposes of paragraph (2), the outreach or cov-*  
18           *erage benchmarks described in this paragraph are as*  
19           *follows:*

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

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

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

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

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

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

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

1       “(c) *APPLICABLE EXISTING WAIVER.*—For purposes of  
2 *this section*—

3               “(1) *IN GENERAL.*—The term ‘applicable existing  
4 *waiver*’ means a waiver, experimental, pilot, or dem-  
5 *onstration project under section 1115, grandfathered*  
6 *under section 6102(c)(3) of the Deficit Reduction Act*  
7 *of 2005, or otherwise conducted under authority*  
8 *that*—

9               “(A) *would allow funds made available*  
10 *under this title to be used to provide child health*  
11 *assistance or other health benefits coverage to*—

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

14                       “(ii) *a nonpregnant childless adult; or*

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

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

18       “(2) *DEFINITIONS.*—

19               “(A) *PARENT.*—The term ‘parent’ includes  
20 *a caretaker relative (as such term is used in car-*  
21 *rying out section 1931) and a legal guardian.*

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

25       “(2) *CONFORMING AMENDMENTS.*—

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

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

5                   “(1) The Secretary”;

6                           (ii) in the first sentence, by inserting  
7                           “or a parent (as defined in section  
8                           2111(c)(2)(A)), who is not pregnant, of a  
9                           targeted low-income child” before the period;

10                           (iii) by striking the second sentence;  
11                   and

12                           (iv) by adding at the end the following  
13                   new paragraph:

14                   “(2) The Secretary may not approve, extend,  
15                   renew, or amend a waiver, experimental, pilot, or  
16                   demonstration project with respect to a State after the  
17                   date of enactment of the Children’s Health Insurance  
18                   Program Reauthorization Act of 2009 that would  
19                   waive or modify the requirements of section 2111.”.

20           (B) Section 6102(c) of the Deficit Reduction  
21           Act of 2005 (Public Law 109–171; 120 Stat.  
22           131) is amended by striking “Nothing” and in-  
23           serting “Subject to section 2111 of the Social Se-  
24           curity Act, as added by section 112 of the Chil-

1            *dren’s Health Insurance Program Reauthoriza-*  
2            *tion Act of 2009, nothing”.*

3            *(b) GAO STUDY AND REPORT.—*

4            *(1) IN GENERAL.—The Comptroller General of*  
5            *the United States shall conduct a study of whether—*

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

13                   *(B) such parents, relatives, and legal guard-*  
14                   *ians who enroll in such a plan are more likely*  
15                   *to enroll their children in such a plan or in a*  
16                   *State plan under title XIX of such Act.*

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

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

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

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

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

13 “(B) [reserved]”.

14 (b) *AMENDMENTS TO MEDICAID.*—

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

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

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

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

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

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

15 “(A) *FMAP APPLIED TO EXPENDITURES.*—  
16 *Except as provided in subparagraph (B), for fis-*  
17 *cal years beginning with fiscal year 2009, the*  
18 *Federal medical assistance percentage (as deter-*  
19 *mined under section 1905(b) without regard to*  
20 *clause (4) of such section) shall be substituted for*  
21 *the enhanced FMAP under subsection (a)(1) with*  
22 *respect to any expenditures for providing child*  
23 *health assistance or health benefits coverage for a*  
24 *targeted low-income child whose effective family*  
25 *income would exceed 300 percent of the poverty*



1           *line but for the application of a general exclu-*  
2           *sion of a block of income that is not determined*  
3           *by type of expense or type of income.*

4           “(B) *EXCEPTION.*—*Subparagraph (A) shall*  
5           *not apply to any State that, on the date of en-*  
6           *actment of the Children’s Health Insurance Pro-*  
7           *gram Reauthorization Act of 2009, has an ap-*  
8           *proved State plan amendment or waiver to pro-*  
9           *vide, or has enacted a State law to submit a*  
10          *State plan amendment to provide, expenditures*  
11          *described in such subparagraph under the State*  
12          *child health plan.”.*

13          ***(b) RULE OF CONSTRUCTION.***—*Nothing in the amend-*  
14          *ments made by this section shall be construed as—*

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

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

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

23                 *Notwithstanding any other provision of law, including*  
24                 *the fourth sentence of subsection (b) of section 1905 of the*  
25                 *Social Security Act (42 U.S.C. 1396d) or subsection (u) of*

1 *such section, at State option, the Secretary shall provide*  
 2 *the State with the Federal medical assistance percentage de-*  
 3 *termined for the State for Medicaid with respect to expendi-*  
 4 *tures described in section 1905(u)(2)(A) of such Act or oth-*  
 5 *erwise made to provide medical assistance under Medicaid*  
 6 *to a child who could be covered by the State under CHIP.*

7           **TITLE II—OUTREACH AND**  
 8                           **ENROLLMENT**

9                   **Subtitle A—Outreach and**  
 10                           **Enrollment Activities**

11 **SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUND-**  
 12                           **ING FOR OUTREACH AND ENROLLMENT.**

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

16 **“SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLL-**  
 17                           **MENT.**

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

20                   “(1) *IN GENERAL.*—*From the amounts appro-*  
 21 *priated under subsection (g), subject to paragraph*  
 22 *(2), the Secretary shall award grants to eligible enti-*  
 23 *ties during the period of fiscal years 2009 through*  
 24 *2013 to conduct outreach and enrollment efforts that*

1     *are designed to increase the enrollment and participa-*  
2     *tion of eligible children under this title and title XIX.*

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

9             “(b) *PRIORITY FOR AWARD OF GRANTS.—*

10            “(1) *IN GENERAL.—In awarding grants under*  
11     *subsection (a), the Secretary shall give priority to eli-*  
12     *gible entities that—*

13            “(A) *propose to target geographic areas*  
14     *with high rates of—*

15            “(i) *eligible but unenrolled children,*  
16     *including such children who reside in rural*  
17     *areas; or*

18            “(ii) *racial and ethnic minorities and*  
19     *health disparity populations, including*  
20     *those proposals that address cultural and*  
21     *linguistic barriers to enrollment; and*

22            “(B) *submit the most demonstrable evidence*  
23     *required under paragraphs (1) and (2) of sub-*  
24     *section (c).*

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

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

15                 “(1) *evidence demonstrating that the entity in-*  
16                 *cludes members who have access to, and credibility*  
17                 *with, ethnic or low-income populations in the commu-*  
18                 *nities in which activities funded under the grant are*  
19                 *to be conducted;*

20                 “(2) *evidence demonstrating that the entity has*  
21                 *the ability to address barriers to enrollment, such as*  
22                 *lack of awareness of eligibility, stigma concerns and*  
23                 *punitive fears associated with receipt of benefits, and*  
24                 *other cultural barriers to applying for and receiving*  
25                 *child health assistance or medical assistance;*

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

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

5                 “(A) *conduct an assessment of the effective-*  
6                 *ness of such activities against the performance*  
7                 *measures;*

8                 “(B) *cooperate with the collection and re-*  
9                 *porting of enrollment data and other informa-*  
10                *tion in order for the Secretary to conduct such*  
11                *assessments; and*

12               “(C) *in the case of an eligible entity that is*  
13                *not the State, provide the State with enrollment*  
14                *data and other information as necessary for the*  
15                *State to make necessary projections of eligible*  
16                *children and pregnant women.*

17           “(d) *DISSEMINATION OF ENROLLMENT DATA AND IN-*  
18            *FORMATION DETERMINED FROM EFFECTIVENESS ASSESS-*  
19            *MENTS; ANNUAL REPORT.—The Secretary shall—*

20               “(1) *make publicly available the enrollment data*  
21                *and information collected and reported in accordance*  
22                *with subsection (c)(4)(B); and*

23               “(2) *submit an annual report to Congress on the*  
24                *outreach and enrollment activities conducted with*  
25                *funds appropriated under this section.*

1       “(e) *MAINTENANCE OF EFFORT FOR STATES AWARDED*  
2 *GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY*  
3 *AWARDED A GRANT.*—

4               “(1) *STATE MAINTENANCE OF EFFORT.*—*In the*  
5 *case of a State that is awarded a grant under this*  
6 *section, the State share of funds expended for outreach*  
7 *and enrollment activities under the State child health*  
8 *plan shall not be less than the State share of such*  
9 *funds expended in the fiscal year preceding the first*  
10 *fiscal year for which the grant is awarded.*

11              “(2) *NO MATCHING REQUIREMENT.*—*No eligible*  
12 *entity awarded a grant under subsection (a) shall be*  
13 *required to provide any matching funds as a condi-*  
14 *tion for receiving the grant.*

15       “(f) *DEFINITIONS.*—*In this section:*

16              “(1) *ELIGIBLE ENTITY.*—*The term ‘eligible enti-*  
17 *ty’ means any of the following:*

18                   “(A) *A State with an approved child health*  
19 *plan under this title.*

20                   “(B) *A local government.*

21                   “(C) *An Indian tribe or tribal consortium,*  
22 *a tribal organization, an urban Indian organi-*  
23 *zation receiving funds under title V of the In-*  
24 *Indian Health Care Improvement Act (25 U.S.C.*

1           1651 et seq.), or an Indian Health Service pro-  
2           vider.

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

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

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

16          “(G) An elementary or secondary school.

17          “(2) FEDERAL HEALTH SAFETY NET ORGANIZA-  
18          TION.—The term ‘Federal health safety net organiza-  
19          tion’ means—

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

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

1           “(C) a covered entity described in section  
2           340B(a)(4) of the Public Health Service Act (42  
3           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 under  
13          the Richard B. Russell National School Lunch  
14          Act, and an elementary or secondary school.

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

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



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

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

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

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

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

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

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

1       “(h) *NATIONAL ENROLLMENT CAMPAIGN.*—From the  
2 amounts made available under subsection (a)(2), the Sec-  
3 retary shall develop and implement a national enrollment  
4 campaign to improve the enrollment of underserved child  
5 populations in the programs established under this title and  
6 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 pro-  
11 grams each Secretary administers that often serve the  
12 same children;

13               “(2) the integration of information about the  
14 programs established under this title and title XIX in  
15 public health awareness campaigns administered by  
16 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 importance  
23 of health insurance to building strong communities  
24 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 amend-  
12           ed—

13           (A) in the matter preceding subparagraph  
14           (A), by inserting “(or, in the case of expenditures  
15           described in subparagraph (D)(iv), the higher of  
16           75 percent or the sum of the enhanced FMAP  
17           plus 5 percentage points)” after “enhanced  
18           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 subpara-  
13           graph:

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 efficient  
17           administration of the State plan) as are attributable  
18           to translation or interpretation services in connection  
19           with the enrollment of, retention of, and use of serv-  
20           ices under this title by, children of families for whom  
21           English is not the primary language; plus”.

22           (B) *USE OF COMMUNITY HEALTH WORKERS*  
23           *FOR OUTREACH ACTIVITIES*.—

24           (i) *IN GENERAL*.—Section 2102(c)(1)  
25           of such Act (42 U.S.C. 1397bb(c)(1)) is

1           amended by inserting “(through community  
2           health workers and others)” after “Out-  
3           reach”.

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

9   **SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF IN-**  
10                   **DIANS.**

11           (a) *IN GENERAL.*—Section 1139 (42 U.S.C. 1320b–9)  
12   is amended to read as follows:

13   **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**  
14                   **HEALTH CARE FOR INDIANS UNDER TITLES**  
15                   **XIX AND XXI.**

16           “(a) *AGREEMENTS WITH STATES FOR MEDICAID AND*  
17   *CHIP OUTREACH ON OR NEAR RESERVATIONS TO IN-*  
18   *CREASE THE ENROLLMENT OF INDIANS IN THOSE PRO-*  
19   *GRAMS.*—

20                       “(1) *IN GENERAL.*—In order to improve the ac-  
21   cess of Indians residing on or near a reservation to  
22   obtain benefits under the Medicaid and State chil-  
23   dren’s health insurance programs established under  
24   titles XIX and XXI, the Secretary shall encourage the  
25   State to take steps to provide for enrollment on or

1       *near the reservation. Such steps may include outreach*  
2       *efforts such as the outstationing of eligibility workers,*  
3       *entering into agreements with the Indian Health*  
4       *Service, Indian Tribes, Tribal Organizations, and*  
5       *Urban Indian Organizations to provide outreach,*  
6       *education regarding eligibility and benefits, enroll-*  
7       *ment, and translation services when such services are*  
8       *appropriate.*

9               “(2) *CONSTRUCTION.—Nothing in paragraph (1)*  
10       *shall be construed as affecting arrangements entered*  
11       *into between States and the Indian Health Service,*  
12       *Indian Tribes, Tribal Organizations, or Urban In-*  
13       *Indian Organizations for such Service, Tribes, or Orga-*  
14       *nizations to conduct administrative activities under*  
15       *such titles.*

16               “(b) *REQUIREMENT TO FACILITATE COOPERATION.—*  
17       *The Secretary, acting through the Centers for Medicare &*  
18       *Medicaid Services, shall take such steps as are necessary*  
19       *to facilitate cooperation with, and agreements between,*  
20       *States and the Indian Health Service, Indian Tribes, Trib-*  
21       *al Organizations, or Urban Indian Organizations with re-*  
22       *spect to the provision of health care items and services to*  
23       *Indians under the programs established under title XIX or*  
24       *XXI.*

1       “(c) *DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN*  
2 *HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN*  
3 *ORGANIZATION.*—*In this section, the terms ‘Indian’, ‘In-*  
4 *dian Tribe’, ‘Indian Health Program’, ‘Tribal Organiza-*  
5 *tion’, and ‘Urban Indian Organization’ have the meanings*  
6 *given those terms in section 4 of the Indian Health Care*  
7 *Improvement Act.”.*

8       (b) *NONAPPLICATION OF 10 PERCENT LIMIT ON OUT-*  
9 *REACH AND CERTAIN OTHER EXPENDITURES.*—*Section*  
10 *2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding*  
11 *at the end the following:*

12               “(C) *NONAPPLICATION TO CERTAIN EX-*  
13 *PENDITURES.*—*The limitation under subpara-*  
14 *graph (A) shall not apply with respect to the fol-*  
15 *lowing expenditures:*

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

1           *in enrolling their children in, such plans,*  
 2           *including such activities conducted under*  
 3           *grants, contracts, or agreements entered into*  
 4           *under section 1139(a).”.*

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

8           *(a) APPLICATION UNDER MEDICAID AND CHIP PRO-*  
 9 *GRAMS.—*

10           *(1) MEDICAID.—Section 1902(e) (42 U.S.C.*  
 11 *1396a(e)) is amended by adding at the end the fol-*  
 12 *lowing:*

13           *“(13) EXPRESS LANE OPTION.—*

14           *“(A) IN GENERAL.—*

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



1           on a finding from an *Express Lane* agency not-  
2           withstanding sections 1902(a)(46)(B) and  
3           1137(d) or any differences in budget unit, dis-  
4           regard, deeming or other methodology, if the fol-  
5           lowing requirements are met:

6                   “(I) *PROHIBITION ON DETERMINING*  
7                   *CHILDREN INELIGIBLE FOR COVERAGE.*—If  
8                   a finding from an *Express Lane* agency  
9                   would result in a determination that a  
10                  child does not satisfy an eligibility require-  
11                  ment for medical assistance under this title  
12                  and for child health assistance under title  
13                  XXI, the State shall determine eligibility for  
14                  assistance using its regular procedures.

15                  “(II) *NOTICE REQUIREMENT.*—For  
16                  any child who is found eligible for medical  
17                  assistance under the State plan under this  
18                  title or child health assistance under title  
19                  XXI and who is subject to premiums based  
20                  on an *Express Lane* agency’s finding of  
21                  such child’s income level, the State shall  
22                  provide notice that the child may qualify  
23                  for lower premium payments if evaluated  
24                  by the State using its regular policies and

1           *of the procedures for requesting such an*  
2           *evaluation.*

3           “(III) *COMPLIANCE WITH SCREEN AND*  
4           *ENROLL REQUIREMENT.—The State shall*  
5           *satisfy the requirements under subpara-*  
6           *graphs (A) and (B) of section 2102(b)(3)*  
7           *(relating to screen and enroll) before enroll-*  
8           *ing a child in child health assistance under*  
9           *title XXI. At its option, the State may ful-*  
10          *fill such requirements in accordance with*  
11          *either option provided under subparagraph*  
12          *(C) of this paragraph.*

13          “(IV) *VERIFICATION OF CITIZENSHIP*  
14          *OR NATIONALITY STATUS.—The State shall*  
15          *satisfy the requirements of section*  
16          *1902(a)(46)(B) or 2105(c)(9), as applicable*  
17          *for verifications of citizenship or nation-*  
18          *ality status.*

19          “(V) *CODING.—The State meets the re-*  
20          *quirements of subparagraph (E).*

21          “(ii) *OPTION TO APPLY TO RENEWALS AND*  
22          *REDETERMINATIONS.—The State may apply the*  
23          *provisions of this paragraph when conducting*  
24          *initial determinations of eligibility, redetermina-*

1            *tions of eligibility, or both, as described in the*  
2            *State plan.*

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

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

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

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

17                   *“(i) IN GENERAL.*—*With respect to a child*  
18                   *whose eligibility for medical assistance under*  
19                   *this title or for child health assistance under title*  
20                   *XXI has been evaluated by a State agency using*  
21                   *an income finding from an Express Lane agen-*  
22                   *cy, a State may carry out its duties under sub-*  
23                   *paragraphs (A) and (B) of section 2102(b)(3)*  
24                   *(relating to screen and enroll) in accordance*  
25                   *with either clause (ii) or clause (iii).*

1                   “(i) *ESTABLISHING A SCREENING THRESH-*  
2                   *OLD.*—

3                   “(I) *IN GENERAL.*—*Under this clause,*  
4                   *the State establishes a screening threshold*  
5                   *set as a percentage of the Federal poverty*  
6                   *level that exceeds the highest income thresh-*  
7                   *old applicable under this title to the child*  
8                   *by a minimum of 30 percentage points or,*  
9                   *at State option, a higher number of percent-*  
10                   *age points that reflects the value (as deter-*  
11                   *mined by the State and described in the*  
12                   *State plan) of any differences between in-*  
13                   *come methodologies used by the program ad-*  
14                   *ministered by the Express Lane agency and*  
15                   *the methodologies used by the State in deter-*  
16                   *mining eligibility for medical assistance*  
17                   *under this title.*

18                   “(II) *CHILDREN WITH INCOME NOT*  
19                   *ABOVE THRESHOLD.*—*If the income of a*  
20                   *child does not exceed the screening threshold,*  
21                   *the child is deemed to satisfy the income eli-*  
22                   *gibility criteria for medical assistance*  
23                   *under this title regardless of whether such*  
24                   *child would otherwise satisfy such criteria.*

1                   “(III) CHILDREN WITH INCOME ABOVE  
2                   THRESHOLD.—If the income of a child ex-  
3                   ceeds the screening threshold, the child shall  
4                   be considered to have an income above the  
5                   Medicaid applicable income level described  
6                   in section 2110(b)(4) and to satisfy the re-  
7                   quirement under section 2110(b)(1)(C) (re-  
8                   lating to the requirement that CHIP match-  
9                   ing funds be used only for children not eli-  
10                  gible for Medicaid). If such a child is en-  
11                  rolled in child health assistance under title  
12                  XXI, the State shall provide the parent,  
13                  guardian, or custodial relative with the fol-  
14                  lowing:

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

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

7                   “(iii) TEMPORARY ENROLLMENT IN CHIP  
8                   PENDING SCREEN AND ENROLL.—

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

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

21                  “(III) PROMPT FOLLOW UP.—In mak-  
22                  ing such a determination, the State shall  
23                  take prompt action to determine whether the  
24                  child should be enrolled in medical assist-  
25                  ance under this title or child health assist-

1           *ance under title XXI pursuant to subpara-*  
2           *graphs (A) and (B) of section 2102(b)(3)*  
3           *(relating to screen and enroll).*

4           “(IV) *REQUIREMENT FOR SIMPLIFIED*  
5           *DETERMINATION.—In making such a deter-*  
6           *mination, the State shall use procedures*  
7           *that, to the maximum feasible extent, reduce*  
8           *the burden imposed on the individual of*  
9           *such determination. Such procedures may*  
10          *not require the child’s parent, guardian, or*  
11          *custodial relative to provide or verify infor-*  
12          *mation that already has been provided to*  
13          *the State agency by an Express Lane agen-*  
14          *cy or another source of information unless*  
15          *the State agency has reason to believe the*  
16          *information is erroneous.*

17          “(V) *AVAILABILITY OF CHIP MATCHING*  
18          *FUNDS DURING TEMPORARY ENROLLMENT*  
19          *PERIOD.—Medical assistance for items and*  
20          *services that are provided to a child enrolled*  
21          *in title XXI during a temporary enrollment*  
22          *period under this clause shall be treated as*  
23          *child health assistance under such title.*

24          “(D) *OPTION FOR AUTOMATIC ENROLLMENT.—*

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

17           “(ii) *INFORMATION REQUIREMENT.*—*The re-*  
18          *quirement of this clause is that the State informs*  
19          *the parent, guardian, or custodial relative of the*  
20          *child of the services that will be covered, appro-*  
21          *priate methods for using such services, premium*  
22          *or other cost sharing charges (if any) that apply,*  
23          *medical support obligations (under section*  
24          *1912(a)) created by enrollment (if applicable),*  
25          *and the actions the parent, guardian, or relative*



1           *must take to maintain enrollment and renew*  
2           *coverage.*

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

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

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

16           “(II) *annually provide the Secretary*  
17           *with a statistically valid sample (that is*  
18           *approved by Secretary) of the children en-*  
19           *rolled in such plans through reliance on*  
20           *such a finding by conducting a full Med-*  
21           *icaid eligibility review of the children iden-*  
22           *tified for such sample for purposes of deter-*  
23           *mining an eligibility error rate (as de-*  
24           *scribed in clause (iv)) with respect to the*  
25           *enrollment of such children (and shall not*

1           *include such children in any data or sam-*  
2           *ples used for purposes of complying with a*  
3           *Medicaid Eligibility Quality Control*  
4           *(MEQC) review or a payment error rate*  
5           *measurement (PERM) requirement);*

6                     *“(III) submit the error rate determined*  
7                     *under subclause (II) to the Secretary;*

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

15                    *“(V) if such error rate exceeds 3 per-*  
16                    *cent for any fiscal year in which the State*  
17                    *elects to apply this paragraph, a reduction*  
18                    *in the amount otherwise payable to the*  
19                    *State under section 1903(a) for quarters for*  
20                    *that fiscal year, equal to the total amount*  
21                    *of erroneous excess payments determined for*  
22                    *the fiscal year only with respect to the chil-*  
23                    *dren included in the sample for the fiscal*  
24                    *year that are in excess of a 3 percent error*  
25                    *rate with respect to such children.*

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

14           “(iii) *RULE OF CONSTRUCTION.—Nothing*  
15           *in this paragraph shall be construed as relieving*  
16           *a State that elects to apply this paragraph from*  
17           *being subject to a penalty under section 1903(u),*  
18           *for payments made under the State Medicaid*  
19           *plan with respect to ineligible individuals and*  
20           *families that are determined to exceed the error*  
21           *rate permitted under that section (as determined*  
22           *without regard to the error rate determined*  
23           *under clause (i)(II)).*

24           “(iv) *ERROR RATE DEFINED.—In this sub-*  
25           *paragraph, the term ‘error rate’ means the rate*

1           *of erroneous excess payments for medical assist-*  
2           *ance (as defined in section 1903(u)(1)(D)) for*  
3           *the period involved, except that such payments*  
4           *shall be limited to individuals for which eligi-*  
5           *bility determinations are made under this para-*  
6           *graph and except that in applying this para-*  
7           *graph under title XXI, there shall be substituted*  
8           *for references to provisions of this title cor-*  
9           *responding provisions within title XXI.*

10          “(F) *EXPRESS LANE AGENCY.*—

11           “(i) *IN GENERAL.*—*In this paragraph, the*  
12           *term ‘Express Lane agency’ means a public*  
13           *agency that—*

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

20                   “(II) *is identified in the State Med-*  
21                   *icaid plan or the State CHIP plan; and*

22                   “(III) *notifies the child’s family—*

23                           “(aa) *of the information which*  
24                           *shall be disclosed in accordance with*  
25                           *this paragraph;*

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

7           “(cc) that the family may elect to  
8           not have the information disclosed for  
9           such purposes; and

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

13          “(i) INCLUSION OF SPECIFIC PUBLIC AGEN-  
14          CIES.—Such term includes the following:

15               “(I) A public agency that determines  
16               eligibility for assistance under any of the  
17               following:

18                       “(aa) The temporary assistance  
19                       for needy families program funded  
20                       under part A of title IV.

21                       “(bb) A State program funded  
22                       under part D of title IV.

23                       “(cc) The State Medicaid plan.

24                       “(dd) The State CHIP plan.

1                   “(ee) *The Food and Nutrition Act*  
2                   *of 2008 (7 U.S.C. 2011 et seq.)*.

3                   “(ff) *The Head Start Act (42*  
4                   *U.S.C. 9801 et seq.)*.

5                   “(gg) *The Richard B. Russell Na-*  
6                   *tional School Lunch Act (42 U.S.C.*  
7                   *1751 et seq.)*.

8                   “(hh) *The Child Nutrition Act of*  
9                   *1966 (42 U.S.C. 1771 et seq.)*.

10                  “(ii) *The Child Care and Develop-*  
11                  *ment Block Grant Act of 1990 (42*  
12                  *U.S.C. 9858 et seq.)*.

13                  “(jj) *The Stewart B. McKinney*  
14                  *Homeless Assistance Act (42 U.S.C.*  
15                  *11301 et seq.)*.

16                  “(kk) *The United States Housing*  
17                  *Act of 1937 (42 U.S.C. 1437 et seq.)*.

18                  “(ll) *The Native American Hous-*  
19                  *ing Assistance and Self-Determination*  
20                  *Act of 1996 (25 U.S.C. 4101 et seq.)*.

21                  “(II) *A State-specified governmental*  
22                  *agency that has fiscal liability or legal re-*  
23                  *sponsibility for the accuracy of the eligi-*  
24                  *bility determination findings relied on by*  
25                  *the State.*

1           “(III) A public agency that is subject  
2           to an interagency agreement limiting the  
3           disclosure and use of the information dis-  
4           closed for purposes of determining eligibility  
5           under the State Medicaid plan or the State  
6           CHIP plan.

7           “(iii) *EXCLUSIONS.*—Such term does not  
8           include an agency that determines eligibility for  
9           a program established under the Social Services  
10          Block Grant established under title XX or a pri-  
11          vate, for-profit organization.

12          “(iv) *RULES OF CONSTRUCTION.*—Nothing  
13          in this paragraph shall be construed as—

14                 “(I) exempting a State Medicaid agen-  
15                 cy from complying with the requirements of  
16                 section 1902(a)(4) relating to merit-based  
17                 personnel standards for employees of the  
18                 State Medicaid agency and safeguards  
19                 against conflicts of interest); or

20                 “(II) authorizing a State Medicaid  
21                 agency that elects to use Express Lane agen-  
22                 cies under this subparagraph to use the Ex-  
23                 press Lane option to avoid complying with  
24                 such requirements for purposes of making

1           *eligibility determinations under the State*  
2           *Medicaid plan.*

3           “(v) *ADDITIONAL DEFINITIONS.—In this*  
4           *paragraph:*

5                   “(I) *STATE.—The term ‘State’ means 1*  
6                   *of the 50 States or the District of Columbia.*

7                   “(II) *STATE CHIP AGENCY.—The term*  
8                   *‘State CHIP agency’ means the State agen-*  
9                   *cy responsible for administering the State*  
10                   *CHIP plan.*

11                   “(III) *STATE CHIP PLAN.—The term*  
12                   *‘State CHIP plan’ means the State child*  
13                   *health plan established under title XXI and*  
14                   *includes any waiver of such plan.*

15                   “(IV) *STATE MEDICAID AGENCY.—The*  
16                   *term ‘State Medicaid agency’ means the*  
17                   *State agency responsible for administering*  
18                   *the State Medicaid plan.*

19                   “(V) *STATE MEDICAID PLAN.—The*  
20                   *term ‘State Medicaid plan’ means the State*  
21                   *plan established under title XIX and in-*  
22                   *cludes any waiver of such plan.*

23                   “(G) *CHILD DEFINED.—For purposes of this*  
24                   *paragraph, the term ‘child’ means an individual*  
25                   *under 19 years of age, or, at the option of a State,*



1 *such higher age, not to exceed 21 years of age, as the*  
2 *State may elect.*

3 *“(H) STATE OPTION TO RELY ON STATE INCOME*  
4 *TAX DATA OR RETURN.—At the option of the State, a*  
5 *finding from an Express Lane agency may include*  
6 *gross income or adjusted gross income shown by State*  
7 *income tax records or returns.*

8 *“(I) APPLICATION.—This paragraph shall not*  
9 *apply with respect to eligibility determinations made*  
10 *after September 30, 2013.”.*

11 *(2) CHIP.—Section 2107(e)(1) (42 U.S.C.*  
12 *1397gg(e)(1)) is amended by redesignating subpara-*  
13 *graphs (B), (C), and (D) as subparagraphs (C), (D),*  
14 *and (E), respectively, and by inserting after subpara-*  
15 *graph (A) the following new subparagraph:*

16 *“(B) Section 1902(e)(13) (relating to the*  
17 *State option to rely on findings from an Express*  
18 *Lane agency to help evaluate a child’s eligibility*  
19 *for medical assistance).”.*

20 *(b) EVALUATION AND REPORT.—*

21 *(1) EVALUATION.—The Secretary shall conduct,*  
22 *by grant, contract, or interagency agreement, a com-*  
23 *prehensive, independent evaluation of the option pro-*  
24 *vided under the amendments made by subsection (a).*

1 *Such evaluation shall include an analysis of the effec-*  
2 *tiveness of the option, and shall include—*

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

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

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

24 *(D) any recommendations for legislative or*  
25 *administrative changes that would improve the*

1           *effectiveness of enrolling children in such plans*  
2           *through reliance on such findings.*

3           (2) *REPORT TO CONGRESS.*—*Not later than Sep-*  
4           *tember 30, 2012, the Secretary shall submit a report*  
5           *to Congress on the results of the evaluation under*  
6           *paragraph (1).*

7           (3) *FUNDING.*—

8                   (A) *IN GENERAL.*—*Out of any funds in the*  
9                   *Treasury not otherwise appropriated, there is*  
10                   *appropriated to the Secretary to carry out the*  
11                   *evaluation under this subsection \$5,000,000 for*  
12                   *the period of fiscal years 2009 through 2012.*

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

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

22                   “(dd) *ELECTRONIC TRANSMISSION OF INFORMA-*  
23                   *TION.*—*If the State agency determining eligibility for med-*  
24                   *ical assistance under this title or child health assistance*  
25                   *under title XXI verifies an element of eligibility based on*

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

11 *(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—*

12 *(1) IN GENERAL.—Title XIX is amended by add-*  
 13 *ing at the end the following new section:*

14 **“SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT IN-**  
 15 **FORMATION.**

16 *“(a) IN GENERAL.—Notwithstanding any other provi-*  
 17 *sion of law, a Federal or State agency or private entity*  
 18 *in possession of the sources of data directly relevant to eligi-*  
 19 *bility determinations under this title (including eligibility*  
 20 *files maintained by Express Lane agencies described in sec-*  
 21 *tion 1902(e)(13)(F), information described in paragraph*  
 22 *(2) or (3) of section 1137(a), vital records information*  
 23 *about births in any State, and information described in*  
 24 *sections 453(i) and 1902(a)(25)(I)) is authorized to convey*  
 25 *such data or information to the State agency administering*

1 *the State plan under this title, to the extent such conveyance*  
2 *meets the requirements of subsection (b).*

3       “(b) *REQUIREMENTS FOR CONVEYANCE.—Data or in-*  
4 *formation may be conveyed pursuant to subsection (a) only*  
5 *if the following requirements are met:*

6               “(1) *The individual whose circumstances are de-*  
7 *scribed in the data or information (or such individ-*  
8 *ual’s parent, guardian, caretaker relative, or author-*  
9 *ized representative) has either provided advance con-*  
10 *sent to disclosure or has not objected to disclosure*  
11 *after receiving advance notice of disclosure and a rea-*  
12 *sonable opportunity to object.*

13               “(2) *Such data or information are used solely for*  
14 *the purposes of—*

15                       “(A) *identifying individuals who are eligi-*  
16 *ble or potentially eligible for medical assistance*  
17 *under this title and enrolling or attempting to*  
18 *enroll such individuals in the State plan; and*

19                       “(B) *verifying the eligibility of individuals*  
20 *for medical assistance under the State plan.*

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

23                       “(A) *prevents the unauthorized use, disclo-*  
24 *sure, or modification of such data and otherwise*

1           *meets applicable Federal requirements safe-*  
2           *guarding privacy and data security; and*

3           *“(B) requires the State agency admin-*  
4           *istering the State plan to use the data and infor-*  
5           *mation obtained under this section to seek to en-*  
6           *roll individuals in the plan.*

7           *“(c) PENALTIES FOR IMPROPER DISCLOSURE.—*

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

20           *“(2) CRIMINAL PENALTY.—A private entity de-*  
21           *scribed in the subsection (a) that willfully publishes,*  
22           *discloses, or makes known in any manner, or to any*  
23           *extent not authorized by Federal law, any informa-*  
24           *tion obtained under this section shall be fined not*  
25           *more than \$10,000 or imprisoned not more than 1*

1       *year, or both, for each such unauthorized publication*  
2       *or disclosure.*

3       “(d) *RULE OF CONSTRUCTION.—The limitations and*  
4       *requirements that apply to disclosure pursuant to this sec-*  
5       *tion shall not be construed to prohibit the conveyance or*  
6       *disclosure of data or information otherwise permitted under*  
7       *Federal law (without regard to this section).”.*

8               (2) *CONFORMING AMENDMENT TO TITLE XXI.—*  
9       *Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as*  
10       *amended by subsection (a)(2), is amended by adding*  
11       *at the end the following new subparagraph:*

12               “(F) *Section 1942 (relating to authorization*  
13       *to receive data directly relevant to eligibility de-*  
14       *terminations).”.*

15               (3) *CONFORMING AMENDMENT TO PROVIDE AC-*  
16       *CESS TO DATA ABOUT ENROLLMENT IN INSURANCE*  
17       *FOR PURPOSES OF EVALUATING APPLICATIONS AND*  
18       *FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C.*  
19       *1396a(a)(25)(I)(i)) is amended—*

20               (A) *by inserting “(and, at State option, in-*  
21       *dividuals who apply or whose eligibility for med-*  
22       *ical assistance is being evaluated in accordance*  
23       *with section 1902(e)(13)(D))” after “with respect*  
24       *to individuals who are eligible”; and*

1                   (B) by inserting “under this title (and, at  
2                   State option, child health assistance under title  
3                   XXI)” after “the State plan”.

4           (e) *AUTHORIZATION FOR STATES ELECTING EXPRESS*  
5 *LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY REL-*  
6 *EVANT TO DETERMINING ELIGIBILITY AND CORRECT*  
7 *AMOUNT OF ASSISTANCE.*—*The Secretary shall enter into*  
8 *such agreements as are necessary to permit a State that*  
9 *elects the Express Lane option under section 1902(e)(13)*  
10 *of the Social Security Act to receive data directly relevant*  
11 *to eligibility determinations and determining the correct*  
12 *amount of benefits under a State child health plan under*  
13 *CHIP or a State plan under Medicaid from the following:*

14                   (1) *The National Directory of New Hires estab-*  
15 *lished under section 453(i) of the Social Security Act*  
16 *(42 U.S.C. 653(i)).*

17                   (2) *Data regarding enrollment in insurance that*  
18 *may help to facilitate outreach and enrollment under*  
19 *the State Medicaid plan, the State CHIP plan, and*  
20 *such other programs as the Secretary may specify.*

21           (f) *EFFECTIVE DATE.*—*The amendments made by this*  
22 *section are effective on the date of the enactment of this Act.*



1     ***Subtitle B—Reducing Barriers to***  
2                     ***Enrollment***

3     ***SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP***  
4                     ***OR NATIONALITY FOR PURPOSES OF ELIGI-***  
5                     ***BILITY FOR MEDICAID AND CHIP.***

6             *(a) ALTERNATIVE STATE PROCESS FOR VERIFICATION*  
7 *OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR*  
8 *PURPOSES OF ELIGIBILITY FOR MEDICAID.—*

9                     *(1) ALTERNATIVE TO DOCUMENTATION REQUIRE-*  
10 *MENT.—*

11                     *(A) IN GENERAL.—Section 1902 (42 U.S.C.*  
12 *1396a), as amended by section 203(c), is amend-*  
13 *ed—*

14                             *(i) in subsection (a)(46)—*

15                                     *(I) by inserting “(A)” after*  
16 *“(46)”;*

17                                     *(II) by adding “and” after the*  
18 *semicolon; and*

19                                     *(III) by adding at the end the fol-*  
20 *lowing new subparagraph:*

21                             *“(B) provide, with respect to an individual de-*  
22 *claring to be a citizen or national of the United*  
23 *States for purposes of establishing eligibility under*  
24 *this title, that the State shall satisfy the requirements*  
25 *of—*

1           “(i) section 1903(x); or

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

3                   (ii) by adding at the end the following

4           new subsection:

5           “(ee)(1) For purposes of subsection (a)(46)(B)(ii), the  
6 requirements of this subsection with respect to an indi-  
7 vidual declaring to be a citizen or national of the United  
8 States for purposes of establishing eligibility under this  
9 title, are, in lieu of requiring the individual to present sat-  
10 isfactory documentary evidence of citizenship or nationality  
11 under section 1903(x) (if the individual is not described in  
12 paragraph (2) of that section), as follows:

13                   “(A) The State submits the name and social se-  
14 curity number of the individual to the Commissioner  
15 of Social Security as part of the program established  
16 under paragraph (2).

17                   “(B) If the State receives notice from the Com-  
18 missioner of Social Security that the name or social  
19 security number, or the declaration of citizenship or  
20 nationality, of the individual is inconsistent with in-  
21 formation in the records maintained by the Commis-  
22 sioner—

23                           “(i) the State makes a reasonable effort to  
24 identify and address the causes of such inconsis-  
25 tency, including through typographical or other

1           *clerical errors, by contacting the individual to*  
2           *confirm the accuracy of the name or social secu-*  
3           *urity number submitted or declaration of citizen-*  
4           *ship or nationality and by taking such addi-*  
5           *tional actions as the Secretary, through regula-*  
6           *tion or other guidance, or the State may iden-*  
7           *tify, and continues to provide the individual*  
8           *with medical assistance while making such effort;*  
9           *and*

10           *“(i) in the case such inconsistency is not*  
11           *resolved under clause (i), the State—*

12                   *“(I) notifies the individual of such*  
13                   *fact;*

14                   *“(II) provides the individual with a*  
15                   *period of 90 days from the date on which*  
16                   *the notice required under subclause (I) is*  
17                   *received by the individual to either present*  
18                   *satisfactory documentary evidence of citi-*  
19                   *zenship or nationality (as defined in section*  
20                   *1903(x)(3)) or resolve the inconsistency with*  
21                   *the Commissioner of Social Security (and*  
22                   *continues to provide the individual with*  
23                   *medical assistance during such 90-day pe-*  
24                   *riod); and*

1                   “(III) disenrolls the individual from  
2                   the State plan under this title within 30  
3                   days after the end of such 90-day period if  
4                   no such documentary evidence is presented  
5                   or if such inconsistency is not resolved.

6                   “(2)(A) Each State electing to satisfy the requirements  
7                   of this subsection for purposes of section 1902(a)(46)(B)  
8                   shall establish a program under which the State submits  
9                   at least monthly to the Commissioner of Social Security  
10                  for comparison of the name and social security number, of  
11                  each individual newly enrolled in the State plan under this  
12                  title that month who is not described in section 1903(x)(2)  
13                  and who declares to be a United States citizen or national,  
14                  with information in records maintained by the Commis-  
15                  sioner.

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

19                         “(i) to provide, through an on-line system or oth-  
20                         erwise, for the electronic submission of, and response  
21                         to, the information submitted under subparagraph  
22                         (A) for an individual enrolled in the State plan  
23                         under this title who declares to be citizen or national  
24                         on at least a monthly basis; or

1           “(ii) to provide for a determination of the con-  
2           sistency of the information submitted with the infor-  
3           mation maintained in the records of the Commis-  
4           sioner through such other method as agreed to by the  
5           State and the Commissioner and approved by the  
6           Secretary, provided that such method is no more bur-  
7           densome for individuals to comply with than any  
8           burdens that may apply under a method described in  
9           clause (i).

10          “(C) The program established under this paragraph  
11         shall provide that, in the case of any individual who is re-  
12         quired to submit a social security number to the State  
13         under subparagraph (A) and who is unable to provide the  
14         State with such number, shall be provided with at least the  
15         reasonable opportunity to present satisfactory documentary  
16         evidence of citizenship or nationality (as defined in section  
17         1903(x)(3)) as is provided under clauses (i) and (ii) of sec-  
18         tion 1137(d)(4)(A) to an individual for the submittal to the  
19         State of evidence indicating a satisfactory immigration sta-  
20         tus.

21          “(3)(A) The State agency implementing the plan ap-  
22         proved under this title shall, at such times and in such form  
23         as the Secretary may specify, provide information on the  
24         percentage each month that the inconsistent submissions  
25         bears to the total submissions made for comparison for such

1 month. For purposes of this subparagraph, a name, social  
2 security number, or declaration of citizenship or nation-  
3 ality of an individual shall be treated as inconsistent and  
4 included in the determination of such percentage only if—

5           “(i) the information submitted by the individual  
6 is not consistent with information in records main-  
7 tained by the Commissioner of Social Security;

8           “(ii) the inconsistency is not resolved by the  
9 State;

10           “(iii) the individual was provided with a rea-  
11 sonable period of time to resolve the inconsistency  
12 with the Commissioner of Social Security or provide  
13 satisfactory documentation of citizenship status and  
14 did not successfully resolve such inconsistency; and

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

17           “(B) If, for any fiscal year, the average monthly per-  
18 centage determined under subparagraph (A) is greater than  
19 3 percent—

20           “(i) the State shall develop and adopt a correc-  
21 tive plan to review its procedures for verifying the  
22 identities of individuals seeking to enroll in the State  
23 plan under this title and to identify and implement  
24 changes in such procedures to improve their accuracy;  
25 and

1           “(ii) pay to the Secretary an amount equal to  
2           the amount which bears the same ratio to the total  
3           payments under the State plan for the fiscal year for  
4           providing medical assistance to individuals who pro-  
5           vided inconsistent information as the number of indi-  
6           viduals with inconsistent information in excess of 3  
7           percent of such total submitted bears to the total num-  
8           ber of individuals with inconsistent information.

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

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

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

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

24                               (i) by striking “plus” at the end of  
25                               subparagraph (E) and inserting “and”, and

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

3                   “(F)(i) 90 percent of the sums expended  
4                   during the quarter as are attributable to the de-  
5                   sign, development, or installation of such mecha-  
6                   nized verification and information retrieval sys-  
7                   tems as the Secretary determines are necessary to  
8                   implement section 1902(ee) (including a system  
9                   described in paragraph (2)(B) thereof), and

10                   “(i) 75 percent of the sums expended dur-  
11                   ing the quarter as are attributable to the oper-  
12                   ation of systems to which clause (i) applies,  
13                   plus”.

14                   (2) *LIMITATION ON WAIVER AUTHORITY.*—Not-  
15                   withstanding any provision of section 1115 of the So-  
16                   cial Security Act (42 U.S.C. 1315), or any other pro-  
17                   vision of law, the Secretary may not waive the re-  
18                   quirements of section 1902(a)(46)(B) of such Act (42  
19                   U.S.C. 1396a(a)(46)(B)) with respect to a State.

20                   (3) *CONFORMING AMENDMENTS.*—Section 1903  
21                   (42 U.S.C. 1396b) is amended—

22                   (A) in subsection (i)(22), by striking “sub-  
23                   section (x)” and inserting “section  
24                   1902(a)(46)(B)”; and



1           (B) in subsection (x)(1), by striking “sub-  
2           section (i)(22)” and inserting “section  
3           1902(a)(46)(B)(i)”.

4           (4) *APPROPRIATION*.—Out of any money in the  
5           Treasury of the United States not otherwise appro-  
6           priated, there are appropriated to the Commissioner  
7           of Social Security \$5,000,000 to remain available  
8           until expended to carry out the Commissioner’s re-  
9           sponsibilities under section 1902(ee) of the Social Se-  
10          curity Act, as added by subsection (a).

11          (b) *CLARIFICATION OF REQUIREMENTS RELATING TO*  
12          *PRESENTATION OF SATISFACTORY DOCUMENTARY EVI-*  
13          *DENCE OF CITIZENSHIP OR NATIONALITY*.—

14               (1) *ACCEPTANCE OF DOCUMENTARY EVIDENCE*  
15          *ISSUED BY A FEDERALLY RECOGNIZED INDIAN*  
16          *TRIBE*.—Section 1903(x)(3)(B) (42 U.S.C.  
17          1396b(x)(3)(B)) is amended—

18               (A) by redesignating clause (v) as clause  
19               (vi); and

20               (B) by inserting after clause (iv), the fol-  
21               lowing new clause:

22               “(v)(I) Except as provided in subclause (II), a  
23               document issued by a federally recognized Indian  
24               tribe evidencing membership or enrollment in, or af-

1     *filiation with, such tribe (such as a tribal enrollment*  
2     *card or certificate of degree of Indian blood).*

3             *“(II) With respect to those federally recognized*  
4     *Indian tribes located within States having an inter-*  
5     *national border whose membership includes individ-*  
6     *uals who are not citizens of the United States, the*  
7     *Secretary shall, after consulting with such tribes,*  
8     *issue regulations authorizing the presentation of such*  
9     *other forms of documentation (including tribal docu-*  
10    *mentation, if appropriate) that the Secretary deter-*  
11    *mines to be satisfactory documentary evidence of citi-*  
12    *zenship or nationality for purposes of satisfying the*  
13    *requirement of this subsection.”.*

14             (2) *REQUIREMENT TO PROVIDE REASONABLE OP-*  
15    *PORTUNITY TO PRESENT SATISFACTORY DOCUMEN-*  
16    *TARY EVIDENCE.—Section 1903(x) (42 U.S.C.*  
17    *1396b(x)) is amended by adding at the end the fol-*  
18    *lowing new paragraph:*

19             *“(4) In the case of an individual declaring to be a*  
20    *citizen or national of the United States with respect to*  
21    *whom a State requires the presentation of satisfactory docu-*  
22    *mentary evidence of citizenship or nationality under section*  
23    *1902(a)(46)(B)(i), the individual shall be provided at least*  
24    *the reasonable opportunity to present satisfactory documen-*  
25    *tary evidence of citizenship or nationality under this sub-*

1 *section as is provided under clauses (i) and (ii) of section*  
2 *1137(d)(4)(A) to an individual for the submittal to the*  
3 *State of evidence indicating a satisfactory immigration sta-*  
4 *tus.”.*

5 (3) *CHILDREN BORN IN THE UNITED STATES TO*  
6 *MOTHERS ELIGIBLE FOR MEDICAID.—*

7 (A) *CLARIFICATION OF RULES.—Section*  
8 *1903(x) (42 U.S.C. 1396b(x)), as amended by*  
9 *paragraph (2), is amended—*

10 (i) *in paragraph (2)—*

11 (I) *in subparagraph (C), by strik-*  
12 *ing “or” at the end;*

13 (II) *by redesignating subpara-*  
14 *graph (D) as subparagraph (E); and*

15 (III) *by inserting after subpara-*  
16 *graph (C) the following new subpara-*  
17 *graph:*

18 “(D) *pursuant to the application of section*  
19 *1902(e)(4) (and, in the case of an individual who is*  
20 *eligible for medical assistance on such basis, the indi-*  
21 *vidual shall be deemed to have provided satisfactory*  
22 *documentary evidence of citizenship or nationality*  
23 *and shall not be required to provide further documen-*  
24 *tary evidence on any date that occurs during or after*

1       *the period in which the individual is eligible for med-*  
2       *ical assistance on such basis); or”;* and

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

5       “(5) *Nothing in subparagraph (A) or (B) of section*  
6       *1902(a)(46), the preceding paragraphs of this subsection,*  
7       *or the Deficit Reduction Act of 2005, including section 6036*  
8       *of such Act, shall be construed as changing the requirement*  
9       *of section 1902(e)(4) that a child born in the United States*  
10       *to an alien mother for whom medical assistance for the de-*  
11       *livery of such child is available as treatment of an emer-*  
12       *gency medical condition pursuant to subsection (v) shall be*  
13       *deemed eligible for medical assistance during the first year*  
14       *of such child’s life.”.*

15                       *(B) STATE REQUIREMENT TO ISSUE SEPA-*  
16       *RATE IDENTIFICATION NUMBER.—Section*  
17       *1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended*  
18       *by adding at the end the following new sentence:*  
19       *“Notwithstanding the preceding sentence, in the*  
20       *case of a child who is born in the United States*  
21       *to an alien mother for whom medical assistance*  
22       *for the delivery of the child is made available*  
23       *pursuant to section 1903(v), the State imme-*  
24       *diately shall issue a separate identification num-*  
25       *ber for the child upon notification by the facility*

1           *at which such delivery occurred of the child's*  
2           *birth.*”.

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

5                   *(A) in subparagraph (B)—*

6                           *(i) by realigning the left margin of the*  
7                           *matter preceding clause (i) 2 ems to the left;*  
8                           *and*

9                           *(ii) by realigning the left margins of*  
10                          *clauses (i) and (ii), respectively, 2 ems to*  
11                          *the left; and*

12                          *(B) in subparagraph (C)—*

13                           *(i) by realigning the left margin of the*  
14                           *matter preceding clause (i) 2 ems to the left;*  
15                           *and*

16                           *(ii) by realigning the left margins of*  
17                           *clauses (i) and (ii), respectively, 2 ems to*  
18                           *the left.*

19           (c)   *APPLICATION OF DOCUMENTATION SYSTEM TO*  
20           *CHIP.—*

21                   (1)   *IN GENERAL.—Section 2105(c) (42 U.S.C.*  
22                   *1397ee(c)), as amended by section 114(a), is amended*  
23                   *by adding at the end the following new paragraph:*

24                           “(9)   *CITIZENSHIP DOCUMENTATION REQUIRE-*  
25                           *MENTS.—*

1           “(A) *IN GENERAL.*—No payment may be  
 2           made under this section with respect to an indi-  
 3           vidual who has, or is, declared to be a citizen or  
 4           national of the United States for purposes of es-  
 5           tablishing eligibility under this title unless the  
 6           State meets the requirements of section  
 7           1902(a)(46)(B) with respect to the individual.

8           “(B) *ENHANCED PAYMENTS.*—Notwith-  
 9           standing subsection (b), the enhanced FMAP  
 10          with respect to payments under subsection (a)  
 11          for expenditures described in clause (i) or (ii) of  
 12          section 1903(a)(3)(F) necessary to comply with  
 13          subparagraph (A) shall in no event be less than  
 14          90 percent and 75 percent, respectively.”.

15          (2) *NONAPPLICATION OF ADMINISTRATIVE EX-*  
 16          *PENDITURES CAP.*—Section 2105(c)(2)(C) (42 U.S.C.  
 17          1397ee(c)(2)(C)), as amended by section 202(b), is  
 18          amended by adding at the end the following:

19                   “(i) *EXPENDITURES TO COMPLY WITH*  
 20                   *CITIZENSHIP OR NATIONALITY VERIFICATION*  
 21                   *REQUIREMENTS.*—Expenditures necessary  
 22                   for the State to comply with paragraph  
 23                   (9)(A).”.

24          (d) *EFFECTIVE DATE.*—

25                  (1) *IN GENERAL.*—

1           (A) *IN GENERAL.*—*Except as provided in*  
2           *subparagraph (B), the amendments made by this*  
3           *section shall take effect on January 1, 2010.*

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

6                     *(i) paragraphs (1), (2), and (3) of sub-*  
7                     *section (b) shall take effect as if included in*  
8                     *the enactment of section 6036 of the Deficit*  
9                     *Reduction Act of 2005 (Public Law 109–*  
10                    *171; 120 Stat. 80); and*

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

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

1     *section (b), had applied to the individual, a State*  
2     *may deem the individual to be eligible for such assist-*  
3     *ance as of the date that the individual was deter-*  
4     *mined to be ineligible for such medical assistance on*  
5     *such basis.*

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

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

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

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

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



1           “(4) *REDUCTION OF ADMINISTRATIVE BARRIERS*  
2 *TO ENROLLMENT.*—

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

14           “(B) *DEEMED COMPLIANCE IF JOINT APPLI-*  
15 *CATION AND RENEWAL PROCESS THAT PERMITS*  
16 *APPLICATION OTHER THAN IN PERSON.*—*A State*  
17 *shall be deemed to comply with subparagraph*  
18 *(A) if the State’s application and renewal forms*  
19 *and supplemental forms (if any) and informa-*  
20 *tion verification process is the same for purposes*  
21 *of establishing and renewing eligibility for chil-*  
22 *dren and pregnant women for medical assistance*  
23 *under title XIX and child health assistance*  
24 *under this title, and such process does not re-*

1            *quire an application to be made in person or a*  
2            *face-to-face interview.”.*

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

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

19           (b) *REPORT TO CONGRESS.*—*After development of such*  
20           *model process, the Secretary of Health and Human Services*  
21           *shall submit to Congress a report describing additional*  
22           *steps or authority needed to make further improvements to*  
23           *coordinate the enrollment, retention, and coverage under*  
24           *CHIP and Medicaid of children described in subsection (a).*

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

5 (a) *MEDICAID PROGRAM.*—Section 1903(v) (42 U.S.C.  
6 1396b(v)) is amended—

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

9 (2) by adding at the end the following new para-  
10 graph:

11 “(4)(A) A State may elect (in a plan amendment  
12 under this title) to provide medical assistance under this  
13 title, notwithstanding sections 401(a), 402(b), 403, and 421  
14 of the Personal Responsibility and Work Opportunity Rec-  
15 onciliation Act of 1996, to children and pregnant women  
16 who are lawfully residing in the United States (including  
17 battered individuals described in section 431(c) of such Act)  
18 and who are otherwise eligible for such assistance, within  
19 either or both of the following eligibility categories:

20 “(i) *PREGNANT WOMEN.*—Women during preg-  
21 nancy (and during the 60-day period beginning on  
22 the last day of the pregnancy).

23 “(ii) *CHILDREN.*—Individuals under 21 years of  
24 age, including optional targeted low-income children  
25 described in section 1905(u)(2)(B).

1       “(B) *In the case of a State that has elected to provide*  
2 *medical assistance to a category of aliens under subpara-*  
3 *graph (A), no debt shall accrue under an affidavit of sup-*  
4 *port against any sponsor of such an alien on the basis of*  
5 *provision of assistance to such category and the cost of such*  
6 *assistance shall not be considered as an unreimbursed cost.*

7       “(C) *As part of the State’s ongoing eligibility redeter-*  
8 *mination requirements and procedures for an individual*  
9 *provided medical assistance as a result of an election by*  
10 *the State under subparagraph (A), a State shall verify that*  
11 *the individual continues to lawfully reside in the United*  
12 *States using the documentation presented to the State by*  
13 *the individual on initial enrollment. If the State cannot*  
14 *successfully verify that the individual is lawfully residing*  
15 *in the United States in this manner, it shall require that*  
16 *the individual provide the State with further documenta-*  
17 *tion or other evidence to verify that the individual is law-*  
18 *fully residing in the United States.”.*

19       (b) *CHIP.—Section 2107(e)(1) (42 U.S.C.*  
20 *1397gg(e)(1)), as amended by sections 203(a)(2) and*  
21 *203(d)(2), is amended by redesignating subparagraphs (E)*  
22 *and (F) as subparagraphs (F) and (G), respectively and*  
23 *by inserting after subparagraph (D) the following new sub-*  
24 *paragraph:*

1           “(E) Paragraph (4) of section 1903(v) (re-  
 2           lating to optional coverage of categories of law-  
 3           fully residing immigrant children or pregnant  
 4           women), but only if the State has elected to  
 5           apply such paragraph with respect to such cat-  
 6           egory of children or pregnant women under title  
 7           XIX.”.

8       **TITLE III—REDUCING BARRIERS**  
 9       **TO PROVIDING PREMIUM AS-**  
 10      **SISTANCE**

11      **Subtitle A—Additional State Option**  
 12      **for Providing Premium Assistance**

13      **SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING PRE-**  
 14      **MIUM ASSISTANCE.**

15      (a) CHIP.—

16           (1) *IN GENERAL.*—Section 2105(c) (42 U.S.C.  
 17           1397ee(c)), as amended by sections 114(a) and 211(c),  
 18           is amended by adding at the end the following:

19           “(10) *STATE OPTION TO OFFER PREMIUM AS-*  
 20           *SISTANCE.*—

21           “(A) *IN GENERAL.*—A State may elect to  
 22           offer a premium assistance subsidy (as defined  
 23           in subparagraph (C)) for qualified employer-  
 24           sponsored coverage (as defined in subparagraph  
 25           (B)) to all targeted low-income children who are

1           *eligible for child health assistance under the plan*  
2           *and have access to such coverage in accordance*  
3           *with the requirements of this paragraph. No sub-*  
4           *sidy shall be provided to a targeted low-income*  
5           *child under this paragraph unless the child (or*  
6           *the child’s parent) voluntarily elects to receive*  
7           *such a subsidy. A State may not require such an*  
8           *election as a condition of receipt of child health*  
9           *assistance.*

10           “(B) *QUALIFIED EMPLOYER-SPONSORED*  
11           *COVERAGE.—*

12                   “(i) *IN GENERAL.—Subject to clause*  
13                   *(ii), in this paragraph, the term ‘qualified*  
14                   *employer-sponsored coverage’ means a*  
15                   *group health plan or health insurance cov-*  
16                   *erage offered through an employer—*

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

21                                   “(II) *for which the employer con-*  
22                                   *tribution toward any premium for*  
23                                   *such coverage is at least 40 percent;*  
24                                   *and*

1           “(III) that is offered to all indi-  
2           viduals in a manner that would be  
3           considered a nondiscriminatory eligi-  
4           bility classification for purposes of  
5           paragraph (3)(A)(ii) of section 105(h)  
6           of the Internal Revenue Code of 1986  
7           (but determined without regard to  
8           clause (i) of subparagraph (B) of such  
9           paragraph).

10           “(i) *EXCEPTION.*—Such term does not  
11           include coverage consisting of—

12                   “(I) benefits provided under a  
13                   health flexible spending arrangement  
14                   (as defined in section 106(c)(2) of the  
15                   Internal Revenue Code of 1986); or

16                   “(II) a high deductible health  
17                   plan (as defined in section 223(c)(2) of  
18                   such Code), without regard to whether  
19                   the plan is purchased in conjunction  
20                   with a health savings account (as de-  
21                   fined under section 223(d) of such  
22                   Code).

23           “(C) *PREMIUM ASSISTANCE SUBSIDY.*—

24                   “(i) *IN GENERAL.*—In this paragraph,  
25                   the term ‘premium assistance subsidy’

1           *means, with respect to a targeted low-in-*  
2           *come child, the amount equal to the dif-*  
3           *ference between the employee contribution*  
4           *required for enrollment only of the employee*  
5           *under qualified employer-sponsored coverage*  
6           *and the employee contribution required for*  
7           *enrollment of the employee and the child in*  
8           *such coverage, less any applicable premium*  
9           *cost-sharing applied under the State child*  
10          *health plan (subject to the limitations im-*  
11          *posed under section 2103(e), including the*  
12          *requirement to count the total amount of the*  
13          *employee contribution required for enroll-*  
14          *ment of the employee and the child in such*  
15          *coverage toward the annual aggregate cost-*  
16          *sharing limit applied under paragraph*  
17          *(3)(B) of such section).*

18           “(ii) *STATE PAYMENT OPTION.—A*  
19          *State may provide a premium assistance*  
20          *subsidy either as reimbursement to an em-*  
21          *ployee for out-of-pocket expenditures or, sub-*  
22          *ject to clause (iii), directly to the employee’s*  
23          *employer.*

24           “(iii) *EMPLOYER OPT-OUT.—An em-*  
25          *ployer may notify a State that it elects to*



1           *opt-out of being directly paid a premium*  
2           *assistance subsidy on behalf of an employee.*  
3           *In the event of such a notification, an em-*  
4           *ployer shall withhold the total amount of*  
5           *the employee contribution required for en-*  
6           *rollment of the employee and the child in*  
7           *the qualified employer-sponsored coverage*  
8           *and the State shall pay the premium assist-*  
9           *ance subsidy directly to the employee.*

10           “(iv) *TREATMENT AS CHILD HEALTH*  
11           *ASSISTANCE.—Expenditures for the provi-*  
12           *sion of premium assistance subsidies shall*  
13           *be considered child health assistance de-*  
14           *scribed in paragraph (1)(C) of subsection*  
15           *(a) for purposes of making payments under*  
16           *that subsection.*

17           “(D) *APPLICATION OF SECONDARY PAYOR*  
18           *RULES.—The State shall be a secondary payor*  
19           *for any items or services provided under the*  
20           *qualified employer-sponsored coverage for which*  
21           *the State provides child health assistance under*  
22           *the State child health plan.*

23           “(E) *REQUIREMENT TO PROVIDE SUPPLE-*  
24           *MENTAL COVERAGE FOR BENEFITS AND COST-*

1           *SHARING PROTECTION PROVIDED UNDER THE*  
2           *STATE CHILD HEALTH PLAN.—*

3                   “(i) *IN GENERAL.—Notwithstanding*  
4                   *section 2110(b)(1)(C), the State shall pro-*  
5                   *vide for each targeted low-income child en-*  
6                   *rolled in qualified employer-sponsored cov-*  
7                   *erage, supplemental coverage consisting of—*

8                           “(I) *items or services that are not*  
9                           *covered, or are only partially covered,*  
10                           *under the qualified employer-sponsored*  
11                           *coverage; and*

12                           “(II) *cost-sharing protection con-*  
13                           *sistent with section 2103(e).*

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

22                   “(F) *APPLICATION OF WAITING PERIOD IM-*  
23                   *POSED UNDER THE STATE.—Any waiting period*  
24                   *imposed under the State child health plan prior*  
25                   *to the provision of child health assistance to a*

1       *targeted low-income child under the State plan*  
2       *shall apply to the same extent to the provision*  
3       *of a premium assistance subsidy for the child*  
4       *under this paragraph.*

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

16               “(H) *APPLICATION TO PARENTS.—If a*  
17       *State provides child health assistance or health*  
18       *benefits coverage to parents of a targeted low-in-*  
19       *come child in accordance with section 2111(b),*  
20       *the State may elect to offer a premium assistance*  
21       *subsidy to a parent of a targeted low-income*  
22       *child who is eligible for such a subsidy under*  
23       *this paragraph in the same manner as the State*  
24       *offers such a subsidy for the enrollment of the*

1 *child in qualified employer-sponsored coverage,*  
2 *except that—*

3 *“(i) the amount of the premium assist-*  
4 *ance subsidy shall be increased to take into*  
5 *account the cost of the enrollment of the*  
6 *parent in the qualified employer-sponsored*  
7 *coverage or, at the option of the State if the*  
8 *State determines it cost-effective, the cost of*  
9 *the enrollment of the child’s family in such*  
10 *coverage; and*

11 *“(ii) any reference in this paragraph*  
12 *to a child is deemed to include a reference*  
13 *to the parent or, if applicable under clause*  
14 *(i), the family of the child.*

15 *“(I) ADDITIONAL STATE OPTION FOR PRO-*  
16 *VIDING PREMIUM ASSISTANCE.—*

17 *“(i) IN GENERAL.—A State may estab-*  
18 *lish an employer-family premium assistance*  
19 *purchasing pool for employers with less*  
20 *than 250 employees who have at least 1 em-*  
21 *ployee who is a pregnant woman eligible for*  
22 *assistance under the State child health plan*  
23 *(including through the application of an*  
24 *option described in section 2112(f)) or a*  
25 *member of a family with at least 1 targeted*

1 *low-income child and to provide a premium*  
2 *assistance subsidy under this paragraph for*  
3 *enrollment in coverage made available*  
4 *through such pool.*

5 “(ii) *ACCESS TO CHOICE OF COV-*  
6 *ERAGE.—A State that elects the option*  
7 *under clause (i) shall identify and offer ac-*  
8 *cess to not less than 2 private health plans*  
9 *that are health benefits coverage that is*  
10 *equivalent to the benefits coverage in a*  
11 *benchmark benefit package described in sec-*  
12 *tion 2103(b) or benchmark-equivalent cov-*  
13 *erage that meets the requirements of section*  
14 *2103(a)(2) for employees described in clause*  
15 *(i).*

16 “(iii) *CLARIFICATION OF PAYMENT FOR*  
17 *ADMINISTRATIVE EXPENDITURES.—Nothing*  
18 *in this subparagraph shall be construed as*  
19 *permitting payment under this section for*  
20 *administrative expenditures attributable to*  
21 *the establishment or operation of such pool,*  
22 *except to the extent that such payment*  
23 *would otherwise be permitted under this*  
24 *title.*

1           “(J) *NO EFFECT ON PREMIUM ASSISTANCE*  
2           *WAIVER PROGRAMS.*—*Nothing in this paragraph*  
3           *shall be construed as limiting the authority of a*  
4           *State to offer premium assistance under section*  
5           *1906 or 1906A, a waiver described in paragraph*  
6           *(2)(B) or (3), a waiver approved under section*  
7           *1115, or other authority in effect prior to the*  
8           *date of enactment of the Children’s Health Insur-*  
9           *ance Program Reauthorization Act of 2009.*

10           “(K) *NOTICE OF AVAILABILITY.*—*If a State*  
11           *elects to provide premium assistance subsidies in*  
12           *accordance with this paragraph, the State*  
13           *shall—*

14                   “(i) *include on any application or en-*  
15                   *rollment form for child health assistance a*  
16                   *notice of the availability of premium assist-*  
17                   *ance subsidies for the enrollment of targeted*  
18                   *low-income children in qualified employer-*  
19                   *sponsored coverage;*

20                   “(ii) *provide, as part of the applica-*  
21                   *tion and enrollment process under the State*  
22                   *child health plan, information describing*  
23                   *the availability of such subsidies and how to*  
24                   *elect to obtain such a subsidy; and*

1           “(iii) establish such other procedures as  
2           the State determines necessary to ensure  
3           that parents are fully informed of the  
4           choices for receiving child health assistance  
5           under the State child health plan or through  
6           the receipt of premium assistance subsidies.

7           “(L) APPLICATION TO QUALIFIED EM-  
8           PLOYER-SPONSORED BENCHMARK COVERAGE.—If  
9           a group health plan or health insurance coverage  
10          offered through an employer is certified by an  
11          actuary as health benefits coverage that is equiv-  
12          alent to the benefits coverage in a benchmark  
13          benefit package described in section 2103(b) or  
14          benchmark-equivalent coverage that meets the re-  
15          quirements of section 2103(a)(2), the State may  
16          provide premium assistance subsidies for enroll-  
17          ment of targeted low-income children in such  
18          group health plan or health insurance coverage  
19          in the same manner as such subsidies are pro-  
20          vided under this paragraph for enrollment in  
21          qualified employer-sponsored coverage, but with-  
22          out regard to the requirement to provide supple-  
23          mental coverage for benefits and cost-sharing  
24          protection provided under the State child health  
25          plan under subparagraph (E).

1           “(M) *SATISFACTION OF COST-EFFECTIVE-*  
2           *NESS TEST.*—*Premium assistance subsidies for*  
3           *qualified employer-sponsored coverage offered*  
4           *under this paragraph shall be deemed to meet the*  
5           *requirement of subparagraph (A) of paragraph*  
6           *(3).*

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

16           (2) *DETERMINATION OF COST-EFFECTIVENESS*  
17           *FOR PREMIUM ASSISTANCE OR PURCHASE OF FAMILY*  
18           *COVERAGE.—*

19           (A) *IN GENERAL.*—*Section 2105(c)(3)(A)*  
20           *(42 U.S.C. 1397ee(c)(3)(A)) is amended by strik-*  
21           *ing “relative to” and all that follows through the*  
22           *comma and inserting “relative to*

23                   *“(i) the amount of expenditures under*  
24                   *the State child health plan, including ad-*  
25                   *ministrative expenditures, that the State*



1           *would have made to provide comparable*  
2           *coverage of the targeted low-income child in-*  
3           *volved or the family involved (as applica-*  
4           *ble); or*

5                     *“(ii) the aggregate amount of expendi-*  
6                     *tures that the State would have made under*  
7                     *the State child health plan, including ad-*  
8                     *ministrative expenditures, for providing*  
9                     *coverage under such plan for all such chil-*  
10                    *dren or families.”.*

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

18            *(b) MEDICAID.—Title XIX is amended by inserting*  
19            *after section 1906 the following new section:*

20                    *“PREMIUM ASSISTANCE OPTION FOR CHILDREN*

21                    *“SEC. 1906A. (a) IN GENERAL.—A State may elect to*  
22                    *offer a premium assistance subsidy (as defined in subsection*  
23                    *(c)) for qualified employer-sponsored coverage (as defined*  
24                    *in subsection (b)) to all individuals under age 19 who are*  
25                    *entitled to medical assistance under this title (and to the*

1 *parent of such an individual) who have access to such cov-*  
2 *erage if the State meets the requirements of this section.*

3 “(b) *QUALIFIED EMPLOYER-SPONSORED COVERAGE.—*

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

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

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

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

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

23 “(A) *benefits provided under a health flexi-*  
24 *ble spending arrangement (as defined in section*

1           106(c)(2) of the Internal Revenue Code of 1986);

2           or

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

8           “(3) TREATMENT AS THIRD PARTY LIABILITY.—

9           The State shall treat the coverage provided under  
10          qualified employer-sponsored coverage as a third  
11          party liability under section 1902(a)(25).

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

19          “(d) VOLUNTARY PARTICIPATION.—

20          “(1) EMPLOYERS.—Participation by an em-  
21          ployer in a premium assistance subsidy offered by a  
22          State under this section shall be voluntary. An em-  
23          ployer may notify a State that it elects to opt-out of  
24          being directly paid a premium assistance subsidy on  
25          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 re-  
6           ceipt of medical assistance. State may not require, as  
7           a condition of an individual under age 19 (or the in-  
8           dividual’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.*—A  
13          State shall establish a process for permitting the par-  
14          ent 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-sponsored  
22          coverage, the State shall provide for payment of all enrollee  
23          premiums for enrollment in such coverage and all  
24          deductibles, coinsurance, and other cost-sharing obligations  
25          for items and services otherwise covered under the State

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

10 *(c) GAO STUDY AND REPORT.—Not later than Janu-*  
11 *ary 1, 2010, 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 Senate*  
17 *and the Committee on Energy and Commerce of the House*  
18 *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 RE-*  
23 *LATED 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 accord-  
6 ance with paragraph (2)(B), (3), or (10) of section  
7 2105(c), or a waiver approved under section 1115,  
8 outreach, education, and enrollment assistance for  
9 families of children likely to be eligible for such sub-  
10 sidies, to inform such families of the availability of,  
11 and to assist them in enrolling their children in, such  
12 subsidies, and for employers likely to provide coverage  
13 that is eligible for such subsidies, including the spe-  
14 cific, significant resources the State intends to apply  
15 to educate employers about the availability of pre-  
16 mium assistance subsidies under the State child  
17 health plan.”.

18           (b) *NONAPPLICATION OF 10 PERCENT LIMIT ON OUT-*  
19 *REACH AND CERTAIN OTHER EXPENDITURES.*—Section  
20 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by  
21 section 211(c)(2), is amended by adding at the end the fol-  
22 lowing new clause:

23                           “(iii) *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 em-*  
10           *ployers likely to provide qualified employer-*  
11           *sponsored coverage (as defined in subpara-*  
12           *graph (B) of such paragraph), but not to*  
13           *exceed an amount equal to 1.25 percent of*  
14           *the maximum amount permitted to be ex-*  
15           *pended under subparagraph (A) for items*  
16           *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 not*  
 17 *enrolled, for coverage under the terms of the plan*  
 18 *(or a dependent of such an employee if the de-*  
 19 *pendent is eligible, but not enrolled, for coverage*  
 20 *under such terms) to enroll for coverage under*  
 21 *the terms of the plan if either of the following*  
 22 *conditions is met:*

23 *“(i) TERMINATION OF MEDICAID OR*  
 24 *CHIP COVERAGE.—The employee or depend-*  
 25 *ent is covered under a Medicaid plan under*



1           *title XIX of the Social Security Act or*  
2           *under a State child health plan under title*  
3           *XXI of such Act and coverage of the em-*  
4           *ployee or dependent under such a plan is*  
5           *terminated as a result of loss of eligibility*  
6           *for such coverage and the employee requests*  
7           *coverage under the group health plan not*  
8           *later than 60 days after the date of termi-*  
9           *nation of such coverage.*

10           “(i) *ELIGIBILITY FOR EMPLOYMENT*  
11           *ASSISTANCE UNDER MEDICAID OR CHIP.—*  
12           *The employee or dependent becomes eligible*  
13           *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 eli-*  
22           *gible 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 of*  
13                   *coverage under a group health plan,*  
14                   *shall provide to each employee a writ-*  
15                   *ten notice informing the employee of*  
16                   *potential opportunities then currently*  
17                   *available in the State in which the em-*  
18                   *ployee resides for premium assistance*  
19                   *under such plans for health coverage of*  
20                   *the employee or the employee’s depend-*  
21                   *ents. For purposes of compliance with*  
22                   *this clause, the employer may use any*  
23                   *State-specific model notice developed in*  
24                   *accordance with section*  
25                   *701(f)(3)(B)(i)(II) of the Employee Re-*

1 *irement Income Security Act of 1974*  
2 *(29 U.S.C. 1181(f)(3)(B)(i)(II)).*

3 “(II) *OPTION TO PROVIDE CON-*  
4 *CURRENT WITH PROVISION OF PLAN*  
5 *MATERIALS TO EMPLOYEE.—An em-*  
6 *ployer may provide the model notice*  
7 *applicable to the State in which an*  
8 *employee resides concurrent with the*  
9 *furnishing of materials notifying the*  
10 *employee of health plan eligibility, con-*  
11 *current with materials provided to the*  
12 *employee in connection with an open*  
13 *season or election process conducted*  
14 *under the plan, or concurrent with the*  
15 *furnishing of the summary plan de-*  
16 *scription as provided in section 104(b)*  
17 *of the Employee Retirement Income*  
18 *Security Act of 1974 (29 U.S.C. 1024).*

19 “(ii) *DISCLOSURE ABOUT GROUP*  
20 *HEALTH PLAN BENEFITS TO STATES FOR*  
21 *MEDICAID AND CHIP ELIGIBLE INDIVID-*  
22 *UALS.—In the case of a participant or bene-*  
23 *ficiary of a group health plan who is cov-*  
24 *ered under a Medicaid plan of a State*  
25 *under title XIX of the Social Security Act*

1           or under a State child health plan under  
2           title XXI of such Act, the plan adminis-  
3           trator of the group health plan shall disclose  
4           to the State, upon request, information  
5           about the benefits available under the group  
6           health plan in sufficient specificity, as de-  
7           termined under regulations of the Secretary  
8           of Health and Human Services in consulta-  
9           tion with the Secretary that require use of  
10          the model coverage coordination disclosure  
11          form developed under section 311(b)(1)(C)  
12          of the Children’s Health Insurance Program  
13          Reauthorization Act of 2009, so as to per-  
14          mit the State to make a determination  
15          (under paragraph (2)(B), (3), or (10) of  
16          section 2105(c) of the Social Security Act or  
17          otherwise) concerning the cost-effectiveness  
18          of the State providing medical or child  
19          health assistance through premium assist-  
20          ance for the purchase of coverage under such  
21          group health plan and in order for the  
22          State to provide supplemental benefits re-  
23          quired under paragraph (10)(E) of such sec-  
24          tion or other authority.”.

25          (b) CONFORMING AMENDMENTS.—

1           (1) *AMENDMENTS TO EMPLOYEE RETIREMENT*  
2 *INCOME SECURITY ACT.*—

3           (A) *IN GENERAL.*—Section 701(f) of the  
4 *Employee Retirement Income Security Act of*  
5 *1974 (29 U.S.C. 1181(f)) is amended by adding*  
6 *at the end the following new paragraph:*

7           “(3) *SPECIAL RULES FOR APPLICATION IN CASE*  
8 *OF MEDICAID AND CHIP.*—

9           “(A) *IN GENERAL.*—A group health plan,  
10 *and a health insurance issuer offering group*  
11 *health insurance coverage in connection with a*  
12 *group health plan, shall permit an employee who*  
13 *is eligible, but not enrolled, for coverage under*  
14 *the terms of the plan (or a dependent of such an*  
15 *employee if the dependent is eligible, but not en-*  
16 *rolled, for coverage under such terms) to enroll*  
17 *for coverage under the terms of the plan if either*  
18 *of the following conditions is met:*

19           “(i) *TERMINATION OF MEDICAID OR*  
20 *CHIP COVERAGE.*—The employee or depend-  
21 *ent is covered under a Medicaid plan under*  
22 *title XIX of the Social Security Act or*  
23 *under a State child health plan under title*  
24 *XXI of such Act and coverage of the em-*  
25 *ployee or dependent under such a plan is*

1           *terminated as a result of loss of eligibility*  
2           *for such coverage and the employee requests*  
3           *coverage under the group health plan (or*  
4           *health insurance coverage) not later than 60*  
5           *days after the date of termination of such*  
6           *coverage.*

7           “(i) *ELIGIBILITY FOR EMPLOYMENT*  
8           *ASSISTANCE UNDER MEDICAID OR CHIP.—*  
9           *The employee or dependent becomes eligible*  
10           *for assistance, with respect to coverage*  
11           *under the group health plan or health in-*  
12           *surance coverage, under such Medicaid plan*  
13           *or State child health plan (including under*  
14           *any waiver or demonstration project con-*  
15           *ducted under or in relation to such a plan),*  
16           *if the employee requests coverage under the*  
17           *group health plan or health insurance cov-*  
18           *erage not later than 60 days after the date*  
19           *the employee or dependent is determined to*  
20           *be eligible for such assistance.*

21           “(B) *COORDINATION WITH MEDICAID AND*  
22           *CHIP.—*

23           “(i) *OUTREACH TO EMPLOYEES RE-*  
24           *GARDING AVAILABILITY OF MEDICAID AND*  
25           *CHIP COVERAGE.—*

1           “(I) *IN GENERAL.*—*Each em-*  
2           *ployer that maintains a group health*  
3           *plan in a State that provides medical*  
4           *assistance under a State Medicaid*  
5           *plan under title XIX of the Social Se-*  
6           *curity Act, or child health assistance*  
7           *under a State child health plan under*  
8           *title XXI of such Act, in the form of*  
9           *premium assistance for the purchase of*  
10           *coverage under a group health plan,*  
11           *shall provide to each employee a writ-*  
12           *ten notice informing the employee of*  
13           *potential opportunities then currently*  
14           *available in the State in which the em-*  
15           *ployee resides for premium assistance*  
16           *under such plans for health coverage of*  
17           *the employee or the employee’s depend-*  
18           *ents.*

19           “(II) *MODEL NOTICE.*—*Not later*  
20           *than 1 year after the date of enactment*  
21           *of the Children’s Health Insurance*  
22           *Program Reauthorization Act of 2009,*  
23           *the Secretary and the Secretary of*  
24           *Health and Human Services, in con-*  
25           *sultation with Directors of State Med-*

1            *icaid agencies under title XIX of the*  
2            *Social Security Act and Directors of*  
3            *State CHIP agencies under title XXI*  
4            *of such Act, shall jointly develop na-*  
5            *tional and State-specific model notices*  
6            *for purposes of subparagraph (A). The*  
7            *Secretary shall provide employers with*  
8            *such model notices so as to enable em-*  
9            *ployers to timely comply with the re-*  
10           *quirements of subparagraph (A). Such*  
11           *model notices shall include information*  
12           *regarding how an employee may con-*  
13           *tact the State in which the employee*  
14           *resides for additional information re-*  
15           *garding potential opportunities for*  
16           *such premium assistance, including*  
17           *how to apply for such assistance.*

18            *“(III) OPTION TO PROVIDE CON-*  
19            *CURRENT WITH PROVISION OF PLAN*  
20            *MATERIALS TO EMPLOYEE.—An em-*  
21            *ployer may provide the model notice*  
22            *applicable to the State in which an*  
23            *employee resides concurrent with the*  
24            *furnishing of materials notifying the*  
25            *employee of health plan eligibility, con-*



1           *current with materials provided to the*  
2           *employee in connection with an open*  
3           *season or election process conducted*  
4           *under the plan, or concurrent with the*  
5           *furnishing of the summary plan de-*  
6           *scription as provided in section 104(b).*

7           “(i)    DISCLOSURE ABOUT GROUP  
8           HEALTH PLAN BENEFITS TO STATES FOR  
9           MEDICAID AND CHIP ELIGIBLE INDIVID-  
10          UALS.—*In the case of a participant or bene-*  
11          *ficiary of a group health plan who is cov-*  
12          *ered under a Medicaid plan of a State*  
13          *under title XIX of the Social Security Act*  
14          *or under a State child health plan under*  
15          *title XXI of such Act, the plan adminis-*  
16          *trator of the group health plan shall disclose*  
17          *to the State, upon request, information*  
18          *about the benefits available under the group*  
19          *health plan in sufficient specificity, as de-*  
20          *termined under regulations of the Secretary*  
21          *of Health and Human Services in consulta-*  
22          *tion with the Secretary that require use of*  
23          *the model coverage coordination disclosure*  
24          *form developed under section 311(b)(1)(C)*  
25          *of the Children’s Health Insurance Program*

1           *Reauthorization Act of 2009, so as to per-*  
2           *mit the State to make a determination*  
3           *(under paragraph (2)(B), (3), or (10) of*  
4           *section 2105(c) of the Social Security Act or*  
5           *otherwise) concerning the cost-effectiveness*  
6           *of the State providing medical or child*  
7           *health assistance through premium assist-*  
8           *ance for the purchase of coverage under such*  
9           *group health plan and in order for the*  
10           *State to provide supplemental benefits re-*  
11           *quired under paragraph (10)(E) of such sec-*  
12           *tion or other authority.”.*

13           (B) *CONFORMING AMENDMENT.*—*Section*  
14           *102(b) of the Employee Retirement Income Secu-*  
15           *urity Act of 1974 (29 U.S.C. 1022(b)) is amend-*  
16           *ed—*

17                     *(i) by striking “and the remedies” and*  
18                     *inserting “, the remedies”; and*

19                     *(ii) by inserting before the period the*  
20                     *following: “, and if the employer so elects*  
21                     *for purposes of complying with section*  
22                     *701(f)(3)(B)(i), the model notice applicable*  
23                     *to the State in which the participants and*  
24                     *beneficiaries reside”.*

1                   (C) *WORKING GROUP TO DEVELOP MODEL*  
2                   *COVERAGE COORDINATION DISCLOSURE FORM.—*

3                   (i) *MEDICAID, CHIP, AND EMPLOYER-*  
4                   *SPONSORED COVERAGE COORDINATION*  
5                   *WORKING GROUP.—*

6                   (I) *IN GENERAL.—Not later than*  
7                   *60 days after the date of enactment of*  
8                   *this Act, the Secretary of Health and*  
9                   *Human Services and the Secretary of*  
10                  *Labor shall jointly establish a Med-*  
11                  *icaid, CHIP, and Employer-Sponsored*  
12                  *Coverage Coordination Working Group*  
13                  *(in this subparagraph referred to as*  
14                  *the “Working Group”). The purpose of*  
15                  *the Working Group shall be to develop*  
16                  *the model coverage coordination disclo-*  
17                  *sure form described in subclause (II)*  
18                  *and to identify the impediments to the*  
19                  *effective coordination of coverage avail-*  
20                  *able to families that include employees*  
21                  *of employers that maintain group*  
22                  *health plans and members who are eli-*  
23                  *gible for medical assistance under title*  
24                  *XIX of the Social Security Act or child*  
25                  *health assistance or other health bene-*

1 *fits coverage under title XXI of such*  
2 *Act.*

3 (II) *MODEL COVERAGE COORDINA-*  
4 *TION DISCLOSURE FORM DESCRIBED.—*  
5 *The model form described in this sub-*  
6 *clause is a form for plan administra-*  
7 *tors of group health plans to complete*  
8 *for purposes of permitting a State to*  
9 *determine the availability and cost-ef-*  
10 *fectiveness of the coverage available*  
11 *under such plans to employees who*  
12 *have family members who are eligible*  
13 *for premium assistance offered under a*  
14 *State plan under title XIX or XXI of*  
15 *such Act and to allow for coordination*  
16 *of coverage for enrollees of such plans.*  
17 *Such form shall provide the following*  
18 *information in addition to such other*  
19 *information as the Working Group de-*  
20 *termines appropriate:*

21 (aa) *A determination of*  
22 *whether the employee is eligible*  
23 *for coverage under the group*  
24 *health plan.*

1                    (bb) *The name and contract*  
2                    *information of the plan adminis-*  
3                    *trator of the group health plan.*

4                    (cc) *The benefits offered*  
5                    *under the plan.*

6                    (dd) *The premiums and cost-*  
7                    *sharing required under the plan.*

8                    (ee) *Any other information*  
9                    *relevant to coverage under the*  
10                    *plan.*

11                   (ii) *MEMBERSHIP.—The Working*  
12                    *Group shall consist of not more than 30*  
13                    *members and shall be composed of rep-*  
14                    *resentatives of—*

15                                (I) *the Department of Labor;*

16                                (II) *the Department of Health*  
17                                *and Human Services;*

18                                (III) *State directors of the Med-*  
19                                *icaid program under title XIX of the*  
20                                *Social Security Act;*

21                                (IV) *State directors of the State*  
22                                *Children’s Health Insurance Program*  
23                                *under title XXI of the Social Security*  
24                                *Act;*

1           (V) *employers, including owners*  
2           *of small businesses and their trade or*  
3           *industry representatives and certified*  
4           *human resource and payroll profes-*  
5           *sionals;*

6           (VI) *plan administrators and*  
7           *plan sponsors of group health plans (as*  
8           *defined in section 607(1) of the Em-*  
9           *ployee Retirement Income Security Act*  
10           *of 1974);*

11           (VII) *health insurance issuers;*  
12           *and*

13           (VIII) *children and other bene-*  
14           *ficiaries of medical assistance under*  
15           *title XIX of the Social Security Act or*  
16           *child health assistance or other health*  
17           *benefits coverage under title XXI of*  
18           *such Act.*

19           (iii) *COMPENSATION.—The members of*  
20           *the Working Group shall serve without com-*  
21           *ensation.*

22           (iv) *ADMINISTRATIVE SUPPORT.—The*  
23           *Department of Health and Human Services*  
24           *and the Department of Labor shall jointly*  
25           *provide appropriate administrative support*

1           *to the Working Group, including technical*  
2           *assistance. The Working Group may use the*  
3           *services and facilities of either such Depart-*  
4           *ment, with or without reimbursement, as*  
5           *jointly determined by such Departments.*

6           *(v) REPORT.—*

7                   *(I) REPORT BY WORKING GROUP*  
8           *TO THE SECRETARIES.—Not later than*  
9           *18 months after the date of the enact-*  
10          *ment of this Act, the Working Group*  
11          *shall submit to the Secretary of Labor*  
12          *and the Secretary of Health and*  
13          *Human Services the model form de-*  
14          *scribed in clause (i)(II) along with a*  
15          *report containing recommendations for*  
16          *appropriate measures to address the*  
17          *impediments to the effective coordina-*  
18          *tion of coverage between group health*  
19          *plans and the State plans under titles*  
20          *XIX and XXI of the Social Security*  
21          *Act.*

22                   *(II) REPORT BY SECRETARIES TO*  
23          *THE CONGRESS.—Not later than 2*  
24          *months after receipt of the report pur-*  
25          *suant to subclause (I), the Secretaries*

1           *shall jointly submit a report to each*  
2           *House of the Congress regarding the*  
3           *recommendations contained in the re-*  
4           *port under such subclause.*

5           *(vi) TERMINATION.—The Working*  
6           *Group shall terminate 30 days after the*  
7           *date of the issuance of its report under*  
8           *clause (v).*

9           *(D) EFFECTIVE DATES.—The Secretary of*  
10          *Labor and the Secretary of Health and Human*  
11          *Services shall develop the initial model notices*  
12          *under section 701(f)(3)(B)(i)(II) of the Employee*  
13          *Retirement Income Security Act of 1974, and the*  
14          *Secretary of Labor shall provide such notices to*  
15          *employers, not later than the date that is 1 year*  
16          *after the date of enactment of this Act, and each*  
17          *employer shall provide the initial annual notices*  
18          *to such employer's employees beginning with the*  
19          *first plan year that begins after the date on*  
20          *which such initial model notices are first issued.*  
21          *The model coverage coordination disclosure form*  
22          *developed under subparagraph (C) shall apply*  
23          *with respect to requests made by States begin-*  
24          *ning with the first plan year that begins after*



1           *the date on which such model coverage coordina-*  
2           *tion disclosure form is first issued.*

3           (E) *ENFORCEMENT.*—*Section 502 of the*  
4           *Employee Retirement Income Security Act of*  
5           *1974 (29 U.S.C. 1132) is amended—*

6                     *(i) in subsection (a)(6), by striking “or*  
7                     *(8)” and inserting “(8), or (9)”;* and

8                     *(ii) in subsection (c), by redesignating*  
9                     *paragraph (9) as paragraph (10), and by*  
10                    *inserting after paragraph (8) the following:*

11            “(9)(A) *The Secretary may assess a civil penalty*  
12            *against any employer of up to \$100 a day from the date*  
13            *of the employer’s failure to meet the notice requirement of*  
14            *section 701(f)(3)(B)(i)(I). For purposes of this subpara-*  
15            *graph, each violation with respect to any single employee*  
16            *shall be treated as a separate violation.*

17            “(B) *The Secretary may assess a civil penalty against*  
18            *any plan administrator of up to \$100 a day from the date*  
19            *of the plan administrator’s failure to timely provide to any*  
20            *State the information required to be disclosed under section*  
21            *701(f)(3)(B)(ii). For purposes of this subparagraph, each*  
22            *violation with respect to any single participant or bene-*  
23            *ficiary shall be treated as a separate violation.”.*

24            (2) *AMENDMENTS TO PUBLIC HEALTH SERVICE*  
25            *ACT.*—*Section 2701(f) of the Public Health Service*

1 *Act (42 U.S.C. 300gg(f)) is amended by adding at the*  
2 *end the following new paragraph:*

3 *“(3) SPECIAL RULES FOR APPLICATION IN CASE*  
4 *OF MEDICAID AND CHIP.—*

5 *“(A) IN GENERAL.—A group health plan,*  
6 *and a health insurance issuer offering group*  
7 *health insurance coverage in connection with a*  
8 *group health plan, shall permit an employee who*  
9 *is eligible, but not enrolled, for coverage under*  
10 *the terms of the plan (or a dependent of such an*  
11 *employee if the dependent is eligible, but not en-*  
12 *rolled, for coverage under such terms) to enroll*  
13 *for coverage under the terms of the plan if either*  
14 *of the following conditions is met:*

15 *“(i) TERMINATION OF MEDICAID OR*  
16 *CHIP COVERAGE.—The employee or depend-*  
17 *ent is covered under a Medicaid plan under*  
18 *title XIX of the Social Security Act or*  
19 *under a State child health plan under title*  
20 *XXI of such Act and coverage of the em-*  
21 *ployee or dependent under such a plan is*  
22 *terminated as a result of loss of eligibility*  
23 *for such coverage and the employee requests*  
24 *coverage under the group health plan (or*  
25 *health insurance coverage) not later than 60*

1           *days after the date of termination of such*  
2           *coverage.*

3           “(ii) *ELIGIBILITY FOR EMPLOYMENT*  
4           *ASSISTANCE UNDER MEDICAID OR CHIP.—*  
5           *The employee or dependent becomes eligible*  
6           *for assistance, with respect to coverage*  
7           *under the group health plan or health in-*  
8           *surance coverage, under such Medicaid plan*  
9           *or State child health plan (including under*  
10           *any waiver or demonstration project con-*  
11           *ducted under or in relation to such a plan),*  
12           *if the employee requests coverage under the*  
13           *group health plan or health insurance cov-*  
14           *erage not later than 60 days after the date*  
15           *the employee or dependent is determined to*  
16           *be eligible for such assistance.*

17           “(B) *COORDINATION WITH MEDICAID AND*  
18           *CHIP.—*

19           “(i) *OUTREACH TO EMPLOYEES RE-*  
20           *GARDING AVAILABILITY OF MEDICAID AND*  
21           *CHIP COVERAGE.—*

22           “(I) *IN GENERAL.—Each em-*  
23           *ployer that maintains a group health*  
24           *plan in a State that provides medical*  
25           *assistance under a State Medicaid*

1            *plan under title XIX of the Social Se-*  
2            *curity Act, or child health assistance*  
3            *under a State child health plan under*  
4            *title XXI of such Act, in the form of*  
5            *premium assistance for the purchase of*  
6            *coverage under a group health plan,*  
7            *shall provide to each employee a writ-*  
8            *ten notice informing the employee of*  
9            *potential opportunities then currently*  
10           *available in the State in which the em-*  
11           *ployee resides for premium assistance*  
12           *under such plans for health coverage of*  
13           *the employee or the employee’s depend-*  
14           *ents. For purposes of compliance with*  
15           *this subclause, the employer may use*  
16           *any State-specific model notice devel-*  
17           *oped in accordance with section*  
18           *701(f)(3)(B)(i)(II) of the Employee Re-*  
19           *irement Income Security Act of 1974*  
20           *(29 U.S.C. 1181(f)(3)(B)(i)(II)).*

21            *“(II) OPTION TO PROVIDE CON-*  
22            *CURRENT WITH PROVISION OF PLAN*  
23            *MATERIALS TO EMPLOYEE.—An em-*  
24            *ployer may provide the model notice*  
25            *applicable to the State in which an*

1 *employee resides concurrent with the*  
2 *furnishing of materials notifying the*  
3 *employee of health plan eligibility, con-*  
4 *current with materials provided to the*  
5 *employee in connection with an open*  
6 *season or election process conducted*  
7 *under the plan, or concurrent with the*  
8 *furnishing of the summary plan de-*  
9 *scription as provided in section 104(b)*  
10 *of the Employee Retirement Income*  
11 *Security Act of 1974.*

12 “(ii) *DISCLOSURE ABOUT GROUP*  
13 *HEALTH PLAN BENEFITS TO STATES FOR*  
14 *MEDICAID AND CHIP ELIGIBLE INDIVID-*  
15 *UALS.—In the case of an enrollee in a*  
16 *group health plan who is covered under a*  
17 *Medicaid plan of a State under title XIX of*  
18 *the Social Security Act or under a State*  
19 *child health plan under title XXI of such*  
20 *Act, the plan administrator of the group*  
21 *health plan shall disclose to the State, upon*  
22 *request, information about the benefits*  
23 *available under the group health plan in*  
24 *sufficient specificity, as determined under*  
25 *regulations of the Secretary of Health and*

1 *Human Services in consultation with the*  
 2 *Secretary that require use of the model cov-*  
 3 *erage coordination disclosure form developed*  
 4 *under section 311(b)(1)(C) of the Children’s*  
 5 *Health Insurance Reauthorization Act of*  
 6 *2009, so as to permit the State to make a*  
 7 *determination (under paragraph (2)(B),*  
 8 *(3), or (10) of section 2105(c) of the Social*  
 9 *Security Act or otherwise) concerning the*  
 10 *cost-effectiveness of the State providing med-*  
 11 *ical or child health assistance through pre-*  
 12 *mium assistance for the purchase of cov-*  
 13 *erage under such group health plan and in*  
 14 *order for the State to provide supplemental*  
 15 *benefits required under paragraph (10)(E)*  
 16 *of such section or other authority.”.*

17 **TITLE IV—STRENGTHENING**  
 18 **QUALITY OF CARE AND**  
 19 **HEALTH OUTCOMES**

20 **SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVI-**  
 21 **TIES FOR CHILDREN ENROLLED IN MEDICAID**  
 22 **OR CHIP.**

23 (a) *DEVELOPMENT OF CHILD HEALTH QUALITY*  
 24 *MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR*

1 *CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by*  
2 *inserting after section 1139 the following new section:*

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

4       “(a) *DEVELOPMENT OF AN INITIAL CORE SET OF*  
5 *HEALTH CARE QUALITY MEASURES FOR CHILDREN EN-*  
6 *ROLLED IN MEDICAID OR CHIP.—*

7               “(1) *IN GENERAL.—Not later than January 1,*  
8 *2010, the Secretary shall identify and publish for gen-*  
9 *eral comment an initial, recommended core set of*  
10 *child health quality measures for use by State pro-*  
11 *grams administered under titles XIX and XXI, health*  
12 *insurance issuers and managed care entities that*  
13 *enter into contracts with such programs, and pro-*  
14 *viders of items and services under such programs.*

15               “(2) *IDENTIFICATION OF INITIAL CORE MEAS-*  
16 *URES.—In consultation with the individuals and en-*  
17 *tities described in subsection (b)(3), the Secretary*  
18 *shall identify existing quality of care measures for*  
19 *children that are in use under public and privately*  
20 *sponsored health care coverage arrangements, or that*  
21 *are part of reporting systems that measure both the*  
22 *presence and duration of health insurance coverage*  
23 *over time.*

24               “(3) *RECOMMENDATIONS AND DISSEMINATION.—*  
25 *Based on such existing and identified measures, the*

1 *Secretary shall publish an initial core set of child*  
2 *health quality measures that includes (but is not lim-*  
3 *ited to) the following:*

4           “(A) *The duration of children’s health in-*  
5 *surance coverage over a 12-month time period.*

6           “(B) *The availability and effectiveness of a*  
7 *full range of—*

8                   “(i) *preventive services, treatments,*  
9 *and services for acute conditions, including*  
10 *services to promote healthy birth, prevent*  
11 *and treat premature birth, and detect the*  
12 *presence or risk of physical or mental con-*  
13 *ditions that could adversely affect growth*  
14 *and development; and*

15                   “(ii) *treatments to correct or amelio-*  
16 *rate the effects of physical and mental con-*  
17 *ditions, including chronic conditions, in in-*  
18 *fant, young children, school-age children,*  
19 *and adolescents.*

20           “(C) *The availability of care in a range of*  
21 *ambulatory and inpatient health care settings in*  
22 *which such care is furnished.*

23           “(D) *The types of measures that, taken to-*  
24 *gether, can be used to estimate the overall na-*  
25 *tional quality of health care for children, includ-*



1            *ing children with special needs, and to perform*  
2            *comparative analyses of pediatric health care*  
3            *quality and racial, ethnic, and socioeconomic*  
4            *disparities in child health and health care for*  
5            *children.*

6            “(4) *ENCOURAGE VOLUNTARY AND STANDARD-*  
7            *IZED REPORTING.—Not later than 2 years after the*  
8            *date of enactment of the Children’s Health Insurance*  
9            *Program Reauthorization Act of 2009, the Secretary,*  
10           *in consultation with States, shall develop a standard-*  
11           *ized format for reporting information and procedures*  
12           *and approaches that encourage States to use the ini-*  
13           *tial core measurement set to voluntarily report infor-*  
14           *mation regarding the quality of pediatric health care*  
15           *under titles XIX and XXI.*

16           “(5) *ADOPTION OF BEST PRACTICES IN IMPLE-*  
17           *MENTING QUALITY PROGRAMS.—The Secretary shall*  
18           *disseminate information to States regarding best*  
19           *practices among States with respect to measuring and*  
20           *reporting on the quality of health care for children,*  
21           *and shall facilitate the adoption of such best prac-*  
22           *tices. In developing best practices approaches, the Sec-*  
23           *retary shall give particular attention to State meas-*  
24           *urement techniques that ensure the timeliness and ac-*  
25           *curacy of provider reporting, encourage provider re-*

1 *porting compliance, encourage successful quality im-*  
2 *provement strategies, and improve efficiency in data*  
3 *collection using health information technology.*

4 “(6) *REPORTS TO CONGRESS.*—*Not later than*  
5 *January 1, 2011, and every 3 years thereafter, the*  
6 *Secretary shall report to Congress on—*

7 “(A) *the status of the Secretary’s efforts to*  
8 *improve—*

9 “(i) *quality related to the duration*  
10 *and stability of health insurance coverage*  
11 *for children under titles XIX and XXI;*

12 “(ii) *the quality of children’s health*  
13 *care under such titles, including preventive*  
14 *health services, health care for acute condi-*  
15 *tions, chronic health care, and health serv-*  
16 *ices to ameliorate the effects of physical and*  
17 *mental conditions and to aid in growth and*  
18 *development of infants, young children,*  
19 *school-age children, and adolescents with*  
20 *special health care needs; and*

21 “(iii) *the quality of children’s health*  
22 *care under such titles across the domains of*  
23 *quality, including clinical quality, health*  
24 *care safety, family experience with health*  
25 *care, health care in the most integrated set-*

1            *ting, and elimination of racial, ethnic, and*  
2            *socioeconomic disparities in health and*  
3            *health care;*

4            *“(B) the status of voluntary reporting by*  
5            *States under titles XIX and XXI, utilizing the*  
6            *initial core quality measurement set; and*

7            *“(C) any recommendations for legislative*  
8            *changes needed to improve the quality of care*  
9            *provided to children under titles XIX and XXI,*  
10           *including recommendations for quality reporting*  
11           *by States.*

12           *“(7) TECHNICAL ASSISTANCE.—The Secretary*  
13           *shall provide technical assistance to States to assist*  
14           *them in adopting and utilizing core child health qual-*  
15           *ity measures in administering the State plans under*  
16           *titles XIX and XXI.*

17           *“(8) DEFINITION OF CORE SET.—In this section,*  
18           *the term ‘core set’ means a group of valid, reliable,*  
19           *and evidence-based quality measures that, taken to-*  
20           *gether—*

21           *“(A) provide information regarding the*  
22           *quality of health coverage and health care for*  
23           *children;*

24           *“(B) address the needs of children through-*  
25           *out the developmental age span; and*

1           “(C) allow purchasers, families, and health  
2           care providers to understand the quality of care  
3           in relation to the preventive needs of children,  
4           treatments aimed at managing and resolving  
5           acute conditions, and diagnostic and treatment  
6           services whose purpose is to correct or ameliorate  
7           physical, mental, or developmental conditions  
8           that could, if untreated or poorly treated, become  
9           chronic.

10           “(b) *ADVANCING AND IMPROVING PEDIATRIC QUALITY*  
11 *MEASURES.*—

12           “(1) *ESTABLISHMENT OF PEDIATRIC QUALITY*  
13 *MEASURES PROGRAM.*—Not later than January 1,  
14 2011, the Secretary shall establish a pediatric quality  
15 measures program to—

16           “(A) improve and strengthen the initial  
17 core child health care quality measures estab-  
18 lished by the Secretary under subsection (a);

19           “(B) expand on existing pediatric quality  
20 measures used by public and private health care  
21 purchasers and advance the development of such  
22 new and emerging quality measures; and

23           “(C) increase the portfolio of evidence-based,  
24 consensus pediatric quality measures available to

1           *public and private purchasers of children’s*  
2           *health care services, providers, and consumers.*

3           “(2) *EVIDENCE-BASED MEASURES.—The meas-*  
4           *ures developed under the pediatric quality measures*  
5           *program shall, at a minimum, be—*

6                     “(A) *evidence-based and, where appropriate,*  
7                     *risk adjusted;*

8                     “(B) *designed to identify and eliminate ra-*  
9                     *cial and ethnic disparities in child health and*  
10                    *the provision of health care;*

11                   “(C) *designed to ensure that the data re-*  
12                   *quired for such measures is collected and re-*  
13                   *ported in a standard format that permits com-*  
14                   *parison of quality and data at a State, plan,*  
15                   *and provider level;*

16                   “(D) *periodically updated; and*

17                   “(E) *responsive to the child health needs,*  
18                   *services, and domains of health care quality de-*  
19                   *scribed in clauses (i), (ii), and (iii) of subsection*  
20                   *(a)(6)(A).*

21           “(3) *PROCESS FOR PEDIATRIC QUALITY MEAS-*  
22           *URES PROGRAM.—In identifying gaps in existing pe-*  
23           *diatric quality measures and establishing priorities*  
24           *for development and advancement of such measures,*  
25           *the Secretary shall consult with—*

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“(A) States;

“(B) pediatricians, children’s hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

“(C) dental professionals, including pediatric dental professionals;

“(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

“(E) national organizations representing children, including children with disabilities and children with chronic conditions;

“(F) national organizations representing consumers and purchasers of children’s health care;

“(G) national organizations and individuals with expertise in pediatric health quality measurement; and

1           “(H) *voluntary consensus standards setting*  
2           *organizations and other organizations involved*  
3           *in the advancement of evidence-based measures of*  
4           *health care.*

5           “(4) *DEVELOPING, VALIDATING, AND TESTING A*  
6           *PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As*  
7           *part of the program to advance pediatric quality*  
8           *measures, the Secretary shall—*

9                   “(A) *award grants and contracts for the de-*  
10                  *velopment, testing, and validation of new, emerg-*  
11                  *ing, and innovative evidence-based measures for*  
12                  *children’s health care services across the domains*  
13                  *of quality described in clauses (i), (ii), and (iii)*  
14                  *of subsection (a)(6)(A); and*

15                  “(B) *award grants and contracts for—*

16                          “(i) *the development of consensus on*  
17                          *evidence-based measures for children’s*  
18                          *health care services;*

19                          “(ii) *the dissemination of such meas-*  
20                          *ures to public and private purchasers of*  
21                          *health care for children; and*

22                          “(iii) *the updating of such measures as*  
23                          *necessary.*

24           “(5) *REVISING, STRENGTHENING, AND IMPROV-*  
25           *ING INITIAL CORE MEASURES.—Beginning no later*

1 *than January 1, 2013, and annually thereafter, the*  
2 *Secretary shall publish recommended changes to the*  
3 *core measures described in subsection (a) that shall*  
4 *reflect the testing, validation, and consensus process*  
5 *for the development of pediatric quality measures de-*  
6 *scribed in subsection paragraphs (1) through (4).*

7 “(6) *DEFINITION OF PEDIATRIC QUALITY MEAS-*  
8 *URE.—In this subsection, the term ‘pediatric quality*  
9 *measure’ means a measurement of clinical care that*  
10 *is capable of being examined through the collection*  
11 *and analysis of relevant information, that is devel-*  
12 *oped in order to assess 1 or more aspects of pediatric*  
13 *health care quality in various institutional and am-*  
14 *bulatory health care settings, including the structure*  
15 *of the clinical care system, the process of care, the out-*  
16 *come of care, or patient experiences in care.*

17 “(7) *CONSTRUCTION.—Nothing in this section*  
18 *shall be construed as supporting the restriction of cov-*  
19 *erage, under title XIX or XXI or otherwise, to only*  
20 *those services that are evidence-based.*

21 “(c) *ANNUAL STATE REPORTS REGARDING STATE-*  
22 *SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER*  
23 *MEDICAID OR CHIP.—*

24 “(1) *ANNUAL STATE REPORTS.—Each State with*  
25 *a State plan approved under title XIX or a State*



1 *child health plan approved under title XXI shall an-*  
2 *nually report to the Secretary on the—*

3 “(A) *State-specific child health quality*  
4 *measures applied by the States under such plans,*  
5 *including measures described in subparagraphs*  
6 *(A) and (B) of subsection (a)(6); and*

7 “(B) *State-specific information on the qual-*  
8 *ity of health care furnished to children under*  
9 *such plans, including information collected*  
10 *through external quality reviews of managed care*  
11 *organizations under section 1932 of the Social*  
12 *Security Act (42 U.S.C. 1396u–4) and bench-*  
13 *mark plans under sections 1937 and 2103 of*  
14 *such Act (42 U.S.C. 1396u–7, 1397cc).*

15 “(2) *PUBLICATION.—Not later than September*  
16 *30, 2010, and annually thereafter, the Secretary shall*  
17 *collect, analyze, and make publicly available the in-*  
18 *formation reported by States under paragraph (1).*

19 “(d) *DEMONSTRATION PROJECTS FOR IMPROVING THE*  
20 *QUALITY OF CHILDREN’S HEALTH CARE AND THE USE OF*  
21 *HEALTH INFORMATION TECHNOLOGY.—*

22 “(1) *IN GENERAL.—During the period of fiscal*  
23 *years 2009 through 2013, the Secretary shall award*  
24 *not more than 10 grants to States and child health*  
25 *providers to conduct demonstration projects to evalu-*

1 *ate promising ideas for improving the quality of chil-*  
2 *dren’s health care provided under title XIX or XXI,*  
3 *including projects to—*

4 *“(A) experiment with, and evaluate the use*  
5 *of, new measures of the quality of children’s*  
6 *health care under such titles (including testing*  
7 *the validity and suitability for reporting of such*  
8 *measures);*

9 *“(B) promote the use of health information*  
10 *technology in care delivery for children under*  
11 *such titles;*

12 *“(C) evaluate provider-based models which*  
13 *improve the delivery of children’s health care*  
14 *services under such titles, including care man-*  
15 *agement for children with chronic conditions and*  
16 *the use of evidence-based approaches to improve*  
17 *the effectiveness, safety, and efficiency of health*  
18 *care services for children; or*

19 *“(D) demonstrate the impact of the model*  
20 *electronic health record format for children devel-*  
21 *oped and disseminated under subsection (f) on*  
22 *improving pediatric health, including the effects*  
23 *of chronic childhood health conditions, and pedi-*  
24 *atric health care quality as well as reducing*  
25 *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 PROJECTS.*—  
 12 *A demonstration project conducted with a grant*  
 13 *awarded under this subsection may be conducted on*  
 14 *a multistate basis, as needed.*

15           “(4) *FUNDING.*—*\$20,000,000 of the amount ap-*  
 16 *propriated under subsection (i) for a fiscal year shall*  
 17 *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 de-*  
 24 *velop a comprehensive and systematic model for re-*  
 25 *ducing childhood obesity by awarding grants to eligi-*

1 *ble 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, need-*  
6 *ed 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 target*  
10 *individuals and their families to reduce risk fac-*  
11 *tors and promote the appropriate use of preven-*  
12 *tive 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 entities,*  
16          *including schools and other facilities pro-*  
17          *viding recreational services, to establish*  
18          *programs for after school and weekend com-*  
19          *munity activities that are designed to re-*  
20          *duce childhood obesity;*

21           “(ii) *forming partnerships with*  
22          *daycare facilities to establish programs that*  
23          *promote healthy eating behaviors and phys-*  
24          *ical activity; and*

1           “(iii) developing and evaluating com-  
2           munity educational activities targeting good  
3           nutrition and promoting healthy eating be-  
4           haviors;

5           “(B) carry out age-appropriate school-based  
6           activities that are designed to reduce childhood  
7           obesity, including by—

8                   “(i) developing and testing educational  
9                   curricula and intervention programs de-  
10                  signed to promote healthy eating behaviors  
11                  and habits in youth, which may include—

12                           “(I) after hours physical activity  
13                           programs; and

14                           “(II) science-based interventions  
15                           with multiple components to prevent  
16                           eating disorders including nutritional  
17                           content, understanding and responding  
18                           to hunger and satiety, positive body  
19                           image development, positive self-esteem  
20                           development, and learning life skills  
21                           (such as stress management, commu-  
22                           nication skills, problemsolving and de-  
23                           cisionmaking skills), as well as consid-  
24                           eration of cultural and developmental

1                    *issues, and the role of family, school,*  
2                    *and community;*

3                    *“(ii) providing education and training*  
4                    *to educational professionals regarding how*  
5                    *to promote a healthy lifestyle and a healthy*  
6                    *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 par-*  
13                   *ents or guardians, with an emphasis on*  
14                   *healthy eating behaviors and physical activ-*  
15                   *ity for children;*

16                   *“(C) carry out educational, counseling, pro-*  
17                   *motional, and training activities through the*  
18                   *local health care delivery systems including by—*

19                   *“(i) promoting healthy eating behav-*  
20                   *iors and physical activity services to treat*  
21                   *or prevent eating disorders, being over-*  
22                   *weight, and obesity;*

23                   *“(ii) providing patient education and*  
24                   *counseling to increase physical activity and*  
25                   *promote healthy eating behaviors;*

1           “(iii) training health professionals on  
2           how to identify and treat obese and over-  
3           weight individuals which may include nu-  
4           trition and physical activity counseling;  
5           and

6           “(iv) providing community education  
7           by a health professional on good nutrition  
8           and physical activity to develop a better un-  
9           derstanding of the relationship between diet,  
10          physical activity, and eating disorders, obe-  
11          sity, or being overweight; and

12          “(D) provide, through qualified health pro-  
13          fessionals, training and supervision for commu-  
14          nity health workers to—

15               “(i) educate families regarding the re-  
16               lationship between nutrition, eating habits,  
17               physical activity, and obesity;

18               “(ii) educate families about effective  
19               strategies to improve nutrition, establish  
20               healthy eating patterns, and establish ap-  
21               propriate levels of physical activity; and

22               “(iii) educate and guide parents re-  
23               garding the ability to model and commu-  
24               nicate positive health behaviors.



1           “(4) *PRIORITY.*—*In awarding grants under*  
2 *paragraph (1), the Secretary shall give priority to*  
3 *awarding grants to eligible entities—*

4           “(A) *that demonstrate that they have pre-*  
5 *viously applied successfully for funds to carry*  
6 *out activities that seek to promote individual*  
7 *and community health and to prevent the inci-*  
8 *dence of chronic disease and that can cite pub-*  
9 *lished and peer-reviewed research demonstrating*  
10 *that the activities that the entities propose to*  
11 *carry out with funds made available under the*  
12 *grant are effective;*

13           “(B) *that will carry out programs or activi-*  
14 *ties that seek to accomplish a goal or goals set*  
15 *by the State in the Healthy People 2010 plan of*  
16 *the State;*

17           “(C) *that provide non-Federal contribu-*  
18 *tions, either in cash or in-kind, to the costs of*  
19 *funding activities under the grants;*

20           “(D) *that develop comprehensive plans that*  
21 *include a strategy for extending program activi-*  
22 *ties developed under grants in the years fol-*  
23 *lowing the fiscal years for which they receive*  
24 *grants under this subsection;*

1           “(E) located in communities that are medi-  
2           cally underserved, as determined by the Sec-  
3           retary;

4           “(F) located in areas in which the average  
5           poverty rate is at least 150 percent or higher of  
6           the average poverty rate in the State involved, as  
7           determined by the Secretary; and

8           “(G) that submit plans that exhibit multi-  
9           sectoral, cooperative conduct that includes the in-  
10          volvement of a broad range of stakeholders, in-  
11          cluding—

12                   “(i) community-based organizations;

13                   “(ii) local governments;

14                   “(iii) local educational agencies;

15                   “(iv) the private sector;

16                   “(v) State or local departments of  
17                   health;

18                   “(vi) accredited colleges, universities,  
19                   and community colleges;

20                   “(vii) health care providers;

21                   “(viii) State and local departments of  
22                   transportation and city planning; and

23                   “(ix) other entities determined appro-  
24                   priate by the Secretary.

25          “(5) PROGRAM DESIGN.—

1           “(A) *INITIAL DESIGN.*—Not later than 1  
2           year after the date of enactment of the Children’s  
3           Health Insurance Program Reauthorization Act  
4           of 2009, the Secretary shall design the dem-  
5           onstration project. The demonstration should  
6           draw upon promising, innovative models and in-  
7           centives to reduce behavioral risk factors. The  
8           Administrator of the Centers for Medicare &  
9           Medicaid Services shall consult with the Director  
10          of the Centers for Disease Control and Preven-  
11          tion, the Director of the Office of Minority  
12          Health, the heads of other agencies in the De-  
13          partment of Health and Human Services, and  
14          such professional organizations, as the Secretary  
15          determines to be appropriate, on the design, con-  
16          duct, and evaluation of the demonstration.

17          “(B) *NUMBER AND PROJECT AREAS.*—Not  
18          later than 2 years after the date of enactment of  
19          the Children’s Health Insurance Program Reau-  
20          thorization Act of 2009, the Secretary shall  
21          award 1 grant that is specifically designed to de-  
22          termine whether programs similar to programs  
23          to be conducted by other grantees under this sub-  
24          section should be implemented with respect to the  
25          general population of children who are eligible

1           *for child health assistance under State child*  
2           *health plans under title XXI in order to reduce*  
3           *the incidence of childhood obesity among such*  
4           *population.*

5           “(6) *REPORT TO CONGRESS.*—*Not later than 3*  
6           *years after the date the Secretary implements the*  
7           *demonstration project under this subsection, the Sec-*  
8           *retary shall submit to Congress a report that describes*  
9           *the project, evaluates the effectiveness and cost effec-*  
10           *tiveness of the project, evaluates the beneficiary satis-*  
11           *faction under the project, and includes any such other*  
12           *information as the Secretary determines to be appro-*  
13           *priate.*

14           “(7) *DEFINITIONS.*—*In this subsection:*

15                   “(A) *FEDERALLY-QUALIFIED HEALTH CEN-*  
16                   *TER.*—*The term ‘Federally-qualified health cen-*  
17                   *ter’ has the meaning given that term in section*  
18                   *1905(l)(2)(B).*

19                   “(B) *INDIAN TRIBE.*—*The term ‘Indian*  
20                   *tribe’ has the meaning given that term in section*  
21                   *4 of the Indian Health Care Improvement Act*  
22                   *(25 U.S.C. 1603).*

23                   “(C) *SELF-ASSESSMENT.*—*The term ‘self-as-*  
24                   *essment’ means a form that—*

25                           “(i) *includes questions regarding—*

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*“(I) behavioral risk factors;*

*“(II) needed preventive and screening services; and*

*“(III) target individuals’ preferences for receiving follow-up information;*

*“(ii) is assessed using such computer generated assessment programs; and*

*“(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.*

*“(D) ONGOING SUPPORT.—The term ‘ongoing support’ means—*

*“(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—*

*“(I) the results of a self-assessment given to the individual;*

*“(II) behavior modification based on the self-assessment; and*

*“(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;*

1           “(ii) to provide any target individual  
2           with referrals to community resources and  
3           programs available to assist the target indi-  
4           vidual in reducing health risks; and

5           “(iii) to provide the information de-  
6           scribed in clause (i) to a health care pro-  
7           vider, if designated by the target individual  
8           to receive such information.

9           “(8) *AUTHORIZATION OF APPROPRIATIONS.*—  
10          *There is authorized to be appropriated to carry out*  
11          *this subsection, \$25,000,000 for the period of fiscal*  
12          *years 2009 through 2013.*

13          “(f) *DEVELOPMENT OF MODEL ELECTRONIC HEALTH*  
14          *RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID*  
15          *OR CHIP.*—

16                 “(1) *IN GENERAL.*—*Not later than January 1,*  
17                 *2010, the Secretary shall establish a program to en-*  
18                 *courage the development and dissemination of a*  
19                 *model electronic health record format for children en-*  
20                 *rolled in the State plan under title XIX or the State*  
21                 *child health plan under title XXI that is—*

22                         “(A) *subject to State laws, accessible to par-*  
23                         *ents, caregivers, and other consumers for the sole*  
24                         *purpose of demonstrating compliance with school*

1           *or leisure activity requirements, such as appro-*  
2           *propriate immunizations or physicals;*

3           “(B) *designed to allow interoperable ex-*  
4           *changes that conform with Federal and State*  
5           *privacy and security requirements;*

6           “(C) *structured in a manner that permits*  
7           *parents and caregivers to view and understand*  
8           *the extent to which the care their children receive*  
9           *is clinically appropriate and of high quality;*  
10          *and*

11          “(D) *capable of being incorporated into,*  
12          *and otherwise compatible with, other standards*  
13          *developed for electronic health records.*

14          “(2) *FUNDING.—\$5,000,000 of the amount ap-*  
15          *propriated under subsection (i) for a fiscal year shall*  
16          *be used to carry out this subsection.*

17          “(g) *STUDY OF PEDIATRIC HEALTH AND HEALTH*  
18          *CARE QUALITY MEASURES.—*

19                 “(1) *IN GENERAL.—Not later than July 1, 2010,*  
20                 *the Institute of Medicine shall study and report to*  
21                 *Congress on the extent and quality of efforts to meas-*  
22                 *ure child health status and the quality of health care*  
23                 *for children across the age span and in relation to*  
24                 *preventive care, treatments for acute conditions, and*  
25                 *treatments aimed at ameliorating or correcting phys-*

1     *ical, mental, and developmental conditions in chil-*  
2     *dren. In conducting such study and preparing such*  
3     *report, the Institute of Medicine shall—*

4             *“(A) consider all of the major national pop-*  
5             *ulation-based reporting systems sponsored by the*  
6             *Federal Government that are currently in place,*  
7             *including reporting requirements under Federal*  
8             *grant programs and national population surveys*  
9             *and estimates conducted directly by the Federal*  
10            *Government;*

11            *“(B) identify the information regarding*  
12            *child health and health care quality that each*  
13            *system is designed to capture and generate, the*  
14            *study and reporting periods covered by each sys-*  
15            *tem, and the extent to which the information so*  
16            *generated is made widely available through pub-*  
17            *lication;*

18            *“(C) identify gaps in knowledge related to*  
19            *children’s health status, health disparities among*  
20            *subgroups of children, the effects of social condi-*  
21            *tions on children’s health status and use and ef-*  
22            *fectiveness of health care, and the relationship*  
23            *between child health status and family income,*  
24            *family stability and preservation, and children’s*



1           *school readiness and educational achievement*  
2           *and attainment; and*

3           “(D) *make recommendations regarding im-*  
4           *proving and strengthening the timeliness, qual-*  
5           *ity, and public transparency and accessibility of*  
6           *information about child health and health care*  
7           *quality.*

8           “(2) *FUNDING.—Up to \$1,000,000 of the amount*  
9           *appropriated under subsection (i) for a fiscal year*  
10          *shall be used to carry out this subsection.*

11          “(h) *RULE OF CONSTRUCTION.—Notwithstanding any*  
12          *other provision in this section, no evidence based quality*  
13          *measure developed, published, or used as a basis of measure-*  
14          *ment or reporting under this section may be used to estab-*  
15          *lish an irrebuttable presumption regarding either the med-*  
16          *ical necessity of care or the maximum permissible coverage*  
17          *for any individual child who is eligible for and receiving*  
18          *medical assistance under title XIX or child health assist-*  
19          *ance under title XXI.*

20          “(i) *APPROPRIATION.—Out of any funds in the Treas-*  
21          *ury not otherwise appropriated, there is appropriated for*  
22          *each of fiscal years 2009 through 2013, \$45,000,000 for the*  
23          *purpose of carrying out this section (other than subsection*  
24          *(e)). Funds appropriated under this subsection shall remain*  
25          *available until expended.”.*

1       **(b) INCREASED MATCHING RATE FOR COLLECTING**  
2 **AND REPORTING ON CHILD HEALTH MEASURES.**—Section  
3 **1903(a)(3)(A)** (42 U.S.C. 1396b(a)(3)(A)), is amended—

4           (1) by striking “and” at the end of clause (i);  
5       and

6           (2) by adding at the end the following new  
7       clause:

8                   “(iii) an amount equal to the Federal med-  
9       ical assistance percentage (as defined in section  
10       1905(b)) of so much of the sums expended during  
11       such quarter (as found necessary by the Sec-  
12       retary for the proper and efficient administra-  
13       tion of the State plan) as are attributable to such  
14       developments or modifications of systems of the  
15       type described in clause (i) as are necessary for  
16       the efficient collection and reporting on child  
17       health measures; and”.

18 **SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMA-**  
19 **TION REGARDING ENROLLMENT OF CHIL-**  
20 **DREN IN CHIP AND MEDICAID.**

21       **(a) INCLUSION OF PROCESS AND ACCESS MEASURES**  
22 **IN ANNUAL STATE REPORTS.**—Section 2108 (42 U.S.C.  
23 **1397hh)** is amended—

1           (1) *in subsection (a), in the matter preceding*  
2           *paragraph (1), by striking “The State” and inserting*  
3           *“Subject to subsection (e), the State”; and*

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

6           “(e) *INFORMATION REQUIRED FOR INCLUSION IN*  
7           *STATE ANNUAL REPORT.—The State shall include the fol-*  
8           *lowing information in the annual report required under*  
9           *subsection (a):*

10           “(1) *Eligibility criteria, enrollment, and reten-*  
11           *tion data (including data with respect to continuity*  
12           *of coverage or duration of benefits).*

13           “(2) *Data regarding the extent to which the*  
14           *State uses process measures with respect to deter-*  
15           *mining the eligibility of children under the State*  
16           *child health plan, including measures such as 12-*  
17           *month continuous eligibility, self-declaration of in-*  
18           *come for applications or renewals, or presumptive eli-*  
19           *gibility.*

20           “(3) *Data regarding denials of eligibility and re-*  
21           *determinations of eligibility.*

22           “(4) *Data regarding access to primary and spe-*  
23           *cialty services, access to networks of care, and care co-*  
24           *ordination provided under the State child health*  
25           *plan, using quality care and consumer satisfaction*

1 *measures included in the Consumer Assessment of*  
2 *Healthcare Providers and Systems (CAHPS) survey.*

3       “(5) *If the State provides child health assistance*  
4 *in the form of premium assistance for the purchase of*  
5 *coverage under a group health plan, data regarding*  
6 *the provision of such assistance, including the extent*  
7 *to which employer-sponsored health insurance cov-*  
8 *erage is available for children eligible for child health*  
9 *assistance under the State child health plan, the*  
10 *range of the monthly amount of such assistance pro-*  
11 *vided on behalf of a child or family, the number of*  
12 *children or families provided such assistance on a*  
13 *monthly basis, the income of the children or families*  
14 *provided such assistance, the benefits and cost-sharing*  
15 *protection provided under the State child health plan*  
16 *to supplement the coverage purchased with such pre-*  
17 *mium assistance, the effective strategies the State en-*  
18 *gages in to reduce any administrative barriers to the*  
19 *provision of such assistance, and, the effects, if any,*  
20 *of the provision of such assistance on preventing the*  
21 *coverage provided under the State child health plan*  
22 *from substituting for coverage provided under em-*  
23 *ployer-sponsored health insurance offered in the State.*

24       “(6) *To the extent applicable, a description of*  
25 *any State activities that are designed to reduce the*

1     *number of uncovered children in the State, including*  
2     *through a State health insurance connector program*  
3     *or support for innovative private health coverage ini-*  
4     *tiatives.”.*

5     ***(b) STANDARDIZED REPORTING FORMAT.—***

6             ***(1) IN GENERAL.—****Not later than 1 year after*  
7     *the date of enactment of this Act, the Secretary shall*  
8     *specify a standardized format for States to use for re-*  
9     *porting the information required under section*  
10    *2108(e) of the Social Security Act, as added by sub-*  
11    *section (a)(2).*

12            ***(2) TRANSITION PERIOD FOR STATES.—****Each*  
13    *State that is required to submit a report under sub-*  
14    *section (a) of section 2108 of the Social Security Act*  
15    *that includes the information required under sub-*  
16    *section (e) of such section may use up to 3 reporting*  
17    *periods to transition to the reporting of such informa-*  
18    *tion in accordance with the standardized format spec-*  
19    *ified by the Secretary under paragraph (1).*

20     ***(c) ADDITIONAL FUNDING FOR THE SECRETARY TO***  
21    ***IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS***  
22    ***FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES***  
23    ***UNDER MEDICAID AND CHIP.—***

24            ***(1) APPROPRIATION.—****There is appropriated, out*  
25    *of any money in the Treasury not otherwise appro-*

1     *appropriated, \$5,000,000 to the Secretary for fiscal year*  
2     *2009 for the purpose of improving the timeliness of*  
3     *the data reported and analyzed from the Medicaid*  
4     *Statistical Information System (MSIS) for purposes*  
5     *of providing more timely data on enrollment and eli-*  
6     *gibility of children under Medicaid and CHIP and to*  
7     *provide guidance to States with respect to any new*  
8     *reporting requirements related to such improvements.*  
9     *Amounts appropriated under this paragraph shall re-*  
10    *main available until expended.*

11           (2) *REQUIREMENTS.—The improvements made*  
12    *by the Secretary under paragraph (1) shall be de-*  
13    *signed and implemented (including with respect to*  
14    *any necessary guidance for States to report such in-*  
15    *formation in a complete and expeditious manner) so*  
16    *that, beginning no later than October 1, 2009, data*  
17    *regarding the enrollment of low-income children (as*  
18    *defined in section 2110(c)(4) of the Social Security*  
19    *Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the*  
20    *State plan under Medicaid or the State child health*  
21    *plan under CHIP with respect to a fiscal year shall*  
22    *be collected and analyzed by the Secretary within 6*  
23    *months of submission.*

24           (d) *GAO STUDY AND REPORT ON ACCESS TO PRIMARY*  
25    *AND SPECIALITY SERVICES.—*

1           (1) *IN GENERAL.*—*The Comptroller General of*  
2 *the United States shall conduct a study of children’s*  
3 *access to primary and specialty services under Med-*  
4 *icaid and CHIP, including—*

5                   (A) *the extent to which providers are will-*  
6 *ing to treat children eligible for such programs;*

7                   (B) *information on such children’s access to*  
8 *networks of care;*

9                   (C) *geographic availability of primary and*  
10 *specialty services under such programs;*

11                   (D) *the extent to which care coordination is*  
12 *provided for children’s care under Medicaid and*  
13 *CHIP; and*

14                   (E) *as appropriate, information on the de-*  
15 *gree of availability of services for children under*  
16 *such programs.*

17           (2) *REPORT.*—*Not later than 2 years after the*  
18 *date of enactment of this Act, the Comptroller General*  
19 *shall submit a report to the Committee on Finance of*  
20 *the Senate and the Committee on Energy and Com-*  
21 *merce of the House of Representatives on the study*  
22 *conducted under paragraph (1) that includes rec-*  
23 *ommendations for such Federal and State legislative*  
24 *and administrative changes as the Comptroller Gen-*  
25 *eral determines are necessary to address any barriers*

1       to access to children’s care under Medicaid and CHIP  
2       that may exist.

3   **SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUAL-**  
4                   **ITY SAFEGUARDS TO CHIP.**

5       (a) *IN GENERAL.*—Section 2103(f) of Social Security  
6   Act (42 U.S.C. 1397bb(f)) is amended by adding at the end  
7   the following new paragraph:

8               “(3) *COMPLIANCE WITH MANAGED CARE RE-*  
9       *QUIREMENTS.*—The State child health plan shall pro-  
10      vide for the application of subsections (a)(4), (a)(5),  
11      (b), (c), (d), and (e) of section 1932 (relating to re-  
12      quirements for managed care) to coverage, State agen-  
13      cies, enrollment brokers, managed care entities, and  
14      managed care organizations under this title in the  
15      same manner as such subsections apply to coverage  
16      and such entities and organizations under title  
17      XIX.”.

18      (b) *EFFECTIVE DATE.*—The amendment made by sub-  
19   section (a) shall apply to contract years for health plans  
20   beginning on or after July 1, 2009.

21   **TITLE V—IMPROVING ACCESS TO**  
22                   **BENEFITS**

23   **SEC. 501. DENTAL BENEFITS.**

24      (a) *COVERAGE.*—



1           (1) *IN GENERAL.*—Section 2103 (42 U.S.C.  
2 1397cc) is amended—

3           (A) *in subsection (a)*—

4                 (i) *in the matter before paragraph (1),*  
5 *by striking “subsection (c)(5)” and insert-*  
6 *ing “paragraphs (5) and (7) of subsection*  
7 *(c)”;* and

8                 (ii) *in paragraph (1), by inserting “at*  
9 *least” after “that is”;* and

10          (B) *in subsection (c)*—

11                 (i) *by redesignating paragraph (5) as*  
12 *paragraph (7);* and

13                 (ii) *by inserting after paragraph (4),*  
14 *the following:*

15          “(5) *DENTAL BENEFITS.*—

16                 “(A) *IN GENERAL.*—*The child health assist-*  
17 *ance provided to a targeted low-income child*  
18 *shall include coverage of dental services necessary*  
19 *to prevent disease and promote oral health, re-*  
20 *store oral structures to health and function, and*  
21 *treat emergency conditions.*

22                 “(B) *PERMITTING USE OF DENTAL BENCH-*  
23 *MARK PLANS BY CERTAIN STATES.*—*A State may*  
24 *elect to meet the requirement of subparagraph*  
25 *(A) through dental coverage that is equivalent to*

1           *a benchmark dental benefit package described in*  
2           *subparagraph (C).*

3           “(C) *BENCHMARK DENTAL BENEFIT PACK-*  
4           *AGES.—The benchmark dental benefit packages*  
5           *are as follows:*

6                   “(i) *FEHBP CHILDREN’S DENTAL COV-*  
7                   *ERAGE.—A dental benefits plan under*  
8                   *chapter 89A of title 5, United States Code,*  
9                   *that has been selected most frequently by*  
10                   *employees seeking dependent coverage,*  
11                   *among such plans that provide such depend-*  
12                   *ent coverage, in either of the previous 2*  
13                   *plan years.*

14                   “(ii) *STATE EMPLOYEE DEPENDENT*  
15                   *DENTAL COVERAGE.—A dental benefits plan*  
16                   *that is offered and generally available to*  
17                   *State employees in the State involved and*  
18                   *that has been selected most frequently by*  
19                   *employees seeking dependent coverage,*  
20                   *among such plans that provide such depend-*  
21                   *ent coverage, in either of the previous 2*  
22                   *plan years.*

23                   “(iii) *COVERAGE OFFERED THROUGH*  
24                   *COMMERCIAL DENTAL PLAN.—A dental ben-*  
25                   *efits plan that has the largest insured com-*

1           *mercial, non-medicaid enrollment of de-*  
 2           *pendent covered lives of such plans that is*  
 3           *offered in the State involved.”.*

4           (2) *ASSURING ACCESS TO CARE.—Section*  
 5           *2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended*  
 6           *by inserting “and services described in section*  
 7           *2103(c)(5)” after “emergency services”.*

8           (3) *EFFECTIVE DATE.—The amendments made*  
 9           *by paragraphs (1) and (2) shall apply to coverage of*  
 10           *items and services furnished on or after October 1,*  
 11           *2009.*

12           (b) *STATE OPTION TO PROVIDE DENTAL-ONLY SUP-*  
 13           *PLEMENTAL COVERAGE.—*

14           (1) *IN GENERAL.—Section 2110(b) (42 U.S.C.*  
 15           *1397jj(b)) is amended—*

16           (A) *in paragraph (1)(C), by inserting “,*  
 17           *subject to paragraph (5),” after “under title XIX*  
 18           *or”;* *and*

19           (B) *by adding at the end the following new*  
 20           *paragraph:*

21           “(5) *OPTION FOR STATES WITH A SEPARATE*  
 22           *CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLE-*  
 23           *MENTAL COVERAGE.—*

24           “(A) *IN GENERAL.—Subject to subpara-*  
 25           *graphs (B) and (C), in the case of any child who*

1           *is enrolled in a group health plan or health in-*  
2           *surance coverage offered through an employer*  
3           *who would, but for the application of paragraph*  
4           *(1)(C), satisfy the requirements for being a tar-*  
5           *geted low-income child under a State child health*  
6           *plan that is implemented under this title, a*  
7           *State may waive the application of such para-*  
8           *graph to the child in order to provide—*

9                     *“(i) dental coverage consistent with the*  
10                    *requirements of subsection (c)(5) of section*  
11                    *2103; or*

12                    *“(ii) cost-sharing protection for dental*  
13                    *coverage consistent with such requirements*  
14                    *and the requirements of subsection (e)(3)(B)*  
15                    *of such section.*

16                    *“(B) LIMITATION.—A State may limit the*  
17                    *application of a waiver of paragraph (1)(C) to*  
18                    *children whose family income does not exceed a*  
19                    *level specified by the State, so long as the level*  
20                    *so specified does not exceed the maximum income*  
21                    *level otherwise established for other children*  
22                    *under the State child health plan.*

23                    *“(C) CONDITIONS.—A State may not offer*  
24                    *dental-only supplemental coverage under this*

1           *paragraph unless the State satisfies the following*  
2           *conditions:*

3                     “(i) *INCOME ELIGIBILITY.—The State*  
4                     *child health plan under this title—*

5                             “(I) *has the highest income eligi-*  
6                             *bility standard permitted under this*  
7                             *title (or a waiver) as of January 1,*  
8                             *2009;*

9                             “(II) *does not limit the acceptance*  
10                            *of applications for children or impose*  
11                            *any numerical limitation, waiting list,*  
12                            *or similar limitation on the eligibility*  
13                            *of such children for child health assist-*  
14                            *ance under such State plan; and*

15                            “(III) *provides benefits to all chil-*  
16                            *dren in the State who apply for and*  
17                            *meet eligibility standards.*

18                     “(ii) *NO MORE FAVORABLE TREAT-*  
19                     *MENT.—The State child health plan may*  
20                     *not provide more favorable dental coverage*  
21                     *or cost-sharing protection for dental cov-*  
22                     *erage to children provided dental-only sup-*  
23                     *plemental coverage under this paragraph*  
24                     *than the dental coverage and cost-sharing*  
25                     *protection for dental coverage provided to*

1           *targeted low-income children who are eligi-*  
2           *ble for the full range of child health assist-*  
3           *ance provided under the State child health*  
4           *plan.”.*

5           (2) *STATE OPTION TO WAIVE WAITING PERIOD.—*  
6           *Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)),*  
7           *as amended by section 111(b)(2), is amended—*

8                     *(A) in clause (ii), by striking “and” at the*  
9           *end;*

10                    *(B) in clause (iii), by striking the period*  
11           *and inserting “; and”; and*

12                    *(C) by adding at the end the following new*  
13           *clause:*

14                             *“(iv) at State option, may not apply a*  
15                             *waiting period in the case of a child pro-*  
16                             *vided dental-only supplemental coverage*  
17                             *under section 2110(b)(5).”.*

18           (c) *DENTAL EDUCATION FOR PARENTS OF*  
19 *NEWBORNS.—The Secretary shall develop and implement,*  
20 *through entities that fund or provide perinatal care services*  
21 *to targeted low-income children under a State child health*  
22 *plan under title XXI of the Social Security Act, a program*  
23 *to deliver oral health educational materials that inform new*  
24 *parents about risks for, and prevention of, early childhood*

1 *caries and the need for a dental visit within their newborn's*  
2 *first year of life.*

3 (d) *PROVISION OF DENTAL SERVICES THROUGH*  
4 *FQHCs.—*

5 (1) *MEDICAID.—Section 1902(a) (42 U.S.C.*  
6 *1396a(a)) is amended—*

7 (A) *by striking “and” at the end of para-*  
8 *graph (70);*

9 (B) *by striking the period at the end of*  
10 *paragraph (71) and inserting “; and”; and*

11 (C) *by inserting after paragraph (71) the*  
12 *following new paragraph:*

13 “(72) *provide that the State will not prevent a*  
14 *Federally-qualified health center from entering into*  
15 *contractual relationships with private practice dental*  
16 *providers in the provision of Federally-qualified*  
17 *health center services.”.*

18 (2) *CHIP.—Section 2107(e)(1) (42 U.S.C.*  
19 *1397g(e)(1)), as amended by subsections (a)(2) and*  
20 *(d)(2) of section 203, is amended by inserting after*  
21 *subparagraph (B) the following new subparagraph*  
22 *(and redesignating the succeeding subparagraphs ac-*  
23 *cordingly):*

1           “(C) Section 1902(a)(72) (relating to lim-  
2           iting FQHC contracting for provision of dental  
3           services).”.

4           (3) *EFFECTIVE DATE.*—The amendments made  
5           by this subsection shall take effect on January 1,  
6           2009.

7           (e) *REPORTING INFORMATION ON DENTAL HEALTH.*—

8           (1) *MEDICAID.*—Section 1902(a)(43)(D)(iii) (42  
9           U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting  
10          “and other information relating to the provision of  
11          dental services to such children described in section  
12          2108(e)” after “receiving dental services,”.

13          (2) *CHIP.*—Section 2108 (42 U.S.C. 1397hh) is  
14          amended by adding at the end the following new sub-  
15          section:

16          “(e) *INFORMATION ON DENTAL CARE FOR CHIL-*  
17          *DREN.*—

18                 “(1) *IN GENERAL.*—Each annual report under  
19                 subsection (a) shall include the following information  
20                 with respect to care and services described in section  
21                 1905(r)(3) provided to targeted low-income children  
22                 enrolled in the State child health plan under this title  
23                 at any time during the year involved:



1           “(A) *The number of enrolled children by age*  
2           *grouping used for reporting purposes under sec-*  
3           *tion 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 con-*  
7           *sists of the number of enrolled targeted low in-*  
8           *come children who receive any, preventive, or re-*  
9           *storative dental care under the State plan).*

10           “(C) *For the age grouping that includes*  
11           *children 8 years of age, the number of such chil-*  
12           *dren who have received a protective sealant on at*  
13           *least one permanent molar tooth.*

14           “(2) *INCLUSION OF INFORMATION ON ENROLLEES*  
15           *IN MANAGED CARE PLANS.—The information under*  
16           *paragraph (1) shall include information on children*  
17           *who are enrolled in managed care plans and other*  
18           *private health plans and contracts with such plans*  
19           *under this title shall provide for the reporting of such*  
20           *information by such plans to the State.”.*

21           “(3) *EFFECTIVE DATE.—The amendments made*  
22           *by this subsection shall be effective for annual reports*  
23           *submitted for years beginning after date of enactment.*

1       (f) *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 website*  
9 *(<http://www.insurekidsnow.gov/>) and hotline (1–877–*  
10 *KIDS–NOW) (or on any successor websites or hot-*  
11 *lines) a current and accurate list of all such dentists*  
12 *and providers within each State that provide dental*  
13 *services to children enrolled in the State plan (or*  
14 *waiver) under Medicaid or the State child health plan*  
15 *(or waiver) under CHIP, and shall ensure that such*  
16 *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 Act,*  
19 *a description of the dental services provided under*  
20 *each State plan (or waiver) under Medicaid and each*  
21 *State child health plan (or waiver) under CHIP on*  
22 *such Insure Kids Now website, and shall ensure that*  
23 *such list is updated at least annually.*

24       (g) *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 *(h) 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, in-*  
18 *cluding preventive and restorative services, under*  
19 *Medicaid and CHIP, including—*

20                           (i) *the extent to which dental providers*  
21 *are willing to treat children eligible for such*  
22 *programs;*

23                           (ii) *information on such children's ac-*  
24 *cess to networks of care, including such net-*  
25 *works that serve special needs children; and*

1                   (iii) *geographic availability of oral*  
2                   *health care, including preventive and restor-*  
3                   *ative services, under such programs; and*  
4                   (C) *the feasibility and appropriateness of*  
5                   *using qualified mid-level dental health providers,*  
6                   *in coordination with dentists, to improve access*  
7                   *for children to oral health services and public*  
8                   *health overall.*

9                   (2) *REPORT.—Not later than 18 months year*  
10                  *after the date of the enactment of this Act, the Comp-*  
11                  *troller General shall submit to Congress a report on*  
12                  *the study conducted under paragraph (1). The report*  
13                  *shall include recommendations for such Federal and*  
14                  *State legislative and administrative changes as the*  
15                  *Comptroller General determines are necessary to ad-*  
16                  *dress any barriers to access to oral health care, in-*  
17                  *cluding preventive and restorative services, under*  
18                  *Medicaid and CHIP that may exist.*

19 **SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.**

20                  (a) *ASSURANCE OF PARITY.—Section 2103(c) (42*  
21                  *U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is*  
22                  *amended by inserting after paragraph (5), the following:*

23                         “(6) *MENTAL HEALTH SERVICES PARITY.—*

24                                 “(A) *IN GENERAL.—In the case of a State*  
25                                 *child health plan that provides both medical and*

1           *surgical benefits and mental health or substance*  
2           *use disorder benefits, such plan shall ensure that*  
3           *the financial requirements and treatment limita-*  
4           *tions applicable to such mental health or sub-*  
5           *stance use disorder benefits comply with the re-*  
6           *quirements of section 2705(a) of the Public*  
7           *Health Service Act in the same manner as such*  
8           *requirements apply to a group health plan.*

9           “(B) *DEEMED COMPLIANCE.*—*To the extent*  
10          *that a State child health plan includes coverage*  
11          *with respect to an individual described in section*  
12          *1905(a)(4)(B) and covered under the State plan*  
13          *under section 1902(a)(10)(A) of the services de-*  
14          *scribed in section 1905(a)(4)(B) (relating to*  
15          *early and periodic screening, diagnostic, and*  
16          *treatment services defined in section 1905(r))*  
17          *and provided in accordance with section*  
18          *1902(a)(43), such plan shall be deemed to satisfy*  
19          *the requirements of subparagraph (A).”*

20          (b) *CONFORMING AMENDMENTS.*—*Section 2103 (42*  
21          *U.S.C. 1397cc) is amended—*

22                 (1) *in subsection (a), as amended by section*  
23                 *501(a)(1)(A)(i), in the matter preceding paragraph*  
24                 *(1), by inserting “, (6),” after “(5); and*

1           (2) *in subsection (c)(2), by striking subpara-*  
2           *graph (B) and redesignating subparagraphs (C) and*  
3           *(D) as subparagraphs (B) and (C), respectively.*

4   **SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM**  
5           **FOR SERVICES PROVIDED BY FEDERALLY-**  
6           **QUALIFIED HEALTH CENTERS AND RURAL**  
7           **HEALTH CLINICS.**

8           (a) *APPLICATION OF PROSPECTIVE PAYMENT SYS-*  
9           *TEM.—*

10           (1) *IN GENERAL.—Section 2107(e)(1) (42 U.S.C.*  
11           *1397gg(e)(1)), as amended by section 501(c)(2) is*  
12           *amended by inserting after subparagraph (C) the fol-*  
13           *lowing new subparagraph (and redesignating the suc-*  
14           *ceeding subparagraphs accordingly):*

15                   “(D) *Section 1902(bb) (relating to payment*  
16                   *for services provided by Federally-qualified*  
17                   *health centers and rural health clinics).”.*

18           (2) *EFFECTIVE DATE.—The amendment made by*  
19           *paragraph (1) shall apply to services provided on or*  
20           *after October 1, 2009.*

21           (b) *TRANSITION GRANTS.—*

22           (1) *APPROPRIATION.—Out of any funds in the*  
23           *Treasury not otherwise appropriated, there is appro-*  
24           *priated to the Secretary for fiscal year 2009,*  
25           *\$5,000,000, to remain available until expended, for*

1 *the purpose of awarding grants to States with State*  
2 *child health plans under CHIP that are operated sep-*  
3 *arately from the State Medicaid plan under title XIX*  
4 *of the Social Security Act (including any waiver of*  
5 *such plan), or in combination with the State Med-*  
6 *icaid plan, for expenditures related to transitioning*  
7 *to compliance with the requirement of section*  
8 *2107(e)(1)(D) of the Social Security Act (as added by*  
9 *subsection (a)) to apply the prospective payment sys-*  
10 *tem established under section 1902(bb) of the such Act*  
11 *(42 U.S.C. 1396a(bb)) to services provided by Feder-*  
12 *ally-qualified health centers and rural health clinics.*

13 (2) *MONITORING AND REPORT.*—*The Secretary*  
14 *shall monitor the impact of the application of such*  
15 *prospective payment system on the States described in*  
16 *paragraph (1) and, not later than October 1, 2011,*  
17 *shall report to Congress on any effect on access to ben-*  
18 *efits, provider payment rates, or scope of benefits of-*  
19 *fered by such States as a result of the application of*  
20 *such payment system.*

21 **SEC. 504. PREMIUM GRACE PERIOD.**

22 (a) *IN GENERAL.*—*Section 2103(e)(3) (42 U.S.C.*  
23 *1397cc(e)(3)) is amended by adding at the end the following*  
24 *new subparagraph:*

1           “(C) *PREMIUM GRACE PERIOD.*—*The State*  
2           *child health plan—*

3                   “(i) *shall afford individuals enrolled*  
4                   *under the plan a grace period of at least 30*  
5                   *days from the beginning of a new coverage*  
6                   *period to make premium payments before*  
7                   *the individual’s coverage under the plan*  
8                   *may be terminated; and*

9                   “(ii) *shall provide to such an indi-*  
10                   *vidual, not later than 7 days after the first*  
11                   *day of such grace period, notice—*

12                           “(I) *that failure to make a pre-*  
13                           *mium payment within the grace period*  
14                           *will result in termination of coverage*  
15                           *under the State child health plan; and*

16                           “(II) *of the individual’s right to*  
17                           *challenge the proposed termination*  
18                           *pursuant to the applicable Federal reg-*  
19                           *ulations.*

20           *For purposes of clause (i), the term ‘new cov-*  
21           *erage period’ means the month immediately fol-*  
22           *lowing the last month for which the premium*  
23           *has been paid.’.*



1       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
 2 *section (a) shall apply to new coverage periods beginning*  
 3 *on or after the date of the enactment of this Act.*

4 **SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES PRO-**  
 5 **VIDED THROUGH SCHOOL-BASED HEALTH**  
 6 **CENTERS.**

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

10               “(8) *AVAILABILITY OF COVERAGE FOR ITEMS*  
 11 *AND SERVICES FURNISHED THROUGH SCHOOL-BASED*  
 12 *HEALTH CENTERS.*—*Nothing in this title shall be con-*  
 13 *strued as limiting a State’s ability to provide child*  
 14 *health assistance for covered items and services that*  
 15 *are furnished through school-based health centers (as*  
 16 *defined in section 2110(c)(9)).”.*

17       (b) *DEFINITION.*—*Section 2110(c) (42 U.S.C. 1397jj)*  
 18 *is amended by adding at the end the following:*

19               “(9) *SCHOOL-BASED HEALTH CENTER.*—  
 20               “(A) *IN GENERAL.*—*The term ‘school-based*  
 21 *health center’ means a health clinic that—*  
 22               “(i) *is located in or near a school facil-*  
 23 *ity of a school district or board or of an In-*  
 24 *Indian tribe or tribal organization;*

1           “(ii) is organized through school, com-  
2           munity, and health provider relationships;

3           “(iii) is administered by a sponsoring  
4           facility;

5           “(iv) provides through health profes-  
6           sionals primary health services to children  
7           in accordance with State and local law, in-  
8           cluding laws relating to licensure and cer-  
9           tification; and

10           “(v) satisfies such other requirements  
11           as a State may establish for the operation  
12           of such a clinic.

13           “(B) SPONSORING FACILITY.—For purposes  
14           of subparagraph (A)(iii), the term ‘sponsoring  
15           facility’ includes any of the following:

16           “(i) A hospital.

17           “(ii) A public health department.

18           “(iii) A community health center.

19           “(iv) A nonprofit health care agency.

20           “(v) A school or school system.

21           “(vi) A program administered by the  
22           Indian Health Service or the Bureau of In-  
23           dian Affairs or operated by an Indian tribe  
24           or a tribal organization.”.

1 **SEC. 506. MEDICAID AND CHIP PAYMENT AND ACCESS COM-**  
2 **MISSION.**

3 (a) *IN GENERAL.*—*Title XIX (42 U.S.C. 1396 et seq.)*  
4 *is amended by inserting before section 1901 the following*  
5 *new section:*

6 “*MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION*  
7 “*SEC. 1900. (a) ESTABLISHMENT.*—*There is hereby es-*  
8 *tablished the Medicaid and CHIP Payment and Access*  
9 *Commission (in this section referred to as ‘MACPAC’).*

10 “(b) *DUTIES.*—

11 “(1) *REVIEW OF ACCESS POLICIES AND ANNUAL*  
12 *REPORTS.*—*MACPAC shall—*

13 “(A) *review policies of the Medicaid pro-*  
14 *gram established under this title (in this section*  
15 *referred to as ‘Medicaid’) and the State Chil-*  
16 *children’s Health Insurance Program established*  
17 *under title XXI (in this section referred to as*  
18 *‘CHIP’) affecting children’s access to covered*  
19 *items and services, including topics described in*  
20 *paragraph (2);*

21 “(B) *make recommendations to Congress*  
22 *concerning such access policies;*

23 “(C) *by not later than March 1 of each year*  
24 *(beginning with 2010), submit a report to Con-*  
25 *gress containing the results of such reviews and*

1           MACPAC’s recommendations concerning such  
2           policies; and

3                   “(D) by not later than June 1 of each year  
4           (beginning with 2010), submit a report to Con-  
5           gress containing an examination of issues affect-  
6           ing Medicaid and CHIP, including the implica-  
7           tions of changes in health care delivery in the  
8           United States and in the market for health care  
9           services on such programs.

10           “(2) SPECIFIC TOPICS TO BE REVIEWED.—Spe-  
11           cifically, MACPAC shall review and assess the fol-  
12           lowing:

13                   “(A) MEDICAID AND CHIP PAYMENT POLI-  
14           CIES.—Payment policies under Medicaid and  
15           CHIP, including—

16                           “(i) the factors affecting expenditures  
17                           for items and services in different sectors,  
18                           including the process for updating hospital,  
19                           skilled nursing facility, physician, Feder-  
20                           ally-qualified health center, rural health  
21                           center, and other fees;

22                           “(ii) payment methodologies; and

23                           “(iii) the relationship of such factors  
24                           and methodologies to access and quality of  
25                           care for Medicaid and CHIP beneficiaries.

1           “(B) *INTERACTION OF MEDICAID AND CHIP*  
2           *PAYMENT POLICIES WITH HEALTH CARE DELIV-*  
3           *ERY GENERALLY.—The effect of Medicaid and*  
4           *CHIP payment policies on access to items and*  
5           *services for children and other Medicaid and*  
6           *CHIP populations other than under this title or*  
7           *title XXI and the implications of changes in*  
8           *health care delivery in the United States and in*  
9           *the general market for health care items and*  
10           *services on Medicaid and CHIP.*

11           “(C) *OTHER ACCESS POLICIES.—The effect*  
12           *of other Medicaid and CHIP policies on access*  
13           *to covered items and services, including policies*  
14           *relating to transportation and language barriers.*

15           “(3) *CREATION OF EARLY-WARNING SYSTEM.—*  
16           *MACPAC shall create an early-warning system to*  
17           *identify provider shortage areas or any other prob-*  
18           *lems that threaten access to care or the health care*  
19           *status of Medicaid and CHIP beneficiaries.*

20           “(4) *COMMENTS ON CERTAIN SECRETARIAL RE-*  
21           *PORTS.—If the Secretary submits to Congress (or a*  
22           *committee of Congress) a report that is required by*  
23           *law and that relates to access policies, including with*  
24           *respect to payment policies, under Medicaid or CHIP,*  
25           *the Secretary shall transmit a copy of the report to*

1     *MACPAC. MACPAC shall review the report and, not*  
2     *later than 6 months after the date of submittal of the*  
3     *Secretary’s report to Congress, shall submit to the ap-*  
4     *propriate committees of Congress written comments*  
5     *on such report. Such comments may include such rec-*  
6     *ommendations as MACPAC deems appropriate.*

7             “(5) *AGENDA AND ADDITIONAL REVIEWS.—*  
8     *MACPAC shall consult periodically with the chair-*  
9     *men and ranking minority members of the appro-*  
10    *priate committees of Congress regarding MACPAC’s*  
11    *agenda and progress towards achieving the agenda.*  
12    *MACPAC may conduct additional reviews, and sub-*  
13    *mit additional reports to the appropriate committees*  
14    *of Congress, from time to time on such topics relating*  
15    *to the program under this title or title XXI as may*  
16    *be requested by such chairmen and members and as*  
17    *MACPAC deems appropriate.*

18            “(6) *AVAILABILITY OF REPORTS.—MACPAC*  
19    *shall transmit to the Secretary a copy of each report*  
20    *submitted under this subsection and shall make such*  
21    *reports available to the public.*

22            “(7) *APPROPRIATE COMMITTEE OF CONGRESS.—*  
23    *For purposes of this section, the term ‘appropriate*  
24    *committees of Congress’ means the Committee on En-*

1 *ergy and Commerce of the House of Representatives*  
2 *and the Committee on Finance of the Senate.*

3 “(8) *VOTING AND REPORTING REQUIREMENTS.*—  
4 *With respect to each recommendation contained in a*  
5 *report submitted under paragraph (1), each member*  
6 *of MACPAC shall vote on the recommendation, and*  
7 *MACPAC shall include, by member, the results of that*  
8 *vote in the report containing the recommendation.*

9 “(9) *EXAMINATION OF BUDGET CON-*  
10 *SEQUENCES.*—*Before making any recommendations,*  
11 *MACPAC shall examine the budget consequences of*  
12 *such recommendations, directly or through consulta-*  
13 *tion with appropriate expert entities.*

14 “(c) *MEMBERSHIP.*—

15 “(1) *NUMBER AND APPOINTMENT.*—*MACPAC*  
16 *shall be composed of 17 members appointed by the*  
17 *Comptroller General of the United States.*

18 “(2) *QUALIFICATIONS.*—

19 “(A) *IN GENERAL.*—*The membership of*  
20 *MACPAC shall include individuals who have*  
21 *had direct experience as enrollees or parents of*  
22 *enrollees in Medicaid or CHIP and individuals*  
23 *with national recognition for their expertise in*  
24 *Federal safety net health programs, health fi-*  
25 *nance and economics, actuarial science, health*

1        *facility management, health plans and inte-*  
2        *grated delivery systems, reimbursement of health*  
3        *facilities, health information technology, pedi-*  
4        *atric physicians, dentists, and other providers of*  
5        *health services, and other related fields, who pro-*  
6        *vide a mix of different professionals, broad geo-*  
7        *graphic representation, and a balance between*  
8        *urban and rural representatives.*

9            “(B) *INCLUSION.—The membership of*  
10        *MACPAC shall include (but not be limited to)*  
11        *physicians and other health professionals, em-*  
12        *ployers, third-party payers, and individuals*  
13        *with expertise in the delivery of health services.*  
14        *Such membership shall also include consumers*  
15        *representing children, pregnant women, the el-*  
16        *derly, and individuals with disabilities, current*  
17        *or former representatives of State agencies re-*  
18        *sponsible for administering Medicaid, and cur-*  
19        *rent or former representatives of State agencies*  
20        *responsible for administering CHIP.*

21            “(C) *MAJORITY NONPROVIDERS.—Individ-*  
22        *uals who are directly involved in the provision,*  
23        *or management of the delivery, of items and*  
24        *services covered under Medicaid or CHIP shall*



1           *not constitute a majority of the membership of*  
2           *MACPAC.*

3           “(D) *ETHICAL DISCLOSURE.*—*The Comp-*  
4           *troller General of the United States shall estab-*  
5           *lish a system for public disclosure by members of*  
6           *MACPAC of financial and other potential con-*  
7           *licts of interest relating to such members. Mem-*  
8           *bers of MACPAC shall be treated as employees of*  
9           *Congress for purposes of applying title I of the*  
10           *Ethics in Government Act of 1978 (Public Law*  
11           *95–521).*

12           “(3) *TERMS.*—

13           “(A) *IN GENERAL.*—*The terms of members*  
14           *of MACPAC shall be for 3 years except that the*  
15           *Comptroller General of the United States shall*  
16           *designate staggered terms for the members first*  
17           *appointed.*

18           “(B) *VACANCIES.*—*Any member appointed*  
19           *to fill a vacancy occurring before the expiration*  
20           *of the term for which the member’s predecessor*  
21           *was appointed shall be appointed only for the re-*  
22           *mainder of that term. A member may serve after*  
23           *the expiration of that member’s term until a suc-*  
24           *cessor has taken office. A vacancy in MACPAC*

1           *shall be filled in the manner in which the origi-*  
2           *nal appointment was made.*

3           “(4) *COMPENSATION.*—*While serving on the busi-*  
4           *ness of MACPAC (including travel time), a member*  
5           *of MACPAC shall be entitled to compensation at the*  
6           *per diem equivalent of the rate provided for level IV*  
7           *of the Executive Schedule under section 5315 of title*  
8           *5, United States Code; and while so serving away*  
9           *from home and the member’s regular place of busi-*  
10           *ness, a member may be allowed travel expenses, as*  
11           *authorized by the Chairman of MACPAC. Physicians*  
12           *serving as personnel of MACPAC may be provided a*  
13           *physician comparability allowance by MACPAC in*  
14           *the same manner as Government physicians may be*  
15           *provided such an allowance by an agency under sec-*  
16           *tion 5948 of title 5, United States Code, and for such*  
17           *purpose subsection (i) of such section shall apply to*  
18           *MACPAC in the same manner as it applies to the*  
19           *Tennessee Valley Authority. For purposes of pay*  
20           *(other than pay of members of MACPAC) and em-*  
21           *ployment benefits, rights, and privileges, all personnel*  
22           *of MACPAC shall be treated as if they were employees*  
23           *of the United States Senate.*

24           “(5) *CHAIRMAN; VICE CHAIRMAN.*—*The Comp-*  
25           *troller General of the United States shall designate a*

1     *member of MACPAC, at the time of appointment of*  
2     *the member as Chairman and a member as Vice*  
3     *Chairman for that term of appointment, except that*  
4     *in the case of vacancy of the Chairmanship or Vice*  
5     *Chairmanship, the Comptroller General of the United*  
6     *States may designate another member for the remain-*  
7     *der of that member's term.*

8             “(6) *MEETINGS.*—*MACPAC shall meet at the*  
9     *call of the Chairman.*

10            “(d) *DIRECTOR AND STAFF; EXPERTS AND CONSULT-*  
11 *ANTS.*—*Subject to such review as the Comptroller General*  
12 *of the United States deems necessary to assure the efficient*  
13 *administration of MACPAC, MACPAC may—*

14             “(1) *employ and fix the compensation of an Ex-*  
15 *ecutive Director (subject to the approval of the Comp-*  
16 *troller General of the United States) and such other*  
17 *personnel as may be necessary to carry out its duties*  
18 *(without regard to the provisions of title 5, United*  
19 *States Code, governing appointments in the competi-*  
20 *tive service);*

21             “(2) *seek such assistance and support as may be*  
22 *required in the performance of its duties from appro-*  
23 *priate Federal departments and agencies;*

24             “(3) *enter into contracts or make other arrange-*  
25 *ments, as may be necessary for the conduct of the*

1 *work of MACPAC (without regard to section 3709 of*  
2 *the Revised Statutes (41 U.S.C. 5));*

3 “(4) *make advance, progress, and other pay-*  
4 *ments which relate to the work of MACPAC;*

5 “(5) *provide transportation and subsistence for*  
6 *persons serving without compensation; and*

7 “(6) *prescribe such rules and regulations as it*  
8 *deems necessary with respect to the internal organiza-*  
9 *tion and operation of MACPAC.*

10 “(e) *POWERS.—*

11 “(1) *OBTAINING OFFICIAL DATA.—MACPAC*  
12 *may secure directly from any department or agency*  
13 *of the United States information necessary to enable*  
14 *it to carry out this section. Upon request of the*  
15 *Chairman, the head of that department or agency*  
16 *shall furnish that information to MACPAC on an*  
17 *agreed upon schedule.*

18 “(2) *DATA COLLECTION.—In order to carry out*  
19 *its functions, MACPAC shall—*

20 “(A) *utilize existing information, both pub-*  
21 *lished and unpublished, where possible, collected*  
22 *and assessed either by its own staff or under*  
23 *other arrangements made in accordance with*  
24 *this section;*

1           “(B) carry out, or award grants or con-  
2           tracts for, original research and experimentation,  
3           where existing information is inadequate; and

4           “(C) adopt procedures allowing any inter-  
5           ested party to submit information for MACPAC’s  
6           use in making reports and recommendations.

7           “(3) ACCESS OF GAO TO INFORMATION.—The  
8           Comptroller General of the United States shall have  
9           unrestricted access to all deliberations, records, and  
10          nonproprietary data of MACPAC, immediately upon  
11          request.

12          “(4) PERIODIC AUDIT.—MACPAC shall be sub-  
13          ject to periodic audit by the Comptroller General of  
14          the United States.

15          “(f) AUTHORIZATION OF APPROPRIATIONS.—

16          “(1) REQUEST FOR APPROPRIATIONS.—  
17          MACPAC shall submit requests for appropriations in  
18          the same manner as the Comptroller General of the  
19          United States submits requests for appropriations,  
20          but amounts appropriated for MACPAC shall be sep-  
21          arate from amounts appropriated for the Comptroller  
22          General of the United States.

23          “(2) AUTHORIZATION.—There are authorized to  
24          be appropriated such sums as may be necessary to  
25          carry out the provisions of this section.”.

1       **(b) DEADLINE FOR INITIAL APPOINTMENTS.**—Not  
2 later than January 1, 2010, the Comptroller General of the  
3 United States shall appoint the initial members of the Med-  
4 icaid and CHIP Payment and Access Commission estab-  
5 lished under section 1900 of the Social Security Act (as  
6 added by subsection (a)).

7       **(c) ANNUAL REPORT ON MEDICAID.**—Not later than  
8 January 1, 2010, and annually thereafter, the Secretary,  
9 in consultation with the Secretary of the Treasury, the Sec-  
10 retary of Labor, and the States (as defined for purposes of  
11 Medicaid), shall submit an annual report to Congress on  
12 the financial status of, enrollment in, and spending trends  
13 for, Medicaid for the fiscal year ending on September 30  
14 of the preceding year.

15 **TITLE VI—PROGRAM INTEGRITY**  
16 **AND OTHER MISCELLANEOUS**  
17 **PROVISIONS**

18 **Subtitle A—Program Integrity and**  
19 **Data Collection**

20 **SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

21       **(a) EXPENDITURES RELATED TO COMPLIANCE WITH**  
22 **REQUIREMENTS.**—

23               **(1) ENHANCED PAYMENTS.**—Section 2105(c) (42  
24 U.S.C. 1397ee(c)), as amended by section 301(a), is

1     *amended by adding at the end the following new*  
2     *paragraph:*

3             “(11) *ENHANCED PAYMENTS.*—*Notwithstanding*  
4     *subsection (b), the enhanced FMAP with respect to*  
5     *payments under subsection (a) for expenditures re-*  
6     *lated to the administration of the payment error rate*  
7     *measurement (PERM) requirements applicable to the*  
8     *State child health plan in accordance with the Im-*  
9     *proper Payments Information Act of 2002 and parts*  
10    *431 and 457 of title 42, Code of Federal Regulations*  
11    *(or any related or successor guidance or regulations)*  
12    *shall in no event be less than 90 percent.”.*

13            (2) *EXCLUSION OF FROM CAP ON ADMINISTRA-*  
14    *TIVE EXPENDITURES.*—*Section 2105(c)(2)(C) (42*  
15    *U.S.C. 1397ee(c)(2)C)), as amended by section*  
16    *302(b)), is amended by adding at the end the fol-*  
17    *lowing:*

18                    “(iv) *PAYMENT ERROR RATE MEAS-*  
19                    *UREMENT (PERM) EXPENDITURES.*—*Ex-*  
20                    *penditures related to the administration of*  
21                    *the payment error rate measurement*  
22                    *(PERM) requirements applicable to the*  
23                    *State child health plan in accordance with*  
24                    *the Improper Payments Information Act of*  
25                    *2002 and parts 431 and 457 of title 42,*

1                    *Code of Federal Regulations (or any related*  
2                    *or successor guidance or regulations).”.*

3            *(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR*  
4 *ALL STATES.—Notwithstanding parts 431 and 457 of title*  
5 *42, Code of Federal Regulations (as in effect on the date*  
6 *of enactment of this Act), the Secretary shall not calculate*  
7 *or publish any national or State-specific error rate based*  
8 *on the application of the payment error rate measurement*  
9 *(in this section referred to as “PERM”) requirements to*  
10 *CHIP until after the date that is 6 months after the date*  
11 *on which a new final rule (in this section referred to as*  
12 *the “new final rule”) promulgated after the date of the en-*  
13 *actment of this Act and implementing such requirements*  
14 *in accordance with the requirements of subsection (c) is in*  
15 *effect for all States. Any calculation of a national error rate*  
16 *or a State specific error rate after such new final rule in*  
17 *effect for all States may only be inclusive of errors, as de-*  
18 *fin ed in such new final rule or in guidance issued within*  
19 *a reasonable time frame after the effective date for such new*  
20 *final rule that includes detailed guidance for the specific*  
21 *methodology for error determinations.*

22            *(c) REQUIREMENTS FOR NEW FINAL RULE.—For pur-*  
23 *poses of subsection (b), the requirements of this subsection*  
24 *are that the new final rule implementing the PERM re-*  
25 *quirements shall—*



1           (1) *include—*

2                   (A) *clearly defined criteria for errors for*  
3           *both States and providers;*

4                   (B) *a clearly defined process for appealing*  
5           *error determinations by—*

6                           (i) *review contractors; or*

7                           (ii) *the agency and personnel described*  
8                   *in section 431.974(a)(2) of title 42, Code of*  
9                   *Federal Regulations, as in effect on Sep-*  
10           *tember 1, 2007, responsible for the develop-*  
11           *ment, direction, implementation, and eval-*  
12           *uation of eligibility reviews and associated*  
13           *activities; and*

14                   (C) *clearly defined responsibilities and*  
15           *deadlines for States in implementing any correc-*  
16           *tive action plans; and*

17           (2) *provide that the payment error rate deter-*  
18           *mined for a State shall not take into account pay-*  
19           *ment errors resulting from the State's verification of*  
20           *an applicant's self-declaration or self-certification of*  
21           *eligibility for, and the correct amount of, medical as-*  
22           *stance or child health assistance, if the State process*  
23           *for verifying an applicant's self-declaration or self-*  
24           *certification satisfies the requirements for such process*

1 applicable under regulations promulgated by the Sec-  
2 retary or otherwise approved by the Secretary.

3 (d) *OPTION FOR APPLICATION OF DATA FOR STATES*  
4 *IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL*  
5 *RULE.*—After the new final rule implementing the PERM  
6 requirements in accordance with the requirements of sub-  
7 section (c) is in effect for all States, a State for which the  
8 PERM requirements were first in effect under an interim  
9 final rule for fiscal year 2007 or under a final rule for fiscal  
10 year 2008 may elect to accept any payment error rate deter-  
11 mined in whole or in part for the State on the basis of  
12 data for that fiscal year or may elect to not have any pay-  
13 ment error rate determined on the basis of such data and,  
14 instead, shall be treated as if fiscal year 2010 or fiscal year  
15 2011 were the first fiscal year for which the PERM require-  
16 ments apply to the State.

17 (e) *HARMONIZATION OF MEQC AND PERM.*—

18 (1) *REDUCTION OF REDUNDANCIES.*—The Sec-  
19 retary shall review the Medicaid Eligibility Quality  
20 Control (in this subsection referred to as the  
21 “MEQC”) requirements with the PERM requirements  
22 and coordinate consistent implementation of both sets  
23 of requirements, while reducing redundancies.

24 (2) *STATE OPTION TO APPLY PERM DATA.*—A  
25 State may elect, for purposes of determining the erro-

1        *neous excess payments for medical assistance ratio*  
2        *applicable to the State for a fiscal year under section*  
3        *1903(u) of the Social Security Act (42 U.S.C.*  
4        *1396b(u)) to substitute data resulting from the appli-*  
5        *cation of the PERM requirements to the State after*  
6        *the new final rule implementing such requirements is*  
7        *in effect for all States for data obtained from the ap-*  
8        *plication of the MEQC requirements to the State with*  
9        *respect to a fiscal year.*

10            (3) *STATE OPTION TO APPLY MEQC DATA.*—*For*  
11        *purposes of satisfying the requirements of subpart Q*  
12        *of part 431 of title 42, Code of Federal Regulations,*  
13        *relating to Medicaid eligibility reviews, a State may*  
14        *elect to substitute data obtained through MEQC re-*  
15        *views conducted in accordance with section 1903(u) of*  
16        *the Social Security Act (42 U.S.C. 1396b(u)) for data*  
17        *required for purposes of PERM requirements, but*  
18        *only if the State MEQC reviews are based on a broad,*  
19        *representative sample of Medicaid applicants or en-*  
20        *rollees in the States.*

21            (f) *IDENTIFICATION OF IMPROVED STATE-SPECIFIC*  
22        *SAMPLE SIZES.*—*The Secretary shall establish State-spe-*  
23        *cific sample sizes for application of the PERM requirements*  
24        *with respect to State child health plans for fiscal years be-*  
25        *ginning with the first fiscal year that begins on or after*

1 *the date on which the new final rule is in effect for all*  
2 *States, on the basis of such information as the Secretary*  
3 *determines appropriate. In establishing such sample sizes,*  
4 *the Secretary shall, to the greatest extent practicable—*

5           (1) *minimize the administrative cost burden on*  
6 *States under Medicaid and CHIP; and*

7           (2) *maintain State flexibility to manage such*  
8 *programs.*

9           (g) *TIME FOR PROMULGATION OF FINAL RULE.—The*  
10 *final rule implementing the PERM requirements under sub-*  
11 *section (b) shall be promulgated not later than 6 months*  
12 *after the date of enactment of this Act.*

13 **SEC. 602. IMPROVING DATA COLLECTION.**

14           (a) *INCREASED APPROPRIATION.—Section 2109(b)(2)*  
15 *(42 U.S.C. 1397ii(b)(2)) is amended by striking*  
16 *“\$10,000,000 for fiscal year 2000” and inserting*  
17 *“\$20,000,000 for fiscal year 2009”.*

18           (b) *USE OF ADDITIONAL FUNDS.—Section 2109(b) (42*  
19 *U.S.C. 1397ii(b)), as amended by subsection (a), is amend-*  
20 *ed—*

21                   (1) *by redesignating paragraph (2) as para-*  
22 *graph (4); and*

23                   (2) *by inserting after paragraph (1), the fol-*  
24 *lowing new paragraphs:*

1           “(2) *ADDITIONAL REQUIREMENTS.*—*In addition*  
2           *to making the adjustments required to produce the*  
3           *data described in paragraph (1), with respect to data*  
4           *collection occurring for fiscal years beginning with*  
5           *fiscal year 2009, in appropriate consultation with the*  
6           *Secretary of Health and Human Services, the Sec-*  
7           *retary of Commerce shall do the following:*

8                   “(A) *Make appropriate adjustments to the*  
9                   *Current Population Survey to develop more ac-*  
10                   *curate State-specific estimates of the number of*  
11                   *children enrolled in health coverage under title*  
12                   *XIX or this title.*

13                   “(B) *Make appropriate adjustments to the*  
14                   *Current Population Survey to improve the sur-*  
15                   *vey estimates used to determine the child popu-*  
16                   *lation growth factor under section 2104(m)(5)(B)*  
17                   *and any other data necessary for carrying out*  
18                   *this title.*

19                   “(C) *Include health insurance survey infor-*  
20                   *mation in the American Community Survey re-*  
21                   *lated to children.*

22                   “(D) *Assess whether American Community*  
23                   *Survey estimates, once such survey data are first*  
24                   *available, produce more reliable estimates than*

1           *the Current Population Survey with respect to*  
2           *the purposes described in subparagraph (B).*

3           “(E) *On the basis of the assessment required*  
4           *under subparagraph (D), recommend to the Sec-*  
5           *retary of Health and Human Services whether*  
6           *American Community Survey estimates should*  
7           *be used in lieu of, or in some combination with,*  
8           *Current Population Survey estimates for the*  
9           *purposes described in subparagraph (B).*

10           “(F) *Continue making the adjustments de-*  
11           *scribed in the last sentence of paragraph (1) with*  
12           *respect to expansion of the sample size used in*  
13           *State sampling units, the number of sampling*  
14           *units in a State, and using an appropriate*  
15           *verification element.*

16           “(3) *AUTHORITY FOR THE SECRETARY OF*  
17           *HEALTH AND HUMAN SERVICES TO TRANSITION TO*  
18           *THE USE OF ALL, OR SOME COMBINATION OF, ACS ES-*  
19           *TIMATES UPON RECOMMENDATION OF THE SECRETARY*  
20           *OF COMMERCE.—If, on the basis of the assessment re-*  
21           *quired under paragraph (2)(D), the Secretary of*  
22           *Commerce recommends to the Secretary of Health and*  
23           *Human Services that American Community Survey*  
24           *estimates should be used in lieu of, or in some com-*  
25           *bination with, Current Population Survey estimates*

1 *for the purposes described in paragraph (2)(B), the*  
2 *Secretary of Health and Human Services, in con-*  
3 *sultation with the States, may provide for a period*  
4 *during which the Secretary may transition from car-*  
5 *rying out such purposes through the use of Current*  
6 *Population Survey estimates to the use of American*  
7 *Community Survey estimates (in lieu of, or in com-*  
8 *bination with the Current Population Survey esti-*  
9 *mates, as recommended), provided that any such*  
10 *transition is implemented in a manner that is de-*  
11 *signed to avoid adverse impacts upon States with ap-*  
12 *proved State child health plans under this title.”.*

13 **SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.**

14 *Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by*  
15 *striking paragraph (5) and inserting the following:*

16 *“(5) SUBSEQUENT EVALUATION USING UPDATED*  
17 *INFORMATION.—*

18 *“(A) IN GENERAL.—The Secretary, directly*  
19 *or through contracts or interagency agreements,*  
20 *shall conduct an independent subsequent evalua-*  
21 *tion of 10 States with approved child health*  
22 *plans.*

23 *“(B) SELECTION OF STATES AND MATTERS*  
24 *INCLUDED.—Paragraphs (2) and (3) shall apply*  
25 *to such subsequent evaluation in the same man-*

1            *ner as such provisions apply to the evaluation*  
2            *conducted under paragraph (1).*

3            *“(C) SUBMISSION TO CONGRESS.—Not later*  
4            *than December 31, 2011, the Secretary shall sub-*  
5            *mit to Congress the results of the evaluation con-*  
6            *ducted 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 2010 for the purpose of conducting*  
11           *the evaluation authorized under this paragraph.*  
12           *Amounts appropriated under this subparagraph*  
13           *shall remain available for expenditure through*  
14           *fiscal year 2012.”.*

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 to*  
18            *read as follows:*

19            *“(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS*  
20            *AND EVALUATIONS.—For the purpose of evaluating and au-*  
21            *diting the program established under this title, or title XIX,*  
22            *the Secretary, the Office of Inspector General, and the*  
23            *Comptroller General shall have access to any books, ac-*  
24            *counts, records, correspondence, and other documents that*  
25            *are related to the expenditure of Federal funds under this*



1 *title and that are in the possession, custody, or control of*  
 2 *States receiving Federal funds under this title or political*  
 3 *subdivisions thereof, or any grantee or contractor of such*  
 4 *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 disallowance*  
 11 *of Federal financial participation for erroneous expendi-*  
 12 *tures 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) (relat-  
4           ing 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 subsection  
9           (E)”; and

10           (ii) by striking “enrollment in coverage  
11           that provides” and inserting “coverage  
12           that”;

13           (B) in clause (i), by inserting “provides”  
14           after “(i)”; and

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 in  
10          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 subsection  
15          (b)(1) or benchmark equivalent coverage de-  
16          scribed in subsection (b)(2);

17          “(ii) preventing a State from offering  
18          all or any of the items and services required  
19          by subparagraph (A)(ii) through an issuer  
20          of benchmark coverage described in sub-  
21          section (b)(1) or benchmark equivalent cov-  
22          erage 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 of*  
 13 *title IV on the basis of being a child in foster care or”.*

14            *(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–*  
 15 *7), as inserted by section 6044(a) of the Deficit Reduction*  
 16 *Act of 2005, is amended by adding at the end the following:*

17            *“(c) PUBLICATION OF PROVISIONS AFFECTED.—With*  
 18 *respect to a State plan amendment to provide benchmark*  
 19 *benefits in accordance with subsections (a) and (b) that is*  
 20 *approved by the Secretary, the Secretary shall publish on*  
 21 *the Internet website of the Centers for Medicare & Medicaid*  
 22 *Services, a list of the provisions of this title that the Sec-*  
 23 *retary has determined do not apply in order to enable the*  
 24 *State to carry out the plan amendment and the reason for*  
 25 *each such determination on the date such approval is made,*

1 *and shall publish such list in the Federal Register and not*  
2 *later than 30 days after such date of approval.”.*

3 (d) *EFFECTIVE DATE.*—*The amendments made by*  
4 *subsections (a), (b), and (c) of this section shall take effect*  
5 *as if included in the amendment made by section 6044(a)*  
6 *of the Deficit Reduction Act of 2005.*

7 **SEC. 612. REFERENCES TO TITLE XXI.**

8 *Section 704 of the Medicare, Medicaid, and SCHIP*  
9 *Balanced Budget Refinement Act of 1999, as enacted into*  
10 *law by division B of Public Law 106–113 (113 Stat.*  
11 *1501A–402) is repealed.*

12 **SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OP-**  
13 **PORTUNITY ACCOUNT DEMONSTRATION PRO-**  
14 **GRAMS.**

15 *After the date of the enactment of this Act, the Sec-*  
16 *retary of Health and Human Services may not approve any*  
17 *new demonstration programs under section 1938 of the So-*  
18 *cial Security Act (42 U.S.C. 1396u–8).*

19 **SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID**  
20 **FMAP TO DISREGARD AN EXTRAORDINARY**  
21 **EMPLOYER PENSION CONTRIBUTION.**

22 (a) *IN GENERAL.*—*Only for purposes of computing the*  
23 *FMAP (as defined in subsection (e)) for a State for a fiscal*  
24 *year (beginning with fiscal year 2006) and applying the*  
25 *FMAP under title XIX of the Social Security Act, any sig-*

1 *nificantly disproportionate employer pension or insurance*  
2 *fund contribution described in subsection (b) shall be dis-*  
3 *regarded in computing the per capita income of such State,*  
4 *but shall not be disregarded in computing the per capita*  
5 *income for the continental United States (and Alaska) and*  
6 *Hawaii.*

7 (b) *SIGNIFICANTLY DISPROPORTIONATE EMPLOYER*  
8 *PENSION AND INSURANCE FUND CONTRIBUTION.—*

9 (1) *IN GENERAL.—For purposes of this section,*  
10 *a significantly disproportionate employer pension*  
11 *and insurance fund contribution described in this*  
12 *subsection with respect to a State is any identifiable*  
13 *employer contribution towards pension or other em-*  
14 *ployee insurance funds that is estimated to accrue to*  
15 *residents of such State for a calendar year (beginning*  
16 *with calendar year 2003) if the increase in the*  
17 *amount so estimated exceeds 25 percent of the total*  
18 *increase in personal income in that State for the year*  
19 *involved.*

20 (2) *DATA TO BE USED.—For estimating and ad-*  
21 *justment a FMAP already calculated as of the date of*  
22 *the enactment of this Act for a State with a signifi-*  
23 *cantly disproportionate employer pension and insur-*  
24 *ance fund contribution, the Secretary shall use the*

1     *personal income data set originally used in calcu-*  
2     *lating such FMAP.*

3             (3) *SPECIAL ADJUSTMENT FOR NEGATIVE*  
4     *GROWTH.—If in any calendar year the total personal*  
5     *income growth in a State is negative, an employer*  
6     *pension and insurance fund contribution for the pur-*  
7     *poses of calculating the State’s FMAP for a calendar*  
8     *year shall not exceed 125 percent of the amount of*  
9     *such contribution for the previous calendar year for*  
10    *the State.*

11            (c) *HOLD HARMLESS.—No State shall have its FMAP*  
12    *for a fiscal year reduced as a result of the application of*  
13    *this section.*

14            (d) *REPORT.—Not later than May 15, 2009, the Sec-*  
15    *retary shall submit to the Congress a report on the problems*  
16    *presented by the current treatment of pension and insur-*  
17    *ance fund contributions in the use of Bureau of Economic*  
18    *Affairs calculations for the FMAP and for Medicaid and*  
19    *on possible alternative methodologies to mitigate such prob-*  
20    *lems.*

21            (e) *FMAP DEFINED.—For purposes of this section, the*  
22    *term “FMAP” means the Federal medical assistance per-*  
23    *centage, as defined in section 1905(b) of the Social Security*  
24    *Act (42 U.S.C. 1396(d)).*

1 **SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MED-**  
2 **ICAL CENTER.**

3 (a) *IN GENERAL.*—Nothing in section 1903(w) of the  
4 *Social Security Act (42 U.S.C. 1396b(w))* shall be construed  
5 by the Secretary of Health and Human Services as prohib-  
6 iting a State’s use of funds as the non-Federal share of ex-  
7 penditures under title XIX of such Act where such funds  
8 are transferred from or certified by a publicly-owned re-  
9 gional medical center located in another State and de-  
10 scribed in subsection (b), so long as the Secretary deter-  
11 mines that such use of funds is proper and in the interest  
12 of the program under title XIX.

13 (b) *CENTER DESCRIBED.*—A center described in this  
14 subsection is a publicly-owned regional medical center  
15 that—

16 (1) provides level 1 trauma and burn care serv-  
17 ices;

18 (2) provides level 3 neonatal care services;

19 (3) is obligated to serve all patients, regardless of  
20 ability to pay;

21 (4) is located within a Standard Metropolitan  
22 Statistical Area (SMSA) that includes at least 3  
23 States;

24 (5) provides services as a tertiary care provider  
25 for patients residing within a 125-mile radius; and



1           (6) meets the criteria for a disproportionate  
 2           share hospital under section 1923 of such Act (42  
 3           U.S.C. 1396r-4) in at least one State other than the  
 4           State in which the center is located.

5   **SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR**  
 6                                   **TENNESSEE AND HAWAII.**

7           Section 1923(f)(6) (42 U.S.C. 1396r-4(f)(6)), as  
 8           amended by section 202 of the Medicare Improvements for  
 9           Patients and Providers Act of 2008 (Public Law 110-275)  
 10          is amended—

11                   (1) in the paragraph heading, by striking “2009  
 12           AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR  
 13           2010” and inserting “2011 AND THE FIRST CALENDAR  
 14           QUARTER OF FISCAL YEAR 2012”;

15                   (2) in subparagraph (A)—

16                           (A) in clause (i)—

17                                   (i) in the second sentence—

18   (I) by striking “and 2009” and  
 19   inserting “, 2009, 2010, and 2011”;  
 20   and

21   (II) by striking “such portion of”;  
 22   and

23                                   (ii) in the third sentence, by striking  
 24                                   “2010 for the period ending on December

1           31, 2009” and inserting “2012 for the pe-  
2           riod ending on December 31, 2011”;

3           (B) in clause (ii), by striking “or for a pe-  
4           riod in fiscal year 2010” and inserting “2010,  
5           2011, or for period in fiscal year 2012”; and

6           (C) in clause (iv)—

7                 (i) in the clause heading, by striking  
8                 “2009 AND THE FIRST CALENDAR QUARTER  
9                 OF FISCAL YEAR 2010” and inserting “2011  
10                AND THE FIRST CALENDAR QUARTER OF  
11                FISCAL YEAR 2012”; and

12               (ii) in each of subclauses (I) and (II),  
13               by striking “ or for a period in fiscal year  
14               2010” and inserting “2010, 2011, or for a  
15               period in fiscal year 2012”; and

16         (3) in subparagraph (B)—

17               (A) in clause (i)—

18                 (i) in the first sentence, by striking  
19                 “2009” and inserting “2011”; and

20                 (ii) in the second sentence, by striking  
21                 “2010 for the period ending on December  
22                 31, 2009” and inserting “2012 for the pe-  
23                 riod ending on December 31, 2011”.

1 **SEC. 617. GAO REPORT ON MEDICAID MANAGED CARE PAY-**  
2 **MENT RATES.**

3 *Not later than 18 months after the date of the enact-*  
4 *ment of this Act, the Comptroller General of the United*  
5 *States shall submit a report to the Committee on Finance*  
6 *of the Senate and the Committee on Energy and Commerce*  
7 *of the House of Representatives analyzing the extent to*  
8 *which State payment rates for medicaid managed care or-*  
9 *ganizations under Medicaid are actuarially sound.*

10 ***Subtitle C—Other Provisions***

11 **SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OP-**  
12 **TIONS AVAILABLE TO CHILDREN.**

13 *(a) DEFINITIONS.—In this section—*

14 *(1) the terms “Administration” and “Adminis-*  
15 *trator” means the Small Business Administration*  
16 *and the Administrator thereof, respectively;*

17 *(2) the term “certified development company”*  
18 *means a development company participating in the*  
19 *program under title V of the Small Business Invest-*  
20 *ment Act of 1958 (15 U.S.C. 695 et seq.);*

21 *(3) the term “Medicaid program” means the pro-*  
22 *gram established under title XIX of the Social Secu-*  
23 *rity Act (42 U.S.C. 1396 et seq.);*

24 *(4) the term “Service Corps of Retired Execu-*  
25 *tives” means the Service Corps of Retired Executives*

1 *authorized by section 8(b)(1) of the Small Business*  
2 *Act (15 U.S.C. 637(b)(1));*

3 *(5) the term “small business concern” has the*  
4 *meaning given that term in section 3 of the Small*  
5 *Business Act (15 U.S.C. 632);*

6 *(6) the term “small business development center”*  
7 *means a small business development center described*  
8 *in section 21 of the Small Business Act (15 U.S.C.*  
9 *648);*

10 *(7) the term “State” has the meaning given that*  
11 *term for purposes of title XXI of the Social Security*  
12 *Act (42 U.S.C. 1397aa et seq.);*

13 *(8) the term “State Children’s Health Insurance*  
14 *Program” means the State Children’s Health Insur-*  
15 *ance Program established under title XXI of the So-*  
16 *cial Security Act (42 U.S.C. 1397aa et seq.);*

17 *(9) the term “task force” means the task force es-*  
18 *tablished under subsection (b)(1); and*

19 *(10) the term “women’s business center” means*  
20 *a women’s business center described in section 29 of*  
21 *the Small Business Act (15 U.S.C. 656).*

22 *(b) ESTABLISHMENT OF TASK FORCE.—*

23 *(1) ESTABLISHMENT.—There is established a*  
24 *task force to conduct a nationwide campaign of edu-*  
25 *cation and outreach for small business concerns re-*

1     *garding the availability of coverage for children*  
2     *through private insurance options, the Medicaid pro-*  
3     *gram, and the State Children’s Health Insurance Pro-*  
4     *gram.*

5             (2) *MEMBERSHIP.*—*The task force shall consist*  
6     *of the Administrator, the Secretary of Health and*  
7     *Human Services, the Secretary of Labor, and the Sec-*  
8     *retary of the Treasury.*

9             (3) *RESPONSIBILITIES.*—*The campaign con-*  
10    *ducted under this subsection shall include—*

11             (A) *efforts to educate the owners of small*  
12    *business concerns about the value of health cov-*  
13    *erage for children;*

14             (B) *information regarding options available*  
15    *to the owners and employees of small business*  
16    *concerns to make insurance more affordable, in-*  
17    *cluding Federal and State tax deductions and*  
18    *credits for health care-related expenses and*  
19    *health insurance expenses and Federal tax exclu-*  
20    *sion for health insurance options available under*  
21    *employer-sponsored cafeteria plans under section*  
22    *125 of the Internal Revenue Code of 1986;*

23             (C) *efforts to educate the owners of small*  
24    *business concerns about assistance available*  
25    *through public programs; and*

1           (D) efforts to educate the owners and em-  
2           ployees of small business concerns regarding the  
3           availability of the hotline operated as part of the  
4           Insure Kids Now program of the Department of  
5           Health and Human Services.

6           (4) IMPLEMENTATION.—In carrying out this sub-  
7           section, the task force may—

8           (A) use any business partner of the Admin-  
9           istration, including—

10           (i) a small business development cen-  
11           ter;

12           (ii) a certified development company;

13           (iii) a women’s business center; and

14           (iv) the Service Corps of Retired Ex-  
15           ecutives;

16           (B) enter into—

17           (i) a memorandum of understanding  
18           with a chamber of commerce; and

19           (ii) a partnership with any appro-  
20           priate small business concern or health ad-  
21           vocacy group; and

22           (C) designate outreach programs at regional  
23           offices of the Department of Health and Human  
24           Services to work with district offices of the Ad-  
25           ministration.

1           (5) *WEBSITE.*—*The Administrator shall ensure*  
2           *that links to information on the eligibility and enroll-*  
3           *ment requirements for the Medicaid program and*  
4           *State Children’s Health Insurance Program of each*  
5           *State are prominently displayed on the website of the*  
6           *Administration.*

7           (6) *REPORT.*—

8                   (A) *IN GENERAL.*—*Not later than 2 years*  
9                   *after the date of enactment of this Act, and every*  
10                   *2 years thereafter, the Administrator shall sub-*  
11                   *mit to the Committee on Small Business and*  
12                   *Entrepreneurship of the Senate and the Com-*  
13                   *mittee on Small Business of the House of Rep-*  
14                   *resentatives a report on the status of the nation-*  
15                   *wide campaign conducted under paragraph (1).*

16                   (B) *CONTENTS.*—*Each report submitted*  
17                   *under subparagraph (A) shall include a status*  
18                   *update on all efforts made to educate owners and*  
19                   *employees of small business concerns on options*  
20                   *for providing health insurance for children*  
21                   *through public and private alternatives.*

22 **SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO**  
23 **AFFORDABLE AND MEANINGFUL HEALTH IN-**  
24 **SURANCE COVERAGE.**

25           (a) *FINDINGS.*—*The Senate finds the following:*

1           (1) *There are approximately 45 million Ameri-*  
2           *cans currently without health insurance.*

3           (2) *More than half of uninsured workers are em-*  
4           *ployed by businesses with less than 25 employees or*  
5           *are self-employed.*

6           (3) *Health insurance premiums continue to rise*  
7           *at more than twice the rate of inflation for all con-*  
8           *sumer goods.*

9           (4) *Individuals in the small group and indi-*  
10          *vidual health insurance markets usually pay more for*  
11          *similar coverage than those in the large group market.*

12          (5) *The rapid growth in health insurance costs*  
13          *over the last few years has forced many employers,*  
14          *particularly small employers, to increase deductibles*  
15          *and co-pays or to drop coverage completely.*

16          (b) *SENSE OF THE SENATE.—The Senate—*

17               (1) *recognizes the necessity to improve afford-*  
18               *ability and access to health insurance for all Ameri-*  
19               *cans;*

20               (2) *acknowledges the value of building upon the*  
21               *existing private health insurance market; and*

22               (3) *affirms its intent to enact legislation this*  
23               *year that, with appropriate protection for consumers,*  
24               *improves access to affordable and meaningful health*



1 *insurance coverage for employees of small businesses*  
 2 *and individuals by—*

3 *(A) facilitating pooling mechanisms, in-*  
 4 *cluding pooling across State lines, and*

5 *(B) providing assistance to small businesses*  
 6 *and individuals, including financial assistance*  
 7 *and tax incentives, for the purchase of private*  
 8 *insurance coverage.*

9 ***TITLE VII—REVENUE***  
 10 ***PROVISIONS***

11 ***SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO***  
 12 ***PRODUCTS.***

13 *(a) CIGARS.—Section 5701(a) of the Internal Revenue*  
 14 *Code of 1986 is amended—*

15 *(1) by striking “\$1.828 cents per thousand*  
 16 *(\$1.594 cents per thousand on cigars removed during*  
 17 *2000 or 2001)” in paragraph (1) and inserting*  
 18 *“\$50.33 per thousand”,*

19 *(2) by striking “20.719 percent (18.063 percent*  
 20 *on cigars removed during 2000 or 2001)” in para-*  
 21 *graph (2) and inserting “52.75 percent”, and*

22 *(3) by striking “\$48.75 per thousand (\$42.50 per*  
 23 *thousand on cigars removed during 2000 or 2001)” in*  
 24 *paragraph (2) and inserting “40.26 cents per cigar”.*

1       (b) *CIGARETTES*.—Section 5701(b) of such Code is  
2 amended—

3           (1) by striking “\$19.50 per thousand (\$17 per  
4 thousand on cigarettes removed during 2000 or  
5 2001)” in paragraph (1) and inserting “\$50.33 per  
6 thousand”, and

7           (2) by striking “\$40.95 per thousand (\$35.70 per  
8 thousand on cigarettes removed during 2000 or  
9 2001)” in paragraph (2) and inserting “\$105.69 per  
10 thousand”.

11       (c) *CIGARETTE PAPERS*.—Section 5701(c) of such  
12 Code is amended by striking “1.22 cents (1.06 cents on ciga-  
13 rette papers removed during 2000 or 2001)” and inserting  
14 “3.15 cents”.

15       (d) *CIGARETTE TUBES*.—Section 5701(d) of such Code  
16 is amended by striking “2.44 cents (2.13 cents on cigarette  
17 tubes removed during 2000 or 2001)” and inserting “6.30  
18 cents”.

19       (e) *SMOKELESS TOBACCO*.—Section 5701(e) of such  
20 Code is amended—

21           (1) by striking “58.5 cents (51 cents on snuff re-  
22 moved during 2000 or 2001)” in paragraph (1) and  
23 inserting “\$1.51”, and

1           (2) by striking “19.5 cents (17 cents on chewing  
2           tobacco removed during 2000 or 2001)” in paragraph  
3           (2) and inserting “50.33 cents”.

4           (f) *PIPE TOBACCO*.—Section 5701(f) of such Code is  
5           amended by striking “\$1.0969 cents (95.67 cents on pipe  
6           tobacco removed during 2000 or 2001)” and inserting  
7           “\$2.8311 cents”.

8           (g) *ROLL-YOUR-OWN TOBACCO*.—Section 5701(g) of  
9           such Code is amended by striking “\$1.0969 cents (95.67  
10          cents on roll-your-own tobacco removed during 2000 or  
11          2001)” and inserting “\$24.78”.

12          (h) *FLOOR STOCKS TAXES*.—

13           (1) *IMPOSITION OF TAX*.—On tobacco products  
14          (other than cigars described in section 5701(a)(2) of  
15          the Internal Revenue Code of 1986) and cigarette pa-  
16          pers and tubes manufactured in or imported into the  
17          United States which are removed before April 1,  
18          2009, and held on such date for sale by any person,  
19          there is hereby imposed a tax in an amount equal to  
20          the excess of—

21                   (A) the tax which would be imposed under  
22                   section 5701 of such Code on the article if the ar-  
23                   ticle had been removed on such date, over

24                   (B) the prior tax (if any) imposed under  
25                   section 5701 of such Code on such article.

1           (2) *CREDIT AGAINST TAX.*—*Each person shall be*  
2           *allowed as a credit against the taxes imposed by*  
3           *paragraph (1) an amount equal to \$500. Such credit*  
4           *shall not exceed the amount of taxes imposed by para-*  
5           *graph (1) on April 1, 2009, for which such person is*  
6           *liable.*

7           (3) *LIABILITY FOR TAX AND METHOD OF PAY-*  
8           *MENT.*—

9                   (A) *LIABILITY FOR TAX.*—*A person holding*  
10           *tobacco products, cigarette papers, or cigarette*  
11           *tubes on April 1, 2009, to which any tax im-*  
12           *posed by paragraph (1) applies shall be liable for*  
13           *such tax.*

14                   (B) *METHOD OF PAYMENT.*—*The tax im-*  
15           *posed by paragraph (1) shall be paid in such*  
16           *manner as the Secretary shall prescribe by regu-*  
17           *lations.*

18                   (C) *TIME FOR PAYMENT.*—*The tax imposed*  
19           *by paragraph (1) shall be paid on or before Au-*  
20           *gust 1, 2009.*

21           (4) *ARTICLES IN FOREIGN TRADE ZONES.*—*Not-*  
22           *withstanding the Act of June 18, 1934 (commonly*  
23           *known as the Foreign Trade Zone Act, 48 Stat. 998,*  
24           *19 U.S.C. 81a et seq.) or any other provision of law,*  
25           *any article which is located in a foreign trade zone*

1     *on April 1, 2009, shall be subject to the tax imposed*  
2     *by paragraph (1) if—*

3             *(A) internal revenue taxes have been deter-*  
4             *mined, or customs duties liquidated, with respect*  
5             *to such article before such date pursuant to a re-*  
6             *quest made under the 1st proviso of section 3(a)*  
7             *of such Act, or*

8             *(B) such article is held on such date under*  
9             *the supervision of an officer of the United States*  
10            *Customs and Border Protection of the Depart-*  
11            *ment of Homeland Security pursuant to the 2d*  
12            *proviso of such section 3(a).*

13            *(5) DEFINITIONS.—For purposes of this sub-*  
14            *section—*

15             *(A) IN GENERAL.—Any term used in this*  
16             *subsection which is also used in section 5702 of*  
17             *the Internal Revenue Code of 1986 shall have the*  
18             *same meaning as such term has in such section.*

19             *(B) SECRETARY.—The term “Secretary”*  
20             *means the Secretary of the Treasury or the Sec-*  
21             *retary’s delegate.*

22            *(6) CONTROLLED GROUPS.—Rules similar to the*  
23            *rules of section 5061(e)(3) of such Code shall apply*  
24            *for purposes of this subsection.*

1           (7) *OTHER LAWS APPLICABLE.*—All provisions of  
2     *law, including penalties, applicable with respect to*  
3     *the taxes imposed by section 5701 of such Code shall,*  
4     *insofar as applicable and not inconsistent with the*  
5     *provisions of this subsection, apply to the floor stocks*  
6     *taxes imposed by paragraph (1), to the same extent*  
7     *as if such taxes were imposed by such section 5701.*  
8     *The Secretary may treat any person who bore the ul-*  
9     *timate burden of the tax imposed by paragraph (1)*  
10    *as the person to whom a credit or refund under such*  
11    *provisions may be allowed or made.*

12       (i) *EFFECTIVE DATE.*—The amendments made by this  
13    *section shall apply to articles removed (as defined in section*  
14    *5702(j) of the Internal Revenue Code of 1986) after March*  
15    *31, 2009.*

16    **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

17       (a) *PERMIT, INVENTORIES, REPORTS, AND RECORDS*  
18    *REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF*  
19    *PROCESSED TOBACCO.*—

20           (1) *PERMIT.*—

21               (A) *APPLICATION.*—Section 5712 of the *In-*  
22    *ternal Revenue Code of 1986 is amended by in-*  
23    *serting “or processed tobacco” after “tobacco*  
24    *products”.*

1           (B) *ISSUANCE.*—Section 5713(a) of such  
2           Code is amended by inserting “or processed to-  
3           bacco” after “tobacco products”.

4           (2) *INVENTORIES, REPORTS, AND PACKAGES.*—

5           (A) *INVENTORIES.*—Section 5721 of such  
6           Code is amended by inserting “, processed to-  
7           bacco,” after “tobacco products”.

8           (B) *REPORTS.*—Section 5722 of such Code  
9           is amended by inserting “, processed tobacco,”  
10          after “tobacco products”.

11          (C) *PACKAGES, MARKS, LABELS, AND NO-*  
12          *TICES.*—Section 5723 of such Code is amended  
13          by inserting “, processed tobacco,” after “tobacco  
14          products” each place it appears.

15          (3) *RECORDS.*—Section 5741 of such Code is  
16          amended by inserting “, processed tobacco,” after “to-  
17          bacco products”.

18          (4) *MANUFACTURER OF PROCESSED TOBACCO.*—  
19          Section 5702 of such Code is amended by adding at  
20          the end the following new subsection:

21          “(p) *MANUFACTURER OF PROCESSED TOBACCO.*—

22                 “(1) *IN GENERAL.*—The term ‘manufacturer of  
23                 processed tobacco’ means any person who processes  
24                 any tobacco other than tobacco products.

1           “(2) *PROCESSED TOBACCO*.—*The processing of*  
2 *tobacco shall not include the farming or growing of*  
3 *tobacco or the handling of tobacco solely for sale, ship-*  
4 *ment, or delivery to a manufacturer of tobacco prod-*  
5 *ucts or processed tobacco.”.*

6           (5) *CONFORMING AMENDMENTS*.—

7           (A) *Section 5702(h) of such Code is amend-*  
8 *ed by striking “tobacco products and cigarette*  
9 *papers and tubes” and inserting “tobacco prod-*  
10 *ucts or cigarette papers or tubes or any processed*  
11 *tobacco”.*

12           (B) *Sections 5702(j) and 5702(k) of such*  
13 *Code are each amended by inserting “, or any*  
14 *processed tobacco,” after “tobacco products or*  
15 *cigarette papers or tubes”.*

16           (6) *EFFECTIVE DATE*.—*The amendments made*  
17 *by this subsection shall take effect on April 1, 2009.*

18           (b) *BASIS FOR DENIAL, SUSPENSION, OR REVOCATION*  
19 *OF PERMITS*.—

20           (1) *DENIAL*.—*Paragraph (3) of section 5712 of*  
21 *such Code is amended to read as follows:*

22           “(3) *such person (including, in the case of a cor-*  
23 *poration, any officer, director, or principal stock-*  
24 *holder and, in the case of a partnership, a partner)—*



1           “(A) is, by reason of his business experience,  
2           *financial standing, or trade connections or by*  
3           *reason of previous or current legal proceedings*  
4           *involving a felony violation of any other provi-*  
5           *sion of Federal criminal law relating to tobacco*  
6           *products, processed tobacco, cigarette paper, or*  
7           *cigarette tubes, not likely to maintain operations*  
8           *in compliance with this chapter,*

9           “(B) has been convicted of a felony violation  
10           *of any provision of Federal or State criminal*  
11           *law relating to tobacco products, processed to-*  
12           *bacco, cigarette paper, or cigarette tubes, or*

13           “(C) has failed to disclose any material in-  
14           *formation required or made any material false*  
15           *statement in the application therefor.”.*

16           (2) *SUSPENSION OR REVOCATION.*—*Subsection*  
17           *(b) of section 5713 of such Code is amended to read*  
18           *as follows:*

19           “(b) *SUSPENSION OR REVOCATION.*—

20           “(1) *SHOW CAUSE HEARING.*—*If the Secretary*  
21           *has reason to believe that any person holding a per-*  
22           *mit—*

23           “(A) has not in good faith complied with  
24           *this chapter, or with any other provision of this*  
25           *title involving intent to defraud,*

1           “(B) has violated the conditions of such per-  
2           mit,

3           “(C) has failed to disclose any material in-  
4           formation required or made any material false  
5           statement in the application for such permit,

6           “(D) has failed to maintain his premises in  
7           such manner as to protect the revenue,

8           “(E) is, by reason of previous or current  
9           legal proceedings involving a felony violation of  
10          any other provision of Federal criminal law re-  
11          lating to tobacco products, processed tobacco, cig-  
12          arette paper, or cigarette tubes, not likely to  
13          maintain operations in compliance with this  
14          chapter, or

15          “(F) has been convicted of a felony violation  
16          of any provision of Federal or State criminal  
17          law relating to tobacco products, processed to-  
18          bacco, cigarette paper, or cigarette tubes,

19          the Secretary shall issue an order, stating the facts  
20          charged, citing such person to show cause why his  
21          permit should not be suspended or revoked.

22          “(2) ACTION FOLLOWING HEARING.—If, after  
23          hearing, the Secretary finds that such person has not  
24          shown cause why his permit should not be suspended  
25          or revoked, such permit shall be suspended for such

1       *period as the Secretary deems proper or shall be re-*  
2       *voked.”.*

3               (3) *EFFECTIVE DATE.*—*The amendments made*  
4       *by this subsection shall take effect on the date of the*  
5       *enactment of this Act.*

6               (c) *APPLICATION OF INTERNAL REVENUE CODE STAT-*  
7       *UTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE*  
8       *TAXES.*—

9               (1) *IN GENERAL.*—*Section 514(a) of the Tariff*  
10       *Act of 1930 (19 U.S.C. 1514(a)) is amended by strik-*  
11       *ing “and section 520 (relating to refunds)” and in-*  
12       *serting “section 520 (relating to refunds), and section*  
13       *6501 of the Internal Revenue Code of 1986 (but only*  
14       *with respect to taxes imposed under chapters 51 and*  
15       *52 of such Code)”.*

16               (2) *EFFECTIVE DATE.*—*The amendment made by*  
17       *this subsection shall apply to articles imported after*  
18       *the date of the enactment of this Act.*

19               (d) *EXPANSION OF DEFINITION OF ROLL-YOUR-OWN*  
20       *TOBACCO.*—

21               (1) *IN GENERAL.*—*Section 5702(o) of the Inter-*  
22       *nal Revenue Code of 1986 is amended by inserting*  
23       *“or cigars, or for use as wrappers thereof” before the*  
24       *period at the end.*

1           (2) *EFFECTIVE DATE.*—*The amendment made by*  
2           *this subsection shall apply to articles removed (as de-*  
3           *finied in section 5702(j) of the Internal Revenue Code*  
4           *of 1986) after March 31, 2009.*

5           (e) *TIME OF TAX FOR UNLAWFULLY MANUFACTURED*  
6 *TOBACCO PRODUCTS.*—

7           (1) *IN GENERAL.*—*Section 5703(b)(2) of such*  
8           *Code is amended by adding at the end the following*  
9           *new subparagraph:*

10                   “(F) *SPECIAL RULE FOR UNLAWFULLY MAN-*  
11                   *UFACTURED TOBACCO PRODUCTS.*—*In the case of*  
12                   *any tobacco products, cigarette paper, or ciga-*  
13                   *rette tubes manufactured in the United States at*  
14                   *any place other than the premises of a manufac-*  
15                   *turer of tobacco products, cigarette paper, or cig-*  
16                   *arette tubes that has filed the bond and obtained*  
17                   *the permit required under this chapter, tax shall*  
18                   *be due and payable immediately upon manufac-*  
19                   *ture.”.*

20           (2) *EFFECTIVE DATE.*—*The amendment made by*  
21           *this subsection shall take effect on the date of the en-*  
22           *actment of this Act.*

23           (f) *DISCLOSURE.*—

24           (1) *IN GENERAL.*—*Paragraph (1) of section*  
25           *6103(o) of such Code is amended by designating the*

1 *text as subparagraph (A), moving such text 2 ems to*  
2 *the right, striking “Returns” and inserting “(A) IN*  
3 *GENERAL.—Returns”, and by inserting after subpara-*  
4 *graph (A) (as so redesignated) the following new sub-*  
5 *paragraph:*

6 *“(B) USE IN CERTAIN PROCEEDINGS.—Re-*  
7 *turns and return information disclosed to a Fed-*  
8 *eral agency under subparagraph (A) may be*  
9 *used in an action or proceeding (or in prepara-*  
10 *tion for such action or proceeding) brought under*  
11 *section 625 of the American Jobs Creation Act of*  
12 *2004 for the collection of any unpaid assessment*  
13 *or penalty arising under such Act.”.*

14 (2) *CONFORMING AMENDMENT.—Section*  
15 *6103(p)(4) of such Code is amended by striking*  
16 *“(o)(1)” both places it appears and inserting*  
17 *“(o)(1)(A)”.*

18 (3) *EFFECTIVE DATE.—The amendments made*  
19 *by this subsection shall apply on or after the date of*  
20 *the enactment of this Act.*

21 (g) *TRANSITIONAL RULE.—Any person who—*

22 (1) *on April 1, 2009 is engaged in business as*  
23 *a manufacturer of processed tobacco or as an im-*  
24 *porter of processed tobacco, and*

1           (2) before the end of the 90-day period beginning  
2           on such date, submits an application under sub-  
3           chapter B of chapter 52 of such Code to engage in  
4           such business, may, notwithstanding such subchapter  
5           B, continue to engage in such business pending final  
6           action on such application. Pending such final ac-  
7           tion, all provisions of such chapter 52 shall apply to  
8           such applicant in the same manner and to the same  
9           extent as if such applicant were a holder of a permit  
10          under such chapter 52 to engage in such business.

11 **SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF**  
12                   **TOBACCO SMUGGLING IN THE UNITED**  
13                   **STATES.**

14          Not later than one year after the date of the enactment  
15 of this Act, the Secretary of the Treasury shall conduct a  
16 study concerning the magnitude of tobacco smuggling in the  
17 United States and submit to Congress recommendations for  
18 the most effective steps to reduce tobacco smuggling. Such  
19 study shall also include a review of the loss of Federal tax  
20 receipts due to illicit tobacco trade in the United States and  
21 the role of imported tobacco products in the illicit tobacco  
22 trade in the United States.

1 **SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
2 **TAXES.**

3 *The percentage under subparagraph (C) of section*  
4 *401(1) of the Tax Increase Prevention and Reconciliation*  
5 *Act of 2005 in effect on the date of the enactment of this*  
6 *Act is increased by 0.5 percentage point.*

Attest:

*Secretary.*

11<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H.R. 2**

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**AMENDMENT**