

Calendar No. 17

111TH CONGRESS
1ST SESSION**S. 275**

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

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2009

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

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

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

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

6 (a) SHORT TITLE.—This Act may be cited as the
7 “Children's Health Insurance Program Reauthorization
8 Act of 2009”.

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

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

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

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

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

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

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

Sec. 2. Purpose.

Sec. 3. General effective date; exception for State legislation; contingent effec-
 tive date; reliance on law.

TITLE I—FINANCING

Subtitle A—Funding

Sec. 101. Extension of CHIP.

- Sec. 102. Allotments for States and territories for fiscal years 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
3 and stable funding for children's health insurance under
4 titles XXI and XIX of the Social Security Act in order
5 to enroll all six million uninsured children who are eligible,
6 but not enrolled, for coverage today through such titles.

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

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

16 (b) EXCEPTION FOR STATE LEGISLATION.—In the
17 case of a State plan under title XIX or State child health
18 plan under XXI of the Social Security Act, which the Sec-
19 retary of Health and Human Services determines requires
20 State legislation in order for the respective plan to meet
21 one or more additional requirements imposed by amend-
22 ments made by this Act, the respective plan shall not be
23 regarded as failing to comply with the requirements of

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

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

17 (1) any amounts that are so appropriated that
18 are not so allotted and obligated before April 1,
19 2009 are rescinded; and

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

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

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

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

18 **TITLE I—FINANCING**

19 **Subtitle A—Funding**

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

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

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

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

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

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

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

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

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

10 and

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

13 “(A) \$2,850,000,000 for the period begin-
14 ning on October 1, 2012, and ending on March
15 31, 2013, and

16 “(B) \$2,850,000,000 for the period begin-
17 ning on April 1, 2013, and ending on Sep-
18 tember 30, 2013.”.

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

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

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

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

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

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

8 “(1) FOR FISCAL YEAR 2009.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(3) FOR FISCAL YEAR 2013.—

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

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

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

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

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

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

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

7 “(i) the sum of—

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

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

15 “(ii) the sum of the—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(n) CHILD ENROLLMENT CONTINGENCY FUND.—

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

8 “(2) DEPOSITS INTO FUND.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(I) UNOBLIGATED NATIONAL
7 ALLOTMENT.—

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

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

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

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

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

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

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

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

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

11 “(F) QUALIFYING CHILDREN DEFINED.—

12 “(i) IN GENERAL.—For purposes of
13 this subsection, subject to clauses (ii) and
14 (iii), the term ‘qualifying children’ means
15 children who meet the eligibility criteria
16 (including income, categorical eligibility,
17 age, and immigration status criteria) in ef-
18 fect as of July 1, 2008, for enrollment
19 under title XIX, taking into account cri-
20 teria applied as of such date under title
21 XIX pursuant to a waiver under section
22 1115.

23 “(ii) LIMITATION.—A child described
24 in clause (i) who is provided medical as-
25 sistance during a presumptive eligibility

1 period under section 1920A shall be con-
2 sidered to be a ‘qualifying child’ only if the
3 child is determined to be eligible for med-
4 ical assistance under title XIX.

5 “(iii) EXCLUSION.—Such term does
6 not include any children for whom the
7 State has made an election to provide med-
8 ical assistance under paragraph (4) of sec-
9 tion 1903(v).

10 “(G) APPLICATION TO COMMONWEALTHS
11 AND TERRITORIES.—The provisions of subpara-
12 graph (G) of section 2104(n)(3) shall apply
13 with respect to payment under this paragraph
14 in the same manner as such provisions apply to
15 payment under such section.

16 “(H) APPLICATION TO STATES THAT IM-
17 PLEMENT A MEDICAID EXPANSION FOR CHIL-
18 DREN AFTER FISCAL YEAR 2008.—In the case of
19 a State that provides coverage under section
20 115 of the Children’s Health Insurance Pro-
21 gram Reauthorization Act of 2009 for any fis-
22 cal year after fiscal year 2008—

23 “(i) any child enrolled in the State
24 plan under title XIX through the applica-
25 tion of such an election shall be dis-

1 regarded from the determination for the
2 State of the monthly average unduplicated
3 number of qualifying children enrolled in
4 such plan during the first 3 fiscal years in
5 which such an election is in effect; and

6 “(ii) in determining the baseline num-
7 ber of child enrollees for the State for any
8 fiscal year subsequent to such first 3 fiscal
9 years, the baseline number of child enroll-
10 ees for the State under title XIX for the
11 third of such fiscal years shall be the
12 monthly average unduplicated number of
13 qualifying children enrolled in the State
14 plan under title XIX for such third fiscal
15 year.

16 “(4) ENROLLMENT AND RETENTION PROVI-
17 SIONS FOR CHILDREN.—For purposes of paragraph
18 (3)(A), a State meets the condition of this para-
19 graph for a fiscal year if it is implementing at least
20 5 of the following enrollment and retention provi-
21 sions (treating each subparagraph as a separate en-
22 rollment and retention provision) throughout the en-
23 tire fiscal year:

24 “(A) CONTINUOUS ELIGIBILITY.—The
25 State has elected the option of continuous eligi-

1 bility for a full 12 months for all children de-
2 scribed in section 1902(e)(12) under title XIX
3 under 19 years of age, as well as applying such
4 policy under its State child health plan under
5 this title.

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

9 “(i) ELIMINATION OF ASSET TEST.—
10 The State does not apply any asset or re-
11 source test for eligibility for children under
12 title XIX or this title.

13 “(ii) ADMINISTRATIVE VERIFICATION
14 OF ASSETS.—The State—

15 “(I) permits a parent or care-
16 taker relative who is applying on be-
17 half of a child for medical assistance
18 under title XIX or child health assist-
19 ance under this title to declare and
20 certify by signature under penalty of
21 perjury information relating to family
22 assets for purposes of determining
23 and redetermining financial eligibility;
24 and

1 “(II) takes steps to verify assets
2 through means other than by requir-
3 ing documentation from parents and
4 applicants except in individual cases
5 of discrepancies or where otherwise
6 justified.

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

17 “(D) USE OF JOINT APPLICATION FOR
18 MEDICAID AND CHIP.—The application form
19 and supplemental forms (if any) and informa-
20 tion verification process is the same for pur-
21 poses of establishing and renewing eligibility for
22 children for medical assistance under title XIX
23 and child health assistance under this title.

24 “(E) AUTOMATIC RENEWAL (USE OF AD-
25 MINISTRATIVE RENEWAL).—

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

16 “(ii) SATISFACTION THROUGH DEM-
17 ONSTRATED USE OF EX PARTE PROCESS.—
18 A State shall be treated as satisfying the
19 requirement of clause (i) if renewal of eli-
20 gibility of children under title XIX or this
21 title is determined without any require-
22 ment for an in-person interview, unless
23 sufficient information is not in the State’s
24 possession and cannot be acquired from
25 other sources (including other State agen-

1 cies) without the participation of the appli-
2 cant or the applicant’s parent or caretaker
3 relative.

4 “(F) PRESUMPTIVE ELIGIBILITY FOR
5 CHILDREN.—The State is implementing section
6 1920A under title XIX as well as, pursuant to
7 section 2107(e)(1), under this title.

8 “(G) EXPRESS LANE.—The State is imple-
9 menting the option described in section
10 1902(e)(13) under title XIX as well as, pursu-
11 ant to section 2107(e)(1), under this title.

12 “(H) PREMIUM ASSISTANCE SUBSIDIES.—
13 The State is implementing the option of pro-
14 viding premium assistance subsidies under sec-
15 tion 2105(e)(10) or section 1906A.”.

16 **SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP AL-**
17 **LOTMENTS.**

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

20 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

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

24 “(A) for each of fiscal years 1998 through
25 2008, shall remain available for expenditure by

1 the State through the end of the second suc-
2 ceeding fiscal year; and

3 “(B) for fiscal year 2009 and each fiscal
4 year thereafter, shall remain available for ex-
5 penditure by the State through the end of the
6 succeeding fiscal year.

7 “(2) AVAILABILITY OF AMOUNTS REDISTRIB-
8 UTED.—Amounts redistributed to a State under sub-
9 section (f) shall be available for expenditure by the
10 State through the end of the fiscal year in which
11 they are redistributed.”.

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

13 (a) BEGINNING WITH FISCAL YEAR 2007.—

14 (1) IN GENERAL.—Section 2104(f) (42 U.S.C.
15 1397dd(f)) is amended—

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

18 “(1) IN GENERAL.—The Secretary”;

19 (B) by striking “States that have fully ex-
20 pended the amount of their allotments under
21 this section.” and inserting “States that the
22 Secretary determines with respect to the fiscal
23 year for which unused allotments are available
24 for redistribution under this subsection, are
25 shortfall States described in paragraph (2) for

1 such fiscal year, but not to exceed the amount
2 of the shortfall described in paragraph (2)(A)
3 for each such State (as may be adjusted under
4 paragraph (2)(C)).”; and

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

7 “(2) SHORTFALL STATES DESCRIBED.—

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

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

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

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

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

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

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply to redistribution of al-
20 lotments made for fiscal year 2007 and subsequent
21 fiscal years.

22 (b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR
23 FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C.
24 1397dd(k)) is amended—

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

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

5 (3) in paragraph (6)—

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

7 and

8 (B) by striking “March 31” and inserting
9 “September 30”.

10 **SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE**
11 **THE ENHANCED PORTION OF THE CHIP**
12 **MATCHING RATE FOR MEDICAID COVERAGE**
13 **OF CERTAIN CHILDREN.**

14 (a) IN GENERAL.—Section 2105(g) (42 U.S.C.
15 1397ee(g)) is amended—

16 (1) in paragraph (1)(A), as amended by section
17 201(b)(1) of Public Law 110–173—

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

21 (B) by striking “2008, or 2009” and in-
22 sserting “or 2008”; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(4) OPTION FOR ALLOTMENTS FOR FISCAL
2 YEARS 2009 THROUGH 2013.—

3 “(A) PAYMENT OF ENHANCED PORTION OF
4 MATCHING RATE FOR CERTAIN EXPENDI-
5 TURES.—In the case of expenditures described
6 in subparagraph (B), a qualifying State (as de-
7 fined in paragraph (2)) may elect to be paid
8 from the State’s allotment made under section
9 2104 for any of fiscal years 2009 through 2013
10 (insofar as the allotment is available to the
11 State under subsections (e) and (m) of such
12 section) an amount each quarter equal to the
13 additional amount that would have been paid to
14 the State under title XIX with respect to such
15 expenditures if the enhanced FMAP (as deter-
16 mined under subsection (b)) had been sub-
17 stituted for the Federal medical assistance per-
18 centage (as defined in section 1905(b)).

19 “(B) EXPENDITURES DESCRIBED.—For
20 purposes of subparagraph (A), the expenditures
21 described in this subparagraph are expenditures
22 made after the date of the enactment of this
23 paragraph and during the period in which funds
24 are available to the qualifying State for use
25 under subparagraph (A), for the provision of

1 medical assistance to individuals residing in the
2 State who are eligible for medical assistance
3 under the State plan under title XIX or under
4 a waiver of such plan and who have not at-
5 tained age 19 (or, if a State has so elected
6 under the State plan under title XIX, age 20
7 or 21), and whose family income equals or ex-
8 ceeds 133 percent of the poverty line but does
9 not exceed the Medicaid applicable income
10 level.”.

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

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

16 There is appropriated to the Secretary, out of any
17 money in the Treasury not otherwise appropriated,
18 \$11,706,000,000 to accompany the allotment made for the
19 period beginning on October 1, 2012, and ending on
20 March 31, 2013, under section 2104(a)(16)(A) of the So-
21 cial Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added
22 by section 101), to remain available until expended. Such
23 amount shall be used to provide allotments to States under
24 paragraph (3) of section 2104(m) of the Social Security
25 Act (42 U.S.C. 1397dd(i)), as added by section 102, for

1 the first 6 months of fiscal year 2013 in the same manner
2 as allotments are provided under subsection (a)(16)(A) of
3 such section 2104 and subject to the same terms and con-
4 ditions as apply to the allotments provided from such sub-
5 section (a)(16)(A).

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

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

10 “(4) EXCLUSION OF CERTAIN EXPENDITURES
11 FROM PAYMENT LIMITS.—With respect to fiscal
12 years beginning with fiscal year 2009, if Puerto
13 Rico, the Virgin Islands, Guam, the Northern Mar-
14 iana Islands, or American Samoa qualify for a pay-
15 ment under subparagraph (A)(i), (B), or (F) of sec-
16 tion 1903(a)(3) for a calendar quarter of such fiscal
17 year, the payment shall not be taken into account in
18 applying subsection (f) (as increased in accordance
19 with paragraphs (1), (2), and (3) of this subsection)
20 to such commonwealth or territory for such fiscal
21 year.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) ADDITIONAL CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

7 (a) PHASE-OUT RULES.—

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

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

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

16 **“(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-**
 17 **TENSIONS AT STATE OPTION THROUGH 2009.—Not-**
 18 **withstanding section 1115 or any other provision of**
 19 **this title, except as provided in this subsection—**

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

1 to provide child health assistance or other
2 health benefits coverage to a nonpregnant child-
3 less adult; and

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

12 “(2) TERMINATION OF CHIP COVERAGE UNDER
13 APPLICABLE EXISTING WAIVERS AT THE END OF
14 2009.—

15 “(A) IN GENERAL.—No funds shall be
16 available under this title for child health assist-
17 ance or other health benefits coverage that is
18 provided to a nonpregnant childless adult under
19 an applicable existing waiver after December
20 31, 2009.

21 “(B) EXTENSION UPON STATE RE-
22 QUEST.—If an applicable existing waiver de-
23 scribed in subparagraph (A) would otherwise
24 expire before January 1, 2010, notwithstanding
25 the requirements of subsections (e) and (f) of

1 section 1115, a State may submit, not later
2 than September 30, 2009, a request to the Sec-
3 retary for an extension of the waiver. The Sec-
4 retary shall approve a request for an extension
5 of an applicable existing waiver submitted pur-
6 suant to this subparagraph, but only through
7 December 31, 2009.

8 “(C) APPLICATION OF ENHANCED FMAP.—

9 The enhanced FMAP determined under section
10 2105(b) shall apply to expenditures under an
11 applicable existing waiver for the provision of
12 child health assistance or other health benefits
13 coverage to a nonpregnant childless adult dur-
14 ing the period beginning on the date of the en-
15 actment of this subsection and ending on De-
16 cember 31, 2009.

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

20 “(A) IN GENERAL.—Each State for which
21 coverage under an applicable existing waiver is
22 terminated under paragraph (2)(A) may sub-
23 mit, not later than September 30, 2009, an ap-
24 plication to the Secretary for a waiver under
25 section 1115 of the State plan under title XIX

1 to provide medical assistance to a nonpregnant
2 childless adult whose coverage is so terminated
3 (in this subsection referred to as a ‘Medicaid
4 nonpregnant childless adults waiver’).

5 “(B) DEADLINE FOR APPROVAL.—The
6 Secretary shall make a decision to approve or
7 deny an application for a Medicaid nonpregnant
8 childless adults waiver submitted under sub-
9 paragraph (A) within 90 days of the date of the
10 submission of the application. If no decision has
11 been made by the Secretary as of December 31,
12 2009, on the application of a State for a Med-
13 icaid nonpregnant childless adults waiver that
14 was submitted to the Secretary by September
15 30, 2009, the application shall be deemed ap-
16 proved.

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

22 “(i) in the case of fiscal year 2010,
23 allow expenditures for medical assistance
24 under title XIX for all such adults to not
25 exceed the total amount of payments made

1 to the State under paragraph (2)(B) for
 2 fiscal year 2009, increased by the percent-
 3 age increase (if any) in the projected nomi-
 4 nal per capita amount of National Health
 5 Expenditures for 2010 over 2009, as most
 6 recently published by the Secretary; and

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

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

20 “(1) TWO-YEAR PERIOD; AUTOMATIC EXTEN-
 21 SION AT STATE OPTION THROUGH FISCAL YEAR
 22 2011.—

23 “(A) NO NEW CHIP WAIVERS.—Notwith-
 24 standing section 1115 or any other provision of

1 this title, except as provided in this sub-
2 section—

3 “(i) the Secretary shall not on or after
4 the date of the enactment of the Children’s
5 Health Insurance Program Reauthoriza-
6 tion Act of 2009 approve or renew a waiv-
7 er, experimental, pilot, or demonstration
8 project that would allow funds made avail-
9 able under this title to be used to provide
10 child health assistance or other health ben-
11 efits coverage to a parent of a targeted
12 low-income child; and

13 “(ii) notwithstanding the terms and
14 conditions of an applicable existing waiver,
15 the provisions of paragraphs (2) and (3)
16 shall apply for purposes of any fiscal year
17 beginning on or after October 1, 2011, in
18 determining the period to which the waiver
19 applies, the individuals eligible to be cov-
20 ered by the waiver, and the amount of the
21 Federal payment under this title.

22 “(B) EXTENSION UPON STATE RE-
23 QUEST.—If an applicable existing waiver de-
24 scribed in subparagraph (A) would otherwise
25 expire before October 1, 2011, and the State

1 requests an extension of such waiver, the Sec-
2 retary shall grant such an extension, but only,
3 subject to paragraph (2)(A), through Sep-
4 tember 30, 2011.

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 parent of a targeted low-income
11 child during the third and fourth quarters of
12 fiscal year 2009 and during fiscal years 2010
13 and 2011.

14 “(2) RULES FOR FISCAL YEARS 2012 THROUGH
15 2013.—

16 “(A) PAYMENTS FOR COVERAGE LIMITED
17 TO BLOCK GRANT FUNDED FROM STATE ALLOT-
18 MENT.—Any State that provides child health
19 assistance or health benefits coverage under an
20 applicable existing waiver for a parent of a tar-
21 geted low-income child may elect to continue to
22 provide such assistance or coverage through fis-
23 cal year 2012 or 2013, subject to the same
24 terms and conditions that applied under the ap-

1 applicable existing waiver, unless otherwise modi-
2 fied in subparagraph (B).

3 “(B) TERMS AND CONDITIONS.—

4 “(i) BLOCK GRANT SET ASIDE FROM
5 STATE ALLOTMENT.—If the State makes
6 an election under subparagraph (A), the
7 Secretary shall set aside for the State for
8 each such fiscal year an amount equal to
9 the Federal share of 110 percent of the
10 State’s projected expenditures under the
11 applicable existing waiver for providing
12 child health assistance or health benefits
13 coverage to all parents of targeted low-in-
14 come children enrolled under such waiver
15 for the fiscal year (as certified by the State
16 and submitted to the Secretary by not
17 later than August 31 of the preceding fis-
18 cal year). In the case of fiscal year 2013,
19 the set aside for any State shall be com-
20 puted separately for each period described
21 in subparagraphs (A) and (B) of section
22 2104(a)(16) and any reduction in the allot-
23 ment for either such period under section
24 2104(m)(4) shall be allocated on a pro
25 rata basis to such set aside.

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

11 “(iii) ENHANCED FMAP ONLY IN FIS-
12 CAL YEAR 2012 FOR STATES WITH SIGNIFI-
13 CANT CHILD OUTREACH OR THAT ACHIEVE
14 CHILD COVERAGE BENCHMARKS; FMAP
15 FOR ANY OTHER STATES.—For purposes
16 of clause (ii), the applicable percentage for
17 any quarter of fiscal year 2012 is equal
18 to—

19 “(I) the enhanced FMAP deter-
20 mined under section 2105(b) in the
21 case of a State that meets the out-
22 reach or coverage benchmarks de-
23 scribed in any of subparagraph (A),
24 (B), or (C) of paragraph (3) for fiscal
25 year 2011; or

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

6 “(iv) AMOUNT OF FEDERAL MATCH-
7 ING PAYMENT IN 2013.—For purposes of
8 clause (ii), the applicable percentage for
9 any quarter of fiscal year 2013 is equal
10 to—

11 “(I) the REMAP percentage if—

12 “(aa) the applicable percent-
13 age for the State under clause
14 (iii) was the enhanced FMAP for
15 fiscal year 2012; and

16 “(bb) the State met either of
17 the coverage benchmarks de-
18 scribed in subparagraph (B) or
19 (C) of paragraph (3) for fiscal
20 year 2012; or

21 “(II) the Federal medical assist-
22 ance percentage (as so determined) in
23 the case of any State to which sub-
24 clause (I) does not apply.

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

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

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

1 enactment of the Children’s Health Insur-
2 ance Program Reauthorization Act of
3 2009.

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

8 “(A) SIGNIFICANT CHILD OUTREACH CAM-
9 PAIGN.—The State—

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

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

16 “(iii) has submitted a specific plan for
17 outreach for such fiscal year.

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

24 “(C) STATE INCREASING ENROLLMENT OF
25 LOW-INCOME CHILDREN.—The State qualified

1 for a performance bonus payment under section
2 2105(a)(3)(B) for the most recent fiscal year
3 applicable under such section.

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

12 “(c) APPLICABLE EXISTING WAIVER.—For purposes
13 of this section—

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

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

24 “(i) a parent of a targeted low-income
25 child;

1 “(ii) a nonpregnant childless adult; or

2 “(iii) individuals described in both
3 clauses (i) and (ii); and

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

5 “(2) DEFINITIONS.—

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

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

13 (2) CONFORMING AMENDMENTS.—

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

16 (i) by striking “, the Secretary” and
17 inserting “:

18 “(1) The Secretary”;

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

24 (iii) by striking the second sentence;
25 and

1 (iv) by adding at the end the following
2 new paragraph:

3 “(2) The Secretary may not approve, extend,
4 renew, or amend a waiver, experimental, pilot, or
5 demonstration project with respect to a State after
6 the date of enactment of the Children’s Health In-
7 surance Program Reauthorization Act of 2009 that
8 would waive or modify the requirements of section
9 2111.”.

10 (B) Section 6102(c) of the Deficit Reduc-
11 tion Act of 2005 (Public Law 109–171; 120
12 Stat. 131) is amended by striking “Nothing”
13 and inserting “Subject to section 2111 of the
14 Social Security Act, as added by section 112 of
15 the Children’s Health Insurance Program Re-
16 authorization Act of 2009, nothing”.

17 (b) GAO STUDY AND REPORT.—

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

21 (A) the coverage of a parent, a caretaker
22 relative (as such term is used in carrying out
23 section 1931), or a legal guardian of a targeted
24 low-income child under a State health plan
25 under title XXI of the Social Security Act in-

1 creases the enrollment of, or the quality of care
2 for, children, and

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

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

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

17 (a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C.
18 1397ee(a)(1)) is amended—

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

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

1 “(B) [reserved]”.

2 (b) AMENDMENTS TO MEDICAID.—

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

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

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

16 **SEC. 114. LIMITATION ON MATCHING RATE FOR STATES**
17 **THAT PROPOSE TO COVER CHILDREN WITH**
18 **EFFECTIVE FAMILY INCOME THAT EXCEEDS**
19 **300 PERCENT OF THE POVERTY LINE.**

20 (a) FMAP APPLIED TO EXPENDITURES.—Section
21 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at
22 the end the following new paragraph:

23 “(8) LIMITATION ON MATCHING RATE FOR EX-
24 PENDITURES FOR CHILD HEALTH ASSISTANCE PRO-
25 VIDED TO CHILDREN WHOSE EFFECTIVE FAMILY IN-

1 COME EXCEEDS 300 PERCENT OF THE POVERTY
2 LINE.—

3 “(A) FMAP APPLIED TO EXPENDI-
4 TURES.—Except as provided in subparagraph
5 (B), for fiscal years beginning with fiscal year
6 2009, the Federal medical assistance percent-
7 age (as determined under section 1905(b) with-
8 out regard to clause (4) of such section) shall
9 be substituted for the enhanced FMAP under
10 subsection (a)(1) with respect to any expendi-
11 tures for providing child health assistance or
12 health benefits coverage for a targeted low-in-
13 come child whose effective family income would
14 exceed 300 percent of the poverty line but for
15 the application of a general exclusion of a block
16 of income that is not determined by type of ex-
17 pense or type of income.

18 “(B) EXCEPTION.—Subparagraph (A)
19 shall not apply to any State that, on the date
20 of enactment of the Children’s Health Insur-
21 ance Program Reauthorization Act of 2009, has
22 an approved State plan amendment or waiver to
23 provide, or has enacted a State law to submit
24 a State plan amendment to provide, expendi-

1 tures described in such subparagraph under the
2 State child health plan.”.

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

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

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

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

14 Notwithstanding any other provision of law, including
15 the fourth sentence of subsection (b) of section 1905 of
16 the Social Security Act (42 U.S.C. 1396d) or subsection
17 (u) of such section, at State option, the Secretary shall
18 provide the State with the Federal medical assistance per-
19 centage determined for the State for Medicaid with respect
20 to expenditures described in section 1905(u)(2)(A) of such
21 Act or otherwise made to provide medical assistance under
22 Medicaid to a child who could be covered by the State
23 under CHIP.

1 **TITLE II—OUTREACH AND**
2 **ENROLLMENT**
3 **Subtitle A—Outreach and**
4 **Enrollment Activities**

5 **SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUND-**
6 **ING FOR OUTREACH AND ENROLLMENT.**

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

10 **“SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLL-**
11 **MENT.**

12 “(a) OUTREACH AND ENROLLMENT GRANTS; NA-
13 TIONAL CAMPAIGN.—

14 “(1) IN GENERAL.—From the amounts appro-
15 priated under subsection (g), subject to paragraph
16 (2), the Secretary shall award grants to eligible enti-
17 ties during the period of fiscal years 2009 through
18 2013 to conduct outreach and enrollment efforts
19 that are designed to increase the enrollment and
20 participation of eligible children under this title and
21 title XIX.

22 “(2) TEN PERCENT SET ASIDE FOR NATIONAL
23 ENROLLMENT CAMPAIGN.—An amount equal to 10
24 percent of such amounts shall be used by the Sec-
25 retary for expenditures during such period to carry

1 out a national enrollment campaign in accordance
2 with subsection (h).

3 “(b) PRIORITY FOR AWARD OF GRANTS.—

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

7 “(A) propose to target geographic areas
8 with high rates of—

9 “(i) eligible but unenrolled children,
10 including such children who reside in rural
11 areas; or

12 “(ii) racial and ethnic minorities and
13 health disparity populations, including
14 those proposals that address cultural and
15 linguistic barriers to enrollment; and

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

19 “(2) TEN PERCENT SET ASIDE FOR OUTREACH
20 TO INDIAN CHILDREN.—An amount equal to 10 per-
21 cent of the funds appropriated under subsection (g)
22 shall be used by the Secretary to award grants to
23 Indian Health Service providers and urban Indian
24 organizations receiving funds under title V of the In-
25 dian Health Care Improvement Act (25 U.S.C. 1651

1 et seq.) for outreach to, and enrollment of, children
2 who are Indians.

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

8 “(1) evidence demonstrating that the entity in-
9 cludes members who have access to, and credibility
10 with, ethnic or low-income populations in the com-
11 munities in which activities funded under the grant
12 are to be conducted;

13 “(2) evidence demonstrating that the entity has
14 the ability to address barriers to enrollment, such as
15 lack of awareness of eligibility, stigma concerns and
16 punitive fears associated with receipt of benefits,
17 and other cultural barriers to applying for and re-
18 ceiving child health assistance or medical assistance;

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

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

1 “(A) conduct an assessment of the effec-
2 tiveness of such activities against the perform-
3 ance measures;

4 “(B) cooperate with the collection and re-
5 porting of enrollment data and other informa-
6 tion in order for the Secretary to conduct such
7 assessments; and

8 “(C) in the case of an eligible entity that
9 is not the State, provide the State with enroll-
10 ment data and other information as necessary
11 for the State to make necessary projections of
12 eligible children and pregnant women.

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

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

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

22 “(e) MAINTENANCE OF EFFORT FOR STATES
23 AWARDED GRANTS; NO STATE MATCH REQUIRED.—In
24 the case of a State that is awarded a grant under this
25 section—

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

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

8 “(f) DEFINITIONS.—In this section:

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

11 “(A) A State with an approved child health
12 plan under this title.

13 “(B) A local government.

14 “(C) An Indian tribe or tribal consortium,
15 a tribal organization, an urban Indian organiza-
16 tion receiving funds under title V of the Indian
17 Health Care Improvement Act (25 U.S.C. 1651
18 et seq.), or an Indian Health Service provider.

19 “(D) A Federal health safety net organiza-
20 tion.

21 “(E) A national, State, local, or commu-
22 nity-based public or nonprofit private organiza-
23 tion, including organizations that use commu-
24 nity health workers or community-based doula
25 programs.

1 “(F) A faith-based organization or con-
2 sortia, to the extent that a grant awarded to
3 such an entity is consistent with the require-
4 ments of section 1955 of the Public Health
5 Service Act (42 U.S.C. 300x-65) relating to a
6 grant award to nongovernmental entities.

7 “(G) An elementary or secondary school.

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

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

13 “(B) a hospital defined as a dispropor-
14 tionate share hospital for purposes of section
15 1923;

16 “(C) a covered entity described in section
17 340B(a)(4) of the Public Health Service Act
18 (42 U.S.C. 256b(a)(4)); and

19 “(D) any other entity or consortium that
20 serves children under a federally funded pro-
21 gram, including the special supplemental nutri-
22 tion program for women, infants, and children
23 (WIC) established under section 17 of the Child
24 Nutrition Act of 1966 (42 U.S.C. 1786), the
25 Head Start and Early Head Start programs

1 under the Head Start Act (42 U.S.C. 9801 et
2 seq.), the school lunch program established
3 under the Richard B. Russell National School
4 Lunch Act, and an elementary or secondary
5 school.

6 “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-
7 ZATION; URBAN INDIAN ORGANIZATION.—The terms
8 ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and
9 ‘urban Indian organization’ have the meanings given
10 such terms in section 4 of the Indian Health Care
11 Improvement Act (25 U.S.C. 1603).

12 “(4) COMMUNITY HEALTH WORKER.—The term
13 ‘community health worker’ means an individual who
14 promotes health or nutrition within the community
15 in which the individual resides—

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

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

20 “(C) by enhancing community residents’
21 ability to effectively communicate with health
22 care providers;

23 “(D) by providing culturally and linguis-
24 tically appropriate health or nutrition edu-
25 cation;

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

3 “(F) by providing referral and followup
4 services.

5 “(g) APPROPRIATION.—There is appropriated, out of
6 any money in the Treasury not otherwise appropriated,
7 \$100,000,000 for the period of fiscal years 2009 through
8 2013, for the purpose of awarding grants under this sec-
9 tion. Amounts appropriated and paid under the authority
10 of this section shall be in addition to amounts appro-
11 priated under section 2104 and paid to States in accord-
12 ance with section 2105, including with respect to expendi-
13 tures for outreach activities in accordance with subsections
14 (a)(1)(D)(iii) and (c)(2)(C) of that section.

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

21 “(1) the establishment of partnerships with the
22 Secretary of Education and the Secretary of Agri-
23 culture to develop national campaigns to link the eli-
24 gibility and enrollment systems for the assistance

1 programs each Secretary administers that often
2 serve the same children;

3 “(2) the integration of information about the
4 programs established under this title and title XIX
5 in public health awareness campaigns administered
6 by the Secretary;

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

10 “(4) the establishment of joint public awareness
11 outreach initiatives with the Secretary of Education
12 and the Secretary of Labor regarding the impor-
13 tance of health insurance to building strong commu-
14 nities and the economy;

15 “(5) the development of special outreach mate-
16 rials for Native Americans or for individuals with
17 limited English proficiency; and

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

21 (b) ENHANCED ADMINISTRATIVE FUNDING FOR
22 TRANSLATION OR INTERPRETATION SERVICES UNDER
23 CHIP AND MEDICAID.—

1 (1) CHIP.—Section 2105(a)(1) (42 U.S.C.
2 1397ee(a)(1)), as amended by section 113, is
3 amended—

4 (A) in the matter preceding subparagraph
5 (A), by inserting “(or, in the case of expendi-
6 tures described in subparagraph (D)(iv), the
7 higher of 75 percent or the sum of the en-
8 hanced FMAP plus 5 percentage points)” after
9 “enhanced FMAP”; and

10 (B) in subparagraph (D)—

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

13 (ii) by redesignating clause (iv) as
14 clause (v); and

15 (iii) by inserting after clause (iii) the
16 following new clause:

17 “(iv) for translation or interpretation
18 services in connection with the enrollment
19 of, retention of, and use of services under
20 this title by, individuals for whom English
21 is not their primary language (as found
22 necessary by the Secretary for the proper
23 and efficient administration of the State
24 plan); and”.

25 (2) MEDICAID.—

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

5 “(E) an amount equal to 75 percent of so much
6 of the sums expended during such quarter (as found
7 necessary by the Secretary for the proper and effi-
8 cient administration of the State plan) as are attrib-
9 utable to translation or interpretation services in
10 connection with the enrollment of, retention of, and
11 use of services under this title by, children of fami-
12 lies for whom English is not the primary language;
13 plus”.

14 (B) USE OF COMMUNITY HEALTH WORK-
15 ERS FOR OUTREACH ACTIVITIES.—

16 (i) IN GENERAL.—Section 2102(c)(1)
17 of such Act (42 U.S.C. 1397bb(c)(1)) is
18 amended by inserting “(through commu-
19 nity health workers and others)” after
20 “Outreach”.

21 (ii) IN FEDERAL EVALUATION.—Sec-
22 tion 2108(c)(3)(B) of such Act (42 U.S.C.
23 1397hh(c)(3)(B)) is amended by inserting
24 “(such as through community health work-

1 ers and others)” after “including prac-
2 tices”.

3 **SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF IN-**
4 **DIANS.**

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

7 **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**
8 **HEALTH CARE FOR INDIANS UNDER TITLES**
9 **XIX AND XXI.**

10 “(a) AGREEMENTS WITH STATES FOR MEDICAID
11 AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO
12 INCREASE THE ENROLLMENT OF INDIANS IN THOSE
13 PROGRAMS.—

14 “(1) IN GENERAL.—In order to improve the ac-
15 cess of Indians residing on or near a reservation to
16 obtain benefits under the Medicaid and State chil-
17 dren’s health insurance programs established under
18 titles XIX and XXI, the Secretary shall encourage
19 the State to take steps to provide for enrollment on
20 or near the reservation. Such steps may include out-
21 reach efforts such as the outstationing of eligibility
22 workers, entering into agreements with the Indian
23 Health Service, Indian Tribes, Tribal Organizations,
24 and Urban Indian Organizations to provide out-
25 reach, education regarding eligibility and benefits,

1 enrollment, and translation services when such serv-
2 ices are appropriate.

3 “(2) CONSTRUCTION.—Nothing in paragraph
4 (1) shall be construed as affecting arrangements en-
5 tered into between States and the Indian Health
6 Service, Indian Tribes, Tribal Organizations, or
7 Urban Indian Organizations for such Service,
8 Tribes, or Organizations to conduct administrative
9 activities under such titles.

10 “(b) REQUIREMENT TO FACILITATE COOPERA-
11 TION.—The Secretary, acting through the Centers for
12 Medicare & Medicaid Services, shall take such steps as are
13 necessary to facilitate cooperation with, and agreements
14 between, States and the Indian Health Service, Indian
15 Tribes, Tribal Organizations, or Urban Indian Organiza-
16 tions with respect to the provision of health care items
17 and services to Indians under the programs established
18 under title XIX or XXI.

19 “(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN
20 HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN IN-
21 DIAN ORGANIZATION.—In this section, the terms ‘Indian’,
22 ‘Indian Tribe’, ‘Indian Health Program’, ‘Tribal Organi-
23 zation’, and ‘Urban Indian Organization’ have the mean-
24 ings given those terms in section 4 of the Indian Health
25 Care Improvement Act.”.

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

5 “(C) NONAPPLICATION TO CERTAIN EX-
6 PENDITURES.—The limitation under subpara-
7 graph (A) shall not apply with respect to the
8 following expenditures:

9 “(i) EXPENDITURES TO INCREASE
10 OUTREACH TO, AND THE ENROLLMENT OF,
11 INDIAN CHILDREN UNDER THIS TITLE AND
12 TITLE xix.—Expenditures for outreach ac-
13 tivities to families of Indian children likely
14 to be eligible for child health assistance
15 under the plan or medical assistance under
16 the State plan under title XIX (or under
17 a waiver of such plan), to inform such
18 families of the availability of, and to assist
19 them in enrolling their children in, such
20 plans, including such activities conducted
21 under grants, contracts, or agreements en-
22 tered into under section 1139(a).”.

1 **SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN**
 2 **EXPRESS LANE AGENCY TO CONDUCT SIM-**
 3 **PLIFIED ELIGIBILITY DETERMINATIONS.**

4 (a) APPLICATION UNDER MEDICAID AND CHIP PRO-
 5 GRAMS.—

6 (1) MEDICAID.—Section 1902(e) (42 U.S.C.
 7 1396a(e)) is amended by adding at the end the fol-
 8 lowing:

9 “(13) EXPRESS LANE OPTION.—

10 “(A) IN GENERAL.—

11 “(i) OPTION TO USE A FINDING FROM AN
 12 EXPRESS LANE AGENCY.—At the option of the
 13 State, the State plan may provide that in deter-
 14 mining eligibility under this title for a child (as
 15 defined in subparagraph (G)), the State may
 16 rely on a finding made within a reasonable pe-
 17 riod (as determined by the State) from an Ex-
 18 press Lane agency (as defined in subparagraph
 19 (F)) when it determines whether a child satis-
 20 fies one or more components of eligibility for
 21 medical assistance under this title. The State
 22 may rely on a finding from an Express Lane
 23 agency notwithstanding sections
 24 1902(a)(46)(B) and 1137(d) or any differences
 25 in budget unit, disregard, deeming or other

1 methodology, if the following requirements are
2 met:

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

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

24 “(III) COMPLIANCE WITH SCREEN
25 AND ENROLL REQUIREMENT.—The State

1 shall satisfy the requirements under sub-
2 paragraphs (A) and (B) of section
3 2102(b)(3) (relating to screen and enroll)
4 before enrolling a child in child health as-
5 sistance under title XXI. At its option, the
6 State may fulfill such requirements in ac-
7 cordance with either option provided under
8 subparagraph (C) of this paragraph.

9 “(IV) VERIFICATION OF CITIZENSHIP
10 OR NATIONALITY STATUS.—The State shall
11 satisfy the requirements of section
12 1902(a)(46)(B) or 2105(c)(9), as applica-
13 ble for verifications of citizenship or na-
14 tionality status.

15 “(V) CODING.—The State meets the
16 requirements of subparagraph (E).

17 “(ii) OPTION TO APPLY TO RENEWALS AND
18 REDETERMINATIONS.—The State may apply the
19 provisions of this paragraph when conducting
20 initial determinations of eligibility, redetermina-
21 tions of eligibility, or both, as described in the
22 State plan.

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

1 “(i) to limit or prohibit a State from tak-
2 ing any actions otherwise permitted under this
3 title or title XXI in determining eligibility for
4 or enrolling children into medical assistance
5 under this title or child health assistance under
6 title XXI; or

7 “(ii) to modify the limitations in section
8 1902(a)(5) concerning the agencies that may
9 make a determination of eligibility for medical
10 assistance under this title.

11 “(C) OPTIONS FOR SATISFYING THE SCREEN
12 AND ENROLL REQUIREMENT.—

13 “(i) IN GENERAL.—With respect to a child
14 whose eligibility for medical assistance under
15 this title or for child health assistance under
16 title XXI has been evaluated by a State agency
17 using an income finding from an Express Lane
18 agency, a State may carry out its duties under
19 subparagraphs (A) and (B) of section
20 2102(b)(3) (relating to screen and enroll) in ac-
21 cordance with either clause (ii) or clause (iii).

22 “(ii) ESTABLISHING A SCREENING
23 THRESHOLD.—

24 “(I) IN GENERAL.—Under this clause,
25 the State establishes a screening threshold

1 set as a percentage of the Federal poverty
2 level that exceeds the highest income
3 threshold applicable under this title to the
4 child by a minimum of 30 percentage
5 points or, at State option, a higher number
6 of percentage points that reflects the value
7 (as determined by the State and described
8 in the State plan) of any differences be-
9 tween income methodologies used by the
10 program administered by the Express Lane
11 agency and the methodologies used by the
12 State in determining eligibility for medical
13 assistance under this title.

14 “(II) CHILDREN WITH INCOME NOT
15 ABOVE THRESHOLD.—If the income of a
16 child does not exceed the screening thresh-
17 old, the child is deemed to satisfy the in-
18 come eligibility criteria for medical assist-
19 ance under this title regardless of whether
20 such child would otherwise satisfy such cri-
21 teria.

22 “(III) CHILDREN WITH INCOME
23 ABOVE THRESHOLD.—If the income of a
24 child exceeds the screening threshold, the
25 child shall be considered to have an income

1 above the Medicaid applicable income level
2 described in section 2110(b)(4) and to sat-
3 isfy the requirement under section
4 2110(b)(1)(C) (relating to the requirement
5 that CHIP matching funds be used only
6 for children not eligible for Medicaid). If
7 such a child is enrolled in child health as-
8 sistance under title XXI, the State shall
9 provide the parent, guardian, or custodial
10 relative with the following:

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

22 “(bb) A description of differences
23 between the medical assistance pro-
24 vided under this title and child health
25 assistance under title XXI, including

1 differences in cost-sharing require-
2 ments and covered benefits.

3 “(iii) TEMPORARY ENROLLMENT IN CHIP
4 PENDING SCREEN AND ENROLL.—

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

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

18 “(III) PROMPT FOLLOW UP.—In mak-
19 ing such a determination, the State shall
20 take prompt action to determine whether
21 the child should be enrolled in medical as-
22 sistance under this title or child health as-
23 sistance under title XXI pursuant to sub-
24 paragraphs (A) and (B) of section
25 2102(b)(3) (relating to screen and enroll).

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

14 “(V) AVAILABILITY OF CHIP MATCH-
15 ING FUNDS DURING TEMPORARY ENROLL-
16 MENT PERIOD.—Medical assistance for
17 items and services that are provided to a
18 child enrolled in title XXI during a tem-
19 porary enrollment period under this clause
20 shall be treated as child health assistance
21 under such title.

22 “(D) OPTION FOR AUTOMATIC ENROLLMENT.—
23 “(i) IN GENERAL.—The State may initiate
24 and determine eligibility for medical assistance
25 under the State Medicaid plan or for child

1 health assistance under the State CHIP plan
2 without a program application from, or on be-
3 half of, the child based on data obtained from
4 sources other than the child (or the child's fam-
5 ily), but a child can only be automatically en-
6 rolled in the State Medicaid plan or the State
7 CHIP plan if the child or the family affirma-
8 tively consents to being enrolled through affir-
9 mation and signature on an Express Lane
10 agency application, if the requirement of clause
11 (ii) is met.

12 “(ii) INFORMATION REQUIREMENT.—The
13 requirement of this clause is that the State in-
14 forms the parent, guardian, or custodial relative
15 of the child of the services that will be covered,
16 appropriate methods for using such services,
17 premium or other cost sharing charges (if any)
18 that apply, medical support obligations (under
19 section 1912(a)) created by enrollment (if appli-
20 cable), and the actions the parent, guardian, or
21 relative must take to maintain enrollment and
22 renew coverage.

23 “(E) CODING; APPLICATION TO ENROLLMENT
24 ERROR RATES.—

1 “(i) IN GENERAL.—For purposes of sub-
2 paragraph (A)(iv), the requirement of this sub-
3 paragraph for a State is that the State agrees
4 to—

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

12 “(II) annually provide the Secretary
13 with a statistically valid sample (that is ap-
14 proved by Secretary) of the children en-
15 rolled in such plans through reliance on
16 such a finding by conducting a full Med-
17 icaid eligibility review of the children iden-
18 tified for such sample for purposes of de-
19 termining an eligibility error rate (as de-
20 scribed in clause (iv)) with respect to the
21 enrollment of such children (and shall not
22 include such children in any data or sam-
23 ples used for purposes of complying with a
24 Medicaid Eligibility Quality Control

1 (MEQC) review or a payment error rate
2 measurement (PERM) requirement);

3 “(III) submit the error rate deter-
4 mined under subclause (II) to the Sec-
5 retary;

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

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

1 “(ii) NO PUNITIVE ACTION BASED ON
2 ERROR RATE.—The Secretary shall not apply
3 the error rate derived from the sample under
4 clause (i) to the entire population of children
5 enrolled in the State Medicaid plan or the State
6 CHIP plan through reliance on a finding made
7 by an Express Lane agency, or to the popu-
8 lation of children enrolled in such plans on the
9 basis of the State’s regular procedures for de-
10 termining eligibility, or penalize the State on
11 the basis of such error rate in any manner
12 other than the reduction of payments provided
13 for under clause (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
18 1903(u), for payments made under the State
19 Medicaid plan with respect to ineligible individ-
20 uals and families that are determined to exceed
21 the error rate permitted under that section (as
22 determined without regard to the error rate de-
23 termined 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 as-
2 sistance (as defined in section 1903(u)(1)(D))
3 for the period involved, except that such pay-
4 ments shall be limited to individuals for which
5 eligibility determinations are made under this
6 paragraph and except that in applying this
7 paragraph under title XXI, there shall be sub-
8 stituted for references to provisions of this title
9 corresponding 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 “(ii) INCLUSION OF SPECIFIC PUBLIC
14 AGENCIES.—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
2 Act 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
6 National School Lunch Act (42
7 U.S.C. 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 Devel-
11 opment 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 eligi-
5 bility under the State Medicaid plan or the
6 State 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
11 private, for-profit organization.

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

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

20 “(II) authorizing a State Medicaid
21 agency that elects to use Express Lane
22 agencies under this subparagraph to use
23 the Express Lane option to avoid com-
24 plying with such requirements for purposes

1 of making eligibility determinations under
2 the State Medicaid plan.

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

5 “(I) STATE.—The term ‘State’ means
6 1 of the 50 States or the District of Co-
7 lumbia.

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

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

16 “(IV) STATE MEDICAID AGENCY.—
17 The term ‘State Medicaid agency’ means
18 the State agency responsible for admin-
19 istering the State Medicaid plan.

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

24 “(G) CHILD DEFINED.—For purposes of this
25 paragraph, the term ‘child’ means an individual

1 under 19 years of age, or, at the option of a State,
2 such higher age, not to exceed 21 years of age, as
3 the State may elect.

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

7 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.
8 1397gg(e)(1)) is amended by redesignating subpara-
9 graphs (B), (C), and (D) as subparagraphs (C), (D),
10 and (E), respectively, and by inserting after sub-
11 paragraph (A) the following new subparagraph:

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

16 (b) EVALUATION AND REPORT.—

17 (1) EVALUATION.—The Secretary shall con-
18 duct, by grant, contract, or interagency agreement,
19 a comprehensive, independent evaluation of the op-
20 tion provided under the amendments made by sub-
21 section (a). Such evaluation shall include an analysis
22 of the effectiveness of the option, and shall include—

23 (A) obtaining a statistically valid sample of
24 the children who were enrolled in the State
25 Medicaid plan or the State CHIP plan through

1 reliance on a finding made by an Express Lane
2 agency and determining the percentage of chil-
3 dren who were erroneously enrolled in such
4 plans;

5 (B) determining whether enrolling children
6 in such plans through reliance on a finding
7 made by an Express Lane agency improves the
8 ability of a State to identify and enroll low-in-
9 come, uninsured children who are eligible but
10 not enrolled in such plans;

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

19 (D) any recommendations for legislative or
20 administrative changes that would improve the
21 effectiveness of enrolling children in such plans
22 through reliance on such findings.

23 (2) REPORT TO CONGRESS.—Not later than
24 September 30, 2012, the Secretary shall submit a

1 report to Congress on the results of the evaluation
2 under paragraph (1).

3 (3) FUNDING.—

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

9 (B) BUDGET AUTHORITY.—Subparagraph
10 (A) constitutes budget authority in advance of
11 appropriations Act and represents the obliga-
12 tion of the Federal Government to provide for
13 the payment of such amount to conduct the
14 evaluation under this subsection.

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

18 “(dd) ELECTRONIC TRANSMISSION OF INFORMA-
19 TION.—If the State agency determining eligibility for med-
20 ical assistance under this title or child health assistance
21 under title XXI verifies an element of eligibility based on
22 information from an Express Lane Agency (as defined in
23 subsection (e)(13)(F)), or from another public agency,
24 then the applicant’s signature under penalty of perjury
25 shall not be required as to such element. Any signature

1 requirement for an application for medical assistance may
2 be satisfied through an electronic signature, as defined in
3 section 1710(1) of the Government Paperwork Elimination
4 Act (44 U.S.C. 3504 note). The requirements of
5 subparagraphs (A) and (B) of section 1137(d)(2) may be
6 met through evidence in digital or electronic form.”.

7 (d) AUTHORIZATION OF INFORMATION DISCLOSURE.—
8

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

11 **“SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.**
12

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

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

4 “(1) The individual whose circumstances are
5 described in the data or information (or such indi-
6 vidual’s parent, guardian, caretaker relative, or au-
7 thorized representative) has either provided advance
8 consent to disclosure or has not objected to disclo-
9 sure after receiving advance notice of disclosure and
10 a reasonable opportunity to object.

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

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

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

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

21 “(A) prevents the unauthorized use, disclo-
22 sure, or modification of such data and other-
23 wise meets applicable Federal requirements
24 safeguarding privacy and data security; and

1 “(B) requires the State agency admin-
2 istering the State plan to use the data and in-
3 formation obtained under this section to seek to
4 enroll individuals in the plan.

5 “(c) PENALTIES FOR IMPROPER DISCLOSURE.—

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

19 “(2) CRIMINAL PENALTY.—A private entity de-
20 scribed in the subsection (a) that willfully publishes,
21 discloses, or makes known in any manner, or to any
22 extent not authorized by Federal law, any informa-
23 tion obtained under this section shall be fined not
24 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
7 under 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 authoriza-
13 tion to receive data directly relevant to eligi-
14 bility determinations).”.

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 re-
24 spect 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 EX-
5 PRESS LANE OPTION TO RECEIVE CERTAIN DATA DI-
6 RECTLY RELEVANT TO DETERMINING ELIGIBILITY AND
7 CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall
8 enter into such agreements as are necessary to permit a
9 State that elects the Express Lane option under section
10 1902(e)(13) of the Social Security Act to receive data di-
11 rectly relevant to eligibility determinations and deter-
12 mining the correct amount of benefits under a State child
13 health plan under CHIP or a State plan under Medicaid
14 from the following:

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

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

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section are effective on the date of the enactment of
24 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
 7 VERIFICATION OF DECLARATION OF CITIZENSHIP OR NA-
 8 TIONALITY FOR PURPOSES OF ELIGIBILITY FOR MED-
 9 ICAID.—

10 (1) ALTERNATIVE TO DOCUMENTATION RE-
 11 QUIREMENT.—

12 (A) IN GENERAL.—Section 1902 (42
 13 U.S.C. 1396a), as amended by section 203(e),
 14 is amended—

15 (i) in subsection (a)(46)—

16 (I) by inserting “(A)” after
 17 “(46)”;

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

20 (III) by adding at the end the
 21 following new subparagraph:

22 “(B) provide, with respect to an individual de-
 23 claring to be a citizen or national of the United
 24 States for purposes of establishing eligibility under

1 this title, that the State shall satisfy the require-
2 ments of—

3 “(i) section 1903(x); or

4 “(ii) subsection (ee);”; and

5 (ii) by adding at the end the following
6 new subsection:

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

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

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

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

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

15 “(I) notifies the individual of such
16 fact;

17 “(II) provides the individual with a
18 period of 90 days from the date on which
19 the notice required under subclause (I) is
20 received by the individual to either present
21 satisfactory documentary evidence of citi-
22 zenship or nationality (as defined in sec-
23 tion 1903(x)(3)) or resolve the inconsis-
24 tency with the Commissioner of Social Se-
25 curity (and continues to provide the indi-

1 vidual with medical assistance during such
2 90-day period); and

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

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

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

21 “(i) to provide, through an on-line system or
22 otherwise, for the electronic submission of, and re-
23 sponse to, the information submitted under subpara-
24 graph (A) for an individual enrolled in the State

1 plan under this title who declares to be citizen or na-
2 tional on at least a monthly basis; or

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

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

23 “(3)(A) The State agency implementing the plan ap-
24 proved under this title shall, at such times and in such
25 form as the Secretary may specify, provide information on

1 the percentage each month that the inconsistent submis-
2 sions bears to the total submissions made for comparison
3 for such month. For purposes of this subparagraph, a
4 name, social security number, or declaration of citizenship
5 or nationality of an individual shall be treated as incon-
6 sistent and included in the determination of such percent-
7 age only if—

8 “(i) the information submitted by the individual
9 is not consistent with information in records main-
10 tained by the Commissioner of Social Security;

11 “(ii) the inconsistency is not resolved by the
12 State;

13 “(iii) the individual was provided with a reason-
14 able period of time to resolve the inconsistency with
15 the Commissioner of Social Security or provide satis-
16 factory documentation of citizenship status and did
17 not successfully resolve such inconsistency; and

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

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

23 “(i) the State shall develop and adopt a correc-
24 tive plan to review its procedures for verifying the
25 identities of individuals seeking to enroll in the State

1 plan under this title and to identify and implement
2 changes in such procedures to improve their accu-
3 racy; and

4 “(ii) pay to the Secretary an amount equal to
5 the amount which bears the same ratio to the total
6 payments under the State plan for the fiscal year for
7 providing medical assistance to individuals who pro-
8 vided inconsistent information as the number of in-
9 dividuals with inconsistent information in excess of
10 3 percent of such total submitted bears to the total
11 number of individuals with inconsistent information.

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

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

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

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

4 (i) by striking “plus” at the end of
5 subparagraph (E) and inserting “and”,
6 and

7 (ii) by adding at the end the following
8 new subparagraph:

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

17 “(ii) 75 percent of the sums expended dur-
18 ing the quarter as are attributable to the oper-
19 ation of systems to which clause (i) applies,
20 plus”.

21 (2) LIMITATION ON WAIVER AUTHORITY.—Not-
22 withstanding any provision of section 1115 of the
23 Social Security Act (42 U.S.C. 1315), or any other
24 provision of law, the Secretary may not waive the re-
25 quirements of section 1902(a)(46)(B) of such Act

1 (42 U.S.C. 1396a(a)(46)(B)) with respect to a
2 State.

3 (3) CONFORMING AMENDMENTS.—Section 1903
4 (42 U.S.C. 1396b) is amended—

5 (A) in subsection (i)(22), by striking “sub-
6 section (x)” and inserting “section
7 1902(a)(46)(B)”; and

8 (B) in subsection (x)(1), by striking “sub-
9 section (i)(22)” and inserting “section
10 1902(a)(46)(B)(i)”.

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

18 (b) CLARIFICATION OF REQUIREMENTS RELATING
19 TO PRESENTATION OF SATISFACTORY DOCUMENTARY
20 EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

21 (1) ACCEPTANCE OF DOCUMENTARY EVIDENCE
22 ISSUED BY A FEDERALLY RECOGNIZED INDIAN
23 TRIBE.—Section 1903(x)(3)(B) (42 U.S.C.
24 1396b(x)(3)(B)) is amended—

1 (A) by redesignating clause (v) as clause
2 (vi); and

3 (B) by inserting after clause (iv), the fol-
4 lowing new clause:

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

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

21 (2) REQUIREMENT TO PROVIDE REASONABLE
22 OPPORTUNITY TO PRESENT SATISFACTORY DOCU-
23 MENTARY EVIDENCE.—Section 1903(x) (42 U.S.C.
24 1396b(x)) is amended by adding at the end the fol-
25 lowing new paragraph:

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

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

14 (A) CLARIFICATION OF RULES.—Section
15 1903(x) (42 U.S.C. 1396b(x)), as amended by
16 paragraph (2), is amended—

17 (i) in paragraph (2)—

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

20 (II) by redesignating subpara-
21 graph (D) as subparagraph (E); and

22 (III) by inserting after subpara-
23 graph (C) the following new subpara-
24 graph:

1 “(D) pursuant to the application of section
2 1902(e)(4) (and, in the case of an individual who is
3 eligible for medical assistance on such basis, the in-
4 dividual shall be deemed to have provided satisfac-
5 tory documentary evidence of citizenship or nation-
6 ality and shall not be required to provide further
7 documentary evidence on any date that occurs dur-
8 ing or after the period in which the individual is eli-
9 gible for medical assistance on such basis); or”;

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

12 “(5) Nothing in subparagraph (A) or (B) of section
13 1902(a)(46), the preceding paragraphs of this subsection,
14 or the Deficit Reduction Act of 2005, including section
15 6036 of such Act, shall be construed as changing the re-
16 quirement of section 1902(e)(4) that a child born in the
17 United States to an alien mother for whom medical assist-
18 ance for the delivery of such child is available as treatment
19 of an emergency medical condition pursuant to subsection
20 (v) shall be deemed eligible for medical assistance during
21 the first year of such child’s life.”.

22 (B) STATE REQUIREMENT TO ISSUE SEPA-
23 RATE IDENTIFICATION NUMBER.—Section
24 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended
25 by adding at the end the following new sen-

1 tence: “Notwithstanding the preceding sentence,
2 in the case of a child who is born in the United
3 States to an alien mother for whom medical as-
4 sistance for the delivery of the child is made
5 available pursuant to section 1903(v), the State
6 immediately shall issue a separate identification
7 number for the child upon notification by the
8 facility at which such delivery occurred of the
9 child’s birth.”.

10 (4) TECHNICAL AMENDMENTS.—Section
11 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

12 (A) in subparagraph (B)—

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

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

19 (B) in subparagraph (C)—

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

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

1 (c) APPLICATION OF DOCUMENTATION SYSTEM TO
2 CHIP.—

3 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.
4 1397ee(c)), as amended by section 114(a), is amend-
5 ed by adding at the end the following new para-
6 graph:

7 “(9) CITIZENSHIP DOCUMENTATION REQUIRE-
8 MENTS.—

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

16 “(B) ENHANCED PAYMENTS.—Notwith-
17 standing subsection (b), the enhanced FMAP
18 with respect to payments under subsection (a)
19 for expenditures described in clause (i) or (ii) of
20 section 1903(a)(3)(F) necessary to comply with
21 subparagraph (A) shall in no event be less than
22 90 percent and 75 percent, respectively.”.

23 (2) NONAPPLICATION OF ADMINISTRATIVE EX-
24 PENDITURES CAP.—Section 2105(c)(2)(C) (42
25 U.S.C. 1397ee(c)(2)(C)), as amended by section

1 202(b), is amended by adding at the end the fol-
2 lowing:

3 “(ii) EXPENDITURES TO COMPLY
4 WITH CITIZENSHIP OR NATIONALITY
5 VERIFICATION REQUIREMENTS.—Expendi-
6 tures necessary for the State to comply
7 with paragraph (9)(A).”.

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the amendments made by
12 this section shall take effect on January 1,
13 2010.

14 (B) TECHNICAL AMENDMENTS.—The
15 amendments made by—

16 (i) paragraphs (1), (2), and (3) of
17 subsection (b) shall take effect as if in-
18 cluded in the enactment of section 6036 of
19 the Deficit Reduction Act of 2005 (Public
20 Law 109–171; 120 Stat. 80); and

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

1 (2) RESTORATION OF ELIGIBILITY.—In the
2 case of an individual who, during the period that
3 began on July 1, 2006, and ends on October 1,
4 2009, was determined to be ineligible for medical as-
5 sistance under a State Medicaid plan, including any
6 waiver of such plan, solely as a result of the applica-
7 tion of subsections (i)(22) and (x) of section 1903
8 of the Social Security Act (as in effect during such
9 period), but who would have been determined eligible
10 for such assistance if such subsections, as amended
11 by subsection (b), had applied to the individual, a
12 State may deem the individual to be eligible for such
13 assistance as of the date that the individual was de-
14 termined to be ineligible for such medical assistance
15 on such basis.

16 (3) SPECIAL TRANSITION RULE FOR INDIANS.—
17 During the period that begins on July 1, 2006, and
18 ends on the effective date of final regulations issued
19 under subclause (II) of section 1903(x)(3)(B)(v) of
20 the Social Security Act (42 U.S.C.
21 1396b(x)(3)(B)(v)) (as added by subsection
22 (b)(1)(B)), an individual who is a member of a fed-
23 erally-recognized Indian tribe described in subclause
24 (II) of that section who presents a document de-
25 scribed in subclause (I) of such section that is issued

1 by such Indian tribe, shall be deemed to have pre-
2 sented satisfactory evidence of citizenship or nation-
3 ality for purposes of satisfying the requirement of
4 subsection (x) of section 1903 of such Act.

5 **SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO EN-**
6 **ROLLMENT.**

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

8 (1) by redesignating paragraph (4) as para-
9 graph (5); and

10 (2) by inserting after paragraph (3) the fol-
11 lowing new paragraph:

12 “(4) REDUCTION OF ADMINISTRATIVE BAR-
13 RIERS TO ENROLLMENT.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the plan shall include a description
16 of the procedures used to reduce administrative
17 barriers to the enrollment of children and preg-
18 nant women who are eligible for medical assist-
19 ance under title XIX or for child health assist-
20 ance or health benefits coverage under this title.
21 Such procedures shall be established and re-
22 vised as often as the State determines appro-
23 priate to take into account the most recent in-
24 formation available to the State identifying
25 such barriers.

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

14 **SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLL-**
15 **MENT AND COVERAGE PROCESS.**

16 (a) IN GENERAL.—In order to assure continuity of
17 coverage of low-income children under the Medicaid pro-
18 gram and the State Children’s Health Insurance Program
19 (CHIP), not later than 18 months after the date of the
20 enactment of this Act, the Secretary of Health and
21 Human Services, in consultation with State Medicaid and
22 CHIP directors and organizations representing program
23 beneficiaries, shall develop a model process for the coordi-
24 nation of the enrollment, retention, and coverage under
25 such programs of children who, because of migration of

1 families, emergency evacuations, natural or other disas-
 2 ters, public health emergencies, educational needs, or oth-
 3 erwise, frequently change their State of residency or other-
 4 wise are temporarily located outside of the State of their
 5 residency.

6 (b) REPORT TO CONGRESS.—After development of
 7 such model process, the Secretary of Health and Human
 8 Services shall submit to Congress a report describing addi-
 9 tional steps or authority needed to make further improve-
 10 ments to coordinate the enrollment, retention, and cov-
 11 erage under CHIP and Medicaid of children described in
 12 subsection (a).

13 **SEC. 214. PERMITTING STATES TO ENSURE COVERAGE**
 14 **WITHOUT A 5-YEAR DELAY OF CERTAIN CHIL-**
 15 **DREN AND PREGNANT WOMEN UNDER THE**
 16 **MEDICAID PROGRAM AND CHIP.**

17 (a) MEDICAID PROGRAM.—Section 1903(v) (42
 18 U.S.C. 1396b(v)) is amended—

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

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

23 “(4)(A) A State may elect (in a plan amendment
 24 under this title) to provide medical assistance under this
 25 title, notwithstanding sections 401(a), 402(b), 403, and

1 421 of the Personal Responsibility and Work Opportunity
2 Reconciliation Act of 1996, to children and pregnant
3 women who are lawfully residing in the United States (in-
4 cluding battered individuals described in section 431(c) of
5 such Act) and who are otherwise eligible for such assist-
6 ance, within either or both of the following eligibility cat-
7 egories:

8 “(i) PREGNANT WOMEN.—Women during preg-
9 nancy (and during the 60-day period beginning on
10 the last day of the pregnancy).

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

14 “(B) In the case of a State that has elected to provide
15 medical assistance to a category of aliens under subpara-
16 graph (A), no debt shall accrue under an affidavit of sup-
17 port against any sponsor of such an alien on the basis
18 of provision of assistance to such category and the cost
19 of such assistance shall not be considered as an unreim-
20 bursed cost.

21 “(C) A State shall demonstrate that the State re-
22 quires an individual provided medical assistance as a re-
23 sult of an election by the State under subparagraph (A),
24 to provide the State, as part of the State’s ongoing eligi-
25 bility redetermination requirements and procedures, with

1 documentation or other evidence that the individual is law-
 2 fully residing in the United States.”.

3 (b) CHIP.—Section 2107(e)(1) (42 U.S.C.
 4 1397gg(e)(1)), as amended by sections 203(a)(2) and
 5 203(d)(2), is amended by redesignating subparagraphs
 6 (E) and (F) as subparagraphs (F) and (G), respectively
 7 and by inserting after subparagraph (D) the following new
 8 subparagraph:

9 “(E) Paragraph (4) of section 1903(v) (re-
 10 lating to optional coverage of categories of law-
 11 fully residing immigrant children or pregnant
 12 women), but only if the State has elected to
 13 apply such paragraph with respect to such cat-
 14 egory of children or pregnant women under title
 15 XIX.”.

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

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

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

24 (a) CHIP.—

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

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

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

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

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

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

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

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

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

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

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

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

8 “(C) PREMIUM ASSISTANCE SUBSIDY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(N) COORDINATION WITH MEDICAID.—In
22 the case of a targeted low-income child who re-
23 ceives child health assistance through a State
24 plan under title XIX and who voluntarily elects
25 to receive a premium assistance subsidy under

1 this section, the provisions of section 1906A
2 shall apply and shall supersede any other provi-
3 sions of this paragraph that are inconsistent
4 with such section.”.

5 (2) DETERMINATION OF COST-EFFECTIVENESS
6 FOR PREMIUM ASSISTANCE OR PURCHASE OF FAM-
7 ILY COVERAGE.—

8 (A) IN GENERAL.—Section 2105(c)(3)(A)
9 (42 U.S.C. 1397ee(c)(3)(A)) is amended by
10 striking “relative to” and all that follows
11 through the comma and inserting “relative to

12 “(i) the amount of expenditures under
13 the State child health plan, including ad-
14 ministrative expenditures, that the State
15 would have made to provide comparable
16 coverage of the targeted low-income child
17 involved or the family involved (as applica-
18 ble); or

19 “(ii) the aggregate amount of expendi-
20 tures that the State would have made
21 under the State child health plan, includ-
22 ing administrative expenditures, for pro-
23 viding coverage under such plan for all
24 such children or families.”.

1 (B) NONAPPLICATION TO PREVIOUSLY AP-
2 PROVED COVERAGE.—The amendment made by
3 subparagraph (A) shall not apply to coverage
4 the purchase of which has been approved by the
5 Secretary under section 2105(c)(3) of the Social
6 Security Act prior to the date of enactment of
7 this Act.

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

10 “PREMIUM ASSISTANCE OPTION FOR CHILDREN

11 “SEC. 1906A. (a) IN GENERAL.—A State may elect
12 to offer a premium assistance subsidy (as defined in sub-
13 section (c)) for qualified employer-sponsored coverage (as
14 defined in subsection (b)) to all individuals under age 19
15 who are entitled to medical assistance under this title (and
16 to the parent of such an individual) who have access to
17 such coverage if the State meets the requirements of this
18 section.

19 “(b) QUALIFIED EMPLOYER-SPONSORED COV-
20 ERAGE.—

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

1 “(A) that qualifies as creditable coverage
2 as a group health plan under section 2701(e)(1)
3 of the Public Health Service Act;

4 “(B) for which the employer contribution
5 toward any premium for such coverage is at
6 least 40 percent; and

7 “(C) that is offered to all individuals in a
8 manner that would be considered a nondiscrim-
9 inatory eligibility classification for purposes of
10 paragraph (3)(A)(ii) of section 105(h) of the
11 Internal Revenue Code of 1986 (but determined
12 without regard to clause (i) of subparagraph
13 (B) of such paragraph).

14 “(2) EXCEPTION.—Such term does not include
15 coverage consisting of—

16 “(A) benefits provided under a health flexi-
17 ble spending arrangement (as defined in section
18 106(c)(2) of the Internal Revenue Code of
19 1986); or

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

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

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

13 “(d) VOLUNTARY PARTICIPATION.—

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

20 “(2) BENEFICIARIES.—No subsidy shall be pro-
21 vided to an individual under age 19 under this sec-
22 tion unless the individual (or the individual’s parent)
23 voluntarily elects to receive such a subsidy. A State
24 may not require such an election as a condition of
25 receipt of medical assistance. State may not require,

1 as a condition of an individual under age 19 (or the
2 individual's parent) being or remaining eligible for
3 medical assistance under this title, apply for enroll-
4 ment in qualified employer-sponsored coverage under
5 this section.

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

11 “(e) REQUIREMENT TO PAY PREMIUMS AND COST-
12 SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In
13 the case of the participation of an individual under age
14 19 (or the individual's parent) in a premium assistance
15 subsidy under this section for qualified employer-spon-
16 sored coverage, the State shall provide for payment of all
17 enrollee premiums for enrollment in such coverage and all
18 deductibles, coinsurance, and other cost-sharing obliga-
19 tions for items and services otherwise covered under the
20 State plan under this title (exceeding the amount other-
21 wise permitted under section 1916 or, if applicable, section
22 1916A). The fact that an individual under age 19 (or a
23 parent) elects to enroll in qualified employer-sponsored
24 coverage under this section shall not change the individ-
25 ual's (or parent's) eligibility for medical assistance under

1 the State plan, except insofar as section 1902(a)(25) pro-
2 vides that payments for such assistance shall first be made
3 under such coverage.”.

4 (c) GAO STUDY AND REPORT.—Not later than Janu-
5 ary 1, 2010, the Comptroller General of the United States
6 shall study cost and coverage issues relating to any State
7 premium assistance programs for which Federal matching
8 payments are made under title XIX or XXI of the Social
9 Security Act, including under waiver authority, and shall
10 submit a report to the Committee on Finance of the Sen-
11 ate and the Committee on Energy and Commerce of the
12 House of Representatives on the results of such study.

13 **SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT AS-**
14 **SISTANCE.**

15 (a) REQUIREMENT TO INCLUDE DESCRIPTION OF
16 OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS
17 RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE
18 CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C.
19 1397bb(c)) is amended by adding at the end the following
20 new paragraph:

21 “(3) PREMIUM ASSISTANCE SUBSIDIES.—In the
22 case of a State that provides for premium assistance
23 subsidies under the State child health plan in ac-
24 cordance with paragraph (2)(B), (3), or (10) of sec-
25 tion 2105(c), or a waiver approved under section

1 1115, outreach, education, and enrollment assistance
2 for families of children likely to be eligible for such
3 subsidies, to inform such families of the availability
4 of, and to assist them in enrolling their children in,
5 such subsidies, and for employers likely to provide
6 coverage that is eligible for such subsidies, including
7 the specific, significant resources the State intends
8 to apply to educate employers about the availability
9 of premium assistance subsidies under the State
10 child health plan.”.

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

16 “(iii) EXPENDITURES FOR OUTREACH
17 TO INCREASE THE ENROLLMENT OF CHIL-
18 DREN UNDER THIS TITLE AND TITLE XIX
19 THROUGH PREMIUM ASSISTANCE SUB-
20 SIDIES.—Expenditures for outreach activi-
21 ties to families of children likely to be eligi-
22 ble for premium assistance subsidies in ac-
23 cordance with paragraph (2)(B), (3), or
24 (10), or a waiver approved under section
25 1115, to inform such families of the avail-

1 ability of, and to assist them in enrolling
 2 their children in, such subsidies, and to
 3 employers likely to provide qualified em-
 4 ployer-sponsored coverage (as defined in
 5 subparagraph (B) of such paragraph), but
 6 not to exceed an amount equal to 1.25 per-
 7 cent of the maximum amount permitted to
 8 be expended under subparagraph (A) for
 9 items described in subsection (a)(1)(D).”.

10 **Subtitle B—Coordinating Premium**
 11 **Assistance With Private Coverage**

12 **SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP**
 13 **HEALTH PLANS IN CASE OF TERMINATION OF**
 14 **MEDICAID OR CHIP COVERAGE OR ELIGI-**
 15 **BILITY FOR ASSISTANCE IN PURCHASE OF**
 16 **EMPLOYMENT-BASED COVERAGE; COORDINA-**
 17 **TION OF COVERAGE.**

18 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
 19 1986.—Section 9801(f) of the Internal Revenue Code of
 20 1986 (relating to special enrollment periods) is amended
 21 by adding at the end the following new paragraph:

22 “(3) SPECIAL RULES RELATING TO MEDICAID
 23 AND CHIP.—

24 “(A) IN GENERAL.—A group health plan
 25 shall permit an employee who is eligible, but

1 not enrolled, for coverage under the terms of
2 the plan (or a dependent of such an employee
3 if the dependent is eligible, but not enrolled, for
4 coverage under such terms) to enroll for cov-
5 erage under the terms of the plan if either of
6 the following conditions is met:

7 “(i) TERMINATION OF MEDICAID OR
8 CHIP COVERAGE.—The employee or de-
9 pendent is covered under a Medicaid plan
10 under title XIX of the Social Security Act
11 or under a State child health plan under
12 title XXI of such Act and coverage of the
13 employee or dependent under such a plan
14 is terminated as a result of loss of eligi-
15 bility for such coverage and the employee
16 requests coverage under the group health
17 plan not later than 60 days after the date
18 of termination of such coverage.

19 “(ii) ELIGIBILITY FOR EMPLOYMENT
20 ASSISTANCE UNDER MEDICAID OR CHIP.—
21 The employee or dependent becomes eligi-
22 ble for assistance, with respect to coverage
23 under the group health plan under such
24 Medicaid plan or State child health plan
25 (including under any waiver or demonstra-

1 tion project conducted under or in relation
2 to such a plan), if the employee requests
3 coverage under the group health plan not
4 later than 60 days after the date the em-
5 ployee or dependent is determined to be el-
6 igible for such assistance.

7 “(B) EMPLOYEE OUTREACH AND DISCLO-
8 SURE.—

9 “(i) OUTREACH TO EMPLOYEES RE-
10 GARDING AVAILABILITY OF MEDICAID AND
11 CHIP COVERAGE.—

12 “(I) IN GENERAL.—Each em-
13 ployer that maintains a group health
14 plan in a State that provides medical
15 assistance under a State Medicaid
16 plan under title XIX of the Social Se-
17 curity Act, or child health assistance
18 under a State child health plan under
19 title XXI of such Act, in the form of
20 premium assistance for the purchase
21 of coverage under a group health
22 plan, shall provide to each employee a
23 written notice informing the employee
24 of potential opportunities then cur-
25 rently available in the State in which

1 the employee resides for premium as-
2 sistance under such plans for health
3 coverage of the employee or the em-
4 ployee’s dependents. For purposes of
5 compliance with this clause, the em-
6 ployer may use any State-specific
7 model notice developed in accordance
8 with section 701(f)(3)(B)(i)(II) of the
9 Employee Retirement Income Security
10 Act of 1974 (29 U.S.C.
11 1181(f)(3)(B)(i)(II)).

12 “(II) OPTION TO PROVIDE CON-
13 CURRENT WITH PROVISION OF PLAN
14 MATERIALS TO EMPLOYEE.—An em-
15 ployer may provide the model notice
16 applicable to the State in which an
17 employee resides concurrent with the
18 furnishing of materials notifying the
19 employee of health plan eligibility,
20 concurrent with materials provided to
21 the employee in connection with an
22 open season or election process con-
23 ducted under the plan, or concurrent
24 with the furnishing of the summary
25 plan description as provided in section

1 104(b) of the Employee Retirement
2 Income Security Act of 1974 (29
3 U.S.C. 1024).

4 “(ii) DISCLOSURE ABOUT GROUP
5 HEALTH PLAN BENEFITS TO STATES FOR
6 MEDICAID AND CHIP ELIGIBLE INDIVID-
7 UALS.—In the case of a participant or ben-
8 eficiary of a group health plan who is cov-
9 ered under a Medicaid plan of a State
10 under title XIX of the Social Security Act
11 or under a State child health plan under
12 title XXI of such Act, the plan adminis-
13 trator of the group health plan shall dis-
14 close to the State, upon request, informa-
15 tion about the benefits available under the
16 group health plan in sufficient specificity,
17 as determined under regulations of the
18 Secretary of Health and Human Services
19 in consultation with the Secretary that re-
20 quire use of the model coverage coordina-
21 tion disclosure form developed under sec-
22 tion 311(b)(1)(C) of the Children’s Health
23 Insurance Program Reauthorization Act of
24 2009, so as to permit the State to make a
25 determination (under paragraph (2)(B),

1 (3), or (10) of section 2105(c) of the So-
2 cial Security Act or otherwise) concerning
3 the cost-effectiveness of the State pro-
4 viding medical or child health assistance
5 through premium assistance for the pur-
6 chase of coverage under such group health
7 plan and in order for the State to provide
8 supplemental benefits required under para-
9 graph (10)(E) of such section or other au-
10 thority.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) AMENDMENTS TO EMPLOYEE RETIREMENT
13 INCOME SECURITY ACT.—

14 (A) IN GENERAL.—Section 701(f) of the
15 Employee Retirement Income Security Act of
16 1974 (29 U.S.C. 1181(f)) is amended by adding
17 at the end the following new paragraph:

18 “(3) SPECIAL RULES FOR APPLICATION IN CASE
19 OF MEDICAID AND CHIP.—

20 “(A) IN GENERAL.—A group health plan,
21 and a health insurance issuer offering group
22 health insurance coverage in connection with a
23 group health plan, shall permit an employee
24 who is eligible, but not enrolled, for coverage
25 under the terms of the plan (or a dependent of

1 such an employee if the dependent is eligible,
2 but not enrolled, for coverage under such
3 terms) to enroll for coverage under the terms of
4 the plan if either of the following conditions is
5 met:

6 “(i) TERMINATION OF MEDICAID OR
7 CHIP COVERAGE.—The employee or de-
8 pendent is covered under a Medicaid plan
9 under title XIX of the Social Security Act
10 or under a State child health plan under
11 title XXI of such Act and coverage of the
12 employee or dependent under such a plan
13 is terminated as a result of loss of eligi-
14 bility for such coverage and the employee
15 requests coverage under the group health
16 plan (or health insurance coverage) not
17 later than 60 days after the date of termi-
18 nation of such coverage.

19 “(ii) ELIGIBILITY FOR EMPLOYMENT
20 ASSISTANCE UNDER MEDICAID OR CHIP.—
21 The employee or dependent becomes eligi-
22 ble for assistance, with respect to coverage
23 under the group health plan or health in-
24 surance coverage, under such Medicaid
25 plan or State child health plan (including

1 under any waiver or demonstration project
2 conducted under or in relation to such a
3 plan), if the employee requests coverage
4 under the group health plan or health in-
5 surance coverage not later than 60 days
6 after the date the employee or dependent is
7 determined to be eligible for such assist-
8 ance.

9 “(B) COORDINATION WITH MEDICAID AND
10 CHIP.—

11 “(i) OUTREACH TO EMPLOYEES RE-
12 GARDING AVAILABILITY OF MEDICAID AND
13 CHIP COVERAGE.—

14 “(I) IN GENERAL.—Each em-
15 ployer that maintains a group health
16 plan in a State that provides medical
17 assistance under a State Medicaid
18 plan under title XIX of the Social Se-
19 curity Act, or child health assistance
20 under a State child health plan under
21 title XXI of such Act, in the form of
22 premium assistance for the purchase
23 of coverage under a group health
24 plan, shall provide to each employee a
25 written notice informing the employee

1 of potential opportunities then cur-
2 rently available in the State in which
3 the employee resides for premium as-
4 sistance under such plans for health
5 coverage of the employee or the em-
6 ployee’s dependents.

7 “(II) MODEL NOTICE.—Not later
8 than 1 year after the date of enact-
9 ment of the Children’s Health Insur-
10 ance Program Reauthorization Act of
11 2009, the Secretary and the Secretary
12 of Health and Human Services, in
13 consultation with Directors of State
14 Medicaid agencies under title XIX of
15 the Social Security Act and Directors
16 of State CHIP agencies under title
17 XXI of such Act, shall jointly develop
18 national and State-specific model no-
19 tices for purposes of subparagraph
20 (A). The Secretary shall provide em-
21 ployers with such model notices so as
22 to enable employers to timely comply
23 with the requirements of subpara-
24 graph (A). Such model notices shall
25 include information regarding how an

1 employee may contact the State in
2 which the employee resides for addi-
3 tional information regarding potential
4 opportunities for such premium assist-
5 ance, including how to apply for such
6 assistance.

7 “(III) OPTION TO PROVIDE CON-
8 CURRENT WITH PROVISION OF PLAN
9 MATERIALS TO EMPLOYEE.—An em-
10 ployer may provide the model notice
11 applicable to the State in which an
12 employee resides concurrent with the
13 furnishing of materials notifying the
14 employee of health plan eligibility,
15 concurrent with materials provided to
16 the employee in connection with an
17 open season or election process con-
18 ducted under the plan, or concurrent
19 with the furnishing of the summary
20 plan description as provided in section
21 104(b).

22 “(ii) DISCLOSURE ABOUT GROUP
23 HEALTH PLAN BENEFITS TO STATES FOR
24 MEDICAID AND CHIP ELIGIBLE INDIVID-
25 UALS.—In the case of a participant or ben-

1 efficiary of a group health plan who is cov-
2 ered under a Medicaid plan of a State
3 under title XIX of the Social Security Act
4 or under a State child health plan under
5 title XXI of such Act, the plan adminis-
6 trator of the group health plan shall dis-
7 close to the State, upon request, informa-
8 tion about the benefits available under the
9 group health plan in sufficient specificity,
10 as determined under regulations of the
11 Secretary of Health and Human Services
12 in consultation with the Secretary that re-
13 quire use of the model coverage coordina-
14 tion disclosure form developed under sec-
15 tion 311(b)(1)(C) of the Children’s Health
16 Insurance Program Reauthorization Act of
17 2009, so as to permit the State to make a
18 determination (under paragraph (2)(B),
19 (3), or (10) of section 2105(c) of the So-
20 cial Security Act or otherwise) concerning
21 the cost-effectiveness of the State pro-
22 viding medical or child health assistance
23 through premium assistance for the pur-
24 chase of coverage under such group health
25 plan and in order for the State to provide

1 supplemental benefits required under para-
 2 graph (10)(E) of such section or other au-
 3 thority.”.

4 (B) CONFORMING AMENDMENT.—Section
 5 102(b) of the Employee Retirement Income Se-
 6 curity Act of 1974 (29 U.S.C. 1022(b)) is
 7 amended—

8 (i) by striking “and the remedies”
 9 and inserting “, the remedies”; and

10 (ii) by inserting before the period the
 11 following: “, and if the employer so elects
 12 for purposes of complying with section
 13 701(f)(3)(B)(i), the model notice applicable
 14 to the State in which the participants and
 15 beneficiaries reside”.

16 (C) WORKING GROUP TO DEVELOP MODEL
 17 COVERAGE COORDINATION DISCLOSURE
 18 FORM.—

19 (i) MEDICAID, CHIP, AND EMPLOYER-
 20 SPONSORED COVERAGE COORDINATION
 21 WORKING GROUP.—

22 (I) IN GENERAL.—Not later than
 23 60 days after the date of enactment of
 24 this Act, the Secretary of Health and
 25 Human Services and the Secretary of

1 Labor shall jointly establish a Med-
2 icaid, CHIP, and Employer-Sponsored
3 Coverage Coordination Working
4 Group (in this subparagraph referred
5 to as the “Working Group”). The
6 purpose of the Working Group shall
7 be to develop the model coverage co-
8 ordination disclosure form described
9 in subclause (II) and to identify the
10 impediments to the effective coordina-
11 tion of coverage available to families
12 that include employees of employers
13 that maintain group health plans and
14 members who are eligible for medical
15 assistance under title XIX of the So-
16 cial Security Act or child health as-
17 sistance or other health benefits cov-
18 erage under title XXI of such Act.

19 (II) MODEL COVERAGE COORDI-
20 NATION DISCLOSURE FORM DE-
21 SCRIBED.—The model form described
22 in this subclause is a form for plan
23 administrators of group health plans
24 to complete for purposes of permitting
25 a State to determine the availability

1 and cost-effectiveness of the coverage
2 available under such plans to employ-
3 ees who have family members who are
4 eligible for premium assistance offered
5 under a State plan under title XIX or
6 XXI of such Act and to allow for co-
7 ordination of coverage for enrollees of
8 such plans. Such form shall provide
9 the following information in addition
10 to such other information as the
11 Working Group determines appro-
12 priate:

13 (aa) A determination of
14 whether the employee is eligible
15 for coverage under the group
16 health plan.

17 (bb) The name and contract
18 information of the plan adminis-
19 trator of the group health plan.

20 (cc) The benefits offered
21 under the plan.

22 (dd) The premiums and
23 cost-sharing required under the
24 plan.

1 (ee) Any other information
2 relevant to coverage under the
3 plan.

4 (ii) MEMBERSHIP.—The Working
5 Group shall consist of not more than 30
6 members and shall be composed of rep-
7 resentatives of—

8 (I) the Department of Labor;

9 (II) the Department of Health
10 and Human Services;

11 (III) State directors of the Med-
12 icaid program under title XIX of the
13 Social Security Act;

14 (IV) State directors of the State
15 Children’s Health Insurance Program
16 under title XXI of the Social Security
17 Act;

18 (V) employers, including owners
19 of small businesses and their trade or
20 industry representatives and certified
21 human resource and payroll profes-
22 sionals;

23 (VI) plan administrators and
24 plan sponsors of group health plans
25 (as defined in section 607(1) of the

1 Employee Retirement Income Security
2 Act of 1974);

3 (VII) health insurance issuers;
4 and

5 (VIII) children and other bene-
6 ficiaries of medical assistance under
7 title XIX of the Social Security Act or
8 child health assistance or other health
9 benefits coverage under title XXI of
10 such Act.

11 (iii) COMPENSATION.—The members
12 of the Working Group shall serve without
13 compensation.

14 (iv) ADMINISTRATIVE SUPPORT.—The
15 Department of Health and Human Serv-
16 ices and the Department of Labor shall
17 jointly provide appropriate administrative
18 support to the Working Group, including
19 technical assistance. The Working Group
20 may use the services and facilities of either
21 such Department, with or without reim-
22 bursement, as jointly determined by such
23 Departments.

24 (v) REPORT.—

1 (I) REPORT BY WORKING GROUP
2 TO THE SECRETARIES.—Not later
3 than 18 months after the date of the
4 enactment of this Act, the Working
5 Group shall submit to the Secretary of
6 Labor and the Secretary of Health
7 and Human Services the model form
8 described in clause (i)(II) along with a
9 report containing recommendations
10 for appropriate measures to address
11 the impediments to the effective co-
12 ordination of coverage between group
13 health plans and the State plans
14 under titles XIX and XXI of the So-
15 cial Security Act.

16 (II) REPORT BY SECRETARIES TO
17 THE CONGRESS.—Not later than 2
18 months after receipt of the report
19 pursuant to subclause (I), the Secre-
20 taries shall jointly submit a report to
21 each House of the Congress regarding
22 the recommendations contained in the
23 report under such subclause.

24 (vi) TERMINATION.—The Working
25 Group shall terminate 30 days after the

1 date of the issuance of its report under
2 clause (v).

3 (D) EFFECTIVE DATES.—The Secretary of
4 Labor and the Secretary of Health and Human
5 Services shall develop the initial model notices
6 under section 701(f)(3)(B)(i)(II) of the Em-
7 ployee Retirement Income Security Act of 1974,
8 and the Secretary of Labor shall provide such
9 notices to employers, not later than the date
10 that is 1 year after the date of enactment of
11 this Act, and each employer shall provide the
12 initial annual notices to such employer’s em-
13 ployees beginning with the first plan year that
14 begins after the date on which such initial
15 model notices are first issued. The model cov-
16 erage coordination disclosure form developed
17 under subparagraph (C) shall apply with re-
18 spect to requests made by States beginning
19 with the first plan year that begins after the
20 date on which such model coverage coordination
21 disclosure form is first issued.

22 (E) ENFORCEMENT.—Section 502 of the
23 Employee Retirement Income Security Act of
24 1974 (29 U.S.C. 1132) is amended—

1 (i) in subsection (a)(6), by striking
2 “or (8)” and inserting “(8), or (9)”; and

3 (ii) in subsection (c), by redesignating
4 paragraph (9) as paragraph (10), and by
5 inserting after paragraph (8) the following:

6 “(9)(A) The Secretary may assess a civil penalty
7 against any employer of up to \$100 a day from the date
8 of the employer’s failure to meet the notice requirement
9 of section 701(f)(3)(B)(i)(I). For purposes of this sub-
10 paragraph, each violation with respect to any single em-
11 ployee shall be treated as a separate violation.

12 “(B) The Secretary may assess a civil penalty against
13 any plan administrator of up to \$100 a day from the date
14 of the plan administrator’s failure to timely provide to any
15 State the information required to be disclosed under sec-
16 tion 701(f)(3)(B)(ii). For purposes of this subparagraph,
17 each violation with respect to any single participant or
18 beneficiary shall be treated as a separate violation.”.

19 (2) AMENDMENTS TO PUBLIC HEALTH SERVICE
20 ACT.—Section 2701(f) of the Public Health Service
21 Act (42 U.S.C. 300gg(f)) is amended by adding at
22 the end the following new paragraph:

23 “(3) SPECIAL RULES FOR APPLICATION IN CASE
24 OF MEDICAID AND CHIP.—

1 “(A) IN GENERAL.—A group health plan,
2 and a health insurance issuer offering group
3 health insurance coverage in connection with a
4 group health plan, shall permit an employee
5 who is eligible, but not enrolled, for coverage
6 under the terms of the plan (or a dependent of
7 such an employee if the dependent is eligible,
8 but not enrolled, for coverage under such
9 terms) to enroll for coverage under the terms of
10 the plan if either of the following conditions is
11 met:

12 “(i) TERMINATION OF MEDICAID OR
13 CHIP COVERAGE.—The employee or de-
14 pendent is covered under a Medicaid plan
15 under title XIX of the Social Security Act
16 or under a State child health plan under
17 title XXI of such Act and coverage of the
18 employee or dependent under such a plan
19 is terminated as a result of loss of eligi-
20 bility for such coverage and the employee
21 requests coverage under the group health
22 plan (or health insurance coverage) not
23 later than 60 days after the date of termi-
24 nation of such coverage.

1 “(ii) ELIGIBILITY FOR EMPLOYMENT
2 ASSISTANCE UNDER MEDICAID OR CHIP.—
3 The employee or dependent becomes eligi-
4 ble for assistance, with respect to coverage
5 under the group health plan or health in-
6 surance coverage, under such Medicaid
7 plan or State child health plan (including
8 under any waiver or demonstration project
9 conducted under or in relation to such a
10 plan), if the employee requests coverage
11 under the group health plan or health in-
12 surance coverage not later than 60 days
13 after the date the employee or dependent is
14 determined to be eligible for such assist-
15 ance.

16 “(B) COORDINATION WITH MEDICAID AND
17 CHIP.—

18 “(i) OUTREACH TO EMPLOYEES RE-
19 GARDING AVAILABILITY OF MEDICAID AND
20 CHIP COVERAGE.—

21 “(I) IN GENERAL.—Each em-
22 ployer that maintains a group health
23 plan in a State that provides medical
24 assistance under a State Medicaid
25 plan under title XIX of the Social Se-

1 security Act, or child health assistance
2 under a State child health plan under
3 title XXI of such Act, in the form of
4 premium assistance for the purchase
5 of coverage under a group health
6 plan, shall provide to each employee a
7 written notice informing the employee
8 of potential opportunities then cur-
9 rently available in the State in which
10 the employee resides for premium as-
11 sistance under such plans for health
12 coverage of the employee or the em-
13 ployee's dependents. For purposes of
14 compliance with this subclause, the
15 employer may use any State-specific
16 model notice developed in accordance
17 with section 701(f)(3)(B)(i)(II) of the
18 Employee Retirement Income Security
19 Act of 1974 (29 U.S.C.
20 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,
4 concurrent with materials provided to
5 the employee in connection with an
6 open season or election process con-
7 ducted under the plan, or concurrent
8 with the furnishing of the summary
9 plan description as provided in section
10 104(b) of the Employee Retirement
11 Income 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
18 of 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,
22 upon request, information about the bene-
23 fits available under the group health plan
24 in sufficient specificity, as determined
25 under regulations of the Secretary of

1 Health and Human Services in consulta-
 2 tion with the Secretary that require use of
 3 the model coverage coordination disclosure
 4 form developed under section 311(b)(1)(C)
 5 of the Children’s Health Insurance Reau-
 6 thorization Act of 2009, so as to permit
 7 the State to make a determination (under
 8 paragraph (2)(B), (3), or (10) of section
 9 2105(c) of the Social Security Act or oth-
 10 erwise) concerning the cost-effectiveness of
 11 the State providing medical or child health
 12 assistance through premium assistance for
 13 the purchase of coverage under such group
 14 health plan and in order for the State to
 15 provide supplemental benefits required
 16 under paragraph (10)(E) of such section
 17 or other authority.”.

18 **TITLE IV—STRENGTHENING**
 19 **QUALITY OF CARE AND**
 20 **HEALTH OUTCOMES**

21 **SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVI-**
 22 **TIES FOR CHILDREN ENROLLED IN MED-**
 23 **ICAID OR CHIP.**

24 (a) DEVELOPMENT OF CHILD HEALTH QUALITY
 25 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
9 general 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,
12 health insurance issuers and managed care entities
13 that enter into contracts with such programs, and
14 providers of items and services under such pro-
15 grams.

16 “(2) IDENTIFICATION OF INITIAL CORE MEAS-
17 URES.—In consultation with the individuals and en-
18 tities described in subsection (b)(3), the Secretary
19 shall identify existing quality of care measures for
20 children that are in use under public and privately
21 sponsored health care coverage arrangements, or
22 that are part of reporting systems that measure both
23 the presence and duration of health insurance cov-
24 erage over time.

1 “(3) RECOMMENDATIONS AND DISSEMINA-
2 TION.—Based on such existing and identified meas-
3 ures, the Secretary shall publish an initial core set
4 of child health quality measures that includes (but
5 is not limited to) the following:

6 “(A) The duration of children’s health in-
7 surance coverage over a 12-month time period.

8 “(B) The availability and effectiveness of a
9 full range of—

10 “(i) preventive services, treatments,
11 and services for acute conditions, including
12 services to promote healthy birth, prevent
13 and treat premature birth, and detect the
14 presence or risk of physical or mental con-
15 ditions that could adversely affect growth
16 and development; and

17 “(ii) treatments to correct or amelio-
18 rate the effects of physical and mental con-
19 ditions, including chronic conditions, in in-
20 fants, young children, school-age children,
21 and adolescents.

22 “(C) The availability of care in a range of
23 ambulatory and inpatient health care settings
24 in which such care is furnished.

1 “(D) The types of measures that, taken to-
2 gether, can be used to estimate the overall na-
3 tional quality of health care for children, includ-
4 ing children with special needs, and to perform
5 comparative analyses of pediatric health care
6 quality and racial, ethnic, and socioeconomic
7 disparities in child health and health care for
8 children.

9 “(4) ENCOURAGE VOLUNTARY AND STANDARD-
10 IZED REPORTING.—Not later than 2 years after the
11 date of enactment of the Children’s Health Insur-
12 ance Program Reauthorization Act of 2009, the Sec-
13 retary, in consultation with States, shall develop a
14 standardized format for reporting information and
15 procedures and approaches that encourage States to
16 use the initial core measurement set to voluntarily
17 report information regarding the quality of pediatric
18 health care under titles XIX and XXI.

19 “(5) ADOPTION OF BEST PRACTICES IN IMPLE-
20 MENTING QUALITY PROGRAMS.—The Secretary shall
21 disseminate information to States regarding best
22 practices among States with respect to measuring
23 and reporting on the quality of health care for chil-
24 dren, and shall facilitate the adoption of such best
25 practices. In developing best practices approaches,

1 the Secretary shall give particular attention to State
2 measurement techniques that ensure the timeliness
3 and accuracy of provider reporting, encourage pro-
4 vider reporting compliance, encourage successful
5 quality improvement strategies, and improve effi-
6 ciency in data collection using health information
7 technology.

8 “(6) REPORTS TO CONGRESS.—Not later than
9 January 1, 2011, and every 3 years thereafter, the
10 Secretary shall report to Congress on—

11 “(A) the status of the Secretary’s efforts
12 to improve—

13 “(i) quality related to the duration
14 and stability of health insurance coverage
15 for children under titles XIX and XXI;

16 “(ii) the quality of children’s health
17 care under such titles, including preventive
18 health services, health care for acute condi-
19 tions, chronic health care, and health serv-
20 ices to ameliorate the effects of physical
21 and mental conditions and to aid in growth
22 and development of infants, young chil-
23 dren, school-age children, and adolescents
24 with special health care needs; and

1 “(iii) the quality of children’s health
2 care under such titles across the domains
3 of quality, including clinical quality, health
4 care safety, family experience with health
5 care, health care in the most integrated
6 setting, and elimination of racial, ethnic,
7 and socioeconomic disparities in health and
8 health care;

9 “(B) the status of voluntary reporting by
10 States under titles XIX and XXI, utilizing the
11 initial core quality measurement set; and

12 “(C) any recommendations for legislative
13 changes needed to improve the quality of care
14 provided to children under titles XIX and XXI,
15 including recommendations for quality reporting
16 by States.

17 “(7) TECHNICAL ASSISTANCE.—The Secretary
18 shall provide technical assistance to States to assist
19 them in adopting and utilizing core child health
20 quality measures in administering the State plans
21 under titles XIX and XXI.

22 “(8) DEFINITION OF CORE SET.—In this sec-
23 tion, the term ‘core set’ means a group of valid, reli-
24 able, and evidence-based quality measures that,
25 taken together—

1 “(A) provide information regarding the
2 quality of health coverage and health care for
3 children;

4 “(B) address the needs of children
5 throughout the developmental age span; and

6 “(C) allow purchasers, families, and health
7 care providers to understand the quality of care
8 in relation to the preventive needs of children,
9 treatments aimed at managing and resolving
10 acute conditions, and diagnostic and treatment
11 services whose purpose is to correct or amelio-
12 rate physical, mental, or developmental condi-
13 tions that could, if untreated or poorly treated,
14 become chronic.

15 “(b) ADVANCING AND IMPROVING PEDIATRIC QUAL-
16 ITY MEASURES.—

17 “(1) ESTABLISHMENT OF PEDIATRIC QUALITY
18 MEASURES PROGRAM.—Not later than January 1,
19 2011, the Secretary shall establish a pediatric qual-
20 ity measures program to—

21 “(A) improve and strengthen the initial
22 core child health care quality measures estab-
23 lished by the Secretary under subsection (a);

24 “(B) expand on existing pediatric quality
25 measures used by public and private health care

1 purchasers and advance the development of
2 such new and emerging quality measures; and

3 “(C) increase the portfolio of evidence-
4 based, consensus pediatric quality measures
5 available to public and private purchasers of
6 children’s health care services, providers, and
7 consumers.

8 “(2) EVIDENCE-BASED MEASURES.—The meas-
9 ures developed under the pediatric quality measures
10 program shall, at a minimum, be—

11 “(A) evidence-based and, where appro-
12 priate, risk adjusted;

13 “(B) designed to identify and eliminate ra-
14 cial and ethnic disparities in child health and
15 the provision of health care;

16 “(C) designed to ensure that the data re-
17 quired for such measures is collected and re-
18 ported in a standard format that permits com-
19 parison of quality and data at a State, plan,
20 and provider level;

21 “(D) periodically updated; and

22 “(E) responsive to the child health needs,
23 services, and domains of health care quality de-
24 scribed in clauses (i), (ii), and (iii) of subsection
25 (a)(6)(A).

1 “(3) PROCESS FOR PEDIATRIC QUALITY MEAS-
2 URES PROGRAM.—In identifying gaps in existing pe-
3 diatric quality measures and establishing priorities
4 for development and advancement of such measures,
5 the Secretary shall consult with—

6 “(A) States;

7 “(B) pediatricians, children’s hospitals,
8 and other primary and specialized pediatric
9 health care professionals (including members of
10 the allied health professions) who specialize in
11 the care and treatment of children, particularly
12 children with special physical, mental, and de-
13 velopmental health care needs;

14 “(C) dental professionals, including pedi-
15 atric dental professionals;

16 “(D) health care providers that furnish
17 primary health care to children and families
18 who live in urban and rural medically under-
19 served communities or who are members of dis-
20 tinct population sub-groups at heightened risk
21 for poor health outcomes;

22 “(E) national organizations representing
23 children, including children with disabilities and
24 children with chronic conditions;

1 “(F) national organizations representing
2 consumers and purchasers of children’s health
3 care;

4 “(G) national organizations and individuals
5 with expertise in pediatric health quality meas-
6 urement; and

7 “(H) voluntary consensus standards set-
8 ting organizations and other organizations in-
9 volved in the advancement of evidence-based
10 measures of health care.

11 “(4) DEVELOPING, VALIDATING, AND TESTING
12 A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—
13 As part of the program to advance pediatric quality
14 measures, the Secretary shall—

15 “(A) award grants and contracts for the
16 development, testing, and validation of new,
17 emerging, and innovative evidence-based meas-
18 ures for children’s health care services across
19 the domains of quality described in clauses (i),
20 (ii), and (iii) of subsection (a)(6)(A); and

21 “(B) award grants and contracts for—

22 “(i) the development of consensus on
23 evidence-based measures for children’s
24 health care services;

1 “(ii) the dissemination of such meas-
2 ures to public and private purchasers of
3 health care for children; and

4 “(iii) the updating of such measures
5 as necessary.

6 “(5) REVISING, STRENGTHENING, AND IMPROV-
7 ING INITIAL CORE MEASURES.—Beginning no later
8 than January 1, 2013, and annually thereafter, the
9 Secretary shall publish recommended changes to the
10 core measures described in subsection (a) that shall
11 reflect the testing, validation, and consensus process
12 for the development of pediatric quality measures
13 described in subsection paragraphs (1) through (4).

14 “(6) DEFINITION OF PEDIATRIC QUALITY
15 MEASURE.—In this subsection, the term ‘pediatric
16 quality measure’ means a measurement of clinical
17 care that is capable of being examined through the
18 collection and analysis of relevant information, that
19 is developed in order to assess 1 or more aspects of
20 pediatric health care quality in various institutional
21 and ambulatory health care settings, including the
22 structure of the clinical care system, the process of
23 care, the outcome of care, or patient experiences in
24 care.

1 “(7) CONSTRUCTION.—Nothing in this section
2 shall be construed as supporting the restriction of
3 coverage, under title XIX or XXI or otherwise, to
4 only those services that are evidence-based.

5 “(c) ANNUAL STATE REPORTS REGARDING STATE-
6 SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER
7 MEDICAID OR CHIP.—

8 “(1) ANNUAL STATE REPORTS.—Each State
9 with a State plan approved under title XIX or a
10 State child health plan approved under title XXI
11 shall annually report to the Secretary on the—

12 “(A) State-specific child health quality
13 measures applied by the States under such
14 plans, including measures described in subpara-
15 graphs (A) and (B) of subsection (a)(6); and

16 “(B) State-specific information on the
17 quality of health care furnished to children
18 under such plans, including information col-
19 lected through external quality reviews of man-
20 aged care organizations under section 1932 of
21 the Social Security Act (42 U.S.C. 1396u-4)
22 and benchmark plans under sections 1937 and
23 2103 of such Act (42 U.S.C. 1396u-7, 1397cc).

24 “(2) PUBLICATION.—Not later than September
25 30, 2010, and annually thereafter, the Secretary

1 shall collect, analyze, and make publicly available the
2 information reported by States under paragraph (1).

3 “(d) DEMONSTRATION PROJECTS FOR IMPROVING
4 THE QUALITY OF CHILDREN’S HEALTH CARE AND THE
5 USE OF HEALTH INFORMATION TECHNOLOGY.—

6 “(1) IN GENERAL.—During the period of fiscal
7 years 2009 through 2013, the Secretary shall award
8 not more than 10 grants to States and child health
9 providers to conduct demonstration projects to
10 evaluate promising ideas for improving the quality of
11 children’s health care provided under title XIX or
12 XXI, including projects to—

13 “(A) experiment with, and evaluate the use
14 of, new measures of the quality of children’s
15 health care under such titles (including testing
16 the validity and suitability for reporting of such
17 measures);

18 “(B) promote the use of health information
19 technology in care delivery for children under
20 such titles;

21 “(C) evaluate provider-based models which
22 improve the delivery of children’s health care
23 services under such titles, including care man-
24 agement for children with chronic conditions
25 and the use of evidence-based approaches to im-

1 prove the effectiveness, safety, and efficiency of
2 health care services for children; or

3 “(D) demonstrate the impact of the model
4 electronic health record format for children de-
5 veloped and disseminated under subsection (f)
6 on improving pediatric health, including the ef-
7 fects of chronic childhood health conditions, and
8 pediatric health care quality as well as reducing
9 health care costs.

10 “(2) REQUIREMENTS.—In awarding grants
11 under this subsection, the Secretary shall ensure
12 that—

13 “(A) only 1 demonstration project funded
14 under a grant awarded under this subsection
15 shall be conducted in a State; and

16 “(B) demonstration projects funded under
17 grants awarded under this subsection shall be
18 conducted evenly between States with large
19 urban areas and States with large rural areas.

20 “(3) AUTHORITY FOR MULTISTATE
21 PROJECTS.—A demonstration project conducted with
22 a grant awarded under this subsection may be con-
23 ducted on a multistate basis, as needed.

1 “(4) FUNDING.—\$20,000,000 of the amount
2 appropriated under subsection (i) for a fiscal year
3 shall be used to carry out this subsection.

4 “(e) CHILDHOOD OBESITY DEMONSTRATION
5 PROJECT.—

6 “(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to
7 develop a comprehensive and systematic model for
8 reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model
9 shall—
10 shall—

11 “(A) identify, through self-assessment, behavioral risk factors for obesity among children;

12 “(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

13 “(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

14 “(D) be designed to improve health outcomes, satisfaction, quality of life, and appro-

1 appropriate use of items and services for which med-
2 ical assistance is available under title XIX or
3 child health assistance is available under title
4 XXI among such target individuals.

5 “(2) ELIGIBILITY ENTITIES.—For purposes of
6 this subsection, an eligible entity is any of the fol-
7 lowing:

8 “(A) A city, county, or Indian tribe.

9 “(B) A local or tribal educational agency.

10 “(C) An accredited university, college, or
11 community college.

12 “(D) A Federally-qualified health center.

13 “(E) A local health department.

14 “(F) A health care provider.

15 “(G) A community-based organization.

16 “(H) Any other entity determined appro-
17 priate by the Secretary, including a consortia or
18 partnership of entities described in any of sub-
19 paragraphs (A) through (G).

20 “(3) USE OF FUNDS.—An eligible entity award-
21 ed a grant under this subsection shall use the funds
22 made available under the grant to—

23 “(A) carry out community-based activities
24 related to reducing childhood obesity, including
25 by—

1 “(i) forming partnerships with enti-
2 ties, including schools and other facilities
3 providing recreational services, to establish
4 programs for after school and weekend
5 community activities that are designed to
6 reduce childhood obesity;

7 “(ii) forming partnerships with
8 daycare facilities to establish programs
9 that promote healthy eating behaviors and
10 physical activity; and

11 “(iii) developing and evaluating com-
12 munity educational activities targeting
13 good nutrition and promoting healthy eat-
14 ing behaviors;

15 “(B) carry out age-appropriate school-
16 based activities that are designed to reduce
17 childhood obesity, including by—

18 “(i) developing and testing edu-
19 cational curricula and intervention pro-
20 grams designed to promote healthy eating
21 behaviors and habits in youth, which may
22 include—

23 “(I) after hours physical activity
24 programs; and

1 “(II) science-based interventions
2 with multiple components to prevent
3 eating disorders including nutritional
4 content, understanding and respond-
5 ing to hunger and satiety, positive
6 body image development, positive self-
7 esteem development, and learning life
8 skills (such as stress management,
9 communication skills, problemsolving
10 and decisionmaking skills), as well as
11 consideration of cultural and develop-
12 mental issues, and the role of family,
13 school, and community;

14 “(ii) providing education and training
15 to educational professionals regarding how
16 to promote a healthy lifestyle and a
17 healthy school environment for children;

18 “(iii) planning and implementing a
19 healthy lifestyle curriculum or program
20 with an emphasis on healthy eating behav-
21 iors and physical activity; and

22 “(iv) planning and implementing
23 healthy lifestyle classes or programs for
24 parents or guardians, with an emphasis on

1 healthy eating behaviors and physical ac-
2 tivity for children;

3 “(C) carry out educational, counseling,
4 promotional, and training activities through the
5 local health care delivery systems including
6 by—

7 “(i) promoting healthy eating behav-
8 iors and physical activity services to treat
9 or prevent eating disorders, being over-
10 weight, and obesity;

11 “(ii) providing patient education and
12 counseling to increase physical activity and
13 promote healthy eating behaviors;

14 “(iii) training health professionals on
15 how to identify and treat obese and over-
16 weight individuals which may include nu-
17 trition and physical activity counseling;
18 and

19 “(iv) providing community education
20 by a health professional on good nutrition
21 and physical activity to develop a better
22 understanding of the relationship between
23 diet, physical activity, and eating disorders,
24 obesity, or being overweight; and

1 “(D) provide, through qualified health pro-
2 fessionals, training and supervision for commu-
3 nity health workers to—

4 “(i) educate families regarding the re-
5 lationship between nutrition, eating habits,
6 physical activity, and obesity;

7 “(ii) educate families about effective
8 strategies to improve nutrition, establish
9 healthy eating patterns, and establish ap-
10 propriate levels of physical activity; and

11 “(iii) educate and guide parents re-
12 garding the ability to model and commu-
13 nicate positive health behaviors.

14 “(4) PRIORITY.—In awarding grants under
15 paragraph (1), the Secretary shall give priority to
16 awarding grants to eligible entities—

17 “(A) that demonstrate that they have pre-
18 viously applied successfully for funds to carry
19 out activities that seek to promote individual
20 and community health and to prevent the inci-
21 dence of chronic disease and that can cite pub-
22 lished and peer-reviewed research dem-
23 onstrating that the activities that the entities
24 propose to carry out with funds made available
25 under the grant are effective;

1 “(B) that will carry out programs or ac-
2 tivities that seek to accomplish a goal or goals
3 set by the State in the Healthy People 2010
4 plan of the State;

5 “(C) that provide non-Federal contribu-
6 tions, either in cash or in-kind, to the costs of
7 funding activities under the grants;

8 “(D) that develop comprehensive plans
9 that include a strategy for extending program
10 activities developed under grants in the years
11 following the fiscal years for which they receive
12 grants under this subsection;

13 “(E) located in communities that are medi-
14 cally underserved, as determined by the Sec-
15 retary;

16 “(F) located in areas in which the average
17 poverty rate is at least 150 percent or higher of
18 the average poverty rate in the State involved,
19 as determined by the Secretary; and

20 “(G) that submit plans that exhibit multi-
21 sectoral, cooperative conduct that includes the
22 involvement of a broad range of stakeholders,
23 including—

24 “(i) community-based organizations;

25 “(ii) local governments;

- 1 “(iii) local educational agencies;
2 “(iv) the private sector;
3 “(v) State or local departments of
4 health;
5 “(vi) accredited colleges, universities,
6 and community colleges;
7 “(vii) health care providers;
8 “(viii) State and local departments of
9 transportation and city planning; and
10 “(ix) other entities determined appro-
11 priate by the Secretary.

12 “(5) PROGRAM DESIGN.—

13 “(A) INITIAL DESIGN.—Not later than 1
14 year after the date of enactment of the Chil-
15 dren’s Health Insurance Program Reauthoriza-
16 tion Act of 2009, the Secretary shall design the
17 demonstration project. The demonstration
18 should draw upon promising, innovative models
19 and incentives to reduce behavioral risk factors.
20 The Administrator of the Centers for Medicare
21 & Medicaid Services shall consult with the Di-
22 rector of the Centers for Disease Control and
23 Prevention, the Director of the Office of Minor-
24 ity Health, the heads of other agencies in the
25 Department of Health and Human Services,

1 and such professional organizations, as the Sec-
2 retary determines to be appropriate, on the de-
3 sign, conduct, and evaluation of the demonstra-
4 tion.

5 “(B) NUMBER AND PROJECT AREAS.—Not
6 later than 2 years after the date of enactment
7 of the Children’s Health Insurance Program
8 Reauthorization Act of 2009, the Secretary
9 shall award 1 grant that is specifically designed
10 to determine whether programs similar to pro-
11 grams to be conducted by other grantees under
12 this subsection should be implemented with re-
13 spect to the general population of children who
14 are eligible for child health assistance under
15 State child health plans under title XXI in
16 order to reduce the incidence of childhood obe-
17 sity among such population.

18 “(6) REPORT TO CONGRESS.—Not later than 3
19 years after the date the Secretary implements the
20 demonstration project under this subsection, the
21 Secretary shall submit to Congress a report that de-
22 scribes the project, evaluates the effectiveness and
23 cost effectiveness of the project, evaluates the bene-
24 ficiary satisfaction under the project, and includes

1 any such other information as the Secretary deter-
2 mines to be appropriate.

3 “(7) DEFINITIONS.—In this subsection:

4 “(A) FEDERALLY-QUALIFIED HEALTH
5 CENTER.—The term ‘Federally-qualified health
6 center’ has the meaning given that term in sec-
7 tion 1905(l)(2)(B).

8 “(B) INDIAN TRIBE.—The term ‘Indian
9 tribe’ has the meaning given that term in sec-
10 tion 4 of the Indian Health Care Improvement
11 Act (25 U.S.C. 1603).

12 “(C) SELF-ASSESSMENT.—The term ‘self-
13 assessment’ means a form that—

14 “(i) includes questions regarding—

15 “(I) behavioral risk factors;

16 “(II) needed preventive and
17 screening services; and

18 “(III) target individuals’ pref-
19 erences for receiving follow-up infor-
20 mation;

21 “(ii) is assessed using such computer
22 generated assessment programs; and

23 “(iii) allows for the provision of such
24 ongoing support to the individual as the
25 Secretary determines appropriate.

1 “(D) ONGOING SUPPORT.—The term ‘on-
2 going support’ means—

3 “(i) to provide any target individual
4 with information, feedback, health coach-
5 ing, and recommendations regarding—

6 “(I) the results of a self-assess-
7 ment given to the individual;

8 “(II) behavior modification based
9 on the self-assessment; and

10 “(III) any need for clinical pre-
11 ventive and screening services or
12 treatment including medical nutrition
13 therapy;

14 “(ii) to provide any target individual
15 with referrals to community resources and
16 programs available to assist the target in-
17 dividual in reducing health risks; and

18 “(iii) to provide the information de-
19 scribed in clause (i) to a health care pro-
20 vider, if designated by the target individual
21 to receive such information.

22 “(8) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to carry out
24 this subsection, \$25,000,000 for the period of fiscal
25 years 2009 through 2013.

1 “(f) DEVELOPMENT OF MODEL ELECTRONIC
2 HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN
3 MEDICAID OR CHIP.—

4 “(1) IN GENERAL.—Not later than January 1,
5 2010, the Secretary shall establish a program to en-
6 courage the development and dissemination of a
7 model electronic health record format for children
8 enrolled in the State plan under title XIX or the
9 State child health plan under title XXI that is—

10 “(A) subject to State laws, accessible to
11 parents, caregivers, and other consumers for
12 the sole purpose of demonstrating compliance
13 with school or leisure activity requirements,
14 such as appropriate immunizations or physicals;

15 “(B) designed to allow interoperable ex-
16 changes that conform with Federal and State
17 privacy and security requirements;

18 “(C) structured in a manner that permits
19 parents and caregivers to view and understand
20 the extent to which the care their children re-
21 ceive is clinically appropriate and of high qual-
22 ity; and

23 “(D) capable of being incorporated into,
24 and otherwise compatible with, other standards
25 developed for electronic health records.

1 “(2) FUNDING.—\$5,000,000 of the amount ap-
2 propriated under subsection (i) for a fiscal year shall
3 be used to carry out this subsection.

4 “(g) STUDY OF PEDIATRIC HEALTH AND HEALTH
5 CARE QUALITY MEASURES.—

6 “(1) IN GENERAL.—Not later than July 1,
7 2010, the Institute of Medicine shall study and re-
8 port to Congress on the extent and quality of efforts
9 to measure child health status and the quality of
10 health care for children across the age span and in
11 relation to preventive care, treatments for acute con-
12 ditions, and treatments aimed at ameliorating or
13 correcting physical, mental, and developmental con-
14 ditions in children. In conducting such study and
15 preparing such report, the Institute of Medicine
16 shall—

17 “(A) consider all of the major national
18 population-based reporting systems sponsored
19 by the Federal Government that are currently
20 in place, including reporting requirements
21 under Federal grant programs and national
22 population surveys and estimates conducted di-
23 rectly by the Federal Government;

24 “(B) identify the information regarding
25 child health and health care quality that each

1 system is designed to capture and generate, the
2 study and reporting periods covered by each
3 system, and the extent to which the information
4 so generated is made widely available through
5 publication;

6 “(C) identify gaps in knowledge related to
7 children’s health status, health disparities
8 among subgroups of children, the effects of so-
9 cial conditions on children’s health status and
10 use and effectiveness of health care, and the re-
11 lationship between child health status and fam-
12 ily income, family stability and preservation,
13 and children’s school readiness and educational
14 achievement and attainment; and

15 “(D) make recommendations regarding im-
16 proving and strengthening the timeliness, qual-
17 ity, and public transparency and accessibility of
18 information about child health and health care
19 quality.

20 “(2) FUNDING.—Up to \$1,000,000 of the
21 amount appropriated under subsection (i) for a fis-
22 cal year shall be used to carry out this subsection.

23 “(h) RULE OF CONSTRUCTION.—Notwithstanding
24 any other provision in this section, no evidence based qual-
25 ity measure developed, published, or used as a basis of

1 measurement or reporting under this section may be used
2 to establish an irrebuttable presumption regarding either
3 the medical necessity of care or the maximum permissible
4 coverage for any individual child who is eligible for and
5 receiving medical assistance under title XIX or child
6 health assistance under title XXI.

7 “(i) APPROPRIATION.—Out of any funds in the
8 Treasury not otherwise appropriated, there is appro-
9 priated for each of fiscal years 2009 through 2013,
10 \$45,000,000 for the purpose of carrying out this section
11 (other than subsection (e)). Funds appropriated under
12 this subsection shall remain available until expended.”.

13 (b) INCREASED MATCHING RATE FOR COLLECTING
14 AND REPORTING ON CHILD HEALTH MEASURES.—Sec-
15 tion 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amend-
16 ed—

17 (1) by striking “and” at the end of clause (i);

18 and

19 (2) by adding at the end the following new
20 clause:

21 “(iii) an amount equal to the Federal med-
22 ical assistance percentage (as defined in section
23 1905(b)) of so much of the sums expended dur-
24 ing such quarter (as found necessary by the
25 Secretary for the proper and efficient adminis-

1 tration of the State plan) as are attributable to
 2 such developments or modifications of systems
 3 of the type described in clause (i) as are nec-
 4 essary for the efficient collection and reporting
 5 on child health measures; and”.

6 **SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMA-**
 7 **TION REGARDING ENROLLMENT OF CHIL-**
 8 **DREN IN CHIP AND MEDICAID.**

9 (a) INCLUSION OF PROCESS AND ACCESS MEASURES
 10 IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C.
 11 1397hh) is amended—

12 (1) in subsection (a), in the matter preceding
 13 paragraph (1), by striking “The State” and insert-
 14 ing “Subject to subsection (e), the State”; and

15 (2) by adding at the end the following new sub-
 16 section:

17 “(e) INFORMATION REQUIRED FOR INCLUSION IN
 18 STATE ANNUAL REPORT.—The State shall include the fol-
 19 lowing information in the annual report required under
 20 subsection (a):

21 “(1) Eligibility criteria, enrollment, and reten-
 22 tion data (including data with respect to continuity
 23 of coverage or duration of benefits).

24 “(2) Data regarding the extent to which the
 25 State uses process measures with respect to deter-

1 mining the eligibility of children under the State
2 child health plan, including measures such as 12-
3 month continuous eligibility, self-declaration of in-
4 come for applications or renewals, or presumptive
5 eligibility.

6 “(3) Data regarding denials of eligibility and
7 redeterminations of eligibility.

8 “(4) Data regarding access to primary and spe-
9 cialty services, access to networks of care, and care
10 coordination provided under the State child health
11 plan, using quality care and consumer satisfaction
12 measures included in the Consumer Assessment of
13 Healthcare Providers and Systems (CAHPS) survey.

14 “(5) If the State provides child health assist-
15 ance in the form of premium assistance for the pur-
16 chase of coverage under a group health plan, data
17 regarding the provision of such assistance, including
18 the extent to which employer-sponsored health insur-
19 ance coverage is available for children eligible for
20 child health assistance under the State child health
21 plan, the range of the monthly amount of such as-
22 sistance provided on behalf of a child or family, the
23 number of children or families provided such assist-
24 ance on a monthly basis, the income of the children
25 or families provided such assistance, the benefits

1 and cost-sharing protection provided under the State
2 child health plan to supplement the coverage pur-
3 chased with such premium assistance, the effective
4 strategies the State engages in to reduce any admin-
5 istrative barriers to the provision of such assistance,
6 and, the effects, if any, of the provision of such as-
7 sistance on preventing the coverage provided under
8 the State child health plan from substituting for cov-
9 erage provided under employer-sponsored health in-
10 surance offered in the State.

11 “(6) To the extent applicable, a description of
12 any State activities that are designed to reduce the
13 number of uncovered children in the State, including
14 through a State health insurance connector program
15 or support for innovative private health coverage ini-
16 tiatives.”.

17 (b) STANDARDIZED REPORTING FORMAT.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this Act, the Secretary
20 shall specify a standardized format for States to use
21 for reporting the information required under section
22 2108(e) of the Social Security Act, as added by sub-
23 section (a)(2).

24 (2) TRANSITION PERIOD FOR STATES.—Each
25 State that is required to submit a report under sub-

1 section (a) of section 2108 of the Social Security Act
2 that includes the information required under sub-
3 section (e) of such section may use up to 3 reporting
4 periods to transition to the reporting of such infor-
5 mation in accordance with the standardized format
6 specified by the Secretary under paragraph (1).

7 (c) ADDITIONAL FUNDING FOR THE SECRETARY TO
8 IMPROVE TIMELINESS OF DATA REPORTING AND ANAL-
9 YSIS FOR PURPOSES OF DETERMINING ENROLLMENT IN-
10 CREASES UNDER MEDICAID AND CHIP.—

11 (1) APPROPRIATION.—There is appropriated,
12 out of any money in the Treasury not otherwise ap-
13 propriated, \$5,000,000 to the Secretary for fiscal
14 year 2009 for the purpose of improving the timeli-
15 ness of the data reported and analyzed from the
16 Medicaid Statistical Information System (MSIS) for
17 purposes of providing more timely data on enroll-
18 ment and eligibility of children under Medicaid and
19 CHIP and to provide guidance to States with re-
20 spect to any new reporting requirements related to
21 such improvements. Amounts appropriated under
22 this paragraph shall remain available until expended.

23 (2) REQUIREMENTS.—The improvements made
24 by the Secretary under paragraph (1) shall be de-
25 signed and implemented (including with respect to

1 any necessary guidance for States to report such in-
2 formation in a complete and expeditious manner) so
3 that, beginning no later than October 1, 2009, data
4 regarding the enrollment of low-income children (as
5 defined in section 2110(c)(4) of the Social Security
6 Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in
7 the State plan under Medicaid or the State child
8 health plan under CHIP with respect to a fiscal year
9 shall be collected and analyzed by the Secretary
10 within 6 months of submission.

11 (d) GAO STUDY AND REPORT ON ACCESS TO PRI-
12 MARY AND SPECIALITY SERVICES.—

13 (1) IN GENERAL.—The Comptroller General of
14 the United States shall conduct a study of children’s
15 access to primary and specialty services under Med-
16 icaid and CHIP, including—

17 (A) the extent to which providers are will-
18 ing to treat children eligible for such programs;

19 (B) information on such children’s access
20 to networks of care;

21 (C) geographic availability of primary and
22 specialty services under such programs;

23 (D) the extent to which care coordination
24 is provided for children’s care under Medicaid
25 and CHIP; and

1 (E) as appropriate, information on the de-
2 gree of availability of services for children under
3 such programs.

4 (2) REPORT.—Not later than 2 years after the
5 date of enactment of this Act, the Comptroller Gen-
6 eral shall submit a report to the Committee on Fi-
7 nance of the Senate and the Committee on Energy
8 and Commerce of the House of Representatives on
9 the study conducted under paragraph (1) that in-
10 cludes recommendations for such Federal and State
11 legislative and administrative changes as the Comp-
12 troller General determines are necessary to address
13 any barriers to access to children’s care under Med-
14 icaid and CHIP that may exist.

15 **SEC. 403. APPLICATION OF CERTAIN MANAGED CARE**
16 **QUALITY SAFEGUARDS TO CHIP.**

17 (a) IN GENERAL.—Section 2103(f) of Social Security
18 Act (42 U.S.C. 1397bb(f)) is amended by adding at the
19 end the following new paragraph:

20 “(3) COMPLIANCE WITH MANAGED CARE RE-
21 QUIREMENTS.—The State child health plan shall
22 provide for the application of subsections (a)(4),
23 (a)(5), (b), (c), (d), and (e) of section 1932 (relating
24 to requirements for managed care) to coverage,
25 State agencies, enrollment brokers, managed care

1 entities, and managed care organizations under this
 2 title in the same manner as such subsections apply
 3 to coverage and such entities and organizations
 4 under title XIX.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall apply to contract years for health
 7 plans beginning on or after July 1, 2009.

8 **TITLE V—IMPROVING ACCESS**
 9 **TO BENEFITS**

10 **SEC. 501. DENTAL BENEFITS.**

11 (a) COVERAGE.—

12 (1) IN GENERAL.—Section 2103 (42 U.S.C.
 13 1397cc) is amended—

14 (A) in subsection (a)—

15 (i) in the matter before paragraph
 16 (1), by striking “subsection (c)(5)” and in-
 17 serting “paragraphs (5) and (7) of sub-
 18 section (c)”;

19 (ii) in paragraph (1), by inserting “at
 20 least” after “that is”; and

21 (B) in subsection (c)—

22 (i) by redesignating paragraph (5) as
 23 paragraph (7); and

24 (ii) by inserting after paragraph (4),
 25 the following:

1 “(5) DENTAL BENEFITS.—

2 “(A) IN GENERAL.—The child health as-
3 sistance provided to a targeted low-income child
4 shall include coverage of dental services nec-
5 essary to prevent disease and promote oral
6 health, restore oral structures to health and
7 function, and treat emergency conditions.

8 “(B) PERMITTING USE OF DENTAL
9 BENCHMARK PLANS BY CERTAIN STATES.—A
10 State may elect to meet the requirement of sub-
11 paragraph (A) through dental coverage that is
12 equivalent to a benchmark dental benefit pack-
13 age described in subparagraph (C).

14 “(C) BENCHMARK DENTAL BENEFIT PACK-
15 AGES.—The benchmark dental benefit packages
16 are as follows:

17 “(i) FEHBP CHILDREN’S DENTAL
18 COVERAGE.—A dental benefits plan under
19 chapter 89A of title 5, United States Code,
20 that has been selected most frequently by
21 employees seeking dependent coverage,
22 among such plans that provide such de-
23 pendent coverage, in either of the previous
24 2 plan years.

1 “(ii) STATE EMPLOYEE DEPENDENT
2 DENTAL COVERAGE.—A dental benefits
3 plan that is offered and generally available
4 to State employees in the State involved
5 and that has been selected most frequently
6 by employees seeking dependent coverage,
7 among such plans that provide such de-
8 pendent coverage, in either of the previous
9 2 plan years.

10 “(iii) COVERAGE OFFERED THROUGH
11 COMMERCIAL DENTAL PLAN.—A dental
12 benefits plan that has the largest insured
13 commercial, non-medicaid enrollment of
14 dependent covered lives of such plans that
15 is offered in the State involved.”.

16 (2) ASSURING ACCESS TO CARE.—Section
17 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended
18 by inserting “and services described in section
19 2103(c)(5)” after “emergency services”.

20 (3) EFFECTIVE DATE.—The amendments made
21 by paragraphs (1) and (2) shall apply to coverage of
22 items and services furnished on or after October 1,
23 2009.

24 (b) STATE OPTION TO PROVIDE DENTAL-ONLY SUP-
25 PLEMENTAL COVERAGE.—

1 (1) IN GENERAL.—Section 2110(b) (42
2 U.S.C. 1397jj(b)) is amended—

3 (A) in paragraph (1)(C), by inserting “,
4 subject to paragraph (5),” after “under title
5 XIX or”; and

6 (B) by adding at the end the following new
7 paragraph:

8 “(5) STATE OPTION TO PROVIDE DENTAL-ONLY
9 SUPPLEMENTAL COVERAGE.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graphs (B) and (C), in the case of any child
12 who is enrolled in a group health plan or health
13 insurance coverage offered through an employer
14 who would, but for the application of paragraph
15 (1)(C), satisfy the requirements for being a tar-
16 geted low-income child under the State child
17 health plan, a State may waive the application
18 of such paragraph to the child in order to pro-
19 vide—

20 “(i) dental coverage consistent with
21 the requirements of subsection (c)(5) of
22 section 2103; or

23 “(ii) cost-sharing protection for dental
24 coverage consistent with such requirements

1 and the requirements of subsection
2 (e)(3)(B) of such section.

3 “(B) LIMITATION.—A State may limit the
4 application of a waiver of paragraph (1)(C) to
5 children whose family income does not exceed a
6 level specified by the State, so long as the level
7 so specified does not exceed the maximum in-
8 come level otherwise established for other chil-
9 dren under the State child health plan.

10 “(C) CONDITIONS.—A State may not offer
11 dental-only supplemental coverage under this
12 paragraph unless the State satisfies the fol-
13 lowing conditions:

14 “(i) INCOME ELIGIBILITY.—The State
15 child health plan (whether implemented
16 under title XIX or this title)—

17 “(I) has the highest income eligi-
18 bility standard permitted under this
19 title (or a waiver) as of January 1,
20 2009;

21 “(II) does not limit the accept-
22 ance of applications for children or
23 impose any numerical limitation, wait-
24 ing list, or similar limitation on the
25 eligibility of such children for child

1 health assistance under such State
2 plan; and

3 “(III) provides benefits to all
4 children in the State who apply for
5 and meet eligibility standards.

6 “(ii) NO MORE FAVORABLE TREAT-
7 MENT.—The State child health plan may
8 not provide more favorable dental coverage
9 or cost-sharing protection for dental cov-
10 erage to children provided dental-only sup-
11 plemental coverage under this paragraph
12 than the dental coverage and cost-sharing
13 protection for dental coverage provided to
14 targeted low-income children who are eligi-
15 ble for the full range of child health assist-
16 ance provided under the State child health
17 plan.”.

18 (2) STATE OPTION TO WAIVE WAITING PE-
19 RIOD.—Section 2102(b)(1)(B) (42 U.S.C.
20 1397bb(b)(1)(B)), as amended by section 111(b)(2),
21 is amended—

22 (A) in clause (ii), by striking “and” at the
23 end;

24 (B) in clause (iii), by striking the period
25 and inserting “; and”; and

1 (C) by adding at the end the following new
2 clause:

3 “(iv) at State option, may not apply a
4 waiting period in the case of a child pro-
5 vided dental-only supplemental coverage
6 under section 2110(b)(5).”.

7 (3) APPLICATION OF ENHANCED MATCH UNDER
8 MEDICAID.—Section 1905 (42 U.S.C. 1396d) is
9 amended—

10 (A) in subsection (b), in the fourth sen-
11 tence, by striking “or subsection (u)(3)” and
12 inserting “, (u)(3), or (u)(4)”; and

13 (B) in subsection (u)—

14 (i) by redesignating paragraph (4) as
15 paragraph (5); and

16 (ii) by inserting after paragraph (3)
17 the following new paragraph:

18 “(4) For purposes of subsection (b), the ex-
19 penditures described in this paragraph are expendi-
20 tures for dental-only supplemental coverage for chil-
21 dren described in section 2110(b)(5).”.

22 (c) DENTAL EDUCATION FOR PARENTS OF
23 NEWBORNS.—The Secretary shall develop and implement,
24 through entities that fund or provide perinatal care serv-
25 ices to targeted low-income children under a State child

1 health plan under title XXI of the Social Security Act,
2 a program to deliver oral health educational materials that
3 inform new parents about risks for, and prevention of,
4 early childhood caries and the need for a dental visit with-
5 in their newborn's first year of life.

6 (d) PROVISION OF DENTAL SERVICES THROUGH
7 FQHCS.—

8 (1) MEDICAID.—Section 1902(a) (42 U.S.C.
9 1396a(a)) is amended—

10 (A) by striking “and” at the end of para-
11 graph (70);

12 (B) by striking the period at the end of
13 paragraph (71) and inserting “; and”; and

14 (C) by inserting after paragraph (71) the
15 following new paragraph:

16 “(72) provide that the State will not prevent a
17 Federally-qualified health center from entering into
18 contractual relationships with private practice dental
19 providers in the provision of Federally-qualified
20 health center services.”.

21 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.
22 1397g(e)(1)), as amended by subsections (a)(2) and
23 (d)(2) of section 203, is amended by inserting after
24 subparagraph (B) the following new subparagraph

1 (and redesignating the succeeding subparagraphs ac-
2 cordingly):

3 “(C) Section 1902(a)(72) (relating to lim-
4 iting FQHC contracting for provision of dental
5 services).”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall take effect on January 1,
8 2009.

9 (e) REPORTING INFORMATION ON DENTAL
10 HEALTH.—

11 (1) MEDICAID.—Section 1902(a)(43)(D)(iii)
12 (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by in-
13 sserting “and other information relating to the provi-
14 sion of dental services to such children described in
15 section 2108(e)” after “receiving dental services,”.

16 (2) CHIP.—Section 2108 (42 U.S.C. 1397hh)
17 is amended by adding at the end the following new
18 subsection:

19 “(e) INFORMATION ON DENTAL CARE FOR CHIL-
20 DREN.—

21 “(1) IN GENERAL.—Each annual report under
22 subsection (a) shall include the following information
23 with respect to care and services described in section
24 1905(r)(3) provided to targeted low-income children

1 enrolled in the State child health plan under this
2 title at any time during the year involved:

3 “(A) The number of enrolled children by
4 age grouping used for reporting purposes under
5 section 1902(a)(43).

6 “(B) For children within each such age
7 grouping, information of the type contained in
8 questions 12(a)–(c) of CMS Form 416 (that
9 consists of the number of enrolled targeted low
10 income children who receive any, preventive, or
11 restorative dental care under the State plan).

12 “(C) For the age grouping that includes
13 children 8 years of age, the number of such
14 children who have received a protective sealant
15 on at least one permanent molar tooth.

16 “(2) INCLUSION OF INFORMATION ON ENROLL-
17 EES IN MANAGED CARE PLANS.—The information
18 under paragraph (1) shall include information on
19 children who are enrolled in managed care plans and
20 other private health plans and contracts with such
21 plans under this title shall provide for the reporting
22 of such information by such plans to the State.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall be effective for annual re-

1 ports submitted for years beginning after date of en-
2 actment.

3 (f) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER
4 INFORMATION TO ENROLLEES UNDER MEDICAID AND
5 CHIP.—The Secretary shall—

6 (1) work with States, pediatric dentists, and
7 other dental providers (including providers that are,
8 or are affiliated with, a school of dentistry) to in-
9 clude, not later than 6 months after the date of the
10 enactment of this Act, on the Insure Kids Now
11 website (<http://www.insurekidsnow.gov/>) and hotline
12 (1-877-KIDS-NOW) (or on any successor websites
13 or hotlines) a current and accurate list of all such
14 dentists and providers within each State that provide
15 dental services to children enrolled in the State plan
16 (or waiver) under Medicaid or the State child health
17 plan (or waiver) under CHIP, and shall ensure that
18 such list is updated at least quarterly; and

19 (2) work with States to include, not later than
20 6 months after the date of the enactment of this
21 Act, a description of the dental services provided
22 under each State plan (or waiver) under Medicaid
23 and each State child health plan (or waiver) under
24 CHIP on such Insure Kids Now website, and shall
25 ensure that such list is updated at least annually.

1 (g) INCLUSION OF STATUS OF EFFORTS TO IMPROVE
2 DENTAL CARE IN REPORTS ON THE QUALITY OF CHIL-
3 DREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—

4 Section 1139A(a), as added by section 401(a), is amend-
5 ed—

6 (1) in paragraph (3)(B)(ii), by inserting “and,
7 with respect to dental care, conditions requiring the
8 restoration of teeth, relief of pain and infection, and
9 maintenance of dental health” after “chronic condi-
10 tions”; and

11 (2) in paragraph (6)(A)(ii), by inserting “dental
12 care,” after “preventive health services,”.

13 (h) GAO STUDY AND REPORT.—

14 (1) STUDY.—The Comptroller General of the
15 United States shall provide for a study that exam-
16 ines—

17 (A) access to dental services by children in
18 underserved areas;

19 (B) children's access to oral health care,
20 including preventive and restorative services,
21 under Medicaid and CHIP, including—

22 (i) the extent to which dental pro-
23 viders are willing to treat children eligible
24 for such programs;

1 (ii) information on such children’s ac-
2 cess to networks of care, including such
3 networks that serve special needs children;
4 and

5 (iii) geographic availability of oral
6 health care, including preventive and re-
7 storative services, under such programs;
8 and

9 (C) the feasibility and appropriateness of
10 using qualified mid-level dental health pro-
11 viders, in coordination with dentists, to improve
12 access for children to oral health services and
13 public health overall.

14 (2) REPORT.—Not later than 18 months year
15 after the date of the enactment of this Act, the
16 Comptroller General shall submit to Congress a re-
17 port on the study conducted under paragraph (1).
18 The report shall include recommendations for such
19 Federal and State legislative and administrative
20 changes as the Comptroller General determines are
21 necessary to address any barriers to access to oral
22 health care, including preventive and restorative
23 services, under Medicaid and CHIP that may exist.

1 **SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.**

2 (a) ASSURANCE OF PARITY.—Section 2103(c) (42
3 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B),
4 is amended by inserting after paragraph (5), the following:

5 “(6) MENTAL HEALTH SERVICES PARITY.—

6 “(A) IN GENERAL.—In the case of a State
7 child health plan that provides both medical
8 and surgical benefits and mental health or sub-
9 stance use disorder benefits, such plan shall en-
10 sure that the financial requirements and treat-
11 ment limitations applicable to such mental
12 health or substance use disorder benefits com-
13 ply with the requirements of section 2705(a) of
14 the Public Health Service Act in the same man-
15 ner as such requirements apply to a group
16 health plan.

17 “(B) DEEMED COMPLIANCE.—To the ex-
18 tent that a State child health plan includes cov-
19 erage with respect to an individual described in
20 section 1905(a)(4)(B) and covered under the
21 State plan under section 1902(a)(10)(A) of the
22 services described in section 1905(a)(4)(B) (re-
23 lating to early and periodic screening, diag-
24 nostic, and treatment services defined in section
25 1905(r)) and provided in accordance with sec-

1 tion 1902(a)(43), such plan shall be deemed to
2 satisfy the requirements of subparagraph (A).”.

3 (b) CONFORMING AMENDMENTS.—Section 2103 (42
4 U.S.C. 1397cc) is amended—

5 (1) in subsection (a), as amended by section
6 501(a)(1)(A)(i), in the matter preceding paragraph
7 (1), by inserting “, (6),” after “(5)”; and

8 (2) in subsection (c)(2), by striking subpara-
9 graph (B) and redesignating subparagraphs (C) and
10 (D) as subparagraphs (B) and (C), respectively.

11 **SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYS-**
12 **TEM FOR SERVICES PROVIDED BY FEDER-**
13 **ALLY-QUALIFIED HEALTH CENTERS AND**
14 **RURAL HEALTH CLINICS.**

15 (a) APPLICATION OF PROSPECTIVE PAYMENT SYS-
16 TEM.—

17 (1) IN GENERAL.—Section 2107(e)(1) (42
18 U.S.C. 1397gg(e)(1)), as amended by section
19 501(c)(2) is amended by inserting after subpara-
20 graph (C) the following new subparagraph (and re-
21 designating the succeeding subparagraphs accord-
22 ingly):

23 “(D) Section 1902(bb) (relating to pay-
24 ment for services provided by Federally-quali-
25 fied health centers and rural health clinics).”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to services provided on
3 or after October 1, 2009.

4 (b) TRANSITION GRANTS.—

5 (1) APPROPRIATION.—Out of any funds in the
6 Treasury not otherwise appropriated, there is appro-
7 priated to the Secretary for fiscal year 2009,
8 \$5,000,000, to remain available until expended, for
9 the purpose of awarding grants to States with State
10 child health plans under CHIP that are operated
11 separately from the State Medicaid plan under title
12 XIX of the Social Security Act (including any waiver
13 of such plan), or in combination with the State Med-
14 icaid plan, for expenditures related to transitioning
15 to compliance with the requirement of section
16 2107(e)(1)(D) of the Social Security Act (as added
17 by subsection (a)) to apply the prospective payment
18 system established under section 1902(bb) of the
19 such Act (42 U.S.C. 1396a(bb)) to services provided
20 by Federally-qualified health centers and rural
21 health clinics.

22 (2) MONITORING AND REPORT.—The Secretary
23 shall monitor the impact of the application of such
24 prospective payment system on the States described
25 in paragraph (1) and, not later than October 1,

1 2011, shall report to Congress on any effect on ac-
2 cess to benefits, provider payment rates, or scope of
3 benefits offered by such States as a result of the ap-
4 plication of such payment system.

5 **SEC. 504. PREMIUM GRACE PERIOD.**

6 (a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C.
7 1397cc(e)(3)) is amended by adding at the end the fol-
8 lowing new subparagraph:

9 “(C) PREMIUM GRACE PERIOD.—The State
10 child health plan—

11 “(i) shall afford individuals enrolled
12 under the plan a grace period of at least
13 30 days from the beginning of a new cov-
14 erage period to make premium payments
15 before the individual’s coverage under the
16 plan may be terminated; and

17 “(ii) shall provide to such an indi-
18 vidual, not later than 7 days after the first
19 day of such grace period, notice—

20 “(I) that failure to make a pre-
21 mium payment within the grace pe-
22 riod will result in termination of cov-
23 erage under the State child health
24 plan; and

1 “(II) of the individual’s right to
 2 challenge the proposed termination
 3 pursuant to the applicable Federal
 4 regulations.

5 For purposes of clause (i), the term ‘new cov-
 6 erage period’ means the month immediately fol-
 7 lowing the last month for which the premium
 8 has been paid.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall apply to new coverage periods begin-
 11 ning on or after the date of the enactment of this Act.

12 **SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES**
 13 **PROVIDED THROUGH SCHOOL-BASED**
 14 **HEALTH CENTERS.**

15 (a) IN GENERAL.—Section 2103(c) (42 U.S.C.
 16 1397cc(c)), as amended by section 501(a)(1)(B), is
 17 amended by adding at the end the following new para-
 18 graph:

19 “(8) AVAILABILITY OF COVERAGE FOR ITEMS
 20 AND SERVICES FURNISHED THROUGH SCHOOL-
 21 BASED HEALTH CENTERS.—Nothing in this title
 22 shall be construed as limiting a State’s ability to
 23 provide child health assistance for covered items and
 24 services that are furnished through school-based
 25 health centers (as defined in section 2110(c)(9)).”.

1 (b) DEFINITION.—Section 2110(c) (42 U.S.C.
2 1397jj) is amended by adding at the end the following:

3 “(9) SCHOOL-BASED HEALTH CENTER.—

4 “(A) IN GENERAL.—The term ‘school-
5 based health center’ means a health clinic
6 that—

7 “(i) is located in or near a school fa-
8 cility of a school district or board or of an
9 Indian tribe or tribal organization;

10 “(ii) is organized through school, com-
11 munity, and health provider relationships;

12 “(iii) is administered by a sponsoring
13 facility;

14 “(iv) provides through health profes-
15 sionals primary health services to children
16 in accordance with State and local law, in-
17 cluding laws relating to licensure and cer-
18 tification; and

19 “(v) satisfies such other requirements
20 as a State may establish for the operation
21 of such a clinic.

22 “(B) SPONSORING FACILITY.—For pur-
23 poses of subparagraph (A)(iii), the term ‘spon-
24 soring facility’ includes any of the following:

25 “(i) A hospital.

1 “(ii) A public health department.

2 “(iii) A community health center.

3 “(iv) A nonprofit health care agency.

4 “(v) A school or school system.

5 “(vi) A program administered by the
6 Indian Health Service or the Bureau of In-
7 dian Affairs or operated by an Indian tribe
8 or a tribal organization.”.

9 **SEC. 506. MEDICAID AND CHIP PAYMENT AND ACCESS COM-**
10 **MISSION.**

11 (a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et
12 seq.) is amended by inserting before section 1901 the fol-
13 lowing new section:

14 “MEDICAID AND CHIP PAYMENT AND ACCESS
15 COMMISSION

16 “SEC. 1900. (a) ESTABLISHMENT.—There is hereby
17 established the Medicaid and CHIP Payment and Access
18 Commission (in this section referred to as ‘MACPAC’).

19 “(b) DUTIES.—

20 “(1) REVIEW OF ACCESS POLICIES AND AN-
21 NUAL REPORTS.—MACPAC shall—

22 “(A) review policies of the Medicaid pro-
23 gram established under this title (in this section
24 referred to as ‘Medicaid’) and the State Chil-
25 dren’s Health Insurance Program established
26 under title XXI (in this section referred to as

1 ‘CHIP’) affecting children’s access to covered
2 items and services, including topics described in
3 paragraph (2);

4 “(B) make recommendations to Congress
5 concerning such access policies;

6 “(C) by not later than March 1 of each
7 year (beginning with 2010), submit a report to
8 Congress containing the results of such reviews
9 and MACPAC’s recommendations concerning
10 such policies; and

11 “(D) by not later than June 1 of each year
12 (beginning with 2010), submit a report to Con-
13 gress containing an examination of issues af-
14 fecting Medicaid and CHIP, including the im-
15 plications of changes in health care delivery in
16 the United States and in the market for health
17 care services on such programs.

18 “(2) SPECIFIC TOPICS TO BE REVIEWED.—Spe-
19 cifically, MACPAC shall review and assess the fol-
20 lowing:

21 “(A) MEDICAID AND CHIP PAYMENT POLI-
22 CIES.—Payment policies under Medicaid and
23 CHIP, including—

24 “(i) the factors affecting expenditures
25 for items and services in different sectors,

1 including the process for updating hospital,
 2 skilled nursing facility, physician, Feder-
 3 ally-qualified health center, rural health
 4 center, and other fees;

5 “(ii) payment methodologies; and

6 “(iii) the relationship of such factors
 7 and methodologies to access and quality of
 8 care for Medicaid and CHIP beneficiaries.

9 “(B) INTERACTION OF MEDICAID AND
 10 CHIP PAYMENT POLICIES WITH HEALTH CARE
 11 DELIVERY GENERALLY.—The effect of Medicaid
 12 and CHIP payment policies on access to items
 13 and services for children and other Medicaid
 14 and CHIP populations other than under this
 15 title or title XXI and the implications of
 16 changes in health care delivery in the United
 17 States and in the general market for health
 18 care items and services on Medicaid and CHIP.

19 “(C) OTHER ACCESS POLICIES.—The ef-
 20 fect of other Medicaid and CHIP policies on ac-
 21 cess to covered items and services, including
 22 policies relating to transportation and language
 23 barriers.

24 “(3) CREATION OF EARLY-WARNING SYSTEM.—
 25 MACPAC shall create an early-warning system to

1 identify provider shortage areas or any other prob-
2 lems that threaten access to care or the health care
3 status of Medicaid and CHIP beneficiaries.

4 “(4) COMMENTS ON CERTAIN SECRETARIAL RE-
5 PORTS.—If the Secretary submits to Congress (or a
6 committee of Congress) a report that is required by
7 law and that relates to access policies, including with
8 respect to payment policies, under Medicaid or
9 CHIP, the Secretary shall transmit a copy of the re-
10 port to MACPAC. MACPAC shall review the report
11 and, not later than 6 months after the date of sub-
12 mittal of the Secretary’s report to Congress, shall
13 submit to the appropriate committees of Congress
14 written comments on such report. Such comments
15 may include such recommendations as MACPAC
16 deems appropriate.

17 “(5) AGENDA AND ADDITIONAL REVIEWS.—
18 MACPAC shall consult periodically with the chair-
19 men and ranking minority members of the appro-
20 priate committees of Congress regarding MACPAC’s
21 agenda and progress towards achieving the agenda.
22 MACPAC may conduct additional reviews, and sub-
23 mit additional reports to the appropriate committees
24 of Congress, from time to time on such topics relat-
25 ing to the program under this title or title XXI as

1 may be requested by such chairmen and members
2 and as MACPAC deems appropriate.

3 “(6) AVAILABILITY OF REPORTS.—MACPAC
4 shall transmit to the Secretary a copy of each report
5 submitted under this subsection and shall make such
6 reports available to the public.

7 “(7) APPROPRIATE COMMITTEE OF CON-
8 GRESS.—For purposes of this section, the term ‘ap-
9 propriate committees of Congress’ means the Com-
10 mittee on Energy and Commerce of the House of
11 Representatives and the Committee on Finance of
12 the Senate.

13 “(8) VOTING AND REPORTING REQUIRE-
14 MENTS.—With respect to each recommendation con-
15 tained in a report submitted under paragraph (1),
16 each member of MACPAC shall vote on the rec-
17 ommendation, and MACPAC shall include, by mem-
18 ber, the results of that vote in the report containing
19 the recommendation.

20 “(9) EXAMINATION OF BUDGET CON-
21 SEQUENCES.—Before making any recommendations,
22 MACPAC shall examine the budget consequences of
23 such recommendations, directly or through consulta-
24 tion with appropriate expert entities.

25 “(c) MEMBERSHIP.—

1 “(1) NUMBER AND APPOINTMENT.—MACPAC
2 shall be composed of 17 members appointed by the
3 Comptroller General of the United States.

4 “(2) QUALIFICATIONS.—

5 “(A) IN GENERAL.—The membership of
6 MACPAC shall include individuals who have
7 had direct experience as enrollees or parents of
8 enrollees in Medicaid or CHIP and individuals
9 with national recognition for their expertise in
10 Federal safety net health programs, health fi-
11 nance and economics, actuarial science, health
12 facility management, health plans and inte-
13 grated delivery systems, reimbursement of
14 health facilities, health information technology,
15 pediatric physicians, dentists, and other pro-
16 viders of health services, and other related
17 fields, who provide a mix of different profes-
18 sionals, broad geographic representation, and a
19 balance between urban and rural representa-
20 tives.

21 “(B) INCLUSION.—The membership of
22 MACPAC shall include (but not be limited to)
23 physicians and other health professionals, em-
24 ployers, third-party payers, and individuals with
25 expertise in the delivery of health services. Such

1 membership shall also include consumers rep-
2 resenting children, pregnant women, the elderly,
3 and individuals with disabilities, current or
4 former representatives of State agencies respon-
5 sible for administering Medicaid, and current or
6 former representatives of State agencies respon-
7 sible for administering CHIP.

8 “(C) MAJORITY NONPROVIDERS.—Individ-
9 uals who are directly involved in the provision,
10 or management of the delivery, of items and
11 services covered under Medicaid or CHIP shall
12 not constitute a majority of the membership of
13 MACPAC.

14 “(D) ETHICAL DISCLOSURE.—The Comp-
15 troller General of the United States shall estab-
16 lish a system for public disclosure by members
17 of MACPAC of financial and other potential
18 conflicts of interest relating to such members.
19 Members of MACPAC shall be treated as em-
20 ployees of Congress for purposes of applying
21 title I of the Ethics in Government Act of 1978
22 (Public Law 95–521).

23 “(3) TERMS.—

24 “(A) IN GENERAL.—The terms of mem-
25 bers of MACPAC shall be for 3 years except

1 that the Comptroller General of the United
2 States shall designate staggered terms for the
3 members first appointed.

4 “(B) VACANCIES.—Any member appointed
5 to fill a vacancy occurring before the expiration
6 of the term for which the member’s predecessor
7 was appointed shall be appointed only for the
8 remainder of that term. A member may serve
9 after the expiration of that member’s term until
10 a successor has taken office. A vacancy in
11 MACPAC shall be filled in the manner in which
12 the original appointment was made.

13 “(4) COMPENSATION.—While serving on the
14 business of MACPAC (including travel time), a
15 member of MACPAC shall be entitled to compensa-
16 tion at the per diem equivalent of the rate provided
17 for level IV of the Executive Schedule under section
18 5315 of title 5, United States Code; and while so
19 serving away from home and the member’s regular
20 place of business, a member may be allowed travel
21 expenses, as authorized by the Chairman of
22 MACPAC. Physicians serving as personnel of
23 MACPAC may be provided a physician comparability
24 allowance by MACPAC in the same manner as Gov-
25 ernment physicians may be provided such an allow-

1 ance by an agency under section 5948 of title 5,
2 United States Code, and for such purpose subsection
3 (i) of such section shall apply to MACPAC in the
4 same manner as it applies to the Tennessee Valley
5 Authority. For purposes of pay (other than pay of
6 members of MACPAC) and employment benefits,
7 rights, and privileges, all personnel of MACPAC
8 shall be treated as if they were employees of the
9 United States Senate.

10 “(5) CHAIRMAN; VICE CHAIRMAN.—The Comp-
11 troller General of the United States shall designate
12 a member of MACPAC, at the time of appointment
13 of the member as Chairman and a member as Vice
14 Chairman for that term of appointment, except that
15 in the case of vacancy of the Chairmanship or Vice
16 Chairmanship, the Comptroller General of the
17 United States may designate another member for
18 the remainder of that member’s term.

19 “(6) MEETINGS.—MACPAC shall meet at the
20 call of the Chairman.

21 “(d) DIRECTOR AND STAFF; EXPERTS AND CON-
22 SULTANTS.—Subject to such review as the Comptroller
23 General of the United States deems necessary to assure
24 the efficient administration of MACPAC, MACPAC
25 may—

1 “(1) employ and fix the compensation of an Ex-
2 ecutive Director (subject to the approval of the
3 Comptroller General of the United States) and such
4 other personnel as may be necessary to carry out its
5 duties (without regard to the provisions of title 5,
6 United States Code, governing appointments in the
7 competitive service);

8 “(2) seek such assistance and support as may
9 be required in the performance of its duties from ap-
10 propriate Federal departments and agencies;

11 “(3) enter into contracts or make other ar-
12 rangements, as may be necessary for the conduct of
13 the work of MACPAC (without regard to section
14 3709 of the Revised Statutes (41 U.S.C. 5));

15 “(4) make advance, progress, and other pay-
16 ments which relate to the work of MACPAC;

17 “(5) provide transportation and subsistence for
18 persons serving without compensation; and

19 “(6) prescribe such rules and regulations as it
20 deems necessary with respect to the internal organi-
21 zation and operation of MACPAC.

22 “(e) POWERS.—

23 “(1) OBTAINING OFFICIAL DATA.—MACPAC
24 may secure directly from any department or agency
25 of the United States information necessary to enable

1 it to carry out this section. Upon request of the
2 Chairman, the head of that department or agency
3 shall furnish that information to MACPAC on an
4 agreed upon schedule.

5 “(2) DATA COLLECTION.—In order to carry out
6 its functions, MACPAC shall—

7 “(A) utilize existing information, both pub-
8 lished and unpublished, where possible, collected
9 and assessed either by its own staff or under
10 other arrangements made in accordance with
11 this section;

12 “(B) carry out, or award grants or con-
13 tracts for, original research and experimen-
14 tation, where existing information is inad-
15 equate; and

16 “(C) adopt procedures allowing any inter-
17 ested party to submit information for
18 MACPAC’s use in making reports and rec-
19 ommendations.

20 “(3) ACCESS OF GAO TO INFORMATION.—The
21 Comptroller General of the United States shall have
22 unrestricted access to all deliberations, records, and
23 nonproprietary data of MACPAC, immediately upon
24 request.

1 “(4) PERIODIC AUDIT.—MACPAC shall be sub-
2 ject to periodic audit by the Comptroller General of
3 the United States.

4 “(f) AUTHORIZATION OF APPROPRIATIONS.—

5 “(1) REQUEST FOR APPROPRIATIONS.—
6 MACPAC shall submit requests for appropriations
7 in the same manner as the Comptroller General of
8 the United States submits requests for appropria-
9 tions, but amounts appropriated for MACPAC shall
10 be separate from amounts appropriated for the
11 Comptroller General of the United States.

12 “(2) AUTHORIZATION.—There are authorized to
13 be appropriated such sums as may be necessary to
14 carry out the provisions of this section.”.

15 (b) DEADLINE FOR INITIAL APPOINTMENTS.—Not
16 later than January 1, 2010, the Comptroller General of
17 the United States shall appoint the initial members of the
18 Medicaid and CHIP Payment and Access Commission es-
19 tablished under section 1900 of the Social Security Act
20 (as added by subsection (a)).

21 (c) ANNUAL REPORT ON MEDICAID.—Not later than
22 January 1, 2010, and annually thereafter, the Secretary,
23 in consultation with the Secretary of the Treasury, the
24 Secretary of Labor, and the States (as defined for pur-
25 poses of Medicaid), shall submit an annual report to Con-

1 gress on the financial status of, enrollment in, and spend-
2 ing trends for, Medicaid for the fiscal year ending on Sep-
3 tember 30 of the preceding year.

4 **TITLE VI—PROGRAM INTEGRITY**
5 **AND OTHER MISCELLANEOUS**
6 **PROVISIONS**

7 **Subtitle A—Program Integrity and**
8 **Data Collection**

9 **SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

10 (a) EXPENDITURES RELATED TO COMPLIANCE WITH
11 REQUIREMENTS.—

12 (1) ENHANCED PAYMENTS.—Section 2105(c)
13 (42 U.S.C. 1397ee(c)), as amended by section
14 301(a), is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(11) ENHANCED PAYMENTS.—Notwith-
17 standing subsection (b), the enhanced FMAP with
18 respect to payments under subsection (a) for ex-
19 penditures related to the administration of the pay-
20 ment error rate measurement (PERM) requirements
21 applicable to the State child health plan in accord-
22 ance with the Improper Payments Information Act
23 of 2002 and parts 431 and 457 of title 42, Code of
24 Federal Regulations (or any related or successor

1 guidance or regulations) shall in no event be less
2 than 90 percent.”.

3 (2) EXCLUSION OF FROM CAP ON ADMINISTRA-
4 TIVE EXPENDITURES.—Section 2105(c)(2)(C) (42
5 U.S.C. 1397ee(c)(2)C)), as amended by section
6 302(b)), is amended by adding at the end the fol-
7 lowing:

8 “(iv) PAYMENT ERROR RATE MEAS-
9 UREMENT (PERM) EXPENDITURES.—Ex-
10 penditures related to the administration of
11 the payment error rate measurement
12 (PERM) requirements applicable to the
13 State child health plan in accordance with
14 the Improper Payments Information Act of
15 2002 and parts 431 and 457 of title 42,
16 Code of Federal Regulations (or any re-
17 lated or successor guidance or regula-
18 tions).”.

19 (b) FINAL RULE REQUIRED TO BE IN EFFECT FOR
20 ALL STATES.—Notwithstanding parts 431 and 457 of
21 title 42, Code of Federal Regulations (as in effect on the
22 date of enactment of this Act), the Secretary shall not cal-
23 culate or publish any national or State-specific error rate
24 based on the application of the payment error rate meas-
25 urement (in this section referred to as “PERM”) require-

1 ments to CHIP until after the date that is 6 months after
2 the date on which a new final rule (in this section referred
3 to as the “new final rule”) promulgated after the date of
4 the enactment of this Act and implementing such require-
5 ments in accordance with the requirements of subsection
6 (c) is in effect for all States. Any calculation of a national
7 error rate or a State specific error rate after such new
8 final rule in effect for all States may only be inclusive of
9 errors, as defined in such new final rule or in guidance
10 issued within a reasonable time frame after the effective
11 date for such new final rule that includes detailed guid-
12 ance for the specific methodology for error determinations.

13 (c) REQUIREMENTS FOR NEW FINAL RULE.—For
14 purposes of subsection (b), the requirements of this sub-
15 section are that the new final rule implementing the
16 PERM requirements shall—

17 (1) include—

18 (A) clearly defined criteria for errors for
19 both States and providers;

20 (B) a clearly defined process for appealing
21 error determinations by—

22 (i) review contractors; or

23 (ii) the agency and personnel de-
24 scribed in section 431.974(a)(2) of title 42,
25 Code of Federal Regulations, as in effect

1 on September 1, 2007, responsible for the
2 development, direction, implementation,
3 and evaluation of eligibility reviews and as-
4 sociated activities; and

5 (C) clearly defined responsibilities and
6 deadlines for States in implementing any cor-
7 rective action plans; and

8 (2) provide that the payment error rate deter-
9 mined for a State shall not take into account pay-
10 ment errors resulting from the State's verification of
11 an applicant's self-declaration or self-certification of
12 eligibility for, and the correct amount of, medical as-
13 sistance or child health assistance, if the State proc-
14 ess for verifying an applicant's self-declaration or
15 self-certification satisfies the requirements for such
16 process applicable under regulations promulgated by
17 the Secretary or otherwise approved by the Sec-
18 retary.

19 (d) OPTION FOR APPLICATION OF DATA FOR STATES
20 IN FIRST APPLICATION CYCLE UNDER THE INTERIM
21 FINAL RULE.—After the new final rule implementing the
22 PERM requirements in accordance with the requirements
23 of subsection (c) is in effect for all States, a State for
24 which the PERM requirements were first in effect under
25 an interim final rule for fiscal year 2007 or under a final

1 rule for fiscal year 2008 may elect to accept any payment
2 error rate determined in whole or in part for the State
3 on the basis of data for that fiscal year or may elect to
4 not have any payment error rate determined on the basis
5 of such data and, instead, shall be treated as if fiscal year
6 2010 or fiscal year 2011 were the first fiscal year for
7 which the PERM requirements apply to the State.

8 (e) HARMONIZATION OF MEQC AND PERM.—

9 (1) REDUCTION OF REDUNDANCIES.—The Sec-
10 retary shall review the Medicaid Eligibility Quality
11 Control (in this subsection referred to as the
12 “MEQC”) requirements with the PERM require-
13 ments and coordinate consistent implementation of
14 both sets of requirements, while reducing
15 redundancies.

16 (2) STATE OPTION TO APPLY PERM DATA.—A
17 State may elect, for purposes of determining the er-
18 roneous excess payments for medical assistance ratio
19 applicable to the State for a fiscal year under section
20 1903(u) of the Social Security Act (42 U.S.C.
21 1396b(u)) to substitute data resulting from the ap-
22 plication of the PERM requirements to the State
23 after the new final rule implementing such require-
24 ments is in effect for all States for data obtained

1 from the application of the MEQC requirements to
2 the State with respect to a fiscal year.

3 (3) STATE OPTION TO APPLY MEQC DATA.—For
4 purposes of satisfying the requirements of subpart Q
5 of part 431 of title 42, Code of Federal Regulations,
6 relating to Medicaid eligibility reviews, a State may
7 elect to substitute data obtained through MEQC re-
8 views conducted in accordance with section 1903(u)
9 of the Social Security Act (42 U.S.C. 1396b(u)) for
10 data required for purposes of PERM requirements,
11 but only if the State MEQC reviews are based on a
12 broad, representative sample of Medicaid applicants
13 or enrollees in the States.

14 (f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC
15 SAMPLE SIZES.—The Secretary shall establish State-spe-
16 cific sample sizes for application of the PERM require-
17 ments with respect to State child health plans for fiscal
18 years beginning with the first fiscal year that begins on
19 or after the date on which the new final rule is in effect
20 for all States, on the basis of such information as the Sec-
21 retary determines appropriate. In establishing such sam-
22 ple sizes, the Secretary shall, to the greatest extent prac-
23 ticable—

24 (1) minimize the administrative cost burden on
25 States under Medicaid and CHIP; and

1 (2) maintain State flexibility to manage such
2 programs.

3 **SEC. 602. IMPROVING DATA COLLECTION.**

4 (a) INCREASED APPROPRIATION.—Section
5 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by strik-
6 ing “\$10,000,000 for fiscal year 2000” and inserting
7 “\$20,000,000 for fiscal year 2009”.

8 (b) USE OF ADDITIONAL FUNDS.—Section 2109(b)
9 (42 U.S.C. 1397ii(b)), as amended by subsection (a), is
10 amended—

11 (1) by redesignating paragraph (2) as para-
12 graph (4); and

13 (2) by inserting after paragraph (1), the fol-
14 lowing new paragraphs:

15 “(2) ADDITIONAL REQUIREMENTS.—In addition
16 to making the adjustments required to produce the
17 data described in paragraph (1), with respect to
18 data collection occurring for fiscal years beginning
19 with fiscal year 2009, in appropriate consultation
20 with the Secretary of Health and Human Services,
21 the Secretary of Commerce shall do the following:

22 “(A) Make appropriate adjustments to the
23 Current Population Survey to develop more ac-
24 curate State-specific estimates of the number of

1 children enrolled in health coverage under title
2 XIX or this title.

3 “(B) Make appropriate adjustments to the
4 Current Population Survey to improve the sur-
5 vey estimates used to determine the child popu-
6 lation growth factor under section
7 2104(m)(5)(B) and any other data necessary
8 for carrying out this title.

9 “(C) Include health insurance survey infor-
10 mation in the American Community Survey re-
11 lated to children.

12 “(D) Assess whether American Community
13 Survey estimates, once such survey data are
14 first available, produce more reliable estimates
15 than the Current Population Survey with re-
16 spect to the purposes described in subparagraph
17 (B).

18 “(E) On the basis of the assessment re-
19 quired under subparagraph (D), recommend to
20 the Secretary of Health and Human Services
21 whether American Community Survey estimates
22 should be used in lieu of, or in some combina-
23 tion with, Current Population Survey estimates
24 for the purposes described in subparagraph (B).

1 “(F) Continue making the adjustments de-
2 scribed in the last sentence of paragraph (1)
3 with respect to expansion of the sample size
4 used in State sampling units, the number of
5 sampling units in a State, and using an appro-
6 priate verification element.

7 “(3) AUTHORITY FOR THE SECRETARY OF
8 HEALTH AND HUMAN SERVICES TO TRANSITION TO
9 THE USE OF ALL, OR SOME COMBINATION OF, ACS
10 ESTIMATES UPON RECOMMENDATION OF THE SEC-
11 RETARY OF COMMERCE.—If, on the basis of the as-
12 sessment required under paragraph (2)(D), the Sec-
13 retary of Commerce recommends to the Secretary of
14 Health and Human Services that American Commu-
15 nity Survey estimates should be used in lieu of, or
16 in some combination with, Current Population Sur-
17 vey estimates for the purposes described in para-
18 graph (2)(B), the Secretary of Health and Human
19 Services, in consultation with the States, may pro-
20 vide for a period during which the Secretary may
21 transition from carrying out such purposes through
22 the use of Current Population Survey estimates to
23 the use of American Community Survey estimates
24 (in lieu of, or in combination with the Current Popu-
25 lation Survey estimates, as recommended), provided

1 that any such transition is implemented in a manner
2 that is designed to avoid adverse impacts upon
3 States with approved State child health plans under
4 this title.”.

5 **SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.**

6 Section 2108(c) (42 U.S.C. 1397hh(c)) is amended
7 by striking paragraph (5) and inserting the following:

8 “(5) SUBSEQUENT EVALUATION USING UP-
9 DATED INFORMATION.—

10 “(A) IN GENERAL.—The Secretary, di-
11 rectly or through contracts or interagency
12 agreements, shall conduct an independent sub-
13 sequent evaluation of 10 States with approved
14 child health plans.

15 “(B) SELECTION OF STATES AND MAT-
16 TERS INCLUDED.—Paragraphs (2) and (3) shall
17 apply to such subsequent evaluation in the
18 same manner as such provisions apply to the
19 evaluation conducted under paragraph (1).

20 “(C) SUBMISSION TO CONGRESS.—Not
21 later than December 31, 2011, the Secretary
22 shall submit to Congress the results of the eval-
23 uation conducted under this paragraph.

24 “(D) FUNDING.—Out of any money in the
25 Treasury of the United States not otherwise ap-

1 appropriated, there are appropriated \$10,000,000
2 for fiscal year 2010 for the purpose of con-
3 ducting the evaluation authorized under this
4 paragraph. Amounts appropriated under this
5 subparagraph shall remain available for expend-
6 iture through fiscal year 2012.”.

7 **SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS**
8 **AND EVALUATIONS.**

9 Section 2108(d) (42 U.S.C. 1397hh(d)) is amended
10 to read as follows:

11 “(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS
12 AND EVALUATIONS.—For the purpose of evaluating and
13 auditing the program established under this title, or title
14 XIX, the Secretary, the Office of Inspector General, and
15 the Comptroller General shall have access to any books,
16 accounts, records, correspondence, and other documents
17 that are related to the expenditure of Federal funds under
18 this title and that are in the possession, custody, or control
19 of States receiving Federal funds under this title or polit-
20 ical subdivisions thereof, or any grantee or contractor of
21 such States or political subdivisions.”.

1 **SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DIS-**
 2 **ALLOWANCE FOR UNAUTHORIZED EXPENDI-**
 3 **TURES.**

4 Nothing in this Act allows Federal payment for indi-
 5 viduals who are not legal residents. Titles XI, XIX, and
 6 XXI of the Social Security Act provide for the disallow-
 7 ance of Federal financial participation for erroneous ex-
 8 penditures under Medicaid and under CHIP, respectively.

9 **Subtitle B—Miscellaneous Health**
 10 **Provisions**

11 **SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORREC-**
 12 **TIONS.**

13 (a) CLARIFICATION OF REQUIREMENT TO PROVIDE
 14 EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK
 15 BENEFIT PACKAGES UNDER MEDICAID.—Section
 16 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by sec-
 17 tion 6044(a) of the Deficit Reduction Act of 2005 (Public
 18 Law 109–171, 120 Stat. 88), is amended—

19 (1) in subparagraph (A)—

20 (A) in the matter before clause (i)—

21 (i) by striking “Notwithstanding any
 22 other provision of this title” and inserting
 23 “Notwithstanding section 1902(a)(1) (re-
 24 lating to statewideness), section
 25 1902(a)(10)(B) (relating to comparability)
 26 and any other provision of this title which

1 would be directly contrary to the authority
2 under this section and subject to sub-
3 section (E)”; and

4 (ii) by striking “enrollment in cov-
5 erage that provides” and inserting “cov-
6 erage that”;

7 (B) in clause (i), by inserting “provides”
8 after “(i)”; and

9 (C) by striking clause (ii) and inserting the
10 following:

11 “(ii) for any individual described in
12 section 1905(a)(4)(B) who is eligible under
13 the State plan in accordance with para-
14 graphs (10) and (17) of section 1902(a),
15 consists of the items and services described
16 in section 1905(a)(4)(B) (relating to early
17 and periodic screening, diagnostic, and
18 treatment services defined in section
19 1905(r)) and provided in accordance with
20 the requirements of section 1902(a)(43).”;

21 (2) in subparagraph (C)—

22 (A) in the heading, by striking “**WRAP-**
23 **AROUND**” and inserting “**ADDITIONAL**”; and

24 (B) by striking “wrap-around or”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

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

5 “(i) requiring a State to offer all or
6 any of the items and services required by
7 subparagraph (A)(ii) through an issuer of
8 benchmark coverage described in sub-
9 section (b)(1) or benchmark equivalent
10 coverage described in subsection (b)(2);

11 “(ii) preventing a State from offering
12 all or any of the items and services re-
13 quired by subparagraph (A)(ii) through an
14 issuer of benchmark coverage described in
15 subsection (b)(1) or benchmark equivalent
16 coverage described in subsection (b)(2); or

17 “(iii) affecting a child’s entitlement to
18 care and services described in subsections
19 (a)(4)(B) and (r) of section 1905 and pro-
20 vided in accordance with section
21 1902(a)(43) whether provided through
22 benchmark coverage, benchmark equivalent
23 coverage, or otherwise.”.

24 (b) CORRECTION OF REFERENCE TO CHILDREN IN
25 FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—

1 Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–
2 7(a)(2)(B)(viii)), as inserted by section 6044(a) of the
3 Deficit Reduction Act of 2005, is amended by striking
4 “aid or assistance is made available under part B of title
5 IV to children in foster care and individuals” and inserting
6 “child welfare services are made available under part B
7 of title IV on the basis of being a child in foster care or”.

8 (c) TRANSPARENCY.—Section 1937 (42 U.S.C.
9 1396u–7), as inserted by section 6044(a) of the Deficit
10 Reduction Act of 2005, is amended by adding at the end
11 the following:

12 “(c) PUBLICATION OF PROVISIONS AFFECTED.—
13 With respect to a State plan amendment to provide bench-
14 mark benefits in accordance with subsections (a) and (b)
15 that is approved by the Secretary, the Secretary shall pub-
16 lish on the Internet website of the Centers for Medicare
17 & Medicaid Services, a list of the provisions of this title
18 that the Secretary has determined do not apply in order
19 to enable the State to carry out the plan amendment and
20 the reason for each such determination on the date such
21 approval is made, and shall publish such list in the Fed-
22 eral Register and not later than 30 days after such date
23 of approval.”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 subsections (a), (b), and (c) of this section shall take effect

1 as if included in the amendment made by section 6044(a)
2 of the Deficit Reduction Act of 2005.

3 **SEC. 612. REFERENCES TO TITLE XXI.**

4 Section 704 of the Medicare, Medicaid, and SCHIP
5 Balanced Budget Refinement Act of 1999, as enacted into
6 law by division B of Public Law 106–113 (113 Stat.
7 1501A–402) is repealed.

8 **SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OP-
9 PORTUNITY ACCOUNT DEMONSTRATION PRO-
10 GRAMS.**

11 After the date of the enactment of this Act, the Sec-
12 retary of Health and Human Services may not approve
13 any new demonstration programs under section 1938 of
14 the Social Security Act (42 U.S.C. 1396u–8).

15 **SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID
16 FMAP TO DISREGARD AN EXTRAORDINARY
17 EMPLOYER PENSION CONTRIBUTION.**

18 (a) IN GENERAL.—Only for purposes of computing
19 the FMAP (as defined in subsection (e)) for a State for
20 a fiscal year (beginning with fiscal year 2006) and apply-
21 ing the FMAP under title XIX of the Social Security Act,
22 any significantly disproportionate employer pension or in-
23 surance fund contribution described in subsection (b) shall
24 be disregarded in computing the per capita income of such
25 State, but shall not be disregarded in computing the per

1 capita income for the continental United States (and Alas-
2 ka) and Hawaii.

3 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER
4 PENSION AND INSURANCE FUND CONTRIBUTION.—

5 (1) IN GENERAL.—For purposes of this section,
6 a significantly disproportionate employer pension
7 and insurance fund contribution described in this
8 subsection with respect to a State is any identifiable
9 employer contribution towards pension or other em-
10 ployee insurance funds that is estimated to accrue to
11 residents of such State for a calendar year (begin-
12 ning with calendar year 2003) if the increase in the
13 amount so estimated exceeds 25 percent of the total
14 increase in personal income in that State for the
15 year involved.

16 (2) DATA TO BE USED.—For estimating and
17 adjustment a FMAP already calculated as of the
18 date of the enactment of this Act for a State with
19 a significantly disproportionate employer pension
20 and insurance fund contribution, the Secretary shall
21 use the personal income data set originally used in
22 calculating such FMAP.

23 (3) SPECIAL ADJUSTMENT FOR NEGATIVE
24 GROWTH.—If in any calendar year the total personal
25 income growth in a State is negative, an employer

1 pension and insurance fund contribution for the pur-
2 poses of calculating the State's FMAP for a cal-
3 endar year shall not exceed 125 percent of the
4 amount of such contribution for the previous cal-
5 endar year for the State.

6 (c) HOLD HARMLESS.—No State shall have its
7 FMAP for a fiscal year reduced as a result of the applica-
8 tion of this section.

9 (d) REPORT.—Not later than May 15, 2009, the Sec-
10 retary shall submit to the Congress a report on the prob-
11 lems presented by the current treatment of pension and
12 insurance fund contributions in the use of Bureau of Eco-
13 nomic Affairs calculations for the FMAP and for Medicaid
14 and on possible alternative methodologies to mitigate such
15 problems.

16 (e) FMAP DEFINED.—For purposes of this section,
17 the term “FMAP” means the Federal medical assistance
18 percentage, as defined in section 1905(b) of the Social Se-
19 curity Act (42 U.S.C. 1396(d)).

20 **SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MED-**
21 **ICAL CENTER.**

22 (a) IN GENERAL.—Nothing in section 1903(w) of the
23 Social Security Act (42 U.S.C. 1396b(w)) shall be con-
24 strued by the Secretary of Health and Human Services
25 as prohibiting a State's use of funds as the non-Federal

1 share of expenditures under title XIX of such Act where
2 such funds are transferred from or certified by a publicly-
3 owned regional medical center located in another State
4 and described in subsection (b), so long as the Secretary
5 determines that such use of funds is proper and in the
6 interest of the program under title XIX.

7 (b) CENTER DESCRIBED.—A center described in this
8 subsection is a publicly-owned regional medical center
9 that—

10 (1) provides level 1 trauma and burn care serv-
11 ices;

12 (2) provides level 3 neonatal care services;

13 (3) is obligated to serve all patients, regardless
14 of ability to pay;

15 (4) is located within a Standard Metropolitan
16 Statistical Area (SMSA) that includes at least 3
17 States;

18 (5) provides services as a tertiary care provider
19 for patients residing within a 125-mile radius; and

20 (6) meets the criteria for a disproportionate
21 share hospital under section 1923 of such Act (42
22 U.S.C. 1396r-4) in at least one State other than the
23 State in which the center is located.

1 **SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR**
2 **TENNESSEE AND HAWAII.**

3 Section 1923(f)(6) (42 U.S.C. 1396r-4(f)(6)), as
4 amended by section 202 of the Medicare Improvements
5 for Patients and Providers Act of 2008 (Public Law 110-
6 275) is amended—

7 (1) in the paragraph heading, by striking “2009
8 AND THE FIRST CALENDAR QUARTER OF FISCAL
9 YEAR 2010” and inserting “2011 AND THE FIRST CAL-
10 ENDAR QUARTER OF FISCAL YEAR 2012”;

11 (2) in subparagraph (A)—

12 (A) in clause (i)—

13 (i) in the second sentence—

14 (I) by striking “and 2009” and
15 inserting “, 2009, 2010, and 2011”;
16 and

17 (II) by striking “such portion
18 of”; and

19 (ii) in the third sentence, by striking
20 “2010 for the period ending on December
21 31, 2009” and inserting “2012 for the pe-
22 riod ending on December 31, 2011”;

23 (B) in clause (ii), by striking “or for a pe-
24 riod in fiscal year 2010” and inserting “2010,
25 2011, or for period in fiscal year 2012”; and

26 (C) in clause (iv)—

1 (i) in the clause heading, by striking
 2 “2009 AND THE FIRST CALENDAR QUARTER
 3 OF FISCAL YEAR 2010” and inserting “2011
 4 AND THE FIRST CALENDAR QUARTER OF
 5 FISCAL YEAR 2012”; and

6 (ii) in each of subclauses (I) and (II),
 7 by striking “ or for a period in fiscal year
 8 2010” and inserting “2010, 2011, or for a
 9 period in fiscal year 2012”; and

10 (3) in subparagraph (B)—

11 (A) in clause (i)—

12 (i) in the first sentence, by striking
 13 “2009” and inserting “2011”; and

14 (ii) in the second sentence, by striking
 15 “2010 for the period ending on December
 16 31, 2009” and inserting “2012 for the pe-
 17 riod ending on December 31, 2011”.

18 **SEC. 617. GAO REPORT ON MEDICAID MANAGED CARE PAY-**
 19 **MENT RATES.**

20 Not later than 18 months after the date of the enact-
 21 ment of this Act, the Comptroller General of the United
 22 States shall submit a report to the Committee on Finance
 23 of the Senate and the Committee on Energy and Com-
 24 merce of the House of Representatives analyzing the ex-

1 tent to which State payment rates for medicaid managed
2 care organizations under Medicaid are actuarially sound.

3 **Subtitle C—Other Provisions**

4 **SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OP-** 5 **TIONS AVAILABLE TO CHILDREN.**

6 (a) DEFINITIONS.—In this section—

7 (1) the terms “Administration” and “Adminis-
8 trator” means the Small Business Administration
9 and the Administrator thereof, respectively;

10 (2) the term “certified development company”
11 means a development company participating in the
12 program under title V of the Small Business Invest-
13 ment Act of 1958 (15 U.S.C. 695 et seq.);

14 (3) the term “Medicaid program” means the
15 program established under title XIX of the Social
16 Security Act (42 U.S.C. 1396 et seq.);

17 (4) the term “Service Corps of Retired Execu-
18 tives” means the Service Corps of Retired Execu-
19 tives authorized by section 8(b)(1) of the Small
20 Business Act (15 U.S.C. 637(b)(1));

21 (5) the term “small business concern” has the
22 meaning given that term in section 3 of the Small
23 Business Act (15 U.S.C. 632);

24 (6) the term “small business development cen-
25 ter” means a small business development center de-

1 scribed in section 21 of the Small Business Act (15
2 U.S.C. 648);

3 (7) the term “State” has the meaning given
4 that term for purposes of title XXI of the Social Se-
5 curity Act (42 U.S.C. 1397aa et seq.);

6 (8) the term “State Children’s Health Insur-
7 ance Program” means the State Children’s Health
8 Insurance Program established under title XXI of
9 the Social Security Act (42 U.S.C. 1397aa et seq.);

10 (9) the term “task force” means the task force
11 established under subsection (b)(1); and

12 (10) the term “women’s business center” means
13 a women’s business center described in section 29 of
14 the Small Business Act (15 U.S.C. 656).

15 (b) ESTABLISHMENT OF TASK FORCE.—

16 (1) ESTABLISHMENT.—There is established a
17 task force to conduct a nationwide campaign of edu-
18 cation and outreach for small business concerns re-
19 garding the availability of coverage for children
20 through private insurance options, the Medicaid pro-
21 gram, and the State Children’s Health Insurance
22 Program.

23 (2) MEMBERSHIP.—The task force shall consist
24 of the Administrator, the Secretary of Health and

1 Human Services, the Secretary of Labor, and the
2 Secretary of the Treasury.

3 (3) RESPONSIBILITIES.—The campaign con-
4 ducted under this subsection shall include—

5 (A) efforts to educate the owners of small
6 business concerns about the value of health cov-
7 erage for children;

8 (B) information regarding options available
9 to the owners and employees of small business
10 concerns to make insurance more affordable, in-
11 cluding Federal and State tax deductions and
12 credits for health care-related expenses and
13 health insurance expenses and Federal tax ex-
14 clusion for health insurance options available
15 under employer-sponsored cafeteria plans under
16 section 125 of the Internal Revenue Code of
17 1986;

18 (C) efforts to educate the owners of small
19 business concerns about assistance available
20 through public programs; and

21 (D) efforts to educate the owners and em-
22 ployees of small business concerns regarding
23 the availability of the hotline operated as part
24 of the Insure Kids Now program of the Depart-
25 ment of Health and Human Services.

1 (4) IMPLEMENTATION.—In carrying out this
2 subsection, the task force may—

3 (A) use any business partner of the Ad-
4 ministration, including—

5 (i) a small business development cen-

6 ter;

7 (ii) a certified development company;

8 (iii) a women’s business center; and

9 (iv) the Service Corps of Retired Ex-
10 ecutives;

11 (B) enter into—

12 (i) a memorandum of understanding
13 with a chamber of commerce; and

14 (ii) a partnership with any appro-
15 priate small business concern or health ad-
16 vocacy group; and

17 (C) designate outreach programs at re-
18 gional offices of the Department of Health and
19 Human Services to work with district offices of
20 the Administration.

21 (5) WEBSITE.—The Administrator shall ensure
22 that links to information on the eligibility and enroll-
23 ment requirements for the Medicaid program and
24 State Children’s Health Insurance Program of each

1 State are prominently displayed on the website of
2 the Administration.

3 (6) REPORT.—

4 (A) IN GENERAL.—Not later than 2 years
5 after the date of enactment of this Act, and
6 every 2 years thereafter, the Administrator
7 shall submit to the Committee on Small Busi-
8 ness and Entrepreneurship of the Senate and
9 the Committee on Small Business of the House
10 of Representatives a report on the status of the
11 nationwide campaign conducted under para-
12 graph (1).

13 (B) CONTENTS.—Each report submitted
14 under subparagraph (A) shall include a status
15 update on all efforts made to educate owners
16 and employees of small business concerns on
17 options for providing health insurance for chil-
18 dren through public and private alternatives.

19 **SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO**
20 **AFFORDABLE AND MEANINGFUL HEALTH IN-**
21 **SURANCE COVERAGE.**

22 (a) FINDINGS.—The Senate finds the following:

23 (1) There are approximately 45 million Ameri-
24 cans currently without health insurance.

1 (2) More than half of uninsured workers are
2 employed by businesses with less than 25 employees
3 or are self-employed.

4 (3) Health insurance premiums continue to rise
5 at more than twice the rate of inflation for all con-
6 sumer goods.

7 (4) Individuals in the small group and indi-
8 vidual health insurance markets usually pay more
9 for similar coverage than those in the large group
10 market.

11 (5) The rapid growth in health insurance costs
12 over the last few years has forced many employers,
13 particularly small employers, to increase deductibles
14 and co-pays or to drop coverage completely.

15 (b) SENSE OF THE SENATE.—The Senate—

16 (1) recognizes the necessity to improve afford-
17 ability and access to health insurance for all Ameri-
18 cans;

19 (2) acknowledges the value of building upon the
20 existing private health insurance market; and

21 (3) affirms its intent to enact legislation this
22 year that, with appropriate protection for con-
23 sumers, improves access to affordable and meaning-
24 ful health insurance coverage for employees of small
25 businesses and individuals by—

1 (A) facilitating pooling mechanisms, in-
2 cluding pooling across State lines, and

3 (B) providing assistance to small busi-
4 nesses and individuals, including financial as-
5 sistance and tax incentives, for the purchase of
6 private insurance coverage.

7 **TITLE VII—REVENUE**
8 **PROVISIONS**

9 **SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO**
10 **PRODUCTS.**

11 (a) CIGARS.—Section 5701(a) of the Internal Rev-
12 enue Code of 1986 is amended—

13 (1) by striking “\$1.828 cents per thousand
14 (\$1.594 cents per thousand on cigars removed dur-
15 ing 2000 or 2001)” in paragraph (1) and inserting
16 “\$50.33 per thousand”,

17 (2) by striking “20.719 percent (18.063 percent
18 on cigars removed during 2000 or 2001)” in para-
19 graph (2) and inserting “52.75 percent”, and

20 (3) by striking “\$48.75 per thousand (\$42.50
21 per thousand on cigars removed during 2000 or
22 2001)” in paragraph (2) and inserting “40.26 cents
23 per cigar”.

24 (b) CIGARETTES.—Section 5701(b) of such Code is
25 amended—

1 (1) by striking “\$19.50 per thousand (\$17 per
2 thousand on cigarettes removed during 2000 or
3 2001)” in paragraph (1) and inserting “\$50.33 per
4 thousand”, and

5 (2) by striking “\$40.95 per thousand (\$35.70
6 per thousand on cigarettes removed during 2000 or
7 2001)” in paragraph (2) and inserting “\$105.69 per
8 thousand”.

9 (c) CIGARETTE PAPERS.—Section 5701(c) of such
10 Code is amended by striking “1.22 cents (1.06 cents on
11 cigarette papers removed during 2000 or 2001)” and in-
12 serting “3.15 cents”.

13 (d) CIGARETTE TUBES.—Section 5701(d) of such
14 Code is amended by striking “2.44 cents (2.13 cents on
15 cigarette tubes removed during 2000 or 2001)” and in-
16 serting “6.30 cents”.

17 (e) SMOKELESS TOBACCO.—Section 5701(e) of such
18 Code is amended—

19 (1) by striking “58.5 cents (51 cents on snuff
20 removed during 2000 or 2001)” in paragraph (1)
21 and inserting “\$1.51”, and

22 (2) by striking “19.5 cents (17 cents on chew-
23 ing tobacco removed during 2000 or 2001)” in para-
24 graph (2) and inserting “50.33 cents”.

1 (f) PIPE TOBACCO.—Section 5701(f) of such Code is
2 amended by striking “\$1.0969 cents (95.67 cents on pipe
3 tobacco removed during 2000 or 2001)” and inserting
4 “\$2.8311 cents”.

5 (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of
6 such Code is amended by striking “\$1.0969 cents (95.67
7 cents on roll-your-own tobacco removed during 2000 or
8 2001)” and inserting “\$24.78”.

9 (h) FLOOR STOCKS TAXES.—

10 (1) IMPOSITION OF TAX.—On tobacco products
11 (other than cigars described in section 5701(a)(2) of
12 the Internal Revenue Code of 1986) and cigarette
13 papers and tubes manufactured in or imported into
14 the United States which are removed before April 1,
15 2009, and held on such date for sale by any person,
16 there is hereby imposed a tax in an amount equal
17 to the excess of—

18 (A) the tax which would be imposed under
19 section 5701 of such Code on the article if the
20 article had been removed on such date, over

21 (B) the prior tax (if any) imposed under
22 section 5701 of such Code on such article.

23 (2) CREDIT AGAINST TAX.—Each person shall
24 be allowed as a credit against the taxes imposed by
25 paragraph (1) an amount equal to \$500. Such credit

1 shall not exceed the amount of taxes imposed by
2 paragraph (1) on April 1, 2009, for which such per-
3 son is liable.

4 (3) LIABILITY FOR TAX AND METHOD OF PAY-
5 MENT.—

6 (A) LIABILITY FOR TAX.—A person hold-
7 ing tobacco products, cigarette papers, or ciga-
8 rette tubes on April 1, 2009, to which any tax
9 imposed by paragraph (1) applies shall be liable
10 for such tax.

11 (B) METHOD OF PAYMENT.—The tax im-
12 posed by paragraph (1) shall be paid in such
13 manner as the Secretary shall prescribe by reg-
14 ulations.

15 (C) TIME FOR PAYMENT.—The tax im-
16 posed by paragraph (1) shall be paid on or be-
17 fore August 1, 2009.

18 (4) ARTICLES IN FOREIGN TRADE ZONES.—
19 Notwithstanding the Act of June 18, 1934 (com-
20 monly known as the Foreign Trade Zone Act, 48
21 Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-
22 sion of law, any article which is located in a foreign
23 trade zone on April 1, 2009, shall be subject to the
24 tax imposed by paragraph (1) if—

1 (A) internal revenue taxes have been deter-
2 mined, or customs duties liquidated, with re-
3 spect to such article before such date pursuant
4 to a request made under the 1st proviso of sec-
5 tion 3(a) of such Act, or

6 (B) such article is held on such date under
7 the supervision of an officer of the United
8 States Customs and Border Protection of the
9 Department of Homeland Security pursuant to
10 the 2d proviso of such section 3(a).

11 (5) DEFINITIONS.—For purposes of this sub-
12 section—

13 (A) IN GENERAL.—Any term used in this
14 subsection which is also used in section 5702 of
15 the Internal Revenue Code of 1986 shall have
16 the same meaning as such term has in such
17 section.

18 (B) SECRETARY.—The term “Secretary”
19 means the Secretary of the Treasury or the
20 Secretary’s delegate.

21 (6) CONTROLLED GROUPS.—Rules similar to
22 the rules of section 5061(e)(3) of such Code shall
23 apply for purposes of this subsection.

24 (7) OTHER LAWS APPLICABLE.—All provisions
25 of law, including penalties, applicable with respect to

1 the taxes imposed by section 5701 of such Code
2 shall, insofar as applicable and not inconsistent with
3 the provisions of this subsection, apply to the floor
4 stocks taxes imposed by paragraph (1), to the same
5 extent as if such taxes were imposed by such section
6 5701. The Secretary may treat any person who bore
7 the ultimate burden of the tax imposed by para-
8 graph (1) as the person to whom a credit or refund
9 under such provisions may be allowed or made.

10 (i) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to articles removed (as defined in
12 section 5702(j) of the Internal Revenue Code of 1986)
13 after March 31, 2009.

14 **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

15 (a) PERMIT, INVENTORIES, REPORTS, AND RECORDS
16 REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS
17 OF PROCESSED TOBACCO.—

18 (1) PERMIT.—

19 (A) APPLICATION.—Section 5712 of the
20 Internal Revenue Code of 1986 is amended by
21 inserting “or processed tobacco” after “tobacco
22 products”.

23 (B) ISSUANCE.—Section 5713(a) of such
24 Code is amended by inserting “or processed to-
25 bacco” after “tobacco products”.

1 (2) INVENTORIES, REPORTS, AND PACKAGES.—

2 (A) INVENTORIES.—Section 5721 of such
3 Code is amended by inserting “, processed to-
4 bacco,” after “tobacco products”.

5 (B) REPORTS.—Section 5722 of such Code
6 is amended by inserting “, processed tobacco,”
7 after “tobacco products”.

8 (C) PACKAGES, MARKS, LABELS, AND NO-
9 TICES.—Section 5723 of such Code is amended
10 by inserting “, processed tobacco,” after “to-
11 bacco products” each place it appears.

12 (3) RECORDS.—Section 5741 of such Code is
13 amended by inserting “, processed tobacco,” after
14 “tobacco products”.

15 (4) MANUFACTURER OF PROCESSED TO-
16 BACCO.—Section 5702 of such Code is amended by
17 adding at the end the following new subsection:

18 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

19 “(1) IN GENERAL.—The term ‘manufacturer of
20 processed tobacco’ means any person who processes
21 any tobacco other than tobacco products.

22 “(2) PROCESSED TOBACCO.—The processing of
23 tobacco shall not include the farming or growing of
24 tobacco or the handling of tobacco solely for sale,

1 shipment, or delivery to a manufacturer of tobacco
2 products or processed tobacco.”.

3 (5) CONFORMING AMENDMENTS.—

4 (A) Section 5702(h) of such Code is
5 amended by striking “tobacco products and cig-
6 arette papers and tubes” and inserting “tobacco
7 products or cigarette papers or tubes or any
8 processed tobacco”.

9 (B) Sections 5702(j) and 5702(k) of such
10 Code are each amended by inserting “, or any
11 processed tobacco,” after “tobacco products or
12 cigarette papers or tubes”.

13 (6) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect on April 1, 2009.

15 (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

17 (1) DENIAL.—Paragraph (3) of section 5712 of
18 such Code is amended to read as follows:

19 “(3) such person (including, in the case of a
20 corporation, any officer, director, or principal stock-
21 holder and, in the case of a partnership, a part-
22 ner)—

23 “(A) is, by reason of his business experi-
24 ence, financial standing, or trade connections or
25 by reason of previous or current legal pro-

1 ceedings involving a felony violation of any
2 other provision of Federal criminal law relating
3 to tobacco products, processed tobacco, ciga-
4 rette paper, or cigarette tubes, not likely to
5 maintain operations in compliance with this
6 chapter,

7 “(B) has been convicted of a felony viola-
8 tion of any provision of Federal or State crimi-
9 nal law relating to tobacco products, processed
10 tobacco, cigarette paper, or cigarette tubes, or

11 “(C) has failed to disclose any material in-
12 formation required or made any material false
13 statement in the application therefor.”.

14 (2) SUSPENSION OR REVOCATION.—Subsection
15 (b) of section 5713 of such Code is amended to read
16 as follows:

17 “(b) SUSPENSION OR REVOCATION.—

18 “(1) SHOW CAUSE HEARING.—If the Secretary
19 has reason to believe that any person holding a per-
20 mit—

21 “(A) has not in good faith complied with
22 this chapter, or with any other provision of this
23 title involving intent to defraud,

24 “(B) has violated the conditions of such
25 permit,

1 “(C) has failed to disclose any material in-
2 formation required or made any material false
3 statement in the application for such permit,

4 “(D) has failed to maintain his premises in
5 such manner as to protect the revenue,

6 “(E) is, by reason of previous or current
7 legal proceedings involving a felony violation of
8 any other provision of Federal criminal law re-
9 lating to tobacco products, processed tobacco,
10 cigarette paper, or cigarette tubes, not likely to
11 maintain operations in compliance with this
12 chapter, or

13 “(F) has been convicted of a felony viola-
14 tion of any provision of Federal or State crimi-
15 nal law relating to tobacco products, processed
16 tobacco, cigarette paper, or cigarette tubes,
17 the Secretary shall issue an order, stating the facts
18 charged, citing such person to show cause why his
19 permit should not be suspended or revoked.

20 “(2) ACTION FOLLOWING HEARING.—If, after
21 hearing, the Secretary finds that such person has
22 not shown cause why his permit should not be sus-
23 pended or revoked, such permit shall be suspended
24 for such period as the Secretary deems proper or
25 shall be revoked.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

4 (c) APPLICATION OF INTERNAL REVENUE CODE
5 STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO
6 EXCISE TAXES.—

7 (1) IN GENERAL.—Section 514(a) of the Tariff
8 Act of 1930 (19 U.S.C. 1514(a)) is amended by
9 striking “and section 520 (relating to refunds)” and
10 inserting “section 520 (relating to refunds), and sec-
11 tion 6501 of the Internal Revenue Code of 1986
12 (but only with respect to taxes imposed under chap-
13 ters 51 and 52 of such Code)”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall apply to articles imported
16 after the date of the enactment of this Act.

17 (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN
18 TOBACCO.—

19 (1) IN GENERAL.—Section 5702(o) of the In-
20 ternal Revenue Code of 1986 is amended by insert-
21 ing “or cigars, or for use as wrappers thereof” be-
22 fore the period at the end.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall apply to articles removed (as

1 defined in section 5702(j) of the Internal Revenue
2 Code of 1986) after March 31, 2009.

3 (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-
4 TURED TOBACCO PRODUCTS.—

5 (1) IN GENERAL.—Section 5703(b)(2) of such
6 Code is amended by adding at the end the following
7 new subparagraph:

8 “(F) SPECIAL RULE FOR UNLAWFULLY
9 MANUFACTURED TOBACCO PRODUCTS.—In the
10 case of any tobacco products, cigarette paper,
11 or cigarette tubes manufactured in the United
12 States at any place other than the premises of
13 a manufacturer of tobacco products, cigarette
14 paper, or cigarette tubes that has filed the bond
15 and obtained the permit required under this
16 chapter, tax shall be due and payable imme-
17 diately upon manufacture.”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall take effect on the date of the
20 enactment of this Act.

21 (f) DISCLOSURE.—

22 (1) IN GENERAL.—Paragraph (1) of section
23 6103(o) of such Code is amended by designating the
24 text as subparagraph (A), moving such text 2 ems
25 to the right, striking “Returns” and inserting “(A)

1 IN GENERAL.—Returns”, and by inserting after sub-
2 paragraph (A) (as so redesignated) the following
3 new subparagraph:

4 “(B) USE IN CERTAIN PROCEEDINGS.—Re-
5 turns and return information disclosed to a
6 Federal agency under subparagraph (A) may be
7 used in an action or proceeding (or in prepara-
8 tion for such action or proceeding) brought
9 under section 625 of the American Jobs Cre-
10 ation Act of 2004 for the collection of any un-
11 paid assessment or penalty arising under such
12 Act.”.

13 (2) CONFORMING AMENDMENT.—Section
14 6103(p)(4) of such Code is amended by striking
15 “(o)(1)” both places it appears and inserting
16 “(o)(1)(A)”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply on or after the date
19 of the enactment of this Act.

20 (g) TRANSITIONAL RULE.—Any person who—

21 (1) on April 1 is engaged in business as a man-
22 ufacturer of processed tobacco or as an importer of
23 processed tobacco, and

24 (2) before the end of the 90-day period begin-
25 ning on such date, submits an application under

1 subchapter B of chapter 52 of such Code to engage
2 in such business, may, notwithstanding such sub-
3 chapter B, continue to engage in such business
4 pending final action on such application. Pending
5 such final action, all provisions of such chapter 52
6 shall apply to such applicant in the same manner
7 and to the same extent as if such applicant were a
8 holder of a permit under such chapter 52 to engage
9 in such business.

10 **SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF**
11 **TOBACCO SMUGGLING IN THE UNITED**
12 **STATES.**

13 Not later than one year after the date of the enact-
14 ment of this Act, the Secretary of the Treasury shall con-
15 duct a study concerning the magnitude of tobacco smug-
16 gling in the United States and submit to Congress rec-
17 ommendations for the most effective steps to reduce to-
18 bacco smuggling. Such study shall also include a review
19 of the loss of Federal tax receipts due to illicit tobacco
20 trade in the United States and the role of imported to-
21 bacco products in the illicit tobacco trade in the United
22 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.

Calendar No. 17

111TH CONGRESS
1ST Session

S. 275

A BILL

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

JANUARY 16, 2009

Read twice and placed on the calendar