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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, February 2, 2009, at 2 p.m.

Senate

THURSDAY, JANUARY 29, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by Rabbi Daniel J. Fellman, Anshe Emeth Memorial Temple, New Brunswick, NJ.

The guest Chaplain offered the following prayer:

We arrive this morning filled with thanks to our Creator who endows each of us with inalienable rights; to our founding leaders who joined those rights with responsibilities for ourselves and our fellow citizens; to the people of our Nation for entrusting us with awe-inspiring duties; to each other as we endeavor to maintain civility, striving for dignity and high purpose in conducting the people's business.

Today and every day, let us strive to fill this Chamber with humanity, humility, and hope, honoring our Nation's past while honing our unique yet shared understanding of the future's ever-present call.

As we turn to the business of the people, remind us that we have not come into being to hate or to destroy but, rather, we have come into being to praise, to labor, and to love.

With gratitude in our souls, we turn to the source of all, seeking blessing for ourselves, our families, our endeavors.

May we be guided by the light of the Lord, and may we be of the generation who shines that light for all to see.

And let us live the words of our first President: ''May the Father of all mercies scatter light and not darkness in our paths, and make us all in our several vocations useful here, and in his or her own due time and way, everlastingly happy.''

Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BROWN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall resume consideration of H.R. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

Pending:

Coburn amendment No. 49 (to H.R. 2, as amended), to prevent fraud and restore fiscal accountability to the Medicaid and SCHIP programs.

Coburn amendment No. 50 (to H.R. 2, as amended), to restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient.

The ACTING PRESIDENT pro tempore. The senior Senator from Nebraska is recognized.

THE GUEST CHAPLAIN

Mr. NELSON of Nebraska. Mr. President, I am very pleased that Rabbi Daniel Fellman could join us today as guest Chaplain to deliver the opening prayer for the Senate.

Rabbi Fellman, a native of Omaha and a respected religious leader, currently is assistant rabbi at Anshe Emeth Memorial Temple in New Brunswick, NJ. He is a much admired teacher who has served on the faculty

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

at the Yavneh Day School in Cincinnati and numerous religious schools. He served as student rabbi in congregations in Natchez, MS; Petoskey, MI; Joplin, MO; and LaSalle, IL. He also served in summer rabbinic positions in Nebraska and at the University of Cincinnati Hillel. In Cincinnati, he helped foster interfaith understanding as a member of the steering committee of the Catholic-Jewish Educators Dialogue of the American Jewish Committee.

Rabbi Fellman received his undergraduate degree in political science from Colorado College. He earned a master of arts in Hebrew letters from Hebrew Union College-Jewish Institute of Religion in Cincinnati, and he was ordained in June 2005.

On a more personal note, however, Rabbi Fellman is an Eagle Scout, and, like me, Boy Scouts taught him the importance of dedication and service to the community.

While he is still young now, I have counted him as a friend for a long time. During my first campaign for Governor in 1990, I was grateful when a teenage Daniel Fellman often showed up with his father, University of Nebraska at Omaha political science professor Dick Fellman—who is with us today, and his mother—to volunteer.

One night Daniel Fellman, a relatively green driver then, got into an automobile accident. There were no serious injuries sustained, but news reached one of my closest aides and my campaign manager the next morning before Daniel arrived in the office. That was my great friend, the late, great Sonny Foster.

The next morning, when Daniel did arrive at our campaign office, Sonny greeted him: Hello, Crash. Ever since, to me and a few others, he has been ''Crash Fellman,'' but now he is Rabbi Fellman. We understand it is a nickname, always given and received by a smile.

I thank Rabbi Fellman and his parents and his family for being here today and for his words of prayer this morning. May they guide us to do what is right for America and for the world.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ECONOMIC STIMULUS LEGISLATION

Mr. MCCONNELL. Mr. President, Republicans have had an opportunity this week to highlight a number of our better ideas to ensuring low-income children receive quality health care. We will continue to offer our plans to improve this program. I think there is certainly a possibility of finishing the SCHIP bill today, which will let us turn to the economy next week.

We all know the economy is clearly the top issue on the minds of all Americans. I think we all agree we need to act to strengthen our economy and to create jobs. Unfortunately, the bill produced by the Democratic Congress falls short on a number of important fronts. First, it does not fix the main problem, which is housing. We need to address that issue, and my colleagues will have better ideas to stimulate home ownership. Next, we need to let taxpayers keep more of what they earn. Finally, we should not be spending taxpayer dollars we do not have on programs we do not need.

We have seen a lot of reports recently on what is in the bill—everything from buying cars for Federal employees, to beautifying ATV trails, to spiffing up the headquarters building at the Department of Commerce. In a time of trillion-dollar deficits, we cannot afford Washington business as usual. We should insist on the highest standards. Are these projects really necessary? Will they stimulate the economy? Will they create jobs? Should we ask the American people to foot the bill? Republicans believe that letting individuals and businesses keep more of what they earn will have a quicker stimulative effect than having the Government spend it on projects, particularly ones that are likely to be delayed for 3 to 4 years.

We look forward to offering amendments to improve this critical legislation and move it back to the package President Obama originally proposed—40-percent tax relief, no wasteful spending, and a bipartisan approach.

Republicans have better ideas to dramatically improve this bill that will go at the problem, create jobs, and stimulate the economy. We have better ideas to address the housing crisis, which is where this problem originated. But in order to pass these and other commonsense amendments, we will need support from our friends on the other side of the aisle. Fixing our economy requires innovative ideas, commonsense solutions, and bipartisan cooperation. It is clear from last night's vote in the House that the only thing that is bipartisan about this bill is the opposition to it. It simply does not meet the standard of bipartisan cooperation set by President Obama and welcomed by Republicans in Congress.

Republicans stand ready to work with our friends across the aisle to create truly bipartisan legislation which will actually stimulate the economy and create jobs, and we are ready to start next week.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we had a good day on the Children's Health Insurance Program bill yesterday. We considered 10 amendments; we conducted 6 rollcall votes. All in all, I think it was a very productive day because we are very close to finishing and passing the Children's Health Insurance Program—reauthorizing it—so it can be sent to the House. My expectation is the House will then take the Senate bill and send it to the President so we can get it signed very quickly.

This morning, at about 10 a.m., we expect Senator HATCH to come to the floor to offer his amendment regarding the definition of an unborn child. I know Senator BOXER, and perhaps some other Senators, wish to be here to address that issue and speak on that as well.

Last night, Senator COBURN offered two amendments and spoke about another, and we hope to work with him to process those amendments.

For the information of Senators, we are working to set up a series of votes on amendments, perhaps later this morning. A specific time has not been set. My guess is it will be quite late this morning. Frankly, we are working to finish this bill this afternoon. This bill is moving along very quickly, and I urge Senators to bring any remaining amendments they may have to the floor so we can wrap it up.

This is a wonderful program. There aren't very many people who disagree with the Children's Health Insurance Program as enacted by Congress back in 1997. It was wonderful work on the part of Senator ROCKEFELLER, Senator HATCH, Senator KENNEDY, and the late Senator John Chafee. They worked very hard.

It is very interesting, there were very serious discussions on the one hand, with many Senators who thought this should be another entitlement program for children; on the other hand, some Senators thought, no, this should not be an entitlement program, it should be a block grant program. That was the compromise; that States get a big chunk of money, to be matched by State payments to provide health insurance for the working poor—for kids of families who are just above the income levels set for Medicaid. It has worked very well. It is very important, and I am very happy, frankly, and proud of the attempt that was begun back in 1997 by the Senators I mentioned.

We had hoped to get this approved a couple years ago, late in 2007, but unfortunately those two efforts were vetoed by President Bush. But here we are today. This is 2009—a new era, a new opportunity—and I think most Senators are quite proud of the efforts we are making to help more kids get better health insurance.

I hope Senator HATCH gets to the floor soon so he can offer his amendment and then we can proceed.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 80

Mr. HATCH. Mr. President, I ask unanimous consent to set aside the pending amendment and call up the Hatch amendment No. 80.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, and Mr. BENNETT, proposes an amendment numbered 80.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To codify regulations specifying that an unborn child is eligible for child health assistance)

On page 76, after line 23, add the following:

SEC. 116. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

Mr. HATCH. Mr. President, America's Founders built their case for independence on the foundation of self-evident truths; not party platforms or partisan positions, not opinion polls or intellectual fads but self-evident truths. Our Creator, they said, endows us with inalienable rights, including the right to life. Government, they said, exists to secure those rights. They believed that when America was born, and I still believe that today. I offer this amendment in that same spirit. The conviction about the essential dignity of our fellow human beings motivates the Civil Rights movement here at home and the human rights movement abroad. No matter what our income, race, sex, religion, location or age, we all have our humanity in common.

I came to the Senate with the conviction and tried to act on that conviction ever since by working to protect children's lives and promote children's health. These go hand in hand. That is why I worked so hard with Senator KENNEDY and others to originally pass the children's health program and bill. It was kind of a miracle that we were able to get it done over 10 years ago when we did it. It was done in the Finance Committee and became the glue that held both the Republicans and Democrats together on the first balanced budget in over 40 years.

As I said, I came to the Senate with very strong convictions. Again, I have tried to act on those convictions ever since by working to protect children's lives and to promote children's health because I believe they go hand in hand. Elaine and I have 6 children, 23 grandchildren, and 3 great-grandchildren, and we speak for children, grandchildren, great-grandchildren, and beyond, all over America.

I cannot understand those who insist that we establish hundreds of programs to help millions of people by spending billions of dollars but who do not believe the lives of those very same people should be protected.

The Children's Health Insurance Program is about promoting children's health. My amendment does exactly that. A child in the womb is just as alive, just as human as that very same child will be after he or she is born. The CHIP program exists to help States promote children's health. The children who need help might be in a house or an apartment, in a city or out in the country, in a large family or single-parent home, in a crib or in the womb. That just seems to me, well, self-evident.

Since October 2002, a regulation issued by the Department of Health and Human Services has defined a child as anyone from conception to 18 years of age. It may sound a little odd to call someone who can drive, vote, or serve in the military a child, but it is the most natural thing in the world to say that when those very same individuals were in the womb, they were children.

Under this HHS regulation, States have had the option of providing CHIP coverage to children before as well as after birth. My amendment would codify that regulation to continue helping States protect the health of children.

I would point out to my colleagues that so far, 14 States have approved plans to provide CHIP coverage to children before birth. Those States include Arkansas, California, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin.

I also wish to clarify that my amendment would also provide health coverage to pregnant women. Some have claimed that under this HHS regulation, pregnant women would only get CHIP coverage for conditions specifically related to their pregnancy. I want to assure my colleagues that my amendment will ensure that States have the option of providing services to benefit either the mother or the child or both.

My amendment also clarifies that States may provide mothers with postpartum services for 60 days after they give birth. Mothers have health needs before and after they give birth and their children have health needs before and after they are born. My amendment ensures that the CHIP program continues to meet those very important needs.

I urge my colleagues not to put the health of children at greater risk by sidetracking my amendment with a bogus debate over abortion. This is about children and their health, not abortion.

America itself is built on the foundation of inalienable rights which we receive from God. Government exists to secure those rights. Those rights do include the right to life, and they specifically include the right to life. My life, your life, the life of each of my Senate colleagues did not begin when we were born. Each of us was just as alive, just as human the day before our birth as the day after—or as we are today. Our efforts to promote children's health, including through the CHIP program, flow from that self-evident truth.

My amendment will continue allowing States to promote the health of children and their mothers before as well as after those children are born. I urge all my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, with great respect for my friend from Utah, I rise to oppose his amendment, not only as a Senator but as a mom and a grandmother. What the Senator is seeking to do essentially is separate the woman from the child she is carrying, separate her from her pregnancy. I think I can speak with authority here. I know my friend is a grandpa and a dad and has a magnificently beautiful family, but I gave birth to two kids. I can assure my friend that when you cover the pregnant woman, you are covering that child from the time that child is a fetus to the time that child is born.

I would just say that it appears to me as if this amendment is a diversionary amendment from this very important bill to expand and improve the health of our children, including the health of our moms who are pregnant, a diversion to a debate about when does life begin—let's fight about abortion. You know what, we will have many opportunities to have that argument. When we have that argument over Roe v. Wade, I think pro-choice will prevail. But this is not the place to have that argument. This is a place where my friend from Utah and I should walk down this aisle being very happy that under this law that is before us, this bill that is before us, States absolutely can choose to cover a pregnant woman. This is a big step forward, and this is very important.

Again, I think the idea behind this amendment is to divert us from this

very important bill. In my State, it will expand coverage to more than half a million kids and many pregnant women.

The debate over when life begins and all of that is a very philosophical debate. My religion may teach something other than my friend's. I totally respect every view on that subject. I also respect the women of this country and the view they bring through their moral code and their religion and whatever else they bring to the table as human beings. On the day we debate that, I will be out here debating it, but I am not going to get into this debate with my friend today over when life begins. Today is a day where we are going to work on making sure that our children are covered with health insurance and that our pregnant women are covered with health insurance. The good news I bring to the Senate today is that under this bill, pregnant women will be covered by this. This is very important.

Again, to try to separate the woman from the child she is carrying, from the fetus in her womb, is nonsensical. Maybe my friend sees it another way. But when you take care of a pregnant woman, you are taking care of her fetus, you are taking care of her pregnancy, you are working hard to make sure that baby is healthy.

I just became a grandma 3 weeks ago, and my daughter had excellent health care. I want to assure my friends on the other side of the aisle that as she was being treated, so was the child she was carrying, my beautiful grandson.

Let's not take a beautiful bill and start fighting over an issue that has been a philosophical argument forever—what is the point at which life begins? My religion teaches me one thing. My friend's religion may teach him another. Who is right? Who is wrong? All we, as humankind, can do is to give our best effort to figure that out. But in this bill, what we are trying to do is bring health insurance to pregnant women, bring health insurance to our kids. To divert it with this subject is a disservice to the bill that is before us.

I know my friend is passionate on this point. I totally respect him for that. But I hope we will defeat this amendment because it is a diversion. It is a fight about Roe v. Wade. It is a fight about whether a woman has a right to choose, and it does not belong on this bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Utah is recognized.

Mr. HATCH. Mr. President, as always, I care for the Senator from California. We are good friends. You know, I hasten to point out that her own State of California has approved unborn child State plans. Look, this amendment by definition has nothing to do with abortion since women who seek help covering their unborn children's health are not women seeking abortion. They are separate, and the Senator should not try to mix them. This is not an issue about abortion. This is an issue about a living, unborn child and her or his mother.

I might add that 14 States have approved unborn child State plans, including the States of Arkansas, California, Illinois, Louisiana, Massachusetts, Minnesota, Michigan, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin have all approved unborn child State plans.

I agree with the Senator, the bill has worked beautifully, the CHIP bill, for the last 10 years. I know. I wrote every word in it and did so with Senators KENNEDY, ROCKEFELLER, CHAFEE, and others, as a matter of fact. But I don't think anybody doubts that I carried the ball in getting that bill through the Finance Committee and the whole Congress.

I see a one-sided attempt here to change the bill in ways that will make it less effective and not cover as many children as it should. Some argue the legislation already gives States the option to cover pregnant women, so this amendment is not necessary. But the distinct difference between this amendment and what is in the underlying bill is that this amendment allows States to cover children before birth. Children have health needs as much before as after they are born, so legislation to promote children's health ought to cover them. Let me emphasize that this is a State option, not a State requirement.

Some argue this amendment is an attempt to inject, as I think the distinguished Senator from California has argued, the abortion issue into a bipartisan effort to protect children's health through the authorizing of the CHIP program. The truth is exactly the opposite. As I said when introducing my amendment, this has nothing to do with abortion. It has everything to do with promoting children's health, and any reasonable person ought to be concerned about the unborn as much as they are the born and, of course, the mother involved. This amendment takes care of all three.

I feel very strongly about this. I do not think anybody should try to make this an abortion issue—not myself, not the distinguished Senator from California, or anybody else, for that matter. I don't see how anybody can vote against an amendment that protects the life of the unborn child after having read the Constitution about its great desire to protect life, liberty, and the pursuit of happiness. That is what this amendment is all about.

I feel strongly about it. I hope our colleagues will support it, because it would be a great thing to help this bill along. I would feel much better if this was amended. I have to admit, I do not feel good about the approach that has been taken by my colleagues on the other side of the aisle.

The fact is that Senator GRASSLEY and I carried the ball for the last 2 years, working with Senators REID, BAUCUS, ROCKEFELLER, DURBIN, and others; working with the House, Speaker of the House PELOSI, Rahm Emanuel and others who were there, including STENY HOYER.

We worked closely together to do CHIPRA I. We got an overwhelming vote in the Senate. On CHIPRA II, we got an overwhelming vote in the Senate, enough to override the President's veto in the Senate. I do not think that would have happened but for the bipartisan effort we put together. We had a solid, strong vote in the House, but not enough to override the President's veto.

Now, I have heard people run down President Bush for his vetoes on CHIP. I think President Bush followed the advice of some very young advisers in the White House who basically gave him bad advice. Had he allowed CHIPRA I or CHIPRA II to go through, we would not be having this awful debate today; we would all be together. The whole Congress would have been together, and this whole effort would have been truly bipartisan. We could have set a bipartisan tone right off the bat, instead of this partisan tone that has been set by bringing up the bill without even talking to the two lead Republicans who in 2007 worked so carefully, honestly, and diligently to try and bring about a bipartisan resolution for a new CHIP bill.

And, by the way, we took a lot of flack in the process from some in the administration and some on our side for supporting the legislation in 2007. We took it. We took it gladly. And our colleagues on the other side saw us take it. They saw us stand firm. They saw Senator GRASSLEY and myself stand on the floor, along with a whole host of others, in a bipartisan way, putting together what would have made CHIP even better for the next certainly 5 years.

This bill only funds the CHIP program for 4½ years, because if they had gone the extra half year, it would have priced the bill out of the marketplace. But I have to say, we are going to have to come up with that money anyway, and end up going that extra half year. So everybody better understand all that is being done today by my friends on the left, ignoring people, like me and Senator GRASSLEY, who have worked so closely with them—and they have a right to do that. I can live with that, as I vote against their partisan bill.

All I can say is they have a right to do it. But it is the wrong thing to do. It is the wrong way to start off this Congress after the President himself has shown such a propensity to want to work together. I have to say, I was there when the President came and spoke to our caucus last Tuesday. He was impressive. He was friendly. He was making every effort to be bipartisan. But he apparently had not fully examined the stimulus bill that has been passed only in a partisan way by

the House. I would call people's attention to the Wall Street Journal yesterday and their editorial on all the bad things that are in the bill; or Investors Business Daily and their editorial, and how that it is not a stimulus bill at all, but a great big potpourri of long-wanted liberal programs that are not going to stimulate the economy the way they should.

I am not saying there is not any stimulus in the bill, but there is not much compared to the cost of the bill. When you add interest to the bill, it is well over $1 trillion. Of course, you know, they keep interest off because that would make it over $1 trillion. But interest is going to have to be paid regardless.

Now, this particular bill on the floor right now is one where I have a tremendous interest, namely, children and children's health. I am going to continue to take great interest in it.

I want to caution my colleagues on the left that they are making a tremendous mistake here. I think we could have had 95 votes for CHIPRA II or CHIPRA I. That would send a tremendous message that has not been sent around here in a long time.

Now, the CHIP program, so everybody understands, already covers children before birth at the States' option. I read off the States that have made that an option, including the distinguished Senator from California's State.

This is not a new policy. It is already working. This amendment simply continues that policy by codifying the HHS regulation. Women who want their babies need this assistance. Women in California and other States want this. Please do not deny this type of basic humane assistance or help for women and their children with a fake argument about abortion. Let's have an abortion debate on another day. Everybody knows I am pro life. I feel very strongly about that. I will stand up for the pro-life position. But it has nothing to do with what we are debating here today. Let's help children and their mothers now.

Let's codify what a whole raft of States have said we ought to do, including the very important State of California, one-seventh of the whole economy, one-seventh, I should say, in size in the world economy today, and a State I have a lot of regard for.

Fourteen states have gone along with this regulation. And, frankly, I do not see one good argument against protecting unborn children and their mothers who want those children covered through the wonderful child health insurance program. This is a very important set of issues.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, my friend from Utah says he wants an honest debate, and then he says, and I am quoting him—not word for word—he says, pregnant women are not covered in this bill. That is a dishonest debate.

States have the option to cover pregnant women, just as under the Bush regulation they have the option to cover the unborn child. Okay? So let's straighten it out.

My colleague has mentioned my State several times. My State was so anxious to cover pregnant women that they did cover them under the unborn child regulation which was put into place by George Bush, because he injected the whole abortion debate into the CHIP program.

What we do is we get away from that. In this bill we talk about covering pregnant women. So for anyone to stand up here and suggest that the only way to cover pregnant women is by codifying George Bush's regulation that, by the way, this Chamber voted down twice—let's be clear.

My colleague says that this is a left-right issue. This is not a left-right issue at all. When my colleagues voted on this a couple of times before, it was bipartisan to reject the Allard amendment, which was to codify the very law that my friend is suggesting we do today. I will predict we will defeat this by a much bigger margin, because of the elections that were just held.

I say again, with all respect, anyone who in their heart wants to cover pregnant women, which means covering the child they are carrying, should be very proud of this bill. Because that is what we do. So to stand up here and say we have to codify George Bush's wording on this, which was ''unborn child,'' saying if we do not pass this amendment, pregnant women and their babies are not covered, this is a straw man or a straw person. Pregnant women are covered. The fetus is covered from the minute that woman goes to the doctor until the minute she gives birth, and through all of those times in between. It is the ability of the States to do it. But we refuse in this bill, and I hope we will continue this, to put forward such a divisive issue and an argument that does not belong on this bill.

If my friend was right, if he stood up here and said, right now pregnant women are not covered, I would go over there and say, well, let's work out some wording to make sure they are covered. But we do not have to do that. They are covered.

What my friend wants is to codify what George Bush put into play, a political decision to inject abortion politics into a children's health bill. I think it is a sad day for the children of this country to be drawn into a debate. And, again, mentioning my State several times, when my State had no choice. If they wanted to cover pregnant women, they had to cover them under this. Guess what. Now they will not have to do it, because this bill corrects the problem.

So I have to say, when my friend says it is a left-right debate, it has nothing do with left-right, and he knows it. In my State, some of the strongest pro-choice constituents are Republicans, and some of the strongest pro-life constituents are Democrats. This is not a left-right issue. It is an issue we all address in our own way using our own logic, our religion, our moral values, and we come to a conclusion.

Do not inject it into this bill. I hope we reject this, because this is now the second abortion-related amendment my Republican friends have offered in as many days. If that is what they think this election was about, I think they are missing something. People want our kids to have health care. They want our families to have health care. They want to solve the economic problems.

Today we learned there are even more jobless claims. Millions of people are unemployed. And we are having our second abortion-related vote. I think if this party, this Grand Old Party does that, I see several colleagues who may say, well, it is your right, it is your privilege, I will debate you. I think we will prevail today.

But if every single bill we bring forward turns into an abortion-related debate, I do not know where my colleagues are coming from. Because let me reiterate, every pregnant woman has the right to have this health care option should their State choose it.

We do not need to change the language and codify a very divisive amendment which was a regulation under George Bush. It should be a new day around here. We should not have to have this division. But I have already heard they may offer more abortion-related amendments on this children's bill.

Who knows what is to come? But you know what, I think my leader, HARRY REID, is right. Let them come at us with these amendments. Let the American people see the priorities, when everyone knows every pregnant woman is eligible for coverage. To now indicate they are not unless my friend's amendment passes is simply, if I could say, an out and out falsehood. It is not true. It is not true.

I have the bill. I will read the section, if my friend needs me to.

I ask unanimous consent to print in the RECORD the last two votes we had on this very same subject where those trying to inject the abortion issue failed.

There being no objection, the material was ordered to be printed in the RECORD, as follows;

U.S. SENATE ROLL CALL VOTES 110TH CONGRESS—2ND SESSION

As compiled through Senate LIS by the Senate Bill Clerk under the direction of the Secretary of the Senate.

VOTE SUMMARY

Question: On the Amendment (Boxer Amdt. No. 4379).

Vote Number: 80; Vote Date: March 14, 2008, 12:11 AM.

Required For Majority: 1/2; Vote Result: Amendment Agreed to.

Amendment Number: S. Amdt. 4379 to S. Con. Res. 70 (No short title on file).

Statement of Purpose: To facilitate coverage of pregnant women in SCHIP.

Vote Counts: YEAs—70; NAYs—27; Not Voting—3.

VOTE SUMMARY BY SENATOR NAME, BY VOTE POSITION, BY HOME STATE

Alphabetical by Senator Name

Akaka (D-HI), Yea
Alexander (R-TN), Yea
Allard (R-CO), Nay
Barrasso (R-WY), Nay
Baucus (D-MT), Yea
Bayh (D-IN), Yea
Bennett (R-UT), Nay
Biden (D-DE), Yea
Bingaman (D-NM), Yea
Bond (R-MO), Yea
Boxer (D-CA), Yea
Brown (D-OH), Yea
Brownback (R-KS), Nay
Bunning (R-KY), Nay
Burr (R-NC), Nay
Byrd (D-WV), Not Voting
Cantwell (D-WA), Yea
Cardin (D-MD), Yea
Carper (D-DE), Yea
Casey (D-PA), Yea
Chambliss (R-GA), Yea
Clinton (D-NY), Yea
Coburn (R-OK), Nay
Cochran (R-MS), Nay
Coleman (R-MN), Yea
Collins (R-ME), Yea
Conrad (D-ND), Yea
Corker (R-TN), Yea
Cornyn (R-TX), Yea
Craig (R-ID), Nay
Crapo (R-ID), Nay
DeMint (R-SC), Nay
Dodd (D-CT), Yea
Dole (R-NC), Yea
Domenici (R-NM), Not Voting
Dorgan (D-ND), Yea
Durbin (D-IL), Yea
Ensign (R-NV), Nay
Enzi (R-WY), Nay
Feingold (D-WI), Yea
Feinstein (D-CA), Yea
Graham (R-SC), Yea
Grassley (R-IA), Yea
Gregg (R-NH), Nay
Hagel (R-NE), Nay
Harkin (D-IA), Yea
Hatch (R-UT), Nay
Hutchison (R-TX), Yea
Inhofe (R-OK), Nay
Inouye (D-HI), Yea
Isakson (R-GA), Yea
Johnson (D-SD), Yea
Kennedy (D-MA), Yea
Kerry (D-MA), Yea
Klobuchar (D-MN), Yea
Kohl (D-WI), Yea
Kyl (R-AZ), Nay
Landrieu (D-LA), Yea
Lautenberg (D-NJ), Yea
Leahy (D-VT), Yea
Levin (D-MI), Yea
Lieberman (ID-CT), Yea
Lincoln (D-AR), Yea
Lugar (R-IN), Yea
Martinez (R-FL), Nay
McCain (R-AZ), Yea
McCaskill (D-MO), Yea
McConnell (R-KY), Yea
Menendez (D-NJ), Yea
Mikulski (D-MD), Not Voting
Murkowski (R-AK), Yea
Murray (D-WA), Yea
Nelson (D-FL), Yea
Nelson (D-NE), Yea
Obama (D-IL), Yea
Pryor (D-AR), Yea
Reed (D-RI), Yea
Reid (D-NV), Yea
Roberts (R-KS), Nay
Rockefeller (D-WV), Yea
Salazar (D-CO), Yea
Sanders (I-VT), Yea
Schumer (D-NY), Yea
Sessions (R-AL), Nay
Shelby (R-AL), Nay
Smith (R-OR), Yea
Snowe (R-ME), Yea
Specter (R-PA), Yea
Stabenow (D-MI), Yea
Stevens (R-AK), Yea
Sununu (R-NH), Nay
Tester (D-MT), Yea
Thune (R-SD), Nay
Vitter (R-LA), Nay
Voinovich (R-OH), Nay
Warner (R-VA), Yea
Webb (D-VA), Yea
Whitehouse (D-RI), Yea
Wicker (R-MS), Nay
Wyden (D-OR), Yea

Grouped By Vote Position

YEAs—70

Akaka (D-HI)
Alexander (R-TN)
Baucus (D-MT)
Bayh (D-IN)
Biden (D-DE)
Bingaman (D-NM)
Bond (R-MO)
Boxer (D-CA)
Brown (D-OH)
Cantwell (D-WA)
Cardin (D-MD)
Carper (D-DE)
Casey (D-PA)
Chambliss (R-GA)
Clinton (D-NY)
Coleman (R-MN)
Collins (R-ME)
Conrad (D-ND)
Corker (R-TN)
Cornyn (R-TX)
Dodd (D-CT)
Dole (R-NC)
Dorgan (D-ND)
Durbin (D-IL)
Feingold (D-WI)
Feinstein (D-CA)
Graham (R-SC)
Grassley (R-IA)
Harkin (D-IA)
Hutchison (R-TX)
Inouye (D-HI)
Isakson (R-GA)
Johnson (D-SD)
Kennedy (D-MA)
Kerry (D-MA)
Klobuchar (D-MN)
Kohl (D-WI)
Landrieu (D-LA)
Lautenberg (D-NJ)
Leahy (D-VT)
Levin (D-MI)
Lieberman (ID-CT)
Lincoln (D-AR)
Lugar (R-IN)
McCain (R-AZ)
McCaskill (D-MO)
McConnell (R-KY)
Menendez (D-NJ)
Murkowski (R-AK)
Murray (D-WA)
Nelson (D-FL)
Nelson (D-NE)
Obama (D-IL)
Pryor (D-AR)
Reed (D-RI)
Reid (D-NV)
Rockefeller (D-WV)
Salazar (D-CO)
Sanders (I-VT)
Schumer (D-NY)
Smith (R-OR)
Snowe (R-ME)
Specter (R-PA)
Stabenow (D-MI)
Stevens (R-AK)
Tester (D-MT)
Warner (R-VA)
Webb (D-VA)
Whitehouse (D-RI)
Wyden (D-OR)

NAYs—27

Allard (R-CO)
Barrasso (R-WY)
Bennett (R-UT)
Brownback (R-KS)
Bunning (R-KY)
Burr (R-NC)
Coburn (R-OK)
Cochran (R-MS)
Craig (R-ID)
Crapo (R-ID)
DeMint (R-SC)
Ensign (R-NV)
Enzi (R-WY)
Gregg (R-NH)
Hagel (R-NE)
Hatch (R-UT)
Inhofe (R-OK)
Kyl (R-AZ)
Martinez (R-FL)
Roberts (R-KS)
Sessions (R-AL)
Shelby (R-AL)
Sununu (R-NH)
Thune (R-SD)
Vitter (R-LA)
Voinovich (R-OH)
Wicker (R-MS)

Not Voting—3

Byrd (D-WV)
Domenici (R-NM)
Mikulski (D-MD)

U.S. SENATE ROLL CALL VOTES 110TH CONGRESS—2ND SESSION

As compiled through Senate LIS by the Senate Bill Clerk under the direction of the Secretary of the Senate.

VOTE SUMMARY

Question: On the Amendment (Allard Amdt. No. 4233).

Vote Number: 81; Vote Date: March 14, 2008, 12:29 AM.

Required For Majority: 1/2; Vote Result: Amendment Rejected.

Amendment Number: S. Amdt. 4233 to S. Con. Res. 70 (No short title on file).

Statement of Purpose: To require that legislation to reauthorize SCHIP include provisions codifying the unborn child regulation.

Vote Counts: YEAs—46; NAYs—52; Not Voting—2.

VOTE SUMMARY BY SENATOR NAME, BY VOTE POSITION, BY HOME STATE

Alphabetical by Senator Name

Akaka (D-HI), Nay
Alexander (R-TN), Yea
Allard (R-CO), Yea
Barrasso (R-WY), Yea
Baucus (D-MT), Nay
Bayh (D-IN), Nay
Bennett (R-UT), Yea
Biden (D-DE), Nay
Bingaman (D-NM), Nay
Bond (R-MO), Yea
Boxer (D-CA), Nay
Brown (D-OH), Nay
Brownback (R-KS), Yea
Bunning (R-KY), Yea
Burr (R-NC), Yea
Byrd (D-WV), Not Voting
Cantwell (D-WA), Nay
Cardin (D-MD), Nay
Carper (D-DE), Nay
Casey (D-PA), Yea
Chambliss (R-GA), Yea
Clinton (D-NY), Nay
Coburn (R-OK), Yea
Cochran (R-MS), Yea
Coleman (R-MN), Yea
Collins (R-ME), Nay
Conrad (D-ND), Nay
Corker (R-TN), Yea
Cornyn (R-TX), Yea
Craig (R-ID), Yea
Crapo (R-ID), Yea
DeMint (R-SC), Yea
Dodd (D-CT), Nay
Dole (R-NC), Yea
Domenici (R-NM), Not Voting
Dorgan (D-ND), Nay
Durbin (D-IL), Nay
Ensign (R-NV), Yea
Enzi (R-WY), Yea
Feingold (D-WI), Nay
Feinstein (D-CA), Nay
Graham (R-SC), Yea
Grassley (R-IA), Yea
Gregg (R-NH), Yea
Hagel (R-NE), Yea
Harkin (D-IA), Nay
Hatch (R-UT), Yea
Hutchison (R-TX), Yea
Inhofe (R-OK), Yea
Inouye (D-HI), Nay
Isakson (R-GA), Yea
Johnson (D-SD), Nay
Kennedy (D-MA), Nay
Kerry (D-MA), Nay
Klobuchar (D-MN), Nay
Kohl (D-WI), Nay
Kyl (R-AZ), Yea
Landrieu (D-LA), Nay
Lautenberg (D-NJ), Nay
Leahy (D-VT), Nay
Levin (D-MI), Nay
Lieberman (ID-CT), Nay
Lincoln (D-AR), Nay
Lugar (R-IN), Yea
Martinez (R-FL), Yea
McCain (R-AZ), Yea
McCaskill (D-MO), Nay
McConnell (R-KY), Yea
Menendez (D-NJ), Nay
Mikulski (D-MD), Nay
Murkowski (R-AK), Nay
Murray (D-WA), Nay
Nelson (D-FL), Nay
Nelson (D-NE), Yea
Obama (D-IL), Nay
Pryor (D-AR), Nay
Reed (D-RI), Nay
Reid (D-NV), Nay
Roberts (R-KS), Yea
Rockefeller (D-WV), Nay
Salazar (D-CO), Nay
Sanders (I-VT), Nay
Schumer (D-NY), Nay
Sessions (R-AL), Yea
Shelby (R-AL), Yea
Smith (R-OR), Yea
Snowe (R-ME), Nay
Specter (R-PA), Nay
Stabenow (D-MI), Nay
Stevens (R-AK), Yea
Sununu (R-NH), Yea
Tester (D-MT), Nay
Thune (R-SD), Yea
Vitter (R-LA), Yea
Voinovich (R-OH), Yea
Warner (R-VA), Yea
Webb (D-VA), Nay
Whitehouse (D-RI), Nay
Wicker (R-MS), Yea
Wyden (D-OR), Nay

Grouped By Vote Position

YEAs—46

Alexander (R-TN)
Allard (R-CO)
Barrasso (R-WY)
Bennett (R-UT)
Bond (R-MO)
Brownback (R-KS)
Bunning (R-KY)
Burr (R-NC)
Casey (D-PA)
Chambliss (R-GA)
Coburn (R-OK)
Cochran (R-MS)
Coleman (R-MN)
Corker (R-TN)
Cornyn (R-TX)
Craig (R-ID)
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Graham (R-SC)
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Gregg (R-NH)
Hagel (R-NE)
Hatch (R-UT)
Hutchison (R-TX)
Inhofe (R-OK)
Isakson (R-GA)
Kyl (R-AZ)
Lugar (R-IN)
Martinez (R-FL)
McCain (R-AZ)
McConnell (R-KY)
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Shelby (R-AL)
Smith (R-OR)
Stevens (R-AK)
Sununu (R-NH)
Thune (R-SD)
Vitter (R-LA)
Voinovich (R-OH)
Warner (R-VA)
Wicker (R-MS)

NAYs—52

Akaka (D-HI)
Baucus (D-MT)
Bayh (D-IN)
Biden (D-DE)
Bingaman (D-NM)
Boxer (D-CA)
Brown (D-OH)
Cantwell (D-WA)
Cardin (D-MD)
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Feinstein (D-CA)
Harkin (D-IA)
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Johnson (D-SD)
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Kerry (D-MA)
Klobuchar (D-MN)
Kohl (D-WI)
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Lautenberg (D-NJ)
Leahy (D-VT)
Levin (D-MI)
Lieberman (ID-CT)
Lincoln (D-AR)
McCaskill (D-MO)
Menendez (D-NJ)
Mikulski (D-MD)
Murkowski (R-AK)
Murray (D-WA)
Nelson (D-FL)
Obama (D-IL)
Pryor (D-AR)
Reed (D-RI)
Reid (D-NV)
Rockefeller (D-WV)
Salazar (D-CO)
Sanders (I-VT)
Schumer (D-NY)
Snowe (R-ME)
Specter (R-PA)
Stabenow (D-MI)
Tester (D-MT)
Webb (D-VA)
Whitehouse (D-RI)
Wyden (D-OR)

Not Voting—2

Byrd (D-WV)
Domenici (R-NM)

Mrs. BOXER. Again, I want my colleagues to understand, we are debating a children's health care bill. Happily, I can say every pregnant woman in this country is eligible for health care. It is a wonderful thing. We avoid the divisive language of my friend's amendment which is codifying something George Bush put into place. It was not supported in the Senate. It was not supported twice. I respect his right to offer it as many times as he wants and let the American people see what we are debating. My State wanted so much to cover pregnant women, they said: We will go along with this language. But now they will not have to. They don't have to get engaged in an abortion debate, when you are serving children. I view this, frankly, as a needless debate. If the issue is covering pregnant women and their children, we have taken care of it. If this amendment is about injecting abortion and when life begins, it definitely succeeds.

I hope the Senate will speak loudly and clearly, regardless of how one feels about when life begins because that is not a partisan issue. Everybody comes

to their own conclusion. This is an attempt to inject the abortion debate into a children's health care bill. It is diversionary. It is unnecessary. We should be so proud this bill covers every pregnant woman. It is one of those moments we could walk down the aisle together saying isn't it wonderful because pregnant women will get health care. That will lead to healthier children. We all know that.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Utah.

Mr. HATCH. Mr. President, this is not an injection of abortion into the debate. This is a children's health bill. I was the original author of the one that worked so well for over 10 years. A raft of States have determined that they should take care of the unborn through their CHIP programs. It is not an issue of abortion. In the world view of those who support abortion, the fact is, they don't want to give recognition to the unborn child. That is their right, if they want to feel that way. I think it is ridiculous. It is unspiritual. It is ignoring life itself. But to make that part of this debate is the wrong thing to do. We are trying to protect children.

The distinguished Senator from California said: All women are going to be protected by this bill. That is not true. It is a state option so they are covered only if a State decides to cover low-income, pregnant women. We want to make sure that if the state has the option to not just cover the woman but the unborn child as well. Anybody with brains ought to want to do that and ought to avoid the whole issue of abortion, which I am trying to do by protecting the mother and the unborn child and codifying the 2002 regulation.

Section 111 of the bill says there is a State option to cover low-income pregnant women under CHIP through a State plan amendment. Some States have chosen to do that. But why not recognize the rights of the unborn child? To try and make this into an abortion debate because they just don't believe the unborn child lives is another thing. The point of my amendment is to ensure States continue to have the option in the future to cover unborn children, plain and simple, without any ambiguity. We codify the 2002 regulation into law. Frankly, it is about time we do things like that in a children's health bill. But to make this abortion argument is—I hate to say it—completely wrong.

I am concerned not only with mothers, but I am also concerned about those unborn children who deserve the best health we can give them. My amendment gives the States the right to do that by codifying this important regulation. I know some supporters of abortion rights are afraid this will legitimize the fact that the unborn child is alive and is a human being. That is another argument. I agree that argument is right; that unborn child is alive, it is a living human being inside the mother's womb. The point of when the spirit enters the body is a legitimate question, I suppose, to some. But why would we be afraid to protect the rights of that unborn child? Why would we be afraid to do that? Why are folks so afraid if we legitimize the understanding that this unborn child actually is a living being, that somehow or other it is going to destroy their political world? It isn't going to do that.

This is a children's health bill. I take a tremendous interest in it. I not only want to protect the pregnant woman, I want to protect that unborn child. I don't know of any pregnant woman who wants her child who would not want this type of protection. To make this into a bogus argument is the wrong thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, the reason I want to respond to this, my friend is so eloquent, and he is such a great debater, but I have to bring us back to reality. If you are standing here today because you care about kids and you want to make sure pregnant women get all the health care they need so if there is trouble in the pregnancy, if there is a problem—there are so many miraculous things that can be done, and I have seen some of those in my own family, the things they can do to make sure a child is healthy. If the purpose of my friend, out of his love for his children and all children, which I know he has—if my purpose in supporting this bill is to make sure children are healthy, if that is our purpose, we could be very proud of this bill.

This bill says—and I will reiterate this as long as I have to—every single poor pregnant woman in America today is eligible for health care during her pregnancy, from the first day to the last day. Then, of course, a poor child would continue to get that health care. So anyone else who says that isn't true simply hasn't read the bill.

I ask unanimous consent to print in the RECORD, so my friend can't say something that is without rebuttal, page 50 of the bill, section 2112, which talks about low-income pregnant women to be covered through a State plan amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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.

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

'SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

'(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

'(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

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

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

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

'(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

'(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

'(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

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

'(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

'(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

'(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

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

'(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

'(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

'(A) during pregnancy and through the end of the month in which the 60–day period (beginning on the last day of her pregnancy) ends;

'(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

'(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

'(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

'(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

'(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

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

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

'(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES- Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60–day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

'(3) NO INFERENCE.—Nothing in this subsection shall be construed—

'(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

'(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).'.

(b) Additional Conforming Amendments.—

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

(A) in the heading, by inserting 'or pregnancy-related assistance' after 'preventive services'; and

(B) by inserting before the period at the end the following: 'or for pregnancy-related assistance'.

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

(A) in clause (i), by striking ', and' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting '; and'; and

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

'(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.'.

Mrs. BOXER. Let no one stand and say that unless we support the amendment of the Senator from Utah, a pregnant woman and the child she is carrying will not get coverage. That is false. What my friend wants is to codify George Bush's regulation that he correctly pointed out my State adopted. Why did my State adopt it? They were forced to adopt it if they wanted to cover pregnant women. They had to use that language of the unborn child. This is all about the abortion debate. It has to be. Under this bill I support, every pregnant woman is covered or is eligible for coverage. Under the amendment my friend is offering today, every pregnant woman would be eligible. So it is just about the language. That is the fact.

Let me repeat that. Under the bill, every pregnant poor woman is eligible for coverage. Under the amendment of my friend, every poor pregnant woman is eligible for coverage. What he insists on is that you have to separate the woman from the child she is carrying in order to make a political point about when life begins. This is not the appropriate time to have that debate. Believe me, I look forward to the debate. We have had it on the Senate floor. Tom Harkin had an amendment a couple of times to say that Roe v. Wade ought to be codified. It should not be overturned. We had votes on that. By the way, we did win that vote. But that is not what this is about. This is about making sure every pregnant woman gets coverage. Instead of being happy about it, my friend is agitated about the language and wants to write it in his way so we can then get into a debate about when life begins.

How you would ever separate a pregnant woman from the child she is carrying goes against nature. I have had two kids. I know. It is all about health care to the pregnant woman. When the child is born, it is about health care to the woman and, yes, the baby. My friend can stand here all he wants and say I am the one who is injecting abortion into this debate. I am not the one offering a divisive amendment. I am not the one raising the subject matter of when a fetus is a separate life from the mother. That is for another time. We have work to do. We have people struggling in this country. My friend attacked the stimulus bill.

By the way, that debate is coming as well. But the one area I know we should be able to work together on is making sure our kids are healthy. We should walk down the aisle together being very pleased we have taken care of that in this bill. Believe me, the more people lose their jobs and they can't get another one, the more this program is going to be necessary.

I hope we can have a vote on this in the near future. I guess I would like to ask my friend if he wants to continue this debate. I can stay all day. But I didn't know what his plan was.

Mr. HATCH. I don't want to continue it all day. I do believe there are some people who want to speak on this side. I will just make one or two comments.

Mrs. BOXER. I yield the floor at this time and retain my right to respond.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, let's not pit mothers against their children. This is not an either/or situation. Let's protect both mothers and their unborn children. In fact, the purpose of this bill is to provide health care coverage to low income, uninsured children. The Senator and I simply disagree. This amendment concerns unborn children and covering them. She seems to think it is about abortion. I don't. Her own State is covering unborn children through the regulation of the prior administration. Thirteen other States are as well.

Mr. President, I think I have made the case. Let me say that I ask unanimous consent that Senator ROBERT CASEY be also listed as a prime cosponsor on this amendment, along with the distinguished Senator from Nebraska, Mr. NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I feel very blessed to have these two very strong Democrats willing to support a recognition that these unborn kids are human beings, they are human life, and that a child health insurance program bill ought to cover them.

With that, Mr. President, I know Senator BUNNING is here and I will yield the floor.

Mrs. BOXER. Mr. President, if I might have a moment before Senator BUNNING speaks.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President. Because some of the things that are said around here—and, by the way, we will have a whole list of Republicans helping us to defeat this, so I am

not going to name people. But let me say this: To stand up and say we are pitting a woman against her child when we support this bill that makes eligible for coverage every pregnant woman is simply a hurtful and untrue remark, especially to say it to someone who adores her children and her grandkids, and I take great offense. It is the opposite.

This amendment separates a woman from her child because instead of saying you are going to cover a pregnant women, you are saying you are covering the unborn child. And what about the woman? She is not even mentioned. I take offense at that line of attack.

We say when you cover a pregnant woman, you cover her child, you cover that fetus from the moment that woman goes to get health care. What my friend does is separate the woman from her child by saying we are going to give the child health care while the child is in the womb and do not even mention the woman—do not even mention the woman. So who is separating the woman from her child?

Again, it is very clear that this is about the abortion debate. And as many times as my friend says it—and he raises my State again, so let me say again, yes, many States did provide health care under this definition of unborn child. They had no choice because President Bush put a regulation in place, and if my State wanted to help pregnant women, they had no choice but to help them under that particular regulation.

Well, what we are doing today is saying to States: You do not have to get into the abortion debate. If a woman is poor and she is eligible for Medicaid, and she is pregnant, she gets the health care as well as the baby she is carrying.

So do not say that those of us who vote against this amendment are separating women and children. It is the total opposite. For whatever reason, under that old regulation, the child was mentioned and not the woman. That defies science. That defies reality. You treat the woman and the child she is carrying.

So, again, I take offense at this. I do not want to be jumping up every time, but I will if there is something said here that is not true. I have total respect for the other side on the abortion debate—complete respect for them. And that is what this is about, and they know it. Because if they only cared about the pregnant woman and her child, they are taken care of in this bill.

Mr. President, I thank you very much, and I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I am not entering into this debate.

Mr. President, I ask unanimous consent that Senator HATCH's amendment be set aside so that I may offer another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

AMENDMENT NO. 74

Mr. BUNNING. Mr. President, I call up my amendment No. 74.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 74.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate any exceptions to the prohibition on States receiving an enhanced Federal matching rate for providing coverage to children whose family income exceeds 300 percent of the poverty line and to use the savings for the outreach and enrollment grant)

Beginning on page 75, strike line 18 and all that follows through page 76, line 2, and insert the following:

''(B) INCREASED FUNDING FOR OUTREACH AND ENROLLMENT GRANTS.—

''(i) APPROPRIATION.—In addition to amounts appropriated under subsection (g) of section 2113 for the period of fiscal years 2009 through 2013, there is appropriated, out of any money in the Treasury not otherwise appropriated, the amount described in clause (ii), for the purpose of the Secretary awarding grants under that section.

''(ii) AMOUNT DESCRIBED.—The amount described in this clause is the amount equal to the amount of additional Federal funds that the Director of the Congressional Budget Office certifies would have been expended for the period beginning April 1, 2009, and ending September 30, 2013, if subparagraph (A) did not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

Mr. BUNNING. Mr. President, I also ask unanimous consent that Senator COLLINS from Maine and Senator HATCH from Utah be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. I appreciate their support.

When SCHIP was created, I supported the bill and felt it filled a need in our health care system. The bill focused on providing health insurance to low-income children whose parents made too much money to qualify for Medicaid but did not have private health insurance.

Many States have done a good job of keeping the focus of their SCHIP programs on low-income children, including Kentucky that only covers children below 200 percent of poverty. However, other States have expanded their SCHIP programs to cover children in families most of us would not consider low income. Some States are even covering adults, including parents and childless adults. These expansions erode the original intent of the program.

The Baucus SCHIP bill we are considering today further expands the SCHIP program, including allowing States to cover children in families up to 300 percent of the poverty level. That is $66,000 of income a year for a family of four.

Personally, I think 300 percent is too high for SCHIP, and the focus of this reauthorization bill should be reaching those kids who are currently eligible for the program but are not enrolled.

The Baucus bill also allows States choosing to cover children above 300 percent of poverty to still get Federal money for their efforts but only at their lower Medicaid matching rate, not the higher SCHIP matching rate.

Two States—2 out of 50—however, get a special exemption under this bill and will get their higher SCHIP matching rate for covering children above 300 percent of poverty, specifically New York and New Jersey.

New York wants to cover families up to 400 percent of poverty or that is $88,000 a year for a family of four. New Jersey currently covers families up to 350 percent of poverty or $77,000 a year for a family of four.

These are certainly not low-income families, and I feel strongly the States should not get additional Federal money for covering families making up to $88,000 a year.

My amendment is fairly simple. It simply removes this exemption for New York and New Jersey so they have to play by the same rules all the other 48 States play by. If they go above 300 percent of poverty, they get their Medicaid matching rate but not the higher SCHIP rate.

As I have said, I think 300 percent is too high, and if I were writing the bill, I certainly would not allow States to get any Federal money if they were covering families over 300 percent of poverty. However, that is not the bill before us. So my amendment tries to equalize the playing field between the 50 States and be a little more fiscally responsible with taxpayers' dollars.

Under my amendment, New York and New Jersey can still choose to cover children above 300 percent, they just will not get the higher SCHIP matching rate. If the people in New York and New Jersey want to cover families making up to $88,000 a year, they should be the ones paying for the coverage, not requiring my citizens in Kentucky and other citizens in all the other 48 States across America to foot the bill.

Finally, my amendment takes the savings from reimbursing New York and New Jersey at the Medicaid matching rate and directs that money to more outreach and enrollment dollars so we can get everybody who is eligible for SCHIP enrolled. We are having difficulty doing that. Kentucky only has 85 percent. I do not know how much some of the other States have. But we ought to be able to get to 100 percent of coverage. The other money that is saved by that would allow them to seek out those eligible children under SCHIP.

The SCHIP reauthorization should be about making sure low-income children who are eligible for SCHIP are covered, not about covering children in families making up to $88,000 a year.

So with my amendment, you have two options: more money for outreach and enrollment and requiring all States to play by the same rules or requiring the people of your State to pay more taxes so that New York and New Jersey can cover families who make $77,000 or $88,000 a year.

To me, the choice is simple, and I hope the other Members of the Senate can support my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am a cosponsor of the distinguished Senator's amendment. I am proud of him and very pleased to support his amendment on New York and New Jersey, and I rise in support of that Bunning amendment. He is right. Why on Earth should States be rewarded by getting a higher CHIP match rate for covering kids over 300 percent of the Federal poverty level? That is around $64,000 for a family of four.

Now, when we wrote the CHIP bill in 1997, with Senators KENNEDY, ROCKEFELLER, and CHAFEE, CHIP was created to cover children of the working poor, the only ones left out of the whole financial system—not children from families of four whose income is $77,000 like New Jersey's CHIP program or $88,000 like the CHIP waiver the state of New York has filed. And that does not even count some of the income disregards that may raise the income level to over $100,000. It is ridiculous.

My colleague is right. Senator BUNNING is right. These two States should not receive the higher CHIP matching rate. I strongly support my colleague's amendment, and I congratulate him for bringing it to the floor. I hope our colleagues will work to support that amendment because it makes a lot of sense.

Mr. President, I ask unanimous consent that Senator SESSIONS be added as a cosponsor to the Hatch amendment No. 80.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I rise to express my support for the CHIP Reauthorization Act, and to urge my colleagues to improve CHIP and cover an additional 4.1 million kids.

I voted to create this program in 1997, and I have watched with great satisfaction as the number of uninsured children in our country has dropped. Thanks to CHIP, my State can provide health insurance to about 11,000 kids every month. As a result, these kids have every chance to do their best in school and live long, healthy, productive lives.

This is a great achievement, but we have more work to do. South Dakota still has about 18,000 uninsured kids. Half of these kids meet the income requirements for Medicaid and CHIP but remain uninsured. With health insurance premiums doubling in the past 8 years and unemployment on the rise, more families cannot keep up. Fortunately, this bill helps these families when they need it the most and allows States to cover more kids and provides bonus payments for focusing on low-income kids. I am especially pleased that the bill allows children whose private insurance does not include dental coverage to enroll in the CHIP dental program.

I understand some of my colleagues object to allowing States to end the 5-year waiting period for covered legal immigrant children and pregnant women in Medicaid and CHIP. This debate is not about whether to provide coverage but, rather, to end the 5-year wait these future citizens must endure. A sick child does not have 5 years to wait, and it is not in the spirit of our Founding Fathers to force legal immigrants to wait 5 years for services they desperately need. I urge my colleagues to remember that other than Native Americans, we are a nation of immigrants.

On a personal note, I am pleased to join in the debate on CHIP this year, as I missed much of the 2007 debate while recovering from my AVM. That experience taught me the infinite value of good health insurance and great health care, a lesson from which I hope we can all learn.

This bill, which is fully paid for over the reauthorization period, is exactly what low-income families need during this time of economic uncertainty. I urge my colleagues to join me in supporting the CHIP Reauthorization Act.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 47

(Purpose: To ensure that children do not lose their private insurance and that uninsured children can get access to private insurance)

Mr. BAUCUS. Mr. President, last night, Senator COBURN sought to bring up his amendment No. 47. At that time, we asked him to withhold so we might look at the amendment because we neglected to get the Coburn amendment No. 47 until that moment. He spoke on the amendment. We have looked at the amendment. So on behalf of Senator COBURN, I ask unanimous consent that the pending amendments be temporarily laid aside and that Senator COBURN's amendment No. 47 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. COBURN, for himself and Mr. THUNE, proposes an amendment numbered 47.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, January 27, 2009 under ''Text of Amendments.'')

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator DORGAN be recognized for 5 minutes and then Senator GRASSLEY, who I expect will be here at that time, be recognized for up to 10 minutes, and then I will be recognized for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are debating the subject of children's health care at a time when our economy is in desperate trouble. Most all of us understand that 20,000 people today and 20,000 people tomorrow will have lost their jobs. Think of that. We are experiencing 20,000 people a day losing their jobs in this country right now during this economic difficulty. It was one thing at a time when the folks at the bottom of the economic ladder had a job and then had to worry about the issues understanding second job, second shift, second mortgage. But now it is not even that. Now they do not have a job at all.

Last month, over half a million people lost their jobs. As that happens, the question is about the necessities of life. How do you provide for the necessities of life? How about your children's health care?

I don't know what is second or third in everybody's life. I don't know what might be in second, third or fourth place in people's lives. But I know what ought to be in first place, and is for most people, and that is their children, their well-being, the health of their children.

This legislation deals with that subject, trying to provide health care to children who do not have health care, expanding the number of children under the Children's Health Insurance Program. Nearly seven million children are now enrolled. This expands it.

Four million additional children who do not have health care would receive health care under this expansion. It makes a lot of sense.

In my State, we have 3,500 children receiving benefits under the Children's Health Insurance Program. There are another 14,000 who are uninsured in North Dakota. So surely this ought to represent one of the significant priorities for the children of our country and for the children of our individual States.

I have come to the floor talking a lot about health care for American Indians. I have put up a couple charts on the floor talking about Avis Little Wind. She lost her life. I have talked about Ta'Shon Rain Little Light. She was 6 years old. She lost her life.

The fact is, these are children for whom we would expect health care would be available, and it was not. Multiply that by a million or 10 million children who determine whether their health care needs are met when they are sick by whether their parents have money in their pockets. That ought not be a criteria by which we treat sick children in this country ever—not ever.

One hundred years from now, we will all be gone and historians will look back and evaluate us—who we were, what we did, what our values were if you take a look at what we decided to spend money on, what kind of a budget did we have. Historians 100 years from now can take a look back and evaluate, at least in part, what our value system was. What did we think was important? What was valuable to us? What was most important to us?

The question that is begged by this legislation is, Are our children important to us? Do we care about our children's health? Don't tell me children are important if you are not willing to do almost anything necessary to provide for your children's health.

We must do this. This is not difficult. A lot of issues come to the floor of the Senate that are difficult and complicated and complex. You have to try to evaluate all the nuances to try to figure how do we put this together. This is not any of that. This is not difficult in terms of the mechanics, how it works. We know it works. It is not difficult in terms of the value system. Can you name two other things we do on the floor of the Senate that are more important than preserving the health of our children or treating a sick child who has no other options to get treatment or go to a doctor or go to a health clinic? Name something more important than that for your children or for the children you love.

This is not difficult, and we should not make it difficult. What we ought to decide is that this is a priority for this country. It is a long-delayed priority. We passed it twice, and President George W. Bush vetoed it twice. But its delay ought not concern us at this moment. What ought concern us now is that we move and move quickly to address this problem and say to America's children: You rank at the top of our priorities, yes, in our personal lives and also in our public lives. You rank at the top, and we are going to provide health care to America's children who are uninsured.

That ought to represent the best of our country and the best of what we can do in both political parties that serve in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized for up to 10 minutes.

Mr. GRASSLEY. Mr. President, for the benefit of my Members, I do not think I will use 10 minutes, but it is always dangerous for me to say that.

(The remarks of Mr. GRASSLEY and Mr. LEVIN pertaining to the introduction of S. 344 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, the SCHIP legislation the Senate is considering this week purports to provide more health insurance for our Nation's poorest children. But in truth, the bill shortchanges the neediest of children in States such as Mississippi. Instead of paying taxpayer dollars for our poorest children, those who need health insurance the most, the bill we are considering today gives taxpayer-funded health insurance to middle-class families in wealthy States. The SCHIP bill we will be voting on today does nothing to ensure that all American children under 200 percent of the poverty level have health insurance. In fact, the bill diverts this important program, which I have supported for years, away from its intended purpose. SCHIP was designed to cover low-income children between 100 percent and 200 percent of the poverty level. That comes to $22,000 to $44,000 per year for a family of four. These families require assistance under SCHIP because they earn too much to qualify for Medicaid, but they are not able to afford private health coverage for their children. This was the intent of SCHIP.

What we ought to be doing in this bill is prioritizing low-income American children and making sure as many uninsured poor kids as possible are covered under the increased funding we are going to provide. Instead, this bill allows States to expand their programs without demonstrating they have covered the poorest children first. In my State of Mississippi, for example, SCHIP covers 65,000 children, but there are another 30,000 children below 200 percent of the poverty level who are without health insurance. This bill would not cover those children, even with the expanded funding.

Other States that are similarly situated include Iowa, Nebraska, North Dakota, North Carolina, and Arkansas. I urge the Senators from those States to join me in an effort to correct this inequity. I urge all Senators to make this bill better so we make sure we include poorest of the poor children first.

In the past decade since SCHIP was created, the number of uninsured poor children has decreased from 28 percent to 15 percent. But we cannot, in the face of that success story, neglect the remaining 15 percent. Many of them are in the States I have mentioned.

Fifteen percent of America's poorest children still do not have health care, and we are debating a bill that would expand SCHIP beyond its intended purpose, to cover higher income families and other adults.

SCHIP allotments in fiscal year 2009 will be $5 billion. Under this bill we would almost double that amount to $9 billion per year. But only an additional $79 million is needed to cover these poor uncovered children in States such as Mississippi. If we are going to almost double the size of the program, we ought to make sure poorest of the poor are covered.

If this bill were really about health care for poor children, we would guarantee each State sufficient funds to cover every child in a family below 200 percent of the poverty level. It is that simple. And we would do that before moving on to cover more affluent families in the more affluent States.

Senator COCHRAN and I have submitted an amendment that would do that. Our amendment would prohibit States from receiving funds to cover individuals above 200 percent of the poverty level until we can guarantee that 90 percent—not 100 percent but 90 percent—of the poorest children nationwide are covered.

The result of our amendment would be that the more affluent States would simply have to wait if they want to cover middle-class children, if they want to cover families making as much as $88,000 a year or more. They would have to wait until the poorest of the poor children in Mississippi and Arkansas and North Carolina and North Dakota and Nebraska and Iowa are covered.

I have been watching the votes this week. It appears the leadership has locked in a majority to resist amendments of this nature. I thought the bill was about making it easier to cover children under 200 percent of the poverty level—between 100 percent and 200 percent. If amendments such as that of Senator COCHRAN and myself are not agreed to, we have to wonder is the real intent of this legislation to replace our private health care system with a government-run system at the expense of people who need help the most?

One of my colleagues yesterday said we are ruining SCHIP. I have to concur with that, if this legislation is not amended. I urge my colleagues to join me in bringing the focus of SCHIP back where it belongs, on helping poor children.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I rise in full support of renewing and improving the Children's Health Insurance Program. In Arkansas we know this program as ARKids First, Part B. In my part of the country, the program ensures that low-income children get the doctor visits and medicines they need when they are sick and the checkups they need when they are healthy. This program has been highly effective, and I believe the bill before us will build upon that success.

Let me tell one story. In 2007, this program covered more than 64,000 Arkansas children and more than 4.4 million children nationally. There is a young boy named Connar in a little town called Poyen, AR. Poyen is in Grant County. The population of the whole town is 272 people. It is on a State highway—229—in part of our State that is challenged in getting health care to its citizens. At 5 years old, he had very serious hearing problems. He underwent multiple surgeries to restore his hearing. Without the Children's Health Insurance Program, his grandmother would have never been able to afford the appointments and medical care. The good news is, today, after these surgeries and after his treatment, he has overcome his hearing loss and his related developmental delays.

What that means is he will now be able to enter kindergarten with other kids his age. We prepared him for a lifetime of success through this program. That means he will not have to have special education, he will not have to have other programs available to him for him to function in society. We made the downpayment on his future with the Children's Health Insurance Program.

But he is lucky because that same year, 2007, there were 9.4 million children who went without access to doctors, lifesaving prescription drugs, immunizations, preventive screenings, and the basic medical care they need. That is 1 out of every 9 children in this country who slipped through the cracks between Medicaid and private insurance.

Since then, since 2007, pink slips have multiplied and, more than ever, parents are making the tough decision to provide their family with a roof over their heads and forgo health care coverage. When these kids don't get medicine and proper medical care, we see them in emergency rooms in a lot of pain and at a greater cost to the taxpayer.

As you know, there have been studies—one I am familiar with in the State of Arizona, but there have been many other studies—that compare what this program costs to the cost of not having the program. It is actually cheaper to the taxpayer, much cheaper to society in the big picture to have this program get these kids the medical care they need when they need it.

This body will have an important vote to cast this week that will determine who will see a doctor and who will not. Will children such as Connar receive the critical care they need or will we abandon them, abandon him like we have 9 million others?

I ask my colleagues on both sides of the aisle not to turn this moral issue into an ideological debate. Children deserve a healthy start in life regardless of the parents' wealth. Senators BAUCUS and ROCKEFELLER have produced a compassionate and cost-effective bill that provides this opportunity for millions of children. That is what I want for the children in my State of Arkansas and for the children of our Nation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, a few moments ago the Senator from Mississippi, Senator WICKER, offered an amendment. Basically, it is directed at the so-called August 17, 2007, directive that President Bush promulgated. That directive issued strict guidelines to States regarding Children's Health Insurance Program enrollment, focusing on potential crowdout, and mandated that States adopt more restrictive so-called crowdout policies. Among the policies in that August 17 directive was a requirement that the States prove that at least 95 percent of the children below 200 percent of the poverty level have some coverage before they can enroll higher income children. The amendment offered by the Senator from Mississippi would, in the same vein, prohibit States from receiving the Federal match for individuals under the program above 200 percent of the Federal level unless they enrolled 90 percent of all children under 200 percent.

That is an impossibly high standard, one that cannot be met. Certainly, the 95 percent in the August 17 directive could not be met. That is why that directive was never put into effect.

It is too tight. It would not work. Yesterday, this body voted against an amendment which would set the requirement at 80 percent, and the amendment before us sets the requirement not at 80 percent but a much higher rate; that is, 90 percent. These are impossible standards for States to meet. It is virtually impossible for a State to meet 90 percent. Even mandatory provisions—let's take auto insurance. The takeup rate in States is not 90 percent. Even where it is 90 percent, I think the average is like in the eighties somewhere. This is not mandatory. The CHIP program is not mandatory. It is an optional program for States. It is optional whether a person wants to participate in CHIP or participate in the private market. It is totally optional. So it is impossible for a State to achieve a 90-percent rate. That is a standard which is much too high.

Also, another reason it is so difficult for States to reach a 90-percent rate is because of the economic downturn we are facing. With the downturn we are facing, people are leaving employment, regrettably, they are being laid off, which means they are losing health insurance. The more people who are laid off, the more people lose health insurance, the more difficult it is for a State to show that it is meeting a 90-percent requirement.

That is just a mechanical effect of this amendment. The practical and personal effect is that this is going to hurt kids because the amendment has the effect of denying Federal dollars to States when they cannot meet an impossibly high so-called takeup rate. Therefore, I urge my colleagues to not vote for this amendment. It is not a good idea.

It does try to attempt to address something called crowdout, which has been debated here on the floor for a long time. Frankly, this crowdout debate is missing the mark here. We are not keeping our eye on the ball. The ball really is, how do we get more kids covered under the Children's Health Insurance Program?

For all of the reasons Senators have indicated, my gosh, we want our kids to be healthy. Healthy kids go to school. Healthy kids in school perform better in school. If they perform better in school, they are going to do better when they graduate. We want healthy kids. The more we have healthy kids, the more likely it is we are going to have healthy families and more productive families and be able to address some of the adverse consequences the recession now presents to us.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN.) The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I rise today to talk about the State Children's Health Insurance Program, or what folks around here call SCHIP. This program was created by a Republican Congress in 1997 to help low-income kids get health insurance. The program expired in 2007, and Congress has worked to pass temporary extensions through March of this year. I am glad the Senate is now working on a longer term bill to extend this vital program.

I am a cosponsor and a strong supporter of the ''Kids First Act,'' S. 326, which extends the current SCHIP program. This bill provides health coverage to low-income kids and will give

States the resources they need to continue to operate their SCHIP programs.

To help more low-income children get health coverage, the bill provides $400 million over the next 4.5 years for States and other qualified entities to improve outreach and enrollment for low-income children. These funds will target the low-income children SCHIP was meant to help. The bill also enhances private options that provide more affordable and efficient care by encouraging premium assistance so that parents can have enough money for private health insurance for their children.

The Kids First Act also focuses on kids, not adults. Some States currently spend SCHIP money on adults when this money was meant for children. The bill takes the money spent on adults and uses it to insure children. The Kids First Act requires that all States phase out nonpregnant adults, including parents, and not allow the addition of any new nonpregnant adults to the program.

American children are the top priority and primary focus of the bill I support. The bill maintains existing law, which ensures that scarce resources go to covering American citizens first.

The bill does all these things, and it does them in a fiscally responsible way, without raising taxes. An economic recession is no time to raise taxes or expand Government programs and inefficient bureaucracies.

I have seen the potential for what SCHIP can do to help low-income kids in my home State of Wyoming. Wyoming first implemented its SCHIP program, Kid Care CHIP, in 1999. In 2003, Wyoming formed a public-private partnership with Blue Cross Blue Shield of Wyoming and Delta Dental of Wyoming to provide the health, vision, and dental benefits to nearly 6,000 kids in Wyoming. These partnerships have made Kid Care CHIP a very successful program in Wyoming.

All children enrolled in the program receive a wide range of benefits including regular check-ups, immunizations, well-baby and well-child visits, emergency care, prescription drugs, hospital visits, mental health and substance abuse services, vision benefits, and dental care. Families share in the cost of their children's health care by paying copayments for a portion of the care provided. These copays are capped at $200 a year per family.

Wyoming is also engaged in an outreach campaign targeted at finding and enrolling the additional 5,000 kids that are eligible for Kid Care CHIP but are not enrolled.

I am proud of the great job Wyoming is doing implementing its program. I also want to note that Wyoming will get the same amount of money under the Kids First Act that I support as compared to Senator BAUCUS' bill, H.R. 2.

Unfortunately, all these descriptions apply to the Kids First Act, which is not the bill before us today. The bill before us today is a very partisan bill that fails to focus on low-income, American kids first.

Senator BAUCUS' bill, H.R. 2, would encourage middle-class families to drop their existing health insurance plans and instead get on the taxpayer dime. That is just not right; we need to put low-income children first.

Under H.R. 2, 2.4 million children will lose their private health insurance coverage and be forced to enroll in Government-run programs, where they may not have access to the physician and other health provider services that they need. The bill will also make it easier for both legal and illegal aliens to get covered under SCHIP.

Another important big difference is that the taxpayers will get to keep fewer of their hard-earned dollars if this SCHIP bill is enacted. At a time when the country faces a severe recession, raising taxes is not a good solution for any problem.

I am disappointed Senator BAUCUS and the Democratic leadership in the House and the Senate and the White House turned SCHIP into a partisan exercise. Along with the American people, I too was looking forward to change. I was encouraged by President Obama's call for change and was ready to work with him to make sure we could focus on the 80 percent we could agree on.

I was also encouraged by my discussions with Senator Daschle when he came before my committee as a nominee to become the Secretary of Health and Human Services. He committed to working with me and the other Republicans on my committee so together, we could work on a bill to reform our health care system. He promised bipartisanship and said he would convince my Democratic colleagues on the committee to work together to develop bipartisan solutions to our Nation's health care problems.

Unfortunately, with this SCHIP bill, the Senate is taking a step away from the process Senator Daschle described. The ranking member of the Finance Committee, Senator GRASSLEY, as well as Senators HATCH and ROBERTS, among other members worked hard for a number of years on a bipartisan bill, but that bill is not the bill before us today.

Rather than following the example set by Senators GRASSLEY, HATCH and ROBERTS, the sponsors of this bill chose to focus on the partisan issues that highlight the 20 percent upon which it is impossible to agree. I hope this is not the first taste of how the next 2 years will be here in the Senate.

I will close my remarks, but I just want to remind folks that we can do better. In general, if we work together on bipartisan bills, we can produce a better product. I think the bill before us today should focus on covering low-income, American kids first, and I hope that as we continue working on health care reform, we can work together rather than against each other so we can put the best policies possible before the American people.

We can do better, we must do better. Following Wyoming's lead of using the private market, we would insure every American kid whose family is uninsured and below 300 percent of poverty. I think that is a good answer for the family. We can do it without spending more. We can do it so kids are not thrown out mid-year because their parent or parents make a little more. They would be insured all year. So we would increase their eligibility from 200 percent of poverty to 300 percent, $40,000 a year to $60,000 a year, for a family of four and cover every uninsured American kid. But we will see that amendment voted down so statistics will look better. The current bill is a good statistics bill, it increases the number covered dramatically to include adults earning up to $120,000 a year in some instances and it is easier to find more people to sign up, at the taxpayer's expense. No, let's concentrate and force States to find the poor that are lost and neglected.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 74

Mr. MENENDEZ. Madam President, I come to the floor to speak again on behalf of children of New Jersey and others in the country and the working families in my home State who seem to be under attack by some of our colleagues here on the floor. I did not know there are different values to the importance of the health care of a child regardless of the happenstance of where they live, but it seems some think so.

On behalf of these children and families, I rise strongly to object to Senator BUNNING's amendment. In New Jersey, we cover over 130,000 children and, yes, we cover children to a higher percentage of the Federal poverty level. But there is a reason for that, and I will go through that right now. But there are only 3,300 New Jersey children who are covered under that higher Federal poverty level from the 130,000 who are covered below the poverty level Senator BUNNING and others would want to maintain. So we are talking about 3,300 children but 3,300 children whose health and development and well-being depend upon the ability of States such as New Jersey to do this.

The families who are covered at this level are paying toward this. They are not getting a free ride. They are paying $128 each month in premiums and between $5 and $35 in copays each and every month. So this is not a free ride. These families in New Jersey are working, and they are working at some of

the toughest jobs we have. But they work at jobs in which they do not have health care coverage, and they are working at jobs that do not give them enough in the context of what it costs to live in New Jersey to afford health care insurance. So somehow those people have to be penalized when you listen to the other side.

Now, let me talk to those who want to talk about fairness. New Jersey followed the law. The former administration approved New Jersey's waiver to continue insuring kids at up to 350 percent of the Federal poverty level because they understood the reality that a family living in New Jersey—to make essential elements of their costs for housing, food, transportation, childcare, and, yes, insurance—just was far behind others in the Nation who, in fact, could achieve those goals for a lot less money. So the Bush administration gave a waiver. They gave a waiver. They understood it.

New Jersey needs to cover children up to 350 percent because New Jersey families face higher living costs and they get less return on their Federal dollar. Let me talk about that. I hear my colleagues bemoaning the fact that my State allegedly wants some sort of special treatment, that because we want to provide health benefits to children, we are somehow taking advantage of the Federal Government. That is simply ridiculous.

Let me put it in perspective. For every $1 a New Jersey taxpayer pays in Federal dollars toward the Federal Government, our State only gets back 65 cents. My colleague from Kentucky, who was on the floor and whose amendment we are debating now and who rails about New Jersey—his State gets $1.51 for every $1 Kentuckians send to the Federal Treasury. So they get more back than, in fact, they pay.

Let's talk about fairness. The reality: One size does not fit all. As shown on this chart, for a family in New Jersey, living in Middlesex County, whose monthly income is about, roughly, $4,600, for their housing, it is going to cost them $1,331; for food, it is about $645.70; for childcare, it is $844.80; for their transportation, it is $393.80; for their taxes, it is $479; and for their health insurance, it is almost $1,800. So what do they end up with? They end up with a negative amount in terms of their budget. These are people who are working—working—trying to sustain their families. But they end up in the negative if they try to provide health insurance for their families. So the answer is, they cannot provide health insurance for their families unless they get some help. Yes, one size does not fit all.

So let's look at that same family. For that family in New Jersey to get the same ability in terms of their purchasing power as a family in Louisville, KY, that needs about $55,808—for that same family, whose happenstance is that they live in New Jersey versus Louisville, KY, for the same exact things, they need $77,000, roughly, in purchasing power.

Now, why do I have to hear an argument that says those families, in fact, whether they be in Kentucky or Arizona or Oklahoma or Georgia or Tennessee or Utah or in all these other States, who, in fact, deserve to have their children covered—they deserve to have their children covered, and I am fighting for their children to be covered as well—but why do I have to listen to that, in fact, their children are more valuable than my children in New Jersey who need this amount of money to be able to meet the same goals and dreams and aspirations and health care that they have? So they can get benefits under the bill, but my children in New Jersey should be denied? That is the core of the argument here. One size does not fit all. I would love for a family in New Jersey at $55,000 to be able to make ends meet. That is simply not the fact. So we need to ensure all children are covered within this class.

I am simply baffled and I find it embarrassing that some in Washington—those who have some of the best health care coverage in the world—would propose to jeopardize coverage to some of America's neediest families.

In this economy, in this recession, we cannot allow our children to be the silent victims. It is morally wrong to jeopardize the health care of these children. What have they done? What have they done to deserve this? It is even more outrageous during a time when jobs and homes are being taken away from their parents.

Where is the moral compass in this Chamber? I hear my colleagues speaking eloquently about how our children are our most precious asset, and they certainly are. But they are also our most vulnerable asset. Is a child in New Jersey worth less than a child in other parts of the country simply because of the happenstance of where they live and the costs that are necessary in order for them to meet the same quality of life?

So I hope my colleagues, as other amendments have been rejected, will once again reject this amendment. This is about being for the value of life. You cannot fulfill your God-given potential if you do not have good health. You cannot say you are profamily when, in fact, you would take away the insurance necessary for that family to be able to realize their God-given potential. This is about all children, regardless of where they happen to reside, the happenstance of what station in life they were born into, that if they fall into this criteria that, in fact, they should be covered.

That is why this amendment should be defeated. I hope, after having considered amendment after amendment after amendment on the same fundamental issue, we can finally move to final passage of this bill.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, as we were completing our last vote last night, I explained to the Members of the Senate what our schedule would be the next few days. Following my statement, Senator LEAHY and I engaged in a discussion on the Senate floor about the timing for a vote for Attorney General-designee Eric Holder.

Chairman LEAHY expressed an opinion that he and I share: that with the many difficult challenges facing the Obama administration, and particularly the Justice Department, it is imperative for the Senate to confirm Attorney General-designee Holder as soon as possible.

Unfortunately, while it was my strong preference to conduct the vote this week—as I explained to Senator LEAHY on more than one occasion I was hoping we would do that when we completed work on CHIP, the Children's Health Insurance Program—I had to inform him that I had a conversation just a few minutes before I made my remarks on the floor with Senator MCCONNELL, and Senator MCCONNELL said he didn't want to move forward until Monday. In the conversation with Senator MCCONNELL I was pleasant, as most of our conversations have been, and I believed I needed to explain to the Senate what the proposal was and what we were planning on doing. The one thing I didn't do is explain to Senator LEAHY first—and I should have done that—that we weren't going to be able to complete it after the Children's Health Insurance Program—on the same day at least; we would have to wait and do it later because in the Senate the power of the minority is significant.

I have privately discussed this with Chairman LEAHY, that it was an oversight on my part. He wasn't informed of the arrangement I had reached with Senator MCCONNELL before I announced it on the Senate floor. So I apologize to my friend from Vermont, the chairman of the Judiciary Committee. He has been a good friend, he and Marcel, for so many years, and I am very sorry about the misunderstanding.

Chairman LEAHY and I, along with virtually every Senator, agree that we must confirm this exceptionally qualified and talented nominee—and that includes Republicans who feel the same way—as quickly as possible so we can begin the critical work of rebuilding the Justice Department to fight terrorism, crime, and protect the constitutional rights of all Americans. There is no one who has been more of an advocate for having a strong, powerful, fair Justice Department than Senator LEAHY. So I am sorry about that confusion, and if I embarrassed him in any way, again, I tell him I am sorry.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Madam President, it is such a delight to see the Presiding Officer in the chair, the distinguished new Senator from the great State of North Carolina whom, every time I look at her wonderful smile, I think: That smile was born and bred in Florida. We are so happy to have the Presiding Officer here as a part of the Senate representing the great State of North Carolina.

Madam President, I, of course, am going to vote for S. 275, the Children's Health Insurance Program. This reauthorization is a long time coming. We went through the trauma of having it vetoed by the President last year. We attempted to override that veto and got a close vote but didn't get enough. So here we are. We will have the votes this time.

My particular additional interest in this is because in my life before the Senate, I had the privilege of being the elected State treasurer in Florida, which is also—was then—under Florida law at the time, the State insurance commissioner. In that capacity, I chaired what is known as the Florida Healthy Kids Program. It was a very innovative way in which we would reach out through the school system to make health insurance more affordable for children under the theory that if a child is sick, a child is clearly not going to learn. We know by all of the sociological studies that if a child does not get the proper medical observation and treatment during those formative years, it can manifest itself in so many more complicated ways later on in life which, just from a societal point of view, becomes a much greater expense on society; whereas, if children can get the proper health care, it is not only a good, humanitarian commonsense, Judeo-Christian kind of practice, but in an overall cost to society it is much more efficient and economical.

We saw in this innovative program in the 1990s in Florida, the Healthy Kids Program, where we could make insurance available to children through the school system according to their parents' ability to pay. We piggybacked it on top of the School Lunch Program because already there, you had a determination of a family's financial means and capability. What we saw was that it spread like wildfire throughout the Florida school system in each of the counties, and it became not only very popular, it became very effective.

Here we have a program where we are applying that concept for the whole country. It started back a couple of decades ago. We are reauthorizing it, and we are enhancing it. It makes good common sense. It clearly makes good health sense. It makes good economic sense. And in America, where we want to give the best of every opportunity for our children, it fulfills that dream and that desire as well. For these reasons, it is hard for me to believe anyone would vote against the reauthorization of this program.

I commend our leadership, that they have brought up this bill basically as the first bill for us to pass.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I rise today to speak in support of legislation that is long overdue, the reauthorization of the Children's Health Insurance Program, known as CHIP.

For those of us who have children who are young, in school, bringing home all kinds of unbelievable colds, sniffles, and all the other sickness, we realize our children today need health care. How wonderful it is, as a nation, that we have gathered to put together a comprehensive package that will help increase the number of children who can be covered.

As a mother myself, as a daughter, as a wife, as the wife of a physician, better understanding the opportunity we have as a nation to do this makes me extremely proud because I see other mothers at school who cannot afford to provide health insurance for their children.

A close friend of my boys was injured on the playground the other day and was taken by emergency vehicle to the hospital. He was OK. But the mother came up to me later and said: You know, I am working as hard as I can, but I can't afford health insurance. What am I going to do? I can't pay for this.

We have the opportunity in this job in the Senate to make an impact on the lives of working families across this great country.

This is a bipartisan program that for the last 12 years has allowed us to make health care coverage more accessible for millions of children, coverage that is critical to the lifelong health of a child and to a family's peace of mind.

In conjunction with Medicaid, CHIP has been tremendously successful in reducing the number of uninsured children in my State and across this country. We have done much work on this bill over the course of the last couple of years to improve upon it, to talk about what we can do to make it a better bill. And here we now come to the floor of the Senate with an opportunity to pass something that will be monumental in the lives of working families.

Since the program's inception, the number of children without health care coverage has dropped by one-third. I am proud that Arkansas has become a national leader in reducing its number of uninsured children from 21 percent in 1997 to 9 percent today. Now more than 70,000 of Arkansas's children currently receive coverage through CHIP which we know in Arkansas as Our Kids First, a great program that helps working families all across our State. Unfortunately, passage of SCHIP had been held hostage for the past 2 years due to President Bush's two vetoes which we tried to override and were unsuccessful.

At this critical time in our Nation's history, when working families are struggling, they are faced with economic crisis all over this country, I believe we have a moral obligation to extend this program and provide health care coverage to millions of children who are now uninsured.

Can you think of anything more important to the households of these working families than to ease their minds, to create peace of mind by saying to them: You are now eligible for a program that can help you provide health insurance for your children.

It is interesting, when we talk about things that make us happy or things that make us feel fulfilled, as we grow older, we realize it is less and less about us and it is more and more about our children. It is no different from my family to any other family across this great land, to parents across this country who want desperately to be able to provide for their children. Here is our opportunity to help them.

As parents, we are no different. Whether you are unemployed or whether you are a Senator, what gives you that fulfillment is to be able to see your children fulfilled, to see them healthy with access to the kind of health care that will help them reach their potential because we know that unhealthy children are less likely to learn, they are less likely to become healthy adults. They are certainly going to be more costly to the system if they depend on emergency services, not to mention the chronic diseases that can occur because they are neglected from getting the health care that they need early on.

There are so many good things in this bill and so many good things this bill does. Peace of mind comes to mind, first, because I think of those parents who are unable to provide that health insurance.

The bipartisan SCHIP bill provided by the Senate Finance Committee is essentially the same bill that passed overwhelmingly in the last Congress. As I mentioned before, we have discussed this bill, and we have tried to work out compromises. Is it 100 percent of what everybody in this body wants?

No, it is not. But no bill ever is. Are we going to miss an opportunity to help working families across this country because it is not 100 percent of what every one of us wants? I hope as Senators, as parents, we are not so blind that we would let that happen. It builds tremendously upon the success of the program by giving States more of the tools they need while preserving their flexibility to strengthen their programs and, ultimately, cover more children.

I would remind you, Mr. President, and I would remind all my colleagues, that we all have worked to keep flexibility in this bill. We also must keep in mind that many of the provisions in this bill are options to the States. Not a mandate that the State must cover but an option that gives States the flexibility to be what they are and to address the specific needs they may have in addressing both the chronic conditions of their children and, more importantly, covering the population of children who need coverage most in their States.

CHIP reauthorization will allow States to preserve coverage for the children currently enrolled while reaching an additional 4.1 million low-income children. I don't know of a greater way, quite frankly, that we could show other countries who we are and what our value system is than to reach out and cover 4.1 million more low-income children; to express to the world where we put our values, where we want to make an investment—an investment in future leaders, a future workforce, the future leaders not just of our country but in the global community as well.

This proposal would also provide much-needed funding to States for outreach and enrollment efforts to enroll many of those who are currently uninsured. This is critically important to me in my State of Arkansas, where two out of three uninsured children are eligible for ARKids First or Medicaid but are not enrolled. We need the resources to reach out and ensure that these children and their families understand what these great programs are and what they would mean to their children.

It also takes additional steps to ensure infants and toddlers get a healthy start by providing care for expectant mothers. At the age I was when I delivered my twins, people thought I was Methuselah, but nobody ever missed the opportunity to tell me how very important it was to care for myself if I loved my children, and I did. I did everything I possibly could to ensure that I could bring those children into this world as healthy and happy as possible. It was a blessing to me. There are other mothers out there—expectant mothers—who want desperately to ensure that they can do everything possible to bring their children into this world healthy and happy, and the key is prenatal care.

I have long been a supporter of improving access to health care coverage for expectant mothers. I understand how important it is, both as a mother myself but, more importantly, looking at what it means to us as a country to ensure that we bring as many children into this world as healthy and happy as we possibly can—not only because it is vital to the health of both the mother and the infant but also because it often reduces future health care costs, which we know can be high in premature births. In fact, it was reported in 2005 that the socioeconomic costs associated with preterm birth in the United States were at least $26.2 billion. Every year, more than 500,000 infants are born prematurely, and that is nearly one out of every eight babies.

I can remember delivering my children in the Medicaid section of the University Hospital where my husband worked, and I remember going upstairs to the NIC unit, and I took my dad with me. My dad was a dirt farmer. He is no longer with us, but he is here in spirit with me today, as he always is. But he was a dirt farmer in east Arkansas, and I took him with me to the NIC unit. I had never seen my daddy cry before then. But he looked at those premature babies, and he said: What is their life going to be like?

The more we can provide the kind of health care that expectant mothers need, we will not have to ask that question. We can ensure that babies will be born healthy and happy.

As I mentioned before, it is of particular concern for me because also, in recent reports, more than 14 percent of our births in Arkansas are premature, ranking it among the States with the highest incidence of preterm births. By taking these needed steps to improve access to care for expectant mothers, I am confident we can make strides to improve health outcomes for them and for their children.

The Finance Committee proposal also includes incentives to ensure that States reach out to the lowest income kids first and phase out the adult waivers that have been existent under the previous administration.

In addition, the bill provides the Federal authority and resources to invest in the development and testing of quality measures for children's health care. This provision will help ensure that States and other payers, providers, and consumers have the clinical quality measures they need to assess and improve the quality and performance of children's health care services. Making determinations on children's health care based on studies that have been done on adults doesn't make sense. It is critical that we focus on those quality measures based on our research and study of children and applying it in the appropriate way.

Additionally, it allows some States to use income eligibility information from other Federal programs, such as school lunch programs, to speed the enrollment of eligible children into the CHIP program or into Medicaid. We have the income information about these families for the school lunch program, which is critically important to the well-being of our children, so why wouldn't we want to ensure that those same families, meeting those same eligibility requirements, could move quickly into the CHIP program to get the other health care needs of their children met? This would certainly simplify the administrative process for States, and it would reduce paperwork burdens that are put upon hard-working, low-income families.

This bill would also provide greater access to much-needed dental care for lower income children and would ensure that children enrolled in CHIP would have access to mental health care that is on par with the level of medical and surgical care that they are currently provided.

The dental portion, the wraparound, is twofold. I can remember when I first visited one of the very first Head Start Programs in my community, and I saw these children lined up with little Styrofoam cups they had decorated. They had a donated toothbrush and a free sample of toothpaste. They were so proud each day to be able to walk to the community sink there in the Head Start facility and brush their teeth.

Dental care is essential. It is absolutely essential. All you have to do is look at children of low-income families whose teeth are rotten, who aren't getting dental care, who aren't getting supervision or not being taught the life skills they need. When those teeth are rotten, they hurt, they make those children sick, they are unable to eat, they get no nutrition, and then we wonder why they cannot focus in the classroom or why they cannot learn. This dental wraparound program is excellent for ensuring not only that children will get the dental care they need, but the wraparound portion of it ensures that we will not see crowding out; that families who have private insurance which doesn't cover dental can then get their dental coverage in a wraparound package and maintain the other private insurance they have. Those are critical needs and critical sensitivities we have looked at in this bill to ensure that we are doing the most we possibly can for the children of our country.

As you can see, this bipartisan bill is a step in the right direction to provide care and coverage for our most precious resource—our most precious asset in this great country—and that is our Nation's children. We have to look no further than the children of this country to understand that all of what we do today means nothing if we have not given them the ability to carry on the great lessons of this great country we are blessed to be a part of. And if they do not reach their potential, whether it is because they haven't gotten dental care, they haven't gotten immunizations, they haven't gotten the proper kind of health care they need to be able to learn and flourish and reach their potential, we will have done an injustice to our country.

As we move forward, I wish to encourage my colleagues to support this important piece of legislation in the same bipartisan spirit that was demonstrated when it was created 12 years ago. We are not here to create a work of art. We are here to create a work in progress. After 12 years, we have come to understand the importance of what has changed in our communities, what has changed in our economy, what has changed among our working families, and to meet the needs that exist in today's world. After 2 years of waiting, we cannot fail our Nation's children yet again.

I hope every one of us in this body will think of a child who was born 2 years ago, unable to access CHIP coverage—a family with a child born 2 years ago. If we fail to do it now, and they have to wait 2 more years, they have missed 4 years of critical development in their life without health care. We will never, ever be able to reverse that.

This is the time. Now is the time. We have talked and talked, we have reached out to one another to come up with the best possible solutions we could, but now is the time to pass this bill. In a time when more and more Americans are struggling to find affordable health care, it is up to us to put politics aside, not only for the future of our Nation but for the well-being of millions of our children across this great Nation. It is not just our future. Most importantly, it is their future. They are depending on us, and it is time we fulfill our commitment to them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I wish to speak in favor of the Bunning amendment, which I hope we will be able to vote on a little while later this afternoon.

It is a very simple amendment that sets the maximum amount for eligibility under the SCHIP program at 300 percent of poverty. In other words, we set the poverty level in this country three times that amount that would be the qualifying level for a family to qualify their kids under the SCHIP program. That is a lot more than what was originally intended when the SCHIP program was put in effect, but it is a level that represents the maximum for all but two States in the country.

Most States are somewhere around 200 percent of poverty. My State of Arizona is exactly at 200 percent of poverty. The State of the chairman of the committee, who is from Montana, is now at 175 percent, although I understand there is legislation that will take that up to 250 percent. So with the States bunched around primarily the 200 percent of poverty level, some now at the 300 percent, that represents a good compromise on where the limit should be set, and we need to set the limit for a variety of reasons I will go into in a moment.

Let me tell you what the implications of the amendment would be. There are only two States that would have to cut back under the program. In fact, they would not have to actually cut back in the coverage of children, they would simply follow the same rules as everyone else, and their reimbursement would be at the Medicaid rate rather than the higher SCHIP rate for these higher income kids. So they could still cover them; they just don't get quite as much reimbursement from the Federal Government in order to do it.

Now, there would be some savings as a result of these two States not having Federal funding at the SCHIP level, and that additional savings, under the Bunning amendment, could be put into outreach and enrollment grants to help find eligible, uninsured, low-income children. The reason for that is, the whole point of the program is low-income children. Yet there are millions of low-income children who are not enrolled in the program. We have to find them, we have to get them enrolled. That will cost some money. So the savings that are achieved in this amendment would go toward that end.

The third and basic point here is that the Bunning amendment ensures we keep our promise to preserve the SCHIP coverage for low-income children and ensure parity amongst the States. If we have a limit of 300 percent, not all of the States would want to go to 300 percent but they would know they could do that. If they wished to keep it below 300 percent, they would be paying less. They would be receiving less from the Federal Government, but it would be uniform for everyone.

As I said, I think Senator BUNNING is wise to set it at this level, even though that means the average family of four has $66,000 in income. That is hardly low income or poverty level. But $66,000 of income would cover families who clearly could use the help. It is obviously very generous. It is clearly way above poverty, so I do not think Senator BUNNING goes very far in limiting this to 300 percent of poverty. These numbers translate to 200 percent of poverty is $44,000 income per year. Of the two States that are above the 300 percent, one is New Jersey at 350 percent. That translates into $77,175 a year. The other is New York at $88,200 per year.

We can all have some disagreements in this body, but nobody can argue that $88,000-plus in income is a poor family, is a poverty or low-income family. That is not what this program was designed to cover.

Add to that, you can add in $40,000 for expenses for transportation and clothing and housing and so on, and you can actually get above $120,000 in income and qualify for this low-income program for kids. That is not right.

One thing I know that folks in Arizona, folks in New Mexico, folks in Montana all say when they look to Washington is: We know we need to pay income taxes, we know we need to spend money on things, but stop wasteful Washington spending. I think sometimes they may view our spending as more wasteful than it is, but the reality is there is a lot of wasteful spending here. This is a lot of spending beyond what was the original intent of the legislation.

When I talk in Arizona about low-income kids, people nod their heads and say, yes, we need to help low-income families with kids. If I said to them so that means $120,000 a year—most of the families in Arizona don't make $120,000 a year, let alone calling that low income. It is not. If only for truth in advertising purposes, we should support the Bunning amendment and, again, he sets the level at 300 percent of poverty or $66,000. In one sense you would have a tough time defending that as a low-income program. But that is where he set it. At least nobody can contend that he is trying to be too cheap here. Mr. President, $66,000 a year for a family of four to qualify for a low-income poverty program I think is quite generous.

I think I indicated I would answer a couple of questions here about why we need to do this. One argument for the folks in New Jersey is we have a higher cost of living in those States. Of course it is not twice as high. It does not cost twice as much to buy a car in New York or New Jersey or Arizona, so that argument only goes so far—and it is about ''this'' far.

Second, what these States have done is cover more kids at higher income levels because it is easier. Think about it. You expand the program to cover a lot of high-income kids. You can find those kids. It is the very low income we are having the trouble finding. Those are the ones who need to get registered in this program, but they are hard to find. They are in our Indian reservations, in our inner cities, and maybe some out in farm country in Montana or wherever. That is who we should be focused on here.

It is easy to say let's raise this up to families making $88,000 a year. Sure, you can find those kids. But the fact you are then enrolling more kids in the SCHIP program doesn't mean you are getting the ones who need the care the most.

There is another problem with that. The Congressional Budget Office notes that with these higher income family kids, there is a one-to-one ratio from adding a child onto SCHIP and losing health insurance coverage in the private sector. For every one child who is added on, a child loses health insurance coverage from an employer. The ratio generally is between 25 and 50 percent, but at the higher income level it reaches a one-to-one ratio. This is the crowdout effect we were talking about before. It doesn't do us any good to add somebody to the Government-run program if the only effect of that is to cause them to lose their insurance policy from their family's employer. You

have not helped anybody in that case. All you have done is transferred the expense from the employer to the taxpayer.

In the case of these high-cost States such as New York and New Jersey, the people of New Mexico or Arizona or Montana, for example, are paying twice as much for those kids as they are for the kids in their own State.

We are sending money from Arizona to New York. Arizona has it at 200 percent of poverty, or a $44,000 income level. New York has twice that, $88,000. The net effect of that is Arizonans are simply sending money to New York to take care of the New York kids. That is not fair. That was not what this program was originally designed to do. What Senator BUNNING has done is say let's cap it, not at some low level but the relatively high level of 300 percent of poverty, $66,000 a year. If they want to cover kids higher than that, they can, but they are reimbursed at the somewhat lower Medicaid rate than the SCHIP rate, and he takes the savings from that and helps us fund the kids who need the coverage, the low-income kids.

I cannot for the life of me see why any of us, except perhaps the four Senators from New Jersey and New York, would not support this amendment. The only two States that would suffer at all under this amendment are those two States because they have chosen to go far above what the other States provide in terms of coverage. They can still cover the kids, as I said, they just don't get quite as much money from taxpayers in other States to do that.

Why wouldn't those of us from the other States support the Bunning amendment? It is going to be very hard for some people to go home to their constituents when those folks say, Why didn't you support the Bunning amendment? Why should I have to pay money for somebody making $88,000 in New York State to cover these higher income kids when that probably means that their employer takes the obligation he has and moves it over to the taxpayers? This is not very logical.

The Bunning amendment is a modest attempt to get the program back to its original intent, slightly less expensive, to generate some funds to get the low-income kids in, and have more equity among the States.

I cannot think of an amendment that would more reasonably try to deal with all these problems, and I do urge my colleagues, for a moment here, let's put partisanship aside. The President has urged us to do that. We don't have to have just partisan votes on all of these amendments—all the Democrats vote no, all the Republicans vote aye. That doesn't get us anywhere. I hope my colleagues on the other side of the aisle will put on their independent thinking hats. If they need to say something to the leadership or whatever—look, this is a reasonable amendment, I am going to support it—then do that. We do not have to be in lockstep here. It may be that there is a Republican amendment that deserves to be supported. This is one.

I urge my colleagues, let's approach this independently. This is a good amendment. Let's support it. I hope my colleagues will consider doing that when we vote on the Bunning amendment a bit later on this afternoon.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, basically the Bunning amendment is the fourth amendment that would put a cap on eligibility. Yesterday the Senate rejected the Cornyn amendment that would cap it at 200 percent of poverty, a Roberts amendment with a cap of $65,000, and a Murkowski amendment with a cap of 300 percent of poverty. All these amendments, including the Bunning amendment, have the same flaw; that is, they would raise the possibility of kicking kids off the Children's Health Insurance Plan; that is, they are diminishing amendments. They do not add, they subtract. The kids currently on the Children's Health Insurance Plan are taken off. That is not something I think we want to do.

The specific amendment in question here will have that effect. It will basically say that because the States that have been mentioned here essentially get a match rate according to the Children's Health Insurance Plan, that because of the amendment—the amendment says they will get less, they will get the Medicaid match rate, which is less than the Children's Health Insurance Plan; therefore, those kids cannot participate.

Theoretically there could be some participation because the match rate in Medicaid, which I think is around 15 percent lower—in the case of let's say New York or New Jersey—than the Children's Health Insurance Plan match. But still the effect is the same. If this amendment were to go into effect, children currently in, say, New Jersey who receive the Children's Health Insurance Plan match rate will probably get kicked off. A lot will be kicked off the Children's Health Insurance Plan because the match rate is lower, down to the Medicaid rate.

That is not right. The fact is all of these amendments, including the Bunning amendment, are restrictive. It is constrictive. It is a reducing amendment. It pressures to take children off the Children's Health Insurance Plan rather than add children.

People talk about 200 percent of poverty, 300 percent of poverty, et cetera. I think New Jersey is at 350 percent of poverty. One interesting point there is they are at that rate, A, because they asked for it and, B, because President Bush's administration gave a waiver and said, yes, go ahead and do it. President Bush, his administration, and the Republican Secretary of HHS, said, yes, New York, go ahead and do that. That is fine. You should do that.

One can guess why they may have granted that waiver. The reason is because when you talk poverty levels, such as 200 percent of poverty, that is a national figure. It is not a different number for each State, it is what is the national number. New Jersey, I think, has the highest per capita income of any State in the Nation. Clearly, the Federal poverty level which applies to New Jersey probably does not match what the realities are in that State. The realities are if you take a family a little bit above the national median income, a family in that State, in New Jersey, is probably facing the same economic pressures and difficulties—paying for health insurance, providing for the kids and the kids' medical bills—as would the average family in a State where the median income is the same as the national median income. That is probably why New Jersey asked for that waiver and probably why the Republican Secretary of Health and Human Services granted that waiver. But that is where we are. That is history. It makes sense.

The fact is, this amendment says, no, we are going to undo that, even though New Jersey is used to it, even though New Jersey applied for the waiver and lawfully was granted the waiver, we say: No, no, not that anymore. We are going to reduce the match rate you and New Jersey get and it is again going to have the pressure of hurting kids in that State and taking kids off the Children's Health Insurance Plan. That is not the right thing to do.

I therefore respectfully urge Senators to not support this restrictive amendment which does not add kids to the Children's Health Insurance Plan. Rather, it takes kids off the Children's Health Insurance Plan.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise for the purpose of supporting the Bunning amendment. What I say will have some rebuttal to what the distinguished chairman of the committee has said just.

Medicaid and the Children's Health Insurance Plan were created to cover low-income children. An income of more than $63,000 for a family of four is not low income. I know the Senators from the State of New York and New Jersey will argue that $63,000 is low income in their States. I know they will talk about the cost of living in those States.

As an example, the median home price in Des Moines is greater than that in Binghampton, Buffalo, or Rochester in the State of New York.

The underlying bill says all States can cover above 300 percent of the Federal poverty level. I think that should be limited, as it was in the second bill that was a bipartisan bill passing the Senate in 2007. But if we are going to allow States to cover above 300 percent, all States should be treated equally, and an exception for two States—and I might emphasize only two States—is not fair, and it is not

right. This amendment strikes that exception so all States are treated equally.

I urge support for the Bunning amendment that we will vote on in a little over an hour. I hope Senators coming to the Senate floor will take that into consideration. Treating all States favorably is essential.

AMENDMENT NO. 83

(Purpose: To provide H.R. 3963 (CHIPRA II) as a complete substitute)

The amendment I am going to introduce is the exact contents of the bill we call the 2007 bipartisan bill No. 2 because that is the No. 2 bill vetoed by President Bush. This amendment I am offering today, I am doing so with Senator HATCH because he was there with me through all of that discussion in 2007 that brought us to a bipartisan bill.

The amendment is the bill that, 2 years ago, Speaker PELOSI called ''a definite improvement on the first bill,'' meaning the first bill the President vetoed. This amendment I am going to soon lay before the Senate is a bill I believe is the best bipartisan compromise we could put together to cover as many low-income children as possible. This amendment is that 2007 bill that told States they could not cover children above 300 percent of poverty level in the Children's Health Insurance Program. Why do we concentrate so much on that level and not above that level?

In 2007, we thought letting States cover children above the national median income diverted attention from the mission of Medicaid and the Children's Health Insurance Program, which was obvious then and still obvious today; that is, that we ought to be putting the emphasis on low-income children.

The underlying bill allows States to cover children up to any income level and, as I said, includes a special grandfathering exclusion for New York to cover children and families with incomes up to $83,000 per year. The second bipartisan children's health insurance bill—that is the amendment before us or that I will put before us now—returns the focus where it has been since 1997 in the CHIP bill. The emphasis is upon getting low-income children into a plan so they have the health care they need.

This amendment is the bill that includes a policy to address the problem of crowdout that was the subject of an amendment yesterday. It is a policy that is not in the underlying bill, which brings me to the question: What exactly went wrong with the crowdout policies that so many of us voted for in 2007?

Certainly, it is not because the Democrats have put forward a policy that addressed crowdout in a better or more efficient manner. Certainly, it is not because the Democrats have new analyses that crowdout is no longer occurring, especially in the expansion of public programs. When Children's Health Insurance Program dollars go to higher income children who already have private coverage, that money could have gone to low-income children. Make no doubt about it, 4 million new people being covered does not take care of the problem of covering low-income children. There are still going to be millions out there who will not be covered whom we ought to have a focus on.

The second bipartisan children's health insurance bill of 2007 that is now the amendment I am going to lay before the Senate returns the focus to low-income children. Finally, this amendment-to-be is the bill that we voted on in 2007 which did not have the divisive legal immigrant issue in it. The underlying bill today has $1.3 billion of coverage for legal immigrants, more than 100,000 of whom already have private or public coverage, dollars that could have gone to cover more low-income children.

The second bipartisan children's health insurance bill—that is the amendment I am going to lay before the Senate—now returns the focus to low-income children. Now, today in the Senate, there are 43 Democrats and 12 Republicans, of which I am one, who were Members of the Senate in 2007 and voted for this bill that my amendment is going to represent.

Those 43 and 12 Republicans who are still here—that is 55 of us—if we would stand together, we could still do great things. We could show that bipartisan amendments still mean something in the Senate. When the vote count ended, we would probably have more than 70 votes for this amendment. Instead, I know if I call for a vote on this amendment, 43 ayes that were cast in 2007 would become ''no'' votes.

After watching the difficulty those 12 Republicans, including this Republican, faced by voting aye and sticking together because we thought we were doing good policy, watching 43 ayes turn to noes on the very same policy is a bitter pill to swallow.

Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 83.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 83.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I support this amendment of the distinguished Senator from Iowa. Essentially, what we are doing is striking the Baucus bill being considered on the floor and replacing it with the CHIPRA II bill that passed overwhelmingly in this body in 2007, enough votes to override a Presidential veto. Not one Democrat voted against this bill. Not one.

But what my good friend, Senator GRASSLEY, and I are offering is a bill that represents a solid bipartisan agreement that we worked out with Senators ROCKEFELLER and BAUCUS. I do not blame Senator BAUCUS for the mess we are in right now, or this partisan approach to CHIP, because he represents his side. But I do believe there has been a real lack of effort by some on the Democratic side to work with us after all of the time that we spent trying to make sure we had something that would work in the last Congress.

What we have is a true bipartisan agreement where we were there from start to finish. Senator GRASSLEY and I, Senators BAUCUS and ROCKEFELLER, and those in the House—we spent hours together, months together, working out the details of this bill. We spent morning, noon, and night for 6 months to get the bill to that point. It was built on a foundation of tough agreements and tough decisions. We were part of the process from the very beginning and stayed with the process until the very end. That resulted in a true bipartisan agreement.

The bill passed overwhelmingly in both the House and the Senate by a veto-proof margin in the Senate. Senator GRASSLEY and I worked our guts out, put our hearts and souls into both CHIPRA I and CHIPRA II. We were proud of our work with Senators ROCKEFELLER and BAUCUS because that work not only reauthorized the CHIP program for 5 additional years, it covered more low-income uninsured children. It retained the original goal of the original CHIP program, which, by anybody's measure, has worked very well over the prior 10 years.

The bill before us today does not represent that agreement. We talked to our colleagues at the beginning and then we were not included in the discussions that evolved into the CHIP bill recently considered by the Finance Committee and now on the Senate floor. We were not even invited. It seems to me once we were not needed anymore we were more or less thrown by the wayside because our votes were no longer needed.

This is not the way to start off the 111th Congress, especially after the last campaign where our President said he wants to work in a bipartisan way, he wants us to get together, he wants us to be able to work with each other, he wants us to accomplish a great deal for this country.

I think I am known for bipartisan work around here, and I certainly have taken a lot of flack for some of the President's Cabinet people I supported, and supported right off the bat, because they were qualified people. I believe the President should have his

choice as long as they are qualified and not otherwise disqualified.

Well, I am going to support this amendment of Senator GRASSLEY's, which represents the true bipartisan agreement of 2007. Now, let me mention a few of the highlights in CHIPRA II.

The amendment states there will be no Federal CHIP dollars for coverage of children over 300 percent of poverty; that is around, $63,000 for a family of four. Now, to be honest with you, when we did the original CHIP bill, we wanted it to be 200 percent of poverty because those kids were the only ones left out of the health care system, the children of the working poor. We did it so we would have enough money to try and cover all of the kids who really qualified for CHIP. Even with that, we found we were not able to get to all of them. So you can imagine, with the current economic difficulties, we are going to have even more pressure to get to more and more kids. If we start allowing states to cover over 300 percent of poverty, which at least one State does and another is in the process of doing, it is not going to be long until this program becomes a Federal Government boondoggle where everybody will expect money from the Federal Government for health coverage.

This amendment eliminates the earmark to allow New York to cover children up to 400 percent of poverty, $84,800. By the time they use income disregards, some estimate that families could be making over $100,000 a year and still qualify for the CHIP program.

Now what does that do? That takes money from the 6 million kids who are low income and uninsured. It is crazy. Yet that is what this bill allows. Senator GRASSLEY and I had to agree to go to 300 percent, which is over $63,000 for a family of four in 2007. But to now go to 400 percent of poverty, admittedly New York City is an expensive place, but New York's rural areas are not that different from other States, except they are taxed to death in the State of New York. But that should not be the problem of everybody in the country.

This amendment includes the bipartisan crowdout policy that addresses the issue of families giving up private coverage in order to enroll in a public program. Our amendment would require a number of studies on crowdout, would improve data collection on the coverage of low-income children, would require all States to adopt these ''best practices'' to reduce crowdout, and would provide the Secretary with the authority to hold States accountable for covering low-income children.

With regard to crowdout, we did our best to stop it so people would not drop their health insurance that they can afford so their kids would qualify for the CHIP program. That is one of the problems with covering higher income families, because, naturally, if parents find they are going to be better off opting for CHIP coverage as opposed to private health coverage, they are going to crowd-out lower-income children from CHIP coverage. That is what this bill really does.

It is a shame because it means less money and less health coverage for those who are truly needy, those for whom this bill was meant.

If we covered the children of the working poor, the only ones who were formerly left out of the health care system, we could probably do a much better job if we kept it to 200 percent of poverty. But Senator GRASSLEY and I agreed to go to 300 percent of poverty in the interest of a bipartisan agreement even though each of us felt that probably was a mistake.

This amendment does not include the controversial legal immigrant provision allowing States to claim a Federal match for coverage of legal immigrant children and pregnant women.

Look, I started the Republican senatorial Hispanic task force. I brought Hispanic leaders from the country to Washington at least twice a year to help us understand how we could better assist Hispanic people. We brought together Democrats, Independents, and Republicans. I have a long reputation of trying to help Hispanic people.

Under our immigration laws, sponsoring families who brought others to this country legally entered an agreement to take care of those individuals for 5 years. It has worked. The current bill on the floor, the partisan bill, wipes that all out. In the process, how many children who are U.S. citizens are going to be left out because we have expanded this program in ways that will not take care of them?

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. DURBIN. I know he has an amendment pending relative to taking care of providing prenatal care to make certain that children are born healthy in the United States. I would like to ask the Senator if he is arguing now that we should not provide maternal care for pregnant women who are legal immigrants to the United States with the full knowledge that the lack of that care may mean the child will be born sick and the child will be a citizen of the United States?

Mr. HATCH. Heavens no.

Mr. DURBIN. Is the Senator arguing we should not provide obstetrical care to pregnant legal immigrant women?

Mr. HATCH. Certainly not. And as the Senator knows, many States today provide that care to legal immigrants through CHIP or otherwise. And let me emphasize that all expenses are supposed to be provided by the sponsoring families for 5 years. If that was the wrong time or it should have been shortened, I would have worked with the distinguished Senator to do that. But that was the deal. That was the rule. That was what we worked on. That is what we thought would work. That is what we thought was fair.

What I don't want to do is have our own children who are U.S. citizens be without care while we cover those who were supposed to be covered by their sponsor families who brought them to the United States.

Mr. DURBIN. If the Senator will yield, if a person is here legally though not a citizen, is a legal immigrant mother, is it not true that her child born here will be a legal citizen?

Mr. HATCH. Yes, it is true. And they would be covered by CHIP.

Mr. DURBIN. Then if we deny care——

Mr. HATCH. What about those who were brought in who are not legal citizens? I am not against helping them.

Mr. DURBIN. I don't think there should be a provision for undocumented illegals.

Mr. HATCH. If I may take my time back, I am not against any children receiving help. A lot of these children get help through our system of health care. But I am talking about a CHIP bill that cannot take care of our current children who are U.S. citizens and now we have included a provision that would allow legal immigrants to be covered before the 5 year waiting period.

I might add, many States today provide coverage to legal immigrant children. Many States do that. I commend them for doing it. But I am worried about having a bill that can get broad bipartisan support that literally first covers our children who are U.S. citizens. This bill does not do that. Let's be honest about it, it doesn't. Today, there are as many as 6 million or more low income, uninsured children who are U.S. citizens who do not have health coverage some of whom could potentially not be covered by CHIP because legal immigrant children will now be covered through CHIP. It is my hope that their family sponsors will take care of them. And if not, these legal immigrant children and pregnant women are still going to be taken care of by the States. I don't know of any pregnant woman who goes to an emergency room and who isn't going to be taken care of.

I think this is a principle that is very important. We should be doing what we can do. But what is more important is that we agreed to not include the legal immigrant provision in CHIPRA II. It overwhelmingly passed, and every Democrat voted for it. Now we come up with a partisan approach that basically undermines that agreement. I am very concerned about it. Frankly, I think Senator GRASSLEY is right in bringing up this amendment.

But don't let anybody fool you. There isn't a child I don't want to help. In fact, the way this bill arose, two families from Provo, UT, came to me. Both husbands worked; both wives worked. Both husbands and wives worked. Neither family, at that time in 1994, earned more than $20,000 combined income a year. Yet they were working poor who wanted to work and not be on the dole, but they couldn't afford insurance for their children, who were

the only kids, the working-poor kids, the only kids left out of the process. So we came up with CHIP to try to resolve that issue. Even with that, we were not able to do everything we wanted to do, but it worked amazingly well. I don't know anybody who denies that fact. I don't know anybody who would dispute me on this statement. I would like to see them try.

The fact is, the bill worked well. Over the last 2 years, in a bipartisan way, we worked to try to solve some of the problems that arose, even with a good working CHIP bill. We worked in good faith. All of a sudden, we find a bill brought up here without any input from us that is a partisan bill, that makes it even more difficult to cover all these kids.

Everybody knows I believe in health care, and I believe we ought to cover everybody. I would like to do it, but I don't want to do it by bankrupting the country or making those who do work have to take care of those who don't. I am a very strong believer in helping those who cannot help themselves but would if they could, but I am not very excited about helping those who can help themselves but won't. Unfortunately, we have a few of those types of people in this country.

What galls me is that I know the President wants to work in a bipartisan way. But the House just acts like, so what, we are just going to do what we want to do. I can understand that type of thinking because they were irritated with some members in the House, even though we ended up with a very strong vote in the House. It just wasn't enough to override the veto. They were irritated with some of those who didn't agree with CHIPRA I or CHIPRA II. But in the Senate, we had, as I recall, 69 votes—more than we needed to override a veto. The reason we did is because it was bipartisan.

I don't know how many people are going to vote for CHIPRA II at this time, but I just remind my colleagues that every Democrat voted for it when it came up. Frankly, even if we didn't get it passed because the House sustained the veto, it was a tremendous victory.

I am not going to spend the rest of my life griping about it. But the fact is, it is a shame that with a President who wants to be bipartisan, the first thing out of the box, the first real bill out of the box happens to be a bill that they know Senator GRASSLEY and I worked hard on, that we carried a lot of water on, that we took a lot of flak for in 2007. Then we find out they are going to do something that is just plain partisan, that isn't going to work as well, and it is going to cost the American people a lot more.

I hope everybody in this body will support Senator GRASSLEY's and my amendment on the CHIPRA II bill. If they don't, personally, I can live with it, but I won't be happy. I think what is going on is not fair, and it is a direct slap in the face to those of us who worked so hard with our friends on the other side. And they are friends. I mean, they are all friends. I care for them. But this is a particularly important bill to me. Right now, it looks as if it is turning into just a partisan exercise.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. If I could interrupt this very interesting debate, as in executive session, I ask unanimous consent that on Monday, February 2, at 3:15 p.m., the Senate proceed to executive session to consider the nomination of Eric Holder to be Attorney General of the United States; that there be 3 hours of debate with respect to the nomination, with the time equally divided and controlled between Senators LEAHY and SPECTER, chairman and ranking member of the Judiciary Committee, or their designees; that at 6:15 p.m., the Senate vote on confirmation of the nomination; that upon confirmation, if there be confirmation, the motion to reconsider be laid upon the table; that there be no further motions in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 3:10 p.m. today, the Senate proceed to a series of votes in relation to the following pending amendments in the order listed: Coburn No. 47, Bunning No. 74, and Hatch No. 80; further, that no amendments be in order to these amendments prior to the votes; that there be 2 minutes of debate equally divided between the votes; and that all votes after the first vote be limited to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The assistant majority leader.

Mr. DURBIN. Mr. President, I would like to speak to the pending matter before us.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I am happy to yield to the Senator from Utah.

Mr. HATCH. I don't think I answered the question as well as I would like to. The question was, Do we want any children of pregnant women, legal immigrant children, not to be helped? Twenty-one States already pay for that. I think most of the others do through emergency rooms. They don't go without health care. But what is happening here is that we are taking what 21 States are actually doing and we are basically just alleviating them from having to do that, that which they are capable of doing and wanted to do, and just taking it over by the Federal Government when, in fact, these problems were solved in a way that was reasonable, with not only families taking care of people they brought into this country for 5 years under their obligation but also because the States would take care of them with State money. I wanted to make that clear. I do appreciate working with my colleagues on the other side, but I am a little disappointed that it has turned out this way.

Mr. DURBIN. Mr. President, let me preface my remarks by saying a word of tribute to the Senator from Utah. I hope he doesn't leave the floor because this may be historic, but I thank him personally for his support of this SCHIP bill through the years. I know it has not always been easy. Sometimes he has been a lone voice. And though we may disagree about one aspect or another, I greatly admire the fact that he has stood up and supported this. I hope at the end of the day he will continue to because bipartisan support for this program is very important. I salute him.

Mr. HATCH. If the Senator will yield, I thank him for his gracious comments. He knows our friendship means a great deal, and also with the distinguished chairman of the committee. I think he is a very fine man who has done a very good job on this committee. But I am going to have a difficult time supporting this bill without some bipartisan approach that would work a lot better than this is going to work. But I thank the Senator again.

Mr. DURBIN. Mr. President, I thank the Senator from Utah.

I want to try to bring this down to the bottom line. This really is a debate about children's health coverage. This is not a debate about immigration. I hope my colleagues will be willing to have that debate about immigration, and soon, because it is long overdue in this country.

Much of this debate is focused on the idea that this provision in the bill would call on undocumented immigrants to abuse the system and that our financially strapped system would be run down by an influx of these undocumented immigrants jumping onboard.

Let me make it clear: Undocumented immigrants have never been eligible for the major benefit programs in America, and this law does not change that. We are talking about legal immigrants, people who are in the United States legally, people who are working and paying taxes, people who are more than likely to become tomorrow's citizens.

It is a different group. These are not those hiding in the shadows because they are here illegally. These are people who have legal documentation as to their presence in the United States. They can go to work. They pay taxes. What we are talking about is making certain the children of these legal immigrants have a chance to be healthy. It is likely many of those children are already U.S. citizens, and many will become U.S. citizens. Their being

unhealthy does not make sense for that family, and it certainly does not make sense for our Nation.

Legal immigrants were able to get some assistance, but the 1996 Federal welfare law restricted those benefits by enacting a 5-year waiting period. This was during the Gingrich era. The policy was instated over 10 years ago, and almost immediately we started changing it, realizing it really did not work as well as planned. Congress and many States recognized we had gone too far and we were causing serious harm to seniors and persons with disabilities and vulnerable families throughout the country.

Over time, and with the support of Presidents from both political parties—President Clinton and President George W. Bush—Congress restored eligibility to many but not all lawfully residing immigrants who needed Social Security assistance or food stamps. We have not yet restored health care services to these individuals and families. We have attempted to do so in the past.

During the debate on Medicare Part D prescription drugs for seniors, the Senate version of the Medicare bill included this same language. We all know how successful the effort was. It passed this Chamber with a strong bipartisan vote of 76 to 21. When there was an attempt to change it, water it down, it was rejected by the Senate by a vote of 65 to 33—a strong bipartisan vote.

In addition to longstanding support from Republicans, Democrats, and Independents, the removal of legal immigrant barriers to health care is also backed by diverse stakeholders. The National Governors Association and the National Conference of State Legislatures are on record supporting the approach of this bill.

In addition, the bipartisan U.S. Commission on Immigration Reform called for lifting restrictions on legal immigrants' eligibility for public benefits shortly after the 1996 restrictions went into place. The arguments for such a policy are overwhelming.

According to a 2003 factsheet from Families USA, extending health insurance to this population actually saves the health care system of America a lot of money. Covering uninsured children and pregnant women through Medicaid can reduce unnecessary hospitalizations by 22 percent. Preventing unnecessary hospital visits results in substantial savings in uncompensated care. Women without access to prenatal care are four times more likely to deliver low birth weight babies and seven times more likely to deliver prematurely with complications.

Avoiding these pregnancy complications is not only the humane thing to do, it is the economic thing to do. It produces great savings to the system. Like all of us, when immigrant kids are insured—legal immigrant kids are insured—their families make better decisions when it comes to the use of health care. They are twice as likely to have seen a primary care doctor in the last year as those who are uninsured. They are three times more likely to have preventive well-child visits. They are more likely to get a flu shot.

In contrast, uninsured immigrant children are four times as likely to have used an emergency room more than once as immigrant children who are covered. ER care is expensive, sometimes unnecessary. We can avoid it by doing the smart thing in providing health insurance for the children of these legal immigrants.

So I say this: There is a lot of debate in this Chamber, and has been over the last several days, about families, family values, life, respecting life. Those are all valuable concepts and principles. But isn't that the bottom line in this debate? If you really do respect families and family values, if you really do respect life and children, why would you deny basic health insurance to these children? They are the children of legal residents of the United States, people paying their taxes, who want the best for their kids, like we all do.

That is why this is so important. We have come at this in the last couple days—and I salute the chairman of the Finance Committee for his patience. We have come at this from 10 different directions. It is still the bottom line. The bottom line is, if you value these kids, if you want them to be healthy, if you want to give them a fighting chance for a good life so they can be happy, healthy, and good citizens of the United States, don't deny them this health care.

No child should have to wait 5 years for health care. Five years is a lifetime to a child with a medical problem. Many of these conditions have long consequences if we do not treat them early. So let's make sure we do the right thing. As someone said in some of the debate the other day, children are contagious. You cannot say, well, we are going to put in a classroom those citizen kids with those legal resident kids, and the legal resident kids do not get to go to the doctor. They have to wait until they are really sick or the parent, in desperation, has to take them to an emergency room, and it does not affect the whole classroom. It does.

We are literally in this together. Our children and grandchildren are in this together. Our country can do better. I hope we defeat these amendments and stick with this basic bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I very much thank the Senator from Illinois for his statement in several respects. One is that he complimented the Senator from Utah. That was the proper thing to do because the Senator from Utah has done a lot and led the way for children's health care. I thank the Senator for making that point very clear. It is true, Senator HATCH has been one of the real leaders in helping to protect kids. He worked a few years ago on the original Children's Health Insurance Program, and he, Senator ROCKEFELLER, and the late Senator John Chafee were several of the prime movers to get children's health insurance passed in 1997.

I would like to say a word or two about the pending amendment offered by my good friend from Iowa, Senator GRASSLEY. He mentioned—and, frankly, some of the speakers have mentioned—a lot about partisanship and seeking bipartisanship, and so forth. We all want to work together. That is clear. Frankly, to be honest, I do not like the word ''partisanship.'' I do not like the word ''bipartisanship'' because that connotes there are two sides trying to force something together. I, rather, think we should—without sounding corny about it—just try to do what is right.

The amendment offered by my friend from Iowa, Senator GRASSLEY, will have the effect of taking about three-quarters of the million children off the Children's Health Insurance Program or, to state it more accurately, if you take the current bill before us, we will add approximately 4 million children to the approximately 6 million children who are currently covered. We are told 10 million kids would be covered under the Children's Health Insurance Program.

Remember, the Children's Health Insurance Program is for low-income kids of the working poor. These are families who are not as poor as those who qualify for Medicaid. It is just the next level up, the working poor. They have had a real tough time making ends meet. The Children's Health Insurance Program is aimed at that group, at the working poor.

Under the legislation before us, not only will the 6 million who currently have children's health insurance coverage receive that care, but 4 million more will be covered under the bill for a total of 10 million.

Cutting to the chase, the bottom line, the effect of the amendment offered by Senator GRASSLEY will be to deny coverage to three-quarters of a million people who otherwise would be covered under the bill or, to state it in very gross terms, if the total under the bill is 10 million covered, that means under the Grassley amendment it would be 9.25 million covered; that is, about 750,000 kids could not be eligible. These are kids who currently in these times need help. These are kids with families where, most likely, the parent is having a hard time finding work or is maybe laid off, really struggling.

We know real wages have not gone up in this country at all in the last decade. Times are tough for a lot of people. They may have lost their house or are losing their house or they may find their rent has gone up even more. There are a lot of reasons people are facing tough economic times. These are the people we want to help.

Now, if these kids in working poor families do not get health insurance, we all know the consequences. One is deferred health care. They are not going to go to a doctor for checkups. They will not get their checkups. One is deferred medication. They do not get their medication. They will get sick more likely.

When they get sick, what happens? Well, if they get real sick, they probably have to go to the emergency room. What happens there? They get emergency care, deferred care. It is expensive care. It is postponed care.

Then what happens? Well, they get the care in the emergency room, but then what is the followup? They will not be seeing a doctor. They will not be seeing a pediatrician. They will not be seeing an internist, somebody who is a primary care doc, a family doc, who could follow up to make sure the child is doing well.

What else happens? Well, the costs in the emergency room are passed on to somebody else. Who are they passed on to? We all know they are passed on to the hospitals, they are passed on to the doctors, who then have to charge their private paying patients more. For those, frankly, who are so concerned about private health insurance—and we all are very much—the net effect of denying children coverage under the Children's Health Insurance Program is not only deferred care, it also means increased premiums for the private health insurance market. That makes it sort of a vicious circle: the higher the premiums go, the harder it is for people, for families to get private health insurance. It is a big problem.

You might ask, who are the 750,000 people the Grassley amendment would deny participation in the Children's Health Insurance Program? Really, his amendment basically strikes the bill on the floor and replaces it with what is called CHIP II. There is a big loss of coverage for perfectly legal immigrants. These are people in our country, frankly, who, for all intents and purposes, are Americans. They stood in line in some country legally to get to the point where they would enter our country. They are going through the process legally. They pay property taxes when they are in America, if they own real property. They, hopefully, pay some income taxes. That means they would have a decent job. They certainly pay sales taxes in this country. These are working people in our country.

They have served in our armed services. I am sure there are some over in Iraq, some in Afghanistan right now. These are perfectly legal folks in our country. The only difference is, they have to wait a little longer to get full citizenship. But they are in line doing all that they need to do under our law to get full citizenship.

They go to public schools in America. Legal immigrants go to school. Those are public programs. So it seems to me, if you have public programs, such as schools and the other public programs like that, then certainly children's health insurance should be fully available to them as well.

But, again, just as a basic reminder, the effect of the Grassley amendment is to deny health insurance to about three-quarters of a million people compared with the underlying bill. I do not think we want to deny coverage to the kids of the working poor who do need health insurance, especially during these very difficult economic times. So, therefore, I urge Senators not to support that amendment.

The ACTING PRESIDENT pro tempore. The senior Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will take a minute to salute the leadership of the Senator from Montana on the Finance Committee. He has done a masterful job trying to keep things together as we get ourselves back to a more stable economy. I congratulate him for the work done and ask him to continue to exert the effort and leadership he has thus far.

Mr. President, I come to the floor to protect the well-being of more than 3,000 children in New Jersey.

AMENDMENT NO. 74

A particular focus as we seek to stimulate an economic revival is to preserve and protect the Children's Health Insurance Program which has helped millions of kids get to a doctor for regular checkups to keep them well and get them the medicines or treatment they need.

However, instead of continuing that safety net or strengthening it, the Senator from Kentucky is targeting 3,000 children in my State, putting their coverage at risk. It is an assault on equity in our diverse country. Incomes vary and certainly costs of living differ and Federal assistance to States reflects their subsistence needs.

This amendment will deprive children of essential health care. These children are from working families who are producing income—modest as it may be—not enough to take care of all their needs but, nevertheless, essential in their family circumstance.

I wish to note that while our economy is going deeper and deeper into a recession, there is an attack on children's well-being by a Senator whose State in 2005 was the ninth largest recipient of Federal assistance. His State—Kentucky—receives 90 cents more for every dollar they pay to the Federal Government than New Jersey does. With the way my Republican colleagues are talking, one might think too many children in New Jersey are receiving health insurance.

While this assault is taking place, it is important to plead our case in the Senate. Right now, the number of children in New Jersey without health coverage is far above the national average. In fact, more than a quarter of a million kids in my State do not have health insurance, and now the Bunning amendment would put more children in my State at risk of losing their health insurance.

One of the other serious problems with this amendment is it intimates that costs among States are identical in each case. The Federal poverty level cannot be applied, for instance, equally in New Jersey and Kentucky. In New Jersey, we have the twin problems of very high costs of living and very high health insurance costs. The cost of living in the State of New Jersey is 30 percent higher than the national average. In fact, only two other States have a higher cost of living than New Jersey. Nearly all the families who rely on this program to get medical care for their children still have to pay copays, monthly premiums, and other out-of-pocket expenses.

This amendment is a bomb intended to disrupt the process the entire country desperately wants to see accomplished—and that is protecting children's health.

Given New Jersey's contribution when it comes to filling other States' needs, I find it particularly offensive. We know other States have different needs than we do, and we join in supporting these needs. If there is a natural disaster in a particular State, for example, the other 49 chip in. That is what our Republic demands.

Time and time again, New Jersey's taxpayers are asked to shoulder the burden to help other areas of the country that are in need, and for every dollar New Jersey gives to the Federal Government, we only receive 61 cents back. As a matter of fact, we are last in the list of States. Compare that with Kentucky. For every dollar Kentucky pays to the Treasury, it gets back $1.51.

Whether it is the Universal Service Fund for phone service, Essential Air Service in aviation or other programs, New Jersey gives far more than it gets back.

The Bunning amendment is contrary to everything we are trying to accomplish on the floor this week. More than 3,000 children in New Jersey are depending upon us now to protect their health. Whether it is illness, disease, violence, toxic pollution, terrorism or other threats, it is our job to protect our children, particularly when they are holding out their hands in need. Children in New Jersey are depending on the Members of this institution to oppose the Bunning amendment.

Two years ago, on a bipartisan vote, the Senate rejected a similar amendment that was offered by the Senator from Kentucky. It is an assault he continues with. I ask my colleagues to reject this amendment once again. Do it with a flourish, and do it with emphasis, because we have to stop States picking on other States in our moments of great need.

Mr. President, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 47

Mr. BAUCUS. Mr. President, I wish to address one of the amendments that will be coming up. There is a series of votes at 3:10 this afternoon. That is about 25 minutes from now. The first vote scheduled will be on the Coburn amendment No. 47. That is the amendment that deals with premium assistance.

Essentially, this amendment requires States to substitute premium assistance for the traditional Children's Health Insurance Program and Medicaid for children above the income eligibility determined by a State as of January 1, 2009. Basically what that says is this: If a State decides it wants to cover more children—let's not forget, when this program was enacted in 1997, the decision was that this would be a block grant program to give States the option, first, as to whether they want to participate in the program and also the option to design programs the way they think makes most sense in their States.

In 1997, the debate was should this be an entitlement program, such as Medicaid, where children of the working poor are entitled to get health insurance, as people are entitled to get health care under Medicaid. This Congress made the decision, no, it should not be an entitlement program, it should be a block grant program.

What does that mean? It means Congress, roughly every 5 years, reauthorizes the Children's Health Insurance Program. It provides money for the programs and money is allocated to the States under a formula. Obviously, larger population States would get more dollars than lower population States. But there is a match; that is, the Federal Government will pay a certain percentage for the program and the States pay another percentage. Under the formula, the Federal Government pays a little more than do the States.

Nevertheless, that is what Congress decided in 1997, and this legislation before us basically continues that same approach. It is a State option. States can decide for themselves what children they want to include. They can determine what level of poverty applies.

The Coburn amendment says: OK, let's say some States currently set their eligibility rates for low-income children, let's say, at 175 percent of poverty. That is not unlikely. There are a lot of States that are in that neighborhood. In fact, my State of Montana, until this last year, had 175 percent of poverty. They passed a referendum raising that to 250 percent of poverty.

This legislation says if a State wants to increase its eligibility rate, any increase that is in effect after January 1 of this year means that the State cannot put those children into the Children's Health Insurance Program but, rather, must take the money and apply it to premium assistance.

What does that mean? That means that money has to go to families to buy private health insurance coverage for their children. They cannot go into the program. But that money they get has to buy private health insurance. The fancy term is ''premium assistance.''

The amendment goes further. It says, in addition to that, when you have to buy private health insurance, with premium assistance, you have to wait 6 months. You cannot get it right away. You have to wait 6 months. So there is going to be a period, 6 months, where kids will have no health insurance. Not only are they not covered under the Children's Health Insurance Program, but they cannot get health insurance.

What if somebody gets sick during that 6-month period? They cannot get insurance in the public program. They cannot get private health insurance. They have to wait. Tell me what sense that makes. I cannot understand how that makes any sense at all. The first requirement makes no sense to me. It is wrong, in my view. The second adds insult to injury.

For those reasons, I strongly encourage Members not to support the Coburn amendment. It has a very restrictive effect. It makes it very difficult for kids in working poor families to get health insurance. Let's not forget we are in difficult times. These are recession times. People do not have jobs. Health insurance is very expensive, extremely expensive in the private market. There is discrimination in the individual market. Insurance companies can discriminate against you. If you have a preexisting condition, they can say: no health insurance. If you have a history of medical care, they can say: Sorry, you have been sick too much; we are not going to cover you, and for other reasons.

Let's say a child falls into this category; that is, the State raises eligibility and this child is currently in a family that is 175 percent of poverty, now at 250 percent of poverty. They are still the working poor. That is a very poor family. Let's say that person applies for health insurance because they lost their job. Let's say the insurance company applies normal preexisting rules in the market. Not only can that person not get health insurance in that 6-month period, they may not get it at all.

I strongly urge Members not to support this amendment. The practical effect of this amendment is to significantly discourage health insurance for poor kids, kids belonging to working poor families. I urge the amendment be defeated.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 83

Mr. BAUCUS. Mr. President, there are a lot of amendments around here flying fast and furious. Frankly, we have read them in the past several minutes. I have one amendment in my hand. We received that a few minutes ago. It is hard to go through it quickly. I am not complaining. That is sometimes the way the Senate operates.

As a consequence, I think I overstated, after my staff read the full amendment, the number of kids that the Grassley amendment would cover compared with the underlying bill.

As I mentioned earlier, current law covers about 6 million children. The bill before us would add approximately 4 million more—roughly 10 million. I stated the amendment offered by Senator GRASSLEY from Iowa would have the effect of reducing coverage by about three-quarters of a million people. I said about 750,000 fewer kids would be covered if the Grassley amendment were adopted to this bill.

It looks as if I have overstated that figure. We checked with CBO. On the other hand, we don't know what the right figure is. CBO does not know. While I probably overstated the figure, it is probably less than or fewer than 750,000 kids, but we don't know how much less.

Looking at the bill rationally, analytically, clearly the Grassley substitute will cover fewer kids. Why? Because the Grassley substitute does not allow coverage for legal immigrants who have not waited 5 years. That clearly means there are a lot of kids in that category. Obviously, there are going to be fewer kids covered.

Second, the Grassley amendment uses the formulation in the second vetoed bill in 2007, and that second vetoed bill is more restrictive than the first vetoed bill. If we look at those two different categories, first, legal immigrants, and, second, with the definition of coverage under the second bill, compare the two with the underlying bill and a good number of kids will not be covered.

We do not know exactly how many, but it will be quite a few. We pretty much think it will not be 750,000 fewer, but it is going to be quite a bit fewer.

I apologize to my good friend from Iowa for making that mistake. It was an honest mistake. Things happen fast around here, and that was our first impression looking at the amendment. After we called CBO and studied it further to find the exact number, we realized I was incorrect in the statement I gave. But again, we don't know what the exact number is.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUNNING. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

AMENDMENT NO. 74, AS MODIFIED

Mr. BUNNING. Mr. President, I ask unanimous consent to modify my amendment, No. 74.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and the amendment is so modified.

The amendment, as modified, is as follows:

Beginning on page 75, strike line 18 and all that follows through page 76, line 2.

Mr. BUNNING. Mr. President, when I have a chance during the 2 minutes of debate, I will explain what the modification is.

I yield the floor.

VOTE ON AMENDMENT NO. 47

The PRESIDING OFFICER. Under the previous order, there is 2 minutes, equally divided, prior to the vote on the Coburn amendment No. 47.

Mr. BAUCUS. Mr. President, I do not see Senator COBURN. I ask unanimous consent that all time be yielded back on that amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. All time is yielded back.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Corker	Isakson	Voinovich
Cornyn	Johanns	Wicker

NAYS—62

Akaka	Conrad	Landrieu
Baucus	Dodd	Lautenberg
Bayh	Dorgan	Leahy
Begich	Durbin	Levin
Bennet	Feingold	Lieberman
Bingaman	Feinstein	Lincoln
Boxer	Gillibrand	Lugar
Brown	Hagan	McCaskill
Burris	Harkin	Menendez
Byrd	Inouye	Merkley
Cantwell	Johnson	Mikulski
Cardin	Kaufman	Murkowski
Carper	Kerry	Murray
Casey	Klobuchar	Nelson (FL)
Collins	Kohl	Nelson (NE)
Pryor	Shaheen	Udall (NM)
Reed	Snowe	Warner
Reid	Specter	Webb
Rockefeller	Stabenow	Whitehouse
Sanders	Tester	Wyden
Schumer	Udall (CO)	

NOT VOTING—1

Kennedy

The amendment (No. 47) was rejected.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 74

Mr. BAUCUS. Mr. President, the next amendment is the Bunning amendment. I think under the agreement Senator BUNNING is recognized to speak for 1 minute.

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on the Bunning amendment, as modified.

Mr. BUNNING. Mr. President, I have had to modify my amendment slightly because CBO says directing more money to outreach and enrollment creates a score. So I have taken the outreach section out.

However, the amendment is still very simple. It removes the exception for New York and New Jersey to cover families above 300 percent of poverty and get the highest SCHIP matching rate. Instead, they would get the lower Medicaid matching rate covering these families like every other State in the Union. So you have a choice today: Require the people of your State to pay more taxes so New York and New Jersey can cover families who make $77,000 or $88,000 or treat every State the same.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. The Bunning amendment is the fourth amendment this week that would put a cap on the eligibility of the Children's Health Insurance Program, a cap to prevent kids from entering the program. Yesterday, we rejected a Cornyn amendment with a cap of 200 percent of poverty, a Roberts amendment with a $65,000 cap, and a Murkowski amendment with a conditional cap of 300 percent of poverty. Now the Bunning amendment would set a hard cap at 300 percent of poverty. We should vote this down for the same reasons we voted the others down; that is, because it deprives kids of getting health insurance.

Mr. BUNNING. Mr. President, I ask for the yeas and nays.

Mr. BAUCUS. Mr. President, I move to table the Bunning amendment and ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—54

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NAYS—44

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Carper	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Specter
Cochran	Johanns	Thune
Collins	Kohl	Vitter
Corker	Kyl	Voinovich
Cornyn	Lugar	Wicker
Crapo	Martinez	

NOT VOTING—1

Kennedy

The motion was agreed to.

Mr. CARDIN. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 80

The PRESIDING OFFICER. There is now 2 minutes equally divided on the Hatch amendment No. 80.

The Senator from Utah.

Mr. HATCH. Mr. President, this amendment would codify the 2002 HHS regulation which gives States the option of providing CHIP coverage to children before as well as after birth. Fourteen States have already approved plans to provide CHIP coverage to children before birth: Arkansas, California, Illinois, Louisiana, Maine, Minnesota, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin.

This amendment also allows States to provide health services to the mother for 60 days after the birth of her child. In addition, the amendment also would provide health coverage to pregnant women for issues not relating to the pregnancy. This amendment will continue allowing States to promote the health of children and their mothers before and after birth by codifying the 2002 HHS regulation.

I am happy to have a number of cosponsors on this amendment, including the distinguished Presiding Officer. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, the Hatch amendment would codify the divisive Bush regulation that only covers the unborn child but not the mother. In other words, they separate the two. What we do in the underlying bill is we cover both. We cover the pregnant woman and the child she is carrying. There is no reason to have this amendment. Look at page 50 of the bill. It clearly states that prenatal care will be delivered to that pregnant woman. This is about adding abortion to this debate. It doesn't belong in this debate. It is not necessary. We have already voted this down twice. I trust we will vote it down now.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 80.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—39

Alexander	Crapo	Lugar
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Nelson (NE)
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Casey	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

NAYS—59

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murkowski	

NOT VOTING—1

Kennedy

The amendment (No. 80) was rejected.

Mrs. BOXER. Madam President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Madam President, I voted against the Hatch amendment for the following reasons.

This amendment sought to codify in law a legal concept of unborn children, therefore establishing the fetus as protected separately from the mother. The need to provide health care coverage for expectant mothers is clear and the State Children's Health Insurance Program reauthorization being considered allows States to provide coverage to pregnant mothers.

While I support the policy of providing health coverage to pregnant mothers in the pending legislation, this amendment is an effort to advance a political cause rather than provide a medical necessity.

This amendment has no practical effect in terms of health care coverage for pregnant women.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I am aware of only a couple more amendments that require rollcall votes before we go to final passage. I expect we may have a DeMint amendment on tax deductions. I expect that amendment may require a rollcall vote. Second, shortly we will hear from Senator COBURN on his substitute amendment No. 86, and I expect this amendment may also require a rollcall vote. In addition, I hope we can address two amendments by the ranking Republican member, Senator GRASSLEY, and I have some hope that we will be able to address those amendments with voice votes. I am hoping the remaining amendments may only require voice votes. So Senators should be aware that we are getting close to finishing this bill. I am hoping we might be able to vote again in an hour or 90 minutes, but we are closing in.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 85

Mr. DEMINT. Madam President, I ask unanimous consent to set aside the pending amendment and call up DeMint amendment No. 85.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 85.

Mr. DEMINT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an above-the-line Federal income tax deduction for health care costs of certain children in an amount comparable to the average federal share of the benefit provided to any non-citizen child for medical assistance or child health assistance)

At the appropriate place, insert the following:

SEC. —. INCOME TAX DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

(a) IN GENERAL.—Part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

"SEC. 224. DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

''(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible taxpayer, there shall be allowed as a deduction for the taxable year an amount equal to so much of the qualified child health care costs of the taxpayer for the taxable year as does not exceed the amount that is—

''(1) $1,500, multiplied by

''(2) the number of qualifying children of the taxpayer.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer whose taxable income for the taxable year does not exceed the exemption amount applicable to such taxpayer under section 55(d) for such taxable year.

''(2) QUALIFIED CHILD HEALTH CARE COSTS.—The term 'qualified child health care costs' means the aggregate amount paid by the taxpayer for medical care (as defined in section 213(d)) for all qualifying children of the taxpayer.

''(3) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given such term by section 24(c).

''(c) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the name and taxpayer identification number of such qualifying child on the return of tax for the taxable year.

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of the deduction otherwise allowed under this section with respect to any qualifying child for any taxable year shall be reduced by the amount of any deduction allowed under section 213 with respect to such child for such taxable year.

''(e) COORDINATION WITH SCHIP AND OTHER HEALTH BENEFITS.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child if such child is eligible for any benefit under any health assistance program funded in whole or in part with Federal funds.''.

(b) ABOVE-THE-LINE DEDUCTION.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENTS.—The table of sections for part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by striking the item relating to section 224, and

(2) by adding at the end the following new items:

''Sec. 224. Deduction for health care costs of certain children.

''Sec. 225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Mr. DEMINT. Madam President, in deference to my colleague from Oklahoma, I won't speak on the amendment at this point, but I will briefly state its purpose.

The purpose of this amendment is to help American taxpayers pay for their children's health care to the same degree we are forcing them to help pay for the health care of noncitizen children in this underlying bill. Specifically, it would provide all eligible American families with an above-the-line Federal income tax deduction for each child comparable to the average Federal share of the benefit provided to any noncitizen child under the SCHIP legislation.

I will speak more about the bill following Senator COBURN's introduction of his amendment, but for now I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 86

(Purpose: To ensure that American children have high-quality health coverage that fits their individual needs)

Mr. COBURN. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 86.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself, Mr. BURR, and Mr. GREGG, proposes an amendment numbered 86.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. COBURN. Madam President, the bill we are considering is designed to help low-income kids have coverage and have care. What do we know about the kids who are in those programs and the care they have? Here is one of the things we know: They don't have access to 60 percent of the doctors in this country because the reimbursement rates are so low they won't be seen. That is the first thing. No. 2 is they don't have access to the best drugs because a lot of Medicaid programs and SCHIP won't pay for the best drugs for those children.

I got to thinking about this bill and what it does and what it is intended to do. What is in agreement in the Senate is that we want all of the kids covered. We want every child in this country to be able to have access to quality care with no limitation of their choice of who their doctor is going to be—the one the child and the parent feel the most comfortable with—because we know if that is the case, they are going to be most compliant. So we want them to have the greatest care, and we want every one of them to be able to have access to care.

This bill brings up Government payments under SCHIP to 300 percent of the poverty level—60,000 bucks, essentially. Anybody making, essentially, over that wouldn't be benefited by this bill but everybody under it. It adds $70 billion worth of taxes to the American people to be able to do that. As it does it, it takes 2 million kids who are presently covered by insurance off insurance and gets 2 million out of the 8.9 million or 9.8 million kids who aren't covered today with anything. So we are going to spend $70 billion to get 4 million kids, a little less than 4 million kids covered, of which we are going to absorb the costs that are already being paid by businesses for those kids right now.

By the way, I ask unanimous consent to add Senators MCCONNELL, ENZI, CORNYN, DEMINT, JOHANNS, KYL, ALEXANDER, GRAHAM, BURR, CHAMBLISS, THUNE, and BARRASSO as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. So maybe it is instructive for us to look at what we are doing right now and say: What could we do with that money? Right now, we have 31 million kids in America who don't have private coverage. In other words, we have 31 million out of the 78 million kids who don't get to choose where they want to go, don't get to have the best drugs, don't get the referral to the best centers, don't get the referral to the best doctors because they are on a Government-run program. So 8.9 million kids aren't even covered by any program right now, and not all of those 8.9 million kids are in families who are at 300 percent of the poverty level or less. This is based on 2005 numbers, and we know it is greater now, but these numbers for the number of children are accurate right now. We are spending $67 billion to do that.

What does that mean? That means we are spending $2,160 each to cover 22 million kids. Well, if you divided the 31 million kids who are out there into this number, you would get $2,160 available for every child at 300 percent of the poverty level who is not covered right now by their parents, and that includes Medicaid and SCHIP. So you have $2,160 to work with.

Now, the average price in the individual market in this country is less than $1,200 a year. Some will say: Well, that coverage is not as good. Well, let's make it $1,700, which is $300 more than what our kids cost. Let's make it $1,700, or let's make it $1,800, or let's make it $2,160. What could we buy for $2,160 for every kid at 300 percent of the poverty level or less who is not on the program? What we could buy for all of them is a top-grade policy outside of Government-run programs that would give insurance to 100 percent of the children who don't have insurance and give them 100 percent access to every quality doctor in this country on a competitive basis and give them access to the drugs the Members of Congress' kids have access to and the same doctors to whom the Members of Congress have access.

The important point is, we have a government-run program and the administrative costs and the inefficiencies of it cost more than private insurance, than if we would just go out and buy every one of these guys an FEHPB—Federal Employees Health Benefits Plan—a top-drawer plan. Why would we run it through the Government? Why would we take away choice? Why would we take away access by running it through a government-run program and one that is highly inefficient?

There is another thing we should know. The rate of fraud in private insurance products is about 3 percent. The rate of fraud in Medicaid is 10.4 percent, and in SCHIP it is 14 percent. So because the Government is running the program and we can't run it well and we don't run it well, we are losing about 11 percent or 11 cents out of every dollar that we are trying to get to kids because we can't run efficient or effective programs.

So wouldn't it be smarter, rather than to have all of this gobbledygook government, to make sure that every kid in this country whose parents don't make $60,000, who isn't covered with insurance today, has access to a top-drawer health insurance policy that gives them 100 percent access, gives them 100 percent quality, and gives them 100 percent access to the drugs and the physicians they want? Who is going to argue with that?

As a matter of fact, several of my colleagues are cosponsors of the Healthy Americans Act, and that is exactly what it does. It is going to be very interesting to see if they are cosponsors of this bill but yet don't vote for this for kids. And that is a bipartisan bill. So if it is good enough for all of America and if it is good enough for the Members of Congress and their kids and if it is good enough for Federal employees, why can't we give that to the children of this country who don't have health insurance? Why can't we do that? We can't do it because it doesn't fit into the partisan rancor of Washington.

This is a commonsense proposal that doesn't cost a penny more than what we spent in 2005. And we cover all of the kids, not just 4 million more; we cover 8.9 million more with the same amount of money. All the children have access.

It is not a child's fault if their parents can't afford or don't have a job that gives them access to 100 percent of physicians or access to the best medicines or access to equal care. It is not the child's fault. So if we are going to spend this much of the American taxpayers' money, why don't we get value for it? Why don't we decide we want value for this money?

So if you take all the kids out there—31 million—on what we spent in 2005, you can spend $2,160 on every one of them—every one of them—and get them a top-drawer health insurance policy. Top drawer. Top of the line. That is almost double what the charge is for an individual policy now. So we could spend almost twice as much to get that same coverage. Why would we

not do that? What is going to keep us from helping all the kids?

I will tell my colleagues the other aspect of it. We are also not going to raise taxes $71 billion if we do this plan. Let me say that again. President Obama said your taxes won't be raised. This bill raises $71 billion—granted, from tobacco products, which I don't have any objection to—but let's save the $71 billion on tobacco products for something else when we can efficiently buy our kids health care and buy them a health insurance policy.

Another key point: As somebody who has cared for Medicaid kids and Medicaid moms, when you have the ''Medicaid'' stamp on your forehead, it is not equivalent care. When we give all these children access to a private insurance policy of their own, it is no longer a Medicaid program, it is their insurance policy. Providers will never know how they got that policy. They will never know if it was an employment-based policy, an individually bought policy, or a policy that comes through SCHIP and Medicaid.

What we do is we take the demeaning qualities and characteristics of having to be dependent through a government program, and we throw that out. So the bias goes out, the discrimination goes out, and the self-esteem goes up.

What will happen if this passes? The first thing that will happen is we will save $70 billion. The second thing that will happen is not 4 million kids—actually, it is a net 2 million kids will get coverage—8.9 million kids will get coverage, and we will do it with the same amount of money we spent in 2005. Every child will be covered. There will be a real choice of who is going to be your provider. Right now you get hustled into whoever will take care of you in these programs. Some are great and some are not. Confidence will be restored. There will be increased quality of outcome and increased access to specialists who now today cannot afford to see a Medicaid or SCHIP patient because their overhead is so great.

Finally, $70 billion—I know we are talking about $1 trillion in the stimulus package—doesn't seem like much, but $70 billion is a lot of money. If you look at it, it is about $2,000 per man, woman, and child over the next 5 years that we will save in this country.

If the goal of SCHIP and all the speeches we have heard all week long is to care for kids, to make sure kids have access, to make sure they have care, if that is the goal, then anybody who is not going to vote for this amendment is not secure in saying they want to cover all the kids. This one will.

This substitute allows the Secretary to develop autoenrollment. There is $100 million in this amendment so we can have outreach, trying to get kids coverage. This takes away the negative consequences of applying for Medicaid or applying for SCHIP when your parents cannot afford to get you coverage.

The other thing it does is there is a compensation in terms of making sure we help people who have insurance keep their insurance by compensating to keep them on their employer's insurance, which costs a whole lot less. It costs maybe $200 or $300 a year. But the most important thing it does is it provides liberty and freedom and equal access for every child in this country.

They are going to say this will not work. But notice there is not going to be a point of order filed against this amendment because this amendment does not cost any money. It saves money. It does not cost a penny. It will not cost us and will cover so many more children.

My question to my colleagues, as we wrap up the SCHIP bill, is: Do you want to do it right? Do you want to do it better? Do you want to cover all the kids. Or do you want to play the games of Washington and political gamesmanship and partisanship and say: Yes, I care about the kids, but I couldn't do the right thing, the easy thing, the commonsense thing, the things that are associated with order, priority, and common sense that says: Gosh, we can buy and get better coverage for less money; why wouldn't we do that?

We are going to hear all the reasons. We may not hear any because most of the amendments I offered nobody will debate them. They know they have the votes to defeat them so they will not debate. They will not come out and say why this would not be a good idea.

The American taxpayers ought to think: Here is a great opportunity for us to save a ton of money and do something very good socially: cover innocent children with quality health care that they do not have access to today, with no increase in cost—with no increase in cost. Yet we are going to see a vote where they are going to say no. Then we are going to know if you care about kids and whether you care about access for kids.

I will end my debate at this time and yield to my colleague from North Carolina, Senator BURR.

I ask unanimous consent to add Senator VITTER as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. BURR. Madam President, we are at a point where the rubber meets the road. We are challenged daily in this institution and across the country by the American people to find solutions to real problems. In 1997, we found a problem. It was called uninsured children. In the House Energy and Commerce Committee, I was one of those who crafted the original SCHIP program. It was the right way to go at that time.

Health care has changed a lot since 1997. We have continued to reauthorize SCHIP. We have talked about expansions. As a matter of fact, we debated, over the last couple days, why an expansion of eligibility actually hurts low-income children, the ones below 300 percent of poverty. Why does a State want to increase the eligibility income of beneficiaries under SCHIP? It is because there are some kids who are hard to get to. They are hard to find to give them health care. Rather than leave anything on the table, states would like for us to make it easier by expanding the pool of eligibility so we can take higher income kids and put them in the program.

In 2008, there were 7.4 million kids enrolled in SCHIP. It is a 4-percent increase from 2007, but it is a little bit misleading because within that 7.4 million, the monthly average was 5.5 million kids enrolled in SCHIP. What that implies is there are 1.9 million kids who sort of rotate in and rotate out of SCHIP because they possibly migrate from one State to another. So they are not permanent enrollees.

Throughout these days, we have heard Members say our objective is that we want to cover as many kids as possible. Now we have Members standing and saying, as many kids as possible is not what the goal should be of the Senate. The goal should be every child under 300 percent should be covered.

Dr. COBURN did a very good job of spelling out for us that we have quite a large pool of individuals. We have 49 million kids under 300 percent of the poverty level. Of the 78 million kids in America, 22.1 million are currently under Federal programs—Medicaid and SCHIP; 8.9 million kids are uninsured.

We have a proposal in front of this body. That Baucus proposal is to raise taxes of $70 billion-plus and to cover 5.7 million of the 8.9 million uninsured. Actually, that is not the case because of the 5.7 million, 2 million are currently covered by their parents' insurance. We are actually going to increase the rolls by 3.7 million children for $70 billion-plus. We still leave quite a few kids out there without insurance, without coverage. Even though their families have too much money for Medicaid, and they are not enrolled in SCHIP.

This is the time to reform this program. This is the time to say let's design a program that catches 100 percent of the kids at 300 percent of poverty and below. This is the time to totally rethink how we deliver this care.

As a matter of fact, the proposal that Dr. COBURN has made not only can be funded without the $70 billion tax increase and cover 100 percent of the kids, but it actually saves the American taxpayers $144 billion over 5 years. There is the part you did not hear from Dr. COBURN. We actually save $144 billion over 5 years.

You see, the current Baucus proposal on the table is going to increase enrollment of uninsured children under 300 percent of poverty, and it is going to cost $74 billion. If you add that to the number of uninsured who remain in the pot, which is 2.9 million, under the way they have approached this bill, it

would cost roughly $70 billion more to cover that pool of 2.9 million. So, in fact, for my colleagues, if you want to know what we have done in this amendment, as Dr. COBURN said, we have come up with a health care proposal that covers 100 percent of the uninsured children under 300 percent of the poverty level, and in doing it, we have saved the American taxpayers $144 billion over the next 5 years if—if—the goal is to cover 100 percent of the uninsured children under 300 percent of poverty. We only save $144 billion if that is the intent to cover all.

If the intent is to cover all, why in the world would you spend $144 billion more dollars if you can do it with today's dollars?

Congress—the Senate and the House—has been deficient since the beginning of this program because we do not cover all the kids. Yet I remember that was the objective the day we wrote the bill. Let's get on a path to cover all.

We are also deficient in the fact that the way SCHIP is structured, we rely on the 60 percent of all health care providers who actually see this population. Forty percent of the health care professionals in this country restrict access to Medicaid beneficiaries or SCHIP beneficiaries. We have now limited the pool of professionals to 40 percent.

With the changes in this amendment, we now open the pool to 100 percent. We increase the choice of a child with Medicaid and SCHIP, and we have now put them in a product where 100 percent of the health care professionals, in fact, will invite them in and be their medical home or their primary doctor, their pediatrician. Without this amendment, we will continue to serve less than 100 percent of the 300 percent of poverty and below, and we also limit the number of health care professionals who are going to see these children, that generation whom we feel incredibly committed to make sure are successful, not just in life but in health.

This does not need to go on, but I do wish to make this point to my colleagues. This is not another amendment. I know we have had votes on amendments for the last 2 days, and we routinely come down here and it is pretty much a party-line vote, although I learned earlier in this debate that when one Republican votes for it out of committee, it is now bipartisan. I am not sure that is the definition President Obama had of ''bipartisanship'' when he gave a wonderful inauguration speech on these Capitol stairs. Given that one Republican did vote for the bill, it is now bipartisan.

This amendment is about the next generation. It is about the most at-risk children in this country. It is about a real option and a real choice, where that population has full coverage, sees any doctor, enters any medical delivery point in the system, and saves $144 billion over what we would have to spend under the current method. It does not eliminate SCHIP. As a matter of fact, we reauthorize SCHIP for 2 additional years while the Secretary is able to put together the architecture for this product to be in the marketplace.

This is a real opportunity for this body to change the direction and, more importantly, to fulfill the promise that is made over and over on this Senate floor, that what we are doing is to make sure every child in America has health care coverage. If we adopt this amendment, if we vote yes for TOM COBURN's amendment, we will have completed that promise we made to America's children.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise for three or four purposes that I will do in succession.

No. 1, I would like to define bipartisanship for the Senator from North Carolina. No. 2, I want to give a statement in support of the Coburn amendment. No. 3, I would like to bring to final debate my amendment 83, if the majority manager would like to vote on it at that time—and that would be a voice vote—and then I would have my last amendment to introduce, which is amendment No. 71 that I would speak about.

First of all, I think I know something about establishing bipartisanship in the Senate. I was part of a bipartisan proposal 2 years ago that maybe Senator BURR didn't like, but it was very bipartisan. It is kind of an institutional thing, bipartisanship, as far as I practice it in the Senate and as Senator BAUCUS has practiced it, up until this particular amendment. What you do to get to be bipartisan, you sit across the table from each other, Republican and Democrat—and maybe more than one Republican, maybe more than one Democrat—with expert staff, and you build up a piece of legislation that is eventually put before the committee as a Baucus-Grassley bill or as a Grassley-Baucus bill, depending on who is in the majority. Then what you do is you make up your mind that you are going to be arm in arm defending that through the committee process, through the Senate, through conference, and all the way to the President. And you try to maintain 65 to 70 votes within the Senate. That is the way I define bipartisanship.

It is a little bit like if you and your wife were going to buy a new car for that old jeep that you drive around. If you said it is going to be a family affair, you would be sitting down with your wife and asking: What kind of a car do you want? What color do you want? What accessories do you want? You wouldn't go up to your wife, I hope, and say: Honey, we are going to buy a new car. This is what we are going to buy and it is a mutual decision. You wouldn't do that. You would work with your wife to decide what kind of car you want.

So if you want bipartisanship in the Congress of the United States—and I am sure that is what our President was talking about during his campaign—you have to work together to get it. But it is not like this issue was handled—or maybe I can speak more accurately about the stimulus issue that will be up next week—where 48 hours or 24 hours before it comes up, Republicans are given a document and are notified that this is what we are going to do.

So I say to the Senator from North Carolina, that is my definition on what bipartisanship is. I don't know whether you agree with it, but at least that is what I have tried to practice, and I think Senator BAUCUS has basically tried to practice that as well.

Mr. BURR. If the Senator will yield, that is the definition I understand exactly. But that is not the process we completed on SCHIP or the stimulus package. My hope is the President will win at the end of the day.

Mr. GRASSLEY. Madam President, one of the reasons I said I came to the floor was to speak about the Coburn amendment and to say why I am going to vote for it. This amendment, which has been the product of Senator COBURN's and Senator BURR's speeches a few minutes ago, presents a fundamental choice about how we will go forward with health care reform in this country. Now, I wish to emphasize ''how we will go forward with health care reform,'' which is maybe the next health care issue that is going to be before our Senate.

The underlying bill covers 4 million kids. It leaves 2 million kids without coverage. Why? Well, as CBO has told us so often, if you ask State government to go out and cover kids, as we do in Medicaid and the Children's Health Insurance Program, States need more and more Federal dollars to do so. So let's face it, that is exactly how this bill works. We throw billions of dollars at the States, and the States go out and find kids and pay for their health care. The more money we throw at the States, the more kids they cover. The less money we throw at States, the fewer kids they cover.

The Coburn amendment takes a totally different approach. This amendment generally follows the successful way that the Medicare Part D benefit works. By the way, let me say parenthetically about Medicare Part D, which has been law now for 4 or 5 years, it is about the only Federal program I know about that has come in under budget. I am not talking about just for 1 year, I am talking about the projections CBO made for it at that time for the 10 years into the future. I don't have an exact figure in mind now, but maybe 6 months ago I used a figure that was in the billions of dollars that it was under what we anticipated spending.

So we are talking about a Coburn amendment that follows the pattern of Part D Medicare, which works, and it

is financially a protection for the taxpayers' dollars. If the Federal and State governments work together to create a healthier market, the private sector will be more efficient in covering kids. That is the Part D model. That is the model we have before us in the Coburn amendment. It is the private sector, on the one hand, in that philosophy, versus the public sector on the other hand.

I wish my colleagues had more time to fully develop this with the Congressional Budget Office because the contrast this amendment paints is one we are going to be facing in the health care reform. So I wish to emphasize that the next health care debate we have is going to be health care reform and we ought to have that debate and we ought to bring about the reform that is necessary.

So let's think of that as laying the groundwork for a lot of debate that we are going to have in the upcoming issue of health care reform. Basic questions: Do we want a government-run solution? Is growing our Government bureaucracy in the area of health care the pathway to covering all Americans? Or do we want governments to help the market work better; or possibilities of Government and private partnerships? Do we want to harness the ingenuity that is out there in the private sector in covering all Americans?

Now, I don't answer those questions, but those are questions everybody in this body, and I hope grassroots America, will look at in the coming months. With this vote, I am giving you a partial answer to my approach to these questions.

I would like to go on to, hopefully, what will lead us to a vote on amendment No. 83, I believe is the number of the amendment, but before I do that, I would like to speak about an issue that came up when I was off the floor earlier this afternoon. The chairman of the Senate Finance Committee, my friend, Senator BAUCUS, characterized the Grassley-Hatch amendment I offered earlier as not covering 750,000 individuals as compared to the underlying bill. This is about my amendment 83.

Now, I understand Senator BAUCUS later came to the floor to acknowledge that his characterization of the Grassley-Hatch amendment was incorrect and he apologized, and I thank him for that. However, the chairman is still inaccurate, from my point of view, in some characterizations of the Grassley-Hatch amendment, and that is what I wish to go into.

The chairman stated my amendment would cover fewer individuals because it does not include the legal immigrant provision. I would like to draw all my colleagues' attention, but particularly Senator BAUCUS' attention, to footnote ''f'' on the enrollment table of the Congressional Budget Office production on the underlying bill. Footnote ''f'' states:

The Medicaid and SCHIP figures and the Medicaid SCHIP total may include some legal immigrant children and pregnant women who receive health insurance provided through State-funded programs.

In other words, the so-called new enrollments of legal immigrants are actually individuals who are currently insured with State or local funds. In terms of additional enrollment figures, the chairman notes correctly that we don't have a CBO table. He is correct that we don't know the actual enrollment numbers resulting from the Grassley-Hatch amendment.

I would reiterate what I said earlier. The amendment we are going to be voting on is the same bill that 55 Members of this body—and they are presently Members of this body—voted on and successfully passed by a wide margin in 2007. So I have to ask the question, before we vote on my amendment: If it was good enough then, why isn't it good enough now?

If the majority doesn't want to vote on this now, I will go on to offer my other amendment. Do I ask for the question, Madam President, on amendment No. 83?

The PRESIDING OFFICER. The amendment is not the pending amendment.

The Senator from Montana.

Mr. BAUCUS. Madam President, there is no reason we can't make it the pending amendment. But I would like to say, first, very briefly, that I deeply appreciate the remarks by my good friend. I know all of us are trying to get the right numbers, the accurate numbers. It is a search for the truth, and CBO has not given us the right number, so it is hard to know exactly what the effect will be.

It seemed to me, somewhat logically, that the inclusion of legal immigrants would mean probably more people covered, even though some may be covered some other ways. We don't know the number, but that is sort of the effect. Therefore, I say to my colleagues, I think it is better to include more people, more kids, in the Children's Health Insurance Program and not fewer.

With respect to the vote on the last bill, where 55 Members of the Senate supported it, and the Senator's question: If not then, why not now, the answer is because now the underlying bill is a little better. It covers more kids. It is better to cover a few more kids than not to cover a few more kids. So that is why it is not right now where it might have been right then.

Madam President, I ask unanimous consent that we proceed to the Grassley amendment. Notwithstanding the other amendments, I ask that we proceed to the Grassley amendment at this point.

VOTE ON AMENDMENT NO. 83

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is now pending.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 83) was rejected.

AMENDMENT NO. 71

Mr. GRASSLEY. Madam President, I would, first of all, like to give my rationale for an amendment I am going to present to the Senate before I actually present it. It will be amendment No. 71, though.

Congress has known for some time that the Children's Health Insurance Program faces expiration March 31 of this year. We all knew Congress would have to act quickly once the new session got underway. The majority had three different options they could have taken in moving forward. First, they could have simply picked up one of the two vetoed bills and quickly passed it. It would have received bipartisan support. I would have preferred the second bill over the first, but I could have probably found a way to support the first bill. Either of those bills would have moved quickly and would have had significant bipartisan support.

The second option the majority could have taken was to do a short-term extension of the Children's Health Insurance Program while we worked on broader health care reform. That is what this amendment does. It is a six-quarter extension of SCHIP through the end of the next fiscal year.

Now, I do understand there is a point of order against this amendment. This amendment actually should have been done on the stimulus bill, where everything and the kitchen sink appears to be going, but that is a debate for next week. It would have been a drop in the bucket on that bill.

If the underlying bill is enacted, it will provide coverage to many people who were previously uninsured—approximately 4 million children—by the year 2013. While I don't want to denigrate the accomplishments of this bill, everyone in this Chamber knows we need to roll up our sleeves and get to work on covering the other 42 million uninsured Americans who will not benefit from this bill—millions of whom are children this bill does not provide coverage for.

I wish to focus on that task. I want us to work in a bipartisan manner to get coverage for all Americans, and everything in that process so far has been bipartisan, but it is something we are going to have to deal with on SCHIP again. So I am willing and ready to do the hard work it is going to take. We could have set aside SCHIP while we focused on that most important task of full-fledged health care reform. Instead, the majority has chosen a third option: to bring up a bill that walks away from the bipartisanship of 2007 and threatens relationships moving forward with broad health care reform. I want to emphasize ''threatens'' because so far everything has been bipartisan in meetings and discussions and everything.

I have made no secret of my disappointment in the changes made in the underlying bill. It is very important that people watching the debate understand how totally unnecessary a

partisan fight is. The majority had bipartisan bills they could have brought up for consideration. I had an amendment earlier that would have replaced the underlying bill with the second of those earlier bills. The majority could have done a simple extension of SCHIP while we worked together on covering 46 million uninsured, not just the 4 million covered by this legislation. That is what this amendment does. It is the last chance for cooler heads to prevail.

It was reported recently that the Speaker of the House said, ''We won the election. We write the bills.'' Seeing the majority take that approach on the Children's Health Insurance Program, an issue that always had broad bipartisan support, does not give me comfort moving forward on health care reform.

I ask unanimous consent to set aside the pending amendment and call up my amendment, No. 71. I do not know how much debate there will be on it, but I have nothing more to say on that amendment.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 71.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the State Children's Health Insurance Program for 6 quarters in order to enact bipartisan, comprehensive health care reform)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SCHIP Funding Extension Act of 2009''.

SEC. 2. FUNDING THROUGH FISCAL YEAR 2010.

(a) THROUGH FISCAL YEAR 2010.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)), as amended by section 201(a)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) in subsection (a)(11), by striking ''and 2009'' and inserting ''through 2010''; and

(B) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(2) AVAILABILITY OF EXTENDED FUNDING.—Funds made available from any allotment made from funds appropriated under subsection (a)(11) or (c)(4)(B) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal year 2009 or 2010 shall not be available for child health assistance for items and services furnished after September 30, 2010.

(b) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by striking subsection (l) and inserting the following new subsections:

''(l) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2009.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $3,000,000,000 for fiscal year 2009.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2009 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2009.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2009, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) ONE-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2009, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2009. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

''(m) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2010.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $4,000,000,000 for fiscal year 2010.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2010 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2008 and 2009 that will not be expended by the end of fiscal year 2009;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2010 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2010.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2010, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2010, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2010, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2010. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).''.

(c) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall be in effect through September 30, 2010.

(3) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is repealed.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, very simply, I do not agree with this amendment. Why? Because here we are. It is about 5 o'clock. We are on the verge of passing a 4½ year reauthorization of the Children's Health Insurance Program. We are on the 2-yard line. We are about ready to put this ball across the goal to score a touchdown, to get this passed. This amendment sets us back several yards, quite a few yards. We are on the 2-yard line for a 4½ year reauthorization. If this is agreed to, we are back to the 50-yard line.

I think it is better to get this bill past the goal line and pass this 4½ year

legislation. I urge we do not adopt this amendment that sets us back.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I wish to emphasize that I do not disagree with what he said, he said it accurately, but here is the point I am trying to make. In just a few months, we are going to be working on health care reform and we are going to be working, within those few months, on how the Children's Health Insurance Program fits in with it. We are going to be going through this exercise once again, so we wasted a lot of time here for nothing.

I yield the floor.

Mr. BAUCUS. Mr. President, I hope not for nothing. This is pretty productive.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 71) was rejected.

Ms. KLOBUCHAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 85

Mr. DEMINT. Mr. President, I would like to make some comments about DeMint amendment No. 85. This is an amendment that I believe is very important to American families, taxpayers. Here in Washington, there seems to always be enough money to help those who cannot take care of themselves. Most of the time, that is a good thing because we certainly want to have those safety nets for those families, particularly families who need health care for their children. The difficulty is that those families who are working and are struggling and are being independent often have to pay the price for that.

I have personal family experience that drives this whole issue home. As we consider the expansion of the children's health bill to expand it to folks with higher incomes, I realize that affects my own family.

My oldest son is married with a child, expecting another. He is back in graduate school, doing some part-time work, struggling to make ends meet and pay for his own health insurance. As they expect their second child, with that high-deductible policy, they are paying for most of their health care themselves.

As he heard about the debate on this issue as well as some of the other bailout issues, he mentioned to me—he said: Dad, it is hard in my situation to make enough money to pay for our own health care. I want to be independent, but I realize the tax dollars I do pay are paying for the benefits of others who are often making more than I am. He has friends in school who are on welfare and food stamps and Medicaid, taking everything they can from the Government. But most Americans, most middle-class Americans and even those who fall below middle class, are struggling today to make ends meet on their own and not be dependent on the Government. The amendment I have introduced tries to achieve some level of fairness to those American taxpayers who are working and trying to make ends meet.

My son could qualify for SCHIP, this children's health program. Certainly while he is in school he is below 200 percent of poverty. But right now he pays for his own health care. We even charge him taxes on the amount he has to spend for his own health care. Then his regular taxes have to go to help all his friends who are living off the Government dole.

If we are going to help families with children, we ought to be fair about it. This bill we are considering expands the children's health plan. The current law in America certainly covers American citizens, but the Federal money is not allowed to be used for noncitizens. That is basically part of our immigration deal. When folks come here and they are sponsored, the agreement is that for 5 years they take care of themselves and they are not a burden on the American taxpayer.

But the bill we are debating today changes that law. It gives benefits, health care, to noncitizens at the expense of middle-class working Americans. I do not want to take that away. That is not what this bill is about, my amendment. I am not changing anything this bill already offers.

But what this amendment does is it gives every American family with children, qualifying children under the children's health plan we are debating, an above-the-line deduction of up to $1,500. And what it is, it gives American citizens the same benefit we are giving non-Americans, noncitizens, in this underlying bill.

We do not ask the Government to pay for their health care. We say, as a matter of fairness, we are not going to make them pay income taxes on what they have to spend on health care for their children. That is what this is about, a deduction for the cost of health care for children.

We phase this out as income goes up. If a family qualifies for the AMT, they cannot get this deduction. So this is about middle-class Americans, people who are actually out there today trying to make it on their own without Government help, paying for their own health care. We are not going to charge them taxes on the cost of their health care with this amendment.

Specifically, the DeMint amendment, a taxpayer fairness amendment, would allow American families, citizens and legal immigrant families, the ability to receive a tax deduction of up to $1,500 for each child to cover health care-related costs.

This deduction, per child, is comparable to the average Federal share of the benefit provided to any child under this SCHIP bill, the underlying child health care bill. But no family who is already claiming SCHIP or Medicaid or any Federal health plan would be able to use this deduction.

This deduction is for Americans with that spirit of independence who, regardless of how little they are making, want to pay their own way. And let's not penalize them for it. Let's not tax what they have to pay for health care and then give it free to someone else. Let's not make them pay taxes to help pay for someone else's health care and still leave them out in the cold.

This is a matter of basic fairness. I encourage my colleagues, Republican and Democrat, if the whole point of this legislation is to help struggling families with children make sure they have health care for their children, let's be fair to American citizens and at least give them an equal benefit that we are giving to noncitizens. Let's not make middle-class working Americans pay for health care for noncitizens while we are basically taxing the struggling American worker who is trying to pay for it on their own.

I think a vote on this amendment will be coming up relatively shortly. Again, I encourage all of my colleagues to vote for the DeMint taxpayer fairness amendment.

I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUY AMERICAN

Mr. DORGAN. Mr. President, this morning the Washington Post has a front-page story that says ''Buy American Rider Sparks Trade Debate, Proviso Limits Steel and Iron from Abroad.'' This is a story about a provision that is in both the House stimulus bill and the Senate stimulus bill that encourages, to the extent we are stimulating investment in infrastructure projects—building roads and bridges and dams and schools and repairing libraries and so on in order to try to put people back to work—that the acquisitions to come from American sources, where possible. If you are going to buy steel, buy iron, skid steer loaders, any number of different kinds of equipment, it ought to be coming from American factories so that we put people back on factory floors and back to work.

The Washington Post has editorialized in opposition to this. The story

itself almost sounds a bit like an opinion piece. It talks about ''opponents say it amounts to a declaration of war against free trade'' and ''will spark retaliation'' and so on.

I wanted to make a comment about this, because I think it is an important issue and one we ought to discuss. If today is like most other days recently, 20,000 people will have lost their jobs; 20,000 people will come home tonight and have to tell someone in the family that they lost their job. And 20,000 people every day are losing their jobs, 500,000 to 600,000 people a month. We don't know exactly what the menu is to try to put this economy back on track, but we know that doing nothing is not a solution. So the Congress is putting together a stimulus proposal, an economic recovery proposal to try to do things that would put people back on payrolls.

The quickest way to restore confidence is to put people back to work so they are earning a salary, have a job, and can provide for their families. And in the context of creating legislation that would put people back to work, building roads and bridges and building water projects and repairing schools and so on, the question is, we should spend American taxpayer money on U.S.-made products in order to make these repairs and build these projects. It's just common sense.

The Washington Post story had a number of things attached to it that were not accurate. I want to talk about it for a moment. This provision in the Senate bill says that public works projects that are funded by this stimulus bill should use American steel, iron, and manufactured goods. That is not radical. We ought not be embarrassed to suggest that we try to use, where we can, products that are built in this country so that we put people back to work on the manufacturing floors and the plant floors building these products. That is the purpose of this legislation.

The Washington Post suggests that the proposal has few exceptions. That is not true. The proposal has a broad public interest exemption, one that allows the administration to waive the ''Buy America'' program if it deems it to be in the public interest to waive it. There are exceptions where the products are not available. There are exceptions where using domestic material would increase the cost of the project by over 25 percent. There are plenty of exemptions and exceptions here—public interest, 25 percent, not available. But in circumstances where a domestic product is available, where it is available at a price that is within the bounds of reason, and where we want to try to find a way to acquire products that are made in this country in order to put people back to work, that is a perfectly reasonable and important thing to do.

The Washington Post also suggested and had other people suggest as well that asking that we would purchase iron and steel and manufactured products in this stimulus bill made in America would somehow violate our trade agreements. That is simply untrue again. The Federal grant programs that are in this stimulus bill to the States for infrastructure investments, construction, repair and so on are not covered by our international trade agreements. So it is not true that what we are doing here would somehow violate trade agreements.

I had a reporter say to me: Some economists have said this harkens back to 1920s protectionism. I said: Give me a break. I am so tired of that nonsense. It cannot possibly be a sober economist. This country has a $700 billion a year trade deficit. We buy $2 billion more each day than we sell to foreign countries. We consume 3 percent more than we produce. We have a giant trade deficit. How could anyone in their right mind suggest this country is protectionist? It is absurd. How can anybody decide that when we put together a stimulus package to try to put people back to work, that we ought not buy things, to the extent we can, that are manufactured and produced in this country? It makes no sense to me.

The Washington Post also indicated that the foreign Governments could retaliate if we did this. Again, we have a $700 billion trade deficit, so it's hard to see how our trade imbalance could be less favorable.

But at any rate, let me say that Mr. Sarkozy in France said last month, with respect to their stimulus package, they want to make sure they are purchasing things that are made in France. It is a perfectly logical thing.

No, this is not creating a trade war. This is an emergency situation in which each of our countries is trying to put people back to work. That is a perfectly logical thing to do.

The Washington Post story also pointed out that the previous stimulus package, of which a fair amount was provided in tax cuts, went to stimulate manufacturing in China. A fair amount of it went to Wal-Mart. Eighty percent of the products in the Wal-Mart store shelves are made in China. So we are not going to stimulate economic jobs by purchasing Chinese goods. I am not suggesting somebody ought to stop their car at the moment and not walk into Wal-Mart. That is not my point at all. My point is, if we want to put people back on payrolls to try to put this country back on track and give people some confidence at a time when 20,000 people are losing their jobs every single day, the way to do that, with the hundreds of billions of dollars that are in this bill, is to say, at least try to buy things that are made in America. That is not unfair. It is not selfish. It is the right thing to do.

It is only in areas of the rarified air of our Nation's capital and some other areas where we have ground our heads to such a point that we don't understand what is logical. I understand it is a global economy. I fully understand that. There are circumstances where you perhaps cannot buy a product that is made here because there aren't any made here. There are circumstances where the domestic product's price is truly exorbitant. We don't want to do that. I understand all of that. All of that is provided for in this Buy American provision. Yet you see folks out in the hallways here having an apoplectic seizure over what some economist is saying about something that is so fundamentally sound in terms of what we ought to be doing to try to strengthen the economy of this country, to reach out to American citizens and say: We understand a job is important for you. We understand you have lost your job. We understand it wasn't your fault, and we will see if we can help you get a job back on the plant floor, back on the factory floor someplace, producing products made in this country. It is a fair thing to do and a critically important thing to do, if the result of this stimulus program is going to do as advertised, and that is put Americans back to work.

We have been through a long and tortured trail in recent months trying to determine what has happened and what needs to happen to try to fix what is wrong. What unites all of us is, none of us has been here before. We have never seen the convergence of the collapse of our financial system, the largest names in American finance sitting there with toxic assets in their financial bellies trying to figure out how they overcome the dreadful mistakes of the last 10 years with asset bubbles and a carnival of greed. At the same time that we see this collapse at the top of the financial system, we read about the subprime loan scandal and the nearly unbelievable circumstances of bad business that created it.

In addition to that, we read about companies that have taken massive quantities of money from the American taxpayers in the form of TARP funds, in the form of the Federal Reserve Board. By the way, it is about $7.5 trillion that has now been committed in the name of the American taxpayer in ways that I don't think is written in the Constitution. But we have watched all this happen and we still see what is going on on Wall Street. We hear about airplanes on order. We hear about bonuses. We have watched that for the last 10 years and wondered, how on Earth can this kind of house of cards continue to exist? The answer is, it couldn't and it doesn't, except there is a lot for this Congress to do with respect to oversight, investigation, and to require accountability.

One piece of business, an attempt to try to deal with the wreckage of this economy from this past decade of excess, one piece of business is to try to see if we can stimulate the economy to put people back to work. It is interesting how at the top everybody is interested in bringing a pillow and some aspirin to say: Are you comfortable? Can we help you? That is what happens

if you are a big bank. But how about at the bottom, the people who lost their job and their house. Anybody around to say: We want to help you?

In a stimulus program, if we put together construction projects, projects to create an asset for this country's future, and if we say: We would like you to see if you can buy the products with which you will produce those assets here in America so we can put people back on the payroll and get them working once again, that is not radical; that is the right thing to do. If there is a big, old dust storm and a whole lot of angst about asking people if they can buy in this country during this stimulus, that is too bad. That is exactly what we should do.

It is my intent, with respect to this legislation—I believe the intent of many others—that we continue to keep this provision in the stimulus bill as it moves through the Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside so that the Senator from New Mexico, Mr. BINGAMAN, can call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

AMENDMENT NO. 63

Mr. BINGAMAN. Mr. President, I call up amendment No. 63.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment Numbered 63.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that new paperwork and enrollment barriers are not created in the Express Lane Enrollment option and that income may be determined by Express Lane agencies based on State income tax records or returns)

On page 99, beginning on line 8 strike ''through'' and all that follows through ''application,'' on line 10, and insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary and''.

On page 108, between lines 3 and 4, insert the following:

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

AMENDMENT NO. 63, AS MODIFIED

Mr. BINGAMAN. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 99, beginning on line 9 after ''mation'' insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary or by''.

On page 108, between lines 3 and 4, insert the following:

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

Mr. BINGAMAN. Mr. President, I wish to briefly describe the import of this amendment, as modified.

Express Lane enrollment seeks to address the problem that up to 6 million children in this country are eligible but are not enrolled in either Medicaid or CHIP and that the vast majority of these children are enrolled in other Federal programs at the same time.

Eligibility for other Federal programs—here I am speaking about food stamps or the National School Lunch Program or the WIC Program—enrollment in those programs is at lower levels of income eligibility than Medicaid and CHIP, so those children identified by those other Federal programs as low income are virtually, by definition, eligible for Medicaid or for CHIP.

I have worked with Senator BAUCUS and my colleagues in the Finance Committee to write a provision in the bill which will provide a State option to utilize Express Lane eligibility to enroll children into the CHIP program.

This amendment provides a very simple technical clarification that parents may consent to their children's enrollment in CHIP or Medicaid through various means established by the Secretary, including orally, through electronic signatures, and otherwise. Without this clarification, a child could be determined eligible through Express Lane, but a parent might have to go to a State Medicaid agency to sign a form instead of providing an electronic signature or authorizing coverage over the phone. This is the exact kind of needless bureaucratic hurdle Express Lane is intended to prevent.

So I urge my colleagues to support this amendment, as modified.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 85

Mr. BAUCUS. Mr. President, I wish to address two pending amendments. The first one I will address is the DeMint amendment which provides for a deduction for health care costs for certain children.

Essentially, the DeMint amendment allows for a deduction for health care costs of children who are not in a Federal program, either Medicaid or the Children's Health Insurance Program, up to $1,500. That is up to the average federally funded program, which I understand is up to $1,500.

On the face of it, that might sound like something people might want to do, to give an extra tax deduction for children's health care expenses. The trouble is, we are here today trying to make sure that the Children's Health Insurance Program works and works better. A lot of effort has gone into this legislation, and there have been a lot of amendments from various Senators trying to improve on the bill.

First, this is not a tax bill. The Tax Code does allow employees who receive health care benefits from their employer to not count that as taxable income. That is true. It is a big provision in the Tax Code today. I think it amounts to roughly $250 billion, $260 billion a year. The employer is able to take the deduction of employer health care expenses, whatever the expenses might be, and there is no limit today in current law. All health care that is provided by the employer is not taxable income to the employee. In fact, when we deal with health care reform, we will have to look at that. We do not want to move away from employer-provided coverage. That is something the American public is used to. They understand it. Companies are used to it. They understand it.

Some have suggested abolishing that tax and basically saying individuals have to find their own insurance, irrespective of employment. I do not think that is a good idea, and I think that is the judgment of the Congress.

Senator DEMINT wishes to add a tax provision basically providing the children who are not covered by either the Children's Health Insurance Program or Medicaid, as I understand the amendment, with a deduction for health care expenses up to $1,500 every year. I do not think this is the time and place to be coming up with single rifleshot, arbitrary tax amendments on a nontax bill. These provisions have to be considered together. These tax provisions have to be considered together, certainly in the context of health care reform. We take up various ways to give incentives to people to get health insurance, especially in the private market, in the individual market right now because right now it is very difficult for some people in the individual market to get health insurance. We will probably provide health credits to assist people in the private market.

We also could look to the employer exclusion and see if that can be modified. All this should be addressed in the context of comprehensive health care reform. We need comprehensive health

care reform in this country. We already know how much we pay for health care in this country. We pay twice as much per capita than the next expensive country. We have 46 million Americans not covered by health insurance. It is an abomination. We are the only industrialized country in the world that does not provide a mechanism to provide health insurance for its people. That makes no sense. The United States is slipping, frankly, in a lot of areas. Look at our financial banking system. It is crumbling. In Davos, Switzerland, we have been roundly criticized as a country for letting this happen to us. Of course, the credit markets seized up. It is very complex. The fact is, it has happened and we Americans have let it happen.

We also have to reform our health care system and reform it in a way so Americans can get health care more easily than they can now, make sure they are all covered, improve the costs, and improve our delivery system. Our delivery system is in the dark ages. We in America compensate doctors and hospitals on the basis of volume, not on the basis of quality.

Many of us have ideas. We have to put all this together into comprehensive health reform. I wrote a white paper months ago. I don't mean to pat myself on the back, but most people feel that is the best beginning to get comprehensive health care reform. Others have a lot of ideas to add to it, subtract from it. But it is probably a pretty good foundation of where we have to reform our health care system. That is where we should take up provisions such as the DeMint amendment. That is where we should decide whether it makes sense to change the Tax Code to get better health care, outside of the children's health care program.

This is not an amendment addressed to the Children's Health Insurance Program. This is an amendment that has to do generally with children, irrespective of income of families. This amendment has nothing to do with income of families. It says basically if you are not covered, you get a $1,500 contribution. I guess in some sense the proponents of the amendment could argue this is for upper income people, for moderate income people, for families whose children are not enrolled in the Children's Health Insurance Program. That may be. But that issue must be addressed in the context of comprehensive health care reform. That is the best place. I do not think it makes sense to adopt this kind of amendment. Then somebody else will have an amendment for a tax break here, a tax break there, and who knows what. This should be taken up in comprehensive health care reform or a comprehensive tax bill.

We are going to take up tax legislation later this year. There will be lots of opportunities to address health care in our Tax Code. But this is not the time and place. I urge Senators to resist the siren's song, resist temptation because this is not the road we should go down, not at this time. There is a time and place for everything. There is a time and place for health care tax amendments. This is not the time and place.

Frankly, I think the more we as a Congress are strategic, we plan a little more, we don't just react to the idea of the instant but think things through a little bit more, we will be a lot better off and we will be serving our people better than we are at this moment.

I strongly urge Members to resist this amendment so we can get on to health care reform and tax reform at a later date. I urge Senators not to vote for the DeMint amendment because it, frankly, does not belong on this bill.

AMENDMENT NO. 86

On another matter, I wish to speak to the Coburn amendment No. 86. Essentially, this amendment would get rid of the Children's Health Insurance Program, abolish it. That is right, abolish it. This is the same program that had such strong support in America. Republicans have supported it and Democrats have supported it over the decade. It currently serves almost 7 million people, and with the legislation before us, we will boost that to 10 million people. The same CHIP program, the underlying bill, as I said, 10 million people, it works. It worked for 12 years. It is effective. People like it. Why? Because it works. It is a shared partnership between Uncle Sam and the States. It makes no sense to throw this away because it has worked so well.

To be fair, the Senator from Oklahoma wants to not only abolish the program but replace it with a private system. As I understand it—I don't want to put words in his mouth—a private account system. It sounds a lot like Social Security privatization, which is roundly criticized. It is a good thing we didn't adopt that with the shape the stock market is in. People putting savings in a private Social Security account would find they would have lost a lot.

In the meantime, Social Security is strong, it is there, the benefits are there. It is kind of like a defined benefit plan, a defined contribution plan. Seniors can count on it. Social Security is there. It is financed by the payroll tax. The trust fund is in very good shape. The Social Security trust fund is not in jeopardy for, gosh, 30 years from now essentially. Seniors know that Social Security is there.

In the same vein, families, working poor families, families who do not have the same income as others, should rest assure the Children's Health Insurance Program is there. They need that constancy, that predictability. Therefore, I urge Senators not to support the Coburn amendment which essentially abolishes the CHIP program and replaces it with a private system which is precarious at best, certainly given these times.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first, this does not get rid of the system, and it certainly does not privatize it. What it does is it guarantees every child in this country, all 31 million—which is something this bill does not do—all 31 million who don't have an insurance policy today will be insured with a plan equal to what we have for our children.

What it doesn't get rid of is access. They only have access to 40 percent of the physicians now. It gives them access to 100 percent of all the physicians. We are defending a system that, first, is only going to enroll 4 million new kids, is still going to leave 5 million not covered and 2 million of the 4 million they enroll are from those who already have private insurance, and we are going to say we will stick with a system to take care of the ones we have now and we are not going to give real access, and with the not real access comes no choice of a physician because we limited the number of physicians who can participate because of the economics of it.

I will tell you what it does get rid of. It gets rid of $70 billion of taxpayers' money that we are not going to use to cover every one of these kids. Based on the 2005 numbers, we can buy a premium health insurance policy for all 31 million kids—the 8.9 million who do not have any coverage now and the 22 million who are covered in either SCHIP or Medicaid today. We save all the administrative expense. We autoenroll them so we don't have to worry about picking up only 4 million with an additional $70 billion in taxes.

To say this is privatization is a total mischaracterization of it. What it does is it guarantees that all children will not have a Medicaid stamp or SCHIP stamp on their forehead that says: Yes, we are giving you coverage but you can't see all the physicians, you can't get referrals to the best because you have a government-run program.

Not only do we increase access and quality, we save tremendous amounts of money, and it will still be a government-run program because it will be administered by the Secretary in a way that guarantees these kids are autoenrolled. They will have premium health insurance coverage and we still save money, even after that. We are spending $2,160 per kid now based on 2005 numbers, and we will cover every one of these kids and not spend more money than that.

To characterize this as getting rid of coverage is wrong. What it does is greatly create and increase access for children in this country to have the same access that our children have. It saves money and markedly improves quality for those children. Every American child ought to have access, and what we do is take the money we are spending now and spend it more wisely, and create a system where they all have coverage.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, in closing today—and I know we have a few votes, but we are about done—I wish to talk about bipartisanship. I believe I have a history of getting bipartisan compromises done. Over the last several years, I have worked to deliver important bipartisan legislation on taxes, trade, and health care. We work together, we make commitments, and we sometimes have to say no to Members of our own party who would put their specific interests ahead of bipartisanship. It is tough at times, but when we work together to produce legislation, we are better off for doing so.

Lately, I have seen a disturbing change in the way bipartisanship appears to be working around the Senate. Last year, on Medicare, we were working together for months—I am talking about for months—on a bipartisan bill to extend a lot of things in Medicare. It was jointly drafted. There were many provisions in the bill I strongly supported. But when we came to an impasse on some of the tough political issues, the majority solved the tough issues the way they wanted them and moved forward. That is not the way I think bipartisanship should work.

Then we have this bill before us today. It is largely the work of Senators BAUCUS, HATCH, ROCKEFELLER, and myself. It should be a bipartisan piece of legislation, but it is not. In this case, the majority decided to make some very political changes in the bill and presented it to us as a ''take it or leave it'' proposition. Today, I choose to leave it.

Some Senators have tried to argue that this bill is 90 percent the bill we voted in 2007. I wonder that those Senators don't realize how insulting it is to me to hear that. It is an open admission that the majority unilaterally changed 10 percent of the bill and has presented it to me as a take it or leave it; it can still be bipartisan, CHUCK GRASSLEY, if you will just do what we tell you to do.

The stimulus bill coming next week is no better. We were presented with a bill and asked if we wanted to sign on to it and call it bipartisan. That approach shouldn't come as a surprise to anybody or much of a surprise at all. As the Speaker said: We won the election, we write the bills. I must admit I appreciate why House Republicans decided yesterday they would not sign off on Speaker PELOSI's version of bipartisanship.

We need to get back to real bipartisanship around here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENTS NOS. 94, 95, AND 96

Mr. BAUCUS. Mr. President, I have a series of amendments in the nature of technical corrections that I have worked out with the ranking Republican Member, so Senator GRASSLEY and I send these to the desk. I understand they have been cleared all the way around. So I send this package of amendments to the desk, and I ask unanimous consent that they be considered en bloc; that the amendments be agreed to and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 94

(Purpose: To make a technical correction to the option to cover legal immigrant children and pregnant women)

Beginning on page 135, strike line 21 and all that follows through page 136, line 2, and insert the following:

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

AMENDMENT NO. 95

(Purpose: To make technical corrections to the State option to provide dental-only supplemental coverage)

Beginning on page 216, strike line 8 and all that follows through page 219, line 21, and insert the following:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

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

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

AMENDMENT NO. 96

(Purpose: To clarify that no eligible entity that receives an outreach and enrollment grant is required to provide matching funds)

Beginning on page 80, strike line 22 and all that follows through page 81, line 7, and insert the following:

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

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

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 7:30 p.m. the Senate proceed to votes in relation to the following amendments in the order listed: DeMint No. 85; Coburn No. 86, with 4 minutes equally divided to debate prior to this vote; Coburn No. 50; Coburn No. 49; Bingaman No. 63, as modified; Hutchison amendment—which doesn't have a number, nevertheless the Hutchison amendment.

Further, that no amendments be in order to the amendments prior to the

votes; upon disposition of the amendments listed, that no other amendments be in order to the bill; the bill be read a third time; that there be up to 4 minutes of debate equally divided between the chairman and the ranking member, or their designee, prior to a vote on passage of H.R. 2, the Children's Health Insurance Program Reauthorization bill, as amended; that upon passage, the Senate insist on its amendment; request a conference with the House on the disagreeing votes of the two Houses and that the chair be authorized to appoint conferees on the part of the Senate, with concurrence of the managers and the two leaders; that there be 2 minutes of debate equally divided between the votes; and that all votes after the first vote in the sequence be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 85

Mr. DEMINT. Mr. President, I would like to make a few comments about my amendment, No. 85. Senator BAUCUS commented about it after I brought it up. There are a few matters I would like to clear up.

The Senator mentioned this is not a tax bill, his children's health bill. Yet it is a tax bill. There is a large tax increase on cigarettes to pay for this bill, so it is very much dealing with taxes.

He also said this is not the place to deal with families with children who have insurance through their employers or may be paying for their own insurance. This is a time to deal with Americans with children who cannot pay for health care. The underlying bill itself increases the criteria all the way up to twice the poverty level or more. It is dealing with many families with substantial incomes. It is giving benefits to some families who are not paying for their own insurance at the expense of those who are struggling to pay for their own health insurance.

My amendment is very appropriate to the underlying bill. It is about children's health care, and it is about being fair to American citizens. The bill we are considering today gives generous benefits to children who are not citizens of the United States. They are here and my amendment does not change those benefits. But we should be fair and give equal benefits to American families, workers, taxpayers, who are paying for their own insurance.

My colleague, Senator BAUCUS, mentioned many of these families are getting insurance through their employers. But just about all of them, if not all of them, have to pay a part of that expense themselves, which is very difficult. They cannot deduct that money.

We need to make sure this bill is fair. My amendment makes the bill fair to every family with children. It gives them an above-the-line deduction for up to $1,500 of their expenses, and that is up to the amount we give to noncitizens in this children's health bill.

This is fair to Americans, and it is time we start being fair to Americans. We cannot take money continuously from the middle class to do our good deeds all over the country and then leave middle-class Americans empty-handed. If they are going to work and struggle to pay for their own health insurance, the very least we can do is not tax the money they spend to pay for their own health care. Why do we penalize people who are trying to live themselves without government money? Most Americans are doing everything they can to get by without government support. Let's stop penalizing them. Let's stop asking them to pay for all of our good deeds and good intentions.

This is a simple amendment that gives a deduction for people who are paying for their own health insurance, a deduction that is equal to what we are giving to noncitizens in this underlying bill.

Again, I encourage my colleagues to think twice, think about Americans, our own middle-class workers. Give them a fair shot. Vote for this amendment.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 97

Mr. ROCKEFELLER. Mr. President, notwithstanding the previous order, I ask unanimous consent that the technical amendment which is at the desk be considered and agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 97) was agreed to, as follows:

On page 283, line 21, insert ", 2009" after April 1.

Mr. ROCKEFELLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 85

Under the previous order, the question is on agreeing to amendment No. 85 offered by the Senator from South Carolina.

Mr. TESTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 58, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—40

Alexander	Crapo	McCaskill
Barrasso	DeMint	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Cantwell	Hutchison	Thune
Chambliss	Inhofe	Vitter
Coburn	Isakson	Webb
Cochran	Johanns	Wicker
Corker	Kyl	
Cornyn	Lugar	

NAYS—58

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	Martinez	Voinovich
Dorgan	McCain	Warner
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Gillibrand	Murray	

NOT VOTING—1

Kennedy

The amendment (No. 85) was rejected.

Mrs. BOXER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 86

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 86 offered by the Senator from Oklahoma.

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, this amendment really is the amendment that is going to take care of our children. It is going to take the Medicaid stamp and SCHIP stamp off their foreheads. It is going to create access to the finest doctors, not just 40 percent of the doctors as we see in Medicaid and SCHIP. It is going to give the same care to all the children—those at the 300 percent poverty level and under—that we give to our own kids. It does all that not spending the $70 billion in increased taxes that is in this bill and auto-enrolling children so that we don't just pick up 4 million kids, we pick up all 8.9 million kids who are not insured.

To my colleagues who sponsored the Wyden bill, the Healthy Americans

bill, that is exactly what is in that bill, except we are going to do it for children without increasing costs but increasing the quality, increasing the care, and increasing the outcomes. We are going to truly make children on the same level we are in terms of their access. They are going to get to choose their doctor rather than have their doctor chosen for them. They are going to get a referral to the best rather than to one who will just take them. They are going to get the same thing we get, and they deserve it, and we are not going to spend a penny more than we are spending today.

We don't do away with SCHIP, we don't privatize SCHIP; what we do is say we really care about kids and we are going to give them the same thing we have. At the same time, we are going to save the American taxpayers $70 billion.

I yield my time.

Mr. BAUCUS. Mr. President, this amendment phases out the Children's Health Insurance Program as we know it. It strikes the underlying bill and phases out the Children's Health Insurance Program over the next 2 years and replaces it with a competitive bidding procedure, somewhat similar to Medicare Part D, where private plans that want to cover kids will submit bids, submit their plans to Uncle Sam for approval. So essentially it totally eliminates the Children's Health Insurance Program over a 2-year period and replaces it with a competitive-bidding process not too dissimilar from Medicare Part D where private plans offer health insurance to participants. I think it is much too much of a radical departure, and I urge its defeat.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a second.

All time is yielded back.

The question is on agreeing to amendment No. 86.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	Lugar
Bennett	Ensign	Martinez
Bond	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Wicker

NAYS—62

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Nelson (NE)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Lincoln	Udall (NM)
Conrad	McCaskill	Voinovich
Dodd	Menendez	Warner
Dorgan	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murkowski	Wyden
Feinstein	Murray	

NOT VOTING—1

Kennedy

The amendment (No. 86) was rejected.

Ms. STABENOW. Mr. President, I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 50

Mr. BAUCUS. Mr. President, I say to my good friend from Oklahoma, we are prepared to accept the next Coburn amendment. I wonder if the Senator is prepared to yield back the balance of his time so we can accept it. He does. That is great.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 50.

The amendment (No. 50) was agreed to.

AMENDMENT NO. 49

Mr. BAUCUS. We are on the next amendment.

The PRESIDING OFFICER. There is 2 minutes equally divided on the next amendment.

Mr. COBURN. Will the Chair state what the amendment is?

The PRESIDING OFFICER. Amendment No. 49.

Mr. COBURN. Mr. President, what this amendment does is it says you have 14 percent improper payment rate in SCHIP, we have 10.6 percent improper payment in Medicaid. The average improper payment rate across the rest of the Federal Government on every agency—this amendment says that before New York can go to 400 percent, they have to bring their improper payment rates in line with the rest of the Federal Government. The improper payment rate in New York—New York alone—accounts for 50 percent of the fraud in Medicaid. Fifty percent of that is in New York State alone.

So what this amendment would do is it would delay the improper payment reporting requirements and limit earmark program expansion until the Medicaid and SCHIP improper payment rates match the Federal average of improper payment rates. It is meant to help us get back on track. We just started getting improper payment rates on Medicaid, and they are out of control. We should not be delaying the onset of that, and we should put teeth into it so that where it is bad, we don't expand it and make it worse.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, this is yet another way to throw kids out of or off the Children's Health Insurance Program. It is a cap. It is a cap, the effect of which is to deny children coverage. It is similar to several other amendments brought up in the past, where there is sometimes a dollar cap, sometimes a percentage cap, and there are various other ways. This is another one of those caps, and I think it is not right to take kids off the Children's Health Insurance Program rolls. So I urge its defeat.

Mr. COBURN. Mr. President, I ask for the yeas and nays.

Mr. BAUCUS. Mr. President, I think we could voice vote this.

Mr. COBURN. I agree. I withdraw my request.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 49.

The amendment (No. 49) was rejected.

Mrs. BOXER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 63

Mr. BAUCUS. Mr. President, I think the next amendment is the Bingaman amendment No. 63.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, there are about 6 million children in the country who are eligible for Medicaid or CHIP who are not enrolled. In many of these cases, these are children who are also eligible for and enrolled in other Federal programs that have similar or even more severe requirements for eligibility. To fix this problem, we put a provision in the bill—Senator BAUCUS and those in the Finance Committee—included a provision for so-called express lane eligibility as a way to sign up children for the CHIP program.

My amendment simply clarifies that the consent of the parent—not the determination of eligibility but the consent of the parent—for the enrollment of the child in the CHIP program or Medicaid can be accomplished through something other than a formal signed document at the Medicaid office. We give the Secretary the discretion to set that up. We believe this is a great change and will help us to register the children who ought to be registered for the CHIP program.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is where you get the wool pulled over your eyes. Here we are, in the last moments of a very partisan debate, and we have one last vote to abandon further compromises we made in 2007. This one weakens fraud protection.

In that bill 2 years ago, we reached a carefully crafted compromise, balancing access and program integrity. With this amendment, the majority backs away from that compromise further. In 2007, we agreed that an express lane application would require a signature from the applicant acknowledging they were applying for Medicaid or SCHIP. This change eliminates the signature requirement.

It is not technical, it is substantive, and it is going to lead to fraud. We should vote this down because we don't want to promote fraud.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 63, as modified.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRASSLEY. What do you mean there is not a sufficient second?

The PRESIDING OFFICER. Now there is a sufficient second.

The question is on agreeing to amendment No. 63, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—55

Akaka	Harkin	Nelson (FL)
Baucus	Inouye	Nelson (NE)
Bayh	Johnson	Pryor
Begich	Kaufman	Reed
Bennet	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Brown	Kohl	Sanders
Burris	Landrieu	Schumer
Byrd	Lautenberg	Shaheen
Cantwell	Leahy	Snowe
Cardin	Levin	Specter
Carper	Lieberman	Stabenow
Casey	Lincoln	Tester
Conrad	Lugar	Udall (CO)
Dodd	McCaskill	Udall (NM)
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Gillibrand	Mikulski	
Hagan	Murray	

NAYS—43

Alexander	Coburn	Enzi
Barrasso	Cochran	Feinstein
Bennett	Collins	Graham
Bond	Corker	Grassley
Boxer	Cornyn	Gregg
Brownback	Crapo	Hatch
Bunning	DeMint	Hutchison
Burr	Dorgan	Inhofe
Chambliss	Ensign	Isakson
Johanns	Risch	Voinovich
Kyl	Roberts	Warner
Martinez	Sessions	Webb
McCain	Shelby	Wicker
McConnell	Thune	
Murkowski	Vitter	

NOT VOTING—1

Kennedy

The amendment (No. 63), as modified, was agreed to.

AMENDMENT NO. 93

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 1 minute.

Mrs. HUTCHISON. Mr. President, I call up amendment 93 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 93.

Mrs. HUTCHISON. I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide assistance for States with percentages of children with no health insurance coverage above the national average)

Beginning on page 42, strike line 20 and all that follows through page 43, line 11, and insert the following:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) SPECIAL RULE EXTENDING AVAILABILITY FOR OUTREACH AND ENROLLMENT FOR CERTAIN STATES.—

''(A) IN GENERAL.—In the case of a State described in subparagraph (B), any amounts allotted or redistributed to the State pursuant to this subsection for a fiscal year that are not expended by the State by March 31, 2009, (including any amounts available to the State for the first 2 quarters of fiscal year 2009 from the fiscal year 2009 allotment for the State or from amounts redistributed to the State under subsection (k) or allotted to the State under subsection (l) for such quarters), shall remain available for expenditure by the State through the end of fiscal year 2012, without regard to the limitation on expenditures under section 2105(c)(2)(A).

''(B) STATE DESCRIBED.—A State is described in this subparagraph if the State is 1 of the 5 States with the highest percentage of children with no health insurance coverage (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).

''(3) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

On page 38, line 18, insert ''subject to paragraph (5),'' after ''(3)(A),''.

On page 42, between lines 15 and 16, insert the following:

''(5) AUTHORITY TO MODIFY REQUIRED NUMBER OF ENROLLMENT AND RETENTION PROVISIONS.—Upon the request of a State in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009), the Secretary may reduce the number of enrollment and retention provisions that the State must satisfy in order to meet the conditions of paragraph (4) for a fiscal year, but not below 2.''.

On page 84, line 20, insert ''The Secretary shall prioritize implementation of such campaign in States in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).'' after ''title XIX.''.

Mrs. HUTCHISON. I yield for 30 seconds to the Senator from Florida.

Mr. MARTINEZ. Mr. President, can I ask the Senate be in order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Florida is recognized for 30 seconds.

Mr. MARTINEZ. Mr. President, the amendment of the Senator from Texas allows the States with the highest percentage of uninsured children to be given priority for outreach and enrollment. Most importantly, it contains language that ensures the five States with the highest number of uninsured kids be given sufficient time to spend their current SCHIP allocations and will be given the flexibility for using these funds for outreach and enrollment.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, the CBO scores this as an actual savings. There will be no additional cost to the program and it has no impact over any other State's funding.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we are prepared to vote in favor of the amendment.

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, people on my side asked for a vote. That is why I am asking for it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 17, nays 81, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—17

Barrasso	Cornyn	Martinez
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Reid
Bennet	Hutchison	Udall (CO)
Bingaman	Inhofe	Udall (NM)
Bond	Inouye	

NAYS—81

Akaka	Feinstein	Merkley
Alexander	Gillibrand	Mikulski
Begich	Graham	Murkowski
Bennett	Grassley	Murray
Boxer	Gregg	Nelson (NE)
Brown	Hagan	Pryor
Brownback	Harkin	Reed
Bunning	Hatch	Risch
Burr	Isakson	Roberts
Burris	Johanns	Rockefeller
Byrd	Johnson	Sanders
Cantwell	Kaufman	Schumer
Cardin	Kerry	Sessions
Carper	Klobuchar	Shaheen
Casey	Kohl	Shelby
Chambliss	Kyl	Snowe
Coburn	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Crapo	Lincoln	Voinovich
DeMint	Lugar	Warner
Dodd	McCain	Webb
Dorgan	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Feingold	Menendez	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 93) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, this will be the last vote today. We are going to have the Holder debate Monday from 3:15 to 6:15. We will have the vote at 6:15. Monday at about 2 o'clock, we are going to lay down the economic recovery package. That is the stimulus. That will be the Appropriations and Finance pieces. After the Holder vote, we encourage Members to speak about the economic recovery package.

Tuesday, we are going to have a full day of amendments and I hope a number of votes.

On Wednesday, we have a longstanding retreat that the Democrats are going to have a short distance from here off campus. We are going to be in session, come in at 10:30. We solicit the Republicans, while we are in that retreat, to offer amendments. We would hope we would be back by 4:30 and could start voting on some amendments that were offered that day.

Next week will be a long, hard slog. It is up to us how long this takes. We hope we can work things out. I have had a number of conversations with the Republican leader on a way to expedite what we do. We want to make sure everyone has the opportunity to do what they think is appropriate on this bill.

We are going to have some late nights next week. We will do everything we can not to have to work next weekend, but I think that is stretching things. But we will certainly try.

We have had no morning business all week, so, Senators, speak your hearts out tomorrow.

SECTION 214

Mr. AKAKA. Mr. President, my understanding is that section 214 of H.R. 2 applies to pregnant women and children who are citizens of the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia, and who are lawfully residing in the United States under the terms of the Compacts of Free Association between the United States and each of these three Pacific island nations.

Mr. INOUYE. I agree with my colleague from Hawaii. Section 214 applies to pregnant women and children who are nonimmigrants lawfully residing in the United States under the terms of the Compacts of Free Association.

Mr. AKAKA. Does the chairman agree with our interpretation?

Mr. BAUCUS. Mr. President, I agree with the interpretations of the Senators from Hawaii regarding section 214.

Mr. AKAKA. I thank the Senator very much for that clarification.

Mr. President, I support the Children's Health Insurance Program Reauthorization Act of 2009. This legislation increases access to health care for an estimated 4.1 million children who are currently uninsured. The legislation also includes $100 million in new grant opportunities to fund outreach and enrollment efforts to increase the participation of children in Medicaid and the Children's Health Insurance Program. By increasing access to health insurance, more children will be able to learn, be active, and grow into healthy adults.

Mr. President, the legislation will also provide much needed assistance to Hawaii hospitals that care for Medicaid beneficiaries and the uninsured. Hawaii hospitals continue to struggle to meet the increasing demands placed on them by a growing number of uninsured patients and rising costs.

The legislation extends Medicaid disproportionate share Hospital, DSH, allotments for Hawaii until December 31, 2011. This additional extension authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals that is consistent with the requirements of existing law relating to DSH payments. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services, CMS, or to reduce in any way the level of Federal funding for Hawaii's QUEST program. The extension included in this act provides an additional $7.5 million for fiscal year 2010, $10 million for fiscal year 2011, and $2.5 million for the first quarter of fiscal year 2012. These additional DSH resources are intended to strengthen the ability of hospitals to meet the increasing health care needs of our communities.

I look forward to the swift enactment of this legislation so that children have increased access to health care and so that our hospitals in Hawaii are better able to care for the uninsured and Medicaid beneficiaries.

Mr. SPECTER. Mr. President, I seek recognition to voice my support for the Children's Health Insurance Program Reauthorization Act. In voicing my support, I must note that the bipartisan support that accompanied the drafting of this bill's predecessor in the 110th Congress was absent in this bill's introduction in the 111th Congress. The legislation was revised without working across the aisle, which has resulted in a bill that is not as widely supported as its predecessor. Children's health is the wrong issue on which to push partisan politics.

When we last debated the Children's Health Insurance Program in the 110th Congress, I was proud to lend my support to what I believe was a good, bipartisan bill. I voted in favor of the legislation twice, on August 2, 2007 and again on September 25, 2007. I was very disappointed in President Bush's veto of the legislation resulting in the delay of critical access to health care for millions of children.

This important legislation will revise and expand the State Children's Health Insurance Program, SCHIP, enabling it to provide access to medical coverage to an additional 5.5 million children whose parents earn too much to qualify for Medicaid, but not enough to afford private health insurance. Nationwide, 7 million children are currently enrolled in SCHIP, including 183,981 in Pennsylvania.

The reauthorized bill will provide an estimated 4.1 million children with access to health care coverage. To achieve that increase, the bill extends coverage to children in families with an annual income at or below 300 percent of the poverty level, or $66,150 for a family of four. The triple-the-poverty-level rate would bring the Nation in line with Pennsylvania's current plan.

It is imperative that we take steps to ensure health care coverage for our most important resource, our children. In a January 12, 2009, column in The Washington Post, E.J. Dionne wrote, ''[S]tates have enacted budget cuts that will leave some 275,000 people without health coverage . . . By the end of this year, if further proposed [State budget] cuts go through, the number losing health coverage nationwide could rise to more than 1 million, almost half of them children.'' Congress can, and should, act to make sure children's health care does not suffer as a result of the economic downturn.

Throughout my time in the Senate, I have consistently supported providing

quality health care to children, including prenatal care. To improve pregnancy outcomes for women at risk of delivering babies of low birth weight and reduce infant mortality and the incidence of low-birth-weight births, I initiated action that led to the creation of the Healthy Start program in 1991. Working with the first Bush administration and Senator HARKIN, as chairman of the Appropriations Subcommittee, we allocated $25 million in 1991 for the development of 15 demonstration projects. For fiscal year 2008, we secured $99.7 million for 96 projects in this vital program. Health care initiatives like the Healthy Start program and the Children's Health Insurance Program are key to improving the health and well-being of children in this country.

The health care work of the 111th Congress will not be complete with just the reauthorization of the State Children's Health Insurance Program. This legislation will address the needs of some of the most vulnerable children, but Congress must act in a bipartisan fashion to address health reform so that all of America's 47 million uninsured have access to adequate health care.

Mr. COCHRAN. Mr. President, I strongly support the Children's Health Insurance Program and its reauthorization, and I am disappointed that the Senate did not approve the Kids First Act that was offered as an amendment. This legislation would have provided funding to cover low-income children whose families are otherwise unable to afford coverage. Instead of providing health coverage for American children, the Senate decided to consider a bill that will expand government programs, increase the burden on taxpayers, and shift the focus from the primary reason for the creation of the SCHIP, which is the coverage of low-income children. Before the Senate considers expanding SCHIP, we should ensure that all children under 200 percent of the Federal poverty level are covered. Under the current program, the State of Mississippi is unable to cover all children under the current limit of 200 percent of poverty, $44,000 per year. The Senate is now considering legislation that will take tax money paid by Mississippians out of the State and allow other States to cover children in families making up to $88,000 a year. The expansion of benefits to legal immigrant children is also a point of serious concern. Under current law, legal immigrants sign a statement that they will not use Federal assistance programs such as Medicaid and SCHIP for 5 years. This legislation would waive that 5-year waiting period, thus further expanding this program to noncitizens, while American children remain without health coverage. I cannot support any legislation that disadvantages the children of Mississippi even more. I hope this legislation will be changed in the amendment process to reflect the original intent of the legislation and ensure that low-income American children are provided health coverage.

Mr. LEVIN. Mr. President, Americans are fortunate to have access to some of the best medical facilities and services in the world. Yet, shamefully, 2007 U.S. Census data demonstrated that there are 45.7 million uninsured people in our country, of which, 8.7 million are children, who do not have the access they need to these services. Unfortunately, these numbers will likely increase as the Nation continues to lose more jobs and the ranks of the unemployed continue to rise.

How to provide everyone in America access to affordable, quality health care is the subject of extensive debate. Over the years, though, we have made some progress in making sure that the most vulnerable members of our communities—including children—can receive basic medical services.

The State Children's Health Insurance Program was created in the Balanced Budget Act of 1997 in recognition of the need to provide medical services for children from middle-income to lower income families and has been widely hailed as a successful program. In the past 12 years, we have seen that CHIP coverage leads to better access to preventative and primary care services, better quality of care, better health outcome and improved performance in school. CHIP currently provides health care benefits to more than 7.4 million children, of which more than 90 percent are from families with incomes below $35,000 a year for a family of three, or 200 percent below the Federal poverty level.

Michigan's CHIP program, called MIChild, has had impressive results: Michigan currently has the second lowest rate of uninsured children in the Nation, trailing only Massachusetts, which provides universal health care coverage.

While CHIP has been a successful program nationwide, many children who qualify for the program are unable to receive insurance because of inadequate funding. In Michigan, approximately 50,000 children are covered under CHIP every month, but there are still 158,000 uninsured children in my home State, and more than 8 million uninsured children nationwide.

To help address this problem, I am pleased that the Senate is taking up a bipartisan bill—the Children's Health Insurance Program Reauthorization Act of 2009—that would increase funding for the program by approximately $32.8 billion over 4½ years. This bill will allow more than 4 million additional children to enroll beyond the 7.4 million children already in CHIP. For Michigan, this means that more than an estimated 80,000 more Michigan children would have access to much needed health insurance.

A hardworking mother from Royal Oak, Michigan, wrote: ''As a single working mother, I could not afford the family insurance that my employer offered, and definitely could not afford private [insurance]. Without this insurance I do not know what I would have done. [CHIP] offered us options, doctors instead of emergency rooms, less time missed at work and school.''

We have a moral obligation to provide Americans access to affordable and high quality health care. No person, young or old, should be denied access to adequate health care, and the expanded and improved Children's Health Insurance Program is an important step toward achieving that goal.

Mr. LEAHY. Mr. President, I wish to express my strong support for the reauthorization of the Children's Health Insurance Program. At a time when our country is moving in a new direction, it is fitting that we are considering this important measure among the first bills considered this Congress. I believe the extension of CHIP will stand out as one of the great accomplishments of this body. By passing this legislation, we would state clearly that the health of children in this country is an issue too important to be dealt with as business as usual.

Last time the Senate considered an expansion of CHIP, the measure passed with bipartisan support and represented what can happen when members from both sides of the aisle come together to form a consensus. Unfortunately, providing health coverage for millions of kids was not a priority of our former President and he vetoed the measure. By standing in the way of this legislation, nearly 4 million children have had to wait to receive critical health coverage. With families struggling more than ever to make ends meet, passing this legislation is essential to protecting our Nation's children.

This legislation is a matter of priorities, and I see no more important issue than caring for our kids. Regrettably, there are some who remain opposed to this legislation. I have heard some argue that this bill should be opposed because it raises taxes. Anyone who opposes the bill on these grounds is choosing big tobacco over children's health.

Others have argued against including a provision that allows States to waive the 5-year waiting period for legal immigrant children. These children, who are lawful immigrants and who will eventually be U.S. citizens, already have the ability to receive CHIP services. Requiring kids to wait 5 years for health care is unconscionable and could create life-long consequences for children. I have heard some claim that allowing legal immigrant children to receive public health care services would violate the conditions on which they entered the United States. This argument is contrary to the position taken by the U.S. Citizenship and Immigration Services, which does not believe an immigrant's use of health care services such as Medicaid and SCHIP constitutes a violation of these conditions. An immigrant can only become a public charge if they receive direct

cash benefits, such as welfare, for their income. Health benefits are expressly removed from this category. During hard economic times, we should give states the ability to remove the restrictive barriers for legal immigrant children and allow them to receive critical health care services. Investing in early health care for all children is sound policy.

I support this bill because I believe it is a travesty that in the richest, most powerful, country in the world, there are more than 47 million people without health insurance. That is an absolutely shocking number. It represents roughly one in six people who are going without regular trips to the doctor, forgoing needed medications and are forced to use the emergency room for care because they have no where else to turn. These are our friends, our neighbors, and millions of our children.

The legislation before us will extend and renew health care coverage for over 10 million children. After years of increases to the number of uninsured in this country, this is a solid step in the right direction. Our recent economic crisis has left more Americans jobless and without health coverage for themselves and their family members. No one is arguing that this bill is the solution to our health care crisis, but this bill represents significant progress. It covers 4 million more kids and represents the first important step to begin reforming our health care system.

In my home State of Vermont, we have been a national leader on children's health care. Even before the creation of CHIP, we knew that this was the right thing to do. Because of our early action, Vermont has one of the lowest rates for uninsured kids in the country. This bill will get us even closer to the goal of covering the thousands of eligible kids in our State who remain uninsured. Further, the provisions in this bill will reverse the Bush administration policies to cut kids off the program and will ensure that thousands of Vermont kids will still have health care.

We are faced with many choices here in the Senate. When it comes to our Nation's kids, the choice is clear. This is a must-pass bill that takes important steps to cover all children who deserve to have every opportunity to lead a healthy and productive life. I urge all my colleagues to stand with the children and support this bill.

Mr. MCCONNELL. Mr. President, there is no debate among Republicans concerning access to affordable health care for children—we believe every child should have access to quality affordable health care.

Many of us are proud of our role in creating the children's health program, SCHIP. We think it ought to be reauthorized responsibly.

But we are troubled by the direction the program has taken in recent years. It has strayed from its original purpose—the purpose Republicans support—of providing coverage to low-income, uninsured children.

This bill before us would only exacerbate those troubling trends.

That is why I offered an alternative—the Kids First Act—to return the children's health program to its original purpose of covering low-income children.

Senate Republicans also believe we need to focus scarce resources on those families who need it most. Mr. CORNYN offered an amendment to use any leftover state funds to help insure children who are eligible, but not enrolled, rather than expanding to high-income beneficiaries.

Senate Republicans believe SCHIP should cover those children who don't have insurance yet. Senator KYL offered a commonsense amendment which says kids should be able to keep the coverage they have, freeing up resources to enroll more children who don't have insurance.

Senate Republicans believe that States should cover low-income children who are not yet enrolled before they expand subsidies to wealthier families. Senators MURKOWSKI, SPECTER, COLLINS, and JOHANNS offered an amendment to require just that.

Regrettably, our friends across the aisle rejected each and every one of these commonsense proposals.

As a result, we are left with a bill that fails to address the fundamental problems facing this children's health program—and that I cannot support.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, there is now 4 minutes of debate equally divided.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, today the Senate can right a wrong. In 2007, more than 3 million low-income, uninsured American kids were waiting to be included in the Children's Health Insurance Program. Those millions of low-income, uninsured children needed doctors visits and medicines. But in 2007, President Bush wrongly vetoed the legislation renewing and expanding the children's health program. The chance at health insurance for those 3 million kids was lost.

We cannot get those 2 years back for those kids, but today the Senate can keep all the children currently in CHIP covered—that is nearly 7 million—and we can reach more than 4 million more low-income, uninsured children who are waiting—waiting on us, colleagues—to do the right thing, who are waiting on us to fulfill the promise of the program.

I strongly urge all of us to give a big vote. The winners are the kids.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, we all know the rest of this year in health care we have big things ahead of us. We know the bill before us today will make the difference for 4 million or so uninsured kids. So 4 million uninsured Americans down but 42 million uninsured Americans to go. That is not going to be an easy task. If we are going to reform our health care system to cover all Americans, if we are going to improve the quality of care to provide for all Americans, if we are going to bring down the cost of health care for all Americans, we need to work together.

If we are going to work together, we need to get a better understanding of what bipartisanship really means. It is not, we will write 90 percent of the bill together and ask the minority to vote for the last 10 percent, like it or not. It is not: here is the bill, does the minority want to sign off on it and let us call it bipartisan?

It is, frankly, very difficult for me to believe we can return to true bipartisanship. But we will finish this bill today, and then I am going to roll up my sleeves. I am going to sit down with the majority to try to improve our health care system for all Americans despite recent evidence that true bipartisanship is elusive here in the Senate.

I know the issues in front of us are too important for me to do anything less than my very best for all those Americans out there who expect us to solve the problems of the day and make a better America for tomorrow's children and all of us.

The PRESIDING OFFICER. All time is yielded back.

The question is, Shall the bill, as amended, pass?

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—66

Akaka	Dodd	Levin
Alexander	Dorgan	Lieberman
Baucus	Durbin	Lincoln
Bayh	Feingold	Lugar
Begich	Feinstein	Martinez
Bennet	Gillibrand	McCaskill
Bingaman	Hagan	Menendez
Boxer	Harkin	Merkley
Brown	Hutchison	Mikulski
Burris	Inouye	Murkowski
Byrd	Johnson	Murray
Cantwell	Kaufman	Nelson (FL)
Cardin	Kerry	Nelson (NE)
Carper	Klobuchar	Pryor
Casey	Kohl	Reed
Collins	Landrieu	Reid
Conrad	Lautenberg	Rockefeller
Corker	Leahy	Sanders

Schumer	Stabenow	Warner
Shaheen	Tester	Webb
Snowe	Udall (CO)	Whitehouse
Specter	Udall (NM)	Wyden

NAYS—32

Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Cornyn	Johanns	Wicker
Crapo	Kyl	

NOT VOTING—1

Kennedy

The bill (H.R. 2), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BAUCUS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House on the disagreeing votes on this measure.

The Presiding Officer appointed Senators BAUCUS, ROCKEFELLER, CONRAD, GRASSLEY, and HATCH conferees on the part of the Senate.

Mr. FEINGOLD. Mr. President, I am pleased that the Senate has successfully passed the reauthorization of a popular program that has reduced the number of uninsured children in our country by over 7 million. The Children's Health Insurance Program has helped lower the rate of uninsured low-income children by one-third since its enactment in 1997. That is a huge accomplishment, and has helped address a problem in our country that is unacceptable—the millions of families lacking insurance. Moreover, while the bill has a price tag of roughly $31 billion over 4½ years, it is fully offset and would cover over 4 million more uninsured, low-income children. This program, according to CBO and numerous economists, is the most efficient method of getting health care insurance to low-income kids and parents, and that means CHIP provides the best coverage available for low-income families.

In my home State of Wisconsin, CHIP is known as BadgerCare and it provides health insurance for over 370,000 children and 17,000 pregnant women. My State has done a very good job of covering uninsured families, and the positive effects of this program are felt at schools, in the workforce, and at home. This bill helps support Wisconsin's efforts and provides low-income children in my State with better access to preventive care, primary care, and affordable care. The end result is healthier families. BadgerCare is vital to the well-being of many families in Wisconsin and I am very pleased that this bill supports the program in my State.

I am very pleased that Congress has taken a first step to relieve States from unnecessary and burdensome barriers to enrolling low-income children. The onerous citizenship documentation requirements established in the 2005 Deficit Reduction Act, DRA, are keeping hundreds of thousands of eligible beneficiaries from the health care they need. This provision has created a serious new roadblock to coverage. As a result of the provision, which requires U.S. citizens to document their citizenship and identity when they apply for Medicaid or renew their coverage, a growing number of States are reporting a drop in Medicaid enrollment, particularly among children, but also among pregnant women and low-income parents. Health care coverage is being delayed or denied for tens of thousands of children who are clearly citizens and eligible for Medicaid but who cannot produce the limited forms of documentation prescribed by the regulations. These children are having to go without necessary medical care, essential medicines and therapies. In addition, community health centers are reporting a decline in the number of Medicaid patients due to the documentation requirements and are faced with treating more uninsured patients as a result.

Over the first year and a half that the documentation requirements were in effect, the Wisconsin Department of Health Services reported that almost 33,000 children and parents lost Medicaid or were denied coverage solely because they could not satisfy the Federal documentation requirements. About two-thirds of these people are known by the State to be U.S. citizens; most of the remainder are likely to be citizens as well, but have yet to prove it.

A study of 300 community health centers, conducted by George Washington University, found that the citizenship documentation requirements have caused a nationwide disruption in Medicaid coverage. Researchers estimate a loss of coverage for as many as 319,500 health center patients, which will result in an immediate financial loss of up to $85 million in Medicaid revenues. The loss of revenue hampers the ability of safety net providers to adequately respond to the medical needs of the communities they serve.

In addition to consequences suffered by eligible U.S. citizens, States have reported incurring substantial new administrative costs associated with implementing the requirement. They have had to hire additional staff, retool computer systems, and pay to obtain birth records. States are also reporting that the extra workload imposed by the new requirement is diverting time and attention that could be devoted to helping more eligible children secure and retain health coverage.

States are in the best position to decide if a documentation requirement is needed and, if so, to determine the most effective and reasonable ways to implement it. States that do not find it necessary to require such documentation could return to the procedures they used prior to the DRA and avoid the considerable administrative and financial burdens associated with implementing the DRA requirement. Most importantly, these States could avoid creating obstacles to Medicaid coverage for eligible U.S. citizens.

Despite significant support for allowing States to determine the best way to document citizenship, that complete fix is not included in the underlying bill. The restrictions are eased, and this is an important first step, but I hope we can continue to move forward on this issue and return this requirement to a State option.

I am also very pleased that this bill will allow States to waive the Federal 5-year waiting period for legal immigrant children and legal immigrant pregnant women to become eligible to enroll in the Children's Health Insurance Program. The idea that a sick child or pregnant woman legally in this country must wait 5 years to receive the care they need is absurd. Timely coverage means that families will have the opportunity to both prevent and treat conditions that can dramatically affect a child's daily life, and long-term health. And in those tragic incidences where a child suffers from life-threatening illnesses like cancer, denying that child necessary health care is unacceptable. Giving States the option to waive the 5-year waiting period is a positive step towards removing barriers to enrollment that are preventing our children from receiving the care they need.

In the midst of this recession, it is even more important that we renew our commitment to this valued program. We know that for every 1 percent increase in unemployment, approximately 1 million Americans become newly eligible for their State's Medicaid or CHIP programs. Reauthorization of the Children's Health Insurance Program will help millions of children and their families stay afloat and continue to receive the health care they need. Over the past few days, my colleagues have shared tragic stories of children who have suffered as a result of being uninsured, and we have listened to the heartwarming stories of families who have—quite literally—been saved by the Children's Health Insurance Program. The Children's Health Insurance Program Reauthorization marks an important leap forward in getting coverage to those who need it. I was pleased to support this bill's final passage, and I look forward to the day that everyone in our country has access to the basic right of health care.

Mrs. BOXER. Mr. President, I am pleased that today the Senate voted to reauthorize and expand the Children's Health Insurance Program, which will extend health care to millions of children across the Nation.

Right now, our Nation faces one of the gravest economic crises in our history, and more and more Americans are having difficulty making ends

meet—especially when it comes to the rising costs of health care. All too often it is children who pay the price.

For almost 12 years, the Children's Health Insurance Program has provided health care for millions of children from working families that do not qualify for Medicaid but cannot afford private insurance. These are the children of working families.

Millions of Americans have found that as the cost of health insurance rises an increasing number of employers are unable or unwilling to provide health insurance to their employees and their families. Approximately 45 million Americans, including nearly nine million children, are living without health insurance, and the number of families who do not have health insurance has continued to rise.

Currently, the Children's Health Insurance Program provides coverage for 6.7 million children nationwide. This reauthorization provides health care coverage for an additional 4.1 million children who are uninsured today.

This bill is largely based on legislation that was twice vetoed by President Bush. This legislation includes several improvements to the Children's Health Insurance Program that would fund outreach and enrollment efforts, allow States to use information from food stamp programs and other initiatives for low-income families to find and enroll eligible children, and give States the option to cover pregnant women for prenatal care vital to healthy newborn children.

I also support a provision in this bill that gives States the option to cover legal immigrant children and pregnant women under Medicaid and CHIP with no waiting period. Under current law, lawfully present pregnant women and children who entered the country after August 22, 1996 are barred from Medicaid and CHIP for the first 5 years they are in the country. These restrictions have severely undermined the health status of immigrant families across the Nation.

My home State of California has a higher cost of living than most others, a lower rate of employer sponsored coverage, and a higher rate of the uninsured. In California, CHIP funds cover approximately 1.4 million children and pregnant women. Currently, there are approximately 1.2 million children in California who do not have health insurance, and about 694,000 of these children are eligible for CHIP coverage.

This legislation not only extends this essential program, but gives States like California the flexibility they need to design a program that best fits the needs of their children.

I would like to thank Senators BAUCUS and ROCKEFELLER and the other members of the Finance Committee who worked so tirelessly to keep the focus of this bill where it should be—on the children.

There is not a man or woman in this chamber who wouldn't do everything within their power to ensure the health of their own children—we should do no less for the children of our Nation.

The PRESIDING OFFICER. The Senator from Montana.

MORNING BUSINESS

Mr. BAUCUS. I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

DTV DELAY ACT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 352 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 352) to postpone the DTV transition date.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the bill be read three times and passed, a motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 352) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(c) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(b) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(c) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

(d) CONDITION OF MODIFICATIONS.—The amendments made by this section shall not take effect until the enactment of additional budget authority after the date of enactment of this Act to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act, including section 90.545 of the Commission's rules (47 C.F.R. § 90.545).

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, Senator ROCKEFELLER and I, as the chairman and the ranking member of the Commerce Committee, have worked on a bill that will delay for 3 months, basically until June 12, this transition. It is voluntary. That was very important. Because many broadcast companies have made the investment for digital transmission, and they will be able to go to that digital transmission. It also allows people, even if they have coupons that are expired, to reapply and get coupons.

But I do wish to serve notice that I will not support another delay in implementation. By now people have had the notice, and we have done everything to help mitigate the cost of this transition. I talked to Senator ROCKEFELLER about that, and I think we are in agreement that now is the time for people to get their coupons and get their boxes because June 12 this transition will be made.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I wish to not only recognize what the Senator from Texas has indicated, but also I wish to say that these last couple days, weeks—whatever it is—have been a study in bipartisan cooperation. We have been up, we have been down. It wasn't going to work, it could work, it might work. What we have concentrated on is going to the people who have concerns and answering every single question they might have. In a deliberative body such as the Senate, where we actually do that and people actually know we are trying to answer all their questions, and are answering all their questions, and when you have a chairman and a ranking member who are in tandem, working together on a very important matter, it counts.

I yield the floor.

KENTUCKY ICE STORM

Mr. MCCONNELL. Mr. President, this week people all across Kentucky are dealing with the effects of a massive snow and ice storm that ravaged the entire Commonwealth on Tuesday. This storm has caused the worst power outage in Kentucky history—more than 600,000 are without power.

This number is all the more devastating given that the previous record had been set only 4 months ago when the remnants of Hurricane Ike battered Kentucky last fall.

The power outages cover the entire Bluegrass State and have caused enormous problems, as you can imagine. Many schools and businesses are closed. Many roads are blocked from downed trees or power lines. Most dangerous of all, some people are unable to heat their homes in this time of freezing temperatures.

Given the severity of the storm, the Governor of Kentucky, Steve Beshear, rightly reached out to President Obama to request a Federal declaration that a major emergency exists. I also contacted the President to ask that he respond quickly to the Governor's request.

I am pleased to say that the President did respond quickly and declared a Federal emergency in most of Kentucky. Doing that has triggered the release of urgently needed Federal authority and funds that will give the people of my State the help they desperately need.

I want to thank the Governor for his quick and decisive action, as well as President Obama for his speedy response. It is making a real difference in the lives of Kentuckians as we speak.

Governor Beshear and his team have been working day and night to ensure all parts of the State are getting the relief they need. Our offices have been in close contact since the storm, and I am proud of the leadership he is demonstrating.

Most of all, I want to thank the many men and women across Kentucky who are working to aid their communities during this disaster.

From the police and firefighters, to the first responders, the power company employees, the shelters taking in those without power, and the people knocking on doors to check on their neighbors, everyone is pitching in to make sure Kentucky makes it through this storm.

And I am sure that we will. Mr. President, I ask my colleagues to keep the citizens of Kentucky in their prayers during this difficult time.

COMMITTEE ON APPROPRIATIONS, RULES OF PROCEDURE

Mr. INOUYE. Mr. President, pursuant to paragraph 2 of rule XXV of the Standing Rules of the Senate, I ask that the rules of the Appropriations Committee for the 111th Congress be printed in the CONGRESSIONAL RECORD. These rules were adopted by the full committee membership on January 27, 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE APPROPRIATIONS COMMITTEE RULES—111TH CONGRESS

I. MEETINGS

The Committee will meet at the call of the Chairman.

II. QUORUMS

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of staff members at closed sessions of the Committee shall be limited to those members of the Committee staff who have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARINGS

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the full Committee for its decision.

VI. AVAILABILITY OF SUBCOMMITTEE REPORTS

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. AMENDMENTS AND REPORT LANGUAGE

To the extent possible, amendments and report language intended to be proposed by Senators at full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. POINTS OF ORDER

Any member of the Committee who is floor manager of an appropriations bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriations bill.

IX. EX OFFICIO MEMBERSHIP

The Chairman and Ranking Minority Member of the full Committee are ex officio members of all subcommittees of which they are not regular members but shall have no vote in the subcommittee and shall not be counted for purposes of determining a quorum.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

WHITE HOUSE OFFICE OF CONSUMER AFFAIRS

● Mr. KENNEDY. Mr. President, I welcome this opportunity to support consumer advocates across the country in encouraging the new administration to restore the White House Office of Consumer Affairs. For the past 8 years, the safety and rights of consumers have taken a back seat to special interests. We are all aware of troubling reports about unsafe toys for our children, unsafe household products for our families, and even unsafe food.

With a new administration focused on bringing needed change to the Nation, a new focus on consumer safety should be part of this change. During the Clinton administration, consumers had an effective advocate with a long record of commitment to protection in Ann Brown, chairman of the U.S. Consumer Product Safety Commission. But staff cutbacks in the Food and Drug Administration and the U.S. Consumer Product Safety Commission have further undermined effective efforts to protect consumers. Bipartisan legislation has attempted to address these challenges, but more progress is needed.

Now is the time for action. The new administration can go a long way in restoring the trust of Americans in the safety of the products they use by restoring the Office of Consumer Affairs to its rightful place in the White House. I urge the administration to do so, and I ask that the editorial from the January 4 New York Times may be printed in the RECORD.

The editorial follows.

[From the New York Times, Jan. 4, 2009]

A VOICE FOR THE CONSUMER

The time has come to give the American consumer a much stronger voice in Washington. President-elect Barack Obama has already named what amounts to an energy and environmental czar in the White House, and America's beleaguered consumers deserve no less.

Mr. Obama should restore the White House Office of Consumer Affairs, which vanished during the Clinton years, and appoint a director who has both the president's ear and the authority to rebuild the consumer protection agencies that were undercut or hollowed out by the fiercely anti-regulatory Bush administration.

There is no shortage of agencies ostensibly designed to protect consumers. But without an emergency like killer spinach or lead in children's toys, the Bush administration has mostly failed to hear customers' complaints. The consumer safety net is simply far too weak.

The Food and Drug Administration has suffered cutbacks in expert personnel, and still relies too heavily on industry to police itself. Credit-card holders who have been subject to all kinds of Dickensian tricks and traps were finally told by the Federal Reserve that relief is in sight—in 2011. Not so long ago, there was only one official toy tester at the Consumer Product Safety Commission, and oversight generally was so weak that Congress was forced to step in with new protections, which still could be strengthened.

It will be up to the Obama administration to bring these agencies back to life. In part this means restoring the morale of government workers who have too often been stymied by the anti-regulators at the top. It will also mean stronger consumer protection policies and hiring more skilled people. It will mean giving one official responsibility for coordinating the entire apparatus.

Presidents Johnson and Carter both recognized the need for a strong person to do that job. Both chose Esther Peterson, who during about eight years in office pushed for then-radical ideas like nutritional labeling on food and truth in advertising. As the Reagan anti-government era began, the consumer protection job steadily lost clout until it was shuttered in the late 1990s.

During his campaign, Mr. Obama promised consumers that he would help them get a fairer deal. As the victims of lead toys and predatory lenders can attest, they certainly need one. Restoring the Office of Consumer Affairs and appointing a director as strong and capable as Mrs. Peterson would be an encouraging first step.●

ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, in the 4 years since the federal ban on assault weapons was allowed to expire, hundreds of people in this country have died and been injured by previously banned weapons. The Brady Center to Prevent Gun Violence report, ''Assault Weapons: Massed Produced Mayhem,'' details the deaths of 165 people and the injury of 185 people by assault weapons since the ban expired. This includes the death and injury of 38 police officers. The simple fact is, our communities are less safe than they were 4 years ago.

The Bureau of Alcohol, Tobacco, Firearms and Explosives described assault weapons in their Assault Weapons Profile as weapons ''designed for rapid fire and close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. They are mass produced mayhem.'' Unlike semiautomatic hunting rifles, which are designed to be fired from the shoulder and rely on the accuracy of a precisely aimed projectile, assault weapons are designed to be fired at the hip and to maximize their ability to rapidly shoot multiple human targets.

The report also outlines the dangerous weapons race law enforcement officers have been forced to enter in an effort to counter the increasing likelihood that they will be confronted by a criminal wielding an assault weapon. In addition to the common criminal, assault weapons are highly attractive weapons for terrorists. The ease with which they can currently be purchased, combined with their designed ability to inflict as much damage as possible, make them ideal tools for conspiring terrorists. Just last year five men were arrested in New Jersey with a stockpile of assault weapons, while planning to attack the U.S. States Army base at Fort Dix.

Despite the overwhelming support of the law enforcement community, the ongoing threat of terrorism and bipartisan support in the Senate, the assault weapons ban was not allowed to expire. Now, 4 years later, 19 previously banned military-style assault weapons, some capable of firing up to 600 rounds per minute, are once again pervading our streets and neighborhoods. This Congress we must take up and pass sensible gun safety legislation, including reinstating the assault weapons ban.

BLAIR NOMINATION

Mr. FEINGOLD. Mr. President, I support the nomination of ADM Dennis Blair to be Director of National Intelligence. I do so as a strong supporter of intelligence reform and in the belief that Admiral Blair brings not only a keen understanding of the current challenges to interagency cooperation but an enthusiasm for reform. I am also encouraged by his consistent and repeated commitments to keep the congressional intelligence committees fully and currently informed, and his desire to end the stonewalling conducted by the Bush administration. The confirmation process has raised a number of issues of concern that I believe have been adequately addressed, although it is my hope and expectation that Admiral Blair, if confirmed, will work with me and other members of the committee on these, as well as other important matters.

Admiral Blair has committed to ending the Bush administration practice of hiding programs such as the CIA detention program and the President's warrantless wiretapping program from the full committee and has said that these programs ''were less effective and did not have sufficient legal and constitutional foundations because the intelligence committees were prevented from carrying out their oversight responsibilities.'' He has also committed to breaking down the stovepiping of oversight whereby Intelligence Committee members are denied access to important Department of Defense activities. These commitments are a critical first step in ensuring effective oversight and in reestablishing a collaborative relationship between our two branches of Government.

While I was disappointed with Admiral Blair's refusal, at his hearing, to characterize waterboarding as torture, I am confident that he will carry out President Obama's Executive order prohibiting ''enhanced interrogation techniques.'' I am also assured by his statement that ''the United States must not render or otherwise transfer anyone to a country unless we have credible assurances that they will not be subject to torture or other unacceptable treatment.''

His statements on privacy, civil liberties and checks and balances have also been reassuring. He has expressed concern about the U.S. Government's accumulation of detailed private information on U.S. citizens. He has reaffirmed that FISA is the ''only legal authority for conducting surveillance within the United States for intelligence purposes.'' He told me at his hearing that he would submit intelligence programs to the Justice Department's Office of Legal Counsel at the outset, so that they are conducted under clear legal authorities. And, more generally, he has stated that he sees it has his responsibility to ''make clear that protecting the privacy and civil liberties of Americans is as important as gathering intelligence.'' I do have concerns about his statement that he supports immunity for companies that allegedly cooperated with

President Bush's illegal warrantless wiretapping program and will urge him to reconsider his position once he is more familiar with the program.

I have found Admiral Blair to be very forthcoming with regard to reform. He clearly understands the importance not only of integrating the intelligence community but of developing coherent strategies that bring the intelligence community together with other departments of the U.S. Government, as well as budgets that reflect those strategies. These efforts have been central to my work in the Intelligence Committee, as I sought—through legislation and classified letters—to obtain interagency counterterrorism and other national security strategies from the Bush administration. I am confident that Admiral Blair will work to change this longstanding gap in our strategic capabilities. I am also reassured by his statement, at his confirmation hearing, that he agrees with the need to bring together the ways the U.S. Government obtains information, through the IC as well as through diplomatic reporting and other nonclandestine means. This critical priority was the subject of legislation introduced last year by Senator Hagel and myself and passed by the Intelligence Committee, and I will continue working to enact that bill.

A related issue is the need to ensure that Department of Defense intelligence activities are conducted under the policies of the DNI and under chief of mission authorities. In this regard, Admiral Blair has not indicated any new policy positions. On the other hand, he has stated that he understands the importance of ''a coherent and coordinated approach to foreign governments and intelligence services'' and has promised to ''act quickly to put in place procedures to accomplish the directed alignment of foreign intelligence and counterintelligence agreements and to institutionalize it for the future.'' This is a critical issue, and I look forward to working closely with Admiral Blair, should he be confirmed, as well as other members of the administration.

Another issue on which I expect to work with Admiral Blair, should he be confirmed, is human rights. I have, and no doubt will continue to have, disagreements with him about U.S. engagement with the Indonesian military, notwithstanding the lack of accountability for human rights abuses. While Admiral Blair has helped clarify his role when he was at Pacific Command, those substantive differences remain. Going forward, I am encouraged by his statement that the intelligence community ''needs to emphasize in its relationships around the world that the United States respects and seeks to advance respect for human rights and that IC agencies do not condone behavior that violates this core American value.'' I expect to work with Admiral Blair to ensure that that message is conveyed convincingly.

Finally, I have raised concerns about Admiral Blair's past conflicts of interest. He has acknowledged mistakes, including his failure to seek counsel before deciding not to recuse himself. I have asked him whether he would seek counsel in the future, including of ethics officers, and he has assured me that he would.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I am a single, 55-year-old female. I commute Monday through Friday to Boise for work. Currently it costs me approximately one week's pay check (take home pay) per month, just to put gas in the car to make the commute. Needless, to say, by the time rent, utilities, and gas are paid, this leaves very little for anything else—including groceries. Weekends? Unless it is one trip to the grocery store, the car and I sit at home out of necessity, not by choice. Now that summer is here, I do not even have the option of walking to places in downtown Caldwell, as I cannot manage the heat. I guess I have officially become one of the working poor.

CYNDI, *Caldwell.*

Hi Mike, I had sent you two times about what is going on with coal to liquid and I receive no reply; what gives?

As long as we do not have the technology for hydrogen fuel cars and batteries are not good enough yet, we are still dependant on fossil fuels. Do something constructive and start pushing for coal to liquid. This is the only way, at this time to solve our energy crisis, as I mentioned before, the process is almost identical to cracking oil, clean diesel and all the other chemicals, except for gasoline.

I want an answer from you about this subject and no generic answer.

ED, *Sandpoint.*

Thank you for asking us Idahoans on how the gas prices are affecting our lives. I was unable to do a vacation trip to the coast, due to the high prices of gas. Instead of costing $25 to fill my tank; it now takes about $75 to fill it up. I now fill up every time it goes to a half of a tank. I have to decide if I am going to put gas in my car or groceries that I need. I do not do much now, just go back and forth to work and pretty much nothing else. I cannot believe how things have gotten out of hand. Everything has gone up within the last 6 months. I have a home and do not want to risk losing [it]. I have been at my job for the past 8 years and have not gotten any type of raise in the last 4 years. My father is on a limited income, and he cannot afford to put gas in his vehicle, he just barely makes ends meet now. I take him to the grocery store and take him on his errands, when he needs to go somewhere. Thank you for taking the time to ask us how we are doing here in Idaho.

PATRICIA, *Meridian.*

I find it empowering that you are involving the people that are so affected by the recent hikes in energy costs, in this case, the price of fuel. I know that I share the pain of trying to keep up with every American that has to depend on gas and diesel to make it to work to survive and, due to inevitable geography, visit loved ones throughout the U.S. I must drive a full-sized truck and trailer to make a living and filling it up yesterday was $124.40. That will last four or five days depending on mileage. My wife commutes from Caldwell to Payette, and even with a new Subaru that gets good mileage, has to fill up every five days as well at a new high price of $650. This is very difficult. Progressing with a plan to save a little money, perhaps work on a much-needed retirement someday has taken a back burner to simply making it to work. Conservatively, we spend around $560 a month in fuel prices. We do indeed need to find a solution, perhaps in house drilling . . . I am not sure.

With further concern, both of our fathers are 71 and 74 years old and in failing health. Both lives have been full and, as we all know, the inevitable is upon us. Rising fuel prices make it that much more difficult to see them. This is a long list of complaints which I do not like to do, but this is the voice of a country in desperate need. Thank you for this opportunity, may we work together.

HOWARD.

I want to get the attention of Congress. You people need to listen to these letters from Senator Crapo. Who are you representing? I do not believe the Constitution has ''We, the special interest groups'' in it. We, ''The People'' want to drill for oil on our own soil, use hydroelectric power, solar power, wind power, nuclear power, any power that is available to us in this country.

We the people are hurting. Do not you guys get it? We are the United States of America! We can accomplish anything. We the people are powerful, resourceful, proud of this land we call America! Remove the road blocks so this innovation can happen.

I am not the only frustrated citizen out there. Congress is supposed to represent the people of this nation. [But it seems that they are so disconnected, it is scary. I think Congress should get the same Social Security plan and insurance plan (or lack thereof) we get. Then things might change. You just do not realize how much this rise in gas and food prices are hurting Americans. I wish we the people could vote on this issue. I think you would see a different outcome. We would immediately be drilling for oil on our own soil and finding innovative ways to create our own power. We need to remove the handcuffs that government has put on companies so this innovation could begin. America has always been independent. What happened?

Even if the roadblocks were removed today, it is going to take time to get these

new energy systems up and running. Why are not we starting? Is it going to take people starving to death here in America to get congress's attention? People are having to choose between buying gas and buying food? Here in America?

Why are we depending upon getting oil from countries that hate us? That is just not an intelligent strategy.

DEBBIE.

Thank you for reaching out to gain the opinions of the people. Charles Krauthammer states his opinion beautifully in the editorial below. The only points I would add is that the world has only so much oil. If the U.S. begins drilling offshore, it will give Americans a continued false sense of confidence and for how long . . . 30 years . . . maybe. Together Americans need to come together and develop technology that is not oil based. We can do it now or we can leave it for our children. There are other ways to help relieve families of the financial difficulties the high cost of oil is creating. I encourage you to focus on them.

MARION, *Boise*.

AT $4, EVERYBODY GETS RATIONAL

(By Charles Krauthammer)

Friday, June 6, 2008

So now we know: The price point is $4.

At $3 a gallon, Americans just grin and bear it, suck it up and, while complaining profusely, keep driving like crazy. At $4, it is a world transformed. Americans become rational creatures. Mass transit ridership is at a 50-year high. Driving is down 4 percent. (Any U.S. decline is something close to a miracle.) Hybrids and compacts are flying off the lots. SUV sales are in free fall.

The wholesale flight from gas guzzlers is stunning in its swiftness, but utterly predictable. Everything has a price point. Remember that ''love affair'' with SUVs? Love, it seems, has its price too.

America's sudden change in car-buying habits makes suitable mockery of that absurd debate Congress put on last December on fuel efficiency standards. At stake was precisely what miles-per-gallon average would every car company's fleet have to meet by precisely what date.

It was one out-of-a-hat number (35 mpg) compounded by another (by 2020). It involved, as always, dozens of regulations, loopholes and throws at a dartboard. And we already knew from past history what the fleet average number does. When oil is cheap and everybody wants a gas guzzler, fuel efficiency standards force manufacturers to make cars that nobody wants to buy. When gas prices go through the roof, this agent of inefficiency becomes an utter redundancy.

At $4 a gallon, the fleet composition is changing spontaneously and overnight, not over the 13 years mandated by Congress. (Even Stalin had the modesty to restrict himself to five-year plans.) Just Tuesday, GM announced that it would shutter four SUV and truck plants, add a third shift to its compact and midsize sedan plants in Ohio and Michigan, and green-light for 2010 the Chevy Volt, an electric hybrid.

Some things, like renal physiology, are difficult. Some things, like Arab-Israeli peace, are impossible. And some things are preternaturally simple. You want more fuel-efficient cars? Do not regulate. Do not mandate. Do not scold. Do not appeal to the better angels of our nature. Do one thing: Hike the cost of gas until you find the price point. Unfortunately, instead of hiking the price ourselves by means of a gasoline tax that could be instantly refunded to the American people in the form of lower payroll taxes, we let the Saudis, Venezuelans, Russians and Iranians do the taxing for us—and pocket the money that the tax would have recycled back to the American worker.

This is insanity. For 25 years and with utter futility (starting with ''The Oil-Bust Panic,'' the New Republic, February 1983), I have been advocating the cure: a U.S. energy tax as a way to curtail consumption and keep the money at home. On this page in May 2004 (and again in November 2005), I called for ''the government—through a tax—to establish a new floor for gasoline,'' by fully taxing any drop in price below a certain benchmark. The point was to suppress demand and to keep the savings (from any subsequent world price drop) at home in the U.S. Treasury rather than going abroad. At the time, oil was $41 a barrel. It is now $123.

But instead of doing the obvious—tax the damn thing—we go through spasms of destructive alternatives, such as efficiency standards, ethanol mandates and now a crazy carbon cap-and-trade system the Senate is debating this week. These are infinitely complex mandates for inefficiency and invitations to corruption. But they have a singular virtue: They hide the cost to the American consumer.

Want to wean us off oil? Be open and honest. The British are paying $8 a gallon for petrol. Goldman Sachs is predicting we will be paying $6 by next year. Why have the extra $2 (above the current $4) go abroad? Have it go to the U.S. Treasury as a gasoline tax and be recycled back into lower payroll taxes.

Announce a schedule of gas tax hikes of 50 cents every six months for the next two years. And put a tax floor under $4 gasoline, so that as high gas prices transform the U.S. auto fleet, change driving habits and thus hugely reduce U.S. demand—and bring down world crude oil prices—the American consumer and the American economy reap all of the benefit.

Herewith concludes my annual exercise in futility. By the time I write next year's edition, you'll be paying for gas in bullion.

I am writing in response to your request for stories about energy prices. I was surprised to see that the average family spends $200 a month on gasoline. Our family is spending $700 a month on gasoline, not including vacations. In a relatively rural area such as Middleton, we travel 15–20 miles for work, church and shopping, and 5–10 miles to schools and any other activities in which our children are involved. Of these five—work, church, shopping, school, and activities, we could cut down on the activities our children are involved in (and we have), but the other four are not an option.

Add to this the fact that our property taxes in Middleton were raised by a third, which we are starting to pay for this month, and it makes our budget extremely tight. So tight, in fact, that we have put our home up for sale, and I will be adding substitute teaching onto my busy schedule as a mother of six to be able to make ends meet; well, I should say some of the ends—many needs will still remain unfilled because our budget will be so tight.

My suggestions for Congress: 1) Drill for more oil in our own country, being as environmentally friendly as you can; 2) Use much more nuclear power; 3) Find out who is suppressing the technologies that will allow us to move away from dependence on gasoline in our cars.

Thank you for inviting us to share our stories and suggestions.

LORENA, *Middleton*.

I am writing [because] you want to know what is going on in the real world. Well, I am here to tell you that it is not easy to do. I am a single mom [who] is raising a teenage son. I am fighting cancer with no insurance because it is too expensive. So it is now down to do I pay the medical bills and keep fighting the cancer or do I put gas in my car to go back and forth to work? Do I put gas in the car or do I put food on the table for me and my son? We are in a war with Iraq but yet we are still importing oil from that country and supporting them after they bombed our country. Where is the smarts in that? We have oil wells here in the U.S. that are capped off and not being used when we could support our country put our own people back to work. We have fuel in reserve for war time, [but we are in war time]. [We should] open the reserves and show them we do not need their oil and the prices would come down per barrel. They say the reason that the cost per barrel is so high is because of the danger of getting the oil out well that is because we are in a war with them.

Thanks for listening.

TRACY.

Every issue needs balance. I ask you to take this letter with all the other to the Hill to give balance to your argument to offshore oil drilling.

Two years ago our family made some changes. We traded in our 10 miles to the gallon SUV and purchased a vehicle that would get 21 mpg. We tuned up our bicycles and ride them at every opportunity, and we walk to places we would have driven years ago. We also use conservation methods and turn off lights, recycle, and encourage everyone we meet to do the same.

Mr. Crapo, this is the answer to your call to off-shore drilling. It is conservation, not more oil. It is reducing the size of trucks and cars and homes. It is limiting the use of recreational vehicles that waste millions of gallons daily. It is a new consciousness that we must ultimately learn to live with to survive with our earth and the changing dynamics of our energy use.

The call for MORE is only a stop gap. It does little to solve the problem and does everything to get you through one more election. Remember, you are riding on the coattails of the most unpopular President in our history. That alone should cause you concern.

I would be surprised if this letter makes the stack that is presented to the Senate. It does little to support your argument but does express the issue the mood of one of many of the voters in your home state.

Thank you

KIRK, *Boise*.

It is time we stopped building homes no one will buy and started building nuclear power plants, putting up windmills, and using this land these developers have gobbled up to grow corn to feed our families. Building more houses (as in Boise when 9,000 homes are up for sale due to a loss of jobs) is nonproductive in this housing market. This would also put people to work and possibly help with the illegal problem we have in Nampa. These people come here to build houses and do landscaping.

When I used to fill my truck for $56 and it would last a month, now it is $82. I live on Social Security Disability. Cutting food, I have already done. Cutting utility costs, I did this month. I cannot cut my meds or my insurance, but I do not go see my Dr. as often as I should.

BARBARA, *Boise*.

I really appreciate your willingness to step up and getting the information from the people about problems in our economy. This is my story—myself and my family, which includes four children ages from 12 to 5 years, and my wife. We just bought a house that

made our life a lot easier about 1 year and a half ago. This house is a lot bigger than the one we had. I needed a house that could fit all of us. So I went from a 1,146 square foot home to a 2,000 square foot home, a lot better. But ever since the prices of gas started going up, it has put us in a bind. Right now I am now about 2 months behind on my mortgage and really do not have any way of making it up. So we have the house on the market for a short sale. Since the gas prices are rising, people are not shopping like they used to, so my wife's work is affected hence her hours are cut. I work all the way in Boise and live in Nampa. I have been at my job for 9 years now, and it seems like I am just working to get back and forth.

I really think that we should start drilling other places now. The economy is going or is already taking a big hit on everything. Since the price of gas basically controls the price of everything like food and since I have four kids, my grocery bill has [gone] up, also. Another option maybe is to have the oil companies cut the Americans a stimulus check at the end of every fiscal year. They are making a huge profit. That tells me that the price can go down a lot and they can still make a little money. Instead they want to help hurt the economy. In my eyes, they are no better than terrorists.

Thanks for taking the time to read my email and hopefully since we the people actually put you guys into these positions to help the economy and keep our country, state, city safe and running like a well-oiled machine, I really hope that something can come of this. I really believe that if gas prices run around $2.50 a gallon they can still make a profit and keep things going in our country with no problem.

JASON.

ADDITIONAL STATEMENTS

CONGRATULATING THE WARREN COUNTY PREVENTION PARTNERSHIP

● Mr. BUNNING. Mr. President, today I congratulate the members of the Warren County Prevention Partnership, an antidrug group that represented the Commonwealth of Kentucky in the 2009 inaugural parade. I was pleased to learn that such an outstanding organization represented Kentucky on the national stage.

The Warren County Prevention Partnership holds the distinct honor of representing Kentucky in three consecutive Presidential inaugurations: 2001, 2005, and 2009. The Warren County Prevention Partnership works for a drug-free America and its ''Reach for Your Dreams'' antidrug and antiviolence program is motivated to help America achieve that goal.

I am proud that such a superior association represented Kentucky on such a historical day in our Nation's history, and I support the organization, as well as others that strive for a drug- and violence-free country. I hope that this recognition assists the Warren County Prevention Partnership in getting its message heard by all Americans.

Again, I congratulate the members of the Warren County Prevention Partnership on their remarkable feat of representing Kentucky in the past three inaugurations. I hope that its accomplishments inspire others to work for a drug-free America.●

TRIBUTE TO MARLENE ELLIOTT BROWN

● Mr. CARPER. Mr. President, today I honor Marlene Elliott Brown, who was appointed in 2001 by former President George W. Bush as the Delaware/Maryland Director for USDA Rural Development where she oversaw housing, business, water and waste loan programs, community facilities and grant programs for my State of Delaware and neighboring Maryland.

My staff and I have had the great privilege of working with her on rural development projects including economic development, housing and the provision of critical public utilities throughout rural Delaware.

She started her remarkable career in politics in 1982 when she served as State director for my predecessor, Senator Bill Roth. While Senator Roth was known for his many accomplishments on the national level, in Delaware, he was best known for providing outstanding constituent services. No one was more responsible for building and sustaining this high level of service than Marlene. Striving to meet this standard has been one of my highest priorities as a U.S. Senator and a great challenge for my staff because Marlene set the bar so high. She truly represents the highest level of excellence in public service. More importantly, Marlene has the heart of a public servant which is a rare quality but one that is sorely needed in the world today.

First and foremost, Marlene was a proud southern Delawarean. She grew up on a family farm near Laurel, DE, graduated as valedictorian of her class at Laurel High School, and subsequently graduated from Delaware Technical and Community College and Salisbury University with a major in business administration. In addition to her public service, she has been, and remains, very active in her church and community, having served as past president of the Georgetown-Millsboro Rotary Club, former vice chairman of the Republican State Committee, a past Honorary Wing Commander at the Dover Air Force Base, a member of the Laurel Chamber of Commerce, a board member of the Delmarva Christian High School, and a member of the Delaware Tech Educational Foundation Council.

She has also received numerous awards, including Outstanding Young Women of America in 1982, Delaware Young Careerist for Delaware Business and Professional Women in 1985, and the first recipient of the William Roth Outstanding Achievement Award in 2004, just to name a few.

I have had the great pleasure of working with Marlene Elliott Brown for many years and joined her frequently to announce USDA funding for projects throughout southern Delaware. Her hard work and dedication to the betterment of rural communities has helped enrich the lives of many Delawareans. Marlene's vibrant spirit is unwavering and her fervent commitment to public service reflects the desire of an individual devoted to making a difference. She is truly a generous and caring friend who has provided inspiration to many. While representing the U.S. Department of Agriculture in Delaware and Maryland, Marlene somehow found time to help train not one but two people who have served as my county directors in Sussex County. For that, I will always be grateful.

Marlene and her husband still live on a family farm near Laurel where she grew up, and I know that her family, community and our state are very proud of her accomplishments. I want to personally thank Marlene's family for their willingness to share her with all of us. Marlene is quite simply a very good person with a great heart, and I wish her well on the next stage of her noteworthy career.●

REMEMBERING AUSTIN CUNNINGHAM

● Mr. GRAHAM. Mr. President, Orangeburg, SC, has lost one of its finest citizens with the passing of 94-year-old Austin Cunningham. Mr. Cunningham led a most distinguished life and his contributions to the people and community will be greatly missed.

During his life, Mr. Cunningham was a soldier, businessman, community leader, writer, lawyer and citizen of the year. His hometown newspaper, the Orangeburg Times and Democrat, summed up his life—Mr. Cunningham was, ''the definition of a Renaissance man.''

If there was a business or civic endeavor that would improve the life of his town and community, Mr. Cunningham was involved. From putting in new street lights to tackling the war on drugs on the streets of Orangeburg, Mr. Cunningham was proof that one person could make a difference.

Mr. Cunningham played an instrumental role in helping young, underprivileged, at-risk teenagers find employment and learn the value of hard work. In 1984, he was invited to the White House to meet with President Reagan who thanked him for participating in this program.

He was also a patron of the arts who supported and encouraged the choir at South Carolina State University, one of our Nation's foremost historically Black universities. The university awarded him its Distinguished Service Award in 1995.

Orangeburg, SC, has lost a fine citizen, friend, and community leader with the passing of Austin Cunningham. His life work deserves recognition on the contributions he made to his fellow citizens.

Our thoughts and prayers are with the family and citizens of Orangeburg,

SC, on the passing of Austin Cunningham.●

TRIBUTE TO JAMIL SABA

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate Jamil Saba, who served as the sheriff of Dougherty County, GA, for more than two decades until he retired in December 2008.

Sheriff Saba was born and raised in Albany, GA, which is located in Dougherty County. He remained there, serving his community proudly. Jamil served his country in the U.S. Army from 1960 through 1962 and began his career in law enforcement in April of 1970 as a deputy Sheriff with the Dougherty County Sheriff's Office. He was later promoted to chief investigator in 1972, the job he held for more than a decade until he won election and became sheriff in 1985.

As a true leader, Sheriff Saba has served as president of the Georgia Sheriff's Association and president of the Georgia Sheriffs' Youth Homes, as well as on the Georgia Sheriffs' Retirement Board of Directors. He was a board member of the Georgia Public Safety Committee, the Dougherty County Child Abuse Protocol Committee, the Child Death Investigations Protocol Committee, Sexual Assault Protocol Committee, and many others.

His service efforts and accomplishments at the local level are plentiful as well. Jamil was the chairman of the advisory board for the Albany-Dougherty Drug Unit and is a charter member of the Albany Sports Hall of Fame.

Jamil worked tirelessly for Daugherty County as sheriff and plans to continue serving a cause that touched him the most deeply, the Georgia Sheriffs' Youth Homes Foundation Board. I want to recognize and thank his wife Donna Jaye Adams and their son, Jim, and daughter, Lauren, for making the sheriff's job easier and sharing him with the community. I hope you all find joy in the coming years together during Jamil's retirement.●

TRIBUTE TO JERRY L. LANCASTER

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate Jerry L. Lancaster, who served as the sheriff of Pulaski County, GA, for 28 years and retired on December 31, 2008.

Jerry was born and raised in Hawkinsville, GA, which is located in Pulaski County. He remained there in order to serve his community proudly for many years. Jerry worked with the Georgia State Patrol for nearly 10 years before being elected sheriff in 1980. As sheriff, he strived to live out the values he was taught as a child—hard work, fairness, honesty, respect, and discipline. His gifts to the community have been immeasurable. The level of respect the community has for him is evidenced in the fact that he is the longest serving sheriff in the history of the county and was never defeated in an election.

Jerry not only worked tirelessly for Pulaski County as sheriff, but he also gave of his time through his service on the Board of the Georgia Sheriff's Boys' Ranch. He gives credit to his wife Nell Goss Lancaster for her unfailing support, and I honor and thank her, their two children and three grandchildren for making Jerry's job easier and sharing him with the community. I hope you all find joy in the coming years together during Jerry's retirement.●

TRIBUTE TO GARY L. LEMONDS

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate SSG Gary Lemonds, a lifelong citizen of Walton County, real estate broker, and decorated Vietnam veteran who passed away on January 8, 2009.

Gary Lemonds served with Company F, 75th Ranger Regiment in Cu Chi, Vietnam, and was inducted into the Ranger Hall of Fame on August 25, 1994, at a ceremony in Fort Benning, GA. His induction was based on his involvement in a conflict with an armed hostile force in the Republic of Vietnam. Staff Sergeant Lemonds served as a team leader during an ambush patrol maneuver on April 9 and April 10, 1969. When an enemy force launched a massive attack, Sergeant Lemonds led his men in an assault on the enemy emplacements. He single-handedly charged a bunker and destroyed it with grenades, then, sighting another fortification, he crawled through fierce enemy fire and silenced it with his rifle. After eliminating the hostile entrenchment system, he continued his patrol mission. On April 10, 1969, his patrol was attacked a second time. From his patrol position in a bomb crater, he called in artillery and air support on the large enemy element. When withdrawing his troops to a nearby landing zone for evacuation, he came under sniper fire from two North Vietnamese soldiers, whom he quickly eliminated with a grenade. Intense enemy fire thwarted the extraction aircraft's first landing attempt, so he directed a gun ship on the enemy location and effected a successful extraction.

His extraordinary heroism earned him the Distinguished Service Cross, a Silver Star, two Bronze Stars, three Purple Hearts as well as numerous other awards and medals. He also continued to honor other service men and women well after his tour in Vietnam through his involvement with the Patriot Guard Riders.

Gary is survived by two daughters and a son-in-law, Kimberly Lemonds and Jennifer and Jason Needham; his mother Dorothy Lemonds; sister and brother-in-law Glenda and Tom Lewis; grandchildren Jessica Lemonds, John Cwiek, and Pressley Needham, and a niece and nephew. Along with Gary, I would like to recognize his family today and thank them for sharing their beloved family member with our proud Nation.●

REMEMBERING JOHN A. BAKER

● Ms. MURKOWSKI. Mr. President, I wish to praise a citizen from my State who recently passed away. In December John A. Baker who was loved and respected by those who knew and worked with him lost his battle with pancreatic cancer.

John A. Baker is survived by his wife Judy of 42 years, son Jesse M. Baker Sr., daughter Leslie Cummings, grandchildren Maria Graham, April Blakemore, Jesse M. Baker Jr., great grandson Joseph, mother-in-law Lenora Moore, sister-in-law Susan Wooden, nephews Jim and Mark Wooden, great niece Marina Lenora Wooden, brother-in-law Charles Moore, nephews Richard, Ryan, Mathew, and Kyle Moore. John is also survived by sister Lena Susort, brother Cecil Baker, nieces Lavonne Ruggles, Mary Beth Dagit, Barbara Collins and nephew Frank Baker, and several great, great great nieces and nephews.

John A. Baker was like many Alaskans. He was born in Iowa in 1937 and graduated from Everett High School in Everett, Washington in 1949 before finding his way to our great State. I have to tell you, what was Washington and Iowa's loss, was Alaska's gain.

John found his way to Alaska after serving in the U.S. Army in Australia during the Korean conflict. Upon coming to Alaska he first worked in Ketchikan where he was employed by Ketchikan Soda Works. He also flew part time for Weber Air and worked at Ellis Airlines as a mechanic in the landing gear section where he met and later partnered with Chuck Traylor.

He and Chuck Traylor formed a floatplane operation, Stikine Air Service, out of Wrangell in 1962. John held both an airframe and power plant mechanic license and was one of our Alaskan bush pilots. After selling his interest in the Stikine Air Service he moved to Juneau to work for Channel Flying Service.

John met Judy Moore Churchill in 1964, they were married on March 11, 1966, and moved to Juneau. After 3 years John and Judy returned to Wrangell where John worked at Wrangell's first television station. In conjunction with John's position at the TV station Judy opened Forget-Me-Not Florist, which provided many, many flower arrangements that went to the grand opening of the brand new saw mill office and other businesses in town.

Always the entrepreneurs and getting tired of never being able to purchase milk at the end of the week, John and Judy rented a small building from C.V. Hendersen and began a home milk delivery and small ''cash and carry'' market. As things changed John, along with wife, Judy entered

the field of rentals and real estate where they devoted over 35 years of their lives and presently own Grand View Bed and Breakfast which overlooks Zimovia Strait and the Elephants' Nose. Also, during this time John continued to occasionally fly for Stikine Air Service and worked as a truck driver on the North Slope until his retirement.

During this time Judy also served as the business manager for the Wrangell District of the U.S. Forest Service where she and John served as surrogate parents and guardians for many of the new Forest Service employees and couples who came to Alaska to work in the Wrangell Ranger District. It was through their wisdom and kindness and John's sense of humor that dozens of young families learned how to assimilate themselves into the Wrangell community.

John was a 1961 active Past Master Mason of the Ketchikan Masonic Lodge No. 19, a member of Ducks Unlimited, Muskeg Meadows Golf Club, Friends of the Museum, Wrangell Elks Lodge No. 1595, Pioneers of Alaska Igloo No. 15, and a member of Teamsters Local 959. He served on the Inter-Island Ferry Authority from its inception until 1999. John also spent many volunteer hours working as a docent at the Wrangell Museum when tour ships were in.

John was also a man who invested in his community. He served on the Wrangell City Council five different times including: October 1989–October 1990; November 1993–October 1994; October 1994–October 1997; January 1998–October 1998; and finally from April 1999–October 1999.

As I said, the Bakers are well known in Wrangell for helping young couples new to Alaska learn the ways of Alaska as well as for John's sense of humor. When asked why he moved to Wrangell he would always tell people it was his ''youthful exuberance.'' And when asked in the 1980s why he had decided to work on the Alaska pipeline instead of continuing his flying career he simply said ''there are not many old, bold, pilots in Alaska—besides work on the pipeline paid more.''

Judy and John were always willing to lend a hand and help their neighbors and to make their community—Wrangell—a better place for everyone to live. John invested himself in southeast Alaska and made Wrangell a ''better community'' and made all that knew him ''better people.'' He will be missed by his family and friends and most importantly by his loving wife of 42 years, Judy. God grant him his just reward, he will be missed in Wrangell and in the hearts of those who knew him—God's speed John Baker, may the wind always be under your wings.●

TRIBUTE TO FATHER NORMAN ELLIOTT

● Ms. MURKOWSKI. Mr. President, today I wish to celebrate the 90th birthday of one of Alaska's most beloved religious leaders, Father Norman Elliott. When people think of Alaska, they think of the natural beauty and skylines defined by mountains; rarely are the religious leaders that bind our lives together recognized for their devotion to our communities.

Father Elliott began his record of service in 1941 by enlisting in the U.S. Army, serving in Europe for 5 years. After the conclusion of World War II, he returned to school and earned his B.A., followed by a master of divinity from the Virginia Theological Seminary in Alexandria in 1951.

He knew from an early age that he wanted to serve as a missionary and began seeking an appointment overseas, hoping for a post in India or the Philippines. Retired Reverend William J. Gordon, Jr., the Bishop of Alaska, convinced him to serve in Alaska, a position that changed his life. Since 1952, he has served all over our State. Father Elliott was ordained in Anchorage at the All Saints' Episcopal Church, earned his pilot's license, and then was transferred to Fort Yukon, where he flew missions to nearby villages. He then spent some time in Fairbanks and Ketchikan before returning to Anchorage, where he forged a strong relationship between the Greek Orthodox Church, the Jewish Congregation, and the All Saints' Episcopal Church.

He retired in 1990, but between almost daily visitations at the Providence Hospital and the Alaska Native Medical Centers, and his service as Chaplain at the Port of Anchorage, he can hardly be considered a retiree.

For more than 50 years, Father Elliott has been a beloved pastor and key leader in interreligious relationships throughout Alaska. I speak for so many Alaskans in wishing Father Norman Elliott a happy 90th birthday. We extend our best wishes to him for continued good health and good works.●

MESSAGE FROM THE HOUSE

At 4:16 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 350. An original bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 343. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage services of qualified respiratory therapists performed under the general supervision of a physician; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. LEVIN):

S. 344. A bill to require hedge funds to register with the Securities and Exchange Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, and Mr. KAUFMAN):

S. 345. A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes; to the Committee on Foreign Relations.

By Mr. WICKER (for himself, Mr. VITTER, Mr. DEMINT, Mr. ENZI, Mr. BROWNBACK, Mr. MARTINEZ, Mr. VOINOVICH, Mr. THUNE, Mr. COBURN, and Mr. INHOFE):

S. 346. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Mr. ROCKEFELLER):

S. 347. A bill to amend title 38, United States Code, to allow the Secretary of Veterans Affairs to distinguish between the severity of a qualifying loss of a dominant hand and a qualifying loss of a non-dominant hand for purposes of traumatic injury protection under Servicemembers' Group Life Insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 348. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 350. An original bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health; from the Committee on Finance; placed on the calendar.

By Mr. ENSIGN (for himself and Mr. BAYH):

S. 351. A bill to require United States Government representatives to present to the Government of Iraq a plan to establish an oil trust; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. DORGAN,

Mr. SCHUMER, Mr. KOHL, Mr. SANDERS, Mr. HARKIN, and Mr. CASEY):

S. 352. A bill to postpone the DTV transition date; considered and passed.

By Mr. BROWN (for himself and Mr. BOND):

S. 353. A bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. MENENDEZ, Mrs. MCCASKILL, Mr. CASEY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. SANDERS, Ms. STABENOW, and Mrs. GILLIBRAND):

S. 354. A bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 85

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 85, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 96

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 144

At the request of Mr. KERRY, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Kansas (Mr. ROBERTS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 195

At the request of Mr. DORGAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 195, a bill to extend oversight, accountability, and transparency provisions of the Emergency Economic Assistance Act of 2008 to all Federal emergency economic assistance to private entities, to impose tough conditions for all recipients of such emergency economic assistance, to set up a Federal task force to investigate and prosecute criminal activities that contributed to our economic crisis, and to establish a bipartisan financial market investigation and reform commission, and for other purposes.

S. 260

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 260, a bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property.

S. 321

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 321, a bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes.

S. 340

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 340, a bill to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

S. 342

At the request of Ms. MURKOWSKI, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 342, a bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

S. RES. 25

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 25, a resolution expressing support for designation of January 28, 2009, as ''National Data Privacy Day''.

AMENDMENT NO. 39

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 39 proposed to H.R. 2, 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.

AMENDMENT NO. 74

At the request of Mr. BUNNING, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 74 proposed to H.R. 2, 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.

AMENDMENT NO. 80

At the request of Mr. HATCH, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Pennsylvania (Mr. CASEY), the Senator from Nebraska (Mr. NELSON) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 80 proposed to H.R. 2, 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.

AMENDMENT NO. 81

At the request of Mr. BUNNING, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of amendment No. 81 intended to be proposed to H.R. 2, 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. LEVIN):

S. 344. A bill to require hedge funds to register with the Securities and Exchange Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRASSLEY. Mr. President, 3 years ago, I started conducting oversight of the Securities and Exchange Commission. That oversight began in response to a whistleblower who came to my office complaining that SEC supervisors were impeding an investigation into a major hedge fund.

Soon afterward, I came to the floor of the Senate to introduce an important piece of legislation based on what I learned from that oversight. The bill was aimed at closing a loophole in securities law that allows hedge funds to operate under the cloak of secrecy. Unfortunately, that bill, S. 1402, was never taken up by the Banking Committee in the last Congress.

In light of the current instability in our financial system, I think it is very critical for the Senate to deal with this issue and do it in the near future. Therefore, I am pleased Senator LEVIN, who is on the floor, and I worked together to produce an even better version of the bill than I introduced previously, and we are now doing that in the 111th Congress.

I thank Senator LEVIN because he is on a very important oversight committee as well and does a lot of oversight, as I do. I appreciate everything he does in maybe a lot of different areas than I do, but I appreciate working together with him on this issue.

This new bill, the Hedge Fund Transparency Act, does everything the previous version did, but it does more and does it better.

As in the previous version, it clarifies current law to remove any doubt that the Securities and Exchange Commission has the authority to require hedge funds to register—simply to register—so the Government knows who they are and what they are doing. It removes the loophole previously used by hedge funds to escape the definition of an ''investment company'' under the Investment Company Act of 1940.

Under this legislation, hedge funds that want to avoid the stringent requirements of the Investment Company Act will only be exempt if, one, they file basic disclosure forms; and two, cooperate with requests for information from the Securities and Exchange Commission.

I thank Senator LEVIN for not only cosponsoring this legislation but also contributing a key addition to this new version of the bill. In addition to requiring basic disclosure, this version also makes it clear that the hedge funds have the same obligations under our money laundering statutes as other financial institutions. They must report suspicious transactions and establish anti-money laundering programs.

One major cause of the current crisis is a lack of transparency. Markets need a free flow of reliable information to function properly. Transparency was the focus of our system of securities regulations adopted way back in the 1930s. Unfortunately, over time, the wizards on Wall Street figured out a million clever ways to avoid transparency. The result is the confusion and uncertainty fueling the crisis today that we see.

This bill is an important step toward renewing commitment to transparency on Wall Street and establishing credibility in our financial sector among the American populace. Unfortunately, there was not much of an appetite for this sort of commonsense legislation when I first introduced it before the financial crisis erupted. Hopefully, attitudes have changed, given all that has happened since the collapse of Bear Stearns last March. It is all very obvious to us, and particularly connected with the credit crunch and with the recession.

Hedge funds are pooled investment companies that manage billions of dollars for groups of wealthy investors, and do it in total secrecy. Hedge funds affect regular investors. They affect the market as a whole. My oversight of the SEC convinces me that the Commission needs much more information about the activities of hedge funds in order to protect the markets. Any group of organizations that can wield hundreds of billions of dollars in market power every day should be transparent and disclose basic information about their operations to the agency that Americans rely on as the watchdogs of our Nation's financial markets.

As I explained when I first introduced this bill, the Securities and Exchange Commission already attempted to oversee the hedge fund industry by regulation. Congress needs to act now because of a decision of a Federal appeals court. In 2006, the DC Circuit Court of Appeals overturned an SEC administrative rule requiring the registration of hedge funds. That decision effectively ended all registration of hedge funds with the Securities and Exchange Commission, unless and until we in Congress take action.

The Hedge Fund Transparency Act would respond to that court decision by, one, including hedge funds in the definition of investment company; and two, bringing much needed transparency to this supersecretive industry. The Hedge Fund Transparency Act is a first step in ensuring that the Securities and Exchange Commission has clear authority to do what it has already tried to do. Congress must act to ensure that our laws are kept up to date as new types of investments appear.

Unfortunately, this legislation hasn't had many friends. These funds don't want people to know what they do or who participates in them. They have fought hard to keep it that way. Well, I think that is all the more reason to shed some light—particularly some sunlight—on them to see what they are doing.

So I urge my colleagues to cosponsor and support this legislation, to support Senator LEVIN of Michigan and me in this effort as we work to protect all taxpayers, large and small.

Once again I thank Senator LEVIN. And before I yield the floor, Mr. President, I ask unanimous consent to have printed in the RECORD a background paper on the Hedge Fund Transparency Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEDGE FUND TRANSPARENCY ACT

Background: This bill is a revised version of S. 1402, which Sen. Grassley introduced in the 110th Congress. While the previous bill amended the Investment Advisers Act of 1940, this bill amends the Investment Company Act of 1940 (''ICA''). However, the purpose is the same: to make it clear that the Securities and Exchange Commission has the authority to require hedge fund registration. This version also adds a provision authored by Sen. Levin to require hedge funds to establish anti-money laundering programs and report suspicious transactions.

HEDGE FUND REGISTRATION REQUIREMENTS

Definition of an Investment Company: Hedge Funds typically avoid regulatory requirements by claiming the exceptions to the definition of an investment company contained in §3(c)(1) or §3(c)(7) of the ICA. This bill would remove those exceptions to the definition, transforming them to exemptions by moving the provisions, without substantive change, to new sections §6(a)(6) and §6(a)(7) of the ICA.

Requirements for Exemptions: An investment company that satisfies either §6(a)(6) or §6(a)(7) will be exempted from the normal registration and filing requirements of the ICA. Instead, a company that meets the criteria in §6(a)(6) or §6(a)(7) but has assets under management of $50,000,000 or more, must meet several requirements in order to maintain its exemption. These requirements include:

1. Registering with the SEC.

2. Maintaining books and records that the SEC may require.

3. Cooperating with any request by the SEC for information or examination.

4. Filing an information form with the SEC electronically, at least once a year. This form must be made freely available to the public in an electronic, searchable format. The form must include:

a. The name and current address of each individual who is a beneficial owner of the investment company.

b. The name and current address of any company with an ownership interest in the investment company.

c. An explanation of the structure of ownership interests in the investment company.

d. Information on any affiliation with another financial institution.

e. The name and current address of the investment company's primary accountant and primary broker.

f. A statement of any minimum investment commitment required of a limited partner, member, or investor.

g. The total number of any limited partners, members, or other investors.

h. The current value of the assets of the company and the assets under management by the company.

Timeframe and Rulemaking Authority: The SEC must issue forms and guidance to carry out this Act within 180 days after its enactment. The SEC also has the authority to make a rule to carry out this Act.

Anti-Money Laundering Obligations: An investment company exempt under §6(a)(6) or §6(a)(7) must establish an anti-money laundering program and report suspicious transactions under 31 U.S.C.A 5318(g) and (h). The Treasury Secretary must establish a rule within 180 days of the enactment of the Act setting forth minimum requirements for the anti-money laundering programs. The rule must require exempted investment companies to ''use risk-based due diligence policies, procedures, and controls that are reasonably designed to ascertain the identity of and evaluate any foreign person that supplies funds or plans to supply funds to be invested with the advice or assistance of such investment company.'' The rule must also require exempted investment companies to comply with the same requirements as other financial institutions for producing records requested by a federal regulator under 31 U.S.C. 5318(k)(2).

Mr. LEVIN. Mr. President, history has proven time and time again that the markets are not self-policing. Today's financial crisis is due in part to the Government's failure to regulate key market participants, including hedge funds that have become unregulated financial heavyweights in the U.S. economy. So I am joining today with my colleague Senator GRASSLEY of Iowa to introduce the Hedge Fund Transparency Act, and I thank Senator GRASSLEY for his leadership on this and in so many other areas involving oversight of our financial institutions.

Hedge funds sound complicated, but they are simply private investment funds in which investors have agreed to pool their money under the control of an investment manager. What distinguishes them from other investment funds is that hedge funds are typically open only to ''qualified purchasers,'' an SEC term referring to institutional investors such as pension funds and wealthy individuals with assets over a

specified minimum amount. In addition, most hedge funds have 100 or fewer beneficial owners. By limiting the number of their beneficial owners and accepting funds only from investors of means, hedge funds have been able to qualify for the statutory exclusions provided in the Investment Company Act and avoid the obligation to comply with that law's statutory and regulatory requirements. In short, hedge funds have been able to operate outside of the reach of the Securities and Exchange Commission.

The primary argument for allowing these funds to operate outside SEC regulation and oversight is that because their investors are generally more experienced than the general public, they need fewer government protections and their investment funds should be permitted to take greater risks than investment funds open to the investing public which need greater SEC protection. Indeed, the ability of hedge funds to take on more risk is the very reason that many individuals and institutions choose to invest in them. These investors accept more risk because that might lead to bigger rewards.

The compensation system employed by most hedge funds encourages that risk taking. Typically, investors agree to pay hedge fund investment managers a management fee of 2 percent of the fund's total assets, plus 20 percent of the fund's profits. The hedge fund managers profit enormously if a fund does well, but due to the guaranteed management fee, get a hefty payment even when the fund underperforms or fails. The analysis up to now has been that if wealthy people want to take big risks with their money, all else being equal, they should be allowed to do so without the safeguards normally required for the general public.

So what is the problem with allowing their investment funds to operate outside of Federal regulation and oversight? The problem is that hedge funds have gotten so big and are so entrenched in U.S. financial markets that their actions can now significantly impact market prices, damage other market participants, and can even endanger the U.S. financial system and the economy as a whole.

The systemic risks posed by hedge funds first became obvious 10 years ago. Back then, Long-Term Capital Management—or LTCM—was a hedge fund that, at its peak, had more than $125 billion in assets under management and, due to massive borrowing, a total market position of $1.3 trillion. When it began to falter, the Federal Reserve worried that it might unload its assets in a rush, drive down prices, and end up damaging not only other firms but U.S. markets as a whole. To prevent a financial meltdown, the Federal Reserve worked with the private sector to engineer a rescue package.

That was just over a decade ago. Since then, according to a recent report issued by the Congressional Research Service, the hedge fund industry has expanded roughly tenfold. In 2006, the SEC testified that hedge funds represented 5 percent of all U.S. assets under management and 30 percent of all equity trading volume in the United States. By 2007, an estimated 8,000 hedge funds were managing assets totaling roughly $1.5 trillion. The most current estimate is that 10,000 hedge funds are managing approximately $1.8 trillion in assets, after suffering losses over the last year of over $1 trillion.

In addition, over the last 10 years, billions of dollars being managed by hedge funds have been provided by pension plans. A 2007 report by the U.S. Government Accountability Office found that the amount of money that defined benefit pension plans have invested in hedge funds has risen from about $3.2 billion in 2000 to more than $50 billion in the year 2006. That total is probably much higher now. And while most individual pension funds invest only a small slice of their money in hedge funds, a few go farther. For example, according to the GAO report, as of September 2006, the Missouri State Employees Retirement System had invested over 30 percent of its assets in hedge funds. Universities and charities have also directed significant assets to hedge funds. The result is that hedge fund losses threaten every economic sector in America, from the wealthy to the working class relying on pensions, to our institutions of higher learning, to our nonprofit charities.

A third key developed is that over the last 10 years, some of the largest U.S. banks and security firms have set up their own hedge funds and used them to invest not only client funds but also their own cash. In some cases, these hedge funds have commingled client and institutional funds and linked the fate of both to high-risk investment strategies. These hedge fund affiliates are typically owned by the same holding companies that own federally insured banks or federally regulated broker-dealers. Because of their ownership, their size and reach, their clientele, and the high-risk nature of their investments, the failure of hedge funds today can imperil not only their direct investors, but also the financial institutions that own them, that lent them money, or did business with them. From there, the effects can ripple through the markets and impact the entire economy.

It is time for Congress to step into the breach and establish clear authority for Federal regulation and oversight of hedge funds. That is the backdrop for the introduction of the Grassley-Levin Hedge Fund Transparency Act.

The purpose of this bill is to institute a reasonable and practical regulatory regime for hedge funds. The bill contains four basic requirements to make hedge funds subject to SEC regulation and oversight.

It requires them to register with the SEC, to file an annual disclosure form with basic information that will be made publicly available, to maintain books and records required by the SEC, and to cooperate with any SEC information request or examination.

In addition, the bill directs Treasury to issue a final rule requiring hedge funds to establish anti-money laundering programs and, in particular, to guard against allowing suspect offshore funds into the U.S. financial system. The Bush Administration issued a proposed anti-money laundering rule for hedge funds seven years ago, in 2002, but never finalized it. A 2006 investigation by the Permanent Subcommittee on Investigations, which I chair, showed how two hedge funds brought millions of dollars in suspect funds into the United States, without any U.S. controls or reporting obligations, and called on a bipartisan basis for the proposed hedge fund anti-money laundering regulations to be finalized, but no action was taken. Hedge funds are the last major U.S. financial players without anti-money laundering obligations, and it is time for this unacceptable regulatory gap to be eliminated.

Our bill imposes a set of basic disclosure obligations on hedge funds and makes it clear they are subject to full SEC oversight while, at the same time, exempting them from many of the obligations that the Investment Company Act imposes on other types of investment companies, such as mutual funds that are open for investment by all members of the public. The bill imposes a more limited set of obligations on hedge funds in recognition of the fact that hedge funds do not open their doors to all members of the public, but limit themselves to investors of means. The bill also, however, gives the SEC the authority it needs to impose additional regulatory obligations and exercise the level of oversight it sees fit over hedge funds to protect investors, other financial institutions, and the U.S. financial system as a whole.

The bill imposes these requirements on all entities that rely on Sections 80a–3(c)(1) or (7) to avoid compliance with the full set of the Investment Company Act requirements. A wide variety of entities invoke those sections to avoid those requirements and SEC oversight, and they refer to themselves by a wide variety of terms—hedge funds, private equity funds, venture capitalists, small investment banks, and so forth. Rather than attempt a futile exercise of trying to define the specific set of companies covered by the bill and thereby invite future claims by parties that they are outside the definitions and thus outside the SEC's authority, the bill applies to any investment company that has at least $50 million in assets or assets under its management and relies on Sections 80a–3(1) or (7) to avoid compliance with the full set of Investment Company Act requirements. Instead, those companies under the bill have to comply with a reduced set of obligations, which include filing an annual public disclosure

form, maintaining books and records specified by the SEC, and cooperating with any SEC information request or examination.

Finally, our bill makes an important technical change. It moves paragraphs (c)(1) and (7)—the two paragraphs that hedge companies use to avoid complying with the full set of Investment Act Company requirements—from Section 80a–3 to Section 80a–6 of the Investment Company Act. While our bill preserves both paragraphs and makes no substantive changes to them, it moves them from the part of the bill that defines ''investment company'' to the part of the bill that exempts certain investment companies from the Investment Company Act's full set of requirements.

The bill makes this technical change to make it clear that hedge funds really are investment companies, and they are not excluded from the coverage of the Investment Company Act. Instead, they are being given an exemption from many of that law's requirements, because they are investment companies which voluntarily limited themselves to one hundred or fewer beneficial owner accepting funds only from investors of means. Under current law, the two paragraphs allow hedge funds to claim they are excluded from the Investment Company Act—they are not investment companies at all and are outside the SEC's reach. Under our bill, the hedge funds would qualify as investment companies—which they plainly are—but would qualify for exemptions from many of the Act's requirements by meeting certain criteria.

It is time to bring hedge funds under the federal regulatory umbrella. With their massive investments, entanglements with U.S. banks, securities firms, pension funds, and other large investors, and their potential impact on market equilibrium, we cannot afford to allow these financial heavyweights to continue to operate free of government regulation and oversight.

When asked at a recent hearing of the Senate Homeland Security and Government Affairs Committee whether hedge funds should be regulated, two expert witnesses gave the exact same one-word answer: ''Yes.'' One law professor, after noting that disclosure requirements don't apply to hedge funds, told the Committee: ''If you asked a regulator what . . . role did hedge funds play in the current financial crisis, I think they would look at you like a deer in the headlights, because we just don't know.'' It is essential that federal financial regulators know what hedge funds are doing and that they have the authority to prevent missteps and misconduct.

The Hedge Fund Transparency Act will protect investors, and it will help protect our financial system. I hope our colleagues will join us in support of this bill and its inclusion in the regulatory reform efforts that Congress will be undertaking later this year.

By Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, and Mr. KAUFMAN):

S. 345 A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Tropical Forest and Coral Conservation Act of 2009, a bill to protect outstanding tropical forests and coral reefs in developing countries through Debt for Nature Swaps that then-Senator Biden and myself first passed more than ten years ago.

This bill reauthorizes a proven program which enjoys the ardent support of the Treasury Department and State Department for the third time since 1998. It will help developing countries reduce foreign debt and provide comprehensive environmental preservation programs to protect tropical forests and endangered marine habitats around the world. This bill will also serve as an important diplomatic tool to provide for our national security.

As one of the most successful U.S. conservation assistance programs, the agreements concluded under the Tropical Forest Conservation Act so far will together generate over $188 million to help conserve over 50 million acres of tropical forests in Asia, the Caribbean, Central and South America. In addition, private donors, including the Nature Conservancy, the World Wildlife Fund, the Wildlife Conservation Society, and Conservation International, have contributed more than $12 million to TFCA swaps, leveraging U.S. Government funds. This is an effective use of scarce Federal conservation dollars. But the rate of deforestation continues to accelerate across the globe.

This bill is an example of how we can use economic incentives and opportunities to change behavior and to influence personal and societal choices. Clearly, there are economic opportunities in clean energy sources, solar, wind and biofuels, and carbon sequestration and storage technologies. But improvements in farming and forestry practices may be among the lowest hanging fruit in the quest to deal with climate change.

During the global climate change discussions in the late 1990s in Kyoto, the concept of carbon sinks provided by forestry and agriculture was taken off the table. Last year during the Bali discussions, the topic of carbon sequestration through forestry and agricultural practices was revived. This is an important development, and it should be embraced by the United States.

Also alarming is the rapid rate of coral reef and coastal exploitation. The burden of foreign debt falls especially hard on nations with few natural resources that often resort to harvesting or otherwise exploiting coral reefs and other marine habitats to earn hard currency to service foreign debt. According to the National Oceanic and Atmospheric Administration, NOAA, 61 percent of the world's coral reefs may be destroyed by the year 2050 if the present rate of destruction continues.

The Tropical Forest and Coral Conservation Act expands the current tropical forest conservation programs to include the protection and conservation of these vital coral ecosystems. This legislation will make available resources for environmental stewardship that would otherwise be of the lowest priority in a developing country. It will reduce debt by investing locally in programs that will strengthen indigenous economies by creating long-term management policies that will preserve the natural resources upon which local commerce is based.

Both Indonesia and Brazil have been declared eligible for Tropical Forest Conservation Act funds. Brazil is the second most populous nation in our hemisphere. It wields enormous influence over neighboring states in South America and has expressed interest in a leading global role. It would be a diplomatic mistake to hinder our outreach to a nation on an issue—conservation—where we have mutual goals. Similarly, we should not encumber conservation cooperation with one the largest democracies in the world, Indonesia. The United States cannot afford to squander diplomatic opportunities that allow us to establish working relationships with key agencies in such strategically important nations.

This legislation has enormous consequences for the existence of critical ecosystems, the health of our planet, the livelihoods of millions of people across the globe, and even the security of Americans here at home.

I would like to provide additional information about activities under this act.

Fourteen TFCA agreements have been concluded to date in Bangladesh, El Salvador, Belize, Peru, the Philippines, Panama, Guatemala, Colombia, Paraguay, Botswana, Costa Rica, and Jamaica. With the reauthorization of TFCA, the U.S. Government will be able to pursue agreements to conserve threatened coral reefs along with tropical forests.

The Tropical Forest and Coral Reef Conservation Act of 2009 authorizes appropriations for debt reduction for eligible countries at $25,000,000 in fiscal year 2009; $30,000,000 in fiscal year 2010; $30,000,000 in fiscal year 2011; and $30,000,000 in fiscal year 2012 subject to appropriations.

First, the bill authorizes a Debt Swap option under which a third party may purchase the debt of a TFCA-eligible country in exchange for the creation of a fund to support tropical forest or coral reef conservation. The terms of the agreement are negotiated with the country, the third party and the U.S. Government.

Under this option, there may be no cost to the United States Government

because the financial assistance involved would come from nongovernmental or private entities. Third-party funding may be leveraged, in part, with U.S. Government appropriated funds.

Second, the bill authorizes a debt reduction option in which principal and interest payments due to the U.S. Government may be wholly or partially reduced. In return, the country accepts a new obligation to make payments to a conservation fund to be administered by a tropical forest or coral reef board within that country.

The bill authorizes appropriations to compensate the United States Treasury for the reduction in the revenues caused by TFCA debt treatment. However, these funds would be effectively leveraged because the amounts placed by an eligible country in its conservation fund would exceed the cost of debt reduction to the United States Treasury.

Third, under the Buy Back option, an eligible country is able to buy back its debt at its asset value in exchange for its willingness to place an additional amount based on the purchase price in local currency in a tropical forest fund.

Under this third option, there would be no cost to the United States Government since the debt is being bought back at its value as determined under the Federal Credit Reform Act of 1990.

The Tropical Forest Conservation and Coral Act applies to concessional loans made under the Foreign Assistance Act of 1961 and credits granted under the Agricultural Trade and Assistance Act of 1954. It is consistent with established Treasury Department debt reduction practices as well as with the Federal Credit Reform Act of 1990.

Within each developing country, the conservation fund would be administered by a commission representing a majority of local nongovernmental, community development and scientific and academic organizations, representatives of the host government and a representative of the United States Government.

The conservation fund could be used to provide grants for the following purposes: to preserve, maintain or restore the tropical forest or coral reef of the beneficiary country through establishing parks and reserves; to develop and implement scientifically sound systems of natural resource management; to provide training programs to strengthen the scientific, technical and managerial capacities of individuals and organizations involved in conservation; to provide for restoration, protection and sustainable use of diverse animal and plant species; to provide research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health-related concerns; to develop and support individuals living in or near a tropical forest or coral reef, including the cultures of such individuals.

Oversight of this program would continue through multiple mechanisms including the following: funds for this program are subject to periodic formal evaluations and annual fund evaluations recently required as part of OMB's Program Assessment Rating Tool, PART. TFCA Evaluation Scorecard is completed each year on each TFCA Fund. The Evaluation Scorecard was developed to provide for consistent, on-going evaluation and reporting across local TFCA programs.

Local TFCA funds are subject to regular audits. In addition, the local board or oversight committee monitors performance under each grant agreement to make sure that time schedules and other performance goals are being achieved. Grant agreements include budgets, timelines, and provisions requiring periodic progress reports from the grantee to the board.

In addition, the U.S. Government uses the annual management budget provided by Congress to fund evaluations of local TFCA programs. Evaluations undertaken with these funds include local site visits to determine that activities are being carried out consistent with the terms of the TFCA agreement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tropical Forest and Coral Conservation Reauthorization Act of 2009''.

SEC. 2. AMENDMENT TO SHORT TITLE OF ACT TO ENCOMPASS EXPANDED SCOPE.

(a) IN GENERAL.—Section 801 of the Tropical Forest Conservation Act of 1998 (Public Law 87–195; 22 U.S.C. 2151 note) is amended by striking ''Tropical Forest Conservation Act of 1998'' and inserting ''Tropical Forest and Coral Conservation Act of 2009''.

(b) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Conservation Act of 1998'' shall be deemed to be a reference to the ''Tropical Forest and Coral Conservation Act of 2009''.

SEC. 3. EXPANSION OF SCOPE OF ACT TO PROTECT FORESTS AND CORAL REEFS.

(a) IN GENERAL.—Section 802 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431), as renamed by section 2(a), is amended—

(1) in subsections (a)(1), (a)(6), (a)(7), (b)(1), (b)(3), and (b)(4), by striking ''tropical forests'' each place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking ''resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops'' and inserting ''resources''; and

(B) in subparagraph (C), by striking ''far-flung''; and

(3) in subsection (b)(2)—

(A) by striking ''tropical forests'' the first place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(B) by striking ''tropical forests'' the second place it appears and inserting ''areas'';

(C) by striking ''tropical forests'' the third place it appears and inserting ''tropical forests and coral reefs and their associated coastal marine ecosystems''; and

(D) by striking ''that have led to deforestation'' and inserting ''on such countries''.

(b) AMENDMENTS RELATED TO DEFINITIONS.—Section 803 of such Act (22 U.S.C. 2431a) is amended—

(1) in paragraph (5)—

(A) in the heading, by striking ''TROPICAL FOREST'' and inserting ''TROPICAL FOREST OR CORAL REEF'';

(B) in the matter preceding subparagraph (A), by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(C) in subparagraph (B)—

(i) by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(ii) by striking ''tropical forests'' and inserting ''tropical forests or coral reefs''

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

''(10) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), and Coenothecalia (blue coral), of the class Anthoza; and

''(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

''(11) CORAL REEF.—The term 'coral reef' means any reef or shoal composed primarily of coral.

''(12) ASSOCIATED COASTAL MARINE ECOSYSTEM.—The term 'associated coastal marine ecosystem' means any coastal marine ecosystem surrounding, or directly related to, a coral reef and important to maintaining the ecological integrity of that coral reef, such as seagrasses, mangroves, sandy seabed communities, and immediately adjacent coastal areas.''.

SEC. 4. CHANGE TO NAME OF FACILITY.

(a) IN GENERAL.—Section 804 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431b), as renamed by section 2(a), is amended by striking ''Tropical Forest Facility'' and inserting ''Conservation Facility''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(8) of such Act (22 U.S.C. 2431a(8)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST FACILITY'' and inserting ''CONSERVATION FACILITY''; and

(2) by striking ''Tropical Forest Facility'' both places it appears and inserting ''Conservation Facility''.

(c) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Facility'' shall be deemed to be a reference to the ''Conservation Facility''.

SEC. 5. ELIGIBILITY FOR BENEFITS.

Section 805(a) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431c(a)), as renamed by section 2(a), is amended by striking ''tropical forest'' and inserting ''tropical forest or coral reef''.

SEC. 6. UNITED STATES GOVERNMENT REPRESENTATION ON OVERSIGHT BODIES FOR GRANTS FROM DEBT-FOR-NATURE SWAPS AND DEBT-BUYBACKS.

Section 808(a)(5) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431f(a)(5)), as renamed by section 2(a), is amended by adding at the end the following new subparagraph:

''(C) UNITED STATES GOVERNMENT REPRESENTATION ON THE ADMINISTERING BODY.—

One or more individuals appointed by the United States Government may serve in an official capacity on the administering body that oversees the implementation of grants arising from a debt-for-nature swap or debt buy-back regardless of whether the United States is a party to any agreement between the eligible purchaser and the government of the beneficiary country.''.

SEC. 7. CONSERVATION AGREEMENTS.

(a) RENAMING OF AGREEMENTS.—Section 809 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431g), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST AGREEMENT**'' and inserting ''**CONSERVATION AGREEMENT**''; and

(2) in subsection (a)—

(A) by striking ''AUTHORITY'' and all that follows through ''(1) IN GENERAL.—The Secretary'' and inserting ''AUTHORITY.—The Secretary''; and

(B) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''.

(b) ELIMINATION OF REQUIREMENT TO CONSULT WITH THE ENTERPRISE FOR THE AMERICAS BOARD.—Such subsection is further amended by striking paragraph (2).

(c) ROLE OF BENEFICIARY COUNTRIES.—Such section is further amended—

(1) in subsection (e)(1)(C), by striking ''in exceptional circumstances, the government of the beneficiary country'' and inserting ''in limited circumstances, the government of the beneficiary country when needed to improve governance and enhance management of tropical forests or coral reefs or associated coastal marine ecosystems, without replacing existing levels of financial efforts by the government of the beneficiary country and with priority given to projects that complement grants made under subparagraphs (A) and (B)''; and

(2) by amending subsection (f) to read as follows:

''(f) REVIEW OF LARGER GRANTS.—Any grant of more than $250,000 from a Fund must be approved by the Government of the United States and the government of the beneficiary country.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(2)(A)(i), by inserting ''to serve in an official capacity'' after ''Government'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''tropical forests'' and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems related to such coral reefs'';

(B) in paragraph (5), by striking ''tropical forest''; and

(C) in paragraph (6), by striking ''living in or near a tropical forest in a manner consistent with protecting such tropical forest'' and inserting ''dependent on a tropical forest or coral reef or an associated coastal marine ecosystem related to such coral reef and related resources in a manner consistent with conserving such resources''.

(e) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(7) of such Act (22 U.S.C. 2431a(7)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST AGREEMENT'' and inserting ''CONSERVATION AGREEMENT''; and

(2) by striking ''Tropical Forest Agreement'' both places it appears and inserting ''Conservation Agreement''.

SEC. 8. CONSERVATION FUND.

(a) IN GENERAL.—Section 810 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431h), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST FUND**'' and inserting ''**CONSERVATION FUND**''; and

(2) in subsection (a)—

(A) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''; and

(B) by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Such Act is further amended—

(1) in section 803(9) (22 U.S.C. 2431a(9))—

(A) in the heading, by striking ''TROPICAL FOREST FUND'' and inserting ''CONSERVATION FUND''; and

(B) by striking ''Tropical Forest Fund'' both places it appears and inserting ''Conservation Fund'';

(2) in section 806(c)(2) (22 U.S.C. 2431d(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''; and

(3) in section 807(c)(2) (22 U.S.C. 2431e(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

SEC. 9. REPEAL OF AUTHORITY OF THE ENTERPRISE FOR THE AMERICAS BOARD TO CARRY OUT ACTIVITIES UNDER THE TROPICAL FOREST AND CORAL CONSERVATION ACT OF 2009.

(a) IN GENERAL.—Section 811 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431i), as renamed by section 2(a), is repealed.

(b) CONFORMING AMENDMENTS.—Section 803 of such Act (22 U.S.C. 2431a), as renamed by section 2(a), is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

SEC. 10. CHANGES TO DUE DATES OF ANNUAL REPORTS TO CONGRESS.

Section 813 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431k), as renamed by section 2(a), is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—Not later than December 31'' and inserting ''Not later than April 15'';

(B) by striking ''Facility'' both places it appears and inserting ''Conservation Facility''; and

(C) by striking ''fiscal year'' both places it appears and inserting ''calendar year''; and

(2) by striking subsection (b).

SEC. 11. CHANGES TO INTERNATIONAL MONETARY FUND CRITERION FOR COUNTRY ELIGIBILITY.

Section 703(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2430b(a)(5)) is amended—

(1) by striking ''or, as appropriate in exceptional circumstances,'' and inserting ''or'';

(2) in subparagraph (A)—

(A) by striking ''or in exceptional circumstances, a Fund monitored program or its equivalent,'' and inserting ''or a Fund monitored program, or is implementing sound macroeconomic policies,''; and

(B) by striking ''(after consultation with the Enterprise for the Americas Board)''; and

(3) in subparagraph (B), by striking ''(after consultation with the Enterprise for Americas Board)''.

SEC. 12. NEW AUTHORIZATION OF APPROPRIATIONS FOR THE REDUCTION OF DEBT AND AUTHORIZATION FOR AUDIT, EVALUATION, MONITORING, AND ADMINISTRATION EXPENSES.

Section 806 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431d), as renamed by section 2(a), is amended—

(1) in subsection (d), by adding at the end the following new paragraphs:

''(7) $25,000,000 for fiscal year 2009.

''(8) $30,000,000 for fiscal year 2010.

''(9) $30,000,000 for fiscal year 2011.

''(10) $30,000,000 for fiscal year 2012.''; and

(2) by amending subsection (e) to read as follows:

''(e) USE OF FUNDS TO CONDUCT PROGRAM AUDITS, EVALUATIONS, MONITORING, AND ADMINISTRATION.—Of the amounts made available to carry out this part for a fiscal year, $300,000 is authorized to be made available to carry out audits, evaluations, monitoring, and administration of programs under this part, including personnel costs associated with such audits, evaluations, monitoring and administration.''.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 348. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I am proud to reintroduce, with my colleague Senator OLYMPIA SNOWE of Maine, a bipartisan effort to ensure that all universal service programs can continue to operate smoothly and effectively. While Congress has annually taken action to deal with this issue, our hope is to enact a permanent solution.

For many years, we have fought hard for universal service, including the E-Rate. It is essential for all of the universal service programs to operate in a timely manner.

The Universal Service Fund is accomplishing its mission, and every member who has worked with us should be proud of the progress of this program. Our country has a strong telecommunications network, and rural customers are getting service at affordable rates. Lifeline and Linkup programs help the poorest of customers keep basic telephone access which is essential in our modern world. Rural health care is helping connect our rural clinics to modern medicine and specialists.

In 1996, when the Telecommunications Act passed, only 14 percent of all classrooms were connected, while just 5 percent of the poorest classrooms were connected. The latest data is encouraging with 93 percent of all classrooms connected and 89 percent of the poorest classrooms connected. Since 1998, West Virginia schools and libraries have received over $101 million in E-Rate discounts. While this is an extraordinary success, the need for E-Rate discounts remains because schools and libraries face monthly telecommunication costs and Internet access fees. Additionally, every school and library will periodically need to upgrade its internal connections as the demand of technology grows and institutions need greater bandwidth to handle ever increasing demand. At the beginning of the debates in 1996, schools were talking about dial-up access,

now every school wants—and needs—broadband.

This legislation gives the Universal Service Fund a permanent exemption from the Antideficiency Act which will provide sustainability and consistency for the program. Over the last few years, we have done one-year exemptions. Other Federal programs have permanent exemptions for the Antideficiency Act, and it is common sense to grant an exemption for the Universal Service Fund.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce legislation that would establish the Susquehanna Gateway National Heritage Area in York and Lancaster Counties, Pennsylvania. Since 1984, Congressionally-designated National Heritage Areas have fostered partnerships between the public and private sectors for undertaking preservation, educational, and recreational initiatives in diverse regions throughout the country. Through these efforts, National Heritage Areas have helped to protect our nation's natural and cultural resources while promoting local economic development. Today, I am proud once again to join my colleague from Pennsylvania Senator ARLEN SPECTER to propose a bill that would grant national recognition to the Susquehanna Gateway region, an area that has played a key role in the development of our nation's cultural, political, and economic identity.

As the Senate continues its work in the 111th Congress, I look forward to working with my colleagues to pass the Susquehanna Gateway National Heritage Area Act soon so that the region can begin to play a national role in sharing America's story.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Susquehanna Gateway National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) numerous sites of significance to the heritage of the United States are located within the boundaries of the proposed Susquehanna Gateway National Heritage Area, which includes the Lower Susquehanna River corridor and all of Lancaster and York Counties in the State of Pennsylvania;

(2) included among the more than 200 historically significant sites, structures, districts, and tours in the area are—

(A) the home of a former United States President;

(B) the community where the Continental Congress adopted the Articles of Confederation;

(C) the homes of many prominent figures in the history of the United States;

(D) the preserved agricultural landscape of the Plain communities of Lancaster County, Pennsylvania;

(E) the exceptional beauty and rich cultural resources of the Susquehanna River Gorge;

(F) numerous National Historic Landmarks, National Historic Districts, and Main Street communities; and

(G) many thriving examples of the nationally significant industrial and agricultural heritage of the region, which are collectively and individually of significance to the history of the United States;

(3) in 1999, a regional, collaborative public-private partnership of organizations and agencies began an initiative to assess historic sites in Lancaster and York Counties, Pennsylvania, for consideration as a Pennsylvania Heritage Area;

(4) the initiative—

(A) issued a feasibility study of significant stories, sites, and structures associated with Native American, African-American, European-American, Colonial American, Revolutionary, and Civil War history; and

(B) concluded that the sites and area—

(i) possess historical, cultural, and architectural values of significance to the United States; and

(ii) retain a high degree of historical integrity;

(5) in 2001, the feasibility study was followed by development of a management action plan and designation of the area by the State of Pennsylvania as an official Pennsylvania Heritage Area;

(6) in 2008, a feasibility study report for the Heritage Area—

(A) was prepared and submitted to the National Park Service—

(i) to document the significance of the area to the United States; and

(ii) to demonstrate compliance with the interim criteria of the National Park Service for National Heritage Area designation; and

(B) found that throughout the history of the United States, Lancaster and York Counties and the Susquehanna Gateway region have played a key role in the development of the political, cultural, and economic identity of the United States;

(7) the people of the region in which the Heritage Area is located have—

(A) advanced the cause of freedom; and

(B) shared their agricultural bounty and industrial ingenuity with the world;

(8) the town and country landscapes and natural wonders of the area are visited and treasured by people from across the globe;

(9) for centuries, the Susquehanna River has been an important corridor of culture and commerce for the United States, playing key roles as a major fishery, transportation artery, power generator, and place for outdoor recreation;

(10) the river and the region were a gateway to the early settlement of the ever-moving frontier;

(11) the area played a critical role as host to the Colonial government during a turning point in the Revolutionary War;

(12) the rural landscape created by the Amish and other Plain people of the region is of a scale and scope that is rare, if not entirely unknown in any other region, in the United States;

(13) for many people in the United States, the Plain people of the region personify the virtues of faith, honesty, community, and stewardship at the heart of the identity of the United States;

(14) the regional stories of people, land, and waterways in the area are essential parts of the story of the United States and exemplify the qualities inherent in a National Heritage Area;

(15) in 2008, the National Park Service found, based on a comprehensive review of the Susquehanna Gateway National Heritage Area Feasibility Study Report, that the area meets the 10 interim criteria of the National Park Service for designation of a National Heritage Area;

(16) the preservation and interpretation of the sites within the Heritage Area will make a vital contribution to the understanding of the development and heritage of the United States for the education and benefit of present and future generations;

(17) the Secretary of the Interior is responsible for protecting the historic and cultural resources of the United States;

(18) there are significant examples of historic and cultural resources within the Heritage Area that merit the involvement of the Federal Government, in cooperation with the management entity and State and local governmental bodies, to develop programs and projects to adequately conserve, support, protect, and interpret the heritage of the area;

(19) partnerships between the Federal Government, State and local governments, regional entities, the private sector, and citizens of the area offer the most effective opportunities for the enhancement and management of the historic sites throughout the Heritage Area to promote the cultural and historic attractions of the Heritage Area for visitors and the local economy; and

(20) the Lancaster-York Heritage Region, a 501(c)(3) nonprofit corporation and State-designated management entity of the Pennsylvania Heritage Area, would be an appropriate management entity for the Heritage Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 4(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the management entity under section 6(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT OF SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) IN GENERAL.—There is established in the State the Susquehanna Gateway National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include a core area located in south-central Pennsylvania consisting of an 1869-square-mile region east and west of the Susquehanna River and encompassing Lancaster and York Counties.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file in the appropriate offices of the National Park Service.

SEC. 5. DESIGNATION OF MANAGEMENT ENTITY.

(a) MANAGEMENT ENTITY.—The Lancaster-York Heritage Region shall be the management entity for the Heritage Area.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this Act—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to pay for operational expenses of the management entity;

(3) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(4) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(5) to hire and compensate staff;

(6) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(7) to contract for goods and services.

(c) DUTIES OF MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare a management plan for the Heritage Area in accordance with section 6;

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) the entities to which the management entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or any interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) CONTENTS.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this Act, including recommendations for the role of the National Park Service in the Heritage Area.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the management entity may not receive additional funding under this Act until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the management entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the management entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this Act may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using funds made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, today, along with Senators WHITEHOUSE, MURRAY, CARDIN and DODD, I am introducing a bill to triple the number of Foreign Service officers working with USAID.

As we take stock of America's image in the world, it's clear that we need to do more to help countries stabilize their society and their economy.

Our own security depends on the stability of far-flung places beyond our borders.

America's generosity and ability to help other countries is becoming more important to the effectiveness of our foreign policy.

In the U.S., the responsibility for development falls largely to the U.S. Agency for International Development, or USAID.

USAID was founded by the Kennedy administration in 1961. It became the first U.S. foreign assistance organization with the primary goal of long term economic and social development efforts overseas.

During its first decade, it had more than 5,000 Foreign Service Officers serving all over the world, often in the most difficult of conditions.

Today—at a time when the U.S. needs to show its leadership overseas more than ever—USAID operates with just 1,000 Foreign Service Officers.

With so few people to deploy, our hands are tied and we're missing opportunities to build bridges and foster diplomacy.

For example, more than seven years after U.S. took military action in Afghanistan, the Taliban and al Qaeda continue to undermine progress toward a more stable state.

Our military has done a heroic job in Afghanistan. But success in Afghanistan also depends on improving the lives of the Afghan people—jobs, agriculture, stability, and a functional government.

We have not done enough to win the hearts and minds of the Afghan people. And the military cannot bear this burden alone.

The last time I went to Afghanistan there were only six American agricultural experts for the entire country—I think today there are only slightly more.

For a nation with an agricultural economy and record poppy harvest, we have been able to lend just a handful of agricultural development experts.

Secretary of Defense Robert Gates understands this critical need to partner our military efforts with civilian development expertise. Last month he said:

> The problem is that the civil side of our government—the Foreign Service and foreign-policy side, including our aid for international development—[has] been systematically starved of resources for a quarter of a century or more . . . We have not provided the resources necessary, first of all, for our diplomacy around the world; and second, for communicating to the rest of the world what we are about and who we are as a people.

Many people on both sides of the aisle agree that USAID is no longer equipped to do its job effectively. We simply are not meeting the international development goals of the United States.

USAID has been shortchanged—and America's efforts abroad have suffered as a result.

Now we have a lot of needs here at home, to be sure. But one important lesson of the last few years is that America must be engaged if we are to remain a leader in world affairs.

The Increasing America's Global Development Capacity Act of 2009 would take the first step toward putting the Agency for International Development on firmer footing. As Secretary Clinton said in her remarks to USAID employees last week, it is ironic that that our very best young military leaders are given unfettered resources to spend as they see fit to build a school, to open a health clinic, to pave a road, and our diplomats and development experts have to go through miles of paperwork to spend ten cents. Secretary Clinton said, and I agree, that this is not a sensible approach.

The bill would authorize USAID to hire an additional 700 Foreign Service Officers this year. This would basically double the current number of development officers available to work in targeted countries.

This is fundamental to rebuilding the agency's capacity.

Senator LEAHY, Chair of the Foreign Operations Appropriations Subcommittee, shares a commitment to rebuilding USAID. I am heartened by the Subcommittee's recommended increase in funding for USAID's operating expenses for fiscal year 2009. This was a priority for me in the bill, and Chairman LEAHY has been very supportive.

My bill also would establish a goal of hiring an additional 1,300 Foreign Service Officers by 2012.

After three years, USAID would have more than 3,000 talented, committed Americans serving in the world's most difficult locations helping to improve the lives of others. It won't be the 5,000 experts of the 1960s, but it will be a big improvement from today.

With a stronger development work force, we can send talented public servants to help improve child and maternal health, treat people with AIDS, TB and malaria, provide clean water and sanitation, help farmers and women start or improve their business, and assist reformers and civic leaders to build stronger democratic institutions.

We all recall the renewed interest in public service that emerged after 9/11—many of those people have answered the call, and I bet there are as many more who would welcome an opportunity to serve.

Foreign development assistance is as important a foreign policy tool as diplomacy and defense.

Secretary of Defense Robert Gates is perhaps the most persuasive advocate for rebuilding our civilian development capacity. He argues that we need to engage in non-military ways to pursue global development goals.

The civilian instruments of national security—diplomacy, development assistance, sharing expertise on civil society—are becoming more and more important.

Secretary Gates argues that these tools are good for the world's poor, our national security, and our country.

I agree.

Let us take one concrete step to rebuild that important civilian capacity, which would help improve our ability to help the world's poorest countries and people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing America's Global Development Capacity Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) foreign development assistance is an important foreign policy tool in addition to diplomacy and defense;

(2) development assistance is part of any comprehensive United States response to regional conflicts, terrorist threats, weapons proliferation, disease pandemics, and persistent widespread poverty;

(3) in 2002 and 2006, the United States National Security Strategy included global development, along with defense and diplomacy, as the 3 pillars of national security;

(4) in its early years, the United States Agency for International Development (referred to in this Act as ''USAID'') had more than 5,000 full-time Foreign Service Officers;

(5) in 2008, USAID had slightly more than 1,000 full-time Foreign Service Officers;

(6) the budget at USAID, calculated in real dollars, has dropped 27 percent since 1985;

(7) this decline in personnel and operating budgets has diminished the capacity of USAID to provide development assistance and implement foreign assistance programs; and

SEC. 3. HIRING OF ADDITIONAL FOREIGN SERVICE OFFICERS AS USAID EMPLOYEES.

(a) INITIAL HIRINGS.—Except as provided under subsection (c), not later than 1 year after the date of the enactment of this Act, the Administrator of USAID (referred to in this section as the ''Administrator'') shall increase by not less than 700 the total number of full-time Foreign Service Officers employed by USAID compared to the number of such officers employed by USAID on September 30, 2008. These officers shall be used to enhance the ability of USAID to—

(1) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(2) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(3) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient.

(b) SUBSEQUENT HIRINGS.—

(1) IN GENERAL.—Except as provided under subsection (c), during the 2-year period beginning 1 year after the date of the enactment of this Act, the Administrator shall increase by not less than 1,300 the total number of full-time Foreign Service Officers over the number of such officers at the beginning of such 2-year period to carry out the activities described in subsection (a), contingent upon sufficient appropriations.

(2) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current USAID employees with technical, management, leadership, and language skills;

(B) a staffing plan for the subsequent 5 years; and

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans.

(c) EXCEPTION.—If the Administrator determines that USAID has competing needs that are more urgent than the hirings described in subsection (a) or (b), or finds a shortage of qualified individuals for such hirings, the Administrator may reduce the number of such hirings and use the available funds for competing needs if the Administrator submits a report describing such competing needs and, if applicable, the nature of the shortage, to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on Foreign Relations of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on Foreign Affairs of the House of Representatives.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, I rise today to introduce the Community Choice In Real Estate Act of 2009. I am pleased to have Senator BURR join me in introducing this bill. In previous Congresses, this bill was introduced by former Senators Allard and Clinton, and I am happy to continue their efforts.

The Community Choice in Real Estate Act of 2003 would clarify Congressional intent that real estate brokerage and management are not financial activities and would therefore retain the separation of commerce and banking that was intended during consideration of the Gramm-Leach-Bliley Act.

The Gramm-Leach-Bliley Act got many things wrong when it repealed the firewall between the activities of banks and those of the stock market, bonds and insurance and allowed these institutions to engage in riskier activities. But one thing that it did get right was maintaining the firewalls separating the financial and commercial sectors.

We already have seen the damage to our economy and real estate market caused when banks began to engage in certain previously prohibited activities. If the firewall separating banking and commerce also were to be torn down, it would further undermine banks' ability to be neutral arbiters of capital and lend based on financial principles and without bias. The S&L crisis of the 1980's has already shown us what can happen when federal rules keeping financial services separate from commercial activities are weakened.

Real estate brokerage and management have always been considered by Congress to be commercial transactions, and not financial matters. This was further reflected when Congress specifically chose not to include real estate activities as one of the powers given to national banks and financial holding companies as part of Gramm-Leach-Bliley.

However, following the passage of that Act, the Federal Reserve and the Treasury Department proposed rules in response to a petition by some financial services entities that would have allowed them to own and operate local real estate brokerage and property management companies.

Since fiscal year 2003, Congress has included language in the annual appropriations bill for the Treasury Department to prevent the use of funds to implement these regulations. These have only been temporary fixes, however, and we ought to resolve this issue once and for all in the 111th Congress.

I urge my colleagues to support this legislation.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, our founding fathers did a remarkable job in drafting the United States Constitution and the Bill of Rights. Their work was so superb that in the 217 years since the ratification of the Bill of Rights, the Constitution has only been amended 17 times. But every so often, a situation arises that so clearly exposes a flaw in our constitutional structure that it requires a constitutional remedy.

Over the past several months, our country has witnessed multiple controversies surrounding appointments to vacant Senate seats by governors. The vacancies in Illinois and New York have made for riveting political theater, but lost in the seemingly endless string of press conferences and surprise revelations is the basic fact that the citizens of these states have had no say in who should represent them in the Senate. The same is true of the recent selections in Delaware and Colorado. That is why I will introduce today a constitutional amendment to end gubernatorial appointments to the U.S. Senate and require special elections to fill these vacancies, as is currently required for House vacancies. I am pleased that the recently elected Senator from Alaska, Senator BEGICH, and the distinguished senior Senator from Arizona, Senator MCCAIN, have agreed to be original cosponsors of the amendment.

I do not make this proposal lightly. In fact, I have opposed dozens of constitutional amendments during my time in the Senate, particularly those that would have interfered with the Bill of Rights. The Constitution should not be treated like a rough draft. Constitutional amendments should be considered only when a statutory remedy to a problem is not available, and when the impact of the issue at hand on the structure of our government, the safety, welfare, or freedoms of our citizens, or the survival of our democratic republic is so significant that an amendment is warranted. I believe this is such a case.

In 1913, the citizens of this country, acting through their elected state legislatures, ratified the 17th Amendment to the Constitution. Our esteemed colleague Senator BYRD, in Chapter 21 of his remarkable history of the United

States Senate, lays out in fascinating detail the lengthy struggle to obtain for the citizens of this country the right to elect their Senators. The original Constitution, as we all know, gave state legislatures the right to choose the Senators for their states. While the first proposal to amend the Constitution to require the direct election of Senators was introduced in the House in 1826, the effort only really picked up steam after the Civil War.

As Senator BYRD recounts: ''In the post-Civil War period, state legislatures became increasingly subject to intimidation and bribery in the selection of Senators.'' Nine cases of bribery came before the Senate between 1866 and 1906. And between 1891 and 1905, the state legislatures from 20 different states deadlocked 45 times when trying to pick a Senator. At one point, a Senate seat from Delaware remained vacant for 4 years because of deadlocks.

The political theater occasioned by these Senate appointment fights dwarfs even the extraordinary events we have witnessed in recent months. Senator BYRD quotes from an account by the historian George Haynes about efforts to select a Senator in Missouri in 1905:

> Lest the hour of adjournment should come before an election was secured, an attempt was made to stop the clock upon the wall of the assembly chamber. Democrats tried to prevent its being tempered with; and when certain Republicans brought forward a ladder, it was seized and thrown out of the window. A fist-fight followed, in which many were involved. Desks were torn from the floor and a fusillade of books began. The glass of the clock-front was broken, but the pendulum still persisted in swinging until, in the midst of a yelling mob, one member began throwing ink bottles at the clock, and finally succeeded in breaking the pendulum. On a motion to adjourn, arose the wildest disorder. The presiding officers of both houses mounted the speaker's desk, and, by shouting and waving their arms, tried to quiet the mob. Finally, they succeeded in securing some semblance of order.

Popular sentiment for direct election of Senators slowly grew in response to events like these. Some states held popular referenda on who should be Senator and attempted to require their legislatures to select the winners of those votes. More and more Senators were chosen in such processes, leading to more support in the Senate for a constitutional amendment. Congress finally acted in 1911 and 1912. There was high drama in the Senate as Vice President James Schoolcraft Sherman broke a tie on a crucial substitute amendment offered by Senator Joseph Bristow of Kansas during Senate consideration of the joint resolution. A few days of parliamentary wrangling ensued over whether the Vice President's tie breaking role in the Senate extends to such situations, and that precedent still stands today. In May 1912, an impasse of almost a year was broken and the House receded to the Senate version of the amendment, allowing it to be sent to the States for ratification. Less than a year later, on April 8, 1913, Connecticut became the 36th State to ratify the amendment, and it became the 17th Amendment to the Constitution.

I recount this summary of the history of the 17th Amendment, and again, I commend to my colleagues Senator BYRD's chapter on the subject, first to make the point that even though it seems obvious to us that the Senate should be elected by the people, the struggle for that right was not easy or fast. But the cause was just and in the end the call for direct elections was too strong to be ignored. I believe the same result will occur here. It may take time, but in the end, I am confident that the principle that people must elect their representatives will prevail.

Second, this history shows that the public's disgust with the corruption, bribery, and political chicanery that resulted from having Senators chosen by state legislatures was a big motivation for passing the amendment. Gubernatorial appointments pose the same dangers, and demand the same solution—direct elections.

Finally, the history indicates that the proviso in the 17th amendment permitting gubernatorial appointments to fill temporary vacancies was not the subject of extensive debate in the Congress. The proviso originated in the substitute amendment offered by Senator Bristow. The Bristow substitute was designed, its sponsor explained, to ''make[] the least possible change in the Constitution to accomplish the purposes desired; that is the election of Senators by popular vote.'' Most significantly, it deleted a provision in the resolution as originally introduced that year that would have amended Article I, section 4 of the Constitution to remove Congress's supervisory authority to make or alter regulations concerning the time and manner of Senate elections.

The proviso, explained Senator Bristow, ''is practically the same provision which now exists in the case of such a vacancy. The governor of the State may appoint a Senator until the legislature elects.'' Although significant debate over other provisions in the Bristow amendment is found in the Record before the climactic tie vote, which was broken by the Vice President, there seems to have been no further discussion of the proviso.

Thus, it appears that the proviso was simply derived from the original constitutional provision in Article I, Section 3, which gave the power to choose Senators to the state legislatures, but allowed governors to appoint temporary replacements when the legislatures were not in session. It was unremarkable at the time of the 17th Amendment to allow governors to have the same temporary replacement power once direct elections were required. That would explain the apparent lack of debate on the question. The long and contentious debate over the amendment was dominated by much more basic issues, such as whether the people should elect their Senators at all, and whether Congress should also amend the ''time, place, or manner clause'' of Article I, section 4.

Nearly 100 years later, that proviso has allowed a total of 184 Senators to be appointed by governors, and we have a situation in today's Senate where the people of four states, comprising over 12 percent of the entire population of the country, will be represented for the next two years by someone they did not elect. It is very hard to imagine that the Congress that passed the 17th Amendment and the states that ratified it would have been comfortable with such an outcome. Indeed, some argue that the intent of the 17th Amendment was that temporary appointments to fill early vacancies should last only until a special election can be scheduled, rather than for an entire two-year Congress until the next general election. A number of states have adopted that approach, but many have not.

That is not to say that the people appointed to Senate seats are not capable of serving, or will not do so honorably. I have no reason to question the fitness for office of any of the most recent appointees, and I look forward to working with them. But those who want to be a U.S. Senator should have to make their case to the people whom they want to represent, not just the occupant of the governor's mansion. And the voters should choose them in the time-honored way that they choose the rest of the Congress of the United States.

I want to make it clear that this proposal is not simply a response to these latest cases that have been in the news over the past few months. These cases have simply confirmed my longstanding view that Senate appointments by state governors are an unfortunate relic of the pre-17th Amendment era, when state legislatures elected U.S. Senators. Direct election of Senators was championed by the great progressive Bob La Follette, who served as Wisconsin's Governor and a U.S. Senator. Indeed, my State of Wisconsin is now one of only 4 States, Oregon, Massachusetts, and Alaska are the others, that clearly require a special election to fill a Senate vacancy in all circumstances.

The vast majority of states still rely on the appointment system, while retaining the right to require direct elections, as the Massachusetts legislature and the voters of Alaska have done in recent years. But changing this system state by state would be a long and difficult process, even more difficult than the ratification of a constitutional amendment, particularly since Governors have the power to veto state statutes that would take this power away from them. Furthermore, the burden should not be on Americans to pass legislation in their states protecting their fundamental voting rights—the right to elect one's representatives is a bedrock principle and

should be reaffirmed in the nation's ruling charter.

We need to finish the job started by La Follette and other reformers nearly a century ago. Nobody can represent the people in the House of Representatives without the approval of the voters. The same should be true for the Senate.

In the several days since I announced my intention to introduce this amendment, I have heard a number of arguments raised against it. I would like to briefly address them. First of all, some suggest this amendment is an overreaction to the headlines of the day. But there are several precedents for amending the provisions of the Constitution that relate to the structure of government based on specific events. The 22nd Amendment, limiting the presidency to two terms, passed in 1951 in response to President Franklin D. Roosevelt's four-term presidency. The 25th Amendment, revising presidential succession, was passed in 1967 in response to confusion that occurred after the assassination of President Kennedy. If events demonstrate that there is a problem with our government structure, sooner or later we must take steps to address those problems. There is no better time to do that than when the effects of the structural flaw are most evident and most prominently part of the public debate.

Another objection I have heard to this proposal is the potential financial burden on the states that must pay for special elections. As someone with a reputation for fiscal discipline, I always consider a proposal's impact on the taxpayer. But the cost to our democracy of continuing the anachronism of gubernatorial Senate appointments is far greater than the cost of infrequent special elections. And weighing the costs associated with the most basic tenet of our democracy—the election of the government by the governed—sets us on a dangerous path. Besides, the Constitution already requires special elections when a House seat becomes vacant, a far more frequent occurrence since there are so many more Representatives than Senators. I find the cost argument wholly unconvincing.

Another argument I have heard is that special elections garner very low turnouts, or favor wealthy or well known candidates. They are not particularly democratic, the argument goes. And that may very well be true. But they are a whole lot more democratic than the election held inside the mind of one decisionmaker—the governor. Special elections may not be ideal, but they are elections, and every voter has the opportunity to participate. As Winston Churchill said, ''It has been said that democracy is the worst form of government except all the others that have been tried.''

I have also heard the argument that the candidates for the special election will be selected by party bosses because there won't be time for a primary. That is simply not true. Under this amendment, each state can decide how to set up its special elections. My home State of Wisconsin provides for a special election within about 10 weeks of the vacancy, with a primary one month earlier. It's a compressed schedule to be sure, because the state doesn't want to be without representation for too long. But it can be done. I would hope that most states would want to hold primaries, but the point of this amendment is to make clear that only Senators who have been elected by the people can serve, not to micromanage how the states want to implement that requirement.

I believe the core issue here is whether we are going to have a government that is as representative of and responsive to the people as possible. The time to require special elections to fill Senate vacancies has come. Congress should act quickly on this proposal, and send it to the states for ratification.

AMENDMENTS SUBMITTED AND PROPOSED

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, supra.

SA 84. Mr. COBURN (for himself, Mr. BURR, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 85. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 86. Mr. COBURN (for himself, Mr. BURR, Mr. GREGG, Mr. MCCONNELL, Mr. ENZI, Mr. CORNYN, Mr. DEMINT, Mr. JOHANNS, Mr. KYL, Mr. ALEXANDER, Mr. GRAHAM, Mr. CHAMBLISS, Mr. THUNE, Mr. BARRASSO, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 87. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 88. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 89. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 90. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 91. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 92. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 93. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra.

SA 94. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 95. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 96. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 97. Mr. ROCKEFELLER (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, supra.

TEXT OF AMENDMENTS

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPLIANCE WITH STATE AND FEDERAL LAWS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider to reimburse such provider for providing an unemancipated minor with a prescription contraceptive drug or device, including the surgical insertion of a contraceptive device or an injection of a contraceptive drug, unless such provider complies with State and Federal child abuse, child molestation, sexual abuse, rape, statutory rape, and incest reporting laws.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

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

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

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

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

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

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

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

SEC. 2. PURPOSE.

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

SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION; CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.

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

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, if funds are appropriated under any law (other than this Act) to provide allotments to States under CHIP for all (or any portion) of fiscal year 2009—

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

(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

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

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

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

TITLE I—FINANCING

Subtitle A—Funding

SEC. 101. EXTENSION OF CHIP.

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

(1) in paragraph (10), by striking ''and'' at the end;

(2) by amending paragraph (11), by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

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

''(12) for fiscal year 2009, $9,125,000,000;

''(13) for fiscal year 2010, $10,675,000,000;

''(14) for fiscal year 2011, $11,850,000,000;

''(15) for fiscal year 2012, $13,750,000,000; and

''(16) for fiscal year 2013, for purposes of making 2 semi-annual allotments—

''(A) $1,150,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

''(B) $1,150,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.''.

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

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

(1) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)'';

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

(3) by adding at the end the following new subsection:

''(m) ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) FOR FISCAL YEAR 2009.—

''(A) FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

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

''(ii) The Federal share of the amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iii) Only in the case of—

''(I) a State that received a payment, redistribution, or allotment under paragraph (1), (2), or (4) of subsection (h), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary;

''(II) a State whose projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the May 2006 estimates certified by the State to the Secretary, were at least $95,000,000 but not more than $96,000,000 higher than the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the November 2006 estimates, the amount of the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the May 2006 estimates; or

''(III) a State whose projected total Federal payments under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary, exceeded all amounts available to the State for expenditure for fiscal year 2007 (including any amounts paid, allotted, or redistributed to the State in prior fiscal years), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary,

multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iv) The projected total Federal payments to the State under this title for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

''(B) FOR THE COMMONWEALTHS AND TERRITORIES.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting 'the United States' for 'the State'.

''(C) ADJUSTMENT FOR QUALIFYING STATES.—In the case of a qualifying State described in paragraph (2) of section 2105(g), the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

''(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

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

''(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

''(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

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

''(ii) REBASING IN FISCAL YEAR 2011.—For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

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

''(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

''(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

''(3) FOR FISCAL YEAR 2013.—

''(A) FIRST HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

''(B) SECOND HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

''(i) the amount of the allotment to such State under subparagraph (A); to

''(ii) the total of the amount of all of the allotments made available under such subparagraph.

''(C) FULL YEAR AMOUNT BASED ON REBASED AMOUNT.—The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

''(D) FIRST HALF RATIO.—The first half ratio described in this subparagraph is the ratio of—

''(i) the sum of—

''(I) the amount made available under subsection (a)(16)(A); and

''(II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to

''(ii) the sum of the—

''(I) amount described in clause (i); and

''(II) the amount made available under subsection (a)(16)(B).

''(4) PRORATION RULE.—If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2013, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

''(5) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

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

''(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

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

''(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this title that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2013); and

''(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

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

''(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year, subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010 or fiscal year 2012.

''(7) AVAILABILITY OF AMOUNTS FOR SEMI-ANNUAL PERIODS IN FISCAL YEAR 2013.—Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2013 shall remain available for expenditure under this title for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.''.

SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.

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

''(n) CHILD ENROLLMENT CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Child Enrollment Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

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

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) AVAILABILITY OF EXCESS FUNDS FOR PERFORMANCE BONUSES.—Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 2105(a)(3) for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

''(3) CHILD ENROLLMENT CONTINGENCY FUND PAYMENTS.—

''(A) IN GENERAL.—If a State's expenditures under this title in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, or a semi-annual allotment period for fiscal year 2013, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

''(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

''(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved (or in which the period occurs).

''(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this paragraph, the target average number of child enrollees for a State—

''(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

''(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

''(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

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

''(E) TIMELY PAYMENT; RECONCILIATION.—Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 2105 shall apply to payments under this subsection in the same manner as they apply to payments under such section.

''(F) CONTINUED REPORTING.—For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.''.

SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

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

''(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

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

''(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

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

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal

year under the State plan under title XIX, respectively; exceeds

''(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under title XIX, respectively;

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

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

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under title XIX as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

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

''(I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points;

''(II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points;

''(III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and

''(IV) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the fiscal year involved begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 2 percentage points.

''(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

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

''(ii) TRANSFERS.—Notwithstanding any other provision of this title, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

''(I) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2009 THROUGH 2012.—As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2013.—As of December 31 of fiscal year 2013, the portion, if any, of the sum of the amounts appropriated under subsection (a)(16)(A) and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2013.—As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B) for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(II) UNEXPENDED ALLOTMENTS NOT USED FOR REDISTRIBUTION.—As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 2104 for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 2104(f) during the period in which such allotments are available for obligation.

''(III) EXCESS CHILD ENROLLMENT CONTINGENCY FUNDS.—As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 2104(n).

''(IV) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—As of October 1, 2011, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2011.

''(iii) PROPORTIONAL REDUCTION.—If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

''(F) QUALIFYING CHILDREN DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clauses (ii) and (iii), the term 'qualifying children' means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.

''(ii) LIMITATION.—A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a 'qualifying child' only if the child is determined to be eligible for medical assistance under title XIX.

''(iii) EXCLUSION.—Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v).

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—The provisions of subparagraph (G) of section 2104(n)(3) shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

''(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—In the case of a State that provides coverage under section 115 of the Children's Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

''(i) any child enrolled in the State plan under title XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and

''(ii) in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under title XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX for such third fiscal year.

''(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

''(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

''(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

''(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

''(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

''(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

''(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

''(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a

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

''(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

''(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

''(i) IN GENERAL.—The State provides, in the case of renewal of a child's eligibility for medical assistance under title XIX or child health assistance under this title, a preprinted form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

''(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State's possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant's parent or caretaker relative.

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

''(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is implementing the option of providing premium assistance subsidies under section 2105(c)(10) or section 1906A.''.

SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

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

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.

(a) BEGINNING WITH FISCAL YEAR 2007.—

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

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''States that have fully expended the amount of their allotments under this section.'' and inserting ''States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).''; and

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

''(2) SHORTFALL STATES DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

''(i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

''(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

''(iii) the amount of the State's allotment for the fiscal year.

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

''(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.

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

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

(2) in paragraph (1), by striking ''the first 2 quarters of''; and

(3) in paragraph (6)—

(A) by striking ''the first 2 quarters of''; and

(B) by striking ''March 31'' and inserting ''September 30''.

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

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

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

(A) by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

(B) by striking ''2008, or 2009'' and inserting ''or 2008''; and

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

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2009 through 2013 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

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

SEC. 108. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $13,700,000,000 to accompany the allotment made for the period beginning on October 1, 2012, and ending on March 31, 2013, under section 2104(a)(16)(A) of the Social Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under paragraph (3) of section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(i)), as added by section 102, for the first 6 months of fiscal year 2013 in the same manner as allotments are provided under subsection (a)(16)(A) of such section 2104 and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(16)(A).

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

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

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2009, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

(b) GAO STUDY AND REPORT.—Not later than September 30, 2010, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding Federal funding under Medicaid and CHIP for Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The report shall include the following:

(1) An analysis of all relevant factors with respect to—

(A) eligible Medicaid and CHIP populations in such commonwealths and territories;

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

(C) the extent to which Federal poverty guidelines are used by such commonwealths and territories to determine Medicaid and CHIP eligibility; and

(D) the extent to which such commonwealths and territories participate in data collection and reporting related to Medicaid and CHIP, including an analysis of territory participation in the Current Population Survey versus the American Community Survey.

(2) Recommendations regarding methods for the collection and reporting of reliable data regarding the enrollment under Medicaid and CHIP of children in such commonwealths and territories.

(3) Recommendations for improving Federal funding under Medicaid and CHIP for such commonwealths and territories.

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.

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

"SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

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

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

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

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

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

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

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

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

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

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

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

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

(A) in the heading, by inserting ''**OR PREGNANCY-RELATED ASSISTANCE**'' after ''**PREVENTIVE SERVICES**''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

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

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

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

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 112. PHASE-OUT OF COVERAGE FOR NON-PREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

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

"SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF 2009.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2009, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only through December 31, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on the date of the enactment of this subsection and ending on December 31, 2009.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the year involved over the preceding year, as most recently published by the Secretary.

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

''(1) TWO-YEAR PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2011.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

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

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

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 2104(a)(16) and any reduction in the allotment for either such period under section 2104(m)(4) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2012 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraph (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2013.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply. For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

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

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2011;

''(ii) implemented 1 or more of the enrollment and retention provisions described in section 2105(a)(4) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest ⅓ of States in terms of the State's percentage of low-income children without health insurance.

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

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

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect on October 1, 2008.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

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

(i) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

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

(iii) by striking the second sentence; and

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

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

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 112 of the Children's Health Insurance Program Reauthorization Act of 2009, nothing''.

(b) GAO STUDY AND REPORT.—

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

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

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

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

SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

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

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

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

''(B) [reserved]''.

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking ''so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance''.

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

''The term 'qualified provider' also includes a qualified entity, as defined in section 1920A(b)(3).''.

SEC. 114. DENIAL OF PAYMENTS FOR COVERAGE OF CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

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

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for child health assistance furnished after the date of the enactment of this paragraph, no payment shall be made under this section for any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, has an approved State plan amendment or waiver to provide expenditures described in such subparagraph under the State child health plan.''.

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

(1) changing any income eligibility level for children under title XXI of the Social Security Act; or

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

SEC. 115. STATE AUTHORITY UNDER MEDICAID.

(a) STATE AUTHORITY TO EXPAND INCOME OR RESOURCE ELIGIBILITY LEVELS FOR CHILDREN.—Nothing in this Act, the amendments made by this Act, or title XIX of the Social Security Act, including paragraph (2)(B) of section 1905(u) of such Act, shall be construed as limiting the flexibility afforded States under such title to increase the income or resource eligibility levels for children under a State plan or waiver under such title.

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

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

(2) receive Federal financial participation for expenditures for medical assistance under Medicaid for children described in paragraph (2)(B) or (3) of section 1905(u) of such Act based on the Federal medical assistance percentage, as otherwise determined based on the first and third sentences of subsection (b) of section 1905 of the Social Security Act, rather than on the basis of an enhanced FMAP (as defined in section 2105(b) of such Act).

SEC. 116. PREVENTING SUBSTITUTION OF CHIP COVERAGE FOR PRIVATE COVERAGE.

(a) FINDINGS.—

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

(2) Congress agrees with the President and the Congressional Budget Office that the substitution of CHIP coverage for private coverage occurs more frequently for children in families at higher income levels.

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

(4) Congress concludes that the policies specified in this section (and the amendments made by this section) are the appropriate policies to address these issues.

(b) ANALYSES OF BEST PRACTICES AND METHODOLOGY IN ADDRESSING CROWD-OUT.—

(1) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives and the Secretary a report describing the best practices by States in addressing the issue of CHIP crowd-out. Such report shall include analyses of—

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

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

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

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

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

(2) IOM REPORT ON METHODOLOGY.—The Secretary shall enter into an arrangement with the Institute of Medicine under which the Institute submits to the Committee on Finance of the Senate and the Committee on

Energy and Commerce of the House of Representatives and the Secretary, not later than 18 months after the date of the enactment of this Act, a report on—

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

(i) on a State-by-State basis, the rate of public and private health benefits coverage among low-income children with family income that does not exceed 200 percent of the poverty line; and

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

(B) the least burdensome way to gather the necessary data to conduct the measurements described in subparagraph (A).

Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated $2,000,000 to carry out this paragraph for the period ending September 30, 2010.

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

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

''(9) CHIP CROWD-OUT.—The term 'CHIP crowd-out' means the substitution of—

''(A) health benefits coverage for a child under this title, for

''(B) health benefits coverage for the child other than under this title or title XIX.''.

(c) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Within 6 months after the date of receipt of the reports under subsections (a) and (b) of section 116 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

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

''(2) uniform standards for data collection by States to measure and report—

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

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

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

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

''(f) REQUIREMENT TO ADDRESS CHIP CROWD-OUT; SECRETARIAL REVIEW.—

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

''(A) will address CHIP crowd-out; and

''(B) will incorporate recommended best practices referred to in such paragraph.

''(2) BEST PRACTICE APPLICATION DATE.—The best practice application date described in this paragraph is the date that is 6 months after the date of publication of recommendations regarding best practices under section 2107(g)(1).

''(3) SECRETARIAL REVIEW.—The Secretary shall—

''(A) review each State plan amendment submitted under paragraph (1);

''(B) determine whether the amendment incorporates recommended best practices referred to in paragraph (2);

''(C) in the case of a higher income eligibility State (as defined in section 2105(c)(9)(B)), determine whether the State meets the enrollment targets required under reference section 2105(c)(9)(C); and

''(D) notify the State of such determinations.''.

(e) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

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

''(9) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of April 1 of 2011 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, subject to subparagraph (E), no payment shall be made as of October 1 of such year on or after October 1, 2011, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the State establishes it is in compliance with such requirement.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

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

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—

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

''(ii) TARGET RATE.—The target rate of coverage specified in this clause is the average rate (determined by the Secretary) of health benefits coverage (both private and public) as of January 1, 2011, among the 10 of the 50 States and the District of Columbia with the highest percentage of health benefits coverage (both private and public) for low-income children.

''(iii) STANDARDS FOR DATA.—In applying this subparagraph, rates of health benefits coverage for States shall be determined using the uniform standards identified by the Secretary under section 2107(g)(2).

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

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

''(E) NOTICE AND OPPORTUNITY TO COMPLY WITH TARGET RATE.—If the Secretary makes a determination described in subparagraph (A)(ii) in April of a year, the Secretary—

''(i) shall provide the State with the opportunity to submit and implement a corrective action plan for the State to come into compliance with the requirement of subparagraph (C) before October 1 of such year;

''(ii) shall not effect a denial of payment under subparagraph (A) on the basis of such determination before October 1 of such year; and

''(iii) shall not effect such a denial if the Secretary determines that there is a reasonable likelihood that the implementation of such a correction action plan will bring the State into compliance with the requirement of subparagraph (C).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(9)(B) of such Act, as added by paragraph (1)).

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

''(5) TREATMENT OF MEDICAL SUPPORT ORDERS.—

''(A) IN GENERAL.—Nothing in this title shall be construed to allow the Secretary to require that a State deny eligibility for child health assistance to a child who is otherwise eligible on the basis of the existence of a valid medical support order being in effect.

''(B) STATE ELECTION.—A State may elect to limit eligibility for child health assistance to a targeted low-income child on the basis of the existence of a valid medical support order on the child's behalf, but only if the State does not deny such eligibility for a child on such basis if the child asserts that the order is not being complied with for any of the reasons described in subparagraph (C) unless the State demonstrates that none of such reasons applies in the case involved.

''(C) REASONS FOR NONCOMPLIANCE.—The reasons described in this subparagraph for noncompliance with a medical support order with respect to a child are that the child is not being provided health benefits coverage pursuant to such order because—

''(i) of failure of the noncustodial parent to comply with the order;

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

''(iii) the child resides in a geographic area in which benefits under the health benefits coverage are generally unavailable.''.

(g) EFFECTIVE DATE OF AMENDMENTS; CONSISTENCY OF POLICIES.—The amendments made by this section shall take effect as if enacted on August 16, 2007. The Secretary may not impose (or continue in effect) any requirement, prevent the implementation of any provision, or condition the approval of any provision under any State child health plan, State plan amendment, or waiver request on the basis of any policy or interpretation relating to CHIP crowd-out, coordination with other sources of coverage, target rate of coverage, or medical support order other than under the amendments made by this section. In the case of a State plan amendment which was denied on or after August 16, 2007, on the basis of any such policy or interpretation in effect before the date of

the enactment of this Act, if the State submits a modification of such State plan amendment that complies with title XXI of the Social Security Act as amended by this Act, such submitted State plan amendment, as so modified, shall be considered as if it had been submitted (as so modified) as of the date of its original submission, but such State plan amendment shall not be effective before the date of the enactment of this Act and the exception described in subparagraph (B) of section 2105(c)(8) of the Social Security Act, as added by section 114(a), shall not apply to such State plan amendment.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR OUTREACH AND ENROLLMENT.

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

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2013 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

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

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

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

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

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

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

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

''(1) the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded; and

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

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

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

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

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

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

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

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

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

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

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

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

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

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

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

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

(A) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ''and'' at the end;

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

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

''(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(2) MEDICAID.—

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

''(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, children of families for whom English is not the primary language; plus''.

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

(i) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397bb(c)(1)) is amended by inserting ''(through community health workers and others)'' after ''Outreach''.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting ''(such as through community health workers and others)'' after ''including practices''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

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

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

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

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

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

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE xix.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13) EXPRESS LANE OPTION.—

''(A) IN GENERAL.—

''(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (G)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (F)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B) and 1137(d) or any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

''(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

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

''(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

''(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9), as applicable for verifications of citizenship or nationality status.

''(V) CODING.—The State meets the requirements of subparagraph (E).

''(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

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

''(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

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

''(ii) ESTABLISHING A SCREENING THRESHOLD.—

''(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

''(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

''(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

''(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State's regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for medical assistance under this title using such regular procedures.

''(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

''(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

''(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

''(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child's eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

''(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

''(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child's parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

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

''(D) OPTION FOR AUTOMATIC ENROLLMENT.—

''(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation and signature on an Express Lane agency application, if the requirement of clause (ii) is met.

''(ii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

''(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iv), the requirement of this subparagraph for a State is that the State agrees to—

''(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's election under this paragraph;

''(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate (as described in clause (iv)) with respect to the enrollment of such children (and shall not include such children in any data or samples used for purposes of complying with a Medicaid Eligibility Quality Control (MEQC) review or a payment error rate measurement (PERM) requirement);

''(III) submit the error rate determined under subclause (II) to the Secretary;

''(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State elects to apply this paragraph, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

''(V) if such error rate exceeds 3 percent for any fiscal year in which the State elects to apply this paragraph, a reduction in the amount otherwise payable to the State under section 1903(a) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year that are in excess of a 3 percent error rate with respect to such children.

''(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

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

''(iv) ERROR RATE DEFINED.—In this subparagraph, the term 'error rate' means the rate of erroneous excess payments for medical assistance (as defined in section 1903(u)(1)(D)) for the period involved, except that such payments shall be limited to individuals for which eligibility determinations are made under this paragraph and except that in applying this paragraph under title XXI, there shall be substituted for references to provisions of this title corresponding provisions within title XXI.

''(F) EXPRESS LANE AGENCY.—

''(i) IN GENERAL.—In this paragraph, the term 'Express Lane agency' means a public agency that—

''(I) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of one or more eligibility requirements described in subparagraph (A)(i);

''(II) is identified in the State Medicaid plan or the State CHIP plan; and

''(III) notifies the child's family—

''(aa) of the information which shall be disclosed in accordance with this paragraph;

''(bb) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

''(cc) that the family may elect to not have the information disclosed for such purposes; and

''(IV) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

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

''(I) A public agency that determines eligibility for assistance under any of the following:

''(aa) The temporary assistance for needy families program funded under part A of title IV.

''(bb) A State program funded under part D of title IV.

''(cc) The State Medicaid plan.

''(dd) The State CHIP plan.

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

''(ff) The Head Start Act (42 U.S.C. 9801 et seq.).

''(gg) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

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

''(ii) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(jj) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

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

''(ll) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(II) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

''(III) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

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

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

''(I) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

''(II) authorizing a State Medicaid agency that elects to use Express Lane agencies under this subparagraph to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

''(v) ADDITIONAL DEFINITIONS.—In this paragraph:

''(I) STATE.—The term 'State' means 1 of the 50 States or the District of Columbia.

''(II) STATE CHIP AGENCY.—The term 'State CHIP agency' means the State agency responsible for administering the State CHIP plan.

''(III) STATE CHIP PLAN.—The term 'State CHIP plan' means the State child health plan established under title XXI and includes any waiver of such plan.

''(IV) STATE MEDICAID AGENCY.—The term 'State Medicaid agency' means the State agency responsible for administering the State Medicaid plan.

''(V) STATE MEDICAID PLAN.—The term 'State Medicaid plan' means the State plan established under title XIX and includes any waiver of such plan.

''(G) CHILD DEFINED.—For purposes of this paragraph, the term 'child' means an individual under 19 years of age, or, at the option

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

''(H) APPLICATION.—This paragraph shall not apply with respect to eligibility determinations made after September 30, 2013.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the option provided under the amendments made by subsection (a). Such evaluation shall include an analysis of the effectiveness of the option, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

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

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

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

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

(3) FUNDING.—

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

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of such amount to conduct the evaluation under this subsection.

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

''(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant's signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.''.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

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

''SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.

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

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

''(1) The individual whose circumstances are described in the data or information (or such individual's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

''(B) verifying the eligibility of individuals for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

''(c) PENALTIES FOR IMPROPER DISCLOSURE.—

''(1) CIVIL MONEY PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to $10,000 for each such unauthorized publication or disclosure. The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(2) CRIMINAL PENALTY.—A private entity described in the subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than $10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

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

''(F) Section 1942 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ''(and, at State option, individuals who apply or whose eligibility for medical assistance is being evaluated in accordance with section 1902(e)(13)(D))'' after ''with respect to individuals who are eligible''; and

(B) by inserting ''under this title (and, at State option, child health assistance under title XXI)'' after ''the State plan''.

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

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

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

(f) EFFECTIVE DATE.—The amendments made by this section are effective on January 1, 2009.

Subtitle B—Reducing Barriers to Enrollment

SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

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

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

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

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

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

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (ee);''; and

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

''(ee)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the

Commissioner of Social Security as part of the program established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number, or the declaration of citizenship or nationality, of the individual is inconsistent with information in the records maintained by the Commissioner—

''(i) the State makes a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality and by taking such additional actions as the Secretary, through regulation or other guidance, or the State may identify, and continues to provide the individual with medical assistance while making such effort; and

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

''(I) notifies the individual of such fact;

''(II) provides the individual with a period of 90 days from the date on which the notice required under subclause (I) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or resolve the inconsistency with the Commissioner of Social Security (and continues to provide the individual with medical assistance during such 90-day period); and

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

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

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

''(i) to provide, through an on-line system or otherwise, for the electronic submission of, and response to, the information submitted under subparagraph (A) for an individual enrolled in the State plan under this title who declares to be citizen or national on at least a monthly basis; or

''(ii) to provide for a determination of the consistency of the information submitted with the information maintained in the records of the Commissioner through such other method as agreed to by the State and the Commissioner and approved by the Secretary, provided that such method is no more burdensome for individuals to comply with than any burdens that may apply under a method described in clause (i).

''(C) The program established under this paragraph shall provide that, in the case of any individual who is required to submit a social security number to the State under subparagraph (A) and who is unable to provide the State with such number, shall be provided with at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the inconsistent submissions bears to the total submissions made for comparison for such month. For purposes of this subparagraph, a name, social security number, or declaration of citizenship or nationality of an individual shall be treated as inconsistent and included in the determination of such percentage only if—

''(i) the information submitted by the individual is not consistent with information in records maintained by the Commissioner of Social Security;

''(ii) the inconsistency is not resolved by the State;

''(iii) the individual was provided with a reasonable period of time to resolve the inconsistency with the Commissioner of Social Security or provide satisfactory documentation of citizenship status and did not successfully resolve such inconsistency; and

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

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 3 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided inconsistent information as the number of individuals with inconsistent information in excess of 3 percent of such total submitted bears to the total number of individuals with inconsistent information.

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

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

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

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

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

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(ee) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

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

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(4) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Commissioner of Social Security $5,000,000 to remain available until expended to carry out the Commissioner's responsibilities under section 1902(ee) of the Social Security Act, as added by subsection (a).

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

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

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

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

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

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

(i) in paragraph (2)—

(I) in subparagraph (C), by striking ''or'' at the end;

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

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

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

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

(A) in subparagraph (B)—

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

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

(B) in subparagraph (C)—

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

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

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

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

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(ii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect on October 1, 2009.

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

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

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

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2009, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

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

SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

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

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

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

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.

(a) CHIP.—

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

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph. No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

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

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

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

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such

coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

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

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

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

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

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

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(iii) CLARIFICATION OF PAYMENT FOR ADMINISTRATIVE EXPENDITURES.—Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this title.

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906 or 1906A, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

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

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

''(M) SATISFACTION OF COST-EFFECTIVENESS TEST.—Premium assistance subsidies for qualified employer-sponsored coverage offered under this paragraph shall be deemed to meet the requirement of subparagraph (A) of paragraph (3).

''(N) COORDINATION WITH MEDICAID.—In the case of a targeted low-income child who receives child health assistance through a State plan under title XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1906A shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.''.

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

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

''(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

''(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families.''.

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

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

''PREMIUM ASSISTANCE OPTION FOR CHILDREN

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

''(b) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(1) IN GENERAL.—Subject to paragraph (2)), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

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

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

''(C) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section

105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(2) EXCEPTION.—Such term does not include coverage consisting of—

''(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(3) TREATMENT AS THIRD PARTY LIABILITY.—The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1902(a)(25).

''(c) PREMIUM ASSISTANCE SUBSIDY.—In this section, the term 'premium assistance subsidy' means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family. Premium assistance subsidies under this section shall be considered, for purposes of section 1903(a), to be a payment for medical assistance.

''(d) VOLUNTARY PARTICIPATION.—

''(1) EMPLOYERS.—Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

''(2) BENEFICIARIES.—No subsidy shall be provided to an individual under age 19 under this section unless the individual (or the individual's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. State may not require, as a condition of an individual under age 19 (or the individual's parent) being or remaining eligible for medical assistance under this title, apply for enrollment in qualified employer-sponsored coverage under this section.

''(3) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of an individual under age 19 receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

''(e) REQUIREMENT TO PAY PREMIUMS AND COST-SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In the case of the participation of an individual under age 19 (or the individual's parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916 or, if applicable, section 1916A). The fact that an individual under age 19 (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual's (or parent's) eligibility for medical assistance under the State plan, except insofar as section 1902(a)(25) provides that payments for such assistance shall first be made under such coverage.''.

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

SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

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

''(3) PREMIUM ASSISTANCE SUBSIDIES.—In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

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

''(iii) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE xix THROUGH PREMIUM ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).''.

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.

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

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

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

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

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

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

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

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

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

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

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

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

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

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

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

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed

under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

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

(i) in subsection (a)(6), by striking ''or (8)'' and inserting ''(8), or (9)''; and

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

''(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

''(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

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

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

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

''SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

''(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

''(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

''(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

''(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability and effectiveness of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth, prevent and treat premature birth, and detect the presence or risk of physical or mental conditions that could adversely affect growth and development; and

''(ii) treatments to correct or ameliorate the effects of physical and mental conditions, including chronic conditions, in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children, including children with special needs, and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2011, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting,

and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2011, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing children, including children with disabilities and children with chronic conditions;

''(F) national organizations representing consumers and purchasers of children's health care;

''(G) national organizations and individuals with expertise in pediatric health quality measurement; and

''(H) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2013, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(7) CONSTRUCTION.—Nothing in this section shall be construed as supporting the restriction of coverage, under title XIX or XXI or otherwise, to only those services that are evidence-based.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2010, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2009 through 2013, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(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 develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(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;

''(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

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A Federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problemsolving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2009 through 2013.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2010, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI.

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2009 through 2013, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following new clause:

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMATION REGARDING ENROLLMENT OF CHILDREN IN CHIP AND MEDICAID.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

(2) by adding at the end the following new subsection:

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) STANDARDIZED REPORTING FORMAT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act, as added by subsection (a)(2).

(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act that includes the information required under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).

(c) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary for fiscal year 2009 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of providing more timely data on enrollment and eligibility of children under Medicaid and CHIP and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be designed and implemented (including with respect to any necessary guidance for States to report such information in a complete and expeditious manner) so that, beginning no later than October 1, 2009, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

(d) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

(a) IN GENERAL.—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

''(3) COMPLIANCE WITH MANAGED CARE REQUIREMENTS.—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2009.

TITLE V—IMPROVING ACCESS TO BENEFITS

SEC. 501. DENTAL BENEFITS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(ii) in paragraph (1), by inserting ''at least'' after ''that is''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) DENTAL BENEFITS.—

''(A) IN GENERAL.—The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

''(B) PERMITTING USE OF DENTAL BENCHMARK PLANS BY CERTAIN STATES.—A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

''(C) BENCHMARK DENTAL BENEFIT PACKAGES.—The benchmark dental benefit packages are as follows:

''(i) FEHBP CHILDREN'S DENTAL COVERAGE.—A dental benefits plan under chapter 89A of title 5, United States Code, that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(ii) STATE EMPLOYEE DEPENDENT DENTAL COVERAGE.—A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(iii) COVERAGE OFFERED THROUGH COMMERCIAL DENTAL PLAN.—A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.''.

(2) ASSURING ACCESS TO CARE.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to coverage of items and services furnished on or after October 1, 2009.

(b) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(c) PROVISION OF DENTAL SERVICES THROUGH FQHCS.—

(1) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (70);

(B) by striking the period at the end of paragraph (71) and inserting ''; and''; and

(C) by inserting after paragraph (71) the following new paragraph:

''(72) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397g(e)(1)), as amended by subsections (a)(2) and (d)(2) of section 203, is amended by inserting after subparagraph (B) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(C) Section 1902(a)(72) (relating to limiting FQHC contracting for provision of dental services).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2009.

(d) REPORTING INFORMATION ON DENTAL HEALTH.—

(1) MEDICAID.—Section 1902(a)(43)(D)(iii) (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting ''and other information relating to the provision of dental services to such children described in section 2108(e)'' after ''receiving dental services,''.

(2) CHIP.—Section 2108 (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

''(e) INFORMATION ON DENTAL CARE FOR CHILDREN.—

''(1) IN GENERAL.—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

''(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

''(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

''(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

''(2) INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(e) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act, on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually.

(f) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a), as added by section 401(a), is amended—

(1) in paragraph (3)(B)(ii), by inserting ''and, with respect to dental care, conditions requiring the restoration of teeth, relief of pain and infection, and maintenance of dental health'' after ''chronic conditions''; and

(2) in paragraph (6)(A)(ii), by inserting ''dental care,'' after ''preventive health services,''.

(g) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas;

(B) children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(i) the extent to which dental providers are willing to treat children eligible for such programs;

(ii) information on such children's access to networks of care, including such networks that serve special needs children; and

(iii) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(C) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) REPORT.—Not later than 18 months year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by inserting after paragraph (5), the following:

''(6) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance abuse benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance abuse benefits are no more restrictive than the financial requirements and treatment limitations applied to substantially all medical and surgical benefits covered by the plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the

State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), as amended by section 501(a)(1)(A)(i), in the matter preceding paragraph (1), by inserting '', (6),'' after ''(5)''; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 501(c)(2) is amended by inserting after subparagraph (C) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2009.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2009, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(D) of the Social Security Act (as added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2011, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 504. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) PREMIUM GRACE PERIOD.—The State child health plan—

''(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

''(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

''(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

''(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term 'new coverage period' means the month immediately following the last month for which the premium has been paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after January 1, 2010.

SEC. 505. DEMONSTRATION PROJECTS RELATING TO DIABETES PREVENTION.

There is authorized to be appropriated $15,000,000 during the period of fiscal years 2009 through 2013 to fund demonstration projects in up to 10 States over 3 years for voluntary incentive programs to promote children's receipt of relevant screenings and improvements in healthy eating and physical activity with the aim of reducing the incidence of type 2 diabetes. Such programs may involve reductions in cost-sharing or premiums when children receive regular screening and reach certain benchmarks in healthy eating and physical activity. Under such programs, a State may also provide financial bonuses for partnerships with entities, such as schools, which increase their education and efforts with respect to reducing the incidence of type 2 diabetes and may also devise incentives for providers serving children covered under this title and title XIX to perform relevant screening and counseling regarding healthy eating and physical activity. Upon completion of these demonstrations, the Secretary shall provide a report to Congress on the results of the State demonstration projects and the degree to which they helped improve health outcomes related to type 2 diabetes in children in those States.

SEC. 506. CLARIFICATION OF COVERAGE OF SERVICES PROVIDED THROUGH SCHOOL-BASED HEALTH CENTERS.

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

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

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

SEC. 601. PAYMENT ERROR RATE MEASUREMENT ("PERM").

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(a), is amended by adding at the end the following new paragraph:

''(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.''.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)C)), as amended by section 302(b)), is amended by adding at the end the following:

''(iv) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).''.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ''PERM'') requirements to CHIP until after the date that is 6 months after the date on which a final rule implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such final rule in effect for all States may only be inclusive of errors, as defined in such final rule or in guidance issued within a reasonable time frame after the effective date for such final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State's verification of an applicant's self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant's self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(d) OPTION FOR APPLICATION OF DATA FOR STATES IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL RULE.—After the final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ''MEQC'') requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining

the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) STATE OPTION TO APPLY MEQC DATA.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, as in effect on September 1, 2007, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with fiscal year 2009, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

SEC. 602. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2009''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine the child population growth factor under section 2104(m)(5)(B) and any other data necessary for carrying out this title.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.

Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

''(5) SUBSEQUENT EVALUATION USING UPDATED INFORMATION.—

''(A) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

''(B) SELECTION OF STATES AND MATTERS INCLUDED.—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

''(C) SUBMISSION TO CONGRESS.—Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

''(D) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.''.

SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.

Section 2108(d) (42 U.S.C. 1397hh(d)) is amended to read as follows:

''(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.—For the purpose of evaluating and auditing the program established under this title, or title XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.''.

SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DISALLOWANCE FOR UNAUTHORIZED EXPENDITURES.

Nothing in this Act allows Federal payment for individuals who are not legal residents. Titles XI, XIX, and XXI of the Social Security Act provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively.

Subtitle B—Miscellaneous Health Provisions

SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i)—

(i) by striking ''Notwithstanding any other provision of this title'' and inserting ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability) and any other provision of this title which would be directly contrary to the authority under this section and subject to subsection (E)''; and

(ii) by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(B) in clause (i), by inserting ''provides'' after ''(i)''; and

(C) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(2) in subparagraph (C)—

(A) in the heading, by striking ''**WRAP-AROUND**'' and inserting ''**ADDITIONAL**''; and

(B) by striking ''wrap-around or''; and

(3) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2);

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(iii) affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise.''.

(b) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are made available under part B of title IV on the basis of being a child in foster care or''.

(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—With respect to a State plan

amendment to provide benchmark benefits in accordance with subsections (a) and (b) that is approved by the Secretary, the Secretary shall publish on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out the plan amendment and the reason for each such determination on the date such approval is made, and shall publish such list in the Federal Register and not later than 30 days after such date of approval.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 612. REFERENCES TO TITLE XXI.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

SEC. 614. GAO REPORT ON MEDICAID MANAGED CARE PAYMENT RATES.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives analyzing the extent to which State payment rates for medicaid managed care organizations under title XIX of the Social Security Act are actuarially sound.

SEC. 615. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the FMAP (as defined in subsection (e)) for a State for a fiscal year (beginning with fiscal year 2006) and applying the FMAP under title XIX of the Social Security Act, any significantly disproportionate employer pension or insurance fund contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION AND INSURANCE FUND CONTRIBUTION.—

(1) IN GENERAL.—For purposes of this section, a significantly disproportionate employer pension and insurance fund contribution described in this subsection with respect to a State is any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such State for a calendar year (beginning with calendar year 2003) if the increase in the amount so estimated exceeds 25 percent of the total increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjustment a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than May 15, 2009, the Secretary shall submit to the Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of Economic Affairs calculations for the FMAP and for Medicaid and on possible alternative methodologies to mitigate such problems.

(e) FMAP DEFINED.—For purposes of this section, the term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396(d)).

SEC. 616. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

SEC. 617. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) (42 U.S.C. 1396r–4(f)(6)), as amended by section 202 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended—

(1) in the paragraph heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012'';

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''and 2009'' and inserting '', 2009, 2010, and 2011''; and

(II) by striking ''such portion of''; and

(ii) in the third sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for period in fiscal year 2012''; and

(C) in clause (iv)—

(i) in the clause heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012''; and

(ii) in each of subclauses (I) and (II), by striking '' or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for a period in fiscal year 2012''; and

(3) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence, by striking ''2009'' and inserting ''2011''; and

(ii) in the second sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011''.

Subtitle C—Other Provisions

SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as

part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''52.75 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''40.26 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$105.69 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.15 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.30 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.51'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50.33 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8311 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$24.78''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, INVENTORIES, REPORTS, AND RECORDS REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMIT.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES, REPORTS, AND PACKAGES.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(C) PACKAGES, MARKS, LABELS, AND NOTICES.—Section 5723 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products'' each place it appears.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or

growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 5702(h) of such Code is amended by striking ''tobacco products and cigarette papers and tubes'' and inserting ''tobacco products or cigarette papers or tubes or any processed tobacco''.

(B) Sections 5702(j) and 5702(k) of such Code are each amended by inserting '', or any processed tobacco,'' after ''tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) IN GENERAL.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles imported after the date of the enactment of this Act.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—

(1) IN GENERAL.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) DISCLOSURE.—

(1) IN GENERAL.—Paragraph (1) of section 6103(o) of such Code is amended by designating the text as subparagraph (A), moving such text 2 ems to the right, striking ''Returns'' and inserting ''(A) IN GENERAL.—Returns'', and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.''.

(2) CONFORMING AMENDMENT.—Section 6103(p)(4) of such Code is amended by striking ''(o)(1)'' both places it appears and inserting ''(o)(1)(A)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on or after the date of the enactment of this Act.

(g) TRANSITIONAL RULE.—Any person who—

(1) on April 1 is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF TOBACCO SMUGGLING IN THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study concerning the magnitude of tobacco smuggling in the United States and submit to Congress recommendations for the most effective steps to reduce tobacco smuggling. Such study shall also include a review of the loss of Federal tax receipts due to illicit tobacco trade in the United States and the role of imported tobacco products in the illicit tobacco trade in the United States.

SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.5 percentage point.

SA 84. Mr. COBURN (for himself, Mr. BURR, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was orderd to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to ensure that American children have high-quality health coverage that fits their individual needs.

SEC. 2. CONTINUATION OF SCHIP FUNDING DURING TRANSITION PERIOD.

(a) THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $7,780,000,000; and

''(13) for fiscal year 2010, $8,044,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(b) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

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

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

SEC. 3. HIGH-QUALITY HEALTH COVERAGE FOR AMERICAN CHILDREN.

(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this Act, the

Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') shall establish a program to ensure that American children have high-quality health coverage that fits their individual needs (in this section referred to as ''the program'').

(b) CRITERIA FOR ELIGIBILITY.—The program shall ensure that—

(1) all children eligible for medical assistance under a State Medicaid plan under title XIX of the Social Security Act or child health assistance under a State child health plan under title XXI of such Act (or under a waiver of either such plan) and whose gross family income ((as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r) of such Act)) does not exceed 300 percent of the poverty line (as defined in section 2110(c)(5) of the Social Security Act) are eligible for coverage under the program; and

(2) all children who do not have health insurance coverage (as defined in section 2791 of the Public Health Service Act) and whose gross family income (as so determined) does not exceed 300 percent of the poverty line (as so defined) are eligible for coverage under the program.

(c) BENEFITS.—Under the program, health insurance issuers shall offer children (who are not within a category of individuals described in section 1937(a)(2)(B) of the Social Security Act) private health insurance coverage that—

(1) is actuarially equivalent to the coverage requirements for State child health plans specified in section 2103(a) of the Social Security Act or any other health benefits coverage that the Secretary determines will provide appropriate coverage; and

(2) provides for total annual aggregate cost-sharing that does not exceed 5 percent of a family's income for the year involved.

(d) REIMBURSEMENTS.—The Secretary shall establish an annual process for awarding contracts on a competitive basis to health insurance issuers to provide private health insurance coverage for eligible children under the program. Such process shall ensure that—

(1) payments to such issuers shall be determined through a competitive bidding process;

(2) payments to such issuers shall be risk-adjusted;

(3) at least 2 plan options are available for every eligible child; and

(4) with respect to each eligible child, each State maintains the appropriate and equitable share of the cost of providing health insurance coverage to the child under the program that the State would have maintained but for the establishment of the program.

(e) ENROLLMENT.—The Secretary shall establish a fair and responsible process for the enrollment, disenrollment, termination, and changes in enrollment of eligible children under the program and shall conduct activities to effectively disseminate information about the program and initial enrollment.

(f) CONSUMER PROTECTIONS.—Health insurance issuers awarded contracts under the program shall—

(1) provide clear information on the coverage provided by such issuers under the program;

(2) establish meaningful procedures for hearing and resolving of any grievances between such issuers and enrollees that include an independent review and appeals process for coverage denials;

(3) be licensed to provide coverage in the State in which coverage is offered under the program; and

(4) provide market-based rates for provider reimbursements for coverage provided under the program.

(g) GEOGRAPHICAL ACCESS AND QUALITY.—The Secretary shall establish statewide plan regions or other appropriate regions in order to maximize competition and patient access under the program.

(h) OPTION FOR ASSISTANCE WITH EMPLOYER-SPONSORED INSURANCE.—The Secretary shall establish procedures under the program to provide premium assistance for children with access to employer-sponsored health insurance coverage.

(i) FINANCING.—

(1) MAINTENANCE OF FEDERAL-STATE PARTNERSHIP.—The Federal government and States shall maintain their appropriate and equitable share of premiums for providing health insurance coverage to eligible children under the program.

(2) ADDITIONAL OUTLAYS.—In the event that additional outlays are required to carry out the program for any fiscal year, Congress shall enact legislation to offset such outlays by cutting non-priority spending, making government spending more accountable and efficient, and ending wasteful government spending.

SEC. 4. ALLOTMENT LIMITS FOR MEDICAID ADMINISTRATIVE COSTS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''(subject, except with respect to medical assistance expenditures under paragraph (1), to the allotment limits under subsection (aa))'' after ''under this title''; and

(2) by adding at the end the following new subsection:

''(aa) STATE ADMINISTRATIVE COST LIMITATION.—

''(1) IN GENERAL.—Payments to a State under paragraphs (2) through (7) of subsection (a) for fiscal years beginning with fiscal year 2009, shall not exceed, in the aggregate, an amount equal to the State's administrative cost allotment, as determined under this subsection.

''(2) ALLOTMENT FORMULA.—The administrative allotment for a State for fiscal years beginning with fiscal year 2009 shall be determined as follows:

''(A)(i) FISCAL YEAR 2009.—For fiscal year 2009, the administrative allotment for a State shall be an amount equal to the Federal share of total allowable costs claimed by the State under paragraphs (2) through (7) of subsection (a) for calendar quarters in fiscal year 2007, determined as of December 31, 2007, adjusted in accordance with clause (ii).

''(ii) ADJUSTMENT.—For purposes of clause (i), the amount specified in clause (i) shall be increased by a percentage equal to the sum of the percentages described in clause (iii).

''(iii) PERCENTAGES DESCRIBED.—The percentages described in this clause are, with respect to each consecutive 12-month period in the 36-month period ending March 30, 2009, the percentage change in the consumer price index (for all urban consumers; U.S. city average).

''(B) SUCCEEDING FISCAL YEARS.—For each fiscal year after fiscal year 2009, the administrative allotment for a State shall be the State's administrative allotment for the preceding fiscal year, increased by the percentage change in the consumer price index (for all urban consumers; U.S. city average) for the 12-month period ending on March 30 of the fiscal year.''.

SEC. 5. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 6. APPLICATION OF MEDICARE PAYMENT ADJUSTMENT FOR CERTAIN HOSPITAL-ACQUIRED CONDITIONS TO PAYMENTS FOR INPATIENT HOSPITAL SERVICES UNDER MEDICAID.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(13)(A)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)(iv)) is amended—

(1) by striking ''rates take'' and inserting ''rates—

''(I) take'';

(2) by striking the semicolon and inserting a comma; and

(3) by adding at the end the following:

''(II) ensure that higher payments are not made for services related to the presence of a condition that could be identified by a secondary diagnostic code described in section 1886(d)(4)(D);''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on October 1, 2009.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 7. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 8. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SA 95. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. —. INCOME TAX DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

(a) IN GENERAL.—Part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

"SEC. 224. DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

''(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible taxpayer, there shall be allowed as a deduction for the taxable year an amount equal to so much of the qualified child health care costs of the taxpayer for the taxable year as does not exceed the amount that is—

''(1) $1,500, multiplied by

''(2) the number of qualifying children of the taxpayer.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer whose taxable income for the taxable year does not exceed the exemption amount applicable to such taxpayer under section 55(d) for such taxable year.

''(2) QUALIFIED CHILD HEALTH CARE COSTS.—The term 'qualified child health care costs' means the aggregate amount paid by the taxpayer for medical care (as defined in section 213(d)) for all qualifying children of the taxpayer.

''(3) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given such term by section 24(c).

''(c) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the name and taxpayer identification number of such qualifying child on the return of tax for the taxable year.

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of the deduction otherwise allowed under this section with respect to any qualifying child for any taxable year shall be reduced by the amount of any deduction allowed under section 213 with respect to such child for such taxable year.

''(e) COORDINATION WITH SCHIP AND OTHER HEALTH BENEFITS.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child if such child is eligible for any benefit under any health assistance program funded in whole or in part with Federal funds.''.

(b) ABOVE-THE-LINE DEDUCTION.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENTS.—The table of sections for part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by striking the item relating to section 224, and

(2) by adding at the end the following new items:

''Sec. 224. Deduction for health care costs of certain children.

''Sec. 225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 86. Mr. COBURN (for himself, Mr. BURR, Mr. GREGG, Mr. MCCONNELL, Mr. ENZI, Mr. CORNYN, Mr. DEMINT, Mr. JOHANNS, Mr. KYL, Mr. ALEXANDER, Mr. GRAHAM, Mr. CHAMBLISS, Mr. THUNE, Mr. BARRASSO, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to ensure that American children have high-quality health coverage that fits their individual needs.

SEC. 2. CONTINUATION OF SCHIP FUNDING DURING TRANSITION PERIOD.

(a) THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $7,780,000,000; and

''(13) for fiscal year 2010, $8,044,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(b) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

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

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

SEC. 3. HIGH-QUALITY HEALTH COVERAGE FOR AMERICAN CHILDREN.

(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') shall establish a program to ensure that American children have high-quality health coverage that fits their individual needs (in this section referred to as ''the program'').

(b) CRITERIA FOR ELIGIBILITY.—The program shall ensure that—

(1) all children eligible for medical assistance under a State Medicaid plan under title XIX of the Social Security Act or child health assistance under a State child health plan under title XXI of such Act (or under a waiver of either such plan) and whose gross family income ((as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r) of such Act)) does not exceed 300 percent of the poverty line (as defined in section 2110(c)(5) of the Social Security Act) are eligible for coverage under the program; and

(2) all children who do not have health insurance coverage (as defined in section 2791 of the Public Health Service Act) and whose gross family income (as so determined) does not exceed 300 percent of the poverty line (as so defined) are eligible for coverage under the program.

(c) BENEFITS.—Under the program, health insurance issuers shall offer children (who are not within a category of individuals described in section 1937(a)(2)(B) of the Social Security Act) private health insurance coverage that—

(1) is actuarially equivalent to the coverage requirements for State child health plans specified in section 2103(a) of the Social Security Act or any other health benefits coverage that the Secretary determines will provide appropriate coverage; and

(2) provides for total annual aggregate cost-sharing that does not exceed 5 percent of a family's income for the year involved.

(d) REIMBURSEMENTS.—The Secretary shall establish an annual process for awarding contracts on a competitive basis to health insurance issuers to provide private health insurance coverage for eligible children under the program. Such process shall ensure that—

(1) payments to such issuers shall be determined through a competitive bidding process;

(2) payments to such issuers shall be risk-adjusted;

(3) at least 2 plan options are available for every eligible child; and

(4) with respect to each eligible child, each State maintains the appropriate and equitable share of the cost of providing health insurance coverage to the child under the program that the State would have maintained but for the establishment of the program.

(e) ENROLLMENT.—The Secretary shall establish a fair and responsible process for the enrollment, disenrollment, termination, and changes in enrollment of eligible children under the program and shall conduct activities to effectively disseminate information about the program and initial enrollment.

(f) CONSUMER PROTECTIONS.—Health insurance issuers awarded contracts under the program shall—

(1) provide clear information on the coverage provided by such issuers under the program;

(2) establish meaningful procedures for hearing and resolving of any grievances between such issuers and enrollees that include an independent review and appeals process for coverage denials;

(3) be licensed to provide coverage in the State in which coverage is offered under the program; and

(4) provide market-based rates for provider reimbursements for coverage provided under the program.

(g) GEOGRAPHICAL ACCESS AND QUALITY.—The Secretary shall establish statewide plan regions or other appropriate regions in order to maximize competition and patient access under the program.

(h) OPTION FOR ASSISTANCE WITH EMPLOYER-SPONSORED INSURANCE.—The Secretary shall establish procedures under the program to provide premium assistance for children with access to employer-sponsored health insurance coverage.

(i) FINANCING.—

(1) MAINTENANCE OF FEDERAL-STATE PARTNERSHIP.—The Federal government and

States shall maintain their appropriate and equitable share of premiums for providing health insurance coverage to eligible children under the program.

(2) ADDITIONAL OUTLAYS.—In the event that additional outlays are required to carry out the program for any fiscal year, Congress shall enact legislation to offset such outlays by cutting non-priority spending, making government spending more accountable and efficient, and ending wasteful government spending.

SEC. 4. ALLOTMENT LIMITS FOR MEDICAID ADMINISTRATIVE COSTS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''(subject, except with respect to medical assistance expenditures under paragraph (1), to the allotment limits under subsection (aa))'' after ''under this title''; and

(2) by adding at the end the following new subsection:

''(aa) STATE ADMINISTRATIVE COST LIMITATION.—

''(1) IN GENERAL.—Payments to a State under paragraphs (2) through (7) of subsection (a) for fiscal years beginning with fiscal year 2009, shall not exceed, in the aggregate, an amount equal to the State's administrative cost allotment, as determined under this subsection.

''(2) ALLOTMENT FORMULA.—The administrative allotment for a State for fiscal years beginning with fiscal year 2009 shall be determined as follows:

''(A)(i) FISCAL YEAR 2009.—For fiscal year 2009, the administrative allotment for a State shall be an amount equal to the Federal share of total allowable costs claimed by the State under paragraphs (2) through (7) of subsection (a) for calendar quarters in fiscal year 2007, determined as of December 31, 2007, adjusted in accordance with clause (ii).

''(ii) ADJUSTMENT.—For purposes of clause (i), the amount specified in clause (i) shall be increased by a percentage equal to the sum of the percentages described in clause (iii).

''(iii) PERCENTAGES DESCRIBED.—The percentages described in this clause are, with respect to each consecutive 12-month period in the 36-month period ending March 30, 2009, the percentage change in the consumer price index (for all urban consumers; U.S. city average).

''(B) SUCCEEDING FISCAL YEARS.—For each fiscal year after fiscal year 2009, the administrative allotment for a State shall be the State's administrative allotment for the preceding fiscal year, increased by the percentage change in the consumer price index (for all urban consumers; U.S. city average) for the 12-month period ending on March 30 of the fiscal year.''.

SEC. 5. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 6. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 7. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SA 87. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. CRITICAL ACCESS HOSPITAL DESIGNATION.

Section 1820(c)(2)(B)(i)(I) of the Social Security Act (42 U.S.C. 1395i–4(c)(2)(B)(i)(I)) is amended—

(1) by striking ''or in areas'' and inserting '', in areas''; and

(2) by inserting '', or a hospital that is located in the county of Berrien County, Michigan'' after ''available''.

SA 88. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. TREATMENT OF A CERTAIN CANCER HOSPITAL.

(a) IN GENERAL.—Section 1886(d)(1) of the Social Security Act (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by striking ''or'' at the end of subclause (II),

(B) by striking the semicolon at the end of subclause (III) and inserting '', or''; and

(C) by adding the following after subclause (III):

''(IV) a hospital that is a nonprofit corporation, the sole member of which is affiliated with a university that has been the recipient of a cancer center support grant from the National Cancer Institute of the National Institutes of Health, and which sole member (or its predecessors or such university) was recognized as a comprehensive cancer center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, if the hospital's articles of incorporation specify that at least 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in subparagraph (E)) and if, of December 31, 2005, the hospital was licensed for less than 150 acute care beds, or''; and

(2) in subparagraph (E), by striking ''subclauses (II) and (III)'' and inserting ''subclauses (II), (III), and (IV)''.

(b) EFFECTIVE DATE; PAYMENTS.—

(1) APPLICATION TO COST REPORTING PERIODS.—Any classification by virtue of the application of the provisions of section 1886(D)(1)(B)(v)(IV) of the Social Security Act, as inserted by subsection (a), shall apply to cost reporting periods beginning on or after January 1, 2006.

(2) BASE PERIOD.—Notwithstanding the provisions of subsection (b)(3)(E) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital described in subsection (d)(1)(B)(v)(IV) of such section, as inserted by subsection (a), shall be the first full 12-month cost reporting period beginning on or after January 1, 2006, and the hospital's target amount under subsection (b)(3)(E)(i) of such section for the first cost reporting period shall be the allowable operating costs of inpatient hospital services (referred to in subclause (I) of such subsection) for such first cost reporting period.

(3) OUTPATIENT SERVICES.—The ''pre-BBA'' amount, with respect to covered OPD services furnished by any hospital described in subsection (d)(1)(B)(v)(IV) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), as inserted by subsection (a), or for any other hospital described in clause (v) of subsection (d)(1)(B) of such section that did not submit a cost report prior to 2001, for purposes of section 1833(t)(7)(F) of such Act (42 U.S.C. 13951(t)(7)(F)), shall be determined by using the weighted average ''base payment-to-cost'' ratio, as determined by the Secretary of Health and Human Services on a volume-related basis, of all hospitals described in such clause (v) that did submit a cost report prior to 2001, as such ratio is determined for each such hospital under section 1833(t)(7)(F)(ii) of such Act (42 U.S.C. 13951(t)(7)(F)(ii)).

SA 89. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. PRESERVING CARE FOR VENTILATOR-DEPENDENT PATIENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended, in the flush matter following subclause (II), by adding at the end the following: ''In the case of a hospital which provides acute care services to ventilator-dependent patients who are entitled to benefits under part A and are eligible for medical assistance under a State plan approved under title XIX, the Secretary shall not exclude from the numerator in subclause (II) for such period any patient days of such ventilator-dependent patients unless such patient days are included in the numerator in subclause (I).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in and effective upon the enactment of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554).

SA 90. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. MEDICARE HOSPITAL GEOGRAPHIC RECLASSIFICATION.

(a) RECLASSIFICATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2010, 2011, and 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to a hospital described in paragraph (2), such hospital shall be deemed to be located in a Metropolitan Statistical Area in the State in which the hospital is located with an area wage index value that is not less than 90 percent of the area wage index value of teaching hospitals in that Metropolitan Statistical Area.

(2) HOSPITAL DESCRIBED.—A hospital described in this paragraph is a hospital that—

(A) is a teaching hospital;

(B) is located in a Metropolitan Statistical Area in which there are only 2 subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B));

(C) has an average hourly wage that is at least 88 percent of the average hourly wage of other teaching hospitals in the Metropolitan Statistical Area to which the hospital would be reclassified under paragraph (1);

(D) is located within 200 yards of the boundary of the Metropolitan Statistical Area to which the hospital would be reclassified under paragraph (1); and

(E) was not reclassified under the process established under section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2297).

(b) RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) NON-APPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SA 91. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. MEDICARE HOSPITAL GEOGRAPHIC RECLASSIFICATION.

(a) RECLASSIFICATION.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2010, 2011, and 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), any hospital that is co-located in Marinette, Wisconsin and the Menominee, Michigan is deemed to be located in Chicago, Illinois.

(b) RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) NON-APPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SA 92. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. ENSURING ACCESS TO, AND THE CHOICE OF, HIGH QUALITY HEALTH CARE PROVIDERS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider that—

(1) restricts the right of a physician to refer an individual to any secondary physician who is, in the professional judgment of the physician, of the highest quality and expertise; or

(2) discriminates against a physician who makes such a referral.

SA 93. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 42, strike line 20 and all that follows through page 43, line 11, and insert the following:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) SPECIAL RULE EXTENDING AVAILABILITY FOR OUTREACH AND ENROLLMENT FOR CERTAIN STATES.—

''(A) IN GENERAL.—In the case of a State described in subparagraph (B), any amounts allotted or redistributed to the State pursuant to this subsection for a fiscal year that are not expended by the State by March 31, 2009, (including any amounts available to the State for the first 2 quarters of fiscal year 2009 from the fiscal year 2009 allotment for the State or from amounts redistributed to the State under subsection (k) or allotted to the State under subsection (l) for such quarters), shall remain available for expenditure by the State through the end of fiscal year 2012, without regard to the limitation on expenditures under section 2105(c)(2)(A).

''(B) STATE DESCRIBED.—A State is described in this subparagraph if the State is 1 of the 5 States with the highest percentage of children with no health insurance coverage (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).

''(3) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

On page 38, line 18, insert ''subject to paragraph (5),'' after ''(3)(A),''.

On page 42, between lines 15 and 16, insert the following:

''(5) AUTHORITY TO MODIFY REQUIRED NUMBER OF ENROLLMENT AND RETENTION PROVISIONS.—Upon the request of a State in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009), the Secretary may reduce the number of enrollment and retention provisions that the State must satisfy in order to meet the conditions of paragraph (4) for a fiscal year, but not below 2.''.

On page 84, line 20, insert ''The Secretary shall prioritize implementation of such campaign in States in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).'' after ''title XIX.''.

SA 94. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 135, strike line 21 and all that follows through page 136, line 2, and insert the following:

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

SA 95. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 216, strike line 8 and all that follows through page 219, line 21, and insert the following:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

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

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

SA 96. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 80, strike line 22 and all that follows through page 81, line 7, and insert the following:

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

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

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

SA 97. Mr. ROCKEFELLER (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

On page 283, line 21, insert '', 2009'' after April 1.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Crossing the Quality Chasm in Health Reform'' on Thursday, January 29, 2009. The hearing will commence at 2 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, January 29, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, on behalf of Senator LEVIN, I ask unanimous consent that Kevin Wack, a congressional fellow in his office, be granted the privilege of the floor for today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JANUARY 30, 2009

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. Friday, January 30; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Mr. President, there will be no rollcall votes tomorrow. The next rollcall vote will occur at 6:15 p.m. Monday on the confirmation of the Holder nomination.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BAUCUS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:15 p.m., adjourned until Friday, January 30, 2009, at 9:30 a.m.