

109TH CONGRESS  
1ST SESSION

# S. 114

To amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. KERRY (for himself, Mr. KENNEDY, Mrs. MURRAY, Mr. LAUTENBERG, Mr. CORZINE, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes.

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

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Kids Come First Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID  
AND SCHIP

Sec. 101. State option to receive 100 percent FMAP for medical assistance for children in poverty in exchange for expanded coverage of children in working poor families under medicaid or SCHIP.

Sec. 102. Elimination of cap on SCHIP funding for States that expand eligibility for children.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE  
EXPANSIONS

Sec. 201. State option to provide wrap-around SCHIP coverage to children who have other health coverage.

Sec. 202. State option to enroll low-income children of State employees in SCHIP.

Sec. 203. Optional coverage of legal immigrant children under medicaid and SCHIP.

Sec. 204. State option for passive renewal of eligibility for children under medicaid and SCHIP.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE  
COVERAGE OF CHILDREN

Sec. 301. Refundable credit for health insurance coverage of children.

Sec. 302. Forfeiture of personal exemption for any child not covered by health insurance.

TITLE IV—MISCELLANEOUS

Sec. 401. Requirement for group market health insurers to offer dependent coverage option for workers with children.

Sec. 402. Effective date.

TITLE V—REVENUE PROVISION

Sec. 501. Partial repeal of rate reduction in the highest income tax bracket.

**1 SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) NEED FOR UNIVERSAL COVERAGE.—

4 (A) Currently, there are 9,000,000 chil-  
5 dren under the age of 19 that are uninsured.

6 One out of every 8 children are uninsured while

7 1 in 5 Hispanic children and 1 in 7 African

8 American children are uninsured. Three-quar-

9 ters, approximately 6,800,000, of these children

1 are eligible but not enrolled in the medicaid  
2 program or the State children's health insur-  
3 ance program (SCHIP). Long-range studies  
4 found that 1 in 3 children went without health  
5 insurance for all or part of 2002 and 2003.

6 (B) Low-income children are 3 times as  
7 likely as children in higher income families to  
8 be uninsured. It is estimated that 65 percent of  
9 uninsured children have at least 1 parent work-  
10 ing full time over the course of the year.

11 (C) It is estimated that 50 percent of all  
12 legal immigrant children in families with in-  
13 come that is less than 200 percent of the Fed-  
14 eral poverty line are uninsured. In States with-  
15 out programs to cover immigrant children, 57  
16 percent of non-citizen children are uninsured.

17 (D) Children in the Southern and Western  
18 parts of the United States were nearly 1.7  
19 times more likely to be uninsured than children  
20 in the Northeast. In the Northeast, 9.4 percent  
21 of children are uninsured while in the Midwest,  
22 8.3 percent are uninsured. The South's rate of  
23 uninsured children is 14.3 percent while the  
24 West has an uninsured rate of 13 percent.

1 (E) Children's health care needs are ne-  
2 glected in the United States. One-quarter of  
3 young children in the United States are not  
4 fully up to date on their basic immunizations.  
5 One-third of children with chronic asthma do  
6 not get a prescription for the necessary medica-  
7 tions to manage the disease.

8 (F) According to the Centers for Disease  
9 Control and Prevention, nearly 1/2 of all unin-  
10 sured children have not had a well-child visit in  
11 the past year. One out of every 5 children has  
12 problems accessing needed care, and 1 out of  
13 every 4 children do not receive annual dental  
14 exams. One in 6 uninsured children had a de-  
15 layed or unmet medical need in the past year.  
16 Minority children are less likely to receive prov-  
17 en treatments such as prescription medications  
18 to treat chronic disease.

19 (G) There are 7,600,000 young adults be-  
20 tween the ages of 19 and 20. In the United  
21 States, approximately 28 percent, or 2,100,000  
22 individuals, of this group are uninsured.

23 (H) Chronic illness and disability among  
24 children are on the rise. Children most at risk

1 for chronic illness and disability are children  
2 who are most likely to be poor and uninsured.

3 (2) ROLE OF THE MEDICAID AND STATE CHIL-  
4 DREN'S HEALTH INSURANCE PROGRAMS.—

5 (A) The medicaid program and SCHIP  
6 serve as a crucial health safety net for  
7 30,000,000 children. During the recent eco-  
8 nomic downturn and the highest number of un-  
9 insured individuals ever recorded in the United  
10 States, the medicaid program and SCHIP off-  
11 set losses in employer-sponsored coverage.  
12 While the number of children living in low-in-  
13 come families increased by 2,000,000 between  
14 2000 and 2003, the number of uninsured chil-  
15 dren fell due to the medicaid program and  
16 SCHIP.

17 (B) In 2003, 25,000,000 children were en-  
18 rolled in the medicaid program, accounting for  
19 ½ of all enrollees and only 19 percent of total  
20 program costs.

21 (C) The medicaid program and SCHIP do  
22 more than just fill in the gaps. Gains in public  
23 coverage have reduced the percentage of low-in-  
24 come uninsured by one-third from 1997 to  
25 2003. In addition, a recent study found that

1 publicly-insured children are more likely to ob-  
2 tain medical care, preventive care and dental  
3 care than similar low-income privately-insured  
4 children.

5 (D) Publicly funded programs such as the  
6 medicaid program and SCHIP actually improve  
7 children's health. Children who are currently in-  
8 sured by public programs are in better health  
9 than they were a year ago. Expansion of cov-  
10 erage for children and pregnant women under  
11 the medicaid program and SCHIP reduces  
12 rates of avoidable hospitalizations by 22 per-  
13 cent.

14 (E) Studies have found that children en-  
15 rolled in public insurance programs experienced  
16 a 68 percent improvement in measures of  
17 school performance.

18 (F) Despite the success of expansions in  
19 general under the medicaid program and  
20 SCHIP, due to current budget constraints,  
21 many States have stopped doing aggressive out-  
22 reach and have raised premiums and cost-shar-  
23 ing requirements on families under these pro-  
24 grams. In addition, 8 States stopped enrollment  
25 in SCHIP for a period of time between April

1           2003 and July 2004. As a result, SCHIP en-  
2           rollment fell by 200,000 children for the first  
3           time in the program's history.

4           (G) It is estimated that nearly 50 percent  
5           of children covered through SCHIP do not re-  
6           main in the program due to reenrollment bar-  
7           riers. A recent study found that between 10 and  
8           40 percent of these children are "lost" in the  
9           system. Difficult renewal policies and reenroll-  
10          ment barriers make seamless coverage in  
11          SCHIP unattainable. Studies indicate that as  
12          many as 67 percent of children who were eligi-  
13          ble but not enrolled for SCHIP had applied for  
14          coverage but were denied due to procedural  
15          issues.

16          (H) While the medicaid program and  
17          SCHIP expansions to date have done much to  
18          offset what otherwise would have been a signifi-  
19          cant loss of coverage among children because of  
20          declining access to employer coverage, the  
21          shortcomings of previous expansions, such as  
22          the failure to enroll all eligible children and  
23          caps on enrollment in SCHIP because of under-  
24          funding, also are clear.

1 **TITLE I—EXPANDED COVERAGE**  
 2 **OF CHILDREN UNDER MED-**  
 3 **ICAID AND SCHIP**

4 **SEC. 101. STATE OPTION TO RECEIVE 100 PERCENT FMAP**  
 5 **FOR MEDICAL ASSISTANCE FOR CHILDREN**  
 6 **IN POVERTY IN EXCHANGE FOR EXPANDED**  
 7 **COVERAGE OF CHILDREN IN WORKING POOR**  
 8 **FAMILIES UNDER MEDICAID OR SCHIP.**

9 (a) STATE OPTION.—Title XIX of the Social Security  
 10 Act (42 U.S.C. 1396 et seq.) is amended by redesignating  
 11 section 1936 as section 1937, and by inserting after sec-  
 12 tion 1935 the following:

13 “STATE OPTION FOR INCREASED FMAP FOR MEDICAL AS-  
 14 SISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE  
 15 FOR EXPANDED COVERAGE OF CHILDREN IN WORK-  
 16 ING POOR FAMILIES UNDER THIS TITLE OR TITLE  
 17 XXI

18 “SEC. 1936. (a) 100 PERCENT FMAP.—

19 “(1) IN GENERAL.—Notwithstanding any other  
 20 provision of this title, in the case of a State that,  
 21 through an amendment to each of its State plans  
 22 under this title and title XXI (or to a waiver of ei-  
 23 ther such plan), agrees to satisfy the conditions de-  
 24 scribed in subsections (b), (c), and (d) the Federal  
 25 medical assistance percentage shall be 100 percent



1 with respect to the total amount expended by the  
 2 State for providing medical assistance under this  
 3 title for each fiscal year quarter beginning on or  
 4 after the date described in subsection (e) for chil-  
 5 dren whose family income does not exceed 100 per-  
 6 cent of the poverty line.

7 “(2) LIMITATION ON SCOPE OF APPLICATION  
 8 OF INCREASE.—The increase in the Federal medical  
 9 assistance percentage for a State under this section  
 10 shall apply only with respect to the total amount ex-  
 11 pended for providing medical assistance under this  
 12 title for a fiscal year quarter for children described  
 13 in paragraph (1) and shall not apply with respect  
 14 to—

15 “(A) any other payments made under this  
 16 title, including disproportionate share hospital  
 17 payments described in section 1923;

18 “(B) payments under title IV or XXI; or

19 “(C) any payments made under this title  
 20 or title XXI that are based on the enhanced  
 21 FMAP described in section 2105(b).

22 “(b) ELIGIBILITY EXPANSIONS.—The condition de-  
 23 scribed in this subsection is that the State agrees to do  
 24 the following:

1           “(1) COVERAGE UNDER MEDICAID OR SCHIP  
 2           FOR CHILDREN IN FAMILIES WHOSE INCOME DOES  
 3           NOT EXCEED 300 PERCENT OF THE POVERTY  
 4           LINE.—

5           “(A) IN GENERAL.—The State agrees to  
 6           provide medical assistance under this title or  
 7           child health assistance under title XXI to chil-  
 8           dren whose family income exceeds the medicaid  
 9           applicable income level (as defined in section  
 10          2110(b)(4) but by substituting ‘January 1,  
 11          2005’ for ‘March 31, 1997’), but does not ex-  
 12          ceed 300 percent of the poverty line.

13          “(B) STATE OPTION TO EXPAND COV-  
 14          ERAGE THROUGH SUBSIDIZED PURCHASE OF  
 15          FAMILY COVERAGE.—A State may elect to carry  
 16          out subparagraph (A) through the provision of  
 17          assistance for the purchase of dependent cov-  
 18          erage under a group health plan or health in-  
 19          surance coverage if—

20               “(i) the dependent coverage is con-  
 21               sistent with the benefit standards under  
 22               this title or title XXI, as approved by the  
 23               Secretary; and

24               “(ii) the State provides ‘wrap-around’  
 25               coverage under this title or title XXI.

1           “(C) DEEMED SATISFACTION FOR CERTAIN  
2           STATES.—A State that, as of January 1, 2005,  
3           provides medical assistance under this title or  
4           child health assistance under title XXI to chil-  
5           dren whose family income is 300 percent of the  
6           poverty line shall be deemed to satisfy this  
7           paragraph.

8           “(2) COVERAGE FOR CHILDREN UNDER AGE  
9           21.—The State agrees to define a child for purposes  
10          of this title and title XXI as an individual who has  
11          not attained 21 years of age.

12          “(3) OPPORTUNITY FOR HIGHER INCOME CHIL-  
13          DREN TO PURCHASE SCHIP COVERAGE.—The State  
14          agrees to permit any child whose family income ex-  
15          ceeds 300 percent of the poverty line to purchase  
16          full or ‘wrap-around’ coverage under title XXI at the  
17          full cost of providing such coverage, as determined  
18          by the State.

19          “(4) COVERAGE FOR LEGAL IMMIGRANT CHIL-  
20          DREN.—The State agrees to—

21                 “(A) provide medical assistance under this  
22                 title and child health assistance under title XXI  
23                 for alien children who are lawfully residing in  
24                 the United States (including battered aliens de-  
25                 scribed in section 431(c) of the Personal Re-

sponsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance in accordance with section 1903(v)(4) and 2107(e)(1)(E); and

“(B) not establish or enforce barriers that deter applications by such aliens, including through the application of the removal of the barriers described in subsection (c).

“(c) REMOVAL OF ENROLLMENT AND ACCESS BARRIERS.—The condition described in this subsection is that the State agrees to do the following:

“(1) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State agrees to—

“(A) provide presumptive eligibility for children under this title and title XXI in accordance with section 1920A; and

“(B) treat any items or services that are provided to an uncovered child (as defined in section 2110(c)(8)) who is determined ineligible for medical assistance under this title as child health assistance for purposes of paying a provider of such items or services, so long as such items or services would be considered child health assistance for a targeted low-income child under title XXI.

1           “(2) ADOPTION OF 12-MONTH CONTINUOUS EN-  
 2           ROLLMENT.—The State agrees to provide that eligi-  
 3           bility for assistance under this title and title XXI  
 4           shall not be regularly redetermined more often than  
 5           once every year for children.

6           “(3) ACCEPTANCE OF SELF-DECLARATION OF  
 7           INCOME.—The State agrees to permit the family of  
 8           a child applying for medical assistance under this  
 9           title or child health assistance under title XXI to de-  
 10          clare and certify by signature under penalty of per-  
 11          jury family income for purposes of collecting finan-  
 12          cial eligibility information.

13          “(4) ADOPTION OF ACCEPTANCE OF ELIGI-  
 14          BILITY DETERMINATIONS FOR OTHER ASSISTANCE  
 15          PROGRAMS.—The State agrees to accept determina-  
 16          tions (made within a reasonable period, as found by  
 17          the State, before its use for this purpose) of an indi-  
 18          vidual’s family or household income made by a Fed-  
 19          eral or State agency (or a public or private entity  
 20          making such determination on behalf of such agen-  
 21          cy), including the agencies administering the Food  
 22          Stamp Act of 1977, the Richard B. Russell National  
 23          School Lunch Act, and the Child Nutrition Act of  
 24          1966, notwithstanding any differences in budget

1 unit, disregard, deeming, or other methodology, but  
2 only if—

3 “(A) such agency has fiscal liabilities or  
4 responsibilities affected or potentially affected  
5 by such determinations; and

6 “(B) any information furnished by such  
7 agency pursuant to this subparagraph is used  
8 solely for purposes of determining eligibility for  
9 medical assistance under this title or for child  
10 health assistance under title XXI.

11 “(5) NO ASSETS TEST.—The State agrees to  
12 not (or demonstrates that it does not) apply any as-  
13 sets or resources test for eligibility under this title  
14 or title XXI with respect to children.

15 “(6) ELIGIBILITY DETERMINATIONS AND REDE-  
16 TERMINATIONS.—

17 “(A) IN GENERAL.—The State agrees for  
18 purposes of initial eligibility determinations and  
19 redeterminations of children under this title and  
20 title XXI not to require a face-to-face interview  
21 and to permit applications and renewals by  
22 mail, telephone, and the Internet.

23 “(B) NONDUPLICATION OF INFORMA-  
24 TION.—

1           “(i) IN GENERAL.—For purposes of  
2           redeterminations of eligibility for currently  
3           or previously enrolled children under this  
4           title and title XXI, the State agrees to use  
5           all information in its possession (including  
6           information available to the State under  
7           other Federal or State programs) to deter-  
8           mine eligibility or redetermine continued  
9           eligibility before seeking similar informa-  
10          tion from parents.

11          “(ii) RULE OF CONSTRUCTION.—  
12          Nothing in clause (i) shall be construed as  
13          limiting any obligation of a State to pro-  
14          vide notice and a fair hearing before deny-  
15          ing, terminating, or reducing a child’s cov-  
16          erage based on such information in the  
17          possession of the State.

18          “(7) NO WAITING LIST FOR CHILDREN UNDER  
19          SCHIP.—The State agrees to not impose any numer-  
20          ical limitation, waiting list, waiting period, or similar  
21          limitation on the eligibility of children for child  
22          health assistance under title XXI or to establish or  
23          enforce other barriers to the enrollment of eligible  
24          children based on the date of their application for  
25          coverage.

1 “(8) ADEQUATE PROVIDER PAYMENT RATES.—

2 The State agrees to—

3 “(A) establish payment rates for children’s  
4 health care providers under this title that are  
5 no less than the average of payment rates for  
6 similar services for such providers provided  
7 under the benchmark benefit packages de-  
8 scribed in section 2103(b);

9 “(B) establish such rates in amounts that  
10 are sufficient to ensure that children enrolled  
11 under this title or title XXI have adequate ac-  
12 cess to comprehensive care, in accordance with  
13 the requirements of section 1902(a)(30)(A);  
14 and

15 “(C) include provisions in its contracts  
16 with providers under this title guaranteeing  
17 compliance with these requirements.

18 “(d) MAINTENANCE OF MEDICAID ELIGIBILITY LEV-  
19 ELS FOR CHILDREN.—

20 “(1) IN GENERAL.—The condition described in  
21 this subsection is that the State agrees to maintain  
22 eligibility income, resources, and methodologies ap-  
23 plied under this title (including under a waiver of  
24 such title or under section 1115) with respect to  
25 children that are no more restrictive than the eligi-



1        bility income, resources, and methodologies applied  
 2        with respect to children under this title (including  
 3        under such a waiver) as of January 1, 2005.

4            “(2) RULE OF CONSTRUCTION.—Nothing in  
 5        this section shall be construed as implying that a  
 6        State does not have to comply with the minimum in-  
 7        come levels required for children under section  
 8        1902(l)(2).

9            “(e) DATE DESCRIBED.—The date described in this  
 10       subsection is the date on which, with respect to a State,  
 11       a plan amendment that satisfies the requirements of sub-  
 12       sections (b), (c), and (d) is approved by the Secretary.

13           “(f) DEFINITION OF POVERTY LINE.—In this sec-  
 14       tion, the term ‘poverty line’ has the meaning given that  
 15       term in section 2110(c)(5).”.

16        (b) CONFORMING AMENDMENTS.—

17            (1) The third sentence of section 1905(b) of the  
 18       Social Security Act (42 U.S.C. 1396d(b)) is amend-  
 19       ed by inserting before the period the following: “,  
 20       and with respect to amounts expended for medical  
 21       assistance for children on or after the date described  
 22       in subsection (d) of section 1936, in the case of a  
 23       State that has, in accordance with such section, an  
 24       approved plan amendment under this title and title  
 25       XXI”.

1           (2) Section 1903(f)(4) of the Social Security  
2       Act (42 U.S.C. 1396b(f)(4)) is amended—

3           (A) in subparagraph (C), by adding “or”  
4       after “section 1611(b)(1),”; and

5           (B) by inserting after subparagraph (C),  
6       the following:

7           “(D) who would not receive such medical assist-  
8       ance but for State electing the option under section  
9       1936 and satisfying the conditions described in sub-  
10      sections (b), (c), and (d) of such section,”.

11 **SEC. 102. ELIMINATION OF CAP ON SCHIP FUNDING FOR**  
12 **STATES THAT EXPAND ELIGIBILITY FOR**  
13 **CHILDREN.**

14       (a) IN GENERAL.—Section 2105 of the Social Secu-  
15      rity Act (42 U.S.C. 1397dd) is amended by adding at the  
16      end the following:

17       “(h) GUARANTEED FUNDING FOR CHILD HEALTH  
18      ASSISTANCE FOR COVERAGE EXPANSION STATES.—

19       “(1) IN GENERAL.—Only in the case of a State  
20      that has, in accordance with section 1936, an ap-  
21      proved plan amendment under this title and title  
22      XIX, any payment cap that would otherwise apply to  
23      the State under this title as a result of having ex-  
24      pended all allotments available for expenditure by  
25      the State with respect to a fiscal year shall not apply

1 with respect to amounts expended by the State on  
2 or after the date described in section 1936(d).

3 “(2) APPROPRIATION.—There is appropriated,  
4 out of any money in the Treasury not otherwise ap-  
5 propriated, such sums as may be necessary for the  
6 purpose of paying a State described in paragraph  
7 (1) for each quarter beginning on or after the date  
8 described in section 1936(d), an amount equal to the  
9 enhanced FMAP of expenditures described in para-  
10 graph (1) and incurred during such quarter.”.

11 (b) CONFORMING AMENDMENTS.—Section 2104 of  
12 the Social Security Act (42 U.S.C. 1397dd) is amended—

13 (1) in subsection (a), by inserting “subject to  
14 section 2105(h),” after “under this section,”;

15 (2) in subsection (b)(1), by inserting “and sec-  
16 tion 2105(h)” after “Subject to paragraph (4)”; and

17 (3) in subsection (c)(1), by inserting “subject to  
18 section 2105(h),” after “for a fiscal year,”.

1 **TITLE II—STATE OPTIONS FOR**  
 2 **INCREMENTAL CHILD COV-**  
 3 **ERAGE EXPANSIONS**

4 **SEC. 201. STATE OPTION TO PROVIDE WRAP-AROUND**  
 5 **SCHIP COVERAGE TO CHILDREN WHO HAVE**  
 6 **OTHER HEALTH COVERAGE.**

7 (a) IN GENERAL.—Section 2110(b) of the Social Se-  
 8 curity Act (42 U.S.C. 1397jj(b)) is amended—

9 (1) in paragraph (1)(C), by inserting “, subject  
 10 to paragraph (5),” after “under title XIX or”; and

11 (2) by adding at the end the following new  
 12 paragraph:

13 “(5) STATE OPTION TO PROVIDE WRAP-AROUND  
 14 COVERAGE.—

15 “(A) IN GENERAL.—A State may waive  
 16 the requirement of paragraph (1)(C) that a tar-  
 17 geted low-income child may not be covered  
 18 under a group health plan or under health in-  
 19 surance coverage in order to provide—

20 “(i) items or services that are not cov-  
 21 ered, or are only partially covered, under  
 22 such plan or coverage; or

23 “(ii) cost-sharing protection.

24 “(B) ELIGIBILITY.—In waiving such re-  
 25 quirement, a State may limit the application of

1 the waiver to children whose family income does  
 2 not exceed a level specified by the State, so long  
 3 as the level so specified does not exceed the max-  
 4 imum income level otherwise established for  
 5 other children under the State child health plan.

6 “(C) CONTINUED APPLICATION OF DUTY  
 7 TO PREVENT SUBSTITUTION OF EXISTING COV-  
 8 ERAGE.—Nothing in this paragraph shall be  
 9 construed as modifying the application of sec-  
 10 tion 2102(b)(3)(C) to a State.”.

11 (b) APPLICATION OF ENHANCED MATCH UNDER  
 12 MEDICAID.—Section 1905 of such Act (42 U.S.C. 1396d)  
 13 is amended—

14 (1) in subsection (b), in the fourth sentence, by  
 15 striking “subsection (u)(3)” and inserting “(u)(3),  
 16 or (u)(4)”; and

17 (2) in subsection (u), by redesignating para-  
 18 graph (4) as paragraph (5) and by inserting after  
 19 paragraph (3) the following:

20 “(4) For purposes of subsection (b), the expenditures  
 21 described in this paragraph are expenditures for items and  
 22 services for children described in section 2110(b)(5).”.

23 (c) APPLICATION OF SECONDARY PAYOR PROVI-  
 24 SIONS.—Section 2107(e)(1) of such Act (42 U.S.C.  
 25 1397gg(e)(1)) is amended—

1           (1) by redesignating subparagraphs (B)  
2 through (D) as subparagraphs (C) through (E), re-  
3 spectively; and

4           (2) by inserting after subparagraph (A) the fol-  
5 lowing new subparagraph:

6                   “(B) Section 1902(a)(25) (relating to co-  
7 ordination of benefits and secondary payor pro-  
8 visions) with respect to children covered under  
9 a waiver described in section 2110(b)(5).”.

10 **SEC. 202. STATE OPTION TO ENROLL LOW-INCOME CHIL-**  
11 **DREN OF STATE EMPLOYEES IN SCHIP.**

12       Section 2110(b)(2) of the Social Security Act (42  
13 U.S.C. 1397jj(b)(2)) is amended—

14           (1) by redesignating subparagraphs (A) and  
15 (B) as clauses (i) and (ii), respectively and realign-  
16 ing the left margins of such clauses appropriately;

17           (2) by striking “Such term” and inserting the  
18 following:

19                   “(A) IN GENERAL.—Such term”; and

20           (3) by adding at the end the following:

21                   “(B) STATE OPTION TO ENROLL LOW-IN-  
22 COME CHILDREN OF STATE EMPLOYEES.—At  
23 the option of a State, subparagraph (A)(ii) shall  
24 not apply to any low-income child who would

1 otherwise be eligible for child health assistance  
 2 under this title but for such subparagraph.”.

3 **SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT**  
 4 **CHILDREN UNDER MEDICAID AND SCHIP.**

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

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

9 (2) by adding at the end the following:

10 “(4)(A) A State may elect (in a plan amendment  
 11 under this title) to provide medical assistance under this  
 12 title for aliens who are lawfully residing in the United  
 13 States (including battered aliens described in section  
 14 431(c) of the Personal Responsibility and Work Oppor-  
 15 tunity Reconciliation Act of 1996) and who are otherwise  
 16 eligible for such assistance, within any of the following eli-  
 17 gibility category:

18 “(i) CHILDREN.—Children (as defined under  
 19 such plan), including optional targeted low-income  
 20 children described in section 1905(u)(2)(B).

21 “(B)(i) In the case of a State that has elected to pro-  
 22 vide medical assistance to a category of aliens under sub-  
 23 paragraph (A), no debt shall accrue under an affidavit of  
 24 support against any sponsor of such an alien on the basis  
 25 of provision of assistance to such category and the cost

1 of such assistance shall not be considered as an unreim-  
 2 bursed cost.

3 “(ii) The provisions of sections 401(a), 402(b), 403,  
 4 and 421 of the Personal Responsibility and Work Oppor-  
 5 tunity Reconciliation Act of 1996 shall not apply to a  
 6 State that makes an election under subparagraph (A).”.

7 (b) TITLE XXI.—Section 2107(e)(1) of the Social  
 8 Security Act (42 U.S.C. 1397gg(e)(1)) is amended by add-  
 9 ing at the end the following:

10 “(E) Section 1903(v)(4) (relating to op-  
 11 tional coverage of permanent resident alien chil-  
 12 dren), but only if the State has elected to apply  
 13 such section to that category of children under  
 14 title XIX.”.

15 **SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF ELIGI-**  
 16 **BILITY FOR CHILDREN UNDER MEDICAID**  
 17 **AND SCHIP.**

18 (a) IN GENERAL.—Section 1902(l) of the Social Se-  
 19 curity Act (42 U.S.C. 1396a(l)) is amended by adding at  
 20 the end the following:

21 “(5) Notwithstanding any other provision of this title,  
 22 a State may provide that an individual who has not at-  
 23 tained 21 years of age who has been determined eligible  
 24 for medical assistance under this title shall remain eligible  
 25 for medical assistance until such time as the State has



1 information demonstrating that the individual is no longer  
2 so eligible.”.

3 (b) APPLICATION UNDER TITLE XXI.—Section  
4 2107(e)(1) of the Social Security Act (42 U.S.C.  
5 1397gg(e)) is amended—

6 (1) by redesignating subparagraphs (B)  
7 through (D) as subparagraphs (C) through (E), re-  
8 spectively; and

9 (2) by inserting after subparagraph (A), the fol-  
10 lowing:

11 “(B) Section 1902(l)(5) (relating to pas-  
12 sive renewal of eligibility for children).”.

13 **TITLE III—TAX INCENTIVES FOR**  
14 **HEALTH INSURANCE COV-**  
15 **ERAGE OF CHILDREN**

16 **SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE**  
17 **COVERAGE OF CHILDREN.**

18 (a) IN GENERAL.—Subpart C of part IV of sub-  
19 chapter A of chapter 1 of the Internal Revenue Code of  
20 1986 (relating to refundable credits) is amended by redes-  
21 ignating section 36 as section 37 and by inserting after  
22 section 35 the following new section:

23 **“SEC. 36. HEALTH INSURANCE COVERAGE OF CHILDREN.**

24 “(a) IN GENERAL.—In the case of an individual,  
25 there shall be allowed as a credit against the tax imposed

1 by this subtitle an amount equal to so much of the amount  
 2 paid during the taxable year, not compensated for by in-  
 3 surance or otherwise, for qualified health insurance for  
 4 each dependent child of the taxpayer, as exceeds 5 percent  
 5 of the adjusted gross income of such taxpayer for such  
 6 taxable year.

7 “(b) DEPENDENT CHILD.—For purposes of this sec-  
 8 tion, the term ‘dependent child’ means any child (as de-  
 9 fined in section 152(f)(1)) who has not attained the age  
 10 of 19 as of the close of the calendar year in which the  
 11 taxable year of the taxpayer begins and with respect to  
 12 whom a deduction under section 151 is allowable to the  
 13 taxpayer.

14 “(c) QUALIFIED HEALTH INSURANCE.—For pur-  
 15 poses of this section—

16 “(1) IN GENERAL.—The term ‘qualified health  
 17 insurance’ means insurance, either employer-pro-  
 18 vided or made available under title XIX or XXI of  
 19 the Social Security Act, which constitutes medical  
 20 care as defined in section 213(d) without regard  
 21 to—

22 “(A) paragraph (1)(C) thereof, and

23 “(B) so much of paragraph (1)(D) thereof  
 24 as relates to qualified long-term care insurance  
 25 contracts.

1           “(2) EXCLUSION OF CERTAIN OTHER CON-  
 2           TRACTS.—Such term shall not include insurance if a  
 3           substantial portion of its benefits are excepted bene-  
 4           fits (as defined in section 9832(c)).

5           “(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAV-  
 6           INGS ACCOUNT CONTRIBUTIONS.—

7           “(1) IN GENERAL.—If a deduction would (but  
 8           for paragraph (2)) be allowed under section 220 or  
 9           223 to the taxpayer for a payment for the taxable  
 10          year to the medical savings account or health sav-  
 11          ings account of an individual, subsection (a) shall be  
 12          applied by treating such payment as a payment for  
 13          qualified health insurance for such individual.

14          “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-  
 15          tion shall be allowed under section 220 or 223 for  
 16          that portion of the payments otherwise allowable as  
 17          a deduction under section 220 or 223 for the taxable  
 18          year which is equal to the amount of credit allowed  
 19          for such taxable year by reason of this subsection.

20          “(e) SPECIAL RULES.—

21          “(1) DETERMINATION OF INSURANCE COSTS.—  
 22          The Secretary shall provide rules for the allocation  
 23          of the cost of any qualified health insurance for fam-  
 24          ily coverage to the coverage of any dependent child  
 25          under such insurance.

1           “(2) COORDINATION WITH DEDUCTION FOR  
 2       HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
 3       DIVIDUALS.—In the case of a taxpayer who is eligi-  
 4       ble to deduct any amount under section 162(l) for  
 5       the taxable year, this section shall apply only if the  
 6       taxpayer elects not to claim any amount as a deduc-  
 7       tion under such section for such year.

8           “(3) COORDINATION WITH MEDICAL EXPENSE  
 9       AND HIGH DEDUCTIBLE HEALTH PLAN DEDUC-  
 10      TIONS.—The amount which would (but for this  
 11      paragraph) be taken into account by the taxpayer  
 12      under section 213 or 224 for the taxable year shall  
 13      be reduced by the credit (if any) allowed by this sec-  
 14      tion to the taxpayer for such year.

15          “(4) DENIAL OF CREDIT TO DEPENDENTS.—No  
 16      credit shall be allowed under this section to any indi-  
 17      vidual with respect to whom a deduction under sec-  
 18      tion 151 is allowable to another taxpayer for a tax-  
 19      able year beginning in the calendar year in which  
 20      such individual’s taxable year begins.

21          “(5) DENIAL OF DOUBLE BENEFIT.—No credit  
 22      shall be allowed under subsection (a) if the credit  
 23      under section 35 is allowed and no credit shall be al-  
 24      lowed under 35 if a credit is allowed under this sec-  
 25      tion.

1           “(6) ELECTION NOT TO CLAIM CREDIT.—This  
 2           section shall not apply to a taxpayer for any taxable  
 3           year if such taxpayer elects to have this section not  
 4           apply for such taxable year.”.

5           (b) INFORMATION REPORTING.—

6           (1) IN GENERAL.—Subpart B of part III of  
 7           subchapter A of chapter 61 of the Internal Revenue  
 8           Code of 1986 (relating to information concerning  
 9           transactions with other persons) is amended by in-  
 10          serting after section 6050T the following new sec-  
 11          tion:

12   **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**  
 13                   **QUALIFIED HEALTH INSURANCE.**

14          “(a) IN GENERAL.—Any governmental unit or any  
 15          person who, in connection with a trade or business con-  
 16          ducted by such person, receives payments during any cal-  
 17          endar year from any individual for coverage of a depend-  
 18          ent child (as defined in section 36(b)) of such individual  
 19          under creditable health insurance, shall make the return  
 20          described in subsection (b) (at such time as the Secretary  
 21          may by regulations prescribe) with respect to each indi-  
 22          vidual from whom such payments were received.

23          “(b) FORM AND MANNER OF RETURNS.—A return  
 24          is described in this subsection if such return—

1           “(1) is in such form as the Secretary may pre-  
2       scribe, and

3           “(2) contains—

4               “(A) the name, address, and TIN of the  
5       individual from whom payments described in  
6       subsection (a) were received,

7               “(B) the name, address, and TIN of each  
8       dependent child (as so defined) who was pro-  
9       vided by such person with coverage under cred-  
10      itable health insurance by reason of such pay-  
11      ments and the period of such coverage, and

12              “(C) such other information as the Sec-  
13      retary may reasonably prescribe.

14       “(c) CREDITABLE HEALTH INSURANCE.—For pur-  
15      poses of this section, the term ‘creditable health insurance’  
16      means qualified health insurance (as defined in section  
17      36(c)).

18       “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
19      UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
20      QUIRED.—Every person required to make a return under  
21      subsection (a) shall furnish to each individual whose name  
22      is required under subsection (b)(2)(A) to be set forth in  
23      such return a written statement showing—

1           “(1) the name and address of the person re-  
 2           quired to make such return and the phone number  
 3           of the information contact for such person,

4           “(2) the aggregate amount of payments de-  
 5           scribed in subsection (a) received by the person re-  
 6           quired to make such return from the individual to  
 7           whom the statement is required to be furnished, and

8           “(3) the information required under subsection  
 9           (b)(2)(B) with respect to such payments.

10   The written statement required under the preceding sen-  
 11   tence shall be furnished on or before January 31 of the  
 12   year following the calendar year for which the return  
 13   under subsection (a) is required to be made.

14       “(e) RETURNS WHICH WOULD BE REQUIRED TO BE  
 15   MADE BY 2 OR MORE PERSONS.—Except to the extent  
 16   provided in regulations prescribed by the Secretary, in the  
 17   case of any amount received by any person on behalf of  
 18   another person, only the person first receiving such  
 19   amount shall be required to make the return under sub-  
 20   section (a).”.

21           (2) ASSESSABLE PENALTIES.—

22           (A) Subparagraph (B) of section  
 23           6724(d)(1) of such Code (relating to defini-  
 24           tions) is amended by redesignating clauses (xiii)  
 25           through (xviii) as clauses (xiv) through (xix),

1           respectively, and by inserting after clause (xii)  
2           the following new clause:

3                   “(xiii) section 6050U (relating to re-  
4                   turns relating to payments for qualified  
5                   health insurance),”.

6           (B) Paragraph (2) of section 6724(d) of  
7           such Code is amended by striking “or” at the  
8           end of the next to last subparagraph, by strik-  
9           ing the period at the end of the last subpara-  
10          graph and inserting “, or”, and by adding at  
11          the end the following new subparagraph:

12                   “(CC) section 6050U(d) (relating to re-  
13                   turns relating to payments for qualified health  
14                   insurance).”.

15          (3) CLERICAL AMENDMENT.—The table of sec-  
16          tions for subpart B of part III of subchapter A of  
17          chapter 61 of such Code is amended by inserting  
18          after the item relating to section 6050T the fol-  
19          lowing new item:

                  “Sec. 6050U. Returns relating to payments for qualified health  
                  insurance.”.

20          (c) CONFORMING AMENDMENTS.—

21               (1) Paragraph (2) of section 1324(b) of title  
22               31, United States Code, is amended by inserting be-  
23               fore the period “, or from section 36 of such Code”.



1           (2) The table of sections for subpart C of part  
 2           IV of subchapter A of chapter 1 of the Internal Rev-  
 3           enue Code of 1986 is amended by striking the last  
 4           item and inserting the following new items:

          “Sec. 36. Health insurance coverage of children.

          “Sec. 37. Overpayments of tax.”.

5           (d) EFFECTIVE DATE.—The amendments made by  
 6           this section shall apply to taxable years beginning after  
 7           December 31, 2004.

8   **SEC. 302. FORFEITURE OF PERSONAL EXEMPTION FOR ANY**  
 9                           **CHILD NOT COVERED BY HEALTH INSUR-**  
 10                          **ANCE.**

11          (a) IN GENERAL.—Section 151(d) of the Internal  
 12          Revenue Code of 1986 (relating to exemption amount) is  
 13          amended by adding at the end the following new para-  
 14          graph:

15               “(5) REDUCTION OF EXEMPTION AMOUNT FOR  
 16          ANY CHILD NOT COVERED BY HEALTH INSUR-  
 17          ANCE.—

18               “(A) IN GENERAL.—Except as otherwise  
 19               provided in this paragraph, the exemption  
 20               amount otherwise determined under this sub-  
 21               section for any dependent child (as defined in  
 22               section 36(b)) for any taxable year shall be re-  
 23               duced by the same percentage as the percentage  
 24               of such taxable year during which such depend-

1 ent child was not covered by qualified health in-  
 2 surance (as defined in section 36(c)).

3 “(B) FULL REDUCTION IF NO PROOF OF  
 4 COVERAGE IS PROVIDED.—For purposes of sub-  
 5 paragraph (A), in the case of any taxpayer who  
 6 fails to attach to the return of tax for any tax-  
 7 able year a copy of the statement furnished to  
 8 such taxpayer under section 6050U, the per-  
 9 centage reduction under such subparagraph  
 10 shall be deemed to be 100 percent.

11 “(C) NONAPPLICATION OF PARAGRAPH TO  
 12 TAXPAYERS IN LOWEST TAX BRACKET.—This  
 13 paragraph shall not apply to any taxpayer  
 14 whose taxable income for the taxable year does  
 15 not exceed the initial bracket amount deter-  
 16 mined under section 1(i)(1)(B).”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 this section shall apply to taxable years beginning after  
 19 December 31, 2004.

## 20 **TITLE IV—MISCELLANEOUS**

### 21 **SEC. 401. REQUIREMENT FOR GROUP MARKET HEALTH IN-** 22 **SURERS TO OFFER DEPENDENT COVERAGE** 23 **OPTION FOR WORKERS WITH CHILDREN.**

24 (a) ERISA.—

1           (1) IN GENERAL.—Subpart B of part 7 of sub-  
 2           title B of title I of the Employee Retirement Income  
 3           Security Act of 1974 (29 U.S.C. 1185 et seq.) is  
 4           amended by adding at the end the following:

5   **“SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE**  
 6                           **DEPENDENT COVERAGE FOR CHILDREN.**

7           “(a) REQUIREMENTS FOR COVERAGE.—A group  
 8           health plan, and a health insurance issuer providing health  
 9           insurance coverage in connection with a group health plan,  
 10          shall offer an individual who is enrolled in such coverage  
 11          the option to purchase dependent coverage for a child of  
 12          the individual.

13          “(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An  
 14          employer shall not be required to contribute to the cost  
 15          of purchasing dependent coverage for a child by an indi-  
 16          vidual who is an employee of such employer.

17          “(c) DEFINITION OF CHILD.—In this section, the  
 18          term ‘child’ means an individual who has not attained 21  
 19          years of age.”.

20               (2) CLERICAL AMENDMENT.—The table of con-  
 21               tents in section 1 of the Employee Retirement In-  
 22               come Security Act of 1974 (29 U.S.C. 1001) is  
 23               amended by inserting after the item relating to sec-  
 24               tion 713 the following:

“Sec. 714. Requirement to offer option to purchase dependent coverage for chil-  
 dren.”.

1 (b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of  
 2 part A of title XXVII of the Public Health Service Act  
 3 (42 U.S.C. 300gg–4 et seq.) is amended by adding at the  
 4 end the following:

5 **“SEC. 2707. REQUIREMENT TO OFFER OPTION TO PUR-**  
 6 **CHASE DEPENDENT COVERAGE FOR CHIL-**  
 7 **DREN.**

8 “(a) REQUIREMENTS FOR COVERAGE.—A group  
 9 health plan, and a health insurance issuer providing health  
 10 insurance coverage in connection with a group health plan,  
 11 shall offer an individual who is enrolled in such coverage  
 12 the option to purchase dependent coverage for a child of  
 13 the individual.

14 “(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An  
 15 employer shall not be required to contribute to the cost  
 16 of purchasing dependent coverage for a child by an indi-  
 17 vidual who is an employee of such employer.

18 “(c) DEFINITION OF CHILD.—In this section, the  
 19 term ‘child’ means an individual who has not attained 21  
 20 years of age.”.

21 (c) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply with respect to plan years begin-  
 23 ning on or after January 1, 2006.

1 **SEC. 402. EFFECTIVE DATE.**

2 Unless otherwise provided, the amendments made by  
 3 this Act shall take effect on October 1, 2005, and shall  
 4 apply to child health assistance and medical assistance  
 5 provided on or after that date without regard to whether  
 6 or not final regulations to carry out such amendments  
 7 have been promulgated by such date.

8 **TITLE V—REVENUE PROVISION**

9 **SEC. 501. PARTIAL REPEAL OF RATE REDUCTION IN THE**  
 10 **HIGHEST INCOME TAX BRACKET.**

11 Section 1(i)(2) of the Internal Revenue Code of 1986  
 12 is amended by adding at the end the following flush sen-  
 13 tence:

14 “In the case of taxable years beginning during cal-  
 15 endar year 2005 and thereafter, the final item in the  
 16 fourth column in the preceding table shall be applied  
 17 by substituting for ‘35.0%’ such rate as the Sec-  
 18 retary determines is necessary to provide sufficient  
 19 revenues to offset the Federal outlays required to  
 20 implement the provisions of, and amendments made  
 21 by, the Kids Come First Act of 2005.”.

○