

111TH CONGRESS
1ST SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2009

Mr. PALLONE (for himself, Mr. WAXMAN, Mr. DINGELL, Mr. RANGEL, Mr. STARK, Mr. FOSTER, Mr. ABERCROMBIE, Mr. BARROW, Mr. BOUCHER, Mr. BRALEY of Iowa, Mrs. CAPPS, Ms. CASTOR of Florida, Mr. CONNOLLY of Virginia, Mr. CUELLAR, Mrs. DAHLKEMPER, Ms. DEGETTE, Mr. EDWARDS of Texas, Mr. ENGEL, Ms. ESHOO, Mr. GENE GREEN of Texas, Ms. HARMAN, Mr. JOHNSON of Georgia, Ms. KILROY, Mr. LUJÁN, Mr. MAFFEI, Mr. MARKEY of Massachusetts, Mr. MASSA, Ms. MATSUI, Mr. MCMAHON, Mr. MCNERNEY, Mr. MURPHY of Connecticut, Mr. PASCRELL, Ms. SCHAKOWSKY, Ms. WASSERMAN SCHULTZ, Mr. SHERMAN, Mr. SPACE, Mr. STUPAK, Ms. SUTTON, Mr. TOWNS, Mr. WELCH, and Mr. WEINER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

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

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

7 (b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Ex-
8 cept as otherwise specifically provided, whenever in this
9 Act an amendment is expressed in terms of an amendment
10 to or repeal of a section or other provision, the reference
11 shall be considered to be made to that section or other
12 provision of the Social Security Act.

13 (c) **REFERENCES TO CHIP; MEDICAID; SEC-**
14 **RETARY.**—In this Act:

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

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

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

25 (d) **TABLE OF CONTENTS.**—The table of contents of
26 this Act is as follows:

- Sec. 1. Short title; amendments to Social Security Act; references; table of contents.
- Sec. 2. Purpose.
- Sec. 3. General effective date; exception for State legislation; contingent effective date; reliance on law.

TITLE I—FINANCING

Subtitle A—Funding

- Sec. 101. Extension of CHIP.
- Sec. 102. Allotments for States and territories for fiscal years 2009 through 2013.
- Sec. 103. Child Enrollment Contingency Fund.
- Sec. 104. CHIP performance bonus payment to offset additional enrollment costs resulting from enrollment and retention efforts.
- Sec. 105. Two-year initial availability of CHIP allotments.
- Sec. 106. Redistribution of unused allotments.
- Sec. 107. Option for qualifying States to receive the enhanced portion of the CHIP matching rate for Medicaid coverage of certain children.
- Sec. 108. One-time appropriation.
- Sec. 109. Improving funding for the territories under CHIP and Medicaid.

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

- Sec. 111. State option to cover low-income pregnant women under CHIP through a State plan amendment.
- Sec. 112. Phase-out of coverage for nonpregnant childless adults under CHIP; conditions for coverage of parents.
- Sec. 113. Elimination of counting Medicaid child presumptive eligibility costs against title XXI allotment.
- Sec. 114. Limitation on matching rate for States that propose to cover children with effective family income that exceeds 300 percent of the poverty line.
- Sec. 115. State authority under Medicaid.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

- Sec. 201. Grants and enhanced administrative funding for outreach and enrollment.
- Sec. 202. Increased outreach and enrollment of Indians.
- Sec. 203. State option to rely on findings from an Express Lane agency to conduct simplified eligibility determinations.

Subtitle B—Reducing Barriers to Enrollment

- Sec. 211. Verification of declaration of citizenship or nationality for purposes of eligibility for Medicaid and CHIP.
- Sec. 212. Reducing administrative barriers to enrollment.
- Sec. 213. Model of Interstate coordinated enrollment and coverage process.
- Sec. 214. Permitting States to ensure coverage without a 5-year delay of certain children and pregnant women under the Medicaid program and CHIP.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

- Sec. 301. Additional State option for providing premium assistance.
 Sec. 302. Outreach, education, and enrollment assistance.

Subtitle B—Coordinating Premium Assistance With Private Coverage

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

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

- Sec. 401. Child health quality improvement activities for children enrolled in Medicaid or CHIP.
 Sec. 402. Improved availability of public information regarding enrollment of children in CHIP and Medicaid.
 Sec. 403. Application of certain managed care quality safeguards to CHIP.

TITLE V—IMPROVING ACCESS TO BENEFITS

- Sec. 501. Dental benefits.
 Sec. 502. Mental health parity in CHIP plans.
 Sec. 503. Application of prospective payment system for services provided by Federally-qualified health centers and rural health clinics.
 Sec. 504. Premium grace period.
 Sec. 505. Clarification of coverage of services provided through school-based health centers.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

- Sec. 601. Payment error rate measurement (“PERM”).
 Sec. 602. Improving data collection.
 Sec. 603. Updated Federal evaluation of CHIP.
 Sec. 604. Access to records for IG and GAO audits and evaluations.
 Sec. 605. No Federal funding for illegal aliens.

Subtitle B—Miscellaneous Health Provisions

- Sec. 611. Deficit Reduction Act technical corrections.
 Sec. 612. References to title XXI.
 Sec. 613. Prohibiting initiation of new health opportunity account demonstration programs.
 Sec. 614. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.
 Sec. 615. Clarification treatment of regional medical center.
 Sec. 616. Extension of Medicaid DSH allotments for Tennessee and Hawaii.

Subtitle C—Other Provisions

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

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

Sec. 623. Limitation on Medicare exception to the prohibition on certain physician referrals for hospitals.

TITLE VII—REVENUE PROVISIONS

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

Sec. 702. Administrative improvements.

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

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

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to provide dependable
3 and stable funding for children’s health insurance under
4 titles XXI and XIX of the Social Security Act in order
5 to enroll all six million uninsured children who are eligible,
6 but not enrolled, for coverage today through such titles.

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

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

16 (b) **EXCEPTION FOR STATE LEGISLATION.**—In the
17 case of a State plan under title XIX or State child health
18 plan under XXI of the Social Security Act, which the Sec-
19 retary of Health and Human Services determines requires
20 State legislation in order for the respective plan to meet

1 one or more additional requirements imposed by amend-
2 ments made by this Act, the respective plan shall not be
3 regarded as failing to comply with the requirements of
4 such title solely on the basis of its failure to meet such
5 an additional requirement before the first day of the first
6 calendar quarter beginning after the close of the first reg-
7 ular session of the State legislature that begins after the
8 date of enactment of this Act. For purposes of the pre-
9 vious sentence, in the case of a State that has a 2-year
10 legislative session, each year of the session shall be consid-
11 ered to be a separate regular session of the State legisla-
12 ture.

13 (c) COORDINATION OF CHIP FUNDING FOR FISCAL
14 YEAR 2009.—Notwithstanding any other provision of law,
15 insofar as funds have been appropriated under section
16 2104(a)(11), 2104(k), or 2104(l) of the Social Security
17 Act, as amended by section 201 of Public Law 110–173,
18 to provide allotments to States under CHIP for fiscal year
19 2009—

20 (1) any amounts that are so appropriated that
21 are not so allotted and obligated before April 1,
22 2009, are rescinded; and

23 (2) any amount provided for CHIP allotments
24 to a State under this Act (and the amendments
25 made by this Act) for such fiscal year shall be re-

1 duced by the amount of such appropriations so allot-
2 ted and obligated before such date.

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

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

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

20 **TITLE I—FINANCING**

21 **Subtitle A—Funding**

22 **SEC. 101. EXTENSION OF CHIP.**

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

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

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

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

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

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

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

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

10 and

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

13 “(A) \$3,000,000,000 for the period begin-
14 ning on October 1, 2012, and ending on March
15 31, 2013, and

16 “(B) \$3,000,000,000 for the period begin-
17 ning on April 1, 2013, and ending on Sep-
18 tember 30, 2013.”.

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

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

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

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

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

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

8 “(1) FOR FISCAL YEAR 2009.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(3) FOR FISCAL YEAR 2013.—

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

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

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

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

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

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

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

7 “(i) the sum of—

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

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

15 “(ii) the sum of the—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(n) CHILD ENROLLMENT CONTINGENCY FUND.—

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

8 “(2) DEPOSITS INTO FUND.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(I) UNOBLIGATED NATIONAL
7 ALLOTMENT.—

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

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

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

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

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

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

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

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

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

11 “(F) QUALIFYING CHILDREN DEFINED.—
12 For purposes of this subsection, the term
13 ‘qualifying children’ means children who meet
14 the eligibility criteria (including income, cat-
15 egorical eligibility, age, and immigration status
16 criteria) in effect as of July 1, 2008, for enroll-
17 ment under title XIX, taking into account cri-
18 teria applied as of such date under title XIX
19 pursuant to a waiver under section 1115. Such
20 term does not include any children for whom
21 the State has made an election to provide med-
22 ical assistance under section 1903(v)(4).

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

1 with respect to payment under this paragraph
2 in the same manner as such provisions apply to
3 payment under such section.

4 “(H) APPLICATION TO STATES THAT IM-
5 PLEMENT A MEDICAID EXPANSION FOR CHIL-
6 DREN AFTER FISCAL YEAR 2008.—In the case of
7 a State that provides coverage under section
8 115 of the Children’s Health Insurance Pro-
9 gram Reauthorization Act of 2009 for any fis-
10 cal year after fiscal year 2008—

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

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

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

4 “(4) ENROLLMENT AND RETENTION PROVI-
5 SIONS FOR CHILDREN.—For purposes of paragraph
6 (3)(A), a State meets the condition of this para-
7 graph for a fiscal year if it is implementing at least
8 4 of the following enrollment and retention provi-
9 sions (treating each subparagraph as a separate en-
10 rollment and retention provision) throughout the en-
11 tire fiscal year:

12 “(A) CONTINUOUS ELIGIBILITY.—The
13 State has elected the option of continuous eligi-
14 bility for a full 12 months for all children de-
15 scribed in section 1902(e)(12) under title XIX
16 under 19 years of age, as well as applying such
17 policy under its State child health plan under
18 this title.

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

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

1 “(ii) ADMINISTRATIVE VERIFICATION
2 OF ASSETS.—The State—

3 “(I) permits a parent or care-
4 taker relative who is applying on be-
5 half of a child for medical assistance
6 under title XIX or child health assist-
7 ance under this title to declare and
8 certify by signature under penalty of
9 perjury information relating to family
10 assets for purposes of determining
11 and redetermining financial eligibility;
12 and

13 “(II) takes steps to verify assets
14 through means other than by requir-
15 ing documentation from parents and
16 applicants except in individual cases
17 of discrepancies or where otherwise
18 justified.

19 “(C) ELIMINATION OF IN-PERSON INTER-
20 VIEW REQUIREMENT.—The State does not re-
21 quire an application of a child for medical as-
22 sistance under title XIX (or for child health as-
23 sistance under this title), including an applica-
24 tion for renewal of such assistance, to be made
25 in person nor does the State require a face-to-

1 face interview, unless there are discrepancies or
2 individual circumstances justifying an in-person
3 application or face-to-face interview.

4 “(D) USE OF JOINT APPLICATION FOR
5 MEDICAID AND CHIP.—The application form
6 and supplemental forms (if any) and informa-
7 tion verification process is the same for pur-
8 poses of establishing and renewing eligibility for
9 children for medical assistance under title XIX
10 and child health assistance under this title.

11 “(E) AUTOMATIC RENEWAL (USE OF AD-
12 MINISTRATIVE RENEWAL).—

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

1 and other means, the information so pro-
2 vided.

3 “(ii) SATISFACTION THROUGH DEM-
4 ONSTRATED USE OF EX PARTE PROCESS.—
5 A State shall be treated as satisfying the
6 requirement of clause (i) if renewal of eli-
7 gibility of children under title XIX or this
8 title is determined without any require-
9 ment for an in-person interview, unless
10 sufficient information is not in the State’s
11 possession and cannot be acquired from
12 other sources (including other State agen-
13 cies) without the participation of the appli-
14 cant or the applicant’s parent or caretaker
15 relative.

16 “(F) PRESUMPTIVE ELIGIBILITY FOR
17 CHILDREN.—The State is implementing section
18 1920A under title XIX as well as, pursuant to
19 section 2107(e)(1), under this title.

20 “(G) EXPRESS LANE.—The State is imple-
21 menting the option described in section
22 1902(e)(13) under title XIX as well as, pursu-
23 ant to section 2107(e)(1), under this title.”.

1 **SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP AL-**
2 **LOTMENTS.**

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

5 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

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

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

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

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

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

23 (a) BEGINNING WITH FISCAL YEAR 2007.—

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

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

3 “(1) IN GENERAL.—The Secretary”;

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

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

17 “(2) SHORTFALL STATES DESCRIBED.—

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) in paragraph (6)—

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

16 and

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

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

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

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

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

6 (B) by striking “2008, or 2009” and in-
7 serting “or 2008”; and

8 (2) by adding at the end the following new
9 paragraph:

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

12 “(A) PAYMENT OF ENHANCED PORTION OF
13 MATCHING RATE FOR CERTAIN EXPENDI-
14 TURES.—In the case of expenditures described
15 in subparagraph (B), a qualifying State (as de-
16 fined in paragraph (2)) may elect to be paid
17 from the State’s allotment made under section
18 2104 for any of fiscal years 2009 through 2013
19 (insofar as the allotment is available to the
20 State under subsections (e) and (m) of such
21 section) an amount each quarter equal to the
22 additional amount that would have been paid to
23 the State under title XIX with respect to such
24 expenditures if the enhanced FMAP (as deter-
25 mined under subsection (b)) had been sub-

1 stituted for the Federal medical assistance per-
2 centage (as defined in section 1905(b)).

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

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

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

2 There is appropriated to the Secretary, out of any
3 money in the Treasury not otherwise appropriated,
4 \$11,406,000,000 to accompany the allotment made for the
5 period beginning on October 1, 2012, and ending on
6 March 31, 2013, under section 2104(a)(16)(A) of the So-
7 cial Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added
8 by section 101), to remain available until expended. Such
9 amount shall be used to provide allotments to States under
10 paragraph (3) of section 2104(m) of the Social Security
11 Act (42 U.S.C. 1397dd(i)), as added by section 102, for
12 the first 6 months of fiscal year 2013 in the same manner
13 as allotments are provided under subsection (a)(16)(A) of
14 such section 2104 and subject to the same terms and con-
15 ditions as apply to the allotments provided from such sub-
16 section (a)(16)(A).

17 **SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES**
18 **UNDER CHIP AND MEDICAID.**

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

24 “(4) EXCLUSION OF CERTAIN EXPENDITURES
25 FROM PAYMENT LIMITS.—With respect to fiscal
26 years beginning with fiscal year 2009, if Puerto

1 Rico, the Virgin Islands, Guam, the Northern Mar-
2 iana Islands, or American Samoa qualify for a pay-
3 ment under subparagraph (A)(i), (B), or (F) of sec-
4 tion 1903(a)(3) for a calendar quarter of such fiscal
5 year, the payment shall not be taken into account in
6 applying subsection (f) (as increased in accordance
7 with paragraphs (1), (2), and (3) of this subsection)
8 to such commonwealth or territory for such fiscal
9 year.”.

10 (b) GAO STUDY AND REPORT.—Not later than Sep-
11 tember 30, 2010, the Comptroller General of the United
12 States shall submit a report to the Committee on Finance
13 of the Senate and the Committee on Energy and Com-
14 merce of the House of Representatives regarding Federal
15 funding under Medicaid and CHIP for Puerto Rico, the
16 United States Virgin Islands, Guam, American Samoa,
17 and the Northern Mariana Islands. The report shall in-
18 clude the following:

19 (1) An analysis of all relevant factors with re-
20 spect to—

21 (A) eligible Medicaid and CHIP popu-
22 lations in such commonwealths and territories;

23 (B) historical and projected spending needs
24 of such commonwealths and territories and the

1 ability of capped funding streams to respond to
2 those spending needs;

3 (C) the extent to which Federal poverty
4 guidelines are used by such commonwealths and
5 territories to determine Medicaid and CHIP eli-
6 gibility; and

7 (D) the extent to which such common-
8 wealths and territories participate in data col-
9 lection and reporting related to Medicaid and
10 CHIP, including an analysis of territory partici-
11 pation in the Current Population Survey versus
12 the American Community Survey.

13 (2) Recommendations regarding methods for
14 the collection and reporting of reliable data regard-
15 ing the enrollment under Medicaid and CHIP of
16 children in such commonwealths and territories.

17 (3) Recommendations for improving Federal
18 funding under Medicaid and CHIP for such com-
19 monwealths and territories.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) ADDITIONAL CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

7 (a) PHASE-OUT RULES.—

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

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

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

16 **“(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-**
 17 **TENSIONS AT STATE OPTION THROUGH FISCAL YEAR**
 18 **2010.—Notwithstanding section 1115 or any other**
 19 **provision of this title, except as provided in this sub-**
 20 **section—**

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

1 funds made available under this title to be used
2 to provide child health assistance or other
3 health benefits coverage to a nonpregnant child-
4 less adult; and

5 “(B) notwithstanding the terms and condi-
6 tions of an applicable existing waiver, the provi-
7 sions of paragraphs (2) and (3) shall apply for
8 purposes of any period beginning on or after
9 October 1, 2010, in determining the period to
10 which the waiver applies, the individuals eligible
11 to be covered by the waiver, and the amount of
12 the Federal payment under this title.

13 “(2) TERMINATION OF CHIP COVERAGE UNDER
14 APPLICABLE EXISTING WAIVERS AT THE END OF
15 FISCAL YEAR 2010.—

16 “(A) IN GENERAL.—No funds shall be
17 available under this title for child health assist-
18 ance or other health benefits coverage that is
19 provided to a nonpregnant childless adult under
20 an applicable existing waiver after September
21 30, 2010.

22 “(B) EXTENSION UPON STATE RE-
23 QUEST.—If an applicable existing waiver de-
24 scribed in subparagraph (A) would otherwise
25 expire before October 1, 2010, and the State

1 requests an extension of such waiver, the Sec-
2 retary shall grant such an extension, but only
3 through September 30, 2011.

4 “(C) APPLICATION OF ENHANCED FMAP.—
5 The enhanced FMAP determined under section
6 2105(b) shall apply to expenditures under an
7 applicable existing waiver for the provision of
8 child health assistance or other health benefits
9 coverage to a nonpregnant childless adult dur-
10 ing fiscal year 2010.

11 “(3) OPTIONAL 1-YEAR TRANSITIONAL COV-
12 ERAGE BLOCK GRANT FUNDED FROM STATE ALLOT-
13 MENT.—Subject to paragraph (4)(B), each State for
14 which coverage under an applicable existing waiver
15 is terminated under paragraph (2)(A) may elect to
16 provide nonpregnant childless adults who were pro-
17 vided child health assistance or health benefits cov-
18 erage under the applicable existing waiver at any
19 time during fiscal year 2010 with such assistance or
20 coverage during fiscal year 2011, as if the authority
21 to provide such assistance or coverage under an ap-
22 plicable existing waiver was extended through that
23 fiscal year, but subject to the following terms and
24 conditions:

1 “(A) BLOCK GRANT SET ASIDE FROM
2 STATE ALLOTMENT.—The Secretary shall set
3 aside for the State an amount equal to the Fed-
4 eral share of the State’s projected expenditures
5 under the applicable existing waiver for pro-
6 viding child health assistance or health benefits
7 coverage to all nonpregnant childless adults
8 under such waiver for fiscal year 2010 (as cer-
9 tified by the State and submitted to the Sec-
10 retary by not later than August 31, 2010, and
11 without regard to whether any such individual
12 lost coverage during fiscal year 2010 and was
13 later provided child health assistance or other
14 health benefits coverage under the waiver in
15 that fiscal year), increased by the annual ad-
16 justment for fiscal year 2011 determined under
17 section 2104(m)(5)(A). The Secretary may ad-
18 just the amount set aside under the preceding
19 sentence, as necessary, on the basis of the ex-
20 penditure data for fiscal year 2010 reported by
21 States on CMS Form 64 or CMS Form 21 not
22 later than November 30, 2010, but in no case
23 shall the Secretary adjust such amount after
24 December 31, 2010.

1 “(B) NO COVERAGE FOR NONPREGNANT
2 CHILDLESS ADULTS WHO WERE NOT COVERED
3 DURING FISCAL YEAR 2010.—

4 “(i) FMAP APPLIED TO EXPENDI-
5 TURES.—The Secretary shall pay the State
6 for each quarter of fiscal year 2011, from
7 the amount set aside under subparagraph
8 (A), an amount equal to the Federal med-
9 ical assistance percentage (as determined
10 under section 1905(b) without regard to
11 clause (4) of such section) of expenditures
12 in the quarter for providing child health
13 assistance or other health benefits coverage
14 to a nonpregnant childless adult but only
15 if such adult was enrolled in the State pro-
16 gram under this title during fiscal year
17 2010 (without regard to whether the indi-
18 vidual lost coverage during fiscal year
19 2010 and was reenrolled in that fiscal year
20 or in fiscal year 2011).

21 “(ii) FEDERAL PAYMENTS LIMITED
22 TO AMOUNT OF BLOCK GRANT SET-
23 ASIDE.—No payments shall be made to a
24 State for expenditures described in this
25 subparagraph after the total amount set

1 aside under subparagraph (A) for fiscal
2 year 2011 has been paid to the State.

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

6 “(A) IN GENERAL.—Each State for which
7 coverage under an applicable existing waiver is
8 terminated under paragraph (2)(A) may sub-
9 mit, not later than June 30, 2011, an applica-
10 tion to the Secretary for a waiver under section
11 1115 of the State plan under title XIX to pro-
12 vide medical assistance to a nonpregnant child-
13 less adult whose coverage is so terminated (in
14 this subsection referred to as a ‘Medicaid non-
15 pregnant childless adults waiver’).

16 “(B) DEADLINE FOR APPROVAL.—The
17 Secretary shall make a decision to approve or
18 deny an application for a Medicaid nonpregnant
19 childless adults waiver submitted under sub-
20 paragraph (A) within 90 days of the date of the
21 submission of the application. If no decision has
22 been made by the Secretary as of September
23 30, 2011, on the application of a State for a
24 Medicaid nonpregnant childless adults waiver
25 that was submitted to the Secretary by June

1 30, 2011, the application shall be deemed ap-
2 proved.

3 “(C) STANDARD FOR BUDGET NEU-
4 TRALITY.—The budget neutrality requirement
5 applicable with respect to expenditures for med-
6 ical assistance under a Medicaid nonpregnant
7 childless adults waiver shall—

8 “(i) in the case of fiscal year 2012,
9 allow expenditures for medical assistance
10 under title XIX for all such adults to not
11 exceed the total amount of payments made
12 to the State under paragraph (3)(B) for
13 fiscal year 2011, increased by the percent-
14 age increase (if any) in the projected nomi-
15 nal per capita amount of National Health
16 Expenditures for calendar year 2012 over
17 2011, as most recently published by the
18 Secretary; and

19 “(ii) in the case of any succeeding fis-
20 cal year, allow such expenditures to not ex-
21 ceed the amount in effect under this sub-
22 paragraph for the preceding fiscal year, in-
23 creased by the percentage increase (if any)
24 in the projected nominal per capita amount
25 of National Health Expenditures for the

1 calendar year that begins during the fiscal
2 year involved over the preceding calendar
3 year, as most recently published by the
4 Secretary.

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

7 “(1) TWO-YEAR TRANSITION PERIOD; AUTO-
8 MATIC EXTENSION AT STATE OPTION THROUGH FIS-
9 CAL YEAR 2011.—

10 “(A) NO NEW CHIP WAIVERS.—Notwith-
11 standing section 1115 or any other provision of
12 this title, except as provided in this sub-
13 section—

14 “(i) the Secretary shall not on or after
15 the date of the enactment of the Children’s
16 Health Insurance Program Reauthoriza-
17 tion Act of 2009 approve or renew a waiv-
18 er, experimental, pilot, or demonstration
19 project that would allow funds made avail-
20 able under this title to be used to provide
21 child health assistance or other health ben-
22 efits coverage to a parent of a targeted
23 low-income child; and

24 “(ii) notwithstanding the terms and
25 conditions of an applicable existing waiver,

1 the provisions of paragraphs (2) and (3)
2 shall apply for purposes of any fiscal year
3 beginning on or after October 1, 2011, in
4 determining the period to which the waiver
5 applies, the individuals eligible to be cov-
6 ered by the waiver, and the amount of the
7 Federal payment under this title.

8 “(B) EXTENSION UPON STATE RE-
9 QUEST.—If an applicable existing waiver de-
10 scribed in subparagraph (A) would otherwise
11 expire before October 1, 2011, and the State
12 requests an extension of such waiver, the Sec-
13 retary shall grant such an extension, but only,
14 subject to paragraph (2)(A), through Sep-
15 tember 30, 2011.

16 “(C) APPLICATION OF ENHANCED FMAP.—
17 The enhanced FMAP determined under section
18 2105(b) shall apply to expenditures under an
19 applicable existing waiver for the provision of
20 child health assistance or other health benefits
21 coverage to a parent of a targeted low-income
22 child during the third and fourth quarters of
23 fiscal year 2009 and during fiscal years 2010
24 and 2011.

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

3 “(A) PAYMENTS FOR COVERAGE LIMITED
4 TO BLOCK GRANT FUNDED FROM STATE ALLOT-
5 MENT.—Any State that provides child health
6 assistance or health benefits coverage under an
7 applicable existing waiver for a parent of a tar-
8 geted low-income child may elect to continue to
9 provide such assistance or coverage through fis-
10 cal year 2012 or 2013, subject to the same
11 terms and conditions that applied under the ap-
12 plicable existing waiver, unless otherwise modi-
13 fied in subparagraph (B).

14 “(B) TERMS AND CONDITIONS.—

15 “(i) BLOCK GRANT SET ASIDE FROM
16 STATE ALLOTMENT.—If the State makes
17 an election under subparagraph (A), the
18 Secretary shall set aside for the State for
19 each such fiscal year an amount equal to
20 the Federal share of 110 percent of the
21 State’s projected expenditures under the
22 applicable existing waiver for providing
23 child health assistance or health benefits
24 coverage to all parents of targeted low-in-
25 come children enrolled under such waiver

1 for the fiscal year (as certified by the State
2 and submitted to the Secretary by not
3 later than August 31 of the preceding fis-
4 cal year). In the case of fiscal year 2013,
5 the set aside for any State shall be com-
6 puted separately for each period described
7 in subparagraphs (A) and (B) of section
8 2104(a)(16) and any reduction in the allot-
9 ment for either such period under section
10 2104(m)(4) shall be allocated on a pro
11 rata basis to such set aside.

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

22 “(iii) ENHANCED FMAP ONLY IN FIS-
23 CAL YEAR 2012 FOR STATES WITH SIGNIFI-
24 CANT CHILD OUTREACH OR THAT ACHIEVE
25 CHILD COVERAGE BENCHMARKS; FMAP

1 FOR ANY OTHER STATES.—For purposes
2 of clause (ii), the applicable percentage for
3 any quarter of fiscal year 2012 is equal
4 to—

5 “(I) the enhanced FMAP deter-
6 mined under section 2105(b) in the
7 case of a State that meets the out-
8 reach or coverage benchmarks de-
9 scribed in any of subparagraph (A),
10 (B), or (C) of paragraph (3) for fiscal
11 year 2011; or

12 “(II) the Federal medical assist-
13 ance percentage (as determined under
14 section 1905(b) without regard to
15 clause (4) of such section) in the case
16 of any other State.

17 “(iv) AMOUNT OF FEDERAL MATCH-
18 ING PAYMENT IN 2013.—For purposes of
19 clause (ii), the applicable percentage for
20 any quarter of fiscal year 2013 is equal
21 to—

22 “(I) the REMAP percentage if—

23 “(aa) the applicable percent-
24 age for the State under clause

1 (iii) was the enhanced FMAP for
2 fiscal year 2012; and

3 “(bb) the State met either of
4 the coverage benchmarks de-
5 scribed in subparagraph (B) or
6 (C) of paragraph (3) for 2012; or

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

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

18 “(v) NO FEDERAL PAYMENTS OTHER
19 THAN FROM BLOCK GRANT SET ASIDE.—
20 No payments shall be made to a State for
21 expenditures described in clause (ii) after
22 the total amount set aside under clause (i)
23 for a fiscal year has been paid to the
24 State.

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

15 “(3) OUTREACH OR COVERAGE BENCH-
16 MARKS.—For purposes of paragraph (2), the out-
17 reach or coverage benchmarks described in this
18 paragraph are as follows:

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

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

23 “(ii) implemented 1 or more of the en-
24 rollment and retention provisions described

1 in section 2105(a)(4) for such fiscal year;

2 or

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

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

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

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

24 “(c) APPLICABLE EXISTING WAIVER.—For purposes
25 of this section—

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

7 “(A) would allow funds made available
8 under this title to be used to provide child
9 health assistance or other health benefits cov-
10 erage to—

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

13 “(ii) a nonpregnant childless adult; or

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

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

17 “(2) DEFINITIONS.—

18 “(A) PARENT.—The term ‘parent’ includes
19 a caretaker relative (as such term is used in
20 carrying out section 1931) and a legal guard-
21 ian.

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

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 2107(f) (42 U.S.C. 1397gg(f))

2 is amended—

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

4 inserting “:

5 “(1) The Secretary”;

6 (ii) in the first sentence, by inserting

7 “or a parent (as defined in section

8 2111(c)(2)(A)), who is not pregnant, of a

9 targeted low-income child” before the pe-

10 riod;

11 (iii) by striking the second sentence;

12 and

13 (iv) by adding at the end the following

14 new paragraph:

15 “(2) The Secretary may not approve, extend,

16 renew, or amend a waiver, experimental, pilot, or

17 demonstration project with respect to a State after

18 the date of enactment of the Children’s Health In-

19 surance Program Reauthorization Act of 2009 that

20 would waive or modify the requirements of section

21 2111.”.

22 (B) Section 6102(c) of the Deficit Reduc-

23 tion Act of 2005 (Public Law 109–171; 120

24 Stat. 131) is amended by striking “Nothing”

25 and inserting “Subject to section 2111 of the

1 Social Security Act, as added by section 112 of
2 the Children’s Health Insurance Program Re-
3 authorization Act of 2009, nothing”.

4 (b) GAO STUDY AND REPORT.—

5 (1) IN GENERAL.—The Comptroller General of
6 the United States shall conduct a study of wheth-
7 er—

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

15 (B) such parents, relatives, and legal
16 guardians who enroll in such a plan are more
17 likely to enroll their children in such a plan or
18 in a State plan under title XIX of such Act.

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

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

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

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

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

13 “(B) [reserved]”.

14 (b) AMENDMENTS TO MEDICAID.—

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

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

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

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

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

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

15 “(A) FMAP APPLIED TO EXPENDI-
16 TURES.—Except as provided in subparagraph
17 (B), for fiscal years beginning with fiscal year
18 2009, the Federal medical assistance percent-
19 age (as determined under section 1905(b) with-
20 out regard to clause (4) of such section) shall
21 be substituted for the enhanced FMAP under
22 subsection (a)(1) with respect to any expendi-
23 tures for providing child health assistance or
24 health benefits coverage for a targeted low-in-
25 come child whose effective family income would

1 exceed 300 percent of the poverty line but for
2 the application of a general exclusion of a block
3 of income that is not determined by type of ex-
4 pense or type of income.

5 “(B) EXCEPTION.—Subparagraph (A)
6 shall not apply to any State that, on the date
7 of enactment of the Children’s Health Insur-
8 ance Program Reauthorization Act of 2009, has
9 an approved State plan amendment or waiver to
10 provide, or has enacted a State law to submit
11 a State plan amendment to provide, expendi-
12 tures described in such subparagraph under the
13 State child health plan.”.

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

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

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

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

2 Notwithstanding any other provision of law, including
 3 the fourth sentence of subsection (b) of section 1905 of
 4 the Social Security Act (42 U.S.C. 1396d) or subsection
 5 (u) of such section, at State option, the Secretary shall
 6 provide the State with the Federal medical assistance per-
 7 centage determined for the State for Medicaid with respect
 8 to expenditures described in section 1905(u)(2)(A) of such
 9 Act or otherwise made to provide medical assistance under
 10 Medicaid to a child who could be covered by the State
 11 under CHIP.

12 **TITLE II—OUTREACH AND**
 13 **ENROLLMENT**
 14 **Subtitle A—Outreach and**
 15 **Enrollment Activities**

16 **SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUND-**
 17 **ING FOR OUTREACH AND ENROLLMENT.**

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

21 **“SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLL-**
 22 **MENT.**

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

25 **“(1) IN GENERAL.—**From the amounts appro-
 26 **propriated under subsection (g), subject to paragraph**

1 (2), the Secretary shall award grants to eligible enti-
2 ties during the period of fiscal years 2009 through
3 2013 to conduct outreach and enrollment efforts
4 that are designed to increase the enrollment and
5 participation of eligible children under this title and
6 title XIX.

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

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

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

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

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

22 “(ii) racial and ethnic minorities and
23 health disparity populations, including
24 those proposals that address cultural and
25 linguistic barriers to enrollment; and

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

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

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

18 “(1) evidence demonstrating that the entity in-
19 cludes members who have access to, and credibility
20 with, ethnic or low-income populations in the com-
21 munities in which activities funded under the grant
22 are to be conducted;

23 “(2) evidence demonstrating that the entity has
24 the ability to address barriers to enrollment, such as
25 lack of awareness of eligibility, stigma concerns and

1 punitive fears associated with receipt of benefits,
2 and other cultural barriers to applying for and re-
3 ceiving child health assistance or medical assistance;

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

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

9 “(A) conduct an assessment of the effec-
10 tiveness of such activities against the perform-
11 ance measures;

12 “(B) cooperate with the collection and re-
13 porting of enrollment data and other informa-
14 tion in order for the Secretary to conduct such
15 assessments; and

16 “(C) in the case of an eligible entity that
17 is not the State, provide the State with enroll-
18 ment data and other information as necessary
19 for the State to make necessary projections of
20 eligible children and pregnant women.

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

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

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

7 “(e) MAINTENANCE OF EFFORT FOR STATES
8 AWARDED GRANTS; NO STATE MATCH REQUIRED.—In
9 the case of a State that is awarded a grant under this
10 section—

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

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

18 “(f) DEFINITIONS.—In this section:

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

21 “(A) A State with an approved child health
22 plan under this title.

23 “(B) A local government.

24 “(C) An Indian tribe or tribal consortium,
25 a tribal organization, an urban Indian organiza-

1 tion receiving funds under title V of the Indian
2 Health Care Improvement Act (25 U.S.C. 1651
3 et seq.), or an Indian Health Service provider.

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

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

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

17 “(G) An elementary or secondary school.

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

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

23 “(B) a hospital defined as a dispropor-
24 tionate share hospital for purposes of section
25 1923;

1 “(C) a covered entity described in section
2 340B(a)(4) of the Public Health Service Act
3 (42 U.S.C. 256b(a)(4)); and

4 “(D) any other entity or consortium that
5 serves children under a federally funded pro-
6 gram, including the special supplemental nutri-
7 tion program for women, infants, and children
8 (WIC) established under section 17 of the Child
9 Nutrition Act of 1966 (42 U.S.C. 1786), the
10 Head Start and Early Head Start programs
11 under the Head Start Act (42 U.S.C. 9801 et
12 seq.), the school lunch program established
13 under the Richard B. Russell National School
14 Lunch Act, and an elementary or secondary
15 school.

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

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

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

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

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

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

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

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

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

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

7 “(1) the establishment of partnerships with the
8 Secretary of Education and the Secretary of Agri-
9 culture to develop national campaigns to link the eli-
10 gibility and enrollment systems for the assistance
11 programs each Secretary administers that often
12 serve the same children;

13 “(2) the integration of information about the
14 programs established under this title and title XIX
15 in public health awareness campaigns administered
16 by the Secretary;

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

20 “(4) the establishment of joint public awareness
21 outreach initiatives with the Secretary of Education
22 and the Secretary of Labor regarding the impor-
23 tance of health insurance to building strong commu-
24 nities and the economy;

1 “(5) the development of special outreach mate-
2 rials for Native Americans or for individuals with
3 limited English proficiency; and

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

7 “(i) GRANTS FOR OUTREACH AND ENROLLMENT OF
8 NATIVE AMERICAN BENEFICIARIES.—

9 “(1) IN GENERAL.—To overcome language and
10 cultural barriers to program access by Native Ameri-
11 cans, the Secretary shall establish grant programs to
12 conduct outreach and enrollment efforts to increase
13 the enrollment and participation of eligible individ-
14 uals in programs of the Social Security Act (42
15 U.S.C. 1397aa et seq.) and other Federal health and
16 social service programs.

17 “(2) USE OF TRIBAL BENEFITS-COUNSELORS
18 MODEL.—The grant program under this subsection
19 shall incorporate expansion and stabilization of the
20 tribal benefits-counselors model developed in the
21 State of Washington to overcome language and cul-
22 tural barriers to Federal programs.

23 “(3) RECIPIENTS.—In order to qualify for a
24 grant under this subsection, an applicant shall be a
25 national, nonprofit organization with successful and

1 verifiable experience in assisting Native Americans
2 access Federal programs.

3 “(4) REPORT.—At the end of the period of
4 funding provided under subsection (f), the Secretary
5 shall submit to Congress a report on the grants
6 made under this subsection, including the efficacy of
7 outreach efforts and the cost effectiveness of
8 projects funded by such grants in improving access
9 to Federal programs by Native Americans.”.

10 (b) ENHANCED ADMINISTRATIVE FUNDING FOR
11 TRANSLATION OR INTERPRETATION SERVICES UNDER
12 CHIP AND MEDICAID.—

13 (1) CHIP.—Section 2105(a)(1) (42 U.S.C.
14 1397ee(a)(1)), as amended by section 113, is
15 amended—

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

22 (B) in subparagraph (D)—

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

1 (ii) by redesignating clause (iv) as
2 clause (v); and

3 (iii) by inserting after clause (iii) the
4 following new clause:

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

13 (2) MEDICAID.—

14 (A) USE OF MEDICAID FUNDS.—Section
15 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended
16 by adding at the end the following new sub-
17 paragraph:

18 “(E) an amount equal to 75 percent of so much
19 of the sums expended during such quarter (as found
20 necessary by the Secretary for the proper and effi-
21 cient administration of the State plan) as are attrib-
22 utable to translation or interpretation services in
23 connection with the enrollment of, retention of, and
24 use of services under this title by, children of fami-

1 lies for whom English is not the primary language;
2 plus”.

3 (B) USE OF COMMUNITY HEALTH WORK-
4 ERS FOR OUTREACH ACTIVITIES.—

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

10 (ii) IN FEDERAL EVALUATION.—Sec-
11 tion 2108(c)(3)(B) of such Act (42 U.S.C.
12 1397hh(c)(3)(B)) is amended by inserting
13 “(such as through community health work-
14 ers and others)” after “including prac-
15 tices”.

16 **SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF IN-**
17 **DIANS.**

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

20 **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**
21 **HEALTH CARE FOR INDIANS UNDER TITLES**
22 **XIX AND XXI.**

23 “(a) AGREEMENTS WITH STATES FOR MEDICAID
24 AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO

1 INCREASE THE ENROLLMENT OF INDIANS IN THOSE
2 PROGRAMS.—

3 “(1) IN GENERAL.—In order to improve the ac-
4 cess of Indians residing on or near a reservation to
5 obtain benefits under the Medicaid and State chil-
6 dren’s health insurance programs established under
7 titles XIX and XXI, the Secretary shall encourage
8 the State to take steps to provide for enrollment on
9 or near the reservation. Such steps may include out-
10 reach efforts such as the outstationing of eligibility
11 workers, entering into agreements with the Indian
12 Health Service, Indian Tribes, Tribal Organizations,
13 and Urban Indian Organizations to provide out-
14 reach, education regarding eligibility and benefits,
15 enrollment, and translation services when such serv-
16 ices are appropriate.

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

24 “(b) REQUIREMENT TO FACILITATE COOPERA-
25 TION.—The Secretary, acting through the Centers for

1 Medicare & Medicaid Services, shall take such steps as are
2 necessary to facilitate cooperation with, and agreements
3 between, States and the Indian Health Service, Indian
4 Tribes, Tribal Organizations, or Urban Indian Organiza-
5 tions with respect to the provision of health care items
6 and services to Indians under the programs established
7 under title XIX or XXI.

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

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

19 “(C) NONAPPLICATION TO CERTAIN EX-
20 PENDITURES.—The limitation under subpara-
21 graph (A) shall not apply with respect to the
22 following expenditures:

23 “(i) EXPENDITURES TO INCREASE
24 OUTREACH TO, AND THE ENROLLMENT OF,
25 INDIAN CHILDREN UNDER THIS TITLE AND

1 TITLE xix.—Expenditures for outreach ac-
 2 tivities to families of Indian children likely
 3 to be eligible for child health assistance
 4 under the plan or medical assistance under
 5 the State plan under title XIX (or under
 6 a waiver of such plan), to inform such
 7 families of the availability of, and to assist
 8 them in enrolling their children in, such
 9 plans, including such activities conducted
 10 under grants, contracts, or agreements en-
 11 tered into under section 1139(a).”.

12 **SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN**
 13 **EXPRESS LANE AGENCY TO CONDUCT SIM-**
 14 **PLIFIED ELIGIBILITY DETERMINATIONS.**

15 (a) APPLICATION UNDER MEDICAID AND CHIP PRO-
 16 GRAMS.—

17 (1) MEDICAID.—Section 1902(e) (42 U.S.C.
 18 1396a(e)) is amended by adding at the end the fol-
 19 lowing:

20 “(13) EXPRESS LANE OPTION.—

21 “(A) IN GENERAL.—

22 “(i) OPTION TO USE A FINDING FROM AN
 23 EXPRESS LANE AGENCY.—At the option of the
 24 State, the State plan may provide that in deter-
 25 mining eligibility under this title for a child (as

1 defined in subparagraph (G)), the State may
2 rely on a finding made within a reasonable pe-
3 riod (as determined by the State) from an Ex-
4 press Lane agency (as defined in subparagraph
5 (F)) when it determines whether a child satis-
6 fies one or more components of eligibility for
7 medical assistance under this title. The State
8 may rely on a finding from an Express Lane
9 agency notwithstanding any differences in
10 budget unit, disregard, deeming or other meth-
11 odology, if the following requirements are met:

12 “(I) PROHIBITION ON DETERMINING
13 CHILDREN INELIGIBLE FOR COVERAGE.—

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

21 “(II) NOTICE REQUIREMENT.—For
22 any child who is found eligible for medical
23 assistance under the State plan under this
24 title or child health assistance under title
25 XXI and who is subject to premiums based

1 on an Express Lane agency’s finding of
2 such child’s income level, the State shall
3 provide notice that the child may qualify
4 for lower premium payments if evaluated
5 by the State using its regular policies and
6 of the procedures for requesting such an
7 evaluation.

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

18 “(IV) VERIFICATION OF CITIZENSHIP,
19 NATIONALITY STATUS, OR QUALIFIED
20 ALIEN STATUS.—The State shall satisfy
21 the requirements of sections 1137(d) and
22 1902(a)(46)(B) for verifications of citizen-
23 ship, nationality status, or qualified alien
24 status.

1 “(V) CODING.—The State meets the
2 requirements of subparagraph (E).

3 “(ii) OPTION TO APPLY TO RENEWALS AND
4 REDETERMINATIONS.—The State may apply the
5 provisions of this paragraph when conducting
6 initial determinations of eligibility, redetermina-
7 tions of eligibility, or both, as described in the
8 State plan.

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

11 “(i) to relieve a State of the obligation to
12 determine components of eligibility that are not
13 the subject of an Express Lane agency’s find-
14 ing, as described in subparagraph (A);

15 “(ii) to limit or prohibit a State from tak-
16 ing any actions otherwise permitted under this
17 title or title XXI in determining eligibility for
18 or enrolling children into medical assistance
19 under this title or child health assistance under
20 title XXI; or

21 “(iii) to modify the limitations in section
22 1902(a)(5) concerning the agencies that may
23 make a determination of eligibility for medical
24 assistance under this title.

1 “(C) OPTIONS FOR SATISFYING THE SCREEN
2 AND ENROLL REQUIREMENT.—

3 “(i) IN GENERAL.—With respect to a child
4 whose eligibility for medical assistance under
5 this title or for child health assistance under
6 title XXI has been evaluated by a State agency
7 using an income finding from an Express Lane
8 agency, a State may carry out its duties under
9 subparagraphs (A) and (B) of section
10 2102(b)(3) (relating to screen and enroll) in ac-
11 cordance with either clause (ii) or clause (iii).

12 “(ii) ESTABLISHING A SCREENING
13 THRESHOLD.—

14 “(I) IN GENERAL.—Under this clause,
15 the State establishes a screening threshold
16 set as a percentage of the Federal poverty
17 level that exceeds the highest income
18 threshold applicable under this title to the
19 child by a minimum of 30 percentage
20 points or, at State option, a higher number
21 of percentage points that reflects the value
22 (as determined by the State and described
23 in the State plan) of any differences be-
24 tween income methodologies used by the
25 program administered by the Express Lane

1 agency and the methodologies used by the
2 State in determining eligibility for medical
3 assistance under this title.

4 “(II) CHILDREN WITH INCOME NOT
5 ABOVE THRESHOLD.—If the income of a
6 child does not exceed the screening thresh-
7 old, the child is deemed to satisfy the in-
8 come eligibility criteria for medical assist-
9 ance under this title regardless of whether
10 such child would otherwise satisfy such cri-
11 teria.

12 “(III) CHILDREN WITH INCOME
13 ABOVE THRESHOLD.—If the income of a
14 child exceeds the screening threshold, the
15 child shall be considered to have an income
16 above the Medicaid applicable income level
17 described in section 2110(b)(4) and to sat-
18 isfy the requirement under section
19 2110(b)(1)(C) (relating to the requirement
20 that CHIP matching funds be used only
21 for children not eligible for Medicaid). If
22 such a child is enrolled in child health as-
23 sistance under title XXI, the State shall
24 provide the parent, guardian, or custodial
25 relative with the following:

1 “(aa) Notice that the child may
2 be eligible to receive medical assist-
3 ance under the State plan under this
4 title if evaluated for such assistance
5 under the State’s regular procedures
6 and notice of the process through
7 which a parent, guardian, or custodial
8 relative can request that the State
9 evaluate the child’s eligibility for med-
10 ical assistance under this title using
11 such regular procedures.

12 “(bb) A description of differences
13 between the medical assistance pro-
14 vided under this title and child health
15 assistance under title XXI, including
16 differences in cost-sharing require-
17 ments and covered benefits.

18 “(iii) TEMPORARY ENROLLMENT IN CHIP
19 PENDING SCREEN AND ENROLL.—

20 “(I) IN GENERAL.—Under this clause,
21 a State enrolls a child in child health as-
22 sistance under title XXI for a temporary
23 period if the child appears eligible for such
24 assistance based on an income finding by
25 an Express Lane agency.

1 “(II) DETERMINATION OF ELIGI-
2 BILITY.—During such temporary enroll-
3 ment period, the State shall determine the
4 child’s eligibility for child health assistance
5 under title XXI or for medical assistance
6 under this title in accordance with this
7 clause.

8 “(III) PROMPT FOLLOW UP.—In mak-
9 ing such a determination, the State shall
10 take prompt action to determine whether
11 the child should be enrolled in medical as-
12 sistance under this title or child health as-
13 sistance under title XXI pursuant to sub-
14 paragraphs (A) and (B) of section
15 2102(b)(3) (relating to screen and enroll).

16 “(IV) REQUIREMENT FOR SIMPLIFIED
17 DETERMINATION.—In making such a de-
18 termination, the State shall use procedures
19 that, to the maximum feasible extent, re-
20 duce the burden imposed on the individual
21 of such determination. Such procedures
22 may not require the child’s parent, guard-
23 ian, or custodial relative to provide or
24 verify information that already has been
25 provided to the State agency by an Ex-

1 press Lane agency or another source of in-
2 formation unless the State agency has rea-
3 son to believe the information is erroneous.

4 “(V) AVAILABILITY OF CHIP MATCH-
5 ING FUNDS DURING TEMPORARY ENROLL-
6 MENT PERIOD.—Medical assistance for
7 items and services that are provided to a
8 child enrolled in title XXI during a tem-
9 porary enrollment period under this clause
10 shall be treated as child health assistance
11 under such title.

12 “(D) OPTION FOR AUTOMATIC ENROLLMENT.—

13 “(i) IN GENERAL.—The State may initiate
14 and determine eligibility for medical assistance
15 under the State Medicaid plan or for child
16 health assistance under the State CHIP plan
17 without a program application from, or on be-
18 half of, the child based on data obtained from
19 sources other than the child (or the child’s fam-
20 ily), but a child can only be automatically en-
21 rolled in the State Medicaid plan or the State
22 CHIP plan if the child or the family affirma-
23 tively consents to being enrolled through affir-
24 mation and signature on an Express Lane

1 agency application, if the requirement of clause
2 (ii) is met.

3 “(ii) INFORMATION REQUIREMENT.—The
4 requirement of this clause is that the State in-
5 forms the parent, guardian, or custodial relative
6 of the child of the services that will be covered,
7 appropriate methods for using such services,
8 premium or other cost sharing charges (if any)
9 that apply, medical support obligations (under
10 section 1912(a)) created by enrollment (if appli-
11 cable), and the actions the parent, guardian, or
12 relative must take to maintain enrollment and
13 renew coverage.

14 “(E) CODING; APPLICATION TO ENROLLMENT
15 ERROR RATES.—

16 “(i) IN GENERAL.—For purposes of sub-
17 paragraph (A)(iv), the requirement of this sub-
18 paragraph for a State is that the State agrees
19 to—

20 “(I) assign such codes as the Sec-
21 retary shall require to the children who are
22 enrolled in the State Medicaid plan or the
23 State CHIP plan through reliance on a
24 finding made by an Express Lane agency

1 for the duration of the State’s election
2 under this paragraph;

3 “(II) annually provide the Secretary
4 with a statistically valid sample (that is ap-
5 proved by Secretary) of the children en-
6 rolled in such plans through reliance on
7 such a finding by conducting a full Med-
8 icaid eligibility review of the children iden-
9 tified for such sample for purposes of de-
10 termining an eligibility error rate (as de-
11 scribed in clause (iv)) with respect to the
12 enrollment of such children (and shall not
13 include such children in any data or sam-
14 ples used for purposes of complying with a
15 Medicaid Eligibility Quality Control
16 (MEQC) review or a payment error rate
17 measurement (PERM) requirement);

18 “(III) submit the error rate deter-
19 mined under subclause (II) to the Sec-
20 retary;

21 “(IV) if such error rate exceeds 3 per-
22 cent for either of the first 2 fiscal years in
23 which the State elects to apply this para-
24 graph, demonstrate to the satisfaction of
25 the Secretary the specific corrective actions

1 implemented by the State to improve upon
2 such error rate; and

3 “(V) if such error rate exceeds 3 per-
4 cent for any fiscal year in which the State
5 elects to apply this paragraph, a reduction
6 in the amount otherwise payable to the
7 State under section 1903(a) for quarters
8 for that fiscal year, equal to the total
9 amount of erroneous excess payments de-
10 termined for the fiscal year only with re-
11 spect to the children included in the sam-
12 ple for the fiscal year that are in excess of
13 a 3 percent error rate with respect to such
14 children.

15 “(ii) NO PUNITIVE ACTION BASED ON
16 ERROR RATE.—The Secretary shall not apply
17 the error rate derived from the sample under
18 clause (i) to the entire population of children
19 enrolled in the State Medicaid plan or the State
20 CHIP plan through reliance on a finding made
21 by an Express Lane agency, or to the popu-
22 lation of children enrolled in such plans on the
23 basis of the State’s regular procedures for de-
24 termining eligibility, or penalize the State on
25 the basis of such error rate in any manner

1 other than the reduction of payments provided
2 for under clause (i)(V).

3 “(iii) RULE OF CONSTRUCTION.—Nothing
4 in this paragraph shall be construed as relieving
5 a State that elects to apply this paragraph from
6 being subject to a penalty under section
7 1903(u), for payments made under the State
8 Medicaid plan with respect to ineligible individ-
9 uals and families that are determined to exceed
10 the error rate permitted under that section (as
11 determined without regard to the error rate de-
12 termined under clause (i)(II)).

13 “(iv) ERROR RATE DEFINED.—In this sub-
14 paragraph, the term ‘error rate’ means the rate
15 of erroneous excess payments for medical as-
16 sistance (as defined in section 1903(u)(1)(D))
17 for the period involved, except that such pay-
18 ments shall be limited to individuals for which
19 eligibility determinations are made under this
20 paragraph and except that in applying this
21 paragraph under title XXI, there shall be sub-
22 stituted for references to provisions of this title
23 corresponding provisions within title XXI.

24 “(F) EXPRESS LANE AGENCY.—

1 “(i) IN GENERAL.—In this paragraph, the
2 term ‘Express Lane agency’ means a public
3 agency that—

4 “(I) is determined by the State Med-
5 icaid agency or the State CHIP agency (as
6 applicable) to be capable of making the de-
7 terminations of one or more eligibility re-
8 quirements described in subparagraph
9 (A)(i);

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

12 “(III) notifies the child’s family—

13 “(aa) of the information which
14 shall be disclosed in accordance with
15 this paragraph;

16 “(bb) that the information dis-
17 closed will be used solely for purposes
18 of determining eligibility for medical
19 assistance under the State Medicaid
20 plan or for child health assistance
21 under the State CHIP plan; and

22 “(cc) that the family may elect to
23 not have the information disclosed for
24 such purposes; and

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

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

6 “(I) A public agency that determines
7 eligibility for assistance under any of the
8 following:

9 “(aa) The temporary assistance
10 for needy families program funded
11 under part A of title IV.

12 “(bb) A State program funded
13 under part D of title IV.

14 “(cc) The State Medicaid plan.

15 “(dd) The State CHIP plan.

16 “(ee) The Food and Nutrition
17 Act of 2008 (7 U.S.C. 2011 et seq.).

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

20 “(gg) The Richard B. Russell
21 National School Lunch Act (42
22 U.S.C. 1751 et seq.).

23 “(hh) The Child Nutrition Act of
24 1966 (42 U.S.C. 1771 et seq.).

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

4 “(jj) The Stewart B. McKinney
5 Homeless Assistance Act (42 U.S.C.
6 11301 et seq.).

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

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

12 “(II) A State-specified governmental
13 agency that has fiscal liability or legal re-
14 sponsibility for the accuracy of the eligi-
15 bility determination findings relied on by
16 the State.

17 “(III) A public agency that is subject
18 to an interagency agreement limiting the
19 disclosure and use of the information dis-
20 closed for purposes of determining eligi-
21 bility under the State Medicaid plan or the
22 State CHIP plan.

23 “(iii) EXCLUSIONS.—Such term does not
24 include an agency that determines eligibility for
25 a program established under the Social Services

1 Block Grant established under title XX or a
2 private, for-profit organization.

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

5 “(I) exempting a State Medicaid
6 agency from complying with the require-
7 ments of section 1902(a)(4) relating to
8 merit-based personnel standards for em-
9 ployees of the State Medicaid agency and
10 safeguards against conflicts of interest); or

11 “(II) authorizing a State Medicaid
12 agency that elects to use Express Lane
13 agencies under this subparagraph to use
14 the Express Lane option to avoid com-
15 plying with such requirements for purposes
16 of making eligibility determinations under
17 the State Medicaid plan.

18 “(v) ADDITIONAL DEFINITIONS.—In this
19 paragraph:

20 “(I) STATE.—The term ‘State’ means
21 1 of the 50 States or the District of Co-
22 lumbia.

23 “(II) STATE CHIP AGENCY.—The
24 term ‘State CHIP agency’ means the State

1 agency responsible for administering the
2 State CHIP plan.

3 “(III) STATE CHIP PLAN.—The term
4 ‘State CHIP plan’ means the State child
5 health plan established under title XXI
6 and includes any waiver of such plan.

7 “(IV) STATE MEDICAID AGENCY.—
8 The term ‘State Medicaid agency’ means
9 the State agency responsible for admin-
10 istering the State Medicaid plan.

11 “(V) STATE MEDICAID PLAN.—The
12 term ‘State Medicaid plan’ means the
13 State plan established under title XIX and
14 includes any waiver of such plan.

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

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

23 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.
24 1397gg(e)(1)) is amended by redesignating subpara-
25 graphs (B), (C), and (D) as subparagraphs (C), (D),

1 and (E), respectively, and by inserting after sub-
2 paragraph (A) the following new subparagraph:

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

7 (b) EVALUATION AND REPORT.—

8 (1) EVALUATION.—The Secretary shall con-
9 duct, by grant, contract, or interagency agreement,
10 a comprehensive, independent evaluation of the op-
11 tion provided under the amendments made by sub-
12 section (a). Such evaluation shall include an analysis
13 of the effectiveness of the option, and shall include—

14 (A) obtaining a statistically valid sample of
15 the children who were enrolled in the State
16 Medicaid plan or the State CHIP plan through
17 reliance on a finding made by an Express Lane
18 agency and determining the percentage of chil-
19 dren who were erroneously enrolled in such
20 plans;

21 (B) determining whether enrolling children
22 in such plans through reliance on a finding
23 made by an Express Lane agency improves the
24 ability of a State to identify and enroll low-in-

1 come, uninsured children who are eligible but
2 not enrolled in such plans;

3 (C) evaluating the administrative costs or
4 savings related to identifying and enrolling chil-
5 dren in such plans through reliance on such
6 findings, and the extent to which such costs dif-
7 fer from the costs that the State otherwise
8 would have incurred to identify and enroll low-
9 income, uninsured children who are eligible but
10 not enrolled in such plans; and

11 (D) any recommendations for legislative or
12 administrative changes that would improve the
13 effectiveness of enrolling children in such plans
14 through reliance on such findings.

15 (2) REPORT TO CONGRESS.—Not later than
16 September 30, 2012, the Secretary shall submit a
17 report to Congress on the results of the evaluation
18 under paragraph (1).

19 (3) FUNDING.—

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

1 (B) BUDGET AUTHORITY.—Subparagraph
2 (A) constitutes budget authority in advance of
3 appropriations Act and represents the obliga-
4 tion of the Federal Government to provide for
5 the payment of such amount to conduct the
6 evaluation under this subsection.

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

10 “(dd) ELECTRONIC TRANSMISSION OF INFORMA-
11 TION.—If the State agency determining eligibility for med-
12 ical assistance under this title or child health assistance
13 under title XXI verifies an element of eligibility based on
14 information from an Express Lane Agency (as defined in
15 subsection (e)(13)(F)), or from another public agency,
16 then the applicant’s signature under penalty of perjury
17 shall not be required as to such element. Any signature
18 requirement for an application for medical assistance may
19 be satisfied through an electronic signature, as defined in
20 section 1710(1) of the Government Paperwork Elimini-
21 nation Act (44 U.S.C. 3504 note). The requirements of
22 subparagraphs (A) and (B) of section 1137(d)(2) may be
23 met through evidence in digital or electronic form.”.

24 (d) AUTHORIZATION OF INFORMATION DISCLO-
25 SURE.—

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

3 **“SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT IN-**
4 **FORMATION.**

5 “(a) IN GENERAL.—Notwithstanding any other pro-
6 vision of law, a Federal or State agency or private entity
7 in possession of the sources of data directly relevant to
8 eligibility determinations under this title (including eligi-
9 bility files maintained by Express Lane agencies described
10 in section 1902(e)(13)(F), information described in para-
11 graph (2) or (3) of section 1137(a), vital records informa-
12 tion about births in any State, and information described
13 in sections 453(i) and 1902(a)(25)(I)) is authorized to
14 convey such data or information to the State agency ad-
15 ministering the State plan under this title, to the extent
16 such conveyance meets the requirements of subsection (b).

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

20 “(1) The individual whose circumstances are
21 described in the data or information (or such indi-
22 vidual’s parent, guardian, caretaker relative, or au-
23 thorized representative) has either provided advance
24 consent to disclosure or has not objected to disclo-

1 sure after receiving advance notice of disclosure and
2 a reasonable opportunity to object.

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

5 “(A) identifying individuals who are eligi-
6 ble or potentially eligible for medical assistance
7 under this title and enrolling or attempting to
8 enroll such individuals in the State plan; and

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

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

13 “(A) prevents the unauthorized use, disclo-
14 sure, or modification of such data and other-
15 wise meets applicable Federal requirements
16 safeguarding privacy and data security; and

17 “(B) requires the State agency admin-
18 istering the State plan to use the data and in-
19 formation obtained under this section to seek to
20 enroll individuals in the plan.

21 “(c) PENALTIES FOR IMPROPER DISCLOSURE.—

22 “(1) CIVIL MONEY PENALTY.—A private entity
23 described in the subsection (a) that publishes, dis-
24 closes, or makes known in any manner, or to any ex-
25 tent not authorized by Federal law, any information

1 obtained under this section is subject to a civil
2 money penalty in an amount equal to \$10,000 for
3 each such unauthorized publication or disclosure.
4 The provisions of section 1128A (other than sub-
5 sections (a) and (b) and the second sentence of sub-
6 section (f)) shall apply to a civil money penalty
7 under this paragraph in the same manner as such
8 provisions apply to a penalty or proceeding under
9 section 1128A(a).

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

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

23 (2) CONFORMING AMENDMENT TO TITLE XXI.—
24 Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as

1 amended by subsection (a)(2), is amended by adding
2 at the end the following new subparagraph:

3 “(F) Section 1942 (relating to authoriza-
4 tion to receive data directly relevant to eligi-
5 bility determinations).”.

6 (3) CONFORMING AMENDMENT TO PROVIDE AC-
7 CESS TO DATA ABOUT ENROLLMENT IN INSURANCE
8 FOR PURPOSES OF EVALUATING APPLICATIONS AND
9 FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C.
10 1396a(a)(25)(I)(i)) is amended—

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

16 (B) by inserting “under this title (and, at
17 State option, child health assistance under title
18 XXI)” after “the State plan”.

19 (e) AUTHORIZATION FOR STATES ELECTING EX-
20 PRESS LANE OPTION TO RECEIVE CERTAIN DATA DI-
21 RECTLY RELEVANT TO DETERMINING ELIGIBILITY AND
22 CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall
23 enter into such agreements as are necessary to permit a
24 State that elects the Express Lane option under section
25 1902(e)(13) of the Social Security Act to receive data di-

1 rectly relevant to eligibility determinations and deter-
 2 mining the correct amount of benefits under a State child
 3 health plan under CHIP or a State plan under Medicaid
 4 from the following:

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

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

12 (f) EFFECTIVE DATE.—The amendments made by
 13 this section are effective on the date of the enactment of
 14 this Act.

15 **Subtitle B—Reducing Barriers to** 16 **Enrollment**

17 **SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP** 18 **OR NATIONALITY FOR PURPOSES OF ELIGI-** 19 **BILITY FOR MEDICAID AND CHIP.**

20 (a) ALTERNATIVE STATE PROCESS FOR
 21 VERIFICATION OF DECLARATION OF CITIZENSHIP OR NA-
 22 TIONALITY FOR PURPOSES OF ELIGIBILITY FOR MED-
 23 ICAID.—

24 (1) ALTERNATIVE TO DOCUMENTATION RE-
 25 QUIREMENT.—

1 (A) IN GENERAL.—Section 1902 (42
2 U.S.C. 1396a), as amended by section 203(c),
3 is amended—

4 (i) in subsection (a)(46)—

5 (I) by inserting “(A)” after
6 “(46)”;

7 (II) by adding “and” after the
8 semicolon; and

9 (III) by adding at the end the
10 following new subparagraph:

11 “(B) provide, with respect to an individual de-
12 claring to be a citizen or national of the United
13 States for purposes of establishing eligibility under
14 this title, that the State shall satisfy the require-
15 ments of—

16 “(i) section 1903(x); or

17 “(ii) subsection (ee);”; and

18 (ii) by adding at the end the following
19 new subsection:

20 “(ee)(1) For purposes of subsection (a)(46)(B)(ii),
21 the requirements of this subsection with respect to an indi-
22 vidual declaring to be a citizen or national of the United
23 States for purposes of establishing eligibility under this
24 title, are, in lieu of requiring the individual to present sat-
25 isfactory documentary evidence of citizenship or nation-

1 ality under section 1903(x) (if the individual is not de-
2 scribed in paragraph (2) of that section), as follows:

3 “(A) The State submits the name and social se-
4 curity number of the individual to the Commissioner
5 of Social Security as part of the program established
6 under paragraph (2).

7 “(B) If the State receives notice from the Com-
8 missioner of Social Security that the name or social
9 security number, or the declaration of citizenship or
10 nationality, of the individual is inconsistent with in-
11 formation in the records maintained by the Commis-
12 sioner—

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

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

3 “(I) notifies the individual of such
4 fact;

5 “(II) provides the individual with a
6 period of 90 days from the date on which
7 the notice required under subclause (I) is
8 received by the individual to either present
9 satisfactory documentary evidence of citi-
10 zenship or nationality (as defined in sec-
11 tion 1903(x)(3)) or resolve the inconsist-
12 ency with the Commissioner of Social Se-
13 curity (and continues to provide the indi-
14 vidual with medical assistance during such
15 90-day period); and

16 “(III) disenrolls the individual from
17 the State plan under this title within 30
18 days after the end of such 90-day period if
19 no such documentary evidence is presented
20 or if such inconsistency is not resolved.

21 “(2)(A) Each State electing to satisfy the require-
22 ments of this subsection for purposes of section
23 1902(a)(46)(B) shall establish a program under which the
24 State submits at least monthly to the Commissioner of So-
25 cial Security for comparison of the name and social secu-

1 rity number, of each individual newly enrolled in the State
2 plan under this title that month who is not described in
3 section 1903(x)(2) and who declares to be a United States
4 citizen or national, with information in records maintained
5 by the Commissioner.

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

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

15 “(ii) to provide for a determination of the con-
16 sistency of the information submitted with the infor-
17 mation maintained in the records of the Commis-
18 sioner through such other method as agreed to by
19 the State and the Commissioner and approved by
20 the Secretary, provided that such method is no more
21 burdensome for individuals to comply with than any
22 burdens that may apply under a method described in
23 clause (i).

24 “(C) The program established under this paragraph
25 shall provide that, in the case of any individual who is

1 required to submit a social security number to the State
2 under subparagraph (A) and who is unable to provide the
3 State with such number, shall be provided with at least
4 the reasonable opportunity to present satisfactory docu-
5 mentary evidence of citizenship or nationality (as defined
6 in section 1903(x)(3)) as is provided under clauses (i) and
7 (ii) of section 1137(d)(4)(A) to an individual for the sub-
8 mittal to the State of evidence indicating a satisfactory
9 immigration status.

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

20 “(i) the information submitted by the individual
21 is not consistent with information in records main-
22 tained by the Commissioner of Social Security;

23 “(ii) the inconsistency is not resolved by the
24 State;

1 “(iii) the individual was provided with a reason-
2 able period of time to resolve the inconsistency with
3 the Commissioner of Social Security or provide satis-
4 factory documentation of citizenship status and did
5 not successfully resolve such inconsistency; and

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

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

11 “(i) the State shall develop and adopt a correc-
12 tive plan to review its procedures for verifying the
13 identities of individuals seeking to enroll in the State
14 plan under this title and to identify and implement
15 changes in such procedures to improve their accu-
16 racy; and

17 “(ii) pay to the Secretary an amount equal to
18 the amount which bears the same ratio to the total
19 payments under the State plan for the fiscal year for
20 providing medical assistance to individuals who pro-
21 vided inconsistent information as the number of in-
22 dividuals with inconsistent information in excess of
23 3 percent of such total submitted bears to the total
24 number of individuals with inconsistent information.

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

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

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

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

16 (i) by striking “plus” at the end of
17 subparagraph (E) and inserting “and”,
18 and

19 (ii) by adding at the end the following
20 new subparagraph:

21 “(F)(i) 90 percent of the sums expended
22 during the quarter as are attributable to the de-
23 sign, development, or installation of such
24 mechanized verification and information re-
25 trieval systems as the Secretary determines are

1 necessary to implement section 1902(ee) (in-
2 cluding a system described in paragraph (2)(B)
3 thereof), and

4 “(ii) 75 percent of the sums expended dur-
5 ing the quarter as are attributable to the oper-
6 ation of systems to which clause (i) applies,
7 plus”.

8 (2) LIMITATION ON WAIVER AUTHORITY.—Not-
9 withstanding any provision of section 1115 of the
10 Social Security Act (42 U.S.C. 1315), or any other
11 provision of law, the Secretary may not waive the re-
12 quirements of section 1902(a)(46)(B) of such Act
13 (42 U.S.C. 1396a(a)(46)(B)) with respect to a
14 State.

15 (3) CONFORMING AMENDMENTS.—Section 1903
16 (42 U.S.C. 1396b) is amended—

17 (A) in subsection (i)(22), by striking “sub-
18 section (x)” and inserting “section
19 1902(a)(46)(B)”; and

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

23 (4) APPROPRIATION.—Out of any money in the
24 Treasury of the United States not otherwise appro-
25 priated, there are appropriated to the Commissioner

1 of Social Security \$5,000,000 to remain available
2 until expended to carry out the Commissioner's re-
3 sponsibilities under section 1902(ee) of the Social
4 Security Act, as added by subsection (a).

5 (b) CLARIFICATION OF REQUIREMENTS RELATING
6 TO PRESENTATION OF SATISFACTORY DOCUMENTARY
7 EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

8 (1) ACCEPTANCE OF DOCUMENTARY EVIDENCE
9 ISSUED BY A FEDERALLY RECOGNIZED INDIAN
10 TRIBE.—Section 1903(x)(3)(B) (42 U.S.C.
11 1396b(x)(3)(B)) is amended—

12 (A) by redesignating clause (v) as clause
13 (vi); and

14 (B) by inserting after clause (iv), the fol-
15 lowing new clause:

16 “(v)(I) Except as provided in subclause (II), a
17 document issued by a federally recognized Indian
18 tribe evidencing membership or enrollment in, or af-
19 filiation with, such tribe (such as a tribal enrollment
20 card or certificate of degree of Indian blood).

21 “(II) With respect to those federally recognized
22 Indian tribes located within States having an inter-
23 national border whose membership includes individ-
24 uals who are not citizens of the United States, the
25 Secretary shall, after consulting with such tribes,

1 issue regulations authorizing the presentation of
2 such other forms of documentation (including tribal
3 documentation, if appropriate) that the Secretary
4 determines to be satisfactory documentary evidence
5 of citizenship or nationality for purposes of satis-
6 fying the requirement of this subsection.”.

7 (2) REQUIREMENT TO PROVIDE REASONABLE
8 OPPORTUNITY TO PRESENT SATISFACTORY DOCU-
9 MENTARY EVIDENCE.—Section 1903(x) (42 U.S.C.
10 1396b(x)) is amended by adding at the end the fol-
11 lowing new paragraph:

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

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

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

4 (i) in paragraph (2)—

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

7 (II) by redesignating subpara-
8 graph (D) as subparagraph (E); and

9 (III) by inserting after subpara-
10 graph (C) the following new subpara-
11 graph:

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

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

23 “(5) Nothing in subparagraph (A) or (B) of section
24 1902(a)(46), the preceding paragraphs of this subsection,
25 or the Deficit Reduction Act of 2005, including section

1 6036 of such Act, shall be construed as changing the re-
2 quirement of section 1902(e)(4) that a child born in the
3 United States to an alien mother for whom medical assist-
4 ance for the delivery of such child is available as treatment
5 of an emergency medical condition pursuant to subsection
6 (v) shall be deemed eligible for medical assistance during
7 the first year of such child’s life.”.

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

21 (4) TECHNICAL AMENDMENTS.—Section
22 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

23 (A) in subparagraph (B)—

1 (i) by realigning the left margin of the
2 matter preceding clause (i) 2 ems to the
3 left; and

4 (ii) by realigning the left margins of
5 clauses (i) and (ii), respectively, 2 ems to
6 the left; and

7 (B) in subparagraph (C)—

8 (i) by realigning the left margin of the
9 matter preceding clause (i) 2 ems to the
10 left; and

11 (ii) by realigning the left margins of
12 clauses (i) and (ii), respectively, 2 ems to
13 the left.

14 (c) APPLICATION OF DOCUMENTATION SYSTEM TO
15 CHIP.—

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

20 “(9) CITIZENSHIP DOCUMENTATION REQUIRE-
21 MENTS.—

22 “(A) IN GENERAL.—No payment may be
23 made under this section with respect to an indi-
24 vidual who has, or is, declared to be a citizen
25 or national of the United States for purposes of

1 establishing eligibility under this title unless the
2 State meets the requirements of section
3 1902(a)(46)(B) with respect to the individual.

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

11 (2) NONAPPLICATION OF ADMINISTRATIVE EX-
12 PENDITURES CAP.—Section 2105(c)(2)(C) (42
13 U.S.C. 1397ee(c)(2)(C)), as amended by section
14 202(b), is amended by adding at the end the fol-
15 lowing:

16 “(ii) EXPENDITURES TO COMPLY
17 WITH CITIZENSHIP OR NATIONALITY
18 VERIFICATION REQUIREMENTS.—Expendi-
19 tures necessary for the State to comply
20 with paragraph (9)(A).”.

21 (d) EFFECTIVE DATE.—

22 (1) IN GENERAL.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), the amendments made by

1 this section shall take effect on October 1,
2 2009.

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

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

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

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

1 State may deem the individual to be eligible for such
2 assistance as of the date that the individual was de-
3 termined to be ineligible for such medical assistance
4 on such basis.

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

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

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

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

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

1 “(4) REDUCTION OF ADMINISTRATIVE BAR-
2 RIERS TO ENROLLMENT.—

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

15 “(B) DEEMED COMPLIANCE IF JOINT AP-
16 PLICATION AND RENEWAL PROCESS THAT PER-
17 MITS APPLICATION OTHER THAN IN PERSON.—
18 A State shall be deemed to comply with sub-
19 paragraph (A) if the State’s application and re-
20 newal forms and supplemental forms (if any)
21 and information verification process is the same
22 for purposes of establishing and renewing eligi-
23 bility for children and pregnant women for
24 medical assistance under title XIX and child
25 health assistance under this title, and such

1 process does not require an application to be
2 made in person or a face-to-face interview.”.

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

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

20 (b) REPORT TO CONGRESS.—After development of
21 such model process, the Secretary of Health and Human
22 Services shall submit to Congress a report describing addi-
23 tional steps or authority needed to make further improve-
24 ments to coordinate the enrollment, retention, and cov-

1 erage under CHIP and Medicaid of children described in
2 subsection (a).

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

7 (a) PURPOSE.—In order to promote the health of
8 needy children and pregnant women residing lawfully in
9 the United States, States should be permitted to waive
10 certain restrictions which result in a 5-year delay for cov-
11 erage of necessary health services for such children and
12 women under the Medicaid program and CHIP.

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

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

17 (2) by adding at the end the following new
18 paragraph:

19 “(4)(A) A State may elect (in a plan amendment
20 under this title) to provide, notwithstanding sections
21 401(a), 402(b), 403, and 421 of Public Law 104–193,
22 medical assistance under a State plan under this title to
23 children and pregnant women who are lawfully residing
24 in the United States (including battered individuals de-

1 scribed in section 431(c) of such Act) and are otherwise
2 eligible for such assistance.

3 “(B) Such election may be made only with respect
4 to either or both of the following categories of individuals:

5 “(i) Children.

6 “(ii) Pregnant women.

7 “(C) In this paragraph:

8 “(i) The term ‘pregnant women’ means
9 women during pregnancy (and during the 60-
10 day period beginning on the last day of the
11 pregnancy).

12 “(ii) The term ‘children’ means individuals
13 under age 19 (or such higher age as the State
14 has elected under section 1902(l)(1)(D)), in-
15 cluding optional targeted low-income children
16 described in section 1905(u)(2)(B).”.

17 (c) CHIP.—Section 2107(e)(1) of such Act (42
18 U.S.C. 1397gg(e)(1)), as amended by section 203(a)(2)
19 and 203(d)(2), is amended by redesignating subpara-
20 graphs (E) and (F) as subparagraphs (F) and (G), respec-
21 tively and by inserting after subparagraph (D) the fol-
22 lowing new subparagraph:

23 “(E) Paragraph (4) of section 1903(v), in-
24 sofar as it relates to the category of children or
25 pregnant women (as such terms are defined in

1 such paragraph), but only if the State has elect-
2 ed to apply such paragraph with respect to such
3 category of children or pregnant women under
4 title XIX and only if, in the case of pregnant
5 women, the State has elected the option under
6 section 2111 to provide assistance for pregnant
7 women under this title.”.

8 (d) CONFORMING AMENDMENT.—Section 423(d)(1)
9 of Public Law 104–193 is amended by inserting before
10 the period the following: “and medical or child health as-
11 sistance furnished under section 1903(v)(4) or
12 2107(e)(1)(E), respectively, of the Social Security Act”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section take effect on the date of the enactment of
15 this Act.

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

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

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

24 (a) CHIP.—

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

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

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

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

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

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

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

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

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

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

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

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

8 “(C) PREMIUM ASSISTANCE SUBSIDY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) DETERMINATION OF COST-EFFECTIVENESS
22 FOR PREMIUM ASSISTANCE OR PURCHASE OF FAM-
23 ILY COVERAGE.—

24 (A) IN GENERAL.—Section 2105(c)(3)(A)
25 (42 U.S.C. 1397ee(c)(3)(A)) is amended by

1 striking “relative to” and all that follows
2 through the comma and inserting “relative to

3 “(i) the amount of expenditures under
4 the State child health plan, including ad-
5 ministrative expenditures, that the State
6 would have made to provide comparable
7 coverage of the targeted low-income child
8 involved or the family involved (as applica-
9 ble); or

10 “(ii) the aggregate amount of expendi-
11 tures that the State would have made
12 under the State child health plan, includ-
13 ing administrative expenditures, for pro-
14 viding coverage under such plan for all
15 such children or families.”.

16 (B) NONAPPLICATION TO PREVIOUSLY AP-
17 PROVED COVERAGE.—The amendment made by
18 subparagraph (A) shall not apply to coverage
19 the purchase of which has been approved by the
20 Secretary under section 2105(c)(3) of the Social
21 Security Act prior to the date of enactment of
22 this Act.

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

1 “PREMIUM ASSISTANCE OPTION FOR CHILDREN

2 “SEC. 1906A. (a) IN GENERAL.—A State may elect
3 to offer a premium assistance subsidy (as defined in sub-
4 section (c)) for qualified employer-sponsored coverage (as
5 defined in subsection (b)) to all individuals under age 19
6 who are entitled to medical assistance under this title (and
7 to the parent of such an individual) who have access to
8 such coverage if the State meets the requirements of this
9 section.

10 “(b) QUALIFIED EMPLOYER-SPONSORED COV-
11 ERAGE.—

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

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

19 “(B) for which the employer contribution
20 toward any premium for such coverage is at
21 least 40 percent; and

22 “(C) that is offered to all individuals in a
23 manner that would be considered a nondiscrim-
24 inatory eligibility classification for purposes of
25 paragraph (3)(A)(ii) of section 105(h) of the

1 Internal Revenue Code of 1986 (but determined
2 without regard to clause (i) of subparagraph
3 (B) of such paragraph).

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

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

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

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

19 “(c) PREMIUM ASSISTANCE SUBSIDY.—In this sec-
20 tion, the term ‘premium assistance subsidy’ means the
21 amount of the employee contribution for enrollment in the
22 qualified employer-sponsored coverage by the individual
23 under age 19 or by the individual’s family. Premium as-
24 sistance subsidies under this section shall be considered,

1 for purposes of section 1903(a), to be a payment for med-
2 ical assistance.

3 “(d) VOLUNTARY PARTICIPATION.—

4 “(1) EMPLOYERS.—Participation by an em-
5 ployer in a premium assistance subsidy offered by a
6 State under this section shall be voluntary. An em-
7 ployer may notify a State that it elects to opt-out of
8 being directly paid a premium assistance subsidy on
9 behalf of an employee.

10 “(2) BENEFICIARIES.—No subsidy shall be pro-
11 vided to an individual under age 19 under this sec-
12 tion unless the individual (or the individual’s parent)
13 voluntarily elects to receive such a subsidy. A State
14 may not require such an election as a condition of
15 receipt of medical assistance. State may not require,
16 as a condition of an individual under age 19 (or the
17 individual’s parent) being or remaining eligible for
18 medical assistance under this title, apply for enroll-
19 ment in qualified employer-sponsored coverage under
20 this section.

21 “(3) OPT-OUT PERMITTED FOR ANY MONTH.—

22 A State shall establish a process for permitting the
23 parent of an individual under age 19 receiving a pre-
24 mium assistance subsidy to disenroll the individual
25 from the qualified employer-sponsored coverage.

1 “(e) REQUIREMENT TO PAY PREMIUMS AND COST-
2 SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In
3 the case of the participation of an individual under age
4 19 (or the individual’s parent) in a premium assistance
5 subsidy under this section for qualified employer-spon-
6 sored coverage, the State shall provide for payment of all
7 enrollee premiums for enrollment in such coverage and all
8 deductibles, coinsurance, and other cost-sharing obliga-
9 tions for items and services otherwise covered under the
10 State plan under this title (exceeding the amount other-
11 wise permitted under section 1916 or, if applicable, section
12 1916A). The fact that an individual under age 19 (or a
13 parent) elects to enroll in qualified employer-sponsored
14 coverage under this section shall not change the individ-
15 ual’s (or parent’s) eligibility for medical assistance under
16 the State plan, except insofar as section 1902(a)(25) pro-
17 vides that payments for such assistance shall first be made
18 under such coverage.”.

19 (c) GAO STUDY AND REPORT.—Not later than Janu-
20 ary 1, 2010, the Comptroller General of the United States
21 shall study cost and coverage issues relating to any State
22 premium assistance programs for which Federal matching
23 payments are made under title XIX or XXI of the Social
24 Security Act, including under waiver authority, and shall
25 submit a report to the Committee on Finance of the Sen-

1 ate and the Committee on Energy and Commerce of the
2 House of Representatives on the results of such study.

3 **SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT AS-**
4 **SISTANCE.**

5 (a) REQUIREMENT TO INCLUDE DESCRIPTION OF
6 OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS
7 RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE
8 CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C.
9 1397bb(c)) is amended by adding at the end the following
10 new paragraph:

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

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

6 “(iii) EXPENDITURES FOR OUTREACH
7 TO INCREASE THE ENROLLMENT OF CHIL-
8 DREN UNDER THIS TITLE AND TITLE XIX
9 THROUGH PREMIUM ASSISTANCE SUB-
10 SIDIES.—Expenditures for outreach activi-
11 ties to families of children likely to be eligi-
12 ble for premium assistance subsidies in ac-
13 cordance with paragraph (2)(B), (3), or
14 (10), or a waiver approved under section
15 1115, to inform such families of the avail-
16 ability of, and to assist them in enrolling
17 their children in, such subsidies, and to
18 employers likely to provide qualified em-
19 ployer-sponsored coverage (as defined in
20 subparagraph (B) of such paragraph), but
21 not to exceed an amount equal to 1.25 per-
22 cent of the maximum amount permitted to
23 be expended under subparagraph (A) for
24 items described in subsection (a)(1)(D).”.

1 **Subtitle B—Coordinating Premium**
 2 **Assistance With Private Coverage**

3 **SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP**
 4 **HEALTH PLANS IN CASE OF TERMINATION OF**
 5 **MEDICAID OR CHIP COVERAGE OR ELIGI-**
 6 **BILITY FOR ASSISTANCE IN PURCHASE OF**
 7 **EMPLOYMENT-BASED COVERAGE; COORDINA-**
 8 **TION OF COVERAGE.**

9 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
 10 1986.—Section 9801(f) of the Internal Revenue Code of
 11 1986 (relating to special enrollment periods) is amended
 12 by adding at the end the following new paragraph:

13 “(3) SPECIAL RULES RELATING TO MEDICAID
 14 AND CHIP.—

15 “(A) IN GENERAL.—A group health plan
 16 shall permit an employee who is eligible, but
 17 not enrolled, for coverage under the terms of
 18 the plan (or a dependent of such an employee
 19 if the dependent is eligible, but not enrolled, for
 20 coverage under such terms) to enroll for cov-
 21 erage under the terms of the plan if either of
 22 the following conditions is met:

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

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

10 “(ii) ELIGIBILITY FOR EMPLOYMENT
11 ASSISTANCE UNDER MEDICAID OR CHIP.—

12 The employee or dependent becomes eligi-
13 ble for assistance, with respect to coverage
14 under the group health plan under such
15 Medicaid plan or State child health plan
16 (including under any waiver or demonstra-
17 tion project conducted under or in relation
18 to such a plan), if the employee requests
19 coverage under the group health plan not
20 later than 60 days after the date the em-
21 ployee or dependent is determined to be el-
22 igible for such assistance.

23 “(B) EMPLOYEE OUTREACH AND DISCLO-
24 SURE.—

1 “(i) OUTREACH TO EMPLOYEES RE-
2 GARDING AVAILABILITY OF MEDICAID AND
3 CHIP COVERAGE.—

4 “(I) IN GENERAL.—Each em-
5 ployer that maintains a group health
6 plan in a State that provides medical
7 assistance under a State Medicaid
8 plan under title XIX of the Social Se-
9 curity Act, or child health assistance
10 under a State child health plan under
11 title XXI of such Act, in the form of
12 premium assistance for the purchase
13 of coverage under a group health
14 plan, shall provide to each employee a
15 written notice informing the employee
16 of potential opportunities then cur-
17 rently available in the State in which
18 the employee resides for premium as-
19 sistance under such plans for health
20 coverage of the employee or the em-
21 ployee’s dependents. For purposes of
22 compliance with this clause, the em-
23 ployer may use any State-specific
24 model notice developed in accordance
25 with section 701(f)(3)(B)(i)(II) of the

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

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

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

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

1 graph (10)(E) of such section or other au-
2 thority.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) AMENDMENTS TO EMPLOYEE RETIREMENT
5 INCOME SECURITY ACT.—

6 (A) IN GENERAL.—Section 701(f) of the
7 Employee Retirement Income Security Act of
8 1974 (29 U.S.C. 1181(f)) is amended by adding
9 at the end the following new paragraph:

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

12 “(A) IN GENERAL.—A group health plan,
13 and a health insurance issuer offering group
14 health insurance coverage in connection with a
15 group health plan, shall permit an employee
16 who is eligible, but not enrolled, for coverage
17 under the terms of the plan (or a dependent of
18 such an employee if the dependent is eligible,
19 but not enrolled, for coverage under such
20 terms) to enroll for coverage under the terms of
21 the plan if either of the following conditions is
22 met:

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

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

11 “(ii) ELIGIBILITY FOR EMPLOYMENT
12 ASSISTANCE UNDER MEDICAID OR CHIP.—
13 The employee or dependent becomes eligi-
14 ble for assistance, with respect to coverage
15 under the group health plan or health in-
16 surance coverage, under such Medicaid
17 plan or State child health plan (including
18 under any waiver or demonstration project
19 conducted under or in relation to such a
20 plan), if the employee requests coverage
21 under the group health plan or health in-
22 surance coverage not later than 60 days
23 after the date the employee or dependent is
24 determined to be eligible for such assist-
25 ance.

1 “(B) COORDINATION WITH MEDICAID AND
2 CHIP.—

3 “(i) OUTREACH TO EMPLOYEES RE-
4 GARDING AVAILABILITY OF MEDICAID AND
5 CHIP COVERAGE.—

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

24 “(II) MODEL NOTICE.—Not later
25 than 1 year after the date of enact-

1 ment of the Children’s Health Insur-
2 ance Program Reauthorization Act of
3 2009, the Secretary and the Secretary
4 of Health and Human Services, in
5 consultation with Directors of State
6 Medicaid agencies under title XIX of
7 the Social Security Act and Directors
8 of State CHIP agencies under title
9 XXI of such Act, shall jointly develop
10 national and State-specific model no-
11 tices for purposes of subparagraph
12 (A). The Secretary shall provide em-
13 ployers with such model notices so as
14 to enable employers to timely comply
15 with the requirements of subpara-
16 graph (A). Such model notices shall
17 include information regarding how an
18 employee may contact the State in
19 which the employee resides for addi-
20 tional information regarding potential
21 opportunities for such premium assist-
22 ance, including how to apply for such
23 assistance.

24 “(III) OPTION TO PROVIDE CON-
25 CURRENT WITH PROVISION OF PLAN

1 MATERIALS TO EMPLOYEE.—An em-
2 ployer may provide the model notice
3 applicable to the State in which an
4 employee resides concurrent with the
5 furnishing of materials notifying the
6 employee of health plan eligibility,
7 concurrent with materials provided to
8 the employee in connection with an
9 open season or election process con-
10 ducted under the plan, or concurrent
11 with the furnishing of the summary
12 plan description as provided in section
13 104(b).

14 “(ii) DISCLOSURE ABOUT GROUP
15 HEALTH PLAN BENEFITS TO STATES FOR
16 MEDICAID AND CHIP ELIGIBLE INDIVID-
17 UALS.—In the case of a participant or ben-
18 efiary of a group health plan who is cov-
19 ered under a Medicaid plan of a State
20 under title XIX of the Social Security Act
21 or under a State child health plan under
22 title XXI of such Act, the plan adminis-
23 trator of the group health plan shall dis-
24 close to the State, upon request, informa-
25 tion about the benefits available under the

1 group health plan in sufficient specificity,
2 as determined under regulations of the
3 Secretary of Health and Human Services
4 in consultation with the Secretary that re-
5 quire use of the model coverage coordina-
6 tion disclosure form developed under sec-
7 tion 311(b)(1)(C) of the Children’s Health
8 Insurance Program Reauthorization Act of
9 2009, so as to permit the State to make a
10 determination (under paragraph (2)(B),
11 (3), or (10) of section 2105(c) of the So-
12 cial Security Act or otherwise) concerning
13 the cost-effectiveness of the State pro-
14 viding medical or child health assistance
15 through premium assistance for the pur-
16 chase of coverage under such group health
17 plan and in order for the State to provide
18 supplemental benefits required under para-
19 graph (10)(E) of such section or other au-
20 thority.”.

21 (B) CONFORMING AMENDMENT.—Section
22 102(b) of the Employee Retirement Income Se-
23 curity Act of 1974 (29 U.S.C. 1022(b)) is
24 amended—

1 (i) by striking “and the remedies”
2 and inserting “, the remedies”; and

3 (ii) by inserting before the period the
4 following: “, and if the employer so elects
5 for purposes of complying with section
6 701(f)(3)(B)(i), the model notice applicable
7 to the State in which the participants and
8 beneficiaries reside”.

9 (C) WORKING GROUP TO DEVELOP MODEL
10 COVERAGE COORDINATION DISCLOSURE
11 FORM.—

12 (i) MEDICAID, CHIP, AND EMPLOYER-
13 SPONSORED COVERAGE COORDINATION
14 WORKING GROUP.—

15 (I) IN GENERAL.—Not later than
16 60 days after the date of enactment of
17 this Act, the Secretary of Health and
18 Human Services and the Secretary of
19 Labor shall jointly establish a Med-
20 icaid, CHIP, and Employer-Sponsored
21 Coverage Coordination Working
22 Group (in this subparagraph referred
23 to as the “Working Group”). The
24 purpose of the Working Group shall
25 be to develop the model coverage co-

1 ordination disclosure form described
2 in subclause (II) and to identify the
3 impediments to the effective coordina-
4 tion of coverage available to families
5 that include employees of employers
6 that maintain group health plans and
7 members who are eligible for medical
8 assistance under title XIX of the So-
9 cial Security Act or child health as-
10 sistance or other health benefits cov-
11 erage under title XXI of such Act.

12 (II) MODEL COVERAGE COORDI-
13 NATION DISCLOSURE FORM DE-
14 SCRIBED.—The model form described
15 in this subclause is a form for plan
16 administrators of group health plans
17 to complete for purposes of permitting
18 a State to determine the availability
19 and cost-effectiveness of the coverage
20 available under such plans to employ-
21 ees who have family members who are
22 eligible for premium assistance offered
23 under a State plan under title XIX or
24 XXI of such Act and to allow for co-
25 ordination of coverage for enrollees of

1 such plans. Such form shall provide
2 the following information in addition
3 to such other information as the
4 Working Group determines appro-
5 priate:

6 (aa) A determination of
7 whether the employee is eligible
8 for coverage under the group
9 health plan.

10 (bb) The name and contract
11 information of the plan adminis-
12 trator of the group health plan.

13 (cc) The benefits offered
14 under the plan.

15 (dd) The premiums and
16 cost-sharing required under the
17 plan.

18 (ee) Any other information
19 relevant to coverage under the
20 plan.

21 (ii) MEMBERSHIP.—The Working
22 Group shall consist of not more than 30
23 members and shall be composed of rep-
24 resentatives of—

25 (I) the Department of Labor;

1 (II) the Department of Health
2 and Human Services;

3 (III) State directors of the Med-
4 icaid program under title XIX of the
5 Social Security Act;

6 (IV) State directors of the State
7 Children’s Health Insurance Program
8 under title XXI of the Social Security
9 Act;

10 (V) employers, including owners
11 of small businesses and their trade or
12 industry representatives and certified
13 human resource and payroll profes-
14 sionals;

15 (VI) plan administrators and
16 plan sponsors of group health plans
17 (as defined in section 607(1) of the
18 Employee Retirement Income Security
19 Act of 1974);

20 (VII) health insurance issuers;
21 and

22 (VIII) children and other bene-
23 ficiaries of medical assistance under
24 title XIX of the Social Security Act or
25 child health assistance or other health

1 benefits coverage under title XXI of
2 such Act.

3 (iii) COMPENSATION.—The members
4 of the Working Group shall serve without
5 compensation.

6 (iv) ADMINISTRATIVE SUPPORT.—The
7 Department of Health and Human Serv-
8 ices and the Department of Labor shall
9 jointly provide appropriate administrative
10 support to the Working Group, including
11 technical assistance. The Working Group
12 may use the services and facilities of either
13 such Department, with or without reim-
14 bursement, as jointly determined by such
15 Departments.

16 (v) REPORT.—

17 (I) REPORT BY WORKING GROUP
18 TO THE SECRETARIES.—Not later
19 than 18 months after the date of the
20 enactment of this Act, the Working
21 Group shall submit to the Secretary of
22 Labor and the Secretary of Health
23 and Human Services the model form
24 described in clause (i)(II) along with a
25 report containing recommendations

1 for appropriate measures to address
2 the impediments to the effective co-
3 ordination of coverage between group
4 health plans and the State plans
5 under titles XIX and XXI of the So-
6 cial Security Act.

7 (II) REPORT BY SECRETARIES TO
8 THE CONGRESS.—Not later than 2
9 months after receipt of the report
10 pursuant to subclause (I), the Secre-
11 taries shall jointly submit a report to
12 each House of the Congress regarding
13 the recommendations contained in the
14 report under such subclause.

15 (vi) TERMINATION.—The Working
16 Group shall terminate 30 days after the
17 date of the issuance of its report under
18 clause (v).

19 (D) EFFECTIVE DATES.—The Secretary of
20 Labor and the Secretary of Health and Human
21 Services shall develop the initial model notices
22 under section 701(f)(3)(B)(i)(II) of the Em-
23 ployee Retirement Income Security Act of 1974,
24 and the Secretary of Labor shall provide such
25 notices to employers, not later than the date

1 that is 1 year after the date of enactment of
2 this Act, and each employer shall provide the
3 initial annual notices to such employer’s em-
4 ployees beginning with the first plan year that
5 begins after the date on which such initial
6 model notices are first issued. The model cov-
7 erage coordination disclosure form developed
8 under subparagraph (C) shall apply with re-
9 spect to requests made by States beginning
10 with the first plan year that begins after the
11 date on which such model coverage coordination
12 disclosure form is first issued.

13 (E) ENFORCEMENT.—Section 502 of the
14 Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1132) is amended—

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

18 (ii) in subsection (c), by redesignating
19 paragraph (9) as paragraph (10), and by
20 inserting after paragraph (8) the following:

21 “(9)(A) The Secretary may assess a civil penalty
22 against any employer of up to \$100 a day from the date
23 of the employer’s failure to meet the notice requirement
24 of section 701(f)(3)(B)(i)(I). For purposes of this sub-

1 paragraph, each violation with respect to any single em-
2 ployee shall be treated as a separate violation.

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

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

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

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

1 the plan if either of the following conditions is
2 met:

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

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

1 under the group health plan or health in-
2 surance coverage not later than 60 days
3 after the date the employee or dependent is
4 determined to be eligible for such assist-
5 ance.

6 “(B) COORDINATION WITH MEDICAID AND
7 CHIP.—

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

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

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

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

1 104(b) of the Employee Retirement
2 Income Security Act of 1974.

3 “(ii) DISCLOSURE ABOUT GROUP
4 HEALTH PLAN BENEFITS TO STATES FOR
5 MEDICAID AND CHIP ELIGIBLE INDIVID-
6 UALS.—In the case of an enrollee in a
7 group health plan who is covered under a
8 Medicaid plan of a State under title XIX
9 of the Social Security Act or under a State
10 child health plan under title XXI of such
11 Act, the plan administrator of the group
12 health plan shall disclose to the State,
13 upon request, information about the bene-
14 fits available under the group health plan
15 in sufficient specificity, as determined
16 under regulations of the Secretary of
17 Health and Human Services in consulta-
18 tion with the Secretary that require use of
19 the model coverage coordination disclosure
20 form developed under section 311(b)(1)(C)
21 of the Children’s Health Insurance Reau-
22 thorization Act of 2009, so as to permit
23 the State to make a determination (under
24 paragraph (2)(B), (3), or (10) of section
25 2105(c) of the Social Security Act or oth-

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

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

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

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

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

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

23 “(1) IN GENERAL.—Not later than January 1,
 24 2010, the Secretary shall identify and publish for
 25 general comment an initial, recommended core set of

1 child health quality measures for use by State pro-
2 grams administered under titles XIX and XXI,
3 health insurance issuers and managed care entities
4 that enter into contracts with such programs, and
5 providers of items and services under such pro-
6 grams.

7 “(2) IDENTIFICATION OF INITIAL CORE MEAS-
8 URES.—In consultation with the individuals and en-
9 tities described in subsection (b)(3), the Secretary
10 shall identify existing quality of care measures for
11 children that are in use under public and privately
12 sponsored health care coverage arrangements, or
13 that are part of reporting systems that measure both
14 the presence and duration of health insurance cov-
15 erage over time.

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

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

23 “(B) The availability and effectiveness of a
24 full range of—

1 “(i) preventive services, treatments,
2 and services for acute conditions, including
3 services to promote healthy birth, prevent
4 and treat premature birth, and detect the
5 presence or risk of physical or mental con-
6 ditions that could adversely affect growth
7 and development; and

8 “(ii) treatments to correct or amelio-
9 rate the effects of physical and mental con-
10 ditions, including chronic conditions, in in-
11 fants, young children, school-age children,
12 and adolescents.

13 “(C) The availability of care in a range of
14 ambulatory and inpatient health care settings
15 in which such care is furnished.

16 “(D) The types of measures that, taken to-
17 gether, can be used to estimate the overall na-
18 tional quality of health care for children, includ-
19 ing children with special needs, and to perform
20 comparative analyses of pediatric health care
21 quality and racial, ethnic, and socioeconomic
22 disparities in child health and health care for
23 children.

24 “(4) ENCOURAGE VOLUNTARY AND STANDARD-
25 IZED REPORTING.—Not later than 2 years after the

1 date of enactment of the Children’s Health Insur-
2 ance Program Reauthorization Act of 2009, the Sec-
3 retary, in consultation with States, shall develop a
4 standardized format for reporting information and
5 procedures and approaches that encourage States to
6 use the initial core measurement set to voluntarily
7 report information regarding the quality of pediatric
8 health care under titles XIX and XXI.

9 “(5) ADOPTION OF BEST PRACTICES IN IMPLE-
10 MENTING QUALITY PROGRAMS.—The Secretary shall
11 disseminate information to States regarding best
12 practices among States with respect to measuring
13 and reporting on the quality of health care for chil-
14 dren, and shall facilitate the adoption of such best
15 practices. In developing best practices approaches,
16 the Secretary shall give particular attention to State
17 measurement techniques that ensure the timeliness
18 and accuracy of provider reporting, encourage pro-
19 vider reporting compliance, encourage successful
20 quality improvement strategies, and improve effi-
21 ciency in data collection using health information
22 technology.

23 “(6) REPORTS TO CONGRESS.—Not later than
24 January 1, 2011, and every 3 years thereafter, the
25 Secretary shall report to Congress on—

1 “(A) the status of the Secretary’s efforts
2 to improve—

3 “(i) quality related to the duration
4 and stability of health insurance coverage
5 for children under titles XIX and XXI;

6 “(ii) the quality of children’s health
7 care under such titles, including preventive
8 health services, health care for acute condi-
9 tions, chronic health care, and health serv-
10 ices to ameliorate the effects of physical
11 and mental conditions and to aid in growth
12 and development of infants, young chil-
13 dren, school-age children, and adolescents
14 with special health care needs; and

15 “(iii) the quality of children’s health
16 care under such titles across the domains
17 of quality, including clinical quality, health
18 care safety, family experience with health
19 care, health care in the most integrated
20 setting, and elimination of racial, ethnic,
21 and socioeconomic disparities in health and
22 health care;

23 “(B) the status of voluntary reporting by
24 States under titles XIX and XXI, utilizing the
25 initial core quality measurement set; and

1 “(C) any recommendations for legislative
2 changes needed to improve the quality of care
3 provided to children under titles XIX and XXI,
4 including recommendations for quality reporting
5 by States.

6 “(7) TECHNICAL ASSISTANCE.—The Secretary
7 shall provide technical assistance to States to assist
8 them in adopting and utilizing core child health
9 quality measures in administering the State plans
10 under titles XIX and XXI.

11 “(8) DEFINITION OF CORE SET.—In this sec-
12 tion, the term ‘core set’ means a group of valid, reli-
13 able, and evidence-based quality measures that,
14 taken together—

15 “(A) provide information regarding the
16 quality of health coverage and health care for
17 children;

18 “(B) address the needs of children
19 throughout the developmental age span; and

20 “(C) allow purchasers, families, and health
21 care providers to understand the quality of care
22 in relation to the preventive needs of children,
23 treatments aimed at managing and resolving
24 acute conditions, and diagnostic and treatment
25 services whose purpose is to correct or amelio-

1 rate physical, mental, or developmental condi-
2 tions that could, if untreated or poorly treated,
3 become chronic.

4 “(b) ADVANCING AND IMPROVING PEDIATRIC QUAL-
5 ITY MEASURES.—

6 “(1) ESTABLISHMENT OF PEDIATRIC QUALITY
7 MEASURES PROGRAM.—Not later than January 1,
8 2011, the Secretary shall establish a pediatric qual-
9 ity measures program to—

10 “(A) improve and strengthen the initial
11 core child health care quality measures estab-
12 lished by the Secretary under subsection (a);

13 “(B) expand on existing pediatric quality
14 measures used by public and private health care
15 purchasers and advance the development of
16 such new and emerging quality measures; and

17 “(C) increase the portfolio of evidence-
18 based, consensus pediatric quality measures
19 available to public and private purchasers of
20 children’s health care services, providers, and
21 consumers.

22 “(2) EVIDENCE-BASED MEASURES.—The meas-
23 ures developed under the pediatric quality measures
24 program shall, at a minimum, be—

1 “(A) evidence-based and, where appro-
2 priate, risk adjusted;

3 “(B) designed to identify and eliminate ra-
4 cial and ethnic disparities in child health and
5 the provision of health care;

6 “(C) designed to ensure that the data re-
7 quired for such measures is collected and re-
8 ported in a standard format that permits com-
9 parison of quality and data at a State, plan,
10 and provider level;

11 “(D) periodically updated; and

12 “(E) responsive to the child health needs,
13 services, and domains of health care quality de-
14 scribed in clauses (i), (ii), and (iii) of subsection
15 (a)(6)(A).

16 “(3) PROCESS FOR PEDIATRIC QUALITY MEAS-
17 URES PROGRAM.—In identifying gaps in existing pe-
18 diatric quality measures and establishing priorities
19 for development and advancement of such measures,
20 the Secretary shall consult with—

21 “(A) States;

22 “(B) pediatricians, children’s hospitals,
23 and other primary and specialized pediatric
24 health care professionals (including members of
25 the allied health professions) who specialize in

1 the care and treatment of children, particularly
2 children with special physical, mental, and de-
3 velopmental health care needs;

4 “(C) dental professionals, including pedi-
5 atric dental professionals;

6 “(D) health care providers that furnish
7 primary health care to children and families
8 who live in urban and rural medically under-
9 served communities or who are members of dis-
10 tinct population sub-groups at heightened risk
11 for poor health outcomes;

12 “(E) national organizations representing
13 children, including children with disabilities and
14 children with chronic conditions;

15 “(F) national organizations representing
16 consumers and purchasers of children’s health
17 care;

18 “(G) national organizations and individuals
19 with expertise in pediatric health quality meas-
20 urement; and

21 “(H) voluntary consensus standards set-
22 ting organizations and other organizations in-
23 volved in the advancement of evidence-based
24 measures of health care.

1 “(4) DEVELOPING, VALIDATING, AND TESTING
2 A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—
3 As part of the program to advance pediatric quality
4 measures, the Secretary shall—

5 “(A) award grants and contracts for the
6 development, testing, and validation of new,
7 emerging, and innovative evidence-based meas-
8 ures for children’s health care services across
9 the domains of quality described in clauses (i),
10 (ii), and (iii) of subsection (a)(6)(A); and

11 “(B) award grants and contracts for—

12 “(i) the development of consensus on
13 evidence-based measures for children’s
14 health care services;

15 “(ii) the dissemination of such meas-
16 ures to public and private purchasers of
17 health care for children; and

18 “(iii) the updating of such measures
19 as necessary.

20 “(5) REVISING, STRENGTHENING, AND IMPROV-
21 ING INITIAL CORE MEASURES.—Beginning no later
22 than January 1, 2013, and annually thereafter, the
23 Secretary shall publish recommended changes to the
24 core measures described in subsection (a) that shall
25 reflect the testing, validation, and consensus process

1 for the development of pediatric quality measures
2 described in subsection paragraphs (1) through (4).

3 “(6) DEFINITION OF PEDIATRIC QUALITY
4 MEASURE.—In this subsection, the term ‘pediatric
5 quality measure’ means a measurement of clinical
6 care that is capable of being examined through the
7 collection and analysis of relevant information, that
8 is developed in order to assess 1 or more aspects of
9 pediatric health care quality in various institutional
10 and ambulatory health care settings, including the
11 structure of the clinical care system, the process of
12 care, the outcome of care, or patient experiences in
13 care.

14 “(7) CONSTRUCTION.—Nothing in this section
15 shall be construed as supporting the restriction of
16 coverage, under title XIX or XXI or otherwise, to
17 only those services that are evidence-based.

18 “(c) ANNUAL STATE REPORTS REGARDING STATE-
19 SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER
20 MEDICAID OR CHIP.—

21 “(1) ANNUAL STATE REPORTS.—Each State
22 with a State plan approved under title XIX or a
23 State child health plan approved under title XXI
24 shall annually report to the Secretary on the—

1 “(A) State-specific child health quality
2 measures applied by the States under such
3 plans, including measures described in subpara-
4 graphs (A) and (B) of subsection (a)(6); and

5 “(B) State-specific information on the
6 quality of health care furnished to children
7 under such plans, including information col-
8 lected through external quality reviews of man-
9 aged care organizations under section 1932 of
10 the Social Security Act (42 U.S.C. 1396u-4)
11 and benchmark plans under sections 1937 and
12 2103 of such Act (42 U.S.C. 1396u-7, 1397ee).

13 “(2) PUBLICATION.—Not later than September
14 30, 2010, and annually thereafter, the Secretary
15 shall collect, analyze, and make publicly available the
16 information reported by States under paragraph (1).

17 “(d) DEMONSTRATION PROJECTS FOR IMPROVING
18 THE QUALITY OF CHILDREN’S HEALTH CARE AND THE
19 USE OF HEALTH INFORMATION TECHNOLOGY.—

20 “(1) IN GENERAL.—During the period of fiscal
21 years 2009 through 2013, the Secretary shall award
22 not more than 10 grants to States and child health
23 providers to conduct demonstration projects to
24 evaluate promising ideas for improving the quality of

1 children’s health care provided under title XIX or
2 XXI, including projects to—

3 “(A) experiment with, and evaluate the use
4 of, new measures of the quality of children’s
5 health care under such titles (including testing
6 the validity and suitability for reporting of such
7 measures);

8 “(B) promote the use of health information
9 technology in care delivery for children under
10 such titles;

11 “(C) evaluate provider-based models which
12 improve the delivery of children’s health care
13 services under such titles, including care man-
14 agement for children with chronic conditions
15 and the use of evidence-based approaches to im-
16 prove the effectiveness, safety, and efficiency of
17 health care services for children; or

18 “(D) demonstrate the impact of the model
19 electronic health record format for children de-
20 veloped and disseminated under subsection (f)
21 on improving pediatric health, including the ef-
22 fects of chronic childhood health conditions, and
23 pediatric health care quality as well as reducing
24 health care costs.

1 “(2) REQUIREMENTS.—In awarding grants
2 under this subsection, the Secretary shall ensure
3 that—

4 “(A) only 1 demonstration project funded
5 under a grant awarded under this subsection
6 shall be conducted in a State; and

7 “(B) demonstration projects funded under
8 grants awarded under this subsection shall be
9 conducted evenly between States with large
10 urban areas and States with large rural areas.

11 “(3) AUTHORITY FOR MULTISTATE
12 PROJECTS.—A demonstration project conducted with
13 a grant awarded under this subsection may be con-
14 ducted on a multistate basis, as needed.

15 “(4) FUNDING.—\$20,000,000 of the amount
16 appropriated under subsection (i) for a fiscal year
17 shall be used to carry out this subsection.

18 “(e) CHILDHOOD OBESITY DEMONSTRATION
19 PROJECT.—

20 “(1) AUTHORITY TO CONDUCT DEMONSTRA-
21 TION.—The Secretary, in consultation with the Ad-
22 ministrator of the Centers for Medicare & Medicaid
23 Services, shall conduct a demonstration project to
24 develop a comprehensive and systematic model for
25 reducing childhood obesity by awarding grants to eli-

1 gible entities to carry out such project. Such model
2 shall—

3 “(A) identify, through self-assessment, be-
4 havioral risk factors for obesity among children;

5 “(B) identify, through self-assessment,
6 needed clinical preventive and screening benefits
7 among those children identified as target indi-
8 viduals on the basis of such risk factors;

9 “(C) provide ongoing support to such tar-
10 get individuals and their families to reduce risk
11 factors and promote the appropriate use of pre-
12 ventive and screening benefits; and

13 “(D) be designed to improve health out-
14 comes, satisfaction, quality of life, and appro-
15 priate use of items and services for which med-
16 ical assistance is available under title XIX or
17 child health assistance is available under title
18 XXI among such target individuals.

19 “(2) ELIGIBILITY ENTITIES.—For purposes of
20 this subsection, an eligible entity is any of the fol-
21 lowing:

22 “(A) A city, county, or Indian tribe.

23 “(B) A local or tribal educational agency.

24 “(C) An accredited university, college, or
25 community college.

1 “(D) A Federally-qualified health center.

2 “(E) A local health department.

3 “(F) A health care provider.

4 “(G) A community-based organization.

5 “(H) Any other entity determined appro-
6 priate by the Secretary, including a consortia or
7 partnership of entities described in any of sub-
8 paragraphs (A) through (G).

9 “(3) USE OF FUNDS.—An eligible entity award-
10 ed a grant under this subsection shall use the funds
11 made available under the grant to—

12 “(A) carry out community-based activities
13 related to reducing childhood obesity, including
14 by—

15 “(i) forming partnerships with enti-
16 ties, including schools and other facilities
17 providing recreational services, to establish
18 programs for after school and weekend
19 community activities that are designed to
20 reduce childhood obesity;

21 “(ii) forming partnerships with
22 daycare facilities to establish programs
23 that promote healthy eating behaviors and
24 physical activity; and

1 “(iii) developing and evaluating com-
2 munity educational activities targeting
3 good nutrition and promoting healthy eat-
4 ing behaviors;

5 “(B) carry out age-appropriate school-
6 based activities that are designed to reduce
7 childhood obesity, including by—

8 “(i) developing and testing edu-
9 cational curricula and intervention pro-
10 grams designed to promote healthy eating
11 behaviors and habits in youth, which may
12 include—

13 “(I) after hours physical activity
14 programs; and

15 “(II) science-based interventions
16 with multiple components to prevent
17 eating disorders including nutritional
18 content, understanding and respond-
19 ing to hunger and satiety, positive
20 body image development, positive self-
21 esteem development, and learning life
22 skills (such as stress management,
23 communication skills, problemsolving
24 and decisionmaking skills), as well as
25 consideration of cultural and develop-

1 mental issues, and the role of family,
2 school, and community;

3 “(ii) providing education and training
4 to educational professionals regarding how
5 to promote a healthy lifestyle and a
6 healthy school environment for children;

7 “(iii) planning and implementing a
8 healthy lifestyle curriculum or program
9 with an emphasis on healthy eating behav-
10 iors and physical activity; and

11 “(iv) planning and implementing
12 healthy lifestyle classes or programs for
13 parents or guardians, with an emphasis on
14 healthy eating behaviors and physical ac-
15 tivity for children;

16 “(C) carry out educational, counseling,
17 promotional, and training activities through the
18 local health care delivery systems including
19 by—

20 “(i) promoting healthy eating behav-
21 iors and physical activity services to treat
22 or prevent eating disorders, being over-
23 weight, and obesity;

1 “(ii) providing patient education and
2 counseling to increase physical activity and
3 promote healthy eating behaviors;

4 “(iii) training health professionals on
5 how to identify and treat obese and over-
6 weight individuals which may include nu-
7 trition and physical activity counseling;
8 and

9 “(iv) providing community education
10 by a health professional on good nutrition
11 and physical activity to develop a better
12 understanding of the relationship between
13 diet, physical activity, and eating disorders,
14 obesity, or being overweight; and

15 “(D) provide, through qualified health pro-
16 fessionals, training and supervision for commu-
17 nity health workers to—

18 “(i) educate families regarding the re-
19 lationship between nutrition, eating habits,
20 physical activity, and obesity;

21 “(ii) educate families about effective
22 strategies to improve nutrition, establish
23 healthy eating patterns, and establish ap-
24 propriate levels of physical activity; and

1 “(iii) educate and guide parents re-
2 garding the ability to model and commu-
3 nicate positive health behaviors.

4 “(4) PRIORITY.—In awarding grants under
5 paragraph (1), the Secretary shall give priority to
6 awarding grants to eligible entities—

7 “(A) that demonstrate that they have pre-
8 viously applied successfully for funds to carry
9 out activities that seek to promote individual
10 and community health and to prevent the inci-
11 dence of chronic disease and that can cite pub-
12 lished and peer-reviewed research dem-
13 onstrating that the activities that the entities
14 propose to carry out with funds made available
15 under the grant are effective;

16 “(B) that will carry out programs or ac-
17 tivities that seek to accomplish a goal or goals
18 set by the State in the Healthy People 2010
19 plan of the State;

20 “(C) that provide non-Federal contribu-
21 tions, either in cash or in-kind, to the costs of
22 funding activities under the grants;

23 “(D) that develop comprehensive plans
24 that include a strategy for extending program
25 activities developed under grants in the years

1 following the fiscal years for which they receive
2 grants under this subsection;

3 “(E) located in communities that are medi-
4 cally underserved, as determined by the Sec-
5 retary;

6 “(F) located in areas in which the average
7 poverty rate is at least 150 percent or higher of
8 the average poverty rate in the State involved,
9 as determined by the Secretary; and

10 “(G) that submit plans that exhibit multi-
11 sectoral, cooperative conduct that includes the
12 involvement of a broad range of stakeholders,
13 including—

14 “(i) community-based organizations;

15 “(ii) local governments;

16 “(iii) local educational agencies;

17 “(iv) the private sector;

18 “(v) State or local departments of
19 health;

20 “(vi) accredited colleges, universities,
21 and community colleges;

22 “(vii) health care providers;

23 “(viii) State and local departments of
24 transportation and city planning; and

1 “(ix) other entities determined appro-
2 priate by the Secretary.

3 “(5) PROGRAM DESIGN.—

4 “(A) INITIAL DESIGN.—Not later than 1
5 year after the date of enactment of the Chil-
6 dren’s Health Insurance Program Reauthoriza-
7 tion Act of 2009, the Secretary shall design the
8 demonstration project. The demonstration
9 should draw upon promising, innovative models
10 and incentives to reduce behavioral risk factors.
11 The Administrator of the Centers for Medicare
12 & Medicaid Services shall consult with the Di-
13 rector of the Centers for Disease Control and
14 Prevention, the Director of the Office of Minor-
15 ity Health, the heads of other agencies in the
16 Department of Health and Human Services,
17 and such professional organizations, as the Sec-
18 retary determines to be appropriate, on the de-
19 sign, conduct, and evaluation of the demonstra-
20 tion.

21 “(B) NUMBER AND PROJECT AREAS.—Not
22 later than 2 years after the date of enactment
23 of the Children’s Health Insurance Program
24 Reauthorization Act of 2009, the Secretary
25 shall award 1 grant that is specifically designed

1 to determine whether programs similar to pro-
2 grams to be conducted by other grantees under
3 this subsection should be implemented with re-
4 spect to the general population of children who
5 are eligible for child health assistance under
6 State child health plans under title XXI in
7 order to reduce the incidence of childhood obe-
8 sity among such population.

9 “(6) REPORT TO CONGRESS.—Not later than 3
10 years after the date the Secretary implements the
11 demonstration project under this subsection, the
12 Secretary shall submit to Congress a report that de-
13 scribes the project, evaluates the effectiveness and
14 cost effectiveness of the project, evaluates the bene-
15 ficiary satisfaction under the project, and includes
16 any such other information as the Secretary deter-
17 mines to be appropriate.

18 “(7) DEFINITIONS.—In this subsection:

19 “(A) FEDERALLY-QUALIFIED HEALTH
20 CENTER.—The term ‘Federally-qualified health
21 center’ has the meaning given that term in sec-
22 tion 1905(l)(2)(B).

23 “(B) INDIAN TRIBE.—The term ‘Indian
24 tribe’ has the meaning given that term in sec-

1 tion 4 of the Indian Health Care Improvement
2 Act (25 U.S.C. 1603).

3 “(C) SELF-ASSESSMENT.—The term ‘self-
4 assessment’ means a form that—

5 “(i) includes questions regarding—

6 “(I) behavioral risk factors;

7 “(II) needed preventive and
8 screening services; and

9 “(III) target individuals’ pref-
10 erences for receiving follow-up infor-
11 mation;

12 “(ii) is assessed using such computer
13 generated assessment programs; and

14 “(iii) allows for the provision of such
15 ongoing support to the individual as the
16 Secretary determines appropriate.

17 “(D) ONGOING SUPPORT.—The term ‘on-
18 going support’ means—

19 “(i) to provide any target individual
20 with information, feedback, health coach-
21 ing, and recommendations regarding—

22 “(I) the results of a self-assess-
23 ment given to the individual;

24 “(II) behavior modification based
25 on the self-assessment; and

1 “(III) any need for clinical pre-
2 ventive and screening services or
3 treatment including medical nutrition
4 therapy;

5 “(ii) to provide any target individual
6 with referrals to community resources and
7 programs available to assist the target in-
8 dividual in reducing health risks; and

9 “(iii) to provide the information de-
10 scribed in clause (i) to a health care pro-
11 vider, if designated by the target individual
12 to receive such information.

13 “(8) AUTHORIZATION OF APPROPRIATIONS.—
14 There is authorized to be appropriated to carry out
15 this subsection, \$25,000,000 for the period of fiscal
16 years 2009 through 2013.

17 “(f) DEVELOPMENT OF MODEL ELECTRONIC
18 HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN
19 MEDICAID OR CHIP.—

20 “(1) IN GENERAL.—Not later than January 1,
21 2010, the Secretary shall establish a program to en-
22 courage the development and dissemination of a
23 model electronic health record format for children
24 enrolled in the State plan under title XIX or the
25 State child health plan under title XXI that is—

1 “(A) subject to State laws, accessible to
2 parents, caregivers, and other consumers for
3 the sole purpose of demonstrating compliance
4 with school or leisure activity requirements,
5 such as appropriate immunizations or physicals;

6 “(B) designed to allow interoperable ex-
7 changes that conform with Federal and State
8 privacy and security requirements;

9 “(C) structured in a manner that permits
10 parents and caregivers to view and understand
11 the extent to which the care their children re-
12 ceive is clinically appropriate and of high qual-
13 ity; and

14 “(D) capable of being incorporated into,
15 and otherwise compatible with, other standards
16 developed for electronic health records.

17 “(2) FUNDING.—\$5,000,000 of the amount ap-
18 propriated under subsection (i) for a fiscal year shall
19 be used to carry out this subsection.

20 “(g) STUDY OF PEDIATRIC HEALTH AND HEALTH
21 CARE QUALITY MEASURES.—

22 “(1) IN GENERAL.—Not later than July 1,
23 2010, the Institute of Medicine shall study and re-
24 port to Congress on the extent and quality of efforts
25 to measure child health status and the quality of

1 health care for children across the age span and in
2 relation to preventive care, treatments for acute con-
3 ditions, and treatments aimed at ameliorating or
4 correcting physical, mental, and developmental con-
5 ditions in children. In conducting such study and
6 preparing such report, the Institute of Medicine
7 shall—

8 “(A) consider all of the major national
9 population-based reporting systems sponsored
10 by the Federal Government that are currently
11 in place, including reporting requirements
12 under Federal grant programs and national
13 population surveys and estimates conducted di-
14 rectly by the Federal Government;

15 “(B) identify the information regarding
16 child health and health care quality that each
17 system is designed to capture and generate, the
18 study and reporting periods covered by each
19 system, and the extent to which the information
20 so generated is made widely available through
21 publication;

22 “(C) identify gaps in knowledge related to
23 children’s health status, health disparities
24 among subgroups of children, the effects of so-
25 cial conditions on children’s health status and

1 use and effectiveness of health care, and the re-
2 lationship between child health status and fam-
3 ily income, family stability and preservation,
4 and children’s school readiness and educational
5 achievement and attainment; and

6 “(D) make recommendations regarding im-
7 proving and strengthening the timeliness, qual-
8 ity, and public transparency and accessibility of
9 information about child health and health care
10 quality.

11 “(2) FUNDING.—Up to \$1,000,000 of the
12 amount appropriated under subsection (i) for a fis-
13 cal year shall be used to carry out this subsection.

14 “(h) RULE OF CONSTRUCTION.—Notwithstanding
15 any other provision in this section, no evidence based qual-
16 ity measure developed, published, or used as a basis of
17 measurement or reporting under this section may be used
18 to establish an irrebuttable presumption regarding either
19 the medical necessity of care or the maximum permissible
20 coverage for any individual child who is eligible for and
21 receiving medical assistance under title XIX or child
22 health assistance under title XXI.

23 “(i) APPROPRIATION.—Out of any funds in the
24 Treasury not otherwise appropriated, there is appro-
25 priated for each of fiscal years 2009 through 2013,

1 \$45,000,000 for the purpose of carrying out this section
2 (other than subsection (e)). Funds appropriated under
3 this subsection shall remain available until expended.”.

4 (b) INCREASED MATCHING RATE FOR COLLECTING
5 AND REPORTING ON CHILD HEALTH MEASURES.—Sec-
6 tion 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amend-
7 ed—

8 (1) by striking “and” at the end of clause (i);
9 and

10 (2) by adding at the end the following new
11 clause:

12 “(iii) an amount equal to the Federal med-
13 ical assistance percentage (as defined in section
14 1905(b)) of so much of the sums expended dur-
15 ing such quarter (as found necessary by the
16 Secretary for the proper and efficient adminis-
17 tration of the State plan) as are attributable to
18 such developments or modifications of systems
19 of the type described in clause (i) as are nec-
20 essary for the efficient collection and reporting
21 on child health measures; and”.

1 **SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMA-**
2 **TION REGARDING ENROLLMENT OF CHIL-**
3 **DREN IN CHIP AND MEDICAID.**

4 (a) INCLUSION OF PROCESS AND ACCESS MEASURES
5 IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C.
6 1397hh) is amended—

7 (1) in subsection (a), in the matter preceding
8 paragraph (1), by striking “The State” and insert-
9 ing “Subject to subsection (e), the State”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(e) INFORMATION REQUIRED FOR INCLUSION IN
13 STATE ANNUAL REPORT.—The State shall include the fol-
14 lowing information in the annual report required under
15 subsection (a):

16 “(1) Eligibility criteria, enrollment, and reten-
17 tion data (including data with respect to continuity
18 of coverage or duration of benefits).

19 “(2) Data regarding the extent to which the
20 State uses process measures with respect to deter-
21 mining the eligibility of children under the State
22 child health plan, including measures such as 12-
23 month continuous eligibility, self-declaration of in-
24 come for applications or renewals, or presumptive
25 eligibility.

1 “(3) Data regarding denials of eligibility and
2 redeterminations of eligibility.

3 “(4) Data regarding access to primary and spe-
4 cialty services, access to networks of care, and care
5 coordination provided under the State child health
6 plan, using quality care and consumer satisfaction
7 measures included in the Consumer Assessment of
8 Healthcare Providers and Systems (CAHPS) survey.

9 “(5) If the State provides child health assist-
10 ance in the form of premium assistance for the pur-
11 chase of coverage under a group health plan, data
12 regarding the provision of such assistance, including
13 the extent to which employer-sponsored health insur-
14 ance coverage is available for children eligible for
15 child health assistance under the State child health
16 plan, the range of the monthly amount of such as-
17 sistance provided on behalf of a child or family, the
18 number of children or families provided such assist-
19 ance on a monthly basis, the income of the children
20 or families provided such assistance, the benefits
21 and cost-sharing protection provided under the State
22 child health plan to supplement the coverage pur-
23 chased with such premium assistance, the effective
24 strategies the State engages in to reduce any admin-
25 istrative barriers to the provision of such assistance,

1 and, the effects, if any, of the provision of such as-
2 sistance on preventing the coverage provided under
3 the State child health plan from substituting for cov-
4 erage provided under employer-sponsored health in-
5 surance offered in the State.

6 “(6) To the extent applicable, a description of
7 any State activities that are designed to reduce the
8 number of uncovered children in the State, including
9 through a State health insurance connector program
10 or support for innovative private health coverage ini-
11 tiatives.”.

12 (b) STANDARDIZED REPORTING FORMAT.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Secretary
15 shall specify a standardized format for States to use
16 for reporting the information required under section
17 2108(e) of the Social Security Act, as added by sub-
18 section (a)(2).

19 (2) TRANSITION PERIOD FOR STATES.—Each
20 State that is required to submit a report under sub-
21 section (a) of section 2108 of the Social Security Act
22 that includes the information required under sub-
23 section (e) of such section may use up to 3 reporting
24 periods to transition to the reporting of such infor-

1 mation in accordance with the standardized format
2 specified by the Secretary under paragraph (1).

3 (c) ADDITIONAL FUNDING FOR THE SECRETARY TO
4 IMPROVE TIMELINESS OF DATA REPORTING AND ANAL-
5 YSIS FOR PURPOSES OF DETERMINING ENROLLMENT IN-
6 CREASES UNDER MEDICAID AND CHIP.—

7 (1) APPROPRIATION.—There is appropriated,
8 out of any money in the Treasury not otherwise ap-
9 propriated, \$5,000,000 to the Secretary for fiscal
10 year 2009 for the purpose of improving the timeli-
11 ness of the data reported and analyzed from the
12 Medicaid Statistical Information System (MSIS) for
13 purposes of providing more timely data on enroll-
14 ment and eligibility of children under Medicaid and
15 CHIP and to provide guidance to States with re-
16 spect to any new reporting requirements related to
17 such improvements. Amounts appropriated under
18 this paragraph shall remain available until expended.

19 (2) REQUIREMENTS.—The improvements made
20 by the Secretary under paragraph (1) shall be de-
21 signed and implemented (including with respect to
22 any necessary guidance for States to report such in-
23 formation in a complete and expeditious manner) so
24 that, beginning no later than October 1, 2009, data
25 regarding the enrollment of low-income children (as

1 defined in section 2110(c)(4) of the Social Security
2 Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in
3 the State plan under Medicaid or the State child
4 health plan under CHIP with respect to a fiscal year
5 shall be collected and analyzed by the Secretary
6 within 6 months of submission.

7 (d) GAO STUDY AND REPORT ON ACCESS TO PRI-
8 MARY AND SPECIALITY SERVICES.—

9 (1) IN GENERAL.—The Comptroller General of
10 the United States shall conduct a study of children’s
11 access to primary and specialty services under Med-
12 icaid and CHIP, including—

13 (A) the extent to which providers are will-
14 ing to treat children eligible for such programs;

15 (B) information on such children’s access
16 to networks of care;

17 (C) geographic availability of primary and
18 specialty services under such programs;

19 (D) the extent to which care coordination
20 is provided for children’s care under Medicaid
21 and CHIP; and

22 (E) as appropriate, information on the de-
23 gree of availability of services for children under
24 such programs.

1 to coverage and such entities and organizations
2 under title XIX.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to contract years for health
5 plans beginning on or after July 1, 2009.

6 **TITLE V—IMPROVING ACCESS**
7 **TO BENEFITS**

8 **SEC. 501. DENTAL BENEFITS.**

9 (a) COVERAGE.—

10 (1) IN GENERAL.—Section 2103 (42 U.S.C.
11 1397cc) is amended—

12 (A) in subsection (a)—

13 (i) in the matter before paragraph
14 (1), by striking “subsection (c)(5)” and in-
15 sserting “paragraphs (5) and (7) of sub-
16 section (c)”;

17 (ii) in paragraph (1), by inserting “at
18 least” after “that is”; and

19 (B) in subsection (c)—

20 (i) by redesignating paragraph (5) as
21 paragraph (7); and

22 (ii) by inserting after paragraph (4),
23 the following:

24 “(5) DENTAL BENEFITS.—

1 “(A) IN GENERAL.—The child health as-
2 sistance provided to a targeted low-income child
3 shall include coverage of dental services nec-
4 essary to prevent disease and promote oral
5 health, restore oral structures to health and
6 function, and treat emergency conditions.

7 “(B) PERMITTING USE OF DENTAL
8 BENCHMARK PLANS BY CERTAIN STATES.—A
9 State may elect to meet the requirement of sub-
10 paragraph (A) through dental coverage that is
11 equivalent to a benchmark dental benefit pack-
12 age described in subparagraph (C).

13 “(C) BENCHMARK DENTAL BENEFIT PACK-
14 AGES.—The benchmark dental benefit packages
15 are as follows:

16 “(i) FEHBP CHILDREN’S DENTAL
17 COVERAGE.—A dental benefits plan under
18 chapter 89A of title 5, United States Code,
19 that has been selected most frequently by
20 employees seeking dependent coverage,
21 among such plans that provide such de-
22 pendent coverage, in either of the previous
23 2 plan years.

24 “(ii) STATE EMPLOYEE DEPENDENT
25 DENTAL COVERAGE.—A dental benefits

1 plan that is offered and generally available
2 to State employees in the State involved
3 and that has been selected most frequently
4 by employees seeking dependent coverage,
5 among such plans that provide such de-
6 pendent coverage, in either of the previous
7 2 plan years.

8 “(iii) COVERAGE OFFERED THROUGH
9 COMMERCIAL DENTAL PLAN.—A dental
10 benefits plan that has the largest insured
11 commercial, non-medicaid enrollment of
12 dependent covered lives of such plans that
13 is offered in the State involved.”.

14 (2) ASSURING ACCESS TO CARE.—Section
15 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended
16 by inserting “and services described in section
17 2103(c)(5)” after “emergency services”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply to coverage of items
20 and services furnished on or after October 1, 2009.

21 (b) DENTAL EDUCATION FOR PARENTS OF
22 NEWBORNS.—The Secretary shall develop and implement,
23 through entities that fund or provide perinatal care serv-
24 ices to targeted low-income children under a State child
25 health plan under title XXI of the Social Security Act,

1 a program to deliver oral health educational materials that
2 inform new parents about risks for, and prevention of,
3 early childhood caries and the need for a dental visit with-
4 in their newborn’s first year of life.

5 (c) PROVISION OF DENTAL SERVICES THROUGH
6 FQHCs.—

7 (1) MEDICAID.—Section 1902(a) (42 U.S.C.
8 1396a(a)) is amended—

9 (A) by striking “and” at the end of para-
10 graph (70);

11 (B) by striking the period at the end of
12 paragraph (71) and inserting “; and”; and

13 (C) by inserting after paragraph (71) the
14 following new paragraph:

15 “(72) provide that the State will not prevent a
16 Federally-qualified health center from entering into
17 contractual relationships with private practice dental
18 providers in the provision of Federally-qualified
19 health center services.”.

20 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.
21 1397g(e)(1)), as amended by subsections (a)(2) and
22 (d)(2) of section 203, is amended by inserting after
23 subparagraph (B) the following new subparagraph
24 (and redesignating the succeeding subparagraphs ac-
25 cordingly):

1 “(C) Section 1902(a)(72) (relating to lim-
2 iting FQHC contracting for provision of dental
3 services).”.

4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall take effect on January 1,
6 2009.

7 (d) REPORTING INFORMATION ON DENTAL
8 HEALTH.—

9 (1) MEDICAID.—Section 1902(a)(43)(D)(iii)
10 (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by in-
11 serting “and other information relating to the provi-
12 sion of dental services to such children described in
13 section 2108(e)” after “receiving dental services,”.

14 (2) CHIP.—Section 2108 (42 U.S.C. 1397hh)
15 is amended by adding at the end the following new
16 subsection:

17 “(e) INFORMATION ON DENTAL CARE FOR CHIL-
18 DREN.—

19 “(1) IN GENERAL.—Each annual report under
20 subsection (a) shall include the following information
21 with respect to care and services described in section
22 1905(r)(3) provided to targeted low-income children
23 enrolled in the State child health plan under this
24 title at any time during the year involved:

1 “(A) The number of enrolled children by
2 age grouping used for reporting purposes under
3 section 1902(a)(43).

4 “(B) For children within each such age
5 grouping, information of the type contained in
6 questions 12(a)–(c) of CMS Form 416 (that
7 consists of the number of enrolled targeted low
8 income children who receive any, preventive, or
9 restorative dental care under the State plan).

10 “(C) For the age grouping that includes
11 children 8 years of age, the number of such
12 children who have received a protective sealant
13 on at least one permanent molar tooth.

14 “(2) INCLUSION OF INFORMATION ON ENROLL-
15 EES IN MANAGED CARE PLANS.—The information
16 under paragraph (1) shall include information on
17 children who are enrolled in managed care plans and
18 other private health plans and contracts with such
19 plans under this title shall provide for the reporting
20 of such information by such plans to the State.”.

21 (3) EFFECTIVE DATE.—The amendments made
22 by this subsection shall be effective for annual re-
23 ports submitted for years beginning after date of en-
24 actment.

1 (e) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER
2 INFORMATION TO ENROLLEES UNDER MEDICAID AND
3 CHIP.—The Secretary shall—

4 (1) work with States, pediatric dentists, and
5 other dental providers (including providers that are,
6 or are affiliated with, a school of dentistry) to in-
7 clude, not later than 6 months after the date of the
8 enactment of this Act, on the Insure Kids Now
9 website (<http://www.insurekidsnow.gov/>) and hotline
10 (1-877-KIDS-NOW) (or on any successor websites
11 or hotlines) a current and accurate list of all such
12 dentists and providers within each State that provide
13 dental services to children enrolled in the State plan
14 (or waiver) under Medicaid or the State child health
15 plan (or waiver) under CHIP, and shall ensure that
16 such list is updated at least quarterly; and

17 (2) work with States to include, not later than
18 6 months after the date of the enactment of this
19 Act, a description of the dental services provided
20 under each State plan (or waiver) under Medicaid
21 and each State child health plan (or waiver) under
22 CHIP on such Insure Kids Now website, and shall
23 ensure that such list is updated at least annually.

24 (f) INCLUSION OF STATUS OF EFFORTS TO IMPROVE
25 DENTAL CARE IN REPORTS ON THE QUALITY OF CHIL-

1 DREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—
2 Section 1139A(a), as added by section 401(a), is amend-
3 ed—

4 (1) in paragraph (3)(B)(ii), by inserting “and,
5 with respect to dental care, conditions requiring the
6 restoration of teeth, relief of pain and infection, and
7 maintenance of dental health” after “chronic condi-
8 tions”; and

9 (2) in paragraph (6)(A)(ii), by inserting “dental
10 care,” after “preventive health services,”.

11 (g) GAO STUDY AND REPORT.—

12 (1) STUDY.—The Comptroller General of the
13 United States shall provide for a study that exam-
14 ines—

15 (A) access to dental services by children in
16 underserved areas;

17 (B) children's access to oral health care,
18 including preventive and restorative services,
19 under Medicaid and CHIP, including—

20 (i) the extent to which dental pro-
21 viders are willing to treat children eligible
22 for such programs;

23 (ii) information on such children's ac-
24 cess to networks of care, including such

1 networks that serve special needs children;
2 and

3 (iii) geographic availability of oral
4 health care, including preventive and re-
5 storative services, under such programs;
6 and

7 (C) the feasibility and appropriateness of
8 using qualified mid-level dental health pro-
9 viders, in coordination with dentists, to improve
10 access for children to oral health services and
11 public health overall.

12 (2) REPORT.—Not later than 18 months year
13 after the date of the enactment of this Act, the
14 Comptroller General shall submit to Congress a re-
15 port on the study conducted under paragraph (1).
16 The report shall include recommendations for such
17 Federal and State legislative and administrative
18 changes as the Comptroller General determines are
19 necessary to address any barriers to access to oral
20 health care, including preventive and restorative
21 services, under Medicaid and CHIP that may exist.

22 **SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.**

23 (a) ASSURANCE OF PARITY.—Section 2103(c) (42
24 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B),
25 is amended by inserting after paragraph (5), the following:

1 “(6) MENTAL HEALTH SERVICES PARITY.—

2 “(A) IN GENERAL.—In the case of a State
3 child health plan that provides both medical
4 and surgical benefits and mental health or sub-
5 stance use disorder benefits, such plan shall en-
6 sure that the financial requirements and treat-
7 ment limitations applicable to such mental
8 health or substance use disorder benefits com-
9 ply with the requirements of section 2705(a) of
10 the Public Health Service Act in the same man-
11 ner as such requirements apply to a group
12 health plan.

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

24 (b) CONFORMING AMENDMENTS.—Section 2103 (42
25 U.S.C. 1397cc) is amended—

1 (1) in subsection (a), as amended by section
 2 501(a)(1)(A)(i), in the matter preceding paragraph
 3 (1), by inserting “, (6),” after “(5)”; and

4 (2) in subsection (c)(2), by striking subpara-
 5 graph (B) and redesignating subparagraphs (C) and
 6 (D) as subparagraphs (B) and (C), respectively.

7 **SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYS-**
 8 **TEM FOR SERVICES PROVIDED BY FEDER-**
 9 **ALLY-QUALIFIED HEALTH CENTERS AND**
 10 **RURAL HEALTH CLINICS.**

11 (a) APPLICATION OF PROSPECTIVE PAYMENT SYS-
 12 TEM.—

13 (1) IN GENERAL.—Section 2107(e)(1) (42
 14 U.S.C. 1397gg(e)(1)), as amended by section
 15 501(c)(2) is amended by inserting after subpara-
 16 graph (C) the following new subparagraph (and re-
 17 designating the succeeding subparagraphs accord-
 18 ingly):

19 “(D) Section 1902(bb) (relating to pay-
 20 ment for services provided by Federally-quali-
 21 fied health centers and rural health clinics).”.

22 (2) EFFECTIVE DATE.—The amendment made
 23 by paragraph (1) shall apply to services provided on
 24 or after October 1, 2009.

25 (b) TRANSITION GRANTS.—

1 (1) APPROPRIATION.—Out of any funds in the
2 Treasury not otherwise appropriated, there is appro-
3 priated to the Secretary for fiscal year 2009,
4 \$5,000,000, to remain available until expended, for
5 the purpose of awarding grants to States with State
6 child health plans under CHIP that are operated
7 separately from the State Medicaid plan under title
8 XIX of the Social Security Act (including any waiver
9 of such plan), or in combination with the State Med-
10 icaid plan, for expenditures related to transitioning
11 to compliance with the requirement of section
12 2107(e)(1)(D) of the Social Security Act (as added
13 by subsection (a)) to apply the prospective payment
14 system established under section 1902(bb) of the
15 such Act (42 U.S.C. 1396a(bb)) to services provided
16 by Federally-qualified health centers and rural
17 health clinics.

18 (2) MONITORING AND REPORT.—The Secretary
19 shall monitor the impact of the application of such
20 prospective payment system on the States described
21 in paragraph (1) and, not later than October 1,
22 2011, shall report to Congress on any effect on ac-
23 cess to benefits, provider payment rates, or scope of
24 benefits offered by such States as a result of the ap-
25 plication of such payment system.

1 **SEC. 504. PREMIUM GRACE PERIOD.**

2 (a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C.
3 1397cc(e)(3)) is amended by adding at the end the fol-
4 lowing new subparagraph:

5 “(C) PREMIUM GRACE PERIOD.—The State
6 child health plan—

7 “(i) shall afford individuals enrolled
8 under the plan a grace period of at least
9 30 days from the beginning of a new cov-
10 erage period to make premium payments
11 before the individual’s coverage under the
12 plan may be terminated; and

13 “(ii) shall provide to such an indi-
14 vidual, not later than 7 days after the first
15 day of such grace period, notice—

16 “(I) that failure to make a pre-
17 mium payment within the grace pe-
18 riod will result in termination of cov-
19 erage under the State child health
20 plan; and

21 “(II) of the individual’s right to
22 challenge the proposed termination
23 pursuant to the applicable Federal
24 regulations.

25 For purposes of clause (i), the term ‘new cov-
26 erage period’ means the month immediately fol-

1 lowing the last month for which the premium
2 has been paid.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply to new coverage periods begin-
5 ning on or after the date of the enactment of this Act.

6 **SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES**
7 **PROVIDED THROUGH SCHOOL-BASED**
8 **HEALTH CENTERS.**

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

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

1 **TITLE VI—PROGRAM INTEGRITY**
2 **AND OTHER MISCELLANEOUS**
3 **PROVISIONS**

4 **Subtitle A—Program Integrity and**
5 **Data Collection**

6 **SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

7 (a) EXPENDITURES RELATED TO COMPLIANCE WITH
8 REQUIREMENTS.—

9 (1) ENHANCED PAYMENTS.—Section 2105(c)
10 (42 U.S.C. 1397ee(c)), as amended by section
11 301(a), is amended by adding at the end the fol-
12 lowing new paragraph:

13 “(11) ENHANCED PAYMENTS.—Notwith-
14 standing subsection (b), the enhanced FMAP with
15 respect to payments under subsection (a) for ex-
16 penditures related to the administration of the pay-
17 ment error rate measurement (PERM) requirements
18 applicable to the State child health plan in accord-
19 ance with the Improper Payments Information Act
20 of 2002 and parts 431 and 457 of title 42, Code of
21 Federal Regulations (or any related or successor
22 guidance or regulations) shall in no event be less
23 than 90 percent.”.

24 (2) EXCLUSION OF FROM CAP ON ADMINISTRA-
25 TIVE EXPENDITURES.—Section 2105(c)(2)(C) (42

1 U.S.C. 1397ee(c)(2)C)), as amended by section
2 302(b)), is amended by adding at the end the fol-
3 lowing:

4 “(iv) PAYMENT ERROR RATE MEAS-
5 UREMENT (PERM) EXPENDITURES.—Ex-
6 penditures related to the administration of
7 the payment error rate measurement
8 (PERM) requirements applicable to the
9 State child health plan in accordance with
10 the Improper Payments Information Act of
11 2002 and parts 431 and 457 of title 42,
12 Code of Federal Regulations (or any re-
13 lated or successor guidance or regula-
14 tions).”.

15 (b) FINAL RULE REQUIRED TO BE IN EFFECT FOR
16 ALL STATES.—Notwithstanding parts 431 and 457 of
17 title 42, Code of Federal Regulations (as in effect on the
18 date of enactment of this Act), the Secretary shall not cal-
19 culate or publish any national or State-specific error rate
20 based on the application of the payment error rate meas-
21 urement (in this section referred to as “PERM”) require-
22 ments to CHIP until after the date that is 6 months after
23 the date on which a new final rule (in this section referred
24 to as the “new final rule”) promulgated after the date of
25 the enactment of this Act and implementing such require-

1 ments in accordance with the requirements of subsection
2 (c) is in effect for all States. Any calculation of a national
3 error rate or a State specific error rate after such new
4 final rule in effect for all States may only be inclusive of
5 errors, as defined in such new final rule or in guidance
6 issued within a reasonable time frame after the effective
7 date for such new final rule that includes detailed guid-
8 ance for the specific methodology for error determinations.

9 (c) REQUIREMENTS FOR NEW FINAL RULE.—For
10 purposes of subsection (b), the requirements of this sub-
11 section are that the new final rule implementing the
12 PERM requirements shall—

13 (1) include—

14 (A) clearly defined criteria for errors for
15 both States and providers;

16 (B) a clearly defined process for appealing
17 error determinations by—

18 (i) review contractors; or

19 (ii) the agency and personnel de-
20 scribed in section 431.974(a)(2) of title 42,
21 Code of Federal Regulations, as in effect
22 on September 1, 2007, responsible for the
23 development, direction, implementation,
24 and evaluation of eligibility reviews and as-
25 sociated activities; and

1 (C) clearly defined responsibilities and
2 deadlines for States in implementing any cor-
3 rective action plans; and

4 (2) provide that the payment error rate deter-
5 mined for a State shall not take into account pay-
6 ment errors resulting from the State's verification of
7 an applicant's self-declaration or self-certification of
8 eligibility for, and the correct amount of, medical as-
9 sistance or child health assistance, if the State proc-
10 ess for verifying an applicant's self-declaration or
11 self-certification satisfies the requirements for such
12 process applicable under regulations promulgated by
13 the Secretary or otherwise approved by the Sec-
14 retary.

15 (d) OPTION FOR APPLICATION OF DATA FOR STATES
16 IN FIRST APPLICATION CYCLE UNDER THE INTERIM
17 FINAL RULE.—After the new final rule implementing the
18 PERM requirements in accordance with the requirements
19 of subsection (c) is in effect for all States, a State for
20 which the PERM requirements were first in effect under
21 an interim final rule for fiscal year 2007 or under a final
22 rule for fiscal year 2008 may elect to accept any payment
23 error rate determined in whole or in part for the State
24 on the basis of data for that fiscal year or may elect to
25 not have any payment error rate determined on the basis

1 of such data and, instead, shall be treated as if fiscal year
2 2010 or fiscal year 2011 were the first fiscal year for
3 which the PERM requirements apply to the State.

4 (e) HARMONIZATION OF MEQC AND PERM.—

5 (1) REDUCTION OF REDUNDANCIES.—The Sec-
6 retary shall review the Medicaid Eligibility Quality
7 Control (in this subsection referred to as the
8 “MEQC”) requirements with the PERM require-
9 ments and coordinate consistent implementation of
10 both sets of requirements, while reducing
11 redundancies.

12 (2) STATE OPTION TO APPLY PERM DATA.—A
13 State may elect, for purposes of determining the er-
14 roneous excess payments for medical assistance ratio
15 applicable to the State for a fiscal year under section
16 1903(u) of the Social Security Act (42 U.S.C.
17 1396b(u)) to substitute data resulting from the ap-
18 plication of the PERM requirements to the State
19 after the new final rule implementing such require-
20 ments is in effect for all States for data obtained
21 from the application of the MEQC requirements to
22 the State with respect to a fiscal year.

23 (3) STATE OPTION TO APPLY MEQC DATA.—For
24 purposes of satisfying the requirements of subpart Q
25 of part 431 of title 42, Code of Federal Regulations,

1 relating to Medicaid eligibility reviews, a State may
2 elect to substitute data obtained through MEQC re-
3 views conducted in accordance with section 1903(u)
4 of the Social Security Act (42 U.S.C. 1396b(u)) for
5 data required for purposes of PERM requirements,
6 but only if the State MEQC reviews are based on a
7 broad, representative sample of Medicaid applicants
8 or enrollees in the States.

9 (f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC
10 SAMPLE SIZES.—The Secretary shall establish State-spe-
11 cific sample sizes for application of the PERM require-
12 ments with respect to State child health plans for fiscal
13 years beginning with fiscal year 2009, on the basis of such
14 information as the Secretary determines appropriate. In
15 establishing such sample sizes, the Secretary shall, to the
16 greatest extent practicable—

17 (1) minimize the administrative cost burden on
18 States under Medicaid and CHIP; and

19 (2) maintain State flexibility to manage such
20 programs.

21 **SEC. 602. IMPROVING DATA COLLECTION.**

22 (a) INCREASED APPROPRIATION.—Section
23 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by strik-
24 ing “\$10,000,000 for fiscal year 2000” and inserting
25 “\$20,000,000 for fiscal year 2009”.

1 (b) USE OF ADDITIONAL FUNDS.—Section 2109(b)
2 (42 U.S.C. 1397ii(b)), as amended by subsection (a), is
3 amended—

4 (1) by redesignating paragraph (2) as para-
5 graph (4); and

6 (2) by inserting after paragraph (1), the fol-
7 lowing new paragraphs:

8 “(2) ADDITIONAL REQUIREMENTS.—In addition
9 to making the adjustments required to produce the
10 data described in paragraph (1), with respect to
11 data collection occurring for fiscal years beginning
12 with fiscal year 2009, in appropriate consultation
13 with the Secretary of Health and Human Services,
14 the Secretary of Commerce shall do the following:

15 “(A) Make appropriate adjustments to the
16 Current Population Survey to develop more ac-
17 curate State-specific estimates of the number of
18 children enrolled in health coverage under title
19 XIX or this title.

20 “(B) Make appropriate adjustments to the
21 Current Population Survey to improve the sur-
22 vey estimates used to determine the child popu-
23 lation growth factor under section
24 2104(m)(5)(B) and any other data necessary
25 for carrying out this title.

1 “(C) Include health insurance survey infor-
2 mation in the American Community Survey re-
3 lated to children.

4 “(D) Assess whether American Community
5 Survey estimates, once such survey data are
6 first available, produce more reliable estimates
7 than the Current Population Survey with re-
8 spect to the purposes described in subparagraph
9 (B).

10 “(E) On the basis of the assessment re-
11 quired under subparagraph (D), recommend to
12 the Secretary of Health and Human Services
13 whether American Community Survey estimates
14 should be used in lieu of, or in some combina-
15 tion with, Current Population Survey estimates
16 for the purposes described in subparagraph (B).

17 “(F) Continue making the adjustments de-
18 scribed in the last sentence of paragraph (1)
19 with respect to expansion of the sample size
20 used in State sampling units, the number of
21 sampling units in a State, and using an appro-
22 priate verification element.

23 “(3) AUTHORITY FOR THE SECRETARY OF
24 HEALTH AND HUMAN SERVICES TO TRANSITION TO
25 THE USE OF ALL, OR SOME COMBINATION OF, ACS

1 ESTIMATES UPON RECOMMENDATION OF THE SEC-
2 RETARY OF COMMERCE.—If, on the basis of the as-
3 sessment required under paragraph (2)(D), the Sec-
4 retary of Commerce recommends to the Secretary of
5 Health and Human Services that American Commu-
6 nity Survey estimates should be used in lieu of, or
7 in some combination with, Current Population Sur-
8 vey estimates for the purposes described in para-
9 graph (2)(B), the Secretary of Health and Human
10 Services, in consultation with the States, may pro-
11 vide for a period during which the Secretary may
12 transition from carrying out such purposes through
13 the use of Current Population Survey estimates to
14 the use of American Community Survey estimates
15 (in lieu of, or in combination with the Current Popu-
16 lation Survey estimates, as recommended), provided
17 that any such transition is implemented in a manner
18 that is designed to avoid adverse impacts upon
19 States with approved State child health plans under
20 this title.”.

21 **SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.**

22 Section 2108(c) (42 U.S.C. 1397hh(c)) is amended
23 by striking paragraph (5) and inserting the following:

24 “(5) SUBSEQUENT EVALUATION USING UP-
25 DATED INFORMATION.—

1 “(A) IN GENERAL.—The Secretary, di-
2 rectly or through contracts or interagency
3 agreements, shall conduct an independent sub-
4 sequent evaluation of 10 States with approved
5 child health plans.

6 “(B) SELECTION OF STATES AND MAT-
7 TERS INCLUDED.—Paragraphs (2) and (3) shall
8 apply to such subsequent evaluation in the
9 same manner as such provisions apply to the
10 evaluation conducted under paragraph (1).

11 “(C) SUBMISSION TO CONGRESS.—Not
12 later than December 31, 2011, the Secretary
13 shall submit to Congress the results of the eval-
14 uation conducted under this paragraph.

15 “(D) FUNDING.—Out of any money in the
16 Treasury of the United States not otherwise ap-
17 propriated, there are appropriated \$10,000,000
18 for fiscal year 2010 for the purpose of con-
19 ducting the evaluation authorized under this
20 paragraph. Amounts appropriated under this
21 subparagraph shall remain available for expend-
22 iture through fiscal year 2012.”.

1 **SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS**
2 **AND EVALUATIONS.**

3 Section 2108(d) (42 U.S.C. 1397hh(d)) is amended
4 to read as follows:

5 “(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS
6 AND EVALUATIONS.—For the purpose of evaluating and
7 auditing the program established under this title, or title
8 XIX, the Secretary, the Office of Inspector General, and
9 the Comptroller General shall have access to any books,
10 accounts, records, correspondence, and other documents
11 that are related to the expenditure of Federal funds under
12 this title and that are in the possession, custody, or control
13 of States receiving Federal funds under this title or polit-
14 ical subdivisions thereof, or any grantee or contractor of
15 such States or political subdivisions.”.

16 **SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS.**

17 Nothing in this Act allows Federal payment for indi-
18 viduals who are not lawfully residing in the United States.
19 Titles XI, XIX, and XXI of the Social Security Act pro-
20 vide for the disallowance of Federal financial participation
21 for erroneous expenditures under Medicaid and under
22 CHIP, respectively.

1 **Subtitle B—Miscellaneous Health**
2 **Provisions**

3 **SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORREC-**
4 **TIONS.**

5 (a) CLARIFICATION OF REQUIREMENT TO PROVIDE
6 EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK
7 BENEFIT PACKAGES UNDER MEDICAID.—Section
8 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by sec-
9 tion 6044(a) of the Deficit Reduction Act of 2005 (Public
10 Law 109–171, 120 Stat. 88), is amended—

11 (1) in subparagraph (A)—

12 (A) in the matter before clause (i)—

13 (i) by striking “Notwithstanding any
14 other provision of this title” and inserting
15 “Notwithstanding section 1902(a)(1) (re-
16 lating to statewideness), section
17 1902(a)(10)(B) (relating to comparability)
18 and any other provision of this title which
19 would be directly contrary to the authority
20 under this section and subject to sub-
21 section (E)”; and

22 (ii) by striking “enrollment in cov-
23 erage that provides” and inserting “cov-
24 erage that”;

1 (B) in clause (i), by inserting “provides”
2 after “(i)”; and

3 (C) by striking clause (ii) and inserting the
4 following:

5 “(ii) for any individual described in
6 section 1905(a)(4)(B) who is eligible under
7 the State plan in accordance with para-
8 graphs (10) and (17) of section 1902(a),
9 consists of the items and services described
10 in section 1905(a)(4)(B) (relating to early
11 and periodic screening, diagnostic, and
12 treatment services defined in section
13 1905(r)) and provided in accordance with
14 the requirements of section 1902(a)(43).”;

15 (2) in subparagraph (C)—

16 (A) in the heading, by striking “**WRAP-**
17 **AROUND**” and inserting “**ADDITIONAL**”; and

18 (B) by striking “wrap-around or”; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(E) **RULE OF CONSTRUCTION.**—Nothing
22 in this paragraph shall be construed as—

23 “(i) requiring a State to offer all or
24 any of the items and services required by
25 subparagraph (A)(ii) through an issuer of

1 benchmark coverage described in sub-
2 section (b)(1) or benchmark equivalent
3 coverage described in subsection (b)(2);

4 “(ii) preventing a State from offering
5 all or any of the items and services re-
6 quired by subparagraph (A)(ii) through an
7 issuer of benchmark coverage described in
8 subsection (b)(1) or benchmark equivalent
9 coverage described in subsection (b)(2); or

10 “(iii) affecting a child’s entitlement to
11 care and services described in subsections
12 (a)(4)(B) and (r) of section 1905 and pro-
13 vided in accordance with section
14 1902(a)(43) whether provided through
15 benchmark coverage, benchmark equivalent
16 coverage, or otherwise.”.

17 (b) CORRECTION OF REFERENCE TO CHILDREN IN
18 FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—
19 Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u-
20 7(a)(2)(B)(viii)), as inserted by section 6044(a) of the
21 Deficit Reduction Act of 2005, is amended by striking
22 “aid or assistance is made available under part B of title
23 IV to children in foster care and individuals” and inserting
24 “child welfare services are made available under part B
25 of title IV on the basis of being a child in foster care or”.

1 (c) TRANSPARENCY.—Section 1937 (42 U.S.C.
2 1396u–7), as inserted by section 6044(a) of the Deficit
3 Reduction Act of 2005, is amended by adding at the end
4 the following:

5 “(c) PUBLICATION OF PROVISIONS AFFECTED.—
6 With respect to a State plan amendment to provide bench-
7 mark benefits in accordance with subsections (a) and (b)
8 that is approved by the Secretary, the Secretary shall pub-
9 lish on the Internet website of the Centers for Medicare
10 & Medicaid Services, a list of the provisions of this title
11 that the Secretary has determined do not apply in order
12 to enable the State to carry out the plan amendment and
13 the reason for each such determination on the date such
14 approval is made, and shall publish such list in the Fed-
15 eral Register and not later than 30 days after such date
16 of approval.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 subsections (a), (b), and (c) of this section shall take effect
19 as if included in the amendment made by section 6044(a)
20 of the Deficit Reduction Act of 2005.

21 **SEC. 612. REFERENCES TO TITLE XXI.**

22 Section 704 of the Medicare, Medicaid, and SCHIP
23 Balanced Budget Refinement Act of 1999, as enacted into
24 law by division B of Public Law 106–113 (113 Stat.
25 1501A–402) is repealed.

1 **SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OP-**
2 **PORTUNITY ACCOUNT DEMONSTRATION PRO-**
3 **GRAMS.**

4 After the date of the enactment of this Act, the Sec-
5 retary of Health and Human Services may not approve
6 any new demonstration programs under section 1938 of
7 the Social Security Act (42 U.S.C. 1396u–8).

8 **SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID**
9 **FMAP TO DISREGARD AN EXTRAORDINARY**
10 **EMPLOYER PENSION CONTRIBUTION.**

11 (a) IN GENERAL.—Only for purposes of computing
12 the FMAP (as defined in subsection (e)) for a State for
13 a fiscal year (beginning with fiscal year 2006) and apply-
14 ing the FMAP under title XIX of the Social Security Act,
15 any significantly disproportionate employer pension or in-
16 surance fund contribution described in subsection (b) shall
17 be disregarded in computing the per capita income of such
18 State, but shall not be disregarded in computing the per
19 capita income for the continental United States (and Alas-
20 ka) and Hawaii.

21 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER
22 PENSION AND INSURANCE FUND CONTRIBUTION.—

23 (1) IN GENERAL.—For purposes of this section,
24 a significantly disproportionate employer pension
25 and insurance fund contribution described in this
26 subsection with respect to a State is any identifiable

1 employer contribution towards pension or other em-
2 ployee insurance funds that is estimated to accrue to
3 residents of such State for a calendar year (begin-
4 ning with calendar year 2003) if the increase in the
5 amount so estimated exceeds 25 percent of the total
6 increase in personal income in that State for the
7 year involved.

8 (2) DATA TO BE USED.—For estimating and
9 adjustment a FMAP already calculated as of the
10 date of the enactment of this Act for a State with
11 a significantly disproportionate employer pension
12 and insurance fund contribution, the Secretary shall
13 use the personal income data set originally used in
14 calculating such FMAP.

15 (3) SPECIAL ADJUSTMENT FOR NEGATIVE
16 GROWTH.—If in any calendar year the total personal
17 income growth in a State is negative, an employer
18 pension and insurance fund contribution for the pur-
19 poses of calculating the State's FMAP for a cal-
20 endar year shall not exceed 125 percent of the
21 amount of such contribution for the previous cal-
22 endar year for the State.

23 (c) HOLD HARMLESS.—No State shall have its
24 FMAP for a fiscal year reduced as a result of the applica-
25 tion of this section.

1 (d) REPORT.—Not later than May 15, 2009, the Sec-
2 retary shall submit to the Congress a report on the prob-
3 lems presented by the current treatment of pension and
4 insurance fund contributions in the use of Bureau of Eco-
5 nomic Affairs calculations for the FMAP and for Medicaid
6 and on possible alternative methodologies to mitigate such
7 problems.

8 (e) FMAP DEFINED.—For purposes of this section,
9 the term “FMAP” means the Federal medical assistance
10 percentage, as defined in section 1905(b) of the Social Se-
11 curity Act (42 U.S.C. 1396(d)).

12 **SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MED-**
13 **ICAL CENTER.**

14 (a) IN GENERAL.—Nothing in section 1903(w) of the
15 Social Security Act (42 U.S.C. 1396b(w)) shall be con-
16 strued by the Secretary of Health and Human Services
17 as prohibiting a State’s use of funds as the non-Federal
18 share of expenditures under title XIX of such Act where
19 such funds are transferred from or certified by a publicly-
20 owned regional medical center located in another State
21 and described in subsection (b), so long as the Secretary
22 determines that such use of funds is proper and in the
23 interest of the program under title XIX.

1 (b) CENTER DESCRIBED.—A center described in this
2 subsection is a publicly-owned regional medical center
3 that—

4 (1) provides level 1 trauma and burn care serv-
5 ices;

6 (2) provides level 3 neonatal care services;

7 (3) is obligated to serve all patients, regardless
8 of ability to pay;

9 (4) is located within a Standard Metropolitan
10 Statistical Area (SMSA) that includes at least 3
11 States;

12 (5) provides services as a tertiary care provider
13 for patients residing within a 125-mile radius; and

14 (6) meets the criteria for a disproportionate
15 share hospital under section 1923 of such Act (42
16 U.S.C. 1396r-4) in at least one State other than the
17 State in which the center is located.

18 **SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR**

19 **TENNESSEE AND HAWAII.**

20 Section 1923(f)(6) (42 U.S.C. 1396r-4(f)(6)), as
21 amended by section 202 of the Medicare Improvements
22 for Patients and Providers Act of 2008 (Public Law 110-
23 275) is amended—

24 (1) in the paragraph heading, by striking “2009

25 AND THE FIRST CALENDAR QUARTER OF FISCAL

1 YEAR 2010” and inserting “2011 AND THE FIRST CAL-
2 ENDAR QUARTER OF FISCAL YEAR 2012”;

3 (2) in subparagraph (A)—

4 (A) in clause (i)—

5 (i) in the second sentence—

6 (I) by striking “and 2009” and
7 inserting “, 2009, 2010, and 2011”;
8 and

9 (II) by striking “such portion
10 of”; and

11 (ii) in the third sentence, by striking
12 “2010 for the period ending on December
13 31, 2009” and inserting “2012 for the pe-
14 riod ending on December 31, 2011”;

15 (B) in clause (ii), by striking “or for a pe-
16 riod in fiscal year 2010” and inserting “2010,
17 2011, or for period in fiscal year 2012”; and

18 (C) in clause (iv)—

19 (i) in the clause heading, by striking
20 “2009 AND THE FIRST CALENDAR QUARTER
21 OF FISCAL YEAR 2010” and inserting “2011
22 AND THE FIRST CALENDAR QUARTER OF
23 FISCAL YEAR 2012”; and

24 (ii) in each of subclauses (I) and (II),
25 by striking “ or for a period in fiscal year

1 2010” and inserting “2010, 2011, or for a
2 period in fiscal year 2012”; and
3 (3) in subparagraph (B)—
4 (A) in clause (i)—
5 (i) in the first sentence, by striking
6 “2009” and inserting “2011”; and
7 (ii) in the second sentence, by striking
8 “2010 for the period ending on December
9 31, 2009” and inserting “2012 for the pe-
10 riod ending on December 31, 2011”.

11 **Subtitle C—Other Provisions**

12 **SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OP-** 13 **TIONS AVAILABLE TO CHILDREN.**

14 (a) DEFINITIONS.—In this section—

15 (1) the terms “Administration” and “Adminis-
16 trator” means the Small Business Administration
17 and the Administrator thereof, respectively;

18 (2) the term “certified development company”
19 means a development company participating in the
20 program under title V of the Small Business Invest-
21 ment Act of 1958 (15 U.S.C. 695 et seq.);

22 (3) the term “Medicaid program” means the
23 program established under title XIX of the Social
24 Security Act (42 U.S.C. 1396 et seq.);

1 (4) the term “Service Corps of Retired Execu-
2 tives” means the Service Corps of Retired Execu-
3 tives authorized by section 8(b)(1) of the Small
4 Business Act (15 U.S.C. 637(b)(1));

5 (5) the term “small business concern” has the
6 meaning given that term in section 3 of the Small
7 Business Act (15 U.S.C. 632);

8 (6) the term “small business development cen-
9 ter” means a small business development center de-
10 scribed in section 21 of the Small Business Act (15
11 U.S.C. 648);

12 (7) the term “State” has the meaning given
13 that term for purposes of title XXI of the Social Se-
14 curity Act (42 U.S.C. 1397aa et seq.);

15 (8) the term “State Children’s Health Insur-
16 ance Program” means the State Children’s Health
17 Insurance Program established under title XXI of
18 the Social Security Act (42 U.S.C. 1397aa et seq.);

19 (9) the term “task force” means the task force
20 established under subsection (b)(1); and

21 (10) the term “women’s business center” means
22 a women’s business center described in section 29 of
23 the Small Business Act (15 U.S.C. 656).

24 (b) ESTABLISHMENT OF TASK FORCE.—

1 (1) ESTABLISHMENT.—There is established a
2 task force to conduct a nationwide campaign of edu-
3 cation and outreach for small business concerns re-
4 garding the availability of coverage for children
5 through private insurance options, the Medicaid pro-
6 gram, and the State Children’s Health Insurance
7 Program.

8 (2) MEMBERSHIP.—The task force shall consist
9 of the Administrator, the Secretary of Health and
10 Human Services, the Secretary of Labor, and the
11 Secretary of the Treasury.

12 (3) RESPONSIBILITIES.—The campaign con-
13 ducted under this subsection shall include—

14 (A) efforts to educate the owners of small
15 business concerns about the value of health cov-
16 erage for children;

17 (B) information regarding options available
18 to the owners and employees of small business
19 concerns to make insurance more affordable, in-
20 cluding Federal and State tax deductions and
21 credits for health care-related expenses and
22 health insurance expenses and Federal tax ex-
23 clusion for health insurance options available
24 under employer-sponsored cafeteria plans under

1 section 125 of the Internal Revenue Code of
2 1986;

3 (C) efforts to educate the owners of small
4 business concerns about assistance available
5 through public programs; and

6 (D) efforts to educate the owners and em-
7 ployees of small business concerns regarding
8 the availability of the hotline operated as part
9 of the Insure Kids Now program of the Depart-
10 ment of Health and Human Services.

11 (4) IMPLEMENTATION.—In carrying out this
12 subsection, the task force may—

13 (A) use any business partner of the Ad-
14 ministration, including—

15 (i) a small business development cen-
16 ter;

17 (ii) a certified development company;

18 (iii) a women’s business center; and

19 (iv) the Service Corps of Retired Ex-
20 ecutives;

21 (B) enter into—

22 (i) a memorandum of understanding
23 with a chamber of commerce; and

1 (ii) a partnership with any appro-
2 priate small business concern or health ad-
3 vocacy group; and

4 (C) designate outreach programs at re-
5 gional offices of the Department of Health and
6 Human Services to work with district offices of
7 the Administration.

8 (5) WEBSITE.—The Administrator shall ensure
9 that links to information on the eligibility and enroll-
10 ment requirements for the Medicaid program and
11 State Children’s Health Insurance Program of each
12 State are prominently displayed on the website of
13 the Administration.

14 (6) REPORT.—

15 (A) IN GENERAL.—Not later than 2 years
16 after the date of enactment of this Act, and
17 every 2 years thereafter, the Administrator
18 shall submit to the Committee on Small Busi-
19 ness and Entrepreneurship of the Senate and
20 the Committee on Small Business of the House
21 of Representatives a report on the status of the
22 nationwide campaign conducted under para-
23 graph (1).

24 (B) CONTENTS.—Each report submitted
25 under subparagraph (A) shall include a status

1 update on all efforts made to educate owners
2 and employees of small business concerns on
3 options for providing health insurance for chil-
4 dren through public and private alternatives.

5 **SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO**
6 **AFFORDABLE AND MEANINGFUL HEALTH IN-**
7 **SURANCE COVERAGE.**

8 (a) FINDINGS.—The Senate finds the following:

9 (1) There are approximately 45 million Ameri-
10 cans currently without health insurance.

11 (2) More than half of uninsured workers are
12 employed by businesses with less than 25 employees
13 or are self-employed.

14 (3) Health insurance premiums continue to rise
15 at more than twice the rate of inflation for all con-
16 sumer goods.

17 (4) Individuals in the small group and indi-
18 vidual health insurance markets usually pay more
19 for similar coverage than those in the large group
20 market.

21 (5) The rapid growth in health insurance costs
22 over the last few years has forced many employers,
23 particularly small employers, to increase deductibles
24 and co-pays or to drop coverage completely.

25 (b) SENSE OF THE SENATE.—The Senate—

1 (1) recognizes the necessity to improve afford-
2 ability and access to health insurance for all Ameri-
3 cans;

4 (2) acknowledges the value of building upon the
5 existing private health insurance market; and

6 (3) affirms its intent to enact legislation this
7 year that, with appropriate protection for con-
8 sumers, improves access to affordable and meaning-
9 ful health insurance coverage for employees of small
10 businesses and individuals by—

11 (A) facilitating pooling mechanisms, in-
12 cluding pooling across State lines, and

13 (B) providing assistance to small busi-
14 nesses and individuals, including financial as-
15 sistance and tax incentives, for the purchase of
16 private insurance coverage.

17 **SEC. 623. LIMITATION ON MEDICARE EXCEPTION TO THE**
18 **PROHIBITION ON CERTAIN PHYSICIAN RE-**
19 **FERRALS FOR HOSPITALS.**

20 (a) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn)
21 is amended—

22 (1) in subsection (d)(2)—

23 (A) in subparagraph (A), by striking
24 “and” at the end;

1 (B) in subparagraph (B), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(C) in the case where the entity is a hos-
6 pital, the hospital meets the requirements of
7 paragraph (3)(D).”;

8 (2) in subsection (d)(3)—

9 (A) in subparagraph (B), by striking
10 “and” at the end;

11 (B) in subparagraph (C), by striking the
12 period at the end and inserting “; and”; and

13 (C) by adding at the end the following new
14 subparagraph:

15 “(D) the hospital meets the requirements
16 described in subsection (i)(1).”; and

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

19 “(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY
20 FOR RURAL PROVIDER AND HOSPITAL EXCEPTION TO
21 OWNERSHIP OR INVESTMENT PROHIBITION.—

22 “(1) REQUIREMENTS DESCRIBED.—For pur-
23 poses of subsection (d)(3)(D), the requirements de-
24 scribed in this paragraph for a hospital are as fol-
25 lows:

1 “(A) PROVIDER AGREEMENT.—The hos-
2 pital had—

3 “(i) physician ownership or invest-
4 ment on January 1, 2009; and

5 “(ii) a provider agreement under sec-
6 tion 1866 in effect on such date.

7 “(B) PROHIBITION ON PHYSICIAN OWNER-
8 SHIP OR INVESTMENT.—The percentage of the
9 total value of the ownership or investment in-
10 terests held in the hospital, or in an entity
11 whose assets include the hospital, by physician
12 owners or investors in the aggregate does not
13 exceed such percentage as of the date of enact-
14 ment of this subsection.

15 “(C) PROHIBITION ON EXPANSION OF FA-
16 CILITY CAPACITY.—Except as provided in para-
17 graph (3), the number of operating rooms, pro-
18 cedure rooms, and beds of the hospital at any
19 time on or after the date of the enactment of
20 this subsection are no greater than the number
21 of operating rooms, procedure rooms, and beds
22 as of such date.

23 “(D) PREVENTING CONFLICTS OF INTER-
24 EST.—

1 “(i) The hospital submits to the Sec-
2 retary an annual report containing a de-
3 tailed description of—

4 “(I) the identity of each physi-
5 cian owner and physician investor and
6 any other owners or investors of the
7 hospital; and

8 “(II) the nature and extent of all
9 ownership and investment interests in
10 the hospital.

11 “(ii) The hospital has procedures in
12 place to require that any referring physi-
13 cian owner or investor discloses to the pa-
14 tient being referred, by a time that permits
15 the patient to make a meaningful decision
16 regarding the receipt of care, as deter-
17 mined by the Secretary—

18 “(I) the ownership or investment
19 interest, as applicable, of such refer-
20 ring physician in the hospital; and

21 “(II) if applicable, any such own-
22 ership or investment interest of the
23 treating physician.

24 “(iii) The hospital does not condition
25 any physician ownership or investment in-

1 terests either directly or indirectly on the
2 physician owner or investor making or in-
3 fluencing referrals to the hospital or other-
4 wise generating business for the hospital.

5 “(iv) The hospital discloses the fact
6 that the hospital is partially owned by phy-
7 sicians—

8 “(I) on any public website for the
9 hospital; and

10 “(II) in any public advertising
11 for the hospital.

12 “(E) ENSURING BONA FIDE OWNERSHIP
13 AND INVESTMENT.—

14 “(i) Any ownership or investment in-
15 terests that the hospital offers to a physi-
16 cian owner or investor are not offered on
17 more favorable terms than the terms of-
18 fered to a person who is not a physician
19 owner or investor.

20 “(ii) The hospital (or any investors in
21 the hospital) does not directly or indirectly
22 provide loans or financing for any physi-
23 cian owner or investor in the hospital.

24 “(iii) The hospital (or any investors in
25 the hospital) does not directly or indirectly

1 guarantee a loan, make a payment toward
2 a loan, or otherwise subsidize a loan, for
3 any individual physician owner or investor
4 or group of physician owners or investors
5 that is related to acquiring any ownership
6 or investment interest in the hospital.

7 “(iv) Ownership or investment returns
8 are distributed to each owner or investor in
9 the hospital in an amount that is directly
10 proportional to the ownership or invest-
11 ment interest of such owner or investor in
12 the hospital.

13 “(v) Physician owners and investors
14 do not receive, directly or indirectly, any
15 guaranteed receipt of or right to purchase
16 other business interests related to the hos-
17 pital, including the purchase or lease of
18 any property under the control of other
19 owners or investors in the hospital or lo-
20 cated near the premises of the hospital.

21 “(vi) The hospital does not offer a
22 physician owner or investor the oppor-
23 tunity to purchase or lease any property
24 under the control of the hospital or any
25 other owner or investor in the hospital on

1 more favorable terms than the terms of-
2 ferred to an individual who is not a physi-
3 cian owner or investor.

4 “(F) PATIENT SAFETY.—The hospital has
5 the capacity to—

6 “(i) provide assessment and initial
7 treatment for patients; and

8 “(ii) refer and transfer patients to
9 hospitals with the capability to treat the
10 needs of the patient involved.

11 “(G) LIMITATION ON APPLICATION TO
12 CERTAIN CONVERTED FACILITIES.—The hos-
13 pital was not converted from an ambulatory
14 surgical center to a hospital on or after the date
15 of enactment of this subsection.

16 “(2) PUBLICATION OF INFORMATION RE-
17 PORTED.—The Secretary shall publish, and update
18 on an annual basis, the information submitted by
19 hospitals under paragraph (1)(D)(i) on the public
20 Internet website of the Centers for Medicare & Med-
21 icaid Services.

22 “(3) EXCEPTION TO PROHIBITION ON EXPAN-
23 SION OF FACILITY CAPACITY.—

24 “(A) PROCESS.—

1 “(i) ESTABLISHMENT.—The Secretary
2 shall establish and implement a process
3 under which an applicable hospital (as de-
4 fined in subparagraph (E)) may apply for
5 an exception from the requirement under
6 paragraph (1)(C).

7 “(ii) OPPORTUNITY FOR COMMUNITY
8 INPUT.—The process under clause (i) shall
9 provide individuals and entities in the com-
10 munity in which the applicable hospital ap-
11 plying for an exception is located with the
12 opportunity to provide input with respect
13 to the application.

14 “(iii) TIMING FOR IMPLEMENTA-
15 TION.—The Secretary shall implement the
16 process under clause (i) on July 1, 2010.

17 “(iv) REGULATIONS.—Not later than
18 June 1, 2010, the Secretary shall promul-
19 gate regulations to carry out the process
20 under clause (i).

21 “(B) FREQUENCY.—The process described
22 in subparagraph (A) shall permit an applicable
23 hospital to apply for an exception up to once
24 every 2 years.

25 “(C) PERMITTED INCREASE.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii) and subparagraph (D), an applicable
3 hospital granted an exception under the
4 process described in subparagraph (A) may
5 increase the number of operating rooms,
6 procedure rooms, and beds of the applica-
7 ble hospital above the baseline number of
8 operating rooms, procedure rooms, and
9 beds of the applicable hospital (or, if the
10 applicable hospital has been granted a pre-
11 vious exception under this paragraph,
12 above the number of operating rooms, pro-
13 cedure rooms, and beds of the hospital
14 after the application of the most recent in-
15 crease under such an exception).

16 “(ii) 100 PERCENT INCREASE LIMITA-
17 TION.—The Secretary shall not permit an
18 increase in the number of operating rooms,
19 procedure rooms, and beds of an applicable
20 hospital under clause (i) to the extent such
21 increase would result in the number of op-
22 erating rooms, procedure rooms, and beds
23 of the applicable hospital exceeding 200
24 percent of the baseline number of oper-

1 ating rooms, procedure rooms, and beds of
2 the applicable hospital.

3 “(iii) BASELINE NUMBER OF OPER-
4 ATING ROOMS, PROCEDURE ROOMS, AND
5 BEDS.—In this paragraph, the term ‘base-
6 line number of operating rooms, procedure
7 rooms, and beds’ means the number of op-
8 erating rooms, procedure rooms, and beds
9 of the applicable hospital as of the date of
10 enactment of this subsection.

11 “(D) INCREASE LIMITED TO FACILITIES
12 ON THE MAIN CAMPUS OF THE HOSPITAL.—
13 Any increase in the number of operating rooms,
14 procedure rooms, and beds of an applicable hos-
15 pital pursuant to this paragraph may only occur
16 in facilities on the main campus of the applica-
17 ble hospital.

18 “(E) APPLICABLE HOSPITAL.—In this
19 paragraph, the term ‘applicable hospital’ means
20 a hospital—

21 “(i) that is located in a county in
22 which the percentage increase in the popu-
23 lation during the most recent 5-year period
24 (as of the date of the application under
25 subparagraph (A)) is at least 150 percent

1 of the percentage increase in the popu-
2 lation growth of the State in which the
3 hospital is located during that period, as
4 estimated by Bureau of the Census and
5 available to the Secretary;

6 “(ii) whose annual percent of total in-
7 patient admissions that represent inpatient
8 admissions under the program under title
9 XIX is equal to or greater than the aver-
10 age percent with respect to such admis-
11 sions for all hospitals located in the county
12 in which the hospital is located;

13 “(iii) that does not discriminate
14 against beneficiaries of Federal health care
15 programs and does not permit physicians
16 practicing at the hospital to discriminate
17 against such beneficiaries;

18 “(iv) that is located in a State in
19 which the average bed capacity in the
20 State is less than the national average bed
21 capacity; and

22 “(v) that has an average bed occu-
23 pancy rate that is greater than the average
24 bed occupancy rate in the State in which
25 the hospital is located.

1 “(F) PROCEDURE ROOMS.—In this sub-
2 section, the term ‘procedure rooms’ includes
3 rooms in which catheterizations, angiographies,
4 angiograms, and endoscopies are performed, ex-
5 cept such term shall not include emergency
6 rooms or departments (exclusive of rooms in
7 which catheterizations, angiographies, angio-
8 grams, and endoscopies are performed).

9 “(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving
10 a complete application under this paragraph,
11 the Secretary shall publish in the Federal Reg-
12 ister the final decision with respect to such ap-
13 plication.
14

15 “(H) LIMITATION ON REVIEW.—There
16 shall be no administrative or judicial review
17 under section 1869, section 1878, or otherwise
18 of the process under this paragraph (including
19 the establishment of such process).

20 “(4) COLLECTION OF OWNERSHIP AND INVEST-
21 MENT INFORMATION.—For purposes of subpara-
22 graphs (A)(i) and (B) of paragraph (1), the Sec-
23 retary shall collect physician ownership and invest-
24 ment information for each hospital.

1 “(5) PHYSICIAN OWNER OR INVESTOR DE-
2 FINED.—For purposes of this subsection, the term
3 ‘physician owner or investor’ means a physician (or
4 an immediate family member of such physician) with
5 a direct or an indirect ownership or investment in-
6 terest in the hospital.

7 “(6) PATIENT SAFETY REQUIREMENT.—In the
8 case of a hospital to which the requirements of para-
9 graph (1) apply, insofar as the hospital described in
10 this subsection admits a patient and does not have
11 any physician available on the premises to provide
12 services during all hours in which the hospital is
13 providing services to such patient, before admitting
14 the patient—

15 “(A) the hospital shall disclose such fact to
16 a patient; and

17 “(B) following such disclosure, the hospital
18 shall receive from the patient a signed acknowl-
19 edgment that the patient understands such fact.

20 “(7) CLARIFICATION.—Nothing in this sub-
21 section shall be construed as preventing the Sec-
22 retary from revoking a hospital’s provider agreement
23 if not in compliance with regulations implementing
24 section 1866.”.

25 (b) ENFORCEMENT.—

1 (1) ENSURING COMPLIANCE.—The Secretary of
 2 Health and Human Services shall establish policies
 3 and procedures to ensure compliance with the re-
 4 quirements described in subsections (i)(1) and (i)(7)
 5 of section 1877 of the Social Security Act, as added
 6 by subsection (a)(3), beginning on the date such re-
 7 quirements first apply. Such policies and procedures
 8 may include unannounced site reviews of hospitals.

9 (2) AUDITS.—Beginning not later than July 1,
 10 2011, the Secretary of Health and Human Services
 11 shall conduct audits to determine if hospitals violate
 12 the requirements referred to in paragraph (1).

13 **TITLE VII—REVENUE** 14 **PROVISIONS**

15 **SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO** 16 **PRODUCTS.**

17 (a) CIGARS.—

18 (1) SMALL CIGARS.—Paragraph (1) of section
 19 5701(a) of the Internal Revenue Code of 1986 is
 20 amended to read as follows:

21 “(1) SMALL CIGARS.—On cigars, weighing not
 22 more than 3 pounds per thousand, the amount de-
 23 termined in accordance with the following table:

“Cigars Removed During Calendar Year—	Tax Rate Per Thou- sand—
2009 or 2010	\$12.50

“Cigars Removed During Calendar Year—	Tax Rate Per Thou- sand—
2011 or 2012	\$25.00
2013 or 2014	\$37.50
2015 or thereafter	\$50.00.”.

1 (2) LARGE CIGARS.—Paragraph (2) of section
2 5701(a) of such Code is amended—

3 (A) by striking “20.719 percent (18.063
4 percent on cigars removed during 2000 or
5 2001)” and inserting “52.4 percent”, and

6 (B) by striking “\$48.75 per thousand
7 (\$42.50 per thousand on cigars removed during
8 2000 or 2001)” and inserting “40 cents per
9 cigar”.

10 (b) CIGARETTES.—Section 5701(b) of such Code is
11 amended—

12 (1) by striking “\$19.50 per thousand (\$17 per
13 thousand on cigarettes removed during 2000 or
14 2001)” in paragraph (1) and inserting “\$50.00 per
15 thousand”, and

16 (2) by striking “\$40.95 per thousand (\$35.70
17 per thousand on cigarettes removed during 2000 or
18 2001)” in paragraph (2) and inserting “\$105.00 per
19 thousand”.

20 (c) CIGARETTE PAPERS.—Section 5701(c) of such
21 Code is amended by striking “1.22 cents (1.06 cents on

1 cigarette papers removed during 2000 or 2001)” and in-
2 serting “3.13 cents”.

3 (d) CIGARETTE TUBES.—Section 5701(d) of such
4 Code is amended by striking “2.44 cents (2.13 cents on
5 cigarette tubes removed during 2000 or 2001)” and in-
6 serting “6.26 cents”.

7 (e) SMOKELESS TOBACCO.—Section 5701(e) of such
8 Code is amended—

9 (1) by striking “58.5 cents (51 cents on snuff
10 removed during 2000 or 2001)” in paragraph (1)
11 and inserting “\$1.50”, and

12 (2) by striking “19.5 cents (17 cents on chew-
13 ing tobacco removed during 2000 or 2001)” in para-
14 graph (2) and inserting “50 cents”.

15 (f) PIPE TOBACCO.—Section 5701(f) of such Code is
16 amended by striking “\$1.0969 cents (95.67 cents on pipe
17 tobacco removed during 2000 or 2001)” and inserting
18 “\$2.8126”.

19 (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of
20 such Code is amended by striking “\$1.0969 cents (95.67
21 cents on roll-your-own tobacco removed during 2000 or
22 2001)” and inserting “\$24.62”.

23 (h) FLOOR STOCKS TAXES.—

24 (1) IMPOSITION OF TAX.—On tobacco products
25 (other than cigars described in section 5701(a)(2) of

1 the Internal Revenue Code of 1986) and cigarette
2 papers and tubes manufactured in or imported into
3 the United States which are removed before any tax
4 increase date and held on such date for sale by any
5 person, there is hereby imposed a tax in an amount
6 equal to the excess of—

7 (A) the tax which would be imposed under
8 section 5701 of such Code on the article if the
9 article had been removed on such date, over

10 (B) the prior tax (if any) imposed under
11 section 5701 of such Code on such article.

12 (2) CREDIT AGAINST TAX.—Each person shall
13 be allowed as a credit against the taxes imposed by
14 paragraph (1) an amount equal to \$500. Such credit
15 shall not exceed the amount of taxes imposed by
16 paragraph (1) on such date, for which such person
17 is liable.

18 (3) LIABILITY FOR TAX AND METHOD OF PAY-
19 MENT.—

20 (A) LIABILITY FOR TAX.—A person hold-
21 ing tobacco products, cigarette papers, or ciga-
22 rette tubes on any tax increase date, to which
23 any tax imposed by paragraph (1) applies shall
24 be liable for such tax.

1 (B) METHOD OF PAYMENT.—The tax im-
2 posed by paragraph (1) shall be paid in such
3 manner as the Secretary shall prescribe by reg-
4 ulations.

5 (C) TIME FOR PAYMENT.—

6 (i) IN GENERAL.—The tax imposed by
7 paragraph (1) shall be paid on or before
8 August 1, 2009.

9 (ii) SPECIAL RULE FOR SMALL CI-
10 GARS.—In the case of small cigars, the tax
11 imposed by paragraph (1) on or after Jan-
12 uary 1, 2011, shall be paid on or before
13 April 1 following any tax increase date.

14 (4) ARTICLES IN FOREIGN TRADE ZONES.—

15 Notwithstanding the Act of June 18, 1934 (com-
16 monly known as the Foreign Trade Zone Act, 48
17 Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-
18 sion of law, any article which is located in a foreign
19 trade zone on any tax increase date shall be subject
20 to the tax imposed by paragraph (1) if—

21 (A) internal revenue taxes have been deter-
22 mined, or customs duties liquidated, with re-
23 spect to such article before such date pursuant
24 to a request made under the 1st proviso of sec-
25 tion 3(a) of such Act, or

1 (B) such article is held on such date under
2 the supervision of an officer of the United
3 States Customs and Border Protection of the
4 Department of Homeland Security pursuant to
5 the 2d proviso of such section 3(a).

6 (5) DEFINITIONS.—For purposes of this sub-
7 section—

8 (A) IN GENERAL.—Any term used in this
9 subsection which is also used in section 5702 of
10 the Internal Revenue Code of 1986 shall have
11 the same meaning as such term has in such
12 section.

13 (B) TAX INCREASE DATE.—The term “tax
14 increase date” means April 1, 2009, January 1,
15 2011, January 1, 2013, and January 1, 2015.

16 (C) SECRETARY.—The term “Secretary”
17 means the Secretary of the Treasury or the
18 Secretary’s delegate.

19 (6) CONTROLLED GROUPS.—Rules similar to
20 the rules of section 5061(e)(3) of such Code shall
21 apply for purposes of this subsection.

22 (7) OTHER LAWS APPLICABLE.—All provisions
23 of law, including penalties, applicable with respect to
24 the taxes imposed by section 5701 of such Code
25 shall, insofar as applicable and not inconsistent with

1 the provisions of this subsection, apply to the floor
2 stocks taxes imposed by paragraph (1), to the same
3 extent as if such taxes were imposed by such section
4 5701. The Secretary may treat any person who bore
5 the ultimate burden of the tax imposed by para-
6 graph (1) as the person to whom a credit or refund
7 under such provisions may be allowed or made.

8 (i) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to articles removed (as defined in
10 section 5702(j) of the Internal Revenue Code of 1986)
11 after March 31, 2009.

12 **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

13 (a) PERMIT, INVENTORIES, REPORTS, AND RECORDS
14 REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS
15 OF PROCESSED TOBACCO.—

16 (1) PERMIT.—

17 (A) APPLICATION.—Section 5712 of the
18 Internal Revenue Code of 1986 is amended by
19 inserting “or processed tobacco” after “tobacco
20 products”.

21 (B) ISSUANCE.—Section 5713(a) of such
22 Code is amended by inserting “or processed to-
23 bacco” after “tobacco products”.

24 (2) INVENTORIES, REPORTS, AND PACKAGES.—

1 (A) INVENTORIES.—Section 5721 of such
2 Code is amended by inserting “, processed to-
3 bacco,” after “tobacco products”.

4 (B) REPORTS.—Section 5722 of such Code
5 is amended by inserting “, processed tobacco,”
6 after “tobacco products”.

7 (C) PACKAGES, MARKS, LABELS, AND NO-
8 TICES.—Section 5723 of such Code is amended
9 by inserting “, processed tobacco,” after “to-
10 bacco products” each place it appears.

11 (3) RECORDS.—Section 5741 of such Code is
12 amended by inserting “, processed tobacco,” after
13 “tobacco products”.

14 (4) MANUFACTURER OF PROCESSED TO-
15 BACCO.—Section 5702 of such Code is amended by
16 adding at the end the following new subsection:

17 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

18 “(1) IN GENERAL.—The term ‘manufacturer of
19 processed tobacco’ means any person who processes
20 any tobacco other than tobacco products.

21 “(2) PROCESSED TOBACCO.—The processing of
22 tobacco shall not include the farming or growing of
23 tobacco or the handling of tobacco solely for sale,
24 shipment, or delivery to a manufacturer of tobacco
25 products or processed tobacco.”.

1 (5) CONFORMING AMENDMENT.—Sections
2 5702(j), 5702(k), and 5704(h) of such Code is
3 amended by inserting “, or any processed tobacco,”
4 after “nontaxpaid tobacco products or cigarette pa-
5 pers or tubes”.

6 (6) EFFECTIVE DATE.—The amendments made
7 by this subsection shall take effect on April 1, 2009.

8 (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCAC-
9 TION OF PERMITS.—

10 (1) DENIAL.—Paragraph (3) of section 5712 of
11 such Code is amended to read as follows:

12 “(3) such person (including, in the case of a
13 corporation, any officer, director, or principal stock-
14 holder and, in the case of a partnership, a part-
15 ner)—

16 “(A) is, by reason of his business experi-
17 ence, financial standing, or trade connections or
18 by reason of previous or current legal pro-
19 ceedings involving a felony violation of any
20 other provision of Federal criminal law relating
21 to tobacco products, processed tobacco, ciga-
22 rette paper, or cigarette tubes, not likely to
23 maintain operations in compliance with this
24 chapter,

1 “(B) has been convicted of a felony viola-
2 tion of any provision of Federal or State crimi-
3 nal law relating to tobacco products, processed
4 tobacco, cigarette paper, or cigarette tubes, or

5 “(C) has failed to disclose any material in-
6 formation required or made any material false
7 statement in the application therefor.”.

8 (2) SUSPENSION OR REVOCATION.—Subsection
9 (b) of section 5713 of such Code is amended to read
10 as follows:

11 “(b) SUSPENSION OR REVOCATION.—

12 “(1) SHOW CAUSE HEARING.—If the Secretary
13 has reason to believe that any person holding a per-
14 mit—

15 “(A) has not in good faith complied with
16 this chapter, or with any other provision of this
17 title involving intent to defraud,

18 “(B) has violated the conditions of such
19 permit,

20 “(C) has failed to disclose any material in-
21 formation required or made any material false
22 statement in the application for such permit,

23 “(D) has failed to maintain his premises in
24 such manner as to protect the revenue,

1 “(E) is, by reason of previous or current
2 legal proceedings involving a felony violation of
3 any other provision of Federal criminal law re-
4 lating to tobacco products, processed tobacco,
5 cigarette paper, or cigarette tubes, not likely to
6 maintain operations in compliance with this
7 chapter, or

8 “(F) has been convicted of a felony viola-
9 tion of any provision of Federal or State crimi-
10 nal law relating to tobacco products, processed
11 tobacco, cigarette paper, or cigarette tubes,
12 the Secretary shall issue an order, stating the facts
13 charged, citing such person to show cause why his
14 permit should not be suspended or revoked.

15 “(2) ACTION FOLLOWING HEARING.—If, after
16 hearing, the Secretary finds that such person has
17 not shown cause why his permit should not be sus-
18 pended or revoked, such permit shall be suspended
19 for such period as the Secretary deems proper or
20 shall be revoked.”.

21 (3) EFFECTIVE DATE.—The amendments made
22 by this subsection shall take effect on the date of the
23 enactment of this Act.

1 (c) APPLICATION OF INTERNAL REVENUE CODE
2 STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO
3 EXCISE TAXES.—

4 (1) IN GENERAL.—Section 514(a) of the Tariff
5 Act of 1930 (19 U.S.C. 1514(a)) is amended by
6 striking “and section 520 (relating to refunds)” and
7 inserting “section 520 (relating to refunds), and sec-
8 tion 6501 of the Internal Revenue Code of 1986
9 (but only with respect to taxes imposed under chap-
10 ters 51 and 52 of such Code)”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to articles imported
13 after the date of the enactment of this Act.

14 (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN
15 TOBACCO.—

16 (1) IN GENERAL.—Section 5702(o) of the In-
17 ternal Revenue Code of 1986 is amended by insert-
18 ing “or cigars, or for use as wrappers thereof” be-
19 fore the period at the end.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall apply to articles removed (as
22 defined in section 5702(j) of the Internal Revenue
23 Code of 1986) after March 31, 2009.

24 (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-
25 TURED TOBACCO PRODUCTS.—

1 (1) IN GENERAL.—Section 5703(b)(2) of such
2 Code is amended by adding at the end the following
3 new subparagraph:

4 “(F) SPECIAL RULE FOR UNLAWFULLY
5 MANUFACTURED TOBACCO PRODUCTS.—In the
6 case of any tobacco products, cigarette paper,
7 or cigarette tubes manufactured in the United
8 States at any place other than the premises of
9 a manufacturer of tobacco products, cigarette
10 paper, or cigarette tubes that has filed the bond
11 and obtained the permit required under this
12 chapter, tax shall be due and payable imme-
13 diately upon manufacture.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall take effect on the date of the
16 enactment of this Act.

17 (f) DISCLOSURE.—

18 (1) IN GENERAL.—Paragraph (1) of section
19 6103(o) of such Code is amended by designating the
20 text as subparagraph (A), moving such text 2 ems
21 to the right, striking “Returns” and inserting “(A)
22 IN GENERAL.—Returns”, and by inserting after sub-
23 paragraph (A) (as so redesignated) the following
24 new subparagraph:

1 “(B) USE IN CERTAIN PROCEEDINGS.—Re-
2 turns and return information disclosed to a
3 Federal agency under subparagraph (A) may be
4 used in an action or proceeding (or in prepara-
5 tion for such action or proceeding) brought
6 under section 625 of the American Jobs Cre-
7 ation Act of 2004 for the collection of any un-
8 paid assessment or penalty arising under such
9 Act.”.

10 (2) CONFORMING AMENDMENT.—Section
11 6103(p)(4) of such Code is amended by striking
12 “(o)(1)” both places it appears and inserting
13 “(o)(1)(A)”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply on or after the date
16 of the enactment of this Act.

17 (g) TRANSITIONAL RULE.—Any person who—

18 (1) on April 1 is engaged in business as a man-
19 ufacturer of processed tobacco or as an importer of
20 processed tobacco, and

21 (2) before the end of the 90-day period begin-
22 ning on such date, submits an application under
23 subchapter B of chapter 52 of such Code to engage
24 in such business, may, notwithstanding such sub-
25 chapter B, continue to engage in such business

1 pending final action on such application. Pending
2 such final action, all provisions of such chapter 52
3 shall apply to such applicant in the same manner
4 and to the same extent as if such applicant were a
5 holder of a permit under such chapter 52 to engage
6 in such business.

7 **SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF**
8 **TOBACCO SMUGGLING IN THE UNITED**
9 **STATES.**

10 Not later than one year after the date of the enact-
11 ment of this Act, the Secretary of the Treasury shall con-
12 duct a study concerning the magnitude of tobacco smug-
13 gling in the United States and submit to Congress rec-
14 ommendations for the most effective steps to reduce to-
15 bacco smuggling. Such study shall also include a review
16 of the loss of Federal tax receipts due to illicit tobacco
17 trade in the United States and the role of imported to-
18 bacco products in the illicit tobacco trade in the United
19 States.

20 **SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
21 **TAXES.**

22 The percentage under subparagraph (C) of section
23 401(1) of the Tax Increase Prevention and Reconciliation

- 1 Act of 2005 in effect on the date of the enactment of this
- 2 Act is increased by 1 percentage point.

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