

110TH CONGRESS
1ST SESSION

H. R. 3269

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

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2007

Mrs. WILSON of New Mexico (for herself, Mr. GILLMOR, Mr. REGULA, Mr. GERLACH, Mrs. BONO, and Mr. ENGLISH of Pennsylvania) 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 reauthorize the State 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 2007”.

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 MEDICAID; CHIP; 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 for
26 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references; table of contents.

TITLE I—FINANCING OF CHIP

- Sec. 101. Extension of CHIP.
 Sec. 102. Allotments for the 50 States and the District of Columbia.
 Sec. 103. One-time appropriation.
 Sec. 104. Improving funding for the territories under CHIP and Medicaid.
 Sec. 105. Incentive bonuses for States.
 Sec. 106. Phase-out of coverage for nonpregnant childless adults under CHIP; conditions for coverage of parents.
 Sec. 107. State option to cover low-income pregnant women under CHIP through a State plan amendment.
 Sec. 108. CHIP Contingency fund.
 Sec. 109. Two-year availability of allotments; expenditures counted against oldest allotments.
 Sec. 110. Limitation on matching rate for States that propose to cover children with effective family income that exceeds 300 percent of the poverty line.
 Sec. 111. Option for qualifying States to receive the enhanced portion of the CHIP matching rate for Medicaid coverage of certain children.

TITLE II—OUTREACH AND ENROLLMENT

- Sec. 201. Grants for outreach and enrollment.
 Sec. 202. Increased outreach and enrollment of Indians.
 Sec. 203. Demonstration project to permit States to rely on findings by an Express Lane agency to determine components of a child's eligibility for Medicaid or CHIP.
 Sec. 204. Authorization of certain information disclosures to simplify health coverage determinations.

TITLE III—REDUCING BARRIERS TO ENROLLMENT

- Sec. 301. Verification of declaration of citizenship or nationality for purposes of eligibility for Medicaid and CHIP.
 Sec. 302. Reducing administrative barriers to enrollment.

TITLE IV—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

- Sec. 401. Additional State option for providing premium assistance.
 Sec. 402. Outreach, education, and enrollment assistance.

Subtitle B—Coordinating Premium Assistance With Private Coverage

- Sec. 411. 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 V—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES OF CHILDREN

- Sec. 501. Child health quality improvement activities for children enrolled in Medicaid or CHIP.
 Sec. 502. Improved information regarding access to coverage under CHIP.
 Sec. 503. Application of certain managed care quality safeguards to CHIP.

TITLE VI—MISCELLANEOUS

- Sec. 601. Technical correction regarding current State authority under Medicaid.
 Sec. 602. Payment error rate measurement (“PERM”).
 Sec. 603. Elimination of counting medicaid child presumptive eligibility costs against title XXI allotment.
 Sec. 604. Improving data collection.
 Sec. 605. Deficit Reduction Act technical corrections.
 Sec. 606. Elimination of confusing program references.
 Sec. 607. Mental health parity in CHIP plans.
 Sec. 608. Dental health grants.
 Sec. 609. Application of prospective payment system for services provided by Federally-qualified health centers and rural health clinics.

TITLE VII—REVENUE PROVISIONS

- Sec. 701. Increase in excise tax rate on tobacco products.
 Sec. 702. Administrative improvements.
 Sec. 703. Time for payment of corporate estimated taxes.

TITLE VIII—EFFECTIVE DATE

- Sec. 801. Effective date.

1 **TITLE I—FINANCING OF CHIP**

2 **SEC. 101. EXTENSION OF CHIP.**

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

4 (1) in paragraph (9), by striking “and” at the
 5 end;

6 (2) in paragraph (10), by striking the period at
 7 the end and inserting a semicolon; and

8 (3) by adding at the end the following new
 9 paragraphs:

10 “(11) for fiscal year 2008, \$9,125,000,000;

11 “(12) for fiscal year 2009, \$10,675,000,000;

12 “(13) for fiscal year 2010, \$11,850,000,000;

1 “(14) for fiscal year 2011, \$13,750,000,000;
2 and

3 “(15) for fiscal year 2012, for purposes of mak-
4 ing 2 semi-annual allotments—

5 “(A) \$1,750,000,000 for the period begin-
6 ning on October 1, 2011, and ending on March
7 31, 2012, and

8 “(B) \$1,750,000,000 for the period begin-
9 ning on April 1, 2012, and ending on Sep-
10 tember 30, 2012.”.

11 **SEC. 102. ALLOTMENTS FOR THE 50 STATES AND THE DIS-**
12 **TRICT OF COLUMBIA.**

13 (a) IN GENERAL.—Section 2104 (42 U.S.C. 1397dd)
14 is amended by adding at the end the following new sub-
15 section:

16 “(i) DETERMINATION OF ALLOTMENTS FOR THE 50
17 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL
18 YEARS 2008 THROUGH 2012.—

19 “(1) COMPUTATION OF ALLOTMENT.—

20 “(A) IN GENERAL.—Subject to the suc-
21 ceeding paragraphs of this subsection, the Sec-
22 retary shall for each of fiscal years 2008
23 through 2012 allot to each subsection (b) State
24 from the available national allotment an
25 amount equal to 110 percent of—

1 “(i) in the case of fiscal year 2008,
2 the highest of the amounts determined
3 under paragraph (2);

4 “(ii) in the case of each of fiscal years
5 2009 through 2011, the Federal share of
6 the expenditures determined under sub-
7 paragraph (B) for the fiscal year; and

8 “(iii) beginning with fiscal year 2012,
9 subject to subparagraph (E), each semi-an-
10 nual allotment determined under subpara-
11 graph (D).

12 “(B) PROJECTED STATE EXPENDITURES
13 FOR THE FISCAL YEAR.—For purposes of sub-
14 paragraphs (A)(ii) and (D), the expenditures
15 determined under this subparagraph for a fiscal
16 year are the projected expenditures under the
17 State child health plan for the fiscal year (as
18 certified by the State and submitted to the Sec-
19 retary by not later than August 31 of the pre-
20 ceding fiscal year).

21 “(C) AVAILABLE NATIONAL ALLOT-
22 MENT.—For purposes of this subsection, the
23 term ‘available national allotment’ means, with
24 respect to any fiscal year, the amount available
25 for allotment under subsection (a) for the fiscal

1 year, reduced by the amount of the allotments
2 made for the fiscal year under subsection (c).
3 Subject to paragraph (3)(B), the available na-
4 tional allotment with respect to the amount
5 available under subsection (a)(15)(A) for fiscal
6 year 2012 shall be increased by the amount of
7 the appropriation for the period beginning on
8 October 1 and ending on March 31 of such fis-
9 cal year under section 103 of the Children’s
10 Health Insurance Program Reauthorization Act
11 of 2007.

12 “(D) SEMI-ANNUAL ALLOTMENTS.—For
13 purposes of subparagraph (A)(iii), the semi-an-
14 nual allotments determined under this para-
15 graph with respect to a fiscal year are as fol-
16 lows:

17 “(i) For the period beginning on Oc-
18 tober 1 and ending on March 31 of the fis-
19 cal year, the Federal share of the portion
20 of the expenditures determined under sub-
21 subparagraph (B) for the fiscal year which are
22 allocable to such period.

23 “(ii) For the period beginning on
24 April 1 and ending on September 30 of the
25 fiscal year, the Federal share of the por-

1 tion of the expenditures determined under
2 subparagraph (B) for the fiscal year which
3 are allocable to such period.

4 “(E) AVAILABILITY.—Each semi-annual
5 allotment made under subparagraph (A)(iii)
6 shall remain available for expenditure under
7 this title for periods after the period specified
8 in subparagraph (D) for purposes of deter-
9 mining the allotment in the same manner as
10 the allotment would have been available for ex-
11 penditure if made for an entire fiscal year.

12 “(2) SPECIAL RULE FOR FISCAL YEAR 2008.—

13 “(A) IN GENERAL.—For purposes of para-
14 graph (1)(A)(i), the amounts determined under
15 this paragraph for fiscal year 2008 are as fol-
16 lows:

17 “(i) The total Federal payments to
18 the State under this title for fiscal year
19 2007, multiplied by the annual adjustment
20 determined under subparagraph (B) for
21 fiscal year 2008.

22 “(ii) The Federal share of the amount
23 allotted to the State for fiscal year 2007
24 under subsection (b), multiplied by the an-

1 nual adjustment determined under sub-
2 paragraph (B) for fiscal year 2008.

3 “(iii) Only in the case of—

4 “(I) a State that received a pay-
5 ment, redistribution, or allotment
6 under any of paragraphs (1), (2), or
7 (4) of subsection (h), the amount of
8 the projected total Federal payments
9 to the State under this title for fiscal
10 year 2007, as determined on the basis
11 of the November 2006 estimates cer-
12 tified by the State to the Secretary;

13 “(II) a State whose projected
14 total Federal payments to the State
15 under this title for fiscal year 2007,
16 as determined on the basis of the May
17 2006 estimates certified by the State
18 to the Secretary, were at least
19 \$95,000,000 but not more than
20 \$96,000,000 higher than the projected
21 total Federal payments to the State
22 under this title for fiscal year 2007 on
23 the basis of the November 2006 esti-
24 mates, the amount of the projected
25 total Federal payments to the State

1 under this title for fiscal year 2007 on
2 the basis of the May 2006 estimates;
3 or

4 “(III) a State whose projected
5 total Federal payments under this
6 title for fiscal year 2007, as deter-
7 mined on the basis of the November
8 2006 estimates certified by the State
9 to the Secretary, exceeded all amounts
10 available to the State for expenditure
11 for fiscal year 2007 (including any
12 amounts paid, allotted, or redistrib-
13 uted to the State in prior fiscal
14 years), the amount of the projected
15 total Federal payments to the State
16 under this title for fiscal year 2007,
17 as determined on the basis of the No-
18 vember 2006 estimates certified by
19 the State to the Secretary,
20 multiplied by the annual adjustment deter-
21 mined under subparagraph (B) for fiscal
22 year 2008.

23 “(iv) The projected total Federal pay-
24 ments to the State under this title for fis-
25 cal year 2008, as determined on the basis

1 of the August 2007 projections certified by
2 the State to the Secretary by not later
3 than September 30, 2007.

4 “(B) ANNUAL ADJUSTMENT FOR HEALTH
5 CARE COST GROWTH AND CHILD POPULATION
6 GROWTH.—The annual adjustment determined
7 under this subparagraph for a fiscal year with
8 respect to a State is equal to the product of the
9 amounts determined under clauses (i) and (ii):

10 “(i) PER CAPITA HEALTH CARE
11 GROWTH.—1 plus the percentage increase
12 (if any) in the projected nominal per capita
13 amount of National Health Expenditures
14 for the calendar year that begins during
15 the fiscal year involved over the preceding
16 calendar year, as most recently published
17 by the Secretary.

18 “(ii) CHILD POPULATION GROWTH.—
19 1.01 plus the percentage change in the
20 population of children under 19 years of
21 age in the State from July 1 of the fiscal
22 year preceding the fiscal year involved to
23 July 1 of the fiscal year involved, as deter-
24 mined by the Secretary based on the most

1 timely and accurate published estimates of
2 the Bureau of the Census.

3 “(C) DEFINITION.—For purposes of sub-
4 paragraph (B), the term ‘fiscal year involved’
5 means the fiscal year for which an allotment
6 under this subsection is being determined.

7 “(D) PRORATION RULE.—If, after the ap-
8 plication of this paragraph without regard to
9 this subparagraph, the sum of the State allot-
10 ments determined under this paragraph for fis-
11 cal year 2008 exceeds the available national al-
12 lotment for fiscal year 2008, the Secretary shall
13 reduce each such allotment on a proportional
14 basis.

15 “(3) ALTERNATIVE ALLOTMENTS FOR FISCAL
16 YEARS 2009 THROUGH 2012.—

17 “(A) IN GENERAL.—If the sum of the
18 State allotments determined under paragraph
19 (1)(A)(ii) for any of fiscal years 2009 through
20 2011 exceeds the available national allotment
21 for the fiscal year, the Secretary shall allot to
22 each subsection (b) State from the available na-
23 tional allotment for the fiscal year an amount
24 equal to the product of—

1 “(i) the available national allotment
2 for the fiscal year; and

3 “(ii) the percentage equal to the sum
4 of the State allotment factors for the fiscal
5 year determined under paragraph (4) with
6 respect to the State.

7 “(B) SPECIAL RULES BEGINNING IN FIS-
8 CAL YEAR 2012.—Beginning in fiscal year
9 2012—

10 “(i) this paragraph shall be applied
11 separately with respect to each of the peri-
12 ods described in clauses (i) and (ii) of
13 paragraph (1)(D) and the available na-
14 tional allotment for each such period shall
15 be the amount appropriated for such pe-
16 riod (rather than the amount appropriated
17 for the entire fiscal year), reduced by the
18 amount of the allotments made for the fis-
19 cal year under subsection (c) for each such
20 period, and

21 “(ii) if—

22 “(I) the sum of the State allot-
23 ments determined under paragraph
24 (1)(A)(iii) for either such period ex-
25 ceeds the amount of such available

1 national allotment for such period, the
2 Secretary shall make the allotment for
3 each State for such period in the
4 same manner as under subparagraph
5 (A), and

6 “(II) the amount of such avail-
7 able national allotment for either such
8 period exceeds the sum of the State
9 allotments determined under para-
10 graph (1)(A)(iii) for such period, the
11 Secretary shall increase the allotment
12 for each State for such period by the
13 amount that bears the same ratio to
14 such excess as the State’s allotment
15 determined under paragraph
16 (1)(A)(iii) for such period (without re-
17 gard to this subparagraph) bears to
18 the sum of such allotments for all
19 States.

20 “(4) WEIGHTED FACTORS.—

21 “(A) FACTORS DESCRIBED.—For purposes
22 of paragraph (3), the factors described in this
23 subparagraph are the following:

24 “(i) PROJECTED STATE EXPENDI-
25 TURES FOR THE FISCAL YEAR.—The ratio

1 of the projected expenditures under the
2 State child health plan for the fiscal year
3 (as certified by the State to the Secretary
4 by not later than August 31 of the pre-
5 ceding fiscal year) to the sum of the pro-
6 jected expenditures under all such plans
7 for all subsection (b) States for the fiscal
8 year, multiplied by the applicable percent-
9 age weight assigned under subparagraph
10 (B).

11 “(ii) NUMBER OF LOW-INCOME CHIL-
12 DREN IN THE STATE.—The ratio of the
13 number of low-income children in the
14 State, as determined on the basis of the
15 most timely and accurate published esti-
16 mates of the Bureau of the Census, to the
17 sum of the number of low-income children
18 so determined for all subsection (b) States
19 for such fiscal year, multiplied by the ap-
20 plicable percentage weight assigned under
21 subparagraph (B).

22 “(iii) PROJECTED STATE EXPENDI-
23 TURES FOR THE PRECEDING FISCAL
24 YEAR.—The ratio of the projected expendi-
25 tures under the State child health plan for

1 the preceding fiscal year (as determined on
2 the basis of the projections certified by the
3 State to the Secretary for November of the
4 fiscal year), to the sum of the projected ex-
5 penditures under all such plans for all sub-
6 section (b) States for such preceding fiscal
7 year (as so determined), multiplied by the
8 applicable percentage weight assigned
9 under subparagraph (B).

10 “(iv) ACTUAL STATE EXPENDITURES
11 FOR THE SECOND PRECEDING FISCAL
12 YEAR.—The ratio of the actual expendi-
13 tures under the State child health plan for
14 the second preceding fiscal year, as deter-
15 mined by the Secretary on the basis of ex-
16 penditure data reported by States on CMS
17 Form 64 or CMS Form 21, to such sum
18 of the actual expenditures under all such
19 plans for all subsection (b) States for such
20 second preceding fiscal year, multiplied by
21 the applicable percentage weight assigned
22 under subparagraph (B).

23 “(B) ASSIGNMENT OF WEIGHTS.—For
24 each of fiscal years 2009 through 2012, the ap-

1 applicable weights assigned under this subpara-
2 graph are the following:

3 “(i) With respect to the factor de-
4 scribed in subparagraph (A)(i), a weight of
5 75 percent for each such fiscal year.

6 “(ii) With respect to the factor de-
7 scribed in subparagraph (A)(ii), a weight
8 of 12½ percent for each such fiscal year.

9 “(iii) With respect to the factor de-
10 scribed in subparagraph (A)(iii), a weight
11 of 7½ percent for each such fiscal year.

12 “(iv) With respect to the factor de-
13 scribed in subparagraph (A)(iv), a weight
14 of 5 percent for each such fiscal year.

15 “(5) DEMONSTRATION OF NEED FOR IN-
16 CREASED ALLOTMENT BASED ON PROJECTED STATE
17 EXPENDITURES EXCEEDING 10 PERCENT OF THE
18 PRECEDING FISCAL YEAR ALLOTMENT.—

19 “(A) IN GENERAL.—If the projected ex-
20 penditures under the State child health plan de-
21 scribed in paragraph (1)(B) for any of fiscal
22 years 2009 through 2012 are at least 10 per-
23 cent more than the allotment determined for
24 the State for the preceding fiscal year (deter-
25 mined without regard to paragraph (2)(D) or

1 paragraph (3)), and, during the preceding fiscal
2 year, the State did not receive approval for a
3 State plan amendment or waiver to expand cov-
4 erage under the State child health plan or did
5 not receive a CHIP contingency fund payment
6 under subsection (k)—

7 “(i) the State shall submit to the Sec-
8 retary, by not later than August 31 of the
9 preceding fiscal year, information relating
10 to the factors that contributed to the need
11 for the increase in the State’s allotment for
12 the fiscal year, as well as any other addi-
13 tional information that the Secretary may
14 require for the State to demonstrate the
15 need for the increase in the State’s allot-
16 ment for the fiscal year;

17 “(ii) the Secretary shall—

18 “(I) review the information sub-
19 mitted under clause (i);

20 “(II) notify the State in writing
21 within 60 days after receipt of the in-
22 formation that—

23 “(aa) the projected expendi-
24 tures under the State child
25 health plan are approved or dis-

1 approved (and if disapproved, the
2 reasons for disapproval); or

3 “(bb) specified additional in-
4 formation is needed; and

5 “(III) if the Secretary dis-
6 approved the projected expenditures
7 or determined additional information
8 is needed, provide the State with a
9 reasonable opportunity to submit ad-
10 ditional information to demonstrate
11 the need for the increase in the
12 State’s allotment for the fiscal year.

13 “(B) PROVISIONAL AND FINAL ALLOT-
14 MENT.—In the case of a State described in sub-
15 paragraph (A) for which the Secretary has not
16 determined by September 30 of a fiscal year
17 whether the State has demonstrated the need
18 for the increase in the State’s allotment for the
19 succeeding fiscal year, the Secretary shall pro-
20 vide the State with a provisional allotment for
21 the fiscal year equal to 110 percent of the allot-
22 ment determined for the State under this sub-
23 section for the preceding fiscal year (determined
24 without regard to paragraph (2)(D) or para-
25 graph (3)), and may, not later than November

1 30 of the fiscal year, adjust the State's allot-
2 ment (and the allotments of other subsection
3 (b) States), as necessary (and, if applicable,
4 subject to paragraph (3)), on the basis of infor-
5 mation submitted by the State in accordance
6 with subparagraph (A).

7 “(6) SPECIAL RULES.—

8 “(A) DEADLINE AND DATA FOR DETER-
9 MINING FISCAL YEAR 2008 ALLOTMENTS.—In
10 computing the amounts under paragraph (2)(A)
11 and subsection (c)(5)(A) that determine the al-
12 lotments to subsection (b) States and territories
13 for fiscal year 2008, the Secretary shall use the
14 most recent data available to the Secretary be-
15 fore the start of that fiscal year. The Secretary
16 may adjust such amounts and allotments, as
17 necessary, on the basis of the expenditure data
18 for the prior year reported by States on CMS
19 Form 64 or CMS Form 21 not later than No-
20 vember 30, 2007, but in no case shall the Sec-
21 retary adjust the allotments provided under
22 paragraph (2)(A) or subsection (c)(5)(A) for
23 fiscal year 2008 after December 31, 2007.

24 “(B) INCLUSION OF CERTAIN EXPENDI-
25 TURES.—

1 “(i) PROJECTED EXPENDITURES OF
2 QUALIFYING STATES.—Payments made or
3 projected to be made to a qualifying State
4 described in paragraph (2) of section
5 2105(g) for expenditures described in
6 paragraph (1)(B)(ii) or (4)(B) of that sec-
7 tion shall be included for purposes of de-
8 termining the projected expenditures de-
9 scribed in paragraph (1)(B) with respect to
10 the allotments determined for each of fiscal
11 years 2009 through 2012 and for purposes
12 of determining the amounts described in
13 clauses (i) and (iv) of paragraph (2)(A)
14 with respect to the allotments determined
15 for fiscal year 2008.

16 “(ii) PROJECTED EXPENDITURES
17 UNDER BLOCK GRANT SET-ASIDES FOR
18 NONPREGNANT CHILDLESS ADULTS AND
19 PARENTS.—Payments projected to be made
20 to a State under subsection (a) or (b) of
21 section 2111 shall be included for purposes
22 of determining the projected expenditures
23 described in paragraph (1)(B) with respect
24 to the allotments determined for each of
25 fiscal years 2009 through 2012 (to the ex-

1 tent such payments are permitted under
2 such section), including for purposes of al-
3 locating such expenditures for purposes of
4 clauses (i) and (ii) of paragraph (1)(D).

5 “(7) SUBSECTION (b) STATE.—In this para-
6 graph, the term ‘subsection (b) State’ means 1 of
7 the 50 States or the District of Columbia.”.

8 (b) CONFORMING AMENDMENTS.—Section 2104 (42
9 U.S.C. 1397dd) is amended—

10 (1) in subsection (a), by striking “subsection
11 (d)” and inserting “subsections (d), (h), and (i)”;

12 (2) in subsection (b)(1), by striking “subsection
13 (d)” and inserting “subsections (d), (h), and (i)”;
14 and

15 (3) in subsection (c)(1), by striking “subsection
16 (d)” and inserting “subsections (d), (h), and (i)”.

17 **SEC. 103. ONE-TIME APPROPRIATION.**

18 There is appropriated to the Secretary, out of any
19 money in the Treasury not otherwise appropriated,
20 \$12,500,000,000 to accompany the allotment made for the
21 period beginning on October 1, 2011, and ending on
22 March 31, 2012, under section 2104(a)(15)(A) of the So-
23 cial Security Act (42 U.S.C. 1397dd(a)(15)(A)) (as added
24 by section 101), to remain available until expended. Such
25 amount shall be used to provide allotments to States under

1 subsections (c)(5) and (i) of section 2104 of the Social
2 Security Act (42 U.S.C. 1397dd) for the first 6 months
3 of fiscal year 2012 in the same manner as allotments are
4 provided under subsection (a)(15)(A) of such section and
5 subject to the same terms and conditions as apply to the
6 allotments provided from such subsection (a)(15)(A).

7 **SEC. 104. IMPROVING FUNDING FOR THE TERRITORIES**
8 **UNDER CHIP AND MEDICAID.**

9 (a) UPDATE OF CHIP ALLOTMENTS.—Section
10 2104(c) (42 U.S.C. 1397dd(c)) is amended—

11 (1) in paragraph (1), by inserting “and para-
12 graphs (5) and (6)” after “and (i)”; and

13 (2) by adding at the end the following new
14 paragraphs:

15 “(5) ANNUAL ALLOTMENTS FOR TERRITORIES
16 BEGINNING WITH FISCAL YEAR 2008.—Of the total
17 allotment amount appropriated under subsection (a)
18 for a fiscal year beginning with fiscal year 2008, the
19 Secretary shall allot to each of the commonwealths
20 and territories described in paragraph (3) the fol-
21 lowing:

22 “(A) FISCAL YEAR 2008.—For fiscal year
23 2008, the highest amount of Federal payments
24 to the commonwealth or territory under this
25 title for any fiscal year occurring during the pe-

1 riod of fiscal years 1998 through 2007, multi-
2 plied by the annual adjustment determined
3 under subsection (i)(2)(B) for fiscal year 2008,
4 except that clause (ii) thereof shall be applied
5 by substituting ‘the United States’ for ‘the
6 State’.

7 “(B) FISCAL YEARS 2009 THROUGH 2012.—

8 “(i) IN GENERAL.—For each of fiscal
9 years 2009 through 2012, except as pro-
10 vided in clause (ii), the amount determined
11 under this paragraph for the preceding fis-
12 cal year multiplied by the annual adjust-
13 ment determined under subsection
14 (i)(2)(B) for the fiscal year, except that
15 clause (ii) thereof shall be applied by sub-
16 stituting ‘the United States’ for ‘the
17 State’.

18 “(ii) SPECIAL RULE FOR FISCAL YEAR
19 2012.—In the case of fiscal year 2012—

20 “(I) 89 percent of the amount al-
21 located to the commonwealth or terri-
22 tory for such fiscal year (without re-
23 gard to this subclause) shall be allo-
24 cated for the period beginning on Oc-

1 tober 1, 2011, and ending on March
2 31, 2012, and

3 “(II) 11 percent of such amount
4 shall be allocated for the period begin-
5 ning on April 1, 2012, and ending on
6 September 30, 2012.”.

7 (b) REMOVAL OF FEDERAL MATCHING PAYMENTS
8 FOR DATA REPORTING SYSTEMS FROM THE OVERALL
9 LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE
10 XIX.—Section 1108(g) (42 U.S.C. 1308(g)) is amended
11 by adding at the end the following new paragraph:

12 “(4) EXCLUSION OF CERTAIN EXPENDITURES
13 FROM PAYMENT LIMITS.—With respect to fiscal
14 years beginning with fiscal year 2008, if Puerto
15 Rico, the Virgin Islands, Guam, the Northern Mar-
16 iana Islands, or American Samoa qualify for a pay-
17 ment under subparagraph (A)(i), (B), or (F) of sec-
18 tion 1903(a)(3) for a calendar quarter of such fiscal
19 year, the payment shall not be taken into account in
20 applying subsection (f) (as increased in accordance
21 with paragraphs (1), (2), and (3) of this subsection)
22 to such commonwealth or territory for such fiscal
23 year.”.

24 (c) GAO STUDY AND REPORT.—Not later than Sep-
25 tember 30, 2009, the Comptroller General of the United

1 States shall submit a report to the appropriate committees
2 of Congress regarding Federal funding under Medicaid
3 and CHIP for Puerto Rico, the United States Virgin Is-
4 lands, Guam, American Samoa, and the Northern Mar-
5 iana Islands. The report shall include the following:

6 (1) An analysis of all relevant factors with re-
7 spect to—

8 (A) eligible Medicaid and CHIP popu-
9 lations in such commonwealths and territories;

10 (B) historical and projected spending needs
11 of such commonwealths and territories and the
12 ability of capped funding streams to respond to
13 those spending needs;

14 (C) the extent to which Federal poverty
15 guidelines are used by such commonwealths and
16 territories to determine Medicaid and CHIP eli-
17 gibility; and

18 (D) the extent to which such common-
19 wealths and territories participate in data col-
20 lection and reporting related to Medicaid and
21 CHIP, including an analysis of territory partici-
22 pation in the Current Population Survey versus
23 the American Community Survey.

1 (2) Recommendations for improving Federal
2 funding under Medicaid and CHIP for such com-
3 monwealths and territories.

4 **SEC. 105. INCENTIVE BONUSES FOR STATES.**

5 (a) IN GENERAL.—Section 2104 (42 U.S.C.
6 1397dd), as amended by section 102, is amended by add-
7 ing at the end the following new subsection:

8 “(j) INCENTIVE BONUSES.—

9 “(1) ESTABLISHMENT OF INCENTIVE POOL
10 FROM UNOBLIGATED NATIONAL ALLOTMENT AND
11 UNEXPENDED STATE ALLOTMENTS.—

12 “(A) IN GENERAL.—There is hereby estab-
13 lished in the Treasury of the United States a
14 fund which shall be known as the ‘CHIP Incen-
15 tive Bonuses Pool’ (in this subsection referred
16 to as the ‘Incentive Pool’). Amounts in the In-
17 centive Pool are authorized to be appropriated
18 for payments under this subsection and shall
19 remain available until expended.

20 “(B) DEPOSITS THROUGH INITIAL APPRO-
21 PRIATION AND TRANSFERS OF FUNDS.—

22 “(i) INITIAL APPROPRIATION.—There
23 is appropriated to the Incentive Pool, out
24 of any money in the Treasury not other-

1 wise appropriated, \$3,000,000,000 for fis-
2 cal year 2008.

3 “(ii) TRANSFERS.—Notwithstanding
4 any other provision of law, the following
5 amounts are hereby appropriated or trans-
6 ferred to, deposited in, and made available
7 for expenditure from the Incentive Pool on
8 the following dates:

9 “(I) UNEXPENDED FISCAL YEAR
10 2006 AND 2007 ALLOTMENTS.—On De-
11 cember 31, 2007, the sum for all
12 States of the excess (if any) for each
13 State of—

14 “(aa) the aggregate allot-
15 ments provided for the State
16 under subsection (b) or (c) for
17 fiscal years 2006 and 2007 that
18 are not expended by September
19 30, 2007, over

20 “(bb) an amount equal to 50
21 percent of the allotment provided
22 for the State under subsection (c)
23 or (i) for fiscal year 2008 (as de-
24 termined in accordance with sub-
25 section (i)(6)).

1 “(II) UNOBLIGATED NATIONAL
2 ALLOTMENT.—

3 “(aa) FISCAL YEARS 2008
4 THROUGH 2011.—On December
5 31 of fiscal year 2008, and on
6 December 31 of each succeeding
7 fiscal year through fiscal year
8 2011, the portion, if any, of the
9 amount appropriated under sub-
10 section (a) for such fiscal year
11 that is unobligated for allotment
12 to a State under subsection (c) or
13 (i) for such fiscal year or set
14 aside under subsection (a)(3) or
15 (b)(2) of section 2111 for such
16 fiscal year.

17 “(bb) FIRST HALF OF FIS-
18 CAL YEAR 2012.—On December
19 31 of fiscal year 2012, the por-
20 tion, if any, of the sum of the
21 amounts appropriated under sub-
22 section (a)(15)(A) and under sec-
23 tion 103 of the Children’s Health
24 Insurance Program Reauthoriza-
25 tion Act of 2007 for the period

1 beginning on October 1, 2011,
2 and ending on March 31, 2012,
3 that is unobligated for allotment
4 to a State under subsection (c) or
5 (i) for such fiscal year or set
6 aside under subsection (b)(2) of
7 section 2111 for such fiscal year.

8 “(cc) SECOND HALF OF FIS-
9 CAL YEAR 2012.—On June 30 of
10 fiscal year 2012, the portion, if
11 any, of the amount appropriated
12 under subsection (a)(15)(B) for
13 the period beginning on April 1,
14 2012, and ending on September
15 30, 2012, that is unobligated for
16 allotment to a State under sub-
17 section (c) or (i) for such fiscal
18 year or set aside under sub-
19 section (b)(2) of section 2111 for
20 such fiscal year.

21 “(III) PERCENTAGE OF STATE
22 ALLOTMENTS THAT ARE UNEX-
23 PENDED BY THE END OF THE FIRST
24 YEAR OF AVAILABILITY BEGINNING
25 WITH THE FISCAL YEAR 2009 ALLOT-

1 MENTS.—On October 1 of each of fis-
2 cal years 2009 through 2012, the sum
3 for all States for such fiscal year (the
4 ‘current fiscal year’) of the excess (if
5 any) for each State of—

6 “(aa) the allotment made for
7 the State under subsection (b),
8 (c), or (i) for the fiscal year pre-
9 ceding the current fiscal year (re-
10 duced by any amounts set aside
11 under section 2111(a)(3)) that is
12 not expended by the end of such
13 preceding fiscal year, over

14 “(bb) an amount equal to
15 the applicable percentage (for the
16 fiscal year) of the allotment made
17 for the State under subsection
18 (b), (c), or (i) (as so reduced) for
19 such preceding fiscal year.

20 For purposes of item (bb), the appli-
21 cable percentage is 20 percent for fis-
22 cal year 2009, and 10 percent for
23 each of fiscal years 2010, 2011, and
24 2012.

1 “(IV) REMAINDER OF STATE AL-
2 LOTMENTS THAT ARE UNEXPENDED
3 BY THE END OF THE PERIOD OF
4 AVAILABILITY BEGINNING WITH THE
5 FISCAL YEAR 2006 ALLOTMENTS.—On
6 October 1 of each of fiscal years 2009
7 through 2012, the total amount of al-
8 lotments made to States under sub-
9 section (b), (c), or (i) for the second
10 preceding fiscal year (third preceding
11 fiscal year in the case of the fiscal
12 year 2006 allotments) and remaining
13 after the application of subclause (III)
14 that are not expended by September
15 30 of the preceding fiscal year.

16 “(V) UNEXPENDED TRANSI-
17 TIONAL COVERAGE BLOCK GRANT FOR
18 NONPREGNANT CHILDLESS ADULTS.—
19 On October 1, 2009, any amounts set
20 aside under section 2111(a)(3) that
21 are not expended by September 30,
22 2009.

23 “(VI) EXCESS CHIP CONTIN-
24 GENCY FUNDS.—

1 “(aa) AMOUNTS IN EXCESS
2 OF THE AGGREGATE CAP.—On
3 October 1 of each of fiscal years
4 2010 through 2012, any amount
5 in excess of the aggregate cap
6 applicable to the CHIP Contingency
7 Fund for the fiscal year
8 under subsection (k)(2)(B).

9 “(bb) UNEXPENDED CHIP
10 CONTINGENCY FUND PAY-
11 MENTS.—On October 1 of each
12 of fiscal years 2010 through
13 2012, any portion of a CHIP
14 Contingency Fund payment made
15 to a State that remains unex-
16 pended at the end of the period
17 for which the payment is avail-
18 able for expenditure under sub-
19 section (e)(3).

20 “(VII) EXTENSION OF AVAIL-
21 ABILITY FOR PORTION OF UNEX-
22 PENDED STATE ALLOTMENTS.—The
23 portion of the allotment made to a
24 State for a fiscal year that is not
25 transferred to the Incentive Pool

1 under subclause (I) or (III) shall re-
2 main available for expenditure by the
3 State only during the fiscal year in
4 which such transfer occurs, in accord-
5 ance with subclause (IV) and sub-
6 section (e)(4).

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

15 “(2) PAYMENTS TO STATES INCREASING EN-
16 ROLLMENT.—

17 “(A) IN GENERAL.—Subject to paragraph
18 (3)(D), with respect to each of fiscal years
19 2009 through 2012, the Secretary shall make
20 payments to States from the Incentive Pool de-
21 termined under subparagraph (B).

22 “(B) DETERMINATION OF PAYMENTS.—If,
23 for any coverage period ending in a fiscal year
24 ending after September 30, 2008, the average
25 monthly enrollment of children in the State

1 plan under title XIX exceeds the baseline
2 monthly average for such period, the payment
3 made for the fiscal year shall be equal to the
4 applicable amount determined under subpara-
5 graph (C).

6 “(C) APPLICABLE AMOUNT.—For purposes
7 of subparagraph (B), the applicable amount is
8 the product determined in accordance with the
9 following:

10 “(i) If such excess with respect to the
11 number of individuals who are enrolled in
12 the State plan under title XIX does not ex-
13 ceed 2 percent, the product of \$75 and the
14 number of such individuals included in
15 such excess.

16 “(ii) If such excess with respect to the
17 number of individuals who are enrolled in
18 the State plan under title XIX exceeds 2,
19 but does not exceed 5 percent, the product
20 of \$300 and the number of such individ-
21 uals included in such excess, less the
22 amount of such excess calculated in clause
23 (i).

24 “(iii) If such excess with respect to
25 the number of individuals who are enrolled

1 in the State plan under title XIX exceeds
2 5 percent, the product of \$625 and the
3 number of such individuals included in
4 such excess, less the sum of the amount of
5 such excess calculated in clauses (i) and
6 (ii).

7 “(D) INDEXING OF DOLLAR AMOUNTS.—
8 For each coverage period ending in a fiscal year
9 ending after September 30, 2009, the dollar
10 amounts specified in subparagraph (C) shall be
11 increased by the percentage increase (if any) in
12 the projected nominal per capita amount of Na-
13 tional Health Expenditures for the calendar
14 year beginning on January 1 of the coverage
15 period over the preceding coverage period, as
16 most recently published by the Secretary before
17 the beginning of the coverage period involved.

18 “(3) RULES RELATING TO ENROLLMENT IN-
19 CREASES.—For purposes of paragraph (2)(B)—

20 “(A) BASELINE MONTHLY AVERAGE.—Ex-
21 cept as provided in subparagraph (C), the base-
22 line monthly average for any fiscal year for a
23 State is equal to—

24 “(i) the baseline monthly average for
25 the preceding fiscal year; multiplied by

1 “(ii) the sum of 1 plus the sum of—
2 “(I) 0.01; and
3 “(II) the percentage increase in
4 the population of low-income children
5 in the State from the preceding fiscal
6 year to the fiscal year involved, as de-
7 termined by the Secretary based on
8 the most timely and accurate pub-
9 lished estimates of the Bureau of the
10 Census before the beginning of the
11 fiscal year involved.

12 “(B) COVERAGE PERIOD.—Except as pro-
13 vided in subparagraph (C), the coverage period
14 for any fiscal year consists of the last 2 quar-
15 ters of the preceding fiscal year and the first 2
16 quarters of the fiscal year.

17 “(C) SPECIAL RULES FOR FISCAL YEAR
18 2009.—With respect to fiscal year 2009—

19 “(i) the coverage period for that fiscal
20 year shall be based on the first 2 quarters
21 of fiscal year 2009; and

22 “(ii) the baseline monthly average
23 shall be—

24 “(I) the average monthly enroll-
25 ment of low-income children enrolled

1 in the State’s plan under title XIX for
2 the first 2 quarters of fiscal year 2007
3 (as determined over a 6-month period
4 on the basis of the most recent infor-
5 mation reported through the Medicaid
6 Statistical Information System
7 (MSIS)); multiplied by

8 “(II) the sum of 1 plus the sum
9 of—

10 “(aa) 0.02; and

11 “(bb) the percentage in-
12 crease in the population of low-
13 income children in the State from
14 fiscal year 2007 to fiscal year
15 2009, as determined by the Sec-
16 retary based on the most timely
17 and accurate published estimates
18 of the Bureau of the Census be-
19 fore the beginning of the fiscal
20 year involved.

21 “(D) ADDITIONAL REQUIREMENT FOR ELI-
22 GIBILITY FOR PAYMENT.—For purposes of sub-
23 paragraphs (B) and (C), the average monthly
24 enrollment shall be determined without regard
25 to children who do not meet the income eligi-

1 bility criteria in effect on July 19, 2007, for en-
2 rollment under the State plan under title XIX
3 or under a waiver of such plan.

4 “(4) TIME OF PAYMENT.—Payments under
5 paragraph (2) for any fiscal year shall be made dur-
6 ing the last quarter of such year.

7 “(5) USE OF PAYMENTS.—Payments made to a
8 State from the Incentive Pool shall be used for any
9 purpose that the State determines is likely to reduce
10 the percentage of low-income children in the State
11 without health insurance.

12 “(6) PRORATION RULE.—If the amount avail-
13 able for payment from the Incentive Pool is less
14 than the total amount of payments to be made for
15 such fiscal year, the Secretary shall reduce the pay-
16 ments described in paragraph (2) on a proportional
17 basis.

18 “(7) REFERENCES.—With respect to a State
19 plan under title XIX, any references to a child in
20 this subsection shall include a reference to any indi-
21 vidual provided medical assistance under the plan
22 who has not attained age 19 (or, if a State has so
23 elected under such State plan, age 20 or 21).”.

24 (b) REDISTRIBUTION OF UNEXPENDED FISCAL
25 YEAR 2005 ALLOTMENTS.—Notwithstanding section

1 2104(f) of the Social Security Act (42 U.S.C. 1397dd(f)),
2 with respect to fiscal year 2008, the Secretary shall pro-
3 vide for a redistribution under such section from the allot-
4 ments for fiscal year 2005 under subsection (b) and (c)
5 of such section that are not expended by the end of fiscal
6 year 2007, to each State described in clause (iii) of section
7 2104(i)(2)(A) of the Social Security Act, as added by sec-
8 tion 102(a), of an amount that bears the same ratio to
9 such unexpended fiscal year 2005 allotments as the ratio
10 of the fiscal year 2007 allotment determined for each such
11 State under subsection (b) of section 2104 of such Act
12 for fiscal year 2007 (without regard to any amounts paid,
13 allotted, or redistributed to the State under section 2104
14 for any preceding fiscal year) bears to the total amount
15 of the fiscal year 2007 allotments for all such States (as
16 so determined).

17 (c) CONFORMING AMENDMENT ELIMINATING RULES
18 FOR REDISTRIBUTION OF UNEXPENDED ALLOTMENTS
19 FOR FISCAL YEARS AFTER 2005.—Effective January 1,
20 2008, section 2104(f) (42 U.S.C. 1397dd(f)) is amended
21 to read as follows:

22 “(f) UNALLOCATED PORTION OF NATIONAL ALLOT-
23 MENT AND UNUSED ALLOTMENTS.—For provisions relat-
24 ing to the distribution of portions of the unallocated na-
25 tional allotment under subsection (a) for fiscal years be-

1 ginning with fiscal year 2008, and unexpended allotments
2 for fiscal years beginning with fiscal year 2006, see sub-
3 section (j).”.

4 (d) ADDITIONAL FUNDING FOR THE SECRETARY TO
5 IMPROVE TIMELINESS OF DATA REPORTING AND ANAL-
6 YSIS FOR PURPOSES OF DETERMINING ENROLLMENT IN-
7 CREASES UNDER MEDICAID AND CHIP.—

8 (1) APPROPRIATION.—There is appropriated,
9 out of any money in the Treasury not otherwise ap-
10 propriated, \$5,000,000 to the Secretary for fiscal
11 year 2008 for the purpose of improving the timeli-
12 ness of the data reported and analyzed from the
13 Medicaid Statistical Information System (MSIS) for
14 purposes of carrying out section 2104(j)(2)(B) of
15 the Social Security Act (as added by subsection (a))
16 and to provide guidance to States with respect to
17 any new reporting requirements related to such im-
18 provements. Amounts appropriated under this para-
19 graph shall remain available until expended.

20 (2) REQUIREMENTS.—The improvements made
21 by the Secretary under paragraph (1) shall be de-
22 signed and implemented (including with respect to
23 any necessary guidance for States) so that, begin-
24 ning no later than October 1, 2008, data regarding
25 the enrollment of low-income children (as defined in

1 section 2110(c)(4) of the Social Security Act (42
 2 U.S.C. 1397jj(c)(4)) of a State enrolled in the State
 3 plan under Medicaid or the State child health plan
 4 under CHIP with respect to a fiscal year shall be
 5 collected and analyzed by the Secretary within 6
 6 months of submission.

7 **SEC. 106. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
 8 **CHILDLESS ADULTS UNDER CHIP; CONDI-**
 9 **TIONS FOR COVERAGE OF PARENTS.**

10 (a) PHASE-OUT RULES.—

11 (1) IN GENERAL.—Title XXI (42 U.S.C.
 12 1397aa et seq.) is amended by adding at the end the
 13 following new section:

14 **“SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT**
 15 **CHILDLESS ADULTS; CONDITIONS FOR COV-**
 16 **ERAGE OF PARENTS.**

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

19 **“(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-**
 20 **TENSIONS AT STATE OPTION THROUGH FISCAL YEAR**
 21 **2008.—Notwithstanding section 1115 or any other**
 22 **provision of this title, except as provided in this sub-**
 23 **section—**

24 **“(A) the Secretary shall not on or after the**
 25 **date of the enactment of the Children’s Health**

1 Insurance Program Reauthorization Act of
2 2007, approve or renew a waiver, experimental,
3 pilot, or demonstration project that would allow
4 funds made available under this title to be used
5 to provide child health assistance or other
6 health benefits coverage to a nonpregnant child-
7 less adult; and

8 “(B) notwithstanding the terms and condi-
9 tions of an applicable existing waiver, the provi-
10 sions of paragraphs (2) and (3) shall apply for
11 purposes of any fiscal year beginning on or
12 after October 1, 2008, in determining the pe-
13 riod to which the waiver applies, the individuals
14 eligible to be covered by the waiver, and the
15 amount of the Federal payment under this title.

16 “(2) TERMINATION OF CHIP COVERAGE UNDER
17 APPLICABLE EXISTING WAIVERS AT THE END OF
18 FISCAL YEAR 2008.—

19 “(A) IN GENERAL.—No funds shall be
20 available under this title for child health assist-
21 ance or other health benefits coverage that is
22 provided to a nonpregnant childless adult under
23 an applicable existing waiver after September
24 30, 2008.

1 “(B) EXTENSION UPON STATE RE-
2 QUEST.—If an applicable existing waiver de-
3 scribed in subparagraph (A) would otherwise
4 expire before October 1, 2008, and the State
5 requests an extension of such waiver, the Sec-
6 retary shall grant such an extension, but only
7 through September 30, 2008.

8 “(C) APPLICATION OF ENHANCED FMAP.—
9 The enhanced FMAP determined under section
10 2105(b) shall apply to expenditures under an
11 applicable existing waiver for the provision of
12 child health assistance or other health benefits
13 coverage to a nonpregnant childless adult dur-
14 ing fiscal year 2008.

15 “(3) OPTIONAL 1-YEAR TRANSITIONAL COV-
16 ERAGE BLOCK GRANT FUNDED FROM STATE ALLOT-
17 MENT.—Subject to paragraph (4)(B), each State for
18 which coverage under an applicable existing waiver
19 is terminated under paragraph (2)(A) may elect to
20 provide nonpregnant childless adults who were pro-
21 vided child health assistance or health benefits cov-
22 erage under the applicable existing waiver at any
23 time during fiscal year 2008 with such assistance or
24 coverage during fiscal year 2009, as if the authority
25 to provide such assistance or coverage under an ap-

1 plicable existing waiver was extended through that
2 fiscal year, but subject to the following terms and
3 conditions:

4 “(A) BLOCK GRANT SET ASIDE FROM
5 STATE ALLOTMENT.—The Secretary shall set
6 aside for the State an amount equal to the Fed-
7 eral share of the State’s projected expenditures
8 under the applicable existing waiver for pro-
9 viding child health assistance or health benefits
10 coverage to all nonpregnant childless adults
11 under such waiver for fiscal year 2008 (as cer-
12 tified by the State and submitted to the Sec-
13 retary by not later than August 31, 2008, and
14 without regard to whether any such individual
15 lost coverage during fiscal year 2008 and was
16 later provided child health assistance or other
17 health benefits coverage under the waiver in
18 that fiscal year), increased by the annual ad-
19 justment for fiscal year 2009 determined under
20 section 2104(i)(2)(B)(i). The Secretary may ad-
21 just the amount set aside under the preceding
22 sentence, as necessary, on the basis of the ex-
23 penditure data for fiscal year 2008 reported by
24 States on CMS Form 64 or CMS Form 21 not
25 later than November 30, 2008, but in no case

1 shall the Secretary adjust such amount after
2 December 31, 2008.

3 “(B) NO COVERAGE FOR NONPREGNANT
4 CHILDLESS ADULTS WHO WERE NOT COVERED
5 DURING FISCAL YEAR 2008.—

6 “(i) FMAP APPLIED TO EXPENDI-
7 TURES.—The Secretary shall pay the State
8 for each quarter of fiscal year 2009, from
9 the amount set aside under subparagraph
10 (A), an amount equal to the Federal med-
11 ical assistance percentage (as determined
12 under section 1905(b) without regard to
13 clause (4) of such section) of expenditures
14 in the quarter for providing child health
15 assistance or other health benefits coverage
16 to a nonpregnant childless adult but only
17 if such adult was enrolled in the State pro-
18 gram under this title during fiscal year
19 2008 (without regard to whether the indi-
20 vidual lost coverage during fiscal year
21 2008 and was reenrolled in that fiscal year
22 or in fiscal year 2009).

23 “(ii) FEDERAL PAYMENTS LIMITED
24 TO AMOUNT OF BLOCK GRANT SET-
25 ASIDE.—No payments shall be made to a

1 State for expenditures described in this
2 subparagraph after the total amount set
3 aside under subparagraph (A) for fiscal
4 year 2009 has been paid to the State.

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

8 “(A) IN GENERAL.—Each State for which
9 coverage under an applicable existing waiver is
10 terminated under paragraph (2)(A) may sub-
11 mit, not later than June 30, 2009, an applica-
12 tion to the Secretary for a waiver under section
13 1115 of the State plan under title XIX to pro-
14 vide medical assistance to a nonpregnant child-
15 less adult whose coverage is so terminated (in
16 this subsection referred to as a ‘Medicaid non-
17 pregnant childless adults waiver’).

18 “(B) DEADLINE FOR APPROVAL.—The
19 Secretary shall make a decision to approve or
20 deny an application for a Medicaid nonpregnant
21 childless adults waiver submitted under sub-
22 paragraph (A) within 90 days of the date of the
23 submission of the application. If no decision has
24 been made by the Secretary as of September
25 30, 2009, on the application of a State for a

1 Medicaid nonpregnant childless adults waiver
2 that was submitted to the Secretary by June
3 30, 2009, the application shall be deemed ap-
4 proved.

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

10 “(i) in the case of fiscal year 2010,
11 allow expenditures for medical assistance
12 under title XIX for all such adults to not
13 exceed the total amount of payments made
14 to the State under paragraph (3)(B) for
15 fiscal year 2009, increased by the percent-
16 age increase (if any) in the projected nomi-
17 nal per capita amount of National Health
18 Expenditures for calendar year 2010 over
19 calendar year 2009, as most recently pub-
20 lished by the Secretary; and

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

1 in the projected nominal per capita amount
2 of National Health Expenditures for the
3 calendar year that begins during the fiscal
4 year involved over the preceding calendar
5 year, as most recently published by the
6 Secretary.

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

9 “(1) TWO-YEAR TRANSITION PERIOD; AUTO-
10 MATIC EXTENSION AT STATE OPTION THROUGH FIS-
11 CAL YEAR 2009.—

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

16 “(i) the Secretary shall not on or after
17 the date of the enactment of the Children’s
18 Health Insurance Program Reauthoriza-
19 tion Act of 2007 approve or renew a waiv-
20 er, experimental, pilot, or demonstration
21 project that would allow funds made avail-
22 able under this title to be used to provide
23 child health assistance or other health ben-
24 efits coverage to a parent of a targeted
25 low-income child; and

1 “(ii) notwithstanding the terms and
2 conditions of an applicable existing waiver,
3 the provisions of paragraphs (2) and (3)
4 shall apply for purposes of any fiscal year
5 beginning on or after October 1, 2009, in
6 determining the period to which the waiver
7 applies, the individuals eligible to be cov-
8 ered by the waiver, and the amount of the
9 Federal payment under this title.

10 “(B) EXTENSION UPON STATE RE-
11 QUEST.—If an applicable existing waiver de-
12 scribed in subparagraph (A) would otherwise
13 expire before October 1, 2009, and the State
14 requests an extension of such waiver, the Sec-
15 retary shall grant such an extension, but only,
16 subject to paragraph (2)(A), through Sep-
17 tember 30, 2009.

18 “(C) APPLICATION OF ENHANCED FMAP.—
19 The enhanced FMAP determined under section
20 2105(b) shall apply to expenditures under an
21 applicable existing waiver for the provision of
22 child health assistance or other health benefits
23 coverage to a parent of a targeted low-income
24 child during fiscal years 2008 and 2009.

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

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 2010, 2011, or 2012, subject to the
11 same terms and conditions that applied under
12 the applicable existing waiver, unless otherwise
13 modified 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 2012,
5 the set aside for any State shall be com-
6 puted separately for each period described
7 in clauses (i) and (ii) of subsection
8 (i)(1)(D) and any increase or reduction in
9 the allotment for either such period under
10 subsection (i)(3)(B)(ii) shall be allocated
11 on a pro 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 2010 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 2010 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 subparagraphs (A),
10 (B), or (C) of paragraph (3) for fiscal
11 year 2009; 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 2011 OR 2012.—For pur-
19 poses of clause (ii), the applicable percent-
20 age for any quarter of fiscal year 2011 or
21 2012 is equal to—

22 “(I) the REMAP percentage if
23 the State met either of the coverage
24 benchmarks described in subpara-

1 graph (B) or (C) of paragraph (3) for
2 the preceding fiscal year; or

3 “(II) the Federal medical assist-
4 ance percentage (as so determined) in
5 the case of any State to which sub-
6 clause (I) does not apply.

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

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

21 “(vi) NO INCREASE IN INCOME ELIGI-
22 BILITY LEVEL FOR PARENTS.—No pay-
23 ments shall be made to a State from the
24 amount set aside under clause (i) for a fis-
25 cal year for expenditures for providing

1 child health assistance or health benefits
2 coverage to a parent of a targeted low-in-
3 come child whose family income exceeds
4 the income eligibility level applied under
5 the applicable existing waiver to parents of
6 targeted low-income children on the date of
7 enactment of the Children’s Health Insur-
8 ance Program Reauthorization Act of
9 2007.

10 “(3) OUTREACH OR COVERAGE BENCH-
11 MARKS.—For purposes of paragraph (2), the out-
12 reach or coverage benchmarks described in this
13 paragraph are as follows:

14 “(A) SIGNIFICANT CHILD OUTREACH CAM-
15 PAIGN.—The State—

16 “(i) was awarded a grant under sec-
17 tion 2113 for fiscal year 2009;

18 “(ii) implemented 1 or more of the
19 process measures described in section
20 2104(j)(3)(A)(i) for such fiscal year; or

21 “(iii) has submitted a specific plan for
22 outreach for such fiscal year.

23 “(B) HIGH-PERFORMING STATE.—The
24 State, on the basis of the most timely and accu-
25 rate published estimates of the Bureau of the

1 Census, ranks in the lowest $\frac{1}{3}$ of States in
2 terms of the State's percentage of low-income
3 children without health insurance.

4 “(C) STATE INCREASING ENROLLMENT OF
5 LOW-INCOME CHILDREN.—The State qualified
6 for a payment from the Incentive Fund under
7 paragraph (2)(C) of section 2104(j) for the
8 most recent coverage period applicable under
9 such section.

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

18 “(c) APPLICABLE EXISTING WAIVER.—For purposes
19 of this section—

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

1 “(A) would allow funds made available
2 under this title to be used to provide child
3 health assistance or other health benefits cov-
4 erage to—

5 “(i) a parent of a targeted low-income
6 child;

7 “(ii) a nonpregnant childless adult; or

8 “(iii) individuals described in both
9 clauses (i) and (ii); and

10 “(B) was in effect during fiscal year 2007.

11 “(2) DEFINITIONS.—

12 “(A) PARENT.—The term ‘parent’ includes
13 a caretaker relative (as such term is used in
14 carrying out section 1931) and a legal guard-
15 ian.

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

19 “(2) CONFORMING AMENDMENTS.—

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

22 (i) by striking “, the Secretary” and
23 inserting “:

24 “(1) The Secretary”;

1 (ii) in the first sentence, by inserting
2 “or a parent (as defined in section
3 2111(c)(2)(A)), who is not pregnant, of a
4 targeted low-income child” before the pe-
5 riod;

6 (iii) by striking the second sentence;

7 and

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

10 “(2) The Secretary may not approve, extend,
11 renew, or amend a waiver, experimental, pilot, or
12 demonstration project with respect to a State after
13 the date of enactment of the Children’s Health In-
14 surance Program Reauthorization Act of 2007 that
15 would waive or modify the requirements of section
16 2111.”.

17 (B) Section 6102(c) of the Deficit Reduc-
18 tion Act of 2005 (Public Law 109–171; 120
19 Stat. 131) is amended by striking “Nothing”
20 and inserting “Subject to section 2111 of the
21 Social Security Act, as added by section
22 106(a)(1) of the Children’s Health Insurance
23 Program Reauthorization Act of 2007, noth-
24 ing”.

25 (b) GAO STUDY AND REPORT.—

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

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

11 (B) such parents, relatives, and legal
12 guardians who enroll in such a plan are more
13 likely to enroll their children in such a plan or
14 in a State plan under title XIX of such Act.

15 (2) REPORT.—Not later than 2 years after the
16 date of the enactment of this Act, the Comptroller
17 General shall report the results of the study to the
18 appropriate committees of Congress, including rec-
19 ommendations (if any) for changes in legislation.

20 **SEC. 107. STATE OPTION TO COVER LOW-INCOME PREG-**
21 **NANT WOMEN UNDER CHIP THROUGH A**
22 **STATE PLAN AMENDMENT.**

23 (a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et
24 seq.), as amended by section 106(a), is amended by adding
25 at the end the following new section:

1 **“SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-IN-**
2 **COME PREGNANT WOMEN THROUGH A STATE**
3 **PLAN AMENDMENT.**

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

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

12 “(1) MEDICAID INCOME ELIGIBILITY LEVEL
13 FOR PREGNANT WOMEN OF AT LEAST 185 PERCENT
14 OF POVERTY.—The State has established an income
15 eligibility level for pregnant women under subsection
16 (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of
17 section 1902 that is at least 185 percent of the in-
18 come official poverty line.

19 “(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR
20 PREGNANT WOMEN LOWER THAN THE STATE’S MED-
21 ICAID LEVEL.—The State does not apply an effective
22 income level for pregnant women under the State
23 plan amendment that is lower than the effective in-
24 come level (expressed as a percent of the poverty line
25 and considering applicable income disregards) speci-
26 fied under subsection (a)(10)(A)(i)(III),

1 (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on
2 the date of enactment of this paragraph to be eligi-
3 ble for medical assistance as a pregnant woman.

4 “(3) NO COVERAGE FOR HIGHER INCOME PREG-
5 NANT WOMEN WITHOUT COVERING LOWER INCOME
6 PREGNANT WOMEN.—The State does not provide
7 coverage for pregnant women with higher family in-
8 come without covering pregnant women with a lower
9 family income.

10 “(4) APPLICATION OF REQUIREMENTS FOR
11 COVERAGE OF TARGETED LOW-INCOME CHILDREN.—
12 The State provides pregnancy-related assistance for
13 targeted low-income pregnant women in the same
14 manner, and subject to the same requirements, as
15 the State provides child health assistance for tar-
16 geted low-income children under the State child
17 health plan, and in addition to providing child health
18 assistance for such women.

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

1 “(6) APPLICATION OF COST-SHARING PROTEC-
2 TION.—The State provides pregnancy-related assist-
3 ance to a targeted low-income woman consistent
4 with the cost-sharing protections under section
5 2103(e) and applies the limitation on total annual
6 aggregate cost sharing imposed under paragraph
7 (3)(B) of such section to the family of such a
8 woman.

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

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

17 “(1) PREGNANCY-RELATED ASSISTANCE.—The
18 term ‘pregnancy-related assistance’ has the meaning
19 given the term ‘child health assistance’ in section
20 2110(a) and includes any medical assistance that
21 the State would provide for a pregnant woman
22 under the State plan under title XIX during preg-
23 nancy and the period described in paragraph (2)(A).

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

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 does not exceed
9 the income eligibility level established under the
10 State child health plan under this title for a
11 targeted low-income child; and

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

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

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

12 “(f) STATES PROVIDING ASSISTANCE THROUGH
13 OTHER OPTIONS.—

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

19 “(A) child health assistance through the
20 application of sections 457.10, 457.350(b)(2),
21 457.622(c)(5), and 457.626(a)(3) of title 42,
22 Code of Federal Regulations (as in effect after
23 the final rule adopted by the Secretary and set
24 forth at 67 Fed. Reg. 61956–61974 (October 2,
25 2002)), or

1 “(B) pregnancy-related services through
2 the application of any waiver authority (as in
3 effect on June 1, 2007).

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

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

20 “(A) to infer congressional intent regard-
21 ing the legality or illegality of the content of the
22 sections specified in paragraph (1)(A); or

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

1 (b) ADDITIONAL CONFORMING AMENDMENTS.—

2 (1) NO COST SHARING FOR PREGNANCY-RE-
3 LATED BENEFITS.—Section 2103(e)(2) (42 U.S.C.
4 1397cc(e)(2)) is amended—

5 (A) in the heading, by inserting “OR PREG-
6 NANCY-RELATED ASSISTANCE” after “PREVEN-
7 TIVE SERVICES”; and

8 (B) by inserting before the period at the
9 end the following: “or for pregnancy-related as-
10 sistance”.

11 (2) NO WAITING PERIOD.—Section
12 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is
13 amended—

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

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

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

20 “(iii) may not apply a waiting period
21 (including a waiting period to carry out
22 paragraph (3)(C)) in the case of a targeted
23 low-income pregnant woman provided preg-
24 nancy-related assistance under section
25 2112.”.

1 **SEC. 108. CHIP CONTINGENCY FUND.**

2 Section 2104 (42 U.S.C. 1397dd), as amended by
3 section 105, is amended by adding at the end the following
4 new subsection:

5 “(k) CHIP CONTINGENCY FUND.—

6 “(1) ESTABLISHMENT.—There is hereby estab-
7 lished in the Treasury of the United States a fund
8 which shall be known as the ‘CHIP Contingency
9 Fund’ (in this subsection referred to as the ‘Fund’).
10 Amounts in the Fund are authorized to be appro-
11 priated for payments under this subsection.

12 “(2) DEPOSITS INTO FUND.—

13 “(A) INITIAL AND SUBSEQUENT APPRO-
14 PRIATIONS.—Subject to subparagraphs (B) and
15 (E), out of any money in the Treasury of the
16 United States not otherwise appropriated, there
17 are appropriated to the Fund—

18 “(i) for fiscal year 2009, an amount
19 equal to 12.5 percent of the available na-
20 tional allotment under subsection (i)(1)(C)
21 for the fiscal year; and

22 “(ii) for each of fiscal years 2010
23 through 2012, such sums as are necessary
24 for making payments to eligible States for
25 such fiscal year, but not in excess of the

1 aggregate cap described in subparagraph
2 (B).

3 “(B) AGGREGATE CAP.—Subject to sub-
4 paragraph (E), the total amount available for
5 payment from the Fund for each of fiscal years
6 2009 through 2012 (taking into account depos-
7 its made under subparagraph (C)), shall not ex-
8 ceed 12.5 percent of the available national allot-
9 ment under subsection (i)(1)(C) for the fiscal
10 year.

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

18 “(D) TRANSFER OF EXCESS FUNDS TO
19 THE INCENTIVE FUND.—The Secretary of the
20 Treasury shall transfer to, and deposit in, the
21 CHIP Incentive Bonuses Pool established under
22 subsection (j) any amounts in excess of the ag-
23 gregate cap described in subparagraph (B) for
24 a fiscal year.

1 “(E) SPECIAL RULES FOR AMOUNTS SET
2 ASIDE FOR PARENTS AND CHILDLISS
3 ADULTS.—For purposes of subparagraphs (A)
4 and (B)—

5 “(i) the available national allotment
6 under subsection (i)(1)(C) shall be reduced
7 by any amount set aside under section
8 2111(a)(3) for block grant payments for
9 transitional coverage for childless adults;
10 and

11 “(ii) the Secretary shall establish a
12 separate account in the Fund for the por-
13 tion of any amount appropriated to the
14 Fund for any fiscal year which is allocable
15 to the portion of the available national al-
16 lotment under subsection (i)(1)(C) which is
17 set aside for the fiscal year under section
18 2111(b)(2)(B)(i) for coverage of parents of
19 low-income children.

20 The Secretary shall include in the account es-
21 tablished under clause (ii) any income derived
22 under subparagraph (C) which is allocable to
23 amounts in such account.

24 “(3) CHIP CONTINGENCY FUND PAYMENTS.—

25 “(A) PAYMENTS.—

1 “(i) IN GENERAL.—Subject to clauses
2 (ii) and (iii) and the succeeding subpara-
3 graphs of this paragraph, the Secretary
4 shall pay from the Fund to a State that is
5 an eligible State for a month of a fiscal
6 year a CHIP contingency fund payment
7 equal to the Federal share of the shortfall
8 determined under subparagraph (D). In
9 the case of an eligible State under sub-
10 paragraph (D)(i), the Secretary shall not
11 make the payment under this subpara-
12 graph until the State makes, and submits
13 to the Secretary, a projection of the
14 amount of the shortfall.

15 “(ii) SEPARATE DETERMINATIONS OF
16 SHORTFALLS.—The Secretary shall sepa-
17 rately compute the shortfall under sub-
18 paragraph (D) for expenditures for eligible
19 individuals other than nonpregnant child-
20 less adults and parents with respect to
21 whom amounts are set aside under section
22 2111, for expenditures for such childless
23 adults, and for expenditures for such par-
24 ents.

25 “(iii) PAYMENTS.—

1 “(I) NONPREGNANT CHILDLESS
2 ADULTS.—No payments shall be made
3 from the Fund for nonpregnant child-
4 less adults with respect to whom
5 amounts are set aside under section
6 2111(a)(3).

7 “(II) PARENTS.—Any payments
8 with respect to any shortfall for par-
9 ents who are paid from amounts set
10 aside under section 2111(b)(2)(B)(i)
11 shall be made only from the account
12 established under paragraph (2)(E)(ii)
13 and not from any other amounts in
14 the Fund. No other payments may be
15 made from such account.

16 “(iv) SPECIAL RULES.—Subpara-
17 graphs (B) and (C) shall be applied sepa-
18 rately with respect to shortfalls described
19 in clause (ii).

20 “(B) USE OF FUNDS.—Amounts paid to
21 an eligible State from the Fund shall be used
22 only to eliminate the Federal share of a short-
23 fall in the State’s allotment under subsection (i)
24 for a fiscal year.

1 “(C) PRORATION RULE.—If the amounts
2 available for payment from the Fund for a fis-
3 cal year are less than the total amount of pay-
4 ments determined under subparagraph (A) for
5 the fiscal year, the amount to be paid under
6 such subparagraph to each eligible State shall
7 be reduced proportionally.

8 “(D) ELIGIBLE STATE.—

9 “(i) IN GENERAL.—A State is an eli-
10 gible State for a month if the State is a
11 subsection (b) State (as defined in sub-
12 section (i)(7)), the State requests access to
13 the Fund for the month, and it is de-
14 scribed in clause (ii) or (iii).

15 “(ii) SHORTFALL OF FEDERAL ALLOT-
16 MENT FUNDING OF NOT MORE THAN 5
17 PERCENT.—The Secretary estimates, on
18 the basis of the most recent data available
19 to the Secretary or requested from the
20 State by the Secretary, that the State’s al-
21 lotment for the fiscal year is at least 95
22 percent, but less than 100 percent, of the
23 projected expenditures under the State
24 child health plan for the State for the fis-
25 cal year determined under subsection (i)

1 (without regard to incentive bonuses or
2 payments for which the State is eligible for
3 under subsection (j)(2) for the fiscal year).

4 “(iii) SHORTFALL OF FEDERAL AL-
5 LOTMENT FUNDING OF MORE THAN 5 PER-
6 CENT CAUSED BY SPECIFIC EVENTS.—The
7 Secretary estimates, on the basis of the
8 most recent data available to the Secretary
9 or requested from the State by the Sec-
10 retary, that the State’s allotment for the
11 fiscal year is less than 95 percent of the
12 projected expenditures under the State
13 child health plan for the State for the fis-
14 cal year determined under subsection (i)
15 (without regard to incentive bonuses or
16 payments for which the State is eligible for
17 under subsection (j)(2) for the fiscal year)
18 and that such shortfall is attributable to 1
19 or more of the following events:

20 “(I) STAFFORD ACT OR PUBLIC
21 HEALTH EMERGENCY.—The State
22 has—

23 “(aa) 1 or more parishes or
24 counties for which a major dis-
25 aster has been declared in ac-

1 cordance with section 401 of the
2 Robert T. Stafford Disaster Re-
3 lief and Emergency Assistance
4 Act (42 U.S.C. 5170) and which
5 the President has determined
6 warrants individual and public
7 assistance from the Federal Gov-
8 ernment under such Act; or

9 “(bb) a public health emer-
10 gency declared by the Secretary
11 under section 319 of the Public
12 Health Service Act.

13 “(II) STATE ECONOMIC DOWN-
14 TURN.—The State unemployment rate
15 is at least 5.5 percent during any 13-
16 consecutive week period during the
17 fiscal year and such rate is at least
18 120 percent of the State unemploy-
19 ment rate for the same period as aver-
20 aged over the last 3 fiscal years.

21 “(III) EVENT RESULTING IN
22 RISE IN PERCENTAGE OF LOW-INCOME
23 CHILDREN WITHOUT HEALTH INSUR-
24 ANCE.—The State experienced a re-
25 cent event that resulted in an increase

1 in the percentage of low-income chil-
2 dren in the State without health in-
3 surance (as determined on the basis of
4 the most timely and accurate pub-
5 lished estimates of the Bureau of the
6 Census) that was outside the control
7 of the State and warrants granting
8 the State access to the Fund (as de-
9 termined by the Secretary).

10 “(E) PAYMENTS MADE TO ALL ELIGIBLE
11 STATES ON A MONTHLY BASIS; AUTHORITY FOR
12 PRO RATA PAYMENTS.—The Secretary shall
13 make monthly payments from the Fund to all
14 States that are determined to be eligible States
15 with respect to a month. If the sum of the pay-
16 ments to be made from the Fund for a month
17 exceed the amount in the Fund, the Secretary
18 shall reduce each such payment on a propor-
19 tional basis.

20 “(F) PAYMENTS LIMITED TO FISCAL YEAR
21 OF ELIGIBILITY DETERMINATION UNLESS NEW
22 ELIGIBILITY BASIS DETERMINED.—No State
23 shall receive a CHIP contingency fund payment
24 under this section for a month beginning after
25 September 30 of the fiscal year in which the

1 State is determined to be an eligible State
2 under this subsection, except that in the case of
3 an event described in subclause (I) or (III) of
4 subparagraph (D)(iii) that occurred after July
5 1 of the fiscal year, any such payment with re-
6 spect to such event shall remain available until
7 September 30 of the subsequent fiscal year.
8 Nothing in the preceding sentence shall be con-
9 strued as prohibiting a State from being deter-
10 mined to be an eligible State under this sub-
11 section for any fiscal year occurring after a fis-
12 cal year in which such a determination is made.

13 “(G) EXEMPTION FROM DETERMINATION
14 OF PERCENTAGE OF ALLOTMENT RETAINED
15 AFTER FIRST YEAR OF AVAILABILITY.—In no
16 event shall payments made to a State under
17 this subsection be treated as part of the allot-
18 ment determined for a State for a fiscal year
19 under subsection (i) for purposes of subsection
20 (j)(1)(B)(ii)(III).

21 “(H) APPLICATION OF ALLOTMENT RE-
22 PORTING RULES.—Rules applicable to States
23 for purposes of receiving payments from an al-
24 lotment determined under subsection (c) or (i)
25 shall apply in the same manner to an eligible

1 State for purposes of receiving a CHIP contin-
2 gency fund payment under this subsection.

3 “(4) ANNUAL REPORTS.—The Secretary shall
4 annually report to the Congress on the amounts in
5 the Fund, the specific events that caused States to
6 apply for payments from the Fund, and the pay-
7 ments made from the Fund.”.

8 **SEC. 109. TWO-YEAR AVAILABILITY OF ALLOTMENTS; EX-**
9 **PENDITURES COUNTED AGAINST OLDEST AL-**
10 **LOTMENTS.**

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

13 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

14 “(1) IN GENERAL.—Except as provided in sub-
15 section (j)(1)(B)(ii)(III), amounts allotted to a State
16 pursuant to this section—

17 “(A) for each of fiscal years 1998 through
18 2006, shall remain available for expenditure by
19 the State through the end of the second suc-
20 ceeding fiscal year; and

21 “(B) for each of fiscal years 2007 through
22 2012, shall remain available for expenditure by
23 the State only through the end of the suc-
24 ceeding fiscal year for which such amounts are
25 allotted.

1 “(2) INCENTIVE BONUSES.—Incentive bonuses
2 paid to a State under subsection (j)(2) for a fiscal
3 year shall remain available for expenditure by the
4 State without limitation.

5 “(3) CHIP CONTINGENCY FUND PAYMENTS.—
6 Except as provided in paragraph (3)(F) of sub-
7 section (k), CHIP Contingency Fund payments
8 made to a State under such subsection for a month
9 of a fiscal year shall remain available for expendi-
10 ture by the State through the end of the fiscal year.

11 “(4) RULE FOR COUNTING EXPENDITURES
12 AGAINST CHIP CONTINGENCY FUND PAYMENTS, FIS-
13 CAL YEAR ALLOTMENTS, AND INCENTIVE BO-
14 NUSES.—

15 “(A) IN GENERAL.—Expenditures under
16 the State child health plan made on or after
17 October 1, 2007, shall be counted against—

18 “(i) first, any CHIP Contingency
19 Fund payment made to the State under
20 subsection (k) for the earliest month of the
21 earliest fiscal year for which the payment
22 remains available for expenditure; and

23 “(ii) second, amounts allotted to the
24 State for the earliest fiscal year for which
25 amounts remain available for expenditure.

1 “(B) INCENTIVE BONUSES.—A State may
2 elect, but is not required, to count expenditures
3 under the State child health plan against any
4 incentive bonuses paid to the State under sub-
5 section (j)(2) for a fiscal year.

6 “(C) BLOCK GRANT SET-ASIDES.—Expend-
7 itures for coverage of—

8 “(i) nonpregnant childless adults for
9 fiscal year 2009 shall be counted only
10 against the amount set aside for such cov-
11 erage under section 2111(a)(3); and

12 “(ii) parents of targeted low-income
13 children for each of fiscal years 2010
14 through 2012, shall be counted only
15 against the amount set aside for such cov-
16 erage under section 2111(b)(2)(B)(i).”.

17 **SEC. 110. LIMITATION ON MATCHING RATE FOR STATES**
18 **THAT PROPOSE TO COVER CHILDREN WITH**
19 **EFFECTIVE FAMILY INCOME THAT EXCEEDS**
20 **300 PERCENT OF THE POVERTY LINE.**

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

24 “(8) LIMITATION ON MATCHING RATE FOR EX-
25 PENDITURES FOR CHILD HEALTH ASSISTANCE PRO-

1 VIDE TO CHILDREN WHOSE EFFECTIVE FAMILY IN-
2 COME EXCEEDS 300 PERCENT OF THE POVERTY
3 LINE.—

4 “(A) FMAP APPLIED TO EXPENDI-
5 TURES.—Except as provided in subparagraph
6 (B), for fiscal years beginning with fiscal year
7 2008, the Federal medical assistance percent-
8 age (as determined under section 1905(b) with-
9 out regard to clause (4) of such section) shall
10 be substituted for the enhanced FMAP under
11 subsection (a)(1) with respect to any expendi-
12 tures for providing child health assistance or
13 health benefits coverage for a targeted low-in-
14 come child whose effective family income would
15 exceed 300 percent of the poverty line but for
16 the application of a general exclusion of a block
17 of income that is not determined by type of ex-
18 pense or type of income.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to any State that, on the date
21 of enactment of the Children’s Health Insur-
22 ance Program Reauthorization Act of 2007, has
23 an approved State plan amendment or waiver to
24 provide, or has enacted a State law to submit
25 a State plan amendment to provide, expendi-

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

3 (b) CONFORMING AMENDMENT.—Section 2105(a)(1)
4 (42 U.S.C. 1397dd(a)(1)) is amended, in the matter pre-
5 ceding subparagraph (A), by inserting “or subsection
6 (c)(8)” after “subparagraph (B)”.

7 **SEC. 111. OPTION FOR QUALIFYING STATES TO RECEIVE**
8 **THE ENHANCED PORTION OF THE CHIP**
9 **MATCHING RATE FOR MEDICAID COVERAGE**
10 **OF CERTAIN CHILDREN.**

11 Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

12 (1) in paragraph (1)(A), by inserting “subject
13 to paragraph (4),” after “Notwithstanding any other
14 provision of law,”; and

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

17 “(4) OPTION FOR ALLOTMENTS FOR FISCAL
18 YEARS 2008 THROUGH 2012.—

19 “(A) PAYMENT OF ENHANCED PORTION OF
20 MATCHING RATE FOR CERTAIN EXPENDI-
21 TURES.—In the case of expenditures described
22 in subparagraph (B), a qualifying State (as de-
23 fined in paragraph (2)) may elect to be paid
24 from the State’s allotment made under section
25 2104 for any of fiscal years 2008 through 2012

1 (insofar as the allotment is available to the
2 State under subsections (e) and (i) of such sec-
3 tion) an amount each quarter equal to the addi-
4 tional amount that would have been paid to the
5 State under title XIX with respect to such ex-
6 penditures if the enhanced FMAP (as deter-
7 mined under subsection (b)) had been sub-
8 stituted for the Federal medical assistance per-
9 centage (as defined in section 1905(b)).

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

1 not exceed the Medicaid applicable income
2 level.”.

3 **TITLE II—OUTREACH AND**
4 **ENROLLMENT**

5 **SEC. 201. GRANTS FOR OUTREACH AND ENROLLMENT.**

6 (a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.),
7 as amended by section 107, is amended by adding at the
8 end the following:

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

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

13 **“(1) IN GENERAL.—**From the amounts appro-
14 priated under subsection (g), subject to paragraph
15 (2), the Secretary shall award grants to eligible enti-
16 ties during the period of fiscal years 2008 through
17 2012 to conduct outreach and enrollment efforts
18 that are designed to increase the enrollment and
19 participation of eligible children under this title and
20 title XIX.

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

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

3 “(b) PRIORITY FOR AWARD OF GRANTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(f) DEFINITIONS.—In this section:

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

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

13 “(B) A local government.

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

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

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

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

7 “(G) An elementary or secondary school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(g) APPROPRIATION.—There is appropriated, out of
6 any money in the Treasury not otherwise appropriated,
7 \$100,000,000 for the period of fiscal years 2008 through
8 2012, to remain available until expended, for the purpose
9 of awarding grants under this section. Amounts appro-
10 priated and paid under the authority of this section shall
11 be in addition to amounts appropriated under section
12 2104 and paid to States in accordance with section 2105,
13 including with respect to expenditures for outreach activi-
14 ties in accordance with subsections (a)(1)(D)(iii) and
15 (c)(2)(C) of that section.

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

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

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

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

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

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

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

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

21 (b) ENHANCED ADMINISTRATIVE FUNDING FOR
22 TRANSLATION OR INTERPRETATION SERVICES UNDER
23 CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as
24 amended by section 603, is amended—

1 (1) in the matter preceding subparagraph (A),
2 by inserting “(or, in the case of expenditures de-
3 scribed in subparagraph (D)(iv), the higher of 75
4 percent or the sum of the enhanced FMAP plus 5
5 percentage points)” after “enhanced FMAP”; and

6 (2) in subparagraph (D)—

7 (A) in clause (iii), by striking “and” at the
8 end;

9 (B) by redesignating clause (iv) as clause
10 (v); and

11 (C) by inserting after clause (iii) the fol-
12 lowing new clause:

13 “(iv) for translation or interpretation
14 services in connection with the enrollment
15 and use of services under this title by indi-
16 viduals for whom English is not their pri-
17 mary language (as found necessary by the
18 Secretary for the proper and efficient ad-
19 ministration of the State plan); and”.

20 (c) NONAPPLICATION OF ADMINISTRATIVE EXPENDI-
21 TURES CAP.—Section 2105(c)(2) (42 U.S.C.
22 1397ee(c)(2)) is amended by adding at the end the fol-
23 lowing:

24 “(C) NONAPPLICATION TO CERTAIN EX-
25 PENDITURES.—The limitation under subpara-

1 graph (A) shall not apply with respect to the
2 following expenditures:

3 “(i) EXPENDITURES FUNDED UNDER
4 SECTION 2113.—Expenditures for outreach
5 and enrollment activities funded under a
6 grant awarded to the State under section
7 2113.”.

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

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

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

15 “(a) AGREEMENTS WITH STATES FOR MEDICAID
16 AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO
17 INCREASE THE ENROLLMENT OF INDIANS IN THOSE
18 PROGRAMS.—

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

1 reach efforts such as the outstationing of eligibility
2 workers, entering into agreements with the Indian
3 Health Service, Indian Tribes, Tribal Organizations,
4 and Urban Indian Organizations to provide out-
5 reach, education regarding eligibility and benefits,
6 enrollment, and translation services when such serv-
7 ices are appropriate.

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

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

24 “(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN
25 HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN IN-

1 DIAN ORGANIZATION.—In this section, the terms ‘Indian’,
2 ‘Indian Tribe’, ‘Indian Health Program’, ‘Tribal Organi-
3 zation’, and ‘Urban Indian Organization’ have the mean-
4 ings given those terms in section 4 of the Indian Health
5 Care Improvement Act.”.

6 (b) NONAPPLICATION OF 10 PERCENT LIMIT ON
7 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-
8 tion 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as added
9 by section 201(c), is amended by adding at the end the
10 following new clause:

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

1 **SEC. 203. DEMONSTRATION PROGRAM TO PERMIT STATES**
2 **TO RELY ON FINDINGS BY AN EXPRESS LANE**
3 **AGENCY TO DETERMINE COMPONENTS OF A**
4 **CHILD'S ELIGIBILITY FOR MEDICAID OR**
5 **CHIP.**

6 (a) REQUIREMENT TO CONDUCT DEMONSTRATION
7 PROGRAM.—

8 (1) IN GENERAL.—The Secretary shall establish
9 a 3-year demonstration program under which up to
10 10 States shall be authorized to rely on a finding
11 made within the preceding 12 months by an Express
12 Lane agency to determine whether a child has met
13 1 or more of the eligibility requirements, such as in-
14 come, assets or resources, citizenship status, or
15 other criteria, necessary to determine the child's ini-
16 tial eligibility, eligibility redetermination, or renewal
17 of eligibility, for medical assistance under the State
18 Medicaid plan or child health assistance under the
19 State CHIP plan. A State selected to participate in
20 the demonstration program—

21 (A) shall not be required to direct a child
22 (or a child's family) to submit information or
23 documentation previously submitted by the
24 child or family to an Express Lane agency that
25 the State relies on for its Medicaid or CHIP eli-
26 gibility determination; and

1 (B) may rely on information from an Ex-
2 press Lane agency when evaluating a child's eli-
3 gibility for medical assistance under the State
4 Medicaid plan or child health assistance under
5 the State CHIP plan without a separate, inde-
6 pendent confirmation of the information at the
7 time of enrollment, redetermination, or renewal.

8 (2) PAYMENTS TO STATES.—From the amount
9 appropriated under paragraph (1) of subsection (f),
10 after the application of paragraph (2) of that sub-
11 section, the Secretary shall pay the States selected
12 to participate in the demonstration program such
13 sums as the Secretary shall determine for expendi-
14 tures made by the State for systems upgrades and
15 implementation of the demonstration program. In no
16 event shall a payment be made to a State from the
17 amount appropriated under subsection (f) for any
18 expenditures incurred for providing medical assist-
19 ance or child health assistance to a child enrolled in
20 the State Medicaid plan or the State CHIP plan
21 through reliance on a finding made by an Express
22 Lane agency.

23 (b) REQUIREMENTS; OPTIONS FOR APPLICATION.—

24 (1) STATE REQUIREMENTS.—A State selected
25 to participate in the demonstration program estab-

1 lished under this section may rely on a finding of an
2 Express Lane agency only if the following conditions
3 are met:

4 (A) REQUIREMENT TO DETERMINE ELIGI-
5 BILITY USING REGULAR PROCEDURES IF CHILD
6 IS FIRST FOUND INELIGIBLE.—If reliance on a
7 finding from an Express Lane agency results in
8 a child not being found eligible for the State
9 Medicaid plan or the State CHIP plan, the
10 State would be required to determine eligibility
11 under such plan using its regular procedures.

12 (B) NOTICE.—The State shall inform the
13 families (especially those whose children are en-
14 rolled in the State CHIP plan) that they may
15 qualify for lower premium payments or more
16 comprehensive health coverage under the State
17 Medicaid plan if the family's income were di-
18 rectly evaluated for an eligibility determination
19 by the State Medicaid agency, and that, at the
20 family's option, the family may seek an eligi-
21 bility determination by the State Medicaid
22 agency.

23 (C) COMPLIANCE WITH DEPARTMENT OF
24 HOMELAND SECURITY PROCEDURES.—The
25 State may rely on an Express Lane agency

1 finding that a child is a qualified alien as long
2 as the Express Lane agency complies with guid-
3 ance and regulatory procedures issued by the
4 Secretary of Homeland Security for eligibility
5 determinations of qualified aliens (as defined in
6 subsections (b) and (c) of section 431 of the
7 Personal Responsibility and Work Opportunity
8 Reconciliation Act of 1996 (8 U.S.C. 1641)).

9 (D) VERIFICATION OF CITIZENSHIP OR NA-
10 TIONALITY STATUS.—The State shall satisfy
11 the requirements of section 1902(a)(46)(B) or
12 2105(c)(9) of the Social Security Act, as appli-
13 cable (and as added by section 301 of this Act)
14 for verifications of citizenship or nationality sta-
15 tus.

16 (E) CODING; APPLICATION TO ENROLL-
17 MENT ERROR RATES.—

18 (i) IN GENERAL.—The State agrees
19 to—

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

1 tion of the State's participation in the
2 demonstration program;

3 (II) annually provide the Sec-
4 retary with a statistically valid sample
5 (that is approved by Secretary) of the
6 children enrolled in such plans
7 through reliance on such a finding by
8 conducting a full Medicaid eligibility
9 review of the children identified for
10 such sample for purposes of deter-
11 mining an eligibility error rate with
12 respect to the enrollment of such chil-
13 dren;

14 (III) submit the error rate deter-
15 mined under subclause (II) to the
16 Secretary;

17 (IV) if such error rate exceeds 3
18 percent for either of the first 2 fiscal
19 years in which the State participates
20 in the demonstration program, dem-
21 onstrate to the satisfaction of the Sec-
22 retary the specific corrective actions
23 implemented by the State to improve
24 upon such error rate; and

1 (V) if such error rate exceeds 3
2 percent for any fiscal year in which
3 the State participates in the dem-
4 onstration program, a reduction in the
5 amount otherwise payable to the State
6 under section 1903(a) of the Social
7 Security Act (42 Secretary 1396b(a))
8 for quarters for that fiscal year, equal
9 to the total amount of erroneous ex-
10 cess payments determined for the fis-
11 cal year only with respect to the chil-
12 dren included in the sample for the
13 fiscal year that are in excess of a 3
14 percent error rate with respect to such
15 children.

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

1 determining eligibility, or penalize the
2 State on the basis of such error rate in any
3 manner other than the reduction of pay-
4 ments provided for under clause (i)(V).

5 (iii) RULE OF CONSTRUCTION.—Noth-
6 ing in this section shall be construed as re-
7 lieving a State that participates in the
8 demonstration program established under
9 this section from being subject to a penalty
10 under section 1903(u) of the Social Secu-
11 rity Act (42 U.S.C. 1396b(u)) for pay-
12 ments made under the State Medicaid plan
13 with respect to ineligible individuals and
14 families that are determined to exceed the
15 error rate permitted under that section (as
16 determined without regard to the error
17 rate determined under clause (i)(II)).

18 (2) STATE OPTIONS FOR APPLICATION.—A
19 State selected to participate in the demonstration
20 program may elect to apply any of the following:

21 (A) SATISFACTION OF CHIP SCREEN AND
22 ENROLL REQUIREMENTS.—If the State relies on
23 a finding of an Express Lane agency for pur-
24 poses of determining eligibility under the State
25 CHIP plan, the State may meet the screen and

1 enroll requirements imposed under subpara-
2 graphs (A) and (B) of section 2102(b)(3) of the
3 Social Security Act (42 U.S.C. 1397bb(b)(3))
4 by using any of the following:

5 (i) Establishing a threshold percent-
6 age of the poverty line that is 30 percent-
7 age points (or such other higher number of
8 percentage points) as the State determines
9 reflects the income methodologies of the
10 program administered by the Express Lane
11 Agency and the State Medicaid plan.

12 (ii) Providing that a child satisfies all
13 income requirements for eligibility under
14 the State Medicaid plan.

15 (iii) Providing that a child has a fam-
16 ily income that exceeds the Medicaid appli-
17 cable income level.

18 (B) PRESUMPTIVE ELIGIBILITY.—The
19 State may provide for presumptive eligibility
20 under the State CHIP plan for a child who,
21 based on an eligibility determination of an in-
22 come finding from an Express Lane agency,
23 would qualify for child health assistance under
24 the State CHIP plan. During the period of pre-
25 sumptive eligibility, the State may determine

1 the child's eligibility for child health assistance
2 under the State CHIP plan based on telephone
3 contact with family members, access to data
4 available in electronic or paper format, or other
5 means that minimize to the maximum extent
6 feasible the burden on the family.

7 (C) AUTOMATIC ENROLLMENT.—

8 (i) IN GENERAL.—The State may ini-
9 tiate and determine eligibility for medical
10 assistance under the State Medicaid plan
11 or for child health assistance under the
12 State CHIP plan without a program appli-
13 cation from, or on behalf of, the child
14 based on data obtained from sources other
15 than the child (or the child's family), but
16 a child can only be automatically enrolled
17 in the State Medicaid plan or the State
18 CHIP plan if the child or the family af-
19 firmatively consents to being enrolled
20 through affirmation and signature on an
21 Express Lane agency application.

22 (ii) INFORMATION REQUIREMENT.—A
23 State that elects the option under clause
24 (i) shall have procedures in place to inform
25 the child or the child's family of the serv-

1 ices that will be covered under the State
2 Medicaid plan or the State CHIP plan (as
3 applicable), appropriate methods for using
4 such services, premium or other cost shar-
5 ing charges (if any) that apply, medical
6 support obligations created by the enroll-
7 ment (if applicable), and the actions the
8 child or the child’s family must take to
9 maintain enrollment and renew coverage.

10 (iii) OPTION TO WAIVE SIGNA-
11 TURES.—The State may waive any signa-
12 ture requirements for enrollment for a
13 child who consents to, or on whose behalf
14 consent is provided for, enrollment in the
15 State Medicaid plan or the State CHIP
16 plan.

17 (3) SIGNATURE REQUIREMENTS.—In the case
18 of a State selected to participate in the demonstra-
19 tion program—

20 (A) no signature under penalty of perjury
21 shall be required on an application form for
22 medical assistance under the State Medicaid
23 plan or child health assistance under the State
24 CHIP plan to attest to any element of the ap-
25 plication for which eligibility is based on infor-

1 mation received from an Express Lane agency
2 or a source other than an applicant; and

3 (B) any signature requirement for deter-
4 mination of an application for medical assist-
5 ance under the State Medicaid plan or child
6 health assistance under the State CHIP plan
7 may be satisfied through an electronic signa-
8 ture.

9 (4) RULES OF CONSTRUCTION.—Nothing in
10 this subsection shall be construed to—

11 (A) relieve a State of the obligation under
12 section 1902(a)(5) of the Social Security Act
13 (42 U.S.C. 1396a(a)(5)) to determine eligibility
14 for medical assistance under the State Medicaid
15 plan; or

16 (B) prohibit any State options otherwise
17 permitted under Federal law (without regard to
18 this paragraph or the demonstration program
19 established under this section) that are in-
20 tended to increase the enrollment of eligible
21 children for medical assistance under the State
22 Medicaid plan or child health assistance under
23 the State CHIP plan, including options related
24 to outreach, enrollment, applications, or the de-
25 termination or redetermination of eligibility.

1 (c) LIMITED WAIVER OF OTHER APPLICABLE RE-
2 QUIREMENTS.—

3 (1) SOCIAL SECURITY ACT.—The Secretary
4 shall waive only such requirements of the Social Se-
5 curity Act as the Secretary determines are necessary
6 to carry out the demonstration program established
7 under this section.

8 (2) AUTHORIZATION FOR PARTICIPATING
9 STATES TO RECEIVE CERTAIN DATA DIRECTLY REL-
10 EVANT TO DETERMINING ELIGIBILITY AND CORRECT
11 AMOUNT OF ASSISTANCE.—For provisions relating to
12 the authority of States participating in the dem-
13 onstration program to receive certain data directly,
14 see section 204(c).

15 (d) EVALUATION AND REPORT.—

16 (1) EVALUATION.—The Secretary shall con-
17 duct, by grant, contract, or interagency agreement,
18 a comprehensive, independent evaluation of the dem-
19 onstration program established under this section.
20 Such evaluation shall include an analysis of the ef-
21 fectiveness of the program, and shall include—

22 (A) obtaining a statistically valid sample of
23 the children who were enrolled in the State
24 Medicaid plan or the State CHIP plan through
25 reliance on a finding made by an Express Lane

1 agency and determining the percentage of chil-
2 dren who were erroneously enrolled in such
3 plans;

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

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

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

22 (2) REPORT TO CONGRESS.—Not later than
23 September 30, 2012, the Secretary shall submit a
24 report to Congress on the results of the evaluation

1 of the demonstration program established under this
2 section.

3 (e) DEFINITIONS.—In this section:

4 (1) CHILD; CHILDREN.—With respect to a
5 State selected to participate in the demonstration
6 program established under this section, the terms
7 “child” and “children” have the meanings given
8 such terms for purposes of the State plans under ti-
9 tles XIX and XXI of the Social Security Act.

10 (2) EXPRESS LANE AGENCY.—

11 (A) IN GENERAL.—The term “Express
12 Lane agency” means a public agency that—

13 (i) is determined by the State Med-
14 icaid agency or the State CHIP agency (as
15 applicable) to be capable of making the de-
16 terminations of 1 or more eligibility re-
17 quirements described in subsection (a)(1);

18 (ii) is identified in the State Medicaid
19 plan or the State CHIP plan; and

20 (iii) notifies the child’s family—

21 (I) of the information which shall
22 be disclosed in accordance with this
23 section;

24 (II) that the information dis-
25 closed will be used solely for purposes

1 of determining eligibility for medical
2 assistance under the State Medicaid
3 plan or for child health assistance
4 under the State CHIP plan; and

5 (III) that the family may elect to
6 not have the information disclosed for
7 such purposes; and

8 (iv) enters into, or is subject to, an
9 interagency agreement to limit the disclo-
10 sure and use of the information disclosed.

11 (B) INCLUSION OF SPECIFIC PUBLIC AGEN-
12 CIES.—Such term includes the following:

13 (i) A public agency that determines
14 eligibility for assistance under any of the
15 following:

16 (I) The temporary assistance for
17 needy families program funded under
18 part A of title IV of the Social Secu-
19 rity Act (42 U.S.C. 601 et seq.).

20 (II) A State program funded
21 under part D of title IV of such Act
22 (42 U.S.C. 651 et seq.).

23 (III) The State Medicaid plan.

24 (IV) The State CHIP plan.

1 (V) The Food Stamp Act of 1977
2 (7 U.S.C. 2011 et seq.).

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

5 (VII) The Richard B. Russell
6 National School Lunch Act (42
7 U.S.C. 1751 et seq.).

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

10 (IX) The Child Care and Devel-
11 opment Block Grant Act of 1990 (42
12 U.S.C. 9858 et seq.).

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

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

18 (XII) The Native American
19 Housing Assistance and Self-Deter-
20 mination Act of 1996 (25 U.S.C.
21 4101 et seq.).

22 (ii) A State-specified governmental
23 agency that has fiscal liability or legal re-
24 sponsibility for the accuracy of the eligi-

1 bility determination findings relied on by
2 the State.

3 (iii) A public agency that is subject to
4 an interagency agreement limiting the dis-
5 closure and use of the information dis-
6 closed for purposes of determining eligi-
7 bility under the State Medicaid plan or the
8 State CHIP plan.

9 (C) EXCLUSIONS.—Such term does not in-
10 clude an agency that determines eligibility for a
11 program established under the Social Services
12 Block Grant established under title XX of the
13 Social Security Act (42 U.S.C. 1397 et seq.) or
14 a private, for-profit organization.

15 (D) RULES OF CONSTRUCTION.—Nothing
16 in this paragraph shall be construed as—

17 (i) affecting the authority of a State
18 Medicaid agency to enter into contracts
19 with nonprofit and for-profit agencies to
20 administer the Medicaid application proc-
21 ess;

22 (ii) exempting a State Medicaid agen-
23 cy from complying with the requirements
24 of section 1902(a)(4) of the Social Security
25 Act (relating to merit-based personnel

1 standards for employees of the State Med-
2 icaid agency and safeguards against con-
3 flicts of interest); or

4 (iii) authorizing a State Medicaid
5 agency that participates in the demonstra-
6 tion program established under this section
7 to use the Express Lane option to avoid
8 complying with such requirements for pur-
9 poses of making eligibility determinations
10 under the State Medicaid plan.

11 (3) MEDICAID APPLICABLE INCOME LEVEL.—

12 With respect to a State, the term “Medicaid applica-
13 ble income level” has the meaning given that term
14 for purposes of such State under section 2110(b)(4)
15 of the Social Security Act (42 U.S.C. 1397jj(4)).

16 (4) POVERTY LINE.—The term “poverty line”

17 has the meaning given that term in section
18 2110(c)(5) of the Social Security Act (42 U.S.C.
19 1397jj(c)(5)).

20 (5) STATE.—The term “State” means 1 of the

21 50 States or the District of Columbia.

22 (6) STATE CHIP AGENCY.—The term “State

23 CHIP agency” means the State agency responsible
24 for administering the State CHIP plan.

1 (7) STATE CHIP PLAN.—The term “State
2 CHIP plan” means the State child health plan es-
3 tablished under title XXI of the Social Security Act
4 (42 U.S.C. 1397aa et seq.), and includes any waiver
5 of such plan.

6 (8) STATE MEDICAID AGENCY.—The term
7 “State Medicaid agency” means the State agency re-
8 sponsible for administering the State Medicaid plan.

9 (9) STATE MEDICAID PLAN.—The term “State
10 Medicaid plan” means the State plan established
11 under title XIX of the Social Security Act (42
12 U.S.C. 1396 et seq.), and includes any waiver of
13 such plan.

14 (f) APPROPRIATION.—

15 (1) OPERATIONAL FUNDS.—Out of any funds
16 in the Treasury not otherwise appropriated, there is
17 appropriated to the Secretary to carry out the dem-
18 onstration program established under this section,
19 \$49,000,000 for the period of fiscal years 2008
20 through 2012.

21 (2) EVALUATION FUNDS.—\$5,000,000 of the
22 funds appropriated under paragraph (1) shall be
23 used to conduct the evaluation required under sub-
24 section (d).

1 (3) BUDGET AUTHORITY.—Paragraph (1) con-
2 stitutes budget authority in advance of appropria-
3 tions Act and represents the obligation of the Fed-
4 eral Government to provide for the payment to
5 States selected to participate in the demonstration
6 program established under this section of the
7 amounts provided under such paragraph (after the
8 application of paragraph (2)).

9 **SEC. 204. AUTHORIZATION OF CERTAIN INFORMATION DIS-**
10 **CLOSURES TO SIMPLIFY HEALTH COVERAGE**
11 **DETERMINATIONS.**

12 (a) AUTHORIZATION OF INFORMATION DISCLO-
13 SURE.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

14 (1) by redesignating section 1939 as section
15 1940; and

16 (2) by inserting after section 1938 the following
17 new section:

18 “AUTHORIZATION TO RECEIVE PERTINENT INFORMATION

19 “SEC. 1939. (a) IN GENERAL.—Notwithstanding any
20 other provision of law, a Federal or State agency or pri-
21 vate entity in possession of the sources of data directly
22 relevant to eligibility determinations under this title (in-
23 cluding eligibility files, information described in paragraph
24 (2) or (3) of section 1137(a), vital records information
25 about births in any State, and information described in
26 sections 453(i) and 1902(a)(25)(I)) is authorized to con-

1 convey such data or information to the State agency admin-
2 istering the State plan under this title, but only if such
3 conveyance meets the requirements of subsection (b).

4 “(b) REQUIREMENTS FOR CONVEYANCE.—Data or
5 information may be conveyed pursuant to this section only
6 if the following requirements are met:

7 “(1) The child whose circumstances are de-
8 scribed in the data or information (or such child’s
9 parent, guardian, caretaker relative, or authorized
10 representative) has either provided advance consent
11 to disclosure or has not objected to disclosure after
12 receiving advance notice of disclosure and a reason-
13 able opportunity to object.

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

16 “(A) identifying children who are eligible
17 or potentially eligible for medical assistance
18 under this title and enrolling (or attempting to
19 enroll) such children in the State plan; and

20 “(B) verifying the eligibility of children for
21 medical assistance under the State plan.

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

24 “(A) prevents the unauthorized use, dislo-
25 sure, or modification of such data and other-

1 wise meets applicable Federal requirements for
2 safeguarding privacy and data security; and

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

7 “(c) CRIMINAL PENALTY.—A person described in
8 subsection (a) who publishes, divulges, discloses, or makes
9 known in any manner, or to any extent, not authorized
10 by Federal law, any information obtained under this sec-
11 tion shall be fined not more than \$1,000 or imprisoned
12 not more than 1 year, or both, for each such unauthorized
13 activity.

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

19 (b) CONFORMING AMENDMENT TO TITLE XXI.—
20 Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended
21 by adding at the end the following new subparagraph:

22 “(E) Section 1939 (relating to authoriza-
23 tion to receive data directly relevant to eligi-
24 bility determinations).”.

1 (c) AUTHORIZATION FOR STATES PARTICIPATING IN
2 THE EXPRESS LANE DEMONSTRATION PROGRAM TO RE-
3 CEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETER-
4 MINING ELIGIBILITY AND CORRECT AMOUNT OF ASSIST-
5 ANCE.—Only in the case of a State selected to participate
6 in the Express Lane demonstration program established
7 under section 203, the Secretary shall enter into such
8 agreements as are necessary to permit such a State to re-
9 ceive data directly relevant to eligibility determinations
10 and determining the correct amount of benefits under the
11 State CHIP plan or the State Medicaid plan (as such
12 terms are defined in paragraphs (7) and (9) section
13 203(e)) from the following:

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

17 (2) The National Income Data collected by the
18 Commissioner of Social Security from information
19 described in subparagraphs (A) and (B) of section
20 6103(l)(7) of the Internal Revenue Code of 1986, in
21 accordance with the requirements of that section.

22 (3) Data regarding enrollment in insurance that
23 may help to facilitate outreach and enrollment under
24 the State Medicaid plan, the State CHIP plan, and
25 such other programs as the Secretary may specify.

1 **TITLE III—REDUCING BARRIERS**
2 **TO ENROLLMENT**

3 **SEC. 301. VERIFICATION OF DECLARATION OF CITIZENSHIP**
4 **OR NATIONALITY FOR PURPOSES OF ELIGI-**
5 **BILITY FOR MEDICAID AND CHIP.**

6 (a) STATE OPTION TO VERIFY DECLARATION OF
7 CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGI-
8 BILITY FOR MEDICAID THROUGH VERIFICATION OF
9 NAME AND SOCIAL SECURITY NUMBER.—

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

12 (A) IN GENERAL.—Section 1902 (42
13 U.S.C. 1396a) is amended—

14 (i) in subsection (a)(46)—

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

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

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

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

1 “(i) section 1903(x); or

2 “(ii) subsection (dd);” and

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

5 “(dd)(1) For purposes of section 1902(a)(46)(B)(ii),
6 the requirements of this subsection with respect to an indi-
7 vidual declaring to be a citizen or national of the United
8 States for purposes of establishing eligibility under this
9 title, are, in lieu of requiring the individual to present sat-
10 isfactory documentary evidence of citizenship or nation-
11 ality under section 1903(x) (if the individual is not de-
12 scribed in paragraph (2) of that section), as follows:

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

17 “(B) If the State receives notice from the Com-
18 missioner of Social Security that the name or social
19 security number of the individual is invalid, the
20 State—

21 “(i) notifies the individual of such fact;

22 “(ii) provides the individual with an oppor-
23 tunity to cure the invalid determination with
24 the Commissioner of Social Security, followed
25 by a period of 90 days from the date on which

1 the notice required under clause (i) is received
2 by the individual to present satisfactory docu-
3 mentary evidence of citizenship or nationality
4 (as defined in section 1903(x)(3)); and

5 “(iii) disenrolls the individual from the
6 State plan under this title within 30 days after
7 the end of such 90-day period if no such docu-
8 mentary evidence is presented.

9 “(2)(A) Each State electing to satisfy the require-
10 ments of this subsection for purposes of section
11 1902(a)(46)(B) shall establish a program under which the
12 State submits each month to the Commissioner of Social
13 Security for verification the name and social security num-
14 ber of each individual enrolled in the State plan under this
15 title that month who has attained the age of 1 before the
16 date of the enrollment.

17 “(B) In establishing the State program under this
18 paragraph, the State may enter into an agreement with
19 the Commissioner of Social Security to provide for the
20 electronic submission and verification of the name and so-
21 cial security number of an individual before the individual
22 is enrolled in the State plan.

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

1 the percentage each month that the invalid names and
2 numbers submitted bears to the total submitted for
3 verification.

4 “(B) If, for any fiscal year, the average monthly per-
5 centage determined under subparagraph (A) is greater
6 than 7 percent—

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

13 “(ii) pay to the Secretary an amount equal to
14 the amount which bears the same ratio to the total
15 payments under the State plan for the fiscal year for
16 providing medical assistance to individuals who pro-
17 vided invalid information as the number of individ-
18 uals with invalid information in excess of 7 percent
19 of such total submitted bears to the total number of
20 individuals with invalid information.

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

1 “(D) This paragraph shall not apply to a State for
2 a fiscal year if there is an agreement described in para-
3 graph (2)(B) in effect as of the close of the fiscal year.

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

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

10 (i) by striking “plus” at the end of
11 subparagraph (E) and inserting “and”,
12 and

13 (ii) by adding at the end the following
14 new subparagraph:

15 “(F)(i) 90 percent of the sums expended
16 during the quarter as are attributable to the de-
17 sign, development, or installation of such
18 mechanized verification and information re-
19 trieval systems as the Secretary determines are
20 necessary to implement section 1902(dd) (in-
21 cluding a system described in paragraph (2)(B)
22 thereof), and

23 “(ii) 75 percent of the sums expended dur-
24 ing the quarter as are attributable to the oper-

1 ation of systems to which clause (i) applies,
2 plus”.

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

10 (3) CONFORMING AMENDMENTS.—Section 1903
11 (42 U.S.C. 1396b) is amended—

12 (A) in subsection (i)(22), by striking “sub-
13 section (x)” and inserting “section
14 1902(a)(46)(B)”;

15 (B) in subsection (x)(1), by striking “sub-
16 section (i)(22)” and inserting “section
17 1902(a)(46)(B)(i)”.

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

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

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

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

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

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

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

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

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

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

17 (i) in paragraph (2)—

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

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

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

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

10 (ii) by adding at the end the following

11 new paragraph:

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

22 (B) STATE REQUIREMENT TO ISSUE SEPA-

23 RATE IDENTIFICATION NUMBER.—Section

24 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended

25 by adding at the end the following new sen-

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

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

12 (A) in subparagraph (B)—

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

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

19 (B) in subparagraph (C)—

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

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

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

3 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.
4 1397ee(c)), as amended by section 110(a), is amend-
5 ed by adding at the end the following new para-
6 graph:

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

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

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

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

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

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

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
10 this section shall take effect on October 1, 2008.

11 (2) RESTORATION OF ELIGIBILITY.—In the
12 case of an individual who, during the period that
13 began on July 1, 2006, and ends on October 1,
14 2008, was determined to be ineligible for medical as-
15 sistance under a State Medicaid plan, including any
16 waiver of such plan, solely as a result of the applica-
17 tion of subsections (i)(22) and (x) of section 1903
18 of the Social Security Act (as in effect during such
19 period), but who would have been determined eligible
20 for such assistance if such subsections, as amended
21 by subsection (b), had applied to the individual, a
22 State may deem the individual to be eligible for such
23 assistance as of the date that the individual was de-
24 termined to be ineligible for such medical assistance
25 on such basis.

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

15 **SEC. 302. REDUCING ADMINISTRATIVE BARRIERS TO EN-**
16 **ROLLMENT.**

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

18 (1) by redesignating paragraph (4) as para-
19 graph (5); and

20 (2) by inserting after paragraph (3) the fol-
21 lowing new paragraph:

22 “(4) REDUCTION OF ADMINISTRATIVE BAR-
23 RIERS TO ENROLLMENT.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the plan shall include a description

1 of the procedures used to reduce administrative
2 barriers to the enrollment of children and preg-
3 nant women who are eligible for medical assist-
4 ance under title XIX or for child health assist-
5 ance or health benefits coverage under this title.
6 Such procedures shall be established and re-
7 vised as often as the State determines appro-
8 priate to take into account the most recent in-
9 formation available to the State identifying
10 such barriers.

11 “(B) DEEMED COMPLIANCE IF JOINT AP-
12 PPLICATION AND RENEWAL PROCESS THAT PER-
13 MITS APPLICATION OTHER THAN IN PERSON.—
14 A State shall be deemed to comply with sub-
15 paragraph (A) if the State’s application and re-
16 newal forms and supplemental forms (if any)
17 and information verification process is the same
18 for purposes of establishing and renewing eligi-
19 bility for children and pregnant women for
20 medical assistance under title XIX and child
21 health assistance under this title, and such
22 process does not require an application to be
23 made in person or a face-to-face interview.”.

1 **TITLE IV—REDUCING BARRIERS**
2 **TO PROVIDING PREMIUM AS-**
3 **SISTANCE**

4 **Subtitle A—Additional State Op-**
5 **tion for Providing Premium As-**
6 **sistance**

7 **SEC. 401. ADDITIONAL STATE OPTION FOR PROVIDING**
8 **PREMIUM ASSISTANCE.**

9 (a) IN GENERAL.—Section 2105(c) (42 U.S.C.
10 1397ee(c)), as amended by section 301(c), is amended by
11 adding at the end the following:

12 “(10) STATE OPTION TO OFFER PREMIUM AS-
13 SISTANCE.—

14 “(A) IN GENERAL.—Subject to the suc-
15 ceeding provisions of this paragraph, a State
16 may elect to offer a premium assistance subsidy
17 (as defined in subparagraph (C)) for qualified
18 employer-sponsored coverage (as defined in sub-
19 paragraph (B)) to all targeted low-income chil-
20 dren who are eligible for child health assistance
21 under the plan and have access to such cov-
22 erage in accordance with the requirements of
23 this paragraph.

24 “(B) QUALIFIED EMPLOYER-SPONSORED
25 COVERAGE.—

1 “(i) IN GENERAL.—Subject to clauses
2 (ii) and (iii), in this paragraph, the term
3 ‘qualified employer-sponsored coverage’
4 means a group health plan or health insur-
5 ance coverage offered through an em-
6 ployer—

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

11 “(II) for which the employer con-
12 tribution toward any premium for
13 such coverage is at least 40 percent;
14 and

15 “(III) to all individuals in a man-
16 ner that would be considered a non-
17 discriminatory eligibility classification
18 for purposes of paragraph (3)(A)(ii)
19 of section 105(h) of the Internal Rev-
20 enue Code of 1986 (but determined
21 without regard to clause (i) of sub-
22 paragraph (B) of such paragraph).

23 “(ii) EXCEPTION.—Such term does
24 not include coverage consisting of—

1 “(I) benefits provided under a
2 health flexible spending arrangement
3 (as defined in section 106(c)(2) of the
4 Internal Revenue Code of 1986); or

5 “(II) a high deductible health
6 plan (as defined in section 223(c)(2)
7 of such Code) purchased in conjunc-
8 tion with a health savings account (as
9 defined under section 223(d) of such
10 Code).

11 “(iii) COST-EFFECTIVENESS ALTER-
12 NATIVE TO REQUIRED EMPLOYER CON-
13 TRIBUTION.—A group health plan or
14 health insurance coverage offered through
15 an employer that would be considered
16 qualified employer-sponsored coverage but
17 for the application of clause (i)(II) may be
18 deemed to satisfy the requirement of such
19 clause if either of the following applies:

20 “(I) APPLICATION OF CHILD-
21 BASED OR FAMILY-BASED TEST.—The
22 State establishes to the satisfaction of
23 the Secretary that the cost of such
24 coverage is less than the expenditures
25 that the State would have made to en-

1 roll the child or the family (as appli-
2 cable) in the State child health plan.

3 “(II) AGGREGATE PROGRAM
4 OPERATIONAL COSTS DO NOT EXCEED
5 THE COST OF PROVIDING COVERAGE
6 UNDER THE STATE CHILD HEALTH
7 PLAN.—If subclause (I) does not
8 apply, the State establishes to the sat-
9 isfaction of the Secretary that the ag-
10 gregate amount of expenditures by the
11 State for the purchase of all such cov-
12 erage for targeted low-income children
13 under the State child health plan (in-
14 cluding administrative expenditures)
15 does not exceed the aggregate amount
16 of expenditures that the State would
17 have made for providing coverage
18 under the State child health plan for
19 all such children.

20 “(C) PREMIUM ASSISTANCE SUBSIDY.—

21 “(i) IN GENERAL.—In this paragraph,
22 the term ‘premium assistance subsidy’
23 means, with respect to a targeted low-in-
24 come child, the amount equal to the dif-
25 ference between the employee contribution

1 required for enrollment only of the em-
2 ployee under qualified employer-sponsored
3 coverage and the employee contribution re-
4 quired for enrollment of the employee and
5 the child in such coverage, less any appli-
6 cable premium cost-sharing applied under
7 the State child health plan (subject to the
8 limitations imposed under section 2103(e),
9 including the requirement to count the
10 total amount of the employee contribution
11 required for enrollment of the employee
12 and the child in such coverage toward the
13 annual aggregate cost-sharing limit applied
14 under paragraph (3)(B) of such section).

15 “(ii) STATE PAYMENT OPTION.—A
16 State may provide a premium assistance
17 subsidy either as reimbursement to an em-
18 ployee for out-of-pocket expenditures or,
19 subject to clause (iii), directly to the em-
20 ployee’s employer.

21 “(iii) EMPLOYER OPT-OUT.—An em-
22 ployer may notify a State that it elects to
23 opt-out of being directly paid a premium
24 assistance subsidy on behalf of an em-
25 ployee. In the event of such a notification,

1 an employer shall withhold the total
2 amount of the employee contribution re-
3 quired for enrollment of the employee and
4 the child in the qualified employer-spon-
5 sored coverage and the State shall pay the
6 premium assistance subsidy directly to the
7 employee.

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

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

21 “(E) REQUIREMENT TO PROVIDE SUPPLE-
22 MENTAL COVERAGE FOR BENEFITS AND COST-
23 SHARING PROTECTION PROVIDED UNDER THE
24 STATE CHILD HEALTH PLAN.—

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

7 “(I) items or services that are
8 not covered, or are only partially cov-
9 ered, under the qualified employ-
10 sponsored coverage; and

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

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

21 “(F) APPLICATION OF WAITING PERIOD
22 IMPOSED UNDER THE STATE.—Any waiting pe-
23 riod imposed under the State child health plan
24 prior to the provision of child health assistance
25 to a targeted low-income child under the State

1 plan shall apply to the same extent to the provi-
2 sion of a premium assistance subsidy for the
3 child under this paragraph.

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

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

1 “(i) the amount of the premium as-
2 sistance subsidy shall be increased to take
3 into account the cost of the enrollment of
4 the parent in the qualified employer-spon-
5 sored coverage or, at the option of the
6 State if the State determines it cost-effec-
7 tive, the cost of the enrollment of the
8 child’s family in such coverage; and

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

13 “(I) ADDITIONAL STATE OPTION FOR PRO-
14 VIDING PREMIUM ASSISTANCE.—

15 “(i) IN GENERAL.—A State may es-
16 tablish an employer-family premium assist-
17 ance purchasing pool for employers with
18 less than 250 employees who have at least
19 1 employee who is a pregnant woman eligi-
20 ble for assistance under the State child
21 health plan (including through the applica-
22 tion of an option described in section
23 2112(f)) or a member of a family with at
24 least 1 targeted low-income child and to
25 provide a premium assistance subsidy

1 under this paragraph for enrollment in
2 coverage made available through such pool.

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

14 “(J) NO EFFECT ON PREVIOUSLY AP-
15 PROVED PREMIUM ASSISTANCE PROGRAMS.—
16 Nothing in this paragraph shall be construed as
17 limiting the authority of a State to offer pre-
18 mium assistance under section 1906, a waiver
19 described in paragraph (2)(B) or (3), a waiver
20 approved under section 1115, or other authority
21 in effect prior to the date of enactment of the
22 Children’s Health Insurance Program Reau-
23 thorization Act of 2007.

24 “(K) NOTICE OF AVAILABILITY.—If a
25 State elects to provide premium assistance sub-

1 subsidies in accordance with this paragraph, the
2 State shall—

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

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

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

22 “(L) APPLICATION TO QUALIFIED EM-
23 PLOYER-SPONSORED BENCHMARK COVERAGE.—
24 If a group health plan or health insurance cov-
25 erage offered through an employer is certified

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

17 (b) APPLICATION TO MEDICAID.—Section 1906 (42
18 U.S.C. 1396e) is amended by inserting after subsection
19 (c) the following:

20 “(d) A State may elect to offer a premium assistance
21 subsidy (as defined in section 2105(c)(10)(C)) for quali-
22 fied employer-sponsored coverage (as defined in section
23 2105(c)(10)(B)) to a child who is eligible for medical as-
24 sistance under the State plan under this title, to the par-
25 ent of such a child, and to a pregnant woman, in the same

1 manner as such a subsidy for such coverage may be of-
2 fered under a State child health plan under title XXI in
3 accordance with section 2105(c)(10) (except that subpara-
4 graph (E)(i)(II) of such section shall be applied by sub-
5 stituting ‘1916 or, if applicable, 1916A’ for ‘2103(e)’.”.

6 (c) GAO STUDY AND REPORT.—Not later than Janu-
7 ary 1, 2009, the Comptroller General of the United States
8 shall study cost and coverage issues relating to any State
9 premium assistance programs for which Federal matching
10 payments are made under title XIX or XXI of the Social
11 Security Act, including under waiver authority, and shall
12 submit a report to the appropriate committees of Congress
13 on the results of such study.

14 **SEC. 402. OUTREACH, EDUCATION, AND ENROLLMENT AS-**
15 **SISTANCE.**

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

22 “(3) PREMIUM ASSISTANCE SUBSIDIES.—Out-
23 reach, education, and enrollment assistance for fami-
24 lies of children likely to be eligible for premium as-
25 sistance subsidies under the State child health plan

1 in accordance with paragraphs (2)(B), (3), or (10)
2 of section 2105(c), or a waiver approved under sec-
3 tion 1115, to inform such families of the availability
4 of, and to assist them in enrolling their children in,
5 such subsidies, and for employers likely to provide
6 coverage that is eligible for such subsidies, including
7 the specific, significant resources the State intends
8 to apply to educate employers about the availability
9 of premium assistance subsidies under the State
10 child health plan.”.

11 (b) NONAPPLICATION OF 10 PERCENT LIMIT ON
12 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-
13 tion 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as
14 amended by section 301(c)(2), is amended by adding at
15 the end the following new clause:

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

1 ability of, and to assist them in enrolling
 2 their children in, such subsidies, and to
 3 employers likely to provide qualified em-
 4 ployer-sponsored coverage (as defined in
 5 subparagraph (B) of such paragraph).”.

6 **Subtitle B—Coordinating Premium**
 7 **Assistance With Private Coverage**

8 **SEC. 411. SPECIAL ENROLLMENT PERIOD UNDER GROUP**
 9 **HEALTH PLANS IN CASE OF TERMINATION OF**
 10 **MEDICAID OR CHIP COVERAGE OR ELIGI-**
 11 **BILITY FOR ASSISTANCE IN PURCHASE OF**
 12 **EMPLOYMENT-BASED COVERAGE; COORDINA-**
 13 **TION OF COVERAGE.**

14 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF
 15 1986.—Section 9801(f) of the Internal Revenue Code of
 16 1986 (relating to special enrollment periods) is amended
 17 by adding at the end the following new paragraph:

18 “(3) SPECIAL RULES RELATING TO MEDICAID
 19 AND CHIP.—

20 “(A) IN GENERAL.—A group health plan
 21 shall permit an employee who is eligible, but
 22 not enrolled, for coverage under the terms of
 23 the plan (or a dependent of such an employee
 24 if the dependent is eligible, but not enrolled, for
 25 coverage under such terms) to enroll for cov-

1 erage under the terms of the plan if either of
2 the following conditions is 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 not later than 60 days after the date
14 of termination of such coverage.

15 “(ii) ELIGIBILITY FOR EMPLOYMENT
16 ASSISTANCE UNDER MEDICAID OR CHIP.—
17 The employee or dependent becomes eligi-
18 ble for assistance, with respect to coverage
19 under the group health plan under such
20 Medicaid plan or State child health plan
21 (including under any waiver or demonstra-
22 tion project conducted under or in relation
23 to such a plan), if the employee requests
24 coverage under the group health plan not
25 later than 60 days after the date the em-

1 employee or dependent is determined to be el-
2 igible for such assistance.

3 “(B) EMPLOYEE OUTREACH AND DISCLO-
4 SURE.—

5 “(i) OUTREACH TO EMPLOYEES RE-
6 GARDING AVAILABILITY OF MEDICAID AND
7 CHIP COVERAGE.—

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

1 compliance with this clause, the em-
2 ployer may use any State-specific
3 model notice issued by the Secretary
4 of Labor or the Secretary of Health
5 and Human Services in accordance
6 with section 701(f)(3)(B) of the Em-
7 ployee Retirement Income Security
8 Act of 1974 (29 U.S.C.
9 1181(f)(3)(B)).

10 “(II) OPTION TO PROVIDE CON-
11 CURRENT WITH PROVISION OF SUM-
12 MARY PLAN DESCRIPTION.—An em-
13 ployer may provide the model notice
14 applicable to the State in which an
15 employee resides concurrent with the
16 furnishing of the summary plan de-
17 scription as provided in section 104(b)
18 of the Employee Retirement Income
19 Security Act of 1974 (29 U.S.C.
20 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 411(b)(2)(C) of the Children’s Health
15 Insurance Program Reauthorization Act of
16 2007, 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 2007, 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 SUM-

1 MARY PLAN DESCRIPTION.—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 the summary plan de-
6 scription as provided in section
7 104(b).

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

1 tion 411(b)(2)(C) of the Children’s Health
2 Insurance Program Reauthorization Act of
3 2007, so as to permit the State to make a
4 determination (under paragraph (2)(B),
5 (3), or (10) of section 2105(c) of the So-
6 cial Security Act or otherwise) concerning
7 the cost-effectiveness of the State pro-
8 viding medical or child health assistance
9 through premium assistance for the pur-
10 chase of coverage under such group health
11 plan and in order for the State to provide
12 supplemental benefits required under para-
13 graph (10)(E) of such section or other au-
14 thority.”.

15 (B) CONFORMING AMENDMENT.—Section
16 102(b) of the Employee Retirement Income Se-
17 curity Act of 1974 (29 U.S.C. 1022(b)) is
18 amended—

19 (i) by striking “and the remedies”
20 and inserting “, the remedies”; and

21 (ii) by inserting before the period the
22 following: “, and if the employer so elects
23 for purposes of complying with section
24 701(f)(3)(B)(i), the model notice applicable

1 to the State in which the participants and
2 beneficiaries reside”.

3 (C) WORKING GROUP TO DEVELOP MODEL
4 COVERAGE COORDINATION DISCLOSURE
5 FORM.—

6 (i) MEDICAID, CHIP, AND EMPLOYER-
7 SPONSORED COVERAGE COORDINATION
8 WORKING GROUP.—

9 (I) IN GENERAL.—Not later than
10 60 days after the date of enactment of
11 this Act, the Secretary of Health and
12 Human Services and the Secretary of
13 Labor shall jointly establish a Med-
14 icaid, CHIP, and Employer-Sponsored
15 Coverage Coordination Working
16 Group (in this subparagraph referred
17 to as the “Working Group”). The
18 purpose of the Working Group shall
19 be to develop the model coverage co-
20 ordination disclosure form described
21 in subclause (II) and to identify the
22 impediments to the effective coordina-
23 tion of coverage available to families
24 that include employees of employers
25 that maintain group health plans and

1 members who are eligible for medical
2 assistance under title XIX of the So-
3 cial Security Act or child health as-
4 sistance or other health benefits cov-
5 erage under title XXI of such Act.

6 (II) MODEL COVERAGE COORDI-
7 NATION DISCLOSURE FORM DE-
8 SCRIBED.—The model form described
9 in this subclause is a form for plan
10 administrators of group health plans
11 to complete for purposes of permitting
12 a State to determine the availability
13 and cost-effectiveness of the coverage
14 available under such plans to employ-
15 ees who have family members who are
16 eligible for premium assistance offered
17 under a State plan under title XIX or
18 XXI of such Act and to allow for co-
19 ordination of coverage for enrollees of
20 such plans. Such form shall provide
21 the following information in addition
22 to such other information as the
23 Working Group determines appro-
24 priate:

1 (aa) A determination of
2 whether the employee is eligible
3 for coverage under the group
4 health plan.

5 (bb) The name and contract
6 information of the plan adminis-
7 trator of the group health plan.

8 (cc) The benefits offered
9 under the plan.

10 (dd) The premiums and
11 cost-sharing required under the
12 plan.

13 (ee) Any other information
14 relevant to coverage under the
15 plan.

16 (ii) MEMBERSHIP.—The Working
17 Group shall consist of not more than 30
18 members and shall be composed of rep-
19 resentatives of—

20 (I) the Department of Labor;

21 (II) the Department of Health
22 and Human Services;

23 (III) State directors of the Med-
24 icaid program under title XIX of the
25 Social Security Act;

1 (IV) State directors of the State
2 Children's Health Insurance Program
3 under title XXI of the Social Security
4 Act;

5 (V) employers, including owners
6 of small businesses and their trade or
7 industry representatives and certified
8 human resource and payroll profes-
9 sionals;

10 (VI) plan administrators and
11 plan sponsors of group health plans
12 (as defined in section 607(1) of the
13 Employee Retirement Income Security
14 Act of 1974); and

15 (VII) children and other bene-
16 ficiaries of medical assistance under
17 title XIX of the Social Security Act or
18 child health assistance or other health
19 benefits coverage under title XXI of
20 such Act.

21 (iii) COMPENSATION.—The members
22 of the Working Group shall serve without
23 compensation.

24 (iv) ADMINISTRATIVE SUPPORT.—The
25 Department of Health and Human Serv-

1 ices and the Department of Labor shall
2 jointly provide appropriate administrative
3 support to the Working Group, including
4 technical assistance. The Working Group
5 may use the services and facilities of either
6 such Department, with or without reim-
7 bursement, as jointly determined by such
8 Departments.

9 (v) REPORT.—

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

1 (II) REPORT BY SECRETARIES TO
2 THE CONGRESS.—Not later than 2
3 months after receipt of the report
4 pursuant to subclause (I), the Secre-
5 taries shall jointly submit a report to
6 each House of the Congress regarding
7 the recommendations contained in the
8 report under such subclause.

9 (vi) TERMINATION.—The Working
10 Group shall terminate 30 days after the
11 date of the issuance of its report under
12 clause (v).

13 (D) EFFECTIVE DATES.—The Secretary of
14 Labor and the Secretary of Health and Human
15 Services shall develop the initial model notices
16 under section 701(f)(3)(B)(i)(II) of the Em-
17 ployee Retirement Income Security Act of 1974,
18 and the Secretary of Labor shall provide such
19 notices to employers, not later than the date
20 that is 1 year after the date of enactment of
21 this Act, and each employer shall provide the
22 initial annual notices to such employer's em-
23 ployees beginning with the first plan year that
24 begins after the date on which such initial
25 model notices are first issued. The model cov-

1 erage coordination disclosure form developed
2 under subparagraph (C) shall apply with re-
3 spect to requests made by States beginning
4 with the first plan year that begins after the
5 date on which such model coverage coordination
6 disclosure form is first issued.

7 (E) ENFORCEMENT.—Section 502 of the
8 Employee Retirement Income Security Act of
9 1974 (29 U.S.C. 1132) is amended—

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

12 (ii) in subsection (c), by redesignating
13 paragraph (9) as paragraph (10), and by
14 inserting after paragraph (8) the following:

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

21 “(B) The Secretary may assess a civil penalty against
22 any plan administrator of up to \$100 a day from the date
23 of the plan administrator’s failure to timely provide to any
24 State the information required to be disclosed under sec-
25 tion 701(f)(3)(B)(ii). For purposes of this subparagraph,

1 each violation with respect to any single participant or
2 beneficiary shall be treated as a separate violation.”.

3 **TITLE V—STRENGTHENING**
4 **QUALITY OF CARE AND**
5 **HEALTH OUTCOMES OF CHIL-**
6 **DREN**

7 **SEC. 501. CHILD HEALTH QUALITY IMPROVEMENT ACTIVI-**
8 **TIES FOR CHILDREN ENROLLED IN MED-**
9 **ICAID OR CHIP.**

10 (a) DEVELOPMENT OF CHILD HEALTH QUALITY
11 MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR
12 CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by
13 inserting after section 1139 the following new section:

14 **“SEC. 1139A. CHILD HEALTH QUALITY MEASURES.**

15 “(a) DEVELOPMENT OF AN INITIAL CORE SET OF
16 HEALTH CARE QUALITY MEASURES FOR CHILDREN EN-
17 ROLLED IN MEDICAID OR CHIP.—

18 “(1) IN GENERAL.—Not later than January 1,
19 2009, the Secretary shall identify and publish for
20 general comment an initial, recommended core set of
21 child health quality measures for use by State pro-
22 grams administered under titles XIX and XXI,
23 health insurance issuers and managed care entities
24 that enter into contracts with such programs, and

1 providers of items and services under such pro-
2 grams.

3 “(2) IDENTIFICATION OF INITIAL CORE MEAS-
4 URES.—In consultation with the individuals and en-
5 tities described in subsection (b)(3), the Secretary
6 shall identify existing quality of care measures for
7 children that are in use under public and privately
8 sponsored health care coverage arrangements, or
9 that are part of reporting systems that measure both
10 the presence and duration of health insurance cov-
11 erage over time.

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

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

19 “(B) The availability of a full range of—

20 “(i) preventive services, treatments,
21 and services for acute conditions, including
22 services to promote healthy birth and pre-
23 vent and treat premature birth; and

24 “(ii) treatments to correct or amelio-
25 rate the effects of chronic physical and

1 mental conditions in infants, young chil-
2 dren, school-age children, and adolescents.

3 “(C) The availability of care in a range of
4 ambulatory and inpatient health care settings
5 in which such care is furnished.

6 “(D) The types of measures that, taken to-
7 gether, can be used to estimate the overall na-
8 tional quality of health care for children and to
9 perform comparative analyses of pediatric
10 health care quality and racial, ethnic, and socio-
11 economic disparities in child health and health
12 care for children.

13 “(4) ENCOURAGE VOLUNTARY AND STANDARD-
14 IZED REPORTING.—Not later than 2 years after the
15 date of enactment of the Children’s Health Insur-
16 ance Program Reauthorization Act of 2007, the Sec-
17 retary, in consultation with States, shall develop a
18 standardized format for reporting information and
19 procedures and approaches that encourage States to
20 use the initial core measurement set to voluntarily
21 report information regarding the quality of pediatric
22 health care under titles XIX and XXI.

23 “(5) ADOPTION OF BEST PRACTICES IN IMPLE-
24 MENTING QUALITY PROGRAMS.—The Secretary shall
25 disseminate information to States regarding best

1 practices among States with respect to measuring
2 and reporting on the quality of health care for chil-
3 dren, and shall facilitate the adoption of such best
4 practices. In developing best practices approaches,
5 the Secretary shall give particular attention to State
6 measurement techniques that ensure the timeliness
7 and accuracy of provider reporting, encourage pro-
8 vider reporting compliance, encourage successful
9 quality improvement strategies, and improve effi-
10 ciency in data collection using health information
11 technology.

12 “(6) REPORTS TO CONGRESS.—Not later than
13 January 1, 2010, and every 3 years thereafter, the
14 Secretary shall report to Congress on—

15 “(A) the status of the Secretary’s efforts
16 to improve—

17 “(i) quality related to the duration
18 and stability of health insurance coverage
19 for children under titles XIX and XXI;

20 “(ii) the quality of children’s health
21 care under such titles, including preventive
22 health services, health care for acute condi-
23 tions, chronic health care, and health serv-
24 ices to ameliorate the effects of physical
25 and mental conditions and to aid in growth

1 and development of infants, young chil-
2 dren, school-age children, and adolescents
3 with special health care needs; and

4 “(iii) the quality of children’s health
5 care under such titles across the domains
6 of quality, including clinical quality, health
7 care safety, family experience with health
8 care, health care in the most integrated
9 setting, and elimination of racial, ethnic,
10 and socioeconomic disparities in health and
11 health care;

12 “(B) the status of voluntary reporting by
13 States under titles XIX and XXI, utilizing the
14 initial core quality measurement set; and

15 “(C) any recommendations for legislative
16 changes needed to improve the quality of care
17 provided to children under titles XIX and XXI,
18 including recommendations for quality reporting
19 by States.

20 “(7) TECHNICAL ASSISTANCE.—The Secretary
21 shall provide technical assistance to States to assist
22 them in adopting and utilizing core child health
23 quality measures in administering the State plans
24 under titles XIX and XXI.

1 “(8) DEFINITION OF CORE SET.—In this sec-
2 tion, the term ‘core set’ means a group of valid, reli-
3 able, and evidence-based quality measures that,
4 taken together—

5 “(A) provide information regarding the
6 quality of health coverage and health care for
7 children;

8 “(B) address the needs of children
9 throughout the developmental age span; and

10 “(C) allow purchasers, families, and health
11 care providers to understand the quality of care
12 in relation to the preventive needs of children,
13 treatments aimed at managing and resolving
14 acute conditions, and diagnostic and treatment
15 services whose purpose is to correct or amelio-
16 rate physical, mental, or developmental condi-
17 tions that could, if untreated or poorly treated,
18 become chronic.

19 “(b) ADVANCING AND IMPROVING PEDIATRIC QUAL-
20 ITY MEASURES.—

21 “(1) ESTABLISHMENT OF PEDIATRIC QUALITY
22 MEASURES PROGRAM.—Not later than January 1,
23 2010, the Secretary shall establish a pediatric qual-
24 ity measures program to—

1 “(A) improve and strengthen the initial
2 core child health care quality measures estab-
3 lished by the Secretary under subsection (a);

4 “(B) expand on existing pediatric quality
5 measures used by public and private health care
6 purchasers and advance the development of
7 such new and emerging quality measures; and

8 “(C) increase the portfolio of evidence-
9 based, consensus pediatric quality measures
10 available to public and private purchasers of
11 children’s health care services, providers, and
12 consumers.

13 “(2) EVIDENCE-BASED MEASURES.—The meas-
14 ures developed under the pediatric quality measures
15 program shall, at a minimum, be—

16 “(A) evidence-based and, where appro-
17 priate, risk adjusted;

18 “(B) designed to identify and eliminate ra-
19 cial and ethnic disparities in child health and
20 the provision of health care;

21 “(C) designed to ensure that the data re-
22 quired for such measures is collected and re-
23 ported in a standard format that permits com-
24 parison of quality and data at a State, plan,
25 and provider level;

1 “(D) periodically updated; and

2 “(E) responsive to the child health needs,
3 services, and domains of health care quality de-
4 scribed in clauses (i), (ii), and (iii) of subsection
5 (a)(6)(A).

6 “(3) PROCESS FOR PEDIATRIC QUALITY MEAS-
7 URES PROGRAM.—In identifying gaps in existing pe-
8 diatric quality measures and establishing priorities
9 for development and advancement of such measures,
10 the Secretary shall consult with—

11 “(A) States;

12 “(B) pediatricians, children’s hospitals,
13 and other primary and specialized pediatric
14 health care professionals (including members of
15 the allied health professions) who specialize in
16 the care and treatment of children, particularly
17 children with special physical, mental, and de-
18 velopmental health care needs;

19 “(C) dental professionals, including pedi-
20 atric dental professionals;

21 “(D) health care providers that furnish
22 primary health care to children and families
23 who live in urban and rural medically under-
24 served communities or who are members of dis-

1 tinct population sub-groups at heightened risk
2 for poor health outcomes;

3 “(E) national organizations representing
4 consumers and purchasers of children’s health
5 care;

6 “(F) national organizations and individuals
7 with expertise in pediatric health quality meas-
8 urement; and

9 “(G) voluntary consensus standards setting
10 organizations and other organizations involved
11 in the advancement of evidence-based measures
12 of health care.

13 “(4) DEVELOPING, VALIDATING, AND TESTING
14 A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—
15 As part of the program to advance pediatric quality
16 measures, the Secretary shall—

17 “(A) award grants and contracts for the
18 development, testing, and validation of new,
19 emerging, and innovative evidence-based meas-
20 ures for children’s health care services across
21 the domains of quality described in clauses
22 (i),(ii), and (iii) of subsection (a)(6)(A); and

23 “(B) award grants and contracts for—

1 “(i) the development of consensus on
2 evidence-based measures for children’s
3 health care services;

4 “(ii) the dissemination of such meas-
5 ures to public and private purchasers of
6 health care for children; and

7 “(iii) the updating of such measures
8 as necessary.

9 “(5) REVISING, STRENGTHENING, AND IMPROV-
10 ING INITIAL CORE MEASURES.—Beginning no later
11 than January 1, 2012, and annually thereafter, the
12 Secretary shall publish recommended changes to the
13 core measures described in subsection (a) that shall
14 reflect the testing, validation, and consensus process
15 for the development of pediatric quality measures
16 described in subsection paragraphs (1) through (4).

17 “(6) DEFINITION OF PEDIATRIC QUALITY
18 MEASURE.—In this subsection, the term ‘pediatric
19 quality measure’ means a measurement of clinical
20 care that is capable of being examined through the
21 collection and analysis of relevant information, that
22 is developed in order to assess 1 or more aspects of
23 pediatric health care quality in various institutional
24 and ambulatory health care settings, including the
25 structure of the clinical care system, the process of

1 care, the outcome of care, or patient experiences in
2 care.

3 “(c) ANNUAL STATE REPORTS REGARDING STATE-
4 SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER
5 MEDICAID OR CHIP.—

6 “(1) ANNUAL STATE REPORTS.—Each State
7 with a State plan approved under title XIX or a
8 State child health plan approved under title XXI
9 shall annually report to the Secretary on the—

10 “(A) State-specific child health quality
11 measures applied by the States under such
12 plans, including measures described in subpara-
13 graphs (A) and (B) of subsection (a)(6); and

14 “(B) State-specific information on the
15 quality of health care furnished to children
16 under such plans, including information col-
17 lected through external quality reviews of man-
18 aged care organizations under section 1932 of
19 the Social Security Act (42 U.S.C. 1396u-4)
20 and benchmark plans under sections 1937 and
21 2103 of such Act (42 U.S.C. 1396u-7, 1397cc).

22 “(2) PUBLICATION.—Not later than September
23 30, 2009, and annually thereafter, the Secretary
24 shall collect, analyze, and make publicly available the
25 information reported by States under paragraph (1).

1 “(d) DEMONSTRATION PROJECTS FOR IMPROVING
2 THE QUALITY OF CHILDREN’S HEALTH CARE AND THE
3 USE OF HEALTH INFORMATION TECHNOLOGY.—

4 “(1) IN GENERAL.—During the period of fiscal
5 years 2008 through 2012, the Secretary shall award
6 not more than 10 grants to States and child health
7 providers to conduct demonstration projects to
8 evaluate promising ideas for improving the quality of
9 children’s health care provided under title XIX or
10 XXI, including projects to—

11 “(A) experiment with, and evaluate the use
12 of, new measures of the quality of children’s
13 health care under such titles (including testing
14 the validity and suitability for reporting of such
15 measures);

16 “(B) promote the use of health information
17 technology in care delivery for children under
18 such titles;

19 “(C) evaluate provider-based models which
20 improve the delivery of children’s health care
21 services under such titles, including care man-
22 agement for children with chronic conditions
23 and the use of evidence-based approaches to im-
24 prove the effectiveness, safety, and efficiency of
25 health care services for children; or

1 “(D) demonstrate the impact of the model
2 electronic health record format for children de-
3 veloped and disseminated under subsection (f)
4 on improving pediatric health, including the ef-
5 fects of chronic childhood health conditions, and
6 pediatric health care quality as well as reducing
7 health care costs.

8 “(2) REQUIREMENTS.—In awarding grants
9 under this subsection, the Secretary shall ensure
10 that—

11 “(A) only 1 demonstration project funded
12 under a grant awarded under this subsection
13 shall be conducted in a State; and

14 “(B) demonstration projects funded under
15 grants awarded under this subsection shall be
16 conducted evenly between States with large
17 urban areas and States with large rural areas.

18 “(3) AUTHORITY FOR MULTISTATE
19 PROJECTS.—A demonstration project conducted with
20 a grant awarded under this subsection may be con-
21 ducted on a multistate basis, as needed.

22 “(4) FUNDING.—\$20,000,000 of the amount
23 appropriated under subsection (i) for a fiscal year
24 shall be used to carry out this subsection.

1 “(e) CHILDHOOD OBESITY DEMONSTRATION
2 PROJECT.—

3 “(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

11 “(A) identify, through self-assessment, behavioral risk factors for obesity among children;

13 “(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

17 “(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

21 “(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or

1 child health assistance is available under title
2 XXI among such target individuals.

3 “(2) ELIGIBILITY ENTITIES.—For purposes of
4 this subsection, an eligible entity is any of the fol-
5 lowing:

6 “(A) A city, county, or Indian tribe.

7 “(B) A local or tribal educational agency.

8 “(C) An accredited university, college, or
9 community college.

10 “(D) A Federally-qualified health center.

11 “(E) A local health department.

12 “(F) A health care provider.

13 “(G) A community-based organization.

14 “(H) Any other entity determined appro-
15 priate by the Secretary, including a consortia or
16 partnership of entities described in any of sub-
17 paragraphs (A) through (G).

18 “(3) USE OF FUNDS.—An eligible entity award-
19 ed a grant under this subsection shall use the funds
20 made available under the grant to—

21 “(A) carry out community-based activities
22 related to reducing childhood obesity, including
23 by—

24 “(i) forming partnerships with enti-
25 ties, including schools and other facilities

1 providing recreational services, to establish
2 programs for after school and weekend
3 community activities that are designed to
4 reduce childhood obesity;

5 “(ii) forming partnerships with
6 daycare facilities to establish programs
7 that promote healthy eating behaviors and
8 physical activity; and

9 “(iii) developing and evaluating com-
10 munity educational activities targeting
11 good nutrition and promoting healthy eat-
12 ing behaviors;

13 “(B) carry out age-appropriate school-
14 based activities that are designed to reduce
15 childhood obesity, including by—

16 “(i) developing and testing edu-
17 cational curricula and intervention pro-
18 grams designed to promote healthy eating
19 behaviors and habits in youth, which may
20 include—

21 “(I) after hours physical activity
22 programs; and

23 “(II) science-based interventions
24 with multiple components to prevent
25 eating disorders including nutritional

1 content, understanding and respond-
2 ing to hunger and satiety, positive
3 body image development, positive self-
4 esteem development, and learning life
5 skills (such as stress management,
6 communication skills, problemsolving
7 and decisionmaking skills), as well as
8 consideration of cultural and develop-
9 mental issues, and the role of family,
10 school, and community;

11 “(ii) providing education and training
12 to educational professionals regarding how
13 to promote a healthy lifestyle and a
14 healthy school environment for children;

15 “(iii) planning and implementing a
16 healthy lifestyle curriculum or program
17 with an emphasis on healthy eating behav-
18 iors and physical activity; and

19 “(iv) planning and implementing
20 healthy lifestyle classes or programs for
21 parents or guardians, with an emphasis on
22 healthy eating behaviors and physical ac-
23 tivity for children;

24 “(C) carry out educational, counseling,
25 promotional, and training activities through the

1 local health care delivery systems including
2 by—

3 “(i) promoting healthy eating behav-
4 iors and physical activity services to treat
5 or prevent eating disorders, being over-
6 weight, and obesity;

7 “(ii) providing patient education and
8 counseling to increase physical activity and
9 promote healthy eating behaviors;

10 “(iii) training health professionals on
11 how to identify and treat obese and over-
12 weight individuals which may include nu-
13 trition and physical activity counseling;
14 and

15 “(iv) providing community education
16 by a health professional on good nutrition
17 and physical activity to develop a better
18 understanding of the relationship between
19 diet, physical activity, and eating disorders,
20 obesity, or being overweight; and

21 “(D) provide, through qualified health pro-
22 fessionals, training and supervision for commu-
23 nity health workers to—

1 “(i) educate families regarding the re-
2 lationship between nutrition, eating habits,
3 physical activity, and obesity;

4 “(ii) educate families about effective
5 strategies to improve nutrition, establish
6 healthy eating patterns, and establish ap-
7 propriate levels of physical activity; and

8 “(iii) educate and guide parents re-
9 garding the ability to model and commu-
10 nicate positive health behaviors.

11 “(4) PRIORITY.—In awarding grants under
12 paragraph (1), the Secretary shall give priority to
13 awarding grants to eligible entities—

14 “(A) that demonstrate that they have pre-
15 viously applied successfully for funds to carry
16 out activities that seek to promote individual
17 and community health and to prevent the inci-
18 dence of chronic disease and that can cite pub-
19 lished and peer-reviewed research dem-
20 onstrating that the activities that the entities
21 propose to carry out with funds made available
22 under the grant are effective;

23 “(B) that will carry out programs or ac-
24 tivities that seek to accomplish a goal or goals

1 set by the State in the Healthy People 2010
2 plan of the State;

3 “(C) that provide non-Federal contribu-
4 tions, either in cash or in-kind, to the costs of
5 funding activities under the grants;

6 “(D) that develop comprehensive plans
7 that include a strategy for extending program
8 activities developed under grants in the years
9 following the fiscal years for which they receive
10 grants under this subsection;

11 “(E) located in communities that are medi-
12 cally underserved, as determined by the Sec-
13 retary;

14 “(F) located in areas in which the average
15 poverty rate is at least 150 percent or higher of
16 the average poverty rate in the State involved,
17 as determined by the Secretary; and

18 “(G) that submit plans that exhibit multi-
19 sectoral, cooperative conduct that includes the
20 involvement of a broad range of stakeholders,
21 including—

22 “(i) community-based organizations;

23 “(ii) local governments;

24 “(iii) local educational agencies;

25 “(iv) the private sector;

1 “(v) State or local departments of
2 health;

3 “(vi) accredited colleges, universities,
4 and community colleges;

5 “(vii) health care providers;

6 “(viii) State and local departments of
7 transportation and city planning; and

8 “(ix) other entities determined appro-
9 priate by the Secretary.

10 “(5) PROGRAM DESIGN.—

11 “(A) INITIAL DESIGN.—Not later than 1
12 year after the date of enactment of the Chil-
13 dren’s Health Insurance Program Reauthoriza-
14 tion Act of 2007, the Secretary shall design the
15 demonstration project. The demonstration
16 should draw upon promising, innovative models
17 and incentives to reduce behavioral risk factors.
18 The Administrator of the Centers for Medicare
19 & Medicaid Services shall consult with the Di-
20 rector of the Centers for Disease Control and
21 Prevention, the Director of the Office of Minor-
22 ity Health, the heads of other agencies in the
23 Department of Health and Human Services,
24 and such professional organizations, as the Sec-
25 retary determines to be appropriate, on the de-

1 sign, conduct, and evaluation of the demonstra-
2 tion.

3 “(B) NUMBER AND PROJECT AREAS.—Not
4 later than 2 years after the date of enactment
5 of the Children’s Health Insurance Program
6 Reauthorization Act of 2007, the Secretary
7 shall award 1 grant that is specifically designed
8 to determine whether programs similar to pro-
9 grams to be conducted by other grantees under
10 this subsection should be implemented with re-
11 spect to the general population of children who
12 are eligible for child health assistance under
13 State child health plans under title XXI in
14 order to reduce the incidence of childhood obe-
15 sity among such population.

16 “(6) REPORT TO CONGRESS.—Not later than 3
17 years after the date the Secretary implements the
18 demonstration project under this subsection, the
19 Secretary shall submit to Congress a report that de-
20 scribes the project, evaluates the effectiveness and
21 cost effectiveness of the project, evaluates the bene-
22 ficiary satisfaction under the project, and includes
23 any such other information as the Secretary deter-
24 mines to be appropriate.

25 “(7) DEFINITIONS.—In this subsection:

1 “(A) FEDERALLY-QUALIFIED HEALTH
2 CENTER.—The term ‘Federally-qualified health
3 center’ has the meaning given that term in sec-
4 tion 1905(l)(2)(B).

5 “(B) INDIAN TRIBE.—The term ‘Indian
6 tribe’ has the meaning given that term in sec-
7 tion 4 of the Indian Health Care Improvement
8 Act (25 U.S.C. 1603).

9 “(C) SELF-ASSESSMENT.—The term ‘self-
10 assessment’ means a form that—

11 “(i) includes questions regarding—

12 “(I) behavioral risk factors;

13 “(II) needed preventive and
14 screening services; and

15 “(III) target individuals’ pref-
16 erences for receiving follow-up infor-
17 mation;

18 “(ii) is assessed using such computer
19 generated assessment programs; and

20 “(iii) allows for the provision of such
21 ongoing support to the individual as the
22 Secretary determines appropriate.

23 “(D) ONGOING SUPPORT.—The term ‘on-
24 going support’ means—

1 “(i) to provide any target individual
2 with information, feedback, health coach-
3 ing, and recommendations regarding—

4 “(I) the results of a self-assess-
5 ment given to the individual;

6 “(II) behavior modification based
7 on the self-assessment; and

8 “(III) any need for clinical pre-
9 ventive and screening services or
10 treatment including medical nutrition
11 therapy;

12 “(ii) to provide any target individual
13 with referrals to community resources and
14 programs available to assist the target in-
15 dividual in reducing health risks; and

16 “(iii) to provide the information de-
17 scribed in clause (i) to a health care pro-
18 vider, if designated by the target individual
19 to receive such information.

20 “(8) AUTHORIZATION OF APPROPRIATIONS.—

21 There is authorized to be appropriated to carry out
22 this subsection, \$25,000,000 for the period of fiscal
23 years 2008 through 2012.

1 “(f) DEVELOPMENT OF MODEL ELECTRONIC
2 HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN
3 MEDICAID OR CHIP.—

4 “(1) IN GENERAL.—Not later than January 1,
5 2009, the Secretary shall establish a program to en-
6 courage the development and dissemination of a
7 model electronic health record format for children
8 enrolled in the State plan under title XIX or the
9 State child health plan under title XXI that is—

10 “(A) subject to State laws, accessible to
11 parents, caregivers, and other consumers for
12 the sole purpose of demonstrating compliance
13 with school or leisure activity requirements,
14 such as appropriate immunizations or physicals;

15 “(B) designed to allow interoperable ex-
16 changes that conform with Federal and State
17 privacy and security requirements;

18 “(C) structured in a manner that permits
19 parents and caregivers to view and understand
20 the extent to which the care their children re-
21 ceive is clinically appropriate and of high qual-
22 ity; and

23 “(D) capable of being incorporated into,
24 and otherwise compatible with, other standards
25 developed for electronic health records.

1 “(2) FUNDING.—\$5,000,000 of the amount ap-
2 propriated under subsection (i) for a fiscal year shall
3 be used to carry out this subsection.

4 “(g) STUDY OF PEDIATRIC HEALTH AND HEALTH
5 CARE QUALITY MEASURES.—

6 “(1) IN GENERAL.—Not later than July 1,
7 2009, the Institute of Medicine shall study and re-
8 port to Congress on the extent and quality of efforts
9 to measure child health status and the quality of
10 health care for children across the age span and in
11 relation to preventive care, treatments for acute con-
12 ditions, and treatments aimed at ameliorating or
13 correcting physical, mental, and developmental con-
14 ditions in children. In conducting such study and
15 preparing such report, the Institute of Medicine
16 shall—

17 “(A) consider all of the major national
18 population-based reporting systems sponsored
19 by the Federal Government that are currently
20 in place, including reporting requirements
21 under Federal grant programs and national
22 population surveys and estimates conducted di-
23 rectly by the Federal Government;

24 “(B) identify the information regarding
25 child health and health care quality that each

1 system is designed to capture and generate, the
2 study and reporting periods covered by each
3 system, and the extent to which the information
4 so generated is made widely available through
5 publication;

6 “(C) identify gaps in knowledge related to
7 children’s health status, health disparities
8 among subgroups of children, the effects of so-
9 cial conditions on children’s health status and
10 use and effectiveness of health care, and the re-
11 lationship between child health status and fam-
12 ily income, family stability and preservation,
13 and children’s school readiness and educational
14 achievement and attainment; and

15 “(D) make recommendations regarding im-
16 proving and strengthening the timeliness, qual-
17 ity, and public transparency and accessibility of
18 information about child health and health care
19 quality.

20 “(2) FUNDING.—Up to \$1,000,000 of the
21 amount appropriated under subsection (i) for a fis-
22 cal year shall be used to carry out this subsection.

23 “(h) RULE OF CONSTRUCTION.—Notwithstanding
24 any other provision in this section, no evidence based qual-
25 ity measure developed, published, or used as a basis of

1 measurement or reporting under this section may be used
2 to establish an irrebuttable presumption regarding either
3 the medical necessity of care or the maximum permissible
4 coverage for any individual child who is eligible for and
5 receiving medical assistance under title XIX or child
6 health assistance under title XXI .

7 “(i) APPROPRIATION.—Out of any funds in the
8 Treasury not otherwise appropriated, there is appro-
9 priated for each of fiscal years 2008 through 2012,
10 \$45,000,000 for the purpose of carrying out this section
11 (other than subsection (e)). Funds appropriated under
12 this subsection shall remain available until expended.”.

13 (b) INCREASED MATCHING RATE FOR COLLECTING
14 AND REPORTING ON CHILD HEALTH MEASURES.—Sec-
15 tion 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amend-
16 ed—

17 (1) by striking “and” at the end of clause (i);

18 and

19 (2) by adding at the end the following new
20 clause:

21 “(iii) an amount equal to the Federal med-
22 ical assistance percentage (as defined in section
23 1905(b)) of so much of the sums expended dur-
24 ing such quarter (as found necessary by the
25 Secretary for the proper and efficient adminis-

1 tration of the State plan) as are attributable to
2 such developments or modifications of systems
3 of the type described in clause (i) as are nec-
4 essary for the efficient collection and reporting
5 on child health measures; and”.

6 **SEC. 502. IMPROVED INFORMATION REGARDING ACCESS**
7 **TO COVERAGE UNDER CHIP.**

8 (a) INCLUSION OF PROCESS AND ACCESS MEASURES
9 IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C.
10 1397hh) is amended—

11 (1) in subsection (a), in the matter preceding
12 paragraph (1), by striking “The State” and insert-
13 ing “Subject to subsection (e), the State”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(e) INFORMATION REQUIRED FOR INCLUSION IN
17 STATE ANNUAL REPORT.—The State shall include the fol-
18 lowing information in the annual report required under
19 subsection (a):

20 “(1) Eligibility criteria, enrollment, and reten-
21 tion data (including data with respect to continuity
22 of coverage or duration of benefits).

23 “(2) Data regarding the extent to which the
24 State uses process measures with respect to deter-
25 mining the eligibility of children under the State

1 child health plan, including measures such as 12-
2 month continuous eligibility, self-declaration of in-
3 come for applications or renewals, or presumptive
4 eligibility.

5 “(3) Data regarding denials of eligibility and
6 redeterminations of eligibility.

7 “(4) Data regarding access to primary and spe-
8 cialty services, access to networks of care, and care
9 coordination provided under the State child health
10 plan, using quality care and consumer satisfaction
11 measures included in the Consumer Assessment of
12 Healthcare Providers and Systems (CAHPS) survey.

13 “(5) If the State provides child health assist-
14 ance in the form of premium assistance for the pur-
15 chase of coverage under a group health plan, data
16 regarding the provision of such assistance, including
17 the extent to which employer-sponsored health insur-
18 ance coverage is available for children eligible for
19 child health assistance under the State child health
20 plan, the range of the monthly amount of such as-
21 sistance provided on behalf of a child or family, the
22 number of children or families provided such assist-
23 ance on a monthly basis, the income of the children
24 or families provided such assistance, the benefits
25 and cost-sharing protection provided under the State

1 child health plan to supplement the coverage pur-
2 chased with such premium assistance, the effective
3 strategies the State engages in to reduce any admin-
4 istrative barriers to the provision of such assistance,
5 and, the effects, if any, of the provision of such as-
6 sistance on preventing the coverage provided under
7 the State child health plan from substituting for cov-
8 erage provided under employer-sponsored health in-
9 surance offered in the State.

10 “(6) To the extent applicable, a description of
11 any State activities that are designed to reduce the
12 number of uncovered children in the State, including
13 through a State health insurance connector program
14 or support for innovative private health coverage ini-
15 tiatives.”.

16 (b) GAO STUDY AND REPORT ON ACCESS TO PRI-
17 MARY AND SPECIALITY SERVICES.—

18 (1) IN GENERAL.—The Comptroller General of
19 the United States shall conduct a study of children’s
20 access to primary and specialty services under Med-
21 icaid and CHIP, including—

22 (A) the extent to which providers are will-
23 ing to treat children eligible for such programs;

24 (B) information on such children’s access
25 to networks of care;

1 (C) geographic availability of primary and
2 specialty services under such programs;

3 (D) the extent to which care coordination
4 is provided for children's care under Medicaid
5 and CHIP; and

6 (E) as appropriate, information on the de-
7 gree of availability of services for children under
8 such programs.

9 (2) REPORT.—Not later than 2 years after the
10 date of enactment of this Act, the Comptroller Gen-
11 eral shall submit a report to the appropriate com-
12 mittees of Congress on the study conducted under
13 paragraph (1) that includes recommendations for
14 such Federal and State legislative and administra-
15 tive changes as the Comptroller General determines
16 are necessary to address any barriers to access to
17 children's care under Medicaid and CHIP that may
18 exist.

19 **SEC. 503. APPLICATION OF CERTAIN MANAGED CARE**
20 **QUALITY SAFEGUARDS TO CHIP.**

21 Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as
22 amended by section 204(b), is amended by redesignating
23 subparagraph (E) (as added by such section) as subpara-
24 graph (F) and by inserting after subparagraph (D) the
25 following new subparagraph:

1 “(E) Subsections (a)(4), (a)(5), (b), (c),
2 (d), and (e) of section 1932 (relating to require-
3 ments for managed care).”.

4 **TITLE VI—MISCELLANEOUS**

5 **SEC. 601. TECHNICAL CORRECTION REGARDING CURRENT** 6 **STATE AUTHORITY UNDER MEDICAID.**

7 (a) IN GENERAL.—Only with respect to expenditures
8 for medical assistance under a State Medicaid plan, in-
9 cluding any waiver of such plan, for fiscal years 2007 and
10 2008, a State may elect, notwithstanding the fourth sen-
11 tence of subsection (b) of section 1905 of the Social Secu-
12 rity Act (42 U.S.C. 1396d) or subsection (u) of such sec-
13 tion—

14 (1) to cover individuals described in section
15 1902(a)(10)(A)(ii)(IX) of the Social Security Act
16 and, at its option, to apply less restrictive meth-
17 odologies to such individuals under section
18 1902(r)(2) of such Act or 1931(b)(2)(C) of such Act
19 and thereby receive Federal financial participation
20 for medical assistance for such individuals under
21 title XIX of the Social Security Act; or

22 (2) to receive Federal financial participation for
23 expenditures for medical assistance under title XIX
24 of such Act for children described in paragraph
25 (2)(B) or (3) of section 1905(u) of such Act based

1 on the Federal medical assistance percentage, as
2 otherwise determined based on the first and third
3 sentences of subsection (b) of section 1905 of the
4 Social Security Act, rather than on the basis of an
5 enhanced FMAP (as defined in section 2105(b) of
6 such Act).

7 (b) REPEAL.—Effective October 1, 2008, subsection
8 (a) is repealed.

9 (c) HOLD HARMLESS.—No State that elects the op-
10 tion described in subsection (a) shall be treated as not hav-
11 ing been authorized to make such election and to receive
12 Federal financial participation for expenditures for med-
13 ical assistance described in that subsection for fiscal years
14 2007 and 2008 as a result of the repeal of the subsection
15 under subsection (b).

16 **SEC. 602. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

17 (a) EXPENDITURES RELATED TO COMPLIANCE WITH
18 REQUIREMENTS.—

19 (1) ENHANCED PAYMENTS.—Section 2105(c)
20 (42 U.S.C. 1397ee(c)), as amended by section
21 401(a), is amended by adding at the end the fol-
22 lowing new paragraph:

23 “(11) ENHANCED PAYMENTS.—Notwith-
24 standing subsection (b), the enhanced FMAP with
25 respect to payments under subsection (a) for ex-

1 penditures related to the administration of the pay-
2 ment error rate measurement (PERM) requirements
3 applicable to the State child health plan in accord-
4 ance with the Improper Payments Information Act
5 of 2002 and parts 431 and 457 of title 42, Code of
6 Federal Regulations (or any related or successor
7 guidance or regulations) shall in no event be less
8 than 90 percent.”.

9 (2) EXCLUSION OF FROM CAP ON ADMINISTRA-
10 TIVE EXPENDITURES.—Section 2105(c)(2)(C) (42
11 U.S.C. 1397ee(c)(2)C)), as amended by section
12 402(b), is amended by adding at the end the fol-
13 lowing:

14 “(v) PAYMENT ERROR RATE MEAS-
15 UREMENT (PERM) EXPENDITURES.—Ex-
16 penditures related to the administration of
17 the payment error rate measurement
18 (PERM) requirements applicable to the
19 State child health plan in accordance with
20 the Improper Payments Information Act of
21 2002 and parts 431 and 457 of title 42,
22 Code of Federal Regulations (or any re-
23 lated or successor guidance or regula-
24 tions).”.

1 (b) FINAL RULE REQUIRED TO BE IN EFFECT FOR
2 ALL STATES.—Notwithstanding parts 431 and 457 of
3 title 42, Code of Federal Regulations (as in effect on the
4 date of enactment of this Act), the Secretary shall not cal-
5 culate or publish any national or State-specific error rate
6 based on the application of the payment error rate meas-
7 urement (in this section referred to as “PERM”) require-
8 ments to CHIP until after the date that is 6 months after
9 the date on which a final rule implementing such require-
10 ments in accordance with the requirements of subsection
11 (c) is in effect for all States. Any calculation of a national
12 error rate or a State specific error rate after such final
13 rule in effect for all States may only be inclusive of errors,
14 as defined in such final rule or in guidance issued within
15 a reasonable time frame after the effective date for such
16 final rule that includes detailed guidance for the specific
17 methodology for error determinations.

18 (c) REQUIREMENTS FOR FINAL RULE.—For pur-
19 poses of subsection (b), the requirements of this sub-
20 section are that the final rule implementing the PERM
21 requirements shall include—

22 (1) clearly defined criteria for errors for both
23 States and providers;

24 (2) a clearly defined process for appealing error
25 determinations by review contractors; and

1 (3) clearly defined responsibilities and deadlines
2 for States in implementing any corrective action
3 plans.

4 (d) OPTION FOR APPLICATION OF DATA FOR CER-
5 TAIN STATES UNDER THE INTERIM FINAL RULE.—

6 (1) OPTION FOR STATES IN FIRST APPLICATION
7 CYCLE.—After the final rule implementing the
8 PERM requirements in accordance with the require-
9 ments of subsection (c) is in effect for all States, a
10 State for which the PERM requirements were first
11 in effect under an interim final rule for fiscal year
12 2007 may elect to accept any payment error rate de-
13 termined in whole or in part for the State on the
14 basis of data for that fiscal year or may elect to not
15 have any payment error rate determined on the basis
16 of such data and, instead, shall be treated as if fiscal
17 year 2010 were the first fiscal year for which the
18 PERM requirements apply to the State.

19 (2) OPTION FOR STATES IN SECOND APPLICA-
20 TION CYCLE.—If such final rule is not in effect for
21 all States by July 1, 2008, a State for which the
22 PERM requirements were first in effect under an in-
23 terim final rule for fiscal year 2008 may elect to ac-
24 cept any payment error rate determined in whole or
25 in part for the State on the basis of data for that

1 fiscal year or may elect to not have any payment
2 error rate determined on the basis of such data and,
3 instead, shall be treated as if fiscal year 2011 were
4 the first fiscal year for which the PERM require-
5 ments apply to the State.

6 (e) HARMONIZATION OF MEQC AND PERM.—

7 (1) REDUCTION OF REDUNDANCIES.—The Sec-
8 retary shall review the Medicaid Eligibility Quality
9 Control (in this subsection referred to as the
10 “MEQC”) requirements with the PERM require-
11 ments and coordinate consistent implementation of
12 both sets of requirements, while reducing
13 redundancies.

14 (2) STATE OPTION TO APPLY PERM DATA.—A
15 State may elect, for purposes of determining the er-
16 roneous excess payments for medical assistance ratio
17 applicable to the State for a fiscal year under section
18 1903(u) of the Social Security Act (42 U.S.C.
19 1396b(u)) to substitute data resulting from the ap-
20 plication of the PERM requirements to the State
21 after the final rule implementing such requirements
22 is in effect for all States for data obtained from the
23 application of the MEQC requirements to the State
24 with respect to a fiscal year.

1 (f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC
2 SAMPLE SIZES.—The Secretary shall establish State-spe-
3 cific sample sizes for application of the PERM require-
4 ments with respect to State child health plans for fiscal
5 years beginning with fiscal year 2009, on the basis of such
6 information as the Secretary determines appropriate. In
7 establishing such sample sizes, the Secretary shall, to the
8 greatest extent practicable—

9 (1) minimize the administrative cost burden on
10 States under Medicaid and CHIP; and

11 (2) maintain State flexibility to manage such
12 programs.

13 **SEC. 603. ELIMINATION OF COUNTING MEDICAID CHILD**
14 **PRESUMPTIVE ELIGIBILITY COSTS AGAINST**
15 **TITLE XXI ALLOTMENT.**

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

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

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

25 “(B) [reserved]”.

1 **SEC. 604. IMPROVING DATA COLLECTION.**

2 (a) INCREASED APPROPRIATION.—Section
3 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by strik-
4 ing “\$10,000,000 for fiscal year 2000” and inserting
5 “\$20,000,000 for fiscal year 2008”.

6 (b) USE OF ADDITIONAL FUNDS.—Section 2109(b)
7 (42 U.S.C. 1397ii(b)), as amended by subsection (a), is
8 amended—

9 (1) by redesignating paragraph (2) as para-
10 graph (4); and

11 (2) by inserting after paragraph (1), the fol-
12 lowing new paragraphs:

13 “(2) ADDITIONAL REQUIREMENTS.—In addition
14 to making the adjustments required to produce the
15 data described in paragraph (1), with respect to
16 data collection occurring for fiscal years beginning
17 with fiscal year 2008, in appropriate consultation
18 with the Secretary of Health and Human Services,
19 the Secretary of Commerce shall do the following:

20 “(A) Make appropriate adjustments to the
21 Current Population Survey to develop more ac-
22 curate State-specific estimates of the number of
23 children enrolled in health coverage under title
24 XIX or this title.

25 “(B) Make appropriate adjustments to the
26 Current Population Survey to improve the sur-

1 vey estimates used to compile the State-specific
2 and national number of low-income children
3 without health insurance for purposes of deter-
4 mining allotments under subsections (c) and (i)
5 of section 2104 and making payments to States
6 from the CHIP Incentive Bonuses Pool estab-
7 lished under subsection (j) of such section, the
8 CHIP Contingency Fund established under sub-
9 section (k) of such section, and, to the extent
10 applicable to a State, from the block grant set
11 aside under section 2112(b)(2)(A)(i) for each of
12 fiscal years 2010 through 2012.

13 “(C) Include health insurance survey infor-
14 mation in the American Community Survey re-
15 lated to children.

16 “(D) Assess whether American Community
17 Survey estimates, once such survey data are
18 first available, produce more reliable estimates
19 than the Current Population Survey with re-
20 spect to the purposes described in subparagraph
21 (B).

22 “(E) On the basis of the assessment re-
23 quired under subparagraph (D), recommend to
24 the Secretary of Health and Human Services
25 whether American Community Survey estimates

1 should be used in lieu of, or in some combina-
2 tion with, Current Population Survey estimates
3 for the purposes described in subparagraph (B).

4 “(F) Continue making the adjustments de-
5 scribed in the last sentence of paragraph (1)
6 with respect to expansion of the sample size
7 used in State sampling units, the number of
8 sampling units in a State, and using an appro-
9 priate verification element.

10 “(3) AUTHORITY FOR THE SECRETARY OF
11 HEALTH AND HUMAN SERVICES TO TRANSITION TO
12 THE USE OF ALL, OR SOME COMBINATION OF, ACS
13 ESTIMATES UPON RECOMMENDATION OF THE SEC-
14 RETARY OF COMMERCE.—If, on the basis of the as-
15 sessment required under paragraph (2)(D), the Sec-
16 retary of Commerce recommends to the Secretary of
17 Health and Human Services that American Commu-
18 nity Survey estimates should be used in lieu of, or
19 in some combination with, Current Population Sur-
20 vey estimates for the purposes described in para-
21 graph (2)(B), the Secretary of Health and Human
22 Services may provide for a period during which the
23 Secretary may transition from carrying out such
24 purposes through the use of Current Population
25 Survey estimates to the use of American Community

1 Survey estimates (in lieu of, or in combination with
2 the Current Population Survey estimates, as rec-
3 ommended), provided that any such transition is im-
4 plemented in a manner that is designed to avoid ad-
5 verse impacts upon States with approved State child
6 health plans under this title.”.

7 **SEC. 605. DEFICIT REDUCTION ACT TECHNICAL CORREC-**
8 **TIONS.**

9 (a) DETERMINATION OF MEDICAID PATIENT DAYS
10 FOR DSH COMPUTATION.—

11 (1) IN GENERAL.—Section 5002 of the Deficit
12 Reduction Act of 2005 (Public Law 109–171, 120
13 Stat. 31) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(c) DETERMINATION OF MEDICAID PATIENT DAYS
16 FOR DISCHARGES OCCURRING ON OR AFTER THE DATE
17 OF ENACTMENT OF THIS SUBSECTION.—For discharges
18 occurring on or after the date of enactment of this sub-
19 section, in determining under section
20 1886(d)(5)(F)(vi)(II) of the Social Security Act (42
21 U.S.C. 1395ww(d)(5)(F)(vi)(II)) the number of the hos-
22 pital’s patient days for the applicable cost reporting period
23 which consist of patients who (for such days) were eligible
24 for medical assistance under a State plan approved under
25 title XIX, the Secretary shall include patient days of pa-

1 tients who are eligible to receive inpatient hospital benefits
2 under a demonstration project approved under title XI
3 and shall not include patient days under such a project
4 if the patient is not eligible to receive inpatient hospital
5 benefits under the project.”.

6 (2) CONFORMING AMENDMENT.—The last sen-
7 tence of section 1886(d)(5)(F)(vi) of the Social Se-
8 curity Act (42 U.S.C. 1395ww(d)(5)(F)(vi)), as
9 added by section 5002(a) of the Deficit Reduction
10 Act of 2005 (Public Law 109–171), is amended by
11 striking “In determining under subclause (II)” and
12 inserting “Subject to section 5002(c) of the Deficit
13 Reduction Act of 2005, in determining under sub-
14 clause (II)”.

15 (3) EFFECTIVE DATE.—The amendments made
16 by this subsection shall take effect on the date of en-
17 actment of this Act.

18 (b) STATE FLEXIBILITY IN BENEFIT PACKAGES.—

19 (1) CLARIFICATION OF REQUIREMENT TO PRO-
20 VIDE EPSDT SERVICES FOR ALL CHILDREN IN
21 BENCHMARK BENEFIT PACKAGES.—Section
22 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted
23 by section 6044(a) of the Deficit Reduction Act of
24 2005 (Public Law 109–171, 120 Stat. 88), is
25 amended—

1 (A) in subparagraph (A)—

2 (i) in the matter before clause (i), by
3 striking “enrollment in coverage that pro-
4 vides” and inserting “coverage that”;

5 (ii) in clause (i), by inserting “pro-
6 vides” after “(i)”; and

7 (iii) by striking clause (ii) and insert-
8 ing the following:

9 “(ii) for any individual described in
10 section 1905(a)(4)(B) who is eligible under
11 the State plan in accordance with para-
12 graphs (10) and (17) of section 1902(a),
13 consists of the items and services described
14 in section 1905(a)(4)(B) (relating to early
15 and periodic screening, diagnostic, and
16 treatment services defined in section
17 1905(r)) and provided in accordance with
18 the requirements of section 1902(a)(43).”;

19 (B) in subparagraph (C)—

20 (i) in the heading, by striking “WRAP-
21 AROUND” and inserting “ADDITIONAL”;
22 and

23 (ii) by striking “wrap-around or”; and

24 (C) by adding at the end the following new
25 subparagraph:

1 “(E) RULE OF CONSTRUCTION.—Nothing
2 in this paragraph shall be construed as—

3 “(i) requiring a State to offer all or
4 any of the items and services required by
5 subparagraph (A)(ii) through an issuer of
6 benchmark coverage described in sub-
7 section (b)(1) or benchmark equivalent
8 coverage described in subsection (b)(2); or

9 “(ii) preventing a State from offering
10 all or any of the items and services re-
11 quired by subparagraph (A)(ii) through an
12 issuer of benchmark coverage described in
13 subsection (b)(1) or benchmark equivalent
14 coverage described in subsection (b)(2).”.

15 (2) CORRECTION OF REFERENCE TO CHILDREN
16 IN FOSTER CARE RECEIVING CHILD WELFARE SERV-
17 ICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C.
18 1396u–7(a)(2)(B)(viii), as inserted by section
19 6044(a) of the Deficit Reduction Act of 2005, is
20 amended by striking “aid or assistance is made
21 available under part B of title IV to children in fos-
22 ter care and individuals” and inserting “child wel-
23 fare services are made available under part B of title
24 IV on the basis of being a child in foster care or”.

1 **SEC. 607. MENTAL HEALTH PARITY IN CHIP PLANS.**

2 (a) ASSURANCE OF PARITY.—Section 2103(c) (42
3 U.S.C. 1397cc(c)) is amended—

4 (1) by redesignating paragraph (5) as para-
5 graph (6); and

6 (2) by inserting after paragraph (4), the fol-
7 lowing:

8 “(5) MENTAL HEALTH SERVICES PARITY.—

9 “(A) IN GENERAL.—In the case of a State
10 child health plan that provides both medical
11 and surgical benefits and mental health or sub-
12 stance abuse benefits, such plan shall ensure
13 that the financial requirements and treatment
14 limitations applicable to such mental health or
15 substance abuse benefits are no more restrictive
16 than the financial requirements and treatment
17 limitations applied to substantially all medical
18 and surgical benefits covered by the plan.

19 “(B) DEEMED COMPLIANCE.—To the ex-
20 tent that a State child health plan includes cov-
21 erage with respect to an individual described in
22 section 1905(a)(4)(B) and covered under the
23 State plan under section 1902(a)(10)(A) of the
24 services described in section 1905(a)(4)(B) (re-
25 lating to early and periodic screening, diag-
26 nostic, and treatment services defined in section

1 1905(r)) and provided in accordance with sec-
2 tion 1902(a)(43), such plan shall be deemed to
3 satisfy the requirements of subparagraph (A).”.

4 (b) CONFORMING AMENDMENTS.—Section 2103 (42
5 U.S.C. 1397cc) is amended—

6 (1) in subsection (a), in the matter preceding
7 paragraph (1), by striking “subsection (e)(5)” and
8 inserting “paragraphs (5) and (6) of subsection (e)”;
9 and

10 (2) in subsection (c)(2), by striking subpara-
11 graph (B) and redesignating subparagraphs (C) and
12 (D) as subparagraphs (B) and (C), respectively.

13 **SEC. 608. DENTAL HEALTH GRANTS.**

14 Title XXI (42 U.S.C. 1397aa et seq.), as amended
15 by section 201, is amended by adding at the end the fol-
16 lowing:

17 **“SEC. 2114. DENTAL HEALTH GRANTS.**

18 “(a) AUTHORITY TO AWARD GRANTS.—

19 “(1) IN GENERAL.—From the amount appro-
20 priated under subsection (e), the Secretary shall
21 award grants from amounts to eligible States for the
22 purpose of carrying out programs and activities that
23 are designed to improve the availability of dental
24 services and strengthen dental coverage for targeted

1 low-income children enrolled in State child health
2 plans.

3 “(2) ELIGIBLE STATE.—In this section, the
4 term ‘eligible State’ means a State with an approved
5 State child health plan under this title that submits
6 an application under subsection (b) that is approved
7 by Secretary.

8 “(b) APPLICATION.—An eligible State that desires to
9 receive a grant under this paragraph shall submit an ap-
10 plication to the Secretary in such form and manner, and
11 containing such information, as the Secretary may re-
12 quire. Such application shall include—

13 “(1) a detailed description of the programs and
14 activities proposed to be conducted with funds
15 awarded under the grant;

16 “(2) quality and outcomes performance meas-
17 ures to evaluate the effectiveness of such activities;
18 and

19 “(3) an assurance that the State shall—

20 “(A) conduct an assessment of the effec-
21 tiveness of such activities against such perform-
22 ance measures; and

23 “(B) cooperate with the collection and re-
24 porting of data and other information deter-
25 mined as a result of conducting such assess-

1 ments to the Secretary, in such form and man-
2 ner as the Secretary shall require.

3 “(c) MAINTENANCE OF EFFORT FOR STATES
4 AWARDED GRANTS; NO STATE MATCH REQUIRED.—In
5 the case of a State that is awarded a grant under this
6 section—

7 “(1) the State share of funds expended for den-
8 tal services under the State child health plan shall
9 not be less than the State share of such funds ex-
10 pended in the fiscal year preceding the first fiscal
11 year for which the grant is awarded; and

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

14 “(d) ANNUAL REPORT.—The Secretary shall submit
15 an annual report to the appropriate committees of Con-
16 gress regarding the grants awarded under this section that
17 includes—

18 “(1) State specific descriptions of the programs
19 and activities conducted with funds awarded under
20 such grants; and

21 “(2) information regarding the assessments re-
22 quired of States under subsection (b)(3).

23 “(e) APPROPRIATION.—Out of any funds in the
24 Treasury not otherwise appropriated, there is appro-
25 priated, \$200,000,000 for the period of fiscal years 2008

1 through 2012, to remain available until expended, for the
2 purpose of awarding grants to States under this section.
3 Amounts appropriated and paid under the authority of
4 this section shall be in addition to amounts appropriated
5 under section 2104 and paid to States in accordance with
6 section 2105.”.

7 **SEC. 609. 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 sections
15 204(b) and 503, is amended by inserting after sub-
16 paragraph (A) the following new subparagraph (and
17 redesignating the succeeding subparagraphs accord-
18 ingly):

19 “(B) 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, 2008.

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 2008,
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)(B) 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 2010, 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 **TITLE VII—REVENUE**
2 **PROVISIONS**

3 **SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO**
4 **PRODUCTS.**

5 (a) CIGARS.—Section 5701(a) of the Internal Rev-
6 enue Code of 1986 is amended—

7 (1) by striking “\$1.828 cents per thousand
8 (\$1.594 cents per thousand on cigars removed dur-
9 ing 2000 or 2001)” in paragraph (1) and inserting
10 “\$50.00 per thousand”,

11 (2) by striking “20.719 percent (18.063 percent
12 on cigars removed during 2000 or 2001)” in para-
13 graph (2) and inserting “53.13 percent”, and

14 (3) by striking “\$48.75 per thousand (\$42.50
15 per thousand on cigars removed during 2000 or
16 2001)” in paragraph (2) and inserting “\$10.00 per
17 cigar”.

18 (b) CIGARETTES.—Section 5701(b) of such Code is
19 amended—

20 (1) by striking “\$19.50 per thousand (\$17 per
21 thousand on cigarettes removed during 2000 or
22 2001)” in paragraph (1) and inserting “\$50.00 per
23 thousand”, and

24 (2) by striking “\$40.95 per thousand (\$35.70
25 per thousand on cigarettes removed during 2000 or

1 2001)” in paragraph (2) and inserting “\$104.9999
2 cents per thousand”.

3 (c) CIGARETTE PAPERS.—Section 5701(c) of such
4 Code is amended by striking “1.22 cents (1.06 cents on
5 cigarette papers removed during 2000 or 2001)” and in-
6 serting “3.13 cents”.

7 (d) CIGARETTE TUBES.—Section 5701(d) of such
8 Code is amended by striking “2.44 cents (2.13 cents on
9 cigarette tubes removed during 2000 or 2001)” and in-
10 serting “6.26 cents”.

11 (e) SMOKELESS TOBACCO.—Section 5701(e) of such
12 Code is amended—

13 (1) by striking “58.5 cents (51 cents on snuff
14 removed during 2000 or 2001)” in paragraph (1)
15 and inserting “\$1.50”, and

16 (2) by striking “19.5 cents (17 cents on chew-
17 ing tobacco removed during 2000 or 2001)” in para-
18 graph (2) and inserting “50 cents”.

19 (f) PIPE TOBACCO.—Section 5701(f) of such Code is
20 amended by striking “\$1.0969 cents (95.67 cents on pipe
21 tobacco removed during 2000 or 2001)” and inserting
22 “\$2.8126 cents”.

23 (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of
24 such Code is amended by striking “\$1.0969 cents (95.67

1 cents on roll-your-own tobacco removed during 2000 or
2 2001)” and inserting “\$8.8889 cents”.

3 (h) FLOOR STOCKS TAXES.—

4 (1) IMPOSITION OF TAX.—On tobacco products
5 and cigarette papers and tubes manufactured in or
6 imported into the United States which are removed
7 before January 1, 2008, and held on such date for
8 sale by any person, there is hereby imposed a tax in
9 an amount equal to the excess of—

10 (A) the tax which would be imposed under
11 section 5701 of the Internal Revenue Code of
12 1986 on the article if the article had been re-
13 moved on such date, over

14 (B) the prior tax (if any) imposed under
15 section 5701 of such Code on such article.

16 (2) CREDIT AGAINST TAX.—Each person shall
17 be allowed as a credit against the taxes imposed by
18 paragraph (1) an amount equal to \$500. Such credit
19 shall not exceed the amount of taxes imposed by
20 paragraph (1) on January 1, 2008, for which such
21 person is liable.

22 (3) LIABILITY FOR TAX AND METHOD OF PAY-
23 MENT.—

24 (A) LIABILITY FOR TAX.—A person hold-
25 ing tobacco products, cigarette papers, or ciga-

1 rette tubes on January 1, 2008, to which any
2 tax imposed by paragraph (1) applies shall be
3 liable for such tax.

4 (B) METHOD OF PAYMENT.—The tax im-
5 posed by paragraph (1) shall be paid in such
6 manner as the Secretary shall prescribe by reg-
7 ulations.

8 (C) TIME FOR PAYMENT.—The tax im-
9 posed by paragraph (1) shall be paid on or be-
10 fore April 1, 2008.

11 (4) ARTICLES IN FOREIGN TRADE ZONES.—
12 Notwithstanding the Act of June 18, 1934 (com-
13 monly known as the Foreign Trade Zone Act, 48
14 Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-
15 sion of law, any article which is located in a foreign
16 trade zone on January 1, 2008, shall be subject to
17 the tax imposed by paragraph (1) if—

18 (A) internal revenue taxes have been deter-
19 mined, or customs duties liquidated, with re-
20 spect to such article before such date pursuant
21 to a request made under the 1st proviso of sec-
22 tion 3(a) of such Act, or

23 (B) such article is held on such date under
24 the supervision of an officer of the United
25 States Customs and Border Protection of the

1 Department of Homeland Security pursuant to
2 the 2d proviso of such section 3(a).

3 (5) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) IN GENERAL.—Any term used in this
6 subsection which is also used in section 5702 of
7 the Internal Revenue Code of 1986 shall have
8 the same meaning as such term has in such
9 section.

10 (B) SECRETARY.—The term “Secretary”
11 means the Secretary of the Treasury or the
12 Secretary’s delegate.

13 (6) CONTROLLED GROUPS.—Rules similar to
14 the rules of section 5061(e)(3) of such Code shall
15 apply for purposes of this subsection.

16 (7) OTHER LAWS APPLICABLE.—All provisions
17 of law, including penalties, applicable with respect to
18 the taxes imposed by section 5701 of such Code
19 shall, insofar as applicable and not inconsistent with
20 the provisions of this subsection, apply to the floor
21 stocks taxes imposed by paragraph (1), to the same
22 extent as if such taxes were imposed by such section
23 5701. The Secretary may treat any person who bore
24 the ultimate burden of the tax imposed by para-

1 graph (1) as the person to whom a credit or refund
2 under such provisions may be allowed or made.

3 (i) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to articles removed (as defined in
5 section 5702(j) of the Internal Revenue Code of 1986)
6 after December 31, 2007.

7 **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

8 (a) PERMIT, REPORT, AND RECORD REQUIREMENTS
9 FOR MANUFACTURERS AND IMPORTERS OF PROCESSED
10 TOBACCO.—

11 (1) PERMITS.—

12 (A) APPLICATION.—Section 5712 of the
13 Internal Revenue Code of 1986 is amended by
14 inserting “or processed tobacco” after “tobacco
15 products”.

16 (B) ISSUANCE.—Section 5713(a) of such
17 Code is amended by inserting “or processed to-
18 bacco” after “tobacco products”.

19 (2) INVENTORIES AND REPORTS.—

20 (A) INVENTORIES.—Section 5721 of such
21 Code is amended by inserting “, processed to-
22 bacco,” after “tobacco products”.

23 (B) REPORTS.—Section 5722 of such Code
24 is amended by inserting “, processed tobacco,”
25 after “tobacco products”.

1 (3) RECORDS.—Section 5741 of such Code is
2 amended by inserting “, processed tobacco,” after
3 “tobacco products”.

4 (4) MANUFACTURER OF PROCESSED TO-
5 BACCO.—Section 5702 of such Code is amended by
6 adding at the end the following new subsection:

7 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

8 “(1) IN GENERAL.—The term ‘manufacturer of
9 processed tobacco’ means any person who processes
10 any tobacco other than tobacco products.

11 “(2) PROCESSED TOBACCO.—The processing of
12 tobacco shall not include the farming or growing of
13 tobacco or the handling of tobacco solely for sale,
14 shipment, or delivery to a manufacturer of tobacco
15 products or processed tobacco.”.

16 (5) CONFORMING AMENDMENT.—Section
17 5702(k) of such Code is amended by inserting “, or
18 any processed tobacco,” after “nontaxpaid tobacco
19 products or cigarette papers or tubes”.

20 (6) EFFECTIVE DATE.—The amendments made
21 by this subsection shall take effect on January 1,
22 2008.

23 (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—
24

1 (1) DENIAL.—Paragraph (3) of section 5712 of
2 such Code is amended to read as follows:

3 “(3) such person (including, in the case of a
4 corporation, any officer, director, or principal stock-
5 holder and, in the case of a partnership, a part-
6 ner)—

7 “(A) is, by reason of his business experi-
8 ence, financial standing, or trade connections or
9 by reason of previous or current legal pro-
10 ceedings involving a felony violation of any
11 other provision of Federal criminal law relating
12 to tobacco products, cigarette paper, or ciga-
13 rette tubes, not likely to maintain operations in
14 compliance with this chapter,

15 “(B) has been convicted of a felony viola-
16 tion of any provision of Federal or State crimi-
17 nal law relating to tobacco products, cigarette
18 paper, or cigarette tubes, or

19 “(C) has failed to disclose any material in-
20 formation required or made any material false
21 statement in the application therefor.”.

22 (2) SUSPENSION OR REVOCATION.—Subsection
23 (b) of section 5713 of such Code is amended to read
24 as follows:

25 “(b) SUSPENSION OR REVOCATION.—

1 “(1) SHOW CAUSE HEARING.—If the Secretary
2 has reason to believe that any person holding a per-
3 mit—

4 “(A) has not in good faith complied with
5 this chapter, or with any other provision of this
6 title involving intent to defraud,

7 “(B) has violated the conditions of such
8 permit,

9 “(C) has failed to disclose any material in-
10 formation required or made any material false
11 statement in the application for such permit,

12 “(D) has failed to maintain his premises in
13 such manner as to protect the revenue,

14 “(E) is, by reason of previous or current
15 legal proceedings involving a felony violation of
16 any other provision of Federal criminal law re-
17 lating to tobacco products, cigarette paper, or
18 cigarette tubes, not likely to maintain oper-
19 ations in compliance with this chapter, or

20 “(F) has been convicted of a felony viola-
21 tion of any provision of Federal or State crimi-
22 nal law relating to tobacco products, cigarette
23 paper, or cigarette tubes,

1 the Secretary shall issue an order, stating the facts
2 charged, citing such person to show cause why his
3 permit should not be suspended or revoked.

4 “(2) ACTION FOLLOWING HEARING.—If, after
5 hearing, the Secretary finds that such person has
6 not shown cause why his permit should not be sus-
7 pended or revoked, such permit shall be suspended
8 for such period as the Secretary deems proper or
9 shall be revoked.”.

10 (c) APPLICATION OF INTERNAL REVENUE CODE
11 STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO
12 EXCISE TAXES.—Section 514(a) of the Tariff Act of 1930
13 (19 U.S.C. 1514(a)) is amended by striking “and section
14 520 (relating to refunds)” and inserting “section 520 (re-
15 lating to refunds), and section 6501 of the Internal Rev-
16 enue Code of 1986 (but only with respect to taxes imposed
17 under chapters 51 and 52 of such Code)”.

18 (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN
19 TOBACCO.—

20 (1) IN GENERAL.—Section 5702(o) of the In-
21 ternal Revenue Code of 1986 is amended by insert-
22 ing “or cigars, or for use as wrappers thereof” be-
23 fore the period at the end.

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to articles removed (as

1 defined in section 5702(j) of the Internal Revenue
2 Code of 1986) after December 31, 2007.

3 (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-
4 TURED TOBACCO PRODUCTS.—Section 5703(b)(2) of such
5 Code is amended by adding at the end the following new
6 subparagraph:

7 “(F) SPECIAL RULE FOR UNLAWFULLY
8 MANUFACTURED TOBACCO PRODUCTS.—In the
9 case of any tobacco products, cigarette paper,
10 or cigarette tubes produced in the United
11 States at any place other than the premises of
12 a manufacturer of tobacco products, cigarette
13 paper, or cigarette tubes that has filed the bond
14 and obtained the permit required under this
15 chapter, tax shall be due and payable imme-
16 diately upon manufacture.”.

17 **SEC. 703. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
18 **TAXES.**

19 Subparagraph (B) of section 401(1) of the Tax In-
20 crease Prevention and Reconciliation Act of 2005 is
21 amended by striking “114.50 percent” and inserting
22 “113.25 percent”.

1 **TITLE VIII—EFFECTIVE DATE**

2 **SEC. 801. EFFECTIVE DATE.**

3 (a) **IN GENERAL.**—Unless otherwise provided in this
4 Act, subject to subsection (b), the amendments made by
5 this Act shall take effect on October 1, 2007, and shall
6 apply to child health assistance and medical assistance
7 provided on or after that date without regard to whether
8 or not final regulations to carry out such amendments
9 have been promulgated by such date.

10 (b) **EXCEPTION FOR STATE LEGISLATION.**—In the
11 case of a State plan under title XIX or XXI of the Social
12 Security Act, which the Secretary determines requires
13 State legislation in order for the plan to meet the addi-
14 tional requirements imposed by an amendment made by
15 this Act, the State plan shall not be regarded as failing
16 to comply with the requirements of such Act solely on the
17 basis of its failure to meet these additional requirements
18 before the first day of the first calendar quarter beginning
19 after the close of the first regular session of the State leg-
20 islature that begins after the date of enactment of this
21 Act. For purposes of the preceding sentence, in the case
22 of a State that has a 2-year legislative session, each year
23 of the session shall be considered to be a separate regular
24 session of the State legislature.

○