

105TH CONGRESS
1ST SESSION

H. R. 1229

To amend the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 1997

Mr. ACKERMAN introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Education and the Workforce, 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 the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes.

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

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Healthy Mothers, Healthy Children Act of 1997”.

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

Sec. 1. Short title, table of contents.

TITLE I—NATIONAL HEALTH TRUST FUND FOR MOTHERS AND
CHILDREN

Sec. 101. Establishment.

TITLE II—HEALTHY MOTHERS, HEALTHY CHILDREN PROGRAM

Sec. 201. Establishment and allocation of funds.

“TITLE XXVIII—HEALTHY MOTHERS, HEALTH CHILDREN
PROGRAM

“Sec. 2800. Establishment of program.

“PART A—ALLOCATION OF FUNDS

“Sec. 2801. Allocation of funds to participating States.

“Sec. 2802. State trust funds and matching contribution.

“Sec. 2803. Excess and insufficient funds in trust funds.

“PART B—ELIGIBILITY AND ENROLLMENT

“SUBPART 1—ELIGIBILITY

“Sec. 2810. Eligibility of individuals.

“Sec. 2811. Election of eligibility.

“Sec. 2812. Eligible health plans and providers.

“SUBPART 2—ENROLLMENT

“Sec. 2815. Enrollment of eligible persons.

“Sec. 2816. Transition from eligibility.

Sec. 202. Comprehensive health benefits and cost sharing requirements.

“PART C—COMPREHENSIVE HEALTH BENEFITS AND COST SHARING
REQUIREMENTS

“SUBPART 1—COMPREHENSIVE HEALTH BENEFITS

“Sec. 2821. Comprehensive health benefits package.

“Sec. 2822. General categories of health benefits.

“SUBPART 2—COST SHARING REQUIREMENTS

- “Sec. 2825. Principles of cost sharing.
- “Sec. 2826. Premiums and premium subsidy.
- “Sec. 2827. Utilization copayments.
- “Sec. 2828. Maximum annual family contribution.
- Sec. 203. State program development and administration.

“PART D—STATE PROGRAM DEVELOPMENT AND ADMINISTRATION

- “Sec. 2831. Application and date of implementation.
- “Sec. 2832. Special status States.
- “Sec. 2833. States with medicaid waivers.
- “Sec. 2834. Development grants for State programs.
- “Sec. 2835. Expansion of eligibility.
- “Sec. 2836. Failure of State to administer a program in compliance with title.
- “Sec. 2837. Limits on State and Federal administrative costs.

“PART E—ENSURING QUALITY, ESTABLISHING INFORMATION SYSTEMS, AND PREVENTING ABUSE

- “Sec. 2841. Annual quality assessment and improvement plans.
- “Sec. 2842. National advisory council for mothers’ and children’s health.
- “Sec. 2843. National quality assessment and improvement program guidelines and utilization review program guidelines.
- “Sec. 2844. National health information systems for mothers and children.
- “Sec. 2845. National childhood immunization database.
- “Sec. 2846. Prevention, monitoring, and control of fraud and abuse.
- Sec. 204. Responsibilities of families, certified plans, employers, States, and the Federal government.

“PART F—RESPONSIBILITIES OF FAMILIES, CERTIFIED PLANS, EMPLOYERS, STATES, AND THE FEDERAL GOVERNMENT

- “Sec. 2851. Responsibilities of families.
- “Sec. 2852. Responsibilities of certified plans.
- “Sec. 2853. Responsibilities of employers.
- “Sec. 2854. Responsibilities of the State.
- “Sec. 2855. Responsibilities of the Secretary.
- “Sec. 2856. Responsibilities of the Attorney General.
- “Sec. 2857. Responsibilities of the Secretary of Agriculture.
- Sec. 205. Existing programs.

“PART G—IMPACT ON EMPLOYERS AND EXISTING PROGRAMS

- “Sec. 2861. Impact on employers.
- “Sec. 2862. Impact on medicaid.
- “Sec. 2863. Integration of health services and impact on existing Federal and State government health programs.
- Sec. 206. General provisions.

“PART H—GENERAL PROVISIONS

- “Sec. 2871. Definitions.
- “Sec. 2872. Authorization of appropriations.
- Sec. 207. Unlawful use of tobacco products manufactured for export.

TITLE III—FINANCING PROVISIONS

Sec. 301. Increase in taxes on tobacco products.

Sec. 302. Assistance to States adversely affected by the tobacco tax.

Sec. 303. Designation of overpayments and contributions for the National Health Trust Fund for Mothers and Children.

1 **TITLE I—NATIONAL HEALTH**
 2 **TRUST FUND FOR MOTHERS**
 3 **AND CHILDREN**

4 **SEC. 101. ESTABLISHMENT.**

5 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 6 Internal Revenue Code of 1986 (relating to establishment
 7 of trust funds) is amended by adding at the end the follow-
 8 ing new part:

9 **“PART II—HEALTH CARE TRUST FUNDS**

“Sec. 9551. National Health Trust Fund for Mothers and Chil-
 dren

10 **“SEC. 9551. NATIONAL HEALTH TRUST FUND FOR MOTHERS**
 11 **AND CHILDREN.**

12 “(a) CREATION OF TRUST FUND.—There is estab-
 13 lished in the Treasury of the United States a trust fund
 14 to be known as the ‘National Health Trust Fund for
 15 Mothers and Children’ to support State-based programs
 16 under title XXVIII of the Public Health Service Act that
 17 ensure affordable, comprehensive, high quality health care
 18 coverage for children, and for all uninsured pregnant
 19 women. The National Health Trust Fund for Mothers and
 20 Children shall consist of such amounts as may be appro-
 21 priated or credited to the Trust Fund as provided for in

1 this section or section 9602(b) and such cash contribu-
2 tions as may be made.

3 “(b) TRANSFERS TO THE TRUST FUND.—

4 “(1) IN GENERAL.—There are hereby appro-
5 priated to the National Health Trust Fund for
6 Mothers and Children amounts received in the
7 Treasury under—

8 “(A) section 5701 (relating to taxes on to-
9 bacco products) to the extent attributable to the
10 increases of such taxes as the result of the en-
11 actment of section 301 of the Healthy Mothers,
12 Healthy Children Act of 1997 minus any
13 amount appropriated to the Tobacco Alter-
14 natives Trust Fund under section 9512(b), and

15 “(B) section 6097 (relating to the designa-
16 tion of overpayments and contributions to the
17 Trust Fund).

18 “(2) SAVINGS AMOUNTS.—There are hereby ap-
19 propriated to the National Health Trust Fund for
20 Mothers and Children for each fiscal year amounts
21 equivalent to the amount of estimated Federal sav-
22 ings in such fiscal year—

23 “(A) under the medicaid program under
24 title XIX of the Social Security Act resulting

1 from the enactment of the Healthy Mothers,
2 Healthy Children Act of 1997, and

3 “(B) attributable to the elimination of
4 services or functions under any other Federal
5 health program resulting from the enactment of
6 the Healthy Mothers, Healthy Children Act of
7 1997.

8 “(c) EXPENDITURES.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), amounts in the National Health Trust
11 Fund for Mothers and Children are appropriated as
12 provided for in section 2871 of the Public Health
13 Service Act, and to the extent any such amount is
14 not expended during any fiscal year, such amount
15 shall be available for such purpose for subsequent
16 fiscal years.

17 “(2) PREVENTION OF TOBACCO USE.—

18 “(A) IN GENERAL.—Amounts not to ex-
19 ceed the amount described in subparagraph (B)
20 are appropriated in each fiscal year to fund ac-
21 tivities at the Office on Smoking and Health,
22 Centers for Disease Control and Prevention to
23 prevent the initiation of smoking and use of
24 other tobacco products by children and to co-
25 ordinate Federal and State tobacco prevention

and control initiatives. To the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

“(B) AMOUNT DESCRIBED.—The Secretary of Health and Human Services may determine an amount under this subparagraph not to exceed 0.2 percent of the annual amounts described under subsection (b)(1)(A) received in the National Health Trust Fund for Mothers and Children.”.

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 is amended by inserting after the subchapter heading the following new items:

“Part I. General trust funds.
“Part II. Health care trust fund.

“PART I—GENERAL TRUST FUNDS”.

**TITLE II—HEALTHY MOTHERS,
HEALTHY CHILDREN PROGRAM**

SEC. 201. ESTABLISHMENT AND ALLOCATION OF FUNDS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new title:

1 **“TITLE XXVIII—HEALTHY MOTH-**
2 **ERS, HEALTH CHILDREN PRO-**
3 **GRAM**

4 **“SEC. 2800. ESTABLISHMENT OF PROGRAM.**

5 “A State that desires to become a participating State
6 under this title and receive an allocation under section
7 2801, shall, in accordance with this title, establish a State
8 program to ensure that eligible children and pregnant
9 women residing in the State are enrolled in certified plans
10 that provide for or cover the costs of comprehensive, high
11 quality health care items or services provided to such eligi-
12 ble individuals.

13 **“PART A—ALLOCATION OF FUNDS**

14 **“SEC. 2801. ALLOCATION OF FUNDS TO PARTICIPATING**
15 **STATES.**

16 “(a) INITIAL ALLOCATION.—With respect to a par-
17 ticipating State, during each of the first two fiscal years
18 in which the State program is in effect, the Secretary shall
19 make available to the State, from the Trust Fund, an
20 amount based on a formula developed by the Secretary
21 that takes into consideration—

22 “(1) the estimated number of eligible children
23 under 7 years of age residing in the State;

24 “(2) the number of pregnant women residing in
25 the State that lack health insurance; and

1 “(3) a geographic adjustment factor for the
2 State that is dependent on the average cost of health
3 care in such State.

4 “(b) SUBSEQUENT FISCAL YEARS.—

5 “(1) FORMULA.—With respect to a participat-
6 ing State, during each fiscal year subsequent to the
7 first two fiscal years in which the State program is
8 in effect, the Secretary shall make available to the
9 State, from the Trust Fund, an amount based on a
10 formula developed by the Secretary that takes into
11 consideration—

12 “(A) the factors referred to in subsection
13 (a);

14 “(B) to encourage the enrollment of all eli-
15 gible individuals in the State program of that
16 State, an additional factor developed by the
17 Secretary that takes into consideration the
18 number of eligible individuals enrolled in the
19 State program in the year immediately preced-
20 ing the year for which the allocation under this
21 subsection is being made; and

22 “(C) an index that reflects the estimated
23 national average rate of inflation for health care
24 expenditures for children and a similar index
25 for pregnant women, to ensure that any in-

1 crease in allocations under this subsection do
2 not exceed the increase in such inflation index
3 from the previous fiscal year.

4 The additional factor shall be developed under sub-
5 paragraph (B) so that as the number of eligible indi-
6 viduals enrolled in the previous year increases, the
7 amount of the allocation for the State also increases.

8 “(2) WAIVERS.—

9 “(A) REQUEST BY STATE.—A participat-
10 ing State may request that the Secretary, in al-
11 locating funds under paragraph (1), waive the
12 consideration of the index under subparagraph
13 (C) of such paragraph with respect to such
14 State.

15 “(B) GRANT OF WAIVER.—The Secretary
16 may grant a request for a waiver under sub-
17 paragraph (A) if the Secretary determines that
18 the participating State has demonstrated that
19 extenuating circumstances within the State ex-
20 isted which caused unavoidable increases in the
21 cost of health services provided to children and
22 pregnant women, and that the State has consid-
23 ered all reasonable strategies to control costs,
24 including working with certified plans to control
25 costs, reducing administrative costs, restructur-

1 ing the State program, and minimizing fraud
2 and abuse.

3 **“SEC. 2802. STATE TRUST FUNDS AND MATCHING CON-**
4 **TRIBUTION.**

5 “(a) STATE TRUST FUND.—

6 “(1) ESTABLISHMENT.—To be a participating
7 State under this title, a State shall establish a State
8 trust fund (or in the case of regional programs, a re-
9 gional trust fund) in which the State shall deposit—

10 “(A) all funds allocated to the State under
11 section 2801;

12 “(B) all funds provided by the State under
13 subsection (b); and

14 “(C) any additional funds determined ap-
15 propriated by the State.

16 “(2) TRANSFER OF FUNDS.—From the Trust
17 Fund, the Secretary shall, on an annual basis, trans-
18 fer to the trust fund of a participating State the
19 amount of the State’s allocation under section 2801
20 for the fiscal year involved. Such annual transfer of
21 funds shall be contingent on a satisfactory annual
22 evaluation of the program of the participating State,
23 and the approval of the annual plan of the State by
24 the Secretary as required in section 2831(b).

1 “(3) USE OF FUNDS.—Amounts contained in
2 the State trust fund shall be used solely for activities
3 directly related to the provision of health services to
4 eligible children or pregnant women or for other ac-
5 tivities specifically authorized under this title.

6 “(b) MATCHING REQUIREMENT.—

7 “(1) IN GENERAL.—The Secretary may not
8 make an allocation to a participating State under
9 section 2801 unless that State agrees that, with re-
10 spect to the costs to be incurred by the State in car-
11 rying out the program for which the allocation is
12 provided, the State will make available an amount
13 determined by the Secretary based on a formula that
14 takes into account the annual per capita income of
15 each State. In determining the matching require-
16 ment applicable to each State under this paragraph,
17 the Secretary shall ensure that—

18 “(A) each such matching requirement is
19 more generous for the State than the matching
20 requirement applicable under title XIX of the
21 Social Security Act at the time of the approval
22 of the State application under this title;

23 “(B) the average State matching require-
24 ment for all States is \$2 for every \$8 of Fed-
25 eral funds provided under the allocation (aver-

1 age Federal matching rate for all States of 80
2 percent); and

3 “(C) no State shall have a matching re-
4 quirement that is less than \$1 for every \$9 of
5 Federal funds provided under the allocation
6 (maximum Federal matching rate of 90 per-
7 cent).

8 “(2) DONATIONS.—A participating State may
9 elect to accept a donation of funds, services, or
10 equipment for a State program under this title from
11 individuals and entities in the private sector. A State
12 shall ensure that any such donations from individ-
13 uals and for-profit entities do not result in a conflict
14 of interest in terms of the State giving preference to
15 the individual or entity related to the awarding of
16 contracts for a program under this title or for any
17 other State or Federally funded health programs not
18 covered by this Act.

19 “(3) NO REQUIREMENT.—With respect to
20 amounts deposited in the State trust fund under
21 subsection (a)(1)(C), such funds shall not be subject
22 to the matching requirements of paragraph (1) un-
23 less such funds are deposited for the purposes de-
24 scribed in sections 2832 and 2835.

1 **“SEC. 2803. EXCESS AND INSUFFICIENT FUNDS IN TRUST**
2 **FUNDS.**

3 “(a) AVAILABILITY OF UNALLOCATED FUNDS.—

4 “(1) NATIONAL TRUST FUND.—With respect to
5 amounts remaining in the Trust Fund after the Sec-
6 retary makes the allocations required under section
7 2801 or otherwise provides grants under this title
8 for a fiscal year, such amounts shall remain in the
9 Trust Fund and be available for use in subsequent
10 years.

11 “(2) STATE TRUST FUNDS.—With respect to
12 amounts remaining in the trust fund of a participat-
13 ing State after allocations or expansions in eligibility
14 are made for a fiscal year under this title, such
15 amounts shall remain in the State trust fund and
16 may not be transferred back to the Trust Fund.

17 “(b) INSUFFICIENT FEDERAL FUNDS.—

18 “(1) IN GENERAL.—If the Secretary determines
19 that amounts contained in the Trust Fund for a fis-
20 cal year are not sufficient to make allocations under
21 section 2801, or to otherwise carry out this title, the
22 Secretary shall notify the Advisory Council. Not
23 later than 60 days after receipt of a notification
24 under this paragraph, the Advisory Council shall
25 recommend to the Secretary strategies to correct the
26 insufficiency of funds.

1 “(2) RECOMMENDATIONS BY COUNCIL.—Under
2 paragraph (1), the Advisory Council may rec-
3 ommend—

4 “(A) the generation of additional sources
5 of revenue for the Trust Fund;

6 “(B) an adjustment of the State matching
7 requirements under section 2802(b);

8 “(C) an adjustment in the range or nature
9 of the health benefits provided under part B;

10 “(D) an adjustment in the cost sharing re-
11 quirements for families under part B; or

12 “(E) other measures as determined appro-
13 priate by the Council.

14 “(3) IMPLEMENTING LEGISLATION.—Not later
15 than 60 days after receipt of recommendations
16 under paragraph (1), the Secretary shall prepare
17 and submit to Congress, appropriate implementing
18 legislation that incorporates one or more of such rec-
19 ommendations, if determined appropriate by the
20 Secretary.

21 “(c) INSUFFICIENT STATE FUNDS.—

22 “(1) IN GENERAL.—If the chief executive offi-
23 cer of a participating State determines that the
24 State does not have sufficient funds in the State
25 trust fund to meet the requirements of this title for

1 a fiscal year, the chief executive officer may petition
 2 the Secretary for additional funds. Not later than 90
 3 days after receipt of a petition under this subsection
 4 the Secretary shall determine whether to provide the
 5 State with additional funds or a loan from the Trust
 6 Fund.

7 “(2) PROHIBITION.—The Secretary may not
 8 transfer any additional funds to a State under para-
 9 graph (1) if the Secretary determines that the State
 10 mismanaged funds, failed to prevent foreseeable fis-
 11 cal problems, or failed to control fraud and abuse.

12 “PART B—ELIGIBILITY AND ENROLLMENT

13 “SUBPART 1—ELIGIBILITY

14 “SEC. 2810. ELIGIBILITY OF INDIVIDUALS.

15 “(a) IN GENERAL.—To be eligible to receive benefits
 16 or services under this title an individual shall—

17 “(1) be a—

18 “(A) child who is under the age of 7 years,
 19 regardless of the income or health insurance
 20 status of the child or his or her parents, or an
 21 older child (up to 21 years or age) if the Sec-
 22 retary has expanded the program on a national
 23 basis or the State in which the child resides has
 24 expanded the State program to encompass such
 25 older children; or

1 “(B) pregnant woman who is not insured
2 (or who if insured, has no pregnancy-related
3 benefits) through the employer of the woman or
4 the family’s employer (in compliance with the
5 Pregnancy Discrimination Act of 1978), regard-
6 less of the income status of the woman; and

7 “(2) be a United States citizen or a citizen of
8 another country legally residing in the United
9 States.

10 “(b) CERTAIN INDIVIDUALS NOT ELIGIBLE.—A child
11 or pregnant woman shall not be eligible to participate in
12 the program established under this title if such child or
13 pregnant woman, during the 6-month period ending on the
14 date on which such individual desires to participate, was
15 covered under an employer-based health plan, and such
16 coverage was dropped by the employer.

17 “(c) DEFINITION.—As used in subsection (a)(2), the
18 term ‘citizen of another country legally residing in the
19 United States’ means any of the following:

20 “(1) An alien lawfully admitted for permanent
21 residence (within the meaning of section 101(a)(20)
22 of the Immigration and Nationality Act).

23 “(2) An alien granted work authorization by
24 the Immigration and Naturalization Service.

1 “(3) An alien permanently residing in the
2 United States under color of law, including (but not
3 limited to) any of the following:

4 “(A) An alien who is admitted as a refugee
5 under section 207 of the Immigration and Na-
6 tionality Act.

7 “(B) An alien who is granted asylum
8 under section 208 of such Act.

9 “(C) An alien whose deportation is with-
10 held under section 243(h) of such Act.

11 “(D) An alien who is admitted for tem-
12 porary residence under section 210, 210A, or
13 245A of such Act.

14 “(E) An alien who has been paroled into
15 the United States under section 212(d)(5) of
16 such Act for an indefinite period or who has
17 been granted extended voluntary departure,
18 temporary protected status, or deferred en-
19 forced departure.

20 “(F) An alien who is the spouse or unmar-
21 ried child under 21 years of age of a citizen of
22 the United States, or the parent of such a citi-
23 zen if the citizen is over 21 years of age, and
24 with respect to whom an application for adjust-
25 ment to lawful permanent residence is pending.

1 “(G) An alien within such other classifica-
2 tion of aliens permanently residing under color
3 of law for purposes of this title as the Secretary
4 may establish by regulation. Such regulation
5 shall include categories of such aliens who are
6 included in regulations as in effect on the date
7 of the enactment of this Act under title XIX of
8 the Social Security Act and other categories
9 within a public health priority.

10 “(4) An alien not otherwise covered under this
11 subsection who the State elects to consider eligible.
12 A State shall ensure that Federal funds provided
13 under this title are not used to provide coverage for
14 aliens under this paragraph.

15 **“SEC. 2811. ELECTION OF ELIGIBILITY.**

16 “(a) COVERAGE OF CHILDREN UNDER OTHER FED-
17 ERAL PROGRAMS.—

18 “(1) IN GENERAL.—An eligible individual de-
19 scribed in section 2810(a)(1)(A) who receives bene-
20 fits or services under—

21 “(A) the Civilian Health and Medical Pro-
22 gram of the Uniformed Services (CHAMPUS),
23 as defined in section 1073(4) of title 10, United
24 States Code;

1 “(B) chapter 17 of title 38, United States
2 Code; or

3 “(C) a health program of the Indian
4 Health Service;

5 may elect to continue to use such services or elect
6 to enroll in a certified plan under this title.

7 “(2) MEDICAID.—An eligible individual de-
8 scribed in section 2810(a)(1)(A) who receives bene-
9 fits or services under title XIX of the Social Security
10 Act shall, on the date on which the State program
11 of the participating State in which such individual
12 resides provides for open enrollment, be automati-
13 cally enrolled in a certified plan of such individuals
14 choice under the State program of the participating
15 State which such individual resides in.

16 “(3) STATE PROGRAMS.—In the case of an eli-
17 gible individual described in section 2810(a)(1)(A)
18 who resides in a State-supervised care setting or who
19 does not live with his or her parents, such child shall
20 be enrolled in a certified plan by the State agency
21 or guardian that has been awarded the temporary or
22 permanent custody of the child unless there is an
23 otherwise more appropriate, specially designed
24 health care system for such a child.

1 “(b) COVERAGE OF PREGNANT WOMEN UNDER
2 OTHER FEDERAL PROGRAMS.—

3 “(1) IN GENERAL.—An eligible individual de-
4 scribed in section 2810(a)(1)(B) who receives bene-
5 fits or services under—

6 “(A) the Civilian Health and Medical Pro-
7 gram of the Uniformed Services (CHAMPUS),
8 as defined in section 1073(4) of title 10, United
9 States Code;

10 “(B) chapter 17 of title 38, United States
11 Code; or

12 “(C) a health program of the Indian
13 Health Service;

14 shall not be eligible for coverage under a certified
15 plan under this title.

16 “(2) MEDICAID.—An eligible individual de-
17 scribed in section 2810(a)(1)(B) who receives bene-
18 fits or services under title XIX of the Social Security
19 Act shall, on the date on which the State program
20 of the participating State in which such individual
21 resides provides for open enrollment, be automati-
22 cally enrolled in a certified plan of such individuals
23 choice under the State program of the participating
24 State which such individual resides in.

1 “(c) ENROLLMENT IN CERTIFIED PLANS.—In the
2 case of an eligible individual who elects or is automatically
3 enrolled in a State program under this title, all privileges
4 (such as choice of certified plans) and responsibilities
5 (such as payment of premiums or copayments) accorded
6 to their families or themselves under this title shall apply.

7 **“SEC. 2812. ELIGIBLE HEALTH PLANS AND PROVIDERS.**

8 “A health plan or health care provider that is licensed
9 and credentialed, or otherwise legally authorized by the
10 State in which such plan or provider operates, to provide
11 health services of a type described in this title, under the
12 respective rules and regulations of the State, shall be eligi-
13 ble to participate in the State program under this title
14 if such plan or provider meets all applicable Federal and
15 State requirements under this title.

16 “SUBPART 2—ENROLLMENT

17 **“SEC. 2815. ENROLLMENT OF ELIGIBLE PERSONS.**

18 “(a) NATIONAL OPEN ENROLLMENT PERIOD.—Not
19 later than 30 days after the effective date, the Secretary
20 shall establish a national annual open enrollment period
21 to be held during a month that shall be designated as ‘Na-
22 tional Healthy Mothers, Healthy Children Month’. During
23 such enrollment period, an eligible child may be enrolled
24 in a certified plan operating in the State in which such

1 individual resides in accordance with the enrollment re-
2 quirements of the State.

3 “(b) ESTABLISHMENT OF ENROLLMENT SYSTEM.—

4 “(1) IN GENERAL.—Not later than 30 days
5 after the approval of a State program under section
6 2831, the State shall establish a system for the en-
7 rollment of all eligible individuals residing within the
8 State in a certified plan under this title. Such enroll-
9 ment system shall be designed to minimize, to the
10 maximum extent practicable, any barriers that may
11 exist to prevent enrollment. All applicants shall be
12 presumed to be eligible until the State has deter-
13 mined otherwise.

14 “(2) METHOD OF ENROLLMENT.—The enroll-
15 ment process established under paragraph (1) shall
16 be reasonably convenient, efficient, and provide for
17 enrollment through a wide range of methods. At a
18 minimum, such process shall provide for enrollment
19 through the mail, telephone (via a toll free number),
20 and in person.

21 “(c) ENROLLMENT MATERIALS.—

22 “(1) IN GENERAL.—Under a process estab-
23 lished under subsection (b), a State shall ensure that
24 enrollment materials are made available through
25 health care providers, health provider organizations,

1 hospitals, health clinics, at facilities that provide
2 health and nutrition services to children and women,
3 and from State and local government health offices.

4 “(2) ESSENTIAL DATA.—The Secretary, in con-
5 sultation with the States and representatives of cer-
6 tified plans, shall develop essential data elements for
7 the establishment and use by participating States of
8 a standardized enrollment form that shall not exceed
9 one page in length. The Secretary may utilize or
10 permit such States to utilize additional data collec-
11 tion instruments for the purpose of assessing and
12 improving State programs so long as such instru-
13 ments are not a requirement for enrollment in a cer-
14 tified plan.

15 “(d) PROCESSING OF APPLICATIONS.—

16 “(1) IN GENERAL.—Not later than 30 days
17 after the date on which an application for enrollment
18 in a certified plan is submitted to a State by or on
19 behalf of an eligible individual, the State shall proc-
20 ess and render a final decision with respect to the
21 application. Approval of such an application shall be
22 dependent on eligibility and income verification by
23 the State. Income verification mechanisms and re-
24 quirements shall be developed by the State in ac-
25 cordance with guidelines prescribed by the Secretary.

1 “(2) WAIVER.—A participating State may elect
2 to waive the income verification requirements for
3 families who are already subject to similar require-
4 ments under other appropriate Federal or State pro-
5 grams or in other situations determined appropriate
6 by the State.

7 “(3) NOTIFICATION.—Not later than 30 days
8 after the date on which an application for enrollment
9 is approved under paragraph (1), the State shall no-
10 tify the family and the relevant certified plan of the
11 approval and the expected annual premium contribu-
12 tion of the family, the first payment of which must
13 be received by the plan or the State within 30 days
14 of such notification.

15 “(e) TIME OF ENROLLMENT.—

16 “(1) IN GENERAL.—An eligible child shall be
17 enrolled, or change enrollment, in a certified plan
18 during the national annual open enrollment period.

19 “(2) PREGNANT WOMAN.—An eligible pregnant
20 woman may enroll in a certified plan at any time
21 after the diagnosis of pregnancy is confirmed by a
22 physician or qualified health professional. A woman
23 may also enroll in a certified plan in order to con-
24 firm her pregnancy. Except as otherwise provided in
25 subsection (f)(1), a pregnant woman enrolled in a

1 certified plan under this section may not change
2 such enrollment.

3 “(3) SURCHARGE.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (4), with respect to an eligible indi-
6 vidual who does not enroll in a certified plan
7 during, or who elects to change the plan in
8 which such individual is enrolled outside of, the
9 national open enrollment period, the participat-
10 ing State involved may assess a late enrollment
11 surcharge in an amount determined appropriate
12 by the State.

13 “(B) WAIVER.—A State may grant a waiv-
14 er of any enrollment surcharges if the applicant
15 or applicant’s family can demonstrate that the
16 applicant or was out-of-State during the open
17 enrollment period or for other unavoidable and
18 legitimate reasons as determined appropriate by
19 the State, including sudden loss of health cov-
20 erage due to unemployment, divorce, and finan-
21 cial crisis.

22 “(4) ENROLLMENT OF NEWBORNS.—A partici-
23 pating State shall provide a family with the oppor-
24 tunity to enroll the newborn children of such family
25 in a certified plan prior to or at the time of the de-

1 livery (through the hospital or birthing center) of
2 such children. To avoid a surcharge under para-
3 graph (2), a newborn must be enrolled in a certified
4 plan prior to birth or within 30 days after birth or
5 during the open enrollment period.

6 “(f) PLAN CHOICE AND TERMINATION OF ENROLL-
7 MENT.—

8 “(1) PLAN CHOICE.—As part of an enrollment
9 application, the family shall indicate the choice of
10 certified plan. A family with a child enrolled in a
11 certified plan may at any time elect to change enroll-
12 ment in plans and such new enrollment shall become
13 effective on the first day of the next open enrollment
14 period. A family that desires to change certified
15 plans at a time that is not within the open enroll-
16 ment period may do so but shall be subject to a sub-
17 stantial surcharge to be imposed by the State. An
18 enrolled pregnant woman who elects to change plans
19 shall be subject to a similar surcharge. The State
20 shall not impose a surcharge on a family with an en-
21 rolled child or on a pregnant woman if the change
22 of certified plans is due to the family moving to an-
23 other area not served by the current plan, in the
24 case of a plan withdrawing from a market area, or

1 for other justifiable and legitimate reasons as deter-
2 mined by the State.

3 “(2) PERIOD OF ENROLLMENT.—The period
4 during which enrollment in a certified plan shall be
5 effective shall—

6 “(A) in the case of an eligible child, not be
7 less than 1 year; and

8 “(B) in the case of a pregnant woman, be
9 for the duration of the pregnancy and eligible
10 post-partum period.

11 “(3) PROHIBITION ON WAITING PERIODS.—A
12 certified plan may not impose a waiting period with
13 respect to the provision of covered health services
14 under the plan. Access to such services shall be ef-
15 fective immediately upon the date on which the en-
16 rollment application is submitted.

17 “(4) PROVISION OF SERVICES.—Upon the sub-
18 mission of an application for enrollment during an
19 initial point-of-service visit, a certified plan shall
20 provide covered health services to the applicant indi-
21 vidual if the individual declares that such individual
22 is not otherwise enrolled in a certified plan under
23 this title and the individual reasonably appears to be
24 of an eligible age. The provision of such services
25 shall continue until such time as the State has noti-

1 fied the plan that the applicant is not eligible under
2 this title. The State shall impose a surcharge, in an
3 amount to be determined appropriate by the State,
4 for enrollment at the point-of-service outside of the
5 open enrollment period. A State may elect to directly
6 compensate a certified plan for services provided to
7 individuals who are subsequently determined to be
8 ineligible, or permit such plans to factor in the esti-
9 mated costs of providing services to such individuals
10 in their rate negotiations with the State.

11 **“SEC. 2816. TRANSITION FROM ELIGIBILITY.**

12 “(a) ELIGIBLE CHILD.—

13 “(1) TERMINATION OF SUBSIDIES.—With re-
14 spect to an eligible child enrolled in a certified plan
15 who attains the age of seven years during the term
16 of enrollment under the plan, premium subsidies
17 under this title for such plan shall terminate on the
18 date on which the term of enrollment terminates.
19 The plan in which the child is enrolled shall continue
20 to provide coverage for such child for an indefinite
21 period if the full unsubsidized premium and copay-
22 ments for such plan are paid.

23 “(2) PREEXISTING CONDITIONS.—With respect
24 to an eligible child, a certified plan may not exclude
25 coverage for preexisting conditions. If an eligible

1 child elects to terminate coverage under a certified
2 plan after the seventh birthday of the child and en-
3 roll in another health plan or in an employer-pro-
4 vided health plan that provides similar benefits to
5 employee dependents, the plan or employer shall ac-
6 cept the child into the plan and may not exclude cov-
7 erage for any preexisting conditions.

8 “(b) ELIGIBLE PREGNANT WOMAN.—With respect to
9 an eligible pregnant woman enrolled in a certified plan,
10 coverage for health benefits under the plan shall terminate
11 on the date that is 2 months after the date of the end
12 of the pregnancy. If the woman was covered under a
13 health plan or employer-based health plan (without preg-
14 nancy-related benefits) immediately prior to enrollment in
15 the certified plan under the State program, the previous
16 health plan or employer shall readmit the woman into the
17 plan with no exclusions for preexisting or pregnancy-relat-
18 ed conditions at a cost comparable to the cost paid prior
19 to enrollment in the certified plan.”.

20 **SEC. 202. COMPREHENSIVE HEALTH BENEFITS AND COST**
21 **SHARING REQUIREMENTS.**

22 Title XXVIII of the Public Health Service Act (as
23 added by section 201) is amended by adding at the end
24 thereof the following new part:

1 “PART C—COMPREHENSIVE HEALTH BENEFITS AND
2 COST SHARING REQUIREMENTS

3 “SUBPART 1—COMPREHENSIVE HEALTH BENEFITS

4 “**SEC. 2821. COMPREHENSIVE HEALTH BENEFITS PACKAGE.**

5 “(a) DEVELOPMENT OF PACKAGE.—

6 “(1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of this title, the Sec-
8 retary, in consultation with health care professionals
9 and health-related organizations determined appro-
10 priate by the Secretary and in accordance with para-
11 graph (2), shall develop a comprehensive benefits
12 package for both children and pregnant women.
13 Such benefits packages shall be based on the general
14 categories of benefits described in section 2822.

15 “(2) CONSULTATION.—In developing a com-
16 prehensive benefits package under paragraph (1),
17 the Secretary shall, at a minimum, consult with—

18 “(A) in the case of a benefits package for
19 children, the American Academy of Pediatrics,
20 the Association of Maternal and Child Health
21 Programs, and the American Dental Associa-
22 tion; and

23 “(B) in the case of a benefits package for
24 pregnant women, the American College of Ob-

1 stetricians and Gynecologists and the Associa-
2 tion of Maternal and Child Health Programs.

3 “(3) PERIODICITY SCHEDULES.—To the extent
4 practicable, the comprehensive benefits packages de-
5 veloped under paragraph (1) shall contain periodicity
6 schedules for preventive services.

7 “(b) LIMITATIONS.—In developing the comprehensive
8 benefits packages under subsection (a), the Secretary shall
9 ensure that such packages are consistent with the follow-
10 ing:

11 “(1) The actuarial equivalent of the specific
12 comprehensive benefits packages shall exceed the av-
13 erage actuarial equivalent of all health benefits of-
14 fered to children and pregnant women by all States
15 under the program under title XIX of the Social Se-
16 curity Act on the date of enactment of this title.

17 “(2) The actuarial equivalent of the specific
18 comprehensive benefits packages shall not exceed the
19 actuarial equivalent of health benefits offered to chil-
20 dren and pregnant women in the State or States
21 providing the most generous benefits package under
22 title XIX of the Social Security Act for such popu-
23 lations on the date of enactment of this title.

24 “(c) COPAYMENTS.—In addition to developing the
25 comprehensive benefits package under subsection (a), the

1 Secretary, in consultation with health professional organi-
2 zations determined appropriate by the Secretary, shall de-
3 termine the types of services under the benefits package
4 that shall be subject to utilization copayments under sec-
5 tion 2827. The Secretary shall ensure that preventive serv-
6 ices are exempt from any utilization copayment require-
7 ments.

8 “(d) REVIEW AND MODIFICATION.—Not later than
9 2 years after the development of the comprehensive bene-
10 fits package under subsection (a), and every 2 years there-
11 after, the Secretary, in consultation with relevant health
12 professional organizations and the Advisory Council, shall
13 review and revise the comprehensive benefits package. The
14 Secretary shall ensure that any revision of the comprehen-
15 sive benefits package is consistent with changes in the age
16 group of eligible children, standard medical practice, new
17 technologies, emerging health problems and health care
18 needs. If children seven years of age or older are eligible
19 on a national basis or in a participating State prior to
20 2 years after the development of the initial benefits pack-
21 age, the Secretary shall revise the benefits package as nec-
22 essary by the methods specified in this section.

23 “(e) REQUIREMENTS OF CERTIFIED PLAN.—To be
24 eligible to operate as a certified plan under this title, the
25 plan shall provide coverage for or directly provide the

1 items or services required under the applicable comprehen-
2 sive benefits package. A certified plan may not offer cov-
3 erage to eligible individuals under this title if such plan
4 does not ensure the provision of all items or services re-
5 quired under the comprehensive benefits package. Cer-
6 tified plans may provide a benefits package that is more
7 generous than the comprehensive benefits package re-
8 quired by the Secretary.

9 “(f) EXCEPTION TO REQUIREMENTS OF CERTIFIED
10 PLAN.—In a case in which a State has determined that
11 no participating health plan is able to provide for or cover
12 all the services in the comprehensive benefits package, or
13 the State has determined that certain services are most
14 effectively delivered by providers other than participating
15 health plans, the State may elect to develop an alternative
16 mechanism, such as entering into agreements with other
17 providers, to provide for or cover specific services. In all
18 cases the State shall ensure that all services covered under
19 the comprehensive benefits package are of high quality
20 and are fully coordinated and integrated.

21 **“SEC. 2822. GENERAL CATEGORIES OF HEALTH BENEFITS.**

22 “(a) IN GENERAL.—At a minimum, the following
23 general categories of health benefits shall be included in
24 the comprehensive benefits package:

1 “(1) CHILDREN.—With respect to the com-
2 prehensive benefits package for children (from birth
3 through the child’s seventh birthday) the package
4 shall require coverage for—

5 “(A) preventive services (including immu-
6 nizations as recommended by the Advisory
7 Committee on Immunization Practices, well
8 baby/child care, routine medical examinations
9 and check ups, recommended screening tests,
10 dental prophylaxis and examinations, and pre-
11 ventive health counseling and health education);

12 “(B) ambulatory care;

13 “(C) laboratory services;

14 “(D) prescription drugs;

15 “(E) inpatient care;

16 “(F) vision, audiology and aural rehabilita-
17 tive, and other rehabilitative services (including
18 prescription eyeglasses and hearing aids);

19 “(G) durable medical equipment (including
20 orthotics and prosthetics);

21 “(H) dental care, excluding orthodontic
22 care;

23 “(I) mental health and substance abuse
24 services;

1 “(J) long-term and chronic health care
2 services;

3 “(K) special health care services for chil-
4 dren with disabilities or chronic health condi-
5 tions;

6 “(L) occupational, physical, and res-
7 piratory therapy, and speech-language pathol-
8 ogy services; and

9 “(M) investigational treatments (limited to
10 participation in a clinical investigation as part
11 of an approved research trial as defined by the
12 Secretary, services or other items related to the
13 trial that are normally paid for by other fund-
14 ing sources need not be covered);

15 “(2) PREGNANT WOMEN.—With respect to the
16 comprehensive benefits package for pregnant women
17 (from diagnosis of pregnancy through 60 days after
18 the end of the pregnancy) the package shall require
19 coverage for—

20 “(A) maternity care (including prenatal,
21 delivery, and postpartum care, preventive serv-
22 ices such as routine examinations and check
23 ups, recommended immunizations and screening
24 tests, family planning services, and preventive

1 health counseling including nutrition and health
2 education);

3 “(B) ambulatory care;

4 “(C) laboratory services;

5 “(D) prescription drugs;

6 “(E) inpatient care;

7 “(F) inpatient hospital and nonhospital de-
8 livery services;

9 “(G) mental health and substance abuse
10 services;

11 “(H) other pregnancy- or nonpregnancy-re-
12 lated health conditions determined appropriate
13 by the Secretary; and

14 “(I) investigational treatments (limited to
15 participation in a clinical investigation as part
16 of an approved research trial as defined by the
17 Secretary, and services or other items related to
18 the trial normally paid for by other funding
19 sources need not be covered).

20 “(3) EXTENSION OF PERIOD OF COVERAGE.—

21 With respect to the comprehensive benefits package
22 for pregnant women, a participating State may elect
23 to extend coverage of selected health services under
24 the benefits package beyond the 60-day postpartum

1 period if Federal funds are not used for such addi-
2 tional coverage.

3 “(b) LIMITATIONS AND REDUCTION IN COVERAGE.—

4 “(1) INITIAL IMPLEMENTATION.—During the
5 2-year period that begins on the date of the imple-
6 mentation of this title, the items and services cov-
7 ered under the comprehensive benefits package may
8 not be subject to any duration or scope limitation.
9 During such period, a certified plan may not require
10 any cost sharing that is not permitted under this
11 title.

12 “(2) REDUCTION IN COVERAGE.—In years sub-
13 sequent to the period referred to in paragraph (1),
14 the Secretary, in consultation with professional orga-
15 nizations determined appropriate by the Secretary
16 and the Advisory Council, may implement utilization
17 limitations or other limitations on items or services
18 covered under the comprehensive benefits package
19 on a national basis if—

20 “(A) the Secretary determines that such
21 limitations are necessary for the solvency of the
22 program established under this title; and

23 “(B) additional funds are not appropriated
24 and deposited into the Trust Fund.

1 “(3) ALTERNATIVES.—Prior to implementing
2 limitations under paragraph (2), the Secretary shall
3 consider alternatives such as minimizing administra-
4 tive costs, increasing cost sharing requirements, and
5 increasing Federal or State funding requirements. In
6 no case may the Secretary subject required preven-
7 tive services to such limitations.

8 “(c) PERIODICITY SCHEDULES.—A certified plan
9 may not be required to provide coverage for the provision
10 of items or services under the comprehensive benefits
11 package that are greater in frequency than that required
12 under the periodicity schedules contained in the benefits
13 package. Notwithstanding the preceding sentence, a cer-
14 tified plan shall provide coverage for the provision of any
15 items or services, within the general scope of the com-
16 prehensive benefits package, that are medically necessary
17 or appropriate for children and pregnant women.

18 “(d) RULES OF CONSTRUCTION.—Nothing in this
19 title shall be construed as—

20 “(1) limiting the ability of a participating State
21 or a certified plan to provide items or services in ad-
22 dition to those required under the comprehensive
23 benefits package, so long as Federal funds are not
24 used to pay for the provision of such additional serv-
25 ices;

1 “(2) limiting the ability of eligible individuals to
 2 obtain items or services in addition to those required
 3 under the comprehensive benefits package so long as
 4 Federal funds are not used to pay for the provision
 5 of such additional services.

6 A certified plan may provide coverage for extra contrac-
 7 tual services and items determined to be appropriate by
 8 the plan and individual or family involved.

9 “(e) ENCOURAGING THE PROVISION OF BENEFITS.—
 10 In the interest of ensuring that all children in the United
 11 States receive comprehensive health services, it is the
 12 sense of Congress that employer-based, self-insured, and
 13 other health plans not participating in the program estab-
 14 lished under this title be encouraged to provide com-
 15 prehensive benefits to children and pregnant women simi-
 16 lar to those required in this title.

17 “SUBPART 2—COST SHARING REQUIREMENTS

18 **“SEC. 2825. PRINCIPLES OF COST SHARING.**

19 “(a) GENERAL PRINCIPLE.—All families who partici-
 20 pate in the program established under this title shall be
 21 required to contribute toward the cost of health care for
 22 themselves or their children. Such required contribution
 23 shall be in the form of a required premium or a copayment
 24 requirement. In no case may a certified plan or participat-
 25 ing State require the payment of deductibles.

1 “(b) GENERAL STATE REQUIREMENTS AND LIMITA-
2 TIONS.—

3 “(1) STATE SPECIFIC COST SHARING.—A par-
4 ticipating State may elect to develop State specific
5 cost sharing requirements that differ from those
6 specified in this section so long as such requirements
7 are consistent with the guidelines developed by the
8 Secretary that ensure that—

9 “(A) all families participating in the pro-
10 gram contribute toward the program cost;

11 “(B) all families participating in the pro-
12 gram receive premium subsidies;

13 “(C) all families participating in the pro-
14 gram pay the same copayment for services; and

15 “(D) coverage under the program is af-
16 fordable for families at all income levels.

17 “(2) FUNDING LIMITATION.—State specific cost
18 sharing requirements developed under paragraph (1)
19 shall not result in any increase in overall Federal
20 funding obligations in excess of such obligations that
21 would exist under the cost sharing schedules de-
22 scribed in this title.

23 “(3) ANNUAL CONTRIBUTION.—In all partici-
24 pating States, the annual family contribution under

1 this title shall not be less than \$10 per eligible child
2 and \$20 per eligible pregnant woman.

3 “(4) REQUIREMENTS APPLICABLE WITH RE-
4 SPECT TO LOW INCOME FAMILIES.—

5 “(A) PROHIBITION.—A participating State
6 may not require cost sharing under a certified
7 plan, for families with annual incomes that are
8 less than 150 percent of the Federal poverty
9 level, in an amount that exceeds the applicable
10 cost sharing amount described in this title.

11 “(B) ADDITIONAL SUBSIDIES.—A partici-
12 pating State may elect to provide additional
13 premium or copayment subsidies under certified
14 plans for families with annual incomes that are
15 less than 400 percent of the Federal poverty
16 level if there are sufficient funds in the State
17 trust fund to cover the costs of such subsidies
18 and if no additional Federal funds are used.

19 “(C) MONITORING IMPACT OF COST SHAR-
20 ING.—Participating States, in consultation with
21 certified plans, shall monitor the impact of cost
22 sharing requirements (premiums and copay-
23 ments) on low income families and ensure that
24 any cost sharing requirements are not signifi-
25 cant barriers that prevent such families from

1 enrolling in a certified plan or from obtaining
2 medically appropriate care. An analysis of the
3 impact of cost sharing on low income families
4 shall be presented to the Secretary as part of
5 the annual quality assessment and improvement
6 plan of the State under section 2841.

7 **“SEC. 2826. PREMIUMS AND PREMIUM SUBSIDY.**

8 “(a) PAYMENT.—

9 “(1) FAMILY PORTION.—A family enrolled in a
10 certified plan shall be responsible for paying the
11 family portion of the premium for coverage under
12 such plan. Premium payments under a certified plan
13 may be made directly to the plan or to the State (if
14 the State elects to accept such payments on behalf
15 of the certified plan) on a monthly, quarterly, or
16 other basis as determined by the State.

17 “(2) SUBSIDY PORTION.—Upon the final ap-
18 proval of an enrollment application under this title,
19 a participating State shall transfer to the certified
20 plan in which the family is enrolled an amount of
21 funds equal to the amount of the applicable pre-
22 mium subsidy under subsection (d) with respect to
23 the family that is enrolled in the plan.

24 “(3) LIMITATION.—If the annual premium con-
25 tribution under a certified plan for an eligible fam-

1 ily, after the application of the appropriate premium
2 subsidy, exceeds the maximum annual family con-
3 tribution amount for such family under section
4 2828, such excess amount shall be paid by the State
5 directly to the plan.

6 “(b) ANNUAL LIMITATION.—All eligible families in a
7 participating State, regardless of their incomes, shall re-
8 ceive a subsidy (in an amount determined under sub-
9 section (d)) with respect to the premiums required for en-
10 rollment in certified plans. The annual premium amount
11 that a certified plan may require an eligible family to pay
12 under this title shall be equal to—

13 “(1) the annual per capita premium that is ne-
14 gotiated by the State with the certified plan; less

15 “(2) the annual premium subsidy amount pro-
16 vided by the State.

17 In no case shall the annual premium subsidy amount be
18 greater than the annual per capita premium negotiated
19 with the certified plan.

20 “(c) BASIS FOR DETERMINATION OF SUBSIDY.—

21 With respect to cases in which multiple certified plans are
22 available in a geographic area or in which certified plans
23 offer additional benefit package options at an additional
24 cost, the amount of the premium subsidy shall be deter-
25 mined based on the lowest priced certified plan that is

1 available in the area. A family shall be responsible for the
 2 payment of any premium amounts not covered by the pre-
 3 mium subsidy under this title. In addition, any such pre-
 4 mium amounts that result from the selection of more ex-
 5 pensive plans shall not be credited toward the maximum
 6 annual family contribution under section 2828.

7 “(d) SUBSIDY AMOUNT.—

8 “(1) IN GENERAL.—The annual premium sub-
 9 sidy amount to be applied to the premiums assessed
 10 with respect to an eligible family enrolled in certified
 11 plan under this title shall be equal to the product
 12 of—

13 “(A) the amount of the annual per capita
 14 premium for the certified plan involved; and

15 “(B) the annual premium subsidy percent-
 16 age for the family as determined under para-
 17 graph (2).

18 “(2) ANNUAL PREMIUM SUBSIDY PERCENT-
 19 AGE.—The annual premium subsidy percentage
 20 under this paragraph shall be—

21 “(A) with respect to an eligible family with
 22 an annual gross income that is less than 50
 23 percent of the Federal poverty level, 99 percent;

24 “(B) with respect to an eligible family with
 25 an annual gross income that is equal to between

1 50 and 149 percent of the Federal poverty
2 level, 97.5 percent reduced by 1.5 percentage
3 points for each 10 percent increase in the an-
4 nual gross income of the family in excess of 49
5 percent of the Federal poverty level;

6 “(C) with respect to an eligible family with
7 an annual gross income that is equal to between
8 150 and 299 percent of the Federal poverty
9 level, 80 percent reduced by 4 percentage points
10 for each 10 percent increase in the annual gross
11 income of the family in excess of 149 percent
12 of the Federal poverty level;

13 “(D) with respect to an eligible family with
14 an annual gross income that is equal to between
15 300 and 399 percent of the Federal poverty
16 level, 22.5 percent reduced by 1.5 percentage
17 points for each 10 percent increase in the an-
18 nual gross income of the family in excess of 299
19 percent of the Federal poverty level; and

20 “(E) with respect to an eligible family with
21 an annual gross income that is equal to 400
22 percent or more of the Federal poverty level, 5
23 percent.

1 **“SEC. 2827. UTILIZATION COPAYMENTS.**

2 “(a) GENERAL COPAYMENT.—With respect to items
3 or services designated by the Secretary under section
4 2821(c), and provided under a certified plan, the plan
5 shall assess an eligible family a \$5 copayment for the pro-
6 vision of such items or services to such family. Preventive
7 services shall be exempt from such copayment require-
8 ment.

9 “(b) HIGHER COPAYMENTS.—In addition to offering
10 certified plans with a \$5 copayment, a participating State
11 may elect to permit the offering of certified plans that
12 have higher copayment requirements. With respect to such
13 plans, the copayment amount shall be the same for eligible
14 families at all income levels and the minimum copayment
15 amount shall be \$5. Premium subsidies for an eligible
16 family who selects a high copayment plan may not exceed
17 the subsidy determined to be applicable to an similarly sit-
18 uated eligible family enrolled in a certified plan with a \$5
19 utilization copayment requirement.

20 “(c) LIMITATION.—An eligible family may not be re-
21 quired to make utilization copayments under this section
22 after the annual contributions of the family (including pre-
23 miums and copayments) have exceeded the maximum an-
24 nual family contribution for the family under section
25 2828.

1 **“SEC. 2828. MAXIMUM ANNUAL FAMILY CONTRIBUTION.**

2 “(a) FAMILIES WITH ELIGIBLE CHILDREN.—

3 “(1) IN GENERAL.—With respect to a family
4 with an eligible child enrolled in a certified plan
5 under this title, the maximum annual family con-
6 tribution that such family may be required to pay
7 under this title (including premiums and copay-
8 ments) for such eligible child shall be—

9 “(A) with respect to an eligible family with
10 an annual gross income that is less than 50
11 percent of the Federal poverty level, \$10;

12 “(B) with respect to an eligible family with
13 an annual gross income that is between 50 per-
14 cent and 149 percent of the Federal poverty
15 level, \$15 increased by \$5 for each 10 percent
16 increase in the annual gross income of the fam-
17 ily in excess of 49 percent;

18 “(C) with respect to an eligible family with
19 an annual gross income that is between 150
20 percent and 299 percent of the Federal poverty
21 level, \$110 increased by \$50 for each 10 per-
22 cent increase in the annual gross income of the
23 family in excess of 149 percent;

24 “(D) with respect to an eligible family with
25 an annual gross income that is between 300
26 percent and 399 percent of the Federal poverty

1 level, \$960 increased by \$150 for each 10 per-
2 cent increase in the annual gross income of the
3 family in excess of 299 percent; and

4 “(E) with respect to an eligible family with
5 an annual gross income that is equal to 400
6 percent or more of the Federal poverty level,
7 \$3,000.

8 “(2) FAMILIES WITH MULTIPLE CHILDREN.—
9 With respect to an eligible family that enrolls more
10 than one eligible child in a certified plan under this
11 title, the maximum annual family contribution that
12 such family may be required to pay under paragraph
13 (1) shall be—

14 “(A) in the case of a family enrolling two
15 eligible children, twice the amount under para-
16 graph (1) applicable to the family based on
17 family income;

18 “(B) in the case of a family enrolling three
19 eligible children, twice the amount under para-
20 graph (1) applicable to the family based on
21 family income increased by an amount equal to
22 40 percent of such amount; and

23 “(C) in the case of a family enrolling four
24 or more eligible children, twice the amount
25 under paragraph (1) applicable to the family

1 based on family income increased by an amount
2 equal to 80 percent of such amount.

3 “(b) FAMILIES WITH PREGNANT WOMAN.—With re-
4 spect to a family with an eligible pregnant woman enrolled
5 in a certified plan under this title, the maximum annual
6 family contribution that such family may be required to
7 pay under this title (including premiums and copayments)
8 for such pregnant woman shall be—

9 “(1) with respect to an eligible family with an
10 annual gross income that is less than 50 percent of
11 the Federal poverty level, \$20;

12 “(2) with respect to an eligible family with an
13 annual gross income that is between 50 percent and
14 149 percent of the Federal poverty level, \$30 in-
15 creased by \$10 for each 10 percent increase in the
16 annual gross income of the family in excess of 49
17 percent;

18 “(3) with respect to an eligible family with an
19 annual gross income that is between 150 percent
20 and 299 percent of the Federal poverty level, \$220
21 increased by \$100 for each 10 percent increase in
22 the annual gross income of the family in excess of
23 149 percent;

24 “(4) with respect to an eligible family with an
25 annual gross income that is between 300 percent

1 and 399 percent of the Federal poverty level, \$1,820
2 increased by \$200 for each 10 percent increased in
3 the annual gross income of the family in excess of
4 299 percent; and

5 “(5) with respect to an eligible family with an
6 annual gross income that is equal to 400 percent or
7 more of the Federal poverty level, \$5,000.

8 “(c) FAMILIES WITH ELIGIBLE CHILDREN AND
9 PREGNANT WOMEN.—In the case of an eligible family
10 with both an eligible child and eligible pregnant woman
11 enrolled in a certified plan, the maximum annual family
12 contribution that such family may be required to pay
13 under this title (including premiums and copayments)
14 shall be equal to the sum of—

15 “(1) the amount determined under subsection
16 (a) with respect to the family involved; and

17 “(2) the amount determined under subsection
18 (b) with respect to the family involved.

19 “(d) ADJUSTMENT FOR SUBSEQUENT YEARS.—The
20 maximum annual family contribution amounts described
21 in subsections (a) and (b) shall remain in effect during
22 the first 2 fiscal years in which the program under this
23 title is in effect. In subsequent years, the maximum annual
24 family contribution amounts under such subsections shall
25 be increased annually (and adjusted to the nearest \$5 in-

1 crement) based on the indexes used by the Secretary to
 2 calculate funding allocations under section 2801(b)(1)(B).

3 “(e) LIMITATION AND CALCULATIONS.—

4 “(1) PROHIBITION ON PREMIUM INCREASES.—

5 The amount of the premium contribution or copay-
 6 ments assessed to an eligible family enrolled in cer-
 7 tified plans under this title shall not be increased
 8 during the 1-year period beginning on the date of
 9 such enrollment.

10 “(2) PERMISSIBLE ADJUSTMENTS.—The

11 amount of the premium subsidy and the maximum
 12 annual family contribution applied under this part
 13 with respect to an eligible family enrolled in a cer-
 14 tified plan may be adjusted during the 1-year period
 15 beginning on the date of enrollment, if the family
 16 can demonstrate a decrease in income of an amount
 17 to permit such family to qualify for a larger pre-
 18 mium subsidy. In such case, the premium contribu-
 19 tion for the family shall be recalculated based on the
 20 larger premium

21 “(3) APPLICATION FOR RECONCILIATION.—A

22 family that desires to have an income reconciliation
 23 adjustment made under paragraph (2) shall apply
 24 directly to the State. Such a family shall be limited
 25 to one such income reconciliation adjustment during

1 each year in which the family is enrolled in a cer-
 2 tified plan. In cases where premium subsidies have
 3 been subject to income reconciliation under this sub-
 4 section, the State shall appropriately adjust its pay-
 5 ments to the respective certified plan.”.

6 **SEC. 203. STATE PROGRAM DEVELOPMENT AND ADMINIS-**
 7 **TRATION.**

8 Title XXVIII of the Public Health Service Act (as
 9 added by section 201 and amended by section 202) is fur-
 10 ther amended by adding at the end thereof the following
 11 new part:

12 “PART D—STATE PROGRAM DEVELOPMENT AND
 13 ADMINISTRATION

14 **“SEC. 2831. APPLICATION AND DATE OF IMPLEMENTATION.**

15 (a) IN GENERAL.—A State that desires to participate
 16 in the program established under this title shall prepare
 17 and submit to the Secretary an application at such time,
 18 in such manner, and containing such information as the
 19 Secretary may require, including the State strategic plan
 20 under subsection (b). To be approved by the Secretary,
 21 an application shall contain assurances that the State pro-
 22 gram to be established under this title will fully implement
 23 coverage for eligible children and pregnant women by Jan-
 24 uary 1, 2002. The Secretary may approve the application

1 of a State that desires to implement a program under this
2 title as early as January 1, 1998.

3 “(b) STATE STRATEGIC PLAN.—

4 “(1) SUBMISSION.—A State that desires to par-
5 ticipate in the program established under this title
6 shall submit, as part of their application under sub-
7 section (a), an initial 5-year strategic plan.

8 “(2) PLAN GUIDELINES.—Not later than 90
9 days after the date of enactment of this title, the
10 Secretary, in consultation with the Maternal and
11 Child Health Bureau, shall develop and make avail-
12 able specific guidelines to assist States in preparing
13 and submitting an acceptable strategic plan under
14 this subsection. At a minimum, such guidelines shall
15 require that a strategic plan—

16 “(A) describe the current health status of
17 the target population in the State;

18 “(B) describe the short- and long-term
19 health objectives of the State, including time
20 schedules for the achievement of such objec-
21 tives;

22 “(C) describe the performance and out-
23 come measures and mechanisms to be used by
24 the State for monitoring health indicators;

1 “(D) describe specific details of the pro-
2 posed structure of the State program, analyses
3 of at least one alternative structure considered,
4 and cost estimates;

5 “(E) in the case of a State that proposes
6 a structure that is different from that described
7 in this title, contain a comparative analysis of
8 the State’s proposed structure, including an
9 analysis of achievement of the objectives of the
10 State under this title and the program costs;
11 and

12 “(F) contain an outline of the manner in
13 which coverage for all eligible individuals resid-
14 ing within the State will be achieved within the
15 first 5 years in which the program is in oper-
16 ation in the State.

17 Such plan may incorporate elements required under
18 current State application submitted under title V of
19 the Social Security Act.

20 “(3) CRITERIA FOR EVALUATION.—Not later
21 than 90 days after the date of enactment of this
22 title, the Secretary, in consultation with Maternal
23 and Child Health Bureau, shall develop and make
24 available specific criteria that will serve as the basis

1 for the evaluation and approval of State strategic
2 plans by the Secretary.

3 “(c) REQUIREMENTS.—In addition to otherwise
4 meeting the requirements of this title, a State program
5 under an application submitted under this section shall—

6 “(1) ensure that affordable coverage is available
7 for comprehensive, high quality health care for all
8 children under seven years of age and all pregnant
9 women residing within the State within a time pe-
10 riod determined to be reasonable by the Secretary;

11 “(2) ensure that each certified plan operating
12 in the State provide the comprehensive benefits
13 package required under section 2821;

14 “(3) be consistent with the principle that all
15 families contribute towards their own or their chil-
16 dren’s health care;

17 “(4) ensure that the State is responsible for the
18 certification of health plans, entering into agree-
19 ments with certified plans to provide health services,
20 and negotiating premiums with certified plans on be-
21 half of eligible individuals;

22 “(5) have a quality assessment and improve-
23 ment program in effect under section 2841;

24 “(6) have a utilization review program in effect
25 under section 2842;

1 “(7) fulfill health information system require-
2 ments under sections 2843 and 2844; and

3 “(8) have a program in effect for preventing
4 and controlling fraud and abuse under section 2845.

5 “(d) DECISION BY SECRETARY.—Not later than 90
6 days after the date on which the Secretary receives the
7 application of a State under this section, the Secretary
8 shall notify the State concerning the final decision of the
9 Secretary with respect to such application. If the Sec-
10 retary fails to approve the State application, the Secretary
11 shall assist the State in modifying such application and
12 provide specific guidance on the manner in which to gain
13 approval. A State that has submitted an application that
14 is not approved may submit another application in the fol-
15 lowing fiscal year.

16 “(e) STATE INNOVATION AND PROGRAM FLEXIBIL-
17 ITY.—A State with an application approved under this
18 section shall, at a minimum, implement a State program
19 that is consistent with the guidelines, principles and re-
20 quirements described in this title. In developing and imple-
21 menting such a program, a State is encouraged to be inno-
22 vative and propose structures or a blend of structures for
23 the State program that are different from that described
24 in this title. Such structures may include, modifications
25 of existing State or Federal programs, capitated pro-

1 grams, fee-for-service programs, subsidy programs for the
2 individual purchase of health insurance, and programs
3 where the State is the direct payer for services. Such
4 structures, however, must be shown to be or expected to
5 be, as effective or more effective in meeting the program
6 objectives of this title and containing program costs as the
7 structure described in this title. A State may establish a
8 State-specific program or participate in a program with
9 neighboring States.

10 **“SEC. 2832. SPECIAL STATUS STATES.**

11 “(a) PETITION.—

12 “(1) EXISTING PROGRAMS.—A State that deter-
13 mines that the existing health care program of the
14 State provides, or that expects such provision to be
15 made within 1 year from the date of a petition
16 under this subsection, affordable, comprehensive,
17 high quality, health care coverage for all children
18 under seven years of age and pregnant women resid-
19 ing within the State, may petition the Secretary to
20 designate such State as a special status State.

21 “(2) PARTICIPATING STATES.—A participating
22 State that determines that the program of the State
23 under this title has achieved the objective described
24 in paragraph (1), may, in their annual quality as-
25 sessment and improvement plan, petition the Sec-

1 retary to designate such State as a special status
2 State.

3 “(3) APPROVAL OF PETITIONS.—The Secretary
4 shall approve a petition under this subsection if the
5 Secretary determines that the petitioning State has
6 demonstrated that at least 95 percent of all eligible
7 children and pregnant women residing in the State
8 are covered either under the State program or under
9 other sources of health insurance. The Secretary
10 shall make a determination on the State petition
11 under this section within 90 days of the date on
12 which the Secretary receives the petition.

13 “(b) EFFECT OF DESIGNATION.—

14 “(1) EXPANSION OF SERVICES.—A State des-
15 ignated as a special status State under subsection
16 (a) may submit a proposal to the Secretary for the
17 expansion of health services provided under this title
18 to children under seven years of age and pregnant
19 women, or to expand comparable coverage with re-
20 spect to health services for older children up to age
21 21. Such expanded eligibility shall be consistent with
22 the requirements and guidelines under this title.

23 “(2) MATCHING REQUIREMENTS.—The match-
24 ing requirement in section 2802 shall apply to ex-
25 panded eligibility programs under paragraph (1).

1 **“SEC. 2833. STATES WITH MEDICAID WAIVERS.**

2 “A State that has in effect a waiver under section
3 1115 or 1915 of the Social Security Act shall be eligible
4 to be a participating State under this title. If such a State
5 desires to become a participating State, the State program
6 shall be subject to all program guidelines and require-
7 ments under this title. A State with a waiver described
8 in this section may submit a petition under section 2832
9 to be designated as a special status State.

10 **“SEC. 2834. DEVELOPMENT GRANTS FOR STATE PRO-**
11 **GRAMS.**

12 “(a) IN GENERAL.—Upon the approval of a State ap-
13 plication under section 2831, the Secretary, from the
14 Trust Fund, shall award a one-time program development
15 grant to the State.

16 “(b) AMOUNT.—The amount of a grant awarded
17 under subsection (a), shall be determined based on a for-
18 mula developed by the Secretary.

19 “(c) USE OF FUNDS.—Amounts received under a
20 grant under this section shall be used to develop and im-
21 plement the approved State program and State strategic
22 plan, including the development of community-based
23 health networks and health plans.

24 **“SEC. 2835. EXPANSION OF ELIGIBILITY.**

25 “(a) DETERMINATION BY SECRETARY.—

1 “(1) IN GENERAL.—Not later than the date
2 that is 2 years after the date of enactment of this
3 title, and every 2 years thereafter, the Secretary, in
4 consultation with the Advisory Council, shall deter-
5 mine whether sufficient funding and public support
6 exists to enable the Secretary to expand the cat-
7 egories of individuals eligible for coverage under this
8 title to include additional groups of children up to
9 21 years of age.

10 “(2) REQUIREMENT.—If the Secretary deter-
11 mines under paragraph (1) that sufficient funding
12 and public support exists to permit the expansion of
13 individuals eligible for coverage to include additional
14 age groups on a national basis, the Secretary shall
15 implement guidelines to provide for such expansion.

16 “(3) RECOMMENDATIONS.—If the Secretary de-
17 termines under paragraph (1) that public support
18 exists for the expansion of individuals eligible for
19 coverage but that funding is insufficient, the Sec-
20 retary may recommend to Congress that appropriate
21 legislation be considered to expand the program
22 under this title to expand such eligibility.

23 “(b) PETITION BY STATES.—

24 “(1) IN GENERAL.—A participating State that
25 does not qualify as a special status State under sec-

1 tion 2832 may, in the annual evaluation report of
2 the State, petition the Secretary to expand the State
3 program to provide coverage for additional age
4 groups if the State determines that sufficient funds
5 are available in the State trust fund or if additional
6 State funds are deposited into the State trust fund.
7 The Secretary shall make a final determination on
8 a State request for expanded eligibility within 90
9 days of the date of receiving the State petition.

10 “(2) MATCHING REQUIREMENT.—The Sec-
11 retary shall make available to a State, with respect
12 to additional funds deposited into the State trust
13 fund for the purpose of expanding eligibility under
14 paragraph (1) to children not eligible for coverage
15 on a national basis, Federal funds in an amount
16 equal to the amount of State funds so deposited.

17 “(3) FUNDING.—An approved petition under
18 this section may be considered by the Secretary for
19 Federal funding only after funds are provided to all
20 participating States with approved programs and ap-
21 proved expanded eligibility programs of special sta-
22 tus States are allocated.

1 **“SEC. 2836. FAILURE OF STATE TO ADMINISTER A PRO-**
2 **GRAM IN COMPLIANCE WITH TITLE.**

3 “(a) **FAILURE TO COMPLY.**—If the Secretary deter-
4 mines that the State program of a participating State fails
5 to meet the requirements of this title, including require-
6 ments relating to cost containment and the prevention and
7 control of fraud and abuse, the Secretary shall notify the
8 State. Upon receiving such a notification, the State shall
9 be required to demonstrate that the State has made a rea-
10 sonable effort to address program deficiencies.

11 “(b) **ADMINISTRATION BY SECRETARY.**—If the Sec-
12 retary determines that a State has failed to demonstrate
13 a reasonable effort under subsection (a), the Secretary
14 may elect to directly administer, or enter into agreement
15 with a non-State government organization to administer,
16 the State program.

17 “(c) **PREMIUMS AND COPAYMENTS.**—Premiums and
18 copayments under this title for a State program adminis-
19 tered by a Federal or non-State government entity may
20 not be in excess of the premiums and copayments assessed
21 under this title.

22 “(d) **FUNDING AND MATCHING REQUIREMENT.**—
23 The costs of administering a State program under sub-
24 section (b) may not be in excess of that amount that would
25 be provided to the State under this title. A State shall

1 continue to provide matching funds in accordance with
 2 section 2802.

3 **“SEC. 2837. LIMITS ON STATE AND FEDERAL ADMINISTRA-**
 4 **TIVE COSTS.**

5 “The Secretary and a participating State shall, to the
 6 maximum extent practicable, ensure that the administra-
 7 tive complexity and costs of the program implemented
 8 under this title are minimized. A participating State may
 9 expend not to exceed 5 percent of the amount in the State
 10 trust fund in any fiscal year for the administration of the
 11 State program. The State shall be responsible for any ad-
 12 ministrative costs in excess of such 5 percent.

13 **“PART E—ENSURING QUALITY, ESTABLISHING**
 14 **INFORMATION SYSTEMS, AND PREVENTING ABUSE**
 15 **“SEC. 2841. ANNUAL QUALITY ASSESSMENT AND IMPROVE-**
 16 **MENT PLANS.**

17 “(a) REQUIREMENT.—Not later than 1 year after the
 18 date on which the Secretary approves the application of
 19 a State under section 2831, and annually thereafter, the
 20 State, in coordination with existing State programs under
 21 title V of the Social Security Act, shall prepare and submit
 22 to the Secretary a quality assessment and improvement
 23 plan.

24 “(b) GUIDELINES FOR PLANS.—Not later than 180
 25 days after the date of enactment of this title, the Sec-

1 retary, in consultation with the Maternal and Child Health
2 Bureau, shall develop and submit to participating States
3 guidelines concerning the elements that must be included
4 in the annual quality assessment and improvement plan
5 of such participating State. At a minimum, such guide-
6 lines shall require a State plan to include an assessment
7 of the—

8 “(1) progress the State had made towards en-
9 suring health care coverage for all eligible individ-
10 uals residing within the State;

11 “(2) cost containment measures implemented
12 under the State program;

13 “(3) assurances provided for ensuring the provi-
14 sion of high quality health care;

15 “(4) impact within the State on the health sta-
16 tus of the target populations (including process and
17 outcome measures and objectives);

18 “(5) the financial and administrative aspects of
19 the State program; and

20 “(6) any proposed modifications to the State
21 program.

22 “(c) RESPONSE BY SECRETARY.—Not later than 90
23 days after the date on which the Secretary has received
24 the quality assessment and improvement plan of a partici-
25 pating State, the Secretary shall provide a response to

1 such State concerning such plan. Such response shall in-
2 clude the determination of the Secretary with respect to
3 any proposed modifications in the State program as con-
4 tained in the plan. Evaluations of the State program by
5 the Secretary shall be based on an assessment of the per-
6 formance of the State program in meeting program objec-
7 tives rather than on the specific methods used to achieve
8 such objectives.

9 **“SEC. 2842. NATIONAL ADVISORY COUNCIL FOR MOTHERS’**
10 **AND CHILDREN’S HEALTH.**

11 “(a) ESTABLISHMENT.—The Secretary shall estab-
12 lish an advisory council to be known as the “National Ad-
13 visory Council for Mothers’ and Children’s Health” to pro-
14 vide advice to the Secretary concerning the administration
15 of and modifications to programs established under this
16 title.

17 “(b) MEMBERSHIP.—

18 “(1) IN GENERAL.—The Advisory Council shall
19 be composed of 11 individuals to be appointed by the
20 President in consultation with the Secretary, not
21 later than 90 days after the date of the enactment
22 of this title, with the advice and consent of the Sen-
23 ate. Members of the Advisory Council shall be ap-
24 pointed on the basis of their experience and exper-
25 tise.

1 “(2) REPRESENTATION.—In appointing the
2 members of the Advisory Council under paragraph
3 (1), the Secretary shall ensure the appropriate rep-
4 resentation of—

5 “(A) pediatricians, obstetricians, and other
6 health care providers;

7 “(B) consumers;

8 “(C) health policy experts;

9 “(D) State and local government health of-
10 ficials;

11 “(E) public health and maternal and child
12 health professionals;

13 “(F) experts in population-based health in-
14 formation systems;

15 “(G) experts in health promotion and dis-
16 ease prevention;

17 “(H) health care managers and econo-
18 mists;

19 “(I) medical ethicists;

20 “(J) health care industry representatives;
21 and

22 “(K) other related disciplines as deter-
23 mined appropriate by the Secretary.

24 In appointing such members, the Secretary shall en-
25 sure that not less than three members are health

1 care providers and not less than three members are
2 representatives of consumers.

3 “(3) ENROLLED INDIVIDUALS.—After the expi-
4 ration of the initial terms of the members of the Ad-
5 visory Council appointed to represent consumers,
6 subsequent consumer representatives shall be from
7 families currently enrolled in a certified plan.

8 “(4) CHAIRPERSON.—In appointing members of
9 the Advisory Council, the Secretary shall designate
10 one member to serve as chairperson and one member
11 to serve as vice chairperson. A Chairperson shall not
12 serve in that capacity for more than one full term.

13 “(5) TERMS.—

14 “(A) IN GENERAL.—A member of the Ad-
15 visory Council shall be appointed for a term of
16 2 years, except that of the members first ap-
17 pointed six such members shall be appointed for
18 a term of 3 years.

19 “(B) LIMITATION.—No member of the Ad-
20 visory Council may serve more than two com-
21 plete terms.

22 “(6) VACANCIES.—

23 “(A) IN GENERAL.—A vacancy on the Ad-
24 visory Council shall be filled in the manner in
25 which the original appointment was made and

1 shall be subject to any conditions which applied
2 with respect to the original appointment.

3 “(B) FILLING UNEXPIRED TERM.—An in-
4 dividual chosen to fill a vacancy shall be ap-
5 pointed for the unexpired term of the member
6 replaced.

7 “(7) EXPIRATION OF TERMS.—The term of any
8 member shall not expire before the date on which
9 the member’s successor takes office.

10 “(8) EMPLOYMENT BY FEDERAL GOVERN-
11 MENT.—An individual may not be appointed to the
12 Advisory Council if such individual was employed
13 by the Federal Government at any time during the
14 1-year period prior to the appointment.

15 “(9) NO FINANCIAL INTEREST.—A member of
16 the Advisory Council shall have no substantial finan-
17 cial interest in any entity related to any issue to be
18 addressed by the Council.

19 “(c) RESPONSIBILITIES.—

20 “(1) IN GENERAL.—The Advisory Council shall
21 evaluate programs established under this title and
22 provide advice to the Secretary concerning methods
23 to improve the health of children and pregnant
24 women. As part of such evaluation, the Advisory
25 Council shall include an assessment of the impact of

1 State programs under this title on the health status
2 of children and pregnant women. Specifically, the
3 Advisory Council shall evaluate and make rec-
4 ommendations concerning—

5 “(A) items and services covered under the
6 comprehensive benefits package;

7 “(B) State program cost sharing require-
8 ments;

9 “(C) the allocation and management of
10 funds from the Trust Fund;

11 “(D) eligibility and enrollment issues with
12 respect to State programs;

13 “(E) standards for and the responsibilities
14 of certified plans, at both the Federal and State
15 level;

16 “(F) national assessment and quality im-
17 provement program guidelines and utilization
18 review program guidelines;

19 “(G) the development of pediatric and ma-
20 ternal health care practice guidelines;

21 “(H) health care information systems and
22 reporting requirements;

23 “(I) general State and Federal program
24 administration; and

1 “(J) any other relevant matters deter-
2 mined to be appropriate by the Advisory Coun-
3 cil.

4 “(2) ANNUAL SUMMARY.—The Advisory Coun-
5 cil shall prepare and submit to the Secretary an an-
6 nual summary of the Council’s activities, analyses,
7 and evaluations of State programs together with the
8 recommendations of the Council for program im-
9 provement.

10 “(d) MEETINGS.—

11 “(1) INITIAL MEETING.—Not later than 30
12 days after the date on which all members of the Ad-
13 visory Council have been appointed, the Council shall
14 hold its first meeting.

15 “(2) REGULAR MEETINGS.—The Advisory
16 Council shall meet at the call of the Chairperson,
17 but not less than four times each year.

18 “(3) QUORUM.—A majority of the members of
19 the Advisory Council shall constitute a quorum, but
20 a lesser number of members may hold hearings.

21 “(e) TASK FORCES.—The Advisory Council may es-
22 tablish professional or technical task forces to carry out
23 specific functions if the Council determines that appro-
24 priate expertise is not otherwise available.

1 “(f) INFORMATION FROM FEDERAL AGENCIES.—The
2 Secretary shall ensure that the Advisory Council has ac-
3 cess to all necessary logistic, administrative, and financial
4 support. Upon request of the chairperson of the Council,
5 the head of each Federal department or agency shall fur-
6 nish information to the Council.

7 “(g) ADVISORY COUNCIL PERSONNEL MATTERS.—

8 “(1) COMPENSATION.—Each member of the
9 Advisory Council shall be compensated at a rate
10 equal to the daily equivalent of the annual rate of
11 basic pay prescribed for level IV of the Executive
12 Schedule under section 5315 of title 5, United
13 States Code, for each day (including travel time)
14 during which such member is engaged in the per-
15 formance of the responsibilities of the Council.

16 “(2) TRAVEL EXPENSES.—The members of the
17 Advisory Council shall be allowed travel expenses, in-
18 cluding per diem in lieu of subsistence, at rates au-
19 thorized for employees of agencies under subchapter
20 I of chapter 57 of title 5, United States Code, while
21 away from their homes or regular places of business
22 in the performance of services for the Council.

23 “(h) REPORT TO CONGRESS.—If the Advisory
24 Council—

1 “(1) irreconcilably differs with Secretary con-
 2 cerning major policy issues related to the program
 3 established under this title; or

4 “(2) has evidence that the Secretary is not ful-
 5 filling the responsibilities of the Secretary under this
 6 title to ensure affordable, comprehensive, high qual-
 7 ity health care coverage for all eligible individuals;
 8 the Council may prepare and submit to Congress a report
 9 concerning such matters.

10 **“SEC. 2843. NATIONAL QUALITY ASSESSMENT AND IM-**
 11 **PROVEMENT PROGRAM GUIDELINES AND**
 12 **UTILIZATION REVIEW PROGRAM GUIDE-**
 13 **LINES.**

14 “(a) NATIONAL QUALITY ASSESSMENT AND IM-
 15 PROVEMENT PROGRAM GUIDELINES.—

16 “(1) ESTABLISHMENT.—Not later than 1 year
 17 after the date of enactment of this title, the Sec-
 18 retary, in consultation with relevant governmental
 19 and non-governmental organizations as determined
 20 appropriate by the Secretary, shall develop national
 21 quality assessment and improvement program guide-
 22 lines for use by certified plans under this title.

23 “(2) REQUIREMENT.—The guidelines developed
 24 under paragraph (1) shall be consistent with the
 25 concepts and principles established under the Con-

1 tinuous Quality Improvement/Total Quality Manage-
2 ment programs.

3 “(b) NATIONAL UTILIZATION REVIEW PROGRAM
4 GUIDELINES.—

5 “(1) ESTABLISHMENT.—Not later than 1 year
6 after the date of enactment of this title, the Sec-
7 retary, in consultation with relevant governmental
8 and non-governmental organizations as determined
9 appropriate by the Secretary, shall develop national
10 utilization review program guidelines for use by cer-
11 tified plans under this title.

12 “(2) REQUIREMENTS.—The guidelines devel-
13 oped under paragraph (1) shall, at a minimum, re-
14 quire that a certified plan ensure that the following
15 attributes are incorporated into the utilization review
16 program of the plan:

17 “(A) The utilization review program is
18 clearly documented in printed materials pro-
19 vided to the enrolled individual.

20 “(B) That only qualified licensed or cer-
21 tified health professionals with training or expe-
22 rience in pediatric or obstetric care are used for
23 specific case utilization reviews.

1 “(C) That individuals involved in specific
2 case utilization reviews do not have a financial
3 interest or incentive to deny or limit utilization.

4 “(D) That descriptions and protocols for
5 utilization review are disclosed to enrollees, af-
6 filiated providers, and appropriate State offi-
7 cials upon demand, and that such descriptions
8 and protocols protect proprietary business infor-
9 mation.

10 “(E) That criteria for utilization review
11 shall be based on sound scientific principles and
12 standard medical practice.

13 “(F) That there is a mechanism for the
14 regular evaluation and modification of the utili-
15 zation review program.

16 “(c) GENERAL REQUIREMENTS.—The guidelines de-
17 veloped under this section shall be specific with respect
18 to pediatric and maternal health care delivery systems to
19 the maximum extent practicable. Such guidelines shall be
20 flexible and adaptable, and serve as the basis for the qual-
21 ity assessment and improvement program and utilization
22 review program of a certified plan.

23 “(d) CONSULTATION.—The Secretary, in developing
24 guidelines under this section shall, at a minimum, consult
25 with the National Committee on Quality Assurance, the

1 National Association of Insurance Commissioners, private
2 health care accreditation organizations, representatives of
3 certified plans, and relevant maternal and child health
4 care professional organizations.

5 **“SEC. 2844. NATIONAL HEALTH INFORMATION SYSTEMS**
6 **FOR MOTHERS AND CHILDREN.**

7 “(a) ESTABLISHMENT AND IMPLEMENTATION.—Not
8 later than 1 year after the date of enactment of this title,
9 the Secretary shall establish and implement a National
10 Health Information System for Mothers and Children.
11 The Secretary, in consultation with States and representa-
12 tives of certified plans, the Administrator of the Agency
13 for Health Care Policy Research, the Administrator of the
14 Health Resources and Services Administration, the Direc-
15 tor of the Centers for Disease Control and Prevention, and
16 the heads of other agencies or nongovernment organiza-
17 tions as determined appropriate by the Secretary, shall de-
18 velop specific data elements and operating procedures with
19 respect to such Information System.

20 “(b) SUBMISSION OF DATA.—

21 “(1) ELECTRONIC FORM.—A participating
22 State shall be responsible for ensuring that certified
23 plans operating within the State submit the data re-
24 quired under this title. Such data shall be transmit-
25 ted to the Secretary. The State shall require that

1 each certified plan operating within the State submit
2 data to the Information System, as required by the
3 Secretary under the policies of the System, in elec-
4 tronic form.

5 “(2) SOFTWARE.—The Secretary shall develop
6 and freely distribute to participating States, the
7 computer software necessary to permit such States
8 and certified plans to efficiently collect and transmit
9 data to the Information System. A participating
10 State or certified plan may not be required to use
11 such software if such State or plan is able to other-
12 wise comply with the data collection and reporting
13 requirements.

14 “(3) INTEGRATION OF DATA REPORTING RE-
15 QUIREMENTS.—The Secretary, and each participat-
16 ing State, shall, to the maximum extent practicable,
17 integrate reporting requirements applicable to cer-
18 tified plans under other Federal and State health
19 programs with those established under this title to
20 ensure that duplicative requirements are eliminated.

21 “(4) REASONABLE REQUIREMENTS.—The Sec-
22 retary, and each participating State, shall ensure
23 that, with respect to certified plans, the resources
24 and time required to comply with the information re-

1 requirements of the Secretary and State under this
2 title are reasonable and not excessive.

3 “(5) MAINTENANCE OF RECORDS.—Any law of
4 a participating State that requires that medical or
5 health records, including billing information, be
6 maintained in written, rather than electronic, form
7 shall be satisfied if such records are maintained in
8 a manner consistent with the Information System
9 requirements developed by the Secretary under this
10 section.

11 “(c) USE OF DATA.—Data received by the Informa-
12 tion System from States and certified plans shall be used
13 to—

14 “(1) monitor and evaluate certified plans;

15 “(2) monitor the health status of the popu-
16 lations served by such plans;

17 “(3) support core public health functions;

18 “(4) increase capacity for health policy and pro-
19 gram evaluation, planning, and research;

20 “(5) provide for quality assessment and im-
21 provement activities;

22 “(6) improve provider coordination and access
23 to care; and

24 “(7) carry out other activities related to the
25 public health.

1 “(d) PRIVACY.—

2 “(1) IN GENERAL.—To ensure the privacy of
3 medical information provided under this title, the
4 Secretary and each participating State shall imple-
5 ment safeguards to prevent the unauthorized access
6 of individuals or entities to medically confidential in-
7 formation.

8 “(2) APPLICABILITY OF STATE LAWS.—A par-
9 ticipating State shall ensure that State laws that
10 protect medical confidentiality are applicable to data
11 collected by the State or a certified plan operating
12 within the State under this title, except that such
13 laws that interfere with the use of the data as re-
14 quired under this title shall be preempted.

15 **“SEC. 2845. NATIONAL CHILDHOOD IMMUNIZATION**
16 **DATABASE.**

17 “(a) ESTABLISHMENT.—In order to achieve the goal
18 of providing age-appropriate immunization coverage for
19 100 percent of the children in the United States, the Sec-
20 retary shall establish a National Childhood Immunization
21 Database as part of the Information System.

22 “(b) REQUIREMENTS.—

23 “(1) IN GENERAL.—As part of the data pro-
24 vided under section 2844, a certified plan shall en-
25 sure that the immunization records of all enrolled in-

1 dividuals are updated as required under guidelines
2 developed by the Secretary and the participating
3 State involved. Such immunization record data shall
4 be maintained in the database established under
5 subsection (a). The Secretary shall, to the maximum
6 extent practicable, ensure that the database contains
7 accurate and up-to-date information concerning the
8 immunization records of every child enrolled in a
9 certified plan under this title.

10 “(2) APPLICATION TO ALL HEALTH PLANS.—
11 All certified plans participating in a State program
12 under this title and all other health plans that pro-
13 vide coverage for 10,000 or more childhood immuni-
14 zations per year that are not participating under
15 this title but that are offered within a participating
16 State, shall participate in the National Childhood
17 Immunization Database.

18 “(3) AVAILABILITY OF INFORMATION.—The
19 database established under subsection (a) shall en-
20 sure that current immunization information is avail-
21 able on a real time basis to health care providers
22 who need such information to assess the appropriate
23 immunization needs of their patients.

24 “(4) ACCESS.—

1 “(A) IN GENERAL.—Information in the
2 database shall be accessible to the certified plan
3 in which a child is enrolled electronically or
4 through a toll free telephone number.

5 “(B) OTHER PLANS.—With respect to a
6 child accessing a certified plan, other than the
7 certified plan in which such child is enrolled,
8 such accessed plan or the public health authori-
9 ties involved may utilize the database to access
10 the immunization record of the child if such ac-
11 cess is needed to assess the need for appro-
12 priate immunization.

13 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed as preempting existing Federal or
15 State laws concerning disease reporting or the reporting
16 of other health-related data to local, State, and Federal
17 health authorities.

18 **“SEC. 2846. PREVENTION, MONITORING, AND CONTROL OF**
19 **FRAUD AND ABUSE.**

20 “(a) ESTABLISHMENT OF PROGRAM.—Not later than
21 180 days after the date of enactment of this title, the Sec-
22 retary, in consultation with the Attorney General, shall es-
23 tablish a program and develop State guidelines for pre-
24 venting, monitoring, and investigating fraud related to the
25 program established under this title. Under such Federal

1 program, the Secretary and the Attorney General shall
2 provide assistance to participating States for the monitor-
3 ing and control of fraud and abuse in the State programs,
4 and in investigating and prosecuting individuals and cer-
5 tified plans whose activities violate the provisions of this
6 title, any law enacted in the administration of this title,
7 or any act in violation of such laws that involve interstate
8 activity.

9 “(b) STATE SYSTEMS.—

10 “(1) CERTIFICATION.—Prior to making an allo-
11 cation to a participating State under section 2801,
12 the Secretary shall certify that the State has estab-
13 lished and implemented a Statewide system for pre-
14 venting, monitoring, and investigating fraud and
15 abuse that occurs within the State with respect to
16 the State program.

17 “(2) REQUIREMENTS OF SYSTEM.—To be cer-
18 tified under paragraph (1), a State system shall—

19 “(A) provide authority to State officials to
20 prosecute individuals or certified plans for
21 criminal violations of the provisions of this title
22 or any law enacted to administer or enforce this
23 title;

1 “(B) solicit and receive consumer feedback
2 regarding compliance with requirements under
3 the State program;

4 “(C) provide for the investigation of com-
5 plaints of violations of requirements under the
6 State program;

7 “(D) assist in the resolution of consumer
8 complaints against certified plans;

9 “(E) have a formal mechanism for the
10 sharing of information with and assisting the
11 Federal entity responsible for policing compli-
12 ance with this title; and

13 “(F) prepare and submit to the Secretary
14 and the Attorney General an annual report
15 summarizing the activities under the State sys-
16 tem.

17 “(3) INTEGRATION.—A State system estab-
18 lished under this subsection may be integrated into
19 existing State systems responsible for controlling
20 fraud and abuse under the State program under title
21 XIX of the Social Security Act.

22 “(c) PENALTIES.—

23 “(1) DEVELOPMENT OF LEGISLATIVE PRO-
24 POSAL.—Not later than 180 days after the date of
25 the enactment of this title, the Secretary, in con-

1 sultation with the Attorney General, shall submit to
2 the Congress a legislative proposal to modify or es-
3 tablish civil and criminal penalties for fraud and
4 abuse or for other violations by individuals and cer-
5 tified plans related to the program established under
6 this title.

7 “(2) DATA.—Not later than 1 year after the
8 date of enactment of this title, the Secretary, in con-
9 sultation with the Attorney General, shall submit to
10 the Congress a legislative proposal to modify or es-
11 tablish civil and criminal penalties for the unauthor-
12 ized use of data collected under this title, including
13 the sale or transfer of data for commercial use or
14 use of data for illegal activities.

15 “(3) RECOVERY OF FUNDS.—Any funds recov-
16 ered or fines collected under any civil or criminal ac-
17 tions related to fraud and abuse under this title
18 shall be deposited into the trust fund of the State
19 or States in which the fraud and abuse occurred.
20 Funds recovered on a national level shall be depos-
21 ited into the Trust Fund.

22 “(d) PROHIBITION ON PARTICIPATION.—A certified
23 plan, health care provider, or other individual or entity
24 participating in the Federal program or a State program
25 under this title, that has been found guilty of fraud or

1 abuse in connection with activities under this title, shall
 2 be prohibited from participating in any manner in such
 3 Federal or a State program, for a period of not less than
 4 5 years. The Secretary may waive the 5-year limitation
 5 if the Secretary determines that there is a compelling rea-
 6 son to grant such waiver.

7 “(e) APPLICABILITY OF GUIDELINES.—Federal and
 8 State guidelines developed and implemented under this
 9 section shall be developed in recognition of the differences
 10 among the various types of health plans, and be applicable
 11 to all health plans.”.

12 **SEC. 204. RESPONSIBILITIES OF FAMILIES, CERTIFIED**
 13 **PLANS, EMPLOYERS, STATES, AND THE FED-**
 14 **ERAL GOVERNMENT.**

15 Title XXVIII of the Public Health Service Act (as
 16 added by section 201 and amended by sections 202 and
 17 203) is further amended by adding at the end thereof the
 18 following new part:

19 “PART F—RESPONSIBILITIES OF FAMILIES, CERTIFIED
 20 PLANS, EMPLOYERS, STATES, AND THE FEDERAL
 21 GOVERNMENT

22 **“SEC. 2851. RESPONSIBILITIES OF FAMILIES.**

23 “A family with an eligible child under seven years of
 24 age, or an eligible pregnant woman, who is not covered
 25 under a health plan shall—

1 “(1) be responsible for enrolling such child or
2 pregnant woman in a certified plan;

3 “(2) pay the share of premiums and copay-
4 ments required of such family under this title; and

5 “(3) maintain an active role and participate in
6 the health care system to ensure that the child or
7 pregnant woman receives appropriate, high quality
8 health care.

9 **“SEC. 2852. RESPONSIBILITIES OF CERTIFIED PLANS.**

10 “(a) IN GENERAL.—A certified plan participating in
11 a State program under this title shall—

12 “(1) be certified by the State and comply with
13 all requirements for such certification or recertifi-
14 cation;

15 “(2) participate in a national open enrollment
16 period and permit enrollment at the point-of-service;

17 “(3) in the case of a family that has at least
18 one eligible child enrolled in the certified plan and
19 one or more other children who are not eligible for
20 coverage under this title, offer optional family enroll-
21 ment with respect to such other children at a rea-
22 sonable cost;

23 “(4) in the case of a family that has at least
24 one eligible child enrolled in the certified plan, and
25 one or more other children who are eligible for

1 health services under title XIX of the Social Security
2 Act but not eligible for coverage under this title,
3 offer health services under title XIX for such other
4 children in the family;

5 “(5) not discriminate against individuals during
6 marketing, enrollment, or provision of services based
7 on pre-existing conditions, genetic predisposition of
8 health conditions, medical history, expected utiliza-
9 tion of services or health expenditures, race, eth-
10 nicity, national origin, religion, age (within the eligi-
11 ble age group), gender, income, or disability;

12 “(6) accept any applicant for enrollment if such
13 applicant is an eligible individual and resides within
14 the geographic area served by the plan, and may not
15 deny enrollment to any eligible individual except on
16 the basis of documented plan capacity;

17 “(7) in the case of enrolled individuals who are
18 re-enrolling in the plan, ensure that such individuals
19 are re-enrolled if eligibility is maintained;

20 “(8) not use pressure, misleading advertising or
21 marketing, or other unethical practices to coerce or
22 discourage certain individuals or groups from enroll-
23 ing in the plan or disenrolling from the plan;

24 “(9) establish a system for collecting premiums
25 and copayments;

1 “(10) not terminate the enrollment of an indi-
2 vidual except in cases of failure to pay premiums or
3 copayments, fraud and abuse, or withdrawal of the
4 plan from the market, and notify the State of the in-
5 tention of the plan to terminate the enrollment of an
6 enrollee not later than 60 days prior to the date on
7 which coverage under such plan is terminated;

8 “(11) not impose a waiting period prior to the
9 date on which coverage under the plan commences;

10 “(12) directly provide or provide coverage for
11 all items and services required under the comprehen-
12 sive benefits package under part C, ensure that the
13 premium amount negotiated with the State under
14 this title is the full required premium, and not im-
15 pose any additional charges for covered items or
16 services;

17 “(13) not exclude coverage or deny care for any
18 pre-existing conditions, congenital conditions, or ge-
19 netic predispositions to conditions that are covered
20 under the comprehensive benefits package;

21 “(14) ensure that a choice of primary care pro-
22 viders is available to enrollees, that primary care
23 and preventive services are readily available and con-
24 venient to all enrollees within the geographic area

1 served, and that emergency services are available on
2 a 24-hour basis, 7 days a week;

3 “(15) establish a program for the credentialing
4 and performance monitoring of providers under the
5 plan and ensure that adequate health provider to en-
6 rolled individual ratios are established and main-
7 tained;

8 “(16) provide strong, comprehensive preventive
9 health and patient education services;

10 “(17) ensure that the special health needs of
11 children with disabilities or chronic health conditions
12 are adequately met;

13 “(18) if sufficient capacity to deliver health
14 services for children described in paragraph (16)
15 does not exist within the certified plan, including pe-
16 diatric specialty and subspecialty care, enter into
17 agreements with such providers or facilities to pro-
18 vide appropriate care;

19 “(19) to the extent that resources or services
20 are not available within the plan, provide access to
21 an integrated child and maternal health care net-
22 work, which consists of a network of providers who
23 together can provide for the full continuum of health
24 care, including preventive, primary, secondary, ter-

1 tiary, rehabilitation, chronic and long-term care,
2 home care, and hospice care;

3 “(20) ensure that with respect to any network
4 described in paragraph (19), the network specifically
5 provide access to pediatric and maternal specialty
6 and subspecialty care;

7 “(21) enter into cooperative agreements with
8 providers or facilities to provide a continuum of care
9 if resources to provide such care are not available
10 within the plan;

11 “(22) if medically-indicated subspecialty care is
12 not available within the geographic area served by
13 the plan, provide transportation to the nearest ap-
14 propriate facility;

15 “(23) provide coverage for emergency care ob-
16 tained in out-of-area or out-of-State facilities so long
17 as the health condition was certified to be an emer-
18 gency by the attending physician or could have been
19 reasonably assumed to be an emergency by the fam-
20 ily;

21 “(24) provide coverage for deliveries of
22 newborns at nonhospital facilities in areas where
23 such facilities are available;

1 “(25) make a reasonable effort to provide lan-
2 guage translation services in areas where languages
3 other than English are relatively common;

4 “(26) implement disincentives (such as higher
5 copayments) for the inappropriate use of emergency
6 rooms for nonemergency care;

7 “(27) provide incentives (such as reduced pre-
8 miums, premium rebates, or additional services) for
9 enrollees who comply with medical and public health
10 recommendations for immunizations, prenatal care,
11 healthy behaviors, or other preventive health guide-
12 lines;

13 “(28) implement an information system to col-
14 lect and report data as required under sections 2844
15 and 2845;

16 “(29) implement a quality assessment and im-
17 provement program and utilization review program
18 as required under section 2843;

19 “(30) pursuant to the guidelines developed by
20 the State, submit an annual evaluation and quality
21 improvement plan, including an evaluation of the
22 plan’s cost containment measures, assurance of qual-
23 ity care, impact on the health status of the enrolled
24 population (including outcome measures and process
25 objectives), a financial statement, proposed changes

1 in premium rates, and a description of other rel-
2 evant changes to the plan (the State shall provide
3 guidance to certified plans concerning the elements
4 of an acceptable annual evaluation and quality im-
5 provement plan, and may use the annual evaluation
6 and quality improvement plan as the basis for the
7 recertification of plans);

8 “(31) establish a program for consumer feed-
9 back and the resolution of consumer complaints that
10 includes specified time frames for decisions, such
11 program to be clearly documented and made avail-
12 able to all enrollees;

13 “(32) in consultation with local health depart-
14 ments and maternal and child health programs
15 under title V of the Social Security Act, establish,
16 support, or substantially participate in a community-
17 based maternal or child health program in the cov-
18 erage area served by the plan;

19 “(33) comply with any other relevant State or
20 Federal regulations.

21 “(b) REGULATORY BURDEN.—To minimize the regu-
22 latory burdens and potentially duplicative standards and
23 regulations that may be applied under this title or any
24 other Federal or State program that duplicates activities
25 undertaken under this title, a certified plan shall be con-

1 sidered as fulfilling a requirement or complying with a
 2 standard under this title, if the plan is meeting an existing
 3 State or Federal requirement or standard that has been
 4 determined by the Secretary (or the State, as appropriate)
 5 to be identical or at least as effective as that specified
 6 under this title.

7 “(c) NONAPPLICATION OF PROVISIONS.—The re-
 8 quirements and guidelines described in this title shall not
 9 apply to health plans that do not participate in a State
 10 program under this title (with the exception of health
 11 plans complying with section 2845), and shall not apply
 12 (unless the plan elects for such requirements to apply),
 13 to the care and treatment of individuals in the plan who
 14 are not enrolled in the State program under this title.

15 **“SEC. 2853. RESPONSIBILITIES OF EMPLOYERS.**

16 “With respect to the program established under this
 17 title, an employer shall—

18 “(1) in the case of an employer that provides
 19 health benefits to pregnant women, not terminate
 20 such benefits as result of the establishment of such
 21 program;

22 “(2) in the case of an employer that provides
 23 health benefits to employee dependents under seven
 24 years of age, not terminate such benefits unless the

1 employer agrees to pay the temporary maintenance-
2 of-effort fee required under section 2861(b).

3 An employer may not terminate the benefits described in
4 this section until the expiration of the 180-day period be-
5 ginning on the date on which the State in which such em-
6 ployer fully implements a State program.

7 **“SEC. 2854. RESPONSIBILITIES OF THE STATE.**

8 “A participating State shall—

9 “(1) develop and submit an approved initial 5-
10 year strategic plan and annual evaluation and qual-
11 ity improvement plans to the Secretary as required
12 under this title;

13 “(2) develop a process for certifying and re-cer-
14 tifying health plans under this title under which—

15 “(A) the criteria for certification or recer-
16 tification shall include—

17 “(i) an evaluation of minimum capital
18 requirements, solvency requirements, and
19 other standards related to the financial
20 stability of the plan;

21 “(ii) premium rating methodology;

22 “(iii) the quality of services to be pro-
23 vided by the plan; and

24 “(iv) the ability of the plan to provide
25 the required items and services; and

1 “(B) such plans shall be re-certified at
2 least once during every 4-year period and sub-
3 sequent to each instance in which the plan has
4 undergone significant changes (such as a merg-
5 er) as determined appropriate by the State;

6 “(3) establish a system through which the State
7 can solicit and evaluate proposals from all health
8 plans desiring to be certified under this title, and
9 enter into cooperative agreements with such certified
10 plans;

11 “(4) to maximize the choice of certified plans in
12 an area, ensure, through the system established
13 under paragraph (3), that any certified health plan
14 that fulfills all State and Federal requirements and
15 guidelines under this title, and is otherwise in good
16 standing with the State, is permitted to participate
17 in the State program;

18 “(5) elect whether to enter into risk or profit
19 sharing agreements with all or selected certified
20 plans;

21 “(6) elect whether to implement rate margin
22 provisions in agreements with certified plans such
23 that, at the end of a contract period, certified plans
24 would be reimbursed by the State if incurred costs
25 exceeded anticipated costs, and States could recover

1 excess premiums from the plan if incurred costs are
2 less than anticipated costs at the time of rate nego-
3 tiation;

4 “(7) implement risk adjustment methods, rein-
5 surance mechanisms, or other appropriate mecha-
6 nisms to ensure that State payments to specific cer-
7 tified plans are reflective of the expected utilization
8 or expenditure rates of plan enrollees and to protect
9 specific certified plans that enroll a disproportionate
10 share of individuals who are expected to incur a
11 higher than average utilization or expenditure rate;

12 “(8) ensure that the premium rating meth-
13 odologies of certified plans are well documented, ac-
14 tuarially sound, and minimize large variations in an-
15 nual premium rates;

16 “(9) directly reimburse each certified plan for
17 the State portion of the negotiated premium for en-
18 rolling eligible children and pregnant women;

19 “(10) ensure that the premiums negotiated with
20 each certified plan apply with respect to all eligible
21 children and all eligible pregnant women who enroll
22 in the plan;

23 “(11) negotiate discounted premiums for fami-
24 lies with multiple children with certified plans;

1 “(12) ensure that premium rates negotiated
2 with certified plans fairly compensate such plans for
3 the services provided, but that such rates do not re-
4 sult in excessive profits by plans;

5 “(13) offer families a choice of certified plans
6 to the extent practicable so long as at least one man-
7 aged care plan for children is available to all eligible
8 children regardless of geographic location;

9 “(14) elect whether to use financial or other in-
10 centives to encourage adequate coverage of rural and
11 underserved areas;

12 “(15) develop and implement an open enroll-
13 ment system during the national open enrollment pe-
14 riod consistent with the guidelines described in sec-
15 tion 2815;

16 “(16) implement an outreach program to maxi-
17 mize the enrollment of eligible individuals;

18 “(17) ensure that certified plans accept any ap-
19 plicant who is eligible for coverage within the geo-
20 graphic area and that such plans do not discriminate
21 or use coercive or unethical practices to encourage or
22 dissuade enrollment into the plan;

23 “(18) in determining or approving the bound-
24 aries of coverage areas for certified plans, ensure
25 that the coverage areas are consistent with the anti-

1 discrimination standards specified in subsection
2 (a)(4) or section 2852, and that such boundaries do
3 not result in plans avoiding enrollment of individuals
4 who are expected to have higher than average rates
5 of utilization or expenditures;

6 “(19) impose a surcharge for persons who en-
7 roll outside of the regular open enrollment period as
8 required under section 2815;

9 “(20) monitor, evaluate, and address the poten-
10 tial barriers, including cost sharing requirements,
11 that may prevent certain families, particularly low
12 income families, from enrolling in the State program
13 or from obtaining health services after enrollment;

14 “(21) develop a mechanism to assist families
15 who cannot temporarily pay for premiums or copay-
16 ments due to unexpected shortfalls in income;

17 “(22) in the case of fee-for-service plans, use
18 pediatric- and maternal-specific prospective payment
19 schedules for the reimbursement of services, such
20 schedules to be negotiated between providers, plans,
21 and the State;

22 “(23) ensure that State maternal and child
23 health programs under title V of the Social Security
24 Act and any relevant health services provided by
25 local and State health departments are integrated

1 and coordinated with the State program under this
2 title;

3 “(24) establish a State advisory council similar
4 in nature to the Advisory Council, except that the
5 composition, organization, and other guidelines for
6 the State council shall be determined by the State,
7 with the majority of State council members being
8 comprised of health care providers and consumers;

9 “(25) develop and implement standards for the
10 dissemination of consumer information provided by
11 certified plans (including information concerning
12 services for children with special health care needs),
13 provide consumers with comparative information on
14 certified plans during the open enrollment period as
15 requested, and set up hotlines and other mechanisms
16 to assist consumers;

17 “(26) approve all advertising or other market-
18 ing materials from certified plans to ensure that
19 such materials do not contain misleading or false in-
20 formation, and that the content of the material does
21 not selectively encourage or selectively discourage
22 certain groups of individuals, as referred to in sec-
23 tion 2852, from enrolling in or disenrolling from the
24 plan (a State may elect to contract with nongovern-
25 ment entities to perform such functions);

1 “(27) ensure that decisions regarding the ap-
2 proval of the advertising or other marketing mate-
3 rials of a certified plan are made in a reasonable
4 time frame and are based on consistently applied cri-
5 teria as determined appropriate by the State;

6 “(28) establish a mechanism for consumer feed-
7 back, the collection of complaints, filing of griev-
8 ances, and assist in the resolution of complaints
9 against certified plans;

10 “(29) establish at least one alternative dispute
11 resolution mechanism for malpractice claims filed by
12 individuals enrolled in a certified plan;

13 “(30) address deficiencies in enabling services
14 to ensure access to health services among under-
15 served areas or populations;

16 “(31) ensure that primary care services are ac-
17 cessible by public transportation in municipalities
18 that have a public transport system;

19 “(32) for a period of not less than 5 years after
20 the date of the implementation of the State pro-
21 gram, ensure that health facilities that provide care
22 to large numbers of children, pregnant women, chil-
23 dren with special health care needs, or low income
24 persons, including—

25 “(A) non-investor-owned hospitals;

1 “(B) community health centers;

2 “(C) school-based health clinics;

3 “(D) rural health clinics; and

4 “(E) local health departments;

5 are able to participate fully in the State program,
6 are adequately reimbursed for their services, and are
7 able to enter into agreements with certified plans (in
8 cases where such providers are not affiliated with a
9 certified plan, the State may encourage such provid-
10 ers to form their own certified plan);

11 “(33) enter into agreements with bordering
12 States to ensure that individuals who need to travel
13 across State borders for medically necessary health
14 services that are otherwise not accessible may do so
15 without penalty;

16 “(34) if determined appropriate, elect to imple-
17 ment laws to take legal action against families who
18 fail to enroll their children or who fail to pay pre-
19 miums for children under their care who require
20 medical treatment for a health condition;

21 “(35) establish a system for preventing, mon-
22 itoring, and controlling fraud and abuse as required
23 under section 2846, and establish a system to pre-
24 vent and address any conflicts of interest on the
25 part of the State or its designated representatives

1 regarding the award, management, or evaluation of
2 contracts with certified plans; and

3 “(36) ensure that certified plans are in compli-
4 ance with State and Federal guidelines under this
5 title.

6 **“SEC. 2855. RESPONSIBILITIES OF THE SECRETARY.**

7 “With respect to the program established under this
8 title, the Secretary shall—

9 “(1) administer amounts provided to the Sec-
10 retary from the Trust Fund;

11 “(2) approve, evaluate, and monitor State pro-
12 grams as required under part D;

13 “(3) provide participating States with technical
14 and other assistance;

15 “(4) establish, appoint, and provide support for
16 the Advisory Council as required under section
17 2842;

18 “(5) establish and coordinate the national open
19 enrollment period as required under section 2815;

20 “(6) develop a specific comprehensive benefits
21 package required under part B;

22 “(7) develop national guidelines for quality as-
23 sessment and improvement programs and utilization
24 review programs as required under section 2843;

1 “(8) develop and implement the Information
2 System and the National Childhood Immunization
3 Database;

4 “(9) review, prioritize, integrate, and coordinate
5 Federally funded health programs for children and
6 pregnant women as required under section 2863;
7 and

8 “(10) in conjunction with the Attorney General,
9 establish a system for preventing, monitoring, and
10 controlling fraud and abuse as required under sec-
11 tion 2846.

12 **“SEC. 2856. RESPONSIBILITIES OF THE ATTORNEY GEN-**
13 **ERAL.**

14 “With respect to the program established under this
15 title, the Attorney General in conjunction with the Sec-
16 retary shall establish a system for preventing, monitoring,
17 and controlling fraud and abuse as required under section
18 2846.

19 **“SEC. 2857. RESPONSIBILITIES OF THE SECRETARY OF**
20 **AGRICULTURE.**

21 “With respect to the program established under this
22 title, the Secretary of Agriculture shall administer amount
23 distributed from the Tobacco Alternatives Trust Fund es-
24 tablished under section 9512 of the Internal Revenue Code
25 of 1986.”.

1 **SEC. 205. EXISTING PROGRAMS.**

2 Title XXVIII of the Public Health Service Act (as
3 added by section 201 and amended by sections 202, 203,
4 and 204) is further amended by adding at the end thereof
5 the following new part:

6 “PART G—IMPACT ON EMPLOYERS AND EXISTING
7 PROGRAMS

8 **“SEC. 2861. IMPACT ON EMPLOYERS.**

9 “(a) IN GENERAL.—The Congress encourages em-
10 ployers to provide, or continue to provide, comprehensive
11 health care coverage to the dependent children of their em-
12 ployees.

13 “(b) DROPPING OF COVERAGE.—

14 “(1) IN GENERAL.—With respect to a partici-
15 pating State, if the Secretary of Labor determines
16 that an employer who provided health care coverage
17 for the dependent children of the employees of the
18 employer, has terminated such coverage on or after
19 the date of enactment of this title, for all children
20 or children under 7 years of age, the Secretary may
21 impose a temporary annual maintenance of effort fee
22 on such employer, the proceeds of which shall be de-
23 posited into the Trust Fund. In no case may an em-
24 ployer drop coverage of employee-dependent children
25 until the date that is 180 days after the State fully
26 implements a State program. An employer may not

1 selectively drop health care coverage for specific em-
2 ployee-dependent children who have, or are expected
3 to have, higher than average utilization or health
4 care costs.

5 “(2) AMOUNT OF FEE.—The amount of a fee
6 assessed under paragraph (1) shall be equivalent to
7 50 percent of the estimated annual cost of providing
8 comprehensive coverage for all employee-dependent
9 children.

10 “(3) PERIOD OF FEE.—An annual fee imposed
11 under paragraph (1) shall be in effect for a period
12 not to exceed 5 years.

13 “(4) PREGNANCY COVERAGE.—Employers who
14 provide pregnancy-related health care benefits for
15 their employees and dependents shall continue to do
16 so after the date of enactment of this Act.

17 **“SEC. 2862. IMPACT ON MEDICAID.**

18 (a) AUTOMATIC ENROLLMENT.—With respect to a
19 participating State, children under 7 years of age, and
20 pregnant women, who are enrolled in the program under
21 title XIX of the Social Security Act shall be automatically
22 enrolled into the appropriate State program under this
23 title.

24 “(b) BENEFITS.—All health benefits provided under
25 title XIX of the Social Security Act, including long-term

1 and chronic care services for children with disabilities or
2 chronic health conditions, shall be received under the State
3 program under this title. A participating State may elect
4 not to shift long-term and chronic care services for chil-
5 dren with disabilities or chronic health conditions under
6 such title XIX into the State program under this title,
7 if the State can demonstrate that doing so would signifi-
8 cantly compromise the quality of care for such children.
9 A participating State that elects not to shift such long-
10 term and chronic care services into the State program
11 under this Act shall develop health care coordination plans
12 that integrate the various sources of health services for
13 such children in consultation with State maternal and
14 child health programs under title V of such Act. A partici-
15 pating State may elect to establish a transitional period
16 to gradually phase in children with disabilities or chronic
17 health condition benefits into the State program.

18 **“SEC. 2863. INTEGRATION OF HEALTH SERVICES AND IM-**
19 **PACT ON EXISTING FEDERAL AND STATE**
20 **GOVERNMENT HEALTH PROGRAMS.**

21 “(a) REVIEW BY SECRETARY AND STATES.—Not
22 later than 2 years after the date of enactment of this Act,
23 and every 2 years thereafter—

24 “(1) the Secretary, in consultation with the Ma-
25 ternal and Child Health Bureau, shall review all

1 Federal health programs that provide health services
2 to children under 7 years of age and pregnant
3 women; and

4 “(2) a participating State, acting through a
5 designated single State agency or other entity, and
6 in consultation with State health programs author-
7 ized under title V of the Social Security Act, shall
8 review State-funded programs that provide health
9 services to children under seven years of age and
10 pregnant women;

11 to ensure that such programs are integrated and coordi-
12 nated with the services covered by this title.

13 “(b) RECOMMENDATIONS.—If the Secretary, through
14 the review conducted under subsection (a), determines
15 that specific functions performed by Federal health pro-
16 grams under such review are duplicated or made extra-
17 neous by the programs and benefits provided under this
18 title, the Secretary shall submit recommendation to Con-
19 gress concerning the elimination or reduction in such pro-
20 grams or benefits. With respect to any amounts appro-
21 priated for any programs terminated, such remaining ap-
22 propriations shall be transferred to the Trust Fund.

23 “(c) ASSURANCE.—The Secretary and all participat-
24 ing States shall ensure that Federal payments under title
25 V of the Social Security Act and matching State funds

1 provided under this title are retained within existing pro-
 2 grams to—

3 “(1) meet the health care needs of children over
 4 7 years of age, and eligible children and pregnant
 5 women who do not participate in the State program
 6 under this title;

7 “(2) perform core public health functions;

8 “(3) coordinate care for children with special
 9 health care needs; and

10 “(4) otherwise to meet needs identified through
 11 title V needs assessments consistent with Healthy
 12 People 2000 objectives.

13 **SEC. 206. GENERAL PROVISIONS.**

14 Title XXVIII of the Public Health Service Act (as
 15 added by section 201 and amended by sections 202, 203,
 16 204, and 205) is further amended by adding at the end
 17 thereof the following new part:

18 “PART H—GENERAL PROVISIONS

19 **“SEC. 2871. DEFINITIONS.**

20 “Unless specifically provided otherwise, for purposes
 21 of this title:

22 “(1) **ADJUSTED FAMILY GROSS INCOME.**—The
 23 term ‘adjusted family gross income’ means the sum
 24 of all adjusted gross income of all family members
 25 of the child or pregnant women involved in the most

1 recent tax year. In the case of a pregnant woman,
2 such term also includes the adjusted gross income of
3 the pregnant woman.

4 “(2) ADVISORY COUNCIL.—The term ‘Advisory
5 Council’ means the National Advisory Council for
6 Mother’s and Children’s Health established under
7 section 2842.

8 “(3) CERTIFIED PLAN.—The term ‘certified
9 plan’ means the agreement entered into by an orga-
10 nized health care entity to cover or provide specified
11 health care services under State and Federal guide-
12 lines under this title. Organizations that may enter
13 into such agreement shall include health mainte-
14 nance organizations, preferred provider organiza-
15 tions, point-of-service plans, fee-for-service plans, in-
16 demnity insurance plans, hybrids of such plans, and
17 any other organized health care entities that fulfill
18 the requirements of this title.

19 “(4) CHILD.—

20 “(A) IN GENERAL.—The term ‘child’
21 means an individual who has not attained the
22 age of 21.

23 “(B) REFERENCES.—References in this
24 title to a child shall be construed to mean—

1 “(i) in the case of a State program
2 that does not have an expanded eligibility
3 component, an individual under 7 years of
4 age; and

5 “(ii) in the case of a State program
6 that offers an expanded eligibility compo-
7 nent, an individual under 21 years of age.

8 “(5) COMPREHENSIVE BENEFITS PACKAGE.—
9 The term ‘comprehensive benefits package’ means
10 either the benefits package for children or the bene-
11 fits package for pregnant women, as the case may
12 be, developed by the Secretary under section
13 2821(a).

14 “(6) CORE PUBLIC HEALTH FUNCTIONS.—The
15 term ‘core public health functions’ means the follow-
16 ing:

17 “(A) The collection and analysis of public
18 health-related data and the technical aspects of
19 developing and operating information systems.

20 “(B) Activities related to protecting the
21 environment and ensuring the safety of work-
22 places, food, and water.

23 “(C) Investigation and control of adverse
24 health conditions and exposures to individuals
25 and the community.

1 “(D) Information and education programs
2 to prevent adverse health conditions.

3 “(E) Accountability and health care qual-
4 ity improvement activities.

5 “(F) The provision of public health labora-
6 tory services.

7 “(G) Training for public health profes-
8 sionals.

9 “(H) Health care leadership, policy devel-
10 opment, coalition-building, and administrative
11 activities.

12 “(I) Integration and coordination of pre-
13 vention programs and services of health plans,
14 community-based providers, government health
15 agencies, and other government agencies that
16 affect health including education, labor, trans-
17 portation, welfare, criminal justice, environ-
18 ment, agriculture and housing.

19 “(J) Research on effective and cost-effec-
20 tive public health practices.

21 “(7) ENABLING SERVICES.—The term ‘enabling
22 services’ means community outreach, health edu-
23 cation, transportation, language translation, and
24 other services that facilitate or otherwise assist eligi-

1 ble individuals to receive health services provided
2 under this title.

3 “(8) FAMILY.—The term ‘family’ means a preg-
4 nant woman residing alone or a group of two or
5 more individuals who reside together in the same
6 housing unit. Such individuals may be related (such
7 as parent and child) or unrelated (such as guardian
8 and foster child) individuals. In the case of children
9 who do not reside with their parents, such term may
10 also include individuals (such as family friends) or
11 entities (such as government agencies) that have pri-
12 mary responsibility for the health and welfare of the
13 child.

14 “(9) INFORMATION SYSTEM.—The term ‘Infor-
15 mation System’ means the National Health Informa-
16 tion System for Mothers and Children established
17 under section 2844.

18 “(10) NATIONAL CHILDHOOD IMMUNIZATION
19 DATABASE.—The term ‘National Childhood Immuni-
20 zation Database’ means the electronic database es-
21 tablished under section 2845.

22 “(11) PARTICIPATING STATE.—The term ‘par-
23 ticipating State’ means any of the 50 States, the
24 District of Columbia, Puerto Rico, and any of the
25 trust territories of the United States, that elects to

1 participate in the program established under this
2 title.

3 “(12) POVERTY LEVEL.—The term ‘poverty
4 level’ the income official poverty line (as defined by
5 the Office of Management and Budget, and revised
6 annually in accordance with section 673(2) of the
7 Community Services Block Grant Act (42 U.S.C.
8 9902(2)) applicable to a family of the size involved.

9 “(13) TOBACCO ALTERNATIVES TRUST FUND.—
10 The term ‘Tobacco Alternatives Trust Fund’ means
11 the trust fund established under section 9512 of the
12 Internal Revenue Code of 1986.

13 “(14) TRUST FUND.—The term ‘Trust Fund’
14 means the National Health Trust Fund for Mothers
15 and Children established under section 9551 of the
16 Internal Revenue Code of 1986.

17 **“SEC. 2872. AUTHORIZATION OF APPROPRIATIONS.**

18 “(a) AVAILABILITY OF FUNDS FROM TRUST
19 FUND.—From the Trust Fund established under section
20 9551 of the Internal Revenue Code of 1986, there shall
21 be available such sums as may be necessary to carry out
22 this title in each fiscal year.

23 “(b) HHS ACTIVITIES.—With respect to the develop-
24 ment and implementation of programs and activities re-
25 quired to be carried out by the Secretary under this title,

1 there are authorized to be appropriate such sums as may
2 be necessary for each of the fiscal years 1998 through
3 2002.

4 “(c) JUSTICE ACTIVITIES.—With respect to the de-
5 velopment and implementation of programs and activities
6 required to be carried out by the Attorney General under
7 this title, there are authorized to be appropriate such sums
8 as may be necessary for each of the fiscal years 1998
9 through 2002.”.

10 **SEC. 207. UNLAWFUL USE OF TOBACCO PRODUCTS MANU-**
11 **FACTURED FOR EXPORT.**

12 (a) DEFINITIONS.—Section 2341 of title 18, United
13 States Code, is amended—

14 (1) in paragraph (4), by striking “; and” and
15 inserting a semicolon;

16 (2) by striking the period at the end of para-
17 graph (5) and inserting “; and”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(6) the term ‘tobacco products’ has the mean-
21 ing given such term in section 5702(c) of the Inter-
22 nal Revenue Code of 1986.”.

23 (b) UNLAWFUL ACTS.—Section 2342 of title 18,
24 United States Code, is amended by adding at the end the
25 following new subsection:

1 “(c) It shall be unlawful for any person knowingly
2 to purchase, sell, distribute, or smuggle into the United
3 States, tobacco products that are designated for consump-
4 tion beyond the territorial jurisdiction of the internal reve-
5 nue laws of the United States.”.

6 (c) PENALTY.—Section 2344 of title 18, United
7 States Code, is amended by adding at the end the follow-
8 ing new subsection:

9 “(d)(1) Whoever knowingly violates section 2342(c)
10 shall be fined the greater of—

11 “(A) \$10,000; or

12 “(B) an amount equal to 5 times the amount
13 of the tax imposed under section 5701 of the Inter-
14 nal Revenue Code of 1986,

15 which shall be deposited into the Fund created pursuant
16 to section 9512 of the Internal Revenue Code of 1986.

17 “(2) A judgment for a violation of section 2342(c),
18 may, in addition to the penalty under paragraph (1), order
19 the confiscation of any equipment and vehicles, including
20 ships, aircraft, and motor vehicles, used to transport to-
21 bacco products in violation of such section. Any property
22 confiscated under this paragraph shall become the prop-
23 erty of the United States.”.

**TITLE III—FINANCING
PROVISIONS**

SEC. 301. INCREASE IN TAXES ON TOBACCO PRODUCTS.

(a) ESTABLISHMENT OF INCREASE.—

(1) IN GENERAL.—Section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars, smokeless tobacco, pipe tobacco, and cigarette papers and tubes) is amended to read as follows:

“SEC. 5701. RATE OF TAX.

“(a) CIGARS.—On cigars manufactured in or imported into the United States and removed during 1998, there shall be imposed the following taxes:

“(1) SMALL CIGARS.—On cigars weighing not more than 3 pounds per thousand, \$76.1325 per thousand.

“(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, 92.4375 percent of the price for which sold but not more than \$217.50 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

“(b) CIGARETTES.—On cigarettes manufactured in or imported into the United States and removed during 1998, there shall be imposed the following taxes:

1 “(1) SMALL CIGARETTES.—On cigarettes,
2 weighing not more than 3 pounds per thousand, \$87
3 per thousand.

4 “(2) LARGE CIGARETTES.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), on cigarettes, weighing more
7 than 3 pounds per thousand, \$182.70 per thou-
8 sand.

9 “(B) LONG CIGARETTES.—In the case of
10 cigarettes weighing more than 3 pounds per
11 thousand that are more than 6½ inches in
12 length, such cigarettes shall be taxable at the
13 rate prescribed for cigarettes weighing not more
14 than 3 pounds per thousand, counting each 2¾
15 inches, or fraction thereof, of the length of each
16 as one cigarette.

17 “(c) CIGARETTE PAPERS.—On each book or set of
18 cigarette papers containing more than 25 papers, manu-
19 factured in or imported into the United States and re-
20 moved during 1998, there shall be imposed a tax of 5.445
21 cents for each 50 papers or fractional part thereof (except
22 that if cigarette papers measure more than 6½ inches,
23 such papers shall be taxable at the rate prescribed, count-
24 ing each 2¾ inches, or fraction thereof, of the length of
25 each as one cigarette paper).

1 “(d) CIGARETTE TUBES.—On cigarette tubes, manu-
2 factured in or imported into the United States and re-
3 moved during 1998, there shall be imposed a tax of 10.89
4 cents for each 50 tubes or fractional part thereof, except
5 that if cigarette tubes measure more than 6½ inches in
6 length, such tubes shall be taxable at the rate prescribed,
7 counting each 2¾ inches, or fraction thereof as the length
8 of each as one cigarette tube.

9 “(e) SMOKELESS TOBACCO.—On smokeless tobacco,
10 manufactured in or imported into the United States and
11 removed during 1998, there shall be imposed the following
12 taxes:

13 “(1) SNUFF.—On snuff, \$20.355 per pound
14 and a proportionate tax at the like rate on all frac-
15 tional parts of a pound.

16 “(2) CHEWING TOBACCO.—On chewing tobacco,
17 \$8.115 per pound and a proportionate tax at the
18 like rate on all fractional parts of a pound.

19 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-
20 tured in or imported into the United States and removed
21 during 1998, there shall be imposed a tax of \$25.6875
22 per pound and a proportionate tax at the like rate on all
23 fractional parts of a pound.

24 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
25 tobacco, manufactured in or imported into the United

1 States and removed during 1998, there shall be imposed
 2 a tax of \$26.025 per pound (and a proportionate tax at
 3 the like rate on all fractional parts of a pound).

4 “(h) DETERMINATION OF TAX IN YEARS AFTER
 5 1998.—On all tobacco products, cigarette papers, and cig-
 6 arette tubes removed after 1998, there shall be imposed
 7 a tax equal to the tax imposed on such product during
 8 1998 increased by an amount equal to—

9 “(1) such dollar amount, multiplied by

10 “(2) the cost of living adjustment determined
 11 under section 1(f)(3) for the calendar year in which
 12 the cigarettes are removed, by substituting ‘calendar
 13 year 1997’ for ‘calendar year 1992’ in subparagraph
 14 (B) thereof.

15 “(i) DETERMINATION OF FLOOR STOCKS TAX IN IN-
 16 CREASE YEARS.—

17 “(1) IN GENERAL.—On all tobacco products,
 18 cigarette papers, and cigarette tubes manufactured
 19 in or imported into the United States which are re-
 20 moved before January 1 of any increase year and
 21 held on such date for sale by any person, there shall
 22 be imposed a tax equal to the amount by which—

23 “(A) the applicable tax on such product
 24 determined under this section for such year, ex-
 25 ceeds

1 “(B) such applicable tax on such product
2 under this section for the preceding calendar
3 year.

4 “(2) LIABILITY FOR TAX AND METHOD OF PAY-
5 MENT.—

6 “(A) LIABILITY FOR TAX.—A person hold-
7 ing tobacco products, cigarette papers, and cig-
8 arette tubes on January 1 of any increase year
9 to which any tax imposed by paragraph (1) ap-
10 plies shall be liable for such tax.

11 “(B) METHOD OF PAYMENT.—The tax im-
12 posed by paragraph (1) or (2) shall be treated
13 as a tax imposed under subsection (a) through
14 (g) or subsection (h) of this section, as applica-
15 ble, and shall be due and payable on February
16 15 of each increase year in the same manner as
17 the tax imposed under such section is payable
18 with respect to tobacco products, cigarette pa-
19 pers, and cigarette tubes removed on or after
20 January 1 of such increase year.

21 “(3) EXCEPTION FOR RETAIL STOCKS.—The
22 taxes imposed by paragraph (1) shall not apply to
23 tobacco products, cigarette papers, and cigarette
24 tubes in retail stocks held on January 1 of any in-

1 crease year at the place where intended to be sold
2 at retail.

3 “(j) FOREIGN TRADE ZONES.—Notwithstanding the
4 Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other
5 provision of law—

6 “(1) tobacco products, cigarette papers, and
7 cigarette tubes—

8 “(A) on which taxes imposed by Federal
9 law are determined, or customs responsibilities
10 are liquidated, by a customs officer pursuant to
11 a request made under the first proviso of sec-
12 tion 3(a) of the Act of June 18, 1934 (19
13 U.S.C. 81c(a)) before January 1 of any in-
14 crease year, and

15 “(B) which are entered into the customs
16 territory of the United States on or after Janu-
17 ary 1 of such increase year from a foreign trade
18 zone, and

19 “(2) tobacco products, cigarette paper, and cig-
20 arette tubes which—

21 “(A) are placed under the supervision of a
22 customs officer pursuant to the provisions of
23 the second proviso of section 3(a) of the Act of
24 June 18, 1934 (19 U.S.C. 81c(a)) before Janu-
25 ary 1 of such increase year, and

1 (B) are entered into the customs territory
 2 of the United States on or after January 1 of
 3 such increase year, from a foreign trade zone,
 4 shall be subject to the tax imposed by subsection (i)
 5 and such tobacco products, cigarette papers, and
 6 cigarette tubes shall, for purposes of subsection (i),
 7 be treated as being held on January 1 of such in-
 8 crease year for sale.

9 “(k) IMPORTED PRODUCTS AND CIGARETTE PAPERS
 10 AND TUBES.—The taxes imposed by this section on to-
 11 bacco products and cigarette papers, and cigarette tubes
 12 imported into the United States shall be in addition to
 13 any import responsibilities imposed on such articles, un-
 14 less such import responsibilities are imposed in lieu of in-
 15 ternal revenue tax.

16 “(l) INCREASE YEAR.—For purposes of this section,
 17 the term ‘increase year’ means any calendar year after
 18 1998.”

19 (2) ROLL-YOUR-OWN TOBACCO.—Section 5702
 20 of such Code (relating to definitions) is amended by
 21 adding at the end the following new subsection:

22 “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-
 23 your-own tobacco’ means any tobacco which, because of
 24 its appearance, type, packaging, or labeling, is suitable for

1 use and likely to be offered to, or purchased by, consumers
2 as tobacco for making cigarettes.”

3 (3) TECHNICAL AMENDMENTS.—

4 (A) Subsection (c) of section 5702 of such
5 Code is amended by striking “and pipe to-
6 bacco” and inserting “pipe tobacco, and roll-
7 your-own tobacco”.

8 (B) Subsection (d) of section 5702 of such
9 Code is amended—

10 (i) in the material preceding para-
11 graph (1), by striking “or pipe tobacco”
12 and inserting “pipe tobacco, or roll-your-
13 own tobacco”, and

14 (ii) by striking paragraph (1) and in-
15 serting the following new paragraph:

16 “(1) a person who produces cigars, cigarettes,
17 smokeless tobacco, pipe tobacco, or roll-your-own to-
18 bacco solely for the person’s own personal consump-
19 tion or use, and”.

20 (C) The chapter heading for chapter 52 of
21 such Code is amended to read as follows:

22 **“CHAPTER 52—TOBACCO PRODUCTS AND**
23 **CIGARETTE PAPERS AND TUBES”.**

24 (D) The table of chapters for subtitle E of
25 such Code is amended by striking the item re-

1 lating to chapter 52 and inserting the following
2 new item:

 “CHAPTER 52. Tobacco products and cigarette papers and tubes.”

3 (4) EFFECTIVE DATE.—

4 (A) IN GENERAL.—The amendments made
5 by this section shall apply to tobacco products,
6 cigarette papers, and cigarette tubes removed
7 (as defined in section 5702 of the Internal Rev-
8 enue Code of 1986, as amended by this section)
9 after December 31, 1997.

10 (B) TRANSITIONAL RULE.—Any person
11 who—

12 (i) on the date of the enactment of
13 this Act is engaged in business as a manu-
14 facturer of roll-your-own tobacco or as an
15 importer of tobacco products or cigarette
16 papers and tubes, and

17 (ii) before January 1, 1998, submits
18 an application under subchapter B of
19 chapter 52 of such Code to engage in such
20 business,

21 may, notwithstanding such subchapter B, con-
22 tinue to engage in such business pending final
23 action on such application. Pending such final
24 action, all provisions of such chapter 52 shall
25 apply to such applicant in the same manner

1 and to the same extent as if such applicant
2 were a holder of a permit under such chapter
3 52 to engage in such business.

4 (b) SPECIAL RULES FOR 1998.—

5 (1) FLOOR STOCKS.—On tobacco products, cig-
6 arette papers, and cigarette tubes manufactured in
7 or imported into the United States which are re-
8 moved before January 1, 1998, and held on such
9 date for sale by any person, there shall be imposed
10 the following taxes:

11 (A) SMALL CIGARS.—On cigars, weighing
12 not more than 3 pounds per thousand,
13 \$75.0075 per thousand.

14 (B) LARGE CIGARS.—On cigars, weighing
15 more than 3 pounds per thousand, a tax equal
16 to 79.6875 percent of the price for which sold,
17 but not more than \$187.50 per thousand.

18 (C) SMALL CIGARETTES.—On cigarettes,
19 weighing not more than 3 pounds per thousand,
20 \$75 per thousand.

21 (D) LARGE CIGARETTES.—On cigarettes,
22 weighing more than 3 pounds per thousand,
23 \$157.50 per thousand; except that, if more than
24 6½ inches in length, they shall be taxable at
25 the rate prescribed for cigarettes weighing not

1 more than 3 pounds per thousand, counting
2 each $2\frac{3}{4}$ inches, or fraction thereof, of the
3 length of each as one cigarette.

4 (E) CIGARETTE PAPERS.—On cigarette pa-
5 pers, 4.695 cents for each 50 papers or frac-
6 tional part thereof; except that, if cigarette pa-
7 pers measure more than $6\frac{1}{2}$ inches in length,
8 they shall be taxable at the rate prescribed,
9 counting each $2\frac{3}{4}$ inches, or fraction thereof,
10 of the length of each as one cigarette paper.

11 (F) CIGARETTE TUBES.—On cigarette
12 tubes, 9.39 cents for each 50 tubes or fractional
13 part thereof; except that, if cigarette tubes
14 measure more than $6\frac{1}{2}$ inches in length, they
15 shall be taxable at the rate prescribed, counting
16 each $2\frac{3}{4}$ inches, or fraction thereof, of the
17 length of each as one cigarette tube.

18 (G) SNUFF.—On snuff, \$19.995 per pound
19 and a proportionate tax at the like rate on all
20 fractional parts of a pound.

21 (H) CHEWING TOBACCO.—On chewing to-
22 bacco, \$7.995 per pound and a proportionate
23 tax at the like rate on all fractional parts of a
24 pound.

1 (I) PIPE TOBACCO.—On pipe tobacco,
2 \$25.0125 per pound and a proportionate tax at
3 the like rate on all fractional parts of a pound.

4 (J) ROLL-YOUR-OWN TOBACCO.—On roll-
5 your-own tobacco, \$26.025 per pound and a
6 proportionate tax at the like rate on all frac-
7 tional parts of a pound.

8 (2) FOREIGN TRADE ZONES.—Notwithstanding
9 the Act of June 18, 1934 (19 U.S.C. 81a et seq.)
10 or any other provision of law—

11 (A) tobacco products, cigarette papers, and
12 cigarette tubes—

13 (i) on which taxes imposed by Federal
14 law are determined, or customs responsibil-
15 ities are liquidated, by a customs officer
16 pursuant to a request made under the first
17 proviso of section 3(a) of the Act of June
18 18, 1934 (19 U.S.C. 81c(a)) before Janu-
19 ary 1, 1998, and

20 (ii) which are entered into the cus-
21 toms territory of the United States on or
22 after January 1, 1998 from a foreign trade
23 zone, and

24 (B) tobacco products, cigarette papers, and
25 cigarette tubes which—

1 (i) are placed under the supervision of
 2 a customs officer pursuant to the provi-
 3 sions of the second proviso of section 3(a)
 4 of the Act of June 18, 1934 (19 U.S.C.
 5 81c(a)) before January 1, 1998, and

6 (ii) are entered into the customs terri-
 7 tory of the United States on or after Janu-
 8 ary 1 of such increase year, from a foreign
 9 trade zone,

10 shall be subject to the tax imposed by para-
 11 graph (1) and such tobacco products, cigarette
 12 papers, and cigarette tubes shall, for purposes
 13 of paragraph (1) be treated as being held on
 14 January 1, 1998 for sale.

15 (3) CIGARS, CIGARETTES, CIGARETTE PAPER,
 16 CIGARETTE TUBES, SNUFF, CHEWING TOBACCO,
 17 PIPE TOBACCO, ROLL-YOUR-OWN TOBACCO, AND TO-
 18 BACCO PRODUCTS.—For purposes of this subsection,
 19 the terms “cigar”, “cigarette”, “cigarette paper”,
 20 “cigarette tubes”, “snuff”, “chewing tobacco”, “pipe
 21 tobacco”, “roll-your-own tobacco”, and “tobacco
 22 products” shall have the meaning given to such
 23 terms by subsections (a), (b), (e), and (g), para-
 24 graphs (2) and (3) of subsection (n), subsection (o),

1 subsection (p), and subsection (c) of section 5702 of
2 the Internal Revenue Code of 1986, respectively.

3 **SEC. 302. ASSISTANCE TO STATES ADVERSELY AFFECTED**
4 **BY THE TOBACCO TAX.**

5 (a) ESTABLISHMENT OF TRUST FUND.—

6 (1) IN GENERAL.—Subchapter A of chapter 98
7 of the Internal Revenue Code of 1986 (relating to
8 trust fund code) is amended by adding at the end
9 the following new section:

10 **“SEC. 9512. TOBACCO ALTERNATIVES TRUST FUND.**

11 “(a) CREATION OF TRUST FUND.—There is estab-
12 lished in the Treasury of the United States a trust fund
13 to be known as the ‘Tobacco Alternatives Trust Fund’
14 (hereafter referred to in this section as the ‘Trust Fund’),
15 consisting of such amounts as may be appropriated or
16 credited to the Trust Fund as provided in this section or
17 section 9602(b).

18 “(b) TRANSFERS TO TRUST FUND.—The Secretary
19 shall transfer to the Trust Fund an amount equivalent
20 to 2 percent of the net increase in revenues received in
21 the Treasury attributable to the amendments made to sec-
22 tion 5701 by subsections (b) and (c) of section 301 and
23 the provisions contained in section 301(d) of the Healthy
24 Mothers, Healthy Children Act of 1997, as estimated by
25 the Secretary.

1 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

2 “(1) IN GENERAL.—Amounts in the Trust
3 Fund shall be available to the Secretary of Agri-
4 culture, as provided by appropriation Acts, for mak-
5 ing grants to States that have submitted an applica-
6 tion in accordance with paragraph (2) for the pur-
7 poses of—

8 “(A) making direct payments to tobacco
9 farmers and workers,

10 “(B) providing assistance to farmers in
11 converting from tobacco to other crops and im-
12 proving the access of such farmers to markets
13 for other crops,

14 “(C) providing infrastructure and business-
15 related financing in areas with significant num-
16 bers of tobacco-related jobs,

17 “(D) providing job training for tobacco
18 farmers and workers, and

19 “(E) establishing other economic develop-
20 ment projects (upon approval of the Secretary
21 of Agriculture) in areas with significant num-
22 bers of tobacco-related jobs.

23 “(2) APPLICATION.—Each State desiring to re-
24 ceive a grant under this subsection shall submit an

1 application to the Secretary of Agriculture describ-
2 ing—

3 “(A) the economic impact of the increase
4 in the rate of tax attributable to the amend-
5 ments made to section 5701 by subsections (b)
6 and (c) of section 301 and the provisions con-
7 tained in section 301(d) of the Healthy Moth-
8 ers, Healthy Children Act of 1997,

9 “(B) the State’s 5-year goals with regard
10 to minimizing such economic impact, and

11 “(C) the State’s proposal for the use of the
12 grant funds.

13 “(3) ALLOCATION FORMULA.—The Secretary of
14 Agriculture shall develop a formula for allocating
15 grant funds under this section that shall take into
16 account the number of farmers and workers affected
17 by the increase in the rate of tax described in para-
18 graph (2)(A) in a State and the severity of the eco-
19 nomic impact in the State.

20 “(4) ANNUAL REPORTS.—Each State that has
21 received a grant under this subsection shall submit
22 an annual report to the Secretary of Agriculture de-
23 scribing—

1 “(A) the economic impact of the increase
2 in the rate of tax described in paragraph
3 (2)(A),

4 “(B) an evaluation of the State’s activities
5 using grant amounts in the previous year, and

6 “(C) an improvement plan for the follow-
7 ing year.

8 “(5) TERMINATION.—The authority provided by
9 this section shall terminate on December 31, 2002.”

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for such subchapter A is amended by adding
12 at the end the following new item:

 “Sec. 9512. Tobacco Alternatives Trust Fund.”

13 **SEC. 303. DESIGNATION OF OVERPAYMENTS AND CON-**
14 **TRIBUTIONS FOR THE NATIONAL HEALTH**
15 **TRUST FUND FOR MOTHERS AND CHILDREN.**

16 (a) DESIGNATION OF OVERPAYMENTS AND CON-
17 TRIBUTIONS FOR THE NATIONAL HEALTH TRUST FUND
18 FOR MOTHERS AND CHILDREN.—

19 (1) IN GENERAL.—Subchapter A of chapter 61
20 of the Internal Revenue Code of 1986 (relating to
21 returns and records) is amended by adding at the
22 end the following new part:

1 **“PART IX—DESIGNATION OF OVERPAYMENTS**
2 **AND CONTRIBUTIONS FOR THE NATIONAL**
3 **HEALTH TRUST FUND FOR MOTHERS AND**
4 **CHILDREN**

“Sec. 6097. Amounts for the National Health Trust Fund for Mothers and Children.

5 **“SEC. 6097. AMOUNTS FOR THE NATIONAL HEALTH TRUST**
6 **FUND FOR MOTHERS AND CHILDREN.**

7 “(a) IN GENERAL.—Every individual (other than a
8 nonresident alien) may designate that—

9 “(1) a portion (not less than \$1) of any over-
10 payment of the tax imposed by chapter 1 for the
11 taxable year, and

12 “(2) a cash contribution (not less than \$1),
13 be paid over to the National Health Trust Fund for Mothers
14 and Children. In the case of a joint return of a husband
15 and wife, each spouse may designate one-half of any
16 such overpayment of tax (not less than \$2).

17 “(b) MANNER AND TIME OF DESIGNATION.—Any
18 designation under subsection (a) may be made with respect
19 to any taxable year only at the time of filing the
20 original return of the tax imposed by chapter 1 for such
21 taxable year. Such designation shall be made either on the
22 1st page of the return or on the page bearing the taxpayer’s
23 signature.

1 “(c) OVERPAYMENTS TREATED AS REFUNDED.—For
 2 purposes of this section, any overpayment of tax des-
 3 ignated under subsection (a) shall be treated as being re-
 4 funded to the taxpayer as of the last day prescribed for
 5 filing the return of tax imposed by chapter 1 (determined
 6 with regard to extensions) or, if later, the date the return
 7 is filed.

8 “(d) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—
 9 No amount designated pursuant to subsection (a) shall be
 10 allowed as a deduction under section 170 or any other sec-
 11 tion for any taxable year.

12 “(e) TERMINATION.—This section shall not apply to
 13 taxable years beginning in a calendar year after a deter-
 14 mination by the Secretary that the sum of all designations
 15 under subsection (a) for taxable years beginning in the
 16 second year preceding the calendar year is less than
 17 \$5,000,000.”.

18 (b) CLERICAL AMENDMENT.—The table of parts for
 19 subchapter A of chapter 61 of such Code is amended by
 20 adding at the end the following new item:

“Part IX. Designation of overpayments and contributions for the
 National Health Trust Fund for Mothers and Chil-
 dren.”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning with

- 1 the first calendar year beginning after the date of enact-
- 2 ment of this Act.

