

109TH CONGRESS
1ST SESSION

H. R. 1668

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2005

Mr. WAXMAN (for himself, Mr. PALLONE, Mr. DINGELL, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. MARKEY, Mrs. CAPPES, Mr. CONYERS, Mr. RUSH, Mr. DOGGETT, Ms. SCHAKOWSKY, Mr. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. SCHWARTZ of Pennsylvania, Mr. GENE GREEN of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and 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 titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes.

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

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

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

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

See. 1. Short title; table of contents.
 Sec. 2. Findings.

**TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER
 MEDICAID AND SCHIP**

Sec. 101. State option to receive 100 percent FMAP for medical assistance for children in poverty in exchange for expanded coverage of children in working poor families under medicaid or SCHIP.
 Sec. 102. Elimination of cap on SCHIP funding for States that expand eligibility for children.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

Sec. 201. State option to provide wrap-around SCHIP coverage to children who have other health coverage.
 Sec. 202. State option to enroll low-income children of State employees in SCHIP.
 Sec. 203. Optional coverage of legal immigrant children under medicaid and SCHIP.
 Sec. 204. State option for passive renewal of eligibility for children under medicaid and SCHIP.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

Sec. 301. Refundable credit for health insurance coverage of children.
 Sec. 302. Forfeiture of personal exemption for any child not covered by health insurance.

TITLE IV—MISCELLANEOUS

Sec. 401. Requirement for group market health insurers to offer dependent coverage option for workers with children.
 Sec. 402. Effective date.

3 SEC. 2. FINDINGS.

4 Congress makes the following findings:

5 (1) NEED FOR UNIVERSAL COVERAGE.—

6 (A) Currently, there are 9,000,000 children under the age of 19 that are uninsured.
 7 One out of every 8 children are uninsured while
 8 1 in 5 Hispanic children and 1 in 7 African

1 American children are uninsured. Three-quarters,
2 approximately 6,800,000, of these children
3 are eligible but not enrolled in the medicaid
4 program or the State children's health insur-
5 ance program (SCHIP). Long-range studies
6 found that 1 in 3 children went without health
7 insurance for all or part of 2002 and 2003.

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

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

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

1 uninsured children is 14.3 percent while the
2 West has an uninsured rate of 13 percent.

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

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

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

(H) Chronic illness and disability among children are on the rise. Children most at risk for chronic illness and disability are children who are most likely to be poor and uninsured.

5 (2) ROLE OF THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.—
6

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

19 (B) In 2003, 25,000,000 children were en-
20 rolled in the medicaid program, accounting for
21 $\frac{1}{2}$ of all enrollees and only 19 percent of total
22 program costs.

23 (C) The medicaid program and SCHIP do
24 more than just fill in the gaps. Gains in public
25 coverage have reduced the percentage of low-in-

1 come uninsured by one-third from 1997 to
2 2003. In addition, a recent study found that
3 publicly-insured children are more likely to ob-
4 tain medical care, preventive care and dental
5 care than similar low-income privately-insured
6 children.

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

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

20 (F) Despite the success of expansions in
21 general under the medicaid program and
22 SCHIP, due to current budget constraints,
23 many States have stopped doing aggressive out-
24 reach and have raised premiums and cost-shar-
25 ing requirements on families under these pro-

grams. In addition, 8 States stopped enrollment in SCHIP for a period of time between April 2003 and July 2004. As a result, SCHIP enrollment fell by 200,000 children for the first time in the program's history.

(G) It is estimated that nearly 50 percent of children covered through SCHIP do not remain in the program due to reenrollment barriers. A recent study found that between 10 and 40 percent of these children are “lost” in the system. Difficult renewal policies and reenrollment barriers make seamless coverage in SCHIP unattainable. Studies indicate that as many as 67 percent of children who were eligible but not enrolled for SCHIP had applied for coverage but were denied due to procedural issues.

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

1 caps on enrollment in SCHIP because of under-
2 funding, also are clear.

3 **TITLE I—EXPANDED COVERAGE
4 OF CHILDREN UNDER MED-
5 ICAID AND SCHIP**

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

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

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

20 “SEC. 1936. (a) 100 PERCENT FMAP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 responsibility and Work Opportunity Reconcili-
2 ation Act of 1996) and who are otherwise eligi-
3 ble for such assistance in accordance with sec-
4 tion 1903(v)(4) and 2107(e)(1)(E); and

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

9 “(c) REMOVAL OF ENROLLMENT AND ACCESS BAR-
10 RIERS.—The condition described in this subsection is that
11 the State agrees to do the following:

12 “(1) PRESUMPTIVE ELIGIBILITY FOR CHIL-
13 DREN.—The State agrees to—

14 “(A) provide presumptive eligibility for
15 children under this title and title XXI in ac-
16 cordance with section 1920A; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(8) ADEQUATE PROVIDER PAYMENT RATES.—

2 The State agrees to—

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

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

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

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

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

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

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

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

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

16 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) in paragraph (1)(C), by inserting “, subject
10 to paragraph (5),” after “under title XIX or”; and
11 (2) by adding at the end the following new
12 paragraph:

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

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

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

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

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

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

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

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

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

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

1 (c) APPLICATION OF SECONDARY PAYOR PROVI-
2 SIONS.—Section 2107(e)(1) of such Act (42 U.S.C.
3 1397gg(e)(1)) is amended—

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

7 (2) by inserting after subparagraph (A) the fol-
8 lowing new subparagraph:

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

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

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

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

20 (2) by striking “Such term” and inserting the
21 following:

22 “(A) IN GENERAL.—Such term”; and

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

24 “(B) STATE OPTION TO ENROLL LOW-IN-
25 COME CHILDREN OF STATE EMPLOYEES.—At

1 the option of a State, subparagraph (A)(ii) shall
2 not apply to any low-income child who would
3 otherwise be eligible for child health assistance
4 under this title but for such subparagraph.”.

5 **SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT**
6 **CHILDREN UNDER MEDICAID AND SCHIP.**

7 (a) MEDICAID PROGRAM.—Section 1903(v) of the
8 Social Security Act (42 U.S.C. 1396b(v)) is amended—
9 (1) in paragraph (1), by striking “paragraph
10 (2)” and inserting “paragraphs (2) and (4)”; and
11 (2) by adding at the end the following:

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

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

23 “(B)(i) In the case of a State that has elected to pro-
24 vide medical assistance to a category of aliens under sub-
25 paragraph (A), no debt shall accrue under an affidavit of

1 support against any sponsor of such an alien on the basis
2 of provision of assistance to such category and the cost
3 of such assistance shall not be considered as an unreim-
4 bursed cost.

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

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

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

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

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

23 “(5) Notwithstanding any other provision of this title,
24 a State may provide that an individual who has not at-
25 tained 21 years of age who has been determined eligible

1 for medical assistance under this title shall remain eligible
2 for medical assistance until such time as the State has
3 information demonstrating that the individual is no longer
4 so eligible.”.

5 (b) APPLICATION UNDER TITLE XXI.—Section
6 2107(e)(1) of the Social Security Act (42 U.S.C.
7 1397gg(e)) is amended—

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

11 (2) by inserting after subparagraph (A), the fol-
12 lowing:

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

15 **TITLE III—TAX INCENTIVES FOR**
16 **HEALTH INSURANCE COV-**
17 **ERAGE OF CHILDREN**

18 **SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
19 **COVERAGE OF CHILDREN.**

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

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

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this subtitle an amount equal to so much of the amount
5 paid during the taxable year, not compensated for by in-
6 surance or otherwise, for qualified health insurance for
7 each dependent child of the taxpayer, as exceeds 5 percent
8 of the adjusted gross income of such taxpayer for such
9 taxable year.

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

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

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

25 “(A) paragraph (1)(C) thereof, and

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

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

8 “(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAV-
9 INGS ACCOUNT CONTRIBUTIONS.—

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

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

23 “(e) SPECIAL RULES.—

24 “(1) DETERMINATION OF INSURANCE COSTS.—
25 The Secretary shall provide rules for the allocation

1 of the cost of any qualified health insurance for fam-
2 ily coverage to the coverage of any dependent child
3 under such insurance.

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

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

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

24 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
25 shall be allowed under subsection (a) if the credit

1 under section 35 is allowed and no credit shall be al-
2 lowed under 35 if a credit is allowed under this sec-
3 tion.

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

8 (b) INFORMATION REPORTING.—

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

15 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
16 **QUALIFIED HEALTH INSURANCE.**

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

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

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

5 “(2) contains—

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

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

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

16 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
17 poses of this section, the term ‘creditable health insurance’
18 means qualified health insurance (as defined in section
19 36(c)).

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

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

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

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

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

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

21 (2) ASSESSABLE PENALTIES.—

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

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

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

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

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

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

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

20 (c) CONFORMING AMENDMENTS.—

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

24 (2) The table of sections for subpart C of part
25 IV of subchapter A of chapter 1 of the Internal Rev-

1 enue Code of 1986 is amended by striking the last
2 item and inserting the following new items:

“36. Health insurance coverage of children.
“37. Overpayments of tax.”.

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

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

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

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

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this paragraph, the exemption
18 amount otherwise determined under this sub-
19 section for any dependent child (as defined in
20 section 36(b)) for any taxable year shall be re-
21 duced by the same percentage as the percentage
22 of such taxable year during which such depend-
23 ent child was not covered by qualified health in-
24 surance (as defined in section 36(c)).

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

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

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

18 **TITLE IV—MISCELLANEOUS**

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

22 (a) ERISA.—

23 (1) IN GENERAL.—Subpart B of part 7 of sub-
24 title B of title I of the Employee Retirement Income

1 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
2 amended by adding at the end the following:

3 **SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE**
4 **DEPENDENT COVERAGE FOR CHILDREN.**

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

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

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

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

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

23 (b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of
24 part A of title XXVII of the Public Health Service Act

1 (42 U.S.C. 300gg-4 et seq.) is amended by adding at the
2 end the following:

3 **SEC. 2707. REQUIREMENT TO OFFER OPTION TO PUR-**
4 **CHASE DEPENDENT COVERAGE FOR CHIL-**
5 **DREN.**

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

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

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

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

22 **SEC. 402. EFFECTIVE DATE.**

23 Unless otherwise provided, the amendments made by
24 this Act shall take effect on October 1, 2005, and shall
25 apply to child health assistance and medical assistance

- 1 provided on or after that date without regard to whether
- 2 or not final regulations to carry out such amendments
- 3 have been promulgated by such date.

○