

110TH CONGRESS
1ST SESSION

S. 95

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 SENATE OF THE UNITED STATES

JANUARY 4, 2007

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

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Kids Come First Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID
AND SCHIP

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

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

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE
EXPANSIONS

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

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

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

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

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE
COVERAGE OF CHILDREN

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

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

TITLE IV—MISCELLANEOUS

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

Sec. 402. Effective date.

TITLE V—REVENUE PROVISION

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

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) NEED FOR UNIVERSAL COVERAGE.—

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

6 One out of every 8 children are uninsured while

7 1 in 5 Hispanic children and 1 in 7 African

8 American children are uninsured. Three-quar-

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

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

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

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

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

1 (E) Children’s health care needs are ne-
2 glected in the United States. One out of every
3 5 children has problems accessing needed care
4 and one-quarter of young children in the United
5 States are not fully up to date on their basic
6 immunizations. One-third of children with
7 chronic asthma do not get a prescription for the
8 necessary medications to manage the disease
9 and 1 out of every 4 children do not receive an-
10 nual dental exams.

11 (F) Children without health insurance are
12 twice as likely as insured children to not receive
13 any medical care in a given year. According to
14 the Centers for Disease Control and Prevention,
15 nearly 1/2 of all uninsured children have not had
16 a well-child visit in the past year. One in 6 un-
17 insured children had a delayed or unmet med-
18 ical need in the past year. Minority children are
19 less likely to receive proven treatments such as
20 prescription medications to treat chronic dis-
21 ease.

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

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

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

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 between 2000 and
16 2005, the number of uninsured children fell due
17 to the Medicaid program and SCHIP.

18 (B) 28,000,000 children are enrolled today
19 in the Medicaid program, accounting for $\frac{1}{2}$ of
20 all enrollees and only 18 percent of total pro-
21 gram costs.

22 (C) The Medicaid program and SCHIP do
23 more than just fill in the gaps. Gains in public
24 coverage have reduced the percentage of low-in-
25 come uninsured children by $\frac{1}{3}$ from 1997 to

1 2005. In addition, a study found that publicly-
2 insured children are more likely to obtain med-
3 ical care, preventive care, and dental care than
4 similar low-income privately-insured children.

5 (D) Publicly funded programs such as the
6 Medicaid program and SCHIP actually improve
7 children's health. Children who are currently in-
8 sured by public programs are in better health
9 than they were a year ago. Expansion of cov-
10 erage for children and pregnant women under
11 the Medicaid program and SCHIP reduces
12 rates of avoidable hospitalizations by 22 percent
13 and has been proven to reduce childhood
14 deaths, infant mortality rates, and the incidence
15 of low birth weight.

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

1 grams. In addition, 8 States stopped enrollment
2 in SCHIP for a period of time between April
3 2003 and July 2004. As a result, SCHIP en-
4 rollment fell by 200,000 children for the first
5 time in the program's history.

6 (G) It is estimated that nearly 50 percent
7 of children covered through SCHIP do not re-
8 main in the program due to reenrollment bar-
9 riers. A recent study found that between 10 and
10 40 percent of these children are "lost" in the
11 system. Difficult renewal policies and reenroll-
12 ment barriers make seamless coverage in
13 SCHIP unattainable. Studies indicate that as
14 many as 67 percent of children who were eligi-
15 ble but not enrolled for SCHIP had applied for
16 coverage but were denied due to procedural
17 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 1939 as section 1940, and by inserting after sec-
 14 tion 1938 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. 1939. (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 2007’ 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, 2007,
 3 provides medical assistance under this title or
 4 child health assistance under title XXI to chil-
 5 dren whose family income is 300 percent of the
 6 poverty line shall be deemed to satisfy this
 7 paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(8) ADEQUATE PROVIDER PAYMENT RATES.—

2 The State agrees to—

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

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

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

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

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

1 bility income, resources, and methodologies applied
 2 with respect to children under this title (including
 3 under such a waiver) as of January 1, 2007.

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 (e) of section 1939, in the case of a
 23 State that has, in accordance with such section, an
 24 approved plan amendment under this title and title
 25 XXI”.

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

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

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

7 “(D) who would not receive such medical assist-
8 ance but for State electing the option under section
9 1939 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 1939, 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 1939(e).

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 1939(e), 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 “and section
 14 2105(h)” after “subsection (d)”;

15 (2) in subsection (b)(1), by striking “and sub-
 16 section (d)” and inserting “, subsection (d), and sec-
 17 tion 2105(h)”;

18 (3) in subsection (c)(1), by inserting “and sec-
 19 tion 2105(h)” after “subsection (d)”.

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

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

“(C) CONTINUED APPLICATION OF DUTY TO PREVENT SUBSTITUTION OF EXISTING COVERAGE.—Nothing in this paragraph shall be construed as modifying the application of section 2102(b)(3)(C) to a State.”.

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

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

(2) in subsection (u), by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

“(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and 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—

15 “(i) who are lawfully residing in the United
 16 States (including battered aliens described in section
 17 431(c) of the Personal Responsibility and Work Op-
 18 portunity Reconciliation Act of 1996); and

19 “(ii) who are otherwise eligible for such assist-
 20 ance, within the eligibility category of children (as
 21 defined under such plan), including optional targeted
 22 low-income children described in section
 23 1905(u)(2)(B).

24 “(B)(i) In the case of a State that has elected to pro-
 25 vide medical assistance to a category of aliens under sub-

1 paragraph (A), no debt shall accrue under an affidavit of
 2 support against any sponsor of such an alien on the basis
 3 of provision of assistance to such category and the cost
 4 of such assistance shall not be considered as an unreim-
 5 bursed cost.

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

10 (b) TITLE XXI.—Section 2107(e)(1) of the Social
 11 Security Act (42 U.S.C. 1397gg(e)(1)), as amended by
 12 section 201(c), is amended redesignating subparagraph
 13 (E) as subparagraph (F) and by inserting after subpara-
 14 graph (D) the following:

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

20 **SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF ELIGI-**
 21 **BILITY FOR CHILDREN UNDER MEDICAID**
 22 **AND SCHIP.**

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

1 “(5) Notwithstanding any other provision of this title,
 2 a State may provide that an individual who has not at-
 3 tained 21 years of age who has been determined eligible
 4 for medical assistance under this title shall remain eligible
 5 for medical assistance until such time as the State has
 6 information demonstrating that the individual is no longer
 7 so eligible.”.

8 (b) APPLICATION UNDER TITLE XXI.—Section
 9 2107(e)(1) of the Social Security Act (42 U.S.C.
 10 1397gg(e)), as amended by section 201(c) and 203(b), is
 11 amended—

12 (1) by redesignating subparagraphs (C) through
 13 (F) as subparagraphs (D) through (G), respectively;
 14 and

15 (2) by inserting after subparagraph (B), the
 16 following:

17 “(C) Section 1902(l)(5) (relating to pas-
 18 sive renewal of eligibility for children).”.

19 **TITLE III—TAX INCENTIVES FOR**
 20 **HEALTH INSURANCE COV-**
 21 **ERAGE OF CHILDREN**

22 **SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
 23 **COVERAGE OF CHILDREN.**

24 (a) IN GENERAL.—Subpart C of part IV of sub-
 25 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by redес-
 2 ignating section 36 as section 37 and by inserting after
 3 section 35 the following new section:

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

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

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

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

22 “(1) IN GENERAL.—The term ‘qualified health
 23 insurance’ means insurance, either employer-pro-
 24 vided or made available under title XIX or XXI of
 25 the Social Security Act, which constitutes medical

1 care as defined in section 213(d) without regard
2 to—

3 “(A) paragraph (1)(C) thereof, and

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

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

11 “(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAV-
12 INGS ACCOUNT CONTRIBUTIONS.—

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

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

1 “(e) SPECIAL RULES.—

2 “(1) DETERMINATION OF INSURANCE COSTS.—

3 The Secretary shall provide rules for the allocation
4 of the cost of any qualified health insurance for fam-
5 ily coverage to the coverage of any dependent child
6 under such insurance.

7 “(2) COORDINATION WITH DEDUCTION FOR

8 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-

9 DIVIDUALS.—In the case of a taxpayer who is eligi-
10 ble to deduct any amount under section 162(l) for
11 the taxable year, this section shall apply only if the
12 taxpayer elects not to claim any amount as a deduc-
13 tion under such section for such year.

14 “(3) COORDINATION WITH MEDICAL EXPENSE

15 AND HIGH DEDUCTIBLE HEALTH PLAN DEDUC-

16 TIONS.—The amount which would (but for this
17 paragraph) be taken into account by the taxpayer
18 under section 213 or 223 for the taxable year shall
19 be reduced by the credit (if any) allowed by this sec-
20 tion to the taxpayer for such year.

21 “(4) DENIAL OF CREDIT TO DEPENDENTS.—No

22 credit shall be allowed under this section to any indi-
23 vidual with respect to whom a deduction under sec-
24 tion 151 is allowable to another taxpayer for a tax-

1 able year beginning in the calendar year in which
2 such individual's taxable year begins.

3 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
4 shall be allowed under subsection (a) if the credit
5 under section 35 is allowed and no credit shall be al-
6 lowed under 35 if a credit is allowed under this sec-
7 tion.

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

12 (b) INFORMATION REPORTING.—

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

19 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS FOR**
20 **QUALIFIED HEALTH INSURANCE.**

21 “(a) IN GENERAL.—Any governmental unit or any
22 person who, in connection with a trade or business con-
23 ducted by such person, receives payments during any cal-
24 endar year from any individual for coverage of a depend-
25 ent child (as defined in section 36(b)) of such individual

1 under creditable health insurance, shall make the return
 2 described in subsection (b) (at such time as the Secretary
 3 may by regulations prescribe) with respect to each indi-
 4 vidual from whom such payments were received.

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

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

9 “(2) contains—

10 “(A) the name, address, and TIN of the
 11 individual from whom payments described in
 12 subsection (a) were received,

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

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

20 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
 21 poses of this section, the term ‘creditable health insurance’
 22 means qualified health insurance (as defined in section
 23 36(c)).

24 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
 25 UALS WITH RESPECT TO WHOM INFORMATION IS RE-

1 QUIRED.—Every person required to make a return under
 2 subsection (a) shall furnish to each individual whose name
 3 is required under subsection (b)(2)(A) to be set forth in
 4 such return a written statement showing—

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

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

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

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

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

25 (2) ASSESSABLE PENALTIES.—

1 (A) Subparagraph (B) of section
 2 6724(d)(1) of such Code (relating to defini-
 3 tions) is amended by striking “and” at the end
 4 of clause (xx) and by inserting at the end the
 5 following new clause:

6 “(xxi) section 6050W (relating to re-
 7 turns relating to payments for qualified
 8 health insurance), and”.

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

15 “(DD) section 6050W(d) (relating to re-
 16 turns relating to payments for qualified health
 17 insurance).”.

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

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

23 (c) CONFORMING AMENDMENTS.—

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

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

“Sec. 36. Health insurance coverage of children.

“Sec. 37. Overpayments of tax”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 2006.

11 **SEC. 302. FORFEITURE OF PERSONAL EXEMPTION FOR ANY**
 12 **CHILD NOT COVERED BY HEALTH INSUR-**
 13 **ANCE.**

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

18 “(5) **REDUCTION OF EXEMPTION AMOUNT FOR**
 19 **ANY CHILD NOT COVERED BY HEALTH INSUR-**
 20 **ANCE.**—

21 “(A) **IN GENERAL.**—Except as otherwise
 22 provided in this paragraph, the exemption
 23 amount otherwise determined under this sub-
 24 section for any dependent child (as defined in

1 section 36(b)) for any taxable year shall be re-
 2 duced by the same percentage as the percentage
 3 of such taxable year during which such depend-
 4 ent child was not covered by qualified health in-
 5 surance (as defined in section 36(c)).

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

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

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 2006.

1 **TITLE IV—MISCELLANEOUS**

2 **SEC. 401. REQUIREMENT FOR GROUP MARKET HEALTH IN-**
 3 **SURERS TO OFFER DEPENDENT COVERAGE**
 4 **OPTION FOR WORKERS WITH CHILDREN.**

5 (a) ERISA.—

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

10 **“SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE**
 11 **DEPENDENT COVERAGE FOR CHILDREN.**

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

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

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

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

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

6 (b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of
 7 part A of title XXVII of the Public Health Service Act
 8 (42 U.S.C. 300gg–4 et seq.) is amended by adding at the
 9 end the following:

10 **“SEC. 2707. REQUIREMENT TO OFFER OPTION TO PUR-**
 11 **CHASE DEPENDENT COVERAGE FOR CHIL-**
 12 **DREN.**

13 “(a) REQUIREMENTS FOR COVERAGE.—A group
 14 health plan, and a health insurance issuer providing health
 15 insurance coverage in connection with a group health plan,
 16 shall offer an individual who is enrolled in such coverage
 17 the option to purchase dependent coverage for a child of
 18 the individual.

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

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

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply with respect to plan years begin-
 6 ning on or after January 1, 2007.

7 **SEC. 402. EFFECTIVE DATE.**

8 Unless otherwise provided, the amendments made by
 9 this title shall take effect on October 1, 2007, and shall
 10 apply to child health assistance and medical assistance
 11 provided on or after that date without regard to whether
 12 or not final regulations to carry out such amendments
 13 have been promulgated by such date.

14 **TITLE V—REVENUE PROVISION**

15 **SEC. 501. PARTIAL REPEAL OF RATE REDUCTION IN THE**
 16 **HIGHEST INCOME TAX BRACKET.**

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

20

21 “In the case of taxable years beginning
 22 during calendar year 2007 and thereafter,
 23 the final item in the fourth column in the
 24 preceding table shall be applied by sub-
 25 stituting for “35.0%” a rate equal to the

1 lesser of 39.6% or the rate the Secretary
2 determines is necessary to provide suffi-
3 cient revenues to offset the Federal outlays
4 required to implement the provisions of,
5 and amendments made by, the Kids Come
6 First Act of 2007.”.

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