

111TH CONGRESS
1ST SESSION

S. 142

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 6, 2009

Mr. KERRY 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 2009”.

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—SMALL BUSINESS CHILDREN'S HEALTH EDUCATION
TASK FORCE

- Sec. 401. Definitions.
- Sec. 402. Establishment of task force.

TITLE V—MISCELLANEOUS

- Sec. 501. Requirement for group market health insurers to offer dependent coverage option for workers with children.

TITLE VI—REVENUE PROVISION

- Sec. 601. 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) There are nearly 9,000,000 children
5 under the age of 19 that are uninsured. One
6 out of every 9 children are uninsured while 1 in
7 5 Hispanic children and 1 in 8 African-Amer-

1 ican children are uninsured. Three-fifths, ap-
2 proximately 5,400,000, of these children are eli-
3 gible but not enrolled in the Medicaid program
4 or the State Children’s Health Insurance Pro-
5 gram (SCHIP).

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 over 60 per-
9 cent of uninsured children have at least 1 par-
10 ent working full time over the course of the
11 year.

12 (C) It is estimated that legal immigrant
13 children are three times as likely to be unin-
14 sured as native born children. Nearly ½ of low-
15 income immigrant children are uninsured.

16 (D) Children in the South are twice as
17 likely to be uninsured than children in the Mid-
18 west. In the Northeast, 8.5 percent of children
19 are uninsured, while in the Midwest 7.2, per-
20 cent are uninsured. The South’s rate of unin-
21 sured children is 14.8 percent while the West
22 has an uninsured rate of 11.5 percent.

23 (E) Children’s health care needs are ne-
24 glected in the United States. Over 20 percent of
25 children in the United States are not fully up

1 to date on their basic immunizations. Half of
2 all children with asthma who do not have health
3 insurance do not receive preventative care. One
4 out of every 4 children do not receive annual
5 dental exams. Minority children are less likely
6 to receive proven treatments such as prescrip-
7 tion medications to treat chronic disease.

8 (F) According to a study conducted by the
9 Urban Institute in February 2007, among those
10 eligible for SCHIP, children whose families are
11 self-employed or who work for small business
12 concerns are far less likely to be enrolled in
13 that program, specifically that 1 out of every 4
14 eligible children with parents who work for a
15 small business concern or are self-employed are
16 not enrolled, compared with 1 out of 10 eligible
17 children whose parents work for a large firm
18 who are not enrolled.

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

21 (A) The Medicaid program and SCHIP
22 serve as a crucial health safety net for
23 30,600,000 children. During the recent eco-
24 nomic downturn and the highest number of un-
25 insured individuals ever recorded in the United

1 States, the Medicaid program and SCHIP off-
2 set losses in employer-sponsored coverage.

3 (B) 23,500,000 children are enrolled today
4 in the Medicaid program, accounting for ap-
5 proximately $\frac{1}{2}$ of all enrollees and only 19 per-
6 cent of total program costs.

7 (C) The Medicaid program and SCHIP do
8 more than just fill in the gaps. Gains in public
9 coverage have reduced the percentage of low-in-
10 come uninsured children by $\frac{1}{3}$ in the last dec-
11 ade. In addition, a study found that publicly in-
12 sured children are more likely to obtain medical
13 care, preventive care, and dental care than simi-
14 lar low-income privately insured children.

15 (D) Publicly funded programs such as the
16 Medicaid program and SCHIP actually improve
17 children's health. Children who are currently in-
18 sured by public programs are in better health
19 than they were a year ago. Expansion of cov-
20 erage for children and pregnant women under
21 the Medicaid program and SCHIP reduces
22 rates of avoidable hospitalizations, and has been
23 proven to reduce childhood deaths, infant mor-
24 tality rates, and the incidence of low birth
25 weight.

1 (E) Studies have found that children en-
2 rolled in public insurance programs experience
3 a significant improvement in measures of school
4 performance.

5 (F) Despite the success of expansions in
6 general under the Medicaid program and
7 SCHIP, due to current budget constraints,
8 many states have stopped doing aggressive out-
9 reach and have raised premiums and cost-shar-
10 ing requirements on families under these pro-
11 grams.

12 (G) Difficult renewal policies and reenroll-
13 ment barriers make seamless coverage in
14 SCHIP unattainable. In addition to children
15 who do not remain in the system due to re-
16 enrollment barriers, studies indicate that as
17 many as 67 percent of children who were eligi-
18 ble but not enrolled for SCHIP had applied for
19 coverage but were denied due to procedural
20 issues.

21 (H) While the Medicaid program and
22 SCHIP expansions to date have done much to
23 offset what otherwise would have been a signifi-
24 cant loss of coverage among children because of
25 declining employer coverage, the shortcomings

1 of previous expansions, such as the failure to
 2 enroll all eligible children and caps on enroll-
 3 ment in SCHIP because of under-funding, also
 4 are clear.

5 **TITLE I—EXPANDED COVERAGE**
 6 **OF CHILDREN UNDER MED-**
 7 **ICAID AND SCHIP**

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

13 (a) STATE OPTION.—Title XIX of the Social Security
 14 Act (42 U.S.C. 1396 et seq.) is amended by adding at
 15 the end the following:

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

21 “SEC. 1942. (a) 100 PERCENT FMAP.—

22 “(1) IN GENERAL.—Notwithstanding any other
 23 provision of this title, in the case of a State that,
 24 through an amendment to each of its State plans
 25 under this title and title XXI (or to a waiver of ei-

1 ther such plan), agrees to satisfy the conditions de-
 2 scribed in subsections (b), (c), and (d), the Federal
 3 medical assistance percentage shall be 100 percent
 4 with respect to the total amount expended by the
 5 State for providing medical assistance under this
 6 title for each fiscal year quarter beginning on or
 7 after the date described in subsection (e) for chil-
 8 dren whose family income does not exceed 100 per-
 9 cent of the poverty line.

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

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

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

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

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

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

8 “(A) IN GENERAL.—The State agrees to
 9 provide medical assistance under this title or
 10 child health assistance under title XXI to chil-
 11 dren whose family income exceeds the medicaid
 12 applicable income level (as defined in section
 13 2110(b)(4) but by substituting ‘January 1,
 14 2009’ for ‘March 31, 1997’), but does not ex-
 15 ceed 300 percent of the poverty line.

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

23 “(i) the dependent coverage is con-
 24 sistent with the benefit standards under

1 this title or title XXI, as approved by the
2 Secretary; and

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

5 “(C) DEEMED SATISFACTION FOR CERTAIN
6 STATES.—A State that, as of January 1, 2009,
7 provides medical assistance under this title or
8 child health assistance under title XXI to chil-
9 dren whose family income is 300 percent of the
10 poverty line shall be deemed to satisfy this
11 paragraph.

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

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

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

1 “(A) provide medical assistance under this
 2 title and child health assistance under title XXI
 3 for alien children who are lawfully residing in
 4 the United States (including battered aliens de-
 5 scribed in section 431(c) of the Personal Re-
 6 sponsibility and Work Opportunity Reconcili-
 7 ation Act of 1996) and who are otherwise eligi-
 8 ble for such assistance in accordance with sec-
 9 tion 1903(v)(4) and 2107(e)(1)(F); and

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

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

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

19 “(A) provide presumptive eligibility for
 20 children under this title and title XXI in ac-
 21 cordance with section 1920A; and

22 “(B) treat any items or services that are
 23 provided to an uncovered child (as defined in
 24 section 2110(c)(8)) who is determined ineligible
 25 for medical assistance under this title as child

1 health assistance for purposes of paying a pro-
2 vider of such items or services, so long as such
3 items or services would be considered child
4 health assistance for a targeted low-income
5 child under title XXI.

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

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

18 “(4) ADOPTION OF ACCEPTANCE OF ELIGI-
19 BILITY DETERMINATIONS FOR OTHER ASSISTANCE
20 PROGRAMS.—The State agrees to accept determina-
21 tions (made within a reasonable period, as found by
22 the State, before its use for this purpose) of an indi-
23 vidual’s family or household income made by a Fed-
24 eral or State agency (or a public or private entity
25 making such determination on behalf of such agen-

1 cy), including the agencies administering the supple-
2 mental nutrition assistance program established
3 under the Food and Nutrition Act of 2008 (7 U.S.C.
4 2011 et seq.), the Richard B. Russell National
5 School Lunch Act, and the Child Nutrition Act of
6 1966, notwithstanding any differences in budget
7 unit, disregard, deeming, or other methodology, but
8 only if—

9 “(A) such agency has fiscal liabilities or
10 responsibilities affected or potentially affected
11 by such determinations; and

12 “(B) any information furnished by such
13 agency pursuant to this subparagraph is used
14 solely for purposes of determining eligibility for
15 medical assistance under this title or for child
16 health assistance under title XXI.

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

21 “(6) ELIGIBILITY DETERMINATIONS AND REDE-
22 TERMINATIONS.—

23 “(A) IN GENERAL.—The State agrees for
24 purposes of initial eligibility determinations and
25 redeterminations of children under this title and

1 title XXI not to require a face-to-face interview
2 and to permit applications and renewals by
3 mail, telephone, and the Internet.

4 “(B) NONDUPLICATION OF INFORMA-
5 TION.—

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

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

23 “(7) NO WAITING LIST FOR CHILDREN UNDER
24 SCHIP.—The State agrees to not impose any numer-
25 ical limitation, waiting list, waiting period, or similar

1 limitation on the eligibility of children for child
2 health assistance under title XXI or to establish or
3 enforce other barriers to the enrollment of eligible
4 children based on the date of their application for
5 coverage.

6 “(8) ADEQUATE PROVIDER PAYMENT RATES.—

7 The State agrees to—

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

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

20 “(C) include provisions in its contracts
21 with providers under this title guaranteeing
22 compliance with these requirements.

23 “(d) MAINTENANCE OF MEDICAID ELIGIBILITY LEV-
24 ELS FOR CHILDREN.—

1 “(1) IN GENERAL.—The condition described in
2 this subsection is that the State agrees to maintain
3 eligibility income, resources, and methodologies ap-
4 plied under this title (including under a waiver of
5 such title or under section 1115) with respect to
6 children that are no more restrictive than the eligi-
7 bility income, resources, and methodologies applied
8 with respect to children under this title (including
9 under such a waiver) as of January 1, 2009.

10 “(2) RULE OF CONSTRUCTION.—Nothing in
11 this section shall be construed as implying that a
12 State does not have to comply with the minimum in-
13 come levels required for children under section
14 1902(1)(2).

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

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) The third sentence of section 1905(b) of the
24 Social Security Act (42 U.S.C. 1396d(b)) is amend-
25 ed by inserting before the period the following: “,

1 and with respect to amounts expended for medical
 2 assistance for children on or after the date described
 3 in subsection (e) of section 1942, in the case of a
 4 State that has, in accordance with such section, an
 5 approved plan amendment under this title and title
 6 XXI”.

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

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

11 (B) by inserting after subparagraph (C),
 12 the following:

13 “(D) who would not receive such medical assist-
 14 ance but for State electing the option under section
 15 1942 and satisfying the conditions described in sub-
 16 sections (b), (c), and (d) of such section,”.

17 **SEC. 102. ELIMINATION OF CAP ON SCHIP FUNDING FOR**
 18 **STATES THAT EXPAND ELIGIBILITY FOR**
 19 **CHILDREN.**

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

23 “(h) **GUARANTEED FUNDING FOR CHILD HEALTH**
 24 **ASSISTANCE FOR COVERAGE EXPANSION STATES.**—

1 “(1) IN GENERAL.—Only in the case of a State
2 that has, in accordance with section 1942, an ap-
3 proved plan amendment under this title and title
4 XIX, any payment cap that would otherwise apply to
5 the State under this title as a result of having ex-
6 pended all allotments available for expenditure by
7 the State with respect to a fiscal year shall not apply
8 with respect to amounts expended by the State on
9 or after the date described in section 1942(e).

10 “(2) APPROPRIATION.—There is appropriated,
11 out of any money in the Treasury not otherwise ap-
12 propriated, such sums as may be necessary for the
13 purpose of paying a State described in paragraph
14 (1) for each quarter beginning on or after the date
15 described in section 1942(e), an amount equal to the
16 enhanced FMAP of expenditures described in para-
17 graph (1) and incurred during such quarter.”.

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

20 (1) in subsection (a), by inserting “and section
21 2105(h)” after “subsection (d)”;

22 (2) in subsection (b)(1), by striking “and sub-
23 section (d)” and inserting “, subsection (d), and sec-
24 tion 2105(h)”;

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

3 **TITLE II—STATE OPTIONS FOR**
 4 **INCREMENTAL CHILD COV-**
 5 **ERAGE EXPANSIONS**

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

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

11 (1) in paragraph (1)(C), by inserting “, subject
 12 to paragraph (5),” after “under title XIX or”; and

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

15 “(5) STATE OPTION TO PROVIDE WRAP-AROUND
 16 COVERAGE.—

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

22 “(i) items or services that are not cov-
 23 ered, or are only partially covered, under
 24 such plan or coverage; or

25 “(ii) cost-sharing protection.

1 “(B) ELIGIBILITY.—In waiving such re-
2 quirement, a State may limit the application of
3 the waiver to children whose family income does
4 not exceed a level specified by the State, so long
5 as the level so specified does not exceed the
6 maximum income level otherwise established for
7 other children under the State child health
8 plan.

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

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

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

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

23 “(4) For purposes of subsection (b), the expenditures
24 described in this paragraph are expenditures for items and
25 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 insert-
2 ing after section 36 the following new section:

3 **“SEC. 36A. HEALTH INSURANCE COVERAGE OF CHILDREN.**

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

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

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

21 “(1) IN GENERAL.—The term ‘qualified health
22 insurance’ means insurance, either employer-pro-
23 vided or made available under title XIX or XXI of
24 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 add-
17 ing at the end the following new section:

18 **“SEC. 6050X. RETURNS RELATING TO PAYMENTS FOR**

19 **QUALIFIED HEALTH INSURANCE.**

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

1 described in subsection (b) (at such time as the Secretary
2 may by regulations prescribe) with respect to each indi-
3 vidual from whom such payments were received.

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

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

8 “(2) contains—

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

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

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

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

23 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
24 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
25 QUIRED.—Every person required to make a return under

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

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

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

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

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

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

24 (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 “or” at the end
 4 of clause (xxi), by striking “and” at the end of
 5 clause (xxii) and inserting “or”, and by insert-
 6 ing at the end the following new clause:

7 “(xxiii) section 6050X (relating to re-
 8 turns relating to payments for qualified
 9 health insurance), and”.

10 (B) Paragraph (2) of section 6724(d) of
 11 such Code is amended by striking “or” at the
 12 end of subparagraph (CC), by striking the pe-
 13 riod at the end of subparagraph (DD) and in-
 14 serting “, or”, and by adding at the end the fol-
 15 lowing new subparagraph:

16 “(EE) section 6050X(d) (relating to re-
 17 turns relating to payments for qualified health
 18 insurance).”.

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

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

24 (c) CONFORMING AMENDMENTS.—

1 section 36A(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 36A(e)).

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 6050X, 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, 2008.

1 **TITLE IV—SMALL BUSINESS**
2 **CHILDREN’S HEALTH EDU-**
3 **CATION TASK FORCE**

4 **SEC. 401. DEFINITIONS.**

5 In this title:

6 (1) The terms “Administration” and “Adminis-
7 trator” means the Small Business Administration
8 and the Administrator thereof, respectively.

9 (2) The term “certified development company”
10 means a development company participating in the
11 program under title V of the Small Business Invest-
12 ment Act of 1958 (15 U.S.C. 695 et seq.).

13 (3) The term “Medicaid program” means the
14 program established under title XIX of the Social
15 Security Act (42 U.S.C. 1396 et seq.).

16 (4) The term “Service Corps of Retired Execu-
17 tives” means the Service Corps of Retired Execu-
18 tives authorized by section 8(b)(1) of the Small
19 Business Act (15 U.S.C. 637(b)(1)).

20 (5) The term “small business concern” has the
21 meaning given that term in section 3 of the Small
22 Business Act (15 U.S.C. 632).

23 (6) The term “small business development cen-
24 ter” means a small business development center de-

1 scribed in section 21 of the Small Business Act (15
2 U.S.C. 648).

3 (7) The term “State” has the meaning given
4 that term for purposes of title XXI of the Social Se-
5 curity Act (42 U.S.C. 1397aa et seq.).

6 (8) The term “State Children’s Health Insur-
7 ance Program” means the State Children’s Health
8 Insurance Program established under title XXI of
9 the Social Security Act (42 U.S.C. 1397aa et seq.).

10 (9) The term “task force” means the task force
11 established under section 402(a).

12 (10) The term “women’s business center”
13 means a women’s business center described in sec-
14 tion 29 of the Small Business Act (15 U.S.C. 656).

15 **SEC. 402. ESTABLISHMENT OF TASK FORCE.**

16 (a) **ESTABLISHMENT.**—There is established a task
17 force to conduct a nationwide campaign of education and
18 outreach for small business concerns regarding the avail-
19 ability of coverage for children through private insurance
20 options, the Medicaid program, and the State Children’s
21 Health Insurance Program.

22 (b) **MEMBERSHIP.**—The task force shall consist of
23 the Administrator, the Secretary of Health and Human
24 Services, the Secretary of Labor, and the Secretary of the
25 Treasury.

1 (c) RESPONSIBILITIES.—The campaign conducted
2 under this section shall include—

3 (1) efforts to educate the owners of small busi-
4 ness concerns about the value of health coverage for
5 children;

6 (2) information regarding options available to
7 the owners and employees of small business concerns
8 to make insurance more affordable, including Fed-
9 eral and State tax deductions and credits for health
10 care-related expenses and health insurance expenses
11 and Federal tax exclusion for health insurance op-
12 tions available under employer-sponsored cafeteria
13 plans under section 125 of the Internal Revenue
14 Code of 1986;

15 (3) efforts to educate the owners of small busi-
16 ness concerns about assistance available through
17 public programs; and

18 (4) efforts to educate the owners and employees
19 of small business concerns regarding the availability
20 of the hotline operated as part of the Insure Kids
21 Now program of the Department of Health and
22 Human Services.

23 (d) IMPLEMENTATION.—In carrying out this section,
24 the task force may—

1 (1) use any business partner of the Administra-
2 tion, including—

3 (A) a small business development center;

4 (B) a certified development company;

5 (C) a women’s business center; and

6 (D) the Service Corps of Retired Execu-
7 tives;

8 (2) enter into—

9 (A) a memorandum of understanding with
10 a chamber of commerce; and

11 (B) a partnership with any appropriate
12 small business concern or health advocacy
13 group; and

14 (3) designate outreach programs at regional of-
15 fices of the Department of Health and Human Serv-
16 ices to work with district offices of the Administra-
17 tion.

18 (e) WEBSITE.—The Administrator shall ensure that
19 links to information on the eligibility and enrollment re-
20 quirements for the Medicaid program and State Children’s
21 Health Insurance Program of each State are prominently
22 displayed on the website of the Administration.

23 (f) REPORT.—

24 (1) IN GENERAL.—Not later than 2 years after
25 the date of enactment of this Act, and every 2 years

1 thereafter, the Administrator shall submit to the
 2 Committee on Small Business and Entrepreneurship
 3 of the Senate and the Committee on Small Business
 4 of the House of Representatives a report on the sta-
 5 tus of the nationwide campaign conducted under
 6 subsection (a).

7 (2) CONTENTS.—Each report submitted under
 8 paragraph (1) shall include a status update on all
 9 efforts made to educate owners and employees of
 10 small business concerns on options for providing
 11 health insurance for children through public and pri-
 12 vate alternatives.

13 **TITLE V—MISCELLANEOUS**

14 **SEC. 501. REQUIREMENT FOR GROUP MARKET HEALTH IN-** 15 **SURERS TO OFFER DEPENDENT COVERAGE** 16 **OPTION FOR WORKERS WITH CHILDREN.**

17 (a) ERISA.—

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

22 **“SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE** 23 **DEPENDENT COVERAGE FOR CHILDREN.**

24 “(a) REQUIREMENTS FOR COVERAGE.—A group
 25 health plan, and a health insurance issuer providing health

1 insurance coverage in connection with a group health plan,
 2 shall offer an individual who is enrolled in such coverage
 3 the option to purchase dependent coverage for a child of
 4 the individual.

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

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

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

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

17 (b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of
 18 part A of title XXVII of the Public Health Service Act
 19 (42 U.S.C. 300gg–4 et seq.) is amended by adding at the
 20 end the following:

1 **“SEC. 2708. REQUIREMENT TO OFFER OPTION TO PUR-**
 2 **CHASE DEPENDENT COVERAGE FOR CHIL-**
 3 **DREN.**

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

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

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

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply with respect to plan years begin-
 19 ning on or after January 1, 2009.

20 **TITLE VI—REVENUE PROVISION**

21 **SEC. 601. PARTIAL REPEAL OF RATE REDUCTION IN THE**
 22 **HIGHEST INCOME TAX BRACKET.**

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

26

1 “In the case of taxable years beginning
2 during calendar year 2009 and thereafter,
3 the final item in the fourth column in the
4 preceding table shall be applied by sub-
5 stituting for “35.0%” a rate equal to the
6 lesser of 39.6% or the rate the Secretary
7 determines is necessary to provide suffi-
8 cient revenues to offset the Federal outlays
9 required to implement the provisions of,
10 and amendments made by, the Kids Come
11 First Act of 2009.”.

○