

1 *Senate should reject any procedural maneuver that*  
 2 *would raise taxes on middle class families, such as a*  
 3 *motion to commit the pending legislation to the Com-*  
 4 *mittee on Finance, which is designed to kill legisla-*  
 5 *tion that provides tax cuts for American workers and*  
 6 *families, including the affordability tax credit and*  
 7 *the small business tax credit.*

8 *(f) EFFECTIVE DATE.—The amendments made by sub-*  
 9 *sections (a) through (d) of this section shall apply to*  
 10 *amounts paid or incurred after December 31, 2008, in tax-*  
 11 *able years beginning after such date.*

12 **TITLE X—STRENGTHENING**  
 13 **QUALITY, AFFORDABLE**  
 14 **HEALTH CARE FOR ALL AMER-**  
 15 **ICANS**

16 **Subtitle A—Provisions Relating to**  
 17 **Title I**

18 **SEC. 10101. AMENDMENTS TO SUBTITLE A.**

19 *(a) Section 2711 of the Public Health Service Act, as*  
 20 *added by section 1001(5) of this Act, is amended to read*  
 21 *as follows:*

22 **“SEC. 2711. NO LIFETIME OR ANNUAL LIMITS.**

23 **“(a) PROHIBITION.—**

1           “(1) *IN GENERAL.*—A group health plan and a  
2 health insurance issuer offering group or individual  
3 health insurance coverage may not establish—

4                   “(A) *lifetime limits on the dollar value of*  
5 *benefits for any participant or beneficiary; or*

6                   “(B) *except as provided in paragraph (2),*  
7 *annual limits on the dollar value of benefits for*  
8 *any participant or beneficiary.*

9           “(2) *ANNUAL LIMITS PRIOR TO 2014.*—With re-  
10 *spect to plan years beginning prior to January 1,*  
11 *2014, a group health plan and a health insurance*  
12 *issuer offering group or individual health insurance*  
13 *coverage may only establish a restricted annual limit*  
14 *on the dollar value of benefits for any participant or*  
15 *beneficiary with respect to the scope of benefits that*  
16 *are essential health benefits under section 1302(b) of*  
17 *the Patient Protection and Affordable Care Act, as de-*  
18 *termined by the Secretary. In defining the term ‘re-*  
19 *stricted annual limit’ for purposes of the preceding*  
20 *sentence, the Secretary shall ensure that access to*  
21 *needed services is made available with a minimal im-*  
22  *pact on premiums.*

23           “(b) *PER BENEFICIARY LIMITS.*—Subsection (a) shall  
24 *not be construed to prevent a group health plan or health*  
25 *insurance coverage from placing annual or lifetime per ben-*

1 *eficiary limits on specific covered benefits that are not es-*  
2 *sential health benefits under section 1302(b) of the Patient*  
3 *Protection and Affordable Care Act, to the extent that such*  
4 *limits are otherwise permitted under Federal or State*  
5 *law.”.*

6 (b) *Section 2715(a) of the Public Health Service Act,*  
7 *as added by section 1001(5) of this Act, is amended by strik-*  
8 *ing “and providing to enrollees” and inserting “and pro-*  
9 *viding to applicants, enrollees, and policyholders or certifi-*  
10 *cate holders”.*

11 (c) *Subpart II of part A of title XXVII of the Public*  
12 *Health Service Act, as added by section 1001(5), is amend-*  
13 *ed by inserting after section 2715, the following:*

14 **“SEC. 2715A. PROVISION OF ADDITIONAL INFORMATION.**

15 “*A group health plan and a health insurance issuer*  
16 *offering group or individual health insurance coverage shall*  
17 *comply with the provisions of section 1311(e)(3) of the Pa-*  
18 *tient Protection and Affordable Care Act, except that a plan*  
19 *or coverage that is not offered through an Exchange shall*  
20 *only be required to submit the information required to the*  
21 *Secretary and the State insurance commissioner, and make*  
22 *such information available to the public.”.*

23 (d) *Section 2716 of the Public Health Service Act, as*  
24 *added by section 1001(5) of this Act, is amended to read*  
25 *as follows:*

1 **“SEC. 2716. PROHIBITION ON DISCRIMINATION IN FAVOR**  
2 **OF HIGHLY COMPENSATED INDIVIDUALS.**

3 “(a) *IN GENERAL.*—A group health plan (other than  
4 a self-insured plan) shall satisfy the requirements of section  
5 105(h)(2) of the Internal Revenue Code of 1986 (relating  
6 to prohibition on discrimination in favor of highly com-  
7 pensated individuals).

8 “(b) *RULES AND DEFINITIONS.*—For purposes of this  
9 section—

10 “(1) *CERTAIN RULES TO APPLY.*—Rules similar  
11 to the rules contained in paragraphs (3), (4), and (8)  
12 of section 105(h) of such Code shall apply.

13 “(2) *HIGHLY COMPENSATED INDIVIDUAL.*—The  
14 term ‘highly compensated individual’ has the mean-  
15 ing given such term by section 105(h)(5) of such  
16 Code.”.

17 (e) Section 2717 of the Public Health Service Act, as  
18 added by section 1001(5) of this Act, is amended—

19 (1) by redesignating subsections (c) and (d) as  
20 subsections (d) and (e), respectively; and

21 (2) by inserting after subsection (b), the fol-  
22 lowing:

23 “(c) *PROTECTION OF SECOND AMENDMENT GUN*  
24 *RIGHTS.*—

25 “(1) *WELLNESS AND PREVENTION PROGRAMS.*—  
26 A wellness and health promotion activity imple-

1 *mented under subsection (a)(1)(D) may not require*  
2 *the disclosure or collection of any information relat-*  
3 *ing to—*

4 *“(A) the presence or storage of a lawfully-*  
5 *possessed firearm or ammunition in the resi-*  
6 *dence or on the property of an individual; or*

7 *“(B) the lawful use, possession, or storage of*  
8 *a firearm or ammunition by an individual.*

9 *“(2) LIMITATION ON DATA COLLECTION.—None*  
10 *of the authorities provided to the Secretary under the*  
11 *Patient Protection and Affordable Care Act or an*  
12 *amendment made by that Act shall be construed to*  
13 *authorize or may be used for the collection of any in-*  
14 *formation relating to—*

15 *“(A) the lawful ownership or possession of*  
16 *a firearm or ammunition;*

17 *“(B) the lawful use of a firearm or ammu-*  
18 *nition; or*

19 *“(C) the lawful storage of a firearm or am-*  
20 *munition.*

21 *“(3) LIMITATION ON DATABASES OR DATA*  
22 *BANKS.—None of the authorities provided to the Sec-*  
23 *retary under the Patient Protection and Affordable*  
24 *Care Act or an amendment made by that Act shall*  
25 *be construed to authorize or may be used to maintain*

1 *records of individual ownership or possession of a*  
2 *firearm or ammunition.*

3 “(4) *LIMITATION ON DETERMINATION OF PRE-*  
4 *MIUM RATES OR ELIGIBILITY FOR HEALTH INSUR-*  
5 *ANCE.—A premium rate may not be increased, health*  
6 *insurance coverage may not be denied, and a dis-*  
7 *count, rebate, or reward offered for participation in*  
8 *a wellness program may not be reduced or withheld*  
9 *under any health benefit plan issued pursuant to or*  
10 *in accordance with the Patient Protection and Afford-*  
11 *able Care Act or an amendment made by that Act on*  
12 *the basis of, or on reliance upon—*

13 “(A) *the lawful ownership or possession of*  
14 *a firearm or ammunition; or*

15 “(B) *the lawful use or storage of a firearm*  
16 *or ammunition.*

17 “(5) *LIMITATION ON DATA COLLECTION RE-*  
18 *QUIREMENTS FOR INDIVIDUALS.—No individual shall*  
19 *be required to disclose any information under any*  
20 *data collection activity authorized under the Patient*  
21 *Protection and Affordable Care Act or an amendment*  
22 *made by that Act relating to—*

23 “(A) *the lawful ownership or possession of*  
24 *a firearm or ammunition; or*

1           “(B) the lawful use, possession, or storage of  
2           a firearm or ammunition.”.

3           (f) Section 2718 of the Public Health Service Act, as  
4 added by section 1001(5), is amended to read as follows:

5           **“SEC. 2718. BRINGING DOWN THE COST OF HEALTH CARE**  
6                                   **COVERAGE.**

7           “(a) *CLEAR ACCOUNTING FOR COSTS.*—A health in-  
8 surance issuer offering group or individual health insur-  
9 ance coverage (including a grandfathered health plan) shall,  
10 with respect to each plan year, submit to the Secretary a  
11 report concerning the ratio of the incurred loss (or incurred  
12 claims) plus the loss adjustment expense (or change in con-  
13 tract reserves) to earned premiums. Such report shall in-  
14 clude the percentage of total premium revenue, after ac-  
15 counting for collections or receipts for risk adjustment and  
16 risk corridors and payments of reinsurance, that such cov-  
17 erage expends—

18                   “(1) on reimbursement for clinical services pro-  
19                   vided to enrollees under such coverage;

20                   “(2) for activities that improve health care qual-  
21                   ity; and

22                   “(3) on all other non-claims costs, including an  
23                   explanation of the nature of such costs, and excluding  
24                   Federal and State taxes and licensing or regulatory  
25                   fees.

1 *The Secretary shall make reports received under this section*  
2 *available to the public on the Internet website of the Depart-*  
3 *ment of Health and Human Services.*

4 “(b) *ENSURING THAT CONSUMERS RECEIVE VALUE*  
5 *FOR THEIR PREMIUM PAYMENTS.*—

6 “(1) *REQUIREMENT TO PROVIDE VALUE FOR*  
7 *PREMIUM PAYMENTS.*—

8 “(A) *REQUIREMENT.*—*Beginning not later*  
9 *than January 1, 2011, a health insurance issuer*  
10 *offering group or individual health insurance*  
11 *coverage (including a grandfathered health plan)*  
12 *shall, with respect to each plan year, provide an*  
13 *annual rebate to each enrollee under such cov-*  
14 *erage, on a pro rata basis, if the ratio of the*  
15 *amount of premium revenue expended by the*  
16 *issuer on costs described in paragraphs (1) and*  
17 *(2) of subsection (a) to the total amount of pre-*  
18 *mium revenue (excluding Federal and State*  
19 *taxes and licensing or regulatory fees and after*  
20 *accounting for payments or receipts for risk ad-*  
21 *justment, risk corridors, and reinsurance under*  
22 *sections 1341, 1342, and 1343 of the Patient*  
23 *Protection and Affordable Care Act) for the plan*  
24 *year (except as provided in subparagraph*  
25 *(B)(ii)), is less than—*

1           “(i) *with respect to a health insurance*  
2           *issuer offering coverage in the large group*  
3           *market, 85 percent, or such higher percent-*  
4           *age as a State may by regulation deter-*  
5           *mine; or*

6           “(ii) *with respect to a health insurance*  
7           *issuer offering coverage in the small group*  
8           *market or in the individual market, 80 per-*  
9           *cent, or such higher percentage as a State*  
10           *may by regulation determine, except that*  
11           *the Secretary may adjust such percentage*  
12           *with respect to a State if the Secretary de-*  
13           *termines that the application of such 80*  
14           *percent may destabilize the individual mar-*  
15           *ket in such State.*

16           “(B) *REBATE AMOUNT.—*

17           “(i) *CALCULATION OF AMOUNT.—The*  
18           *total amount of an annual rebate required*  
19           *under this paragraph shall be in an amount*  
20           *equal to the product of—*

21                   “(I) *the amount by which the per-*  
22                   *centage described in clause (i) or (ii) of*  
23                   *subparagraph (A) exceeds the ratio de-*  
24                   *scribed in such subparagraph; and*

1           “(II) the total amount of pre-  
2           mium revenue (excluding Federal and  
3           State taxes and licensing or regulatory  
4           fees and after accounting for payments  
5           or receipts for risk adjustment, risk  
6           corridors, and reinsurance under sec-  
7           tions 1341, 1342, and 1343 of the Pa-  
8           tient Protection and Affordable Care  
9           Act) for such plan year.

10           “(ii) *CALCULATION BASED ON AVER-*  
11           *AGE RATIO.*—Beginning on January 1,  
12           2014, the determination made under sub-  
13           paragraph (A) for the year involved shall be  
14           based on the averages of the premiums ex-  
15           pended on the costs described in such sub-  
16           paragraph and total premium revenue for  
17           each of the previous 3 years for the plan.

18           “(2) *CONSIDERATION IN SETTING PERCENT-*  
19           *AGES.*—In determining the percentages under para-  
20           graph (1), a State shall seek to ensure adequate par-  
21           ticipation by health insurance issuers, competition in  
22           the health insurance market in the State, and value  
23           for consumers so that premiums are used for clinical  
24           services and quality improvements.

1           “(3) *ENFORCEMENT.*—*The Secretary shall pro-*  
2           *mulgate regulations for enforcing the provisions of*  
3           *this section and may provide for appropriate pen-*  
4           *alties.*

5           “(c) *DEFINITIONS.*—*Not later than December 31, 2010,*  
6           *and subject to the certification of the Secretary, the Na-*  
7           *tional Association of Insurance Commissioners shall estab-*  
8           *lish uniform definitions of the activities reported under sub-*  
9           *section (a) and standardized methodologies for calculating*  
10           *measures of such activities, including definitions of which*  
11           *activities, and in what regard such activities, constitute ac-*  
12           *tivities described in subsection (a)(2). Such methodologies*  
13           *shall be designed to take into account the special cir-*  
14           *cumstances of smaller plans, different types of plans, and*  
15           *newer plans.*

16           “(d) *ADJUSTMENTS.*—*The Secretary may adjust the*  
17           *rates described in subsection (b) if the Secretary determines*  
18           *appropriate on account of the volatility of the individual*  
19           *market due to the establishment of State Exchanges.*

20           “(e) *STANDARD HOSPITAL CHARGES.*—*Each hospital*  
21           *operating within the United States shall for each year es-*  
22           *tablish (and update) and make public (in accordance with*  
23           *guidelines developed by the Secretary) a list of the hospital’s*  
24           *standard charges for items and services provided by the hos-*

1 *pital, including for diagnosis-related groups established*  
2 *under section 1886(d)(4) of the Social Security Act.”.*

3 *(g) Section 2719 of the Public Health Service Act, as*  
4 *added by section 1001(4) of this Act, is amended to read*  
5 *as follows:*

6 **“SEC. 2719. APPEALS PROCESS.**

7 *“(a) INTERNAL CLAIMS APPEALS.—*

8 *“(1) IN GENERAL.—A group health plan and a*  
9 *health insurance issuer offering group or individual*  
10 *health insurance coverage shall implement an effective*  
11 *appeals process for appeals of coverage determinations*  
12 *and claims, under which the plan or issuer shall, at*  
13 *a minimum—*

14 *“(A) have in effect an internal claims ap-*  
15 *peal process;*

16 *“(B) provide notice to enrollees, in a cul-*  
17 *turally and linguistically appropriate manner,*  
18 *of available internal and external appeals proc-*  
19 *esses, and the availability of any applicable of-*  
20 *fice of health insurance consumer assistance or*  
21 *ombudsman established under section 2793 to as-*  
22 *sist such enrollees with the appeals processes;*  
23 *and*

24 *“(C) allow an enrollee to review their file,*  
25 *to present evidence and testimony as part of the*

1           *appeals process, and to receive continued cov-*  
2           *erage pending the outcome of the appeals process.*

3           “(2) *ESTABLISHED PROCESSES.—To comply*  
4           *with paragraph (1)—*

5                     “(A) *a group health plan and a health in-*  
6                     *surance issuer offering group health coverage*  
7                     *shall provide an internal claims and appeals*  
8                     *process that initially incorporates the claims and*  
9                     *appeals procedures (including urgent claims) set*  
10                    *forth at section 2560.503–1 of title 29, Code of*  
11                    *Federal Regulations, as published on November*  
12                    *21, 2000 (65 Fed. Reg. 70256), and shall update*  
13                    *such process in accordance with any standards*  
14                    *established by the Secretary of Labor for such*  
15                    *plans and issuers; and*

16                    “(B) *a health insurance issuer offering indi-*  
17                    *vidual health coverage, and any other issuer not*  
18                    *subject to subparagraph (A), shall provide an in-*  
19                    *ternal claims and appeals process that initially*  
20                    *incorporates the claims and appeals procedures*  
21                    *set forth under applicable law (as in existence on*  
22                    *the date of enactment of this section), and shall*  
23                    *update such process in accordance with any*  
24                    *standards established by the Secretary of Health*  
25                    *and Human Services for such issuers.*

1       “(b) *EXTERNAL REVIEW.*—A group health plan and  
2 a health insurance issuer offering group or individual  
3 health insurance coverage—

4           “(1) shall comply with the applicable State ex-  
5 ternal review process for such plans and issuers that,  
6 at a minimum, includes the consumer protections set  
7 forth in the Uniform External Review Model Act pro-  
8 mulgated by the National Association of Insurance  
9 Commissioners and is binding on such plans; or

10          “(2) shall implement an effective external review  
11 process that meets minimum standards established by  
12 the Secretary through guidance and that is similar to  
13 the process described under paragraph (1)—

14           “(A) if the applicable State has not estab-  
15 lished an external review process that meets the  
16 requirements of paragraph (1); or

17           “(B) if the plan is a self-insured plan that  
18 is not subject to State insurance regulation (in-  
19 cluding a State law that establishes an external  
20 review process described in paragraph (1)).

21       “(c) *SECRETARY AUTHORITY.*—The Secretary may  
22 deem the external review process of a group health plan or  
23 health insurance issuer, in operation as of the date of enact-  
24 ment of this section, to be in compliance with the applicable

1 *process established under subsection (b), as determined ap-*  
2 *propriate by the Secretary.”.*

3 *(h) Subpart II of part A of title XVIII of the Public*  
4 *Health Service Act, as added by section 1001(5) of this Act,*  
5 *is amended by inserting after section 2719 the following:*  
6 **“SEC. 2719A. PATIENT PROTECTIONS.**

7 *“(a) CHOICE OF HEALTH CARE PROFESSIONAL.—If a*  
8 *group health plan, or a health insurance issuer offering*  
9 *group or individual health insurance coverage, requires or*  
10 *provides for designation by a participant, beneficiary, or*  
11 *enrollee of a participating primary care provider, then the*  
12 *plan or issuer shall permit each participant, beneficiary,*  
13 *and enrollee to designate any participating primary care*  
14 *provider who is available to accept such individual.*

15 *“(b) COVERAGE OF EMERGENCY SERVICES.—*

16 *“(1) IN GENERAL.—If a group health plan, or a*  
17 *health insurance issuer offering group or individual*  
18 *health insurance issuer, provides or covers any bene-*  
19 *fits with respect to services in an emergency depart-*  
20 *ment of a hospital, the plan or issuer shall cover*  
21 *emergency services (as defined in paragraph*  
22 *(2)(B))—*

23 *“(A) without the need for any prior author-*  
24 *ization determination;*

1           “(B) whether the health care provider fur-  
2           nishing such services is a participating provider  
3           with respect to such services;

4           “(C) in a manner so that, if such services  
5           are provided to a participant, beneficiary, or en-  
6           rollee—

7                   “(i) by a nonparticipating health care  
8                   provider with or without prior authoriza-  
9                   tion; or

10                   “(ii)(I) such services will be provided  
11                   without imposing any requirement under  
12                   the plan for prior authorization of services  
13                   or any limitation on coverage where the  
14                   provider of services does not have a contrac-  
15                   tual relationship with the plan for the pro-  
16                   viding of services that is more restrictive  
17                   than the requirements or limitations that  
18                   apply to emergency department services re-  
19                   ceived from providers who do have such a  
20                   contractual relationship with the plan; and

21                   “(II) if such services are provided out-  
22                   of-network, the cost-sharing requirement  
23                   (expressed as a copayment amount or coin-  
24                   surance rate) is the same requirement that

1           *would apply if such services were provided*  
2           *in-network;*

3           “(D) *without regard to any other term or*  
4           *condition of such coverage (other than exclusion*  
5           *or coordination of benefits, or an affiliation or*  
6           *waiting period, permitted under section 2701 of*  
7           *this Act, section 701 of the Employee Retirement*  
8           *Income Security Act of 1974, or section 9801 of*  
9           *the Internal Revenue Code of 1986, and other*  
10          *than applicable cost-sharing).*

11          “(2) *DEFINITIONS.—In this subsection:*

12           “(A) *EMERGENCY MEDICAL CONDITION.—*  
13           *The term ‘emergency medical condition’ means a*  
14           *medical condition manifesting itself by acute*  
15           *symptoms of sufficient severity (including severe*  
16           *pain) such that a prudent layperson, who pos-*  
17           *sesses an average knowledge of health and medi-*  
18           *cine, could reasonably expect the absence of im-*  
19           *mediate medical attention to result in a condi-*  
20           *tion described in clause (i), (ii), or (iii) of sec-*  
21           *tion 1867(e)(1)(A) of the Social Security Act.*

22           “(B) *EMERGENCY SERVICES.—The term*  
23           *‘emergency services’ means, with respect to an*  
24           *emergency medical condition—*

1           “(i) a medical screening examination  
2           (as required under section 1867 of the So-  
3           cial Security Act) that is within the capa-  
4           bility of the emergency department of a hos-  
5           pital, including ancillary services routinely  
6           available to the emergency department to  
7           evaluate such emergency medical condition,  
8           and

9           “(ii) within the capabilities of the staff  
10          and facilities available at the hospital, such  
11          further medical examination and treatment  
12          as are required under section 1867 of such  
13          Act to stabilize the patient.

14          “(C) *STABILIZE*.—The term ‘to stabilize’,  
15          with respect to an emergency medical condition  
16          (as defined in subparagraph (A)), has the mean-  
17          ing give in section 1867(e)(3) of the Social Secu-  
18          rity Act (42 U.S.C. 1395dd(e)(3)).

19          “(c) *ACCESS TO PEDIATRIC CARE*.—

20          “(1) *PEDIATRIC CARE*.—In the case of a person  
21          who has a child who is a participant, beneficiary, or  
22          enrollee under a group health plan, or health insur-  
23          ance coverage offered by a health insurance issuer in  
24          the group or individual market, if the plan or issuer  
25          requires or provides for the designation of a partici-

1     *participating primary care provider for the child, the plan*  
2     *or issuer shall permit such person to designate a phy-*  
3     *sician (allopathic or osteopathic) who specializes in*  
4     *pediatrics as the child's primary care provider if such*  
5     *provider participates in the network of the plan or*  
6     *issuer.*

7             “(2) *CONSTRUCTION.*—*Nothing in paragraph (1)*  
8     *shall be construed to waive any exclusions of coverage*  
9     *under the terms and conditions of the plan or health*  
10    *insurance coverage with respect to coverage of pedi-*  
11    *atric care.*

12           “(d) *PATIENT ACCESS TO OBSTETRICAL AND GYNECO-*  
13    *LOGICAL CARE.*—

14                   “(1) *GENERAL RIGHTS.*—

15                           “(A) *DIRECT ACCESS.*—*A group health*  
16     *plan, or health insurance issuer offering group*  
17     *or individual health insurance coverage, de-*  
18     *scribed in paragraph (2) may not require au-*  
19     *thorization or referral by the plan, issuer, or any*  
20     *person (including a primary care provider de-*  
21     *scribed in paragraph (2)(B)) in the case of a fe-*  
22     *male participant, beneficiary, or enrollee who*  
23     *seeks coverage for obstetrical or gynecological*  
24     *care provided by a participating health care pro-*  
25     *fessional who specializes in obstetrics or gynec-*

1           *cology. Such professional shall agree to otherwise*  
2           *adhere to such plan's or issuer's policies and*  
3           *procedures, including procedures regarding refer-*  
4           *als and obtaining prior authorization and pro-*  
5           *viding services pursuant to a treatment plan (if*  
6           *any) approved by the plan or issuer.*

7           “(B) *OBSTETRICAL AND GYNECOLOGICAL*  
8           *CARE.—A group health plan or health insurance*  
9           *issuer described in paragraph (2) shall treat the*  
10          *provision of obstetrical and gynecological care,*  
11          *and the ordering of related obstetrical and gyne-*  
12          *cological items and services, pursuant to the di-*  
13          *rect access described under subparagraph (A), by*  
14          *a participating health care professional who spe-*  
15          *cializes in obstetrics or gynecology as the author-*  
16          *ization of the primary care provider.*

17          “(2) *APPLICATION OF PARAGRAPH.—A group*  
18          *health plan, or health insurance issuer offering group*  
19          *or individual health insurance coverage, described in*  
20          *this paragraph is a group health plan or coverage*  
21          *that—*

22                 “(A) *provides coverage for obstetric or*  
23                 *gynecologic care; and*

1           “(B) requires the designation by a partici-  
2           pant, beneficiary, or enrollee of a participating  
3           primary care provider.

4           “(3) CONSTRUCTION.—Nothing in paragraph (1)  
5           shall be construed to—

6           “(A) waive any exclusions of coverage under  
7           the terms and conditions of the plan or health  
8           insurance coverage with respect to coverage of ob-  
9           stetrical or gynecological care; or

10           “(B) preclude the group health plan or  
11           health insurance issuer involved from requiring  
12           that the obstetrical or gynecological provider no-  
13           tify the primary care health care professional or  
14           the plan or issuer of treatment decisions.”.

15           (i) Section 2794 of the Public Health Service Act, as  
16           added by section 1003 of this Act, is amended—

17           (1) in subsection (c)(1)—

18           (A) in subparagraph (A), by striking “and”  
19           at the end;

20           (B) in subparagraph (B), by striking the  
21           period and inserting “; and”; and

22           (C) by adding at the end the following:

23           “(C) in establishing centers (consistent with  
24           subsection (d)) at academic or other nonprofit  
25           institutions to collect medical reimbursement in-

1           *formation from health insurance issuers, to ana-*  
2           *lyze and organize such information, and to make*  
3           *such information available to such issuers, health*  
4           *care providers, health researchers, health care*  
5           *policy makers, and the general public.”; and*  
6           *(2) by adding at the end the following:*

7           “(d) *MEDICAL REIMBURSEMENT DATA CENTERS.*—

8           “(1) *FUNCTIONS.*—*A center established under*  
9           *subsection (c)(1)(C) shall—*

10           “(A) *develop fee schedules and other data-*  
11           *base tools that fairly and accurately reflect mar-*  
12           *ket rates for medical services and the geographic*  
13           *differences in those rates;*

14           “(B) *use the best available statistical meth-*  
15           *ods and data processing technology to develop*  
16           *such fee schedules and other database tools;*

17           “(C) *regularly update such fee schedules*  
18           *and other database tools to reflect changes in*  
19           *charges for medical services;*

20           “(D) *make health care cost information*  
21           *readily available to the public through an Inter-*  
22           *net website that allows consumers to understand*  
23           *the amounts that health care providers in their*  
24           *area charge for particular medical services; and*

1           “(E) regularly publish information con-  
2           cerning the statistical methodologies used by the  
3           center to analyze health charge data and make  
4           such data available to researchers and policy  
5           makers.

6           “(2) *CONFLICTS OF INTEREST.*—A center estab-  
7           lished under subsection (c)(1)(C) shall adopt by-laws  
8           that ensures that the center (and all members of the  
9           governing board of the center) is independent and free  
10          from all conflicts of interest. Such by-laws shall en-  
11          sure that the center is not controlled or influenced by,  
12          and does not have any corporate relation to, any in-  
13          dividual or entity that may make or receive payments  
14          for health care services based on the center’s analysis  
15          of health care costs.

16          “(3) *RULE OF CONSTRUCTION.*—Nothing in this  
17          subsection shall be construed to permit a center estab-  
18          lished under subsection (c)(1)(C) to compel health in-  
19          surance issuers to provide data to the center.”.

20 **SEC. 10102. AMENDMENTS TO SUBTITLE B.**

21          (a) Section 1102(a)(2)(B) of this Act is amended—

22                  (1) in the matter preceding clause (i), by strik-  
23                  ing “group health benefits plan” and inserting  
24                  “group benefits plan providing health benefits”; and

1           (2) *in clause (i)(I), by inserting “or any agency*  
2 *or instrumentality of any of the foregoing” before the*  
3 *closed parenthetical.*

4           **(b) Section 1103(a) of this Act is amended—**

5           (1) *in paragraph (1), by inserting “, or small*  
6 *business in,” after “residents of any”; and*

7           (2) *by striking paragraph (2) and inserting the*  
8 *following:*

9           **“(2) CONNECTING TO AFFORDABLE COVERAGE.—**  
10 *An Internet website established under paragraph (1)*  
11 *shall, to the extent practicable, provide ways for resi-*  
12 *dents of, and small businesses in, any State to receive*  
13 *information on at least the following coverage options:*

14           **“(A) Health insurance coverage offered by**  
15 *health insurance issuers, other than coverage that*  
16 *provides reimbursement only for the treatment or*  
17 *mitigation of—*

18           **“(i) a single disease or condition; or**

19           **“(ii) an unreasonably limited set of**  
20 *diseases or conditions (as determined by the*  
21 *Secretary).*

22           **“(B) Medicaid coverage under title XIX of**  
23 *the Social Security Act.*

24           **“(C) Coverage under title XXI of the Social**  
25 *Security Act.*

1           “(D) A State health benefits high risk pool,  
2           to the extent that such high risk pool is offered  
3           in such State; and

4           “(E) Coverage under a high risk pool under  
5           section 1101.

6           “(F) Coverage within the small group mar-  
7           ket for small businesses and their employees, in-  
8           cluding reinsurance for early retirees under sec-  
9           tion 1102, tax credits available under section  
10          45R of the Internal Revenue Code of 1986 (as  
11          added by section 1421), and other information  
12          specifically for small businesses regarding afford-  
13          able health care options.”.

14 **SEC. 10103. AMENDMENTS TO SUBTITLE C.**

15          (a) Section 2701(a)(5) of the Public Health Service  
16          Act, as added by section 1201(4) of this Act, is amended  
17          by inserting “(other than self-insured group health plans  
18          offered in such market)” after “such market”.

19          (b) Section 2708 of the Public Health Service Act, as  
20          added by section 1201(4) of this Act, is amended by striking  
21          “or individual”.

22          (c) Subpart I of part A of title XXVII of the Public  
23          Health Service Act, as added by section 1201(4) of this Act,  
24          is amended by inserting after section 2708, the following:

1 **“SEC. 2709. COVERAGE FOR INDIVIDUALS PARTICIPATING**  
2 **IN APPROVED CLINICAL TRIALS.**

3 “(a) *COVERAGE.*—

4 “(1) *IN GENERAL.*—*If a group health plan or a*  
5 *health insurance issuer offering group or individual*  
6 *health insurance coverage provides coverage to a*  
7 *qualified individual, then such plan or issuer—*

8 “(A) *may not deny the individual partici-*  
9 *pation in the clinical trial referred to in sub-*  
10 *section (b)(2);*

11 “(B) *subject to subsection (c), may not deny*  
12 *(or limit or impose additional conditions on) the*  
13 *coverage of routine patient costs for items and*  
14 *services furnished in connection with participa-*  
15 *tion in the trial; and*

16 “(C) *may not discriminate against the in-*  
17 *dividual on the basis of the individual’s partici-*  
18 *pation in such trial.*

19 “(2) *ROUTINE PATIENT COSTS.*—

20 “(A) *INCLUSION.*—*For purposes of para-*  
21 *graph (1)(B), subject to subparagraph (B), rou-*  
22 *tine patient costs include all items and services*  
23 *consistent with the coverage provided in the plan*  
24 *(or coverage) that is typically covered for a*  
25 *qualified individual who is not enrolled in a*  
26 *clinical trial.*

1           “(B) *EXCLUSION.*—*For purposes of para-*  
2           *graph (1)(B), routine patient costs does not in-*  
3           *clude—*

4                   “(i) *the investigational item, device, or*  
5                   *service, itself;*

6                   “(ii) *items and services that are pro-*  
7                   *vided solely to satisfy data collection and*  
8                   *analysis needs and that are not used in the*  
9                   *direct clinical management of the patient;*  
10                  *or*

11                  “(iii) *a service that is clearly incon-*  
12                  *sistent with widely accepted and established*  
13                  *standards of care for a particular diagnosis.*

14           “(3) *USE OF IN-NETWORK PROVIDERS.*—*If one or*  
15           *more participating providers is participating in a*  
16           *clinical trial, nothing in paragraph (1) shall be con-*  
17           *strued as preventing a plan or issuer from requiring*  
18           *that a qualified individual participate in the trial*  
19           *through such a participating provider if the provider*  
20           *will accept the individual as a participant in the*  
21           *trial.*

22           “(4) *USE OF OUT-OF-NETWORK.*—*Notwith-*  
23           *standing paragraph (3), paragraph (1) shall apply to*  
24           *a qualified individual participating in an approved*

1       *clinical trial that is conducted outside the State in*  
2       *which the qualified individual resides.*

3       “(b) *QUALIFIED INDIVIDUAL DEFINED.*—*For purposes*  
4 *of subsection (a), the term ‘qualified individual’ means an*  
5 *individual who is a participant or beneficiary in a health*  
6 *plan or with coverage described in subsection (a)(1) and*  
7 *who meets the following conditions:*

8               “(1) *The individual is eligible to participate in*  
9 *an approved clinical trial according to the trial pro-*  
10 *tol with respect to treatment of cancer or other life-*  
11 *threatening disease or condition.*

12              “(2) *Either—*

13                   “(A) *the referring health care professional is*  
14 *a participating health care provider and has*  
15 *concluded that the individual’s participation in*  
16 *such trial would be appropriate based upon the*  
17 *individual meeting the conditions described in*  
18 *paragraph (1); or*

19                   “(B) *the participant or beneficiary provides*  
20 *medical and scientific information establishing*  
21 *that the individual’s participation in such trial*  
22 *would be appropriate based upon the individual*  
23 *meeting the conditions described in paragraph*  
24 *(1).*

1       “(c) *LIMITATIONS ON COVERAGE.*—*This section shall*  
2 *not be construed to require a group health plan, or a health*  
3 *insurance issuer offering group or individual health insur-*  
4 *ance coverage, to provide benefits for routine patient care*  
5 *services provided outside of the plan’s (or coverage’s) health*  
6 *care provider network unless out-of-network benefits are*  
7 *otherwise provided under the plan (or coverage).*

8       “(d) *APPROVED CLINICAL TRIAL DEFINED.*—

9               “(1) *IN GENERAL.*—*In this section, the term ‘ap-*  
10 *proved clinical trial’ means a phase I, phase II, phase*  
11 *III, or phase IV clinical trial that is conducted in re-*  
12 *lation to the prevention, detection, or treatment of*  
13 *cancer or other life-threatening disease or condition*  
14 *and is described in any of the following subpara-*  
15 *graphs:*

16               “(A) *FEDERALLY FUNDED TRIALS.*—*The*  
17 *study or investigation is approved or funded*  
18 *(which may include funding through in-kind*  
19 *contributions) by one or more of the following:*

20                       “(i) *The National Institutes of Health.*

21                       “(ii) *The Centers for Disease Control*  
22 *and Prevention.*

23                       “(iii) *The Agency for Health Care Re-*  
24 *search and Quality.*

1           “(iv) *The Centers for Medicare & Med-*  
2           *icaid Services.*

3           “(v) *cooperative group or center of any*  
4           *of the entities described in clauses (i)*  
5           *through (iv) or the Department of Defense*  
6           *or the Department of Veterans Affairs.*

7           “(vi) *A qualified non-governmental re-*  
8           *search entity identified in the guidelines*  
9           *issued by the National Institutes of Health*  
10          *for center support grants.*

11          “(vii) *Any of the following if the condi-*  
12          *tions described in paragraph (2) are met:*

13                  “(I) *The Department of Veterans*  
14                  *Affairs.*

15                  “(II) *The Department of Defense.*

16                  “(III) *The Department of Energy.*

17          “(B) *The study or investigation is con-*  
18          *ducted under an investigational new drug appli-*  
19          *cation reviewed by the Food and Drug Adminis-*  
20          *tration.*

21          “(C) *The study or investigation is a drug*  
22          *trial that is exempt from having such an inves-*  
23          *tigational new drug application.*

24          “(2) *CONDITIONS FOR DEPARTMENTS.—The con-*  
25          *ditions described in this paragraph, for a study or in-*

1        *vestigation conducted by a Department, are that the*  
2        *study or investigation has been reviewed and ap-*  
3        *proved through a system of peer review that the Sec-*  
4        *retary determines—*

5                *“(A) to be comparable to the system of peer*  
6                *review of studies and investigations used by the*  
7                *National Institutes of Health, and*

8                *“(B) assures unbiased review of the highest*  
9                *scientific standards by qualified individuals who*  
10               *have no interest in the outcome of the review.*

11        *“(e) LIFE-THREATENING CONDITION DEFINED.—In*  
12        *this section, the term ‘life-threatening condition’ means any*  
13        *disease or condition from which the likelihood of death is*  
14        *probable unless the course of the disease or condition is in-*  
15        *terrupted.*

16        *“(f) CONSTRUCTION.—Nothing in this section shall be*  
17        *construed to limit a plan’s or issuer’s coverage with respect*  
18        *to clinical trials.*

19        *“(g) APPLICATION TO FEHBP.—Notwithstanding any*  
20        *provision of chapter 89 of title 5, United States Code, this*  
21        *section shall apply to health plans offered under the pro-*  
22        *gram under such chapter.*

23        *“(h) PREEMPTION.—Notwithstanding any other provi-*  
24        *sion of this Act, nothing in this section shall preempt State*  
25        *laws that require a clinical trials policy for State regulated*

1 *health insurance plans that is in addition to the policy re-*  
2 *quired under this section.”.*

3 *(d) Section 1251(a) of this Act is amended—*

4 *(1) in paragraph (2), by striking “With” and*  
5 *inserting “Except as provided in paragraph (3),*  
6 *with”; and*

7 *(2) by adding at the end the following:*

8 *“(3) APPLICATION OF CERTAIN PROVISIONS.—*  
9 *The provisions of sections 2715 and 2718 of the Pub-*  
10 *lic Health Service Act (as added by subtitle A) shall*  
11 *apply to grandfathered health plans for plan years*  
12 *beginning on or after the date of enactment of this*  
13 *Act.”.*

14 *(e) Section 1253 of this Act is amended insert before*  
15 *the period the following: “, except that—*

16 *“(1) section 1251 shall take effect on the date of*  
17 *enactment of this Act; and*

18 *“(2) the provisions of section 2704 of the Public*  
19 *Health Service Act (as amended by section 1201), as*  
20 *they apply to enrollees who are under 19 years of age,*  
21 *shall become effective for plan years beginning on or*  
22 *after the date that is 6 months after the date of enact-*  
23 *ment of this Act.”.*

24 *(f) Subtitle C of title I of this Act is amended—*

1           (1) *by redesignating section 1253 as section*  
2           *1255; and*

3           (2) *by inserting after section 1252, the following:*

4   **“SEC. 1253. ANNUAL REPORT ON SELF-INSURED PLANS.**

5           *“Not later than 1 year after the date of enactment of*  
6 *this Act, and annually thereafter, the Secretary of Labor*  
7 *shall prepare an aggregate annual report, using data col-*  
8 *lected from the Annual Return/Report of Employee Benefit*  
9 *Plan (Department of Labor Form 5500), that shall include*  
10 *general information on self-insured group health plans (in-*  
11 *cluding plan type, number of participants, benefits offered,*  
12 *funding arrangements, and benefit arrangements) as well*  
13 *as data from the financial filings of self-insured employers*  
14 *(including information on assets, liabilities, contributions,*  
15 *investments, and expenses). The Secretary shall submit such*  
16 *reports to the appropriate committees of Congress.*

17   **“SEC. 1254. STUDY OF LARGE GROUP MARKET.**

18           *“(a) IN GENERAL.—The Secretary of Health and*  
19 *Human Services shall conduct a study of the fully-insured*  
20 *and self-insured group health plan markets to—*

21           *“(1) compare the characteristics of employers*  
22 *(including industry, size, and other characteristics as*  
23 *determined appropriate by the Secretary), health plan*  
24 *benefits, financial solvency, capital reserve levels, and*  
25 *the risks of becoming insolvent; and*

1           “(2) *determine the extent to which new insur-*  
2           *ance market reforms are likely to cause adverse selec-*  
3           *tion in the large group market or to encourage small*  
4           *and midsize employers to self-insure.*

5           “(b) *COLLECTION OF INFORMATION.—In conducting*  
6           *the study under subsection (a), the Secretary, in coordina-*  
7           *tion with the Secretary of Labor, shall collect information*  
8           *and analyze—*

9           “(1) *the extent to which self-insured group health*  
10           *plans can offer less costly coverage and, if so, whether*  
11           *lower costs are due to more efficient plan administra-*  
12           *tion and lower overhead or to the denial of claims*  
13           *and the offering very limited benefit packages;*

14           “(2) *claim denial rates, plan benefit fluctuations*  
15           *(to evaluate the extent that plans scale back health*  
16           *benefits during economic downturns), and the impact*  
17           *of the limited recourse options on consumers; and*

18           “(3) *any potential conflict of interest as it re-*  
19           *lates to the health care needs of self-insured enrollees*  
20           *and self-insured employer’s financial contribution or*  
21           *profit margin, and the impact of such conflict on ad-*  
22           *ministration of the health plan.*

23           “(c) *REPORT.—Not later than 1 year after the date*  
24           *of enactment of this Act, the Secretary shall submit to the*

1 *appropriate committees of Congress a report concerning the*  
2 *results of the study conducted under subsection (a).”.*

3 **SEC. 10104. AMENDMENTS TO SUBTITLE D.**

4 *(a) Section 1301(a) of this Act is amended by striking*  
5 *paragraph (2) and inserting the following:*

6 *“(2) INCLUSION OF CO-OP PLANS AND MULTI-*  
7 *STATE QUALIFIED HEALTH PLANS.—Any reference in*  
8 *this title to a qualified health plan shall be deemed*  
9 *to include a qualified health plan offered through the*  
10 *CO-OP program under section 1322, and a multi-*  
11 *State plan under section 1334, unless specifically pro-*  
12 *vided for otherwise.*

13 *“(3) TREATMENT OF QUALIFIED DIRECT PRI-*  
14 *MARY CARE MEDICAL HOME PLANS.—The Secretary of*  
15 *Health and Human Services shall permit a qualified*  
16 *health plan to provide coverage through a qualified*  
17 *direct primary care medical home plan that meets*  
18 *criteria established by the Secretary, so long as the*  
19 *qualified health plan meets all requirements that are*  
20 *otherwise applicable and the services covered by the*  
21 *medical home plan are coordinated with the entity of-*  
22 *fering the qualified health plan.*

23 *“(4) VARIATION BASED ON RATING AREA.—A*  
24 *qualified health plan, including a multi-State quali-*  
25 *fied health plan, may as appropriate vary premiums*

1       *by rating area (as defined in section 2701(a)(2) of the*  
2       *Public Health Service Act).”.*

3       *(b) Section 1302 of this Act is amended—*

4               *(1) in subsection (d)(2)(B), by striking “may*  
5       *issue” and inserting “shall issue”; and*

6               *(2) by adding at the end the following:*

7       *“(g) PAYMENTS TO FEDERALLY-QUALIFIED HEALTH*  
8       *CENTERS.—If any item or service covered by a qualified*  
9       *health plan is provided by a Federally-qualified health cen-*  
10       *ter (as defined in section 1905(l)(2)(B) of the Social Secu-*  
11       *rity Act (42 U.S.C. 1396d(l)(2)(B)) to an enrollee of the*  
12       *plan, the offeror of the plan shall pay to the center for the*  
13       *item or service an amount that is not less than the amount*  
14       *of payment that would have been paid to the center under*  
15       *section 1902(bb) of such Act (42 U.S.C. 1396a(bb)) for such*  
16       *item or service.”.*

17       *(c) Section 1303 of this Act is amended to read as fol-*  
18       *lows:*

19       **“SEC. 1303. SPECIAL RULES.**

20       *“(a) STATE OPT-OUT OF ABORTION COVERAGE.—*

21               *“(1) IN GENERAL.—A State may elect to pro-*  
22       *hibit abortion coverage in qualified health plans of-*  
23       *fered through an Exchange in such State if such State*  
24       *enacts a law to provide for such prohibition.*

1           “(2) *TERMINATION OF OPT OUT.*—A State may  
2           *repeal a law described in paragraph (1) and provide*  
3           *for the offering of such services through the Exchange.*

4           “(b) *SPECIAL RULES RELATING TO COVERAGE OF*  
5 *ABORTION SERVICES.*—

6           “(1) *VOLUNTARY CHOICE OF COVERAGE OF*  
7 *ABORTION SERVICES.*—

8           “(A) *IN GENERAL.*—Notwithstanding any  
9           *other provision of this title (or any amendment*  
10           *made by this title)—*

11           “(i) *nothing in this title (or any*  
12           *amendment made by this title), shall be*  
13           *construed to require a qualified health plan*  
14           *to provide coverage of services described in*  
15           *subparagraph (B)(i) or (B)(ii) as part of*  
16           *its essential health benefits for any plan*  
17           *year; and*

18           “(ii) *subject to subsection (a), the*  
19           *issuer of a qualified health plan shall deter-*  
20           *mine whether or not the plan provides cov-*  
21           *erage of services described in subparagraph*  
22           *(B)(i) or (B)(ii) as part of such benefits for*  
23           *the plan year.*

24           “(B) *ABORTION SERVICES.*—

1           “(i) *ABORTIONS FOR WHICH PUBLIC*  
2           *FUNDING IS PROHIBITED.*—*The services de-*  
3           *scribed in this clause are abortions for*  
4           *which the expenditure of Federal funds ap-*  
5           *propriated for the Department of Health*  
6           *and Human Services is not permitted,*  
7           *based on the law as in effect as of the date*  
8           *that is 6 months before the beginning of the*  
9           *plan year involved.*

10           “(ii) *ABORTIONS FOR WHICH PUBLIC*  
11           *FUNDING IS ALLOWED.*—*The services de-*  
12           *scribed in this clause are abortions for*  
13           *which the expenditure of Federal funds ap-*  
14           *propriated for the Department of Health*  
15           *and Human Services is permitted, based on*  
16           *the law as in effect as of the date that is 6*  
17           *months before the beginning of the plan*  
18           *year involved.*

19           “(2) *PROHIBITION ON THE USE OF FEDERAL*  
20           *FUNDS.*—

21           “(A) *IN GENERAL.*—*If a qualified health*  
22           *plan provides coverage of services described in*  
23           *paragraph (1)(B)(i), the issuer of the plan shall*  
24           *not use any amount attributable to any of the*

1 following for purposes of paying for such serv-  
2 ices:

3 “(i) The credit under section 36B of  
4 the Internal Revenue Code of 1986 (and the  
5 amount (if any) of the advance payment of  
6 the credit under section 1412 of the Patient  
7 Protection and Affordable Care Act).

8 “(ii) Any cost-sharing reduction under  
9 section 1402 of the Patient Protection and  
10 Affordable Care Act (and the amount (if  
11 any) of the advance payment of the reduc-  
12 tion under section 1412 of the Patient Pro-  
13 tection and Affordable Care Act).

14 “(B) ESTABLISHMENT OF ALLOCATION AC-  
15 COUNTS.—In the case of a plan to which sub-  
16 paragraph (A) applies, the issuer of the plan  
17 shall—

18 “(i) collect from each enrollee in the  
19 plan (without regard to the enrollee’s age,  
20 sex, or family status) a separate payment  
21 for each of the following:

22 “(I) an amount equal to the por-  
23 tion of the premium to be paid directly  
24 by the enrollee for coverage under the  
25 plan of services other than services de-

1           scribed in paragraph (1)(B)(i) (after  
2           reduction for credits and cost-sharing  
3           reductions described in subparagraph  
4           (A)); and

5                     “(II) an amount equal to the ac-  
6                     tual value of the coverage of services  
7                     described in paragraph (1)(B)(i), and

8                     “(ii) shall deposit all such separate  
9                     payments into separate allocation accounts  
10                    as provided in subparagraph (C).

11           In the case of an enrollee whose premium for  
12           coverage under the plan is paid through em-  
13           ployee payroll deposit, the separate payments re-  
14           quired under this subparagraph shall each be  
15           paid by a separate deposit.

16                     “(C) SEGREGATION OF FUNDS.—

17                     “(i) IN GENERAL.—The issuer of a  
18                     plan to which subparagraph (A) applies  
19                     shall establish allocation accounts described  
20                     in clause (ii) for enrollees receiving  
21                     amounts described in subparagraph (A).

22                     “(ii) ALLOCATION ACCOUNTS.—The  
23                     issuer of a plan to which subparagraph (A)  
24                     applies shall deposit—

1           “(I) all payments described in  
2           subparagraph (B)(i)(I) into a separate  
3           account that consists solely of such  
4           payments and that is used exclusively  
5           to pay for services other than services  
6           described in paragraph (1)(B)(i); and

7           “(II) all payments described in  
8           subparagraph (B)(i)(II) into a separate  
9           account that consists solely of such  
10          payments and that is used exclusively  
11          to pay for services described in para-  
12          graph (1)(B)(i).

13          “(D) ACTUARIAL VALUE.—

14                 “(i) IN GENERAL.—The issuer of a  
15                 qualified health plan shall estimate the  
16                 basic per enrollee, per month cost, deter-  
17                 mined on an average actuarial basis, for in-  
18                 cluding coverage under the qualified health  
19                 plan of the services described in paragraph  
20                 (1)(B)(i).

21                 “(ii) CONSIDERATIONS.—In making  
22                 such estimate, the issuer—

23                         “(I) may take into account the  
24                         impact on overall costs of the inclusion  
25                         of such coverage, but may not take into

1           *account any cost reduction estimated*  
2           *to result from such services, including*  
3           *prenatal care, delivery, or postnatal*  
4           *care;*

5           *“(II) shall estimate such costs as*  
6           *if such coverage were included for the*  
7           *entire population covered; and*

8           *“(III) may not estimate such a*  
9           *cost at less than \$1 per enrollee, per*  
10          *month.*

11          *“(E) ENSURING COMPLIANCE WITH SEG-*  
12          *REGATION REQUIREMENTS.—*

13           *“(i) IN GENERAL.—Subject to clause*  
14           *(ii), State health insurance commissioners*  
15           *shall ensure that health plans comply with*  
16           *the segregation requirements in this sub-*  
17           *section through the segregation of plan*  
18           *funds in accordance with applicable provi-*  
19           *sions of generally accepted accounting re-*  
20           *quirements, circulars on funds management*  
21           *of the Office of Management and Budget,*  
22           *and guidance on accounting of the Govern-*  
23           *ment Accountability Office.*

24           *“(ii) CLARIFICATION.—Nothing in*  
25           *clause (i) shall prohibit the right of an indi-*

1            *vidual or health plan to appeal such action*  
2            *in courts of competent jurisdiction.*

3            “(3) *RULES RELATING TO NOTICE.—*

4            “(A) *NOTICE.—A qualified health plan that*  
5            *provides for coverage of the services described in*  
6            *paragraph (1)(B)(i) shall provide a notice to en-*  
7            *rollees, only as part of the summary of benefits*  
8            *and coverage explanation, at the time of enroll-*  
9            *ment, of such coverage.*

10            “(B) *RULES RELATING TO PAYMENTS.—The*  
11            *notice described in subparagraph (A), any adver-*  
12            *tising used by the issuer with respect to the plan,*  
13            *any information provided by the Exchange, and*  
14            *any other information specified by the Secretary*  
15            *shall provide information only with respect to*  
16            *the total amount of the combined payments for*  
17            *services described in paragraph (1)(B)(i) and*  
18            *other services covered by the plan.*

19            “(4) *NO DISCRIMINATION ON BASIS OF PROVI-*  
20            *SION OF ABORTION.—No qualified health plan offered*  
21            *through an Exchange may discriminate against any*  
22            *individual health care provider or health care facility*  
23            *because of its unwillingness to provide, pay for, pro-*  
24            *vide coverage of, or refer for abortions*

1       “(c) *APPLICATION OF STATE AND FEDERAL LAWS RE-*  
2 *GARDING ABORTION.—*

3               “(1) *NO PREEMPTION OF STATE LAWS REGARD-*  
4 *ING ABORTION.—Nothing in this Act shall be con-*  
5 *strued to preempt or otherwise have any effect on*  
6 *State laws regarding the prohibition of (or require-*  
7 *ment of) coverage, funding, or procedural require-*  
8 *ments on abortions, including parental notification or*  
9 *consent for the performance of an abortion on a*  
10 *minor.*

11              “(2) *NO EFFECT ON FEDERAL LAWS REGARDING*  
12 *ABORTION.—*

13                   “(A) *IN GENERAL.—Nothing in this Act*  
14 *shall be construed to have any effect on Federal*  
15 *laws regarding—*

16                           “(i) *conscience protection;*

17                           “(ii) *willingness or refusal to provide*  
18 *abortion; and*

19                           “(iii) *discrimination on the basis of*  
20 *the willingness or refusal to provide, pay*  
21 *for, cover, or refer for abortion or to provide*  
22 *or participate in training to provide abor-*  
23 *tion.*

24              “(3) *NO EFFECT ON FEDERAL CIVIL RIGHTS*  
25 *LAW.—Nothing in this subsection shall alter the rights*

1       *and obligations of employees and employers under*  
2       *title VII of the Civil Rights Act of 1964.*

3       “(d) *APPLICATION OF EMERGENCY SERVICES LAWS.—*  
4       *Nothing in this Act shall be construed to relieve any health*  
5       *care provider from providing emergency services as required*  
6       *by State or Federal law, including section 1867 of the So-*  
7       *cial Security Act (popularly known as ‘EMTALA’).”.*

8       *(d) Section 1304 of this Act is amended by adding at*  
9       *the end the following:*

10       “(e) *EDUCATED HEALTH CARE CONSUMERS.—The*  
11       *term ‘educated health care consumer’ means an individual*  
12       *who is knowledgeable about the health care system, and has*  
13       *background or experience in making informed decisions re-*  
14       *garding health, medical, and scientific matters.”.*

15       *(e) Section 1311(d) of this Act is amended—*

16               *(1) in paragraph (3)(B), by striking clause (ii)*  
17       *and inserting the following:*

18                       “(ii) *STATE MUST ASSUME COST.—A*  
19                       *State shall make payments—*

20                               “(I) *to an individual enrolled in*  
21                               *a qualified health plan offered in such*  
22                               *State; or*

23                               “(II) *on behalf of an individual*  
24                               *described in subclause (I) directly to*

1                   *the qualified health plan in which such*  
2                   *individual is enrolled;*  
3                   *to defray the cost of any additional benefits*  
4                   *described in clause (i).”; and*  
5                   (2) *in paragraph (6)(A), by inserting “educated”*  
6                   *before “health care”.*

7                   (f) *Section 1311(e) of this Act is amended—*

8                   (1) *in paragraph (2), by striking “may” in the*  
9                   *second sentence and inserting “shall”; and*

10                   (2) *by adding at the end the following:*

11                   “(3) *TRANSPARENCY IN COVERAGE.—*

12                    “(A) *IN GENERAL.—The Exchange shall re-*  
13                    *quire health plans seeking certification as quali-*  
14                    *fied health plans to submit to the Exchange, the*  
15                    *Secretary, the State insurance commissioner,*  
16                    *and make available to the public, accurate and*  
17                    *timely disclosure of the following information:*

18                    “(i) *Claims payment policies and*  
19                    *practices.*

20                    “(ii) *Periodic financial disclosures.*

21                    “(iii) *Data on enrollment.*

22                    “(iv) *Data on disenrollment.*

23                    “(v) *Data on the number of claims*  
24                    *that are denied.*

25                    “(vi) *Data on rating practices.*

1           “(vii) *Information on cost-sharing and*  
2           *payments with respect to any out-of-net-*  
3           *work coverage.*

4           “(viii) *Information on enrollee and*  
5           *participant rights under this title.*

6           “(ix) *Other information as determined*  
7           *appropriate by the Secretary.*

8           “(B) *USE OF PLAIN LANGUAGE.—The infor-*  
9           *mation required to be submitted under subpara-*  
10          *graph (A) shall be provided in plain language.*  
11          *The term ‘plain language’ means language that*  
12          *the intended audience, including individuals*  
13          *with limited English proficiency, can readily*  
14          *understand and use because that language is*  
15          *concise, well-organized, and follows other best*  
16          *practices of plain language writing. The Sec-*  
17          *retary and the Secretary of Labor shall jointly*  
18          *develop and issue guidance on best practices of*  
19          *plain language writing.*

20          “(C) *COST SHARING TRANSPARENCY.—The*  
21          *Exchange shall require health plans seeking cer-*  
22          *tification as qualified health plans to permit in-*  
23          *dividuals to learn the amount of cost-sharing*  
24          *(including deductibles, copayments, and coinsur-*  
25          *ance) under the individual’s plan or coverage*

1           *that the individual would be responsible for pay-*  
2           *ing with respect to the furnishing of a specific*  
3           *item or service by a participating provider in a*  
4           *timely manner upon the request of the indi-*  
5           *vidual. At a minimum, such information shall*  
6           *be made available to such individual through an*  
7           *Internet website and such other means for indi-*  
8           *viduals without access to the Internet.*

9           “(D) *GROUP HEALTH PLANS.*—*The Sec-*  
10          *retary of Labor shall update and harmonize the*  
11          *Secretary’s rules concerning the accurate and*  
12          *timely disclosure to participants by group health*  
13          *plans of plan disclosure, plan terms and condi-*  
14          *tions, and periodic financial disclosure with the*  
15          *standards established by the Secretary under*  
16          *subparagraph (A).”.*

17          *(g) Section 1311(g)(1) of this Act is amended—*

18                 *(1) in subparagraph (C), by striking “; and”*  
19                 *and inserting a semicolon;*

20                 *(2) in subparagraph (D), by striking the period*  
21                 *and inserting “; and”; and*

22                 *(3) by adding at the end the following:*

23                         *“(E) the implementation of activities to re-*  
24                         *duce health and health care disparities, includ-*  
25                         *ing through the use of language services, commu-*

1            *nity outreach, and cultural competency*  
2            *trainings.”.*

3            *(h) Section 1311(i)(2)(B) of this Act is amended by*  
4            *striking “small business development centers” and inserting*  
5            *“resource partners of the Small Business Administration”.*

6            *(i) Section 1312 of this Act is amended—*

7                    *(1) in subsection (a)(1), by inserting “and for*  
8                    *which such individual is eligible” before the period;*

9                    *(2) in subsection (e)—*

10                            *(A) in paragraph (1), by inserting “and*  
11                            *employers” after “enroll individuals”; and*

12                            *(B) by striking the flush sentence at the end;*

13                    *and*

14                            *(3) in subsection (f)(1)(A)(ii), by striking the*  
15                    *parenthetical.*

16            *(j)(1) Subparagraph (B) of section 1313(a)(6) of this*  
17            *Act is hereby deemed null, void, and of no effect.*

18            *(2) Section 3730(e) of title 31, United States Code, is*  
19            *amended by striking paragraph (4) and inserting the fol-*  
20            *lowing:*

21                            *“(4)(A) The court shall dismiss an action or*  
22                            *claim under this section, unless opposed by the Gov-*  
23                            *ernment, if substantially the same allegations or*  
24                            *transactions as alleged in the action or claim were*  
25                            *publicly disclosed—*

1           “(i) in a Federal criminal, civil, or admin-  
2           istrative hearing in which the Government or its  
3           agent is a party;

4           “(ii) in a congressional, Government Ac-  
5           countability Office, or other Federal report, hear-  
6           ing, audit, or investigation; or

7           “(iii) from the news media,  
8           unless the action is brought by the Attorney General  
9           or the person bringing the action is an original  
10          source of the information.

11          “(B) For purposes of this paragraph, “original  
12          source” means an individual who either (i) prior to  
13          a public disclosure under subsection (e)(4)(a), has vol-  
14          untarily disclosed to the Government the information  
15          on which allegations or transactions in a claim are  
16          based, or (2) who has knowledge that is independent  
17          of and materially adds to the publicly disclosed alle-  
18          gations or transactions, and who has voluntarily pro-  
19          vided the information to the Government before filing  
20          an action under this section.”.

21          (k) Section 1313(b) of this Act is amended—

22                 (1) in paragraph (3), by striking “and” at the  
23                 end;

24                 (2) by redesignating paragraph (4) as para-  
25                 graph (5); and

1           (3) *by inserting after paragraph (3) the fol-*  
2 *lowing:*

3           “(4) *a survey of the cost and affordability of*  
4 *health care insurance provided under the Exchanges*  
5 *for owners and employees of small business concerns*  
6 *(as defined under section 3 of the Small Business Act*  
7 *(15 U.S.C. 632)), including data on enrollees in Ex-*  
8 *changes and individuals purchasing health insurance*  
9 *coverage outside of Exchanges; and”.*

10       *(l) Section 1322(b) of this Act is amended—*

11           (1) *by redesignating paragraph (3) as para-*  
12 *graph (4); and*

13           (2) *by inserting after paragraph (2), the fol-*  
14 *lowing:*

15           “(3) *REPAYMENT OF LOANS AND GRANTS.—Not*  
16 *later than July 1, 2013, and prior to awarding loans*  
17 *and grants under the CO-OP program, the Secretary*  
18 *shall promulgate regulations with respect to the re-*  
19 *payment of such loans and grants in a manner that*  
20 *is consistent with State solvency regulations and*  
21 *other similar State laws that may apply. In promul-*  
22 *gating such regulations, the Secretary shall provide*  
23 *that such loans shall be repaid within 5 years and*  
24 *such grants shall be repaid within 15 years, taking*  
25 *into consideration any appropriate State reserve re-*

1        *quirements, solvency regulations, and requisite sur-*  
2        *plus note arrangements that must be constructed in a*  
3        *State to provide for such repayment prior to award-*  
4        *ing such loans and grants.”.*

5        *(m) Part III of subtitle D of title I of this Act is*  
6        *amended by striking section 1323.*

7        *(n) Section 1324(a) of this Act is amended by striking*  
8        *“, a community health” and all that follows through*  
9        *“1333(b)” and inserting “, or a multi-State qualified health*  
10       *plan under section 1334”.*

11       *(o) Section 1331 of this Act is amended—*

12                *(1) in subsection (d)(3)(A)(i), by striking “85”*  
13                *and inserting “95”; and*

14                *(2) in subsection (e)(1)(B), by inserting before*  
15                *the semicolon the following: “, or, in the case of an*  
16                *alien lawfully present in the United States, whose in-*  
17                *come is not greater than 133 percent of the poverty*  
18                *line for the size of the family involved but who is not*  
19                *eligible for the Medicaid program under title XIX of*  
20                *the Social Security Act by reason of such alien sta-*  
21                *tus”.*

22        *(p) Section 1333 of this Act is amended by striking*  
23        *subsection (b).*

24        *(q) Part IV of subtitle D of title I of this Act is amend-*  
25        *ed by adding at the end the following:*

1 **“SEC. 1334. MULTI-STATE PLANS.**

2 “(a) *OVERSIGHT BY THE OFFICE OF PERSONNEL MAN-*  
3 *AGEMENT.*—

4 “(1) *IN GENERAL.*—*The Director of the Office of*  
5 *Personnel Management (referred to in this section as*  
6 *the ‘Director’) shall enter into contracts with health*  
7 *insurance issuers (which may include a group of*  
8 *health insurance issuers affiliated either by common*  
9 *ownership and control or by the common use of a na-*  
10 *tionally licensed service mark), without regard to sec-*  
11 *tion 5 of title 41, United States Code, or other stat-*  
12 *utes requiring competitive bidding, to offer at least 2*  
13 *multi-State qualified health plans through each Ex-*  
14 *change in each State. Such plans shall provide indi-*  
15 *vidual, or in the case of small employers, group cov-*  
16 *erage.*

17 “(2) *TERMS.*—*Each contract entered into under*  
18 *paragraph (1) shall be for a uniform term of at least*  
19 *1 year, but may be made automatically renewable*  
20 *from term to term in the absence of notice of termi-*  
21 *nation by either party. In entering into such con-*  
22 *tracts, the Director shall ensure that health benefits*  
23 *coverage is provided in accordance with the types of*  
24 *coverage provided for under section 2701(a)(1)(A)(i)*  
25 *of the Public Health Service Act.*

1           “(3) *NON-PROFIT ENTITIES.*—*In entering into*  
2           *contracts under paragraph (1), the Director shall en-*  
3           *sure that at least one contract is entered into with a*  
4           *non-profit entity.*

5           “(4) *ADMINISTRATION.*—*The Director shall im-*  
6           *plement this subsection in a manner similar to the*  
7           *manner in which the Director implements the con-*  
8           *tracting provisions with respect to carriers under the*  
9           *Federal employees health benefit program under chap-*  
10          *ter 89 of title 5, United States Code, including*  
11          *(through negotiating with each multi-state plan)—*

12                   “(A) *a medical loss ratio;*

13                   “(B) *a profit margin;*

14                   “(C) *the premiums to be charged; and*

15                   “(D) *such other terms and conditions of*  
16          *coverage as are in the interests of enrollees in*  
17          *such plans.*

18          “(5) *AUTHORITY TO PROTECT CONSUMERS.*—*The*  
19          *Director may prohibit the offering of any multi-State*  
20          *health plan that does not meet the terms and condi-*  
21          *tions defined by the Director with respect to the ele-*  
22          *ments described in subparagraphs (A) through (D) of*  
23          *paragraph (4).*

24          “(6) *ASSURED AVAILABILITY OF VARIED COV-*  
25          *ERAGE.*—*In entering into contracts under this sub-*

1     *section, the Director shall ensure that with respect to*  
2     *multi-State qualified health plans offered in an Ex-*  
3     *change, there is at least one such plan that does not*  
4     *provide coverage of services described in section*  
5     *1303(b)(1)(B)(i).*

6             “(7) *WITHDRAWAL.—Approval of a contract*  
7     *under this subsection may be withdrawn by the Direc-*  
8     *tor only after notice and opportunity for hearing to*  
9     *the issuer concerned without regard to subchapter II*  
10    *of chapter 5 and chapter 7 of title 5, United States*  
11    *Code.*

12            “(b) *ELIGIBILITY.—A health insurance issuer shall be*  
13    *eligible to enter into a contract under subsection (a)(1) if*  
14    *such issuer—*

15            “(1) *agrees to offer a multi-State qualified health*  
16    *plan that meets the requirements of subsection (c) in*  
17    *each Exchange in each State;*

18            “(2) *is licensed in each State and is subject to*  
19    *all requirements of State law not inconsistent with*  
20    *this section, including the standards and require-*  
21    *ments that a State imposes that do not prevent the*  
22    *application of a requirement of part A of title XXVII*  
23    *of the Public Health Service Act or a requirement of*  
24    *this title;*

1           “(3) otherwise complies with the minimum  
2 standards prescribed for carriers offering health bene-  
3 fits plans under section 8902(e) of title 5, United  
4 States Code, to the extent that such standards do not  
5 conflict with a provision of this title; and

6           “(4) meets such other requirements as determined  
7 appropriate by the Director, in consultation with the  
8 Secretary.

9           “(c) *REQUIREMENTS FOR MULTI-STATE QUALIFIED*  
10 *HEALTH PLAN.*—

11           “(1) *IN GENERAL.*—A multi-State qualified  
12 health plan meets the requirements of this subsection  
13 if, in the determination of the Director—

14           “(A) the plan offers a benefits package that  
15 is uniform in each State and consists of the es-  
16 sential benefits described in section 1302;

17           “(B) the plan meets all requirements of this  
18 title with respect to a qualified health plan, in-  
19 cluding requirements relating to the offering of  
20 the bronze, silver, and gold levels of coverage and  
21 catastrophic coverage in each State Exchange;

22           “(C) except as provided in paragraph (5),  
23 the issuer provides for determinations of pre-  
24 miums for coverage under the plan on the basis

1           *of the rating requirements of part A of title*  
2           *XXVII of the Public Health Service Act; and*

3           *“(D) the issuer offers the plan in all geo-*  
4           *graphic regions, and in all States that have*  
5           *adopted adjusted community rating before the*  
6           *date of enactment of this Act.*

7           *“(2) STATES MAY OFFER ADDITIONAL BENE-*  
8           *FITS.—Nothing in paragraph (1)(A) shall preclude a*  
9           *State from requiring that benefits in addition to the*  
10          *essential health benefits required under such para-*  
11          *graph be provided to enrollees of a multi-State quali-*  
12          *fied health plan offered in such State.*

13          *“(3) CREDITS.—*

14            *“(A) IN GENERAL.—An individual enrolled*  
15            *in a multi-State qualified health plan under this*  
16            *section shall be eligible for credits under section*  
17            *36B of the Internal Revenue Code of 1986 and*  
18            *cost sharing assistance under section 1402 in the*  
19            *same manner as an individual who is enrolled*  
20            *in a qualified health plan.*

21            *“(B) NO ADDITIONAL FEDERAL COST.—A*  
22            *requirement by a State under paragraph (2)*  
23            *that benefits in addition to the essential health*  
24            *benefits required under paragraph (1)(A) be pro-*  
25            *vided to enrollees of a multi-State qualified*

1           *health plan shall not affect the amount of a pre-*  
2           *mium tax credit provided under section 36B of*  
3           *the Internal Revenue Code of 1986 with respect*  
4           *to such plan.*

5           “(4) *STATE MUST ASSUME COST.*—*A State shall*  
6           *make payments—*

7                   “(A) *to an individual enrolled in a multi-*  
8                   *State qualified health plan offered in such State;*  
9                   *or*

10                   “(B) *on behalf of an individual described in*  
11                   *subparagraph (A) directly to the multi-State*  
12                   *qualified health plan in which such individual is*  
13                   *enrolled;*

14           *to defray the cost of any additional benefits described*  
15           *in paragraph (2).*

16           “(5) *APPLICATION OF CERTAIN STATE RATING*  
17           *REQUIREMENTS.*—*With respect to a multi-State*  
18           *qualified health plan that is offered in a State with*  
19           *age rating requirements that are lower than 3:1, the*  
20           *State may require that Exchanges operating in such*  
21           *State only permit the offering of such multi-State*  
22           *qualified health plans if such plans comply with the*  
23           *State’s more protective age rating requirements.*

24           “(d) *PLANS DEEMED TO BE CERTIFIED.*—*A multi-*  
25           *State qualified health plan that is offered under a contract*

1 *under subsection (a) shall be deemed to be certified by an*  
2 *Exchange for purposes of section 1311(d)(4)(A).*

3       “(e) *PHASE-IN.—Notwithstanding paragraphs (1) and*  
4 *(2) of subsection (b), the Director shall enter into a contract*  
5 *with a health insurance issuer for the offering of a multi-*  
6 *State qualified health plan under subsection (a) if—*

7               “(1) *with respect to the first year for which the*  
8 *issuer offers such plan, such issuer offers the plan in*  
9 *at least 60 percent of the States;*

10               “(2) *with respect to the second such year, such*  
11 *issuer offers the plan in at least 70 percent of the*  
12 *States;*

13               “(3) *with respect to the third such year, such*  
14 *issuer offers the plan in at least 85 percent of the*  
15 *States; and*

16               “(4) *with respect to each subsequent year, such*  
17 *issuer offers the plan in all States.*

18       “(f) *APPLICABILITY.—The requirements under chapter*  
19 *89 of title 5, United States Code, applicable to health bene-*  
20 *fits plans under such chapter shall apply to multi-State*  
21 *qualified health plans provided for under this section to the*  
22 *extent that such requirements do not conflict with a provi-*  
23 *sion of this title.*

24       “(g) *CONTINUED SUPPORT FOR FEHBP.—*

1           “(1) *MAINTENANCE OF EFFORT.*—*Nothing in*  
2 *this section shall be construed to permit the Director*  
3 *to allocate fewer financial or personnel resources to*  
4 *the functions of the Office of Personnel Management*  
5 *related to the administration of the Federal Employ-*  
6 *ees Health Benefit Program under chapter 89 of title*  
7 *5, United States Code.*

8           “(2) *SEPARATE RISK POOL.*—*Enrollees in multi-*  
9 *State qualified health plans under this section shall*  
10 *be treated as a separate risk pool apart from enrollees*  
11 *in the Federal Employees Health Benefit Program*  
12 *under chapter 89 of title 5, United States Code.*

13           “(3) *AUTHORITY TO ESTABLISH SEPARATE ENTI-*  
14 *TIES.*—*The Director may establish such separate*  
15 *units or offices within the Office of Personnel Man-*  
16 *agement as the Director determines to be appropriate*  
17 *to ensure that the administration of multi-State*  
18 *qualified health plans under this section does not*  
19 *interfere with the effective administration of the Fed-*  
20 *eral Employees Health Benefit Program under chap-*  
21 *ter 89 of title 5, United States Code.*

22           “(4) *EFFECTIVE OVERSIGHT.*—*The Director may*  
23 *appoint such additional personnel as may be nec-*  
24 *essary to enable the Director to carry out activities*  
25 *under this section.*

1           “(5) *ASSURANCE OF SEPARATE PROGRAM.*—*In*  
2           *carrying out this section, the Director shall ensure*  
3           *that the program under this section is separate from*  
4           *the Federal Employees Health Benefit Program under*  
5           *chapter 89 of title 5, United States Code. Premiums*  
6           *paid for coverage under a multi-State qualified health*  
7           *plan under this section shall not be considered to be*  
8           *Federal funds for any purposes.*

9           “(6) *FEHBP PLANS NOT REQUIRED TO PARTICI-*  
10           *PATE.*—*Nothing in this section shall require that a*  
11           *carrier offering coverage under the Federal Employees*  
12           *Health Benefit Program under chapter 89 of title 5,*  
13           *United States Code, also offer a multi-State qualified*  
14           *health plan under this section.*

15           “(h) *ADVISORY BOARD.*—*The Director shall establish*  
16           *an advisory board to provide recommendations on the ac-*  
17           *tivities described in this section. A significant percentage*  
18           *of the members of such board shall be comprised of enrollees*  
19           *in a multi-State qualified health plan, or representatives*  
20           *of such enrollees.*

21           “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
22           *authorized to be appropriated, such sums as may be nec-*  
23           *essary to carry out this section.”.*

24           (r) *Section 1341 of this Act is amended—*

1           (1) *in the section heading, by striking “AND*  
2           *SMALL GROUP MARKETS” and inserting “MAR-*  
3           *KET”;*

4           (2) *in subsection (b)(2)(B), by striking “para-*  
5           *graph (1)(A)” and inserting “paragraph (1)(B)”;* and

6           (3) *in subsection (c)(1)(A), by striking “and*  
7           *small group markets” and inserting “market”.*

8 **SEC. 10105. AMENDMENTS TO SUBTITLE E.**

9           (a) *Section 36B(b)(3)(A)(ii) of the Internal Revenue*  
10 *Code of 1986, as added by section 1401(a) of this Act, is*  
11 *amended by striking “is in excess of” and inserting “equals*  
12 *or exceeds”.*

13           (b) *Section 36B(c)(1)(A) of the Internal Revenue Code*  
14 *of 1986, as added by section 1401(a) of this Act, is amended*  
15 *by inserting “equals or” before “exceeds”.*

16           (c) *Section 36B(c)(2)(C)(iv) of the Internal Revenue*  
17 *Code of 1986, as added by section 1401(a) of this Act, is*  
18 *amended by striking “subsection (b)(3)(A)(ii)” and insert-*  
19 *ing “subsection (b)(3)(A)(iii)”.*

20           (d) *Section 1401(d) of this Act is amended by adding*  
21 *at the end the following:*

22                   *“(3) Section 6211(b)(4)(A) of the Internal Rev-*  
23 *enue Code of 1986 is amended by inserting ‘36B,’*  
24 *after ‘36A,.’.”.*

1       (e)(1) Subparagraph (B) of section 45R(d)(3) of the  
2 Internal Revenue Code of 1986, as added by section 1421(a)  
3 of this Act, is amended to read as follows:

4               “(B) DOLLAR AMOUNT.—For purposes of  
5 paragraph (1)(B) and subsection (c)(2)—

6                       “(i) 2010, 2011, 2012, AND 2013.—The  
7 dollar amount in effect under this para-  
8 graph for taxable years beginning in 2010,  
9 2011, 2012, or 2013 is \$25,000.

10                      “(ii) SUBSEQUENT YEARS.—In the  
11 case of a taxable year beginning in a cal-  
12 endar year after 2013, the dollar amount in  
13 effect under this paragraph shall be equal to  
14 \$25,000, multiplied by the cost-of-living ad-  
15 justment under section 1(f)(3) for the cal-  
16 endar year, determined by substituting ‘cal-  
17 endar year 2012’ for ‘calendar year 1992’  
18 in subparagraph (B) thereof.”.

19       (2) Subsection (g) of section 45R of the Internal Rev-  
20 enue Code of 1986, as added by section 1421(a) of this Act,  
21 is amended by striking “2011” both places it appears and  
22 inserting “2010, 2011”.

23       (3) Section 280C(h) of the Internal Revenue Code of  
24 1986, as added by section 1421(d)(1) of this Act, is amended  
25 by striking “2011” and inserting “2010, 2011”.

1       (4) *Section 1421(f) of this Act is amended by striking*  
2 *“2010” both places it appears and inserting “2009”.*

3       (5) *The amendments made by this subsection shall take*  
4 *effect as if included in the enactment of section 1421 of this*  
5 *Act.*

6       (f) *Part I of subtitle E of title I of this Act is amended*  
7 *by adding at the end of subpart B, the following:*

8       **“SEC. 1416. STUDY OF GEOGRAPHIC VARIATION IN APPLICA-**  
9                                   **TION OF FPL.**

10       “(a) *IN GENERAL.—The Secretary shall conduct a*  
11 *study to examine the feasibility and implication of adjust-*  
12 *ing the application of the Federal poverty level under this*  
13 *subtitle (and the amendments made by this subtitle) for dif-*  
14 *ferent geographic areas so as to reflect the variations in*  
15 *cost-of-living among different areas within the United*  
16 *States. If the Secretary determines that an adjustment is*  
17 *feasible, the study should include a methodology to make*  
18 *such an adjustment. Not later than January 1, 2013, the*  
19 *Secretary shall submit to Congress a report on such study*  
20 *and shall include such recommendations as the Secretary*  
21 *determines appropriate.*

22       “(b) *INCLUSION OF TERRITORIES.—*

23               “(1) *IN GENERAL.—The Secretary shall ensure*  
24 *that the study under subsection (a) covers the terri-*  
25 *tories of the United States and that special attention*

1 *is paid to the disparity that exists among poverty lev-*  
2 *els and the cost of living in such territories and to the*  
3 *impact of such disparity on efforts to expand health*  
4 *coverage and ensure health care.*

5 “(2) *TERRITORIES DEFINED.*—*In this subsection,*  
6 *the term ‘territories of the United States’ includes the*  
7 *Commonwealth of Puerto Rico, the United States Vir-*  
8 *gin Islands, Guam, the Northern Mariana Islands,*  
9 *and any other territory or possession of the United*  
10 *States.”.*

11 **SEC. 10106. AMENDMENTS TO SUBTITLE F.**

12 *(a) Section 1501(a)(2) of this Act is amended to read*  
13 *as follows:*

14 “(2) *EFFECTS ON THE NATIONAL ECONOMY AND*  
15 *INTERSTATE COMMERCE.*—*The effects described in*  
16 *this paragraph are the following:*

17 “(A) *The requirement regulates activity that*  
18 *is commercial and economic in nature: economic*  
19 *and financial decisions about how and when*  
20 *health care is paid for, and when health insur-*  
21 *ance is purchased. In the absence of the require-*  
22 *ment, some individuals would make an economic*  
23 *and financial decision to forego health insurance*  
24 *coverage and attempt to self-insure, which in-*

1           *creases financial risks to households and medical*  
2           *providers.*

3           “(B) *Health insurance and health care serv-*  
4           *ices are a significant part of the national econ-*  
5           *omy. National health spending is projected to in-*  
6           *crease from \$2,500,000,000,000, or 17.6 percent*  
7           *of the economy, in 2009 to \$4,700,000,000,000 in*  
8           *2019. Private health insurance spending is pro-*  
9           *jected to be \$854,000,000,000 in 2009, and pays*  
10           *for medical supplies, drugs, and equipment that*  
11           *are shipped in interstate commerce. Since most*  
12           *health insurance is sold by national or regional*  
13           *health insurance companies, health insurance is*  
14           *sold in interstate commerce and claims pay-*  
15           *ments flow through interstate commerce.*

16           “(C) *The requirement, together with the*  
17           *other provisions of this Act, will add millions of*  
18           *new consumers to the health insurance market,*  
19           *increasing the supply of, and demand for, health*  
20           *care services, and will increase the number and*  
21           *share of Americans who are insured.*

22           “(D) *The requirement achieves near-uni-*  
23           *versal coverage by building upon and strength-*  
24           *ening the private employer-based health insur-*  
25           *ance system, which covers 176,000,000 Ameri-*

1           *cans nationwide. In Massachusetts, a similar re-*  
2           *quirement has strengthened private employer-*  
3           *based coverage: despite the economic downturn,*  
4           *the number of workers offered employer-based*  
5           *coverage has actually increased.*

6           “(E)   *The economy loses up to*  
7           *\$207,000,000,000 a year because of the poorer*  
8           *health and shorter lifespan of the uninsured. By*  
9           *significantly reducing the number of the unin-*  
10          *sured, the requirement, together with the other*  
11          *provisions of this Act, will significantly reduce*  
12          *this economic cost.*

13          “(F)   *The cost of providing uncompensated*  
14          *care to the uninsured was \$43,000,000,000 in*  
15          *2008. To pay for this cost, health care providers*  
16          *pass on the cost to private insurers, which pass*  
17          *on the cost to families. This cost-shifting in-*  
18          *creases family premiums by on average over*  
19          *\$1,000 a year. By significantly reducing the*  
20          *number of the uninsured, the requirement, to-*  
21          *gether with the other provisions of this Act, will*  
22          *lower health insurance premiums.*

23          “(G)   *62 percent of all personal bankruptcies*  
24          *are caused in part by medical expenses. By sig-*  
25          *nificantly increasing health insurance coverage,*

1        *the requirement, together with the other provi-*  
2        *sions of this Act, will improve financial security*  
3        *for families.*

4            *“(H) Under the Employee Retirement In-*  
5        *come Security Act of 1974 (29 U.S.C. 1001 et*  
6        *seq.), the Public Health Service Act (42 U.S.C.*  
7        *201 et seq.), and this Act, the Federal Govern-*  
8        *ment has a significant role in regulating health*  
9        *insurance. The requirement is an essential part*  
10       *of this larger regulation of economic activity,*  
11       *and the absence of the requirement would under-*  
12       *cut Federal regulation of the health insurance*  
13       *market.*

14           *“(I) Under sections 2704 and 2705 of the*  
15        *Public Health Service Act (as added by section*  
16        *1201 of this Act), if there were no requirement,*  
17        *many individuals would wait to purchase health*  
18        *insurance until they needed care. By signifi-*  
19        *cantly increasing health insurance coverage, the*  
20        *requirement, together with the other provisions of*  
21        *this Act, will minimize this adverse selection and*  
22        *broaden the health insurance risk pool to include*  
23        *healthy individuals, which will lower health in-*  
24        *surance premiums. The requirement is essential*  
25        *to creating effective health insurance markets in*

1           *which improved health insurance products that*  
2           *are guaranteed issue and do not exclude coverage*  
3           *of pre-existing conditions can be sold.*

4           “(J) *Administrative costs for private health*  
5           *insurance, which were \$90,000,000,000 in 2006,*  
6           *are 26 to 30 percent of premiums in the current*  
7           *individual and small group markets. By signifi-*  
8           *cantly increasing health insurance coverage and*  
9           *the size of purchasing pools, which will increase*  
10           *economies of scale, the requirement, together with*  
11           *the other provisions of this Act, will significantly*  
12           *reduce administrative costs and lower health in-*  
13           *surance premiums. The requirement is essential*  
14           *to creating effective health insurance markets*  
15           *that do not require underwriting and eliminate*  
16           *its associated administrative costs.”.*

17           *(b)(1) Section 5000A(b)(1) of the Internal Revenue*  
18           *Code of 1986, as added by section 1501(b) of this Act, is*  
19           *amended to read as follows:*

20           “(1) *IN GENERAL.—If a taxpayer who is an ap-*  
21           *plicable individual, or an applicable individual for*  
22           *whom the taxpayer is liable under paragraph (3),*  
23           *fails to meet the requirement of subsection (a) for 1*  
24           *or more months, then, except as provided in sub-*  
25           *section (e), there is hereby imposed on the taxpayer*

1     *a penalty with respect to such failures in the amount*  
2     *determined under subsection (c).”.*

3             *(2) Paragraphs (1) and (2) of section 5000A(c)*  
4     *of the Internal Revenue Code of 1986, as so added,*  
5     *are amended to read as follows:*

6             *“(1) IN GENERAL.—The amount of the penalty*  
7     *imposed by this section on any taxpayer for any tax-*  
8     *able year with respect to failures described in sub-*  
9     *section (b)(1) shall be equal to the lesser of—*

10            *“(A) the sum of the monthly penalty*  
11     *amounts determined under paragraph (2) for*  
12     *months in the taxable year during which 1 or*  
13     *more such failures occurred, or*

14            *“(B) an amount equal to the national aver-*  
15     *age premium for qualified health plans which*  
16     *have a bronze level of coverage, provide coverage*  
17     *for the applicable family size involved, and are*  
18     *offered through Exchanges for plan years begin-*  
19     *ning in the calendar year with or within which*  
20     *the taxable year ends.*

21            *“(2) MONTHLY PENALTY AMOUNTS.—For pur-*  
22     *poses of paragraph (1)(A), the monthly penalty*  
23     *amount with respect to any taxpayer for any month*  
24     *during which any failure described in subsection*

1       **(b)(1)** *occurred is an amount equal to  $\frac{1}{12}$  of the*  
2       *greater of the following amounts:*

3               “(A) *FLAT DOLLAR AMOUNT.*—*An amount*  
4       *equal to the lesser of—*

5                       “(i) *the sum of the applicable dollar*  
6       *amounts for all individuals with respect to*  
7       *whom such failure occurred during such*  
8       *month, or*

9                       “(ii) *300 percent of the applicable dol-*  
10       *lar amount (determined without regard to*  
11       *paragraph (3)(C)) for the calendar year*  
12       *with or within which the taxable year ends.*

13               “(B) *PERCENTAGE OF INCOME.*—*An*  
14       *amount equal to the following percentage of the*  
15       *taxpayer’s household income for the taxable year:*

16                       “(i) *0.5 percent for taxable years be-*  
17       *ginning in 2014.*

18                       “(ii) *1.0 percent for taxable years be-*  
19       *ginning in 2015.*

20                       “(iii) *2.0 percent for taxable years be-*  
21       *ginning after 2015.”.*

22       **(3)** *Section 5000A(c)(3) of the Internal Revenue Code*  
23       *of 1986, as added by section 1501(b) of this Act, is amended*  
24       *by striking “\$350” and inserting “\$495”.*

1       (c) Section 5000A(d)(2)(A) of the Internal Revenue  
2 Code of 1986, as added by section 1501(b) of this Act, is  
3 amended to read as follows:

4               “(A) *RELIGIOUS CONSCIENCE EXEMP-*  
5               *TION.—Such term shall not include any indi-*  
6               *vidual for any month if such individual has in*  
7               *effect an exemption under section 1311(d)(4)(H)*  
8               *of the Patient Protection and Affordable Care*  
9               *Act which certifies that such individual is—*

10               “(i) *a member of a recognized religious*  
11               *sect or division thereof which is described in*  
12               *section 1402(g)(1), and*

13               “(ii) *an adherent of established tenets*  
14               *or teachings of such sect or division as de-*  
15               *scribed in such section.”.*

16       (d) Section 5000A(e)(1)(C) of the Internal Revenue  
17 Code of 1986, as added by section 1501(b) of this Act, is  
18 amended to read as follows:

19               “(C) *SPECIAL RULES FOR INDIVIDUALS RE-*  
20               *LATED TO EMPLOYEES.—For purposes of sub-*  
21               *paragraph (B)(i), if an applicable individual is*  
22               *eligible for minimum essential coverage through*  
23               *an employer by reason of a relationship to an*  
24               *employee, the determination under subparagraph*

1           (A) shall be made by reference to required con-  
2           tribution of the employee.”.

3           (e) Section 4980H(b) of the Internal Revenue Code of  
4 1986, as added by section 1513(a) of this Act, is amended  
5 to read as follows:

6           “(b) *LARGE EMPLOYERS WITH WAITING PERIODS EX-*  
7 *CEEDING 60 DAYS.*—

8           “(1) *IN GENERAL.*—*In the case of any applicable*  
9 *large employer which requires an extended waiting*  
10 *period to enroll in any minimum essential coverage*  
11 *under an employer-sponsored plan (as defined in sec-*  
12 *tion 5000A(f)(2)), there is hereby imposed on the em-*  
13 *ployer an assessable payment of \$600 for each full-*  
14 *time employee of the employer to whom the extended*  
15 *waiting period applies.*

16           “(2) *EXTENDED WAITING PERIOD.*—*The term*  
17 *‘extended waiting period’ means any waiting period*  
18 *(as defined in section 2701(b)(4) of the Public Health*  
19 *Service Act) which exceeds 60 days.”.*

20           (f)(1) Subparagraph (A) of section 4980H(d)(4) of the  
21 Internal Revenue Code of 1986, as added by section 1513(a)  
22 of this Act, is amended by inserting “, with respect to any  
23 month,” after “means”.

1       (2) *Section 4980H(d)(2) of the Internal Revenue Code*  
2 *of 1986, as added by section 1513(a) of this Act, is amended*  
3 *by adding at the end the following:*

4               “(D) *APPLICATION TO CONSTRUCTION IN-*  
5 *DUSTRY EMPLOYERS.—In the case of any em-*  
6 *ployer the substantial annual gross receipts of*  
7 *which are attributable to the construction indus-*  
8 *try—*

9               “(i) *subparagraph (A) shall be applied*  
10 *by substituting ‘who employed an average of*  
11 *at least 5 full-time employees on business*  
12 *days during the preceding calendar year*  
13 *and whose annual payroll expenses exceed*  
14 *\$250,000 for such preceding calendar year’*  
15 *for ‘who employed an average of at least 50*  
16 *full-time employees on business days during*  
17 *the preceding calendar year’, and*

18               “(ii) *subparagraph (B) shall be ap-*  
19 *plied by substituting ‘5’ for ‘50’.*”

20       (3) *The amendment made by paragraph (2) shall*  
21 *apply to months beginning after December 31, 2013.*

22       (g) *Section 6056(b) of the Internal Revenue Code of*  
23 *1986, as added by section 1514(a) of the Act, is amended*  
24 *by adding at the end the following new flush sentence:*

1 *“The Secretary shall have the authority to review the accu-*  
2 *racy of the information provided under this subsection, in-*  
3 *cluding the applicable large employer’s share under para-*  
4 *graph (2)(C)(iv).”.*

5 **SEC. 10107. AMENDMENTS TO SUBTITLE G.**

6 *(a) Section 1562 of this Act is amended, in the amend-*  
7 *ment made by subsection (a)(2)(B)(iii), by striking “sub-*  
8 *part 1” and inserting “subparts I and II”; and*

9 *(b) Subtitle G of title I of this Act is amended—*

10 *(1) by redesignating section 1562 (as amended)*  
11 *as section 1563; and*

12 *(2) by inserting after section 1561 the following:*

13 **“SEC. 1562. GAO STUDY REGARDING THE RATE OF DENIAL**  
14 **OF COVERAGE AND ENROLLMENT BY HEALTH**  
15 **INSURANCE ISSUERS AND GROUP HEALTH**  
16 **PLANS.**

17 *“(a) IN GENERAL.—The Comptroller General of the*  
18 *United States (referred to in this section as the ‘Comptroller*  
19 *General’) shall conduct a study of the incidence of denials*  
20 *of coverage for medical services and denials of applications*  
21 *to enroll in health insurance plans, as described in sub-*  
22 *section (b), by group health plans and health insurance*  
23 *issuers.*

24 *“(b) DATA.—*

1           “(1) *IN GENERAL.*—*In conducting the study de-*  
2           *scribed in subsection (a), the Comptroller General*  
3           *shall consider samples of data concerning the fol-*  
4           *lowing:*

5                   “(A)(i) *denials of coverage for medical serv-*  
6                   *ices to a plan enrollees, by the types of services*  
7                   *for which such coverage was denied; and*

8                   “(i) *the reasons such coverage was denied;*  
9                   *and*

10                   “(B)(i) *incidents in which group health*  
11                   *plans and health insurance issuers deny the ap-*  
12                   *plication of an individual to enroll in a health*  
13                   *insurance plan offered by such group health plan*  
14                   *or issuer; and*

15                   “(i) *the reasons such applications are de-*  
16                   *nied.*

17           “(2) *SCOPE OF DATA.*—

18                   “(A) *FAVORABLY RESOLVED DISPUTES.*—  
19                   *The data that the Comptroller General considers*  
20                   *under paragraph (1) shall include data con-*  
21                   *cerning denials of coverage for medical services*  
22                   *and denials of applications for enrollment in a*  
23                   *plan by a group health plan or health insurance*  
24                   *issuer, where such group health plan or health*

1           *insurance issuer later approves such coverage or*  
2           *application.*

3           “(B) *ALL HEALTH PLANS.*—*The study*  
4           *under this section shall consider data from var-*  
5           *ied group health plans and health insurance*  
6           *plans offered by health insurance issuers, includ-*  
7           *ing qualified health plans and health plans that*  
8           *are not qualified health plans.*

9           “(c) *REPORT.*—*Not later than one year after the date*  
10          *of enactment of this Act, the Comptroller General shall sub-*  
11          *mit to the Secretaries of Health and Human Services and*  
12          *Labor a report describing the results of the study conducted*  
13          *under this section.*

14          “(d) *PUBLICATION OF REPORT.*—*The Secretaries of*  
15          *Health and Human Services and Labor shall make the re-*  
16          *port described in subsection (c) available to the public on*  
17          *an Internet website.*

18          **“SEC. 1563. SMALL BUSINESS PROCUREMENT.**

19          “*Part 19 of the Federal Acquisition Regulation, section*  
20          *15 of the Small Business Act (15 U.S.C. 644), and any*  
21          *other applicable laws or regulations establishing procure-*  
22          *ment requirements relating to small business concerns (as*  
23          *defined in section 3 of the Small Business Act (15 U.S.C.*  
24          *632)) may not be waived with respect to any contract*

1 *awarded under any program or other authority under this*  
2 *Act or an amendment made by this Act.”.*

3 **SEC. 10108. FREE CHOICE VOUCHERS.**

4 (a) *IN GENERAL.*—*An offering employer shall provide*  
5 *free choice vouchers to each qualified employee of such em-*  
6 *ployer.*

7 (b) *OFFERING EMPLOYER.*—*For purposes of this sec-*  
8 *tion, the term “offering employer” means any employer*  
9 *who—*

10 (1) *offers minimum essential coverage to its em-*  
11 *ployees consisting of coverage through an eligible em-*  
12 *ployer-sponsored plan; and*

13 (2) *pays any portion of the costs of such plan.*

14 (c) *QUALIFIED EMPLOYEE.*—*For purposes of this sec-*  
15 *tion—*

16 (1) *IN GENERAL.*—*The term “qualified em-*  
17 *ployee” means, with respect to any plan year of an*  
18 *offering employer, any employee—*

19 (A) *whose required contribution (as deter-*  
20 *mined under section 5000A(e)(1)(B)) for min-*  
21 *imum essential coverage through an eligible em-*  
22 *ployer-sponsored plan—*

23 (i) *exceeds 8 percent of such employee’s*  
24 *household income for the taxable year de-*

1                   scribed in section 1412(b)(1)(B) which ends  
2                   with or within in the plan year; and

3                   (ii) does not exceed 9.8 percent of such  
4                   employee's household income for such tax-  
5                   able year;

6                   (B) whose household income for such taxable  
7                   year is not greater than 400 percent of the pov-  
8                   erty line for a family of the size involved; and

9                   (C) who does not participate in a health  
10                  plan offered by the offering employer.

11               (2) INDEXING.—In the case of any calendar year  
12               beginning after 2014, the Secretary shall adjust the 8  
13               percent under paragraph (1)(A)(i) and 9.8 percent  
14               under paragraph (1)(A)(ii) for the calendar year to  
15               reflect the rate of premium growth between the pre-  
16               ceding calendar year and 2013 over the rate of in-  
17               come growth for such period.

18               (d) FREE CHOICE VOUCHER.—

19                   (1) AMOUNT.—

20                   (A) IN GENERAL.—The amount of any free  
21                   choice voucher provided under subsection (a)  
22                   shall be equal to the monthly portion of the cost  
23                   of the eligible employer-sponsored plan which  
24                   would have been paid by the employer if the em-  
25                   ployee were covered under the plan with respect

1           to which the employer pays the largest portion of  
2           the cost of the plan. Such amount shall be equal  
3           to the amount the employer would pay for an  
4           employee with self-only coverage unless such em-  
5           ployee elects family coverage (in which case such  
6           amount shall be the amount the employer would  
7           pay for family coverage).

8           (B) DETERMINATION OF COST.—The cost of  
9           any health plan shall be determined under the  
10          rules similar to the rules of section 2204 of the  
11          Public Health Service Act, except that such  
12          amount shall be adjusted for age and category of  
13          enrollment in accordance with regulations estab-  
14          lished by the Secretary.

15          (2) USE OF VOUCHERS.—An Exchange shall  
16          credit the amount of any free choice voucher provided  
17          under subsection (a) to the monthly premium of any  
18          qualified health plan in the Exchange in which the  
19          qualified employee is enrolled and the offering em-  
20          ployer shall pay any amounts so credited to the Ex-  
21          change.

22          (3) PAYMENT OF EXCESS AMOUNTS.—If the  
23          amount of the free choice voucher exceeds the amount  
24          of the premium of the qualified health plan in which

1     *the qualified employee is enrolled for such month,*  
2     *such excess shall be paid to the employee.*

3     *(e) OTHER DEFINITIONS.—Any term used in this sec-*  
4     *tion which is also used in section 5000A of the Internal*  
5     *Revenue Code of 1986 shall have the meaning given such*  
6     *term under such section 5000A.*

7     *(f) EXCLUSION FROM INCOME FOR EMPLOYEE.—*

8             *(1) IN GENERAL.—Part III of subchapter B of*  
9     *chapter 1 of the Internal Revenue Code of 1986 is*  
10    *amended by inserting after section 139C the following*  
11    *new section:*

12    **“SEC. 139D. FREE CHOICE VOUCHERS.**

13             *“Gross income shall not include the amount of any free*  
14    *choice voucher provided by an employer under section*  
15    *10108 of the Patient Protection and Affordable Care Act*  
16    *to the extent that the amount of such voucher does not exceed*  
17    *the amount paid for a qualified health plan (as defined in*  
18    *section 1301 of such Act) by the taxpayer.”.*

19             *(2) CLERICAL AMENDMENT.—The table of sec-*  
20    *tions for part III of subchapter B of chapter 1 of such*  
21    *Code is amended by inserting after the item relating*  
22    *to section 139C the following new item:*

*“Sec. 139D. Free choice vouchers.”.*

23             *(3) EFFECTIVE DATE.—The amendments made*  
24    *by this subsection shall apply to vouchers provided*  
25    *after December 31, 2013.*

1       (g) *DEDUCTION ALLOWED TO EMPLOYER.*—

2               (1) *IN GENERAL.*—Section 162(a) of the Internal  
3       Revenue Code of 1986 is amended by adding at the  
4       end the following new sentence: “For purposes of  
5       paragraph (1), the amount of a free choice voucher  
6       provided under section 10108 of the Patient Protec-  
7       tion and Affordable Care Act shall be treated as an  
8       amount for compensation for personal services actu-  
9       ally rendered.”.

10              (2) *EFFECTIVE DATE.*—The amendments made  
11       by this subsection shall apply to vouchers provided  
12       after December 31, 2013.

13       (h) *VOUCHER TAKEN INTO ACCOUNT IN DETERMINING*  
14 *PREMIUM CREDIT.*—

15              (1) *IN GENERAL.*—Subsection (c)(2) of section  
16       36B of the Internal Revenue Code of 1986, as added  
17       by section 1401, is amended by adding at the end the  
18       following new subparagraph:

19                      “(D) *EXCEPTION FOR INDIVIDUAL RECEIV-*  
20       *ING FREE CHOICE VOUCHERS.*—The term ‘cov-  
21       erage month’ shall not include any month in  
22       which such individual has a free choice voucher  
23       provided under section 10108 of the Patient Pro-  
24       tection and Affordable Care Act.”.

1           (2) *EFFECTIVE DATE.*—*The amendment made by*  
2           *this subsection shall apply to taxable years beginning*  
3           *after December 31, 2013.*

4           (i) *COORDINATION WITH EMPLOYER RESPONSIBIL-*  
5           *ITIES.*—

6           (1) *SHARED RESPONSIBILITY PENALTY.*—

7           (A) *IN GENERAL.*—*Subsection (c) of section*  
8           *4980H of the Internal Revenue Code of 1986, as*  
9           *added by section 1513, is amended by adding at*  
10           *the end the following new paragraph:*

11           “(3) *SPECIAL RULES FOR EMPLOYERS PRO-*  
12           *VIDING FREE CHOICE VOUCHERS.*—*No assessable pay-*  
13           *ment shall be imposed under paragraph (1) for any*  
14           *month with respect to any employee to whom the em-*  
15           *ployer provides a free choice voucher under section*  
16           *10108 of the Patient Protection and Affordable Care*  
17           *Act for such month.”.*

18           (B) *EFFECTIVE DATE.*—*The amendment*  
19           *made by this paragraph shall apply to months*  
20           *beginning after December 31, 2013.*

21           (2) *NOTIFICATION REQUIREMENT.*—*Section*  
22           *18B(a)(3) of the Fair Labor Standards Act of 1938,*  
23           *as added by section 1512, is amended—*

1           (A) by inserting “and the employer does not  
2           offer a free choice voucher” after “Exchange”;  
3           and

4           (B) by striking “will lose” and inserting  
5           “may lose”.

6           (j) *EMPLOYER REPORTING.*—

7           (1) *IN GENERAL.*—Subsection (a) of section 6056  
8           of the Internal Revenue Code of 1986, as added by  
9           section 1514, is amended by inserting “and every of-  
10          fering employer” before “shall”.

11          (2) *OFFERING EMPLOYERS.*—Subsection (f) of  
12          section 6056 of such Code, as added by section 1514,  
13          is amended to read as follows:

14          “(f) *DEFINITIONS.*—For purposes of this section—

15                 “(1) *OFFERING EMPLOYER.*—

16                         “(A) *IN GENERAL.*—The term ‘offering em-  
17                         ployer’ means any offering employer (as defined  
18                         in section 10108(b) of the Patient Protection and  
19                         Affordable Care Act) if the required contribution  
20                         (within the meaning of section  
21                         5000A(e)(1)(B)(i)) of any employee exceeds 8  
22                         percent of the wages (as defined in section  
23                         3121(a)) paid to such employee by such em-  
24                         ployer.

1           “(B) *INDEXING.*—*In the case of any cal-*  
2           *endar year beginning after 2014, the 8 percent*  
3           *under subparagraph (A) shall be adjusted for the*  
4           *calendar year to reflect the rate of premium*  
5           *growth between the preceding calendar year and*  
6           *2013 over the rate of income growth for such pe-*  
7           *riod.*

8           “(2) *OTHER DEFINITIONS.*—*Any term used in*  
9           *this section which is also used in section 4980H shall*  
10          *have the meaning given such term by section*  
11          *4980H.”.*

12          (3) *CONFORMING AMENDMENTS.*—

13                 (A) *The heading of section 6056 of such*  
14                 *Code, as added by section 1514, is amended by*  
15                 *striking “LARGE” and inserting “CERTAIN”.*

16                 (B) *Section 6056(b)(2)(C) of such Code is*  
17                 *amended—*

18                         (i) *by inserting “in the case of an ap-*  
19                         *plicable large employer,” before “the length”*  
20                         *in clause (i);*

21                         (ii) *by striking “and” at the end of*  
22                         *clause (iii);*

23                         (iii) *by striking “applicable large em-*  
24                         *ployer” in clause (iv) and inserting “em-*  
25                         *ployer”;*

1           *(iv) by inserting “and” at the end of*  
2           *clause (iv); and*

3           *(v) by inserting at the end the fol-*  
4           *lowing new clause:*

5           *“(v) in the case of an offering em-*  
6           *ployer, the option for which the employer*  
7           *pays the largest portion of the cost of the*  
8           *plan and the portion of the cost paid by the*  
9           *employer in each of the enrollment cat-*  
10          *egories under such option,”.*

11          *(C) Section 6056(d)(2) of such Code is*  
12          *amended by inserting “or offering employer”*  
13          *after “applicable large employer”.*

14          *(D) Section 6056(e) of such Code is amend-*  
15          *ed by inserting “or offering employer” after “ap-*  
16          *plicable large employer”.*

17          *(E) Section 6724(d)(1)(B)(xxv) of such*  
18          *Code, as added by section 1514, is amended by*  
19          *striking “large” and inserting “certain”.*

20          *(F) Section 6724(d)(2)(HH) of such Code,*  
21          *as added by section 1514, is amended by striking*  
22          *“large” and inserting “certain”.*

23          *(G) The table of sections for subpart D of*  
24          *part III of subchapter A of chapter 1 of such*  
25          *Code, as amended by section 1514, is amended*

1           by striking “Large employers” in the item relat-  
 2           ing to section 6056 and inserting “Certain em-  
 3           ployers”.

4           (4) *EFFECTIVE DATE.*—The amendments made  
 5           by this subsection shall apply to periods beginning  
 6           after December 31, 2013.

7   **SEC. 10109. DEVELOPMENT OF STANDARDS FOR FINANCIAL**  
 8                                   **AND ADMINISTRATIVE TRANSACTIONS.**

9           (a) *ADDITIONAL TRANSACTION STANDARDS AND OP-*  
 10          *ERATING RULES.*—

11           (1) *DEVELOPMENT OF ADDITIONAL TRANSACTION*  
 12          *STANDARDS AND OPERATING RULES.*—Section  
 13          1173(a) of the Social Security Act (42 U.S.C. 1320d-  
 14          2(a)), as amended by section 1104(b)(2), is amend-  
 15          ed—

16                           (A) in paragraph (1)(B), by inserting before  
 17          the period the following: “, and subject to the re-  
 18          quirements under paragraph (5)”; and

19                           (B) by adding at the end the following new  
 20          paragraph:

21           “(5) *CONSIDERATION OF STANDARDIZATION OF*  
 22          *ACTIVITIES AND ITEMS.*—

23                           “(A) *IN GENERAL.*—For purposes of car-  
 24          rying out paragraph (1)(B), the Secretary shall  
 25          solicit, not later than January 1, 2012, and not

1           *less than every 3 years thereafter, input from en-*  
2           *tities described in subparagraph (B) on—*

3                   “(i) *whether there could be greater uni-*  
4                   *formity in financial and administrative ac-*  
5                   *tivities and items, as determined appro-*  
6                   *priate by the Secretary; and*

7                   “(ii) *whether such activities should be*  
8                   *considered financial and administrative*  
9                   *transactions (as described in paragraph*  
10                   *(1)(B)) for which the adoption of standards*  
11                   *and operating rules would improve the op-*  
12                   *eration of the health care system and reduce*  
13                   *administrative costs.*

14           “(B) *SOLICITATION OF INPUT.—For pur-*  
15           *poses of subparagraph (A), the Secretary shall*  
16           *seek input from—*

17                   “(i) *the National Committee on Vital*  
18                   *and Health Statistics, the Health Informa-*  
19                   *tion Technology Policy Committee, and the*  
20                   *Health Information Technology Standards*  
21                   *Committee; and*

22                   “(ii) *standard setting organizations*  
23                   *and stakeholders, as determined appropriate*  
24                   *by the Secretary.”.*

1       **(b) ACTIVITIES AND ITEMS FOR INITIAL CONSIDER-**  
2 *ATION.—For purposes of section 1173(a)(5) of the Social*  
3 *Security Act, as added by subsection (a), the Secretary of*  
4 *Health and Human Services (in this section referred to as*  
5 *the “Secretary”) shall, not later than January 1, 2012, seek*  
6 *input on activities and items relating to the following*  
7 *areas:*

8           (1) *Whether the application process, including*  
9 *the use of a uniform application form, for enrollment*  
10 *of health care providers by health plans could be*  
11 *made electronic and standardized.*

12           (2) *Whether standards and operating rules de-*  
13 *scribed in section 1173 of the Social Security Act*  
14 *should apply to the health care transactions of auto-*  
15 *mobile insurance, worker’s compensation, and other*  
16 *programs or persons not described in section 1172(a)*  
17 *of such Act (42 U.S.C. 1320d–1(a)).*

18           (3) *Whether standardized forms could apply to*  
19 *financial audits required by health plans, Federal*  
20 *and State agencies (including State auditors, the Of-*  
21 *fice of the Inspector General of the Department of*  
22 *Health and Human Services, and the Centers for*  
23 *Medicare & Medicaid Services), and other relevant*  
24 *entities as determined appropriate by the Secretary.*

1           (4) *Whether there could be greater transparency*  
2 *and consistency of methodologies and processes used to*  
3 *establish claim edits used by health plans (as de-*  
4 *scribed in section 1171(5) of the Social Security Act*  
5 *(42 U.S.C. 1320d(5))*).

6           (5) *Whether health plans should be required to*  
7 *publish their timeliness of payment rules.*

8           (c) *ICD CODING CROSSWALKS.*—

9           (1) *ICD–9 TO ICD–10 CROSSWALK.*—*The Sec-*  
10 *retary shall task the ICD–9–CM Coordination and*  
11 *Maintenance Committee to convene a meeting, not*  
12 *later than January 1, 2011, to receive input from ap-*  
13 *propriate stakeholders (including health plans, health*  
14 *care providers, and clinicians) regarding the cross-*  
15 *walk between the Ninth and Tenth Revisions of the*  
16 *International Classification of Diseases (ICD–9 and*  
17 *ICD–10, respectively) that is posted on the website of*  
18 *the Centers for Medicare & Medicaid Services, and*  
19 *make recommendations about appropriate revisions to*  
20 *such crosswalk.*

21           (2) *REVISION OF CROSSWALK.*—*For purposes of*  
22 *the crosswalk described in paragraph (1), the Sec-*  
23 *retary shall make appropriate revisions and post any*  
24 *such revised crosswalk on the website of the Centers*  
25 *for Medicare & Medicaid Services.*

1           (3) *USE OF REVISED CROSSWALK.*—*For purposes*  
2 *of paragraph (2), any revised crosswalk shall be treat-*  
3 *ed as a code set for which a standard has been adopt-*  
4 *ed by the Secretary for purposes of section*  
5 *1173(c)(1)(B) of the Social Security Act (42 U.S.C.*  
6 *1320d–2(c)(1)(B)).*

7           (4) *SUBSEQUENT CROSSWALKS.*—*For subsequent*  
8 *revisions of the International Classification of Dis-*  
9 *eases that are adopted by the Secretary as a standard*  
10 *code set under section 1173(c) of the Social Security*  
11 *Act (42 U.S.C. 1320d–2(c)), the Secretary shall, after*  
12 *consultation with the appropriate stakeholders, post*  
13 *on the website of the Centers for Medicare & Medicaid*  
14 *Services a crosswalk between the previous and subse-*  
15 *quent version of the International Classification of*  
16 *Diseases not later than the date of implementation of*  
17 *such subsequent revision.*

18       ***Subtitle B—Provisions Relating to***  
19                               ***Title II***

20                               ***PART I—MEDICAID AND CHIP***

21       ***SEC. 10201. AMENDMENTS TO THE SOCIAL SECURITY ACT***  
22                               ***AND TITLE II OF THIS ACT.***

23           (a)(1) *Section 1902(a)(10)(A)(i)(IX) of the Social Se-*  
24 *curity Act (42 U.S.C. 1396a(a)(10)(A)(i)(IX)), as added by*  
25 *section 2004(a), is amended to read as follows:*

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“(IX) who—

“(aa) are under 26 years of age;

“(bb) are not described in or enrolled under any of subclauses (I) through (VII) of this clause or are described in any of such subclauses but have income that exceeds the level of income applicable under the State plan for eligibility to enroll for medical assistance under such subclause;

“(cc) were in foster care under the responsibility of the State on the date of attaining 18 years of age or such higher age as the State has elected under section 475(8)(B)(iii); and

“(dd) were enrolled in the State plan under this title or under a waiver of the plan while in such foster care;”.

23 (2) Section 1902(a)(10) of the Social Security Act (42  
24 U.S.C. 1396a(a)(10), as amended by section 2001(a)(5)(A),  
25 is amended in the matter following subparagraph (G), by

1 *striking “and (XV)” and inserting “(XV)”, and by insert-*  
2 *ing “and (XVI) if an individual is described in subclause*  
3 *(IX) of subparagraph (A)(i) and is also described in sub-*  
4 *clause (VIII) of that subparagraph, the medical assistance*  
5 *shall be made available to the individual through subclause*  
6 *(IX) instead of through subclause (VIII)” before the semi-*  
7 *colon.*

8       (3) *Section 2004(d) of this Act is amended by striking*  
9 *“2019” and inserting “2014”.*

10       (b) *Section 1902(k)(2) of the Social Security Act (42*  
11 *U.S.C. 1396a(k)(2)), as added by section 2001(a)(4)(A), is*  
12 *amended by striking “January 1, 2011” and inserting*  
13 *“April 1, 2010”.*

14       (c) *Section 1905 of the Social Security Act (42 U.S.C.*  
15 *1396d), as amended by sections 2001(a)(3), 2001(a)(5)(C),*  
16 *2006, and 4107(a)(2), is amended—*

17               (1) *in subsection (a), in the matter preceding*  
18 *paragraph (1), by inserting in clause (xiv), “or*  
19 *1902(a)(10)(A)(i)(IX)” before the comma;*

20               (2) *in subsection (b), in the first sentence, by in-*  
21 *serting “, (z),” before “and (aa)”;*

22               (3) *in subsection (y)—*

23                       (A) *in paragraph (1)(B)(ii)(II), in the first*  
24 *sentence, by inserting “includes inpatient hos-*

1            *pital services,” after “100 percent of the poverty*  
2            *line, that”;* and

3            *(B) in paragraph (2)(A), by striking “on*  
4            *the date of enactment of the Patient Protection*  
5            *and Affordable Care Act” and inserting “as of*  
6            *December 1, 2009”;*

7            *(4) by inserting after subsection (y) the fol-*  
8            *lowing:*

9            *“(z) EQUITABLE SUPPORT FOR CERTAIN STATES.—*

10            *“(1)(A) During the period that begins on Janu-*  
11            *ary 1, 2014, and ends on September 30, 2019, not-*  
12            *withstanding subsection (b), the Federal medical as-*  
13            *sistance percentage otherwise determined under sub-*  
14            *section (b) with respect to a fiscal year occurring dur-*  
15            *ing that period shall be increased by 2.2 percentage*  
16            *points for any State described in subparagraph (B)*  
17            *for amounts expended for medical assistance for indi-*  
18            *viduals who are not newly eligible (as defined in sub-*  
19            *section (y)(2)) individuals described in subclause*  
20            *(VIII) of section 1902(a)(10)(A)(i).*

21            *“(B) For purposes of subparagraph (A), a State*  
22            *described in this subparagraph is a State that—*

23            *“(i) is an expansion State described in sub-*  
24            *section (y)(1)(B)(ii)(II);*

1           “(i) the Secretary determines will not re-  
2           ceive any payments under this title on the basis  
3           of an increased Federal medical assistance per-  
4           centage under subsection (y) for expenditures for  
5           medical assistance for newly eligible individuals  
6           (as so defined); and

7           “(iii) has not been approved by the Sec-  
8           retary to divert a portion of the DSH allotment  
9           for a State to the costs of providing medical as-  
10          sistance or other health benefits coverage under a  
11          waiver that is in effect on July 2009.

12          “(2)(A) During the period that begins on January 1,  
13          2014, and ends on December 31, 2016, notwithstanding sub-  
14          section (b), the Federal medical assistance percentage other-  
15          wise determined under subsection (b) with respect to all or  
16          any portion of a fiscal year occurring during that period  
17          shall be increased by .5 percentage point for a State de-  
18          scribed in subparagraph (B) for amounts expended for med-  
19          ical assistance under the State plan under this title or  
20          under a waiver of that plan during that period.

21          “(B) For purposes of subparagraph (A), a State de-  
22          scribed in this subparagraph is a State that—

23                  “(i) is described in clauses (i) and (ii) of para-  
24          graph (1)(B); and

1           “(ii) is the State with the highest percentage of  
2           its population insured during 2008, based on the Cur-  
3           rent Population Survey.

4           “(3) Notwithstanding subsection (b) and paragraphs  
5 (1) and (2) of this subsection, the Federal medical assist-  
6           ance percentage otherwise determined under subsection (b)  
7           with respect to all or any portion of a fiscal year that begins  
8           on or after January 1, 2017, for the State of Nebraska, with  
9           respect to amounts expended for newly eligible individuals  
10          described in subclause (VIII) of section 1902(a)(10)(A)(i),  
11          shall be determined as provided for under subsection  
12          (y)(1)(A) (notwithstanding the period provided for in such  
13          paragraph).

14          “(4) The increase in the Federal medical assistance  
15          percentage for a State under paragraphs (1), (2), or (3)  
16          shall apply only for purposes of this title and shall not  
17          apply with respect to—

18                 “(A) disproportionate share hospital payments  
19                 described in section 1923;

20                 “(B) payments under title IV;

21                 “(C) payments under title XXI; and

22                 “(D) payments under this title that are based on  
23                 the enhanced FMAP described in section 2105(b).”;

24                 (5) in subsection (aa), is amended by striking  
25                 “without regard to this subsection and subsection (y)”

1       and inserting “without regard to this subsection, sub-  
2       section (y), subsection (z), and section 10202 of the  
3       Patient Protection and Affordable Care Act” each  
4       place it appears;

5               (6) by adding after subsection (bb), the following:

6       “(cc) *REQUIREMENT FOR CERTAIN STATES.*—Notwith-  
7       standing subsections (y), (z), and (aa), in the case of a State  
8       that requires political subdivisions within the State to con-  
9       tribute toward the non-Federal share of expenditures re-  
10      quired under the State plan under section 1902(a)(2), the  
11      State shall not be eligible for an increase in its Federal  
12      medical assistance percentage under such subsections if it  
13      requires that political subdivisions pay a greater percentage  
14      of the non-Federal share of such expenditures, or a greater  
15      percentage of the non-Federal share of payments under sec-  
16      tion 1923, than the respective percentages that would have  
17      been required by the State under the State plan under this  
18      title, State law, or both, as in effect on December 31, 2009,  
19      and without regard to any such increase. Voluntary con-  
20      tributions by a political subdivision to the non-Federal  
21      share of expenditures under the State plan under this title  
22      or to the non-Federal share of payments under section 1923,  
23      shall not be considered to be required contributions for pur-  
24      poses of this subsection. The treatment of voluntary con-  
25      tributions, and the treatment of contributions required by

1 *a State under the State plan under this title, or State law,*  
2 *as provided by this subsection, shall also apply to the in-*  
3 *creases in the Federal medical assistance percentage under*  
4 *section 5001 of the American Recovery and Reinvestment*  
5 *Act of 2009.”.*

6 *(d) Section 1108(g)(4)(B) of the Social Security Act*  
7 *(42 U.S.C. 1308(g)(4)(B)), as added by section 2005(b), is*  
8 *amended by striking “income eligibility level in effect for*  
9 *that population under title XIX or under a waiver” and*  
10 *inserting “the highest income eligibility level in effect for*  
11 *parents under the commonwealth’s or territory’s State plan*  
12 *under title XIX or under a waiver of the plan”.*

13 *(e)(1) Section 1923(f) of the Social Security Act (42*  
14 *U.S.C. 1396r-4(f)), as amended by section 2551, is amend-*  
15 *ed—*

16 *(A) in paragraph (6)—*

17 *(i) by striking the paragraph heading and*  
18 *inserting the following: “ALLOTMENT ADJUST-*  
19 *MENTS”; and*

20 *(ii) in subparagraph (B), by adding at the*  
21 *end the following:*

22 *“(iii) ALLOTMENT FOR 2D, 3RD, AND*  
23 *4TH QUARTER OF FISCAL YEAR 2012, FISCAL*  
24 *YEAR 2013, AND SUCCEEDING FISCAL*

1                   YEARS.—Notwithstanding the table set forth  
2                   in paragraph (2) or paragraph (7):

3                   “(I) 2D, 3RD, AND 4TH QUARTER  
4                   OF FISCAL YEAR 2012.—The DSH allot-  
5                   ment for Hawaii for the 2d, 3rd, and  
6                   4th quarters of fiscal year 2012 shall  
7                   be \$7,500,000.

8                   “(II) TREATMENT AS A LOW-DSH  
9                   STATE FOR FISCAL YEAR 2013 AND SUC-  
10                  CEEDING FISCAL YEARS.—With respect  
11                  to fiscal year 2013, and each fiscal  
12                  year thereafter, the DSH allotment for  
13                  Hawaii shall be increased in the same  
14                  manner as allotments for low DSH  
15                  States are increased for such fiscal  
16                  year under clause (iii) of paragraph  
17                  (5)(B).

18                  “(III) CERTAIN HOSPITAL PAY-  
19                  MENTS.—The Secretary may not im-  
20                  pose a limitation on the total amount  
21                  of payments made to hospitals under  
22                  the QUEST section 1115 Demonstra-  
23                  tion Project except to the extent that  
24                  such limitation is necessary to ensure  
25                  that a hospital does not receive pay-

1            *ments in excess of the amounts de-*  
2            *scribed in subsection (g), or as nec-*  
3            *essary to ensure that such payments*  
4            *under the waiver and such payments*  
5            *pursuant to the allotment provided in*  
6            *this clause do not, in the aggregate in*  
7            *any year, exceed the amount that the*  
8            *Secretary determines is equal to the*  
9            *Federal medical assistance percentage*  
10           *component attributable to dispropor-*  
11           *tionate share hospital payment adjust-*  
12           *ments for such year that is reflected in*  
13           *the budget neutrality provision of the*  
14           *QUEST Demonstration Project.”; and*

15           *(B) in paragraph (7)—*

16           *(i) in subparagraph (A), in the matter pre-*  
17           *ceding clause (i), by striking “subparagraph*  
18           *(E)” and inserting “subparagraphs (E) and*  
19           *(G)”;*

20           *(ii) in subparagraph (B)—*

21           *(I) in clause (i), by striking subclauses*  
22           *(I) and (II), and inserting the following:*

23           *“(I) if the State is a low DSH*  
24           *State described in paragraph (5)(B)*  
25           *and has spent not more than 99.90*

1                   *percent of the DSH allotments for the*  
2                   *State on average for the period of fiscal*  
3                   *years 2004 through 2008, as of Sep-*  
4                   *tember 30, 2009, the applicable per-*  
5                   *centage is equal to 25 percent;*

6                   *“(II) if the State is a low DSH*  
7                   *State described in paragraph (5)(B)*  
8                   *and has spent more than 99.90 percent*  
9                   *of the DSH allotments for the State on*  
10                  *average for the period of fiscal years*  
11                  *2004 through 2008, as of September*  
12                  *30, 2009, the applicable percentage is*  
13                  *equal to 17.5 percent;*

14                  *“(III) if the State is not a low*  
15                  *DSH State described in paragraph*  
16                  *(5)(B) and has spent not more than*  
17                  *99.90 percent of the DSH allotments*  
18                  *for the State on average for the period*  
19                  *of fiscal years 2004 through 2008, as of*  
20                  *September 30, 2009, the applicable*  
21                  *percentage is equal to 50 percent; and*

22                  *“(IV) if the State is not a low*  
23                  *DSH State described in paragraph*  
24                  *(5)(B) and has spent more than 99.90*  
25                  *percent of the DSH allotments for the*

1           *State on average for the period of fiscal*  
2           *years 2004 through 2008, as of Sep-*  
3           *tember 30, 2009, the applicable per-*  
4           *centage is equal to 35 percent.”;*

5           *(II) in clause (ii), by striking sub-*  
6           *clauses (I) and (II), and inserting the fol-*  
7           *lowing:*

8                   *“(I) if the State is a low DSH*  
9                   *State described in paragraph (5)(B)*  
10                  *and has spent not more than 99.90*  
11                  *percent of the DSH allotments for the*  
12                  *State on average for the period of fiscal*  
13                  *years 2004 through 2008, as of Sep-*  
14                  *tember 30, 2009, the applicable per-*  
15                  *centage is equal to the product of the*  
16                  *percentage reduction in uncovered in-*  
17                  *dividuals for the fiscal year from the*  
18                  *preceding fiscal year and 27.5 percent;*

19                   *“(II) if the State is a low DSH*  
20                   *State described in paragraph (5)(B)*  
21                   *and has spent more than 99.90 percent*  
22                   *of the DSH allotments for the State on*  
23                   *average for the period of fiscal years*  
24                   *2004 through 2008, as of September*  
25                   *30, 2009, the applicable percentage is*

1           *equal to the product of the percentage*  
2           *reduction in uncovered individuals for*  
3           *the fiscal year from the preceding fiscal*  
4           *year and 20 percent;*

5           *“(III) if the State is not a low*  
6           *DSH State described in paragraph*  
7           *(5)(B) and has spent not more than*  
8           *99.90 percent of the DSH allotments*  
9           *for the State on average for the period*  
10          *of fiscal years 2004 through 2008, as of*  
11          *September 30, 2009, the applicable*  
12          *percentage is equal to the product of*  
13          *the percentage reduction in uncovered*  
14          *individuals for the fiscal year from the*  
15          *preceding fiscal year and 55 percent;*  
16          *and*

17          *“(IV) if the State is not a low*  
18          *DSH State described in paragraph*  
19          *(5)(B) and has spent more than 99.90*  
20          *percent of the DSH allotments for the*  
21          *State on average for the period of fiscal*  
22          *years 2004 through 2008, as of Sep-*  
23          *tember 30, 2009, the applicable per-*  
24          *centage is equal to the product of the*  
25          *percentage reduction in uncovered in-*

1                    *dividuals for the fiscal year from the*  
2                    *preceding fiscal year and 40 percent.”;*  
3                    *(III) in subparagraph (E), by striking*  
4                    *“35 percent” and inserting “50 percent”;*  
5                    *and*  
6                    *(IV) by adding at the end the fol-*  
7                    *lowing:*

8                    *“(G) NONAPPLICATION.—The preceding pro-*  
9                    *visions of this paragraph shall not apply to the*  
10                    *DSH allotment determined for the State of Ha-*  
11                    *waii for a fiscal year under paragraph (6).”.*

12                    *(f) Section 2551 of this Act is amended by striking*  
13                    *subsection (b).*

14                    *(g) Section 2105(d)(3)(B) of the Social Security Act*  
15                    *(42 U.S.C. 1397ee(d)(3)(B)), as added by section*  
16                    *2101(b)(1), is amended by adding at the end the following:*  
17                    *“For purposes of eligibility for premium assistance for the*  
18                    *purchase of a qualified health plan under section 36B of*  
19                    *the Internal Revenue Code of 1986 and reduced cost-sharing*  
20                    *under section 1402 of the Patient Protection and Affordable*  
21                    *Care Act, children described in the preceding sentence shall*  
22                    *be deemed to be ineligible for coverage under the State child*  
23                    *health plan.”.*

1        *(h) Clause (i) of subparagraph (C) of section 513(b)(2)*  
2 *of the Social Security Act, as added by section 2953 of this*  
3 *Act, is amended to read as follows:*

4                    *“(i) Healthy relationships, including*  
5 *marriage and family interactions.”.*

6        *(i) Section 1115 of the Social Security Act (42 U.S.C.*  
7 *1315) is amended by inserting after subsection (c) the fol-*  
8 *lowing:*

9            *“(d)(1) An application or renewal of any experi-*  
10 *mental, pilot, or demonstration project undertaken under*  
11 *subsection (a) to promote the objectives of title XIX or XXI*  
12 *in a State that would result in an impact on eligibility,*  
13 *enrollment, benefits, cost-sharing, or financing with respect*  
14 *to a State program under title XIX or XXI (in this sub-*  
15 *section referred to as a ‘demonstration project’) shall be con-*  
16 *sidered by the Secretary in accordance with the regulations*  
17 *required to be promulgated under paragraph (2).*

18            *“(2) Not later than 180 days after the date of enact-*  
19 *ment of this subsection, the Secretary shall promulgate reg-*  
20 *ulations relating to applications for, and renewals of, a*  
21 *demonstration project that provide for—*

22                    *“(A) a process for public notice and comment at*  
23 *the State level, including public hearings, sufficient to*  
24 *ensure a meaningful level of public input;*

25                    *“(B) requirements relating to—*

1           “(i) the goals of the program to be imple-  
2           mented or renewed under the demonstration  
3           project;

4           “(ii) the expected State and Federal costs  
5           and coverage projections of the demonstration  
6           project; and

7           “(iii) the specific plans of the State to en-  
8           sure that the demonstration project will be in  
9           compliance with title XIX or XXI;

10          “(C) a process for providing public notice and  
11          comment after the application is received by the Sec-  
12          retary, that is sufficient to ensure a meaningful level  
13          of public input;

14          “(D) a process for the submission to the Sec-  
15          retary of periodic reports by the State concerning the  
16          implementation of the demonstration project; and

17          “(E) a process for the periodic evaluation by the  
18          Secretary of the demonstration project.

19          “(3) The Secretary shall annually report to Congress  
20          concerning actions taken by the Secretary with respect to  
21          applications for demonstration projects under this section.”.

22          (j) Subtitle F of title III of this Act is amended by  
23          adding at the end the following:

1 **“SEC. 3512. GAO STUDY AND REPORT ON CAUSES OF AC-**  
2 **TION.**

3 “(a) *STUDY.*—

4 “(1) *IN GENERAL.*—*The Comptroller General of*  
5 *the United States shall conduct a study of whether the*  
6 *development, recognition, or implementation of any*  
7 *guideline or other standards under a provision de-*  
8 *scribed in paragraph (2) would result in the estab-*  
9 *lishment of a new cause of action or claim.*

10 “(2) *PROVISIONS DESCRIBED.*—*The provisions*  
11 *described in this paragraph include the following:*

12 “(A) *Section 2701 (adult health quality*  
13 *measures).*

14 “(B) *Section 2702 (payment adjustments*  
15 *for health care acquired conditions).*

16 “(C) *Section 3001 (Hospital Value-Based*  
17 *Purchase Program).*

18 “(D) *Section 3002 (improvements to the*  
19 *Physician Quality Reporting Initiative).*

20 “(E) *Section 3003 (improvements to the*  
21 *Physician Feedback Program).*

22 “(F) *Section 3007 (value based payment*  
23 *modifier under physician fee schedule).*

24 “(G) *Section 3008 (payment adjustment for*  
25 *conditions acquired in hospitals).*

1           “(H) Section 3013 (quality measure devel-  
2           opment).

3           “(I) Section 3014 (quality measurement).

4           “(J) Section 3021 (Establishment of Center  
5           for Medicare and Medicaid Innovation).

6           “(K) Section 3025 (hospital readmission re-  
7           duction program).

8           “(L) Section 3501 (health care delivery sys-  
9           tem research, quality improvement).

10          “(M) Section 4003 (Task Force on Clinical  
11          and Preventive Services).

12          “(N) Section 4301 (research to optimize de-  
13          liver of public health services).

14          “(b) REPORT.—Not later than 2 years after the date  
15 of enactment of this Act, the Comptroller General of the  
16 United States shall submit to the appropriate committees  
17 of Congress, a report containing the findings made by the  
18 Comptroller General under the study under subsection (a).”.

19 **SEC. 10202. INCENTIVES FOR STATES TO OFFER HOME AND**  
20 **COMMUNITY-BASED SERVICES AS A LONG-**  
21 **TERM CARE ALTERNATIVE TO NURSING**  
22 **HOMES.**

23          (a) STATE BALANCING INCENTIVE PAYMENTS PRO-  
24 GRAM.—Notwithstanding section 1905(b) of the Social Se-  
25 curity Act (42 U.S.C. 1396d(b)), in the case of a balancing

1 *incentive payment State, as defined in subsection (b), that*  
2 *meets the conditions described in subsection (c), during the*  
3 *balancing incentive period, the Federal medical assistance*  
4 *percentage determined for the State under section 1905(b)*  
5 *of such Act and, if applicable, increased under subsection*  
6 *(z) or (aa) shall be increased by the applicable percentage*  
7 *points determined under subsection (d) with respect to eligi-*  
8 *ble medical assistance expenditures described in subsection*  
9 *(e).*

10 (b) *BALANCING INCENTIVE PAYMENT STATE.*—A bal-  
11 *ancing incentive payment State is a State—*

12 (1) *in which less than 50 percent of the total ex-*  
13 *penditures for medical assistance under the State*  
14 *Medicaid program for a fiscal year for long-term*  
15 *services and supports (as defined by the Secretary*  
16 *under subsection (f)(1)) are for non-institutionally-*  
17 *based long-term services and supports described in*  
18 *subsection (f)(1)(B);*

19 (2) *that submits an application and meets the*  
20 *conditions described in subsection (c); and*

21 (3) *that is selected by the Secretary to partici-*  
22 *rate in the State balancing incentive payment pro-*  
23 *gram established under this section.*

24 (c) *CONDITIONS.*—*The conditions described in this*  
25 *subsection are the following:*

1           (1) *APPLICATION.*—*The State submits an appli-*  
2           *cation to the Secretary that includes, in addition to*  
3           *such other information as the Secretary shall re-*  
4           *quire—*

5                   (A) *a proposed budget that details the*  
6                   *State’s plan to expand and diversify medical as-*  
7                   *stance for non-institutionally-based long-term*  
8                   *services and supports described in subsection*  
9                   *(f)(1)(B) under the State Medicaid program dur-*  
10                  *ing the balancing incentive period and achieve*  
11                  *the target spending percentage applicable to the*  
12                  *State under paragraph (2), including through*  
13                  *structural changes to how the State furnishes*  
14                  *such assistance, such as through the establish-*  
15                  *ment of a “no wrong door—single entry point*  
16                  *system”, optional presumptive eligibility, case*  
17                  *management services, and the use of core stand-*  
18                  *ardized assessment instruments, and that in-*  
19                  *cludes a description of the new or expanded of-*  
20                  *ferings of such services that the State will pro-*  
21                  *vide and the projected costs of such services; and*

22                   (B) *in the case of a State that proposes to*  
23                   *expand the provision of home and community-*  
24                   *based services under its State Medicaid program*  
25                   *through a State plan amendment under section*

1        *1915(i) of the Social Security Act, at the option*  
2        *of the State, an election to increase the income*  
3        *eligibility for such services from 150 percent of*  
4        *the poverty line to such higher percentage as the*  
5        *State may establish for such purpose, not to ex-*  
6        *ceed 300 percent of the supplemental security in-*  
7        *come benefit rate established by section*  
8        *1611(b)(1) of the Social Security Act (42 U.S.C.*  
9        *1382(b)(1)).*

10        *(2) TARGET SPENDING PERCENTAGES.—*

11                *(A) In the case of a balancing incentive*  
12        *payment State in which less than 25 percent of*  
13        *the total expenditures for long-term services and*  
14        *supports under the State Medicaid program for*  
15        *fiscal year 2009 are for home and community-*  
16        *based services, the target spending percentage for*  
17        *the State to achieve by not later than October 1,*  
18        *2015, is that 25 percent of the total expenditures*  
19        *for long-term services and supports under the*  
20        *State Medicaid program are for home and com-*  
21        *munity-based services.*

22                *(B) In the case of any other balancing in-*  
23        *centive payment State, the target spending per-*  
24        *centage for the State to achieve by not later than*  
25        *October 1, 2015, is that 50 percent of the total*

1           *expenditures for long-term services and supports*  
2           *under the State Medicaid program are for home*  
3           *and community-based services.*

4           (3) *MAINTENANCE OF ELIGIBILITY REQUIRE-*  
5           *MENTS.—The State does not apply eligibility stand-*  
6           *ards, methodologies, or procedures for determining eli-*  
7           *gibility for medical assistance for non-institutionally-*  
8           *based long-term services and supports described in*  
9           *subsection (f)(1)(B) under the State Medicaid pro-*  
10           *gram that are more restrictive than the eligibility*  
11           *standards, methodologies, or procedures in effect for*  
12           *such purposes on December 31, 2010.*

13           (4) *USE OF ADDITIONAL FUNDS.—The State*  
14           *agrees to use the additional Federal funds paid to the*  
15           *State as a result of this section only for purposes of*  
16           *providing new or expanded offerings of non-institu-*  
17           *tionally-based long-term services and supports de-*  
18           *scribed in subsection (f)(1)(B) under the State Med-*  
19           *icaid program.*

20           (5) *STRUCTURAL CHANGES.—The State agrees to*  
21           *make, not later than the end of the 6-month period*  
22           *that begins on the date the State submits an applica-*  
23           *tion under this section, the following changes:*

24                   (A) *“NO WRONG DOOR—SINGLE ENTRY*  
25                   *POINT SYSTEM”.—Development of a statewide*

1           *system to enable consumers to access all long-*  
2           *term services and supports through an agency,*  
3           *organization, coordinated network, or portal, in*  
4           *accordance with such standards as the State*  
5           *shall establish and that shall provide informa-*  
6           *tion regarding the availability of such services,*  
7           *how to apply for such services, referral services*  
8           *for services and supports otherwise available in*  
9           *the community, and determinations of financial*  
10          *and functional eligibility for such services and*  
11          *supports, or assistance with assessment processes*  
12          *for financial and functional eligibility.*

13            (B) *CONFLICT-FREE CASE MANAGEMENT*  
14          *SERVICES.—Conflict-free case management serv-*  
15          *ices to develop a service plan, arrange for serv-*  
16          *ices and supports, support the beneficiary (and,*  
17          *if appropriate, the beneficiary’s caregivers) in*  
18          *directing the provision of services and supports*  
19          *for the beneficiary, and conduct ongoing moni-*  
20          *toring to assure that services and supports are*  
21          *delivered to meet the beneficiary’s needs and*  
22          *achieve intended outcomes.*

23            (C) *CORE STANDARDIZED ASSESSMENT IN-*  
24          *STRUMENTS.—Development of core standardized*  
25          *assessment instruments for determining eligi-*

1           *bility for non-institutionally-based long-term*  
2           *services and supports described in subsection*  
3           *(f)(1)(B), which shall be used in a uniform man-*  
4           *ner throughout the State, to determine a bene-*  
5           *ficiary's needs for training, support services,*  
6           *medical care, transportation, and other services,*  
7           *and develop an individual service plan to ad-*  
8           *dress such needs.*

9           (6) *DATA COLLECTION.*—*The State agrees to col-*  
10          *lect from providers of services and through such other*  
11          *means as the State determines appropriate the fol-*  
12          *lowing data:*

13                (A) *SERVICES DATA.*—*Services data from*  
14                *providers of non-institutionally-based long-term*  
15                *services and supports described in subsection*  
16                *(f)(1)(B) on a per-beneficiary basis and in ac-*  
17                *cordance with such standardized coding proce-*  
18                *dures as the State shall establish in consultation*  
19                *with the Secretary.*

20                (B) *QUALITY DATA.*—*Quality data on a se-*  
21                *lected set of core quality measures agreed upon*  
22                *by the Secretary and the State that are linked to*  
23                *population-specific outcomes measures and acces-*  
24                *sible to providers.*

1           (C) *OUTCOMES MEASURES.*—*Outcomes*  
2           *measures data on a selected set of core popu-*  
3           *lation-specific outcomes measures agreed upon by*  
4           *the Secretary and the State that are accessible to*  
5           *providers and include—*

6                     (i) *measures of beneficiary and family*  
7                     *caregiver experience with providers;*

8                     (ii) *measures of beneficiary and family*  
9                     *caregiver satisfaction with services; and*

10                    (iii) *measures for achieving desired*  
11                    *outcomes appropriate to a specific bene-*  
12                    *ficiary, including employment, participa-*  
13                    *tion in community life, health stability, and*  
14                    *prevention of loss in function.*

15           (d) *APPLICABLE PERCENTAGE POINTS INCREASE IN*  
16 *FMAP.*—*The applicable percentage points increase is—*

17                    (1) *in the case of a balancing incentive payment*  
18                    *State subject to the target spending percentage de-*  
19                    *scribed in subsection (c)(2)(A), 5 percentage points;*  
20                    *and*

21                    (2) *in the case of any other balancing incentive*  
22                    *payment State, 2 percentage points.*

23           (e) *ELIGIBLE MEDICAL ASSISTANCE EXPENDI-*  
24 *TURES.*—

1           (1) *IN GENERAL.*—Subject to paragraph (2),  
2           *medical assistance described in this subsection is med-*  
3           *ical assistance for non-institutionally-based long-term*  
4           *services and supports described in subsection (f)(1)(B)*  
5           *that is provided by a balancing incentive payment*  
6           *State under its State Medicaid program during the*  
7           *balancing incentive payment period.*

8           (2) *LIMITATION ON PAYMENTS.*—In no case may  
9           *the aggregate amount of payments made by the Sec-*  
10           *retary to balancing incentive payment States under*  
11           *this section during the balancing incentive period ex-*  
12           *ceed \$3,000,000,000.*

13           (f) *DEFINITIONS.*—In this section:

14           (1) *LONG-TERM SERVICES AND SUPPORTS DE-*  
15           *FINED.*—The term “long-term services and supports”  
16           *has the meaning given that term by Secretary and*  
17           *may include any of the following (as defined for pur-*  
18           *poses of State Medicaid programs):*

19           (A) *INSTITUTIONALLY-BASED LONG-TERM*  
20           *SERVICES AND SUPPORTS.*—Services provided in  
21           *an institution, including the following:*

22                   (i) *Nursing facility services.*

23                   (ii) *Services in an intermediate care*  
24                   *facility for the mentally retarded described*

1           *in subsection (a)(15) of section 1905 of such*  
2           *Act.*

3           (B) *NON-INSTITUTIONALLY-BASED LONG-*  
4           *TERM SERVICES AND SUPPORTS.—Services not*  
5           *provided in an institution, including the fol-*  
6           *lowing:*

7                   (i) *Home and community-based serv-*  
8                   *ices provided under subsection (c), (d), or*  
9                   *(i) of section 1915 of such Act or under a*  
10                  *waiver under section 1115 of such Act.*

11                   (ii) *Home health care services.*

12                   (iii) *Personal care services.*

13                   (iv) *Services described in subsection*  
14                   *(a)(26) of section 1905 of such Act (relating*  
15                   *to PACE program services).*

16                   (v) *Self-directed personal assistance*  
17                   *services described in section 1915(j) of such*  
18                   *Act.*

19           (2) *BALANCING INCENTIVE PERIOD.—The term*  
20           *“balancing incentive period” means the period that*  
21           *begins on October 1, 2011, and ends on September 30,*  
22           *2015.*

23           (3) *POVERTY LINE.—The term “poverty line”*  
24           *has the meaning given that term in section 2110(c)(5)*  
25           *of the Social Security Act (42 U.S.C. 1397jj(c)(5)).*

1           (4) *STATE MEDICAID PROGRAM.*—*The term*  
2           *“State Medicaid program” means the State program*  
3           *for medical assistance provided under a State plan*  
4           *under title XIX of the Social Security Act and under*  
5           *any waiver approved with respect to such State plan.*

6 **SEC. 10203. EXTENSION OF FUNDING FOR CHIP THROUGH**  
7                                   **FISCAL YEAR 2015 AND OTHER CHIP-RELATED**  
8                                   **PROVISIONS.**

9           (a) *Section 1311(c)(1) of this Act is amended by strik-*  
10          *ing “and” at the end of subparagraph (G), by striking the*  
11          *period at the end of subparagraph (H) and inserting “;*  
12          *and”, and by adding at the end the following:*

13                               *“(I) report to the Secretary at least annu-*  
14                               *ally and in such manner as the Secretary shall*  
15                               *require, pediatric quality reporting measures*  
16                               *consistent with the pediatric quality reporting*  
17                               *measures established under section 1139A of the*  
18                               *Social Security Act.”.*

19          (b) *Effective as if included in the enactment of the*  
20          *Children’s Health Insurance Program Reauthorization Act*  
21          *of 2009 (Public Law 111–3):*

22                               (1) *Section 1906(e)(2) of the Social Security Act*  
23                               (42 U.S.C. 1396e(e)(2)) *is amended by striking*  
24                               *“means” and all that follows through the period and*

1        *inserting “has the meaning given that term in section*  
2        *2105(c)(3)(A).”.*

3                *(2)(A) Section 1906A(a) of the Social Security*  
4        *Act (42 U.S.C. 1396e–1(a)), is amended by inserting*  
5        *before the period the following: “and the offering of*  
6        *such a subsidy is cost-effective, as defined for purposes*  
7        *of section 2105(c)(3)(A).”.*

8                *(B) This Act shall be applied without regard to*  
9        *subparagraph (A) of section 2003(a)(1) of this Act*  
10        *and that subparagraph and the amendment made by*  
11        *that subparagraph are hereby deemed null, void, and*  
12        *of no effect.*

13                *(3) Section 2105(c)(10) of the Social Security*  
14        *Act (42 U.S.C. 1397ee(c)(10)) is amended—*

15                *(A) in subparagraph (A), in the first sen-*  
16        *tence, by inserting before the period the fol-*  
17        *lowing: “if the offering of such a subsidy is cost-*  
18        *effective, as defined for purposes of paragraph*  
19        *(3)(A).”;*

20                *(B) by striking subparagraph (M); and*

21                *(C) by redesignating subparagraph (N) as*  
22        *subparagraph (M).*

23                *(4) Section 2105(c)(3)(A) of the Social Security*  
24        *Act (42 U.S.C. 1397ee(c)(3)(A)) is amended—*

1           (A) *in the matter preceding clause (i), by*  
2           *striking “to” and inserting “to—”; and*

3           (B) *in clause (ii), by striking the period*  
4           *and inserting a semicolon.*

5           (c) *Section 2105 of the Social Security Act (42 U.S.C.*  
6           *1397ee), as amended by section 2101, is amended—*

7           (1) *in subsection (b), in the second sentence, by*  
8           *striking “2013” and inserting “2015”; and*

9           (2) *in subsection (d)(3)—*

10           (A) *in subparagraph (A)—*

11           (i) *in the first sentence, by inserting*  
12           *“as a condition of receiving payments*  
13           *under section 1903(a),” after “2019,”;*

14           (ii) *in clause (i), by striking “or” at*  
15           *the end;*

16           (iii) *by redesignating clause (ii) as*  
17           *clause (iii); and*

18           (iv) *by inserting after clause (i), the*  
19           *following:*

20           *“(ii) after September 30, 2015, enroll-*  
21           *ing children eligible to be targeted low-in-*  
22           *come children under the State child health*  
23           *plan in a qualified health plan that has*  
24           *been certified by the Secretary under sub-*  
25           *paragraph (C); or”;*

1           *(B) in subparagraph (B), by striking “pro-*  
2           *vided coverage” and inserting “screened for eligi-*  
3           *bility for medical assistance under the State*  
4           *plan under title XIX or a waiver of that plan*  
5           *and, if found eligible, enrolled in such plan or a*  
6           *waiver. In the case of such children who, as a re-*  
7           *sult of such screening, are determined to not be*  
8           *eligible for medical assistance under the State*  
9           *plan or a waiver under title XIX, the State shall*  
10           *establish procedures to ensure that the children*  
11           *are enrolled in a qualified health plan that has*  
12           *been certified by the Secretary under subpara-*  
13           *graph (C) and is offered”; and*

14           *(C) by adding at the end the following:*

15           *“(C) CERTIFICATION OF COMPARABILITY OF*  
16           *PEDIATRIC COVERAGE OFFERED BY QUALIFIED*  
17           *HEALTH PLANS.—With respect to each State, the*  
18           *Secretary, not later than April 1, 2015, shall re-*  
19           *view the benefits offered for children and the*  
20           *cost-sharing imposed with respect to such bene-*  
21           *fits by qualified health plans offered through an*  
22           *Exchange established by the State under section*  
23           *1311 of the Patient Protection and Affordable*  
24           *Care Act and shall certify those plans that offer*  
25           *benefits for children and impose cost-sharing*

1           *with respect to such benefits that the Secretary*  
2           *determines are at least comparable to the benefits*  
3           *offered and cost-sharing protections provided*  
4           *under the State child health plan.”.*

5           *(d)(1) Section 2104(a) of such Act (42 U.S.C.*  
6           *1397dd(a)) is amended—*

7           *(A) in paragraph (15), by striking “and” at the*  
8           *end; and*

9           *(B) by striking paragraph (16) and inserting the*  
10          *following:*

11           *“(16) for fiscal year 2013, \$17,406,000,000;*

12           *“(17) for fiscal year 2014, \$19,147,000,000; and*

13           *“(18) for fiscal year 2015, for purposes of mak-*  
14          *ing 2 semi-annual allotments—*

15           *“(A) \$2,850,000,000 for the period begin-*  
16           *ning on October 1, 2014, and ending on March*  
17           *31, 2015, and*

18           *“(B) \$2,850,000,000 for the period begin-*  
19           *ning on April 1, 2015, and ending on September*  
20           *30, 2015.”.*

21          *(2)(A) Section 2104(m) of such Act (42 U.S.C.*  
22          *1397dd(m)), as amended by section 2102(a)(1), is amend-*  
23          *ed—*

24           *(i) in the subsection heading, by striking “2013”*  
25          *and inserting “2015”;*

1           (ii) in paragraph (2)—

2                   (I) in the paragraph heading, by striking  
3           “2012” and inserting “2014”; and

4                   (II) by adding at the end the following:

5                   “(B) FISCAL YEARS 2013 AND 2014.—Subject  
6           to paragraphs (4) and (6), from the amount  
7           made available under paragraphs (16) and (17)  
8           of subsection (a) for fiscal years 2013 and 2014,  
9           respectively, the Secretary shall compute a State  
10          allotment for each State (including the District  
11          of Columbia and each commonwealth and terri-  
12          tory) for each such fiscal year as follows:

13                   “(i) REBASING IN FISCAL YEAR 2013.—  
14           For fiscal year 2013, the allotment of the  
15           State is equal to the Federal payments to  
16           the State that are attributable to (and  
17           countable towards) the total amount of al-  
18           lotments available under this section to the  
19           State in fiscal year 2012 (including pay-  
20           ments made to the State under subsection  
21           (n) for fiscal year 2012 as well as amounts  
22           redistributed to the State in fiscal year  
23           2012), multiplied by the allotment increase  
24           factor under paragraph (5) for fiscal year  
25           2013.

1                   “(i) *GROWTH FACTOR UPDATE FOR*  
2                   *FISCAL YEAR 2014.—For fiscal year 2014,*  
3                   *the allotment of the State is equal to the*  
4                   *sum of—*

5                               “(I) *the amount of the State allot-*  
6                               *ment under clause (i) for fiscal year*  
7                               *2013; and*

8                                       “(II) *the amount of any payments*  
9                                       *made to the State under subsection (n)*  
10                                      *for fiscal year 2013,*

11                                     *multiplied by the allotment increase factor*  
12                                     *under paragraph (5) for fiscal year 2014.”;*  
13                                     *(iii) in paragraph (3)—*

14                                       (I) *in the paragraph heading, by strik-*  
15                                       *ing “2013” and inserting “2015”;*

16                                       (II) *in subparagraphs (A) and (B), by*  
17                                       *striking “paragraph (16)” each place it ap-*  
18                                       *pears and inserting “paragraph (18)”;*

19                                       (III) *in subparagraph (C)—*

20   (aa) *by striking “2012” each*  
21   *place it appears and inserting “2014”;*  
22   *and*

23   (bb) *by striking “2013” and in-*  
24   *serting “2015”;* *and*

25                                       (IV) *in subparagraph (D)—*

1                   (aa) in clause (i)(I), by striking  
2                   “subsection (a)(16)(A)” and inserting  
3                   “subsection (a)(18)(A)”; and

4                   (bb) in clause (ii)(II), by striking  
5                   “subsection (a)(16)(B)” and inserting  
6                   “subsection (a)(18)(B)”; and

7                   (iv) in paragraph (4), by striking “2013”  
8                   and inserting “2015”;

9                   (v) in paragraph (6)—

10                   (I) in subparagraph (A), by striking  
11                   “2013” and inserting “2015”; and

12                   (II) in the flush language after and  
13                   below subparagraph (B)(ii), by striking “or  
14                   fiscal year 2012” and inserting “, fiscal  
15                   year 2012, or fiscal year 2014”; and

16                   (vi) in paragraph (8)—

17                   (I) in the paragraph heading, by strik-  
18                   ing “2013” and inserting “2015”; and

19                   (II) by striking “2013” and inserting  
20                   “2015”.

21                   (B) Section 2104(n) of such Act (42 U.S.C. 1397dd(n))  
22                   is amended—

23                   (i) in paragraph (2)—

24                   (I) in subparagraph (A)(ii)—

1                   (aa) by striking “2012” and inserting  
2                   “2014”; and

3                   (bb) by striking “2013” and inserting  
4                   “2015”;

5                   (II) in subparagraph (B)—

6                   (aa) by striking “2012” and inserting  
7                   “2014”; and

8                   (bb) by striking “2013” and inserting  
9                   “2015”; and

10                  (ii) in paragraph (3)(A), by striking “or a semi-  
11                  annual allotment period for fiscal year 2013” and in-  
12                  serting “fiscal year 2013, fiscal year 2014, or a semi-  
13                  annual allotment period for fiscal year 2015”.

14                  (C) Section 2105(g)(4) of such Act (42 U.S.C.  
15                  1397ee(g)(4)) is amended—

16                   (i) in the paragraph heading, by striking “2013”  
17                   and inserting “2015”; and

18                   (ii) in subparagraph (A), by striking “2013”  
19                   and inserting “2015”.

20                  (D) Section 2110(b) of such Act (42 U.S.C. 1397jj(b))  
21                  is amended—

22                   (i) in paragraph (2)(B), by inserting “except as  
23                   provided in paragraph (6),” before “a child”; and

24                   (ii) by adding at the end the following new  
25                   paragraph:

1           “(6) *EXCEPTIONS TO EXCLUSION OF CHILDREN*  
2 *OF EMPLOYEES OF A PUBLIC AGENCY IN THE*  
3 *STATE.—*

4           “(A) *IN GENERAL.—A child shall not be*  
5 *considered to be described in paragraph (2)(B)*  
6 *if—*

7           “(i) *the public agency that employs a*  
8 *member of the child’s family to which such*  
9 *paragraph applies satisfies subparagraph*  
10 *(B); or*

11           “(ii) *subparagraph (C) applies to such*  
12 *child.*

13           “(B) *MAINTENANCE OF EFFORT WITH RE-*  
14 *SPECT TO PER PERSON AGENCY CONTRIBUTION*  
15 *FOR FAMILY COVERAGE.—For purposes of sub-*  
16 *paragraph (A)(i), a public agency satisfies this*  
17 *subparagraph if the amount of annual agency*  
18 *expenditures made on behalf of each employee en-*  
19 *rolled in health coverage paid for by the agency*  
20 *that includes dependent coverage for the most re-*  
21 *cent State fiscal year is not less than the amount*  
22 *of such expenditures made by the agency for the*  
23 *1997 State fiscal year, increased by the percent-*  
24 *age increase in the medical care expenditure cat-*  
25 *egory of the Consumer Price Index for All-Urban*

1           Consumers (all items: U.S. City Average) for  
2           such preceding fiscal year.

3           “(C) *HARDSHIP EXCEPTION.*—For purposes  
4           of subparagraph (A)(ii), this subparagraph ap-  
5           plies to a child if the State determines, on a  
6           case-by-case basis, that the annual aggregate  
7           amount of premiums and cost-sharing imposed  
8           for coverage of the family of the child would ex-  
9           ceed 5 percent of such family’s income for the  
10          year involved.”.

11          (E) Section 2113 of such Act (42 U.S.C. 1397mm) is  
12          amended—

13                 (i) in subsection (a)(1), by striking “2013” and  
14                 inserting “2015”; and

15                 (ii) in subsection (g), by striking “\$100,000,000  
16                 for the period of fiscal years 2009 through 2013” and  
17                 inserting “\$140,000,000 for the period of fiscal years  
18                 2009 through 2015”.

19          (F) Section 108 of Public Law 111–3 is amended by  
20          striking “\$11,706,000,000” and all that follows through the  
21          second sentence and inserting “\$15,361,000,000 to accom-  
22          pany the allotment made for the period beginning on Octo-  
23          ber 1, 2014, and ending on March 31, 2015, under section  
24          2104(a)(18)(A) of the Social Security Act (42 U.S.C.  
25          1397dd(a)(18)(A)), to remain available until expended.

1 *Such amount shall be used to provide allotments to States*  
2 *under paragraph (3) of section 2104(m) of the Social Secu-*  
3 *urity Act (42 U.S.C. 1397dd(m)) for the first 6 months of*  
4 *fiscal year 2015 in the same manner as allotments are pro-*  
5 *vided under subsection (a)(18)(A) of such section 2104 and*  
6 *subject to the same terms and conditions as apply to the*  
7 *allotments provided from such subsection (a)(18)(A).”.*

8           **PART II—SUPPORT FOR PREGNANT AND**  
9           **PARENTING TEENS AND WOMEN**

10 **SEC. 10211. DEFINITIONS.**

11 *In this part:*

12           (1) **ACCOMPANIMENT.**—*The term “accompani-*  
13 *ment” means assisting, representing, and accom-*  
14 *panying a woman in seeking judicial relief for child*  
15 *support, child custody, restraining orders, and res-*  
16 *titution for harm to persons and property, and in fil-*  
17 *ing criminal charges, and may include the payment*  
18 *of court costs and reasonable attorney and witness*  
19 *fees associated therewith.*

20           (2) **ELIGIBLE INSTITUTION OF HIGHER EDU-**  
21 **CATION.**—*The term “eligible institution of higher edu-*  
22 *cation” means an institution of higher education (as*  
23 *such term is defined in section 101 of the Higher*  
24 *Education Act of 1965 (20 U.S.C. 1001)) that has es-*  
25 *tablished and operates, or agrees to establish and op-*

1        *erate upon the receipt of a grant under this part, a*  
2        *pregnant and parenting student services office.*

3            (3) *COMMUNITY SERVICE CENTER.*—*The term*  
4        *“community service center” means a non-profit orga-*  
5        *nization that provides social services to residents of a*  
6        *specific geographical area via direct service or by con-*  
7        *tract with a local governmental agency.*

8            (4) *HIGH SCHOOL.*—*The term “high school”*  
9        *means any public or private school that operates*  
10       *grades 10 through 12, inclusive, grades 9 through 12,*  
11       *inclusive or grades 7 through 12, inclusive.*

12           (5) *INTERVENTION SERVICES.*—*The term “inter-*  
13       *vention services” means, with respect to domestic vio-*  
14       *lence, sexual violence, sexual assault, or stalking, 24-*  
15       *hour telephone hotline services for police protection*  
16       *and referral to shelters.*

17           (6) *SECRETARY.*—*The term “Secretary” means*  
18       *the Secretary of Health and Human Services.*

19           (7) *STATE.*—*The term “State” includes the Dis-*  
20       *trict of Columbia, any commonwealth, possession, or*  
21       *other territory of the United States, and any Indian*  
22       *tribe or reservation.*

23           (8) *SUPPORTIVE SOCIAL SERVICES.*—*The term*  
24       *“supportive social services” means transitional and*  
25       *permanent housing, vocational counseling, and indi-*

1        *vidual and group counseling aimed at preventing do-*  
2        *mestic violence, sexual violence, sexual assault, or*  
3        *stalking.*

4            (9) *VIOLENCE.*—*The term “violence” means ac-*  
5        *tual violence and the risk or threat of violence.*

6        **SEC. 10212. ESTABLISHMENT OF PREGNANCY ASSISTANCE**  
7            **FUND.**

8            (a) *IN GENERAL.*—*The Secretary, in collaboration and*  
9        *coordination with the Secretary of Education (as appro-*  
10       *priate), shall establish a Pregnancy Assistance Fund to be*  
11       *administered by the Secretary, for the purpose of awarding*  
12       *competitive grants to States to assist pregnant and par-*  
13       *enting teens and women.*

14          (b) *USE OF FUND.*—*A State may apply for a grant*  
15       *under subsection (a) to carry out any activities provided*  
16       *for in section 10213.*

17          (c) *APPLICATIONS.*—*To be eligible to receive a grant*  
18       *under subsection (a), a State shall submit to the Secretary*  
19       *an application at such time, in such manner, and con-*  
20       *taining such information as the Secretary may require, in-*  
21       *cluding a description of the purposes for which the grant*  
22       *is being requested and the designation of a State agency*  
23       *for receipt and administration of funding received under*  
24       *this part.*

1 **SEC. 10213. PERMISSIBLE USES OF FUND.**

2 (a) *IN GENERAL.*—A State shall use amounts received  
3 under a grant under section 10212 for the purposes de-  
4 scribed in this section to assist pregnant and parenting  
5 teens and women.

6 (b) *INSTITUTIONS OF HIGHER EDUCATION.*—

7 (1) *IN GENERAL.*—A State may use amounts re-  
8 ceived under a grant under section 10212 to make  
9 funding available to eligible institutions of higher  
10 education to enable the eligible institutions to estab-  
11 lish, maintain, or operate pregnant and parenting  
12 student services. Such funding shall be used to supple-  
13 ment, not supplant, existing funding for such services.

14 (2) *APPLICATION.*—An eligible institution of  
15 higher education that desires to receive funding under  
16 this subsection shall submit an application to the des-  
17 ignated State agency at such time, in such manner,  
18 and containing such information as the State agency  
19 may require.

20 (3) *MATCHING REQUIREMENT.*—An eligible insti-  
21 tution of higher education that receives funding under  
22 this subsection shall contribute to the conduct of the  
23 pregnant and parenting student services office sup-  
24 ported by the funding an amount from non-Federal  
25 funds equal to 25 percent of the amount of the fund-  
26 ing provided. The non-Federal share may be in cash

1     *or in-kind, fairly evaluated, including services, facili-*  
2     *ties, supplies, or equipment.*

3             (4) *USE OF FUNDS FOR ASSISTING PREGNANT*  
4     *AND PARENTING COLLEGE STUDENTS.—An eligible in-*  
5     *stitution of higher education that receives funding*  
6     *under this subsection shall use such funds to establish,*  
7     *maintain or operate pregnant and parenting student*  
8     *services and may use such funding for the following*  
9     *programs and activities:*

10            (A) *Conduct a needs assessment on campus*  
11            *and within the local community—*

12                    (i) *to assess pregnancy and parenting*  
13                    *resources, located on the campus or within*  
14                    *the local community, that are available to*  
15                    *meet the needs described in subparagraph*  
16                    *(B); and*

17                    (ii) *to set goals for—*

18                            (I) *improving such resources for*  
19                            *pregnant, parenting, and prospective*  
20                            *parenting students; and*

21                            (II) *improving access to such re-*  
22                            *sources.*

23            (B) *Annually assess the performance of the*  
24            *eligible institution in meeting the following needs*

1           *of students enrolled in the eligible institution*  
2           *who are pregnant or are parents:*

3                   *(i) The inclusion of maternity coverage*  
4                   *and the availability of riders for additional*  
5                   *family members in student health care.*

6                   *(ii) Family housing.*

7                   *(iii) Child care.*

8                   *(iv) Flexible or alternative academic*  
9                   *scheduling, such as telecommuting pro-*  
10                   *grams, to enable pregnant or parenting stu-*  
11                   *dents to continue their education or stay in*  
12                   *school.*

13                   *(v) Education to improve parenting*  
14                   *skills for mothers and fathers and to*  
15                   *strengthen marriages.*

16                   *(vi) Maternity and baby clothing, baby*  
17                   *food (including formula), baby furniture,*  
18                   *and similar items to assist parents and pro-*  
19                   *spective parents in meeting the material*  
20                   *needs of their children.*

21                   *(vii) Post-partum counseling.*

22           *(C) Identify public and private service pro-*  
23           *viders, located on the campus of the eligible in-*  
24           *stitution or within the local community, that are*  
25           *qualified to meet the needs described in subpara-*

1           *graph (B), and establishes programs with quali-*  
2           *fied providers to meet such needs.*

3           *(D) Assist pregnant and parenting students,*  
4           *fathers or spouses in locating and obtaining serv-*  
5           *ices that meet the needs described in subpara-*  
6           *graph (B).*

7           *(E) If appropriate, provide referrals for*  
8           *prenatal care and delivery, infant or foster care,*  
9           *or adoption, to a student who requests such in-*  
10          *formation. An office shall make such referrals*  
11          *only to service providers that serve the following*  
12          *types of individuals:*

13                   *(i) Parents.*

14                   *(ii) Prospective parents awaiting*  
15                   *adoption.*

16                   *(iii) Women who are pregnant and*  
17                   *plan on parenting or placing the child for*  
18                   *adoption.*

19                   *(iv) Parenting or prospective par-*  
20                   *enting couples.*

21          (5) *REPORTING.—*

22                   *(A) ANNUAL REPORT BY INSTITUTIONS.—*

23                   *(i) IN GENERAL.—For each fiscal year*  
24                   *that an eligible institution of higher edu-*  
25                   *cation receives funds under this subsection,*

1           *the eligible institution shall prepare and*  
2           *submit to the State, by the date determined*  
3           *by the State, a report that—*

4                     *(I) itemizes the pregnant and par-*  
5                     *enting student services office's expendi-*  
6                     *tures for the fiscal year;*

7                     *(II) contains a review and evalua-*  
8                     *tion of the performance of the office in*  
9                     *fulfilling the requirements of this sec-*  
10                    *tion, using the specific performance*  
11                    *criteria or standards established under*  
12                    *subparagraph (B)(i); and*

13                    *(III) describes the achievement of*  
14                    *the office in meeting the needs listed in*  
15                    *paragraph (4)(B) of the students served*  
16                    *by the eligible institution, and the fre-*  
17                    *quency of use of the office by such stu-*  
18                    *dents.*

19                    *(ii) PERFORMANCE CRITERIA.—Not*  
20                    *later than 180 days before the date the an-*  
21                    *nuual report described in clause (i) is sub-*  
22                    *mitted, the State—*

23                    *(I) shall identify the specific per-*  
24                    *formance criteria or standards that*  
25                    *shall be used to prepare the report; and*

1                   (II) may establish the form or for-  
2                   mat of the report.

3                   (B) *REPORT BY STATE.*—The State shall  
4                   annually prepare and submit a report on the  
5                   findings under this subsection, including the  
6                   number of eligible institutions of higher edu-  
7                   cation that were awarded funds and the number  
8                   of students served by each pregnant and par-  
9                   enting student services office receiving funds  
10                  under this section, to the Secretary.

11               (c) *SUPPORT FOR PREGNANT AND PARENTING*  
12 *TEENS.*—A State may use amounts received under a grant  
13 under section 10212 to make funding available to eligible  
14 high schools and community service centers to establish,  
15 maintain or operate pregnant and parenting services in the  
16 same general manner and in accordance with all conditions  
17 and requirements described in subsection (b), except that  
18 paragraph (3) of such subsection shall not apply for pur-  
19 poses of this subsection.

20               (d) *IMPROVING SERVICES FOR PREGNANT WOMEN*  
21 *WHO ARE VICTIMS OF DOMESTIC VIOLENCE, SEXUAL VIO-*  
22 *LENCE, SEXUAL ASSAULT, AND STALKING.*—

23                   (1) *IN GENERAL.*—A State may use amounts re-  
24                   ceived under a grant under section 10212 to make

1 *funding available to its State Attorney General to as-*  
2 *ist Statewide offices in providing—*

3 *(A) intervention services, accompaniment,*  
4 *and supportive social services for eligible preg-*  
5 *nant women who are victims of domestic vio-*  
6 *lence, sexual violence, sexual assault, or stalking.*

7 *(B) technical assistance and training (as*  
8 *described in subsection (c)) relating to violence*  
9 *against eligible pregnant women to be made*  
10 *available to the following:*

11 *(i) Federal, State, tribal, territorial,*  
12 *and local governments, law enforcement*  
13 *agencies, and courts.*

14 *(ii) Professionals working in legal, so-*  
15 *cial service, and health care settings.*

16 *(iii) Nonprofit organizations.*

17 *(iv) Faith-based organizations.*

18 *(2) ELIGIBILITY.—To be eligible for a grant*  
19 *under paragraph (1), a State Attorney General shall*  
20 *submit an application to the designated State agency*  
21 *at such time, in such manner, and containing such*  
22 *information, as specified by the State.*

23 *(3) TECHNICAL ASSISTANCE AND TRAINING DE-*  
24 *SCRIBED.—For purposes of paragraph (1)(B), tech-*  
25 *nical assistance and training is—*

1           (A) *the identification of eligible pregnant*  
2           *women experiencing domestic violence, sexual vi-*  
3           *olence, sexual assault, or stalking;*

4           (B) *the assessment of the immediate and*  
5           *short-term safety of such a pregnant woman, the*  
6           *evaluation of the impact of the violence or stalk-*  
7           *ing on the pregnant woman’s health, and the as-*  
8           *sistance of the pregnant woman in developing a*  
9           *plan aimed at preventing further domestic vio-*  
10           *lence, sexual violence, sexual assault, or stalking,*  
11           *as appropriate;*

12           (C) *the maintenance of complete medical or*  
13           *forensic records that include the documentation*  
14           *of any examination, treatment given, and refer-*  
15           *als made, recording the location and nature of*  
16           *the pregnant woman’s injuries, and the establish-*  
17           *ment of mechanisms to ensure the privacy and*  
18           *confidentiality of those medical records; and*

19           (D) *the identification and referral of the*  
20           *pregnant woman to appropriate public and pri-*  
21           *vate nonprofit entities that provide intervention*  
22           *services, accompaniment, and supportive social*  
23           *services.*

24           (4) *ELIGIBLE PREGNANT WOMAN.—In this sub-*  
25           *section, the term “eligible pregnant woman” means*

1        *any woman who is pregnant on the date on which*  
2        *such woman becomes a victim of domestic violence,*  
3        *sexual violence, sexual assault, or stalking or who was*  
4        *pregnant during the one-year period before such date.*

5        *(e) PUBLIC AWARENESS AND EDUCATION.—A State*  
6        *may use amounts received under a grant under section*  
7        *10212 to make funding available to increase public aware-*  
8        *ness and education concerning any services available to*  
9        *pregnant and parenting teens and women under this part,*  
10       *or any other resources available to pregnant and parenting*  
11       *women in keeping with the intent and purposes of this part.*  
12       *The State shall be responsible for setting guidelines or limits*  
13       *as to how much of funding may be utilized for public*  
14       *awareness and education in any funding award.*

15       **SEC. 10214. APPROPRIATIONS.**

16       *There is authorized to be appropriated, and there are*  
17       *appropriated, \$25,000,000 for each of fiscal years 2010*  
18       *through 2019, to carry out this part.*

19       **PART III—INDIAN HEALTH CARE IMPROVEMENT**

20       **SEC. 10221. INDIAN HEALTH CARE IMPROVEMENT.**

21       *(a) IN GENERAL.—Except as provided in subsection*  
22       *(b), S. 1790 entitled “A bill to amend the Indian Health*  
23       *Care Improvement Act to revise and extend that Act, and*  
24       *for other purposes.”, as reported by the Committee on In-*

1 *dian Affairs of the Senate in December 2009, is enacted*  
2 *into law.*

3 *(b) AMENDMENTS.—*

4 *(1) Section 119 of the Indian Health Care Im-*  
5 *provement Act (as amended by section 111 of the bill*  
6 *referred to in subsection (a)) is amended—*

7 *(A) in subsection (d)—*

8 *(i) in paragraph (2), by striking “In*  
9 *establishing” and inserting “Subject to*  
10 *paragraphs (3) and (4), in establishing”;*  
11 *and*

12 *(ii) by adding at the end the following:*

13 *“(3) ELECTION OF INDIAN TRIBE OR TRIBAL OR-*  
14 *GANIZATION.—*

15 *“(A) IN GENERAL.—Subparagraph (B) of*  
16 *paragraph (2) shall not apply in the case of an*  
17 *election made by an Indian tribe or tribal orga-*  
18 *nization located in a State (other than Alaska)*  
19 *in which the use of dental health aide therapist*  
20 *services or midlevel dental health provider serv-*  
21 *ices is authorized under State law to supply such*  
22 *services in accordance with State law.*

23 *“(B) ACTION BY SECRETARY.—On an elec-*  
24 *tion by an Indian tribe or tribal organization*  
25 *under subparagraph (A), the Secretary, acting*

1           *through the Service, shall facilitate implementa-*  
2           *tion of the services elected.*

3           “(4) *VACANCIES.—The Secretary shall not fill*  
4           *any vacancy for a certified dentist in a program op-*  
5           *erated by the Service with a dental health aide thera-*  
6           *pist.”; and*

7                         *(B) by adding at the end the following:*

8           “(e) *EFFECT OF SECTION.—Nothing in this section*  
9           *shall restrict the ability of the Service, an Indian tribe, or*  
10           *a tribal organization to participate in any program or to*  
11           *provide any service authorized by any other Federal law.”.*

12           (2) *The Indian Health Care Improvement Act*  
13           *(as amended by section 134(b) of the bill referred to*  
14           *in subsection (a)) is amended by striking section 125*  
15           *(relating to treatment of scholarships for certain pur-*  
16           *poses).*

17           (3) *Section 806 of the Indian Health Care Im-*  
18           *provement Act (25 U.S.C. 1676) is amended—*

19                         *(A) by striking “Any limitation” and in-*  
20                         *serting the following:*

21           “(a) *HHS APPROPRIATIONS.—Any limitation”; and*

22                         *(B) by adding at the end the following:*

23           “(b) *LIMITATIONS PURSUANT TO OTHER FEDERAL*  
24           *LAW.—Any limitation pursuant to other Federal laws on*  
25           *the use of Federal funds appropriated to the Service shall*

1 *apply with respect to the performance or coverage of abor-*  
2 *tions.”.*

3           (4) *The bill referred to in subsection (a) is*  
4 *amended by striking section 201.*

5       ***Subtitle C—Provisions Relating to***  
6                                   ***Title III***

7       ***SEC. 10301. PLANS FOR A VALUE-BASED PURCHASING PRO-***  
8                                   ***GRAM FOR AMBULATORY SURGICAL CEN-***  
9                                   ***TERS.***

10       (a) *IN GENERAL.—Section 3006 is amended by adding*  
11 *at the end the following new subsection:*

12       “*(f) AMBULATORY SURGICAL CENTERS.—*

13           “*(1) IN GENERAL.—The Secretary shall develop*  
14 *a plan to implement a value-based purchasing pro-*  
15 *gram for payments under the Medicare program*  
16 *under title XVIII of the Social Security Act for am-*  
17 *bulatory surgical centers (as described in section*  
18 *1833(i) of the Social Security Act (42 U.S.C.*  
19 *1395l(i)).*

20           “*(2) DETAILS.—In developing the plan under*  
21 *paragraph (1), the Secretary shall consider the fol-*  
22 *lowing issues:*

23           “*(A) The ongoing development, selection,*  
24 *and modification process for measures (including*  
25 *under section 1890 of the Social Security Act (42*

1           *U.S.C. 1395aaa) and section 1890A of such Act,*  
2           *as added by section 3014), to the extent feasible*  
3           *and practicable, of all dimensions of quality and*  
4           *efficiency in ambulatory surgical centers.*

5           “(B) *The reporting, collection, and valida-*  
6           *tion of quality data.*

7           “(C) *The structure of value-based payment*  
8           *adjustments, including the determination of*  
9           *thresholds or improvements in quality that*  
10          *would substantiate a payment adjustment, the*  
11          *size of such payments, and the sources of funding*  
12          *for the value-based bonus payments.*

13          “(D) *Methods for the public disclosure of in-*  
14          *formation on the performance of ambulatory sur-*  
15          *gical centers.*

16          “(E) *Any other issues determined appro-*  
17          *priate by the Secretary.*

18          “(3) *CONSULTATION.—In developing the plan*  
19          *under paragraph (1), the Secretary shall—*

20                 “(A) *consult with relevant affected parties;*  
21                 *and*

22                 “(B) *consider experience with such dem-*  
23                 *onstrations that the Secretary determines are rel-*  
24                 *evant to the value-based purchasing program de-*  
25                 *scribed in paragraph (1).*

1           “(4) *REPORT TO CONGRESS.*—Not later than  
2           *January 1, 2011, the Secretary shall submit to Con-*  
3           *gress a report containing the plan developed under*  
4           *paragraph (1).”.*

5           (b) *TECHNICAL.*—Section 3006(a)(2)(A) is amended  
6           by striking clauses (i) and (ii).

7           **SEC. 10302. REVISION TO NATIONAL STRATEGY FOR QUAL-**  
8                                    **ITY IMPROVEMENT IN HEALTH CARE.**

9           Section 399HH(a)(2)(B)(iii) of the Public Health  
10          Service Act, as added by section 3011, is amended by insert-  
11          ing “(taking into consideration the limitations set forth in  
12          subsections (c) and (d) of section 1182 of the Social Security  
13          Act)” after “information”.

14          **SEC. 10303. DEVELOPMENT OF OUTCOME MEASURES.**

15          (a) *DEVELOPMENT.*—Section 931 of the Public Health  
16          Service Act, as added by section 3013(a), is amended by  
17          adding at the end the following new subsection:

18               “(f) *DEVELOPMENT OF OUTCOME MEASURES.*—

19                       “(1) *IN GENERAL.*—The Secretary shall develop,  
20                       and periodically update (not less than every 3 years),  
21                       provider-level outcome measures for hospitals and  
22                       physicians, as well as other providers as determined  
23                       appropriate by the Secretary.

1           “(2) *CATEGORIES OF MEASURES.*—*The measures*  
2           *developed under this subsection shall include, to the*  
3           *extent determined appropriate by the Secretary—*

4                   “(A) *outcome measurement for acute and*  
5                   *chronic diseases, including, to the extent feasible,*  
6                   *the 5 most prevalent and resource-intensive acute*  
7                   *and chronic medical conditions; and*

8                   “(B) *outcome measurement for primary and*  
9                   *preventative care, including, to the extent fea-*  
10                   *sible, measurements that cover provision of such*  
11                   *care for distinct patient populations (such as*  
12                   *healthy children, chronically ill adults, or infirm*  
13                   *elderly individuals).*

14           “(3) *GOALS.*—*In developing such measures, the*  
15           *Secretary shall seek to—*

16                   “(A) *address issues regarding risk adjust-*  
17                   *ment, accountability, and sample size;*

18                   “(B) *include the full scope of services that*  
19                   *comprise a cycle of care; and*

20                   “(C) *include multiple dimensions.*

21           “(4) *TIMEFRAME.*—

22                   “(A) *ACUTE AND CHRONIC DISEASES.*—*Not*  
23                   *later than 24 months after the date of enactment*  
24                   *of this Act, the Secretary shall develop not less*  
25                   *than 10 measures described in paragraph (2)(A).*

1           “(B) *PRIMARY AND PREVENTIVE CARE.*—  
2           *Not later than 36 months after the date of enact-*  
3           *ment of this Act, the Secretary shall develop not*  
4           *less than 10 measures described in paragraph*  
5           *(2)(B).”.*

6           (b) *HOSPITAL-ACQUIRED CONDITIONS.*—*Section*  
7           *1890A of the Social Security Act, as amended by section*  
8           *3013(b), is amended by adding at the end the following new*  
9           *subsection:*

10          “(f) *HOSPITAL ACQUIRED CONDITIONS.*—*The Sec-*  
11          *retary shall, to the extent practicable, publicly report on*  
12          *measures for hospital-acquired conditions that are currently*  
13          *utilized by the Centers for Medicare & Medicaid Services*  
14          *for the adjustment of the amount of payment to hospitals*  
15          *based on rates of hospital-acquired infections.”.*

16          (c) *CLINICAL PRACTICE GUIDELINES.*—*Section 304(b)*  
17          *of the Medicare Improvements for Patients and Providers*  
18          *Act of 2008 (Public Law 110–275) is amended by adding*  
19          *at the end the following new paragraph:*

20                 “(4) *IDENTIFICATION.*—

21                 “(A) *IN GENERAL.*—*Following receipt of the*  
22                 *report submitted under paragraph (2), and not*  
23                 *less than every 3 years thereafter, the Secretary*  
24                 *shall contract with the Institute to employ the*  
25                 *results of the study performed under paragraph*

1           (1) and the best methods identified by the Insti-  
2           tute for the purpose of identifying existing and  
3           new clinical practice guidelines that were devel-  
4           oped using such best methods, including guide-  
5           lines listed in the National Guideline Clearing-  
6           house.

7           “(B) CONSULTATION.—In carrying out the  
8           identification process under subparagraph (A),  
9           the Secretary shall allow for consultation with  
10          professional societies, voluntary health care orga-  
11          nizations, and expert panels.”.

12 **SEC. 10304. SELECTION OF EFFICIENCY MEASURES.**

13          Sections 1890(b)(7) and 1890A of the Social Security  
14          Act, as added by section 3014, are amended by striking  
15          “quality” each place it appears and inserting “quality and  
16          efficiency”.

17 **SEC. 10305. DATA COLLECTION; PUBLIC REPORTING.**

18          Section 399II(a) of the Public Health Service Act, as  
19          added by section 3015, is amended to read as follows:

20          “(a) IN GENERAL.—

21                 “(1) ESTABLISHMENT OF STRATEGIC FRAME-  
22                 WORK.—The Secretary shall establish and implement  
23                 an overall strategic framework to carry out the public  
24                 reporting of performance information, as described in  
25                 section 399JJ. Such strategic framework may include

1 *methods and related timelines for implementing na-*  
2 *tionally consistent data collection, data aggregation,*  
3 *and analysis methods.*

4 “(2) *COLLECTION AND AGGREGATION OF DATA.—*  
5 *The Secretary shall collect and aggregate consistent*  
6 *data on quality and resource use measures from in-*  
7 *formation systems used to support health care deliv-*  
8 *ery, and may award grants or contracts for this pur-*  
9 *pose. The Secretary shall align such collection and ag-*  
10 *gregation efforts with the requirements and assistance*  
11 *regarding the expansion of health information tech-*  
12 *nology systems, the interoperability of such technology*  
13 *systems, and related standards that are in effect on*  
14 *the date of enactment of the Patient Protection and*  
15 *Affordable Care Act.*

16 “(3) *SCOPE.—The Secretary shall ensure that*  
17 *the data collection, data aggregation, and analysis*  
18 *systems described in paragraph (1) involve an in-*  
19 *creasingly broad range of patient populations, pro-*  
20 *viders, and geographic areas over time.”.*

21 **SEC. 10306. IMPROVEMENTS UNDER THE CENTER FOR**  
22 **MEDICARE AND MEDICAID INNOVATION.**

23 *Section 1115A of the Social Security Act, as added by*  
24 *section 3021, is amended—*

1           (1) *in subsection (a), by inserting at the end the*  
2 *following new paragraph:*

3           “(5) *TESTING WITHIN CERTAIN GEOGRAPHIC*  
4 *AREAS.—For purposes of testing payment and service*  
5 *delivery models under this section, the Secretary may*  
6 *elect to limit testing of a model to certain geographic*  
7 *areas.”;*

8           (2) *in subsection (b)(2)—*

9           (A) *in subparagraph (A)—*

10           (i) *in the second sentence, by striking*  
11 *“the preceding sentence may include” and*  
12 *inserting “this subparagraph may include,*  
13 *but are not limited to,”; and*

14           (ii) *by inserting after the first sentence*  
15 *the following new sentence: “The Secretary*  
16 *shall focus on models expected to reduce pro-*  
17 *gram costs under the applicable title while*  
18 *preserving or enhancing the quality of care*  
19 *received by individuals receiving benefits*  
20 *under such title.”;*

21           (B) *in subparagraph (B), by adding at the*  
22 *end the following new clauses:*

23           “(xix) *Utilizing, in particular in enti-*  
24 *ties located in medically underserved areas*  
25 *and facilities of the Indian Health Service*

1           *(whether operated by such Service or by an*  
2           *Indian tribe or tribal organization (as those*  
3           *terms are defined in section 4 of the Indian*  
4           *Health Care Improvement Act)), telehealth*  
5           *services—*

6                     *“(I) in treating behavioral health*  
7                     *issues (such as post-traumatic stress*  
8                     *disorder) and stroke; and*

9                     *“(II) to improve the capacity of*  
10                    *non-medical providers and non-special-*  
11                    *ized medical providers to provide*  
12                    *health services for patients with chron-*  
13                    *ic complex conditions.*

14                    *“(xx) Utilizing a diverse network of*  
15                    *providers of services and suppliers to im-*  
16                    *prove care coordination for applicable indi-*  
17                    *viduals described in subsection (a)(4)(A)(i)*  
18                    *with 2 or more chronic conditions and a*  
19                    *history of prior-year hospitalization*  
20                    *through interventions developed under the*  
21                    *Medicare Coordinated Care Demonstration*  
22                    *Project under section 4016 of the Balanced*  
23                    *Budget Act of 1997 (42 U.S.C. 1395b–1*  
24                    *note).”;* and

1           (C) in subparagraph (C), by adding at the  
2           end the following new clause:

3                   “(viii) Whether the model demonstrates  
4                   effective linkage with other public sector or  
5                   private sector payers.”;

6           (3) in subsection (b)(4), by adding at the end the  
7           following new subparagraph:

8                   “(C) MEASURE SELECTION.—To the extent  
9                   feasible, the Secretary shall select measures under  
10                   this paragraph that reflect national priorities for  
11                   quality improvement and patient-centered care  
12                   consistent with the measures described in  
13                   1890(b)(7)(B).”; and

14           (4) in subsection (c)—

15                   (A) in paragraph (1)(B), by striking “care  
16                   and reduce spending; and” and inserting “pa-  
17                   tient care without increasing spending;”;

18                   (B) in paragraph (2), by striking “reduce  
19                   program spending under applicable titles.” and  
20                   inserting “reduce (or would not result in any in-  
21                   crease in) net program spending under applica-  
22                   ble titles; and”;

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

24                   “(3) the Secretary determines that such expan-  
25                   sion would not deny or limit the coverage or provi-



1        *Secretary may limit a partial capitation model*  
2        *to ACOs that are highly integrated systems of*  
3        *care and to ACOs capable of bearing risk, as de-*  
4        *termined to be appropriate by the Secretary.*

5                *“(B) NO ADDITIONAL PROGRAM EXPENDI-*  
6        *TURES.—Payments to an ACO for items and*  
7        *services under this title for beneficiaries for a*  
8        *year under the partial capitation model shall be*  
9        *established in a manner that does not result in*  
10        *spending more for such ACO for such bene-*  
11        *ficiaries than would otherwise be expended for*  
12        *such ACO for such beneficiaries for such year if*  
13        *the model were not implemented, as estimated by*  
14        *the Secretary.*

15                *“(3) OTHER PAYMENT MODELS.—*

16                *“(A) IN GENERAL.—Subject to subpara-*  
17        *graph (B), a model described in this paragraph*  
18        *is any payment model that the Secretary deter-*  
19        *mines will improve the quality and efficiency of*  
20        *items and services furnished under this title.*

21                *“(B) NO ADDITIONAL PROGRAM EXPENDI-*  
22        *TURES.—Subparagraph (B) of paragraph (2)*  
23        *shall apply to a payment model under subpara-*  
24        *graph (A) in a similar manner as such subpara-*

1           *graph (B) applies to the payment model under*  
2           *paragraph (2).*

3           “(j) *INVOLVEMENT IN PRIVATE PAYER AND OTHER*  
4 *THIRD PARTY ARRANGEMENTS.—The Secretary may give*  
5 *preference to ACOs who are participating in similar ar-*  
6 *rangements with other payers.*

7           “(k) *TREATMENT OF PHYSICIAN GROUP PRACTICE*  
8 *DEMONSTRATION.—During the period beginning on the*  
9 *date of the enactment of this section and ending on the date*  
10 *the program is established, the Secretary may enter into*  
11 *an agreement with an ACO under the demonstration under*  
12 *section 1866A, subject to rebasing and other modifications*  
13 *deemed appropriate by the Secretary.”.*

14 **SEC. 10308. REVISIONS TO NATIONAL PILOT PROGRAM ON**  
15 **PAYMENT BUNDLING.**

16           (a) *IN GENERAL.—Section 1866D of the Social Secu-*  
17 *rity Act, as added by section 3023, is amended—*

18                 (1) *in paragraph (a)(2)(B), in the matter pre-*  
19 *ceding clause (i), by striking “8 conditions” and in-*  
20 *serting “10 conditions”;*

21                 (2) *by striking subsection (c)(1)(B) and inserting*  
22 *the following:*

23                         “(B) *EXPANSION.—The Secretary may, at*  
24 *any point after January 1, 2016, expand the du-*  
25 *ration and scope of the pilot program, to the ex-*

1           *tent determined appropriate by the Secretary,*  
2           *if—*

3                     *“(i) the Secretary determines that such*  
4                     *expansion is expected to—*

5                             *“(I) reduce spending under title*  
6                             *XVIII of the Social Security Act with-*  
7                             *out reducing the quality of care; or*

8                             *“(II) improve the quality of care*  
9                             *and reduce spending;*

10                    *“(ii) the Chief Actuary of the Centers*  
11                    *for Medicare & Medicaid Services certifies*  
12                    *that such expansion would reduce program*  
13                    *spending under such title XVIII; and*

14                             *“(iii) the Secretary determines that*  
15                             *such expansion would not deny or limit the*  
16                             *coverage or provision of benefits under this*  
17                             *title for individuals.”; and*

18                    *(3) by striking subsection (g) and inserting the*  
19                    *following new subsection:*

20                    *“(g) APPLICATION OF PILOT PROGRAM TO CON-*  
21                    *TINUING CARE HOSPITALS.—*

22                             *“(1) IN GENERAL.—In conducting the pilot pro-*  
23                             *gram, the Secretary shall apply the provisions of the*  
24                             *program so as to separately pilot test the continuing*  
25                             *care hospital model.*

1           “(2) *SPECIAL RULES.*—*In pilot testing the con-*  
2           *tinuing care hospital model under paragraph (1), the*  
3           *following rules shall apply:*

4                     “(A) *Such model shall be tested without the*  
5                     *limitation to the conditions selected under sub-*  
6                     *section (a)(2)(B).*

7                     “(B) *Notwithstanding subsection (a)(2)(D),*  
8                     *an episode of care shall be defined as the full pe-*  
9                     *riod that a patient stays in the continuing care*  
10                    *hospital plus the first 30 days following dis-*  
11                    *charge from such hospital.*

12           “(3) *CONTINUING CARE HOSPITAL DEFINED.*—*In*  
13           *this subsection, the term ‘continuing care hospital’*  
14           *means an entity that has demonstrated the ability to*  
15           *meet patient care and patient safety standards and*  
16           *that provides under common management the medical*  
17           *and rehabilitation services provided in inpatient re-*  
18           *habilitation hospitals and units (as defined in section*  
19           *1886(d)(1)(B)(ii)), long term care hospitals (as de-*  
20           *finied in section 1886(d)(1)(B)(iv)(I)), and skilled*  
21           *nursing facilities (as defined in section 1819(a)) that*  
22           *are located in a hospital described in section*  
23           *1886(d).”.*

24           (b) *TECHNICAL AMENDMENTS.*—

1           (1) *Section 3023 is amended by striking*  
2           *“1886C” and inserting “1866C”.*

3           (2) *Title XVIII of the Social Security Act is*  
4           *amended by redesignating section 1866D, as added by*  
5           *section 3024, as section 1866E.*

6 **SEC. 10309. REVISIONS TO HOSPITAL READMISSIONS RE-**  
7           **DUCTION PROGRAM.**

8           *Section 1886(q)(1) of the Social Security Act, as added*  
9           *by section 3025, in the matter preceding subparagraph (A),*  
10          *is amended by striking “the Secretary shall reduce the pay-*  
11          *ments” and all that follows through “the product of” and*  
12          *inserting “the Secretary shall make payments (in addition*  
13          *to the payments described in paragraph (2)(A)(ii)) for such*  
14          *a discharge to such hospital under subsection (d) (or section*  
15          *1814(b)(3), as the case may be) in an amount equal to the*  
16          *product of”.*

17 **SEC. 10310. REPEAL OF PHYSICIAN PAYMENT UPDATE.**

18          *The provisions of, and the amendment made by, sec-*  
19          *tion 3101 are repealed.*

20 **SEC. 10311. REVISIONS TO EXTENSION OF AMBULANCE**  
21           **ADD-ONS.**

22          (i) *GROUND AMBULANCE.—Section 1834(l)(13)(A) of*  
23          *the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as*  
24          *amended by section 3105(a), is further amended—*

25           (1) *in the matter preceding clause (i)—*

1           (A) by striking “2007, for” and inserting  
2           “2007, and for”; and

3           (B) by striking “2010, and for such services  
4           furnished on or after April 1, 2010, and before  
5           January 1, 2011” and inserting “2011”; and  
6           (2) in each of clauses (i) and (ii)—

7           (A) by striking “, and on or after April 1,  
8           2010, and before January 1, 2011” each place it  
9           appears; and

10           (B) by striking “January 1, 2010” and in-  
11           serting “January 1, 2011” each place it appears.

12           (b) *AIR AMBULANCE*.—Section 146(b)(1) of the Medi-  
13           care Improvements for Patients and Providers Act of 2008  
14           (Public Law 110–275), as amended by section 3105(b), is  
15           further amended by striking “December 31, 2009, and dur-  
16           ing the period beginning on April 1, 2010, and ending on  
17           January 1, 2011” and inserting “December 31, 2010”.

18           (c) *SUPER RURAL AMBULANCE*.—Section  
19           1834(l)(12)(A) of the Social Security Act (42 U.S.C.  
20           1395m(l)(12)(A)), as amended by section 3105(c), is further  
21           amended by striking “2010, and on or after April 1, 2010,  
22           and before January 1, 2011” and inserting “2011”.

1 **SEC. 10312. CERTAIN PAYMENT RULES FOR LONG-TERM**  
2 **CARE HOSPITAL SERVICES AND MORATORIUM**  
3 **ON THE ESTABLISHMENT OF CERTAIN HOS-**  
4 **PITALS AND FACILITIES.**

5 (a) *CERTAIN PAYMENT RULES.*—Section 114(c) of the  
6 *Medicare, Medicaid, and SCHIP Extension Act of 2007* (42  
7 *U.S.C. 1395ww note*), as amended by section 4302(a) of the  
8 *American Recovery and Reinvestment Act (Public Law*  
9 *111–5)* and section 3106(a) of this Act, is further amended  
10 *by striking “4-year period” each place it appears and in-*  
11 *serting “5-year period”.*

12 (b) *MORATORIUM.*—Section 114(d) of such Act (42  
13 *U.S.C. 1395ww note*), as amended by section 3106(b) of this  
14 Act, in the matter preceding subparagraph (A), is amended  
15 *by striking “4-year period” and inserting “5-year period”.*

16 **SEC. 10313. REVISIONS TO THE EXTENSION FOR THE RURAL**  
17 **COMMUNITY HOSPITAL DEMONSTRATION**  
18 **PROGRAM.**

19 (a) *IN GENERAL.*—Subsection (g) of section 410A of  
20 *the Medicare Prescription Drug, Improvement, and Mod-*  
21 *ernization Act of 2003 (Public Law 108–173; 117 Stat.*  
22 *2272)*, as added by section 3123(a) of this Act, is amended  
23 *to read as follows:*

24 “(g) *FIVE-YEAR EXTENSION OF DEMONSTRATION PRO-*  
25 *GRAM.*—

1           “(1) *IN GENERAL.*—Subject to the succeeding  
2           provisions of this subsection, the Secretary shall con-  
3           duct the demonstration program under this section for  
4           an additional 5-year period (in this section referred  
5           to as the ‘5-year extension period’) that begins on the  
6           date immediately following the last day of the initial  
7           5-year period under subsection (a)(5).

8           “(2) *EXPANSION OF DEMONSTRATION STATES.*—  
9           Notwithstanding subsection (a)(2), during the 5-year  
10          extension period, the Secretary shall expand the num-  
11          ber of States with low population densities deter-  
12          mined by the Secretary under such subsection to 20.  
13          In determining which States to include in such ex-  
14          pansion, the Secretary shall use the same criteria and  
15          data that the Secretary used to determine the States  
16          under such subsection for purposes of the initial 5-  
17          year period.

18          “(3) *INCREASE IN MAXIMUM NUMBER OF HOS-*  
19          *PITALS PARTICIPATING IN THE DEMONSTRATION PRO-*  
20          *GRAM.*—Notwithstanding subsection (a)(4), during the  
21          5-year extension period, not more than 30 rural com-  
22          munity hospitals may participate in the demonstra-  
23          tion program under this section.

24          “(4) *HOSPITALS IN DEMONSTRATION PROGRAM*  
25          *ON DATE OF ENACTMENT.*—In the case of a rural

1 *community hospital that is participating in the dem-*  
2 *onstration program under this section as of the last*  
3 *day of the initial 5-year period, the Secretary—*

4 *“(A) shall provide for the continued partici-*  
5 *pation of such rural community hospital in the*  
6 *demonstration program during the 5-year exten-*  
7 *sion period unless the rural community hospital*  
8 *makes an election, in such form and manner as*  
9 *the Secretary may specify, to discontinue such*  
10 *participation; and*

11 *“(B) in calculating the amount of payment*  
12 *under subsection (b) to the rural community hos-*  
13 *pital for covered inpatient hospital services fur-*  
14 *nished by the hospital during such 5-year exten-*  
15 *sion period, shall substitute, under paragraph*  
16 *(1)(A) of such subsection—*

17 *“(i) the reasonable costs of providing*  
18 *such services for discharges occurring in the*  
19 *first cost reporting period beginning on or*  
20 *after the first day of the 5-year extension*  
21 *period, for*

22 *“(ii) the reasonable costs of providing*  
23 *such services for discharges occurring in the*  
24 *first cost reporting period beginning on or*

1           *after the implementation of the demonstra-*  
2           *tion program.”.*

3           **(b) CONFORMING AMENDMENTS.**—*Subsection (a)(5) of*  
4 *section 410A of the Medicare Prescription Drug, Improve-*  
5 *ment, and Modernization Act of 2003 (Public Law 108–*  
6 *173; 117 Stat. 2272), as amended by section 3123(b) of this*  
7 *Act, is amended by striking “1-year extension” and insert-*  
8 *ing “5-year extension”.*

9           **SEC. 10314. ADJUSTMENT TO LOW-VOLUME HOSPITAL PRO-**  
10           **VISION.**

11           *Section 1886(d)(12) of the Social Security Act (42*  
12 *U.S.C. 1395ww(d)(12), as amended by section 3125, is*  
13 *amended—*

14           (1) *in subparagraph (C)(i), by striking “1,500*  
15 *discharges” and inserting “1,600 discharges”; and*

16           (2) *in subparagraph (D), by striking “1,500 dis-*  
17 *charges” and inserting “1,600 discharges”.*

18           **SEC. 10315. REVISIONS TO HOME HEALTH CARE PROVI-**  
19           **SIONS.**

20           **(a) REBASING.**—*Section 1895(b)(3)(A)(iii) of the So-*  
21 *cial Security Act, as added by section 3131, is amended—*

22           (1) *in the clause heading, by striking “2013” and*  
23 *inserting “2014”;*

24           (2) *in subclause (I), by striking “2013” and in-*  
25 *serting “2014”; and*

1           (3) *in subclause (II), by striking “2016” and in-*  
2           *serting “2017”.*

3           (b) *REVISION OF HOME HEALTH STUDY AND RE-*  
4           *PORT.—Section 3131(d) is amended to read as follows:*

5           “(d) *STUDY AND REPORT ON THE DEVELOPMENT OF*  
6           *HOME HEALTH PAYMENT REVISIONS IN ORDER TO EN-*  
7           *SURE ACCESS TO CARE AND PAYMENT FOR SEVERITY OF*  
8           *ILLNESS.—*

9           “(1) *IN GENERAL.—The Secretary of Health and*  
10           *Human Services (in this section referred to as the*  
11           *‘Secretary’) shall conduct a study on home health*  
12           *agency costs involved with providing ongoing access*  
13           *to care to low-income Medicare beneficiaries or bene-*  
14           *ficiaries in medically underserved areas, and in treat-*  
15           *ing beneficiaries with varying levels of severity of ill-*  
16           *ness. In conducting the study, the Secretary may ana-*  
17           *lyze items such as the following:*

18           “(A) *Methods to potentially revise the home*  
19           *health prospective payment system under section*  
20           *1895 of the Social Security Act (42 U.S.C.*  
21           *1395fff) to account for costs related to patient se-*  
22           *verity of illness or to improving beneficiary ac-*  
23           *cess to care, such as—*

1           “(i) payment adjustments for services  
2           that may involve additional or fewer re-  
3           sources;

4           “(ii) changes to reflect resources in-  
5           volved with providing home health services  
6           to low-income Medicare beneficiaries or  
7           Medicare beneficiaries residing in medically  
8           underserved areas;

9           “(iii) ways outlier payments might be  
10          revised to reflect costs of treating Medicare  
11          beneficiaries with high levels of severity of  
12          illness; and

13          “(iv) other issues determined appro-  
14          priate by the Secretary.

15          “(B) Operational issues involved with po-  
16          tential implementation of potential revisions to  
17          the home health payment system, including im-  
18          pacts for both home health agencies and adminis-  
19          trative and systems issues for the Centers for  
20          Medicare & Medicaid Services, and any possible  
21          payment vulnerabilities associated with imple-  
22          menting potential revisions.

23          “(C) Whether additional research might be  
24          needed.

1           “(D) *Other items determined appropriate*  
2           *by the Secretary.*

3           “(2) *CONSIDERATIONS.—In conducting the study*  
4           *under paragraph (1), the Secretary may consider*  
5           *whether patient severity of illness and access to care*  
6           *could be measured by factors, such as—*

7                   “(A) *population density and relative pa-*  
8                   *tient access to care;*

9                   “(B) *variations in service costs for pro-*  
10                   *viding care to individuals who are dually eligi-*  
11                   *ble under the Medicare and Medicaid programs;*

12                   “(C) *the presence of severe or chronic dis-*  
13                   *eases, which might be measured by multiple, dis-*  
14                   *continuous home health episodes;*

15                   “(D) *poverty status, such as evidenced by*  
16                   *the receipt of Supplemental Security Income*  
17                   *under title XVI of the Social Security Act; and*

18                   “(E) *other factors determined appropriate*  
19                   *by the Secretary.*

20           “(3) *REPORT.—Not later than March 1, 2014,*  
21           *the Secretary shall submit to Congress a report on the*  
22           *study conducted under paragraph (1), together with*  
23           *recommendations for such legislation and administra-*  
24           *tive action as the Secretary determines appropriate.*

1           “(4) *CONSULTATIONS.*—*In conducting the study*  
2 *under paragraph (1), the Secretary shall consult with*  
3 *appropriate stakeholders, such as groups representing*  
4 *home health agencies and groups representing Medi-*  
5 *care beneficiaries.*

6           “(5) *MEDICARE DEMONSTRATION PROJECT*  
7 *BASED ON THE RESULTS OF THE STUDY.*—

8           “(A) *IN GENERAL.*—*Subject to subpara-*  
9 *graph (D), taking into account the results of the*  
10 *study conducted under paragraph (1), the Sec-*  
11 *retary may, as determined appropriate, provide*  
12 *for a demonstration project to test whether mak-*  
13 *ing payment adjustments for home health serv-*  
14 *ices under the Medicare program would substan-*  
15 *tially improve access to care for patients with*  
16 *high severity levels of illness or for low-income or*  
17 *underserved Medicare beneficiaries.*

18           “(B) *WAIVING BUDGET NEUTRALITY.*—*The*  
19 *Secretary shall not reduce the standard prospec-*  
20 *tive payment amount (or amounts) under section*  
21 *1895 of the Social Security Act (42 U.S.C.*  
22 *1395fff) applicable to home health services fur-*  
23 *nished during a period to offset any increase in*  
24 *payments during such period resulting from the*

1           *application of the payment adjustments under*  
2           *subparagraph (A).*

3           “(C) *NO EFFECT ON SUBSEQUENT PERI-*  
4           *ODS.—A payment adjustment resulting from the*  
5           *application of subparagraph (A) for a period—*

6                     *“(i) shall not apply to payments for*  
7                     *home health services under title XVIII after*  
8                     *such period; and*

9                     *“(ii) shall not be taken into account in*  
10                    *calculating the payment amounts applicable*  
11                    *for such services after such period.*

12           “(D) *DURATION.—If the Secretary deter-*  
13           *mines it appropriate to conduct the demonstra-*  
14           *tion project under this subsection, the Secretary*  
15           *shall conduct the project for a four year period*  
16           *beginning not later than January 1, 2015.*

17           “(E) *FUNDING.—The Secretary shall pro-*  
18           *vide for the transfer from the Federal Hospital*  
19           *Insurance Trust Fund under section 1817 of the*  
20           *Social Security Act (42 U.S.C. 1395i) and the*  
21           *Federal Supplementary Medical Insurance Trust*  
22           *Fund established under section 1841 of such Act*  
23           *(42 U.S.C. 1395t), in such proportion as the Sec-*  
24           *retary determines appropriate, of \$500,000,000*  
25           *for the period of fiscal years 2015 through 2018.*

1        *Such funds shall be made available for the study*  
2        *described in paragraph (1) and the design, im-*  
3        *plementation and evaluation of the demonstra-*  
4        *tion described in this paragraph. Amounts avail-*  
5        *able under this subparagraph shall be available*  
6        *until expended.*

7            *“(F) EVALUATION AND REPORT.—If the*  
8        *Secretary determines it appropriate to conduct*  
9        *the demonstration project under this subsection,*  
10       *the Secretary shall—*

11            *“(i) provide for an evaluation of the*  
12        *project; and*

13            *“(ii) submit to Congress, by a date*  
14        *specified by the Secretary, a report on the*  
15        *project.*

16            *“(G) ADMINISTRATION.—Chapter 35 of title*  
17        *44, United States Code, shall not apply with re-*  
18        *spect to this subsection.”.*

19    **SEC. 10316. MEDICARE DSH.**

20        *Section 1886(r)(2)(B) of the Social Security Act, as*  
21        *added by section 3133, is amended—*

22            *(1) in clause (i)—*

23            *(A) in the matter preceding subclause (I),*  
24        *by striking “(divided by 100)”;*

1           (B) in subclause (I), by striking “2012”  
2           and inserting “2013”;

3           (C) in subclause (II), by striking the period  
4           at the end and inserting a comma; and

5           (D) by adding at the end the following flush  
6           matter:

7           “minus 1.5 percentage points.”.

8           (2) in clause (ii)—

9           (A) in the matter preceding subclause (I),  
10          by striking “(divided by 100)”;

11          (B) in subclause (I), by striking “2012”  
12          and inserting “2013”;

13          (C) in subclause (II), by striking the period  
14          at the end and inserting a comma; and

15          (D) by adding at the end the following flush  
16          matter:

17          “and, for each of 2018 and 2019, minus 1.5  
18          percentage points.”.

19 **SEC. 10317. REVISIONS TO EXTENSION OF SECTION 508**  
20 **HOSPITAL PROVISIONS.**

21       Section 3137(a) is amended to read as follows:

22       “(a) *EXTENSION.*—

23           “(1) *IN GENERAL.*—Subsection (a) of section 106  
24       of division B of the Tax Relief and Health Care Act  
25       of 2006 (42 U.S.C. 1395 note), as amended by section

1 *117 of the Medicare, Medicaid, and SCHIP Extension*  
2 *Act of 2007 (Public Law 110–173) and section 124*  
3 *of the Medicare Improvements for Patients and Pro-*  
4 *viders Act of 2008 (Public Law 110–275), is amended*  
5 *by striking ‘September 30, 2009’ and inserting ‘Sep-*  
6 *tember 30, 2010’.*

7 *“(2) SPECIAL RULE FOR FISCAL YEAR 2010.—*

8 *“(A) IN GENERAL.—Subject to subpara-*  
9 *graph (B), for purposes of implementation of the*  
10 *amendment made by paragraph (1), including*  
11 *(notwithstanding paragraph (3) of section*  
12 *117(a) of the Medicare, Medicaid and SCHIP*  
13 *Extension Act of 2007 (Public Law 110–173), as*  
14 *amended by section 124(b) of the Medicare Im-*  
15 *provements for Patients and Providers Act of*  
16 *2008 (Public Law 110–275)) for purposes of the*  
17 *implementation of paragraph (2) of such section*  
18 *117(a), during fiscal year 2010, the Secretary of*  
19 *Health and Human Services (in this subsection*  
20 *referred to as the ‘Secretary’) shall use the hos-*  
21 *pital wage index that was promulgated by the*  
22 *Secretary in the Federal Register on August 27,*  
23 *2009 (74 Fed. Reg. 43754), and any subsequent*  
24 *corrections.*

1           “(B) *EXCEPTION.*—Beginning on April 1,  
2           2010, in determining the wage index applicable  
3           to hospitals that qualify for wage index reclassi-  
4           fication, the Secretary shall include the average  
5           hourly wage data of hospitals whose reclassifica-  
6           tion was extended pursuant to the amendment  
7           made by paragraph (1) only if including such  
8           data results in a higher applicable reclassified  
9           wage index.

10           “(3) *ADJUSTMENT FOR CERTAIN HOSPITALS IN*  
11           *FISCAL YEAR 2010.*—

12           “(A) *IN GENERAL.*—In the case of a sub-  
13           section (d) hospital (as defined in subsection  
14           (d)(1)(B) of section 1886 of the Social Security  
15           Act (42 U.S.C. 1395ww)) with respect to  
16           which—

17           “(i) a reclassification of its wage index  
18           for purposes of such section was extended  
19           pursuant to the amendment made by para-  
20           graph (1); and

21           “(ii) the wage index applicable for  
22           such hospital for the period beginning on  
23           October 1, 2009, and ending on March 31,  
24           2010, was lower than for the period begin-  
25           ning on April 1, 2010, and ending on Sep-

1            *tember 30, 2010, by reason of the applica-*  
2            *tion of paragraph (2)(B);*  
3            *the Secretary shall pay such hospital an addi-*  
4            *tional payment that reflects the difference be-*  
5            *tween the wage index for such periods.*

6            *“(B) TIMEFRAME FOR PAYMENTS.—The*  
7            *Secretary shall make payments required under*  
8            *subparagraph by not later than December 31,*  
9            *2010.”.*

10 **SEC. 10318. REVISIONS TO TRANSITIONAL EXTRA BENEFITS**  
11 **UNDER MEDICARE ADVANTAGE.**

12            *Section 1853(p)(3)(A) of the Social Security Act, as*  
13 *added by section 3201(h), is amended by inserting “in*  
14 *2009” before the period at the end.*

15 **SEC. 10319. REVISIONS TO MARKET BASKET ADJUSTMENTS.**

16            *(a) INPATIENT ACUTE HOSPITALS.—Section*  
17 *1886(b)(3)(B)(xii) of the Social Security Act, as added by*  
18 *section 3401(a), is amended—*

19            *(1) in subclause (I), by striking “and” at the*  
20 *end;*

21            *(2) by redesignating subclause (II) as subclause*  
22 *(III);*

23            *(3) by inserting after subclause (II) the following*  
24 *new subclause:*

1           “(II) for each of fiscal years 2012 and 2013, by  
2           0.1 percentage point; and”;

3           (4) in subclause (III), as redesignated by para-  
4           graph (2), by striking “2012” and inserting “2014”.

5           (b) *LONG-TERM CARE HOSPITALS*.—Section  
6           1886(m)(4) of the Social Security Act, as added by section  
7           3401(c), is amended—

8           (1) in subparagraph (A)—

9           (A) in clause (i)—

10           (i) by striking “each of rate years 2010  
11           and 2011” and inserting “rate year 2010”;  
12           and

13           (ii) by striking “and” at the end;

14           (B) by redesignating clause (ii) as clause  
15           (iv);

16           (C) by inserting after clause (i) the fol-  
17           lowing new clauses:

18           “(ii) for rate year 2011, 0.50 percent-  
19           age point;

20           “(iii) for each of the rate years begin-  
21           ning in 2012 and 2013, 0.1 percentage  
22           point; and”;

23           (D) in clause (iv), as redesignated by sub-  
24           paragraph (B), by striking “2012” and inserting  
25           “2014”; and



1           (3) by inserting after clause (ii) the following  
2 new clause:

3                       “(ii) for each of the rate years begin-  
4                       ning in 2012 and 2013, 0.1 percentage  
5                       point; and”; and

6           (4) in clause (iii), as redesignated by paragraph  
7 (2), by striking “2012” and inserting “2014”.

8           (f) *HOSPICE CARE*.—Section 1814(i)(1)(C) of the So-  
9 cial Security Act (42 U.S.C. 1395f(i)(1)(C)), as amended  
10 by section 3401(g), is amended—

11           (1) in clause (iv)(II), by striking “0.5” and in-  
12           serting “0.3”; and

13           (2) in clause (v), in the matter preceding sub-  
14           clause (I), by striking “0.5” and inserting “0.3”.

15           (g)           *OUTPATIENT           HOSPITALS*.—Section  
16 1833(t)(3)(G)(i) of the Social Security Act, as added by sec-  
17 tion 3401(i), is amended—

18           (1) in subclause (I), by striking “and” at the  
19           end;

20           (2) by redesignating subclause (II) as subclause  
21           (III);

22           (3) by inserting after subclause (II) the following  
23 new subclause:

24                       “(II) for each of 2012 and 2013,  
25                       0.1 percentage point; and”; and

1           (4) *in subclause (III), as redesignated by para-*  
2           *graph (2), by striking “2012” and inserting “2014”.*

3 **SEC. 10320. EXPANSION OF THE SCOPE OF, AND ADDI-**  
4           **TIONAL IMPROVEMENTS TO, THE INDE-**  
5           **PENDENT MEDICARE ADVISORY BOARD.**

6           (a) *IN GENERAL.*—*Section 1899A of the Social Secu-*  
7           *riety Act, as added by section 3403, is amended—*

8           (1) *in subsection (c)—*

9                   (A) *in paragraph (1)(B), by adding at the*  
10                   *end the following new sentence: “In any year*  
11                   *(beginning with 2014) that the Board is not re-*  
12                   *quired to submit a proposal under this section,*  
13                   *the Board shall submit to Congress an advisory*  
14                   *report on matters related to the Medicare pro-*  
15                   *gram.”;*

16                   (B) *in paragraph (2)(A)—*

17                           (i) *in clause (iv), by inserting “or the*  
18                           *full premium subsidy under section 1860D–*  
19                           *14(a)” before the period at the end of the*  
20                           *last sentence; and*

21                           (ii) *by adding at the end the following*  
22                           *new clause:*

23                                   “(vii) *If the Chief Actuary of the Cen-*  
24                                   *ters for Medicare & Medicaid Services has*  
25                                   *made a determination described in sub-*

1            *section (e)(3)(B)(i)(II) in the determination*  
2            *year, the proposal shall be designed to help*  
3            *reduce the growth rate described in para-*  
4            *graph (8) while maintaining or enhancing*  
5            *beneficiary access to quality care under this*  
6            *title.”;*

7            *(C) in paragraph (2)(B)—*

8                    *(i) in clause (v), by striking “and” at*  
9                    *the end;*

10                   *(ii) in clause (vi), by striking the pe-*  
11                   *riod at the end and inserting “; and”; and*

12                   *(iii) by adding at the end the following*  
13                   *new clause:*

14                   *“(vii) take into account the data and*  
15                   *findings contained in the annual reports*  
16                   *under subsection (n) in order to develop*  
17                   *proposals that can most effectively promote*  
18                   *the delivery of efficient, high quality care to*  
19                   *Medicare beneficiaries.”;*

20            *(D) in paragraph (3)—*

21                   *(i) in the heading, by striking “TRANS-*  
22                   *MISSION OF BOARD PROPOSAL TO PRESI-*  
23                   *DENT” and inserting “SUBMISSION OF*  
24                   *BOARD PROPOSAL TO CONGRESS AND THE*  
25                   *PRESIDENT”;*

1           (ii) in subparagraph (A)(i), by strik-  
2           ing “transmit a proposal under this section  
3           to the President” and insert “submit a pro-  
4           posal under this section to Congress and the  
5           President”; and

6           (iii) in subparagraph (A)(ii)—

7                 (I) in subclause (I), by inserting  
8                 “or” at the end;

9                 (II) in subclause (II), by striking  
10                “; or” and inserting a period; and

11               (III) by striking subclause (III);

12           (E) in paragraph (4)—

13               (i) by striking “the Board under para-  
14               graph (3)(A)(i) or”; and

15               (ii) by striking “immediately” and in-  
16               serting “within 2 days”;

17           (F) in paragraph (5)—

18               (i) by striking “to but” and inserting  
19               “but”; and

20               (ii) by inserting “Congress and” after  
21               “submit a proposal to”; and

22           (G) in paragraph (6)(B)(i), by striking  
23           “per unduplicated enrollee” and inserting “(cal-  
24           culated as the sum of per capita spending under  
25           each of parts A, B, and D)”;

- 1           (2) *in subsection (d)—*
- 2                 (A) *in paragraph (1)(A)—*
- 3                     (i) *by inserting “the Board or” after*
- 4                     *“a proposal is submitted by”; and*
- 5                     (ii) *by inserting “subsection*
- 6                     *(c)(3)(A)(i) or” after “the Senate under”;*
- 7                     *and*
- 8                 (B) *in paragraph (2)(A), by inserting “the*
- 9                 *Board or” after “a proposal is submitted by”;*
- 10           (3) *in subsection (e)—*
- 11                 (A) *in paragraph (1), by inserting “the*
- 12                 *Board or” after “a proposal submitted by”; and*
- 13                 (B) *in paragraph (3)—*
- 14                     (i) *by striking “EXCEPTION.—The Sec-*
- 15                     *retary shall not be required to implement*
- 16                     *the recommendations contained in a pro-*
- 17                     *posal submitted in a proposal year by” and*
- 18                     *inserting “EXCEPTIONS.—*
- 19                     *“(A) IN GENERAL.—The Secretary shall not*
- 20                     *implement the recommendations contained in a*
- 21                     *proposal submitted in a proposal year by the*
- 22                     *Board or”;*
- 23                     (ii) *by redesignating subparagraphs*
- 24                     *(A) and (B) as clauses (i) and (ii), respec-*
- 25                     *tively, and indenting appropriately; and*

1           *(iii) by adding at the end the following*  
2           *new subparagraph:*

3           “(B) *LIMITED ADDITIONAL EXCEPTION.—*

4                 “(i) *IN GENERAL.—Subject to clause*  
5                 *(ii), the Secretary shall not implement the*  
6                 *recommendations contained in a proposal*  
7                 *submitted by the Board or the President to*  
8                 *Congress pursuant to this section in a pro-*  
9                 *posal year (beginning with proposal year*  
10                *2019) if—*

11                “(I) *the Board was required to*  
12                *submit a proposal to Congress under*  
13                *this section in the year preceding the*  
14                *proposal year; and*

15                “(II) *the Chief Actuary of the*  
16                *Centers for Medicare & Medicaid Serv-*  
17                *ices makes a determination in the de-*  
18                *termination year that the growth rate*  
19                *described in subsection (c)(8) exceeds*  
20                *the growth rate described in subsection*  
21                *(c)(6)(A)(i).*

22                “(i) *LIMITED ADDITIONAL EXCEPTION*  
23                *MAY NOT BE APPLIED IN TWO CONSECUTIVE*  
24                *YEARS.—This subparagraph shall not apply*  
25                *if the recommendations contained in a pro-*

1            *posal submitted by the Board or the Presi-*  
2            *dent to Congress pursuant to this section in*  
3            *the year preceding the proposal year were*  
4            *not required to be implemented by reason of*  
5            *this subparagraph.*

6            *“(iii) NO AFFECT ON REQUIREMENT TO*  
7            *SUBMIT PROPOSALS OR FOR CONGRES-*  
8            *SIONAL CONSIDERATION OF PROPOSALS.—*  
9            *Clause (i) and (ii) shall not affect—*

10            *“(I) the requirement of the Board*  
11            *or the President to submit a proposal*  
12            *to Congress in a proposal year in ac-*  
13            *cordance with the provisions of this*  
14            *section; or*

15            *“(II) Congressional consideration*  
16            *of a legislative proposal (described in*  
17            *subsection (c)(3)(B)(iv)) contained*  
18            *such a proposal in accordance with*  
19            *subsection (d).”;*

20            *(4) in subsection (f)(3)(B)—*

21            *(A) by striking “or advisory reports to Con-*  
22            *gress” and inserting “, advisory reports, or advi-*  
23            *sory recommendations”; and*

1           (B) by inserting “or produce the public re-  
2           port under subsection (n)” after “this section”;  
3           and

4           (5) by adding at the end the following new sub-  
5           sections:

6           “(n) ANNUAL PUBLIC REPORT.—

7           “(1) IN GENERAL.—Not later than July 1, 2014,  
8           and annually thereafter, the Board shall produce a  
9           public report containing standardized information on  
10          system-wide health care costs, patient access to care,  
11          utilization, and quality-of-care that allows for com-  
12          parison by region, types of services, types of pro-  
13          viders, and both private payers and the program  
14          under this title.

15          “(2) REQUIREMENTS.—Each report produced  
16          pursuant to paragraph (1) shall include information  
17          with respect to the following areas:

18                 “(A) The quality and costs of care for the  
19                 population at the most local level determined  
20                 practical by the Board (with quality and costs  
21                 compared to national benchmarks and reflecting  
22                 rates of change, taking into account quality  
23                 measures described in section 1890(b)(7)(B)).

24                 “(B) Beneficiary and consumer access to  
25                 care, patient and caregiver experience of care,

1           *and the cost-sharing or out-of-pocket burden on*  
2           *patients.*

3           “(C) *Epidemiological shifts and demo-*  
4           *graphic changes.*

5           “(D) *The proliferation, effectiveness, and*  
6           *utilization of health care technologies, including*  
7           *variation in provider practice patterns and*  
8           *costs.*

9           “(E) *Any other areas that the Board deter-*  
10          *mines affect overall spending and quality of care*  
11          *in the private sector.*

12          “(o) *ADVISORY RECOMMENDATIONS FOR NON-FED-*  
13          *ERAL HEALTH CARE PROGRAMS.—*

14                 “(1) *IN GENERAL.—Not later than January 15,*  
15                 *2015, and at least once every two years thereafter, the*  
16                 *Board shall submit to Congress and the President rec-*  
17                 *ommendations to slow the growth in national health*  
18                 *expenditures (excluding expenditures under this title*  
19                 *and in other Federal health care programs) while pre-*  
20                 *servicing or enhancing quality of care, such as rec-*  
21                 *ommendations—*

22                         “(A) *that the Secretary or other Federal*  
23                         *agencies can implement administratively;*

24                         “(B) *that may require legislation to be en-*  
25                         *acted by Congress in order to be implemented;*

1           “(C) that may require legislation to be en-  
2           acted by State or local governments in order to  
3           be implemented;

4           “(D) that private sector entities can volun-  
5           tarily implement; and

6           “(E) with respect to other areas determined  
7           appropriate by the Board.

8           “(2) *COORDINATION*.—*In making recommenda-*  
9           *tions under paragraph (1), the Board shall coordinate*  
10          *such recommendations with recommendations con-*  
11          *tained in proposals and advisory reports produced by*  
12          *the Board under subsection (c).*

13          “(3) *AVAILABLE TO PUBLIC*.—*The Board shall*  
14          *make recommendations submitted to Congress and the*  
15          *President under this subsection available to the pub-*  
16          *lic.”.*

17          “(b) *NAME CHANGE*.—*Any reference in the provisions*  
18          *of, or amendments made by, section 3403 to the “Inde-*  
19          *pendent Medicare Advisory Board” shall be deemed to be*  
20          *a reference to the “Independent Payment Advisory Board”.*

21          “(c) *RULE OF CONSTRUCTION*.—*Nothing in the amend-*  
22          *ments made by this section shall preclude the Independent*  
23          *Medicare Advisory Board, as established under section*  
24          *1899A of the Social Security Act (as added by section*

1 3403), from solely using data from public or private sources  
2 to carry out the amendments made by subsection (a)(4).

3 **SEC. 10321. REVISION TO COMMUNITY HEALTH TEAMS.**

4 Section 3502(c)(2)(A) is amended by inserting “or  
5 other primary care providers” after “physicians”.

6 **SEC. 10322. QUALITY REPORTING FOR PSYCHIATRIC HOS-**  
7 **PITALS.**

8 (a) *IN GENERAL.*—Section 1886(s) of the Social Secu-  
9 rity Act, as added by section 3401(f), is amended by adding  
10 at the end the following new paragraph:

11 “(4) *QUALITY REPORTING.*—

12 “(A) *REDUCTION IN UPDATE FOR FAILURE*  
13 *TO REPORT.*—

14 “(i) *IN GENERAL.*—Under the system  
15 described in paragraph (1), for rate year  
16 2014 and each subsequent rate year, in the  
17 case of a psychiatric hospital or psychiatric  
18 unit that does not submit data to the Sec-  
19 retary in accordance with subparagraph (C)  
20 with respect to such a rate year, any an-  
21 nual update to a standard Federal rate for  
22 discharges for the hospital during the rate  
23 year, and after application of paragraph  
24 (2), shall be reduced by 2 percentage points.

1           “(i) *SPECIAL RULE.*—*The application*  
2           *of this subparagraph may result in such an-*  
3           *annual update being less than 0.0 for a rate*  
4           *year, and may result in payment rates*  
5           *under the system described in paragraph*  
6           *(1) for a rate year being less than such pay-*  
7           *ment rates for the preceding rate year.*

8           “(B) *NONCUMULATIVE APPLICATION.*—*Any*  
9           *reduction under subparagraph (A) shall apply*  
10           *only with respect to the rate year involved and*  
11           *the Secretary shall not take into account such re-*  
12           *duction in computing the payment amount*  
13           *under the system described in paragraph (1) for*  
14           *a subsequent rate year.*

15           “(C) *SUBMISSION OF QUALITY DATA.*—*For*  
16           *rate year 2014 and each subsequent rate year,*  
17           *each psychiatric hospital and psychiatric unit*  
18           *shall submit to the Secretary data on quality*  
19           *measures specified under subparagraph (D).*  
20           *Such data shall be submitted in a form and*  
21           *manner, and at a time, specified by the Sec-*  
22           *retary for purposes of this subparagraph.*

23           “(D) *QUALITY MEASURES.*—

24           “(i) *IN GENERAL.*—*Subject to clause*  
25           *(ii), any measure specified by the Secretary*

1           *under this subparagraph must have been*  
2           *endorsed by the entity with a contract*  
3           *under section 1890(a).*

4           “(ii) *EXCEPTION.*—*In the case of a*  
5           *specified area or medical topic determined*  
6           *appropriate by the Secretary for which a*  
7           *feasible and practical measure has not been*  
8           *endorsed by the entity with a contract*  
9           *under section 1890(a), the Secretary may*  
10          *specify a measure that is not so endorsed as*  
11          *long as due consideration is given to meas-*  
12          *ures that have been endorsed or adopted by*  
13          *a consensus organization identified by the*  
14          *Secretary.*

15          “(iii) *TIME FRAME.*—*Not later than*  
16          *October 1, 2012, the Secretary shall publish*  
17          *the measures selected under this subpara-*  
18          *graph that will be applicable with respect to*  
19          *rate year 2014.*

20          “(E) *PUBLIC AVAILABILITY OF DATA SUB-*  
21          *MITTED.*—*The Secretary shall establish proce-*  
22          *dures for making data submitted under subpara-*  
23          *graph (C) available to the public. Such proce-*  
24          *dures shall ensure that a psychiatric hospital*  
25          *and a psychiatric unit has the opportunity to re-*

1           *view the data that is to be made public with re-*  
2           *spect to the hospital or unit prior to such data*  
3           *being made public. The Secretary shall report*  
4           *quality measures that relate to services furnished*  
5           *in inpatient settings in psychiatric hospitals and*  
6           *psychiatric units on the Internet website of the*  
7           *Centers for Medicare & Medicaid Services.”.*

8           (b)           **CONFORMING            AMENDMENT.**—*Section*  
9           *1890(b)(7)(B)(i)(I) of the Social Security Act, as added by*  
10          *section 3014, is amended by inserting “1886(s)(4)(D),”*  
11          *after “1886(o)(2),”.*

12          **SEC. 10323. MEDICARE COVERAGE FOR INDIVIDUALS EX-**  
13                            **POSED TO ENVIRONMENTAL HEALTH HAZ-**  
14                            **ARDS.**

15          (a) *IN GENERAL.*—*Title XVIII of the Social Security*  
16          *Act (42 U.S.C. 1395 et seq.) is amended by inserting after*  
17          *section 1881 the following new section:*

18          **“SEC. 1881A. MEDICARE COVERAGE FOR INDIVIDUALS EX-**  
19                            **POSED TO ENVIRONMENTAL HEALTH HAZ-**  
20                            **ARDS.**

21          **“(a) DEEMING OF INDIVIDUALS AS ELIGIBLE FOR**  
22          **MEDICARE BENEFITS.—**

23                    **“(1) IN GENERAL.**—*For purposes of eligibility*  
24                    *for benefits under this title, an individual determined*  
25                    *under subsection (c) to be an environmental exposure*

1 *affected individual described in subsection (e)(2) shall*  
2 *be deemed to meet the conditions specified in section*  
3 *226(a).*

4 “(2) *DISCRETIONARY DEEMING.*—*For purposes of*  
5 *eligibility for benefits under this title, the Secretary*  
6 *may deem an individual determined under subsection*  
7 *(c) to be an environmental exposure affected indi-*  
8 *vidual described in subsection (e)(3) to meet the con-*  
9 *ditions specified in section 226(a).*

10 “(3) *EFFECTIVE DATE OF COVERAGE.*—*An Indi-*  
11 *vidual who is deemed eligible for benefits under this*  
12 *title under paragraph (1) or (2) shall be—*

13 “(A) *entitled to benefits under the program*  
14 *under Part A as of the date of such deeming; and*

15 “(B) *eligible to enroll in the program under*  
16 *Part B beginning with the month in which such*  
17 *deeming occurs.*

18 “(b) *PILOT PROGRAM FOR CARE OF CERTAIN INDIVID-*  
19 *UALS RESIDING IN EMERGENCY DECLARATION AREAS.*—

20 “(1) *PROGRAM; PURPOSE.*—

21 “(A) *PRIMARY PILOT PROGRAM.*—*The Sec-*  
22 *retary shall establish a pilot program in accord-*  
23 *ance with this subsection to provide innovative*  
24 *approaches to furnishing comprehensive, coordi-*

1           nated, and cost-effective care under this title to  
2           individuals described in paragraph (2)(A).

3           “(B) *OPTIONAL PILOT PROGRAMS.*—The  
4           Secretary may establish a separate pilot pro-  
5           gram, in accordance with this subsection, with  
6           respect to each geographic area subject to an  
7           emergency declaration (other than the declara-  
8           tion of June 17, 2009), in order to furnish such  
9           comprehensive, coordinated and cost-effective  
10          care to individuals described in subparagraph  
11          (2)(B) who reside in each such area.

12          “(2) *INDIVIDUAL DESCRIBED.*—For purposes of  
13          paragraph (1), an individual described in this para-  
14          graph is an individual who enrolls in part B, sub-  
15          mits to the Secretary an application to participate in  
16          the applicable pilot program under this subsection,  
17          and—

18                 “(A) is an environmental exposure affected  
19                 individual described in subsection (e)(2) who re-  
20                 sides in or around the geographic area subject to  
21                 an emergency declaration made as of June 17,  
22                 2009; or

23                 “(B) is an environmental exposure affected  
24                 individual described in subsection (e)(3) who—

1                   “(i) is deemed under subsection (a)(2);

2                   and

3                   “(ii) meets such other criteria or con-  
4                   ditions for participation in a pilot program  
5                   under paragraph (1)(B) as the Secretary  
6                   specifies.

7                   “(3) FLEXIBLE BENEFITS AND SERVICES.—A  
8                   pilot program under this subsection may provide for  
9                   the furnishing of benefits, items, or services not other-  
10                  wise covered or authorized under this title, if the Sec-  
11                  retary determines that furnishing such benefits, items,  
12                  or services will further the purposes of such pilot pro-  
13                  gram (as described in paragraph (1)).

14                  “(4) INNOVATIVE REIMBURSEMENT METHODOLO-  
15                  GIES.—For purposes of the pilot program under this  
16                  subsection, the Secretary—

17                  “(A) shall develop and implement appro-  
18                  priate methodologies to reimburse providers for  
19                  furnishing benefits, items, or services for which  
20                  payment is not otherwise covered or authorized  
21                  under this title, if such benefits, items, or serv-  
22                  ices are furnished pursuant to paragraph (3);  
23                  and

24                  “(B) may develop and implement innova-  
25                  tive approaches to reimbursing providers for any

1           *benefits, items, or services furnished under this*  
2           *subsection.*

3           “(5) *LIMITATION.*—*Consistent with section*  
4           *1862(b), no payment shall be made under the pilot*  
5           *program under this subsection with respect to bene-*  
6           *fits, items, or services furnished to an environmental*  
7           *exposure affected individual (as defined in subsection*  
8           *(e)) to the extent that such individual is eligible to re-*  
9           *ceive such benefits, items, or services through any*  
10           *other public or private benefits plan or legal agree-*  
11           *ment.*

12           “(6) *WAIVER AUTHORITY.*—*The Secretary may*  
13           *waive such provisions of this title and title XI as are*  
14           *necessary to carry out pilot programs under this sub-*  
15           *section.*

16           “(7) *FUNDING.*—*For purposes of carrying out*  
17           *pilot programs under this subsection, the Secretary*  
18           *shall provide for the transfer, from the Federal Hos-*  
19           *pital Insurance Trust Fund under section 1817 and*  
20           *the Federal Supplementary Medical Insurance Trust*  
21           *Fund under section 1841, in such proportion as the*  
22           *Secretary determines appropriate, of such sums as the*  
23           *Secretary determines necessary, to the Centers for*  
24           *Medicare & Medicaid Services Program Management*  
25           *Account.*

1           “(8) *WAIVER OF BUDGET NEUTRALITY.*—*The*  
2           *Secretary shall not require that pilot programs under*  
3           *this subsection be budget neutral with respect to ex-*  
4           *penditures under this title.*

5           “(c) *DETERMINATIONS.*—

6           “(1) *BY THE COMMISSIONER OF SOCIAL SECUR-*  
7           *ITY.*—*For purposes of this section, the Commissioner*  
8           *of Social Security, in consultation with the Secretary,*  
9           *and using the cost allocation method prescribed in*  
10           *section 201(g), shall determine whether individuals*  
11           *are environmental exposure affected individuals.*

12           “(2) *BY THE SECRETARY.*—*The Secretary shall*  
13           *determine eligibility for pilot programs under sub-*  
14           *section (b).*

15           “(d) *EMERGENCY DECLARATION DEFINED.*—*For pur-*  
16           *poses of this section, the term ‘emergency declaration’ means*  
17           *a declaration of a public health emergency under section*  
18           *104(a) of the Comprehensive Environmental Response,*  
19           *Compensation, and Liability Act of 1980.*

20           “(e) *ENVIRONMENTAL EXPOSURE AFFECTED INDI-*  
21           *VIDUAL DEFINED.*—

22           “(1) *IN GENERAL.*—*For purposes of this section,*  
23           *the term ‘environmental exposure affected individual’*  
24           *means—*

1           “(A) an individual described in paragraph  
2           (2); and

3           “(B) an individual described in paragraph  
4           (3).

5           “(2) INDIVIDUAL DESCRIBED.—

6           “(A) IN GENERAL.—An individual de-  
7           scribed in this paragraph is any individual  
8           who—

9                   “(i) is diagnosed with 1 or more condi-  
10                  tions described in subparagraph (B);

11                   “(ii) as demonstrated in such manner  
12                  as the Secretary determines appropriate,  
13                  has been present for an aggregate total of 6  
14                  months in the geographic area subject to an  
15                  emergency declaration specified in sub-  
16                  section (b)(2)(A), during a period ending—

17                           “(I) not less than 10 years prior  
18                          to such diagnosis; and

19                           “(II) prior to the implementation  
20                          of all the remedial and removal actions  
21                          specified in the Record of Decision for  
22                          Operating Unit 4 and the Record of  
23                          Decision for Operating Unit 7;

24                           “(iii) files an application for benefits  
25                          under this title (or has an application filed

1           *on behalf of the individual), including pur-*  
2           *suant to this section; and*

3                   *“(iv) is determined under this section*  
4           *to meet the criteria in this subparagraph.*

5           *“(B) CONDITIONS DESCRIBED.—For pur-*  
6           *poses of subparagraph (A), the following condi-*  
7           *tions are described in this subparagraph:*

8                   *“(i) Asbestosis, pleural thickening, or*  
9           *pleural plaques as established by—*

10                    *“(I) interpretation by a ‘B Read-*  
11                    *er’ qualified physician of a plain chest*  
12                    *x-ray or interpretation of a computed*  
13                    *tomographic radiograph of the chest by*  
14                    *a qualified physician, as determined*  
15                    *by the Secretary; or*

16                    *“(II) such other diagnostic stand-*  
17                    *ards as the Secretary specifies,*  
18           *except that this clause shall not apply to*  
19           *pleural thickening or pleural plaques unless*  
20           *there are symptoms or conditions requiring*  
21           *medical treatment as a result of these diag-*  
22           *noses.*

23                    *“(ii) Mesothelioma, or malignancies of*  
24           *the lung, colon, rectum, larynx, stomach,*

1           *esophagus, pharynx, or ovary, as established*  
2           *by—*

3                     “(I) *pathologic examination of bi-*  
4                     *opsy tissue;*

5                     “(II)           *cytology           from*  
6                     *bronchioalveolar lavage; or*

7                     “(III) *such other diagnostic*  
8                     *standards as the Secretary specifies.*

9                     “(iii) *Any other diagnosis which the*  
10                    *Secretary, in consultation with the Commis-*  
11                    *sioner of Social Security, determines is an*  
12                    *asbestos-related medical condition, as estab-*  
13                    *lished by such diagnostic standards as the*  
14                    *Secretary specifies.*

15                    “(3) *OTHER INDIVIDUAL DESCRIBED.—An indi-*  
16                    *vidual described in this paragraph is any individual*  
17                    *who—*

18                    “(A) *is not an individual described in*  
19                    *paragraph (2);*

20                    “(B) *is diagnosed with a medical condition*  
21                    *caused by the exposure of the individual to a*  
22                    *public health hazard to which an emergency dec-*  
23                    *laration applies, based on such medical condi-*  
24                    *tions, diagnostic standards, and other criteria as*  
25                    *the Secretary specifies;*



1           “(1) screening at-risk individuals (as defined in  
2 subsection (c)(1)) for environmental health conditions  
3 (as defined in subsection (c)(3)); and

4           “(2) developing and disseminating public infor-  
5 mation and education concerning—

6                 “(A) the availability of screening under the  
7 program under this section;

8                 “(B) the detection, prevention, and treat-  
9 ment of environmental health conditions; and

10                “(C) the availability of Medicare benefits  
11 for certain individuals diagnosed with environ-  
12 mental health conditions under section 1881A.

13           “(b) *ELIGIBLE ENTITIES.*—

14                “(1) *IN GENERAL.*—For purposes of this section,  
15 an eligible entity is an entity described in paragraph  
16 (2) which submits an application to the Secretary in  
17 such form and manner, and containing such informa-  
18 tion and assurances, as the Secretary determines ap-  
19 propriate.

20                “(2) *TYPES OF ELIGIBLE ENTITIES.*—The enti-  
21 ties described in this paragraph are the following:

22                   “(A) A hospital or community health center.

23                   “(B) A Federally qualified health center.

24                   “(C) A facility of the Indian Health Serv-  
25 ice.

1           “(D) A National Cancer Institute-des-  
2           ignated cancer center.

3           “(E) An agency of any State or local gov-  
4           ernment.

5           “(F) A nonprofit organization.

6           “(G) Any other entity the Secretary deter-  
7           mines appropriate.

8           “(c) DEFINITIONS.—In this section:

9           “(1) AT-RISK INDIVIDUAL.—The term ‘at-risk in-  
10          dividual’ means an individual who—

11           “(A)(i) as demonstrated in such manner as  
12          the Secretary determines appropriate, has been  
13          present for an aggregate total of 6 months in the  
14          geographic area subject to an emergency declara-  
15          tion specified under paragraph (2), during a pe-  
16          riod ending—

17           “(I) not less than 10 years prior to the  
18          date of such individual’s application under  
19          subparagraph (B); and

20           “(II) prior to the implementation of  
21          all the remedial and removal actions speci-  
22          fied in the Record of Decision for Operating  
23          Unit 4 and the Record of Decision for Oper-  
24          ating Unit 7; or

1           “(i) meets such other criteria as the Sec-  
2           retary determines appropriate considering the  
3           type of environmental health condition at issue;  
4           and

5           “(B) has submitted an application (or has  
6           an application submitted on the individual’s be-  
7           half), to an eligible entity receiving a grant  
8           under this section, for screening under the pro-  
9           gram under this section.

10          “(2) *EMERGENCY DECLARATION.*—The term  
11          ‘emergency declaration’ means a declaration of a pub-  
12          lic health emergency under section 104(a) of the Com-  
13          prehensive Environmental Response, Compensation,  
14          and Liability Act of 1980.

15          “(3) *ENVIRONMENTAL HEALTH CONDITION.*—The  
16          term ‘environmental health condition’ means—

17                 “(A) asbestosis, pleural thickening, or pleu-  
18                 ral plaques, as established by—

19                         “(i) interpretation by a ‘B Reader’  
20                         qualified physician of a plain chest x-ray or  
21                         interpretation of a computed tomographic  
22                         radiograph of the chest by a qualified physi-  
23                         cian, as determined by the Secretary; or

24                         “(ii) such other diagnostic standards  
25                         as the Secretary specifies;

1           “(B) mesothelioma, or malignancies of the  
2           lung, colon, rectum, larynx, stomach, esophagus,  
3           pharynx, or ovary, as established by—

4                   “(i) pathologic examination of biopsy  
5                   tissue;

6                   “(ii) cytology from bronchioalveolar la-  
7                   vage; or

8                   “(iii) such other diagnostic standards  
9                   as the Secretary specifies; and

10           “(C) any other medical condition which the  
11           Secretary determines is caused by exposure to a  
12           hazardous substance or pollutant or contaminant  
13           at a Superfund site to which an emergency dec-  
14           laration applies, based on such criteria and as  
15           established by such diagnostic standards as the  
16           Secretary specifies.

17           “(4) HAZARDOUS SUBSTANCE; POLLUTANT; CON-  
18           TAMINANT.—The terms ‘hazardous substance’, ‘pollut-  
19           ant’, and ‘contaminant’ have the meanings given  
20           those terms in section 101 of the Comprehensive Envi-  
21           ronmental Response, Compensation, and Liability  
22           Act of 1980 (42 U.S.C. 9601).

23           “(5) SUPERFUND SITE.—The term ‘Superfund  
24           site’ means a site included on the National Priorities  
25           List developed by the President in accordance with

1 *section 105(a)(8)(B) of the Comprehensive Environ-*  
2 *mental Response, Compensation, and Liability Act of*  
3 *1980 (42 U.S.C. 9605(a)(8)(B)).*

4 “(d) *HEALTH COVERAGE UNAFFECTED.*—*Nothing in*  
5 *this section shall be construed to affect any coverage obliga-*  
6 *tion of a governmental or private health plan or program*  
7 *relating to an at-risk individual.*

8 “(e) *FUNDING.*—

9 “(1) *IN GENERAL.*—*Out of any funds in the*  
10 *Treasury not otherwise appropriated, there are ap-*  
11 *propriated to the Secretary, to carry out the program*  
12 *under this section—*

13 “(A) *\$23,000,000 for the period of fiscal*  
14 *years 2010 through 2014; and*

15 “(B) *\$20,000,000 for each 5-fiscal year pe-*  
16 *riod thereafter.*

17 “(2) *AVAILABILITY.*—*Funds appropriated under*  
18 *paragraph (1) shall remain available until expended.*

19 “(f) *NONAPPLICATION.*—

20 “(1) *IN GENERAL.*—*Except as provided in para-*  
21 *graph (2), the preceding sections of this title shall not*  
22 *apply to grants awarded under this section.*

23 “(2) *LIMITATIONS ON USE OF GRANTS.*—*Section*  
24 *2005(a) shall apply to a grant awarded under this*  
25 *section to the same extent and in the same manner*

1     *as such section applies to payments to States under*  
2     *this title, except that paragraph (4) of such section*  
3     *shall not be construed to prohibit grantees from con-*  
4     *ducting screening for environmental health conditions*  
5     *as authorized under this section.”.*

6     **SEC. 10324. PROTECTIONS FOR FRONTIER STATES.**

7     *(a) FLOOR ON AREA WAGE INDEX FOR HOSPITALS IN*  
8     *FRONTIER STATES.—*

9             *(1) IN GENERAL.—Section 1886(d)(3)(E) of the*  
10     *Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is*  
11     *amended—*

12             *(A) in clause (i), by striking “clause (ii)”*  
13     *and inserting “clause (ii) or (iii)”;* and

14             *(B) by adding at the end the following new*  
15     *clause:*

16             *“(iii) FLOOR ON AREA WAGE INDEX*  
17     *FOR HOSPITALS IN FRONTIER STATES.—*

18             *“(I) IN GENERAL.—Subject to*  
19     *subclause (IV), for discharges occurring*  
20     *on or after October 1, 2010, the area*  
21     *wage index applicable under this sub-*  
22     *paragraph to any hospital which is lo-*  
23     *located in a frontier State (as defined in*  
24     *subclause (II)) may not be less than*  
25     *1.00.*

1                   “(II) *FRONTIER STATE DE-*  
2                   *FINED.*—*In this clause, the term ‘fron-*  
3                   *tier State’ means a State in which at*  
4                   *least 50 percent of the counties in the*  
5                   *State are frontier counties.*

6                   “(III) *FRONTIER COUNTY DE-*  
7                   *FINED.*—*In this clause, the term ‘fron-*  
8                   *tier county’ means a county in which*  
9                   *the population per square mile is less*  
10                  *than 6.*

11                  “(IV) *LIMITATION.*—*This clause*  
12                  *shall not apply to any hospital located*  
13                  *in a State that receives a non-labor re-*  
14                  *lated share adjustment under para-*  
15                  *graph (5)(H).”.*

16                  (2) *WAIVING BUDGET NEUTRALITY.*—*Section*  
17                  *1886(d)(3)(E) of the Social Security Act (42 U.S.C.*  
18                  *1395ww(d)(3)(E)), as amended by subsection (a), is*  
19                  *amended in the third sentence by inserting “and the*  
20                  *amendments made by section 10324(a)(1) of the Pa-*  
21                  *tient Protection and Affordable Care Act” after*  
22                  *“2003”.*

23                  (b) *FLOOR ON AREA WAGE ADJUSTMENT FACTOR FOR*  
24                  *HOSPITAL OUTPATIENT DEPARTMENT SERVICES IN FRON-*  
25                  *TIER STATES.*—*Section 1833(t) of the Social Security Act*

1 *(42 U.S.C. 1395l(t)), as amended by section 3138, is*  
2 *amended—*

3 *(1) in paragraph (2)(D), by striking “the Sec-*  
4 *retary” and inserting “subject to paragraph (19), the*  
5 *Secretary”; and*

6 *(2) by adding at the end the following new para-*  
7 *graph:*

8 *“(19) FLOOR ON AREA WAGE ADJUSTMENT FAC-*  
9 *TOR FOR HOSPITAL OUTPATIENT DEPARTMENT SERV-*  
10 *ICES IN FRONTIER STATES.—*

11 *“(A) IN GENERAL.—Subject to subpara-*  
12 *graph (B), with respect to covered OPD services*  
13 *furnished on or after January 1, 2011, the area*  
14 *wage adjustment factor applicable under the*  
15 *payment system established under this subsection*  
16 *to any hospital outpatient department which is*  
17 *located in a frontier State (as defined in section*  
18 *1886(d)(3)(E)(iii)(II)) may not be less than*  
19 *1.00. The preceding sentence shall not be applied*  
20 *in a budget neutral manner.*

21 *“(B) LIMITATION.—This paragraph shall*  
22 *not apply to any hospital outpatient department*  
23 *located in a State that receives a non-labor re-*  
24 *lated share adjustment under section*  
25 *1886(d)(5)(H).”.*

1       (c) *FLOOR FOR PRACTICE EXPENSE INDEX FOR PHY-*  
2 *SICIANS' SERVICES FURNISHED IN FRONTIER STATES.—*  
3 *Section 1848(e)(1) of the Social Security Act (42 U.S.C.*  
4 *1395w-4(e)(1)), as amended by section 3102, is amended—*

5           (1) *in subparagraph (A), by striking “and (H)”*  
6 *and inserting “(H), and (I)”;* and

7           (2) *by adding at the end the following new sub-*  
8 *paragraph:*

9                   *“(I) FLOOR FOR PRACTICE EXPENSE INDEX*  
10 *FOR SERVICES FURNISHED IN FRONTIER*  
11 *STATES.—*

12                   *“(i) IN GENERAL.—Subject to clause*  
13 *(ii), for purposes of payment for services*  
14 *furnished in a frontier State (as defined in*  
15 *section 1886(d)(3)(E)(iii)(II)) on or after*  
16 *January 1, 2011, after calculating the prac-*  
17 *tice expense index in subparagraph (A)(i),*  
18 *the Secretary shall increase any such index*  
19 *to 1.00 if such index would otherwise be less*  
20 *than 1.00. The preceding sentence shall not*  
21 *be applied in a budget neutral manner.*

22                   *“(ii) LIMITATION.—This subparagraph*  
23 *shall not apply to services furnished in a*  
24 *State that receives a non-labor related share*  
25 *adjustment under section 1886(d)(5)(H).”.*

1 **SEC. 10325. REVISION TO SKILLED NURSING FACILITY PRO-**  
2 **SPECTIVE PAYMENT SYSTEM.**

3 (a) *TEMPORARY DELAY OF RUG–IV.*—Notwith-  
4 standing any other provision of law, the Secretary of  
5 Health and Human Services shall not, prior to October 1,  
6 2011, implement Version 4 of the Resource Utilization  
7 Groups (in this subsection referred to as “RUG–IV”) pub-  
8 lished in the Federal Register on August 11, 2009, entitled  
9 “Prospective Payment System and Consolidated Billing for  
10 Skilled Nursing Facilities for FY 2010; Minimum Data  
11 Set, Version 3.0 for Skilled Nursing Facilities and Medicaid  
12 Nursing Facilities” (74 Fed. Reg. 40288). Beginning on Oc-  
13 tober 1, 2010, the Secretary of Health and Human Services  
14 shall implement the change specific to therapy furnished on  
15 a concurrent basis that is a component of RUG–IV and  
16 changes to the lookback period to ensure that only those  
17 services furnished after admission to a skilled nursing facil-  
18 ity are used as factors in determining a case mix classifica-  
19 tion under the skilled nursing facility prospective payment  
20 system under section 1888(e) of the Social Security Act (42  
21 U.S.C. 1395yy(e)).

22 (b) *CONSTRUCTION.*—Nothing in this section shall be  
23 interpreted as delaying the implementation of Version 3.0  
24 of the Minimum Data Sets (MDS 3.0) beyond the planned  
25 implementation date of October 1, 2010.

1 **SEC. 10326. PILOT TESTING PAY-FOR-PERFORMANCE PRO-**  
2 **GRAMS FOR CERTAIN MEDICARE PROVIDERS.**

3 (a) *IN GENERAL.*—Not later than January 1, 2016,  
4 the Secretary of Health and Human Services (in this sec-  
5 tion referred to as the “Secretary”) shall, for each provider  
6 described in subsection (b), conduct a separate pilot pro-  
7 gram under title XVIII of the Social Security Act to test  
8 the implementation of a value-based purchasing program  
9 for payments under such title for the provider.

10 (b) *PROVIDERS DESCRIBED.*—The providers described  
11 in this paragraph are the following:

12 (1) *Psychiatric hospitals (as described in clause*  
13 *(i) of section 1886(d)(1)(B) of such Act (42 U.S.C.*  
14 *1395ww(d)(1)(B))) and psychiatric units (as de-*  
15 *scribed in the matter following clause (v) of such sec-*  
16 *tion).*

17 (2) *Long-term care hospitals (as described in*  
18 *clause (iv) of such section).*

19 (3) *Rehabilitation hospitals (as described in*  
20 *clause (ii) of such section).*

21 (4) *PPS-exempt cancer hospitals (as described in*  
22 *clause (v) of such section).*

23 (5) *Hospice programs (as defined in section*  
24 *1861(dd)(2) of such Act (42 U.S.C. 1395x(dd)(2))).*

25 (c) *WAIVER AUTHORITY.*—The Secretary may waive  
26 such requirements of titles XI and XVIII of the Social Secu-

1 *riety Act as may be necessary solely for purposes of carrying*  
2 *out the pilot programs under this section.*

3       *(d) NO ADDITIONAL PROGRAM EXPENDITURES.—Pay-*  
4 *ments under this section under the separate pilot program*  
5 *for value based purchasing (as described in subsection (a))*  
6 *for each provider type described in paragraphs (1) through*  
7 *(5) of subsection (b) for applicable items and services under*  
8 *title XVIII of the Social Security Act for a year shall be*  
9 *established in a manner that does not result in spending*  
10 *more under each such value based purchasing program for*  
11 *such year than would otherwise be expended for such pro-*  
12 *vider type for such year if the pilot program were not im-*  
13 *plemented, as estimated by the Secretary.*

14       *(e) EXPANSION OF PILOT PROGRAM.—The Secretary*  
15 *may, at any point after January 1, 2018, expand the dura-*  
16 *tion and scope of a pilot program conducted under this sub-*  
17 *section, to the extent determined appropriate by the Sec-*  
18 *retary, if—*

19               *(1) the Secretary determines that such expansion*  
20               *is expected to—*

21                       *(A) reduce spending under title XVIII of the*  
22                       *Social Security Act without reducing the quality*  
23                       *of care; or*

24                       *(B) improve the quality of care and reduce*  
25                       *spending;*

1           (2) *the Chief Actuary of the Centers for Medicare*  
2           *& Medicaid Services certifies that such expansion*  
3           *would reduce program spending under such title*  
4           *XVIII; and*

5           (3) *the Secretary determines that such expansion*  
6           *would not deny or limit the coverage or provision of*  
7           *benefits under such title XIII for Medicare bene-*  
8           *ficiaries.*

9   **SEC. 10327. IMPROVEMENTS TO THE PHYSICIAN QUALITY**  
10           **REPORTING SYSTEM.**

11           (a) *IN GENERAL.*—*Section 1848(m) of the Social Secu-*  
12           *rity Act (42 U.S.C. 1395w-4(m)) is amended by adding*  
13           *at the end the following new paragraph:*

14                   “(7) *ADDITIONAL INCENTIVE PAYMENT.*—

15                           “(A) *IN GENERAL.*—*For 2011 through 2014,*  
16                           *if an eligible professional meets the requirements*  
17                           *described in subparagraph (B), the applicable*  
18                           *quality percent for such year, as described in*  
19                           *clauses (iii) and (iv) of paragraph (1)(B), shall*  
20                           *be increased by 0.5 percentage points.*

21                           “(B) *REQUIREMENTS DESCRIBED.*—*In*  
22                           *order to qualify for the additional incentive pay-*  
23                           *ment described in subparagraph (A), an eligible*  
24                           *professional shall meet the following require-*  
25                           *ments:*

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“(i) *The eligible professional shall—*

    “(I) *satisfactorily submit data on quality measures for purposes of paragraph (1) for a year; and*

    “(II) *have such data submitted on their behalf through a Maintenance of Certification Program (as defined in subparagraph (C)(i)) that meets—*

        “(aa) *the criteria for a registry (as described in subsection (k)(4)); or*

        “(bb) *an alternative form and manner determined appropriate by the Secretary.*

“(ii) *The eligible professional, more frequently than is required to qualify for or maintain board certification status—*

    “(I) *participates in such a Maintenance of Certification program for a year; and*

    “(II) *successfully completes a qualified Maintenance of Certification Program practice assessment (as defined in subparagraph (C)(ii)) for such year.*

1           “(iii) A Maintenance of Certification  
2           program submits to the Secretary, on behalf  
3           of the eligible professional, information—

4                   “(I) in a form and manner speci-  
5                   fied by the Secretary, that the eligible  
6                   professional has successfully met the re-  
7                   quirements of clause (ii) (which may  
8                   be in the form of a structural meas-  
9                   ure);

10                   “(II) if requested by the Sec-  
11                   retary, on the survey of patient experi-  
12                   ence with care (as described in sub-  
13                   paragraph (C)(ii)(II)); and

14                   “(III) as the Secretary may re-  
15                   quire, on the methods, measures, and  
16                   data used under the Maintenance of  
17                   Certification Program and the quali-  
18                   fied Maintenance of Certification Pro-  
19                   gram practice assessment.

20           “(C) DEFINITIONS.—For purposes of this  
21           paragraph:

22                   “(i) The term ‘Maintenance of Certifi-  
23                   cation Program’ means a continuous assess-  
24                   ment program, such as qualified American  
25                   Board of Medical Specialties Maintenance

1           *of Certification program or an equivalent*  
2           *program (as determined by the Secretary),*  
3           *that advances quality and the lifelong*  
4           *learning and self-assessment of board cer-*  
5           *tified specialty physicians by focusing on*  
6           *the competencies of patient care, medical*  
7           *knowledge, practice-based learning, inter-*  
8           *personal and communication skills and pro-*  
9           *fessionalism. Such a program shall include*  
10          *the following:*

11                   *“(I) The program requires the*  
12                   *physician to maintain a valid, unre-*  
13                   *stricted medical license in the United*  
14                   *States.*

15                   *“(II) The program requires a*  
16                   *physician to participate in educational*  
17                   *and self-assessment programs that re-*  
18                   *quire an assessment of what was*  
19                   *learned.*

20                   *“(III) The program requires a*  
21                   *physician to demonstrate, through a*  
22                   *formalized, secure examination, that*  
23                   *the physician has the fundamental di-*  
24                   *agnostic skills, medical knowledge, and*

1           *clinical judgment to provide quality*  
2           *care in their respective specialty.*

3           “(IV) *The program requires suc-*  
4           *cessful completion of a qualified Main-*  
5           *tenance of Certification Program prac-*  
6           *tice assessment as described in clause*  
7           *(ii).*

8           “(ii) *The term ‘qualified Maintenance*  
9           *of Certification Program practice assess-*  
10           *ment’ means an assessment of a physician’s*  
11           *practice that—*

12           “(I) *includes an initial assess-*  
13           *ment of an eligible professional’s prac-*  
14           *tice that is designed to demonstrate the*  
15           *physician’s use of evidence-based medi-*  
16           *cine;*

17           “(II) *includes a survey of patient*  
18           *experience with care; and*

19           “(III) *requires a physician to im-*  
20           *plement a quality improvement inter-*  
21           *vention to address a practice weakness*  
22           *identified in the initial assessment*  
23           *under subclause (I) and then to re-*  
24           *measure to assess performance im-*  
25           *provement after such intervention.”.*

1       **(b) AUTHORITY.**—Section 3002(c) of this Act is  
2 amended by adding at the end the following new paragraph:

3           **“(3) AUTHORITY.**—For years after 2014, if the  
4 Secretary of Health and Human Services determines  
5 it to be appropriate, the Secretary may incorporate  
6 participation in a Maintenance of Certification Pro-  
7 gram and successful completion of a qualified Mainte-  
8 nance of Certification Program practice assessment  
9 into the composite of measures of quality of care fur-  
10 nished pursuant to the physician fee schedule pay-  
11 ment modifier, as described in section 1848(p)(2) of  
12 the Social Security Act (42 U.S.C. 1395w–4(p)(2)).”.

13       **(c) ELIMINATION OF MA REGIONAL PLAN STABILIZA-**  
14 **TION FUND.**—

15           **(1) IN GENERAL.**—Section 1858 of the Social Se-  
16 curity Act (42 U.S.C. 1395w–27a) is amended by  
17 striking subsection (e).

18           **(2) TRANSITION.**—Any amount contained in the  
19 MA Regional Plan Stabilization Fund as of the date  
20 of the enactment of this Act shall be transferred to the  
21 Federal Supplementary Medical Insurance Trust  
22 Fund.

1 **SEC. 10328. IMPROVEMENT IN PART D MEDICATION THER-**  
2 **APY MANAGEMENT (MTM) PROGRAMS.**

3 (a) *IN GENERAL.*—Section 1860D–4(c)(2) of the So-  
4 cial Security Act (42 U.S.C. 1395w–104(c)(2)) is amend-  
5 ed—

6 (1) *by redesignating subparagraphs (C), (D),*  
7 *and (E) as subparagraphs (E), (F), and (G), respec-*  
8 *tively; and*

9 (2) *by inserting after subparagraph (B) the fol-*  
10 *lowing new subparagraphs:*

11 “(C) *REQUIRED INTERVENTIONS.*—*For plan*  
12 *years beginning on or after the date that is 2*  
13 *years after the date of the enactment of the Pa-*  
14 *tient Protection and Affordable Care Act, pre-*  
15 *scription drug plan sponsors shall offer medica-*  
16 *tion therapy management services to targeted*  
17 *beneficiaries described in subparagraph (A)(ii)*  
18 *that include, at a minimum, the following to in-*  
19 *crease adherence to prescription medications or*  
20 *other goals deemed necessary by the Secretary:*

21 “(i) *An annual comprehensive medica-*  
22 *tion review furnished person-to-person or*  
23 *using telehealth technologies (as defined by*  
24 *the Secretary) by a licensed pharmacist or*  
25 *other qualified provider. The comprehensive*  
26 *medication review—*

1           “(I) shall include a review of the  
2           individual’s medications and may re-  
3           sult in the creation of a recommended  
4           medication action plan or other ac-  
5           tions in consultation with the indi-  
6           vidual and with input from the pre-  
7           scriber to the extent necessary and  
8           practicable; and

9           “(II) shall include providing the  
10          individual with a written or printed  
11          summary of the results of the review.

12          The Secretary, in consultation with relevant  
13          stakeholders, shall develop a standardized  
14          format for the action plan under subclause  
15          (I) and the summary under subclause (II).

16          “(ii) Follow-up interventions as war-  
17          ranted based on the findings of the annual  
18          medication review or the targeted medica-  
19          tion enrollment and which may be provided  
20          person-to-person or using telehealth tech-  
21          nologies (as defined by the Secretary).

22          “(D) ASSESSMENT.—The prescription drug  
23          plan sponsor shall have in place a process to as-  
24          sess, at least on a quarterly basis, the medication  
25          use of individuals who are at risk but not en-

1           rolled in the medication therapy management  
2           program, including individuals who have experi-  
3           enced a transition in care, if the prescription  
4           drug plan sponsor has access to that informa-  
5           tion.

6           “(E) *AUTOMATIC ENROLLMENT WITH ABIL-*  
7           *ITY TO OPT-OUT.*—The prescription drug plan  
8           sponsor shall have in place a process to—

9                   “(i) subject to clause (ii), automati-  
10                   cally enroll targeted beneficiaries described  
11                   in subparagraph (A)(ii), including bene-  
12                   ficiaries identified under subparagraph (D),  
13                   in the medication therapy management pro-  
14                   gram required under this subsection; and

15                   “(ii) permit such beneficiaries to opt-  
16                   out of enrollment in such program.”.

17           (b) *RULE OF CONSTRUCTION.*—Nothing in this section  
18           shall limit the authority of the Secretary of Health and  
19           Human Services to modify or broaden requirements for a  
20           medication therapy management program under part D of  
21           title XVIII of the Social Security Act or to study new mod-  
22           els for medication therapy management through the Center  
23           for Medicare and Medicaid Innovation under section 1115A  
24           of such Act, as added by section 3021.

1 **SEC. 10329. DEVELOPING METHODOLOGY TO ASSESS**  
2 **HEALTH PLAN VALUE.**

3 (a) *DEVELOPMENT.*—*The Secretary of Health and*  
4 *Human Services (referred to in this section as the “Sec-*  
5 *retary”), in consultation with relevant stakeholders includ-*  
6 *ing health insurance issuers, health care consumers, em-*  
7 *ployers, health care providers, and other entities determined*  
8 *appropriate by the Secretary, shall develop a methodology*  
9 *to measure health plan value. Such methodology shall take*  
10 *into consideration, where applicable—*

11 (1) *the overall cost to enrollees under the plan;*

12 (2) *the quality of the care provided for under the*  
13 *plan;*

14 (3) *the efficiency of the plan in providing care;*

15 (4) *the relative risk of the plan’s enrollees as*  
16 *compared to other plans;*

17 (5) *the actuarial value or other comparative*  
18 *measure of the benefits covered under the plan; and*

19 (6) *other factors determined relevant by the Sec-*  
20 *retary.*

21 (b) *REPORT.*—*Not later than 18 months after the date*  
22 *of enactment of this Act, the Secretary shall submit to Con-*  
23 *gress a report concerning the methodology developed under*  
24 *subsection (a).*

1 **SEC. 10330. MODERNIZING COMPUTER AND DATA SYSTEMS**  
2 **OF THE CENTERS FOR MEDICARE & MED-**  
3 **ICAID SERVICES TO SUPPORT IMPROVE-**  
4 **MENTS IN CARE DELIVERY.**

5 (a) *IN GENERAL.*—*The Secretary of Health and*  
6 *Human Services (in this section referred to as the “Sec-*  
7 *retary”)* shall develop a plan (and detailed budget for the  
8 resources needed to implement such plan) to modernize the  
9 computer and data systems of the Centers for Medicare &  
10 Medicaid Services (in this section referred to as “CMS”).

11 (b) *CONSIDERATIONS.*—*In developing the plan, the*  
12 *Secretary shall consider how such modernized computer sys-*  
13 *tem could—*

14 (1) *in accordance with the regulations promul-*  
15 *gated under section 264(c) of the Health Insurance*  
16 *Portability and Accountability Act of 1996, make*  
17 *available data in a reliable and timely manner to*  
18 *providers of services and suppliers to support their ef-*  
19 *forts to better manage and coordinate care furnished*  
20 *to beneficiaries of CMS programs; and*

21 (2) *support consistent evaluations of payment*  
22 *and delivery system reforms under CMS programs.*

23 (c) *POSTING OF PLAN.*—*By not later than 9 months*  
24 *after the date of the enactment of this Act, the Secretary*  
25 *shall post on the website of the Centers for Medicare & Med-*  
26 *icaid Services the plan described in subsection (a).*

1 **SEC. 10331. PUBLIC REPORTING OF PERFORMANCE INFOR-**  
2 **MATION.**

3 (a) *IN GENERAL.*—

4 (1) *DEVELOPMENT.*—*Not later than January 1,*  
5 *2011, the Secretary shall develop a Physician Com-*  
6 *pare Internet website with information on physicians*  
7 *enrolled in the Medicare program under section*  
8 *1866(j) of the Social Security Act (42 U.S.C.*  
9 *1395cc(j)) and other eligible professionals who par-*  
10 *ticipate in the Physician Quality Reporting Initia-*  
11 *tive under section 1848 of such Act (42 U.S.C.*  
12 *1395w-4).*

13 (2) *PLAN.*—*Not later than January 1, 2013, and*  
14 *with respect to reporting periods that begin no earlier*  
15 *than January 1, 2012, the Secretary shall also imple-*  
16 *ment a plan for making publicly available through*  
17 *Physician Compare, consistent with subsection (c),*  
18 *information on physician performance that provides*  
19 *comparable information for the public on quality and*  
20 *patient experience measures with respect to physi-*  
21 *cians enrolled in the Medicare program under such*  
22 *section 1866(j). To the extent scientifically sound*  
23 *measures that are developed consistent with the re-*  
24 *quirements of this section are available, such informa-*  
25 *tion, to the extent practicable, shall include—*

1           (A) measures collected under the Physician  
2           Quality Reporting Initiative;

3           (B) an assessment of patient health out-  
4           comes and the functional status of patients;

5           (C) an assessment of the continuity and co-  
6           ordination of care and care transitions, includ-  
7           ing episodes of care and risk-adjusted resource  
8           use;

9           (D) an assessment of efficiency;

10          (E) an assessment of patient experience and  
11          patient, caregiver, and family engagement;

12          (F) an assessment of the safety, effectiveness,  
13          and timeliness of care; and

14          (G) other information as determined appro-  
15          priate by the Secretary.

16          (b) *OTHER REQUIRED CONSIDERATIONS.*—In devel-  
17          oping and implementing the plan described in subsection  
18          (a)(2), the Secretary shall, to the extent practicable, in-  
19          clude—

20               (1) processes to assure that data made public, ei-  
21               ther by the Centers for Medicare & Medicaid Services  
22               or by other entities, is statistically valid and reliable,  
23               including risk adjustment mechanisms used by the  
24               Secretary;

1           (2) *processes by which a physician or other eligi-*  
2 *ble professional whose performance on measures is*  
3 *being publicly reported has a reasonable opportunity,*  
4 *as determined by the Secretary, to review his or her*  
5 *individual results before they are made public;*

6           (3) *processes by the Secretary to assure that the*  
7 *implementation of the plan and the data made avail-*  
8 *able on Physician Compare provide a robust and ac-*  
9 *curate portrayal of a physician's performance;*

10          (4) *data that reflects the care provided to all pa-*  
11 *tients seen by physicians, under both the Medicare*  
12 *program and, to the extent practicable, other payers,*  
13 *to the extent such information would provide a more*  
14 *accurate portrayal of physician performance;*

15          (5) *processes to ensure appropriate attribution of*  
16 *care when multiple physicians and other providers*  
17 *are involved in the care of a patient;*

18          (6) *processes to ensure timely statistical perform-*  
19 *ance feedback is provided to physicians concerning*  
20 *the data reported under any program subject to pub-*  
21 *lic reporting under this section; and*

22          (7) *implementation of computer and data sys-*  
23 *tems of the Centers for Medicare & Medicaid Services*  
24 *that support valid, reliable, and accurate public re-*  
25 *porting activities authorized under this section.*

1       (c) *ENSURING PATIENT PRIVACY.*—*The Secretary shall*  
2 *ensure that information on physician performance and pa-*  
3 *tient experience is not disclosed under this section in a*  
4 *manner that violates sections 552 or 552a of title 5, United*  
5 *States Code, with regard to the privacy of individually*  
6 *identifiable health information.*

7       (d) *FEEDBACK FROM MULTI-STAKEHOLDER*  
8 *GROUPS.*—*The Secretary shall take into consideration*  
9 *input provided by multi-stakeholder groups, consistent with*  
10 *sections 1890(b)(7) and 1890A of the Social Security Act,*  
11 *as added by section 3014 of this Act, in selecting quality*  
12 *measures for use under this section.*

13       (e) *CONSIDERATION OF TRANSITION TO VALUE-BASED*  
14 *PURCHASING.*—*In developing the plan under this sub-*  
15 *section (a)(2), the Secretary shall, as the Secretary deter-*  
16 *mines appropriate, consider the plan to transition to a*  
17 *value-based purchasing program for physicians and other*  
18 *practitioners developed under section 131 of the Medicare*  
19 *Improvements for Patients and Providers Act of 2008 (Pub-*  
20 *lic Law 110–275).*

21       (f) *REPORT TO CONGRESS.*—*Not later than January*  
22 *1, 2015, the Secretary shall submit to Congress a report*  
23 *on the Physician Compare Internet website developed under*  
24 *subsection (a)(1). Such report shall include information on*  
25 *the efforts of and plans made by the Secretary to collect*

1 *and publish data on physician quality and efficiency and*  
2 *on patient experience of care in support of value-based pur-*  
3 *chasing and consumer choice, together with recommenda-*  
4 *tions for such legislation and administrative action as the*  
5 *Secretary determines appropriate.*

6 (g) *EXPANSION.—At any time before the date on which*  
7 *the report is submitted under subsection (f), the Secretary*  
8 *may expand (including expansion to other providers of*  
9 *services and suppliers under title XVIII of the Social Secu-*  
10 *rity Act) the information made available on such website.*

11 (h) *FINANCIAL INCENTIVES TO ENCOURAGE CON-*  
12 *SUMERS TO CHOOSE HIGH QUALITY PROVIDERS.—The*  
13 *Secretary may establish a demonstration program, not later*  
14 *than January 1, 2019, to provide financial incentives to*  
15 *Medicare beneficiaries who are furnished services by high*  
16 *quality physicians, as determined by the Secretary based*  
17 *on factors in subparagraphs (A) through (G) of subsection*  
18 *(a)(2). In no case may Medicare beneficiaries be required*  
19 *to pay increased premiums or cost sharing or be subject*  
20 *to a reduction in benefits under title XVIII of the Social*  
21 *Security Act as a result of such demonstration program.*  
22 *The Secretary shall ensure that any such demonstration*  
23 *program does not disadvantage those beneficiaries without*  
24 *reasonable access to high performing physicians or create*  
25 *financial inequities under such title.*

1 (i) *DEFINITIONS.*—*In this section:*

2 (1) *ELIGIBLE PROFESSIONAL.*—*The term “eligible*  
3 *professional” has the meaning given that term for*  
4 *purposes of the Physician Quality Reporting Initia-*  
5 *tive under section 1848 of the Social Security Act (42*  
6 *U.S.C. 1395w–4).*

7 (2) *PHYSICIAN.*—*The term “physician” has the*  
8 *meaning given that term in section 1861(r) of such*  
9 *Act (42 U.S.C. 1395x(r)).*

10 (3) *PHYSICIAN COMPARE.*—*The term “Physician*  
11 *Compare” means the Internet website developed under*  
12 *subsection (a)(1).*

13 (4) *SECRETARY.*—*The term “Secretary” means*  
14 *the Secretary of Health and Human Services.*

15 **SEC. 10332. AVAILABILITY OF MEDICARE DATA FOR PER-**  
16 **FORMANCE MEASUREMENT.**

17 (a) *IN GENERAL.*—*Section 1874 of the Social Security*  
18 *Act (42 U.S.C. 1395kk) is amended by adding at the end*  
19 *the following new subsection:*

20 “(e) *AVAILABILITY OF MEDICARE DATA.*—

21 “(1) *IN GENERAL.*—*Subject to paragraph (4), the*  
22 *Secretary shall make available to qualified entities*  
23 *(as defined in paragraph (2)) data described in para-*  
24 *graph (3) for the evaluation of the performance of*  
25 *providers of services and suppliers.*

1           “(2) *QUALIFIED ENTITIES.*—For purposes of this  
2 subsection, the term ‘qualified entity’ means a public  
3 or private entity that—

4           “(A) is qualified (as determined by the Sec-  
5 retary) to use claims data to evaluate the per-  
6 formance of providers of services and suppliers  
7 on measures of quality, efficiency, effectiveness,  
8 and resource use; and

9           “(B) agrees to meet the requirements de-  
10 scribed in paragraph (4) and meets such other  
11 requirements as the Secretary may specify, such  
12 as ensuring security of data.

13           “(3) *DATA DESCRIBED.*—The data described in  
14 this paragraph are standardized extracts (as deter-  
15 mined by the Secretary) of claims data under parts  
16 A, B, and D for items and services furnished under  
17 such parts for one or more specified geographic areas  
18 and time periods requested by a qualified entity. The  
19 Secretary shall take such actions as the Secretary  
20 deems necessary to protect the identity of individuals  
21 entitled to or enrolled for benefits under such parts.

22           “(4) *REQUIREMENTS.*—

23           “(A) *FEE.*—Data described in paragraph  
24 (3) shall be made available to a qualified entity  
25 under this subsection at a fee equal to the cost

1           *of making such data available. Any fee collected*  
2           *pursuant to the preceding sentence shall be de-*  
3           *posited into the Federal Supplementary Medical*  
4           *Insurance Trust Fund under section 1841.*

5           “(B) *SPECIFICATION OF USES AND METH-*  
6           *ODOLOGIES.—A qualified entity requesting data*  
7           *under this subsection shall—*

8                   “(i) *submit to the Secretary a descrip-*  
9                   *tion of the methodologies that such qualified*  
10                  *entity will use to evaluate the performance*  
11                  *of providers of services and suppliers using*  
12                  *such data;*

13                  “(ii)(I) *except as provided in subclause*  
14                  *(II), if available, use standard measures,*  
15                  *such as measures endorsed by the entity*  
16                  *with a contract under section 1890(a) and*  
17                  *measures developed pursuant to section 931*  
18                  *of the Public Health Service Act; or*

19                  “(II) *use alternative measures if the*  
20                  *Secretary, in consultation with appropriate*  
21                  *stakeholders, determines that use of such al-*  
22                  *ternative measures would be more valid, re-*  
23                  *liable, responsive to consumer preferences,*  
24                  *cost-effective, or relevant to dimensions of*

1           *quality and resource use not addressed by*  
2           *such standard measures;*

3           “(iii) include data made available  
4           under this subsection with claims data from  
5           sources other than claims data under this  
6           title in the evaluation of performance of  
7           providers of services and suppliers;

8           “(iv) only include information on the  
9           evaluation of performance of providers and  
10          suppliers in reports described in subpara-  
11          graph (C);

12          “(v) make available to providers of  
13          services and suppliers, upon their request,  
14          data made available under this subsection;  
15          and

16          “(vi) prior to their release, submit to  
17          the Secretary the format of reports under  
18          subparagraph (C).

19          “(C) *REPORTS*.—Any report by a qualified  
20          entity evaluating the performance of providers of  
21          services and suppliers using data made available  
22          under this subsection shall—

23                 “(i) include an understandable descrip-  
24                 tion of the measures, which shall include  
25                 quality measures and the rationale for use

1           *of other measures described in subparagraph*  
2           *(B)(ii)(II), risk adjustment methods, physi-*  
3           *cian attribution methods, other applicable*  
4           *methods, data specifications and limita-*  
5           *tions, and the sponsors, so that consumers,*  
6           *providers of services and suppliers, health*  
7           *plans, researchers, and other stakeholders*  
8           *can assess such reports;*

9           *“(ii) be made available confidentially,*  
10          *to any provider of services or supplier to be*  
11          *identified in such report, prior to the public*  
12          *release of such report, and provide an op-*  
13          *portunity to appeal and correct errors;*

14          *“(iii) only include information on a*  
15          *provider of services or supplier in an aggre-*  
16          *gate form as determined appropriate by the*  
17          *Secretary; and*

18          *“(iv) except as described in clause (ii),*  
19          *be made available to the public.*

20          “(D) APPROVAL AND LIMITATION OF  
21          *USES.—The Secretary shall not make data de-*  
22          *scribed in paragraph (3) available to a qualified*  
23          *entity unless the qualified entity agrees to release*  
24          *the information on the evaluation of performance*  
25          *of providers of services and suppliers. Such enti-*

1            *ty shall only use such data, and information de-*  
 2            *ived from such evaluation, for the reports under*  
 3            *subparagraph (C). Data released to a qualified*  
 4            *entity under this subsection shall not be subject*  
 5            *to discovery or admission as evidence in judicial*  
 6            *or administrative proceedings without consent of*  
 7            *the applicable provider of services or supplier.”.*

8            *(b) EFFECTIVE DATE.—The amendment made by sub-*  
 9            *section (a) shall take effect on January 1, 2012.*

10    **SEC. 10333. COMMUNITY-BASED COLLABORATIVE CARE**  
 11            **NETWORKS.**

12            *Part D of title III of the Public Health Service Act*  
 13            *(42 U.S.C. 254b et seq.) is amended by adding at the end*  
 14            *the following new subpart:*

15    **“Subpart XI—Community-Based Collaborative Care**  
 16            **Network Program**

17    **“SEC. 340H. COMMUNITY-BASED COLLABORATIVE CARE**  
 18            **NETWORK PROGRAM.**

19            *“(a) IN GENERAL.—The Secretary may award grants*  
 20            *to eligible entities to support community-based collaborative*  
 21            *care networks that meet the requirements of subsection (b).*

22            *“(b) COMMUNITY-BASED COLLABORATIVE CARE NET-*  
 23            *WORKS.—*

24            *“(1) DESCRIPTION.—A community-based collabo-*  
 25            *rative care network (referred to in this section as a*

1     ‘network’) shall be a consortium of health care pro-  
2     viders with a joint governance structure (including  
3     providers within a single entity) that provides com-  
4     prehensive coordinated and integrated health care  
5     services (as defined by the Secretary) for low-income  
6     populations.

7             “(2) *REQUIRED INCLUSION.*—A network shall in-  
8     clude the following providers (unless such provider  
9     does not exist within the community, declines or re-  
10    fuses to participate, or places unreasonable conditions  
11    on their participation):

12             “(A) A hospital that meets the criteria in  
13    section 1923(b)(1) of the Social Security Act;  
14    and

15             “(B) All Federally qualified health centers  
16    (as defined in section 1861(aa) of the Social Se-  
17    curity Act located in the community.

18             “(3) *PRIORITY.*—In awarding grants, the Sec-  
19    retary shall give priority to networks that include—

20             “(A) the capability to provide the broadest  
21    range of services to low-income individuals;

22             “(B) the broadest range of providers that  
23    currently serve a high volume of low-income in-  
24    dividuals; and

1           “(C) a county or municipal department of  
2           health.

3           “(c) APPLICATION.—

4           “(1) APPLICATION.—A network described in sub-  
5           section (b) shall submit an application to the Sec-  
6           retary.

7           “(2) RENEWAL.—In subsequent years, based on  
8           the performance of grantees, the Secretary may pro-  
9           vide renewal grants to prior year grant recipients.

10          “(d) USE OF FUNDS.—

11          “(1) USE BY GRANTEES.—Grant funds may be  
12          used for the following activities:

13                 “(A) Assist low-income individuals to—

14                         “(i) access and appropriately use  
15                         health services;

16                         “(ii) enroll in health coverage pro-  
17                         grams; and

18                         “(iii) obtain a regular primary care  
19                         provider or a medical home.

20                 “(B) Provide case management and care  
21                 management.

22                 “(C) Perform health outreach using neigh-  
23                 borhood health workers or through other means.

24                 “(D) Provide transportation.

1           “(E) *Expand capacity, including through*  
2           *telehealth, after-hours services or urgent care.*

3           “(F) *Provide direct patient care services.*

4           “(2) *GRANT FUNDS TO HRSA GRANTEES.—The*  
5           *Secretary may limit the percent of grant funding that*  
6           *may be spent on direct care services provided by*  
7           *grantees of programs administered by the Health Re-*  
8           *sources and Services Administration or impose other*  
9           *requirements on such grantees deemed necessary.*

10          “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
11          *authorized to be appropriated to carry out this section such*  
12          *sums as may be necessary for each of fiscal years 2011*  
13          *through 2015.”.*

14          **SEC. 10334. MINORITY HEALTH.**

15          (a) *OFFICE OF MINORITY HEALTH.—*

16                 (1) *IN GENERAL.—Section 1707 of the Public*  
17                 *Health Service Act (42 U.S.C. 300u–6) is amended—*

18                         (A) *in subsection (a), by striking “within*  
19                         *the Office of Public Health and Science” and all*  
20                         *that follows through the end and inserting “. The*  
21                         *Office of Minority Health as existing on the date*  
22                         *of enactment of the Patient Protection and Af-*  
23                         *fordable Care Act shall be transferred to the Of-*  
24                         *fice of the Secretary in such manner that there*  
25                         *is established in the Office of the Secretary, the*

1        *Office of Minority Health, which shall be headed*  
2        *by the Deputy Assistant Secretary for Minority*  
3        *Health who shall report directly to the Secretary,*  
4        *and shall retain and strengthen authorities (as*  
5        *in existence on such date of enactment) for the*  
6        *purpose of improving minority health and the*  
7        *quality of health care minorities receive, and*  
8        *eliminating racial and ethnic disparities. In*  
9        *carrying out this subsection, the Secretary, act-*  
10       *ing through the Deputy Assistant Secretary,*  
11       *shall award grants, contracts, enter into memo-*  
12       *randa of understanding, cooperative, inter-*  
13       *agency, intra-agency and other agreements with*  
14       *public and nonprofit private entities, agencies,*  
15       *as well as Departmental and Cabinet agencies*  
16       *and organizations, and with organizations that*  
17       *are indigenous human resource providers in*  
18       *communities of color to assure improved health*  
19       *status of racial and ethnic minorities, and shall*  
20       *develop measures to evaluate the effectiveness of*  
21       *activities aimed at reducing health disparities*  
22       *and supporting the local community. Such meas-*  
23       *ures shall evaluate community outreach activi-*  
24       *ties, language services, workforce cultural com-*

1            *petence, and other areas as determined by the*  
2            *Secretary.”; and*

3            *(B) by striking subsection (h) and inserting*  
4            *the following:*

5            *“(h) AUTHORIZATION OF APPROPRIATIONS.—For the*  
6            *purpose of carrying out this section, there are authorized*  
7            *to be appropriated such sums as may be necessary for each*  
8            *of fiscal years 2011 through 2016.”.*

9            *(2) TRANSFER OF FUNCTIONS.—There are trans-*  
10           *ferred to the Office of Minority Health in the office*  
11           *of the Secretary of Health and Human Services, all*  
12           *duties, responsibilities, authorities, accountabilities,*  
13           *functions, staff, funds, award mechanisms, and other*  
14           *entities under the authority of the Office of Minority*  
15           *Health of the Public Health Service as in effect on the*  
16           *date before the date of enactment of this Act, which*  
17           *shall continue in effect according to the terms in effect*  
18           *on the date before such date of enactment, until modi-*  
19           *fied, terminated, superseded, set aside, or revoked in*  
20           *accordance with law by the President, the Secretary,*  
21           *a court of competent jurisdiction, or by operation of*  
22           *law.*

23           *(3) REPORTS.—Not later than 1 year after the*  
24           *date of enactment of this section, and biennially*  
25           *thereafter, the Secretary of Health and Human Serv-*

1        *ices shall prepare and submit to the appropriate com-*  
2        *mittees of Congress a report describing the activities*  
3        *carried out under section 1707 of the Public Health*  
4        *Service Act (as amended by this subsection) during*  
5        *the period for which the report is being prepared. Not*  
6        *later than 1 year after the date of enactment of this*  
7        *section, and biennially thereafter, the heads of each of*  
8        *the agencies of the Department of Health and Human*  
9        *Services shall submit to the Deputy Assistant Sec-*  
10       *retary for Minority Health a report summarizing the*  
11       *minority health activities of each of the respective*  
12       *agencies.*

13       *(b) ESTABLISHMENT OF INDIVIDUAL OFFICES OF MI-*  
14       *NORITY HEALTH WITHIN THE DEPARTMENT OF HEALTH*  
15       *AND HUMAN SERVICES.—*

16                *(1) IN GENERAL.—Title XVII of the Public*  
17        *Health Service Act (42 U.S.C. 300u et seq.) is amend-*  
18        *ed by inserting after section 1707 the following sec-*  
19        *tion:*

20        **“SEC. 1707A. INDIVIDUAL OFFICES OF MINORITY HEALTH**  
21                        **WITHIN THE DEPARTMENT.**

22                *“(a) IN GENERAL.—The head of each agency specified*  
23        *in subsection (b)(1) shall establish within the agency an of-*  
24        *fice to be known as the Office of Minority Health. The head*  
25        *of each such Office shall be appointed by the head of the*

1 *agency within which the Office is established, and shall re-*  
2 *port directly to the head of the agency. The head of such*  
3 *agency shall carry out this section (as this section relates*  
4 *to the agency) acting through such Director.*

5       “(b) *SPECIFIED AGENCIES.*—*The agencies referred to*  
6 *in subsection (a) are the Centers for Disease Control and*  
7 *Prevention, the Health Resources and Services Administra-*  
8 *tion, the Substance Abuse and Mental Health Services Ad-*  
9 *ministration, the Agency for Healthcare Research and*  
10 *Quality, the Food and Drug Administration, and the Cen-*  
11 *ters for Medicare & Medicaid Services.*

12       “(c) *DIRECTOR; APPOINTMENT.*—*Each Office of Mi-*  
13 *nority Health established in an agency listed in subsection*  
14 *(a) shall be headed by a director, with documented experi-*  
15 *ence and expertise in minority health services research and*  
16 *health disparities elimination.*

17       “(d) *REFERENCES.*—*Except as otherwise specified,*  
18 *any reference in Federal law to an Office of Minority*  
19 *Health (in the Department of Health and Human Services)*  
20 *is deemed to be a reference to the Office of Minority Health*  
21 *in the Office of the Secretary.*

22       “(e) *FUNDING.*—

23               “(1) *ALLOCATIONS.*—*Of the amounts appro-*  
24 *priated for a specified agency for a fiscal year, the*  
25 *Secretary must designate an appropriate amount of*

1 *funds for the purpose of carrying out activities under*  
2 *this section through the minority health office of the*  
3 *agency. In reserving an amount under the preceding*  
4 *sentence for a minority health office for a fiscal year,*  
5 *the Secretary shall reduce, by substantially the same*  
6 *percentage, the amount that otherwise would be avail-*  
7 *able for each of the programs of the designated agency*  
8 *involved.*

9       “(2) *AVAILABILITY OF FUNDS FOR STAFFING.—*  
10 *The purposes for which amounts made available*  
11 *under paragraph may be expended by a minority*  
12 *health office include the costs of employing staff for*  
13 *such office.”.*

14       (2) *NO NEW REGULATORY AUTHORITY.—Nothing*  
15 *in this subsection and the amendments made by this*  
16 *subsection may be construed as establishing regu-*  
17 *latory authority or modifying any existing regulatory*  
18 *authority.*

19       (3) *LIMITATION ON TERMINATION.—Notwith-*  
20 *standing any other provision of law, a Federal office*  
21 *of minority health or Federal appointive position*  
22 *with primary responsibility over minority health*  
23 *issues that is in existence in an office of agency of the*  
24 *Department of Health and Human Services on the*  
25 *date of enactment of this section shall not be termi-*

1        *nated, reorganized, or have any of its power or duties*  
2        *transferred unless such termination, reorganization,*  
3        *or transfer is approved by an Act of Congress.*

4        *(c) REDESIGNATION OF NATIONAL CENTER ON MINOR-*  
5        *ITY HEALTH AND HEALTH DISPARITIES.—*

6                *(1) REDESIGNATION.—Title IV of the Public*  
7        *Health Service Act (42 U.S.C. 281 et seq.) is amend-*  
8        *ed—*

9                *(A) by redesignating subpart 6 of part E as*  
10        *subpart 20;*

11                *(B) by transferring subpart 20, as so redesi-*  
12        *gnated, to part C of such title IV;*

13                *(C) by inserting subpart 20, as so redesi-*  
14        *gnated, after subpart 19 of such part C; and*

15                *(D) in subpart 20, as so redesignated—*

16                        *(i) by redesignating sections 485E*  
17        *through 485H as sections 464z–3 through*  
18        *464z–6, respectively;*

19                        *(ii) by striking “National Center on*  
20        *Minority Health and Health Disparities”*  
21        *each place such term appears and inserting*  
22        *“National Institute on Minority Health and*  
23        *Health Disparities”; and*

1                   (iii) by striking “Center” each place  
2                   such term appears and inserting “Insti-  
3                   tute”.

4                   (2) *PURPOSE OF INSTITUTE; DUTIES.*—Section  
5                   464z–3 of the Public Health Service Act, as so reded-  
6                   ignated, is amended—

7                   (A) in subsection (h)(1), by striking “re-  
8                   search endowments at centers of excellence under  
9                   section 736.” and inserting the following: “re-  
10                  search endowments—

11                 “(1) at centers of excellence under section 736;  
12                 and

13                 “(2) at centers of excellence under section 464z–  
14                 4.”;

15                 (B) in subsection (h)(2)(A), by striking “av-  
16                 erage” and inserting “median”; and

17                 (C) by adding at the end the following:

18                 “(h) *INTERAGENCY COORDINATION.*—The Director of  
19                 the Institute, as the primary Federal officials with responsi-  
20                 bility for coordinating all research and activities conducted  
21                 or supported by the National Institutes of Health on minor-  
22                 ity health and health disparities, shall plan, coordinate, re-  
23                 view and evaluate research and other activities conducted  
24                 or supported by the Institutes and Centers of the National  
25                 Institutes of Health.”.

1           (3) *TECHNICAL AND CONFORMING AMEND-*  
2 *MENTS.—*

3           (A) *Section 401(b)(24) of the Public Health*  
4 *Service Act (42 U.S.C. 281(b)(24)) is amended*  
5 *by striking “Center” and inserting “Institute”.*

6           (B) *Subsection (d)(1) of section 903 of the*  
7 *Public Health Service Act (42 U.S.C. 299a-*  
8 *1(d)(1)) is amended by striking “section 485E”*  
9 *and inserting “section 464z-3”.*

10 **SEC. 10335. TECHNICAL CORRECTION TO THE HOSPITAL**  
11 **VALUE-BASED PURCHASING PROGRAM.**

12       *Section 1886(o)(2)A) of the Social Security Act, as*  
13 *added by section 3001, is amended, in the first sentence,*  
14 *by inserting “, other than measures of readmissions,” after*  
15 *“shall select measures”.*

16 **SEC. 10336. GAO STUDY AND REPORT ON MEDICARE BENE-**  
17 **FICIARY ACCESS TO HIGH-QUALITY DIALYSIS**  
18 **SERVICES.**

19       (a) *STUDY.—*

20           (1) *IN GENERAL.—The Comptroller General of*  
21 *the United States shall conduct a study on the impact*  
22 *on Medicare beneficiary access to high-quality dialy-*  
23 *sis services of including specified oral drugs that are*  
24 *furnished to such beneficiaries for the treatment of*  
25 *end stage renal disease in the bundled prospective*

1 *payment system under section 1881(b)(14) of the So-*  
2 *cial Security Act (42 U.S.C. 1395rr(b)(14)) (pursu-*  
3 *ant to the proposed rule published by the Secretary of*  
4 *Health and Human Services in the Federal Register*  
5 *on September 29, 2009 (74 Fed. Reg. 49922 et seq.)).*  
6 *Such study shall include an analysis of—*

7 *(A) the ability of providers of services and*  
8 *renal dialysis facilities to furnish specified oral*  
9 *drugs or arrange for the provision of such drugs;*

10 *(B) the ability of providers of services and*  
11 *renal dialysis facilities to comply, if necessary,*  
12 *with applicable State laws (such as State phar-*  
13 *macy licensure requirements) in order to furnish*  
14 *specified oral drugs;*

15 *(C) whether appropriate quality measures*  
16 *exist to safeguard care for Medicare beneficiaries*  
17 *being furnished specified oral drugs by providers*  
18 *of services and renal dialysis facilities; and*

19 *(D) other areas determined appropriate by*  
20 *the Comptroller General.*

21 *(2) SPECIFIED ORAL DRUG DEFINED.—For pur-*  
22 *poses of paragraph (1), the term “specified oral drug”*  
23 *means a drug or biological for which there is no*  
24 *injectable equivalent (or other non-oral form of ad-*  
25 *ministration).*



1       **(b)** *Section 1861(hhh)(4)(G) of the Social Security Act,*  
2 *as added by section 4103(b), is amended to read as follows:*

3               *“(G) A beneficiary shall be eligible to re-*  
4 *ceive only an initial preventive physical exam-*  
5 *ination (as defined under subsection (ww)(1))*  
6 *during the 12-month period after the date that*  
7 *the beneficiary’s coverage begins under part B*  
8 *and shall be eligible to receive personalized pre-*  
9 *vention plan services under this subsection each*  
10 *year thereafter provided that the beneficiary has*  
11 *not received either an initial preventive physical*  
12 *examination or personalized prevention plan*  
13 *services within the preceding 12-month period.”.*

14 **SEC. 10403. AMENDMENTS TO SUBTITLE C.**

15       *Section 4201 of this Act is amended—*

16               *(1) in subsection (a), by adding before the period*  
17 *the following: “, with not less than 20 percent of such*  
18 *grants being awarded to rural and frontier areas”;*

19               *(2) in subsection (c)(2)(B)(vii), by striking “both*  
20 *urban and rural areas” and inserting “urban, rural,*  
21 *and frontier areas”; and*

22               *(3) in subsection (f), by striking “each fiscal*  
23 *years” and inserting “each of fiscal year”.*

1 **SEC. 10404. AMENDMENTS TO SUBTITLE D.**

2 *Section 399MM(2) of the Public Health Service Act,*  
3 *as added by section 4303 of this Act, is amended by striking*  
4 *“by ensuring” and inserting “and ensuring”.*

5 **SEC. 10405. AMENDMENTS TO SUBTITLE E.**

6 *Subtitle E of title IV of this Act is amended by striking*  
7 *section 4401.*

8 **SEC. 10406. AMENDMENT RELATING TO WAIVING COINSUR-**  
9 **ANCE FOR PREVENTIVE SERVICES.**

10 *Section 4104(b) of this Act is amended to read as fol-*  
11 *lows:*

12 *“(b) PAYMENT AND ELIMINATION OF COINSURANCE IN*  
13 *ALL SETTINGS.—Section 1833(a)(1) of the Social Security*  
14 *Act (42 U.S.C. 1395l(a)(1)), as amended by section*  
15 *4103(c)(1), is amended—*

16 *“(1) in subparagraph (T), by inserting ‘(or 100*  
17 *percent if such services are recommended with a grade*  
18 *of A or B by the United States Preventive Services*  
19 *Task Force for any indication or population and are*  
20 *appropriate for the individual)’ after ‘80 percent’;*

21 *“(2) in subparagraph (W)—*

22 *“(A) in clause (i), by inserting ‘(if such*  
23 *subparagraph were applied, by substituting “100*  
24 *percent” for “80 percent”)’ after ‘subparagraph*  
25 *(D)’; and*

1           “(B) in clause (ii), by striking ‘80 percent’  
2           and inserting ‘100 percent’;

3           “(3) by striking ‘and’ before ‘(X)’; and

4           “(4) by inserting before the semicolon at the end  
5           the following: ‘, and (Y) with respect to preventive  
6           services described in subparagraphs (A) and (B) of  
7           section 1861(ddd)(3) that are appropriate for the in-  
8           dividual and, in the case of such services described in  
9           subparagraph (A), are recommended with a grade of  
10          A or B by the United States Preventive Services Task  
11          Force for any indication or population, the amount  
12          paid shall be 100 percent of (i) except as provided in  
13          clause (ii), the lesser of the actual charge for the serv-  
14          ices or the amount determined under the fee schedule  
15          that applies to such services under this part, and (ii)  
16          in the case of such services that are covered OPD serv-  
17          ices (as defined in subsection (t)(1)(B)), the amount  
18          determined under subsection (t)’.”.

19 **SEC. 10407. BETTER DIABETES CARE.**

20          (a) *SHORT TITLE*.—This section may be cited as the  
21 “Catalyst to Better Diabetes Care Act of 2009”.

22          (b) *NATIONAL DIABETES REPORT CARD*.—

23                  (1) *IN GENERAL*.—The Secretary, in collabora-  
24          tion with the Director of the Centers for Disease Con-  
25          trol and Prevention (referred to in this section as the

1       “Director”), shall prepare on a biennial basis a na-  
2       tional diabetes report card (referred to in this section  
3       as a “Report Card”) and, to the extent possible, for  
4       each State.

5               (2) CONTENTS.—

6               (A) IN GENERAL.—Each Report Card shall  
7       include aggregate health outcomes related to in-  
8       dividuals diagnosed with diabetes and  
9       prediabetes including—

10              (i) preventative care practices and  
11              quality of care;

12              (ii) risk factors; and

13              (iii) outcomes.

14              (B) UPDATED REPORTS.—Each Report  
15       Card that is prepared after the initial Report  
16       Card shall include trend analysis for the Nation  
17       and, to the extent possible, for each State, for the  
18       purpose of—

19              (i) tracking progress in meeting estab-  
20              lished national goals and objectives for im-  
21              proving diabetes care, costs, and prevalence  
22              (including Healthy People 2010); and

23              (ii) informing policy and program de-  
24              velopment.

1           (3) *AVAILABILITY.*—*The Secretary, in collabora-*  
2           *tion with the Director, shall make each Report Card*  
3           *publicly available, including by posting the Report*  
4           *Card on the Internet.*

5           (c) *IMPROVEMENT OF VITAL STATISTICS COLLEC-*  
6           *TION.*—

7           (1) *IN GENERAL.*—*The Secretary, acting through*  
8           *the Director of the Centers for Disease Control and*  
9           *Prevention and in collaboration with appropriate*  
10           *agencies and States, shall—*

11                   (A) *promote the education and training of*  
12                   *physicians on the importance of birth and death*  
13                   *certificate data and how to properly complete*  
14                   *these documents, including the collection of such*  
15                   *data for diabetes and other chronic diseases;*

16                   (B) *encourage State adoption of the latest*  
17                   *standard revisions of birth and death certificates;*  
18                   *and*

19                   (C) *work with States to re-engineer their*  
20                   *vital statistics systems in order to provide cost-*  
21                   *effective, timely, and accurate vital systems data.*

22           (2) *DEATH CERTIFICATE ADDITIONAL LAN-*  
23           *GUAGE.*—*In carrying out this subsection, the Sec-*  
24           *retary may promote improvements to the collection of*  
25           *diabetes mortality data, including the addition of a*

1 *question for the individual certifying the cause of*  
2 *death regarding whether the deceased had diabetes.*

3 *(d) STUDY ON APPROPRIATE LEVEL OF DIABETES*  
4 *MEDICAL EDUCATION.—*

5 *(1) IN GENERAL.—The Secretary shall, in col-*  
6 *laboration with the Institute of Medicine and appro-*  
7 *priate associations and councils, conduct a study of*  
8 *the impact of diabetes on the practice of medicine in*  
9 *the United States and the appropriateness of the level*  
10 *of diabetes medical education that should be required*  
11 *prior to licensure, board certification, and board re-*  
12 *certification.*

13 *(2) REPORT.—Not later than 2 years after the*  
14 *date of the enactment of this Act, the Secretary shall*  
15 *submit a report on the study under paragraph (1) to*  
16 *the Committees on Ways and Means and Energy and*  
17 *Commerce of the House of Representatives and the*  
18 *Committees on Finance and Health, Education,*  
19 *Labor, and Pensions of the Senate.*

20 *(e) AUTHORIZATION OF APPROPRIATIONS.—There are*  
21 *authorized to be appropriated to carry out this section such*  
22 *sums as may be necessary.*

1 **SEC. 10408. GRANTS FOR SMALL BUSINESSES TO PROVIDE**  
2 **COMPREHENSIVE WORKPLACE WELLNESS**  
3 **PROGRAMS.**

4       (a) *ESTABLISHMENT.*—*The Secretary shall award*  
5 *grants to eligible employers to provide their employees with*  
6 *access to comprehensive workplace wellness programs (as*  
7 *described under subsection (c)).*

8       (b) *SCOPE.*—

9               (1) *DURATION.*—*The grant program established*  
10 *under this section shall be conducted for a 5-year pe-*  
11 *riod.*

12              (2) *ELIGIBLE EMPLOYER.*—*The term “eligible*  
13 *employer” means an employer (including a non-prof-*  
14 *it employer) that—*

15                       (A) *employs less than 100 employees who*  
16 *work 25 hours or greater per week; and*

17                       (B) *does not provide a workplace wellness*  
18 *program as of the date of enactment of this Act.*

19       (c) **COMPREHENSIVE WORKPLACE WELLNESS PRO-**  
20 **GRAMS.**—

21               (1) *CRITERIA.*—*The Secretary shall develop pro-*  
22 *gram criteria for comprehensive workplace wellness*  
23 *programs under this section that are based on and*  
24 *consistent with evidence-based research and best prac-*  
25 *tices, including research and practices as provided in*  
26 *the Guide to Community Preventive Services, the*

1 *Guide to Clinical Preventive Services, and the Na-*  
2 *tional Registry for Effective Programs.*

3 (2) *REQUIREMENTS.—A comprehensive work-*  
4 *place wellness program shall be made available by an*  
5 *eligible employer to all employees and include the fol-*  
6 *lowing components:*

7 (A) *Health awareness initiatives (including*  
8 *health education, preventive screenings, and*  
9 *health risk assessments).*

10 (B) *Efforts to maximize employee engage-*  
11 *ment (including mechanisms to encourage em-*  
12 *ployee participation).*

13 (C) *Initiatives to change unhealthy behav-*  
14 *iors and lifestyle choices (including counseling,*  
15 *seminars, online programs, and self-help mate-*  
16 *rials).*

17 (D) *Supportive environment efforts (includ-*  
18 *ing workplace policies to encourage healthy life-*  
19 *styles, healthy eating, increased physical activ-*  
20 *ity, and improved mental health).*

21 (d) *APPLICATION.—An eligible employer desiring to*  
22 *participate in the grant program under this section shall*  
23 *submit an application to the Secretary, in such manner*  
24 *and containing such information as the Secretary may re-*  
25 *quire, which shall include a proposal for a comprehensive*

1 *workplace wellness program that meet the criteria and re-*  
2 *quirements described under subsection (c).*

3       (e) *AUTHORIZATION OF APPROPRIATION.—For pur-*  
4 *poses of carrying out the grant program under this section,*  
5 *there is authorized to be appropriated \$200,000,000 for the*  
6 *period of fiscal years 2011 through 2015. Amounts appro-*  
7 *priated pursuant to this subsection shall remain available*  
8 *until expended.*

9 **SEC. 10409. CURES ACCELERATION NETWORK.**

10       (a) *SHORT TITLE.—This section may be cited as the*  
11 *“Cures Acceleration Network Act of 2009”.*

12       (b) *REQUIREMENT FOR THE DIRECTOR OF NIH TO*  
13 *ESTABLISH A CURES ACCELERATION NETWORK.—Section*  
14 *402(b) of the Public Health Service Act (42 U.S.C. 282(b))*  
15 *is amended—*

16               (1) *in paragraph (22), by striking “and” at the*  
17 *end;*

18               (2) *in paragraph (23), by striking the period*  
19 *and inserting “; and”; and*

20               (3) *by inserting after paragraph (23), the fol-*  
21 *lowing:*

22                       *“(24) implement the Cures Acceleration Network*  
23 *described in section 402C.”.*

24       (c) *ACCEPTING GIFTS TO SUPPORT THE CURES AC-*  
25 *CELERATION NETWORK.—Section 499(c)(1) of the Public*

1 *Health Service Act (42 U.S.C. 290b(c)(1)) is amended by*  
2 *adding at the end the following:*

3                   “(E) *The Cures Acceleration Network de-*  
4                   *scribed in section 402C.*”.

5           (d) *ESTABLISHMENT OF THE CURES ACCELERATION*  
6 *NETWORK.—Part A of title IV of the Public Health Service*  
7 *Act is amended by inserting after section 402B (42 U.S.C.*  
8 *282b) the following:*

9   **“SEC. 402C. CURES ACCELERATION NETWORK.**

10           “(a) *DEFINITIONS.—In this section:*

11                   “(1) *BIOLOGICAL PRODUCT.—The term ‘biologi-*  
12                   *cal product’ has the meaning given such term in sec-*  
13                   *tion 351 of the Public Health Service Act.*

14                   “(2) *DRUG; DEVICE.—The terms ‘drug’ and ‘de-*  
15                   *vice’ have the meanings given such terms in section*  
16                   *201 of the Federal Food, Drug, and Cosmetic Act.*

17                   “(3) *HIGH NEED CURE.—The term ‘high need*  
18                   *cure’ means a drug (as that term is defined by section*  
19                   *201(g)(1) of the Federal Food, Drug, and Cosmetic*  
20                   *Act, biological product (as that term is defined by sec-*  
21                   *tion 262(i)), or device (as that term is defined by sec-*  
22                   *tion 201(h) of the Federal Food, Drug, and Cosmetic*  
23                   *Act) that, in the determination of the Director of*  
24                   *NIH—*

1           “(A) is a priority to diagnose, mitigate,  
2           prevent, or treat harm from any disease or con-  
3           dition; and

4           “(B) for which the incentives of the commer-  
5           cial market are unlikely to result in its adequate  
6           or timely development.

7           “(4) *MEDICAL PRODUCT*.—The term ‘medical  
8           product’ means a drug, device, biological product, or  
9           product that is a combination of drugs, devices, and  
10          biological products.

11          “(b) *ESTABLISHMENT OF THE CURES ACCELERATION*  
12 *NETWORK*.—Subject to the appropriation of funds as de-  
13 scribed in subsection (g), there is established within the Of-  
14 fice of the Director of NIH a program to be known as the  
15 Cures Acceleration Network (referred to in this section as  
16 ‘CAN’), which shall—

17           “(1) be under the direction of the Director of  
18           NIH, taking into account the recommendations of a  
19           CAN Review Board (referred to in this section as the  
20           ‘Board’), described in subsection (d); and

21           “(2) award grants and contracts to eligible enti-  
22           ties, as described in subsection (e), to accelerate the  
23           development of high need cures, including through the  
24           development of medical products and behavioral  
25           therapies.

1 “(c) *FUNCTIONS.*—*The functions of the CAN are to—*

2 “(1) *conduct and support revolutionary advances*  
3 *in basic research, translating scientific discoveries*  
4 *from bench to bedside;*

5 “(2) *award grants and contracts to eligible enti-*  
6 *ties to accelerate the development of high need cures;*

7 “(3) *provide the resources necessary for govern-*  
8 *ment agencies, independent investigators, research or-*  
9 *ganizations, biotechnology companies, academic re-*  
10 *search institutions, and other entities to develop high*  
11 *need cures;*

12 “(4) *reduce the barriers between laboratory dis-*  
13 *coveries and clinical trials for new therapies; and*

14 “(5) *facilitate review in the Food and Drug Ad-*  
15 *ministration for the high need cures funded by the*  
16 *CAN, through activities that may include—*

17 “(A) *the facilitation of regular and ongoing*  
18 *communication with the Food and Drug Admin-*  
19 *istration regarding the status of activities con-*  
20 *ducted under this section;*

21 “(B) *ensuring that such activities are co-*  
22 *ordinated with the approval requirements of the*  
23 *Food and Drug Administration, with the goal of*  
24 *expediting the development and approval of*  
25 *countermeasures and products; and*

1           “(C) *connecting interested persons with ad-*  
2           *ditional technical assistance made available*  
3           *under section 565 of the Federal Food, Drug,*  
4           *and Cosmetic Act.*

5           “(d) *CAN BOARD.—*

6           “(1) *ESTABLISHMENT.—There is established a*  
7           *Cures Acceleration Network Review Board (referred to*  
8           *in this section as the ‘Board’), which shall advise the*  
9           *Director of NIH on the conduct of the activities of the*  
10           *Cures Acceleration Network.*

11           “(2) *MEMBERSHIP.—*

12           “(A) *IN GENERAL.—*

13           “(i) *APPOINTMENT.—The Board shall*  
14           *be comprised of 24 members who are ap-*  
15           *pointed by the Secretary and who serve at*  
16           *the pleasure of the Secretary.*

17           “(ii) *CHAIRPERSON AND VICE CHAIR-*  
18           *PERSON.—The Secretary shall designate,*  
19           *from among the 24 members appointed*  
20           *under clause (i), one Chairperson of the*  
21           *Board (referred to in this section as the*  
22           *‘Chairperson’) and one Vice Chairperson.*

23           “(B) *TERMS.—*

24           “(i) *IN GENERAL.—Each member shall*  
25           *be appointed to serve a 4-year term, except*

1           *that any member appointed to fill a va-*  
2           *cancy occurring prior to the expiration of*  
3           *the term for which the member's predecessor*  
4           *was appointed shall be appointed for the re-*  
5           *mainder of such term.*

6           “(ii) *CONSECUTIVE APPOINTMENTS;*  
7           *MAXIMUM TERMS.—A member may be ap-*  
8           *pointed to serve not more than 3 terms on*  
9           *the Board, and may not serve more than 2*  
10           *such terms consecutively.*

11           “(C) *QUALIFICATIONS.—*

12           “(i) *IN GENERAL.—The Secretary shall*  
13           *appoint individuals to the Board based sole-*  
14           *ly upon the individual's established record*  
15           *of distinguished service in one of the areas*  
16           *of expertise described in clause (ii). Each*  
17           *individual appointed to the Board shall be*  
18           *of distinguished achievement and have a*  
19           *broad range of disciplinary interests.*

20           “(ii) *EXPERTISE.—The Secretary shall*  
21           *select individuals based upon the following*  
22           *requirements:*

23                   “(I) *For each of the fields of—*

24                           “(aa) *basic research;*

25                           “(bb) *medicine;*

1                   “(cc) biopharmaceuticals;  
2                   “(dd) discovery and delivery  
3                   of medical products;  
4                   “(ee) bioinformatics and gene  
5                   therapy;  
6                   “(ff) medical instrumenta-  
7                   tion; and  
8                   “(gg) regulatory review and  
9                   approval of medical products,  
10                  the Secretary shall select at least 1 in-  
11                  dividual who is eminent in such fields.

12                  “(II) At least 4 individuals shall  
13                  be recognized leaders in professional  
14                  venture capital or private equity orga-  
15                  nizations and have demonstrated expe-  
16                  rience in private equity investing.

17                  “(III) At least 8 individuals shall  
18                  represent disease advocacy organiza-  
19                  tions.

20                  “(3) *EX-OFFICIO MEMBERS.*—

21                         “(A) *APPOINTMENT.*—In addition to the 24  
22                         Board members described in paragraph (2), the  
23                         Secretary shall appoint as *ex-officio* members of  
24                         the Board—

1           “(i) a representative of the National  
2           Institutes of Health, recommended by the  
3           Secretary of the Department of Health and  
4           Human Services;

5           “(ii) a representative of the Office of  
6           the Assistant Secretary of Defense for  
7           Health Affairs, recommended by the Sec-  
8           retary of Defense;

9           “(iii) a representative of the Office of  
10          the Under Secretary for Health for the Vet-  
11          erans Health Administration, recommended  
12          by the Secretary of Veterans Affairs;

13          “(iv) a representative of the National  
14          Science Foundation, recommended by the  
15          Chair of the National Science Board; and

16          “(v) a representative of the Food and  
17          Drug Administration, recommended by the  
18          Commissioner of Food and Drugs.

19          “(B) *TERMS.*—Each *ex-officio* member shall  
20          serve a 3-year term on the Board, except that the  
21          Chairperson may adjust the terms of the initial  
22          *ex-officio* members in order to provide for a stag-  
23          gered term of appointment for all such members.

24          “(4) *RESPONSIBILITIES OF THE BOARD AND THE*  
25          *DIRECTOR OF NIH.*—

1           “(A) *RESPONSIBILITIES OF THE BOARD.*—

2                   “(i) *IN GENERAL.*—*The Board shall*  
3                   *advise, and provide recommendations to, the*  
4                   *Director of NIH with respect to—*

5                           “(I) *policies, programs, and pro-*  
6                           *cedures for carrying out the duties of*  
7                           *the Director of NIH under this section;*  
8                           *and*

9                                   “(II) *significant barriers to suc-*  
10                                  *cessful translation of basic science into*  
11                                  *clinical application (including issues*  
12                                  *under the purview of other agencies*  
13                                  *and departments).*

14                           “(ii) *REPORT.*—*In the case that the*  
15                           *Board identifies a significant barrier, as*  
16                           *described in clause (i)(II), the Board shall*  
17                           *submit to the Secretary a report regarding*  
18                           *such barrier.*

19                   “(B) *RESPONSIBILITIES OF THE DIRECTOR*  
20                   *OF NIH.*—*With respect to each recommendation*  
21                   *provided by the Board under subparagraph*  
22                   *(A)(i), the Director of NIH shall respond in*  
23                   *writing to the Board, indicating whether such*  
24                   *Director will implement such recommendation.*  
25                   *In the case that the Director of NIH indicates a*

1           *recommendation of the Board will not be imple-*  
2           *mented, such Director shall provide an expla-*  
3           *nation of the reasons for not implementing such*  
4           *recommendation.*

5           “(5) *MEETINGS.*—

6                   “(A) *IN GENERAL.*—*The Board shall meet 4*  
7           *times per calendar year, at the call of the Chair-*  
8           *person.*

9                   “(B) *QUORUM; REQUIREMENTS; LIMITA-*  
10           *TIONS.*—

11                   “(i) *QUORUM.*—*A quorum shall consist*  
12           *of a total of 13 members of the Board, ex-*  
13           *cluding ex-officio members, with diverse*  
14           *representation as described in clause (iii).*

15                   “(ii) *CHAIRPERSON OR VICE CHAIR-*  
16           *PERSON.*—*Each meeting of the Board shall*  
17           *be attended by either the Chairperson or the*  
18           *Vice Chairperson.*

19                   “(iii) *DIVERSE REPRESENTATION.*—*At*  
20           *each meeting of the Board, there shall be not*  
21           *less than one scientist, one representative of*  
22           *a disease advocacy organization, and one*  
23           *representative of a professional venture cap-*  
24           *ital or private equity organization.*

25           “(6) *COMPENSATION AND TRAVEL EXPENSES.*—

1           “(A) *COMPENSATION.*—*Members shall re-*  
2           *ceive compensation at a rate to be fixed by the*  
3           *Chairperson but not to exceed a rate equal to the*  
4           *daily equivalent of the annual rate of basic pay*  
5           *prescribed for level IV of the Executive Schedule*  
6           *under section 5315 of title 5, United States Code,*  
7           *for each day (including travel time) during*  
8           *which the member is engaged in the performance*  
9           *of the duties of the Board. All members of the*  
10          *Board who are officers or employees of the*  
11          *United States shall serve without compensation*  
12          *in addition to that received for their services as*  
13          *officers or employees of the United States.*

14          “(B) *TRAVEL EXPENSES.*—*Members of the*  
15          *Board shall be allowed travel expenses, including*  
16          *per diem in lieu of subsistence, at rates author-*  
17          *ized for persons employed intermittently by the*  
18          *Federal Government under section 5703(b) of*  
19          *title 5, United States Code, while away from*  
20          *their homes or regular places of business in the*  
21          *performance of services for the Board.*

22          “(e) *GRANT PROGRAM.*—

23                 “(1) *SUPPORTING INNOVATION.*—*To carry out*  
24                 *the purposes described in this section, the Director of*  
25                 *NIH shall award contracts, grants, or cooperative*

1 *agreements to the entities described in paragraph (2),*  
2 *to—*

3 *“(A) promote innovation in technologies*  
4 *supporting the advanced research and develop-*  
5 *ment and production of high need cures, includ-*  
6 *ing through the development of medical products*  
7 *and behavioral therapies.*

8 *“(B) accelerate the development of high need*  
9 *cures, including through the development of med-*  
10 *ical products, behavioral therapies, and biomark-*  
11 *ers that demonstrate the safety or effectiveness of*  
12 *medical products; or*

13 *“(C) help the award recipient establish pro-*  
14 *ocols that comply with Food and Drug Admin-*  
15 *istration standards and otherwise permit the re-*  
16 *cipient to meet regulatory requirements at all*  
17 *stages of development, manufacturing, review,*  
18 *approval, and safety surveillance of a medical*  
19 *product.*

20 *“(2) ELIGIBLE ENTITIES.—To receive assistance*  
21 *under paragraph (1), an entity shall—*

22 *“(A) be a public or private entity, which*  
23 *may include a private or public research institu-*  
24 *tion, an institution of higher education, a med-*  
25 *ical center, a biotechnology company, a pharma-*

1           *ceutical company, a disease advocacy organiza-*  
2           *tion, a patient advocacy organization, or an*  
3           *academic research institution;*

4           “(B) submit an application containing—

5                   “(i) a detailed description of the  
6                   project for which the entity seeks such grant  
7                   or contract;

8                   “(ii) a timetable for such project;

9                   “(iii) an assurance that the entity will  
10                  submit—

11                           “(I) interim reports describing the  
12                           entity’s—

13                                   “(aa) progress in carrying  
14                                   out the project; and

15                                   “(bb) compliance with all  
16                                   provisions of this section and con-  
17                                   ditions of receipt of such grant or  
18                                   contract; and

19                                   “(II) a final report at the conclu-  
20                                   sion of the grant period, describing the  
21                                   outcomes of the project; and

22                                   “(iv) a description of the protocols the  
23                                   entity will follow to comply with Food and  
24                                   Drug Administration standards and regu-  
25                                   latory requirements at all stages of develop-

1           *ment, manufacturing, review, approval, and*  
2           *safety surveillance of a medical product;*  
3           *and*

4           “(C) *provide such additional information as*  
5           *the Director of NIH may require.*

6           “(3) *AWARDS.—*

7           “(A) *THE CURES ACCELERATION PARTNER-*  
8           *SHIP AWARDS.—*

9           “(i) *INITIAL AWARD AMOUNT.—Each*  
10           *award under this subparagraph shall be not*  
11           *more than \$15,000,000 per project for the*  
12           *first fiscal year for which the project is*  
13           *funded, which shall be payable in one pay-*  
14           *ment.*

15           “(ii) *FUNDING IN SUBSEQUENT FISCAL*  
16           *YEARS.—An eligible entity receiving an*  
17           *award under clause (i) may apply for addi-*  
18           *tional funding for such project by submit-*  
19           *ting to the Director of NIH the information*  
20           *required under subparagraphs (B) and (C)*  
21           *of paragraph (2). The Director may fund a*  
22           *project of such eligible entity in an amount*  
23           *not to exceed \$15,000,000 for a fiscal year*  
24           *subsequent to the initial award under clause*  
25           *(i).*

1           “(iii) *MATCHING FUNDS.*—As a condi-  
2           tion for receiving an award under this sub-  
3           section, an eligible entity shall contribute to  
4           the project non-Federal funds in the amount  
5           of \$1 for every \$3 awarded under clauses (i)  
6           and (ii), except that the Director of NIH  
7           may waive or modify such matching re-  
8           quirement in any case where the Director  
9           determines that the goals and objectives of  
10          this section cannot adequately be carried  
11          out unless such requirement is waived.

12          “(B) *THE CURES ACCELERATION GRANT*  
13          *AWARDS.*—

14               “(i) *INITIAL AWARD AMOUNT.*—Each  
15               award under this subparagraph shall be not  
16               more than \$15,000,000 per project for the  
17               first fiscal year for which the project is  
18               funded, which shall be payable in one pay-  
19               ment.

20               “(ii) *FUNDING IN SUBSEQUENT FISCAL*  
21               *YEARS.*—An eligible entity receiving an  
22               award under clause (i) may apply for addi-  
23               tional funding for such project by submit-  
24               ting to the Board the information required  
25               under subparagraphs (B) and (C) of para-

1           *graph (2). The Director of NIH may fund*  
2           *a project of such eligible entity in an*  
3           *amount not to exceed \$15,000,000 for a fis-*  
4           *cal year subsequent to the initial award*  
5           *under clause (i).*

6           “(C) *THE CURES ACCELERATION FLEXIBLE*  
7           *RESEARCH AWARDS.—If the Director of NIH de-*  
8           *termines that the goals and objectives of this sec-*  
9           *tion cannot adequately be carried out through a*  
10          *contract, grant, or cooperative agreement, the*  
11          *Director of NIH shall have flexible research au-*  
12          *thority to use other transactions to fund projects*  
13          *in accordance with the terms and conditions of*  
14          *this section. Awards made under such flexible re-*  
15          *search authority for a fiscal year shall not exceed*  
16          *20 percent of the total funds appropriated under*  
17          *subsection (g)(1) for such fiscal year.*

18          “(4) *SUSPENSION OF AWARDS FOR DEFAULTS,*  
19          *NONCOMPLIANCE WITH PROVISIONS AND PLANS, AND*  
20          *DIVERSION OF FUNDS; REPAYMENT OF FUNDS.—The*  
21          *Director of NIH may suspend the award to any enti-*  
22          *ty upon noncompliance by such entity with provi-*  
23          *sions and plans under this section or diversion of*  
24          *funds.*

1           “(5) *AUDITS.*—*The Director of NIH may enter*  
2           *into agreements with other entities to conduct peri-*  
3           *odic audits of the projects funded by grants or con-*  
4           *tracts awarded under this subsection.*

5           “(6) *CLOSEOUT PROCEDURES.*—*At the end of a*  
6           *grant or contract period, a recipient shall follow the*  
7           *closeout procedures under section 74.71 of title 45,*  
8           *Code of Federal Regulations (or any successor regula-*  
9           *tion).*

10           “(7) *REVIEW.*—*A determination by the Director*  
11           *of NIH as to whether a drug, device, or biological*  
12           *product is a high need cure (for purposes of subsection*  
13           *(a)(3)) shall not be subject to judicial review.*

14           “(f) *COMPETITIVE BASIS OF AWARDS.*—*Any grant, co-*  
15           *operative agreement, or contract awarded under this section*  
16           *shall be awarded on a competitive basis.*

17           “(g) *AUTHORIZATION OF APPROPRIATIONS.*—

18           “(1) *IN GENERAL.*—*For purposes of carrying out*  
19           *this section, there are authorized to be appropriated*  
20           *\$500,000,000 for fiscal year 2010, and such sums as*  
21           *may be necessary for subsequent fiscal years. Funds*  
22           *appropriated under this section shall be available*  
23           *until expended.*

24           “(2) *LIMITATION ON USE OF FUNDS OTHERWISE*  
25           *APPROPRIATED.*—*No funds appropriated under this*



1 *tivities related to the treatment of depressive dis-*  
2 *orders.*

3 “(2) *ALLOCATION OF AWARDS.*—*If the funds au-*  
4 *thorized under subsection (f) are appropriated in the*  
5 *amounts provided for under such subsection, the Sec-*  
6 *retary shall allocate such amounts so that—*

7 “(A) *not later than 1 year after the date of*  
8 *enactment of the ENHANCED Act of 2009, not*  
9 *more than 20 Centers may be established; and*

10 “(B) *not later than September 30, 2016, not*  
11 *more than 30 Centers may be established.*

12 “(3) *GRANT PERIOD.*—

13 “(A) *IN GENERAL.*—*A grant awarded under*  
14 *this section shall be for a period of 5 years.*

15 “(B) *RENEWAL.*—*A grant awarded under*  
16 *subparagraph (A) may be renewed, on a com-*  
17 *petitive basis, for 1 additional 5-year period, at*  
18 *the discretion of the Secretary. In determining*  
19 *whether to renew a grant, the Secretary shall*  
20 *consider the report cards issued under subsection*  
21 *(e)(2).*

22 “(4) *USE OF FUNDS.*—*Grant funds awarded*  
23 *under this subsection shall be used for the establish-*  
24 *ment and ongoing activities of the recipient of such*  
25 *funds.*

1           “(5) *ELIGIBLE ENTITIES.*—

2                   “(A) *REQUIREMENTS.*—*To be eligible to re-*  
3 *ceive a grant under this section, an entity*  
4 *shall—*

5                           “(i) *be an institution of higher edu-*  
6 *cation or a public or private nonprofit re-*  
7 *search institution; and*

8                           “(ii) *submit an application to the Sec-*  
9 *retary at such time and in such manner as*  
10 *the Secretary may require, as described in*  
11 *subparagraph (B).*

12                   “(B) *APPLICATION.*—*An application de-*  
13 *scribed in subparagraph (A)(i) shall include—*

14                           “(i) *evidence that such entity—*

15                                   “(I) *provides, or is capable of co-*  
16 *ordinating with other entities to pro-*  
17 *vide, comprehensive health services*  
18 *with a focus on mental health services*  
19 *and subspecialty expertise for depres-*  
20 *sive disorders;*

21                                   “(II) *collaborates with other men-*  
22 *tal health providers, as necessary, to*  
23 *address co-occurring mental illnesses;*

1                   “(III) is capable of training  
2                   health professionals about mental  
3                   health; and

4                   “(ii) such other information, as the  
5                   Secretary may require.

6                   “(C) PRIORITIES.—In awarding grants  
7                   under this section, the Secretary shall give pri-  
8                   ority to eligible entities that meet 1 or more of  
9                   the following criteria:

10                   “(i) Demonstrated capacity and exper-  
11                   tise to serve the targeted population.

12                   “(ii) Existing infrastructure or exper-  
13                   tise to provide appropriate, evidence-based  
14                   and culturally and linguistically competent  
15                   services.

16                   “(iii) A location in a geographic area  
17                   with disproportionate numbers of under-  
18                   served and at-risk populations in medically  
19                   underserved areas and health professional  
20                   shortage areas.

21                   “(iv) Proposed innovative approaches  
22                   for outreach to initiate or expand services.

23                   “(v) Use of the most up-to-date science,  
24                   practices, and interventions available.

1           “(vi) *Demonstrated capacity to estab-*  
2           *lish cooperative and collaborative agree-*  
3           *ments with community mental health cen-*  
4           *ters and other community entities to pro-*  
5           *vide mental health, social, and human serv-*  
6           *ices to individuals with depressive dis-*  
7           *orders.*

8           “(6) *NATIONAL COORDINATING CENTER.—*

9           “(A) *IN GENERAL.—The Secretary, acting*  
10          *through the Administrator, shall designate 1 re-*  
11          *recipient of a grant under this section to be the co-*  
12          *ordinating center of excellence for depression (re-*  
13          *ferred to in this section as the ‘coordinating cen-*  
14          *ter’). The Secretary shall select such coordinating*  
15          *center on a competitive basis, based upon the*  
16          *demonstrated capacity of such center to perform*  
17          *the duties described in subparagraph (C).*

18          “(B) *APPLICATION.—A Center that has been*  
19          *awarded a grant under paragraph (1) may*  
20          *apply for designation as the coordinating center*  
21          *by submitting an application to the Secretary at*  
22          *such time, in such manner, and containing such*  
23          *information as the Secretary may require.*

24          “(C) *DUTIES.—The coordinating center*  
25          *shall—*

1           “(i) develop, administer, and coordi-  
2           nate the network of Centers under this sec-  
3           tion;

4           “(ii) oversee and coordinate the na-  
5           tional database described in subsection (d);

6           “(iii) lead a strategy to disseminate  
7           the findings and activities of the Centers  
8           through such database; and

9           “(iv) serve as a liaison with the Ad-  
10          ministration, the National Registry of Evi-  
11          dence-based Programs and Practices of the  
12          Administration, and any Federal inter-  
13          agency or interagency forum on mental  
14          health.

15          “(7) MATCHING FUNDS.—The Secretary may not  
16          award a grant or contract under this section to an  
17          entity unless the entity agrees that it will make avail-  
18          able (directly or through contributions from other  
19          public or private entities) non-Federal contributions  
20          toward the activities to be carried out under the grant  
21          or contract in an amount equal to \$1 for each \$5 of  
22          Federal funds provided under the grant or contract.  
23          Such non-Federal matching funds may be provided  
24          directly or through donations from public or private

1        *entities and may be in cash or in-kind, fairly evalu-*  
2        *ated, including plant, equipment, or services.*

3        “(c) *ACTIVITIES OF THE CENTERS.—Each Center shall*  
4        *carry out the following activities:*

5                “(1) *GENERAL ACTIVITIES.—Each Center shall—*

6                        “(A) *integrate basic, clinical, or health serv-*  
7                        *ices interdisciplinary research and practice in*  
8                        *the development, implementation, and dissemi-*  
9                        *nation of evidence-based interventions;*

10                      “(B) *involve a broad cross-section of stake-*  
11                      *holders, such as researchers, clinicians, con-*  
12                      *sumers, families of consumers, and voluntary*  
13                      *health organizations, to develop a research agen-*  
14                      *da and disseminate findings, and to provide*  
15                      *support in the implementation of evidence-based*  
16                      *practices;*

17                      “(C) *provide training and technical assist-*  
18                      *ance to mental health professionals, and engage*  
19                      *in and disseminate translational research with a*  
20                      *focus on meeting the needs of individuals with*  
21                      *depressive disorders; and*

22                      “(D) *educate policy makers, employers,*  
23                      *community leaders, and the public about depres-*  
24                      *sive disorders to reduce stigma and raise aware-*  
25                      *ness of treatments.*

1           “(2) *IMPROVED TREATMENT STANDARDS, CLINICAL GUIDELINES, DIAGNOSTIC PROTOCOLS, AND CARE COORDINATION PRACTICE.—Each Center shall collaborate with other Centers in the network to—*

5                   “(A) *develop and implement treatment standards, clinical guidelines, and protocols that emphasize primary prevention, early intervention, treatment for, and recovery from, depressive disorders;*

10                   “(B) *foster communication with other providers attending to co-occurring physical health conditions such as cardiovascular, diabetes, cancer, and substance abuse disorders;*

14                   “(C) *leverage available community resources, develop and implement improved self-management programs, and, when appropriate, involve family and other providers of social support in the development and implementation of care plans; and*

20                   “(D) *use electronic health records and telehealth technology to better coordinate and manage, and improve access to, care, as determined by the coordinating center.*

1           “(3) *TRANSLATIONAL RESEARCH THROUGH COL-*  
2           *LABORATION OF CENTERS AND COMMUNITY-BASED OR-*  
3           *GANIZATIONS.—Each Center shall—*

4                   “(A) *demonstrate effective use of a public-*  
5                   *private partnership to foster collaborations*  
6                   *among members of the network and community-*  
7                   *based organizations such as community mental*  
8                   *health centers and other social and human serv-*  
9                   *ices providers;*

10                   “(B)           *expand           interdisciplinary,*  
11                   *translational, and patient-oriented research and*  
12                   *treatment; and*

13                   “(C) *coordinate with accredited academic*  
14                   *programs to provide ongoing opportunities for*  
15                   *the professional and continuing education of*  
16                   *mental health providers.*

17           “(d) *NATIONAL DATABASE.—*

18                   “(1) *IN GENERAL.—The coordinating center shall*  
19                   *establish and maintain a national, publicly available*  
20                   *database to improve prevention programs, evidence-*  
21                   *based interventions, and disease management pro-*  
22                   *grams for depressive disorders, using data collected*  
23                   *from the Centers, as described in paragraph (2).*

1           “(2) *DATA COLLECTION.*—*Each Center shall submit*  
2 *data gathered at such center, as appropriate, to*  
3 *the coordinating center regarding—*

4                   “(A) *the prevalence and incidence of depres-*  
5 *sive disorders;*

6                   “(B) *the health and social outcomes of indi-*  
7 *viduals with depressive disorders;*

8                   “(C) *the effectiveness of interventions de-*  
9 *signed, tested, and evaluated;*

10                  “(D) *other information, as the Secretary*  
11 *may require.*

12           “(3) *SUBMISSION OF DATA TO THE ADMINIS-*  
13 *TRATOR.*—*The coordinating center shall submit to the*  
14 *Administrator the data and financial information*  
15 *gathered under paragraph (2).*

16           “(4) *PUBLICATION USING DATA FROM THE DATA-*  
17 *BASE.*—*A Center, or an individual affiliated with a*  
18 *Center, may publish findings using the data described*  
19 *in paragraph (2) only if such center submits such*  
20 *data to the coordinating center, as required under*  
21 *such paragraph.*

22           “(e) *ESTABLISHMENT OF STANDARDS; REPORT CARDS*  
23 *AND RECOMMENDATIONS; THIRD PARTY REVIEW.*—

1           “(1) *ESTABLISHMENT OF STANDARDS.*—*The Sec-*  
2           *retary, acting through the Administrator, shall estab-*  
3           *lish performance standards for—*

4                     “(A) *each Center; and*

5                     “(B) *the network of Centers as a whole.*

6           “(2) *REPORT CARDS.*—*The Secretary, acting*  
7           *through the Administrator, shall—*

8                     “(A) *for each Center, not later than 3 years*  
9                     *after the date on which such center of excellence*  
10                    *is established and annually thereafter, issue a re-*  
11                    *port card to the coordinating center to rate the*  
12                    *performance of such Center; and*

13                    “(B) *not later than 3 years after the date*  
14                    *on which the first grant is awarded under sub-*  
15                    *section (b)(1) and annually thereafter, issue a re-*  
16                    *port card to Congress to rate the performance of*  
17                    *the network of centers of excellence as a whole.*

18           “(3) *RECOMMENDATIONS.*—*Based upon the re-*  
19           *port cards described in paragraph (2), the Secretary*  
20           *shall, not later than September 30, 2015—*

21                    “(A) *make recommendations to the Centers*  
22                    *regarding improvements such centers shall make;*  
23                    *and*

1           “(B) make recommendations to Congress for  
2           expanding the Centers to serve individuals with  
3           other types of mental disorders.

4           “(4) *THIRD PARTY REVIEW.*—Not later than 3  
5           years after the date on which the first grant is award-  
6           ed under subsection (b)(1) and annually thereafter,  
7           the Secretary shall arrange for an independent third  
8           party to conduct an evaluation of the network of Cen-  
9           ters to ensure that such centers are meeting the goals  
10          of this section.

11          “(f) *AUTHORIZATION OF APPROPRIATIONS.*—

12           “(1) *IN GENERAL.*—To carry out this section,  
13          there are authorized to be appropriated—

14           “(A) \$100,000,000 for each of the fiscal  
15          years 2011 through 2015; and

16           “(B) \$150,000,000 for each of the fiscal  
17          years 2016 through 2020.

18           “(2) *ALLOCATION OF FUNDS AUTHORIZED.*—Of  
19          the amount appropriated under paragraph (1) for a  
20          fiscal year, the Secretary shall determine the alloca-  
21          tion of each Center receiving a grant under this sec-  
22          tion, but in no case may the allocation be more than  
23          \$5,000,000, except that the Secretary may allocate not  
24          more than \$10,000,000 to the coordinating center.”.

1 **SEC. 10411. PROGRAMS RELATING TO CONGENITAL HEART**  
2 **DISEASE.**

3 (a) *SHORT TITLE.*—*This subtitle may be cited as the*  
4 *“Congenital Heart Futures Act”.*

5 (b) *PROGRAMS RELATING TO CONGENITAL HEART*  
6 *DISEASE.*—

7 (1) *NATIONAL CONGENITAL HEART DISEASE SUR-*  
8 *VEILLANCE SYSTEM.*—*Part P of title III of the Public*  
9 *Health Service Act (42 U.S.C. 280g et seq.), as*  
10 *amended by section 5405, is further amended by add-*  
11 *ing at the end the following:*

12 **“SEC. 399V-2. NATIONAL CONGENITAL HEART DISEASE SUR-**  
13 **VEILLANCE SYSTEM.**

14 “(a) *IN GENERAL.*—*The Secretary, acting through the*  
15 *Director of the Centers for Disease Control and Prevention,*  
16 *may—*

17 “(1) *enhance and expand infrastructure to track*  
18 *the epidemiology of congenital heart disease and to*  
19 *organize such information into a nationally-rep-*  
20 *resentative, population-based surveillance system that*  
21 *compiles data concerning actual occurrences of con-*  
22 *genital heart disease, to be known as the ‘National*  
23 *Congenital Heart Disease Surveillance System’; or*

24 “(2) *award a grant to one eligible entity to un-*  
25 *dertake the activities described in paragraph (1).*

1       “(b) *PURPOSE.*—*The purpose of the Congenital Heart*  
2 *Disease Surveillance System shall be to facilitate further*  
3 *research into the types of health services patients use and*  
4 *to identify possible areas for educational outreach and pre-*  
5 *vention in accordance with standard practices of the Cen-*  
6 *ters for Disease Control and Prevention.*

7       “(c) *CONTENT.*—*The Congenital Heart Disease Sur-*  
8 *veillance System—*

9               “(1) *may include information concerning the in-*  
10 *cidence and prevalence of congenital heart disease in*  
11 *the United States;*

12               “(2) *may be used to collect and store data on*  
13 *congenital heart disease, including data concerning—*

14                       “(A) *demographic factors associated with*  
15 *congenital heart disease, such as age, race, eth-*  
16 *nicity, sex, and family history of individuals*  
17 *who are diagnosed with the disease;*

18                       “(B) *risk factors associated with the disease;*

19                       “(C) *causation of the disease;*

20                       “(D) *treatment approaches; and*

21                       “(E) *outcome measures, such that analysis*  
22 *of the outcome measures will allow derivation of*  
23 *evidence-based best practices and guidelines for*  
24 *congenital heart disease patients; and*

1           “(3) may ensure the collection and analysis of  
2           longitudinal data related to individuals of all ages  
3           with congenital heart disease, including infants,  
4           young children, adolescents, and adults of all ages.

5           “(d) *PUBLIC ACCESS.*—*The Congenital Heart Disease*  
6           *Surveillance System shall be made available to the public,*  
7           *as appropriate, including congenital heart disease research-*  
8           *ers.*

9           “(e) *PATIENT PRIVACY.*—*The Secretary shall ensure*  
10           *that the Congenital Heart Disease Surveillance System is*  
11           *maintained in a manner that complies with the regulations*  
12           *promulgated under section 264 of the Health Insurance*  
13           *Portability and Accountability Act of 1996.*

14           “(f) *ELIGIBILITY FOR GRANT.*—*To be eligible to receive*  
15           *a grant under subsection (a)(2), an entity shall—*

16                   “(1) *be a public or private nonprofit entity with*  
17                   *specialized experience in congenital heart disease; and*

18                   “(2) *submit to the Secretary an application at*  
19                   *such time, in such manner, and containing such in-*  
20                   *formation as the Secretary may require.”.*

21           “(2) *CONGENITAL HEART DISEASE RESEARCH.*—  
22           *Subpart 2 of part C of title IV of the Public Health*  
23           *Service Act (42 U.S.C. 285b et seq.) is amended by*  
24           *adding at the end the following:*

1 **“SEC. 425. CONGENITAL HEART DISEASE.**

2       “(a) *IN GENERAL.*—*The Director of the Institute may*  
3 *expand, intensify, and coordinate research and related ac-*  
4 *tivities of the Institute with respect to congenital heart dis-*  
5 *ease, which may include congenital heart disease research*  
6 *with respect to—*

7               “(1) *causation of congenital heart disease, in-*  
8 *cluding genetic causes;*

9               “(2) *long-term outcomes in individuals with con-*  
10 *genital heart disease, including infants, children,*  
11 *teenagers, adults, and elderly individuals;*

12               “(3) *diagnosis, treatment, and prevention;*

13               “(4) *studies using longitudinal data and retro-*  
14 *spective analysis to identify effective treatments and*  
15 *outcomes for individuals with congenital heart dis-*  
16 *ease; and*

17               “(5) *identifying barriers to life-long care for in-*  
18 *dividuals with congenital heart disease.*

19       “(b) *COORDINATION OF RESEARCH ACTIVITIES.*—*The*  
20 *Director of the Institute may coordinate research efforts re-*  
21 *lated to congenital heart disease among multiple research*  
22 *institutions and may develop research networks.*

23       “(c) *MINORITY AND MEDICALLY UNDERSERVED COM-*  
24 *MUNITIES.*—*In carrying out the activities described in this*  
25 *section, the Director of the Institute shall consider the appli-*

1 *cation of such research and other activities to minority and*  
2 *medically underserved communities.”.*

3 *(c) AUTHORIZATION OF APPROPRIATIONS.—There are*  
4 *authorized to be appropriated to carry out the amendments*  
5 *made by this section such sums as may be necessary for*  
6 *each of fiscal years 2011 through 2015.*

7 **SEC. 10412. AUTOMATED DEFIBRILLATION IN ADAM’S MEM-**  
8 **ORY ACT.**

9 *Section 312 of the Public Health Service Act (42*  
10 *U.S.C. 244) is amended—*

11 *(1) in subsection (c)(6), after “clearinghouse” in-*  
12 *sert “, that shall be administered by an organization*  
13 *that has substantial expertise in pediatric education,*  
14 *pediatric medicine, and electrophysiology and sudden*  
15 *death,”; and*

16 *(2) in the first sentence of subsection (e), by*  
17 *striking “fiscal year 2003” and all that follows*  
18 *through “2006” and inserting “for each of fiscal years*  
19 *2003 through 2014”.*

20 **SEC. 10413. YOUNG WOMEN’S BREAST HEALTH AWARENESS**  
21 **AND SUPPORT OF YOUNG WOMEN DIAG-**  
22 **NOSED WITH BREAST CANCER.**

23 *(a) SHORT TITLE.—This section may be cited as the*  
24 *“Young Women’s Breast Health Education and Awareness*

1 *Requires Learning Young Act of 2009*” or the “*EARLY*  
2 *Act*”.

3 (b) *AMENDMENT.—Title III of the Public Health Serv-*  
4 *ice Act (42 U.S.C. 241 et seq.), as amended by this Act,*  
5 *is further amended by adding at the end the following:*

6 **“PART V—PROGRAMS RELATING TO BREAST**  
7 **HEALTH AND CANCER**

8 **“SEC. 399NN. YOUNG WOMEN’S BREAST HEALTH AWARE-**  
9 **NESS AND SUPPORT OF YOUNG WOMEN DIAG-**  
10 **NOSED WITH BREAST CANCER.**

11 **“(a) PUBLIC EDUCATION CAMPAIGN.—**

12 **“(1) IN GENERAL.—***The Secretary, acting*  
13 *through the Director of the Centers for Disease Con-*  
14 *trol and Prevention, shall conduct a national evi-*  
15 *dence-based education campaign to increase aware-*  
16 *ness of young women’s knowledge regarding—*

17 **“(A) breast health in young women of all**  
18 **racial, ethnic, and cultural backgrounds;**

19 **“(B) breast awareness and good breast**  
20 **health habits;**

21 **“(C) the occurrence of breast cancer and the**  
22 **general and specific risk factors in women who**  
23 **may be at high risk for breast cancer based on**  
24 **familial, racial, ethnic, and cultural back-**  
25 **grounds such as Ashkenazi Jewish populations;**

1           “(D) *evidence-based information that would*  
2           *encourage young women and their health care*  
3           *professional to increase early detection of breast*  
4           *cancers; and*

5           “(E) *the availability of health information*  
6           *and other resources for young women diagnosed*  
7           *with breast cancer.*

8           “(2) *EVIDENCE-BASED, AGE APPROPRIATE MES-*  
9           *SAGES.—The campaign shall provide evidence-based,*  
10          *age-appropriate messages and materials as developed*  
11          *by the Centers for Disease Control and Prevention*  
12          *and the Advisory Committee established under para-*  
13          *graph (4).*

14          “(3) *MEDIA CAMPAIGN.—In conducting the edu-*  
15          *cation campaign under paragraph (1), the Secretary*  
16          *shall award grants to entities to establish national*  
17          *multimedia campaigns oriented to young women that*  
18          *may include advertising through television, radio,*  
19          *print media, billboards, posters, all forms of existing*  
20          *and especially emerging social networking media,*  
21          *other Internet media, and any other medium deter-*  
22          *mined appropriate by the Secretary.*

23          “(4) *ADVISORY COMMITTEE.—*

24                 “(A) *ESTABLISHMENT.—Not later than 60*  
25                 *days after the date of the enactment of this sec-*

1            *tion, the Secretary, acting through the Director*  
2            *of the Centers for Disease Control and Preven-*  
3            *tion, shall establish an advisory committee to as-*  
4            *ist in creating and conducting the education*  
5            *campaigns under paragraph (1) and subsection*  
6            *(b)(1).*

7            *“(B) MEMBERSHIP.—The Secretary, acting*  
8            *through the Director of the Centers for Disease*  
9            *Control and Prevention, shall appoint to the ad-*  
10           *visory committee under subparagraph (A) such*  
11           *members as deemed necessary to properly advise*  
12           *the Secretary, and shall include organizations*  
13           *and individuals with expertise in breast cancer,*  
14           *disease prevention, early detection, diagnosis,*  
15           *public health, social marketing, genetic screening*  
16           *and counseling, treatment, rehabilitation, pallia-*  
17           *tive care, and survivorship in young women.*

18           *“(b) HEALTH CARE PROFESSIONAL EDUCATION CAM-*  
19           *PAIGN.—The Secretary, acting through the Director of the*  
20           *Centers for Disease Control and Prevention, and in con-*  
21           *sultation with the Administrator of the Health Resources*  
22           *and Services Administration, shall conduct an education*  
23           *campaign among physicians and other health care profes-*  
24           *sionals to increase awareness—*

1           “(1) of breast health, symptoms, and early diag-  
2           nosis and treatment of breast cancer in young women,  
3           including specific risk factors such as family history  
4           of cancer and women that may be at high risk for  
5           breast cancer, such as Ashkenazi Jewish population;

6           “(2) on how to provide counseling to young  
7           women about their breast health, including knowledge  
8           of their family cancer history and importance of pro-  
9           viding regular clinical breast examinations;

10          “(3) concerning the importance of discussing  
11          healthy behaviors, and increasing awareness of serv-  
12          ices and programs available to address overall health  
13          and wellness, and making patient referrals to address  
14          tobacco cessation, good nutrition, and physical activ-  
15          ity;

16          “(4) on when to refer patients to a health care  
17          provider with genetics expertise;

18          “(5) on how to provide counseling that addresses  
19          long-term survivorship and health concerns of young  
20          women diagnosed with breast cancer; and

21          “(6) on when to provide referrals to organiza-  
22          tions and institutions that provide credible health in-  
23          formation and substantive assistance and support to  
24          young women diagnosed with breast cancer.

1       “(c) *PREVENTION RESEARCH ACTIVITIES.*—*The Sec-*  
2 *retary, acting through—*

3               “(1) *the Director of the Centers for Disease Con-*  
4 *trol and Prevention, shall conduct prevention research*  
5 *on breast cancer in younger women, including—*

6                       “(A) *behavioral, survivorship studies, and*  
7 *other research on the impact of breast cancer di-*  
8 *agnosis on young women;*

9                       “(B) *formative research to assist with the*  
10 *development of educational messages and infor-*  
11 *mation for the public, targeted populations, and*  
12 *their families about breast health, breast cancer,*  
13 *and healthy lifestyles;*

14                       “(C) *testing and evaluating existing and*  
15 *new social marketing strategies targeted at*  
16 *young women; and*

17                       “(D) *surveys of health care providers and*  
18 *the public regarding knowledge, attitudes, and*  
19 *practices related to breast health and breast can-*  
20 *cer prevention and control in high-risk popu-*  
21 *lations; and*

22               “(2) *the Director of the National Institutes of*  
23 *Health, shall conduct research to develop and validate*  
24 *new screening tests and methods for prevention and*  
25 *early detection of breast cancer in young women.*

1       “(d) *SUPPORT FOR YOUNG WOMEN DIAGNOSED WITH*  
2 *BREAST CANCER.*—

3               “(1) *IN GENERAL.*—*The Secretary shall award*  
4 *grants to organizations and institutions to provide*  
5 *health information from credible sources and sub-*  
6 *stantive assistance directed to young women diag-*  
7 *nosd with breast cancer and pre-neoplastic breast*  
8 *diseases.*

9               “(2) *PRIORITY.*—*In making grants under para-*  
10 *graph (1), the Secretary shall give priority to appli-*  
11 *cants that deal specifically with young women diag-*  
12 *nosd with breast cancer and pre-neoplastic breast*  
13 *disease.*

14       “(e) *NO DUPLICATION OF EFFORT.*—*In conducting an*  
15 *education campaign or other program under subsections*  
16 *(a), (b), (c), or (d), the Secretary shall avoid duplicating*  
17 *other existing Federal breast cancer education efforts.*

18       “(f) *MEASUREMENT; REPORTING.*—*The Secretary, act-*  
19 *ing through the Director of the Centers for Disease Control*  
20 *and Prevention, shall—*

21               “(1) *measure—*

22                       “(A) *young women’s awareness regarding*  
23 *breast health, including knowledge of family can-*  
24 *cer history, specific risk factors and early warn-*

1           *ing signs, and young women’s proactive efforts*  
2           *at early detection;*

3           “(B) *the number or percentage of young*  
4           *women utilizing information regarding lifestyle*  
5           *interventions that foster healthy behaviors;*

6           “(C) *the number or percentage of young*  
7           *women receiving regular clinical breast exams;*  
8           *and*

9           “(D) *the number or percentage of young*  
10          *women who perform breast self exams, and the*  
11          *frequency of such exams, before the implementa-*  
12          *tion of this section;*

13          “(2) *not less than every 3 years, measure the im-*  
14           *pact of such activities; and*

15          “(3) *submit reports to the Congress on the results*  
16          *of such measurements.*

17          “(g) *DEFINITION.—In this section, the term ‘young*  
18          *women’ means women 15 to 44 years of age.*

19          “(h) *AUTHORIZATION OF APPROPRIATIONS.—To carry*  
20          *out subsections (a), (b), (c)(1), and (d), there are authorized*  
21          *to be appropriated \$9,000,000 for each of the fiscal years*  
22          *2010 through 2014.”.*

1     ***Subtitle E—Provisions Relating to***  
2                                     ***Title V***

3     ***SEC. 10501. AMENDMENTS TO THE PUBLIC HEALTH SERV-***  
4                                     ***ICE ACT, THE SOCIAL SECURITY ACT, AND***  
5                                     ***TITLE V OF THIS ACT.***

6     *(a) Section 5101 of this Act is amended—*

7             *(1) in subsection (c)(2)(B)(i)(II), by inserting “,*  
8             *including representatives of small business and self-*  
9             *employed individuals” after “employers”;*

10            *(2) in subsection (d)(4)(A)—*

11                 *(A) by redesignating clause (iv) as clause*  
12                 *(v); and*

13                 *(B) by inserting after clause (iii) the fol-*  
14                 *lowing:*

15                         *“(iv) An analysis of, and recommenda-*  
16                         *tions for, eliminating the barriers to enter-*  
17                         *ing and staying in primary care, including*  
18                         *provider compensation.”; and*

19             *(3) in subsection (i)(2)(B), by inserting “optom-*  
20             *etrists, ophthalmologists,” after “occupational thera-*  
21             *pists,”.*

22     *(b) Subtitle B of title V of this Act is amended by add-*  
23     *ing at the end the following:*

1 **“SEC. 5104. INTERAGENCY TASK FORCE TO ASSESS AND IM-**  
2 **PROVE ACCESS TO HEALTH CARE IN THE**  
3 **STATE OF ALASKA.**

4 “(a) *ESTABLISHMENT.*—*There is established a task*  
5 *force to be known as the ‘Interagency Access to Health Care*  
6 *in Alaska Task Force’ (referred to in this section as the*  
7 *‘Task Force’).*

8 “(b) *DUTIES.*—*The Task Force shall—*

9 “(1) *assess access to health care for beneficiaries*  
10 *of Federal health care systems in Alaska; and*

11 “(2) *develop a strategy for the Federal Govern-*  
12 *ment to improve delivery of health care to Federal*  
13 *beneficiaries in the State of Alaska.*

14 “(c) *MEMBERSHIP.*—*The Task Force shall be com-*  
15 *prised of Federal members who shall be appointed, not later*  
16 *than 45 days after the date of enactment of this Act, as*  
17 *follows:*

18 “(1) *The Secretary of Health and Human Serv-*  
19 *ices shall appoint one representative of each of the fol-*  
20 *lowing:*

21 “(A) *The Department of Health and*  
22 *Human Services.*

23 “(B) *The Centers for Medicare and Med-*  
24 *icaid Services.*

25 “(C) *The Indian Health Service.*

1           “(2) *The Secretary of Defense shall appoint one*  
2 *representative of the TRICARE Management Activity.*

3           “(3) *The Secretary of the Army shall appoint*  
4 *one representative of the Army Medical Department.*

5           “(4) *The Secretary of the Air Force shall appoint*  
6 *one representative of the Air Force, from among offi-*  
7 *cers at the Air Force performing medical service func-*  
8 *tions.*

9           “(5) *The Secretary of Veterans Affairs shall ap-*  
10 *point one representative of each of the following:*

11                   “(A) *The Department of Veterans Affairs.*

12                   “(B) *The Veterans Health Administration.*

13           “(6) *The Secretary of Homeland Security shall*  
14 *appoint one representative of the United States Coast*  
15 *Guard.*

16           “(d) *CHAIRPERSON.—One chairperson of the Task*  
17 *Force shall be appointed by the Secretary at the time of*  
18 *appointment of members under subsection (c), selected from*  
19 *among the members appointed under paragraph (1).*

20           “(e) *MEETINGS.—The Task Force shall meet at the call*  
21 *of the chairperson.*

22           “(f) *REPORT.—Not later than 180 days after the date*  
23 *of enactment of this Act, the Task Force shall submit to*  
24 *Congress a report detailing the activities of the Task Force*  
25 *and containing the findings, strategies, recommendations,*

1 *policies, and initiatives developed pursuant to the duty de-*  
2 *scribed in subsection (b)(2). In preparing such report, the*  
3 *Task Force shall consider completed and ongoing efforts by*  
4 *Federal agencies to improve access to health care in the*  
5 *State of Alaska.*

6 “(g) *TERMINATION.*—*The Task Force shall be termi-*  
7 *nated on the date of submission of the report described in*  
8 *subsection (f).”.*

9 (c) *Section 399V of the Public Health Service Act, as*  
10 *added by section 5313, is amended—*

11 (1) *in subsection (b)(4), by striking “identify,*  
12 *educate, refer, and enroll” and inserting “identify*  
13 *and refer”; and*

14 (2) *in subsection (k)(1), by striking “, as defined*  
15 *by the Department of Labor as Standard Occupa-*  
16 *tional Classification [21–1094]”.*

17 (d) *Section 738(a)(3) of the Public Health Service Act*  
18 *(42 U.S.C. 293b(a)(3)) is amended by inserting “schools of-*  
19 *fering physician assistant education programs,” after “pub-*  
20 *lic health,”.*

21 (e) *Subtitle D of title V of this Act is amended by add-*  
22 *ing at the end the following:*

1 **“SEC. 5316. DEMONSTRATION GRANTS FOR FAMILY NURSE**  
2 **PRACTITIONER TRAINING PROGRAMS.**

3 “(a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary*  
4 *of Health and Human Services (referred to in this section*  
5 *as the ‘Secretary’) shall establish a training demonstration*  
6 *program for family nurse practitioners (referred to in this*  
7 *section as the ‘program’) to employ and provide 1-year*  
8 *training for nurse practitioners who have graduated from*  
9 *a nurse practitioner program for careers as primary care*  
10 *providers in Federally qualified health centers (referred to*  
11 *in this section as ‘FQHCs’) and nurse-managed health clin-*  
12 *ics (referred to in this section as ‘NMHCs’).*

13 “(b) *PURPOSE.*—*The purpose of the program is to en-*  
14 *able each grant recipient to—*

15 “(1) *provide new nurse practitioners with clin-*  
16 *ical training to enable them to serve as primary care*  
17 *providers in FQHCs and NMHCs;*

18 “(2) *train new nurse practitioners to work under*  
19 *a model of primary care that is consistent with the*  
20 *principles set forth by the Institute of Medicine and*  
21 *the needs of vulnerable populations; and*

22 “(3) *create a model of FQHC and NMHC train-*  
23 *ing for nurse practitioners that may be replicated na-*  
24 *tionwide.*

25 “(c) *GRANTS.*—*The Secretary shall award 3-year*  
26 *grants to eligible entities that meet the requirements estab-*

1 *lished by the Secretary, for the purpose of operating the*  
2 *nurse practitioner primary care programs described in sub-*  
3 *section (a) in such entities.*

4 “(d) *ELIGIBLE ENTITIES.—To be eligible to receive a*  
5 *grant under this section, an entity shall—*

6 “(1)(A) *be a FQHC as defined in section*  
7 *1861(aa) of the Social Security Act (42 U.S.C.*  
8 *1395x(aa)); or*

9 “(B) *be a nurse-managed health clinic, as de-*  
10 *efined in section 330A–1 of the Public Health Service*  
11 *Act (as added by section 5208 of this Act); and*

12 “(2) *submit to the Secretary an application at*  
13 *such time, in such manner, and containing such in-*  
14 *formation as the Secretary may require.*

15 “(e) *PRIORITY IN AWARDING GRANTS.—In awarding*  
16 *grants under this section, the Secretary shall give priority*  
17 *to eligible entities that—*

18 “(1) *demonstrate sufficient infrastructure in size,*  
19 *scope, and capacity to undertake the requisite train-*  
20 *ing of a minimum of 3 nurse practitioners per year,*  
21 *and to provide to each awardee 12 full months of full-*  
22 *time, paid employment and benefits consistent with*  
23 *the benefits offered to other full-time employees of such*  
24 *entity;*

1           “(2) will assign not less than 1 staff nurse prac-  
2           titioner or physician to each of 4 precepted clinics;

3           “(3) will provide to each awardee specialty rota-  
4           tions, including specialty training in prenatal care  
5           and women’s health, adult and child psychiatry, or-  
6           thopedics, geriatrics, and at least 3 other high-volume,  
7           high-burden specialty areas;

8           “(4) provide sessions on high-volume, high-risk  
9           health problems and have a record of training health  
10          care professionals in the care of children, older adults,  
11          and underserved populations; and

12          “(5) collaborate with other safety net providers,  
13          schools, colleges, and universities that provide health  
14          professions training.

15          “(f) *ELIGIBILITY OF NURSE PRACTITIONERS.*—

16                 “(1) *IN GENERAL.*—To be eligible for acceptance  
17                 to a program funded through a grant awarded under  
18                 this section, an individual shall—

19                         “(A) be licensed or eligible for licensure in  
20                         the State in which the program is located as an  
21                         advanced practice registered nurse or advanced  
22                         practice nurse and be eligible or board-certified  
23                         as a family nurse practitioner; and

1           “(B) *demonstrate commitment to a career*  
2           *as a primary care provider in a FQHC or in a*  
3           *NMHC.*

4           “(2) *PREFERENCE.—In selecting awardees under*  
5           *the program, each grant recipient shall give pref-*  
6           *erence to bilingual candidates that meet the require-*  
7           *ments described in paragraph (1).*

8           “(3) *DEFERRAL OF CERTAIN SERVICE.—The*  
9           *starting date of required service of individuals in the*  
10          *National Health Service Corps Service program*  
11          *under title II of the Public Health Service Act (42*  
12          *U.S.C. 202 et seq.) who receive training under this*  
13          *section shall be deferred until the date that is 22 days*  
14          *after the date of completion of the program.*

15          “(g) *GRANT AMOUNT.—Each grant awarded under*  
16          *this section shall be in an amount not to exceed \$600,000*  
17          *per year. A grant recipient may carry over funds from 1*  
18          *fiscal year to another without obtaining approval from the*  
19          *Secretary.*

20          “(h) *TECHNICAL ASSISTANCE GRANTS.—The Sec-*  
21          *retary may award technical assistance grants to 1 or more*  
22          *FQHCs or NMHCs that have demonstrated expertise in es-*  
23          *tablishing a nurse practitioner residency training program.*  
24          *Such technical assistance grants shall be for the purpose*

1 *of providing technical assistance to other recipients of*  
2 *grants under subsection (c).*

3       “(i) *AUTHORIZATION OF APPROPRIATIONS.—To carry*  
4 *out this section, there is authorized to be appropriated such*  
5 *sums as may be necessary for each of fiscal years 2011*  
6 *through 2014.”.*

7       (f)(1) *Section 399W of the Public Health Service Act,*  
8 *as added by section 5405, is redesignated as section 399V–*  
9 *1.*

10       (2) *Section 399V–1 of the Public Health Service Act,*  
11 *as so redesignated, is amended in subsection (b)(2)(A) by*  
12 *striking “and the departments of 1 or more health profes-*  
13 *sions schools in the State that train providers in primary*  
14 *care” and inserting “and the departments that train pro-*  
15 *viders in primary care in 1 or more health professions*  
16 *schools in the State”.*

17       (3) *Section 934 of the Public Health Service Act, as*  
18 *added by section 3501, is amended by striking “399W” each*  
19 *place such term appears and inserting “399V–1”.*

20       (4) *Section 935(b) of the Public Health Service Act,*  
21 *as added by section 3503, is amended by striking “399W”*  
22 *and inserting “399V–1”.*

23       (g) *Part P of title III of the Public Health Service*  
24 *Act 42 U.S.C. 280g et seq.), as amended by section 10411,*  
25 *is amended by adding at the end the following:*

1 **“SEC. 399V-3. NATIONAL DIABETES PREVENTION PROGRAM.**

2       “(a) *IN GENERAL.*—*The Secretary, acting through the*  
3 *Director of the Centers for Disease Control and Prevention,*  
4 *shall establish a national diabetes prevention program (re-*  
5 *ferred to in this section as the ‘program’) targeted at adults*  
6 *at high risk for diabetes in order to eliminate the prevent-*  
7 *able burden of diabetes.*

8       “(b) *PROGRAM ACTIVITIES.*—*The program described*  
9 *in subsection (a) shall include—*

10               “(1) *a grant program for community-based dia-*  
11 *betes prevention program model sites;*

12               “(2) *a program within the Centers for Disease*  
13 *Control and Prevention to determine eligibility of en-*  
14 *tities to deliver community-based diabetes prevention*  
15 *services;*

16               “(3) *a training and outreach program for life-*  
17 *style intervention instructors; and*

18               “(4) *evaluation, monitoring and technical assist-*  
19 *ance, and applied research carried out by the Centers*  
20 *for Disease Control and Prevention.*

21       “(c) *ELIGIBLE ENTITIES.*—*To be eligible for a grant*  
22 *under subsection (b)(1), an entity shall be a State or local*  
23 *health department, a tribal organization, a national net-*  
24 *work of community-based non-profits focused on health and*  
25 *wellbeing, an academic institution, or other entity, as the*  
26 *Secretary determines.*

1       “(d) *AUTHORIZATION OF APPROPRIATIONS.*—For the  
2 purpose of carrying out this section, there are authorized  
3 to be appropriated such sums as may be necessary for each  
4 of fiscal years 2010 through 2014.”

5       (h) *The provisions of, and amendment made by, sec-*  
6 *tion 5501(c) of this Act are repealed.*

7       (i)(1) *The provisions of, and amendments made by,*  
8 *section 5502 of this Act are repealed.*

9       (2)(A) *Section 1861(aa)(3)(A) of the Social Security*  
10 *Act (42 U.S.C. 1395w(aa)(3)(A)) is amended to read as fol-*  
11 *lows:*

12               “(A) *services of the type described in subpara-*  
13 *graphs (A) through (C) of paragraph (1) and preven-*  
14 *tive services (as defined in section 1861(ddd)(3));*  
15 *and”.*

16       (B) *The amendment made by subparagraph (A) shall*  
17 *apply to services furnished on or after January 1, 2011.*

18       (3)(A) *Section 1834 of the Social Security Act (42*  
19 *U.S.C. 1395m), as amended by section 4105, is amended*  
20 *by adding at the end the following new subsection:*

21       “(o) *DEVELOPMENT AND IMPLEMENTATION OF PRO-*  
22 *SPECTIVE PAYMENT SYSTEM.*—

23               “(1) *DEVELOPMENT.*—

24                       “(A) *IN GENERAL.*—*The Secretary shall de-*  
25 *velop a prospective payment system for payment*

1        *for Federally qualified health center services fur-*  
2        *nished by Federally qualified health centers*  
3        *under this title. Such system shall include a*  
4        *process for appropriately describing the services*  
5        *furnished by Federally qualified health centers*  
6        *and shall establish payment rates for specific*  
7        *payment codes based on such appropriate de-*  
8        *scriptions of services. Such system shall be estab-*  
9        *lished to take into account the type, intensity,*  
10       *and duration of services furnished by Federally*  
11       *qualified health centers. Such system may in-*  
12       *clude adjustments, including geographic adjust-*  
13       *ments, determined appropriate by the Secretary.*

14            *“(B) COLLECTION OF DATA AND EVALUA-*  
15        *TION.—By not later than January 1, 2011, the*  
16        *Secretary shall require Federally qualified health*  
17        *centers to submit to the Secretary such informa-*  
18        *tion as the Secretary may require in order to de-*  
19        *velop and implement the prospective payment*  
20        *system under this subsection, including the re-*  
21        *porting of services using HCPCS codes.*

22            *“(2) IMPLEMENTATION.—*

23            *“(A) IN GENERAL.—Notwithstanding sec-*  
24        *tion 1833(a)(3)(A), the Secretary shall provide,*  
25        *for cost reporting periods beginning on or after*

1           *October 1, 2014, for payments of prospective*  
2           *payment rates for Federally qualified health cen-*  
3           *ter services furnished by Federally qualified*  
4           *health centers under this title in accordance with*  
5           *the prospective payment system developed by the*  
6           *Secretary under paragraph (1).*

7           “(B) *PAYMENTS.*—

8                   “(i) *INITIAL PAYMENTS.*—*The Sec-*  
9                   *retary shall implement such prospective*  
10                   *payment system so that the estimated aggre-*  
11                   *gate amount of prospective payment rates*  
12                   *(determined prior to the application of sec-*  
13                   *tion 1833(a)(1)(Z)) under this title for Fed-*  
14                   *erally qualified health center services in the*  
15                   *first year that such system is implemented*  
16                   *is equal to 100 percent of the estimated*  
17                   *amount of reasonable costs (determined*  
18                   *without the application of a per visit pay-*  
19                   *ment limit or productivity screen and prior*  
20                   *to the application of section*  
21                   *1866(a)(2)(A)(ii) that would have occurred*  
22                   *for such services under this title in such*  
23                   *year if the system had not been imple-*  
24                   *mented.*

1           “(i) *PAYMENTS IN SUBSEQUENT*  
2           *YEARS.—Payment rates in years after the*  
3           *year of implementation of such system shall*  
4           *be the payment rates in the previous year*  
5           *increased—*

6                     “(I) *in the first year after imple-*  
7                     *mentation of such system, by the per-*  
8                     *centage increase in the MEI (as de-*  
9                     *fined in section 1842(i)(3)) for the*  
10                    *year involved; and*

11                   “(II) *in subsequent years, by the*  
12                    *percentage increase in a market basket*  
13                    *of Federally qualified health center*  
14                    *goods and services as promulgated*  
15                    *through regulations, or if such an*  
16                    *index is not available, by the percent-*  
17                    *age increase in the MEI (as defined in*  
18                    *section 1842(i)(3)) for the year in-*  
19                    *volved.*

20                   “(C) *PREPARATION FOR PPS IMPLEMENTA-*  
21                    *TION.—Notwithstanding any other provision of*  
22                    *law, the Secretary may establish and implement*  
23                    *by program instruction or otherwise the payment*  
24                    *codes to be used under the prospective payment*  
25                    *system under this section.”.*

1       (B) Section 1833(a)(1) of the Social Security Act (42  
2 U.S.C. 1395l(a)(1)), as amended by section 4104, is amend-  
3 ed—

4           (i) by striking “and” before “(Y)”; and

5           (ii) by inserting before the semicolon at the end  
6 the following: “, and (Z) with respect to Federally  
7 qualified health center services for which payment is  
8 made under section 1834(o), the amounts paid shall  
9 be 80 percent of the lesser of the actual charge or the  
10 amount determined under such section”.

11       (C) Section 1833(a) of the Social Security Act (42  
12 U.S.C. 1395l(a)) is amended—

13           (i) in paragraph (3)(B)(i)—

14               (I) by inserting “(I)” after “otherwise been  
15 provided”; and

16               (II) by inserting “, or (II) in the case of  
17 such services furnished on or after the implemen-  
18 tation date of the prospective payment system  
19 under section 1834(o), under such section (cal-  
20 culated as if ‘100 percent’ were substituted for  
21 ‘80 percent’ in such section) for such services if  
22 the individual had not been so enrolled” after  
23 “been so enrolled”; and

24           (ii) by adding at the end the following flush sen-  
25 tence:

1       “Paragraph (3)(A) shall not apply to Federally  
2       qualified health center services furnished on or after  
3       the implementation date of the prospective payment  
4       system under section 1834(0).”.

5       (j) Section 5505 is amended by adding at the end the  
6       following new subsection:

7       “(d) APPLICATION.—The amendments made by this  
8       section shall not be applied in a manner that requires re-  
9       opening of any settled cost reports as to which there is not  
10      a jurisdictionally proper appeal pending as of the date of  
11      the enactment of this Act on the issue of payment for indi-  
12      rect costs of medical education under section 1886(d)(5)(B)  
13      of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) or  
14      for direct graduate medical education costs under section  
15      1886(h) of such Act (42 U.S.C. 1395ww(h)).”.

16      (k) Subtitle G of title V of this Act is amended by add-  
17      ing at the end the following:

18      “**SEC. 5606. STATE GRANTS TO HEALTH CARE PROVIDERS**  
19                   **WHO PROVIDE SERVICES TO A HIGH PER-**  
20                   **CENTAGE OF MEDICALLY UNDERSERVED**  
21                   **POPULATIONS OR OTHER SPECIAL POPU-**  
22                   **LATIONS.**”

23      “(a) IN GENERAL.—A State may award grants to  
24      health care providers who treat a high percentage, as deter-

1 *mined by such State, of medically underserved populations*  
2 *or other special populations in such State.*

3       “(b) *SOURCE OF FUNDS.*—A grant program estab-  
4 *lished by a State under subsection (a) may not be estab-*  
5 *lished within a department, agency, or other entity of such*  
6 *State that administers the Medicaid program under title*  
7 *XIX of the Social Security Act (42 U.S.C. 1396 et seq.),*  
8 *and no Federal or State funds allocated to such Medicaid*  
9 *program, the Medicare program under title XVIII of the*  
10 *Social Security Act (42 U.S.C. 1395 et seq.), or the*  
11 *TRICARE program under chapter 55 of title 10, United*  
12 *States Code, may be used to award grants or to pay admin-*  
13 *istrative costs associated with a grant program established*  
14 *under subsection (a).”.*

15       “(l) *Part C of title VII of the Public Health Service*  
16 *Act (42 U.S.C. 293k et seq.) is amended—*

17               (1) *after the part heading, by inserting the fol-*  
18 *lowing:*

19               **“Subpart I—Medical Training Generally”;**

20               *and*

21               (2) *by inserting at the end the following:*

22               **“Subpart II—Training in Underserved Communities**

23               **“SEC. 749B. RURAL PHYSICIAN TRAINING GRANTS.**

24               “(a) *IN GENERAL.*—The Secretary, acting through the  
25 *Administrator of the Health Resources and Services Admin-*

1 *stration, shall establish a grant program for the purposes*  
2 *of assisting eligible entities in recruiting students most like-*  
3 *ly to practice medicine in underserved rural communities,*  
4 *providing rural-focused training and experience, and in-*  
5 *creasing the number of recent allopathic and osteopathic*  
6 *medical school graduates who practice in underserved rural*  
7 *communities.*

8       “(b) *ELIGIBLE ENTITIES.*—*In order to be eligible to*  
9 *receive a grant under this section, an entity shall—*

10               “(1) *be a school of allopathic or osteopathic med-*  
11 *icine accredited by a nationally recognized accred-*  
12 *iting agency or association approved by the Secretary*  
13 *for this purpose, or any combination or consortium of*  
14 *such schools; and*

15               “(2) *submit an application to the Secretary that*  
16 *includes a certification that such entity will use*  
17 *amounts provided to the institution as described in*  
18 *subsection (d)(1).*

19       “(c) *PRIORITY.*—*In awarding grant funds under this*  
20 *section, the Secretary shall give priority to eligible entities*  
21 *that—*

22               “(1) *demonstrate a record of successfully train-*  
23 *ing students, as determined by the Secretary, who*  
24 *practice medicine in underserved rural communities;*

1           “(2) demonstrate that an existing academic pro-  
2           gram of the eligible entity produces a high percentage,  
3           as determined by the Secretary, of graduates from  
4           such program who practice medicine in underserved  
5           rural communities;

6           “(3) demonstrate rural community institutional  
7           partnerships, through such mechanisms as matching  
8           or contributory funding, documented in-kind services  
9           for implementation, or existence of training partners  
10          with interprofessional expertise in community health  
11          center training locations or other similar facilities; or

12          “(4) submit, as part of the application of the en-  
13          tity under subsection (b), a plan for the long-term  
14          tracking of where the graduates of such entity practice  
15          medicine.

16          “(d) *USE OF FUNDS.*—

17                 “(1) *ESTABLISHMENT.*—An eligible entity receiv-  
18                 ing a grant under this section shall use the funds  
19                 made available under such grant to establish, im-  
20                 prove, or expand a rural-focused training program  
21                 (referred to in this section as the ‘Program’) meeting  
22                 the requirements described in this subsection and to  
23                 carry out such program.

24                 “(2) *STRUCTURE OF PROGRAM.*—An eligible en-  
25                 tity shall—

1           “(A) enroll no fewer than 10 students per  
2           class year into the Program; and

3           “(B) develop criteria for admission to the  
4           Program that gives priority to students—

5                   “(i) who have originated from or lived  
6                   for a period of 2 or more years in an un-  
7                   derserved rural community; and

8                   “(ii) who express a commitment to  
9                   practice medicine in an underserved rural  
10                  community.

11           “(3) CURRICULA.—The Program shall require  
12           students to enroll in didactic coursework and clinical  
13           experience particularly applicable to medical practice  
14           in underserved rural communities, including—

15                   “(A) clinical rotations in underserved rural  
16                   communities, and in applicable specialties, or  
17                   other coursework or clinical experience deemed  
18                   appropriate by the Secretary; and

19                   “(B) in addition to core school curricula,  
20                   additional coursework or training experiences fo-  
21                   cused on medical issues prevalent in underserved  
22                   rural communities.

23           “(4) RESIDENCY PLACEMENT ASSISTANCE.—  
24           Where available, the Program shall assist all students  
25           of the Program in obtaining clinical training experi-

1 *ences in locations with postgraduate programs offer-*  
2 *ing residency training opportunities in underserved*  
3 *rural communities, or in local residency training pro-*  
4 *grams that support and train physicians to practice*  
5 *in underserved rural communities.*

6 “(5) *PROGRAM STUDENT COHORT SUPPORT.*—  
7 *The Program shall provide and require all students of*  
8 *the Program to participate in group activities de-*  
9 *signed to further develop, maintain, and reinforce the*  
10 *original commitment of such students to practice in*  
11 *an underserved rural community.*

12 “(e) *ANNUAL REPORTING.*—*An eligible entity receiv-*  
13 *ing a grant under this section shall submit an annual re-*  
14 *port to the Secretary on the success of the Program, based*  
15 *on criteria the Secretary determines appropriate, including*  
16 *the residency program selection of graduating students who*  
17 *participated in the Program.*

18 “(f) *REGULATIONS.*—*Not later than 60 days after the*  
19 *date of enactment of this section, the Secretary shall by reg-*  
20 *ulation define ‘underserved rural community’ for purposes*  
21 *of this section.*

22 “(g) *SUPPLEMENT NOT SUPPLANT.*—*Any eligible enti-*  
23 *ty receiving funds under this section shall use such funds*  
24 *to supplement, not supplant, any other Federal, State, and*

1 *local funds that would otherwise be expended by such entity*  
2 *to carry out the activities described in this section.*

3       “(h) *MAINTENANCE OF EFFORT.*—*With respect to ac-*  
4 *tivities for which funds awarded under this section are to*  
5 *be expended, the entity shall agree to maintain expenditures*  
6 *of non-Federal amounts for such activities at a level that*  
7 *is not less than the level of such expenditures maintained*  
8 *by the entity for the fiscal year preceding the fiscal year*  
9 *for which the entity receives a grant under this section.*

10       “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
11 *authorized to be appropriated \$4,000,000 for each of the*  
12 *fiscal years 2010 through 2013.”.*

13       (m)(1) *Section 768 of the Public Health Service Act*  
14 *(42 U.S.C. 295c) is amended to read as follows:*

15       **“SEC. 768. PREVENTIVE MEDICINE AND PUBLIC HEALTH**  
16               **TRAINING GRANT PROGRAM.**

17       “(a) *GRANTS.*—*The Secretary, acting through the Ad-*  
18 *ministrator of the Health Resources and Services Adminis-*  
19 *tration and in consultation with the Director of the Centers*  
20 *for Disease Control and Prevention, shall award grants to,*  
21 *or enter into contracts with, eligible entities to provide*  
22 *training to graduate medical residents in preventive medi-*  
23 *cine specialties.*

24       “(b) *ELIGIBILITY.*—*To be eligible for a grant or con-*  
25 *tract under subsection (a), an entity shall be—*

1           “(1) an accredited school of public health or  
2 school of medicine or osteopathic medicine;

3           “(2) an accredited public or private nonprofit  
4 hospital;

5           “(3) a State, local, or tribal health department;  
6 or

7           “(4) a consortium of 2 or more entities described  
8 in paragraphs (1) through (3).

9           “(c) *USE OF FUNDS.*—Amounts received under a grant  
10 or contract under this section shall be used to—

11           “(1) plan, develop (including the development of  
12 curricula), operate, or participate in an accredited  
13 residency or internship program in preventive medi-  
14 cine or public health;

15           “(2) defray the costs of practicum experiences, as  
16 required in such a program; and

17           “(3) establish, maintain, or improve—

18           “(A) academic administrative units (in-  
19 cluding departments, divisions, or other appro-  
20 priate units) in preventive medicine and public  
21 health; or

22           “(B) programs that improve clinical teach-  
23 ing in preventive medicine and public health.

1       “(d) *REPORT.*—*The Secretary shall submit to the Con-*  
2 *gress an annual report on the program carried out under*  
3 *this section.*”.

4           (2) *Section 770(a) of the Public Health Service*  
5 *Act (42 U.S.C. 295e(a)) is amended to read as fol-*  
6 *lows:*

7       “(a) *IN GENERAL.*—*For the purpose of carrying out*  
8 *this subpart, there is authorized to be appropriated*  
9 *\$43,000,000 for fiscal year 2011, and such sums as may*  
10 *be necessary for each of the fiscal years 2012 through*  
11 *2015.*”.

12       (n)(1) *Subsection (i) of section 331 of the Public*  
13 *Health Service Act (42 U.S.C. 254d) of the Public Health*  
14 *Service Act is amended—*

15           (A) *in paragraph (1), by striking “In carrying*  
16 *out subpart III” and all that follows through the pe-*  
17 *riod and inserting “In carrying out subpart III, the*  
18 *Secretary may, in accordance with this subsection,*  
19 *issue waivers to individuals who have entered into a*  
20 *contract for obligated service under the Scholarship*  
21 *Program or the Loan Repayment Program under*  
22 *which the individuals are authorized to satisfy the re-*  
23 *quirement of obligated service through providing clin-*  
24 *ical practice that is half time.”;*

25           (B) *in paragraph (2)—*

1           (i) in subparagraphs (A)(ii) and (B), by  
2           striking “less than full time” each place it ap-  
3           pears and inserting “half time”;

4           (ii) in subparagraphs (C) and (F), by strik-  
5           ing “less than full-time service” each place it ap-  
6           pears and inserting “half-time service”; and

7           (iii) by amending subparagraphs (D) and  
8           (E) to read as follows:

9           “(D) the entity and the Corps member agree in  
10          writing that the Corps member will perform half-time  
11          clinical practice;

12          “(E) the Corps member agrees in writing to ful-  
13          fill all of the service obligations under section 338C  
14          through half-time clinical practice and either—

15               “(i) double the period of obligated service  
16               that would otherwise be required; or

17               “(ii) in the case of contracts entered into  
18               under section 338B, accept a minimum service  
19               obligation of 2 years with an award amount  
20               equal to 50 percent of the amount that would  
21               otherwise be payable for full-time service; and”;  
22               and

23          (C) in paragraph (3), by striking “In evaluating  
24          a demonstration project described in paragraph (1)”

1       and inserting “In evaluating waivers issued under  
2       paragraph (1)”.

3       (2) Subsection (j) of section 331 of the Public Health  
4       Service Act (42 U.S.C. 254d) is amended by adding at the  
5       end the following:

6               “(5) The terms ‘full time’ and ‘full-time’ mean a  
7       minimum of 40 hours per week in a clinical practice,  
8       for a minimum of 45 weeks per year.

9               “(6) The terms ‘half time’ and ‘half-time’ mean  
10       a minimum of 20 hours per week (not to exceed 39  
11       hours per week) in a clinical practice, for a min-  
12       imum of 45 weeks per year.”.

13       (3) Section 337(b)(1) of the Public Health Service Act  
14       (42 U.S.C. 254j(b)(1)) is amended by striking “Members  
15       may not be reappointed to the Council.”.

16       (4) Section 338B(g)(2)(A) of the Public Health Service  
17       Act (42 U.S.C. 254l–1(g)(2)(A)) is amended by striking  
18       “\$35,000” and inserting “\$50,000, plus, beginning with fis-  
19       cal year 2012, an amount determined by the Secretary on  
20       an annual basis to reflect inflation,”.

21       (5) Subsection (a) of section 338C of the Public Health  
22       Service Act (42 U.S.C. 254m), as amended by section 5508,  
23       is amended—

24               (A) by striking the second sentence and inserting  
25       the following: “The Secretary may treat teaching as

1 *clinical practice for up to 20 percent of such period*  
2 *of obligated service.”; and*

3 *(B) by adding at the end the following: “Not-*  
4 *withstanding the preceding sentence, with respect to a*  
5 *member of the Corps participating in the teaching*  
6 *health centers graduate medical education program*  
7 *under section 340H, for the purpose of calculating*  
8 *time spent in full-time clinical practice under this*  
9 *section, up to 50 percent of time spent teaching by*  
10 *such member may be counted toward his or her serv-*  
11 *ice obligation.”.*

12 **SEC. 10502. INFRASTRUCTURE TO EXPAND ACCESS TO**  
13 **CARE.**

14 *(a) APPROPRIATION.—There are authorized to be ap-*  
15 *propriated, and there are appropriated to the Department*  
16 *of Health and Human Services, \$100,000,000 for fiscal year*  
17 *2010, to remain available for obligation until September*  
18 *30, 2011, to be used for debt service on, or direct construc-*  
19 *tion or renovation of, a health care facility that provides*  
20 *research, inpatient tertiary care, or outpatient clinical serv-*  
21 *ices. Such facility shall be affiliated with an academic*  
22 *health center at a public research university in the United*  
23 *States that contains a State’s sole public academic medical*  
24 *and dental school.*

1       **(b) REQUIREMENT.**—Amount appropriated under sub-  
2 section (a) may only be made available by the Secretary  
3 of Health and Human Services upon the receipt of an ap-  
4 plication from the Governor of a State that certifies that—

5           (1) the new health care facility is critical for the  
6 provision of greater access to health care within the  
7 State;

8           (2) such facility is essential for the continued fi-  
9 nancial viability of the State’s sole public medical  
10 and dental school and its academic health center;

11           (3) the request for Federal support represents not  
12 more than 40 percent of the total cost of the proposed  
13 new facility; and

14           (4) the State has established a dedicated funding  
15 mechanism to provide all remaining funds necessary  
16 to complete the construction or renovation of the pro-  
17 posed facility.

18 **SEC. 10503. COMMUNITY HEALTH CENTERS AND THE NA-**  
19 **TIONAL HEALTH SERVICE CORPS FUND.**

20       **(a) PURPOSE.**—It is the purpose of this section to es-  
21 tablish a Community Health Center Fund (referred to in  
22 this section as the “CHC Fund”), to be administered  
23 through the Office of the Secretary of the Department of  
24 Health and Human Services to provide for expanded and  
25 sustained national investment in community health centers

1 *under section 330 of the Public Health Service Act and the*  
2 *National Health Service Corps.*

3 *(b) FUNDING.—There is authorized to be appropriated,*  
4 *and there is appropriated, out of any monies in the Treas-*  
5 *ury not otherwise appropriated, to the CHC Fund—*

6 *(1) to be transferred to the Secretary of Health*  
7 *and Human Services to provide enhanced funding for*  
8 *the community health center program under section*  
9 *330 of the Public Health Service Act—*

10 *(A) \$700,000,000 for fiscal year 2011;*

11 *(B) \$800,000,000 for fiscal year 2012;*

12 *(C) \$1,000,000,000 for fiscal year 2013;*

13 *(D) \$1,600,000,000 for fiscal year 2014;*

14 *and*

15 *(E) \$2,900,000,000 for fiscal year 2015;*

16 *and*

17 *(2) to be transferred to the Secretary of Health*  
18 *and Human Services to provide enhanced funding for*  
19 *the National Health Service Corps—*

20 *(A) \$290,000,000 for fiscal year 2011;*

21 *(B) \$295,000,000 for fiscal year 2012;*

22 *(C) \$300,000,000 for fiscal year 2013;*

23 *(D) \$305,000,000 for fiscal year 2014; and*

24 *(E) \$310,000,000 for fiscal year 2015.*

1       (c) *CONSTRUCTION.*—*There is authorized to be appro-*  
2 *priated, and there is appropriated, out of any monies in*  
3 *the Treasury not otherwise appropriated, \$1,500,000,000 to*  
4 *be available for fiscal years 2011 through 2015 to be used*  
5 *by the Secretary of Health and Human Services for the con-*  
6 *struction and renovation of community health centers.*

7       (d) *USE OF FUND.*—*The Secretary of Health and*  
8 *Human Services shall transfer amounts in the CHC Fund*  
9 *to accounts within the Department of Health and Human*  
10 *Services to increase funding, over the fiscal year 2008 level,*  
11 *for community health centers and the National Health*  
12 *Service Corps.*

13       (e) *AVAILABILITY.*—*Amounts appropriated under sub-*  
14 *sections (b) and (c) shall remain available until expended.*

15 **SEC. 10504. DEMONSTRATION PROJECT TO PROVIDE AC-**  
16 **CESS TO AFFORDABLE CARE.**

17       (a) *IN GENERAL.*—*Not later than 6 months after the*  
18 *date of enactment of this Act, the Secretary of Health and*  
19 *Human Services (referred to in this section as the “Sec-*  
20 *retary”), acting through the Health Resources and Services*  
21 *Administration, shall establish a 3 year demonstration*  
22 *project in up to 10 States to provide access to comprehensive*  
23 *health care services to the uninsured at reduced fees. The*  
24 *Secretary shall evaluate the feasibility of expanding the*  
25 *project to additional States.*



1       **(b) CONFORMING AMENDMENT.**—Section 6001(b)(2) of  
2 *this Act is amended by striking “November 1, 2011” and*  
3 *inserting “May 1, 2012”.*

4 **SEC. 10602. CLARIFICATIONS TO PATIENT-CENTERED OUT-**  
5 **COMES RESEARCH.**

6       Section 1181 of the Social Security Act (as added by  
7 section 6301) is amended—

8               (1) in subsection (d)(2)(B)—

9                       (A) in clause (ii)(IV)—

10                               (i) by inserting “, as described in sub-  
11                               paragraph (A)(i),” after “original re-  
12                               search”; and

13                               (ii) by inserting “, as long as the re-  
14                               searcher enters into a data use agreement  
15                               with the Institute for use of the data from  
16                               the original research, as appropriate” after  
17                               “publication”; and

18                       (B) by amending clause (iv) to read as fol-  
19                       lows:

20                               “(iv) **SUBSEQUENT USE OF THE**  
21                               **DATA.**—The Institute shall not allow the  
22                               subsequent use of data from original re-  
23                               search in work-for-hire contracts with indi-  
24                               viduals, entities, or instrumentalities that  
25                               have a financial interest in the results, un-

1           less approved under a data use agreement  
2           with the Institute.”;

3           (2) in subsection (d)(8)(A)(iv), by striking “not  
4           be construed as mandates for” and inserting “do not  
5           include”; and

6           (3) in subsection (f)(1)(C), by amending clause  
7           (ii) to read as follows:

8                   “(ii) 7 members representing physi-  
9                   cians and providers, including 4 members  
10                   representing physicians (at least 1 of whom  
11                   is a surgeon), 1 nurse, 1 State-licensed inte-  
12                   grative health care practitioner, and 1 rep-  
13                   resentative of a hospital.”.

14 **SEC. 10603. STRIKING PROVISIONS RELATING TO INDI-**  
15 **VIDUAL PROVIDER APPLICATION FEES.**

16           (a) *IN GENERAL.*—Section 1866(j)(2)(C) of the Social  
17 Security Act, as added by section 6401(a), is amended—

18                   (1) by striking clause (i);

19                   (2) by redesignating clauses (ii) through (iv), re-  
20                   spectively, as clauses (i) through (iii); and

21                   (3) in clause (i), as redesignated by paragraph  
22                   (2), by striking “clause (iii)” and inserting “clause  
23                   (ii)”.

24           (b) *TECHNICAL CORRECTION.*—Section 6401(a)(2) of  
25 this Act is amended to read as follows:

1           “(2) by redesignating paragraph (2) as para-  
2           graph (8); and”.

3 **SEC. 10604. TECHNICAL CORRECTION TO SECTION 6405.**

4           *Paragraphs (1) and (2) of section 6405(b) are amend-*  
5 *ed to read as follows:*

6           “(1) *PART A.—Section 1814(a)(2) of the Social*  
7 *Security Act (42 U.S.C. 1395(a)(2)) is amended in*  
8 *the matter preceding subparagraph (A) by inserting*  
9 *‘, or, in the case of services described in subparagraph*  
10 *(C), a physician enrolled under section 1866(j),’ after*  
11 *‘in collaboration with a physician,’.*

12           “(2) *PART B.—Section 1835(a)(2) of the Social*  
13 *Security Act (42 U.S.C. 1395n(a)(2)) is amended in*  
14 *the matter preceding subparagraph (A) by inserting*  
15 *‘, or, in the case of services described in subparagraph*  
16 *(A), a physician enrolled under section 1866(j),’ after*  
17 *‘a physician.’.”.*

18 **SEC. 10605. CERTAIN OTHER PROVIDERS PERMITTED TO**  
19 **CONDUCT FACE TO FACE ENCOUNTER FOR**  
20 **HOME HEALTH SERVICES.**

21           *(a) PART A.—Section 1814(a)(2)(C) of the Social Se-*  
22 *curity Act (42 U.S.C. 1395f(a)(2)(C)), as amended by sec-*  
23 *tion 6407(a)(1), is amended by inserting “, or a nurse prac-*  
24 *titioner or clinical nurse specialist (as those terms are de-*  
25 *finied in section 1861(aa)(5)) who is working in collabora-*

1 *tion with the physician in accordance with State law, or*  
2 *a certified nurse-midwife (as defined in section 1861(gg))*  
3 *as authorized by State law, or a physician assistant (as*  
4 *defined in section 1861(aa)(5)) under the supervision of the*  
5 *physician,” after “himself or herself”.*

6 (b) *PART B.—Section 1835(a)(2)(A)(iv) of the Social*  
7 *Security Act, as added by section 6407(a)(2), is amended*  
8 *by inserting “, or a nurse practitioner or clinical nurse spe-*  
9 *cialist (as those terms are defined in section 1861(aa)(5))*  
10 *who is working in collaboration with the physician in ac-*  
11 *cordance with State law, or a certified nurse-midwife (as*  
12 *defined in section 1861(gg)) as authorized by State law, or*  
13 *a physician assistant (as defined in section 1861(aa)(5))*  
14 *under the supervision of the physician,” after “must docu-*  
15 *ment that the physician”.*

16 **SEC. 10606. HEALTH CARE FRAUD ENFORCEMENT.**

17 (a) *FRAUD SENTENCING GUIDELINES.—*

18 (1) *DEFINITION.—In this subsection, the term*  
19 *“Federal health care offense” has the meaning given*  
20 *that term in section 24 of title 18, United States*  
21 *Code, as amended by this Act.*

22 (2) *REVIEW AND AMENDMENTS.—Pursuant to*  
23 *the authority under section 994 of title 28, United*  
24 *States Code, and in accordance with this subsection,*  
25 *the United States Sentencing Commission shall—*

1           (A) review the Federal Sentencing Guide-  
2           lines and policy statements applicable to persons  
3           convicted of Federal health care offenses;

4           (B) amend the Federal Sentencing Guide-  
5           lines and policy statements applicable to persons  
6           convicted of Federal health care offenses involv-  
7           ing Government health care programs to provide  
8           that the aggregate dollar amount of fraudulent  
9           bills submitted to the Government health care  
10          program shall constitute prima facie evidence of  
11          the amount of the intended loss by the defendant;  
12          and

13          (C) amend the Federal Sentencing Guide-  
14          lines to provide—

15               (i) a 2-level increase in the offense level  
16               for any defendant convicted of a Federal  
17               health care offense relating to a Government  
18               health care program which involves a loss of  
19               not less than \$1,000,000 and less than  
20               \$7,000,000;

21               (ii) a 3-level increase in the offense  
22               level for any defendant convicted of a Fed-  
23               eral health care offense relating to a Gov-  
24               ernment health care program which involves

1           *a loss of not less than \$7,000,000 and less*  
2           *than \$20,000,000;*

3           *(iii) a 4-level increase in the offense*  
4           *level for any defendant convicted of a Fed-*  
5           *eral health care offense relating to a Gov-*  
6           *ernment health care program which involves*  
7           *a loss of not less than \$20,000,000; and*

8           *(iv) if appropriate, otherwise amend*  
9           *the Federal Sentencing Guidelines and pol-*  
10          *icy statements applicable to persons con-*  
11          *victed of Federal health care offenses involv-*  
12          *ing Government health care programs.*

13          (3) *REQUIREMENTS.—In carrying this sub-*  
14          *section, the United States Sentencing Commission*  
15          *shall—*

16                (A) *ensure that the Federal Sentencing*  
17                *Guidelines and policy statements—*

18                    (i) *reflect the serious harms associated*  
19                    *with health care fraud and the need for ag-*  
20                    *gressive and appropriate law enforcement*  
21                    *action to prevent such fraud; and*

22                    (ii) *provide increased penalties for per-*  
23                    *sons convicted of health care fraud offenses*  
24                    *in appropriate circumstances;*

1           (B) consult with individuals or groups rep-  
2           resenting health care fraud victims, law enforce-  
3           ment officials, the health care industry, and the  
4           Federal judiciary as part of the review described  
5           in paragraph (2);

6           (C) ensure reasonable consistency with other  
7           relevant directives and with other guidelines  
8           under the Federal Sentencing Guidelines;

9           (D) account for any aggravating or miti-  
10          gating circumstances that might justify excep-  
11          tions, including circumstances for which the Fed-  
12          eral Sentencing Guidelines, as in effect on the  
13          date of enactment of this Act, provide sentencing  
14          enhancements;

15          (E) make any necessary conforming changes  
16          to the Federal Sentencing Guidelines; and

17          (F) ensure that the Federal Sentencing  
18          Guidelines adequately meet the purposes of sen-  
19          tencing.

20          (b) *INTENT REQUIREMENT FOR HEALTH CARE*  
21 *FRAUD.*—Section 1347 of title 18, United States Code, is  
22 amended—

23           (1) by inserting “(a)” before “Whoever know-  
24           ingly”; and

25           (2) by adding at the end the following:

1       “(b) *With respect to violations of this section, a person*  
2 *need not have actual knowledge of this section or specific*  
3 *intent to commit a violation of this section.*”.

4       (c) *HEALTH CARE FRAUD OFFENSE.—Section 24(a)*  
5 *of title 18, United States Code, is amended—*

6           (1) *in paragraph (1), by striking the semicolon*  
7 *and inserting “or section 1128B of the Social Secu-*  
8 *urity Act (42 U.S.C. 1320a–7b); or”;* and

9           (2) *in paragraph (2)—*

10               (A) *by inserting “1349,” after “1343,”; and*

11               (B) *by inserting “section 301 of the Federal*  
12 *Food, Drug, and Cosmetic Act (21 U.S.C. 331),*  
13 *or section 501 of the Employee Retirement In-*  
14 *come Security Act of 1974 (29 U.S.C. 1131),”*  
15 *after “title.”.*

16       (d) *SUBPOENA AUTHORITY RELATING TO HEALTH*  
17 *CARE.—*

18           (1) *SUBPOENAS UNDER THE HEALTH INSURANCE*  
19 *PORTABILITY AND ACCOUNTABILITY ACT OF 1996.—*  
20 *Section 1510(b) of title 18, United States Code, is*  
21 *amended—*

22               (A) *in paragraph (1), by striking “to the*  
23 *grand jury”;* and

24               (B) *in paragraph (2)—*

1                   (i) in subparagraph (A), by striking  
2                   “grand jury subpoena” and inserting “sub-  
3                   poena for records”; and

4                   (ii) in the matter following subpara-  
5                   graph (B), by striking “to the grand jury”.

6                   (2) *SUBPOENAS UNDER THE CIVIL RIGHTS OF IN-*  
7                   *STITUTIONALIZED PERSONS ACT.—The Civil Rights of*  
8                   *Institutionalized Persons Act (42 U.S.C. 1997 et seq.)*  
9                   *is amended by inserting after section 3 the following:*

10                   **“SEC. 3A. SUBPOENA AUTHORITY.**

11                   “(a) **AUTHORITY.**—The Attorney General, or at the  
12                   direction of the Attorney General, any officer or employee  
13                   of the Department of Justice may require by subpoena  
14                   access to any institution that is the subject of an investiga-  
15                   tion under this Act and to any document, record, material,  
16                   file, report, memorandum, policy, procedure, investigation,  
17                   video or audio recording, or quality assurance report relat-  
18                   ing to any institution that is the subject of an investiga-  
19                   tion under this Act to determine whether there are condi-  
20                   tions which deprive persons residing in or confined to the  
21                   institution of any rights, privileges, or immunities secured  
22                   or protected by the Constitution or laws of the United  
23                   States.

24                   “(b) **ISSUANCE AND ENFORCEMENT OF SUB-**  
25                   **POENAS.**—

1           “(1) ISSUANCE.—Subpoenas issued under this  
2 section—

3           “(A) shall bear the signature of the Attor-  
4 ney General or any officer or employee of the  
5 Department of Justice as designated by the At-  
6 torney General; and

7           “(B) shall be served by any person or class  
8 of persons designated by the Attorney General  
9 or a designated officer or employee for that  
10 purpose.

11           “(2) ENFORCEMENT.—In the case of contu-  
12 macy or failure to obey a subpoena issued under this  
13 section, the United States district court for the judi-  
14 cial district in which the institution is located may  
15 issue an order requiring compliance. Any failure to  
16 obey the order of the court may be punished by the  
17 court as a contempt that court.

18           “(c) *PROTECTION OF SUBPOENAED RECORDS AND IN-*  
19 *FORMATION.—Any document, record, material, file, report,*  
20 *memorandum, policy, procedure, investigation, video or*  
21 *audio recording, or quality assurance report or other infor-*  
22 *mation obtained under a subpoena issued under this sec-*  
23 *tion—*

24           “(1) *may not be used for any purpose other than*  
25 *to protect the rights, privileges, or immunities secured*

1       *or protected by the Constitution or laws of the United*  
2       *States of persons who reside, have resided, or will re-*  
3       *side in an institution;*

4             “(2) *may not be transmitted by or within the*  
5       *Department of Justice for any purpose other than to*  
6       *protect the rights, privileges, or immunities secured or*  
7       *protected by the Constitution or laws of the United*  
8       *States of persons who reside, have resided, or will re-*  
9       *side in an institution; and*

10            “(3) *shall be redacted, obscured, or otherwise al-*  
11       *tered if used in any publicly available manner so as*  
12       *to prevent the disclosure of any personally identifiable*  
13       *information.”.*

14   **SEC. 10607. STATE DEMONSTRATION PROGRAMS TO EVALU-**  
15                    **ATE ALTERNATIVES TO CURRENT MEDICAL**  
16                    **TORT LITIGATION.**

17        *Part P of title III of the Public Health Service Act*  
18        *(42 U.S.C. 280g et seq.), as amended by this Act, is further*  
19        *amended by adding at the end the following:*

20   **“SEC. 399V-4. STATE DEMONSTRATION PROGRAMS TO**  
21                    **EVALUATE ALTERNATIVES TO CURRENT MED-**  
22                    **ICAL TORT LITIGATION.**

23            “(a) *IN GENERAL.—The Secretary is authorized to*  
24        *award demonstration grants to States for the development,*  
25        *implementation, and evaluation of alternatives to current*

1 *tort litigation for resolving disputes over injuries allegedly*  
2 *caused by health care providers or health care organiza-*  
3 *tions. In awarding such grants, the Secretary shall ensure*  
4 *the diversity of the alternatives so funded.*

5 “(b) *DURATION.—The Secretary may award grants*  
6 *under subsection (a) for a period not to exceed 5 years.*

7 “(c) *CONDITIONS FOR DEMONSTRATION GRANTS.—*

8 “(1) *REQUIREMENTS.—Each State desiring a*  
9 *grant under subsection (a) shall develop an alter-*  
10 *native to current tort litigation that—*

11 “(A) *allows for the resolution of disputes*  
12 *over injuries allegedly caused by health care pro-*  
13 *viders or health care organizations; and*

14 “(B) *promotes a reduction of health care er-*  
15 *rors by encouraging the collection and analysis*  
16 *of patient safety data related to disputes resolved*  
17 *under subparagraph (A) by organizations that*  
18 *engage in efforts to improve patient safety and*  
19 *the quality of health care.*

20 “(2) *ALTERNATIVE TO CURRENT TORT LITIGA-*  
21 *TION.—Each State desiring a grant under subsection*  
22 *(a) shall demonstrate how the proposed alternative de-*  
23 *scribed in paragraph (1)(A)—*

1           “(A) makes the medical liability system  
2 more reliable by increasing the availability of  
3 prompt and fair resolution of disputes;

4           “(B) encourages the efficient resolution of  
5 disputes;

6           “(C) encourages the disclosure of health care  
7 errors;

8           “(D) enhances patient safety by detecting,  
9 analyzing, and helping to reduce medical errors  
10 and adverse events;

11           “(E) improves access to liability insurance;

12           “(F) fully informs patients about the dif-  
13 ferences in the alternative and current tort liti-  
14 gation;

15           “(G) provides patients the ability to opt out  
16 of or voluntarily withdraw from participating in  
17 the alternative at any time and to pursue other  
18 options, including litigation, outside the alter-  
19 native;

20           “(H) would not conflict with State law at  
21 the time of the application in a way that would  
22 prohibit the adoption of an alternative to current  
23 tort litigation; and

24           “(I) would not limit or curtail a patient’s  
25 existing legal rights, ability to file a claim in or

1           *access a State’s legal system, or otherwise abro-*  
2           *gate a patient’s ability to file a medical mal-*  
3           *practice claim.*

4           “(3) *SOURCES OF COMPENSATION.*—*Each State*  
5           *desiring a grant under subsection (a) shall identify*  
6           *the sources from and methods by which compensation*  
7           *would be paid for claims resolved under the proposed*  
8           *alternative to current tort litigation, which may in-*  
9           *clude public or private funding sources, or a com-*  
10          *bination of such sources. Funding methods shall to the*  
11          *extent practicable provide financial incentives for ac-*  
12          *tivities that improve patient safety.*

13          “(4) *SCOPE.*—

14               “(A) *IN GENERAL.*—*Each State desiring a*  
15               *grant under subsection (a) shall establish a scope*  
16               *of jurisdiction (such as Statewide, designated ge-*  
17               *ographic region, a designated area of health care*  
18               *practice, or a designated group of health care*  
19               *providers or health care organizations) for the*  
20               *proposed alternative to current tort litigation*  
21               *that is sufficient to evaluate the effects of the al-*  
22               *ternative. No scope of jurisdiction shall be estab-*  
23               *lished under this paragraph that is based on a*  
24               *health care payer or patient population.*

1           “(B) *NOTIFICATION OF PATIENTS.*—A State  
2           shall demonstrate how patients would be notified  
3           that they are receiving health care services that  
4           fall within such scope, and the process by which  
5           they may opt out of or voluntarily withdraw  
6           from participating in the alternative. The deci-  
7           sion of the patient whether to participate or con-  
8           tinue participating in the alternative process  
9           shall be made at any time and shall not be lim-  
10          ited in any way.

11          “(5) *PREFERENCE IN AWARDING DEMONSTRATION GRANTS.*—In awarding grants under subsection  
12          (a), the Secretary shall give preference to States—

14           “(A) that have developed the proposed alter-  
15           native through substantive consultation with rel-  
16           evant stakeholders, including patient advocates,  
17           health care providers and health care organiza-  
18           tions, attorneys with expertise in representing  
19           patients and health care providers, medical mal-  
20           practice insurers, and patient safety experts;

21           “(B) that make proposals that are likely to  
22           enhance patient safety by detecting, analyzing,  
23           and helping to reduce medical errors and adverse  
24           events; and

1           “(C) that make proposals that are likely to  
2           improve access to liability insurance.

3           “(d) APPLICATION.—

4           “(1) IN GENERAL.—Each State desiring a grant  
5           under subsection (a) shall submit to the Secretary an  
6           application, at such time, in such manner, and con-  
7           taining such information as the Secretary may re-  
8           quire.

9           “(2) REVIEW PANEL.—

10           “(A) IN GENERAL.—In reviewing applica-  
11           tions under paragraph (1), the Secretary shall  
12           consult with a review panel composed of relevant  
13           experts appointed by the Comptroller General.

14           “(B) COMPOSITION.—

15           “(i) NOMINATIONS.—The Comptroller  
16           General shall solicit nominations from the  
17           public for individuals to serve on the review  
18           panel.

19           “(ii) APPOINTMENT.—The Comptroller  
20           General shall appoint, at least 9 but not  
21           more than 13, highly qualified and knowl-  
22           edgeable individuals to serve on the review  
23           panel and shall ensure that the following  
24           entities receive fair representation on such  
25           panel:

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*“(I) Patient advocates.*

*“(II) Health care providers and health care organizations.*

*“(III) Attorneys with expertise in representing patients and health care providers.*

*“(IV) Medical malpractice insurers.*

*“(V) State officials.*

*“(VI) Patient safety experts.*

*“(C) CHAIRPERSON.—The Comptroller General, or an individual within the Government Accountability Office designated by the Comptroller General, shall be the chairperson of the review panel.*

*“(D) AVAILABILITY OF INFORMATION.—The Comptroller General shall make available to the review panel such information, personnel, and administrative services and assistance as the review panel may reasonably require to carry out its duties.*

*“(E) INFORMATION FROM AGENCIES.—The review panel may request directly from any department or agency of the United States any information that such panel considers necessary to*

1           *carry out its duties. To the extent consistent with*  
2           *applicable laws and regulations, the head of such*  
3           *department or agency shall furnish the requested*  
4           *information to the review panel.*

5           “(e) *REPORTS.*—

6                 “(1) *BY STATE.*—*Each State receiving a grant*  
7           *under subsection (a) shall submit to the Secretary an*  
8           *annual report evaluating the effectiveness of activities*  
9           *funded with grants awarded under such subsection.*  
10          *Such report shall, at a minimum, include the impact*  
11          *of the activities funded on patient safety and on the*  
12          *availability and price of medical liability insurance.*

13                 “(2) *BY SECRETARY.*—*The Secretary shall sub-*  
14          *mit to Congress an annual compendium of the reports*  
15          *submitted under paragraph (1) and an analysis of*  
16          *the activities funded under subsection (a) that exam-*  
17          *ines any differences that result from such activities in*  
18          *terms of the quality of care, number and nature of*  
19          *medical errors, medical resources used, length of time*  
20          *for dispute resolution, and the availability and price*  
21          *of liability insurance.*

22                 “(f) *TECHNICAL ASSISTANCE.*—

23                 “(1) *IN GENERAL.*—*The Secretary shall provide*  
24          *technical assistance to the States applying for or*  
25          *awarded grants under subsection (a).*

1           “(2) *REQUIREMENTS.—Technical assistance*  
2 *under paragraph (1) shall include—*

3           “(A) *guidance on non-economic damages,*  
4 *including the consideration of individual facts*  
5 *and circumstances in determining appropriate*  
6 *payment, guidance on identifying avoidable in-*  
7 *juries, and guidance on disclosure to patients of*  
8 *health care errors and adverse events; and*

9           “(B) *the development, in consultation with*  
10 *States, of common definitions, formats, and data*  
11 *collection infrastructure for States receiving*  
12 *grants under this section to use in reporting to*  
13 *facilitate aggregation and analysis of data both*  
14 *within and between States.*

15           “(3) *USE OF COMMON DEFINITIONS, FORMATS,*  
16 *AND DATA COLLECTION INFRASTRUCTURE.—States*  
17 *not receiving grants under this section may also use*  
18 *the common definitions, formats, and data collection*  
19 *infrastructure developed under paragraph (2)(B).*

20           “(g) *EVALUATION.—*

21           “(1) *IN GENERAL.—The Secretary, in consulta-*  
22 *tion with the review panel established under sub-*  
23 *section (d)(2), shall enter into a contract with an ap-*  
24 *propriate research organization to conduct an overall*  
25 *evaluation of the effectiveness of grants awarded*

1 *under subsection (a) and to annually prepare and*  
2 *submit a report to Congress. Such an evaluation shall*  
3 *begin not later than 18 months following the date of*  
4 *implementation of the first program funded by a*  
5 *grant under subsection (a).*

6 “(2) *CONTENTS.—The evaluation under para-*  
7 *graph (1) shall include—*

8 “(A) *an analysis of the effects of the grants*  
9 *awarded under subsection (a) with regard to the*  
10 *measures described in paragraph (3);*

11 “(B) *for each State, an analysis of the ex-*  
12 *tent to which the alternative developed under*  
13 *subsection (c)(1) is effective in meeting the ele-*  
14 *ments described in subsection (c)(2);*

15 “(C) *a comparison among the States receiv-*  
16 *ing grants under subsection (a) of the effective-*  
17 *ness of the various alternatives developed by such*  
18 *States under subsection (c)(1);*

19 “(D) *a comparison, considering the meas-*  
20 *ures described in paragraph (3), of States receiv-*  
21 *ing grants approved under subsection (a) and*  
22 *similar States not receiving such grants; and*

23 “(E) *a comparison, with regard to the*  
24 *measures described in paragraph (3), of—*

1           “(i) States receiving grants under sub-  
2           section (a);

3           “(ii) States that enacted, prior to the  
4           date of enactment of the Patient Protection  
5           and Affordable Care Act, any cap on non-  
6           economic damages; and

7           “(iii) States that have enacted, prior to  
8           the date of enactment of the Patient Protec-  
9           tion and Affordable Care Act, a requirement  
10          that the complainant obtain an opinion re-  
11          garding the merit of the claim, although the  
12          substance of such opinion may have no  
13          bearing on whether the complainant may  
14          proceed with a case.

15          “(3) MEASURES.—The evaluations under para-  
16          graph (2) shall analyze and make comparisons on the  
17          basis of—

18               “(A) the nature and number of disputes  
19               over injuries allegedly caused by health care pro-  
20               viders or health care organizations;

21               “(B) the nature and number of claims in  
22               which tort litigation was pursued despite the ex-  
23               istence of an alternative under subsection (a);

1           “(C) *the disposition of disputes and claims,*  
2           *including the length of time and estimated costs*  
3           *to all parties;*

4           “(D) *the medical liability environment;*

5           “(E) *health care quality;*

6           “(F) *patient safety in terms of detecting,*  
7           *analyzing, and helping to reduce medical errors*  
8           *and adverse events;*

9           “(G) *patient and health care provider and*  
10          *organization satisfaction with the alternative*  
11          *under subsection (a) and with the medical liabil-*  
12          *ity environment; and*

13          “(H) *impact on utilization of medical serv-*  
14          *ices, appropriately adjusted for risk.*

15          “(4) *FUNDING.—The Secretary shall reserve 5*  
16          *percent of the amount appropriated in each fiscal*  
17          *year under subsection (k) to carry out this subsection.*

18          “(h) *MEDPAC AND MACPAC REPORTS.—*

19                 “(1) *MEDPAC.—The Medicare Payment Advi-*  
20                 *sory Commission shall conduct an independent review*  
21                 *of the alternatives to current tort litigation that are*  
22                 *implemented under grants under subsection (a) to de-*  
23                 *termine the impact of such alternatives on the Medi-*  
24                 *care program under title XVIII of the Social Security*  
25                 *Act, and its beneficiaries.*

1           “(2) *MACPAC.*—*The Medicaid and CHIP Pay-*  
2           *ment and Access Commission shall conduct an inde-*  
3           *pendent review of the alternatives to current tort liti-*  
4           *gation that are implemented under grants under sub-*  
5           *section (a) to determine the impact of such alter-*  
6           *natives on the Medicaid or CHIP programs under ti-*  
7           *ties XIX and XXI of the Social Security Act, and*  
8           *their beneficiaries.*

9           “(3) *REPORTS.*—*Not later than December 31,*  
10           *2016, the Medicare Payment Advisory Commission*  
11           *and the Medicaid and CHIP Payment and Access*  
12           *Commission shall each submit to Congress a report*  
13           *that includes the findings and recommendations of*  
14           *each respective Commission based on independent re-*  
15           *views conducted under paragraphs (1) and (2), in-*  
16           *cluding an analysis of the impact of the alternatives*  
17           *reviewed on the efficiency and effectiveness of the re-*  
18           *spective programs.*

19           “(i) *OPTION TO PROVIDE FOR INITIAL PLANNING*  
20           *GRANTS.*—*Of the funds appropriated pursuant to sub-*  
21           *section (k), the Secretary may use a portion not to exceed*  
22           *\$500,000 per State to provide planning grants to such*  
23           *States for the development of demonstration project applica-*  
24           *tions meeting the criteria described in subsection (c). In se-*  
25           *lecting States to receive such planning grants, the Secretary*

1 *shall give preference to those States in which State law at*  
2 *the time of the application would not prohibit the adoption*  
3 *of an alternative to current tort litigation.*

4 “(j) *DEFINITIONS.—In this section:*

5 “(1) *HEALTH CARE SERVICES.—The term ‘health*  
6 *care services’ means any services provided by a health*  
7 *care provider, or by any individual working under*  
8 *the supervision of a health care provider, that relate*  
9 *to—*

10 “(A) *the diagnosis, prevention, or treatment*  
11 *of any human disease or impairment; or*

12 “(B) *the assessment of the health of human*  
13 *beings.*

14 “(2) *HEALTH CARE ORGANIZATION.—The term*  
15 *‘health care organization’ means any individual or*  
16 *entity which is obligated to provide, pay for, or ad-*  
17 *minister health benefits under any health plan.*

18 “(3) *HEALTH CARE PROVIDER.—The term*  
19 *‘health care provider’ means any individual or enti-*  
20 *ty—*

21 “(A) *licensed, registered, or certified under*  
22 *Federal or State laws or regulations to provide*  
23 *health care services; or*

1           “(B) required to be so licensed, registered,  
2           or certified but that is exempted by other statute  
3           or regulation.

4           “(k) *AUTHORIZATION OF APPROPRIATIONS.*—There  
5           are authorized to be appropriated to carry out this section,  
6           \$50,000,000 for the 5-fiscal year period beginning with fis-  
7           cal year 2011.

8           “(l) *CURRENT STATE EFFORTS TO ESTABLISH AL-*  
9           *TERNATIVE TO TORT LITIGATION.*—Nothing in this section  
10          shall be construed to limit any prior, current, or future ef-  
11          forts of any State to establish any alternative to tort litiga-  
12          tion.

13          “(m) *RULE OF CONSTRUCTION.*—Nothing in this sec-  
14          tion shall be construed as limiting states’ authority over  
15          or responsibility for their state justice systems.”.

16          **SEC. 10608. EXTENSION OF MEDICAL MALPRACTICE COV-**  
17          **ERAGE TO FREE CLINICS.**

18          (a) *IN GENERAL.*—Section 224(o)(1) of the Public  
19          Health Service Act (42 U.S.C. 233(o)(1)) is amended by  
20          inserting after “to an individual” the following: “, or an  
21          officer, governing board member, employee, or contractor of  
22          a free clinic shall in providing services for the free clinic,”.

23          (b) *EFFECTIVE DATE.*—The amendment made by this  
24          section shall take effect on the date of enactment of this Act

1 *and apply to any act or omission which occurs on or after*  
2 *that date.*

3 **SEC. 10609. LABELING CHANGES.**

4 *Section 505(j) of the Federal Food, Drug, and Cos-*  
5 *metic Act (21 U.S.C. 355(j)) is amended by adding at the*  
6 *end the following:*

7 *“(10)(A) If the proposed labeling of a drug that is the*  
8 *subject of an application under this subsection differs from*  
9 *the listed drug due to a labeling revision described under*  
10 *clause (i), the drug that is the subject of such application*  
11 *shall, notwithstanding any other provision of this Act, be*  
12 *eligible for approval and shall not be considered misbranded*  
13 *under section 502 if—*

14 *“(i) the application is otherwise eligible for ap-*  
15 *proval under this subsection but for expiration of pat-*  
16 *ent, an exclusivity period, or of a delay in approval*  
17 *described in paragraph (5)(B)(iii), and a revision to*  
18 *the labeling of the listed drug has been approved by*  
19 *the Secretary within 60 days of such expiration;*

20 *“(ii) the labeling revision described under clause*  
21 *(i) does not include a change to the ‘Warnings’ sec-*  
22 *tion of the labeling;*

23 *“(iii) the sponsor of the application under this*  
24 *subsection agrees to submit revised labeling of the*  
25 *drug that is the subject of such application not later*

1       *than 60 days after the notification of any changes to*  
2       *such labeling required by the Secretary; and*

3               *“(iv) such application otherwise meets the appli-*  
4       *cable requirements for approval under this subsection.*

5       *“(B) If, after a labeling revision described in subpara-*  
6       *graph (A)(i), the Secretary determines that the continued*  
7       *presence in interstate commerce of the labeling of the listed*  
8       *drug (as in effect before the revision described in subpara-*  
9       *graph (A)(i)) adversely impacts the safe use of the drug,*  
10       *no application under this subsection shall be eligible for ap-*  
11       *proval with such labeling.”.*

12       ***Subtitle G—Provisions Relating to***  
13               ***Title VIII***

14       ***SEC. 10801. PROVISIONS RELATING TO TITLE VIII.***

15       *(a) Title XXXII of the Public Health Service Act, as*  
16       *added by section 8002(a)(1), is amended—*

17               *(1) in section 3203—*

18                       *(A) in subsection (a)(1), by striking sub-*  
19               *paragraph (E);*

20                       *(B) in subsection (b)(1)(C)(i), by striking*  
21               *“for enrollment” and inserting “for reenroll-*  
22               *ment”; and*

23                       *(C) in subsection (c)(1), by striking “, as*  
24               *part of their automatic enrollment in the*  
25               *CLASS program,”; and*

1           (2) *in section 3204—*

2                   (A) *in subsection (c)(2), by striking sub-*  
3 *paragraph (A) and inserting the following:*

4                   “*(A) receives wages or income on which*  
5 *there is imposed a tax under section 3101(a) or*  
6 *3201(a) of the Internal Revenue Code of 1986;*  
7 *or”;*

8                   (B) *in subsection (d), by striking “subpara-*  
9 *graph (B) or (C) of subsection (c)(1)” and in-*  
10 *serting “subparagraph (A) or (B) of subsection*  
11 *(c)(2)”;*

12                   (C) *in subsection (e)(2)(A), by striking*  
13 *“subparagraph (A)” and inserting “paragraph*  
14 *(1)”;* and

15                   (D) *in subsection (g)(1), by striking “has*  
16 *elected to waive enrollment” and inserting “has*  
17 *not enrolled”.*

18           (b) *Section 8002 of this Act is amended in the heading*  
19 *for subsection (d), by striking “INFORMATION ON SUPPLE-*  
20 *MENTAL COVERAGE” and inserting “CLASS PROGRAM IN-*  
21 *FORMATION”.*

22           (c) *Section 6021(d)(2)(A)(iv) of the Deficit Reduction*  
23 *Act of 2005, as added by section 8002(d) of this Act, is*  
24 *amended by striking “and coverage available” and all that*  
25 *follows through “that program,”.*

1    ***Subtitle H—Provisions Relating to***  
2                                   ***Title IX***

3    ***SEC. 10901. MODIFICATIONS TO EXCISE TAX ON HIGH COST***  
4                                   ***EMPLOYER-SPONSORED HEALTH COVERAGE.***

5            (a) *LONGSHORE WORKERS TREATED AS EMPLOYEES*  
6    *ENGAGED IN HIGH-RISK PROFESSIONS.*—Paragraph (3) of  
7    *section 4980I(f) of the Internal Revenue Code of 1986, as*  
8    *added by section 9001 of this Act, is amended by inserting*  
9    *“individuals whose primary work is longshore work (as de-*  
10   *fin ed in section 258(b) of the Immigration and Nationality*  
11   *Act (8 U.S.C. 1288(b)), determined without regard to para-*  
12   *graph (2) thereof),” before “and individuals engaged in the*  
13    *construction, mining”.*

14           (b) *EXEMPTION FROM HIGH-COST INSURANCE TAX IN-*  
15    *CLUDES CERTAIN ADDITIONAL EXCEPTED BENEFITS.*—  
16    *Clause (i) of section 4980I(d)(1)(B) of the Internal Revenue*  
17    *Code of 1986, as added by section 9001 of this Act, is*  
18    *amended by striking “section 9832(c)(1)(A)” and inserting*  
19    *“section 9832(c)(1) (other than subparagraph (G) thereof)”.*

20           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21    *section shall apply to taxable years beginning after Decem-*  
22    *ber 31, 2012.*

1 **SEC. 10902. INFLATION ADJUSTMENT OF LIMITATION ON**  
2 **HEALTH FLEXIBLE SPENDING ARRANGE-**  
3 **MENTS UNDER CAFETERIA PLANS.**

4 (a) *IN GENERAL.*—Subsection (i) of section 125 of the  
5 *Internal Revenue Code of 1986, as added by section 9005*  
6 *of this Act, is amended to read as follows:*

7 “(i) *LIMITATION ON HEALTH FLEXIBLE SPENDING*  
8 *ARRANGEMENTS.*—

9 “(1) *IN GENERAL.*—For purposes of this section,  
10 *if a benefit is provided under a cafeteria plan through*  
11 *employer contributions to a health flexible spending*  
12 *arrangement, such benefit shall not be treated as a*  
13 *qualified benefit unless the cafeteria plan provides*  
14 *that an employee may not elect for any taxable year*  
15 *to have salary reduction contributions in excess of*  
16 *\$2,500 made to such arrangement.*

17 “(2) *ADJUSTMENT FOR INFLATION.*—In the case  
18 *of any taxable year beginning after December 31,*  
19 *2011, the dollar amount in paragraph (1) shall be in-*  
20 *creased by an amount equal to—*

21 “(A) *such amount, multiplied by*

22 “(B) *the cost-of-living adjustment deter-*  
23 *mined under section 1(f)(3) for the calendar year*  
24 *in which such taxable year begins by sub-*  
25 *stituting ‘calendar year 2010’ for ‘calendar year*  
26 *1992’ in subparagraph (B) thereof.*

1     *If any increase determined under this paragraph is*  
2     *not a multiple of \$50, such increase shall be rounded*  
3     *to the next lowest multiple of \$50.”.*

4     **(b) EFFECTIVE DATE.**—*The amendment made by this*  
5     *section shall apply to taxable years beginning after Decem-*  
6     *ber 31, 2010.*

7     **SEC. 10903. MODIFICATION OF LIMITATION ON CHARGES BY**  
8                     **CHARITABLE HOSPITALS.**

9     **(a) IN GENERAL.**—*Subparagraph (A) of section*  
10    *501(r)(5) of the Internal Revenue Code of 1986, as added*  
11    *by section 9007 of this Act, is amended by striking “the*  
12    *lowest amounts charged” and inserting “the amounts gen-*  
13    *erally billed”.*

14    **(b) EFFECTIVE DATE.**—*The amendment made by this*  
15    *section shall apply to taxable years beginning after the date*  
16    *of the enactment of this Act.*

17    **SEC. 10904. MODIFICATION OF ANNUAL FEE ON MEDICAL**  
18                     **DEVICE MANUFACTURERS AND IMPORTERS.**

19    **(a) IN GENERAL.**—*Section 9009 of this Act is amend-*  
20    *ed—*

21            **(1)** *by striking “2009” in subsection (a)(1) and*  
22            *inserting “2010”,*

23            **(2)** *by inserting “(\$3,000,000,000 after 2017)”*  
24            *after “\$2,000,000,000”, and*

1           (3) by striking “2008” in subsection (i) and in-  
2           serting “2009”.

3           (b) *EFFECTIVE DATE.*—The amendments made by this  
4           section shall take effect as if included in the enactment of  
5           section 9009.

6           **SEC. 10905. MODIFICATION OF ANNUAL FEE ON HEALTH IN-**  
7           **SURANCE PROVIDERS.**

8           (a) *DETERMINATION OF FEE AMOUNT.*—Subsection  
9           (b) of section 9010 of this Act is amended to read as follows:

10          “(b) *DETERMINATION OF FEE AMOUNT.*—

11                 “(1) *IN GENERAL.*—With respect to each covered  
12                 entity, the fee under this section for any calendar  
13                 year shall be equal to an amount that bears the same  
14                 ratio to the applicable amount as—

15                         “(A) the covered entity’s net premiums  
16                         written with respect to health insurance for any  
17                         United States health risk that are taken into ac-  
18                         count during the preceding calendar year, bears  
19                         to

20                         “(B) the aggregate net premiums written  
21                         with respect to such health insurance of all cov-  
22                         ered entities that are taken into account during  
23                         such preceding calendar year.

24                 “(2) *AMOUNTS TAKEN INTO ACCOUNT.*—For pur-  
25                 poses of paragraph (1), the net premiums written

1 *with respect to health insurance for any United*  
 2 *States health risk that are taken into account during*  
 3 *any calendar year with respect to any covered entity*  
 4 *shall be determined in accordance with the following*  
 5 *table:*

<p>“With respect to a covered entity’s net premiums written during the calendar year that are:</p>	<p><i>The percentage of net premiums written that are taken into account is:</i></p>
<p>Not more than \$25,000,000 .....</p>	<p>0 percent</p>
<p>More than \$25,000,000 but not more than \$50,000,000.</p>	<p>50 percent</p>
<p>More than \$50,000,000 .....</p>	<p>100 percent.</p>

6           “(3) *SECRETARIAL DETERMINATION.*—*The Sec-*  
 7 *retary shall calculate the amount of each covered enti-*  
 8 *ty’s fee for any calendar year under paragraph (1).*  
 9 *In calculating such amount, the Secretary shall deter-*  
 10 *mine such covered entity’s net premiums written with*  
 11 *respect to any United States health risk on the basis*  
 12 *of reports submitted by the covered entity under sub-*  
 13 *section (g) and through the use of any other source of*  
 14 *information available to the Secretary.”.*

15           **(b) APPLICABLE AMOUNT.**—*Subsection (e) of section*  
 16 *9010 of this Act is amended to read as follows:*

17           “(e) **APPLICABLE AMOUNT.**—*For purposes of sub-*  
 18 *section (b)(1), the applicable amount shall be determined*  
 19 *in accordance with the following table:*

<p><b>“Calendar year</b></p>	<p><b>Applicable amount</b></p>
<p>2011 .....</p>	<p>\$2,000,000,000</p>

2012 .....	\$4,000,000,000
2013 .....	\$7,000,000,000
2014, 2015 and 2016 .....	\$9,000,000,000
2017 and thereafter .....	\$10,000,000,000.”.

1       (c) *EXEMPTION FROM ANNUAL FEE ON HEALTH IN-*  
2 *SURANCE FOR CERTAIN NONPROFIT ENTITIES.*—Section  
3 *9010(c)(2) of this Act is amended by striking “or” at the*  
4 *end of subparagraph (A), by striking the period at the end*  
5 *of subparagraph (B) and inserting a comma, and by add-*  
6 *ing at the end the following new subparagraphs:*

7               “(C) *any entity—*

8                       “(i)(I) *which is incorporated as, is a*  
9 *wholly owned subsidiary of, or is a wholly*  
10 *owned affiliate of, a nonprofit corporation*  
11 *under a State law, or*

12                       “(II) *which is described in section*  
13 *501(c)(4) of the Internal Revenue Code of*  
14 *1986 and the activities of which consist of*  
15 *providing commercial-type insurance (with-*  
16 *in the meaning of section 501(m) of such*  
17 *Code),*

18                       “(ii) *the premium rate increases of*  
19 *which are regulated by a State authority,*

20                       “(iii) *which, as of the date of the en-*  
21 *actment of this section, acts as the insurer*  
22 *of last resort in the State and is subject to*  
23 *State guarantee issue requirements, and*

1           “(iv) for which the medical loss ratio  
2           (determined in a manner consistent with  
3           the determination of such ratio under sec-  
4           tion 2718(b)(1)(A) of the Public Health  
5           Service Act) with respect to the individual  
6           insurance market for such entity for the cal-  
7           endar year is not less than 100 percent,

8           “(D) any entity—

9           “(i)(I) which is incorporated as a non-  
10          profit corporation under a State law, or

11          “(II) which is described in section  
12          501(c)(4) of the Internal Revenue Code of  
13          1986 and the activities of which consist of  
14          providing commercial-type insurance (with-  
15          in the meaning of section 501(m) of such  
16          Code), and

17          “(ii) for which the medical loss ratio  
18          (as so determined)—

19                 “(I) with respect to each of the in-  
20                 dividual, small group, and large group  
21                 insurance markets for such entity for  
22                 the calendar year is not less than 90  
23                 percent, and

1                   “(II) with respect to all such mar-  
2                   kets for such entity for the calendar  
3                   year is not less than 92 percent, or

4                   “(E) any entity—

5                   “(i) which is a mutual insurance com-  
6                   pany,

7                   “(ii) which for the period reported on  
8                   the 2008 Accident and Health Policy Expe-  
9                   rience Exhibit of the National Association  
10                  of Insurance Commissioners had—

11                  “(I) a market share of the insured  
12                  population of a State of at least 40 but  
13                  not more than 60 percent, and

14                  “(II) with respect to all markets  
15                  described in subparagraph (D)(ii)(I), a  
16                  medical loss ratio of not less than 90  
17                  percent, and

18                  “(iii) with respect to annual payment  
19                  dates in calendar years after 2011, for  
20                  which the medical loss ratio (determined in  
21                  a manner consistent with the determination  
22                  of such ratio under section 2718(b)(1)(A) of  
23                  the Public Health Service Act) with respect  
24                  to all such markets for such entity for the  
25                  preceding calendar year is not less than 89

1           *percent (except that with respect to such an-*  
2           *annual payment date for 2012, the calculation*  
3           *under 2718(b)(1)(B)(ii) of such Act is deter-*  
4           *mined by reference to the previous year, and*  
5           *with respect to such annual payment date*  
6           *for 2013, such calculation is determined by*  
7           *reference to the average for the previous 2*  
8           *years).”.*

9           *(d) CERTAIN INSURANCE EXEMPTED FROM FEE.—*  
10          *Paragraph (3) of section 9010(h) of this Act is amended*  
11          *to read as follows:*

12                   *“(3) HEALTH INSURANCE.—The term ‘health in-*  
13                   *surance’ shall not include—*

14                           *“(A) any insurance coverage described in*  
15                           *paragraph (1)(A) or (3) of section 9832(c) of the*  
16                           *Internal Revenue Code of 1986,*

17                           *“(B) any insurance for long-term care, or*

18                           *“(C) any medicare supplemental health in-*  
19                           *surance (as defined in section 1882(g)(1) of the*  
20                           *Social Security Act).”.*

21           *(e) ANTI-AVOIDANCE GUIDANCE.—Subsection (i) of*  
22          *section 9010 of this Act is amended by inserting “and shall*  
23          *prescribe such regulations as are necessary or appropriate*  
24          *to prevent avoidance of the purposes of this section, includ-*

1 *ing inappropriate actions taken to qualify as an exempt*  
2 *entity under subsection (c)(2)” after “section”.*

3 *(f) CONFORMING AMENDMENTS.—*

4 *(1) Section 9010(a)(1) of this Act is amended by*  
5 *striking “2009” and inserting “2010”.*

6 *(2) Section 9010(c)(2)(B) of this Act is amended*  
7 *by striking “(except” and all that follows through*  
8 *“1323)”.*

9 *(3) Section 9010(c)(3) of this Act is amended by*  
10 *adding at the end the following new sentence: “If any*  
11 *entity described in subparagraph (C)(i)(I), (D)(i)(I),*  
12 *or (E)(i) of paragraph (2) is treated as a covered en-*  
13 *tity by reason of the application of the preceding sen-*  
14 *tence, the net premiums written with respect to health*  
15 *insurance for any United States health risk of such*  
16 *entity shall not be taken into account for purposes of*  
17 *this section.”.*

18 *(4) Section 9010(g)(1) of this Act is amended by*  
19 *striking “and third party administration agreement*  
20 *fees”.*

21 *(5) Section 9010(j) of this Act is amended—*

22 *(A) by striking “2008” and inserting*  
23 *“2009”, and*

1           (B) by striking “, and any third party ad-  
 2           ministration agreement fees received after such  
 3           date”.

4           (g) *EFFECTIVE DATE.*—The amendments made by this  
 5 section shall take effect as if included in the enactment of  
 6 section 9010.

7 **SEC. 10906. MODIFICATIONS TO ADDITIONAL HOSPITAL IN-**  
 8 **SURANCE TAX ON HIGH-INCOME TAXPAYERS.**

9           (a) *FICA.*—Section 3101(b)(2) of the Internal Revenue  
 10 Code of 1986, as added by section 9015(a)(1) of this Act,  
 11 is amended by striking “0.5 percent” and inserting “0.9  
 12 percent”.

13           (b) *SECA.*—Section 1401(b)(2)(A) of the Internal  
 14 Revenue Code of 1986, as added by section 9015(b)(1) of  
 15 this Act, is amended by striking “0.5 percent” and inserting  
 16 “0.9 percent”.

17           (c) *EFFECTIVE DATE.*—The amendments made by this  
 18 section shall apply with respect to remuneration received,  
 19 and taxable years beginning, after December 31, 2012.

20 **SEC. 10907. EXCISE TAX ON INDOOR TANNING SERVICES IN**  
 21 **LIEU OF ELECTIVE COSMETIC MEDICAL PRO-**  
 22 **CEDURES.**

23           (a) *IN GENERAL.*—The provisions of, and amendments  
 24 made by, section 9017 of this Act are hereby deemed null,  
 25 void, and of no effect.

1       (b) *EXCISE TAX ON INDOOR TANNING SERVICES.*—  
 2 *Subtitle D of the Internal Revenue Code of 1986, as amend-*  
 3 *ed by this Act, is amended by adding at the end the fol-*  
 4 *lowing new chapter:*

5       **“CHAPTER 49—COSMETIC SERVICES**

*“Sec. 5000B. Imposition of tax on indoor tanning services.*

6       **“SEC. 5000B. IMPOSITION OF TAX ON INDOOR TANNING**  
 7                                   **SERVICES.**

8       “(a) *IN GENERAL.*—*There is hereby imposed on any*  
 9 *indoor tanning service a tax equal to 10 percent of the*  
 10 *amount paid for such service (determined without regard*  
 11 *to this section), whether paid by insurance or otherwise.*

12       “(b) *INDOOR TANNING SERVICE.*—*For purposes of this*  
 13 *section—*

14               “(1) *IN GENERAL.*—*The term ‘indoor tanning*  
 15 *service’ means a service employing any electronic*  
 16 *product designed to incorporate 1 or more ultraviolet*  
 17 *lamps and intended for the irradiation of an indi-*  
 18 *vidual by ultraviolet radiation, with wavelengths in*  
 19 *air between 200 and 400 nanometers, to induce skin*  
 20 *tanning.*

21               “(2) *EXCLUSION OF PHOTOTHERAPY SERV-*  
 22 *ICES.*—*Such term does not include any phototherapy*  
 23 *service performed by a licensed medical professional.*

24       “(c) *PAYMENT OF TAX.*—

1           “(1) *IN GENERAL.*—*The tax imposed by this sec-*  
2           *tion shall be paid by the individual on whom the*  
3           *service is performed.*

4           “(2) *COLLECTION.*—*Every person receiving a*  
5           *payment for services on which a tax is imposed under*  
6           *subsection (a) shall collect the amount of the tax from*  
7           *the individual on whom the service is performed and*  
8           *remit such tax quarterly to the Secretary at such time*  
9           *and in such manner as provided by the Secretary.*

10           “(3) *SECONDARY LIABILITY.*—*Where any tax im-*  
11           *posed by subsection (a) is not paid at the time pay-*  
12           *ments for indoor tanning services are made, then to*  
13           *the extent that such tax is not collected, such tax shall*  
14           *be paid by the person who performs the service.”.*

15           “(c) *CLERICAL AMENDMENT.*—*The table of chapter for*  
16           *subtitle D of the Internal Revenue Code of 1986, as amended*  
17           *by this Act, is amended by inserting after the item relating*  
18           *to chapter 48 the following new item:*

“CHAPTER 49—COSMETIC SERVICES”.

19           “(d) *EFFECTIVE DATE.*—*The amendments made by this*  
20           *section shall apply to services performed on or after July*  
21           *1, 2010.*

1 **SEC. 10908. EXCLUSION FOR ASSISTANCE PROVIDED TO**  
2 **PARTICIPANTS IN STATE STUDENT LOAN RE-**  
3 **PAYMENT PROGRAMS FOR CERTAIN HEALTH**  
4 **PROFESSIONALS.**

5 (a) *IN GENERAL.*—Paragraph (4) of section 108(f) of  
6 the Internal Revenue Code of 1986 is amended to read as  
7 follows:

8 “(4) *PAYMENTS UNDER NATIONAL HEALTH SERV-*  
9 *ICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN*  
10 *STATE LOAN REPAYMENT PROGRAMS.*—*In the case of*  
11 *an individual, gross income shall not include any*  
12 *amount received under section 338B(g) of the Public*  
13 *Health Service Act, under a State program described*  
14 *in section 338I of such Act, or under any other State*  
15 *loan repayment or loan forgiveness program that is*  
16 *intended to provide for the increased availability of*  
17 *health care services in underserved or health profes-*  
18 *sional shortage areas (as determined by such State).”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*  
20 *section shall apply to amounts received by an individual*  
21 *in taxable years beginning after December 31, 2008.*

22 **SEC. 10909. EXPANSION OF ADOPTION CREDIT AND ADOP-**  
23 **TION ASSISTANCE PROGRAMS.**

24 (a) *INCREASE IN DOLLAR LIMITATION.*—

25 (1) *ADOPTION CREDIT.*—

1           (A) *IN GENERAL.*—Paragraph (1) of section  
2           23(b) of the Internal Revenue Code of 1986 (re-  
3           lating to dollar limitation) is amended by strik-  
4           ing “\$10,000” and inserting “\$13,170”.

5           (B) *CHILD WITH SPECIAL NEEDS.*—Para-  
6           graph (3) of section 23(a) of such Code (relating  
7           to \$10,000 credit for adoption of child with spe-  
8           cial needs regardless of expenses) is amended—

9                   (i) in the text by striking “\$10,000”  
10                  and inserting “\$13,170”, and

11                  (ii) in the heading by striking  
12                  “\$10,000” and inserting “\$13,170”.

13           (C) *CONFORMING AMENDMENT TO INFLA-*  
14           *TION ADJUSTMENT.*—Subsection (h) of section 23  
15           of such Code (relating to adjustments for infla-  
16           tion) is amended to read as follows:

17           “(h) *ADJUSTMENTS FOR INFLATION.*—

18                   “(1) *DOLLAR LIMITATIONS.*—In the case of a  
19                   taxable year beginning after December 31, 2010, each  
20                   of the dollar amounts in subsections (a)(3) and (b)(1)  
21                   shall be increased by an amount equal to—

22                           “(A) such dollar amount, multiplied by

23                           “(B) the cost-of-living adjustment deter-  
24                           mined under section 1(f)(3) for the calendar year  
25                           in which the taxable year begins, determined by

1           *substituting ‘calendar year 2009’ for ‘calendar*  
2           *year 1992’ in subparagraph (B) thereof.*

3           *If any amount as increased under the preceding sen-*  
4           *tence is not a multiple of \$10, such amount shall be*  
5           *rounded to the nearest multiple of \$10.*

6           “(2) *INCOME LIMITATION.*—*In the case of a tax-*  
7           *able year beginning after December 31, 2002, the dol-*  
8           *lar amount in subsection (b)(2)(A)(i) shall be in-*  
9           *creased by an amount equal to—*

10                   “(A) *such dollar amount, multiplied by*

11                   “(B) *the cost-of-living adjustment deter-*  
12                   *mined under section 1(f)(3) for the calendar year*  
13                   *in which the taxable year begins, determined by*  
14                   *substituting ‘calendar year 2001’ for ‘calendar*  
15                   *year 1992’ in subparagraph (B) thereof.*

16           *If any amount as increased under the preceding sen-*  
17           *tence is not a multiple of \$10, such amount shall be*  
18           *rounded to the nearest multiple of \$10.”.*

19           (2) *ADOPTION ASSISTANCE PROGRAMS.*—

20                   (A) *IN GENERAL.*—*Paragraph (1) of section*  
21                   *137(b) of the Internal Revenue Code of 1986 (re-*  
22                   *lating to dollar limitation) is amended by strik-*  
23                   *ing “\$10,000” and inserting “\$13,170”.*

24                   (B) *CHILD WITH SPECIAL NEEDS.*—*Para-*  
25                   *graph (2) of section 137(a) of such Code (relat-*

1            *ing to \$10,000 exclusion for adoption of child*  
2            *with special needs regardless of expenses) is*  
3            *amended—*

4                    *(i) in the text by striking “\$10,000”*  
5                    *and inserting “\$13,170”, and*

6                    *(ii) in the heading by striking*  
7                    *“\$10,000” and inserting “\$13,170”.*

8                    *(C) CONFORMING AMENDMENT TO INFLA-*  
9                    *TION ADJUSTMENT.—Subsection (f) of section*  
10                    *137 of such Code (relating to adjustments for in-*  
11                    *flation) is amended to read as follows:*

12            *“(f) ADJUSTMENTS FOR INFLATION.—*

13                    *“(1) DOLLAR LIMITATIONS.—In the case of a*  
14                    *taxable year beginning after December 31, 2010, each*  
15                    *of the dollar amounts in subsections (a)(2) and (b)(1)*  
16                    *shall be increased by an amount equal to—*

17                    *“(A) such dollar amount, multiplied by*

18                    *“(B) the cost-of-living adjustment deter-*  
19                    *mined under section 1(f)(3) for the calendar year*  
20                    *in which the taxable year begins, determined by*  
21                    *substituting ‘calendar year 2009’ for ‘calendar*  
22                    *year 1992’ in subparagraph (B) thereof.*

23            *If any amount as increased under the preceding sen-*  
24            *tence is not a multiple of \$10, such amount shall be*  
25            *rounded to the nearest multiple of \$10.*

1           “(2) *INCOME LIMITATION.*—*In the case of a tax-*  
2           *able year beginning after December 31, 2002, the dol-*  
3           *lar amount in subsection (b)(2)(A) shall be increased*  
4           *by an amount equal to—*

5                     “(A) *such dollar amount, multiplied by*

6                     “(B) *the cost-of-living adjustment deter-*  
7                     *mined under section 1(f)(3) for the calendar year*  
8                     *in which the taxable year begins, determined by*  
9                     *substituting ‘calendar year 2001’ for ‘calendar*  
10                    *year 1992’ in subparagraph thereof.*

11           *If any amount as increased under the preceding sen-*  
12           *tence is not a multiple of \$10, such amount shall be*  
13           *rounded to the nearest multiple of \$10.”.*

14           *(b) CREDIT MADE REFUNDABLE.*—

15                     “(1) *CREDIT MOVED TO SUBPART RELATING TO*  
16                     *REFUNDABLE CREDITS.*—*The Internal Revenue Code*  
17                     *of 1986 is amended—*

18                     “(A) *by redesignating section 23, as amended*  
19                     *by subsection (a), as section 36C, and*

20                     “(B) *by moving section 36C (as so redesign-*  
21                     *ated) from subpart A of part IV of subchapter*  
22                     *A of chapter 1 to the location immediately before*  
23                     *section 37 in subpart C of part IV of subchapter*  
24                     *A of chapter 1.*

25                     “(2) *CONFORMING AMENDMENTS.*—

1           (A) Section 24(b)(3)(B) of such Code is  
2 amended by striking “23,”.

3           (B) Section 25(e)(1)(C) of such Code is  
4 amended by striking “23,” both places it ap-  
5 pears.

6           (C) Section 25A(i)(5)(B) of such Code is  
7 amended by striking “23, 25D,” and inserting  
8 “25D”.

9           (D) Section 25B(g)(2) of such Code is  
10 amended by striking “23,”.

11           (E) Section 26(a)(1) of such Code is amend-  
12 ed by striking “23,”.

13           (F) Section 30(c)(2)(B)(ii) of such Code is  
14 amended by striking “23, 25D,” and inserting  
15 “25D”.

16           (G) Section 30B(g)(2)(B)(ii) of such Code is  
17 amended by striking “23,”.

18           (H) Section 30D(c)(2)(B)(ii) of such Code  
19 is amended by striking “sections 23 and” and  
20 inserting “section”.

21           (I) Section 36C of such Code, as so redesign-  
22 ated, is amended—

23               (i) by striking paragraph (4) of sub-  
24 section (b), and

25               (ii) by striking subsection (c).

1           *(J) Section 137 of such Code is amended—*

2                   *(i) by striking “section 23(d)” in sub-*  
3                   *section (d) and inserting “section 36C(d),”*  
4                   *and*

5                   *(ii) by striking “section 23” in sub-*  
6                   *section (e) and inserting “section 36C”.*

7           *(K) Section 904(i) of such Code is amended*  
8           *by striking “23,”.*

9           *(L) Section 1016(a)(26) is amended by*  
10           *striking “23(g)” and inserting “36C(g)”.*

11           *(M) Section 1400C(d) of such Code is*  
12           *amended by striking “23,”.*

13           *(N) Section 6211(b)(4)(A) of such Code is*  
14           *amended by inserting “36C,” before “53(e)”.*

15           *(O) The table of sections for subpart A of*  
16           *part IV of subchapter A of chapter 1 of such*  
17           *Code of 1986 is amended by striking the item re-*  
18           *lating to section 23.*

19           *(P) Paragraph (2) of section 1324(b) of title*  
20           *31, United States Code, as amended by this Act,*  
21           *is amended by inserting “36C,” after “36B,”.*

22           *(Q) The table of sections for subpart C of*  
23           *part IV of subchapter A of chapter 1 of the Inter-*  
24           *nal Revenue Code of 1986, as amended by this*

1            *Act, is amended by inserting after the item relat-*  
2            *ing to section 36B the following new item:*

*“Sec. 36C. Adoption expenses.”.*

3            *(c) APPLICATION AND EXTENSION OF EGTRRA SUN-*  
4            *SET.—Notwithstanding section 901 of the Economic Growth*  
5            *and Tax Relief Reconciliation Act of 2001, such section*  
6            *shall apply to the amendments made by this section and*  
7            *the amendments made by section 202 of such Act by sub-*  
8            *stituting “December 31, 2011” for “December 31, 2010” in*  
9            *subsection (a)(1) thereof.*

10          *(d) EFFECTIVE DATE.—The amendments made by this*  
11          *section shall apply to taxable years beginning after Decem-*  
12          *ber 31, 2009.*

Amend the title so as to read: “An Act entitled The Patient Protection and Affordable Care Act.”.

Attest:

*Secretary.*



11<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 3590**

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**AMENDMENTS**

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December 24, 2009

Ordered to be printed as passed