

1                   **TITLE VIII—CLASS ACT**

2   **SEC. 8001. SHORT TITLE OF TITLE.**

3           *This title may be cited as the “Community Living As-*  
4 *istance Services and Supports Act” or the “CLASS Act”.*

5   **SEC. 8002. ESTABLISHMENT OF NATIONAL VOLUNTARY IN-**  
6                   **SURANCE PROGRAM FOR PURCHASING COM-**  
7                   **MUNITY LIVING ASSISTANCE SERVICES AND**  
8                   **SUPPORT.**

9           *(a) ESTABLISHMENT OF CLASS PROGRAM.—*

10                   *(1) IN GENERAL.—The Public Health Service Act*  
11 *(42 U.S.C. 201 et seq.), as amended by section*  
12 *4302(a), is amended by adding at the end the fol-*  
13 *lowing:*

14   **“TITLE XXXII—COMMUNITY LIV-**  
15           **ING ASSISTANCE SERVICES**  
16           **AND SUPPORTS**

17   **“SEC. 3201. PURPOSE.**

18           *“The purpose of this title is to establish a national vol-*  
19 *untary insurance program for purchasing community liv-*  
20 *ing assistance services and supports in order to—*

21                   *“(1) provide individuals with functional limita-*  
22 *tions with tools that will allow them to maintain*  
23 *their personal and financial independence and live in*  
24 *the community through a new financing strategy for*  
25 *community living assistance services and supports;*

1           “(2) *establish an infrastructure that will help*  
2           *address the Nation’s community living assistance*  
3           *services and supports needs;*

4           “(3) *alleviate burdens on family caregivers; and*

5           “(4) *address institutional bias by providing a fi-*  
6           *nancing mechanism that supports personal choice and*  
7           *independence to live in the community.*

8   **“SEC. 3202. DEFINITIONS.**

9           *“In this title:*

10           “(1) *ACTIVE ENROLLEE.—The term ‘active en-*  
11           *rollee’ means an individual who is enrolled in the*  
12           *CLASS program in accordance with section 3204 and*  
13           *who has paid any premiums due to maintain such*  
14           *enrollment.*

15           “(2) *ACTIVELY EMPLOYED.—The term ‘actively*  
16           *employed’ means an individual who—*

17           “(A) *is reporting for work at the individ-*  
18           *ual’s usual place of employment or at another lo-*  
19           *cation to which the individual is required to*  
20           *travel because of the individual’s employment (or*  
21           *in the case of an individual who is a member of*  
22           *the uniformed services, is on active duty and is*  
23           *physically able to perform the duties of the indi-*  
24           *vidual’s position); and*

1           “(B) is able to perform all the usual and  
2           customary duties of the individual’s employment  
3           on the individual’s regular work schedule.

4           “(3) *ACTIVITIES OF DAILY LIVING.*—The term  
5           ‘activities of daily living’ means each of the following  
6           activities specified in section 7702B(c)(2)(B) of the  
7           Internal Revenue Code of 1986:

8           “(A) *Eating.*

9           “(B) *Toileting.*

10          “(C) *Transferring.*

11          “(D) *Bathing.*

12          “(E) *Dressing.*

13          “(F) *Continence.*

14          “(4) *CLASS PROGRAM.*—The term ‘CLASS pro-  
15          gram’ means the program established under this title.

16          “(5) *ELIGIBILITY ASSESSMENT SYSTEM.*—The  
17          term ‘Eligibility Assessment System’ means the entity  
18          established by the Secretary under section 3205(a)(2)  
19          to make functional eligibility determinations for the  
20          CLASS program.

21          “(6) *ELIGIBLE BENEFICIARY.*—

22                 “(A) *IN GENERAL.*—The term ‘eligible bene-  
23                 ficiary’ means any individual who is an active  
24                 enrollee in the CLASS program and, as of the  
25                 date described in subparagraph (B)—

1           “(i) has paid premiums for enrollment  
2           in such program for at least 60 months;

3           “(ii) has earned, with respect to at  
4           least 3 calendar years that occur during the  
5           first 60 months for which the individual has  
6           paid premiums for enrollment in the pro-  
7           gram, at least an amount equal to the  
8           amount of wages and self-employment in-  
9           come which an individual must have in  
10          order to be credited with a quarter of cov-  
11          erage under section 213(d) of the Social Se-  
12          curity Act for the year; and

13          “(iii) has paid premiums for enroll-  
14          ment in such program for at least 24 con-  
15          secutive months, if a lapse in premium pay-  
16          ments of more than 3 months has occurred  
17          during the period that begins on the date of  
18          the individual’s enrollment and ends on the  
19          date of such determination.

20          “(B) DATE DESCRIBED.—For purposes of  
21          subparagraph (A), the date described in this sub-  
22          paragraph is the date on which the individual is  
23          determined to have a functional limitation de-  
24          scribed in section 3203(a)(1)(C) that is expected

1           *to last for a continuous period of more than 90*  
2           *days.*

3           “(C) *REGULATIONS.*—*The Secretary shall*  
4           *promulgate regulations specifying exceptions to*  
5           *the minimum earnings requirements under sub-*  
6           *paragraph (A)(ii) for purposes of being consid-*  
7           *ered an eligible beneficiary for certain popu-*  
8           *lations.*

9           “(7) *HOSPITAL; NURSING FACILITY; INTER-*  
10          *MEDIATE CARE FACILITY FOR THE MENTALLY RE-*  
11          *TARDED; INSTITUTION FOR MENTAL DISEASES.*—*The*  
12          *terms ‘hospital’, ‘nursing facility’, ‘intermediate care*  
13          *facility for the mentally retarded’, and ‘institution for*  
14          *mental diseases’ have the meanings given such terms*  
15          *for purposes of Medicaid.*

16          “(8) *CLASS INDEPENDENCE ADVISORY COUN-*  
17          *CIL.*—*The term ‘CLASS Independence Advisory*  
18          *Council’ or ‘Council’ means the Advisory Council es-*  
19          *tablished under section 3207 to advise the Secretary.*

20          “(9) *CLASS INDEPENDENCE BENEFIT PLAN.*—  
21          *The term ‘CLASS Independence Benefit Plan’ means*  
22          *the benefit plan developed and designated by the Sec-*  
23          *retary in accordance with section 3203.*

1           “(10) *CLASS INDEPENDENCE FUND.*—*The term*  
2           *‘CLASS Independence Fund’ or ‘Fund’ means the*  
3           *fund established under section 3206.*

4           “(11) *MEDICAID.*—*The term ‘Medicaid’ means*  
5           *the program established under title XIX of the Social*  
6           *Security Act (42 U.S.C. 1396 et seq.).*

7           “(12) *POVERTY LINE.*—*The term ‘poverty line’*  
8           *has the meaning given that term in section 2110(c)(5)*  
9           *of the Social Security Act (42 U.S.C. 1397jj(c)(5)).*

10           “(13) *PROTECTION AND ADVOCACY SYSTEM.*—*The*  
11           *term ‘Protection and Advocacy System’ means the*  
12           *system for each State established under section 143 of*  
13           *the Developmental Disabilities Assistance and Bill of*  
14           *Rights Act of 2000 (42 U.S.C. 15043).*

15   **“SEC. 3203. CLASS INDEPENDENCE BENEFIT PLAN.**

16           “(a) *PROCESS FOR DEVELOPMENT.*—

17           “(1) *IN GENERAL.*—*The Secretary, in consulta-*  
18           *tion with appropriate actuaries and other experts,*  
19           *shall develop at least 3 actuarially sound benefit*  
20           *plans as alternatives for consideration for designation*  
21           *by the Secretary as the CLASS Independence Benefit*  
22           *Plan under which eligible beneficiaries shall receive*  
23           *benefits under this title. Each of the plan alternatives*  
24           *developed shall be designed to provide eligible bene-*

1 *ficiaries with the benefits described in section 3205*  
2 *consistent with the following requirements:*

3 “(A) *PREMIUMS.—*

4 “(i) *IN GENERAL.—Beginning with the*  
5 *first year of the CLASS program, and for*  
6 *each year thereafter, subject to clauses (ii)*  
7 *and (iii), the Secretary shall establish all*  
8 *premiums to be paid by enrollees for the*  
9 *year based on an actuarial analysis of the*  
10 *75-year costs of the program that ensures*  
11 *solvency throughout such 75-year period.*

12 “(ii) *NOMINAL PREMIUM FOR POOREST*  
13 *INDIVIDUALS AND FULL-TIME STUDENTS.—*

14 “(I) *IN GENERAL.—The monthly*  
15 *premium for enrollment in the CLASS*  
16 *program shall not exceed the applicable*  
17 *dollar amount per month determined*  
18 *under subclause (II) for—*

19 “(aa) *any individual whose*  
20 *income does not exceed the poverty*  
21 *line; and*

22 “(bb) *any individual who*  
23 *has not attained age 22, and is*  
24 *actively employed during any pe-*  
25 *riod in which the individual is a*

1 *full-time student (as determined*  
2 *by the Secretary).*

3 “(II) *APPLICABLE DOLLAR*  
4 *AMOUNT.—The applicable dollar*  
5 *amount described in this subclause is*  
6 *the amount equal to \$5, increased by*  
7 *the percentage increase in the con-*  
8 *sumer price index for all urban con-*  
9 *sumers (U.S. city average) for each*  
10 *year occurring after 2009 and before*  
11 *such year.*

12 “(iii) *CLASS INDEPENDENCE FUND RE-*  
13 *SERVES.—At such time as the CLASS pro-*  
14 *gram has been in operation for 10 years,*  
15 *the Secretary shall establish all premiums*  
16 *to be paid by enrollees for the year based on*  
17 *an actuarial analysis that accumulated re-*  
18 *serves in the CLASS Independence Fund*  
19 *would not decrease in that year. At such*  
20 *time as the Secretary determines the*  
21 *CLASS program demonstrates a sustained*  
22 *ability to finance expected yearly expenses*  
23 *with expected yearly premiums and interest*  
24 *credited to the CLASS Independence Fund,*  
25 *the Secretary may decrease the required*



1           *amount of CLASS Independence Fund re-*  
2           *serves.*

3           “(B) *VESTING PERIOD.*—*A 5-year vesting*  
4           *period for eligibility for benefits.*

5           “(C) *BENEFIT TRIGGERS.*—*A benefit trigger*  
6           *for provision of benefits that requires a deter-*  
7           *mination that an individual has a functional*  
8           *limitation, as certified by a licensed health care*  
9           *practitioner, described in any of the following*  
10           *clauses that is expected to last for a continuous*  
11           *period of more than 90 days:*

12                   “(i) *The individual is determined to be*  
13                   *unable to perform at least the minimum*  
14                   *number (which may be 2 or 3) of activities*  
15                   *of daily living as are required under the*  
16                   *plan for the provision of benefits without*  
17                   *substantial assistance (as defined by the*  
18                   *Secretary) from another individual.*

19                   “(ii) *The individual requires substan-*  
20                   *tial supervision to protect the individual*  
21                   *from threats to health and safety due to sub-*  
22                   *stantial cognitive impairment.*

23                   “(iii) *The individual has a level of*  
24                   *functional limitation similar (as deter-*  
25                   *mined under regulations prescribed by the*

1           *Secretary) to the level of functional limita-*  
2           *tion described in clause (i) or (ii).*

3           “(D) *CASH BENEFIT.*—*Payment of a cash*  
4           *benefit that satisfies the following requirements:*

5                   “(i) *MINIMUM REQUIRED AMOUNT.*—  
6                   *The benefit amount provides an eligible ben-*  
7                   *eficiary with not less than an average of*  
8                   *\$50 per day (as determined based on the*  
9                   *reasonably expected distribution of bene-*  
10                   *ficiaries receiving benefits at various benefit*  
11                   *levels).*

12                   “(ii) *AMOUNT SCALED TO FUNCTIONAL*  
13                   *ABILITY.*—*The benefit amount is varied*  
14                   *based on a scale of functional ability, with*  
15                   *not less than 2, and not more than 6, ben-*  
16                   *efit level amounts.*

17                   “(iii) *DAILY OR WEEKLY.*—*The benefit*  
18                   *is paid on a daily or weekly basis.*

19                   “(iv) *NO LIFETIME OR AGGREGATE*  
20                   *LIMIT.*—*The benefit is not subject to any*  
21                   *lifetime or aggregate limit.*

22                   “(E) *COORDINATION WITH SUPPLEMENTAL*  
23                   *COVERAGE OBTAINED THROUGH THE EX-*  
24                   *CHANGE.*—*The benefits allow for coordination*  
25                   *with any supplemental coverage purchased*

1           *through an Exchange established under section*  
2           *1311 of the Patient Protection and Affordable*  
3           *Care Act.*

4           “(2) *REVIEW AND RECOMMENDATION BY THE*  
5           *CLASS INDEPENDENCE ADVISORY COUNCIL.—The*  
6           *CLASS Independence Advisory Council shall—*

7                   “(A) *evaluate the alternative benefit plans*  
8                   *developed under paragraph (1); and*

9                   “(B) *recommend for designation as the*  
10                  *CLASS Independence Benefit Plan for offering*  
11                  *to the public the plan that the Council deter-*  
12                  *mines best balances price and benefits to meet*  
13                  *enrollees’ needs in an actuarially sound manner,*  
14                  *while optimizing the probability of the long-term*  
15                  *sustainability of the CLASS program.*

16           “(3) *DESIGNATION BY THE SECRETARY.—Not*  
17           *later than October 1, 2012, the Secretary, taking into*  
18           *consideration the recommendation of the CLASS*  
19           *Independence Advisory Council under paragraph*  
20           *(2)(B), shall designate a benefit plan as the CLASS*  
21           *Independence Benefit Plan. The Secretary shall pub-*  
22           *lish such designation, along with details of the plan*  
23           *and the reasons for the selection by the Secretary, in*  
24           *a final rule that allows for a period of public com-*  
25           *ment.*

1       “(b) *ADDITIONAL PREMIUM REQUIREMENTS.*—

2               “(1) *ADJUSTMENT OF PREMIUMS.*—

3                       “(A) *IN GENERAL.*—*Except as provided in*  
4                       *subparagraphs (B), (C), (D), and (E), the*  
5                       *amount of the monthly premium determined for*  
6                       *an individual upon such individual’s enrollment*  
7                       *in the CLASS program shall remain the same*  
8                       *for as long as the individual is an active enrollee*  
9                       *in the program.*

10                      “(B) *RECALCULATED PREMIUM IF RE-*  
11                      *QUIRED FOR PROGRAM SOLVENCY.*—

12                              “(i) *IN GENERAL.*—*Subject to clause*  
13                              *(ii), if the Secretary determines, based on*  
14                              *the most recent report of the Board of*  
15                              *Trustees of the CLASS Independence Fund,*  
16                              *the advice of the CLASS Independence Ad-*  
17                              *visory Council, and the annual report of the*  
18                              *Inspector General of the Department of*  
19                              *Health and Human Services, and waste,*  
20                              *fraud, and abuse, or such other information*  
21                              *as the Secretary determines appropriate,*  
22                              *that the monthly premiums and income to*  
23                              *the CLASS Independence Fund for a year*  
24                              *are projected to be insufficient with respect*  
25                              *to the 20-year period that begins with that*

1           *year, the Secretary shall adjust the monthly*  
2           *premiums for individuals enrolled in the*  
3           *CLASS program as necessary (but main-*  
4           *taining a nominal premium for enrollees*  
5           *whose income is below the poverty line or*  
6           *who are full-time students actively em-*  
7           *ployed).*

8           “(i) *EXEMPTION FROM INCREASE.—*  
9           *Any increase in a monthly premium im-*  
10          *posed as result of a determination described*  
11          *in clause (i) shall not apply with respect to*  
12          *the monthly premium of any active enrollee*  
13          *who—*

14                   “(I) *has attained age 65;*

15                   “(II) *has paid premiums for en-*  
16                   *rollment in the program for at least 20*  
17                   *years; and*

18                   “(III) *is not actively employed.*

19          “(C) *RECALCULATED PREMIUM IF RE-*  
20          *ENROLLMENT AFTER MORE THAN A 3-MONTH*  
21          *LAPSE.—*

22                   “(i) *IN GENERAL.—The reenrollment of*  
23                   *an individual after a 90-day period during*  
24                   *which the individual failed to pay the*  
25                   *monthly premium required to maintain the*

1           *individual's enrollment in the CLASS pro-*  
2           *gram shall be treated as an initial enroll-*  
3           *ment for purposes of age-adjusting the pre-*  
4           *mium for enrollment in the program.*

5           “(ii) *CREDIT FOR PRIOR MONTHS IF*  
6           *REENROLLED WITHIN 5 YEARS.—An indi-*  
7           *vidual who reenrolls in the CLASS program*  
8           *after such a 90-day period and before the*  
9           *end of the 5-year period that begins with*  
10          *the first month for which the individual*  
11          *failed to pay the monthly premium required*  
12          *to maintain the individual's enrollment in*  
13          *the program shall be—*

14                 “(I) *credited with any months of*  
15                 *paid premiums that accrued prior to*  
16                 *the individual's lapse in enrollment;*  
17                 *and*

18                 “(II) *notwithstanding the total*  
19                 *amount of any such credited months,*  
20                 *required to satisfy section*  
21                 *3202(6)(A)(ii) before being eligible to*  
22                 *receive benefits.*

23           “(D) *NO LONGER STATUS AS A FULL-TIME*  
24           *STUDENT.—An individual subject to a nominal*  
25           *premium on the basis of being described in sub-*

1            *section (a)(1)(A)(ii)(I)(bb) who ceases to be de-*  
2            *scribed in that subsection, beginning with the*  
3            *first month following the month in which the in-*  
4            *dividual ceases to be so described, shall be subject*  
5            *to the same monthly premium as the monthly*  
6            *premium that applies to an individual of the*  
7            *same age who first enrolls in the program under*  
8            *the most similar circumstances as the individual*  
9            *(such as the first year of eligibility for enroll-*  
10           *ment in the program or in a subsequent year).*

11            *“(E) PENALTY FOR REENOLLMENT AFTER 5-*  
12            *YEAR LAPSE.—In the case of an individual who*  
13            *reenrolls in the CLASS program after the end of*  
14            *the 5-year period described in subparagraph*  
15            *(C)(ii), the monthly premium required for the*  
16            *individual shall be the age-adjusted premium*  
17            *that would be applicable to an initially enrolling*  
18            *individual who is the same age as the reenrolling*  
19            *individual, increased by the greater of—*

20            *“(i) an amount that the Secretary de-*  
21            *termines is actuarially sound for each*  
22            *month that occurs during the period that*  
23            *begins with the first month for which the*  
24            *individual failed to pay the monthly pre-*  
25            *mium required to maintain the individual’s*

1           enrollment in the CLASS program and  
2           ends with the month preceding the month in  
3           which the reenrollment is effective; or

4                   “(ii) 1 percent of the applicable age-  
5                   adjusted premium for each such month oc-  
6                   curring in such period.

7           “(2) ADMINISTRATIVE EXPENSES.—In deter-  
8           mining the monthly premiums for the CLASS pro-  
9           gram the Secretary may factor in costs for admin-  
10          istering the program, not to exceed for any year in  
11          which the program is in effect under this title, an  
12          amount equal to 3 percent of all premiums paid dur-  
13          ing the year.

14          “(3) NO UNDERWRITING REQUIREMENTS.—No  
15          underwriting (other than on the basis of age in ac-  
16          cordance with subparagraphs (D) and (E) of para-  
17          graph (1)) shall be used to—

18                   “(A) determine the monthly premium for  
19                   enrollment in the CLASS program; or

20                   “(B) prevent an individual from enrolling  
21                   in the program.

22          “(c) SELF-ATTESTATION AND VERIFICATION OF IN-  
23          COME.—The Secretary shall establish procedures to—

24                   “(1) permit an individual who is eligible for the  
25                   nominal premium required under subsection



1     *(a)(1)(A)(ii), as part of their automatic enrollment in*  
2     *the CLASS program, to self-attest that their income*  
3     *does not exceed the poverty line or that their status*  
4     *as a full-time student who is actively employed;*

5             *“(2) verify, using procedures similar to the pro-*  
6             *cedures used by the Commissioner of Social Security*  
7             *under section 1631(e)(1)(B)(ii) of the Social Security*  
8             *Act and consistent with the requirements applicable*  
9             *to the conveyance of data and information under sec-*  
10            *tion 1942 of such Act, the validity of such self-attesta-*  
11            *tion; and*

12            *“(3) require an individual to confirm, on at*  
13            *least an annual basis, that their income does not ex-*  
14            *ceed the poverty line or that they continue to main-*  
15            *tain such status.*

16     **“SEC. 3204. ENROLLMENT AND DISENROLLMENT REQUIRE-**  
17             **MENTS.**

18            **“(a) AUTOMATIC ENROLLMENT.—**

19            **“(1) IN GENERAL.—***Subject to paragraph (2), the*  
20            *Secretary, in coordination with the Secretary of the*  
21            *Treasury, shall establish procedures under which each*  
22            *individual described in subsection (c) may be auto-*  
23            *matically enrolled in the CLASS program by an em-*  
24            *ployer of such individual in the same manner as an*  
25            *employer may elect to automatically enroll employees*

1       *in a plan under section 401(k), 403(b), or 457 of the*  
2       *Internal Revenue Code of 1986.*

3               “(2) *ALTERNATIVE ENROLLMENT PROCE-*  
4       *DURES.—The procedures established under paragraph*  
5       *(1) shall provide for an alternative enrollment process*  
6       *for an individual described in subsection (c) in the*  
7       *case of such an individual—*

8                       “(A) *who is self-employed;*

9                       “(B) *who has more than 1 employer; or*

10                      “(C) *whose employer does not elect to par-*  
11       *ticipate in the automatic enrollment process es-*  
12       *tablished by the Secretary.*

13               “(3) *ADMINISTRATION.—*

14                      “(A) *IN GENERAL.—The Secretary and the*  
15       *Secretary of the Treasury shall, by regulation,*  
16       *establish procedures to ensure that an individual*  
17       *is not automatically enrolled in the CLASS pro-*  
18       *gram by more than 1 employer.*

19                      “(B) *FORM.—Enrollment in the CLASS*  
20       *program shall be made in such manner as the*  
21       *Secretary may prescribe in order to ensure ease*  
22       *of administration.*

23               “(b) *ELECTION TO OPT-OUT.—An individual de-*  
24       *scribed in subsection (c) may elect to waive enrollment in*  
25       *the CLASS program at any time in such form and manner*

1 *as the Secretary and the Secretary of the Treasury shall*  
2 *prescribe.*

3       “(c) *INDIVIDUAL DESCRIBED.*—*For purposes of enroll-*  
4 *ing in the CLASS program, an individual described in this*  
5 *paragraph is an individual—*

6           “(1) *who has attained age 18;*

7           “(2) *who—*

8               “(A) *receives wages on which there is im-*  
9 *posed a tax under section 3201(a) of the Internal*  
10 *Revenue Code of 1986; or*

11               “(B) *derives self-employment income on*  
12 *which there is imposed a tax under section*  
13 *1401(a) of the Internal Revenue Code of 1986;*

14           “(3) *who is actively employed; and*

15           “(4) *who is not—*

16               “(A) *a patient in a hospital or nursing fa-*  
17 *ility, an intermediate care facility for the men-*  
18 *tally retarded, or an institution for mental dis-*  
19 *eases and receiving medical assistance under*  
20 *Medicaid; or*

21               “(B) *confined in a jail, prison, other penal*  
22 *institution or correctional facility, or by court*  
23 *order pursuant to conviction of a criminal of-*  
24 *fense or in connection with a verdict or finding*

1           *described in section 202(x)(1)(A)(ii) of the Social*  
2           *Security Act (42 U.S.C. 402(x)(1)(A)(ii)).*

3           “(d) *RULE OF CONSTRUCTION.—Nothing in this title*  
4           *shall be construed as requiring an active enrollee to con-*  
5           *tinue to satisfy subparagraph (B) or (C) of subsection (c)(1)*  
6           *in order to maintain enrollment in the CLASS program.*

7           “(e) *PAYMENT.—*

8           “(1) *PAYROLL DEDUCTION.—An amount equal to*  
9           *the monthly premium for the enrollment in the*  
10           *CLASS program of an individual shall be deducted*  
11           *from the wages or self-employment income of such in-*  
12           *dividual in accordance with such procedures as the*  
13           *Secretary, in coordination with the Secretary of the*  
14           *Treasury, shall establish for employers who elect to*  
15           *deduct and withhold such premiums on behalf of en-*  
16           *rolled employees.*

17           “(2) *ALTERNATIVE PAYMENT MECHANISM.—The*  
18           *Secretary, in coordination with the Secretary of the*  
19           *Treasury, shall establish alternative procedures for the*  
20           *payment of monthly premiums by an individual en-*  
21           *rolled in the CLASS program—*

22           “(A) *who does not have an employer who*  
23           *elects to deduct and withhold premiums in ac-*  
24           *cordance with subparagraph (A); or*

1           “(B) who does not earn wages or derive self-  
2           employment income.

3           “(f) *TRANSFER OF PREMIUMS COLLECTED.*—

4           “(1) *IN GENERAL.*—During each calendar year  
5           the Secretary of the Treasury shall deposit into the  
6           CLASS Independence Fund a total amount equal, in  
7           the aggregate, to 100 percent of the premiums col-  
8           lected during that year.

9           “(2) *TRANSFERS BASED ON ESTIMATES.*—The  
10          amount deposited pursuant to paragraph (1) shall be  
11          transferred in at least monthly payments to the  
12          CLASS Independence Fund on the basis of estimates  
13          by the Secretary and certified to the Secretary of the  
14          Treasury of the amounts collected in accordance with  
15          subparagraphs (A) and (B) of paragraph (5). Proper  
16          adjustments shall be made in amounts subsequently  
17          transferred to the Fund to the extent prior estimates  
18          were in excess of, or were less than, actual amounts  
19          collected.

20          “(g) *OTHER ENROLLMENT AND DISENROLLMENT OP-*  
21          *PORTUNITIES.*—The Secretary, in coordination with the  
22          Secretary of the Treasury, shall establish procedures under  
23          which—

24                 “(1) an individual who, in the year of the indi-  
25                 vidual’s initial eligibility to enroll in the CLASS

1 *program, has elected to waive enrollment in the pro-*  
2 *gram, is eligible to elect to enroll in the program, in*  
3 *such form and manner as the Secretaries shall estab-*  
4 *lish, only during an open enrollment period estab-*  
5 *lished by the Secretaries that is specific to the indi-*  
6 *vidual and that may not occur more frequently than*  
7 *biennially after the date on which the individual first*  
8 *elected to waive enrollment in the program; and*

9 *“(2) an individual shall only be permitted to*  
10 *disenroll from the program (other than for non-*  
11 *payment of premiums) during an annual*  
12 *disenrollment period established by the Secretaries*  
13 *and in such form and manner as the Secretaries shall*  
14 *establish.*

15 **“SEC. 3205. BENEFITS.**

16 *“(a) DETERMINATION OF ELIGIBILITY.—*

17 *“(1) APPLICATION FOR RECEIPT OF BENEFITS.—*  
18 *The Secretary shall establish procedures under which*  
19 *an active enrollee shall apply for receipt of benefits*  
20 *under the CLASS Independence Benefit Plan.*

21 *“(2) ELIGIBILITY ASSESSMENTS.—*

22 *“(A) IN GENERAL.—Not later than January*  
23 *1, 2012, the Secretary shall—*

24 *“(i) establish an Eligibility Assessment*  
25 *System (other than a service with which the*

1           *Commissioner of Social Security has en-*  
2           *tered into an agreement, with respect to any*  
3           *State, to make disability determinations for*  
4           *purposes of title II or XVI of the Social Se-*  
5           *curity Act) to provide for eligibility assess-*  
6           *ments of active enrollees who apply for re-*  
7           *ceipt of benefits;*

8           *“(ii) enter into an agreement with the*  
9           *Protection and Advocacy System for each*  
10          *State to provide advocacy services in ac-*  
11          *cordance with subsection (d); and*

12          *“(iii) enter into an agreement with*  
13          *public and private entities to provide advice*  
14          *and assistance counseling in accordance*  
15          *with subsection (e).*

16          *“(B) REGULATIONS.—The Secretary shall*  
17          *promulgate regulations to develop an expedited*  
18          *nationally equitable eligibility determination*  
19          *process, as certified by a licensed health care*  
20          *practitioner, an appeals process, and a redeter-*  
21          *mination process, as certified by a licensed*  
22          *health care practitioner, including whether an*  
23          *active enrollee is eligible for a cash benefit under*  
24          *the program and if so, the amount of the cash*

1           *benefit (in accordance the sliding scale estab-*  
2           *lished under the plan).*

3           “(C) *PRESUMPTIVE ELIGIBILITY FOR CER-*  
4           *TAIN INSTITUTIONALIZED ENROLLEES PLANNING*  
5           *TO DISCHARGE.—An active enrollee shall be*  
6           *deemed presumptively eligible if the enrollee—*

7                     *“(i) has applied for, and attests is eli-*  
8                     *gible for, the maximum cash benefit avail-*  
9                     *able under the sliding scale established*  
10                    *under the CLASS Independence Benefit*  
11                    *Plan;*

12                    *“(ii) is a patient in a hospital (but*  
13                    *only if the hospitalization is for long-term*  
14                    *care), nursing facility, intermediate care fa-*  
15                    *cility for the mentally retarded, or an insti-*  
16                    *tution for mental diseases; and*

17                    *“(iii) is in the process of, or about to*  
18                    *begin the process of, planning to discharge*  
19                    *from the hospital, facility, or institution, or*  
20                    *within 60 days from the date of discharge*  
21                    *from the hospital, facility, or institution.*

22           “(D) *APPEALS.—The Secretary shall estab-*  
23           *lish procedures under which an applicant for*  
24           *benefits under the CLASS Independence Benefit*



1           *Plan shall be guaranteed the right to appeal an*  
2           *adverse determination.*

3           “(b) *BENEFITS.—An eligible beneficiary shall receive*  
4 *the following benefits under the CLASS Independence Ben-*  
5 *efit Plan:*

6           “(1) *CASH BENEFIT.—A cash benefit established*  
7 *by the Secretary in accordance with the requirements*  
8 *of section 3203(a)(1)(D) that—*

9           “(A) *the first year in which beneficiaries re-*  
10 *ceive the benefits under the plan, is not less than*  
11 *the average dollar amount specified in clause (i)*  
12 *of such section; and*

13           “(B) *for any subsequent year, is not less*  
14 *than the average per day dollar limit applicable*  
15 *under this subparagraph for the preceding year,*  
16 *increased by the percentage increase in the con-*  
17 *sumer price index for all urban consumers (U.S.*  
18 *city average) over the previous year.*

19           “(2) *ADVOCACY SERVICES.—Advocacy services in*  
20 *accordance with subsection (d).*

21           “(3) *ADVICE AND ASSISTANCE COUNSELING.—*  
22 *Advice and assistance counseling in accordance with*  
23 *subsection (e).*

24           “(4) *ADMINISTRATIVE EXPENSES.—Advocacy*  
25 *services and advise and assistance counseling services*

1 *under paragraphs (2) and (3) of this subsection shall*  
2 *be included as administrative expenses under section*  
3 *3203(b)(3).*

4 *“(c) PAYMENT OF BENEFITS.—*

5 *“(1) LIFE INDEPENDENCE ACCOUNT.—*

6 *“(A) IN GENERAL.—The Secretary shall es-*  
7 *tablish procedures for administering the provi-*  
8 *sion of benefits to eligible beneficiaries under the*  
9 *CLASS Independence Benefit Plan, including*  
10 *the payment of the cash benefit for the bene-*  
11 *ficiary into a Life Independence Account estab-*  
12 *lished by the Secretary on behalf of each eligible*  
13 *beneficiary.*

14 *“(B) USE OF CASH BENEFITS.—Cash bene-*  
15 *fits paid into a Life Independence Account of an*  
16 *eligible beneficiary shall be used to purchase*  
17 *nonmedical services and supports that the bene-*  
18 *ficiary needs to maintain his or her independ-*  
19 *ence at home or in another residential setting of*  
20 *their choice in the community, including (but*  
21 *not limited to) home modifications, assistive*  
22 *technology, accessible transportation, homemaker*  
23 *services, respite care, personal assistance services,*  
24 *home care aides, and nursing support. Nothing*  
25 *in the preceding sentence shall prevent an eligi-*

1            *ble beneficiary from using cash benefits paid into*  
2            *a Life Independence Account for obtaining as-*  
3            *sistance with decision making concerning med-*  
4            *ical care, including the right to accept or refuse*  
5            *medical or surgical treatment and the right to*  
6            *formulate advance directives or other written in-*  
7            *structions recognized under State law, such as a*  
8            *living will or durable power of attorney for*  
9            *health care, in the case that an injury or illness*  
10           *causes the individual to be unable to make health*  
11           *care decisions.*

12           “(C)    *ELECTRONIC    MANAGEMENT    OF*  
13           *FUNDS.—The Secretary shall establish procedures*  
14           *for—*

15                      *“(i) crediting an account established*  
16                      *on behalf of a beneficiary with the bene-*  
17                      *ficiary’s cash daily benefit;*

18                      *“(ii) allowing the beneficiary to access*  
19                      *such account through debit cards; and*

20                      *“(iii) accounting for withdrawals by*  
21                      *the beneficiary from such account.*

22           “(D)    *PRIMARY PAYOR RULES FOR BENE-*  
23           *FICIARIES WHO ARE ENROLLED IN MEDICAID.—*  
24           *In the case of an eligible beneficiary who is en-*

1           *rolled in Medicaid, the following payment rules*  
2           *shall apply:*

3                   “(i)     *INSTITUTIONALIZED     BENE-*  
4                   *FICIARY.—If the beneficiary is a patient in*  
5                   *a hospital, nursing facility, intermediate*  
6                   *care facility for the mentally retarded, or*  
7                   *an institution for mental diseases, the bene-*  
8                   *ficiary shall retain an amount equal to 5*  
9                   *percent of the beneficiary’s daily or weekly*  
10                   *cash benefit (as applicable) (which shall be*  
11                   *in addition to the amount of the bene-*  
12                   *ficiary’s personal needs allowance provided*  
13                   *under Medicaid), and the remainder of such*  
14                   *benefit shall be applied toward the facility’s*  
15                   *cost of providing the beneficiary’s care, and*  
16                   *Medicaid shall provide secondary coverage*  
17                   *for such care.*

18                   “(ii) *BENEFICIARIES RECEIVING HOME*  
19                   *AND COMMUNITY-BASED SERVICES.—*

20                           “(I) *50 PERCENT OF BENEFIT RE-*  
21                           *TAINED BY BENEFICIARY.—Subject to*  
22                           *subclause (II), if a beneficiary is re-*  
23                           *ceiving medical assistance under Med-*  
24                           *icaid for home and community based*  
25                           *services, the beneficiary shall retain an*

1           *amount equal to 50 percent of the bene-*  
2           *ficiary's daily or weekly cash benefit*  
3           *(as applicable), and the remainder of*  
4           *the daily or weekly cash benefit shall*  
5           *be applied toward the cost to the State*  
6           *of providing such assistance (and shall*  
7           *not be used to claim Federal matching*  
8           *funds under Medicaid), and Medicaid*  
9           *shall provide secondary coverage for*  
10          *the remainder of any costs incurred in*  
11          *providing such assistance.*

12                    “(II) *REQUIREMENT FOR STATE*  
13                    *OFFSET.*—*A State shall be paid the re-*  
14                    *mainder of a beneficiary's daily or*  
15                    *weekly cash benefit under subclause (I)*  
16                    *only if the State home and community-*  
17                    *based waiver under section 1115 of the*  
18                    *Social Security Act (42 U.S.C. 1315)*  
19                    *or subsection (c) or (d) of section 1915*  
20                    *of such Act (42 U.S.C. 1396n), or the*  
21                    *State plan amendment under sub-*  
22                    *section (i) of such section does not in-*  
23                    *clude a waiver of the requirements of*  
24                    *section 1902(a)(1) of the Social Secu-*  
25                    *rity Act (relating to statewideness) or*

1 of section 1902(a)(10)(B) of such Act  
2 (relating to comparability) and the  
3 State offers at a minimum case man-  
4 agement services, personal care serv-  
5 ices, habilitation services, and respite  
6 care under such a waiver or State plan  
7 amendment.

8 “(III) DEFINITION OF HOME AND  
9 COMMUNITY-BASED SERVICES.—In this  
10 clause, the term ‘home and community-  
11 based services’ means any services  
12 which may be offered under a home  
13 and community-based waiver author-  
14 ized for a State under section 1115 of  
15 the Social Security Act (42 U.S.C.  
16 1315) or subsection (c) or (d) of section  
17 1915 of such Act (42 U.S.C. 1396n) or  
18 under a State plan amendment under  
19 subsection (i) of such section.

20 “(iii) BENEFICIARIES ENROLLED IN  
21 PROGRAMS OF ALL-INCLUSIVE CARE FOR  
22 THE ELDERLY (PACE).—

23 “(I) IN GENERAL.—Subject to  
24 subclause (II), if a beneficiary is re-  
25 ceiving medical assistance under Med-

1            *icaid for PACE program services*  
2            *under section 1934 of the Social Secu-*  
3            *rity Act (42 U.S.C. 1396u-4), the ben-*  
4            *eficiary shall retain an amount equal*  
5            *to 50 percent of the beneficiary's daily*  
6            *or weekly cash benefit (as applicable),*  
7            *and the remainder of the daily or*  
8            *weekly cash benefit shall be applied to-*  
9            *ward the cost to the State of providing*  
10           *such assistance (and shall not be used*  
11           *to claim Federal matching funds under*  
12           *Medicaid), and Medicaid shall provide*  
13           *secondary coverage for the remainder*  
14           *of any costs incurred in providing such*  
15           *assistance.*

16            *“(II) INSTITUTIONALIZED RECIPI-*  
17            *ENTS OF PACE PROGRAM SERVICES.—If*  
18            *a beneficiary receiving assistance*  
19            *under Medicaid for PACE program*  
20            *services is a patient in a hospital,*  
21            *nursing facility, intermediate care fa-*  
22            *cility for the mentally retarded, or an*  
23            *institution for mental diseases, the ben-*  
24            *eficiary shall be treated as in institu-*  
25            *tionalized beneficiary under clause (i).*

1           “(2) *AUTHORIZED REPRESENTATIVES.*—

2                   “(A) *IN GENERAL.*—*The Secretary shall es-*  
3                   *tablish procedures to allow access to a bene-*  
4                   *ficiary’s cash benefits by an authorized rep-*  
5                   *resentative of the eligible beneficiary on whose*  
6                   *behalf such benefits are paid.*

7                   “(B) *QUALITY ASSURANCE AND PROTECTION*  
8                   *AGAINST FRAUD AND ABUSE.*—*The procedures es-*  
9                   *tablished under subparagraph (A) shall ensure*  
10                   *that authorized representatives of eligible bene-*  
11                   *ficiaries comply with standards of conduct estab-*  
12                   *lished by the Secretary, including standards re-*  
13                   *quiring that such representatives provide quality*  
14                   *services on behalf of such beneficiaries, do not*  
15                   *have conflicts of interest, and do not misuse ben-*  
16                   *efits paid on behalf of such beneficiaries or other-*  
17                   *wise engage in fraud or abuse.*

18                   “(3) *COMMENCEMENT OF BENEFITS.*—*Benefits*  
19                   *shall be paid to, or on behalf of, an eligible bene-*  
20                   *ficiary beginning with the first month in which an*  
21                   *application for such benefits is approved.*

22                   “(4) *ROLLOVER OPTION FOR LUMP-SUM PAY-*  
23                   *MENT.*—*An eligible beneficiary may elect to—*

24                           “(A) *defer payment of their daily or weekly*  
25                           *benefit and to rollover any such deferred benefits*



1       *from month-to-month, but not from year-to-year;*  
2       *and*

3               *“(B) receive a lump-sum payment of such*  
4       *deferred benefits in an amount that may not ex-*  
5       *ceed the lesser of—*

6                       *“(i) the total amount of the accrued de-*  
7                       *ferred benefits; or*

8                       *“(ii) the applicable annual benefit.*

9               *“(5) PERIOD FOR DETERMINATION OF ANNUAL*  
10       *BENEFITS.—*

11                       *“(A) IN GENERAL.—The applicable period*  
12       *for determining with respect to an eligible bene-*  
13       *ficiary the applicable annual benefit and the*  
14       *amount of any accrued deferred benefits is the*  
15       *12-month period that commences with the first*  
16       *month in which the beneficiary began to receive*  
17       *such benefits, and each 12-month period there-*  
18       *after.*

19                       *“(B) INCLUSION OF INCREASED BENE-*  
20       *FITS.—The Secretary shall establish procedures*  
21       *under which cash benefits paid to an eligible*  
22       *beneficiary that increase or decrease as a result*  
23       *of a change in the functional status of the bene-*  
24       *ficiary before the end of a 12-month benefit pe-*  
25       *riod shall be included in the determination of the*

1           *applicable annual benefit paid to the eligible*  
2           *beneficiary.*

3           “(C) *RECOUPMENT OF UNPAID, ACCRUED*  
4           *BENEFITS.—*

5           “(i) *IN GENERAL.—The Secretary, in*  
6           *coordination with the Secretary of the*  
7           *Treasury, shall recoup any accrued benefits*  
8           *in the event of—*

9                       “(I) *the death of a beneficiary; or*

10                      “(II) *the failure of a beneficiary*  
11                      *to elect under paragraph (4)(B) to re-*  
12                      *ceive such benefits as a lump-sum pay-*  
13                      *ment before the end of the 12-month*  
14                      *period in which such benefits accrued.*

15           “(ii) *PAYMENT INTO CLASS INDEPEND-*  
16           *ENCE FUND.—Any benefits recouped in ac-*  
17           *cordance with clause (i) shall be paid into*  
18           *the CLASS Independence Fund and used in*  
19           *accordance with section 3206.*

20           “(6) *REQUIREMENT TO RECERTIFY ELIGIBILITY*  
21           *FOR RECEIPT OF BENEFITS.—An eligible beneficiary*  
22           *shall periodically, as determined by the Secretary—*

23                      “(A) *recertify by submission of medical evi-*  
24                      *dence the beneficiary’s continued eligibility for*  
25                      *receipt of benefits; and*

1           “(B) submit records of expenditures attrib-  
2           utable to the aggregate cash benefit received by  
3           the beneficiary during the preceding year.

4           “(7) SUPPLEMENT, NOT SUPPLANT OTHER  
5           HEALTH CARE BENEFITS.—Subject to the Medicaid  
6           payment rules under paragraph (1)(D), benefits re-  
7           ceived by an eligible beneficiary shall supplement, but  
8           not supplant, other health care benefits for which the  
9           beneficiary is eligible under Medicaid or any other  
10          Federally funded program that provides health care  
11          benefits or assistance.

12          “(d) ADVOCACY SERVICES.—An agreement entered  
13          into under subsection (a)(2)(A)(ii) shall require the Protec-  
14          tion and Advocacy System for the State to—

15                 “(1) assign, as needed, an advocacy counselor to  
16                 each eligible beneficiary that is covered by such agree-  
17                 ment and who shall provide an eligible beneficiary  
18                 with—

19                         “(A) information regarding how to access  
20                         the appeals process established for the program;

21                         “(B) assistance with respect to the annual  
22                         recertification and notification required under  
23                         subsection (c)(6); and

1           “(C) *such other assistance with obtaining*  
2           *services as the Secretary, by regulation, shall re-*  
3           *quire; and*

4           “(2) *ensure that the System and such counselors*  
5           *comply with the requirements of subsection (h).*

6           “(e) *ADVICE AND ASSISTANCE COUNSELING.—An*  
7           *agreement entered into under subsection (a)(2)(A)(iii) shall*  
8           *require the entity to assign, as requested by an eligible bene-*  
9           *ficiary that is covered by such agreement, an advice and*  
10          *assistance counselor who shall provide an eligible bene-*  
11          *ficiary with information regarding—*

12           “(1) *accessing and coordinating long-term serv-*  
13          *ices and supports in the most integrated setting;*

14           “(2) *possible eligibility for other benefits and*  
15          *services;*

16           “(3) *development of a service and support plan;*

17           “(4) *information about programs established*  
18          *under the Assistive Technology Act of 1998 and the*  
19          *services offered under such programs;*

20           “(5) *available assistance with decision making*  
21          *concerning medical care, including the right to accept*  
22          *or refuse medical or surgical treatment and the right*  
23          *to formulate advance directives or other written in-*  
24          *structions recognized under State law, such as a liv-*  
25          *ing will or durable power of attorney for health care,*

1       *in the case that an injury or illness causes the indi-*  
2       *vidual to be unable to make health care decisions; and*

3               “(6) *such other services as the Secretary, by reg-*  
4       *ulation, may require.*

5       “(f) *NO EFFECT ON ELIGIBILITY FOR OTHER BENE-*  
6       *FITS.—Benefits paid to an eligible beneficiary under the*  
7       *CLASS program shall be disregarded for purposes of deter-*  
8       *mining or continuing the beneficiary’s eligibility for receipt*  
9       *of benefits under any other Federal, State, or locally funded*  
10       *assistance program, including benefits paid under titles II,*  
11       *XVI, XVIII, XIX, or XXI of the Social Security Act (42*  
12       *U.S.C. 401 et seq., 1381 et seq., 1395 et seq., 1396 et seq.,*  
13       *1397aa et seq.), under the laws administered by the Sec-*  
14       *retary of Veterans Affairs, under low-income housing assist-*  
15       *ance programs, or under the supplemental nutrition assist-*  
16       *ance program established under the Food and Nutrition Act*  
17       *of 2008 (7 U.S.C. 2011 et seq.).*

18       “(g) *RULE OF CONSTRUCTION.—Nothing in this title*  
19       *shall be construed as prohibiting benefits paid under the*  
20       *CLASS Independence Benefit Plan from being used to com-*  
21       *pensate a family caregiver for providing community living*  
22       *assistance services and supports to an eligible beneficiary.*

23       “(h) *PROTECTION AGAINST CONFLICT OF INTER-*  
24       *ESTS.—The Secretary shall establish procedures to ensure*  
25       *that the Eligibility Assessment System, the Protection and*

1 *Advocacy System for a State, advocacy counselors for eligi-*  
2 *ble beneficiaries, and any other entities that provide services*  
3 *to active enrollees and eligible beneficiaries under the*  
4 *CLASS program comply with the following:*

5           “(1) *If the entity provides counseling or plan-*  
6 *ning services, such services are provided in a manner*  
7 *that fosters the best interests of the active enrollee or*  
8 *beneficiary.*

9           “(2) *The entity has established operating proce-*  
10 *dures that are designed to avoid or minimize conflicts*  
11 *of interest between the entity and an active enrollee*  
12 *or beneficiary.*

13           “(3) *The entity provides information about all*  
14 *services and options available to the active enrollee or*  
15 *beneficiary, to the best of its knowledge, including*  
16 *services available through other entities or providers.*

17           “(4) *The entity assists the active enrollee or ben-*  
18 *eficiary to access desired services, regardless of the*  
19 *provider.*

20           “(5) *The entity reports the number of active en-*  
21 *rollees and beneficiaries provided with assistance by*  
22 *age, disability, and whether such enrollees and bene-*  
23 *ficiaries received services from the entity or another*  
24 *entity.*

1           “(6) *If the entity provides counseling or plan-*  
2           *ning services, the entity ensures that an active en-*  
3           *rollee or beneficiary is informed of any financial in-*  
4           *terest that the entity has in a service provider.*

5           “(7) *The entity provides an active enrollee or*  
6           *beneficiary with a list of available service providers*  
7           *that can meet the needs of the active enrollee or bene-*  
8           *ficiary.*

9   **“SEC. 3206. CLASS INDEPENDENCE FUND.**

10          “(a) *ESTABLISHMENT OF CLASS INDEPENDENCE*  
11          *FUND.—There is established in the Treasury of the United*  
12          *States a trust fund to be known as the ‘CLASS Independ-*  
13          *ence Fund’. The Secretary of the Treasury shall serve as*  
14          *Managing Trustee of such Fund. The Fund shall consist*  
15          *of all amounts derived from payments into the Fund under*  
16          *sections 3204(f) and 3205(c)(5)(C)(ii), and remaining after*  
17          *investment of such amounts under subsection (b), including*  
18          *additional amounts derived as income from such invest-*  
19          *ments. The amounts held in the Fund are appropriated and*  
20          *shall remain available without fiscal year limitation—*

21                 “(1) *to be held for investment on behalf of indi-*  
22                 *viduals enrolled in the CLASS program;*

23                 “(2) *to pay the administrative expenses related*  
24                 *to the Fund and to investment under subsection (b);*  
25                 *and*

1           “(3) to pay cash benefits to eligible beneficiaries  
2           under the CLASS Independence Benefit Plan.

3           “(b) INVESTMENT OF FUND BALANCE.—The Secretary  
4 of the Treasury shall invest and manage the CLASS Inde-  
5 pendence Fund in the same manner, and to the same extent,  
6 as the Federal Supplementary Medical Insurance Trust  
7 Fund may be invested and managed under subsections (c),  
8 (d), and (e) of section 1841(d) of the Social Security Act  
9 (42 U.S.C. 1395t).

10          “(c) BOARD OF TRUSTEES.—

11           “(1) IN GENERAL.—With respect to the CLASS  
12 Independence Fund, there is hereby created a body to  
13 be known as the Board of Trustees of the CLASS  
14 Independence Fund (hereinafter in this section re-  
15 ferred to as the ‘Board of Trustees’) composed of the  
16 Secretary of the Treasury, the Secretary of Labor,  
17 and the Secretary of Health and Human Services, all  
18 ex officio, and of two members of the public (both of  
19 whom may not be from the same political party), who  
20 shall be nominated by the President for a term of 4  
21 years and subject to confirmation by the Senate. A  
22 member of the Board of Trustees serving as a member  
23 of the public and nominated and confirmed to fill a  
24 vacancy occurring during a term shall be nominated  
25 and confirmed only for the remainder of such term.



1 *An individual nominated and confirmed as a member*  
2 *of the public may serve in such position after the ex-*  
3 *piration of such member's term until the earlier of the*  
4 *time at which the member's successor takes office or*  
5 *the time at which a report of the Board is first issued*  
6 *under paragraph (2) after the expiration of the mem-*  
7 *ber's term. The Secretary of the Treasury shall be the*  
8 *Managing Trustee of the Board of Trustees. The*  
9 *Board of Trustees shall meet not less frequently than*  
10 *once each calendar year. A person serving on the*  
11 *Board of Trustees shall not be considered to be a fidu-*  
12 *ciary and shall not be personally liable for actions*  
13 *taken in such capacity with respect to the Trust*  
14 *Fund.*

15 *“(2) DUTIES.—*

16 *“(A) IN GENERAL.—It shall be the duty of*  
17 *the Board of Trustees to do the following:*

18 *“(i) Hold the CLASS Independence*  
19 *Fund.*

20 *“(ii) Report to the Congress not later*  
21 *than the first day of April of each year on*  
22 *the operation and status of the CLASS*  
23 *Independence Fund during the preceding*  
24 *fiscal year and on its expected operation*

1           *and status during the current fiscal year*  
2           *and the next 2 fiscal years.*

3           “(iii) *Report immediately to the Con-*  
4           *gress whenever the Board is of the opinion*  
5           *that the amount of the CLASS Independ-*  
6           *ence Fund is not actuarially sound in re-*  
7           *gards to the projection under section*  
8           *3203(b)(1)(B)(i).*

9           “(iv) *Review the general policies fol-*  
10           *lowed in managing the CLASS Independ-*  
11           *ence Fund, and recommend changes in such*  
12           *policies, including necessary changes in the*  
13           *provisions of law which govern the way in*  
14           *which the CLASS Independence Fund is to*  
15           *be managed.*

16           “(B) *REPORT.—The report provided for in*  
17           *subparagraph (A)(i) shall—*

18                   “(i) *include—*

19                           “(I) *a statement of the assets of,*  
20                           *and the disbursements made from, the*  
21                           *CLASS Independence Fund during the*  
22                           *preceding fiscal year;*

23                           “(II) *an estimate of the expected*  
24                           *income to, and disbursements to be*  
25                           *made from, the CLASS Independence*

1930

1 *Fund during the current fiscal year*  
2 *and each of the next 2 fiscal years;*

3 *“(III) a statement of the actuarial*  
4 *status of the CLASS Independence*  
5 *Fund for the current fiscal year, each*  
6 *of the next 2 fiscal years, and as pro-*  
7 *jected over the 75-year period begin-*  
8 *ning with the current fiscal year; and*

9 *“(IV) an actuarial opinion by the*  
10 *Chief Actuary of the Centers for Medi-*  
11 *care & Medicaid Services certifying*  
12 *that the techniques and methodologies*  
13 *used are generally accepted within the*  
14 *actuarial profession and that the as-*  
15 *sumptions and cost estimates used are*  
16 *reasonable; and*

17 *“(ii) be printed as a House document*  
18 *of the session of the Congress to which the*  
19 *report is made.*

20 *“(C) RECOMMENDATIONS.—If the Board of*  
21 *Trustees determines that enrollment trends and*  
22 *expected future benefit claims on the CLASS*  
23 *Independence Fund are not actuarially sound in*  
24 *regards to the projection under section*  
25 *3203(b)(1)(B)(i) and are unlikely to be resolved*

1           *with reasonable premium increases or through*  
2           *other means, the Board of Trustees shall include*  
3           *in the report provided for in subparagraph*  
4           *(A)(ii) recommendations for such legislative ac-*  
5           *tion as the Board of Trustees determine to be ap-*  
6           *propriate, including whether to adjust monthly*  
7           *premiums or impose a temporary moratorium*  
8           *on new enrollments.*

9   **“SEC. 3207. CLASS INDEPENDENCE ADVISORY COUNCIL.**

10           “(a) *ESTABLISHMENT.*—*There is hereby created an*  
11 *Advisory Committee to be known as the ‘CLASS Independ-*  
12 *ence Advisory Council’.*

13           “(b) *MEMBERSHIP.*—

14                   “(1) *IN GENERAL.*—*The CLASS Independence*  
15 *Advisory Council shall be composed of not more than*  
16 *15 individuals, not otherwise in the employ of the*  
17 *United States—*

18                           “(A) *who shall be appointed by the Presi-*  
19 *dent without regard to the civil service laws and*  
20 *regulations; and*

21                                   “(B) *a majority of whom shall be represent-*  
22 *atives of individuals who participate or are like-*  
23 *ly to participate in the CLASS program, and*  
24 *shall include representatives of older and young-*  
25 *er workers, individuals with disabilities, family*

1           *caregivers of individuals who require services*  
2           *and supports to maintain their independence at*  
3           *home or in another residential setting of their*  
4           *choice in the community, individuals with exper-*  
5           *tise in long-term care or disability insurance,*  
6           *actuarial science, economics, and other relevant*  
7           *disciplines, as determined by the Secretary.*

8           “(2) *TERMS.*—

9                   “(A) *IN GENERAL.*—*The members of the*  
10            *CLASS Independence Advisory Council shall*  
11            *serve overlapping terms of 3 years (unless ap-*  
12            *pointed to fill a vacancy occurring prior to the*  
13            *expiration of a term, in which case the indi-*  
14            *vidual shall serve for the remainder of the term).*

15                   “(B) *LIMITATION.*—*A member shall not be*  
16            *eligible to serve for more than 2 consecutive*  
17            *terms.*

18                   “(3) *CHAIR.*—*The President shall, from time to*  
19            *time, appoint one of the members of the CLASS Inde-*  
20            *pendence Advisory Council to serve as the Chair.*

21                   “(c) *DUTIES.*—*The CLASS Independence Advisory*  
22            *Council shall advise the Secretary on matters of general pol-*  
23            *icy in the administration of the CLASS program estab-*  
24            *lished under this title and in the formulation of regulations*  
25            *under this title including with respect to—*



1 *to ensure the financial solvency of the CLASS program,*  
2 *both with respect to fiscal years occurring in the near-term*  
3 *and fiscal years occurring over 20- and 75-year periods,*  
4 *taking into account the projections required for such periods*  
5 *under subsections (a)(1)(A)(i) and (b)(1)(B)(i) of section*  
6 *3202.*

7       “(b) *NO TAXPAYER FUNDS USED TO PAY BENE-*  
8 *FITS.—No taxpayer funds shall be used for payment of ben-*  
9 *efits under a CLASS Independent Benefit Plan. For pur-*  
10 *poses of this subsection, the term ‘taxpayer funds’ means*  
11 *any Federal funds from a source other than premiums de-*  
12 *posited by CLASS program participants in the CLASS*  
13 *Independence Fund and any associated interest earnings.*

14       “(c) *REGULATIONS.—The Secretary shall promulgate*  
15 *such regulations as are necessary to carry out the CLASS*  
16 *program in accordance with this title. Such regulations*  
17 *shall include provisions to prevent fraud and abuse under*  
18 *the program.*

19       “(d) *ANNUAL REPORT.—Beginning January 1, 2014,*  
20 *the Secretary shall submit an annual report to Congress*  
21 *on the CLASS program. Each report shall include the fol-*  
22 *lowing:*

23               “(1) *The total number of enrollees in the pro-*  
24 *gram.*

1           “(2) *The total number of eligible beneficiaries*  
2           *during the fiscal year.*

3           “(3) *The total amount of cash benefits provided*  
4           *during the fiscal year.*

5           “(4) *A description of instances of fraud or abuse*  
6           *identified during the fiscal year.*

7           “(5) *Recommendations for such administrative*  
8           *or legislative action as the Secretary determines is*  
9           *necessary to improve the program, ensure the solvency*  
10          *of the program, or to prevent the occurrence of fraud*  
11          *or abuse.*

12   **“SEC. 3209. INSPECTOR GENERAL’S REPORT.**

13          *“The Inspector General of the Department of Health*  
14          *and Human Services shall submit an annual report to the*  
15          *Secretary and Congress relating to the overall progress of*  
16          *the CLASS program and of the existence of waste, fraud,*  
17          *and abuse in the CLASS program. Each such report shall*  
18          *include findings in the following areas:*

19               “(1) *The eligibility determination process.*

20               “(2) *The provision of cash benefits.*

21               “(3) *Quality assurance and protection against*  
22          *waste, fraud, and abuse.*

23               “(4) *Recouping of unpaid and accrued benefits.*



1 **“SEC. 3210. TAX TREATMENT OF PROGRAM.**

2       *“The CLASS program shall be treated for purposes of*  
3 *the Internal Revenue Code of 1986 in the same manner as*  
4 *a qualified long-term care insurance contract for qualified*  
5 *long-term care services.”.*

6           (2) *CONFORMING AMENDMENTS TO MEDICAID.—*  
7 *Section 1902(a) of the Social Security Act (42 U.S.C.*  
8 *1396a(a)), as amended by section 6505, is amended*  
9 *by inserting after paragraph (80) the following:*

10           *“(81) provide that the State will comply with*  
11 *such regulations regarding the application of primary*  
12 *and secondary payor rules with respect to individuals*  
13 *who are eligible for medical assistance under this title*  
14 *and are eligible beneficiaries under the CLASS pro-*  
15 *gram established under title XXXII of the Public*  
16 *Health Service Act as the Secretary shall establish;*  
17 *and”.*

18           (b) *ASSURANCE OF ADEQUATE INFRASTRUCTURE FOR*  
19 *THE PROVISION OF PERSONAL CARE ATTENDANT WORK-*  
20 *ERS.—Section 1902(a) of the Social Security Act (42*  
21 *U.S.C. 1396a(a)), as amended by subsection (a)(2), is*  
22 *amended by inserting after paragraph (81) the following:*

23           *“(82) provide that, not later than 2 years after*  
24 *the date of enactment of the Community Living As-*  
25 *sistance Services and Supports Act, each State*  
26 *shall—*

1           “(A) assess the extent to which entities such  
2           as providers of home care, home health services,  
3           home and community service providers, public  
4           authorities created to provide personal care serv-  
5           ices to individuals eligible for medical assistance  
6           under the State plan, and nonprofit organiza-  
7           tions, are serving or have the capacity to serve  
8           as fiscal agents for, employers of, and providers  
9           of employment-related benefits for, personal care  
10          attendant workers who provide personal care  
11          services to individuals receiving benefits under  
12          the CLASS program established under title  
13          XXXII of the Public Health Service Act, includ-  
14          ing in rural and underserved areas;

15          “(B) designate or create such entities to  
16          serve as fiscal agents for, employers of, and pro-  
17          viders of employment-related benefits for, such  
18          workers to ensure an adequate supply of the  
19          workers for individuals receiving benefits under  
20          the CLASS program, including in rural and un-  
21          derserved areas; and

22          “(C) ensure that the designation or creation  
23          of such entities will not negatively alter or im-  
24          pede existing programs, models, methods, or ad-  
25          ministration of service delivery that provide for

1           *consumer controlled or self-directed home and*  
2           *community services and further ensure that such*  
3           *entities will not impede the ability of individuals*  
4           *to direct and control their home and community*  
5           *services, including the ability to select, manage,*  
6           *dismiss, co-employ, or employ such workers or*  
7           *inhibit such individuals from relying on family*  
8           *members for the provision of personal care serv-*  
9           *ices.”.*

10           *(c) PERSONAL CARE ATTENDANTS WORKFORCE ADVI-*  
11           *SORY PANEL.—*

12                     *(1) ESTABLISHMENT.—Not later than 90 days*  
13           *after the date of enactment of this Act, the Secretary*  
14           *of Health and Human Services shall establish a Per-*  
15           *sonal Care Attendants Workforce Advisory Panel for*  
16           *the purpose of examining and advising the Secretary*  
17           *and Congress on workforce issues related to personal*  
18           *care attendant workers, including with respect to the*  
19           *adequacy of the number of such workers, the salaries,*  
20           *wages, and benefits of such workers, and access to the*  
21           *services provided by such workers.*

22                     *(2) MEMBERSHIP.—In appointing members to*  
23           *the Personal Care Attendants Workforce Advisory*  
24           *Panel, the Secretary shall ensure that such members*  
25           *include the following:*

1           (A) *Individuals with disabilities of all ages.*

2           (B) *Senior individuals.*

3           (C) *Representatives of individuals with dis-*  
4 *abilities.*

5           (D) *Representatives of senior individuals.*

6           (E) *Representatives of workforce and labor*  
7 *organizations.*

8           (F) *Representatives of home and commu-*  
9 *nity-based service providers.*

10           (G) *Representatives of assisted living pro-*  
11 *viders.*

12       (d) *INCLUSION OF INFORMATION ON SUPPLEMENTAL*  
13 *COVERAGE IN THE NATIONAL CLEARINGHOUSE FOR LONG-*  
14 *TERM CARE INFORMATION; EXTENSION OF FUNDING.—Sec-*  
15 *tion 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C.*  
16 *1396p note) is amended—*

17           (1) *in paragraph (2)(A)—*

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

20               (B) *in clause (iii), by striking the period at*  
21 *the end and inserting “; and”; and*

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

23                       *“(iv) include information regarding*  
24 *the CLASS program established under title*  
25 *XXXII of the Public Health Service Act and*

1           *coverage available for purchase through a*  
2           *Exchange established under section 1311 of*  
3           *the Patient Protection and Affordable Care*  
4           *Act that is supplemental coverage to the*  
5           *benefits provided under a CLASS Independ-*  
6           *ence Benefit Plan under that program, and*  
7           *information regarding how benefits pro-*  
8           *vided under a CLASS Independence Benefit*  
9           *Plan differ from disability insurance bene-*  
10          *fits.”; and*

11           (2) *in paragraph (3), by striking “2010” and in-*  
12          *serting “2015”.*

13          (e) *EFFECTIVE DATE.—The amendments made by sub-*  
14          *sections (a), (b), and (d) take effect on January 1, 2011.*

15          (f) *RULE OF CONSTRUCTION.—Nothing in this title or*  
16          *the amendments made by this title are intended to replace*  
17          *or displace public or private disability insurance benefits,*  
18          *including such benefits that are for income replacement.*