

1 (B) in subparagraph (C), by striking “the
2 date of the enactment of this Act” and insert-
3 ing “October 1, 2007 (or July 1, 2007, in the
4 case of a satellite facility described in section
5 412.22(h)(3)(i) of title 42, Code of Federal
6 Regulations)”.

7 (b) MORATORIUM.—Subsection (d)(3)(A) of such sec-
8 tion is amended by striking “if the hospital or facility”
9 and inserting “if the hospital or facility obtained a certifi-
10 cate of need for an increase in beds that is in a State
11 for which such certificate of need is required and that was
12 issued on or after April 1, 2005, and before December
13 29, 2007, or if the hospital or facility”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall be effective and apply as if included in
16 the enactment of the Medicare, Medicaid, and SCHIP Ex-
17 tension Act of 2007 (Public Law 110–173).

18 **TITLE V—MEDICAID**

19 **PROVISIONS**

20 **SEC. 5000. TABLE OF CONTENTS OF TITLE.**

21 The table of contents of this title is as follows:

- Sec. 5000. Table of contents of title.
- Sec. 5001. Temporary increase of Medicaid FMAP.
- Sec. 5002. Moratoria on certain regulations.
- Sec. 5003. Transitional Medicaid assistance (TMA).
- Sec. 5004. State eligibility option for family planning services.
- Sec. 5005. Protections for Indians under Medicaid and CHIP.
- Sec. 5006. Consultation on Medicaid and CHIP.
- Sec. 5007. Temporary increase in DSH allotments during recession.

1 **SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.**

2 (a) PERMITTING MAINTENANCE OF FMAP.—Subject
3 to subsections (e), (f), and (g), if the FMAP determined
4 without regard to this section for a State for—

5 (1) fiscal year 2009 is less than the FMAP as
6 so determined for fiscal year 2008, the FMAP for
7 the State for fiscal year 2008 shall be substituted
8 for the State's FMAP for fiscal year 2009, before
9 the application of this section;

10 (2) fiscal year 2010 is less than the FMAP as
11 so determined for fiscal year 2008 or fiscal year
12 2009 (after the application of paragraph (1)), the
13 greater of such FMAP for the State for fiscal year
14 2008 or fiscal year 2009 shall be substituted for the
15 State's FMAP for fiscal year 2010, before the appli-
16 cation of this section; and

17 (3) fiscal year 2011 is less than the FMAP as
18 so determined for fiscal year 2008, fiscal year 2009
19 (after the application of paragraph (1)), or fiscal
20 year 2010 (after the application of paragraph (2)),
21 the greatest of such FMAP for the State for fiscal
22 year 2008, fiscal year 2009, or fiscal year 2010 shall
23 be substituted for the State's FMAP for fiscal year
24 2011, before the application of this section, but only
25 for the first calendar quarter in fiscal year 2011.

26 (b) GENERAL 4.9 PERCENTAGE POINT INCREASE.—

1 (1) IN GENERAL.—Subject to subsections (e),
2 (f), and (g) and paragraph (2), for each State for
3 calendar quarters during the recession adjustment
4 period (as defined in subsection (h)(2)), the FMAP
5 (after the application of subsection (a)) shall be in-
6 creased (without regard to any limitation otherwise
7 specified in section 1905(b) of the Social Security
8 Act) by 4.9 percentage points.

9 (2) SPECIAL ELECTION FOR TERRITORIES.—In
10 the case of a State that is not one of the 50 States
11 or the District of Columbia, paragraph (1) shall only
12 apply if the State makes a one-time election, in a
13 form and manner specified by the Secretary and for
14 the entire recession adjustment period, to apply the
15 increase in FMAP under paragraph (1) and a 10
16 percent increase under subsection (d) instead of ap-
17 plying a 20 percent increase under subsection (d).

18 (c) ADDITIONAL ADJUSTMENT TO REFLECT IN-
19 CREASE IN UNEMPLOYMENT.—

20 (1) IN GENERAL.—Subject to subsections (e),
21 (f), and (g), in the case of a State that is a high
22 unemployment State (as defined in paragraph (2))
23 for a calendar quarter during the recession adjust-
24 ment period, the FMAP (taking into account the ap-
25 plication of subsections (a) and (b)) for such quarter

1 shall be further increased by the high unemployment
2 percentage point adjustment specified in paragraph
3 (3) for the State for the quarter.

4 (2) HIGH UNEMPLOYMENT STATE.—

5 (A) IN GENERAL.—In this subsection, sub-
6 ject to subparagraph (B), the term “high unem-
7 ployment State” means, with respect to a cal-
8 endar quarter in the recession adjustment pe-
9 riod, a State that is 1 of the 50 States or the
10 District of Columbia and for which the State
11 unemployment increase percentage (as com-
12 puted under paragraph (5)) for the quarter is
13 not less than 1.5 percentage points.

14 (B) MAINTENANCE OF STATUS.—If a
15 State is a high unemployment State for a cal-
16 endar quarter, it shall remain a high unemploy-
17 ment State for each subsequent calendar quar-
18 ter ending before July 1, 2010.

19 (3) HIGH UNEMPLOYMENT PERCENTAGE POINT
20 ADJUSTMENT.—

21 (A) IN GENERAL.—The high unemploy-
22 ment percentage point adjustment specified in
23 this paragraph for a high unemployment State
24 for a quarter is equal to the product of—

1 (i) the SMAP for such State and
2 quarter (determined after the application
3 of subsection (a) and before the application
4 of subsection (b)); and

5 (ii) subject to subparagraph (B), the
6 State unemployment reduction factor spec-
7 ified in paragraph (4) for the State and
8 quarter.

9 (B) MAINTENANCE OF ADJUSTMENT
10 LEVEL FOR CERTAIN QUARTERS.—In no case
11 shall the State unemployment reduction factor
12 applied under subparagraph (A)(ii) for a State
13 for a quarter (beginning on or after January 1,
14 2009, and ending before July 1, 2010) be less
15 than the State unemployment reduction factor
16 applied to the State for the previous quarter
17 (taking into account the application of this sub-
18 paragraph).

19 (4) STATE UNEMPLOYMENT REDUCTION FAC-
20 TOR.—In the case of a high unemployment State for
21 which the State unemployment increase percentage
22 (as computed under paragraph (5)) with respect to
23 a calendar quarter is—

24 (A) not less than 1.5, but is less than 2.5,
25 percentage points, the State unemployment re-

1 duction factor for the State and quarter is 6
2 percent;

3 (B) not less than 2.5, but is less than 3.5,
4 percentage points, the State unemployment re-
5 duction factor for the State and quarter is 12
6 percent; or

7 (C) not less than 3.5 percentage points,
8 the State unemployment reduction factor for
9 the State and quarter is 14 percent.

10 (5) COMPUTATION OF STATE UNEMPLOYMENT
11 INCREASE PERCENTAGE.—

12 (A) IN GENERAL.—In this subsection, the
13 “State unemployment increase percentage” for
14 a State for a calendar quarter is equal to the
15 number of percentage points (if any) by
16 which—

17 (i) the average monthly unemployment
18 rate for the State for months in the most
19 recent previous 3-consecutive-month period
20 for which data are available, subject to
21 subparagraph (C); exceeds

22 (ii) the lowest average monthly unem-
23 ployment rate for the State for any 3-con-
24 secutive-month period preceding the period

1 described in clause (i) and beginning on or
2 after January 1, 2006.

3 (B) AVERAGE MONTHLY UNEMPLOYMENT
4 RATE DEFINED.—In this paragraph, the term
5 “average monthly unemployment rate” means
6 the average of the monthly number unemployed,
7 divided by the average of the monthly civilian
8 labor force, seasonally adjusted, as determined
9 based on the most recent monthly publications
10 of the Bureau of Labor Statistics of the De-
11 partment of Labor.

12 (C) SPECIAL RULE.—With respect to—

13 (i) the first 2 calendar quarters of the
14 recession adjustment period, the most re-
15 cent previous 3-consecutive-month period
16 described in subparagraph (A)(i) shall be
17 the 3-consecutive-month period beginning
18 with October 2008; and

19 (ii) the last 2 calendar quarters of the
20 recession adjustment period, the most re-
21 cent previous 3-consecutive-month period
22 described in such subparagraph shall be
23 the 3-consecutive-month period beginning
24 with December 2009.

1 (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO
2 TERRITORIES.—Subject to subsections (f) and (g) , with
3 respect to entire fiscal years occurring during the recess-
4 sion adjustment period and with respect to fiscal years
5 only a portion of which occurs during such period (and
6 in proportion to the portion of the fiscal year that occurs
7 during such period), the amounts otherwise determined for
8 Puerto Rico, the Virgin Islands, Guam, the Northern Mar-
9 iana Islands, and American Samoa under subsections (f)
10 and (g) of section 1108 of the Social Security Act (42
11 U.S.C. 1308) shall each be increased by 20 percent (or,
12 in the case of an election under subsection (b)(2), 10 per-
13 cent).

14 (e) SCOPE OF APPLICATION.—The increases in the
15 FMAP for a State under this section shall apply for pur-
16 poses of title XIX of the Social Security Act and—

17 (1) the increases applied under subsections (a),
18 (b), and (c) shall not apply with respect—

19 (A) to payments under parts A, B, and D
20 of title IV or title XXI of such Act (42 U.S.C.
21 601 et seq. and 1397aa et seq.);

22 (B) to payments under title XIX of such
23 Act that are based on the enhanced FMAP de-
24 scribed in section 2105(b) of such Act (42
25 U.S.C. 1397ee(b)); and

1 (C) to payments for disproportionate share
2 hospital (DSH) payment adjustments under
3 section 1923 of such Act (42 U.S.C. 1396r-4);
4 and

5 (2) the increase provided under subsection (c)
6 shall not apply with respect to payments under part
7 E of title IV of such Act.

8 (f) STATE INELIGIBILITY AND LIMITATION.—

9 (1) IN GENERAL.—Subject to paragraphs (2)
10 and (3), a State is not eligible for an increase in its
11 FMAP under subsection (a), (b), or (c), or an in-
12 crease in a cap amount under subsection (d), if eligi-
13 bility standards, methodologies, or procedures under
14 its State plan under title XIX of the Social Security
15 Act (including any waiver under such title or under
16 section 1115 of such Act (42 U.S.C. 1315)) are
17 more restrictive than the eligibility standards, meth-
18 odologies, or procedures, respectively, under such
19 plan (or waiver) as in effect on July 1, 2008.

20 (2) STATE REINSTATEMENT OF ELIGIBILITY
21 PERMITTED.—Subject to paragraph (3), a State that
22 has restricted eligibility standards, methodologies, or
23 procedures under its State plan under title XIX of
24 the Social Security Act (including any waiver under
25 such title or under section 1115 of such Act (42

1 U.S.C. 1315)) after July 1, 2008, is no longer ineli-
2 gible under paragraph (1) beginning with the first
3 calendar quarter in which the State has reinstated
4 eligibility standards, methodologies, or procedures
5 that are no more restrictive than the eligibility
6 standards, methodologies, or procedures, respec-
7 tively, under such plan (or waiver) as in effect on
8 July 1, 2008.

9 (3) SPECIAL RULES.—A State shall not be in-
10 eligible under paragraph (1)—

11 (A) for the calendar quarters before July
12 1, 2009, on the basis of a restriction that was
13 applied after July 1, 2008, and before the date
14 of the enactment of this Act, if the State, prior
15 to July 1, 2009, reinstated eligibility standards,
16 methodologies, or procedures that are no more
17 restrictive than the eligibility standards, meth-
18 odologies, or procedures, respectively, under
19 such plan (or waiver) as in effect on July 1,
20 2008; or

21 (B) on the basis of a restriction that was
22 effective under State law as of July 1, 2008,
23 and would have been in effect as of such date,
24 but for a delay (of not longer than 1 calendar
25 quarter) in the approval of a request for a new

1 waiver under section 1115 of such Act with re-
2 spect to such restriction.

3 (4) STATE'S APPLICATION TOWARD RAINY DAY
4 FUND.—A State is not eligible for an increase in its
5 FMAP under subsection (b) or (c), or an increase in
6 a cap amount under subsection (d), if any amounts
7 attributable (directly or indirectly) to such increase
8 are deposited or credited into any reserve or rainy
9 day fund of the State.

10 (5) RULE OF CONSTRUCTION.—Nothing in
11 paragraph (1) or (2) shall be construed as affecting
12 a State's flexibility with respect to benefits offered
13 under the State Medicaid program under title XIX
14 of the Social Security Act (42 U.S.C. 1396 et seq.)
15 (including any waiver under such title or under sec-
16 tion 1115 of such Act (42 U.S.C. 1315)).

17 (6) NO WAIVER AUTHORITY.—The Secretary
18 may not waive the application of this subsection or
19 subsection (g) under section 1115 of the Social Se-
20 curity Act or otherwise.

21 (g) REQUIREMENT FOR CERTAIN STATES.—In the
22 case of a State that requires political subdivisions within
23 the State to contribute toward the non-Federal share of
24 expenditures under the State Medicaid plan required
25 under section 1902(a)(2) of the Social Security Act (42

1 U.S.C. 1396a(a)(2)), the State is not eligible for an in-
2 crease in its FMAP under subsection (a), (b), or (c), or
3 an increase in a cap amount under subsection (d), if it
4 requires that such political subdivisions pay a greater per-
5 centage of the non-Federal share of such expenditures for
6 quarters during the recession adjustment period, than the
7 percentage that would have been required by the State
8 under such plan on September 30, 2008, prior to applica-
9 tion of this section.

10 (h) DEFINITIONS.—In this section, except as other-
11 wise provided:

12 (1) FMAP.—The term “FMAP” means the
13 Federal medical assistance percentage, as defined in
14 section 1905(b) of the Social Security Act (42
15 U.S.C. 1396d(b)), as determined without regard to
16 this section except as otherwise specified.

17 (2) RECESSION ADJUSTMENT PERIOD.—The
18 term “recession adjustment period” means the pe-
19 riod beginning on October 1, 2008, and ending on
20 December 31, 2010.

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Health and Human Services.

23 (4) SMAP.—The term “SMAP” means, for a
24 State, 100 percent minus the Federal medical assist-
25 ance percentage..

1 (5) STATE.—The term “State” has the mean-
2 ing given such term in section 1101(a)(1) of the So-
3 cial Security Act (42 U.S.C. 1301(a)(1)) for pur-
4 poses of title XIX of the Social Security Act (42
5 U.S.C. 1396 et seq.).

6 (i) SUNSET.—This section shall not apply to items
7 and services furnished after the end of the recession ad-
8 justment period.

9 **SEC. 5002. MORATORIA ON CERTAIN REGULATIONS.**

10 (a) EXTENSION OF MORATORIA ON CERTAIN MED-
11 ICAID REGULATIONS.—The following sections are each
12 amended by striking “April 1, 2009” and inserting “July
13 1, 2009”:

14 (1) Section 7002(a)(1) of the U.S. Troop Read-
15 iness, Veterans’ Care, Katrina Recovery, and Iraq
16 Accountability Appropriations Act, 2007 (Public
17 Law 110–28), as amended by section 7001(a)(1) of
18 the Supplemental Appropriations Act, 2008 (Public
19 Law 110–252).

20 (2) Section 206 of the Medicare, Medicaid, and
21 SCHIP Extension Act of 2007 (Public Law 110-
22 173), as amended by section 7001(a)(2) of the Sup-
23 plemental Appropriations Act, 2008 (Public Law
24 110–252).

1 (3) Section 7001(a)(3)(A) of the Supplemental
2 Appropriations Act, 2008 (Public Law 110–252).

3 (b) **ADDITIONAL MEDICAID MORATORIUM.**—Not-
4 withstanding any other provision of law, with respect to
5 expenditures for services furnished during the period be-
6 ginning on December 8, 2008 and ending on June 30,
7 2009, the Secretary of Health and Human Services shall
8 not take any action (through promulgation of regulation,
9 issuance of regulatory guidance, use of Federal payment
10 audit procedures, or other administrative action, policy, or
11 practice, including a Medical Assistance Manual trans-
12 mittal or letter to State Medicaid directors) to implement
13 the final regulation relating to clarification of the defini-
14 tion of outpatient hospital facility services under the Med-
15 icaid program published on November 7, 2008 (73 Federal
16 Register 66187).

17 **SEC. 5003. TRANSITIONAL MEDICAID ASSISTANCE (TMA).**

18 (a) **18-MONTH EXTENSION.**—

19 (1) **IN GENERAL.**—Sections 1902(e)(1)(B) and
20 1925(f) of the Social Security Act (42 U.S.C.
21 1396a(e)(1)(B), 1396r–6(f)) are each amended by
22 striking “September 30, 2003” and inserting “De-
23 cember 31, 2010”.

24 (2) **EFFECTIVE DATE.**—The amendments made
25 by this subsection shall take effect on July 1, 2009.

1 (b) STATE OPTION OF INITIAL 12-MONTH ELIGI-
2 BILITY.—Section 1925 of the Social Security Act (42
3 U.S.C. 1396r–6) is amended—

4 (1) in subsection (a)(1), by inserting “but sub-
5 ject to paragraph (5)” after “Notwithstanding any
6 other provision of this title”;

7 (2) by adding at the end of subsection (a) the
8 following:

9 “(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY
10 PERIOD.—A State may elect to treat any reference
11 in this subsection to a 6-month period (or 6 months)
12 as a reference to a 12-month period (or 12 months).
13 In the case of such an election, subsection (b) shall
14 not apply.”; and

15 (3) in subsection (b)(1), by inserting “but sub-
16 ject to subsection (a)(5)” after “Notwithstanding
17 any other provision of this title”.

18 (c) REMOVAL OF REQUIREMENT FOR PREVIOUS RE-
19 CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of
20 such Act (42 U.S.C. 1396r–6(a)(1)), as amended by sub-
21 section (b)(1), is further amended—

22 (1) by inserting “subparagraph (B) and” before
23 “paragraph (5)”;

24 (2) by redesignating the matter after “RE-
25 QUIREMENT.—” as a subparagraph (A) with the

1 heading “IN GENERAL.—” and with the same inden-
2 tation as subparagraph (B) (as added by paragraph
3 (3)); and

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

5 “(B) STATE OPTION TO WAIVE REQUIRE-
6 MENT FOR 3 MONTHS BEFORE RECEIPT OF
7 MEDICAL ASSISTANCE.—A State may, at its op-
8 tion, elect also to apply subparagraph (A) in
9 the case of a family that was receiving such aid
10 for fewer than three months or that had applied
11 for and was eligible for such aid for fewer than
12 3 months during the 6 immediately preceding
13 months described in such subparagraph.”.

14 (d) CMS REPORT ON ENROLLMENT AND PARTICIPA-
15 TION RATES UNDER TMA.—Section 1925 of such Act (42
16 U.S.C. 1396r–6), as amended by this section, is further
17 amended by adding at the end the following new sub-
18 section:

19 “(g) COLLECTION AND REPORTING OF PARTICIPA-
20 TION INFORMATION.—

21 “(1) COLLECTION OF INFORMATION FROM
22 STATES.—Each State shall collect and submit to the
23 Secretary (and make publicly available), in a format
24 specified by the Secretary, information on average
25 monthly enrollment and average monthly participa-

1 tion rates for adults and children under this section
2 and of the number and percentage of children who
3 become ineligible for medical assistance under this
4 section whose medical assistance is continued under
5 another eligibility category or who are enrolled under
6 the State's child health plan under title XXI. Such
7 information shall be submitted at the same time and
8 frequency in which other enrollment information
9 under this title is submitted to the Secretary.

10 “(2) ANNUAL REPORTS TO CONGRESS.—Using
11 the information submitted under paragraph (1), the
12 Secretary shall submit to Congress annual reports
13 concerning enrollment and participation rates de-
14 scribed in such paragraph.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 subsections (b) through (d) shall take effect on July 1,
17 2009.

18 **SEC. 5004. STATE ELIGIBILITY OPTION FOR FAMILY PLAN-**
19 **NING SERVICES.**

20 (a) COVERAGE AS OPTIONAL CATEGORICALLY
21 NEEDY GROUP.—

22 (1) IN GENERAL.—Section 1902(a)(10)(A)(ii)
23 of the Social Security Act (42 U.S.C.
24 1396a(a)(10)(A)(ii)), as amended by section 3003(a)

1 of the Health Insurance Assistance for the Unem-
2 ployed Act of 2009, is amended—

3 (A) in subclause (XIX), by striking “or” at
4 the end;

5 (B) in subclause (XX), by adding “or” at
6 the end; and

7 (C) by adding at the end the following new
8 subclause:

9 “(XXI) who are described in subsection (ee)
10 (relating to individuals who meet certain income
11 standards);”.

12 (2) GROUP DESCRIBED.—Section 1902 of such
13 Act (42 U.S.C. 1396a), as amended by section
14 3003(a) of the Health Insurance Assistance for the
15 Unemployed Act of 2009, is amended by adding at
16 the end the following new subsection:

17 “(ee)(1) Individuals described in this subsection are
18 individuals—

19 “(A) whose income does not exceed an in-
20 come eligibility level established by the State
21 that does not exceed the highest income eligi-
22 bility level established under the State plan
23 under this title (or under its State child health
24 plan under title XXI) for pregnant women; and

25 “(B) who are not pregnant.

1 “(2) At the option of a State, individuals de-
2 scribed in this subsection may include individuals
3 who, had individuals applied on or before January 1,
4 2007, would have been made eligible pursuant to the
5 standards and processes imposed by that State for
6 benefits described in clause (XV) of the matter fol-
7 lowing subparagraph (G) of section subsection
8 (a)(10) pursuant to a waiver granted under section
9 1115.

10 “(3) At the option of a State, for purposes of
11 subsection (a)(17)(B), in determining eligibility for
12 services under this subsection, the State may con-
13 sider only the income of the applicant or recipient.”.

14 (3) LIMITATION ON BENEFITS.—Section
15 1902(a)(10) of the Social Security Act (42 U.S.C.
16 1396a(a)(10)) is amended in the matter following
17 subparagraph (G)—

18 (A) by striking “and (XIV)” and inserting
19 “(XIV)”; and

20 (B) by inserting “, and (XV) the medical
21 assistance made available to an individual de-
22 scribed in subsection (ee) shall be limited to
23 family planning services and supplies described
24 in section 1905(a)(4)(C) including medical di-
25 agnosis and treatment services that are pro-

1 vided pursuant to a family planning service in
2 a family planning setting” after “cervical can-
3 cer”.

4 (4) CONFORMING AMENDMENTS.—Section
5 1905(a) of the Social Security Act (42 U.S.C.
6 1396d(a)), as amended by section 3003(c)(2) of the
7 Health Insurance Assistance for the Unemployed
8 Act of 2009, is amended in the matter preceding
9 paragraph (1)—

10 (A) in clause (xiii), by striking “or” at the
11 end;

12 (B) in clause (xiv), by adding “or” at the
13 end; and

14 (C) by inserting after clause (xiii) the fol-
15 lowing:

16 “(xv) individuals described in section
17 1902(ee),”.

18 (b) PRESUMPTIVE ELIGIBILITY.—

19 (1) IN GENERAL.—Title XIX of the Social Se-
20 curity Act (42 U.S.C. 1396 et seq.) is amended by
21 inserting after section 1920B the following:

22 “PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING
23 SERVICES

24 “SEC. 1920C. (a) STATE OPTION.—State plan ap-
25 proved under section 1902 may provide for making med-
26 ical assistance available to an individual described in sec-

1 tion 1902(ee) (relating to individuals who meet certain in-
2 come eligibility standard) during a presumptive eligibility
3 period. In the case of an individual described in section
4 1902(ee), such medical assistance shall be limited to fam-
5 ily planning services and supplies described in
6 1905(a)(4)(C) and, at the State’s option, medical diag-
7 nosis and treatment services that are provided in conjunc-
8 tion with a family planning service in a family planning
9 setting.

10 “(b) DEFINITIONS.—For purposes of this section:

11 “(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The
12 term ‘presumptive eligibility period’ means, with re-
13 spect to an individual described in subsection (a),
14 the period that—

15 “(A) begins with the date on which a
16 qualified entity determines, on the basis of pre-
17 liminary information, that the individual is de-
18 scribed in section 1902(ee); and

19 “(B) ends with (and includes) the earlier
20 of—

21 “(i) the day on which a determination
22 is made with respect to the eligibility of
23 such individual for services under the State
24 plan; or

1 “(ii) in the case of such an individual
2 who does not file an application by the last
3 day of the month following the month dur-
4 ing which the entity makes the determina-
5 tion referred to in subparagraph (A), such
6 last day.

7 “(2) QUALIFIED ENTITY.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the term ‘qualified entity’ means
10 any entity that—

11 “(i) is eligible for payments under a
12 State plan approved under this title; and

13 “(ii) is determined by the State agen-
14 cy to be capable of making determinations
15 of the type described in paragraph (1)(A).

16 “(B) RULE OF CONSTRUCTION.—Nothing
17 in this paragraph shall be construed as pre-
18 venting a State from limiting the classes of en-
19 tities that may become qualified entities in
20 order to prevent fraud and abuse.

21 “(c) ADMINISTRATION.—

22 “(1) IN GENERAL.—The State agency shall pro-
23 vide qualified entities with—

24 “(A) such forms as are necessary for an
25 application to be made by an individual de-

1 scribed in subsection (a) for medical assistance
2 under the State plan; and

3 “(B) information on how to assist such in-
4 dividuals in completing and filing such forms.

5 “(2) NOTIFICATION REQUIREMENTS.—A quali-
6 fied entity that determines under subsection
7 (b)(1)(A) that an individual described in subsection
8 (a) is presumptively eligible for medical assistance
9 under a State plan shall—

10 “(A) notify the State agency of the deter-
11 mination within 5 working days after the date
12 on which determination is made; and

13 “(B) inform such individual at the time
14 the determination is made that an application
15 for medical assistance is required to be made by
16 not later than the last day of the month fol-
17 lowing the month during which the determina-
18 tion is made.

19 “(3) APPLICATION FOR MEDICAL ASSIST-
20 ANCE.—In the case of an individual described in
21 subsection (a) who is determined by a qualified enti-
22 ty to be presumptively eligible for medical assistance
23 under a State plan, the individual shall apply for
24 medical assistance by not later than the last day of

1 the month following the month during which the de-
2 termination is made.

3 “(d) PAYMENT.—Notwithstanding any other provi-
4 sion of law, medical assistance that—

5 “(1) is furnished to an individual described in
6 subsection (a)—

7 “(A) during a presumptive eligibility pe-
8 riod;

9 “(B) by a entity that is eligible for pay-
10 ments under the State plan; and

11 “(2) is included in the care and services covered
12 by the State plan,

13 shall be treated as medical assistance provided by such
14 plan for purposes of clause (4) of the first sentence of
15 section 1905(b).”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 1902(a)(47) of the Social Se-
18 curity Act (42 U.S.C. 1396a(a)(47)) is amend-
19 ed by inserting before the semicolon at the end
20 the following: “and provide for making medical
21 assistance available to individuals described in
22 subsection (a) of section 1920C during a pre-
23 sumptive eligibility period in accordance with
24 such section”.

1 (B) Section 1903(u)(1)(D)(v) of such Act
2 (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

3 (i) by striking “or for” and inserting
4 “for”; and

5 (ii) by inserting before the period the
6 following: “, or for medical assistance pro-
7 vided to an individual described in sub-
8 section (a) of section 1920C during a pre-
9 sumptive eligibility period under such sec-
10 tion”.

11 (c) CLARIFICATION OF COVERAGE OF FAMILY PLAN-
12 NING SERVICES AND SUPPLIES.—Section 1937(b) of the
13 Social Security Act (42 U.S.C. 1396u–7(b)) is amended
14 by adding at the end the following:

15 “(5) COVERAGE OF FAMILY PLANNING SERV-
16 ICES AND SUPPLIES.—Notwithstanding the previous
17 provisions of this section, a State may not provide
18 for medical assistance through enrollment of an indi-
19 vidual with benchmark coverage or benchmark-equiv-
20 alent coverage under this section unless such cov-
21 erage includes for any individual described in section
22 1905(a)(4)(C), medical assistance for family plan-
23 ning services and supplies in accordance with such
24 section.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section take effect on the date of the enactment of
3 this Act and shall apply to items and services furnished
4 on or after such date.

5 **SEC. 5005. PROTECTIONS FOR INDIANS UNDER MEDICAID**
6 **AND CHIP.**

7 (a) PREMIUMS AND COST SHARING PROTECTION
8 UNDER MEDICAID.—

9 (1) IN GENERAL.—Section 1916 of the Social
10 Security Act (42 U.S.C. 1396o) is amended—

11 (A) in subsection (a), in the matter pre-
12 ceding paragraph (1), by striking “and (i)” and
13 inserting “, (i), and (j)”; and

14 (B) by adding at the end the following new
15 subsection:

16 “(j) NO PREMIUMS OR COST SHARING FOR INDIANS
17 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN
18 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER
19 CONTRACT HEALTH SERVICES.—

20 “(1) NO COST SHARING FOR ITEMS OR SERV-
21 ICES FURNISHED TO INDIANS THROUGH INDIAN
22 HEALTH PROGRAMS.—

23 “(A) IN GENERAL.—No enrollment fee,
24 premium, or similar charge, and no deduction,
25 copayment, cost sharing, or similar charge shall

1 be imposed against an Indian who is furnished
2 an item or service directly by the Indian Health
3 Service, an Indian Tribe, Tribal Organization,
4 or Urban Indian Organization or through refer-
5 ral under contract health services for which
6 payment may be made under this title.

7 “(B) NO REDUCTION IN AMOUNT OF PAY-
8 MENT TO INDIAN HEALTH PROVIDERS.—Pay-
9 ment due under this title to the Indian Health
10 Service, an Indian Tribe, Tribal Organization,
11 or Urban Indian Organization, or a health care
12 provider through referral under contract health
13 services for the furnishing of an item or service
14 to an Indian who is eligible for assistance under
15 such title, may not be reduced by the amount
16 of any enrollment fee, premium, or similar
17 charge, or any deduction, copayment, cost shar-
18 ing, or similar charge that would be due from
19 the Indian but for the operation of subpara-
20 graph (A).

21 “(2) RULE OF CONSTRUCTION.—Nothing in
22 this subsection shall be construed as restricting the
23 application of any other limitations on the imposi-
24 tion of premiums or cost sharing that may apply to

1 an individual receiving medical assistance under this
2 title who is an Indian.”.

3 (2) CONFORMING AMENDMENT.—Section
4 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3))
5 is amended—

6 (A) in subparagraph (A), by adding at the
7 end the following new clause:

8 “(vi) An Indian who is furnished an
9 item or service directly by the Indian
10 Health Service, an Indian Tribe, Tribal
11 Organization or Urban Indian Organiza-
12 tion or through referral under contract
13 health services.”; and

14 (B) in subparagraph (B), by adding at the
15 end the following new clause:

16 “(ix) Items and services furnished to
17 an Indian directly by the Indian Health
18 Service, an Indian Tribe, Tribal Organiza-
19 tion or Urban Indian Organization or
20 through referral under contract health
21 services.”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall take effect on October 1,
24 2009.

1 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-
2 SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

3 (1) MEDICAID.—Section 1902 of the Social Se-
4 curity Act (42 U.S.C. 1396a), as amended by sec-
5 tion 3003(a) of the Health Insurance Assistance for
6 the Unemployed Act of 2009 and section 5004, is
7 amended by adding at the end the following new
8 subsection:

9 “(ff) Notwithstanding any other requirement of this
10 title or any other provision of Federal or State law, a State
11 shall disregard the following property from resources for
12 purposes of determining the eligibility of an individual who
13 is an Indian for medical assistance under this title:

14 “(1) Property, including real property and im-
15 provements, that is held in trust, subject to Federal
16 restrictions, or otherwise under the supervision of
17 the Secretary of the Interior, located on a reserva-
18 tion, including any federally recognized Indian
19 Tribe’s reservation, pueblo, or colony, including
20 former reservations in Oklahoma, Alaska Native re-
21 gions established by the Alaska Native Claims Set-
22 tlement Act, and Indian allotments on or near a res-
23 ervation as designated and approved by the Bureau
24 of Indian Affairs of the Department of the Interior.

1 “(2) For any federally recognized Tribe not de-
2 scribed in paragraph (1), property located within the
3 most recent boundaries of a prior Federal reserva-
4 tion.

5 “(3) Ownership interests in rents, leases, roy-
6 alties, or usage rights related to natural resources (in-
7 cluding extraction of natural resources or harvesting
8 of timber, other plants and plant products, animals,
9 fish, and shellfish) resulting from the exercise of fed-
10 erally protected rights.

11 “(4) Ownership interests in or usage rights to
12 items not covered by paragraphs (1) through (3)
13 that have unique religious, spiritual, traditional, or
14 cultural significance or rights that support subsist-
15 ence or a traditional lifestyle according to applicable
16 tribal law or custom.”.

17 (2) APPLICATION TO CHIP.—Section 2107(e)(1)
18 of such Act (42 U.S.C. 1397gg(e)(1)) is amended by
19 adding at the end the following new subparagraph:

20 “(E) Section 1902(ff) (relating to dis-
21 regard of certain property for purposes of mak-
22 ing eligibility determinations).”.

23 (c) CONTINUATION OF CURRENT LAW PROTECTIONS
24 OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE

1 RECOVERY.—Section 1917(b)(3) of the Social Security
2 Act (42 U.S.C. 1396p(b)(3)) is amended—

3 (1) by inserting “(A)” after “(3)”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(B) The standards specified by the Sec-
7 retary under subparagraph (A) shall require
8 that the procedures established by the State
9 agency under subparagraph (A) exempt income,
10 resources, and property that are exempt from
11 the application of this subsection as of April 1,
12 2003, under manual instructions issued to carry
13 out this subsection (as in effect on such date)
14 because of the Federal responsibility for Indian
15 Tribes and Alaska Native Villages. Nothing in
16 this subparagraph shall be construed as pre-
17 venting the Secretary from providing additional
18 estate recovery exemptions under this title for
19 Indians.”.

20 **SEC. 5006. CONSULTATION ON MEDICAID AND CHIP.**

21 (a) IN GENERAL.—Section 1139 of the Social Secu-
22 rity Act (42 U.S.C. 1320b–9) is amended to read as fol-
23 lows:

1 “CONSULTATION WITH TRIBAL TECHNICAL ADVISORY
2 GROUP (TTAG)

3 “SEC. 1139. The Secretary shall maintain within the
4 Centers for Medicaid & Medicare Services (CMS) a Tribal
5 Technical Advisory Group, which was first established in
6 accordance with requirements of the charter dated Sep-
7 tember 30, 2003, and the Secretary shall include in such
8 Group a representative of the Urban Indian Organizations
9 and the Service. The representative of the Urban Indian
10 Organization shall be deemed to be an elected officer of
11 a tribal government for purposes of applying section
12 204(b) of the Unfunded Mandates Reform Act of 1995
13 (2 U.S.C. 1534(b)).”.

14 (b) SOLICITATION OF ADVICE UNDER MEDICAID AND
15 CHIP.—

16 (1) MEDICAID STATE PLAN AMENDMENT.—Sec-
17 tion 1902(a) of the Social Security Act (42 U.S.C.
18 1396a(a)) is amended—

19 (A) in paragraph (70), by striking “and”
20 at the end;

21 (B) in paragraph (71), by striking the pe-
22 riod at the end and inserting “; and”; and

23 (C) by inserting after paragraph (71), the
24 following new paragraph:

1 “(72) in the case of any State in which 1 or
2 more Indian Health Programs or Urban Indian Or-
3 ganizations furnishes health care services, provide
4 for a process under which the State seeks advice on
5 a regular, ongoing basis from designees of such In-
6 dian Health Programs and Urban Indian Organiza-
7 tions on matters relating to the application of this
8 title that are likely to have a direct effect on such
9 Indian Health Programs and Urban Indian Organi-
10 zations and that—

11 “(A) shall include solicitation of advice
12 prior to submission of any plan amendments,
13 waiver requests, and proposals for demonstra-
14 tion projects likely to have a direct effect on In-
15 dians, Indian Health Programs, or Urban In-
16 dian Organizations; and

17 “(B) may include appointment of an advi-
18 sory committee and of a designee of such In-
19 dian Health Programs and Urban Indian Orga-
20 nizations to the medical care advisory com-
21 mittee advising the State on its State plan
22 under this title.”.

23 (2) APPLICATION TO CHIP.—Section 2107(e)(1)
24 of such Act (42 U.S.C. 1397gg(e)(1)), as amended

1 by section 5005(b), is amended by adding at the end
2 the following new subparagraph:

3 “(F) Section 1902(a)(72) (relating to re-
4 quiring certain States to seek advice from des-
5 ignees of Indian Health Programs and Urban
6 Indian Organizations).”.

7 (c) **RULE OF CONSTRUCTION.**—Nothing in the
8 amendments made by this section shall be construed as
9 superseding existing advisory committees, working groups,
10 guidance, or other advisory procedures established by the
11 Secretary of Health and Human Services or by any State
12 with respect to the provision of health care to Indians.

13 **SEC. 5007. TEMPORARY INCREASE IN DSH ALLOTMENTS**
14 **DURING RECESSION.**

15 Section 1923(f)(3) of the Social Security Act (42
16 U.S.C. 1396r-4(f)(3)) is amended—

17 (1) in subparagraph (A), by striking “para-
18 graph (6)” and inserting “paragraph (6) and sub-
19 paragraph (E)”; and

20 (2) by adding at the end the following new sub-
21 paragraph:

22 “(E) **TEMPORARY INCREASE IN ALLOT-**
23 **MENTS DURING RECESSION.**—

24 “(i) **IN GENERAL.**—Subject to clause
25 (ii), the DSH allotment for any State—

1 “(I) for fiscal year 2009 is equal
2 to 102.5 percent of the DSH allot-
3 ment that would be determined under
4 this paragraph for the State for fiscal
5 year 2009 without application of this
6 subparagraph, notwithstanding sub-
7 paragraph (B);

8 “(II) for fiscal year 2010 is equal
9 to 102.5 percent of the the DSH al-
10 lotment for the State for fiscal year
11 2009, as determined under subclause
12 (I); and

13 “(III) for each succeeding fiscal
14 year is equal to the DSH allotment
15 for the State under this paragraph de-
16 termined without applying subclauses
17 (I) and (II).

18 “(ii) APPLICATION.—Clause (i) shall
19 not apply to a State for a year in the case
20 that the DSH allotment for such State for
21 such year under this paragraph determined
22 without applying clause (i) would grow
23 higher than the DSH allotment specified
24 under clause (i) for the State for such
25 year.”.

1 **TITLE VI—BROADBAND**
2 **COMMUNICATIONS**

3 **SEC. 6001. INVENTORY OF BROADBAND SERVICE CAPA-**
4 **BILITY AND AVAILABILITY.**

5 (a) ESTABLISHMENT.—To provide a comprehensive
6 nationwide inventory of existing broadband service capa-
7 bility and availability, the National Telecommunications
8 and Information Administration (“NTIA”) shall develop
9 and maintain a broadband inventory map of the United
10 States that identifies and depicts the geographic extent
11 to which broadband service capability is deployed and
12 available from a commercial provider or public provider
13 throughout each State.

14 (b) PUBLIC AVAILABILITY AND INTERACTIVITY.—
15 Not later than 2 years after the date of enactment of this
16 Act, the NTIA shall make the broadband inventory map
17 developed and maintained pursuant to this section acces-
18 sible by the public on a World Wide Web site of the NTIA
19 in a form that is interactive and searchable.

20 **SEC. 6002. WIRELESS AND BROADBAND DEPLOYMENT**
21 **GRANT PROGRAMS.**

22 (a) GRANTS AUTHORIZED.—

23 (1) IN GENERAL.—The National Telecommuni-
24 cations and Information Administration (“NTIA”)
25 is authorized to carry out a program to award

1 grants to eligible entities for the non-recurring costs
2 associated with the deployment of broadband infra-
3 structure in rural, suburban, and urban areas, in ac-
4 cordance with the requirements of this section.

5 (2) PROGRAM WEBSITE.—The NTIA shall de-
6 velop and maintain a website to make publicly avail-
7 able information about the program described in
8 paragraph (1), including—

9 (A) each prioritization report submitted by
10 a State under subsection (b);

11 (B) a list of eligible entities that have ap-
12 plied for a grant under this section, and the
13 area or areas the entity proposes to serve; and

14 (C) the status of each such application,
15 whether approved, denied, or pending.

16 (b) STATE PRIORITIES.—

17 (1) PRIORITIES REPORT SUBMISSION.—Not
18 later than 75 days after the date of enactment of
19 this section, each State intending to participate in
20 the program under this section shall submit to the
21 NTIA a report indicating the geographic areas of
22 the State which—

23 (A) for the purposes of determining the
24 need for Wireless Deployment Grants under

1 subsection (c), the State considers to have the
2 greatest priority for—

3 (i) wireless voice service in unserved
4 areas; and

5 (ii) advanced wireless broadband serv-
6 ice in underserved areas; and

7 (B) for the purposes of determining the
8 need for Broadband Deployment Grants under
9 subsection (d), the State considers to have the
10 greatest priority for—

11 (i) basic broadband service in
12 unserved areas; and

13 (ii) advanced broadband service in un-
14 derserved areas.

15 (2) LIMITATION.—The unserved and under-
16 served areas identified by a State in the report re-
17 quired by this subsection shall not represent, in the
18 aggregate, more than 20 percent of the population
19 of such State.

20 (c) WIRELESS DEPLOYMENT GRANTS.—

21 (1) AUTHORIZED ACTIVITY.—The NTIA shall
22 award Wireless Deployment Grants in accordance
23 with this subsection from amounts authorized for
24 Wireless Deployment Grants by this subtitle to eligi-
25 ble entities to deploy necessary infrastructure for the

1 provision of wireless voice service or advanced wire-
2 less broadband service to end users in designated
3 areas.

4 (2) GRANT DISTRIBUTION.—The NTIA shall
5 seek to distribute grants, to the extent possible, so
6 that 25 percent of the grants awarded under this
7 subsection shall be awarded to eligible entities for
8 providing wireless voice service to unserved areas
9 and 75 percent of grants awarded under this sub-
10 section shall be awarded to eligible entities for pro-
11 viding advanced wireless broadband service to under-
12 served areas.

13 (d) BROADBAND DEPLOYMENT GRANTS.—

14 (1) AUTHORIZED ACTIVITY.—The NTIA shall
15 award Broadband Deployment Grants in accordance
16 with this subsection from amounts authorized for
17 Broadband Deployment Grants by this subtitle to el-
18 ible entities to deploy necessary infrastructure for
19 the provision of basic broadband service or advanced
20 broadband service to end users in designated areas.

21 (2) GRANT DISTRIBUTION.—The NTIA shall
22 seek to distribute grants, to the extent possible, so
23 that 25 percent of the grants awarded under this
24 subsection shall be awarded to eligible entities for
25 providing basic broadband service to unserved areas

1 and 75 percent of grants awarded under this sub-
2 section shall be awarded to eligible entities for pro-
3 viding advanced broadband service to underserved
4 areas.

5 (e) GRANT REQUIREMENTS.—The NTIA shall—

6 (1) adopt rules to protect against unjust enrich-
7 ment; and

8 (2) ensure that grant recipients—

9 (A) meet buildout requirements;

10 (B) maximize use of the supported infra-
11 structure by the public;

12 (C) operate basic and advanced broadband
13 service networks on an open access basis;

14 (D) operate advanced wireless broadband
15 service on a wireless open access basis; and

16 (E) adhere to the principles contained in
17 the Federal Communications Commission's
18 broadband policy statement (FCC 05-151,
19 adopted August 5, 2005).

20 (f) APPLICATIONS.—

21 (1) SUBMISSION.—To be considered for a grant
22 awarded under subsection (e) or (d), an eligible enti-
23 ty shall submit to the NTIA an application at such
24 time, in such manner, and containing such informa-

1 tion and assurances as the NTIA may require. Such
2 an application shall include—

3 (A) a cost-study estimate for serving the
4 particular geographic area to be served by the
5 entity;

6 (B) a proposed build-out schedule to resi-
7 dential households and small businesses in the
8 area;

9 (C) for applicants for Wireless Deployment
10 Grants under subsection (c), a build-out sched-
11 ule for geographic coverage of such areas; and

12 (D) any other requirements the NTIA
13 deems necessary.

14 (2) SELECTION.—

15 (A) NOTIFICATION.—The NTIA shall no-
16 tify each eligible entity that has submitted a
17 complete application whether the entity has
18 been approved or denied for a grant under this
19 section in a timely fashion.

20 (B) GRANT DISTRIBUTION CONSIDER-
21 ATIONS.—In awarding grants under this sec-
22 tion, the NTIA shall, to the extent practical—

23 (i) award not less than one grant in
24 each State;

1 (ii) give substantial weight to whether
2 an application is from an eligible entity to
3 deploy infrastructure in an area that is an
4 area—

5 (I) identified by a State in a re-
6 port submitted under subsection (b);
7 or

8 (II) in which the NTIA deter-
9 mines there will be a significant
10 amount of public safety or emergency
11 response use of the infrastructure;

12 (iii) consider whether an application
13 from an eligible entity to deploy infrastruc-
14 ture in an area—

15 (I) will, if approved, increase the
16 affordability of, or subscribership to,
17 service to the greatest population of
18 underserved users in the area;

19 (II) will, if approved, enhance
20 service for health care delivery, edu-
21 cation, or children to the greatest pop-
22 ulation of underserved users in the
23 area;

1 (III) contains concrete plans for
2 enhancing computer ownership or
3 computer literacy in the area;

4 (IV) is from a recipient of more
5 than 20 percent matching grants from
6 State, local, or private entities for
7 service in the area and the extent of
8 such commitment;

9 (V) will, if approved, result in
10 unjust enrichment because the eligible
11 entity has applied for, or intends to
12 apply for, support for the non-recur-
13 ring costs through another Federal
14 program for service in the area; and

15 (VI) will, if approved, signifi-
16 cantly improve interoperable
17 broadband communications systems
18 available for use by public safety and
19 emergency response; and

20 (iv) consider whether the eligible enti-
21 ty is a socially and economically disadvan-
22 taged small business concern, as defined
23 under section 8(a) of the Small Business
24 Act (15 U.S.C. 637).

1 (g) COORDINATION AND CONSULTATION.—The
2 NTIA shall coordinate with the Federal Communications
3 Commission and shall consult with other appropriate Fed-
4 eral agencies in implementing this section.

5 (h) REPORT REQUIRED.—The NTIA shall submit an
6 annual report to the Committee on Energy and Commerce
7 of the House of Representatives and the Committee on
8 Commerce, Science, and Transportation of the Senate for
9 5 years assessing the impact of the grants funded under
10 this section on the basis of the objectives and criteria de-
11 scribed in subsection (f)(2)(B)(iii).

12 (i) RULEMAKING AUTHORITY.—The NTIA shall have
13 the authority to prescribe such rules as necessary to carry
14 out the purposes of this section.

15 (j) DEFINITIONS.—For the purpose of this section—

16 (1) the term “advanced broadband service”
17 means a service delivering data to the end user
18 transmitted at a speed of at least 45 megabits per
19 second downstream and at least 15 megabits per
20 second upstream;

21 (2) the term “advanced wireless broadband
22 service” means a wireless service delivering to the
23 end user data transmitted at a speed of at least 3
24 megabits per second downstream and at least 1

1 megabit per second upstream over an end-to-end
2 internet protocol wireless network;

3 (3) the term “basic broadband service” means
4 a service delivering data to the end user transmitted
5 at a speed of at least 5 megabits per second down-
6 stream and at least 1 megabit per second upstream;

7 (4) the term “eligible entity” means—

8 (A) a provider of wireless voice service, ad-
9 vanced wireless broadband service, basic
10 broadband service, or advanced broadband serv-
11 ice, including a satellite carrier that provides
12 any such service;

13 (B) a State or unit of local government, or
14 agency or instrumentality thereof, that is or in-
15 tends to be a provider of any such service; and

16 (C) any other entity, including construc-
17 tion companies, tower companies, backhaul
18 companies, or other service providers, that the
19 NTIA authorizes by rule to participate in the
20 programs under this section, if such other enti-
21 ty is required to provide access to the supported
22 infrastructure on a neutral, reasonable basis to
23 maximize use;

24 (5) the term “interoperable broadband commu-
25 nications systems” means communications systems

1 which enable public safety agencies to share infor-
2 mation among local, State, Federal, and tribal public
3 safety agencies in the same area using voice or data
4 signals via advanced wireless broadband service;

5 (6) the term “open access” shall be defined by
6 the Federal Communications Commission not later
7 than 45 days after the date of enactment of this sec-
8 tion;

9 (7) the term “State” includes the District of
10 Columbia and the territories and possessions;

11 (8) the term “underserved area” shall be de-
12 fined by the Federal Communications Commission
13 not later than 45 days after the date of enactment
14 of this section;

15 (9) the term “unserved area” shall be defined
16 by the Federal Communications Commission not
17 later than 45 days after the date of enactment of
18 this section;

19 (10) the term “wireless open access” shall be
20 defined by the Federal Communications Commission
21 not later than 45 days after the date of enactment
22 of this section; and

23 (11) the term “wireless voice service” means
24 the provision of two-way, real-time, voice commu-
25 nications using a mobile service.

1 (k) REVIEW OF DEFINITIONS.—Not later than 3
2 months after the date the NTIA makes a broadband in-
3 ventory map of the United States accessible to the public
4 pursuant to section 6001(b), the Federal Communications
5 Commission shall review the definitions of “underserved
6 area” and “unserved area”, as defined by the Commission
7 within 45 days after the date of enactment of this Act
8 (as required by paragraphs (8) and (9) of subsection (j)),
9 and shall revise such definitions based on the data used
10 by the NTIA to develop and maintain such map.

11 **SEC. 6003. NATIONAL BROADBAND PLAN.**

12 (a) REPORT REQUIRED.—Not later than 1 year after
13 the date of enactment of this section, the Federal Commu-
14 nications Commission shall submit to the Committee on
15 Energy and Commerce of the House of Representatives
16 and the Committee on Commerce, Science, and Transpor-
17 tation of the Senate, a report containing a national
18 broadband plan.

19 (b) CONTENTS OF PLAN.—The national broadband
20 plan required by this section shall seek to ensure that all
21 people of the United States have access to broadband ca-
22 pability and shall establish benchmarks for meeting that
23 goal. The plan shall also include—

