

112TH CONGRESS
1ST SESSION

S. 1013

To renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2011

Mr. BAUCUS (for himself, Mr. HATCH, Mr. ROCKEFELLER, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Child Welfare
5 Innovation Act”.

1 **SEC. 2. RENEWAL OF AUTHORITY TO APPROVE DEM-**
2 **ONSTRATION PROJECTS DESIGNED TO TEST**
3 **INNOVATIVE STRATEGIES IN STATE CHILD**
4 **WELFARE PROGRAMS.**

5 Section 1130 of the Social Security Act (42 U.S.C.
6 1320a-9) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2), by striking “1998
9 through 2003” and inserting “2011 through
10 2014”;

11 (B) by striking paragraph (3) and insert-
12 ing the following:

13 “(3) **CONDITIONS FOR STATE ELIGIBILITY.**—In
14 order to be authorized to conduct a new demonstra-
15 tion project under this section in any of fiscal years
16 2011 through 2014, a State shall satisfy the fol-
17 lowing conditions:

18 “(A) **IDENTIFY 1 OR MORE GOALS.**—The
19 State shall demonstrate that the demonstration
20 project is designed to accomplish 1 or more of
21 the following goals:

22 “(i) Increase permanency for all in-
23 fants, children, and youth by reducing the
24 time in foster placements when possible
25 and promoting a successful transition to
26 adulthood for older youth.

1 “(ii) Increase positive outcomes for in-
2 fants, children, youth, and families in their
3 homes and communities, including tribal
4 communities, and improve the safety and
5 well-being of infants, children, and youth.

6 “(iii) Prevent child abuse and neglect
7 and the re-entry of infants, children, and
8 youth into foster care.

9 “(B) DEMONSTRATE READINESS.—The
10 State shall demonstrate through a narrative de-
11 scription the State’s capacity to effectively use
12 the authority to conduct a demonstration
13 project under this section by identifying
14 changes the State has made or plans to make
15 in policies, procedures, or other elements of the
16 State’s child welfare program that will enable
17 the State to successfully achieve the goal or
18 goals of the project.

19 “(C) DEMONSTRATE IMPLEMENTED OR
20 PLANNED CHILD WELFARE PROGRAM IMPROVE-
21 MENT POLICIES.—The State shall demonstrate
22 that the State has implemented, or plans to im-
23 plement within 2 years of the date of enactment
24 of the State Child Welfare Innovation Act, at
25 least 3 of the child welfare program improve-

1 ment policies described in paragraph (6), of
2 which—

3 “(i) 3 such policies are policies that
4 the State has not previously implemented
5 as of the date on which the State submits
6 an application to conduct the demonstra-
7 tion project; or

8 “(ii) 2 such policies are policies that
9 the State implemented after the enactment
10 of the Fostering Connections to Success
11 and Increasing Adoptions Act of 2008
12 (Public Law 110–351) and 1 such policy is
13 a policy that the State has not previously
14 implemented.”;

15 (C) in paragraph (4)—

16 (i) by inserting “or kinship guardian-
17 ship assistance” after “assistance”; and

18 (ii) by inserting “or relative guardian”
19 after “parents”;

20 (D) in paragraph (5), by inserting “and
21 the ability of the State to implement a correc-
22 tive action plan approved under section 1123A”
23 before the period; and

24 (E) by adding at the end the following:

1 “(6) CHILD WELFARE PROGRAM IMPROVEMENT
2 POLICIES.—

3 “(A) POLICIES DESCRIBED.—For purposes
4 of paragraph (3)(C), the child welfare program
5 improvement policies described in this para-
6 graph are the following:

7 “(i) The establishment of a bill of
8 rights for infants, children, and youth in
9 foster care that is widely shared and clear-
10 ly outlines protections for infants, children,
11 and youth, such as assuring frequent visits
12 with parents, siblings, and caseworkers, ac-
13 cess to attorneys, and participation in age-
14 appropriate extracurricular activities, and
15 procedures for ensuring the protections are
16 provided.

17 “(ii) The development and implemen-
18 tation of a plan for meeting the health and
19 mental health needs of infants, children,
20 and youth in foster care that includes en-
21 suring that the provision of health and
22 mental health care is child-specific, com-
23 prehensive, appropriate, and consistent
24 (through means such as ensuring the in-
25 fant, child, or youth has a medical home,

1 regular wellness medical visits, and ad-
2 dressing the issue of trauma, when appro-
3 priate).

4 “(iii) The establishment of procedures
5 and protocols for promoting educational
6 stability for children and youth in foster
7 care by keeping such children and youth in
8 the same school while they are in foster
9 care, unless remaining in that school is not
10 in their best interest, consistent with the
11 requirements of paragraphs (1)(G) and
12 (4)(A) of section 475.

13 “(iv) The inclusion in the State plan
14 under section 471 of an amendment imple-
15 menting the option under subsection
16 (a)(28) of that section to enter into kin-
17 ship guardianship assistance agreements.

18 “(v) The development and implemen-
19 tation of specific procedures for protecting
20 children and youth from the inappropriate
21 use of psychotropic medications, including
22 providing for regularly reporting on the
23 use of psychotropic medications for chil-
24 dren and youth in foster care that includes
25 reporting the ages and type of placements

1 of such children and youth who receive
2 such medications.

3 “(vi) The development and implemen-
4 tation of a plan that ensures congregate
5 care is used appropriately and reduces the
6 placement of children and youth in such
7 care.

8 “(vii) Of those infants, children, and
9 youth in out-of-home placements, substan-
10 tially increasing the number of cases of
11 siblings who are in the same foster care,
12 kinship guardianship, or adoptive place-
13 ment, above the number of such cases in
14 fiscal year 2008.

15 “(viii) The development and imple-
16 mentation of a plan to improve the recruit-
17 ment and retention of high quality foster
18 family homes trained to help assist infants,
19 children, and youth secure permanent fam-
20 ilies swiftly. Supports for foster families
21 under such a plan may include increasing
22 maintenance payments to more adequately
23 meet the needs of infants, children, and
24 youth in foster care and expanding train-

1 ing, respite care, and other support serv-
2 ices for foster parents.

3 “(ix) The establishment of procedures
4 designed to assist youth as they prepare
5 for their transition out of foster care, such
6 as arranging for participation in age-ap-
7 propriate extra-curricular activities, pro-
8 viding appropriate access to cell phones,
9 computers, and opportunities to obtain a
10 driver’s license, and providing counseling
11 and financial support for post-secondary
12 education.

13 “(x) The inclusion in the State plan
14 under section 471 of a description of State
15 procedures for—

16 “(I) ensuring that youth in foster
17 care who have attained age 16 are en-
18 gaged in discussions, including during
19 the development of the transition
20 plans required under paragraphs
21 (1)(D) and (5)(H) of section 475,
22 that explore whether the youth wishes
23 to reconnect with the youth’s biologi-
24 cal family, including parents, grand-
25 parents, and siblings, and, if so, what

1 skills and strategies the youth will
2 need to successfully and safely recon-
3 nect with those family members;

4 “(II) providing appropriate guid-
5 ance and services to youth whom af-
6 firm an intent to reconnect with bio-
7 logical family members on how to suc-
8 cessfully and safely manage such re-
9 connections; and

10 “(III) making, when appropriate,
11 efforts to include biological family
12 members in such reconnection efforts.

13 “(xi) The establishment of one or
14 more of the following programs designed to
15 prevent infants, children, and youth from
16 entering foster care or to provide perma-
17 nency for infants, children, and youth in
18 foster care:

19 “(I) An intensive family finding
20 program.

21 “(II) A kinship navigator pro-
22 gram.

23 “(III) A family counseling pro-
24 gram, such as a family group deci-
25 sion-making program, and which may

1 include in-home peer support for fami-
2 lies.

3 “(IV) A comprehensive family-
4 based substance abuse treatment pro-
5 gram.

6 “(V) A program under which
7 special efforts are made to identify
8 and address domestic violence that en-
9 dangers infants, children, and youth
10 and puts them at risk of entering fos-
11 ter care.

12 “(xii) The inclusion in the State plan
13 under section 471 of an amendment imple-
14 menting the option under subsection
15 (a)(28) of that section to enter into kin-
16 ship guardianship assistance agreements.

17 “(xiii) The inclusion in the State plan
18 under section 471 of an amendment imple-
19 menting each of the options under sub-
20 clauses (I), (II), and (III) of section
21 475(8)(B)(i) to define a ‘child’ for pur-
22 poses of the provision of foster care main-
23 tenance payments, adoption assistance
24 payments, and kinship guardianship assist-
25 ance payments, as an individual who has

1 not attained age 21 (or, in the case of a
2 State that has had such a definition prior
3 to 2008 for purposes of the provision of
4 foster care maintenance payments, an
5 amendment implementing each of the op-
6 tions under subclauses (II) and (III) of
7 that section).

8 “(B) DEFINITION.—In this paragraph, the
9 term ‘youth’ means, with respect to a State, an
10 individual who has attained age 12 but has not
11 attained the age at which an individual is no
12 longer considered to be a child under the State
13 plans under parts B and E of title IV.”;

14 (2) in subsection (d), by striking “5 years” and
15 all that follows through the period and inserting “3
16 years. The Secretary shall not authorize the exten-
17 sion or renewal of any demonstration project con-
18 ducted under this section after September 30,
19 2018.”;

20 (3) in subsection (e)—

21 (A) in paragraph (1), by striking “(which
22 shall provide,” and all that follows up to the
23 semicolon;

24 (B) by striking “and” at the end of para-
25 graph (6);

1 (C) by redesignating paragraph (7) as
2 paragraph (9); and

3 (D) by inserting after paragraph (6) the
4 following:

5 “(7) an accounting of any additional Federal,
6 State, local, and private investments (other than
7 those with respect to which matching funds were
8 provided under part B or E of title IV) made, dur-
9 ing the 2 fiscal years preceding the application to
10 provide the services described in paragraph (1), and
11 an assurance that the State will provide an account-
12 ing of that same spending for each year of an ap-
13 proved demonstration project;

14 “(8) an assurance that the State will continue
15 to expend, during each year of the demonstration
16 project, an amount at least equivalent to the average
17 amount of Federal, State, and local funds expended
18 on the services described in paragraph (1) during
19 the 2 fiscal years preceding the fiscal year in which
20 the application is submitted; and”;

21 (4) by redesignating subsection (g) as sub-
22 section (h);

23 (5) by striking subsection (f) and inserting the
24 following:

25 “(f) STATE EVALUATIONS.—

1 “(1) IN GENERAL.—A State authorized to con-
2 duct a demonstration project under this section shall
3 obtain an evaluation by an independent contractor of
4 the effectiveness of the project that is—

5 “(A) conducted in accordance with guid-
6 ance from the Secretary on establishing an ap-
7 propriate and rigorous comparative method-
8 ology that does not result in the denial of child
9 welfare services to any group of infants, chil-
10 dren, youth, and families; and

11 “(B) uses an evaluation design that is de-
12 termined by the Secretary to be consistent with
13 such guidance and satisfies the requirements of
14 paragraph (2).

15 “(2) REQUIRED DESIGN ELEMENTS.—The eval-
16 uation design shall provide for—

17 “(A) comparison of methods of service de-
18 livery under the project, and such methods
19 under a State plan or plans, with respect to ef-
20 ficiency, economy, and any other appropriate
21 measures of program management;

22 “(B) comparison of the amounts of Fed-
23 eral, State, local and private investments in the
24 services described in subsection (e)(1), by serv-
25 ice type, with the amount of the investments

1 during the period of the demonstration project;
2 and

3 “(C) any other information that the Sec-
4 retary may require.

5 “(3) EVALUATION REPORTS.—A State author-
6 ized to conduct a demonstration project under this
7 section shall provide, in addition to the reports re-
8 quired under subsection (g)(1), interim and final
9 evaluation reports to the Secretary, at such times
10 and in such manner as the Secretary may require.

11 “(4) CHILD WELFARE SERVICES DEFINED.—In
12 this subsection, the term ‘child welfare services’
13 means services intended to prevent the abuse or ne-
14 glect of children, to ensure that children have safe,
15 permanent homes, and to promote the well-being of
16 children and their families. Such term includes any
17 services described in the preceding sentence that are
18 provided under a program authorized or funded
19 under title IV, and services provided under programs
20 designed to prevent infants, children, and youth
21 from entering foster care, including the following
22 programs: An in-home family preservation program,
23 an intensive family finding program, a kinship navi-
24 gator program, a family counseling program such as
25 a family group decision-making program (which may

1 include in-home peer support for families), a com-
2 prehensive family-based substance abuse treatment
3 program, and a program under which special efforts
4 are made to identify and address domestic violence
5 that endangers infants, children, and youth and puts
6 them at risk of entering foster care.

7 “(g) STATE AND CONGRESSIONAL REPORTS.—

8 “(1) STATE REPORTS; PUBLIC AVAILABILITY.—
9 Each State authorized to conduct a demonstration
10 project under this section shall—

11 “(A) submit periodic reports to the Sec-
12 retary on the specific programs, activities, and
13 strategies used to improve outcomes for infants,
14 children, youth, and families and the results
15 achieved for infants, children, and youth during
16 the conduct of the demonstration project, in-
17 cluding with respect to those infants, children,
18 and youth who are prevented from entering fos-
19 ter care, infants, children, and youth in foster
20 care, and infants, children, and youth who move
21 from foster care to permanent families; and

22 “(B) post a copy of each such report on
23 the Internet website for the State child welfare
24 program concurrent with the submission of the
25 report to the Secretary.

1 “(2) REPORTS TO CONGRESS.—The Secretary
2 shall submit to the Committee on Ways and Means
3 of the House of Representatives and the Committee
4 on Finance of the Senate—

5 “(A) periodic reports based on the State
6 reports submitted under paragraph (1); and

7 “(B) a report based on the results of the
8 State evaluations required under subsection (f)
9 that includes an analysis of the results of such
10 evaluations and such recommendations for ad-
11 ministrative or legislative changes as the Sec-
12 retary determines appropriate.”; and

13 (6) by adding at the end the following:

14 “(i) INDIAN TRIBES OPERATING IV–E PROGRAMS
15 CONSIDERED STATES.—An Indian tribe, tribal organiza-
16 tion, or tribal consortium that has elected to operate a
17 program under part E of title IV in accordance with sec-
18 tion 479B shall be considered a State for purposes of this
19 section.”.

20 **SEC. 3. BUDGETARY EFFECTS.**

21 The budgetary effects of this Act, for the purpose of
22 complying with the Statutory Pay-As-You-Go Act of 2010,
23 shall be determined by reference to the latest statement
24 titled “Budgetary Effects of PAYGO Legislation” for this
25 Act, submitted for printing in the Congressional Record

1 by the Chairman of the Senate Budget Committee, pro-
2 vided that such statement has been submitted prior to the
3 vote on passage.

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