

Calendar No. 120

115TH CONGRESS
1ST SESSION**H. R. 1628**

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2017

Received; read the first time

JUNE 8, 2017

Read twice and placed on the calendar

AN ACT

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2017.

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 “American Health Care
5 Act of 2017”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ENERGY AND COMMERCE

Subtitle A—Patient Access to Public Health Programs

- Sec. 101. The Prevention and Public Health Fund.
- Sec. 102. Community health center program.
- Sec. 103. Federal payments to States.

Subtitle B—Medicaid Program Enhancement

- Sec. 111. Repeal of Medicaid provisions.
- Sec. 112. Repeal of Medicaid expansion.
- Sec. 113. Elimination of DSH cuts.
- Sec. 114. Reducing State Medicaid costs.
- Sec. 115. Safety net funding for non-expansion States.
- Sec. 116. Providing incentives for increased frequency of eligibility redeterminations.
- Sec. 117. Permitting States to apply a work requirement for nondisabled, non-elderly, nonpregnant adults under Medicaid.

Subtitle C—Per Capita Allotment for Medical Assistance

- Sec. 121. Per capita allotment for medical assistance.

Subtitle D—Patient Relief and Health Insurance Market Stability

- Sec. 131. Repeal of cost-sharing subsidy.
- Sec. 132. Patient and State Stability Fund.
- Sec. 133. Continuous health insurance coverage incentive.
- Sec. 134. Increasing coverage options.
- Sec. 135. Change in permissible age variation in health insurance premium rates.

Subtitle E—Implementation Funding

- Sec. 141. American Health Care Implementation Fund.

TITLE II—COMMITTEE ON WAYS AND MEANS

Subtitle A—Repeal and Replace of Health-Related Tax Policy

- Sec. 201. Recapture excess advance payments of premium tax credits.
- Sec. 202. Additional modifications to premium tax credit.
- Sec. 203. Small business tax credit.
- Sec. 204. Individual mandate.
- Sec. 205. Employer mandate.
- Sec. 206. Repeal of the tax on employee health insurance premiums and health plan benefits.
- Sec. 207. Repeal of tax on over-the-counter medications.
- Sec. 208. Repeal of increase of tax on health savings accounts.
- Sec. 209. Repeal of limitations on contributions to flexible spending accounts.
- Sec. 210. Repeal of medical device excise tax.
- Sec. 211. Repeal of elimination of deduction for expenses allocable to medicare part D subsidy.
- Sec. 212. Reduction of income threshold for determining medical care deduction.
- Sec. 213. Repeal of Medicare tax increase.
- Sec. 214. Refundable tax credit for health insurance coverage.
- Sec. 215. Maximum contribution limit to health savings account increased to amount of deductible and out-of-pocket limitation.
- Sec. 216. Allow both spouses to make catch-up contributions to the same health savings account.

Sec. 217. Special rule for certain medical expenses incurred before establishment of health savings account.

Subtitle B—Repeal of Certain Consumer Taxes

Sec. 221. Repeal of tax on prescription medications.

Sec. 222. Repeal of health insurance tax.

Subtitle C—Repeal of Tanning Tax

Sec. 231. Repeal of tanning tax.

Subtitle D—Remuneration From Certain Insurers

Sec. 241. Remuneration from certain insurers.

Subtitle E—Repeal of Net Investment Income Tax

Sec. 251. Repeal of net investment income tax.

1 **TITLE I—ENERGY AND**
 2 **COMMERCE**
 3 **Subtitle A—Patient Access to**
 4 **Public Health Programs**

5 **SEC. 101. THE PREVENTION AND PUBLIC HEALTH FUND.**

6 (a) IN GENERAL.—Subsection (b) of section 4002 of
 7 the Patient Protection and Affordable Care Act (42
 8 U.S.C. 300u–11), as amended by section 5009 of the 21st
 9 Century Cures Act, is amended—

10 (1) in paragraph (2), by adding “and” at the
 11 end;

12 (2) in paragraph (3)—

13 (A) by striking “each of fiscal years 2018
 14 and 2019” and inserting “fiscal year 2018”;
 15 and

16 (B) by striking the semicolon at the end
 17 and inserting a period; and

1 (3) by striking paragraphs (4) through (8).

2 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
3 funds made available by such section 4002, the unobli-
4 gated balance at the end of fiscal year 2018 is rescinded.

5 **SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.**

6 Effective as if included in the enactment of the Medi-
7 care Access and CHIP Reauthorization Act of 2015 (Pub-
8 lic Law 114–10, 129 Stat. 87), paragraph (1) of section
9 221(a) of such Act is amended by inserting “, and an ad-
10 ditional \$422,000,000 for fiscal year 2017” after “2017”.

11 **SEC. 103. FEDERAL PAYMENTS TO STATES.**

12 (a) IN GENERAL.—Notwithstanding section 504(a),
13 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or
14 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),
15 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4),
16 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Med-
17 icaid waiver in effect on the date of enactment of this Act
18 that is approved under section 1115 or 1915 of the Social
19 Security Act (42 U.S.C. 1315, 1396n), for the 1-year pe-
20 riod beginning on the date of the enactment of this Act,
21 no Federal funds provided from a program referred to in
22 this subsection that is considered direct spending for any
23 year may be made available to a State for payments to
24 a prohibited entity, whether made directly to the prohib-

1 ited entity or through a managed care organization under
2 contract with the State.

3 (b) DEFINITIONS.—In this section:

4 (1) PROHIBITED ENTITY.—The term “prohib-
5 ited entity” means an entity, including its affiliates,
6 subsidiaries, successors, and clinics—

7 (A) that, as of the date of enactment of
8 this Act—

9 (i) is an organization described in sec-
10 tion 501(c)(3) of the Internal Revenue
11 Code of 1986 and exempt from tax under
12 section 501(a) of such Code;

13 (ii) is an essential community provider
14 described in section 156.235 of title 45,
15 Code of Federal Regulations (as in effect
16 on the date of enactment of this Act), that
17 is primarily engaged in family planning
18 services, reproductive health, and related
19 medical care; and

20 (iii) provides for abortions, other than
21 an abortion—

22 (I) if the pregnancy is the result
23 of an act of rape or incest; or

24 (II) in the case where a woman
25 suffers from a physical disorder, phys-

1 ical injury, or physical illness that
2 would, as certified by a physician,
3 place the woman in danger of death
4 unless an abortion is performed, in-
5 cluding a life-endangering physical
6 condition caused by or arising from
7 the pregnancy itself; and

8 (B) for which the total amount of Federal
9 and State expenditures under the Medicaid pro-
10 gram under title XIX of the Social Security Act
11 in fiscal year 2014 made directly to the entity
12 and to any affiliates, subsidiaries, successors, or
13 clinics of the entity, or made to the entity and
14 to any affiliates, subsidiaries, successors, or
15 clinics of the entity as part of a nationwide
16 health care provider network, exceeded
17 \$350,000,000.

18 (2) DIRECT SPENDING.—The term “direct
19 spending” has the meaning given that term under
20 section 250(c) of the Balanced Budget and Emer-
21 gency Deficit Control Act of 1985 (2 U.S.C. 900(c)).

22 **Subtitle B—Medicaid Program**
23 **Enhancement**

24 **SEC. 111. REPEAL OF MEDICAID PROVISIONS.**

25 The Social Security Act is amended—

1 (1) in section 1902 (42 U.S.C. 1396a)—

2 (A) in subsection (a)(47)(B), by inserting
3 “and provided that any such election shall cease
4 to be effective on January 1, 2020, and no such
5 election shall be made after that date” before
6 the semicolon at the end; and

7 (B) in subsection (l)(2)(C), by inserting
8 “and ending December 31, 2019,” after “Janu-
9 ary 1, 2014,”;

10 (2) in section 1915(k)(2) (42 U.S.C.
11 1396n(k)(2)), by striking “during the period de-
12 scribed in paragraph (1)” and inserting “on or after
13 the date referred to in paragraph (1) and before
14 January 1, 2020”; and

15 (3) in section 1920(e) (42 U.S.C. 1396r-1(e)),
16 by striking “under clause (i)(VIII), clause (i)(IX), or
17 clause (ii)(XX) of subsection (a)(10)(A)” and insert-
18 ing “under clause (i)(VIII) or clause (ii)(XX) of sec-
19 tion 1902(a)(10)(A) before January 1, 2020, section
20 1902(a)(10)(A)(i)(IX),”.

21 **SEC. 112. REPEAL OF MEDICAID EXPANSION.**

22 (a) IN GENERAL.—Title XIX of the Social Security
23 Act (42 U.S.C. 1396 et seq.) is amended—

24 (1) in section 1902 (42 U.S.C. 1396a)—

25 (A) in subsection (a)(10)(A)—

1 (i) in clause (i)(VIII), by inserting
2 “and ending December 31, 2019,” after
3 “2014,”;

4 (ii) in clause (ii)(XX), by inserting
5 “and ending December 31, 2017,” after
6 “2014,”; and

7 (iii) in clause (ii), by adding at the
8 end the following new subclause:

9 “(XXIII) beginning January 1,
10 2020—

11 “(aa) who are expansion enrollees
12 (as defined in subsection (nn)(1)); or

13 “(bb) who are grandfathered ex-
14 pansion enrollees (as defined in sub-
15 section (nn)(2));”; and

16 (B) by adding at the end the following new
17 subsection:

18 “(nn) EXPANSION ENROLLEES.—In this title:

19 “(1) IN GENERAL.—The term ‘expansion en-
20 rollee’ means an individual—

21 “(A) who is under 65 years of age;

22 “(B) who is not pregnant;

23 “(C) who is not entitled to, or enrolled for,
24 benefits under part A of title XVIII, or enrolled
25 for benefits under part B of title XVIII;

1 “(D) who is not described in any of sub-
2 clauses (I) through (VII) of subsection
3 (a)(10)(A)(i); and

4 “(E) whose income (as determined under
5 subsection (e)(14)) does not exceed 133 percent
6 of the poverty line (as defined in section
7 2110(c)(5)) applicable to a family of the size in-
8 volved.

9 “(2) GRANDFATHERED EXPANSION ENROLL-
10 EES.—The term ‘grandfathered expansion enrollee’
11 means an expansion enrollee who—

12 “(A) was enrolled under the State plan
13 under this title (or under a waiver of such plan)
14 as of December 31, 2019; and

15 “(B) does not have a break in eligibility
16 for medical assistance under such State plan
17 (or waiver) for more than one month after such
18 date.

19 “(3) APPLICATION OF RELATED PROVISIONS.—
20 Any reference in subsection (a)(10)(G), (k), or (gg)
21 of this section or in section 1903, 1905(a), 1920(e),
22 or 1937(a)(1)(B) to individuals described in sub-
23 clause (VIII) of subsection (a)(10)(A)(i) shall be
24 deemed to include a reference to expansion enrollees
25 (including grandfathered expansion enrollees).”; and

1 (2) in section 1905 (42 U.S.C. 1396d)—

2 (A) in subsection (y)(1), in the matter pre-
3 ceding subparagraph (A)—

4 (i) by inserting “and that has elected
5 to cover newly eligible individuals before
6 March 1, 2017” after “that is one of the
7 50 States or the District of Columbia”;
8 and

9 (ii) by inserting after “subclause
10 (VIII) of section 1902(a)(10)(A)(i)” the
11 following: “who, for periods after Decem-
12 ber 31, 2019, are grandfathered expansion
13 enrollees (as defined in section
14 1902(nn)(2))”; and

15 (B) in subsection (z)(2)—

16 (i) in subparagraph (A), by inserting
17 after “section 1937” the following: “and,
18 for periods after December 31, 2019, who
19 are grandfathered expansion enrollees (as
20 defined in section 1902(nn)(2))”; and

21 (ii) in subparagraph (B)(ii)—

22 (I) in subclause (III), by adding
23 “and” at the end; and

1 (II) by striking subclauses (IV),
2 (V), and (VI) and inserting the fol-
3 lowing new subclause:

4 “(IV) 2017 and each subsequent year is 80
5 percent.”.

6 (b) SUNSET OF ESSENTIAL HEALTH BENEFITS RE-
7 QUIREMENT.—Section 1937(b)(5) of the Social Security
8 Act (42 U.S.C. 1396u–7(b)(5)) is amended by adding at
9 the end the following: “This paragraph shall not apply
10 after December 31, 2019.”.

11 **SEC. 113. ELIMINATION OF DSH CUTS.**

12 Section 1923(f) of the Social Security Act (42 U.S.C.
13 1396r–4(f)) is amended—

14 (1) in paragraph (7)—

15 (A) in subparagraph (A)—

16 (i) in clause (i)—

17 (I) in the matter preceding sub-
18 clause (I), by striking “2025” and in-
19 serting “2019”; and

20 (ii) in clause (ii)—

21 (I) in subclause (I), by adding
22 “and” at the end;

23 (II) in subclause (II), by striking
24 the semicolon at the end and inserting
25 a period; and

1 (III) by striking subclauses (III)
2 through (VIII); and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(C) EXEMPTION FROM REDUCTION FOR
6 NON-EXPANSION STATES.—

7 “(i) IN GENERAL.—In the case of a
8 State that is a non-expansion State for a
9 fiscal year, subparagraph (A)(i) shall not
10 apply to the DSH allotment for such State
11 and fiscal year.

12 “(ii) NO CHANGE IN REDUCTION FOR
13 EXPANSION STATES.—In the case of a
14 State that is an expansion State for a fis-
15 cal year, the DSH allotment for such State
16 and fiscal year shall be determined as if
17 clause (i) did not apply.

18 “(iii) NON-EXPANSION AND EXPAN-
19 SION STATE DEFINED.—

20 “(I) The term ‘expansion State’
21 means with respect to a fiscal year, a
22 State that, as of July 1 of the pre-
23 ceding fiscal year, provides for eligi-
24 bility under clause (i)(VIII) or
25 (ii)(XX) of section 1902(a)(10)(A) for

1 medical assistance under this title (or
2 a waiver of the State plan approved
3 under section 1115).

4 “(II) The term ‘non-expansion
5 State’ means, with respect to a fiscal
6 year, a State that is not an expansion
7 State.”; and

8 (2) in paragraph (8), by striking “fiscal year
9 2025” and inserting “fiscal year 2019”.

10 **SEC. 114. REDUCING STATE MEDICAID COSTS.**

11 (a) LETTING STATES DISENROLL HIGH DOLLAR
12 LOTTERY WINNERS.—

13 (1) IN GENERAL.—Section 1902 of the Social
14 Security Act (42 U.S.C. 1396a) is amended—

15 (A) in subsection (a)(17), by striking
16 “(e)(14), (e)(14)” and inserting “(e)(14),
17 (e)(15)”;

18 (B) in subsection (e)—

19 (i) in paragraph (14) (relating to
20 modified adjusted gross income), by adding
21 at the end the following new subparagraph:

22 “(J) TREATMENT OF CERTAIN LOTTERY
23 WINNINGS AND INCOME RECEIVED AS A LUMP
24 SUM.—

1 “(i) IN GENERAL.—In the case of an
2 individual who is the recipient of qualified
3 lottery winnings (pursuant to lotteries oc-
4 ccurring on or after January 1, 2020) or
5 qualified lump sum income (received on or
6 after such date) and whose eligibility for
7 medical assistance is determined based on
8 the application of modified adjusted gross
9 income under subparagraph (A), a State
10 shall, in determining such eligibility, in-
11 clude such winnings or income (as applica-
12 ble) as income received—

13 “(I) in the month in which such
14 winnings or income (as applicable) is
15 received if the amount of such
16 winnings or income is less than
17 \$80,000;

18 “(II) over a period of 2 months
19 if the amount of such winnings or in-
20 come (as applicable) is greater than or
21 equal to \$80,000 but less than
22 \$90,000;

23 “(III) over a period of 3 months
24 if the amount of such winnings or in-
25 come (as applicable) is greater than or

1 equal to \$90,000 but less than
2 \$100,000; and

3 “(IV) over a period of 3 months
4 plus 1 additional month for each in-
5 crement of \$10,000 of such winnings
6 or income (as applicable) received, not
7 to exceed a period of 120 months (for
8 winnings or income of \$1,260,000 or
9 more), if the amount of such winnings
10 or income is greater than or equal to
11 \$100,000.

12 “(ii) COUNTING IN EQUAL INSTALL-
13 MENTS.—For purposes of subclauses (II),
14 (III), and (IV) of clause (i), winnings or
15 income to which such subclause applies
16 shall be counted in equal monthly install-
17 ments over the period of months specified
18 under such subclause.

19 “(iii) HARDSHIP EXEMPTION.—An in-
20 dividual whose income, by application of
21 clause (i), exceeds the applicable eligibility
22 threshold established by the State, may
23 continue to be eligible for medical assist-
24 ance to the extent that the State deter-
25 mines, under procedures established by the

1 State under the State plan (or in the case
2 of a waiver of the plan under section 1115,
3 incorporated in such waiver), or as other-
4 wise established by such State in accord-
5 ance with such standards as may be speci-
6 fied by the Secretary, that the denial of eli-
7 gibility of the individual would cause an
8 undue medical or financial hardship as de-
9 termined on the basis of criteria estab-
10 lished by the Secretary.

11 “(iv) NOTIFICATIONS AND ASSIST-
12 ANCE REQUIRED IN CASE OF LOSS OF ELI-
13 GIBILITY.—A State shall, with respect to
14 an individual who loses eligibility for med-
15 ical assistance under the State plan (or a
16 waiver of such plan) by reason of clause
17 (i), before the date on which the individual
18 loses such eligibility, inform the individual
19 of the date on which the individual would
20 no longer be considered ineligible by reason
21 of such clause to receive medical assistance
22 under the State plan or under any waiver
23 of such plan and the date on which the in-
24 dividual would be eligible to reapply to re-
25 ceive such medical assistance.

1 “(v) QUALIFIED LOTTERY WINNINGS
2 DEFINED.—In this subparagraph, the term
3 ‘qualified lottery winnings’ means winnings
4 from a sweepstakes, lottery, or pool de-
5 scribed in paragraph (3) of section 4402 of
6 the Internal Revenue Code of 1986 or a
7 lottery operated by a multistate or multi-
8 jurisdictional lottery association, including
9 amounts awarded as a lump sum payment.

10 “(vi) QUALIFIED LUMP SUM INCOME
11 DEFINED.—In this subparagraph, the term
12 ‘qualified lump sum income’ means income
13 that is received as a lump sum from one
14 of the following sources:

15 “(I) Monetary winnings from
16 gambling (as defined by the Secretary
17 and including monetary winnings from
18 gambling activities described in sec-
19 tion 1955(b)(4) of title 18, United
20 States Code).

21 “(II) Income received as liquid
22 assets from the estate (as defined in
23 section 1917(b)(4)) of a deceased in-
24 dividual.”; and

1 (ii) by striking “(14) EXCLUSION”
2 and inserting “(15) EXCLUSION”.

3 (2) RULES OF CONSTRUCTION.—

4 (A) INTERCEPTION OF LOTTERY WINNINGS
5 ALLOWED.—Nothing in the amendment made
6 by paragraph (1)(B)(i) shall be construed as
7 preventing a State from intercepting the State
8 lottery winnings awarded to an individual in the
9 State to recover amounts paid by the State
10 under the State Medicaid plan under title XIX
11 of the Social Security Act for medical assistance
12 furnished to the individual.

13 (B) APPLICABILITY LIMITED TO ELIGI-
14 BILITY OF RECIPIENT OF LOTTERY WINNINGS
15 OR LUMP SUM INCOME.—Nothing in the amend-
16 ment made by paragraph (1)(B)(i) shall be con-
17 strued, with respect to a determination of
18 household income for purposes of a determina-
19 tion of eligibility for medical assistance under
20 the State plan under title XIX of the Social Se-
21 curity Act (42 U.S.C. 1396 et seq.) (or a waiver
22 of such plan) made by applying modified ad-
23 justed gross income under subparagraph (A) of
24 section 1902(e)(14) of such Act (42 U.S.C.
25 1396a(e)(14)), as limiting the eligibility for

1 such medical assistance of any individual that is
2 a member of the household other than the indi-
3 vidual (or the individual’s spouse) who received
4 qualified lottery winnings or qualified lump-sum
5 income (as defined in subparagraph (J) of such
6 section 1902(e)(14), as added by paragraph
7 (1)(B)(i) of this subsection).

8 (b) REPEAL OF RETROACTIVE ELIGIBILITY.—

9 (1) IN GENERAL.—

10 (A) STATE PLAN REQUIREMENTS.—Section
11 1902(a)(34) of the Social Security Act (42
12 U.S.C. 1396a(a)(34)) is amended by striking
13 “in or after the third month before the month
14 in which he made application” and inserting “in
15 or after the month in which the individual made
16 application”.

17 (B) DEFINITION OF MEDICAL ASSIST-
18 ANCE.—Section 1905(a) of the Social Security
19 Act (42 U.S.C. 1396d(a)) is amended by strik-
20 ing “in or after the third month before the
21 month in which the recipient makes application
22 for assistance” and inserting “in or after the
23 month in which the recipient makes application
24 for assistance”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall apply to medical assistance
3 with respect to individuals whose eligibility for such
4 assistance is based on an application for such assist-
5 ance made (or deemed to be made) on or after Octo-
6 ber 1, 2017.

7 (c) UPDATING ALLOWABLE HOME EQUITY LIMITS IN
8 MEDICAID.—

9 (1) IN GENERAL.—Section 1917(f)(1) of the
10 Social Security Act (42 U.S.C. 1396p(f)(1)) is
11 amended—

12 (A) in subparagraph (A), by striking “sub-
13 paragraphs (B) and (C)” and inserting “sub-
14 paragraph (B)”;

15 (B) by striking subparagraph (B);

16 (C) by redesignating subparagraph (C) as
17 subparagraph (B); and

18 (D) in subparagraph (B), as so redesign-
19 ated, by striking “dollar amounts specified in
20 this paragraph” and inserting “dollar amount
21 specified in subparagraph (A)”.

22 (2) EFFECTIVE DATE.—

23 (A) IN GENERAL.—The amendments made
24 by paragraph (1) shall apply with respect to eli-
25 gibility determinations made after the date that

1 is 180 days after the date of the enactment of
2 this section.

3 (B) EXCEPTION FOR STATE LEGISLA-
4 TION.—In the case of a State plan under title
5 XIX of the Social Security Act that the Sec-
6 retary of Health and Human Services deter-
7 mines requires State legislation in order for the
8 respective plan to meet any requirement im-
9 posed by amendments made by this subsection,
10 the respective plan shall not be regarded as fail-
11 ing to comply with the requirements of such
12 title solely on the basis of its failure to meet
13 such an additional requirement before the first
14 day of the first calendar quarter beginning after
15 the close of the first regular session of the
16 State legislature that begins after the date of
17 the enactment of this Act. For purposes of the
18 previous sentence, in the case of a State that
19 has a 2-year legislative session, each year of the
20 session shall be considered to be a separate reg-
21 ular session of the State legislature.

1 **SEC. 115. SAFETY NET FUNDING FOR NON-EXPANSION**
2 **STATES.**

3 Title XIX of the Social Security Act is amended by
4 inserting after section 1923 (42 U.S.C. 1396r–4) the fol-
5 lowing new section:

6 “ADJUSTMENT IN PAYMENT FOR SERVICES OF SAFETY
7 NET PROVIDERS IN NON-EXPANSION STATES

8 “SEC. 1923A. (a) IN GENERAL.—Subject to the limi-
9 tations of this section, for each year during the period be-
10 ginning with fiscal year 2018 and ending with fiscal year
11 2022, each State that is one of the 50 States or the Dis-
12 trict of Columbia and that, as of July 1 of the preceding
13 fiscal year, did not provide for eligibility under clause
14 (i)(VIII) or (ii)(XX) of section 1902(a)(10)(A) for medical
15 assistance under this title (or a waiver of the State plan
16 approved under section 1115) (each such State or District
17 referred to in this section for the fiscal year as a ‘non-
18 expansion State’) may adjust the payment amounts other-
19 wise provided under the State plan under this title (or a
20 waiver of such plan) to health care providers that provide
21 health care services to individuals enrolled under this title
22 (in this section referred to as ‘eligible providers’) so long
23 as the payment adjustment to such an eligible provider
24 does not exceed the provider’s costs in furnishing health
25 care services (as determined by the Secretary and net of
26 payments under this title, other than under this section,

1 and by uninsured patients) to individuals who either are
2 eligible for medical assistance under the State plan (or
3 under a waiver of such plan) or have no health insurance
4 or health plan coverage for such services.

5 “(b) INCREASE IN APPLICABLE FMAP.—Notwith-
6 standing section 1905(b), the Federal medical assistance
7 percentage applicable with respect to expenditures attrib-
8 utable to a payment adjustment under subsection (a) for
9 which payment is permitted under subsection (c) shall be
10 equal to—

11 “(1) 100 percent for calendar quarters in fiscal
12 years 2018, 2019, 2020, and 2021; and

13 “(2) 95 percent for calendar quarters in fiscal
14 year 2022.

15 “(c) ANNUAL ALLOTMENT LIMITATION.—Payment
16 under section 1903(a) shall not be made to a State with
17 respect to any payment adjustment made under this sec-
18 tion for all calendar quarters in a fiscal year in excess
19 of the \$2,000,000,000 multiplied by the ratio of—

20 “(1) the population of the State with income
21 below 138 percent of the poverty line in 2015 (as de-
22 termined based the table entitled ‘Health Insurance
23 Coverage Status and Type by Ratio of Income to
24 Poverty Level in the Past 12 Months by Age’ for the
25 universe of the civilian noninstitutionalized popu-

1 lation for whom poverty status is determined based
2 on the 2015 American Community Survey 1–Year
3 Estimates, as published by the Bureau of the Cen-
4 sus), to

5 “(2) the sum of the populations under para-
6 graph (1) for all non-expansion States.

7 “(d) DISQUALIFICATION IN CASE OF STATE COV-
8 ERAGE EXPANSION.—If a State is a non-expansion for a
9 fiscal year and provides eligibility for medical assistance
10 described in subsection (a) during the fiscal year, the
11 State shall no longer be treated as a non-expansion State
12 under this section for any subsequent fiscal years.”.

13 **SEC. 116. PROVIDING INCENTIVES FOR INCREASED FRE-**
14 **QUENCY OF ELIGIBILITY REDETERMINA-**
15 **TIONS.**

16 (a) IN GENERAL.—Section 1902(e)(14) of the Social
17 Security Act (42 U.S.C. 1396a(e)(14)) (relating to modi-
18 fied adjusted gross income), as amended by section
19 114(a)(1), is further amended by adding at the end the
20 following:

21 “(K) FREQUENCY OF ELIGIBILITY REDE-
22 TERMINATIONS.—Beginning on October 1,
23 2017, and notwithstanding subparagraph (H),
24 in the case of an individual whose eligibility for
25 medical assistance under the State plan under

1 this title (or a waiver of such plan) is deter-
2 mined based on the application of modified ad-
3 justed gross income under subparagraph (A)
4 and who is so eligible on the basis of clause
5 (i)(VIII) or clause (ii)(XX) of subsection
6 (a)(10)(A), a State shall redetermine such indi-
7 vidual's eligibility for such medical assistance
8 no less frequently than once every 6 months.”.

9 (b) INCREASED ADMINISTRATIVE MATCHING PER-
10 CENTAGE.—For each calendar quarter during the period
11 beginning on October 1, 2017, and ending on December
12 31, 2019, the Federal matching percentage otherwise ap-
13 plicable under section 1903(a) of the Social Security Act
14 (42 U.S.C. 1396b(a)) with respect to State expenditures
15 during such quarter that are attributable to meeting the
16 requirement of section 1902(e)(14) (relating to determina-
17 tions of eligibility using modified adjusted gross income)
18 of such Act shall be increased by 5 percentage points with
19 respect to State expenditures attributable to activities car-
20 ried out by the State (and approved by the Secretary) to
21 increase the frequency of eligibility redeterminations re-
22 quired by subparagraph (K) of such section (relating to
23 eligibility redeterminations made on a 6-month basis) (as
24 added by subsection (a)).

1 **SEC. 117. PERMITTING STATES TO APPLY A WORK RE-**
2 **QUIREMENT FOR NONDISABLED, NON-**
3 **ELDERLY, NONPREGNANT ADULTS UNDER**
4 **MEDICAID.**

5 (a) **IN GENERAL.**—Section 1902 of the Social Secu-
6 rity Act (42 U.S.C. 1396a), as previously amended, is fur-
7 ther amended by adding at the end the following new sub-
8 section:

9 “(oo) **WORK REQUIREMENT OPTION FOR NON-**
10 **DISABLED, NONELDERLY, NONPREGNANT ADULTS.**—

11 “(1) **IN GENERAL.**—Beginning October 1,
12 2017, subject to paragraph (3), a State may elect to
13 condition medical assistance to a nondisabled, non-
14 elderly, nonpregnant individual under this title upon
15 such an individual’s satisfaction of a work require-
16 ment (as defined in paragraph (2)).

17 “(2) **WORK REQUIREMENT DEFINED.**—In this
18 section, the term ‘work requirement’ means, with re-
19 spect to an individual, the individual’s participation
20 in work activities (as defined in section 407(d)) for
21 such period of time as determined by the State, and
22 as directed and administered by the State.

23 “(3) **REQUIRED EXCEPTIONS.**—States admin-
24 istering a work requirement under this subsection
25 may not apply such requirement to—

1 “(A) a woman during pregnancy through
2 the end of the month in which the 60-day pe-
3 riod (beginning on the last day of her preg-
4 nancy) ends;

5 “(B) an individual who is under 19 years
6 of age;

7 “(C) an individual who is the only parent
8 or caretaker relative in the family of a child
9 who has not attained 6 years of age or who is
10 the only parent or caretaker of a child with dis-
11 abilities; or

12 “(D) an individual who is married or a
13 head of household and has not attained 20
14 years of age and who—

15 “(i) maintains satisfactory attendance
16 at secondary school or the equivalent; or

17 “(ii) participates in education directly
18 related to employment.”.

19 (b) INCREASE IN MATCHING RATE FOR IMPLEMEN-
20 TATION.—Section 1903 of the Social Security Act (42
21 U.S.C. 1396b) is amended by adding at the end the fol-
22 lowing:

23 “(aa) The Federal matching percentage otherwise ap-
24 plicable under subsection (a) with respect to State admin-
25 istrative expenditures during a calendar quarter for which

1 the State receives payment under such subsection shall,
2 in addition to any other increase to such Federal matching
3 percentage, be increased for such calendar quarter by 5
4 percentage points with respect to State expenditures at-
5 tributable to activities carried out by the State (and ap-
6 proved by the Secretary) to implement subsection (oo) of
7 section 1902.”.

8 **Subtitle C—Per Capita Allotment**
9 **for Medical Assistance**

10 **SEC. 121. PER CAPITA ALLOTMENT FOR MEDICAL ASSIST-**
11 **ANCE.**

12 Title XIX of the Social Security Act is amended—

13 (1) in section 1903 (42 U.S.C. 1396b)—

14 (A) in subsection (a), in the matter before
15 paragraph (1), by inserting “and section
16 1903A(a)” after “except as otherwise provided
17 in this section”; and

18 (B) in subsection (d)(1), by striking “to
19 which” and inserting “to which, subject to sec-
20 tion 1903A(a),”; and

21 (2) by inserting after such section 1903 the fol-
22 lowing new section:

1 **“SEC. 1903A. PER CAPITA-BASED CAP ON PAYMENTS FOR**
2 **MEDICAL ASSISTANCE.**

3 “(a) APPLICATION OF PER CAPITA CAP ON PAY-
4 MENTS FOR MEDICAL ASSISTANCE EXPENDITURES.—

5 “(1) IN GENERAL.—If a State has excess ag-
6 gregate medical assistance expenditures (as defined
7 in paragraph (2)) for a fiscal year (beginning with
8 fiscal year 2020), the amount of payment to the
9 State under section 1903(a)(1) for each quarter in
10 the following fiscal year shall be reduced by $\frac{1}{4}$ of
11 the excess aggregate medical assistance payments
12 (as defined in paragraph (3)) for that previous fiscal
13 year. In this section, the term ‘State’ means only the
14 50 States and the District of Columbia.

15 “(2) EXCESS AGGREGATE MEDICAL ASSISTANCE
16 EXPENDITURES.—In this subsection, the term ‘ex-
17 cess aggregate medical assistance expenditures’
18 means, for a State for a fiscal year, the amount (if
19 any) by which—

20 “(A) the amount of the adjusted total med-
21 ical assistance expenditures (as defined in sub-
22 section (b)(1)) for the State and fiscal year; ex-
23 ceeds

24 “(B) the amount of the target total med-
25 ical assistance expenditures (as defined in sub-
26 section (c)) for the State and fiscal year.

1 “(3) EXCESS AGGREGATE MEDICAL ASSISTANCE
2 PAYMENTS.—In this subsection, the term ‘excess ag-
3 gregate medical assistance payments’ means, for a
4 State for a fiscal year, the product of—

5 “(A) the excess aggregate medical assist-
6 ance expenditures (as defined in paragraph (2))
7 for the State for the fiscal year; and

8 “(B) the Federal average medical assist-
9 ance matching percentage (as defined in para-
10 graph (4)) for the State for the fiscal year.

11 “(4) FEDERAL AVERAGE MEDICAL ASSISTANCE
12 MATCHING PERCENTAGE.—In this subsection, the
13 term ‘Federal average medical assistance matching
14 percentage’ means, for a State for a fiscal year, the
15 ratio (expressed as a percentage) of—

16 “(A) the amount of the Federal payments
17 that would be made to the State under section
18 1903(a)(1) for medical assistance expenditures
19 for calendar quarters in the fiscal year if para-
20 graph (1) did not apply; to

21 “(B) the amount of the medical assistance
22 expenditures for the State and fiscal year.

23 “(b) ADJUSTED TOTAL MEDICAL ASSISTANCE EX-
24 PENDITURES.—Subject to subsection (g), the following
25 shall apply:

1 “(1) IN GENERAL.—In this section, the term
2 ‘adjusted total medical assistance expenditures’
3 means, for a State—

4 “(A) for fiscal year 2016, the product of—

5 “(i) the amount of the medical assist-
6 ance expenditures (as defined in paragraph
7 (2)) for the State and fiscal year, reduced
8 by the amount of any excluded expendi-
9 tures (as defined in paragraph (3)) for the
10 State and fiscal year otherwise included in
11 such medical assistance expenditures; and

12 “(ii) the 1903A FY16 population per-
13 centage (as defined in paragraph (4)) for
14 the State; or

15 “(B) for fiscal year 2019 or a subsequent
16 fiscal year, the amount of the medical assist-
17 ance expenditures (as defined in paragraph (2))
18 for the State and fiscal year that is attributable
19 to 1903A enrollees, reduced by the amount of
20 any excluded expenditures (as defined in para-
21 graph (3)) for the State and fiscal year other-
22 wise included in such medical assistance ex-
23 penditures and includes non-DSH supplemental
24 payments (as defined in subsection
25 (d)(4)(A)(ii)) and payments described in sub-

1 section (d)(4)(A)(iii) but shall not be construed
2 as including any expenditures attributable to
3 the program under section 1928. In applying
4 subparagraph (B), non-DSH supplemental pay-
5 ments (as defined in subsection (d)(4)(A)(ii))
6 and payments described in subsection
7 (d)(4)(A)(iii) shall be treated as fully attrib-
8 utable to 1903A enrollees.

9 “(2) MEDICAL ASSISTANCE EXPENDITURES.—

10 In this section, the term ‘medical assistance expendi-
11 tures’ means, for a State and fiscal year, the med-
12 ical assistance payments as reported by medical
13 service category on the Form CMS-64 quarterly ex-
14 pense report (or successor to such a report form,
15 and including enrollment data and subsequent ad-
16 justments to any such report, in this section referred
17 to collectively as a ‘CMS-64 report’) for which pay-
18 ment is (or may otherwise be) made pursuant to sec-
19 tion 1903(a)(1).

20 “(3) EXCLUDED EXPENDITURES.—In this sec-
21 tion, the term ‘excluded expenditures’ means, for a
22 State and fiscal year, expenditures under the State
23 plan (or under a waiver of such plan) that are at-
24 tributable to any of the following:

1 “(A) DSH.—Payment adjustments made
2 for disproportionate share hospitals under sec-
3 tion 1923.

4 “(B) MEDICARE COST-SHARING.—Pay-
5 ments made for medicare cost-sharing (as de-
6 fined in section 1905(p)(3)).

7 “(C) SAFETY NET PROVIDER PAYMENT AD-
8 JUSTMENTS IN NON-EXPANSION STATES.—Pay-
9 ment adjustments under subsection (a) of sec-
10 tion 1923A for which payment is permitted
11 under subsection (c) of such section.

12 “(4) 1903A FY 16 POPULATION PERCENTAGE.—
13 In this subsection, the term ‘1903A FY16 popu-
14 lation percentage’ means, for a State, the Sec-
15 retary’s calculation of the percentage of the actual
16 medical assistance expenditures, as reported by the
17 State on the CMS–64 reports for calendar quarters
18 in fiscal year 2016, that are attributable to 1903A
19 enrollees (as defined in subsection (e)(1)).

20 “(c) TARGET TOTAL MEDICAL ASSISTANCE EXPEND-
21 ITURES.—

22 “(1) CALCULATION.—In this section, the term
23 ‘target total medical assistance expenditures’ means,
24 for a State for a fiscal year and subject to para-
25 graph (4), the sum of the products, for each of the

1 1903A enrollee categories (as defined in subsection
2 (e)(2)), of—

3 “(A) the target per capita medical assist-
4 ance expenditures (as defined in paragraph (2))
5 for the enrollee category, State, and fiscal year;
6 and

7 “(B) the number of 1903A enrollees for
8 such enrollee category, State, and fiscal year, as
9 determined under subsection (e)(4).

10 “(2) TARGET PER CAPITA MEDICAL ASSISTANCE
11 EXPENDITURES.—In this subsection, the term ‘tar-
12 get per capita medical assistance expenditures’
13 means, for a 1903A enrollee category and State—

14 “(A) for fiscal year 2020, an amount equal
15 to—

16 “(i) the provisional FY19 target per
17 capita amount for such enrollee category
18 (as calculated under subsection (d)(5)) for
19 the State; increased by

20 “(ii) the applicable annual inflation
21 factor (as defined in paragraph (3)) for
22 fiscal year 2020; and

23 “(B) for each succeeding fiscal year, an
24 amount equal to—

1 “(i) the target per capita medical as-
2 sistance expenditures (under subparagraph
3 (A) or this subparagraph) for the 1903A
4 enrollee category and State for the pre-
5 ceding fiscal year, increased by

6 “(ii) the applicable annual inflation
7 factor for that succeeding fiscal year.

8 “(3) APPLICABLE ANNUAL INFLATION FAC-
9 TOR.—In paragraph (2), the term ‘applicable annual
10 inflation factor’ means, for a fiscal year—

11 “(A) for each of the 1903A enrollee cat-
12 egories described in subparagraphs (C), (D),
13 and (E) of subsection (e)(2), the percentage in-
14 crease in the medical care component of the
15 consumer price index for all urban consumers
16 (U.S. city average) from September of the pre-
17 vious fiscal year to September of the fiscal year
18 involved; and

19 “(B) for each of the 1903A enrollee cat-
20 egories described in subparagraphs (A) and (B)
21 of subsection (e)(2), the percentage increase de-
22 scribed in subparagraph (A) plus 1 percentage
23 point.

1 “(4) DECREASE IN TARGET EXPENDITURES
2 FOR REQUIRED EXPENDITURES BY CERTAIN POLIT-
3 ICAL SUBDIVISIONS.—

4 “(A) IN GENERAL.—In the case of a State
5 that had a DSH allotment under section
6 1923(f) for fiscal year 2016 that was more than
7 6 times the national average of such allotments
8 for all the States for such fiscal year and that
9 requires political subdivisions within the State
10 to contribute funds towards medical assistance
11 or other expenditures under the State plan
12 under this title (or under a waiver of such plan)
13 for a fiscal year (beginning with fiscal year
14 2020), the target total medical assistance ex-
15 penditures for such State and fiscal year shall
16 be decreased by the amount that political sub-
17 divisions in the State are required to contribute
18 under the plan (or waiver) without reimburse-
19 ment from the State for such fiscal year, other
20 than contributions described in subparagraph
21 (B).

22 “(B) EXCEPTIONS.—The contributions de-
23 scribed in this subparagraph are the following:

24 “(i) Contributions required by a State
25 from a political subdivision that, as of the

1 first day of the calendar year in which the
2 fiscal year involved begins—

3 “(I) has a population of more
4 than 5,000,000, as estimated by the
5 Bureau of the Census; and

6 “(II) imposes a local income tax
7 upon its residents.

8 “(ii) Contributions required by a
9 State from a political subdivision for ad-
10 ministrative expenses if the State required
11 such contributions from such subdivision
12 without reimbursement from the State as
13 of January 1, 2017.

14 “(d) CALCULATION OF FY19 PROVISIONAL TARGET
15 AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—Sub-
16 ject to subsection (g), the following shall apply:

17 “(1) CALCULATION OF BASE AMOUNTS FOR FIS-
18 CAL YEAR 2016.—For each State the Secretary shall
19 calculate (and provide notice to the State not later
20 than April 1, 2018, of) the following:

21 “(A) The amount of the adjusted total
22 medical assistance expenditures (as defined in
23 subsection (b)(1)) for the State for fiscal year
24 2016.

1 “(B) The number of 1903A enrollees for
2 the State in fiscal year 2016 (as determined
3 under subsection (e)(4)).

4 “(C) The average per capita medical as-
5 sistance expenditures for the State for fiscal
6 year 2016 equal to—

7 “(i) the amount calculated under sub-
8 paragraph (A); divided by

9 “(ii) the number calculated under sub-
10 paragraph (B).

11 “(2) FISCAL YEAR 2019 AVERAGE PER CAPITA
12 AMOUNT BASED ON INFLATING THE FISCAL YEAR
13 2016 AMOUNT TO FISCAL YEAR 2019 BY CPI-MED-
14 ICAL.—The Secretary shall calculate a fiscal year
15 2019 average per capita amount for each State
16 equal to—

17 “(A) the average per capita medical assist-
18 ance expenditures for the State for fiscal year
19 2016 (calculated under paragraph (1)(C)); in-
20 creased by

21 “(B) the percentage increase in the med-
22 ical care component of the consumer price index
23 for all urban consumers (U.S. city average)
24 from September, 2016 to September, 2019.

1 “(3) AGGREGATE AND AVERAGE EXPENDI-
2 TURES PER CAPITA FOR FISCAL YEAR 2019.—The
3 Secretary shall calculate for each State the fol-
4 lowing:

5 “(A) The amount of the adjusted total
6 medical assistance expenditures (as defined in
7 subsection (b)(1)) for the State for fiscal year
8 2019.

9 “(B) The number of 1903A enrollees for
10 the State in fiscal year 2019 (as determined
11 under subsection (e)(4)).

12 “(4) PER CAPITA EXPENDITURES FOR FISCAL
13 YEAR 2019 FOR EACH 1903A ENROLLEE CATEGORY.—
14 The Secretary shall calculate (and provide notice to
15 each State not later than January 1, 2020, of) the
16 following:

17 “(A)(i) For each 1903A enrollee category,
18 the amount of the adjusted total medical assist-
19 ance expenditures (as defined in subsection
20 (b)(1)) for the State for fiscal year 2019 for in-
21 dividuals in the enrollee category, calculated by
22 excluding from medical assistance expenditures
23 those expenditures attributable to expenditures
24 described in clause (iii) or non-DSH supple-
25 mental expenditures (as defined in clause (ii)).

1 “(ii) In this paragraph, the term ‘non-
2 DSH supplemental expenditure’ means a pay-
3 ment to a provider under the State plan (or
4 under a waiver of the plan) that—

5 “(I) is not made under section 1923;

6 “(II) is not made with respect to a
7 specific item or service for an individual;

8 “(III) is in addition to any payments
9 made to the provider under the plan (or
10 waiver) for any such item or service; and

11 “(IV) complies with the limits for ad-
12 ditional payments to providers under the
13 plan (or waiver) imposed pursuant to sec-
14 tion 1902(a)(30)(A), including the regula-
15 tions specifying upper payment limits
16 under the State plan in part 447 of title
17 42, Code of Federal Regulations (or any
18 successor regulations).

19 “(iii) An expenditure described in this
20 clause is an expenditure that meets the criteria
21 specified in subclauses (I), (II), and (III) of
22 clause (ii) and is authorized under section 1115
23 for the purposes of funding a delivery system
24 reform pool, uncompensated care pool, a des-
25 ignated state health program, or any other

1 similar expenditure (as defined by the Sec-
2 retary).

3 “(B) For each 1903A enrollee category,
4 the number of 1903A enrollees for the State in
5 fiscal year 2019 in the enrollee category (as de-
6 termined under subsection (e)(4)).

7 “(C) For fiscal year 2016, the State’s non-
8 DSH supplemental and pool payment percent-
9 age is equal to the ratio (expressed as a per-
10 centage) of—

11 “(i) the total amount of non-DSH
12 supplemental expenditures (as defined in
13 subparagraph (A)(ii)) and payments de-
14 scribed in subparagraph (A)(iii) for the
15 State for fiscal year 2016; to

16 “(ii) the amount described in sub-
17 section (b)(1)(A) for the State for fiscal
18 year 2016.

19 “(D) For each 1903A enrollee category an
20 average medical assistance expenditures per
21 capita for the State for fiscal year 2019 for the
22 enrollee category equal to—

23 “(i) the amount calculated under sub-
24 paragraph (A) for the State, increased by
25 the non-DSH supplemental and pool pay-

1 ment percentage for the State (as cal-
2 culated under subparagraph (C)); divided
3 by

4 “(ii) the number calculated under sub-
5 paragraph (B) for the State for the en-
6 rollee category.

7 “(5) PROVISIONAL FY19 PER CAPITA TARGET
8 AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—
9 Subject to subsection (f)(2), the Secretary shall cal-
10 culate for each State a provisional FY19 per capita
11 target amount for each 1903A enrollee category
12 equal to the average medical assistance expenditures
13 per capita for the State for fiscal year 2019 (as cal-
14 culated under paragraph (4)(D)) for such enrollee
15 category multiplied by the ratio of—

16 “(A) the product of—

17 “(i) the fiscal year 2019 average per
18 capita amount for the State, as calculated
19 under paragraph (2); and

20 “(ii) the number of 1903A enrollees
21 for the State in fiscal year 2019, as cal-
22 culated under paragraph (3)(B); to

23 “(B) the amount of the adjusted total
24 medical assistance expenditures for the State

1 for fiscal year 2019, as calculated under para-
2 graph (3)(A).

3 “(e) 1903A ENROLLEE; 1903A ENROLLEE CAT-
4 EGORY.—Subject to subsection (g), for purposes of this
5 section, the following shall apply:

6 “(1) 1903A ENROLLEE.—The term ‘1903A en-
7 rollee’ means, with respect to a State and a month
8 and subject to subsection (i)(1)(B), any Medicaid
9 enrollee (as defined in paragraph (3)) for the month,
10 other than such an enrollee who for such month is
11 in any of the following categories of excluded indi-
12 viduals:

13 “(A) CHIP.—An individual who is pro-
14 vided, under this title in the manner described
15 in section 2101(a)(2), child health assistance
16 under title XXI.

17 “(B) IHS.—An individual who receives
18 any medical assistance under this title for serv-
19 ices for which payment is made under the third
20 sentence of section 1905(b).

21 “(C) BREAST AND CERVICAL CANCER
22 SERVICES ELIGIBLE INDIVIDUAL.—An indi-
23 vidual who is entitled to medical assistance
24 under this title only pursuant to section
25 1902(a)(10)(A)(ii)(XVIII).

1 “(D) PARTIAL-BENEFIT ENROLLEES.—An
2 individual who—

3 “(i) is an alien who is entitled to med-
4 ical assistance under this title only pursu-
5 ant to section 1903(v)(2);

6 “(ii) is entitled to medical assistance
7 under this title only pursuant to subclause
8 (XII) or (XXI) of section
9 1902(a)(10)(A)(ii) (or pursuant to a waiv-
10 er that provides only comparable benefits);

11 “(iii) is a dual eligible individual (as
12 defined in section 1915(h)(2)(B)) and is
13 entitled to medical assistance under this
14 title (or under a waiver) only for some or
15 all of medicare cost-sharing (as defined in
16 section 1905(p)(3)); or

17 “(iv) is entitled to medical assistance
18 under this title and for whom the State is
19 providing a payment or subsidy to an em-
20 ployer for coverage of the individual under
21 a group health plan pursuant to section
22 1906 or section 1906A (or pursuant to a
23 waiver that provides only comparable bene-
24 fits).

1 “(2) 1903A ENROLLEE CATEGORY.—The term
2 ‘1903A enrollee category’ means each of the fol-
3 lowing:

4 “(A) ELDERLY.—A category of 1903A en-
5 rollees who are 65 years of age or older.

6 “(B) BLIND AND DISABLED.—A category
7 of 1903A enrollees (not described in the pre-
8 vious subparagraph) who are eligible for med-
9 ical assistance under this title on the basis of
10 being blind or disabled.

11 “(C) CHILDREN.—A category of 1903A
12 enrollees (not described in a previous subpara-
13 graph) who are children under 19 years of age.

14 “(D) EXPANSION ENROLLEES.—A cat-
15 egory of 1903A enrollees (not described in a
16 previous subparagraph) for whom the amounts
17 expended for medical assistance are subject to
18 an increase or change in the Federal medical
19 assistance percentage under subsection (y) or
20 (z)(2), respectively, of section 1905.

21 “(E) OTHER NONELDERLY, NONDISABLED,
22 NON-EXPANSION ADULTS.—A category of
23 1903A enrollees who are not described in any
24 previous subparagraph.

1 “(3) MEDICAID ENROLLEE.—The term ‘Med-
2 icaid enrollee’ means, with respect to a State for a
3 month, an individual who is eligible for medical as-
4 sistance for items or services under this title and en-
5 rolled under the State plan (or a waiver of such
6 plan) under this title for the month.

7 “(4) DETERMINATION OF NUMBER OF 1903A
8 ENROLLEES.—The number of 1903A enrollees for a
9 State and fiscal year, and, if applicable, for a 1903A
10 enrollee category, is the average monthly number of
11 Medicaid enrollees for such State and fiscal year
12 (and, if applicable, in such category) that are re-
13 ported through the CMS–64 report under (and sub-
14 ject to audit under) subsection (h).

15 “(f) SPECIAL PAYMENT RULES.—

16 “(1) APPLICATION IN CASE OF RESEARCH AND
17 DEMONSTRATION PROJECTS AND OTHER WAIVERS.—
18 In the case of a State with a waiver of the State
19 plan approved under section 1115, section 1915, or
20 another provision of this title, this section shall
21 apply to medical assistance expenditures and medical
22 assistance payments under the waiver, in the same
23 manner as if such expenditures and payments had
24 been made under a State plan under this title and
25 the limitations on expenditures under this section

1 shall supersede any other payment limitations or
2 provisions (including limitations based on a per cap-
3 ita limitation) otherwise applicable under such a
4 waiver.

5 “(2) TREATMENT OF STATES EXPANDING COV-
6 ERAGE AFTER FISCAL YEAR 2016.—In the case of a
7 State that did not provide for medical assistance for
8 the 1903A enrollee category described in subsection
9 (e)(2)(D) during fiscal year 2016 but which provides
10 for such assistance for such category in a subse-
11 quent year, the provisional FY19 per capita target
12 amount for such enrollee category under subsection
13 (d)(5) shall be equal to the provisional FY19 per
14 capita target amount for the 1903A enrollee cat-
15 egory described in subsection (e)(2)(E).

16 “(3) IN CASE OF STATE FAILURE TO REPORT
17 NECESSARY DATA.—If a State for any quarter in a
18 fiscal year (beginning with fiscal year 2019) fails to
19 satisfactorily submit data on expenditures and en-
20 rollees in accordance with subsection (h)(1), for such
21 fiscal year and any succeeding fiscal year for which
22 such data are not satisfactorily submitted—

23 “(A) the Secretary shall calculate and
24 apply subsections (a) through (e) with respect
25 to the State as if all 1903A enrollee categories

1 for which such expenditure and enrollee data
2 were not satisfactorily submitted were a single
3 1903A enrollee category; and

4 “(B) the growth factor otherwise applied
5 under subsection (c)(2)(B) shall be decreased
6 by 1 percentage point.

7 “(g) RECALCULATION OF CERTAIN AMOUNTS FOR
8 DATA ERRORS.—The amounts and percentage calculated
9 under paragraphs (1) and (4)(C) of subsection (d) for a
10 State for fiscal year 2016, and the amounts of the ad-
11 justed total medical assistance expenditures calculated
12 under subsection (b) and the number of Medicaid enrollees
13 and 1903A enrollees determined under subsection (e)(4)
14 for a State for fiscal year 2016, fiscal year 2019, and any
15 subsequent fiscal year, may be adjusted by the Secretary
16 based upon an appeal (filed by the State in such a form,
17 manner, and time, and containing such information relat-
18 ing to data errors that support such appeal, as the Sec-
19 retary specifies) that the Secretary determines to be valid,
20 except that any adjustment by the Secretary under this
21 subsection for a State may not result in an increase of
22 the target total medical assistance expenditures exceeding
23 2 percent.

24 “(h) REQUIRED REPORTING AND AUDITING OF
25 CMS-64 DATA; TRANSITIONAL INCREASE IN FEDERAL

1 MATCHING PERCENTAGE FOR CERTAIN ADMINISTRATIVE
2 EXPENSES.—

3 “(1) REPORTING.—In addition to the data re-
4 quired on form Group VIII on the CMS-64 report
5 form as of January 1, 2017, in each CMS-64 report
6 required to be submitted (for each quarter beginning
7 on or after October 1, 2018), the State shall include
8 data on medical assistance expenditures within such
9 categories of services and categories of enrollees (in-
10 cluding each 1903A enrollee category and each cat-
11 egory of excluded individuals under subsection
12 (e)(1)) and the numbers of enrollees within each of
13 such enrollee categories, as the Secretary determines
14 are necessary (including timely guidance published
15 as soon as possible after the date of the enactment
16 of this section) in order to implement this section
17 and to enable States to comply with the requirement
18 of this paragraph on a timely basis.

19 “(2) AUDITING.—The Secretary shall conduct
20 for each State an audit of the number of individuals
21 and expenditures reported through the CMS-64 re-
22 port for fiscal year 2016, fiscal year 2019, and each
23 subsequent fiscal year, which audit may be con-
24 ducted on a representative sample (as determined by
25 the Secretary).

1 “(3) TEMPORARY INCREASE IN FEDERAL
2 MATCHING PERCENTAGE TO SUPPORT IMPROVED
3 DATA REPORTING SYSTEMS FOR FISCAL YEARS 2018
4 AND 2019.—For amounts expended during calendar
5 quarters beginning on or after October 1, 2017, and
6 before October 1, 2019—

7 “(A) the Federal matching percentage ap-
8 plied under section 1903(a)(3)(A)(i) shall be in-
9 creased by 10 percentage points to 100 percent;

10 “(B) the Federal matching percentage ap-
11 plied under section 1903(a)(3)(B) shall be in-
12 creased by 25 percentage points to 100 percent;
13 and

14 “(C) the Federal matching percentage ap-
15 plied under section 1903(a)(7) shall be in-
16 creased by 10 percentage points to 60 percent
17 but only with respect to amounts expended that
18 are attributable to a State’s additional adminis-
19 trative expenditures to implement the data re-
20 quirements of paragraph (1).

21 “(i) FLEXIBLE BLOCK GRANT OPTION FOR
22 STATES.—

23 “(1) IN GENERAL.—In the case of a State that
24 elects the option of applying this subsection for a
25 10-fiscal-year period (beginning no earlier than fiscal

1 year 2020 and, at the State option, for any suc-
2 ceeding 10-fiscal-year period) and that has a plan
3 approved by the Secretary under paragraph (2) to
4 carry out the option for such period—

5 “(A) the State shall receive, instead of
6 amounts otherwise payable to the State under
7 this title for medical assistance for block grant
8 individuals within the applicable block grant
9 category (as defined in paragraph (6)) for the
10 State during the period in which the election is
11 in effect, the amount specified in paragraph
12 (4);

13 “(B) the previous provisions of this section
14 shall be applied as if—

15 “(i) block grant individuals within the
16 applicable block grant category for the
17 State and period were not section 1903A
18 enrollees for each 10-fiscal year period for
19 which the State elects to apply this sub-
20 section; and

21 “(ii) if such option is not extended at
22 the end of a 10-fiscal-year-period, the per
23 capita limitations under such previous pro-
24 visions shall again apply after such period
25 and such limitations shall be applied as if

1 the election under this subsection had
2 never taken place;

3 “(C) the payment under this subsection
4 may only be used consistent with the State plan
5 under paragraph (2) for block grant health care
6 assistance (as defined in paragraph (7)); and

7 “(D) with respect to block grant individ-
8 uals within the applicable block grant category
9 for the State for which block grant health care
10 assistance is made available under this sub-
11 section, such assistance shall be instead of med-
12 ical assistance otherwise provided to the indi-
13 vidual under this title.

14 “(2) STATE PLAN FOR ADMINISTERING BLOCK
15 GRANT OPTION.—

16 “(A) IN GENERAL.—No payment shall be
17 made under this subsection to a State pursuant
18 to an election for a 10-fiscal-year period under
19 paragraph (1) unless the State has a plan, ap-
20 proved under subparagraph (B), for such period
21 that specifies—

22 “(i) the applicable block grant cat-
23 egory with respect to which the State will
24 apply the option under this subsection for
25 such period;

1 “(ii) the conditions for eligibility of
2 block grant individuals within such appli-
3 cable block grant category for block grant
4 health care assistance under the option,
5 which shall be instead of other conditions
6 for eligibility under this title, except that
7 in the case of a State that has elected the
8 applicable block grant category described
9 in—

10 “(I) subparagraph (A) of para-
11 graph (6), the plan must provide for
12 eligibility for pregnant women and
13 children required to be provided med-
14 ical assistance under subsections
15 (a)(10)(A)(i) and (e)(4) of section
16 1902; or

17 “(II) subparagraph (B) of para-
18 graph (6), the plan must provide for
19 eligibility for pregnant women re-
20 quired to be provided medical assist-
21 ance under subsection (a)(10)(A)(i);
22 and

23 “(iii) the types of items and services,
24 the amount, duration, and scope of such
25 services, the cost-sharing with respect to

1 such services, and the method for delivery
2 of block grant health care assistance under
3 this subsection, which shall be instead of
4 the such types, amount, duration, and
5 scope, cost-sharing, and methods of deliv-
6 ery for medical assistance otherwise re-
7 quired under this title, except that the plan
8 must provide for assistance for—

9 “(I) hospital care;

10 “(II) surgical care and treat-
11 ment;

12 “(III) medical care and treat-
13 ment;

14 “(IV) obstetrical and prenatal
15 care and treatment;

16 “(V) prescribed drugs, medicines,
17 and prosthetic devices;

18 “(VI) other medical supplies and
19 services; and

20 “(VII) health care for children
21 under 18 years of age.

22 “(B) REVIEW AND APPROVAL.—A plan de-
23 scribed in subparagraph (A) shall be deemed
24 approved by the Secretary unless the Secretary
25 determines, within 30 days after the date of the

1 Secretary's receipt of the plan, that the plan is
2 incomplete or actuarially unsound and, with re-
3 spect to such plan and its implementation
4 under this subsection, the requirements of para-
5 graphs (1), (10)(B), (17), and (23) of section
6 1902(a) shall not apply.

7 “(3) AMOUNT OF BLOCK GRANT FUNDS.—

8 “(A) FOR INITIAL FISCAL YEAR.—The
9 block grant amount under this paragraph for a
10 State for the initial fiscal year in the first 10-
11 fiscal-year period is equal to the sum of the
12 products (for each applicable block grant cat-
13 egory for such State and period) of—

14 “(i) the target per capita medical as-
15 sistance expenditures for such State for
16 such fiscal year (under subsection (c)(2));

17 “(ii) the number of 1903A enrollees
18 for such category and State for fiscal year
19 2019, as determined under subsection
20 (e)(4); and

21 “(iii) the Federal average medical as-
22 sistance matching percentage (as defined
23 in subsection (a)(4)) for the State for fis-
24 cal year 2019.

1 “(B) FOR ANY SUBSEQUENT FISCAL
2 YEAR.—The block grant amount under this
3 paragraph for a State for each succeeding fiscal
4 year (in any 10-fiscal-year period) is equal to
5 the block grant amount under subparagraph
6 (A) (or this subparagraph) for the State for the
7 previous fiscal year increased by the annual in-
8 crease in the consumer price index for all urban
9 consumers (all items; U.S. city average) for the
10 fiscal year involved.

11 “(C) AVAILABILITY OF ROLLOVER
12 FUNDS.—The block grant amount under this
13 paragraph for a State for a fiscal year shall re-
14 main available to the State for expenditures
15 under this subsection for the succeeding fiscal
16 year but only if an election is in effect under
17 this subsection for the State in such succeeding
18 fiscal year.

19 “(4) FEDERAL PAYMENT AND STATE RESPONSI-
20 BILITY.—The Secretary shall pay to each State with
21 an election in effect under this subsection for a fiscal
22 year, from its block grant amount under paragraph
23 (3) available for such fiscal year, an amount for
24 each quarter of such fiscal year equal to the en-
25 hanced FMAP described in the first sentence of sec-

1 tion 2105(b) of the total amount expended under the
2 State plan under this subsection during such quar-
3 ter, and the State is responsible for the balance of
4 funds to carry out such plan.

5 “(5) BLOCK GRANT INDIVIDUAL DEFINED.—In
6 this subsection, the term ‘block grant individual’
7 means, with respect to a State for a 10-fiscal-year
8 period, an individual who is not disabled (as defined
9 for purposes of the State plan) and who is within an
10 applicable block grant category for the State and
11 such period.

12 “(6) APPLICABLE BLOCK GRANT CATEGORY DE-
13 FINED.—In this subsection, the term ‘applicable
14 block grant category’ means with respect to a State
15 for a 10-fiscal-year period, either of the following as
16 specified by the State for such period in its plan
17 under paragraph (2)(A)(i):

18 “(A) 2 ENROLLEE CATEGORIES.—Both of
19 the following 1903A enrollee categories:

20 “(i) CHILDREN.—The 1903A enrollee
21 category specified in subparagraph (C) of
22 subsection (e)(2).

23 “(ii) OTHER NONELDERLY, NON-
24 DISABLED, NON-EXPANSION ADULTS.—The

1 1903A enrollee category specified in sub-
2 paragraph (E) of such subsection.

3 “(B) OTHER NONELDERLY, NONDISABLED,
4 NON-EXPANSION ADULTS.—Only the 1903A en-
5 rollee category specified in subparagraph (E) of
6 subsection (e)(2).

7 “(7) BLOCK GRANT HEALTH CARE ASSIST-
8 ANCE.—In this subsection, the term ‘block grant
9 health care assistance’ means assistance for health-
10 care-related items and medical services for block
11 grant individuals within the applicable block grant
12 category for the State and 10-fiscal-year period in-
13 volved who are low-income individuals (as defined by
14 the State).

15 “(8) AUDITING.—As a condition of receiving
16 funds under this subsection, a State shall contract
17 with an independent entity to conduct audits of its
18 expenditures made with respect to activities funded
19 under this subsection for each fiscal year for which
20 the State elects to apply this subsection to ensure
21 that such funds are used consistent with this sub-
22 section and shall make such audits available to the
23 Secretary upon the request of the Secretary.”.

1 **Subtitle D—Patient Relief and**
2 **Health Insurance Market Stability**

3 **SEC. 131. REPEAL OF COST-SHARING SUBSIDY.**

4 (a) IN GENERAL.—Section 1402 of the Patient Pro-
5 tection and Affordable Care Act is repealed.

6 (b) EFFECTIVE DATE.—The repeal made by sub-
7 section (a) shall apply to cost-sharing reductions (and pay-
8 ments to issuers for such reductions) for plan years begin-
9 ning after December 31, 2019.

10 **SEC. 132. PATIENT AND STATE STABILITY FUND.**

11 The Social Security Act (42 U.S.C. 301 et seq.) is
12 amended by adding at the end the following new title:

13 **“TITLE XXII—PATIENT AND**
14 **STATE STABILITY FUND**

15 **“SEC. 2201. ESTABLISHMENT OF PROGRAM.**

16 “There is hereby established the ‘Patient and State
17 Stability Fund’ to be administered by the Secretary of
18 Health and Human Services, acting through the Adminis-
19 trator of the Centers for Medicare & Medicaid Services
20 (in this section referred to as the ‘Administrator’), to pro-
21 vide funding, in accordance with this title, to the 50 States
22 and the District of Columbia (each referred to in this sec-
23 tion as a ‘State’) during the period, subject to section
24 2204(c), beginning on January 1, 2018, and ending on

1 December 31, 2026, for the purposes described in section
2 2202.

3 **“SEC. 2202. USE OF FUNDS.**

4 “(a) IN GENERAL.—Subject to subsections (b) and
5 (c), a State may use the funds allocated to the State under
6 this title for any of the following purposes:

7 “(1) Helping, through the provision of financial
8 assistance, high-risk individuals who do not have ac-
9 cess to health insurance coverage offered through an
10 employer enroll in health insurance coverage in the
11 individual market in the State, as such market is de-
12 fined by the State (whether through the establish-
13 ment of a new mechanism or maintenance of an ex-
14 isting mechanism for such purpose).

15 “(2) Providing incentives to appropriate entities
16 to enter into arrangements with the State to help
17 stabilize premiums for health insurance coverage in
18 the individual market, as such markets are defined
19 by the State.

20 “(3) Reducing the cost for providing health in-
21 surance coverage in the individual market and small
22 group market, as such markets are defined by the
23 State, to individuals who have, or are projected to
24 have, a high rate of utilization of health services (as
25 measured by cost) and to individuals who have high

1 costs of health insurance coverage due to the low
2 density population of the State in which they reside.

3 “(4) Promoting participation in the individual
4 market and small group market in the State and in-
5 creasing health insurance options available through
6 such market.

7 “(5) Promoting access to preventive services;
8 dental care services (whether preventive or medically
9 necessary); vision care services (whether preventive
10 or medically necessary); or any combination of such
11 services.

12 “(6) Maternity coverage and newborn care.

13 “(7) Prevention, treatment, or recovery support
14 services for individuals with mental or substance use
15 disorders, focused on either or both of the following:

16 “(A) Direct inpatient or outpatient clinical
17 care for treatment of addiction and mental ill-
18 ness.

19 “(B) Early identification and intervention
20 for children and young adults with serious men-
21 tal illness.

22 “(8) Providing payments, directly or indirectly,
23 to health care providers for the provision of such
24 health care services as are specified by the Adminis-
25 trator.

1 such time (but, in the case of allocations for 2018,
2 not later than 45 days after the date of the enact-
3 ment of this title and, in the case of allocations for
4 a subsequent year, not later than March 31 of the
5 previous year) and in such form and manner as
6 specified by the Administrator and containing—

7 “(A) a description of how the funds will be
8 used for such purposes;

9 “(B) a certification that the State will
10 make, from non-Federal funds, expenditures for
11 such purposes in an amount that is not less
12 than the State percentage required for the year
13 under section 2204(e)(1); and

14 “(C) such other information as the Admin-
15 istrator may require.

16 “(2) AUTOMATIC APPROVAL.—An application so
17 submitted is approved unless the Administrator noti-
18 fies the State submitting the application, not later
19 than 60 days after the date of the submission of
20 such application, that the application has been de-
21 nied for not being in compliance with any require-
22 ment of this title and of the reason for such denial.

23 “(3) ONE-TIME APPLICATION.—If an applica-
24 tion of a State is approved for a year, with respect
25 to a purpose described in section 2202, such applica-

1 tion shall be treated as approved, with respect to
2 such purpose, for each subsequent year through
3 2026.

4 “(4) TREATMENT AS A STATE HEALTH CARE
5 PROGRAM.—Any program receiving funds from an
6 allocation for a State under this title, including pur-
7 suant to subsection (b), shall be considered to be a
8 ‘State health care program’ for purposes of sections
9 1128, 1128A, and 1128B.

10 “(b) DEFAULT FEDERAL SAFEGUARD.—

11 “(1) IN GENERAL.—

12 “(A) 2018.—For allocations made under
13 this title for 2018, in the case of a State that
14 does not submit an application under subsection
15 (a) by the 45-day submission date applicable to
16 such year under subsection (a)(1) and in the
17 case of a State that does submit such an appli-
18 cation by such date that is not approved, sub-
19 ject to section 2204(e), the Administrator, in
20 consultation with the State insurance commis-
21 sioner, shall use the allocation that would other-
22 wise be provided to the State under this title
23 for such year, in accordance with paragraph
24 (2), for such State.

1 “(B) 2019 THROUGH 2026.—In the case of
2 a State that does not have in effect an approved
3 application under this section for 2019 or a
4 subsequent year beginning during the period
5 described in section 2201, subject to section
6 2204(e), the Administrator, in consultation with
7 the State insurance commissioner, shall use the
8 allocation that would otherwise be provided to
9 the State under this title for such year, in ac-
10 cordance with paragraph (2), for such State.

11 “(2) REQUIRED USE FOR MARKET STABILIZA-
12 TION PAYMENTS TO ISSUERS.—Subject to section
13 2204(a), an allocation for a State made pursuant to
14 paragraph (1) for a year shall be used to carry out
15 the purpose described in section 2202(2) in such
16 State by providing payments to appropriate entities
17 described in such section with respect to claims that
18 exceed \$50,000 (or, with respect to allocations made
19 under this title for 2020 or a subsequent year dur-
20 ing the period specified in section 2201, such dollar
21 amount specified by the Administrator), but do not
22 exceed \$350,000 (or, with respect to allocations
23 made under this title for 2020 or a subsequent year
24 during such period, such dollar amount specified by
25 the Administrator), in an amount equal to 75 per-

1 cent (or, with respect to allocations made under this
2 title for 2020 or a subsequent year during such pe-
3 riod, such percentage specified by the Administrator)
4 of the amount of such claims.

5 **“SEC. 2204. ALLOCATIONS.**

6 “(a) APPROPRIATION.—For the purpose of providing
7 allocations for States (including pursuant to section
8 2203(b)) under this title there is appropriated, out of any
9 money in the Treasury not otherwise appropriated—

10 “(1) for 2018, \$15,000,000,000;

11 “(2) for 2019, \$15,000,000,000;

12 “(3) for 2020, \$10,000,000,000;

13 “(4) for 2021, \$10,000,000,000;

14 “(5) for 2022, \$10,000,000,000;

15 “(6) for 2023, \$10,000,000,000;

16 “(7) for 2024, \$10,000,000,000;

17 “(8) for 2025, \$10,000,000,000; and

18 “(9) for 2026, \$10,000,000,000.

19 The amount otherwise appropriated under the previous
20 sentence for 2020 shall be increased by \$15,000,000,000,
21 to be used and available under subsection (d) only for the
22 purposes described in paragraphs (6) and (7) of section
23 2202(a). The amount otherwise appropriated under this
24 subsection shall be increased by \$8,000,000,000 for the
25 period beginning with 2018 and ending with 2023, to be

1 allocated to States with a waiver in effect under section
2 2701(b) of the Public Health Service Act with respect to
3 the purpose described in paragraph (1)(C) of such section,
4 in accordance with an allocation methodology specified by
5 the Secretary that takes into account the relative alloca-
6 tion of other amounts appropriated under this subsection
7 among such States, and to be used by (and made available
8 under subsection (d), for any year during such period that
9 such waiver is in effect, to) such States for the purpose
10 of providing assistance to reduce premiums or other out-
11 of-pocket costs of individuals who are subject to an in-
12 crease in the monthly premium rate for health insurance
13 coverage as a result of such waiver.

14 “(b) ALLOCATIONS.—

15 “(1) PAYMENT.—

16 “(A) IN GENERAL.—From amounts appro-
17 priated under subsection (a) for a year, the Ad-
18 ministrator shall, with respect to a State and
19 not later than the date specified under subpara-
20 graph (B) for such year, allocate, subject to
21 subsection (e), for such State (including pursu-
22 ant to section 2203(b)) the amount determined
23 for such State and year under paragraph (2).

1 “(B) SPECIFIED DATE.—For purposes of
2 subparagraph (A), the date specified in this
3 subparagraph is—

4 “(i) for 2018, the date that is 45 days
5 after the date of the enactment of this
6 title; and

7 “(ii) for 2019 and subsequent years,
8 January 1 of the respective year.

9 “(2) ALLOCATION AMOUNT DETERMINA-
10 TIONS.—

11 “(A) FOR 2018 AND 2019.—

12 “(i) IN GENERAL.—For purposes of
13 paragraph (1), the amount determined
14 under this paragraph for 2018 and 2019
15 for a State is an amount equal to the sum
16 of—

17 “(I) the relative incurred claims
18 amount described in clause (ii) for
19 such State and year; and

20 “(II) the relative uninsured and
21 issuer participation amount described
22 in clause (iv) for such State and year.

23 “(ii) RELATIVE INCURRED CLAIMS
24 AMOUNT.—For purposes of clause (i), the
25 relative incurred claims amount described

1 in this clause for a State for 2018 and
2 2019 is the product of—

3 “(I) 85 percent of the amount
4 appropriated under subsection (a) for
5 the year; and

6 “(II) the relative State incurred
7 claims proportion described in clause
8 (iii) for such State and year.

9 “(iii) RELATIVE STATE INCURRED
10 CLAIMS PROPORTION.—The relative State
11 incurred claims proportion described in
12 this clause for a State and year is the
13 amount equal to the ratio of—

14 “(I) the adjusted incurred claims
15 by the State, as reported through the
16 medical loss ratio annual reporting
17 under section 2718 of the Public
18 Health Service Act for the third pre-
19 vious year; to

20 “(II) the sum of such adjusted
21 incurred claims for all States, as so
22 reported, for such third previous year.

23 “(iv) RELATIVE UNINSURED AND
24 ISSUER PARTICIPATION AMOUNT.—For
25 purposes of clause (i), the relative unin-

1 sured and issuer participation amount de-
2 scribed in this clause for a State for 2018
3 and 2019 is the product of—

4 “(I) 15 percent of the amount
5 appropriated under subsection (a) for
6 the year; and

7 “(II) the relative State uninsured
8 and issuer participation proportion de-
9 scribed in clause (v) for such State
10 and year.

11 “(v) RELATIVE STATE UNINSURED
12 AND ISSUER PARTICIPATION PROPOR-
13 TION.—The relative State uninsured and
14 issuer participation proportion described in
15 this clause for a State and year is—

16 “(I) in the case of a State not
17 described in clause (vi) for such year,
18 0; and

19 “(II) in the case of a State de-
20 scribed in clause (vi) for such year,
21 the amount equal to the ratio of—

22 “(aa) the number of individ-
23 uals residing in such State who
24 for the third preceding year were
25 not enrolled in a health plan or

1 otherwise did not have health in-
2 surance coverage (including
3 through a Federal or State
4 health program) and whose in-
5 come is below 100 percent of the
6 poverty line applicable to a family
7 of the size involved; to

8 “(bb) the sum of the num-
9 ber of such individuals for all
10 States described in clause (vi) for
11 the third preceding year.

12 “(vi) STATES DESCRIBED.—For pur-
13 poses of clause (v), a State is described in
14 this clause, with respect to 2018 and 2019,
15 if the State satisfies either of the following
16 criterion:

17 “(I) The ratio described in sub-
18 clause (II) of clause (v) that would be
19 determined for such State by sub-
20 stituting ‘2015’ for each reference in
21 such subclause to ‘the third preceding
22 year’ and by substituting ‘all such
23 States’ for the reference in item (bb)
24 of such subclause to ‘all States de-
25 scribed in clause (vi)’ is greater than

1 the ratio described in such subclause
2 that would be determined for such
3 State by substituting ‘2013’ for each
4 reference in such subclause to ‘the
5 third preceding year’ and by sub-
6 stituting ‘all such States’ for the ref-
7 erence in item (bb) of such subclause
8 to ‘all States described in clause (vi)’.

9 “(II) The State has fewer than
10 three health insurance issuers offering
11 qualified health plans through the Ex-
12 change for 2017.

13 “(B) FOR 2020 THROUGH 2026.—For pur-
14 poses of paragraph (1), the amount determined
15 under this paragraph for a year (beginning with
16 2020) during the period described in section
17 2201 for a State is an amount determined in
18 accordance with an allocation methodology spec-
19 ified by the Administrator which—

20 “(i) takes into consideration the ad-
21 justed incurred claims of such State, the
22 number of residents of such State who for
23 the previous year were not enrolled in a
24 health plan or otherwise did not have
25 health insurance coverage (including

1 through a Federal or State health pro-
2 gram) and whose income is below 100 per-
3 cent of the poverty line applicable to a
4 family of the size involved, and the number
5 of health insurance issuers participating in
6 the insurance market in such State for
7 such year;

8 “(ii) is established after consultation
9 with health care consumers, health insur-
10 ance issuers, State insurance commis-
11 sioners, and other stakeholders and after
12 taking into consideration additional cost
13 and risk factors that may inhibit health
14 care consumer and health insurance issuer
15 participation; and

16 “(iii) reflects the goals of improving
17 the health insurance risk pool, promoting a
18 more competitive health insurance market,
19 and increasing choice for health care con-
20 sumers.

21 “(c) ANNUAL DISTRIBUTION OF PREVIOUS YEAR’S
22 REMAINING FUNDS.— In carrying out subsection (b), the
23 Administrator shall, with respect to a year (beginning with
24 2020 and ending with 2027), not later than March 31 of
25 such year—

1 “(1) determine the amount of funds, if any,
2 from the amounts appropriated under subsection (a)
3 for the previous year but not allocated for such pre-
4 vious year; and

5 “(2) if the Administrator determines that any
6 funds were not so allocated for such previous year,
7 allocate such remaining funds, in accordance with
8 the allocation methodology specified pursuant to
9 subsection (b)(2)(B)—

10 “(A) to States that have submitted an ap-
11 plication approved under section 2203(a) for
12 such previous year for any purpose for which
13 such an application was approved; and

14 “(B) for States for which allocations were
15 made pursuant to section 2203(b) for such pre-
16 vious year, to be used by the Administrator for
17 such States, to carry out the Federal Invisible
18 Risk Sharing Program in such States under
19 section 2205;

20 with, respect to a year before 2027, any remaining
21 funds being made available for allocations to States
22 for the subsequent year.

23 “(d) AVAILABILITY.—Amounts appropriated under
24 subsection (a) for a year and allocated to States in accord-

1 ance with this section shall remain available for expendi-
2 ture through December 31, 2027.

3 “(e) CONDITIONS FOR AND LIMITATIONS ON RE-
4 CEIPT OF FUNDS.—The Secretary may not make an allo-
5 cation under this title for a State, with respect to a pur-
6 pose described in section 2202—

7 “(1) in the case of an allocation that would be
8 made to a State pursuant to section 2203(a), if the
9 State does not agree that the State will make avail-
10 able non-Federal contributions towards such purpose
11 in an amount equal to—

12 “(A) for 2020, 7 percent of the amount al-
13 located under this subsection to such State for
14 such year and purpose;

15 “(B) for 2021, 14 percent of the amount
16 allocated under this subsection to such State
17 for such year and purpose;

18 “(C) for 2022, 21 percent of the amount
19 allocated under this subsection to such State
20 for such year and purpose;

21 “(D) for 2023, 28 percent of the amount
22 allocated under this subsection to such State
23 for such year and purpose;

1 “(E) for 2024, 35 percent of the amount
2 allocated under this subsection to such State
3 for such year and purpose;

4 “(F) for 2025, 42 percent of the amount
5 allocated under this subsection to such State
6 for such year and purpose; and

7 “(G) for 2026, 50 percent of the amount
8 allocated under this subsection to such State
9 for such year and purpose;

10 “(2) in the case of an allocation that would be
11 made for a State pursuant to section 2203(b), if the
12 State does not agree that the State will make avail-
13 able non-Federal contributions towards such purpose
14 in an amount equal to—

15 “(A) for 2020, 10 percent of the amount
16 allocated under this subsection to such State
17 for such year and purpose;

18 “(B) for 2021, 20 percent of the amount
19 allocated under this subsection to such State
20 for such year and purpose; and

21 “(C) for 2022, 30 percent of the amount
22 allocated under this subsection to such State
23 for such year and purpose;

1 “(D) for 2023, 40 percent of the amount
2 allocated under this subsection to such State
3 for such year and purpose;

4 “(E) for 2024, 50 percent of the amount
5 allocated under this subsection to such State
6 for such year and purpose;

7 “(F) for 2025, 50 percent of the amount
8 allocated under this subsection to such State
9 for such year and purpose; and

10 “(G) for 2026, 50 percent of the amount
11 allocated under this subsection to such State
12 for such year and purpose; or

13 “(3) if such an allocation for such purpose
14 would not be permitted under subsection (c)(7) of
15 section 2105 if such allocation were payment made
16 under such section.

17 **“SEC. 2205. FEDERAL INVISIBLE RISK SHARING PROGRAM.**

18 “(a) IN GENERAL.—There is established within the
19 Patient and State Stability Fund a Federal Invisible Risk
20 Sharing Program (in this section referred to as the ‘Pro-
21 gram’), to be administered by the Secretary of Health and
22 Human Services, acting through the Administrator of the
23 Centers for Medicare & Medicaid Services (in this section
24 referred to as the ‘Administrator’), to provide payments
25 to health insurance issuers with respect to claims for eligi-

1 ble individuals for the purpose of lowering premiums for
2 health insurance coverage offered in the individual market.

3 “(b) FUNDING.—

4 “(1) APPROPRIATION.—For the purpose of pro-
5 viding funding for the Program there is appro-
6 priated, out of any money in the Treasury not other-
7 wise appropriated, \$15,000,000,000 for the period
8 beginning on January 1, 2018, and ending on De-
9 cember 31, 2026.

10 “(2) USE OF UNALLOCATED FUNDS.—Funds
11 provided under section 2204(c)(2)(B) to carry out
12 this section are in addition to the amount appro-
13 priated under paragraph (1).

14 “(c) OPERATION OF PROGRAM.—

15 “(1) IN GENERAL.—The Administrator shall es-
16 tablish, after consultation with health care con-
17 sumers, health insurance issuers, State insurance
18 commissioners, and other stakeholders and after tak-
19 ing into consideration high cost health conditions
20 and other health trends that generate high cost, pa-
21 rameters for the operation of the Program consistent
22 with this section and consistent with the same limi-
23 tation on payment with respect to health insurance
24 coverage that applies to payment with respect health
25 benefits coverage under section 2105(c)(7).

1 “(2) DEADLINE FOR INITIAL OPERATION.—Not
2 later than 60 days after the date of the enactment
3 of this title, the Administrator shall establish suffi-
4 cient parameters to specify how the Program will op-
5 erate for plan year 2018.

6 “(3) STATE OPERATION OF PROGRAM.—The
7 Administrator shall establish a process for a State to
8 operate the Program in such State beginning with
9 plan year 2020.

10 “(d) DETAILS OF PROGRAM.—The parameters for
11 the Program shall include the following:

12 “(1) ELIGIBLE INDIVIDUALS.—A definition for
13 eligible individuals.

14 “(2) HEALTH STATUS STATEMENTS.—The de-
15 velopment and use of health status statements with
16 respect to such individuals.

17 “(3) STANDARDS FOR QUALIFICATION.—

18 “(A) AUTOMATIC QUALIFICATION.—The
19 identification of health conditions that auto-
20 matically qualify individuals as eligible individ-
21 uals at the time of application for health insur-
22 ance coverage.

23 “(B) VOLUNTARY QUALIFICATION.—A
24 process under which health insurance issuers
25 may voluntarily qualify individuals, who do not

1 automatically qualify under subparagraph (A),
2 as eligible individuals at the time of application
3 for such coverage.

4 “(4) PERCENTAGE OF INSURANCE PREMIUMS
5 TO BE APPLIED.—The percentage of the premiums
6 paid, to health insurance issuers for health insur-
7 ance coverage by eligible individuals, that shall be
8 collected and deposited to the credit (and available
9 for the use) of the Program.

10 “(5) ATTACHMENT DOLLAR AMOUNT AND PAY-
11 MENT PROPORTION.—The dollar amount of claims
12 for eligible individuals after which the Program will
13 provide payments to health insurance issuers and
14 the proportion of such claims above such dollar
15 amount that the Program will pay.”.

16 **SEC. 133. CONTINUOUS HEALTH INSURANCE COVERAGE IN-**
17 **CENTIVE.**

18 Subpart I of part A of title XXVII of the Public
19 Health Service Act is amended—

20 (1) in section 2701(a)(1)(B), by striking “such
21 rate” and inserting “subject to section 2710A, such
22 rate”;

23 (2) by redesignating the second section 2709 as
24 section 2710; and

1 (3) by adding at the end the following new sec-
2 tion:

3 **“SEC. 2710A. ENCOURAGING CONTINUOUS HEALTH INSUR-**
4 **ANCE COVERAGE.**

5 “(a) PENALTY APPLIED.—

6 “(1) IN GENERAL.—Subject to the succeeding
7 provisions of this section, a health insurance issuer
8 offering health insurance coverage in the individual
9 market shall, in the case of an individual who is an
10 applicable policyholder of such coverage with respect
11 to an enforcement period applicable to enrollments
12 for a plan year beginning with plan year 2019 (or,
13 in the case of enrollments during a special enroll-
14 ment period, beginning with plan year 2018), in-
15 crease the monthly premium rate otherwise applica-
16 ble to such individual for such coverage during each
17 month of such period, by an amount determined
18 under paragraph (2).

19 “(2) AMOUNT OF PENALTY.—The amount de-
20 termined under this paragraph for an applicable pol-
21 icyholder enrolling in health insurance coverage de-
22 scribed in paragraph (1) for a plan year, with re-
23 spect to each month during the enforcement period
24 applicable to enrollments for such plan year, is the
25 amount that is equal to 30 percent of the monthly

1 premium rate otherwise applicable to such applicable
2 policyholder for such coverage during such month.

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

4 “(1) APPLICABLE POLICYHOLDER.—The term
5 ‘applicable policyholder’ means, with respect to
6 months of an enforcement period and health insur-
7 ance coverage, an individual who—

8 “(A) is a policyholder of such coverage for
9 such months;

10 “(B) cannot demonstrate that (through
11 presentation of certifications described in sec-
12 tion 2704(e) or in such other manner as may
13 be specified in regulations, such as a return or
14 statement made under section 6055(d) or 36B
15 of the Internal Revenue Code of 1986), during
16 the look-back period that is with respect to such
17 enforcement period, there was not a period of
18 at least 63 continuous days during which the
19 individual did not have creditable coverage (as
20 defined in paragraph (1) of section 2704(c) and
21 credited in accordance with paragraphs (2) and
22 (3) of such section); and

23 “(C) in the case of an individual who had
24 been enrolled under dependent coverage under a
25 group health plan or health insurance coverage

1 by reason of section 2714 and such dependent
2 coverage of such individual ceased because of
3 the age of such individual, is not enrolling dur-
4 ing the first open enrollment period following
5 the date on which such coverage so ceased.

6 “(2) LOOK-BACK PERIOD.—The term ‘look-back
7 period’ means, with respect to an enforcement period
8 applicable to an enrollment of an individual for a
9 plan year beginning with plan year 2019 (or, in the
10 case of an enrollment of an individual during a spe-
11 cial enrollment period, beginning with plan year
12 2018) in health insurance coverage described in sub-
13 section (a)(1), the 12-month period ending on the
14 date the individual enrolls in such coverage for such
15 plan year.

16 “(3) ENFORCEMENT PERIOD.—The term ‘en-
17 forcement period’ means—

18 “(A) with respect to enrollments during a
19 special enrollment period for plan year 2018,
20 the period beginning with the first month that
21 is during such plan year and that begins subse-
22 quent to such date of enrollment, and ending
23 with the last month of such plan year; and

24 “(B) with respect to enrollments for plan
25 year 2019 or a subsequent plan year, the 12-

1 month period beginning on the first day of the
2 respective plan year.”.

3 **SEC. 134. INCREASING COVERAGE OPTIONS.**

4 Section 1302 of the Patient Protection and Afford-
5 able Care Act (42 U.S.C. 18022) is amended—

6 (1) in subsection (a)(3), by inserting “and with
7 respect to a plan year before plan year 2020” after
8 “subsection (e)”; and

9 (2) in subsection (d), by adding at the end the
10 following:

11 “(5) SUNSET.—The provisions of this sub-
12 section shall not apply after December 31, 2019,
13 and after such date any reference to this subsection
14 or level of coverage or plan described in this sub-
15 section and any requirement under law applying
16 such a level of coverage or plan shall have no force
17 or effect (and such a requirement shall be applied as
18 if this section had been repealed).”.

19 **SEC. 135. CHANGE IN PERMISSIBLE AGE VARIATION IN**
20 **HEALTH INSURANCE PREMIUM RATES.**

21 Section 2701(a)(1)(A)(iii) of the Public Health Serv-
22 ice Act (42 U.S.C. 300gg(a)(1)(A)(iii)), as inserted by sec-
23 tion 1201(4) of the Patient Protection and Affordable
24 Care Act, is amended by inserting after “(consistent with
25 section 2707(c))” the following: “or, for plan years begin-

1 ning on or after January 1, 2018, as the Secretary may
 2 implement through interim final regulation, 5 to 1 for
 3 adults (consistent with section 2707(c)) or such other
 4 ratio for adults (consistent with section 2707(c)) as the
 5 State involved may provide (or, in the case of a State with
 6 a waiver under subsection (b) in effect for such a plan
 7 year, the ratio applied for such plan year in accordance
 8 with such waiver)”.

9 **SEC. 136. PERMITTING STATES TO WAIVE CERTAIN ACA RE-**
 10 **QUIREMENTS TO ENCOURAGE FAIR HEALTH**
 11 **INSURANCE PREMIUMS.**

12 (a) IN GENERAL.—Section 2701 of the Public Health
 13 Service Act (42 U.S.C. 300gg) is amended by adding at
 14 the end the following new subsection:

15 “(b) PERMISSIBLE STATE WAIVER TO ENCOURAGE
 16 FAIR HEALTH INSURANCE PREMIUMS.—

17 “(1) IN GENERAL.—A State may submit an ap-
 18 plication to the Secretary for one or more of the fol-
 19 lowing purposes:

20 “(A) In the case of plan years beginning
 21 on or after January 1, 2018, to apply, subject
 22 to paragraph (5), under subsection
 23 (a)(1)(A)(iii), instead of the ratio specified in
 24 such subsection, a higher ratio specified by the
 25 State (consistent with section 2707(c)).

1 “(B) In the case of plan years beginning
2 on or after January 1, 2020, for health insur-
3 ance coverage offered in the individual or small
4 group market in such State, to apply, subject to
5 paragraph (5), instead of the essential health
6 benefits specified under subsection (b) of sec-
7 tion 1302 of the Patient Protection and Afford-
8 able Care Act, essential health benefits as speci-
9 fied by the State.

10 “(C) In the case of a State that has in
11 place a program that carries out the purpose
12 described in paragraph (1) or (2) of section
13 2202(a) of the Social Security Act or partici-
14 pates in the program established under section
15 2205 of such Act, for health insurance offered
16 in the individual market in such State, with re-
17 spect to an individual who is an applicable pol-
18 icyholder of such coverage with respect to an
19 enforcement period (as defined in section
20 2710A(b)) applicable to enrollments for a plan
21 year beginning with plan year 2019 (or, in the
22 case of enrollments during a special enrollment
23 period, beginning with plan year 2018), to—

24 “(i) subject to paragraph (5), not
25 apply any increase to the monthly premium

1 rate that would otherwise apply under sec-
2 tion 2710A to such individual for such cov-
3 erage; and

4 “(ii) instead, subject to paragraph
5 (5)—

6 “(I) apply subsection (a)(1) as if
7 health status were included as a fac-
8 tor described in subparagraph (A) of
9 such subsection; and

10 “(II) not apply section 2705(b).

11 “(2) DEFAULT APPROVAL.—An application sub-
12 mitted under paragraph (1) is approved unless the
13 Secretary notifies the State submitting the applica-
14 tion, not later than 60 days after the date of the
15 submission of such application, that the application
16 has been denied for not being in compliance with
17 any requirement of paragraph (3) and of the reason
18 for such denial.

19 “(3) REQUIREMENTS.—The requirements of
20 this paragraph, with respect to an application sub-
21 mitted under paragraph (1), are the following:

22 “(A) The application is submitted at such
23 time, and in such manner, as the Secretary may
24 require.

1 “(B) The application specifies how the ap-
2 proval of such application will provide for one
3 or more of the following:

4 “(i) Reducing average premiums for
5 health insurance coverage in the State.

6 “(ii) Increasing enrollment in health
7 insurance coverage in the State.

8 “(iii) Stabilizing the market for health
9 insurance coverage in the State.

10 “(iv) Stabilizing premiums for individ-
11 uals with pre-existing conditions.

12 “(v) Increasing the choice of health
13 plans in the State.

14 “(C) The application specifies the period
15 for which the waiver is to be effective, con-
16 sistent with paragraph (4).

17 “(D) In the case of an application for pur-
18 poses of paragraph (1)(A), the application
19 specifies the higher ratio to be applied pursuant
20 to such paragraph.

21 “(E) In the case of an application for pur-
22 poses of paragraph (1)(B), the application
23 specifies the essential health benefits to be ap-
24 plied pursuant to such paragraph.

1 “(F) In the case of an application for pur-
2 poses of paragraph (1)(C), the application dem-
3 onstrates that the State has in place a program
4 that carries out the purpose described in para-
5 graph (1) or (2) of section 2202(a) of the So-
6 cial Security Act or participates in the program
7 established under section 2205 of such Act.

8 “(4) TERM OF WAIVER.—

9 “(A) IN GENERAL.—No waiver for a State
10 under this subsection may extend over a period
11 of longer than 10 years unless the State re-
12 quests continuation of such waiver, and such re-
13 quest shall be deemed granted unless the Sec-
14 retary, within 90 days after the date of its sub-
15 mission to the Secretary, either denies such re-
16 quest in writing or informs the State in writing
17 with respect to any additional information
18 which is needed in order to make a final deter-
19 mination with respect to the request.

20 “(B) SPECIAL RULE.—A waiver applied for
21 by a State under paragraph (1)(C) may only be
22 effective for a period during which the State—

23 “(i) has in place a program that car-
24 ries out the purpose described in para-

1 graph (1) or (2) of section 2202(a) of the
2 Social Security Act; or

3 “(ii) participates in the program es-
4 tablished under section 2205 of such Act.

5 “(5) NON-APPLICATION RULES.—

6 “(A) SPECIFIED NON-APPLICATION PROVI-
7 SIONS.—In no case may a waiver for purposes
8 of paragraph (1) apply with respect to any of
9 the following provisions:

10 “(i) Section 1301 of the Patient Pro-
11 tection and Affordable Care Act, to the ex-
12 tent that such section applies to qualified
13 health plans offered through the CO-OP
14 program under section 1322 of such Act or
15 multi-State plans under section 1334 of
16 such Act.

17 “(ii) Sections 1312(d)(3)(D), 1331,
18 1332, 1333, and 1334 of such Act.

19 “(B) HOLD HARMLESS.—Any standard or
20 requirement adopted by a State pursuant to the
21 terms of a waiver approved under this sub-
22 section shall be deemed to comply with section
23 1252 of the Patient Protection and Affordable
24 Care Act and subsection (a) of section 1324 of
25 such Act, insofar as such standard or require-

1 ment relates to a Federal or State law de-
2 scribed in subsection (b)(2) of such section (re-
3 lating to rating).”.

4 (b) APPLICATION TO ESSENTIAL HEALTH BENE-
5 FITS.—Section 1302(a)(1) of the Patient Protection and
6 Affordable Care Act (42 U.S.C. 18022(a)(1)) is amended
7 by inserting “(or, in the case of health insurance coverage
8 offered in the individual or small group market in a State
9 for which there is an applicable waiver in effect under sec-
10 tion 2701(b) of the Public Health Service Act for a plan
11 year, the essential health benefits applicable under such
12 waiver)” after “subsection (b)”.

13 **SEC. 137. CONSTRUCTIONS.**

14 (a) NO GENDER RATING.—Nothing in this Act shall
15 be construed as permitting health insurance issuers to dis-
16 criminate in rates for health insurance coverage by gender.

17 (b) NO LIMITING ACCESS TO COVERAGE FOR INDIV-
18 VIDUALS WITH PREEXISTING CONDITIONS.—Nothing in
19 this Act shall be construed as permitting health insurance
20 issuers to limit access to health coverage for individuals
21 with preexisting conditions.

1 **Subtitle E—Implementation**
2 **Funding**

3 **SEC. 141. AMERICAN HEALTH CARE IMPLEMENTATION**
4 **FUND.**

5 (a) **IN GENERAL.**—There is hereby established an
6 American Health Care Implementation Fund (referred to
7 in this section as the “Fund”) within the Department of
8 Health and Human Services to carry out sections 121,
9 132, 202, and 214 (including the amendments made by
10 such sections).

11 (b) **FUNDING.**—There is appropriated to the Fund,
12 out of any funds in the Treasury not otherwise appro-
13 priated, \$1,000,000,000 for Federal administrative ex-
14 penses to carry out the sections described in subsection
15 (a) (including the amendments made by such sections).

16 **TITLE II—COMMITTEE ON WAYS**
17 **AND MEANS**

18 **Subtitle A—Repeal and Replace of**
19 **Health-Related Tax Policy**

20 **SEC. 201. RECAPTURE EXCESS ADVANCE PAYMENTS OF**
21 **PREMIUM TAX CREDITS.**

22 Subparagraph (B) of section 36B(f)(2) of the Inter-
23 nal Revenue Code of 1986 is amended by adding at the
24 end the following new clause:

1 “(iii) NONAPPLICABILITY OF LIMITA-
2 TION.—This subparagraph shall not apply
3 to taxable years beginning after December
4 31, 2017, and before January 1, 2020.”.

5 **SEC. 202. ADDITIONAL MODIFICATIONS TO PREMIUM TAX**
6 **CREDIT.**

7 (a) MODIFICATION OF DEFINITION OF QUALIFIED
8 HEALTH PLAN.—

9 (1) IN GENERAL.—Section 36B(e)(3)(A) of the
10 Internal Revenue Code of 1986 is amended—

11 (A) by inserting “(determined without re-
12 gard to subparagraphs (A), (C)(ii), and (C)(iv)
13 of paragraph (1) thereof and without regard to
14 whether the plan is offered on an Exchange)”
15 after “1301(a) of the Patient Protection and
16 Affordable Care Act”, and

17 (B) by striking “shall not include” and all
18 that follows and inserting “shall not include any
19 health plan that—

20 “(i) is a grandfathered health plan or
21 a grandmothers health plan, or

22 “(ii) includes coverage for abortions
23 (other than any abortion necessary to save
24 the life of the mother or any abortion with

1 respect to a pregnancy that is the result of
2 an act of rape or incest).”.

3 (2) DEFINITION OF GRANDMOTHERED HEALTH
4 PLAN.—Section 36B(c)(3) of such Code is amended
5 by adding at the end the following new subpara-
6 graph:

7 “(C) GRANDMOTHERED HEALTH PLAN.—
8 “(i) IN GENERAL.—The term
9 ‘grandmothered health plan’ means health
10 insurance coverage which is offered in the
11 individual health insurance market as of
12 October 1, 2013, and is permitted to be of-
13 fered in such market after January 1,
14 2014, as a result of CCIIO guidance.

15 “(ii) CCIIO GUIDANCE DEFINED.—
16 The term ‘CCIIO guidance’ means the let-
17 ter issued by the Centers for Medicare &
18 Medicaid Services on November 14, 2013,
19 to the State Insurance Commissioners out-
20 lining a transitional policy for non-grand-
21 fathered coverage in the individual health
22 insurance market, as subsequently ex-
23 tended and modified (including by a com-
24 munication entitled ‘Insurance Standards
25 Bulletin Series—INFORMATION—Ex-

1 tension of Transitional Policy through Cal-
2 endar Year 2017’ issued on February 29,
3 2016, by the Director of the Center for
4 Consumer Information & Insurance Over-
5 sight of such Centers).

6 “(iii) INDIVIDUAL HEALTH INSUR-
7 ANCE MARKET.—The term ‘individual
8 health insurance market’ means the mar-
9 ket for health insurance coverage (as de-
10 fined in section 9832(b)) offered to individ-
11 uals other than in connection with a group
12 health plan (within the meaning of section
13 5000(b)(1)).”.

14 (3) CONFORMING AMENDMENT RELATED TO
15 ABORTION COVERAGE.—Section 36B(c)(3) of such
16 Code, as amended by paragraph (2), is amended by
17 adding at the end the following new subparagraph:

18 “(D) CERTAIN RULES RELATED TO ABOR-
19 TION.—

20 “(i) OPTION TO PURCHASE SEPARATE
21 COVERAGE OR PLAN.—Nothing in subpara-
22 graph (A) shall be construed as prohibiting
23 any individual from purchasing separate
24 coverage for abortions described in such
25 subparagraph, or a health plan that in-

1 cludes such abortions, so long as no credit
2 is allowed under this section with respect
3 to the premiums for such coverage or plan.

4 “(ii) OPTION TO OFFER COVERAGE OR
5 PLAN.—Nothing in subparagraph (A) shall
6 restrict any health insurance issuer offer-
7 ing a health plan from offering separate
8 coverage for abortions described in such
9 subparagraph, or a plan that includes such
10 abortions, so long as premiums for such
11 separate coverage or plan are not paid for
12 with any amount attributable to the credit
13 allowed under this section (or the amount
14 of any advance payment of the credit
15 under section 1412 of the Patient Protec-
16 tion and Affordable Care Act).

17 “(iii) OTHER TREATMENTS.—The
18 treatment of any infection, injury, disease,
19 or disorder that has been caused by or ex-
20 acerbated by the performance of an abor-
21 tion shall not be treated as an abortion for
22 purposes of subparagraph (A).”.

23 (4) CONFORMING AMENDMENTS RELATED TO
24 OFF-EXCHANGE COVERAGE.—

1 (A) ADVANCE PAYMENT NOT APPLICA-
2 BLE.—Section 1412 of the Patient Protection
3 and Affordable Care Act is amended by adding
4 at the end the following new subsection:

5 “(f) EXCLUSION OF OFF-EXCHANGE COVERAGE.—
6 Advance payments under this section, and advance deter-
7 minations under section 1411, with respect to any credit
8 allowed under section 36B shall not be made with respect
9 to any health plan which is not enrolled in through an
10 Exchange.”.

11 (B) REPORTING.—Section 6055(b) of the
12 Internal Revenue Code of 1986 is amended by
13 adding at the end the following new paragraph:

14 “(3) INFORMATION RELATING TO OFF-EX-
15 CHANGE PREMIUM CREDIT ELIGIBLE COVERAGE.—If
16 minimum essential coverage provided to an indi-
17 vidual under subsection (a) consists of a qualified
18 health plan (as defined in section 36B(c)(3)) which
19 is not enrolled in through an Exchange established
20 under title I of the Patient Protection and Afford-
21 able Care Act, a return described in this subsection
22 shall include—

23 “(A) a statement that such plan is a quali-
24 fied health plan (as defined in section
25 36B(c)(3)),

1 “(B) the premiums paid with respect to
2 such coverage,

3 “(C) the months during which such cov-
4 erage is provided to the individual,

5 “(D) the adjusted monthly premium for
6 the applicable second lowest cost silver plan (as
7 defined in section 36B(b)(3)) for each such
8 month with respect to such individual, and

9 “(E) such other information as the Sec-
10 retary may prescribe.”.

11 (C) OTHER CONFORMING AMENDMENTS.—

12 (i) Section 36B(b)(2)(A) of such Code
13 is amended by striking “and which were
14 enrolled” and all that follows and inserting
15 “, or”.

16 (ii) Section 36B(b)(3)(B)(i) of such
17 Code is amended by striking “the same
18 Exchange” and all that follows and insert-
19 ing “the Exchange through which such
20 taxpayer is permitted to obtain coverage,
21 and”.

22 (iii) Section 36B(c)(2)(A)(i) of such
23 Code is amended by striking “that was en-
24 rolled in through an Exchange established

1 by the State under section 1311 of the Pa-
 2 tient Protection and Affordable Care Act”.

3 (b) MODIFICATION OF APPLICABLE PERCENTAGE.—

4 Section 36B(b)(3)(A) of such Code is amended to read
 5 as follows:

6 “(A) APPLICABLE PERCENTAGE.—

7 “(i) IN GENERAL.—The applicable
 8 percentage for any taxable year shall be
 9 the percentage such that the applicable
 10 percentage for any taxpayer whose house-
 11 hold income is within an income tier speci-
 12 fied in the following table shall increase, on
 13 a sliding scale in a linear manner, from the
 14 initial percentage to the final percentage
 15 specified in such table for such income tier
 16 with respect to a taxpayer of the age in-
 17 volved:

“In the case of household income (expressed as a percent of the poverty line) within the following income tier:	Up to Age 29		Age 30-39		Age 40-49		Age 50-59		Over Age 59	
	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %
Up to 133%	2	2	2	2	2	2	2	2	2	2
133%-150%	3	4	3	4	3	4	3	4	3	4
150%-200%	4	4.3	4	5.3	4	6.3	4	7.3	4	8.3
200%-250%	4.3	4.3	5.3	5.9	6.3	8.05	7.3	9	8.3	10
250%-300%	4.3	4.3	5.9	5.9	8.05	8.35	9	10.5	10	11.5
300%-400%	4.3	4.3	5.9	5.9	8.35	8.35	10.5	10.5	11.5	11.5

18 “(ii) AGE DETERMINATIONS.—

19 “(I) IN GENERAL.—For purposes
 20 of clause (i), the age of the taxpayer

1 taken into account under clause (i)
2 with respect to any taxable year is the
3 age attained by such taxpayer before
4 the close of such taxable year.

5 “(II) JOINT RETURNS.—In the
6 case of a joint return, the age of the
7 older spouse shall be taken into ac-
8 count under clause (i).

9 “(iii) INDEXING.—In the case of any
10 taxable year beginning in calendar year
11 2019, the initial and final percentages con-
12 tained in clause (i) shall be adjusted to re-
13 flect—

14 “(I) the excess (if any) of the
15 rate of premium growth for the period
16 beginning with calendar year 2013
17 and ending with calendar year 2018,
18 over the rate of income growth for
19 such period, and

20 “(II) in addition to any adjust-
21 ment under subclause (I), the excess
22 (if any) of the rate of premium
23 growth for calendar year 2018, over
24 the rate of growth in the consumer
25 price index for calendar year 2018.

1 “(iv) FAILSAFE.—Clause (iii)(II) shall
2 apply only if the aggregate amount of pre-
3 mium tax credits under this section and
4 cost-sharing reductions under section 1402
5 of the Patient Protection and Affordable
6 Care Act for calendar year 2018 exceeds
7 an amount equal to 0.504 percent of the
8 gross domestic product for such calendar
9 year.”.

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to taxable years beginning
14 after December 31, 2017.

15 (2) ADVANCE PAYMENT NOT APPLICABLE TO
16 OFF-EXCHANGE COVERAGE.—The amendment made
17 by subsection (a)(4)(A) shall take effect on January
18 1, 2018.

19 (3) REPORTING.—The amendment made by
20 subsection (a)(4)(B) shall apply to coverage provided
21 for months beginning after December 31, 2017.

22 (4) MODIFICATION OF APPLICABLE PERCENT-
23 AGE.—The amendment made by subsection (b) shall
24 apply to taxable years beginning after December 31,
25 2018.

1 **SEC. 203. SMALL BUSINESS TAX CREDIT.**

2 (a) IN GENERAL.—Section 45R of the Internal Rev-
3 enue Code of 1986 is amended by adding at the end the
4 following new subsection:

5 “(j) SHALL NOT APPLY.—This section shall not
6 apply with respect to amounts paid or incurred in taxable
7 years beginning after December 31, 2019.”.

8 (b) DISALLOWANCE OF SMALL EMPLOYER HEALTH
9 INSURANCE EXPENSE CREDIT FOR PLAN WHICH IN-
10 CLUDES COVERAGE FOR ABORTION.—Subsection (h) of
11 section 45R of the Internal Revenue Code of 1986 is
12 amended—

13 (1) by striking “Any term” and inserting the
14 following:

15 “(1) IN GENERAL.—Any term”; and

16 (2) by adding at the end the following new
17 paragraph:

18 “(2) EXCLUSION OF HEALTH PLANS INCLUDING
19 COVERAGE FOR ABORTION.—

20 “(A) IN GENERAL.—The term ‘qualified
21 health plan’ does not include any health plan
22 that includes coverage for abortions (other than
23 any abortion necessary to save the life of the
24 mother or any abortion with respect to a preg-
25 nancy that is the result of an act of rape or in-
26 cest).

1 “(B) CERTAIN RULES RELATED TO ABOR-
2 TION.—

3 “(i) OPTION TO PURCHASE SEPARATE
4 COVERAGE OR PLAN.—Nothing in subpara-
5 graph (A) shall be construed as prohibiting
6 any employer from purchasing for its em-
7 ployees separate coverage for abortions de-
8 scribed in such subparagraph, or a health
9 plan that includes such abortions, so long
10 as no credit is allowed under this section
11 with respect to the employer contributions
12 for such coverage or plan.

13 “(ii) OPTION TO OFFER COVERAGE OR
14 PLAN.—Nothing in subparagraph (A) shall
15 restrict any health insurance issuer offer-
16 ing a health plan from offering separate
17 coverage for abortions described in such
18 subparagraph, or a plan that includes such
19 abortions, so long as such separate cov-
20 erage or plan is not paid for with any em-
21 ployer contribution eligible for the credit
22 allowed under this section.

23 “(iii) OTHER TREATMENTS.—The
24 treatment of any infection, injury, disease,
25 or disorder that has been caused by or ex-

1 acerbated by the performance of an abor-
2 tion shall not be treated as an abortion for
3 purposes of subparagraph (A).”.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—The amendment made by
6 subsection (a) shall apply to taxable years beginning
7 after December 31, 2019.

8 (2) DISALLOWANCE OF SMALL EMPLOYER
9 HEALTH INSURANCE EXPENSE CREDIT FOR PLAN
10 WHICH INCLUDES COVERAGE FOR ABORTION.—The
11 amendments made by subsection (b) shall apply to
12 taxable years beginning after December 31, 2017.

13 **SEC. 204. INDIVIDUAL MANDATE.**

14 (a) IN GENERAL.—Section 5000A(c) of the Internal
15 Revenue Code of 1986 is amended—

16 (1) in paragraph (2)(B)(iii), by striking “2.5
17 percent” and inserting “Zero percent”, and

18 (2) in paragraph (3)—

19 (A) by striking “\$695” in subparagraph

20 (A) and inserting “\$0”, and

21 (B) by striking subparagraph (D).

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to months beginning after Decem-
24 ber 31, 2015.

1 **SEC. 205. EMPLOYER MANDATE.**

2 (a) IN GENERAL.—

3 (1) Paragraph (1) of section 4980H(c) of the
4 Internal Revenue Code of 1986 is amended by in-
5 sserting “(\$0 in the case of months beginning after
6 December 31, 2015)” after “\$2,000”.

7 (2) Paragraph (1) of section 4980H(b) of the
8 Internal Revenue Code of 1986 is amended by in-
9 sserting “(\$0 in the case of months beginning after
10 December 31, 2015)” after “\$3,000”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to months beginning after Decem-
13 ber 31, 2015.

14 **SEC. 206. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
15 **SURANCE PREMIUMS AND HEALTH PLAN**
16 **BENEFITS.**

17 Section 4980I of the Internal Revenue Code of 1986
18 is amended by adding at the end the following new sub-
19 section:

20 “(h) SHALL NOT APPLY.—No tax shall be imposed
21 under this section with respect to any taxable period be-
22 ginning after December 31, 2019, and before January 1,
23 2026.”.

1 **SEC. 207. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
2 **TIONS.**

3 (a) HSAS.—Subparagraph (A) of section 223(d)(2)
4 of the Internal Revenue Code of 1986 is amended by strik-
5 ing “Such term” and all that follows through the period.

6 (b) ARCHER MSAS.—Subparagraph (A) of section
7 220(d)(2) of the Internal Revenue Code of 1986 is amend-
8 ed by striking “Such term” and all that follows through
9 the period.

10 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
11 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
12 tion 106 of the Internal Revenue Code of 1986 is amended
13 by striking subsection (f) and by redesignating subsection
14 (g) as subsection (f).

15 (d) EFFECTIVE DATES.—

16 (1) DISTRIBUTIONS FROM SAVINGS AC-
17 COUNTS.—The amendments made by subsections (a)
18 and (b) shall apply to amounts paid with respect to
19 taxable years beginning after December 31, 2016.

20 (2) REIMBURSEMENTS.—The amendment made
21 by subsection (c) shall apply to expenses incurred
22 with respect to taxable years beginning after Decem-
23 ber 31, 2016.

1 **SEC. 208. REPEAL OF INCREASE OF TAX ON HEALTH SAV-**
2 **INGS ACCOUNTS.**

3 (a) HSAs.—Section 223(f)(4)(A) of the Internal
4 Revenue Code of 1986 is amended by striking “20 per-
5 cent” and inserting “10 percent”.

6 (b) ARCHER MSAs.—Section 220(f)(4)(A) of the In-
7 ternal Revenue Code of 1986 is amended by striking “20
8 percent” and inserting “15 percent”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions made after Decem-
11 ber 31, 2016.

12 **SEC. 209. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
13 **FLEXIBLE SPENDING ACCOUNTS.**

14 (a) IN GENERAL.—Section 125 of the Internal Rev-
15 enue Code of 1986 is amended by striking subsection (i).

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to taxable years beginning after
18 December 31, 2016.

19 **SEC. 210. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

20 Section 4191 of the Internal Revenue Code of 1986
21 is amended by adding at the end the following new sub-
22 section:

23 “(d) APPLICABILITY.—The tax imposed under sub-
24 section (a) shall not apply to sales after December 31,
25 2016.”.

1 **SEC. 211. REPEAL OF ELIMINATION OF DEDUCTION FOR**
2 **EXPENSES ALLOCABLE TO MEDICARE PART D**
3 **SUBSIDY.**

4 (a) **IN GENERAL.**—Section 139A of the Internal Rev-
5 enue Code of 1986 is amended by adding at the end the
6 following new sentence: “This section shall not be taken
7 into account for purposes of determining whether any de-
8 duction is allowable with respect to any cost taken into
9 account in determining such payment.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2016.

13 **SEC. 212. REDUCTION OF INCOME THRESHOLD FOR DETER-**
14 **MINING MEDICAL CARE DEDUCTION.**

15 (a) **IN GENERAL.**—Subsection (a) of section 213 of
16 the Internal Revenue Code of 1986 is amended by striking
17 “10 percent” and inserting “5.8 percent”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2016.

21 **SEC. 213. REPEAL OF MEDICARE TAX INCREASE.**

22 (a) **IN GENERAL.**—Subsection (b) of section 3101 of
23 the Internal Revenue Code of 1986 is amended to read
24 as follows:

25 “(b) **HOSPITAL INSURANCE.**—In addition to the tax
26 imposed by the preceding subsection, there is hereby im-

1 posed on the income of every individual a tax equal to 1.45
2 percent of the wages (as defined in section 3121(a)) re-
3 ceived by such individual with respect to employment (as
4 defined in section 3121(b)).”.

5 (b) SECA.—Subsection (b) of section 1401 of the In-
6 ternal Revenue Code of 1986 is amended to read as fol-
7 lows:

8 “(b) HOSPITAL INSURANCE.—In addition to the tax
9 imposed by the preceding subsection, there shall be im-
10 posed for each taxable year, on the self-employment in-
11 come of every individual, a tax equal to 2.9 percent of the
12 amount of the self-employment income for such taxable
13 year.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to remuneration re-
16 ceived after, and taxable years beginning after, December
17 31, 2022.

18 **SEC. 214. REFUNDABLE TAX CREDIT FOR HEALTH INSUR-**
19 **ANCE COVERAGE.**

20 (a) IN GENERAL.—Section 36B of the Internal Rev-
21 enue Code of 1986 is amended to read as follows:

22 **“SEC. 36B. REFUNDABLE CREDIT FOR COVERAGE UNDER A**
23 **QUALIFIED HEALTH PLAN.**

24 “(a) ALLOWANCE OF PREMIUM TAX CREDIT.—In the
25 case of an individual, there shall be allowed as a credit

1 against the tax imposed by this subtitle for the taxable
2 year the sum of the monthly credit amounts with respect
3 to such taxpayer for calendar months during such taxable
4 year which are eligible coverage months appropriately
5 taken into account under subsection (b)(2) with respect
6 to the taxpayer or any qualifying family member of the
7 taxpayer.

8 “(b) MONTHLY CREDIT AMOUNTS.—

9 “(1) IN GENERAL.—The monthly credit amount
10 with respect to any taxpayer for any calendar month
11 is the lesser of—

12 “(A) the sum of the monthly limitation
13 amounts determined under subsection (c) with
14 respect to the taxpayer and the taxpayer’s
15 qualifying family members for such month, or

16 “(B) the amount paid for a qualified
17 health plan for the taxpayer and the taxpayer’s
18 qualifying family members for such month.

19 “(2) ELIGIBLE COVERAGE MONTH REQUIRE-
20 MENT.—No amount shall be taken into account
21 under subparagraph (A) or (B) of paragraph (1)
22 with respect to any individual for any month unless
23 such month is an eligible coverage month with re-
24 spect to such individual.

25 “(c) MONTHLY LIMITATION AMOUNTS.—

1 “(1) IN GENERAL.—The monthly limitation
2 amount with respect to any individual for any eligi-
3 ble coverage month during any taxable year is $\frac{1}{12}$
4 of—

5 “(A) \$2,000 in the case of an individual
6 who has not attained age 30 as of the begin-
7 ning of such taxable year,

8 “(B) \$2,500 in the case of an individual
9 who has attained age 30 but who has not at-
10 tained age 40 as of such time,

11 “(C) \$3,000 in the case of an individual
12 who has attained age 40 but who has not at-
13 tained age 50 as of such time,

14 “(D) \$3,500 in the case of an individual
15 who has attained age 50 but who has not at-
16 tained age 60 as of such time, and

17 “(E) \$4,000 in the case of an individual
18 who has attained age 60 as of such time.

19 “(2) LIMITATION BASED ON MODIFIED AD-
20 JUSTED GROSS INCOME.—The credit allowed under
21 subsection (a) with respect to any taxpayer for any
22 taxable year shall be reduced (but not below zero) by
23 10 percent of the excess (if any) of—

24 “(A) the taxpayer’s modified adjusted
25 gross income (as defined in section

1 36B(d)(2)(B), as in effect for taxable years be-
2 ginning before January 1, 2020) for such tax-
3 able year, over

4 “(B) \$75,000 (twice such amount in the
5 case of a joint return).

6 “(3) OTHER LIMITATIONS.—

7 “(A) AGGREGATE DOLLAR LIMITATION.—

8 The sum of the monthly limitation amounts
9 taken into account under this section with re-
10 spect to any taxpayer for any taxable year shall
11 not exceed \$14,000.

12 “(B) MAXIMUM NUMBER OF INDIVIDUALS
13 TAKEN INTO ACCOUNT.—With respect to any
14 taxpayer for any month, monthly limitation
15 amounts shall be taken into account under this
16 section only with respect to the 5 oldest individ-
17 uals with respect to whom monthly limitation
18 amounts could (without regard to this subpara-
19 graph) otherwise be so taken into account.

20 “(d) ELIGIBLE COVERAGE MONTH.—For purposes of
21 this section, the term ‘eligible coverage month’ means,
22 with respect to any individual, any month if, as of the first
23 day of such month, the individual meets the following re-
24 quirements:

1 “(1) The individual is covered by a health in-
2 surance coverage which is certified by the State in
3 which such insurance is offered as coverage that
4 meets the requirements for qualified health plans
5 under subsection (f).

6 “(2) The individual is not eligible for—

7 “(A) coverage under a group health plan
8 (within the meaning of section 5000(b)(1))
9 other than coverage under a plan substantially
10 all of the coverage of which is of excepted bene-
11 fits described in section 9832(c), or

12 “(B) coverage described in section
13 5000A(f)(1)(A).

14 “(3) The individual is either—

15 “(A) a citizen or national of the United
16 States, or

17 “(B) a qualified alien (within the meaning
18 of section 431 of the Personal Responsibility
19 and Work Opportunity Reconciliation Act of
20 1996 (8 U.S.C. 1641)).

21 “(4) The individual is not incarcerated, other
22 than incarceration pending the disposition of
23 charges.

1 “(e) QUALIFYING FAMILY MEMBER.—For purposes
2 of this section, the term ‘qualifying family member’
3 means—

4 “(1) in the case of a joint return, the taxpayer’s
5 spouse,

6 “(2) any dependent of the taxpayer, and

7 “(3) with respect to any eligible coverage
8 month, any child (as defined in section 152(f)(1)) of
9 the taxpayer who as of the end of the taxable year
10 has not attained age 27 if such child is covered for
11 such month under a qualified health plan which also
12 covers the taxpayer (in the case of a joint return, ei-
13 ther spouse).

14 “(f) QUALIFIED HEALTH PLAN.—For purposes of
15 this section, the term ‘qualified health plan’ means any
16 health insurance coverage (as defined in section 9832(b))
17 if—

18 “(1) such coverage is offered in the individual
19 health insurance market within a State (within the
20 meaning of section 5000A(f)(1)(C)),

21 “(2) substantially all of such coverage is not of
22 excepted benefits described in section 9832(c),

23 “(3) such coverage does not consist of short-
24 term limited duration insurance (within the meaning

1 of section 2791(b)(5) of the Public Health Service
2 Act),

3 “(4) such coverage is not a grandfathered
4 health plan (as defined in section 1251 of the Pa-
5 tient Protection and Affordable Care Act) or a
6 grandmothers health plan (as defined in section
7 36B(c)(3)(C) as in effect for taxable years beginning
8 before January 1, 2020), and

9 “(5) such coverage does not include coverage
10 for abortions (other than any abortion necessary to
11 save the life of the mother or any abortion with re-
12 spect to a pregnancy that is the result of an act of
13 rape or incest).

14 “(g) SPECIAL RULES.—

15 “(1) MARRIED COUPLES MUST FILE JOINT RE-
16 TURN.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), if the taxpayer is married
19 (within the meaning of section 7703) at the
20 close of the taxable year, no credit shall be al-
21 lowed under this section to such taxpayer unless
22 such taxpayer and the taxpayer’s spouse file a
23 joint return for such taxable year.

1 “(B) EXCEPTION FOR CERTAIN TAX-
2 PAYERS.—Subparagraph (A) shall not apply to
3 any married taxpayer who—

4 “(i) is living apart from the taxpayer’s
5 spouse at the time the taxpayer files the
6 tax return,

7 “(ii) is unable to file a joint return be-
8 cause such taxpayer is a victim of domestic
9 abuse or spousal abandonment,

10 “(iii) certifies on the tax return that
11 such taxpayer meets the requirements of
12 clauses (i) and (ii), and

13 “(iv) has not met the requirements of
14 clauses (i), (ii), and (iii) for each of the 3
15 preceding taxable years.

16 “(2) DENIAL OF CREDIT TO DEPENDENTS.—

17 “(A) IN GENERAL.—No credit shall be al-
18 lowed under this section to any individual who
19 is a dependent with respect to another taxpayer
20 for a taxable year beginning in the calendar
21 year in which such individual’s taxable year be-
22 gins.

23 “(B) COORDINATION WITH RULE FOR
24 OLDER CHILDREN.—In the case of any indi-
25 vidual who is a qualifying family member de-

1 scribed in subsection (e)(3) with respect to an-
2 other taxpayer for any month, in determining
3 the amount of any credit allowable to such indi-
4 vidual under this section for any taxable year of
5 such individual which includes such month, the
6 monthly limitation amount with respect to such
7 individual for such month shall be zero and no
8 amount paid for any qualified health plan with
9 respect to such individual for such month shall
10 be taken into account.

11 “(3) COORDINATION WITH MEDICAL EXPENSE
12 DEDUCTION.—Amounts described in subsection
13 (b)(1)(B) with respect to any month shall not be
14 taken into account in determining the deduction al-
15 lowed under section 213 except to the extent that
16 such amounts exceed the amount described in sub-
17 section (b)(1)(A) with respect to such month.

18 “(4) COORDINATION WITH ADVANCE PAYMENTS
19 OF CREDIT.—With respect to any taxable year—

20 “(A) the amount which would (but for this
21 subsection) be allowed as a credit to the tax-
22 payer under subsection (a) shall be reduced
23 (but not below zero) by the aggregate amount
24 paid on behalf of such taxpayer under section
25 1412 of the Patient Protection and Affordable

1 Care Act for months beginning in such taxable
2 year, and

3 “(B) the tax imposed by section 1 for such
4 taxable year shall be increased by the excess (if
5 any) of—

6 “(i) the aggregate amount paid on be-
7 half of such taxpayer under such section
8 1412 for months beginning in such taxable
9 year, over

10 “(ii) the amount which would (but for
11 this subsection) be allowed as a credit to
12 the taxpayer under subsection (a).

13 “(5) SPECIAL RULES FOR QUALIFIED SMALL
14 EMPLOYER HEALTH REIMBURSEMENT ARRANGE-
15 MENTS.—

16 “(A) IN GENERAL.—If the taxpayer or any
17 qualifying family member of the taxpayer is
18 provided a qualified small employer health reim-
19 bursement arrangement for an eligible coverage
20 month, the sum determined under subsection
21 (b)(1)(A) with respect to the taxpayer shall be
22 reduced (but not below zero) by $\frac{1}{12}$ of the per-
23 mitted benefit (as defined in section
24 9831(d)(3)(C)) under such arrangement for

1 each such month such arrangement is provided
2 to such taxpayer.

3 “(B) QUALIFIED SMALL EMPLOYER
4 HEALTH REIMBURSEMENT ARRANGEMENT.—
5 For purposes of this paragraph, the term
6 ‘qualified small employer health reimbursement
7 arrangement’ has the meaning given such term
8 by section 9831(d)(2).

9 “(C) COVERAGE FOR LESS THAN ENTIRE
10 YEAR.—In the case of an employee who is pro-
11 vided a qualified small employer health reim-
12 bursement arrangement for less than an entire
13 year, subparagraph (A) shall be applied by sub-
14 stituting ‘the number of months during the year
15 for which such arrangement was provided’ for
16 ‘12’.

17 “(6) CERTAIN RULES RELATED TO NON-
18 QUALIFIED HEALTH PLANS.—The rules of section
19 36B(c)(3)(D), as in effect for taxable years begin-
20 ning before January 1, 2020, shall apply with re-
21 spect to subsection (f)(5).

22 “(7) INFLATION ADJUSTMENT.—

23 “(A) IN GENERAL.—In the case of any
24 taxable year beginning in a calendar year after
25 2020, each dollar amount in subsection (c)(1),

1 the \$75,000 amount in subsection (c)(2)(B),
2 and the dollar amount in subsection (c)(3)(A),
3 shall be increased by an amount equal to—

4 “(i) such dollar amount, multiplied by

5 “(ii) the cost-of-living adjustment de-
6 termined under section 1(f)(3) for the cal-
7 endar year in which the taxable year be-
8 gins, determined—

9 “(I) by substituting ‘calendar
10 year 2019’ for ‘calendar year 1992’ in
11 subparagraph (B) thereof, and

12 “(II) by substituting for the CPI
13 referred to section 1(f)(3)(A) the
14 amount that such CPI would have
15 been if the annual percentage increase
16 in CPI with respect to each year after
17 2019 had been one percentage point
18 greater.

19 “(B) TERMS RELATED TO CPI.—

20 “(i) ANNUAL PERCENTAGE IN-
21 CREASE.—For purposes of subparagraph
22 (A)(ii)(II), the term ‘annual percentage in-
23 crease’ means the percentage (if any) by
24 which CPI for any year exceeds CPI for
25 the prior year.

1 “(ii) OTHER TERMS.—Terms used in
2 this paragraph which are also used in sec-
3 tion 1(f)(3) shall have the same meanings
4 as when used in such section.

5 “(C) ROUNDING.—Any increase deter-
6 mined under subparagraph (A) shall be rounded
7 to the nearest multiple of \$50.

8 “(8) RULES RELATED TO STATE CERTIFI-
9 CATION OF QUALIFIED HEALTH PLANS.—A certifi-
10 cation shall not be taken into account under sub-
11 section (d)(1) unless such certification is made avail-
12 able to the public and meets such other require-
13 ments as the Secretary may provide.

14 “(9) REGULATIONS.—The Secretary may pre-
15 scribe such regulations and other guidance as may
16 be necessary or appropriate to carry out this section
17 and section 1412 of the Patient Protection and Af-
18 fordable Care Act.”.

19 (b) ADVANCE PAYMENT OF CREDIT.—Section
20 1412(f) of the Patient Protection and Affordable Care
21 Act, as added by section 202, is amended to read as fol-
22 lows:

23 “(f) APPLICATION TO CERTAIN PLANS.—The Sec-
24 retary and the Secretary of the Treasury shall prescribe
25 such regulations as each respective Secretary may deem

1 necessary in order to establish and operate the advance
2 payment program established under this section for indi-
3 viduals covered under qualified health plans (whether en-
4 rolled in through an Exchange or otherwise) in such a
5 manner that protects taxpayer information (including
6 names, taxpayer identification numbers, and other con-
7 fidential information), provides robust verification of all
8 information necessary to establish eligibility of taxpayer
9 for advance payments under this section, ensures proper
10 and timely payments to appropriate health providers, and
11 protects program integrity to the maximum extent fea-
12 sible.”.

13 (c) INCREASED PENALTY ON ERRONEOUS CLAIMS OF
14 CREDIT.—Section 6676(a) of the Internal Revenue Code
15 of 1986 is amended by inserting “(25 percent in the case
16 of a claim for refund or credit relating to the health insur-
17 ance coverage credit under section 36B)”.

18 (d) REPORTING BY EMPLOYERS.—Section 6051(a) of
19 such Code is amended by striking “and” at the end of
20 paragraph (14), by striking the period at the end of para-
21 graph (15) and inserting “, and”, and by inserting after
22 paragraph (15) the following new paragraph:

23 “(16) each month with respect to which the em-
24 ployee is eligible for coverage described in section

1 36B(d)(2) in connection with employment with the
2 employer.”.

3 (e) COORDINATION WITH OTHER TAX BENEFITS.—

4 (1) CREDIT FOR HEALTH INSURANCE COSTS OF
5 ELIGIBLE INDIVIDUALS.—Section 35(g) of such
6 Code is amended by adding at the end the following
7 new paragraph:

8 “(14) COORDINATION WITH HEALTH INSUR-
9 ANCE COVERAGE CREDIT.—

10 “(A) IN GENERAL.—An eligible coverage
11 month to which the election under paragraph
12 (11) applies shall not be treated as an eligible
13 coverage month (as defined in section 36B(d))
14 for purposes of section 36B with respect to the
15 taxpayer or any of the taxpayer’s qualifying
16 family members (as defined in section 36B(e)).

17 “(B) COORDINATION WITH ADVANCE PAY-
18 MENTS OF HEALTH INSURANCE COVERAGE
19 CREDIT.—In the case of a taxpayer who makes
20 the election under paragraph (11) with respect
21 to any eligible coverage month in a taxable year
22 or on behalf of whom any advance payment is
23 made under section 7527 with respect to any
24 month in such taxable year—

1 “(i) the tax imposed by this chapter
2 for the taxable year shall be increased by
3 the excess, if any, of—

4 “(I) the sum of any advance pay-
5 ments made on behalf of the taxpayer
6 under section 7527 and section 1412
7 of the Patient Protection and Afford-
8 able Care Act, over

9 “(II) the sum of the credits al-
10 lowed under this section (determined
11 without regard to paragraph (1)) and
12 section 36B (determined without re-
13 gard to subsection (g)(4)(A) thereof)
14 for such taxable year, and

15 “(ii) section 36B(g)(4)(B) shall not
16 apply with respect to such taxpayer for
17 such taxable year.”.

18 (2) TRADE OR BUSINESS DEDUCTION.—Section
19 162(l) of such Code is amended by adding at the
20 end the following new paragraph:

21 “(6) COORDINATION WITH HEALTH INSURANCE
22 COVERAGE CREDIT.—The deduction otherwise allow-
23 able to a taxpayer under paragraph (1) for any tax-
24 able year shall be reduced (but not below zero) by
25 the amount of the credit allowable to such taxpayer

1 under section 36B (determined without regard to
2 subsection (g)(4)(A) thereof) for such taxable year.”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to months beginning after Decem-
5 ber 31, 2019, in taxable years ending after such date.

6 **SEC. 215. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAV-**
7 **INGS ACCOUNT INCREASED TO AMOUNT OF**
8 **DEDUCTIBLE AND OUT-OF-POCKET LIMITA-**
9 **TION.**

10 (a) SELF-ONLY COVERAGE.—Section 223(b)(2)(A)
11 of the Internal Revenue Code of 1986 is amended by strik-
12 ing “\$2,250” and inserting “the amount in effect under
13 subsection (c)(2)(A)(ii)(I)”.

14 (b) FAMILY COVERAGE.—Section 223(b)(2)(B) of
15 such Code is amended by striking “\$4,500” and inserting
16 “the amount in effect under subsection (c)(2)(A)(ii)(II)”.

17 (c) CONFORMING AMENDMENTS.—Section 223(g)(1)
18 of such Code is amended—

19 (1) by striking “subsections (b)(2) and” both
20 places it appears and inserting “subsection”, and

21 (2) in subparagraph (B), by striking “deter-
22 mined by” and all that follows through “‘calendar
23 year 2003’.” and inserting “determined by sub-
24 stituting ‘calendar year 2003’ for ‘calendar year
25 1992’ in subparagraph (B) thereof.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

4 **SEC. 216. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
5 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**
6 **ACCOUNT.**

7 (a) IN GENERAL.—Section 223(b)(5) of the Internal
8 Revenue Code of 1986 is amended to read as follows:

9 “(5) SPECIAL RULE FOR MARRIED INDIVIDUALS
10 WITH FAMILY COVERAGE.—

11 “(A) IN GENERAL.—In the case of individ-
12 uals who are married to each other, if both
13 spouses are eligible individuals and either
14 spouse has family coverage under a high de-
15 ductible health plan as of the first day of any
16 month—

17 “(i) the limitation under paragraph
18 (1) shall be applied by not taking into ac-
19 count any other high deductible health
20 plan coverage of either spouse (and if such
21 spouses both have family coverage under
22 separate high deductible health plans, only
23 one such coverage shall be taken into ac-
24 count),

1 “(ii) such limitation (after application
2 of clause (i)) shall be reduced by the ag-
3 gregate amount paid to Archer MSAs of
4 such spouses for the taxable year, and

5 “(iii) such limitation (after application
6 of clauses (i) and (ii)) shall be divided
7 equally between such spouses unless they
8 agree on a different division.

9 “(B) TREATMENT OF ADDITIONAL CON-
10 TRIBUTION AMOUNTS.—If both spouses referred
11 to in subparagraph (A) have attained age 55
12 before the close of the taxable year, the limita-
13 tion referred to in subparagraph (A)(iii) which
14 is subject to division between the spouses shall
15 include the additional contribution amounts de-
16 termined under paragraph (3) for both spouses.
17 In any other case, any additional contribution
18 amount determined under paragraph (3) shall
19 not be taken into account under subparagraph
20 (A)(iii) and shall not be subject to division be-
21 tween the spouses.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2017.

1 **SEC. 217. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
2 **INCURRED BEFORE ESTABLISHMENT OF**
3 **HEALTH SAVINGS ACCOUNT.**

4 (a) **IN GENERAL.**—Section 223(d)(2) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new subparagraph:

7 “(D) **TREATMENT OF CERTAIN MEDICAL**
8 **EXPENSES INCURRED BEFORE ESTABLISHMENT**
9 **OF ACCOUNT.**—If a health savings account is
10 established during the 60-day period beginning
11 on the date that coverage of the account bene-
12 ficiary under a high deductible health plan be-
13 gins, then, solely for purposes of determining
14 whether an amount paid is used for a qualified
15 medical expense, such account shall be treated
16 as having been established on the date that
17 such coverage begins.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 this section shall apply with respect to coverage beginning
20 after December 31, 2017.

1 **Subtitle B—Repeal of Certain**
2 **Consumer Taxes**

3 **SEC. 221. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
4 **TIONS.**

5 Subsection (j) of section 9008 of the Patient Protec-
6 tion and Affordable Care Act is amended to read as fol-
7 lows:

8 “(j) REPEAL.—This section shall apply to calendar
9 years beginning after December 31, 2010, and ending be-
10 fore January 1, 2017.”.

11 **SEC. 222. REPEAL OF HEALTH INSURANCE TAX.**

12 Subsection (j) of section 9010 of the Patient Protec-
13 tion and Affordable Care Act is amended to read as fol-
14 lows:

15 “(j) REPEAL.—This section shall apply to calendar
16 years beginning after December 31, 2013, and ending be-
17 fore January 1, 2017.”.

18 **Subtitle C—Repeal of Tanning Tax**

19 **SEC. 231. REPEAL OF TANNING TAX.**

20 (a) IN GENERAL.—The Internal Revenue Code of
21 1986 is amended by striking chapter 49.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to services performed after June
24 30, 2017.

1 **Subtitle D—Remuneration From**
2 **Certain Insurers**

3 **SEC. 241. REMUNERATION FROM CERTAIN INSURERS.**

4 Paragraph (6) of section 162(m) of the Internal Rev-
5 enue Code of 1986 is amended by adding at the end the
6 following new subparagraph:

7 “(I) TERMINATION.—This paragraph shall
8 not apply to taxable years beginning after De-
9 cember 31, 2016.”.

10 **Subtitle E—Repeal of Net**
11 **Investment Income Tax**

12 **SEC. 251. REPEAL OF NET INVESTMENT INCOME TAX.**

13 (a) IN GENERAL.—Subtitle A of the Internal Rev-
14 enue Code of 1986 is amended by striking chapter 2A.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2016.

Passed the House of Representatives May 4, 2017.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 120

115TH CONGRESS
1ST Session

H. R. 1628

AN ACT

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2017.

JUNE 8, 2017

Read twice and placed on the calendar