

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.**

**H. R. 1628**

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

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the following:  
2

3 **TITLE I**

4 **SEC. 101. ELIMINATION OF LIMITATION ON RECAPTURE OF**  
5 **EXCESS ADVANCE PAYMENTS OF PREMIUM**  
6 **TAX CREDITS.**

7 Subparagraph (B) of section 36B(f)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:  
8  
9

10 “(iii) NONAPPLICABILITY OF LIMITA-  
11 TION.—This subparagraph shall not apply

1 to taxable years ending after December 31,  
2 2017.”.

3 **SEC. 102. PREMIUM TAX CREDIT.**

4 (a) PREMIUM TAX CREDIT.—

5 (1) MODIFICATION OF DEFINITION OF QUALI-  
6 FIED HEALTH PLAN.—

7 (A) IN GENERAL.—Section 36B(c)(3)(A)  
8 of the Internal Revenue Code of 1986 is  
9 amended by inserting before the period at the  
10 end the following: “or a plan that includes cov-  
11 erage for abortions (other than any abortion  
12 necessary to save the life of the mother or any  
13 abortion with respect to a pregnancy that is the  
14 result of an act of rape or incest)”.

15 (B) EFFECTIVE DATE.—The amendment  
16 made by this paragraph shall apply to taxable  
17 years beginning after December 31, 2017.

18 (2) REPEAL.—

19 (A) IN GENERAL.—Subpart C of part IV  
20 of subchapter A of chapter 1 of the Internal  
21 Revenue Code of 1986 is amended by striking  
22 section 36B.

23 (B) EFFECTIVE DATE.—The amendment  
24 made by this paragraph shall apply to taxable  
25 years beginning after December 31, 2019.

1 (b) REPEAL OF ELIGIBILITY DETERMINATIONS.—

2 (1) IN GENERAL.—The following sections of the  
3 Patient Protection and Affordable Care Act are re-  
4 pealed:

5 (A) Section 1411 (other than subsection  
6 (i), the last sentence of subsection (e)(4)(A)(ii),  
7 and such provisions of such section solely to the  
8 extent related to the application of the last sen-  
9 tence of subsection (e)(4)(A)(ii)).

10 (B) Section 1412.

11 (2) EFFECTIVE DATE.—The repeals in para-  
12 graph (1) shall take effect on January 1, 2020.

13 (c) PROTECTING AMERICANS BY REPEAL OF DISCLO-  
14 SURE AUTHORITY TO CARRY OUT ELIGIBILITY REQUIRE-  
15 MENTS FOR CERTAIN PROGRAMS.—

16 (1) IN GENERAL.—Paragraph (21) of section  
17 6103(l) of the Internal Revenue Code of 1986 is  
18 amended by adding at the end the following new  
19 subparagraph:

20 “(D) TERMINATION.—No disclosure may  
21 be made under this paragraph after December  
22 31, 2019.”.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by paragraph (1) shall take effect on January 1,  
25 2020.

1 **SEC. 103. MODIFICATIONS TO SMALL BUSINESS TAX CRED-**  
2 **IT.**

3 (a) SUNSET.—

4 (1) IN GENERAL.—Section 45R of the Internal  
5 Revenue Code of 1986 is amended by adding at the  
6 end the following new subsection:

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

10 (2) EFFECTIVE DATE.—The amendment made  
11 by this subsection shall apply to taxable years begin-  
12 ning after December 31, 2019.

13 (b) DISALLOWANCE OF SMALL EMPLOYER HEALTH  
14 INSURANCE EXPENSE CREDIT FOR PLAN WHICH IN-  
15 CLUDES COVERAGE FOR ABORTION.—

16 (1) IN GENERAL.—Subsection (h) of section  
17 45R of the Internal Revenue Code of 1986 is  
18 amended—

19 (A) by striking “Any term” and inserting  
20 the following:

21 “(1) IN GENERAL.—Any term”, and

22 (B) by adding at the end the following new  
23 paragraph:

24 “(2) EXCLUSION OF HEALTH PLANS INCLUDING  
25 COVERAGE FOR ABORTION.—The term ‘qualified  
26 health plan’ does not include any health plan that

1 includes coverage for abortions (other than any  
2 abortion necessary to save the life of the mother or  
3 any abortion with respect to a pregnancy that is the  
4 result of an act of rape or incest).”.

5 (2) EFFECTIVE DATE.—The amendments made  
6 by this subsection shall apply to taxable years begin-  
7 ning after December 31, 2017.

8 **SEC. 104. INDIVIDUAL MANDATE.**

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

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

13 (2) in paragraph (3)—

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

15 (A) and inserting “\$0”, and

16 (B) by striking subparagraph (D).

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

20 **SEC. 105. EMPLOYER MANDATE.**

21 (a) IN GENERAL.—

22 (1) Paragraph (1) of section 4980H(c) of the  
23 Internal Revenue Code of 1986 is amended by in-  
24 serting “(\$0 in the case of months beginning after  
25 December 31, 2015)” after “\$2,000”.

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

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

8 **SEC. 106. SHORT TERM ASSISTANCE FOR STATES AND MAR-**  
9 **KET-BASED HEALTH CARE GRANT PROGRAM.**

10           (a) IN GENERAL.—Section 2105 of the Social Secu-  
11 rity Act (42 U.S.C. 1397ee) is amended by adding at the  
12 end the following new subsections:

13           “(h) SHORT-TERM ASSISTANCE TO ADDRESS COV-  
14 ERAGE AND ACCESS DISRUPTION AND PROVIDE SUPPORT  
15 FOR STATES.—

16           “(1) APPROPRIATION.—There are authorized to  
17 be appropriated, and are appropriated, out of monies  
18 in the Treasury not otherwise obligated,  
19 \$20,000,000,000 for each of calendar years 2018  
20 and 2019, and \$15,000,000,000 for calendar year  
21 2020, to the Administrator of the Centers for Medi-  
22 care & Medicaid Services (in this subsection and  
23 subsection (i) referred to as the ‘Administrator’) to  
24 fund arrangements with health insurance issuers to  
25 assist in the purchase of health benefits coverage by

1       addressing coverage and access disruption and re-  
2       sponding to urgent health care needs within States.  
3       Funds appropriated under this paragraph shall re-  
4       main available until expended.

5               “(2) PARTICIPATION REQUIREMENTS.—

6                       “(A) GUIDANCE.—Not later than 30 days  
7                       after the date of enactment of this subsection,  
8                       the Administrator shall issue guidance to health  
9                       insurance issuers regarding how to submit a no-  
10                      tice of intent to participate in the program es-  
11                      tablished under this subsection.

12                     “(B) NOTICE OF INTENT TO PARTICI-  
13                     PATE.—To be eligible for funding under this  
14                     subsection, a health insurance issuer shall sub-  
15                     mit to the Administrator a notice of intent to  
16                     participate at such time (but, in the case of  
17                     funding for calendar year 2018, not later than  
18                     35 days after the date of enactment of this sub-  
19                     section and, in the case of funding for calendar  
20                     year 2019, 2020, or 2021, not later than March  
21                     31 of the previous year) and in such form and  
22                     manner as specified by the Administrator and  
23                     containing—

24                               “(i) a certification that the health in-  
25                               surance issuer will use the funds in accord-

1                   ance with the requirements of paragraph  
2                   (5); and

3                   “(ii) such information as the Adminis-  
4                   trator may require to carry out this sub-  
5                   section.

6                   “(3) PROCEDURE FOR DISTRIBUTION OF  
7                   FUNDS.—The Administrator shall determine an ap-  
8                   propriate procedure for providing and distributing  
9                   funds under this subsection.

10                  “(4) USE OF FUNDS.—Funds provided to a  
11                  health insurance issuer under paragraph (1) shall be  
12                  subject to the requirements of paragraphs (1)(D)  
13                  and (7) of subsection (i) in the same manner as  
14                  such requirements apply to States receiving pay-  
15                  ments under subsection (i) and shall be used only  
16                  for the activities specified in paragraph (1)(A)(ii) of  
17                  subsection (i).

18                  “(i) MARKET-BASED HEALTH CARE GRANT PRO-  
19                  GRAM.—

20                  “(1) APPLICATION AND CERTIFICATION RE-  
21                  QUIREMENTS.—To be eligible for an allotment of  
22                  funds under this subsection, a State shall submit to  
23                  the Administrator an application, not later than  
24                  March 31, 2019, in the case of allotments for cal-  
25                  endar year 2020, and not later than March 31 of



1 the previous year, in the case of allotments for any  
2 subsequent calendar year) and in such form and  
3 manner as specified by the Administrator, that con-  
4 tains the following:

5 “(A) A description of how the funds will be  
6 used to do 1 or more of the following:

7 “(i) To establish or maintain a pro-  
8 gram or mechanism to help high-risk indi-  
9 viduals in the purchase of health benefits  
10 coverage, including by reducing premium  
11 costs for such individuals, who have or are  
12 projected to have a high rate of utilization  
13 of health services, as measured by cost,  
14 and who do not have access to health in-  
15 surance coverage offered through an em-  
16 ployer, enroll in health insurance coverage  
17 under a plan offered in the individual mar-  
18 ket (within the meaning of section  
19 5000A(f)(1)(C) of the Internal Revenue  
20 Code of 1986).

21 “(ii) To establish or maintain a pro-  
22 gram to enter into arrangements with  
23 health insurance issuers to assist in the  
24 purchase of health benefits coverage by  
25 stabilizing premiums and promoting State

1 health insurance market participation and  
2 choice in plans offered in the individual  
3 market (within the meaning of section  
4 5000A(f)(1)(C) of the Internal Revenue  
5 Code of 1986).

6 “(iii) To provide payments for health  
7 care providers for the provision of health  
8 care services, as specified by the Adminis-  
9 trator.

10 “(iv) To provide health insurance cov-  
11 erage by funding assistance to reduce out-  
12 of-pocket costs, such as copayments, coin-  
13 surance, and deductibles, of individuals en-  
14 rolled in plans offered in the individual  
15 market (within the meaning of section  
16 5000A(f)(1)(C) of the Internal Revenue  
17 Code of 1986).

18 “(v) To establish or maintain a pro-  
19 gram or mechanism to help individuals  
20 purchase health benefits coverage, includ-  
21 ing by reducing premium costs for plans  
22 offered in the individual market (within  
23 the meaning of section 5000A(f)(1)(C) of  
24 the Internal Revenue Code of 1986) for in-  
25 dividuals who do not have access to health

1 insurance coverage offered through an em-  
2 ployer.

3 “(vi) Subject to paragraph (4)(B)(iii),  
4 to provide wraparound, optional services to  
5 individuals enrolled in the State plan for  
6 medical assistance under title XIX who are  
7 not only eligible for such assistance on the  
8 basis of section 1902(a)(10)(A)(ii)(XXIII).

9 “(B) A certification that the State shall  
10 make, from non-Federal funds, expenditures for  
11 1 or more of the activities specified in subpara-  
12 graph (A) in an amount that is not less than  
13 the State percentage required for the year  
14 under paragraph (5)(B)(ii).

15 “(C) A certification that the funds pro-  
16 vided under this subsection shall only be used  
17 for the activities specified in subparagraph (A).

18 “(D) A certification that none of the funds  
19 provided under this subsection shall be used by  
20 the State for an expenditure that is attributable  
21 to an intergovernmental transfer, certified pub-  
22 lic expenditure, or any other expenditure to fi-  
23 nance the non-Federal share of expenditures re-  
24 quired under any provision of law, including  
25 under the State plans established under this

1 title and title XIX or under a waiver of such  
2 plans.

3 “(E) Such other information as necessary  
4 for the Administrator to carry out this sub-  
5 section.

6 “(2) ELIGIBILITY.—Only the 50 States and the  
7 District of Columbia shall be eligible for an allot-  
8 ment and payments under this subsection and all  
9 references in this subsection to a State shall be  
10 treated as only referring to the 50 States and the  
11 District of Columbia.

12 “(3) ONE-TIME APPLICATION.—If an applica-  
13 tion of a State submitted under this subsection is  
14 approved by the Administrator for a year, the appli-  
15 cation shall be deemed to be approved by the Admin-  
16 istrator for that year and each subsequent year  
17 through December 31, 2026.

18 “(4) MARKET-BASED HEALTH CARE GRANT AL-  
19 LOTMENTS.—

20 “(A) APPROPRIATION.—For the purpose of  
21 providing allotments to States under this sub-  
22 section, there is appropriated, out of any money  
23 in the Treasury not otherwise appropriated—

24 “(i) for calendar year 2020,  
25 **【\$140,000,000,000】**;

1 “(ii) for calendar year 2021,  
2 **[\$143,000,000,000]**;

3 “(iii) for calendar year 2022,  
4 **[\$146,000,000,000]**;

5 “(iv) for calendar year 2023,  
6 **[\$149,000,000,000]**;

7 “(v) for calendar year 2024,  
8 **[\$152,000,000,000]**;

9 “(vi) for calendar year 2025,  
10 **[\$155,000,000,000]**; and

11 “(vii) for calendar year 2026,  
12 **[\$158,000,000,000]**.

13 “(B) ALLOTMENTS; AVAILABILITY OF AL-  
14 LOTMENTS.—

15 “(i) IN GENERAL.—In the case of a  
16 State with an application approved under  
17 this subsection with respect to a year, the  
18 Administrator shall allot to the State for  
19 the year, from amounts appropriated for  
20 such year under subparagraph (A), the  
21 amount determined for the State and year  
22 under paragraph (5).

23 “(ii) AVAILABILITY OF ALLOTMENTS;  
24 UNUSED AMOUNTS.—

1                   “(I) IN GENERAL.—Amounts al-  
2                   lotted to a State for a calendar year  
3                   under this subparagraph shall remain  
4                   available for obligation by the State  
5                   through March 31 of the second cal-  
6                   endar year following the year for  
7                   which the allotment is made.

8                   “(II) UNUSED AMOUNTS TO BE  
9                   USED FOR DEFICIT REDUCTION.—  
10                  Amounts allotted to a State for a cal-  
11                  endar year that remain unobligated on  
12                  April 1 of the following year shall be  
13                  deposited into the general fund of the  
14                  Treasury and shall be used for deficit  
15                  reduction.

16                  “(iii) LIMITATION.—In no case may a  
17                  State use more than 10 percent of the  
18                  amount allotted to the State for a year  
19                  under this subparagraph for the purpose  
20                  described in clause (vi) of paragraph  
21                  (1)(A).

22                  “(5) DETERMINATION OF ALLOTMENT  
23                  AMOUNTS.—

24                  “(A) CALENDAR YEAR 2020.—Subject to  
25                  subparagraph (B), the amount determined

1 under this paragraph for a State for calendar  
2 year 2020 shall be equal to the sum of each of  
3 the following component amounts which is ap-  
4 plicable to the State:

5 “(i) With respect to each State, an  
6 amount equal to 10 percent of the amount  
7 appropriated for calendar year 2020 under  
8 paragraph (4)(A) multiplied by the ratio  
9 of—

10 “(I) the number of individuals in  
11 the State whose income for calendar  
12 year 2019 was not less than 100 per-  
13 cent, and not greater than 138 per-  
14 cent, of the poverty line (as defined in  
15 section 2110(c)(5)) applicable to a  
16 family of the size involved; over

17 “(II) the number of individuals  
18 in all States whose income for cal-  
19 endar year 2019 was not less than  
20 100 percent, and not greater than  
21 138 percent, of the poverty line (as so  
22 defined) applicable to a family of the  
23 size involved.

24 “(ii) With respect to each State, an  
25 amount equal to 20 percent of the amount

1 so appropriated multiplied by the ratio  
2 of—

3 “(I) the number of individuals in  
4 the State who are not less than 45  
5 and not more than 64 years old; over

6 “(II) the number of individuals  
7 in all States who are not less than 45  
8 and not more than 64 years old.

9 “(iii) With respect to each State that,  
10 for calendar year 2016, had a State aver-  
11 age per capita income that did not exceed  
12 \$52,500, an amount equal to 25 percent of  
13 the amount so appropriated multiplied by  
14 the ratio of—

15 “(I) the number of individuals in  
16 the State whose income for calendar  
17 year 2019 was not less than 100 per-  
18 cent, and not greater than 138 per-  
19 cent, of the poverty line (as defined in  
20 section 2110(c)(5)) applicable to a  
21 family of the size involved; over

22 “(II) the number of individuals  
23 in all States that, for calendar year  
24 2016, had a State average per capita  
25 income that did not exceed \$52,500,



1                   whose income for calendar year 2019  
2                   was not less than 100 percent, and  
3                   not greater than 138 percent, of the  
4                   poverty line (as so defined) applicable  
5                   to a family of the size involved.

6                   “(iv) With respect to each State that,  
7                   for calendar year 2016, had an average  
8                   population density of fewer than 15 indi-  
9                   viduals per square mile, an amount equal  
10                  to 1 percent of the amount so appropriated  
11                  divided by the number of such States.

12                  “(v) With respect to each State that,  
13                  for calendar year 2016, had an average  
14                  population density that was greater than  
15                  14 individuals per square mile but fewer  
16                  than 80 individuals per square mile, an  
17                  amount equal to 3.5 percent of the amount  
18                  so appropriated, divided by the number of  
19                  such States.

20                  “(vi) With respect to each State that,  
21                  for calendar year 2016, had an average  
22                  population density that was greater than  
23                  79 individuals per square mile but fewer  
24                  than 115 individuals per square mile, an  
25                  amount equal to 5.5 percent of the amount

1 so appropriated, divided by the number of  
2 such States.

3 “(vii) With respect to each State that  
4 was an expansion State for calendar year  
5 2017, an amount equal to 35 percent of  
6 the amount so appropriated multiplied by  
7 the ratio of—

8 “(I) the number of individuals in  
9 the State whose income for calendar  
10 year 2016 was not less than 100 per-  
11 cent, and not greater than 138 per-  
12 cent of the poverty line (as defined in  
13 section 2110(c)(5)) applicable to a  
14 family of the size involved; over

15 “(II) the number of individuals  
16 in all States that were expansion  
17 States for calendar year 2017 whose  
18 income for calendar year 2016 was  
19 not less than 100 percent, and not  
20 greater than 138 percent, of the pov-  
21 erty line (as so defined) applicable to  
22 a family of the size involved.

23 “(B) CALENDAR YEAR 2020 ALLOTMENT  
24 PARAMETERS.—The Secretary shall adjust the  
25 amounts of allotments determined under this

1 paragraph for States for calendar year 2020  
2 under subparagraph (A) as necessary to ensure  
3 that a State's allotment for calendar year 2026  
4 (prior to any redistribution of unallotted funds  
5 under subparagraph (G)) shall in no case be—

6 “(i) greater than 3 times the sum  
7 of—

8 “(I) the amount of Federal pay-  
9 ments made to the State for calendar  
10 year 2016 for medical assistance pro-  
11 vided to individuals under clause  
12 (i)(VIII) or (ii)(XX) of section  
13 1902(a)(10)(A) (including medical as-  
14 sistance provided to individuals who  
15 are not newly eligible (as defined in  
16 section 1905(y)(2)) individuals de-  
17 scribed in subclause (VIII) of section  
18 1902(a)(10)(A)(i));

19 “(II) the amount of Federal pay-  
20 ments made to the State for calendar  
21 year 2016 for operating a Basic  
22 Health Program under section 1331  
23 of the Patient Protection and Afford-  
24 able Care Act for such year;

1                   “(III) the amount of advance  
2                   payments of premium assistance cred-  
3                   its allowable under section 36B of the  
4                   Internal Revenue Code of 1986 made  
5                   under section 1412(a) of the Patient  
6                   Protection and Affordable Care Act in  
7                   calendar year 2016 on behalf of indi-  
8                   viduals who purchased insurance  
9                   through the Exchange established for  
10                  or by the State pursuant to title I of  
11                  such Act; and

12                  “(IV) the amount of Federal pay-  
13                  ments for cost-sharing reductions pro-  
14                  vided for calendar year 2016 under  
15                  section 1402 of such Act to individ-  
16                  uals who purchased insurance through  
17                  the Exchange established for or by the  
18                  State pursuant to title I of such Act;  
19                  or

20                  “(ii) less than 75 percent of the sum  
21                  of the amounts described in subclauses (I)  
22                  through (IV) of clause (i).

23                  “(C) CALENDAR YEARS AFTER 2020 AND  
24                  BEFORE 2026.—Subject to subparagraph (F),  
25                  For calendar years after 2020 and before 2026,

1 the amount determined under this paragraph  
2 for a State and year shall be equal to—

3 “(i) for calendar years before 2025—

4 “(I) the amount determined for  
5 the State under subparagraph (A)  
6 (after adjustment under subparagraph  
7 (B), if applicable) or this subpara-  
8 graph for the previous year; increased  
9 by

10 “(II) the percentage increase in  
11 the medical care component of the  
12 consumer price index for all urban  
13 consumers (U.S. city average) from  
14 October 1 of the previous calendar  
15 year to October 1 of the calendar year  
16 involved;

17 “(ii) for calendar year 2025—

18 “(I) the amount determined for  
19 the State under this subparagraph for  
20 the previous year; increased by

21 “(II) the percentage increase in  
22 the consumer price index for all urban  
23 consumers (U.S. city average) from  
24 October 1 of the previous calendar

1                   year to October 1 of the calendar year  
2                   involved.

3                   “(D) CALENDAR YEAR 2026.—Subject to  
4                   subparagraph (E), the amount determined  
5                   under this paragraph for a State for calendar  
6                   year 2026 shall be equal to the sum of each of  
7                   the following component amounts which is ap-  
8                   plicable to the State:

9                   “(i) With respect to each State, an  
10                  amount equal to 15.5 percent of the  
11                  amount appropriated for calendar year  
12                  2026 under paragraph (4)(A) multiplied by  
13                  the ratio of—

14                  “(I) the number of individuals in  
15                  the State whose income for calendar  
16                  year 2025 was not less than 100 per-  
17                  cent, and not greater than 138 per-  
18                  cent, of the poverty line (as defined in  
19                  section 2110(c)(5)) applicable to a  
20                  family of the size involved; over

21                  “(II) the number of individuals  
22                  in all States whose income for cal-  
23                  endar year 2025 was not less than  
24                  100 percent, and not greater than  
25                  138 percent, of the poverty line (as so

1 defined) applicable to a family of the  
2 size involved.

3 “(ii) With respect to each State, an  
4 amount equal to 30 percent of the amount  
5 so appropriated multiplied by the ratio  
6 of—

7 “(I) the number of individuals in  
8 the State who are not less than 45  
9 and not more than 64 years old; over

10 “(II) the number of individuals  
11 in all States who are not less than 45  
12 and not more than 64 years old.

13 “(iii) With respect to each State that,  
14 for calendar year 2025, had a State aver-  
15 age per capita income that did not exceed  
16 \$52,500, an amount equal to 39 percent of  
17 the amount so appropriated multiplied by  
18 the ratio of—

19 “(I) the number of individuals in  
20 the State whose income for calendar  
21 year 2025 was not less than 100 per-  
22 cent, and not greater than 138 per-  
23 cent, of the poverty line (as defined in  
24 section 2110(c)(5)) applicable to a  
25 family of the size involved; over

1                   “(II) the number of individuals  
2                   in all States that, for calendar year  
3                   2025, had a State average per capita  
4                   income that did not exceed \$52,500,  
5                   whose income for calendar year 2019  
6                   was not less than 100 percent, and  
7                   not greater than 138 percent, of the  
8                   poverty line (as so defined) applicable  
9                   to a family of the size involved.

10                   “(iv) With respect to each State that,  
11                   for calendar year 2025, had an average  
12                   population density of fewer than 15 indi-  
13                   viduals per square mile, an amount equal  
14                   to 1.5 percent of the amount so appro-  
15                   priated divided by the number of such  
16                   States.

17                   “(v) With respect to each State that,  
18                   for calendar year 2025, had an average  
19                   population density that was greater than  
20                   14 individuals per square mile but fewer  
21                   than 80 individuals per square mile, an  
22                   amount equal to 5.5 percent of the amount  
23                   so appropriated, divided by the number of  
24                   such States.





1 assistance provided to individuals who  
2 are not newly eligible (as defined in  
3 section 1905(y)(2)) individuals de-  
4 scribed in subclause (VIII) of section  
5 1902(a)(10)(A)(i);

6 “(II) the amount of Federal pay-  
7 ments made to the State for calendar  
8 year 2016 for operating a Basic  
9 Health Program under section 1331  
10 of the Patient Protection and Afford-  
11 able Care Act for such year;

12 “(III) the amount of advance  
13 payments of premium assistance cred-  
14 its allowable under section 36B of the  
15 Internal Revenue Code of 1986 made  
16 under section 1412(a) of the Patient  
17 Protection and Affordable Care Act in  
18 calendar year 2016 on behalf of indi-  
19 viduals who purchased insurance  
20 through the Exchange established for  
21 or by the State pursuant to title I of  
22 such Act; and

23 “(IV) the amount of Federal pay-  
24 ments for cost-sharing reductions pro-  
25 vided for calendar year 2016 under

1 section 1402 of such Act to individ-  
2 uals who purchased insurance through  
3 the Exchange established for or by the  
4 State pursuant to title I of such Act;  
5 or

6 “(ii) less than 75 percent of the sum  
7 of the amounts described in subclauses (I)  
8 through (IV) of clause (i).

9 “(F) LOW INCOME POPULATION ADJUST-  
10 MENT.—

11 “(i) FOR CALENDAR YEARS 2021  
12 THROUGH 2025.—For each of calendar  
13 years 2021, 2022, 2023, 2024, and 2025  
14 if a State’s low income per capita allot-  
15 ment amount for the year (as defined in  
16 clause (iii))—

17 “(I) exceeds the mean low income  
18 per capita allotment amount for all  
19 States for the year by not less than  
20 15 percent, the State’s allotment for  
21 the year (as determined under sub-  
22 paragraph (C)) shall be reduced by a  
23 percentage that shall be determined  
24 by the Secretary but which shall not

1 be less than 0.5 percent or greater  
2 than 5 percent; or

3 “(II) is not less than 15 percent  
4 below the mean low income per capita  
5 allotment amount for all States for  
6 the year, the State’s allotment for the  
7 year (as so determined) shall be in-  
8 creased by a percentage that shall be  
9 determined by the Secretary but  
10 which shall not be less than 0.5 per-  
11 cent or greater than 5 percent.

12 “(ii) FOR CALENDAR YEAR 2026.—For  
13 calendar year 2026, Secretary shall adjust  
14 the allotment for the year for each State  
15 with a low income per capita allotment  
16 amount (as defined in clause (iii)) that ex-  
17 ceeds the mean low income per capita al-  
18 lotment amount for all States for the year  
19 by more than 10 percent or is below such  
20 mean amount by not less than 10 percent  
21 in such a manner that the low income per  
22 capita allotment for each such State (after  
23 the adjustment under this clause) is within  
24 10 percent of such mean amount.

1                   “(iii) LOW INCOME PER CAPITA AL-  
2                   LOTMENT AMOUNT.—The term ‘low income  
3                   per capita allotment amount’ means, with  
4                   respect to a State and year—

5                   “(I) the State’s allotment for the  
6                   year, as determined under subpara-  
7                   graph (C); divided by

8                   “(II) the number of individuals  
9                   in the State—

10                   “(aa) whose income for the  
11                   previous calendar year did not  
12                   exceed 138 percent of the poverty  
13                   line (as defined in section  
14                   2110(c)(5)) applicable to a family  
15                   of the size involved; and

16                   “(bb) who, during the pre-  
17                   vious calendar year, were not en-  
18                   rolled under the State plan under  
19                   title XIX (except that, in the  
20                   case of an individual who is en-  
21                   rolled under the State plan under  
22                   clause (i)(VIII), (ii)(XX), or  
23                   (ii)(XXIII) of section  
24                   1902(a)(10)(A) or is described in  
25                   any such clause and is enrolled

1 under a waiver of such plan, shall  
2 not be considered to be enrolled  
3 under such State plan for pur-  
4 poses of this clause).

5 “(iv) RULES OF APPLICATION.—

6 “(I) BUDGET NEUTRALITY RE-  
7 QUIREMENT.—In determining the ap-  
8 propriate percentages by which to ad-  
9 just States’ allotments for a calendar  
10 year under this subparagraph, the  
11 Secretary shall make such adjust-  
12 ments in a manner that does not re-  
13 sult in a net increase in Federal pay-  
14 ments under this section for such  
15 year, and if the Secretary cannot ad-  
16 just such expenditures in such a man-  
17 ner there shall be no adjustment  
18 under this paragraph for such year.

19 “(II) NONAPPLICATION TO LOW-  
20 DENSITY STATES.—This paragraph  
21 shall not apply to any State that has  
22 a population density of less than 15  
23 individuals per square mile, based on  
24 the most recent data available from  
25 the Bureau of the Census.

1           “(G) DISTRIBUTION OF UNALLOTTED  
2 FUNDS.—To the extent that any funds appro-  
3 priated for a calendar year under paragraph  
4 (4)(A) remain unallotted after the determina-  
5 tions and adjustments made under the pre-  
6 ceding subparagraphs of this paragraph, the  
7 Secretary shall increase the allotments so deter-  
8 mined and adjusted for States that have a low  
9 income per capita allotment amount that is  
10 below the mean low income per capita allotment  
11 amount for all States in a manner to be deter-  
12 mined by the Secretary.

13           “(H) EXPANSION STATE DEFINED.—In  
14 this paragraph, the term ‘expansion State’  
15 means, with respect to a State and year, a  
16 State that provided for eligibility for medical  
17 assistance under the State plan established  
18 under title XIX on the basis of clause (i)(VIII)  
19 or (ii)(XX) of section 1902(a)(10)(A) (or pro-  
20 vided eligibility for individuals described in ei-  
21 ther such clause under a waiver approved under  
22 section 1115) during calendar year 2017.

23           “(6) PAYMENTS.—

24           “(A) ANNUAL PAYMENT OF ALLOT-  
25 MENTS.—Subject to subparagraph (B), the Ad-

1            administrator shall pay to each State that has an  
2            application approved under this subsection for a  
3            year, from the amount allotted to the State  
4            under paragraph (4)(B) for the year, an  
5            amount equal to the Federal percentage of the  
6            State’s expenditures for the year.

7            “(B) STATE EXPENDITURES REQUIRED  
8            BEGINNING 2022.—For purposes of subpara-  
9            graph (A), the Federal percentage is equal to  
10           100 percent reduced by the State percentage  
11           for that year, and the State percentage is equal  
12           to—

13                    “(i) in the case of calendar year 2020,  
14                    3 percent;

15                    “(ii) in the case of calendar year  
16                    2021, 3 percent;

17                    “(iii) in the case of calendar year  
18                    2022, 4 percent;

19                    “(iv) in the case of calendar year  
20                    2023, 4 percent;

21                    “(v) in the case of calendar year  
22                    2024, 5 percent;

23                    “(vi) in the case of calendar year  
24                    2025, 5 percent; and



1                   “(vii) in the case of calendar year  
2                   2026, 5 percent.

3                   “(C) ADVANCE PAYMENT; RETROSPECTIVE  
4                   ADJUSTMENT.—

5                   “(i) IN GENERAL.—If the Adminis-  
6                   trator deems it appropriate, the Adminis-  
7                   trator shall make payments under this sub-  
8                   section for each year on the basis of ad-  
9                   vance estimates of expenditures submitted  
10                  by the State and such other investigation  
11                  as the Administrator shall find necessary,  
12                  and shall reduce or increase the payments  
13                  as necessary to adjust for any overpayment  
14                  or underpayment for prior years.

15                  “(ii) MISUSE OF FUNDS.—If the Ad-  
16                  ministrator determines that a State is not  
17                  using funds paid to the State under this  
18                  subsection in a manner consistent with the  
19                  description provided by the State in its ap-  
20                  plication approved under paragraph (1),  
21                  the Administrator may withhold payments,  
22                  reduce payments, or recover previous pay-  
23                  ments to the State under this subsection  
24                  as the Administrator deems appropriate.

1           “(D) FLEXIBILITY IN SUBMITTAL OF  
2 CLAIMS.—Nothing in this subsection shall be  
3 construed as preventing a State from claiming  
4 as expenditures in the year expenditures that  
5 were incurred in a previous year.

6           “(7) EXEMPTIONS.—Paragraphs (2), (3), (5),  
7 (6), (8), (10), and (11) of subsection (c) do not  
8 apply to payments under this subsection.”.

9 (b) OTHER TITLE XXI AMENDMENTS.—

10           (1) Section 2101 of such Act (42 U.S.C.  
11 1397aa) is amended—

12           (A) in subsection (a), in the matter pre-  
13 ceding paragraph (1), by striking “The pur-  
14 pose” and inserting “Except with respect to  
15 short-term assistance activities under section  
16 2105(h) and the Market-Based Health Care  
17 Grant Program established in section 2105(i),  
18 the purpose”; and

19           (B) in subsection (b), in the matter pre-  
20 ceding paragraph (1), by inserting “subsection  
21 (a) or (g) of” before “section 2105”.

22           (2) Section 2105(c)(1) of such Act (42 U.S.C.  
23 1397ee(c)(1)) is amended by striking “and may not  
24 include” and inserting “or to carry out short-term  
25 assistance activities under subsection (h) or the

1 Market-Based Health Care Grant Program estab-  
2 lished in subsection (i) and, except in the case of  
3 funds made available under subsection (h) or (i),  
4 may not include”.

5 (3) Section 2106(a)(1) of such Act (42 U.S.C.  
6 1397ff(a)(1)) is amended by inserting “subsection  
7 (a) or (g) of” before “section 2105”.

8 **SEC. 107. BETTER CARE RECONCILIATION IMPLEMENTA-**  
9 **TION FUND.**

10 (a) IN GENERAL.—There is hereby established a Bet-  
11 ter Care Reconciliation Implementation Fund (referred to  
12 in this section as the “Fund”) within the Department of  
13 Health and Human Services to provide for Federal admin-  
14 istrative expenses in carrying out this Act.

15 (b) FUNDING.—There is appropriated to the Fund,  
16 out of any funds in the Treasury not otherwise appro-  
17 priated, \$2,000,000,000.

18 **SEC. 108. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**  
19 **SURANCE PREMIUMS AND HEALTH PLAN**  
20 **BENEFITS.**

21 (a) IN GENERAL.—Chapter 43 of the Internal Rev-  
22 enue Code of 1986 is amended by striking section 4980I.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply to taxable years beginning after  
25 December 31, 2019.

1           (c) **SUBSEQUENT EFFECTIVE DATE.**—The amend-  
2 ment made by subsection (a) shall not apply to taxable  
3 years beginning after December 31, 2025, and chapter 43  
4 of the Internal Revenue Code of 1986 is amended to read  
5 as such chapter would read if such subsection had never  
6 been enacted.

7 **SEC. 109. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**  
8 **TIONS.**

9           (a) **HSAs.**—Subparagraph (A) of section 223(d)(2)  
10 of the Internal Revenue Code of 1986 is amended by strik-  
11 ing “Such term” and all that follows through the period.

12           (b) **ARCHER MSAs.**—Subparagraph (A) of section  
13 220(d)(2) of the Internal Revenue Code of 1986 is amend-  
14 ed by striking “Such term” and all that follows through  
15 the period.

16           (c) **HEALTH FLEXIBLE SPENDING ARRANGEMENTS**  
17 **AND HEALTH REIMBURSEMENT ARRANGEMENTS.**—Sec-  
18 tion 106 of the Internal Revenue Code of 1986 is amended  
19 by striking subsection (f).

20           (d) **EFFECTIVE DATES.**—

21               (1) **DISTRIBUTIONS FROM SAVINGS AC-**  
22 **COUNTS.**—The amendments made by subsections (a)  
23 and (b) shall apply to amounts paid with respect to  
24 taxable years beginning after December 31, 2016.

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

5 **SEC. 110. REPEAL OF TAX ON HEALTH SAVINGS ACCOUNTS.**

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

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

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

15 **SEC. 111. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

16          Section 4191 of the Internal Revenue Code of 1986  
17          is amended by adding at the end the following new sub-  
18          section:

19          “(d) APPLICABILITY.—The tax imposed under sub-  
20          section (a) shall not apply to sales after December 31,  
21          2017.”.

1 **SEC. 112. 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. 113. REPEAL OF CHRONIC CARE TAX.**

14 (a) IN GENERAL.—Subsection (a) of section 213 of  
15 the Internal Revenue Code of 1986 is amended by striking  
16 “10 percent” and inserting “7.5 percent”.

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

20 **SEC. 114. PURCHASE OF INSURANCE FROM HEALTH SAV-**  
21 **INGS ACCOUNT.**

22 (a) IN GENERAL.—Paragraph (2) of section 223(d)  
23 of the Internal Revenue Code of 1986 is amended—

24 (1) by striking “and any dependent (as defined  
25 in section 152, determined without regard to sub-  
26 sections (b)(1), (b)(2), and (d)(1)(B) thereof) of

1 such individual” in subparagraph (A) and inserting  
2 “any dependent (as defined in section 152, deter-  
3 mined without regard to subsections (b)(1), (b)(2),  
4 and (d)(1)(B) thereof) of such individual, and any  
5 child (as defined in section 152(f)(1)) of such indi-  
6 vidual who has not attained the age of 27 before the  
7 end of such individual’s taxable year”,

8 (2) by striking subparagraph (B) and inserting  
9 the following:

10 “(B) HEALTH INSURANCE MAY NOT BE  
11 PURCHASED FROM ACCOUNT.—Except as pro-  
12 vided in subparagraph (C), subparagraph (A)  
13 shall not apply to any payment for insurance.”,  
14 and

15 (3) by striking “or” at the end of subparagraph  
16 (C)(iii), by striking the period at the end of subpara-  
17 graph (C)(iv) and inserting “, or”, and by adding at  
18 the end the following:

19 “(v) a high deductible health plan but  
20 only to the extent of the portion of such  
21 expense in excess of—

22 “(I) any amount allowable as a  
23 credit under section 36B for the tax-  
24 able year with respect to such cov-  
25 erage,

1                   “(II) any amount allowable as a  
2                   deduction under section 162(l) with  
3                   respect to such coverage, or

4                   “(III) any amount excludable  
5                   from gross income with respect to  
6                   such coverage under section 106 (in-  
7                   cluding by reason of section 125) or  
8                   402(l).”.

9           (b) **EFFECTIVE DATE.**—The amendments made by  
10 this section shall apply with respect to amounts paid for  
11 expenses incurred for, and distributions made for, cov-  
12 erage under a high deductible health plan beginning after  
13 December 31, 2017.

14 **SEC. 115. PRIMARY CARE ENHANCEMENT.**

15           (a) **TREATMENT OF DIRECT PRIMARY CARE SERVICE**  
16 **ARRANGEMENTS.**—Section 223(c) of the Internal Revenue  
17 Code of 1986 is amended by adding at the end the fol-  
18 lowing new paragraph:

19                   “(6) **TREATMENT OF DIRECT PRIMARY CARE**  
20 **SERVICE ARRANGEMENTS.**—An arrangement under  
21 which an individual is provided coverage restricted to  
22 primary care services in exchange for a fixed peri-  
23 odic fee or payment for such services—

24                   “(A) shall not be treated as a health plan  
25                   for purposes of paragraph (1)(A)(ii), and



1                   “(B) shall not be treated as insurance for  
2                   purposes of subsection (d)(2)(B).”.

3           (b) CERTAIN PROVIDER FEES TO BE TREATED AS  
4 MEDICAL CARE.—Section 213(d) of the Internal Revenue  
5 Code of 1986 is amended by adding at the end the fol-  
6 lowing new paragraph:

7                   “(12) PERIODIC PROVIDER FEES.—The term  
8           ‘medical care’ shall include periodic fees paid for a  
9           defined set of primary care medical services provided  
10          on an as-needed basis.”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2016.

14 **SEC. 116. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAV-**  
15 **INGS ACCOUNT INCREASED TO AMOUNT OF**  
16 **DEDUCTIBLE AND OUT-OF-POCKET LIMITA-**  
17 **TION.**

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

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

1 (c) COST-OF-LIVING ADJUSTMENT.—Section  
2 223(g)(1) of such Code is amended—

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

5 (2) in subparagraph (B), by striking “deter-  
6 mined by” and all that follows through “‘calendar  
7 year 2003’.” and inserting “determined by sub-  
8 stituting ‘calendar year 2003’ for ‘calendar year  
9 1992’ in subparagraph (B) thereof.”.

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

13 **SEC. 117. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
14 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**  
15 **ACCOUNT.**

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

18 “(5) SPECIAL RULE FOR MARRIED INDIVIDUALS  
19 WITH FAMILY COVERAGE.—

20 “(A) IN GENERAL.—In the case of individ-  
21 uals who are married to each other, if both  
22 spouses are eligible individuals and either  
23 spouse has family coverage under a high de-  
24 ductible health plan as of the first day of any  
25 month—

1           “(i) the limitation under paragraph  
2           (1) shall be applied by not taking into ac-  
3           count any other high deductible health  
4           plan coverage of either spouse (and if such  
5           spouses both have family coverage under  
6           separate high deductible health plans, only  
7           one such coverage shall be taken into ac-  
8           count),

9           “(ii) such limitation (after application  
10          of clause (i)) shall be reduced by the ag-  
11          gregate amount paid to Archer MSAs of  
12          such spouses for the taxable year, and

13          “(iii) such limitation (after application  
14          of clauses (i) and (ii)) shall be divided  
15          equally between such spouses unless they  
16          agree on a different division.

17          “(B) TREATMENT OF ADDITIONAL CON-  
18          TRIBUTION AMOUNTS.—If both spouses referred  
19          to in subparagraph (A) have attained age 55  
20          before the close of the taxable year, the limita-  
21          tion referred to in subparagraph (A)(iii) which  
22          is subject to division between the spouses shall  
23          include the additional contribution amounts de-  
24          termined under paragraph (3) for both spouses.  
25          In any other case, any additional contribution

1 amount determined under paragraph (3) shall  
2 not be taken into account under subparagraph  
3 (A)(iii) and shall not be subject to division be-  
4 tween the spouses.”.

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

8 **SEC. 118. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
9 **INCURRED BEFORE ESTABLISHMENT OF**  
10 **HEALTH SAVINGS ACCOUNT.**

11 (a) IN GENERAL.—Section 223(d)(2) of the Internal  
12 Revenue Code of 1986 is amended by adding at the end  
13 the following new subparagraph:

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

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this subsection shall apply with respect to coverage under  
3 a high deductible health plan beginning after December  
4 31, 2017.

5 **SEC. 119. EXCLUSION FROM HSAS OF HIGH DEDUCTIBLE**  
6 **HEALTH PLANS INCLUDING COVERAGE FOR**  
7 **ABORTION.**

8 (a) IN GENERAL.—Subparagraph (C) of section  
9 223(d)(2) of the Internal Revenue Code of 1986 is amend-  
10 ed by adding at the end the following flush sentence:

11 “A high deductible health plan shall not be  
12 treated as described in clause (v) if such plan  
13 includes coverage for abortions (other than any  
14 abortion necessary to save the life of the mother  
15 or any abortion with respect to a pregnancy  
16 that is the result of an act of rape or incest).”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply with respect to coverage under a  
19 high deductible health plan beginning after December 31,  
20 2017.

21 **SEC. 120. FEDERAL PAYMENTS TO STATES.**

22 (a) IN GENERAL.—Notwithstanding section 504(a),  
23 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or  
24 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),  
25 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4),

1 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Med-  
2 icaid waiver in effect on the date of enactment of this Act  
3 that is approved under section 1115 or 1915 of the Social  
4 Security Act (42 U.S.C. 1315, 1396n), for the 1-year pe-  
5 riod beginning on the date of enactment of this Act, no  
6 Federal funds provided from a program referred to in this  
7 subsection that is considered direct spending for any year  
8 may be made available to a State for payments to a pro-  
9 hibited entity, whether made directly to the prohibited en-  
10 tity or through a managed care organization under con-  
11 tract with the State.

12 (b) DEFINITIONS.—In this section:

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

16 (A) that, as of the date of enactment of  
17 this Act—

18 (i) is an organization described in sec-  
19 tion 501(c)(3) of the Internal Revenue  
20 Code of 1986 and exempt from tax under  
21 section 501(a) of such Code;

22 (ii) is an essential community provider  
23 described in section 156.235 of title 45,  
24 Code of Federal Regulations (as in effect  
25 on the date of enactment of this Act), that

1 is primarily engaged in family planning  
2 services, reproductive health, and related  
3 medical care; and

4 (iii) provides for abortions, other than  
5 an abortion—

6 (I) if the pregnancy is the result  
7 of an act of rape or incest; or

8 (II) in the case where a woman  
9 suffers from a physical disorder, phys-  
10 ical injury, or physical illness that  
11 would, as certified by a physician,  
12 place the woman in danger of death  
13 unless an abortion is performed, in-  
14 cluding a life-endangering physical  
15 condition caused by or arising from  
16 the pregnancy itself; and

17 (B) for which the total amount of Federal  
18 and State expenditures under the Medicaid pro-  
19 gram under title XIX of the Social Security Act  
20 in fiscal year 2014 made directly to the entity  
21 and to any affiliates, subsidiaries, successors, or  
22 clinics of the entity, or made to the entity and  
23 to any affiliates, subsidiaries, successors, or  
24 clinics of the entity as part of a nationwide

1 health care provider network, exceeded  
2 \$1,000,000.

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

7 **SEC. 121. MEDICAID.**

8 The Social Security Act (42 U.S.C. 301 et seq.) is  
9 amended—

10 (1) in section 1902—

11 (A) in subsection (a)(10)(A), in each of  
12 clauses (i)(VIII) and (ii)(XX), by inserting  
13 “and ending December 31, 2019,” after “Janu-  
14 ary 1, 2014,”; and

15 (B) in subsection (a)(47)(B), by inserting  
16 “and provided that any such election shall cease  
17 to be effective on January 1, 2020, and no such  
18 election shall be made after that date” before  
19 the semicolon at the end;

20 (2) in section 1905—

21 (A) in the first sentence of subsection (b),  
22 by inserting “(50 percent on or after January  
23 1, 2020)” after “55 percent”;



1 (B) in subsection (y)(1), by striking the  
2 semicolon at the end of subparagraph (D) and  
3 all that follows through “thereafter”; and

4 (C) in subsection (z)(2)—

5 (i) in subparagraph (A), by inserting  
6 “through 2019” after “each year there-  
7 after”; and

8 (ii) in subparagraph (B)(ii)(VI), by  
9 striking “and each subsequent year”;

10 (3) in section 1915(k)(2), by striking “during  
11 the period described in paragraph (1)” and inserting  
12 “on or after the date referred to in paragraph (1)  
13 and before January 1, 2020”;

14 (4) in section 1920(e), by adding at the end the  
15 following: “This subsection shall not apply after De-  
16 cember 31, 2019.”;

17 (5) in section 1937(b)(5), by adding at the end  
18 the following: “This paragraph shall not apply after  
19 December 31, 2019.”; and

20 (6) in section 1943(a), by inserting “and before  
21 January 1, 2020,” after “January 1, 2014,”.

22 **SEC. 122. REPEAL OF MEDICAID EXPANSION.**

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

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

1 (A) in subsection (a)(10)(A)—

2 (i) in clause (i)(VIII), by inserting  
3 “and ending December 31, 2019,” after  
4 “2014,”;

5 (ii) in clause (ii)(XX), by inserting  
6 “and ending December 31, 2017,” after  
7 “2014,”; and

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

10 “(XXIII) beginning January 1, 2020,  
11 who are expansion enrollees (as defined in  
12 subsection (nn)(1));”; and

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

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

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

18 “(A) who is under 65 years of age;

19 “(B) who is not pregnant;

20 “(C) who is not entitled to, or enrolled for,  
21 benefits under part A of title XVIII, or enrolled  
22 for benefits under part B of title XVIII;

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

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

6           “(2) APPLICATION OF RELATED PROVISIONS.—  
7           Any reference in subsection (a)(10)(G), (k), or (gg)  
8           of this section or in section 1903, 1905(a), 1920(e),  
9           or 1937(a)(1)(B) to individuals described in sub-  
10          clause (VIII) of subsection (a)(10)(A)(i) shall be  
11          deemed to include a reference to expansion enroll-  
12          ees.”; and

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

14                 (A) in subsection (y)(1), by striking “;  
15                 and” at the end of subparagraph (D) and all  
16                 that follows through “thereafter”; and

17                 (B) in subsection (z)(2)—

18                         (i) in subparagraph (A), by striking  
19                         “each year thereafter” and inserting  
20                         “through 2019”; and

21                         (ii) in subparagraph (B)(ii), by strik-  
22                         ing “is 80 percent” in subclause (IV) and  
23                         all that follows through “100 percent” and  
24                         inserting “and subsequent years is 80 per-  
25                         cent”.

1 **SEC. 123. REDUCING STATE MEDICAID COSTS.**

2 (a) IN GENERAL.—

3 (1) STATE PLAN REQUIREMENTS.—Section  
4 1902(a)(34) of the Social Security Act (42 U.S.C.  
5 1396a(a)(34)) is amended by striking “in or after  
6 the third month” and all that follows through “indi-  
7 vidual)” and inserting “in or after the month in  
8 which the individual (or, in the case of a deceased  
9 individual, another individual acting on the individ-  
10 ual’s behalf) made application (or, in the case of an  
11 individual who is 65 years of age or older or who is  
12 eligible for medical assistance under the plan on the  
13 basis of being blind or disabled, in or after the third  
14 month before such month)”.

15 (2) DEFINITION OF MEDICAL ASSISTANCE.—  
16 Section 1905(a) of the Social Security Act (42  
17 U.S.C. 1396d(a)) is amended by striking “in or  
18 after the third month before the month in which the  
19 recipient makes application for assistance” and in-  
20 sserting “in or after the month in which the recipient  
21 makes application for assistance, or, in the case of  
22 a recipient who is 65 years of age or older or who  
23 is eligible for medical assistance on the basis of  
24 being blind or disabled at the time application is  
25 made, in or after the third month before the month

1 in which the recipient makes application for assist-  
2 ance,”.

3 (b) **EFFECTIVE DATE.**—The amendments made by  
4 subsection (a) shall apply to medical assistance with re-  
5 spect to individuals whose eligibility for such assistance  
6 is based on an application for such assistance made (or  
7 deemed to be made) on or after October 1, 2017.

8 **SEC. 124. ELIGIBILITY REDETERMINATIONS.**

9 (a) **IN GENERAL.**—Section 1902(e)(14) of the Social  
10 Security Act (42 U.S.C. 1396a(e)(14)) (relating to modi-  
11 fied adjusted gross income) is amended by adding at the  
12 end the following:

13 “(J) **FREQUENCY OF ELIGIBILITY REDE-**  
14 **TERMINATIONS.**—Beginning on October 1,  
15 2017, and notwithstanding subparagraph (H),  
16 in the case of an individual whose eligibility for  
17 medical assistance under the State plan under  
18 this title (or a waiver of such plan) is deter-  
19 mined based on the application of modified ad-  
20 justed gross income under subparagraph (A)  
21 and who is so eligible on the basis of clause  
22 (i)(VIII), (ii)(XX), or (ii)(XXIII) of subsection  
23 (a)(10)(A), at the option of the State, the State  
24 plan may provide that the individual’s eligibility  
25 shall be redetermined every 6 months (or such

1 shorter number of months as the State may  
2 elect).”.

3 (b) INCREASED ADMINISTRATIVE MATCHING PER-  
4 CENTAGE.—For each calendar quarter during the period  
5 beginning on October 1, 2017, and ending on December  
6 31, 2019, the Federal matching percentage otherwise ap-  
7 plicable under section 1903(a) of the Social Security Act  
8 (42 U.S.C. 1396b(a)) with respect to State expenditures  
9 during such quarter that are attributable to meeting the  
10 requirement of section 1902(e)(14) (relating to determina-  
11 tions of eligibility using modified adjusted gross income)  
12 of such Act shall be increased by 5 percentage points with  
13 respect to State expenditures attributable to activities car-  
14 ried out by the State (and approved by the Secretary) to  
15 exercise the option described in subparagraph (J) of such  
16 section (relating to eligibility redeterminations made on a  
17 6-month or shorter basis) (as added by subsection (a)) to  
18 increase the frequency of eligibility redeterminations.

19 **SEC. 125. OPTIONAL WORK REQUIREMENT FOR NON-**  
20 **DISABLED, NONELDERLY, NONPREGNANT IN-**  
21 **DIVIDUALS.**

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

1       “(oo) OPTIONAL WORK REQUIREMENT FOR NON-  
2 DISABLED, NONELDERLY, NONPREGNANT INDIVID-  
3 UALS.—

4           “(1) IN GENERAL.—Beginning October 1,  
5 2017, subject to paragraph (3), a State may elect to  
6 condition medical assistance to a nondisabled, non-  
7 elderly, nonpregnant individual under this title upon  
8 such an individual’s satisfaction of a work require-  
9 ment (as defined in paragraph (2)).

10          “(2) WORK REQUIREMENT DEFINED.—In this  
11 section, the term ‘work requirement’ means, with re-  
12 spect to an individual, the individual’s participation  
13 in work activities (as defined in section 407(d)) for  
14 such period of time as determined by the State, and  
15 as directed and administered by the State.

16          “(3) REQUIRED EXCEPTIONS.—States admin-  
17 istering a work requirement under this subsection  
18 may not apply such requirement to—

19           “(A) a woman during pregnancy through  
20 the end of the month in which the 60-day pe-  
21 riod (beginning on the last day of her preg-  
22 nancy) ends;

23           “(B) an individual who is under 19 years  
24 of age;

1           “(C) an individual who is the only parent  
2           or caretaker relative in the family of a child  
3           who has not attained 6 years of age or who is  
4           the only parent or caretaker of a child with dis-  
5           abilities; or

6           “(D) an individual who is married or a  
7           head of household and has not attained 20  
8           years of age and who—

9                   “(i) maintains satisfactory attendance  
10                   at secondary school or the equivalent; or

11                   “(ii) participates in education directly  
12                   related to employment.”.

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

17           “(aa) The Federal matching percentage otherwise ap-  
18 plicable under subsection (a) with respect to State admin-  
19 istrative expenditures during a calendar quarter for which  
20 the State receives payment under such subsection shall,  
21 in addition to any other increase to such Federal matching  
22 percentage, be increased for such calendar quarter by 5  
23 percentage points with respect to State expenditures at-  
24 tributable to activities carried out by the State (and ap-



1 proved by the Secretary) to implement subsection (oo) of  
2 section 1902.”.

3 **SEC. 126. PROVIDER TAXES.**

4 Section 1903(w)(4)(C) of the Social Security Act (42  
5 U.S.C. 1396b(w)(4)(C)) is amended by adding at the end  
6 the following new clause:

7 “(iii) For purposes of clause (i), a de-  
8 termination of the existence of an indirect  
9 guarantee shall be made under paragraph  
10 (3)(i) of section 433.68(f) of title 42, Code  
11 of Federal Regulations, as in effect on  
12 June 1, 2017, except that—

13 “(I) for fiscal year 2021, ‘5.8  
14 percent’ shall be substituted for ‘6  
15 percent’ each place it appears;

16 “(II) for fiscal year 2022, ‘5.6  
17 percent’ shall be substituted for ‘6  
18 percent’ each place it appears;

19 “(III) for fiscal year 2023, ‘5.4  
20 percent’ shall be substituted for ‘6  
21 percent’ each place it appears;

22 “(IV) for fiscal year 2024, ‘5.2  
23 percent’ shall be substituted for ‘6  
24 percent’ each place it appears; and

1                                   “(V) for fiscal year 2025 and  
2                                   each subsequent fiscal year, ‘5 per-  
3                                   cent’ shall be substituted for ‘6 per-  
4                                   cent’ each place it appears.”.

5 **SEC. 127. PER CAPITA ALLOTMENT FOR MEDICAL ASSIST-**  
6 **ANCE.**

7           (a) IN GENERAL.—Title XIX of the Social Security  
8 Act is amended—

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

10                           (A) in subsection (a), in the matter before  
11                           paragraph (1), by inserting “and section  
12                           1903A(a)” after “except as otherwise provided  
13                           in this section”; and

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

17                   (2) by inserting after such section 1903 the fol-  
18                   lowing new section:

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

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

23                   “(1) IN GENERAL.—If a State which is one of  
24                   the 50 States or the District of Columbia has excess  
25                   aggregate medical assistance expenditures (as de-

1        fined in paragraph (2)) for a fiscal year (beginning  
2        with fiscal year 2020), the amount of payment to  
3        the State under section 1903(a)(1) for each quarter  
4        in the following fiscal year shall be reduced by  $\frac{1}{4}$  of  
5        the excess aggregate medical assistance payments  
6        (as defined in paragraph (3)) for that previous fiscal  
7        year. In this section, the term ‘State’ means only the  
8        50 States and the District of Columbia.

9            “(2) EXCESS AGGREGATE MEDICAL ASSISTANCE  
10        EXPENDITURES.—In this subsection, the term ‘ex-  
11        cess aggregate medical assistance expenditures’  
12        means, for a State for a fiscal year, the amount (if  
13        any) by which—

14            “(A) the amount of the adjusted total med-  
15        ical assistance expenditures (as defined in sub-  
16        section (b)(1)) for the State and fiscal year; ex-  
17        ceeds

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

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

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

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

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

12           “(A) the amount of the Federal payments  
13           that would be made to the State under section  
14           1903(a)(1) for medical assistance expenditures  
15           for calendar quarters in the fiscal year if para-  
16           graph (1) did not apply; to

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

19          “(5) PER CAPITA BASE PERIOD.—

20           “(A) IN GENERAL.—In this section, the  
21           term ‘per capita base period’ means, with re-  
22           spect to a State, a period of 8 (or, in the case  
23           of a State selecting a period under subpara-  
24           graph (D), not less than 4) consecutive fiscal  
25           quarters selected by the State.

1           “(B) TIMELINE.—Each State shall submit  
2 its selection of a per capita base period to the  
3 Secretary not later than January 1, 2018.

4           “(C) PARAMETERS.—In selecting a per  
5 capita base period under this paragraph, a  
6 State shall—

7                   “(i) only select a period of 8 (or, in  
8 the case of a State selecting a base period  
9 under subparagraph (D), not less than 4)  
10 consecutive fiscal quarters for which all the  
11 data necessary to make determinations re-  
12 quired under this section is available, as  
13 determined by the Secretary; and

14                   “(ii) shall not select any period of 8  
15 (or, in the case of a State selecting a base  
16 period under subparagraph (D), not less  
17 than 4) consecutive fiscal quarters that be-  
18 gins with a fiscal quarter earlier than the  
19 first quarter of fiscal year 2014 or ends  
20 with a fiscal quarter later than the third  
21 fiscal quarter of 2017.

22           “(D) BASE PERIOD FOR LATE-EXPANDING  
23 STATES.—

24                   “(i) IN GENERAL.—In the case of a  
25 State that did not provide for medical as-

1                   sistance for the 1903A enrollee category  
2                   described in subsection (e)(2)(D) as of the  
3                   first day of the fourth fiscal quarter of fis-  
4                   cal year 2015 but which provided for such  
5                   assistance for such category in a subse-  
6                   quent fiscal quarter that is not later than  
7                   the fourth quarter of fiscal year 2016, the  
8                   State may select a per capita base period  
9                   that is less than 8 consecutive fiscal quar-  
10                  ters, but in no case shall the period se-  
11                  lected be less than 4 consecutive fiscal  
12                  quarters.

13                  “(ii) APPLICATION OF OTHER RE-  
14                  QUIREMENTS.—Except for the requirement  
15                  that a per capita base period be a period  
16                  of 8 consecutive fiscal quarters, all other  
17                  requirements of this paragraph shall apply  
18                  to a per capita base period selected under  
19                  this subparagraph.

20                  “(iii) APPLICATION OF BASE PERIOD  
21                  ADJUSTMENTS.—The adjustments to  
22                  amounts for per capita base periods re-  
23                  quired under subsections (b)(5) and  
24                  (d)(4)(E) shall be applied to amounts for  
25                  per capita base periods selected under this

1                   subparagraph by substituting ‘divided by  
2                   the ratio that the number of quarters in  
3                   the base period bears to 4’ for ‘divided by  
4                   2’.

5                   “(E) ADJUSTMENT BY THE SECRETARY.—

6                   If the Secretary determines that a State took  
7                   actions after the date of enactment of this sec-  
8                   tion (including making retroactive adjustments  
9                   to supplemental payment data in a manner that  
10                  affects a fiscal quarter in the per capita base  
11                  period) to diminish the quality of the data from  
12                  the per capita base period used to make deter-  
13                  minations under this section, the Secretary may  
14                  adjust the data as the Secretary deems appro-  
15                  priate.

16                  “(b) ADJUSTED TOTAL MEDICAL ASSISTANCE EX-  
17                  PENDITURES.—Subject to subsection (g), the following  
18                  shall apply:

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

22                                 “(A) for the State’s per capita base period  
23                                 (as defined in subsection (a)(5)), the product  
24                                 of—

1                   “(i) the amount of the medical assist-  
2                   ance expenditures (as defined in paragraph  
3                   (2) and adjusted under paragraph (5)) for  
4                   the State and period, reduced by the  
5                   amount of any excluded expenditures (as  
6                   defined in paragraph (3) and adjusted  
7                   under paragraph (5)) for the State and pe-  
8                   riod otherwise included in such medical as-  
9                   sistance expenditures; and

10                   “(ii) the 1903A base period popu-  
11                   lation percentage (as defined in paragraph  
12                   (4)) for the State; or

13                   “(B) for fiscal year 2019 or a subsequent  
14                   fiscal year, the amount of the medical assist-  
15                   ance expenditures (as defined in paragraph (2))  
16                   for the State and fiscal year that is attributable  
17                   to 1903A enrollees, reduced by the amount of  
18                   any excluded expenditures (as defined in para-  
19                   graph (3)) for the State and fiscal year other-  
20                   wise included in such medical assistance ex-  
21                   penditures and includes non-DSH supplemental  
22                   payments (as defined in subsection  
23                   (d)(4)(A)(ii)) and payments described in sub-  
24                   section (d)(4)(A)(iii) but shall not be construed  
25                   as including any expenditures attributable to



1 the program under section 1928 (relating to  
2 State pediatric vaccine distribution programs).  
3 In applying subparagraph (B), non-DSH sup-  
4 plemental payments (as defined in subsection  
5 (d)(4)(A)(ii)) and payments described in sub-  
6 section (d)(4)(A)(iii) shall be treated as fully at-  
7 tributable to 1903A enrollees.

8 “(2) MEDICAL ASSISTANCE EXPENDITURES.—

9 In this section, the term ‘medical assistance expendi-  
10 tures’ means, for a State and fiscal year or per cap-  
11 ita base period, the medical assistance payments as  
12 reported by medical service category on the Form  
13 CMS-64 quarterly expense report (or successor to  
14 such a report form, and including enrollment data  
15 and subsequent adjustments to any such report, in  
16 this section referred to collectively as a ‘CMS-64 re-  
17 port’) for quarters in the year or base period for  
18 which payment is (or may otherwise be) made pur-  
19 suant to section 1903(a)(1), adjusted, in the case of  
20 a per capita base period, under paragraph (5).

21 “(3) EXCLUDED EXPENDITURES.—In this sec-  
22 tion, the term ‘excluded expenditures’ means, for a  
23 State and fiscal year or per capita base period, ex-  
24 penditures under the State plan (or under a waiver

1 of such plan) that are attributable to any of the fol-  
2 lowing:

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

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

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

14 “(D) EXPENDITURES FOR PUBLIC HEALTH  
15 EMERGENCIES.—Any expenditures that are sub-  
16 ject to a public health emergency exclusion  
17 under paragraph (6).

18 “(4) 1903A BASE PERIOD POPULATION PER-  
19 CENTAGE.—In this subsection, the term ‘1903A base  
20 period population percentage’ means, for a State,  
21 the Secretary’s calculation of the percentage of the  
22 actual medical assistance expenditures, as reported  
23 by the State on the CMS–64 reports for calendar  
24 quarters in the State’s per capita base period, that

1 are attributable to 1903A enrollees (as defined in  
2 subsection (e)(1)).

3 “(5) ADJUSTMENTS FOR PER CAPITA BASE PE-  
4 RIOD.—In calculating medical assistance expendi-  
5 tures under paragraph (2) and excluded expendi-  
6 tures under paragraph (3) for a State for the State’s  
7 per capita base period, the total amount of each type  
8 of expenditure for the State and base period shall be  
9 divided by 2.

10 “(6) AUTHORITY TO EXCLUDE STATE EXPENDI-  
11 TURES FROM CAPS DURING PUBLIC HEALTH EMER-  
12 GENCY.—

13 “(A) IN GENERAL.—During the period  
14 that begins on January 1, 2020, and ends on  
15 December 31, 2024, the Secretary may exclude,  
16 from a State’s medical assistance expenditures  
17 for a fiscal year or portion of a fiscal year that  
18 occurs during such period, an amount that shall  
19 not exceed the amount determined under sub-  
20 paragraph (B) for the State and year or portion  
21 of a year if—

22 “(i) a public health emergency de-  
23 clared by the Secretary pursuant to section  
24 319 of the Public Health Service Act ex-

1           isted within the State during such year or  
2           portion of a year; and

3                   “(ii) the Secretary determines that  
4           such an exemption would be appropriate.

5                   “(B) MAXIMUM AMOUNT OF ADJUST-  
6           MENT.—The amount excluded for a State and  
7           fiscal year or portion of a fiscal year under this  
8           paragraph shall not exceed the amount by  
9           which—

10                   “(i) the amount of State expenditures  
11           for medical assistance for 1903A enrollees  
12           in areas of the State which are subject to  
13           a declaration described in subparagraph  
14           (A)(i) for the fiscal year or portion of a fis-  
15           cal year; exceeds

16                   “(ii) the amount of such expenditures  
17           for such enrollees in such areas during the  
18           most recent fiscal year or portion of a fis-  
19           cal year of equal length to the portion of  
20           a fiscal year involved during which no such  
21           declaration was in effect.

22                   “(C) AGGREGATE LIMITATION ON EXCLU-  
23           SIONS AND ADDITIONAL BLOCK GRANT PAY-  
24           MENTS.—The aggregate amount of expendi-  
25           tures excluded under this paragraph and addi-

1            tional payments made under section  
2            1903B(c)(3)(E) for the period described in sub-  
3            paragraph (A) shall not exceed \$5,000,000,000.

4            “(D) REVIEW.—If the Secretary exercises  
5            the authority under this paragraph with respect  
6            to a State for a fiscal year or portion of a fiscal  
7            year, the Secretary shall, not later than 6  
8            months after the declaration described in sub-  
9            paragraph (A)(i) ceases to be in effect, conduct  
10           an audit of the State’s medical assistance ex-  
11           penditures for 1903A enrollees during the year  
12           or portion of a year to ensure that all of the ex-  
13           penditures so excluded were made for the pur-  
14           pose of ensuring that the health care needs of  
15           1903A enrollees in areas affected by a public  
16           health emergency are met.

17           “(c) TARGET TOTAL MEDICAL ASSISTANCE EXPEND-  
18           ITURES.—

19           “(1) CALCULATION.—In this section, the term  
20           ‘target total medical assistance expenditures’ means,  
21           for a State for a fiscal year, the sum of the prod-  
22           ucts, for each of the 1903A enrollee categories (as  
23           defined in subsection (e)(2)), of—

24           “(A) the target per capita medical assist-  
25           ance expenditures (as defined in paragraph (2))

1 for the enrollee category, State, and fiscal year;  
2 and

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

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

10 “(A) for fiscal year 2020, an amount equal  
11 to—

12 “(i) the provisional FY19 target per  
13 capita amount for such enrollee category  
14 (as calculated under subsection (d)(5)) for  
15 the State; increased by

16 “(ii) the applicable annual inflation  
17 factor (as defined in paragraph (3)) for  
18 fiscal year 2020; and

19 “(B) for each succeeding fiscal year, an  
20 amount equal to—

21 “(i) the target per capita medical as-  
22 sistance expenditures (under subparagraph  
23 (A) or this subparagraph) for the 1903A  
24 enrollee category and State for the pre-  
25 ceding fiscal year; increased by

1                   “(ii) the applicable annual inflation  
2                   factor for that succeeding fiscal year.

3                   “(3) APPLICABLE ANNUAL INFLATION FAC-  
4                   TOR.—In paragraph (2), the term ‘applicable annual  
5                   inflation factor’ means—

6                   “(A) for fiscal years before 2025—

7                   “(i) for each of the 1903A enrollee  
8                   categories described in subparagraphs (C),  
9                   (D), and (E) of subsection (e)(2), the per-  
10                  centage increase in the medical care com-  
11                  ponent of the consumer price index for all  
12                  urban consumers (U.S. city average) from  
13                  September of the previous fiscal year to  
14                  September of the fiscal year involved; and

15                  “(ii) for each of the 1903A enrollee  
16                  categories described in subparagraphs (A)  
17                  and (B) of subsection (e)(2), the percent-  
18                  age increase described in clause (i) plus 1  
19                  percentage point; and

20                  “(B) for fiscal years after 2024, for all  
21                  1903A enrollee categories, the percentage in-  
22                  crease in the consumer price index for all urban  
23                  consumers (U.S. city average) from September  
24                  of the previous fiscal year to September of the  
25                  fiscal year involved.

1           “(4) ADJUSTMENTS TO STATE EXPENDITURES  
2 TARGETS TO PROMOTE PROGRAM EQUITY ACROSS  
3 STATES.—

4           “(A) IN GENERAL.—Beginning with fiscal  
5 year 2020, the target per capita medical assist-  
6 ance expenditures for a 1903A enrollee cat-  
7 egory, State, and fiscal year, as determined  
8 under paragraph (2), shall be adjusted (subject  
9 to subparagraph (C)(i)) in accordance with this  
10 paragraph.

11           “(B) ADJUSTMENT BASED ON LEVEL OF  
12 PER CAPITA SPENDING FOR 1903A ENROLLEE  
13 CATEGORIES.—Subject to subparagraph (C),  
14 with respect to a State, fiscal year, and 1903A  
15 enrollee category, if the State’s per capita cat-  
16 egorical medical assistance expenditures (as de-  
17 fined in subparagraph (D)) for the State and  
18 category in the preceding fiscal year—

19           “(i) exceed the mean per capita cat-  
20 egorical medical assistance expenditures  
21 for the category for all States for such pre-  
22 ceding year by not less than 25 percent,  
23 the State’s target per capita medical as-  
24 sistance expenditures for such category for  
25 the fiscal year involved shall be reduced by



1 a percentage that shall be determined by  
2 the Secretary but which shall not be less  
3 than 0.5 percent or greater than 2 percent;  
4 or

5 “(ii) are less than the mean per capita  
6 categorical medical assistance expenditures  
7 for the category for all States for such pre-  
8 ceding year by not less than 25 percent,  
9 the State’s target per capita medical as-  
10 sistance expenditures for such category for  
11 the fiscal year involved shall be increased  
12 by a percentage that shall be determined  
13 by the Secretary but which shall not be  
14 less than 0.5 percent or greater than 2  
15 percent.

16 “(C) RULES OF APPLICATION.—

17 “(i) BUDGET NEUTRALITY REQUIRE-  
18 MENT.—In determining the appropriate  
19 percentages by which to adjust States’ tar-  
20 get per capita medical assistance expendi-  
21 tures for a category and fiscal year under  
22 this paragraph, the Secretary shall make  
23 such adjustments in a manner that does  
24 not result in a net increase in Federal pay-  
25 ments under this section for such fiscal

1 year, and if the Secretary cannot adjust  
2 such expenditures in such a manner there  
3 shall be no adjustment under this para-  
4 graph for such fiscal year.

5 “(ii) ASSUMPTION REGARDING STATE  
6 EXPENDITURES.—For purposes of clause  
7 (i), in the case of a State that has its tar-  
8 get per capita medical assistance expendi-  
9 tures for a 1903A enrollee category and  
10 fiscal year increased under this paragraph,  
11 the Secretary shall assume that the cat-  
12 egorical medical assistance expenditures  
13 (as defined in subparagraph (D)(ii)) for  
14 such State, category, and fiscal year will  
15 equal such increased target medical assist-  
16 ance expenditures.

17 “(iii) NONAPPLICATION TO LOW-DEN-  
18 SITY STATES.—This paragraph shall not  
19 apply to any State that has a population  
20 density of less than 15 individuals per  
21 square mile, based on the most recent data  
22 available from the Bureau of the Census.

23 “(iv) DISREGARD OF ADJUSTMENT.—  
24 Any adjustment under this paragraph to  
25 target medical assistance expenditures for

1 a State, 1903A enrollee category, and fis-  
2 cal year shall be disregarded when deter-  
3 mining the target medical assistance ex-  
4 penditures for such State and category for  
5 a succeeding year under paragraph (2).

6 “(v) APPLICATION FOR FISCAL YEARS  
7 2020 AND 2021.—In fiscal years 2020 and  
8 2021, the Secretary shall apply this para-  
9 graph by deeming all categories of 1903A  
10 enrollees to be a single category.

11 “(D) PER CAPITA CATEGORICAL MEDICAL  
12 ASSISTANCE EXPENDITURES.—

13 “(i) IN GENERAL.—In this paragraph,  
14 the term ‘per capita categorical medical as-  
15 sistance expenditures’ means, with respect  
16 to a State, 1903A enrollee category, and  
17 fiscal year, an amount equal to—

18 “(I) the categorical medical ex-  
19 penditures (as defined in clause (ii))  
20 for the State, category, and year; di-  
21 vided by

22 “(II) the number of 1903A en-  
23 rollees for the State, category, and  
24 year.

1                   “(ii) CATEGORICAL MEDICAL ASSIST-  
2                   ANCE EXPENDITURES.—The term ‘categor-  
3                   ical medical assistance expenditures’  
4                   means, with respect to a State, 1903A en-  
5                   rollee category, and fiscal year, an amount  
6                   equal to the total medical assistance ex-  
7                   penditures (as defined in paragraph (2))  
8                   for the State and fiscal year that are at-  
9                   tributable to 1903A enrollees in the cat-  
10                  egory, excluding any excluded expenditures  
11                  (as defined in paragraph (3)) for the State  
12                  and fiscal year that are attributable to  
13                  1903A enrollees in the category.

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 PER  
18                         CAPITA BASE PERIOD.—For each State the Sec-  
19                         retary shall calculate (and provide notice to the  
20                         State not later 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 the State’s  
24                                 per capita base period.

1           “(B) The number of 1903A enrollees for  
2           the State in the State’s per capita base period  
3           (as determined under subsection (e)(4)).

4           “(C) The average per capita medical as-  
5           sistance expenditures for the State for the  
6           State’s per capita base period 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 PER CAPITA  
13           BASE PERIOD AMOUNT TO FISCAL YEAR 2019 BY CPI-  
14           MEDICAL.—The Secretary shall calculate a fiscal  
15           year 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 the State’s  
19                   per capita base period (calculated under para-  
20                   graph (1)(C)); increased 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 the last month of the State’s per capita  
25                   base period to September of fiscal year 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 the State’s per capita base pe-  
8 riod, the State’s non-DSH supplemental and  
9 pool payment percentage is equal to the ratio  
10 (expressed as a percentage) of—

11 “(i) the total amount of non-DSH  
12 supplemental expenditures (as defined in  
13 subparagraph (A)(ii) and adjusted under  
14 subparagraph (E)) and payments described  
15 in subparagraph (A)(iii) (and adjusted  
16 under subparagraph (E)) for the State for  
17 the period; to

18 “(ii) the amount described in sub-  
19 section (b)(1)(A) for the State for the  
20 State’s per capita base period.

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



1                   “(i) the amount calculated under sub-  
2                   paragraph (A) for the State, increased by  
3                   the non-DSH supplemental and pool pay-  
4                   ment percentage for the State (as cal-  
5                   culated under subparagraph (C)); divided  
6                   by

7                   “(ii) the number calculated under sub-  
8                   paragraph (B) for the State for the en-  
9                   rollee category.

10                   “(E) For purposes of subparagraph (C)(i),  
11                   in calculating the total amount of non-DSH  
12                   supplemental expenditures and payments de-  
13                   scribed in subparagraph (A)(iii) for a State for  
14                   the per capita base period, the total amount of  
15                   such expenditures and the total amount of such  
16                   payments for the State and base period shall  
17                   each be divided by 2.

18                   “(5) PROVISIONAL FY19 PER CAPITA TARGET  
19                   AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—  
20                   Subject to subsection (f)(2), the Secretary shall cal-  
21                   culate for each State a provisional FY19 per capita  
22                   target amount for each 1903A enrollee category  
23                   equal to the average medical assistance expenditures  
24                   per capita for the State for fiscal year 2019 (as cal-

1       culated under paragraph (4)(D)) for such enrollee  
2       category multiplied by the ratio of—

3               “(A) the product of—

4                       “(i) the fiscal year 2019 average per  
5                       capita amount for the State, as calculated  
6                       under paragraph (2); and

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

10               “(B) the amount of the adjusted total  
11               medical assistance expenditures for the State  
12               for fiscal year 2019, as calculated under para-  
13               graph (3)(A).

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

17               “(1) 1903A ENROLLEE.—The term ‘1903A en-  
18               rollee’ means, with respect to a State and a month  
19               and subject to subsection (i)(1)(B), any Medicaid  
20               enrollee (as defined in paragraph (3)) for the month,  
21               other than such an enrollee who for such month is  
22               in any of the following categories of excluded indi-  
23               viduals:

24                       “(A) CHIP.—An individual who is pro-  
25                       vided, under this title in the manner described

1 in section 2101(a)(2), child health assistance  
2 under title XXI.

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

7 “(C) BREAST AND CERVICAL CANCER  
8 SERVICES ELIGIBLE INDIVIDUAL.—An indi-  
9 vidual who is eligible for medical assistance  
10 under this title only on the basis of section  
11 1902(a)(10)(A)(ii)(XVIII).

12 “(D) PARTIAL-BENEFIT ENROLLEES.—An  
13 individual who—

14 “(i) is an alien who is eligible for  
15 medical assistance under this title only on  
16 the basis of section 1903(v)(2);

17 “(ii) is eligible for medical assistance  
18 under this title only on the basis of sub-  
19 clause (XII) or (XXI) of section  
20 1902(a)(10)(A)(ii) (or on the basis of a  
21 waiver that provides only comparable bene-  
22 fits);

23 “(iii) is a dual eligible individual (as  
24 defined in section 1915(h)(2)(B)) and is  
25 eligible for medical assistance under this

1 title (or under a waiver) only for some or  
2 all of medicare cost-sharing (as defined in  
3 section 1905(p)(3)); or

4 “(iv) is eligible for medical assistance  
5 under this title and for whom the State is  
6 providing a payment or subsidy to an em-  
7 ployer for coverage of the individual under  
8 a group health plan pursuant to section  
9 1906 or section 1906A (or pursuant to a  
10 waiver that provides only comparable bene-  
11 fits).

12 “(E) BLIND AND DISABLED CHILDREN.—

13 An individual who—

14 “(i) is a child under 19 years of age;  
15 and

16 “(ii) is eligible for medical assistance  
17 under this title on the basis of being blind  
18 or disabled.

19 “(2) 1903A ENROLLEE CATEGORY.—The term  
20 ‘1903A enrollee category’ means each of the fol-  
21 lowing:

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

1           “(B) BLIND AND DISABLED.—A category  
2 of 1903A enrollees (not described in the pre-  
3 vious subparagraph) who—

4           “(i) are 19 years of age or older; and

5           “(ii) are eligible for medical assistance  
6 under this title on the basis of being blind  
7 or disabled.

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

11           “(D) EXPANSION ENROLLEES.—A cat-  
12 egory of 1903A enrollees (not described in a  
13 previous subparagraph) who are eligible for  
14 medical assistance under this title only on the  
15 basis of clause (i)(VIII), (ii)(XX), or  
16 (ii)(XXIII) of section 1902(a)(10)(A).

17           “(E) OTHER NONELDERLY, NONDISABLED,  
18 NON-EXPANSION ADULTS.—A category of  
19 1903A enrollees who are not described in any  
20 previous subparagraph.

21           “(3) MEDICAID ENROLLEE.—The term ‘Med-  
22 icaid enrollee’ means, with respect to a State for a  
23 month, an individual who is eligible for medical as-  
24 sistance for items or services under this title and en-

1 rolled under the State plan (or a waiver of such  
2 plan) under this title for the month.

3 “(4) DETERMINATION OF NUMBER OF 1903A  
4 ENROLLEES.—The number of 1903A enrollees for a  
5 State and fiscal year or the State’s per capita base  
6 period, and, if applicable, for a 1903A enrollee cat-  
7 egory, is the average monthly number of Medicaid  
8 enrollees for such State and fiscal year or base pe-  
9 riod (and, if applicable, in such category) that are  
10 reported through the CMS–64 report under (and  
11 subject to audit under) subsection (h).

12 “(f) SPECIAL PAYMENT RULES.—

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

1       ita limitation) otherwise applicable under such a  
2       waiver.

3           “(2) TREATMENT OF STATES EXPANDING COV-  
4       ERAGE AFTER JULY 1, 2016.—In the case of a State  
5       that did not provide for medical assistance for the  
6       1903A enrollee category described in subsection  
7       (e)(2)(D) as of July 1, 2016, but which subsequently  
8       provides for such assistance for such category, the  
9       provisional FY19 per capita target amount for such  
10      enrollee category under subsection (d)(5) shall be  
11      equal to the provisional FY19 per capita target  
12      amount for the 1903A enrollee category described in  
13      subsection (e)(2)(E).

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

21           “(A) the Secretary shall calculate and  
22      apply subsections (a) through (e) with respect  
23      to the State as if all 1903A enrollee categories  
24      for which such expenditure and enrollee data

1           were not satisfactorily submitted were a single  
2           1903A enrollee category; and

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

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

23           “(h) REQUIRED REPORTING AND AUDITING; TRANSI-  
24 TIONAL INCREASE IN FEDERAL MATCHING PERCENTAGE  
25 FOR CERTAIN ADMINISTRATIVE EXPENSES.—



1           “(1) AUDITING OF CMS-64 DATA.—The Sec-  
2           retary shall conduct for each State an audit of the  
3           number of individuals and expenditures reported  
4           through the CMS-64 report for the State’s per cap-  
5           ita base period, fiscal year 2019, and each subse-  
6           quent fiscal year, which audit may be conducted on  
7           a representative sample (as determined by the Sec-  
8           retary).

9           “(2) AUDITING OF STATE SPENDING.—The In-  
10          spector General of the Department of Health and  
11          Human Services shall conduct an audit (which shall  
12          be conducted using random sampling, as determined  
13          by the Inspector General) of each State’s spending  
14          under this section not less than once every 3 years.

15          “(3) TEMPORARY INCREASE IN FEDERAL  
16          MATCHING PERCENTAGE TO SUPPORT IMPROVED  
17          DATA REPORTING SYSTEMS FOR FISCAL YEARS 2018  
18          AND 2019.—In the case of any State that selects as  
19          its per capita base period the most recent 8 consecu-  
20          tive quarter period for which the data necessary to  
21          make the determinations required under this section  
22          is available, for amounts expended during calendar  
23          quarters beginning on or after October 1, 2017, and  
24          before October 1, 2019—

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

5           “(B) the Federal matching percentage ap-  
6           plied under section 1903(a)(3)(B) shall be in-  
7           creased by 25 percentage points to 100 percent.

8           “(4) HHS REPORT ON ADOPTION OF T-MSIS  
9           DATA.—Not later than January 1, 2025, the Sec-  
10          retary shall submit to Congress a report making rec-  
11          ommendations as to whether data from the Trans-  
12          formed Medicaid Statistical Information System  
13          would be preferable to CMS-64 report data for pur-  
14          poses of making the determinations necessary under  
15          this section.”.

16          (b) ENSURING ACCESS TO HOME AND COMMUNITY  
17          BASED SERVICES.—Section 1915 of the Social Security  
18          Act (42 U.S.C. 1396n) is amended by adding at the end  
19          the following new subsection:

20          “(1) INCENTIVE PAYMENTS FOR HOME AND COMMU-  
21          NITY-BASED SERVICES.—

22                 “(1) IN GENERAL.—The Secretary shall estab-  
23                 lish a demonstration project (referred to in this sub-  
24                 section as the ‘demonstration project’) under which  
25                 eligible States may make HCBS payment adjust-

1       ments for the purpose of continuing to provide and  
2       improving the quality of home and community-based  
3       services provided under a waiver under subsection  
4       (c) or (d) or a State plan amendment under sub-  
5       section (i).

6               “(2) SELECTION OF ELIGIBLE STATES.—

7                       “(A) APPLICATION.—A State seeking to  
8       participate in the demonstration project shall  
9       submit to the Secretary, at such time and in  
10      such manner as the Secretary shall require, an  
11      application that includes—

12                               “(i) an assurance that any HCBS  
13      payment adjustment made by the State  
14      under this subsection will comply with the  
15      health and welfare and financial account-  
16      ability safeguards taken by the State under  
17      subsection (c)(2)(A); and

18                               “(ii) such other information and as-  
19      surances as the Secretary shall require.

20               “(B) SELECTION.—The Secretary shall se-  
21      lect States to participate in the demonstration  
22      project on a competitive basis except that, in  
23      making selections under this paragraph, the  
24      Secretary shall give priority to any State that  
25      is one of the 15 States in the United States

1 with the lowest population density, as deter-  
2 mined by the Secretary based on data from the  
3 Bureau of the Census.

4 “(3) TERM OF DEMONSTRATION PROJECT.—

5 The demonstration project shall be conducted for the  
6 4-year period beginning on January 1, 2020, and  
7 ending on December 31, 2023.

8 “(4) STATE ALLOTMENTS AND INCREASED  
9 FMAP FOR PAYMENT ADJUSTMENTS.—

10 “(A) IN GENERAL.—

11 “(i) ANNUAL ALLOTMENT.—Subject  
12 to clause (ii), for each year of the dem-  
13 onstration project, the Secretary shall allot  
14 an amount to each State that is an eligible  
15 State for the year.

16 “(ii) LIMITATION ON FEDERAL  
17 SPENDING.—The aggregate amount that  
18 may be allotted to eligible States under  
19 clause (i) for all years of the demonstra-  
20 tion project shall not exceed  
21 \$8,000,000,000.

22 “(B) FMAP APPLICABLE TO HCBS PAY-  
23 MENT ADJUSTMENTS.—For each year of the  
24 demonstration project, notwithstanding section  
25 1905(b) but subject to the limitations described

1 in subparagraph (C), the Federal medical as-  
2 sistance percentage applicable with respect to  
3 expenditures by an eligible State that are at-  
4 tributable to HCBS payment adjustments shall  
5 be equal to (and shall in no case exceed) 100  
6 percent.

7 “(C) INDIVIDUAL PROVIDER AND ALLOT-  
8 MENT LIMITATIONS.—Payment under section  
9 1903(a) shall not be made to an eligible State  
10 for expenditures for a year that are attributable  
11 to an HCBS payment adjustment—

12 “(i) that is paid to a single provider  
13 and exceeds a percentage which shall be  
14 established by the Secretary of the pay-  
15 ment otherwise made to the provider; or

16 “(ii) to the extent that the aggregate  
17 amount of HCBS payment adjustments  
18 made by the State in the year exceeds the  
19 amount allotted to the State for the year  
20 under clause (i).

21 “(5) REPORTING AND EVALUATION.—

22 “(A) IN GENERAL.—As a condition of re-  
23 ceiving the increased Federal medical assistance  
24 percentage described in paragraph (4)(B), each  
25 eligible State shall collect and report informa-

1           tion, as determined necessary by the Secretary,  
2           for the purposes of providing Federal oversight  
3           and evaluating the State’s compliance with the  
4           health and welfare and financial accountability  
5           safeguards taken by the State under subsection  
6           (c)(2)(A).

7           “(B) FORMS.—Expenditures by eligible  
8           States on HCBS payment adjustments shall be  
9           separately reported on the CMS-64 Form and  
10          in T-MSIS.

11          “(6) DEFINITIONS.—In this subsection:

12           “(A) ELIGIBLE STATE.—The term ‘eligible  
13          State’ means a State that—

14                   “(i) is one of the 50 States or the  
15                   District of Columbia;

16                   “(ii) has in effect—

17                           “(I) a waiver under subsection  
18                           (c) or (d); or

19                           “(II) a State plan amendment  
20                           under subsection (i);

21                           “(iii) submits an application under  
22                           paragraph (2)(A); and

23                           “(iv) is selected by the Secretary to  
24                           participate in the demonstration project.

1           “(B) HCBS PAYMENT ADJUSTMENT.—The  
2           term ‘HCBS payment adjustment’ means a  
3           payment adjustment made by an eligible State  
4           to the amount of payment otherwise provided  
5           under a waiver under subsection (c) or (d) or  
6           a State plan amendment under subsection (i)  
7           for a home and community-based service which  
8           is provided to a 1903A enrollee (as defined in  
9           section 1903A(e)(1)) who is in the enrollee cat-  
10          egory described in subparagraph (A) or (B) of  
11          section 1903A(e)(2).”.

12 **SEC. 128. FLEXIBLE BLOCK GRANT OPTION FOR STATES.**

13           Title XIX of the Social Security Act, as previously  
14          amended, is further amended by inserting after section  
15          1903A the following new section:

16 **“SEC. 1903B. MEDICAID FLEXIBILITY PROGRAM.**

17           “(a) IN GENERAL.—Beginning with fiscal year 2020,  
18          any State (as defined in subsection (e)) that has an appli-  
19          cation approved by the Secretary under subsection (b)  
20          may conduct a Medicaid Flexibility Program to provide  
21          targeted health assistance to program enrollees.

22           “(b) STATE APPLICATION.—

23           “(1) IN GENERAL.—To be eligible to conduct a  
24          Medicaid Flexibility Program, a State shall submit

1 an application to the Secretary that meets the re-  
2 quirements of this subsection.

3 “(2) CONTENTS OF APPLICATION.—An applica-  
4 tion under this subsection shall include the fol-  
5 lowing:

6 “(A) A description of the proposed Med-  
7 icaid Flexibility Program and how the State will  
8 satisfy the requirements described in subsection  
9 (d).

10 “(B) The proposed conditions for eligibility  
11 of program enrollees.

12 “(C) The applicable program enrollee cat-  
13 egory (as defined in subsection (e)(1)).

14 “(D) A description of the types, amount,  
15 duration, and scope of services which will be of-  
16 fered as targeted health assistance under the  
17 program, including a description of the pro-  
18 posed package of services which will be provided  
19 to program enrollees to whom the State would  
20 otherwise be required to make medical assist-  
21 ance available under section 1902(a)(10)(A)(i).

22 “(E) A description of how the State will  
23 notify individuals currently enrolled in the State  
24 plan for medical assistance under this title of  
25 the transition to such program.



1                   “(F) Statements certifying that the State  
2 agrees to—

3                   “(i) submit regular enrollment data  
4 with respect to the program to the Centers  
5 for Medicare & Medicaid Services at such  
6 time and in such manner as the Secretary  
7 may require;

8                   “(ii) submit timely and accurate data  
9 to the Transformed Medicaid Statistical  
10 Information System (T-MSIS);

11                   “(iii) report annually to the Secretary  
12 on adult health quality measures imple-  
13 mented under the program and informa-  
14 tion on the quality of health care furnished  
15 to program enrollees under the program as  
16 part of the annual report required under  
17 section 1139B(d)(1);

18                   “(iv) submit such additional data and  
19 information not described in any of the  
20 preceding clauses of this subparagraph but  
21 which the Secretary determines is nec-  
22 essary for monitoring, evaluation, or pro-  
23 gram integrity purposes, including—

24                   “(I) survey data, such as the  
25 data from Consumer Assessment of

1 Healthcare Providers and Systems  
2 (CAHPS) surveys;

3 “(II) birth certificate data; and

4 “(III) clinical patient data for  
5 quality measurements which may not  
6 be present in a claim, such as labora-  
7 tory data, body mass index, and blood  
8 pressure; and

9 “(v) on an annual basis, conduct a re-  
10 port evaluating the program and make  
11 such report available to the public.

12 “(G) An information technology systems  
13 plan demonstrating that the State has the capa-  
14 bility to support the technological administra-  
15 tion of the program and comply with reporting  
16 requirements under this section.

17 “(H) A statement of the goals of the pro-  
18 posed program, which shall include—

19 “(i) goals related to quality, access,  
20 rate of growth targets, consumer satisfac-  
21 tion, and outcomes;

22 “(ii) a plan for monitoring and evalu-  
23 ating the program to determine whether  
24 such goals are being met; and

1                   “(iii) a proposed process for the State,  
2                   in consultation with the Centers for Medi-  
3                   care & Medicaid Services, to take remedial  
4                   action to make progress on unmet goals.

5                   “(I) Such other information as the Sec-  
6                   retary may require.

7                   “(3) STATE NOTICE AND COMMENT PERIOD.—

8                   “(A) IN GENERAL.—Before submitting an  
9                   application under this subsection, a State shall  
10                  make the application publicly available for a 30  
11                  day notice and comment period.

12                  “(B) NOTICE AND COMMENT PROCESS.—

13                  During the notice and comment period de-  
14                  scribed in subparagraph (A), the State shall  
15                  provide opportunities for a meaningful level of  
16                  public input, which shall include public hearings  
17                  on the proposed Medicaid Flexibility Program.

18                  “(4) FEDERAL NOTICE AND COMMENT PE-  
19                  RIOD.—The Secretary shall not approve of any ap-  
20                  plication to conduct a Medicaid Flexibility Program  
21                  without making such application publicly available  
22                  for a 30 day notice and comment period.

23                  “(5) TIMELINE FOR SUBMISSION.—

24                  “(A) IN GENERAL.—A State may submit  
25                  an application under this subsection to conduct

1 a Medicaid Flexibility Program that would  
2 begin in the next fiscal year at any time, sub-  
3 ject to subparagraph (B).

4 “(B) DEADLINES.—Each year beginning  
5 with 2019, the Secretary shall specify a dead-  
6 line for submitting an application under this  
7 subsection to conduct a Medicaid Flexibility  
8 Program that would begin in the next fiscal  
9 year, but such deadline shall not be earlier than  
10 60 days after the date that the Secretary pub-  
11 lishes the amounts of State block grants as re-  
12 quired under subsection (c)(4).

13 “(c) FINANCING.—

14 “(1) IN GENERAL.—For each fiscal year during  
15 which a State is conducting a Medicaid Flexibility  
16 Program, the State shall receive, instead of amounts  
17 otherwise payable to the State under this title for  
18 medical assistance for program enrollees, the  
19 amount specified in paragraph (3)(A).

20 “(2) AMOUNT OF BLOCK GRANT FUNDS.—

21 “(A) IN GENERAL.—The block grant  
22 amount under this paragraph for a State and  
23 year shall be equal to the sum of the amounts  
24 determined under subparagraph (B) for each  
25 1903A enrollee category within the applicable

1 program enrollee category for the State and  
2 year.

3 “(B) ENROLLEE CATEGORY AMOUNTS.—

4 “(i) FOR INITIAL YEAR.—Subject to  
5 subparagraph (C), for the first fiscal year  
6 in which a 1903A enrollee category is in-  
7 cluded in the applicable program enrollee  
8 category for a Medicaid Flexibility Pro-  
9 gram conducted by the State, the amount  
10 determined under this subparagraph for  
11 the State, year, and category shall be equal  
12 to the Federal average medical assistance  
13 matching percentage (as defined in section  
14 1903A(a)(4)) for the State and year multi-  
15 plied by the product of—

16 “(I) the target per capita medical  
17 assistance expenditures (as defined in  
18 section 1903A(c)(2)) for the State,  
19 year, and category; and

20 “(II) the number of 1903A en-  
21 rollees in such category for the State  
22 for the second fiscal year preceding  
23 such first fiscal year, increased by the  
24 percentage increase in State popu-  
25 lation from such second preceding fis-

1 cal year to such first fiscal year, based  
2 on the best available estimates of the  
3 Bureau of the Census.

4 “(ii) FOR ANY SUBSEQUENT YEAR.—  
5 For any fiscal year that is not the first fis-  
6 cal year in which a 1903A enrollee cat-  
7 egory is included in the applicable program  
8 enrollee category for a Medicaid Flexibility  
9 Program conducted by the State, the block  
10 grant amount under this paragraph for the  
11 State, year, and category shall be equal to  
12 the amount determined for the State and  
13 category for the most recent previous fiscal  
14 year in which the State conducted a Med-  
15 icaid Flexibility Program that included  
16 such category, except that such amount  
17 shall be increased by the percentage in-  
18 crease in the consumer price index for all  
19 urban consumers (U.S. city average) from  
20 April of the second fiscal year preceding  
21 the fiscal year involved to April of the fis-  
22 cal year preceding the fiscal year involved.

23 “(C) CAP ON TOTAL POPULATION OF 1903A  
24 ENROLLEES FOR PURPOSES OF BLOCK GRANT  
25 CALCULATION.—

1                   “(i) IN GENERAL.—In calculating the  
2                   amount of a block grant for the first year  
3                   in which a 1903A enrollee category is in-  
4                   cluded in the applicable program enrollee  
5                   category for a Medicaid Flexibility Pro-  
6                   gram conducted by the State under sub-  
7                   paragraph (B)(i), the total number of  
8                   1903A enrollees in such 1903A enrollee  
9                   category for the State and year shall not  
10                  exceed the adjusted number of base period  
11                  enrollees for the State (as defined in clause  
12                  (ii)).

13                  “(ii) ADJUSTED NUMBER OF BASE PE-  
14                  RIOD ENROLLEES.—The term ‘adjusted  
15                  number of base period enrollees’ means,  
16                  with respect to a State and 1903A enrollee  
17                  category, the number of 1903A enrollees in  
18                  the enrollee category for the State for the  
19                  State’s per capita base period (as deter-  
20                  mined under section 1903A(e)(4)), in-  
21                  creased by the percentage increase, if any,  
22                  in the total State population from the last  
23                  April in the State’s per capita base period  
24                  to April of the fiscal year preceding the fis-  
25                  cal year involved (determined using the

1 best available data from the Bureau of the  
2 Census) plus 3 percentage points.

3 “(3) FEDERAL PAYMENT AND STATE MAINTENANCE OF EFFORT.—

4  
5 “(A) FEDERAL PAYMENT.—Subject to sub-  
6 paragraphs (D) and (E), the Secretary shall  
7 pay to each State conducting a Medicaid Flexi-  
8 bility Program under this section for a fiscal  
9 year, from its block grant amount under para-  
10 graph (2) for such year, an amount for each  
11 quarter of such year equal to the Federal aver-  
12 age medical assistance percentage (as defined in  
13 section 1903A(a)(4)) of the total amount ex-  
14 pended under the program during such quarter  
15 as targeted health assistance, and the State is  
16 responsible for the balance of the funds to carry  
17 out such program.

18 “(B) STATE MAINTENANCE OF EFFORT  
19 EXPENDITURES.—For each year during which a  
20 State is conducting a Medicaid Flexibility Pro-  
21 gram, the State shall make expenditures for  
22 targeted health assistance under the program in  
23 an amount equal to the product of—



1           “(i) the block grant amount deter-  
2           mined for the State and year under para-  
3           graph (2); and

4           “(ii) the enhanced FMAP described in  
5           the first sentence of section 2105(b) for  
6           the State and year.

7           “(C) REDUCTION IN BLOCK GRANT  
8           AMOUNT FOR STATES FAILING TO MEET MOE  
9           REQUIREMENT.—

10           “(i) IN GENERAL.—In the case of a  
11           State conducting a Medicaid Flexibility  
12           Program that makes expenditures for tar-  
13           geted health assistance under the program  
14           for a fiscal year in an amount that is less  
15           than the required amount for the fiscal  
16           year under subparagraph (B), the amount  
17           of the block grant determined for the State  
18           under paragraph (2) for the succeeding fis-  
19           cal year shall be reduced by the amount by  
20           which such expenditures are less than such  
21           required amount.

22           “(ii) DISREGARD OF REDUCTION.—  
23           For purposes of determining the amount of  
24           a State block grant under paragraph (2),  
25           any reduction made under this subpara-

1 graph to a State's block grant amount in  
2 a previous fiscal year shall be disregarded.

3 “(iii) APPLICATION TO STATES THAT  
4 TERMINATE PROGRAM.—In the case of a  
5 State described in clause (i) that termi-  
6 nates the State Medicaid Flexibility Pro-  
7 gram under subsection (d)(2)(B) and such  
8 termination is effective with the end of the  
9 fiscal year in which the State fails to make  
10 the required amount of expenditures under  
11 subparagraph (B), the reduction amount  
12 determined for the State and succeeding  
13 fiscal year under clause (i) shall be treated  
14 as an overpayment under this title.

15 “(D) REDUCTION FOR NONCOMPLIANCE.—  
16 If the Secretary determines that a State con-  
17 ducting a Medicaid Flexibility Program is not  
18 complying with the requirements of this section,  
19 the Secretary may withhold payments, reduce  
20 payments, or recover previous payments to the  
21 State under this section as the Secretary deems  
22 appropriate.

23 “(E) ADDITIONAL FEDERAL PAYMENTS  
24 DURING PUBLIC HEALTH EMERGENCY.—

1           “(i) IN GENERAL.—In the case of a  
2           State and fiscal year or portion of a fiscal  
3           year for which the Secretary has excluded  
4           expenditures under section 1903A(b)(6), if  
5           the State has uncompensated targeted  
6           health assistance expenditures for the year  
7           or portion of a year, the Secretary may  
8           make an additional payment to such State  
9           equal to the Federal average medical as-  
10          sistance percentage (as defined in section  
11          1903A(a)(4)) for the year or portion of a  
12          year of the amount of such uncompensated  
13          targeted health assistance expenditures, ex-  
14          cept that the amount of such payment  
15          shall not exceed the amount determined for  
16          the State and year or portion of a year  
17          under clause (ii).

18           “(ii) MAXIMUM AMOUNT OF ADDI-  
19          TIONAL PAYMENT.—The amount deter-  
20          mined for a State and fiscal year or por-  
21          tion of a fiscal year under this subpara-  
22          graph shall not exceed the Federal average  
23          medical assistance percentage (as defined  
24          in section 1903A(a)(4)) for such year or

1                   portion of a year of the amount by  
2                   which—

3                   “(I) the amount of State expend-  
4                   itures for targeted health assistance  
5                   for program enrollees in areas of the  
6                   State which are subject to a declara-  
7                   tion described in section  
8                   1903A(b)(6)(A)(i) for the year or por-  
9                   tion of a year; exceeds

10                  “(II) the amount of such expend-  
11                  itures for such enrollees in such areas  
12                  during the most recent fiscal year in-  
13                  volved (or portion of a fiscal year of  
14                  equal length to the portion of a fiscal  
15                  year involved) during which no such  
16                  declaration was in effect.

17                  “(iii) UNCOMPENSATED TARGETED  
18                  HEALTH ASSISTANCE.—In this subpara-  
19                  graph, the term ‘uncompensated targeted  
20                  health assistance expenditures’ means,  
21                  with respect to a State and fiscal year or  
22                  portion of a fiscal year, an amount equal  
23                  to the amount (if any) by which—

24                  “(I) the total amount expended  
25                  by the State under the program for

1 targeted health assistance for the year  
2 or portion of a year; exceeds

3 “(II) the amount equal to the  
4 amount of the block grant (reduced,  
5 in the case of a portion of a year, to  
6 the same proportion of the full block  
7 grant amount that the portion of the  
8 year bears to the whole year) divided  
9 by the Federal average medical assist-  
10 ance percentage for the year or por-  
11 tion of a year.

12 “(iv) REVIEW.—If the Secretary  
13 makes a payment to a State for a fiscal  
14 year or portion of a fiscal year, the Sec-  
15 retary shall, not later than 6 months after  
16 the declaration described in section  
17 1903A(b)(6)(A)(i) ceases to be in effect,  
18 conduct an audit of the State’s targeted  
19 health assistance expenditures for program  
20 enrollees during the year or portion of a  
21 year to ensure that all of the expenditures  
22 for which the additional payment was  
23 made were made for the purpose of ensur-  
24 ing that the health care needs of program

1                   enrollees in areas affected by a public  
2                   health emergency are met.

3                   “(4) DETERMINATION AND PUBLICATION OF  
4                   BLOCK GRANT AMOUNT.—Beginning in 2019 and  
5                   each year thereafter, the Secretary shall determine  
6                   for each State, regardless of whether the State is  
7                   conducting a Medicaid Flexibility Program or has  
8                   submitted an application to conduct such a program,  
9                   the amount of the block grant for the State under  
10                  paragraph (2) which would apply for the upcoming  
11                  fiscal year if the State were to conduct such a pro-  
12                  gram in such fiscal year, and shall publish such de-  
13                  terminations not later than June 1 of each year.

14                  “(d) PROGRAM REQUIREMENTS.—

15                  “(1) IN GENERAL.—No payment shall be made  
16                  under this section to a State conducting a Medicaid  
17                  Flexibility Program unless such program meets the  
18                  requirements of this subsection.

19                  “(2) TERM OF PROGRAM.—

20                  “(A) IN GENERAL.—A State Medicaid  
21                  Flexibility Program approved under subsection

22                  (b)—

23                  “(i) shall be conducted for not less  
24                  than 1 program period;

1           “(ii) at the option of the State, may  
2           be continued for succeeding program peri-  
3           ods without resubmitting an application  
4           under subsection (b), provided that—

5                       “(I) the State provides notice to  
6                       the Secretary of its decision to con-  
7                       tinue the program; and

8                       “(II) no significant changes are  
9                       made to the program; and

10                      “(iii) shall be subject to termination  
11                      only by the State, which may terminate the  
12                      program by making an election under sub-  
13                      paragraph (B).

14                      “(B) ELECTION TO TERMINATE PRO-  
15                      GRAM.—

16                               “(i) IN GENERAL.—Subject to clause  
17                               (ii), a State conducting a Medicaid Flexi-  
18                               bility Program may elect to terminate the  
19                               program effective with the first day after  
20                               the end of the program period in which the  
21                               State makes the election.

22                               “(ii) TRANSITION PLAN REQUIRE-  
23                               MENT.—A State may not elect to termi-  
24                               nate a Medicaid Flexibility Program unless

1 the State has in place an appropriate tran-  
2 sition plan approved by the Secretary.

3 “(iii) EFFECT OF TERMINATION.—If a  
4 State elects to terminate a Medicaid Flexi-  
5 bility Program, the per capita cap limita-  
6 tions under section 1903A shall apply ef-  
7 fective with the day described in clause (i),  
8 and such limitations shall be applied as if  
9 the State had never conducted a Medicaid  
10 Flexibility Program.

11 “(3) PROVISION OF TARGETED HEALTH ASSIST-  
12 ANCE.—

13 “(A) IN GENERAL.—A State Medicaid  
14 Flexibility Program shall provide targeted  
15 health assistance to program enrollees and such  
16 assistance shall be instead of medical assistance  
17 which would otherwise be provided to the enroll-  
18 ees under this title.

19 “(B) CONDITIONS FOR ELIGIBILITY.—

20 “(i) IN GENERAL.—A State con-  
21 ducting a Medicaid Flexibility Program  
22 shall establish conditions for eligibility of  
23 program enrollees, which shall be instead  
24 of other conditions for eligibility under this  
25 title, except that the program must provide



1 for eligibility for program enrollees to  
2 whom the State would otherwise be re-  
3 quired to make medical assistance available  
4 under section 1902(a)(10)(A)(i).

5 “(ii) MAGI.—Any determination of  
6 income necessary to establish the eligibility  
7 of a program enrollee for purposes of a  
8 State Medicaid Flexibility Program shall  
9 be made using modified adjusted gross in-  
10 come in accordance with section  
11 1902(e)(14).

12 “(4) BENEFITS AND SERVICES.—

13 “(A) REQUIRED SERVICES.—In the case of  
14 program enrollees to whom the State would oth-  
15 erwise be required to make medical assistance  
16 available under section 1902(a)(10)(A)(i), a  
17 State conducting a Medicaid Flexibility Pro-  
18 gram shall provide as targeted health assistance  
19 the following types of services:

20 “(i) Inpatient and outpatient hospital  
21 services.

22 “(ii) Laboratory and X-ray services.

23 “(iii) Nursing facility services for indi-  
24 viduals aged 21 and older.

25 “(iv) Physician services.

1           “(v) Home health care services (in-  
2           cluding home nursing services, medical  
3           supplies, equipment, and appliances).

4           “(vi) Rural health clinic services (as  
5           defined in section 1905(l)(1)).

6           “(vii) Federally-qualified health center  
7           services (as defined in section 1905(l)(2)).

8           “(viii) Family planning services and  
9           supplies.

10          “(ix) Nurse midwife services.

11          “(x) Certified pediatric and family  
12          nurse practitioner services.

13          “(xi) Freestanding birth center serv-  
14          ices (as defined in section 1905(l)(3)).

15          “(xii) Emergency medical transpor-  
16          tation.

17          “(xiii) Non-cosmetic dental services.

18          “(xiv) Pregnancy-related services, in-  
19          cluding postpartum services for the 12-  
20          week period beginning on the last day of a  
21          pregnancy.

22          “(B) OPTIONAL BENEFITS.—A State may,  
23          at its option, provide services in addition to the  
24          services described in subparagraph (A) as tar-

1           geted health assistance under a Medicaid Flexi-  
2           bility Program.

3           “(C) BENEFIT PACKAGES.—

4                   “(i) IN GENERAL.—The targeted  
5           health assistance provided by a State to  
6           any group of program enrollees under a  
7           Medicaid Flexibility Program shall have an  
8           aggregate actuarial value that is equal to  
9           at least 95 percent of the aggregate actu-  
10          arial value of the benchmark coverage de-  
11          scribed in subsection (b)(1) of section 1937  
12          or benchmark-equivalent coverage de-  
13          scribed in subsection (b)(2) of such sec-  
14          tion, as such subsections were in effect  
15          prior to the enactment of the Patient Pro-  
16          tection and Affordable Care Act.

17                   “(ii) AMOUNT, DURATION, AND SCOPE  
18          OF BENEFITS.—Subject to clause (i), the  
19          State shall determine the amount, dura-  
20          tion, and scope with respect to services  
21          provided as targeted health assistance  
22          under a Medicaid Flexibility Program, in-  
23          cluding with respect to services that are re-  
24          quired to be provided to certain program  
25          enrollees under subparagraph (A) except

1 as otherwise provided under such subpara-  
2 graph.

3 “(iii) MENTAL HEALTH AND SUB-  
4 STANCE USE DISORDER COVERAGE AND  
5 PARITY.—The targeted health assistance  
6 provided by a State to program enrollees  
7 under a Medicaid Flexibility Program shall  
8 include mental health services and sub-  
9 stance use disorder services and the finan-  
10 cial requirements and treatment limitations  
11 applicable to such services under the pro-  
12 gram shall comply with the requirements  
13 of section 2726 of the Public Health Serv-  
14 ice Act in the same manner as such re-  
15 quirements apply to a group health plan.

16 “(iv) PRESCRIPTION DRUGS.—If the  
17 targeted health assistance provided by a  
18 State to program enrollees under a Med-  
19 icaid Flexibility Program includes assist-  
20 ance for covered outpatient drugs, such  
21 drugs shall be subject to a rebate agree-  
22 ment that complies with the requirements  
23 of section 1927, and any requirements ap-  
24 plicable to medical assistance for covered  
25 outpatient drugs under a State plan (in-

1 including the requirement that the State pro-  
2 vide information to a manufacturer) shall  
3 apply in the same manner to targeted  
4 health assistance for covered outpatient  
5 drugs under a Medicaid Flexibility Pro-  
6 gram.

7 “(D) COST SHARING.—A State conducting  
8 a Medicaid Flexibility Program may impose  
9 premiums, deductibles, cost-sharing, or other  
10 similar charges, except that the total annual ag-  
11 gregate amount of all such charges imposed  
12 with respect to all program enrollees in a family  
13 shall not exceed 5 percent of the family’s in-  
14 come for the year involved.

15 “(5) ADMINISTRATION OF PROGRAM.—Each  
16 State conducting a Medicaid Flexibility Program  
17 shall do the following:

18 “(A) SINGLE AGENCY.—Designate a single  
19 State agency responsible for administering the  
20 program.

21 “(B) ENROLLMENT SIMPLIFICATION AND  
22 COORDINATION WITH STATE HEALTH INSUR-  
23 ANCE EXCHANGES.—Provide for simplified en-  
24 rollment processes (such as online enrollment  
25 and reenrollment and electronic verification)

1 and coordination with State health insurance  
2 exchanges.

3 “(C) BENEFICIARY PROTECTIONS.—Estab-  
4 lish a fair process (which the State shall de-  
5 scribe in the application required under sub-  
6 section (b)) for individuals to appeal adverse  
7 eligibility determinations with respect to the  
8 program.

9 “(6) APPLICATION OF REST OF TITLE XIX.—

10 “(A) IN GENERAL.—To the extent that a  
11 provision of this section is inconsistent with an-  
12 other provision of this title, the provision of this  
13 section shall apply.

14 “(B) APPLICATION OF SECTION 1903A.—  
15 With respect to a State that is conducting a  
16 Medicaid Flexibility Program, section 1903A  
17 shall be applied as if program enrollees were  
18 not 1903A enrollees for each program period  
19 during which the State conducts the program.

20 “(C) WAIVERS AND STATE PLAN AMEND-  
21 MENTS.—

22 “(i) IN GENERAL.—In the case of a  
23 State conducting a Medicaid Flexibility  
24 Program that has in effect a waiver or  
25 State plan amendment, such waiver or

1 amendment shall not apply with respect to  
2 the program, targeted health assistance  
3 provided under the program, or program  
4 enrollees.

5 “(ii) REPLICATION OF WAIVER OR  
6 AMENDMENT.—In designing a Medicaid  
7 Flexibility Program, a State may mirror  
8 provisions of a waiver or State plan  
9 amendment described in clause (i) in the  
10 program to the extent that such provisions  
11 are otherwise consistent with the require-  
12 ments of this section.

13 “(iii) EFFECT OF TERMINATION.—In  
14 the case of a State described in clause (i)  
15 that terminates its program under sub-  
16 section (d)(2)(B), any waiver or amend-  
17 ment which was limited pursuant to sub-  
18 paragraph (A) shall cease to be so limited  
19 effective with the effective date of such ter-  
20 mination.

21 “(D) NONAPPLICATION OF PROVISIONS.—  
22 With respect to the design and implementation  
23 of Medicaid Flexibility Programs conducted  
24 under this section, paragraphs (1), (10)(B),  
25 (17), and (23) of section 1902(a), as well as

1 any other provision of this title (except for this  
2 section and as otherwise provided by this sec-  
3 tion) that the Secretary deems appropriate,  
4 shall not apply.

5 “(e) DEFINITIONS.—For purposes of this section:

6 “(1) APPLICABLE PROGRAM ENROLLEE CAT-  
7 EGORY.—The term ‘applicable program enrollee cat-  
8 egory’ means, with respect to a State Medicaid  
9 Flexibility Program for a program period, any of the  
10 following as specified by the State for the period in  
11 its application under subsection (b):

12 “(A) 2 ENROLLEE CATEGORIES.—Both of  
13 the 1903A enrollee categories described in sub-  
14 paragraphs (D) and (E) of section 1903A(e)(2).

15 “(B) EXPANSION ENROLLEES.—The  
16 1903A enrollee category described in subpara-  
17 graph (D) of section 1903A(e)(2).

18 “(C) NONELDERLY, NONDISABLED, NON-  
19 EXPANSION ADULTS.—The 1903A enrollee cat-  
20 egory described in subparagraph (E) of section  
21 1903A(e)(2).

22 “(2) MEDICAID FLEXIBILITY PROGRAM.—The  
23 term ‘Medicaid Flexibility Program’ means a State  
24 program for providing targeted health assistance to



1 program enrollees funded by a block grant under  
2 this section.

3 “(3) PROGRAM ENROLLEE.—

4 “(A) IN GENERAL.—The term ‘program  
5 enrollee’ means, with respect to a State that is  
6 conducting a Medicaid Flexibility Program for  
7 a program period, an individual who is a 1903A  
8 enrollee (as defined in section 1903A(e)(1)) who  
9 is in the applicable program enrollee category  
10 specified by the State for the period.

11 “(B) RULE OF CONSTRUCTION.—For pur-  
12 poses of section 1903A(e)(3), eligibility and en-  
13 rollment of an individual under a Medicaid  
14 Flexibility Program shall be deemed to be eligi-  
15 bility and enrollment under a State plan (or  
16 waiver of such plan) under this title.

17 “(4) PROGRAM PERIOD.—The term ‘program  
18 period’ means, with respect to a State Medicaid  
19 Flexibility Program, a period of 5 consecutive fiscal  
20 years that begins with either—

21 “(A) the first fiscal year in which the State  
22 conducts the program; or

23 “(B) the next fiscal year in which the  
24 State conducts such a program that begins  
25 after the end of a previous program period.

1           “(5) STATE.—The term ‘State’ means one of  
2           the 50 States or the District of Columbia.

3           “(6) TARGETED HEALTH ASSISTANCE.—The  
4           term ‘targeted health assistance’ means assistance  
5           for health-care-related items and medical services for  
6           program enrollees.”.

7   **SEC. 129. MEDICAID AND CHIP QUALITY PERFORMANCE**  
8           **BONUS PAYMENTS.**

9           Section 1903 of the Social Security Act (42 U.S.C.  
10 1396b), as previously amended, is further amended by  
11 adding at the end the following new subsection:

12           “(bb) QUALITY PERFORMANCE BONUS PAYMENTS.—

13           “(1) INCREASED FEDERAL SHARE.—With re-  
14           spect to each of fiscal years 2023 through 2026, in  
15           the case of one of the 50 States or the District of  
16           Columbia (each referred to in this subsection as a  
17           ‘State’) that—

18           “(A) equals or exceeds the qualifying  
19           amount (as established by the Secretary) of  
20           lower than expected aggregate medical assist-  
21           ance expenditures (as defined in paragraph (4))  
22           for that fiscal year; and

23           “(B) submits to the Secretary, in accord-  
24           ance with such manner and format as specified  
25           by the Secretary and for the performance pe-

1           riod (as defined by the Secretary) for such fis-  
2           cal year—

3                   “(i) information on the applicable  
4                   quality measures identified under para-  
5                   graph (3) with respect to each category of  
6                   Medicaid eligible individuals under the  
7                   State plan or a waiver of such plan; and

8                   “(ii) a plan for spending a portion of  
9                   additional funds resulting from application  
10                  of this subsection on quality improvement  
11                  within the State plan under this title or  
12                  under a waiver of such plan,

13                 the Federal matching percentage otherwise ap-  
14                 plied under subsection (a)(7) for such fiscal  
15                 year shall be increased by such percentage (as  
16                 determined by the Secretary) so that the aggre-  
17                 gate amount of the resulting increase pursuant  
18                 to this subsection for the State and fiscal year  
19                 does not exceed the State allotment established  
20                 under paragraph (2) for the State and fiscal  
21                 year.

22                 “(2) ALLOTMENT DETERMINATION.—The Sec-  
23                 retary shall establish a formula for computing State  
24                 allotments under this paragraph for each fiscal year  
25                 described in paragraph (1) such that—

1           “(A) such an allotment to a State is deter-  
2           mined based on the performance, including im-  
3           provement, of such State under this title and  
4           title XXI with respect to the quality measures  
5           submitted under paragraph (3) by such State  
6           for the performance period (as defined by the  
7           Secretary) for such fiscal year; and

8           “(B) the total of the allotments under this  
9           paragraph for all States for the period of the  
10          fiscal years described in paragraph (1) is equal  
11          to \$8,000,000,000.

12          “(3) QUALITY MEASURES REQUIRED FOR  
13          BONUS PAYMENTS.—For purposes of this subsection,  
14          the Secretary shall, pursuant to rulemaking and  
15          after consultation with State agencies administering  
16          State plans under this title, identify and publish  
17          (and update as necessary) peer-reviewed quality  
18          measures (which shall include health care and long-  
19          term care outcome measures and may include the  
20          quality measures that are overseen or developed by  
21          the National Committee for Quality Assurance or  
22          the Agency for Healthcare Research and Quality or  
23          that are identified under section 1139A or 1139B)  
24          that are quantifiable, objective measures that take  
25          into account the clinically appropriate measures of

1 quality for different types of patient populations re-  
2 ceiving benefits or services under this title or title  
3 XXI.

4 “(4) LOWER THAN EXPECTED AGGREGATE  
5 MEDICAL ASSISTANCE EXPENDITURES.—In this sub-  
6 section, the term ‘lower than expected aggregate  
7 medical assistance expenditures’ means, with respect  
8 to a State the amount (if any) by which—

9 “(A) the amount of the adjusted total med-  
10 ical assistance expenditures for the State and  
11 fiscal year determined in section 1903A(b)(1)  
12 without regard to the 1903A enrollee category  
13 described in section 1903A(e)(2)(E); is less  
14 than

15 “(B) the amount of the target total med-  
16 ical assistance expenditures for the State and  
17 fiscal year determined in section 1903A(c) with-  
18 out regard to the 1903A enrollee category de-  
19 scribed in section 1903A(e)(2)(E).”.

20 **SEC. 130. OPTIONAL ASSISTANCE FOR CERTAIN INPATIENT**  
21 **PSYCHIATRIC SERVICES.**

22 (a) STATE OPTION.—Section 1905 of the Social Se-  
23 curity Act (42 U.S.C. 1396d) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (16)—

1 (i) by striking “and, (B)” and insert-  
2 ing “(B)”; and

3 (ii) by inserting before the semicolon  
4 at the end the following: “, and (C) subject  
5 to subsection (h)(4), qualified inpatient  
6 psychiatric hospital services (as defined in  
7 subsection (h)(3)) for individuals who are  
8 over 21 years of age and under 65 years  
9 of age”; and

10 (B) in the subdivision (B) that follows  
11 paragraph (29), by inserting “(other than serv-  
12 ices described in subparagraph (C) of para-  
13 graph (16) for individuals described in such  
14 subparagraph)” after “patient in an institution  
15 for mental diseases”; and

16 (2) in subsection (h), by adding at the end the  
17 following new paragraphs:

18 “(3) For purposes of subsection (a)(16)(C), the term  
19 ‘qualified inpatient psychiatric hospital services’ means,  
20 with respect to individuals described in such subsection,  
21 services described in subparagraph (B) of paragraph (1)  
22 that are not otherwise covered under subsection  
23 (a)(16)(A) and are furnished—

1           “(A) in an institution (or distinct part thereof)  
2           which is a psychiatric hospital (as defined in section  
3           1861(f)); and

4           “(B) with respect to such an individual, for a  
5           period not to exceed 30 consecutive days in any  
6           month and not to exceed 90 days in any calendar  
7           year.

8           “(4) As a condition for a State including qualified  
9           inpatient psychiatric hospital services as medical assist-  
10          ance under subsection (a)(16)(C), the State must (during  
11          the period in which it furnishes medical assistance under  
12          this title for services and individuals described in such  
13          subsection)—

14           “(A) maintain at least the number of licensed  
15          beds at psychiatric hospitals owned, operated, or  
16          contracted for by the State that were being main-  
17          tained as of the date of the enactment of this para-  
18          graph or, if higher, as of the date the State applies  
19          to the Secretary to include medical assistance under  
20          such subsection; and

21           “(B) maintain on an annual basis a level of  
22          funding expended by the State (and political subdivi-  
23          sions thereof) other than under this title from non-  
24          Federal funds for inpatient services in an institution  
25          described in paragraph (3)(A), and for active psy-

1       chiatric care and treatment provided on an out-  
2       patient basis, that is not less than the level of such  
3       funding for such services and care as of the date of  
4       the enactment of this paragraph or, if higher, as of  
5       the date the State applies to the Secretary to include  
6       medical assistance under such subsection.”.

7       (b) **SPECIAL MATCHING RATE.**—Section 1905(b) of  
8       the Social Security Act (42 U.S.C. 1395d(b)) is amended  
9       by adding at the end the following: “Notwithstanding the  
10      previous provisions of this subsection, the Federal medical  
11      assistance percentage shall be 50 percent with respect to  
12      medical assistance for services and individuals described  
13      in subsection (a)(16)(C).”.

14      (c) **EFFECTIVE DATE.**—The amendments made by  
15      this section shall apply to qualified inpatient psychiatric  
16      hospital services furnished on or after October 1, 2018.

17      **SEC. 131. ENHANCED FMAP FOR MEDICAL ASSISTANCE TO**  
18                                   **ELIGIBLE INDIANS.**

19      Section 1905(b) of the Social Security Act (42 U.S.C.  
20      1396d(b)) is amended, in the third sentence, by inserting  
21      “and with respect to amounts expended by a State as med-  
22      ical assistance for services provided by any other provider  
23      under the State plan to an individual who is a member  
24      of an Indian tribe who is eligible for assistance under the  
25      State plan” before the period.



1 **SEC. 132. SMALL BUSINESS HEALTH PLANS.**

2 (a) TAX TREATMENT OF SMALL BUSINESS HEALTH  
3 PLANS.—A small business health plan (as defined in sec-  
4 tion 801(a) of the Employee Retirement Income Security  
5 Act of 1974) shall be treated—

6 (1) as a group health plan (as defined in sec-  
7 tion 2791 of the Public Health Service Act (42  
8 U.S.C. 300gg–91)) for purposes of applying title  
9 XXVII of the Public Health Service Act (42 U.S.C.  
10 300gg et seq.) and title XXII of such Act (42  
11 U.S.C. 300bb-1);

12 (2) as a group health plan (as defined in sec-  
13 tion 5000(b)(1) of the Internal Revenue Code of  
14 1986) for purposes of applying sections 4980B and  
15 5000 and chapter 100 of the Internal Revenue Code  
16 of 1986; and

17 (3) as a group health plan (as defined in sec-  
18 tion 733(a)(1) of the Employee Retirement Income  
19 Security Act of 1974 (29 U.S.C. 1191b(a)(1))) for  
20 purposes of applying parts 6 and 7 of title I of the  
21 Employee Retirement Income Security Act of 1974  
22 (29 U.S.C. 1161 et seq.).

23 (b) RULES.—Subtitle B of title I of the Employee  
24 Retirement Income Security Act of 1974 (29 U.S.C. 1021  
25 et seq.) is amended by adding at the end the following  
26 new part:

1    **“PART 8—RULES GOVERNING SMALL BUSINESS**

2                                   **RISK SHARING POOLS**

3    **“SEC. 801. SMALL BUSINESS HEALTH PLANS.**

4           “(a) IN GENERAL.—For purposes of this part, the  
5 term ‘small business health plan’ means a fully insured  
6 group health plan, offered by a health insurance issuer in  
7 the large group market, whose sponsor is described in sub-  
8 section (b).

9           “(b) SPONSOR.—The sponsor of a group health plan  
10 is described in this subsection if such sponsor—

11                   “(1) is a qualified sponsor and receives certifi-  
12 cation by the Secretary;

13                   “(2) is organized and maintained in good faith,  
14 with a constitution or bylaws specifically stating its  
15 purpose and providing for periodic meetings on at  
16 least an annual basis;

17                   “(3) is established as a permanent entity;

18                   “(4) is established for a purpose other than  
19 providing health benefits to its members, such as an  
20 organization established as a bona fide trade asso-  
21 ciation, franchise, or section 7705 organization; and

22                   “(5) does not condition membership on the  
23 basis of a minimum group size.

1 **“SEC. 802. FILING FEE AND CERTIFICATION OF SMALL**  
2 **BUSINESS HEALTH PLANS.**

3 “(a) FILING FEE.—A small business health plan  
4 shall pay to the Secretary at the time of filing an applica-  
5 tion for certification under subsection (b) a filing fee in  
6 the amount of \$5,000, which shall be available to the Sec-  
7 retary for the sole purpose of administering the certifi-  
8 cation procedures applicable with respect to small business  
9 health plans.

10 “(b) CERTIFICATION.—

11 “(1) IN GENERAL.—Not later than 6 months  
12 after the date of enactment of this part, the Sec-  
13 retary shall prescribe by interim final rule a proce-  
14 dure under which the Secretary—

15 “(A) will certify a qualified sponsor of a  
16 small business health plan, upon receipt of an  
17 application that includes the information de-  
18 scribed in paragraph (2);

19 “(B) may provide for continued certifi-  
20 cation of small business health plans under this  
21 part;

22 “(C) shall provide for the revocation of a  
23 certification if the applicable authority finds  
24 that the small business health plan involved  
25 fails to comply with the requirements of this  
26 part;

1           “(D) shall conduct oversight of certified  
2 plan sponsors, including periodic review, and  
3 consistent with section 504, applying the re-  
4 quirements of sections 518, 519, and 520; and

5           “(E) will consult with a State with respect  
6 to a small business health plan domiciled in  
7 such State regarding the Secretary’s authority  
8 under this part and other enforcement author-  
9 ity under sections 502 and 504.

10           “(2) INFORMATION TO BE INCLUDED IN APPLI-  
11 CATION FOR CERTIFICATION.—An application for  
12 certification under this part meets the requirements  
13 of this section only if it includes, in a manner and  
14 form which shall be prescribed by the applicable au-  
15 thority by regulation, at least the following informa-  
16 tion:

17           “(A) Identifying information.

18           “(B) States in which the plan intends to  
19 do business.

20           “(C) Bonding requirements.

21           “(D) Plan documents.

22           “(E) Agreements with service providers.

23           “(3) REQUIREMENTS FOR CERTIFIED PLAN  
24 SPONSORS.—Not later than 6 months after the date  
25 of enactment of this part, the Secretary shall pre-

1 scribe by interim final rule requirements for certified  
2 plan sponsors that include requirements regarding—

3 “(A) structure and requirements for  
4 boards of trustees or plan administrators;

5 “(B) notification of material changes; and

6 “(C) notification for voluntary termination.

7 “(c) FILING NOTICE OF CERTIFICATION WITH  
8 STATES.—A certification granted under this part to a  
9 small business health plan shall not be effective unless  
10 written notice of such certification is filed by the plan  
11 sponsor with the applicable State authority of each State  
12 in which the small business health plan operates.

13 “(d) EXPEDITED AND DEEMED CERTIFICATION.—

14 “(1) IN GENERAL.—If the Secretary fails to act  
15 on a complete application for certification under this  
16 section within 90 days of receipt of such complete  
17 application, the applying small business health plan  
18 sponsor shall be deemed certified until such time as  
19 the Secretary may deny for cause the application for  
20 certification.

21 “(2) PENALTY.—The Secretary may assess a  
22 penalty against the board of trustees, plan adminis-  
23 trator, and plan sponsor (jointly and severally) of a  
24 small business health plan sponsor that is deemed  
25 certified under paragraph (1) of up to \$500,000 in

1 the event the Secretary determines that the applica-  
2 tion for certification of such small business health  
3 plan sponsor was willfully or with gross negligence  
4 incomplete or inaccurate.

5 **“SEC. 803. PARTICIPATION AND COVERAGE REQUIRE-**  
6 **MENTS.**

7 “(a) COVERED EMPLOYERS AND INDIVIDUALS.—The  
8 requirements of this subsection are met with respect to  
9 a small business health plan if, under the terms of the  
10 plan—

11 “(1) each participating employer must be—

12 “(A) a member of the sponsor;

13 “(B) the sponsor; or

14 “(C) an affiliated member of the sponsor,  
15 except that, in the case of a sponsor which is  
16 a professional association or other individual-  
17 based association, if at least one of the officers,  
18 directors, or employees of an employer, or at  
19 least one of the individuals who are partners in  
20 an employer and who actively participates in  
21 the business, is a member or such an affiliated  
22 member of the sponsor, participating employers  
23 may also include such employer; and

1           “(2) all individuals commencing coverage under  
2 the plan after certification under this part must  
3 be—

4                   “(A) active or retired owners (including  
5 self-employed individuals with or without em-  
6 ployees), officers, directors, or employees of, or  
7 partners in, participating employers; or

8                   “(B) the dependents of individuals de-  
9 scribed in subparagraph (A).

10          “(b) PARTICIPATING EMPLOYERS.—In applying re-  
11 quirements relating to coverage renewal, a participating  
12 employer shall not be deemed to be a plan sponsor.

13          “(c) PROHIBITION OF DISCRIMINATION AGAINST EM-  
14 PLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—  
15 The requirements of this subsection are met with respect  
16 to a small business health plan if—

17                   “(1) under the terms of the plan, no partici-  
18 pating employer may provide health insurance cov-  
19 erage in the individual market for any employee not  
20 covered under the plan, if such exclusion of the em-  
21 ployee from coverage under the plan is based on a  
22 health status-related factor with respect to the em-  
23 ployee and such employee would, but for such exclu-  
24 sion on such basis, be eligible for coverage under the  
25 plan; and

1           “(2) information regarding all coverage options  
2           available under the plan is made readily available to  
3           any employer eligible to participate.

4   **“SEC. 804. DEFINITIONS; RENEWAL.**

5           “For purposes of this part:

6           “(1) **AFFILIATED MEMBER.**—The term ‘affili-  
7           ated member’ means, in connection with a sponsor—

8                   “(A) a person who is otherwise eligible to  
9                   be a member of the sponsor but who elects an  
10                  affiliated status with the sponsor, or

11                   “(B) in the case of a sponsor with mem-  
12                  bers which consist of associations, a person who  
13                  is a member or employee of any such associa-  
14                  tion and elects an affiliated status with the  
15                  sponsor.

16           “(2) **APPLICABLE STATE AUTHORITY.**—The  
17           term ‘applicable State authority’ means, with respect  
18           to a health insurance issuer in a State, the State in-  
19           surance commissioner or official or officials des-  
20           ignated by the State to enforce the requirements of  
21           title XXVII of the Public Health Service Act for the  
22           State involved with respect to such issuer.

23           “(3) **FRANCHISOR; FRANCHISEE.**—The terms  
24           ‘franchisor’ and ‘franchisee’ have the meanings given  
25           such terms for purposes of sections 436.2(a)



1 through 436.2(c) of title 16, Code of Federal Regu-  
2 lations (including any such amendments to such reg-  
3 ulation after the date of enactment of this part) and,  
4 for purposes of this part, franchisor or franchisee  
5 employers participating in such a group health plan  
6 shall not be treated as the employer, co-employer, or  
7 joint employer of the employees of another partici-  
8 pating franchisor or franchisee employer for any  
9 purpose.

10 “(4) HEALTH PLAN TERMS.—The terms ‘group  
11 health plan’, ‘health insurance coverage’, and ‘health  
12 insurance issuer’ have the meanings given such  
13 terms in section 733.

14 “(5) INDIVIDUAL MARKET.—

15 “(A) IN GENERAL.—The term ‘individual  
16 market’ means the market for health insurance  
17 coverage offered to individuals other than in  
18 connection with a group health plan.

19 “(B) TREATMENT OF VERY SMALL  
20 GROUPS.—

21 “(i) IN GENERAL.—Subject to clause  
22 (ii), such term includes coverage offered in  
23 connection with a group health plan that  
24 has fewer than 2 participants as current  
25 employees or participants described in sec-

1                   tion 732(d)(3) on the first day of the plan  
2                   year.

3                   “(ii) STATE EXCEPTION.—Clause (i)  
4                   shall not apply in the case of health insur-  
5                   ance coverage offered in a State if such  
6                   State regulates the coverage described in  
7                   such clause in the same manner and to the  
8                   same extent as coverage in the small group  
9                   market (as defined in section 2791(e)(5) of  
10                  the Public Health Service Act) is regulated  
11                  by such State.

12                  “(6) PARTICIPATING EMPLOYER.—The term  
13                  ‘participating employer’ means, in connection with a  
14                  small business health plan, any employer, if any in-  
15                  dividual who is an employee of such employer, a  
16                  partner in such employer, or a self-employed indi-  
17                  vidual who is such employer with or without employ-  
18                  ees (or any dependent, as defined under the terms  
19                  of the plan, of such individual) is or was covered  
20                  under such plan in connection with the status of  
21                  such individual as such an employee, partner, or  
22                  self-employed individual in relation to the plan.

23                  “(7) SECTION 7705 ORGANIZATION.—The term  
24                  ‘section 7705 organization’ means an organization  
25                  providing services for a customer pursuant to a con-

1       tract meeting the conditions of subparagraphs (A),  
2       (B), (C), (D), and (E) (but not (F)) of section  
3       7705(e)(2) of the Internal Revenue Code of 1986,  
4       including an entity that is part of a section 7705 or-  
5       ganization control group . For purposes of this part,  
6       any reference to ‘member’ shall include a customer  
7       of a section 7705 organization except with respect to  
8       references to a ‘member’ or ‘members’ in paragraph  
9       (1).”.

10       (c) PREEMPTION RULES.—Section 514 of the Em-  
11       ployee Retirement Income Security Act of 1974 (29  
12       U.S.C. 1144) is amended by adding at the end the fol-  
13       lowing:

14       “(f) The provisions of this title shall supersede any  
15       and all State laws insofar as they may now or hereafter  
16       preclude a health insurance issuer from offering health in-  
17       surance coverage in connection with a small business  
18       health plan which is certified under part 8.”.

19       (d) PLAN SPONSOR.—Section 3(16)(B) of such Act  
20       (29 U.S.C. 102(16)(B)) is amended by adding at the end  
21       the following new sentence: “Such term also includes a  
22       person serving as the sponsor of a small business health  
23       plan under part 8.”.

24       (e) SAVINGS CLAUSE.—Section 731(c) of such Act is  
25       amended by inserting “or part 8” after “this part”.

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect 1 year after the date of the  
3 enactment of this Act. The Secretary of Labor shall first  
4 issue all regulations necessary to carry out the amend-  
5 ments made by this section within 6 months after the date  
6 of the enactment of this Act.

## 7 **TITLE II**

### 8 **SEC. 201. THE PREVENTION AND PUBLIC HEALTH FUND.**

9 Subsection (b) of section 4002 of the Patient Protec-  
10 tion and Affordable Care Act (42 U.S.C. 300u–11) is  
11 amended—

12 (1) in paragraph (3), by striking “each of fiscal  
13 years 2018 and 2019” and inserting “fiscal year  
14 2018”; and

15 (2) by striking paragraphs (4) through (8).

### 16 **SEC. 202. COMMUNITY HEALTH CENTER PROGRAM.**

17 Effective as if included in the enactment of the Medi-  
18 care Access and CHIP Reauthorization Act of 2015 (Pub-  
19 lic Law 114–10, 129 Stat. 87), paragraph (1) of section  
20 221(a) of such Act is amended by inserting “, and an ad-  
21 ditional \$422,000,000 for fiscal year 2017” after “2017”.

### 22 **SEC. 203. CHANGE IN PERMISSIBLE AGE VARIATION IN** 23 **HEALTH INSURANCE PREMIUM RATES.**

24 Section 2701(a)(1)(A)(iii) of the Public Health Serv-  
25 ice Act (42 U.S.C. 300gg(a)(1)(A)(iii)) is amended by in-

1 serring after “(consistent with section 2707(c))” the fol-  
2 lowing: “or, for plan years beginning on or after January  
3 1, 2019, 5 to 1 for adults (consistent with section 2707(c))  
4 or such other ratio for adults (consistent with section  
5 2707(c)) as the State may determine”.

6 **SEC. 204. WAIVERS FOR STATE INNOVATION.**

7 (a) IN GENERAL.—Section 1332 of the Patient Pro-  
8 tection and Affordable Care Act (42 U.S.C. 18052) is  
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (B)—

13 (I) by amending clause (i) to  
14 read as follows:

15 “(i) a description of how the State  
16 plan meeting the requirements of a waiver  
17 under this section would, with respect to  
18 health insurance coverage within the  
19 State—

20 “(I) take the place of the require-  
21 ments described in paragraph (2) that  
22 are waived; and

23 “(II) provide for alternative  
24 means of, and requirements for, in-  
25 creasing access to comprehensive cov-

1 erage, reducing average premiums,  
2 providing consumers the freedom to  
3 purchase the health insurance of their  
4 choice, and increasing enrollment in  
5 private health insurance; and”;

6 (II) in clause (ii), by striking  
7 “that is budget neutral for the Fed-  
8 eral Government” and inserting “,  
9 demonstrating that the State plan  
10 does not increase the Federal deficit”;  
11 and

12 (ii) in subparagraph (C), by striking  
13 “the law” and inserting “a law or has in  
14 effect a certification”;

15 (B) in paragraph (3)—

16 (i) in the first sentence, by inserting  
17 “or would qualify for a reduction in” after  
18 “would not qualify for”;

19 (ii) by adding after the second sen-  
20 tence the following: “A State may request  
21 that all of, or any portion of, such aggre-  
22 gate amount of such credits or reductions  
23 be paid to the State as described in the  
24 first sentence.”;

1 (iii) in the paragraph heading, by  
2 striking “PASS THROUGH OF FUNDING”  
3 and inserting “FUNDING”;

4 (iv) by striking “With respect” and  
5 inserting the following:

6 “(A) PASS THROUGH OF FUNDING.—With  
7 respect”; and

8 (v) by adding at the end the following:

9 “(B) ADDITIONAL FUNDING.—There is au-  
10 thorized to be appropriated, and is appro-  
11 priated, to the Secretary of Health and Human  
12 Services, out of monies in the Treasury not oth-  
13 erwise obligated, \$2,000,000,000 for fiscal year  
14 2017, to remain available until the end of fiscal  
15 year 2019, to provide grants to States for pur-  
16 poses of submitting an application for a waiver  
17 granted under this section and implementing  
18 the State plan under such waiver.

19 “(C) AUTHORITY TO USE MARKET-BASED  
20 HEALTH CARE GRANT ALLOTMENT.—If the  
21 State has an application for an allotment under  
22 section 2105(i) of the Social Security Act for  
23 the plan year, the State may use the funds  
24 available under the State’s allotment for the  
25 plan year to carry out the State plan under this

1 section, so long as such use is consistent with  
2 the requirements of paragraphs (1) and (7) of  
3 section 2105(i) of such Act (other than para-  
4 graph (1)(B) of such section). Any funds used  
5 to carry out a State plan under this subpara-  
6 graph shall not be considered in determining  
7 whether the State plan increases the Federal  
8 deficit.”; and

9 (C) in paragraph (4), by adding at the end  
10 the following:

11 “(D) EXPEDITED PROCESS.—The Sec-  
12 retary shall establish an expedited application  
13 and approval process that may be used if the  
14 Secretary determines that such expedited proc-  
15 ess is necessary to respond to an urgent or  
16 emergency situation with respect to health in-  
17 surance coverage within a State.”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) in the matter preceding subpara-  
21 graph (A)—

22 (I) by striking “may” and insert-  
23 ing “shall”; and

24 (II) by striking “only if” and in-  
25 serting “unless”; and



1                   (ii) by striking “plan—” and all that  
2 follows through the period at the end of  
3 subparagraph (D) and inserting “applica-  
4 tion is missing a required element under  
5 subsection (a)(1) or that the State plan  
6 will increase the Federal deficit, not taking  
7 into account any amounts received through  
8 a grant under subsection (a)(3)(B).”;  
9 (B) in paragraph (2)—

10                   (i) in the paragraph heading, by in-  
11 serting “OR CERTIFY” after “LAW”;

12                   (ii) in subparagraph (A), by inserting  
13 before the period “, and a certification de-  
14 scribed in this paragraph is a document,  
15 signed by the Governor, and the State in-  
16 surance commissioner, of the State, that  
17 provides authority for State actions under  
18 a waiver under this section, including the  
19 implementation of the State plan under  
20 subsection (a)(1)(B)”;

21                   (iii) in subparagraph (B)—

22                   (I) in the subparagraph heading,  
23 by striking “OF OPT OUT”; and

24                   (II) by striking “ may repeal a  
25 law” and all that follows through the

1 period at the end and inserting the  
2 following: “may terminate the author-  
3 ity provided under the waiver with re-  
4 spect to the State by—

5 “(i) repealing a law described in sub-  
6 paragraph (A); or

7 “(ii) terminating a certification de-  
8 scribed in subparagraph (A), through a  
9 certification for such termination signed by  
10 the Governor, and the State insurance  
11 commissioner, of the State.”;

12 (3) in subsection (d)(2)(B), by striking “and  
13 the reasons therefore” and inserting “and the rea-  
14 sons therefore, and provide the data on which such  
15 determination was made”; and

16 (4) in subsection (e), by striking “No waiver”  
17 and all that follows through the period at the end  
18 and inserting the following: “A waiver under this  
19 section—

20 “(1) shall be in effect for a period of 8 years  
21 unless the State requests a shorter duration;

22 “(2) may be renewed for unlimited additional 8-  
23 year periods upon application by the State; and

1           “(3) may not be cancelled by the Secretary be-  
2           fore the expiration of the 8-year period (including  
3           any renewal period under paragraph (2)).”.

4           (b) APPLICABILITY.—Section 1332 of the Patient  
5           Protection and Affordable Care Act (42 U.S.C. 18052)  
6           shall apply as follows:

7           (1) In the case of a State for which a waiver  
8           under such section was granted prior to the date of  
9           enactment of this Act, such section 1332, as in ef-  
10          fect on the day before the date of enactment of this  
11          Act shall apply to the waiver and State plan.

12          (2) In the case of a State that submitted an ap-  
13          plication for a waiver under such section prior to the  
14          date of enactment of this Act, and which application  
15          the Secretary of Health and Human Services has  
16          not approved prior to such date, the State may elect  
17          to have such section 1332, as in effect on the day  
18          before the date of enactment of this Act, or such  
19          section 1332, as amended by subsection (a), apply to  
20          such application and State plan.

21          (3) In the case of a State that submits an ap-  
22          plication for a waiver under such section on or after  
23          the date of enactment of this Act, such section 1332,  
24          as amended by subsection (a), shall apply to such  
25          application and State plan.

1 **SEC. 205. ALLOWING ALL INDIVIDUALS PURCHASING**  
2 **HEALTH INSURANCE IN THE INDIVIDUAL**  
3 **MARKET THE OPTION TO PURCHASE A**  
4 **LOWER PREMIUM CATASTROPHIC PLAN.**

5 (a) IN GENERAL.—Section 1302(e) of the Patient  
6 Protection and Affordable Care Act (42 U.S.C. 18022(e))  
7 is amended by adding at the end the following:

8 “(4) CONSUMER FREEDOM.—For plan years be-  
9 ginning on or after January 1, 2019, paragraph  
10 (1)(A) shall not apply with respect to any plan of-  
11 fered in the State.”.

12 (b) RISK POOLS.—Section 1312(e) of the Patient  
13 Protection and Affordable Care Act (42 U.S.C. 18032(e))  
14 is amended—

15 (1) in paragraph (1), by inserting “and includ-  
16 ing, with respect to plan years beginning on or after  
17 January 1, 2019, enrollees in catastrophic plans de-  
18 scribed in section 1302(e)” after “Exchange”; and

19 (2) in paragraph (2), by inserting “and includ-  
20 ing, with respect to plan years beginning on or after  
21 January 1, 2019, enrollees in catastrophic plans de-  
22 scribed in section 1302(e)” after “Exchange”.

23 **SEC. 206. APPLICATION OF ENFORCEMENT PENALTIES.**

24 (a) IN GENERAL.—Section 2723 of the Public Health  
25 Service Act (42 U.S.C. 300gg–22) is amended—

26 (1) in subsection (a)—

1 (A) in paragraph (1), by inserting “and of  
2 section 1303 of the Patient Protection and Af-  
3 fordable Care Act” after “this part”; and

4 (B) in paragraph (2), by inserting “or in  
5 such section 1303” after “this part”; and

6 (2) in subsection (b)—

7 (A) in paragraphs (1) and (2)(A), by in-  
8 serting “or section 1303 of the Patient Protec-  
9 tion and Affordable Care Act” after “this part”  
10 each place such term appears;

11 (B) in paragraph (2)(C)(ii), by inserting  
12 “and section 1303 of the Patient Protection  
13 and Affordable Care Act” after “this part”.

14 (b) EFFECT OF WAIVER.—A State waiver pursuant  
15 to section 1332 of the Patient Protection and Affordable  
16 Care Act (42 U.S.C. 18052) shall not affect the authority  
17 of the Secretary to impose penalties under section 2723  
18 of the Public Health Service Act (42 U.S.C. 300gg–22).

19 **SEC. 207. FUNDING FOR COST-SHARING PAYMENTS.**

20 There is appropriated to the Secretary of Health and  
21 Human Services, out of any money in the Treasury not  
22 otherwise appropriated, such sums as may be necessary  
23 for payments for cost-sharing reductions authorized by the  
24 Patient Protection and Affordable Care Act (including ad-  
25 justments to any prior obligations for such payments) for

1 the period beginning on the date of enactment of this Act  
2 and ending on December 31, 2019. Notwithstanding any  
3 other provision of this Act, payments and other actions  
4 for adjustments to any obligations incurred for plan years  
5 2018 and 2019 may be made through December 31, 2020.

6 **SEC. 208. REPEAL OF COST-SHARING SUBSIDY PROGRAM.**

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

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