

115TH CONGRESS
1ST SESSION

H. R. 1436

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2017

Mr. JORDAN (for himself and Mr. MEADOWS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **TITLE I—HEALTH, EDUCATION,**
4 **LABOR, AND PENSIONS**

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

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

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

3 (2) in paragraph (3)—

4 (A) by striking “each of fiscal years 2018
5 and 2019” and inserting “fiscal year 2018”;
6 and

7 (B) by striking the semicolon at the end
8 and inserting a period; and

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

10 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
11 funds made available by such section 4002, the unobli-
12 gated balance is rescinded.

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

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

19 **SEC. 103. TERRITORIES.**

20 Section 1323(c) of the Patient Protection and Afford-
21 able Care Act (42 U.S.C. 18043(c)) is amended by adding
22 at the end the following:

23 “(3) NO FORCE AND EFFECT.—Effective Janu-
24 ary 1, 2018, this subsection shall have no force or
25 effect.”.

1 **SEC. 104. REINSURANCE, RISK CORRIDOR, AND RISK AD-**
2 **JUSTMENT PROGRAMS.**

3 (a) TRANSITIONAL REINSURANCE PROGRAM FOR IN-
4 DIVIDUAL MARKET.—Section 1341 of the Patient Protec-
5 tion and Affordable Care Act (42 U.S.C. 18061) is amend-
6 ed by adding at the end the following:

7 “(e) NO FORCE AND EFFECT.—Effective January 1,
8 2018, the Secretary shall not collect fees and shall not
9 make payments under this section.”.

10 **SEC. 105. SUPPORT FOR STATE RESPONSE TO SUBSTANCE**
11 **ABUSE PUBLIC HEALTH CRISIS AND URGENT**
12 **MENTAL HEALTH NEEDS.**

13 (a) IN GENERAL.—There are authorized to be appro-
14 priated, and are appropriated, out of monies in the Treas-
15 ury not otherwise obligated, \$750,000,000 for each of fis-
16 cal years 2017 and 2018, to the Secretary of Health and
17 Human Services (referred to in this section as the “Sec-
18 retary”) to award grants to States to address the sub-
19 stance abuse public health crisis or to respond to urgent
20 mental health needs within the State. In awarding grants
21 under this section, the Secretary may give preference to
22 States with an incidence or prevalence of substance use
23 disorders that is substantial relative to other States or to
24 States that identify mental health needs within their com-
25 munities that are urgent relative to such needs of other

1 States. Funds appropriated under this subsection shall re-
2 main available until expended.

3 (b) USE OF FUNDS.—Grants awarded to a State
4 under subsection (a) shall be used for one or more of the
5 following public health-related activities:

6 (1) Improving State prescription drug moni-
7 toring programs.

8 (2) Implementing prevention activities, and
9 evaluating such activities to identify effective strate-
10 gies to prevent substance abuse.

11 (3) Training for health care practitioners, such
12 as best practices for prescribing opioids, pain man-
13 agement, recognizing potential cases of substance
14 abuse, referral of patients to treatment programs,
15 and overdose prevention.

16 (4) Supporting access to health care services
17 provided by federally certified opioid treatment pro-
18 grams or other appropriate health care providers to
19 treat substance use disorders or mental health
20 needs.

21 (5) Other public health-related activities, as the
22 State determines appropriate, related to addressing
23 the substance abuse public health crisis or respond-
24 ing to urgent mental health needs within the State.

TITLE II—FINANCE

SEC. 201. RECAPTURE EXCESS ADVANCE PAYMENTS OF PREMIUM TAX CREDITS.

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:

“(iii) NONAPPLICABILITY OF LIMITATION.—This subparagraph shall not apply to taxable years ending after December 31, 2016, and before January 1, 2019.”.

SEC. 202. PREMIUM TAX CREDIT AND COST-SHARING SUBSIDIES.

(a) REPEAL OF PREMIUM TAX CREDIT.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking section 36B.

(b) REPEAL OF COST-SHARING SUBSIDY.—Section 1402 of the Patient Protection and Affordable Care Act is repealed.

(c) REPEAL OF ELIGIBILITY DETERMINATIONS.—The following sections of the Patient Protection and Affordable Care Act are repealed:

(1) Section 1411 (other than subsection (i), the last sentence of subsection (e)(4)(A)(ii), and such provisions of such section solely to the extent related

1 to the application of the last sentence of subsection
2 (e)(4)(A)(ii).

3 (2) Section 1412.

4 (d) PROTECTING AMERICANS BY REPEAL OF DIS-
5 CLOSURE AUTHORITY TO CARRY OUT ELIGIBILITY RE-
6 QUIREMENTS FOR CERTAIN PROGRAMS.—

7 (1) IN GENERAL.—Paragraph (21) of section
8 6103(l) of the Internal Revenue Code of 1986 is
9 amended by adding at the end the following new
10 subparagraph:

11 “(D) TERMINATION.—No disclosure may
12 be made under this paragraph after December
13 31, 2018.”.

14 (e) EFFECTIVE DATES.—

15 (1) PREMIUM TAX CREDIT.—The amendment
16 made by subsection (a) shall apply to taxable years
17 beginning after December 31, 2018.

18 (2) COST-SHARING SUBSIDIES AND ELIGIBILITY
19 DETERMINATIONS.—The repeals in subsections (b)
20 and (c) shall take effect on December 31, 2018.

21 (3) PROTECTING AMERICANS BY RESCINDING
22 DISCLOSURE AUTHORITY.—The amendments made
23 by subsection (d) shall take effect on December 31,
24 2018.

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

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

5 “(j) SHALL NOT APPLY.—This section shall not
6 apply with respect to amounts paid or incurred in taxable
7 years beginning after December 31, 2018.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to amounts paid or incurred in tax-
10 able years beginning after December 31, 2018.

11 **SEC. 204. INDIVIDUAL MANDATE.**

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

14 (1) in paragraph (2)(B) by striking clauses (ii)
15 and (iii) and inserting the following:

16 “(ii) Zero percent for taxable years
17 beginning after 2015.”, and

18 (2) in paragraph (3)—

19 (A) by striking “\$695” in subparagraph
20 (A) and inserting “\$0”,

21 (B) by striking “and \$325 for 2015” in
22 subparagraph (B), and

23 (C) by striking subparagraph (D).

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

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

2 (a) IN GENERAL.—

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

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

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

14 **SEC. 206. FEDERAL PAYMENTS TO STATES.**

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

1 hibited entity, whether made directly to the prohibited en-
2 tity or through a managed care organization under con-
3 tract with the State.

4 (b) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

10 (B) for which the total amount of Federal
11 and State expenditures under the Medicaid pro-
12 gram under title XIX of the Social Security Act
13 in fiscal year 2014 made directly to the entity
14 and to any affiliates, subsidiaries, successors, or
15 clinics of the entity, or made to the entity and
16 to any affiliates, subsidiaries, successors, or
17 clinics of the entity as part of a nationwide
18 health care provider network, exceeded
19 \$350,000,000.

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

1 **SEC. 207. MEDICAID.**

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

4 (1) in section 1108(g)(5), by striking “2019”
5 and inserting “2018”;

6 (2) in section 1902—

7 (A) in subsection (a)(10)(A), in each of
8 clauses (i)(VIII) and (ii)(XX), by inserting
9 “and ending December 31, 2018,” after “Janu-
10 ary 1, 2014,”;

11 (B) in subsection (a)(47)(B), by inserting
12 “and provided that any such election shall cease
13 to be effective on January 1, 2019, and no such
14 election shall be made after that date” before
15 the semicolon at the end; and

16 (C) in subsection (l)(2)(C), by inserting
17 “and ending December 31, 2018,” after “Janu-
18 ary 1, 2014,”;

19 (3) in each of sections 1902(gg)(2) and
20 2105(d)(3)(A), by striking “September 30, 2019”
21 and inserting “September 30, 2018”;

22 (4) in section 1905—

23 (A) in the first sentence of subsection (b),
24 by inserting “(50 percent on or after January
25 1, 2019)” after “55 percent”;

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

4 (C) in subsection (z)(2)—

5 (i) in subparagraph (A), by striking
6 “each year thereafter” and inserting
7 “through 2018”; and

8 (ii) in subparagraph (B)(ii), by strik-
9 ing the semicolon at the end of subclause
10 (IV) and all that follows through “100 per-
11 cent”;

12 (5) in section 1915(k)(2), by striking “during
13 the period described in paragraph (1)” and inserting
14 “on or after the date referred to in paragraph (1)
15 and before January 1, 2019”;

16 (6) in section 1920(e), by adding at the end the
17 following: “This subsection shall not apply after De-
18 cember 31, 2018.”;

19 (7) in section 1937(b)(5), by adding at the end
20 the following: “This paragraph shall not apply after
21 December 31, 2018.”; and

22 (8) in section 1943(a), by inserting “and before
23 January 1, 2019,” after “January 1, 2014,”.

1 **SEC. 208. REPEAL OF DSH ALLOTMENT REDUCTIONS.**

2 Section 1923(f) of the Social Security Act (42 U.S.C.
3 1396r-4(f)) is amended by striking paragraphs (7) and
4 (8).

5 **SEC. 209. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
6 **SURANCE PREMIUMS AND HEALTH PLAN**
7 **BENEFITS.**

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

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to taxable years beginning after
12 December 31, 2018.

13 **SEC. 210. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
14 **TIONS.**

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

18 (b) ARCHER MSAS.—Subparagraph (A) of section
19 220(d)(2) of the Internal Revenue Code of 1986 is amend-
20 ed by striking “Such term” and all that follows through
21 the period.

22 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
23 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
24 tion 106 of the Internal Revenue Code of 1986 is amended
25 by striking subsection (f).

26 (d) EFFECTIVE DATES.—

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

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

9 **SEC. 211. REPEAL OF TAX ON HEALTH SAVINGS ACCOUNTS.**

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

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

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

19 **SEC. 212. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
20 **FLEXIBLE SPENDING ACCOUNTS.**

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

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

1 **SEC. 213. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
2 **TIONS.**

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

6 “(j) REPEAL.—This section shall apply to calendar
7 years beginning after December 31, 2011, and ending be-
8 fore January 1, 2017.”.

9 **SEC. 214. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

10 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
11 enue Code of 1986 is amended by striking subchapter E.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to sales in calendar quarters begin-
14 ning after December 31, 2016.

15 **SEC. 215. REPEAL OF HEALTH INSURANCE TAX.**

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

19 “(j) REPEAL.—This section shall apply to calendar
20 years beginning after December 31, 2014, and ending be-
21 fore January 1, 2017.”.

22 **SEC. 216. REPEAL OF ELIMINATION OF DEDUCTION FOR**
23 **EXPENSES ALLOCABLE TO MEDICARE PART D**
24 **SUBSIDY.**

25 (a) IN GENERAL.—Section 139A of the Internal Rev-
26 enue Code of 1986 is amended by adding at the end the

1 following new sentence: “This section shall not be taken
2 into account for purposes of determining whether any de-
3 duction is allowable with respect to any cost taken into
4 account in determining such payment.”.

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

8 **SEC. 217. REPEAL OF CHRONIC CARE TAX.**

9 (a) IN GENERAL.—Subsection (a) of section 213 of
10 the Internal Revenue Code of 1986 is amended by striking
11 “10 percent” and inserting “7.5 percent”.

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

15 **SEC. 218. REPEAL OF MEDICARE TAX INCREASE.**

16 (a) IN GENERAL.—Subsection (b) of section 3101 of
17 the Internal Revenue Code of 1986 is amended to read
18 as follows:

19 “(b) HOSPITAL INSURANCE.—In addition to the tax
20 imposed by the preceding subsection, there is hereby im-
21 posed on the income of every individual a tax equal to 1.45
22 percent of the wages (as defined in section 3121(a)) re-
23 ceived by such individual with respect to employment (as
24 defined in section 3121(b)).”.

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

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

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to remuneration re-
12 ceived after, and taxable years beginning after, December
13 31, 2016.

14 **SEC. 219. REPEAL OF TANNING TAX.**

15 (a) IN GENERAL.—The Internal Revenue Code of
16 1986 is amended by striking chapter 49.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to services performed on or after
19 December 31, 2016.

20 **SEC. 220. REPEAL OF NET INVESTMENT TAX.**

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

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

1 **SEC. 221. REMUNERATION.**

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

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

8 **SEC. 222. ECONOMIC SUBSTANCE DOCTRINE.**

9 (a) **IN GENERAL.**—Subsection (o) of section 7701 of
10 the Internal Revenue Code of 1986 is repealed.

11 (b) **PENALTY FOR UNDERPAYMENTS.**—Paragraph
12 (6) of section 6662(b) of the Internal Revenue Code of
13 1986 is repealed.

14 (c) **INCREASED PENALTY FOR NONDISCLOSED**
15 **TRANSACTIONS.**—Subsection (i) of section 6662 of the In-
16 ternal Revenue Code of 1986 is repealed.

17 (d) **REASONABLE CAUSE EXCEPTION FOR UNDER-**
18 **PAYMENTS.**—Paragraph (2) of section 6664(c) of the In-
19 ternal Revenue Code of 1986 is repealed.

20 (e) **REASONABLE CAUSE EXCEPTION FOR NONDIS-**
21 **CLOSED TRANSACTIONS.**—Paragraph (2) of section
22 6664(d) of the Internal Revenue Code of 1986 is repealed.

23 (f) **ERRONEOUS CLAIM FOR REFUND OR CREDIT.**—
24 Subsection (c) of section 6676 of the Internal Revenue
25 Code of 1986 is repealed.

1 (g) EFFECTIVE DATE.—The repeals made by this
2 section shall apply to transactions entered into, and to un-
3 derpayments, understatements, or refunds and credits at-
4 tributable to transactions entered into, after December 31,
5 2016.

6 **SEC. 223. BUDGETARY SAVINGS FOR EXTENDING MEDI-**
7 **CARE SOLVENCY.**

8 As a result of policies contained in this Act, the Sec-
9 retary of the Treasury shall transfer to the Federal Hos-
10 pital Insurance Trust Fund under section 1817 of the So-
11 cial Security Act (42 U.S.C. 1395i) \$_____
12 (which represents the full amount of on-budget savings
13 during the period of fiscal years 2017 through 2026) for
14 extending Medicare solvency, to remain available until ex-
15 pended.

○