

116TH CONGRESS
1ST SESSION

H. R. 1884

To amend the Patient Protection and Affordable Care Act to improve affordability of, undo sabotage with respect to, and increase access to health insurance coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2019

Mr. PALLONE (for himself, Mr. NEAL, Mr. SCOTT of Virginia, Mr. HOYER, Ms. SCHRIER, Mr. CISNEROS, Ms. DEGETTE, Ms. CASTOR of Florida, Mrs. TRAHAN, Mrs. CRAIG, Ms. KUSTER of New Hampshire, Mr. RUIZ, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. ALLRED, Mrs. BUSTOS, Mrs. MCBATH, Mr. LUJÁN, Mr. TED LIEU of California, Mr. PETERS, Ms. WILSON of Florida, Ms. SPANBERGER, Mr. ROUDA, Ms. UNDERWOOD, Mr. DELGADO, Mrs. LEE of Nevada, Ms. BLUNT ROCHESTER, Mr. DOGGETT, Mr. GOMEZ, Mrs. DINGELL, Ms. SHALALA, Ms. FRANKEL, Ms. ESHOO, Mr. SIRES, Mr. SOTO, Ms. JACKSON LEE, Mr. KEATING, Ms. STEVENS, Ms. SEWELL of Alabama, Mr. TRONE, Mr. ROSE of New York, Mrs. KIRKPATRICK, Mr. LARSON of Connecticut, Mr. LEWIS, Ms. JAYAPAL, Ms. GARCIA of Texas, Mr. COURTNEY, Ms. SÁNCHEZ, Mrs. DEMINGS, Mrs. MURPHY, Ms. DEAN, Mr. COHEN, Mr. THOMPSON of California, Mr. RUSH, Mr. MORELLE, Ms. HILL of California, Mr. HIGGINS of New York, Mrs. DAVIS of California, Ms. BROWNLEY of California, Mr. PASCRELL, Ms. SLOTKIN, Mr. ENGEL, Mr. KIM, Mr. BLUMENAUER, Mrs. HAYES, Mr. COX of California, Mr. TAKANO, Mr. PANETTA, Mr. KILDEE, Mr. MALINOWSKI, Mr. LEVIN of Michigan, Mr. GOLDEN, Mr. VAN DREW, Ms. MUCARSEL-POWELL, Mr. GRIJALVA, Mr. ESPAILLAT, Ms. SCHAKOWSKY, Ms. PINGREE, Ms. NORTON, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, 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 amend the Patient Protection and Affordable Care Act to improve affordability of, undo sabotage with respect to, and increase access to health insurance coverage, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Protecting Pre-Existing Conditions and Making Health
 6 Care More Affordable Act of 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents of
 8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING AFFORDABILITY

Sec. 101. Improve affordability and reduce premium costs for consumers.

Sec. 102. Expand affordability for working families.

TITLE II—UNDOING SABOTAGE

Sec. 201. Protect comprehensive coverage for small businesses and workers.

Sec. 202. Short-term limited duration insurance rule prohibition.

Sec. 203. Ensure plans provide comprehensive benefits.

Sec. 204. Providing for additional requirements with respect to the navigator program.

Sec. 205. Federal Exchange outreach and educational activities.

Sec. 206. Improve Health Insurance Affordability Fund.

Sec. 207. Providing that certain guidance related to waivers for State innovation under the Patient Protection and Affordable Care Act shall have no force or effect.

TITLE III—STATE INNOVATION AND TRANSPARENCY

Sec. 301. Fund State health insurance education programs for consumers.

Sec. 302. Fund State innovations to expand coverage.

Sec. 303. Preserving State option to implement health care marketplaces.

Sec. 304. Promote transparency and accountability in the Administration’s expenditures of Exchange user fees.

**TITLE I—EXPANDING
AFFORDABILITY**

SEC. 101. IMPROVE AFFORDABILITY AND REDUCE PREMIUM COSTS FOR CONSUMERS.

(a) IN GENERAL.—Section 36B(b)(3)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

“(A) APPLICABLE PERCENTAGE.—The applicable percentage for any taxable year shall be the percentage such that the applicable percentage for any taxpayer whose household income is within an income tier specified in the following table shall increase, on a sliding scale in a linear manner, from the initial premium percentage to the final premium percentage specified in such table for such income tier:

“In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Over 100.0 percent up to 133.0 percent	0.0	1.0
133.0 percent up to 150.0 percent	1.0	2.0
150.0 percent up to 200.0 percent	2.0	4.0
200.0 percent up to 250.0 percent	4.0	6.0
250.0 percent up to 300.0 percent	6.0	7.0
300.0 percent up to 400.0 percent	7.0	8.5
400.0 percent and higher	8.5	8.5”.

(b) CONFORMING AMENDMENT.—Section 36B(c)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “but does not exceed 400 percent”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2020.

4 **SEC. 102. EXPAND AFFORDABILITY FOR WORKING FAMI-**
5 **LIES.**

6 (a) IN GENERAL.—Clause (i) of section 36B(c)(2)(C)
7 of the Internal Revenue Code of 1986 is amended to read
8 as follows:

9 “(i) COVERAGE MUST BE AFFORD-
10 ABLE.—

11 “(I) EMPLOYEES.—An employee
12 shall not be treated as eligible for
13 minimum essential coverage if such
14 coverage consists of an eligible em-
15 ployer-sponsored plan (as defined in
16 section 5000A(f)(2)) and the employ-
17 ee’s required contribution (within the
18 meaning of section 5000A(e)(1)(B))
19 with respect to the plan exceeds 9.5
20 percent of the employee’s household
21 income.

22 “(II) FAMILY MEMBERS.—An in-
23 dividual who is eligible to enroll in an
24 eligible employer-sponsored plan (as
25 defined in section 5000A(f)(2)) by

1 reason of a relationship the individual
2 bears to the employee shall not be
3 treated as eligible for minimum essen-
4 tial coverage by reason of such eligi-
5 bility to enroll if the employee's re-
6 quired contribution (within the mean-
7 ing of section 5000A(e)(1)(B), deter-
8 mined by substituting 'family' for
9 'self-only') with respect to the plan ex-
10 ceeds 9.5 percent of the employee's
11 household income.".

12 (b) CONFORMING AMENDMENTS.—

13 (1) Clause (ii) of section 36B(c)(2)(C) of the
14 Internal Revenue Code of 1986 is amended by strik-
15 ing "Except as provided in clause (iii), an employee"
16 and inserting "An individual".

17 (2) Clause (iii) of section 36B(c)(2)(C) of such
18 Code is amended by striking "the last sentence of
19 clause (i)" and inserting "clause (i)(II)".

20 (3) Clause (iv) of section 36B(c)(2)(C) of such
21 Code is amended by striking "the 9.5 percent under
22 clause (i)(II)" and inserting "the 9.5 percent under
23 clauses (i)(I) and (i)(II)".

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2020.

4 **TITLE II—UNDOING SABOTAGE**

5 **SEC. 201. PROTECT COMPREHENSIVE COVERAGE FOR** 6 **SMALL BUSINESSES AND WORKERS.**

7 The Secretary of Labor may not take any action to
8 implement, enforce, or otherwise give effect to the rule en-
9 titled “Definition of ‘Employer’ Under Section 3(5) of
10 ERISA—Association Health Plans” (83 Fed. Reg. 28912
11 (June 21, 2018)), and the Secretary may not promulgate
12 any substantially similar rule.

13 **SEC. 202. SHORT-TERM LIMITED DURATION INSURANCE** 14 **RULE PROHIBITION.**

15 The Secretary of Health and Human Services, the
16 Secretary of the Treasury, and the Secretary of Labor
17 may not take any action to implement, enforce, or other-
18 wise give effect to the rule entitled “Short-Term, Limited
19 Duration Insurance” (83 Fed. Reg. 38212 (August 3,
20 2018)), and the Secretaries may not promulgate any sub-
21 stantially similar rule.

1 **SEC. 203. ENSURE PLANS PROVIDE COMPREHENSIVE BENE-**
2 **FITS.**

3 (a) **ESSENTIAL HEALTH BENEFITS.**—Section
4 1302(b)(4) of the Patient Protection and Affordable Care
5 Act (42 U.S.C. 18022(b)(4)) is amended—

6 (1) in subparagraph (A), by inserting “and so
7 that benefits are included within each of such cat-
8 egories” before the semicolon;

9 (2) in subparagraph (G), by striking at the end
10 “and”;

11 (3) in subparagraph (H), by striking the period
12 at the end and inserting “; and”; and

13 (4) by adding at the end the following new sub-
14 paragraph:

15 “(I) ensure that, beginning January 1,
16 2020—

17 “(i) in the case of health benefits that
18 are established as essential health benefits,
19 there shall not be substitution of such ben-
20 efits across benefit categories;

21 “(ii) a qualified health plan shall not
22 be treated as providing coverage for the es-
23 sential health benefits unless under such
24 plan—

25 “(I) coverage of prescription
26 drugs provides for access to a wide

1 variety of classes of drugs within the
2 prescription drug formulary of such
3 plan; and

4 “(II) in the case that a drug that
5 is medically necessary for an enrollee
6 under such plan is not included within
7 such formulary, such individual has
8 access to such drug through an excep-
9 tions process established by the plan;
10 and

11 “(iii) habilitative services are covered
12 at parity with rehabilitative services.”.

13 (b) STANDARD BENEFIT PLANS.—Section 1302(d) of
14 the Patient Protection and Affordable Care Act (42
15 U.S.C. 18022(d)) is amended by adding at the end the
16 following new paragraph:

17 “(5) STANDARD BENEFIT PLANS.—

18 “(A) IN GENERAL.—For purposes of pro-
19 viding individuals with the opportunity to make
20 simpler comparisons of health plans offered by
21 different health insurance issuers and simplify
22 the selection process, the Secretary shall, for
23 each plan year beginning with plan year 2020,
24 through rulemaking, specify a structure de-
25 scribed in subparagraph (B)(i) for a standard

1 benefit plan for such plan year for each of the
2 bronze, silver, and gold levels of coverage and
3 for each actuarial value variation of a silver
4 plan resulting from the application of section
5 1402(c). A standard benefit plan for a plan
6 year for a level of coverage or actuarial value
7 variation of a silver plan shall be modeled on
8 the most commonly purchased plans (deter-
9 mined by enrollments in such plans) during the
10 previous 2 plan years offered in the federally fa-
11 cilitated Exchange operated pursuant to section
12 1321(c) in such level or variation and shall in-
13 clude coverage of deductible-exempt services
14 consistent with actual purchasing patterns of
15 consumers in the previous two plan years.

16 “(B) STANDARD BENEFIT PLAN.—For
17 purposes of this paragraph, the term ‘standard
18 benefit plan’ means a qualified health plan to
19 be offered through an Exchange on the indi-
20 vidual market that has either—

21 “(i) a standardized cost-sharing struc-
22 ture specified by the Secretary pursuant to
23 rulemaking; or

24 “(ii) a standardized cost-sharing
25 structure specified by the Secretary pursu-

1 ant to rulemaking that is modified by the
 2 health insurance issuer of such plan only
 3 to the extent necessary to align with high
 4 deductible health plan requirements under
 5 section 223 of the Internal Revenue Code
 6 of 1986 or the applicable annual limitation
 7 on cost sharing under subsection (c) and
 8 actuarial value requirements specified by
 9 the Secretary.”.

10 **SEC. 204. PROVIDING FOR ADDITIONAL REQUIREMENTS**
 11 **WITH RESPECT TO THE NAVIGATOR PRO-**
 12 **GRAM.**

13 (a) IN GENERAL.—Section 1311(i) of the Patient
 14 Protection and Affordable Care Act (42 U.S.C. 18031(i))
 15 is amended—

16 (1) in paragraph (2), by adding at the end the
 17 following new subparagraph:

18 “(C) SELECTION OF RECIPIENTS.—In the
 19 case of an Exchange established and operated
 20 by the Secretary within a State pursuant to sec-
 21 tion 1321(c), in awarding grants under para-
 22 graph (1), the Exchange shall—

23 “(i) select entities to receive such
 24 grants based solely on an entity’s dem-

1 onstrated capacity to carry out each of the
2 duties specified in paragraph (3);

3 “(ii) not take into account whether or
4 not the entity has demonstrated how the
5 entity will provide information to individ-
6 uals relating to group health plans offered
7 by a group or association of employers de-
8 scribed in section 2510.3–5(b) of title 29,
9 Code of Federal Regulations (or any suc-
10 cessor regulation), or short-term limited
11 duration insurance (as defined by the Sec-
12 retary for purposes of section 2791(b)(5)
13 of the Public Health Service Act); and

14 “(iii) ensure that, each year, the Ex-
15 change awards such a grant to—

16 “(I) at least one entity described
17 in this paragraph that is a community
18 and consumer-focused nonprofit
19 group; and

20 “(II) at least one entity described
21 in subparagraph (B), which may in-
22 clude another community and con-
23 sumer-focused nonprofit group in ad-
24 dition to any such group awarded a
25 grant pursuant to subclause (I).”;

1 (2) in paragraph (3)—

2 (A) in subparagraph (C), by inserting after
3 “qualified health plans” the following: “, State
4 Medicaid plans under title XIX of the Social
5 Security Act, and State Children’s Health In-
6 surance Programs under title XXI of such
7 Act”; and

8 (B) by adding at the end the following
9 flush left sentence:

10 “The duties specified in the preceding sentence may
11 be carried out by such a navigator at any time dur-
12 ing a year.”;

13 (3) in paragraph (4)(A)—

14 (A) in the matter preceding clause (i), by
15 striking “not”;

16 (B) in clause (i)—

17 (i) by inserting “not” before “be”;

18 and

19 (ii) by striking “; or” and inserting
20 “;”;

21 (C) in clause (ii)—

22 (i) by inserting “not” before “re-
23 ceive”; and

24 (ii) by striking the period and insert-
25 ing “;”; and

1 (D) by adding at the end the following new
2 clause:

3 “(iii) maintain physical presence in
4 the State of the Exchange so as to allow
5 in-person assistance to consumers.”; and

6 (4) in paragraph (6)—

7 (A) by striking “FUNDING.—Grants
8 under” and inserting “FUNDING.—

9 “(A) STATE EXCHANGES.—Grants under”;
10 and

11 (B) by adding at the end the following new
12 subparagraph:

13 “(B) FEDERAL EXCHANGES.—For pur-
14 poses of carrying out this subsection, with re-
15 spect to an Exchange established and operated
16 by the Secretary within a State pursuant to sec-
17 tion 1321(c), the Secretary shall obligate
18 \$100,000,000 out of amounts collected through
19 the user fees on participating health insurance
20 issuers pursuant to section 156.50 of title 45,
21 Code of Federal Regulations (or any successor
22 regulations) for fiscal year 2020 and each sub-
23 sequent fiscal year. Such amount for a fiscal
24 year shall remain available until expended.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply with respect to plan years begin-
3 ning on or after January 1, 2020.

4 **SEC. 205. FEDERAL EXCHANGE OUTREACH AND EDU-**
5 **CATIONAL ACTIVITIES.**

6 Section 1321(c) of the Patient Protection and Afford-
7 able Care Act (42 U.S.C. 18041(c)) is amended by adding
8 at the end the following new paragraph:

9 “(3) OUTREACH AND EDUCATIONAL ACTIVI-
10 TIES.—

11 “(A) IN GENERAL.—In the case of an Ex-
12 change established or operated by the Secretary
13 within a State pursuant to this subsection, the
14 Secretary shall carry out outreach and edu-
15 cational activities for purposes of informing po-
16 tential enrollees in qualified health plans offered
17 through the Exchange of the availability of cov-
18 erage under such plans and financial assistance
19 for coverage under such plans. Such outreach
20 and educational activities shall be provided in a
21 manner that is culturally and linguistically ap-
22 propriate to the needs of the populations being
23 served by the Exchange (including hard-to-
24 reach populations, such as racial and sexual mi-

1 norities, limited English proficient populations,
2 and young adults).

3 “(B) LIMITATION ON USE OF FUNDS.—No
4 funds appropriated under this paragraph shall
5 be used for expenditures for promoting non-
6 ACA compliant health insurance coverage.

7 “(C) NON-ACA COMPLIANT HEALTH INSUR-
8 ANCE COVERAGE.—For purposes of this sub-
9 paragraph (B):

10 “(i) The term ‘non-ACA compliant
11 health insurance coverage’ means health
12 insurance coverage, or a group health plan,
13 that is not a qualified health plan.

14 “(ii) Such term includes the following:

15 “(I) An association health plan.

16 “(II) Short-term limited duration
17 insurance.

18 “(D) FUNDING.—Out of any funds in the
19 Treasury not otherwise appropriated, there are
20 hereby appropriated for fiscal year 2020 and
21 each subsequent fiscal year, \$100,000,000 to
22 carry out this paragraph. Funds appropriated
23 under this subparagraph shall remain available
24 until expended.”.

1 **SEC. 206. IMPROVE HEALTH INSURANCE AFFORDABILITY**
2 **FUND.**

3 Subtitle D of title I of the Patient Protection and
4 Affordable Care Act is amended by inserting after part
5 5 (42 U.S.C. 18061 et seq.) the following new part:

6 **“PART 6—IMPROVE HEALTH INSURANCE**
7 **AFFORDABILITY FUND**

8 **“SEC. 1351. ESTABLISHMENT OF PROGRAM.**

9 “There is hereby established the ‘Improve Health In-
10 surance Affordability Fund’ to be administered by the Sec-
11 retary of Health and Human Services, acting through the
12 Administrator of the Centers for Medicare & Medicaid
13 Services (in this section referred to as the ‘Adminis-
14 trator’), to provide funding, in accordance with this title,
15 to the 50 States and the District of Columbia (each re-
16 ferred to in this section as a ‘State’) beginning on January
17 1, 2020, for the purposes described in section 1352.

18 **“SEC. 1352. USE OF FUNDS.**

19 “(a) IN GENERAL.—A State shall use the funds allo-
20 cated to the State under this part for one of the following
21 purposes:

22 “(1) To provide reinsurance payments to health
23 insurance issuers with respect to individuals enrolled
24 under individual health insurance coverage (other
25 than through a plan described in subsection (b)) of-
26 fered by such issuers.

1 “(2) To provide assistance (other than through
2 payments described in paragraph (1)) to reduce out-
3 of-pocket costs, such as copayments, coinsurance,
4 premiums, and deductibles, of individuals enrolled
5 under qualified health plans offered on the indi-
6 vidual market through an Exchange.

7 “(b) EXCLUSION OF CERTAIN GRANDFATHERED AND
8 TRANSITIONAL PLANS.—For purposes of subsection (a),
9 a plan described in this subsection is the following:

10 “(1) A grandfathered health plan (as defined in
11 section 1251).

12 “(2) A plan (commonly referred to as a ‘transi-
13 tional plan’) continued under the letter issued by the
14 Centers for Medicare & Medicaid Services on No-
15 vember 14, 2013, to the State Insurance Commis-
16 sioners outlining a transitional policy for coverage in
17 the individual and small group markets to which sec-
18 tion 1251 does not apply, and under the extension
19 of the transitional policy for such coverage set forth
20 in the Insurance Standards Bulletin Series guidance
21 issued by the Centers for Medicare & Medicaid Serv-
22 ices on March 5, 2014, February 29, 2016, Feb-
23 ruary 13, 2017, and April 9, 2018, or under any
24 subsequent extensions thereof.

1 **“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT**
2 **SAFEGUARD.**

3 “(a) ENCOURAGING STATE OPTIONS FOR ALLOCA-
4 TIONS.—

5 “(1) IN GENERAL.—To be eligible for an alloca-
6 tion of funds under this part for a year (beginning
7 with 2020), a State shall submit to the Adminis-
8 trator an application at such time (but, in the case
9 of allocations for 2020, not later than 90 days after
10 the date of the enactment of this title and, in the
11 case of allocations for a subsequent year, not later
12 than March 31 of the previous year) and in such
13 form and manner as specified by the Administrator
14 containing—

15 “(A) a description of how the funds will be
16 used; and

17 “(B) such other information as the Admin-
18 istrator may require.

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

1 “(3) 5-YEAR APPLICATION APPROVAL.—If an
2 application of a State is approved for a purpose de-
3 scribed in section 1352 for a year, such application
4 shall be treated as approved for such purpose for
5 each of the subsequent 4 years.

6 “(b) DEFAULT FEDERAL SAFEGUARD.—

7 “(1) 2020.—For allocations made under this
8 part for 2020, in the case of a State that does not
9 submit an application under subsection (a) by the
10 90-day submission date applicable to such year
11 under subsection (a)(1) and in the case of a State
12 that does submit such an application by such date
13 that is not approved, the Administrator, in consulta-
14 tion with the State insurance commissioner, shall
15 use, in accordance with paragraph (3), the allocation
16 that would otherwise be provided to the State under
17 this part for such year for such State.

18 “(2) 2021 AND SUBSEQUENT YEARS.—In the
19 case of a State that does not have in effect an ap-
20 proved application under this section for 2021 or a
21 subsequent year, the Administrator, in consultation
22 with the State insurance commissioner, shall use, in
23 accordance with paragraph (3), the allocation that
24 would otherwise be provided to the State under this
25 part for such year for such State.

1 “(3) SPECIFIED USE.—An allocation for a
2 State made pursuant to paragraph (1) or (2) for a
3 year shall be used to carry out the purpose described
4 in section 1352(a)(1) in such State by providing re-
5 insurance payments to health insurance issuers with
6 respect to attachment range claims (as defined in
7 section 1354(b)(2), using the dollar amounts speci-
8 fied in subparagraph (B) of such section for such
9 year) in an amount equal to the percentage (speci-
10 fied for such year by the Secretary under such sub-
11 paragraph) of the amount of such claims.

12 **“SEC. 1354. ALLOCATIONS.**

13 “(a) APPROPRIATION.—For the purpose of providing
14 allocations for States under this part there is appro-
15 priated, out of any money in the Treasury not otherwise
16 appropriated \$10,000,000,000 for 2020 and each subse-
17 quent year.

18 “(b) ALLOCATIONS.—

19 “(1) PAYMENT.—

20 “(A) IN GENERAL.—From amounts appro-
21 priated under subsection (a) for a year, the
22 Secretary shall, with respect to a State and not
23 later than the date specified under subpara-
24 graph (B) for such year, allocate for such State

1 the amount determined for such State and year
2 under paragraph (2).

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

6 “(i) for 2020, the date that is 45 days
7 after the date of the enactment of this
8 title; and

9 “(ii) for 2021 or a subsequent year,
10 January 1 of the respective year.

11 “(C) NOTIFICATIONS OF ALLOCATION
12 AMOUNTS.—For 2021 and each subsequent
13 year, the Secretary shall notify each State of
14 the amount determined for such State under
15 paragraph (2) for such year by not later than
16 January 1 of the previous year.

17 “(2) ALLOCATION AMOUNT DETERMINA-
18 TIONS.—

19 “(A) IN GENERAL.—For purposes of para-
20 graph (1), the amount determined under this
21 paragraph for a year for a State is the amount
22 that the Secretary estimates would be expended
23 under this part for such year on attachment
24 range claims of individuals residing in such
25 State if all States used such funds only for the

1 purpose described in paragraph (1) of section
2 1352 at the dollar amounts and percentage
3 specified under subparagraph (B) for such year.
4 For purposes of the previous sentence and sec-
5 tion 1353(b)(3), the term ‘attachment range
6 claims’ means, with respect to an individual, the
7 claims for such individual that exceed a dollar
8 amount specified by the Secretary for a year,
9 but do not exceed a ceiling dollar amount speci-
10 fied by the Secretary for such year, under sub-
11 paragraph (B).

12 “(B) SPECIFICATIONS.—For purposes of
13 subparagraph (A) and section 1353(b)(3), the
14 Secretary shall determine the dollar amounts
15 and the percentage to be specified under sub-
16 paragraph (A) for a year in a manner to ensure
17 that the total amount of expenditures under
18 this part for such year is estimated to equal the
19 total amount appropriated for such year under
20 subsection (a) if such expenditures were used
21 solely for the purpose described in paragraph
22 (1) of section 1352(a) for attachment range
23 claims at the dollar amounts and percentage so
24 specified for such year.

1 “(3) AVAILABILITY.—Funds allocated to a
2 State under this subsection for a year shall remain
3 available through the end of the subsequent year.

4 “(c) ANNUAL DISTRIBUTION OF PREVIOUS YEAR’S
5 REMAINING FUNDS.—

6 “(1) IN GENERAL.—In carrying out subsection
7 (b), the Secretary shall, with respect to a year (be-
8 ginning with 2021), not later than March 31 of such
9 year—

10 “(A) determine the amount of funds, if
11 any, from the amounts appropriated under sub-
12 section (a) for the previous year but not allo-
13 cated for such previous year; and

14 “(B) if the Secretary determines that any
15 funds were not so allocated for such previous
16 year, allocate such remaining funds to States
17 for such year, in accordance with paragraph
18 (2).

19 “(2) ALLOCATION METHODOLOGY.—For pur-
20 poses of paragraph (1), of the total remaining funds
21 to be allocated for a year pursuant to such para-
22 graph, the Secretary shall allocate to each State an
23 amount that bears the same ratio to such total re-
24 maining funds as the amount allocated pursuant to
25 subsection (b) to such State for such year bears to

1 the total allocations made under such subsection for
2 such year.”.

3 **SEC. 207. PROVIDING THAT CERTAIN GUIDANCE RELATED**
4 **TO WAIVERS FOR STATE INNOVATION UNDER**
5 **THE PATIENT PROTECTION AND AFFORD-**
6 **ABLE CARE ACT SHALL HAVE NO FORCE OR**
7 **EFFECT.**

8 Beginning April 1, 2019, the Secretary of Health and
9 Human Services and the Secretary of the Treasury may
10 not take any action to implement, enforce, or otherwise
11 give effect to the guidance entitled “State Relief and Em-
12 powerment Waivers” (83 Fed. Reg. 53575 (October 24,
13 2018)), and the Secretaries may not promulgate any sub-
14 stantially similar guidance or rule.

15 **TITLE III—STATE INNOVATION**
16 **AND TRANSPARENCY**

17 **SEC. 301. FUND STATE HEALTH INSURANCE EDUCATION**
18 **PROGRAMS FOR CONSUMERS.**

19 Section 2793(e) of the Public Health Service Act (42
20 U.S.C. 300gg–93(e)) is amended by adding at the end the
21 following new paragraph:

22 “(3) APPROPRIATIONS.—For purposes of car-
23 rying out this section, there is hereby appropriated
24 to the Secretary, out of any funds in the Treasury
25 not otherwise appropriated, \$100,000,000 for each

1 of the fiscal years 2020 through 2022. Such amount
2 shall remain available until expended.”.

3 **SEC. 302. FUND STATE INNOVATIONS TO EXPAND COV-**
4 **ERAGE.**

5 (a) IN GENERAL.—Subject to subsection (d), the Sec-
6 retary of Health and Human Services shall award grants
7 to eligible State agencies to enable such States to explore
8 innovative solutions to promote greater enrollment in
9 health insurance coverage in the individual and small
10 group markets, including activities described in subsection
11 (c).

12 (b) ELIGIBILITY.—For purposes of subsection (a), el-
13 igible State agencies are Exchanges established by a State
14 under title I of the Patient Protection and Affordable Care
15 Act and State agencies with primary responsibility over
16 health and human services for the State involved.

17 (c) USE OF FUNDS.—For purposes of subsection (a),
18 the activities described in this subsection are the following:

19 (1) State efforts to streamline health insurance
20 enrollment procedures in order to reduce burdens on
21 consumers and facilitate greater enrollment in health
22 insurance coverage in the individual and small group
23 markets, including automatic enrollment and re-
24 enrollment of, or pre-populated applications for, in-
25 dividuals without health insurance who are eligible

1 for tax credits under section 36B of the Internal
2 Revenue Code of 1986, with the ability to opt out
3 of such enrollment.

4 (2) State investment in technology to improve
5 data sharing and collection for the purposes of facili-
6 tating greater enrollment in health insurance cov-
7 erage in such markets.

8 (3) Implementation of a State version of an in-
9 dividual mandate to be enrolled in health insurance
10 coverage.

11 (4) Feasibility studies to develop comprehensive
12 and coherent State plan for increasing enrollment in
13 the individual and small group market.

14 (d) FUNDING.—For purposes of carrying out this
15 section, there is hereby appropriated, out of any funds in
16 the Treasury not otherwise appropriated, \$200,000,000
17 for each of the fiscal years 2020 through 2022. Such
18 amount shall remain available until expended.

19 **SEC. 303. PRESERVING STATE OPTION TO IMPLEMENT**
20 **HEALTH CARE MARKETPLACES.**

21 (a) IN GENERAL.—Section 1311 of the Patient Pro-
22 tection and Affordable Care Act (42 U.S.C. 18031) is
23 amended—

24 (1) in subsection (a)—

1 (A) in paragraph (4)(B), by striking
2 “under this subsection” and inserting “under
3 this paragraph or paragraph (1)”; and

4 (B) by adding at the end the following new
5 paragraph:

6 “(6) ADDITIONAL PLANNING AND ESTABLISH-
7 MENT GRANTS.—

8 “(A) IN GENERAL.—There shall be appro-
9 priated to the Secretary, out of any moneys in
10 the Treasury not otherwise appropriated,
11 \$200,000,000 to award grants to eligible States
12 for the uses described in paragraph (3).

13 “(B) DURATION AND RENEWABILITY.—A
14 grant awarded under subparagraph (A) shall be
15 for a period of two years and may not be re-
16 newed.

17 “(C) LIMITATION.—A grant may not be
18 awarded under subparagraph (A) after Decem-
19 ber 31, 2022.

20 “(D) ELIGIBLE STATE DEFINED.—For
21 purposes of this paragraph, the term ‘eligible
22 State’ means a State that, as of the date of the
23 enactment of this paragraph, is not operating
24 an Exchange.”; and

25 (2) in subsection (d)(5)(A)—

1 (A) by striking “In establishing an Ex-
2 change under this section” and inserting “(i) IN
3 GENERAL.—In establishing an Exchange under
4 this section (other than in establishing an Ex-
5 change pursuant to subsection (a)(6))”; and

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

7 “(ii) ADDITIONAL PLANNING AND ES-
8 TABLISHMENT GRANTS.—In establishing
9 an Exchange pursuant to subsection
10 (a)(6), the State shall ensure that such
11 Exchange is self-sustaining beginning on
12 January 1, 2024, including allowing the
13 Exchange to charge assessments or user
14 fees to participating health insurance
15 issuers, or to otherwise generate funding,
16 to support its operations.”.

17 (b) CLARIFICATION REGARDING FAILURE TO ESTAB-
18 LISH EXCHANGE OR IMPLEMENT REQUIREMENTS.—Sec-
19 tion 1321(c) of the Patient Protection and Affordable
20 Care Act (42 U.S.C. 18041(c)), as amended by section
21 205, is further amended—

22 (1) in paragraph (1), by striking “If” and in-
23 serting “Subject to paragraph (4), if”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(4) CLARIFICATION.—This subsection shall
2 not apply in the case of a State that elects to apply
3 the requirements described in subsection (a) and
4 satisfies the requirement described in subsection (b)
5 on or after January 1, 2014.”.

6 **SEC. 304. PROMOTE TRANSPARENCY AND ACCOUNT-**
7 **ABILITY IN THE ADMINISTRATION’S EXPENDI-**
8 **TURES OF EXCHANGE USER FEES.**

9 For each of plan years 2018, 2019, and 2020, not
10 later than the date that is 3 months after the end of such
11 plan year, the Secretary of Health and Human Services
12 shall submit to the appropriate committees of Congress
13 and make available to the public an annual report on the
14 expenditure by the Department of Health and Human
15 Services of user fees collected pursuant to section 156.50
16 of title 45, Code of Federal Regulations (or any successor
17 regulations). Each such report for a plan year shall in-
18 clude a detailed accounting of the amount of such user
19 fees collected during such plan year and of the amount
20 of such expenditures used during such plan year for the
21 federally facilitated Exchange operated pursuant to sec-
22 tion 1321(c) of the Patient Protection and Affordable
23 Care Act (42 U.S.C. 18041(c)) on outreach and enroll-

- 1 ment activities, navigators, maintenance of
- 2 Healthcare.gov, and operation of call centers.

