

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2017.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2017.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "_____ Act
5 of 2017".

**TITLE I—ENERGY AND
COMMERCE**

SEC. 101. THE PREVENTION AND PUBLIC HEALTH FUND.

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

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

(2) in paragraph (3)—

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

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

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

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FUNDS.—Of the funds made available by such section 4002, the unobligated balance at the end of fiscal year 2018 is rescinded.

SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.

Section 10503(b)(1) of the Patient Protection and Affordable Care Act (42 U.S.C. 254b–2(b)(1)) is amended—**[Note: Hyde language to be included.]**

(1) in subparagraph (D), by striking “and” at the end; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(F) \$285,000,000 for fiscal year 2018;
4 and”.

5 **SEC. 103. REPEAL OF MEDICAID PROVISIONS.**

6 The Social Security Act is amended—

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

8 (A) in subsection (a)(47)(B), by inserting
9 “and provided that any such election shall cease
10 to be effective on January 1, 2020, and no such
11 election shall be made after that date” before
12 the semicolon at the end; and

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

16 (2) in section 1915(k)(2) (42 U.S.C.
17 1396n(k)(2)), by striking “during the period de-
18 scribed in paragraph (1)” and inserting “on or after
19 the date referred to in paragraph (1) and before
20 January 1, 2020”; and

21 (3) in section 1920(e) (42 U.S.C. 1396r-1(e)),
22 by striking “under clause (i)(VIII), clause (i)(IX), or
23 clause (ii)(XX) of subsection (a)(10)(A)” and insert-
24 ing “under clause (i)(VIII) or clause (ii)(XX) of sec-

1 tion 1902(a)(10)(A) before January 1, 2020, section
2 1902(a)(10)(A)(i)(IX),”.

3 **SEC. 104. REPEAL OF MEDICAID EXPANSION.**

4 (a) **IN GENERAL.**—Section 1902(a)(10)(A) of the So-
5 cial Security Act (42 U.S.C. 1396a(a)(10)(A)) is amend-
6 ed—

7 (1) in clause (i)(VIII), by inserting “at the op-
8 tion of a State,” after “January 1, 2014,”; and

9 (2) in clause (ii)(XX), by inserting “and ending
10 December 31, 2019,” after “2014,”.

11 (b) **TERMINATION OF EFMAP FOR NEW ACA EX-**
12 **PANSION ENROLLEES.**—Section 1905 of the Social Secu-
13 rity Act (42 U.S.C. 1396d) is amended—

14 (1) in subsection (y)(1), in the matter preceding
15 subparagraph (A), by striking “with respect to” and
16 all that follows through “shall be” and inserting
17 “with respect to amounts expended before January
18 1, 2020, by such State for medical assistance for
19 newly eligible individuals described in subclause
20 (VIII) of section 1902(a)(10)(A)(i) who are enrolled
21 under the State plan (or a waiver of the plan) before
22 such date and with respect to amounts expended
23 after such date by such State for medical assistance
24 for individuals described in such subclause who were
25 enrolled under such plan (or waiver of such plan) as

1 of December 31, 2019, and who do not have a break
2 in eligibility for medical assistance under such State
3 plan (or waiver) for more than one month after such
4 date, shall be”; and

5 (2) in subsection (z)(2)—

6 (A) in subparagraph (A), by striking
7 “medical assistance for individuals” and all that
8 follows through “shall be” and inserting
9 “amounts expended before January 1, 2020, by
10 such State for medical assistance for individuals
11 described in section 1902(a)(10)(A)(i)(VIII)
12 who are nonpregnant childless adults with re-
13 spect to whom the State may require enrollment
14 in benchmark coverage under section 1937 and
15 who are enrolled under the State plan (or a
16 waiver of the plan) before such date and with
17 respect to amounts expended after such date by
18 such State for medical assistance for individuals
19 described in such section, who are nonpregnant
20 childless adults with respect to whom the State
21 may require enrollment in benchmark coverage
22 under section 1937, who were enrolled under
23 such plan (or waiver of such plan) as of Decem-
24 ber 31, 2019, and who do not have a break in
25 eligibility for medical assistance under such

1 State plan (or waiver) for more than one month
2 after such date, shall be” ; and

3 (B) in subparagraph (B)(ii)—

4 (i) in subclause (III), by adding
5 “and” at the end; and

6 (ii) by striking subclauses (IV), (V),
7 and (VI) and inserting the following new
8 subclause:

9 “(IV) 2017 and each subsequent year is 80
10 percent.”.

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

16 **SEC. 105. REPEAL OF DSH ALLOTMENT REDUCTIONS.**

17 Section 1923(f) of the Social Security Act (42 U.S.C.
18 1396r–4(f)) is amended by striking paragraphs (7) and
19 (8).

20 **SEC. 106. REPEAL OF COST-SHARING SUBSIDY.**

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

23 (b) EFFECTIVE DATE.—The repeal in subsection (a)
24 shall take effect on December 31, **[2019]**.

1 **SEC. 107. PER CAPITA-BASED CAP ON MEDICAID PAYMENTS**
2 **FOR MEDICAL ASSISTANCE.**

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

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

6 (A) in subsection (a), in the matter before
7 paragraph (1), by inserting “and section
8 1903A(a)” after “except as otherwise provided
9 in this section”; and

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

13 (2) by inserting after such section 1903 the fol-
14 lowing new section:

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

17 **“(a) APPLICATION OF PER CAPITA CAP ON PAY-**
18 **MENTS FOR MEDICAL ASSISTANCE EXPENDITURES.—**

19 **“(1) IN GENERAL.—**If a State has excess ag-
20 gregate medical assistance expenditures (as defined
21 in paragraph (2)) for a fiscal year (beginning with
22 fiscal year 2020), the amount of payment to the
23 State under section 1903(a)(1) for each quarter in
24 the following fiscal year shall be reduced by $\frac{1}{4}$ of
25 the excess aggregate medical assistance payments
26 (as defined in paragraph (3)) for that previous fiscal

1 year. In this section, the term ‘State’ means only the
2 50 States and the District of Columbia.

3 “(2) EXCESS AGGREGATE MEDICAL ASSISTANCE
4 EXPENDITURES.—In this subsection, the term ‘ex-
5 cess aggregate medical assistance expenditures’
6 means, for a State for a fiscal year, the amount (if
7 any) by which—

8 “(A) the amount of the adjusted total med-
9 ical assistance expenditures (as defined in sub-
10 section (b)(1)) for the State and fiscal year; ex-
11 ceeds

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

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

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

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

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

6 “(A) the amount of the Federal payments
7 that would be made to the State under section
8 1903(a)(1) for medical assistance expenditures
9 for calendar quarters in the fiscal year if para-
10 graph (1) did not apply; to

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

13 “(b) ADJUSTED TOTAL MEDICAL ASSISTANCE EX-
14 PENDITURES.—Subject to subsection (g), the following
15 shall apply:

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

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

20 “(i) the amount of the medical assist-
21 ance expenditures (as defined in paragraph
22 (2)) for the State and fiscal year, reduced
23 by the amount of any excluded expendi-
24 tures (as defined in paragraph (3)) for the

1 State and fiscal year otherwise included in
2 such medical assistance expenditures; and

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

6 “(B) for fiscal year 2019 or a subsequent
7 fiscal year, the amount of the medical assist-
8 ance expenditures (as defined in paragraph (2))
9 for the State and fiscal year that is attributable
10 to 1903A enrollees, reduced by the amount of
11 any excluded expenditures (as defined in para-
12 graph (3)) for the State and fiscal year other-
13 wise included in such medical assistance ex-
14 penditures.

15 “(2) MEDICAL ASSISTANCE EXPENDITURES.—

16 In this section, the term ‘medical assistance expendi-
17 tures’ means, for a State and fiscal year, the med-
18 ical assistance payments as reported by medical
19 service category on the Form CMS-64 quarterly ex-
20 pense report (or successor to such a report form,
21 and including enrollment data and subsequent ad-
22 justments to any such report, in this section referred
23 to collectively as a ‘CMS-64 report’) that directly re-
24 sult from providing medical assistance under the
25 State plan (including under a waiver of the plan) for

1 which payment is (or may otherwise be) made pur-
2 suant to section 1903(a)(1).

3 “(3) EXCLUDED EXPENDITURES.— In this sec-
4 tion, the term ‘excluded expenditures’ means, for a
5 State and fiscal year, expenditures under the State
6 plan (or under a waiver of such plan) that are at-
7 tributable to any of the following (which shall not be
8 construed as including payments made with respect
9 to the program under section 1928 or payments at-
10 tributable to administrative expenditures for which
11 payments are made under section 1903(a) (other
12 than under paragraph (1) of such section)):

13 “(A) DSH.—Payment adjustments made
14 for disproportionate share hospitals under sec-
15 tion 1923.

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

19 “(4) 1903A FY 16 POPULATION PERCENTAGE.—
20 In this subsection, the term ‘1903A FY16 popu-
21 lation percentage’ means, for a State, the Sec-
22 retary’s calculation of the percentage of the actual
23 medical assistance expenditures, as reported by the
24 State on the CMS-64 reports for calendar quarters

1 in fiscal year 2016, that are attributable to 1903A
2 enrollees (as defined in subsection (e)(1)).

3 “(c) TARGET TOTAL MEDICAL ASSISTANCE EXPEND-
4 ITURES.—

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

10 “(A) the target per capita medical assist-
11 ance expenditures (as defined in paragraph (2))
12 for the enrollee category, State, and fiscal year;
13 and

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

17 “(2) TARGET PER CAPITA MEDICAL ASSISTANCE
18 EXPENDITURES.—In this subsection, the term ‘tar-
19 get per capita medical assistance expenditures’
20 means, for a 1903A enrollee category, State, and a
21 fiscal year, an amount equal to—

22 “(A) the provisional FY19 target per cap-
23 ita amount for such enrollee category (as cal-
24 culated under subsection (d)(5)) for the State;
25 increased by

1 “(B) the percentage increase in the med-
2 ical care component of the consumer price index
3 for all urban consumers (U.S. city average)
4 from September of 2019 to September of the
5 fiscal year involved plus one percentage point.

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

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

13 “(A) The amount of the adjusted total
14 medical assistance expenditures (as defined in
15 subsection (b)(1)) for the State for fiscal year
16 2016.

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

20 “(C) The average per capita medical as-
21 sistance expenditures for the State for fiscal
22 year 2016 equal to—

23 “(i) the amount calculated under sub-
24 paragraph (A); divided by

1 “(ii) the number calculated under sub-
2 paragraph (B).

3 “(2) FISCAL YEAR 2019 AVERAGE PER CAPITA
4 AMOUNT BASED ON INFLATING THE FISCAL YEAR
5 2016 AMOUNT TO FISCAL YEAR 2019 BY CPI-MEDICAL
6 PLUS ONE.—The Secretary shall calculate a fiscal
7 year 2019 average per capita amount for each State
8 equal to—

9 “(A) the average per capita medical assist-
10 ance expenditures for the State for fiscal year
11 2016 (calculated under paragraph (1)(C)); in-
12 creased by

13 “(B) the percentage increase in the med-
14 ical care component of the consumer price index
15 for all urban consumers (U.S. city average)
16 from September, 2016 to September, 2019 plus
17 one percentage point.

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

22 “(A) The amount of the adjusted total
23 medical assistance expenditures (as defined in
24 subsection (b)(1)) for the State for fiscal year
25 2019.

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

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

9 “(A)(i) For each 1903A enrollee category,
10 the amount of the adjusted total medical assist-
11 ance expenditures (as defined in subsection
12 (b)(1)) for the State for fiscal year 2019 for in-
13 dividuals in the enrollee category, calculated by
14 excluding from medical assistance expenditures
15 those expenditures attributable to non-DSH
16 supplemental expenditures (as defined in clause
17 (ii)).

18 “(ii) In this paragraph, the term ‘non-
19 DSH supplemental expenditure’ means a pay-
20 ment to a provider under the State plan (or
21 under a waiver of the plan) that—

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

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

1 “(III) is in addition to any payments
2 made to the provider under the plan (or
3 waiver) for any such item or service; and

4 “(IV) complies with the limits for ad-
5 ditional payments to providers under the
6 plan (or waiver) imposed pursuant to sec-
7 tion 1902(a)(30)(A), including the regula-
8 tions specifying upper payment limits
9 under the State plan in part 447 of title
10 42, Code of Federal Regulations (or any
11 successor regulations).

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

16 “(C) For fiscal year 2016, the State’s non-
17 DSH supplemental payment percentage is equal
18 to the ratio (expressed as a percentage) of—

19 “(i) the total amount of non-DSH
20 supplemental expenditures (as defined in
21 subparagraph (A)(ii)) for the State for fis-
22 cal year 2016; to

23 “(ii) the amount described in sub-
24 section (b)(1)(A) for the State for fiscal
25 year 2016.

1 “(D) For each 1903A enrollee category an
2 average medical assistance expenditures per
3 capita for the State for fiscal year 2019 for the
4 enrollee category equal to—

5 “(i) the amount calculated under sub-
6 paragraph (A) for the State, increased by
7 the non-DSH supplemental payment per-
8 centage for the State (as calculated under
9 subparagraph (C)); divided by

10 “(ii) the number calculated under sub-
11 paragraph (B) for the State for the en-
12 rollee category.

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

22 “(A) the product of—

23 “(i) the fiscal year 2019 average per
24 capita amount for the State, as calculated
25 under paragraph (2); and

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

4 “(B) the amount of the adjusted total
5 medical assistance expenditures for the State
6 for fiscal year 2019, as calculated under para-
7 graph (3)(A).

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

11 “(1) 1903A ENROLLEE.—The term ‘1903A en-
12 rollee’ means, with respect to a State and a month,
13 any Medicaid enrollee (as defined in paragraph (3))
14 for the month, other than such an enrollee who for
15 such month is in any of the following categories of
16 excluded individuals:

17 “(A) CHIP.—An individual who is pro-
18 vided, under this title in the manner described
19 in section 2101(a)(2), child health assistance
20 under title XXI.

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

1 “(C) BREAST AND CERVICAL CANCER
2 SERVICES ELIGIBLE INDIVIDUAL.—An indi-
3 vidual who is entitled to medical assistance
4 under this title only pursuant to section
5 1902(a)(10)(A)(ii)(XVIII).

6 “(D) PARTIAL-BENEFIT ENROLLEES.—An
7 individual who—

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

11 “(ii) is entitled to medical assistance
12 under this title only pursuant to section
13 1902(a)(10)(A)(ii)(XXI) (or pursuant to a
14 waiver that provides only comparable bene-
15 fits);

16 “(iii) is a dual eligible individual (as
17 defined in section 1915(h)(2)(B)) and is
18 entitled to medical assistance under this
19 title (or under a waiver) only for medicare
20 cost-sharing described in section
21 1905(p)(3)(A) or clause (i) or (ii) of such
22 section; or

23 “(iv) is entitled to medical assistance
24 under this title and for whom the State is
25 providing a payment or subsidy to an em-

1 ployer for coverage of the individual under
2 a group health plan pursuant to section
3 1906 or section 1906A (or pursuant to a
4 waiver that provides only comparable bene-
5 fits).

6 “(2) 1903A ENROLLEE CATEGORY.—The term
7 ‘1903A enrollee category’ means each of the fol-
8 lowing:

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

11 “(B) BLIND AND DISABLED.—A category
12 of 1903A enrollees (not described in the pre-
13 vious subparagraph) who are eligible for med-
14 ical assistance under this title on the basis of
15 being blind or disabled.

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

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

1 “(E) OTHER NONELDERLY, NONDISABLED,
2 NONEXPANSION ADULTS.—A category of 1903A
3 enrollees who are not described in any previous
4 subparagraph.

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

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

19 “(f) SPECIAL PAYMENT RULES.—

20 “(1) APPLICATION IN CASE OF WAIVER.—In the
21 case of a State with a waiver approved under section
22 1115, this section shall apply to medical assistance
23 expenditures and medical assistance payments under
24 the waiver in the same manner as if such expendi-
25 tures and payments had been made under a State

1 plan under title XIX and the limitations on expendi-
2 tures under this section shall supersede any other
3 payment limitations or provisions (including limita-
4 tions based on a per capita limitation) otherwise ap-
5 plicable under such a waiver.

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

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

24 **“(A)** the Secretary shall calculate and
25 apply subsections (a) through (e) with respect

1 to the State as if all 1903A enrollee categories
2 for which such expenditure and enrollee data
3 were not satisfactorily submitted were a single
4 1903A enrollee category; and

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

8 “(g) RECALCULATION OF CERTAIN AMOUNTS FOR
9 DATA ERRORS.—The amounts and percentage calculated
10 under paragraphs (1) and (4)(C) of subsection (d) for a
11 State for fiscal year 2016, and the amounts of the ad-
12 justed total medical assistance expenditures calculated
13 under subsection (b) and the number of Medicaid enrollees
14 and 1903A enrollees determined under subsection (e)(4)
15 for a State for fiscal year 2016, fiscal year 2019, and any
16 subsequent fiscal year, may be adjusted by the Secretary
17 based upon an appeal (filed by the State in such a form,
18 manner, and time, and containing such information relat-
19 ing to data errors that support such appeal, as the Sec-
20 retary specifies) that the Secretary determines to be valid,
21 except that any adjustment by the Secretary under this
22 subsection for a State may not result in an increase of
23 the target total medical assistance expenditures exceeding
24 2 percent.

1 “(h) REQUIRED REPORTING AND AUDITING OF
2 CMS-64 DATA; TRANSITIONAL INCREASE IN FEDERAL
3 MATCHING PERCENTAGE FOR CERTAIN ADMINISTRATIVE
4 EXPENSES.—

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

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

1 ducted on a representative sample (as determined by
2 the Secretary).

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

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

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

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

23 **[(b) CONFORMING AMENDMENTS.—[Review with**
24 **CMS any conforming amendments required.]]**

1 **SEC. 108. FEDERAL PAYMENTS TO STATES.**

2 (a) **IN GENERAL.**—Notwithstanding section 504(a),
3 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or
4 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),
5 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4),
6 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Med-
7 icaid waiver in effect on the date of enactment of this Act
8 that is approved under section 1115 or 1915 of the Social
9 Security Act (42 U.S.C. 1315, 1396n), for the 1-year pe-
10 riod beginning on the date of the enactment of this Act,
11 no Federal funds provided from a program referred to in
12 this subsection that is considered direct spending for any
13 year may be made available to a State for payments to
14 a prohibited entity, whether made directly to the prohib-
15 ited entity or through a managed care organization under
16 contract with the State.

17 (b) **DEFINITIONS.**—In this section:

18 (1) **PROHIBITED ENTITY.**—The term “prohib-
19 ited entity” means an entity, including its affiliates,
20 subsidiaries, successors, and clinics—

21 (A) that, as of the date of enactment of
22 this Act—

23 (i) is an organization described in sec-
24 tion 501(e)(3) of the Internal Revenue
25 Code of 1986 and exempt from tax under
26 section 501(a) of such Code;

1 (ii) is an essential community provider
2 described in section 156.235 of title 45,
3 Code of Federal Regulations (as in effect
4 on the date of enactment of this Act), that
5 is primarily engaged in family planning
6 services, reproductive health, and related
7 medical care; and

8 (iii) provides for abortions, other than
9 an abortion—

10 (I) if the pregnancy is the result
11 of an act of rape or incest; or

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

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

1 clinics of the entity, or made to the entity and
2 to any affiliates, subsidiaries, successors, or
3 clinics of the entity as part of a nationwide
4 health care provider network, exceeded
5 \$350,000,000.

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

10 **SEC. 109. FINANCIAL ASSISTANCE FOR STATES FOR FUND-**
11 **ING THE NEEDS OF CERTAIN INDIVIDUALS.**

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

14 **“TITLE XXII—STATE INNOVA-**
15 **TION GRANTS AND STABILITY**
16 **PROGRAM**

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

18 “There is hereby established the ‘State Innovation
19 Grants and Stability Program’ to be administered by the
20 Secretary of Health and Human Services, acting through
21 the Administrator of the Centers for Medicare & Medicaid
22 Services (in this section referred to as the ‘Adminis-
23 trator’), to provide funding, in accordance with this sec-
24 tion, to the 50 States and the District of Columbia (each
25 referred to in this section as a ‘State’) during the period

1 beginning on January 1, 2018, and ending on December
2 31, 2026, for the purposes described in section 2202.

3 **“SEC. 2202. USE OF FUNDS.**

4 “A State may use the funds allocated to the State
5 under this title for any of the following purposes:

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

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

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

1 “(4) Promoting participation in the State
2 health insurance market and increasing health insur-
3 ance options available through such market.

4 “(5) Promoting access to preventive services,
5 dental care services (whether preventive or medically
6 necessary), vision care services (whether preventive
7 or medically necessary), or any combination of such
8 services.

9 “(6) Providing payments, directly or indirectly,
10 to health care providers for the provision of such
11 health care services as are specified by the Adminis-
12 trator.

13 “(7) Providing assistance to reduce out-of-pock-
14 et costs, such as copayments, coinsurance, pre-
15 miums, and deductibles, of individuals enrolled in
16 health insurance coverage in the State.

17 **“SEC. 2203. STATE ELIGIBILITY AND APPROVAL.**

18 “(a) IN GENERAL.—To be eligible for an allocation
19 of funds under this title for a year beginning with 2020,
20 a State shall submit to the Administrator an application
21 at such time (but not later than **【June 30】** of the **【pre-**
22 **vious】** year) and in such form and manner as specified
23 by the Administrator and containing—

1 “(1) a description of how the funds will be used
2 for one or more of the purposes described in section
3 2202;

4 “(2) a certification that the State will make,
5 from non-Federal funds, expenditures for 1 or more
6 of such purposes in an amount that is not less than
7 the State percentage required for the year under
8 section 2204; and

9 “(3) such other information as the Adminis-
10 trator may require.

11 “(b) DEFAULT APPROVAL.—An application so sub-
12 mitted is approved unless the Administrator notifies the
13 State submitting the application, not later than 60 days
14 after the date of the submission of such application, that
15 the application has been denied for not being in compli-
16 ance with any requirement of this title and of the reason
17 for such denial.

18 “(c) ONE-TIME APPLICATION.—If an application of
19 a State is approved for a year, with respect to a purpose
20 described in section 2202, such application shall be treated
21 as approved, with respect to such purpose, for each subse-
22 quent year through December 31, 2026.

23 “(d) TREATMENT AS A STATE HEALTH CARE PRO-
24 GRAM.—Any program receiving funds from an allocation
25 to a State under this title, shall be considered to be a

1 'State health care program' for purposes of sections 1128,
2 1128A, and 1128B.

3 **"SEC. 2204. ALLOCATIONS.**

4 “(a) APPROPRIATION.—For the purpose of providing
5 allocations to States under this section there is appro-
6 priated, out of any money in the Treasury not otherwise
7 appropriated—

8 “(1) for calendar year 2018, \$15,000,000,000;

9 “(2) for calendar year 2019, \$15,000,000,000;

10 “(3) for calendar year 2020, \$10,000,000,000;

11 “(4) for calendar year 2021, \$10,000,000,000;

12 “(5) for calendar year 2022, \$10,000,000,000;

13 “(6) for calendar year 2023, \$10,000,000,000;

14 “(7) for calendar year 2024, \$10,000,000,000;

15 “(8) for calendar year 2025, \$10,000,000,000;

16 and

17 “(9) for calendar year 2026, \$10,000,000,000.

18 “(b) ALLOCATIONS.—

19 “(1) FOR TEMPORARY STATE FISCAL RELIEF
20 FOR 2018 AND 2019.—

21 “(A) PAYMENT.—

22 “(i) IN GENERAL.—From amounts
23 appropriated under subsection (a) for 2018
24 or 2019, the Administrator shall, with re-
25 spect to a State and not later than the

1 date specified under clause (ii) for such
2 year, pay such State the amount deter-
3 mined for such State and year under sub-
4 paragraph (B).

5 “(ii) SPECIFIED DATE.—For purposes
6 of clause (i), the date specified in this
7 clause is—

8 “(I) for 2018, the date that is 45
9 days after the date of the enactment
10 of this title; and

11 “(II) for 2019, January 1, 2019.

12 “(B) ALLOCATIONS BASED ON RELATIVE
13 HEALTH COSTS.—

14 “(i) IN GENERAL.—Subject to (vi)(II),
15 the amount appropriated under subsection
16 (a) for each of 2018 and 2019 shall be
17 used to allocate to each State for such year
18 an amount equal to the relative health cost
19 proportion amount described in clause (ii)
20 for the State and year.

21 “(ii) RELATIVE HEALTH COST PRO-
22 PORTION AMOUNT.—The relative health
23 cost proportion amount described in this
24 clause for a State and year is the product
25 of—

1 “(I) the amount described in sub-
2 section (a) for the year; and

3 “(II) the relative State health
4 cost proportion (as defined in clause
5 (iii)) for such State and year;

6 adjusted in accordance with clause (vi)(I).

7 “(iii) RELATIVE STATE HEALTH COST
8 PROPORTION DEFINED.—For purposes of
9 clause (ii)(II), the term ‘relative State
10 health cost proportion’ means, with respect
11 to a State and year, the amount equal to
12 the quotient of—

13 “(I) the State health cost (deter-
14 mined in accordance with clause (iv))
15 for the year; and

16 “(II) the total health costs of all
17 States (determined in accordance with
18 clause (v)) for the year.

19 “(iv) STATE HEALTH COST.—For pur-
20 poses of clause (iii), the State health cost
21 for a State shall be—

22 “(I) for 2018, the amount equal
23 to the product of—

24 “(aa) the estimated number
25 of individuals who were eligible to

1 enroll through an Exchange for
2 residents of such State under
3 section 1311 or 1321 of the Pa-
4 tient Protection and Affordable
5 Care Act for plan year 2016; and

6 “(bb) the amount by which
7 the average cost of premiums for
8 plan year 2016 for health plans
9 in such State exceeds the na-
10 tional average cost of premiums
11 for such year for health plans;
12 and

13 “(II) for 2019, the amount equal
14 to the product of—

15 “(aa) the estimated number
16 of individuals who were eligible to
17 enroll through an Exchange for
18 residents of such State under
19 section 1311 or 1321 of the Pa-
20 tient Protection and Affordable
21 Care Act for plan year 2017; and

22 “(bb) the amount by which
23 the average cost of premiums for
24 plan year 2017 for health plans
25 in such State exceeds the na-

1 tional average cost of premiums
2 for such year for health plans.

3 In estimating the number of individuals
4 enrolling through an Exchange for pur-
5 poses of this clause for a year, the Admin-
6 istrator shall not take into account any in-
7 dividual who is eligible for medical assist-
8 ance under title XIX (except, in the case
9 of a State that has elected to provide
10 under its State plan (or a waiver of such
11 plan) medical assistance to individuals de-
12 scribed in section 1902(a)(10)(A)(i)(VIII),
13 individuals described in such section who
14 are eligible to receive such medical assist-
15 ance under such State plan (or such waiv-
16 er)), an alien unlawfully present in the
17 United States, and an individual who is eli-
18 gible for employer health coverage.

19 “(v) TOTAL HEALTH COSTS.—For
20 purposes of clause (iii), the total health
21 costs for all States for a year shall be the
22 amount equal to the sum of each amount
23 determined under clause (iv) for each State
24 for such year.

25 “(vi) MINIMUM PAYMENT.—

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“(I) PRO RATA ADJUSTMENTS.—

The Administrator shall adjust on a pro rata basis the amount determined under clause (ii) for a State to the extent necessary to comply with the requirement of subclause (II).

“(II) MINIMUM AMOUNT.—The

requirement of this subclause is that no State shall receive a payment under this paragraph for a year that is less than $\frac{1}{2}$ of 1 percent of the amount appropriated for such year under subsection (a)].

“(C) CERTIFICATION.—In order to receive

an allotment under this paragraph for a year, a State shall provide the Administrator with a certification that the State’s proposed uses of the funds are consistent with section 2202 and subsection (d)(2) by not later than the last day of such year.

“(2) FOR 2020 THROUGH 2026.—In the case of

a State with an application approved under section 2203 with respect to a year after 2019, subject to subsection (d), the Administrator shall allocate to such State, from amounts appropriated for such

1 year under subsection (a) and in accordance with an
2 allocation methodology specified by the Adminis-
3 trator which takes into consideration the percentage
4 of residents of such State with income that is below
5 **[300]/[250]/[138]** percent of the poverty line ap-
6 plicable to the size of the family involved as well as
7 the number of residents of such State who are indi-
8 viduals without health insurance, such amount as
9 specified by the Administrator with respect to such
10 State and application and year.

11 “(3) ANNUAL DISTRIBUTION OF PREVIOUS
12 YEAR’S REMAINING FUNDS.— In carrying out para-
13 graph (2), with respect to a year (beginning with
14 2020), the Administrator shall, not later than March
15 31 of such year—

16 “(A) determine the amount of funds, if
17 any, from the amounts appropriated under sub-
18 section (a) for the previous year but not allo-
19 cated for such previous year; and

20 “(B) if the Administrator determines that
21 any funds were not so allocated for such pre-
22 vious year, allocate such remaining funds, in ac-
23 cordance with the allocation methodology speci-
24 fied pursuant to paragraph (1), to States that
25 have submitted an application approved under

1 section 2023 for such previous year for any
2 purpose for which such an application was ap-
3 proved.

4 “(c) AVAILABILITY.—Amounts appropriated under
5 subsection (a) for a year and allocated to States in accord-
6 ance with this section shall remain available for expendi-
7 ture through December 31, 2026.

8 “(d) CONDITIONS FOR AND LIMITATIONS ON RE-
9 CEIPT OF FUNDS.—The Secretary may not make an allo-
10 cation under this subsection to a State, with respect to
11 an application approved under section 2203—

12 “(1) if the State does not agree that the State
13 will make available non-Federal contributions to-
14 wards each purpose for which such application was
15 approved in an amount equal to—

16 “(A) for calendar year 2020, 7 percent of
17 the amount allocated under this subsection to
18 such State for such year and purpose;

19 “(B) for calendar year 2021, 14 percent of
20 the amount allocated under this subsection to
21 such State for such year and purpose;

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

1 “(D) for calendar year 2023, 28 percent of
2 the amount allocated under this subsection to
3 such State for such year and purpose;

4 “(E) for calendar year 2024, 35 percent of
5 the amount allocated under this subsection to
6 such State for such year and purpose;

7 “(F) for calendar year 2025, 42 percent of
8 the amount allocated under this subsection to
9 such State for such year and purpose; and

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

13 “(2) if such an allocation would not be per-
14 mitted under subsection (c)(7) of section 2105 if
15 such allocation were payment made under such sec-
16 tion.”.

17 **SEC. 110. CONTINUOUS HEALTH INSURANCE COVERAGE IN-**
18 **CENTIVE.**

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

21 (1) in section 2701(a)(1)(B), by striking “such
22 rate” and inserting “subject to section 2711, such
23 rate”;

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

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

3 **“SEC. 2711. ENCOURAGING CONTINUOUS HEALTH INSUR-**
4 **ANCE COVERAGE.**

5 “(a) PENALTY APPLIED.—

6 “(1) IN GENERAL.—Notwithstanding section
7 2701, subject to the succeeding provisions of this
8 section, a health insurance issuer offering health in-
9 surance coverage in the individual or small group
10 market shall, in the case of an individual who is an
11 applicable policyholder of such coverage with respect
12 to an enforcement period applicable to enrollments
13 for a plan year beginning with plan year 2019 (or,
14 in the case of enrollments during a special enroll-
15 ment period, beginning with plan year 2018), in-
16 crease the monthly premium rate otherwise applica-
17 ble to such individual for such coverage during each
18 month of such period, by an amount determined
19 under paragraph (2).

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

1 amount that is equal to 30 percent of the monthly
2 premium rate otherwise applicable to such applicable
3 policyholder for such coverage during such month.

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

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

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

11 “(B) cannot demonstrate (through presen-
12 tation of certifications described in section
13 2704(e) or in such other manner as may be
14 specified in regulations, including as described
15 in subsection (c)) that, during the look-back pe-
16 riod that is with respect to such enforcement
17 period, there was not a period of at least 63
18 continuous days during which the individual did
19 not have creditable coverage (as defined in
20 paragraph (1) of section 2704(e) and credited
21 in accordance with paragraphs (2) and (3) of
22 such section); and

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

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

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

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

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

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

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

3 “(c) CERTIFICATIONS OF CREDITABLE COVERAGE IN
4 CASE OF COVERAGE PROVIDED BY GOVERNMENTAL
5 UNITS.—In the case of coverage provided by any govern-
6 mental unit or any agency or instrumentality thereof, the
7 officer or employee who enters into the agreement to pro-
8 vide such coverage (or the person appropriately designated
9 for purposes of this section) shall provide, in accordance
10 with regulations promulgated to carry out this section, for
11 certifications of creditable coverage required by this sec-
12 tion.”.

13 **SEC. 111. PERMITTING STATES TO DETERMINE ESSENTIAL**
14 **HEALTH BENEFITS.**

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

17 (1) in subsection (a)(1), by inserting “(or, for
18 health plans offered for plan years beginning with
19 plan year 2020, defined by the State in which such
20 a health plan is offered)” after “subsection (b)”; and

21 (2) in subsection (b), by adding at the end the
22 following:

23 “(6) SUNSET.—The provisions of this sub-
24 section shall not apply after December 31, 2019,
25 and after such date any reference [under this sec-

1 tion, section 1311, or section 1331] to essential
2 health benefits under this subsection shall be treated
3 as a reference to essential health benefits applied
4 under subsection (a).”.

5 **SEC. 112. OTHER MARKET REFORMS.**

6 (a) CHANGE IN PERMISSIBLE AGE VARIATION IN
7 HEALTH INSURANCE PREMIUM RATES.—Section
8 2701(a)(1)(A)(iii) of the Public Health Service Act (42
9 U.S.C. 300gg(a)(1)(A)(iii)), as inserted by section
10 1201(4) of Public Law 111–148, is amended by inserting
11 after “3 to 1 for adults (consistent with section 2707(c))”
12 the following: “or, for plan years beginning on or after
13 January 1, 2018, 5 to 1 for adults (consistent with section
14 2707(c)) or such other ratio for adults (consistent with
15 section 2707(c)) as the State involved may provide”.

16 (b) REQUIRING VERIFICATION FOR ELIGIBILITY FOR
17 ENROLLMENT DURING SPECIAL ENROLLMENT PERIODS
18 IN PPACA INSURANCE PLANS.—Section 1311(c) of the
19 Patient Protection and Affordable Care Act (42 U.S.C.
20 18031(c)) is amended by adding at the end the following
21 new paragraph:

22 “(7) VERIFICATION REQUIREMENT FOR SPE-
23 CIAL ENROLLMENT PERIODS.—

24 “(A) IN GENERAL.—The Secretary shall
25 provide that, in the case of a special enrollment

1 period provided for under paragraph (6)(C)
2 that is with respect to a plan year that begins
3 on or after January 1, 2018, qualified health
4 plans offered through an Exchange may not
5 make coverage effective with respect to an indi-
6 vidual enrolling during such period until the
7 Exchange verifies, through an approved
8 verification process described in subparagraph
9 (B), that the individual, with respect to such
10 Exchange, is a qualified individual who is eligi-
11 ble to enroll during such period.

12 “(B) APPROVED VERIFICATION PROCESS
13 DESCRIBED.—For purposes of subparagraph
14 (A), an approved verification process described
15 in this subparagraph is a process specified by
16 the Secretary through interim final rulemaking
17 that requires an individual described in sub-
18 paragraph (A) seeking to enroll in a qualified
19 health plan described in such subparagraph to
20 submit to the Exchange such documents as the
21 Secretary determines are necessary in order for
22 the Exchange to verify that the individual, with
23 respect to such Exchange, is a qualified indi-
24 vidual who is eligible to enroll during a period
25 described in such subparagraph. To the extent

1 practicable, such process shall be similar to the
2 review and assessment process pertaining to
3 special enrollment periods described at 81 Fed.
4 Reg. 12274 in the final rule entitled ‘Patient
5 Protection and Affordable Care Act; HHS No-
6 tice of Benefit and Payment Parameters for
7 2017’, published at 81 Fed. Reg. 12203 (March
8 8, 2016).”.

9 (c) EXTENDING OPTION TO CONTINUE PRE-ACA
10 COVERAGE.—

11 (1) IN GENERAL.—A health insurance issuer
12 that had in effect health insurance coverage in the
13 individual market as of January 1, 2013, and has
14 continued such coverage through January 1, 2017,
15 under CCIIO guidance (as defined in paragraph (3))
16 may renew and continue to offer such coverage for
17 sale on and after the date of the enactment of this
18 Act in the individual market outside of an Exchange
19 established under section 1311 or 1321 of such Act
20 (42 U.S.C. 18031, 18041).

21 (2) TREATMENT AS GRANDFATHERED HEALTH
22 PLAN IN SATISFACTION OF MINIMUM ESSENTIAL
23 COVERAGE.—Health insurance coverage described in
24 paragraph (1) shall be treated as a grandfathered

1 health plan for purposes of section 5000A of the In-
2 ternal Revenue Code of 1986.

3 (3) CCIIO GUIDANCE DEFINED.—In this sec-
4 tion, the term “CCIIO guidance” means the letter
5 issued by the Centers for Medicare & Medicaid Serv-
6 ices on November 14, 2013, to the State Insurance
7 Commissioners outlining a transitional policy for
8 non-grandfathered coverage in the small group and
9 individual health insurance markets, as subsequently
10 extended and modified (including by a communica-
11 tion entitled “Insurance Standards Bulletin Series—
12 INFORMATION—Extension of Transitional Policy
13 through Calendar Year 2017” issued on February
14 29, 2016, by the Director of the Center for Con-
15 sumer Information & Insurance Oversight of such
16 Centers).

17 (d) PERMITTING CONTINUED OFFERING OF PRE-
18 ACA HEALTH INSURANCE COVERAGE IN THE SMALL
19 GROUP MARKET.—

20 (1) IN GENERAL.—A health insurance issuer
21 that has in effect health insurance coverage in the
22 small group market on any date during 2013 may
23 offer such coverage for sale on or after the date of
24 the enactment of this Act in such market outside of
25 an Exchange established under section 1311 or 1321

1 of such Act (42 U.S.C. 18031, 18041). Such a
2 group health plan shall not be treated as not com-
3 plying with the requirements of such Act (or the
4 amendments made by such Acts) insofar as it pro-
5 vides health benefits through health insurance cov-
6 erage that is permitted under the previous sentence.

7 (2) TREATMENT AS GRANDFATHERED HEALTH
8 PLAN IN SATISFACTION OF MINIMUM ESSENTIAL
9 COVERAGE.—Health insurance coverage described in
10 paragraph (1) shall be treated as a grandfathered
11 health plan for purposes of section 5000A of the In-
12 ternal Revenue Code of 1986.

13 (3) SMALL GROUP MARKET DEFINED.—In this
14 section, the term “small group market” has the
15 meaning given such term in section 2791(e)(5) of
16 the Public Health Service Act (42 U.S.C. 300gg-
17 91(e)(5)).

18 **TITLE II—WAYS AND MEANS**

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

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

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

1 to taxable years ending after December 31,
2 2017, and before January 1, 2020.”.

3 **[SEC. 202. ADDITIONAL MODIFICATIONS TO PREMIUM TAX**
4 **CREDIT.**

5 **[(a) MODIFICATION OF DEFINITION OF QUALIFIED**
6 **HEALTH PLAN.—]**

7 **[(1) IN GENERAL.—**Section 36B(c)(3)(A) of
8 the Internal Revenue Code of 1986 is amended—**]**

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

15 **[(B) by striking “shall not include” and**
16 **all that follows and inserting]** “shall not in-
17 **clude any health plan that—**

18 **[(“i) is a grandfathered health plan,**
19 **or]**

20 **[(“ii) includes coverage for abortions**
21 **(other than any abortion or treatment de-**
22 **scribed in section 307 or 308 of title 1,**
23 **United States Code).”.]**

24 **[(2) CONFORMING AMENDMENT RELATED TO**
25 **SEPARATE ABORTION COVERAGE.—**Section

1 36B(e)(3) of such Code is amended by adding at the
2 end the following new subparagraph:】

3 【“(C) SEPARATE ABORTION COVERAGE OR
4 PLAN ALLOWED.—】

5 【“(i) OPTION TO PURCHASE SEPA-
6 RATE COVERAGE OR PLAN.—Nothing in
7 subparagraph (A) shall be construed as
8 prohibiting any individual from purchasing
9 separate coverage for abortions described
10 in such subparagraph, or a health plan
11 that includes such abortions, so long as no
12 credit is allowed under this section with re-
13 spect to the premiums for such coverage or
14 plan.】

15 【“(ii) OPTION TO OFFER COVERAGE
16 OR PLAN.—Nothing in subparagraph (A)
17 shall restrict any non-Federal health insur-
18 ance issuer offering a health plan from of-
19 fering separate coverage for abortions de-
20 scribed in such subparagraph, or a plan
21 that includes such abortions, so long as
22 premiums for such separate coverage or
23 plan are not paid for with any amount at-
24 tributable to the credit allowed under this
25 section (or the amount of any advance pay-

1 ment of the credit under section 1412 of
2 the Patient Protection and Affordable Care
3 Act).”.]

4 **[(3) CONFORMING AMENDMENTS RELATED TO**
5 **OFF-EXCHANGE COVERAGE.—**

6 **[(A) NONRESIDENT ALIENS INELIGIBLE**
7 **FOR CREDIT .—**Section 36B(e)(1) of such Code
8 is amended by adding at the end the following
9 new subparagraph:]

10 **["(E) DENIAL OF CREDIT TO NON-**
11 **RESIDENT ALIENS.—**No credit shall be allowed
12 under this section to any taxpayer unless such
13 taxpayer (in the case of a joint return, either
14 spouse) is a citizen or national of the United
15 States or an alien lawfully present in the
16 United States.”.]

17 **[(B) ADVANCE PAYMENT NOT APPLICA-**
18 **BLE.—**Section 1412 of the Patient Protection
19 and Affordable Care Act is amended by adding
20 at the end the following new subsection:]

21 **["(f) EXCLUSION OF OFF-EXCHANGE COVERAGE.—**
22 Advance payments under this section (and advance deter-
23 minations under section 1411) shall not be made with re-
24 spect to any health plan which is not enrolled in through
25 an Exchange.”.]

1 **[(C) REPORTING.—**Section 6055(b) of the
2 Internal Revenue Code of 1986 is amended by
3 adding at the end the following new para-
4 graph: **]**

5 **["(3) INFORMATION RELATING TO OFF-EX-**
6 **CHANGE PREMIUM CREDIT ELIGIBLE COVERAGE.—**If
7 minimum essential coverage provided to an indi-
8 vidual under subsection (a) consists of a qualified
9 health plan (as defined in section 36B(c)(3)) which
10 is not enrolled in through an Exchange established
11 under title I of the Patient Protection and Afford-
12 able Care Act, a return described in this subsection
13 shall include—**]**

14 **["(A) the premiums paid with respect to**
15 **such coverage,]**

16 **["(B) the months during which such cov-**
17 **erage is provided to the individual, and]**

18 **["(C) such other information as the Sec-**
19 **retary may prescribe.]**

20 This paragraph shall not apply with respect to cov-
21 erage provided for any month beginning after De-
22 cember 31, 2019.” **]**

23 **[(b) MODIFICATION OF APPLICABLE PERCENT-**
24 **AGE.—**Section 36B(b)(3)(A) of such Code is amended to
25 read as follows: **]**

1 **["(A) APPLICABLE PERCENTAGE.—"]**

2 **["(i) IN GENERAL.—**The applicable
3 percentage for any taxable year shall be
4 the percentage such that the applicable
5 percentage for any taxpayer whose house-
6 hold income is within an income tier speci-
7 fied in the following table shall increase, on
8 a sliding scale in a linear manner, from the
9 initial percentage to the final percentage
10 specified in such table for such income tier
11 with respect to a taxpayer of the age in-
12 volved: **[percentages in the following table**
13 **need to be increased to the percentages**
14 **that are intended to apply for 2017"]]**

"In the case of household income (expressed as a percent of the poverty line) within the following income tier:	Up to Age 29		Age 30-39		Age 40-49		Age 50-59		Age 60-64	
	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %
Up to 133%	2	2	2	2	2	2	2	2	2	2
133%-150%	3	4	3	4	3	4	3	4	3	4
150%-200%	4	4.3	4	5.3	4	6.3	4	7.3	4	8.3
200%-250%	4.3	4.3	5.3	5.9	6.3	8.05	7.3	9	8.3	10
250%-300%	4.3	4.3	5.9	5.9	8.05	8.35	9	10.5	10	11.5
300%-400%	4.3	4.3	5.9	5.9	8.35	8.35	10.5	10.5	11.5	11.5

15 **["(ii) AGE DETERMINATIONS.—"]**

16 **["(I) IN GENERAL.—**For pur-
17 poses of clause (i), the age of the tax-
18 payer taken into account under clause
19 (i) with respect to any taxable year is

1 the age attained by such taxpayer be-
2 fore the close of such taxable year.】

3 【“(II) JOINT RETURNS.—In the
4 case of a joint return, the age of the
5 oldest spouse shall be taken into ac-
6 count under clause (i).】

7 【“(iii) INDEXING.—In the case of tax-
8 able years beginning after 2017, the initial
9 and final percentages under clause (i) (as
10 in effect for the preceding calendar year
11 after application of this clause) shall be ad-
12 justed to reflect—】

13 【“(I) the excess (if any) of the
14 rate of premium growth for the pre-
15 ceding calendar year over the rate of
16 income growth for the preceding cal-
17 endar year, and】

18 【“(II) except as provided in
19 clause (iv), the excess (if any) of the
20 rate of premium growth for the pre-
21 ceding calendar year over the rate of
22 growth in the consumer price index
23 for the preceding calendar year.】

24 【“(iv) FAILSAFE.—Clause (iii)(II)
25 shall apply for any calendar year only if

1 the aggregate amount of premium tax
2 credits under this section and cost-sharing
3 reductions under section 1402 of the Pa-
4 tient Protection and Affordable Care Act
5 for the preceding calendar year exceeds an
6 amount equal to 0.504 percent of the gross
7 domestic product for the preceding cal-
8 endar year.”.]

9 **[(c) EFFECTIVE DATE.—]**

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

14 **[(2) ADVANCE PAYMENT NOT APPLICABLE TO**
15 **OFF-EXCHANGE COVERAGE.—**The amendment made
16 by subsection (a)(3)(B) shall take effect on January
17 1, 2018.]

18 **[(3) REPORTING.—**The amendment made by
19 subsection (a)(3)(C) shall apply to coverage provided
20 for months beginning after December 31, 2017.]

21 **SEC. 203. PREMIUM TAX CREDIT.**

22 (a) **REPEAL OF PREMIUM TAX CREDIT.—**Subpart C
23 of part IV of subchapter A of chapter 1 of the Internal
24 Revenue Code of 1986 is amended by striking section
25 36B.

1 (b) REPEAL OF ELIGIBILITY DETERMINATIONS.—
2 The following sections of the Patient Protection and Af-
3 fordable Care Act are repealed:

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

9 (2) Section 1412.

10 (c) PROTECTING AMERICANS BY REPEAL OF DISCLO-
11 SURE AUTHORITY TO CARRY OUT ELIGIBILITY REQUIRE-
12 MENTS FOR CERTAIN PROGRAMS.—Paragraph (21) of
13 section 6103(l) of the Internal Revenue Code of 1986 is
14 amended by adding at the end the following new subpara-
15 graph:

16 “(D) TERMINATION.—No disclosure may
17 be made under this paragraph after December
18 31, 2019.”.

19 (d) EFFECTIVE DATES.—

20 (1) PREMIUM TAX CREDIT.—The amendment
21 made by subsection (a) shall apply to taxable years
22 beginning after December 31, 2019.

23 (2) OTHER PROVISIONS.—The amendments
24 made by subsections (b) and (c) shall take effect on
25 January 1, 2020.

1 **SEC. 204. SMALL BUSINESS TAX CREDIT.**

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

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

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2019.

11 **SEC. 205. INDIVIDUAL MANDATE.**

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

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

16 (2) in paragraph (3)—

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

18 (A) and inserting “\$0”, and

19 (B) by striking subparagraph (D).

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

23 **SEC. 206. EMPLOYER MANDATE.**

24 (a) IN GENERAL.—

25 (1) Paragraph (1) of section 4980H(e) of the
26 Internal Revenue Code of 1986 is amended by in-

1 serting “(\$0 in the case of months beginning after
2 December 31, 2015)” after “\$2,000”.

3 (2) Paragraph (1) of section 4980H(b) 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 “\$3,000”.

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

10 **SEC. 207. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
11 **SURANCE PREMIUMS AND HEALTH PLAN**
12 **BENEFITS.**

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

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

18 **SEC. 208. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
19 **TIONS.**

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

23 (b) ARCHER MSAs.—Subparagraph (A) of section
24 220(d)(2) of the Internal Revenue Code of 1986 is amend-

1 ed by striking “Such term” and all that follows through
2 the period.

3 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
4 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
5 tion 106 of the Internal Revenue Code of 1986 is amended
6 by striking subsection (f) and by redesignating subsection
7 (g) as subsection (f).

8 (d) EFFECTIVE DATES.—

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

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

17 **SEC. 209. REPEAL OF INCREASE OF TAX ON HEALTH SAV-**
18 **INGS ACCOUNTS.**

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

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

1 (c) **EFFECTIVE DATE.**—The amendments made by
2 this section shall apply to distributions made after Decem-
3 ber 31, 2016.

4 **SEC. 210. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
5 **FLEXIBLE SPENDING ACCOUNTS.**

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

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

11 **SEC. 211. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
12 **TIONS.**

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

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

19 **SEC. 212. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

20 Section 4191 is amended by adding at the end the
21 following new subsection:

22 “(d) **APPLICABILITY.**—The tax imposed under sub-
23 section (a) shall not apply to sales after December 31,
24 2017.”.

1 **SEC. 213. REPEAL OF HEALTH INSURANCE TAX.**

2 Subsection (j) of section 9010 of the Patient Protec-
3 tion and Affordable Care Act is amended by striking “,
4 and” at the end of paragraph (1) and all that follows
5 through “2017”.

6 **SEC. 214. REPEAL OF ELIMINATION OF DEDUCTION FOR**
7 **EXPENSES ALLOCABLE TO MEDICARE PART D**
8 **SUBSIDY.**

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

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

18 **SEC. 215. REPEAL OF CHRONIC CARE TAX.**

19 (a) **IN GENERAL.**—Subsection (a) of section 213 of
20 the Internal Revenue Code of 1986 is amended by striking
21 “10 percent” and inserting “7.5 percent”.

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

1 **SEC. 216. REPEAL OF MEDICARE TAX INCREASE.**

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

5 “(b) HOSPITAL INSURANCE.—In addition to the tax
6 imposed by the preceding subsection, there is hereby im-
7 posed on the income of every individual a tax equal to 1.45
8 percent of the wages (as defined in section 3121(a)) re-
9 ceived by such individual with respect to employment (as
10 defined in section 3121(b)).”

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

14 “(b) HOSPITAL INSURANCE.—In addition to the tax
15 imposed by the preceding subsection, there shall be im-
16 posed for each taxable year, on the self-employment in-
17 come of every individual, a tax equal to 2.9 percent of the
18 amount of the self-employment income for such taxable
19 year.”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to remuneration re-
22 ceived after, and taxable years beginning after, December
23 31, 2016. **[confirm this date]**

24 **SEC. 217. REPEAL OF TANNING TAX.**

25 (a) ~~IN GENERAL.~~—The Internal Revenue Code of
26 1986 is amended by striking chapter 49.

1 (b) **EFFECTIVE DATE.**—The amendment made by
2 this section shall apply to services performed after [De-
3 cember 31, 2016].

4 **SEC. 218. REPEAL OF NET INVESTMENT TAX.**

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

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

10 **SEC. 219. REMUNERATION.**

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

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

17 **SEC. 220. ECONOMIC SUBSTANCE DOCTRINE.**

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

20 (b) **PENALTY FOR UNDERPAYMENTS.**—Paragraph
21 (6) of section 6662(b) of the Internal Revenue Code of
22 1986 is repealed.

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

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

4 (e) REASONABLE CAUSE EXCEPTION FOR NONDIS-
5 CLOSED TRANSACTIONS.—Paragraph (2) of section
6 6664(d) of the Internal Revenue Code of 1986 is repealed.

7 (f) ERRONEOUS CLAIM FOR REFUND OR CREDIT.—
8 Subsection (c) of section 6676 of the Internal Revenue
9 Code of 1986 is repealed.

10 (g) EFFECTIVE DATE.—The repeals made by this
11 section shall apply to transactions entered into, and to un-
12 derpayments, understatements, or refunds and credits at-
13 tributable to transactions entered into, after December 31,
14 2016.

15 **SEC. 221. REFUNDABLE TAX CREDIT FOR HEALTH INSUR-**
16 **ANCE COVERAGE.**

17 (a) IN GENERAL.—Subpart C of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 is amended by inserting after section 36B the fol-
20 lowing new section:

21 **“SEC. 36C. HEALTH INSURANCE COVERAGE.**

22 “(a) IN GENERAL.—In the case of an individual,
23 there shall be allowed as a credit against the tax imposed
24 by this subtitle for the taxable year the lesser of—

1 “(1) the sum of the monthly credit amounts de-
2 termined under subsection (b) with respect to the
3 taxpayer and the taxpayer’s qualifying family mem-
4 bers for eligible coverage months beginning during
5 the taxable year, or

6 “(2) the amount paid by the taxpayer for eligi-
7 ble health insurance for the taxpayer and the tax-
8 payer’s qualifying family members for eligible cov-
9 erage months beginning during the taxable year.

10 “(b) MONTHLY CREDIT AMOUNTS.—

11 “(1) IN GENERAL.—The monthly credit amount
12 with respect to any individual for any eligible cov-
13 erage month during any taxable year is $\frac{1}{12}$ of—

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

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

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

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

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

3 “(2) LIMITATIONS.—

4 “(A) AGGREGATE DOLLAR LIMITATION.—

5 The sum of the monthly credit amounts taken
6 into account under subsection (a) with respect
7 to any taxpayer for any taxable year shall not
8 exceed \$14,000.

9 “(B) MAXIMUM NUMBER OF INDIVIDUALS
10 TAKEN INTO ACCOUNT.—With respect to any
11 taxpayer for any month, monthly credit
12 amounts shall be taken into account under sub-
13 section (a) only with respect to the 5 oldest in-
14 dividuals with respect to whom monthly credit
15 amounts could (without regard to this subpara-
16 graph) otherwise be so taken into account.

17 “(c) ELIGIBLE COVERAGE MONTH.—For purposes of
18 this section, the term ‘eligible coverage month’ means,
19 with respect to any individual, any month if, as of the first
20 day of such month, the individual—

21 “(1) is covered by eligible health insurance,

22 “(2) is not eligible for other specified coverage,

23 “(3) is either—

24 “(A) a citizen or national of the United

25 States, or

1 “(B) a qualified alien (within the meaning
2 of section 431 of the Personal Responsibility
3 and Work Opportunity Reconciliation Act of
4 1996 (8 U.S.C. 1641)), and

5 “(4) is not incarcerated, other than incarcer-
6 ation pending the disposition of charges.

7 “(d) QUALIFYING FAMILY MEMBER.—For purposes
8 of this section, the term ‘qualifying family member’
9 means—

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

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

13 “(3) with respect to any eligible coverage
14 month, any child (as defined in section 152(f)(1)) of
15 the taxpayer who as of the end of the taxable year
16 has not attained age 27 if the taxpayer paid the pre-
17 mium for such child’s eligible health insurance with
18 respect to such month.

19 “(e) ELIGIBLE HEALTH INSURANCE.—For purposes
20 of this section, the term ‘eligible health insurance’ means
21 any health insurance coverage (as defined in section
22 9832(b)) if—

23 “(1) such coverage is either—

24 “(A) offered in the individual market with-
25 in a State, or

1 “(B) is unsubsidized COBRA continuation
2 coverage,

3 “(2) substantially all of such coverage is not of
4 excepted benefits described in section 9832(c), and

5 “(3) such coverage does not include coverage
6 for abortions (other than any abortion or treatment
7 described in section 307 or 308 of title 1, United
8 States Code).

9 “(f) OTHER SPECIFIED COVERAGE.—For purposes of
10 this section—

11 “(1) IN GENERAL.—The term ‘other specified
12 coverage’ means any of the following:

13 “(A) Coverage under a group health plan
14 (within the meaning of section 5000(b)(1))
15 other than a plan substantially all of the cov-
16 erage of which is of excepted benefits described
17 in section 9832(c).

18 “(B) Coverage under the Medicare pro-
19 gram under part A of title XVIII of the Social
20 Security Act.

21 “(C) Coverage under the Medicaid pro-
22 gram under title XIX of the Social Security
23 Act.

24 “(D) Coverage under the CHIP program
25 under title XXI of the Social Security Act.

1
2 “(E) Medical coverage under chapter 55 of
3 title 10, United States Code, including coverage
4 under the TRICARE program.

5 “(F) Coverage under a health care pro-
6 gram under chapter 17 or 18 of title 38, United
7 States Code, as determined by the Secretary of
8 Veterans Affairs, in coordination with the Sec-
9 retary of Health and Human Services and the
10 Secretary of the Treasury.

11 “(G) Coverage under a health plan under
12 section 2504(e) of title 22, United States Code
13 (relating to Peace Corps volunteers).

14 “(H) Coverage under the Nonappropriated
15 Fund Health Benefits Program of the Depart-
16 ment of Defense, established under section 349
17 of the National Defense Authorization Act for
18 Fiscal Year 1995 (Public Law 103-337; 10
19 U.S.C. 1587 note).

20 “(I) Membership in a health care sharing
21 ministry.

22 “(2) SPECIAL RULE WITH RESPECT TO VET-
23 ERANS HEALTH PROGRAMS.—In the case of other
24 specified coverage described in paragraph (1)(F), an
individual shall not be treated as eligible for such

1 coverage unless such individual is enrolled in such
2 coverage.

3 “(g) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) HEALTH CARE SHARING MINISTRY.—The
6 term ‘health care sharing ministry’ means an organi-
7 zation—

8 “(A) which is described in section
9 501(c)(3) and is exempt from taxation under
10 section 501(a),

11 “(B) members of which share a common
12 set of ethical or religious beliefs and share med-
13 ical expenses among members in accordance
14 with those beliefs and without regard to the
15 State in which a member resides or is em-
16 ployed,

17 “(C) members of which retain membership
18 even after they develop a medical condition,

19 “(D) which (or a predecessor of which) has
20 been in existence at all times since December
21 31, 1999, and medical expenses of its members
22 have been shared continuously and without
23 interruption since at least December 31, 1999,
24 and

1 “(E) which conducts an annual audit
2 which is performed by an independent certified
3 public accounting firm in accordance with gen-
4 erally accepted accounting principles and which
5 is made available to the public upon request.

6 “(2) UNSUBSIDIZED COBRA CONTINUATION
7 COVERAGE.—

8 “(A) IN GENERAL.—The term ‘unsub-
9 sidized COBRA continuation coverage’ means
10 COBRA continuation coverage no portion of the
11 premiums for which are subsidized by the em-
12 ployer.

13 “(B) COBRA CONTINUATION COV-
14 ERAGE.—The term ‘COBRA continuation cov-
15 erage’ means continuation coverage provided
16 pursuant to part 6 of subtitle B of title I of the
17 Employee Retirement Income Security Act of
18 1974 (other than under section 609), title XXII
19 of the Public Health Service Act, section 4980B
20 of the Internal Revenue Code of 1986 (other
21 than subsection (f)(1) of such section insofar as
22 it relates to pediatric vaccines), or section
23 8905a of title 5, United States Code, or under
24 a State program that provides comparable con-
25 tinuation coverage. Such term shall not include

1 coverage under a health flexible spending ar-
2 rangement.

3 “(h) SPECIAL RULES.—

4 “(1) MARRIED COUPLES MUST FILE JOINT RE-
5 TURN.—If the taxpayer is married (within the mean-
6 ing of section 7703) at the close of the taxable year,
7 no credit shall be allowed under this section to such
8 taxpayer unless such taxpayer and the taxpayer’s
9 spouse file a joint return for such taxable year.

10 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
11 credit shall be allowed under this section to any indi-
12 vidual who is a dependent with respect to another
13 taxpayer for a taxable year beginning in the cal-
14 endar year in which such individual’s taxable year
15 begins.

16 “(3) COORDINATION WITH MEDICAL EXPENSE
17 DEDUCTION.—Amounts described in subsection
18 (a)(2) with respect to any month shall not be taken
19 into account in determining the deduction allowed
20 under section 213 except to the extent that such
21 amounts exceed the amount described in subsection
22 (a)(1) with respect to such month.

23 [“(4) INSURANCE WHICH COVERS OTHER INDI-
24 VIDUALS.—For purposes of this section, rules simi-
25 lar to the rules of section 213(d)(6) shall apply with

1 respect to any contract for eligible health insurance
2 under which amounts are payable for coverage of an
3 individual other than the taxpayer and the tax-
4 payer's qualifying family members.】

5 “(5) COORDINATION WITH ADVANCE PAYMENTS
6 OF CREDIT.—With respect to any taxable year—

7 “(A) the amount which would (but for this
8 subsection) be allowed as a credit to the tax-
9 payer under subsection (a) shall be reduced
10 (but not below zero) by the aggregate amount
11 paid on behalf of such taxpayer under section
12 7529 for months beginning in such taxable
13 year, and

14 “(B) the tax imposed by section 1 for such
15 taxable year shall be increased by the excess (if
16 any) of—

17 “(i) the aggregate amount paid on be-
18 half of such taxpayer under section 7529
19 for months beginning in such taxable year,
20 over

21 “(ii) the amount which would (but for
22 this subsection) be allowed as a credit to
23 the taxpayer under subsection (a).

1 “(6) SPECIAL RULES FOR QUALIFIED SMALL
2 EMPLOYER HEALTH REIMBURSEMENT ARRANGE-
3 MENTS.—

4 “(A) IN GENERAL.—If the taxpayer or any
5 qualifying family member of the taxpayer is
6 provided a qualified small employer health reim-
7 bursement arrangement for any eligible cov-
8 erage month, the monthly credit amount deter-
9 mined under subsection (b) with respect to the
10 taxpayer for such month shall be reduced (but
11 not below zero) by $\frac{1}{12}$ of the permitted benefit
12 (as defined in section 9831(d)(3)(C)) under
13 such arrangement.

14 “(B) QUALIFIED SMALL EMPLOYER
15 HEALTH REIMBURSEMENT ARRANGEMENT.—
16 For purposes of this paragraph, the term
17 ‘qualified small employer health reimbursement
18 arrangement’ has the meaning given such term
19 by section 9831(d)(2).

20 “(C) COVERAGE FOR LESS THAN ENTIRE
21 YEAR.—In the case of an employee who is pro-
22 vided a qualified small employer health reim-
23 bursement arrangement for less than an entire
24 year, subparagraph (A) shall be applied by sub-
25 stituting ‘the number of months during the year

1 for which such arrangement was provided' for
2 '12'.

3 "(7) SEPARATE ABORTION COVERAGE OR PLAN
4 ALLOWED.—

5 "(A) OPTION TO PURCHASE SEPARATE
6 COVERAGE OR PLAN.—Nothing in subsection
7 (e)(3) shall be construed as prohibiting any in-
8 dividual from purchasing separate coverage for
9 abortions described in such subparagraph, or a
10 health plan that includes such abortions, so
11 long as no credit is allowed under this section
12 with respect to the premiums for such coverage
13 or plan.

14 "(B) OPTION TO OFFER COVERAGE OR
15 PLAN.—Nothing in subsection (e)(3) shall re-
16 strict any non-Federal health insurance issuer
17 offering a health plan from offering separate
18 coverage for abortions described in such clause,
19 or a plan that includes such abortions, so long
20 as premiums for such separate coverage or plan
21 are not paid for with any amount attributable
22 to the credit allowed under this section.

23 "(8) INFLATION ADJUSTMENT.—

24 "(A) IN GENERAL.—In the case of any
25 taxable year beginning in a calendar year after

1 2020, each dollar amount contained in para-
2 graphs (1) and (2)(A) of subsection (b) shall be
3 increased by an amount equal to—

4 “(i) such dollar amount, multiplied by

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

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

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

19 “(B) TERMS RELATED TO CPI.—

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

1 “(b) LIMITATION.—The aggregate payments made
2 under this section with respect to any taxpayer, deter-
3 mined as of any time during any calendar year, shall not
4 exceed the monthly credit amounts determined with re-
5 spect to such taxpayer under section 36C for months dur-
6 ing such calendar year which have ended as of such time.

7 “(c) ADMINISTRATION.—The program for making
8 payments described in subsection (a) shall, to the greatest
9 extent practicable, use the methods and procedures used
10 to administer the programs created under sections 1411
11 and 1412 of the Patient Protection and Affordable Care
12 Act (as in effect before their repeal) and each entity that
13 is required under such sections (as so in effect) to take
14 any actions under such programs shall, at the request of
15 the Secretary, take such actions to the extent necessary
16 to carry out this section. Except as otherwise provided by
17 the Secretary, for purposes of applying this subsection in
18 the case of eligible health insurance which is not enrolled
19 in through an Exchange established under title I of the
20 Patient Protection and Affordable Care Act, such sections
21 shall be applied by treating references in such sections to
22 an Exchange as references to the issuer of such eligible
23 health insurance.

24 “(d) DEFINITIONS.—For purposes of this section,
25 terms used in this section which are also used in section

1 36C shall have the same meaning as when used in section
2 36C.

3 **“SEC. 7530. EXCESS HEALTH INSURANCE COVERAGE CRED-
4 IT PAYABLE TO HEALTH SAVINGS ACCOUNT.**

5 “(a) IN GENERAL.—At the request of an eligible tax-
6 payer, the Secretary shall make a payment to the trustee
7 of the designated health savings account with respect to
8 such taxpayer in an amount equal to the sum of the ex-
9 cesses (if any) described in subsection (c)(2) with respect
10 to months in the taxable year.

11 “(b) DESIGNATED HEALTH SAVINGS ACCOUNT.—
12 The term ‘designated health savings account’ means a
13 health savings account of an individual described in sub-
14 section (c)(3) which is identified by the eligible taxpayer
15 for purposes of this section.

16 “(c) ELIGIBLE TAXPAYER.—The term ‘eligible tax-
17 payer’ means, with respect to any taxable year, any tax-
18 payer if—

19 “(1) such taxpayer is allowed a credit under
20 section 36C for such taxable year,

21 “(2) the amount described in paragraph (1) of
22 section 36C(a) exceeds the amount described in
23 paragraph (2) of such section with respect to such
24 taxpayer applied with respect to any month during
25 such taxable year, and

1 “(3) the taxpayer or one or more of the tax-
2 payer’s qualifying family members (as defined in
3 section 36C(d)) were eligible individuals (as defined
4 in section 223(c)(1)) for one or more months during
5 such taxable year.

6 “(d) CONTRIBUTIONS TREATED AS ROLLOVERS,
7 ETC.—

8 “(1) IN GENERAL.—Any amount paid the Sec-
9 retary to a health savings account under this section
10 shall be treated for purposes of this title in the same
11 manner as a rollover contribution described in sec-
12 tion 223(f)(5).

13 “(2) COORDINATION WITH LIMITATION ON
14 ROLLOVERS.—Any amount described in paragraph
15 (1) shall not be taken into account in applying sec-
16 tion 223(f)(5)(B) with respect to any other amount
17 and the limitation of section 223(f)(5)(B) shall not
18 apply with respect to the application of paragraph
19 (1).

20 “(e) FORM AND MANNER OF REQUEST.—The re-
21 quest referred to in subsection (a) shall be made at such
22 time and in such form and manner as the Secretary may
23 provide. To the extent that the Secretary determines fea-
24 sible, such request may identify more than one designated
25 health savings account (and the amount to be paid to each

1 such account) provided that the aggregate of such pay-
2 ments with respect to any taxpayer for any taxable year
3 do not exceed the excess described in subsection (e)(2).

4 “(f) TAXPAYERS WITH SERIOUSLY DELINQUENT
5 TAX DEBT.—In the case of an individual who has a seri-
6 ously delinquent tax debt (as defined in section 7345(b))
7 which has not been fully satisfied—

8 “(1) if such individual is the eligible taxpayer
9 (or, in the case of a joint return, either spouse), the
10 Secretary shall not make any payment under this
11 section with respect to such taxpayer, and

12 “(2) if such individual is the account bene-
13 ficiary (as defined in section 223(d)(3)) of any
14 health savings account, the Secretary shall not make
15 any payment under this section to such health sav-
16 ings account.

17 “(g) ADVANCE PAYMENT.—To the extent that the
18 Secretary determines feasible, payment under this section
19 may be made in advance on a monthly basis under rules
20 similar to the rules of section 7529.”.

21 (2) DISCLOSURE OF RETURN INFORMATION TO
22 CARRYOUT ADVANCE PAYMENTS.—

23 (A) IN GENERAL.—Section 6103(l) of such
24 Code is amended by adding at the end the fol-
25 lowing new paragraph:

1 “(23) DISCLOSURE OF RETURN INFORMATION
2 RELATED TO ADVANCE PAYMENT OF HEALTH INSUR-
3 ANCE COVERAGE CREDIT.—The Secretary may, on
4 behalf of taxpayers eligible for the credit under sec-
5 tion 36C, disclose to a provider of eligible health in-
6 surance (as defined in section 36C(e)) or a trustee
7 of a health savings account (and persons acting on
8 behalf of such provider or such trustee), return in-
9 formation with respect to any such taxpayer only to
10 the extent necessary (as prescribed by regulations
11 issued by the Secretary) to carry out sections 7529
12 (relating to advance payment of health insurance
13 coverage credit) and 7530 (relating to excess health
14 insurance coverage credit payable to health savings
15 account).”.

16 (B) CONFIDENTIALITY OF INFORMA-
17 TION.—Section 6103(a)(3) of such Code is
18 amended by striking “or (21)” and inserting
19 “(21), or (23)”.

20 (C) UNAUTHORIZED DISCLOSURE.—Sec-
21 tion 7213(a)(2) of such Code is amended by
22 striking “or (21)” and inserting “(21), or
23 (23)”.

24 (c) INFORMATION REPORTING.—

1 (1) IN GENERAL.—Subpart B of part III of
2 subchapter A of chapter 61 of such Code is amended
3 by adding at the end the following new section:

4 **“SEC. 6050X. RETURNS RELATING TO HEALTH INSURANCE**
5 **COVERAGE CREDIT.**

6 “(a) REQUIREMENT OF REPORTING.—Every person
7 who provides eligible health insurance for any month of
8 any calendar year with respect to any individual shall, at
9 such time as the Secretary may prescribe, make the return
10 described in subsection (b) with respect to each such indi-
11 vidual. With respect to any individual with respect to
12 whom payments under section 7529 are made by the Sec-
13 retary, the Secretary may require that reporting under
14 subsection (b) be made on a monthly basis.

15 “(b) FORM AND MANNER OF RETURNS.—A return
16 is described in this subsection if such return—

17 “(1) is in such form as the Secretary may pre-
18 scribe, and

19 “(2) contains, with respect to each policy of eli-
20 gible health insurance—

21 “(A) the name, address, and TIN of each
22 individual covered under such policy,

23 “(B) the premiums paid with respect to
24 such policy,

1 “(C) the amount of advance payments
2 made on behalf of the individual under section
3 7529,

4 “(D) the months during which such health
5 insurance is provided to the individual, and

6 “(E) such other information as the Sec-
7 retary may prescribe.

8 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-
9 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
10 QUIRED.—Every person required to make a return under
11 subsection (a) shall furnish to each individual whose name
12 is required to be set forth in such return a written state-
13 ment showing—

14 “(1) the name and address of the person re-
15 quired to make such return and the phone number
16 of the information contact for such person, and

17 “(2) the information required to be shown on
18 the return with respect to such individual.

19 The written statement required under the preceding sen-
20 tence shall be furnished on or before January 31 of the
21 year following the calendar year to which such statement
22 relates.

23 “(d) DEFINITIONS.—For purposes of this section,
24 terms used in this section which are also used in section

1 36C shall have the same meaning as when used in section
2 36C.”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Section 6724(d)(1)(B) of such Code is
5 amended by striking “or” at the end of clause
6 (xxiv), by inserting “or” at the end of clause
7 (xxv), and by inserting after clause (xxv) the
8 following new clause:

9 “(xxvi) section 6050X (relating to re-
10 turns relating to health insurance coverage
11 credit),”.

12 (B) Section 6724(d)(2) of such Code is
13 amended by striking “or” at the end of sub-
14 paragraph (HH), by striking the period at the
15 end of subparagraph (II) and inserting “, or”,
16 and by adding after subparagraph (II) the fol-
17 lowing new subparagraph:

18 “(JJ) section 6050X (relating to returns
19 relating to health insurance coverage credit).”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 35(g) of such Code is amended by
22 adding at the end the following new paragraph:

23 “(13) COORDINATION WITH HEALTH INSUR-
24 ANCE COVERAGE CREDIT.—

1 “(A) IN GENERAL.—An eligible coverage
2 month to which the election under paragraph
3 (11) applies shall not be treated as an eligible
4 coverage month (as defined in section 36C(c))
5 for purposes of section 36C with respect to the
6 taxpayer or any of the taxpayer’s qualifying
7 family members (as defined in section 36C(d)).

8 “(B) COORDINATION WITH ADVANCE PAY-
9 MENTS OF HEALTH INSURANCE COVERAGE
10 CREDIT.—In the case of a taxpayer who makes
11 the election under paragraph (11) with respect
12 to any eligible coverage month in a taxable year
13 or on behalf of whom any advance payment is
14 made under section 7527 with respect to any
15 month in such taxable year—

16 “(i) the tax imposed by this chapter
17 for the taxable year shall be increased by
18 the excess, if any, of—

19 “(I) the sum of any advance pay-
20 ments made on behalf of the taxpayer
21 under sections 7527 and 7529 for
22 months during such taxable year, over

23 “(II) the sum of the credits al-
24 lowed under this section (determined
25 without regard to paragraph (1)) and

1 section 36C (determined without re-
2 gard to subsection (h)(5)(A) thereof)
3 for such taxable year, and

4 “(ii) section 36C(h)(5)(B) shall not
5 apply with respect to such taxpayer for
6 such taxable year.”

7 (2) Section 162(l) of such Code is amended by
8 adding at the end the following new paragraph:

9 “(6) COORDINATION WITH HEALTH INSURANCE
10 COVERAGE CREDIT.—The deduction otherwise allow-
11 able to a taxpayer under paragraph (1) for any tax-
12 able year shall be reduced (but not below zero) by
13 the sum of—

14 “(A) the amount of the credit allowable to
15 such taxpayer under section 36C (determined
16 without regard to subsection (h)(5)(A) thereof)
17 for such taxable year, plus

18 “(B) the aggregate payments made with
19 respect to the taxpayer under section 7530 for
20 months during such taxable year.”

21 (3) Section 1324(b)(2) of title 31, United
22 States Code is amended—

23 (A) by inserting “36C,” after “36B,” and

24 (B) by striking “or 6431” and inserting
25 “6431, or 7530”.

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this section or section 105(b), if the tax-
3 payer (or, in the case of a joint return, either
4 spouse) is covered under one or more specified em-
5 ployer-provided health coverages at any time during
6 a calendar month, there shall be included in the
7 gross income of the taxpayer for the taxable year
8 which includes such month an amount equal to the
9 monthly excess benefit (if any) with respect to each
10 such coverage.

11 “(2) MONTHLY EXCESS BENEFIT.—For pur-
12 poses of this subsection, the term ‘monthly excess
13 benefit’ means, with respect to any applicable-em-
14 ployer sponsored coverage, the excess (if any) of—

15 “(A) the cost of the specified employer-pro-
16 vided health coverage for the calendar month,
17 over

18 “(B) an amount equal to $\frac{1}{12}$ of the annual
19 limitation with respect to such coverage for the
20 calendar year in which the month occurs.

21 “(3) SPECIFIED EMPLOYER-PROVIDED HEALTH
22 COVERAGE.—For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘specified
24 employer-provided health coverage’ means cov-

1 erage under any group health plan (within the
2 meaning of section 5000(b)(1)).

3 “(B) EXCEPTIONS.—The term ‘specified
4 employer-provided health coverage’ shall not in-
5 clude—

6 “(i) contributions described in sub-
7 section (b) or (d),

8 “(ii) any coverage (whether through
9 insurance or otherwise) described in sec-
10 tion 9832(c)(1) (other than subparagraph
11 (G) thereof) or for long-term care,

12 “(iii) any coverage under a separate
13 policy, certificate, or contract of insurance
14 which provides benefits substantially all of
15 which are for treatment of the mouth (in-
16 cluding any organ or structure within the
17 mouth) or for treatment of the eye, and

18 “(iv) any coverage described in section
19 9832(c)(3) the payment for which is not
20 excludable from gross income (determined
21 without regard to this subsection) and for
22 which a deduction under section 162(l) is
23 not allowable (determined without regard
24 to paragraph (2)(A) thereof),

1 “(v) any coverage provided on the
2 basis of employment as a law enforcement
3 officer (as such term is defined in section
4 1204 of the Omnibus Crime Control and
5 Safe Streets Act of 1968), an employee in
6 fire protection activities (as such term is
7 defined in section 3(y) of the Fair Labor
8 Standards Act of 1938), or an employee
9 providing out-of-hospital emergency med-
10 ical care (including emergency medical
11 technicians, paramedics, and first-respon-
12 ders).

13 “(C) COVERAGE INCLUDES EMPLOYEE
14 PAID PORTION.—Coverage shall be treated as
15 specified employer-provided health coverage
16 without regard to whether the employer or em-
17 ployee pays for the coverage.

18 【“(D) AGGREGATION.—All coverage pro-
19 vided on the basis of employment with the same
20 employer shall be treated as one specified em-
21 ployer-provided health coverage for purposes of
22 this subsection. In the case of a joint return,
23 the preceding sentence shall be applied sepa-
24 rately with respect to each spouse.】

1 “(4) DETERMINATION OF COST OF COV-
2 ERAGE.—For purposes of this subsection—

3 “(A) IN GENERAL.—The cost of specified
4 employer-provided health coverage shall be de-
5 termined under rules similar to the rules of sec-
6 tion 4980B(f)(4), except that the amount of
7 such cost shall be calculated separately for self-
8 only coverage and other coverage. [In the case
9 of specified employer-provided health coverage
10 which provides coverage to retired employees,
11 the plan may elect to treat a retired employee
12 who has not attained the age of 65 and a re-
13 tired employee who has attained the age of 65
14 as similarly situated beneficiaries.]

15 [“(B) HEALTH FSAS.—In the case of
16 specified employer-provided health coverage
17 consisting of coverage under a flexible spending
18 arrangement (as defined in subsection (c)(2)),
19 the cost of the coverage shall be equal to the
20 sum of—]

21 [“(i) the amount of employer con-
22 tributions under any salary reduction elec-
23 tion under the arrangement, plus]

24 [“(ii) the amount determined under
25 subparagraph (A) with respect to any re-

1 imbursement under the arrangement in ex-
2 cess of the contributions described in
3 clause (i).】

4 【“(C) QUALIFIED SMALL EMPLOYER
5 HEALTH REIMBURSEMENT ARRANGEMENTS.—
6 In the case of specified employer-provided
7 health coverage consisting of coverage under
8 any qualified small employer health reimburse-
9 ment arrangement (as defined in section
10 9831(d)(2)), the cost of coverage shall be equal
11 to the amount described in section
12 6051(a)(15).】

13 “(D) ALLOCATION ON A MONTHLY
14 BASIS.—If cost is determined on other than a
15 monthly basis, the cost shall be allocated to
16 months on such basis as the Secretary may pre-
17 scribe.

18 “(5) ANNUAL LIMITATION.—For purposes of
19 this subsection—

20 “(A) IN GENERAL.—The term ‘annual lim-
21 itation’ means—

22 “(i) in the case of self-only coverage,
23 the amount determined by the Secretary to
24 be equal to the 90th percentile of annual
25 premiums for self-only coverage under

1 group health plans for calendar year 2019,
2 and

3 “(ii) in the case of coverage other
4 than self-only coverage, the amount deter-
5 mined by the Secretary to be equal to the
6 90th percentile of annual premiums for
7 coverage other than self-only coverage
8 under group health plans for calendar year
9 2019.

10 “(B) ADJUSTMENT FOR YEARS AFTER
11 2020.—In the case of any calendar year after
12 2020, the amount under clause (i)(I) and the
13 amount under clause (i)(II) shall each be in-
14 creased by an amount equal to—

15 “(i) such amount, multiplied by—

16 “(ii) the cost-of-living adjustment de-
17 termined under section 1(f)(3) for such
18 calendar year, determined

19 “(I) by substituting ‘calendar
20 year 2019’ for ‘calendar year 1992’,
21 and

22 “(II) by substituting for the CPI
23 referred to in section 1(f)(3)(A) the
24 amount that such CPI would have
25 been if the annual percentage increase

1 in CPI with respect to each year after
2 2019 had been two percentage points
3 greater.

4 “(C) TERMS RELATED TO CPI.—

5 “(i) ANNUAL PERCENTAGE IN-
6 CREASE.—For purposes of subparagraph
7 (B)(ii)(II), the term ‘annual percentage in-
8 crease’ means the percentage (if any) by
9 which CPI for any year exceeds CPI for
10 the prior year.

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

15 “(D) ROUNDING.—Any increase deter-
16 mined under subparagraph (B) shall be round-
17 ed to the nearest multiple of \$50.

18 “(6) INCLUSION NOT TO EXCEED EXCLUDABLE
19 COVERAGE.—The amount included in the taxpayer’s
20 gross income under paragraph (1) with respect to
21 any specified employer-provided health coverage for
22 any month shall not exceed the amount which (but
23 for this subsection) would be excludible from the
24 taxpayer’s gross income under this section or section

1 105(b) with respect to such coverage for such
2 month.”.

3 (b) HEALTH INSURANCE COSTS OF SELF-EMPLOYED
4 INDIVIDUALS.—Section 162(l)(2) of such Code is amend-
5 ed—

6 (1) by redesignating subparagraphs (A), (B),
7 and (C) as subparagraphs (B), (C), and (D), respec-
8 tively,

9 (2) by striking “DOLLAR AMOUNT” in the head-
10 ing of subparagraph (B) (as so redesignated) and in-
11 serting “EARNED INCOME FROM TRADE OR BUSI-
12 NESS”, and

13 (3) by inserting before subparagraph (B) (as so
14 redesignated) the following new subparagraph:

15 “(A) IN GENERAL.—The amount allowed
16 as a deduction under paragraph (1) with re-
17 spect to any taxpayer for any calendar month
18 shall not exceed $\frac{1}{12}$ of the annual limitation (as
19 defined in section 106(h)(5)) with respect to
20 such coverage for the calendar year in which
21 such month begins.”.

22 (c) REPORTING REQUIREMENT.—Section 6051(a) of
23 such Code is amended by striking “and” at the end of
24 paragraph (14), by striking the period at the end of para-

1 graph (15) and inserting “and”, and by inserting after
2 paragraph (15) the following new paragraph:

3 “(16) the total amount of specified employer-
4 provided health coverages which is includible in
5 gross income by reason of section 106(h).”.

6 (d) APPLICATION TO WAGE WITHHOLDING.—Section
7 3401(a) of such Code is amended—

8 (1) by striking paragraph (21),

9 (2) by redesignating paragraphs (22) and (23)
10 as paragraphs (21) and (22), respectively, and

11 (3) by striking “section 106(d)” in paragraph
12 (21) (as so redesignated) and inserting “section
13 106”.

14 **[(e) RETIRED PUBLIC SAFETY OFFICERS.—Section**
15 **402(l)(4)(D) of such Code is amended by adding at the**
16 **end the following: “Such term shall not include any pre-**
17 **mium for coverage by an accident or health insurance plan**
18 **for any month to the extent such premium exceeds $\frac{1}{12}$**
19 **of the annual limitation (as defined in section 106(h)(5)**
20 **with respect to such coverage for the calendar year in**
21 **which such month begins.”.]**

22 **[(f) EARNED INCOME CREDIT UNAFFECTED BY LIM-**
23 **ITATIONS.—Section 32(c)(2)(B) of such Code is amended**
24 **by redesignating clauses (v) and (vi) as clauses (vi) and**

1 (vii), respectively, and by inserting after clause (iv) the
2 following new clause:】

3 【“(v) the earned income of an indi-
4 vidual shall be computed without regard to
5 section 106(h),”】

6 (g) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2019.

9 **SEC. 223. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAV-**
10 **INGS ACCOUNT INCREASED TO AMOUNT OF**
11 **DEDUCTIBLE AND OUT-OF-POCKET LIMITA-**
12 **TION.**

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

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

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

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

24 (2) by striking “determined by” in subpara-
25 graph (B) thereof and all that follows through “cal-

1 endar year 2003’.” and inserting “determined by
2 substituting ‘calendar year 2003’ for ‘calendar year
3 1992’ in subparagraph (B) thereof .”.

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

7 **[SEC. 224. CLARIFYING APPLICATION OF PROHIBITION ON**
8 **FEDERAL FUNDING OF ABORTIONS WITH RE-**
9 **SPECT TO CERTAIN BENEFITS AND PRO-**
10 **GRAMS.**

11 **[(a) DISALLOWANCE OF SMALL EMPLOYER HEALTH**
12 **INSURANCE EXPENSE CREDIT FOR PLAN WHICH IN-**
13 **CLUDES COVERAGE FOR ABORTION.—**Subsection (h) of
14 section 45R of the Internal Revenue Code of 1986 is
15 amended—**]**

16 **[(1) by striking “Any term” and inserting the**
17 **following:]**

18 **["(1) IN GENERAL.—Any term”; and]**

19 **[(2) by adding at the end the following new**
20 **paragraph:]**

21 **["(2) EXCLUSION OF HEALTH PLANS INCLUD-**
22 **ING COVERAGE FOR ABORTION.—]**

23 **["(A) IN GENERAL.—**The term ‘qualified
24 health plan’ does not include any health plan
25 that includes coverage for abortions (other than

1 any abortion or treatment described in section
2 307 or 308 of title 1, United States Code).】

3 【“(B) SEPARATE ABORTION COVERAGE OR
4 PLAN ALLOWED.—】

5 【“(i) OPTION TO PURCHASE SEPA-
6 RATE COVERAGE OR PLAN.—Nothing in
7 subparagraph (A) shall be construed as
8 prohibiting any employer from purchasing
9 for its employees separate coverage for
10 abortions described in such subparagraph,
11 or a health plan that includes such abor-
12 tions, so long as no credit is allowed under
13 this section with respect to the employer
14 contributions for such coverage or plan.】

15 【“(ii) OPTION TO OFFER COVERAGE
16 OR PLAN.—Nothing in subparagraph (A)
17 shall restrict any non-Federal health insur-
18 ance issuer offering a health plan from of-
19 fering separate coverage for abortions de-
20 scribed in such subparagraph, or a plan
21 that includes such abortions, so long as
22 such separate coverage or plan is not paid
23 for with any employer contribution eligible
24 for the credit allowed under this sec-
25 tion.”.】

1 **[(b) REPEAL OF SUPERCEDED RULES FOR ABOR-**
2 **TION COVERAGE BY EXCHANGE PLANS.—**Section 1303(b)
3 of Public Law 111-148 (42 U.S.C. 18023(b)) is amended
4 by striking paragraphs (2) and (3) and by redesignating
5 paragraph (4) as paragraph (2).**]**

6 **[(c) EFFECTIVE DATE.—]**

7 **[(1) SMALL EMPLOYER HEALTH INSURANCE**
8 **EXPENSE CREDIT.—**The amendments made by sub-
9 section (a) shall apply to taxable years beginning
10 after December 31, 2017.**]**

11 **[(2) OTHER PROVISIONS.—**The amendments
12 made by subsection (b) shall apply to plan years be-
13 ginning after December 31, 2017.**]**

14 **SEC. 225. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
15 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**
16 **ACCOUNT.**

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

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

21 **“(A) IN GENERAL.—**In the case of individ-
22 uals who are married to each other, if both
23 spouses are eligible individuals and either
24 spouse has family coverage under a high de-

1 ductible health plan as of the first day of any
2 month—

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

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

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

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

1 terminated under paragraph (3) for both spouses.
2 In any other case, any additional contribution
3 amount determined under paragraph (3) shall
4 not be taken into account under subparagraph
5 (A)(iii) and shall not be subject to division be-
6 tween the spouses.”.

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

10 **SEC. 226. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
11 **INCURRED BEFORE ESTABLISHMENT OF**
12 **HEALTH SAVINGS ACCOUNT.**

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

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

1 as having been established on the date that
2 such coverage begins.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply with respect to coverage beginning
5 after December 31, 2017.

