To amend the Internal Revenue Code of 1986 and the Patient Protection and Affordable Care Act to modify the definition of qualified health plan for purposes of the health insurance premium tax credit and to allow individuals purchasing health insurance in the individual market to purchase a lower premium copper plan.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2018

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

A BILL

To amend the Internal Revenue Code of 1986 and the Patient Protection and Affordable Care Act to modify the definition of qualified health plan for purposes of the health insurance premium tax credit and to allow individuals purchasing health insurance in the individual market to purchase a lower premium copper plan.

1. Be it enacted by the Senate and House of Representa-
SECTION 1. MODIFICATION OF DEFINITION OF QUALIFIED HEALTH PLAN.

(a) In General.—Section 36B(e)(3)(A) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ``(determined without regard to subparagraphs (A), (C)(ii), and (C)(iv) of paragraph (1) thereof and without regard to whether the plan is offered on an Exchange)'' after ``(determined without regard to subparagraphs (A), (C)(ii), and (C)(iv) of paragraph (1) thereof and without regard to whether the plan is offered on an Exchange)'' and after ``1301(a) of the Patient Protection and Affordable Care Act'', and

(2) by striking ``shall not include'' and all that follows and inserting ``shall not include any health plan that—

``(i) is a grandfathered health plan or a grandmothered health plan, or

``(ii) includes coverage for abortions (other than any abortion necessary to save the life of the mother or any abortion with respect to a pregnancy that is the result of an act of rape or incest).''.

(b) Definition of Grandmothered Health Plan.—Section 36B(e)(3) of such Code is amended by adding at the end the following new subparagraph:

``(C) GRANDMOTHERED HEALTH PLAN.—

``(i) In General.—The term ‘grandmothered health plan’ means health insurance coverage which is offered in the

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individual health insurance market as of October 1, 2013, and is permitted to be offered in such market after January 1, 2014, as a result of CCIIO guidance.

“(ii) CCIIO GUIDANCE DEFINED.—The term ‘CCIIO guidance’ means the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for non-grandfathered coverage in the individual health insurance market, as subsequently extended and modified (including by a communication entitled ‘Insurance Standards Bulletin Series—INFORMATION—Extension of Transitional Policy through 2019’ issued on April 9, 2018, by the Director of the Center for Consumer Information and Insurance Oversight of such Centers).

“(iii) INDIVIDUAL HEALTH INSURANCE MARKET.—The term ‘individual health insurance market’ means the market for health insurance coverage (as defined in section 9832(b)) offered to individ-
uals other than in connection with a group health plan (within the meaning of section 5000(b)(1)).”.

(c) Conforming Amendment Related to Abortion Coverage.—Section 36B(c)(3) of such Code, as amended by paragraph (2), is amended by adding at the end the following new subparagraph:

“(D) Certain rules related to abortion.—

“(i) Option to purchase separate coverage or plan.—Nothing in subparagraph (A) shall be construed as prohibiting any individual from purchasing separate coverage for abortions described in such subparagraph, or a health plan that includes such abortions, so long as no credit is allowed under this section with respect to the premiums for such coverage or plan.

“(ii) Option to offer coverage or plan.—Nothing in subparagraph (A) shall restrict any health insurance issuer offering a health plan from offering separate coverage for abortions described in such subparagraph, or a plan that includes such abortions, so long as premiums for such
separate coverage or plan are not paid for with any amount attributable to the credit allowed under this section (or the amount of any advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act).

“(iii) Other Treatments.—The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion shall not be treated as an abortion for purposes of subparagraph (A).”.

(d) Conforming Amendments Related to Off-Exchange Coverage.—

(1) Advance Payment Not Applicable.—

Section 1412 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new subsection:

“(f) Exclusion of Off-Exchange Coverage.— Advance payments under this section, and advance determinations under section 1411, with respect to any credit allowed under section 36B shall not be made with respect to any health plan which is not enrolled in through an Exchange.”.
(2) REPORTING.—Section 6055(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) INFORMATION RELATING TO OFF-EXCHANGE PREMIUM CREDIT ELIGIBLE COVERAGE.—If minimum essential coverage provided to an individual under subsection (a) consists of a qualified health plan (as defined in section 36B(c)(3)) which is not enrolled in through an Exchange established under title I of the Patient Protection and Affordable Care Act, a return described in this subsection shall include—

“(A) a statement that such plan is a qualified health plan (as defined in section 36B(c)(3)),

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

“(C) the months during which such coverage is provided to the individual,

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

“(E) such other information as the Secretary may prescribe.”.
(3) OTHER CONFORMING AMENDMENTS.—

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

(B) Section 36B(b)(3)(B)(i) of such Code is amended by striking “the same Exchange” and all that follows and inserting “the Exchange through which such taxpayer is permitted to obtain coverage, and”.

(C) Section 36B(c)(2)(A)(i) of such Code is amended by striking “that was enrolled in through an Exchange established by the State under section 1311 of the Patient Protection and Affordable Care Act”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to taxable years beginning after December 31, 2018.

(2) ADVANCE PAYMENT NOT APPLICABLE TO OFF-EXCHANGE COVERAGE.—The amendment made by subsection (d)(1) shall take effect on January 1, 2019.
(3) REPORTING.—The amendment made by subsection (d)(2) shall apply to coverage provided for months beginning after December 31, 2018.

SEC. 2. ALLOWING ALL INDIVIDUALS PURCHASING HEALTH INSURANCE IN THE INDIVIDUAL MARKET THE OPTION TO PURCHASE A LOWER PREMIUM COPPER PLAN.

(a) IN GENERAL.—Section 1302(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating clauses (i) and (ii) of subparagraph (B) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) by striking “plan year if—” and all that follows through “the plan provides—” and inserting “plan year if the plan provides—”; and

(C) in subparagraph (A), as redesignated by paragraph (1), by striking “clause (ii)” and inserting “subparagraph (B)”;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).
(b) Risk Pools.—Section 1312(c)(1) of the Patient Protection and Affordable Care Act (42 U.S.C. 18032(c)(1)) is amended by inserting “and enrollees in catastrophic plans described in section 1302(e)” after “Exchange”.

(c) Conforming Amendment.—Section 1312(d)(3)(C) of the Patient Protection and Affordable Care Act (42 U.S.C. 18032(d)(3)(C)) is amended by striking “, except that in the case of a catastrophic plan described in section 1302(e), a qualified individual may enroll in the plan only if the individual is eligible to enroll in the plan under section 1302(e)(2)”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2018.