

117TH CONGRESS  
1ST SESSION

# S. 352

To amend the Patient Protection and Affordable Care Act to reduce health care costs and expand health care coverage to more Americans.

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 2021

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Patient Protection and Affordable Care Act to reduce health care costs and expand health care coverage to more Americans.

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 “Health Care Improve-  
5 ment Act of 2021”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—REDUCING HEALTH CARE COSTS AND PROTECTING  
PEOPLE WITH PREEXISTING CONDITIONS

- Sec. 101. Improving affordability by expanding premium assistance for consumers.
- Sec. 102. Expanding affordability for working families to fix the family glitch.
- Sec. 103. Establishing a State Health Insurance Affordability and Innovation Fund.
- Sec. 104. Rescinding the short-term limited duration insurance regulation.
- Sec. 105. Revoking section 1332 guidance and rules.
- Sec. 106. Promoting consumer outreach and education.

#### TITLE II—ENCOURAGING MEDICAID EXPANSION AND STRENGTHENING THE MEDICAID PROGRAM

- Sec. 201. Incentivizing Medicaid expansion.
- Sec. 202. Reducing the administrative FMAP for nonexpansion States.
- Sec. 203. State option to provide 12 months of postpartum Medicaid eligibility.
- Sec. 204. Supporting State Medicaid programs through economic downturns.
- Sec. 205. State flexibility to use administrative simplification policies for enrollment.

#### TITLE III—ESTABLISHMENT OF A PUBLIC HEALTH CARE OPTION

- Sec. 301. Establishment of health plan.
- Sec. 302. Availability of plan.
- Sec. 303. Affordability.
- Sec. 304. Participating providers.
- Sec. 305. Provider payment rates.
- Sec. 306. No effect on Medicare benefits or Medicare trust funds.

#### TITLE IV—FAIR MEDICARE PAYMENTS TO RURAL PROVIDERS

- Sec. 401. Ensuring fairness in Medicare hospital payments.

#### TITLE V—COMMONSENSE COMPETITION AND ACCESS TO HEALTH INSURANCE

- Sec. 501. Providing small business health insurance across State lines.
- Sec. 502. Report and models.

#### TITLE VI—EMPOWERING MEDICARE SENIORS TO NEGOTIATE PRESCRIPTION DRUG PRICES

- Sec. 601. Authority to negotiate fair prices for Medicare prescription drugs.

#### TITLE VII—COMMONSENSE REPORTING FOR EMPLOYERS

- Sec. 701. Voluntary prospective reporting system.
- Sec. 702. Protection of dependent privacy.
- Sec. 703. Electronic statements.
- Sec. 704. GAO studies.
- Sec. 705. Tax compliance.

1 **TITLE I—REDUCING HEALTH**  
 2 **CARE COSTS AND PRO-**  
 3 **TECTING PEOPLE WITH PRE-**  
 4 **EXISTING CONDITIONS**

5 **SEC. 101. IMPROVING AFFORDABILITY BY EXPANDING PRE-**  
 6 **MIUM ASSISTANCE FOR CONSUMERS.**

7 (a) IN GENERAL.—Section 36B(b)(3)(A) of the In-  
 8 ternal Revenue Code of 1986 is amended to read as fol-  
 9 lows:

10 “(A) APPLICABLE PERCENTAGE.—The ap-  
 11 plicable percentage for any taxable year shall be  
 12 the percentage such that the applicable percent-  
 13 age for any taxpayer whose household income is  
 14 within an income tier specified in the following  
 15 table shall increase, on a sliding scale in a lin-  
 16 ear manner, from the initial premium percent-  
 17 age to the final premium percentage specified in  
 18 such table for such income tier:

“In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Up to 150.0 percent .....	0.0	0.0
150.0 percent up to 200.0 percent .....	0.0	3.0
200.0 percent up to 250.0 percent .....	3.0	4.0
250.0 percent up to 300.0 percent .....	4.0	6.0
300.0 percent up to 400.0 percent .....	6.0	8.5
400.0 percent and higher .....	8.5	8.5”.

1 (b) CONFORMING AMENDMENT.—Section  
 2 36B(c)(1)(A) of the Internal Revenue Code of 1986 is  
 3 amended by striking “but does not exceed 400 percent”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 2021.

7 **SEC. 102. EXPANDING AFFORDABILITY FOR WORKING FAM-**  
 8 **ILIES TO FIX THE FAMILY GLITCH.**

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

12 “(i) COVERAGE MUST BE AFFORD-  
 13 ABLE.—

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

1                   “(II) FAMILY MEMBERS.—An in-  
2                   dividual who is eligible to enroll in an  
3                   eligible employer-sponsored plan (as  
4                   defined in section 5000A(f)(2)) by  
5                   reason of a relationship the individual  
6                   bears to the employee shall not be  
7                   treated as eligible for minimum essen-  
8                   tial coverage by reason of such eligi-  
9                   bility to enroll if the employee’s re-  
10                  quired contribution (within the mean-  
11                  ing of section 5000A(e)(1)(B), deter-  
12                  mined by substituting ‘family’ for  
13                  ‘self-only’) with respect to the plan ex-  
14                  ceeds 9.5 percent of the employee’s  
15                  household income.”.

16               (b) CONFORMING AMENDMENTS.—

17               (1) Clause (ii) of section 36B(c)(2)(C) of the  
18               Internal Revenue Code of 1986 is amended by strik-  
19               ing “Except as provided in clause (iii), an employee”  
20               and inserting “An individual”.

21               (2) Clause (iii) of section 36B(c)(2)(C) of such  
22               Code is amended by striking “the last sentence of  
23               clause (i)” and inserting “clause (i)(II)”.

24               (3) Clause (iv) of section 36B(c)(2)(C) of such  
25               Code is amended by striking “the 9.5 percent under

1 clause (i)(II)” and inserting “the 9.5 percent under  
2 clauses (i)(I) and (i)(II)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2021.

6 **SEC. 103. ESTABLISHING A STATE HEALTH INSURANCE AF-**  
7 **FORDABILITY AND INNOVATION FUND.**

8 Subtitle D of title I of the Patient Protection and  
9 Affordable Care Act (42 U.S.C. 18021 et seq.) is amended  
10 by adding at the end the following:

11 **“PART 6—STATE HEALTH INSURANCE**  
12 **AFFORDABILITY AND INNOVATION FUND**

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

14 “There is hereby established the ‘State Health Insur-  
15 ance Affordability and Innovation Fund’ to be adminis-  
16 tered by the Secretary of Health and Human Services, act-  
17 ing through the Administrator of the Centers for Medicare  
18 & Medicaid Services (referred to in this section as the ‘Ad-  
19 ministrator’), to provide funding, in accordance with this  
20 part, to each of the 50 States and the District of Columbia  
21 (each referred to in this section as a ‘State’) beginning  
22 on January 1, 2022, for the purposes described in section  
23 1352.

1 **“SEC. 1352. USE OF FUNDS.**

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

5           “(1) To provide reinsurance payments to health  
6 insurance issuers with respect to individuals enrolled  
7 under individual health insurance coverage (other  
8 than through a plan described in subsection (b)) of-  
9 fered by such issuers.

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

16           “(3) State efforts to streamline health insur-  
17 ance enrollment procedures in order to reduce bur-  
18 dens on consumers and facilitate greater enrollment  
19 in health insurance coverage in the individual and  
20 small group markets, including automatic enrollment  
21 and reenrollment of, or pre-populated applications  
22 for, individuals without health insurance who are eli-  
23 gible for tax credits under section 36B of the Inter-  
24 nal Revenue Code of 1986, with the ability to opt  
25 out of such enrollment.

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

5           “(5) Feasibility studies to develop a comprehen-  
6 sive and coherent State plan for increasing enroll-  
7 ment in the individual and small group market.

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

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

13           “(2) A plan (commonly referred to as a ‘transi-  
14 tional plan’) continued under the letter issued by the  
15 Centers for Medicare & Medicaid Services on No-  
16 vember 14, 2013, to the State Insurance Commis-  
17 sioners outlining a transitional policy for coverage in  
18 the individual and small group markets to which sec-  
19 tion 1251 does not apply, and under the extension  
20 of the transitional policy for such coverage set forth  
21 in the Insurance Standards Bulletin Series guidance  
22 issued by the Centers for Medicare & Medicaid Serv-  
23 ices on March 5, 2014, February 29, 2016, Feb-  
24 ruary 13, 2017, April 9, 2018, March 25, 2019, and



1       January 31, 2020, or under any subsequent exten-  
2       sions thereof.

3               “(3) Student health insurance coverage (as de-  
4       fined in section 147.145 of title 45, Code of Federal  
5       Regulations).

6       **“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT**  
7               **SAFEGUARD.**

8               “(a) ENCOURAGING STATE OPTIONS FOR ALLOCA-  
9       TIONS.—

10              “(1) IN GENERAL.—To be eligible for an alloca-  
11       tion of funds under this part for a year (beginning  
12       with 2022), a State shall submit to the Adminis-  
13       trator an application at such time (but, in the case  
14       of allocations for 2022, not later than 90 days after  
15       the date of the enactment of this part and, in the  
16       case of allocations for a subsequent year, not later  
17       than March 1 of the previous year) and in such form  
18       and manner as specified by the Administrator con-  
19       taining—

20              “(A) a description of how the funds will be  
21       used; and

22              “(B) such other information as the Admin-  
23       istrator may require.

24              “(2) AUTOMATIC APPROVAL.—An application so  
25       submitted is approved unless the Administrator noti-

1       fies the State submitting the application, not later  
2       than 60 days after the date of the submission of  
3       such application, that the application has been de-  
4       nied for not being in compliance with any require-  
5       ment of this part and of the reason for such denial.

6           “(3) 5-YEAR APPLICATION APPROVAL.—If an  
7       application of a State is approved for a purpose de-  
8       scribed in section 1352 for a year, such application  
9       shall be treated as approved for such purpose for  
10      each of the subsequent 4 years.

11          “(4) REVOCATION OF APPROVAL.—The ap-  
12      proval of an application of a State, with respect to  
13      a purpose described in section 1352, may be revoked  
14      if the State fails to use funds provided to the State  
15      under this section for such purpose or otherwise fails  
16      to comply with the requirements of this section.

17          “(b) DEFAULT FEDERAL SAFEGUARD.—

18           “(1) 2022.—For 2022, in the case of a State  
19      that does not submit an application under subsection  
20      (a) by the 90-day submission date applicable to such  
21      year under subsection (a)(1) and in the case of a  
22      State that does submit such an application by such  
23      date that is not approved, the Administrator, in con-  
24      sultation with the State insurance commissioner,  
25      shall, from the amount calculated under paragraph

1 (4) for such year, carry out the purpose described in  
2 paragraph (3) in such State for such year.

3 “(2) 2023 AND SUBSEQUENT YEARS.—For  
4 2023 or a subsequent year, in the case of a State  
5 that does not have in effect an approved application  
6 under this section for such year, the Administrator,  
7 in consultation with the State insurance commis-  
8 sioner, shall, from the amount calculated under  
9 paragraph (4) for such year, carry out the purpose  
10 described in paragraph (3) in such State for such  
11 year.

12 “(3) SPECIFIED USE.—The amount described  
13 in paragraph (4), with respect to 2022 or a subse-  
14 quent year, shall be used to carry out the purpose  
15 described in section 1352(a)(1) in each State de-  
16 scribed in paragraph (1) or (2) for such year, as ap-  
17 plicable, by providing reinsurance payments to  
18 health insurance issuers with respect to attachment  
19 range claims (as defined in section 1354(b)(2)),  
20 using the dollar amounts specified in subparagraph  
21 (B) of such section for such year in an amount equal  
22 to, subject to paragraph (5), the percentage (speci-  
23 fied for such year by the Secretary under such sub-  
24 paragraph) of the amount of such claims.

1           “(4) AMOUNT DESCRIBED.—The amount de-  
2           scribed in this paragraph, with respect to 2022 or  
3           a subsequent year, is the amount equal to the total  
4           sum of amounts that the Secretary would otherwise  
5           estimate under section 1354(b)(2)(A)(i) for such  
6           year for each State described in paragraph (1) or  
7           (2) for such year, as applicable, if each such State  
8           were not so described for such year.

9           “(5) ADJUSTMENT.—For purposes of this sub-  
10          section, the Secretary may apply a percentage under  
11          paragraph (3) with respect to a year that is less  
12          than the percentage otherwise specified in section  
13          1354(b)(2)(B) for such year, if the cost of paying  
14          the total eligible attachment range claims for States  
15          described in this subsection for such year at such  
16          percentage otherwise specified would exceed the  
17          amount calculated under paragraph (4) for such  
18          year.

19       **“SEC. 1354. ALLOCATIONS.**

20          “(a) APPROPRIATION.—For the purpose of providing  
21          allocations for States under subsection (b) and payments  
22          under section 1353(b), there is appropriated, out of any  
23          money in the Treasury not otherwise appropriated,  
24          \$10,000,000,000 for 2022 and each subsequent year.

25          “(b) ALLOCATIONS.—

1 “(1) PAYMENT.—

2 “(A) IN GENERAL.—From amounts appro-  
3 priated under subsection (a) for a year, the  
4 Secretary shall, with respect to a State not de-  
5 scribed in section 1353(b) for such year and  
6 not later than the date specified under subpara-  
7 graph (B) for such year, allocate for such State  
8 the amount determined for such State and year  
9 under paragraph (2).

10 “(B) SPECIFIED DATE.—For purposes of  
11 subparagraph (A), the date specified in this  
12 subparagraph is—

13 “(i) for 2022, the date that is 45 days  
14 after the date of the enactment of this  
15 part; and

16 “(ii) for 2023 or a subsequent year,  
17 January 1 of the respective year.

18 “(C) NOTIFICATIONS OF ALLOCATION  
19 AMOUNTS.—For 2023 and each subsequent  
20 year, the Secretary shall notify each State of  
21 the amount determined for such State under  
22 paragraph (2) for such year by not later than  
23 January 1 of the previous year.

24 “(2) ALLOCATION AMOUNT DETERMINA-  
25 TIONS.—

1           “(A) IN GENERAL.—For purposes of para-  
2 graph (1), the amount determined under this  
3 paragraph for a year for a State described in  
4 paragraph (1)(A) for such year is the amount  
5 equal to—

6           “(i) the amount that the Secretary es-  
7 timates would be expended under this part  
8 for such year on attachment range claims  
9 of individuals residing in such State if such  
10 State used such funds only for the purpose  
11 described in paragraph (1) of section  
12 1352(a) at the dollar amounts and per-  
13 centage specified under subparagraph (B)  
14 for such year; minus

15           “(ii) the amount, if any, by which the  
16 Secretary determines—

17           “(I) the estimated amount of  
18 premium tax credits under section  
19 36B of the Internal Revenue Code of  
20 1986 that would be attributable to in-  
21 dividuals residing in such State for  
22 such year without application of this  
23 part; exceeds

24           “(II) the estimated amount of  
25 premium tax credits under section

1                   36B of the Internal Revenue Code of  
2                   1986 that would be attributable to in-  
3                   dividuals residing in such State for  
4                   such year if such State were a State  
5                   described in section 1353(b) for such  
6                   year.

7                   For purposes of the previous sentence and sec-  
8                   tion 1353(b)(3), the term ‘attachment range  
9                   claims’ means, with respect to an individual, the  
10                  claims for such individual that exceed a dollar  
11                  amount specified by the Secretary for a year,  
12                  but do not exceed a ceiling dollar amount speci-  
13                  fied by the Secretary for such year, under sub-  
14                  paragraph (B).

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

1 claims at the dollar amounts and percentage so  
2 specified for such year.

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

6 **SEC. 104. RESCINDING THE SHORT-TERM LIMITED DURA-**  
7 **TION INSURANCE REGULATION.**

8 The Secretary of Health and Human Services, the  
9 Secretary of the Treasury, and the Secretary of Labor—

10 (1) may not take any action to implement, en-  
11 force, or otherwise give effect to the rule entitled  
12 “Short-Term, Limited Duration Insurance” (83  
13 Fed. Reg. 38212 (August 3, 2018));

14 (2) shall apply any regulation revised by such  
15 rule as if such rule had not been issued; and

16 (3) may not promulgate any substantially simi-  
17 lar rule.

18 **SEC. 105. REVOKING SECTION 1332 GUIDANCE AND RULES.**

19 (a) PROVIDING THAT CERTAIN GUIDANCE AND  
20 RULES RELATED TO WAIVERS FOR STATE INNOVATION  
21 UNDER THE PATIENT PROTECTION AND AFFORDABLE  
22 CARE ACT SHALL HAVE NO FORCE OR EFFECT.—The  
23 Secretary of Health and Human Services and the Sec-  
24 retary of the Treasury may not—



1           (1) take any action to implement, enforce, or  
2 otherwise give effect to the guidance entitled “State  
3 Relief and Empowerment Waivers” (83 Fed. Reg.  
4 53575 (October 24, 2018)), or any rule promulgated  
5 to give effect to such guidance, including any such  
6 action that would—

7           (A) result in individuals losing health in-  
8 surance coverage that includes the essential  
9 health benefits package (as defined in sub-  
10 section (a) of section 1302 of the Patient Pro-  
11 tection and Affordable Care Act (42 U.S.C.  
12 18022) without regard to any waiver of any  
13 provision of such package under a waiver under  
14 section 1332 of such Act (42 U.S.C. 18052)),  
15 including the maternity and newborn care es-  
16 sential health benefit described in subsection  
17 (b)(1)(D) of such section 1302;

18           (B) result in a decrease in the number of  
19 such individuals enrolled in coverage that is at  
20 least as comprehensive as the coverage defined  
21 in section 1302(a) of the Patient Protection  
22 and Affordable Care Act (42 U.S.C. 18022(a))  
23 compared to the number of such individuals  
24 who would have been so enrolled in such cov-  
25 erage had such action not been taken;

1 (C) with respect to individuals with sub-  
2 stance use disorders, including opioid use dis-  
3 orders, reduce the availability or affordability of  
4 coverage that is at least as comprehensive as  
5 the coverage defined in section 1302(a) of the  
6 Patient Protection and Affordable Care Act (42  
7 U.S.C. 18022(a)) compared to the availability  
8 or affordability, respectively, of such coverage  
9 had such action not been taken;

10 (D) result, with respect to vulnerable popu-  
11 lations (including low-income individuals, elder-  
12 ly individuals, and individuals with serious  
13 health issues or who have a greater risk of de-  
14 veloping serious health issues), in a decrease in  
15 the availability of coverage that is at least as  
16 comprehensive as the coverage defined in sec-  
17 tion 1302(a) of the Patient Protection and Af-  
18 fordable Care Act (42 U.S.C. 18022(a)) with  
19 coverage and cost-sharing protections required  
20 under section 1332(b)(1)(B) of such Act (42  
21 U.S.C. 18052(b)(1)(B));

22 (E) with respect to individuals with pre-  
23 existing conditions, reduce the affordability of  
24 coverage that is at least as comprehensive as  
25 the coverage defined in section 1302(a) of the

1 Patient Protection and Affordable Care Act (42  
2 U.S.C. 18022(a)) compared to the affordability  
3 of such coverage had such action not been  
4 taken; or

5 (F) result in higher health insurance pre-  
6 miums for individuals enrolled in health insur-  
7 ance coverage that is at least as comprehensive  
8 as the coverage defined in section 1302(b) of  
9 such Act (42 U.S.C. 18022(b)); or

10 (2) promulgate any substantially similar guid-  
11 ance or rule.

12 (b) **RULE OF CONSTRUCTION.**—Nothing in sub-  
13 section (a) shall be construed to affect the approval of  
14 waivers under section 1332 of the Patient Protection and  
15 Affordable Care Act (42 U.S.C. 18052) that establish re-  
16 insurance programs that are consistent with the require-  
17 ments under subsection (b)(1) of such section (42 U.S.C.  
18 18052(b)(1)), lower health insurance premiums, and pro-  
19 tect health insurance coverage for people with preexisting  
20 conditions.

21 **SEC. 106. PROMOTING CONSUMER OUTREACH AND EDU-**  
22 **CATION.**

23 (a) **IN GENERAL.**—Section 1311(i) of the Patient  
24 Protection and Affordable Care Act (42 U.S.C. 18031(i))  
25 is amended—

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

3           “(C) SELECTION OF RECIPIENTS.—In the  
4 case of an Exchange established and operated  
5 by the Secretary within a State pursuant to sec-  
6 tion 1321(c), in awarding grants under para-  
7 graph (1), the Exchange shall—

8           “(i) select entities to receive such  
9 grants based on an entity’s demonstrated  
10 capacity to carry out each of the duties  
11 specified in paragraph (3);

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

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

1                   “(I) at least one entity described  
2                   in this paragraph that is a community  
3                   and consumer-focused nonprofit  
4                   group; and

5                   “(II) at least one entity described  
6                   in subparagraph (B), which may in-  
7                   clude another community and con-  
8                   sumer-focused nonprofit group in ad-  
9                   dition to any such group awarded a  
10                  grant pursuant to subclause (I).

11                 In awarding such grants, an Exchange may  
12                 consider an entity’s record with respect to  
13                 waste, fraud, and abuse for purposes of main-  
14                 taining the integrity of such Exchange.”;

15                 (2) in paragraph (3)—

16                   (A) by amending subparagraph (C) to read  
17                   as follows:

18                   “(C) facilitate enrollment, including with  
19                   respect to individuals with limited English pro-  
20                   ficiency and individuals with chronic illnesses,  
21                   in qualified health plans, State Medicaid plans  
22                   under title XIX of the Social Security Act, and  
23                   State child health plans under title XXI of such  
24                   Act.”;

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

3 (C) in subparagraph (E), by striking the  
4 period at the end and inserting “; and”;

5 (D) by inserting after subparagraph (E)  
6 the following new subparagraph:

7 “(F) provide referrals to community-based  
8 organizations that address social needs related  
9 to health outcomes.”; and

10 (E) by adding at the end the following  
11 flush text:

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

15 (3) in paragraph (4)(A)—

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

18 (B) in clause (i)—

19 (i) by inserting “not” before “be”;  
20 and

21 (ii) by striking “; or” and inserting a  
22 semicolon;

23 (C) in clause (ii)—

24 (i) by inserting “not” before “re-  
25 ceive”; and

1 (ii) by striking the period and insert-  
2 ing a semicolon; and

3 (D) by adding at the end the following new  
4 clauses:

5 “(iii) maintain physical presence in  
6 the State of the Exchange so as to allow  
7 in-person assistance to consumers; and

8 “(iv) receive opioid specific education  
9 and training that ensures the navigator  
10 can best educate individuals on qualified  
11 health plans offered through an Exchange,  
12 specifically coverage under such plans for  
13 opioid health care treatment.”; and

14 (4) in paragraph (6)—

15 (A) by striking “Grants under” and insert-  
16 ing the following:

17 “(A) STATE EXCHANGES.—Grants under”;  
18 and

19 (B) by adding at the end the following new  
20 subparagraph:

21 “(B) FEDERAL EXCHANGES.—For pur-  
22 poses of carrying out this subsection, with re-  
23 spect to an Exchange established and operated  
24 by the Secretary within a State pursuant to sec-  
25 tion 1321(c), the Secretary shall obligate

1           \$100,000,000 out of amounts collected through  
 2           the user fees on participating health insurance  
 3           issuers pursuant to section 156.50 of title 45,  
 4           Code of Federal Regulations (or any successor  
 5           regulations), for fiscal year 2022 and each sub-  
 6           sequent fiscal year. Such amount for a fiscal  
 7           year shall remain available until expended.”.

8           (b) **EFFECTIVE DATE.**—The amendments made by  
 9           this section shall apply with respect to plan years begin-  
 10          ning on or after January 1, 2022.

11 **TITLE II—ENCOURAGING MED-**  
 12 **ICAID EXPANSION AND**  
 13 **STRENGTHENING THE MED-**  
 14 **ICAID PROGRAM**

15 **SEC. 201. INCENTIVIZING MEDICAID EXPANSION.**

16          (a) **IN GENERAL.**—Section 1905 of the Social Secu-  
 17          rity Act (42 U.S.C. 1396d(y)(1)) is amended—

18               (1) in subsection (y)(1)—

19                   (A) in subparagraph (A), by striking  
 20                   “2014, 2015, and 2016” and inserting “each of  
 21                   the first 3 consecutive 12-month periods in  
 22                   which the State provides medical assistance to  
 23                   newly eligible individuals”;

24                   (B) in subparagraph (B), by striking  
 25                   “2017” and inserting “the fourth consecutive



1 12-month period in which the State provides  
2 medical assistance to newly eligible individuals”;

3 (C) in subparagraph (C), by striking  
4 “2018” and inserting “the fifth consecutive 12-  
5 month period in which the State provides med-  
6 ical assistance to newly eligible individuals”;

7 (D) in subparagraph (D), by striking  
8 “2019” and inserting “the sixth consecutive 12-  
9 month period in which the State provides med-  
10 ical assistance to newly eligible individuals”;  
11 and

12 (E) in subparagraph (E), by striking  
13 “2020 and each year thereafter” and inserting  
14 “the seventh consecutive 12-month period in  
15 which the State provides medical assistance to  
16 newly eligible individuals and each such period  
17 thereafter”; and

18 (2) in subsection (z)(2)(B)(i)(II), by inserting  
19 “(as in effect on the day before the date of enact-  
20 ment of the Health Care Improvement Act of  
21 2021)” after “subsection (y)(1)”.

22 (b) RETROACTIVE APPLICATION.—The amendments  
23 made by subsection (a)(1) shall take effect as if included  
24 in the enactment of Public Law 111–148 and shall apply  
25 to amounts expended by any State for medical assistance

1 for newly eligible individuals described in subclause (VIII)  
 2 of section 1902(a)(10)(A)(i) of the Social Security Act  
 3 under a State Medicaid plan (or a waiver of such plan)  
 4 during the period before the date of enactment of this Act.

5 **SEC. 202. REDUCING THE ADMINISTRATIVE FMAP FOR**  
 6 **NONEXPANSION STATES.**

7 Section 1903 of the Social Security Act (42 U.S.C.  
 8 1396b) is amended—

9 (1) in subsection (a)(7), by inserting “sub-  
 10 section (cc) and” before “section 1919(g)(3)(B)”;  
 11 and

12 (2) by adding at the end the following new sub-  
 13 section:

14 “(cc) REDUCTION OF FEDERAL PAYMENTS FOR CER-  
 15 TAIN ADMINISTRATIVE COSTS OF NONEXPANSION  
 16 STATES.—

17 “(1) IN GENERAL.—In the case of a State that  
 18 does not provide under the State plan of such State  
 19 (or waiver of such plan) for making medical assist-  
 20 ance available in accordance with section 1902(k)(1)  
 21 to all individuals described in section  
 22 1902(a)(10)(i)(VIII) for a calendar quarter begin-  
 23 ning on or after October 1, 2022, the Secretary may  
 24 reduce the percentage specified in subsection (a)(7)  
 25 for amounts described in such subsection expended

1 during such quarter by such State by the number of  
2 percentage points specified in paragraph (2) for such  
3 quarter.

4 “(2) AMOUNT OF REDUCTION.—For purposes  
5 of paragraph (1), the number of percentage points  
6 specified in this paragraph for a calendar quarter is  
7 the following:

8 “(A) For the calendar quarter beginning  
9 on October 1, 2022, 0.5.

10 “(B) For a calendar quarter beginning on  
11 or after January 1, 2023, and ending before  
12 July 1, 2027, the number of percentage points  
13 specified under this paragraph for the previous  
14 quarter, plus 0.5.

15 “(C) For a calendar quarter beginning on  
16 or after July 1, 2027, 10.

17 “(3) DEFINITION.—For purposes of this sub-  
18 section, the term ‘State’ means a State that is one  
19 of the 50 States or the District of Columbia.”.

20 **SEC. 203. STATE OPTION TO PROVIDE 12 MONTHS OF**  
21 **POSTPARTUM MEDICAID ELIGIBILITY.**

22 (a) OPTION TO PROVIDE CONTINUOUS MEDICAID  
23 AND CHIP COVERAGE FOR PREGNANT AND POSTPARTUM  
24 WOMEN.—

1           (1) MEDICAID.—Title XIX of the Social Secu-  
2 rity Act (42 U.S.C. 1396 et seq.) is amended—

3           (A) in section 1902(l)(1)(A), by inserting  
4 “(or, at the option of the State, 365-day pe-  
5 riod)” after “60-day period”;

6           (B) in section 1902(e)(6), by inserting  
7 “(or, at the option of the State, 365-day pe-  
8 riod)” after “60-day period”;

9           (C) in section 1903(v)(4)(A)(i), by insert-  
10 ing “(or, at the option of the State, 365-day pe-  
11 riod)” after “60-day period”; and

12           (D) in section 1905(a), in the 4th sentence  
13 in the matter following paragraph (30), by in-  
14 serting “(or, at the option of the State, 365-day  
15 period)” after “60-day period”.

16           (2) CHIP.—Section 2112 of the Social Security  
17 Act (42 U.S.C. 1397ll) is amended by inserting “(or,  
18 at the option of the State, 365-day period)” after  
19 “60-day period” each place it appears.

20           (b) REQUIRING FULL BENEFITS FOR PREGNANT  
21 AND POSTPARTUM WOMEN.—

22           (1) MEDICAID.—

23           (A) IN GENERAL.—Paragraph (5) of sec-  
24 tion 1902(e) of the Social Security Act (24  
25 U.S.C. 1396a(e)) is amended to read as follows:

1           “(5) Any woman who is eligible for medical as-  
2           sistance under the State plan or a waiver of such  
3           plan and who is, or who while so eligible becomes,  
4           pregnant, shall continue to be eligible under the plan  
5           or waiver for medical assistance through the end of  
6           the month in which the 60-day period (or, at the op-  
7           tion of the State, 365-day period) (beginning on the  
8           last day of her pregnancy) ends, regardless of the  
9           basis for the woman’s eligibility for medical assist-  
10          ance, including if the woman’s eligibility for medical  
11          assistance is on the basis of being pregnant.”.

12                   (B) CONFORMING AMENDMENT.—Section  
13           1902(a)(10) of the Social Security Act (42  
14           U.S.C. 1396a(a)(10)) is amended in the matter  
15           following subparagraph (G) by striking “(VII)  
16           the medical assistance” and all that follows  
17           through “complicate pregnancy,”.

18           (2) CHIP.—Section 2107(e)(1) of the Social  
19           Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

20                   (A) by redesignating subparagraphs (H)  
21           through (S) as subparagraphs (I) through (T),  
22           respectively; and

23                   (B) by inserting after subparagraph (G),  
24           the following:

1           “(H) Section 1902(e)(5) (requiring 60-day  
2           (or, at the option of the State, 365-day) contin-  
3           uous coverage for pregnant and postpartum  
4           women).”.

5           (c) MAINTENANCE OF EFFORT.—

6           (1) MEDICAID.—Section 1902 of the Social Se-  
7           curity Act (42 U.S.C. 1396a) is amended—

8                   (A) in paragraph (74), by striking “sub-  
9                   section (gg); and” and inserting “subsections  
10                   (gg) and (tt);”; and

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

13           “(tt) MAINTENANCE OF EFFORT RELATED TO LOW-  
14           INCOME PREGNANT WOMEN.—For calendar quarters be-  
15           ginning on or after the effective date described in section  
16           204(d) of the Health Care Improvement Act of 2021, and  
17           before January 1, 2023, no Federal payment shall be  
18           made to a State under section 1903(a) for amounts ex-  
19           pended under a State plan under this title or a waiver  
20           of such plan if the State—

21                   “(1) has in effect under such plan eligibility  
22                   standards, methodologies, or procedures for individ-  
23                   uals described in subsection (l)(1) who are eligible  
24                   for medical assistance under the State plan or waiv-  
25                   er under subsection (a)(10)(A)(ii)(IX) that are more

1 restrictive than the eligibility standards, methodolo-  
2 gies, or procedures, respectively, for such individuals  
3 under such plan or waiver that are in effect on the  
4 date of the enactment of this subsection; or

5 “(2) provides medical assistance to individuals  
6 described in subsection (l)(1) who are eligible for  
7 medical assistance under such plan or waiver under  
8 subsection (a)(10)(A)(ii)(IX) at a level that is less  
9 than the level at which the State provides such as-  
10 sistance to such individuals under such plan or waiv-  
11 er on the date of the enactment of this subsection.”.

12 (2) CHIP.—Section 2112 of the Social Security  
13 Act (42 U.S.C. 1397ll), as amended by subsection  
14 (b), is further amended by adding at the end the fol-  
15 lowing subsection:

16 “(g) MAINTENANCE OF EFFORT.—For calendar  
17 quarters beginning on or after the effective date described  
18 in section 204(d) of the Health Care Improvement Act of  
19 2021, and before January 1, 2023, no payment may be  
20 made under section 2105(a) with respect to a State child  
21 health plan if the State—

22 “(1) has in effect under such plan eligibility  
23 standards, methodologies, or procedures for targeted  
24 low-income pregnant women that are more restric-  
25 tive than the eligibility standards, methodologies, or

1 procedures, respectively, under such plan that are in  
2 effect on the date of the enactment of this sub-  
3 section; or

4 “(2) provides pregnancy-related assistance to  
5 targeted low-income pregnant women under such  
6 plan at a level that is less than the level at which  
7 the State provides such assistance to such women  
8 under such plan on the date of the enactment of this  
9 subsection.”.

10 (d) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided under  
12 paragraph (2), the amendments made by subsections  
13 (a) and (b) shall take effect on (and the effective  
14 date described in this subsection shall be) the first  
15 day of the first calendar year that begins after the  
16 last day of the emergency period described in section  
17 1135(g)(1)(B) of the Social Security Act (42 U.S.C.  
18 1320b–5(g)(1)(B)).

19 (2) EXTENSION OF EFFECTIVE DATE FOR  
20 STATE LAW AMENDMENT.—In the case of a State  
21 plan under title XIX or State child health plan  
22 under title XXI of the Social Security Act (42  
23 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
24 which the Secretary of Health and Human Services  
25 determines requires State legislation (other than leg-



1 islation appropriating funds) in order for the respec-  
 2 tive plan to meet the additional requirement imposed  
 3 by the amendments made by subsection (b), the re-  
 4 spective plan shall not be regarded as failing to com-  
 5 ply with the requirements of such title solely on the  
 6 basis of its failure to meet such applicable additional  
 7 requirement before the first day of the first calendar  
 8 quarter beginning after the close of the first regular  
 9 session of the State legislature that begins after the  
 10 date of enactment of this Act. For purposes of the  
 11 previous sentence, in the case of a State that has a  
 12 2-year legislative session, each year of the session is  
 13 considered to be a separate regular session of the  
 14 State legislature.

15 **SEC. 204. SUPPORTING STATE MEDICAID PROGRAMS**  
 16 **THROUGH ECONOMIC DOWNTURNS.**

17 (a) IN GENERAL.—Section 1905 of the Social Secu-  
 18 rity Act (42 U.S.C. 1396d) is amended—

19 (1) in subsection (b), by striking “and (ff)” and  
 20 inserting “(ff), and (hh)”;

21 (2) by adding at the end the following new sub-  
 22 section:

23 “(hh) INCREASED FMAP DURING ECONOMIC  
 24 DOWNTURNS.—

1           “(1) IN GENERAL.—If a fiscal quarter that be-  
2           gins on or after January 1, 2021, is an economic  
3           downturn quarter (as defined in paragraph (2)) with  
4           respect to a State, then the Federal medical assist-  
5           ance percentage determined for each State for such  
6           quarter under subsection (b) shall be equal to the  
7           percentage determined for the State and quarter  
8           under paragraph (3).

9           “(2) ECONOMIC DOWNTURN QUARTER.—

10           “(A) IN GENERAL.—

11           “(i) IN GENERAL.—In this subsection,  
12           the term ‘economic downturn quarter’  
13           means, with respect to a State, a fiscal  
14           quarter during which the State’s unem-  
15           ployment rate for the quarter exceeds the  
16           percentage determined for the State and  
17           quarter under clause (ii).

18           “(ii) THRESHOLD PERCENTAGE.—The  
19           percentage determined under this clause  
20           for a State and fiscal quarter is the per-  
21           centage equal to the lower of—

22           “(I) the State unemployment  
23           rate at the 20th percentile of the dis-  
24           tribution of the State’s quarterly un-  
25           employment rates for the 60-quarter

1 period preceding the quarter involved,  
2 increased by 1 percentage point; and

3 “(II) the State’s average quar-  
4 terly unemployment rate for the 12-  
5 quarter period preceding the quarter  
6 involved, increased by 1 percentage  
7 point.

8 “(B) UNEMPLOYMENT DATA.—

9 “(i) IN GENERAL.—Except as pro-  
10 vided in clause (ii), for purposes of deter-  
11 mining unemployment rates for a State  
12 and a quarter under this paragraph, the  
13 Secretary shall use data from the Local  
14 Area Unemployment Statistics from the  
15 Bureau of Labor Statistics.

16 “(ii) APPLICATION TO CERTAIN TER-  
17 RITORIES.—In the case of the Virgin Is-  
18 lands, Guam, the Northern Mariana Is-  
19 lands, American Samoa, or any other juris-  
20 diction for which suitable data from the  
21 Local Area Unemployment Statistics from  
22 the Bureau of Labor Statistics are unavail-  
23 able, the Secretary shall use data from the  
24 U-3 unemployment measure of the Bureau

1 of Labor Statistics to make any necessary  
2 determinations under subparagraph (A).

3 “(3) INCREASED FMAP DURING ECONOMIC  
4 DOWNTURN QUARTER.—

5 “(A) IN GENERAL.—During a fiscal quar-  
6 ter that is an economic downturn quarter with  
7 respect to a State, the Federal medical assist-  
8 ance percentage for the State and quarter de-  
9 termined under subsection (b) shall be equal  
10 to—

11 “(i) the Federal medical assistance  
12 percentage determined for the State and  
13 quarter under subsection (b) without re-  
14 gard to this subsection (but including any  
15 increase to such percentage for such quar-  
16 ter made pursuant to section 6008(a) of  
17 the Families First Coronavirus Response  
18 Act); increased by

19 “(ii) the number of percentage points  
20 (rounded to the nearest tenth of a percent-  
21 age point) equal to the product of—

22 “(I) the number of percentage  
23 points (rounded to the nearest tenth  
24 of a percentage point) by which the  
25 unemployment rate for the State and

1 quarter exceeds the percentage deter-  
2 mined for the State and quarter  
3 under paragraph (2)(A)(ii); and

4 “(II) 4.8.

5 “(B) RULES OF APPLICATION.—The fol-  
6 lowing rules shall apply with respect to the Fed-  
7 eral medical assistance percentage determined  
8 for a State and an economic downturn quarter  
9 under this subsection:

10 “(i) SCOPE OF APPLICATION.—Such  
11 Federal medical assistance percentage shall  
12 not apply for purposes of—

13 “(I) disproportionate share hos-  
14 pital payments described in section  
15 1923;

16 “(II) payments under part D of  
17 title IV; or

18 “(III) any payments under this  
19 title that are based on a Federal med-  
20 ical assistance percentage determined  
21 for a State under subsection (aa) (but  
22 only to the extent that such Federal  
23 medical assistance percentage is high-  
24 er than the economic recovery  
25 FMAP).

1 “(ii) LIMITATION.—In no case shall—

2 “(I) the Federal medical assist-  
3 ance percentage determined for a  
4 State and quarter pursuant to this  
5 subsection exceed 95 percent; or

6 “(II) any increase to the Federal  
7 medical assistance percentage deter-  
8 mined for a State and quarter pursu-  
9 ant to this subsection result in the ap-  
10 plication of a Federal medical assist-  
11 ance percentage that exceeds 95 per-  
12 cent.

13 “(iii) APPLICATION TO CHIP.—Not-  
14 withstanding the first sentence of section  
15 2105(b), the application of this subsection  
16 may result in the enhanced FMAP of a  
17 State for a fiscal year under such section  
18 exceeding 85 percent, but in no case may  
19 the application of this subsection before  
20 application of the second sentence of such  
21 section result in the enhanced FMAP of  
22 the State exceeding 95 percent.

23 “(4) ADVANCE PAYMENT; RETROSPECTIVE AD-  
24 JUSTMENT.—

1           “(A) IN GENERAL.—Prior to the beginning  
2 of the second fiscal quarter that begins after  
3 the date of enactment of this subsection, and  
4 each subsequent fiscal quarter, the Secretary  
5 shall, with respect to each State—

6           “(i) make an initial determination,  
7 based on the projections made for the  
8 State and quarter under subparagraph  
9 (B), as to—

10           “(I) whether the application of  
11 this subsection is expected to result in  
12 the application of a higher Federal  
13 medical assistance percentage for the  
14 State and quarter than the percentage  
15 that would otherwise apply without re-  
16 gard to this subsection; and

17           “(II) if the application of this  
18 subsection is expected to result in  
19 such a higher Federal medical assist-  
20 ance percentage for the State and  
21 quarter, what such higher percentage  
22 is expected to be; and

23           “(ii) if the Secretary determines under  
24 clause (i) that the application of this sub-  
25 section is expected to result in the applica-

1           tion of a higher Federal medical assistance  
2           percentage for the State and quarter than  
3           the percentage that would otherwise apply  
4           without regard to this subsection—

5                   “(I) apply such higher Federal  
6                   medical assistance percentage of the  
7                   State for purposes of making pay-  
8                   ments to the State for amounts ex-  
9                   pended during such quarter as med-  
10                  ical assistance under the State plan;  
11                  and

12                   “(II) take into account such  
13                   higher Federal medical assistance per-  
14                   centage of the State for purposes of  
15                   calculating the enhanced FMAP for  
16                   the State and quarter under section  
17                   2105(b).

18                   “(B) PROJECTION OF STATE UNEMPLOY-  
19                   MENT RATES.—Prior to the beginning of the  
20                   second fiscal quarter that begins after the date  
21                   of enactment of this subsection, and each subse-  
22                   quent fiscal quarter, the Secretary, acting  
23                   through the Chief Actuary of the Centers for  
24                   Medicare & Medicaid Services, shall, using the  
25                   most recently available data described in para-



1 graph (2)(B), make projections with respect  
2 to—

3 “(i) the unemployment rates for each  
4 State for such quarter;

5 “(ii) the threshold percentages de-  
6 scribed in paragraph (2)(A)(ii) for each  
7 State for such quarter; and

8 “(iii) the national unemployment rate  
9 for such quarter.

10 “(C) RETROSPECTIVE ADJUSTMENT.—As  
11 soon as practicable after final unemployment  
12 data becomes available for a fiscal quarter for  
13 which the Secretary made an initial determina-  
14 tion under this paragraph, the Secretary shall,  
15 with respect to each State—

16 “(i) make a final determination with  
17 respect to the application of this subsection  
18 for purposes of determining the Federal  
19 medical assistance percentage and en-  
20 hanced FMAP of the State for the quarter;  
21 and

22 “(ii) in accordance with section  
23 1903(d)(2) and section 2105(e), reduce or  
24 increase the amount payable to the State  
25 under section 1903(a) or section 2105 for

1 a subsequent fiscal quarter to the extent of  
2 any overpayment or underpayment under  
3 either such section which the Secretary de-  
4 termines was made as a result of an incor-  
5 rect initial determination under subpara-  
6 graph (A)(i) with respect to the application  
7 of this subsection for purposes of deter-  
8 mining the Federal medical assistance per-  
9 centage and enhanced FMAP of the State  
10 for such prior fiscal quarter.

11 “(5) RETROSPECTIVE APPLICATION OF OVER-  
12 THE-LIMIT FMAP INCREASES.—

13 “(A) IN GENERAL.—If a State has excess  
14 percentage points with respect to an economic  
15 downturn quarter and an applicable FMAP (as  
16 determined under subparagraph (B)), the State  
17 may elect to apply such excess percentage  
18 points to increase such applicable FMAP for  
19 one or more quarters during the look-back pe-  
20 riod for the State and economic downturn quar-  
21 ter in accordance with this paragraph.

22 “(B) EXCESS PERCENTAGE POINTS.—For  
23 purposes of this paragraph, the number of ex-  
24 cess percentage points for a State, economic  
25 downturn quarter, and an applicable FMAP

1 shall be equal to the number of percentage  
2 points by which—

3 “(i) the applicable FMAP for the  
4 State and quarter (after application of  
5 paragraph (3) but without regard to sub-  
6 paragraph (B)(ii) of such paragraph); ex-  
7 ceeds

8 “(ii) 95 percent.

9 “(C) EFFECT OF APPLICATION OF EXCESS  
10 PERCENTAGE POINTS.—If a State elects to  
11 apply excess percentage points to an applicable  
12 FMAP to a quarter during a look-back period  
13 under this paragraph, the Secretary shall deter-  
14 mine the additional amount of payment under  
15 section 1903(a) to which the State would have  
16 been entitled for such quarter if the applicable  
17 FMAP (as so increased) had been in effect for  
18 such quarter, and shall treat such additional  
19 amount as an underpayment for such quarter.

20 “(D) DISTRIBUTION OF EXCESS PERCENT-  
21 AGE POINTS.—A State that has excess percent-  
22 age points with respect to an economic down-  
23 turn quarter and applicable FMAP may elect to  
24 divide such points among more than 1 quarter  
25 during the look-back period for such State and

1 quarter provided that no excess percentage  
2 point (or fraction of an excess percentage point)  
3 is applied to the applicable FMAP of more than  
4 1 quarter.

5 “(E) LIMITATIONS.—

6 “(i) NO INCREASES OVER 100 PER-  
7 CENT.—A State may not increase an appli-  
8 cable FMAP for any quarter during a look-  
9 back period under this paragraph if such  
10 increase would result in the applicable  
11 FMAP for such quarter exceeding 100 per-  
12 cent.

13 “(ii) SCOPE OF APPLICATION.—Any  
14 increase to an applicable FMAP of a State  
15 for a fiscal quarter under this paragraph—

16 “(I) shall only apply with respect  
17 to payments for amounts expended by  
18 the State for medical assistance for  
19 services furnished during such quarter  
20 to which such applicable FMAP is ap-  
21 plicable; and

22 “(II) shall not apply with respect  
23 to payments described in paragraph  
24 (3)(B)(i).

25 “(F) DEFINITIONS.—In this paragraph:

1           “(i) APPLICABLE FMAP.—The term  
2 ‘applicable FMAP’ means, with respect to  
3 a State and fiscal quarter—

4           “(I) the Federal medical assist-  
5           ance percentage determined for the  
6           State and quarter under subsection  
7           (b);

8           “(II) the Federal medical assist-  
9           ance percentage applicable under sub-  
10          section (y);

11          “(III) the Federal medical assist-  
12          ance percentage applicable under sub-  
13          section (z)(2);

14          “(IV) the Federal medical assist-  
15          ance percentage determined for the  
16          State and quarter under subsection  
17          (ff); or

18          “(V) the enhanced FMAP deter-  
19          mined for the State and quarter  
20          under section 2105(b).

21          “(ii) LOOK-BACK PERIOD.—The term  
22 ‘look-back period’ means, with respect to a  
23 State and a fiscal quarter that is an eco-  
24 nomic downturn quarter for the State, the  
25 period of 4 fiscal quarters that ends with

1           the fourth quarter which precedes the most  
2           recent fiscal quarters that was not an eco-  
3           nomic downturn quarter for the State.

4           “(6) REQUIREMENT FOR ALL STATES.—This  
5           subsection shall not apply to a State with respect to  
6           a fiscal quarter, if—

7                   “(A) eligibility standards, methodologies,  
8                   or procedures under the State plan or a waiver  
9                   of such plan are more restrictive during such  
10                  quarter than the eligibility standards, meth-  
11                  odologies, or procedures, respectively, under  
12                  such plan (or waiver) as in effect on the last  
13                  day of the most recent fiscal quarter that was  
14                  not an economic downturn quarter for the  
15                  State;

16                   “(B) the amount of any premium imposed  
17                   by the State pursuant to section 1916 or 1916A  
18                   during such quarter, with respect to an indi-  
19                   vidual enrolled under such plan (or waiver), ex-  
20                   ceeds the amount of such premium as of the  
21                   date described in subparagraph (A); or

22                   “(C) the State fails to provide that an in-  
23                   dividual who is enrolled for benefits under such  
24                   plan (or waiver) as of the date described in sub-  
25                   paragraph (A) or enrolls for benefits under

1 such plan (or waiver) during the period begin-  
 2 ning with such date and ending with the day  
 3 before the first day of the next quarter that is  
 4 not an economic downturn quarter for the State  
 5 shall be treated as eligible for such benefits for  
 6 not less than 12 months after such date or (if  
 7 later) the date that such individual so enrolls  
 8 unless the individual requests a voluntary ter-  
 9 mination of eligibility or the individual ceases to  
 10 be a resident of the State.”.

11 (b) EXCLUSION OF ECONOMIC DOWNTURN FMAP  
 12 INCREASES FROM TERRITORIAL CAPS; SPECIAL RULE  
 13 FOR CHIP ALLOTMENTS.—

14 (1) EXCLUSION FROM TERRITORIAL CAPS.—  
 15 Section 1108 of the Social Security Act (42 U.S.C.  
 16 1308) is amended—

17 (A) in subsection (f), in the matter pre-  
 18 ceding paragraph (1), by striking “subsections  
 19 (g) and (h)” and inserting “subsections (g),  
 20 (h), and (i)”; and

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

22 “(i) EXCLUSION FROM CAPS OF AMOUNTS ATTRIB-  
 23 UTABLE TO ECONOMIC DOWNTURN FMAP.—Any pay-  
 24 ment made to a territory for a fiscal year in which the  
 25 Federal medical assistance percentage for the territory is

1 determined under section 1905(hh) shall not be taken into  
2 account for purposes of applying payment limits under  
3 subsections (f) and (g) to the extent that such payment  
4 exceeds the amount of the payment that would have been  
5 made to the territory for the year if the Federal medical  
6 assistance percentage for the territory had been deter-  
7 mined without regard to such section.”.

8 (2) CHIP ALLOTMENTS.—Section 2104(m) of  
9 the Social Security Act (42 U.S.C. 1397dd(m)) is  
10 amended—

11 (A) in paragraph (2)(B), in the matter  
12 preceding clause (i), by striking “paragraphs  
13 (5) and (7)” and inserting “paragraphs (5),  
14 (7), and (12)”; and

15 (B) by adding at the end the following new  
16 paragraph:

17 “(12) SPECIAL RULE FOR ADJUSTING ALLOT-  
18 MENTS DURING FISCAL YEARS WITH ECONOMIC  
19 DOWNTURN QUARTERS.—

20 “(A) IN GENERAL.—If a fiscal quarter is  
21 determined under section 1905(hh) to be an  
22 economic downturn quarter with respect to a  
23 State then, as soon as practicable after such de-  
24 termination, the Secretary shall increase the al-  
25 lotment for the State and the fiscal year in



1           which such fiscal quarter occurs in accordance  
2           with subparagraph (B).

3           “(B) AMOUNT OF INCREASE.—

4                   “(i) IN GENERAL.—The amount of an  
5           increase to the allotment of a State de-  
6           scribed in subparagraph (A) for a fiscal  
7           year shall be equal to the amount by which  
8           Federal payments made to the State for  
9           the preceding fiscal year under this title  
10          would have been increased (without regard  
11          to whether such payments would exceed  
12          the amount of the State’s allotment for  
13          such preceding fiscal year) if the enhanced  
14          FMAP determined for the State for such  
15          preceding fiscal year had been increased to  
16          the same extent that the State’s enhanced  
17          FMAP for the fiscal year involved is ex-  
18          pected to be increased as a result of the  
19          application of section 1905(hh) relative to  
20          the enhanced FMAP that would apply to  
21          the State for the fiscal year involved with-  
22          out the application of such section.

23                   “(ii) INCLUSION OF PROJECTED IN-  
24          CREASES.—In increasing the allotment of a  
25          State for a fiscal year under this para-

1 graph, the Secretary may base the calcula-  
2 tion of such increase on projections made  
3 by the Secretary with respect to—

4 “(I) the number of fiscal quar-  
5 ters during such fiscal year that will  
6 be economic downturn quarters; and

7 “(II) the effect that the applica-  
8 tion of section 1905(hh) is expected to  
9 have on the enhanced FMAP of the  
10 State for such fiscal year.

11 “(C) DISREGARD OF INCREASED PAY-  
12 MENTS FOR PURPOSES OF FUTURE ALLOT-  
13 MENTS.—Any Federal payment made to a State  
14 under this title for a fiscal year in which the  
15 Federal medical assistance percentage for the  
16 State is determined under section 1905(hh)  
17 shall be disregarded when determining the allot-  
18 ment of the State for any subsequent year, in-  
19 cluding for purposes of applying this paragraph,  
20 to the extent that such payment exceeds the  
21 amount of the payment that would have been  
22 made to the State for the year if the Federal  
23 medical assistance percentage for the State and  
24 year had been determined without regard to  
25 such section.”.

1 **SEC. 205. STATE FLEXIBILITY TO USE ADMINISTRATIVE**  
 2 **SIMPLIFICATION POLICIES FOR ENROLL-**  
 3 **MENT.**

4 (a) **PERMANENT EXTENSION OF MEDICAID AND**  
 5 **CHIP EXPRESS LANE OPTION.**—Section 1902(e)(13) of  
 6 the Social Security Act (42 U.S.C. 1396a(e)(13)) is  
 7 amended by striking subparagraph (I).

8 (b) **EXTENDING EXPRESS LANE ELIGIBILITY TO**  
 9 **ADULTS.**—Section 1902(e)(13)(A) of the Social Security  
 10 Act (42 U.S.C. 1396a(e)(13)(A)) is amended by adding  
 11 at the end the following new clause:

12 “(iii) **STATE OPTION TO EXTEND EX-**  
 13 **PRESS LANE ELIGIBILITY TO ADULTS.**—

14 “(I) **IN GENERAL.**—At the option  
 15 of the State, the State may apply the  
 16 provisions of this paragraph with re-  
 17 spect to determining eligibility under  
 18 this title for an eligible individual (as  
 19 defined in subclause (II)). In applying  
 20 this paragraph in the case of a State  
 21 making such an option, any reference  
 22 in this paragraph to a child with re-  
 23 spect to this title (other than a ref-  
 24 erence to child health assistance) shall  
 25 be deemed to be a reference to an eli-  
 26 gible individual.

1                   “(II) ELIGIBLE INDIVIDUAL DE-  
2                   FINED.—In this clause, the term ‘eli-  
3                   gible individual’ means—

4                                 “(aa) any individual (other  
5                                 than a child) whose income eligi-  
6                                 bility under the State plan or  
7                                 under a waiver of the plan for  
8                                 medical assistance is determined  
9                                 under paragraph (14); and

10                                “(bb) an individual included  
11                                in any other group of individuals  
12                                the Secretary determines appro-  
13                                priate.”.

14           (c) CONSENT BY BENEFIT UTILIZATION.—Section  
15 1902(e)(13)(D)(i) of the Social Security Act (42 U.S.C.  
16 1396a(e)(13)(D)(i)) is amended by inserting “by using  
17 medical assistance to access care,” after “through elec-  
18 tronic signature,”.

19           (d) STUDY AND REPORT ON OPTIONS FOR AUTO-  
20 MATIC ENROLLMENT IN MEDICAID AND CHIP.—

21                   (1) STUDY.—The Secretary of Health and  
22                   Human Services, by grant, contract, or interagency  
23                   agency, shall conduct a study to identify options for,  
24                   and barriers to, States automatically enrolling indi-  
25                   viduals who, on the basis of data and information

1 from income tax returns and other sources, are like-  
2 ly to be eligible for medical assistance under the  
3 State Medicaid plan established under title XIX of  
4 the Social Security Act (42 U.S.C. 1396 et seq.) (or  
5 a waiver of such plan) or for child health assistance  
6 (or, if applicable, pregnancy-related assistance)  
7 under the State child health plan established under  
8 title XXI of the Social Security Act (42 U.S.C.  
9 1397aa et seq.) (or a waiver of such plan), and  
10 would not be required to pay a premium for enroll-  
11 ment in such a plan or waiver.

12 (2) REPORT.—Not later than 1 year after the  
13 date of enactment of this Act, the Secretary of  
14 Health and Human Services shall submit a report to  
15 Congress on the results of the study conducted  
16 under subsection (a). The report shall include the  
17 following:

18 (A) An analysis of the financial, regu-  
19 latory, and legislative barriers that limit the  
20 ability of States to implement automatic enroll-  
21 ment for individuals described in subsection (a).

22 (B) An analysis of the extent to which  
23 State implementation of automatic enrollment  
24 for such individuals would reduce the number of  
25 uninsured individuals in each State.

1 (C) Recommendations for administrative  
 2 and legislative actions that, if taken, would  
 3 eliminate the barriers identified under subpara-  
 4 graph (A) and allow States to elect to automati-  
 5 cally enroll individuals described in subsection  
 6 (a) in the State Medicaid plan established  
 7 under title XIX of the Social Security Act (42  
 8 U.S.C. 1396 et seq.) (or a waiver of such plan)  
 9 or for child health assistance (or, if applicable,  
 10 pregnancy-related assistance) under the State  
 11 child health plan established under title XXI of  
 12 the Social Security Act (42 U.S.C. 1397aa et  
 13 seq.) (or a waiver of such plan).

14 **TITLE III—ESTABLISHMENT OF**  
 15 **A PUBLIC HEALTH CARE OPTION**

16 **SEC. 301. ESTABLISHMENT OF HEALTH PLAN.**

17 (a) IN GENERAL.—The Secretary of Health and  
 18 Human Services (referred to in this title as the “Sec-  
 19 retary”) shall establish a coordinated and low-cost health  
 20 plan (referred to in this section as the “health plan”) to  
 21 provide access to quality health care for enrollees.

22 (b) INDIVIDUAL MARKET AVAILABILITY.—The Sec-  
 23 retary shall make the health plan available in the indi-  
 24 vidual market for plan year 2022 and each subsequent  
 25 plan year.

1 (c) RULEMAKING.—The Secretary may promulgate  
2 such regulations as may be necessary to carry out this  
3 title.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated such sums as may be  
6 necessary to carry out this title.

7 **SEC. 302. AVAILABILITY OF PLAN.**

8 (a) ELIGIBILITY.—An individual shall be eligible to  
9 enroll in the health plan if such individual, for the entire  
10 period for which enrollment is sought—

11 (1) is a qualified individual within the meaning  
12 of section 1312 of the Patient Protection and Af-  
13 fordable Care Act (42 U.S.C. 18032);

14 (2) is not eligible for benefits under the Medi-  
15 care program under title XVIII of the Social Secu-  
16 rity Act (42 U.S.C. 1395 et seq.); and

17 (3) is not otherwise eligible for, or has been  
18 otherwise offered, employer-sponsored health care  
19 coverage.

20 (b) EXCHANGES.—The health plan shall be made  
21 available through the Exchanges, including the Small  
22 Business Health Options Program Exchange.

1 **SEC. 303. AFFORDABILITY.**

2 The Secretary shall ensure that coverage options for  
3 the health plan are not more costly than comparable op-  
4 tions offered on the Exchange in the applicable market.

5 **SEC. 304. PARTICIPATING PROVIDERS.**

6 (a) REQUIREMENT TO PARTICIPATE IN ORDER TO  
7 BE ENROLLED UNDER MEDICARE.—Beginning January  
8 1, 2022, the Secretary may require a health care provider  
9 enrolled under the Medicare program under section  
10 1866(j) of the Social Security Act (42 U.S.C. 1395cc(j))  
11 to be a participating provider under the health plan.

12 (b) REQUIREMENT TO PARTICIPATE IN ORDER TO  
13 PARTICIPATE IN MEDICAID.—Beginning January 1, 2022,  
14 the Secretary may require a health care provider under  
15 a State Medicaid plan under title XIX of the Social Secu-  
16 rity Act (42 U.S.C. 1396 et seq.) to also be a participating  
17 provider under the health plan.

18 **SEC. 305. PROVIDER PAYMENT RATES.**

19 The Secretary shall set competitive provider payment  
20 rates under the health plan using the best information  
21 publicly available and data otherwise accessible to the Sec-  
22 retary. The Secretary shall give consideration to existing  
23 provider payment rates for commercial health plans and  
24 provider costs to deliver care, giving special consideration  
25 to increased costs for providers to deliver care in rural  
26 and medically underserved areas.



1 **SEC. 306. NO EFFECT ON MEDICARE BENEFITS OR MEDI-**  
 2 **CARE TRUST FUNDS.**

3 Nothing in this title shall—

4 (1) affect the benefits available under title  
 5 XVIII of the Social Security Act (42 U.S.C. 1395 et  
 6 seq.); or

7 (2) impact the Federal Hospital Insurance  
 8 Trust Fund under section 1817 of the Social Secu-  
 9 rity Act (42 U.S.C. 1395i) or the Federal Supple-  
 10 mentary Medical Insurance Trust Fund under sec-  
 11 tion 1841 of the Social Security Act (42 U.S.C.  
 12 1395t) (including the Medicare Prescription Drug  
 13 Account within such Trust Fund).

14 **TITLE IV—FAIR MEDICARE PAY-**  
 15 **MENTS TO RURAL PRO-**  
 16 **VIDERS**

17 **SEC. 401. ENSURING FAIRNESS IN MEDICARE HOSPITAL**  
 18 **PAYMENTS.**

19 (a) HOSPITAL INPATIENT SERVICES.—

20 (1) IN GENERAL.—Section 1886(d)(3)(E) of  
 21 the Social Security Act (42 U.S.C.  
 22 1395www(d)(3)(E)) is amended—

23 (A) in clause (i), in the first sentence, by  
 24 striking “or (iii)” and inserting “, (iii), or (iv)”;  
 25 and

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

3 “(iv) AREA WAGE INDEX FLOOR.—

4 “(I) IN GENERAL.—For discharges  
5 occurring on or after October 1, 2021, the  
6 area wage index applicable under this sub-  
7 paragraph to any hospital which is not lo-  
8 cated in a frontier State (as defined in  
9 clause (iii)(II)) may not be less than 0.85.

10 “(II) WAIVING BUDGET NEU-  
11 TRALITY.—Pursuant to the fifth sentence  
12 of clause (i), this clause shall not be ap-  
13 plied in a budget neutral manner.”.

14 (2) WAIVING BUDGET NEUTRALITY.—

15 (A) TECHNICAL AMENDATORY CORREC-  
16 TION.—Section 10324(a)(2) of Public Law  
17 111–148 is amended by striking “third sen-  
18 tence” and inserting “fifth sentence”.

19 (B) WAIVER.—Section 1886(d)(3)(E)(i) of  
20 the Social Security Act (42 U.S.C.  
21 1395ww(d)(3)(E)(i)) is amended, in the fifth  
22 sentence—

23 (i) by striking “and the amendments”  
24 and inserting “, the amendments”; and

1 (ii) by inserting “, and the amend-  
2 ments made by section 401(a)(1) of the  
3 Health Care Improvement Act of 2021”  
4 after “Care Act”.

5 (b) HOSPITAL OUTPATIENT DEPARTMENT SERV-  
6 ICES.—Section 1833(t) of the Social Security Act (42  
7 U.S.C. 1395l(t)), is amended—

8 (1) in paragraph (2)(D), by striking “(19), the  
9 Secretary” and inserting “(19) and paragraph (23),  
10 the Secretary”; and

11 (2) by adding at the end the following new  
12 paragraph:

13 “(23) FLOOR ON AREA WAGE ADJUSTMENT  
14 FACTOR FOR HOSPITAL OUTPATIENT DEPARTMENT  
15 SERVICES.—With respect to covered OPD services  
16 furnished on or after January 1, 2022, the area  
17 wage adjustment factor applicable under the pay-  
18 ment system established under this subsection to  
19 any hospital outpatient department which is not lo-  
20 cated in a frontier State (as defined in section  
21 1886(d)(3)(E)(iii)(II)) may not be less than 0.85.  
22 The preceding sentence shall not be implemented in  
23 a budget neutral manner.”.

1 **TITLE V—COMMONSENSE COM-**  
2 **PETITION AND ACCESS TO**  
3 **HEALTH INSURANCE**

4 **SEC. 501. PROVIDING SMALL BUSINESS HEALTH INSUR-**  
5 **ANCE ACROSS STATE LINES.**

6 Section 1333(a)(1)(A) of the Patient Protection and  
7 Affordable Care Act (42 U.S.C. 18053(a)(1)(A)) is  
8 amended by inserting “and small group markets” after  
9 “individual markets”.

10 **SEC. 502. REPORT AND MODELS.**

11 Section 1333 of the Patient Protection and Afford-  
12 able Care Act (42 U.S.C. 18053) is amended by adding  
13 at the end the following:

14 “(b) NAIC REPORT AND MODELS.—

15 “(1) IN GENERAL.—The Secretary shall request  
16 that the National Association of Insurance Commis-  
17 sioners submit, not later than December 31, 2021,  
18 to the Secretary a report concerning health plans  
19 provided for under this section. Such report shall in-  
20 clude—

21 “(A) a description of the challenges that  
22 States would face by permitting issuers of  
23 qualified health plans to offer such plans in  
24 States other than those States where such plan  
25 was originally written or issued;

1           “(B) an assessment of how an out-of-State  
2 insurer would go about building an adequate  
3 provider network;

4           “(C) a description of how such challenges  
5 could be lessened without weakening the en-  
6 forcement of laws and regulations described in  
7 subsection (a)(1)(B)(i) in any State that is in-  
8 cluded in a compact under this section;

9           “(D) a description of the commonalities  
10 that exist in State laws and opportunities to  
11 allow issuers of qualified health plans to offer  
12 such plans in States other than those States  
13 where such plan was originally written or  
14 issued; and

15           “(E) models to be used by States to estab-  
16 lish and enter into interstate health care choice  
17 compacts under this section, which—

18                   “(i) may include model legislation for  
19 use by States to enact laws to enter into  
20 such compacts;

21                   “(ii) shall identify how States would  
22 continue to enforce, and not weaken, the  
23 laws and regulations described in sub-  
24 section (a)(1)(B)(i) in any State that is in-  
25 cluded in such compact; and

1                   “(iii) shall identify how such models  
2                   would ensure that there is no violation of  
3                   the conditions for Secretarial approval  
4                   under subsection (a)(3).

5                   “(2) OTHER ORGANIZATIONS AND ENTITIES.—  
6                   In making the request under paragraph (1), the Sec-  
7                   retary may also request that the National Associa-  
8                   tion of Insurance Commissioners gather concepts for  
9                   inclusion in the report under such paragraph from  
10                  organizations and entities that have experience in of-  
11                  fering qualified health plans in States in which such  
12                  plans were not originally issued.”.

13 **TITLE VI—EMPOWERING MEDI-**  
14 **CARE SENIORS TO NEGOTIATE**  
15 **PRESCRIPTION DRUG**  
16 **PRICES**

17 **SEC. 601. AUTHORITY TO NEGOTIATE FAIR PRICES FOR**  
18 **MEDICARE PRESCRIPTION DRUGS.**

19                  (a) IN GENERAL.—Section 1860D–11 of the Social  
20 Security Act (42 U.S.C. 1395w–111) is amended by strik-  
21 ing subsection (i).

22                  (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall take effect on the date of the enactment  
24 of this Act.

1           **TITLE VII—COMMONSENSE**  
2           **REPORTING FOR EMPLOYERS**

3 **SEC. 701. VOLUNTARY PROSPECTIVE REPORTING SYSTEM.**

4           (a) **IN GENERAL.**—Not later than 1 year after the  
5 date of the enactment of this Act, the Secretary of the  
6 Treasury, in consultation with the Secretary of Health and  
7 Human Services, the Secretary of Labor, and the Admin-  
8 istrator of the Small Business Administration, shall de-  
9 velop and implement guidance providing for a prospective  
10 reporting system meeting the requirements of subsection  
11 (b). Such system shall be available for use by employers  
12 on a voluntary basis beginning not later than January 1,  
13 2023.

14           (b) **REQUIREMENTS.**—The system created under sub-  
15 section (a) shall include—

16               (1) voluntary reporting by each participating  
17 employer that offers minimum essential coverage to  
18 its full-time employees and their dependents under  
19 an eligible employer-sponsored plan, not later than  
20 45 days before the first day of the annual open en-  
21 rollment period under section 1311(c)(6)(B) of the  
22 Patient Protection and Affordable Care Act (42  
23 U.S.C. 18031(c)(6)(B)) for each calendar year, of—

1 (A) the name and employer identification  
2 number for purposes of section 6056 of the In-  
3 ternal Revenue Code of 1986 of the employer;

4 (B) a certification of—

5 (i) whether coverage meeting the defi-  
6 nition of minimum essential coverage in  
7 section 5000A(f) of the Internal Revenue  
8 Code of 1986 is offered to the full-time  
9 employees (within the meaning of section  
10 4980H of such Code) of the employer;

11 (ii) whether such coverage is offered  
12 to part-time employees of the employer;

13 (iii) whether such coverage is offered  
14 to dependents of employees;

15 (iv) whether such coverage is offered  
16 to spouses of employees;

17 (v) whether such coverage meets the  
18 minimum value requirement of section  
19 36B(c)(2)(C)(ii) of such Code;

20 (vi) whether such coverage satisfies  
21 the requirements to qualify for one of the  
22 affordability safe harbors promulgated by  
23 the Secretary of the Treasury for purposes  
24 of section 4980H of such Code; and



1 (vii) whether the employer reasonably  
2 expects to be liable for any shared respon-  
3 sibility payment under section 4980H of  
4 such Code for such year;

5 (C) the months during the prospective re-  
6 porting period that such coverage is available to  
7 individuals described in clauses (i) through (iv)  
8 of subparagraph (B);

9 (D) what waiting periods, if any, apply  
10 with respect to such coverage; and

11 (E) a list of all employer identification  
12 numbers of the employer for entities that em-  
13 ploy employees within the employers control  
14 group under subsection (b), (c), (m), or (o) of  
15 section 414 of the Internal Revenue Code for  
16 1986;

17 (2) processes necessary to ensure that Ex-  
18 changes, the Federal Marketplace Data Services  
19 Hub, and the Internal Revenue Service can securely  
20 and confidentially access the information described  
21 in paragraph (1) as necessary to carry out their re-  
22 spective missions, and to provide to the Secretary of  
23 Health and Human Services additional information  
24 relating to eligibility determinations for advance pay-  
25 ment of the premium tax credits under section 36B

1 of such Code and the cost-sharing subsidies under  
2 section 1402 of the Patient Protection and Afford-  
3 able Care Act (42 U.S.C. 18071);

4 (3) a process to allow Exchanges to follow up  
5 with employers in order to obtain additional reason-  
6 ably necessary information relating to an employee’s  
7 eligibility for such advance payment or such cost-  
8 sharing subsidies, and to allow an employee to re-  
9 ceive notification of any problem in verifying such  
10 eligibility; and

11 (4) a process to allow employers using the sys-  
12 tem to provide timely updates to the Federal Mar-  
13 ketplace Data Services Hub regarding any cancella-  
14 tion of coverage or significant change in coverage for  
15 participating employees that would change the infor-  
16 mation reported under paragraph (1).

17 (c) EMPLOYER NOTIFICATION OF EMPLOYEE EN-  
18 ROLLMENT IN EXCHANGE PLANS.—Subparagraph (J) of  
19 section 1311(d)(4) of the Patient Protection and Afford-  
20 able Care Act (42 U.S.C. 18031(d)(4)(J)) is amended by  
21 striking “to each employer” and all that follows through  
22 “(and the effective date of such cessation); and” and in-  
23 serting “to each employer—

24 “(i) the name of each employee of the  
25 employer who enrolls in a qualified health

1 plan for a plan year, or whose dependents  
2 enroll in such a plan, at the time of such  
3 enrollment; or

4 “(ii) the name of each employee of the  
5 employer described in subparagraph (I)(ii)  
6 who ceases coverage under a qualified  
7 health plan during a plan year (and the ef-  
8 fective date of such cessation); and”.

9 (d) EXEMPTION FROM REPORTING REQUIREMENT  
10 UNDER INTERNAL REVENUE CODE OF 1986.—Section  
11 6056 of the Internal Revenue Code of 1986 is amended  
12 by redesignating subsection (f) as subsection (g) and by  
13 inserting after subsection (e) the following new subsection:

14 “(f) EXEMPTION.—If, through the system created  
15 pursuant to section 701(a) of the Health Care Improve-  
16 ment Act of 2021, an employer provides prospective re-  
17 porting for any calendar year that meets the requirements  
18 of section 701(b)(1) of such Act—

19 “(1) such employer shall be treated as satis-  
20 fying the return requirements of subsections (a) and  
21 (b) for such year; and

22 “(2) such employer shall be treated as satis-  
23 fying the requirements of subsection (c) for such  
24 year if the employer—

1           “(A) furnishes the statement described in  
2           such section to those employees of the employer  
3           whose names have been provided to the em-  
4           ployer by an Exchange under section  
5           1311(d)(4)(J)(i) of the Patient Protection and  
6           Affordable Care Act regarding enrollment of the  
7           employee or a dependent in a qualified health  
8           plan (as defined in section 1301 of such Act)  
9           through the Exchange; and

10           “(B) furnishes a copy of such statement  
11           with respect to such employees to the Sec-  
12           retary.”.

13           (e) **THIRD-PARTY FILING.**—An employer may con-  
14           tract with a third party to make the report under sub-  
15           section (b)(1) without affecting the employer’s treatment  
16           as having satisfied the return requirements of subsections  
17           (a) and (b) of section 6056 of the Internal Revenue Code  
18           of 1986.

19           (f) **ACCESS TO THE NATIONAL DIRECTORY OF NEW**  
20           **HIRES.**—Subsection (i)(3) of section 453 of the Social Se-  
21           curity Act (42 U.S.C. 653) is amended by adding at the  
22           end the following new sentence: “The Secretary of the  
23           Treasury and the Secretary of Health and Human Serv-  
24           ices shall have access to the information in the National  
25           Directory of New Hires for purposes of administering sec-

1 tion 36B and 4980H of the Internal Revenue Code of  
2 1986 and section 1402 of the Patient Protection and Af-  
3 fordable Care Act (42 U.S.C. 18071). Subsection (k)(3)  
4 shall not apply to information received for purposes of the  
5 administration of such sections 36B and 4980H of such  
6 Code and section 1402 of such Act.”.

7 (g) IMPROVING EMPLOYEE ACCESS TO ACCURATE  
8 EINS.—Not later than 1 year after the date of the enact-  
9 ment of this Act, the Secretary of the Treasury shall de-  
10 velop and implement guidance for allowing any employee  
11 of an employer to receive, on request, the employer’s em-  
12 ployer identification number for purposes of section 6056  
13 of the Internal Revenue Code of 1986. Employers shall  
14 provide the employer’s employer identification number for  
15 purposes of section 6056 of the Internal Revenue Code  
16 of 1986 on one of the following documents of the employ-  
17 er’s election:

18 (1) Health Insurance Marketplace Coverage  
19 Options Notice required under section 18B of the  
20 Fair Labor Standards Act of 1938 (29 U.S.C.  
21 218b).

22 (2) Summary of Benefits and Coverage de-  
23 scribed in section 2715 of the Public Health Service  
24 Act (42 U.S.C. 300gg–15).

25 (3) Marketplace Employer Coverage tool.

1           (4) Annual benefits enrollment materials dis-  
2           tributed to employees, including through an intranet  
3           or an online portal accessible by employees.

4           (5) Employee pay statements or Form W-2.

5           (h) **FUNDING FOR VOLUNTARY PROSPECTIVE RE-**  
6 **PORTING SYSTEM.**—It is the sense of Congress that build-  
7 ing and maintaining the voluntary prospective reporting  
8 system described in this section will require appropriations  
9 to the Secretary of the Treasury, the Secretary of Health  
10 and Human Services, the Secretary of Labor, and the Ad-  
11 ministrator of the Small Business Administration, and  
12 that necessary sums to carry out the requirements of this  
13 section should be appropriated for such purpose.

14 **SEC. 702. PROTECTION OF DEPENDENT PRIVACY.**

15           (a) **IN GENERAL.**—Paragraph (1) of section 6055(b)  
16 of the Internal Revenue Code of 1986 is amended by add-  
17 ing at the end the following flush sentence:

18           “For purposes of subparagraph (B)(i), in the case of  
19 an individual other than the primary insured, if the health  
20 insurance issuer or the employer is unable to collect or  
21 maintain information on the TINs of such individuals  
22 (other than for purposes of this section), the Secretary  
23 may allow the individual’s full name and date of birth to  
24 be substituted for the name and TIN. In the event the  
25 Secretary allows the use of the individual’s full name and

1 date of birth in lieu of the TIN, the Social Security Ad-  
2 ministration shall assist the Internal Revenue Service in  
3 providing data matches to determine the TIN associated  
4 with the name and date of birth provided by the Internal  
5 Revenue Service with respect to such individual.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to returns the due date for which  
8 is after the date that is 60 days after the date of the enact-  
9 ment of this Act.

10 **SEC. 703. ELECTRONIC STATEMENTS.**

11 (a) IN GENERAL.—Subsection (c) of section 6056 of  
12 the Internal Revenue Code of 1986 is amended by adding  
13 at the end the following new paragraph:

14 “(3) ELECTRONIC DELIVERY.—An individual  
15 shall be deemed to have consented to receive the  
16 statement under this subsection in electronic form if  
17 such individual has affirmatively consented at any  
18 prior time, to the person who is the employer of the  
19 individual during the calendar year to which the  
20 statement relates, to receive such statement in elec-  
21 tronic form. The preceding sentence shall not apply  
22 if the individual revokes consent in writing with re-  
23 spect to the statement under this subsection.”.

24 (b) STATEMENTS RELATING TO HEALTH INSURANCE  
25 COVERAGE.—Subsection (c) of section 6055 of the Inter-

1 nal Revenue Code of 1986 is amended by adding at the  
2 end the following new paragraph:

3           “(3) ELECTRONIC DELIVERY.—An individual  
4 shall be deemed to have consented to receive the  
5 statement under this subsection in electronic form if  
6 such individual has affirmatively consented at any  
7 prior time, to the person required to make such  
8 statement (such as the provider of the individual’s  
9 health coverage), to receive in electronic form any  
10 private health information (such as electronic health  
11 records), unless the individual revokes such consent  
12 in writing.”.

13           (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to statements the due date for  
15 which is after December 31, 2021.

16 **SEC. 704. GAO STUDIES.**

17           (a) STUDY OF PAST EMPLOYER REPORTING.—

18           (1) IN GENERAL.—The Comptroller General of  
19 the United States shall conduct a study that evalu-  
20 ates, with respect to the period beginning on Janu-  
21 ary 1, 2017, and ending on December 31, 2020—

22           (A) the notification of employers by Ex-  
23 changes established under title I of the Patient  
24 Protection and Affordable Care Act (Public  
25 Law 111–148) that a full-time employee of the



1 employer has been determined eligible for ad-  
2 vance payment of premium tax credits under  
3 section 36B of the Internal Revenue Code of  
4 1986 or cost-sharing subsidies under section  
5 1402 of such Act (42 U.S.C. 18071), including  
6 information regarding—

7 (i) the data elements included in the  
8 employer notification;

9 (ii) the process by which the notifica-  
10 tion forms were developed and sent to em-  
11 ployers, including whether the process pro-  
12 vided for a formal notice and comment pe-  
13 riod;

14 (iii) whether employers report that  
15 such notifications provided sufficient and  
16 relevant information for them to make ap-  
17 propriate decisions about whether to utilize  
18 the appeals process;

19 (iv) the total number of notifications  
20 sent to employers and the timeline of when  
21 such notifications were sent;

22 (v) differences in the notification proc-  
23 ess between the marketplace facilitated by  
24 the Federal Government and the State-  
25 Based Marketplaces; and

1 (vi) challenges that have arisen in the  
2 notification process, and recommendations  
3 to address these challenges; and

4 (B) the extent to which the Secretary of  
5 Health and Human Services has established a  
6 separate appeals process for employers who re-  
7 ceived such a notification to challenge the eligi-  
8 bility determination, as required by section  
9 1411(f)(2) of the Patient Protection and Af-  
10 fordable Care Act (42 U.S.C. 18081(f)(2)).

11 (2) REPORT.—Not later than 1 year after the  
12 date of the enactment of this Act, the Comptroller  
13 General shall submit to the Committees on Finance  
14 and Health, Education, Labor, and Pensions of the  
15 Senate and the Committees on Ways and Means,  
16 Energy and Commerce, and Education and Labor of  
17 the House of Representatives a report on the results  
18 of the study conducted under paragraph (1).

19 (b) STUDY OF PROSPECTIVE REPORTING SYSTEM.—

20 (1) IN GENERAL.—The Comptroller General of  
21 the United States shall conduct a study that evalu-  
22 ates, with respect to the period beginning on Janu-  
23 ary 1, 2023, and ending on December 31, 2023, the  
24 functionality of the prospective reporting system es-  
25 tablished pursuant to section 701, including the ac-

1 curacy of information collected, the number of em-  
2 ployers electing to report under such system, and  
3 any challenges that have arisen in implementing  
4 such system.

5 (2) REPORT.—Not later than July 1, 2024, the  
6 Comptroller General shall submit to the Committees  
7 on Finance and Health, Education, Labor, and Pen-  
8 sions of the Senate and the Committees on Ways  
9 and Means, Energy and Commerce, and Education  
10 and Labor of the House of Representatives a report  
11 on the results of the study conducted under para-  
12 graph (1).

13 **SEC. 705. TAX COMPLIANCE.**

14 (a) IN GENERAL.—Section 6724(d)(1)(B)(xxv) of the  
15 Internal Revenue Code of 1986 is amended by inserting  
16 “or, in the case of an employer to which section 6056(f)  
17 applies, section 701(b)(1) of the Health Care Improve-  
18 ment Act of 2021” before “, or”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to returns required to be filed after  
21 the date of the enactment of this Act.

○