

STATE HEALTH CARE PREMIUM REDUCTION ACT

MARCH 9, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1425]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1425) to amend the Patient Protection and Affordable Care Act to provide for a Improve Health Insurance Affordability Fund to provide for certain reinsurance payments to lower premiums in the individual health insurance market, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “State Health Care Premium Reduction Act”.

SEC. 2. IMPROVE HEALTH INSURANCE AFFORDABILITY FUND.

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

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

“SEC. 1351. ESTABLISHMENT OF PROGRAM.

“There is hereby established the ‘Improve Health Insurance Affordability Fund’ to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the ‘Administrator’), to provide funding, in accordance with this part, to the 50 States and the District of Columbia (each referred to in this section as a ‘State’) beginning on January 1, 2020, for the purposes described in section 1352.

“SEC. 1352. USE OF FUNDS.

“(a) IN GENERAL.—A State shall use the funds allocated to the State under this part for one of the following purposes:

“(1) To provide reinsurance payments to health insurance issuers with respect to individuals enrolled under individual health insurance coverage (other than through a plan described in subsection (b)) offered by such issuers.

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

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

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

“(2) A plan (commonly referred to as a ‘transitional plan’) continued under the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for coverage in the individual and small group markets to which section 1251 does not apply, and under the extension of the transitional policy for such coverage set forth in the Insurance Standards Bulletin Series guidance issued by the Centers for Medicare & Medicaid Services on March 5, 2014, February 29, 2016, February 13, 2017, April 9, 2018, and March 25, 2019, or under any subsequent extensions thereof.

“(3) Student health insurance coverage (as defined in section 147.145 of title 45, Code of Federal Regulations).

“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT SAFEGUARD.

“(a) ENCOURAGING STATE OPTIONS FOR ALLOCATIONS.—

“(1) IN GENERAL.—To be eligible for an allocation of funds under this part for a year (beginning with 2020), a State shall submit to the Administrator an application at such time (but, in the case of allocations for 2020, not later than 90 days after the date of the enactment of this part and, in the case of allocations for a subsequent year, not later than March 1 of the previous year) and in such form and manner as specified by the Administrator containing—

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

“(B) such other information as the Administrator may require.

“(2) AUTOMATIC APPROVAL.—An application so submitted is approved unless the Administrator notifies the State submitting the application, not later than 60 days after the date of the submission of such application, that the application has been denied for not being in compliance with any requirement of this part and of the reason for such denial.

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

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

“(b) DEFAULT FEDERAL SAFEGUARD.—

“(1) 2020.—For 2020, in the case of a State that does not submit an application under subsection (a) by the 90-day submission date applicable to such year under subsection (a)(1) and in the case of a State that does submit such an application by such date that is not approved, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

“(2) 2021 AND SUBSEQUENT YEARS.—For 2021 or a subsequent year, in the case of a State that does not have in effect an approved application under this section for such year, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

“(3) SPECIFIED USE.—The amount described in paragraph (4), with respect to 2020 or a subsequent year, shall be used to carry out the purpose described in section 1352(a)(1) in each State described in paragraph (1) or (2) for such year, as applicable, by providing reinsurance payments to health insurance issuers with respect to attachment range claims (as defined in section 1354(b)(2)), using the dollar amounts specified in subparagraph (B) of such section for such year) in an amount equal to, subject to paragraph (5), the percentage (specified for such year by the Secretary under such subparagraph) of the amount of such claims.

“(4) AMOUNT DESCRIBED.—The amount described in this paragraph, with respect to 2020 or a subsequent year, is the amount equal to the total sum of amounts that the Secretary would otherwise estimate under section 1354(b)(2)(A)(i) for such year for each State described in paragraph (1) or (2) for such year, as applicable, if each such State were not so described for such year.

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

“SEC. 1354. ALLOCATIONS.

“(a) APPROPRIATION.—For the purpose of providing allocations for States under subsection (b) and payments under section 1353(b) there is appropriated, out of any money in the Treasury not otherwise appropriated, \$10,000,000,000 for 2020 and each subsequent year.

“(b) ALLOCATIONS.—

“(1) PAYMENT.—

“(A) IN GENERAL.—From amounts appropriated under subsection (a) for a year, the Secretary shall, with respect to a State not described in section 1353(b) for such year and not later than the date specified under subparagraph (B) for such year, allocate for such State the amount determined for such State and year under paragraph (2).

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

“(i) for 2020, the date that is 45 days after the date of the enactment of this part; and

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

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

“(2) ALLOCATION AMOUNT DETERMINATIONS.—

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

“(i) the amount that the Secretary estimates would be expended under this part for such year on attachment range claims of individuals residing in such State if such State used such funds only for the purpose described in paragraph (1) of section 1352(a) at the dollar amounts and percentage specified under subparagraph (B) for such year; minus

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

“(I) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attrib-

utable to individuals residing in such State for such year without application of this part; exceeds

“(II) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for such year if such State were a State described in section 1353(b) for such year.

For purposes of the previous sentence and section 1353(b)(3), the term ‘attachment range claims’ means, with respect to an individual, the claims for such individual that exceed a dollar amount specified by the Secretary for a year, but do not exceed a ceiling dollar amount specified by the Secretary for such year, under subparagraph (B).

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

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

I. PURPOSE AND SUMMARY

H.R. 1425, the “State Health Care Premium Reduction Act,” was introduced on February 28, 2019, by Reps. Craig (D–MN) and Peters (D–CA) and referred to the Committee on Energy and Commerce.

The goal of H.R. 1425 is to provide \$10 billion annually to States, with the option for States to establish a state reinsurance program or use the funds to provide financial assistance to reduce premium costs and out-of-pocket costs for individuals enrolled in qualified health plans. The legislation further requires the Centers for Medicare and Medicaid Services (CMS) to establish and implement a reinsurance program in States that do not apply for federal funding. The legislation sets a State’s allocation amount based on the State’s share of claims of high-cost enrollees.

II. BACKGROUND AND NEED FOR LEGISLATION

The Affordable Care Act (ACA) established a transitional reinsurance program that provided payments to individual market health plans for high-cost enrollees with significant medical needs. The reinsurance program, which sunset in 2016, helped reduce premiums for all enrollees in the individual market.

The Administration has issued several regulations and implemented policy changes that have resulted in an increase in premiums.¹ A study by the Kaiser Family Foundation estimates that 2019 premiums are 16 percent higher than they otherwise would be due to the Administration’s actions to eliminate the law’s cost-sharing subsidies, expand the availability of short-term limited duration insurance (STLDI), and the repeal of the individual mandate.²

¹The Brookings Institution, *How Would Individual Market Premiums Change in 2019 in a Stable Policy Environment?* (Aug. 2018) (www.brookings.edu/wp-content/uploads/2018/08/Individual-Market-Premium-Outlook-20191.pdf).

²Henry J Kaiser Family Foundation, *How Repeal of the Individual Mandate and Expansion of Loosely Regulated Plans are Affecting 2019 Premiums* (Oct. 26, 2018) (www.kff.org/health-reform/issue-brief/how-repeal-of-the-individual-mandate-and-expansion-of-loosely-regulated-plans-are-affecting-2019-premiums/?utm_campaign=KFF-2018-October-Health-Costs-ACA-Premiums-Marketplaces).

The Administration’s regulatory and policy changes have contributed to an increase in health care costs for individuals who are not eligible for the ACA’s tax subsidies and has caused a significant decrease in enrollment among this population.³ Premiums in the individual market increased approximately 17 percent in 2018 versus 2017, and unsubsidized enrollment outside the ACA marketplaces decreased by 2.3 million.⁴

H.R. 1425 would provide \$10 billion annually to States to reinstitute the ACA’s reinsurance program and reduce health care costs for enrollees in the individual market.

III. COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 1425:

On March 6, 2019, the Subcommittee on Health held a hearing on H.R. 1425 entitled, “Strengthening Our Health Care System: Legislation to Lower Consumer Costs and Expand Access.” The Subcommittee received testimony from the following witnesses:

- Peter Lee, Executive Director, Covered California;
- Audrey Morse Gasteier, Chief of Policy, Massachusetts Health Connector; and
- J.P. Wieske, Vice President, State Affairs, Council for Affordable Health Coverage.

IV. COMMITTEE CONSIDERATION

H.R. 1425, the “State Health Care Premium Reduction Act,” was introduced on February 28, 2019, by Reps. Craig (D–MN) and Peters (D–CA) and referred to the Committee on Energy and Commerce. The bill was then referred to the Subcommittee on Health on March 1, 2019. Following a legislative hearing, the Subcommittee met, pursuant to notice, in open markup session to consider H.R. 1425. Mr. Pallone offered an amendment in the nature of a substitute (AINS) to the bill. Mr. Burgess offered an amendment to the Pallone AINS, which was defeated by a roll call vote of 12 yeas to 17 nays (roll call # HE—3). A vote occurred on the Pallone AINS, which was agreed to by a roll call vote of 18 yeas to 12 nays (roll call # HE—4). The Subcommittee on Health then agreed to a motion by Ms. Eshoo, chairwoman of the subcommittee, to forward favorably H.R. 1425, amended, to the full Committee by a record vote of 18 yeas to 13 nays (roll call #HE—5).

On April 3, 2019, the full Committee on Energy and Commerce met, pursuant to notice, in open markup session to consider H.R. 1425, as amended by the Subcommittee on Health. Mr. Burgess offered an amendment, which was subsequently withdrawn. Mr. Pallone offered an amendment that was agreed to by a voice vote. Mrs. Rodgers offered an amendment that was defeated by a voice vote. The full Committee then agreed to a motion by Mr. Pallone, chairman of the committee, to order H.R. 1425 favorably reported to the

³Centers for Medicare & Medicaid Services, *Trends in Subsidized and Unsubsidized Individual Health Insurance Market Enrollment* (July 2, 2018) (www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/2018-07-02-Trends-Report-2.pdf).

⁴Kaiser Family Foundation, *Data Note: Changes in Enrollment in the Individual Health Insurance Market* (July 31, 2018) (www.kff.org/health-reform/issue-brief/data-note-changes-in-enrollment-in-the-individual-health-insurance-market).

House, amended, by a record vote of 30 yeas to 22 nays, a quorum being present (roll call # 20)—Final Passage.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were 5 record votes taken on H.R. 1425, including three record votes taken during subcommittee markup, and a motion by Mr. Pallone during full Committee markup ordering H.R. 1425 reported favorably to the House, amended. The motion on final passage of the bill was approved by a record vote of 30 yeas to 22 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

**COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
116th CONGRESS
ROLL CALL VOTE # 3 (HE)**

BILL: H.R. 1425, the "State Health Care Premium Reduction Act"

AMENDMENT: An amendment to the Pallone AINS offered by Mr. Burgess, No. 1a, to limit the receipt of funds allocated to States under the part 6 of Subtitle D of title 1 in the Patient Protection and Affordable Care Act that would not be permitted under section 2105 of the Social Security Act.

DISPOSITION: NOT AGREED TO by a roll call vote of 12 yeas to 17 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Eshoo		X		Rep. Burgess	X		
Rep. Engel				Rep. Upton	X		
Rep. Butterfield		X		Rep. Shimkus	X		
Rep. Matsui		X		Rep. Guthrie	X		
Rep. Castor		X		Rep. Griffith	X		
Rep. Sarbanes				Rep. Bilirakis	X		
Rep. Luján		X		Rep. Long	X		
Rep. Schrader		X		Rep. Bucshon	X		
Rep. Kennedy		X		Rep. Brooks			
Rep. Cárdenas		X		Rep. Mullin	X		
Rep. Welch		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Gianforte			
Rep. Kuster		X		Rep. Walden	X		
Rep. Kelly		X					
Rep. Barragán		X					
Rep. Blunt Rochester		X					
Rep. Rush		X					
Rep. Pallone		X					

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**COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
116th CONGRESS
ROLL CALL VOTE # 4 (HE)**

BILL: H.R. 1425, the "State Health Care Premium Reduction Act"

AMENDMENT: An Amendment in the Nature of a Substitute to H.R. 1425, offered by Mr. Pallone, No. 1, to amend the Patient Protection and Affordable Care Act to provide for a Improve Health Insurance Affordability Fund to provide for certain reinsurance payments to lower premiums in the individual health insurance market.

DISPOSITION: AGREED TO by a roll call vote of 18 yeas to 12 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Eshoo	X			Rep. Burgess		X	
Rep. Engel	X			Rep. Upton		X	
Rep. Butterfield	X			Rep. Shimkus		X	
Rep. Matsui	X			Rep. Guthrie		X	
Rep. Castor	X			Rep. Griffith		X	
Rep. Sarbanes	X			Rep. Bilirakis		X	
Rep. Luján				Rep. Long		X	
Rep. Schrader	X			Rep. Bucshon		X	
Rep. Kennedy	X			Rep. Brooks		X	
Rep. Cárdenas	X			Rep. Mullin		X	
Rep. Welch	X			Rep. Hudson			
Rep. Ruiz	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Gianforte		X	
Rep. Kuster	X			Rep. Walden		X	
Rep. Kelly	X						
Rep. Barragán	X						
Rep. Blunt Rochester	X						
Rep. Rush	X						
Rep. Pallone	X						

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**COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
116th CONGRESS
ROLL CALL VOTE # 5 (HE)**

BILL: H.R. 1425, the "State Health Care Premium Reduction Act"

MOTION: A motion by Ms. Eshoo to forward favorably H.R. 1425, amended, to the full Committee.

DISPOSITION: AGREED TO by a roll call vote of 18 yeas to 13 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Eshoo	X			Rep. Burgess	X		
Rep. Engel	X			Rep. Upton	X		
Rep. Butterfield	X			Rep. Shimkus	X		
Rep. Matsui	X			Rep. Guthrie	X		
Rep. Castor	X			Rep. Griffith	X		
Rep. Sarbanes	X			Rep. Bilirakis	X		
Rep. Luján				Rep. Long	X		
Rep. Schrader	X			Rep. Bucshon	X		
Rep. Kennedy	X			Rep. Brooks	X		
Rep. Cárdenas	X			Rep. Mullin	X		
Rep. Welch	X			Rep. Hudson	X		
Rep. Ruiz	X			Rep. Carter	X		
Rep. Dingell	X			Rep. Gianforte			
Rep. Kuster	X			Rep. Walden	X		
Rep. Kelly	X						
Rep. Barragán	X						
Rep. Blunt Rochester	X						
Rep. Rush	X						
Rep. Pallone	X						

03/27/2019

**COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 20**

BILL: H.R. 1425, the “State Health Care Premium Reduction Act”

MOTION: A motion by Mr. Pallone to order H.R. 1425 reported favorably to the House, amended.
(Final Passage)

DISPOSITION: AGREED TO by a roll call vote of 30 yeas to 22 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus		X	
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger			
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long			
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin		X	
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O’Halleran	X						

04/04/2019 – 12:06 a.m.

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide \$10 billion annually to states, with the option for states to establish a state reinsurance program or use the funds to provide financial assistance to reduce costs for individuals enrolled in qualified health plans. The bill further requires CMS to establish and implement a reinsurance program in states that do not apply for federal funding.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1425 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1425 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the short title may be cited as the “State Health Care Premium Reduction Act”.

Sec. 2. Improve Health Insurance Affordability Fund

Section 2 amends Subtitle D of title I of the Affordable Care Act (ACA) by inserting a new subdivision, Part 6—Improve Health Insurance Affordability Fund. As part of the new subdivision, section 2 adds the following new sections to the ACA, sec. 1351, sec. 1352, sec. 1353, and sec. 1354. The new subdivision and the new sections are as follows:

PART 6—IMPROVE HEALTH INSURANCE AFFORDABILITY FUND

Sec. 1351. Establishment of program

Section 1351 establishes the “Improve Health Insurance Affordability Fund” to be administered by the Secretary of Health and Human Services (HHS) to provide funding to States and the District of Columbia beginning on January 1, 2020.

Sec. 1352. Use of funds

Section 1352 establishes the purpose for the use of funds. This section allows states to use the funds to establish a state reinsurance program and provide payment to insurers for high-cost individuals enrolled in health insurance coverage in the individual market. States may also use the funds to provide financial assistance to reduce costs for individuals enrolled in qualified health plans. The section excludes the use of funds for grandfathered plans, transitional plans, and student health insurance coverage.

Sec. 1353. State eligibility and approval; Default safeguard

Section 1353 establishes the application process and timeline for States to apply for the funds. This section requires States to apply to the CMS Administrator and allows States to receive automatic approval for a period of five years. For 2020, States are required to apply no later than 90 days after the date of enactment, and for subsequent years, no later than March 1 of the previous year. This section requires CMS to implement a default federal reinsurance program in states that do not apply for federal funding. This section allows for state funds to be revoked if a state fails to use the funds for the intended purpose described in the legislation. The section also allows the HHS Secretary to make an adjustment to

the allocation formula if total eligible claims for states exceed the amount calculated for a year.

Sec. 1354. Allocations

Section 1354 appropriates \$10 billion annually and establishes the allocation methodology. This section requires the HHS Secretary to allocate funds to a State based on the estimated expenditure on attachment range claims for individuals in that state if such State used the funds for the purposes of administering a reinsurance program. For 2020, the HHS Secretary is required to notify States of the allocation amount 45 days after the date of enactment, and for subsequent years, no later than January 1 of the previous year. This section provides the HHS Secretary the authority to establish the attachment range claims and requires the Secretary to set the attachment range claims in a manner to ensure that the amount of expenditures equals the amount appropriated for such year. The section also allows the funds allocated to a State for a year to remain available through the end of the subsequent year.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

PATIENT PROTECTION AND AFFORDABLE CARE ACT

* * * * *

**TITLE I—QUALITY, AFFORDABLE
HEALTH CARE FOR ALL AMERICANS**

* * * * *

**Subtitle D—Available Coverage Choices for
All Americans**

* * * * *

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

SEC. 1351. ESTABLISHMENT OF PROGRAM.

There is hereby established the “Improve Health Insurance Affordability Fund” to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the “Administrator”), to provide funding, in accordance with this part, to the 50 States and the District of Columbia (each referred to in

this section as a “State”) beginning on January 1, 2020, for the purposes described in section 1352.

SEC. 1352. USE OF FUNDS.

(a) *IN GENERAL.*—A State shall use the funds allocated to the State under this part for one of the following purposes:

(1) To provide reinsurance payments to health insurance issuers with respect to individuals enrolled under individual health insurance coverage (other than through a plan described in subsection (b)) offered by such issuers.

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

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

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

(2) A plan (commonly referred to as a “transitional plan”) continued under the letter issued by the Centers for Medicare & Medicaid Services on November 14, 2013, to the State Insurance Commissioners outlining a transitional policy for coverage in the individual and small group markets to which section 1251 does not apply, and under the extension of the transitional policy for such coverage set forth in the Insurance Standards Bulletin Series guidance issued by the Centers for Medicare & Medicaid Services on March 5, 2014, February 29, 2016, February 13, 2017, April 9, 2018, and March 25, 2019, or under any subsequent extensions thereof.

(3) Student health insurance coverage (as defined in section 147.145 of title 45, Code of Federal Regulations).

SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT SAFEGUARD.

(a) *ENCOURAGING STATE OPTIONS FOR ALLOCATIONS.*—

(1) *IN GENERAL.*—To be eligible for an allocation of funds under this part for a year (beginning with 2020), a State shall submit to the Administrator an application at such time (but, in the case of allocations for 2020, not later than 90 days after the date of the enactment of this part and, in the case of allocations for a subsequent year, not later than March 1 of the previous year) and in such form and manner as specified by the Administrator containing—

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

(B) such other information as the Administrator may require.

(2) *AUTOMATIC APPROVAL.*—An application so submitted is approved unless the Administrator notifies the State submitting the application, not later than 60 days after the date of the submission of such application, that the application has been denied for not being in compliance with any requirement of this part and of the reason for such denial.

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

(4) *REVOCATION OF APPROVAL.*—The approval of an application of a State, with respect to a purpose described in section 1352, may be revoked if the State fails to use funds provided to the State under this section for such purpose or otherwise fails to comply with the requirements of this section.

(b) *DEFAULT FEDERAL SAFEGUARD.*—

(1) *2020.*—For 2020, in the case of a State that does not submit an application under subsection (a) by the 90-day submission date applicable to such year under subsection (a)(1) and in the case of a State that does submit such an application by such date that is not approved, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

(2) *2021 AND SUBSEQUENT YEARS.*—For 2021 or a subsequent year, in the case of a State that does not have in effect an approved application under this section for such year, the Administrator, in consultation with the State insurance commissioner, shall, from the amount calculated under paragraph (4) for such year, carry out the purpose described in paragraph (3) in such State for such year.

(3) *SPECIFIED USE.*—The amount described in paragraph (4), with respect to 2020 or a subsequent year, shall be used to carry out the purpose described in section 1352(a)(1) in each State described in paragraph (1) or (2) for such year, as applicable, by providing reinsurance payments to health insurance issuers with respect to attachment range claims (as defined in section 1354(b)(2)), using the dollar amounts specified in subparagraph (B) of such section for such year) in an amount equal to, subject to paragraph (5), the percentage (specified for such year by the Secretary under such subparagraph) of the amount of such claims.

(4) *AMOUNT DESCRIBED.*—The amount described in this paragraph, with respect to 2020 or a subsequent year, is the amount equal to the total sum of amounts that the Secretary would otherwise estimate under section 1354(b)(2)(A)(i) for such year for each State described in paragraph (1) or (2) for such year, as applicable, if each such State were not so described for such year.

(5) *ADJUSTMENT.*—For purposes of this subsection, the Secretary may apply a percentage under paragraph (3) with respect to a year that is less than the percentage otherwise specified in section 1354(b)(2)(B) for such year, if the cost of paying the total eligible attachment range claims for States described in this subsection for such year at such percentage otherwise specified would exceed the amount calculated under paragraph (4) for such year.

SEC. 1354. ALLOCATIONS.

(a) *APPROPRIATION.*—For the purpose of providing allocations for States under subsection (b) and payments under section 1353(b) there is appropriated, out of any money in the Treasury not otherwise appropriated, \$10,000,000,000 for 2020 and each subsequent year.

(b) *ALLOCATIONS.*—

(1) *PAYMENT.*—

(A) *IN GENERAL.*—From amounts appropriated under subsection (a) for a year, the Secretary shall, with respect to a State not described in section 1353(b) for such year and not later than the date specified under subparagraph (B) for such year, allocate for such State the amount determined for such State and year under paragraph (2).

(B) *SPECIFIED DATE.*—For purposes of subparagraph (A), the date specified in this subparagraph is—

(i) for 2020, the date that is 45 days after the date of the enactment of this part; and

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

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

(2) *ALLOCATION AMOUNT DETERMINATIONS.*—

(A) *IN GENERAL.*—For purposes of paragraph (1), the amount determined under this paragraph for a year for a State described in paragraph (1)(A) for such year is the amount equal to—

(i) the amount that the Secretary estimates would be expended under this part for such year on attachment range claims of individuals residing in such State if such State used such funds only for the purpose described in paragraph (1) of section 1352(a) at the dollar amounts and percentage specified under subparagraph (B) for such year; minus

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

(I) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for such year without application of this part; exceeds

(II) the estimated amount of premium tax credits under section 36B of the Internal Revenue Code of 1986 that would be attributable to individuals residing in such State for such year if such State were a State described in section 1353(b) for such year.

For purposes of the previous sentence and section 1353(b)(3), the term “attachment range claims” means, with respect to an individual, the claims for such individual that exceed a dollar amount specified by the Secretary for a year, but do not exceed a ceiling dollar amount specified by the Secretary for such year, under subparagraph (B).

(B) *SPECIFICATIONS.*—For purposes of subparagraph (A) and section 1353(b)(3), the Secretary shall determine the dollar amounts and the percentage to be specified under this subparagraph for a year in a manner to ensure that the total amount of expenditures under this part for such year is estimated to equal the total amount appropriated for such year under subsection (a) if such expenditures were

used solely for the purpose described in paragraph (1) of section 1352(a) for attachment range claims at the dollar amounts and percentage so specified for such year.

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

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XVII. DISSENTING VIEWS

This bill provides \$100 billion over 10 years for States to establish reinsurance programs strictly for individuals enrolled in the Patient Protection and Affordable Care Act's (PPACA) qualified health plans (QHPs). The bill is not paid for, nor does it contain a State match or State allocation formula, delegating the latter to the Secretary of the Department of Health and Human Services (HHS) like the transitional reinsurance program did. Finally, the bill does not include language affirming the long-standing consensus that Federal dollars should not pay for abortion services.

Congress has taken recent steps to provide States with reinsurance opportunities. In the 115th Congress, the House-passed H.R. 1628, the American Health Care Act of 2017, included the Patient and State Stability Fund. This provision would have provided States with the flexibility and resources to cut out-of-pocket costs like premiums and deductibles, promote access to health care services, and repair insurance markets. For States that chose not to access the available funding, the Federal government would have established and implemented a reinsurance program. In addition to reinsurance, the Patient and State Stability Fund's uses of funds included: helping high-risk individuals enroll in health insurance coverage; promoting participation in the individual market and small group market; and providing assistance to reduce out-of-pocket costs, such as copayments, coinsurance, premiums, and deductibles. The fund included a modestly phased-in State match, as well as a State allocation formula based on each State's previously incurred claims. The Patient and State Stability Fund was fully paid for and included language affirming the long-standing consensus that Federal dollars should not pay for abortion services.

GREG WALDEN,
*Republican Leader, Com-
mittee on Energy and
Commerce.*

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*Republican Leader, Sub-
committee on Health,
Committee on Energy and
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