

Calendar No. 190

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-86

REPEAL INSURANCE PLANS OF THE
MULTI-STATE PROGRAM ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1378

TO REPEAL THE MULTI-STATE PLAN PROGRAM



SEPTEMBER 10, 2019.—Ordered to be printed

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SEPTEMBER 10, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1378]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1378) to repeal the multi-State plan program, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 1378, the Repeal Insurance Plans of the Multi-State Program Act, or the RIP MSP Act, repeals the Multi-State Plan (MSP) Program authorized under Section 1334 of the Patient Protection and Affordable Care Act (ACA). Section 1334 directs the U.S. Office of Personnel Management (OPM) to “contract with private health insurers in each State to offer high-quality, affordable health insurance options called Multi-State Plans.”¹ The MSP Program is not

¹ Patient Protection and Affordable Care Act § 1334 (codified in 42 U.S.C. § 18054).

meeting statutory requirements under the ACA and eliminating this program will allow OPM to focus on mission-critical programs.²

II. BACKGROUND AND THE NEED FOR LEGISLATION

On March 23, 2010, President Barack Obama signed the ACA into law.³ Section 1334 of the ACA mandated a MSP Program to increase competition and provide greater insurance choices for consumers.⁴ To accomplish this task, the MSP authorized the Director of OPM to contract with health care plans to offer at least two multi-state plans on each state exchange for individual or group coverage by 2017, thereby competing against private plans offered through state exchanges.⁵

Section 1334 was inserted into the ACA by former Senate Majority Leader Harry Reid during floor consideration, after the legislation passed the Senate Finance Committee, as part of a Manager’s Amendment.⁶ Due to its late addition, Congress held no hearings to evaluate the merits of creating the MSP program.⁷ Staff to former Senator Edward (“Ted”) Kennedy explained the rushed origins of the program, stating, “It’s happened so fast, in a brief window, that there was not a lot of time for robust conversation The conversation was like, ‘this is a good idea, let’s cook something up.’ It was definitely not a thoughtful, nuanced conversation.”⁸

News that some members of Congress were nearing an agreement to create the MSP Program became public in December 2009 when Majority Leader Reid announced that a health reform working group of ten senators had arrived at a “tentative consensus ‘that includes a public option.’”⁹ The working group Majority Leader Reid referenced explored several reform options before settling on the MSP Program. One proposal under discussion by the working group was a public option; however a public option in which the government acted directly as the issuer did not have enough support to pass through Congress.¹⁰ As a result, Senator Chuck Schumer (D–N.Y.) worked with nine of his colleagues to come up with a backup plan to the public option.¹¹ One alternative under consideration by the working group was the MSP Program through which

²On June 18, 2018, the Committee approved S. 2221, the Repeal Insurance Plans of the Multi-State Program Act. That bill is substantially similar to S. 1378. Accordingly, this committee report is in large part a reproduction of Chairman Johnson’s committee report for S. 2221, S. Rep. No. 115–277 (2018).

³Patient Protection and Affordable Care Act, Pub. L. No. 111–148, 124 Stat. 119 (2010); see also *H.R. 3590—Patient Protection and Affordable Care Act*, Congress.gov, <https://www.congress.gov/bill/111th-congress/house-bill/3590/all-actions> (last updated Mar. 23, 2010).

⁴U.S. Off. of Pers. Mgmt., a new Day for Federal Service: An Overview of the Multi-State Plan Program (2014), <https://marketplace.cms.gov/technical-assistance-resources/multistate-plan-program.pdf>; see also Robert Moffit, *Will This Little-Known Obamacare Provision Lead to a Public Option?*, Daily Signal (Jan. 15, 2015), <http://dailysignal.com/2015/01/15/will-little-known-obamacare-provision-lead-public-option>.

⁵Patient Protection and Affordable Care Act § 1334, *supra* note 1.

⁶Moffit, *supra* note 4; S. Amdt. 3276 to H.R. 3590 (Dec. 19, 2009).

⁷See Robert Moffit, Dan Blair & Linda Springer, *The Office of Personnel Management: A Power Player in America’s Health Insurance Markets?*, Heritage Found. (Feb. 19, 2010), <https://www.heritage.org/health-care-reform/report/the-office-personnel-management-power-player-americas-health-insurance>.

⁸Sarah Kliff, *No, The Public Option is Not Back From the Dead*, Wash. Post: Wonkblog (Oct. 30, 2012), https://www.washingtonpost.com/news/wonk/wp/2012/10/30/no-the-public-option-has-not-returned-from-the-dead/?utm_term=.f7fddd750b03.

⁹Timothy Noah, *Medicare Buy-in, RIP*, Slate: Public Option Wiki (Dec. 14, 2009), http://www.slate.com/articles/news_and_politics/prescriptions/2009/12/public_option_wiki.html.

¹⁰Kliff, *supra* note 8.

¹¹*Id.*

OPM would work with private insurers to offer health insurance plans to compete with other plans available on state exchanges.¹² Another alternative was allowing individuals over the age of 55 to enroll in Medicare.¹³ It was reported that key Senators withheld support for the second idea, leaving the MSP Program all that remained.¹⁴ With a public option in which the government played the role of insurer off the table, the MSP Program was added to the ACA as the public option backup plan, described by some as “sort of a catch-all for a lot of different ideas.”¹⁵

Additionally, the law requires OPM to contract with at least one non-profit provider, and to ensure that at least one MSP option does not provide abortion coverage.¹⁶

The MSP program is failing to increase competition and choice

In its sixth year since the program’s implementation in 2014, the program is both failing to fulfill program intent and to meet statutory requirements. The MSP Program was created to increase both competition and choice in state health care exchanges.¹⁷ However, only one issuer association—the Blue Cross Blue Shield Association (BCBSA)—has ever participated in the MSP Program, despite a statutory requirement for OPM to contract with at least two MSP issuers in all 50 states and the District of Columbia by 2017.¹⁸ Further, BCBSA already had a significant market share in the states that participated in the MSP Program,¹⁹ and has approximately 70 percent of the market share in the one remaining state participating (Arkansas) in the MSP Program.²⁰

The Obama administration told issuers to “assume that each national plan would have 750,000 people enrolled in the first year.”²¹ However, approximately 350,000 individuals enrolled in a MSP option in 2014.²² For plan year 2015, MSP coverage expanded to 36 states and 437,000 individuals.²³ For plan year 2016, MSP coverage dipped to approximately 375,000 individuals in 33 states, and in 2017 the MSP enrollment fell to 290,000 individuals in 22

¹²*Id.*; *Senators seek to put OPM in charge of health care public option*, Government Executive (Dec. 5, 2009) www.govexec.com/federal-news/2009/12/senators-seek-to-put-opm-in-charge-of-healthcare-public-option/30472/; *see also*, *OPM could get role running national health plan*, Government Executive (Dec. 6, 2009), www.govexec.com/pay-benefits/2009/12/opm-could-get-role-running-national-health-plan/30473/.

¹³*Id.*

¹⁴*Id.*

¹⁵Rachana Pradhan & Paul Demko, *Another Piece of Obamacare Falls Short*, Politico (Sept. 7, 2016), <http://www.politico.com/story/2016/09/obamacare-falls-short-227854>.

¹⁶Patient Protection and Affordable Care Act § 1334, *supra* note 1.

¹⁷S. Rep. No. 111–89 (2009); *see also* Sabrina Corlette, *The Multi-State Plans Unveiled*, Geo. U. Ctr. On Health Ins. Reforms Blog (Sept. 30, 2013), <http://chirblog.org/multi-state-plans-unveiled/>.

¹⁸Patient Protection and Affordable Care Act § 1334, *supra* note 1; *see also* U.S. Off. of Pers. Mgmt., *supra* note 4; U.S. Off. of Pers. Mgmt., *Multi-State Plan Program and the Health Insurance Marketplace: FAQs*, <https://www.opm.gov/healthcare-insurance/multi-state-plan-program/consumer/?page=1#url=FAQs> (last visited Apr. 4, 2018).

¹⁹Corlette, *supra* note 17.

²⁰Christine Monahan, *Oh Where, Oh Where Are The Multi-State Plans?*, Geo. U. Ctr. On Health Ins. Reforms Blog (June 6, 2013), <http://chirblog.org/oh-where-oh-where-are-the-multi-state-plans/>; *see also* Sarah Goodell, *The Multi-State Plan Program (Updated)*, Health Affairs (May 29, 2014), <https://www.healthaffairs.org/doi/10.1377/hpb20140529.10243/full/>.

²¹Robert Pear, *U.S. Set to Sponsor Health Insurance*, N.Y. Times (Oct. 27, 2012), <https://www.nytimes.com/2012/10/28/health/us-to-sponsor-health-insurance-plans-nationwide.html>.

²²Document productions from U.S. Off. of Pers. Mgmt. provided to S. Comm. on Homeland Sec. & Governmental Aff. (Oct. 6, 2017 and Feb. 13, 2018) (on file with S. Comm. on Homeland Sec. & Governmental Aff.).

²³*Id.*

states.²⁴ By 2018, only one state—Arkansas—was participating in the MSP Program, and fewer than 48,000 individuals in Arkansas are likely to enroll in MSP plans in 2019.²⁵ With only one state participating, the program has a state participation success rate of 1.9 percent.

Shortly prior to passage of the ACA, the Congressional Budget Office (CBO) questioned the utility of the MSP Program and whether issuers would participate.²⁶ In a 2009 letter to Majority Leader Reid, CBO wrote:

[w]hether insurers would be interested in offering [MSP] plans is unclear, and establishing a nationwide plan comprising only nonprofit insurers might be particularly difficult. Even if such plans were arranged, the insurers offering them would probably have participated in the insurance exchanges anyway, so the inclusion of this provision did not have a significant effect on the estimates of federal costs or enrollment in the exchanges.²⁷

At the time, CBO also estimated that the creation of MSP was “unlikely to have much effect on average insurance premiums because the existence of that public plan would not substantially change the average premiums that would be paid in the exchanges.”²⁸ In evaluating the merits of S. 1378, CBO found that MSPs are not the lowest-cost or second-lowest cost silver plans in any rating areas where they are offered.²⁹ Because of this, eliminating MSPs would not affect Federal subsidies for health insurance purchased through the marketplaces, nor would it affect the Federal budget.³⁰

On April 29, 2019, OPM notified members of Congress that the Department would suspend MSP Program operations, beginning with the 2020 plan year.³¹ In letters to Committee Chairman Ron Johnson and Ranking Member Gary Peters, Acting Director Margaret Weichert noted that despite OPM’s efforts to encourage issuer participation in the MSP Program, beginning in 2016, issuer interest declined considerably.³² Due to OPM’s inability to achieve the statutory goals and objectives of the Program, OPM determined “the prudent course of action is to suspend MSP Program operations.”³³

Obamacare’s MSP Program detracts OPM from mission-critical programs that serve the Federal workforce

OPM, the agency tasked under law with the administration of the MSP Program, supports passage of S. 1378, noting that “[r]epealing this statutory requirement would allow OPM to further

²⁴ *Id.*

²⁵ E-mail from U.S. Off. of Pers. Mgmt. staff to S. Comm. on Homeland Sec. & Governmental Aff. staff (on file with S. Comm. on Homeland Sec. & Governmental Aff.).

²⁶ Letter from Douglas W. Elmendorf, Dir., Cong. Budget Off., to Harry Reid, Majority Leader, U.S. Senate (Dec. 19, 2009), http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/108xx/doc10868/12-19-reid_letter_managers_correction_noted.pdf.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Cong. Budget Off., Congressional Budget Office Cost Estimate: S. 1378 Repeal Insurance Plans of the Multi-State Program Act (2019), <https://www.cbo.gov/publication/55294>.

³⁰ *Id.*

³¹ Letter from Margaret Weichert to Sen. Ron Johnson (Apr. 29, 2019).

³² *Id.*

³³ *Id.*

strengthen its capacity to meet the important needs of our benefit programs serving the 2.7 million employees of the Federal workforce and over 2 million Federal workforce retirees.”³⁴

Since 1978, OPM’s core mission has been to serve the Federal workforce.³⁵ The creation of the MSP Program diverted OPM’s focus from this mission for the first time by requiring OPM to begin providing non-Federal services to the American public.³⁶ From fiscal year (FY) 2011 to FY 2019, OPM spent approximately \$60 million in “salaries and expenses” to administer the MSP Program.³⁷ This funding supported 42 full-time equivalents in FY2017 alone.³⁸

Prior to FY2019, additional resources were requested for the MSP Program in the annual Congressional Budget Justification instead of being requested for mission-critical programs that serve the Federal workforce and its retirees. Diverting OPM resources away from its core mission is significant given the agency is currently struggling to provide acceptable levels of service to Federal employees.³⁹ For instance, in fiscal year 2017, OPM requested \$3.35 million less money to support processing of its substantial backlog of Federal retirement claims.⁴⁰ At the same time, OPM expended \$10.3 million for MSP Program salaries and expenses alone.⁴¹ In its FY2019 Congressional Budget Justification, OPM recognized the lack of interest and participation in the MSP Program and proposed reallocating funding to the increasing needs of other mission critical programs.⁴²

S. 1378 will allow OPM the ability to focus on mission critical programs that benefit members of the Federal workforce, tribes and tribal organizations, and retirees.

Lastly, the volume of staffing devoted to the program has been disproportionate to the volume of people served. In 2018, 42 employees served no more than 55,000 participants in Arkansas.⁴³ The Federal Employee Health Benefits Program (FEHBP), by comparison, had 117 full-time employees but served 8.2 million people.⁴⁴ Therefore, throughout most of the program’s existence, OPM

³⁴ Letter from OPM Director Pon to Chairman Ron Johnson and Ranking Member McCaskill, S. Comm. on Homeland Sec. & Governmental Aff. (June 15, 2018) (on file with S. Comm. on Homeland Sec. & Governmental Aff.).

³⁵ *Our Mission, Role & History*, U.S. Off. of Pers. Mgmt., <https://www.opm.gov/about-us/our-mission-role-history/> (last visited Apr. 4, 2018).

³⁶ U.S. Off. of Pers. Mgmt., Congressional Budget Justification: Fiscal Year 2018 2 (2017), <https://www.opm.gov/about-us/budget-performance/budgets/congressional-budget-justification-fy2018.pdf>.

³⁷ Document production from U.S. Off. of Pers. Mgmt. provided to S. Comm. on Homeland Sec. & Governmental Aff. (Oct. 6, 2017) (on file with S. Comm. on Homeland Sec. & Governmental Aff.).

³⁸ *Id.*

³⁹ For example, as of June 30, 2019, OPM had an inventory of 18,501 in unprocessed retirement claims. See Michael O’Connell, *OPM Cuts Retirement Backlog to its Lowest Level in More Than a Year*, Fed. News Radio (Jan. 5, 2018), <https://federalnewsradio.com/retirement/2018/01/opm-cuts-retirement-backlog-to-its-lowest-level-in-more-than-a-year/>; see also U.S. Off. of Pers. Mgmt. Statistical Abstracts: Fiscal Year 2016 (2017).

⁴⁰ U.S. Off. of Pers. Mgmt., *supra* note 36.

⁴¹ Document production from U.S. Off. of Pers. Mgmt. provided to S. Comm. on Homeland Sec. & Governmental Aff., *supra* note 37.

⁴² U.S. Office of Pers. Mgmt., Congressional Budget Justification and Annual Performance Plan 85 (2019), <https://www.opm.gov/about-us/budget-performance/budgets/congressional-budget-justification-fy2019.pdf>.

⁴³ Goodell, *supra* note 20.

⁴⁴ See Kirstin B. Blom & Ada S. Cornell, Cong. Res. Serv., R43922, Federal Employees Health Benefits (FEHB) Program: An Overview (2016), <https://fas.org/sgp/crs/misc/R43922.pdf>.

has dedicated only 3.3 employees per 100,000 FEHBP enrollees while dedicating 14 employees per 100,000 MSP enrollees.

In addition to the MSP Program detracting from OPM’s mission-critical programs, the program continues to be a concern for the OPM Office of Inspector General (OIG). In December 2016, the OIG issued a Management Alert for the program due to a lack of participation on the part of states and providers, and confusion about the name incorrectly signaling coverage would cross state boundaries when MSP coverage does not.⁴⁵ In FYs 2016 and 2017, the OIG also included the program in its list of top management challenges facing the agency.⁴⁶ S. 1378 will repeal the MSP Program and allow OPM to focus exclusively on mission-critical programs.

III. LEGISLATIVE HISTORY

S. 1378, the RIP MSP Act, was introduced on May 8, 2019, by Chairman Ron Johnson along with Senators John Barrasso, Mike Braun, Roger Wicker, Mike Lee, Lamar Alexander, Michael Enzi, Kevin Cramer, and Rand Paul. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1378 at a May 15, 2019 business meeting. A substitute amendment offered by Chairman Johnson removed a rescission of unused funds provision, and a related Sense of Congress, to ensure Federal funds remain in OPM’s control for authorized functions. The substitute amendment was adopted by unanimous consent.

The Committee ordered S. 1378, as amended, reported favorably, by a roll call vote of 8 “yeas” to 4 “nays.” Senators voting in the affirmative were Johnson, Portman, Paul, Lankford, Romney, Scott, Hawley, and Sinema. Senators voting in the negative were Peters, Carper, Hassan, and Rosen. For the record only, Senator Enzi voted “yea” by proxy and Senator Harris voted “nay” by proxy.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Repeal Insurance Plans of the Multi-State Program Act” or the “RIP MSP Act.”

Section 2. Repeal of Multi-State Plan Program

This section repeals section 1334, the MSP Program, of the Patient Protection and Affordable Care Act (Public Law 111–148), effective January 1, 2020. It requires the termination of external review by the OPM Director, and no later than 60 days after the date of enactment of the legislation, the OPM Director to brief the Committee on Homeland Security and Governmental Affairs and the Committee on Health, Education, Labor, and Pensions of the Sen-

⁴⁵Memorandum from Norbert E. Vint, Deputy Inspector Gen., U.S. Off. of Pers. Mgmt. Off. of Inspector Gen., to Beth F. Cobert, Acting Dir., U.S. Off. of Pers. Mgmt. (Dec. 8, 2016), <https://www.opm.gov/our-inspector-general/reports/2016/management-alert-status-of-the-multi-state-plan-program-4a-hi-00-17-013.pdf>.

⁴⁶U.S. Off. of Pers. Mgmt. Off. of Inspector Gen., Top Management Challenges: Fiscal Year 2017 (2017), <https://www.opm.gov/our-inspector-general/special-reports-and-reviews/fy2017-top-management-challenges.pdf>; *see also* Memorandum from Norbert E. Vint, Deputy Inspector Gen., U.S. Off. of Pers. Mgmt. Off. of Inspector Gen. to Beth F. Cobert, Acting Dir., U.S. Off. of Pers. Mgmt. (Oct. 12, 2016), <https://www.opm.gov/our-inspector-general/special-reports-and-reviews/fy2016-management-challenges.pdf>.

ate and the Committee on Oversight and Reform and the Committee on Energy and Commerce of the House of Representatives. The briefing must include information concerning how OPM and MSP issuers are notifying current enrollees that there will no longer be MSP options available; a description of how the OPM Director will work with the Secretary of Health and Human Services to ensure no MSP plans are made available; and a timeline detailing how OPM will close the information technology portal that MSP issuers utilize.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1378, the Repeal Insurance Plans of the Multi-State Program Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kevin McNellis.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 1378, Repeal Insurance Plans of the Multi-State Program Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 1378 would repeal the multi-state plan program established by Section 1334 of the Affordable Care Act (ACA). Section 1334 requires the Office of Personnel Management (OPM) to contract with health insurers to offer multi-state plan (MSP) insurance options on each exchange in each state. Under current law, the plans generally must meet the various insurance requirements under the ACA and are available to eligible individuals and small business. The repeal would be effective January 1, 2020. Within 60 days of enactment, the bill also would require OPM to brief the Senate Committee on Homeland Security and Governmental Affairs; the Senate Committee on Health, Education, Labor, and Pensions; the House Committee on Oversight and Reform; and the House Committee on Energy and Commerce on OPM's efforts to wind-down the program.

OPM reports that in 2019 Arkansas Blue Cross and Blue Shield is the only insurer to offer MSPs, and such plans are only available in Arkansas. Premium data from the Department of Health and Human Services (HHS) show that MSPs are not the lowest cost or second-lowest cost silver plans in any rating areas where they are offered. Because premiums for silver plans with the second-lowest-cost are the basis for calculating federal subsidies for health insurance purchased through the marketplaces, eliminating plans with premiums higher than those second-lowest cost plans would not affect subsidies and thus the bill's enactment would not affect the federal budget.

The CBO contact for this estimate is Kevin McNellis. The estimate was approved by Leo Lex, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1378 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, 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 1—ESTABLISHMENT OF QUALIFIED HEALTH PLANS

* * * * *

SEC. 1301. QUALIFIED HEALTH PLAN DEFINED

(a) * * *

(1) * * *

(2) INCLUSION OF CO-OP PLANS [AND MULTI-STATE QUALIFIED HEALTH PLANS].—Any reference in this title to a qualified health plan shall be deemed to include a qualified health plan offered through the CO-OP program under section 1322, [and a multi-State plan under section 1334,] unless specifically provided for otherwise.

(3) * * *

(4) VARIATION BASED ON RATING AREA.—A qualified health plan[, including a multi-State qualified health plan,] may as appropriate vary premiums by rating area (as defined in section 2701(a)(2) of the Public Health Service Act.)

* * * * *

PART III—STATE FLEXIBILITY RELATING TO EXCHANGES

* * * * *

SEC. 1324. LEVEL PLAYING FIELD

(a) IN GENERAL.—Notwithstanding any other provision of law, any health insurance coverage offered by a private health insurance issuer shall not be subject to any Federal or State law described in subsection (b) if a qualified health plan offered under the Consumer Operated and Oriented Plan program under section 1322 [, or a multi-State qualified health plan under section 1334,] is not subject to such law.

* * * * *