

114TH CONGRESS
1ST SESSION

S. 673

To provide a transition plan for those individuals who may be affected
by ObamaCare’s unlawful implementation.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2015

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

A BILL

To provide a transition plan for those individuals who may
be affected by ObamaCare’s unlawful implementation.

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 “Winding Down
5 ObamaCare Act”.

6 **SEC. 2. TRANSITIONAL COVERAGE.**

7 Part C of title XXVII of the Public Health Service
8 Act (42 U.S.C. 300gg–91 et seq.) is amended—

1 (1) by redesignating the second section 2794
 2 (relating to uniform fraud and abuse referral for-
 3 mat) as section 2795; and

4 (2) by adding at the end the following:

5 **“SEC. 2796. COBRA-LIKE TRANSITIONAL COVERAGE.**

6 “(a) PLANS MUST PROVIDE CONTINUATION COV-
 7 ERAGE.—

8 “(1) IN GENERAL.—A health insurance issuer
 9 shall provide, in accordance with this section, that
 10 each enrollee in a qualified health plan who would
 11 lose coverage under the plan, or who would no
 12 longer be eligible for a tax credit under section 36B
 13 of the Internal Revenue Code of 1986, as a result
 14 of a qualifying event is entitled, under the plan, to
 15 elect, within the election period, continuation cov-
 16 erage under the plan.

17 “(2) COVERAGE.—For purposes of this section,
 18 the term ‘continuation coverage’ means coverage
 19 that meets the following requirements:

20 “(A) TYPE OF COVERAGE.—The coverage
 21 must consist of that coverage which the enrollee
 22 was enrolled in at the time of the qualifying
 23 event, except that if such coverage is later
 24 modified under the plan for any group of simi-
 25 larly situated enrollees, such coverage shall also

1 be modified in the same manner for all individ-
 2 uals to which this section applies.

3 “(B) PREMIUM REQUIREMENT.—The
 4 health insurance issuer may require payment of
 5 a premium for such coverage for any period of
 6 the continuation coverage, except that such pre-
 7 mium—

8 “(i) shall not exceed 100 percent of
 9 the premium amount applicable for the
 10 qualified health plan involved on the day
 11 before the qualifying event;

12 “(ii) shall not increase at any time
 13 during the period of continuation coverage;
 14 and

15 “(iii) may, at the election of the en-
 16 rollee, be paid in monthly installments.

17 “(b) QUALIFYING EVENT.—For purposes of this sec-
 18 tion, the term ‘qualifying event’ means, with respect to
 19 any enrollee in a qualified health plan, a determination
 20 by the Supreme Court of the United States in the case
 21 of *King v. Burwell* (2015) that would result in—

22 “(1) the enrollee losing coverage under the
 23 plan; or

1 “(2) making the enrollee ineligible to receive a
2 tax credit under section 36B of the Internal Revenue
3 Code of 1986 with respect to such plan.

4 “(c) COVERAGE PERIOD.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the continuation coverage provided for
7 under this section shall extend for at least the period
8 beginning on the date of the qualifying event and
9 ending:

10 “(A) The date that is 18 months after the
11 date of the qualifying event.

12 “(2) TERMINATION.—Notwithstanding para-
13 graph (1), the continuation coverage provided for
14 under this section shall terminate with respect to an
15 enrollee on—

16 “(A) the date on which the issuer ceases to
17 provide any qualified health plans to individuals
18 (if any); and

19 “(B) the date on which coverage ceases
20 under the plan by reason of a failure to make
21 timely payment of any premium required under
22 the plan with respect to the enrollee.

23 “(d) ELECTION PERIOD.—For purposes of this sec-
24 tion, the term ‘election period’ means the period which—

1 “(1) begins on the date on which the qualifying
2 event occurs; and

3 “(2) ends 60 days after such date.

4 “(e) NOTICE.—The Secretary shall ensure that—

5 “(1) a health insurance issuer shall provide, not
6 later than 10 days after the date of a qualifying
7 event, written notice to each enrollee in a qualified
8 health plan of the rights provided under this section
9 and the deadlines for exercising such rights, includ-
10 ing a statement that any continuation coverage
11 under this section shall expire as provided for in
12 subsection (c); and

13 “(2) each enrollee in a qualified health plan is
14 responsible for notifying the health insurance issuer
15 involved, within 45 days of receiving the notice
16 under paragraph (1), of the intent of the enrollee to
17 exercise the rights provided to the enrollee under
18 this section.”.

19 **SEC. 3. PREVENTING BUREAUCRATIC WORKAROUNDS.**

20 (a) IN GENERAL.—The Secretary of Health and
21 Human Services shall not enter into a new contract with
22 a State to make available to the State technology that is
23 otherwise utilized as part of the Federal health insurance
24 exchange established under section 1321 of the Patient
25 Protection and Affordable Care Act (42 U.S.C. 18041).

1 (b) RULE OF CONSTRUCTION.—Nothing in sub-
 2 section (a) shall be construed to prohibit a State from es-
 3 tablishing a State-based Exchange.

4 **SEC. 4. TRANSITIONAL FINANCIAL ASSISTANCE.**

5 (a) ALLOWANCE OF TAX CREDIT.—Subpart C of
 6 part IV of subchapter A of chapter 1 of the Internal Rev-
 7 enue Code of 1986 is amended by inserting after section
 8 36B the following new section:

9 **“SEC. 36C. CREDIT FOR TRANSITIONAL COVERAGE.**

10 “(a) IN GENERAL.—In the case of an eligible indi-
 11 vidual, there shall be allowed as a credit against the tax
 12 imposed by subtitle A an amount equal to the applicable
 13 percentage of the amount paid by the taxpayer for cov-
 14 erage of the taxpayer and qualifying family members
 15 under continuation coverage for eligible coverage months
 16 beginning in the taxable year.

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
 18 subsection (a), the applicable percentage is 65 percent re-
 19 duced by 5 percentage points for each coverage month for
 20 which a credit is allowable to the taxpayer under this sec-
 21 tion after the sixth such coverage month.

22 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
 23 section—

24 “(1) IN GENERAL.—The term ‘eligible indi-
 25 vidual’ means any individual who elects to retain

1 continuation of coverage under section 2796 of the
2 Public Health Service Act.

3 “(2) IDENTIFICATION REQUIREMENTS.—The
4 term ‘eligible individual’ shall not include any indi-
5 vidual for any month unless the policy number asso-
6 ciated with the qualified health insurance and the
7 TIN of each eligible individual covered under such
8 health insurance for such month are included on the
9 return of tax for the taxable year in which such
10 month occurs.

11 “(d) COVERAGE MONTH.—For purposes of this sec-
12 tion—

13 “(1) IN GENERAL.—The term ‘coverage month’
14 means any month if as of the first date of such
15 month the taxpayer is an eligible individual who does
16 not have other specified coverage.

17 “(2) OTHER SPECIFIED COVERAGE.—For pur-
18 poses of paragraph (1), an individual has other spec-
19 ified coverage for any month if, as of the first day
20 of such month if such individual—

21 “(A) is covered under employer-provided
22 health insurance,

23 “(B) is entitled to benefits under part A of
24 title XVIII of the Social Security Act or is en-
25 rolled under part B of such title,

1 “(C) is enrolled under the program under
2 title XIX or XXI of such Act (other than under
3 section 1928 of such Act), or

4 “(D) is entitled to benefits under chapter
5 55 of title 10, United States Code.

6 “(e) OTHER DEFINITIONS.—For purposes of this
7 section—

8 “(1) CONTINUATION COVERAGE.—The term
9 ‘continuation coverage’ means coverage described in
10 section 2796(a)(2) of the Public Health Service Act.

11 “(2) QUALIFYING FAMILY MEMBER.—The term
12 ‘qualifying family member’ has the meaning given
13 such term under section 35(d).

14 “(f) SPECIAL RULES.—

15 “(1) LIMITATION ON AMOUNT OF CREDIT.—
16 With respect to any taxable year, the amount which
17 would (but for this subsection) be allowed as a credit
18 to the taxpayer under subsection (a) shall be re-
19 duced (but not below zero) by the aggregate amount
20 paid on behalf of such taxpayer under section 7527A
21 for months beginning in such taxable year.

22 “(2) COORDINATION WITH MEDICAL DEDUC-
23 TION.—Any amount paid by a taxpayer for insur-
24 ance to which subsection (a) applies shall not be
25 taken into account in computing the amount allow-

1 able to the taxpayer as a credit under this chapter
2 or as a deduction under section 213(a).

3 “(3) DENIAL OF CREDIT TO DEPENDENTS.—No
4 credit shall be allowed under this section to any indi-
5 vidual with respect to whom a deduction under sec-
6 tion 151 is allowable to another taxpayer for a tax-
7 able year beginning in the calendar year in which
8 such individual’s taxable year begins.

9 “(4) MARRIED COUPLES MUST FILE JOINT RE-
10 TURN.—

11 “(A) IN GENERAL.—If the taxpayer is
12 married at the close of the taxable year, the
13 credit shall be allowed under subsection (a) only
14 if the taxpayer and his spouse file a joint return
15 for the taxable year.

16 “(B) MARITAL STATUS; CERTAIN MARRIED
17 INDIVIDUALS LIVING APART.—Rules similar to
18 the rules of paragraphs (3) and (4) of section
19 21(e) shall apply for purposes of this para-
20 graph.

21 “(5) VERIFICATION OF COVERAGE, ETC.—The
22 Secretary shall ensure that procedures are in place
23 to ensure that the coverage eligibility of the indi-
24 vidual is verified.

1 “(6) INSURANCE WHICH COVERS OTHER INDIVIDUALS;
 2 TREATMENT OF PAYMENTS; ETC.—Rules
 3 similar to the rules of paragraphs (7) and (8) of section
 4 35(g) shall apply for purposes of this section.”.

5 (b) ADVANCE PAYMENT OF CREDIT.—Chapter 77 of
 6 the Internal Revenue Code of 1986 is amended by inserting
 7 after section 7527 the following new section:

8 **“SEC. 7527A. ADVANCE PAYMENT OF TRANSITIONAL CONTINUATION COVERAGE CREDIT.**

10 “(a) IN GENERAL.—The Secretary shall establish a
 11 program for making payments on behalf of taxpayers who
 12 are eligible individuals within the meaning of section
 13 36C(c) to providers of continuation coverage (as defined
 14 in section 36C(e)(1)) for such individuals.

15 “(b) LIMITATION.—The Secretary may make payments
 16 under subsection (a) only to the extent that the Secretary
 17 determines that the amount of such payments made
 18 on behalf of any taxpayer for any month does not exceed
 19 the applicable percentage under section 36C(b) for the
 20 taxpayer for such month.”.

21 (c) INFORMATION REPORTING.—

22 (1) IN GENERAL.—Subpart B of part III of
 23 subchapter A of chapter 61 of the Internal Revenue
 24 Code of 1986 is amended by inserting after section
 25 6050W the following new section:

1 **“SEC. 6050X. RETURNS RELATING TO CONTINUATION COV-**
2 **ERAGE CREDIT.**

3 “(a) REQUIREMENT OF REPORTING.—Every person
4 who is entitled to receive payments for any month of any
5 calendar year under section 7527A with respect to any in-
6 dividual shall make the return described in subsection (b)
7 with respect to each such individual.

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

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

12 “(2) contains, with respect to each individual
13 referred to in subsection (a)—

14 “(A) the name, address, and TIN of each
15 such individual,

16 “(B) the months for which amounts pay-
17 ments under section 7527A were received,

18 “(C) the amount of each such payment,

19 “(D) the type of insurance coverage pro-
20 vided by such person with respect to such indi-
21 vidual and the policy number associated with
22 such coverage, if applicable,

23 “(E) the name, address, and TIN of the
24 spouse and each dependent covered under such
25 coverage, and

1 “(F) such other information as the Sec-
2 retary may prescribe.

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

9 “(1) the name and address of the person re-
10 quired to make such return and the phone number
11 of the information contact for such person, and

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

14 The written statement required under the preceding sen-
15 tence shall be furnished on or before January 31 of the
16 year following the calendar year for which the return
17 under subsection (a) is required to be made.”.

18 (2) ASSESSABLE PENALTIES.—

19 (A) Subparagraph (B) of section
20 6724(d)(1) of such Code is amended by striking
21 “or” at the end of clause (xxiv), by striking
22 “and” at the end of clause (xxv) and inserting
23 “or”, and by inserting after clause (xxiii) the
24 following new clause:

1 “(xxvii) section 6050X (relating to re-
 2 turns relating to qualified health insurance
 3 credit), and”.

4 (B) Paragraph (2) of section 6724(d) of
 5 such Code is amended by striking “or” at the
 6 end of subparagraph (GG), by striking the pe-
 7 riod at the end of subparagraph (HH) and in-
 8 serting “, or”, and by inserting after subpara-
 9 graph (HH) the following new subparagraph:

10 “(II) section 6050X (relating to returns
 11 relating to qualified health insurance credit).”.

12 (d) CONFORMING AMENDMENTS.—

13 (1) Paragraph (2) of section 1324(b) of title
 14 31, United States Code, is amended by inserting
 15 “36C,” after “36B,”.

16 (2) The table of sections for subpart C of part
 17 IV of subchapter A of chapter 1 of the Internal Rev-
 18 enue Code of 1986 is amended by inserting after the
 19 item relating to section 36B the following new item:

“Sec. 36C. Credit for continuation coverage under a qualified health plan.”.

20 (3) The table of sections for chapter 77 of such
 21 Code is amended by inserting after the item relating
 22 to section 7527 the following new item:

“Sec. 7527A. Advance payment of continuation coverage credit.”.

23 (4) The table of sections for subpart B of part
 24 III of subchapter A of chapter 61 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 6050X. Returns relating to continuation coverage credit.”.

3 (e) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to coverage months beginning after
5 the date of a qualifying event determined under section
6 2796(b) of the Public Health Service Act (as added by
7 section 2) with respect to the individual.

8 **SEC. 5. STOPPING BUREAUCRATS FROM SPENDING TAX-**
9 **PAYER DOLLARS.**

10 (a) **IN GENERAL.**—Section 1115 of the Social Secu-
11 rity Act (42 U.S.C. 1315) is amended by adding at the
12 end the following:

13 “(g) No experimental, pilot, or demonstration project
14 undertaken under subsection (a) to promote the objectives
15 of title XIX shall be approved, renewed, or extended un-
16 less—

17 “(1) the Secretary establishes spending limits
18 for the project (which may be annual per population-
19 based limits, aggregate limits (annual or for the
20 waiver period), or a combination thereof) only by ap-
21 plying benchmark growth rates that are determined
22 based on the average of the most recent estimates
23 of nationwide Medicaid beneficiary costs and enroll-
24 ment growth produced by the Director of the Con-

1 gressional Budget Office and the Director of the Of-
2 fice of Management and Budget, respectively; and

3 “(2) the establishment and application of such
4 spending limits to the project and the estimated sav-
5 ings resulting from the project are reviewed and cer-
6 tified by an individual who is a member of the
7 American Academy of Actuaries or the Society of
8 Actuaries, using generally accepted actuarial prin-
9 ciples and methodologies, and who is not a Federal
10 officer or employee.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) takes effect on the date of enactment of
13 this Act and applies to Medicaid waivers approved, re-
14 newed, or extended under section 1115 of the Social Secu-
15 rity Act (42 U.S.C. 1315) after that date.

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