

116TH CONGRESS  
1ST SESSION

S. 1868

To provide support to States to establish invisible high-risk pool or reinsurance programs.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2019

Ms. COLLINS (for herself and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Finance

# A BILL

To provide support to States to establish invisible high-risk pool or reinsurance programs.

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 “Premium Reduction  
5 Act of 2019”

## 6 SEC. 2. INVISIBLE HIGH-RISK POOL AND REINSURANCE

## PROGRAMS.

8 (a) STATE GRANTS UNDER WAIVERS.—Section  
9 1332(a) of the Patient Protection and Affordable Care Act  
10 (42 U.S.C. 18052(a)) is amended—

5                   “(4) FEDERAL FUNDING FOR INVISIBLE HIGH-  
6 RISK POOL AND REINSURANCE PROGRAMS.—

7                           “(A) ALLOCATIONS.—

1 Exchange and premium tax credits, cost-  
2 sharing reductions, or small business cred-  
3 its under sections 36B of the Internal Rev-  
4 enue Code of 1986 or under part I of sub-  
5 title E provided to residents of such  
6 States.

1                             “(ii) For each of fiscal years 2021  
2                             through 2023, out of amounts appro-  
3                             priated under subparagraph (B) of such  
4                             section 2(b)(1), for the establishment or  
5                             maintenance of invisible high-risk pools  
6                             and reinsurance programs that meet the  
7                             requirements of subsection (f)(2) and for  
8                             which the State has received a waiver  
9                             under this section.

10                           “(C) BUDGET NEUTRALITY.—Funds  
11                             awarded to a State under a grant awarded  
12                             under subparagraph (B) shall not be taken into  
13                             account for purposes of determining under  
14                             paragraph (1) whether the State waiver is  
15                             budget neutral, or determining under subsection  
16                             (b)(1) whether the State waiver increases the  
17                             Federal deficit.

18                           “(5) RECONCILIATION OF PASS THROUGH  
19                             FUNDING AND FUNDING FOR INVISIBLE HIGH-RISK  
20                             POOL AND REINSURANCE PROGRAMS.—In allocating  
21                             amounts under paragraphs (3) and (4), the Sec-  
22                             retary—

23                           “(A) not later than November 1 of each  
24                             year, shall estimate the allocation for each

1                   State under such paragraphs for the upcoming  
2                   calendar year;

3                   “(B) not later than June 1 of each year,  
4                   shall revise the estimate of the allocations under  
5                   subparagraph (A) for each State for the current  
6                   calendar year; and

7                   “(C) shall reconcile amounts to be paid to  
8                   each State under such paragraphs for the fol-  
9                   lowing calendar year by adjusting each State’s  
10                   allocation for the following calendar year to ac-  
11                   count for the revisions made under subpara-  
12                   graph (B).”.

13                   (b) APPROPRIATIONS.—

14                   (1) IN GENERAL.—There are authorized to be  
15                   appropriated, and there are appropriated, to the  
16                   Secretary of Health and Human Services (referred  
17                   to in this section as the “Secretary”), for the pur-  
18                   poses described in section 1332(a)(4)(B) of the Pa-  
19                   tient Protection and Affordable Care Act (as amend-  
20                   ed by subsection (a)) and subsection (c) of this sec-  
21                   tion, out of any funds in the Treasury not otherwise  
22                   appropriated—

23                   (A) \$500,000,000 for fiscal year 2020; and  
24                   (B) \$5,000,000,000 for each of fiscal years  
25                   2021 through 2023.

4 (c) DEFAULT FEDERAL SAFEGUARD.—

9 (d) INVISIBLE HIGH-RISK POOLS AND REINSURANCE  
10 PROGRAMS.—

15        "(f) INVISIBLE HIGH-RISK POOLS AND REINSUR-  
16        ANCE PROGRAMS.—

17                   “(1) FUNDING.—With respect to a State that  
18                   has received a waiver under this section to establish  
19                   an invisible high-risk pool or reinsurance program  
20                   described in paragraph (2), the State may fund such  
21                   program, in whole or in part, using one or both of  
22                   the following:

23                   “(A) Amounts received through a grant de-  
24                   scribed in subsection (a)(4)(B).

1                     “(B) All of, or a portion of, the payments  
2                     made to the State as described in subsection  
3                     (a)(3), consistent with the information the  
4                     State provides under subsection (a)(1)(B).

5                     “(2) PROGRAM DESIGN.—An invisible high-risk  
6                     pool or reinsurance program described in this para-  
7                     graph is a program that meets any of the following:

8                     “(A) An invisible high-risk pool, as defined  
9                     by the State, under which health insurance  
10                    issuers, with respect to designated individuals  
11                    who experience higher than average health costs  
12                    as determined by the State, and are enrolled in  
13                    health insurance coverage offered in the indi-  
14                    vidual market, cede risk to the pool, without af-  
15                    flecting the premium paid by the designated in-  
16                    dividuals or their terms of coverage. With re-  
17                    spect to such pool, the State, or an entity oper-  
18                    ating the pool on behalf of the State, shall es-  
19                    tablish—

20                     “(i) the premium amount the ceding  
21                    issuer shall pay to the reinsurance pool;

22                     “(ii) the applicable attachment points  
23                    or coinsurance percentages if the ceding  
24                    issuer retains any portion of the risk under  
25                    ceded policies; and

1                             “(iii) the mechanism by which high-  
2                             risk individuals are designated for cession  
3                             to the pool, which may include a list of  
4                             designated high-cost health conditions.

5                             “(B) A reinsurance program, as defined by  
6                             the State, that assumes a portion of the risk for  
7                             individuals who experience higher than average  
8                             health costs as determined by the State, in a  
9                             manner substantially similar to the reinsurance  
10                             program that operated in the State in accord-  
11                             ance with section 1341.

12                             “(C) A reinsurance program established by  
13                             the State not otherwise described in this para-  
14                             graph.

15                             “(D) A program based on another State’s  
16                             reinsurance program—

17                                 “(i) described in subparagraph (A),  
18                             (B), or (C), for which an application has  
19                             been approved under this subsection; or

20                                 “(ii) which was implemented prior to  
21                             September 1, 2019, and which the Sec-  
22                             retary determines meets the requirements  
23                             of subparagraph (A).

24                             “(3) EXPEDITED APPROVAL.—

1                     “(A) IN GENERAL.—The Secretary shall  
2                     provide an expedited approval process for an  
3                     application under subsection (a)(1)—

4                         “(i) with respect to an invisible high-  
5                     risk pool or reinsurance program described  
6                     in subparagraph (A), (B), or (D) of para-  
7                     graph (2); or

8                         “(ii) that uses a template form de-  
9                     signed by the Administrator of the Centers  
10                     for Medicare & Medicaid Services, in con-  
11                     sultation with the Secretary of the Treas-  
12                     ury, for an application based on a program  
13                     that is the same or substantially the same  
14                     as a program implemented in accordance  
15                     with an application previously approved  
16                     under this subsection.

17                     “(B) TIMEFRAME.—The Secretary shall  
18                     make a determination on an application eligible  
19                     for expedited review under subparagraph (A)  
20                     not later than 90 days after receipt of such ap-  
21                     plication.

22                     “(C) STANDARD OF REVIEW.—Nothing in  
23                     this paragraph shall be construed as affecting  
24                     the requirements under subsection (a)(1) with  
25                     respect to an application approved in accord-

1                   ance with the process under subparagraph  
2                   (A).”.

3                   (2) APPLICATION.—Section 1332(a)(1)(B)(i) of  
4                   the Patient Protection and Affordable Care Act (42  
5                   U.S.C. 18052(a)(1)(B)(i)) is amended by inserting  
6                   “, including, as applicable, a description of the  
7                   State’s plan to use any amounts awarded to the  
8                   State under paragraph (4) to support an invisible  
9                   high-risk pool or reinsurance program consistent  
10                   with subsection (f) and such information about such  
11                   program as the Secretary may require” before the  
12                   semicolon.

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