

CHILD PROTECTION IMPROVEMENTS ACT OF 2017

Mr. McCONNELL. Mr. President, I understand that the Senate has received a message from the House to accompany H.R. 695.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. I ask that the Chair lay before the Senate the message to accompany H.R. 695.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 695) entitled "An Act to amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes." and be it further

Resolved, That the House agree to the amendment of the Senate to the text of the aforementioned bill, with an amendment to Senate amendment.

Pending:

McConnell motion to concur in the amendment of the House to the amendment of the Senate to the bill.

McConnell motion to refer the message of the House on the bill to the Committee on the Appropriations, with instructions, McConnell Amendment No. 1922, to change the enactment date.

McConnell Amendment No. 1923 (to the instructions) Amendment No. 1922), of a perfecting nature.

McConnell Amendment No. 1924 (to Amendment No. 1923), of a perfecting nature.

MOTION TO CONCUR WITH AN AMENDMENT NO.
4163

Mr. McCONNELL. Mr. President, I move to concur in the House amendment to the Senate amendment to H.R. 695, with a further amendment.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] moves to concur in the House amendment to the Senate amendment, with an amendment numbered 4163.

Mr. McCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: In the nature of a substitute)

In lieu of the matter proposed to be inserted:

DIVISION A—FURTHER ADDITIONAL CONTINUING APPROPRIATIONS ACT, 2019

SEC. 101. The Continuing Appropriations Act, 2019 (division C of Public Law 115-245) is further amended—

(1) by striking the date specified in section 105(3) and inserting "February 8, 2019"; and

(2) by adding after section 136 the following:

"SEC. 137. Notwithstanding section 251(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the timetable in section 254(a) of such Act, the final seques-

tration report for fiscal year 2019 pursuant to section 254(f)(1) of such Act and any order for fiscal year 2019 pursuant to section 254(f)(5) of such Act shall be issued, for the Congressional Budget Office, 10 days after the date specified in section 105(3), and for the Office of Management and Budget, 15 days after the date specified in section 105(3).

"SEC. 138. The authority provided under title XXI of the Homeland Security Act of 2002 (6 U.S.C. 621 et seq.), as amended by section 2(a) of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Public Law 113-254), shall continue in effect through the date specified in section 105(3).

"SEC. 139. Section 319L(e)(1)(A) of the Public Health Service Act (42 U.S.C. 247d-7e(e)(1)(A)) shall continue in effect through the date specified in section 105(3) of this Act.

"SEC. 140. Section 405(a) of the Pandemic and All-Hazards Preparedness Act (42 U.S.C. 247d-6a note) shall continue in effect through the date specified in section 105(3) of this Act."

This division may be cited as the "Further Additional Continuing Appropriations Act, 2019".

DIVISION B—MEDICAID EXTENDERS

SEC. 101. EXTENSION OF MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) GENERAL FUNDING.—Section 6071(h) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and" after the semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(F) subject to paragraph (3), \$112,000,000 for fiscal year 2019.";

(2) in paragraph (2)—

(A) by striking "Amounts made" and inserting "Subject to paragraph (3), amounts made"; and

(B) by striking "September 30, 2016" and inserting "September 30, 2021"; and

(3) by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR FY 2019.—Funds appropriated under paragraph (1)(F) shall be made available for grants to States only if such States have an approved MFP demonstration project under this section as of December 31, 2018."

(b) FUNDING FOR QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—Section 6071(f) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by striking paragraph (2) and inserting the following:

"(2) FUNDING.—From the amounts appropriated under subsection (h)(1)(F) for fiscal year 2019, \$500,000 shall be available to the Secretary for such fiscal year to carry out this subsection."

(c) TECHNICAL AMENDMENT.—Section 6071(b) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended by adding at the end the following:

"(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services."

SEC. 102. EXTENSION OF PROTECTION FOR MEDICAID RECIPIENTS OF HOME AND COMMUNITY-BASED SERVICES AGAINST SPOUSAL IMPOVERISHMENT.

(a) IN GENERAL.—Section 2404 of Public Law 111-148 (42 U.S.C. 1396r-5 note) is amended by striking "the 5-year period that begins on January 1, 2014," and inserting "the period beginning on January 1, 2014, and ending on March 31, 2019,".

(b) RULE OF CONSTRUCTION.—

(1) PROTECTING STATE SPOUSAL INCOME AND ASSET DISREGARD FLEXIBILITY UNDER WAIVERS AND PLAN AMENDMENTS.—Nothing in section 2404 of Public Law 111-148 (42 U.S.C. 1396r-5 note) or section 1924 of the Social Security Act (42 U.S.C. 1396r-5) shall be construed as prohibiting a State from disregarding an individual's spousal income and assets under a State waiver or plan amendment described in paragraph (2) for purposes of making determinations of eligibility for home and community-based services or home and community-based attendant services and supports under such waiver or plan amendment.

(2) STATE WAIVER OR PLAN AMENDMENT DESCRIBED.—A State waiver or plan amendment described in this paragraph is any of the following:

(A) A waiver or plan amendment to provide medical assistance for home and community-based services under a waiver or plan amendment under subsection (c), (d), or (i) of section 1915 of the Social Security Act (42 U.S.C. 1396n) or under section 1115 of such Act (42 U.S.C. 1315).

(B) A plan amendment to provide medical assistance for home and community-based services for individuals by reason of being determined eligible under section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) or by reason of section 1902(f) of such Act (42 U.S.C. 1396a(f)) or otherwise on the basis of a reduction of income based on costs incurred for medical or other remedial care under which the State disregarded the income and assets of the individual's spouse in determining the initial and ongoing financial eligibility of an individual for such services in place of the spousal impoverishment provisions applied under section 1924 of such Act (42 U.S.C. 1396r-5).

(C) A plan amendment to provide medical assistance for home and community-based attendant services and supports under section 1915(k) of such Act (42 U.S.C. 1396n(k)).

SEC. 103. REDUCTION IN FMAP AFTER 2020 FOR STATES WITHOUT ASSET VERIFICATION PROGRAM.

Section 1940 of the Social Security Act (42 U.S.C. 1396w) is amended by adding at the end the following new subsection:

"(k) REDUCTION IN FMAP AFTER 2020 FOR NON-COMPLIANT STATES.—

"(1) IN GENERAL.—With respect to a calendar quarter beginning on or after January 1, 2021, the Federal medical assistance percentage otherwise determined under section 1905(b) for a non-compliant State shall be reduced—

"(A) for calendar quarters in 2021 and 2022, by 0.12 percentage points;

"(B) for calendar quarters in 2023, by 0.25 percentage points;

"(C) for calendar quarters in 2024, by 0.35 percentage points; and

"(D) for calendar quarters in 2025 and each year thereafter, by 0.5 percentage points.

"(2) NON-COMPLIANT STATE DEFINED.—For purposes of this subsection, the term 'non-compliant State' means a State—

"(A) that is one of the 50 States or the District of Columbia;

"(B) with respect to which the Secretary has not approved a State plan amendment submitted under subsection (a)(2); and

"(C) that is not operating, on an ongoing basis, an asset verification program in accordance with this section."

SEC. 104. MEDICAID IMPROVEMENT FUND.

Section 1941(b)(1) of the Social Security Act (42 U.S.C. 1396w-1(b)(1)) is amended by striking "\$31,000,000" and inserting "\$6,000,000".

SEC. 105. BUDGETARY EFFECTS.

(a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this division shall not be

entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(d)).

(b) **SENATE PAYGO SCORECARDS.**—The budgetary effects of this division shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) **CLASSIFICATION OF BUDGETARY EFFECTS.**—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217 and section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this division shall not be estimated—

(1) for purposes of section 251 of such Act; and

(2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

(d) **PAYGO ANNUAL REPORT.**—For the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after adjournment of the second session of the 115th Congress, and for determining whether a sequestration order is necessary under such section, the debit for the budget year on the 5-year scorecard, if any, and the 10-year scorecard, if any, shall be deducted from such scorecard in 2019 and added to such scorecard in 2020.

Mr. MCCONNELL. I ask for the yeas and nays on the motion to concur with amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4164 TO AMENDMENT NO. 4163

Mr. MCCONNELL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4164 to amendment No. 4163.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to change the enactment date)

At the end add the following.

“This Act shall take effect 1 day after the date of enactment.”

MOTION TO REFER WITH AN AMENDMENT NO. 4165

Mr. MCCONNELL. Mr. President, I move to refer the House message on H.R. 695 to the Committee on Appropriations with instructions to report back forthwith.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to refer the House message on H.R. 695 to the Committee on Appropriations with instructions to report back forthwith with an amendment numbered 4165.

The amendment is as follows:

(Purpose: to change the enactment date)

At the end add the following.

“This act shall be effective 2 days after enactment.”

Mr. MCCONNELL. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4166 TO AMENDMENT NO. 4165

Mr. MCCONNELL. I have an amendment to the instructions.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4166 to the instructions on the motion to refer.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Of a perfecting nature)

Strike “2” and insert “3”

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4167 TO AMENDMENT NO. 4166

Mr. MCCONNELL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4167 to amendment No. 4166.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Of a perfecting nature)

Strike “3 days” and insert “4 days”

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

GOVERNMENT FUNDING

Mr. SCHUMER. Mr. President, we have a short time left before appropriations expire on Friday. Yesterday, we made some progress.

Thankfully, President Trump appears to have backed down from his position for billions in direct appropriations for a border wall. For the past several weeks, the President's insistence on \$5 billion for a wall has been the biggest obstacle to keeping the government open past Friday.

The President's spokesperson has claimed that the administration can

build the full wall from reprogrammed funds given to other areas of the government. Let me be very clear. Without our assent, the administration cannot reprogram funds proposed by Congress for the full wall. To do so would violate Congress's article I powers. They cannot do it on their own, and the House and Senate will not approve a wall from reprogrammed funds or anything else. It will not happen.

We Democrats have opposed massive appropriations for a border wall for five reasons. It is not effective compared to other border security measures. Expert after expert has said that. There is no plan to build it. The President asked for \$5 billion, but there are no plans of where the wall would be, how much it would cost, what each part would be made of. There is no plan to deal with eminent domain. There are lots of people on the Texas border and on other borders who don't want to give up their land. They have said they will fight it in court. It will take years. We have not heard a peep out of the administration on how to deal with that. Above all, the President promised that Mexico would pay for it, not the American taxpayer. Was it a campaign issue? Yes. Yet, throughout, the President said Mexico would pay for it. He never campaigned on having Americans pay for a massive border wall, ineffective as it would be.

The Democrats have been perfectly clear. We want smart, effective border security, but that is not a wall. The President and, just this morning, the Republican leader have suggested repeatedly that Democrats are against all border security. Of course, we are not. Every expert has looked at that and said it is a total lie. Frankly, the reason our colleagues, the President, Leader MCCONNELL, and others do it is that they have no defense of the wall. Instead of defending the wall, they say the Democrats are not for border security. Nothing could be further from the truth, as shown by what we have supported in the past and today.

This morning, the President also tweeted that Mexico could somehow pay for the wall through a new trade deal. This is a huge turnaround for a President who once insisted: Mark my words. Mexico will pay for the wall 100 percent. Of course, there have been multiple fact checks to show a new NAFTA could not possibly fund the wall directly or indirectly. There is nothing in the new agreement that stipulates Mexico must devote any resources to the United States, and any savings from a trade deal, if there are any savings, don't go to the Treasury; they go to American businesses and American taxpayers. Ultimately, the President would have to tax the American people to fund his wall. Mexico ain't footing the bill.

All that said, it is good news that the President has retreated from his demand that Congress fund the wall. Now, we Democrats in the Senate and in the House have made two reasonable