

116TH CONGRESS  
2D SESSION

# H. R. 1425

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## AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

**1 SECTION 1. SHORT TITLE.**

**2** This Act may be cited as the “Patient Protection and  
**3** Affordable Care Enhancement Act”.

**4 SEC. 2. TABLE OF CONTENTS.**

**5** The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—LOWERING HEALTH CARE COSTS AND PROTECTING  
PEOPLE WITH PREEXISTING CONDITIONS

- Sec. 101. Improving affordability by expanding premium assistance for consumers.
- Sec. 102. Improving affordability by reducing out-of-pocket and premium costs for consumers.
- Sec. 103. Expanding affordability for working families to fix the family glitch.
- Sec. 104. Tax credit reconciliation protections for individuals receiving social security lump-sum payments.
- Sec. 105. Preserving State option to implement health care Marketplaces.
- Sec. 106. Establishing a Health Insurance Affordability Fund.
- Sec. 107. Rescinding the short-term limited duration insurance regulation.
- Sec. 108. Revoking section 1332 guidance.
- Sec. 109. Requiring Marketplace outreach, educational activities, and annual enrollment targets.
- Sec. 110. Report on effects of website maintenance during open enrollment.
- Sec. 111. Promoting consumer outreach and education.
- Sec. 112. Improving transparency and accountability in the Marketplace.
- Sec. 113. Improving awareness of health coverage options.
- Sec. 114. Promoting State innovations to expand coverage.
- Sec. 115. Strengthening network adequacy.
- Sec. 116. Protecting consumers from unreasonable rate hikes.
- Sec. 117. Eligibility of DACA recipients for qualified health plans offered through Exchanges.

TITLE II—ENCOURAGING MEDICAID EXPANSION AND  
STRENGTHENING THE MEDICAID PROGRAM

- Sec. 201. Incentivizing Medicaid expansion.
- Sec. 202. Providing 12-months of continuous eligibility for Medicaid and CHIP.
- Sec. 203. Mandatory 12-months of postpartum Medicaid eligibility.
- Sec. 204. Reducing the administrative FMAP for nonexpansion States.
- Sec. 205. Enhanced reporting requirements for nonexpansion states.
- Sec. 206. Primary care pay increase.
- Sec. 207. Permanent funding for CHIP.
- Sec. 208. Permanent extension of CHIP enrollment and quality measures.
- Sec. 209. State option to increase children’s eligibility for Medicaid and CHIP.
- Sec. 210. Medicaid coverage for citizens of Freely Associated States.
- Sec. 211. Extension of full Federal medical assistance percentage to Indian health care providers.

TITLE III—LOWERING PRICES THROUGH FAIR DRUG PRICE  
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- Sec. 301. Establishing a Fair Drug Pricing Program.
- Sec. 302. Drug manufacturer excise tax for noncompliance.
- Sec. 303. Fair Price Negotiation Implementation Fund.

TITLE IV—PUBLIC HEALTH INVESTMENTS

- Sec. 401. Supporting increased innovation.

1 **TITLE I—LOWERING HEALTH**  
 2 **CARE COSTS AND PRO-**  
 3 **TECTING PEOPLE WITH PRE-**  
 4 **EXISTING CONDITIONS**

5 **SEC. 101. IMPROVING AFFORDABILITY BY EXPANDING PRE-**  
 6 **MIUM ASSISTANCE FOR CONSUMERS.**

7 (a) IN GENERAL.—Section 36B(b)(3)(A) of the In-  
 8 ternal Revenue Code of 1986 is amended to read as fol-  
 9 lows:

10 “(A) APPLICABLE PERCENTAGE.—The ap-  
 11 plicable percentage for any taxable year shall be  
 12 the percentage such that the applicable percent-  
 13 age for any taxpayer whose household income is  
 14 within an income tier specified in the following  
 15 table shall increase, on a sliding scale in a lin-  
 16 ear manner, from the initial premium percent-  
 17 age to the final premium percentage specified in  
 18 such table for such income tier:

| “In the case of household<br>income (expressed as<br>a percent of poverty line)<br>within the following income tier: | The initial<br>premium<br>percentage is— | The final<br>premium<br>percentage is— |
|--|--|--|
| Up to 150.0 percent .....  | 0.0                                      | 0.0                                    |

| “In the case of household<br>income (expressed as<br>a percent of poverty line)<br>within the following income tier: | The initial<br>premium<br>percentage is— | The final<br>premium<br>percentage is— |
|--|--|--|
| 150.0 percent up to 200.0 percent .....  | 0.0                                      | 3.0                                    |
| 200.0 percent up to 250.0 percent .....  | 3.0                                      | 4.0                                    |
| 250.0 percent up to 300.0 percent .....  | 4.0                                      | 6.0                                    |
| 300.0 percent up to 400.0 percent .....  | 6.0                                      | 8.5                                    |
| 400.0 percent and higher .....   | 8.5                                      | 8.5”.                                  |

1           (b)           CONFORMING           AMENDMENT.—Section  
2 36B(c)(1)(A) of the Internal Revenue Code of 1986 is  
3 amended by striking “but does not exceed 400 percent”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 2019.

7 **SEC. 102. IMPROVING AFFORDABILITY BY REDUCING OUT-**  
8 **OF-POCKET AND PREMIUM COSTS FOR CON-**  
9 **SUMERS.**

10           Section 1302(c)(4) of the Patient Protection and Af-  
11 fordable Care Act (42 U.S.C. 18022(c)(4)) is amended by  
12 striking “calendar year)” and inserting “calendar year,  
13 based on estimates and projections for the applicable cal-  
14 endar year of the percentage (if any) by which the average  
15 per enrollee premium for eligible employer-sponsored  
16 health plans (as defined in section 5000A(f)(2) of the In-  
17 ternal Revenue Code of 1986) exceeds such average per  
18 enrollee premium for the preceding calendar year, as pub-  
19 lished in the National Health Expenditure Accounts)”.

1 **SEC. 103. EXPANDING AFFORDABILITY FOR WORKING FAM-**  
2 **ILIES TO FIX THE FAMILY GLITCH.**

3 (a) IN GENERAL.—Clause (i) of section 36B(c)(2)(C)  
4 of the Internal Revenue Code of 1986 is amended to read  
5 as follows:

6 “(i) COVERAGE MUST BE AFFORD-  
7 ABLE.—

8 “(I) EMPLOYEES.—An employee  
9 shall not be treated as eligible for  
10 minimum essential coverage if such  
11 coverage consists of an eligible em-  
12 ployer-sponsored plan (as defined in  
13 section 5000A(f)(2)) and the employ-  
14 ee’s required contribution (within the  
15 meaning of section 5000A(e)(1)(B))  
16 with respect to the plan exceeds 9.5  
17 percent of the employee’s household  
18 income.

19 “(II) FAMILY MEMBERS.—An in-  
20 dividual who is eligible to enroll in an  
21 eligible employer-sponsored plan (as  
22 defined in section 5000A(f)(2)) by  
23 reason of a relationship the individual  
24 bears to the employee shall not be  
25 treated as eligible for minimum essen-  
26 tial coverage by reason of such eligi-

1 bility to enroll if the employee’s re-  
2 quired contribution (within the mean-  
3 ing of section 5000A(e)(1)(B), deter-  
4 mined by substituting ‘family’ for  
5 ‘self-only’) with respect to the plan ex-  
6 ceeds 9.5 percent of the employee’s  
7 household income.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Clause (ii) of section 36B(c)(2)(C) of the  
10 Internal Revenue Code of 1986 is amended by strik-  
11 ing “Except as provided in clause (iii), an employee”  
12 and inserting “An individual”.

13 (2) Clause (iii) of section 36B(c)(2)(C) of such  
14 Code is amended by striking “the last sentence of  
15 clause (i)” and inserting “clause (i)(II)”.

16 (3) Clause (iv) of section 36B(c)(2)(C) of such  
17 Code is amended by striking “the 9.5 percent under  
18 clause (i)(II)” and inserting “the 9.5 percent under  
19 clauses (i)(I) and (i)(II)”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2021.

1 **SEC. 104. TAX CREDIT RECONCILIATION PROTECTIONS FOR**  
2 **INDIVIDUALS RECEIVING SOCIAL SECURITY**  
3 **LUMP-SUM PAYMENTS.**

4 (a) IN GENERAL.—Section 36B(d)(2) of the Internal  
5 Revenue Code of 1986 is amended by adding at the end  
6 the following new subparagraph:

7 “(C) EXCLUSION OF PORTION OF LUMP-  
8 SUM SOCIAL SECURITY BENEFITS.—

9 “(i) IN GENERAL.—The term ‘modi-  
10 fied adjusted gross income’ shall not in-  
11 clude so much of any lump-sum social se-  
12 curity benefit payment as is attributable to  
13 months ending before the beginning of the  
14 taxable year.

15 “(ii) LUMP-SUM SOCIAL SECURITY  
16 BENEFIT PAYMENT.—For purposes of this  
17 subparagraph, the term ‘lump-sum social  
18 security benefit payment’ means any pay-  
19 ment of social security benefits (as defined  
20 in section 86(d)(1)) which constitutes more  
21 than 1 month of such benefits.

22 “(iii) ELECTION TO INCLUDE EX-  
23 CLUDABLE AMOUNT.—A taxpayer may  
24 elect (at such time and in such manner as  
25 the Secretary may provide) to have this

1                   subparagraph not apply for any taxable  
2                   year.”.

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2019.

6 **SEC. 105. PRESERVING STATE OPTION TO IMPLEMENT**  
7                   **HEALTH CARE MARKETPLACES.**

8           (a) **IN GENERAL.**—Section 1311 of the Patient Pro-  
9 tection and Affordable Care Act (42 U.S.C. 18031) is  
10 amended—

11                   (1) in subsection (a)—

12                           (A) in paragraph (4)(B), by striking  
13                           “under this subsection” and inserting “under  
14                           this paragraph or paragraph (1)”; and

15                           (B) by adding at the end the following new  
16                           paragraph:

17                           “(6) **ADDITIONAL PLANNING AND ESTABLISH-**  
18                           **MENT GRANTS.**—

19                                   “(A) **IN GENERAL.**—There shall be appro-  
20                                   priated to the Secretary, out of any moneys in  
21                                   the Treasury not otherwise appropriated, \$200  
22                                   million to award grants to eligible States for  
23                                   the uses described in paragraph (3).



1           “(B) DURATION AND RENEWABILITY.—A  
2 grant awarded under subparagraph (A) shall be  
3 for a period of 2 years and may not be renewed.

4           “(C) LIMITATION.—A grant may not be  
5 awarded under subparagraph (A) after Decem-  
6 ber 31, 2023.

7           “(D) ELIGIBLE STATE DEFINED.—For  
8 purposes of this paragraph, the term ‘eligible  
9 State’ means a State that, as of the date of the  
10 enactment of this paragraph, is not operating  
11 an Exchange (other than an Exchange de-  
12 scribed in section 155.200(f) of title 45, Code  
13 of Federal Regulations).”; and

14 (2) in subsection (d)(5)(A)—

15           (A) by striking “OPERATIONS.—In estab-  
16 lishing an Exchange under this section” and in-  
17 serting “OPERATIONS.—

18           “(i) IN GENERAL.—In establishing an  
19 Exchange under this section (other than in  
20 establishing an Exchange pursuant to a  
21 grant awarded under subsection (a)(6))”;

22 and

23 (B) by adding at the end the following:

24           “(ii) ADDITIONAL PLANNING AND ES-  
25 TABLISHMENT GRANTS.—In establishing

1 an Exchange pursuant to a grant awarded  
2 under subsection (a)(6), the State shall en-  
3 sure that such Exchange is self-sustaining  
4 beginning on January 1, 2025, including  
5 allowing the Exchange to charge assess-  
6 ments or user fees to participating health  
7 insurance issuers, or to otherwise generate  
8 funding, to support its operations.”.

9 (b) CLARIFICATION REGARDING FAILURE TO ESTAB-  
10 LISH EXCHANGE OR IMPLEMENT REQUIREMENTS.—Sec-  
11 tion 1321(c) of the Patient Protection and Affordable  
12 Care Act (42 U.S.C. 18041(c)) is amended—

13 (1) in paragraph (1), by striking “If” and in-  
14 serting “Subject to paragraph (3), if”; and

15 (2) by adding at the end the following new  
16 paragraph:

17 “(3) CLARIFICATION.—This subsection shall  
18 not apply in the case of a State that elects to apply  
19 the requirements described in subsection (a) and  
20 satisfies the requirement described in subsection (b)  
21 on or after January 1, 2014.”.

1 **SEC. 106. ESTABLISHING A HEALTH INSURANCE AFFORD-**  
2 **ABILITY FUND.**

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

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

8 **“SEC. 1351. ESTABLISHMENT OF PROGRAM.**

9 “There is hereby established the ‘Improve Health In-  
10 surance Affordability Fund’ to be administered by the Sec-  
11 retary of Health and Human Services, acting through the  
12 Administrator of the Centers for Medicare & Medicaid  
13 Services (in this section referred to as the ‘Adminis-  
14 trator’), to provide funding, in accordance with this part,  
15 to the 50 States and the District of Columbia (each re-  
16 ferred to in this section as a ‘State’) beginning on January  
17 1, 2022, for the purposes described in section 1352.

18 **“SEC. 1352. USE OF FUNDS.**

19 “(a) IN GENERAL.—A State shall use the funds allo-  
20 cated to the State under this part for one of the following  
21 purposes:

22 “(1) To provide reinsurance payments to health  
23 insurance issuers with respect to individuals enrolled  
24 under individual health insurance coverage (other  
25 than through a plan described in subsection (b)) of-  
26 fered by such issuers.

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

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

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

12           “(2) A plan (commonly referred to as a ‘transi-  
13           tional plan’) continued under the letter issued by the  
14           Centers for Medicare & Medicaid Services on No-  
15           vember 14, 2013, to the State Insurance Commis-  
16           sioners outlining a transitional policy for coverage in  
17           the individual and small group markets to which sec-  
18           tion 1251 does not apply, and under the extension  
19           of the transitional policy for such coverage set forth  
20           in the Insurance Standards Bulletin Series guidance  
21           issued by the Centers for Medicare & Medicaid Serv-  
22           ices on March 5, 2014, February 29, 2016, Feb-  
23           ruary 13, 2017, April 9, 2018, March 25, 2019, and  
24           January 31, 2020, or under any subsequent exten-  
25           sions thereof.

1           “(3) Student health insurance coverage (as de-  
2           fined in section 147.145 of title 45, Code of Federal  
3           Regulations).

4   **“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT**  
5                           **SAFEGUARD.**

6           “(a) ENCOURAGING STATE OPTIONS FOR ALLOCA-  
7           TIONS.—

8           “(1) IN GENERAL.—To be eligible for an alloca-  
9           tion of funds under this part for a year (beginning  
10           with 2022), a State shall submit to the Adminis-  
11           trator an application at such time (but, in the case  
12           of allocations for 2022, not later than 90 days after  
13           the date of the enactment of this part and, in the  
14           case of allocations for a subsequent year, not later  
15           than March 1 of the previous year) and in such form  
16           and manner as specified by the Administrator con-  
17           taining—

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

20                           “(B) such other information as the Admin-  
21                           istrator may require.

22           “(2) AUTOMATIC APPROVAL.—An application so  
23           submitted is approved unless the Administrator noti-  
24           fies the State submitting the application, not later  
25           than 60 days after the date of the submission of

1 such application, that the application has been de-  
2 nied for not being in compliance with any require-  
3 ment of this part and of the reason for such denial.

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

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

15 “(b) DEFAULT FEDERAL SAFEGUARD.—

16 “(1) 2022.—For 2022, in the case of a State  
17 that does not submit an application under subsection  
18 (a) by the 90-day submission date applicable to such  
19 year under subsection (a)(1) and in the case of a  
20 State that does submit such an application by such  
21 date that is not approved, the Administrator, in con-  
22 sultation with the State insurance commissioner,  
23 shall, from the amount calculated under paragraph  
24 (4) for such year, carry out the purpose described in  
25 paragraph (3) in such State for such year.

1           “(2) 2023 AND SUBSEQUENT YEARS.—For  
2           2023 or a subsequent year, in the case of a State  
3           that does not have in effect an approved application  
4           under this section for such year, the Administrator,  
5           in consultation with the State insurance commis-  
6           sioner, shall, from the amount calculated under  
7           paragraph (4) for such year, carry out the purpose  
8           described in paragraph (3) in such State for such  
9           year.

10           “(3) SPECIFIED USE.—The amount described  
11           in paragraph (4), with respect to 2022 or a subse-  
12           quent year, shall be used to carry out the purpose  
13           described in section 1352(a)(1) in each State de-  
14           scribed in paragraph (1) or (2) for such year, as ap-  
15           plicable, by providing reinsurance payments to  
16           health insurance issuers with respect to attachment  
17           range claims (as defined in section 1354(b)(2)),  
18           using the dollar amounts specified in subparagraph  
19           (B) of such section for such year) in an amount  
20           equal to, subject to paragraph (5), the percentage  
21           (specified for such year by the Secretary under such  
22           subparagraph) of the amount of such claims.

23           “(4) AMOUNT DESCRIBED.—The amount de-  
24           scribed in this paragraph, with respect to 2022 or  
25           a subsequent year, is the amount equal to the total

1 sum of amounts that the Secretary would otherwise  
2 estimate under section 1354(b)(2)(A)(i) for such  
3 year for each State described in paragraph (1) or  
4 (2) for such year, as applicable, if each such State  
5 were not so described for such year.

6 “(5) ADJUSTMENT.—For purposes of this sub-  
7 section, the Secretary may apply a percentage under  
8 paragraph (3) with respect to a year that is less  
9 than the percentage otherwise specified in section  
10 1354(b)(2)(B) for such year, if the cost of paying  
11 the total eligible attachment range claims for States  
12 described in this subsection for such year at such  
13 percentage otherwise specified would exceed the  
14 amount calculated under paragraph (4) for such  
15 year.

16 **“SEC. 1354. ALLOCATIONS.**

17 “(a) APPROPRIATION.—For the purpose of providing  
18 allocations for States under subsection (b) and payments  
19 under section 1353(b) there is appropriated, out of any  
20 money in the Treasury not otherwise appropriated,  
21 \$10,000,000,000 for 2022 and each subsequent year.

22 “(b) ALLOCATIONS.—

23 “(1) PAYMENT.—

24 “(A) IN GENERAL.—From amounts appro-  
25 priated under subsection (a) for a year, the



1 Secretary shall, with respect to a State not de-  
2 scribed in section 1353(b) for such year and  
3 not later than the date specified under subpara-  
4 graph (B) for such year, allocate for such State  
5 the amount determined for such State and year  
6 under paragraph (2).

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

10 “(i) for 2022, the date that is 45 days  
11 after the date of the enactment of this  
12 part; and

13 “(ii) for 2023 or a subsequent year,  
14 January 1 of the respective year.

15 “(C) NOTIFICATIONS OF ALLOCATION  
16 AMOUNTS.—For 2023 and each subsequent  
17 year, the Secretary shall notify each State of  
18 the amount determined for such State under  
19 paragraph (2) for such year by not later than  
20 January 1 of the previous year.

21 “(2) ALLOCATION AMOUNT DETERMINA-  
22 TIONS.—

23 “(A) IN GENERAL.—For purposes of para-  
24 graph (1), the amount determined under this  
25 paragraph for a year for a State described in

1 paragraph (1)(A) for such year is the amount  
2 equal to—

3 “(i) the amount that the Secretary es-  
4 timates would be expended under this part  
5 for such year on attachment range claims  
6 of individuals residing in such State if such  
7 State used such funds only for the purpose  
8 described in paragraph (1) of section  
9 1352(a) at the dollar amounts and per-  
10 centage specified under subparagraph (B)  
11 for such year; minus

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

14 “(I) the estimated amount of  
15 premium tax credits under section  
16 36B of the Internal Revenue Code of  
17 1986 that would be attributable to in-  
18 dividuals residing in such State for  
19 such year without application of this  
20 part; exceeds

21 “(II) the estimated amount of  
22 premium tax credits under section  
23 36B of the Internal Revenue Code of  
24 1986 that would be attributable to in-  
25 dividuals residing in such State for

1                   such year if such State were a State  
2                   described in section 1353(b) for such  
3                   year.

4                   For purposes of the previous sentence and sec-  
5                   tion 1353(b)(3), the term ‘attachment range  
6                   claims’ means, with respect to an individual, the  
7                   claims for such individual that exceed a dollar  
8                   amount specified by the Secretary for a year,  
9                   but do not exceed a ceiling dollar amount speci-  
10                  fied by the Secretary for such year, under sub-  
11                  paragraph (B).

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



1 (C) excludes coverage of essential health  
2 benefits including hospitalization, prescription  
3 drugs, and other lifesaving care.

4 (3) The implementation and enforcement of the  
5 final rule weakens critical protections for up to 130  
6 million Americans living with preexisting health con-  
7 ditions and may place a large financial burden on  
8 those who enroll in short-term limited-duration in-  
9 surance, which jeopardizes Americans' access to  
10 quality, affordable health insurance.

11 (b) PROHIBITION.—The Secretary of Health and  
12 Human Services, the Secretary of the Treasury, and the  
13 Secretary of Labor—

14 (1) may not take any action to implement, en-  
15 force, or otherwise give effect to the rule entitled  
16 “Short-Term, Limited Duration Insurance” (83  
17 Fed. Reg. 38212 (August 3, 2018));

18 (2) shall apply any regulation revised by such  
19 rule as if such rule had not been issued; and

20 (3) may not promulgate any substantially simi-  
21 lar rule.

22 **SEC. 108. REVOKING SECTION 1332 GUIDANCE.**

23 (a) FINDINGS.—Congress finds the following:

24 (1) On October 24, 2018, the administration  
25 published new guidance to carry out section 1332 of

1 the Patient Protection and Affordable Care Act (42  
2 U.S.C. 18052) entitled “State Relief and Empower-  
3 ment Waivers” (83 Fed. Reg. 53575).

4 (2) The new guidance encourages States to pro-  
5 vide health insurance coverage through insurance  
6 plans that may discriminate against individuals with  
7 preexisting health conditions, including the one in  
8 four Americans living with a disability.

9 (3) The implementation and enforcement of the  
10 new guidance weakens protections for the millions of  
11 Americans living with preexisting health conditions  
12 and jeopardizes Americans’ access to quality, afford-  
13 able health insurance coverage.

14 (b) PROVIDING THAT CERTAIN GUIDANCE RELATED  
15 TO WAIVERS FOR STATE INNOVATION UNDER THE PA-  
16 TIENT PROTECTION AND AFFORDABLE CARE ACT SHALL  
17 HAVE NO FORCE OR EFFECT.—Beginning July 1, 2020,  
18 the Secretary of Health and Human Services and the Sec-  
19 retary of the Treasury may not take any action to imple-  
20 ment, enforce, or otherwise give effect to the guidance en-  
21 titled “State Relief and Empowerment Waivers” (83 Fed.  
22 Reg. 53575 (October 24, 2018)), including any such ac-  
23 tion that would result in individuals losing health insur-  
24 ance coverage that includes the essential health benefits  
25 package (as defined in subsection (a) of section 1302 of

1 the Patient Protection and Affordable Care Act (42  
2 U.S.C. 18022(a)) without regard to any waiver of any pro-  
3 vision of such package under a waiver under such section  
4 1332), including the maternity and newborn care essential  
5 health benefit described in subsection (b)(1)(D) of such  
6 section, including any such action that would result in a  
7 decrease in the number of such individuals enrolled in cov-  
8 erage that is at least as comprehensive as the coverage  
9 defined in section 1302(a) of the Patient Protection and  
10 Affordable Care Act (42 U.S.C. 18022(a)) compared to  
11 the number of such individuals who would have been so  
12 enrolled in such coverage had such action not been taken,  
13 including any such action that would, with respect to indi-  
14 viduals with substance use disorders, including opioid use  
15 disorders, reduce the availability or affordability of cov-  
16 erage that is at least as comprehensive as the coverage  
17 defined in section 1302(a) of the Patient Protection and  
18 Affordable Care Act (42 U.S.C. 18022(a)) compared to  
19 the availability or affordability, respectively, of such cov-  
20 erage had such action not been taken, including any such  
21 action that would result, with respect to vulnerable popu-  
22 lations (including low-income individuals, elderly individ-  
23 uals, and individuals with serious health issues or who  
24 have a greater risk of developing serious health issues),  
25 in a decrease in the availability of coverage that is at least

1 as comprehensive as the coverage defined in section  
2 1302(a) of the Patient Protection and Affordable Care Act  
3 (42 U.S.C. 18022(a)) with coverage and cost sharing pro-  
4 tections required under section 1332(b)(1)(B) of such Act  
5 (42 U.S.C. 18052(b)(1)(B)), including any such action  
6 that would, with respect to individuals with preexisting  
7 conditions, reduce the affordability of coverage that is at  
8 least as comprehensive as the coverage defined in section  
9 1302(a) of the Patient Protection and Affordable Care Act  
10 (42 U.S.C. 18022(a)) compared to the affordability of  
11 such coverage had such action not been taken, including  
12 any such action that would result in higher health insur-  
13 ance premiums for individuals enrolled in health insurance  
14 coverage that is at least as comprehensive as the coverage  
15 defined in section 1302(b) of such Act (42 U.S.C.  
16 18022(b)), and the Secretaries may not promulgate any  
17 substantially similar guidance or rule. Nothing in the pre-  
18 vious sentence shall be construed to affect the approval  
19 of waivers under section 1332 of the Patient Protection  
20 and Affordable Care Act (42 U.S.C. 18052) that establish  
21 reinsurance programs that are consistent with the require-  
22 ments under subsection (b)(1) of such section (42 U.S.C.  
23 18052(b)(1)), lower health insurance premiums, and pro-  
24 tect health insurance coverage for people with preexisting  
25 conditions.



1 (c) GAO REPORT ON AFFECT OF STATE INNOVATION  
2 WAIVERS ON COVERAGE OF INDIVIDUALS AND ON MEN-  
3 TAL HEALTH HEALTH CARE TREATMENT.—Not later  
4 than 1 year after the date of the enactment of this Act,  
5 the Comptroller General of the United States shall submit  
6 to Congress a report on the number of individuals ex-  
7 pected to lose access to health insurance coverage (as de-  
8 fined in section 2791 of the Public Health Service Act (42  
9 U.S.C. 300gg–91)) if subsection (b) were not enacted and  
10 waivers under section 1332 of the Patient Protection and  
11 Affordable Care Act (42 U.S.C. 18052) were approved  
12 under the guidance described in such subsection (b). Such  
13 report shall include an analysis of the expected effect such  
14 waivers approved under such guidance would have on men-  
15 tal health care treatment.

16 **SEC. 109. REQUIRING MARKETPLACE OUTREACH, EDU-**  
17 **CATIONAL ACTIVITIES, AND ANNUAL EN-**  
18 **ROLLMENT TARGETS.**

19 (a) IN GENERAL.—Section 1321(c) of the Patient  
20 Protection and Affordable Care Act (42 U.S.C. 18041(c)),  
21 as amended by section 105(b), is further amended by add-  
22 ing at the end the following new paragraphs:

23 “(4) OUTREACH AND EDUCATIONAL ACTIVI-  
24 TIES.—

1           “(A) IN GENERAL.—In the case of an Ex-  
2           change established or operated by the Secretary  
3           within a State pursuant to this subsection, the  
4           Secretary shall carry out outreach and edu-  
5           cational activities for purposes of informing in-  
6           dividuals about qualified health plans offered  
7           through the Exchange, including by informing  
8           such individuals of the availability of coverage  
9           under such plans and financial assistance for  
10          coverage under such plans. Such outreach and  
11          educational activities shall be provided in a  
12          manner that is culturally and linguistically ap-  
13          propriate to the needs of the populations being  
14          served by the Exchange (including hard-to-  
15          reach populations, such as racial and sexual mi-  
16          norities, limited English proficient populations,  
17          individuals in rural areas, veterans, and young  
18          adults) and shall be provided to populations re-  
19          siding in high health disparity areas (as defined  
20          in subparagraph (E)) served by the Exchange,  
21          in addition to other populations served by the  
22          Exchange.

23           “(B) LIMITATION ON USE OF FUNDS.—No  
24          funds appropriated under this paragraph shall

1 be used for expenditures for promoting non-  
2 ACA compliant health insurance coverage.

3 “(C) NON-ACA COMPLIANT HEALTH INSUR-  
4 ANCE COVERAGE.—For purposes of subpara-  
5 graph (B):

6 “(i) The term ‘non-ACA compliant  
7 health insurance coverage’ means health  
8 insurance coverage, or a group health plan,  
9 that is not a qualified health plan.

10 “(ii) Such term includes the following:

11 “(I) An association health plan.

12 “(II) Short-term limited duration  
13 insurance.

14 “(D) FUNDING.—Out of any funds in the  
15 Treasury not otherwise appropriated, there are  
16 hereby appropriated for fiscal year 2022 and  
17 each subsequent fiscal year, \$100,000,000 to  
18 carry out this paragraph. Funds appropriated  
19 under this subparagraph shall remain available  
20 until expended.

21 “(E) HIGH HEALTH DISPARITY AREA DE-  
22 FINED.—For purposes of subparagraph (A), the  
23 term ‘high health disparity area’ means a con-  
24 tiguous geographic area that—

1           “(i) is located in one census tract or  
2           ZIP code;

3           “(ii) has measurable and documented  
4           racial, ethnic, or geographic health dispari-  
5           ties;

6           “(iii) has a low-income population, as  
7           demonstrated by—

8                   “(I) average income below 138  
9                   percent of the Federal poverty line; or

10                   “(II) a rate of participation in  
11                   the special supplemental nutrition  
12                   program under section 17 of the Child  
13                   Nutrition Act of 1966 (42 U.S.C.  
14                   1786) that is higher than the national  
15                   average rate of participation in such  
16                   program;

17           “(iv) has poor health outcomes, as  
18           demonstrated by—

19                   “(I) lower life expectancy than  
20                   the national average; or

21                   “(II) a higher percentage of in-  
22                   stances of low birth weight than the  
23                   national average; and

1                   “(v) is part of a Metropolitan Statis-  
2                   tical Area identified by the Office of Man-  
3                   agement and Budget.

4                   “(5) ANNUAL ENROLLMENT TARGETS.—For  
5                   plan year 2021 and each subsequent plan year, in  
6                   the case of an Exchange established or operated by  
7                   the Secretary within a State pursuant to this sub-  
8                   section, the Secretary shall establish annual enroll-  
9                   ment targets for such Exchange for such year.”.

10                  (b) STUDY AND REPORT.—Not later than 30 days  
11 after the date of the enactment of this Act, the Secretary  
12 of Health and Human Services shall release to Congress  
13 all aggregated documents relating to studies and data sets  
14 that were created on or after January 1, 2014, and related  
15 to marketing and outreach with respect to qualified health  
16 plans offered through Exchanges under title I of the Pa-  
17 tient Protection and Affordable Care Act (42 U.S.C.  
18 18001 et seq.).

19 **SEC. 110. REPORT ON EFFECTS OF WEBSITE MAINTENANCE**  
20 **DURING OPEN ENROLLMENT.**

21                  Not later than 1 year after the date of the enactment  
22 of this Act, the Comptroller General of the United States  
23 shall submit to Congress a report examining whether the  
24 Department of Health and Human Services has been con-  
25 ducting maintenance on the website commonly referred to

1 as “Healthcare.gov” during annual open enrollment peri-  
2 ods (as described in section 1311(c)(6)(B) of the Patient  
3 Protection and Affordable Care Act (42 U.S.C.  
4 18031(c)(6)(B)) in such a manner so as to minimize any  
5 disruption to the use of such website resulting from such  
6 maintenance.

7 **SEC. 111. PROMOTING CONSUMER OUTREACH AND EDU-**  
8 **CATION.**

9 (a) IN GENERAL.—Section 1311(i) of the Patient  
10 Protection and Affordable Care Act (42 U.S.C. 18031(i))  
11 is amended—

12 (1) in paragraph (2), by adding at the end the  
13 following new subparagraph:

14 “(C) SELECTION OF RECIPIENTS.—In the  
15 case of an Exchange established and operated  
16 by the Secretary within a State pursuant to sec-  
17 tion 1321(c), in awarding grants under para-  
18 graph (1), the Exchange shall—

19 “(i) select entities to receive such  
20 grants based on an entity’s demonstrated  
21 capacity to carry out each of the duties  
22 specified in paragraph (3);

23 “(ii) not take into account whether or  
24 not the entity has demonstrated how the  
25 entity will provide information to individ-

1 uals relating to group health plans offered  
2 by a group or association of employers de-  
3 scribed in section 2510.3–5(b) of title 29,  
4 Code of Federal Regulations (or any suc-  
5 cessor regulation), or short-term limited  
6 duration insurance (as defined by the Sec-  
7 retary for purposes of section 2791(b)(5)  
8 of the Public Health Service Act); and

9 “(iii) ensure that, each year, the Ex-  
10 change awards such a grant to—

11 “(I) at least one entity described  
12 in this paragraph that is a community  
13 and consumer-focused nonprofit  
14 group; and

15 “(II) at least one entity described  
16 in subparagraph (B), which may in-  
17 clude another community and con-  
18 sumer-focused nonprofit group in ad-  
19 dition to any such group awarded a  
20 grant pursuant to subclause (I).

21 In awarding such grants, an Exchange may  
22 consider an entity’s record with respect to  
23 waste, fraud, and abuse for purposes of main-  
24 taining the integrity of such Exchange.”;

25 (2) in paragraph (3)—

1 (A) by amending subparagraph (C) to read  
2 as follows:

3 “(C) facilitate enrollment, including with  
4 respect to individuals with limited English pro-  
5 ficiency and individuals with chronic illnesses,  
6 in qualified health plans, State medicaid plans  
7 under title XIX of the Social Security Act, and  
8 State child health plans under title XXI of such  
9 Act;”;

10 (B) in subparagraph (D), by striking  
11 “and” at the end;

12 (C) in subparagraph (E), by striking the  
13 period at the end and inserting “; and”;

14 (D) by inserting after subparagraph (E)  
15 the following new subparagraph:

16 “(F) provide referrals to community-based  
17 organizations that address social needs related  
18 to health outcomes.”; and

19 (E) by adding at the end the following  
20 flush left sentence:

21 “The duties specified in the preceding sentence may  
22 be carried out by such a navigator at any time dur-  
23 ing a year.”;

24 (3) in paragraph (4)(A)—



- 1 (A) in the matter preceding clause (i), by  
2 striking “not”;
- 3 (B) in clause (i)—
- 4 (i) by inserting “not” before “be”;
- 5 and
- 6 (ii) by striking “; or” and inserting a  
7 semicolon;
- 8 (C) in clause (ii)—
- 9 (i) by inserting “not” before “re-  
10 ceive”; and
- 11 (ii) by striking the period and insert-  
12 ing a semicolon; and
- 13 (D) by adding at the end the following new  
14 clauses:
- 15 “(iii) maintain physical presence in  
16 the State of the Exchange so as to allow  
17 in-person assistance to consumers; and
- 18 “(iv) receive opioid specific education  
19 and training that ensures the navigator  
20 can best educate individuals on qualified  
21 health plans offered through an Exchange,  
22 specifically coverage under such plans for  
23 opioid health care treatment.”; and
- 24 (4) in paragraph (6)—

1 (A) by striking “FUNDING.—Grants  
2 under” and inserting “FUNDING.—

3 “(A) STATE EXCHANGES.—Grants under”;  
4 and

5 (B) by adding at the end the following new  
6 subparagraph:

7 “(B) FEDERAL EXCHANGES.—For pur-  
8 poses of carrying out this subsection, with re-  
9 spect to an Exchange established and operated  
10 by the Secretary within a State pursuant to sec-  
11 tion 1321(c), the Secretary shall obligate  
12 \$100,000,000 out of amounts collected through  
13 the user fees on participating health insurance  
14 issuers pursuant to section 156.50 of title 45,  
15 Code of Federal Regulations (or any successor  
16 regulations), for fiscal year 2022 and each sub-  
17 sequent fiscal year. Such amount for a fiscal  
18 year shall remain available until expended.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply with respect to plan years begin-  
21 ning on or after January 1, 2021.

22 **SEC. 112. IMPROVING TRANSPARENCY AND ACCOUNT-**  
23 **ABILITY IN THE MARKETPLACE.**

24 (a) OPEN ENROLLMENT REPORTS.—For plan year  
25 2021 and each subsequent year, the Secretary of Health

1 and Human Services (referred to in this section as the  
2 “Secretary”), in coordination with the Secretary of the  
3 Treasury and the Secretary of Labor, shall issue biweekly  
4 public reports during the annual open enrollment period  
5 on the performance of the federally facilitated Exchange  
6 operated pursuant to section 1321(c) of the Patient Pro-  
7 tection and Affordable Care Act (42 U.S.C. 18041(c)).  
8 Each such report shall include a summary, including in-  
9 formation on a State-by-State basis where available, of—

- 10 (1) the number of unique website visits;
- 11 (2) the number of individuals who create an ac-  
12 count;
- 13 (3) the number of calls to the call center;
- 14 (4) the average wait time for callers contacting  
15 the call center;
- 16 (5) the number of individuals who enroll in a  
17 qualified health plan; and
- 18 (6) the percentage of individuals who enroll in  
19 a qualified health plan through each of—
  - 20 (A) the website;
  - 21 (B) the call center;
  - 22 (C) navigators;
  - 23 (D) agents and brokers;
  - 24 (E) the enrollment assistant program;

1 (F) directly from issuers or web brokers;

2 and

3 (G) other means.

4 (b) OPEN ENROLLMENT AFTER ACTION REPORT.—

5 For plan year 2021 and each subsequent year, the Sec-  
6 retary, in coordination with the Secretary of the Treasury  
7 and the Secretary of Labor, shall publish an after action  
8 report not later than 3 months after the completion of the  
9 annual open enrollment period regarding the performance  
10 of the Exchange described in subsection (a) for the appli-  
11 cable plan year. Each such report shall include a sum-  
12 mary, including information on a State-by-State basis  
13 where available, of—

14 (1) the open enrollment data reported under  
15 subsection (a) for the entirety of the enrollment pe-  
16 riod; and

17 (2) activities related to patient navigators de-  
18 scribed in section 1311(i) of the Patient Protection  
19 and Affordable Care Act (42 U.S.C. 18031(i)), in-  
20 cluding—

21 (A) the performance objectives established  
22 by the Secretary for such patient navigators;

23 (B) the number of consumers enrolled by  
24 such a patient navigator;

1 (C) an assessment of how such patient  
2 navigators have met established performance  
3 metrics, including a detailed list of all patient  
4 navigators, funding received by patient naviga-  
5 tors, and whether established performance ob-  
6 jectives of patient navigators were met; and

7 (D) with respect to the performance objec-  
8 tives described in subparagraph (A)—

9 (i) whether such objectives assess the  
10 full scope of patient navigator responsibil-  
11 ities, including general education, plan se-  
12 lection, and determination of eligibility for  
13 tax credits, cost-sharing reductions, or  
14 other coverage;

15 (ii) how the Secretary worked with pa-  
16 tient navigators to establish such objec-  
17 tives; and

18 (iii) how the Secretary adjusted such  
19 objectives for case complexity and other  
20 contextual factors.

21 (c) REPORT ON ADVERTISING AND CONSUMER OUT-  
22 REACH.—Not later than 3 months after the completion of  
23 the annual open enrollment period for plan year 2021, the  
24 Secretary shall issue a report on advertising and outreach

1 to consumers for the open enrollment period for plan year  
2 2021. Such report shall include a description of—

3 (1) the division of spending on individual adver-  
4 tising platforms, including television and radio ad-  
5 vertisements and digital media, to raise consumer  
6 awareness of open enrollment;

7 (2) the division of spending on individual out-  
8 reach platforms, including email and text messages,  
9 to raise consumer awareness of open enrollment; and

10 (3) whether the Secretary conducted targeted  
11 outreach to specific demographic groups and geo-  
12 graphic areas.

13 (b) PROMOTING TRANSPARENCY AND ACCOUNT-  
14 ABILITY IN THE ADMINISTRATION'S EXPENDITURES OF  
15 EXCHANGE USER FEES.—For plan year 2021 and each  
16 subsequent plan year, not later than the date that is 3  
17 months after the end of such plan year, the Secretary of  
18 Health and Human Services shall submit to the appro-  
19 priate committees of Congress and make available to the  
20 public an annual report on the expenditures by the De-  
21 partment of Health and Human Services of user fees col-  
22 lected pursuant to section 156.50 of title 45, Code of Fed-  
23 eral Regulations (or any successor regulations). Each such  
24 report for a plan year shall include a detailed accounting  
25 of the amount of such user fees collected during such plan

1 year and of the amount of such expenditures used during  
2 such plan year for the federally facilitated Exchange oper-  
3 ated pursuant to section 1321(c) of the Patient Protection  
4 and Affordable Care Act (42 U.S.C. 18041(c)) on out-  
5 reach and enrollment activities, navigators, maintenance  
6 of Healthcare.gov, and operation of call centers.

7 **SEC. 113. IMPROVING AWARENESS OF HEALTH COVERAGE**  
8 **OPTIONS.**

9 (a) IN GENERAL.—Not later than 90 days after the  
10 date of the enactment of this Act, the Secretary of Labor,  
11 in consultation with the Secretary of Health and Human  
12 Services, shall update, and make publicly available in a  
13 prominent location on the website of the Department of  
14 Labor, the model Consolidated Omnibus Budget Reconcili-  
15 ation Act of 1985 (referred to in this section as  
16 “COBRA”) continuation coverage general notice and the  
17 model COBRA continuation coverage election notice devel-  
18 oped by the Secretary of Labor for purposes of facilitating  
19 compliance of group health plans with the notification re-  
20 quirements under section 606 of the Employee Retirement  
21 Income Security Act of 1974 (29 U.S.C. 1166). In updat-  
22 ing each such notice, the Secretary of Labor shall include  
23 information regarding any Exchange established under  
24 title I of the Patient Protection and Affordable Care Act  
25 (42 U.S.C. 18001 et seq.) through which a qualified bene-

1 ficiary may be eligible to enroll in a qualified health plan,  
2 including—

3 (1) the publicly accessible Internet website ad-  
4 dress for such Exchange;

5 (2) the publicly accessible Internet website ad-  
6 dress for the Find Local Help directory maintained  
7 by the Department of Health and Human Services  
8 on the healthcare.gov Internet website (or a suc-  
9 cessor website);

10 (3) a clear explanation that—

11 (A) an individual who is eligible for con-  
12 tinuation coverage may also be eligible to enroll,  
13 with financial assistance, in a qualified health  
14 plan offered through such Exchange, but, in the  
15 case that such individual elects to enroll in such  
16 continuation coverage and subsequently elects  
17 to terminate such continuation coverage before  
18 the period of such continuation coverage ex-  
19 pires, such individual will not be eligible to en-  
20 roll in a qualified health plan offered through  
21 such Exchange during a special enrollment pe-  
22 riod; and

23 (B) an individual who elects to enroll in  
24 continuation coverage will remain eligible to en-  
25 roll in a qualified health plan offered through



1 such Exchange during an open enrollment pe-  
2 riod and may be eligible for financial assistance  
3 with respect to enrolling in such a qualified  
4 health plan;

5 (4) information on consumer protections with  
6 respect to enrolling in a qualified health plan offered  
7 through such Exchange, including the requirement  
8 for such a qualified health plan to provide coverage  
9 for essential health benefits (as defined in section  
10 1302(b) of such Act (42 U.S.C. 18022(b)) and the  
11 requirements applicable to such a qualified health  
12 plan under part A of title XXVII of the Public  
13 Health Service Act (42 U.S.C. 300gg et seq.); and

14 (5) information on the availability of financial  
15 assistance with respect to enrolling in a qualified  
16 health plan, including the maximum income limit for  
17 eligibility for a premium tax credit under section  
18 36B of the Internal Revenue Code of 1986.

19 (b) NAME OF NOTICES.—In addition to updating the  
20 model COBRA continuation coverage general notice and  
21 the model COBRA continuation coverage election notice  
22 under paragraph (1), the Secretary of Labor shall rename  
23 each such notice as the “model COBRA continuation cov-  
24 erage and Affordable Care Act coverage general notice”

1 and the “model COBRA continuation coverage and Af-  
2 fordable Care Act coverage election notice”, respectively.

3 (c) CONSUMER TESTING.—Prior to making publicly  
4 available the model COBRA continuation coverage general  
5 notice and the model COBRA continuation coverage elec-  
6 tion notice updated under paragraph (1), the Secretary  
7 of Labor shall provide an opportunity for consumer testing  
8 of each such notice, as so updated, to ensure that each  
9 such notice is clear and understandable to the average  
10 participant or beneficiary of a group health plan.

11 (d) DEFINITIONS.—In this subsection:

12 (1) CONTINUATION COVERAGE.—The term  
13 “continuation coverage”, with respect to a group  
14 health plan, has the meaning given such term in sec-  
15 tion 602 of the Employee Retirement Income Secu-  
16 rity Act of 1974 (29 U.S.C. 1162).

17 (2) GROUP HEALTH PLAN.—The term “group  
18 health plan” has the meaning given such term in  
19 section 607 of such Act (29 U.S.C. 1167).

20 (3) QUALIFIED BENEFICIARY.—The term  
21 “qualified beneficiary” has the meaning given such  
22 term in such section 607.

23 (4) QUALIFIED HEALTH PLAN.—The term  
24 “qualified health plan” has the meaning given such

1 term in section 1301 of the Patient Protection and  
2 Affordable Care Act (42 U.S.C. 18021).

3 **SEC. 114. PROMOTING STATE INNOVATIONS TO EXPAND**  
4 **COVERAGE.**

5 (a) IN GENERAL.—Subject to subsection (d), the Sec-  
6 retary of Health and Human Services shall award grants  
7 to eligible State agencies to enable such States to explore  
8 innovative solutions to promote greater enrollment in  
9 health insurance coverage in the individual and small  
10 group markets, including activities described in subsection  
11 (c).

12 (b) ELIGIBILITY.—For purposes of subsection (a), el-  
13 igible State agencies are Exchanges established by a State  
14 under title I of the Patient Protection and Affordable Care  
15 Act (42 U.S.C. 18001 et seq.) and State agencies with  
16 primary responsibility over health and human services for  
17 the State involved.

18 (c) USE OF FUNDS.—For purposes of subsection (a),  
19 the activities described in this subsection are the following:

20 (1) State efforts to streamline health insurance  
21 enrollment procedures in order to reduce burdens on  
22 consumers and facilitate greater enrollment in health  
23 insurance coverage in the individual and small group  
24 markets, including automatic enrollment and re-  
25 enrollment of, or pre-populated applications for, in-

1 individuals without health insurance who are eligible  
2 for tax credits under section 36B of the Internal  
3 Revenue Code of 1986, with the ability to opt out  
4 of such enrollment.

5 (2) State investment in technology to improve  
6 data sharing and collection for the purposes of facili-  
7 tating greater enrollment in health insurance cov-  
8 erage in such markets.

9 (3) Implementation of a State version of an in-  
10 dividual mandate to be enrolled in health insurance  
11 coverage.

12 (4) Feasibility studies to develop comprehensive  
13 and coherent State plan for increasing enrollment in  
14 the individual and small group market.

15 (d) FUNDING.—For purposes of carrying out this  
16 section, there is hereby appropriated, out of any funds in  
17 the Treasury not otherwise appropriated, \$200,000,000  
18 for each of the fiscal years 2022 through 2024. Such  
19 amount shall remain available until expended.

20 **SEC. 115. STRENGTHENING NETWORK ADEQUACY.**

21 (a) IN GENERAL.—Section 1311(d) of the Patient  
22 Protection and Affordable Care Act (42 U.S.C. 18031(d))  
23 is amended by adding at the end the following new para-  
24 graph:

25 “(8) NETWORK ADEQUACY STANDARDS.—

1           “(A) CERTAIN EXCHANGES.—In the case  
2 of an Exchange operated by the Secretary pur-  
3 suant section 1321(c)(1) or an Exchange de-  
4 scribed in section 155.200(f) of title 42, Code  
5 of Federal Regulations (or a successor regula-  
6 tion), the Exchange shall require each qualified  
7 health plan offered through such Exchange to  
8 meet such quantitative network adequacy stand-  
9 ards as the Secretary may prescribe for pur-  
10 poses of this subparagraph.

11           “(B) STATE EXCHANGES.—In the case of  
12 an Exchange not described in subparagraph  
13 (A), the Exchange shall establish quantitative  
14 network adequacy standards with respect to  
15 qualified health plans offered through such Ex-  
16 change and require such plans to meet such  
17 standards.”.

18           (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply with respect to plan years begin-  
20 ning on or after January 1, 2022.

21 **SEC. 116. PROTECTING CONSUMERS FROM UNREASONABLE**  
22 **RATE HIKES.**

23           (a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,  
24 OR UNFAIRLY DISCRIMINATORY RATES.—The first sec-  
25 tion 2794 of the Public Health Service Act (42 U.S.C.

1 300gg–94), as added by section 1003 of the Patient Pro-  
2 tection and Affordable Care Act (Public Law 111–148),  
3 is amended by adding at the end the following new sub-  
4 section:

5 “(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,  
6 OR UNFAIRLY DISCRIMINATORY RATES.—

7 “(1) AUTHORITY OF STATES.—Nothing in this  
8 section shall be construed to prohibit a State from  
9 imposing requirements (including requirements re-  
10 lating to rate review standards and procedures and  
11 information reporting) on health insurance issuers  
12 with respect to rates that are in addition to the re-  
13 quirements of this section and are more protective of  
14 consumers than such requirements.

15 “(2) CONSULTATION IN RATE REVIEW PROC-  
16 ESS.—In carrying out this section, the Secretary  
17 shall consult with the National Association of Insur-  
18 ance Commissioners and consumer groups.

19 “(3) DETERMINATION OF WHO CONDUCTS RE-  
20 VIEWS FOR EACH STATE.—The Secretary shall de-  
21 termine, after the date of enactment of this section  
22 and periodically thereafter, the following:

23 “(A) In which markets in each State the  
24 State insurance commissioner or relevant State  
25 regulator shall undertake the corrective actions

1 under paragraph (4), based on the Secretary’s  
2 determination that the State regulator is ade-  
3 quately undertaking and utilizing such actions  
4 in that market.

5 “(B) In which markets in each State the  
6 Secretary shall undertake the corrective actions  
7 under paragraph (4), in cooperation with the  
8 relevant State insurance commissioner or State  
9 regulator, based on the Secretary’s determina-  
10 tion that the State is not adequately under-  
11 taking and utilizing such actions in that mar-  
12 ket.

13 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-  
14 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY  
15 RATES.—In accordance with the process established  
16 under this section, the Secretary or the relevant  
17 State insurance commissioner or State regulator  
18 shall take corrective actions to ensure that any ex-  
19 cessive, unjustified, or unfairly discriminatory rates  
20 are corrected prior to implementation, or as soon as  
21 possible thereafter, through mechanisms such as—

22 “(A) denying rates;

23 “(B) modifying rates; or

24 “(C) requiring rebates to consumers.

1           “(5) NONCOMPLIANCE.—Failure to comply with  
2           any corrective action taken by the Secretary under  
3           this subsection may result in the application of civil  
4           monetary penalties under section 2723 and, if the  
5           Secretary determines appropriate, make the plan in-  
6           volved ineligible for classification as a qualified  
7           health plan.”.

8           (b) CLARIFICATION OF REGULATORY AUTHORITY.—  
9           Such section is further amended—

10           (1) in subsection (a)—

11                   (A) in the heading, by striking “PRE-  
12                   MIUM” and inserting “RATE”;

13                   (B) in paragraph (1), by striking “unrea-  
14                   sonable increases in premiums” and inserting  
15                   “potentially excessive, unjustified, or unfairly  
16                   discriminatory rates, including premiums,”; and

17                   (C) in paragraph (2)—

18                           (i) by striking “an unreasonable pre-  
19                           mium increase” and inserting “a poten-  
20                           tially excessive, unjustified, or unfairly dis-  
21                           criminatory rate”;

22                           (ii) by striking “the increase” and in-  
23                           serting “the rate”; and

24                           (iii) by striking “such increases” and  
25                           inserting “such rates”; and



1 (2) in subsection (b)—

2 (A) by striking “premium increases” each  
3 place it appears and inserting “rates”; and

4 (B) in paragraph (2)(B), by striking “pre-  
5 mium” and inserting “rate”.

6 (c) CONFORMING AMENDMENTS.—Title XXVII of  
7 the Public Health Service Act (42 U.S.C. 300gg et seq.)  
8 is amended—

9 (1) in section 2723 (42 U.S.C. 300gg–22), as  
10 redesignated by the Patient Protection and Afford-  
11 able Care Act—

12 (A) in subsection (a)—

13 (i) in paragraph (1), by inserting  
14 “and section 2794” after “this part”; and

15 (ii) in paragraph (2), by inserting “or  
16 section 2794” after “this part”; and

17 (B) in subsection (b)—

18 (i) in paragraph (1), by inserting  
19 “and section 2794” after “this part”; and

20 (ii) in paragraph (2)—

21 (I) in subparagraph (A), by in-  
22 serting “or section 2794 that is” after  
23 “this part”; and

1 (II) in subparagraph (C)(ii), by  
2 inserting “or section 2794” after  
3 “this part”; and

4 (2) in section 2761 (42 U.S.C. 300gg-61)—

5 (A) in subsection (a)—

6 (i) in paragraph (1), by inserting  
7 “and section 2794” after “this part”; and

8 (ii) in paragraph (2)—

9 (I) by inserting “or section  
10 2794” after “set forth in this part”;  
11 and

12 (II) by inserting “and section  
13 2794” after “the requirements of this  
14 part”; and

15 (B) in subsection (b)—

16 (i) by inserting “and section 2794”  
17 after “this part”; and

18 (ii) by inserting “and section 2794”  
19 after “part A”.

20 (d) APPLICABILITY TO GRANDFATHERED PLANS.—

21 Section 1251(a)(4)(A) of the Patient Protection and Af-  
22 fordable Care Act (Public Law 111-148), as added by sec-  
23 tion 2301 of the Health Care and Education Reconcili-  
24 ation Act of 2010 (Public Law 111-152), is amended by  
25 adding at the end the following:

1                   “(v) Section 2794 (relating to reason-  
2                   ableness of rates with respect to health in-  
3                   surance coverage).”.

4           (e) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to carry out this Act  
6 such sums as may be necessary.

7           (f) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on the date of enactment of  
9 this Act and shall be implemented with respect to health  
10 plans beginning not later than January 1, 2022.

11 **SEC. 117. ELIGIBILITY OF DACA RECIPIENTS FOR QUALI-**  
12 **FIED HEALTH PLANS OFFERED THROUGH EX-**  
13 **CHANGES.**

14           (a) IN GENERAL.—Section 1312(f)(3) of the Patient  
15 Protection and Affordable Care Act (42 U.S.C.  
16 18032(f)(3)) is amended—

17                   (1) by striking “or an alien lawfully present in  
18                   the United States” and inserting “, an alien lawfully  
19                   present in the United States, or a DACA recipient”;  
20                   and

21                   (2) by adding at the end the following: “For  
22                   purposes of the previous sentence, the term ‘DACA  
23                   recipient’ means an individual who was granted de-  
24                   ferred action pursuant to the Deferred Action for  
25                   Childhood Arrivals Program announced in the

1 memorandum of the Secretary of Homeland Security  
2 dated June 15, 2012, and for whom such grant re-  
3 mains valid.”.

4 (b) APPLICATION OF REDUCED COST-SHARING.—  
5 Section 1402(e)(2) of the Patient Protection and Afford-  
6 able Care Act (42 U.S.C. 18071(e)(2)) is amended by add-  
7 ing at the end the following: “A DACA recipient (as de-  
8 fined in section 1312(f)(3)) shall be treated as lawfully  
9 present for purposes of this section.”.

10 (c) ELIGIBILITY FOR ADVANCE PAYMENTS.—Section  
11 1412(d) of the Patient Protection and Affordable Care Act  
12 (42 U.S.C. 18082(d)) is amended by adding at the end  
13 the following: “For purposes of the previous sentence, a  
14 DACA recipient (as defined in section 1312(f)(3)) shall  
15 be treated as lawfully present in the United States.”.

16 (d) VERIFICATION OF ELIGIBILITY.—Section  
17 1411(c)(2)(B) of the Patient Protection and Affordable  
18 Care Act (42 U.S.C. 18081(c)(2)(B)) is amended—

19 (1) in clause (i)(I), by inserting “or a DACA  
20 recipient (as defined in section 1312(f)(3))” after  
21 “an alien lawfully present in the United States”;  
22 and

23 (2) in clause (ii), by inserting “or a DACA re-  
24 cipient (as defined in section 1312(f)(3))” after “an  
25 alien lawfully present in the United States”.

1 (e) APPLICATION OF TAX CREDIT FOR COVERAGE  
 2 UNDER A QUALIFIED HEALTH PLAN.—Section 36B(e)(2)  
 3 of the Internal Revenue Code of 1986 is amended by add-  
 4 ing at the end the following: “A DACA recipient (as de-  
 5 fined in section 1312(f)(3) of the Patient Protection and  
 6 Affordable Care Act) shall be treated as lawfully present  
 7 for purposes of this section.”.

8 (f) EFFECTIVE DATE.—The amendments made by  
 9 this section shall take effect on January 1, 2021.

10 **TITLE II—ENCOURAGING MED-**  
 11 **ICAID EXPANSION AND**  
 12 **STRENGTHENING THE MED-**  
 13 **ICAID PROGRAM**

14 **SEC. 201. INCENTIVIZING MEDICAID EXPANSION.**

15 (a) IN GENERAL.—Section 1905(y)(1) of the Social  
 16 Security Act (42 U.S.C. 1396d(y)(1)) is amended—

17 (1) in subparagraph (A), by striking “2014,  
 18 2015, and 2016” and inserting “each of the first 3  
 19 consecutive 12-month periods in which the State  
 20 provides medical assistance to newly eligible individ-  
 21 uals”;

22 (2) in subparagraph (B), by striking “2017”  
 23 and inserting “the fourth consecutive 12-month pe-  
 24 riod in which the State provides medical assistance  
 25 to newly eligible individuals”;

1 (3) in subparagraph (C), by striking “2018”  
2 and inserting “the fifth consecutive 12-month period  
3 in which the State provides medical assistance to  
4 newly eligible individuals”;

5 (4) in subparagraph (D), by striking “2019”  
6 and inserting “the sixth consecutive 12-month period  
7 in which the State provides medical assistance to  
8 newly eligible individuals”; and

9 (5) in subparagraph (E), by striking “2020 and  
10 each year thereafter” and inserting “the seventh  
11 consecutive 12-month period in which the State pro-  
12 vides medical assistance to newly eligible individuals  
13 and each such period thereafter”.

14 (b) EFFECTIVE DATE.—Beginning on January 1,  
15 2022, the amendments made by subsection (a) shall take  
16 effect as if included in the enactment of the Patient Pro-  
17 tection and Affordable Care Act (Public Law 111–148).

18 **SEC. 202. PROVIDING 12-MONTHS OF CONTINUOUS ELIGI-**  
19 **BILITY FOR MEDICAID AND CHIP.**

20 (a) REQUIREMENT OF 12-MONTH CONTINUOUS EN-  
21 ROLLMENT UNDER MEDICAID.—Section 1902(e)(12) of  
22 the Social Security Act (42 U.S.C. 1396a(e)(12)) is  
23 amended to read as follows:

24 “(12) 12-MONTH CONTINUOUS ENROLLMENT.—  
25 Notwithstanding any other provision of this title, a

1 State plan approved under this title (or under any  
2 waiver of such plan approved pursuant to section  
3 1115 or section 1915), shall provide that an indi-  
4 vidual who is determined to be eligible for benefits  
5 under such plan (or waiver) shall remain eligible and  
6 enrolled for such benefits through the end of the  
7 month in which the 12-month period (beginning on  
8 the date of determination of eligibility) ends.”.

9 (b) REQUIREMENT OF 12-MONTH CONTINUOUS EN-  
10 ROLLMENT UNDER CHIP.—

11 (1) IN GENERAL.—Section 2102(b) of the So-  
12 cial Security Act (42 U.S.C. 1397bb(b)) is amended  
13 by adding at the end the following new paragraph:

14 “(6) REQUIREMENT FOR 12-MONTH CONTIN-  
15 UOUS ENROLLMENT.—Notwithstanding any other  
16 provision of this title, a State child health plan that  
17 provides child health assistance under this title  
18 through a means other than described in section  
19 2101(a)(2), shall provide that an individual who is  
20 determined to be eligible for benefits under such  
21 plan shall remain eligible and enrolled for such bene-  
22 fits through the end of the month in which the 12-  
23 month period (beginning on the date of determina-  
24 tion of eligibility) ends.”.

1           (2) CONFORMING AMENDMENT.—Section  
2           2105(a)(4)(A) of the Social Security Act (42 U.S.C.  
3           1397ee(a)(4)(A)) is amended—

4                   (A) by striking “has elected the option of”  
5                   and inserting “is in compliance with the re-  
6                   quirement for”; and

7                   (B) by striking “applying such policy  
8                   under its State child health plan under this  
9                   title” and inserting “in compliance with section  
10                  2102(b)”.

11          (c) EFFECTIVE DATE.—

12               (1) IN GENERAL.—Except as provided in para-  
13               graph (2) or (3), the amendments made by sub-  
14               sections (a) and (b) shall apply to determinations  
15               (and redeterminations) of eligibility made on or after  
16               the date that is 12 months after the last day of the  
17               emergency period described in section 1135(g)(1)(B)  
18               of the Social Security Act (42 U.S.C. 1320b-  
19               5(g)(1)(B)).

20               (2) EXTENSION OF EFFECTIVE DATE FOR  
21               STATE LAW AMENDMENT.—In the case of a State  
22               plan under title XIX or State child health plan  
23               under title XXI of the Social Security Act (42  
24               U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
25               which the Secretary of Health and Human Services



1 determines requires State legislation (other than leg-  
2 islation appropriating funds) in order for the respec-  
3 tive plan to meet the additional requirement imposed  
4 by the amendment made by subsection (a) or (b), re-  
5 spectively, the respective plan shall not be regarded  
6 as failing to comply with the requirements of such  
7 title solely on the basis of its failure to meet such  
8 applicable additional requirement before the first  
9 day of the first calendar quarter beginning after the  
10 close of the first regular session of the State legisla-  
11 ture that begins after the date of enactment of this  
12 Act. For purposes of the previous sentence, in the  
13 case of a State that has a 2-year legislative session,  
14 each year of the session is considered to be a sepa-  
15 rate regular session of the State legislature.

16 (3) OPTION TO IMPLEMENT 12-MONTH CONTIN-  
17 UOUS ELIGIBILITY PRIOR TO EFFECTIVE DATE.—A  
18 State may elect through a State plan amendment  
19 under title XIX or XXI of the Social Security Act  
20 (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
21 to apply the amendment made by subsection (a) or  
22 (b), respectively, on any date prior to the date speci-  
23 fied in paragraph (1), but not sooner than the date  
24 of the enactment of this Act.

1 **SEC. 203. MANDATORY 12-MONTHS OF POSTPARTUM MED-**  
2 **ICAID ELIGIBILITY.**

3 (a) **EXTENDING CONTINUOUS MEDICAID AND CHIP**  
4 **COVERAGE FOR PREGNANT AND POSTPARTUM WOMEN.—**

5 (1) **MEDICAID.—**Title XIX of the Social Secu-  
6 rity Act (42 U.S.C. 1396 et seq.) is amended—

7 (A) in section 1902(l)(1)(A), by striking  
8 “60-day period” and inserting “365-day pe-  
9 riod”;

10 (B) in section 1902(e)(6), by striking “60-  
11 day period” and inserting “365-day period”;

12 (C) in section 1903(v)(4)(A)(i), by striking  
13 “60-day period” and inserting “365-day pe-  
14 riod”; and

15 (D) in section 1905(a), in the 4th sentence  
16 in the matter following paragraph (30), by  
17 striking “60-day period” and inserting “365-  
18 day period”.

19 (2) **CHIP.—**Section 2112 of the Social Security  
20 Act (42 U.S.C. 1397ll) is amended by striking “60-  
21 day period” each place it appears and inserting  
22 “365-day period”.

23 (b) **REQUIRING FULL BENEFITS FOR PREGNANT**  
24 **AND POSTPARTUM WOMEN.—**

25 (1) **MEDICAID.—**

1 (A) IN GENERAL.—Paragraph (5) of sec-  
2 tion 1902(e) of the Social Security Act (24  
3 U.S.C. 1396a(e)) is amended to read as follows:

4 “(5) Any woman who is eligible for medical as-  
5 sistance under the State plan or a waiver of such  
6 plan and who is, or who while so eligible becomes,  
7 pregnant, shall continue to be eligible under the plan  
8 or waiver for medical assistance through the end of  
9 the month in which the 365-day period (beginning  
10 on the last day of her pregnancy) ends, regardless  
11 of the basis for the woman’s eligibility for medical  
12 assistance, including if the woman’s eligibility for  
13 medical assistance is on the basis of being preg-  
14 nant.”.

15 (B) CONFORMING AMENDMENT.—Section  
16 1902(a)(10) of the Social Security Act (42  
17 U.S.C. 1396a(a)(10)) is amended in the matter  
18 following subparagraph (G) by striking “(VII)  
19 the medical assistance” and all that follows  
20 through “complicate pregnancy,”.

21 (2) CHIP.—Section 2107(e)(1) of the Social  
22 Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

23 (A) by redesignating subparagraphs (H)  
24 through (S) as subparagraphs (I) through (T),  
25 respectively; and

1 (B) by inserting after subparagraph (G),  
2 the following:

3 “(H) Section 1902(e)(5) (requiring 365-  
4 day continuous coverage for pregnant and  
5 postpartum women).”.

6 (c) MAINTENANCE OF EFFORT.—

7 (1) MEDICAID.—Section 1902 of the Social Se-  
8 curity Act (42 U.S.C. 1396a) is amended—

9 (A) in paragraph (74), by striking “sub-  
10 section (gg); and” and inserting “subsections  
11 (gg) and (qq);”; and

12 (B) by adding at the end the following new  
13 subsection:

14 “(qq) MAINTENANCE OF EFFORT RELATED TO LOW-  
15 INCOME PREGNANT WOMEN.—For calendar quarters be-  
16 ginning on or after the effective date described in section  
17 203(d) of the Patient Protection and Affordable Care En-  
18 hancement Act, and before January 1, 2023, no Federal  
19 payment shall be made to a State under section 1903(a)  
20 for amounts expended under a State plan under this title  
21 or a waiver of such plan if the State—

22 “(1) has in effect under such plan eligibility  
23 standards, methodologies, or procedures for individ-  
24 uals described in subsection (l)(1) who are eligible  
25 for medical assistance under the State plan or waiv-

1 er under subsection (a)(10)(A)(ii)(IX) that are more  
2 restrictive than the eligibility standards, methodolo-  
3 gies, or procedures, respectively, for such individuals  
4 under such plan or waiver that are in effect on the  
5 date of the enactment of this subsection; or

6 “(2) provides medical assistance to individuals  
7 described in subsection (l)(1) who are eligible for  
8 medical assistance under such plan or waiver under  
9 subsection (a)(10)(A)(ii)(IX) at a level that is less  
10 than the level at which the State provides such as-  
11 sistance to such individuals under such plan or waiv-  
12 er on the date of the enactment of this subsection.”.

13 (2) CHIP.—Section 2112 of the Social Security  
14 Act (42 U.S.C. 1397ll), as amended by subsection  
15 (b), is further amended by adding at the end the fol-  
16 lowing subsection:

17 “(g) MAINTENANCE OF EFFORT.—For calendar  
18 quarters beginning on or after the effective date described  
19 in section 203(d) of the Patient Protection and Affordable  
20 Care Enhancement Act, and before January 1, 2023, no  
21 payment may be made under section 2105(a) with respect  
22 to a State child health plan if the State—

23 “(1) has in effect under such plan eligibility  
24 standards, methodologies, or procedures for targeted  
25 low-income pregnant women that are more restric-

1       tive than the eligibility standards, methodologies, or  
2       procedures, respectively, under such plan that are in  
3       effect on the date of the enactment of this sub-  
4       section; or

5               “(2) provides pregnancy-related assistance to  
6       targeted low-income pregnant women under such  
7       plan at a level that is less than the level at which  
8       the State provides such assistance to such women  
9       under such plan on the date of the enactment of this  
10       subsection.”.

11       (d) EFFECTIVE DATE.—

12               (1) IN GENERAL.—Except as provided under  
13       paragraph (2), the amendments made by subsections  
14       (a) and (b) shall take effect on (and the effective  
15       date described in this subsection shall be) the first  
16       day of the calendar quarter during which the last  
17       day of the emergency period described in section  
18       1135(g)(1)(B) of the Social Security Act (42 U.S.C.  
19       1320b–5(g)(1)(B)) occurs.

20               (2) EXTENSION OF EFFECTIVE DATE FOR  
21       STATE LAW AMENDMENT.—In the case of a State  
22       plan under title XIX or State child health plan  
23       under title XXI of the Social Security Act (42  
24       U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)  
25       which the Secretary of Health and Human Services

1 determines requires State legislation (other than leg-  
2 islation appropriating funds) in order for the respec-  
3 tive plan to meet the additional requirement imposed  
4 by the amendments made by subsection (a) or (b),  
5 respectively, the respective plan shall not be re-  
6 garded as failing to comply with the requirements of  
7 such title solely on the basis of its failure to meet  
8 such applicable additional requirement before the  
9 first day of the first calendar quarter beginning  
10 after the close of the first regular session of the  
11 State legislature that begins after the date of enact-  
12 ment of this Act. For purposes of the previous sen-  
13 tence, in the case of a State that has a 2-year legis-  
14 lative session, each year of the session is considered  
15 to be a separate regular session of the State legisla-  
16 ture.

17 **SEC. 204. REDUCING THE ADMINISTRATIVE FMAP FOR**  
18 **NONEXPANSION STATES.**

19 Section 1903 of the Social Security Act (42 U.S.C.  
20 1396b) is amended—

21 (1) in subsection (a)(7), by inserting “sub-  
22 section (bb) and” before “section 1919(g)(3)(B)”;  
23 and

24 (2) by adding at the end the following new sub-  
25 section:

1       “(bb) REDUCTION OF FEDERAL PAYMENTS FOR  
2 CERTAIN ADMINISTRATIVE COSTS OF NONEXPANSION  
3 STATES.—

4           “(1) IN GENERAL.—In the case of a State that  
5 does not provide under the State plan of such State  
6 (or waiver of such plan) for making medical assist-  
7 ance available in accordance with section 1902(k)(1)  
8 to all individuals described in section  
9 1902(a)(10)(i)(VIII) for a calendar quarter begin-  
10 ning on or after October 1, 2022, the Secretary may  
11 reduce the percentage specified in subsection (a)(7)  
12 for amounts described in such subsection expended  
13 during such quarter by such State by the number of  
14 percentage points specified in paragraph (2) for such  
15 quarter.

16           “(2) AMOUNT OF REDUCTION.—For purposes  
17 of paragraph (1), the number of percentage points  
18 specified in this paragraph for a calendar quarter is  
19 the following:

20           “(A) For the calendar quarter beginning  
21 on October 1, 2022, 0.5.

22           “(B) For a calendar quarter beginning on  
23 or after January 1, 2023, and ending before  
24 July 1, 2027, the number of percentage points



1 specified under this paragraph for the previous  
2 quarter, plus 0.5.

3 “(C) For a calendar quarter beginning on  
4 or after July 1, 2027, 10.

5 “(3) DEFINITION.—For purposes of this sub-  
6 section, the term ‘State’ means a State that is one  
7 of the 50 States or the District of Columbia.”.

8 **SEC. 205. ENHANCED REPORTING REQUIREMENTS FOR**  
9 **NONEXPANSION STATES.**

10 Section 1903 of the Social Security Act (42 U.S.C.  
11 1396b), as amended by section 204, is further amended—

12 (1) in subsection (a)(7), by striking “subsection  
13 (bb)” and inserting “subsections (bb) and (cc)”; and

14 (2) by adding at the end the following new sub-  
15 section:

16 “(cc) **REDUCTION OF FEDERAL PAYMENTS FOR CER-**  
17 **TAIN ADMINISTRATIVE COSTS OF NONEXPANSION STATES**  
18 **THAT DO NOT SATISFY REPORTING REQUIREMENTS.—**

19 “(1) **IN GENERAL.—**

20 “(A) **REDUCTION.—**In the case of a non-  
21 expansion State, with respect to a fiscal year  
22 (beginning with fiscal year 2023) that does not  
23 satisfy the reporting requirement under para-  
24 graph (2) for such fiscal year, the percentage  
25 specified in subsection (a)(7) for amounts de-

1           scribed in such subsection expended by such  
2           State during a calendar quarter described in  
3           paragraph (4) with respect to such fiscal year,  
4           subject to subparagraph (B), shall be reduced  
5           by the number of percentage points specified in  
6           paragraph (4) for the respective calendar quar-  
7           ter.

8           “(B) EXCEPTION.—In the case of a non-  
9           expansion State that is subject to a reduction  
10          under subparagraph (A) for the calendar quar-  
11          ter described in paragraph (4)(A) with respect  
12          to a fiscal year, if the State satisfies the criteria  
13          described in subparagraphs (A), (B), and (C) of  
14          paragraph (2) (without regard to the dates  
15          specified in such subparagraph (A) and (C)) be-  
16          fore the beginning of a subsequent calendar  
17          quarter described in paragraph (4) with respect  
18          to such fiscal year, then such State shall not be  
19          subject to a reduction under subparagraph (A)  
20          for such subsequent calendar quarter.

21          “(2) REPORTING REQUIREMENT.—For pur-  
22          poses of paragraph (1), a nonexpansion State satis-  
23          fies the reporting requirement under this paragraph  
24          for a fiscal year, if the nonexpansion State—

1           “(A) by not later than January 1 of such  
2 year, posts on the public website of the State  
3 agency administering the State plan, the infor-  
4 mation described in paragraph (3) with respect  
5 to such State for the previous year;

6           “(B) provides for at least a 30-day period  
7 for notice and comment on such information;  
8 and

9           “(C) by not later than March 1 of such  
10 year, submits to the Secretary a complete re-  
11 port including such information, comments sub-  
12 mitted pursuant to subparagraph (B), and a re-  
13 sponse by the State to each such comment.

14           “(3) INFORMATION DESCRIBED.—The informa-  
15 tion described in this paragraph, with respect to a  
16 State and year, is the following:

17           “(A) The the estimated number of individ-  
18 uals who were uninsured for at least 6 months,  
19 shown by age-groups of 0 to 18 years of age  
20 and of 19 years of age to 64 years of age, as  
21 well as a detailed description of the basis for  
22 the estimates.

23           “(B) The estimated number of the individ-  
24 uals estimated under subparagraph (A) in the  
25 State who would be eligible for medical assist-

1           ance under the State plan if the State were to  
2           make medical assistance under the State plan  
3           available in accordance with section 1902(k)(1)  
4           to all individuals described in section  
5           1902(a)(10)(i)(VIII), and a detailed description  
6           of the basis for the estimates.

7           “(C) A comprehensive listing of State in-  
8           come eligibility criteria for all mandatory and  
9           optional Medicaid eligibility groups for which  
10          the State plan provides medical assistance  
11          (other than with respect to individuals described  
12          in clause (i)(II), (ii)(VI), or (ii)(XXII) of sec-  
13          tion 1902(a)(10)(A)).

14          “(D) The total amount of hospital uncom-  
15          pensated-care costs and a breakdown of the  
16          source of such costs, as well as a breakdown for  
17          rural and non-rural hospitals.

18          “(4) PERCENTAGE DESCRIBED.—For purposes  
19          of paragraph (1), a calendar quarter described in  
20          this paragraph, with respect to a fiscal year, and the  
21          percentage points described in this paragraph for  
22          such quarter, with respect to a State, are—

23                  “(A) for the calendar quarter beginning on  
24                  the April 1 occurring during such fiscal year,  
25                  0.5 percentage points;

1           “(B) for the calendar quarter beginning on  
2           the July 1 occurring during such fiscal year,  
3           1.0 percentage point; and

4           “(C) for the calendar quarter beginning on  
5           the October 1 occurring during the subsequent  
6           fiscal year, 1.5 percentage points.

7           “(5) PAYMENT IN CASE OF REPORTING  
8           STATE.—The expenses incurred by a non-expansion  
9           State, with respect to any calendar quarter with re-  
10          spect to a fiscal year (beginning with 2021), for car-  
11          rying out subparagraphs (A) through (C) of para-  
12          graph (2) shall, for purposes of section 1903(a)(7),  
13          be considered to be expenses necessary for the prop-  
14          er and efficient administration of the State plan  
15          under this title.

16          “(6) NONEXPANION STATE DEFINED.—For  
17          purposes of this subsection, the term ‘nonexpansion  
18          State’ means, with respect to a fiscal year, a State  
19          that as of the first quarter of such fiscal year does  
20          not provide under the State plan of such State (or  
21          waiver of such plan) for making medical assistance  
22          available in accordance with section 1902(k)(1) to  
23          all individuals described in section  
24          1902(a)(10)(i)(VIII).”.

1 **SEC. 206. PRIMARY CARE PAY INCREASE.**

2 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL  
3 PROVIDERS.—

4 (1) IN GENERAL.—Section 1902(a)(13) of the  
5 Social Security Act (42 U.S.C. 1396a(a)(13)) is  
6 amended by striking subparagraph (C) and inserting  
7 the following:

8 “(C) payment for primary care services (as  
9 defined in subsection (jj)) at a rate that is not  
10 less than 100 percent of the payment rate that  
11 applies to such services and physician under  
12 part B of title XVIII (or, if greater, the pay-  
13 ment rate that would be applicable under such  
14 part if the conversion factor under section  
15 1848(d) for the year involved were the conver-  
16 sion factor under such section for 2009), and  
17 that is not less than the rate that would other-  
18 wise apply to such services under this title if  
19 the rate were determined without regard to this  
20 subparagraph, and that are—

21 “(i) furnished during 2013 and 2014,  
22 by a physician with a primary specialty  
23 designation of family medicine, general in-  
24 ternal medicine, or pediatric medicine; or

25 “(ii) furnished during the period that  
26 begins on the first day of the first month

1 that begins one year after the date of en-  
2 actment of the Patient Protection and Af-  
3 fordable Care Enhancement Act and ends  
4 September 30, 2024—

5 “(I) by a physician with a pri-  
6 mary specialty designation of family  
7 medicine, general internal medicine,  
8 or pediatric medicine, but only if the  
9 physician self-attests that the physi-  
10 cian is Board certified in family medi-  
11 cine, general internal medicine, or pe-  
12 diatric medicine;

13 “(II) by a physician with a pri-  
14 mary specialty designation of obstet-  
15 rics and gynecology, but only if the  
16 physician self-attests that the physi-  
17 cian is Board certified in obstetrics  
18 and gynecology;

19 “(III) by an advanced practice  
20 clinician, as defined by the Secretary,  
21 that works under the supervision of—

22 “(aa) a physician that satis-  
23 fies the criteria specified in sub-  
24 clause (I) or (II); or

1                   “(bb) a nurse practitioner or  
2                   a physician assistant (as such  
3                   terms are defined in section  
4                   1861(aa)(5)(A)) who is working  
5                   in accordance with State law, or  
6                   a certified nurse-midwife (as de-  
7                   fined in section 1861(gg)) who is  
8                   working in accordance with State  
9                   law;

10                   “(IV) by a rural health clinic,  
11                   Federally-qualified health center, or  
12                   other health clinic that receives reim-  
13                   bursement on a fee schedule applica-  
14                   ble to a physician, a nurse practi-  
15                   tioner or a physician assistant (as  
16                   such terms are defined in section  
17                   1861(aa)(5)(A)) who is working in ac-  
18                   cordance with State law, or a certified  
19                   nurse-midwife (as defined in section  
20                   1861(gg)) who is working in accord-  
21                   ance with State law, for services fur-  
22                   nished by a physician, nurse practi-  
23                   tioner, physician assistant, or certified  
24                   nurse-midwife, or services furnished  
25                   by an advanced practice clinician su-



1           pervised by a physician described in  
2           subclause (I)(aa) or (II)(aa), another  
3           advanced practice clinician, or a cer-  
4           tified nurse-midwife; or

5           “(V) by a nurse practitioner or a  
6           physician assistant (as such terms are  
7           defined in section 1861(aa)(5)(A))  
8           who is working in accordance with  
9           State law, or a certified nurse-midwife  
10          (as defined in section 1861(gg)) who  
11          is working in accordance with State  
12          law, in accordance with procedures  
13          that ensure that the portion of the  
14          payment for such services that the  
15          nurse practitioner, physician assist-  
16          ant, or certified nurse-midwife is paid  
17          is not less than the amount that the  
18          nurse practitioner, physician assist-  
19          ant, or certified nurse-midwife would  
20          be paid if the services were provided  
21          under part B of title XVIII;”.

22           (2) CONFORMING AMENDMENTS.—Section  
23           1905(dd) of the Social Security Act (42 U.S.C.  
24           1396d(dd)) is amended—

1 (A) by striking “Notwithstanding” and in-  
2 serting the following:

3 “(1) IN GENERAL.—Notwithstanding”;

4 (B) by inserting “or furnished during the  
5 additional period specified in paragraph (2),”  
6 after “2015,”; and

7 (C) by adding at the end the following:

8 “(2) ADDITIONAL PERIOD.—For purposes of  
9 paragraph (1), the additional period specified in this  
10 paragraph is the period that begins on the first day  
11 of the first month that begins one year after the  
12 date of enactment of the Patient Protection and Af-  
13 fordable Care Enhancement Act.”.

14 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-  
15 tion 1902(jj) of the Social Security Act (42 U.S.C.  
16 1396a(jj)) is amended—

17 (1) by redesignating paragraphs (1) and (2) as  
18 subparagraphs (A) and (B), respectively and realign-  
19 ing the left margins accordingly;

20 (2) by striking “For purposes of” and inserting  
21 the following:

22 “(1) IN GENERAL.—For purposes of”; and

23 (3) by adding at the end the following:

24 “(2) EXCLUSIONS.—Such term does not include  
25 any services described in subparagraph (A) or (B) of

1 paragraph (1) if such services are provided in an  
2 emergency department of a hospital.”.

3 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-  
4 TIES.—

5 (1) IN GENERAL.—Section 1903(m)(2)(A) of  
6 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))  
7 is amended—

8 (A) in clause (xii), by striking “and” after  
9 the semicolon;

10 (B) by realigning the left margin of clause  
11 (xiii) so as to align with the left margin of  
12 clause (xii) and by striking the period at the  
13 end of clause (xiii) and inserting “; and”; and

14 (C) by inserting after clause (xiii) the fol-  
15 lowing:

16 “(xiv) such contract provides that (I) payments  
17 to providers specified in section 1902(a)(13)(C) for  
18 primary care services defined in section 1902(jj)  
19 that are furnished during a year or period specified  
20 in section 1902(a)(13)(C) and section 1905(dd) are  
21 at least equal to the amounts set forth and required  
22 by the Secretary by regulation, (II) the entity shall,  
23 upon request, provide documentation to the State,  
24 sufficient to enable the State and the Secretary to  
25 ensure compliance with subclause (I), and (III) the

1 Secretary shall approve payments described in sub-  
2 clause (I) that are furnished through an agreed  
3 upon capitation, partial capitation, or other value-  
4 based payment arrangement if the capitation, partial  
5 capitation, or other value-based payment arrange-  
6 ment is based on a reasonable methodology and the  
7 entity provides documentation to the State sufficient  
8 to enable the State and the Secretary to ensure com-  
9 pliance with subclause (I).”.

10 (2) CONFORMING AMENDMENT.—Section  
11 1932(f) of the Social Security Act (42 U.S.C.  
12 1396u–2(f)) is amended by inserting “and clause  
13 (xiv) of section 1903(m)(2)(A)” before the period.

14 **SEC. 207. PERMANENT FUNDING FOR CHIP.**

15 (a) IN GENERAL.—Section 2104(a) of the Social Se-  
16 curity Act (42 U.S.C. 1397dd(a)) is amended—

17 (1) in paragraph (26), by inserting at the end  
18 “and”;

19 (2) by amending paragraph (27) to read as fol-  
20 lows:

21 “(27) for each fiscal year beginning with fiscal  
22 year 2024, such sums as are necessary to fund allot-  
23 ments to States under subsections (c) and (m).”;

24 and

25 (3) by striking paragraph (28).

1 (b) IN GENERAL.—Section 2104(a)(28) of the Social  
2 Security Act (42 U.S.C. 1397dd(a)(28)) is amended to  
3 read as follows:

4 “(28) for fiscal year 2027 and each subsequent  
5 year, such sums as are necessary to fund allotments  
6 to States under subsections (c) and (m).”.

7 (c) ALLOTMENTS.—

8 (1) IN GENERAL.—Section 2104(m) of the So-  
9 cial Security Act (42 U.S.C. 1397dd(m)) is amend-  
10 ed—

11 (A) in paragraph (2)(B)(i), by striking “,,  
12 2023, and 2027” and inserting “and 2023”;

13 (B) in paragraph (7)—

14 (i) in subparagraph (A), by striking  
15 “and ending with fiscal year 2027,”; and

16 (ii) in the flush left matter at the end,  
17 by striking “or fiscal year 2026” and in-  
18 sserting “fiscal year 2026, or a subsequent  
19 even-numbered fiscal year”;

20 (C) in paragraph (9)—

21 (i) by striking “(10), or (11)” and in-  
22 sserting “or (10)”;

23 (ii) by striking “2023, or 2027,” and  
24 inserting “or 2023”;

25 (D) by striking paragraph (11).

1           (2) CONFORMING AMENDMENT.—Section  
2           50101(b)(2) of the Bipartisan Budget Act of 2018  
3           (Public Law 115–123) is repealed.

4 **SEC. 208. PERMANENT EXTENSION OF CHIP ENROLLMENT**  
5 **AND QUALITY MEASURES.**

6           (a) PEDIATRIC QUALITY MEASURES PROGRAM.—  
7 Section 1139A(i)(1) of the Social Security Act (42 U.S.C.  
8 1320b–9a(i)(1)) is amended—

9           (1) in subparagraph (C), by striking at the end  
10          “and”;

11          (2) in subparagraph (D), by striking the period  
12          at the end and insert a semicolon; and

13          (3) by adding at the end the following new sub-  
14          paragraphs:

15                 “(E) for fiscal year 2028, \$15,000,000 for  
16                 the purpose of carrying out this section (other  
17                 than subsections (e), (f), and (g)); and

18                 “(F) for a subsequent fiscal year, the  
19                 amount appropriated under this paragraph for  
20                 the previous fiscal year, increased by the per-  
21                 centage increase in the consumer price index for  
22                 all urban consumers (all items; United States  
23                 city average) over such previous fiscal year, for  
24                 the purpose of carrying out this section (other  
25                 than subsections (e), (f), and (g)).”.

1 (b) EXPRESS LANE ELIGIBILITY OPTION.—Section  
2 1902(e)(13) of the Social Security Act (42 U.S.C.  
3 1396a(e)(13)) is amended by striking subparagraph (I).

4 (c) ASSURANCE OF AFFORDABILITY STANDARD FOR  
5 CHILDREN AND FAMILIES.—

6 (1) IN GENERAL.—Section 2105(d)(3) of the  
7 Social Security Act (42 U.S.C. 1397ee(d)(3)) is  
8 amended—

9 (A) in the paragraph heading, by striking  
10 “THROUGH SEPTEMBER 30, 2027”; and

11 (B) in subparagraph (A), in the matter  
12 preceding clause (i)—

13 (i) by striking “During the period  
14 that begins on the date of enactment of  
15 the Patient Protection and Affordable Care  
16 Act and ends on September 30, 2027” and  
17 inserting “Beginning on the date of the en-  
18 actment of the Patient Protection and Af-  
19 fordable Care Act”;

20 (ii) by striking “During the period  
21 that begins on October 1, 2019, and ends  
22 on September 30, 2027” and inserting  
23 “Beginning on October 1, 2019”; and

24 (iii) by striking “The preceding sen-  
25 tences shall not be construed as preventing

1 a State during any such periods from” and  
2 inserting “The preceding sentences shall  
3 not be construed as preventing a State  
4 from”.

5 (2) CONFORMING AMENDMENTS.—Section  
6 1902(gg)(2) of the Social Security Act (42 U.S.C.  
7 1396a(gg)(2)) is amended—

8 (A) in the paragraph heading, by striking  
9 “THROUGH SEPTEMBER 30, 2027”; and

10 (B) by striking “through September 30”  
11 and all that follows through “ends on Sep-  
12 tember 30, 2027” and inserting “(but begin-  
13 ning on October 1, 2019,”.

14 (d) QUALIFYING STATES OPTION.—Section  
15 2105(g)(4) of the Social Security Act (42 U.S.C.  
16 1397ee(g)(4)) is amended—

17 (1) in the paragraph heading, by striking “FOR  
18 FISCAL YEARS 2009 THROUGH 2027” and inserting  
19 “AFTER FISCAL YEAR 2008”; and

20 (2) in subparagraph (A), by striking “for any  
21 of fiscal years 2009 through 2027” and inserting  
22 “for any fiscal year after fiscal year 2008”.

23 (e) OUTREACH AND ENROLLMENT PROGRAM.—Sec-  
24 tion 2113 of the Social Security Act (42 U.S.C. 1397mm)  
25 is amended—



1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “during  
3 the period of fiscal years 2009 through 2027”  
4 and inserting “, beginning with fiscal year  
5 2009,”;

6 (B) in paragraph (2)—

7 (i) by striking “10 percent of such  
8 amounts” and inserting “10 percent of  
9 such amounts for the period or the fiscal  
10 year for which such amounts are appro-  
11 priated”; and

12 (ii) by striking “during such period”  
13 and inserting “, during such period or such  
14 fiscal year,”; and

15 (C) in paragraph (3), by striking “For the  
16 period of fiscal years 2024 through 2027, an  
17 amount equal to 10 percent of such amounts”  
18 and inserting “Beginning with fiscal year 2024,  
19 an amount equal to 10 percent of such amounts  
20 for the period or the fiscal year for which such  
21 amounts are appropriated”; and

22 (2) in subsection (g)—

23 (A) by striking “2017,,” and inserting  
24 “2017,”;

1 (B) by striking “and \$48,000,000” and in-  
2 serting “\$48,000,000”; and

3 (C) by inserting after “through 2027” the  
4 following: “, \$12,000,000 for fiscal year 2028,  
5 and, for each fiscal year after fiscal year 2028,  
6 the amount appropriated under this subsection  
7 for the previous fiscal year, increased by the  
8 percentage increase in the consumer price index  
9 for all urban consumers (all items; United  
10 States city average) over such previous fiscal  
11 year”.

12 (f) CHILD ENROLLMENT CONTINGENCY FUND.—  
13 Section 2104(n) of the Social Security Act (42 U.S.C.  
14 1397dd(n)) is amended—

15 (1) in paragraph (2)—

16 (A) in subparagraph (A)(ii)—

17 (i) by striking “and 2024 through  
18 2026” and inserting “beginning with fiscal  
19 year 2024”; and

20 (ii) by striking “2023, and 2027” and  
21 inserting “, and 2023”; and

22 (B) in subparagraph (B)—

23 (i) by striking “2024 through 2026”  
24 and inserting “beginning with fiscal year  
25 2024”; and

1 (ii) by striking “2023, and 2027” and  
2 inserting “, and 2023”; and  
3 (2) in paragraph (3)(A)—  
4 (A) by striking “fiscal years 2024 through  
5 2026” and inserting “beginning with fiscal year  
6 2024”; and  
7 (B) by striking “2023, or 2027” and in-  
8 serting “, or 2023”.

9 **SEC. 209. STATE OPTION TO INCREASE CHILDREN’S ELIGI-**  
10 **BILITY FOR MEDICAID AND CHIP.**

11 Section 2110(b)(1)(B)(ii) of the Social Security Act  
12 (42 U.S.C. 1397jj(b)(1)(B)(ii)) is amended—

13 (1) in subclause (II), by striking “or” at the  
14 end;

15 (2) in subclause (III), by striking “and” at the  
16 end and inserting “or”; and

17 (3) by inserting after subclause (III) the fol-  
18 lowing new subclause:

19 “(IV) at the option of the State,  
20 whose family income exceeds the max-  
21 imum income level otherwise estab-  
22 lished for children under the State  
23 child health plan as of the date of the  
24 enactment of this subclause; and”.

1 **SEC. 210. MEDICAID COVERAGE FOR CITIZENS OF FREELY**  
2 **ASSOCIATED STATES.**

3 (a) IN GENERAL.—Section 402(b)(2) of the Personal  
4 Responsibility and Work Opportunity Reconciliation Act  
5 of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at  
6 the end the following new subparagraph:

7 “(G) MEDICAID EXCEPTION FOR CITIZENS  
8 OF FREELY ASSOCIATED STATES.—With respect  
9 to eligibility for benefits for the designated Fed-  
10 eral program defined in paragraph (3)(C) (re-  
11 lating to the Medicaid program), section 401(a)  
12 and paragraph (1) shall not apply to any indi-  
13 vidual who lawfully resides in 1 of the 50 States  
14 or the District of Columbia in accordance with  
15 the Compacts of Free Association between the  
16 Government of the United States and the Gov-  
17 ernments of the Federated States of Micro-  
18 nesia, the Republic of the Marshall Islands, and  
19 the Republic of Palau and shall not apply, at  
20 the option of the Governor of Puerto Rico, the  
21 Virgin Islands, Guam, the Northern Mariana  
22 Islands, or American Samoa as communicated  
23 to the Secretary of Health and Human Services  
24 in writing, to any individual who lawfully re-  
25 sides in the respective territory in accordance  
26 with such Compacts.”.

1 (b) EXCEPTION TO 5-YEAR LIMITED ELIGIBILITY.—  
2 Section 403(d) of such Act (8 U.S.C. 1613(d)) is amend-  
3 ed—

4 (1) in paragraph (1), by striking “or” at the  
5 end;

6 (2) in paragraph (2), by striking the period at  
7 the end and inserting “; or”; and

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

10 “(3) an individual described in section  
11 402(b)(2)(G), but only with respect to the des-  
12 ignated Federal program defined in section  
13 402(b)(3)(C).”.

14 (c) DEFINITION OF QUALIFIED ALIEN.—Section  
15 431(b) of such Act (8 U.S.C. 1641(b)) is amended—

16 (1) in paragraph (6), by striking “; or” at the  
17 end and inserting a comma;

18 (2) in paragraph (7), by striking the period at  
19 the end and inserting “, or”; and

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

22 “(8) an individual who lawfully resides in the  
23 United States in accordance with a Compact of Free  
24 Association referred to in section 402(b)(2)(G), but  
25 only with respect to the designated Federal program

1 defined in section 402(b)(3)(C) (relating to the Med-  
2 icaid program).”.

3 (d) APPLICATION TO STATE PLANS.—Section  
4 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C.  
5 1396a(a)(10)(A)(i)) is amended by inserting after sub-  
6 clause (IX) the following:

7 “(X) who are described in section  
8 402(b)(2)(G) of the Personal Respon-  
9 sibility and Work Opportunity Rec-  
10 onciliation Act of 1996 and eligible  
11 for benefits under this title by reason  
12 of application of such section;”.

13 (e) CONFORMING AMENDMENTS.—Section 1108 of  
14 the Social Security Act (42 U.S.C. 1308) is amended—

15 (1) in subsection (f), in the matter preceding  
16 paragraph (1), by striking “subsections (g) and (h)  
17 and section 1935(e)(1)(B)” and inserting “sub-  
18 sections (g), (h), and (i) and section 1935(e)(1)(B)”;  
19 and

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

21 “(i) EXCLUSION OF MEDICAL ASSISTANCE EXPENDI-  
22 TURES FOR CITIZENS OF FREELY ASSOCIATED STATES.—  
23 Expenditures for medical assistance provided to an indi-  
24 vidual described in section 431(b)(8) of the Personal Re-  
25 sponsibility and Work Opportunity Reconciliation Act of

1 1996 (8 U.S.C. 1641(b)(8)) shall not be taken into ac-  
2 count for purposes of applying payment limits under sub-  
3 sections (f) and (g).”.

4 (f) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to benefits for items and services  
6 furnished on or after the date of the enactment of this  
7 Act.

8 **SEC. 211. EXTENSION OF FULL FEDERAL MEDICAL ASSIST-**  
9 **ANCE PERCENTAGE TO INDIAN HEALTH**  
10 **CARE PROVIDERS.**

11 (a) IN GENERAL.—Section 1905 of the Social Secu-  
12 rity Act (42 U.S.C. 1396d) is amended—

13 (1) in subsection (a), by amending paragraph  
14 (9) to read as follows:

15 “(9) clinic services furnished by or under the  
16 direction of a physician, without regard to whether  
17 the clinic itself is administered by a physician, in-  
18 cluding—

19 “(A) such services furnished outside the  
20 clinic by clinic personnel to an eligible indi-  
21 vidual who does not reside in a permanent  
22 dwelling or does not have a fixed home or mail-  
23 ing address; and

24 “(B) such services provided outside the  
25 clinic on the basis of a referral from a clinic ad-

1 ministered by an Indian Health Program (as  
2 defined in paragraph (12) of section 4 of the  
3 Indian Health Care Improvement Act, or an  
4 Urban Indian Organization as defined in para-  
5 graph (29) of section 4 of such Act that has a  
6 grant or contract with the Indian Health Serv-  
7 ice under title V of such Act;”.

8 (2) in subsection (b), by inserting after “(as de-  
9 fined in section 4 of the Indian Health Care Im-  
10 provement Act)” the following: “; the Federal med-  
11 ical assistance percentage shall also be 100 per cen-  
12 tum with respect to amounts expended as medical  
13 assistance for services which are received through an  
14 Urban Indian organization (as defined in section 4  
15 of the Indian Health Care Improvement Act) that  
16 has a grant or contract with the Indian Health Serv-  
17 ice under title V of such Act”.

18 (b) EXTENSION OF FULL FEDERAL MEDICAL AS-  
19 SISTANCE PERCENTAGE TO SERVICES FURNISHED BY NA-  
20 TIVE HAWAIIAN HEALTH CARE SYSTEMS.—

21 (1) IN GENERAL.—Beginning on the date of en-  
22 actment of this Act—

23 (A) for purposes of section 1905(a)(9) of  
24 the Social Security Act (42 U.S.C.  
25 1396d(a)(9)), services described in subsection



1 (b) that are furnished in any location shall be  
2 deemed to be clinic services; and

3 (B) notwithstanding section 1905(b) of the  
4 Social Security Act (42 U.S.C. 1396d(b)), the  
5 Federal medical assistance percentage with re-  
6 spect to amounts expended as medical assist-  
7 ance for such services shall be 100 percent.

8 (2) SERVICES DESCRIBED.—The services de-  
9 scribed in this subsection are services for which pay-  
10 ment is available under the State plan under title  
11 XIX of the Social Security Act (42 U.S.C. 1396 et  
12 seq.) of Hawaii (or any waiver of such plan) that—

13 (A) are furnished on or after the date of  
14 enactment of this Act;

15 (B) are furnished to an individual who—

16 (i) is a Native Hawaiian; and

17 (ii) is eligible for medical assistance  
18 under such plan; and

19 (C) are furnished by an Indian health care  
20 provider (as such term is defined in section  
21 1932(h)(4)(A) of the Social Security Act (42  
22 U.S.C. 1396u–2(h)(4)(A)) or a Native Hawai-  
23 ian health care system (without regard to  
24 whether such services are furnished through an  
25 Indian Health Service facility).

1 **TITLE III—LOWERING PRICES**  
2 **THROUGH FAIR DRUG PRICE**  
3 **NEGOTIATION**

4 **SEC. 301. ESTABLISHING A FAIR DRUG PRICING PROGRAM.**

5 (a) PROGRAM TO LOWER PRICES FOR CERTAIN  
6 HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the  
7 Social Security Act (42 U.S.C. 1301 et seq.) is amended  
8 by adding at the end the following new part:

9 **“PART E—FAIR PRICE NEGOTIATION PROGRAM**  
10 **TO LOWER PRICES FOR CERTAIN HIGH-**  
11 **PRICED SINGLE SOURCE DRUGS**

12 **“SEC. 1191. ESTABLISHMENT OF PROGRAM.**

13 “(a) IN GENERAL.—The Secretary shall establish a  
14 Fair Price Negotiation Program (in this part referred to  
15 as the ‘program’). Under the program, with respect to  
16 each price applicability period, the Secretary shall—

17 “(1) publish a list of selected drugs in accord-  
18 ance with section 1192;

19 “(2) enter into agreements with manufacturers  
20 of selected drugs with respect to such period, in ac-  
21 cordance with section 1193;

22 “(3) negotiate and, if applicable, renegotiate  
23 maximum fair prices for such selected drugs, in ac-  
24 cordance with section 1194; and

1           “(4) carry out the administrative duties de-  
2           scribed in section 1196.

3           “(b) DEFINITIONS RELATING TO TIMING.—For pur-  
4           poses of this part:

5           “(1) INITIAL PRICE APPLICABILITY YEAR.—The  
6           term ‘initial price applicability year’ means a plan  
7           year (beginning with plan year 2023) or, if agreed  
8           to in an agreement under section 1193 by the Sec-  
9           retary and manufacturer involved, a period of more  
10          than one plan year (beginning on or after January  
11          1, 2023).

12          “(2) PRICE APPLICABILITY PERIOD.—The term  
13          ‘price applicability period’ means, with respect to a  
14          drug, the period beginning with the initial price ap-  
15          plicability year with respect to which such drug is a  
16          selected drug and ending with the last plan year  
17          during which the drug is a selected drug.

18          “(3) SELECTED DRUG PUBLICATION DATE.—  
19          The term ‘selected drug publication date’ means,  
20          with respect to each initial price applicability year,  
21          April 15 of the plan year that begins 2 years prior  
22          to such year.

23          “(4) VOLUNTARY NEGOTIATION PERIOD.—The  
24          term ‘voluntary negotiation period’ means, with re-

1       spect to an initial price applicability year with re-  
2       spect to a selected drug, the period—

3               “(A) beginning on the sooner of—

4                       “(i) the date on which the manufac-  
5                       turer of the drug and the Secretary enter  
6                       into an agreement under section 1193 with  
7                       respect to such drug; or

8                       “(ii) June 15 following the selected  
9                       drug publication date with respect to such  
10                      selected drug; and

11              “(B) ending on March 31 of the year that  
12              begins one year prior to the initial price appli-  
13              cability year.

14       “(c) OTHER DEFINITIONS.—For purposes of this  
15       part:

16              “(1) FAIR PRICE ELIGIBLE INDIVIDUAL.—The  
17              term ‘fair price eligible individual’ means, with re-  
18              spect to a selected drug—

19                      “(A) in the case such drug is furnished or  
20                      dispensed to the individual at a pharmacy or by  
21                      a mail order service—

22                              “(i) an individual who is enrolled  
23                              under a prescription drug plan under part  
24                              D of title XVIII or an MA–PD plan under  
25                              part C of such title if coverage is provided

1 under such plan for such selected drug;  
2 and

3 “(ii) an individual who is enrolled  
4 under a group health plan or health insur-  
5 ance coverage offered in the group or indi-  
6 vidual market (as such terms are defined  
7 in section 2791 of the Public Health Serv-  
8 ice Act) with respect to which there is in  
9 effect an agreement with the Secretary  
10 under section 1197 with respect to such se-  
11 lected drug as so furnished or dispensed;  
12 and

13 “(B) in the case such drug is furnished or  
14 administered to the individual by a hospital,  
15 physician, or other provider of services or sup-  
16 plier—

17 “(i) an individual who is entitled to  
18 benefits under part A of title XVIII or en-  
19 rolled under part B of such title if such se-  
20 lected drug is covered under the respective  
21 part; and

22 “(ii) an individual who is enrolled  
23 under a group health plan or health insur-  
24 ance coverage offered in the group or indi-  
25 vidual market (as such terms are defined

1 in section 2791 of the Public Health Serv-  
2 ice Act) with respect to which there is in  
3 effect an agreement with the Secretary  
4 under section 1197 with respect to such se-  
5 lected drug as so furnished or adminis-  
6 tered.

7 “(2) MAXIMUM FAIR PRICE.—The term ‘max-  
8 imum fair price’ means, with respect to a plan year  
9 during a price applicability period and with respect  
10 to a selected drug (as defined in section 1192(e))  
11 with respect to such period, the price published pur-  
12 suant to section 1195 in the Federal Register for  
13 such drug and year.

14 “(3) AVERAGE INTERNATIONAL MARKET PRICE  
15 DEFINED.—

16 “(A) IN GENERAL.—The terms ‘average  
17 international market price’ and ‘AIM price’  
18 mean, with respect to a drug, the average price  
19 (which shall be the net average price, if prac-  
20 ticable, and volume-weighted, if practicable) for  
21 a unit (as defined in paragraph (4)) of the drug  
22 for sales of such drug (calculated across dif-  
23 ferent dosage forms and strengths of the drug  
24 and not based on the specific formulation or  
25 package size or package type), as computed (as

1 of the date of publication of such drug as a se-  
2 lected drug under section 1192(a)) in all coun-  
3 tries described in clause (ii) of subparagraph  
4 (B) that are applicable countries (as described  
5 in clause (i) of such subparagraph) with respect  
6 to such drug.

7 “(B) APPLICABLE COUNTRIES.—

8 “(i) IN GENERAL.—For purposes of  
9 subparagraph (A), a country described in  
10 clause (ii) is an applicable country de-  
11 scribed in this clause with respect to a  
12 drug if there is available an average price  
13 for any unit for the drug for sales of such  
14 drug in such country.

15 “(ii) COUNTRIES DESCRIBED.—For  
16 purposes of this paragraph, the following  
17 are countries described in this clause:

18 “(I) Australia.

19 “(II) Canada.

20 “(III) France.

21 “(IV) Germany.

22 “(V) Japan.

23 “(VI) The United Kingdom.

24 “(4) UNIT.—The term ‘unit’ means, with re-  
25 spect to a drug, the lowest identifiable quantity

1 (such as a capsule or tablet, milligram of molecules,  
2 or grams) of the drug that is dispensed.

3 **“SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS**  
4 **AS SELECTED DRUGS.**

5 “(a) IN GENERAL.—Not later than the selected drug  
6 publication date with respect to an initial price applica-  
7 bility year, subject to subsection (h), the Secretary shall  
8 select and publish in the Federal Register a list of—

9 “(1)(A) with respect to an initial price applica-  
10 bility year during 2023, at least 25 negotiation-eligible  
11 ble drugs described in subparagraphs (A) and (B),  
12 but not subparagraph (C), of subsection (d)(1) (or,  
13 with respect to an initial price applicability year dur-  
14 ing such period beginning after 2023, the maximum  
15 number (if such number is less than 25) of such ne-  
16 gotiation-eligible drugs for the year) with respect to  
17 such year; and

18 “(B) with respect to an initial price applica-  
19 bility year during 2024 or a subsequent year, at  
20 least 50 negotiation-eligible drugs described in sub-  
21 paragraphs (A) and (B), but not subparagraph (C),  
22 of subsection (d)(1) (or, with respect to an initial  
23 price applicability year during such period, the max-  
24 imum number (if such number is less than 50) of



1 such negotiation-eligible drugs for the year) with re-  
2 spect to such year;

3 “(2) all negotiation-eligible drugs described in  
4 subparagraph (C) of such subsection with respect to  
5 such year; and

6 “(3) all new-entrant negotiation-eligible drugs  
7 (as defined in subsection (g)(1)) with respect to such  
8 year.

9 Each drug published on the list pursuant to the previous  
10 sentence shall be subject to the negotiation process under  
11 section 1194 for the voluntary negotiation period with re-  
12 spect to such initial price applicability year (and the re-  
13 negotiation process under such section as applicable for  
14 any subsequent year during the applicable price applica-  
15 bility period). In applying this subsection, any negotiation-  
16 eligible drug that is selected under this subsection for an  
17 initial price applicability year shall not count toward the  
18 required minimum amount of drugs to be selected under  
19 paragraph (1) for any subsequent year, including such a  
20 drug so selected that is subject to renegotiation under sec-  
21 tion 1194.

22 “(b) SELECTION OF DRUGS.—In carrying out sub-  
23 section (a)(1) the Secretary shall select for inclusion on  
24 the published list described in subsection (a) with respect  
25 to a price applicability period, the negotiation-eligible

1 drugs that the Secretary projects will result in the greatest  
2 savings to the Federal Government or fair price eligible  
3 individuals during the price applicability period. In making  
4 this projection of savings for drugs for which there is an  
5 AIM price for a price applicability period, the savings shall  
6 be projected across different dosage forms and strengths  
7 of the drugs and not based on the specific formulation or  
8 package size or package type of the drugs, taking into con-  
9 sideration both the volume of drugs for which payment  
10 is made, to the extent such data is available, and the  
11 amount by which the net price for the drugs exceeds the  
12 AIM price for the drugs.

13       “(c) SELECTED DRUG.—For purposes of this part,  
14 each drug included on the list published under subsection  
15 (a) with respect to an initial price applicability year shall  
16 be referred to as a ‘selected drug’ with respect to such  
17 year and each subsequent plan year beginning before the  
18 first plan year beginning after the date on which the Sec-  
19 retary determines two or more drug products—

20               “(1) are approved or licensed (as applicable)—

21                       “(A) under section 505(j) of the Federal  
22               Food, Drug, and Cosmetic Act using such drug  
23               as the listed drug; or

1           “(B) under section 351(k) of the Public  
2           Health Service Act using such drug as the ref-  
3           erence product; and

4           “(2) continue to be marketed.

5           “(d) NEGOTIATION-ELIGIBLE DRUG.—

6           “(1) IN GENERAL.—For purposes of this part,  
7           the term ‘negotiation-eligible drug’ means, with re-  
8           spect to the selected drug publication date with re-  
9           spect to an initial price applicability year, a quali-  
10          fying single source drug, as defined in subsection  
11          (e), that meets any of the following criteria:

12           “(A) COVERED PART D DRUGS.—The drug  
13           is among the 125 covered part D drugs (as de-  
14           fined in section 1860D–2(e)) for which there  
15           was an estimated greatest net spending under  
16           parts C and D of title XVIII, as determined by  
17           the Secretary, during the most recent plan year  
18           prior to such drug publication date for which  
19           data are available.

20           “(B) OTHER DRUGS.—The drug is among  
21           the 125 drugs for which there was an estimated  
22           greatest net spending in the United States (in-  
23           cluding the 50 States, the District of Columbia,  
24           and the territories of the United States), as de-  
25           termined by the Secretary, during the most re-

1 cent plan year prior to such drug publication  
2 date for which data are available.

3 “(C) INSULIN.—The drug is a qualifying  
4 single source drug described in subsection  
5 (e)(3).

6 “(2) CLARIFICATION.—In determining whether  
7 a qualifying single source drug satisfies any of the  
8 criteria described in paragraph (1), the Secretary  
9 shall, to the extent practicable, use data that is ag-  
10 gregated across dosage forms and strengths of the  
11 drug and not based on the specific formulation or  
12 package size or package type of the drug.

13 “(3) PUBLICATION.—Not later than the se-  
14 lected drug publication date with respect to an ini-  
15 tial price applicability year, the Secretary shall pub-  
16 lish in the Federal Register a list of negotiation-eli-  
17 gible drugs with respect to such selected drug publi-  
18 cation date.

19 “(e) QUALIFYING SINGLE SOURCE DRUG.—For pur-  
20 poses of this part, the term ‘qualifying single source drug’  
21 means any of the following:

22 “(1) DRUG PRODUCTS.—A drug that—

23 “(A) is approved under section 505(c) of  
24 the Federal Food, Drug, and Cosmetic Act and

1 continues to be marketed pursuant to such ap-  
2 proval; and

3 “(B) is not the listed drug for any drug  
4 that is approved and continues to be marketed  
5 under section 505(j) of such Act.

6 “(2) BIOLOGICAL PRODUCTS.—A biological  
7 product that—

8 “(A) is licensed under section 351(a) of  
9 the Public Health Service Act, including any  
10 product that has been deemed to be licensed  
11 under section 351 of such Act pursuant to sec-  
12 tion 7002(e)(4) of the Biologics Price Competi-  
13 tion and Innovation Act of 2009, and continues  
14 to be marketed under section 351 of such Act;  
15 and

16 “(B) is not the reference product for any  
17 biological product that is licensed and continues  
18 to be marketed under section 351(k) of such  
19 Act.

20 “(3) INSULIN PRODUCT.—Notwithstanding  
21 paragraphs (1) and (2), any insulin product that is  
22 approved under subsection (c) or (j) of section 505  
23 of the Federal Food, Drug, and Cosmetic Act or li-  
24 censed under subsection (a) or (k) of section 351 of  
25 the Public Health Service Act and continues to be

1 marketed under such section 505 or 351, including  
2 any insulin product that has been deemed to be li-  
3 censed under section 351(a) of the Public Health  
4 Service Act pursuant to section 7002(e)(4) of the  
5 Biologics Price Competition and Innovation Act of  
6 2009 and continues to be marketed pursuant to such  
7 licensure.

8 For purposes of applying paragraphs (1) and (2), a drug  
9 or biological product that is marketed by the same sponsor  
10 or manufacturer (or an affiliate thereof or a cross-licensed  
11 producer or distributor) as the listed drug or reference  
12 product described in such respective paragraph shall not  
13 be taken into consideration.

14 “(f) INFORMATION ON INTERNATIONAL DRUG  
15 PRICES.—For purposes of determining which negotiation-  
16 eligible drugs to select under subsection (a) and, in the  
17 case of such drugs that are selected drugs, to determine  
18 the maximum fair price for such a drug and whether such  
19 maximum fair price should be renegotiated under section  
20 1194, the Secretary shall use data relating to the AIM  
21 price with respect to such drug as available or provided  
22 to the Secretary and shall on an ongoing basis request  
23 from manufacturers of selected drugs information on the  
24 AIM price of such a drug.

1       “(g)     NEW-~~ENTRANT~~     NEGOTIATION-~~ELIGIBLE~~  
2 DRUGS.—

3             “(1) IN GENERAL.—For purposes of this part,  
4 the term ‘new-entrant negotiation-eligible drug’  
5 means, with respect to the selected drug publication  
6 date with respect to an initial price applicability  
7 year, a qualifying single source drug—

8             “(A) that is first approved or licensed, as  
9 described in paragraph (1), (2), or (3) of sub-  
10 section (e), as applicable, during the year pre-  
11 ceeding such selected drug publication date; and

12             “(B) that the Secretary determines under  
13 paragraph (2) is likely to be included as a nego-  
14 tiation-eligible drug with respect to the subse-  
15 quent selected drug publication date.

16             “(2) DETERMINATION.—In the case of a quali-  
17 fying single source drug that meets the criteria de-  
18 scribed in subparagraph (A) of paragraph (1), with  
19 respect to an initial price applicability year, if the  
20 wholesale acquisition cost at which such drug is first  
21 marketed in the United States is equal to or greater  
22 than the median household income (as determined  
23 according to the most recent data collected by the  
24 United States Census Bureau), the Secretary shall  
25 determine before the selected drug publication date

1 with respect to the initial price applicability year, if  
2 the drug is likely to be included as a negotiation-eli-  
3 gible drug with respect to the subsequent selected  
4 drug publication date, based on the projected spend-  
5 ing under title XVIII or in the United States on  
6 such drug. For purposes of this paragraph the term  
7 ‘United States’ includes the 50 States, the District  
8 of Columbia, and the territories of the United  
9 States.

10 “(h) CONFLICT OF INTEREST.—

11 “(1) IN GENERAL.—In the case the Inspector  
12 General of the Department of Health and Human  
13 Services determines the Secretary has a conflict,  
14 with respect to a matter described in paragraph (2),  
15 the individual described in paragraph (3) shall carry  
16 out the duties of the Secretary under this part, with  
17 respect to a negotiation-eligible drug, that would  
18 otherwise be such a conflict.

19 “(2) MATTER DESCRIBED.—A matter described  
20 in this paragraph is—

21 “(A) a financial interest (as described in  
22 section 2635.402 of title 5, Code of Federal  
23 Regulations (except for an interest described in  
24 subsection (b)(2)(iv) of such section)) on the  
25 date of the selected drug publication date, with



1           respect the price applicability year (as applica-  
2           ble);

3           “(B) a personal or business relationship  
4           (as described in section 2635.502 of such title)  
5           on the date of the selected drug publication  
6           date, with respect the price applicability year;

7           “(C) employment by a manufacturer of a  
8           negotiation-eligible drug during the preceding  
9           10-year period beginning on the date of the se-  
10          lected drug publication date, with respect to  
11          each price applicability year; and

12          “(D) any other matter the General Counsel  
13          determines appropriate.

14          “(3) INDIVIDUAL DESCRIBED.—An individual  
15          described in this paragraph is—

16                 “(A) the highest-ranking officer or em-  
17                 ployee of the Department of Health and  
18                 Human Services (as determined by the organi-  
19                 zational chart of the Department) that does not  
20                 have a conflict under this subsection; and

21                 “(B) is nominated by the President and  
22                 confirmed by the Senate with respect to the po-  
23                 sition.

1 **“SEC. 1193. MANUFACTURER AGREEMENTS.**

2       “(a) IN GENERAL.—For purposes of section  
3 1191(a)(2), the Secretary shall enter into agreements with  
4 manufacturers of selected drugs with respect to a price  
5 applicability period, by not later than June 15 following  
6 the selected drug publication date with respect to such se-  
7 lected drug, under which—

8               “(1) during the voluntary negotiation period for  
9 the initial price applicability year for the selected  
10 drug, the Secretary and manufacturer, in accordance  
11 with section 1194, negotiate to determine (and, by  
12 not later than the last date of such period and in ac-  
13 cordance with subsection (c), agree to) a maximum  
14 fair price for such selected drug of the manufacturer  
15 in order to provide access to such price—

16               “(A) to fair price eligible individuals who  
17 with respect to such drug are described in sub-  
18 paragraph (A) of section 1191(c)(1) and are  
19 furnished or dispensed such drug during, sub-  
20 ject to subparagraph (2), the price applicability  
21 period; and

22               “(B) to hospitals, physicians, and other  
23 providers of services and suppliers with respect  
24 to fair price eligible individuals who with re-  
25 spect to such drug are described in subpara-  
26 graph (B) of such section and are furnished or

1 administered such drug during, subject to sub-  
2 paragraph (2), the price applicability period;

3 “(2) the Secretary and the manufacturer shall,  
4 in accordance with a process and during a period  
5 specified by the Secretary pursuant to rulemaking,  
6 renegotiate (and, by not later than the last date of  
7 such period and in accordance with subsection (c),  
8 agree to) the maximum fair price for such drug if  
9 the Secretary determines that there is a material  
10 change in any of the factors described in section  
11 1194(d) relating to the drug, including changes in  
12 the AIM price for such drug, in order to provide ac-  
13 cess to such maximum fair price (as so renegoti-  
14 ated)—

15 “(A) to fair price eligible individuals who  
16 with respect to such drug are described in sub-  
17 paragraph (A) of section 1191(c)(1) and are  
18 furnished or dispensed such drug during any  
19 year during the price applicability period (be-  
20 ginning after such renegotiation) with respect  
21 to such selected drug; and

22 “(B) to hospitals, physicians, and other  
23 providers of services and suppliers with respect  
24 to fair price eligible individuals who with re-  
25 spect to such drug are described in subpara-

1 graph (B) of such section and are furnished or  
2 administered such drug during any year de-  
3 scribed in subparagraph (A);

4 “(3) the maximum fair price (including as re-  
5 negotiated pursuant to paragraph (2)), with respect  
6 to such a selected drug, shall be provided to fair  
7 price eligible individuals, who with respect to such  
8 drug are described in subparagraph (A) of section  
9 1191(c)(1), at the pharmacy or by a mail order serv-  
10 ice at the point-of-sale of such drug;

11 “(4) the manufacturer, subject to subsection  
12 (d), submits to the Secretary, in a form and manner  
13 specified by the Secretary—

14 “(A) for the voluntary negotiation period  
15 for the price applicability period (and, if appli-  
16 cable, before any period of renegotiation speci-  
17 fied pursuant to paragraph (2)) with respect to  
18 such drug all information that the Secretary re-  
19 quires to carry out the negotiation (or renegoti-  
20 ation process) under this part, including infor-  
21 mation described in section 1192(f) and section  
22 1194(d)(1); and

23 “(B) on an ongoing basis, information on  
24 changes in prices for such drug that would af-  
25 fect the AIM price for such drug or otherwise

1 provide a basis for renegotiation of the max-  
2 imum fair price for such drug pursuant to  
3 paragraph (2);

4 “(5) the manufacturer agrees that in the case  
5 the selected drug of a manufacturer is a drug de-  
6 scribed in subsection (c), the manufacturer will, in  
7 accordance with such subsection, make any payment  
8 required under such subsection with respect to such  
9 drug; and

10 “(6) the manufacturer complies with require-  
11 ments imposed by the Secretary for purposes of ad-  
12 ministering the program, including with respect to  
13 the duties described in section 1196.

14 “(b) AGREEMENT IN EFFECT UNTIL DRUG IS NO  
15 LONGER A SELECTED DRUG.—An agreement entered into  
16 under this section shall be effective, with respect to a drug,  
17 until such drug is no longer considered a selected drug  
18 under section 1192(c).

19 “(c) SPECIAL RULE FOR CERTAIN SELECTED DRUGS  
20 WITHOUT AIM PRICE.—

21 “(1) IN GENERAL.—In the case of a selected  
22 drug for which there is no AIM price available with  
23 respect to the initial price applicability year for such  
24 drug and for which an AIM price becomes available  
25 beginning with respect to a subsequent plan year

1 during the price applicability period for such drug,  
2 if the Secretary determines that the amount de-  
3 scribed in paragraph (2)(A) for a unit of such drug  
4 is greater than the amount described in paragraph  
5 (2)(B) for a unit of such drug, then by not later  
6 than one year after the date of such determination,  
7 the manufacturer of such selected drug shall pay to  
8 the Treasury an amount equal to the product of—

9 “(A) the difference between such amount  
10 described in paragraph (2)(A) for a unit of  
11 such drug and such amount described in para-  
12 graph (2)(B) for a unit of such drug; and

13 “(B) the number of units of such drug sold  
14 in the United States, including the 50 States,  
15 the District of Columbia, and the territories of  
16 the United States, during the period described  
17 in paragraph (2)(B).

18 “(2) AMOUNTS DESCRIBED.—

19 “(A) WEIGHTED AVERAGE PRICE BEFORE  
20 AIM PRICE AVAILABLE.—For purposes of para-  
21 graph (1), the amount described in this sub-  
22 paragraph for a selected drug described in such  
23 paragraph, is the amount equal to the weighted  
24 average manufacturer price (as defined in sec-  
25 tion 1927(k)(1)) for such dosage strength and

1 form for the drug during the period beginning  
2 with the first plan year for which the drug is  
3 included on the list of negotiation-eligible drugs  
4 published under section 1192(d) and ending  
5 with the last plan year during the price applica-  
6 bility period for such drug with respect to which  
7 there is no AIM price available for such drug.

8 “(B) AMOUNT MULTIPLIER AFTER AIM  
9 PRICE AVAILABLE.—For purposes of paragraph  
10 (1), the amount described in this subparagraph  
11 for a selected drug described in such paragraph,  
12 is the amount equal to 200 percent of the AIM  
13 price for such drug with respect to the first  
14 plan year during the price applicability period  
15 for such drug with respect to which there is an  
16 AIM price available for such drug.

17 “(d) CONFIDENTIALITY OF INFORMATION.—Infor-  
18 mation submitted to the Secretary under this part by a  
19 manufacturer of a selected drug that is proprietary infor-  
20 mation of such manufacturer (as determined by the Sec-  
21 retary) may be used only by the Secretary or disclosed  
22 to and used by the Comptroller General of the United  
23 States or the Medicare Payment Advisory Commission for  
24 purposes of carrying out this part.

25 “(e) REGULATIONS.—

1           “(1) IN GENERAL.—The Secretary shall, pursu-  
2           ant to rulemaking, specify, in accordance with para-  
3           graph (2), the information that must be submitted  
4           under subsection (a)(4).

5           “(2) INFORMATION SPECIFIED.—Information  
6           described in paragraph (1), with respect to a se-  
7           lected drug, shall include information on sales of the  
8           drug (by the manufacturer of the drug or by another  
9           entity under license or other agreement with the  
10          manufacturer, with respect to the sales of such drug,  
11          regardless of the name under which the drug is sold)  
12          in any foreign country that is part of the AIM price.  
13          The Secretary shall verify, to the extent practicable,  
14          such sales from appropriate officials of the govern-  
15          ment of the foreign country involved.

16          “(f) COMPLIANCE WITH REQUIREMENTS FOR AD-  
17          MINISTRATION OF PROGRAM.—Each manufacturer with  
18          an agreement in effect under this section shall comply with  
19          requirements imposed by the Secretary or a third party  
20          with a contract under section 1196(e)(1), as applicable,  
21          for purposes of administering the program.

22          **“SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.**

23          “(a) IN GENERAL.—For purposes of this part, under  
24          an agreement under section 1193 between the Secretary  
25          and a manufacturer of a selected drug, with respect to



1 the period for which such agreement is in effect and in  
2 accordance with subsections (b) and (c), the Secretary and  
3 the manufacturer—

4           “(1) shall during the voluntary negotiation pe-  
5 riod with respect to the initial price applicability  
6 year for such drug, in accordance with this section,  
7 negotiate a maximum fair price for such drug for  
8 the purpose described in section 1193(a)(1); and

9           “(2) as applicable pursuant to section  
10 1193(a)(2) and in accordance with the process speci-  
11 fied pursuant to such section, renegotiate such max-  
12 imum fair price for such drug for the purpose de-  
13 scribed in such section.

14           “(b) NEGOTIATING METHODOLOGY AND OBJEC-  
15 TIVE.—

16           “(1) IN GENERAL.—The Secretary shall develop  
17 and use a consistent methodology for negotiations  
18 under subsection (a) that, in accordance with para-  
19 graph (2) and subject to paragraph (3), achieves the  
20 lowest maximum fair price for each selected drug  
21 while appropriately rewarding innovation.

22           “(2) PRIORITIZING FACTORS.—In considering  
23 the factors described in subsection (d) in negotiating  
24 (and, as applicable, renegotiating) the maximum fair  
25 price for a selected drug, the Secretary shall, to the

1 extent practicable, consider all of the available fac-  
2 tors listed but shall prioritize the following factors:

3 “(A) RESEARCH AND DEVELOPMENT  
4 COSTS.—The factor described in paragraph  
5 (1)(A) of subsection (d).

6 “(B) MARKET DATA.—The factor de-  
7 scribed in paragraph (1)(B) of such subsection.

8 “(C) UNIT COSTS OF PRODUCTION AND  
9 DISTRIBUTION.—The factor described in para-  
10 graph (1)(C) of such subsection.

11 “(D) COMPARISON TO EXISTING THERA-  
12 PEUTIC ALTERNATIVES.—The factor described  
13 in paragraph (2)(A) of such subsection.

14 “(3) REQUIREMENT.—

15 “(A) IN GENERAL.—In negotiating the  
16 maximum fair price of a selected drug, with re-  
17 spect to an initial price applicability year for  
18 the selected drug, and, as applicable, in renego-  
19 tiating the maximum fair price for such drug,  
20 with respect to a subsequent year during the  
21 price applicability period for such drug, in the  
22 case that the manufacturer of the selected drug  
23 offers under the negotiation or renegotiation, as  
24 applicable, a price for such drug that is not  
25 more than the target price described in sub-

1 paragraph (B) for such drug for the respective  
2 year, the Secretary shall agree under such ne-  
3 gotiation or renegotiation, respectively, to such  
4 offered price as the maximum fair price.

5 “(B) TARGET PRICE.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), the target price described in this sub-  
8 paragraph for a selected drug with respect  
9 to a year, is the average price (which shall  
10 be the net average price, if practicable, and  
11 volume-weighted, if practicable) for a unit  
12 of such drug for sales of such drug, as  
13 computed (across different dosage forms  
14 and strengths of the drug and not based  
15 on the specific formulation or package size  
16 or package type of the drug) in the appli-  
17 cable country described in section  
18 1191(c)(3)(B) with respect to such drug  
19 that, with respect to such year, has the  
20 lowest average price for such drug as com-  
21 pared to the average prices (as so com-  
22 puted) of such drug with respect to such  
23 year in the other applicable countries de-  
24 scribed in such section with respect to such  
25 drug.

1                   “(ii) SELECTED DRUGS WITHOUT AIM  
2                   PRICE.—In applying this paragraph in the  
3                   case of negotiating the maximum fair price  
4                   of a selected drug for which there is no  
5                   AIM price available with respect to the ini-  
6                   tial price applicability year for such drug,  
7                   or, as applicable, renegotiating the max-  
8                   imum fair price for such drug with respect  
9                   to a subsequent year during the price ap-  
10                  plicability period for such drug before the  
11                  first plan year for which there is an AIM  
12                  price available for such drug, the target  
13                  price described in this subparagraph for  
14                  such drug and respective year is the  
15                  amount that is 80 percent of the average  
16                  manufacturer price (as defined in section  
17                  1927(k)(1)) for such drug and year.

18                  “(4) ANNUAL REPORT.—After the completion  
19                  of each voluntary negotiation period, the Secretary  
20                  shall submit to Congress a report on the maximum  
21                  fair prices negotiated (or, as applicable, renegoti-  
22                  ated) for such period. Such report shall include in-  
23                  formation on how such prices so negotiated (or re-  
24                  negotiated) meet the requirements of this part, in-  
25                  cluding the requirements of this subsection.

1 “(c) LIMITATION.—

2 “(1) IN GENERAL.—Subject to paragraph (2),  
3 the maximum fair price negotiated (including as re-  
4 negotiated) under this section for a selected drug,  
5 with respect to each plan year during a price appli-  
6 cability period for such drug, shall not exceed 120  
7 percent of the AIM price applicable to such drug  
8 with respect to such year.

9 “(2) SELECTED DRUGS WITHOUT AIM PRICE.—

10 In the case of a selected drug for which there is no  
11 AIM price available with respect to the initial price  
12 applicability year for such drug, for each plan year  
13 during the price applicability period before the first  
14 plan year for which there is an AIM price available  
15 for such drug, the maximum fair price negotiated  
16 (including as renegotiated) under this section for the  
17 selected drug shall not exceed the amount equal to  
18 85 percent of the average manufacturer price for the  
19 drug with respect to such year.

20 “(d) CONSIDERATIONS.—For purposes of negotiating  
21 and, as applicable, renegotiating (including for purposes  
22 of determining whether to renegotiate) the maximum fair  
23 price of a selected drug under this part with the manufac-  
24 turer of the drug, the Secretary, consistent with sub-  
25 section (b)(2), shall take into consideration the factors de-

1 scribed in paragraphs (1), (2), (3), and (5), and may take  
2 into consideration the factor described in paragraph (4):

3           “(1) MANUFACTURER-SPECIFIC INFORMATION.—The following information, including as sub-  
4           mitted by the manufacturer:  
5

6           “(A) Research and development costs of  
7           the manufacturer for the drug and the extent to  
8           which the manufacturer has recouped research  
9           and development costs.

10           “(B) Market data for the drug, including  
11           the distribution of sales across different pro-  
12           grams and purchasers and projected future rev-  
13           enues for the drug.

14           “(C) Unit costs of production and distribu-  
15           tion of the drug.

16           “(D) Prior Federal financial support for  
17           novel therapeutic discovery and development  
18           with respect to the drug.

19           “(E) Data on patents and on existing and  
20           pending exclusivity for the drug.

21           “(F) National sales data for the drug.

22           “(G) Information on clinical trials for the  
23           drug in the United States or in applicable coun-  
24           tries described in section 1191(c)(3)(B).

1           “(2) INFORMATION ON ALTERNATIVE PROD-  
2           UCTS.—The following information:

3           “(A) The extent to which the drug rep-  
4           resents a therapeutic advance as compared to  
5           existing therapeutic alternatives and, to the ex-  
6           tent such information is available, the costs of  
7           such existing therapeutic alternatives.

8           “(B) Information on approval by the Food  
9           and Drug Administration of alternative drug  
10          products.

11          “(C) Information on comparative effective-  
12          ness analysis for such products, taking into  
13          consideration the effects of such products on  
14          specific populations, such as individuals with  
15          disabilities, the elderly, terminally ill, children,  
16          and other patient populations.

17          In considering information described in subpara-  
18          graph (C), the Secretary shall not use evidence or  
19          findings from comparative clinical effectiveness re-  
20          search in a manner that treats extending the life of  
21          an elderly, disabled, or terminally ill individual as of  
22          lower value than extending the life of an individual  
23          who is younger, nondisabled, or not terminally ill.  
24          Nothing in the previous sentence shall affect the ap-

1       plication or consideration of an AIM price for a se-  
2       lected drug.

3               “(3) FOREIGN SALES INFORMATION.—To the  
4       extent available on a timely basis, including as pro-  
5       vided by a manufacturer of the selected drug or oth-  
6       erwise, information on sales of the selected drug in  
7       each of the countries described in section  
8       1191(e)(3)(B).

9               “(4) VA DRUG PRICING INFORMATION.—Infor-  
10      mation disclosed to the Secretary pursuant to sub-  
11      section (f).

12              “(5) ADDITIONAL INFORMATION.—Information  
13      submitted to the Secretary, in accordance with a  
14      process specified by the Secretary, by other parties  
15      that are affected by the establishment of a maximum  
16      fair price for the selected drug.

17              “(e) REQUEST FOR INFORMATION.—For purposes of  
18      negotiating and, as applicable, renegotiating (including for  
19      purposes of determining whether to renegotiate) the max-  
20      imum fair price of a selected drug under this part with  
21      the manufacturer of the drug, with respect to a price ap-  
22      plicability period, and other relevant data for purposes of  
23      this section—

24              “(1) the Secretary shall, not later than the se-  
25      lected drug publication date with respect to the ini-



1 tial price applicability year of such period, request  
2 drug pricing information from the manufacturer of  
3 such selected drug, including information described  
4 in subsection (d)(1); and

5 “(2) by not later than October 1 following the  
6 selected drug publication date, the manufacturer of  
7 such selected drug shall submit to the Secretary  
8 such requested information in such form and man-  
9 ner as the Secretary may require.

10 The Secretary shall request, from the manufacturer or  
11 others, such additional information as may be needed to  
12 carry out the negotiation and renegotiation process under  
13 this section.

14 “(f) DISCLOSURE OF INFORMATION.—For purposes  
15 of this part, the Secretary of Veterans Affairs may disclose  
16 to the Secretary of Health and Human Services the price  
17 of any negotiation-eligible drug that is purchased pursuant  
18 to section 8126 of title 38, United States Code.

19 **“SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**

20 “(a) IN GENERAL.—With respect to an initial price  
21 applicability year and selected drug with respect to such  
22 year, not later than April 1 of the plan year prior to such  
23 initial price applicability year, the Secretary shall publish  
24 in the Federal Register the maximum fair price for such

1 drug negotiated under this part with the manufacturer of  
2 such drug.

3 “(b) UPDATES.—

4 “(1) SUBSEQUENT YEAR MAXIMUM FAIR  
5 PRICES.—For a selected drug, for each plan year  
6 subsequent to the initial price applicability year for  
7 such drug with respect to which an agreement for  
8 such drug is in effect under section 1193, the Sec-  
9 retary shall publish in the Federal Register—

10 “(A) subject to subparagraph (B), the  
11 amount equal to the maximum fair price pub-  
12 lished for such drug for the previous year, in-  
13 creased by the annual percentage increase in  
14 the consumer price index for all urban con-  
15 sumers (all items; U.S. city average) as of Sep-  
16 tember of such previous year; or

17 “(B) in the case the maximum fair price  
18 for such drug was renegotiated, for the first  
19 year for which such price as so renegotiated ap-  
20 plies, such renegotiated maximum fair price.

21 “(2) PRICES NEGOTIATED AFTER DEADLINE.—

22 In the case of a selected drug with respect to an ini-  
23 tial price applicability year for which the maximum  
24 fair price is determined under this part after the  
25 date of publication under this section, the Secretary

1 shall publish such maximum fair price in the Fed-  
2 eral Register by not later than 30 days after the  
3 date such maximum price is so determined.

4 **“SEC. 1196. ADMINISTRATIVE DUTIES; COORDINATION PRO-**  
5 **VISIONS.**

6 “(a) ADMINISTRATIVE DUTIES.—

7 “(1) IN GENERAL.—For purposes of section  
8 1191, the administrative duties described in this sec-  
9 tion are the following:

10 “(A) The establishment of procedures (in-  
11 cluding through agreements with manufacturers  
12 under this part, contracts with prescription  
13 drug plans under part D of title XVIII and  
14 MA–PD plans under part C of such title, and  
15 agreements under section 1197 with group  
16 health plans and health insurance issuers of  
17 health insurance coverage offered in the indi-  
18 vidual or group market) under which the max-  
19 imum fair price for a selected drug is provided  
20 to fair price eligible individuals, who with re-  
21 spect to such drug are described in subpara-  
22 graph (A) of section 1191(c)(1), at pharmacies  
23 or by mail order service at the point-of-sale of  
24 the drug for the applicable price period for such  
25 drug and providing that such maximum fair

1 price is used for determining cost-sharing under  
2 such plans or coverage for the selected drug.

3 “(B) The establishment of procedures (in-  
4 cluding through agreements with manufacturers  
5 under this part and contracts with hospitals,  
6 physicians, and other providers of services and  
7 suppliers and agreements under section 1197  
8 with group health plans and health insurance  
9 issuers of health insurance coverage offered in  
10 the individual or group market) under which, in  
11 the case of a selected drug furnished or admin-  
12 istered by such a hospital, physician, or other  
13 provider of services or supplier to fair price eli-  
14 gible individuals (who with respect to such drug  
15 are described in subparagraph (B) of section  
16 1191(c)(1)), the maximum fair price for the se-  
17 lected drug is provided to such hospitals, physi-  
18 cians, and other providers of services and sup-  
19 pliers (as applicable) with respect to such indi-  
20 viduals and providing that such maximum fair  
21 price is used for determining cost-sharing under  
22 the respective part, plan, or coverage for the se-  
23 lected drug.

24 “(C) The establishment of procedures (in-  
25 cluding through agreements and contracts de-

1           scribed in subparagraphs (A) and (B)) to en-  
2           sure that, not later than 90 days after the dis-  
3           pensing of a selected drug to a fair price eligi-  
4           ble individual by a pharmacy or mail order serv-  
5           ice, the pharmacy or mail order service is reim-  
6           bursed for an amount equal to the difference  
7           between—

8                   “(i) the lesser of—

9                           “(I) the wholesale acquisition  
10                           cost of the drug;

11                           “(II) the national average drug  
12                           acquisition cost of the drug; and

13                           “(III) any other similar deter-  
14                           mination of pharmacy acquisition  
15                           costs of the drug, as determined by  
16                           the Secretary; and

17                   “(ii) the maximum fair price for the  
18                   drug.

19                   “(D) The establishment of procedures to  
20                   ensure that the maximum fair price for a se-  
21                   lected drug is applied before—

22                           “(i) any coverage or financial assist-  
23                           ance under other health benefit plans or  
24                           programs that provide coverage or finan-  
25                           cial assistance for the purchase or provi-

1           sion of prescription drug coverage on be-  
2           half of fair price eligible individuals as the  
3           Secretary may specify; and

4           “(ii) any other discounts.

5           “(E) The establishment of procedures to  
6           enter into appropriate agreements and protocols  
7           for the ongoing computation of AIM prices for  
8           selected drugs, including, to the extent possible,  
9           to compute the AIM price for selected drugs  
10          and including by providing that the manufac-  
11          turer of such a selected drug should provide in-  
12          formation for such computation not later than  
13          3 months after the first date of the voluntary  
14          negotiation period for such selected drug.

15          “(F) The establishment of procedures to  
16          compute and apply the maximum fair price  
17          across different strengths and dosage forms of  
18          a selected drug and not based on the specific  
19          formulation or package size or package type of  
20          the drug.

21          “(G) The establishment of procedures to  
22          negotiate and apply the maximum fair price in  
23          a manner that does not include any dispensing  
24          or similar fee.

1           “(H) The establishment of procedures to  
2 carry out the provisions of this part, as applica-  
3 ble, with respect to—

4                   “(i) fair price eligible individuals who  
5 are enrolled under a prescription drug plan  
6 under part D of title XVIII or an MA–PD  
7 plan under part C of such title;

8                   “(ii) fair price eligible individuals who  
9 are enrolled under a group health plan or  
10 health insurance coverage offered by a  
11 health insurance issuer in the individual or  
12 group market with respect to which there  
13 is an agreement in effect under section  
14 1197; and

15                   “(iii) fair price eligible individuals who  
16 are entitled to benefits under part A of  
17 title XVIII or enrolled under part B of  
18 such title.

19           “(I) The establishment of a negotiation  
20 process and renegotiation process in accordance  
21 with section 1194, including a process for ac-  
22 quiring information described in subsection (d)  
23 of such section and determining amounts de-  
24 scribed in subsection (b) of such section.

1           “(J) The provision of a reasonable dispute  
2 resolution mechanism to resolve disagreements  
3 between manufacturers, fair price eligible indi-  
4 viduals, and the third party with a contract  
5 under subsection (c)(1).

6           “(2) MONITORING COMPLIANCE.—

7           “(A) IN GENERAL.—The Secretary shall  
8 monitor compliance by a manufacturer with the  
9 terms of an agreement under section 1193, in-  
10 cluding by establishing a mechanism through  
11 which violations of such terms may be reported.

12           “(B) NOTIFICATION.—If a third party  
13 with a contract under subsection (c)(1) deter-  
14 mines that the manufacturer is not in compli-  
15 ance with such agreement, the third party shall  
16 notify the Secretary of such noncompliance for  
17 appropriate enforcement under section 4192 of  
18 the Internal Revenue Code of 1986 or section  
19 1198, as applicable.

20           “(b) COLLECTION OF DATA.—

21           “(1) FROM PRESCRIPTION DRUG PLANS AND  
22 MA–PD PLANS.—The Secretary may collect appro-  
23 priate data from prescription drug plans under part  
24 D of title XVIII and MA–PD plans under part C of  
25 such title in a timeframe that allows for maximum



1 fair prices to be provided under this part for selected  
2 drugs.

3 “(2) FROM HEALTH PLANS.—The Secretary  
4 may collect appropriate data from group health  
5 plans or health insurance issuers offering group or  
6 individual health insurance coverage in a timeframe  
7 that allows for maximum fair prices to be provided  
8 under this part for selected drugs.

9 “(3) COORDINATION OF DATA COLLECTION.—  
10 To the extent feasible, as determined by the Sec-  
11 retary, the Secretary shall ensure that data collected  
12 pursuant to this subsection is coordinated with, and  
13 not duplicative of, other Federal data collection ef-  
14 forts.

15 “(c) CONTRACT WITH THIRD PARTIES.—

16 “(1) IN GENERAL.—The Secretary may enter  
17 into a contract with 1 or more third parties to ad-  
18 minister the requirements established by the Sec-  
19 retary in order to carry out this part. At a min-  
20 imum, the contract with a third party under the pre-  
21 ceding sentence shall require that the third party—

22 “(A) receive and transmit information be-  
23 tween the Secretary, manufacturers, and other  
24 individuals or entities the Secretary determines  
25 appropriate;

1           “(B) receive, distribute, or facilitate the  
2           distribution of funds of manufacturers to ap-  
3           propriate individuals or entities in order to  
4           meet the obligations of manufacturers under  
5           agreements under this part;

6           “(C) provide adequate and timely informa-  
7           tion to manufacturers, consistent with the  
8           agreement with the manufacturer under this  
9           part, as necessary for the manufacturer to ful-  
10          fill its obligations under this part; and

11          “(D) permit manufacturers to conduct  
12          periodic audits, directly or through contracts, of  
13          the data and information used by the third  
14          party to determine discounts for applicable  
15          drugs of the manufacturer under the program.

16          “(2) PERFORMANCE REQUIREMENTS.—The  
17          Secretary shall establish performance requirements  
18          for a third party with a contract under paragraph  
19          (1) and safeguards to protect the independence and  
20          integrity of the activities carried out by the third  
21          party under the program under this part.

22       **“SEC. 1197. VOLUNTARY PARTICIPATION BY OTHER**  
23       **HEALTH PLANS.**

24       “(a) AGREEMENT TO PARTICIPATE UNDER PRO-  
25       GRAM.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           under the program under this part the Secretary  
3           shall be treated as having in effect an agreement  
4           with a group health plan or health insurance issuer  
5           offering group or individual health insurance cov-  
6           erage (as such terms are defined in section 2791 of  
7           the Public Health Service Act), with respect to a  
8           price applicability period and a selected drug with  
9           respect to such period—

10                   “(A) with respect to such selected drug  
11                   furnished or dispensed at a pharmacy or by  
12                   mail order service if coverage is provided under  
13                   such plan or coverage during such period for  
14                   such selected drug as so furnished or dispensed;  
15                   and

16                   “(B) with respect to such selected drug  
17                   furnished or administered by a hospital, physi-  
18                   cian, or other provider of services or supplier if  
19                   coverage is provided under such plan or cov-  
20                   erage during such period for such selected drug  
21                   as so furnished or administered.

22           “(2) OPTING OUT OF AGREEMENT.—The Sec-  
23           retary shall not be treated as having in effect an  
24           agreement under the program under this part with  
25           a group health plan or health insurance issuer offer-

1       ing group or individual health insurance coverage  
2       with respect to a price applicability period and a se-  
3       lected drug with respect to such period if such a  
4       plan or issuer affirmatively elects, through a process  
5       specified by the Secretary, not to participate under  
6       the program with respect to such period and drug.

7       “(b) PUBLICATION OF ELECTION.—With respect to  
8       each price applicability period and each selected drug with  
9       respect to such period, the Secretary and the Secretary  
10      of Labor and the Secretary of the Treasury, as applicable,  
11      shall make public a list of each group health plan and each  
12      health insurance issuer offering group or individual health  
13      insurance coverage, with respect to which coverage is pro-  
14      vided under such plan or coverage for such drug, that has  
15      elected under subsection (a) not to participate under the  
16      program with respect to such period and drug.

17      **“SEC. 1198. CIVIL MONETARY PENALTY.**

18      “(a) VIOLATIONS RELATING TO OFFERING OF MAX-  
19      IMUM FAIR PRICE.—Any manufacturer of a selected drug  
20      that has entered into an agreement under section 1193,  
21      with respect to a plan year during the price applicability  
22      period for such drug, that does not provide access to a  
23      price that is not more than the maximum fair price (or  
24      a lesser price) for such drug for such year—

1           “(1) to a fair price eligible individual who with  
2           respect to such drug is described in subparagraph  
3           (A) of section 1191(c)(1) and who is furnished or  
4           dispensed such drug during such year; or

5           “(2) to a hospital, physician, or other provider  
6           of services or supplier with respect to fair price eligi-  
7           ble individuals who with respect to such drug is de-  
8           scribed in subparagraph (B) of such section and is  
9           furnished or administered such drug by such hos-  
10          pital, physician, or provider or supplier during such  
11          year;

12 shall be subject to a civil monetary penalty equal to ten  
13 times the amount equal to the difference between the price  
14 for such drug made available for such year by such manu-  
15 facturer with respect to such individual or hospital, physi-  
16 cian, provider, or supplier and the maximum fair price for  
17 such drug for such year.

18          “(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-  
19          MENT.—Any manufacturer of a selected drug that has en-  
20          tered into an agreement under section 1193, with respect  
21          to a plan year during the price applicability period for  
22          such drug, that is in violation of a requirement imposed  
23          pursuant to section 1193(a)(6) shall be subject to a civil  
24          monetary penalty of not more than \$1,000,000 for each  
25          such violation.

1       “(c) APPLICATION.—The provisions of section 1128A  
2 (other than subsections (a) and (b)) shall apply to a civil  
3 monetary penalty under this section in the same manner  
4 as such provisions apply to a penalty or proceeding under  
5 section 1128A(a).

6       **“SEC. 1199. MISCELLANEOUS PROVISIONS.**

7       “(a) PAPERWORK REDUCTION ACT.—Chapter 35 of  
8 title 44, United States Code, shall not apply to data col-  
9 lected under this part.

10       “(b) NATIONAL ACADEMY OF MEDICINE STUDY.—  
11 Not later than December 31, 2025, the National Academy  
12 of Medicine shall conduct a study, and submit to Congress  
13 a report, on recommendations for improvements to the  
14 program under this part, including the determination of  
15 the limits applied under section 1194(c).

16       “(c) MEDPAC STUDY.—Not later than December 31,  
17 2025, the Medicare Payment Advisory Commission shall  
18 conduct a study, and submit to Congress a report, on the  
19 program under this part with respect to the Medicare pro-  
20 gram under title XVIII, including with respect to the ef-  
21 fect of the program on individuals entitled to benefits or  
22 enrolled under such title.

23       “(d) LIMITATION ON JUDICIAL REVIEW.—The fol-  
24 lowing shall not be subject to judicial review:

1           “(1) The selection of drugs for publication  
2           under section 1192(a).

3           “(2) The determination of whether a drug is a  
4           negotiation-eligible drug under section 1192(d).

5           “(3) The determination of the maximum fair  
6           price of a selected drug under section 1194.

7           “(4) The determination of units of a drug for  
8           purposes of section 1191(c)(3).

9           “(e) COORDINATION.—In carrying out this part with  
10          respect to group health plans or health insurance coverage  
11          offered in the group market that are subject to oversight  
12          by the Secretary of Labor or the Secretary of the Treas-  
13          ury, the Secretary of Health and Human Services shall  
14          coordinate with such respective Secretary.

15          “(f) DATA SHARING.—The Secretary shall share with  
16          the Secretary of the Treasury such information as is nec-  
17          essary to determine the tax imposed by section 4192 of  
18          the Internal Revenue Code of 1986.

19          “(g) GAO STUDY.—Not later than December 31,  
20          2025, the Comptroller General of the United States shall  
21          conduct a study of, and submit to Congress a report on,  
22          the implementation of the Fair Price Negotiation Program  
23          under this part.”.

24          (b) APPLICATION OF MAXIMUM FAIR PRICES AND  
25          CONFORMING AMENDMENTS.—

1 (1) UNDER MEDICARE.—

2 (A) APPLICATION TO PAYMENTS UNDER  
3 PART B.—Section 1847A(b)(1)(B) of the Social  
4 Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is  
5 amended by inserting “or in the case of such a  
6 drug or biological that is a selected drug (as de-  
7 fined in section 1192(c)), with respect to a  
8 price applicability period (as defined in section  
9 1191(b)(2)), 106 percent of the maximum fair  
10 price (as defined in section 1191(c)(2) applica-  
11 ble for such drug and a plan year during such  
12 period” after “paragraph (4)”.

13 (B) EXCEPTION TO PART D NON-INTER-  
14 FERENCE.—Section 1860D–11(i) of the Social  
15 Security Act (42 U.S.C. 1395w–111(i)) is  
16 amended by inserting “, except as provided  
17 under part E of title XI” after “the Secretary”.

18 (C) APPLICATION AS NEGOTIATED PRICE  
19 UNDER PART D.—Section 1860D–2(d)(1) of the  
20 Social Security Act (42 U.S.C. 1395w–  
21 102(d)(1)) is amended—

22 (i) in subparagraph (B), by inserting  
23 “, subject to subparagraph (D),” after  
24 “negotiated prices”; and



1 (ii) by adding at the end the following  
2 new subparagraph:

3 “(D) APPLICATION OF MAXIMUM FAIR  
4 PRICE FOR SELECTED DRUGS.—In applying this  
5 section, in the case of a covered part D drug  
6 that is a selected drug (as defined in section  
7 1192(c)), with respect to a price applicability  
8 period (as defined in section 1191(b)(2)), the  
9 negotiated prices used for payment (as de-  
10 scribed in this subsection) shall be the max-  
11 imum fair price (as defined in section  
12 1191(c)(2)) for such drug and for each plan  
13 year during such period.”.

14 (D) INFORMATION FROM PRESCRIPTION  
15 DRUG PLANS AND MA–PD PLANS REQUIRED.—

16 (i) PRESCRIPTION DRUG PLANS.—Sec-  
17 tion 1860D–12(b) of the Social Security  
18 Act (42 U.S.C. 1395w–112(b)) is amended  
19 by adding at the end the following new  
20 paragraph:

21 “(8) PROVISION OF INFORMATION RELATED TO  
22 MAXIMUM FAIR PRICES.—Each contract entered into  
23 with a PDP sponsor under this part with respect to  
24 a prescription drug plan offered by such sponsor  
25 shall require the sponsor to provide information to

1 the Secretary as requested by the Secretary in ac-  
2 cordance with section 1196(b).”.

3 (ii) MA–PD PLANS.—Section  
4 1857(f)(3) of the Social Security Act (42  
5 U.S.C. 1395w–27(f)(3)) is amended by  
6 adding at the end the following new sub-  
7 paragraph:

8 “(E) PROVISION OF INFORMATION RE-  
9 LATED TO MAXIMUM FAIR PRICES.—Section  
10 1860D–12(b)(8).”.

11 (2) UNDER GROUP HEALTH PLANS AND  
12 HEALTH INSURANCE COVERAGE.—

13 (A) PHSA.—Part A of title XXVII of the  
14 Public Health Service Act is amended by insert-  
15 ing after section 2729 the following new sec-  
16 tion:

17 **“SEC. 2729A. FAIR PRICE NEGOTIATION PROGRAM AND AP-  
18 PPLICATION OF MAXIMUM FAIR PRICES.**

19 “(a) IN GENERAL.—In the case of a group health  
20 plan or health insurance issuer offering group or indi-  
21 vidual health insurance coverage that is treated under sec-  
22 tion 1197 of the Social Security Act as having in effect  
23 an agreement with the Secretary under the Fair Price Ne-  
24 gotiation Program under part E of title XI of such Act,  
25 with respect to a price applicability period (as defined in

1 section 1191(b) of such Act) and a selected drug (as de-  
2 fined in section 1192(e) of such Act) with respect to such  
3 period with respect to which coverage is provided under  
4 such plan or coverage—

5 “(1) the provisions of such part shall apply—

6 “(A) if coverage of such selected drug is  
7 provided under such plan or coverage if the  
8 drug is furnished or dispensed at a pharmacy  
9 or by a mail order service, to the plans or cov-  
10 erage offered by such plan or issuer, and to the  
11 individuals enrolled under such plans or cov-  
12 erage, during such period, with respect to such  
13 selected drug, in the same manner as such pro-  
14 visions apply to prescription drug plans and  
15 MA–PD plans, and to individuals enrolled  
16 under such prescription drug plans and MA–  
17 PD plans during such period; and

18 “(B) if coverage of such selected drug is  
19 provided under such plan or coverage if the  
20 drug is furnished or administered by a hospital,  
21 physician, or other provider of services or sup-  
22 plier, to the plans or coverage offered by such  
23 plan or issuers, to the individuals enrolled  
24 under such plans or coverage, and to hospitals,  
25 physicians, and other providers of services and

1 suppliers during such period, with respect to  
2 such drug in the same manner as such provi-  
3 sions apply to the Secretary, to individuals enti-  
4 tled to benefits under part A of title XVIII or  
5 enrolled under part B of such title, and to hos-  
6 pitals, physicians, and other providers and sup-  
7 pliers participating under title XVIII during  
8 such period;

9 “(2) the plan or issuer shall apply any cost-  
10 sharing responsibilities under such plan or coverage,  
11 with respect to such selected drug, by substituting  
12 an amount not more than the maximum fair price  
13 negotiated under such part E of title XI for such  
14 drug in lieu of the drug price upon which the cost-  
15 sharing would have otherwise applied, and such cost-  
16 sharing responsibilities with respect to such selected  
17 drug may not exceed such maximum fair price; and

18 “(3) the Secretary shall apply the provisions of  
19 such part E to such plan, issuer, and coverage, such  
20 individuals so enrolled in such plans and coverage,  
21 and such hospitals, physicians, and other providers  
22 and suppliers participating in such plans and cov-  
23 erage.

24 “(b) NOTIFICATION REGARDING NONPARTICIPATION  
25 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health

1 plan or a health insurance issuer offering group or indi-  
2 vidual health insurance coverage shall publicly disclose in  
3 a manner and in accordance with a process specified by  
4 the Secretary any election made under section 1197 of the  
5 Social Security Act by the plan or issuer to not participate  
6 in the Fair Price Negotiation Program under part E of  
7 title XI of such Act with respect to a selected drug (as  
8 defined in section 1192(c) of such Act) for which coverage  
9 is provided under such plan or coverage before the begin-  
10 ning of the plan year for which such election was made.”.

11 (B) ERISA.—

12 (i) IN GENERAL.—Subpart B of part  
13 7 of subtitle B of title I of the Employee  
14 Retirement Income Security Act of 1974  
15 (29 U.S.C. 1181 et seq.) is amended by  
16 adding at the end the following new sec-  
17 tion:

18 **“SEC. 716. FAIR PRICE NEGOTIATION PROGRAM AND APPLI-**  
19 **CATION OF MAXIMUM FAIR PRICES.**

20 “(a) IN GENERAL.—In the case of a group health  
21 plan or health insurance issuer offering group health in-  
22 surance coverage that is treated under section 1197 of the  
23 Social Security Act as having in effect an agreement with  
24 the Secretary under the Fair Price Negotiation Program  
25 under part E of title XI of such Act, with respect to a

1 price applicability period (as defined in section 1191(b)  
2 of such Act) and a selected drug (as defined in section  
3 1192(c) of such Act) with respect to such period with re-  
4 spect to which coverage is provided under such plan or  
5 coverage—

6           “(1) the provisions of such part shall apply, as  
7           applicable—

8                   “(A) if coverage of such selected drug is  
9                   provided under such plan or coverage if the  
10                   drug is furnished or dispensed at a pharmacy  
11                   or by a mail order service, to the plans or cov-  
12                   erage offered by such plan or issuer, and to the  
13                   individuals enrolled under such plans or cov-  
14                   erage, during such period, with respect to such  
15                   selected drug, in the same manner as such pro-  
16                   visions apply to prescription drug plans and  
17                   MA–PD plans, and to individuals enrolled  
18                   under such prescription drug plans and MA–  
19                   PD plans during such period; and

20                   “(B) if coverage of such selected drug is  
21                   provided under such plan or coverage if the  
22                   drug is furnished or administered by a hospital,  
23                   physician, or other provider of services or sup-  
24                   plier, to the plans or coverage offered by such  
25                   plan or issuers, to the individuals enrolled

1 under such plans or coverage, and to hospitals,  
2 physicians, and other providers of services and  
3 suppliers during such period, with respect to  
4 such drug in the same manner as such provi-  
5 sions apply to the Secretary, to individuals enti-  
6 tled to benefits under part A of title XVIII or  
7 enrolled under part B of such title, and to hos-  
8 pitals, physicians, and other providers and sup-  
9 pliers participating under title XVIII during  
10 such period;

11 “(2) the plan or issuer shall apply any cost-  
12 sharing responsibilities under such plan or coverage,  
13 with respect to such selected drug, by substituting  
14 an amount not more than the maximum fair price  
15 negotiated under such part E of title XI for such  
16 drug in lieu of the drug price upon which the cost-  
17 sharing would have otherwise applied, and such cost-  
18 sharing responsibilities with respect to such selected  
19 drug may not exceed such maximum fair price; and

20 “(3) the Secretary shall apply the provisions of  
21 such part E to such plan, issuer, and coverage, and  
22 such individuals so enrolled in such plans.

23 “(b) NOTIFICATION REGARDING NONPARTICIPATION  
24 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health  
25 plan or a health insurance issuer offering group health in-

1 surance coverage shall publicly disclose in a manner and  
 2 in accordance with a process specified by the Secretary  
 3 any election made under section 1197 of the Social Secu-  
 4 rity Act by the plan or issuer to not participate in the  
 5 Fair Price Negotiation Program under part E of title XI  
 6 of such Act with respect to a selected drug (as defined  
 7 in section 1192(c) of such Act) for which coverage is pro-  
 8 vided under such plan or coverage before the beginning  
 9 of the plan year for which such election was made.”.

10 (ii) APPLICATION TO RETIREE AND  
 11 CERTAIN SMALL GROUP HEALTH PLANS.—  
 12 Section 732(a) of the Employee Retire-  
 13 ment Income Security Act of 1974 (29  
 14 U.S.C. 1191a(a)) is amended by striking  
 15 “section 711” and inserting “sections 711  
 16 and 716”.

17 (iii) CLERICAL AMENDMENT.—The  
 18 table of sections for subpart B of part 7 of  
 19 subtitle B of title I of the Employee Re-  
 20 tirement Income Security Act of 1974 is  
 21 amended by adding at the end the fol-  
 22 lowing:

“Sec. 716. Fair Price Negotiation Program and application of maximum fair  
 prices.”.

23 (C) IRC.—



1 (i) IN GENERAL.—Subchapter B of  
2 chapter 100 of the Internal Revenue Code  
3 of 1986 is amended by adding at the end  
4 the following new section:

5 **“SEC. 9816. FAIR PRICE NEGOTIATION PROGRAM AND AP-**  
6 **PLICATION OF MAXIMUM FAIR PRICES.**

7 “(a) IN GENERAL.—In the case of a group health  
8 plan that is treated under section 1197 of the Social Secu-  
9 rity Act as having in effect an agreement with the Sec-  
10 retary under the Fair Price Negotiation Program under  
11 part E of title XI of such Act, with respect to a price  
12 applicability period (as defined in section 1191(b) of such  
13 Act) and a selected drug (as defined in section 1192(c)  
14 of such Act) with respect to such period with respect to  
15 which coverage is provided under such plan—

16 “(1) the provisions of such part shall apply, as  
17 applicable—

18 “(A) if coverage of such selected drug is  
19 provided under such plan if the drug is fur-  
20 nished or dispensed at a pharmacy or by a mail  
21 order service, to the plan, and to the individuals  
22 enrolled under such plan during such period,  
23 with respect to such selected drug, in the same  
24 manner as such provisions apply to prescription  
25 drug plans and MA–PD plans, and to individ-

1 uals enrolled under such prescription drug  
2 plans and MA–PD plans during such period;  
3 and

4 “(B) if coverage of such selected drug is  
5 provided under such plan if the drug is fur-  
6 nished or administered by a hospital, physician,  
7 or other provider of services or supplier, to the  
8 plan, to the individuals enrolled under such  
9 plan, and to hospitals, physicians, and other  
10 providers of services and suppliers during such  
11 period, with respect to such drug in the same  
12 manner as such provisions apply to the Sec-  
13 retary, to individuals entitled to benefits under  
14 part A of title XVIII or enrolled under part B  
15 of such title, and to hospitals, physicians, and  
16 other providers and suppliers participating  
17 under title XVIII during such period;

18 “(2) the plan shall apply any cost-sharing re-  
19 sponsibilities under such plan, with respect to such  
20 selected drug, by substituting an amount not more  
21 than the maximum fair price negotiated under such  
22 part E of title XI for such drug in lieu of the drug  
23 price upon which the cost-sharing would have other-  
24 wise applied, and such cost-sharing responsibilities

1 with respect to such selected drug may not exceed  
2 such maximum fair price; and

3 “(3) the Secretary shall apply the provisions of  
4 such part E to such plan and such individuals so en-  
5 rolled in such plan.

6 “(b) NOTIFICATION REGARDING NONPARTICIPATION  
7 IN FAIR PRICE NEGOTIATION PROGRAM.—A group health  
8 plan shall publicly disclose in a manner and in accordance  
9 with a process specified by the Secretary any election  
10 made under section 1197 of the Social Security Act by  
11 the plan to not participate in the Fair Price Negotiation  
12 Program under part E of title XI of such Act with respect  
13 to a selected drug (as defined in section 1192(c) of such  
14 Act) for which coverage is provided under such plan before  
15 the beginning of the plan year for which such election was  
16 made.”.

17 (ii) APPLICATION TO RETIREE AND  
18 CERTAIN SMALL GROUP HEALTH PLANS.—  
19 Section 9831(a)(2) of the Internal Revenue  
20 Code of 1986 is amended by inserting  
21 “other than with respect to section 9816,”  
22 before “any group health plan”.

23 (iii) CLERICAL AMENDMENT.—The  
24 table of sections for subchapter B of chap-

1                   ter 100 of such Code is amended by add-  
2                   ing at the end the following new item:

“Sec. 9816. Fair Price Negotiation Program and application of maximum fair prices.”.

3                   (3) FAIR PRICE NEGOTIATION PROGRAM PRICES  
4                   INCLUDED IN BEST PRICE AND AMP.—Section 1927  
5                   of the Social Security Act (42 U.S.C. 1396r–8) is  
6                   amended—

7                   (A) in subsection (c)(1)(C)(ii)—

8                   (i) in subclause (III), by striking at  
9                   the end “; and”;

10                  (ii) in subclause (IV), by striking at  
11                  the end the period and inserting “; and”;  
12                  and

13                  (iii) by adding at the end the fol-  
14                  lowing new subclause:

15                         “(V) in the case of a rebate pe-  
16                         riod and a covered outpatient drug  
17                         that is a selected drug (as defined in  
18                         section 1192(e)) during such rebate  
19                         period, shall be inclusive of the price  
20                         for such drug made available from the  
21                         manufacturer during the rebate period  
22                         by reason of application of part E of  
23                         title XI to any wholesaler, retailer,  
24                         provider, health maintenance organi-

1 zation, nonprofit entity, or govern-  
2 mental entity within the United  
3 States.”; and

4 (B) in subsection (k)(1)(B), by adding at  
5 the end the following new clause:

6 “(iii) CLARIFICATION.—Notwith-  
7 standing clause (i), in the case of a rebate  
8 period and a covered outpatient drug that  
9 is a selected drug (as defined in section  
10 1192(c)) during such rebate period, any  
11 reduction in price paid during the rebate  
12 period to the manufacturer for the drug by  
13 a wholesaler or retail community pharmacy  
14 described in subparagraph (A) by reason of  
15 application of part E of title XI shall be  
16 included in the average manufacturer price  
17 for the covered outpatient drug.”.

18 (4) FEHBP.—Section 8902 of title 5, United  
19 States Code, is amended by adding at the end the  
20 following:

21 “(p) A contract may not be made or a plan approved  
22 under this chapter with any carrier that has affirmatively  
23 elected, pursuant to section 1197 of the Social Security  
24 Act, not to participate in the Fair Price Negotiation Pro-  
25 gram established under section 1191 of such Act for any

1 selected drug (as that term is defined in section 1192(c)  
2 of such Act).”.

3 (5) OPTION OF SECRETARY OF VETERANS AF-  
4 FAIRS TO PURCHASE COVERED DRUGS AT MAXIMUM  
5 FAIR PRICES.—Section 8126 of title 38, United  
6 States Code, is amended—

7 (A) in subsection (a)(2), by inserting “,  
8 subject to subsection (j),” after “may not ex-  
9 ceed”;

10 (B) in subsection (d), in the matter pre-  
11 ceding paragraph (1), by inserting “, subject to  
12 subsection (j)” after “for the procurement of  
13 the drug”; and

14 (C) by adding at the end the following new  
15 subsection:

16 “(j)(1) In the case of a covered drug that is a selected  
17 drug, for any year during the price applicability period for  
18 such drug, if the Secretary determines that the maximum  
19 fair price of such drug for such year is less than the price  
20 for such drug otherwise in effect pursuant to this section  
21 (including after application of any reduction under sub-  
22 section (a)(2) and any discount under subsection (c)), at  
23 the option of the Secretary, in lieu of the maximum price  
24 (determined after application of the reduction under sub-  
25 section (a)(2) and any discount under subsection (c), as

1 applicable) that would be permitted to be charged during  
2 such year for such drug pursuant to this section without  
3 application of this subsection, the maximum price per-  
4 mitted to be charged during such year for such drug pur-  
5 suant to this section shall be such maximum fair price for  
6 such drug and year.

7 “(2) For purposes of this subsection:

8 “(A) The term ‘maximum fair price’ means,  
9 with respect to a selected drug and year during the  
10 price applicability period for such drug, the max-  
11 imum fair price (as defined in section 1191(c)(2) of  
12 the Social Security Act) for such drug and year.

13 “(B) The term ‘negotiation eligible drug’ has  
14 the meaning given such term in section 1192(d)(1)  
15 of the Social Security Act.

16 “(C) The term ‘price applicability period’ has,  
17 with respect to a selected drug, the meaning given  
18 such term in section 1191(b)(2) of such Act.

19 “(D) The term ‘selected drug’ means, with re-  
20 spect to a year, a drug that is a selected drug under  
21 section 1192(c) of such Act for such year.”.

1 **SEC. 302. DRUG MANUFACTURER EXCISE TAX FOR NON-**  
2 **COMPLIANCE.**

3 (a) IN GENERAL.—Subchapter E of chapter 32 of the  
4 Internal Revenue Code of 1986 is amended by adding at  
5 the end the following new section:

6 **“SEC. 4192. SELECTED DRUGS DURING NONCOMPLIANCE**  
7 **PERIODS.**

8 “(a) IN GENERAL.—There is hereby imposed on the  
9 sale by the manufacturer, producer, or importer of any  
10 selected drug during a day described in subsection (b) a  
11 tax in an amount such that the applicable percentage is  
12 equal to the ratio of—

13 “(1) such tax, divided by

14 “(2) the sum of such tax and the price for  
15 which so sold.

16 “(b) NONCOMPLIANCE PERIODS.—A day is described  
17 in this subsection with respect to a selected drug if it is  
18 a day during one of the following periods:

19 “(1) The period beginning on the June 16th  
20 immediately following the selected drug publication  
21 date and ending on the first date during which the  
22 manufacturer of the drug has in place an agreement  
23 described in subsection (a) of section 1193 of the  
24 Social Security Act with respect to such drug.

25 “(2) The period beginning on the April 1st im-  
26 mediately following the June 16th described in para-



1 graph (1) and ending on the first date during which  
2 the manufacturer of the drug has agreed to a max-  
3 imum fair price under such agreement.

4 “(3) In the case of a selected drug with respect  
5 to which the Secretary of Health and Human Serv-  
6 ices has specified a renegotiation period under such  
7 agreement, the period beginning on the first date  
8 after the last date of such renegotiation period and  
9 ending on the first date during which the manufac-  
10 turer of the drug has agreed to a renegotiated max-  
11 imum fair price under such agreement.

12 “(4) With respect to information that is re-  
13 quired to be submitted to the Secretary of Health  
14 and Human Services under such agreement, the pe-  
15 riod beginning on the date on which such Secretary  
16 certifies that such information is overdue and ending  
17 on the date that such information is so submitted.

18 “(5) In the case of a selected drug with respect  
19 to which a payment is due under subsection (c) of  
20 such section 1193, the period beginning on the date  
21 on which the Secretary of Health and Human Serv-  
22 ices certifies that such payment is overdue and end-  
23 ing on the date that such payment is made in full.

24 “(c) APPLICABLE PERCENTAGE.—For purposes of  
25 this section, the term ‘applicable percentage’ means—

1           “(1) in the case of sales of a selected drug dur-  
2           ing the first 90 days described in subsection (b) with  
3           respect to such drug, 65 percent,

4           “(2) in the case of sales of such drug during  
5           the 91st day through the 180th day described in  
6           subsection (b) with respect to such drug, 75 percent,

7           “(3) in the case of sales of such drug during  
8           the 181st day through the 270th day described in  
9           subsection (b) with respect to such drug, 85 percent,  
10          and

11          “(4) in the case of sales of such drug during  
12          any subsequent day, 95 percent.

13          “(d) SELECTED DRUG.—For purposes of this sec-  
14          tion—

15                 “(1) IN GENERAL.—The term ‘selected drug’  
16                 means any selected drug (within the meaning of sec-  
17                 tion 1192 of the Social Security Act) which is manu-  
18                 factured or produced in the United States or entered  
19                 into the United States for consumption, use, or  
20                 warehousing.

21                 “(2) UNITED STATES.—The term ‘United  
22                 States’ has the meaning given such term by section  
23                 4612(a)(4).

24                 “(3) COORDINATION WITH RULES FOR POSSES-  
25                 SIONS OF THE UNITED STATES.—Rules similar to

1 the rules of paragraphs (2) and (4) of section  
2 4132(e) shall apply for purposes of this section.

3 “(e) OTHER DEFINITIONS.—For purposes of this  
4 section, the terms ‘selected drug publication date’ and  
5 ‘maximum fair price’ have the meaning given such terms  
6 in section 1191 of the Social Security Act.

7 “(f) ANTI-ABUSE RULE.—In the case of a sale which  
8 was timed for the purpose of avoiding the tax imposed by  
9 this section, the Secretary may treat such sale as occur-  
10 ring during a day described in subsection (b).”.

11 (b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—  
12 Section 275 of the Internal Revenue Code of 1986 is  
13 amended by adding “or by section 4192” before the period  
14 at the end of subsection (a)(6).

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 4221(a) of the Internal Revenue  
17 Code of 1986 is amended by inserting “or 4192”  
18 after “section 4191”.

19 (2) Section 6416(b)(2) of such Code is amend-  
20 ed by inserting “or 4192” after “section 4191”.

21 (d) CLERICAL AMENDMENTS.—

22 (1) The heading of subchapter E of chapter 32  
23 of the Internal Revenue Code of 1986 is amended by  
24 striking “**Medical Devices**” and inserting  
25 “**Other Medical Products**”.

1           (2) The table of subchapters for chapter 32 of  
 2           such Code is amended by striking the item relating  
 3           to subchapter E and inserting the following new  
 4           item:

                  “SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

5           (3) The table of sections for subchapter E of  
 6           chapter 32 of such Code is amended by adding at  
 7           the end the following new item:

                  “Sec. 4192. Selected drugs during noncompliance periods.”.

8           (e) EFFECTIVE DATE.—The amendments made by  
 9           this section shall apply to sales after the date of the enact-  
 10          ment of this Act.

11 **SEC. 303. FAIR PRICE NEGOTIATION IMPLEMENTATION**  
 12                                   **FUND.**

13          (a) IN GENERAL.—There is hereby established a Fair  
 14          Price Negotiation Implementation Fund (referred to in  
 15          this section as the “Fund”). The Secretary of Health and  
 16          Human Services may obligate and expend amounts in the  
 17          Fund to carry out this title (and the amendments made  
 18          by such title).

19          (b) FUNDING.—There is authorized to be appro-  
 20          priated, and there is hereby appropriated, out of any mon-  
 21          ies in the Treasury not otherwise appropriated, to the  
 22          Fund \$3,000,000,000, to remain available until expended,  
 23          of which—

1 (1) \$600,000,000 shall become available on the  
2 date of the enactment of this Act;

3 (2) \$600,000,000 shall become available on Oc-  
4 tober 1, 2020;

5 (3) \$600,000,000 shall become available on Oc-  
6 tober 1, 2021;

7 (4) \$600,000,000 shall become available on Oc-  
8 tober 1, 2022; and

9 (5) \$600,000,000 shall become available on Oc-  
10 tober 1, 2023.

11 (c) SUPPLEMENT NOT SUPPLANT.—Any amounts  
12 appropriated pursuant to this section shall be in addition  
13 to any other amounts otherwise appropriated pursuant to  
14 any other provision of law.

15 **TITLE IV—PUBLIC HEALTH**  
16 **INVESTMENTS**

17 **SEC. 401. SUPPORTING INCREASED INNOVATION.**

18 (a) IN GENERAL.—The Secretary of Health and  
19 Human Services, acting through the Director of the Na-  
20 tional Institutes of Health, shall continue to support and  
21 to expand, as applicable, biomedical research carried out  
22 through the National Institutes of Health innovation  
23 projects described in section 1001(b)(4) of the 21st Cen-  
24 tury Cures Act (Public Law 114–255). The Secretary  
25 shall ensure that any such research (and related activities)

1 is conducted in compliance with section 492B of the Public  
2 Health Service Act (42 U.S.C. 289a–2) (relating to the  
3 inclusion of women and members of minority groups in  
4 research).

5 (b) AUTHORIZATION OF APPROPRIATIONS.—To carry  
6 out this subsection, in addition to funds made available  
7 under paragraph (2) of section 1001(b) of the 21st Cen-  
8 tury Cures Act (Public Law 114–255), there is authorized  
9 to be appropriated, and there is appropriated to the NIH  
10 Innovation Account established under such section  
11 1001(b), out of any moneys in the Treasury not otherwise  
12 obligated, \$2,000,000,000 for fiscal year 2021, to remain  
13 available until expended.

Passed the House of Representatives June 29, 2020.

Attest:

*Clerk.*



116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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# H. R. 1425

## AN ACT

To amend the Patient Protection and Affordable Care Act to provide for a Improve Health Insurance Affordability Fund to provide for certain re-insurance payments to lower premiums in the individual health insurance market.