

115TH CONGRESS  
1ST SESSION

# S. 1835

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

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2017

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

---

## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lower Premiums  
5 Through Reinsurance Act of 2017”.

6 **SEC. 2. INVISIBLE HIGH-RISK POOL AND REINSURANCE**  
7 **PROGRAMS.**

8 Section 1332 of the Patient Protection and Afford-  
9 able Care Act (42 U.S.C. 18052) is amended—

10 (1) by adding at the end the following:

1       “(f) HIGH-RISK POOLS AND REINSURANCE PRO-  
2 GRAMS.—

3           “(1) IN GENERAL.—

4               “(A) APPLICATION.—Any State may apply  
5 to the Secretary for approval to use the funding  
6 described in subparagraph (B) to support an in-  
7 visible high-risk pool or reinsurance program  
8 that is described in paragraph (2). The Sec-  
9 retary shall approve a State application under  
10 this subparagraph with respect to any program  
11 that—

12                   “(i) meets the requirements of sub-  
13 paragraph (A), (B), (C), or (D) of para-  
14 graph (2); and

15                   “(ii) meets the requirements of sub-  
16 paragraphs (A) through (D) of subsection  
17 (b)(1).

18           “(B) FUNDING.—If a State application  
19 under subparagraph (A) is approved, the State  
20 may fund such invisible high-risk pool or rein-  
21 surance program using one or both of the fol-  
22 lowing:

23                   “(i) Amounts received through a  
24 grant described in subparagraph (C).

1           “(ii) With respect to a State that has  
2           received a waiver under this section, all of,  
3           or a portion of, the payments made to the  
4           State as described in subsection (a)(3),  
5           consistent with the information the State  
6           provides under subsection (a)(1)(B)(iii).

7           “(C) FEDERAL FUNDING FOR INVISIBLE  
8           HIGH-RISK POOL AND REINSURANCE PRO-  
9           GRAMS.—There are authorized to be appro-  
10          priated, and there are appropriated, to the Sec-  
11          retary, out of monies in the Treasury not other-  
12          wise obligated, \$2,250,000,000 for each of fis-  
13          cal years 2018 and 2019, to remain available  
14          until expended, for purposes of awarding grants  
15          to States to support the establishment or main-  
16          tenance of invisible high-risk pool and reinsur-  
17          ance programs that meet the requirements of  
18          paragraph (2). Any funds provided under this  
19          subparagraph shall not be considered in deter-  
20          mining under subparagraph (A)(ii) whether the  
21          State plan increases the Federal deficit.

22          “(2) PROGRAM DESIGN.—An invisible high-risk  
23          pool or reinsurance program described in this para-  
24          graph is a program that meets one of the following  
25          requirements:

1           “(A) An invisible high-risk pool under  
2           which health insurance issuers, with respect to  
3           designated high-risk individuals enrolled in  
4           health insurance coverage offered in the indi-  
5           vidual market, cede risk to the pool, without af-  
6           fecting the premium paid by the designated in-  
7           dividuals or their terms of coverage. With re-  
8           spect to such pool, the State, or an entity oper-  
9           ating the pool on behalf of the State, shall es-  
10          tablish—

11                   “(i) the premium amount the ceding  
12                   insurer shall pay to the reinsurance pool;

13                   “(ii) the applicable attachment points  
14                   or coinsurance percentages if the ceding  
15                   insurer retains any portion of the risk  
16                   under ceded policies; and

17                   “(iii) the mechanism by which high-  
18                   risk individuals are designated for cession  
19                   to the pool, which may include a risk of  
20                   designated high-cost health conditions.

21           “(B) A reinsurance program that assumes  
22           a portion of the risk for high-cost claims within  
23           the State in a manner substantially similar to  
24           the reinsurance program that operated in the  
25           State in accordance with section 1341.

1           “(C) A new reinsurance program estab-  
2           lished by the State.

3           “(D) A program based on another State’s  
4           reinsurance program—

5                   “(i) described in subparagraph (A),  
6                   (B), or (C), for which an application has  
7                   been approved under this subsection; or

8                   “(ii) which was implemented prior to  
9                   September 1, 2017, and which the Sec-  
10                  retary determines meets the requirements  
11                  of subparagraph (A).

12           “(3) EXPEDITED APPROVAL.—

13                   “(A) IN GENERAL.—The Secretary shall  
14                  provide an expedited approval process for an  
15                  application under paragraph (1)(A)—

16                   “(i) with respect to an invisible high-  
17                   risk pool or reinsurance program described  
18                   in subparagraph (A), (B), or (D) of para-  
19                   graph (2); or

20                   “(ii) that uses a template form de-  
21                  signed by the Administrator of the Centers  
22                  for Medicare & Medicaid Services, in con-  
23                  sultation with the Secretary of the Treas-  
24                  ury, for an application based on a program  
25                  that is the same or substantially the same

1 as a program implemented in accordance  
2 with an application previously approved  
3 under this subsection.

4 “(B) TIMEFRAME.—The Secretary shall  
5 make a determination on an application eligible  
6 for expedited review under subparagraph (A)  
7 not later than 90 days after receipt of such ap-  
8 plication.

9 “(C) STANDARD OF REVIEW.—Nothing in  
10 this paragraph shall be construed as affecting  
11 the requirements under clauses (i) and (ii) of  
12 paragraph (1)(A) with respect to an application  
13 approved in accordance with the process under  
14 subparagraph (A).

15 “(4) SINGLE-RISK POOL.—An invisible high-risk  
16 pool or reinsurance program established in accord-  
17 ance with this subsection shall not be considered a  
18 separate risk pool for purposes of section 1312(c).”;  
19 and

20 (2) in subsection (a)—

21 (A) in paragraph (1)(B)—

22 (i) in clause (i), by striking “; and”  
23 and inserting a semicolon; and

24 (ii) by adding at the end the fol-  
25 lowing:

1           “(iii) in the case of a State applying  
2           under subsection (f) to use any portion of  
3           the payments made to the State under  
4           paragraph (3) to support an invisible high-  
5           risk pool or reinsurance program, con-  
6           sistent with subsection (f), such informa-  
7           tion about such program as the Secretary  
8           may require, and the portion of such pay-  
9           ments under paragraph (3) such State in-  
10          tends to use for such program; and”;

11          (B) in paragraph (3)—

12           (i) by inserting “full amount of” be-  
13           fore “premium tax credits”; and

14           (ii) by inserting before the period of  
15           the first sentence the following: “, or, in  
16           the case of such a State whose invisible  
17           high-risk pool or reinsurance program is  
18           approved under subsection (f)(1) and that  
19           has submitted the information described in  
20           paragraph (1)(B)(iii), supporting such in-  
21           visible high-risk pool or reinsurance pro-  
22           gram”; and

1                   (C) in paragraph (6)(A), by inserting “and  
2                   with respect to applications under subsection  
3                   (f)” before the semicolon.

○