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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R.

To amend the Patient Protection and Affordable Care Act to improve affordability of, undo sabotage with respect to, and increase access to health insurance coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PALLONE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Patient Protection and Affordable Care Act to improve affordability of, undo sabotage with respect to, and increase access to health insurance coverage, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting Pre-Existing Conditions and Making Health
6 Care More Affordable Act of 2019”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXPANDING AFFORDABILITY

Sec. 101. Improve affordability and reduce premium costs for consumers.

Sec. 102. Expand affordability for working families.

TITLE II—UNDOING SABOTAGE

Sec. 201. Protect comprehensive coverage for small businesses and workers.

Sec. 202. Short-term limited duration insurance rule prohibition.

Sec. 203. Ensure plans provide comprehensive benefits.

Sec. 204. Providing for additional requirements with respect to the navigator program.

Sec. 205. Federal Exchange outreach and educational activities.

Sec. 206. Improve Health Insurance Affordability Fund.

Sec. 207. Providing that certain guidance related to waivers for State innovation under the Patient Protection and Affordable Care Act shall have no force or effect.

TITLE III—STATE INNOVATION AND TRANSPARENCY

Sec. 301. Fund State health insurance education programs for consumers.

Sec. 302. Fund State innovations to expand coverage.

Sec. 303. Preserving State option to implement health care marketplaces.

Sec. 304. Promote transparency and accountability in the Administration’s expenditures of Exchange user fees.

3 **TITLE I—EXPANDING**
4 **AFFORDABILITY**

5 **SEC. 101. IMPROVE AFFORDABILITY AND REDUCE PRE-**
6 **MIUM COSTS 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

1 within an income tier specified in the following
 2 table shall increase, on a sliding scale in a lin-
 3 ear manner, from the initial premium percent-
 4 age to the final premium percentage specified in
 5 such table for such income tier:

“In the case of household income (expressed as a percent of poverty line) within the following income tier:	The initial premium percentage is—	The final premium percentage is—
Over 100.0% up to 133.0%	0.0%	1.0%
133.0% up to 150.0%	1.0%	2.0%
150.0% up to 200.0%	2.0%	4.0%
200.0% up to 250.0%	4.0%	6.0%
250.0% up to 300.0%	6.0%	7.0%
300.0% up to 400.0%	7.0%	8.5%
400.0% and higher	8.5%	8.5%”.

6 (b) CONFORMING AMENDMENT.—Section
 7 36B(c)(1)(A) of the Internal Revenue Code of 1986 is
 8 amended by striking “but does not exceed 400 percent”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2020.

12 **SEC. 102. EXPAND AFFORDABILITY FOR WORKING FAMI-**
 13 **LIES.**

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

17 “(i) COVERAGE MUST BE AFFORD-
 18 ABLE.—

19 “(I) EMPLOYEES.—An employee
 20 shall not be treated as eligible for

1 minimum essential coverage if such
2 coverage consists of an eligible em-
3 ployer-sponsored plan (as defined in
4 section 5000A(f)(2)) and the employ-
5 ee's required contribution (within the
6 meaning of section 5000A(e)(1)(B))
7 with respect to the plan exceeds 9.5
8 percent of the employee's household
9 income.

10 “(II) FAMILY MEMBERS.—An in-
11 dividual who is eligible to enroll in an
12 eligible employer-sponsored plan (as
13 defined in section 5000A(f)(2)) by
14 reason of a relationship the individual
15 bears to the employee shall not be
16 treated as eligible for minimum essen-
17 tial coverage by reason of such eligi-
18 bility to enroll if the employee's re-
19 quired contribution (within the mean-
20 ing of section 5000A(e)(1)(B), deter-
21 mined by substituting ‘family’ for
22 ‘self-only’) with respect to the plan ex-
23 ceeds 9.5 percent of the employee's
24 household income.”.

25 (b) CONFORMING AMENDMENTS.—

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

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

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

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2020.

15 **TITLE II—UNDOING SABOTAGE**

16 **SEC. 201. PROTECT COMPREHENSIVE COVERAGE FOR** 17 **SMALL BUSINESSES AND WORKERS.**

18 The Secretary of Labor may not take any action to
19 implement, enforce, or otherwise give effect to the rule en-
20 titled “Definition of ‘Employer’ Under Section 3(5) of
21 ERISA—Association Health Plans” (83 Fed. Reg. 28912
22 (June 21, 2018)), and the Secretary may not promulgate
23 any substantially similar rule.

1 **SEC. 202. SHORT-TERM LIMITED DURATION INSURANCE**

2 **RULE PROHIBITION.**

3 The Secretary of Health and Human Services, the
4 Secretary of the Treasury, and the Secretary of Labor
5 may not take any action to implement, enforce, or other-
6 wise give effect to the rule entitled “Short-Term, Limited
7 Duration Insurance” (83 Fed. Reg. 38212 (August 3,
8 2018)), and the Secretaries may not promulgate any sub-
9 stantially similar rule.

10 **SEC. 203. ENSURE PLANS PROVIDE COMPREHENSIVE BENE-**

11 **FITS.**

12 (a) **ESSENTIAL HEALTH BENEFITS.**—Section
13 1302(b)(4) of the Patient Protection and Affordable Care
14 Act (42 U.S.C. 18022(b)(4)) is amended—

15 (1) in subparagraph (A), by inserting “and so
16 that benefits are included within each of such cat-
17 egories” before the semicolon;

18 (2) in subparagraph (G), by striking at the end
19 “and”;

20 (3) in subparagraph (H), by striking the period
21 at the end and inserting “; and”; and

22 (4) by adding at the end the following new sub-
23 paragraph:

24 “(I) ensure that, beginning January 1,
25 2020—

1 “(i) in the case of health benefits that
2 are established as essential health benefits,
3 there shall not be substitution of such ben-
4 efits across benefit categories;

5 “(ii) a qualified health plan shall not
6 be treated as providing coverage for the es-
7 sential health benefits unless under such
8 plan—

9 “(I) coverage of prescription
10 drugs provides for access to a wide
11 variety of classes of drugs within the
12 prescription drug formulary of such
13 plan; and

14 “(II) in the case that a drug that
15 is medically necessary for an enrollee
16 under such plan is not included within
17 such formulary, such individual has
18 access to such drug through an excep-
19 tions process established by the plan;
20 and

21 “(iii) habilitative services are covered
22 at parity with rehabilitative services.”.

23 (b) STANDARD BENEFIT PLANS.—Section 1302(d) of
24 the Patient Protection and Affordable Care Act (42

1 U.S.C. 18022(d)) is amended by adding at the end the
2 following new paragraph:

3 “(5) STANDARD BENEFIT PLANS.—

4 “(A) IN GENERAL.—For purposes of pro-
5 viding individuals with the opportunity to make
6 simpler comparisons of health plans offered by
7 different health insurance issuers and simplify
8 the selection process, the Secretary shall, for
9 each plan year beginning with plan year 2020,
10 through rulemaking, specify a structure de-
11 scribed in subparagraph (B)(i) for a standard
12 benefit plan for such plan year for each of the
13 bronze, silver, and gold levels of coverage and
14 for each actuarial value variation of a silver
15 plan resulting from the application of section
16 1402(c). A standard benefit plan for a plan
17 year for a level of coverage or actuarial value
18 variation of a silver plan shall be modeled on
19 the most commonly purchased plans (deter-
20 mined by enrollments in such plans) during the
21 previous 2 plan years offered in the federally fa-
22 cilitated Exchange operated pursuant to section
23 1321(c) in such level or variation and shall in-
24 clude coverage of deductible-exempt services

1 consistent with actual purchasing patterns of
2 consumers in the previous two plan years.

3 “(B) STANDARD BENEFIT PLAN.—For
4 purposes of this paragraph, the term ‘standard
5 benefit plan’ means a qualified health plan to
6 be offered through an Exchange on the indi-
7 vidual market that has either—

8 “(i) a standardized cost-sharing struc-
9 ture specified by the Secretary pursuant to
10 rulemaking; or

11 “(ii) a standardized cost-sharing
12 structure specified by the Secretary pursu-
13 ant to rulemaking that is modified by the
14 health insurance issuer of such plan only
15 to the extent necessary to align with high
16 deductible health plan requirements under
17 section 223 of the Internal Revenue Code
18 of 1986 or the applicable annual limitation
19 on cost sharing under subsection (c) and
20 actuarial value requirements specified by
21 the Secretary.”.

1 **SEC. 204. PROVIDING FOR ADDITIONAL REQUIREMENTS**
2 **WITH RESPECT TO THE NAVIGATOR PRO-**
3 **GRAM.**

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

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

9 “(C) SELECTION OF RECIPIENTS.—In the
10 case of an Exchange established and operated
11 by the Secretary within a State pursuant to sec-
12 tion 1321(c), in awarding grants under para-
13 graph (1), the Exchange shall—

14 “(i) select entities to receive such
15 grants based solely on an entity’s dem-
16 onstrated capacity to carry out each of the
17 duties specified in paragraph (3);

18 “(ii) not take into account whether or
19 not the entity has demonstrated how the
20 entity will provide information to individ-
21 uals relating to group health plans offered
22 by a group or association of employers de-
23 scribed in section 2510.3–5(b) of title 29,
24 Code of Federal Regulations (or any suc-
25 cessor regulation), or short-term limited
26 duration insurance (as defined by the Sec-

1 retary for purposes of section 2791(b)(5)
2 of the Public Health Service Act); and

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

5 “(I) at least one entity described
6 in this paragraph that is a community
7 and consumer-focused nonprofit
8 group; and

9 “(II) at least one entity described
10 in subparagraph (B), which may in-
11 clude another community and con-
12 sumer-focused nonprofit group in ad-
13 dition to any such group awarded a
14 grant pursuant to subclause (I).”;

15 (2) in paragraph (3)—

16 (A) in subparagraph (C), by inserting after
17 “qualified health plans” the following: “, State
18 Medicaid plans under title XIX of the Social
19 Security Act, and State Children’s Health In-
20 surance Programs under title XXI of such
21 Act”; and

22 (B) by adding at the end the following
23 flush left sentence:

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

4 (3) in paragraph (4)(A)—

5 (A) in the matter preceding clause (i), by
6 striking “not”;

7 (B) in clause (i)—

8 (i) by inserting “not” before “be”;

9 and

10 (ii) by striking “; or” and inserting

11 “;”;

12 (C) in clause (ii)—

13 (i) by inserting “not” before “re-
14 ceive”; and

15 (ii) by striking the period and insert-
16 ing “;”; and

17 (D) by adding at the end the following new
18 clause:

19 “(iii) maintain physical presence in
20 the State of the Exchange so as to allow
21 in-person assistance to consumers.”; and

22 (4) in paragraph (6)—

23 (A) by striking “FUNDING.—Grants
24 under” and inserting “FUNDING.—

1 “(A) STATE EXCHANGES.—Grants under”;

2 and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(B) FEDERAL EXCHANGES.—For pur-
6 poses of carrying out this subsection, with re-
7 spect to an Exchange established and operated
8 by the Secretary within a State pursuant to sec-
9 tion 1321(c), the Secretary shall obligate
10 \$100,000,000 out of amounts collected through
11 the user fees on participating health insurance
12 issuers pursuant to section 156.50 of title 45,
13 Code of Federal Regulations (or any successor
14 regulations) for fiscal year 2020 and each sub-
15 sequent fiscal year. Such amount for a fiscal
16 year shall remain available until expended.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall apply with respect to plan years begin-
19 ning on or after January 1, 2020.

20 **SEC. 205. FEDERAL EXCHANGE OUTREACH AND EDU-**
21 **CATIONAL ACTIVITIES.**

22 Section 1321(c) of the Patient Protection and Afford-
23 able Care Act (42 U.S.C. 18041(c)) is amended by adding
24 at the end the following new paragraph:

1 “(3) OUTREACH AND EDUCATIONAL ACTIVI-
2 TIES.—

3 “(A) IN GENERAL.—In the case of an Ex-
4 change established or operated by the Secretary
5 within a State pursuant to this subsection, the
6 Secretary shall carry out outreach and edu-
7 cational activities for purposes of informing po-
8 tential enrollees in qualified health plans offered
9 through the Exchange of the availability of cov-
10 erage under such plans and financial assistance
11 for coverage under such plans. Such outreach
12 and educational activities shall be provided in a
13 manner that is culturally and linguistically ap-
14 propriate to the needs of the populations being
15 served by the Exchange (including hard-to-
16 reach populations, such as racial and sexual mi-
17 norities, limited English proficient populations,
18 and young adults).

19 “(B) LIMITATION ON USE OF FUNDS.—No
20 funds appropriated under this paragraph shall
21 be used for expenditures for promoting non-
22 ACA compliant health insurance coverage.

23 “(C) NON-ACA COMPLIANT HEALTH IN-
24 SURANCE COVERAGE.—For purposes of this
25 subparagraph (B):

1 “(i) The term ‘non-ACA compliant
2 health insurance coverage’ means health
3 insurance coverage, or a group health plan,
4 that is not a qualified health plan.

5 “(ii) Such term includes the following:

6 “(I) An association health plan.

7 “(II) Short-term limited duration
8 insurance.

9 “(D) FUNDING.—Out of any funds in the
10 Treasury not otherwise appropriated, there are
11 hereby appropriated for fiscal year 2020 and
12 each subsequent fiscal year, \$100,000,000 to
13 carry out this paragraph. Funds appropriated
14 under this subparagraph shall remain available
15 until expended.”.

16 **SEC. 206. IMPROVE HEALTH INSURANCE AFFORDABILITY**
17 **FUND.**

18 Subtitle D of title I of the Patient Protection and
19 Affordable Care Act is amended by inserting after part
20 5 (42 U.S.C. 18061 et seq.) the following new part:

21 **“PART 6—IMPROVE HEALTH INSURANCE**
22 **AFFORDABILITY FUND**

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

24 “There is hereby established the ‘Improve Health In-
25 surance Affordability Fund’ to be administered by the Sec-

1 reatory of Health and Human Services, acting through the
2 Administrator of the Centers for Medicare & Medicaid
3 Services (in this section referred to as the ‘Adminis-
4 trator’), to provide funding, in accordance with this title,
5 to the 50 States and the District of Columbia (each re-
6 ferred to in this section as a ‘State’) beginning on January
7 1, 2020, for the purposes described in section 1352.

8 **“SEC. 1352. USE OF FUNDS.**

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

12 “(1) To provide reinsurance payments to health
13 insurance issuers with respect to individuals enrolled
14 under individual health insurance coverage (other
15 than through a plan described in subsection (b)) of-
16 fered by such issuers.

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

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

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

3 “(2) A plan (commonly referred to as a ‘transi-
4 tional plan’) continued under the letter issued by the
5 Centers for Medicare & Medicaid Services on No-
6 vember 14, 2013, to the State Insurance Commis-
7 sioners outlining a transitional policy for coverage in
8 the individual and small group markets to which sec-
9 tion 1251 does not apply, and under the extension
10 of the transitional policy for such coverage set forth
11 in the Insurance Standards Bulletin Series guidance
12 issued by the Centers for Medicare & Medicaid Serv-
13 ices on March 5, 2014, February 29, 2016, Feb-
14 ruary 13, 2017, and April 9, 2018, or under any
15 subsequent extensions thereof.

16 **“SEC. 1353. STATE ELIGIBILITY AND APPROVAL; DEFAULT**
17 **SAFEGUARD.**

18 “(a) ENCOURAGING STATE OPTIONS FOR ALLOCA-
19 TIONS.—

20 “(1) IN GENERAL.—To be eligible for an alloca-
21 tion of funds under this part for a year (beginning
22 with 2020), a State shall submit to the Adminis-
23 trator an application at such time (but, in the case
24 of allocations for 2020, not later than 90 days after
25 the date of the enactment of this title and, in the

1 case of allocations for a subsequent year, not later
2 than March 31 of the previous year) and in such
3 form and manner as specified by the Administrator
4 containing—

5 “(A) a description of how the funds will be
6 used; and

7 “(B) such other information as the Admin-
8 istrator may require.

9 “(2) AUTOMATIC APPROVAL.—An application so
10 submitted is approved unless the Administrator noti-
11 fies the State submitting the application, not later
12 than 60 days after the date of the submission of
13 such application, that the application has been de-
14 nied for not being in compliance with any require-
15 ment of this part and of the reason for such denial.

16 “(3) 5-YEAR APPLICATION APPROVAL.—If an
17 application of a State is approved for a purpose de-
18 scribed in section 1352 for a year, such application
19 shall be treated as approved for such purpose for
20 each of the subsequent 4 years.

21 “(b) DEFAULT FEDERAL SAFEGUARD.—

22 “(1) 2020.—For allocations made under this
23 part for 2020, in the case of a State that does not
24 submit an application under subsection (a) by the
25 90-day submission date applicable to such year

1 under subsection (a)(1) and in the case of a State
2 that does submit such an application by such date
3 that is not approved, the Administrator, in consulta-
4 tion with the State insurance commissioner, shall
5 use, in accordance with paragraph (3), the allocation
6 that would otherwise be provided to the State under
7 this part for such year for such State.

8 “(2) 2021 AND SUBSEQUENT YEARS.—In the
9 case of a State that does not have in effect an ap-
10 proved application under this section for 2021 or a
11 subsequent year, the Administrator, in consultation
12 with the State insurance commissioner, shall use, in
13 accordance with paragraph (3), the allocation that
14 would otherwise be provided to the State under this
15 part for such year for such State.

16 “(3) SPECIFIED USE.—An allocation for a
17 State made pursuant to paragraph (1) or (2) for a
18 year shall be used to carry out the purpose described
19 in section 1352(a)(1) in such State by providing re-
20 insurance payments to health insurance issuers with
21 respect to attachment range claims (as defined in
22 section 1354(b)(2), using the dollar amounts speci-
23 fied in subparagraph (B) of such section for such
24 year) in an amount equal to the percentage (speci-

1 fied for such year by the Secretary under such sub-
2 paragraph) of the amount of such claims.

3 **“SEC. 1354. ALLOCATIONS.**

4 “(a) APPROPRIATION.—For the purpose of providing
5 allocations for States under this part there is appro-
6 priated, out of any money in the Treasury not otherwise
7 appropriated \$10,000,000,000 for 2020 and each subse-
8 quent year.

9 “(b) ALLOCATIONS.—

10 “(1) PAYMENT.—

11 “(A) IN GENERAL.—From amounts appro-
12 priated under subsection (a) for a year, the
13 Secretary shall, with respect to a State and not
14 later than the date specified under subpara-
15 graph (B) for such year, allocate for such State
16 the amount determined for such State and year
17 under paragraph (2).

18 “(B) SPECIFIED DATE.—For purposes of
19 subparagraph (A), the date specified in this
20 subparagraph is—

21 “(i) for 2020, the date that is 45 days
22 after the date of the enactment of this
23 title; and

24 “(ii) for 2021 or a subsequent year,
25 January 1 of the respective year.

1 “(C) NOTIFICATIONS OF ALLOCATION
2 AMOUNTS.—For 2021 and each subsequent
3 year, the Secretary shall notify each State of
4 the amount determined for such State under
5 paragraph (2) for such year by not later than
6 January 1 of the previous year.

7 “(2) ALLOCATION AMOUNT DETERMINA-
8 TIONS.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1), the amount determined under this
11 paragraph for a year for a State is the amount
12 that the Secretary estimates would be expended
13 under this part for such year on attachment
14 range claims of individuals residing in such
15 State if all States used such funds only for the
16 purpose described in paragraph (1) of section
17 1352 at the dollar amounts and percentage
18 specified under subparagraph (B) for such year.
19 For purposes of the previous sentence and sec-
20 tion 1353(b)(3), the term ‘attachment range
21 claims’ means, with respect to an individual, the
22 claims for such individual that exceed a dollar
23 amount specified by the Secretary for a year,
24 but do not exceed a ceiling dollar amount speci-

1 fied by the Secretary for such year, under sub-
2 paragraph (B).

3 “(B) SPECIFICATIONS.—For purposes of
4 subparagraph (A) and section 1353(b)(3), the
5 Secretary shall determine the dollar amounts
6 and the percentage to be specified under sub-
7 paragraph (A) for a year in a manner to ensure
8 that the total amount of expenditures under
9 this part for such year is estimated to equal the
10 total amount appropriated for such year under
11 subsection (a) if such expenditures were used
12 solely for the purpose described in paragraph
13 (1) of section 1352(a) for attachment range
14 claims at the dollar amounts and percentage so
15 specified for such year.

16 “(3) AVAILABILITY.—Funds allocated to a
17 State under this subsection for a year shall remain
18 available through the end of the subsequent year.

19 “(c) ANNUAL DISTRIBUTION OF PREVIOUS YEAR’S
20 REMAINING FUNDS.—

21 “(1) IN GENERAL.— In carrying out subsection
22 (b), the Secretary shall, with respect to a year (be-
23 ginning with 2021), not later than March 31 of such
24 year—

1 “(A) determine the amount of funds, if
2 any, from the amounts appropriated under sub-
3 section (a) for the previous year but not allo-
4 cated for such previous year; and

5 “(B) if the Secretary determines that any
6 funds were not so allocated for such previous
7 year, allocate such remaining funds to States
8 for such year, in accordance with paragraph
9 (2).

10 “(2) ALLOCATION METHODOLOGY.—For pur-
11 poses of paragraph (1), of the total remaining funds
12 to be allocated for a year pursuant to such para-
13 graph, the Secretary shall allocate to each State an
14 amount that bears the same ratio to such total re-
15 maining funds as the amount allocated pursuant to
16 subsection (b) to such State for such year bears to
17 the total allocations made under such subsection for
18 such year.”.

19 **SEC. 207. PROVIDING THAT CERTAIN GUIDANCE RELATED**
20 **TO WAIVERS FOR STATE INNOVATION UNDER**
21 **THE PATIENT PROTECTION AND AFFORD-**
22 **ABLE CARE ACT SHALL HAVE NO FORCE OR**
23 **EFFECT.**

24 Beginning April 1, 2019, the Secretary of Health and
25 Human Services and the Secretary of the Treasury may

1 not take any action to implement, enforce, or otherwise
2 give effect to the guidance entitled “State Relief and Em-
3 powerment Waivers” (83 Fed. Reg. 53575 (October 24,
4 2018)), and the Secretaries may not promulgate any sub-
5 stantially similar guidance or rule.

6 **TITLE III—STATE INNOVATION**
7 **AND TRANSPARENCY**

8 **SEC. 301. FUND STATE HEALTH INSURANCE EDUCATION**
9 **PROGRAMS FOR CONSUMERS.**

10 Section 2793(e) of the Public Health Service Act (42
11 U.S.C. 300gg–93(e)) is amended by adding at the end the
12 following new paragraph:

13 “(3) APPROPRIATIONS.—For purposes of car-
14 rying out this section, there is hereby appropriated
15 to the Secretary, out of any funds in the Treasury
16 not otherwise appropriated, \$100,000,000 for each
17 of the fiscal years 2020 through 2022. Such amount
18 shall remain available until expended.”.

19 **SEC. 302. FUND STATE INNOVATIONS TO EXPAND COV-**
20 **ERAGE.**

21 (a) IN GENERAL.—Subject to subsection (d), the Sec-
22 retary of Health and Human Services shall award grants
23 to eligible State agencies to enable such States to explore
24 innovative solutions to promote greater enrollment in
25 health insurance coverage in the individual and small

1 group markets, including activities described in subsection
2 (c).

3 (b) ELIGIBILITY.—For purposes of subsection (a), el-
4 igible State agencies are Exchanges established by a State
5 under title I of the Patient Protection and Affordable Care
6 Act and State agencies with primary responsibility over
7 health and human services for the State involved.

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

10 (1) State efforts to streamline health insurance
11 enrollment procedures in order to reduce burdens on
12 consumers and facilitate greater enrollment in health
13 insurance coverage in the individual and small group
14 markets, including automatic enrollment and re-
15 enrollment of, or pre-populated applications for, in-
16 dividuals without health insurance who are eligible
17 for tax credits under section 36B of the Internal
18 Revenue Code of 1986, with the ability to opt out
19 of such enrollment.

20 (2) State investment in technology to improve
21 data sharing and collection for the purposes of facili-
22 tating greater enrollment in health insurance cov-
23 erage in such markets.

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

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

7 (d) FUNDING.—For purposes of carrying out this
8 section, there is hereby appropriated, out of any funds in
9 the Treasury not otherwise appropriated, \$200,000,000
10 for each of the fiscal years 2020 through 2022. Such
11 amount shall remain available until expended.

12 **SEC. 303. PRESERVING STATE OPTION TO IMPLEMENT**
13 **HEALTH CARE MARKETPLACES.**

14 (a) IN GENERAL.—Section 1311 of the Patient Pro-
15 tection and Affordable Care Act (42 U.S.C. 18031) is
16 amended—

17 (1) in subsection (a)—

18 (A) in paragraph (4)(B), by striking
19 “under this subsection” and inserting “under
20 this paragraph or paragraph (1)”; and

21 (B) by adding at the end the following new
22 paragraph:

23 “(6) ADDITIONAL PLANNING AND ESTABLISH-
24 MENT GRANTS.—

1 “(A) IN GENERAL.—There shall be appro-
2 priated to the Secretary, out of any moneys in
3 the Treasury not otherwise appropriated,
4 \$200,000,000 to award grants to eligible States
5 for the uses described in paragraph (3).

6 “(B) DURATION AND RENEWABILITY.—A
7 grant awarded under subparagraph (A) shall be
8 for a period of two years and may not be re-
9 newed.

10 “(C) LIMITATION.—A grant may not be
11 awarded under subparagraph (A) after Decem-
12 ber 31, 2022.

13 “(D) ELIGIBLE STATE DEFINED.—For
14 purposes of this paragraph, the term ‘eligible
15 State’ means a State that, as of the date of the
16 enactment of this paragraph, is not operating
17 an Exchange.”; and

18 (2) in subsection (d)(5)(A)—

19 (A) by striking “In establishing an Ex-
20 change under this section” and inserting “(I) IN
21 GENERAL.—In establishing an Exchange under
22 this section (other than in establishing an Ex-
23 change pursuant to subsection (a)(6))”; and

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

1 “(ii) ADDITIONAL PLANNING AND ES-
2 TABLISHMENT GRANTS.—In establishing
3 an Exchange pursuant to subsection
4 (a)(6), the State shall ensure that such
5 Exchange is self-sustaining beginning on
6 January 1, 2024, including allowing the
7 Exchange to charge assessments or user
8 fees to participating health insurance
9 issuers, or to otherwise generate funding,
10 to support its operations.”.

11 (b) CLARIFICATION REGARDING FAILURE TO ESTAB-
12 LISH EXCHANGE OR IMPLEMENT REQUIREMENTS.—Sec-
13 tion 1321(c) of the Patient Protection and Affordable
14 Care Act (42 U.S.C. 18041(c)), as amended by section
15 205, is further amended—

16 (1) in paragraph (1), by striking “If” and in-
17 serting “Subject to paragraph (4), if”; and

18 (2) by adding at the end the following new
19 paragraph:

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

1 **SEC. 304. PROMOTE TRANSPARENCY AND ACCOUNT-**
2 **ABILITY IN THE ADMINISTRATION'S EXPENDI-**
3 **TURES OF EXCHANGE USER FEES.**

4 For each of plan years 2018, 2019, and 2020, not
5 later than the date that is 3 months after the end of such
6 plan year, the Secretary of Health and Human Services
7 shall submit to the appropriate committees of Congress
8 and make available to the public an annual report on the
9 expenditure by the Department of Health and Human
10 Services of user fees collected pursuant to section 156.50
11 of title 45, Code of Federal Regulations (or any successor
12 regulations). Each such report for a plan year shall in-
13 clude a detailed accounting of the amount of such user
14 fees collected during such plan year and of the amount
15 of such expenditures used during such plan year for the
16 federally facilitated Exchange operated pursuant to sec-
17 tion 1321(c) of the Patient Protection and Affordable
18 Care Act (42 U.S.C. 18041(c)) on outreach and enroll-
19 ment activities, navigators, maintenance of
20 Healthcare.gov, and operation of call centers.