

In the Senate of the United States,

December 3, 2015.

Resolved, That the bill from the House of Representatives (H.R. 3762) entitled “An Act to provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2016.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***TITLE I—HEALTH, EDUCATION,***
2 ***LABOR, AND PENSIONS***

3 ***SEC. 101. THE PREVENTION AND PUBLIC HEALTH FUND.***

4 *(a) IN GENERAL.—Subsection (b) of section 4002 of*
5 *the Patient Protection and Affordable Care Act (42 U.S.C.*
6 *300u–11) is amended—*

7 *(1) in paragraph (2), by striking “2017” and in-*
8 *serting “2015”; and*

9 *(2) by striking paragraphs (3) through (5).*

1 (b) *RESCISSION OF UNOBLIGATED FUNDS.*—Of the
 2 funds made available by such section 4002, the unobligated
 3 balance is rescinded.

4 **SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.**

5 *Effective as if included in the enactment of the Medi-*
 6 *care Access and CHIP Reauthorization Act of 2015 (Public*
 7 *Law 114–10, 129 Stat. 87), paragraph (1) of section 221(a)*
 8 *of such Act is amended by inserting after “Section*
 9 *10503(b)(1)(E) of the Patient Protection and Affordable*
 10 *Care Act (42 U.S.C. 254b–2(b)(1)(E)) is amended” the fol-*
 11 *lowing: “by striking ‘\$3,600,000,000’ and inserting*
 12 *‘\$3,835,000,000’ and”.*

13 **SEC. 103. TERRITORIES.**

14 *Section 1323(c) of the Patient Protection and Afford-*
 15 *able Care Act (42 U.S.C. 18043(c)) is amended by adding*
 16 *at the end the following:*

17 “(3) *NO FORCE AND EFFECT.*—*Effective January*
 18 1, 2018, this subsection shall have no force or effect.”.

19 **SEC. 104. REINSURANCE, RISK CORRIDOR, AND RISK AD-**
 20 **JUSTMENT PROGRAMS.**

21 (a) *TRANSITIONAL REINSURANCE PROGRAM FOR INDIV-*
 22 *IDUAL MARKET.*—*Section 1341 of the Patient Protection*
 23 *and Affordable Care Act (42 U.S.C. 18061) is amended by*
 24 *adding at the end the following:*

1 “(e) *NO FORCE AND EFFECT.*—*Effective January 1,*
 2 *2016, the Secretary shall not collect fees and shall not make*
 3 *payments under this section.*”.

4 ***SEC. 105. SUPPORT FOR STATE RESPONSE TO SUBSTANCE***
 5 ***ABUSE PUBLIC HEALTH CRISIS AND URGENT***
 6 ***MENTAL HEALTH NEEDS.***

7 (a) *IN GENERAL.*—*There are authorized to be appro-*
 8 *priated, and are appropriated, out of monies in the Treas-*
 9 *ury not otherwise obligated, \$750,000,000 for each of fiscal*
 10 *years 2016 and 2017, to the Secretary of Health and*
 11 *Human Services (referred to in this section as the “Sec-*
 12 *retary”)* to award grants to States to address the substance
 13 abuse public health crisis or to respond to urgent mental
 14 health needs within the State. In awarding grants under
 15 this section, the Secretary may give preference to States
 16 with an incidence or prevalence of substance use disorders
 17 that is substantial relative to other States or to States that
 18 identify mental health needs within their communities that
 19 are urgent relative to such needs of other States. Funds ap-
 20 propriated under this subsection shall remain available
 21 until expended.

22 (b) *USE OF FUNDS.*—*Grants awarded to a State under*
 23 *subsection (a) shall be used for one or more of the following*
 24 *public health-related activities:*

1 (1) *Improving State prescription drug moni-*
 2 *toring programs.*

3 (2) *Implementing prevention activities, and eval-*
 4 *uating such activities to identify effective strategies to*
 5 *prevent substance abuse.*

6 (3) *Training for health care practitioners, such*
 7 *as best practices for prescribing opioids, pain man-*
 8 *agement, recognizing potential cases of substance*
 9 *abuse, referral of patients to treatment programs, and*
 10 *overdose prevention.*

11 (4) *Supporting access to health care services pro-*
 12 *vided by federally certified opioid treatment programs*
 13 *or other appropriate health care providers to treat*
 14 *substance use disorders or mental health needs.*

15 (5) *Other public health-related activities, as the*
 16 *State determines appropriate, related to addressing*
 17 *the substance abuse public health crisis or responding*
 18 *to urgent mental health needs within the State.*

19 ***TITLE II—FINANCE***

20 ***SEC. 201. RECAPTURE EXCESS ADVANCE PAYMENTS OF*** 21 ***PREMIUM TAX CREDITS.***

22 *Subparagraph (B) of section 36B(f)(2) of the Internal*
 23 *Revenue Code of 1986 is amended by adding at the end*
 24 *the following new clause:*

1 “(iii) *NONAPPLICABILITY OF LIMITA-*
 2 *TION.—This subparagraph shall not apply*
 3 *to taxable years ending after December 31,*
 4 *2015, and before January 1, 2018.”.*

5 **SEC. 202. PREMIUM TAX CREDIT AND COST-SHARING SUB-**
 6 **SIDIES.**

7 (a) *REPEAL OF PREMIUM TAX CREDIT.—Subpart C*
 8 *of part IV of subchapter A of chapter 1 of the Internal Rev-*
 9 *enue Code of 1986 is amended by striking section 36B.*

10 (b) *REPEAL OF COST-SHARING SUBSIDY.—Section*
 11 *1402 of the Patient Protection and Affordable Care Act is*
 12 *repealed.*

13 (c) *REPEAL OF ELIGIBILITY DETERMINATIONS.—The*
 14 *following sections of the Patient Protection and Affordable*
 15 *Care Act are repealed:*

16 (1) *Section 1411 (other than subsection (i), the*
 17 *last sentence of subsection (e)(4)(A)(ii), and such pro-*
 18 *visions of such section solely to the extent related to*
 19 *the application of the last sentence of subsection*
 20 *(e)(4)(A)(ii)).*

21 (2) *Section 1412.*

22 (d) *PROTECTING AMERICANS BY REPEAL OF DISCLO-*
 23 *SURE AUTHORITY TO CARRY OUT ELIGIBILITY REQUIRE-*
 24 *MENTS FOR CERTAIN PROGRAMS.—*

1 (1) *IN GENERAL.*—Paragraph (21) of section
 2 6103(l) of the Internal Revenue Code of 1986 is
 3 amended by adding at the end the following new sub-
 4 paragraph:

5 “(D) *TERMINATION.*—No disclosure may be
 6 made under this paragraph after December 31,
 7 2017.”.

8 (e) *EFFECTIVE DATES.*—

9 (1) *PREMIUM TAX CREDIT.*—The amendment
 10 made by subsection (a) shall apply to taxable years
 11 beginning after December 31, 2017.

12 (2) *COST SHARING-SUBSIDIES AND ELIGIBILITY*
 13 *DETERMINATIONS.*—The repeals in subsection (b) and
 14 (c) shall take effect on December 31, 2017.

15 (3) *PROTECTING AMERICANS BY RESCINDING*
 16 *DISCLOSURE AUTHORITY.*—The amendments made by
 17 subsection (d) shall take effect on December 31, 2017.

18 **SEC. 203. SMALL BUSINESS TAX CREDIT.**

19 (a) *IN GENERAL.*—Section 45R of the Internal Rev-
 20 enue Code of 1986 is amended by adding at the end the
 21 following new subsection:

22 “(j) *SHALL NOT APPLY.*—This section shall not apply
 23 with respect to amounts paid or incurred in taxable years
 24 beginning after December 31, 2017.”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to amounts paid or incurred in taxable*
 3 *years beginning after December 31, 2017.*

4 **SEC. 204. INDIVIDUAL MANDATE.**

5 (a) *IN GENERAL.*—*Section 5000A(c) of the Internal*
 6 *Revenue Code of 1986 is amended—*

7 (1) *in paragraph (2)(B) by striking clauses (ii)*
 8 *and (iii) and inserting the following:*

9 *“(ii) Zero percent for taxable years be-*
 10 *ginning after 2014.”, and*

11 (2) *in paragraph (3)—*

12 (A) *by striking “\$695” in subparagraph*
 13 *(A) and inserting “\$0”,*

14 (B) *by striking “and \$325 for 2015” in sub-*
 15 *paragraph (B), and*

16 (C) *by striking subparagraph (D).*

17 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall apply to months beginning after December 31,*
 19 *2014.*

20 **SEC. 205. EMPLOYER MANDATE.**

21 (a) *IN GENERAL.*—

22 (1) *Paragraph (1) of section 4980H(c) of the In-*
 23 *ternal Revenue Code of 1986 is amended by inserting*

24 *“(\$0 in the case of months beginning after December*
 25 *31, 2014)” after “\$2,000”.*

1 (2) Paragraph (1) of section 4980H(b) of the In-
 2 ternal Revenue Code of 1986 is amended by inserting
 3 “(\$0 in the case of months beginning after December
 4 31, 2014)” after “\$3,000”.

5 (b) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to months beginning after December 31,
 7 2014.

8 **SEC. 206. FEDERAL PAYMENTS TO STATES.**

9 (a) *IN GENERAL.*—Notwithstanding section 504(a),
 10 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or
 11 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),
 12 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4), 1397bb(a)(7),
 13 1397ee(a)(1)), or the terms of any Medicaid waiver in effect
 14 on the date of enactment of this Act that is approved under
 15 section 1115 or 1915 of the Social Security Act (42 U.S.C.
 16 1315, 1396n), for the 1-year period beginning on the date
 17 of enactment of this Act, no Federal funds provided from
 18 a program referred to in this subsection that is considered
 19 direct spending for any year may be made available to a
 20 State for payments to a prohibited entity, whether made
 21 directly to the prohibited entity or through a managed care
 22 organization under contract with the State.

23 (b) *DEFINITIONS.*—In this section:

1 (1) *PROHIBITED ENTITY*.—The term “prohibited
2 entity” means an entity, including its affiliates, sub-
3 sidiaries, successors, and clinics—

4 (A) that, as of the date of enactment of this
5 Act—

6 (i) is an organization described in sec-
7 tion 501(c)(3) of the Internal Revenue Code
8 of 1986 and exempt from tax under section
9 501(a) of such Code;

10 (ii) is an essential community provider
11 described in section 156.235 of title 45,
12 Code of Federal Regulations (as in effect on
13 the date of enactment of this Act), that is
14 primarily engaged in family planning serv-
15 ices, reproductive health, and related med-
16 ical care; and

17 (iii) provides for abortions, other than
18 an abortion—

19 (I) if the pregnancy is the result
20 of an act of rape or incest; or

21 (II) in the case where a woman
22 suffers from a physical disorder, phys-
23 ical injury, or physical illness that
24 would, as certified by a physician,
25 place the woman in danger of death

1 unless an abortion is performed, in-
 2 cluding a life-endangering physical
 3 condition caused by or arising from
 4 the pregnancy itself; and

5 (B) for which the total amount of Federal
 6 and State expenditures under the Medicaid pro-
 7 gram under title XIX of the Social Security Act
 8 in fiscal year 2014 made directly to the entity
 9 and to any affiliates, subsidiaries, successors, or
 10 clinics of the entity, or made to the entity and
 11 to any affiliates, subsidiaries, successors, or clin-
 12 ics of the entity as part of a nationwide health
 13 care provider network, exceeded \$350,000,000.

14 (2) *DIRECT SPENDING*.—The term “direct spend-
 15 ing” has the meaning given that term under section
 16 250(c) of the Balanced Budget and Emergency Deficit
 17 Control Act of 1985 (2 U.S.C. 900(c)).

18 **SEC. 207. MEDICAID.**

19 The Social Security Act (42 U.S.C. 301 et seq.) is
 20 amended—

21 (1) in section 1108(g)(5), by striking “2019”
 22 and inserting “2017”;

23 (2) in section 1902—

24 (A) in subsection (a)(10)(A), in each of
 25 clauses (i)(VIII) and (ii)(XX), by inserting “and

1 *ending December 31, 2017,” after “January 1,*
2 *2014,”;*

3 *(B) in subsection (a)(47)(B), by inserting*
4 *“and provided that any such election shall cease*
5 *to be effective on January 1, 2018, and no such*
6 *election shall be made after that date” before the*
7 *semicolon at the end; and*

8 *(C) in subsection (l)(2)(C), by inserting*
9 *“and ending December 31, 2017,” after “Janu-*
10 *ary 1, 2014,”;*

11 *(3) in each of sections 1902(gg)(2) and*
12 *2105(d)(3)(A), by striking “September 30, 2019” and*
13 *inserting “September 30, 2017”;*

14 *(4) in section 1905—*

15 *(A) in the first sentence of subsection (b), by*
16 *inserting “(50 percent on or after January 1,*
17 *2018)” after “55 percent”;*

18 *(B) in subsection (y)(1), by striking the*
19 *semicolon at the end of subparagraph (B) and*
20 *all that follows through “thereafter”; and*

21 *(C) in subsection (z)(2)—*

22 *(i) in subparagraph (A), by striking*
23 *“each year thereafter” and inserting*
24 *“through 2017”; and*

1 (ii) in subparagraph (B)(ii), by strik-
 2 ing the semicolon at the end of subclause
 3 (IV) and all that follows through “100 per-
 4 cent”;

5 (5) in section 1915(k)(2), by striking “during the
 6 period described in paragraph (1)” and inserting “on
 7 or after the date referred to in paragraph (1) and be-
 8 fore January 1, 2018”;

9 (6) in section 1920(e), by adding at the end the
 10 following: “This subsection shall not apply after De-
 11 cember 31, 2017.”;

12 (7) in section 1937(b)(5), by adding at the end
 13 the following: “This paragraph shall not apply after
 14 December 31, 2017.”; and

15 (8) in section 1943(a), by inserting “and before
 16 January 1, 2018,” after “January 1, 2014.”.

17 **SEC. 208. REPEAL OF DSH ALLOTMENT REDUCTIONS.**

18 Section 1923(f) of the Social Security Act (42 U.S.C.
 19 1396r-4(f)) is amended by striking paragraphs (7) and (8).

20 **SEC. 209. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
 21 **SURANCE PREMIUMS AND HEALTH PLAN BEN-**
 22 **EFITS.**

23 (a) *IN GENERAL.*—Chapter 43 of the Internal Revenue
 24 Code of 1986 is amended by striking section 4980I.

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 2 *section (a) shall apply to taxable years beginning after De-*
 3 *cember 31, 2017.*

4 **SEC. 210. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
 5 **TIONS.**

6 (a) *HSAS.*—*Subparagraph (A) of section 223(d)(2) of*
 7 *the Internal Revenue Code of 1986 is amended by striking*
 8 *“Such term” and all that follows through the period.*

9 (b) *ARCHER MSAS.*—*Subparagraph (A) of section*
 10 *220(d)(2) of the Internal Revenue Code of 1986 is amended*
 11 *by striking “Such term” and all that follows through the*
 12 *period.*

13 (c) *HEALTH FLEXIBLE SPENDING ARRANGEMENTS*
 14 *AND HEALTH REIMBURSEMENT ARRANGEMENTS.*—*Section*
 15 *106 of the Internal Revenue Code of 1986 is amended by*
 16 *striking subsection (f).*

17 (d) *EFFECTIVE DATES.*—

18 (1) *DISTRIBUTIONS FROM SAVINGS ACCOUNTS.*—
 19 *The amendments made by subsections (a) and (b)*
 20 *shall apply to amounts paid with respect to taxable*
 21 *years beginning after December 31, 2015.*

22 (2) *REIMBURSEMENTS.*—*The amendment made*
 23 *by subsection (c) shall apply to expenses incurred*
 24 *with respect to taxable years beginning after Decem-*
 25 *ber 31, 2015.*

1 **SEC. 211. REPEAL OF TAX ON HEALTH SAVINGS ACCOUNTS.**

2 (a) *HSAS*.—Section 223(f)(4)(A) of the Internal Rev-
 3 enue Code of 1986 is amended by striking “20 percent” and
 4 inserting “10 percent”.

5 (b) *ARCHER MSAS*.—Section 220(f)(4)(A) of the Inter-
 6 nal Revenue Code of 1986 is amended by striking “20 per-
 7 cent” and inserting “15 percent”.

8 (c) *EFFECTIVE DATE*.—The amendments made by this
 9 section shall apply to distributions made after December 31,
 10 2015.

11 **SEC. 212. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
 12 ***FLEXIBLE SPENDING ACCOUNTS*.**

13 (a) *IN GENERAL*.—Section 125 of the Internal Revenue
 14 Code of 1986 is amended by striking subsection (i).

15 (b) *EFFECTIVE DATE*.—The amendment made by this
 16 section shall apply to taxable years beginning after Decem-
 17 ber 31, 2015.

18 **SEC. 213. REPEAL OF TAX ON PRESCRIPTION MEDICATIONS.**

19 Subsection (j) of section 9008 of the Patient Protection
 20 and Affordable Care Act is amended to read as follows:

21 “(j) *REPEAL*.—This section shall apply to calendar
 22 years beginning after December 31, 2010, and ending before
 23 January 1, 2016.”.

24 **SEC. 214. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

25 (a) *IN GENERAL*.—Chapter 32 of the Internal Revenue
 26 Code of 1986 is amended by striking subchapter E.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to sales in calendar quarters beginning*
 3 *after December 31, 2015.*

4 **SEC. 215. REPEAL OF HEALTH INSURANCE TAX.**

5 *Subsection (j) of section 9010 of the Patient Protection*
 6 *and Affordable Care Act is amended to read as follows:*

7 “(j) *REPEAL.*—*This section shall apply to calendar*
 8 *years beginning after December 31, 2013, and ending before*
 9 *January 1, 2016.”.*

10 **SEC. 216. REPEAL OF ELIMINATION OF DEDUCTION FOR EX-**

11 **PENSES ALLOCABLE TO MEDICARE PART D**

12 **SUBSIDY.**

13 (a) *IN GENERAL.*—*Section 139A of the Internal Rev-*
 14 *enue Code of 1986 is amended by adding at the end the*
 15 *following new sentence: “This section shall not be taken into*
 16 *account for purposes of determining whether any deduction*
 17 *is allowable with respect to any cost taken into account in*
 18 *determining such payment.”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 20 *section shall apply to taxable years beginning after Decem-*
 21 *ber 31, 2015.*

22 **SEC. 217. REPEAL OF CHRONIC CARE TAX.**

23 (a) *IN GENERAL.*—*Subsection (a) of section 213 of the*
 24 *Internal Revenue Code of 1986 is amended by striking “10*
 25 *percent” and inserting “7.5 percent”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 2015.*

4 **SEC. 218. REPEAL OF MEDICARE TAX INCREASE.**

5 (a) *IN GENERAL.*—*Subsection (b) of section 3101 of*
 6 *the Internal Revenue Code of 1986 is amended to read as*
 7 *follows:*

8 “(b) *HOSPITAL INSURANCE.*—*In addition to the tax*
 9 *imposed by the preceding subsection, there is hereby im-*
 10 *posed on the income of every individual a tax equal to 1.45*
 11 *percent of the wages (as defined in section 3121(a)) received*
 12 *by such individual with respect to employment (as defined*
 13 *in section 3121(b)).”.*

14 (b) *SECA.*—*Subsection (b) of section 1401 of the Inter-*
 15 *nal Revenue Code of 1986 is amended to read as follows:*

16 “(b) *HOSPITAL INSURANCE.*—*In addition to the tax*
 17 *imposed by the preceding subsection, there shall be imposed*
 18 *for each taxable year, on the self-employment income of*
 19 *every individual, a tax equal to 2.9 percent of the amount*
 20 *of the self-employment income for such taxable year.”.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 22 *section shall apply with respect to remuneration received*
 23 *after, and taxable years beginning after, December 31, 2015.*

1 **SEC. 219. REPEAL OF TANNING TAX.**

2 (a) *IN GENERAL.*—*The Internal Revenue Code of 1986*
 3 *is amended by striking chapter 49.*

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 5 *section shall apply to services performed on or after Decem-*
 6 *ber 31, 2015.*

7 **SEC. 220. REPEAL OF NET INVESTMENT TAX.**

8 (a) *IN GENERAL.*—*Subtitle A of the Internal Revenue*
 9 *Code of 1986 is amended by striking chapter 2A.*

10 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 11 *section shall apply to taxable years beginning after Decem-*
 12 *ber 31, 2015.*

13 **SEC. 221. REMUNERATION.**

14 *Paragraph (6) of section 162(m) of the Internal Rev-*
 15 *enue Code of 1986 is amended by adding at the end the*
 16 *following new subparagraph:*

17 “(I) *TERMINATION.*—*This paragraph shall*
 18 *not apply to taxable years beginning after De-*
 19 *cember 31, 2015.”.*

20 **SEC. 222. ECONOMIC SUBSTANCE DOCTRINE.**

21 (a) *IN GENERAL.*—*Subsection (o) of section 7701 of*
 22 *the Internal Revenue Code of 1986 is repealed.*

23 (b) *PENALTY FOR UNDERPAYMENTS.*—*Paragraph (6)*
 24 *of section 6662(b) of the Internal Revenue Code of 1986 is*
 25 *repealed.*

1 (c) *INCREASED PENALTY FOR NONDISCLOSED TRANS-*
 2 *ACTIONS.*—*Subsection (i) of section 6662 of the Internal*
 3 *Revenue Code of 1986 is repealed.*

4 (d) *REASONABLE CAUSE EXCEPTION FOR UNDERPAY-*
 5 *MENTS.*—*Paragraph (2) of section 6664(c) of the Internal*
 6 *Revenue Code of 1986 is repealed.*

7 (e) *REASONABLE CAUSE EXCEPTION FOR NONDIS-*
 8 *CLOSED TRANSACTIONS.*—*Paragraph (2) of section 6664(d)*
 9 *of the Internal Revenue Code of 1986 is repealed.*

10 (f) *ERRONEOUS CLAIM FOR REFUND OR CREDIT.*—
 11 *Subsection (c) of section 6676 of the Internal Revenue Code*
 12 *of 1986 is repealed.*

13 (g) *EFFECTIVE DATE.*—*The repeals made by this sec-*
 14 *tion shall apply to transactions entered into, and to under-*
 15 *payments, understatements, or refunds and credits attrib-*
 16 *utable to transactions entered into, after December 31, 2015.*

17 **SEC. 223. BUDGETARY SAVINGS FOR EXTENDING MEDICARE**
 18 **SOLVENCY.**

19 *As a result of policies contained in this Act, the Sec-*
 20 *retary of the Treasury shall transfer to the Federal Hospital*
 21 *Insurance Trust Fund under section 1817 of the Social Se-*
 22 *curity Act (42 U.S.C. 1395i) \$379,300,000,000 (which rep-*
 23 *resents the full amount of on-budget savings during the pe-*

- 1 *riod of fiscal years 2016 through 2025) for extending Medi-*
- 2 *care solvency, to remain available until expended.*

Attest:

Secretary.

114TH CONGRESS
1ST SESSION

H.R. 3762

AMENDMENT