

119TH CONGRESS
1ST SESSION

S. _____

To provide for the establishment of Medicare part E public health plans,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To provide for the establishment of Medicare part E public
health plans, 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.**

4 This Act may be cited as the “Choose Medicare Act”.

5 **SEC. 2. PUBLIC HEALTH PLAN.**

6 (a) IN GENERAL.—The Social Security Act is amend-
7 ed by adding at the end the following:

8 “TITLE XXII—MEDICARE PART E PUBLIC HEALTH PLANS

9 “SEC. 2201. PUBLIC HEALTH PLANS.—

1 “(a) ESTABLISHMENT.—The Secretary shall estab-
2 lish public health plans (to be known as ‘Medicare part
3 E plans’) that are available in the individual market, small
4 group market, and large group market.

5 “(b) BENEFITS.—

6 “(1) IN GENERAL.—Each Medicare part E
7 plan, regardless of whether the plan is offered in the
8 individual market, small group market, or large
9 group market, shall be a qualified health plan within
10 the meaning of section 1301(a) of the Patient Pro-
11 tection and Affordable Care Act (42 U.S.C.
12 18021(a)) that—

13 “(A) meets all requirements applicable to
14 qualified health plans under subtitle D of title
15 I of the Patient Protection and Affordable Care
16 Act (42 U.S.C. 18021 et seq.) (other than the
17 requirement under section 1301(a)(1)(C)(ii) of
18 such Act) and title XXVII of the Public Health
19 Service Act (42 U.S.C. 300gg et seq.);

20 “(B) provides coverage of—

21 “(i) the essential health benefits de-
22 scribed in section 1302(b) of the Patient
23 Protection and Affordable Care Act (42
24 U.S.C. 18022(b)); and

1 “(ii) all items and services for which
2 benefits are available under title XVIII;

3 “(C) provides gold-level coverage described
4 in section 1302(d)(1)(C) of the Patient Protec-
5 tion and Affordable Care Act (42 U.S.C.
6 18022(d)(1)(C)); and

7 “(D) provides coverage of abortions and all
8 other reproductive services.

9 “(2) PREEMPTION.—Notwithstanding section
10 1303(a)(1) of the Patient Protection and Affordable
11 Care Act (42 U.S.C. 18023(a)(1))—

12 “(A) a State may not prohibit a Medicare
13 part E plan from offering the coverage de-
14 scribed in paragraph (1)(D); and

15 “(B) no provision of State law that would
16 prohibit such a plan from offering such cov-
17 erage shall apply to such plan.

18 “(c) ELIGIBILITY; ENROLLMENT.—

19 “(1) AVAILABILITY ON THE EXCHANGES.—The
20 Medicare part E plans offered in the individual and
21 small group markets shall be offered through the
22 Federal and State Exchanges, including the Small
23 Business Health Options Program Exchanges (com-
24 monly referred to as the ‘SHOP Exchanges’).

25 “(2) ELIGIBILITY.—

1 “(A) IN GENERAL.—Any individual who is
2 a resident of the United States, as determined
3 by the Secretary under subparagraph (C), and
4 who is not an individual described in subpara-
5 graph (B), is eligible to enroll in a Medicare
6 part E plan.

7 “(B) EXCLUSIONS.—An individual de-
8 scribed in this subparagraph is any individual
9 who is—

10 “(i) entitled to, or enrolled for, bene-
11 fits under title XVIII;

12 “(ii) eligible for medical assistance
13 under a State plan under title XIX; or

14 “(iii) enrolled for child health assist-
15 ance or pregnancy-related assistance under
16 a State plan under title XXI.

17 “(C) REGULATIONS.—The Secretary shall
18 promulgate a rule for determining residency for
19 purposes of subparagraph (A).

20 “(3) EMPLOYER-SPONSORED PLANS.—

21 “(A) EMPLOYER ENROLLMENT.—Effective
22 with respect to the first plan year that begins
23 1 year after the date of enactment of the
24 Choose Medicare Act and each plan year there-
25 after, the Secretary shall provide options for

1 Medicare part E plans in the small group mar-
2 ket and large group market that are voluntary,
3 and available to all employers.

4 “(B) GROUP HEALTH PLANS.—The Sec-
5 retary, acting through the Administrator for the
6 Centers for Medicare & Medicaid Services, at
7 the request of a plan sponsor, shall serve as a
8 third party administrator of a group health
9 plan that is a Medicare part E plan offered by
10 such sponsor.

11 “(C) PORTABILITY FOR EMPLOYER-SPON-
12 SORED PLANS.—The Secretary shall develop a
13 process for allowing individuals enrolled in a
14 Medicare part E plan offered in the small group
15 market or large group market to maintain
16 health insurance coverage through a Medicare
17 part E plan if the individual subsequently loses
18 eligibility for enrollment in such a plan based
19 on termination of the employment relationship.
20 The ability to maintain such coverage shall
21 exist regardless of whether the individual has
22 the option to enroll in other health insurance
23 coverage, including coverage offered in the indi-
24 vidual market or through a subsequent em-
25 ployer.

1 “(d) PREMIUMS.—The Secretary shall establish pre-
2 mium rates for the Medicare part E plans that—

3 “(1) are adjusted based on—

4 “(A) whether the plan is offered in the in-
5 dividual market, small group market, or large
6 group market; and

7 “(B) the applicable rating area;

8 “(2) are at a level sufficient to fully finance—

9 “(A) the costs of health benefits provided
10 by such plans; and

11 “(B) administrative costs related to oper-
12 ating the plans; and

13 “(3) comply with the requirements under sec-
14 tion 2701 of the Public Health Service Act (42
15 U.S.C. 300gg), including for such plans that are of-
16 fered in the large group market.

17 “(e) PROVIDERS AND REIMBURSEMENT RATES.—

18 “(1) IN GENERAL.—The Secretary shall estab-
19 lish a rate schedule for reimbursing types of health
20 care providers furnishing items and services under
21 the Medicare part E plans at rates that are con-
22 sistent with the negotiations described in paragraph
23 (2) and are necessary to maintain network adequacy.

24 “(2) MANNER OF NEGOTIATION.—The Sec-
25 retary shall negotiate the rates described in para-

1 graph (1) in a manner that results in payment rates
2 that are not lower, in the aggregate, than rates
3 under title XVIII, and not higher, in the aggregate,
4 than the average rates paid by other health insur-
5 ance issuers offering health insurance coverage
6 through an Exchange.

7 “(3) PARTICIPATING PROVIDERS.—

8 “(A) IN GENERAL.—A health care provider
9 that is a participating provider of services or
10 supplier under the Medicare program under
11 title XVIII on the date of enactment of the
12 Choose Medicare Act shall be a participating
13 provider for Medicare part E plans.

14 “(B) ADDITIONAL PROVIDERS.—The Sec-
15 retary shall establish a process to allow health
16 care providers not described in subparagraph
17 (A) to become participating providers for Medi-
18 care part E plans.

19 “(4) LIMITATIONS ON BALANCE BILLING.—The
20 limitations on balance billing pursuant to the provi-
21 sions of section 1866(a)(1)(A) shall apply to partici-
22 pating providers for Medicare part E plans in the
23 same manner as such provisions apply to partici-
24 pating providers under the Medicare program.

1 “(f) ENCOURAGING USE OF ALTERNATIVE PAYMENT
2 MODELS.—The Secretary shall, as applicable, utilize alter-
3 native payment models, including those described in sec-
4 tion 1833(z)(3)(C), in making payments for items and
5 services (including prescription drugs) furnished under
6 Medicare part E plans. The payment rates under such al-
7 ternative payment models shall comply with the require-
8 ment for negotiated rates under subsection (e)(2).

9 “(g) PRESCRIPTION DRUGS.—The Secretary shall
10 apply the provisions of part E of title XI to prescription
11 drugs under Medicare part E plans in the same manner
12 as such provisions apply with respect to selected drugs
13 under part E of title XI.

14 “(h) APPROPRIATIONS.—

15 “(1) START UP FUNDING.—For purposes of es-
16 tablishing the Medicare part E plans, there is appro-
17 priated to the Secretary, out of any funds in the
18 Treasury not otherwise obligated, \$2,000,000,000,
19 for fiscal year 2026.

20 “(2) INITIAL RESERVES.—There is appro-
21 priated to the Secretary, out of any funds in the
22 Treasury not otherwise obligated, such sums as may
23 be necessary, based on projected enrollment in the
24 Medicare part E plans in the first plan year in
25 which such plans are offered, to provide reserves for

1 the purpose of paying claims filed during the initial
2 90-day period of such plan year.

3 “(3) CLARIFICATION.—Any provision of law re-
4 stricting the use of Federal funds with respect to
5 any reproductive health service shall not apply to
6 funds appropriated under paragraph (1) or (2).

7 “(i) HEALTH INSURANCE ISSUER.—With respect to
8 any Medicare part E plan, the Secretary shall be consid-
9 ered a health insurance issuer, within the meaning of sec-
10 tion 2791(b) of the Public Health Service Act (42 U.S.C.
11 300gg–91(b)).”.

12 (b) APPLICATION OF EXCISE TAX FOR NONCOMPLI-
13 ANCE WITH NEGOTIATION REQUIREMENTS.—Section
14 5000D(e)(1) of the Internal Revenue Code of 1986 is
15 amended by adding at the end the following new sentence:
16 “Such term shall apply to any drug treated in the same
17 manner as a drug described in the preceding sentence by
18 reason of section 2201(g) of the Social Security Act.”.

19 **SEC. 3. NOTICE AND NAVIGATOR REFERRAL FOR EMPLOY-**
20 **EES UNDER THE FAIR LABOR STANDARDS**
21 **ACT OF 1938.**

22 (a) IN GENERAL.—Section 18B of the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 218b) is amended—

24 (1) in the heading, by striking “**TO**” and insert-
25 ing “**AND NAVIGATOR REFERRAL FOR**”;

1 (2) by redesignating subsection (b) as sub-
2 section (c);

3 (3) by inserting after subsection (a) the fol-
4 lowing:

5 “(b) NAVIGATOR REFERRAL.—

6 “(1) IN GENERAL.—An employer described in
7 paragraph (3) shall refer each employee who is a
8 full-time employee (as defined in section 4980H(c)
9 of the Internal Revenue Code of 1986) to—

10 “(A) an entity that serves as a navigator
11 under section 1311(i) of the Patient Protection
12 and Affordable Care Act (42 U.S.C. 18031(i))
13 for the Exchange operating in the State of the
14 employer; or

15 “(B) if the Exchange operating in the
16 State of the employer does not have an entity
17 serving as such a navigator, another entity that
18 shall carry out equivalent activities as such a
19 navigator.

20 “(2) REFERRAL.—The referral described in
21 paragraph (1) shall occur—

22 “(A) at the time the employer hires the
23 employee; or

24 “(B) on the effective date described in sub-
25 section (c)(2) with respect to an employee who

1 is currently employed by the employer on such
2 date.

3 “(3) EMPLOYER.—An employer described in
4 this paragraph is any employer that—

5 “(A) does not provide an eligible employer-
6 sponsored plan as defined in section
7 5000A(f)(2) of the Internal Revenue Code of
8 1986; or

9 “(B) provides such an eligible employer-
10 sponsored plan, but the plan is determined—

11 “(i) to be unaffordable to the em-
12 ployee under clause (i) of section
13 36B(c)(2)(C) of such Code; or

14 “(ii) to not provide the required min-
15 imum value under clause (ii) of such sec-
16 tion.”; and

17 (4) in subsection (c), as so redesignated—

18 (A) in the heading, by striking “EFFEC-
19 TIVE DATE” and inserting “EFFECTIVE
20 DATES”;

21 (B) by striking “Subsection (a)” and in-
22 serting the following:

23 “(1) NOTICE.—Subsection (a)”;

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

1 “(2) NAVIGATOR REFERRAL.—Subsection (b)
2 shall take effect with respect to employers in a State
3 beginning on the date that is 2 years after the date
4 of enactment of the Choose Medicare Act.”.

5 (b) STUDY.—Not later than January 1, 2030, the
6 Comptroller General of the United States shall conduct
7 a study on the impact of the requirements under section
8 18B of the Fair Labor Standards Act of 1938 (29 U.S.C.
9 218b), including the amendments made by subsection (a),
10 on the rate of individuals without minimum essential cov-
11 erage as defined in section 5000A(f) of the Internal Rev-
12 enue Code of 1986 in the United States and in each State.

13 (c) FUNDING FOR NAVIGATOR PROGRAM.—Section
14 1311(i)(6) of the Patient Protection and Affordable Care
15 Act (42 U.S.C. 18031(i)(6)) is amended—

16 (1) by striking “Grants” and inserting the fol-
17 lowing:

18 “(A) IN GENERAL.—Grants”; and

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

20 “(B) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There is authorized to be appropriated
22 such sums as may be necessary to address ca-
23 pacity limitations of entities serving as naviga-
24 tors through a grant under this subsection.”.

1 **SEC. 4. PROTECTING AGAINST HIGH OUT-OF-POCKET EX-**
2 **PENDITURES FOR MEDICARE FEE-FOR-SERV-**
3 **ICE BENEFITS.**

4 Title XVIII of the Social Security Act (42 U.S.C.
5 1395 et seq.) is amended by adding at the end the fol-
6 lowing new section:

7 “PROTECTION AGAINST HIGH OUT-OF-POCKET
8 EXPENDITURES

9 “SEC. 1899C. (a) IN GENERAL.—Notwithstanding
10 any other provision of this title, in the case of an indi-
11 vidual entitled to, or enrolled for, benefits under part A
12 or enrolled in part B, if the amount of the out-of-pocket
13 cost-sharing of such individual for a year (beginning with
14 2027) equals or exceeds the annual out-of-pocket limit
15 under subsection (b) for that year, the individual shall not
16 be responsible for additional out-of-pocket cost-sharing in-
17 curred during that year.

18 “(b) ANNUAL OUT-OF-POCKET LIMIT.—

19 “(1) IN GENERAL.—The amount of the annual
20 out-of-pocket limit under this subsection shall be—

21 “(A) for 2027, \$6,700; or

22 “(B) for a subsequent year, the amount
23 specified in this subsection for the preceding
24 year increased or decreased by the percentage
25 change in the medical care component of the
26 Consumer Price Index for All Urban Con-

1 sumers for the 12-month period ending with
2 June of such preceding year.

3 “(2) ROUNDING.—If any amount determined
4 under paragraph (1)(B) is not a multiple of \$5, such
5 amount shall be rounded to the nearest multiple of
6 \$5.

7 “(c) OUT-OF-POCKET COST-SHARING DEFINED.—

8 “(1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), in this section, the term ‘out-of-pocket cost-
10 sharing’ means, with respect to an individual, the
11 amount of the expenses incurred by the individual
12 that are attributable to—

13 “(A) deductibles, coinsurance, and copay-
14 ments applicable under part A or B; or

15 “(B) for items and services that would
16 have otherwise been covered under part A or B
17 but for the exhaustion of those benefits.

18 “(2) CERTAIN COSTS NOT INCLUDED.—

19 “(A) NON-COVERED ITEMS AND SERV-
20 ICES.—Expenses incurred for items and serv-
21 ices which are not covered under part A or B
22 shall not be considered incurred expenses for
23 purposes of determining out-of-pocket cost-
24 sharing under paragraph (1).

1 “(B) ITEMS AND SERVICES NOT FUR-
2 NISHED ON AN ASSIGNMENT-RELATED BASIS.—
3 If an item or service is furnished to an indi-
4 vidual under this title and is not furnished on
5 an assignment-related basis, any additional ex-
6 penses the individual incurs above the amount
7 the individual would have incurred if the item
8 or service was furnished on an assignment-re-
9 lated basis shall not be considered incurred ex-
10 penses for purposes of determining out-of-pock-
11 et cost-sharing under paragraph (1).

12 “(3) SOURCE OF PAYMENT.—For purposes of
13 paragraph (1), the Secretary shall consider expenses
14 to be incurred by the individual without regard to
15 whether the individual or another person, including
16 a State program, an employer, a medicare supple-
17 mental policy, or other third-party coverage, has
18 paid for such expenses.

19 “(d) ANNOUNCEMENT OF THE ANNUAL OUT-OF-
20 POCKET LIMIT.—The Secretary shall (beginning in 2026)
21 announce (in a manner intended to provide notice to all
22 interested parties) the annual out-of-pocket limit under
23 this section that will be applicable for the succeeding
24 year.”.

1 **SEC. 5. ENHANCEMENT OF PREMIUM ASSISTANCE CREDIT.**

2 (a) **USE OF GOLD LEVEL PLAN FOR BENCHMARK.—**

3 (1) **IN GENERAL.—**Clause (i) of section
4 36B(b)(2)(B) of the Internal Revenue Code of 1986
5 is amended by striking “applicable second lowest
6 cost silver plan” and inserting “applicable second
7 lowest cost gold plan”.

8 (2) **CONFORMING AMENDMENT RELATED TO**
9 **AFFORDABILITY.—**Section 36B(c)(4)(C)(i)(I) of
10 such Code is amended by striking “second lowest
11 cost silver plan” and inserting “second lowest cost
12 gold plan”.

13 (3) **OTHER CONFORMING AMENDMENTS.—**Sub-
14 paragraphs (B) and (C) of section 36B(b)(3) of such
15 Code are each amended by striking “silver plan”
16 each place it appears in the text and the heading
17 and inserting “gold plan”.

18 (b) **PERMANENT EXTENSION OF ELIGIBILITY**
19 **RULES.—**

20 (1) **IN GENERAL.—**Section 36B(c)(1) of the In-
21 ternal Revenue Code of 1986 is amended—

22 (A) in subparagraph (A), by striking “but
23 does not exceed 400 percent”, and

24 (B) by striking subparagraph (E).

25 (2) **DETERMINATION OF APPLICABLE PERCENT-**
26 **AGE.—**Subparagraph (A) of section 36B(b)(3) of

1 such Code is amended by striking all that precedes
2 the table in clause (iii)(II) and inserting the fol-
3 lowing:

4 “(A) APPLICABLE PERCENTAGE.—For
5 purposes of paragraph (2), except as provided
6 in clause (ii), the applicable percentage for any
7 taxable year shall be the percentage such that
8 the applicable percentage for any taxpayer
9 whose household income is within an income
10 tier specified in the following table shall in-
11 crease, on a sliding scale in a linear manner,
12 from the initial premium percentage to the final
13 premium percentage specified in such table for
14 such income tier:”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2025.

18 **SEC. 6. ENHANCEMENTS FOR REDUCED COST SHARING.**

19 (a) DEFINITION OF ELIGIBLE INDIVIDUAL.—Section
20 1402(b)(1) of the Patient Protection and Affordable Care
21 Act (42 U.S.C. 18071(b)(1)) is amended by striking “sil-
22 ver level” and inserting “gold level”.

23 (b) MODIFICATION OF AMOUNT.—

1 (1) IN GENERAL.—Section 1402(c)(2) of the
2 Patient Protection and Affordable Care Act is
3 amended to read as follows:

4 “(2) ADDITIONAL REDUCTION.—The Secretary
5 shall establish procedures under which the issuer of
6 a qualified health plan to which this section applies
7 shall further reduce cost-sharing under the plan in
8 a manner sufficient to—

9 “(A) in the case of an eligible insured
10 whose household income is not less than 100
11 percent but not more than 133 percent of the
12 poverty line for a family of the size involved, in-
13 crease the plan’s share of the total allowed
14 costs of benefits provided under the plan to 94
15 percent of such costs;

16 “(B) in the case of an eligible insured
17 whose household income is more than 133 per-
18 cent but not more than 150 percent of the pov-
19 erty line for a family of the size involved, in-
20 crease the plan’s share of the total allowed
21 costs of benefits provided under the plan to 92
22 percent of such costs;

23 “(C) in the case of an eligible insured
24 whose household income is more than 150 per-
25 cent but not more than 200 percent of the pov-

1 erty line for a family of the size involved, in-
2 crease the plan’s share of the total allowed
3 costs of benefits provided under the plan to 90
4 percent of such costs;

5 “(D) in the case of an eligible insured
6 whose household income is more than 200 per-
7 cent but not more than 300 percent of the pov-
8 erty line for a family of the size involved, in-
9 crease the plan’s share of the total allowed
10 costs of benefits provided under the plan to 85
11 percent of such costs; and

12 “(E) in the case of an eligible insured
13 whose household income is more than 300 per-
14 cent but not more than 400 percent of the pov-
15 erty line for a family of the size involved, in-
16 crease the plan’s share of the total allowed
17 costs of benefits provided under the plan to 80
18 percent of such costs.”.

19 (2) CONFORMING AMENDMENT.—Clause (i) of
20 section 1402(c)(1)(B) of such Act is amended to
21 read as follows:

22 “(i) IN GENERAL.—The Secretary
23 shall ensure the reduction under this para-
24 graph shall not result in an increase in the

1 plan's share of the total allowed costs of
2 benefits provided under the plan above—

3 “(I) 94 percent in the case of an
4 eligible insured described in para-
5 graph (2)(A);

6 “(II) 92 percent in the case of an
7 eligible insured described in para-
8 graph (2)(B);

9 “(III) 90 percent in the case of
10 an eligible insured described in para-
11 graph (2)(C);

12 “(IV) 85 percent in the case of
13 an eligible insured described in para-
14 graph (2)(D); and

15 “(V) 80 percent in the case of an
16 eligible insured described in para-
17 graph (2)(E).”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to plan years beginning after De-
20 cember 31, 2025.

21 **SEC. 7. REINSURANCE AND AFFORDABILITY FUND.**

22 Part 5 of subtitle D of title I of the Patient Protec-
23 tion and Affordable Care Act is amended by inserting
24 after section 1341 (42 U.S.C. 18061) the following:

1 **“SEC. 1341A. REINSURANCE AND AFFORDABILITY FUND**
2 **FOR THE INDIVIDUAL MARKET IN EACH**
3 **STATE.**

4 “(a) IN GENERAL.—The Secretary, in consultation
5 with the National Association of Insurance Commis-
6 sioners, shall establish a program to enable each State,
7 for any plan year beginning in the 3-year period beginning
8 January 1, 2026, to—

9 “(1) provide reinsurance payments to health in-
10 surance issuers with respect to individuals enrolled
11 under individual health insurance coverage offered
12 by such issuers; or

13 “(2) provide assistance (other than through
14 payments described in paragraph (1)) to reduce out-
15 of-pocket costs, such as copayments, coinsurance,
16 premiums, and deductibles, of individuals enrolled
17 under qualified health plans offered in the individual
18 market through an Exchange.

19 “(b) APPROPRIATIONS.—There is appropriated, out
20 of any money in the Treasury not otherwise appropriated,
21 \$30,000,000,000 for the period of fiscal years 2026 to
22 2028 for purposes of establishing and administering the
23 program established under this section. Such amount shall
24 remain available until expended.”.

1 **SEC. 8. EXPANDING RATING RULES TO LARGE GROUP MAR-**
2 **KET.**

3 (a) **IN GENERAL.**—Section 2701(a) of the Public
4 Health Service Act (42 U.S.C. 300gg(a)) is amended—

5 (1) in paragraph (1), by striking “small”; and
6 (2) by striking paragraph (5).

7 (b) **EFFECTIVE DATE.**—The amendments made by
8 subsection (a) shall apply to plans offered in the first plan
9 year beginning after the date of enactment of this Act and
10 any plan year thereafter.

11 **SEC. 9. PROTECTION OF CONSUMERS FROM EXCESSIVE,**
12 **UNJUSTIFIED, OR UNFAIRLY DISCRIMINA-**
13 **TORY RATES.**

14 (a) **PROTECTION FROM EXCESSIVE, UNJUSTIFIED,**
15 **OR UNFAIRLY DISCRIMINATORY RATES.**—Section 2794 of
16 the Public Health Service Act (42 U.S.C. 300gg–94) is
17 amended by adding at the end the following new sub-
18 section:

19 “(e) **PROTECTION FROM EXCESSIVE, UNJUSTIFIED,**
20 **OR UNFAIRLY DISCRIMINATORY RATES.**—

21 “(1) **AUTHORITY OF STATES.**—Nothing in this
22 section shall be construed to prohibit a State from
23 imposing requirements (including requirements re-
24 lating to rate review standards and procedures and
25 information reporting) on health insurance issuers
26 with respect to rates that are in addition to the re-

1 requirements of this section and are more protective of
2 consumers than such requirements.

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

7 “(3) DETERMINATION OF WHO CONDUCTS RE-
8 VIEWS FOR EACH STATE.—The Secretary shall de-
9 termine, after the date of enactment of this sub-
10 section and periodically thereafter, the following:

11 “(A) In which markets in each State the
12 State insurance commissioner or relevant State
13 regulator shall undertake the corrective actions
14 under paragraph (4), based on the Secretary’s
15 determination that the State insurance commis-
16 sioner or relevant State regulator is adequately
17 undertaking and utilizing such actions in that
18 market.

19 “(B) In which markets in each State the
20 Secretary shall undertake the corrective actions
21 under paragraph (4), in cooperation with the
22 relevant State insurance commissioner or State
23 regulator, based on the Secretary’s determina-
24 tion that the State is not adequately under-

1 taking and utilizing such actions in that mar-
2 ket.

3 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
4 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
5 RATES.—In accordance with the process established
6 under this section, the Secretary or the relevant
7 State insurance commissioner or State regulator
8 shall take corrective actions to ensure that any ex-
9 cessive, unjustified, or unfairly discriminatory rates
10 are corrected prior to implementation, or as soon as
11 possible thereafter, through mechanisms such as—

12 “(A) denying rates;

13 “(B) modifying rates; or

14 “(C) requiring rebates to consumers.

15 “(5) NONCOMPLIANCE.—

16 “(A) IN GENERAL.—Failure to comply
17 with any corrective action taken by the Sec-
18 retary under this subsection may result in the
19 application of civil monetary penalties described
20 in subparagraph (B) and, if the Secretary de-
21 termines appropriate, make the plan involved
22 ineligible for classification as a qualified health
23 plan.

24 “(B) CIVIL MONETARY PENALTIES.—

1 “(i) IN GENERAL.—The provisions of
2 section 1128A of the Social Security Act,
3 other than subsection (a) and (b) and the
4 first sentence of subsection (c)(1) of such
5 section, shall apply to civil monetary pen-
6 alties under this paragraph in the same
7 manner as such provisions apply to a pen-
8 alty or proceeding under section 1128A of
9 the Social Security Act.

10 “(ii) AMOUNT.—The provisions of
11 subparagraph (C) of section 2723(b)(2)
12 shall apply to civil monetary penalties
13 under this paragraph in the same manner
14 as such provisions apply to a penalty under
15 such section.”.

16 (b) CLARIFICATION OF REGULATORY AUTHORITY.—
17 Section 2794 of the Public Health Service Act (42 U.S.C.
18 300gg-94) is further amended—

19 (1) in subsection (a)—

20 (A) in the subsection heading, by striking
21 “PREMIUM” and inserting “RATE”;

22 (B) in paragraph (1), by striking “unrea-
23 sonable increases in premiums” and inserting
24 “potentially excessive, unjustified, or unfairly
25 discriminatory rates, including premiums,”; and

1 (C) in paragraph (2)—

2 (i) by striking “an unreasonable pre-
3 mium increase” and inserting “a poten-
4 tially excessive, unjustified, or unfairly dis-
5 criminatory rate”;

6 (ii) by striking “the increase” and in-
7 serting “the rate”; and

8 (iii) by striking “such increases” and
9 inserting “such rates”; and

10 (2) in subsection (b)—

11 (A) in the subsection heading, by striking
12 “PREMIUM” and inserting “RATE”;

13 (B) by striking “premium increases” each
14 place it appears and inserting “rates”;

15 (C) in paragraph (1)—

16 (i) in the paragraph heading, by strik-
17 ing “PREMIUM INCREASE” and inserting
18 “RATE”; and

19 (ii) in subparagraph (B), by striking
20 “excessive or unjustified” and inserting
21 “excessive, unjustified, or unfairly discrimi-
22 natory”; and

23 (D) in paragraph (2)—

1 (i) in the paragraph heading, by strik-
2 ing “PREMIUM INCREASES” and inserting
3 “RATES”; and

4 (ii) in subparagraph (B), by striking
5 “premium” and inserting “rate”.

6 (c) CONFORMING AMENDMENT.—Section 1311(e)(2)
7 of the Patient Protection and Affordable Care Act (42
8 U.S.C. 18031(e)(2)) is amended by striking “excessive or
9 unjustified premium increases” and inserting “excessive,
10 unjustified, or unfairly discriminatory rates”.

11 (d) APPLICABILITY TO GRANDFATHERED HEALTH
12 PLANS.—Section 1251(a)(5) of the Patient Protection
13 and Affordable Care Act (42 U.S.C. 18011(a)(5)) is
14 amended—

15 (1) by striking “Sections 2799A–1” and insert-
16 ing the following:

17 “(A) IN GENERAL.—Sections 2799A–1”;

18 and

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

20 “(B) ENSURING THAT CONSUMERS GET
21 VALUE FOR THEIR DOLLARS.—Section 2794 of
22 the Public Health Service Act shall apply to
23 grandfathered health plans for plan years be-
24 ginning on or after January 1, 2026.”.

1 (e) **EFFECTIVE DATE.**—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act and shall be implemented with respect to health
4 plans beginning not later than January 1, 2026.

5 **SEC. 10. SENSE OF CONGRESS.**

6 It is the sense of the Congress that—

7 (1) the Federal Government, acting in its ca-
8 capacity as an insurer, employer, or health care pro-
9 vider, should serve as a model for the Nation to en-
10 sure coverage of all reproductive services; and

11 (2) all restrictions on coverage of reproductive
12 services in the private insurance market should end.