

115TH CONGRESS
1ST SESSION

S. 554

To provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2017.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2017

Mr. PAUL (for himself and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2017.

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

3 **TITLE I—HEALTH, EDUCATION,**
4 **LABOR, AND PENSIONS**

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

6 (a) IN GENERAL.—Subsection (b) of section 4002 of
7 the Patient Protection and Affordable Care Act (42
8 U.S.C. 300u–11) is amended by striking paragraphs (3)
9 through (8).

(b) RESCISSION OF UNOBLIGATED FUNDS.—Of the funds made available by such section 4002, the unobligated balance is rescinded.

SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.

Effective as if included in the enactment of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10, 129; Stat. 87), paragraph (1) of section 221(a) of such Act is amended by inserting “, an additional \$235,000,000 for fiscal year 2017, and \$235,000,000 for fiscal year 2018” after “through 2017”.

SEC. 103. REINSURANCE, RISK CORRIDOR, AND RISK ADJUSTMENT PROGRAMS.

(a) TRANSITIONAL REINSURANCE PROGRAM FOR INDIVIDUAL MARKET.—Section 1341 of the Patient Protection and Affordable Care Act (42 U.S.C. 18061) is amended by adding at the end the following:

“(e) NO FORCE AND EFFECT.—Effective January 1, 2018, the Secretary shall not make payments under this section.”.

SEC. 104. SUPPORT FOR STATE RESPONSE TO SUBSTANCE ABUSE PUBLIC HEALTH CRISIS AND URGENT MENTAL HEALTH NEEDS.

(a) IN GENERAL.—There are authorized to be appropriated, and are appropriated, out of monies in the Treasury not otherwise obligated, \$750,000,000 for each of fis-

1 cal years 2018 and 2019, to the Secretary of Health and
 2 Human Services (referred to in this section as the “Sec-
 3 retary”) to award grants to States to address the sub-
 4 stance abuse public health crisis or to respond to urgent
 5 mental health needs within the State. In awarding grants
 6 under this section, the Secretary may give preference to
 7 States with an incidence or prevalence of substance use
 8 disorders that is substantial relative to other States or to
 9 States that identify mental health needs within their com-
 10 munities that are urgent relative to such needs of other
 11 States. Funds appropriated under this subsection shall re-
 12 main available until expended.

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

16 (1) Improving State prescription drug moni-
 17 toring programs.

18 (2) Implementing prevention activities, and
 19 evaluating such activities to identify effective strate-
 20 gies to prevent substance abuse.

21 (3) Training for health care practitioners, such
 22 as best practices for prescribing opioids, pain man-
 23 agement, recognizing potential cases of substance
 24 abuse, referral of patients to treatment programs,
 25 and overdose prevention.

1 (4) Supporting access to health care services
 2 provided by federally certified opioid treatment pro-
 3 grams or other appropriate health care providers to
 4 treat substance use disorders or mental health
 5 needs.

6 (5) Other public health-related activities, as the
 7 State determines appropriate, related to addressing
 8 the substance abuse public health crisis or respond-
 9 ing to urgent mental health needs within the State.

10 **TITLE II—FINANCE**

11 **SEC. 201. RECAPTURE EXCESS ADVANCE PAYMENTS OF** 12 **PREMIUM TAX CREDITS.**

13 Subparagraph (B) of section 36B(f)(2) of the Inter-
 14 nal Revenue Code of 1986 is amended by adding at the
 15 end the following new clause:

16 “(iii) NONAPPLICABILITY OF LIMITA-
 17 TION.—This subparagraph shall not apply
 18 to taxable years ending after December 31,
 19 2017, and before January 1, 2020.”.

20 **SEC. 202. PREMIUM TAX CREDIT AND COST-SHARING SUB-** 21 **SIDIES.**

22 (a) REPEAL OF PREMIUM TAX CREDIT.—Subpart C
 23 of part IV of subchapter A of chapter 1 of the Internal
 24 Revenue Code of 1986 is amended by striking section
 25 36B.

1 (b) REPEAL OF COST-SHARING SUBSIDY.—Section
 2 1402 of the Patient Protection and Affordable Care Act
 3 is repealed.

4 (c) REPEAL OF ELIGIBILITY DETERMINATIONS.—
 5 The following sections of the Patient Protection and Af-
 6 fordable Care Act are repealed:

7 (1) Section 1411 (other than subsection (i), the
 8 last sentence of subsection (e)(4)(A)(ii), and such
 9 provisions of such section solely to the extent related
 10 to the application of the last sentence of subsection
 11 (e)(4)(A)(ii)).

12 (2) Section 1412.

13 (d) PROTECTING AMERICANS BY REPEAL OF DIS-
 14 CLOSURE AUTHORITY TO CARRY OUT ELIGIBILITY RE-
 15 QUIREMENTS FOR CERTAIN PROGRAMS.—

16 (1) IN GENERAL.—Paragraph (21) of section
 17 6103(l) of the Internal Revenue Code of 1986 is
 18 amended by adding at the end the following new
 19 subparagraph:

20 “(D) TERMINATION.—No disclosure may
 21 be made under this paragraph after December
 22 31, 2019.”.

23 (e) EFFECTIVE DATES.—

1 (1) PREMIUM TAX CREDIT.—The amendment
2 made by subsection (a) shall apply to taxable years
3 beginning after December 31, 2019.

4 (2) COST SHARING-SUBSIDIES AND ELIGIBILITY
5 DETERMINATIONS.—The repeals in subsection (b)
6 and (c) shall take effect on December 31, 2019.

7 (3) PROTECTING AMERICANS BY RESCINDING
8 DISCLOSURE AUTHORITY.—The amendments made
9 by subsection (d) shall take effect on December 31,
10 2019.

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

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

15 “(j) SHALL NOT APPLY.—This section shall not
16 apply with respect to amounts paid or incurred in taxable
17 years beginning after December 31, 2019.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to amounts paid or incurred in tax-
20 able years beginning after December 31, 2019.

21 **SEC. 204. INDIVIDUAL MANDATE.**

22 (a) IN GENERAL.—Section 5000A(c) of the Internal
23 Revenue Code of 1986 is amended—

24 (1) in paragraph (2)(B)—

1 (A) by striking “after 2015” in clause (iii)
 2 and inserting “in 2016”, and

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

5 “(iv) Zero percent for taxable years
 6 beginning after 2016.”, and

7 (2) in paragraph (3)—

8 (A) by striking “\$695” in subparagraph
 9 (A) and inserting “\$0”,

10 (B) by striking “and \$325 for 2014” in
 11 subparagraph (B) and inserting “, \$325, for
 12 2014, and \$695 for 2016”, and

13 (C) by striking subparagraph (D).

14 (b) **EFFECTIVE DATE.**—The amendments made by
 15 this section shall apply to months beginning after Decem-
 16 ber 31, 2016.

17 **SEC. 205. EMPLOYER MANDATE.**

18 (a) **IN GENERAL.**—

19 (1) Paragraph (1) of section 4980H(c) of the
 20 Internal Revenue Code of 1986 is amended by in-
 21 serting “(\$0 in the case of months beginning after
 22 December 31, 2016)” after “\$2,000”.

23 (2) Paragraph (1) of section 4980H(b) of the
 24 Internal Revenue Code of 1986 is amended by in-

1 serting “(\$0 in the case of months beginning after
2 December 31, 2016)” after “\$3,000”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to months beginning after Decem-
5 ber 31, 2016.

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

7 (a) IN GENERAL.—Notwithstanding section 504(a),
8 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or
9 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),
10 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4),
11 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Med-
12 icaid waiver in effect on the date of enactment of this Act
13 that is approved under section 1115 or 1915 of the Social
14 Security Act (42 U.S.C. 1315, 1396n), for the 1-year pe-
15 riod beginning on the date of enactment of this Act, no
16 Federal funds provided from a program referred to in this
17 subsection that is considered direct spending for any year
18 may be made available to a State for payments to a pro-
19 hibited entity, whether made directly to the prohibited en-
20 tity or through a managed care organization under con-
21 tract with the State.

22 (b) DEFINITIONS.—In this section:

23 (1) PROHIBITED ENTITY.—The term “prohib-
24 ited entity” means an entity, including its affiliates,
25 subsidiaries, successors, and clinics—

1 (A) that, as of the date of enactment of
2 this Act—

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

7 (ii) is an essential community provider
8 described in section 156.235 of title 45,
9 Code of Federal Regulations (as in effect
10 on the date of enactment of this Act), that
11 is primarily engaged in family planning
12 services, reproductive health, and related
13 medical care; and

14 (iii) provides for abortions, other than
15 an abortion—

16 (I) if the pregnancy is the result
17 of an act of rape or incest; or

18 (II) in the case where a woman
19 suffers from a physical disorder, phys-
20 ical injury, or physical illness that
21 would, as certified by a physician,
22 place the woman in danger of death
23 unless an abortion is performed, in-
24 cluding a life-endangering physical

1 condition caused by or arising from
 2 the pregnancy itself; and

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

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

17 **SEC. 207. MEDICAID.**

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

20 (1) in section 1902—

21 (A) in subsection (a)(10)(A), in each of
 22 clauses (i)(VIII) and (ii)(XX), by inserting
 23 “and ending December 31, 2019,” after “Janu-
 24 ary 1, 2014,”;

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

6 (C) in subsection (l)(2)(C), by inserting
 7 “and ending December 31, 2019,” after “Janu-
 8 ary 1, 2014,”;
 9 (2) in section 1905—

10 (A) in the first sentence of subsection (b),
 11 by inserting “(50 percent on or after January
 12 1, 2020)” after “55 percent”;

13 (B) in subsection (y)(1), by striking the
 14 semicolon at the end of subparagraph (D) and
 15 all that follows through “thereafter”; and

16 (C) in subsection (z)(2)—

17 (i) in subparagraph (A), by striking
 18 “each year thereafter” and inserting
 19 “through 2019”; and

20 (ii) in subparagraph (B)(ii)(VI), by
 21 striking “and each subsequent year”;

22 (3) in section 1915(k)(2), by striking “during
 23 the period described in paragraph (1)” and inserting
 24 “on or after the date referred to in paragraph (1)
 25 and before January 1, 2020”;

1 (4) in section 1920(e), by adding at the end the
 2 following: “This subsection shall not apply after De-
 3 cember 31, 2019.”;

4 (5) in section 1937(b)(5), by adding at the end
 5 the following: “This paragraph shall not apply after
 6 December 31, 2019.”; and

7 (6) in section 1943(a), by inserting “and before
 8 January 1, 2020,” after “January 1, 2014,”.

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

10 Section 1923(f) of the Social Security Act (42 U.S.C.
 11 1396r-4(f)) is amended by striking paragraphs (7) and
 12 (8).

13 **SEC. 209. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
 14 **SURANCE PREMIUMS AND HEALTH PLAN**
 15 **BENEFITS.**

16 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
 17 enue Code of 1986 is amended by striking section 4980I.

18 (b) EFFECTIVE DATE.—The amendment made by
 19 subsection (a) shall apply to taxable years beginning after
 20 December 31, 2019.

21 **SEC. 210. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
 22 **TIONS.**

23 (a) HSAs.—Subparagraph (A) of section 223(d)(2)
 24 of the Internal Revenue Code of 1986 is amended by strik-
 25 ing “Such term” and all that follows through the period.

1 (b) ARCHER MSAS.—Subparagraph (A) of section
 2 220(d)(2) of the Internal Revenue Code of 1986 is amend-
 3 ed by striking “Such term” and all that follows through
 4 the period.

5 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
 6 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
 7 tion 106 of the Internal Revenue Code of 1986 is amended
 8 by striking subsection (f).

9 (d) EFFECTIVE DATES.—

10 (1) DISTRIBUTIONS FROM SAVINGS AC-
 11 COUNTS.—The amendments made by subsections (a)
 12 and (b) shall apply to amounts paid with respect to
 13 taxable years beginning after December 31, 2017.

14 (2) REIMBURSEMENTS.—The amendment made
 15 by subsection (c) shall apply to expenses incurred
 16 with respect to taxable years beginning after Decem-
 17 ber 31, 2017.

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

19 (a) HSAs.—Section 223(f)(4)(A) of the Internal
 20 Revenue Code of 1986 is amended by striking “20 per-
 21 cent” and inserting “10 percent”.

22 (b) ARCHER MSAS.—Section 220(f)(4)(A) of the In-
 23 ternal Revenue Code of 1986 is amended by striking “20
 24 percent” and inserting “15 percent”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions made after Decem-
 3 ber 31, 2017.

4 **SEC. 212. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
 5 **FLEXIBLE SPENDING ACCOUNTS.**

6 (a) IN GENERAL.—Section 125 of the Internal Rev-
 7 enue Code of 1986 is amended by striking subsection (i).

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 2017.

11 **SEC. 213. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
 12 **TIONS.**

13 Subsection (j) of section 9008 of the Patient Protec-
 14 tion and Affordable Care Act is amended to read as fol-
 15 lows:

16 “(j) REPEAL.—This section shall apply to calendar
 17 years beginning after December 31, 2010, and ending be-
 18 fore January 1, 2018.”.

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

20 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
 21 enue Code of 1986 is amended by striking subchapter E.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall apply to sales in calendar quarters begin-
 24 ning after December 31, 2017.

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

2 Subsection (j) of section 9010 of the Patient Protec-
3 tion and Affordable Care Act is amended to read as fol-
4 lows:

5 “(j) REPEAL.—This section shall apply to calendar
6 years beginning after December 31, 2013, and ending be-
7 fore January 1, 2017.”.

8 **SEC. 216. REPEAL OF ELIMINATION OF DEDUCTION FOR**
9 **EXPENSES ALLOCABLE TO MEDICARE PART D**
10 **SUBSIDY.**

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

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2017.

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

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

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxable years beginning after
26 December 31, 2017.

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

2 (a) IN GENERAL.—Subsection (b) of section 3101 of
3 the Internal Revenue Code of 1986 is amended to read
4 as follows:

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

11 (b) SECA.—Subsection (b) of section 1401 of the In-
12 ternal Revenue Code of 1986 is amended to read as fol-
13 lows:

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to remuneration re-
22 ceived after, and taxable years beginning after, December
23 31, 2017.

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

25 (a) IN GENERAL.—The Internal Revenue Code of
26 1986 is amended by striking chapter 49.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to services performed on or after
 3 December 31, 2017.

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

5 (a) IN GENERAL.—Subtitle A of the Internal Rev-
 6 enue Code of 1986 is amended by striking chapter 2A.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 2017.

10 **SEC. 221. REMUNERATION.**

11 Paragraph (6) of section 162(m) of the Internal Rev-
 12 enue Code of 1986 is amended by adding at the end the
 13 following new subparagraph:

14 “(I) TERMINATION.—This paragraph shall
 15 not apply to taxable years beginning after De-
 16 cember 31, 2017.”.

17 **SEC. 222. ECONOMIC SUBSTANCE DOCTRINE.**

18 (a) IN GENERAL.—Subsection (o) of section 7701 of
 19 the Internal Revenue Code of 1986 is repealed.

20 (b) PENALTY FOR UNDERPAYMENTS.—Paragraph
 21 (6) of section 6662(b) of the Internal Revenue Code of
 22 1986 is repealed.

23 (c) INCREASED PENALTY FOR NONDISCLOSED
 24 TRANSACTIONS.—Subsection (i) of section 6662 of the In-
 25 ternal Revenue Code of 1986 is repealed.

1 (d) REASONABLE CAUSE EXCEPTION FOR UNDER-
 2 PAYMENTS.—Paragraph (2) of section 6664(c) of the In-
 3 ternal Revenue Code of 1986 is repealed.

4 (e) REASONABLE CAUSE EXCEPTION FOR NONDIS-
 5 CLOSED TRANSACTIONS.—Paragraph (2) of section
 6 6664(d) of the Internal Revenue Code of 1986 is repealed.

7 (f) ERRONEOUS CLAIM FOR REFUND OR CREDIT.—
 8 Subsection (c) of section 6676 of the Internal Revenue
 9 Code of 1986 is repealed.

10 (g) EFFECTIVE DATE.—The repeals made by this
 11 section shall apply to transactions entered into, and to un-
 12 derpayments, understatements, or refunds and credits at-
 13 tributable to transactions entered into, after December 31,
 14 2017.

15 **SEC. 223. BUDGETARY SAVINGS FOR EXTENDING MEDI-**
 16 **CARE SOLVENCY.**

17 As a result of policies contained in this Act, the Sec-
 18 retary of the Treasury shall transfer to the Federal Hos-
 19 pital Insurance Trust Fund under section 1817 of the So-
 20 cial Security Act (42 U.S.C. 1395i) \$379,300,000,000
 21 (which represents the full amount of on-budget savings
 22 during the period of fiscal years 2018 through 2027) for
 23 extending Medicare solvency, to remain available until ex-
 24 pended.

○