

117TH CONGRESS
1ST SESSION

S. 1228

To provide for equitable treatment for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2021

Mr. SANDERS (for himself, Ms. WARREN, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for equitable treatment for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

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 “Territorial Equity Act of 2021”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH EQUITY FOR THE TERRITORIES

Subtitle A—Medicaid

- Sec. 101. Elimination of general Medicaid funding limitations (“cap”) for territories.
- Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories; temporary increase in FMAP for Puerto Rico and the Virgin Islands to 100 percent.
- Sec. 103. Application of Medicaid waiver authority to all of the territories.
- Sec. 104. Permitting Medicaid DSH allotments for territories.

Subtitle B—Medicare Part A

- Sec. 111. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.
- Sec. 112. Rebasing target amount for hospitals in territories.
- Sec. 113. Medicare DSH target adjustment for hospitals in territories.

Subtitle C—Medicare Part B

- Sec. 121. Application of part B deemed enrollment process to residents of Puerto Rico; special enrollment period and limit on late enrollment penalties.

Subtitle D—Medicare Advantage (Part C)

- Sec. 131. Adjustment in benchmark for low-base payment counties in Puerto Rico.

Subtitle E—Medicare Part D

- Sec. 141. Improved use of allocated prescription drug funds by territories.
- Sec. 142. Report on treatment of territories under Medicare part D.

Subtitle F—Miscellaneous

- Sec. 151. Medicaid and CHIP territory transparency and information.
- Sec. 152. Report on exclusion of territories from Exchanges.
- Sec. 153. Access to coverage for individuals in certain areas without any available Exchange plans.

TITLE II—INCLUSION OF THE TERRITORIES IN THE SUPPLEMENTAL NUTRITIONAL ASSISTANCE PROGRAM

- Sec. 201. Participation and transition of Puerto Rico, American Samoa, and the Northern Mariana Islands in supplemental nutrition assistance program.

TITLE III—EQUITABLE TREATMENT FOR PUERTO RICO AND THE VIRGIN ISLANDS WITH RESPECT TO TAX CREDITS

- Sec. 301. Equitable treatment for residents of Puerto Rico and the Virgin Islands with respect to the earned income tax credit and the child tax credit.

TITLE IV—LABOR EQUITY FOR PUERTO RICO

- Sec. 401. Minimum wage for young employees in Puerto Rico.
- Sec. 402. Overtime hours protections for workers in Puerto Rico.

TITLE V—EXTENSION OF SUPPLEMENTAL SECURITY INCOME
(SSI) PROGRAM TO ALL TERRITORIES

Sec. 501. Extension of SSI program to all territories.

1 TITLE I—HEALTH EQUITY FOR
2 THE TERRITORIES
3 Subtitle A—Medicaid

4 SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING
5 LIMITATIONS (“CAP”) FOR TERRITORIES.

6 (a) IN GENERAL.—Section 1108 of the Social Secu-
7 rity Act (42 U.S.C. 1308) is amended—

8 (1) in subsection (f), in the matter preceding
9 paragraph (1), by striking “and (h)” and inserting
10 “(h), and (i)”;

11 (2) in subsection (g)(2), in the matter pre-
12 ceding subparagraph (A), by inserting “subsection
13 (i),” after “subject to”; and

14 (3) by adding at the end the following new sub-
15 section:

16 “(i) SUNSET OF MEDICAID FUNDING LIMITATIONS
17 FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE
18 NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—
19 Subsections (f) and (g) shall not apply to Puerto Rico,
20 the Virgin Islands, Guam, the Northern Mariana Islands,
21 and American Samoa beginning with fiscal year 2022.”.

22 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1902(j) of the Social Security Act
 2 (42 U.S.C. 1396a(j)) is amended by striking “, the
 3 limitation in section 1108(f),”.

4 (2) Section 1903(u) of the Social Security Act
 5 (42 U.S.C. 1396b(u)) is amended by striking para-
 6 graph (4).

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply beginning with fiscal year 2022.

9 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**
 10 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**
 11 **TION FOR TERRITORIES; TEMPORARY IN-**
 12 **CREASE IN FMAP FOR PUERTO RICO AND**
 13 **THE VIRGIN ISLANDS TO 100 PERCENT.**

14 Section 1905(b) of the Social Security Act (42 U.S.C.
 15 1396d(b)) is amended—

16 (1) in clause (2), by inserting “for fiscal years
 17 before fiscal year 2022” after “American Samoa”;
 18 and

19 (2) by adding at the end the following new sen-
 20 tence: “Notwithstanding the first sentence of this
 21 subsection, for each of fiscal years 2022 and 2023,
 22 the Federal medical assistance percentage for Puerto
 23 Rico and the Virgin Islands shall be 100 percent.”.

1 **SEC. 103. APPLICATION OF MEDICAID WAIVER AUTHORITY**
2 **TO ALL OF THE TERRITORIES.**

3 (a) IN GENERAL.—Section 1902(j) of the Social Se-
4 curity Act (42 U.S.C. 1396a(j)) is amended—

5 (1) by striking “American Samoa and the
6 Northern Mariana Islands” and inserting “Puerto
7 Rico, the Virgin Islands, Guam, the Northern Mar-
8 iana Islands, and American Samoa”;

9 (2) by striking “American Samoa or the North-
10 ern Mariana Islands” and inserting “Puerto Rico,
11 the Virgin Islands, Guam, the Northern Mariana Is-
12 lands, or American Samoa”;

13 (3) by inserting “(1)” before “Notwith-
14 standing”;

15 (4) by inserting “except as otherwise provided
16 in this subsection,” after “Notwithstanding any
17 other requirement of this title”; and

18 (5) by adding at the end the following:

19 “(2) The Secretary may not waive under this sub-
20 section—

21 “(A) the requirement of subsection
22 (a)(10)(A)(i)(IX) (relating to coverage of adults for-
23 merly under foster care) with respect to any terri-
24 tory;

25 “(B) the requirement to provide medical assist-
26 ance for early and periodic screening, diagnostic,

1 and treatment services (as defined in section
 2 1905(r)) for individuals who are eligible for assist-
 3 ance under the program and who under the age of
 4 21; or

5 “(C) the requirement to provide for payment
 6 for services described in section 1905(a)(2)(C) fur-
 7 nished by a Federally-qualified health center and
 8 services described in section 1905(a)(2)(B) furnished
 9 by a rural health clinic in accordance with the provi-
 10 sions of subsection (bb).”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply beginning October 1, 2021.

13 **SEC. 104. PERMITTING MEDICAID DSH ALLOTMENTS FOR**
 14 **TERRITORIES.**

15 Section 1923(f) of the Social Security Act (42 U.S.C.
 16 1396r–4(f)) is amended—

17 (1) in paragraph (6), by adding at the end the
 18 following new subparagraph:

19 “(C) TERRITORIES.—

20 “(i) FISCAL YEAR 2021.—For fiscal
 21 year 2022, the DSH allotment for Puerto
 22 Rico, the Virgin Islands, Guam, the North-
 23 ern Mariana Islands, and American Samoa
 24 shall bear the same ratio to \$300,000,000
 25 as the ratio of the number of individuals

who are low-income or uninsured and residing in such respective territory (as estimated from time to time by the Secretary) bears to the sums of the number of such individuals residing in all of the territories.

“(ii) SUBSEQUENT FISCAL YEAR.—

For each subsequent fiscal year, the DSH allotment for each such territory is subject to an increase in accordance with paragraph (3).”; and

(2) in paragraph (9), by inserting before the period at the end the following: “, and includes, beginning with fiscal year 2022, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa”.

Subtitle B—Medicare Part A

SEC. 111. CALCULATION OF MEDICARE DSH PAYMENTS FOR IPPS HOSPITALS IN PUERTO RICO.

Section 1886(d)(9)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as follows:

“(iii) Subparagraph (F) (relating to disproportionate share payments), including application of subsection (r), except that for this purpose—

1 “(I) the sum described in clause (ii) of this
 2 subparagraph shall be substituted for the sum
 3 referred to in paragraph (5)(F)(ii)(I); and

4 “(II) for discharges occurring on or after
 5 October 1, 2021, subclause (I) of paragraph
 6 (5)(F)(vi) shall be applied by substituting for
 7 the numerator described in such subclause the
 8 number of subsection (d) Puerto Rico hospital’s
 9 patient days for the cost reporting period in-
 10 volved which were made up of patients who (for
 11 such days) were entitled to benefits under part
 12 A of this title and were—

13 “(aa) entitled to supplementary secu-
 14 rity income benefits (excluding any State
 15 supplementation) under title XVI of this
 16 Act;

17 “(bb) eligible for medical assistance
 18 under a State plan under title XIX; or

19 “(cc) receiving aid or assistance under
 20 any plan of the State approved under title
 21 I, X, XIV, or XVI.”.

1 **SEC. 112. REBASING TARGET AMOUNT FOR HOSPITALS IN**
 2 **TERRITORIES.**

3 Section 1886(b)(3) of the Social Security Act (42
 4 U.S.C. 1395ww(b)(3)) is amended by adding at the end
 5 the following new subparagraph:

6 “(M)(i) For each cost reporting period beginning on
 7 or after October 1, 2021, in the case of a hospital located
 8 in a territory of the United States, there shall be sub-
 9 stituted for the target amount otherwise determined under
 10 subparagraph (A) the rebased target amount (as defined
 11 in clause (ii)), if such substitution results in an amount
 12 of payment under this section to the hospital for such pe-
 13 riod that is greater than the amount of payment that
 14 would be made under this section to the hospital for such
 15 period if this subparagraph were not to apply.

16 “(ii) For purposes of this subparagraph, the term
 17 ‘rebased target amount’ has the meaning given the term
 18 ‘target amount’ in subparagraph (A), except that—

19 “(I) there shall be substituted for the preceding
 20 12-month cost reporting period the 12-month cost
 21 reporting period beginning during fiscal year 2017
 22 (or, at the option of the hospital, beginning during
 23 fiscal year 2019);

24 “(II) any reference in subparagraph (A)(i) to
 25 the ‘first such cost reporting period’ is deemed a ref-
 26 erence to the first cost reporting period following the

1 12-month cost reporting period beginning during fis-
 2 cal year 2017 (or, at the option of the hospital, be-
 3 ginning during fiscal year 2019); and

4 “(III) the applicable percentage increase shall
 5 only be applied under subparagraph (B)(ii) for cost
 6 reporting periods beginning on or after October 1,
 7 2021.

8 “(iii) Nothing in this subparagraph shall affect any
 9 pending request by a hospital for a new target amount
 10 for any cost reporting period beginning during a fiscal
 11 year before fiscal year 2022.”.

12 **SEC. 113. MEDICARE DSH TARGET ADJUSTMENT FOR HOS-**
 13 **PITALS IN TERRITORIES.**

14 Section 1886(b)(3) of the Social Security Act (42
 15 U.S.C. 1395ww(b)(3)), as amended by section 112, is fur-
 16 ther amended by adding at the end the following new sub-
 17 paragraph:

18 “(N)(i) For each cost reporting period beginning on
 19 or after October 1, 2020, in the case of a hospital that
 20 is located in a territory of the United States other than
 21 Puerto Rico and that would be a subsection (d) hospital
 22 if it were located in one of the 50 States, the target
 23 amount shall be increased by—

24 “(I) in the case that such hospital has a dis-
 25 proportionate patient percentage of not less than 15

1 percent and not greater than 40 percent, 10 percent;
2 and

3 “(II) in the case that such hospital has a dis-
4 proportionate patient percentage of greater than 40
5 percent, 10 percent plus 60 percent of the number
6 of percentage points by which such hospital’s dis-
7 proportionate patient percentage exceeds 40 percent.

8 “(ii) For purposes of this subparagraph, the term
9 ‘disproportionate patient percentage’ has the meaning
10 given such term in subsection (d)(5)(F)(vi), except that
11 in applying such meaning any reference under such sub-
12 section to individuals entitled to supplementary security
13 income under title XVI shall be deemed for purposes of
14 this subparagraph to include individuals—

15 “(I) eligible for medical assistance under a
16 State plan under title XIX; or

17 “(II) receiving aid or assistance under any plan
18 of the territory approved under title I, X, XIV, or
19 XVI.”.

Subtitle C—Medicare Part B

SEC. 121. APPLICATION OF PART B DEEMED ENROLLMENT PROCESS TO RESIDENTS OF PUERTO RICO; SPECIAL ENROLLMENT PERIOD AND LIMIT ON LATE ENROLLMENT PENALTIES.

(a) APPLICATION OF PART B DEEMED ENROLLMENT PROCESS TO RESIDENTS OF PUERTO RICO.—Section 1837(f)(3) of the Social Security Act (42 U.S.C. 1395p(f)(3)) is amended by striking “, exclusive of Puerto Rico”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals whose initial enrollment period under section 1837(d) of the Social Security Act begins on or after the first day of the effective month, specified by the Secretary of Health and Human Services under section 1839(k)(1)(C) of such Act, as added by subsection (c)(2).

(c) TRANSITION PROVIDING SPECIAL ENROLLMENT PERIOD AND LIMIT ON LATE ENROLLMENT PENALTIES FOR CERTAIN MEDICARE BENEFICIARIES.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in the first sentence of subsection (b), by inserting “subject to subsection (k)(2) of this section,”

1 after “subsection (i)(4), (l), or (l) of section 1837,”;
 2 and

3 (2) by adding at the end the following new sub-
 4 section:

5 “(k) SPECIAL RULES FOR CERTAIN RESIDENTS OF
 6 PUERTO RICO.—

7 “(1) SPECIAL ENROLLMENT PERIOD, COVERAGE
 8 PERIOD FOR RESIDENTS WHO ARE ELIGIBLE BUT
 9 NOT ENROLLED.—

10 “(A) IN GENERAL.—In the case of a tran-
 11 sition individual (as defined in paragraph (3))
 12 who is not enrolled under this part as of the
 13 day before the first day of the effective month
 14 (as defined in subparagraph (C)), the Secretary
 15 shall provide for a special enrollment period
 16 under section 1837 of 7 months beginning with
 17 such effective month during which the indi-
 18 vidual may be enrolled under this part.

19 “(B) COVERAGE PERIOD.—In the case of
 20 such an individual who enrolls during such spe-
 21 cial enrollment period, the coverage period
 22 under section 1838 shall begin on the first day
 23 of the second month after the month in which
 24 the individual enrolls.

1 “(C) EFFECTIVE MONTH DEFINED.—In
 2 this section, the term ‘effective month’ means a
 3 month, not earlier than October 2022 and not
 4 later than January 2023, specified by the Sec-
 5 retary.

6 “(2) REDUCTION IN LATE ENROLLMENT PEN-
 7 ALTIES FOR CURRENT ENROLLEES AND INDIVID-
 8 UALS ENROLLING DURING TRANSITION.—

9 “(A) IN GENERAL.—In the case of a tran-
 10 sition individual who is enrolled under this part
 11 as of the day before the first day of the effec-
 12 tive month or who enrolls under this part on or
 13 after the date of the enactment of this sub-
 14 section but before the end of the special enroll-
 15 ment period under paragraph (1)(A), the
 16 amount of the late enrollment penalty imposed
 17 under section 1839(b) shall be recalculated by
 18 reducing the penalty to 15 percent of the pen-
 19 alty otherwise established.

20 “(B) APPLICATION.—Subparagraph (A)
 21 shall be applied in the case of a transition indi-
 22 vidual who—

23 “(i) is enrolled under this part as of
 24 the month before the effective month, for

1 premiums for months beginning with such
2 effective month; or

3 “(ii) enrolls under this part on or
4 after the date of the enactment of this Act
5 and before the end of the special enroll-
6 ment period under paragraph (1)(A), for
7 premiums for months during the coverage
8 period under this part which occur during
9 or after the effective month.

10 “(C) LOSS OF REDUCTION IF INDIVIDUAL
11 TERMINATES ENROLLMENT.—Subparagraph
12 (A) shall not apply to a transition individual if
13 the individual terminates enrollment under this
14 part after the end of the special enrollment pe-
15 riod under paragraph (1).

16 “(3) TRANSITION INDIVIDUAL DEFINED.—In
17 this section, the term ‘transition individual’ means
18 an individual who resides in Puerto Rico and who
19 would have been deemed enrolled under this part
20 pursuant to section 1837(f) before the first day of
21 the effective month but for the fact that the indi-
22 vidual was a resident of Puerto Rico, regardless of
23 whether the individual is enrolled under this part as
24 of such first day.”.

1 **Subtitle D—Medicare Advantage** 2 **(Part C)**

3 **SEC. 131. ADJUSTMENT IN BENCHMARK FOR LOW-BASE** 4 **PAYMENT COUNTIES IN PUERTO RICO.**

5 Section 1853(n) of the Social Security Act (42 U.S.C.
6 1395w–23(n)) is amended—

7 (1) in paragraph (1), by striking “and (5)” and
8 inserting “(5), and (6)”;

9 (2) in paragraph (4), by striking “In no case”
10 and inserting “Subject to paragraph (6), in no
11 case”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(6) SPECIAL RULES FOR BLENDED BENCH-
15 MARK AMOUNT FOR TERRITORIES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the blended benchmark amount for
18 an area in a territory for a year (beginning with
19 2022) shall not be less than 80 percent of the
20 national average of the base payment amounts
21 specified in subparagraph (2)(E) for such year
22 for areas within the 50 States and the District
23 of Columbia.

24 “(B) LIMITATION.—In no case shall the
25 blended benchmark amount for an area in a

1 territory for a year under subparagraph (A) ex-
 2 ceed the lowest blended benchmark amount for
 3 any area within the 50 States and the District
 4 of Columbia for such year.”.

5 **Subtitle E—Medicare Part D**

6 **SEC. 141. IMPROVED USE OF ALLOCATED PRESCRIPTION** 7 **DRUG FUNDS BY TERRITORIES.**

8 Section 1935(e) of the Social Security Act (42 U.S.C.
 9 1396u–5(e)) is amended—

10 (1) by redesignating paragraph (5) as para-
 11 graph (6); and

12 (2) by inserting after paragraph (4) the fol-
 13 lowing new paragraph:

14 “(5) IMPROVED USE OF FUNDS FOR LOW-IN-
 15 COME PART D ELIGIBLE INDIVIDUALS.—This sub-
 16 section shall be applied beginning with fiscal year
 17 2022 as follows, notwithstanding any other provision
 18 of this title:

19 “(A) CLARIFYING STATE FLEXIBILITY TO
 20 COVER NON-DUAL-ELIGIBLE INDIVIDUALS.—In
 21 this title, the term ‘medical assistance’ includes
 22 financial assistance furnished by a State under
 23 this subsection to part D eligible individuals
 24 who, if they were residing in one of the 50
 25 States or the District of Columbia, would qual-

ify as subsidy eligible individuals under section 1860D–14(a)(3), and without regard to whether such individuals otherwise qualify for medical assistance under this title.

“(B) 100 PERCENT FMAP TO REFLECT NO STATE MATCHING REQUIRED FOR PART D LOW INCOME SUBSIDIES.—The Federal medical assistance percentage applicable to the assistance furnished under this subsection is 100 percent.

“(C) LIMITED FUNDING FOR SPECIAL RULES.—Subparagraphs (A) and (B), and the provision of medical assistance for covered part D drugs to low-income part D eligible individuals for a State and period under this subsection, is limited to the amount specified in paragraph (3) for such State and period.”.

**SEC. 142. REPORT ON TREATMENT OF TERRITORIES
UNDER MEDICARE PART D.**

Paragraph (6) of section 1935(e) of the Social Security Act (42 U.S.C. 1396u–5(e)), as redesignated by section 141, is amended to read as follows:

“(6) REPORT ON APPLICATION OF SUBSECTION.—

“(A) IN GENERAL.—Not later than February 1, 2023, the Secretary shall submit to

1 Congress a report on the application of this
2 subsection during the period beginning fiscal
3 year 2006 and ending fiscal year 2022.

4 “(B) INFORMATION TO BE INCLUDED IN
5 REPORT.—Such report shall include—

6 “(i) program guidance issued by the
7 Secretary to implement this subsection;

8 “(ii) for each territory, information on
9 the increased amount under paragraph (3)
10 and how the territory has applied such
11 amount, including the territory’s program
12 design, expenditures, and number of indi-
13 viduals (and dual-eligible individuals) as-
14 sisted; and

15 “(iii) differences between how such
16 territories are treated under part D of title
17 XVIII and under this title compared with
18 the treatment of the 50 States and the
19 District of Columbia under such part and
20 this title for different fiscal years within
21 the period covered under the report.

22 “(C) RECOMMENDATIONS.—Such report
23 shall include recommendations for improving
24 prescription drug coverage for low-income indi-
25 viduals in each territory, including rec-

ommendations regarding each of the following
alternative approaches:

“(i) Adjusting the aggregate amount
specified in paragraph (3)(B).

“(ii) Allowing residents of the terri-
tories to be subsidy eligible individuals
under section 1860D–14, notwithstanding
subsection (a)(3)(F) of such section, or
providing substantially equivalent low-in-
come prescription drug subsidies to such
residents.”.

Subtitle F—Miscellaneous

SEC. 151. MEDICAID AND CHIP TERRITORY TRANSPARENCY AND INFORMATION.

(a) PUBLICATION OF INFORMATION ON FEDERAL
EXPENDITURES UNDER MEDICAID AND CHIP IN THE
TERRITORIES.—Not later than 180 days after the date
of the enactment of this Act, the Secretary of Health and
Human Services shall publish, and periodically update, on
the Internet site of the Centers for Medicare & Medicaid
Services information on Medicaid and CHIP carried out
in the territories of the United States. Such information
shall include, with respect to each such territory—

(1) the income levels established by the terri-
tory for purposes of eligibility of an individual to re-

1 ceive medical assistance under Medicaid or child
2 health assistance under CHIP;

3 (2) the number of individuals enrolled in Med-
4 icaid and CHIP in such territory;

5 (3) any State plan amendments in effect to
6 carry out Medicaid or CHIP in such territory;

7 (4) any waiver of the requirements of title XIX
8 or title XXI issued by the Secretary to carry out
9 Medicaid or CHIP in the territory, including a waiv-
10 er under section 1115 of the Social Security Act (42
11 U.S.C. 1315), any application for such a waiver, and
12 any documentation related to such application (in-
13 cluding correspondence);

14 (5) the amount of the Federal and non-Federal
15 share of expenditures under Medicaid and CHIP in
16 such territory;

17 (6) the systems in place for the furnishing of
18 health care items and services under Medicaid and
19 CHIP in such territory;

20 (7) the design of CHIP in such territory; and

21 (8) other information regarding the carrying
22 out of Medicaid and CHIP in the territory that is
23 published on such Internet site with respect to car-
24 rying out Medicaid and CHIP in each State and the
25 District of Columbia.

1 (b) DEFINITIONS.—In this section:

2 (1) CHIP.—The term “CHIP” means the
3 State Children’s Health Insurance Program under
4 title XXI of the Social Security Act.

5 (2) MEDICAID.—The term “Medicaid” means
6 the Medicaid program under title XIX of the Social
7 Security Act.

8 (3) TERRITORY.—The term “territory of the
9 United States” includes Puerto Rico, the Virgin Is-
10 lands of the United States, Guam, the Northern
11 Mariana Islands, and American Samoa.

12 **SEC. 152. REPORT ON EXCLUSION OF TERRITORIES FROM**
13 **EXCHANGES.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of Health and
16 Human Services shall submit to Congress a report that
17 details the adverse impacts in each territory from the
18 practical exclusion of the territories from the provisions
19 of part II or III of subtitle D of title I of the Patient
20 Protection and Affordable Care Act insofar as such provi-
21 sions provide for the establishment of an American Health
22 Benefit Exchange or the administration of a federally fa-
23 cilitated Exchange in each State and in the District of
24 Columbia for the purpose of making health insurance

1 more affordable and accessible for individuals and small
2 businesses.

3 (b) INFORMATION IN REPORT.—The report shall in-
4 clude information on the following:

5 (1) An estimate of the total number of individ-
6 uals residing in each territory with health insurance
7 coverage, and the total number of individuals in each
8 territory without health insurance coverage.

9 (2) The number of health insurance issuers in
10 each territory and the health insurance coverage
11 each such issuer offers.

12 (3) An estimate of the number of individuals re-
13 siding in each territory who are denied premium and
14 cost-sharing assistance that would otherwise be
15 available to them for obtaining health insurance cov-
16 erage through an Exchange if they resided in one of
17 the 50 States or in the District of Columbia.

18 (4) An estimate of the amount of Federal as-
19 sistance described in paragraph (3) that is not being
20 made available to residents of each territory.

21 (5) An estimate of the number of small employ-
22 ers in each territory that would be eligible to pur-
23 chase health insurance coverage through a Small
24 Business Health Options Program (SHOP) Market-
25 place that would operate as part of an Exchange if

1 the employers were in one of the 50 States or in the
 2 District of Columbia.

3 **SEC. 153. ACCESS TO COVERAGE FOR INDIVIDUALS IN CER-**
 4 **TAIN AREAS WITHOUT ANY AVAILABLE EX-**
 5 **CHANGE PLANS.**

6 Part 2 of subtitle D of title I of the Patient Protec-
 7 tion and Affordable Care Act (42 U.S.C. 18031 et seq.)
 8 is amended by adding at the end the following:

9 **“SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN**
 10 **CERTAIN AREAS WITHOUT ANY AVAILABLE**
 11 **EXCHANGE PLANS.**

12 **“(a) IN GENERAL.—**

13 **“(1) COVERAGE THROUGH DC EXCHANGE.—**

14 Not later than 3 months after the date of enactment
 15 of this section, the Secretary, in consultation with
 16 the Secretary of the Treasury and the Director of
 17 the Office of Personnel Management, shall establish
 18 a mechanism to ensure that, for any plan year be-
 19 ginning on or after the date described in subsection
 20 (c), any individual described in paragraph (2) has
 21 access to health insurance coverage which is at least
 22 as broad as the coverage available to Members of
 23 Congress and congressional staff (as defined in sec-
 24 tion 1312(d)(3)(D)) through the Exchange operating
 25 in the District of Columbia. Such individuals shall

1 be eligible for any premium tax credit under section
2 36B of the Internal Revenue Code of 1986, reduced
3 cost sharing under section 1402, and advance deter-
4 mination and payment of such credits or such reduc-
5 tions under section 1412 to be administered by the
6 Secretary, in consultation with the Secretary of the
7 Treasury and the Director of the Office of Personnel
8 Management. The District of Columbia, its resi-
9 dents, and small businesses shall be held harmless
10 from any increased costs resulting from the enact-
11 ment of this section.

12 “(2) INDIVIDUAL DESCRIBED.—An individual
13 described in this paragraph is any individual who—

14 “(A) is not eligible to enroll in an em-
15 ployer-sponsored health plan (excluding such a
16 plan that would not be considered minimum es-
17 sential coverage due to the application of sub-
18 paragraph (C) of section 36B(c)(2) of the In-
19 ternal Revenue Code of 1986 if such subpara-
20 graph applied to such plan); and

21 “(B) is a bona fide resident of any posses-
22 sion of the United States (as determined under
23 section 937(a) of such Code) in which the Sec-
24 retary certifies that no qualified health plan is

1 offered through an Exchange established under
2 this title.

3 “(3) POSSESSION OF THE UNITED STATES.—

4 For purposes of this section, the term ‘possession of
5 the United States’ shall include such possessions as
6 are specified in section 937(a)(1) of the Internal
7 Revenue Code of 1986.

8 “(b) TREATMENT OF POSSESSIONS.—

9 “(1) PAYMENTS TO POSSESSIONS.—

10 “(A) MIRROR CODE POSSESSION.—The
11 Secretary of the Treasury shall periodically (but
12 not less frequently than annually) pay to each
13 possession of the United States with a mirror
14 code tax system amounts equal to the loss to
15 that possession by reason of the application of
16 this section (determined without regard to para-
17 graph (2)) with respect to taxable years begin-
18 ning after the date described in subsection (c).
19 Such amounts shall be determined by the Sec-
20 retary of the Treasury based on information
21 provided by the government of the respective
22 possession.

23 “(B) OTHER POSSESSIONS.—The Sec-
24 retary of the Treasury shall periodically (but
25 not less frequently than annually) pay to each

1 possession of the United States which does not
 2 have a mirror code tax system amounts esti-
 3 mated by the Secretary of the Treasury as
 4 being equal to the aggregate benefits that would
 5 have been provided to residents of such posses-
 6 sion by reason of the application of this section
 7 for any taxable years beginning after the date
 8 described in subsection (c) if a mirror code tax
 9 system had been in effect in such possession.
 10 The preceding sentence shall not apply with re-
 11 spect to any possession of the United States un-
 12 less such possession has a plan, which has been
 13 approved by the Secretary of the Treasury,
 14 under which such possession will promptly dis-
 15 tribute such payments to the residents of such
 16 possession.

17 “(2) COORDINATION WITH CREDIT ALLOWED
 18 AGAINST UNITED STATES INCOME TAXES.—No cred-
 19 it shall be allowed against United States income
 20 taxes for any taxable year under section 36B of the
 21 Internal Revenue Code of 1986 to any person—

22 “(A) to whom a credit is allowed against
 23 taxes imposed by the possession by reason of
 24 this section (determined without regard to this
 25 paragraph) for such taxable year, or

1 “(B) who is eligible for a payment under
2 a plan described in paragraph (1)(B) with re-
3 spect to such taxable year.

4 “(3) MIRROR CODE TAX SYSTEM.—For pur-
5 poses of this subsection, the term ‘mirror code tax
6 system’ means, with respect to any possession of the
7 United States, the income tax system of such posses-
8 sion if the income tax liability of the residents of
9 such possession under such system is determined by
10 reference to the income tax laws of the United
11 States as if such possession were the United States.

12 “(4) TREATMENT OF PAYMENTS.—For pur-
13 poses of section 1324(b)(2) of title 31, United
14 States Code, or any similar rule of law, the pay-
15 ments under this subsection shall be treated in the
16 same manner as a refund due from the credit al-
17 lowed under section 36B of the Internal Revenue
18 Code of 1986.

19 “(c) DATE DESCRIBED.—The date described in this
20 subsection is the date on which the Secretary establishes
21 the mechanism described in subsection (a)(1).”.

1 **TITLE II—INCLUSION OF THE**
 2 **TERRITORIES IN THE SUP-**
 3 **PLEMENTAL NUTRITIONAL**
 4 **ASSISTANCE PROGRAM**

5 **SEC. 201. PARTICIPATION AND TRANSITION OF PUERTO**
 6 **RICO, AMERICAN SAMOA, AND THE NORTH-**
 7 **ERN MARIANA ISLANDS IN SUPPLEMENTAL**
 8 **NUTRITION ASSISTANCE PROGRAM.**

9 (a) DEFINITIONS.—Section 3 of the Food and Nutri-
 10 tion Act of 2008 (7 U.S.C. 2012) is amended—

11 (1) in subsection (r), by inserting “the Com-
 12 monwealth of Puerto Rico, American Samoa, the
 13 Commonwealth of the Northern Mariana Islands,”
 14 after “Guam,”; and

15 (2) in subsection (u)(3), by inserting “the Com-
 16 monwealth of Puerto Rico, American Samoa, the
 17 Commonwealth of the Northern Mariana Islands,”
 18 after “Guam,”.

19 (b) ELIGIBLE HOUSEHOLDS.—Section 5 of the Food
 20 and Nutrition Act of 2008 (7 U.S.C. 2014) is amended—

21 (1) in subsection (b), in the first sentence, by
 22 inserting “the Commonwealth of Puerto Rico, Amer-
 23 ican Samoa, the Commonwealth of the Northern
 24 Mariana Islands,” after “Guam,”;

(2) in subsection (c)(1), by striking “and Guam,” and inserting “Guam, the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands,”; and

(3) in subsection (e)—

(A) in paragraph (1)(A), by inserting “the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands,” after “Hawaii,” each place it appears; and

(B) in paragraph (6)(B), in the matter preceding clause (i), by inserting “the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands,” after “Guam,”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall be effective with respect to the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands, as applicable, on the date described in paragraph (2) if the Secretary of Agriculture submits to Congress a certification under subsection (f)(2)(B) of section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).

1 (2) DATE DESCRIBED.—The date referred to in
 2 paragraph (1) is, with respect to the Commonwealth
 3 of Puerto Rico, American Samoa, and the Common-
 4 wealth of the Northern Mariana Islands, the date es-
 5 tablished by the Commonwealth of Puerto Rico,
 6 American Samoa, or the Commonwealth of the
 7 Northern Mariana Islands, respectively, in the appli-
 8 cable plan of operation submitted to the Secretary of
 9 Agriculture under subsection (f)(1) of section 19 of
 10 the Food and Nutrition Act of 2008 (7 U.S.C.
 11 2028).

12 (d) TRANSITION OF PUERTO RICO, AMERICAN
 13 SAMOA, AND THE NORTHERN MARIANA ISLANDS TO SUP-
 14 PLEMENTAL NUTRITION ASSISTANCE PROGRAM.—Section
 15 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028)
 16 is amended—

17 (1) in subsection (a)(1)—

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

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

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

23 “(C) the Commonwealth of the Northern
 24 Mariana Islands.”; and

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

1 “(f) TRANSITION OF PUERTO RICO, AMERICAN
2 SAMOA, AND THE NORTHERN MARIANA ISLANDS TO SUP-
3 PLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

4 “(1) DEFINITION OF GOVERNMENTAL ENTI-
5 TY.—In this subsection, the term ‘governmental en-
6 tity’ means—

7 “(A) the Commonwealth of Puerto Rico;

8 “(B) American Samoa; and

9 “(C) the Commonwealth of the Northern
10 Mariana Islands.

11 “(2) REQUEST FOR PARTICIPATION.—A govern-
12 mental entity may submit to the Secretary a request
13 to participate in the supplemental nutrition assist-
14 ance program, which shall include a plan of oper-
15 ation described in section 11(d), which shall include
16 the date on which the governmental entity intends to
17 begin participation in the program.

18 “(3) CERTIFICATION BY SECRETARY.—

19 “(A) IN GENERAL.—The Secretary shall
20 certify a governmental entity that submits a re-
21 quest under paragraph (2) as qualified to par-
22 ticipate in the supplemental nutrition assistance
23 program if the Secretary—

1 “(i) approves the plan of operation
 2 submitted with the request, in accordance
 3 with this subsection; and

4 “(ii) approves the applications de-
 5 scribed in paragraph (5) in accordance
 6 with that paragraph.

7 “(B) SUBMISSION OF CERTIFICATION TO
 8 CONGRESS.—The Secretary shall submit each
 9 certification under subparagraph (A) to Con-
 10 gress.

11 “(C) CERTIFICATION DECISION.—The Sec-
 12 retary shall certify or not certify a govern-
 13 mental entity that submits a request under
 14 paragraph (2) not later than 90 days after the
 15 date on which the Secretary receives the re-
 16 quest.

17 “(4) DETERMINATION OF PLAN OF OPER-
 18 ATION.—

19 “(A) APPROVAL.—The Secretary shall ap-
 20 prove a plan of operation submitted with a re-
 21 quest under paragraph (2) if the plan satisfies
 22 the requirements under this Act.

23 “(B) DISAPPROVAL.—If the Secretary does
 24 not approve a plan of operation submitted with
 25 a request under paragraph (2), the Secretary

1 shall provide to the governmental entity a state-
2 ment that describes each requirement under
3 this Act that is not satisfied by the plan.

4 “(5) RETAIL FOOD STORES.—If the Secretary
5 approves a plan of operation under paragraph (4)(A)
6 for a governmental entity, the Secretary shall accept
7 applications from retail food stores located in that
8 governmental entity to be authorized under section
9 9 to participate in the supplemental nutrition assist-
10 ance program.

11 “(6) PUERTO RICO.—In the case of a request
12 under paragraph (2) by the Commonwealth of Puer-
13 to Rico, notwithstanding subsection (g), the Sec-
14 retary shall allow the Commonwealth of Puerto Rico
15 to continue to carry out under the supplemental nu-
16 trition assistance program the Family Market Pro-
17 gram established pursuant to this section.

18 “(7) TEMPORARY FUNDING.—Any govern-
19 mental entity that has a request under paragraph
20 (2) pending before the Secretary (including a plan of
21 operation pending under paragraph (4)) shall receive
22 block grants under this section, in amounts deter-
23 mined by the Secretary, until the date on which the
24 Secretary certifies the governmental entity.

1 “(8) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to the Sec-
3 retary such sums as are necessary to carry out this
4 subsection for fiscal year 2021, to remain available
5 until expended.

6 “(g) TECHNICAL INFRASTRUCTURE IMPLEMENTA-
7 TION.—

8 “(1) IN GENERAL.—A governmental entity (as
9 defined in subsection (f)) may request from the Sec-
10 retary a 1-time grant to pay for the cost of the tech-
11 nology infrastructure necessary to implement the
12 supplemental nutrition assistance program, including
13 the cost of information technology, information tech-
14 nology personnel, and training relating to program
15 implementation.

16 “(2) APPLICATION.—A governmental entity
17 making a request under paragraph (1) for a grant
18 shall submit to the Secretary an application at such
19 time, in such manner, and containing such informa-
20 tion as the Secretary may require, including—

21 “(A) a description of the costs to be paid
22 for by the grant; and

23 “(B) a plan for implementing the tech-
24 nology infrastructure described in paragraph
25 (1)—

1 “(i) within 1 year of receiving the
2 grant; and

3 “(ii) that is reasonably cost efficient,
4 as determined by the Secretary.

5 “(3) DETERMINATION.—

6 “(A) TIME LIMIT.—The Secretary shall
7 approve or deny an application submitted under
8 paragraph (2) not later than 90 days after the
9 date on which the application is submitted.

10 “(B) DENIAL.—If the Secretary denies an
11 application submitted under paragraph (2), the
12 governmental entity may amend the plan de-
13 scribed in subparagraph (B) of that paragraph,
14 in coordination with the Secretary, to resubmit
15 to the Secretary for approval.

16 “(4) FUNDING.—

17 “(A) IN GENERAL.—There is appropriated
18 to the Secretary, out of funds in the Treasury
19 not otherwise appropriated, \$5,000,000 to carry
20 out this subsection, to remain available until 3
21 years after the date of enactment of this sub-
22 section.

23 “(B) REVERSION OF FUNDS.—Any funds
24 appropriated to the Secretary under subpara-
25 graph (A) that remain available by the date de-

1 scribed in that subparagraph shall revert to the
2 Treasury.

3 “(h) TERMINATION OF EFFECTIVENESS.—

4 “(1) IN GENERAL.—Subsections (a) through (e)
5 shall cease to be effective with respect to the Com-
6 monwealth of Puerto Rico, American Samoa, and
7 the Commonwealth of the Northern Mariana Is-
8 lands, as applicable, on the date described in para-
9 graph (2) if the Secretary submits to Congress a
10 certification under subsection (f)(3)(B) for that gov-
11 ernmental entity.

12 “(2) DATE DESCRIBED.—The date referred to
13 in paragraph (1) is, with respect to the Common-
14 wealth of Puerto Rico, American Samoa, and the
15 Commonwealth of the Northern Mariana Islands,
16 the date established by the Commonwealth of Puerto
17 Rico, American Samoa, or the Commonwealth of the
18 Northern Mariana Islands, respectively, in the appli-
19 cable plan of operation submitted to the Secretary
20 under subsection (f)(2).”.

1 **TITLE III—EQUITABLE TREAT-**
 2 **MENT FOR PUERTO RICO AND**
 3 **THE VIRGIN ISLANDS WITH**
 4 **RESPECT TO TAX CREDITS**

5 **SEC. 301. EQUITABLE TREATMENT FOR RESIDENTS OF**
 6 **PUERTO RICO AND THE VIRGIN ISLANDS**
 7 **WITH RESPECT TO THE EARNED INCOME TAX**
 8 **CREDIT AND THE CHILD TAX CREDIT.**

9 (a) PUERTO RICO RESIDENTS ELIGIBLE FOR
 10 EARNED INCOME TAX CREDIT.—

11 (1) IN GENERAL.—Section 32 of the Internal
 12 Revenue Code of 1986, as amended by section
 13 9621(a) of the American Rescue Plan Act of 2021
 14 (Public Law 117–2), is amended by adding at the
 15 end the following new subsection:

16 “(o) RESIDENTS OF PUERTO RICO.—

17 “(1) IN GENERAL.—In the case of residents of
 18 Puerto Rico—

19 “(A) the United States shall be treated as
 20 including Puerto Rico for purposes of sub-
 21 sections (c)(1)(A)(ii)(I) and (c)(3)(C),

22 “(B) subsection (c)(1)(D) shall not apply
 23 to nonresident alien individuals who are resi-
 24 dents of Puerto Rico, and

1 “(C) adjusted gross income and gross in-
 2 come shall be computed without regard to sec-
 3 tion 933 for purposes of subsections (a)(2)(B)
 4 and (c)(2)(A)(i).

5 “(2) LIMITATION.—The credit allowed under
 6 this section by reason of this subsection for any tax-
 7 able year shall not exceed the amount, determined
 8 under regulations or other guidance promulgated by
 9 the Secretary, that a similarly situated taxpayer
 10 would receive if residing in a State.”.

11 (2) CHILD TAX CREDIT NOT REDUCED.—Sub-
 12 clause (II) of section 24(d)(1)(B)(ii) of such Code is
 13 amended by inserting before the period “(determined
 14 without regard to section 32(n) in the case of resi-
 15 dents of Puerto Rico)”.

16 (3) EFFECTIVE DATE.—The amendments made
 17 this subsection shall apply to taxable years begin-
 18 ning after December 31, 2020.

19 (b) EQUITABLE TREATMENT FOR RESIDENTS OF
 20 PUERTO RICO WITH RESPECT TO THE REFUNDABLE
 21 PORTION OF THE CHILD TAX CREDIT.—

22 (1) IN GENERAL.—Section 24(d)(1) of the In-
 23 ternal Revenue Code of 1986 is amended by insert-
 24 ing “or section 933” after “section 112”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to taxable years begin-
3 ning after December 31, 2020.

4 (c) TREATMENT OF RESIDENTS OF THE VIRGIN IS-
5 LANDS.—

6 (1) IN GENERAL.—The Secretary of the Treas-
7 ury shall pay to the government of the Virgin Is-
8 lands amounts equal to the loss to that possession
9 by reason of the application of—

10 (A) section 32 of the Internal Revenue
11 Code of 1986 (determined as if subsection (o)
12 of such section, as added by subsection (a), ap-
13 plied to bona fide residents of that possession),
14 and

15 (B) section 24(d) of such Code (deter-
16 mined as if the amendment made by subsection
17 (b) applied to bona fide residents of that pos-
18 session),

19 with respect to taxable years beginning after Decem-
20 ber 31, 2020. Such amounts shall be determined by
21 the Secretary of the Treasury based on information
22 provided by the government of the Virgin Islands.

23 (2) TREATMENT OF PAYMENTS.—For purposes
24 of section 1324(b)(2) of title 31, United States
25 Code, the payments under this subsection shall be

1 treated in the same manner as a refund due from
 2 the credit allowed under section 32 or 24 (by reason
 3 of subsection (d) thereof), whichever is applicable, of
 4 the Internal Revenue Code of 1986.

5 **TITLE IV—LABOR EQUITY FOR** 6 **PUERTO RICO**

7 **SEC. 401. MINIMUM WAGE FOR YOUNG EMPLOYEES IN** 8 **PUERTO RICO.**

9 Section 6(g) of the Fair Labor Standards Act of
 10 1938 (29 U.S.C. 206(g)) is amended—

11 (1) by striking paragraph (2) and redesignating
 12 paragraphs (3) through (5) as paragraphs (2)
 13 through (4), respectively;

14 (2) in paragraph (2), as so redesignated, by
 15 striking “or (2)”; and

16 (3) in paragraph (4), as so redesignated, by
 17 striking “20 years, except” and all that follows
 18 through the period and inserting “20 years.”.

19 **SEC. 402. OVERTIME HOURS PROTECTIONS FOR WORKERS** 20 **IN PUERTO RICO.**

21 Section 404 of the Puerto Rico Oversight, Manage-
 22 ment, and Economic Stability Act (48 U.S.C. 2193) is re-
 23 pealed.

1 **TITLE V—EXTENSION OF SUP-**
 2 **PLEMENTAL SECURITY IN-**
 3 **COME (SSI) PROGRAM TO ALL**
 4 **TERRITORIES**

5 **SEC. 501. EXTENSION OF SSI PROGRAM TO ALL TERRI-**
 6 **TORIES.**

7 (a) APPLICATION OF SOCIAL SECURITY AMEND-
 8 MENTS OF 1972 AMENDMENTS AND REPEALS TO TERRI-
 9 TORIES.—

10 (1) IN GENERAL.—Effective January 1, 2022,
 11 the amendments made by sections 301 and 302 of
 12 the Social Security Amendments of 1972 (Public
 13 Law 92–603) and the repeals made by section
 14 303(a) of the Social Security Amendments of 1972
 15 shall be applicable in the case of Puerto Rico, Guam,
 16 the Virgin Islands, and American Samoa.

17 (2) CONFORMING AMENDMENT.—Effective Jan-
 18 uary 1, 2022, section 303 of the Social Security
 19 Amendments of 1972 (Public Law 92–603) is
 20 amended by striking subsection (b).

21 (b) CONFORMING AMENDMENTS.—

22 (1) DEFINITION OF STATE.—Section 1101(1) of
 23 the Social Security Act (42 U.S.C. 1301(1)) is
 24 amended by striking the fifth sentence and inserting
 25 the following: “In the case of supplemental security

1 income under title XVI, such term also includes the
2 Virgin Islands, Guam, the Northern Mariana Is-
3 lands, and American Samoa.”.

4 (2) DEFINITION OF UNITED STATES.—Section
5 1614(e) of the Social Security Act (42 U.S.C.
6 1382c(e)) is amended by striking “and the District
7 of Columbia” and inserting “, the District of Colum-
8 bia, Puerto Rico, the Virgin Islands, Guam, the
9 Northern Mariana Islands, and American Samoa”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect on January 1,
12 2022.

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