

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H. R. 3762

To provide for reconciliation pursuant to section 2002 of the concurrent resolution on the budget for fiscal year 2016.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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—

9 (1) in paragraph (2), by striking “2017” and
10 inserting “2015”; and

11 (2) by striking paragraphs (3) through (5).

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3 gated balance is rescinded.

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

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

13 **SEC. 103. FEDERAL EXCHANGE.**

14 Section 1321(c) of the Patient Protection and Afford-
15 able Care Act (42 U.S.C. 18041(c)) is amended by adding
16 at the end the following:

17 “(3) AUTHORITY.—The authority of the Sec-
18 retary to operate an Exchange under paragraph (1)
19 shall terminate on January 1, 2018.”.

20 **SEC. 104. TERRITORIES.**

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

1 “(3) NO FORCE AND EFFECT.—Effective Janu-
2 ary 1, 2018, this subsection shall have no force or
3 effect.”.

4 **SEC. 105. REINSURANCE, RISK CORRIDOR, AND RISK AD-**
5 **JUSTMENT PROGRAMS.**

6 (a) TRANSITIONAL REINSURANCE PROGRAM FOR IN-
7 DIVIDUAL MARKET.—Section 1341 of the Patient Protec-
8 tion and Affordable Care Act (42 U.S.C. 18061) is amend-
9 ed by adding at the end the following:

10 “(e) NO FORCE AND EFFECT.—Effective January 1,
11 2016, the Secretary shall not collect fees and shall not
12 make payments under this section.”.

13 (b) RISK CORRIDORS FOR PLANS IN INDIVIDUAL AND
14 SMALL GROUP MARKETS.—Section 1342 of the Patient
15 Protection and Affordable Care Act (42 U.S.C. 18062) is
16 amended by adding at the end the following:

17 “(d) NO FORCE AND EFFECT.—Effective January 1,
18 2016, this section shall have no force or effect.”.

19 (c) RISK ADJUSTMENT.—Section 1343 of the Patient
20 Protection and Affordable Care Act (42 U.S.C. 18063) is
21 amended by adding at the end the following:

22 “(d) NO FORCE AND EFFECT.—Effective January 1,
23 2016, this section shall have no force or effect.”.

1 **SEC. 106. SUPPORT FOR STATE RESPONSE TO SUBSTANCE**
2 **ABUSE PUBLIC HEALTH CRISIS AND URGENT**
3 **MENTAL HEALTH NEEDS.**

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

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

22 (1) Improving State prescription drug moni-
23 toring programs.

24 (2) Implementing prevention activities, and
25 evaluating such activities to identify effective strate-
26 gies to prevent substance abuse.

1 **SEC. 202. PREMIUM TAX CREDIT AND COST-SHARING SUB-**
2 **SIDIES.**

3 (a) REPEAL OF PREMIUM TAX CREDIT.—Subpart C
4 of part IV of subchapter A of chapter 1 of the Internal
5 Revenue Code of 1986 is amended by striking section
6 36B.

7 (b) REPEAL OF COST-SHARING SUBSIDY.—Section
8 1402 of the Patient Protection and Affordable Care Act
9 is repealed.

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

13 (1) Section 1411 (other than subsection (i), the
14 last sentence of subsection (e)(4)(A)(ii), and such
15 provisions of such section solely to the extent related
16 to the application of the last sentence of subsection
17 (e)(4)(A)(ii)).

18 (2) Section 1412.

19 (d) PROTECTING AMERICANS BY REPEAL OF DIS-
20 CLOSURE AUTHORITY TO CARRY OUT ELIGIBILITY RE-
21 QUIREMENTS FOR CERTAIN PROGRAMS.—

22 (1) IN GENERAL.—Paragraph (21) of section
23 6103(l) of the Internal Revenue Code of 1986 is
24 amended by adding at the end the following new
25 subparagraph:

1 “(D) TERMINATION.—No disclosure may
2 be made under this paragraph after December
3 31, 2017.”.

4 (2) PROTECTING AMERICANS BY REPEAL OF
5 AUTHORITY TO USE SOCIAL SECURITY NUMBERS.—
6 Clause (x) of section 205(c)(2)(C) of the Social Se-
7 curity Act (42 U.S.C. 405(c)(2)(C)) is amended by
8 adding at the end the following new sentence: “The
9 preceding sentence shall not apply after December
10 31, 2017.”.

11 (e) EFFECTIVE DATES.—

12 (1) PREMIUM TAX CREDIT.—The amendment
13 made by subsection (a) shall apply to taxable years
14 beginning after December 31, 2017.

15 (2) COST SHARING-SUBSIDIES AND ELIGIBILITY
16 DETERMINATIONS.—The repeals in subsection (b)
17 and (c) shall take effect on December 31, 2017.

18 (3) PROTECTING AMERICANS BY RESCINDING
19 DISCLOSURE AUTHORITY.—The amendments made
20 by subsection (d) shall take effect on December 31,
21 2017.

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

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

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

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to amounts paid or incurred in tax-
6 able years beginning after December 31, 2017.

7 **SEC. 204. INDIVIDUAL MANDATE.**

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

10 (1) in paragraph (2)(B) by striking clauses (ii)
11 and (iii) and inserting the following:

12 “(ii) Zero percent for taxable years
13 beginning after 2014.”, and

14 (2) in paragraph (3)—

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

17 (B) by striking “and \$325 for 2015” in
18 subparagraph (B), and

19 (C) by striking subparagraph (D).

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to months beginning after Decem-
22 ber 31, 2014.

23 **SEC. 205. EMPLOYER MANDATE.**

24 (a) IN GENERAL.—

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

5 (2) Paragraph (1) of section 4980H(b) of the
6 Internal Revenue Code of 1986 is amended by in-
7 sserting “(\$0 in the case of months beginning after
8 December 31, 2014)” after “\$3,000”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to months beginning after Decem-
11 ber 31, 2014.

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

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

1 tity or through a managed care organization under con-
2 tract with the State.

3 (b) DEFINITIONS.—In this section:

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

7 (A) that, as of the date of enactment of
8 this Act—

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

13 (ii) is an essential community provider
14 described in section 156.235 of title 45,
15 Code of Federal Regulations (as in effect
16 on the date of enactment of this Act), that
17 is primarily engaged in family planning
18 services, reproductive health, and related
19 medical care; and

20 (iii) provides for abortions, other than
21 an abortion—

22 (I) if the pregnancy is the result
23 of an act of rape or incest; or

24 (II) in the case where a woman
25 suffers from a physical disorder, phys-

1 ical injury, or physical illness that
2 would, as certified by a physician,
3 place the woman in danger of death
4 unless an abortion is performed, in-
5 cluding a life-endangering physical
6 condition caused by or arising from
7 the pregnancy itself; and

8 (B) for which the total amount of Federal
9 and State expenditures under the Medicaid pro-
10 gram under title XIX of the Social Security Act
11 in fiscal year 2014 made directly to the entity
12 and to any affiliates, subsidiaries, successors, or
13 clinics of the entity, or made to the entity and
14 to any affiliates, subsidiaries, successors, or
15 clinics of the entity as part of a nationwide
16 health care provider network, exceeded
17 \$350,000,000.

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

22 **SEC. 207. MEDICAID.**

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

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

3 (2) in section 1902—

4 (A) in subsection (a)(10)(A), in each of
5 clauses (i)(VIII) and (ii)(XX), by inserting
6 “and ending December 31, 2017,” after “Janu-
7 ary 1, 2014,”;

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

13 (C) in subsection (l)(2)(C), by inserting
14 “and ending December 31, 2017,” after “Janu-
15 ary 1, 2014,”;

16 (3) in each of sections 1902(gg)(2) and
17 2105(d)(3)(A), by striking “September 30, 2019”
18 and inserting “September 30, 2017”;

19 (4) in section 1905—

20 (A) in the first sentence of subsection (b),
21 by inserting “(50 percent on or after January
22 1, 2018)” after “55 percent”;

23 (B) in subsection (y)(1), by striking the
24 semicolon at the end of subparagraph (B) and
25 all that follows through “thereafter”; and

1 (C) in subsection (z)(2)—

2 (i) in subparagraph (A), by striking
3 “each year thereafter” and inserting
4 “through 2017”; and

5 (ii) in subparagraph (B)(ii), by strik-
6 ing the semicolon at the end of subclause
7 (IV) and all that follows through “100 per-
8 cent”;

9 (5) in section 1915(k)(2), by striking “during
10 the period described in paragraph (1)” and inserting
11 “on or after the date referred to in paragraph (1)
12 and before January 1, 2018”;

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

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

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

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

22 Section 1923(f) of the Social Security Act (42 U.S.C.
23 1396r-4(f)) is amended by striking paragraphs (7) and
24 (8).

1 **SEC. 209. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
2 **SURANCE PREMIUMS AND HEALTH PLAN**
3 **BENEFITS.**

4 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
5 enue Code of 1986 is amended by striking section 4980L.

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

9 (c) SUBSEQUENT EFFECTIVE DATE.—The amend-
10 ment made by subsection (a) shall not apply to taxable
11 years beginning after December 31, 2024, and chapter 43
12 of the Internal Revenue Code of 1986 is amended to read
13 as such chapter would read if such subsection had never
14 been enacted.

15 **SEC. 210. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
16 **TIONS.**

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

20 (b) ARCHER MSAs.—Subparagraph (A) of section
21 220(d)(2) of the Internal Revenue Code of 1986 is amend-
22 ed by striking “Such term” and all that follows through
23 the period.

24 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
25 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-

1 tion 106 of the Internal Revenue Code of 1986 is amended
2 by striking subsection (f).

3 (d) EFFECTIVE DATES.—

4 (1) DISTRIBUTIONS FROM SAVINGS AC-
5 COUNTS.—The amendments made by subsections (a)
6 and (b) shall apply to amounts paid with respect to
7 taxable years beginning after December 31, 2015.

8 (2) REIMBURSEMENTS.—The amendment made
9 by subsection (c) shall apply to expenses incurred
10 with respect to taxable years beginning after Decem-
11 ber 31, 2015.

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

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

16 (b) ARCHER MSAs.—Section 220(f)(4)(A) of the In-
17 ternal Revenue Code of 1986 is amended by striking “20
18 percent” and inserting “15 percent”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to distributions made after Decem-
21 ber 31, 2015.

22 **SEC. 212. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
23 **FLEXIBLE SPENDING ACCOUNTS.**

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

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

4 **SEC. 213. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
5 **TIONS.**

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

9 “(j) REPEAL.—This section shall apply to calendar
10 years beginning after December 31, 2010, and ending be-
11 fore January 1, 2016.”.

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

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

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to sales in calendar quarters begin-
17 ning after December 31, 2015.

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

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

22 “(j) REPEAL.—This section shall apply to calendar
23 years beginning after December 31, 2013, and ending be-
24 fore January 1, 2016.”.

1 **SEC. 216. REPEAL OF ELIMINATION OF DEDUCTION FOR**
2 **EXPENSES ALLOCABLE TO MEDICARE PART D**
3 **SUBSIDY.**

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

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

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

14 (a) IN GENERAL.—Subsection (a) of section 213 of
15 the Internal Revenue Code of 1986 is amended by striking
16 “10 percent” and inserting “7.5 percent”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2015.

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

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

24 “(b) HOSPITAL INSURANCE.—In addition to the tax
25 imposed by the preceding subsection, there is hereby im-
26 posed on the income of every individual a tax equal to 1.45

1 percent of the wages (as defined in section 3121(a)) re-
2 ceived by such individual with respect to employment (as
3 defined in section 3121(b)).”

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

7 “(b) HOSPITAL INSURANCE.—In addition to the tax
8 imposed by the preceding subsection, there shall be im-
9 posed for each taxable year, on the self-employment in-
10 come of every individual, a tax equal to 2.9 percent of the
11 amount of the self-employment income for such taxable
12 year.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to remuneration re-
15 ceived after, and taxable years beginning after, December
16 31, 2015.

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

18 (a) IN GENERAL.—The Internal Revenue Code of
19 1986 is amended by striking chapter 49.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to services performed on or after
22 December 31, 2015.

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

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

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

4 **SEC. 221. REMUNERATION.**

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

8 (I) TERMINATION.—This paragraph shall
9 not apply to taxable years beginning after De-
10 cember 31, 2015.”.

11 **SEC. 222. ECONOMIC SUBSTANCE DOCTRINE.**

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

14 (b) PENALTY FOR UNDERPAYMENTS.—Paragraph
15 (6) of section 6662(b) of the Internal Revenue Code of
16 1986 is repealed.

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

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

23 (e) REASONABLE CAUSE EXCEPTION FOR NONDIS-
24 CLOSED TRANSACTIONS.—Paragraph (2) of section
25 6664(d) of the Internal Revenue Code of 1986 is repealed.

1 (f) ERRONEOUS CLAIM FOR REFUND OR CREDIT.—
2 Subsection (c) of section 6676 of the Internal Revenue
3 Code of 1986 is repealed.

4 (g) EFFECTIVE DATE.—The repeals made by this
5 section shall apply to transactions entered into, and to un-
6 derpayments, understatements, or refunds and credits at-
7 tributable to transactions entered into, after December 31,
8 2015.

9 **SEC. 223. BUDGETARY SAVINGS FOR EXTENDING MEDI-**
10 **CARE SOLVENCY.**

11 As a result of policies contained in this Act, the Sec-
12 retary of the Treasury shall transfer to the Federal Hos-
13 pital Insurance Trust Fund under section 1817 of the So-
14 cial Security Act (42 U.S.C. 1395i) \$_____ (which rep-
15 resents the full amount of on-budget savings during the
16 period of fiscal years 2016 through 2025) for extending
17 Medicare solvency, to remain available until expended.