H. R. 352

To amend the Social Security Act to replace the Medicaid program and the Children’s Health Insurance program with a block grant to the States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2017

Mr. Rokita (for himself, Mr. Messer, Mr. Franks of Arizona, Mr. Farenthold, Mr. Westerman, Mr. DeSaulnier, Mr. Moolenaar, Mr. Palazzo, Mrs. Black, Mr. Schweikert, Mr. Jody B. Hice of Georgia, Mr. Loudermilk, Mr. Pittenger, Mr. Bishop of Utah, Mr. Duncan of South Carolina, Mr. Cole, Mr. Olson, Mr. Rohrabacher, Mr. Cramer, Mr. Meadows, Mr. Brat, Mr. Stewart, Mr. Pearce, Mr. Trott, Mr. Banks of Indiana, Mr. Barr, and Mr. Allen) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Rules, Ways and Means, Education and the Workforce, the Judiciary, Natural Resources, House Administration, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend the Social Security Act to replace the Medicaid program and the Children’s Health Insurance program with a block grant to the States, and for other purposes.

1. Be it enacted by the Senate and House of Represent- 2. 
vatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “State Health Flexibility Act of 2017”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Health grants to the States for health care services to indigent individuals.

“TITLE XXII—BLOCK GRANTS TO STATES FOR HEALTH CARE SERVICES TO INDIGENT INDIVIDUALS

“Sec. 2201. Purpose.
“Sec. 2202. Grants to States.
“Sec. 2203. Administrative and fiscal accountability.
“Sec. 2204. Nondiscrimination provisions.
“Sec. 2205. Definitions.
Sec. 3. Repeal of PPACA, HCERA, and the Federal requirements of Medicaid and CHIP.
Sec. 4. Severability.
Sec. 5. Effective date.

SEC. 2. HEALTH GRANTS TO THE STATES FOR HEALTH CARE SERVICES TO INDIGENT INDIVIDUALS.

(a) HEALTH CARE BLOCK GRANT TO STATES.—The Social Security Act is amended by adding at the end the following new title:

“TITLE XXII—BLOCK GRANTS TO STATES FOR HEALTH CARE SERVICES TO INDIGENT INDIVIDUALS

“SEC. 2201. PURPOSE.

“The purpose of this title is to provide Federal financial assistance to the States, in the form of a single grant, to allow the States maximum flexibility in providing, and
financing the provision of, health-care-related items and services to indigent individuals.

“SEC. 2202. GRANTS TO STATES.

“(a) IN GENERAL.—Subject to the requirements of this title, each State is entitled to receive from the Secretary of the Treasury a grant for each quarter of each of fiscal years 2018 through 2026, in an amount that is equal to 25 percent of the total amount received by a State under title XIX and title XXI for fiscal year 2013.

“(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2018 through 2026 such sums as are necessary for grants under this section.

“(c) REQUIREMENTS RELATING TO INTERGOVERNMENTAL FINANCING.—The Secretary of the Treasury shall make the transfer of funds under grants under subsection (a) directly to each State in accordance with the requirements of section 6503 of title 31, United States Code.

“(d) EXPENDITURE OF FUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), amounts received by a State under this title for any fiscal year shall be expended by the
State in such fiscal year or in the succeeding fiscal year.

“(2) Use of rainy day fund permitted.—

Of the amounts received by a State under this title, the State may set aside, in a separate account, such amounts as the State deems necessary to provide, without fiscal limitation, health-care-related items and services for indigent individuals during—

“(A) periods of unexpectedly high rates of unemployment; or

“(B) periods related to circumstances that are not described in subparagraph (A) and that cause unexpected increases in the need for such items and services for such individuals.

“(3) Funds remaining after fiscal year 2027.—If, after fiscal year 2027, a State has funds in the account under paragraph (2), the State may only expend such funds if such funds are used in a manner that is permitted under subsection (e), as such subsection is in effect on September 30, 2028.

“(e) Use of funds.—A State may only use the amounts received under subsection (a) as follows:

“(1) General purpose.—Nothing in this title shall be construed as limiting the flexibility of a State to determine which providers of such items
and services qualify to receive payment from a grant
made to the State under this title.

“(2) FUNDING FOR RISK ADJUSTMENT MECHA-
NISMS.—To fund qualified high risk pools, reinsurance pools, or other risk-adjustment mechanisms
used for the purpose of subsidizing the purchase of
private health insurance for the high-risk population.

“(3) AUTHORITY TO USE PORTION OF FEDERAL
ASSISTANCE FOR OTHER WELFARE-RELATED PRO-
GRAMS.—

“(A) IN GENERAL.—Subject to the limit
under subparagraph (B), to carry out a State
program pursuant to any or all of the following
provisions of law:

“(i) Part A of title IV of this Act.

“(ii) Section 1616 of this Act.

“(iii) The Food and Nutrition Act of
2008.

“(B) LIMITATION.—A State may not use
more than 30 percent of the amount received
under subsection (a) for a fiscal year to carry
out a State program, or programs, under sub-
paragraph (A).
“(C) Requirements on funds.—Any amounts that are used under subparagraph (A)—

“(i) shall not be subject to any of the requirements of subsection (d), subsection (f), or section 2204; and

“(ii) shall be subject to—

“(I) the audit requirements under section 2203; and

“(II) any requirements that apply to Federal funds provided directly for such State program.

“(f) Maintenance of current law restrictions on use of federal funds.—

“(1) In general.—

“(A) No funding for abortions.—None of the funds appropriated in this title shall be expended for any abortion.

“(B) No funds for coverage of abortion.—None of the funds appropriated in this title shall be expended for health benefits coverage that includes coverage of abortion.

“(C) Health benefits coverage defined.—For purposes of this subsection, the term ‘health benefits coverage’ means the pack-
age of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

“(2) EXCEPTIONS.—The limitations established in paragraph (1) shall not apply to an abortion—

“(A) if the pregnancy is the result of an act of rape or incest; or

“(B) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.

“(3) STATE FUNDS USED IN CONJUNCTION WITH FEDERAL FUNDS.—The limitations established in paragraph (1) shall apply to any State funds used in conjunction with Federal funds appropriated under this title to provide, or finance the provision of, health-care-related items and services to indigent individuals pursuant to section 2201 or subsection (d)(2), (e)(1), or (e)(2) of this section.

“(4) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in this subsection shall be construed as prohibiting a State from purchasing
separate coverage for abortions for which funding is prohibited under this subsection, or a health plan that includes such abortions, so long as such coverage or plan is paid for entirely using funds not provided by this title.

“(5) Option to offer coverage or plan.—Nothing in this subsection shall restrict any health insurance issuer from offering separate coverage for abortions for which funding is prohibited under this subsection, or a health plan that includes such abortions, so long as—

“(A) premiums for such separate coverage or plan are paid entirely with funds not provided by this title; and

“(B) administrative costs and all services offered through such separate coverage or plan are paid for using only premiums collected for such coverage or plan.

“(6) Conscience protections.—

“(A) None of the funds appropriated in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis
that the health care entity does not provide, pay
for, provide coverage of, or refer for abortions.

“(B) In this paragraph, the term ‘health
care entity’ includes an individual physician or
other health care professional, a hospital, a pro-
vider-sponsored organization, a health mainte-
nance organization, a health insurance plan, or
any other kind of health care facility, organiza-
tion, or plan.

“(g) NO FUNDING FOR ILLEGAL ALIENS.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), no funds appropriated in this title may be
used to provide health-care-related items and serv-
ices to an alien who is not lawfully admitted for per-
manent residence or otherwise permanently residing
in the United States under color of law.

“(2) EMERGENCY ASSISTANCE.—A State that
receives a grant under this title for a fiscal year
shall provide payment for health-care-related items
and services provided to an alien described in para-
graph (1), consistent with the requirements of sec-
tion 1867, if—

“(A) such health-care-related items and
services are—
“(i) necessary for the treatment of an emergency medical condition (as defined in subsection (e) of such section); and

“(ii) health-care-related items and services that such State would provide payment for under this title, if provided to an indigent individual;

“(B) the individual would meet all necessary eligibility requirements if paragraph (1) did not apply for health-care-related items and services under the State program funded under this title; and

“(C) such items and services are not related to an organ transplant procedure.

“(h) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to health-care-related items and services under this title.

“SEC. 2203. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.

“(a) Audits.—

“(1) CONTRACT WITH APPROVED AUDITING ENTITY.—Not later than October 1, 2018, and annually thereafter, a State shall contract with an approved auditing entity (as defined under paragraph
(3)(B)) for purposes of conducting an audit under paragraph (2) (with respect to the fiscal year ending September 30 of such year).

“(2) Audit requirement.—Under a contract under paragraph (1), an approved auditing entity shall conduct an audit of the expenditures or transfers made by a State from amounts received under a grant under this title, or from State funds described in section 2202(f)(3), with respect to the fiscal year which such audit covers, to determine the extent to which such expenditures and transfers were expended in accordance with this title.

“(3) Entity conducting audit.—

“(A) In general.—With respect to a State, the audit under paragraph (2) shall be conducted by an approved auditing entity in accordance with generally accepted auditing principles, including the provisions of chapter 75 of title 31, United States Code.

“(B) Approved auditing entity.—For purposes of this section, the term ‘approved auditing entity’ means, with respect to a State, an entity that is—

“(i) approved by the Secretary of the Treasury;
“(ii) approved by the chief executive officer of the State; and
“(iii) independent of any Federal, State, or local agency.

“(4) SUBMISSION OF AUDIT.—Not later than December 31, 2018, and annually thereafter, a State shall submit the results of the audit under paragraph (2) (with respect to the fiscal year ending on September 30 of such year) to the State legislature and to the Secretary of the Treasury.

“(b) REIMBURSEMENT AND PENALTY.—

“(1) IN GENERAL.—If, through an audit conducted under subsection (a), an approved auditing entity finds that any amounts paid to a State under a grant under this title were not expended in accordance with this title—

“(A) the State shall pay to the Treasury of the United States any such amount, plus 10 percent of such amount as a penalty; or

“(B) the Secretary of the Treasury shall offset such amount plus the 10-percent penalty against any other amount in any other fiscal year that the State may be entitled to receive under a grant under this title.
“(2) MISUSE OF STATE FUNDS.—If, through an audit conducted under subsection (a), an approved auditing entity finds that a State violated the requirements of section 2202(f)(3), the State shall pay to the Treasury of the United States 100 percent of the amount of State funds that were used in violation of section 2202(f)(3) as a penalty. Insofar as a State fails to pay any such penalty, the Secretary of the Treasury shall offset the amount not so paid against the amount of any grant otherwise payable to the State under this title.

“(c) ANNUAL REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—Not later than January 31, 2019, and annually thereafter, each State shall submit to the Secretary of the Treasury a report on the activities carried out by the State during the most recently completed fiscal year with funds received by the State under a grant under this title for such fiscal year.

“(2) CONTENT.—A report under paragraph (1) shall, with respect to a fiscal year—

“(A) contain the results of the audit conducted by an approved auditing entity for a State for such fiscal year, in accordance with
the requirements of subsection (a) of this section;

“(B) specify the amount of the grant made to the State under this title that is used to carry out a program under section 2202(e)(3); and

“(C) be in such form and contain such other information as the State determines is necessary to provide—

“(i) an accurate description of the activities conducted by the State for the purpose described under section 2201 and any other use of funds permitted under subsections (d) and (e) of section 2202; and

“(ii) a complete record of the purposes for which amounts were expended in accordance with this title.

“(3) CONFORMITY WITH ACCOUNTING PRINCIPALS.—Any financial information in the report under paragraph (1) shall be prepared and reported in accordance with generally accepted accounting principles, including the provisions of chapter 75 of title 31, United States Code.

“(4) PUBLIC AVAILABILITY.—A State shall make copies of the reports required under this sec-
tion available on a public Web site and shall make copies available in other formats upon request.

“(d) Suspension of Payments for Failure To Comply With Certain Requirements.—

“(1) In general.—The Secretary of the Treasury shall suspend payments made to a State under a grant authorized by section 2202(a) during any payment suspension period.

“(2) Suspension period defined.—For purposes of paragraph (1), the term ‘payment suspension period’ means—

“(A) in the case of an audit required to be submitted under subsection (a), the period that begins on the date such audit is required to be so submitted and ends on the date on which the State submits such audit;

“(B) in the case of a report required to be submitted under subsection (c), the period that begins on the date such report is required to be so submitted and ends on the date on which the State submits such report; or

“(C) in the case of a violation by a State of a requirement of section 2202(f), the period that begins on the date on which the State is informed of such violation and ends on the date
on which such violation is corrected by the State.

“(e) ADMINISTRATIVE SUPERVISION AND OVERSIGHT.—

“(1) LIMITED ROLE FOR SECRETARY OF THE TREASURY AND THE ATTORNEY GENERAL.—

“(A) TREASURY.—The authority of the Secretary of the Treasury under this title is limited to—

“(i) promulgating regulations, issuing rules, or publishing guidance documents to the extent necessary for purposes of implementing subsection (a)(3)(B), subsection (b), and subsection (d);

“(ii) making quarterly payments to the States under grants under this title in accordance with section 2202(a);

“(iii) approving entities under subsection (a)(3)(B) for purposes of the audits required under subsection (a);

“(iv) withholding payment to a State of a grant under subsection (d) or offsetting a payment of such a grant to a State under subsection (b); and
“(v) exercising the authority relating to nondiscrimination that is specified in section 2204(b).

“(B) ATTORNEY GENERAL.—The authority of the Attorney General under this title is limited to the authority under section 2204(c).

“(2) FEDERAL SUPERVISION.—

“(A) IN GENERAL.—Except as provided under paragraph (1), an administrative officer, employee, department, or agency of the United States (including the Secretary of Health and Human Services) may not—

“(i) supervise—

“(I) the amounts received by the States under this title; or

“(II) the use of such amounts by the States; or

“(ii) promulgate regulations or issue rules in accordance with this title.

“(B) LIMITATION ON SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall have no authority under this title.

“(f) RESERVATION OF STATE POWERS.—Nothing in this section shall be construed to limit the power of a
1 State, including the power of a State to pursue civil and
2 criminal penalties under State law against any individual
3 or entity that misuses, or engages in fraud or abuse re-
4 lated to, the funds provided to a State under this title.

“SEC. 2204. NONDISCRIMINATION PROVISIONS.

“(a) NO DISCRIMINATION AGAINST INDIVIDUALS.—
No individual shall be excluded from participation in, de-

nied the benefits of, or subjected to discrimination under,
any program or activity funded in whole or in part with
amounts paid to a State under this title on the basis of
such individual’s—

“(1) disability under section 504 of the Reha-

bilitation Act of 1973 (29 U.S.C. 794);

“(2) sex under title IX of the Education

Amendments of 1972 (20 U.S.C. 1681 et seq.); or

“(3) race, color, or national origin under title

VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d
et seq.).

“(b) COMPLIANCE.—

“(1) If the Secretary of the Treasury deter-
mines that a State or an entity that has received
funds from amounts paid to a State under a grant
under this title has failed to comply with a provision
of law referred to in subsection (a), the Secretary of
the Treasury shall notify the chief executive officer
of the State of such failure to comply and shall re-
quest that such chief executive officer secure such 
compliance.

“(2) If, not later than 60 days after receiving
notification under paragraph (1), the chief executive
officer of a State fails or refuses to secure compli-
ance with the provision of law referred to in such
notification, the Secretary of the Treasury may—

“(A) refer the matter to the Attorney Gen-
eral with a recommendation that an appropriate
civil action be instituted; or

“(B) exercise the powers and functions
provided under section 505 of the Rehabilita-
tion Act of 1973 (29 U.S.C. 794a), title IX of
the Education Amendments of 1972 (20 U.S.C.
1681 et seq.), or title VI of the Civil Rights Act
of 1964 (42 U.S.C. 2000d et seq.) (as applica-
table).

“(c) CIVIL ACTIONS.—If a matter is referred to the
Attorney General under subsection (b)(2)(A), or the At-
torney General has reason to believe that a State or entity
has failed to comply with a provision of law referred to
in subsection (a), the Attorney General may bring a civil
action in an appropriate district court of the United States
for such relief as may be appropriate, including injunctive
relief.

"SEC. 2205. DEFINITIONS.

"For purposes of this title:

"(1) HEALTH-CARE-RELATED ITEMS AND SERVICES.—The term ‘health-care-related items and services’ shall be defined by a State with respect to use of such term for purposes of the application of this title to the State.

"(2) HIGH-RISK POPULATION.—The term ‘high-risk population’ means individuals who are described in one of the following subparagraphs:

"(A) Individuals who, by reason of the existence or history of a medical condition, are able to acquire health coverage only at rates which are at least 150 percent of the standard risk rates for such coverage.

"(B) Individuals who are provided health coverage by a qualified high risk pool.

"(3) INDIGENEous INDIVIDUAL.—The term ‘indigent individual’ shall be defined by a State with respect to use of such term for purposes of the application of this title to the State.

"(4) QUALIFIED HIGH RISK POOL.—The term ‘qualified high risk pool’ has the meaning given such
term in section 2745(g)(1)(A) of the Public Health
Service Act.

“(5) Risk-adjustment mechanism defined.—For purposes of this section, the term
‘risk-adjustment mechanism’ means any risk-spread-
ing mechanism to subsidize the purchase of private
health insurance for the high-risk population, includ-
ing a qualified high risk pool.”.

(b) Report on reduction of Federal adminis-
trative expenditures.—Beginning not later than Oc-
tober 31, 2019, and annually thereafter until October 31,
2028, the Secretary of Health and Human Services, in
consultation with the Secretary of the Treasury, shall sub-
mit a report to the Committee on Energy and Commerce
in the House of Representatives and the Finance Com-
mittee in the Senate containing a description of the total
reduction in Federal expenditures required to administer
and provide oversight for the programs to provide health-
care-related items and services to indigent individuals
under this Act, compared to the expenditures required to
administer and provide oversight for the programs under
titles XIX and XXI of the Social Security Act, as in effect
on September 30, 2012.

(c) State defined.—Section 1101(a)(1) of the So-
cial Security Act (42 U.S.C. 1301(a)(1)) is amended—

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(1) in the first sentence, by striking “XIX, and
XXI” and inserting “and XXII”; and
(2) in the fourth sentence, by striking “titles
XIX and XXI” and inserting “title XXII”.

SEC. 3. REPEAL OF PPACA, HCERA, AND THE FEDERAL RE-
QUIREMENTS OF MEDICAID AND CHIP.

(a) PPACA.—The Patient Protection and Affordable
Care Act (Public Law 111–148) is repealed, and the provi-
sions of law amended or repealed by such Act are restored
or revived as if such Act had not been enacted.

(b) HCERA.—Title I and subtitle B of title II of the
Health Care and Education Reconciliation Act of 2010
(Public Law 111–152) are repealed, and the provisions of
law amended or repealed by such title or subtitle, respec-
tively, are restored or revived as if such title and subtitle
had not been enacted.

(c) MEDICAID AND CHIP.—Titles XIX and XXI of
the Social Security Act are repealed.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application of such
 provision to any person or circumstance, is found to be
unconstitutional, the remainder of this Act, or the applica-
tion of that provision to other persons or circumstances,
shall not be affected.
SEC. 5. EFFECTIVE DATE.

This Act and the amendments and repeals made by this Act shall take effect with respect to items and services furnished on or after October 1, 2018.