

115TH CONGRESS  
2D SESSION

# H. R. 6097

To amend title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2018

Ms. JAYAPAL (for herself, Ms. SCHAKOWSKY, and Mr. POCAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Oversight and Government Reform, Armed Services, and Education and the Workforce, 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 title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “State-Based Universal Health Care Act of 2018”.

1 (b) PURPOSE.—The purpose of this Act is to estab-  
2 lish a flexible framework under which States can provide  
3 comprehensive universal health coverage to all of their  
4 residents.

5 **SEC. 2. WAIVER FOR STATE UNIVERSAL HEALTH CARE.**

6 (a) IN GENERAL.—Title I of the Patient Protection  
7 and Affordable Care Act (Public Law 111–148) is amend-  
8 ed by striking section 1332 (42 U.S.C. 18052) and insert-  
9 ing the following new section:

10 **“SEC. 1332. WAIVER FOR STATE UNIVERSAL HEALTH CARE.**

11 “(a) APPLICATION.—

12 “(1) IN GENERAL.—A State may apply to the  
13 Secretary (as defined in subsection (i)(3)) for the  
14 waiver of so much of the requirements described in  
15 paragraph (2) with respect to health benefits cov-  
16 erage within that State for plan years beginning on  
17 or after January 1, 2019, as is necessary to imple-  
18 ment a comprehensive State universal health care  
19 plan in the State under this section. Such applica-  
20 tion shall—

21 “(A) be filed at such time and in such  
22 manner as the Secretary may require;

23 “(B) contain such information as the Sec-  
24 retary may require, including—

1           “(i) a comprehensive description of  
2           the State legislation and program to imple-  
3           ment a plan meeting the requirements for  
4           a waiver under this section;

5           “(ii) a plan for how the State will  
6           achieve in 5 years health coverage for at  
7           least 95 percent of the population of the  
8           State, with five percent of the population  
9           of the State not spending more than 10  
10          percent of their adjusted gross income on  
11          health; and

12          “(iii) a 10-fiscal-year budget plan for  
13          such plan that is budget neutral for the  
14          Federal Government; and

15          “(C) provide an assurance that the State  
16          has enacted, or will be enacting before the cur-  
17          rent State legislative session adjourns, the law  
18          described in subsection (b)(2).

19          “(2) REQUIREMENTS.—The requirements de-  
20          scribed in this paragraph with respect to health ben-  
21          efits coverage within the State for plan years begin-  
22          ning on or after January 1, 2019, are as follows:

23                  “(A) Parts I, II, and III of this subtitle.

24                  “(B) Section 1402.

1           “(C) Sections 36B and 4980H of the In-  
2           ternal Revenue Code of 1986.

3           “(D) Title XI of the Social Security Act.

4           “(E) Title XVIII of the Social Security  
5           Act.

6           “(F) Title XIX of the Social Security Act.

7           “(G) Title XXI of the Social Security Act.

8           “(H) Chapter 89 of title 5 of the United  
9           States Code.

10           “(I) Chapter 55 of title 10, United States  
11           Code, including coverage under the TRICARE  
12           program.

13           “(J) Section 514 of the Employee Retire-  
14           ment Income Security Act of 1974.

15           “(3) PASS THROUGH OF FUNDING.—With re-  
16           spect to a State waiver under paragraph (1), under  
17           which the State assumes responsibility for health  
18           coverage under a specified Federal health program,  
19           including under each of the Federal health care or  
20           subsidy programs specified in subparagraphs (B),  
21           (C), (E), (F), (G), and (H) of paragraph (2), the  
22           Secretary shall not spend Federal health funds that  
23           would otherwise have been spent for such program  
24           and shall provide for an alternative means by which  
25           the aggregate amount of such funds shall be paid to

1 the State for purposes of implementing the State  
2 plan under the waiver. Such amount shall be deter-  
3 mined annually by the Secretary, taking into ac-  
4 count the amount that would otherwise have been  
5 spent under such Federal health program with re-  
6 spect to residents of such State, if such waiver did  
7 not apply. Such amount shall include funds equal to  
8 the amount of premium tax credits, cost-sharing re-  
9 ductions, or small-business credits under sections  
10 36B and 45R of the Internal Revenue Code of 1986  
11 or under section 1402 that would have been avail-  
12 able to individuals and businesses in the State if  
13 such waiver did not apply.

14 “(4) WAIVER CONSIDERATION AND TRANS-  
15 PARENCY.—

16 “(A) IN GENERAL.—An application for a  
17 waiver under this section shall be considered by  
18 the Secretary, after taking into account rec-  
19 ommendations of the Panel under subsection  
20 (g), in accordance with the regulations de-  
21 scribed in subparagraph (B).

22 “(B) REGULATIONS.—Not later than 180  
23 days after the date of enactment of the State-  
24 Based Universal Health Care Act of 2017, the

1 Secretary shall promulgate regulations relating  
2 to waivers under this section that provide—

3 “(i) a process for public notice and  
4 comment in accordance with the public no-  
5 tice and comment requirements applicable  
6 under regulations used for Medicaid waiv-  
7 ers pursuant to section 1115 of the Social  
8 Security Act;

9 “(ii) a process for the submission of  
10 an application that ensures the disclosure  
11 of—

12 “(I) the provisions of law that  
13 the State involved seeks to waive; and

14 “(II) the specific plans of the  
15 State to ensure that the waiver will be  
16 in compliance with subsection (b);

17 “(iii) a process for providing public  
18 notice and comment after the application is  
19 received by the Secretary, that is sufficient  
20 to ensure a meaningful level of public  
21 input and that does not impose require-  
22 ments that are in addition to, or duplica-  
23 tive of, requirements imposed under the  
24 Administrative Procedure Act, or require-  
25 ments that are unreasonable or unneces-

1 sarily burdensome with respect to State  
2 compliance;

3 “(iv) a process for the Panel under  
4 subsection (g) to consider the applications  
5 for waivers so submitted and provide rec-  
6 ommendations with respect to such appli-  
7 cations;

8 “(v) a process for the submission to  
9 the Secretary of periodic reports by the  
10 State concerning the implementation of the  
11 program under the waiver;

12 “(vi) a process for the periodic evalua-  
13 tion by the Secretary with respect to waiv-  
14 ers granted under this section; and

15 “(vii) a process for providing technical  
16 assistance on—

17 “(I) how to develop an applica-  
18 tion to any State seeking to submit an  
19 application for a waiver relating to de-  
20 veloping a program of providing  
21 health care for all residents for such  
22 State; and

23 “(II) how to improve such a pro-  
24 gram for purposes of a State seeking

1 assistance pursuant to subsection  
2 (e)(2).

3 “(C) REPORT.—The Secretary shall annu-  
4 ally report to Congress concerning actions  
5 taken by the Secretary with respect to applica-  
6 tions for waivers, and programs conducted  
7 through waivers granted, under this section.  
8 Each such report shall include, with respect to  
9 any action by the Secretary so taken, with re-  
10 spect to an application, that was not consistent  
11 with the recommendations of the Panel under  
12 subsection (g), with respect to such application,  
13 the reasons such action was taken.

14 “(5) REGIONAL WAIVER REQUEST AND PLAN.—  
15 Nothing in this section shall be construed to prevent  
16 two or more States in a region from submitting a  
17 single application under this section for a waiver  
18 that establishes a plan that is applicable to all of the  
19 States included in such application. In the case of  
20 such an application and plan, the requirements of  
21 this section shall continue to be applicable with re-  
22 spect to each State included in such application.

23 “(6) AUTHORIZATION OF APPROPRIATIONS.—  
24 There is authorized to be appropriated such sums as  
25 may be necessary for providing funds to States with



1 a waiver under this section for purposes of carrying  
2 out activities described in subsection (b)(1)(E).

3 “(b) GRANTING OF WAIVERS.—

4 “(1) IN GENERAL.—The Secretary may grant a  
5 request for a waiver under subsection (a)(1) only if  
6 the Secretary determines that the State plan—

7 “(A) will provide, in accordance with sub-  
8 paragraph (B), health benefits coverage to  
9 State residents that is at least as comprehen-  
10 sive as the health benefits coverage that such  
11 residents would have received under the speci-  
12 fied Federal health program (as defined in sub-  
13 section (i)(4)) for which such residents would  
14 have been eligible, absent such waiver;

15 “(B) will provide, in the case of such a  
16 waiver under subsection (a)(1) for the State to  
17 waive any of the requirements described in sub-  
18 section (a)(2)(F), health benefits coverage to  
19 State residents who would have otherwise re-  
20 ceived health benefits coverage in the form of  
21 medical assistance under the State Federal  
22 health program described in subsection  
23 (i)(4)(B) (regardless of whether the State pro-  
24 vides for such assistance through a State plan  
25 under title XIX of the Social Security Act or a

1 waiver of such plan) that includes at least the  
2 mandatory benefits under title XIX of the So-  
3 cial Security Act that are required of a State  
4 without a waiver of a State plan under such  
5 title, including at least benefits for early and  
6 periodic screening, diagnostic, and treatment;  
7 benefits for non-emergency transportation; and  
8 retroactive coverage;

9 “(C) will provide coverage and cost sharing  
10 protections against excessive out-of-pocket  
11 spending to State residents that are at least as  
12 affordable as the coverage and cost sharing pro-  
13 tections under the specified Federal health pro-  
14 gram (as defined in subsection (i)(4)) for which  
15 such residents would have been eligible, absent  
16 such waiver;

17 “(D) will provide coverage to all residents  
18 of the State, including all those otherwise cov-  
19 ered under the Federal health care or subsidy  
20 programs specified in subparagraphs (B), (C),  
21 (E), (F), (G), and (H) of subsection (a)(2), ex-  
22 cept individuals who are eligible for benefits  
23 through the Indian Health Service or for bene-  
24 fits and services under title 38, United States  
25 Code;

1           “(E) will provide for public education ac-  
2           tivities to raise awareness of the availability of  
3           qualified health plans and the facilitation of en-  
4           rollment in such coverage in a manner similar  
5           to an entity that serves as a navigator under a  
6           grant under section 1311(i);

7           “(F) will be publicly administered by an  
8           agency of the State;

9           “(G) will not preclude the purchase of sup-  
10          plemental insurance;

11          “(H) will provide systems for complaints,  
12          appeals, independent review, and other proce-  
13          dures for accessing and maintaining benefits  
14          that are at least as accessible to State residents  
15          as those of the specified Federal health pro-  
16          grams (as defined in subsection (i)(4)) for  
17          which such residents would have otherwise been  
18          eligible without application of such waiver  
19          under subsection (a)(1); and

20          “(I) will not increase the Federal deficit.

21          Subparagraph (D) shall not be construed as limiting  
22          a State from contracting with one or more private  
23          entities to administer the plan.

24          “(2) REQUIREMENT TO ENACT A LAW.—

1           “(A) IN GENERAL.—A law described in  
2           this paragraph is a State law that provides for  
3           State actions under a waiver under this section,  
4           including the implementation of the State plan  
5           under subsection (a)(1)(B).

6           “(B) TERMINATION OF OPT OUT.—A State  
7           may repeal a law described in subparagraph (A)  
8           and terminate the authority provided under the  
9           waiver with respect to the State.

10          “(c) SCOPE OF WAIVER.—

11           “(1) IN GENERAL.—The Secretary shall deter-  
12           mine the scope of a waiver of a requirement de-  
13           scribed in subsection (a)(2) granted to a State under  
14           subsection (a)(1).

15           “(2) LIMITATION.—Under this section, the Sec-  
16           retary may not waive any Federal law or require-  
17           ment that is not listed in subsection (a)(2).

18          “(d) DETERMINATIONS BY SECRETARY.—

19           “(1) TIME FOR DETERMINATION.—The Sec-  
20           retary shall, with respect to an application from a  
21           State under this subsection and after taking into ac-  
22           count recommendations of the Panel under sub-  
23           section (g) for such application, make a determina-  
24           tion under subsection (a)(1) not later than 90 days  
25           after the receipt of such recommendations.

1           “(2) EFFECT OF DETERMINATION.—

2                   “(A) GRANTING OF WAIVERS.—If the Sec-  
3           retary determines to grant a waiver under sub-  
4           section (a)(1), the Secretary shall notify the  
5           State involved of such determination and the  
6           terms and effectiveness of such waiver.

7                   “(B) DENIAL OF WAIVER.—If the Sec-  
8           retary determines a waiver should not be grant-  
9           ed under subsection (a)(1), the Secretary shall  
10          notify the State involved and the appropriate  
11          committees of Congress of such determination  
12          and the reasons therefor.

13          “(e) REQUIRED REPORTS; 5-YEAR REVIEW.—

14                   “(1) IN GENERAL.—As a condition of receipt of  
15          a waiver under this section, after each 5-year period  
16          of such waiver, a State shall submit to the Secretary  
17          a report that is carried out by an independent, non-  
18          partisan entity, with respect to such 5-year period  
19          and after a process for public notice and comment  
20          at the State level, including public hearings, suffi-  
21          cient to ensure a meaningful level of public input, on  
22          the following:

23                   “(A) How waiver funds have been spent by  
24          the State.

1           “(B) The number of residents of the State  
2 without health insurance and a description of  
3 how the State plans to provide health insurance  
4 coverage within the subsequent 5 years to resi-  
5 dents of the State without health insurance.

6           “(C) How affordability in the State for  
7 health care has changed over the period.

8           “(D) Whether the State has achieved  
9 health coverage for at least 95 percent of the  
10 population of the State.

11           “(E) Any additional information specified  
12 by the Secretary for purposes of determining  
13 the successes and challenges of the waiver.

14           “(2) 5-YEAR REVIEW.—In the case a State,  
15 based on the report submitted under paragraph (1)  
16 for a 5-year period—

17           “(A) has been determined by the Sec-  
18 retary, after taking into account recommenda-  
19 tions of the Panel under subsection (g), to have  
20 not achieved health coverage for at least 95 per-  
21 cent of the population of the State—

22           “(i) the State shall have access to  
23 technical assistance described in subsection  
24 (a)(4)(B)(vii) to improve the health insur-

1           ance program of the State implemented  
2           through the waiver under this section;

3           “(ii) the State shall have a grace pe-  
4           riod of 6 months after such determination  
5           to achieve health coverage for at least 95  
6           percent of such population; and

7           “(iii) if after such 6 months, the State  
8           has not achieved such health coverage, the  
9           waiver under this section shall be termi-  
10          nated; and

11          “(B) has been determined by the Sec-  
12          retary, after taking into account recommenda-  
13          tions of the Panel under subsection (g), to have  
14          achieved health coverage for at least 95 percent  
15          of the population of the State, the State, as a  
16          condition of continuing such waiver, shall sub-  
17          mit to the Secretary a plan for achieving health  
18          coverage for the remainder of the population of  
19          the State.

20          “(f) ASSURING COORDINATION.—

21               “(1) IN GENERAL.—Not later than 180 days  
22          after the enactment of the State-Based Universal  
23          Health Care Act of 2018, the Secretary of Health  
24          and Human Services, the Secretary of the Treasury,  
25          the Director of the Office of Personnel Management,

1 the Secretary of Defense, and the Secretary of  
2 Labor shall, through the execution of an interagency  
3 memorandum of understanding among such Secre-  
4 taries and the Director—

5 “(A) develop a process for coordinating  
6 and consolidating the State waiver processes  
7 applicable under the provisions of this section,  
8 and the existing waiver processes applicable  
9 under—

10 “(i) titles XI, XVIII, XIX, and XXI  
11 of the Social Security Act; and

12 “(ii) any other Federal law relating to  
13 the provision of health care items or serv-  
14 ices; and

15 “(B) ensure that—

16 “(i) regulations (including regulations  
17 required under subsection (a)(4)(B)), rul-  
18 ings, and interpretations issued by such  
19 Secretaries and the Director relating to the  
20 same matter over which two or more such  
21 Secretaries or Director have responsibility  
22 under this section are administered so as  
23 to have the same effect at all times; and

24 “(ii) coordination of policies relating  
25 to the granting, implementation, and con-



1 continuation of waivers through such Secre-  
2 taries and Director in order to have a co-  
3 ordinated strategy that avoids duplication  
4 of effort by the States or Secretaries and  
5 Director and ensures clarity about waiver  
6 application status and approval.

7 “(2) SINGLE APPLICATION.—The process under  
8 paragraph (1)(A) shall permit a State to submit a  
9 single application for a waiver under all of the provi-  
10 sions of this section and the provisions of law listed  
11 under clauses (i) and (ii) of such paragraph.

12 “(3) SUBMISSION OF CONFORMING AMEND-  
13 MENTS.—The Secretary of Health and Human Serv-  
14 ices, in coordination with the other Secretaries (in-  
15 cluding the Director of the Office of Personnel Man-  
16 agement), shall submit to Congress such rec-  
17 ommendations for such technical and conforming  
18 amendments to law as may be appropriate to assist  
19 in the implementation of this section.

20 “(g) INDEPENDENT ASSESSMENT PANEL FOR COM-  
21 PREHENSIVE HEALTH CARE.—

22 “(1) ESTABLISHMENT.—There is established a  
23 committee to be known as the ‘Independent Assess-  
24 ment Panel for Comprehensive Health Care’ (in this  
25 section referred to as the ‘Panel’).

1           “(2) CONSIDERATION OF SUBMISSIONS.—The  
2 Secretary shall forward a copy of each waiver appli-  
3 cation submitted under this section to the Panel for  
4 consideration under this subsection.

5           “(3) DUTIES.—The Panel shall—

6           “(A) review any waiver application by a  
7 State forwarded under paragraph (2) and any  
8 report submitted under paragraph (1) of sub-  
9 section (e) for purposes of the review under  
10 paragraph (2) of such subsection;

11           “(B) not later than 90 days after submis-  
12 sion of such application (or report) by the  
13 State, provide to the State and to the Secretary  
14 the recommendations of the Panel regarding  
15 the approval or disapproval of such waiver ap-  
16 plication (or regarding the status of the waiver  
17 for continuation pursuant to subsection (e)(2))  
18 and, if applicable, possible improvements to  
19 such application (or for purposes of subsection  
20 (e)(2)); and

21           “(C) submit to Congress an annual report  
22 on waiver applications (and waiver reports  
23 under subsection (e)) reviewed by the Panel  
24 during the applicable year, including the num-  
25 ber of applications (and reports) received and

1 the number of applications recommended for  
2 approval (and of reports with respect to which  
3 recommendations for continuation were pro-  
4 vided).

5 “(4) MEMBERSHIP.—

6 “(A) NUMBER AND APPOINTMENT.—The  
7 Panel shall consist of seven members appointed  
8 by the Secretary of Health and Human Serv-  
9 ices, of whom—

10 “(i) one shall be appointed on the rec-  
11 ommendation of the Speaker of the House  
12 of Representatives;

13 “(ii) one shall be appointed on the  
14 recommendation of the minority leader of  
15 the House of Representatives;

16 “(iii) one shall be appointed on the  
17 recommendation of the majority leader of  
18 the Senate;

19 “(iv) one shall be appointed on the  
20 recommendation of the minority leader of  
21 the Senate;

22 “(v) one shall be appointed from the  
23 Republican Governors Association;

24 “(vi) one shall be appointed from the  
25 Democratic Governors Association; and

1           “(vii) one shall be a representative  
2           from the consumer advocacy community.

3           “(B) TERM OF SERVICE.—

4           “(i) IN GENERAL.—Each member of  
5           the Panel shall serve a three-year term. A  
6           member may serve after the expiration of  
7           that member’s term until a successor has  
8           been appointed pursuant to subparagraph  
9           (A).

10          “(ii) VACANCY.—Any member ap-  
11          pointed to fill a vacancy occurring before  
12          the expiration of the term for which the  
13          member’s predecessor was appointed shall  
14          be appointed only for the remainder of that  
15          term. A vacancy in the Commission shall  
16          be filled in the manner in which the origi-  
17          nal appointment was made.

18          “(C) PAY.—Members of the Panel shall  
19          serve without pay.

20          “(D) CHAIRPERSON; VICE CHAIR-  
21          PERSON.—

22          “(i) CHAIRPERSON.—The Secretary of  
23          Health and Human Services, or a designee  
24          of the Secretary, shall serve on the Panel  
25          as the Chairperson of the Panel.

1                   “(ii) VICE CHAIRPERSON.—The Ad-  
2                   ministrator of the Federal Emergency  
3                   Management Agency, or a designee of the  
4                   Administrator, shall serve on the Panel as  
5                   the Vice Chairperson of the Panel.

6                   “(5) STAFF, EXPERTS, AND CONSULTANTS.—  
7                   The Panel may—

8                   “(A) appoint such staff as the Panel con-  
9                   siders to be appropriate, without regard to the  
10                  provisions of title 5, United States Code, gov-  
11                  erning appointments in the competitive service;

12                  “(B) fix the pay of such staff, without re-  
13                  gard to the provisions of chapter 51 and sub-  
14                  chapter III of chapter 53 of such title relating  
15                  to classification and General Schedule pay  
16                  rates; and

17                  “(C) procure the services of experts and  
18                  consultants in accordance with the provisions of  
19                  section 3109(b) of such title.

20                  “(6) DETAIL OF FEDERAL PERSONNEL.—Upon  
21                  request of the Panel, the head of any Federal agency  
22                  may detail, on a reimbursable basis, any of the per-  
23                  sonnel of the agency to the Panel to assist it in car-  
24                  rying out the duties under paragraph (3).

1           “(7) FEDERAL ADVISORY COMMITTEE ACT.—  
2           The Federal Advisory Committee Act (5 U.S.C.  
3           App.) shall apply to the Panel.

4           “(8) AUTHORIZATION OF APPROPRIATIONS.—  
5           There is authorized to be appropriated such sums as  
6           may be necessary to the Panel for carrying out the  
7           duties of the panel for each of fiscal years 2018  
8           through 2023.

9           “(h) GUIDANCE RELATING TO AMERICAN INDIANS  
10          AND ALASKA NATIVES.—

11           “(1) IN GENERAL.—The Secretary shall issue  
12           guidance with respect to applying the provisions of  
13           this section in a manner consistent with the fol-  
14           lowing:

15           “(A) To further the goal that Federal  
16           health services to maintain and improve the  
17           health of the Indians are consonant with and  
18           required by the Federal Government’s historical  
19           and unique legal relationship with, and result-  
20           ing responsibility to, the American Indian peo-  
21           ple.

22           “(B) No enrollment fee, premium, or simi-  
23           lar charge, and no deduction, copayment, cost  
24           sharing, or similar charge is to be imposed  
25           against an Indian who is furnished an item or

1 service through a waiver under this section. All  
2 costs incurred in waiving such charges shall be  
3 borne by the Federal Government in fulfillment  
4 of the trust responsibility.

5 “(C) A State may not require the enroll-  
6 ment of an individual who is an Indian in  
7 health insurance offered through a waiver under  
8 this section.

9 “(D) Health insurance issuers offering cov-  
10 erage pursuant to a waiver under this section  
11 must make good faith efforts to contract with  
12 Indian Health Care Providers operating within  
13 the area served by the issuers.

14 “(E) Health insurance issuers offering cov-  
15 erage pursuant to a waiver under this section  
16 shall pay Indian Health Care Providers, wheth-  
17 er such providers are participating or non-  
18 participating providers with respect to the cov-  
19 erage, for covered services provided to those In-  
20 dian enrollees who are eligible to receive serv-  
21 ices from such providers at a rate equal to the  
22 rate negotiated between such entity and the  
23 provider involved or, if such a rate has not been  
24 negotiated, at a rate that is not less than the  
25 level and amount of payment which the entity

1 would make for the services if the services were  
2 furnished by a participating provider which is  
3 not an Indian Health Care Provider.

4 “(F) Health insurance issuers offering cov-  
5 erage pursuant to a waiver under this section  
6 will include a standard contract addendum  
7 when contracting with Indian Health Care Pro-  
8 viders. The contract addendum will be devel-  
9 oped in consultation with tribes and in con-  
10 ference with Urban Indian Health Programs  
11 operating within the service area of the State.

12 “(G) The treatment of Indians under this  
13 legislation does not constitute invidious racial  
14 discrimination in violation of the Due Process  
15 Clause of the Fifth or Fourteenth Amendments,  
16 but is reasonable and rationally designed to fur-  
17 ther the health of Indians.

18 “(H) In the case of any State in which 1  
19 or more Indian Health Care Programs fur-  
20 nishes health care services, the State will pro-  
21 vide for a process under which the State seeks  
22 advice on a regular, ongoing basis from des-  
23 ignees of such Indian Health Care Programs  
24 and Urban Indian Organizations on matters re-  
25 lating to the application of a waiver under this



1 section that are likely to have a direct effect on  
2 such Indian Health Programs and that—

3 “(i) shall include solicitation of advice  
4 prior to submission of any plan amend-  
5 ments, waiver requests, and proposals for  
6 demonstration projects likely to have a di-  
7 rect effect on Indians or Indian Health  
8 Care Programs; and

9 “(ii) may include appointment of an  
10 advisory committee and of a designee of  
11 such Indian Health Care Programs to the  
12 medical care advisory committee advising  
13 the State on its waiver under this section.

14 “(2) DEFINITIONS.—For purposes of this sub-  
15 section:

16 “(A) The term ‘Indian’ has the meaning  
17 given such term in section 447.50 of title 42 of  
18 the Code of Federal Regulations (as in effect on  
19 July 1, 2010).

20 “(B) The term ‘Indian Health Care Pro-  
21 vider’ has the meaning given such term in sec-  
22 tion 438.14(a) of title 42 of the Code of Fed-  
23 eral Regulations.

24 “(i) DEFINITIONS.—In this section:

1           “(1) HEALTH BENEFITS COVERAGE.—The term  
2 ‘health benefits coverage’—

3           “(A) means—

4                   “(i) health insurance coverage, as  
5 such term is defined in section 2791(b) of  
6 the Public Health Service Act (42 U.S.C.  
7 300gg–91(b)); and

8                   “(ii) coverage under a group health  
9 plan, as such term is defined in section  
10 2791(a) of the Public Health Service Act  
11 (42 U.S.C. 300gg–91(a)); and

12           “(B) includes any medical coverage or  
13 health benefits provided under any specified  
14 Federal health program described in subpara-  
15 graphs (A) through (E) of paragraph (4).

16           “(2) RESIDENT.—With respect to a State, the  
17 term ‘resident’ means an individual—

18           “(A) who is—

19                   “(i) a citizen or national of the United  
20 States; or

21                   “(ii) an alien lawfully residing in the  
22 State (including an alien who is granted  
23 deferred action or who is otherwise author-  
24 ized to remain in the United States); and

1           “(B) whose primary residence (as defined  
2           by the State) is located in the State.

3           “(3) SECRETARY.—The term ‘Secretary’  
4           means—

5           “(A) the Secretary of Health and Human  
6           Services with respect to waivers relating to the  
7           provisions described in subparagraphs (A), (B),  
8           and (D) through (G) of paragraph (2) of sub-  
9           section (a);

10           “(B) the Secretary of the Treasury with  
11           respect to waivers relating to the provisions de-  
12           scribed in subparagraph (C) of such paragraph;

13           “(C) the Director of the Office of Per-  
14           sonnel Management with respect to waivers re-  
15           lating to the provisions described in subpara-  
16           graph (H) of such paragraph;

17           “(D) the Secretary of Defense with respect  
18           to waivers relating to the provisions described  
19           in subparagraph (I) of such paragraph; and

20           “(E) the Secretary of Labor with respect  
21           to waivers relating to the provisions described  
22           in subparagraph (J) of such paragraph.

23           “(4) SPECIFIED FEDERAL HEALTH PROGRAM.—  
24           The term ‘specified Federal health program’ means  
25           all of the following programs:

1           “(A) The Medicare program under title  
2 XVIII of the Social Security Act.

3           “(B) The Medicaid program under title  
4 XIX of the Social Security Act.

5           “(C) The Children’s Health Insurance Pro-  
6 gram under title XXI of the Social Security  
7 Act.

8           “(D) The Federal Employees Health Bene-  
9 fits Plan under chapter 89 of title 5 of the  
10 United States Code.

11           “(E) Medical coverage under chapter 55 of  
12 title 10, United States Code, including coverage  
13 under the TRICARE program.

14           “(F) An Exchange established under this  
15 subtitle.

16           “(G) Subsidies under section 1402.

17           “(H) Tax credits under sections 36B and  
18 45R of the Internal Revenue Code of 1986.”.

19           (b) CLERICAL AMENDMENT.—The item in the table  
20 of contents in section 1(b) of the Patient Protection and  
21 Affordable Care Act relating to section 1332 is amended  
22 to read as follows:

“Sec. 1332. Waiver for State universal health care.”.

23           (c) CONTINUATION OF CURRENT LAW FOR CURRENT  
24 WAIVERS AND WAIVER APPLICATIONS.—

1           (1) IN GENERAL.—Subject to paragraph (2), in  
2           the case of a State that has applied to the Secretary  
3           of Health and Human Services for a waiver under  
4           section 1332 of the Patient Protection and Afford-  
5           able Care Act (42 U.S.C. 18052), as in effect before  
6           the enactment of this Act, for plan year 2018, such  
7           section 1332 shall continue to apply to such applica-  
8           tion and to any waiver under such application for  
9           subsequent plan years.

10           (2) TRANSITION TO NEW WAIVER LAW.—Noth-  
11           ing in paragraph (1) shall be construed as pre-  
12           venting a State described in such paragraph from  
13           withdrawing an application described in such para-  
14           graph (or requesting the Secretary to terminate an  
15           approved waiver referred to in such paragraph) for  
16           plan year 2019 or a subsequent plan year and subse-  
17           quently applying for a waiver under section 1332 of  
18           the Patient Protection and Affordable Care Act, as  
19           amended by subsection (a), for such a plan year.

○