

115TH CONGRESS
1ST SESSION

S. 1898

To amend the Internal Revenue Code of 1986 to retroactively repeal the individual mandate for health insurance.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mr. DAINES introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to retroactively repeal the individual mandate for health insurance.

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.**

4 This Act may be cited as the “Repeal and Refund
5 Act”.

6 **SEC. 2. REPEAL OF INDIVIDUAL MANDATE.**

7 (a) REPEAL OF REQUIREMENT TO MAINTAIN MIN-
8 IMUM ESSENTIAL COVERAGE.—

9 (1) IN GENERAL.—The Internal Revenue Code
10 of 1986 is amended by striking chapter 48.

1 (2) CONFORMING AMENDMENTS.—

2 (A) AMENDMENTS RELATED TO THE IN-
3 TERNAL REVENUE CODE OF 1986.—

4 (i) Section 36B of the Internal Rev-
5 enue Code of 1986 is amended by redesign-
6 ating subsection (g) as subsection (h) and
7 by inserting after subsection (g) the fol-
8 lowing new subsection:

9 “(g) MINIMUM ESSENTIAL COVERAGE.—For pur-
10 poses of this section—

11 “(1) IN GENERAL.—The term ‘minimum essen-
12 tial coverage’ means any of the following:

13 “(A) GOVERNMENT SPONSORED PRO-
14 GRAMS.—Coverage under—

15 “(i) the Medicare program under part
16 A of title XVIII of the Social Security Act,

17 “(ii) the Medicaid program under title
18 XIX of the Social Security Act,

19 “(iii) the CHIP program under title
20 XXI of the Social Security Act,

21 “(iv) medical coverage under chapter
22 55 of title 10, United States Code, includ-
23 ing coverage under the TRICARE pro-
24 gram,

“(v) a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary,

“(vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers), or

“(vii) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1587 note).

“(B) EMPLOYER-SPONSORED PLAN.—Coverage under an eligible employer-sponsored plan.

“(C) PLANS IN THE INDIVIDUAL MARKET.—Coverage under a health plan offered in the individual market within a State.

“(D) GRANDFATHERED HEALTH PLAN.—Coverage under a grandfathered health plan.

“(E) OTHER COVERAGE.—Such other health benefits coverage, such as a State health

1 benefits risk pool, as the Secretary of Health
 2 and Human Services, in coordination with the
 3 Secretary, recognizes for purposes of this sub-
 4 section.

5 “(2) ELIGIBLE EMPLOYER-SPONSORED PLAN.—
 6 The term ‘eligible employer-sponsored plan’ means,
 7 with respect to any employee, a group health plan or
 8 group health insurance coverage offered by an em-
 9 ployer to the employee which is—

10 “(A) a governmental plan (within the
 11 meaning of section 2791(d)(8) of the Public
 12 Health Service Act), or

13 “(B) any other plan or coverage offered in
 14 the small or large group market within a State.
 15 Such term shall include a grandfathered health plan
 16 described in paragraph (1)(D) offered in a group
 17 market.

18 “(3) EXCEPTED BENEFITS NOT TREATED AS
 19 MINIMUM ESSENTIAL COVERAGE.—The term ‘min-
 20 imum essential coverage’ shall not include health in-
 21 surance coverage which consists of coverage of ex-
 22 cepted benefits—

23 “(A) described in paragraph (1) of sub-
 24 section (c) of section 2791 of the Public Health
 25 Service Act, or

1 “(B) described in paragraph (2), (3), or
 2 (4) of such subsection if the benefits are pro-
 3 vided under a separate policy, certificate, or
 4 contract of insurance.

5 “(4) INDIVIDUALS RESIDING OUTSIDE UNITED
 6 STATES OR RESIDENTS OF TERRITORIES.—Any ap-
 7 plicable individual shall be treated as having min-
 8 imum essential coverage for any month—

9 “(A) if such month occurs during any pe-
 10 riod described in subparagraph (A) or (B) of
 11 section 911(d)(1) which is applicable to the in-
 12 dividual, or

13 “(B) if such individual is a bona fide resi-
 14 dent of any possession of the United States (as
 15 determined under section 937(a)) for such
 16 month.

17 “(5) INSURANCE-RELATED TERMS.—Any term
 18 used in this section which is also used in title I of
 19 the Patient Protection and Affordable Care Act shall
 20 have the same meaning as when used in such title.”.

21 (ii) Section 36B(c)(2)(B) of such
 22 Code is amended to read as follows:

23 “(B) EXCEPTION FOR MINIMUM ESSEN-
 24 TIAL COVERAGE.—The term ‘coverage month’
 25 shall not include any month with respect to an

individual if for such month the individual is eligible for minimum essential coverage other than eligibility for coverage described in subsection (g)(1)(C) (relating to coverage in the individual market).”.

(iii) Clauses (i)(I) and (ii) of section 36B(c)(2)(C) of such Code are each amended by striking “section 5000A(f)(2)” and inserting “subsection (g)(2)”.

(iv)(I) Subclause (II) of section 36B(c)(2)(C)(i) of such Code is amended by striking “(within the meaning of section 5000A(e)(1)(B))”.

(II) Paragraph (2) of section 36B(c) of such Code is amended by adding at the end the following new subparagraph:

“(D) REQUIRED CONTRIBUTION.—For purposes of subparagraph (C)(i)(II), the term ‘required contribution’ means—

“(i) in the case of an individual eligible to purchase minimum essential coverage consisting of coverage through an eligible employer-sponsored plan, the portion of the annual premium which would be paid by the individual (without regard to

whether paid through salary reduction or otherwise) for self-only coverage, or

“(ii) in the case of an individual eligible only to purchase minimum essential coverage described in subsection (g)(1)(C), the annual premium for the lowest cost bronze plan available in the individual market through the Exchange in the State in the rating area in which the individual resides (without regard to whether the individual purchased a qualified health plan through the Exchange), reduced by the amount of the credit allowable under subsection (a) for the taxable year (determined as if the individual was covered by a qualified health plan offered through the Exchange for the entire taxable year).”.

(v) Section 162(m)(6)(C)(i) of such Code is amended by striking “section 5000A(f)” and inserting “section 36B(g)”.

(vi) Subsections (a)(1) and (b)(1) of section 4980H of such Code are each amended by striking “section 5000A(f)(2)” and inserting “section 36B(g)(2)”.

1 (vii) Section 4980I(f)(1)(B) of such
 2 Code is amended by striking “section
 3 5000A(f)” and inserting “section 36B(g)”.

4 (viii) Section 6056(b)(2)(b) of such
 5 Code is amended by striking “section
 6 5000A(f)(2)” and inserting “section
 7 36B(g)(2)”.

8 (ix) The table of chapters of the In-
 9 ternal Revenue Code of 1986 is amended
 10 by striking the item relating to chapter 48.

11 (B) AMENDMENTS RELATED TO THE PA-
 12 TIENT PROTECTION AND AFFORDABLE CARE
 13 ACT.—

14 (i) Section 1251(a)(4)(B)(ii) of the
 15 Patient Protection and Affordable Care
 16 Act is amended by striking “section
 17 500A(f)(2)” and inserting “section
 18 36B(g)(2)”.

19 (ii) Section 1302(e)(2) of such Act is
 20 amended to read as follows:

21 “(2) INDIVIDUALS ELIGIBLE FOR ENROLL-
 22 MENT.—An individual is described in this paragraph
 23 for any plan year if the individual has not attained
 24 the age of 30 before the beginning of the plan
 25 year.”.

1 (iii) Section 1311(d)(4) of such Act is
 2 amended by striking subparagraph (H).

3 (iv) Section 1312(d)(4) of such Act is
 4 amended by striking “section 5000A(f)”
 5 and inserting “section 36B(g)”.

6 (v) Section 1363(e)(1)(C) of such Act
 7 is amended—

8 (I) by striking “section
 9 5000A(f)” and inserting “section
 10 36B(g)”, and

11 (II) by striking “or is eligible for
 12 an employer-sponsored plan that is
 13 not affordable coverage (as deter-
 14 mined under section 5000A(e)(2) of
 15 such Code)” and inserting “or who is
 16 eligible for an employer-sponsored
 17 plan and whose household income for
 18 the taxable year described in section
 19 1412(b)(1)(B) is less than the amount
 20 of gross income specified in section
 21 6012(a)(1) of the Internal Revenue
 22 Code of 1986 with respect to the tax-
 23 payer”.

24 (vi) Section 1332(a)(2)(D) of such
 25 Act is amended by striking “36B, 4980H,

1 and 5000A” and inserting “36B and
2 4980H”.

3 (vii) Section 1401(c)(1)(A)(iii) of such
4 Act is amended by striking “section
5 5000A(f)” and inserting “section 36B(g)”.

6 (viii) Section 1411(a) of such Act is
7 amended—

8 (I) by inserting “and” at the end
9 of paragraph (2),

10 (II) in paragraph (3)—

11 (aa) by striking “and section
12 5000A(e)(2)”, and

13 (bb) by striking “, and” and
14 inserting a period, and

15 (III) by striking paragraph (4).

16 (ix) Section 1411(b)(4)(C) of such
17 Act is amended by striking
18 “5000A(e)(1)(B)” and inserting
19 “36B(c)(2)(D)”.

20 (x) Section 1411(b) of such Act is
21 amended by striking paragraph (5).

22 (xi) Section 1411(e)(4)(B) of such Act
23 is amended by striking clause (iv).

24 (C) OTHER CONFORMING AMENDMENTS.—

25 Section 2715(b)(3)(G)(i) of the Public Health

1 Service Act is amended by striking “section
2 5000A(f)” and inserting “section 36B(g)”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to taxable years begin-
5 ning after December 31, 2013.

6 (b) REPEAL OF REPORTING OF HEALTH INSURANCE
7 COVERAGE.—

8 (1) IN GENERAL.—Part III of subchapter A of
9 chapter 61 of the Internal Revenue Code of 1986 is
10 amended by striking subpart D.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 6056(d) of the Internal Rev-
13 enue Code of 1986 is amended to read as fol-
14 lows:

15 “(d) COORDINATION WITH OTHER REQUIRE-
16 MENTS.—To the maximum extent feasible, the Secretary
17 may provide that any return or statement required to be
18 provided under this section may be provided as part of
19 any return or statement required under section 6051.”.

20 (B) Section 6724(d)(1)(B) of such Code is
21 amended by inserting “or” at the end of clause
22 (xxiii), by striking clause (xxiv), and by redesign-
23 ating clause (xxv) as clause (xxiv).

24 (C) Section 6724(d)(2) of such Code is
25 amended by inserting “or” at the end of sub-

1 paragraph (FF), by striking subparagraph
2 (GG), and by redesignating subparagraph (HH)
3 as subparagraph (GG).

4 (D) Subsection (c) of section 1502 of the
5 Patient Protection and Affordable Care Act is
6 repealed.

7 (E) The table of subparts for part III of
8 subchapter A of chapter 61 of the Internal Rev-
9 enue Code of 1986 is amended by striking the
10 item relating to subpart D.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply to calendar years be-
13 ginning after December 31, 2013.

14 (c) TAXPAYER REFUND PROGRAM.—

15 (1) IN GENERAL.—The Secretary of the Treas-
16 ury shall implement a program under which tax-
17 payers who have paid a penalty under section 5000A
18 of the Internal Revenue Code of 1986 for any tax-
19 able year receive 1 payment in refund of all such
20 penalties paid, without regard to whether or not an
21 amended return is filed. Such payment shall be
22 made not later than April 15, 2018.

23 (2) WAIVER OF STATUTE OF LIMITATIONS.—
24 Solely for purposes of claiming the refund under
25 paragraph (1), the period prescribed by section

1 6511(a) of the Internal Revenue Code of 1986 with
2 respect to any payment of a penalty under section
3 5000A shall be extended until the date prescribed by
4 law (including extensions) for filing the return of tax
5 for the taxable year that includes December 31,
6 2017.

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