

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3 gated balance is rescinded.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.