



**Senate Amendment to H.R. 3762**  
**Restoring Americans' Healthcare Freedom Reconciliation Act of 2015**

**Section-by-Section Summary**

**Title I - Health, Education, Labor, and Pensions**

**Section 101. The Prevention and Public Health Fund**

Rescinds all remaining funds in the Prevention and Public Health Fund [PPHF] effective in 2015. The PPHF that granted the secretary of Health and Human Services up to \$2 billion per year in mandatory spending with virtually no restrictions. These funds were reduced in 2012, but will continue to grow from \$1 billion to \$2 billion in 2022 and beyond. The Secretary has used these funds for a large range of questionable purposes, most notably Obamacare promotion and implementation.

**Section 102. Funding for community health centers**

Increases funding for community health centers by \$235 million in fiscal year 2016 and \$235 million in fiscal year 2017. The Community Health Center [CHC] fund provides grants to health centers that offer primary and preventive care to patients regardless of their ability to pay. Under current law, the program will receive \$3.6 billion in each of the fiscal years 2016 and 2017.

**Section 103. Funding for territories**

Rescinds eligibility for these funds, after a two-year delay. Obamacare provides \$1 billion (\$925 million to Puerto Rico) for premium and cost sharing assistance to U.S. territories that establish their own exchanges.

**Section 104. Reinsurance, Risk Corridor, and Risk Adjustment Programs**

Eliminates the reinsurance program for the individual market (Section 1341 of the ACA), effective January 1, 2016. Obamacare included three risk adjustment mechanisms to compensate insurers for higher than expected costs or a particularly expensive risk pool. There has been significant concern that taxpayers and financially responsible insurers are being forced to pay for the Obama administration's broken promises and the losses of some insurers with poor business models.

**Section 105. Supporting state response to substance abuse and mental health public health crisis**

Provides \$750 million for fiscal years 2016 and 2017 for the Secretary of HHS to make grants to states to address the substance abuse and mental health public health crisis.

## **Title II - Finance**

### **Section 201 – Recapture Excess Advance Payments of Premium Tax Credits**

Requires the collection of all overpayments made by the government. Obamacare's premium tax credits are paid monthly, in advance, based on estimated income. Taxpayers receiving overpayments are required to repay excess premium credit payments to the Treasury. The amount of the repayment is capped for people with household income below 400 percent of the federal poverty level, on a sliding scale.

### **Section 202 – Premium Tax Credit and Cost-Sharing Subsidies**

Repeals the credits and cost-sharing subsidies, effective 2018. Obamacare created a new advanceable, refundable tax credit for the purchase of health insurance on an exchange. Similarly, HHS makes payments to insurers to reduce the amount of cost-sharing qualified persons are required to pay. Eligibility for these credits is based upon income on a sliding scale.

### **Section 203 – Small Business Tax Credit**

Eliminates the credit, effective 2018. Obamacare authorized a temporary (two-year) tax credit for employers with fewer than 25 employees and annual wages under \$50,000 for the purchase of health insurance. Take-up of the credit has been low because of its complexity.

### **Section 204 – Individual Mandate**

Eliminates the penalties for failure to comply with Obamacare's individual mandate to purchase health insurance, effective January 1, 2015.

### **Section 205 – Employer Mandate**

Eliminates the penalties for failure to comply with Obamacare's employer mandate, effective January 1, 2015.

### **Section 206 – Federal Payments to States (commonly referred to as the Planned Parenthood provision)**

Prohibits federal payments to reimburse states for payments from the Medicaid, CHIP, Social Services Block Grant (SSBG), and Maternal and Child Health Block Grant program to entities meeting certain criteria.

### **Section 207 – Medicaid**

Repeals the Medicaid expansion beginning in calendar year 2018.

- Rescinds the availability of funds for the expanded Medicaid funding for territories.
- Repeals the requirement that states provide Medicaid coverage to people earning less than 133 percent of the federal poverty level.
- Repeals states expanded authority to make presumptive eligibility determination. States would still be allowed to make presumptive eligibility determinations for children, pregnant women, and breast cancer and cervical cancer patients.
- Reverts the mandatory Medicaid income eligibility level for poverty related children back to 100 percent of federal poverty level. Children would not lose their insurance as a result of this

provision, but the federal matching rate would revert to the State Children’s Health Insurance Program (CHIP) level.

- Repeals the “maintenance of effort” (MOE) requirement for states.
- Repeals the expanded match for all territories.
- Repeals the expanded match rate for the newly eligible Medicaid population
- Repeals the enhanced match rate for states who had already expanded eligibility for Medicaid to cover adults with earnings below the federal poverty level.
- Repeals the 6 percentage point bonus in the federal match rate for community-based attendant services and supports, and would return to prior law without the 6 percent bonus.
- Repeals the requirement that state Medicaid plans must provide the same “essential health benefits” that are required by plans on the exchanges, returning flexibility to the states.
- Repeals the requirement that states coordinate their Medicaid eligibility and enrollment systems with the exchange’s system, even if the state has opted not to operate an exchange. States would be free to coordinate if they so choose.

#### **Section 208 – Repeal of DSH Allotment Reductions**

Restores the Medicaid Disproportionate Share Hospital (DSH) cuts.

#### **Section 209 – Repeal of the Tax on Employee Health Insurance Premiums and Health Plan Benefits (Cadillac tax)**

Repeals the Cadillac tax, effective January 1, 2018.

#### **Section 210 – Repeal of the Tax on Over-The-Counter Medications**

Obamacare prohibits individuals from purchasing over-the-counter health care items with funds in their health savings accounts, flexible spending accounts, or health reimbursement accounts. Obamacare requires that only prescription items may be reimbursed. This section would repeal that provision of Obamacare, effective January 1, 2016.

#### **Section 211 – Repeal of Tax on Health Savings Accounts**

Prior to Obamacare, there was a 10 percent tax on distributions from a health savings account that were used for non-qualified purchases. Obamacare increased the tax penalty to 20 percent. This section would restore the penalty to 10 percent, effective January 1, 2016.

#### **Section 212 – Repeal of Limitation on Contributions to Flexible Spending Accounts**

Prior to Obamacare, employers could allow employees to receive a portion of their salary in a health flexible spending account, without the FSA compensation being taxed (just as employer sponsored health insurance is not taxed). Obamacare limited contributions to FSAs to \$2500 per year. This section would repeal that restriction, effective January 1, 2016.

#### **Section 213 – Repeal of Tax on Prescription Medications**

Obamacare imposes an annual fee on manufacturers and importers of prescription drugs, which is eventually passed along to consumers. This section would repeal that tax, effective January 1, 2016.

**Section 214 – Repeal of Medical Device Excise Tax**

Obamacare imposes a 2.3 percent tax on gross sales of medical devices. This section would repeal that tax, effective January 1, 2016.

**Section 215 – Repeal of Health Insurance Tax**

Obamacare imposes an annual fee on health insurers, which is eventually passed along to consumers. This section would repeal that tax, effective January 1, 2016.

**Section 216 – Repeal of Elimination of Deduction for Expenses Allocable to Medicare Part D Subsidy**

Obamacare limited the deductibility of employer provided prescription drug coverage for retirees, when the employer also received a Part D subsidy. This section would reverse that policy, effective January 1, 2016.

**Section 217 – Repeal of Chronic Care Tax**

Prior to Obamacare, people who had health care costs exceeding 7.5 percent of their adjusted gross income could deduct those costs from their taxes. Obamacare increased that threshold to 10 percent. This section would reverse that tax increase, effective January 1, 2016.

**Section 218 – Repeal of Medicare Tax Increase**

Obamacare imposes an additional 0.9 percent surtax on taxpayer income above \$200,000 for individuals and \$250,000 for couples. This section would repeal that surtax, effective January 1, 2016.

**Section 219 – Repeal of Tanning Tax**

Obamacare imposes a 10 percent excise tax on indoor tanning services. This section would repeal that excise tax, effective January 1, 2016.

**Section 220 – Repeal of Net Investment Tax**

Obamacare imposes a 3.8 percent tax on investment income over \$200,000 for an individual and \$250,000 for couples. This section would repeal that tax, effective January 1, 2016.

**Section 221 – Remuneration**

Ends the limitation on excessive remuneration paid by certain health insurance providers in Section 9014 of the ACA, effective January 1, 2016. The ACA limits the deductibility of compensation for people working for health insurance companies that exceeds \$500,000.

**Section 222 – Economic Substance Doctrine**

Repeals the economic substance doctrine, effective January 1, 2016, which was codified by Section 1409 of HCERA in the Internal Revenue Code. Obamacare codified economic substance doctrine, which was a judicial doctrine courts had used to deny tax benefits when the transaction lacked economic substance.

**Section 223 – Budgetary Savings for Extending Medicare Solvency**

This provision instructs the secretary of the Treasury to transfer the vast majority of on-budget savings (over the period of fiscal years 2016 through 2025) from this act to the Federal Hospital Insurance Trust Fund.

**Macroeconomic Effects**

According to the Congressional Budget Office [CBO], repealing major provisions of Obamacare in the Senate amendment to H.R. 3762 would reduce the deficit by \$516 billion over the 2016-2025 period, including macroeconomic feedback (see table).

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| <b>CBO Estimate of Senate Amendment to H.R. 3762 (with macroeconomic feedback)</b> |                        |
|------------------------------------------------------------------------------------|------------------------|
| Repeal of Obamacare coverage subsidies, credits, Medicaid expansion, etc.          | \$1349 billion savings |
| Repeal of Obamacare taxes and penalties                                            | \$833 billion cost     |
| <b>Total Deficit Reduction</b>                                                     | <b>\$516 billion</b>   |

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