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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R.

To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RODNEY DAVIS of Illinois introduced the following bill; which was referred to the Committee on _____

A BILL

To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, 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.**

4 This Act may be cited as the “Health Care Protection
5 Act”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) the COVID–19 pandemic has caused many
4 individuals to lose access to employer-sponsored
5 health insurance at no fault of their own;

6 (2) individuals should not be forced to cover ad-
7 ditional costs associated with healthcare due to a
8 loss of access to employer-sponsored health insur-
9 ance;

10 (3) employers should utilize all tools provided to
11 them by the federal government to bring individuals
12 back onto payroll so that they may receive benefits
13 such as employer-sponsored health insurance; and

14 (4) individuals unable to rejoin the workforce
15 should receive assistance equal to that received while
16 employed so that when an employer makes an offer
17 of employment, the individual does not have an in-
18 centive to reject.

19 **SEC. 3. AMERICAN HEALTH EXCHANGES SPECIAL ENROLL-**
20 **MENT PERIOD.**

21 Section 1311(c)(6) of the Patient Protection and Af-
22 fordable Care Act (42 U.S.C. 18031(c)(6)) is amended—

23 (1) in subparagraph (C), by striking at the end
24 “and”;

25 (2) in subparagraph (D), by striking at the end
26 the period and inserting “; and”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(E) a special enrollment period during the
4 30-day period following the date of the enact-
5 ment of this subparagraph during which any in-
6 dividual who is otherwise eligible to enroll in a
7 qualified health plan through the Exchange and
8 who is not otherwise enrolled in such a plan
9 may enroll in such a qualified health plan.”.

10 **SEC. 4. PREMIUM ASSISTANCE FOR COBRA BENEFITS.**

11 (a) PREMIUM ASSISTANCE FOR COBRA CONTINU-
12 ATION COVERAGE FOR INDIVIDUALS AND THEIR FAMI-
13 LIES.—

14 (1) PROVISION OF PREMIUM ASSISTANCE.—

15 (A) REDUCTION OF PREMIUMS PAY-
16 ABLE.—In the case of any premium for a pe-
17 riod of coverage (not to exceed 6 months) be-
18 ginning on or after the date of the enactment
19 of this Act and on or before January 1, 2021,
20 for COBRA continuation coverage with respect
21 to any assistance eligible individual, such indi-
22 vidual shall be treated for purposes of any
23 COBRA continuation provision as having paid
24 the amount of such premium if such individual
25 pays (or a person other than such individual’s

1 employer pays on behalf of such individual) a
2 percent of such premium such that the amount
3 of such premium so paid is equal to the amount
4 the covered employee with respect to such cov-
5 erage would have paid with respect to such indi-
6 vidual for such period for coverage under the
7 group health plan under which such employee
8 was enrolled at the time of the qualifying event
9 had such event not occurred (as determined
10 without regard to this subsection).

11 (B) PLAN ENROLLMENT OPTION.—

12 (i) IN GENERAL.—Notwithstanding
13 the COBRA continuation provisions, an as-
14 sistance eligible individual may, not later
15 than 90 days after the date of notice of the
16 plan enrollment option described in this
17 subparagraph, elect to enroll in coverage
18 under a plan offered by the employer in-
19 volved, or the employee organization in-
20 volved (including, for this purpose, a joint
21 board of trustees of a multiemployer trust
22 affiliated with one or more multiemployer
23 plans), that is different than coverage
24 under the plan in which such individual
25 was enrolled at the time the qualifying

1 event occurred, and such coverage shall be
2 treated as COBRA continuation coverage
3 for purposes of the applicable COBRA con-
4 tinuation coverage provision.

5 (ii) REQUIREMENTS.—An assistance
6 eligible individual may elect to enroll in
7 different coverage as described in clause (i)
8 only if—

9 (I) the employer involved has
10 made a determination that such em-
11 ployer will permit assistance eligible
12 individuals to enroll in different cov-
13 erage as provided for this subpara-
14 graph;

15 (II) the premium for such dif-
16 ferent coverage does not exceed the
17 premium for coverage in which the in-
18 dividual was enrolled at the time the
19 qualifying event occurred;

20 (III) the different coverage in
21 which the individual elects to enroll is
22 coverage that is also offered to the ac-
23 tive employees of the employer at the
24 time at which such election is made;
25 and

1 (IV) the different coverage is
2 not—

3 (aa) coverage that provides
4 only dental, vision, counseling, or
5 referral services (or a combina-
6 tion of such services);

7 (bb) a flexible spending ar-
8 rangement (as defined in section
9 106(c)(2) of the Internal Rev-
10 enue Code of 1986); or

11 (cc) coverage that provides
12 coverage for services or treat-
13 ments furnished in an on-site
14 medical facility maintained by
15 the employer and that consists
16 primarily of first-aid services,
17 prevention and wellness care, or
18 similar care (or a combination of
19 such care).

20 (C) PREMIUM REIMBURSEMENT.—For pro-
21 visions providing the balance of such premium,
22 see section 6431 of the Internal Revenue Code
23 of 1986, as added by paragraph (12).

24 (2) LIMITATION OF PERIOD OF PREMIUM AS-
25 SISTANCE.—

1 (A) IN GENERAL.—Paragraph (1)(A) shall
2 not apply with respect to any assistance eligible
3 individual for months of coverage beginning on
4 or after the earlier of—

5 (i) the first date that such individual
6 is eligible for coverage under any other
7 group health plan (other than coverage
8 consisting of only dental, vision, coun-
9 seling, or referral services (or a combina-
10 tion thereof), coverage under a flexible
11 spending arrangement (as defined in sec-
12 tion 106(c)(2) of the Internal Revenue
13 Code of 1986), or coverage of treatment
14 that is furnished in an on-site medical fa-
15 cility maintained by the employer and that
16 consists primarily of first-aid services, pre-
17 vention and wellness care, or similar care
18 (or a combination thereof)) or is eligible
19 for benefits under title XVIII of the Social
20 Security Act, or

21 (ii) the earliest of—

22 (I) July 1, 2021,

23 (II) the date following the expira-
24 tion of the maximum period of con-
25 tinuation coverage required under the

1 applicable COBRA continuation cov-
2 erage provision, or

3 (III) the date following the expi-
4 ration of the period of continuation
5 coverage allowed under paragraph
6 (4)(B)(ii).

7 (B) TIMING OF ELIGIBILITY FOR ADDI-
8 TIONAL COVERAGE.—For purposes of subpara-
9 graph (A)(i), an individual shall not be treated
10 as eligible for coverage under a group health
11 plan before the first date on which such indi-
12 vidual could be covered under such plan.

13 (C) NOTIFICATION REQUIREMENT.—An
14 assistance eligible individual shall notify in writ-
15 ing the group health plan with respect to which
16 paragraph (1)(A) applies if such paragraph
17 ceases to apply by reason of subparagraph
18 (A)(i). Such notice shall be provided to the
19 group health plan in such time and manner as
20 may be specified by the Secretary of Labor.

21 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For
22 purposes of this section, the term “assistance eligible
23 individual” means any qualified beneficiary if—

24 (A) at any time during the period that be-
25 gins with March 1, 2020, and ends with De-

1 cember 31, 2020, such qualified beneficiary is
2 eligible for COBRA continuation coverage,

3 (B) such qualified beneficiary elects such
4 coverage, and

5 (C) the qualifying event with respect to the
6 COBRA continuation coverage consists of the
7 involuntary termination of the covered employ-
8 ee's employment and occurred during such pe-
9 riod.

10 (4) EXTENSION OF ELECTION PERIOD AND EF-
11 FECT ON COVERAGE.—

12 (A) IN GENERAL.—For purposes of apply-
13 ing section 605(a) of the Employee Retirement
14 Income Security Act of 1974, section
15 4980B(f)(5)(A) of the Internal Revenue Code
16 of 1986, section 2205(a) of the Public Health
17 Service Act, and section 8905a(c)(2) of title 5,
18 United States Code, in the case of an individual
19 who does not have an election of COBRA con-
20 tinuation coverage in effect on the date of the
21 enactment of this Act but who would be an as-
22 sistance eligible individual if such election were
23 so in effect, such individual may elect the
24 COBRA continuation coverage under the
25 COBRA continuation coverage provisions con-

1 taining such sections during the period begin-
2 ning on the date of the enactment of this Act
3 and ending 60 days after the date on which the
4 notification required under paragraph (7)(C) is
5 provided to such individual.

6 (B) COMMENCEMENT OF COVERAGE; NO
7 REACH-BACK.—Any COBRA continuation cov-
8 erage elected by a qualified beneficiary during
9 an extended election period under subparagraph
10 (A)—

11 (i) shall commence with the first pe-
12 riod of coverage beginning on or after the
13 date of the enactment of this Act, and

14 (ii) shall not extend beyond the period
15 of COBRA continuation coverage that
16 would have been required under the appli-
17 cable COBRA continuation coverage provi-
18 sion if the coverage had been elected as re-
19 quired under such provision.

20 (5) EXPEDITED REVIEW OF DENIALS OF PRE-
21 MIUM ASSISTANCE.—In any case in which an indi-
22 vidual requests treatment as an assistance eligible
23 individual and is denied such treatment by the group
24 health plan, the Secretary of Labor (or the Sec-
25 retary of Health and Human Services in connection

1 with COBRA continuation coverage which is pro-
2 vided other than pursuant to part 6 of subtitle B of
3 title I of the Employee Retirement Income Security
4 Act of 1974), in consultation with the Secretary of
5 the Treasury, shall provide for expedited review of
6 such denial. An individual shall be entitled to such
7 review upon application to such Secretary in such
8 form and manner as shall be provided by such Sec-
9 retary. Such Secretary shall make a determination
10 regarding such individual's eligibility within 15 busi-
11 ness days after receipt of such individual's applica-
12 tion for review under this paragraph. Either Sec-
13 retary's determination upon review of the denial
14 shall be de novo and shall be the final determination
15 of such Secretary. A reviewing court shall grant def-
16 erence to such Secretary's determination. The provi-
17 sions of this paragraph, paragraphs (1) through (4),
18 and paragraph (7) shall be treated as provisions of
19 title I of the Employee Retirement Income Security
20 Act of 1974 for purposes of part 5 of subtitle B of
21 such title.

22 (6) DISREGARD OF SUBSIDIES FOR PURPOSES
23 OF FEDERAL AND STATE PROGRAMS.—Notwith-
24 standing any other provision of law, any premium
25 reduction with respect to an assistance eligible indi-

1 vidual under this subsection shall not be considered
2 income or resources in determining eligibility for, or
3 the amount of assistance or benefits provided under,
4 any other public benefit provided under Federal law
5 or the law of any State or political subdivision there-
6 of.

7 (7) NOTICES TO INDIVIDUALS.—

8 (A) GENERAL NOTICE.—

9 (i) IN GENERAL.—In the case of no-
10 tices provided under section 606(a)(4) of
11 the Employee Retirement Income Security
12 Act of 1974 (29 U.S.C. 1166(4)), section
13 4980B(f)(6)(D) of the Internal Revenue
14 Code of 1986, section 2206(4) of the Pub-
15 lic Health Service Act (42 U.S.C. 300bb-
16 6(4)), or section 8905a(f)(2)(A) of title 5,
17 United States Code, with respect to indi-
18 viduals who, during the period described in
19 paragraph (3)(A), become entitled to elect
20 COBRA continuation coverage, the re-
21 quirements of such sections shall not be
22 treated as met unless such notices include
23 an additional notification to the recipient
24 of—

1 (I) the availability of premium
2 reduction with respect to such cov-
3 erage under this subsection, and

4 (II) the option to enroll in dif-
5 ferent coverage if the employer per-
6 mits assistance eligible individuals to
7 elect enrollment in different coverage
8 (as described in paragraph (1)(B)).

9 (ii) ALTERNATIVE NOTICE.—In the
10 case of COBRA continuation coverage to
11 which the notice provision under such sec-
12 tions does not apply, the Secretary of
13 Labor, in consultation with the Secretary
14 of the Treasury and the Secretary of
15 Health and Human Services, shall, in con-
16 sultation with administrators of the group
17 health plans (or other entities) that provide
18 or administer the COBRA continuation
19 coverage involved, provide rules requiring
20 the provision of such notice.

21 (iii) FORM.—The requirement of the
22 additional notification under this subpara-
23 graph may be met by amendment of exist-
24 ing notice forms or by inclusion of a sepa-

1 rate document with the notice otherwise
2 required.

3 (B) SPECIFIC REQUIREMENTS.—Each ad-
4 ditional notification under subparagraph (A)
5 shall include—

6 (i) the forms necessary for estab-
7 lishing eligibility for premium reduction
8 under this subsection,

9 (ii) the name, address, and telephone
10 number necessary to contact the plan ad-
11 ministrator and any other person main-
12 taining relevant information in connection
13 with such premium reduction,

14 (iii) a description of the extended elec-
15 tion period provided for in paragraph
16 (4)(A),

17 (iv) a description of the obligation of
18 the qualified beneficiary under paragraph
19 (2)(C) to notify the plan providing continu-
20 ation coverage of eligibility for subsequent
21 coverage under another group health plan
22 or eligibility for benefits under title XVIII
23 of the Social Security Act and the penalty
24 provided under section 6720C of the Inter-

1 nal Revenue Code of 1986 for failure to so
2 notify the plan,

3 (v) a description, displayed in a
4 prominent manner, of the qualified bene-
5 ficiary's right to a reduced premium and
6 any conditions on entitlement to the re-
7 duced premium, and

8 (vi) a description of the option of the
9 qualified beneficiary to enroll in different
10 coverage if the employer permits such ben-
11 eficiary to elect to enroll in such different
12 coverage under paragraph (1)(B).

13 (C) NOTICE IN CONNECTION WITH EX-
14 TENDED ELECTION PERIODS.—In the case of
15 any assistance eligible individual (or any indi-
16 vidual described in paragraph (4)(A)) who be-
17 came entitled to elect COBRA continuation cov-
18 erage before the date of the enactment of this
19 Act, the administrator of the group health plan
20 (or other entity) involved shall provide (within
21 60 days after the date of enactment of this Act)
22 for the additional notification required to be
23 provided under subparagraph (A) and failure to
24 provide such notice shall be treated as a failure

1 to meet the notice requirements under the ap-
2 plicable COBRA continuation provision.

3 (D) MODEL NOTICES.—Not later than 30
4 days after the date of enactment of this Act—

5 (i) the Secretary of the Labor, in con-
6 sultation with the Secretary of the Treas-
7 ury and the Secretary of Health and
8 Human Services, shall prescribe models for
9 the additional notification required under
10 this paragraph (other than the additional
11 notification described in clause (ii)), and

12 (ii) in the case of any additional noti-
13 fication provided pursuant to subpara-
14 graph (A) under section 8905a(f)(2)(A) of
15 title 5, United States Code, the Office of
16 Personnel Management shall prescribe a
17 model for such additional notification.

18 (8) REGULATIONS.—The Secretary of the
19 Treasury may prescribe such regulations or other
20 guidance as may be necessary or appropriate to
21 carry out the provisions of this subsection, including
22 the prevention of fraud and abuse under this sub-
23 section, except that the Secretary of Labor and the
24 Secretary of Health and Human Services may pre-
25 scribe such regulations (including interim final regu-

1 lations) or other guidance as may be necessary or
2 appropriate to carry out the provisions of para-
3 graphs (5), (7), and (9).

4 (9) OUTREACH.—The Secretary of Labor, in
5 consultation with the Secretary of the Treasury and
6 the Secretary of Health and Human Services, shall
7 provide outreach consisting of public education and
8 enrollment assistance relating to premium reduction
9 provided under this subsection. Such outreach shall
10 target employers, group health plan administrators,
11 public assistance programs, States, insurers, and
12 other entities as determined appropriate by such
13 Secretaries. Such outreach shall include an initial
14 focus on those individuals electing continuation cov-
15 erage who are referred to in paragraph (7)(C). In-
16 formation on such premium reduction, including en-
17 rollment, shall also be made available on websites of
18 the Departments of Labor, Treasury, and Health
19 and Human Services.

20 (10) DEFINITIONS.—For purposes of this sec-
21 tion—

22 (A) ADMINISTRATOR.—The term “admin-
23 istrator” has the meaning given such term in
24 section 3(16)(A) of the Employee Retirement
25 Income Security Act of 1974.

1 (B) COBRA CONTINUATION COVERAGE.—

2 The term “COBRA continuation coverage”
3 means continuation coverage provided pursuant
4 to part 6 of subtitle B of title I of the Em-
5 ployee Retirement Income Security Act of 1974
6 (other than under section 609), title XXII of
7 the Public Health Service Act, section 4980B of
8 the Internal Revenue Code of 1986 (other than
9 subsection (f)(1) of such section insofar as it
10 relates to pediatric vaccines), or section 8905a
11 of title 5, United States Code, or under a State
12 program that provides comparable continuation
13 coverage. Such term does not include coverage
14 under a health flexible spending arrangement
15 under a cafeteria plan within the meaning of
16 section 125 of the Internal Revenue Code of
17 1986.

18 (C) COBRA CONTINUATION PROVISION.—

19 The term “COBRA continuation provision”
20 means the provisions of law described in sub-
21 paragraph (B).

22 (D) COVERED EMPLOYEE.—The term
23 “covered employee” has the meaning given such
24 term in section 607(2) of the Employee Retire-
25 ment Income Security Act of 1974.

1 (E) QUALIFIED BENEFICIARY.—The term
2 “qualified beneficiary” has the meaning given
3 such term in section 607(3) of the Employee
4 Retirement Income Security Act of 1974.

5 (F) GROUP HEALTH PLAN.—The term
6 “group health plan” has the meaning given
7 such term in section 607(1) of the Employee
8 Retirement Income Security Act of 1974.

9 (G) STATE.—The term “State” includes
10 the District of Columbia, the Commonwealth of
11 Puerto Rico, the Virgin Islands, Guam, Amer-
12 ican Samoa, and the Commonwealth of the
13 Northern Mariana Islands.

14 (H) PERIOD OF COVERAGE.—Any ref-
15 erence in this subsection to a period of coverage
16 shall be treated as a reference to a monthly or
17 shorter period of coverage with respect to which
18 premiums are charged with respect to such cov-
19 erage.

20 (11) REPORTS.—

21 (A) INTERIM REPORT.—The Secretary of
22 the Treasury shall submit an interim report to
23 the Committee on Education and Labor, the
24 Committee on Ways and Means, and the Com-
25 mittee on Energy and Commerce of the House

1 of Representatives and the Committee on
2 Health, Education, Labor, and Pensions and
3 the Committee on Finance of the Senate re-
4 garding the premium reduction provided under
5 this subsection that includes—

6 (i) the number of individuals provided
7 such assistance as of the date of the re-
8 port; and

9 (ii) the total amount of expenditures
10 incurred (with administrative expenditures
11 noted separately) in connection with such
12 assistance as of the date of the report.

13 (B) FINAL REPORT.—As soon as prac-
14 ticable after the last period of COBRA continu-
15 ation coverage for which premium reduction is
16 provided under this section, the Secretary of the
17 Treasury shall submit a final report to each
18 Committee referred to in subparagraph (A) that
19 includes—

20 (i) the number of individuals provided
21 premium reduction under this section;

22 (ii) the average dollar amount
23 (monthly and annually) of premium reduc-
24 tions provided to such individuals; and

1 (iii) the total amount of expenditures
2 incurred (with administrative expenditures
3 noted separately) in connection with pre-
4 mium reduction under this section.

5 (12) COBRA PREMIUM ASSISTANCE.—

6 (A) IN GENERAL.—Subchapter B of chap-
7 ter 65 of the Internal Revenue Code of 1986 is
8 amended by adding at the end the following
9 new section:

10 **“SEC. 6431. COBRA PREMIUM ASSISTANCE.**

11 “(a) IN GENERAL.—The person to whom premiums
12 are payable under COBRA continuation coverage shall be
13 reimbursed as provided in subsection (c) for the amount
14 of premiums not paid by assistance eligible individuals by
15 reason of section 5 of the Health Care Protection Act.

16 “(b) PERSON ENTITLED TO REIMBURSEMENT.—For
17 purposes of subsection (a), except as otherwise provided
18 by the Secretary, the person to whom premiums are pay-
19 able under COBRA continuation coverage shall be treated
20 as being—

21 “(1) in the case of any group health plan which
22 is a multiemployer plan (as defined in section 3(37)
23 of the Employee Retirement Income Security Act of
24 1974), the plan,

1 “(2) in the case of any group health plan not
2 described in paragraph (1)—

3 “(A) which is subject to the COBRA con-
4 tinuation provisions contained in—

5 “(i) the Internal Revenue Code of
6 1986,

7 “(ii) the Employee Retirement Income
8 Security Act of 1974,

9 “(iii) the Public Health Service Act,
10 or

11 “(iv) title 5, United States Code, or

12 “(B) under which some or all of the cov-
13 erage is not provided by insurance,
14 the employer maintaining the plan, and

15 “(3) in the case of any group health plan not
16 described in paragraph (1) or (2), the insurer pro-
17 viding the coverage under the group health plan.

18 “(c) METHOD OF REIMBURSEMENT.—Except as oth-
19 erwise provided by the Secretary—

20 “(1) TREATMENT AS PAYMENT OF PAYROLL
21 TAXES.—Each person entitled to reimbursement
22 under subsection (a) (and filing a claim for such re-
23 imbursement at such time and in such manner as
24 the Secretary may require) shall be treated for pur-
25 poses of this title and section 1324(b)(2) of title 31,

1 United States Code, as having paid to the Secretary,
2 on the date that the assistance eligible individual's
3 premium payment is received, payroll taxes in an
4 amount equal to the portion of such reimbursement
5 which relates to such premium. To the extent that
6 the amount treated as paid under the preceding sen-
7 tence exceeds the amount of such person's liability
8 for such taxes, the Secretary shall credit or refund
9 such excess in the same manner as if it were an
10 overpayment of such taxes.

11 “(2) OVERSTATEMENTS.—Any overstatement of
12 the reimbursement to which a person is entitled
13 under this section (and any amount paid by the Sec-
14 retary as a result of such overstatement) shall be
15 treated as an underpayment of payroll taxes by such
16 person and may be assessed and collected by the
17 Secretary in the same manner as payroll taxes.

18 “(3) REIMBURSEMENT CONTINGENT ON PAY-
19 MENT OF REMAINING PREMIUM.—No reimbursement
20 may be made under this section to a person with re-
21 spect to any assistance eligible individual until after
22 the reduced premium required under section
23 5(a)(1)(A) of the Health Care Protection Act with
24 respect to such individual has been received.

25 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) PAYROLL TAXES.—The term ‘payroll
2 taxes’ means—

3 “(A) amounts required to be deducted and
4 withheld for the payroll period under section
5 3402 (relating to wage withholding),

6 “(B) amounts required to be deducted for
7 the payroll period under section 3102 (relating
8 to FICA employee taxes), and

9 “(C) amounts of the taxes imposed for the
10 payroll period under section 3111 (relating to
11 FICA employer taxes).

12 “(2) PERSON.—The term ‘person’ includes any
13 governmental entity.

14 “(e) REPORTING.—Each person entitled to reim-
15 bursement under subsection (a) for any period shall sub-
16 mit such reports (at such time and in such manner) as
17 the Secretary may require, including—

18 “(1) an attestation of involuntary termination
19 of employment for each covered employee on the
20 basis of whose termination entitlement to reimburse-
21 ment is claimed under subsection (a),

22 “(2) a report of the amount of payroll taxes off-
23 set under subsection (a) for the reporting period and
24 the estimated offsets of such taxes for the subse-

1 quent reporting period in connection with reimburse-
2 ments under subsection (a), and

3 “(3) a report containing the TINs of all covered
4 employees, the amount of subsidy reimbursed with
5 respect to each covered employee and qualified bene-
6 ficiaries, and a designation with respect to each cov-
7 ered employee as to whether the subsidy reimburse-
8 ment is for coverage of 1 individual or 2 or more in-
9 dividuals.

10 “(f) REGULATIONS.—The Secretary shall issue such
11 regulations or other guidance as may be necessary or ap-
12 propriate to carry out this section, including—

13 “(1) the requirement to report information or
14 the establishment of other methods for verifying the
15 correct amounts of reimbursements under this sec-
16 tion, and

17 “(2) the application of this section to group
18 health plans that are multiemployer plans (as de-
19 fined in section 3(37) of the Employee Retirement
20 Income Security Act of 1974).”.

21 (B) SOCIAL SECURITY TRUST FUNDS HELD
22 HARMLESS.—In determining any amount trans-
23 ferred or appropriated to any fund under the
24 Social Security Act, section 6431 of the Inter-

1 nal Revenue Code of 1986 shall not be taken
2 into account.

3 (C) CLERICAL AMENDMENT.—The table of
4 sections for subchapter B of chapter 65 of the
5 Internal Revenue Code of 1986 is amended by
6 adding at the end the following new item:

“Sec. 6431. COBRA premium assistance.”.

7 (D) EFFECTIVE DATE.—The amendments
8 made by this paragraph shall apply to pre-
9 miums to which subsection (a)(1)(A) applies.

10 (E) SPECIAL RULE.—

11 (i) IN GENERAL.—In the case of an
12 assistance eligible individual who pays,
13 with respect to the first period of COBRA
14 continuation coverage to which subsection
15 (a)(1)(A) applies or the immediately subse-
16 quent period, the full premium amount for
17 such coverage, the person to whom such
18 payment is payable shall—

19 (I) make a reimbursement pay-
20 ment to such individual for the
21 amount of such premium paid in ex-
22 cess of the amount required to be paid
23 under subsection (a)(1)(A); or

24 (II) provide credit to the indi-
25 vidual for such amount in a manner

1 that reduces one or more subsequent
2 premium payments that the individual
3 is required to pay under such sub-
4 section for the coverage involved.

5 (ii) REIMBURSING EMPLOYER.—A
6 person to which clause (i) applies shall be
7 reimbursed as provided for in section 6431
8 of the Internal Revenue Code of 1986 for
9 any payment made, or credit provided, to
10 the employee under such clause.

11 (iii) PAYMENT OR CREDITS.—Unless
12 it is reasonable to believe that the credit
13 for the excess payment in clause (i)(II) will
14 be used by the assistance eligible individual
15 within 180 days of the date on which the
16 person receives from the individual the
17 payment of the full premium amount, a
18 person to which clause (i) applies shall
19 make the payment required under such
20 clause to the individual within 60 days of
21 such payment of the full premium amount.
22 If, as of any day within the 180-day pe-
23 riod, it is no longer reasonable to believe
24 that the credit will be used during that pe-
25 riod, payment equal to the remainder of

1 the credit outstanding shall be made to the
2 individual within 60 days of such day.

3 (13) PENALTY FOR FAILURE TO NOTIFY
4 HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR
5 PREMIUM ASSISTANCE.—

6 (A) IN GENERAL.—Part I of subchapter B
7 of chapter 68 of the Internal Revenue Code of
8 1986 is amended by adding at the end the fol-
9 lowing new section:

10 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
11 **PLAN OF CESSATION OF ELIGIBILITY FOR**
12 **COBRA PREMIUM ASSISTANCE.**

13 “(a) IN GENERAL.—Any person required to notify a
14 group health plan under section 5(a)(2)(C) of the Health
15 Care Protection Act who fails to make such a notification
16 at such time and in such manner as the Secretary of
17 Labor may require shall pay a penalty of 110 percent of
18 the premium reduction provided under such section after
19 termination of eligibility under such subsection.

20 “(b) REASONABLE CAUSE EXCEPTION.—No penalty
21 shall be imposed under subsection (a) with respect to any
22 failure if it is shown that such failure is due to reasonable
23 cause and not to willful neglect.”.

24 (B) CLERICAL AMENDMENT.—The table of
25 sections of part I of subchapter B of chapter 68

1 of such Code is amended by adding at the end
2 the following new item:

“Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.”.

3 (C) EFFECTIVE DATE.—The amendments
4 made by this paragraph shall apply to failures
5 occurring after the date of the enactment of
6 this Act.

7 (14) COORDINATION WITH HCTC.—

8 (A) IN GENERAL.—Subsection (g) of sec-
9 tion 35 of the Internal Revenue Code of 1986
10 is amended by redesignating paragraph (9) as
11 paragraph (10) and inserting after paragraph
12 (8) the following new paragraph:

13 “(9) COBRA PREMIUM ASSISTANCE.—In the
14 case of an assistance eligible individual who receives
15 premium reduction for COBRA continuation cov-
16 erage under section 5(a) of the Health Care Protec-
17 tion Act for any month during the taxable year, such
18 individual shall not be treated as an eligible indi-
19 vidual, a certified individual, or a qualifying family
20 member for purposes of this section or section 7527
21 with respect to such month.”.

22 (B) EFFECTIVE DATE.—The amendment
23 made by subparagraph (A) shall apply to tax-

1 able years ending after the date of the enact-
2 ment of this Act.

3 (15) EXCLUSION OF COBRA PREMIUM ASSIST-
4 ANCE FROM GROSS INCOME.—

5 (A) IN GENERAL.—Part III of subchapter
6 B of chapter 1 of the Internal Revenue Code of
7 1986 is amended by inserting after section
8 139B the following new section:

9 **“SEC. 139C. COBRA PREMIUM ASSISTANCE.**

10 “In the case of an assistance eligible individual (as
11 defined in section 5 of the Health Care Protection Act),
12 gross income does not include any premium reduction pro-
13 vided under subsection (a) of such section.”.

14 (B) CLERICAL AMENDMENT.—The table of
15 sections for part III of subchapter B of chapter
16 1 of such Code is amended by inserting after
17 the item relating to section 139B the following
18 new item:

 “Sec. 139C. COBRA premium assistance.”.

19 (C) EFFECTIVE DATE.—The amendments
20 made by this paragraph shall apply to taxable
21 years ending after the date of the enactment of
22 this Act.

23 (b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-
24 INCOME INDIVIDUALS.—

1 (1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME
2 INDIVIDUALS.—If—

3 (A) premium assistance is provided under
4 this section with respect to any COBRA con-
5 tinuation coverage which covers the taxpayer,
6 the taxpayer's spouse, or any dependent (within
7 the meaning of section 152 of the Internal Rev-
8 enue Code of 1986, determined without regard
9 to subsections (b)(1), (b)(2), and (d)(1)(B)
10 thereof) of the taxpayer during any portion of
11 the taxable year, and

12 (B) the taxpayer's modified adjusted gross
13 income for such taxable year exceeds \$125,000
14 (\$250,000 in the case of a joint return),
15 then the tax imposed by chapter 1 of such Code with
16 respect to the taxpayer for such taxable year shall
17 be increased by the amount of such assistance.

18 (2) PHASE-IN OF RECAPTURE.—

19 (A) IN GENERAL.—In the case of a tax-
20 payer whose modified adjusted gross income for
21 the taxable year does not exceed \$145,000
22 (\$290,000 in the case of a joint return), the in-
23 crease in the tax imposed under paragraph (1)
24 shall not exceed the phase-in percentage of such

1 increase (determined without regard to this
2 paragraph).

3 (B) PHASE-IN PERCENTAGE.—For pur-
4 poses of this subsection, the term “phase-in
5 percentage” means the ratio (expressed as a
6 percentage) obtained by dividing—

7 (i) the excess of described in subpara-
8 graph (B) of paragraph (1), by

9 (ii) \$20,000 (\$40,000 in the case of a
10 joint return).

11 (3) OPTION FOR HIGH-INCOME INDIVIDUALS TO
12 WAIVE ASSISTANCE AND AVOID RECAPTURE.—Not-
13 withstanding subsection (a)(3), an individual shall
14 not be treated as an assistance eligible individual for
15 purposes of this section and section 6431 of the In-
16 ternal Revenue Code of 1986 if such individual—

17 (A) makes a permanent election (at such
18 time and in such form and manner as the Sec-
19 retary of the Treasury may prescribe) to waive
20 the right to the premium assistance provided
21 under this section, and

22 (B) notifies the entity to whom premiums
23 are reimbursed under section 6431(a) of such
24 Code of such election.

1 (4) MODIFIED ADJUSTED GROSS INCOME.—For
2 purposes of this subsection, the term “modified ad-
3 justed gross income” means the adjusted gross in-
4 come (as defined in section 62 of the Internal Rev-
5 enue Code of 1986) of the taxpayer for the taxable
6 year increased by any amount excluded from gross
7 income under section 911, 931, or 933 of such Code.

8 (5) CREDITS NOT ALLOWED AGAINST TAX,
9 ETC.—For purposes determining regular tax liability
10 under section 26(b) of such Code, the increase in tax
11 under this subsection shall not be treated as a tax
12 imposed under chapter 1 of such Code.

13 (6) REGULATIONS.—The Secretary of the
14 Treasury shall issue such regulations or other guid-
15 ance as are necessary or appropriate to carry out
16 this subsection, including requirements that the enti-
17 ty to whom premiums are reimbursed under section
18 6431(a) of the Internal Revenue Code of 1986 re-
19 port to the Secretary, and to each assistance eligible
20 individual, the amount of premium assistance pro-
21 vided under subsection (a) with respect to each such
22 individual.

23 (7) EFFECTIVE DATE.—The provisions of this
24 subsection shall apply to taxable years ending after
25 the date of the enactment of this Act.