

112TH CONGRESS
1ST SESSION

H. R. 782

To enable States to opt out of certain provisions of the Patient Protection and Affordable Care Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2011

Mr. McCOTTER (for himself, Mr. BISHOP of Utah, Mr. BROUN of Georgia, Mr. TIPTON, Mr. GUTHRIE, Mr. TIBERI, Mr. PAUL, Mr. FLAKE, Mr. MILLER of Florida, Mr. LONG, Mr. YOUNG of Alaska, Mr. KINZINGER of Illinois, Mr. FRANKS of Arizona, Mr. WALBERG, Mr. FLEMING, Mr. GINGREY of Georgia, Mr. POSEY, Mr. PENCE, Mr. SULLIVAN, Mr. ROONEY, Mr. YODER, Mr. BILBRAY, and Mr. LAMBORN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 enable States to opt out of certain provisions of the Patient Protection and Affordable Care Act.

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 “State Health Care
5 Flexibility Act of 2011”.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or any application of such
3 provision to any person or circumstance, is held to be un-
4 constitutional, the remainder of the provisions of this Act
5 and the application of the provision to any other person
6 not similarly situated or to any other circumstance shall
7 not be affected.

8 **SEC. 3. PERMITTING STATES TO OPT OUT OF CERTAIN PRO-**
9 **VISIONS OF PPACA.**

10 (a) IN GENERAL.—A qualifying State may elect to
11 opt out of the application of any or all of the provisions
12 of the Patient Protection and Affordable Care Act (Public
13 Law 111–148) described in subsection (b) with respect to
14 health insurance coverage within such State.

15 (b) PROVISIONS DESCRIBED.—For purposes of this
16 Act:

17 (1) IN GENERAL.—A provision of the Patient
18 Protection and Affordable Care Act described in this
19 subsection is any section of such Act described in
20 paragraph (2) or any grouping of provisions of such
21 Act described in a subparagraph of paragraph (3).

22 (2) SECTIONS RELATING TO PHSA HEALTH IN-
23 SURANCE MARKET REFORMS AND IMMEDIATE RE-
24 FORMS.—A section described in this paragraph is
25 any section of subtitles A through C of title I of the
26 Patient Protection and Affordable Care Act (and the

1 amendments made by such section), except for sec-
2 tions 1253 and 1254.

3 (3) GROUPINGS OF OTHER PPACA PROVI-
4 SIONS.—A grouping of provisions of the Patient
5 Protection and Affordable Care Act is any of the fol-
6 lowing:

7 (A) All of the sections of parts I, II, III,
8 and V of subtitle D of title I of such Act (and
9 the amendments made by such sections).

10 (B) All of the sections of part I of subtitle
11 E of title I of such Act (and the amendments
12 made by such sections).

13 (C) All of the sections of subtitle F of title
14 I of such Act (and the amendments made by
15 such sections).

16 (D) Requirements imposed pursuant to
17 section 3021(c)(2) of the Public Health Service
18 Act (42 U.S.C. 300jj–51(c)(2)), as added by
19 section 1561 of the Patient Protection and Af-
20 fordable Care Act.

21 (E) All of the sections of subtitle A of title
22 II of the Patient Protection and Affordable
23 Care Act, except for section 2007, and all of
24 the sections of subtitle C of such title (and the
25 amendments made by such sections).

1 (c) QUALIFYING STATE.—

2 (1) ENACTMENT OF STATE LAW.—For purposes
3 of this section, the term “qualifying State” means a
4 State that—

5 (A) enacts a law after the date of enact-
6 ment of this Act that—

7 (i) expresses the intent of the State to
8 opt out of any or all of the provisions of
9 the Patient Protection and Affordable Care
10 Act (Public Law 111–148) described in
11 subsection (b);

12 (ii) contains a list of each such provi-
13 sion; and

14 (iii) expresses the intent of the State
15 to continue to administer health coverage-
16 related laws as in effect in the State on
17 March 22, 2010, or that provides for the
18 implementation of related State laws en-
19 acted after such date; and

20 (B) provides to the Secretary of Health
21 and Human Services and the Secretary of the
22 Treasury a notification that such State law was
23 enacted.

24 (2) REPEAL.—If a qualifying State repeals a
25 law described in paragraph (1), the provisions of the

1 Patient Protection and Affordable Care Act listed in
2 such law shall apply with respect to such State be-
3 ginning on the date of such repeal.

4 (d) PRESERVING EXISTING STATE LAW OPT
5 OUTS.—Nothing in this Act shall be construed as affect-
6 ing any State law enacted before the date of the enactment
7 of this Act relating to the State opting out of the applica-
8 tion of any provision of the Patient Protection and Afford-
9 able Care Act.

10 (e) REGULATIONS.—Not later than 90 days after the
11 date of the enactment of this Act, the Secretary of Health
12 and Human Services, in consultation with the Secretary
13 of the Treasury, shall promulgate regulations to provide
14 for the implementation of this Act.

15 (f) EFFECTIVE DATE.—The provisions of this section
16 shall be effective and shall apply to a State as of the date
17 of the enactment of this Act, without regard to whether
18 regulations described in subsection (e) have been promul-
19 gated.

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