

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Patient Protection and Affordable Care Act to establish a public health insurance option, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. WHITEHOUSE (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Patient Protection and Affordable Care Act to establish a public health insurance option, 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 “Consumer Health Op-  
5 tions and Insurance Competition Enhancement Act” or  
6 the “CHOICE Act”.

7 **SEC. 2. PUBLIC HEALTH INSURANCE OPTION.**

8 (a) IN GENERAL.—Part 2 of subtitle D of title I of  
9 the Patient Protection and Affordable Care Act (42

1 U.S.C. 18031 et seq.) is amended by adding at the end  
2 the following:

3 **“SEC. 1314. PUBLIC HEALTH INSURANCE OPTION.**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—For plans years beginning  
6 on or after January 1, 2026, the Secretary shall es-  
7 tablish, and provide for the offering through the Ex-  
8 changes of, a qualified health plan (in this section  
9 referred to as the ‘public health insurance option’)  
10 that provides value, choice, competition, and stability  
11 of affordable, high-quality coverage throughout the  
12 United States in accordance with this section.

13 “(2) PRIMARY RESPONSIBILITY.—In designing  
14 the public health insurance option, the primary re-  
15 sponsibility of the Secretary shall be to create an af-  
16 fordable health plan without compromising quality  
17 or access to care.

18 “(b) ADMINISTERING THE PUBLIC HEALTH INSUR-  
19 ANCE OPTION.—

20 “(1) OFFERED THROUGH EXCHANGES.—

21 “(A) EXCLUSIVE TO EXCHANGES.—The  
22 public health insurance option shall be offered  
23 exclusively by the Secretary through the Ex-  
24 changes and not by a health insurance issuer.

1           “(B) ENSURING A LEVEL PLAYING  
2           FIELD.—Except as otherwise provided under  
3           this section, the public health insurance option  
4           shall comply with requirements under this title,  
5           and title XXVII of the Public Health Service  
6           Act, that are applicable to health plans offered  
7           through the Exchanges, including requirements  
8           related to benefits, benefit levels, provider net-  
9           works, notices, consumer protections, and cost-  
10          sharing.

11          “(C) PROVISION OF BENEFIT LEVELS.—  
12          The public health insurance option shall offer  
13          bronze, silver, and gold plans.

14          “(2) ADMINISTRATIVE CONTRACTING.—

15          “(A) AUTHORITIES.—The Secretary may  
16          enter into contracts for the purpose of per-  
17          forming administrative functions (including  
18          functions described in subsection (a)(4) of sec-  
19          tion 1874A of the Social Security Act) with re-  
20          spect to the public health insurance option in  
21          the same manner as the Secretary may enter  
22          into contracts under subsection (a)(1) of such  
23          section. The Secretary shall have the same au-  
24          thority with respect to the public health insur-  
25          ance option as the Secretary has under such

1 subsection (a)(1) and subsection (b) of section  
2 1874A of the Social Security Act with respect  
3 to title XVIII of such Act.

4 “(B) TRANSFER OF INSURANCE RISK.—  
5 Any contract under this paragraph shall not in-  
6 volve the transfer of insurance risk from the  
7 Secretary to the entity entering into such con-  
8 tract with the Secretary.

9 “(3) STATE ADVISORY COUNCIL.—

10 “(A) ESTABLISHMENT.—A State may es-  
11 tablish a public or nonprofit entity to serve as  
12 the State Advisory Council to provide rec-  
13 ommendations to the Secretary on the oper-  
14 ations and policies of the public health insur-  
15 ance option offered through the Exchange oper-  
16 ating in the State.

17 “(B) RECOMMENDATIONS.—A State Advi-  
18 sory Council established under subparagraph  
19 (A) shall provide recommendations on at least  
20 the following:

21 “(i) Policies and procedures to inte-  
22 grate quality improvement and cost con-  
23 tainment mechanisms into the health care  
24 delivery system.

1                   “(ii) Mechanisms to facilitate public  
2                   awareness of the availability of the public  
3                   health insurance option.

4                   “(iii) Alternative payment models and  
5                   value-based insurance design under the  
6                   public health insurance option that encour-  
7                   age quality improvement and cost control.

8                   “(C) MEMBERS.—The members of any  
9                   State Advisory Council shall be representatives  
10                  of the public and include health care consumers  
11                  and health care providers.

12                  “(D) APPLICABILITY OF RECOMMENDA-  
13                  TIONS.—The Secretary may apply the rec-  
14                  ommendations of a State Advisory Council to  
15                  the public health insurance option in that State,  
16                  in any other State, or in all States.

17                  “(4) DATA COLLECTION.—The Secretary shall  
18                  collect such data as may be required—

19                         “(A) to establish rates for premiums and  
20                         health care provider reimbursement under sub-  
21                         section (c); and

22                         “(B) for other purposes under this section,  
23                         including to improve quality, and reduce racial,  
24                         ethnic, and other disparities, in health and  
25                         health care.

1           “(c) FINANCING THE PUBLIC HEALTH INSURANCE  
2 OPTION.—

3           “(1) PREMIUMS.—

4                   “(A) ESTABLISHMENT.—The Secretary  
5 shall establish geographically adjusted premium  
6 rates for the public health insurance option—

7                           “(i) in a manner that complies with  
8 the requirement for premium rates under  
9 subparagraph (C) and considers the data  
10 collected under subsection (b)(4); and

11                           “(ii) at a level sufficient to fully fi-  
12 nance—

13                                   “(I) the costs of health benefits  
14 provided by the public health insur-  
15 ance option; and

16                                   “(II) administrative costs related  
17 to operating the public health insur-  
18 ance option.

19           “(B) CONTINGENCY MARGIN.—In estab-  
20 lishing premium rates under subparagraph (A),  
21 the Secretary shall include an appropriate  
22 amount for a contingency margin.

23           “(C) VARIATIONS IN PREMIUM RATES.—  
24 The premium rate charged for the public health  
25 insurance option may not vary except as pro-

1           vided under section 2701 of the Public Health  
2           Service Act.

3           “(2) HEALTH CARE PROVIDER PAYMENT RATES  
4           FOR ITEMS AND SERVICES.—

5                   “(A) IN GENERAL.—

6                           “(i) RATES NEGOTIATED BY THE SEC-  
7                           RETARY.—Not later than January 1, 2025,  
8                           and except as provided in clause (ii), the  
9                           Secretary shall, through a negotiated  
10                          agreement with health care providers, es-  
11                          tablish rates for reimbursing health care  
12                          providers for providing the benefits covered  
13                          by the public health insurance option.

14                          “(ii) MEDICARE REIMBURSEMENT  
15                          RATES.—If the Secretary and health care  
16                          providers are unable to reach a negotiated  
17                          agreement on a reimbursement rate, the  
18                          Secretary shall reimburse providers at  
19                          rates determined for equivalent items and  
20                          services under the original medicare fee-  
21                          for-service program under parts A and B  
22                          of title XVIII of the Social Security Act.

23                          “(iii) FOR NEW SERVICES.—The Sec-  
24                          retary shall modify reimbursement rates  
25                          described in clause (ii) in order to accom-

1           moderate payments for services, such as  
2           well-child visits, that are not otherwise cov-  
3           ered under the original medicare fee-for-  
4           service program.

5           “(B) PRESCRIPTION DRUGS.—Any pay-  
6           ment rate under this subsection for a prescrip-  
7           tion drug shall be at a rate negotiated by the  
8           Secretary. If the Secretary is unable to reach a  
9           negotiated agreement on such a reimbursement  
10          rate, the Secretary shall use rates determined  
11          for equivalent drugs paid for under the original  
12          medicare fee-for-service program. The Secretary  
13          shall modify such rates in order to accommo-  
14          date payments for drugs that are not otherwise  
15          covered under the original medicare fee-for-  
16          service program.

17          “(3) ACCOUNT.—

18                 “(A) ESTABLISHMENT.—There is estab-  
19                 lished in the Treasury of the United States an  
20                 account for the receipts and disbursements at-  
21                 tributable to the operation of the public health  
22                 insurance option, including the start-up funding  
23                 under subparagraph (C) and appropriations au-  
24                 thorized under subparagraph (D).



1           “(B) PROHIBITION OF STATE IMPOSITION  
2 OF TAXES.—Section 1854(g) of the Social Se-  
3 curity Act shall apply to receipts and disburse-  
4 ments described in subparagraph (A) in the  
5 same manner as such section applies to pay-  
6 ments or premiums described in such section.

7           “(C) START-UP FUNDING.—

8           “(i) AUTHORIZATION OF FUNDING.—  
9 There are authorized to be appropriated  
10 such sums as may be necessary to estab-  
11 lish the public health insurance option and  
12 cover 90 days of claims reserves based on  
13 projected enrollment.

14           “(ii) AMORTIZATION OF START-UP  
15 FUNDING.—The Secretary shall provide for  
16 the repayment of the startup funding pro-  
17 vided under clause (i) to the Treasury in  
18 an amortized manner over the 10-year pe-  
19 riod beginning on January 1, 2026.

20           “(D) ADDITIONAL AUTHORIZATION OF AP-  
21 PROPRIATIONS.—To carry out paragraph (2) of  
22 subsection (b), there are authorized to be ap-  
23 propriated such sums as may be necessary.

24           “(d) HEALTH CARE PROVIDER PARTICIPATION.—

25           “(1) PROVIDER PARTICIPATION.—

1           “(A) IN GENERAL.—The Secretary shall  
2 establish conditions of participation for health  
3 care providers under the public health insurance  
4 option.

5           “(B) LICENSURE OR CERTIFICATION.—  
6 The Secretary shall not allow a health care pro-  
7 vider to participate in the public health insur-  
8 ance option unless such provider is appro-  
9 priately licensed or certified under State law.

10           “(2) ESTABLISHMENT OF A PROVIDER NET-  
11 WORK.—

12           “(A) MEDICARE AND MEDICAID PARTICI-  
13 PATING PROVIDERS.—A health care provider  
14 that is a participating provider of services or  
15 supplier under the Medicare program under  
16 title XVIII of the Social Security Act or under  
17 a State Medicaid plan under title XIX of such  
18 Act is a participating provider in the public  
19 health insurance option unless the health care  
20 provider opts out of participating in the public  
21 health insurance option through a process es-  
22 tablished by the Secretary.

23           “(B) ADDITIONAL PROVIDERS.—The Sec-  
24 retary shall establish a process to allow health  
25 care providers not described in subparagraph

1 (A) to become participating providers in the  
2 public health insurance option.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) TREATMENT AS A QUALIFIED HEALTH  
5 PLAN.—Section 1301(a) of the Patient Protection  
6 and Affordable Care Act (42 U.S.C. 18021(a)) is  
7 amended—

8 (A) in paragraph (1)(C), by inserting “ex-  
9 cept in the case of the public health insurance  
10 option established under section 1314,” before  
11 “is offered by”;

12 (B) in paragraph (2)—

13 (i) in the paragraph heading, by in-  
14 serting “, THE PUBLIC HEALTH INSUR-  
15 ANCE OPTION,” before “AND”; and

16 (ii) by inserting “the public health in-  
17 surance option under section 1314,” before  
18 “and a multi-State plan”; and

19 (C) by adding at the end the following:

20 “(5) PUBLIC HEALTH INSURANCE OPTION.—  
21 The term ‘qualified health plan’ shall include the  
22 public health insurance option established under sec-  
23 tion 1314.”.

24 (2) LEVEL PLAYING FIELD.—Section 1324(a)  
25 of the Patient Protection and Affordable Care Act

1       (42 U.S.C. 18044(a)) is amended by inserting “the  
2       public health insurance option under section 1314,”  
3       before “or a multi-State qualified health plan”.