

**AMENDMENT TO THE AMENDMENT IN THE
 NATURE OF A SUBSTITUTE TO H.R. 4872
 OFFERED BY Mr. ^{Shadeg} and Mr. Braun**

Add at the end of subtitle A of title I the following:

1 **SEC. 1006. ESTABLISH UNIVERSAL ACCESS PROGRAMS TO**
 2 **IMPROVE HIGH RISK POOLS AND REINSUR-**
 3 **ANCE MARKETS.**

4 (a) STATE REQUIREMENT.—

5 (1) IN GENERAL.—Not later than January 1,
 6 2011, each State shall—

7 (A) subject to paragraph (3), operate—

8 (i) a qualified State reinsurance pro-
 9 gram described in subsection (b); or

10 (ii) qualifying State high risk pool de-
 11 scribed in subsection (c)(1); and

12 (B) subject to paragraph (3), apply to the
 13 operation of such a program from State funds
 14 an amount equivalent to the portion of State
 15 funds derived from State premium assessments
 16 (as defined by the Secretary) that are not oth-
 17 erwise used on State health care programs.

18 (2) RELATION TO CURRENT QUALIFIED HIGH
 19 RISK POOL PROGRAM.—

1 (A) STATES NOT OPERATING A QUALIFIED
2 HIGH RISK POOL.—In the case of a State that
3 is not operating a current section 2745 quali-
4 fied high risk pool as of the date of the enact-
5 ment of this Act—

6 (i) the State may only meet the re-
7 quirement of paragraph (1) through the
8 operation of a qualified State reinsurance
9 program described in subsection (b); and

10 (ii) the State’s operation of such a re-
11 insurance program shall be treated, for
12 purposes of section 2745 of the Public
13 Health Service Act, as the operation of a
14 qualified high risk pool described in such
15 section.

16 (B) STATE OPERATING A QUALIFIED HIGH
17 RISK POOL.—In the case of a State that is op-
18 erating a current section 2745 qualified high
19 risk pool as of the date of the enactment of this
20 Act—

21 (i) as of January 1, 2011, such a pool
22 shall not be treated as a qualified high risk
23 pool under section 2745 of the Public
24 Health Service Act unless the pool is a

1 qualifying State high risk pool described in
2 subsection (c)(1); and

3 (ii) the State may use premium as-
4 sessment funds described in paragraph
5 (1)(B) to transition from operation of such
6 a pool to operation of a qualified State re-
7 insurance program described in subsection
8 (b).

9 (3) APPLICATION OF FUNDS.—If the program
10 or pool operated under paragraph (1)(A) is in strong
11 fiscal health, as determined in accordance with
12 standards established by the National Association of
13 Insurance Commissioners and as approved by the
14 State Insurance Commissioner involved, the require-
15 ment of paragraph (1)(B) shall be deemed to be
16 met.

17 (b) QUALIFIED STATE REINSURANCE PROGRAM.—

18 (1) IN GENERAL.—For purposes of this section,
19 a “qualified State reinsurance program” means a
20 program operated by a State program that provides
21 reinsurance for health insurance coverage offered in
22 the small group market in accordance with the
23 model for such a program established (as of the date
24 of the enactment of this Act).

1 (2) FORM OF PROGRAM.—A qualified State re-
2 insurance program may provide reinsurance—

3 (A) on a prospective or retrospective basis;
4 and

5 (B) on a basis that protects health insur-
6 ance issuers against the annual aggregate
7 spending of their enrollees as well as purchase
8 protection against individual catastrophic costs.

9 (3) SATISFACTION OF HIPAA REQUIREMENT.—
10 A qualified State reinsurance program shall be
11 deemed, for purposes of section 2745 of the Public
12 Health Service Act, to be a qualified high-risk pool
13 under such section.

14 (c) QUALIFYING STATE HIGH RISK POOL.—

15 (1) IN GENERAL.—A qualifying State high risk
16 pool described in this subsection means a current
17 section 2745 qualified high risk pool that meets the
18 following requirements:

19 (A) The pool must provide at least two
20 coverage options, one of which must be a high
21 deductible health plan coupled with a health
22 savings account.

23 (B) The pool must be funded with a stable
24 funding source.

1 (C) The pool must eliminate any waiting
2 lists so that all eligible residents who are seek-
3 ing coverage through the pool should be allowed
4 to receive coverage through the pool.

5 (D) The pool must allow for coverage of
6 individuals who, but for the 24-month disability
7 waiting period under section 226(b) of the So-
8 cial Security Act, would be eligible for Medicare
9 during the period of such waiting period.

10 (E) The pool must limit the pool premiums
11 to no more than 150 percent of the average
12 premium for applicable standard risk rates in
13 that State.

14 (F) The pool must conduct education and
15 outreach initiatives so that residents and bro-
16 kers understand that the pool is available to eli-
17 gible residents.

18 (G) The pool must provide coverage for
19 preventive services and disease management for
20 chronic diseases.

21 (2) VERIFICATION OF CITIZENSHIP OR ALIEN
22 QUALIFICATION.—

23 (A) IN GENERAL.—Notwithstanding any
24 other provision of law, only citizens and nation-
25 als of the United States shall be eligible to par-

1 participate in a qualifying State high risk pool that
2 receives funds under section 2745 of the Public
3 Health Service Act or this section.

4 (B) CONDITION OF PARTICIPATION.—As a
5 condition of a State receiving such funds, the
6 Secretary shall require the State to certify, to
7 the satisfaction of the Secretary, that such
8 State requires all applicants for coverage in the
9 qualifying State high risk pool to provide satis-
10 factory documentation of citizenship or nation-
11 ality in a manner consistent with section
12 1903(x) of the Social Security Act.

13 (C) RECORDS.—The Secretary shall keep
14 sufficient records such that a determination of
15 citizenship or nationality only has to be made
16 once for any individual under this paragraph.

17 (3) RELATION TO SECTION 2745.—As of Janu-
18 ary 1, 2011, a pool shall not qualify as qualified
19 high risk pool under section 2745 of the Public
20 Health Service Act unless the pool is a qualifying
21 State high risk pool described in paragraph (1).

22 (d) WAIVERS.—In order to accommodate new and in-
23 novative programs, the Secretary may waive such require-
24 ments of this section for qualified State reinsurance pro-

1 grams and for qualifying State high risk pools as the Sec-
2 retary deems appropriate.

3 (e) FUNDING.—In addition to any other amounts ap-
4 propriated, there is appropriated to carry out section 2745
5 of the Public Health Service Act (including through a pro-
6 gram or pool described in subsection (a)(1))—

7 (1) \$15,000,000,000 for the period of fiscal
8 years 2011 through 2020; and

9 (2) an additional \$10,000,000,000 for the pe-
10 riod of fiscal years 2016 through 2020.

11 (f) DEFINITIONS.—In this section:

12 (1) HEALTH INSURANCE COVERAGE; HEALTH
13 INSURANCE ISSUER.—The terms “health insurance
14 coverage” and “health insurance issuer” have the
15 meanings given such terms in section 2791 of the
16 Public Health Service Act.

17 (2) CURRENT SECTION 2745 QUALIFIED HIGH
18 RISK POOL.—The term “current section 2745 quali-
19 fied high risk pool” has the meaning given the term
20 “qualified high risk pool” under section 2745(g) of
21 the Public Health Service Act as in effect as of the
22 date of the enactment of this Act.

23 (3) SECRETARY.—The term “Secretary” means
24 Secretary of Health and Human Services.

1 (4) STANDARD RISK RATE.—The term “stand-
2 ard risk rate” means a rate that—

3 (A) is determined under the State high
4 risk pool by considering the premium rates
5 charged by other health insurance issuers offer-
6 ing health insurance coverage to individuals in
7 the insurance market served;

8 (B) is established using reasonable actu-
9 arial techniques; and

10 (C) reflects anticipated claims experience
11 and expenses for the coverage involved.

12 (5) STATE.—The term “State” means any of
13 the 50 States or the District of Columbia.

