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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To delay and offset the sequester under the Statutory Pay-As-You-Go Act of 2010 as a result of the enactment of the American Rescue Plan Act of 2021, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Missouri (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To delay and offset the sequester under the Statutory Pay-As-You-Go Act of 2010 as a result of the enactment of the American Rescue Plan Act of 2021, 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 “Protect Seniors and
5 Cut Waste Act”.

1 **SEC. 2. PAYGO ACT SEQUESTER.**

2 The budgetary effects of the American Rescue Plan
3 Act of 2021 shall not be counted for purposes of deter-
4 mining whether a sequester occurs under the report issued
5 after Congress adjourns to end the 1st session of the
6 117th Congress and during January 2022 under section
7 5 of the Statutory Pay-As-You-Go Act of 2010.

8 **SEC. 3. SUPPLEMENTAL APPROPRIATIONS FOR THE PUB-**
9 **LIC HEALTH AND SOCIAL SERVICES EMER-**
10 **GENCY FUND.**

11 (a) SUPPLEMENTAL APPROPRIATION.—There is ap-
12 propriated, out of any amounts in the Treasury not other-
13 wise appropriated, for an additional amount for “Public
14 Health and Social Services Emergency Fund’”,
15 \$12,300,000,000, to remain available until expended, to
16 prevent, prepare for, and respond to coronavirus, domesti-
17 cally or internationally, which shall be for necessary ex-
18 penses to reimburse, through grants or other mechanisms,
19 eligible health care providers for health care related ex-
20 penses or lost revenues that are attributable to
21 coronavirus.

22 (b) CONDITIONS.—The following conditions shall
23 apply with respect to funds appropriated by subsection
24 (a):

25 (1) Such funds may not be used to reimburse
26 expenses or losses that have been reimbursed from

1 other sources or that other sources are obligated to
2 reimburse.

3 (2) Recipients of payments under this section
4 shall submit reports and maintain documentation as
5 the Secretary of Health and Human Services deter-
6 mines are needed to ensure compliance with condi-
7 tions that are imposed by this subsection for such
8 payments, and such reports and documentation shall
9 be in such form, with such content, and in such time
10 as the Secretary may prescribe for such purpose.

11 (3) The term “eligible health care providers”
12 means public entities, Medicare or Medicaid enrolled
13 suppliers and providers, and such for-profit entities
14 and not-for-profit entities not otherwise described in
15 this paragraph as the Secretary may specify, within
16 the United States (including territories), that pro-
17 vide diagnoses, testing, or care for individuals with
18 possible or actual cases of COVID–19.

19 (4) The Secretary shall, on a rolling basis, re-
20 view applications and make payments under this sec-
21 tion.

22 (5) Funds appropriated under this section shall
23 be available for building or construction of tem-
24 porary structures, leasing of properties, medical sup-
25 plies and equipment including personal protective

1 equipment and testing supplies, increased workforce
2 and trainings, emergency operation centers, retro-
3 fitting facilities, and surge capacity.

4 (6) In this section, the term “payment” means
5 a pre-payment, prospective payment, or retrospective
6 payment, as determined appropriate by the Sec-
7 retary.

8 (7) Payments under this section shall be made
9 in consideration of the most efficient payment sys-
10 tems practicable to provide emergency payment.

11 (8) To be eligible for a payment under this sec-
12 tion, an eligible health care provider shall submit to
13 the Secretary an application that includes a state-
14 ment justifying the need of the provider for the pay-
15 ment and the eligible health care provider shall have
16 a valid tax identification number.

17 (9) For any reimbursement by the Secretary
18 from the Provider Relief Fund to an eligible health
19 care provider that is a subsidiary of a parent organi-
20 zation, the parent organization may, allocate
21 (through transfers or otherwise) all or any portion
22 of such reimbursement among the subsidiary eligible
23 health care providers of the parent organization, in-
24 cluding reimbursements referred to by the Secretary
25 as “Targeted Distribution” payments, among sub-

1 subsidiary eligible health care providers of the parent
2 organization, except that responsibility for reporting
3 the reallocated reimbursement shall remain with the
4 original recipient of such reimbursement.

5 (10) For any reimbursement from the Provider
6 Relief Fund to an eligible health care provider for
7 health care related expenses or lost revenues that
8 are attributable to coronavirus (including reimburse-
9 ments made before the date of the enactment of this
10 Act), such provider may calculate such lost revenues
11 using the Frequently Asked Questions guidance re-
12 leased by the Department of Health and Human
13 Services in June 2020, including the difference be-
14 tween such provider's budgeted and actual revenue
15 budget if such budget had been established and ap-
16 proved prior to March 27, 2020.

17 (11) Of the amount made available in the third
18 paragraph under the heading "Department of
19 Health and Human Services—Office of the Sec-
20 retary—Public Health and Social Services Emer-
21 gency Fund" in Public Law 116–136, not less than
22 85 percent of the unobligated balances available as
23 of the date of enactment of this Act and of any
24 funds recovered from health care providers after the
25 date of enactment of this Act shall be for any suc-

1 cessor to the Phase 3 General Distribution allocation
2 to make payments to eligible health care providers
3 based on applications that consider financial losses
4 and changes in operating expenses occurring in fis-
5 cal year 2021 that are attributable to coronavirus.

6 (12) Not later than 3 years after final pay-
7 ments are made under this section, the Office of In-
8 spector General of the Department of Health and
9 Human Services shall transmit a final report on
10 audit findings with respect to this program to the
11 Committees on Appropriations of the House of Rep-
12 resentatives and the Senate.

13 (13) Nothing in this section limits the authority
14 of the Inspector General or the Comptroller General
15 to conduct audits of interim payments at an earlier
16 date.

17 (14) Not later than 60 days after the date of
18 enactment of this Act, the Secretary of Health and
19 Human Services shall provide a report to the Com-
20 mittees on Appropriations of the House of Rep-
21 resentatives and the Senate on the obligation of
22 funds, including obligations to such eligible health
23 care providers, summarized by State of the payment
24 receipt. Such report shall be updated and submitted

1 to such Committees every 60 days until funds are
2 expended.

3 (c) EMERGENCY DESIGNATIONS.—

4 (1) Amounts repurposed in subsection (b) that
5 were previously designated by the Congress as an
6 emergency requirement pursuant to the Balanced
7 Budget and Emergency Deficit Control Act of 1985
8 are designated by the Congress as an emergency re-
9 quirement pursuant to section 251(b)(2)(A)(i) of the
10 Balanced Budget and Emergency Deficit Control
11 Act of 1985.

12 (2) The amount appropriated by subsection (a)
13 is designated by the Congress as being for an emer-
14 gency requirement pursuant to section
15 251(b)(2)(A)(i) of the Balanced Budget and Emer-
16 gency Deficit Control Act of 1985.

17 (3) Each amount designated in this Act by the
18 Congress as an emergency requirement pursuant to
19 section 251(b)(2)(A)(i) of the Balanced Budget and
20 Emergency Deficit Control Act of 1985 shall be
21 available only if the President subsequently so des-
22 ignates all such amounts and transmits such des-
23 ignations to the Congress.

24 (d) APPLICATION OF PROVISIONS.—Amounts appro-
25 priated pursuant to this section and pursuant to title II

1 of Public Law 117–2 shall be subject to the requirements
2 contained in Public Law 116–260 for funds for programs
3 authorized under sections 330 through 340 of the Public
4 Health Service Act.

5 **SEC. 4. CORONAVIRUS STATE FISCAL RECOVERY FUND AD-**
6 **JUSTMENT.**

7 (a) IN GENERAL.—Section 602 of the Social Security
8 Act is amended—

9 (1) in subsection (a)(1), by striking
10 “\$219,800,000,000” and inserting
11 “\$79,800,000,000”; and

12 (2) in subsection (b)(3), by striking
13 “\$195,300,000,000” and inserting
14 “\$55,300,000,000”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect as if included in the enact-
17 ment of the American Rescue Plan Act of 2021.

18 **SEC. 5. TECHNICAL CORRECTIONS.**

19 (a) RURAL HEALTH CLINIC PAYMENTS.—

20 (1) IN GENERAL.—Section 1833(f)(3) of the
21 Social Security Act (42 U.S.C. 1395l(f)(3)) is
22 amended—

23 (A) in subparagraph (A)—

24 (i) in clause (i), by striking subclauses

25 (I) and (II) and inserting the following:

1 “(I) with respect to a rural health
2 clinic that had a per visit payment amount
3 established for services furnished in
4 2020—

5 “(aa) the per visit payment
6 amount applicable to such rural
7 health clinic for rural health clinic
8 services furnished in 2020, increased
9 by the percentage increase in the MEI
10 applicable to primary care services
11 furnished as of the first day of 2021;
12 or

13 “(bb) the limit described in para-
14 graph (2)(A); and

15 “(II) with respect to a rural health
16 clinic that did not have a per visit payment
17 amount established for services furnished
18 in 2020—

19 “(aa) the per visit payment
20 amount applicable to such rural
21 health clinic for rural health clinic
22 services furnished in 2021; or

23 “(bb) the limit described in para-
24 graph (2)(A); and”;

1 (ii) in clause (ii)(I), by striking
2 “under clause (i)(I)” and inserting “under
3 subclause (I) or (II) of clause (i), as appli-
4 cable,”; and

5 (B) in subparagraph (B)—

6 (i) in the matter preceding clause (i),
7 by striking “2019, was” and inserting
8 “2020”;

9 (ii) in clause (i), by inserting “was”
10 after “(i)”; and

11 (iii) by striking clause (ii) and insert-
12 ing the following:

13 “(ii)(I) was enrolled under section 1866(j)
14 (including temporary enrollment during the
15 emergency period described in section
16 1135(g)(1)(B) for such period); or

17 “(II) submitted an application for enroll-
18 ment under section 1866(j) (or requested such
19 a temporary enrollment for such period) that
20 was received not later than December 31,
21 2020.”.

22 (2) EFFECTIVE DATE.—The amendments made
23 by this subsection shall take effect as if included in
24 the enactment of the Consolidated Appropriations
25 Act, 2021 (Public Law 116–260).

1 (b) ADDITIONAL AMOUNT FOR CERTAIN HOSPITALS
2 WITH HIGH DISPROPORTIONATE SHARE.—Effective as
3 if included in the enactment of section 203(a) of title II
4 of division CC of Public Law 116–260, subsection (g) of
5 section 1923 of the Social Security Act (42 U.S.C. 1396r–
6 4) amended by such section 203(a) is amended by adding
7 at the end the following new paragraph:

8 “(3) ADDITIONAL AMOUNT FOR CERTAIN HOS-
9 PITALS WITH HIGH DISPROPORTIONATE SHARE.—

10 “(A) IN GENERAL.—In the case of a hos-
11 pital with high disproportionate share (as de-
12 fined in subparagraph (B)) located in a State
13 referenced in subsection (e) of section 4721 of
14 the Balanced Budget Act of 1997, a payment
15 adjustment during a State fiscal year shall be
16 considered consistent with subsection (c) if the
17 payment adjustment does not exceed 175 per-
18 cent of the costs of furnishing hospital services
19 during the year, but only if the Governor of the
20 State certifies to the satisfaction of the Sec-
21 retary that the hospital’s applicable minimum
22 amount is used for health services during the
23 year. In determining the amount that is used
24 for such services during a year, there shall be
25 excluded any amounts received under the Public

1 Health Service Act, title V, title XVIII, or from
2 third party payors (not including the State plan
3 under this title) that are used for providing
4 such services during the year.

5 “(B) HOSPITAL WITH HIGH
6 DISPROPORTIONATE SHARE DEFINED.—In
7 subparagraph (A), a hospital is a ‘hospital with
8 high disproportionate share’ if—

9 “(i) the hospital is owned or operated
10 by the State (or by an instrumentality or
11 a unit of government within the State);
12 and

13 “(ii) the hospital—

14 “(I) meets the requirement de-
15 scribed in subparagraphs (A) or (B)
16 of subsection (b)(1); or

17 “(II) has the largest number of
18 inpatient days attributable to individ-
19 uals entitled to benefits under the
20 State plan of any hospital in such
21 State for the previous fiscal year.

22 “(C) APPLICABLE MINIMUM AMOUNT DE-
23 FINED.—In subparagraph (A), the ‘applicable
24 minimum amount’ for a hospital for a fiscal
25 year is equal to the difference between the

1 amount of the hospital’s payment adjustment
2 for the fiscal year and the costs to the hospital
3 of furnishing hospital services described in
4 paragraph (1)(A) during the fiscal year.”.

5 **SEC. 6. INDIVIDUALS NOT LAWFULLY PRESENT IN UNITED**
6 **STATES PRECLUDED FROM 2021 RECOVERY**
7 **REBATES.**

8 (a) IN GENERAL.—Section 6428B(c) of the Internal
9 Revenue Code of 1986, as added by the American Rescue
10 Plan Act of 2021, is amended by striking “and” at the
11 end of paragraph (2), by redesignating paragraph (3) as
12 paragraph (4), and by inserting after paragraph (2) the
13 following new paragraph:

14 “(3) any individual who was not lawfully
15 present in the United States as of the date of the
16 enactment of the American Rescue Plan Act of
17 2021, and”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect as if included in the enact-
20 ment of section 9601 of the American Rescue Plan Act
21 of 2021.

22 **SEC. 7. INCARCERATED INDIVIDUALS PRECLUDED FROM**
23 **2021 RECOVERY REBATES.**

24 (a) IN GENERAL.—Section 6428B(c) of the Internal
25 Revenue Code of 1986, as added by the American Rescue

1 Plan Act of 2021 and amended by the preceding provi-
2 sions of this Act, is amended by striking “and” at the
3 end of paragraph (3), by redesignating paragraph (4) as
4 paragraph (5), and by inserting after paragraph (3) the
5 following new paragraph:

6 “(4) any individual who was incarcerated on the
7 date of the enactment of the American Rescue Plan
8 Act of 2021, and”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect as if included in the enact-
11 ment of section 9601 of the American Rescue Plan Act
12 of 2021.

13 **SEC. 8. REQUIRING A SOCIAL SECURITY NUMBER TO RE-**
14 **CEIVE COBRA CONTINUATION COVERAGE.**

15 (a) IN GENERAL.—Section 9501(a)(3) of the Amer-
16 ican Rescue Plan Act of 2021 (Public Law 117–2) is
17 amended—

18 (1) in subparagraph (A), by striking at the end
19 “and”;

20 (2) in subparagraph (B), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(C) has been issued a social security
25 number (as defined in section 24(h)(7) of the

1 Internal Revenue Code of 1986) by the Social
2 Security Administration.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect as if included in the enact-
5 ment of section 9501 of the American Rescue Plan Act
6 of 2021.

7 **SEC. 9. RESCISSIONS OF AMERICAN RESCUE PLAN ACT OF**
8 **2021 FUNDS.**

9 Of the funds appropriated by the American Rescue
10 Plan Act of 2021 (Public Law 117–2), all unobligated
11 funds available under the following provisions of such Act
12 are hereby rescinded:

13 (1) Section 2021 (relating to the National En-
14 dowment for the Arts).

15 (2) Section 2022 (relating to the National En-
16 dowment for the Humanities).

17 (3) Section 4001 (relating to the Emergency
18 Federal Employee Leave Fund).