

Amend 29

2:44 pm Mon

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**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3200**

**OFFERED BY MR. BARTON OF TEXAS**

**(AINS-EC\_001)**

Strike subtitle B of title II of division A (relating to the public health insurance option) and insert the following:

**Subtitle B—Protecting Affordability through  
Reinsurance or High Risk Pooling**

**SEC. 221. ENSURING AFFORDABILITY FOR ALL THROUGH  
SPECIAL POOLING OF COST FOR THOSE WITH PRE-  
EXISTING CONDITIONS AND MANY HEALTH CARE NEEDS.**

(a) STATE REQUIREMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, each State ensure an adequate financial backstop to mitigate the cost of high risk individuals in the state through either—

(A) a qualified State reinsurance program described in subsection (b); or

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

(C) subject to paragraph (4), contribute to the ongoing stability of the arrangement through state assessments or allocation of other state funds that are not otherwise used on State health care programs.

(2) PREFERENCE.—Beginning 3 years after the date of the enactment of this Act, the Secretary, in awarding any competitive grant and for which only States are eligible to apply, shall give preference to any State with a program or that meets the requirements of paragraph (1).

(3) RELATION TO CURRENT QUALIFIED HIGH RISK POOL PROGRAM OPERATING A QUALIFIED HIGH RISK POOL.—In the case of a State that is operating a current section 2745 qualified high risk pool (as defined in subsection (f)) as of the date of the enactment of this Act—

(A) as of the date that is 2 years after the date of the enactment of this Act, such a pool shall not be treated as a qualified high risk pool under section 2745 of the Public Health Service Act unless the pool is a qualifying State high risk pool described in subsection (c)(1); and

(B) current funding sources may be used to transition from operation of such a pool to operation of a qualified State reinsurance program described in subsection (b).

(4) APPLICATION OF FUNDS.—If the program or pool operated under paragraph (1)(A) is in sound financial condition as demonstrated by audited financial statements and actuarial certification and is approved as an appropriate financial backstop by the State Insurance Commissioner involved, the requirement of paragraph (1)(C) shall be deemed to be met.

(b) QUALIFIED STATE REINSURANCE PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term “qualified State reinsurance program” means a program operated by a State or a state authorized program that provides reinsurance for health insurance coverage offered in the individual and/or the small group market in accordance with the model for such a program established (as of the date of the enactment of this Act).

(2) FORM OF PROGRAM.—A qualified State reinsurance program may provide reinsurance—

(A) on a prospective or retrospective basis; and

(B) on a basis that protects health insurance issuers against the annual aggregate spending of their enrollees

as well as purchase protection against individual catastrophic costs.

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

(c) QUALIFYING STATE HIGH RISK POOL.—

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

(A) The pool must offer assistance for low-income individuals as applicable and may incorporate applicable federal and State programs for eligible individuals to meet this purpose.

(B) The pool must provide a variety of coverage options, one of which must be a high deductible health plan that may be coupled with a health savings account.

(C) The pool must be funded with a stable funding source that is not solely dependent on an appropriation from a state legislature.

(D) The pool must eliminate any waiting lists and pre-existing conditions exclusionary periods so that all eligible residents who are seeking coverage through the pool can receive coverage through the pool.

(E) The pool must allow for coverage of individuals who, but for the 24-month disability waiting period under section 226(b) of the Social Security Act, would be eligible for Medicare during the period of such waiting period.

(F) The pool must not charge participants more than 150 percent of the average premium for individual market coverage in that State.

(G) The pool must conduct education and outreach initiatives so that residents and brokers understand that the pool is available to eligible residents.

(2) RELATION TO SECTION 2745.—As of the date that is 2 years after the date of the enactment of this Act, a pool shall not qualify as a qualified high risk pool under section 2745 of the Public Health Service Act unless the pool is a qualifying State high risk pool described in paragraph (1).

(d) WAIVERS.—In order to accommodate new and innovative programs, the Secretary may waive such requirements of this section for qualified State reinsurance programs and for qualifying State high risk pools as the Secretary deems appropriate.

(e) FUNDING.—In addition to any other amounts appropriated, there are authorized to be appropriated to carry out section 2745 of the Public Health Service Act (including through a program or pool described in subsection (a)(1)), \$20,000,000,000 for Fiscal Years 2010 through 2019 to carry out this section.

(f) DEFINITIONS.—In this section:

(1) The terms “health insurance coverage” and “health insurance issuer” have the meanings given such terms in section 2791 of the Public Health Service Act.

(2) The term “current section 2745 qualified high risk pool” has the meaning given the term “qualified high risk pool” under section 2745(g) of the Public Health Service Act as in effect as of the date of the enactment of this Act.

(3) The term “Secretary” means Secretary of Health and Human Services.

(4) The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act.