

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

(no.) _____

(title) _____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **DIVISION A—FURTHER ADDITIONAL**
4 **CONTINUING APPROPRIATIONS ACT, 2019**

5 SEC. 101. The Continuing Appropriations Act, 2019
6 (division C of Public Law 115–245) is further amended—

7 (1) by striking the date specified in section
8 105(3) and inserting “February 8, 2019”; and

9 (2) by adding after section 136 the following:

10 “SEC. 137. Notwithstanding section 251(a)(1) of the
11 Balanced Budget and Emergency Deficit Control Act of
12 1985 and the timetable in section 254(a) of such Act, the

1 final sequestration report for fiscal year 2019 pursuant
2 to section 254(f)(1) of such Act and any order for fiscal
3 year 2019 pursuant to section 254(f)(5) of such Act shall
4 be issued, for the Congressional Budget Office, 10 days
5 after the date specified in section 105(3), and for the Of-
6 fice of Management and Budget, 15 days after the date
7 specified in section 105(3).

8 “SEC. 138. The authority provided under title XXI
9 of the Homeland Security Act of 2002 (6 U.S.C. 621 et
10 seq.), as amended by section 2(a) of the Protecting and
11 Securing Chemical Facilities from Terrorist Attacks Act
12 of 2014 (Public Law 113–254), shall continue in effect
13 through the date specified in section 105(3).

14 “SEC. 139. Section 319L(e)(1)(A) of the Public
15 Health Service Act (42 U.S.C. 247d–7e(e)(1)(A)) shall
16 continue in effect through the date specified in section
17 105(3) of this Act.

18 “SEC. 140. Section 405(a) of the Pandemic and All-
19 Hazards Preparedness Act (42 U.S.C. 247d–6a note) shall
20 continue in effect through the date specified in section
21 105(3) of this Act.”.

22 This division may be cited as the “Further Additional
23 Continuing Appropriations Act, 2019”.

1 **DIVISION B—MEDICAID**
2 **EXTENDERS**

3 **SEC. 101. EXTENSION OF MONEY FOLLOWS THE PERSON**
4 **REBALANCING DEMONSTRATION.**

5 (a) GENERAL FUNDING.—Section 6071(h) of the
6 Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is
7 amended—

8 (1) in paragraph (1)—

9 (A) in subparagraph (D), by striking
10 “and” after the semicolon;

11 (B) in subparagraph (E), by striking the
12 period at the end and inserting “; and”; and

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

14 “(F) subject to paragraph (3),
15 \$112,000,000 for fiscal year 2019.”;

16 (2) in paragraph (2)—

17 (A) by striking “Amounts made” and in-
18 serting “Subject to paragraph (3), amounts
19 made”; and

20 (B) by striking “September 30, 2016” and
21 inserting “September 30, 2021”; and

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

24 “(3) SPECIAL RULE FOR FY 2019.—Funds ap-
25 propriated under paragraph (1)(F) shall be made

1 available for grants to States only if such States
2 have an approved MFP demonstration project under
3 this section as of December 31, 2018.”.

4 (b) FUNDING FOR QUALITY ASSURANCE AND IM-
5 PROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—
6 Section 6071(f) of the Deficit Reduction Act of 2005 (42
7 U.S.C. 1396a note) is amended by striking paragraph (2)
8 and inserting the following:

9 “(2) FUNDING.—From the amounts appro-
10 priated under subsection (h)(1)(F) for fiscal year
11 2019, \$500,000 shall be available to the Secretary
12 for such fiscal year to carry out this subsection.”.

13 (c) TECHNICAL AMENDMENT.—Section 6071(b) of
14 the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note)
15 is amended by adding at the end the following:

16 “(10) SECRETARY.—The term ‘Secretary’
17 means the Secretary of Health and Human Serv-
18 ices.”.

19 **SEC. 102. EXTENSION OF PROTECTION FOR MEDICAID RE-**
20 **CIPIENTS OF HOME AND COMMUNITY-BASED**
21 **SERVICES AGAINST SPOUSAL IMPOVERISH-**
22 **MENT.**

23 (a) IN GENERAL.—Section 2404 of Public Law 111–
24 148 (42 U.S.C. 1396r–5 note) is amended by striking “the
25 5-year period that begins on January 1, 2014,” and in-

1 serring “the period beginning on January 1, 2014, and
2 ending on March 31, 2019,”.

3 (b) RULE OF CONSTRUCTION.—

4 (1) PROTECTING STATE SPOUSAL INCOME AND
5 ASSET DISREGARD FLEXIBILITY UNDER WAIVERS
6 AND PLAN AMENDMENTS.—Nothing in section 2404
7 of Public Law 111–148 (42 U.S.C. 1396r–5 note) or
8 section 1924 of the Social Security Act (42 U.S.C.
9 1396r–5) shall be construed as prohibiting a State
10 from disregarding an individual’s spousal income
11 and assets under a State waiver or plan amendment
12 described in paragraph (2) for purposes of making
13 determinations of eligibility for home and commu-
14 nity-based services or home and community-based
15 attendant services and supports under such waiver
16 or plan amendment.

17 (2) STATE WAIVER OR PLAN AMENDMENT DE-
18 SCRIBED.—A State waiver or plan amendment de-
19 scribed in this paragraph is any of the following:

20 (A) A waiver or plan amendment to pro-
21 vide medical assistance for home and commu-
22 nity-based services under a waiver or plan
23 amendment under subsection (c), (d), or (i) of
24 section 1915 of the Social Security Act (42

1 U.S.C. 1396n) or under section 1115 of such
2 Act (42 U.S.C. 1315).

3 (B) A plan amendment to provide medical
4 assistance for home and community-based serv-
5 ices for individuals by reason of being deter-
6 mined eligible under section 1902(a)(10)(C) of
7 such Act (42 U.S.C. 1396a(a)(10)(C)) or by
8 reason of section 1902(f) of such Act (42
9 U.S.C. 1396a(f)) or otherwise on the basis of a
10 reduction of income based on costs incurred for
11 medical or other remedial care under which the
12 State disregarded the income and assets of the
13 individual's spouse in determining the initial
14 and ongoing financial eligibility of an individual
15 for such services in place of the spousal impov-
16 erishment provisions applied under section 1924
17 of such Act (42 U.S.C. 1396r-5).

18 (C) A plan amendment to provide medical
19 assistance for home and community-based at-
20 tendant services and supports under section
21 1915(k) of such Act (42 U.S.C. 1396n(k)).

1 **SEC. 103. REDUCTION IN FMAP AFTER 2020 FOR STATES**
2 **WITHOUT ASSET VERIFICATION PROGRAM.**

3 Section 1940 of the Social Security Act (42 U.S.C.
4 1396w) is amended by adding at the end the following
5 new subsection:

6 “(k) REDUCTION IN FMAP AFTER 2020 FOR NON-
7 COMPLIANT STATES.—

8 “(1) IN GENERAL.—With respect to a calendar
9 quarter beginning on or after January 1, 2021, the
10 Federal medical assistance percentage otherwise de-
11 termined under section 1905(b) for a non-compliant
12 State shall be reduced—

13 “(A) for calendar quarters in 2021 and
14 2022, by 0.12 percentage points;

15 “(B) for calendar quarters in 2023, by
16 0.25 percentage points;

17 “(C) for calendar quarters in 2024, by
18 0.35 percentage points; and

19 “(D) for calendar quarters in 2025 and
20 each year thereafter, by 0.5 percentage points.

21 “(2) NON-COMPLIANT STATE DEFINED.—For
22 purposes of this subsection, the term ‘non-compliant
23 State’ means a State—

24 “(A) that is one of the 50 States or the
25 District of Columbia;

1 “(B) with respect to which the Secretary
2 has not approved a State plan amendment sub-
3 mitted under subsection (a)(2); and

4 “(C) that is not operating, on an ongoing
5 basis, an asset verification program in accord-
6 ance with this section.”.

7 **SEC. 104. MEDICAID IMPROVEMENT FUND.**

8 Section 1941(b)(1) of the Social Security Act (42
9 U.S.C. 1396w-1(b)(1)) is amended by striking
10 “\$31,000,000” and inserting “\$6,000,000”.

11 **SEC. 105. BUDGETARY EFFECTS.**

12 (a) **STATUTORY PAYGO SCORECARDS.**—The budg-
13 etary effects of this division shall not be entered on either
14 PAYGO scorecard maintained pursuant to section 4(d) of
15 the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C.
16 933(d)).

17 (b) **SENATE PAYGO SCORECARDS.**—The budgetary
18 effects of this division shall not be entered on any PAYGO
19 scorecard maintained for purposes of section 4106 of H.
20 Con. Res. 71 (115th Congress).

21 (c) **CLASSIFICATION OF BUDGETARY EFFECTS.**—
22 Notwithstanding Rule 3 of the Budget Scorekeeping
23 Guidelines set forth in the joint explanatory statement of
24 the committee of conference accompanying Conference Re-
25 port 105–217 and section 250(c)(8) of the Balanced

1 Budget and Emergency Deficit Control Act of 1985, the
2 budgetary effects of this division shall not be estimated—

3 (1) for purposes of section 251 of such Act; and

4 (2) for purposes of paragraph (4)(C) of section
5 3 of the Statutory Pay-As-You-Go Act of 2010 as
6 being included in an appropriation Act.

7 (d) PAYGO ANNUAL REPORT.—For the purposes of
8 the annual report issued pursuant to section 5 of the Stat-
9 utory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after
10 adjournment of the second session of the 115th Congress,
11 and for determining whether a sequestration order is nec-
12 essary under such section, the debit for the budget year
13 on the 5-year scorecard, if any, and the 10-year scorecard,
14 if any, shall be deducted from such scorecard in 2019 and
15 added to such scorecard in 2020.