

115TH CONGRESS  
1ST SESSION

# H. R. 4394

To direct the Secretary of Health and Human Services to make available a public option for health insurance coverage for individuals residing in an area without a qualified health plan available through an Exchange, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2017

Ms. TITUS introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To direct the Secretary of Health and Human Services to make available a public option for health insurance coverage for individuals residing in an area without a qualified health plan available through an Exchange, 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 “Bare County Buy-in  
5 Act of 2017”.

1 **SEC. 2. PUBLIC OPTION FOR HEALTH INSURANCE COV-**  
2 **ERAGE.**

3 (a) IN GENERAL.—Part 2 of subtitle D of title I of  
4 the Patient Protection and Affordable Care Act (Public  
5 Law 111–148) is amended by adding at the end the fol-  
6 lowing new section:

7 **“SEC. 1314. PUBLIC OPTION FOR HEALTH INSURANCE COV-**  
8 **ERAGE.**

9 “(a) IN GENERAL.—If the Secretary determines that  
10 individuals residing in a rating area (as described in sec-  
11 tion 2701(a) of the Public Health Service Act (42 U.S.C.  
12 300gg(a))) eligible to purchase individual health insurance  
13 coverage through an Exchange will not have access to a  
14 qualified health plan offered through an Exchange in the  
15 individual market with respect to a plan year beginning  
16 on or after January 1, 2018, the Secretary shall make  
17 available the public option for health insurance coverage  
18 described in subsection (b) (in this section referred to as  
19 the ‘public option’) to such individuals through such Ex-  
20 change for such plan year.

21 “(b) PUBLIC OPTION REQUIREMENTS.—The public  
22 option described in subsection (a) shall—

23 “(1) provide the essential health benefits pack-  
24 age (as defined in section 1302(a));

25 “(2) comply with the requirements of this title  
26 and the amendments made by this title, to the ex-

1 tent practicable, applicable to a health plan offered  
2 through an Exchange; and

3 “(3) consist of a plan in the silver level of cov-  
4 erage (as described in section 1302(d)).

5 “(c) ENROLLMENT AND COVERAGE PERIODS.—The  
6 Secretary shall establish enrollment and coverage periods  
7 for individuals who enroll in the public option. Such peri-  
8 ods shall be established, to the extent practicable, in co-  
9 ordination with the enrollment and coverage periods for  
10 other plans offered through an Exchange.

11 “(d) PREMIUMS.—

12 “(1) MONTHLY PREMIUM.—The Secretary shall  
13 determine a monthly premium for individuals en-  
14 rolled in the public option. Such monthly premium  
15 shall be equal to  $\frac{1}{12}$  of the annual premium com-  
16 puted under paragraph (2)(B).

17 “(2) ANNUAL PREMIUM.—

18 “(A) ESTIMATION.—The Secretary shall  
19 estimate the average, annual per capita amount  
20 for benefits and administrative expenses pay-  
21 able under this section for individuals in each  
22 age band specified in subparagraph (C) enrolled  
23 in the public option.

24 “(B) COMPUTATION.—The annual pre-  
25 mium under this subsection for months in a

1 year is equal to the average, annual per capita  
2 amount estimated under paragraph (1) for the  
3 year for each age band specified in subpara-  
4 graph (C), geographically adjusted by rating  
5 area.

6 “(C) AGE BANDS.—The age bands speci-  
7 fied in this subparagraph are the age bands de-  
8 fined by the Secretary pursuant to section  
9 2701(a)(3) of the Public Health Service Act (42  
10 U.S.C. 300gg(a)(3)).

11 “(3) VARIATION IN PREMIUM RATES.—The pre-  
12 mium rate charged for the public option may not  
13 vary except as provided under section 2701 of such  
14 Act (42 U.S.C. 300gg).

15 “(e) PAYMENT OF PREMIUMS.—

16 “(1) IN GENERAL.—Premiums for enrollment  
17 in the public option shall be paid to the Secretary  
18 at such times, and in such manner, as the Secretary  
19 determines appropriate.

20 “(2) DEPOSIT.—Amounts collected by the Sec-  
21 retary under this section shall be deposited in the  
22 account established under subsection (f).

23 “(f) ACCOUNT.—

24 “(1) ESTABLISHMENT.—There is established in  
25 the Treasury of the United States an account for

1 the receipts and disbursements attributable to the  
2 operation of the public option.

3 “(2) PROHIBITION OF STATE IMPOSITION OF  
4 TAXES.—Section 1854(g) of the Social Security Act  
5 (42 U.S.C. 1395w–24(g)) shall apply to receipts and  
6 disbursements described in paragraph (1) in the  
7 same manner as such section applies to payments or  
8 premiums described in such section.

9 “(g) HEALTH CARE PROVIDER PAYMENT RATES FOR  
10 ITEMS AND SERVICES.—

11 “(1) IN GENERAL.—

12 “(A) RATES NEGOTIATED BY THE SEC-  
13 RETARY.—Subject to subparagraph (B), the  
14 Secretary shall, through a negotiated agreement  
15 with health care providers, establish rates for  
16 reimbursing health care providers for providing  
17 the benefits covered by the public option.

18 “(B) MEDICARE REIMBURSEMENT  
19 RATES.—If the Secretary and health care pro-  
20 viders are unable to reach a negotiated agree-  
21 ment on a reimbursement rate, the Secretary  
22 shall reimburse providers at rates determined  
23 for equivalent items and services under the  
24 original Medicare fee-for-service program under

1 parts A and B of title XVIII of the Social Secu-  
2 rity Act.

3 “(C) FOR NEW SERVICES.—The Secretary  
4 shall modify reimbursement rates described in  
5 subparagraph (B) in order to accommodate  
6 payments for services that are not otherwise  
7 covered under the original medicare fee-for-  
8 service program.

9 “(2) PRESCRIPTION DRUGS.—Any payment rate  
10 under this subsection for a prescription drug shall be  
11 at a rate negotiated by the Secretary. If the Sec-  
12 retary is unable to reach a negotiated agreement on  
13 such a reimbursement rate, the Secretary shall use  
14 rates determined for equivalent drugs paid for under  
15 the original medicare fee-for-service program. The  
16 Secretary shall modify such rates in order to accom-  
17 modate payments for drugs that are not otherwise  
18 covered under the original medicare fee-for-service  
19 program.

20 “(h) HEALTH CARE PROVIDER PARTICIPATION.—

21 “(1) PROVIDER PARTICIPATION.—

22 “(A) IN GENERAL.—The Secretary shall  
23 establish conditions of participation for health  
24 care providers under the public option.

1 “(B) LICENSURE OR CERTIFICATION.—

2 The Secretary shall not allow a health care pro-  
3 vider to participate in the public option unless  
4 such provider is appropriately licensed or cer-  
5 tified under State law.

6 “(2) ESTABLISHMENT OF A PROVIDER NET-  
7 WORK.—

8 “(A) MEDICARE AND MEDICAID PARTICI-  
9 PATING PROVIDERS.—A health care provider  
10 that is a participating provider of services or  
11 supplier under the Medicare program under  
12 title XVIII of the Social Security Act or under  
13 a State Medicaid plan under title XIX of such  
14 Act is a participating provider in the public op-  
15 tion unless the health care provider opts out of  
16 participating in the public option through a  
17 process established by the Secretary.

18 “(B) ADDITIONAL PROVIDERS.—The Sec-  
19 retary shall establish a process to allow health  
20 care providers not described in subparagraph  
21 (A) to become participating providers in the  
22 public option.

23 “(i) ADMINISTRATIVE CONTRACTING.—

24 “(1) AUTHORITIES.—The Secretary may enter  
25 into contracts for the purpose of performing admin-

1        istrative functions (including functions described in  
2        subsection (a)(4) of section 1874A of the Social Se-  
3        curity Act) with respect to the public option in the  
4        same manner as the Secretary may enter into con-  
5        tracts under subsection (a)(1) of such section. The  
6        Secretary shall have the same authority with respect  
7        to the public option as the Secretary has under such  
8        subsection (a)(1) and subsection (b) of section  
9        1874A of the Social Security Act with respect to  
10       title XVIII of such Act.

11            “(2) TRANSFER OF INSURANCE RISK.—Any  
12        contract under this paragraph shall not involve the  
13        transfer of insurance risk from the Secretary to the  
14        entity entering into such contract with the Sec-  
15        retary.”.

16        (b) CONFORMING AMENDMENTS.—

17            (1) TREATMENT AS A QUALIFIED HEALTH  
18        PLAN.—Section 1301(a)(2) of the Patient Protection  
19        and Affordable Care Act (42 U.S.C. 18021(a)(2)) is  
20        amended—

21            (A) in the paragraph heading, by inserting  
22            “, THE PUBLIC HEALTH INSURANCE OPTION,”  
23        before “AND”; and



1           (B) by inserting “the public health insur-  
2           ance option under section 1314,” before “and a  
3           multi-State plan”.

4           (2) STATE INSURANCE REGULATION.—Section  
5           1324(a) of the Patient Protection and Affordable  
6           Care Act (42 U.S.C. 18044(a)) is amended by in-  
7           serting “the public health insurance option under  
8           section 2795 of the Public Health Service Act,” be-  
9           fore “or a multi-State qualified health plan”.

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