To streamline the employer reporting process and strengthen the eligibility verification process for the premium assistance tax credit and cost-sharing subsidy.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To streamline the employer reporting process and strengthen the eligibility verification process for the premium assistance tax credit and cost-sharing subsidy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commonsense Reporting Act of 2017”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Department of the Treasury and the Internal Revenue Service should work together with
other relevant departments and agencies to identify and implement methods to minimize compliance burdens on businesses, insurance carriers, and individuals.

(2) Such collaboration should strike an appropriate balance between sufficient reporting to enforce the law and protecting the privacy of individuals.

SEC. 3. VOLUNTARY PROSPECTIVE REPORTING SYSTEM.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Small Business Administration, shall develop and implement guidance providing for a prospective reporting system meeting the requirements of subsection (b). Such system shall be available for use by employers on a voluntary basis beginning not later than January 1, 2019.

(b) Requirements.—The system created under subsection (a) shall include—

(1) voluntary reporting by each participating employer, not later than 45 days before the first day of the annual open enrollment period under section 1311(c)(6)(B) of the Patient Protection and Afford-
able Care Act (42 U.S.C. 18031(c)(6)(B)) for each
calendar year, of—

(A) the name and employer identification
number of the employer;

(B) a certification of—

(i) whether coverage meeting the defi-
nition of minimum essential coverage in
section 5000A(f) of the Internal Revenue
Code of 1986 is offered to the full-time
employees (within the meaning of section
4980H of such Code) of the employer;

(ii) whether such coverage is offered
to part-time employees of the employer;

(iii) whether such coverage is offered
to dependents of employees;

(iv) whether such coverage is offered
to spouses of employees;

(v) whether such coverage meets the
minimum value requirement of section
36B(e)(2)(C)(ii) of such Code;

(vi) whether such coverage satisfies
the requirements to qualify for one of the
affordability safe harbors promulgated by
the Secretary of the Treasury for purposes
of section 4980H of such Code; and
(vii) whether the employer reasonably
expects to be liable for any shared respon-
sibility payment under section 4980H of
such Code for such year;

(C) the months during the prospective re-
porting period that such coverage is available to
individuals described in clauses (i) through (iv)
of subparagraph (B); and

(D) what waiting periods, if any, apply
with respect to such coverage;

(2) processes necessary to ensure that Ex-
changes, the Federal Marketplace Data Services
Hub, and the Internal Revenue Service can securely
and confidentially access the information described
in paragraph (1) as necessary to carry out their re-
spective missions, and to provide to the Secretary of
Health and Human Services additional information
relating to eligibility determinations for advance pay-
ment of the premium tax credits under section 36B
of such Code and the cost-sharing subsidies under
section 1402 of the Patient Protection and Afford-
able Care Act (42 U.S.C. 18071);

(3) a process to allow Exchanges to follow up
with employers in order to obtain additional reason-
ably necessary information relating to an employee’s
eligibility for such advance payment or such cost-
sharing subsidies, and to allow an employee to re-
ceive notification of any problem in verifying such
eligibility; and

(4) a process to allow employers using the sys-
tem to provide timely updates to the Federal Mar-
ketplace Data Services Hub regarding any cancella-
tion of coverage or significant change in coverage for
participating employees that would change the infor-
mation reported under paragraph (1).

(c) E MPLOYER NOTIFICATION OF E MPLOYEE EN-
ROLLMENT IN EXCHANGE PLANS.—Subparagraph (J) of
section 1311(d)(4) of the Patient Protection and Afford-
able Care Act (42 U.S.C. 18031(d)(4)(J)) is amended by
striking “to each employer” and all that follows and in-
serting “to each employer—

“(i) the name of each employee of the
employer who enrolls in a qualified health
plan for a plan year, or whose dependents
enroll in such a plan, at the time of such
enrollment; or

“(ii) the name of each employee of the
employer described in subparagraph (I)(ii)
who ceases coverage under a qualified
health plan during a plan year (and the effective date of such cessation); and”.

(d) EXEMPTION FROM REPORTING REQUIREMENT UNDER INTERNAL REVENUE CODE OF 1986.—Section 6056 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) EXEMPTION.—If, through the system created under section 3(a) of the Commonsense Reporting Act of 2017, an employer provides prospective reporting for any calendar year that meets the requirements of section 3(b)(1) of such Act—

“(1) such employer shall be treated as satisfying the return requirements of subsections (a) and (b) for such year; and

“(2) such employer shall be treated as satisfying the requirements of subsection (c) for such year if the employer—

“(A) furnishes the statement described in such section to those employees of the employer whose names have been provided to the employer by an Exchange under section 1311(d)(4)(J)(i) of the Patient Protection and Affordable Care Act regarding enrollment of the employee or a dependent in a qualified health
plan (as defined in section 1301 of such Act) through the Exchange; and

“(B) furnishes a copy of such statement with respect to such employees to the Secretary.”.

(e) THIRD-PARTY FILING.—An employer may contract with a third party to make the report under subsection (b)(1) without affecting the employer’s treatment as having satisfied the return requirements of subsections (a) and (b) of section 6056 of the Internal Revenue Code of 1986.

(f) ACCESS TO THE NATIONAL DIRECTORY OF NEW HIRES.—Subsection (i)(3) of section 453 of the Social Security Act (42 U.S.C. 653) is amended by adding at the end the following new sentence: “The Secretary of the Treasury and the Secretary of Health and Human Services shall have access to the information in the National Directory of New Hires for purposes of administering section 36B and 4980H of the Internal Revenue Code of 1986 and section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071). Subsection (k)(3) shall not apply to information received for purposes of the administration of such sections 36B and 4980H of such Code and section 1402 of such Act.”.
(g) Improving Employee Access to Accurate EINs.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall develop and implement guidance for allowing any employee of an employer to receive, on request, the employer’s employer identification number for purposes of section 6056 of the Internal Revenue Code of 1986.

(h) Funding for Voluntary Prospective Reporting System.—It is the sense of Congress that building and maintaining the voluntary prospective reporting system described in this section will require appropriations to the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Small Business Administration, and that necessary sums to carry out the requirements of this section should be appropriated for such purpose.

SEC. 4. PROTECTION OF DEPENDENT PRIVACY.

(a) In General.—Paragraph (1) of section 6055(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

“For purposes of subparagraph (B)(i), in the case of an individual other than the primary insured, if the health insurance issuer or the employer is unable to collect or maintain information on the TINs of such individuals (other than for purposes of this section),
the Secretary may allow the individual’s full name and date of birth to be substituted for the name and TIN. In the event the Secretary allows the use of the individual’s full name and date of birth in lieu of the TIN, the Social Security Administration shall assist the Internal Revenue Service in providing data matches to determine the TIN associated with the name and date of birth provided by the Internal Revenue Service with respect to such individual.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which is after the date that is 60 days after the date of the enactment of this Act.

SEC. 5. ELECTRONIC STATEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6056 of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

“An individual shall be deemed to have consented to receive the statement under this section in electronic form if such individual has affirmatively consented at any prior time, to the person who is the employer of the individual during the calendar year to which the statement relates, to receive such statement in electronic form. The preceding sentence shall not apply if the individual revokes
consent in writing with respect to the statement under this section.”.

(b) Statements Relating to Health Insurance Coverage.—Subsection (c) of section 6055 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) Electronic Delivery.—An individual shall be deemed to have consented to receive the statement under this subsection in electronic form if such individual has affirmatively consented at any prior time, to the person required to make such statement (such as the provider of the individual’s health coverage), to receive in electronic form any private health information (such as electronic health records), unless the individual revokes such consent in writing.”.

(c) Effective Date.—The amendments made by this section shall apply to statements the due date for which is after December 31, 2017.

SEC. 6. GAO STUDIES.

(a) Study of Prospective Reporting System.—Not later than July 1, 2020, the Comptroller General of the United States shall conduct a study evaluating, with respect to the period beginning on January 1, 2019, and ending on December 31, 2019, the functionality of the
prospective reporting system established under section 3
of this Act, including the accuracy of information col-
lected, the number of employers electing to report under
such system, and any challenges that have arisen.

(b) REPORT.—The results of the study under sub-
section (a) shall be reported to the Committees on Finance
and Health, Education, Labor, and Pensions of the Senate
and the Committees on Ways and Means, Energy and
Commerce, and Education and the Workforce of the
House of Representatives.