To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RODNEY DAVIS of Illinois introduced the following bill; which was referred to the Committee on ____________________

A BILL

To establish a Health Care Protection Program Fund to provide grants to employers to ensure continuity of coverage under a group health plan through the COVID–19 pandemic, to provide for premium assistance for COBRA benefits, and for other purposes.

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 “Health Care Protection Act”.
SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the COVID–19 pandemic has caused many individuals to lose access to employer-sponsored health insurance at no fault of their own;

(2) individuals should not be forced to cover additional costs associated with healthcare due to a loss of access to employer-sponsored health insurance;

(3) employers should utilize all tools provided to them by the federal government to bring individuals back onto payroll so that they may receive benefits such as employer-sponsored health insurance; and

(4) individuals unable to rejoin the workforce should receive assistance equal to that received while employed so that when an employer makes an offer of employment, the individual does not have an incentive to reject.

SEC. 3. AMERICAN HEALTH EXCHANGES SPECIAL ENROLLMENT PERIOD.

Section 1311(c)(6) of the Patient Protection and Affordable Care Act (42 U.S.C. 18031(c)(6)) is amended—

(1) in subparagraph (C), by striking at the end “and”;

(2) in subparagraph (D), by striking at the end the period and inserting “; and”; and
(3) by adding at the end the following new subparagraph:

“(E) a special enrollment period during the 30-day period following the date of the enactment of this subparagraph during which any individual who is otherwise eligible to enroll in a qualified health plan through the Exchange and who is not otherwise enrolled in such a plan may enroll in such a qualified health plan.”.

SEC. 4. PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) Premium Assistance for COBRA Continuation Coverage for Individuals and Their Families.—

(1) Provision of premium assistance.—

(A) Reduction of premiums payable.—In the case of any premium for a period of coverage (not to exceed 6 months) beginning on or after the date of the enactment of this Act and on or before January 1, 2021, for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (or a person other than such individual’s
employer pays on behalf of such individual) a
percent of such premium such that the amount
of such premium so paid is equal to the amount
the covered employee with respect to such cov-
erage would have paid with respect to such indi-
vidual for such period for coverage under the
group health plan under which such employee
was enrolled at the time of the qualifying event
had such event not occurred (as determined
without regard to this subsection).

(B) PLAN ENROLLMENT OPTION.—

(i) IN GENERAL.—Notwithstanding
the COBRA continuation provisions, an as-
sistance eligible individual may, not later
than 90 days after the date of notice of the
plan enrollment option described in this
subparagraph, elect to enroll in coverage
under a plan offered by the employer in-
volved, or the employee organization in-
volved (including, for this purpose, a joint
board of trustees of a multiemployer trust
affiliated with one or more multiemployer
plans), that is different than coverage
under the plan in which such individual
was enrolled at the time the qualifying
event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

(III) the different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time at which such election is made; and
(IV) the different coverage is not—

(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

(bb) a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

(cc) coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

(C) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6431 of the Internal Revenue Code of 1986, as added by paragraph (12).

(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—
(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof)) or is eligible for benefits under title XVIII of the Social Security Act, or

(ii) the earliest of—

(I) July 1, 2021,

(II) the date following the expiration of the maximum period of continuation coverage required under the
applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term “assistance eligible individual” means any qualified beneficiary if—

(A) at any time during the period that begins with March 1, 2020, and ends with De-
cember 31, 2020, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee’s employment and occurred during such period.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—For purposes of applying section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who does not have an election of COBRA continuation coverage in effect on the date of the enactment of this Act but who would be an assistance eligible individual if such election were so in effect, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions con-
taining such sections during the period begin-
ning on the date of the enactment of this Act
and ending 60 days after the date on which the
notification required under paragraph (7)(C) is
provided to such individual.

(B) Commencement of coverage; no
reach-back.—Any COBRA continuation cov-
erage elected by a qualified beneficiary during
an extended election period under subparagraph
(A)—

(i) shall commence with the first pe-
riod of coverage beginning on or after the
date of the enactment of this Act, and

(ii) shall not extend beyond the period
of COBRA continuation coverage that
would have been required under the appli-
cable COBRA continuation coverage provi-
sion if the coverage had been elected as re-
quired under such provision.

(5) Expedited review of denials of pre-
mium assistance.—In any case in which an indi-
vidual requests treatment as an assistance eligible
individual and is denied such treatment by the group
health plan, the Secretary of Labor (or the Sec-
retary of Health and Human Services in connection
with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual’s eligibility within 15 business days after receipt of such individual’s application for review under this paragraph. Either Secretary’s determination upon review of the denial shall be de novo and shall be the final determination of such Secretary. A reviewing court shall grant deference to such Secretary’s determination. The provisions of this paragraph, paragraphs (1) through (4), and paragraph (7) shall be treated as provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of part 5 of subtitle B of such title.

(6) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible indi-
vidual under this subsection shall not be considered
income or resources in determining eligibility for, or
the amount of assistance or benefits provided under,
any other public benefit provided under Federal law
or the law of any State or political subdivision there-
of.

(7) Notices to individuals.—

(A) General notice.—

(i) In general.—In the case of no-
tices provided under section 606(a)(4) of
the Employee Retirement Income Security
Act of 1974 (29 U.S.C. 1166(4)), section
4980B(f)(6)(D) of the Internal Revenue
Code of 1986, section 2206(4) of the Pub-
lic Health Service Act (42 U.S.C. 300bb-
6(4)), or section 8905a(f)(2)(A) of title 5,
United States Code, with respect to indi-
viduals who, during the period described in
paragraph (3)(A), become entitled to elect
COBRA continuation coverage, the re-
quirements of such sections shall not be
treated as met unless such notices include
an additional notification to the recipient
of—
(I) the availability of premium reduction with respect to such coverage under this subsection, and

(II) the option to enroll in different coverage if the employer permits assistance eligible individuals to elect enrollment in different coverage (as described in paragraph (1)(B)).

(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

(iii) FORM.—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a sepa-
rate document with the notice otherwise required.

(B) SPECIFIC REQUIREMENTS.—Each additional notification under subparagraph (A) shall include—

(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided under section 6720C of the Inter-
nal Revenue Code of 1986 for failure to so
notify the plan,

(v) a description, displayed in a
prominent manner, of the qualified bene-
iciary’s right to a reduced premium and
any conditions on entitlement to the re-
duced premium, and

(vi) a description of the option of the
qualified beneficiary to enroll in different
coverage if the employer permits such ben-
eficiary to elect to enroll in such different
coverage under paragraph (1)(B).

(C) NOTICE IN CONNECTION WITH EX-
tended election periods.—In the case of
any assistance eligible individual (or any indi-
vidual described in paragraph (4)(A)) who be-
came entitled to elect COBRA continuation cov-
erage before the date of the enactment of this
Act, the administrator of the group health plan
(or other entity) involved shall provide (within
60 days after the date of enactment of this Act)
for the additional notification required to be
provided under subparagraph (A) and failure to
provide such notice shall be treated as a failure
to meet the notice requirements under the applicable COBRA continuation provision.

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act—

(i) the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph (other than the additional notification described in clause (ii)), and

(ii) in the case of any additional notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such additional notification.

(8) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this subsection, including the prevention of fraud and abuse under this subsection, except that the Secretary of Labor and the Secretary of Health and Human Services may prescribe such regulations (including interim final regu-
lations) or other guidance as may be necessary or appropriate to carry out the provisions of paragraphs (5), (7), and (9).

(9) **Outreach.**—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on websites of the Departments of Labor, Treasury, and Health and Human Services.

(10) **Definitions.**—For purposes of this section—

(A) **Administrator.**—The term “administrator” has the meaning given such term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974.
(B) COBRA continuation coverage.—
The term “COBRA continuation coverage”
means continuation coverage provided pursuant
to part 6 of subtitle B of title I of the Em-
ployee Retirement Income Security Act of 1974
(other than under section 609), title XXII of
the Public Health Service Act, section 4980B of
the Internal Revenue Code of 1986 (other than
subsection (f)(1) of such section insofar as it
relates to pediatric vaccines), or section 8905a
of title 5, United States Code, or under a State
program that provides comparable continuation
coverage. Such term does not include coverage
under a health flexible spending arrangement
under a cafeteria plan within the meaning of
section 125 of the Internal Revenue Code of
1986.

(C) COBRA continuation provision.—
The term “COBRA continuation provision”
means the provisions of law described in sub-
paragraph (B).

(D) Covered employee.—The term
“covered employee” has the meaning given such
term in section 607(2) of the Employee Retire-
(E) QUALIFIED BENEFICIARY.—The term “qualified beneficiary” has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN.—The term “group health plan” has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(H) PERIOD OF COVERAGE.—Any reference in this subsection to a period of coverage shall be treated as a reference to a monthly or shorter period of coverage with respect to which premiums are charged with respect to such coverage.

(11) REPORTS.—

(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House
of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

(i) the number of individuals provided such assistance as of the date of the report; and

(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

(B) Final Report.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes—

(i) the number of individuals provided premium reduction under this section;

(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and
(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

(12) COBRA PREMIUM ASSISTANCE.—

(A) In general.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 6431. COBRA PREMIUM ASSISTANCE.

“(a) In general.—The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed as provided in subsection (c) for the amount of premiums not paid by assistance eligible individuals by reason of section 4 of the Health Care Protection Act.

“(b) Person entitled to reimbursement.—For purposes of subsection (a), except as otherwise provided by the Secretary, the person to whom premiums are payable under COBRA continuation coverage shall be treated as being—

“(1) in the case of any group health plan which is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), the plan,
“(2) in the case of any group health plan not described in paragraph (1)—

“(A) which is subject to the COBRA continuation provisions contained in—

“(i) the Internal Revenue Code of 1986,

“(ii) the Employee Retirement Income Security Act of 1974,

“(iii) the Public Health Service Act,

or

“(iv) title 5, United States Code, or

“(B) under which some or all of the coverage is not provided by insurance,

the employer maintaining the plan, and

“(3) in the case of any group health plan not described in paragraph (1) or (2), the insurer providing the coverage under the group health plan.

“(c) METHOD OF REIMBURSEMENT.—Except as otherwise provided by the Secretary—

“(1) TREATMENT AS PAYMENT OF PAYROLL TAXES.—Each person entitled to reimbursement under subsection (a) (and filing a claim for such reimbursement at such time and in such manner as the Secretary may require) shall be treated for purposes of this title and section 1324(b)(2) of title 31,
United States Code, as having paid to the Secretary, on the date that the assistance eligible individual’s premium payment is received, payroll taxes in an amount equal to the portion of such reimbursement which relates to such premium. To the extent that the amount treated as paid under the preceding sentence exceeds the amount of such person’s liability for such taxes, the Secretary shall credit or refund such excess in the same manner as if it were an overpayment of such taxes.

“(2) OVERSTATEMENTS.—Any overstatement of the reimbursement to which a person is entitled under this section (and any amount paid by the Secretary as a result of such overstatement) shall be treated as an underpayment of payroll taxes by such person and may be assessed and collected by the Secretary in the same manner as payroll taxes.

“(3) REIMBURSEMENT CONTINGENT ON PAYMENT OF REMAINING PREMIUM.—No reimbursement may be made under this section to a person with respect to any assistance eligible individual until after the reduced premium required under section 4(a)(1)(A) of the Health Care Protection Act with respect to such individual has been received.

“(d) DEFINITIONS.—For purposes of this section—
“(1) PAYROLL TAXES.—The term ‘payroll taxes’ means—

“(A) amounts required to be deducted and withheld for the payroll period under section 3402 (relating to wage withholding),

“(B) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

“(C) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

“(2) PERSON.—The term ‘person’ includes any governmental entity.

“(e) REPORTING.—Each person entitled to reimbursement under subsection (a) for any period shall submit such reports (at such time and in such manner) as the Secretary may require, including—

“(1) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a),

“(2) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated offsets of such taxes for the subse-
quent reporting period in connection with reimburse-
ments under subsection (a), and

“(3) a report containing the TINs of all covered
employees, the amount of subsidy reimbursed with
respect to each covered employee and qualified bene-
ficiaries, and a designation with respect to each cov-
ered employee as to whether the subsidy reimburse-
ment is for coverage of 1 individual or 2 or more in-
dividuals.

“(f) REGULATIONS.—The Secretary shall issue such
regulations or other guidance as may be necessary or ap-
propriate to carry out this section, including—

“(1) the requirement to report information or
the establishment of other methods for verifying the
correct amounts of reimbursements under this sec-
tion, and

“(2) the application of this section to group
health plans that are multiemployer plans (as de-
defined in section 3(37) of the Employee Retirement
Income Security Act of 1974).”.

(B) SOCIAL SECURITY TRUST FUNDS HELD
HARMLESS.—In determining any amount trans-
ferred or appropriated to any fund under the
Social Security Act, section 6431 of the Inter-
nal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 6431. COBRA premium assistance.”.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(E) SPECIAL RULE.—

(i) IN GENERAL.—In the case of an assistance eligible individual who pays, with respect to the first period of COBRA continuation coverage to which subsection (a)(1)(A) applies or the immediately subsequent period, the full premium amount for such coverage, the person to whom such payment is payable shall—

(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (a)(1)(A); or

(II) provide credit to the individual for such amount in a manner
that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

(ii) Reimbursing Employer.—A person to which clause (i) applies shall be reimbursed as provided for in section 6431 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

(iii) Payment or Credits.—Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of
the credit outstanding shall be made to the
individual within 60 days of such day.

(13) **Penalty for failure to notify**
health plan of cessation of eligibility for
premium assistance.—

(A) **In general.**—Part I of subchapter B
of chapter 68 of the Internal Revenue Code of
1986 is amended by adding at the end the fol-
lowing new section:

“**SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
**PLAN OF CESSATION OF ELIGIBILITY FOR**
**COBRA PREMIUM ASSISTANCE.**

“(a) **In general.**—Any person required to notify a
group health plan under section 4(a)(2)(C) of the Health
Care Protection Act who fails to make such a notification
at such time and in such manner as the Secretary of
Labor may require shall pay a penalty of 110 percent of
the premium reduction provided under such section after
termination of eligibility under such subsection.

“(b) **Reasonable cause exception.**—No penalty
shall be imposed under subsection (a) with respect to any
failure if it is shown that such failure is due to reasonable
cause and not to willful neglect.”.

(B) **Clerical amendment.**—The table of
sections of part I of subchapter B of chapter 68
of such Code is amended by adding at the end
the following new item:

“(Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility
for COBRA premium assistance.”).

(C) EFFECTIVE DATE.—The amendments
made by this paragraph shall apply to failures
occurring after the date of the enactment of
this Act.

(14) COORDINATION WITH HCTC.—

(A) IN GENERAL.—Subsection (g) of sec-
tion 35 of the Internal Revenue Code of 1986
is amended by redesignating paragraph (9) as
paragraph (10) and inserting after paragraph
(8) the following new paragraph:

“(9) COBRA PREMIUM ASSISTANCE.—In the
case of an assistance eligible individual who receives
premium reduction for COBRA continuation cov-
erage under section 4(a) of the Health Care Protec-
tion Act for any month during the taxable year, such
individual shall not be treated as an eligible indi-
vidual, a certified individual, or a qualifying family
member for purposes of this section or section 7527
with respect to such month.”.

(B) EFFECTIVE DATE.—The amendment
made by subparagraph (A) shall apply to tax-
able years ending after the date of the enactment of this Act.

(15) **Exclusion of COBRA Premium Assistance from Gross Income.**

(A) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139B the following new section:

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“SEC. 139C. COBRA PREMIUM ASSISTANCE.

“In the case of an assistance eligible individual (as defined in section 4 of the Health Care Protection Act), gross income does not include any premium reduction provided under subsection (a) of such section.”.

(B) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

“Sec. 139C. COBRA premium assistance.”.

(C) Effective Date.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.
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(b) Elimination of Premium Subsidy for High-Income Individuals.—
(1) Recapture of subsidy for high-income individuals.—If—

(A) premium assistance is provided under this section with respect to any COBRA continuation coverage which covers the taxpayer, the taxpayer's spouse, or any dependent (within the meaning of section 152 of the Internal Revenue Code of 1986, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of the taxpayer during any portion of the taxable year, and

(B) the taxpayer's modified adjusted gross income for such taxable year exceeds $125,000 ($250,000 in the case of a joint return),

then the tax imposed by chapter 1 of such Code with respect to the taxpayer for such taxable year shall be increased by the amount of such assistance.

(2) Phase-in of recapture.—

(A) In general.—In the case of a taxpayer whose modified adjusted gross income for the taxable year does not exceed $145,000 ($290,000 in the case of a joint return), the increase in the tax imposed under paragraph (1) shall not exceed the phase-in percentage of such
increase (determined without regard to this paragraph).

(B) Phase-in percentage.—For purposes of this subsection, the term “phase-in percentage” means the ratio (expressed as a percentage) obtained by dividing—

(i) the excess of described in subparagraph (B) of paragraph (1), by

(ii) $20,000 ($40,000 in the case of a joint return).

(3) Option for high-income individuals to waive assistance and avoid recapture.—Notwithstanding subsection (a)(3), an individual shall not be treated as an assistance eligible individual for purposes of this section and section 6431 of the Internal Revenue Code of 1986 if such individual—

(A) makes a permanent election (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to waive the right to the premium assistance provided under this section, and

(B) notifies the entity to whom premiums are reimbursed under section 6431(a) of such Code of such election.
(4) Modified Adjusted Gross Income.—For purposes of this subsection, the term “modified adjusted gross income” means the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 of such Code.

(5) Credits Not Allowed Against Tax, Etc.—For purposes determining regular tax liability under section 26(b) of such Code, the increase in tax under this subsection shall not be treated as a tax imposed under chapter 1 of such Code.

(6) Regulations.—The Secretary of the Treasury shall issue such regulations or other guidance as are necessary or appropriate to carry out this subsection, including requirements that the entity to whom premiums are reimbursed under section 6431(a) of the Internal Revenue Code of 1986 report to the Secretary, and to each assistance eligible individual, the amount of premium assistance provided under subsection (a) with respect to each such individual.

(7) Effective Date.—The provisions of this subsection shall apply to taxable years ending after the date of the enactment of this Act.