H.R.____

To streamline the employer reporting process and strengthen the eligibility verification process for the health care premium tax credit and cost-sharing subsidy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. Black (for herself and Mr. Thompson of California) introduced the following bill; which was referred to the Committee on

A BILL

To streamline the employer reporting process and strengthen the eligibility verification process for the health care premium tax credit and cost-sharing subsidy, 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; TABLE OF CONTENTS.

4 (a) Short Title.—This Act may be cited as the “Commonsense Reporting and Verification Act of 2015”.

June 10, 2015 (12:41 p.m.)
(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

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**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 under provisions of the Patient Protection and Affordable Care Act.

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

**SEC. 3. PROSPECTIVE REPORTING SYSTEM.**

(a) **IN GENERAL.**—Not later than 180 days after 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 implement a voluntary prospective reporting system meeting the re-
quirements of subsection (b). Such system shall be estab-
lished not later than September 2, 2016, and shall be
available for use by employers with respect to plan years
beginning after December 31, 2015.
(b) REQUIREMENTS.—The system created under sub-
section (a) shall be maintained by the Secretary of the
Treasury and shall include—
(1) a process whereby employers may volun-
tarily report—
(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;
(ii) whether such coverage is offered
to dependents of such employees;
(iii) whether such coverage is offered
to spouses of such employees;
(iv) whether such coverage is offered
to part-time employees;
(v) whether such coverage meets the minimum value requirement of section 36B(c)(2)(C)(ii) of such Code; and
(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;
(C) the months during the prospective reporting period that such coverage is available to full time employees of the employer; and
(D) whether any waiting periods apply with respect to such coverage;
to be reported not later than 60 days before the start of the open enrollment period under section 1311(c)(6)(B) of the Patient Protection and Affordable Care Act with respect to each such calendar year;
(2) a process to ensure that Exchanges, 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 respective missions, and to provide to the Secretary of Health and Human Services additional information relating to
eligibility determinations for advance payment of the
premium tax credits under section 36B of such Code
and the cost-sharing subsidies under section 1402 of
the Patient Protection and Affordable Care Act
(Public Law 111–148);

(3) a process to allow the appropriate agency
described in subsection (a) to follow up with employ-
ers in order to obtain additional necessary informa-
tion relating to an employee’s eligibility for such ad-
advance payment or such cost-sharing subsidies, and to
allow an employee to receive 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 availability
of coverage for participating employees.

(c) EXEMPTION FROM REPORTING REQUIREMENT
UNDER INTERNAL REVENUE CODE OF 1986.—If,
through the system created under subsection (a), an em-
ployer provides prospective reporting for a calendar year
in which a plan year ends that meets the requirements
of subsection (b)(1)—

(1) such employer shall be treated as satisfying
the return requirements of subsections (a) and (b)
of section 6056 of the Internal Revenue Code of
1986 for the calendar year in which such plan year
ends; and

(2) such employer shall be treated as satisfying
the requirements of section 6056(e) of such Code for
the calendar year in which such plan year ends if the
employer furnishes the statement described in such
section to the Internal Revenue Service and to those
employees of the employer for whom the employer
has received a notice under section
1411(e)(4)(B)(iii) of the Patient Protection and Af-
fordable Care Act (42 U.S.C. 18081) from the Ex-
change (established under section 1311 or 1321 of
the Patient Protection and Affordable Care Act (42
U.S.C. 18031, 18041) that the employee, or the
spouse or dependent of the employee, has enrolled in
a qualified health plan (as defined in section 1301
of such Act (42 U.S.C. 18021)) through the Ex-
change or been deemed eligible for an advance pay-
ment of premium tax credits under section 36B of
such Code or cost-sharing subsidies under section
1402 of the Patient Protection and Affordable Care
Act (42 U.S.C. 18071).

(d) THIRD PARTY FILING.—Employers may use
third parties to complete the filing described in subsection
(b)(1). Use of such a third party to complete the filing does not affect an employer’s liability under sections 6055 or 6056 of the Internal Revenue Code of 1986.

(e) Employer Notification of Employee Enrollments.—Each Exchange established under title I of the Patient Protection and Affordable Care Act shall provide notice to each employer at the time an employee (or dependent of an employee) is enrolled under a qualified health plan through the Exchange.

SEC. 4. PROTECTION OF DEPENDENT PRIVACY.

(a) In General.—Section 6055(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) TINs not collected or maintained.—For purposes of subparagraph (B)(i), in the case of an individual other than the primary insured, if, before January 1, 2014, the health insurance issuer or the employer did not collect or maintain information on the TINs of such individuals (other than for purposes of this section), the individual’s name and date of birth may be substituted for the name and TIN.”.

(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.—Section 6056(c) 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 section in electronic form if such individual has consented at any prior time, to the person who is the employer of the individual during the calendar year or the preceding plan year to which the statement relates, to receive such statement in electronic form. The preceding sentence shall not apply if the individual refuses consent in writing with respect to the statement under this section.”.

(b) Statements Relating to Health Insurance Coverage.—Section 6055(c) of such Code, as amended by this Act, is amended by adding at the end the following new paragraph:

“(4) Electronic delivery.—An individual shall be deemed to have consented to receive the statement under this subsection in electronic form if such individual has consented at any prior time to receive in electronic form any private health information (such as electronic health records) furnished to such individual by the person required to make
such statement, unless the individual refuses 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, 2015.

**SEC. 6. GAO STUDIES.**

(a) **Study of First Years of Employer Reporting.**—

(1) **In General.**—The Comptroller General of the United States shall conduct a study that evaluates, with respect to the period beginning on January 1, 2014, and ending on December 31, 2016—

(A) the notification of employers by Exchanges established under title I of the Patient Protection and Affordable Care Act (Public Law 111–148) that a full-time employee of the employer has been determined eligible for advance payment of premium tax credits under section 36B of the Internal Revenue Code of 1986 or cost-sharing subsidies under section 1402 of such Act (42 U.S.C. 18071), including information regarding—

(i) the data elements included in the employer notification;
(ii) the process by which the notification forms were developed and sent to employers, including whether the process provided for a formal notice and comment period;

(iii) whether employers report that such notifications provided sufficient and relevant information for them to make appropriate decisions about whether to utilize the appeals process;

(iv) the total number of notifications sent to employers and the timeline of when such notifications were sent;

(v) differences in the notification process between the marketplace facilitated by the Federal Government and the State-Based Marketplaces; and

(vi) challenges that have arisen in the notification process, and recommendations to address these challenges; and

(B) the extent to which the Secretary of Health and Human Services has established a separate appeals process for employers who received such a notification to challenge the eligibility determination, as required by section
111(f)(2) of the Patient Protection and Affordable Care Act (42 U.S.C. 18081(f)(2)).

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit 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 a report on the results of the study conducted under paragraph (1).

(b) STUDY OF PROSPECTIVE REPORTING SYSTEM.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates, with respect to the period beginning on January 1, 2017, and ending on December 31, 2017, the functionality of the prospective reporting system established under section 3, including the accuracy of information collected, the number of employers electing to report under such system, and any challenges that have arisen in implementing such system.

(2) REPORT.—Not later than July 1, 2018, the Comptroller General shall submit 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
a report on the results of the study conducted under
paragraph (1).

SEC. 7. ELIGIBILITY VERIFICATION PROCESS FOR ACA SUB-
SIDIES.

(a) IN GENERAL.—Except as specified in subsection
(b), a marketplace (as defined in subsection (d)) may
automatically reenroll an individual into a qualified health
plan (as defined for purposes of title I of the Patient Pro-
tection and Affordable Care Act) so long as the market-
place—

(1) redetermines on an annual basis the eligi-
bility of the individual for any advanced premium
tax credit or a cost-sharing reduction pursuant to
section 1412 of the Patient Protection and Afford-
able Care Act (42 U.S.C. 18082); and

(2) takes into account, in making such redeter-
minations, annual changes in premiums and in the
Federal poverty level as well as the most recent in-
come data available with respect to the individual in-
volved.

(b) RENROLLMENT LIMITATIONS.—If a market-
place does not follow the processes specified under the sec-
tion with respect to an individual, then the marketplace
may not automatically reenroll the individual into a qualified health plan with an advanced premium tax credit or a cost-sharing reduction until the individual provides current income information to the marketplace so that eligibility for a credit or reduction can be redetermined.

(c) Comprehensive Guidance Based on Current Guidance.—The provisions of this section are intended to generally reflect and be consistent with the guidance on annual eligibility redeterminations and reenrollments for marketplace coverage issued by the Centers for Medicare and Medicaid Services on April 22, 2015. In carrying out this section, the Secretary shall apply rules (whether through guidance or otherwise) regarding the annual eligibility redeterminations and reenrollments for coverage and for tax credits and cost-sharing reduction for individuals through a marketplace that are consistent with this section and are at least as comprehensive as the guidance (issued on April 22, 2015) applied for coverage for 2016. Such guidance shall include provisions that ensure that—

(1) enrollees eligible to be automatically re-enrolled in a qualified health plan and to continue provision of such a tax credit or cost-sharing reduction shall maintain on file with the marketplace (or otherwise provide to the marketplace) an authoriza-
tion for disclosure of information verifying eligibility
for such a credit or cost-sharing reduction;

(2) the marketplace annually requests updated
income information to verify such eligibility; and

(3) enrollees are provided timely and appro-
priate notices of the rules regarding annual redeter-
minations and reenrollments.

(d) MARKETPLACE DEFINED.—In this section, the
term “marketplace” means State Based Exchanges and
the Federally Facilitated Exchange established under sec-
tions 1311 and 1321 of the Patient Protection and Afford-
able Care Act (42 U.S.C. 18031, 18041), respectively.