

**AMENDMENT TO H.R. 1868**  
**OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Protect Seniors and  
3 Cut Waste Act”.

**4 SEC. 2. PAYGO ACT SEQUESTER.**

5       The budgetary effects of the American Rescue Plan  
6 Act of 2021 shall not be counted for purposes of deter-  
7 mining whether a sequester occurs under the report issued  
8 after Congress adjourns to end the 1st session of the  
9 117th Congress and during January 2022 under section  
10 5 of the Statutory Pay-As-You-Go Act of 2010.

**11 SEC. 3. SUPPLEMENTAL APPROPRIATIONS FOR THE PUB-  
12 LIC HEALTH AND SOCIAL SERVICES EMER-  
13 GENCY FUND.**

14       (a) SUPPLEMENTAL APPROPRIATION.—There is ap-  
15 propriated, out of any amounts in the Treasury not other-  
16 wise appropriated, for an additional amount for “Public  
17 Health and Social Services Emergency Fund’”,  
18 \$12,300,000,000, to remain available until expended, to  
19 prevent, prepare for, and respond to coronavirus, domesti-

1 cally or internationally, which shall be for necessary ex-  
2 penses to reimburse, through grants or other mechanisms,  
3 eligible health care providers for health care related ex-  
4 penses or lost revenues that are attributable to  
5 coronavirus.

6 (b) CONDITIONS.—The following conditions shall  
7 apply with respect to funds appropriated by subsection  
8 (a):

9 (1) Such funds may not be used to reimburse  
10 expenses or losses that have been reimbursed from  
11 other sources or that other sources are obligated to  
12 reimburse.

13 (2) Recipients of payments under this section  
14 shall submit reports and maintain documentation as  
15 the Secretary of Health and Human Services deter-  
16 mines are needed to ensure compliance with condi-  
17 tions that are imposed by this subsection for such  
18 payments, and such reports and documentation shall  
19 be in such form, with such content, and in such time  
20 as the Secretary may prescribe for such purpose.

21 (3) The term “eligible health care providers”  
22 means public entities, Medicare or Medicaid enrolled  
23 suppliers and providers, and such for-profit entities  
24 and not-for-profit entities not otherwise described in  
25 this paragraph as the Secretary may specify, within

1 the United States (including territories), that pro-  
2 vide diagnoses, testing, or care for individuals with  
3 possible or actual cases of COVID-19.

4 (4) The Secretary shall, on a rolling basis, re-  
5 view applications and make payments under this sec-  
6 tion.

7 (5) Funds appropriated under this section shall  
8 be available for building or construction of tem-  
9 porary structures, leasing of properties, medical sup-  
10 plies and equipment including personal protective  
11 equipment and testing supplies, increased workforce  
12 and trainings, emergency operation centers, retro-  
13 fitting facilities, and surge capacity.

14 (6) In this section, the term “payment” means  
15 a pre-payment, prospective payment, or retrospective  
16 payment, as determined appropriate by the Sec-  
17 retary.

18 (7) Payments under this section shall be made  
19 in consideration of the most efficient payment sys-  
20 tems practicable to provide emergency payment.

21 (8) To be eligible for a payment under this sec-  
22 tion, an eligible health care provider shall submit to  
23 the Secretary an application that includes a state-  
24 ment justifying the need of the provider for the pay-

1       ment and the eligible health care provider shall have  
2       a valid tax identification number.

3           (9) For any reimbursement by the Secretary  
4       from the Provider Relief Fund to an eligible health  
5       care provider that is a subsidiary of a parent organi-  
6       zation, the parent organization may, allocate  
7       (through transfers or otherwise) all or any portion  
8       of such reimbursement among the subsidiary eligible  
9       health care providers of the parent organization, in-  
10      cluding reimbursements referred to by the Secretary  
11      as “Targeted Distribution” payments, among sub-  
12      sidiary eligible health care providers of the parent  
13      organization, except that responsibility for reporting  
14      the reallocated reimbursement shall remain with the  
15      original recipient of such reimbursement.

16           (10) For any reimbursement from the Provider  
17      Relief Fund to an eligible health care provider for  
18      health care related expenses or lost revenues that  
19      are attributable to coronavirus (including reimburse-  
20      ments made before the date of the enactment of this  
21      Act), such provider may calculate such lost revenues  
22      using the Frequently Asked Questions guidance re-  
23      leased by the Department of Health and Human  
24      Services in June 2020, including the difference be-  
25      tween such provider’s budgeted and actual revenue

1 budget if such budget had been established and ap-  
2 proved prior to March 27, 2020.

3 (11) Of the amount made available in the third  
4 paragraph under the heading “Department of  
5 Health and Human Services—Office of the Sec-  
6 retary—Public Health and Social Services Emer-  
7 gency Fund” in Public Law 116–136, not less than  
8 85 percent of the unobligated balances available as  
9 of the date of enactment of this Act and of any  
10 funds recovered from health care providers after the  
11 date of enactment of this Act shall be for any suc-  
12 cessor to the Phase 3 General Distribution allocation  
13 to make payments to eligible health care providers  
14 based on applications that consider financial losses  
15 and changes in operating expenses occurring in fis-  
16 cal year 2021 that are attributable to coronavirus.

17 (12) Not later than 3 years after final pay-  
18 ments are made under this section, the Office of In-  
19 spector General of the Department of Health and  
20 Human Services shall transmit a final report on  
21 audit findings with respect to this program to the  
22 Committees on Appropriations of the House of Rep-  
23 resentatives and the Senate.

24 (13) Nothing in this section limits the authority  
25 of the Inspector General or the Comptroller General

1 to conduct audits of interim payments at an earlier  
2 date.

3 (14) Not later than 60 days after the date of  
4 enactment of this Act, the Secretary of Health and  
5 Human Services shall provide a report to the Com-  
6 mittees on Appropriations of the House of Rep-  
7 resentatives and the Senate on the obligation of  
8 funds, including obligations to such eligible health  
9 care providers, summarized by State of the payment  
10 receipt. Such report shall be updated and submitted  
11 to such Committees every 60 days until funds are  
12 expended.

13 (c) EMERGENCY DESIGNATIONS.—

14 (1) Amounts repurposed in subsection (b) that  
15 were previously designated by the Congress as an  
16 emergency requirement pursuant to the Balanced  
17 Budget and Emergency Deficit Control Act of 1985  
18 are designated by the Congress as an emergency re-  
19 quirement pursuant to section 251(b)(2)(A)(i) of the  
20 Balanced Budget and Emergency Deficit Control  
21 Act of 1985.

22 (2) The amount appropriated by subsection (a)  
23 is designated by the Congress as being for an emer-  
24 gency requirement pursuant to section

1 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
2 gency Deficit Control Act of 1985.

3 (3) Each amount designated in this Act by the  
4 Congress as an emergency requirement pursuant to  
5 section 251(b)(2)(A)(i) of the Balanced Budget and  
6 Emergency Deficit Control Act of 1985 shall be  
7 available only if the President subsequently so des-  
8 ignates all such amounts and transmits such des-  
9 ignations to the Congress.

10 (d) APPLICATION OF PROVISIONS.—Amounts appro-  
11 priated pursuant to this section and pursuant to title II  
12 of Public Law 117–2 shall be subject to the requirements  
13 contained in Public Law 116–260 for funds for programs  
14 authorized under sections 330 through 340 of the Public  
15 Health Service Act.

16 **SEC. 4. CORONAVIRUS STATE FISCAL RECOVERY FUND AD-**  
17 **JUSTMENT.**

18 (a) IN GENERAL.—Section 602 of the Social Security  
19 Act is amended—

20 (1) in subsection (a)(1), by striking  
21 “\$219,800,000,000” and inserting  
22 “\$79,800,000,000”; and

23 (2) in subsection (b)(3), by striking  
24 “\$195,300,000,000” and inserting  
25 “\$55,300,000,000”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect as if included in the enact-  
3 ment of the American Rescue Plan Act of 2021.

4 **SEC. 5. TECHNICAL CORRECTIONS.**

5 (a) RURAL HEALTH CLINIC PAYMENTS.—

6 (1) IN GENERAL.—Section 1833(f)(3) of the  
7 Social Security Act (42 U.S.C. 1395l(f)(3)) is  
8 amended—

9 (A) in subparagraph (A)—

10 (i) in clause (i), by striking subclauses  
11 (I) and (II) and inserting the following:

12 “(I) with respect to a rural health  
13 clinic that had a per visit payment amount  
14 established for services furnished in  
15 2020—

16 “(aa) the per visit payment  
17 amount applicable to such rural  
18 health clinic for rural health clinic  
19 services furnished in 2020, increased  
20 by the percentage increase in the MEI  
21 applicable to primary care services  
22 furnished as of the first day of 2021;  
23 or

24 “(bb) the limit described in para-  
25 graph (2)(A); and



1 “(II) with respect to a rural health  
2 clinic that did not have a per visit payment  
3 amount established for services furnished  
4 in 2020—

5 “(aa) the per visit payment  
6 amount applicable to such rural  
7 health clinic for rural health clinic  
8 services furnished in 2021; or

9 “(bb) the limit described in para-  
10 graph (2)(A); and”;

11 (ii) in clause (ii)(I), by striking  
12 “under clause (i)(I)” and inserting “under  
13 subclause (I) or (II) of clause (i), as appli-  
14 cable,”; and

15 (B) in subparagraph (B)—

16 (i) in the matter preceding clause (i),  
17 by striking “2019, was” and inserting  
18 “2020”;

19 (ii) in clause (i), by inserting “was”  
20 after “(i)”; and

21 (iii) by striking clause (ii) and insert-  
22 ing the following:

23 “(ii)(I) was enrolled under section 1866(j)  
24 (including temporary enrollment during the

1 emergency period described in section  
2 1135(g)(1)(B) for such period); or

3 “(II) submitted an application for enroll-  
4 ment under section 1866(j) (or requested such  
5 a temporary enrollment for such period) that  
6 was received not later than December 31,  
7 2020.”.

8 (2) EFFECTIVE DATE.—The amendments made  
9 by this subsection shall take effect as if included in  
10 the enactment of the Consolidated Appropriations  
11 Act, 2021 (Public Law 116–260).

12 (b) ADDITIONAL AMOUNT FOR CERTAIN HOSPITALS  
13 WITH HIGH DISPROPORTIONATE SHARE.—Effective as  
14 if included in the enactment of section 203(a) of title II  
15 of division CC of Public Law 116–260, subsection (g) of  
16 section 1923 of the Social Security Act (42 U.S.C. 1396r–  
17 4) amended by such section 203(a) is amended by adding  
18 at the end the following new paragraph:

19 “(3) ADDITIONAL AMOUNT FOR CERTAIN HOS-  
20 PITALS WITH HIGH DISPROPORTIONATE SHARE.—

21 “(A) IN GENERAL.—In the case of a hos-  
22 pital with high disproportionate share (as de-  
23 fined in subparagraph (B)) located in a State  
24 referenced in subsection (e) of section 4721 of  
25 the Balanced Budget Act of 1997, a payment

1 adjustment during a State fiscal year shall be  
2 considered consistent with subsection (c) if the  
3 payment adjustment does not exceed 175 per-  
4 cent of the costs of furnishing hospital services  
5 during the year, but only if the Governor of the  
6 State certifies to the satisfaction of the Sec-  
7 retary that the hospital's applicable minimum  
8 amount is used for health services during the  
9 year. In determining the amount that is used  
10 for such services during a year, there shall be  
11 excluded any amounts received under the Public  
12 Health Service Act, title V, title XVIII, or from  
13 third party payors (not including the State plan  
14 under this title) that are used for providing  
15 such services during the year.

16 “(B) HOSPITAL WITH HIGH  
17 DISPROPORTIONATE SHARE DEFINED.—In  
18 subparagraph (A), a hospital is a ‘hospital with  
19 high disproportionate share’ if—

20 “(i) the hospital is owned or operated  
21 by the State (or by an instrumentality or  
22 a unit of government within the State);  
23 and

24 “(ii) the hospital—

1 “(I) meets the requirement de-  
2 scribed in subparagraphs (A) or (B)  
3 of subsection (b)(1); or

4 “(II) has the largest number of  
5 inpatient days attributable to individ-  
6 uals entitled to benefits under the  
7 State plan of any hospital in such  
8 State for the previous fiscal year.

9 “(C) APPLICABLE MINIMUM AMOUNT DE-  
10 FINED.—In subparagraph (A), the ‘applicable  
11 minimum amount’ for a hospital for a fiscal  
12 year is equal to the difference between the  
13 amount of the hospital’s payment adjustment  
14 for the fiscal year and the costs to the hospital  
15 of furnishing hospital services described in  
16 paragraph (1)(A) during the fiscal year.”.

17 **SEC. 6. INDIVIDUALS NOT LAWFULLY PRESENT IN UNITED**  
18 **STATES PRECLUDED FROM 2021 RECOVERY**  
19 **REBATES.**

20 (a) IN GENERAL.—Section 6428B(c) of the Internal  
21 Revenue Code of 1986, as added by the American Rescue  
22 Plan Act of 2021, is amended by striking “and” at the  
23 end of paragraph (2), by redesignating paragraph (3) as  
24 paragraph (4), and by inserting after paragraph (2) the  
25 following new paragraph:

1           “(3) any individual who was not lawfully  
2           present in the United States as of the date of the  
3           enactment of the American Rescue Plan Act of  
4           2021, and”.

5           (b) **EFFECTIVE DATE.**—The amendments made by  
6           this section shall take effect as if included in the enact-  
7           ment of section 9601 of the American Rescue Plan Act  
8           of 2021.

9           **SEC. 7. INCARCERATED INDIVIDUALS PRECLUDED FROM**  
10           **2021 RECOVERY REBATES.**

11           (a) **IN GENERAL.**—Section 6428B(c) of the Internal  
12           Revenue Code of 1986, as added by the American Rescue  
13           Plan Act of 2021 and amended by the preceding provi-  
14           sions of this Act, is amended by striking “and” at the  
15           end of paragraph (3), by redesignating paragraph (4) as  
16           paragraph (5), and by inserting after paragraph (3) the  
17           following new paragraph:

18           “(4) any individual who was incarcerated on the  
19           date of the enactment of the American Rescue Plan  
20           Act of 2021, and”.

21           (b) **EFFECTIVE DATE.**—The amendments made by  
22           this section shall take effect as if included in the enact-  
23           ment of section 9601 of the American Rescue Plan Act  
24           of 2021.

1 **SEC. 8. REQUIRING A SOCIAL SECURITY NUMBER TO RE-**  
2 **CEIVE COBRA CONTINUATION COVERAGE.**

3 (a) IN GENERAL.—Section 9501(a)(3) of the Amer-  
4 ican Rescue Plan Act of 2021 (Public Law 117–2) is  
5 amended—

6 (1) in subparagraph (A), by striking at the end  
7 “and”;

8 (2) in subparagraph (B), by striking the period  
9 at the end and inserting “; and”; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(C) has been issued a social security  
13 number (as defined in section 24(h)(7) of the  
14 Internal Revenue Code of 1986) by the Social  
15 Security Administration.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall take effect as if included in the enact-  
18 ment of section 9501 of the American Rescue Plan Act  
19 of 2021.

20 **SEC. 9. RESCISSIONS OF AMERICAN RESCUE PLAN ACT OF**  
21 **2021 FUNDS.**

22 Of the funds appropriated by the American Rescue  
23 Plan Act of 2021 (Public Law 117–2), all unobligated  
24 funds available under the following provisions of such Act  
25 are hereby rescinded:

1           (1) Section 2021 (relating to the National En-  
2           dowment for the Arts).

3           (2) Section 2022 (relating to the National En-  
4           dowment for the Humanities).

5           (3) Section 4001 (relating to the Emergency  
6           Federal Employee Leave Fund).

