

1 tion 1861(aa)), as may be determined by the Sec-
2 retary.”.

3 **TITLE XVIII—OTHER**
4 **PROVISIONS**

5 **SEC. 18001. EXCEPTION FROM GROUP HEALTH PLAN RE-**
6 **QUIREMENTS FOR QUALIFIED SMALL EM-**
7 **PLOYER HEALTH REIMBURSEMENT AR-**
8 **RANGEMENTS.**

9 (a) AMENDMENTS TO THE INTERNAL REVENUE
10 CODE OF 1986 AND THE PATIENT PROTECTION AND AF-
11 FORDABLE CARE ACT.—

12 (1) IN GENERAL.—Section 9831 of the Internal
13 Revenue Code of 1986 is amended by adding at the
14 end the following new subsection:

15 “(d) EXCEPTION FOR QUALIFIED SMALL EMPLOYER
16 HEALTH REIMBURSEMENT ARRANGEMENTS.—

17 “(1) IN GENERAL.—For purposes of this title
18 (except as provided in section 4980I(f)(4) and not-
19 withstanding any other provision of this title), the
20 term ‘group health plan’ shall not include any quali-
21 fied small employer health reimbursement arrange-
22 ment.

23 “(2) QUALIFIED SMALL EMPLOYER HEALTH
24 REIMBURSEMENT ARRANGEMENT.—For purposes of
25 this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 small employer health reimbursement arrange-
3 ment’ means an arrangement which—

4 “(i) is described in subparagraph (B),
5 and

6 “(ii) is provided on the same terms to
7 all eligible employees of the eligible em-
8 ployer.

9 “(B) ARRANGEMENT DESCRIBED.—An ar-
10 rangement is described in this subparagraph
11 if—

12 “(i) such arrangement is funded solely
13 by an eligible employer and no salary re-
14 duction contributions may be made under
15 such arrangement,

16 “(ii) such arrangement provides, after
17 the employee provides proof of coverage,
18 for the payment of, or reimbursement of,
19 an eligible employee for expenses for med-
20 ical care (as defined in section 213(d)) in-
21 curred by the eligible employee or the eligi-
22 ble employee’s family members (as deter-
23 mined under the terms of the arrange-
24 ment), and

1 “(iii) the amount of payments and re-
2 imbursements described in clause (ii) for
3 any year do not exceed \$4,950 (\$10,000 in
4 the case of an arrangement that also pro-
5 vides for payments or reimbursements for
6 family members of the employee).

7 “(C) CERTAIN VARIATION PERMITTED.—
8 For purposes of subparagraph (A)(ii), an ar-
9 rangement shall not fail to be treated as pro-
10 vided on the same terms to each eligible em-
11 ployee merely because the employee’s permitted
12 benefit under such arrangement varies in ac-
13 cordance with the variation in the price of an
14 insurance policy in the relevant individual
15 health insurance market based on—

16 “(i) the age of the eligible employee
17 (and, in the case of an arrangement which
18 covers medical expenses of the eligible em-
19 ployee’s family members, the age of such
20 family members), or

21 “(ii) the number of family members of
22 the eligible employee the medical expenses
23 of which are covered under such arrange-
24 ment.

1 The variation permitted under the preceding
2 sentence shall be determined by reference to the
3 same insurance policy with respect to all eligible
4 employees.

5 “(D) RULES RELATING TO MAXIMUM DOL-
6 LAR LIMITATION.—

7 “(i) AMOUNT PRORATED IN CERTAIN
8 CASES.—In the case of an individual who
9 is not covered by an arrangement for the
10 entire year, the limitation under subpara-
11 graph (B)(iii) for such year shall be an
12 amount which bears the same ratio to the
13 amount which would (but for this clause)
14 be in effect for such individual for such
15 year under subparagraph (B)(iii) as the
16 number of months for which such indi-
17 vidual is covered by the arrangement for
18 such year bears to 12.

19 “(ii) INFLATION ADJUSTMENT.—In
20 the case of any year beginning after 2016,
21 each of the dollar amounts in subpara-
22 graph (B)(iii) shall be increased by an
23 amount equal to—

24 “(I) such dollar amount, multi-
25 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for the calendar year in which the tax-
4 able year begins, determined by sub-
5 stituting ‘calendar year 2015’ for ‘cal-
6 endar year 1992’ in subparagraph (B)
7 thereof.

8 If any dollar amount increased under the
9 preceding sentence is not a multiple of
10 \$50, such dollar amount shall be rounded
11 to the next lowest multiple of \$50.

12 “(3) OTHER DEFINITIONS.—For purposes of
13 this subsection—

14 “(A) ELIGIBLE EMPLOYEE.—The term ‘eli-
15 gible employee’ means any employee of an eligi-
16 ble employer, except that the terms of the ar-
17 rangement may exclude from consideration em-
18 ployees described in any clause of section
19 105(h)(3)(B) (applied by substituting ‘90 days’
20 for ‘3 years’ in clause (i) thereof).

21 “(B) ELIGIBLE EMPLOYER.—The term ‘el-
22 igible employer’ means an employer that—

23 “(i) is not an applicable large em-
24 ployer as defined in section 4980H(c)(2),
25 and

1 “(ii) does not offer a group health
2 plan to any of its employees.

3 “(C) PERMITTED BENEFIT.—The term
4 ‘permitted benefit’ means, with respect to any
5 eligible employee, the maximum dollar amount
6 of payments and reimbursements which may be
7 made under the terms of the qualified small
8 employer health reimbursement arrangement
9 for the year with respect to such employee.

10 “(4) NOTICE.—

11 “(A) IN GENERAL.—An employer funding
12 a qualified small employer health reimburse-
13 ment arrangement for any year shall, not later
14 than 90 days before the beginning of such year
15 (or, in the case of an employee who is not eligi-
16 ble to participate in the arrangement as of the
17 beginning of such year, the date on which such
18 employee is first so eligible), provide a written
19 notice to each eligible employee which includes
20 the information described in subparagraph (B).

21 “(B) CONTENTS OF NOTICE.—The notice
22 required under subparagraph (A) shall include
23 each of the following:

24 “(i) A statement of the amount which
25 would be such eligible employee’s permitted

1 benefit under the arrangement for the
2 year.

3 “(ii) A statement that the eligible em-
4 ployee should provide the information de-
5 scribed in clause (i) to any health insur-
6 ance exchange to which the employee ap-
7 plies for advance payment of the premium
8 assistance tax credit.

9 “(iii) A statement that if the employee
10 is not covered under minimum essential
11 coverage for any month the employee may
12 be subject to tax under section 5000A for
13 such month and reimbursements under the
14 arrangement may be includible in gross in-
15 come.”.

16 (2) LIMITATION ON EXCLUSION FROM GROSS
17 INCOME.—Section 106 of such Code is amended by
18 adding at the end the following:

19 “(g) QUALIFIED SMALL EMPLOYER HEALTH REIM-
20 BURSEMENT ARRANGEMENT.—For purposes of this sec-
21 tion and section 105, payments or reimbursements from
22 a qualified small employer health reimbursement arrange-
23 ment (as defined in section 9831(d)) of an individual for
24 medical care (as defined in section 213(d)) shall not be
25 treated as paid or reimbursed under employer-provided

1 coverage for medical expenses under an accident or health
2 plan if for the month in which such medical care is pro-
3 vided the individual does not have minimum essential cov-
4 erage (within the meaning of section 5000A(f)).”.

5 (3) COORDINATION WITH HEALTH INSURANCE
6 PREMIUM CREDIT.—Section 36B(c) of such Code is
7 amended by adding at the end the following new
8 paragraph:

9 “(4) SPECIAL RULES FOR QUALIFIED SMALL
10 EMPLOYER HEALTH REIMBURSEMENT ARRANGE-
11 MENTS.—

12 “(A) IN GENERAL.—The term ‘coverage
13 month’ shall not include any month with re-
14 spect to an employee (or any spouse or depend-
15 ent of such employee) if for such month the em-
16 ployee is provided a qualified small employer
17 health reimbursement arrangement which con-
18 stitutes affordable coverage.

19 “(B) DENIAL OF DOUBLE BENEFIT.—In
20 the case of any employee who is provided a
21 qualified small employer health reimbursement
22 arrangement for any coverage month (deter-
23 mined without regard to subparagraph (A)), the
24 credit otherwise allowable under subsection (a)
25 to the taxpayer for such month shall be reduced

1 (but not below zero) by the amount described in
2 subparagraph (C)(i)(II) for such month.

3 “(C) AFFORDABLE COVERAGE.—For pur-
4 poses of subparagraph (A), a qualified small
5 employer health reimbursement arrangement
6 shall be treated as constituting affordable cov-
7 erage for a month if—

8 “(i) the excess of—

9 “(I) the amount that would be
10 paid by the employee as the premium
11 for such month for self-only coverage
12 under the second lowest cost silver
13 plan offered in the relevant individual
14 health insurance market, over

15 “(II) $\frac{1}{12}$ of the employee’s per-
16 mitted benefit (as defined in section
17 9831(d)(3)(C)) under such arrange-
18 ment, does not exceed—

19 “(ii) $\frac{1}{12}$ of 9.5 percent of the employ-
20 ee’s household income.

21 “(D) QUALIFIED SMALL EMPLOYER
22 HEALTH REIMBURSEMENT ARRANGEMENT.—
23 For purposes of this paragraph, the term
24 ‘qualified small employer health reimbursement

1 arrangement' has the meaning given such term
2 by section 9831(d)(2).

3 “(E) COVERAGE FOR LESS THAN ENTIRE
4 YEAR.—In the case of an employee who is pro-
5 vided a qualified small employer health reim-
6 bursement arrangement for less than an entire
7 year, subparagraph (C)(i)(II) shall be applied
8 by substituting ‘the number of months during
9 the year for which such arrangement was pro-
10 vided’ for ‘12’.

11 “(F) INDEXING.—In the case of plan years
12 beginning in any calendar year after 2014, the
13 Secretary shall adjust the 9.5 percent amount
14 under subparagraph (C)(ii) in the same manner
15 as the percentages are adjusted under sub-
16 section (b)(3)(A)(ii).”.

17 (4) APPLICATION OF EXCISE TAX ON HIGH
18 COST EMPLOYER-SPONSORED HEALTH COVERAGE.—

19 (A) IN GENERAL.—Section 4980I(f)(4) of
20 such Code is amended by adding at the end the
21 following: “Section 9831(d)(1) shall not apply
22 for purposes of this section.”.

23 (B) DETERMINATION OF COST OF COV-
24 ERAGE.—Section 4980I(d)(2) of such Code is
25 amended by redesignating subparagraph (D) as

1 subparagraph (E) and by inserting after sub-
2 paragraph (C) the following new subparagraph:

3 “(D) QUALIFIED SMALL EMPLOYER
4 HEALTH REIMBURSEMENT ARRANGEMENTS.—
5 In the case of applicable employer-sponsored
6 coverage consisting of coverage under any quali-
7 fied small employer health reimbursement ar-
8 rangement (as defined in section 9831(d)(2)),
9 the cost of coverage shall be equal to the
10 amount described in section 6051(a)(15).”.

11 (5) ENFORCEMENT OF NOTICE REQUIRE-
12 MENT.—Section 6652 of such Code is amended by
13 adding at the end the following new subsection:

14 “(o) FAILURE TO PROVIDE NOTICES WITH RESPECT
15 TO QUALIFIED SMALL EMPLOYER HEALTH REIMBURSE-
16 MENT ARRANGEMENTS.—In the case of each failure to
17 provide a written notice as required by section 9831(d)(4),
18 unless it is shown that such failure is due to reasonable
19 cause and not willful neglect, there shall be paid, on notice
20 and demand of the Secretary and in the same manner as
21 tax, by the person failing to provide such written notice,
22 an amount equal to \$50 per employee per incident of fail-
23 ure to provide such notice, but the total amount imposed
24 on such person for all such failures during any calendar
25 year shall not exceed \$2,500.”.

1 (6) REPORTING.—

2 (A) W-2 REPORTING.—Section 6051(a) of
3 such Code is amended by striking “and” at the
4 end of paragraph (13), by striking the period at
5 the end of paragraph (14) and inserting “,
6 and”, and by inserting after paragraph (14) the
7 following new paragraph:

8 “(15) the total amount of permitted benefit (as
9 defined in section 9831(d)(3)(C)) for the year under
10 a qualified small employer health reimbursement ar-
11 rangement (as defined in section 9831(d)(2)) with
12 respect to the employee.”.

13 (B) INFORMATION REQUIRED TO BE PRO-
14 VIDED BY EXCHANGE SUBSIDY APPLICANTS.—
15 Section 1411(b)(3) of the Patient Protection
16 and Affordable Care Act is amended by redesignig-
17 nating subparagraph (B) as subparagraph (C)
18 and by inserting after subparagraph (A) the fol-
19 lowing new subparagraph:

20 “(B) CERTAIN INDIVIDUAL HEALTH IN-
21 SURANCE POLICIES OBTAINED THROUGH SMALL
22 EMPLOYERS.—The amount of the enrollee’s
23 permitted benefit (as defined in section
24 9831(d)(3)(C) of the Internal Revenue Code of
25 1986) under a qualified small employer health

1 reimbursement arrangement (as defined in sec-
2 tion 9831(d)(2) of such Code).”.

3 (7) EFFECTIVE DATES.—

4 (A) IN GENERAL.—Except as otherwise
5 provided in this paragraph, the amendments
6 made by this subsection shall apply to years be-
7 ginning after December 31, 2016.

8 (B) TRANSITION RELIEF.—The relief
9 under Treasury Notice 2015–17 shall be treat-
10 ed as applying to any plan year beginning on or
11 before December 31, 2016.

12 (C) COORDINATION WITH HEALTH INSUR-
13 ANCE PREMIUM CREDIT.—The amendments
14 made by paragraph (3) shall apply to taxable
15 years beginning after December 31, 2016.

16 (D) EMPLOYEE NOTICE.—

17 (i) IN GENERAL.—The amendments
18 made by paragraph (5) shall apply to no-
19 tices with respect to years beginning after
20 December 31, 2016.

21 (ii) TRANSITION RELIEF.—For pur-
22 poses of section 6652(o) of the Internal
23 Revenue Code of 1986 (as added by this
24 Act), a person shall not be treated as fail-
25 ing to provide a written notice as required

1 by section 9831(d)(4) of such Code if such
2 notice is so provided not later than 90
3 days after the date of the enactment of
4 this Act.

5 (E) W-2 REPORTING.—The amendments
6 made by paragraph (6)(A) shall apply to cal-
7 endar years beginning after December 31,
8 2016.

9 (F) INFORMATION PROVIDED BY EX-
10 CHANGE SUBSIDY APPLICANTS.—

11 (i) IN GENERAL.—The amendments
12 made by paragraph (6)(B) shall apply to
13 applications for enrollment made after De-
14 cember 31, 2016.

15 (ii) VERIFICATION.—Verification
16 under section 1411 of the Patient Protec-
17 tion and Affordable Care Act of informa-
18 tion provided under section 1411(b)(3)(B)
19 of such Act shall apply with respect to
20 months beginning after October 2016.

21 (iii) TRANSITIONAL RELIEF.—In the
22 case of an application for enrollment under
23 section 1411(b) of the Patient Protection
24 and Affordable Care Act made before April
25 1, 2017, the requirement of section

1 1411(b)(3)(B) of such Act shall be treated
2 as met if the information described therein
3 is provided not later than 30 days after the
4 date on which the applicant receives the
5 notice described in section 9831(d)(4) of
6 the Internal Revenue Code of 1986.

7 (8) SUBSTANTIATION REQUIREMENTS.—The
8 Secretary of the Treasury (or his designee) may
9 issue substantiation requirements as necessary to
10 carry out this subsection.

11 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
12 INCOME SECURITY ACT OF 1974.—

13 (1) IN GENERAL.—Section 733(a)(1) of the
14 Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1191b(a)(1)) is amended by adding at
16 the end the following: “Such term shall not include
17 any qualified small employer health reimbursement
18 arrangement (as defined in section 9831(d)(2) of the
19 Internal Revenue Code of 1986).”.

20 (2) EXCEPTION FROM CONTINUATION COV-
21 ERAGE REQUIREMENTS, ETC.—Section 607(1) of
22 such Act (29 U.S.C. 1167(1)) is amended by adding
23 at the end the following: “Such term shall not in-
24 clude any qualified small employer health reimburse-

1 ment arrangement (as defined in section 9831(d)(2)
2 of the Internal Revenue Code of 1986).”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to plan years begin-
5 ning after December 31, 2016.

6 (c) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
7 ACT.—

8 (1) IN GENERAL.—Section 2791(a)(1) of the
9 Public Health Service Act (42 U.S.C. 300gg-
10 91(a)(1)) is amended by adding at the end the fol-
11 lowing: “Except for purposes of part C of title XI
12 of the Social Security Act (42 U.S.C. 1320d et seq.),
13 such term shall not include any qualified small em-
14 ployer health reimbursement arrangement (as de-
15 fined in section 9831(d)(2) of the Internal Revenue
16 Code of 1986).”.

17 (2) EXCEPTION FROM CONTINUATION COV-
18 ERAGE REQUIREMENTS.—Section 2208(1) of the
19 Public Health Service Act (42 U.S.C. 300bb-8(1)) is
20 amended by adding at the end the following: “Such
21 term shall not include any qualified small employer
22 health reimbursement arrangement (as defined in
23 section 9831(d)(2) of the Internal Revenue Code of
24 1986).”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to plan years begin-
3 ning after December 31, 2016.

4 **DIVISION D—CHILD AND FAMILY**
5 **SERVICES AND SUPPORT**

6 **SEC. 19000. SHORT TITLE.**

7 This division may be cited as the “Family First Pre-
8 vention Services Act of 2016”.

9 **TITLE XIX—INVESTING IN PRE-**
10 **VENTION AND FAMILY SERV-**
11 **ICES**

12 **SEC. 19001. PURPOSE.**

13 The purpose of this title is to enable States to use
14 Federal funds available under parts B and E of title IV
15 of the Social Security Act to provide enhanced support to
16 children and families and prevent foster care placements
17 through the provision of mental health and substance
18 abuse prevention and treatment services, in-home parent
19 skill-based programs, and kinship navigator services.

20 **Subtitle A—Prevention Activities**
21 **Under Title IV–E**

22 **SEC. 19011. FOSTER CARE PREVENTION SERVICES AND**
23 **PROGRAMS.**

24 (a) STATE OPTION.—Section 471 of the Social Secu-
25 rity Act (42 U.S.C. 671) is amended—