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PRESERVATION**Amendment To H.R. 3600****Offered By Mr. Gephardt of Missouri**

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF TITLES AND SUBTITLES.(a) **SHORT TITLE.**—This Act may be cited as the "Guaranteed Health Insurance Act of 1994".(b) **TABLE OF TITLES AND SUBTITLES IN ACT.**—The following are the titles and subtitles contained in this Act:**TITLE I—UNIVERSAL COVERAGE AND SHARED RESPONSIBILITIES**

Subtitle A—Universal Coverage and Individual Responsibilities

Subtitle B—Employer Responsibilities

TITLE II—INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

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SEC. 2. GENERAL DEFINITIONS.

For purposes of this Act, except as otherwise specifically provided:

(1) **AFDC RECIPIENT**—The term "AFDC recipient" means, for a month, an individual who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV, of the Social Security Act for the month.

(2) **CERTIFIED HEALTH PLAN**—

(A) **IN GENERAL**—The term "certified health plan" means a health plan that is certified (or deemed to be certified) as meeting the requirements of subtitle A or B of title V, and, except as otherwise provided, does not include the medicare program or medicare part C.

(B) **TREATMENT OF CERTAIN PLANS**—Each of the following is deemed to have been certified as meeting the requirements described in subparagraph (A):

(i) The Civilian Health and Medical Program of the Uniformed Services (as defined in section 1072(4) of title 10, United States Code)

(ii) Any State single-payer system approved under subtitle A of title IV.

(C) **CERTIFICATION PROCESS FOR CERTAIN FEDERAL HEALTH PLANS**—For provisions providing for certification of—

(i) health programs of the Indian Health Service (within the meaning of section 901 of the Indian Health Care Improvement Act), see section 5501(b), and

(ii) health plans of the Department of Veterans Affairs, see section 5501(c).

(3) **CLASS OF ENROLLMENT.**—The term “class of enrollment” means a class for enrollment of families specified in section 3(b).

(4) **ELIGIBLE INDIVIDUAL.**—The term “eligible individual” has the meaning given such term in section 1001(c).

(5) **GUARANTEED NATIONAL BENEFIT PACKAGE.**—The term “guaranteed national benefit package” means the package of health benefits described in subtitle A of title III.

(6) **MEDICAID PROGRAM.**—The term “medicaid program” means a State plan for medical assistance approved under title XIX of the Social Security Act.

(7) **MEDICARE PART A BENEFICIARY.**—The term “medicare part A beneficiary” means an individual who is entitled to benefits under part A of the medicare program.

(8) **MEDICARE PART C.**—The term “medicare part C” means the program of health insurance benefits under part A of title XXI of the Social Security Act (as added by section 8001).

(9) **MEDICARE PROGRAM.**—The term “medicare program” means the programs under title XVIII of the Social Security Act.

(10) **SSI RECIPIENT.**—The term “SSI recipient” means, for a month, an individual—

(A) with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act for the month,

(B) who is receiving a supplementary payment under section 1616 of such Act or under section 212 of Public Law 93-66 for the month,

(C) who is receiving monthly benefits under section 1619(a) of the Social Security Act (whether or not pursuant to section 1616(c)(3) of such Act) for the month, or

(D) who is treated under section 1619(b) of the Social Security Act as receiving supplemental security income benefits in a month for purposes of title XIX of such Act.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(12) **STATE.**—The term “State” means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(13) **UNITED STATES.**—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

SEC. 3. DEFINITIONS AND RULES RELATING TO FAMILY MEMBERS.

(a) **FAMILY DEFINED.**—In this Act, unless otherwise provided, the term “family”—

(1) means, with respect to an eligible individual who is not a young dependent, the individual, and

(2) includes the following persons (if any):

(A) The individual's spouse if the spouse is an eligible individual.

(B) The individual's young dependents (and, if applicable, the young dependents of the individual's spouse) if they are eligible individuals.

In this section, the term “young dependent” has the meaning given such term in section 1003(b)(1)(B).

(b) **CLASSES OF ENROLLMENT; TERMINOLOGY.**—In this Act,

(1) **IN GENERAL.**—Each of the following is a separate class of enrollment:

(A) Coverage only of an individual (referred to in this Act as the "individual" enrollment or class of enrollment).

(B) Coverage of an unmarried individual and one or more children (referred to in this Act as the "single parent" enrollment or class of enrollment).

(C) Coverage of a married couple and one or more children (referred to in this Act as the "family" enrollment or class of enrollment).

(2) COUPLES ENROLLED IN DIFFERENT PLANS.—In the case of a couple—

(A) without young dependents in which each spouse is enrolled in a different health plan, each spouse is considered to be enrolled in an individual class of enrollment, and

(B) with young dependents in which a spouse is enrolled in one plan and the other spouse and young dependents are enrolled in another plan, the former spouse is considered to be enrolled in an individual class of enrollment and the latter spouse and young dependents are considered to be enrolled in a single parent class of enrollment.

(c) SPOUSE; MARRIED; COUPLE.—In this Act:

(1) IN GENERAL.—The terms "spouse" and "married" mean, with respect to a person, another individual who is the spouse of the person or married to the person, as determined under applicable State law.

(2) COUPLE.—The term "couple" means an individual and the individual's spouse.

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SEC. 1000. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting the following:

- (1) An individual from choosing the individual's own health provider.
- (2) An individual from purchasing any health care services.
- (3) An individual from purchasing supplemental insurance (offered consistent with this Act) to cover health care services not covered under the guaranteed national benefit package.
- (4) Employers from providing coverage (consistent with this Act) for benefits in addition to the guaranteed national benefit package.

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(5) Employers from making contributions (consistent with this Act) toward employee premiums in excess of any contributions required under this Act.

Subtitle A—Universal Coverage and Individual Responsibilities

SEC. 1001. UNIVERSAL HEALTH COVERAGE.

(a) **COVERAGE.**—In accordance with this Act, each eligible individual is entitled to the benefits covered under the guaranteed national benefit package under title III.

(b) **REQUIREMENT.**—In accordance with this Act and the applicable provisions of the Internal Revenue Code of 1986, individuals are required to obtain health insurance coverage for themselves and their family members.

(c) **ELIGIBLE INDIVIDUAL DEFINED.**—In this Act, the term “eligible individual” means an individual who is—

- (1) a citizen or national of the United States;
- (2) an alien permanently residing in the United States under color of law (as defined in section 1005(b)(1)); or
- (3) a long-term nonimmigrant (as defined in section 1005(b)(2)).

Such term does not include an undocumented alien or a prisoner.

(c) **GENERAL EFFECTIVE DATE.**—This section takes effect on January 1, 1999.

(d) **ISSUANCE OF HEALTH SECURITY CARDS.**—Each eligible individual is entitled to be issued a health security card by the certified health plan (or under the medicare program or medicare part C) in which the individual is enrolled.

SEC. 1002. SATISFACTION OF RESPONSIBILITY THROUGH ENROLLMENT IN CERTIFIED HEALTH PLANS, MEDICARE PART C, AND MEDICARE.

(a) **COVERAGE UNDER CERTIFIED HEALTH PLAN.**—An individual meets the requirement of section 1001(b) for a month only through coverage—

- (1) under a certified health plan (as defined in section 2),
- or
- (2) under medicare part C (if the individual is eligible to enroll under medicare part C).

(b) **COVERAGE UNDER MEDICARE PROGRAM.**—An individual is considered to have met the requirement of section 1001(b) if the individual is a part A medicare beneficiary, and the provision of benefits under the medicare program is deemed to constitute the entitlement described in section 1001(a).

SEC. 1003. SPECIAL RULES FOR COVERED INDIVIDUALS WHO ARE NOT REQUIRED TO CONTRIBUTE.

(a) **IN GENERAL.**—In the case of an individual who is a covered, noncontributing individual (as defined in subsection (b)) with respect to all months in a taxable year, the individual shall not be required under section 1001(b) to make any contribution toward obtaining health insurance coverage with respect to the taxable year.

(b) **COVERED, NONCONTRIBUTING INDIVIDUAL DEFINED.**—In subsection (a), the term “covered, noncontributing individual”, with respect to a taxable year, means either of the following individuals:

(1) YOUNG DEPENDENTS.—

(A) **IN GENERAL.**—An individual who is a young dependent of any taxpayer for a taxable year of such taxpayer which begins in the calendar year in which such taxable year begins.

(B) **YOUNG DEPENDENT.**—For purposes of this section, the term “young dependent” means, with respect to periods in any calendar year, any individual if—

- (i) an exemption is allowable under section 151(c) of the Internal Revenue Code of 1986 with respect to

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such individual to the taxpayer for a taxable year beginning in such calendar year, and

(ii) such individual—

(I) has not attained the age of 19 as of the close of such calendar year, or

(II) is a student (as defined in section 151(c)(4) of such Code) who has not attained age 24 as of the close of such calendar year.

(2) CERTAIN CASH RECIPIENTS.—

(A) IN GENERAL.—An individual who for each month in the taxable year is—

(i) an AFDC recipient (as defined in section 2), or

(ii) an SSI recipient (as defined in such section).

(B) LIMITATION FOR SSI RECIPIENTS.—Subparagraph

(A)(ii) shall not apply to an individual filing a joint return unless both spouses are SSI recipients.

(c) REFERENCE TO LOW-INCOME INDIVIDUALS WHO ARE COVERED AND NOT REQUIRED TO FULLY CONTRIBUTE.—

(1) LOW-INCOME INDIVIDUALS WITH BELOW-THRESHOLD INCOME NOT REQUIRED TO CONTRIBUTE.—For exemption from requirement to contribute toward health insurance coverage for low-income individuals, see paragraph (1) of section 59B(b) of the Internal Revenue Code of 1986 or section 2122(c)(1) of the Social Security Act.

(2) REDUCED CONTRIBUTION FOR OTHER LOW-INCOME INDIVIDUALS.—For reduction in contribution requirement toward health insurance coverage for other low-income individuals, see paragraph (2) of section 59B(b) of the Internal Revenue Code of 1986 or section 2122(c)(2) of the Social Security Act.

SEC. 1004. SPECIAL RULES FOR INDIVIDUALS NEITHER COVERED NOR REQUIRED TO CONTRIBUTE.

(a) IN GENERAL.—In the case of an individual who is a noncovered, noncontributing individual (as defined in subsection (b)) with respect to a month in a taxable year, the individual is deemed to have waived entitlement to benefits under section 1001(a) and is not required to make a contribution toward health insurance coverage.

(b) NONCOVERED, NONCONTRIBUTING INDIVIDUAL DEFINED.—In subsection (a), the term "noncovered, noncontributing individual", with respect to a month, means any of the following individuals:

(1) RELIGIOUS EXEMPTION.—An individual if, as of the first day of such month, there is in effect for such individual, a qualified religious exemption (as defined in subsection (c)(1)).

(2) DISABLED VETERANS.—An individual if, as of the first day of such month, there is in effect for the individual, a qualified disabled veteran exemption (as defined in subsection (c)(2)).

(3) ACTIVE DUTY MILITARY.—An individual if as of the first day of such month, the individual is on active duty as a member of the uniformed services (as defined in section 101 of title 10, United States Code).

(4) PRISONERS.—An individual if as of the first day of such month, the individual is imprisoned under Federal, State, or local authority after conviction.

(c) RELIGIOUS AND VETERANS EXEMPTIONS DESCRIBED.—For purposes of subsection (b)—

(1) QUALIFIED RELIGIOUS EXEMPTION.—

(A) IN GENERAL.—The term "qualified religious exemption" means an exemption granted by the Secretary to an individual—

(i) who is a member of a recognized religious sect or division thereof with respect to which such Secretary makes the findings referred to in subparagraphs (C), (D), and (E) of section 1402(g)(1) of the Internal Revenue Code of 1986,

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(ii) who is an adherent of established tenets or teachings of such sect or division as described in such section, and

(iii) who submits an application for such exemption which contains or is accompanied by the evidence described in section 1402(g)(1)(A) of such Code and a waiver described in section 1402(g)(1)(B) of such Code. For purposes of the clause (iii), section 1402(g)(1)(B) of such Code shall be treated as including a reference to medicare part C.

(B) LIMITATION.—An exemption granted under this paragraph shall cease to apply beginning on the date such Secretary determines that the individual, or the sect or division, ceased to meet the requirements of subparagraph (A).

(2) QUALIFIED DISABLED VETERAN EXEMPTION.—

(A) IN GENERAL.—The term “qualified disabled veteran exemption” means an exemption granted by the Secretary to an eligible person (within the meaning of section 1710(a)(1) of title 38, United States Code) who waives all benefits and payments under all certified health plans of any employer and under medicare part C with respect to the guaranteed national benefit package described in title III.

(B) MINIMUM PERIOD OF EXEMPTION.—Such an exemption may not be granted for a period of less than 1 year and shall not take effect earlier than the month beginning after the month in which the eligible person requests such waiver.

(C) TERMINATION BY INDIVIDUAL.—Such an exemption may be terminated by the eligible person. Such a termination shall not take effect earlier than the month beginning after the month in which notice of such termination is sent to the Secretary. No subsequent exemption under this paragraph may be granted to such person until one year after the date such termination took effect.

SEC. 1005. MISCELLANEOUS DEFINITIONS AND RELATED PROVISIONS.

(a) RELATED DEFINITIONS.—In this subtitle—

(1) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term “alien permanently residing in the United States under color of law” means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien whose deportation is suspended under section 244 of such Act.

(E) An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act, as in effect before April 1, 1980.

(F) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(G) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group, temporary protected status, or deferred enforced departure.

(H) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years

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of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(I) An alien eligible for work authorization granted by the Immigration and Naturalization Service (other than as a nonimmigrant).

(J) An alien within such other classification of permanent resident aliens as the Secretary may establish by regulation. Such regulation shall include categories of such aliens who are included in regulations as in effect on the date of the enactment of this Act under title XIX of the Social Security Act.

(2) LONG-TERM NONIMMIGRANT.—The term "long-term nonimmigrant" means a nonimmigrant described in subparagraph (E), (H), (I), (K), (L), (N), (O), (P), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act.

(3) PRISONER.—The term "prisoner" means, as specified by the Secretary, an individual during a period of imprisonment under Federal, State, or local authority after conviction.

(b) ADDITIONAL RECOMMENDATIONS AND RULES REGARDING ALIENS; RECOMMENDATIONS REGARDING CITIZENS RESIDING OUTSIDE THE UNITED STATES.—

(1) RECOMMENDATIONS CONCERNING ALIENS.—The Secretary, in consultation with the Attorney General, shall make recommendations to Congress with respect to classes of eligibility for aliens and modifications of rules concerning eligibility and coverage for aliens.

(2) RULES.—In making the recommendations under paragraph (1), the Secretary shall consider—

(A) appropriate treatment of diplomatic personnel and employees of international organizations,

(B) appropriate rules for minors who are not dependents of eligible individuals, and

(C) appropriate rules for the treatment of spouses who are dependents of ineligible individuals.

(3) RECIPROCAL TREATMENT OF OTHER NONIMMIGRANTS.—With respect to those classes of individuals who are lawful nonimmigrants but who are not long-term nonimmigrants (as defined in section (b)(2)), the Secretary, in consultation with the Attorney General, shall submit to Congress such recommendations relating to reciprocal agreements between the United States and foreign states with respect to coverage of some or all classes of such nonimmigrants as may be appropriate.

(4) RECOMMENDATIONS CONCERNING UNITED STATES CITIZENS RESIDING OUTSIDE THE UNITED STATES.—The Secretary shall make recommendations to Congress with respect to coverage of United States citizens residing outside the United States.

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Subtitle B—Employer Responsibilities

PART 1—EMPLOYER COVERAGE RESPONSIBILITIES

SEC. 1101. EMPLOYER RESPONSIBILITIES.

(a) IN GENERAL.—In accordance with this Act and the applicable provisions of the Internal Revenue Code of 1986, employers are required to provide or contribute to health insurance coverage of employees and their family members.

(b) APPLICATION OF RULES.—In carrying out such requirement, the provisions in the following sections of this part apply.

(c) GENERAL EXEMPTION.—Subsection (a) shall not apply with respect to a generally excludable employee (as defined in section 1105(b)).

(d) **EFFECTIVE DATE.**—This section takes effect on January 1, 1997, with respect to large employers and January 1, 1999, with respect to other employers.

SEC. 1102. SATISFACTION OF RESPONSIBILITY BY LARGE EMPLOYERS THROUGH ENROLLMENT IN CERTIFIED HEALTH PLANS.

(a) **REQUIREMENT.**—

(1) **IN GENERAL.**—Subject to paragraph (2), in order for a large employer to meet the requirements of section 1101(a) with respect to an employee for a month, the employee must be a qualified employer-covered employee (as defined in section 1104).

(2) **TREATMENT OF PART-TIME, SEASONAL, OR TEMPORARY EMPLOYEES.**—In the case of an exempt part-time, seasonal, or temporary employee (as defined in subsection (c)), in order for a large employer to meet the requirements of section 1101(a) with respect to such an employee for a month, either—

(A) the employee must be a qualified employer-covered employee (as defined in section 1104), or

(B) the employer must contribute to medicare part C.

(b) **EXCEPTION FOR VOLUNTARILY EXCLUDED EMPLOYEES WHO MAY ELECT TO DECLINE COVERAGE.**—

(1) **IN GENERAL.**—Subsection (a) shall not apply with respect to a voluntarily excluded employee (as defined in paragraph (2)), if the employee was offered coverage in accordance with section 1104(c).

(2) **VOLUNTARILY EXCLUDED EMPLOYEE.**—For purposes of paragraph (1), subject to paragraph (3), the term “voluntarily excluded employee” means, with respect to a month, any of the following employees:

(A) **OTHER HEALTH COVERAGE.**—

(i) **IN GENERAL.**—Any employee if there is in effect as of the first day of such month a withholding exemption certificate stating that such employee is covered under medicare part A or a certified health plan other than a plan of such employer.

(ii) **SPECIAL RULE FOR INDIVIDUALS COVERED UNDER INDIAN HEALTH SERVICE OR VETERANS PLAN.**—Clause (i) shall not apply to an employee by reason of coverage under a plan described in clause (iii) unless the employer makes a contribution toward such coverage in the amount described in section 1104(d)(2).

(iii) **PLANS DESCRIBED.**—A plan described in this clause is—

(I) a health plan of the Indian Health Service, or

(II) an HSA-certified VA health plan (as defined in section 1801 of title 38, United States Code) in the case of an employee who is a veteran (within the meaning of section 101 of such title) or a family member of a veteran.

(B) **INDIVIDUALS ELECTING MEDICARE PART C.**—Any employee if there is in effect as of the first day of such month a withholding exemption certificate stating that such employee—

(i) is an eligible individual who is an AFDC or SSI recipient, and

(ii) waives coverage under all certified health plans of the employer for such month.

(C) **WAIVER DURING TRANSITION PERIOD.**—In the case of a month before January 1999, any employee who waives coverage under all certified health plans of the employer for such month.

(3) **SPECIAL RULE IN CASE OF ENROLLMENT OF EMPLOYEES OF LARGE EMPLOYERS IN COMMUNITY-RATED PLANS.**—

(A) **IN GENERAL.**—In the case of an employee of a large employer who is enrolled in a certified health plan other

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than an exempt plan described in subparagraph (B), the employee is deemed to be covered under the certified health plan of the large employer and such plan shall make payment, in relation to other certified health plans, in the same manner as a group health plan is a primary plan (as described in section 1862(b)(2)(A)) in relation to the medicare program.

(B) EXEMPT PLAN.—An exempt plan described in this subparagraph with respect to an employee is—

- (i) a certified health plan offered by another employer of the employee,
- (ii) a certified health plan offered by an employer of the employee's spouse, or
- (iii) a certified health plan offered by an employer of another person with respect to whom the employee is a young dependent.

(c) EXEMPT PART-TIME, SEASONAL, OR TEMPORARY EMPLOYEES.—For purposes of this part, the term "exempt part-time, seasonal, or temporary employee" means, with respect to a month, any of the following employees:

(1) CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the first day of such month to be less than 25 hours.

(2) SEASONAL OR TEMPORARY EMPLOYEES.—Any employee who is not reasonably expected as of the first day of such month to be employed by the employer for a period of 120 consecutive days during any 365-day period that includes such first day.

(3) DELAY FOR CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the first day of such month to be at least 25 hours, but less than 35 hours, and the normal work week of the employee during the preceding 3 months was less than 25 hours.

SEC. 1103. SATISFACTION OF RESPONSIBILITY FOR SMALL EMPLOYERS THROUGH CERTIFIED HEALTH PLANS OR MEDICARE PART C.

(a) IN GENERAL.—In order for a small employer to meet the requirements of section 1101(a) with respect to an employee for a month, the employee must be—

- (1) a qualified employer-covered employee (as defined in section 1104) or an employee described in subsection (b)(2)(B), or
- (2) covered under medicare part C.

(b) LIMITATION ON EMPLOYER CHOICE.—

(1) IN GENERAL.—Subject to paragraph (2), a small employer is not considered to have met the requirements of section 1101(a) by reason of subsection (a)(1) of this section unless all employees of such employer are qualified employer-covered employees.

(2) EXCEPTIONS.—A small employer is not required under paragraph (1) to provide coverage (under a certified health plan as a qualified employer-covered employee) of any employee who is—

(A) a medicare part C eligible individual described in paragraph (4) or (5) of section 2101(b) of the Social Security Act,

(B) a voluntarily excluded employee (as defined in section 1102(b)) described in section 1102(b)(2)(A) if the employee was offered such coverage in accordance with section 1104(c), or

(C) an exempt part-time, seasonal, or temporary employee (as defined in section 1102(c)).

For purposes of subparagraph (B), section 1102(b)(2)(A) shall be applied by treating clause (iii) thereof as including a reference to a certified health plan offered through Universal FEHBP.

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