II

114TH CONGRESS
1ST SESSION

S. 1368

To establish the Office of the Special Inspector General for Monitoring the Affordable Care Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2015

Mr. ROBERTS (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To establish the Office of the Special Inspector General for Monitoring the Affordable Care Act, 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 ''Special Inspector General for Monitoring the ACA Act of 2015'' or the ''SIGMA Act of 2015''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The writing, passage, and implementation of the Affordable Care Act has utterly lacked transparency.

(2) Presidential candidate Barack Obama repeatedly promised that if elected President, he would hold open, public negotiations on health care reform among public and private stakeholders, including at a Democratic Presidential debate on January 31, 2008, when he said, ''That's what I will do in bringing all parties together, not negotiating behind closed doors, but bringing all parties together, and broadcasting those negotiations on C–SPAN so that the American people can see what the choices are, because part of what we have to do is enlist the American people in this process.''.

(3) Then-Senator Obama repeated this promise multiple times, including at an Ohio town hall on March 1, 2008, when he said, ''But here's the thing: we're gonna do all these negotiations on C–SPAN. So the American people will be able to watch these negotiations.''.

(4) Then-Senator Obama also repeated this promise at a Virginia town hall on August 21, 2008, when he said, ''I'm going to have all the negotiations around a big table. We'll have doctors and nurses

and hospital administrators. Insurance companies, drug companies—they'll get a seat at the table . . . But what we will do is, we'll have the negotiations televised on C–SPAN, so that people can see who is making arguments on behalf of their constituents, and who are making arguments on behalf of the drug companies or the insurance companies. And so, that approach, I think is what is going to allow people to stay involved in this process.''.

(5) In a September 26, 2011, interview, Brian Lamb, the CEO of C–SPAN confirmed the negotiations of the health reform law had not been broadcast publicly, noting, ''The President said that they were all going to be on C–SPAN. He never asked us.''.

(6) President Obama, in leading the national health reform debate, broke his promise, admitting in a January 25, 2010, interview with ABC News that locking the public out of key health reform discussions was a ''mistake'' and explaining, ''We had to make so many decisions quickly in a very difficult set of circumstances that after awhile, we started worrying more about getting the policy right than getting the process right. But I had campaigned on process—part of what I had campaigned on was

changing how Washington works, opening up, transparency and I think it is—I think the health care debate as it unfolded legitimately raised concerns not just among my opponents, but also amongst supporters that we just don't know what's going on. And it's an ugly process and it looks like there are a bunch of backroom deals.''.

(7) On March 9, 2010, then-Speaker of the House Nancy Pelosi said of what would become the Affordable Care Act, ''We have to pass the bill so that you can find out what is in it.''.

(8) Dr. Jonathan Gruber, a professor of economics at the Massachusetts Institute of Technology, was awarded a contract by the Department of Health and Human Services to provide ''technical assistance in evaluating options for national healthcare reform'' due to his ''proprietary statistically sophisticated micro-simulation model'' which could assess the impact of changes in Federal health care policies.

(9) Dr. Gruber described himself as a health reform architect who contributed to the crafting of the Affordable Care Act in a 2012 opinion editorial, noting, ''Several of the architects of Massachusetts reform, including myself, worked closely with the Ad-

ministration and Congress to translate the lessons from Massachusetts onto the national stage.''.

(10) Dr. Gruber's MIT biography has described him as ''a key architect'' of the Massachusetts health reform effort and a 2009 and 2010 ''technical consultant'' who ''worked with both the Administration and Congress to help craft the Patient Protection and Affordable Care Act.''.

(11) An October 11, 2011, report by NBC News described White House visitor logs that show Dr. Gruber had at least five meetings at the White House in 2009 in the lead up to the passage of the Affordable Care Act, including a meeting in the Oval Office with President Obama to evaluate options for national health reform.

(12) In a video posted April 12, 2012, by the Obama Presidential campaign to YouTube, Dr. Gruber states that he went ''down to Washington to help President Obama develop his national version of that law.''.

(13) A March 28, 2012, article in the New York Times reports that ''After Mr. Gruber helped the administration put together the basic principles of the proposal, the White House lent him to Capitol

Hill to help congressional staff members draft the specifics of the legislation.''.

(14) In a January 18, 2012, lecture on the structure of the Affordable Care Act, Dr. Gruber refers to the law's small business tax credits as a portion of the bill that he ''actually wrote.''.

(15) Dr. Gruber's initial contract with the Department of Health and Human Services (HHS) was for $297,000, and later a Federal grant of $95,000 brought his total Federal compensation for work on the Affordable Care Act to at least $392,000.

(16) In 2009, the White House annual report to Congress on Presidential staff salaries lists that twenty-two White House staffers made the highest Presidential staff salary rate of $172,200, including the White House Chief of Staff, senior advisers, White House Counsel, and National Security Adviser.

(17) In 2010, the White House annual report to Congress on Presidential staff salaries lists that twenty-three White House staffers made the highest Presidential staff salary rate of $172,200, again including the President's top management, policy, communications, and security advisers.

(18) In 2009 and 2010, each of President Obama's most senior White House staff received less compensation than Dr. Gruber.

(19) In a November 5, 2012, speech at the University of Rhode Island, Dr. Gruber described the mechanism of the Affordable Care Act, stating, ''It's a very clever, you know, basic exploitation of the lack of economic understanding of the American voter.''.

(20) At an October 17, 2013, panel at the University of Pennsylvania, Dr. Gruber described the Affordable Care Act, stating, ''This bill was written in a tortured way to make sure CBO did not score the mandate as taxes. If CBO scored the mandate as taxes, the bill dies. Okay, so it's written to do that.''.

(21) In the same speech, Dr. Gruber stated that, ''if you had a law which said that healthy people are going to pay in you made explicit healthy people pay in and sick people get money, it would not have passed.''.

(22) Dr. Gruber went on to claim, ''Lack of transparency is a huge political advantage. And basically, call it the stupidity of the American voter or

whatever, but basically that was really, really critical for the thing to pass.''.

(23) Since the passage of the Affordable Care Act, President Obama called for a new, more transparent approach to the health reform law moving forward, saying in a January 25, 2010, ABC News interview, ''The process didn't run the way I ideally would like it to and that we have to move forward in a way that recaptures that sense of opening things up more.''.

(24) The Obama Administration's implementation of the Affordable Care Act has been marked by Executive overreach.

(25) On at least 28 occasions, President Obama and his administration have unilaterally delayed, extended, or changed provisions of the Affordable Care Act, including in contravention of the law and the Constitution of the United States.

(26) Section 1513 of the Patient Protection and Affordable Care Act (26 U.S.C. 4980h note) requires applicable large employers with more than 50 full-time employees to provide qualifying health insurance to their employees or pay a fine, and the effective date under such section specified the amend-

ments made by such section applied to months beginning after December 31, 2013.

(27) Contrary to the plain meaning of the statutory requirement, and acting without authority provided by law, the Internal Revenue Service published in the Federal Register Notice 2013–45 to change the effective date of the employer mandate requirement, stating, ''Section 1513(d) of the Affordable Care Act provides that section 4980H applies to months after December 31, 2013; however Notice 2013–45, issued on July 9, 2013, provides as transition relief that no assessable payments under section 4980H will apply for 2014.''.

(28) On July 12, 2013, the Director for the Center for Consumer Information and Insurance Oversight at the Centers for Medicare & Medicaid Services denied the request for exemption from certain Affordable Care Act requirements made by representatives of the United States territories, writing to the Secretary of Commerce for the Commonwealth of the Northern Mariana Islands, ''However meritorious your request might be, [the Department of Health and Human Services] is not authorized to choose which provisions [of the Affordable Care Act] . . . might apply to the territories.''.

(29) A year later, on July 16, 2014, the Administrator of the Centers for Medicare & Medicaid Services notified representatives of the United States territories that they would in fact receive an exemption from requirements under the Affordable Care Act, despite the previous explanation from CMS that CMS does not have the legal authority to provide such an exemption. As the CMS Administrator now rationalized, ''Currently, the Department uses the existing Public Health Service Act (PHS Act) definition of 'State' for new PHS Act requirements and funding opportunities included in title I of the Affordable Care Act. Under this definition, the new market reforms in the PHS Act apply to the territories. We have been informed by representatives of the territories that this interpretation is undermining the stability of the territories' health insurance markets. After a careful review of this situation and the relevant statutory language, HHS has determined that the new provisions of the PHS Act enacted in title I are appropriately governed by the definition of 'State' set forth in that title, and therefore that these new provisions do not apply to the territories.''.

(30) The Obama Administration has claimed that the Affordable Care Act will save money and improve the economy, with WhiteHouse.gov stating, ''In keeping with the President's pledge that reform must fix our health care system without adding to the deficit, the Affordable Care Act reduces the deficit, saving over $200 billion over 10 years and more than $1 trillion in the second decade. The law reduces health care costs . . . [and] is improving our economic competitiveness[.]''.

(31) $70.2 billion of the White House's estimated savings was to come from the Community Living Assistance Services and Supports (CLASS) Act provisions of the Affordable Care Act, a program that was deemed actuarially unsound and never implemented by the Obama Administration.

(32) An April 2010 report from the Office of the Actuary for the Centers for Medicare & Medicaid Services describes that additional savings under the Affordable Care Act were to be paid for with Medicare Fee-for-Service and Medicare Advantage cuts and reductions in payments to hospitals, skilled nursing facilities, and home health centers. These cuts have been delayed and may never materialize. Even if implemented, the projected savings may

never accrue as the CMS Actuary's report concludes that such cuts will cause about 15 percent of hospitals and post-acute care facilities like nursing homes to go out of business.

(33) $52 billion in deficit reduction savings was projected to come from employer penalties paid to the Government for failure to comply with the employer mandate requirement to provide employees health insurance, a requirement that the Obama Administration has repeatedly delayed and modified, causing penalties and associated savings to not accrue.

(34) Initial estimates of savings under the Affordable Care Act projected at least $15.5 billion in savings over the next decade attributable to Medicare cuts through the Independent Payment Advisory Board, which has not yet been appointed and through which no cuts or savings have been realized.

(35) On September 9, 2009, President Obama pledged to a joint session of Congress, ''I will not sign a [health care reform] plan that adds one dime to our deficits—either now or in the future.''.

(36) The Congressional Budget Office estimated in February 2014 that health insurance subsidies under the Affordable Care Act would cost the

Federal Government $47 billion in fiscal year 2015 and $1.197 trillion over fiscal years 2015–2024.

(37) The Committees on Finance and Health, Education, Labor, and Pensions of the Senate estimated in September 2014 that the Affordable Care Act will add at least $340 billion to Federal budget deficits.

(38) Dr. Gruber stated, ''The [Affordable Care Act] isn't designed to save money.''.

(39) On at least 37 occasions, President Obama or a top official in the executive branch repeated the promise that ''If you like the [health insurance] plan you have, you can keep it. If you like the doctor you have, you can keep your doctor.''.

(40) The Associated Press calculated at least 4.7 million Americans had their health insurance cancelled for 2014 and later, when the President issued a last-minute fix to try to prevent these cancellations as required by the Affordable Care Act, the changes came too late for approximately 2.4 million Americans to keep the plans they had and liked.

(41) The nonpartisan, fact-checking publication Politifact rated ''If you like your health care plan, you can keep it.'' as the Lie of the Year for 2013.

(42) Then-Presidential candidate Barack Obama repeatedly promised that, if elected President, his national health care reforms would, ''cut the cost of a typical family's premium by up to $2,500 a year.''.

(43) A November 2013 analysis by the Manhattan Institute calculates that the Affordable Care Act would increase individual marketplace health insurance premiums by 41 percent nationwide between 2013 and 2014.

(44) A December 2013 study by Health Pocket, Inc., found that the average individual deductible for a Bronze plan was $5,081 a year, a 42-percent increase from the average plan purchased by an individual in 2013.

(45) A February 2013 study by Health Pocket Inc., found that exchange plans under the Affordable Care Act averaged a 34-percent increase in drug-cost sharing compared to copayment and coinsurance rates in the pre-Affordable Care Act market. For the sickest patients needing specialty drugs, the study found copayments increased by 226 percent under a Bronze plan via the Affordable Care Act.

(46) A December 2013 study by McKinsey and Company found that insurers offered almost three

times as many narrow or ultranarrow network plans in 2014 compared to 2013. Fully 70 percent of Affordable Care Act plans analyzed had narrow or ultranarrow network coverage, meaning coverage for fewer doctors and hospitals than plans sold on the individual market before the law took effect.

(47) Details consumers require to make informed decisions about their health care plan coverage under the Affordable Care Act have been withheld or lacked transparency.

(48) On September 26, 2013, President Obama said, ''It will say clearly what each plan covers, what each plan costs. The price will be right there. It will be fully transparent . . . And so if you've ever tried to buy insurance on your own, I promise you this is a lot easier. It's like booking a hotel or a plane ticket.''.

(49) HealthCare.gov was established as the website to implement the Federal exchange portion of the Act at a cost of as much as $840 million, including more than $150 million in cost overruns, according to the Government Accountability Office in March 2014.

(50) On October 1, 2013, HealthCare.gov launched without adequate security testing, leaving

the approximately 250,000 unique users it drew not only vulnerable to identity theft by hackers, but unable to even use the site, as the website was demonstrably unable to handle even 1,100 simultaneous users.

(51) For the subsequent months after its launch, HealthCare.gov continued to be plagued by crippling malfunctions, and the dismal performance of the website led only to problems and frustration for millions of Americans.

(52) A June 2013 study by the Department of Health and Human Services' Office of Inspector General revealed that software designed by a principal HealthCare.gov vendor was highly insecure and put the information of more than 6 million Medicare beneficiaries at ''greater risk from malware, inappropriate access or theft''.

(53) An April 2014 study by Avalere Health determined that 38 percent of health insurance plans offered on the exchanges under the Affordable Care Act had no information about drug coverage available. Avalere also found that nearly 1 in 4 plans offered insufficient information on which doctors and hospitals are covered.

(54) In September 2014, the Administrator of the Centers for Medicare and Medicaid Services reported to Congress that 7.3 million Americans had enrolled in plans through exchanges under the Affordable Care Act, meeting enrollment targets estimated by the Congressional Budget Office and held as a goal by the Obama Administration.

(55) Four months later, HHS Secretary Burwell stated that this enrollment data was a ''mistake'' that included some 400,000 dental insurance enrollments, the inclusion of which allowed the administration to claim for months that the Affordable Care Act was performing as anticipated which was not in fact a true or accurate representation of the data they had, but would not release to the public.

(56) Since implementation of the ACA began, the HHS Secretary has granted over $1 billion in Federal taxpayer dollars to States to help build websites for their own State-based exchanges, yet development and usability issues on short timelines repeatedly caused these same States to seek different options for the 2015 open enrollment period, including opting to revert to enrolling via the Federal HealthCare.gov website.

(57) The Affordable Care Act provides opportunities for fraud within subsidy and tax credit issuance.

(58) A September 2013 report by the Treasury Inspector General for Tax Administration concluded that, ''the IRS's existing fraud detection system may not be capable of identifying ACA refund fraud or schemes prior to the issuance of tax return refunds.''.

(59) A July 2014 undercover study by the Government Accountability Office determined that fictitious applicants were able to obtain health insurance coverage and taxpayer-funded subsidies on the Federal exchanges using falsified documents in 11 out of 12 cases.

(60) The Affordable Care Act has had a negative impact on the American economy.

(61) A February 2014 calculation by the Congressional Budget Office found the Affordable Care Act will significantly harm the American economy, reducing the number of hours worked by millions of full-time employees worth of hours. The CBO study noted, ''The reduction in CBO's projections of hours worked represents a decline in the number of full-

time-equivalent workers of about 2 million in 2017, rising to about 2.5 million in 2024.''.

(62) History has shown the Special Inspector General model to be successful at saving taxpayer dollars and rooting our waste, fraud, and abuse in large Federal Government programs.

(63) Congress and the President have enacted legislation creating Special Inspectors General on three occasions, including to oversee Federal spending and policy implementation for Afghanistan reconstruction (SIGAR), Iraq reconstruction (SIGIR), and the Troubled Asset Relief Program (SIGTARP).

(64) SIGAR, SIGIR, and SIGTARP have successfully conducted audits and investigations saving the Federal Government billions in waste, fraud, and abuse, and have helped to identify and prosecute theft and corruption.

(65) As of an October 2014 report, SIGAR has produced 57 referrals for suspension and debarment of Federal contractors and employees and produced over $500 million in direct taxpayer savings.

(66) According to its final report, SIGIR cost $245 million to operate, but resulted in $645 million in direct savings to the Federal Government, in addition to producing $192 million in seizures and

court-ordered penalties, as well as 90 criminal convictions.

(67) As of an October 2014 report, SIGTARP has produced 146 convictions and $7.38 billion in fines, penalties, and restitution to the Government and victims.

(68) On August 5, 2014, the Associated Press reported that 47 Federal inspectors general sent an unprecedented joint letter to Congress to decry, ''Obama administration efforts to delay or stall their investigations,'' citing three examples where Federal agencies have hindered substantive inspector general oversight work by refusing to provide information or documents they are entitled to under the law.

(69) The letter from more than half of the Federal Government's independent inspectors general correctly states, ''Section 6(a)(1) of the IG Act reflects the clear intent of Congress that an Inspector General is entitled to timely and unimpeded access to all records available to an agency that relate to that Inspector General's oversight activities. The constricted interpretations of Section 6(a)(1) by these and other agencies conflict with the actual language and Congressional intent. The IG Act is clear: no law restricting access to records applies to In-

spectors General unless that law expressly so states, and that unrestricted access extends to all records available to the agency, regardless of location or form.''.

(70) Congress has a responsibility to exercise prudent stewardship of public dollars, to ensure that laws are well and faithfully executed by the executive branch, to provide for efficacious services for the American people, and to ensure that those who cheat, steal from, or defraud the Federal Government are held to account.

SEC. 3. SPECIAL INSPECTOR GENERAL FOR MONITORING THE AFFORDABLE CARE ACT.

(a) OFFICE OF SPECIAL INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for Monitoring the Affordable Care Act (in this section, referred to as the ''Office'') to carry out the duties described under subsection (e).

(b) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) APPOINTMENT.—The head of the Office is the Special Inspector General for Monitoring the Affordable Care Act (in this section referred to as the ''Special Inspector General''), who shall be appointed

by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The appointment of the Special Inspector General shall be made solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, health care expertise and financing, public administration, or investigations.

(3) DEADLINE FOR APPOINTMENT.—The appointment of an individual as the Special Inspector General shall be made not later than 30 days after the date of the enactment of this Act.

(4) COMPENSATION.—The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) PROHIBITION ON POLITICAL ACTIVITIES.—For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) REMOVAL.—The Special Inspector General shall be removable from office in accordance with

the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) ASSISTANT INSPECTORS GENERAL.—The Special Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to the duties described under subsection (e); and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such duties.

(d) SUPERVISION.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Special Inspector General shall report directly to, and be under the general supervision of, the Secretary of Health and Human Services.

(2) INDEPENDENCE TO CONDUCT INVESTIGATIONS AND AUDITS.—No employee or officer of any of the following entities shall prevent or prohibit the Special Inspector General from initiating, carrying out, or completing any audit or investigation related to the duties described under subsection (e) or from

issuing any subpoena during the course of any such audit or investigation:

(A) The Executive Office of the President and the Office of Personnel Management.

(B) The Department of Health and Human Services.

(C) The Department of the Treasury.

(D) The Social Security Administration, the Department of Homeland Security, the Department of Veterans Affairs, the Department of Defense, the Department of Labor, and the Peace Corps.

(E) Any other Federal agency involved in implementing or administering the Affordable Care Act.

(e) DUTIES.—

(1) OVERSIGHT OF THE IMPLEMENTATION AND ADMINISTRATION OF THE AFFORDABLE CARE ACT.—It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the implementation and administration of programs and activities established under, and payment system changes made by, the Affordable Care Act, including by collecting and summarizing the following:

(A) A description of the individual mandate requirement for applicable individuals to maintain minimum essential coverage or pay a penalty under section 5000A of the Internal Revenue Code of 1986, including a description of the number of individuals maintaining such coverage and the number of individuals paying such penalties.

(B) A description of any increases or decreases in—

(i) premiums for qualified health plans (as defined in section 1301 of the Patient Protection and Affordable Care Act (42 U.S.C. 18021));

(ii) deductibles under qualified health plans; and

(iii) cost-sharing under qualified health plans, including by copayments and coinsurance,

affecting individuals enrolling in coverage under such plans through an exchange established under title I of the Patient Protection and Affordable Care Act (including a State-run exchange, a federally administered exchange, and a Small Business Health Options Program).

(C) A description of any increases or decreases in the maximum out-of-pocket costs affecting individuals enrolling in qualified health plans through such a State-run exchange, a federally administered exchange, and a Small Business Health Options Program.

(D) A description of any increases or decreases in the size of physician and other health care provider networks affecting individuals enrolling in qualified health plans through such a State-run exchange, a federally administered exchange, and a Small Business Health Options Program.

(E) A description of any type of health insurance coverage lost because of the treatment under title I of the Patient Protection and Affordable Care Act of grandfathered health plans (as defined in section 1251(e) of such Act (42 U.S.C. 18011(e))).

(F) A description of any credits under section 36B of the Internal Revenue Code of 1986 (and the amount (if any) of the advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act (42 U.S.C. 18082)) and any cost-sharing reduction

under section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071) (and the amount (if any) of the advance payment of the reduction under section 1412 of such Act (42 U.S.C. 18082)) provided to individuals enrolling under qualified health plans through an exchange established under title I of the Patient Protection and Affordable Care Act.

(G) A description of any projections, estimates, analysis, goals, or targets made by any employee of the Federal Government or any contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act with respect to the enrollment of individuals in a qualified health plan through an exchange established under title I of the Patient Protection and Affordable Care Act.

(H) A description of the employer mandate requirement that applicable large employers provide eligible employees with minimum essential coverage or pay a fine under section 4980H of the Internal Revenue Code of 1986, including a description of the type and number of em-

ployers providing such coverage and the type and number of employers paying such fines.

(I) A description of any projections, estimates, analyses, goals, or targets made by any employee of the Federal Government or any contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act with respect to employers providing minimum essential coverage to applicable employees.

(J) A description of any reports, meetings, discussions, or materials of any employee of the Federal Government or any contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act relating to any employers converting full-time employees to part-time employees or hiring new part-time employees instead of full-time employees for the purposes of avoiding the fines provided for under the employer mandate requirement described in subparagraph (H).

(K) A description of any reports, meetings, discussions, or materials of any employee of the Federal Government or any contractor of the

Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act relating to any employers hiring no more than 50 employees for the purposes of avoiding the requirement to provide minimum essential coverage or pay a fine under the employer mandate requirement described in subparagraph (H).

(L) A description of any reports, meetings, discussions, or materials of any employee of the Federal Government or any contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act relating to any employers dropping the health insurance coverage offered to their employees, or employees' spouses or dependents, for the purposes of avoiding the requirement to provide minimum essential coverage or pay a fine under the employer mandate requirement described in subparagraph (H).

(M) A description of the transitional reinsurance program established under section 1341 of the Patient Protection and Affordable Care Act (42 U.S.C. 18061), including a description of reinsurance contributions collected

or required to be collected under such program, a description of any reinsurance payments made or required to be made to health insurance issuers under such program, a description of the health insurance coverage and related costs for high-cost individuals for plans related to such program, an explanation of the impact of such reinsurance program on adverse selection in the marketplace, and an explanation of any premium-stabilizing effects of such program.

(N) A description of the temporary risk corridors for qualified health plans established under section 1342 of the Patient Protection and Affordable Care Act (42 U.S.C. 18062), including a description of participating plans and the allowable costs and target amounts of such plans, a description of risk corridor ratios of such plans, and a description of payment adjustments made under such program.

(O) A description of the permanent risk adjustment program established under section 1343 of the Patient Protection and Affordable Care Act (42 U.S.C. 18063), including a description of any plans participating in such pro-

gram, a description of any risk adjustment payments made or required to be made under such program, a description of the health insurance coverage and related costs for high-cost individuals for plans related to such program, an explanation of the impact of such program on adverse selection in the marketplace, and an explanation of any premium-stabilizing effects of such program.

(P) A list of all contracts awarded under the Affordable Care Act and an analysis of whether Federal contracting procedures were followed when awarding any contract associated with such Act.

(Q) A description of the development of the health insurance marketplace for the Internet portal established under section 1103 of the Patient Protection and Affordable Care Act (42 U.S.C. 18003), including a description of the design, features, and security systems of such web portal and a description of all costs associated with such development.

(R) A description of any threats, risks, problems, or functionality issues identified by any employee of the Federal Government or any

contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act prior to the launch of such web portal on October 1, 2013.

(S) A description of any decisionmaking or activities by any employee of the Federal Government or any contractor of the Federal Government in carrying out duties associated with the Patient Protection and Affordable Care Act in response to such threats, risks, problems, or functionality issues.

(T) A description of the systems (on the Federal and State levels) in place or in development to allow health insurance issuers and plans and government entities to verify information is accurate for purposes of enrollments in qualified health plans through exchanges established under title I of the Patient Protection and Affordable Care Act, including that data verification and validation can occur with respect to information provided or stored by individuals, the Department of Health and Human Services, the qualified health plans, States, and other applicable Federal agencies, including for purposes of credits under section 36B of the In-

ternal Revenue Code of 1986 (and the amount (if any) of the advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act (42 U.S.C. 18082)) and any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071) (and the amount (if any) of the advance payment of the reduction under section 1412 of such Act (42 U.S.C. 18082)).

(U) A description of the development of the Federal Data Services Hub, including its design, features, and security systems, and a description of the type of data accessed through such data hub, and a description of the actual storage location of such data accessed through such data hub.

(V) A list of the duties and responsibilities assigned to the Internal Revenue Service as a result of the enactment of the Affordable Care Act, a description of any plans of the Internal Revenue Service for how to carry out such duties, and an explanation of the resources and personnel required to carry out such duties, including a description of any new resources or

personnel required to carry out such duties not already available to the Internal Revenue Service.

(W) A description of any plans of the Internal Revenue Service to verify the eligibility of individuals enrolling in qualified health plans for any credits under section 36B of the Internal Revenue Code of 1986 (and the amount (if any) of the advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act (42 U.S.C. 18082)) and any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071) (and the amount (if any) of the advance payment of the reduction under section 1412 of such Act (42 U.S.C. 18082)), including a description of any such verification completed and a description of any such individuals determined to be ineligible.

(X) A description of any plans by the Internal Revenue Service to calculate the amount of overpayment of any such credit or reduction for which an individual enrolled in a qualified health plan was determined to be ineligible, in-

cluding a description of any such calculations completed.

(Y) A description of any plans by the Internal Revenue Service to notify individuals determined to be ineligible for such credits or reductions, including a description of such notifications completed.

(Z) A description of any plans by the Internal Revenue Service to recapture such overpayments of such credits and reductions for individuals determined to be ineligible, including a description of such recapturing completed.

(AA) A description of the impact of the Affordable Care Act on the right of conscience, including on—

(i) religious employers and institutions that were not exempted from the mandate issued by the Department of Health and Human Services requiring individual and group health plans to cover sterilization and Food and Drug Administration approved contraceptives;

(ii) individuals; and

(iii) medical professionals.

(BB) A description of abortion coverage offered under qualified health plans purchased through State-run exchanges, federally administered exchanges, and Small Business Health Options Programs, including costs associated with such coverage.

(CC) A description of any actions by Departments or Agencies of the Federal Government to modify or delay the programs or activities authorized by the Affordable Care Act, including an explanation from the head of such Department or Agency of the specific authority used to implement such a modification or delay.

(DD) A description of the Independent Payment Advisory Board under section 1899A of the Social Security Act (42 U.S.C. 1395kkk) and any actions taken to alter or reduce the use of medical products, treatments or procedures, including an explanation from the Independent Payment Advisory Board of the reasons for taking such actions, whether such actions could be expected to result in worsened medical outcomes for individuals affected by such alterations or reductions, and an explanation of the medical information used to determine whether

such alterations or reductions could be expected to result in such worsened outcomes.

(EE) A description of individuals enrolled in the Medicaid program under title XIX of the Social Security Act through an exchange established under title I of the Patient Protection and Affordable Care Act, including a description of the cost of health care services utilized by such individuals and a description of the cost to States and the cost to the Federal Government to provide health care services to such individuals.

(FF) Any additional topic related to the implementation and administration of the Affordable Care Act, the inclusion of which helps to provide the public a full and objective accounting of such law.

(2) DATA TO BE INCLUDED.—In carrying out the duties described under paragraph (1), the Special Inspector General shall, to the greatest extent possible, collect and summarize data described under such paragraph according to each type of insurance marketplace and according to the age and gender of individuals enrolling in coverage under qualified health plans through an exchange established under

title I of the Patient Protection and Affordable Care Act.

(3) OTHER DUTIES RELATED TO OVERSIGHT.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duties described under paragraph (1).

(4) DUTIES AND RESPONSIBILITIES UNDER THE INSPECTOR GENERAL ACT OF 1978.—In addition to the duties described under paragraphs (1) and (2), the Special Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978 (5 U.S.C. App.).

(f) COORDINATION OF EFFORTS.—In carrying out the duties, responsibilities, and authorities of the Special Inspector General under this section, the Special Inspector General shall coordinate with, and receive the cooperation of each of the following:

(1) The Inspector General of the Department of Health and Human Services.

(2) The Inspector General of the Department of the Treasury.

(3) The Inspectors General of the Social Security Administration, the Department of Homeland Security, the Department of Veterans Affairs, the Department of Defense, the Department of Labor, and the Peace Corps.

(4) The inspector general of any other Federal entity, as determined by the Special Inspector General.

(g) POWERS AND AUTHORITIES.—

(1) AUTHORITY TO ACCESS MATERIALS, REQUEST INFORMATION, COMPEL RESPONSE, AND OTHER AUTHORITIES UNDER THE INSPECTOR GENERAL ACT OF 1978.—In carrying out the duties described under subsection (e), the Special Inspector General shall have all of the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) EXEMPTION FROM REQUIREMENT FOR INITIAL DETERMINATION BY ATTORNEY GENERAL.—For purposes of section 6(e) of the Inspector General Act of 1978 (5 U.S.C. App.), the Special Inspector General shall be considered exempt from the requirement of an initial determination of eligibility by the Attorney General under paragraph (2) of such section.

(3) AUDIT STANDARDS.—The Special Inspector General shall carry out the duties specified under subsection (e)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) PERSONNEL.—The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) EMPLOYMENT OF EXPERTS AND CONSULTANTS.—The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) CONTRACTING AUTHORITY.—To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Inspector Gen-

eral may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Special Inspector General.

(4) RESOURCES.—The Secretary of Health and Human Services shall provide the Special Inspector General with appropriate and adequate office space at appropriate locations of the Department of Health and Human Services together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—Upon request of the Special Inspector General for information or assistance from any Department, Agency, or other entity of the Federal Government (including any entity listed under subsection (d)(2)), the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to

the Special Inspector General, or an authorized designee.

(B) REPORTING OF REFUSED ASSISTANCE.—

(i) REPORTING TO HEALTH AND HUMAN SERVICES AND CONGRESS.—In accordance with clause (ii), as the case may be, whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the Secretary of Health and Human Services and to the appropriate congressional committees without delay.

(ii) REPORTING TO THE PUBLIC ON REFUSAL OR NONCOOPERATION IN TRANSPARENCY.—Whenever any information described in clause (i) is requested by the Special Inspector General and unreasonably refused or not provided, the report to the Secretary of Health and Human Services and the appropriate congressional committees shall be titled ''Notice of Re-

fusal or Noncooperation in Transparency'' and shall be published on a publicly available website in an accessible format without delay.

(6) USE OF PERSONNEL, FACILITIES, AND OTHER RESOURCES OF THE OFFICE.—Upon the request of the Special Inspector General, an Inspector General—

(A) may detail, on a reimbursable basis, to the Office any of the personnel of such Inspector General's office for the purpose of carrying out this section; and

(B) may provide, on a reimbursable basis, any of the facilities or other resources of the Office for the purpose of carrying out this section.

(i) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Special Inspector General shall submit to the appropriate congressional committees and the Secretary of Health and Human Services a report summarizing, for the period beginning on the date of the enactment of the Health Care and Education Reconciliation Act of 2010 and ending on the completion of

a fiscal year quarter after the date of enactment of this Act, the activities during such period of the Special Inspector General required under subsection (e).

(2) QUARTERLY REPORTS.—Beginning with the first full fiscal year quarter after the date of the enactment of this Act, not later than 30 days after the end of each fiscal year quarter, during which the Affordable Care Act is in effect, the Special Inspector General shall submit to the appropriate congressional committees and the Secretary of Health and Human Services a report summarizing, for the period of that quarter and, to the extent possible, the period from the end of such quarter to the time of the submission of the report, the activities during such period of the Special Inspector General required under subsection (e).

(3) COMMENTS ON REPORT.—Not later than 30 days after receipt of a report under this subsection, the Secretary of Health and Human Services shall submit to the appropriate congressional committees any comments on the matters covered by the report.

(4) PUBLIC AVAILABILITY; RECORDKEEPING.—

(A) IN GENERAL.—The Special Inspector General shall publish on a publicly available

website each report described under this subsection and any comments on the matters covered by the report submitted pursuant to paragraph (3).

(B) REQUIREMENT TO INDEX.—Except as provided in subparagraph (C), the Special Inspector General shall, to the greatest extent possible, index and publish on the publicly available website information for each source used in each report described under this subsection, including whenever applicable the document name, author, and owner.

(C) EXCEPTION TO INDEX REQUIREMENT.—The Special Inspector General may except with a written note of exclusion certain information required to be published pursuant to subparagraph (B) that the Special Inspector General determines is—

(i) necessary to protect an individual that provided the information; or

(ii) classified.

(D) RECORDKEEPING REQUIREMENT.—All source material and information used to create a report described under this subsection, including information excepted under subparagraph

(C), shall be identified, indexed (in a classified annex, if necessary), and maintained (including any written note of exclusion) by the Special Inspector General.

(5) PROTECTED INFORMATION.—To the extent possible, information submitted in any report required under this subsection shall be in a form that is not prohibited from disclosure under section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974).

(6) AGGREGATED INFORMATION.—The Special Inspector General shall, to the maximum extent possible, aggregate any personally identifiable information submitted in a report required under this subsection.

(j) AMENDMENT TO THE INSPECTOR GENERAL ACT.—Section 8D of the Inspector General Act (5 U.S.C. App.) is amended in subsections (e) and (f) by inserting after ''for Tax Administration'', each place it appears, the following: ''and the Special Inspector General for Monitoring the Affordable Care Act''.

(k) TERMINATION.—The Office of the Special Inspector General shall terminate the earlier of—

(1) January 1, 2025; or

(2) the date on which the final report required by subsection (h) is submitted for the last year the Affordable Care Act is in effect.

(l) DEFINITIONS.—In this section:

(1) AFFORDABLE CARE ACT.—The term ''Affordable Care Act'' means the Patient Protection and Affordable Care Act and title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committees on Appropriations; the Budget; Education and the Workforce; Energy and Commerce; Homeland Security; the Judiciary; Oversight and Government Reform; Small Business; and Ways and Means of the House of Representatives; and

(B) the Committees on Appropriations; the Budget; Commerce, Science, and Transportation; Finance; Health, Education, Labor, and Pensions; Homeland Security and Governmental Affairs; the Judiciary; and Small Business and Entrepreneurship of the Senate.

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