

116TH CONGRESS  
2D SESSION

# S. 3277

To amend title XIX of the Social Security Act to strengthen the infrastructure of, access to, and reporting of Medicaid home and community-based services, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2020

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to strengthen the infrastructure of, access to, and reporting of Medicaid home and community-based services, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “HCBS Infrastructure  
5       Improvement Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds the following:

1           (1) States are prioritizing funding of their Med-  
2           icaid programs for long-term services and supports  
3           (referred to in this section as “LTSS”) to offer a  
4           wider range of options for home and community-  
5           based services (referred to in this section as  
6           “HCBS”), but gaps in HCBS remain.

7           (2) In fiscal year 2016, States were spending  
8           only 57 percent of their total LTSS budgets on  
9           HCBS, well short of the national goal of 69 percent  
10          set by the Centers for Medicare & Medicaid Services.

11          (3) In 2017, more than 700,000 people with  
12          disabilities, older adults, and children were on wait-  
13          ing lists to receive HCBS through existing Medicaid  
14          waver programs.

15          (4) According to projections by the Bureau of  
16          the Census, the number of adults over age 65 will  
17          reach 84,000,000 by mid-century, and the popu-  
18          lation of people 85 and older will be nearly 15 mil-  
19          lion by 2040.

20          (5) Absent strategic planning and investment,  
21          States will experience greater difficulties as the  
22          needs of older adults increase demands on State  
23          home and community-based services HCBS capacity.

24          (6) A one-time, targeted investment to  
25          strengthen State capacity to build out Medicaid in-

1 infrastructure that supports multiple HCBS programs  
2 and connects to other Federal and State programs,  
3 including Medicare and the Older Americans Act,  
4 will improve the quality of health and daily living for  
5 the millions of older adults, people with disabilities  
6 and their families.

7 (7) Home and community-based services HCBS  
8 play an outsized role in addressing the social deter-  
9 minants of health among older adults and people  
10 with disabilities, who require accessible housing and  
11 accessible transportation and access to reliable per-  
12 sonal care to avert costly medical crises.

13 (b) PURPOSE.—The purpose of this Act is to estab-  
14 lish to a one-time infrastructure improvement initiative for  
15 States to strengthen their HCBS capacity in selected tar-  
16 get areas, including housing and transportation, work-  
17 force, and employment supports, in order to improve the  
18 cost-effectiveness of long-term service and support (LTSS)  
19 Medicaid programs and coordination with other programs  
20 that provide supportive services to older adults and people  
21 with disabilities.

22 **SEC. 3. MEDICAID HOME AND COMMUNITY-BASED SERV-**  
23 **ICES INFRASTRUCTURE IMPROVEMENT.**

24 Title XIX of the Social Security Act (42 U.S.C. 1396  
25 et seq.) is amended by adding at the end the following:

1 **“SEC. 1947. HOME AND COMMUNITY-BASED SERVICES IN-**  
2 **FRASTRUCTURE IMPROVEMENT.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) DIRECT SUPPORT PROFESSIONAL.—The  
5 term ‘direct support professional’ means a person  
6 who, in exchange for compensation, provides services  
7 to a person with a disability (as defined in section  
8 3 of the Americans With Disabilities Act of 1990)  
9 that promote such person’s independence, includ-  
10 ing—

11 “(A) services that enhance independence  
12 and community inclusion for such person, in-  
13 cluding traveling with such person, attending  
14 and assisting such persons while visiting friends  
15 and family, shopping, or socializing;

16 “(B) services such as coaching and sup-  
17 porting such person in communicating needs,  
18 achieving self-expression, pursuing personal  
19 goals, living independently, and participating  
20 actively in employment or voluntary roles in the  
21 community;

22 “(C) services such as providing assistance  
23 with activities of daily living (such as feeding,  
24 bathing, toileting, and ambulation) and with  
25 tasks such as meal preparation, shopping, light  
26 housekeeping, and laundry; or

1           “(D) services that support such person at  
2           home, work, school, church, or other community  
3           settings.

4           “(2) ELIGIBLE HCBS EXPENDITURES.—The  
5           term ‘eligible HCBS expenditures’ means expendi-  
6           tures by an HCBS infrastructure State on medical  
7           assistance for home and community-based services  
8           that are provided under the State plan or waiver  
9           during the State’s HCBS infrastructure period and  
10          which aim to collaborate with other programs offer-  
11          ing support for home and community-based services.

12          “(3) FIRST MILE/LAST MILE TRANSPOR-  
13          TATION.—The term ‘first mile/last mile transpor-  
14          tation’ means the transportation necessary to—

15                 “(A) transport a person to a fixed route  
16                 transit system that the person could not other-  
17                 wise conveniently access by walking, wheelchair,  
18                 walker, or other self-propelled mobility method;  
19                 and

20                 “(B) transport a person from a fixed route  
21                 transit system to the person’s final destination  
22                 when the final destination is not within a dis-  
23                 tance that the person could conveniently access  
24                 by walking, wheelchair, walker, or other self-  
25                 propelled mobility method.

1           “(4) HCBS INFRASTRUCTURE PERIOD.—The  
2 term ‘HCBS infrastructure period’ means, with re-  
3 spect to an HCBS infrastructure State, the 7-fiscal  
4 year period that begins with the first fiscal year that  
5 begins after the date on which the State is granted  
6 approval by the Secretary under subsection (c) to  
7 conduct an HCBS infrastructure program.

8           “(5) HCBS INFRASTRUCTURE PROGRAM.—The  
9 term ‘HCBS infrastructure program’ means a dem-  
10 onstration program conducted under this section.

11           “(6) HCBS INFRASTRUCTURE STATE.—The  
12 term ‘HCBS infrastructure State’ means a State  
13 that has been granted approval by the Secretary  
14 under subsection (c) to conduct an HCBS infra-  
15 structure program.

16           “(7) HOME AND COMMUNITY-BASED SERV-  
17 ICES.—The term ‘home and community-based serv-  
18 ices’ means long-term, person-centered services and  
19 supports that are not provided in an institutional  
20 setting, including—

21                   “(A) a home and community-based service  
22                   provided under subsection (c), (d), or (i) of sec-  
23                   tion 1915 or under a waiver under section  
24                   1115;

1           “(B) home and community-based long-  
 2 term services and supports (provided in accord-  
 3 ance with the requirements for home and com-  
 4 munity-based settings under sections 441.530  
 5 and 441.710 of title 42, Code of Federal Regu-  
 6 lations), including—

7                   “(i) services described in paragraphs  
 8 (7), (8), (13), (19), and (24) of section  
 9 1905(a);

10                   “(ii) home and community-based serv-  
 11 ices described in subsection (c)(4)(B) of  
 12 section 1915;

13                   “(iii) self-directed home and commu-  
 14 nity-based services described in subsection  
 15 (i) of section 1915;

16                   “(iv) self-directed personal assistance  
 17 services (as defined in subsection (j)(4)(A)  
 18 of section 1915); and

19                   “(v) home and community-based at-  
 20 tendant services and supports described in  
 21 subsection (k) of section 1915;

22           “(C) a home health care service; and

23           “(D) a personal care service.

24           “(8) LONG-TERM SERVICES AND SUPPORTS.—

25           The term ‘long-term services and supports’ has the

1 meaning given that term in section 438.2 of title 42,  
2 Code of Federal Regulations (as of the date of en-  
3 actment of this section).

4 “(9) SHARED LIVING.—The term ‘shared living’  
5 means a living arrangement involving—

6 “(A) not more than 2 people with disabil-  
7 ities or an older adult with a disability, except  
8 if 1 or more of the people are related to each  
9 other (by blood or a close association that is  
10 equivalent to a family relationship);

11 “(B) a person who—

12 “(i) provides long-term services and  
13 supports in exchange for compensation;

14 “(ii) lives together in a private home  
15 with the recipient of such services; and

16 “(iii) receives a stipend or room and  
17 board as the primary form of payment for  
18 providing such services;

19 “(C) a person receiving funding through a  
20 State Medicaid program under this title or an-  
21 other publically funded program; and

22 “(D) the person receiving such services  
23 having the final decision regarding who is the  
24 provider of such services living with the person,  
25 through a consumer-driven matching process



1           that includes relationship building, person-cen-  
2           tered planning as defined by the Administrator  
3           of the Centers for Medicare & Medicaid Serv-  
4           ices, and an assessment of individual compat-  
5           ibility.

6           “(10) STATE.—The term ‘State’ means each of  
7           the 50 States, the District of Columbia, the Com-  
8           monwealth of Puerto Rico, the United States Virgin  
9           Islands, Guam, American Samoa, and the Northern  
10          Mariana Islands.

11          “(11) UNIVERSAL MOBILITY SERVICE.—The  
12          term ‘universal mobility service’ means a single plat-  
13          form through which people with disabilities or older  
14          adults are able to—

15                 “(A) access a variety of public and private  
16                 demand responsive and fixed-route transpor-  
17                 tation services which have the necessary vehi-  
18                 cles and facilities to meet the needs of all users,  
19                 regardless of income, geographic location, dis-  
20                 ability, or age;

21                 “(B) and identify their travel options and  
22                 compare the cost and length of trips using each  
23                 such option; and

1           “(C) schedule a ride, monitor progress,  
2           and pay for the trip, regardless of the number  
3           of transfers and independent providers used.

4           “(b) PLANNING GRANTS.—

5           “(1) IN GENERAL.—Not later than January 1  
6           of each of calendar years 2021 through 2024, from  
7           the amount appropriated under paragraph (5), the  
8           Secretary shall, subject to paragraph (2), award  
9           planning grants to any State that applies for such  
10          a grant for the purpose of developing proposals for  
11          an HCBS infrastructure program.

12          “(2) SELECTION, DURATION, AND NUMBER OF  
13          STATES.—

14          “(A) SELECTION CRITERIA.—In awarding  
15          grants for a year under this subsection the Sec-  
16          retary shall—

17                  “(i) consider the technical merits the  
18                  proposed HCBS infrastructure program of  
19                  each State that is applying for a grant in  
20                  such year; and

21                  “(ii) select a group of States that is  
22                  diverse in terms of—

23                          “(I) the geographic areas the  
24                          group represents;

1                   “(II) the population sizes of the  
2                   States comprising the group; and

3                   “(III) the subparagraphs of sub-  
4                   section (e)(2) in which each such  
5                   State is described (based on data from  
6                   the 2 most recent years for which  
7                   data is available).

8                   “(B) DURATION.—Grants awarded under  
9                   this subsection shall be available to States for  
10                  a period of 1 year.

11                  “(C) NUMBER OF STATES.—The Secretary  
12                  shall not award planning grants under this sub-  
13                  section to more than 17 States in any year, and  
14                  no State may receive more than 1 grant under  
15                  this subsection.

16                  “(3) USE OF FUNDS.—A State awarded a plan-  
17                  ning grant under this subsection shall—

18                         “(A) establish a Development and Imple-  
19                         mentation Council that meets the requirements  
20                         described in paragraph (4) to provide input into  
21                         the development of the proposal and, if the  
22                         State receives approval to conduct a demonstra-  
23                         tion program under this section, to monitor the  
24                         ongoing implementation of the program;

1           “(B) with guidance from the Centers for  
2 Medicare & Medicaid Services, identify popu-  
3 lations in the State for which the per capita an-  
4 nual expenditures under the State plan or waiv-  
5 er of such plan on home and community-based  
6 services is less than the national average for  
7 that population;

8           “(C) establish a set of standards and pro-  
9 cedures to ensure the State makes measurable  
10 progress in expanding the availability of self-di-  
11 rection to people served by home and commu-  
12 nity-based service providers;

13           “(D) develop a plan to increase home and  
14 community-based services, increase the avail-  
15 ability of providers of such service throughout  
16 the State, and address at least 3 of the HCBS  
17 infrastructure priority areas described in sub-  
18 section (c)(3);

19           “(E) solicit public comment to help deter-  
20 mine what the priorities of the proposed dem-  
21 onstration program should be; and

22           “(F) execute memoranda of understanding  
23 between any State agencies that will be respon-  
24 sible for activities under the proposed dem-  
25 onstration program under which each such

1           agency agrees to conduct the activities for  
2           which it will be responsible and to cooperate  
3           with other agencies as necessary.

4           “(4) DEVELOPMENT AND IMPLEMENTATION  
5           COUNCIL REQUIREMENTS.—The requirements de-  
6           scribed in this paragraph with respect to a Develop-  
7           ment and Implementation Council established by a  
8           State (referred to in this section as a ‘Council’) are  
9           the following:

10                   “(A) The members of the Council (the ma-  
11                   jority of whom shall be people with disabilities  
12                   or older adults who need home and community-  
13                   based services) shall consist of—

14                           “(i) people with disabilities or older  
15                           adults who receive home and community-  
16                           based services;

17                           “(ii) people with disabilities, including  
18                           older adults with disabilities, who meet cri-  
19                           teria for home and community-based serv-  
20                           ices but are not receiving such services;

21                           “(iii) family caregivers;

22                           “(iv) direct support professionals;

23                           “(v) providers of home and commu-  
24                           nity-based services;

25                           “(vi) one representative each from—

1                   “(I) an organization that rep-  
2                   resents people with disabilities;

3                   “(II) an organization that rep-  
4                   resents older adults; and

5                   “(III) an organization that rep-  
6                   resents direct support professionals;  
7                   and

8                   “(vii) representatives from State  
9                   agencies that provide aging, disability,  
10                  transportation, housing, employment, voca-  
11                  tional rehabilitation, mental health, and  
12                  substance use services and representatives,  
13                  as appropriate, from programs providing  
14                  transportation supports, housing supports,  
15                  home and community-based services work-  
16                  force development, family caregiver sup-  
17                  ports, and education and vocational reha-  
18                  bilitation services.

19                  “(B) The Council is coordinated by the  
20                  Governor, and any proposal of the Council shall  
21                  be submitted to, and reviewed by, by the Gov-  
22                  ernor before it is submitted to the Secretary.

23                  “(C) The Council shall conduct a public  
24                  comment process to collect information to in-

1 form the priorities and activities identified in  
2 the grant application.

3 “(5) FUNDING.—

4 “(A) IN GENERAL.—Out of any funds in  
5 the Treasury not otherwise appropriated, there  
6 is appropriated to the Secretary for each of fis-  
7 cal years 2021 through 2024 \$100,000,000 for  
8 purposes of awarding grants under this sub-  
9 section.

10 “(B) AVAILABILITY.—Funds appropriated  
11 under subparagraph (A) shall remain available  
12 until expended.

13 “(C) TECHNICAL ASSISTANCE.—

14 “(i) IN GENERAL.—For each of fiscal  
15 years 2021 through 2024, out of the funds  
16 appropriated for such year under subpara-  
17 graph (A), \$3,000,000 shall be reserved  
18 for the purpose of providing technical as-  
19 sistance (through the Administrator of the  
20 Centers for Medicare & Medicaid Services)  
21 to States in meeting the requirements of  
22 paragraph (2).

23 “(ii) COORDINATION WITH RELEVANT  
24 AGENCIES.—In providing technical assist-  
25 ance to States in developing plans to im-

1           prove HCBS infrastructure priority areas  
2           described in subsection (c)(3), the Admin-  
3           istrator of the Centers for Medicare &  
4           Medicaid Services shall consult with other  
5           agencies with relevant expertise in such  
6           areas, such as the Department of Trans-  
7           portation, the Department of Housing and  
8           Urban Development, and the Interagency  
9           Transportation Coordinating Council on  
10          Access and Mobility established under Ex-  
11          ecutive Order No. 13330.

12          “(c) HCBS INFRASTRUCTURE IMPLEMENTATION  
13 GRANTS.—

14                 “(1) APPROVAL OF STATES.—Not later than 1  
15           year after awarding a planning grant to a State  
16           under subsection (b), the Secretary shall, subject to  
17           paragraph (4), award to the State an HCBS infra-  
18           structure implementation grant under this section if  
19           the application—

20                         “(A) is developed through such planning  
21           grant; and

22                         “(B) meets the requirements of paragraph  
23           (2).



1           “(2) GRANT REQUIREMENTS.—The require-  
2           ments of this paragraph with respect to a State im-  
3           plementation grant are the following:

4                   “(A) APPLICATION.—The State submits an  
5                   application, using the most recent data avail-  
6                   able at the time the State was awarded a plan-  
7                   ning grant under subsection (b), to conduct an  
8                   HCBS infrastructure implementation grant to  
9                   the Secretary that includes, in addition to such  
10                  other information as the Secretary may re-  
11                  quire—

12                           “(i) targets for spending under the  
13                           State plan or waiver for home and commu-  
14                           nity-based services under the State plan or  
15                           waiver as a percentage of all spending  
16                           under the plan or waiver on long-term  
17                           services and supports, and yearly mile-  
18                           stones for such targets that—

19                                   “(I) provide States with the flexi-  
20                                   bility to focus on providing home and  
21                                   community-based services to certain  
22                                   populations; and

23   “(II) require the State—

24   “(aa) to achieve spending  
25   targets for those populations;

1 “(bb) to identify populations  
2 in the State for which the per  
3 capita annual expenditures under  
4 the State plan or waiver on home  
5 and community-based services is  
6 less than the national average for  
7 that population; and

8 “(cc) to increase the level of  
9 expenditures on home and com-  
10 munity-based services for each  
11 population described in clause  
12 (v)(II) to a target level proposed  
13 by the State;

14 “(ii) a description of how the State  
15 will—

16 “(I) expand medical assistance  
17 for home and community-based serv-  
18 ices under the plan or waiver during  
19 the HCBS infrastructure period;

20 “(II) achieve the spending tar-  
21 gets and milestones described in  
22 clause (i); and

23 “(III) initiate or expand self-di-  
24 rected services, with measurable tar-  
25 gets and milestones;

1 “(iii) if the State limits the provision  
2 of home and community-based services to  
3 people under the plan or waiver or imposes  
4 any numerical limitation, waiting list, or  
5 similar limitation on the eligibility of peo-  
6 ple for such services, a detailed plan for  
7 how the State will reduce such limitations;

8 “(iv) a detailed plan with measurable  
9 objectives and annual milestones for at  
10 least 3 of the HCBS infrastructure priority  
11 areas described in paragraph (3); and

12 “(v) data on the extent to which the  
13 State has already balanced the long-term  
14 services and supports system of the State,  
15 including—

16 “(I) the percentage of total an-  
17 nual expenditures under the State  
18 plan or waiver for long-term services  
19 and supports expenditures that are  
20 for home and community-based serv-  
21 ices; and

22 “(II) the percentage of total an-  
23 nual expenditures under the State  
24 plan or waiver for long-term services  
25 and supports expenditures that are

1 for home and community-based serv-  
2 ices by population group, including—  
3 “(aa) people with intellectual  
4 and developmental disabilities;  
5 “(bb) people aged 65 and  
6 older;  
7 “(cc) people with physical  
8 disabilities; and  
9 “(dd) people with mental  
10 health and substance use dis-  
11 orders.

12 “(B) MAINTENANCE OF ELIGIBILITY RE-  
13 QUIREMENTS.—During the HCBS infrastruc-  
14 ture period, the State does not apply eligibility  
15 standards, methodologies, or procedures for de-  
16 termining eligibility for medical assistance for  
17 home and community-based services under the  
18 plan or waiver that are more restrictive than  
19 the eligibility standards, methodologies, or pro-  
20 cedures in effect for such purposes on Decem-  
21 ber 31, 2019.

22 “(C) IMPLEMENTATION AND COMPLIANCE  
23 WITH HCBS SETTINGS RULE.—The State has a  
24 final approved plan to—

1 “(i) fully comply with the Home and  
2 Community-Based Services Final Rule  
3 published by the Centers for Medicare &  
4 Medicaid Services on January 16, 2014  
5 (79 Fed. Reg. 2947) (referred to in this  
6 section as the ‘HCBS Settings Rule’); and

7 “(ii) construct the activities of the  
8 grant such that the results will be to sta-  
9 bilize and expand the service delivery net-  
10 work available in the State to provide serv-  
11 ices and supports under the State plan or  
12 waiver of such plan in a manner that com-  
13 plies with the HCBS Settings Rule.

14 “(D) USE OF ADDITIONAL FUNDS.—The  
15 State uses any additional Federal funds paid to  
16 the State as a result of this section only for  
17 purposes of increasing the availability and im-  
18 proving the quality of home and community-  
19 based services in the State.

20 “(E) DATA COLLECTION.—The State col-  
21 lects standardized data as determined by the  
22 Secretary, including—

23 “(i) services data on a per-capita or  
24 family caregiver basis and, to the extent  
25 possible, in accordance with the Trans-

1 formed Medicaid Statistical Information  
2 System (T-MSIS) (or a successor system);

3 “(ii) quality data on a selected set of  
4 core home and community-based services  
5 measures determined by the Secretary, in-  
6 cluding—

7 “(I) measures of beneficiary and  
8 family caregiver experience;

9 “(II) measures for the achieve-  
10 ment of desired outcomes appropriate  
11 to a specific beneficiary or family  
12 caregiver, including—

13 “(aa) community inclusion;

14 “(bb) choice and personal  
15 control, including through self-di-  
16 rected services; and

17 “(cc) person-centered plan-  
18 ning; and

19 “(III) measures for the achieve-  
20 ment of home and community-based  
21 services infrastructure improvements,  
22 including—

23 “(aa) competitive, integrated  
24 employment for people with dis-  
25 abilities and older adults;

- 1                   “(bb) direct support profes-  
2                   sional workforce improvements,  
3                   including increased wages;
- 4                   “(cc) caregiver supports;
- 5                   “(dd) accessible housing and  
6                   accessible transportation im-  
7                   provements; and
- 8                   “(ee) non-disability-specific  
9                   settings;
- 10                  “(iii) services data from providers of  
11                  home and community-based services on a  
12                  per-beneficiary or family caregiver basis  
13                  and in accordance with such standardized  
14                  coding procedures as the State shall estab-  
15                  lish in consultation with the Secretary;
- 16                  “(iv) quality data on a selected set of  
17                  core quality measures agreed upon by the  
18                  Secretary and the State that are—
- 19                         “(I) linked to population-specific  
20                         outcomes measures; and
- 21                         “(II) available to the public, in-  
22                         cluding consumers and providers of  
23                         home and community-based services;  
24                         and

1 “(v) outcomes measures data on a se-  
2 lected set of core population-specific out-  
3 comes measures agreed upon by the Sec-  
4 retary and the State that are accessible to  
5 providers and include—

6 “(I) measures of beneficiary and  
7 family caregiver experience with pro-  
8 viders; and

9 “(II) measures for achieving de-  
10 sired outcomes appropriate to a spe-  
11 cific beneficiary or family caregiver,  
12 including—

13 “(aa) competitive integrated  
14 employment (as defined in sec-  
15 tion 3(11) of the Workforce In-  
16 novation and Opportunity Act);

17 “(bb) participation in com-  
18 munity life;

19 “(cc) health stability;

20 “(dd) prevention of loss in  
21 function; and

22 “(ee) improved family care-  
23 giver health and wellness.



1           “(3) HCBS INFRASTRUCTURE PRIORITY  
2 AREAS.—The HCBS infrastructure priority areas  
3 described in this paragraph are the following:

4           “(A) WORKFORCE AND UNPAID CAREGIVER  
5 SUPPORTS.—The State develops and imple-  
6 ments, in consultation with representatives of  
7 people with disabilities, representatives of older  
8 adults, and representatives of direct support  
9 workers—

10           “(i) infrastructure to enhance supply  
11 and retention of the direct support work-  
12 force, including through—

13           “(I) enhancement of payment  
14 rates, contingent on wage increases  
15 for direct support professionals; and

16           “(II) training and career ad-  
17 vancement programs for direct sup-  
18 port professionals, including programs  
19 that facilitate the participation of di-  
20 rect support professionals in organiza-  
21 tions that foster their professional de-  
22 velopment and stakeholder engage-  
23 ment;

24           “(ii) infrastructure to support self-di-  
25 rection, including—

1                   “(I) matching service registries;  
2                   and

3                   “(II) training for consumers who  
4                   want to self-direct; and

5                   “(iii) supports for family caregivers,  
6                   including—

7                   “(I) use of family caregiver as-  
8                   sessments;

9                   “(II) service offerings that sup-  
10                   port caregivers and may delay or ame-  
11                   liorate the need for more comprehen-  
12                   sive non-institutional long-term serv-  
13                   ices and supports; and

14                   “(III) implementation of evi-  
15                   dence-based caregiver supportive serv-  
16                   ices, increased access to and improve-  
17                   ments in respite care, and financial  
18                   assistance to help with out-of-pocket  
19                   costs incurred by family caregivers.

20                   “(B) EMPLOYMENT SUPPORTS.—The State  
21                   develops and implements statewide infrastruc-  
22                   ture, subject to the merit-based personnel  
23                   standards and conflict of interest safeguards es-  
24                   tablished and maintained by the State pursuant  
25                   to section 1902(a)(4), to support opportunities

1 for competitive integrated employment (as de-  
2 fined in section 3(11) of the Workforce Innova-  
3 tion and Opportunity Act) for people with dis-  
4 abilities and older adults, which may include—

5 “(i) service delivery modifications and  
6 expansion; and

7 “(ii) establishing and expanding link-  
8 ages with other programs that support  
9 workers with disabilities, such as—

10 “(I) vocational rehabilitation;

11 “(II) one-stop centers described  
12 in section 121 of the Workforce Inno-  
13 vation and Opportunity Act; and

14 “(III) State departments of edu-  
15 cation.

16 “(C) HOUSING SUPPORTS.—The State de-  
17 velops and implements infrastructure to in-  
18 crease the availability of affordable, accessible  
19 housing in non-disability-specific settings for  
20 people with disabilities and older adults receiv-  
21 ing home and community-based services, which  
22 may include—

23 “(i) assessing the supply and avail-  
24 ability of such housing in communities  
25 across the State;

1           “(ii) creating or scaling incentives for  
2 State and local housing partners and devel-  
3 opers to create more accessible housing;

4           “(iii) developing and implementing  
5 strategies to target people with the most  
6 significant developmental and other disabil-  
7 ities, including people with challenging be-  
8 havior, complex medical needs, people re-  
9 quiring round-the-clock, one-on-one sup-  
10 port from a direct support professional,  
11 and people with very high-service needs,  
12 for housing in non-disability-specific set-  
13 tings;

14           “(iv) scaling shared living within the  
15 State;

16           “(v) home modifications and repairs  
17 that make it possible for a person to re-  
18 main in the person’s home or building  
19 modifications that make it possible for a  
20 person with a disability or an older adult  
21 to reside in a house or apartment; and

22           “(vi) developing administrative infra-  
23 structure to match people with housing  
24 and provide meaningful choices among

1 non-disability-specific settings via the per-  
2 son-centered planning process.

3 “(D) TRANSPORTATION SUPPORTS.—

4 “(i) IN GENERAL.—The State devel-  
5 ops and implements strategies to improve  
6 access for all people with disabilities and  
7 older adults (including people who are  
8 blind or visually impaired, deaf or hard of  
9 hearing, have other physical disabilities,  
10 use a wheelchair or other mobility device,  
11 use a guide animal, or have an intellectual  
12 disability) to accessible transportation op-  
13 tions, including first mile/last mile trans-  
14 portation, with the goal of improved com-  
15 munity integration, in accordance with the  
16 HCBS Setting Rule, which may include—

17 “(I) the provision of universal  
18 mobility services (as defined in sub-  
19 section (a)(11));

20 “(II) partnering with existing  
21 non-emergency medical transportation  
22 brokers and their networks;

23 “(III) partnering with demand-  
24 responsive providers, non-disability-

1 specific non-profit providers, and  
2 other transportation providers;

3 “(IV) the targeted development  
4 of a community integration transpor-  
5 tation system that leverages tradi-  
6 tional and innovative transportation  
7 networks (such as on-demand applica-  
8 tion-based transportation); and

9 “(V) expanding the non-emer-  
10 gency medical transportation services  
11 offered under the State plan to in-  
12 clude transportation to—

13 “(aa) employment training  
14 and jobs;

15 “(bb) community-based sup-  
16 portive services such as con-  
17 gregate meals or independent liv-  
18 ing centers; and

19 “(cc) pharmacies, grocery  
20 stores, and other retail establish-  
21 ments to assist older adults and  
22 people with disabilities to remain  
23 in their homes and participate  
24 fully in their communities.

1           “(ii) TRAINING REQUIREMENT.—Any  
2 strategy to improve access to transpor-  
3 tation under this subparagraph shall in-  
4 clude the implementation of a State re-  
5 quirement that providers of transportation  
6 receive training on how to support people  
7 with disabilities and older adults.

8           “(iii) EXCLUSION.—To the extent  
9 that any expansion, development, or fi-  
10 nancing of paratransit is required under  
11 the Americans with Disabilities Act for  
12 fixed route service, such expansion, devel-  
13 opment, or financing shall not be consid-  
14 ered to be a strategy to improve access to  
15 transportation for purposes of this sub-  
16 paragraph.

17           “(iv) CONSIDERATION OF NATIONAL  
18 AGING AND DISABILITY TRANSPORTATION  
19 CENTER PROPOSALS.—A proposal for im-  
20 provements described in this subparagraph  
21 shall consider and discuss the work of the  
22 National Aging and Disability Transpor-  
23 tation Center, the ‘Transactional Data  
24 Specification for Demand Responsive  
25 Transportation’ published by the Trans-

1           portation Research Board, and best prac-  
2           tices for the delivery of Medicaid non-emer-  
3           gency medical transportation services.

4           “(E) ‘NO WRONG DOOR SINGLE’ ENTRY  
5           POINT SYSTEM.—The State develops and imple-  
6           ments a statewide system (which may include  
7           preadmission screening by nurses, peer asses-  
8           sors, and other necessary providers to ensure  
9           that the appropriate assessments with respect  
10          to any person with a disability or older adult  
11          are done as soon as required), subject to the  
12          merit-based personnel standards and conflict of  
13          interest safeguards established and maintained  
14          by the State pursuant to section 1902(a)(4), to  
15          enable people enrolled in the State plan or waiv-  
16          er to access, on a timely basis, all long-term  
17          services and supports through an agency, orga-  
18          nization, coordinated network, or portal, in ac-  
19          cordance with such standards as the State shall  
20          establish and that shall provide information re-  
21          garding—

22                   “(i) the availability of such services;

23                   “(ii) how to apply for such services;

24                   “(iii) disability benefits counseling;



1                   “(iv) referral services for services and  
2                   supports otherwise available in the commu-  
3                   nity; and

4                   “(v) determinations of financial and  
5                   functional eligibility for such services and  
6                   supports, or assistance with assessment  
7                   processes for financial and functional eligi-  
8                   bility.

9                   “(4) NUMBER OF STATES.—The Secretary shall  
10                  not grant approval to more than 17 States to con-  
11                  duct an HCBS infrastructure demonstration pro-  
12                  gram under this section in any year.

13                  “(d) EVALUATION, OVERSIGHT, AND QUALITY.—

14                  “(1) SURVEYS AND REPORT ON DIRECT SUP-  
15                  PORT PROFESSIONAL COMPENSATION.—

16                  “(A) IN GENERAL.—Each HCBS infra-  
17                  structure State shall, for each fiscal year of the  
18                  State’s HCBS infrastructure period, conduct  
19                  surveys of providers that received increased  
20                  rates under the HCBS infrastructure program  
21                  conducted by the State on the compensation  
22                  paid by such providers to direct support profes-  
23                  sionals.

24                  “(B) REPORT.—Not later than 2 years  
25                  after the date that an HCBS infrastructure

1 State begins to conduct an HCBS infrastruc-  
2 ture program, the State submits a report to the  
3 Administrator of the Centers for Medicare &  
4 Medicaid Services on the impact of the rate in-  
5 creases on the compensation, benefits, and  
6 training received by direct support profes-  
7 sionals.

8 “(2) EVALUATION.—

9 “(A) IN GENERAL.—The Secretary shall  
10 evaluate the implementation and outcomes of  
11 the HCBS infrastructure programs conducted  
12 by the States in the aggregate using an external  
13 evaluator with experience evaluating home and  
14 community-based services, disability programs,  
15 and older adult programs using the criteria de-  
16 scribed in each HCBS infrastructure State’s  
17 application and evaluating any change in HCBS  
18 service availability and quality for each HCBS  
19 infrastructure State.

20 “(B) EVALUATION CRITERIA.—The exter-  
21 nal evaluator shall document and evaluate  
22 changes in access, availability, and quality of  
23 HCBS services in each of the priority areas de-  
24 scribed in subsection (c)(3) chosen by each  
25 HCBS infrastructure State. The external eval-

1 uator shall also evaluate the aggregate change  
2 changes in access, availability, and quality of  
3 HCBS services in each of the priorities areas  
4 described in subsection (c)(3) across the HCBS  
5 infrastructure States. The external evaluator  
6 shall also evaluate the HCBS infrastructure  
7 programs based on (i) the impact of the pro-  
8 grams on increasing funding for home and com-  
9 munity-based services, (ii) the impact of the  
10 programs on achieving targeted access, avail-  
11 ability, and quality of home and community-  
12 based services, and (iii) promising practices  
13 identified by the programs that increase access  
14 to, availability of, and quality of home and com-  
15 munity based services.

16 “(C) DISSEMINATION OF EVALUATION  
17 FINDINGS.—The Secretary shall—

18 “(i) disseminate the findings from the  
19 evaluations of HCBS infrastructure pro-  
20 grams conducted under this paragraph  
21 to—

22 “(I) all State Medicaid directors;  
23 and

24 “(II) the Committees on Ways  
25 and Means and Energy and Com-

1                   merce of the House of Representa-  
2                   tives, the Committee on Finance of  
3                   the Senate, and the Special Com-  
4                   mittee on Aging of the Senate; and

5                   “(ii) make all evaluation findings pub-  
6                   licly available in an accessible electronic  
7                   format and any other accessible format de-  
8                   termined appropriate by the Secretary.

9                   “(D) OVERSIGHT.—Each State awarded a  
10                  grant under subsection (c) shall ensure ade-  
11                  quate oversight of the expenditure of HCBS in-  
12                  frastructure program grant funds in accordance  
13                  with the Medicaid regulations, including waiver  
14                  1115 and 1915 waiver regulations.

15                  “(e) FINANCING INCENTIVES.—

16                  “(1) IN GENERAL.—Notwithstanding section  
17                  1905(b), with respect to each fiscal year in an  
18                  HCBS infrastructure State’s HCBS infrastructure  
19                  period, if such State meets the conditions described  
20                  in subsection (e)(2) for the year, the Federal med-  
21                  ical assistance percentage that would otherwise  
22                  apply with respect to eligible HCBS expenditures  
23                  made by the State during the year shall be increased  
24                  (but in no case to exceed 100 percent) by the appli-  
25                  cable percentage points increase determined for the

1 State and year under paragraph (2) (and as in-  
2 creased, if applicable, under paragraph (3)).

3 “(2) APPLICABLE PERCENTAGE POINTS IN-  
4 CREASE.—The applicable percentage points increase  
5 for an HCBS infrastructure State and year is—

6 “(A) in the case of a State in which, for  
7 the 2 years preceding the year involved, less  
8 than 35 percent of the total expenditures for  
9 long-term services and supports were for home  
10 and community-based services, 5 percentage  
11 points;

12 “(B) in the case of a State in which, for  
13 the 2 years preceding the year involved, be-  
14 tween 35 percent and 50 percent of the total  
15 expenditures for long-term services and sup-  
16 ports were for home and community-based serv-  
17 ices, 2 percentage points;

18 “(C) in the case of a State in which, for  
19 the 2 years preceding the year involved, be-  
20 tween 50 percent and 65 percent of the total  
21 expenditures for long-term services and sup-  
22 ports were for home and community-based serv-  
23 ices, 0.50 percentage points; and

24 “(D) in the case of a State in which, for  
25 the 2 years preceding the year involved, 65 per-

1 cent or more of the total expenditures for long-  
2 term services and supports were for home and  
3 community-based services, 0.25 percentage  
4 points.

5 “(3) ADDITIONAL INCREASE TO INCENTIVIZE  
6 TARGETING UNDERSERVED POPULATIONS.—Begin-  
7 ning with the first full fiscal year for which the  
8 Transformed Medicaid Statistical Information Sys-  
9 tem (T-MSIS) is fully operational, the applicable  
10 percentage points increase determined for an HCBS  
11 infrastructure State and year under paragraph (2)  
12 shall be increased by an additional—

13 “(A) in the case of a State that is pro-  
14 viding home and community based services to  
15 85 percent or more of the people that make up  
16 the populations identified by the State under  
17 subsection (b)(3)(B), 5 percentage points;

18 “(B) in the case of a State that is pro-  
19 viding home and community based services to  
20 between 75 percent and 85 percent of the peo-  
21 ple that make up the populations identified by  
22 the State under subsection (b)(3)(B), 2 per-  
23 centage points;

24 “(C) in the case of a State that is pro-  
25 viding home and community based services to

1           between 65 percent and 75 percent of the peo-  
2           ple that make up the populations identified by  
3           the State under subsection (b)(3)(B), 0.5 per-  
4           centage points; and

5           “(D) in the case of a State that is pro-  
6           viding home and community based services to  
7           less than 65 percent of the people that make up  
8           the populations identified by the State under  
9           subsection (b)(3)(B), 0.25 percentage points.

10          “(4) EXEMPTION FROM LIMITS ON PAYMENTS  
11          TO TERRITORIES.—The limitations on payment  
12          under subsections (f) and (g) of section 1108 shall  
13          not apply to Federal payments under this title that  
14          are based on the Federal medical assistance percent-  
15          age as increased under this subsection, and such  
16          payments shall not be taken into account in applying  
17          such subsections.”.

○