

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.

H. R. 1628

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2017.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CRUZ to the amendment (No. _____) proposed by _____

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . INCREASED FMAP FOR STATES THAT ADOPT**
3 **MEDICAL LIABILITY REFORM LEGISLATION.**

4 Section 1905 of the Social Security Act (42 U.S.C.

5 1396d) is amended—

6 (1) in subsection (b), in the first sentence, by
7 striking “and (aa)” and inserting “(aa), and (ee)”;

8 (2) in subsection (cc)—

9 (A) by striking “and (aa)” and inserting

10 “(aa), and (ee)”;

1 (B) by inserting “(or, in the case of an in-
2 crease under subsection (ee), for the fiscal
3 quarter occurring immediately prior to the first
4 fiscal quarter during which the State is eligible
5 for such increase)” after “December 31,
6 2009,”; and

7 (3) by adding at the end the following:

8 “(ee) INCREASED FMAP FOR MEDICAL LIABILITY
9 REFORM.—

10 “(1) IN GENERAL.—For fiscal years beginning
11 on or after October 1, 2017, notwithstanding sub-
12 section (b), for a State that is one of the 50 States
13 or the District of Columbia and meets the require-
14 ment of paragraph (2) for the entire fiscal year, the
15 Federal medical assistance percentage otherwise de-
16 termined under such subsection and subsections (y),
17 (z), and (aa) for the State and year shall be in-
18 creased by 1 percentage point.

19 “(2) LIMITATIONS ON NONECONOMIC DAMAGES
20 IN MEDICAL LIABILITY CASES.—A State meets the
21 requirement of this paragraph if State law provides
22 that, in any action on a health care liability claim
23 where judgment is rendered for a claimant, regard-
24 less of the number of defendants against whom

1 judgment is rendered or the number of separate
2 causes of action on which the claim is based—

3 “(A) the maximum collective amount of
4 noneconomic damages recoverable from one or
5 more physicians or health care providers that
6 are not health care institutions (inclusive of all
7 persons and entities associated with the physi-
8 cian or provider for which vicarious liability
9 theories may apply) against whom judgment is
10 rendered shall not exceed \$250,000 for each
11 claimant;

12 “(B) the maximum amount of non-
13 economic damages recoverable from any single
14 health care institution (inclusive of all persons
15 and entities associated with the institution for
16 which vicarious liability theories may apply)
17 against whom judgment is rendered shall not
18 exceed \$250,000 for each claimant; and

19 “(C) the maximum collective amount of
20 noneconomic damages recoverable from all
21 health care institutions (inclusive of all persons
22 and entities associated with the institution for
23 which vicarious liability theories may apply)
24 against whom judgment is rendered shall not
25 exceed \$500,000 for each claimant.

1 “(3) NONECONOMIC DAMAGES.—In this sub-
2 section, the term ‘noneconomic damages’ means
3 damages awarded for the purpose of compensating a
4 claimant for physical pain and suffering, mental or
5 emotional pain or anguish, loss of consortium, dis-
6 figurement, physical impairment, loss of compani-
7 ship and society, inconvenience, loss of enjoyment of
8 life, injury to reputation, and all other nonpecuniary
9 losses of any kind other than exemplary or punitive
10 damages.”.