

117TH CONGRESS  
1ST SESSION

# H. R. 3434

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Ms. PLASKETT (for herself, Miss GONZÁLEZ-COLÓN, Mrs. RADEWAGEN, Mr. SABLAN, Mr. SAN NICOLAS, Ms. CLARKE of New York, Mr. GRIJALVA, Ms. PRESSLEY, Mr. SOTO, Mr. TORRES of New York, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to make improvements to the treatment of the United States territories under the Medicare and Medicaid programs, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Territories Health Equity Act of 2021”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—MEDICAID

Sec. 101. Elimination of general medicaid funding limitations (“cap”) for territories.

Sec. 102. Elimination of specific Federal medical assistance percentage (FMAP) limitation for territories.

Sec. 103. Permitting Medicaid DSH allotments for territories.

#### TITLE II—MEDICARE

##### Subtitle A—Part A

Sec. 201. Calculation of Medicare DSH payments for IPPS hospitals in Puerto Rico.

Sec. 202. Rebasing target amount for hospitals in territories.

Sec. 203. Medicare DSH target adjustment for hospitals in territories.

##### Subtitle B—Part B

Sec. 211. Eliminating late enrollment penalties under part B of the Medicare program for certain individuals residing in Puerto Rico.

##### Subtitle C—Medicare Advantage (Part C)

Sec. 221. Adjustment in benchmark for low-base payment counties in Puerto Rico.

##### Subtitle D—Part D

Sec. 231. Automatic eligibility of certain low-income territorial residents for premium and cost-sharing subsidies under the Medicare program; sunset of enhanced allotment program.

#### TITLE III—MISCELLANEOUS

Sec. 301. Medicaid and CHIP territory transparency and information.

Sec. 302. Report on exclusion of territories from Exchanges.

Sec. 303. Access to coverage for individuals in certain areas without any available Exchange plans.

## **TITLE I—MEDICAID**

### **4 SEC. 101. ELIMINATION OF GENERAL MEDICAID FUNDING 5 LIMITATIONS (“CAP”) FOR TERRITORIES.**

6 (a) IN GENERAL.—Section 1108 of the Social Security Act (42 U.S.C. 1308) is amended—  
 7

1           (1) in subsection (f), in the matter preceding  
2           paragraph (1), by striking “subsections (g) and (h)”  
3           and inserting “subsections (g), (h), and (i)”;

4           (2) in subsection (g)(2), in the matter pre-  
5           ceding subparagraph (A), by inserting “subsection  
6           (i) and” after “subject to”; and

7           (3) by adding at the end the following new sub-  
8           section:

9           “(i) SUNSET OF MEDICAID FUNDING LIMITATIONS  
10          FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE  
11          NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA.—  
12          Subsections (f) and (g) shall not apply to Puerto Rico,  
13          the Virgin Islands, Guam, the Northern Mariana Islands,  
14          and American Samoa beginning with fiscal year 2022.”.

15          (b) CONFORMING AMENDMENTS.—

16               (1) Section 1902(j) of the Social Security Act  
17               (42 U.S.C. 1396a(j)) is amended by striking “, the  
18               limitation in section 1108(f),,”.

19               (2) Section 1903(u) of the Social Security Act  
20               (42 U.S.C. 1396b(u)) is amended by striking para-  
21               graph (4).

22               (c) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply beginning with fiscal year 2022.

1 **SEC. 102. ELIMINATION OF SPECIFIC FEDERAL MEDICAL**  
 2 **ASSISTANCE PERCENTAGE (FMAP) LIMITA-**  
 3 **TION FOR TERRITORIES.**

4 Section 1905(b) of the Social Security Act (42 U.S.C.  
 5 1396d(b)) is amended, in clause (2), by inserting “for fis-  
 6 cal years before fiscal year 2022” after “American  
 7 Samoa”.

8 **SEC. 103. PERMITTING MEDICAID DSH ALLOTMENTS FOR**  
 9 **TERRITORIES.**

10 Section 1923(f) of the Social Security Act (42 U.S.C.  
 11 1396r-4(f)) is amended—

12 (1) in paragraph (6), by adding at the end the  
 13 following new subparagraph:

14 “(C) TERRITORIES.—

15 “(i) FISCAL YEAR 2022.—For fiscal  
 16 year 2022, the DSH allotment for Puerto  
 17 Rico, the Virgin Islands, Guam, the North-  
 18 ern Mariana Islands, and American Samoa  
 19 shall bear the same ratio to \$300,000,000  
 20 as the ratio of the number of individuals  
 21 who are low-income or uninsured and re-  
 22 siding in such respective territory (as esti-  
 23 mated from time to time by the Secretary)  
 24 bears to the sums of the number of such  
 25 individuals residing in all of the territories.

1 “(ii) SUBSEQUENT FISCAL YEAR.—  
 2 For each subsequent fiscal year, the DSH  
 3 allotment for each such territory is subject  
 4 to an increase in accordance with para-  
 5 graph (3).”; and

6 (2) in paragraph (9), by inserting before the pe-  
 7 riod at the end the following: “, and includes, begin-  
 8 ning with fiscal year 2022, Puerto Rico, the Virgin  
 9 Islands, Guam, the Northern Mariana Islands, and  
 10 American Samoa”.

## 11 **TITLE II—MEDICARE**

### 12 **Subtitle A—Part A**

#### 13 **SEC. 201. CALCULATION OF MEDICARE DSH PAYMENTS FOR** 14 **IPPS HOSPITALS IN PUERTO RICO.**

15 Section 1886(d)(9)(D)(iii) of the Social Security Act  
 16 (42 U.S.C. 1395ww(d)(9)(D)(iii)) is amended to read as  
 17 follows:

18 “(iii) Subparagraph (F) (relating to  
 19 disproportionate share payments), includ-  
 20 ing application of subsection (r), except  
 21 that for this purpose—

22 “(I) the sum described in clause  
 23 (ii) of this subparagraph shall be sub-  
 24 stituted for the sum referred to in  
 25 paragraph (5)(F)(ii)(I); and

1 “(II) for discharges occurring on  
2 or after October 1, 2021, subclause  
3 (I) of paragraph (5)(F)(vi) shall be  
4 applied by substituting for the numer-  
5 ator described in such subclause the  
6 number of subsection (d) Puerto Rico  
7 hospital’s patient days for the cost re-  
8 porting period involved which were  
9 made up of patients who (for such  
10 days) were entitled to benefits under  
11 part A of this title and were—

12 “(aa) entitled to supple-  
13 mentary security income benefits  
14 (excluding any State supplemen-  
15 tation) under title XVI;

16 “(bb) eligible for medical as-  
17 sistance under a State plan  
18 under title XIX; or

19 “(cc) receiving aid or assist-  
20 ance under any plan of the State  
21 approved under title I, X, XIV,  
22 or XVI.”.

1 **SEC. 202. REBASING TARGET AMOUNT FOR HOSPITALS IN**  
2 **TERRITORIES.**

3 Section 1886(b)(3) of the Social Security Act (42  
4 U.S.C. 1395ww(b)(3)) is amended by adding at the end  
5 the following new subparagraph:

6 “(M)(i) For each cost reporting period be-  
7 ginning on or after October 1, 2021, in the case  
8 of a hospital located in a territory of the United  
9 States, there shall be substituted for the target  
10 amount otherwise determined under subpara-  
11 graph (A) the rebased target amount (as de-  
12 fined in clause (ii)), if such substitution results  
13 in an amount of payment under this section to  
14 the hospital for such period that is greater than  
15 the amount of payment that would be made  
16 under this section to the hospital for such pe-  
17 riod if this subparagraph were not to apply.

18 “(ii) For purposes of this subparagraph,  
19 the term ‘rebased target amount’ has the mean-  
20 ing given the term ‘target amount’ in subpara-  
21 graph (A), except that—

22 “(I) there shall be substituted for the  
23 preceding 12-month cost reporting period  
24 the 12-month cost reporting period begin-  
25 ning during fiscal year 2015 (or, at the op-

tion of the hospital, beginning during fiscal year 2017);

“(II) any reference in subparagraph (A)(i) to the ‘first such cost reporting period’ is deemed a reference to the first cost reporting period following the 12-month cost reporting period beginning during fiscal year 2015 (or, at the option of the hospital, beginning during fiscal year 2017); and

“(III) the applicable percentage increase shall only be applied under subparagraph (B)(ii) for cost reporting periods beginning on or after October 1, 2021.

“(iii) Nothing in this subparagraph shall affect any request by a hospital for a new target amount for any cost reporting period beginning during a fiscal year after fiscal year 2021.”.

**SEC. 203. MEDICARE DSH TARGET ADJUSTMENT FOR HOSPITALS IN TERRITORIES.**

Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)), as amended by section 202, is further amended by adding at the end the following new subparagraph:



1 “(N)(i) For each cost reporting period be-  
2 ginning on or after October 1, 2021, in the case  
3 of a hospital that is located in a territory of the  
4 United States other than Puerto Rico and that  
5 would be a subsection (d) hospital if it were lo-  
6 cated in one of the 50 States, the target  
7 amount shall be increased by—

8 “(I) in the case that such hospital has  
9 a disproportionate patient percentage of  
10 not less than 15 percent and not greater  
11 than 40 percent, 10 percent; and

12 “(II) in the case that such hospital  
13 has a disproportionate patient percentage  
14 of greater than 40 percent, 10 percent plus  
15 60 percent of the number of percentage  
16 points by which such hospital’s dispropor-  
17 tionate patient percentage exceeds 40 per-  
18 cent.

19 “(ii) For purposes of this subparagraph,  
20 the term ‘disproportionate patient percentage’  
21 has the meaning given such term in subsection  
22 (d)(5)(F)(vi), except that in applying such  
23 meaning any reference under such subsection to  
24 individuals entitled to supplementary security  
25 income under title XVI shall be deemed for pur-

1           poses of this subparagraph to include individ-  
2           uals—

3                   “(I) eligible for medical assistance  
4                   under a State plan under title XIX; or

5                   “(II) receiving aid or assistance under  
6                   any plan of the territory approved under  
7                   title I, X, XIV, or XVI.”.

## 8                   **Subtitle B—Part B**

### 9   **SEC. 211. ELIMINATING LATE ENROLLMENT PENALTIES** 10                   **UNDER PART B OF THE MEDICARE PROGRAM** 11                   **FOR CERTAIN INDIVIDUALS RESIDING IN** 12                   **PUERTO RICO.**

13           (a) IN GENERAL.—Section 1839(b) of the Social Se-  
14   curity Act (42 U.S.C. 1395r(b)) is amended in the second  
15   sentence by inserting “or months occurring in the 5-year  
16   period beginning on the date on which the individual be-  
17   comes entitled to benefits under part A if such individual  
18   was residing in Puerto Rico as of such date and such date  
19   is after the date that is 4 years before the date of the  
20   enactment of the Territories Health Equity Act of 2021”  
21   before the period at the end of such sentence.

22           (b) APPLICATION.—The amendment made by sub-  
23   section (a) shall apply with respect to premiums paid for  
24   months beginning on or after the date of the enactment  
25   of this Act.

**Subtitle C—Medicare Advantage**  
**(Part C)**

**SEC. 221. ADJUSTMENT IN BENCHMARK FOR LOW-BASE**  
**PAYMENT COUNTIES IN PUERTO RICO.**

Section 1853(n) of the Social Security Act (42 U.S.C. 1395w-23(n)) is amended—

(1) in paragraph (1), by striking “and (5)” and inserting “(5), and (6)”;

(2) in paragraph (4), by striking “In no case” and inserting “Subject to paragraph (6), in no case”; and

(3) by adding at the end the following new paragraph:

“(6) SPECIAL RULES FOR BLENDED BENCHMARK AMOUNT FOR TERRITORIES.—

“(A) IN GENERAL.—Subject to paragraph (2), the blended benchmark amount for an area in a territory for a year (beginning with 2022) shall not be less than 80 percent of the national average of the base payment amounts specified in subparagraph (2)(E) for such year for areas within the 50 States and the District of Columbia.

“(B) LIMITATION.—In no case shall the blended benchmark amount for an area in a

territory for a year under subparagraph (A) exceed the lowest blended benchmark amount for any area within the 50 States and the District of Columbia for such year.”.

## **Subtitle D—Part D**

### **SEC. 231. AUTOMATIC ELIGIBILITY OF CERTAIN LOW-IN-COME TERRITORIAL RESIDENTS FOR PREMIUM AND COST-SHARING SUBSIDIES UNDER THE MEDICARE PROGRAM; SUNSET OF ENHANCED ALLOTMENT PROGRAM.**

(a) AUTOMATIC ELIGIBILITY OF CERTAIN LOW-IN-COME TERRITORIAL RESIDENTS FOR PREMIUM AND COST-SHARING SUBSIDIES UNDER THE MEDICARE PROGRAM.—

(1) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(A) in subparagraph (B)(v)—

(i) in subclause (I), by striking “and” at the end;

(ii) in subclause (II), by striking the period and inserting “; and”; and

(iii) by inserting after subclause (II) the following new subclause:

1 “(III) with respect to plan years  
2 beginning on or after January 1,  
3 2022, shall provide that any part D  
4 eligible individual who is enrolled for  
5 medical assistance under the State  
6 Medicaid plan of a territory (as de-  
7 fined in section 1935(f)) under title  
8 XIX (or a waiver of such a plan) shall  
9 be treated as a subsidy eligible indi-  
10 vidual described in paragraph (1).”;  
11 and

12 (B) in subparagraph (F), by adding at the  
13 end the following new sentence: “The previous  
14 sentence shall not apply with respect to eligi-  
15 bility determinations for premium and cost-  
16 sharing subsidies under this section made on or  
17 after January 1, 2022.”.

18 (2) CONFORMING AMENDMENT.—Section  
19 1860D–31(j)(2)(D) of the Social Security Act (42  
20 U.S.C. 1395w–141(j)(2)(D)) is amended by adding  
21 at the end the following new sentence: “The previous  
22 sentence shall not apply with respect to amounts  
23 made available to a State under this paragraph on  
24 or after January 1, 2022.”.

1 (b) SUNSET OF ENHANCED ALLOTMENT PRO-  
2 GRAM.—

3 (1) IN GENERAL.—Section 1935(e) of the So-  
4 cial Security Act (42 U.S.C. 1396u–5(e)) is amend-  
5 ed—

6 (A) in paragraph (1)(A), by inserting after  
7 “such State” the following: “before January 1,  
8 2022”; and

9 (B) in paragraph (3)—

10 (i) in subparagraph (A), in the matter  
11 preceding clause (i), by inserting after “a  
12 year” the following: “(before 2022)”; and

13 (ii) in subparagraph (B)(iii), by strik-  
14 ing “a subsequent year” and inserting  
15 “each of fiscal years 2008 through 2021”.

16 (2) TERRITORY DEFINED.—Section 1935 of the  
17 Social Security Act (42 U.S.C. 1396u–5) is amended  
18 by adding at the end the following new subsection:

19 “(f) TERRITORY DEFINED.—In this section, the term  
20 ‘territory’ means Puerto Rico, the Virgin Islands, Guam,  
21 the Northern Mariana Islands, and American Samoa.”.

1       **TITLE III—MISCELLANEOUS**

2       **SEC. 301. MEDICAID AND CHIP TERRITORY TRANSPARENCY**  
3               **AND INFORMATION.**

4           (a) PUBLICATION OF INFORMATION ON FEDERAL  
5 EXPENDITURES UNDER MEDICAID AND CHIP IN THE  
6 TERRITORIES.—Not later than 180 days after the date  
7 of the enactment of this Act, the Secretary of Health and  
8 Human Services shall publish, and periodically update, on  
9 the internet site of the Centers for Medicare & Medicaid  
10 Services information on Medicaid and CHIP carried out  
11 in the territories of the United States. Such information  
12 shall include, with respect to each such territory—

13               (1) the income levels established by the terri-  
14 tory for purposes of eligibility of an individual to re-  
15 ceive medical assistance under Medicaid or child  
16 health assistance under CHIP;

17               (2) the number of individuals enrolled in Med-  
18 icaid and CHIP in such territory;

19               (3) any State plan amendments in effect to  
20 carry out Medicaid or CHIP in such territory;

21               (4) any waiver of the requirements of title XIX  
22 or title XXI issued by the Secretary to carry out  
23 Medicaid or CHIP in the territory, including a waiv-  
24 er under section 1115 of the Social Security Act (42  
25 U.S.C. 1315), any application for such a waiver, and

1 any documentation related to such application (in-  
2 cluding correspondence);

3 (5) the amount of the Federal and non-Federal  
4 share of expenditures under Medicaid and CHIP in  
5 such territory;

6 (6) the systems in place for the furnishing of  
7 health care items and services under Medicaid and  
8 CHIP in such territory;

9 (7) the design of CHIP in such territory; and

10 (8) other information regarding the carrying  
11 out of Medicaid and CHIP in the territory that is  
12 published on such internet site with respect to car-  
13 rying out Medicaid and CHIP in each State and the  
14 District of Columbia.

15 (b) DEFINITIONS.—In this section:

16 (1) CHIP.—The term “CHIP” means the  
17 State Children’s Health Insurance Program under  
18 title XXI of the Social Security Act.

19 (2) MEDICAID.—The term “Medicaid” means  
20 the Medicaid program under title XIX of the Social  
21 Security Act.

22 (3) TERRITORY.—The term “territory of the  
23 United States” includes Puerto Rico, the Virgin Is-  
24 lands of the United States, Guam, the Northern  
25 Mariana Islands, and American Samoa.



1 **SEC. 302. REPORT ON EXCLUSION OF TERRITORIES FROM**  
2 **EXCHANGES.**

3 (a) IN GENERAL.—Not later than February 1, 2022,  
4 the Secretary of Health and Human Services shall submit  
5 to Congress a report that details the adverse impacts in  
6 each territory from the practical exclusion of the terri-  
7 tories from the provisions of part II of subtitle D of title  
8 I of the Patient Protection and Affordable Care Act inso-  
9 far as such provisions provide for the establishment of an  
10 American Health Benefit Exchange or the administration  
11 of a federally facilitated Exchange in each State and in  
12 the District of Columbia for the purpose of making health  
13 insurance more affordable and accessible for individuals  
14 and small businesses.

15 (b) INFORMATION IN REPORT.—The report shall in-  
16 clude information on the following:

17 (1) An estimate of the total number of unin-  
18 sured and underinsured individuals residing in each  
19 territory with respect to health insurance coverage.

20 (2) A description of the number of health insur-  
21 ance issuers in each territory and the health insur-  
22 ance plans these issuers offer.

23 (3) An estimate of the number of individuals re-  
24 siding in each territory who are denied premium and  
25 cost-sharing assistance that would otherwise be  
26 available to them for obtaining health insurance cov-

erage through an Exchange if they resided in one of the 50 States or in the District of Columbia.

(4) An estimate of the amount of Federal assistance described in paragraph (3) that is not being made available to residents of each territory.

(5) An estimate of the number of small employers in each territory that would be eligible to purchase health insurance coverage through a Small Business Health Options Program (SHOP) Marketplace that would operate as part of an Exchange if the employers were in one of the 50 States or in the District of Columbia.

**SEC. 303. ACCESS TO COVERAGE FOR INDIVIDUALS IN CERTAIN AREAS WITHOUT ANY AVAILABLE EXCHANGE PLANS.**

Part 2 of subtitle D of title I of the Patient Protection and Affordable Care Act (42 U.S.C. 18031 et seq.) is amended by adding at the end the following:

**“SEC. 1314. ACCESS TO COVERAGE FOR INDIVIDUALS IN CERTAIN AREAS WITHOUT ANY AVAILABLE EXCHANGE PLANS.**

**“(a) IN GENERAL.—**

**“(1) COVERAGE THROUGH DC EXCHANGE.—**

Not later than 3 months after the date of enactment of this section, the Secretary, in consultation with

1 the Secretary of the Treasury and the Director of  
2 the Office of Personnel Management, shall establish  
3 a mechanism to ensure that, for any plan year be-  
4 ginning on or after the date described in subsection  
5 (c), any individual described in paragraph (2) has  
6 access to health insurance coverage which is at least  
7 as broad as the coverage available to Members of  
8 Congress and congressional staff (as defined in sec-  
9 tion 1312(d)(3)(D)) through the Exchange operating  
10 in the District of Columbia. Such individuals shall  
11 be eligible for any premium tax credit under section  
12 36B of the Internal Revenue Code of 1986, reduced  
13 cost sharing under section 1402, and advance deter-  
14 mination and payment of such credits or such reduc-  
15 tions under section 1412 to be administered by the  
16 Secretary, in consultation with the Secretary of the  
17 Treasury and the Director of the Office of Personnel  
18 Management. The District of Columbia, its resi-  
19 dents, and small businesses shall be held harmless  
20 from any increased costs resulting from the enact-  
21 ment of this section.

22 “(2) INDIVIDUAL DESCRIBED.—An individual  
23 described in this paragraph is any individual who—

24 “(A) is not eligible to enroll in an em-  
25 ployer-sponsored health plan (excluding such a

plan that would not be considered minimum essential coverage due to the application of subparagraph (C) of section 36B(c)(2) of the Internal Revenue Code of 1986 if such subparagraph applied to such plan); and

“(B) is a bona fide resident of any possession of the United States (as determined under section 937(a) of such Code) in which the Secretary certifies that no qualified health plan is offered through an Exchange established under this title.

“(3) POSSESSION OF THE UNITED STATES.—

For purposes of this section, the term ‘possession of the United States’ shall include such possessions as are specified in section 937(a)(1) of the Internal Revenue Code of 1986.

“(b) TREATMENT OF POSSESSIONS.—

“(1) PAYMENTS TO POSSESSIONS.—

“(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall periodically (but not less frequently than annually) pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (determined without regard to para-

graph (2)) with respect to taxable years beginning after the date described in subsection (c). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

“(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall periodically (but not less frequently than annually) pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of this section for any taxable years beginning after the date described in subsection (c) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

1           “(2) COORDINATION WITH CREDIT ALLOWED  
2           AGAINST UNITED STATES INCOME TAXES.—No cred-  
3           it shall be allowed against United States income  
4           taxes for any taxable year under section 36B of the  
5           Internal Revenue Code of 1986 to any person—

6                   “(A) to whom a credit is allowed against  
7           taxes imposed by the possession by reason of  
8           this section (determined without regard to this  
9           paragraph) for such taxable year, or

10                   “(B) who is eligible for a payment under  
11           a plan described in paragraph (1)(B) with re-  
12           spect to such taxable year.

13           “(3) MIRROR CODE TAX SYSTEM.—For pur-  
14           poses of this subsection, the term ‘mirror code tax  
15           system’ means, with respect to any possession of the  
16           United States, the income tax system of such posses-  
17           sion if the income tax liability of the residents of  
18           such possession under such system is determined by  
19           reference to the income tax laws of the United  
20           States as if such possession were the United States.

21           “(4) TREATMENT OF PAYMENTS.—For pur-  
22           poses of section 1324(b)(2) of title 31, United  
23           States Code, or any similar rule of law, the pay-  
24           ments under this subsection shall be treated in the  
25           same manner as a refund due from the credit al-

1       lowed under section 36B of the Internal Revenue  
2       Code of 1986.

3       “(c) DATE DESCRIBED.—The date described in this  
4       subsection is the date on which the Secretary establishes  
5       the mechanism described in subsection (a)(1).”.

○