

**SENATE, No. 3376**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED JUNE 26, 2017

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

“TrumpCare Nullification Act”; establishes “Affordable Health Care Fund” and State replacement taxes to replace federal taxes and funding provided under Affordable Care Act.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning funding for Medicaid services, designated as  
2 the TrumpCare Nullification Act, and supplementing Titles 30  
3 and 54 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. There is established in the Department of the Treasury a  
9 special, nonlapsing fund to be known as the "Affordable Health  
10 Care Fund." The fund shall be administered by the State Treasurer  
11 and shall be comprised of revenues collected pursuant to section 2  
12 of this act, such additional amounts as are appropriated by the  
13 Legislature, and any return on investment of money deposited in the  
14 fund.

15 b. All funds deposited in the fund shall be dedicated for the  
16 purpose of providing health care coverage under the Medicaid  
17 program for individuals who meet the eligibility criteria under  
18 sections 1902(a)(10)(A)(i)(VIII) of the federal Social Security Act  
19 (42 U.S.C. s.1396a) or as otherwise provided pursuant to the  
20 "Patient Protection and Affordable Care Act," Pub.L.111-148, as  
21 amended by the "Health Care and Education Reconciliation Act of  
22 2010," Pub.L.111-152, and any regulations adopted pursuant  
23 thereto as were in effect on January 1, 2017.

24  
25 2. a. There are hereby imposed State replacement taxes for the  
26 federal taxes imposed pursuant to the following sections of the  
27 "Patient Protection and Affordable Care Act," Pub.L.111-148, as  
28 amended by the "Health Care and Education Reconciliation Act of  
29 2010," Pub.L.111-152:

- 30 (1) Section 1402 (26 U.S.C. s.1411);  
31 (2) Section 9008;  
32 (3) Section 9010;  
33 (4) Section 9015 (26 U.S.C. s.3101(b)(2)); and  
34 (5) Section 10907 (26 U.S.C. s.5000B).

35 b. No State replacement tax under subsection a. of this section  
36 shall be imposed except in the event that the federal tax to be  
37 replaced is reduced, allowed to expire, or repealed by enactment of  
38 federal legislation on or after January 1, 2017.

39 c. Upon enactment of any federal legislation that reduces,  
40 allows to expire, or repeals any of the provisions of federal law  
41 described in subsection a. of this section, the State Treasurer shall,  
42 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
43 (C.52:14B-1 et seq.), immediately act to develop rules and  
44 regulations to administer State taxes that are to be imposed upon the  
45 same taxpayers, at the same rates, and in substantially the same  
46 fashion as the federal taxes to be replaced, subject to the  
47 jurisdictional limits of the taxation power of the State of New  
48 Jersey. A State replacement tax imposed under this section shall

1 take effect on the same date that the replaced federal tax is reduced,  
2 allowed to expire, or repealed.

3 d. All revenue collected pursuant to this section shall be  
4 deposited in the "Affordable Health Care Fund" established  
5 pursuant to section 1 of this act.

6  
7 3. The State Treasurer shall, in accordance with the  
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), adopt any rules and regulations as necessary to carry out the  
10 provisions section 2 of this act.

11  
12 4. This act shall take effect immediately.

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STATEMENT

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17 This bill, designated as the "TrumpCare Nullification Act,"  
18 provides for the State replacement of several federal taxes imposed  
19 under the federal Affordable Care Act (ACA), in the event that  
20 those taxes are reduced, allowed to expire, or repealed by enactment  
21 of federal legislation. The revenues collected from the new State  
22 taxes will be dedicated to maintaining the Medicaid expansion  
23 established through under the ACA. All of the taxes identified in  
24 the bill for replacement would be repealed under the "American  
25 Health Care Act," as that legislation was passed by the U.S. House  
26 of Representatives in May 2017.

27 The specific federal taxes to be replaced by State taxes under the  
28 bill are:

- 29
- 30 • The net investment income tax under 26 U.S.C. s.1411;
  - 31 • The tax on manufacture and importation of prescription  
32 medications under section 9008 of the ACA;
  - 33 • The health insurance providers' fee under section 9010 of the  
34 ACA;
  - 35 • The additional 0.9 percent payroll tax on high-income  
36 households under 26 U.S.C. s.3101(b)(2); and
  - 37 • The indoor tanning tax under 26 U.S.C. s.5000B.

38 Under the bill, no State replacement tax will be imposed except  
39 in the event that the federal tax to be replaced is reduced, allowed to  
40 expire, or repealed by enactment of federal legislation on or after  
41 January 1, 2017.

42 Upon enactment of any federal legislation that reduces, allows to  
43 expire, or repeals any of the listed federal taxes, the State Treasurer  
44 will be required to immediately act to develop rules and regulations  
45 to administer State taxes that are to be imposed upon the same  
46 taxpayers, at the same rates, and in substantially the same fashion as  
47 the federal taxes to be replaced, subject to the jurisdictional limits  
of the taxation power of the State of New Jersey. A State

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1 replacement tax will take effect on the same date that the replaced  
2 federal tax is reduced, allowed to expire, or repealed.

3 All revenue collected under the bill will be deposited in the  
4 "Affordable Health Care Fund," established pursuant to the bill. All  
5 funds deposited in the fund are dedicated for the purpose of  
6 providing health care coverage under the Medicaid program for  
7 individuals who meet the eligibility criteria for the ACA Medicaid  
8 expansion (generally, adults whose household income is under 138  
9 percent of the federal poverty level). There are currently  
10 approximately 550,000 New Jersey residents receiving Medicaid  
11 coverage under the ACA expansion, whose coverage costs would be  
12 eligible for significantly less federal funding if the "American  
13 Health Care Act" or similar federal legislation is enacted.