

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5458  
OFFERED BY MR. BRADY OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans TRICARE  
3 Choice Act of 2016”.

**4 SEC. 2. COORDINATION BETWEEN TRICARE PROGRAM AND  
5 ELIGIBILITY TO MAKE CONTRIBUTIONS TO  
6 HEALTH SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Section 223(c)(1)(B) of the Inter-  
8 nal Revenue Code of 1986 is amended by striking “and”  
9 at the end of clause (ii), by striking the period at the end  
10 of clause (iii) and inserting “, and”, and by adding at the  
11 end the following new clause:

12 “(iv) coverage under the TRICARE  
13 program under chapter 55 of title 10,  
14 United States Code, for any period with  
15 respect to which an election is in effect  
16 under section 1097e of such title providing  
17 that the individual is ineligible to be en-

1                   rolled in (and receive benefits under) such  
2                   program.”.

3           (b) PROVISIONS RELATING TO ELECTION OF INELI-  
4 GIBILITY UNDER TRICARE.—

5           (1) IN GENERAL.—Chapter 55 of title 10,  
6           United States Code, is amended by inserting after  
7           section 1097d the following new section:

8           **“§ 1097e. TRICARE program: election of eligibility**

9           “(a) ELECTION.—Beginning January 1, 2017, a  
10           TRICARE-eligible individual may elect at any time to be  
11           ineligible to enroll in (and receive any benefits under) the  
12           TRICARE program.

13           “(b) CHANGE OF ELECTION.—(1) If a TRICARE-eli-  
14           gible individual makes an election under subsection (a),  
15           the TRICARE-eligible individual may later elect to be eli-  
16           gible to enroll in the TRICARE program. An election  
17           made under this subsection may be made only during a  
18           special enrollment period.

19           “(2) The Secretary shall ensure that a TRICARE-  
20           eligible individual who makes an election under subsection  
21           (a) may efficiently enroll in the TRICARE program pur-  
22           suant to an election under paragraph (1), including by  
23           maintaining the individual, as appropriate, in the health  
24           care enrollment system under section 1099 of this title in  
25           an inactive manner.

1       “(c) PERIOD OF ELECTION.—If a TRICARE-eligible  
2 individual makes an election under subsection (a), such  
3 election shall be in effect beginning on the date of such  
4 election and ending on the date that such individual makes  
5 an election under subsection (b)(1) to enroll in the  
6 TRICARE program.

7       “(d) HEALTH SAVINGS ACCOUNT PARTICIPATION.—  
8 (1) For provisions allowing participation in a health sav-  
9 ings account in connection with coverage under a high de-  
10 ductible health plan during the period that the election  
11 under subsection (a) is in effect, see section  
12 223(c)(1)(B)(iv) of the Internal Revenue Code of 1986.

13       “(2) The Secretary shall submit to the Commissioner  
14 of Internal Revenue the name of, and any other informa-  
15 tion that the Commissioner may require with respect to,  
16 each TRICARE-eligible individual who makes an election  
17 under subsection (a) or (b), not later than 90 days after  
18 such election, for purposes of determining the eligibility  
19 of such TRICARE-eligible individual for a health savings  
20 account described in paragraph (1).

21       “(e) RECORDS.—The Secretary shall ensure that a  
22 TRICARE-eligible individual who makes an election under  
23 subsection (a) is maintained on the Defense Enrollment  
24 Eligibility Reporting System, or successor system, regard-

1 less of whether the individual is eligible for the TRICARE  
2 program during the period of such election.

3 “(f) PROVISION OF INFORMATION.—The Secretary  
4 shall provide to each TRICARE-eligible individual who  
5 seeks to make an election under subsection (a) information  
6 regarding—

7 “(1) health savings accounts in connection with  
8 coverage under a high deductible health plan de-  
9 scribed in subsection (d)(1), including a comparison  
10 of such health saving accounts and the health care  
11 benefits the individual is eligible to receive under the  
12 TRICARE program; and

13 “(2) changing such an election under subsection  
14 (b)(1).

15 “(g) ANNUAL REPORT.—Not later than 60 days after  
16 the end of each fiscal year, the Secretary shall submit to  
17 the congressional defense committees a report on elections  
18 by TRICARE-eligible individuals under this section that  
19 includes the following:

20 “(1) The number of TRICARE-eligible individ-  
21 uals, as of the date of the submittal of the report,  
22 who are ineligible to enroll in (and receive any bene-  
23 fits under) the TRICARE program pursuant to an  
24 election under subsection (a).

1           “(2) The number of TRICARE-eligible individ-  
2           uals who made an election described under sub-  
3           section (a) but, as of the date of the submittal of the  
4           report, are enrolled in the TRICARE program pur-  
5           suant to a change of election under subsection (b).

6           “(h) DEFINITIONS.—In this section:

7           “(1) The term ‘TRICARE-eligible individual’  
8           means an individual who is—

9                   “(A) eligible to be a covered beneficiary en-  
10                  titled to health care benefits under the  
11                  TRICARE program (determined without regard  
12                  to this section); and

13                   “(B) not serving on active duty in the uni-  
14                  formed services.

15           “(2) The term ‘special enrollment period’ means  
16           the period in which a beneficiary under the Federal  
17           Employees Health Benefits program under chapter  
18           89 of title 5 may enroll in or change a plan under  
19           such program by reason of a qualifying event or dur-  
20           ing an open enrollment season. For purposes of this  
21           section, such qualifying events shall also include  
22           events determined appropriate by the Secretary of  
23           Defense, including events relating to a member of  
24           the armed forces being ordered to active duty.”.

1           (2) CONFORMING AMENDMENT.—The table of  
2           sections at the beginning of chapter 55 of such title  
3           is amended by inserting after the item relating to  
4           section 1097d the following new item:

“1097e. TRICARE program: election of eligibility.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
6           subsection (a) shall apply to months beginning after De-  
7           cember 31, 2016.

