

106TH CONGRESS
1ST SESSION

S. 10

To provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. CLELAND, Mr. HARKIN, Mr. SARBANES, Mr. KENNEDY, Mrs. BOXER, Mr. DURBIN, Mr. ROCKEFELLER, Mr. DODD, Mr. BRYAN, Mr. JOHNSON, Mr. KOHL, Mr. KERRY, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

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 “Health Protection and Assistance For Older Americans
6 Act of 1999”.

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

Sec. 1. Short title; table of contents.

TITLE I—HEALTH CARE COVERAGE CHOICES FOR 55 TO 65 YEAR
 OLDS

Subtitle A—Access to Medicare Benefits for Individuals 62-to-65 Years of
 Age

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

“PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS
 AGE 62-TO-65 YEARS OF AGE

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

“Sec. 1859D. Medicare Early Access Trust Fund.

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.”.

Subtitle B—Access to Medicare Benefits for Displaced Workers 55-to-62
 Years of Age

Sec. 111. Access to medicare benefits for displaced workers 55-to-62 years of
 age.

Subtitle C—COBRA Protection for Early Retirees

CHAPTER 1—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME
 SECURITY ACT OF 1974

Sec. 121. COBRA continuation benefits for certain retired workers who lose re-
 tiree health coverage.

CHAPTER 2—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Sec. 125. COBRA continuation benefits for certain retired workers who lose re-
 tiree health coverage.

CHAPTER 3—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 131. COBRA continuation benefits for certain retired workers who lose re-
 tiree health coverage.

TITLE II—EXPANSION OF LONG-TERM CARE PROTECTION

Sec. 201. Long-term care tax credit.

Sec. 202. Federal employees group long-term care insurance.

TITLE III—REAUTHORIZATION OF THE OLDER AMERICANS ACT
 OF 1965

Sec. 301. Authorizations of appropriations.

Sec. 302. National family caregiver support program.

Sec. 303. Allotments.

Sec. 304. Availability of title III-D funds for reallocation.

Sec. 305. Conforming amendments.

Sec. 306. Effective date.

1 **TITLE I—HEALTH CARE COV-**
 2 **ERAGE CHOICES FOR 55 TO 65**
 3 **YEAR OLDS**

4 **Subtitle A—Access to Medicare**
 5 **Benefits for Individuals 62-to-65**
 6 **Years of Age**

7 **SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVID-**
 8 **UALS 62-TO-65 YEARS OF AGE.**

9 (a) IN GENERAL.—Title XVIII of the Social Security
 10 Act is amended—

11 (1) by redesignating section 1859 and part D
 12 as section 1858 and part E, respectively; and

13 (2) by inserting after such section the following
 14 new part:

15 “PART D—PURCHASE OF MEDICARE BENEFITS BY
 16 CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

17 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

18 “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR
 19 ENROLLED INDIVIDUALS.—

20 “(1) IN GENERAL.—An individual enrolled
 21 under this part is entitled to the same benefits
 22 under this title as an individual entitled to benefits
 23 under part A and enrolled under part B.

1 “(2) DEFINITIONS.—For purposes of this part:

2 “(A) FEDERAL OR STATE COBRA CONTINU-
3 ATION PROVISION.—The term ‘Federal or State
4 COBRA continuation provision’ has the mean-
5 ing given the term ‘COBRA continuation provi-
6 sion’ in section 2791(d)(4) of the Public Health
7 Service Act and includes a comparable State
8 program, as determined by the Secretary.

9 “(B) FEDERAL HEALTH INSURANCE PRO-
10 GRAM DEFINED.—The term ‘Federal health in-
11 surance program’ means any of the following:

12 “(i) MEDICARE.—Part A or part B of
13 this title (other than by reason of this
14 part).

15 “(ii) MEDICAID.—A State plan under
16 title XIX.

17 “(iii) FEHBP.—The Federal employ-
18 ees health benefit program under chapter
19 89 of title 5, United States Code.

20 “(iv) TRICARE.—The TRICARE
21 program (as defined in section 1072(7) of
22 title 10, United States Code).

23 “(v) ACTIVE DUTY MILITARY.—Health
24 benefits under title 10, United States

1 Code, to an individual as a member of the
2 uniformed services of the United States.

3 “(C) GROUP HEALTH PLAN.—The term
4 ‘group health plan’ has the meaning given such
5 term in section 2791(a)(1) of the Public Health
6 Service Act.

7 “(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65
8 YEARS OF AGE.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 an individual who meets the following requirements
11 with respect to a month is eligible to enroll under
12 this part with respect to such month:

13 “(A) AGE.—As of the last day of the
14 month, the individual has attained 62 years of
15 age, but has not attained 65 years of age.

16 “(B) MEDICARE ELIGIBILITY (BUT FOR
17 AGE).—The individual would be eligible for ben-
18 efits under part A or part B for the month if
19 the individual were 65 years of age.

20 “(C) NOT ELIGIBLE FOR COVERAGE
21 UNDER GROUP HEALTH PLANS OR FEDERAL
22 HEALTH INSURANCE PROGRAMS.—The individ-
23 ual is not eligible for benefits or coverage under
24 a Federal health insurance program (as defined
25 in subsection (a)(2)(B)) or under a group

1 health plan (other than such eligibility merely
2 through a Federal or State COBRA continu-
3 ation provision) as of the last day of the month
4 involved.

5 “(2) LIMITATION ON ELIGIBILITY IF TERMI-
6 NATED ENROLLMENT.—If an individual described in
7 paragraph (1) enrolls under this part and coverage
8 of the individual is terminated under section
9 1859A(d) (other than because of age), the individual
10 is not again eligible to enroll under this subsection
11 unless the following requirements are met:

12 “(A) NEW COVERAGE UNDER GROUP
13 HEALTH PLAN OR FEDERAL HEALTH INSUR-
14 ANCE PROGRAM.—After the date of termination
15 of coverage under such section, the individual
16 obtains coverage under a group health plan or
17 under a Federal health insurance program.

18 “(B) SUBSEQUENT LOSS OF NEW COV-
19 ERAGE.—The individual subsequently loses eli-
20 gibility for the coverage described in subpara-
21 graph (A) and exhausts any eligibility the indi-
22 vidual may subsequently have for coverage
23 under a Federal or State COBRA continuation
24 provision.

1 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
2 DOES NOT AFFECT COVERAGE.—In the case of an
3 individual who is eligible for and enrolls under this
4 part under this subsection, the individual’s continued
5 entitlement to benefits under this part shall not be
6 affected by the individual’s subsequent eligibility for
7 benefits or coverage described in paragraph (1)(C),
8 or entitlement to such benefits or coverage.

9 **“SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.**

10 “(a) IN GENERAL.—An individual may enroll in the
11 program established under this part only in such manner
12 and form as may be prescribed by regulations, and only
13 during an enrollment period prescribed by the Secretary
14 consistent with the provisions of this section. Such regula-
15 tions shall provide a process under which—

16 “(1) individuals eligible to enroll as of a month
17 are permitted to pre-enroll during a prior month
18 within an enrollment period described in subsection
19 (b); and

20 “(2) each individual seeking to enroll under sec-
21 tion 1859(b) is notified, before enrolling, of the de-
22 ferred monthly premium amount the individual will
23 be liable for under section 1859C(b) upon attaining
24 65 years of age as determined under section
25 1859B(c)(3).

1 “(b) ENROLLMENT PERIODS.—

2 “(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In
3 the case of individuals eligible to enroll under this
4 part under section 1859(b)—

5 “(A) INITIAL ENROLLMENT PERIOD.—If
6 the individual is eligible to enroll under such
7 section for July 2000, the enrollment period
8 shall begin on May 1, 2000, and shall end on
9 August 31, 2000. Any such enrollment before
10 July 1, 2000, is conditioned upon compliance
11 with the conditions of eligibility for July 2000.

12 “(B) SUBSEQUENT PERIODS.—If the indi-
13 vidual is eligible to enroll under such section for
14 a month after July 2000, the enrollment period
15 shall begin on the first day of the second month
16 before the month in which the individual first is
17 eligible to so enroll and shall end 4 months
18 later. Any such enrollment before the first day
19 of the third month of such enrollment period is
20 conditioned upon compliance with the condi-
21 tions of eligibility for such third month.

22 “(2) AUTHORITY TO CORRECT FOR GOVERN-
23 MENT ERRORS.—The provisions of section 1837(h)
24 apply with respect to enrollment under this part in

1 the same manner as they apply to enrollment under
2 part B.

3 “(c) DATE COVERAGE BEGINS.—

4 “(1) IN GENERAL.—The period during which
5 an individual is entitled to benefits under this part
6 shall begin as follows, but in no case earlier than
7 July 1, 2000:

8 “(A) In the case of an individual who en-
9 rolls (including pre-enrolls) before the month in
10 which the individual satisfies eligibility for en-
11 rollment under section 1859, the first day of
12 such month of eligibility.

13 “(B) In the case of an individual who en-
14 rolls during or after the month in which the in-
15 dividual first satisfies eligibility for enrollment
16 under such section, the first day of the follow-
17 ing month.

18 “(2) AUTHORITY TO PROVIDE FOR PARTIAL
19 MONTHS OF COVERAGE.—Under regulations, the
20 Secretary may, in the Secretary’s discretion, provide
21 for coverage periods that include portions of a
22 month in order to avoid lapses of coverage.

23 “(3) LIMITATION ON PAYMENTS.—No payments
24 may be made under this title with respect to the ex-
25 penses of an individual enrolled under this part un-

1 less such expenses were incurred by such individual
2 during a period which, with respect to the individual,
3 is a coverage period under this section.

4 “(d) TERMINATION OF COVERAGE.—

5 “(1) IN GENERAL.—An individual’s coverage
6 period under this part shall continue until the indi-
7 vidual’s enrollment has been terminated at the earli-
8 est of the following:

9 “(A) GENERAL PROVISIONS.—

10 “(i) NOTICE.—The individual files no-
11 tice (in a form and manner prescribed by
12 the Secretary) that the individual no
13 longer wishes to participate in the insur-
14 ance program under this part.

15 “(ii) NONPAYMENT OF PREMIUMS.—
16 The individual fails to make payment of
17 premiums required for enrollment under
18 this part.

19 “(iii) MEDICARE ELIGIBILITY.—The
20 individual becomes entitled to benefits
21 under part A or enrolled under part B
22 (other than by reason of this part).

23 “(B) TERMINATION BASED ON AGE.—The
24 individual attains 65 years of age.

25 “(2) EFFECTIVE DATE OF TERMINATION.—

1 “(A) NOTICE.—The termination of a cov-
2 erage period under paragraph (1)(A)(i) shall
3 take effect at the close of the month following
4 for which the notice is filed.

5 “(B) NONPAYMENT OF PREMIUM.—The
6 termination of a coverage period under para-
7 graph (1)(A)(ii) shall take effect on a date de-
8 termined under regulations, which may be de-
9 termined so as to provide a grace period in
10 which overdue premiums may be paid and cov-
11 erage continued. The grace period determined
12 under the preceding sentence shall not exceed
13 60 days; except that it may be extended for an
14 additional 30 days in any case where the Sec-
15 retary determines that there was good cause for
16 failure to pay the overdue premiums within
17 such 60-day period.

18 “(C) AGE OR MEDICARE ELIGIBILITY.—
19 The termination of a coverage period under
20 paragraph (1)(A)(iii) or (1)(B) shall take effect
21 as of the first day of the month in which the
22 individual attains 65 years of age or becomes
23 entitled to benefits under part A or enrolled for
24 benefits under part B (other than by reason of
25 this part).

1 **“SEC. 1859B. PREMIUMS.**

2 “(a) AMOUNT OF MONTHLY PREMIUMS.—

3 “(1) BASE MONTHLY PREMIUMS.—The Sec-
4 retary shall, during September of each year (begin-
5 ning with 1999), determine the following premium
6 rates which shall apply with respect to coverage pro-
7 vided under this title for any month in the succeed-
8 ing year:

9 “(A) BASE MONTHLY PREMIUM FOR INDI-
10 VIDUALS 62 YEARS OF AGE OR OLDER.—A base
11 monthly premium for individuals 62 years of
12 age or older is equal to $\frac{1}{12}$ of the base annual
13 premium rate computed under subsection (b)
14 for each premium area.

15 “(B) DEFERRED MONTHLY PREMIUMS FOR
16 INDIVIDUALS 62 YEARS OF AGE OR OLDER.—
17 The Secretary shall, during September of each
18 year (beginning with 1999), determine under
19 subsection (c) the amount of deferred monthly
20 premiums that shall apply with respect to indi-
21 viduals who first obtain coverage under this
22 part under section 1859(b) in the succeeding
23 year.

24 “(3) ESTABLISHMENT OF PREMIUM AREAS.—
25 For purposes of this part, the term ‘premium area’
26 means such an area as the Secretary shall specify to

1 carry out this part. The Secretary from time to time
2 may change the boundaries of such premium areas.
3 The Secretary shall seek to minimize the number of
4 such areas specified under this paragraph.

5 “(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62
6 YEARS OF AGE OR OLDER.—

7 “(1) NATIONAL, PER CAPITA AVERAGE.—The
8 Secretary shall estimate the average, annual per
9 capita amount that would be payable under this title
10 with respect to individuals residing in the United
11 States who meet the requirement of section
12 1859(b)(1)(A) as if all such individuals were eligible
13 for (and enrolled) under this title during the entire
14 year (and assuming that section 1862(b)(2)(A)(i)
15 did not apply).

16 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
17 retary shall reduce, as determined appropriate, the
18 amount determined under paragraph (1) for a pre-
19 mium area (specified under subsection (a)(3)) that
20 has costs below the national average, in order to as-
21 sure participation in all areas throughout the United
22 States.

23 “(3) BASE ANNUAL PREMIUM.—The base an-
24 nual premium under this subsection for months in a
25 year for individuals 62 years of age or older residing

1 in a premium area is equal to the average, annual
2 per capita amount estimated under paragraph (1)
3 for the year, adjusted for such area under paragraph
4 (2).

5 “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS
6 62 YEARS OF AGE OR OLDER.—The deferred premium
7 rate for individuals with a group of individuals who obtain
8 coverage under section 1859(b) in a year shall be com-
9 puted by the Secretary as follows:

10 “(1) ESTIMATION OF NATIONAL, PER CAPITA
11 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-
12 MENT GROUP.—The Secretary shall estimate the av-
13 erage, per capita annual amount that will be paid
14 under this part for individuals in such group during
15 the period of enrollment under section 1859(b). In
16 making such estimate for coverage beginning in a
17 year before 2004, the Secretary may base such esti-
18 mate on the average, per capita amount that would
19 be payable if the program had been in operation over
20 a previous period of at least 4 years.

21 “(2) DIFFERENCE BETWEEN ESTIMATED EX-
22 PENDITURES AND ESTIMATED PREMIUMS.—Based
23 on the characteristics of individuals in such group,
24 the Secretary shall estimate during the period of

1 coverage of the group under this part under section
2 1859(b) the amount by which—

3 “(A) the amount estimated under para-
4 graph (1); exceeds

5 “(B) the average, annual per capita
6 amount of premiums that will be payable for
7 months during the year under section 1859C(a)
8 for individuals in such group (including pre-
9 miums that would be payable if there were no
10 terminations in enrollment under clause (i) or
11 (ii) of section 1859A(d)(1)(A)).

12 “(3) ACTUARIAL COMPUTATION OF DEFERRED
13 MONTHLY PREMIUM RATES.—The Secretary shall
14 determine deferred monthly premium rates for indi-
15 viduals in such group in a manner so that—

16 “(A) the estimated actuarial value of such
17 premiums payable under section 1859C(b), is
18 equal to

19 “(B) the estimated actuarial present value
20 of the differences described in paragraph (2).

21 Such rate shall be computed for each individual in
22 the group in a manner so that the rate is based on
23 the number of months between the first month of
24 coverage based on enrollment under section 1859(b)

1 and the month in which the individual attains 65
2 years of age.

3 “(4) DETERMINANTS OF ACTUARIAL PRESENT
4 VALUES.—The actuarial present values described in
5 paragraph (3) shall reflect—

6 “(A) the estimated probabilities of survival
7 at ages 62 through 84 for individuals enrolled
8 during the year; and

9 “(B) the estimated effective average inter-
10 est rates that would be earned on investments
11 held in the trust funds under this title during
12 the period in question.

13 **“SEC. 1859C. PAYMENT OF PREMIUMS.**

14 “(a) PAYMENT OF BASE MONTHLY PREMIUM.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 for payment and collection of the base monthly pre-
17 mium, determined under section 1859B(a)(1) for the
18 age (and age cohort, if applicable) of the individual
19 involved and the premium area in which the individ-
20 ual principally resides, in the same manner as for
21 payment of monthly premiums under section 1840,
22 except that, for purposes of applying this section,
23 any reference in such section to the Federal Supple-
24 mentary Medical Insurance Trust Fund is deemed a

1 reference to the Trust Fund established under sec-
2 tion 1859D.

3 “(2) PERIOD OF PAYMENT.—In the case of an
4 individual who participates in the program estab-
5 lished by this title, the base monthly premium shall
6 be payable for the period commencing with the first
7 month of the individual’s coverage period and ending
8 with the month in which the individual’s coverage
9 under this title terminates.

10 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDI-
11 VIDUALS COVERED AFTER ATTAINING AGE 62.—

12 “(1) RATE OF PAYMENT.—

13 “(A) IN GENERAL.—In the case of an indi-
14 vidual who is covered under this part for a
15 month pursuant to an enrollment under section
16 1859(b), subject to subparagraph (B), the indi-
17 vidual is liable for payment of a deferred pre-
18 mium in each month during the period de-
19 scribed in paragraph (2) in an amount equal to
20 the full deferred monthly premium rate deter-
21 mined for the individual under section
22 1859B(c).

23 “(B) SPECIAL RULES FOR THOSE WHO
24 DISENROLL EARLY.—

1 “(i) IN GENERAL.—If such an individ-
2 ual’s enrollment under such section is ter-
3 minated under clause (i) or (ii) of section
4 1859A(d)(1)(A), subject to clause (ii), the
5 amount of the deferred premium otherwise
6 established under this paragraph shall be
7 pro-rated to reflect the number of months
8 of coverage under this part under such en-
9 rollment compared to the maximum num-
10 ber of months of coverage that the individ-
11 ual would have had if the enrollment were
12 not so terminated.

13 “(ii) ROUNDING TO 12-MONTH MINI-
14 MUM COVERAGE PERIODS.—In applying
15 clause (i), the number of months of cov-
16 erage (if not a multiple of 12) shall be
17 rounded to the next highest multiple of 12
18 months, except that in no case shall this
19 clause result in a number of months of
20 coverage exceeding the maximum number
21 of months of coverage that the individual
22 would have had if the enrollment were not
23 so terminated.

24 “(2) PERIOD OF PAYMENT.—The period de-
25 scribed in this paragraph for an individual is the pe-

1 riod beginning with the first month in which the in-
2 dividual has attained 65 years of age and ending
3 with the month before the month in which the indi-
4 vidual attains 85 years of age.

5 “(3) COLLECTION.—In the case of an individual
6 who is liable for a premium under this subsection,
7 the amount of the premium shall be collected in the
8 same manner as the premium for enrollment under
9 such part is collected under section 1840, except
10 that any reference in such section to the Federal
11 Supplementary Medical Insurance Trust Fund is
12 deemed to be a reference to the Medicare Early Ac-
13 cess Trust Fund established under section 1859D.

14 “(c) APPLICATION OF CERTAIN PROVISIONS.—The
15 provisions of section 1840 (other than subsection (h))
16 shall apply to premiums collected under this section in the
17 same manner as they apply to premiums collected under
18 part B, except that any reference in such section to the
19 Federal Supplementary Medical Insurance Trust Fund is
20 deemed a reference to the Trust Fund established under
21 section 1859D.

22 **“SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.**

23 “(a) ESTABLISHMENT OF TRUST FUND.—

24 “(1) IN GENERAL.—There is hereby created on
25 the books of the Treasury of the United States a

1 trust fund to be known as the ‘Medicare Early Ac-
2 cess Trust Fund’ (in this section referred to as the
3 ‘Trust Fund’). The Trust Fund shall consist of such
4 gifts and bequests as may be made as provided in
5 section 201(i)(1) and such amounts as may be de-
6 posited in, or appropriated to, such fund as provided
7 in this title.

8 “(2) PREMIUMS.—Premiums collected under
9 section 1859B shall be transferred to the Trust
10 Fund.

11 “(b) INCORPORATION OF PROVISIONS.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 subsections (b) through (i) of section 1841 shall
14 apply with respect to the Trust Fund and this title
15 in the same manner as they apply with respect to
16 the Federal Supplementary Medical Insurance Trust
17 Fund and part B, respectively.

18 “(2) MISCELLANEOUS REFERENCES.—In apply-
19 ing provisions of section 1841 under paragraph
20 (1)—

21 “(A) any reference in such section to ‘this
22 part’ is construed to refer to this part D;

23 “(B) any reference in section 1841(h) to
24 section 1840(d) and in section 1841(i) to sec-
25 tions 1840(b)(1) and 1842(g) are deemed ref-

1 erences to comparable authority exercised under
2 this part; and

3 “(C) payments may be made under section
4 1841(g) to the trust funds under sections 1817
5 and 1841 as reimbursement to such funds for
6 payments they made for benefits provided
7 under this part.

8 **“SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.**

9 “(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—
10 The Board of Trustees of the Medicare Early Access
11 Trust Fund under section 1859D(b)(1) shall report on an
12 annual basis to Congress concerning the status of the
13 Trust Fund and the need for adjustments in the program
14 under this part to maintain financial solvency of the pro-
15 gram under this part.

16 “(b) PERIODIC GAO REPORTS.—The Comptroller
17 General of the United States shall periodically submit to
18 Congress reports on the adequacy of the financing of cov-
19 erage provided under this part. The Comptroller General
20 shall include in such report such recommendations for ad-
21 justments in such financing and coverage as the Comptrol-
22 ler General deems appropriate in order to maintain finan-
23 cial solvency of the program under this part.

1 **“SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.**

2 “(a) TREATMENT FOR PURPOSES OF THIS TITLE.—

3 Except as otherwise provided in this part—

4 “(1) an individual enrolled under this part shall
5 be treated for purposes of this title as though the in-
6 dividual was entitled to benefits under part A and
7 enrolled under part B; and

8 “(2) benefits described in section 1859 shall be
9 payable under this title to such an individual in the
10 same manner as if such individual was so entitled
11 and enrolled.

12 “(b) NOT TREATED AS MEDICARE PROGRAM FOR
13 PURPOSES OF MEDICAID PROGRAM.—For purposes of ap-
14 plying title XIX (including the provision of medicare cost-
15 sharing assistance under such title), an individual who is
16 enrolled under this part shall not be treated as being enti-
17 tled to benefits under this title.

18 “(c) NOT TREATED AS MEDICARE PROGRAM FOR
19 PURPOSES OF COBRA CONTINUATION PROVISIONS.—In
20 applying a COBRA continuation provision (as defined in
21 section 2791(d)(4) of the Public Health Service Act), any
22 reference to an entitlement to benefits under this title
23 shall not be construed to include entitlement to benefits
24 under this title pursuant to the operation of this part.”.

25 (b) CONFORMING AMENDMENTS TO SOCIAL SECUR-
26 RITY ACT PROVISIONS.—

1 (1) Section 201(i)(1) of the Social Security Act
2 (42 U.S.C. 401(i)(1)) is amended by striking “or the
3 Federal Supplementary Medical Insurance Trust
4 Fund” and inserting “the Federal Supplementary
5 Medical Insurance Trust Fund, and the Medicare
6 Early Access Trust Fund”.

7 (2) Section 201(g)(1)(A) of such Act (42
8 U.S.C. 401(g)(1)(A)) is amended by striking “and
9 the Federal Supplementary Medical Insurance Trust
10 Fund established by title XVIII” and inserting “,
11 the Federal Supplementary Medical Insurance Trust
12 Fund, and the Medicare Early Access Trust Fund
13 established by title XVIII”.

14 (3) Section 1820(i) of such Act (42 U.S.C.
15 1395i-4(i)) is amended by striking “part D” and in-
16 serting “part E”.

17 (4) Part C of title XVIII of such Act is
18 amended—

19 (A) in section 1851(a)(2)(B) (42 U.S.C.
20 1395w-21(a)(2)(B)), by striking “1859(b)(3)”
21 and inserting “1858(b)(3)”;

22 (B) in section 1851(a)(2)(C) (42 U.S.C.
23 1395w-21(a)(2)(C)), by striking “1859(b)(2)”
24 and inserting “1858(b)(2)”;

1 (C) in section 1852(a)(1) (42 U.S.C.
2 1395w-22(a)(1)), by striking “1859(b)(3)” and
3 inserting “1858(b)(3)”;

4 (D) in section 1852(a)(3)(B)(ii) (42
5 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking
6 “1859(b)(2)(B)” and inserting
7 “1858(b)(2)(B)”;

8 (E) in section 1853(a)(1)(A) (42 U.S.C.
9 1395w-23(a)(1)(A)), by striking “1859(e)(4)”
10 and inserting “1858(e)(4)”;

11 (F) in section 1853(a)(3)(D) (42 U.S.C.
12 1395w-23(a)(3)(D)), by striking “1859(e)(4)”
13 and inserting “1858(e)(4)”.

14 (5) Section 1853(c) of such Act (42 U.S.C.
15 1395w-23(c)) is amended—

16 (A) in paragraph (1), by striking “or (7)”
17 and inserting “, (7), or (8)”, and

18 (B) by adding at the end the following:

19 “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-
20 plying this subsection with respect to individuals en-
21 titled to benefits under part D, the Secretary shall
22 provide for an appropriate adjustment in the
23 Medicare+Choice capitation rate as may be appro-
24 priate to reflect differences between the population

1 served under such part and the population under
2 parts A and B.”.

3 (c) OTHER CONFORMING AMENDMENTS.—

4 (1) Section 138(b)(4) of the Internal Revenue
5 Code of 1986 is amended by striking “1859(b)(3)”
6 and inserting “1858(b)(3)”.

7 (2)(A) Section 602(2)(D)(ii) of the Employee
8 Retirement Income Security Act of 1974 (29 U.S.C.
9 1162(2)) is amended by inserting “(not including an
10 individual who is so entitled pursuant to enrollment
11 under section 1859A)” after “Social Security Act”.

12 (B) Section 2202(2)(D)(ii) of the Public Health
13 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-
14 ed by inserting “(not including an individual who is
15 so entitled pursuant to enrollment under section
16 1859A)” after “Social Security Act”.

17 (C) Section 4980B(f)(2)(B)(i)(V) of the Inter-
18 nal Revenue Code of 1986 is amended by inserting
19 “(not including an individual who is so entitled pur-
20 suant to enrollment under section 1859A)” after
21 “Social Security Act”.

1 **Subtitle B—Access to Medicare**
 2 **Benefits for Displaced Workers**
 3 **55-to-62 Years of Age**

4 **SEC. 111. ACCESS TO MEDICARE BENEFITS FOR DISPLACED**
 5 **WORKERS 55-TO-62 YEARS OF AGE.**

6 (a) **ELIGIBILITY.**—Section 1859 of the Social Secu-
 7 rity Act, as inserted by section 101(a)(2), is amended by
 8 adding at the end the following new subsection:

9 “(c) **DISPLACED WORKERS AND SPOUSES.**—

10 “(1) **DISPLACED WORKERS.**—Subject to para-
 11 graph (3), an individual who meets the following re-
 12 quirements with respect to a month is eligible to en-
 13 roll under this part with respect to such month:

14 “(A) **AGE.**—As of the last day of the
 15 month, the individual has attained 55 years of
 16 age, but has not attained 62 years of age.

17 “(B) **MEDICARE ELIGIBILITY (BUT FOR**
 18 **AGE).**—The individual would be eligible for ben-
 19 efits under part A or B for the month if the in-
 20 dividual were 65 years of age.

21 “(C) **LOSS OF EMPLOYMENT-BASED COV-**
 22 **ERAGE.**—

23 “(i) **ELIGIBLE FOR UNEMPLOYMENT**
 24 **COMPENSATION.**—The individual meets the
 25 requirements relating to period of covered

1 employment and conditions of separation
2 from employment to be eligible for unem-
3 ployment compensation (as defined in sec-
4 tion 85(b) of the Internal Revenue Code of
5 1986), based on a separation from employ-
6 ment occurring on or after January 1,
7 1999. The previous sentence shall not be
8 construed as requiring the individual to be
9 receiving such unemployment compensa-
10 tion.

11 “(ii) LOSS OF EMPLOYMENT-BASED
12 COVERAGE.—Immediately before the time
13 of such separation of employment, the indi-
14 vidual was covered under a group health
15 plan on the basis of such employment, and,
16 because of such loss, is no longer eligible
17 for coverage under such plan (including
18 such eligibility based on the application of
19 a Federal or State COBRA continuation
20 provision) as of the last day of the month
21 involved.

22 “(iii) PREVIOUS CREDITABLE COV-
23 ERAGE FOR AT LEAST 1 YEAR.—As of the
24 date on which the individual loses coverage
25 described in clause (ii), the aggregate of

1 the periods of creditable coverage (as de-
2 termined under section 2701(c) of the
3 Public Health Service Act) is 12 months or
4 longer.

5 “(D) EXHAUSTION OF AVAILABLE COBRA
6 CONTINUATION BENEFITS.—

7 “(i) IN GENERAL.—In the case of an
8 individual described in clause (ii) for a
9 month described in clause (iii)—

10 “(I) the individual (or spouse)
11 elected coverage described in clause
12 (ii); and

13 “(II) the individual (or spouse)
14 has continued such coverage for all
15 months described in clause (iii) in
16 which the individual (or spouse) is eli-
17 gible for such coverage.

18 “(ii) INDIVIDUALS TO WHOM COBRA
19 CONTINUATION COVERAGE MADE AVAIL-
20 ABLE.—An individual described in this
21 clause is an individual—

22 “(I) who was offered coverage
23 under a Federal or State COBRA
24 continuation provision at the time of

1 loss of coverage eligibility described in
2 subparagraph (C)(ii); or

3 “(II) whose spouse was offered
4 such coverage in a manner that per-
5 mitted coverage of the individual at
6 such time.

7 “(iii) MONTHS OF POSSIBLE COBRA
8 CONTINUATION COVERAGE.—A month de-
9 scribed in this clause is a month for which
10 an individual described in clause (ii) could
11 have had coverage described in such clause
12 as of the last day of the month if the indi-
13 vidual (or the spouse of the individual, as
14 the case may be) had elected such coverage
15 on a timely basis.

16 “(E) NOT ELIGIBLE FOR COVERAGE
17 UNDER FEDERAL HEALTH INSURANCE PRO-
18 GRAM OR GROUP HEALTH PLANS.—The individ-
19 ual is not eligible for benefits or coverage under
20 a Federal health insurance program or under a
21 group health plan (whether on the basis of the
22 individual’s employment or employment of the
23 individual’s spouse) as of the last day of the
24 month involved.

1 “(2) SPOUSE OF DISPLACED WORKER.—Subject
2 to paragraph (3), an individual who meets the fol-
3 lowing requirements with respect to a month is eligi-
4 ble to enroll under this part with respect to such
5 month:

6 “(A) AGE.—As of the last day of the
7 month, the individual has not attained 62 years
8 of age.

9 “(B) MARRIED TO DISPLACED WORKER.—
10 The individual is the spouse of an individual at
11 the time the individual enrolls under this part
12 under paragraph (1) and loses coverage de-
13 scribed in paragraph (1)(C)(ii) because the in-
14 dividual’s spouse lost such coverage.

15 “(C) MEDICARE ELIGIBILITY (BUT FOR
16 AGE); EXHAUSTION OF ANY COBRA CONTINU-
17 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-
18 ERAGE UNDER FEDERAL HEALTH INSURANCE
19 PROGRAM OR GROUP HEALTH PLAN.—The indi-
20 vidual meets the requirements of subparagraphs
21 (B), (D), and (E) of paragraph (1).

22 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
23 AFFECTS CONTINUED ELIGIBILITY.—For provision
24 that terminates enrollment under this section in the
25 case of an individual who becomes eligible for cov-

1 erage under a group health plan or under a Federal
2 health insurance program, see section
3 1859A(d)(1)(C).

4 “(4) REENROLLMENT PERMITTED.—Nothing in
5 this subsection shall be construed as preventing an
6 individual who, after enrolling under this subsection,
7 terminates such enrollment from subsequently re-
8 enrolling under this subsection if the individual is el-
9 igible to enroll under this subsection at that time.”.

10 (b) ENROLLMENT.—Section 1859A of such Act, as
11 so inserted, is amended—

12 (1) in subsection (a), by striking “and” at the
13 end of paragraph (1), by striking the period at the
14 end of paragraph (2) and inserting “; and”, and by
15 adding at the end the following new paragraph:

16 “(3) individuals whose coverage under this part
17 would terminate because of subsection (d)(1)(B)(ii)
18 are provided notice and an opportunity to continue
19 enrollment in accordance with section
20 1859E(c)(1).”;

21 (2) in subsection (b), by inserting after Not-
22 withstanding any other provision of law, (1) the fol-
23 lowing:

24 “(2) DISPLACED WORKERS AND SPOUSES.—In
25 the case of individuals eligible to enroll under this

1 part under section 1859(c), the following rules
2 apply:

3 “(A) INITIAL ENROLLMENT PERIOD.—If
4 the individual is first eligible to enroll under
5 such section for July 2000, the enrollment pe-
6 riod shall begin on May 1, 2000, and shall end
7 on August 31, 2000. Any such enrollment be-
8 fore July 1, 2000, is conditioned upon compli-
9 ance with the conditions of eligibility for July
10 2000.

11 “(B) SUBSEQUENT PERIODS.—If the indi-
12 vidual is eligible to enroll under such section for
13 a month after July 2000, the enrollment period
14 based on such eligibility shall begin on the first
15 day of the second month before the month in
16 which the individual first is eligible to so enroll
17 (or reenroll) and shall end 4 months later.”;

18 (3) in subsection (d)(1), by amending subpara-
19 graph (B) to read as follows:

20 “(B) TERMINATION BASED ON AGE.—

21 “(i) AT AGE 65.—Subject to clause
22 (ii), the individual attains 65 years of age.

23 “(ii) AT AGE 62 FOR DISPLACED
24 WORKERS AND SPOUSES.—In the case of
25 an individual enrolled under this part pur-

1 suant to section 1859(c), subject to sub-
2 section (a)(1), the individual attains 62
3 years of age.”;

4 (4) in subsection (d)(1), by adding at the end
5 the following new subparagraph:

6 “(C) OBTAINING ACCESS TO EMPLOYMENT-
7 BASED COVERAGE OR FEDERAL HEALTH INSUR-
8 ANCE PROGRAM FOR INDIVIDUALS UNDER 62
9 YEARS OF AGE.—In the case of an individual
10 who has not attained 62 years of age, the indi-
11 vidual is covered (or eligible for coverage) as a
12 participant or beneficiary under a group health
13 plan or under a Federal health insurance pro-
14 gram.”;

15 (5) in subsection (d)(2), by amending subpara-
16 graph (C) to read as follows:

17 “(C) AGE OR MEDICARE ELIGIBILITY.—
18 “(i) IN GENERAL.—The termination
19 of a coverage period under paragraph
20 (1)(A)(iii) or (1)(B)(i) shall take effect as
21 of the first day of the month in which the
22 individual attains 65 years of age or be-
23 comes entitled to benefits under part A or
24 enrolled for benefits under part B.

1 “(ii) DISPLACED WORKERS.—The ter-
 2 mination of a coverage period under para-
 3 graph (1)(B)(ii) shall take effect as of the
 4 first day of the month in which the individ-
 5 ual attains 62 years of age, unless the in-
 6 dividual has enrolled under this part pur-
 7 suant to section 1859(b) and section
 8 1859E(c)(1).”; and

9 (6) in subsection (d)(2), by adding at the end
 10 the following new subparagraph:

11 “(D) ACCESS TO COVERAGE.—The termi-
 12 nation of a coverage period under paragraph
 13 (1)(C) shall take effect on the date on which
 14 the individual is eligible to begin a period of
 15 creditable coverage (as defined in section
 16 2701(c) of the Public Health Service Act)
 17 under a group health plan or under a Federal
 18 health insurance program.”.

19 (c) PREMIUMS.—Section 1859B of such Act, as so
 20 inserted, is amended—

21 (1) in subsection (a)(1), by adding at the end
 22 the following:

23 “(B) BASE MONTHLY PREMIUM FOR INDI-
 24 VIDUALS UNDER 62 YEARS OF AGE.—A base
 25 monthly premium for individuals under 62

1 years of age, equal to $\frac{1}{12}$ of the base annual
 2 premium rate computed under subsection (d)(3)
 3 for each premium area and age cohort.”; and
 4 (2) by adding at the end the following new sub-
 5 section:

6 “(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS
 7 UNDER 62 YEARS OF AGE.—

8 “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE
 9 GROUPS.—

10 “(A) ESTIMATE OF AMOUNT.—The Sec-
 11 retary shall estimate the average, annual per
 12 capita amount that would be payable under this
 13 title with respect to individuals residing in the
 14 United States who meet the requirement of sec-
 15 tion 1859(c)(1)(A) within each of the age co-
 16 horts established under subparagraph (B) as if
 17 all such individuals within such cohort were eli-
 18 gible for (and enrolled) under this title during
 19 the entire year (and assuming that section
 20 1862(b)(2)(A)(i) did not apply).

21 “(B) AGE COHORTS.—For purposes of
 22 subparagraph (A), the Secretary shall establish
 23 separate age cohorts in 5-year age increments
 24 for individuals who have not attained 60 years

1 of age and a separate cohort for individuals who
2 have attained 60 years of age.

3 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
4 retary shall adjust the amount determined under
5 paragraph (1)(A) for each premium area (specified
6 under subsection (a)(3)) in the same manner and to
7 the same extent as the Secretary provides for adjust-
8 ments under subsection (b)(2).

9 “(3) BASE ANNUAL PREMIUM.—The base an-
10 nual premium under this subsection for months in a
11 year for individuals in an age cohort under para-
12 graph (1)(B) in a premium area is equal to 165 per-
13 cent of the average, annual per capita amount esti-
14 mated under paragraph (1) for the age cohort and
15 year, adjusted for such area under paragraph (2).

16 “(4) PRO-RATION OF PREMIUMS TO REFLECT
17 COVERAGE DURING A PART OF A MONTH.—If the
18 Secretary provides for coverage of portions of a
19 month under section 1859A(c)(2), the Secretary
20 shall pro-rate the premiums attributable to such cov-
21 erage under this section to reflect the portion of the
22 month so covered.”.

23 (d) ADMINISTRATIVE PROVISIONS.—Section 1859F
24 of such Act, as so inserted, is amended by adding at the
25 end the following:

1 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

2 “(1) PROCESS FOR CONTINUED ENROLLMENT
3 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF
4 AGE.—The Secretary shall provide a process for the
5 continuation of enrollment of individuals whose en-
6 rollment under section 1859(c) would be terminated
7 upon attaining 62 years of age. Under such process
8 such individuals shall be provided appropriate and
9 timely notice before the date of such termination
10 and of the requirement to enroll under this part pur-
11 suant to section 1859(b) in order to continue entitle-
12 ment to benefits under this title after attaining 62
13 years of age.

14 “(2) ARRANGEMENTS WITH STATES FOR DE-
15 TERMINATIONS RELATING TO UNEMPLOYMENT COM-
16 PENSATION ELIGIBILITY.—The Secretary may pro-
17 vide for appropriate arrangements with States for
18 the determination of whether individuals in the State
19 meet or would meet the requirements of section
20 1859(e)(1)(C)(i).”.

21 (e) CONFORMING AMENDMENT TO HEADING TO
22 PART.—The heading of part D of title XVIII of the Social
23 Security Act, as so inserted, is amended by striking “62”
24 and inserting “55”.

1 **Subtitle C—COBRA Protection for**
2 **Early Retirees**

3 **CHAPTER 1—AMENDMENTS TO THE EM-**
4 **PLOYEE RETIREMENT INCOME SECUR-**
5 **RITY ACT OF 1974**

6 **SEC. 121. COBRA CONTINUATION BENEFITS FOR CERTAIN**
7 **RETIRED WORKERS WHO LOSE RETIREE**
8 **HEALTH COVERAGE.**

9 (a) ESTABLISHMENT OF NEW QUALIFYING
10 EVENT.—

11 (1) IN GENERAL.—Section 603 of the Employee
12 Retirement Income Security Act of 1974 (29 U.S.C.
13 1163) is amended by inserting after paragraph (6)
14 the following new paragraph:

15 “(7) The termination or substantial reduction
16 in benefits (as defined in section 607(7)) of group
17 health plan coverage as a result of plan changes or
18 termination in the case of a covered employee who
19 is a qualified retiree.”.

20 (2) QUALIFIED RETIREE; QUALIFIED BENE-
21 FICIARY; AND SUBSTANTIAL REDUCTION DE-
22 FINED.—Section 607 of such Act (29 U.S.C. 1167)
23 is amended—

24 (A) in paragraph (3)—

1 (i) in subparagraph (A), by inserting
2 “except as otherwise provided in this para-
3 graph,” after “means,”; and

4 (ii) by adding at the end the following
5 new subparagraph:

6 “(D) SPECIAL RULE FOR QUALIFYING RE-
7 TIREES AND DEPENDENTS.—In the case of a
8 qualifying event described in section 603(7), the
9 term ‘qualified beneficiary’ means a qualified
10 retiree and any other individual who, on the day
11 before such qualifying event, is a beneficiary
12 under the plan on the basis of the individual’s
13 relationship to such qualified retiree.”; and

14 (B) by adding at the end the following new
15 paragraphs:

16 “(6) QUALIFIED RETIREE.—The term ‘qualified
17 retiree’ means, with respect to a qualifying event de-
18 scribed in section 603(7), a covered employee who,
19 at the time of the event—

20 “(A) has attained 55 years of age; and

21 “(B) was receiving group health coverage
22 under the plan by reason of the retirement of
23 the covered employee.

24 “(7) SUBSTANTIAL REDUCTION.—The term
25 ‘substantial reduction’—

1 “(A) means, as determined under regula-
2 tions of the Secretary and with respect to a
3 qualified beneficiary, a reduction in the average
4 actuarial value of benefits under the plan
5 (through reduction or elimination of benefits,
6 an increase in premiums, deductibles, copay-
7 ments, and coinsurance, or any combination
8 thereof), since the date of commencement of
9 coverage of the beneficiary by reason of the re-
10 tirement of the covered employee (or, if later,
11 January 6, 1999), in an amount equal to at
12 least 50 percent of the total average actuarial
13 value of the benefits under the plan as of such
14 date (taking into account an appropriate ad-
15 justment to permit comparison of values over
16 time); and

17 “(B) includes an increase in premiums re-
18 quired to an amount that exceeds the premium
19 level described in the fourth sentence of section
20 602(3).”.

21 (b) DURATION OF COVERAGE THROUGH AGE 65.—
22 Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is
23 amended—

24 (1) in clause (ii), by inserting “or 603(7)” after
25 “603(6)”;

1 (2) in clause (iv), by striking “or 603(6)” and
2 inserting “, 603(6), or 603(7)”;

3 (3) by redesignating clause (iv) as clause (vi);

4 (4) by redesignating clause (v) as clause (iv)
5 and by moving such clause to immediately follow
6 clause (iii); and

7 (5) by inserting after such clause (iv) the fol-
8 lowing new clause:

9 “(v) SPECIAL RULE FOR CERTAIN DE-
10 PENDENTS IN CASE OF TERMINATION OR
11 SUBSTANTIAL REDUCTION OF RETIREE
12 HEALTH COVERAGE.—In the case of a
13 qualifying event described in section
14 603(7), in the case of a qualified bene-
15 ficiary described in section 607(3)(D) who
16 is not the qualified retiree or spouse of
17 such retiree, the later of—

18 “(I) the date that is 36 months
19 after the earlier of the date the quali-
20 fied retiree becomes entitled to bene-
21 fits under title XVIII of the Social Se-
22 curity Act, or the date of the death of
23 the qualified retiree; or

1 “(II) the date that is 36 months
2 after the date of the qualifying
3 event.”.

4 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
5 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
6 ERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1))
7 is amended—

8 (1) by striking “The coverage” and inserting
9 the following:

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the coverage”; and

12 (2) by adding at the end the following:

13 “(B) CERTAIN RETIREES.—In the case of
14 a qualifying event described in section 603(7),
15 in applying the first sentence of subparagraph
16 (A) and the fourth sentence of paragraph (3),
17 the coverage offered that is the most prevalent
18 coverage option (as determined under regula-
19 tions of the Secretary) continued under the
20 group health plan (or, if none, under the most
21 prevalent other plan offered by the same plan
22 sponsor) shall be treated as the coverage de-
23 scribed in such sentence, or (at the option of
24 the plan and qualified beneficiary) such other

1 coverage option as may be offered and elected
2 by the qualified beneficiary involved.”.

3 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
4 Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-
5 ed by adding at the end the following new sentence: “In
6 the case of an individual provided continuation coverage
7 by reason of a qualifying event described in section
8 603(7), any reference in subparagraph (A) of this para-
9 graph to ‘102 percent of the applicable premium’ is
10 deemed a reference to ‘125 percent of the applicable pre-
11 mium for employed individuals (and their dependents, if
12 applicable) for the coverage option referred to in para-
13 graph (1)(B)’.”.

14 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.
15 1166) is amended—

16 (1) in paragraph (4)(A), by striking “or (6)”
17 and inserting “(6), or (7)”; and

18 (2) by adding at the end the following:
19 “The notice under paragraph (4) in the case of a qualify-
20 ing event described in section 603(7) shall be provided at
21 least 90 days before the date of the qualifying event.”.

22 (f) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 this section (other than subsection (e)(2)) shall
25 apply to qualifying events occurring on or after Jan-

1 uary 6, 1999. In the case of a qualifying event oc-
 2 ccurring on or after such date and before the date of
 3 the enactment of this Act, such event shall be
 4 deemed (for purposes of such amendments) to have
 5 occurred on the date of the enactment of this Act.

6 (2) ADVANCE NOTICE OF TERMINATIONS AND
 7 REDUCTIONS.—The amendment made by subsection
 8 (e)(2) shall apply to qualifying events occurring
 9 after the date of the enactment of this Act, except
 10 that in no case shall notice be required under such
 11 amendment before such date.

12 **CHAPTER 2—AMENDMENTS TO THE**
 13 **PUBLIC HEALTH SERVICE ACT**

14 **SEC. 125. COBRA CONTINUATION BENEFITS FOR CERTAIN**
 15 **RETIRED WORKERS WHO LOSE RETIREE**
 16 **HEALTH COVERAGE.**

17 (a) ESTABLISHMENT OF NEW QUALIFYING
 18 EVENT.—

19 (1) IN GENERAL.—Section 2203 of the Public
 20 Health Service Act (42 U.S.C. 300bb–3) is amended
 21 by inserting after paragraph (5) the following new
 22 paragraph:

23 “(6) The termination or substantial reduction
 24 in benefits (as defined in section 2208(6)) of group
 25 health plan coverage as a result of plan changes or

1 termination in the case of a covered employee who
 2 is a qualified retiree.”.

3 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 4 FICIARY; AND SUBSTANTIAL REDUCTION DE-
 5 FINED.—Section 2208 of such Act (42 U.S.C.
 6 300bb–8) is amended—

7 (A) in paragraph (3)—

8 (i) in subparagraph (A), by inserting
 9 “except as otherwise provided in this para-
 10 graph,” after “means,”; and

11 (ii) by adding at the end the following
 12 new subparagraph:

13 “(C) SPECIAL RULE FOR QUALIFYING RE-
 14 TIREES AND DEPENDENTS.—In the case of a
 15 qualifying event described in section 2203(6),
 16 the term ‘qualified beneficiary’ means a quali-
 17 fied retiree and any other individual who, on
 18 the day before such qualifying event, is a bene-
 19 ficiary under the plan on the basis of the indi-
 20 vidual’s relationship to such qualified retiree.”;
 21 and

22 (B) by adding at the end the following new
 23 paragraphs:

24 “(5) QUALIFIED RETIREE.—The term ‘qualified
 25 retiree’ means, with respect to a qualifying event de-

1 scribed in section 2203(6), a covered employee who,
2 at the time of the event—

3 “(A) has attained 55 years of age; and

4 “(B) was receiving group health coverage
5 under the plan by reason of the retirement of
6 the covered employee.

7 “(6) SUBSTANTIAL REDUCTION.—The term
8 ‘substantial reduction’—

9 “(A) means, as determined under regula-
10 tions of the Secretary of Labor and with respect
11 to a qualified beneficiary, a reduction in the av-
12 erage actuarial value of benefits under the plan
13 (through reduction or elimination of benefits,
14 an increase in premiums, deductibles, copay-
15 ments, and coinsurance, or any combination
16 thereof), since the date of commencement of
17 coverage of the beneficiary by reason of the re-
18 tirement of the covered employee (or, if later,
19 January 6, 1999), in an amount equal to at
20 least 50 percent of the total average actuarial
21 value of the benefits under the plan as of such
22 date (taking into account an appropriate ad-
23 justment to permit comparison of values over
24 time); and

1 “(B) includes an increase in premiums re-
 2 quired to an amount that exceeds the premium
 3 level described in the fourth sentence of section
 4 2202(3).”.

5 (b) DURATION OF COVERAGE THROUGH AGE 65.—
 6 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-
 7 2(2)(A)) is amended—

8 (1) by redesignating clause (iii) as clause (iv);
 9 and

10 (2) by inserting after clause (ii) the following
 11 new clause:

12 “(iii) SPECIAL RULE FOR CERTAIN
 13 DEPENDENTS IN CASE OF TERMINATION
 14 OR SUBSTANTIAL REDUCTION OF RETIREE
 15 HEALTH COVERAGE.—In the case of a
 16 qualifying event described in section
 17 2203(6), in the case of a qualified bene-
 18 ficiary described in section 2208(3)(C) who
 19 is not the qualified retiree or spouse of
 20 such retiree, the later of—

21 “(I) the date that is 36 months
 22 after the earlier of the date the quali-
 23 fied retiree becomes entitled to bene-
 24 fits under title XVIII of the Social Se-

1 curity Act, or the date of the death of
2 the qualified retiree; or

3 “(II) the date that is 36 months
4 after the date of the qualifying
5 event.”.

6 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
7 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
8 ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-
9 2(1)) is amended—

10 (1) by striking “The coverage” and inserting
11 the following:

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the coverage”; and

14 (2) by adding at the end the following:

15 “(B) CERTAIN RETIREEES.—In the case of
16 a qualifying event described in section 2203(6),
17 in applying the first sentence of subparagraph
18 (A) and the fourth sentence of paragraph (3),
19 the coverage offered that is the most prevalent
20 coverage option (as determined under regula-
21 tions of the Secretary of Labor) continued
22 under the group health plan (or, if none, under
23 the most prevalent other plan offered by the
24 same plan sponsor) shall be treated as the cov-
25 erage described in such sentence, or (at the op-

1 tion of the plan and qualified beneficiary) such
2 other coverage option as may be offered and
3 elected by the qualified beneficiary involved.”.

4 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
5 Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is
6 amended by adding at the end the following new sentence:
7 “In the case of an individual provided continuation cov-
8 erage by reason of a qualifying event described in section
9 2203(6), any reference in subparagraph (A) of this para-
10 graph to ‘102 percent of the applicable premium’ is
11 deemed a reference to ‘125 percent of the applicable pre-
12 mium for employed individuals (and their dependents, if
13 applicable) for the coverage option referred to in para-
14 graph (1)(B)’.”.

15 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.
16 300bb–6(a)) is amended—

17 (1) in paragraph (4)(A), by striking “or (4)”
18 and inserting “(4), or (6)”; and

19 (2) by adding at the end the following:
20 “The notice under paragraph (4) in the case of a qualify-
21 ing event described in section 2203(6) shall be provided
22 at least 90 days before the date of the qualifying event.”.

23 (f) EFFECTIVE DATES.—

24 (1) IN GENERAL.—The amendments made by
25 this section (other than subsection (e)(2)) shall

1 apply to qualifying events occurring on or after Jan-
 2 uary 6, 1999. In the case of a qualifying event oc-
 3 ccurring on or after such date and before the date of
 4 the enactment of this Act, such event shall be
 5 deemed (for purposes of such amendments) to have
 6 occurred on the date of the enactment of this Act.

7 (2) ADVANCE NOTICE OF TERMINATIONS AND
 8 REDUCTIONS.—The amendment made by subsection
 9 (e)(2) shall apply to qualifying events occurring
 10 after the date of the enactment of this Act, except
 11 that in no case shall notice be required under such
 12 amendment before such date.

13 **CHAPTER 3—AMENDMENTS TO THE**
 14 **INTERNAL REVENUE CODE OF 1986**

15 **SEC. 131. COBRA CONTINUATION BENEFITS FOR CERTAIN**
 16 **RETIRED WORKERS WHO LOSE RETIREE**
 17 **HEALTH COVERAGE.**

18 (a) ESTABLISHMENT OF NEW QUALIFYING
 19 EVENT.—

20 (1) IN GENERAL.—Section 4980B(f)(3) of the
 21 Internal Revenue Code of 1986 is amended by in-
 22 sserting after subparagraph (F) the following new
 23 subparagraph:

24 “(G) The termination or substantial reduc-
 25 tion in benefits (as defined in subsection (g)(6))

1 of group health plan coverage as a result of
2 plan changes or termination in the case of a
3 covered employee who is a qualified retiree.”.

4 (2) QUALIFIED RETIREE; QUALIFIED BENE-
5 FICIARY; AND SUBSTANTIAL REDUCTION DE-
6 FINED.—Section 4980B(g) of such Code is
7 amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by inserting
10 “except as otherwise provided in this para-
11 graph,” after “means,”; and

12 (ii) by adding at the end the following
13 new subparagraph:

14 “(E) SPECIAL RULE FOR QUALIFYING RE-
15 TIREES AND DEPENDENTS.—In the case of a
16 qualifying event described in subsection
17 (f)(3)(G), the term ‘qualified beneficiary’ means
18 a qualified retiree and any other individual who,
19 on the day before such qualifying event, is a
20 beneficiary under the plan on the basis of the
21 individual’s relationship to such qualified re-
22 tiree.”; and

23 (B) by adding at the end the following new
24 paragraphs:

1 “(5) QUALIFIED RETIREE.—The term ‘qualified
2 retiree’ means, with respect to a qualifying event de-
3 scribed in subsection (f)(3)(G), a covered employee
4 who, at the time of the event—

5 “(A) has attained 55 years of age; and

6 “(B) was receiving group health coverage
7 under the plan by reason of the retirement of
8 the covered employee.

9 “(6) SUBSTANTIAL REDUCTION.—The term
10 ‘substantial reduction’—

11 “(A) means, as determined under regula-
12 tions of the Secretary of Labor and with respect
13 to a qualified beneficiary, a reduction in the av-
14 erage actuarial value of benefits under the plan
15 (through reduction or elimination of benefits,
16 an increase in premiums, deductibles, copay-
17 ments, and coinsurance, or any combination
18 thereof), since the date of commencement of
19 coverage of the beneficiary by reason of the re-
20 tirement of the covered employee (or, if later,
21 January 6, 1999), in an amount equal to at
22 least 50 percent of the total average actuarial
23 value of the benefits under the plan as of such
24 date (taking into account an appropriate ad-

1 justment to permit comparison of values over
2 time); and

3 “(B) includes an increase in premiums re-
4 quired to an amount that exceeds the premium
5 level described in the fourth sentence of sub-
6 section (f)(2)(C).”.

7 (b) DURATION OF COVERAGE THROUGH AGE 65.—
8 Section 4980B(f)(2)(B)(i) of such Code is amended—

9 (1) in subclause (II), by inserting “or (3)(G)”
10 after “(3)(F)”;

11 (2) in subclause (IV), by striking “or (3)(F)”
12 and inserting “, (3)(F), or (3)(G)”;

13 (3) by redesignating subclause (IV) as sub-
14 clause (VI);

15 (4) by redesignating subclause (V) as subclause
16 (IV) and by moving such clause to immediately fol-
17 low subclause (III); and

18 (5) by inserting after such subclause (IV) the
19 following new subclause:

20 “(V) SPECIAL RULE FOR CER-
21 TAIN DEPENDENTS IN CASE OF TER-
22 MINATION OR SUBSTANTIAL REDUC-
23 TION OF RETIREE HEALTH COV-
24 ERAGE.—In the case of a qualifying
25 event described in paragraph (3)(G),

1 in the case of a qualified beneficiary
 2 described in subsection (g)(1)(E) who
 3 is not the qualified retiree or spouse
 4 of such retiree, the later of—

5 “(a) the date that is 36
 6 months after the earlier of the
 7 date the qualified retiree becomes
 8 entitled to benefits under title
 9 XVIII of the Social Security Act,
 10 or the date of the death of the
 11 qualified retiree; or

12 “(b) the date that is 36
 13 months after the date of the
 14 qualifying event.”.

15 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
 16 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
 17 ERAGE.—Section 4980B(f)(2)(A) of such Code is
 18 amended—

19 (1) by striking “The coverage” and inserting
 20 the following:

21 “(i) IN GENERAL.—Except as pro-
 22 vided in clause (ii), the coverage”; and

23 (2) by adding at the end the following:

24 “(ii) CERTAIN RETIREES.—In the
 25 case of a qualifying event described in

1 paragraph (3)(G), in applying the first
2 sentence of clause (i) and the fourth sen-
3 tence of subparagraph (C), the coverage
4 offered that is the most prevalent coverage
5 option (as determined under regulations of
6 the Secretary of Labor) continued under
7 the group health plan (or, if none, under
8 the most prevalent other plan offered by
9 the same plan sponsor) shall be treated as
10 the coverage described in such sentence, or
11 (at the option of the plan and qualified
12 beneficiary) such other coverage option as
13 may be offered and elected by the qualified
14 beneficiary involved.”.

15 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
16 Section 4980B(f)(2)(C) of such Code is amended by add-
17 ing at the end the following new sentence: “In the case
18 of an individual provided continuation coverage by reason
19 of a qualifying event described in paragraph (3)(G), any
20 reference in clause (i) of this subparagraph to ‘102 per-
21 cent of the applicable premium’ is deemed a reference to
22 ‘125 percent of the applicable premium for employed indi-
23 viduals (and their dependents, if applicable) for the cov-
24 erage option referred to in subparagraph (A)(ii)’.”.

1 (e) NOTICE.—Section 4980B(f)(6) of such Code is
2 amended—

3 (1) in subparagraph (D)(i), by striking “or
4 (F)” and inserting “(F), or (G)”; and

5 (2) by adding at the end the following:

6 “The notice under subparagraph (D)(i) in the case of a
7 qualifying event described in paragraph (3)(G) shall be
8 provided at least 90 days before the date of the qualifying
9 event.”.

10 (f) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by
12 this section (other than subsection (e)(2)) shall
13 apply to qualifying events occurring on or after Jan-
14 uary 6, 1999. In the case of a qualifying event oc-
15 ccurring on or after such date and before the date of
16 the enactment of this Act, such event shall be
17 deemed (for purposes of such amendments) to have
18 occurred on the date of the enactment of this Act.

19 (2) ADVANCE NOTICE OF TERMINATIONS AND
20 REDUCTIONS.—The amendment made by subsection
21 (e)(2) shall apply to qualifying events occurring
22 after the date of the enactment of this Act, except
23 that in no case shall notice be required under such
24 amendment before such date.

1 **TITLE II—EXPANSION OF LONG-**
 2 **TERM CARE PROTECTION**

3 **SEC. 201. LONG-TERM CARE TAX CREDIT.**

4 (a) ALLOWANCE OF CREDIT.—

5 (1) IN GENERAL.—Section 24(a) of the Internal
 6 Revenue Code of 1986 (relating to allowance of child
 7 tax credit) is amended to read as follows:

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 9 lowed as a credit against the tax imposed by this chapter
 10 for the taxable year an amount equal to the sum of—

11 “(1) \$500 multiplied by the number of qualify-
 12 ing children of the taxpayer, plus

13 “(2) \$1,000 multiplied by the number of appli-
 14 cable individuals with respect to whom the taxpayer
 15 is an eligible caregiver for the taxable year.”

16 (2) ADDITIONAL CREDIT FOR TAXPAYER WITH
 17 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much
 18 of section 24(d) of such Code as precedes paragraph
 19 (1)(A) thereof is amended to read as follows:

20 “(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3
 21 OR MORE SEPARATE CREDIT AMOUNTS.—

22 “(1) IN GENERAL.—If the sum of the number
 23 of qualifying children of the taxpayer and the num-
 24 ber of applicable individuals with respect to which
 25 the taxpayer is an eligible caregiver is 3 or more for

1 any taxable year, the aggregate credits allowed
 2 under subpart C shall be increased by the lesser
 3 of—”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) The heading for section 32(n) of such
 6 Code is amended by striking “CHILD” and in-
 7 serting “FAMILY CARE”.

8 (B) The heading for section 24 is amended
 9 to read as follows:

10 **“SEC. 24. FAMILY CARE CREDIT.”**

11 (C) The table of sections for subpart A of
 12 part IV of subchapter A of chapter 1 of such
 13 Code is amended by striking the item relating
 14 to section 24 and inserting the following new
 15 item:

“Sec. 24. Family care credit.”.

16 (b) DEFINITIONS.—Section 24(c) of the Internal
 17 Revenue Code of 1986 (defining qualifying child) is
 18 amended to read as follows:

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) QUALIFYING CHILD.—

21 “(A) IN GENERAL.—The term ‘qualifying
 22 child’ means any individual if—

23 “(i) the taxpayer is allowed a deduc-
 24 tion under section 151 with respect to such
 25 individual for the taxable year,

1 “(ii) such individual has not attained
2 the age of 17 as of the close of the cal-
3 endar year in which the taxable year of the
4 taxpayer begins, and

5 “(iii) such individual bears a relation-
6 ship to the taxpayer described in section
7 32(c)(3)(B).

8 “(B) EXCEPTION FOR CERTAIN NONCITI-
9 ZENS.—The term ‘qualifying child’ shall not in-
10 clude any individual who would not be a de-
11 pendent if the first sentence of section
12 152(b)(3) were applied without regard to all
13 that follows ‘resident of the United States’.

14 “(2) APPLICABLE INDIVIDUAL.—

15 “(A) IN GENERAL.—The term ‘applicable
16 individual’ means, with respect to any taxable
17 year, any individual who has been certified, be-
18 fore the due date for filing the return of tax for
19 the taxable year (without extensions), by a phy-
20 sician (as defined in section 1861(r)(1) of the
21 Social Security Act) as being an individual with
22 long-term care needs described in subparagraph
23 (B) for a period—

24 “(i) which is at least 180 consecutive
25 days, and

1 “(ii) a portion of which occurs within
2 the taxable year.

3 Such term shall not include any individual oth-
4 erwise meeting the requirements of the preced-
5 ing sentence unless within the 39½ month pe-
6 riod ending on such due date (or such other pe-
7 riod as the Secretary prescribes) a physician (as
8 so defined) has certified that such individual
9 meets such requirements.

10 “(B) INDIVIDUALS WITH LONG-TERM CARE
11 NEEDS.—An individual is described in this sub-
12 paragraph if the individual meets any of the fol-
13 lowing requirements:

14 “(i) The individual is at least 6 years
15 of age and—

16 “(I) is unable to perform (with-
17 out substantial assistance from an-
18 other individual) at least 3 activities
19 of daily living (as defined in section
20 7702B(c)(2)(B)) due to a loss of
21 functional capacity, or

22 “(II) requires substantial super-
23 vision to protect such individual from
24 threats to health and safety due to se-
25 vere cognitive impairment and is un-

1 able to perform at least 1 activity of
2 daily living (as so defined) or to the
3 extent provided in regulations pre-
4 scribed by the Secretary (in consulta-
5 tion with the Secretary of Health and
6 Human Services), is unable to engage
7 in age appropriate activities.

8 “(ii) The individual is at least 2 but
9 not 6 years of age and is unable due to a
10 loss of functional capacity to perform
11 (without substantial assistance from an-
12 other individual) at least 2 of the following
13 activities: eating, transferring, or mobility.

14 “(iii) The individual is under 2 years
15 of age and requires specific durable medi-
16 cal equipment by reason of a severe health
17 condition or requires a skilled practitioner
18 trained to address the individual’s condi-
19 tion to be available if the individual’s par-
20 ents or guardians are absent.

21 “(3) ELIGIBLE CAREGIVER.—

22 “(A) IN GENERAL.—A taxpayer shall be
23 treated as an eligible caregiver for any taxable
24 year with respect to the following individuals:

25 “(i) The taxpayer.

1 “(ii) The taxpayer’s spouse.

2 “(iii) An individual with respect to
3 whom the taxpayer is allowed a deduction
4 under section 151 for the taxable year.

5 “(iv) An individual who would be de-
6 scribed in clause (iii) for the taxable year
7 if section 151(c)(1)(A) were applied by
8 substituting for the exemption amount an
9 amount equal to the sum of the exemption
10 amount, the standard deduction under sec-
11 tion 63(c)(2)(C), and any additional stand-
12 ard deduction under section 63(c)(3) which
13 would be applicable to the individual if
14 clause (iii) applied.

15 “(v) An individual who would be de-
16 scribed in clause (iii) for the taxable year
17 if—

18 “(I) the requirements of clause
19 (iv) are met with respect to the indi-
20 vidual, and

21 “(II) the requirements of sub-
22 paragraph (B) are met with respect to
23 the individual in lieu of the support
24 test of section 152(a).

1 “(B) RESIDENCY TEST.—The require-
2 ments of this subparagraph are met if an indi-
3 vidual has as his principal place of abode the
4 home of the taxpayer and—

5 “(i) in the case of an individual who
6 is an ancestor or descendant of the tax-
7 payer or the taxpayer’s spouse, is a mem-
8 ber of the taxpayer’s household for over
9 half the taxable year, or

10 “(ii) in the case of any other individ-
11 ual, is a member of the taxpayer’s house-
12 hold for the entire taxable year.

13 “(C) SPECIAL RULES WHERE MORE THAN
14 1 ELIGIBLE CAREGIVER.—

15 “(i) IN GENERAL.—If more than 1 in-
16 dividual is an eligible caregiver with re-
17 spect to the same applicable individual for
18 taxable years ending with or within the
19 same calendar year, a taxpayer shall be
20 treated as the eligible caregiver if each
21 such individual (other than the taxpayer)
22 files a written declaration (in such form
23 and manner as the Secretary may pre-
24 scribe) that such individual will not claim

1 such applicable individual for the credit
2 under this section.

3 “(ii) NO AGREEMENT.—If each indi-
4 vidual required under clause (i) to file a
5 written declaration under clause (i) does
6 not do so, the individual with the highest
7 modified adjusted gross income (as defined
8 in section 32(c)(5)) shall be treated as the
9 eligible caregiver.

10 “(iii) MARRIED INDIVIDUALS FILING
11 SEPARATELY.—In the case of married indi-
12 viduals filing separately, the determination
13 under this subparagraph as to whether the
14 husband or wife is the eligible caregiver
15 shall be made under the rules of clause (ii)
16 (whether or not one of them has filed a
17 written declaration under clause (i)).”.

18 (c) IDENTIFICATION REQUIREMENTS.—

19 (1) IN GENERAL.—Section 24(e) of the Internal
20 Revenue Code of 1986 is amended by adding at the
21 end the following new sentence: “No credit shall be
22 allowed under this section to a taxpayer with respect
23 to any applicable individual unless the taxpayer in-
24 cludes the name and taxpayer identification number
25 of such individual, and the identification number of

1 the physician certifying such individual, on the re-
2 turn of tax for the taxable year.”.

3 (2) ASSESSMENT.—Section 6213(g)(2)(I) of
4 such Code is amended—

5 (A) by inserting “or physician identifica-
6 tion” after “correct TIN”, and

7 (B) by striking “child” and inserting
8 “family care”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 1999.

12 **SEC. 202. FEDERAL EMPLOYEES GROUP LONG-TERM CARE**
13 **INSURANCE.**

14 (a) IN GENERAL.—Subpart G of part III of title 5,
15 United States Code, is amended by adding at the end the
16 following new chapter:

17 **“Chapter 90—Long-Term Care Insurance**

“Sec.

“9001. Definitions.

“9002. Contracting authority.

“9003. Minimum standards for contractors.

“9004. Long-term care benefits.

“9005. Financing.

“9006. Preemption.

“9007. Studies, reports, and audits.

“9008. Claims for benefits.

“9009. Jurisdiction of courts.

“9010. Regulations.

“9011. Authorization of appropriations.

18 **“§ 9001. Definitions**

19 “For the purpose of this chapter, the term—

1 “(1) ‘annuitant’ means an individual referred to
2 in section 8901(3);

3 “(2) ‘employee’ means an individual referred to
4 in subparagraphs (A) through (D), and (F) through
5 (I) of section 8901(1); but does not include an em-
6 ployee excluded by regulation of the Office under
7 section 9011;

8 “(3) ‘Office’ means the Office of Personnel
9 Management;

10 “(4) ‘other eligible individual’ means the
11 spouse, former spouse, parent or parent-in-law of an
12 employee or annuitant, or other individual specified
13 by the Office;

14 “(5) ‘qualified carrier’ means an insurer li-
15 censed to do business in each of the States and
16 meeting the requirements of a qualified insurer in
17 each of the States;

18 “(6) ‘qualified contract’ means a contract meet-
19 ing the conditions prescribed in section 9002; and

20 “(7) ‘State’ means a State or territory or pos-
21 session of the United States, and includes the Dis-
22 trict of Columbia.

23 **“§ 9002. Contracting authority**

24 “(a) The Office may, without regard to section 3709
25 of the Revised Statutes (41 U.S.C. 5) or any other statute

1 requiring competitive bidding, purchase from 1 or more
2 qualified carriers a policy or policies of group long-term
3 care insurance to provide benefits as specified by this
4 chapter. The Office shall ensure that each resulting con-
5 tract is awarded on the basis of contractor qualifications,
6 price, and reasonable competition to the maximum extent
7 practicable.

8 “(b) The Office may design a benefits package or
9 packages and negotiate final offerings with qualified car-
10 riers.

11 “(c) Each contract shall be for a uniform term of 5
12 years, unless terminated earlier by the Office.

13 “(d) Premium rates charged under a contract entered
14 into under this section shall reasonably reflect the cost of
15 the benefits provided under that contract as determined
16 by the Office.

17 “(e) The coverage and benefits made available to in-
18 dividuals under a contract entered into under this section
19 are guaranteed to be renewable and may not be canceled
20 by the carrier except for nonpayment of premium.

21 “(f) The Office may withdraw an offering under this
22 section based on open season participation rates, the com-
23 position of the risk pool, or both.

1 **“§ 9003. Minimum standards for contractors**

2 “At the minimum, to be a qualified carrier under this
3 chapter, a company shall—

4 “(1) be licensed as an insurance company and
5 approved to issue group long-term care insurance in
6 all States and to do business in each of the States;
7 and

8 “(2) be in compliance with the requirements im-
9 posed on issuers of qualified long-term care con-
10 tracts by section 4980C of the Internal Revenue
11 Code of 1986.

12 **“§ 9004. Long-term care benefits**

13 “The benefits provided under this chapter shall be
14 long-term care benefits which, at a minimum, shall be
15 compliant with the most recent standards recommended
16 by the National Association of Insurance Commissioners.

17 **“§ 9005. Financing**

18 “(a) The amount necessary to pay the premium for
19 enrollment of an enrolled employee shall be withheld from
20 the pay of each enrolled employee.

21 “(b) Except as provided under subsection (d), the
22 amount necessary to pay the premium for enrollment of
23 an enrolled annuitant shall be withheld from the annuity
24 of each enrolled annuitant.

1 “(c) The amount necessary to pay the premium for
2 enrollment of a spouse may be withheld from pay or annu-
3 ity, as appropriate.

4 “(d) An employee, annuitant, or other eligible individ-
5 ual, whose pay or annuity is insufficient to cover the with-
6 holding required for enrollment, shall, at the discretion of
7 the Office, pay the premium for enrollment directly to the
8 carrier.

9 “(e) Each carrier participating in the program estab-
10 lished under chapter shall maintain the funds related to
11 this program separate and apart from funds related to
12 other contracts and other lines of business.

13 “(f) The costs of the Office in adjudicating a claims
14 dispute under section 9008, including costs related to an
15 inquiry not culminating in a dispute, shall be reimbursed
16 by the carrier involved in the dispute or inquiry. Such
17 funds shall be available to the Office for the administra-
18 tion of this chapter.

19 **“§ 9006. Preemption**

20 ““This chapter shall supersede and preempt any State
21 or local law which is determined by the Office to be incon-
22 sistent with—

23 “(1) the provisions of this chapter; or

24 “(2) after consultation with the National Asso-
25 ciation of Insurance Commissioners, the efficient

1 provision of a nationwide long-term care insurance
2 program for Federal employees.

3 **“§ 9007. Studies, reports, and audits**

4 “(a) Each qualified carrier entering into a contract
5 under this chapter shall—

6 “(1) furnish such reasonable reports as the Of-
7 fice determines to be necessary to enable the carrier
8 to carry out the functions under this chapter; and

9 “(2) permit the Office and representatives of
10 the General Accounting Office to examine such
11 records of the carrier as may be necessary to carry
12 out the purposes of this chapter.

13 “(b) Each Federal agency shall keep such records,
14 make such certifications, and furnish the Office, the car-
15 rier, or both, with such information and reports as the
16 Office may require.

17 **“§ 9008. Claims for benefits**

18 “(a) A claim for benefits under this chapter shall be
19 filed within 4 years after the date on which the reimburs-
20 able cost was incurred or the service was provided.

21 “(b) The Office shall adjudicate a claims dispute aris-
22 ing under this chapter and shall require the contractor to
23 pay for any benefit or provide any service the Office deter-
24 mines appropriate under the applicable contract.

1 “(c)(1) Except as provided under paragraph (2), ben-
2 efits payable under this chapter for any reimbursable cost
3 incurred or service provided are secondary to any other
4 benefit payable for such cost or service. No payment may
5 be made where there is no legal obligation for such pay-
6 ment.

7 “(2)(A) Benefits payable under the programs de-
8 scribed under subparagraph (B) shall be secondary to ben-
9 efits payable under this chapter.

10 “(B) The programs referred to under subparagraph
11 (A) are—

12 “(i) the program of medical assistance under
13 title XIX of the Social Security Act (42 U.S.C.
14 1396); and

15 “(ii) any other Federal or State programs that
16 the Office may specify in regulations that provide
17 health benefit coverage designed to be secondary to
18 other insurance coverage.

19 **“§ 9009. Jurisdiction of courts**

20 “A claimant under this chapter may file suit against
21 the carrier of the long-term care insurance policy covering
22 such claimant in the district courts of the United States,
23 after exhausting all available administrative remedies.

1 **“§ 9010. Regulations**

2 “(a) The Office shall prescribe regulations necessary
3 to carry out this chapter.

4 “(b) The regulations of the Office may prescribe the
5 time at which and the conditions under which an eligible
6 individual may enroll in the program established under
7 this chapter.

8 “(c) The Office may not exclude—

9 “(1) an employee or group of employees solely
10 on the basis of the hazardous nature of employment;
11 or

12 “(2) an employee who is occupying a position
13 on a part-time career employment basis, as defined
14 in section 3401(2).

15 “(d) The regulations of the Office shall provide for
16 the beginning and ending dates of coverage of employees,
17 annuitants, former spouses, and other eligible individuals
18 under this chapter, and any requirements for continuation
19 or conversion of coverage.

20 **“§ 9011. Authorization of appropriations**

21 “There are authorized to be appropriated such sums
22 as may be necessary for the purposes of carrying out sec-
23 tions 9002 and 9010.”

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall take effect on the date of enactment
26 of this Act, except that no coverage may be effective until

1 the first day of the first applicable pay period in October,
2 which occurs more than 1 year after the date of enactment
3 of this Act.

4 **TITLE III—REAUTHORIZATION**
5 **OF THE OLDER AMERICANS**
6 **ACT OF 1965**

7 **SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.**

8 (a) FEDERAL COUNCIL ON THE AGING.—Section
9 204(g) of the Older Americans Act of 1965 (42 U.S.C.
10 3015(g)) is amended by striking “\$300,000 for fiscal year
11 1992 and such sums as may be necessary for fiscal years
12 1993, 1994, and 1995” and inserting “such sums as may
13 be necessary for fiscal years 2000 through 2002”.

14 (b) ADMINISTRATION.—Section 215 of the Older
15 Americans Act of 1965 (42 U.S.C. 3020f) is amended—

16 (1) in subsection (a), by striking “fiscal years
17 1992, 1993, 1994, and 1995” and inserting “fiscal
18 years 2000 through 2002”; and

19 (2) in subsection (b), by striking paragraph (1)
20 and inserting the following:

21 “(1) such sums as may be necessary for each
22 of fiscal years 2000 through 2002; and”.

23 (c) GRANTS FOR STATE AND COMMUNITY PROGRAMS
24 ON AGING.—Section 303 of the Older Americans Act of
25 1965 (42 U.S.C. 3023) is amended—

1 (1) in subsection (a)(1), by striking
2 “\$461,376,000 for fiscal year 1992 and such sums
3 as may be necessary for fiscal years 1993, 1994, and
4 1995” and inserting “such sums as may be nec-
5 essary for fiscal years 2000 through 2002”;

6 (2) in subsection (b)—

7 (A) in paragraph (1), by striking
8 “\$505,000,000 for fiscal year 1992 and such
9 sums as may be necessary for fiscal years 1993,
10 1994, and 1995” and inserting “such sums as
11 may be necessary for fiscal years 2000 through
12 2002”;

13 (B) in paragraph (2), by striking
14 “\$120,000,000 for fiscal year 1992 and such
15 sums as may be necessary for fiscal years 1993,
16 1994, and 1995” and inserting “such sums as
17 may be necessary for fiscal years 2000 through
18 2002”; and

19 (C) in paragraph (3), by striking
20 “\$15,000,000 for fiscal year 1992 and such
21 sums as may be necessary for fiscal years 1993,
22 1994, and 1995” and inserting “such sums as
23 may be necessary for fiscal years 2000 through
24 2002”;

25 (3) in subsection (d), to read as follows:

1 “(d) NATIONAL FAMILY CAREGIVER PROGRAM.—
2 There are authorized to be appropriated \$125,000,000 for
3 fiscal year 2000, and such sums as may be necessary for
4 each of the fiscal years 2001 through 2004, to carry out
5 the programs under part D (relating to the national family
6 caregiver program).”;

7 (4) in subsection (e), by striking “the fiscal
8 years 1992, 1993, 1994, and 1995” and inserting
9 “fiscal years 2000 through 2002”; and

10 (5) in subsection (f), by striking “\$25,000,000
11 for fiscal year 1992 and such sums as may be nec-
12 essary for fiscal years 1993, 1994, and 1995” and
13 inserting “such sums as may be necessary for fiscal
14 years 2000 through 2002”.

15 (d) AVAILABILITY OF SURPLUS COMMODITIES.—Sec-
16 tion 311(c)(1)(A) of the Older Americans Act of 1965 (42
17 U.S.C. 3030a(c)(1)(A)) is amended by striking
18 “\$250,000,000 for fiscal year 1992, \$310,000,000 for fis-
19 cal year 1993, \$380,000,000 for fiscal year 1994, and
20 \$460,000,000 for fiscal year 1995” and inserting “such
21 sums as may be necessary for each of fiscal years 2000
22 through 2002”.

23 (e) TRAINING, RESEARCH, AND DISCRETIONARY
24 PROJECTS AND PROGRAMS.—Section 431 of the Older
25 Americans Act of 1965 (42 U.S.C. 3037) is amended—

1 (1) in subsection (a)(1), by striking
2 “\$72,000,000 for fiscal year 1992, and such sums
3 as may be necessary for fiscal years 1993, 1994, and
4 1995” and inserting “such sums as may be nec-
5 essary for fiscal years 2000 through 2002”; and

6 (2) in subsection (b), by striking “\$450,000 for
7 each of fiscal years 1992, 1993, 1994, and 1995”
8 and inserting “such sums as may be necessary for
9 each of fiscal years 2000 through 2002”.

10 (f) COMMUNITY SERVICE EMPLOYMENT FOR OLDER
11 AMERICANS.—Section 508(a)(1) of the Older Americans
12 Act of 1965 (42 U.S.C. 3056f(a)(1)) is amended by strik-
13 ing “\$470,671,000 for fiscal year 1992, and such sums
14 as may be necessary for fiscal years 1993, 1994, and
15 1995” and inserting “such sums as may be necessary for
16 fiscal years 2000 through 2002”.

17 (g) GRANTS FOR NATIVE AMERICANS.—Section
18 633(a) of the Older Americans Act of 1965 (42 U.S.C.
19 3057n(a)) is amended by striking “\$30,000,000 for fiscal
20 year 1992 and such sums as may be necessary for fiscal
21 years 1993, 1994, and 1995” and inserting “such sums
22 as may be necessary for fiscal years 2000 through 2002”.

23 (h) ALLOTMENTS FOR VULNERABLE ELDER RIGHTS
24 PROTECTION ACTIVITIES.—Section 702 of the Older
25 Americans Act of 1965 (42 U.S.C. 3058a) is amended—

1 (1) in subsection (a), by striking “\$40,000,000
2 for fiscal year 1992 and such sums as may be nec-
3 essary for fiscal years 1993, 1994, and 1995” and
4 inserting “such sums as may be necessary for fiscal
5 years 2000 through 2002”;

6 (2) in subsection (b), by striking “\$15,000,000
7 for fiscal year 1992 and such sums as may be nec-
8 essary for fiscal years 1993, 1994, and 1995” and
9 inserting “such sums as may be necessary for fiscal
10 years 2000 through 2002”;

11 (3) in subsection (c), by striking “\$10,000,000
12 for fiscal year 1992 and such sums as may be nec-
13 essary for fiscal years 1993, 1994, and 1995” and
14 inserting “such sums as may be necessary for fiscal
15 years 2000 through 2002”; and

16 (4) in subsection (d), by striking “\$15,000,000
17 for fiscal year 1992 and such sums as may be nec-
18 essary for fiscal years 1993, 1994, and 1995” and
19 inserting “such sums as may be necessary for fiscal
20 years 2000 through 2002”.

21 (i) NATIVE AMERICAN PROGRAM.—Section 751(d) of
22 the Older Americans Act of 1965 (42 U.S.C. 3058aa(d))
23 is amended by striking “\$5,000,000 for fiscal year 1992,
24 and such sums as may be necessary for fiscal years 1993,

1 1994, and 1995” and inserting “such sums as may be nec-
2 essary for fiscal years 2000 through 2002”.

3 **SEC. 302. NATIONAL FAMILY CAREGIVER SUPPORT PRO-**
4 **GRAM.**

5 (a) ESTABLISHMENT OF PROGRAM.—Part D of title
6 III of the Older Americans Act of 1965 (42 U.S.C. 3030h
7 et seq.) is amended to read as follows:

8 **“PART D— NATIONAL FAMILY CAREGIVER**
9 **SUPPORT PROGRAM**

10 **“Subpart 1—State Grant Program**

11 **“SEC. 341. PROGRAM AUTHORIZED.**

12 “(a) IN GENERAL.—The Assistant Secretary shall
13 carry out a program under this subpart for making grants
14 to States under State plans approved under section 307
15 for multi-faceted systems of support for families and other
16 informal providers of in-home and community care to
17 older individuals.

18 “(b) COORDINATION WITH SERVICE PROVIDERS.—In
19 carrying out this subpart, each area agency on aging shall
20 coordinate with other community agencies and voluntary
21 organizations providing the types of services for which
22 funding is available under this subpart.

23 “(c) FAMILY CAREGIVER SUPPORT SERVICES.—The
24 services to be provided through a State program under
25 this subpart shall include—

1 “(1) the provision of information to caregivers
2 about available services;

3 “(2) assistance to caregivers in gaining access
4 to such services;

5 “(3) individual counseling, the organization of
6 support groups, and the provision of caregiver train-
7 ing to help families make decisions and solve prob-
8 lems relating to their caregiving roles;

9 “(4) respite care to enable families and other
10 informal caregivers to be temporarily relieved from
11 their caregiving responsibilities; and

12 “(5) the provision of supplemental services, on
13 a limited basis, to complement the care provided by
14 families and other informal caregivers.

15 “(d) ELIGIBILITY.—In order for a caregiver or care-
16 givers of an older individual to be eligible to receive serv-
17 ices provided by a State program under this subpart, the
18 State must—

19 “(1) determine that the older individual meets
20 the condition specified in either subparagraph (A)(i)
21 or (B) of section 102(28); and

22 “(2) give priority for services to older individ-
23 uals and families with the greatest social and eco-
24 nomic need, consistent with the requirements of sec-
25 tion 305(a)(2)(E).

1 “(e) REQUIREMENTS FOR QUALITY STANDARDS AND
2 ACCOUNTABILITY.—A State receiving assistance under
3 this subpart shall comply with the following:

4 “(1) QUALITY STANDARDS.—A State shall have
5 in place mechanisms designed to ensure the quality
6 of services provided with assistance under this sub-
7 part.

8 “(2) DATA AND RECORDS.—A State shall col-
9 lect data and furnish records at the times and in the
10 standardized format that the Assistant Secretary
11 may require in order to enable the Assistant Sec-
12 retary to monitor State program administration and
13 compliance, and to evaluate and compare the effec-
14 tiveness of State programs under this subpart.

15 “(3) REPORTING.—A State shall report to the
16 Assistant Secretary on the data and information re-
17 quired under paragraph (2), including the services
18 and activities funded under this subpart, and stand-
19 ards and methods by which the quality of services
20 shall be assured.

21 “(f) AVAILABILITY OF FUNDS.—

22 “(1) IN GENERAL.—The program under this
23 subpart shall be carried out in each fiscal year using
24 the balance of funds appropriated under section
25 303(d) for such fiscal year and remaining after the

1 reservation of funds under sections 345 and 346 for
2 carrying out subpart 2.

3 “(2) USE OF FUNDS FOR ADMINISTRATION OF
4 AREA PLANS.—Amounts made available to a State
5 under this subpart may be used, in addition to
6 amounts available in accordance with section
7 303(c)(1), for the costs of the administration of area
8 plans.

9 “(3) FEDERAL SHARE.—

10 “(A) IN GENERAL.—Notwithstanding sec-
11 tion 304(d)(1)(D), amounts made available to a
12 State under this subpart shall be available to
13 pay not more than 75 percent of the costs of
14 services provided under this subpart.

15 “(B) LIMITATION.—Federal funds and
16 cost sharing by recipients of services provided
17 under this subpart cannot be used for the non-
18 Federal share of funds under this subpart.

19 **“SEC. 342. MAINTENANCE OF EFFORT.**

20 “Funds made available under this subpart shall be
21 in addition to, and may not be used to supplant, any funds
22 that are or would otherwise be expended under any Fed-
23 eral, State, or local law by a State or unit of general pur-
24 pose local government (including area agencies on aging)
25 which have in their planning and service areas existing

1 services equivalent to the services which may be funded
2 under this subpart.

3 **“Subpart 2—National Innovation Programs**

4 **“SEC. 345. INNOVATION GRANT PROGRAM.**

5 “(a) IN GENERAL.—The Assistant Secretary shall
6 carry out a program for making grants on a competitive
7 basis to foster the development and testing of new ap-
8 proaches to sustaining the efforts of families and other
9 informal caregivers of older individuals, and to serving
10 particular groups of caregivers of older individuals, includ-
11 ing minority caregivers and distant caregivers.

12 “(b) EVALUATION AND DISSEMINATION OF RE-
13 SULTS.—The Assistant Secretary shall provide for the
14 evaluation of the effectiveness of programs and activities
15 funded with grants under this subpart, and for the dis-
16 semination to States of descriptions and evaluations of
17 such programs and activities, to enable States to incor-
18 porate successful approaches into their program under
19 this part.

20 “(c) AVAILABILITY OF FUNDS.—

21 “(1) IN GENERAL.—The Assistant Secretary
22 shall reserve up to 10 percent of the amount appro-
23 priated for each fiscal year under section 303(d) to
24 carry out the program under this section.

1 “(2) NATIVE AMERICAN PROGRAMS.—20 per-
2 cent of the amounts reserved for each fiscal year
3 under paragraph (1) shall be made available for pro-
4 grams and activities for Native Americans.

5 **“SEC. 346. ACTIVITIES OF NATIONAL SIGNIFICANCE.**

6 “(a) IN GENERAL.—The Assistant Secretary shall,
7 directly or by grant or contract, carry out activities of na-
8 tional significance to promote quality and continuous im-
9 provement in the support provided to family and other in-
10 formal caregivers of older individuals through program
11 evaluation, training, technical assistance and research.

12 “(b) AVAILABILITY OF FUNDS.—The Assistant Sec-
13 retary shall reserve up to 2 percent of the amount appro-
14 priated for each fiscal year under section 303(d) to carry
15 out the program under this section.”.

16 **SEC. 303. ALLOTMENTS.**

17 Section 304(a)(1) of the Older Americans Act of
18 1965 (42 U.S.C. 3024(a)(1)) is amended in the first sen-
19 tence by inserting “remaining after reservations of funds
20 in accordance with sections 345 and 346” after “from the
21 sums appropriated under section 303 for each fiscal year”.

1 **SEC. 304. AVAILABILITY OF TITLE III-D FUNDS FOR REAL-**
 2 **LOTMENT.**

3 Section 304(b) of the Older Americans Act of 1965
 4 (42 U.S.C. 3024(b)) is amended in the first sentence by
 5 striking “part B or C” and inserting “part B, C, or D”.

6 **SEC. 305. CONFORMING AMENDMENTS.**

7 (a) **RELOCATION OF PROVISIONS CONCERNING IN-**
 8 **HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.**—Sec-
 9 tion 321(a)(5) of the Older Americans Act of 1965 (42
 10 U.S.C. 3030d(a)(5)) is amended by striking “including”
 11 and all that follows and inserting “including—

12 “(A) client assessment, case management,
 13 and development and coordination of commu-
 14 nity services;

15 “(B) in-home services for frail older indi-
 16 viduals (including supportive services for vic-
 17 tims of Alzheimer’s disease and related dis-
 18 orders with neurological and organic brain dys-
 19 function, and for the families of such individ-
 20 uals);

21 “(C) supportive activities to meet the spe-
 22 cial needs of caregivers, including caretakers
 23 who provide in-home services to frail older indi-
 24 viduals;

25 “(D) in-home and other community serv-
 26 ices, including home health, homemaker, shop-

1 ping, escort, reader, and letter writing services,
2 to assist older individuals to live independently
3 in a home environment;”.

4 (b) REPEAL OF PART G.—Part G of title III of the
5 Older Americans Act of 1965 (42 U.S.C. 3030q et seq.)
6 is repealed.

7 (c) ELIMINATION OF OBSOLETE REFERENCES.—Sec-
8 tion 303 of the Older Americans Act of 1965 (42 U.S.C.
9 3023) is amended by striking subsection (g).

10 **SEC. 306. EFFECTIVE DATE.**

11 The amendments made by this title shall take effect
12 on October 1, 1999.

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