

105TH CONGRESS
1ST SESSION

H. R. 735

To amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to establish a program of assistance for essential community providers of health care services, to establish a program to update and maintain the infrastructure requirements of safety net hospitals, and to require States to develop plans for the allocation and review of expenditures for the capital-related costs of health care services.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1997

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to establish a program of assistance for essential community providers of health care services, to establish a program to update and maintain the infrastructure requirements of safety net hospitals, and to require States to develop plans for the allocation and review of expenditures for the capital-related costs of health care services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Essential Health Fa-
3 cilities Investment Act of 1997”.

4 **TITLE I—ESSENTIAL ACCESS**
5 **COMMUNITY HOSPITAL PRO-**
6 **GRAM**

7 **SEC. 101. REVISIONS TO CURRENT PROGRAM.**

8 (a) EXPANSION OF CURRENT PROGRAM TO ALL
9 STATES.—Section 1820(a)(1) of the Social Security Act
10 (42 U.S.C. 1395i–4(a)(1)) is amended by striking “not
11 more than 7”.

12 (b) INCREASE IN AUTHORIZATION OF APPROPRIA-
13 TIONS.—Section 1820(l) of such Act (42 U.S.C. 1395i–
14 4(l)) is amended—

15 (1) by striking “1990, 1991, and 1992” and in-
16 serting “1998 through 2003”;

17 (2) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) \$50,000,000 for grants to States under
20 subsection (a)(1) and grants to States and units of
21 local government under section 1821(a)(1); and”;
22 and

23 (3) in paragraph (2), by striking
24 “\$15,000,000” and inserting “\$40,000,000”.

25 (c) EFFECTIVE DATE.—The amendments made by
26 subsections (a) and (b) shall take effect October 1, 1997.

1 **SEC. 102. EXTENSION OF PROGRAM TO NETWORKS OF ES-**
2 **SENTIAL COMMUNITY PROVIDERS.**

3 (a) IN GENERAL.—Part A of title XVIII of the Social
4 Security Act (42 U.S.C. 1395 et seq.) is amended by add-
5 ing at the end the following new section:

6 “ASSISTANCE FOR ESSENTIAL COMMUNITY PROVIDERS

7 “SEC. 1821. (a) ESTABLISHMENT OF PROGRAM.—

8 There is hereby established a program under which the
9 Secretary—

10 “(1) shall make grants to States and units of
11 local government to carry out the activities described
12 in subsection (d)(1); and

13 “(2) shall make grants to eligible hospitals and
14 facilities (or consortia of hospitals and facilities) to
15 carry out the activities described in subsection
16 (d)(2).

17 “(b) ELIGIBILITY OF STATES AND COMMUNITIES
18 FOR GRANTS.—

19 “(1) REQUIREMENTS FOR APPLICATION.—Sub-
20 ject to paragraph (2), a State or unit of local gov-
21 ernment is eligible to receive a grant under sub-
22 section (a)(1) only if the State or unit of local gov-
23 ernment submits to the Secretary, at such time and
24 in such form as the Secretary may require, an appli-
25 cation containing such information and assurances

1 as the Secretary may require, together with assur-
2 ances that the State or unit of local government—

3 “(A) has developed, or is in the process of
4 developing, a community health plan that—

5 “(i) provides for the creation of a
6 community health network (as defined in
7 subsection (f)) in the State or locality,

8 “(ii) promotes the integration of the
9 delivery of health care services in the State
10 or locality,

11 “(iii) improves access to hospital and
12 other services (including primary care serv-
13 ices) for urban residents in the State or lo-
14 cality, and

15 “(iv) in the case of a plan of a unit
16 of local government, is approved by the
17 State;

18 “(B) has developed (or intends to develop)
19 the plan described in subparagraph (A) in con-
20 sultation with appropriate State and community
21 hospital associations, public hospitals, and pri-
22 mary care associations; and

23 “(C) has designated, or is in the process of
24 designating, nonprofit or public hospitals and

1 facilities located in the State or locality as es-
2 sential community providers within such com-
3 munity health networks (with the approval of
4 the State in the case of designations by units
5 of local government).

6 “(2) COORDINATION BETWEEN STATE AND
7 LOCAL RECIPIENTS.—A unit of local government
8 may not receive a grant under subsection (a)(1) if
9 it is located in a State receiving a grant under such
10 subsection, except that a unit of local government lo-
11 cated in an urban area (as defined in section
12 1886(d)(2)(D)) in such a State may receive such a
13 grant with the approval of the State.

14 “(c) ELIGIBILITY OF HOSPITALS, FACILITIES, AND
15 CONSORTIA FOR GRANTS.—

16 “(1) IN GENERAL.—A hospital or facility is eli-
17 gible to receive a grant under subsection (a)(2) only
18 if the hospital or facility—

19 “(A) is located in a State or locality receiv-
20 ing a grant under subsection (a)(1);

21 “(B) is designated as an essential commu-
22 nity provider by the State or unit of local gov-
23 ernment or is a member of a community health
24 network;

1 “(C) submits an application to the State or
2 unit of local government at such time and con-
3 taining such information and assurances as the
4 Secretary may require; and

5 “(D) has received certification by the State
6 or unit of local government that the receiving of
7 such grant by the hospital or facility is consist-
8 ent with the community health plan of the
9 State or unit or local government and that the
10 State or unit or local government has approved
11 the application submitted under subparagraph
12 (C).

13 “(2) TREATMENT OF CONSORTIA.—A consor-
14 tium of hospitals or facilities each of which is part
15 of the same community health network is eligible to
16 receive a grant under subsection (a)(2) if each of its
17 members would individually be eligible to receive
18 such a grant.

19 “(d) ACTIVITIES FOR WHICH GRANT MAY BE
20 USED.—

21 “(1) GRANTS TO STATES OR LOCAL GOVERN-
22 MENTS.—A State or unit of local government shall
23 use a grant received under subsection (a)(1) to carry
24 out activities relating to planning and implementing
25 its community health plan.

1 “(2) GRANTS TO HOSPITALS, FACILITIES, AND
2 CONSORTIA.—A hospital or facility shall use a grant
3 received under subsection (a)(2) to finance the costs
4 it incurs in becoming part of a community health
5 network and in serving as part of such a network,
6 including costs related to—

7 “(A) the development of primary care serv-
8 ice sites;

9 “(B) the development of integrated infor-
10 mation, billing, and reporting systems;

11 “(C) planning and needs assessments;

12 “(D) the recruitment and training of
13 health professionals and administrative staff;
14 and

15 “(E) conducting health promotion outreach
16 activities for medically underserved populations
17 in its service area.

18 “(e) DESIGNATION OF ESSENTIAL COMMUNITY PRO-
19 VIDERS.—A State or unit of local government may des-
20 ignate a hospital or facility as an essential community pro-
21 vider only if—

22 “(1) the hospital or facility is a member of (or
23 is in the process of becoming a member of) a com-
24 munity health network (as defined in subsection (f));

1 “(2) in the case of a facility other than a hos-
2 pital—

3 “(A) the facility is a federally-qualified
4 health center (as defined in section
5 1861(aa)(4)), or

6 “(B) the facility would be a federally-quali-
7 fied health center but for its failure to meet the
8 requirement described in section 329(f)(2)(G)(i)
9 of the Public Health Service Act or the require-
10 ment described in section 330(e)(3)(G)(i) of
11 such Act (relating to the composition of the fa-
12 cility’s governing board), but only if the facility
13 provides assurances to the State or unit of local
14 government that consumers have significant
15 input into the governance of the facility; and

16 “(3) in the case of a hospital—

17 “(A) the hospital is designated as an es-
18 sential access community hospital by the Sec-
19 retary under section 1820(i)(1),

20 “(B) the hospital is designated as a rural
21 primary care hospital by the Secretary under
22 section 1820(i)(2),

23 “(C) the hospital is described in section
24 1886(d)(5)(F)(i)(II), or

1 “(D) the hospital receives an additional
2 payment amount under section 1886(d)(5)(F)
3 based on the formula described in clause (vii)(I)
4 of such section.

5 “(f) COMMUNITY HEALTH NETWORK DEFINED.—In
6 this section, the term ‘community health network’ means
7 a public or nonprofit entity that meets the following re-
8 quirements:

9 “(1) The entity provides primary care services
10 and acute care services to a medically underserved
11 community (as defined in section 799(6) of the Pub-
12 lic Health Service Act) in the entity’s service area,
13 either directly through its members or through con-
14 tracts with other entities (under such limited cir-
15 cumstances as the Secretary may permit in regula-
16 tions).

17 “(2) The entity consists of—

18 “(A) at least one hospital that is located in
19 an urban area (as defined in section
20 1886(d)(2)(D)) and that has been designated
21 as an essential community provider under sub-
22 section (e);

23 “(B) at least 3 facilities (other than hos-
24 pitals) that have been designated as essential
25 community providers under subsection (e); and

1 “(C) at the election of the entity’s mem-
2 bers, any other entities that provide primary
3 care or other health care services.

4 “(3) The members of the entity have entered
5 into an agreement under which—

6 “(A) each member agrees to provide appro-
7 priate emergency and medical support services
8 to other members,

9 “(B) each member agrees to accept refer-
10 rals from other members,

11 “(C) each hospital member has arrange-
12 ments to provide staff privileges to physicians
13 providing care for other members, and

14 “(D) each member has in effect (or is in
15 the process of establishing) agreements with
16 other members to share in the member’s com-
17 munication system, including (where appro-
18 priate) the electronic sharing of patient data,
19 medical records, and billing services.

20 “(g) LIMIT ON AMOUNT OF GRANT TO HOSPITAL OR
21 FACILITY.—A grant made to a hospital or facility under
22 subsection (a)(2) may not exceed \$200,000, except that
23 the total amount of a grant awarded to a consortia of hos-
24 pitals or facilities under such subsection may not exceed
25 \$1,000,000.”.

1 (b) FUNDING FOR GRANTS TO HOSPITALS THROUGH
2 CURRENT EACH PROGRAM.—Section 1820(l) of the So-
3 cial Security Act (42 U.S.C. 1395i–4(l)) is amended—

4 (1) in the heading, by striking “Appropria-
5 tions” and inserting “Appropriations for EACH
6 Program and Essential Community Provider Pro-
7 gram”;

8 (2) by striking “and” at the end of paragraph
9 (1);

10 (3) by striking the period at the end of para-
11 graph (2) and inserting “; and”; and

12 (4) by adding at the end the following new
13 paragraph:

14 “(3) \$80,000,000 for grants to hospitals under
15 section 1821(a)(2).”.

16 (c) INCLUDING INTERNS AND RESIDENTS PROVIDING
17 SERVICES AT ESSENTIAL COMMUNITY PROVIDERS IN DE-
18 TERMINING PAYMENT FOR INDIRECT COSTS OF MEDICAL
19 EDUCATION.—Section 1886(d)(5)(B) of the Social Secu-
20 rity Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by add-
21 ing at the end the following new clause:

22 “(v) In determining such adjustment, the Sec-
23 retary shall count services of interns and residents
24 under a medical residency training program that is
25 conducted at a facility designated as an essential

1 community provider under section 1821, but only
2 if—

3 “(I) the hospital is designated as an essen-
4 tial community provider under such section;

5 “(II) the hospital incurs all, or substan-
6 tially all, of the costs of the training program;
7 and

8 “(III) the facility is a member of a com-
9 munity health network (as described in section
10 1821(f)) to which the hospital belongs.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect October 1, 1997.

13 **SEC. 103. STUDY OF EFFECTIVENESS OF PROGRAMS.**

14 (a) STUDY.—The Secretary of Health and Human
15 Services shall conduct a study of the effectiveness of the
16 essential access community hospital program under sec-
17 tion 1820 of the Social Security Act and the program for
18 assistance for essential community providers under section
19 1821 of such Act (as added by section 102(b)) in increas-
20 ing the access of medically underserved populations to pri-
21 mary health care and other health care services.

22 (b) REPORT.—Not later than 2 years after the date
23 of the enactment of this Act, the Secretary of Health and
24 Human Services shall submit a report to Congress on the
25 study conducted under subsection (a).

1 **TITLE II—CAPITAL FINANCING**
 2 **ASSISTANCE FOR SAFETY NET**
 3 **PROVIDERS**

4 **Subtitle A—Amendments of**
 5 **Internal Revenue Code of 1986**

6 **SEC. 201. GROSS RECEIPTS TAX ON HOSPITALS.**

7 (a) IN GENERAL.—Subchapter A of chapter 1 of the
 8 Internal Revenue Code of 1986 is amended by adding at
 9 the end the following new part:

10 **“PART VII—HOSPITAL CAPITAL FINANCING**
 11 **ASSISTANCE TAX**

“Sec. 59B. Imposition of tax.

12 **“SEC. 59B. IMPOSITION OF TAX.**

13 “(a) GENERAL RULE.—In addition to any other tax
 14 imposed by this subtitle, there is hereby imposed a tax
 15 of 0.5 percent of the hospital gross receipts of any person
 16 for the taxable year.

17 “(b) HOSPITAL GROSS RECEIPTS.—For purposes of
 18 this section, the term ‘hospital gross receipts’ means gross
 19 receipts received or accrued during the taxable year from
 20 the operation of any hospital, other than payments re-
 21 ceived under a State plan for medical assistance under
 22 title XIX of the Social Security Act.

23 “(c) PERSON.—The term ‘person’ includes persons
 24 exempt from tax under section 501(a), the United States,

1 any State or political subdivision thereof, the District of
 2 Columbia, and any agency or instrumentality of the fore-
 3 going.

4 “(d) NOT TREATED AS TAX FOR CERTAIN PUR-
 5 POSES.—The taxes imposed by this section shall not be
 6 treated as taxes imposed by this chapter for purposes of
 7 determining—

8 “(1) the amount of any credit allowable under
 9 this chapter, or

10 “(2) the amount of the minimum tax imposed
 11 by section 55.”

12 (b) TAXES INCLUDED IN ESTIMATED TAX.—Sub-
 13 paragraph (A) of section 6655(g)(1) of such Code is
 14 amended by striking “plus” at the end of clause (iii), by
 15 redesignating clause (iv) as clause (v), and by inserting
 16 after clause (iii) the following new clause:

17 “(iv) the tax imposed by section 59B,
 18 plus”.

19 (c) CLERICAL AMENDMENT.—The table of parts for
 20 subchapter A of chapter 1 of such Code is amended by
 21 adding at the end thereof the following new item:

“Part VII. Hospital capital financing assistance tax.”

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 September 30, 1997.

1 **Subtitle B—Capital Financing**
 2 **Assistance for Safety Net Providers**

3 **SEC. 211. ESTABLISHMENT OF CAPITAL FINANCING ASSIST-**
 4 **ANCE PROGRAM.**

5 (a) IN GENERAL.—The Social Security Act is amend-
 6 ed by adding at the end the following new title:

7 **“TITLE XXI—CAPITAL FINANCING ASSIST-**
 8 **ANCE FOR SAFETY NET PROVIDERS**

9 **“Subtitle A—General Provisions**

10 “PAYMENTS TO HOSPITALS AND FACILITIES

11 “SEC. 2101. (a) IN GENERAL.—The Secretary, with
 12 the approval of the Capital Financing Trust Fund Board
 13 of Trustees described in section 2104(d) (hereafter in this
 14 title referred to as the ‘Trust Fund Board’), shall make
 15 payments during fiscal year 1998 through 2003, from
 16 amounts in the Capital Financing Trust Fund established
 17 under section 2104(a) (hereafter in this title referred to
 18 as the ‘Trust Fund’), for capital financing assistance to
 19 eligible hospitals and facilities whose applications for as-
 20 sistance have been approved under this title.

21 “(b) GENERAL ELIGIBILITY REQUIREMENTS FOR AS-
 22 SISTANCE.—

23 “(1) REQUIREMENTS FOR HOSPITALS.—

1 “(A) IN GENERAL.—A hospital shall be
2 generally eligible for capital financing assist-
3 ance under this title if the hospital—

4 “(i) is designated as an essential ac-
5 cess community hospital by the Secretary
6 under section 1820(i)(1);

7 “(ii) is designated as a rural primary
8 care hospital by the Secretary under sec-
9 tion 1820(i)(2);

10 “(iii) is described in section
11 1886(d)(5)(F)(i)(II); or

12 “(iv) receives an additional payment
13 amount under section 1886(d)(5)(F) based
14 on the formula described in clause (vii) (I)
15 of such section.

16 “(B) OWNERSHIP REQUIREMENTS.—In
17 order to qualify for assistance under this title,
18 a hospital must—

19 “(i) be owned or operated by a unit of
20 State or local government;

21 “(ii) be a quasi-public corporation, de-
22 fined as a private, nonprofit corporation or
23 public benefit corporation which is formally
24 granted one or more governmental powers

1 by legislative action through (or is other-
2 wise partially funded by) the State legisla-
3 ture, city or county council; or

4 “(iii) be a private nonprofit hospital
5 which has contracted with, or is otherwise
6 funded by, a governmental agency to pro-
7 vide health care services to low income in-
8 dividuals not eligible for assistance under
9 title XVIII or title XIX of this Act, where
10 revenue from such contracts constitute at
11 least 10 percent of the hospital’s operating
12 revenues over the prior 3 fiscal years.

13 “(2) REQUIREMENTS FOR NON-HOSPITAL FA-
14 CILITIES.—A facility that is not a hospital shall be
15 generally eligible for capital financing assistance
16 under this title if the facility is designated as an es-
17 sential community provider under section 1821.

18 “(c) MEETING ADDITIONAL SPECIFIC CRITERIA.—
19 Hospitals and facilities that are generally eligible for as-
20 sistance under this title under subsection (b) may apply
21 for the specific programs described in this title and must
22 meet any additional criteria for participation in such pro-
23 grams.

1 “(d) ASSISTANCE AVAILABLE.—Capital financing as-
2 sistance available under this title shall include loan guar-
3 antees, interest rate subsidies, matching loans and direct
4 grants. Hospitals and facilities determined to be generally
5 eligible for assistance under this title may apply for and
6 receive more than one type of assistance under this title.

7 “APPLICATION FOR ASSISTANCE

8 “SEC. 2102. (a) IN GENERAL.—No hospital or facil-
9 ity may receive assistance for a qualifying project under
10 this title unless the hospital or facility—

11 “(1) has filed with the Secretary, in a form and
12 manner specified by the Secretary, with the advice
13 and approval of the Trust Fund Board (as described
14 in section 2104(d)), an application for assistance
15 under this title;

16 “(2) establishes in its application (for its most
17 recent cost reporting period) that it meets the cri-
18 teria for general eligibility under this title);

19 “(3) includes a description of the project, in-
20 cluding the community in which it is located, and
21 describes utilization and services characteristics of
22 the project and the hospital or facility, and the pa-
23 tient population that is to be served;

1 “(4) provides assurances that the undertaking
2 of the project is in conformity with the State’s cap-
3 ital allocation plan established pursuant to section
4 1890;

5 “(5) describes the extent to which the project is
6 intended to include the financial participation of
7 State and local governments; and all other sources
8 of financing sought for the project; and

9 “(6) establishes, to the satisfaction of the Sec-
10 retary and the Trust Fund Board, that the project
11 meets the additional criteria for each type of capital
12 financing assistance for which it is applying.

13 “(b) CRITERIA FOR APPROVAL.—The Secretary, with
14 the approval of the Trust Fund Board, shall determine
15 for each application for assistance under this title—

16 “(1) whether the hospital or facility meets the
17 general eligibility criteria under section 2101(b);

18 “(2) whether the hospital or facility meets the
19 specific eligibility criteria of each type of assistance
20 for which it has applied, including whether the hos-
21 pital or facility meets any criteria for priority con-
22 sideration for the type of assistance for which it has
23 applied;

1 “(3) whether the capital project for which as-
2 sistance is being requested in a qualifying project
3 under this title; and

4 “(4) whether funds are available, pursuant to
5 the limitations of each program, to fully fund the re-
6 quest for assistance.

7 “(c) PRIORITY OF APPLICATIONS.—In addition to
8 meeting the criteria otherwise described in this title, at
9 the discretion of the Trust Fund Board, the Secretary
10 shall give preference to those qualifying projects that—

11 “(1)(A) are necessary to bring safety net facili-
12 ties into compliance with accreditation standards or
13 fire and life safety, seismic, or other related Federal,
14 State or local regulatory standards;

15 “(B) improve the provision of essential services
16 such as emergency medical and trauma services,
17 AIDS and infections disease, perinatal, burn, pri-
18 mary care, and other services which the Trust
19 Fund’s Board may designate; or

20 “(C) will result in the provision of access to es-
21 sential health services (as designated by the Board
22 of the Trust Fund) to indigent and other needy per-
23 sons within the hospital’s or facility’s service area
24 that would otherwise be unavailable;

1 “(2) include specific anticipated State or local
2 governmental or other non-Federal assurances of fi-
3 nancial support;

4 “(3) are unlikely to be financed without the as-
5 sistance provided under this title; and

6 “(4) are conducted by entities designated as es-
7 sential community providers under section 1821.

8 “(d) SUBMISSION OF APPLICATIONS.—Applications
9 under this Act shall be submitted to the Secretary through
10 the Trust Fund Board. If two or more applicants join in
11 the project, the application shall be submitted by all par-
12 ticipating hospitals and facilities jointly. Such applications
13 shall set forth all of the descriptions, plans, specifications,
14 and assurances as required by this Act and contain other
15 such information as the Trust Fund Board shall require.

16 “(e) OPPORTUNITY FOR APPEAL.—The Trust Fund
17 Board shall afford a hospital or facility applying for a loan
18 guarantee under this section an opportunity for a hearing
19 if the guarantee is denied.

20 “(f) APPLICATIONS FOR AMENDMENTS.—Amend-
21 ment of an approved application shall be subject to ap-
22 proval in the same manner as an original application.

23 “PUBLIC SERVICE RESPONSIBILITIES

24 “SEC. 2103. (a) IN GENERAL.—Any hospital or facil-
25 ity accepting capital financing assistance under this title
26 shall agree—

1 “(1) to make the services of the facility or por-
2 tion thereof to be constructed, acquired, or modern-
3 ized available to all persons the construction, acqui-
4 sition, or modernization is intended to serve (as
5 identified in the hospital’s or facility’s application
6 under this title and the State’s capital allocation
7 plan established under section 1890); and

8 “(2) to provide a significant volume of services
9 to persons unable to pay therefore, consistent with
10 other provisions of this Act.

11 “(b) ENFORCEMENT.—The Director of the Office of
12 Civil Rights of the Department of Health and Human
13 Services shall be given the power to enforce the public
14 service responsibilities described in this section.

15 “CAPITAL FINANCING TRUST FUND

16 “SEC. 2104. (a) CREATION OF TRUST FUND.—There
17 is established in the Treasury of the United States a trust
18 fund to be known as the Capital Financing Trust Fund,
19 consisting of such amounts as may be appropriated or
20 credited to such Trust Fund as provided in this section.

21 “(b) TRANSFERS TO TRUST FUND.—There are here-
22 by appropriated to the Trust Fund amounts equivalent to
23 the taxes received in the Treasury under section 59B of
24 the Internal Revenue Code of 1986 (relating to hospital
25 capital financing assistance tax).

1 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
2 in the Trust Fund shall be available only—

3 “(1) for making expenditures to carry out this
4 title;

5 “(2) for grants to non-hospital facilities and
6 consortia under section 1821(a)(2) for fiscal years
7 1998 through 2003, except that not more than
8 \$80,000,000 may be available for such grants for
9 any fiscal year; and

10 “(3) for providing grants to States under sec-
11 tion 1890(d) for carrying out capital allocation
12 plans.

13 “(d) BOARD OF TRUSTEES; COMPOSITION; MEET-
14 INGS; DUTIES.—

15 “(1) IN GENERAL.—There shall be created a
16 Captial Financing Trust Fund Board of Trustees
17 composed of the Secretary of Health and Human
18 Services, the Secretary of the Treasury, the Assist-
19 ant Secretary for Health, and the Administrator of
20 the Health Care Financing Administration (all serv-
21 ing in their ex officio capacities), and 5 public mem-
22 bers who shall be appointed for 4 year terms by the
23 President, from the following categories—

24 “(A) one chief health officer from a State;

1 “(B) one chief executive officer of a hos-
2 pital or facility that meets the general eligibility
3 criteria of this title;

4 “(C) one representative of the financial
5 community; and

6 “(D) two additional public or consumer
7 representatives.

8 “(2) DUTIES.—The Board of Trustees shall
9 meet no less than quarterly and shall have the re-
10 sponsibility to approve implementing regulations, to
11 establish criteria, and to recommend and approve ex-
12 penditures by the Secretary under the programs set
13 forth in this title.

14 “(3) MANAGING TRUSTEE.—The Secretary of
15 the Treasury shall serve as the Managing Trustee of
16 the Trust Fund, and shall be responsible for the in-
17 vestment of funds. The provisions of subsections (b)
18 through (e) of section 1817 shall apply to the Trust
19 Fund and the Managing Trustee of the Trust Fund
20 in the same manner as they apply to the Federal
21 Hospital Insurance Trust Fund and the Managing
22 Trustee of that Trust Fund.

23 “ADMINISTRATION

24 “SEC. 2105. (a) IN GENERAL.—The Administrator
25 of the Health Care Financing Administration shall serve

1 as Secretary of the Board of Trustees and shall administer
2 the programs under this title.

3 “(b) LIMITATION AND ADMINISTRATIVE EX-
4 PENSES.—Not more than 5 percent of the funds annually
5 appropriated to the Trust Fund may be available for ad-
6 ministration of the Trust Fund or programs under this
7 title.

8 “ASSISTANCE FOR PUERTO RICO AND OTHER
9 COMMONWEALTHS AND TERRITORIES

10 “SEC. 2106. (a) IN GENERAL.—

11 “(1) AMOUNT OF ALLOCATION.—Notwithstand-
12 ing any other provision of this title, there shall be
13 allocated from the Capital Financing Trust Fund for
14 each of the fiscal years 1998 through 2003 a total
15 of \$25,000,000 for assistance under this title for
16 hospitals and facilities located in the Commonwealth
17 of Puerto Rico, the Commonwealth of the Northern
18 Mariana Islands, Guam, the Virgin Islands, and
19 American Samoa.

20 “(2) REALLOCATION OF AMOUNTS NOT EX-
21 CEDED.—To the extent that any funds allocated
22 under paragraph (1) to hospitals and facilities de-
23 scribed in such paragraph for a year are not ex-
24 pended for assistance under this title, such funds
25 shall be made available for assistance under this title

1 during the year for hospitals and facilities not de-
2 scribed in such paragraph.

3 “(b) LIMIT ON AMOUNT AVAILABLE FOR GRANTS.—
4 Of the total amount allocated from the Capital Financing
5 Trust Fund during a year for assistance for hospitals and
6 facilities described in subsection (a), not more than 40%
7 may be used for grants under subtitle E.

8 **“Subtitle B—Loan Guarantees**

9 “PROVISION OF LOAN GUARANTEES TO SAFETY NET
10 PROVIDERS

11 “SEC. 2110. (a) IN GENERAL.—Subject to the an-
12 nual limitation on the allotment from the Trust Fund de-
13 scribed in section 2112(a), the Capital Financing Trust
14 Fund will provide a Federal guarantee of loan repayment,
15 including guarantees of repayment of refinancing loans,
16 to non-Federal lenders making loans to qualified hospitals
17 and facilities for replacement (either by construction or
18 acquisition), modernization, and renovation projects and
19 capital equipment acquisitions.

20 “(b) PURPOSES.—The loan guarantee program shall
21 be designed by the Trust Fund Board with the goal of
22 rebuilding and maintaining the essential health services of
23 hospitals and facilities eligible for assistance under this
24 title.

1 “ELIGIBLE LOANS

2 “SEC. 2111. (a) IN GENERAL.—Loan guarantees
3 under this subtitle are available for loans made to qualify-
4 ing hospitals and facilities for replacement facilities, the
5 modernization and renovation of existing facilities, and
6 capital equipment acquisitions.

7 “(b) LOAN GUARANTEE MUST BE ESSENTIAL TO
8 BOND FINANCING.—Qualifying hospitals and facilities
9 must demonstrate that a Federal loan guarantee is essen-
10 tial to obtaining bond financing from non-Federal lenders
11 at a reasonably affordable rate of interest.

12 “(c) ADDITIONAL ELIGIBILITY CRITERIA FOR LOAN
13 GUARANTEES.—In order to qualify for assistance under
14 this subtitle, a hospital or facility must meet the following
15 criteria:

16 “(1) The hospital or facility must demonstrate
17 evidence of an ability to meet debt service.

18 “(2) The assistance, when considered with other
19 resources available to the project, is necessary and
20 will restore, maintain, or improve the financial or
21 physical soundness of the hospital or facility.

22 “(3) The applicant agrees to assume the public
23 service responsibilities described in section 2103.

1 “(4) The project is being operated and man-
2 aged (or will be operated and managed) in accord-
3 ance with a management-improvement-and-operating
4 plan which is designed to reduce the operating costs
5 of the project, which has been approved by the Trust
6 Fund Board, and which includes—

7 “(A) a detailed maintenance schedule;

8 “(B) a schedule for correcting any past de-
9 ficiencies in maintenance, repairs, and replace-
10 ments;

11 “(C) a plan to upgrade the project to meet
12 cost-effective energy efficiency standards pre-
13 scribed by the Trust Fund Board;

14 “(D) a plan to improve financial and man-
15 agement control systems;

16 “(E) a detailed annual operating budget
17 taking into account such standards for operat-
18 ing costs in the area as may be determined by
19 the Trust Fund Board; and

20 “(F) such other requirements as the Trust
21 Fund Board may determine.

22 “(5) The application includes stringent provi-
23 sions for continued State or local support of the pro-
24 gram, both with respect to operating and financial
25 capital.

1 “(6) The terms, conditions, maturity, security
2 (if any), and schedule and amount of repayments
3 with respect to the loan are sufficient to protect the
4 financial interests to the United States and are oth-
5 erwise reasonable and in accord with regulation, in-
6 cluding a determination that the rate of interest
7 does not exceed such annual percentage on the prin-
8 cipal obligation outstanding as the Trust Fund
9 Board determines to be reasonable, taking into ac-
10 count the range of interest rates prevailing in the
11 private market for similar loans and the risks as-
12 sumed by the United States.

13 “(7) The hospital or facility must meet such
14 other additional criteria as the Secretary may im-
15 pose.

16 “(d) STATE OR LOCAL PARTICIPATION.—Projects in
17 which State or local governmental entities participate in
18 the form of first guarantees of part or all of the total loan
19 value shall be given a preference for loan guarantees under
20 this subtitle.

21 “GUARANTEE ALLOTMENTS

22 “SEC. 2112. (a) IN GENERAL.—Not more than
23 \$150,000,000 shall be annually allocated from the Trust
24 Fund for purposes of the loan guarantee program estab-
25 lished by this subtitle.

1 “(b) LOAN GUARANTEES FOR RURAL HOSPITALS
2 AND FACILITIES.—At least 10 percent of the dollar value
3 of loan guarantees made under this program during any
4 given year shall be allocated for eligible rural hospitals and
5 facilities, to the extent a sufficient number of applications
6 made by such hospitals and facilities is approved.

7 “(c) SPECIAL RULE FOR REFINANCING LOANS.—Not
8 more than 20 percent of the amount allocated each year
9 to the loan guarantee program established by this subtitle
10 may be allocated to guarantee refinancing loans during the
11 year.

12 “TERMS AND CONDITIONS OF LOAN GUARANTEES

13 “SEC. 2113. (a) IN GENERAL.—The principle
14 amount of the guaranteed loan, when added to any Fed-
15 eral grant assistance made under this title, may not exceed
16 95 percent of the total value of the project, including land.

17 “(b) GUARANTEES PROVIDED MAY NOT SUPPLANT
18 OTHER FUNDS.—Guarantees provided under this subtitle
19 Act may not be used to supplant other forms of State or
20 local support.

21 “(c) RIGHT TO RECOVER FUNDS.—The United
22 States shall be entitled to recover from any applicant the
23 amount of payments made pursuant to any loan guarantee
24 under this subtitle, unless the Trust Fund Board for good
25 cause waives its right of recovery, and, upon making any
26 such payment, the United States shall be subrogated to

1 all of the rights of the recipients of the payments with
2 respect to which the guarantee was made.

3 “(d) MODIFICATION OF TERMS.—Loan guarantees
4 made under this subtitle shall be subject to further terms
5 and conditions as the Trust Fund Board determines to
6 be necessary to assure that the purposes of this Act will
7 be achieved, and any such terms and conditions may be
8 modified by the Trust Fund Board to the extent that it
9 determines such modifications to be consistent with the
10 financial interest of the United States.

11 “(e) TERMS ARE INCONTESTABLE ABSENT FRAUD
12 OR MISREPRESENTATION.—Any loan guarantee made by
13 the Trust Fund Board pursuant to this subtitle shall be
14 incontestable in the hands of an applicant on whose behalf
15 such guarantee is made, and as to any person who makes
16 or contracts to make a loan to such applicant in reliance
17 thereon, except for fraud or misrepresentation on the part
18 of such applicant or other person.

19 “PREMIUMS FOR LOAN GUARANTEES

20 SEC. 2114. (a) IN GENERAL.—The Trust Fund
21 Board shall determine a reasonable loan insurance pre-
22 mium which shall be charged for loan guarantees under
23 this subtitle, taking into account the availability of the
24 rseserves created under section 2112. Premium charges
25 shall be payable in cash to the Trust Fund (either in full
26 upon issuance or annually in advance). In addition to the

1 premium charge herein provided for, the Trust Fund is
2 authorized to charge and collect such amount as it may
3 deem reasonable for the appraisal of a property or project
4 offered for insurance and for the inspection of such prop-
5 erty or project.

6 “(b) PAYMENT IN ADVANCE.—In the event that the
7 principal obligation of any loan accepted for insurance
8 under this subtitle is paid in full prior to the maturity
9 date, the Trust Fund Board is authorized in its discretion
10 to require the payment by the borrower of an adjusted
11 premium charge in such amount as the Board determines
12 to be equitable, but not in excess of the aggregate amount
13 of the premium charges that the hospital or facility would
14 otherwise have been required to pay if the loan had contin-
15 ued to be insured until maturity date.

16 “(c) TRUST FUND BOARD MAY WAIVE PREMIUMS.—
17 The Trust Fund Board may in its discretion partially or
18 totally waive premiums charged for loan insurance under
19 this section for financially distressed hospitals and facili-
20 ties (as described by the Secretary).

21 “PROCEDURES IN THE EVENT OF LOAN DEFAULT

22 “SEC. 2115. (a) PAYMENT OF INSURANCE AFTER
23 DEFAULT.—

24 “(1) TRANSFER OF RIGHTS AND INTERESTS.—

25 The failure of the borrower hospital or facility to
26 make payment due under or provided by the terms

1 of a loan insured under this subtitle shall be consid-
2 ered in default under such loan and, if such default
3 continues for a period of 30 days, the lender shall
4 be entitled to receive the benefits of the insurance as
5 hereinafter provided, upon assignment, transfer, and
6 delivery to the Trust Fund Board, within a period
7 and in accordance with rules and regulations to be
8 prescribed by the Trust Fund Board of—

9 “(A) all rights and interests arising under
10 the loan in default;

11 “(B) all claims of the lender against the
12 borrower or others, arising out the loan trans-
13 actions;

14 “(C) all policies of title or other insurance
15 or surety bonds or other guarantees and any
16 and all claims thereunder;

17 “(D) any balance of the loan not advanced
18 to the borrower;

19 “(E) any cash or assets held by the lender,
20 or to which it is entitled, as deposits made for
21 the account of the borrower and which have not
22 been applied in reduction of the principal of the
23 loan indebtedness; and

1 “(F) all records, documents, books, papers,
2 and accounts relating to the mortgage trans-
3 action.

4 “(2) PAYMENTS BY TRUST FUND.—Upon an
5 assignment, transfer, and delivery described in para-
6 graph (1), the obligation of the borrower to pay the
7 premium charges for the loan insurance shall cease,
8 and the Trust Fund shall, subject to the cash ad-
9 justment provided for in subsection (d), issue to the
10 lender a certificate of claim as provided in sub-
11 section (b), and debentures having total face value
12 equal to the original principal face amount of the
13 loan plus such amount as the borrower may have
14 paid for taxes, special assessments, and water rates,
15 which are liens prior to the mortgage; insurance on
16 the assets; and reasonable expenses for the comple-
17 tion and preservation of the assets and any loan in-
18 surance premiums paid after default, less the sum
19 of—

20 “(A) that part of the amount of the prin-
21 cipal obligation that has been repaid by the bor-
22 rower;

23 “(B) an amount equivalent to 1 percent of
24 the unpaid amount of such principal obligation;
25 and

1 “(C) any net income received by the lender
2 from the assets.

3 “(3) OPTION TO FORECLOSE.—

4 “(A) IN GENERAL.—In the event of a de-
5 fault under the loan the lender may, at its op-
6 tion and in accordance with the regulations of,
7 and in a period of time to be determined by the
8 Trust Fund Board, proceed to foreclose on and
9 obtain possession of or otherwise acquire such
10 assets from the borrower after default, and re-
11 ceive the benefits of the insurance as herein
12 provided, upon—

13 “(i) the prompt conveyance to the
14 Trust Fund of title to the assets which
15 meets the requirements of the rules and
16 regulations of the Trust Fund Board in
17 force at the time the loan was insured and
18 which is evidenced in the manner pre-
19 scribed by such rules and regulations; and

20 “(ii) the assignment to the Trust
21 Fund of all claims of the lender against
22 the borrower or others, arising out of the
23 loan transaction or foreclosure proceedings,

1 except such claims that may have been re-
2 leased with the consent of the Trust Fund
3 Board.

4 “(B) REPEAL OF OBLIGATION TO PAY PRE-
5 MIUM.—Upon such conveyance and assignment,
6 the obligation of the borrower to pay the pre-
7 mium charges for insurance shall cease and the
8 borrower shall be entitled to receive the benefits
9 of the insurance as provided in this subsection,
10 except that in such event the 1 percent deduc-
11 tion set out above shall not apply.

12 “(b) CERTIFICATE OF CLAIM; DIVISION OF EXCESS
13 PROCEEDS.—

14 “(1) VALUE OF CERTIFICATE.—The certificate
15 of claim issued under this section shall be for an
16 amount which the Trust Fund Board determines to
17 be sufficient, when added to the face value of the de-
18 bentures issued and the cash adjustment paid to the
19 lender, to equal the amount which the lender would
20 have received if, on the date of the assignment,
21 transfer and delivery to the Trust Fund provided for
22 in subsection (a) of this section, the mortgagor had
23 extinguished the mortgage indebtedness by payment
24 in full of all obligations under the loan and a reason-
25 able amount for necessary expenses incurred by the

1 lender in connection with the default proceedings, or
2 the acquisition of the mortgaged assets otherwise,
3 and the conveyance thereof to the Trust Fund. Each
4 such certificate of claim shall provide that there
5 shall accrue to the holder of such certificate with re-
6 spect to the face amount of such certificate, an in-
7 crement at the rate of 3 percent per annum which
8 shall not be compounded.

9 “(2) TREATMENT OF EXCESS.—If the net
10 amount realized from the mortgage, and all claims
11 in connection therewith, so assigned, transferred,
12 and delivered, and from the assets covered by such
13 mortgage and all claims in connection with such as-
14 sets, after deducting all expenses incurred by the
15 Trust Fund in handling, dealing with, acquiring title
16 to, and disposing of such mortgage and assets and
17 in collecting such claims, exceeds the face value of
18 the debentures issued and the case adjustment paid
19 to the mortgagee plus all interest paid on such de-
20 bentures, such excess shall be divided as follows:

21 “(A) If such excess is greater than the
22 total amount payable under the certificate of
23 claim issued in connection with such assets, the

1 Trust Fund shall pay to the holder of such cer-
2 tificate the full amount so payable, and any ex-
3 cess remaining thereafter shall be retained by
4 the Trust Fund and credited to the loan insur-
5 ance program of the Trust Fund.

6 “(B) If such excess is equal to or less than
7 the total amount payable under such certificate
8 of claim, the Trust Fund Board shall pay to the
9 holder of such certificate the full amount of
10 such excess.

11 “(c) ACQUISITION OF ASSETS BY CONVEYANCE OR
12 FORECLOSURE.—

13 “(1) IN GENERAL.—The Trust Fund Board is
14 authorized to—

15 “(A) acquire possession of and title to any
16 assets, covered by a mortgage insured under
17 this section and assigned to it, by voluntary
18 conveyance in extinguishment of the mortgage
19 indebtedness, or

20 “(B) institute proceeding for foreclosure on
21 the assets covered by any such insured mort-
22 gage and prosecute such proceedings to conclu-
23 sion.

24 “(2) BIDDING PROCEDURES AT FORE-
25 CLOSURE.—The Trust Fund Board at any sale

1 under foreclosure may, in its discretion, for the pro-
2 tection of the Trust Fund, bid any sum up to but
3 not in excess of the total unpaid indebtedness se-
4 cured by the mortgage plus taxes, insurance, fore-
5 closure costs, fees, and other expenses, and may be-
6 come the purchaser of the assets at such sale. In de-
7 termining the amount to be bid, the Trust Fund
8 Board shall act consistently with its duties.

9 “(3) PAYMENT OF EXPENSES.—The Trust
10 Fund Board is authorized to pay from the Trust
11 Fund such sums as may be necessary to defray such
12 taxes, insurance, costs, fees, and other expenses in
13 connection with the acquisition or foreclosure of as-
14 sets under this section.

15 “(4) EXERCISE OF RIGHTS PENDING ACQUISI-
16 TION.—Pending such acquisition by voluntary con-
17 veyance or by foreclosure, the Trust Fund Board is
18 authorized, with respect to any mortgage assigned to
19 it under the provisions of subsection (a), to exercise
20 all the rights of a mortgagee under such mortgage,
21 including the right to sell such a mortgage, and to
22 take such action and advance such sums as may be
23 necessary to preserve or protect the lien of such
24 mortgage.

1 “(d) HANDLING AND DISPOSAL OF ASSETS; SETTLE-
2 MENT OF CLAIMS.—

3 “(1) PAYMENT FOR CERTAIN EXPENSES.—Not-
4 withstanding any other provisions of law relating to
5 the acquisition, handling, or disposal of real and
6 other property by the United States, the Trust Fund
7 Board shall also have power, for the protection of
8 the interests of the Trust Fund, to pay out of the
9 Trust Fund all expenses or charges in connection
10 with, and to deal with, complete, reconstruct, rent,
11 renovate, modernize, insure, make contracts for the
12 management of, or establish suitable agencies for
13 the management of, or sell for cash or credit or lease
14 in its discretion, any assets acquired by it under this
15 section.

16 “(2) SETTLEMENT OF CLAIMS.—Notwithstand-
17 ing any other provision of law, the Trust Fund
18 Board shall also have the power to pursue to final
19 collection by way of compromise or otherwise all
20 claims assigned and transferred to it in connection
21 with the assignment, transfer, and delivery provided
22 for in this section, and at any time, upon default, to
23 foreclose or refrain from foreclosing on any assets
24 secured by any mortgage assigned and transferred
25 to or held by it.

1 “(3) LIMITATIONS ON AUTHORITY.—Sub-
2 sections (a) and (b) shall not be construed to apply
3 to any contract for hazard insurance, or to any pur-
4 chase or contract for services or supplies on account
5 of such assets if the amount thereof does not exceed
6 \$1,000.

7 **“Subtitle C—Interest Rate Subsidies**

8 “PROVISION OF INTEREST RATE SUBSIDIES

9 “SEC. 2121. (a) IN GENERAL.—The Secretary, with
10 the approval of the Trust Fund Board, shall make avail-
11 able interest subsidies to reduce the cost of financing
12 qualifying projects.

13 “(b) PURPOSES.—The interest subsidy program shall
14 provide a partial Federal subsidy of debt service payment
15 for financing replacement (whether by construction or ac-
16 quisition), modernization, and renovation projects or cap-
17 ital equipment acquisitions by undertaking the issuance of
18 bonds.

19 “ELIGIBLE LOANS

20 “SEC. 2122. (a) IN GENERAL.—Qualifying hospitals
21 and facilities should have issued or plan to issue bonds
22 for capital projects or be responsible for paying debt serv-
23 ice on general obligation or revenue bonds issued on the
24 qualifying hospital’s or facility’s behalf. To be eligible,
25 bonds must have been issued after December 31, 1997.

1 “(b) NON-FEDERAL PARTICIPATION REQUIRE-
2 MENT.—In order to obtain assistance under this subtitle,
3 a hospital or facility must receive assistance from non-
4 Federal sources in an amount not less than the amount
5 of the assistance provided under this subtitle.

6 “ALLOTMENT OF SUBSIDIES

7 “SEC. 2123. (a) IN GENERAL.—Interest subsidy
8 grants will be made in the amount of 3 percent for qualify-
9 ing non-Federal loans.

10 “(b) QUALIFYING FEDERAL LOANS MADE UNDER
11 THIS ACT.—Interest subsidy grants in an amount of up
12 to 5 percent will be made for qualifying Federal loans
13 made under this title if it is determined by the Trust Fund
14 Board that the project would not be otherwise financially
15 feasible.

16 “(c) RESERVE FOR RURAL HOSPITALS AND FACILI-
17 TIES.—At least 10 percent of the total value of all interest
18 subsidies awarded in any given year shall be awarded to
19 rural hospitals and facilities, provided that a sufficient
20 number of applications are approved.

21 “(d) LIMITATION ON AMOUNT OF SUBSIDIES
22 AWARDED IN A GIVEN STATE.—The aggregate value of
23 interest subsidies made to hospitals and facilities in any
24 State in a given year shall not exceed 25 percent of the
25 total value of all interest subsidies made during that year.

1 “(e) AMOUNT ALLOCATED FROM TRUST FUND.—
 2 The Trust Fund Board shall make available \$220,000,000
 3 annually for interest subsidies under this subtitle.

4 “TERMS AND CONDITIONS FOR SUBSIDIES

5 “SEC. 2124. (a) STATE OR LOCAL PARTICIPATION.—
 6 State or local participation in an amount equal to not less
 7 than the Federal subsidy is required.

8 “(b) ISSUANCE OF FEDERAL COMMITMENTS.—Suc-
 9 cessful applicants will receive a Federal commitment of in-
 10 terest subsidy grant. Applicants will then have 12 months
 11 to finalize financing arrangements before unobligated
 12 funds would be returned to the subsidy program pool. A
 13 commitment, when issued, shall be valid for as long as
 14 a hospital or facility continues to meet the eligibility quali-
 15 fications of this title.

16 “SUBSIDIES FOR LOAN REFINANCING

17 “SEC. 2125. In addition to providing interest rate
 18 subsidies for new loans, the Trust Fund may provide sub-
 19 sidies to assist in refinancing if the hospital or facility
 20 presently lacks permanent financing at an affordable cur-
 21 rent market rate.

22 **“Subtitle D—Direct Matching Loans**

23 “PROVISION OF MATCHING LOANS

24 “SEC. 2131. (a) IN GENERAL.—The Secretary, with
 25 the approval of the Trust Fund Board, shall provide direct

1 matching loans to qualified hospitals and facilities unable
2 otherwise to obtain essential financing.

3 “(b) PURPOSES.—The purpose of this subtitle is to
4 provide qualifying hospitals and facilities with direct
5 matching loans for essential replacement (whether by con-
6 struction or acquisition), modernization, and renovation
7 projects and capital equipment acquisitions. These loans
8 are to be primarily provided for the funding of smaller
9 projects where the transaction costs of securing financing
10 from other sources may be disproportionately onerous in
11 relationship to the amounts financed.

12 “ELIGIBLE PROJECTS

13 “SEC. 2132. (a) IN GENERAL.—Qualified applicants
14 may seek a project loan of up to \$50,000,000. Not more
15 than 75 percent of the cost of the project may come from
16 Federal sources.

17 “(b) EXCEPTION FOR FINANCIALLY DISTRESSED AP-
18 PPLICANTS.—The Trust Fund Board shall have the discre-
19 tion to waive the 25 percent match requirement for finan-
20 cially distressed hospitals and facilities (as described by
21 the Secretary).

1 “ALLOTMENT OF LOANS

2 “Sec. 2133. (a) IN GENERAL.—The Trust Fund
3 Board shall make available \$200,000,000 in direct match-
4 ing loans annually. Funded projects should be divided be-
5 tween projects designed to achieve compliance with accred-
6 itation standards, life safety code, and other certification
7 standards, and those related to the provision of new serv-
8 ices.

9 “(b) RESERVE FOR RURAL HOSPITALS AND FACILI-
10 TIES.—No less than 10 percent of the total value of loans
11 made under the program shall be made to rural hospitals
12 and facilities, if there are a sufficient number of approved
13 applications from such hospitals and facilities.

14 “TERMS AND CONDITIONS OF LOANS

15 “SEC. 2134. (a) GENERAL TERM.—Loans will be
16 made for a period equal to the construction period plus
17 up to 39 years amortization.

18 “(b) INTEREST RATE.—The interest rate will be a
19 market rate determined by the Trust Fund Board to be
20 the most recent applicable index for revenue bonds, based
21 on the index published by the Bond Buyer and such other
22 information as the Board finds appropriate.

23 “USE OF LOANS FOR REFINANCING

24 “SEC. 2135. In addition to providing loans for new
25 projects, the Trust Fund Board may grant loans under
26 this subtitle to refinance existing loans if the hospital or

1 facility has been unable to secure permanent financing at
2 an affordable current market rate, except that the amount
3 of assistance provided under this subtitle during a year
4 for refinancing existing loans may not exceed 20 percent
5 of the total amount made available for assistance under
6 this subtitle for the year.

7 “CREATION OF REVOLVING FUND

8 “SEC. 2136. In addition to the new amounts made
9 available each year, all loan repayments made by hospitals
10 and facilities shall be held in a revolving fund that may
11 be used for additional loans.

12 “LOAN DEFAULT

13 “SEC. 2137. (a) IN GENERAL.—The failure of the
14 borrower hospital or facility to make payment due under
15 or provided by the terms of a loan granted under this sub-
16 title shall be considered a default under such loan and,
17 if such default continues for a period of 30 days, the Trust
18 Fund Board shall have the right to begin collection pro-
19 ceedings against the borrower.

20 “(b) PRIORITY OF FEDERAL INTEREST.—In the case
21 of default, the United States shall be paid prior to State
22 or local bonds.

23 “(c) SETTLEMENT OF CLAIMS.—Notwithstanding
24 any other provision of law, the Trust Fund Board shall
25 have the power to pursue to final collection by way of com-
26 promise or otherwise all claims assigned and transferred

1 to the Trust Fund in connection with an assignment,
 2 transfer, and delivery and at any time, upon default, to
 3 foreclose or refrain from foreclosing on any assets secured
 4 by any defaulted loan held by the Trust Fund.

5 **“Subtitle E—Grants for Urgent Capital Needs**

6 “PROVISION OF GRANTS

7 “SEC. 2141. (a) IN GENERAL.—The Secretary, with
 8 the approval of the Trust Fund Board, shall make direct
 9 grants to qualified hospitals and facilities with urgent cap-
 10 ital needs.

11 “(b) PURPOSES.—Direct grants shall be available to
 12 eligible hospitals and facilities for 3 types of projects:

13 “(1) Emergency certification and licensure
 14 grants would be available to eligible hospitals and fa-
 15 cilities that are threatened with closure or loss of ac-
 16 creditation or certification of a facility or of essential
 17 services as a result of life or safety code violations
 18 or similar facility or equipment failures. Such grants
 19 would provide limited funding for repair and renova-
 20 tion or capital equipment acquisition where failure to
 21 fund would disrupt the provision of essential public
 22 health services such as emergency care.

23 “(2) Emergency grants would be available for
 24 capital renovation, expansion, or replacement
 25 (whether by construction or acquisition) necessary to

1 the maintenance or expansion of essential safety and
2 health services such as obstetrics, perinatal, emer-
3 gency and trauma, primary care and preventive
4 health services.

5 “(3) Planning grants would be available to
6 qualified hospitals and facilities requiring pre-ap-
7 proval assistance related to management and finance
8 in order to apply for loans, loan guarantees, and in-
9 terest subsidies under this Act.

10 “(c) PRIORITY TO FINANCIALLY DISTRESSED PRO-
11 VIDERS.—Priority for direct grants under this section
12 would be given to financially distressed hospitals and fa-
13 cilities (as described by the Secretary).

14 “(d) APPLICATION PROCESS.—The Secretary, with
15 the approval of the Trust Fund Board, shall create an
16 expedited application process for direct grants.

17 “(e) AMOUNT ALLOCATED FROM TRUST FUND.—
18 The Trust Fund Board shall annually allocate
19 \$400,000,000 from the Trust Fund for grants under this
20 subtitle.

21 “ELIGIBLE PROJECTS

22 “SEC. 2142. (a) MATCHING GRANTS.—

23 “(1) LIMITATION ON AMOUNT.—Grants for cap-
24 ital expenditures by qualified hospitals and facilities
25 will be limited to \$25,000,000.

1 “(2) MATCHING REQUIREMENT.—At least half
2 of the projects funded in a year must receive at least
3 50 percent of their funding from State or local
4 sources. The remaining projects funded during the
5 year could be financed up to 90 percent with a com-
6 bination of Federal grants and loans.

7 “(3) RESERVATION FOR RURAL APPLICANTS.—
8 No less than 10 percent of the grant funds in any
9 given year would be reserved for rural applicants,
10 provided that a sufficient number of applications are
11 approved.

12 “(b) PLANNING GRANTS.—Applicants who can dem-
13 onstrate general qualification for the direct matching loan,
14 loan guarantee, or interest subsidy programs under this
15 title or eligibility for mortgage insurance under section
16 242 of the National Housing Act will be eligible for a
17 grant of up to \$500,000 to assist in implementation of
18 key budgetary and financial systems as well as manage-
19 ment and governance restructuring.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect October 1, 1998.

1 **SEC. 212. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RE-**
 2 **LATED COSTS UNDER MEDICARE.**

3 (a) IN GENERAL.—Section 1886(g)(1)(B) of the So-
 4 cial Security Act (42 U.S.C. 1395ww(g)(1)(B)) is amend-
 5 ed—

6 (1) by striking “and” at the end of clause (iii);

7 (2) by striking the period at the end of clause
 8 (iv) and inserting “, and”; and

9 (3) by adding at the end the following new
 10 clause:

11 “(v) shall provide for adjustments to take into
 12 account the extent to which capital-related costs in-
 13 curred by a hospital are costs with respect to which
 14 the hospital received financial assistance under title
 15 XXI.”.

16 (b) EFFECTIVE DATE.—The amendments made by
 17 subsection (a) shall apply to cost reporting periods begin-
 18 ning on or after October 1, 1999.

19 **SEC. 213. TAX EXEMPT STATUS OF FEDERALLY GUARAN-**
 20 **TEED STATE OR LOCAL BONDS.**

21 (a) IN GENERAL.—Section 149(b)(3)(A) of the Inter-
 22 nal Revenue Code of 1986 is amended—

23 (1) in clause (ii), by striking “or”;

24 (2) in clause (iii) by striking the period at the
 25 end and inserting “, or”; and

1 (3) by adding at the end the following new
 2 clause: “(iv) any guarantee by the Capital Financing
 3 Trust Fund pursuant to title XXI of the Social Se-
 4 curity Act.”.

5 (b) EFFECTIVE DATE.—The amendments made by
 6 subsection (a) shall take effect on October 1, 1998.

7 **TITLE III—CAPITAL** 8 **ALLOCATION PLANS**

9 **SEC. 301. REQUIRING STATE REVIEW MECHANISMS AS A** 10 **CONDITION OF PAYMENT FOR CAPITAL-RE-** 11 **LATED COSTS UNDER MEDICARE.**

12 (a) IN GENERAL.—Section 1862(a) of the Social Se-
 13 curity Act (42 U.S.C. 1395y(a)) is amended—

14 (1) by striking “or” at the end of paragraph (15);

15 (2) by striking the period at the end of paragraph
 16 (16) and inserting “; or” and

17 (3) by inserting after paragraph (16) the following
 18 new paragraph:

19 “(17) with respect to expenses for capital-related
 20 costs (as defined in section 1886(g)(1)(C)) incurred dur-
 21 ing a year (beginning with 1998) where—

22 “(A) such expenses are incurred in a State
 23 that does not have a capital allocation plan ap-
 24 proved by the Secretary under section 1890, or

1 “(B) the State notifies the Secretary that
 2 such expenses were incurred in violation of the
 3 State’s capital allocation plan under such sec-
 4 tion.”.

5 (b) CAPITAL ALLOCATION PLANS DESCRIBED.—Title
 6 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
 7 is amended by inserting after section 1889 the following
 8 new section:

9 “CAPITAL ALLOCATION PLANS

10 “SEC. 1890. (a) APPROVAL BY SECRETARY.—

11 “(1) IN GENERAL.—For purposes of section
 12 1862(a)(17), the Secretary shall approve the capital
 13 allocation plan of a State for a fiscal year if the
 14 Governor of the State provides the Secretary with
 15 information and assurances necessary for the Sec-
 16 retary to find that the plan meets the requirements
 17 of this section.

18 “(2) TERMINATION OR EXTENSION OF AP-
 19 PROVAL PERMITTED.—Notwithstanding paragraph
 20 (1), the Secretary may—

21 “(A) terminate the approval of a plan
 22 under this section for a fiscal year if the Sec-
 23 retary determines during the year that the plan
 24 is not substantially in compliance with this sec-
 25 tion; or

1 “(B) extend the approval of a plan under
2 this section (on a conditional basis) for an addi-
3 tional period not to exceed 12 months.

4 “(b) REQUIREMENTS.—

5 “(1) IN GENERAL.—A State’s capital allocation
6 plan meets the requirements of this section if—

7 “(A) except as provided in paragraph (2),
8 the Governor designates a single agency of the
9 State government as the State review agency
10 for the development of the plan;

11 “(B) the Governor designates a single
12 agency of the State government as the State re-
13 view agency for the enforcement of the plan;

14 “(C) all capital expenditures of health care
15 services in the State (except as provided in
16 paragraph (4)) are subject to review and ap-
17 proval under the plan (in accordance with sub-
18 section (c));

19 “(D) the State review agency determines
20 whether capital expenditures are in accordance
21 with the plan using the criteria specified in sub-
22 section (c) and notifies the Secretary if it deter-
23 mines that any capital expenditures subject to
24 the plan are not in accordance with the plan;
25 and

1 “(E) the State review agency provides the
2 Secretary with assurances that the agency is
3 enforcing the plan.

4 “(2) PERMITTING USE OF REGIONAL REVIEW
5 AGENCIES.—Notwithstanding paragraph (1)(A), a
6 Governor may designate a regional review agency to
7 develop the capital allocation plan for capital ex-
8 penditures of health care services in a geographic re-
9 gion in the State, but only if—

10 “(A) each such geographic region has a
11 population of at least 500,000;

12 “(B) if the region includes any portion of
13 a metropolitan statistical area, the region in-
14 cludes all of such metropolitan statistical area;
15 and

16 “(C) each such regional review agency in
17 the State—

18 “(i) is a nonprofit corporation or a
19 public regional planning body or single
20 unit of local government,

21 “(ii) is governed by a board a major-
22 ity of the members of which are consumers
23 or purchasers of health care services in the
24 region, and

1 “(iii) has resource allocation and plan-
2 ning in the region as its primary purpose.

3 “(3) PERMITTING USE OF MULTISTATE REVIEW
4 AGENCIES.—The Governors of 2 or more contiguous
5 States may designate a single review agency to carry
6 out the requirements of this section with respect to
7 capital expenditures of health care services in such
8 States, but only if such agency meets the require-
9 ments described in paragraph (2) for regional review
10 agencies.

11 “(4) SPECIAL TREATMENT OF SERVICES IN
12 RURAL AREAS PERMITTED.—

13 “(A) IN GENERAL.—A capital allocation
14 plan need not provide for review of expenditures
15 for services provided in rural areas in a State
16 if the State has developed a rural health plan
17 that meets the requirements of this paragraph.

18 “(B) REQUIREMENTS FOR RURAL HEALTH
19 PLAN.—A rural health plan must—

20 “(i) meet criteria developed by the
21 Secretary;

22 “(ii) have as its major focus the as-
23 surance of access to health care services by
24 low density rural populations in the State;
25 and

1 “(iii) address at least—

2 “(I) the regionalization of serv-
3 ices,

4 “(II) alternatives to traditional
5 facilities,

6 “(III) the development of new or-
7 ganizational forms, and

8 “(IV) the needs for special emer-
9 gency and other health-services-re-
10 lated transportation needs.

11 “(c) CONTENTS OF PLAN DESCRIBED.—

12 “(1) REQUIREMENTS RELATING TO ALLOCA-
13 TION OF CAPITAL.—

14 “(A) IN GENERAL.—Each capital alloca-
15 tion plan under this subsection shall—

16 “(i) be developed consistent with cri-
17 teria developed by the Secretary;

18 “(ii) be designed to assure that the
19 needs of the State’s residents for health
20 care services are met;

21 “(iii) include occupancy targets for in-
22 patient hospital facilities;

23 “(iv) include utilization targets for
24 services subject to review under the plan;
25 and

1 “(v) provide an opportunity for formal
2 review and comment before becoming final.

3 “(B) SPECIFICS.—Each capital allocation
4 plan must—

5 “(i) assure access to hospital facilities;

6 “(ii) identify which facilities (and
7 parts of facilities) would be closed in order
8 to reach the occupancy and utilization tar-
9 gets for health care services;

10 “(iii) provide for regionalization of
11 services, where appropriate; and

12 “(iv) address—

13 “(I) the special needs and cir-
14 cumstances of hospitals receiving an
15 additional payment under section
16 1886(d)(5)(F), Federally-qualified
17 health centers, and other institutions
18 and facilities that receive special as-
19 sistance for providing services to low-
20 income individuals and other individ-
21 uals in medically underserved commu-
22 nities (as defined in section 799(6) of
23 the Public Health Service Act), and

24 “(II) the provision of trauma
25 care.

1 “(2) REQUIREMENTS RELATING TO REVIEW.—

2 “(A) IN GENERAL.—The capital allocation
3 plan shall—

4 “(i) require the review of any pro-
5 posed expenditures for capital expenditures
6 in excess of \$1,000,000 in the area covered
7 by the plan;

8 “(ii) permit the review of expenditures
9 in the area covered by the plan that are
10 not described in clause (i); and

11 “(iii) provide that a review shall take
12 into consideration at least the following
13 criteria:

14 “(I) The relationship of the pro-
15 posed capital expenditure to the plan.

16 “(II) The need that the popu-
17 lation to be served has for the pro-
18 posed services, equipment, or facility
19 provided by the capital expenditure.

20 “(III) The availability of alter-
21 native, less costly, or more effective
22 methods for providing such services.

23 “(IV) The impact of the proposed
24 expenditure on the quality of care and

1 the costs of health care services pro-
2 vided to such population.

3 “(V) The impact of the proposed
4 expenditure on the utilization of the
5 applicant’s other capital resources.

6 “(VI) The extent to which the
7 proposed services, equipment, or facil-
8 ity shall eliminate unnecessary or du-
9 plicative services.

10 “(VII) The extent to which the
11 proposed services, equipment, or facil-
12 ity will be available to all residents of
13 the area, regardless of their ability to
14 pay for the use of such services,
15 equipment, or facility.

16 “(B) SPECIAL RULES FOR DETERMINING
17 AMOUNT OF EXPENDITURES.—In determining
18 the amount of proposed expenditures for a cap-
19 ital project for purposes of subparagraph (A)(i),
20 there shall be included—

21 “(i) the cost of any studies, surveys,
22 designs, plans, working drawings, specifica-
23 tions, and other activities essential to the

1 acquisition, improvement, expansion, or re-
2 placement of the capital project with re-
3 spect to which the expenditure is made;
4 and

5 “(ii) any proposed expenditures for
6 other capital projects which are found by
7 the review agency to be fundamentally re-
8 lated to the capital project in question (in
9 accordance with criteria developed by the
10 State using guidelines established by the
11 Secretary).

12 “(C) PROCEDURAL REQUIREMENTS.—

13 The capital allocation plan shall meet require-
14 ments relating to procedures for review as fol-
15 lows:

16 “(i) Reviews must be performed under
17 a regular schedule that provides that appli-
18 cations relating to expenditures for similar
19 capital projects will be considered at the
20 same time, and that provides an oppor-
21 tunity for additional applicants to seek ap-
22 proval for carrying out a capital project if
23 the review agency determines (based on the
24 application of an initial sponsor of such a
25 project) that an expenditure for such a

1 project would be appropriate under the
2 plan.

3 “(ii) the determinations of the review
4 must be made in public meetings.

5 “(iii) If local review agencies are es-
6 tablished under subsection (a)(2), the
7 State review agency must take the results
8 of reviews by such agencies into account.

9 “(iv) The State review agency must
10 make provision for access by the general
11 public to all applications for review and for
12 written findings of its reviews that state
13 the basis for agency determinations.

14 “(v) The State review agency must
15 hold at least one public hearing if re-
16 quested by persons directly affected by the
17 review.

18 “(vi) Any decision of the State review
19 agency to approve or not to approve a pro-
20 posed capital expenditure must be based
21 solely on the agency’s review and the
22 record created by the review.

23 “(vii) An application for a proposed
24 capital expenditure must include a time-
25 table for completing the project for which

1 the expenditure is proposed, and any ap-
2 proval of such an expenditure shall be
3 withdrawn if the State review agency finds
4 that the applicant was not making a good
5 faith effort to meet the timetable or to oth-
6 erwise meet any applicable condition for
7 approval.

8 “(viii) The allocation plan must pro-
9 vide either for an appeals mechanism (con-
10 sistent with the State’s administrative pro-
11 cedures act) or for an appeal before an en-
12 tity (other than the State review agency)
13 designated by the Governor.

14 “(d) FUNDING ASSISTANCE TO STATES.—

15 “(1) IN GENERAL.—The Secretary shall make,
16 in each fiscal year beginning with fiscal year 1998
17 from the allotment under paragraph (2) for the
18 State, a grant to each State with an approved cap-
19 ital allocation plan under this section in an amount
20 equal to 75 percent of the operating costs of carry-
21 ing out the plan in the State in the fiscal year.
22 Grants under this paragraph shall be payable from
23 the Capital Financing Trust Fund under section
24 2104.

1 “(2) AMOUNT OF ALLOTMENT.—The amount of
2 an allotment to each State is equal to the sum of—

3 “(A) the product of \$0.70 and the number
4 of individuals residing in the State who do not
5 reside in an area under the jurisdiction of a re-
6 gional review agency (as established by the
7 State under subsection (b)(2)); and

8 “(B) the product of \$1.00 and the number
9 of individuals residing in the State who reside
10 in an area under the jurisdiction of a regional
11 review agency.

12 “(e) DEFINITIONS.—In this subsection:

13 “(1) The term ‘Governor’ means the chief exec-
14 utive officer of a State, or his designee.

15 “(2) The term ‘capital expenditure’ means an
16 expenditure which—

17 “(A) under generally accepted accounting
18 principles, is not properly chargeable as an ex-
19 pense of operation and maintenance; or

20 “(B) is made to obtain by lease or com-
21 parable arrangement any facility thereof or any
22 equipment for a facility or part.

23 “(3) the term ‘rural area’ has the meaning
24 given such term in section 1886(d)(2)(D).”.

25 (c) EFFECT ON ANTITRUST LAWS.—

1 (1) IN GENERAL.—For purposes of the anti-
2 trust laws—

3 (A) the establishment by a State of a cap-
4 ital allocation plan under section 1890 of the
5 Social Security Act (as added by subsection (b))
6 shall be considered as affirmative State policy
7 with respect to individuals and entities in the
8 State providing health care services subject to
9 the plan; and

10 (B) the enforcement by a State of such a
11 plan shall be considered as active State super-
12 vision with respect to such individuals and enti-
13 ties.

14 (2) ANTITRUST LAWS DEFINED.—In paragraph
15 (1), the term “antitrust laws” has the meaning
16 given it in subsection (a) of the first sections of the
17 Clayton Act (15 U.S.C. 12(a)), except that such
18 term includes—

19 (A) section 5 of the Federal Trade Com-
20 mission Act (15 U.S.C. 45) to the extent such
21 section applies to unfair methods of competi-
22 tion; and

23 (B) any State law similar to the antitrust
24 laws.

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