

105TH CONGRESS  
2D SESSION

# S. 1789

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17, 1998

Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provisions, and for other purposes.

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

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medicare Early Access Act of 1998”.

# 1 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

## TITLE I—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.

## TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

## TITLE III—COBRA PROTECTION FOR EARLY RETIREES

### Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

### Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

### Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

## TITLE IV—FINANCING

Sec. 401. Reference to financing provisions.

1 **TITLE I—ACCESS TO MEDICARE**  
 2 **BENEFITS FOR INDIVIDUALS**  
 3 **62-TO-65 YEARS OF AGE**

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

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

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

10 (2) by inserting after such section the following  
 11 new part:

12 “PART D—PURCHASE OF MEDICARE BENEFITS BY  
 13 CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE  
 14 “**SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

15 “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR  
 16 ENROLLED INDIVIDUALS.—

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

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

22 “(A) FEDERAL OR STATE COBRA CONTINU-  
 23 ATION PROVISION.—The term ‘Federal or State  
 24 COBRA continuation provision’ has the mean-  
 25 ing given the term ‘COBRA continuation provi-

sion’ in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

“(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term ‘Federal health insurance program’ means any of the following:

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

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

“(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

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

“(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

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

1       “(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65  
2 YEARS OF AGE.—

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

7           “(A) AGE.—As of the last day of the  
8 month, the individual has attained 62 years of  
9 age, but has not attained 65 years of age.

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

14          “(C) NOT ELIGIBLE FOR COVERAGE  
15 UNDER GROUP HEALTH PLANS OR FEDERAL  
16 HEALTH INSURANCE PROGRAMS.—The individ-  
17 ual is not eligible for benefits or coverage under  
18 a Federal health insurance program (as defined  
19 in subsection (a)(2)(B)) or under a group  
20 health plan (other than such eligibility merely  
21 through a Federal or State COBRA continu-  
22 ation provision) as of the last day of the month  
23 involved.

24          “(2) LIMITATION ON ELIGIBILITY IF TERMI-  
25 NATED ENROLLMENT.—If an individual described in

paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

“(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

“(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

“(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual’s continued entitlement to benefits under this part shall not be affected by the individual’s subsequent eligibility for

1       benefits or coverage described in paragraph (1)(C),  
 2       or entitlement to such benefits or coverage.

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

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

10       “(1) individuals eligible to enroll as of a month  
 11   are permitted to pre-enroll during a prior month  
 12   within an enrollment period described in subsection  
 13   (b); and

14       “(2) each individual seeking to enroll under sec-  
 15   tion 1859(b) is notified, before enrolling, of the de-  
 16   ferred monthly premium amount the individual will  
 17   be liable for under section 1859C(b) upon attaining  
 18   65 years of age as determined under section  
 19   1859B(c)(3).

20       “(b) ENROLLMENT PERIODS.—

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

24       “(A) INITIAL ENROLLMENT PERIOD.—If  
 25   the individual is eligible to enroll under such

1 section for July 1999, the enrollment period  
2 shall begin on May 1, 1999, and shall end on  
3 August 31, 1999. Any such enrollment before  
4 July 1, 1999, is conditioned upon compliance  
5 with the conditions of eligibility for July 1999.

6 “(B) SUBSEQUENT PERIODS.—If the indi-  
7 vidual is eligible to enroll under such section for  
8 a month after July 1999, the enrollment period  
9 shall begin on the first day of the second month  
10 before the month in which the individual first is  
11 eligible to so enroll and shall end four months  
12 later. Any such enrollment before the first day  
13 of the third month of such enrollment period is  
14 conditioned upon compliance with the condi-  
15 tions of eligibility for such third month.

16 “(2) AUTHORITY TO CORRECT FOR GOVERN-  
17 MENT ERRORS.—The provisions of section 1837(h)  
18 apply with respect to enrollment under this part in  
19 the same manner as they apply to enrollment under  
20 part B.

21 “(c) DATE COVERAGE BEGINS.—

22 “(1) IN GENERAL.—The period during which  
23 an individual is entitled to benefits under this part  
24 shall begin as follows, but in no case earlier than  
25 July 1, 1999:



1           “(A) In the case of an individual who en-  
 2           rolls (including pre-enrolls) before the month in  
 3           which the individual satisfies eligibility for en-  
 4           rollment under section 1859, the first day of  
 5           such month of eligibility.

6           “(B) In the case of an individual who en-  
 7           rolls during or after the month in which the in-  
 8           dividual first satisfies eligibility for enrollment  
 9           under such section, the first day of the follow-  
 10          ing month.

11          “(2) AUTHORITY TO PROVIDE FOR PARTIAL  
 12          MONTHS OF COVERAGE.—Under regulations, the  
 13          Secretary may, in the Secretary’s discretion, provide  
 14          for coverage periods that include portions of a  
 15          month in order to avoid lapses of coverage.

16          “(3) LIMITATION ON PAYMENTS.—No payments  
 17          may be made under this title with respect to the ex-  
 18          penses of an individual enrolled under this part un-  
 19          less such expenses were incurred by such individual  
 20          during a period which, with respect to the individual,  
 21          is a coverage period under this section.

22          “(d) TERMINATION OF COVERAGE.—

23          “(1) IN GENERAL.—An individual’s coverage  
 24          period under this part shall continue until the indi-

vidual's enrollment has been terminated at the earliest of the following:

“(A) GENERAL PROVISIONS.—

“(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

“(ii) NONPAYMENT OF PREMIUMS.—

The individual fails to make payment of premiums required for enrollment under this part.

“(iii) MEDICARE ELIGIBILITY.—The

individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

“(B) TERMINATION BASED ON AGE.—The

individual attains 65 years of age.

“(2) EFFECTIVE DATE OF TERMINATION.—

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

“(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under para-

graph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

“(C) AGE OR MEDICARE ELIGIBILITY.—

The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

**“SEC. 1859B. PREMIUMS.**

“(a) AMOUNT OF MONTHLY PREMIUMS.—

“(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1998), determine the following premium rates which shall apply with respect to coverage pro-

1 vided under this title for any month in the succeed-  
 2 ing year:

3 “(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base  
 4 monthly premium for individuals 62 years of  
 5 age or older, equal to  $\frac{1}{12}$  of the base annual  
 6 premium rate computed under subsection (b)  
 7 for each premium area.  
 8

9 “(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-  
 10 retary shall, during September of each year (begin-  
 11 ning with 1998), determine under subsection (c) the  
 12 amount of deferred monthly premiums that shall  
 13 apply with respect to individuals who first obtain  
 14 coverage under this part under section 1859(b) in  
 15 the succeeding year.  
 16

17 “(3) ESTABLISHMENT OF PREMIUM AREAS.—  
 18 For purposes of this part, the term ‘premium area’  
 19 means such an area as the Secretary shall specify to  
 20 carry out this part. The Secretary from time to time  
 21 may change the boundaries of such premium areas.  
 22 The Secretary shall seek to minimize the number of  
 23 such areas specified under this paragraph.

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

1           “(1) NATIONAL, PER CAPITA AVERAGE.—The  
2       Secretary shall estimate the average, annual per  
3       capita amount that would be payable under this title  
4       with respect to individuals residing in the United  
5       States who meet the requirement of section  
6       1859(b)(1)(A) as if all such individuals were eligible  
7       for (and enrolled) under this title during the entire  
8       year (and assuming that section 1862(b)(2)(A)(i)  
9       did not apply).

10          “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-  
11       retary shall adjust the amount determined under  
12       paragraph (1) for each premium area (specified  
13       under subsection (a)(3)) in order to take into ac-  
14       count such factors as the Secretary deems appro-  
15       priate and shall limit the maximum premium under  
16       this paragraph in a premium area to assure partici-  
17       pation in all areas throughout the United States.

18          “(3) BASE ANNUAL PREMIUM.—The base an-  
19       nual premium under this subsection for months in a  
20       year for individuals 62 years of age or older residing  
21       in a premium area is equal to the average, annual  
22       per capita amount estimated under paragraph (1)  
23       for the year, adjusted for such area under paragraph  
24       (2).

1       “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS  
 2 62 YEARS OF AGE OR OLDER.—The deferred premium  
 3 rate for individuals with a group of individuals who obtain  
 4 coverage under section 1859(b) in a year shall be com-  
 5 puted by the Secretary as follows:

6               “(1) ESTIMATION OF NATIONAL, PER CAPITA  
 7 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-  
 8 MENT GROUP.—The Secretary shall estimate the av-  
 9 erage, per capita annual amount that will be paid  
 10 under this part for individuals in such group during  
 11 the period of enrollment under section 1859(b). In  
 12 making such estimate for coverage beginning in a  
 13 year before 2003, the Secretary may base such esti-  
 14 mate on the average, per capita amount that would  
 15 be payable if the program had been in operation over  
 16 a previous period of at least 4 years.

17               “(2) DIFFERENCE BETWEEN ESTIMATED EX-  
 18 PENDITURES AND ESTIMATED PREMIUMS.—Based  
 19 on the characteristics of individuals in such group,  
 20 the Secretary shall estimate during the period of  
 21 coverage of the group under this part under section  
 22 1859(b) the amount by which—

23                       “(A) the amount estimated under para-  
 24 graph (1); exceeds

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

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

12               “(A) the estimated actuarial value of such  
 13               premiums payable under section 1859C(b), is  
 14               equal to

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

17          Such rate shall be computed for each individual in  
 18          the group in a manner so that the rate is based on  
 19          the number of months between the first month of  
 20          coverage based on enrollment under section 1859(b)  
 21          and the month in which the individual attains 65  
 22          years of age.

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

1           “(A) the estimated probabilities of survival  
 2           at ages 62 through 84 for individuals enrolled  
 3           during the year; and

4           “(B) the estimated effective average inter-  
 5           est rates that would be earned on investments  
 6           held in the trust funds under this title during  
 7           the period in question.

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

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

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

22           “(2) PERIOD OF PAYMENT.—In the case of an  
 23           individual who participates in the program estab-  
 24           lished by this title, the base monthly premium shall  
 25           be payable for the period commencing with the first



1 month of the individual's coverage period and ending  
 2 with the month in which the individual's coverage  
 3 under this title terminates.

4 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

6 “(1) RATE OF PAYMENT.—

7 “(A) IN GENERAL.—In the case of an indi-  
 8 vidual who is covered under this part for a  
 9 month pursuant to an enrollment under section  
 10 1859(b), subject to subparagraph (B), the indi-  
 11 vidual is liable for payment of a deferred pre-  
 12 mium in each month during the period de-  
 13 scribed in paragraph (2) in an amount equal to  
 14 the full deferred monthly premium rate deter-  
 15 mined for the individual under section  
 16 1859B(c).

17 “(B) SPECIAL RULES FOR THOSE WHO  
 18 DISENROLL EARLY.—

19 “(i) IN GENERAL.—If such an individ-  
 20 ual's enrollment under such section is ter-  
 21 minated under clause (i) or (ii) of section  
 22 1859A(d)(1)(A), subject to clause (ii), the  
 23 amount of the deferred premium otherwise  
 24 established under this paragraph shall be  
 25 pro-rated to reflect the number of months

1 of coverage under this part under such en-  
 2 rollment compared to the maximum num-  
 3 ber of months of coverage that the individ-  
 4 ual would have had if the enrollment were  
 5 not so terminated.

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

17 “(2) PERIOD OF PAYMENT.—The period de-  
 18 scribed in this paragraph for an individual is the pe-  
 19 riod beginning with the first month in which the in-  
 20 dividual has attained 65 years of age and ending  
 21 with the month before the month in which the indi-  
 22 vidual attains 85 years of age.

23 “(3) COLLECTION.—In the case of an individual  
 24 who is liable for a premium under this subsection,  
 25 the amount of the premium shall be collected in the

1 same manner as the premium for enrollment under  
 2 such part is collected under section 1840, except  
 3 that any reference in such section to the Federal  
 4 Supplementary Medical Insurance Trust Fund is  
 5 deemed to be a reference to the Medicare Early Ac-  
 6 cess Trust Fund established under section 1859D.

7 “(c) APPLICATION OF CERTAIN PROVISIONS.—The  
 8 provisions of section 1840 (other than subsection (h))  
 9 shall apply to premiums collected under this section in the  
 10 same manner as they apply to premiums collected under  
 11 part B, except that any reference in such section to the  
 12 Federal Supplementary Medical Insurance Trust Fund is  
 13 deemed a reference to the Trust Fund established under  
 14 section 1859D.

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

16 “(a) ESTABLISHMENT OF TRUST FUND.—

17 “(1) IN GENERAL.—There is hereby created on  
 18 the books of the Treasury of the United States a  
 19 trust fund to be known as the ‘Medicare Early Ac-  
 20 cess Trust Fund’ (in this section referred to as the  
 21 ‘Trust Fund’). The Trust Fund shall consist of such  
 22 gifts and bequests as may be made as provided in  
 23 section 201(i)(1) and such amounts as may be de-  
 24 posited in, or appropriated to, such fund as provided  
 25 in this title.

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

4           “(3) TRANSFER OF SAVINGS FROM NEW FRAUD  
5           AND ABUSE INITIATIVES.—

6                   “(A) IN GENERAL.—There is hereby trans-  
7                   ferred to the Trust Fund from the Federal  
8                   Hospital Insurance Trust Fund and from the  
9                   Federal Supplementary Medical Insurance  
10                  Trust Fund amounts equivalent to the amounts  
11                  (specified under subparagraph (B)) of the re-  
12                  ductions in expenditures under such respective  
13                  trust fund as may be attributable to the enact-  
14                  ment of the Medicare Fraud and Overpayment  
15                  Act of 1998.

16                  “(B) USE OF CBO ESTIMATES.—For each  
17                  fiscal year during the 10-fiscal-year period be-  
18                  ginning with fiscal year 1999, the amounts  
19                  under subparagraph (A) shall be the amounts  
20                  described in such subparagraph as determined  
21                  by the Congressional Budget Office at the time  
22                  of, and in connection with, the enactment of the  
23                  Medicare Early Access Act of 1998. For subse-  
24                  quent fiscal years, the amounts under subpara-  
25                  graph (A) shall be the amount determined

1           under this subparagraph for the previous fiscal  
 2           year increased by the same percentage as the  
 3           percentage increase in aggregate expenditures  
 4           under this title from the second previous fiscal  
 5           year to the previous fiscal year.

6           “(b) INCORPORATION OF PROVISIONS.—

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

13                 “(2) MISCELLANEOUS REFERENCES.—In apply-  
 14          ing provisions of section 1841 under paragraph  
 15          (1)—

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

18                         “(B) any reference in section 1841(h) to  
 19           section 1840(d) and in section 1841(i) to sec-  
 20           tions 1840(b)(1) and 1842(g) are deemed ref-  
 21           erences to comparable authority exercised under  
 22           this part; and

23                         “(C) payments may be made under section  
 24           1841(g) to the Trust Funds under sections  
 25           1817 and 1841 as reimbursement to such funds

1           for payments they made for benefits provided  
2           under this part.

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

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

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

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

20      “(a) TREATMENT FOR PURPOSES OF TITLE.—Ex-  
21   cept as otherwise provided in this part—

22           “(1) individuals enrolled under this part shall  
23       be treated for purposes of this title as though the in-  
24       dividual were entitled to benefits under part A and  
25       enrolled under part B; and

1           “(2) benefits described in section 1859 shall be  
2       payable under this title to such individuals in the  
3       same manner as if such individuals were so entitled  
4       and enrolled.

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

11      “(c) NOT TREATED AS MEDICARE PROGRAM FOR  
12      PURPOSES OF COBRA CONTINUATION PROVISIONS.—In  
13      applying a COBRA continuation provision (as defined in  
14      section 2791(d)(4) of the Public Health Service Act), any  
15      reference to an entitlement to benefits under this title  
16      shall not be construed to include entitlement to benefits  
17      under this title pursuant to the operation of this part.”.

18      (b) CONFORMING AMENDMENTS TO SOCIAL SECU-  
19      RITY ACT PROVISIONS.—

20           (1) Section 201(i)(1) of the Social Security Act  
21       (42 U.S.C. 401(i)(1)) is amended by striking “or the  
22       Federal Supplementary Medical Insurance Trust  
23       Fund” and inserting “the Federal Supplementary  
24       Medical Insurance Trust Fund, and the Medicare  
25       Early Access Trust Fund”.

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

8           (3) Section 1820(i) of such Act (42 U.S.C.  
 9           1395i-4(i)) is amended by striking “part D” and in-  
 10          serting “part E”.

11          (4) Part C of title XVIII of such Act is amend-  
 12          ed—

13               (A) in section 1851(a)(2)(B) (42 U.S.C.  
 14               1395w-21(a)(2)(B)), by striking “ 1859(b)(3)”  
 15               and inserting “1858(b)(3);

16               (B) in section 1851(a)(2)(C) (42 U.S.C.  
 17               1395w-21(a)(2)(C)), by striking “1859(b)(2)”  
 18               and inserting “1858(b)(2)”;

19               (C) in section 1852(a)(1) (42 U.S.C.  
 20               1395w-22(a)(1)), by striking “ 1859(b)(3)”  
 21               and inserting “1858(b)(3);

22               (D) in section 1852(a)(3)(B)(ii) (42  
 23               U.S.C. 1395w-22(a)(3)(B)(ii)), by striking  
 24               “1859(b)(2)(B)”                      and                      inserting  
 25               “1858(b)(2)(B)”;



1 (E) in section 1853(a)(1)(A) (42 U.S.C.  
 2 1395w-23(a)(1)(A)), by striking “1859(e)(4)”  
 3 and inserting “1858(e)(4)”; and

4 (F) in section 1853(a)(3)(D) (42 U.S.C.  
 5 1395w-23(a)(3)(D)), by striking “1859(e)(4)”  
 6 and inserting “1858(e)(4)”.

7 (5) Section 1853(c) of such Act (42 U.S.C.  
 8 1395w-23(c)) is amended—

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

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

12 “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-  
 13 plying this subsection with respect to individuals en-  
 14 titled to benefits under part D, the Secretary shall  
 15 provide for an appropriate adjustment in the  
 16 Medicare+Choice capitation rate as may be appro-  
 17 priate to reflect differences between the population  
 18 served under such part and the population under  
 19 parts A and B.”.

20 (c) OTHER CONFORMING AMENDMENTS.—

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

24 (2)(A) Section 602(2)(D)(ii) of the Employee  
 25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1162(2)) is amended by inserting “(not including an  
 2 individual who is so entitled pursuant to enrollment  
 3 under section 1859A)” after “Social Security Act”.

4 (B) Section 2202(2)(D)(ii) of the Public Health  
 5 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-  
 6 ed by inserting “(not including an individual who is  
 7 so entitled pursuant to enrollment under section  
 8 1859A)” after “Social Security Act”.

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

14 **TITLE II—ACCESS TO MEDICARE**  
 15 **BENEFITS FOR DISPLACED**  
 16 **WORKERS 55-TO-62 YEARS OF**  
 17 **AGE**

18 **SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED**  
 19 **WORKERS 55-TO-62 YEARS OF AGE.**

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

23 “(c) DISPLACED WORKERS AND SPOUSES.—

24 “(1) DISPLACED WORKERS.—Subject to para-  
 25 graph (3), an individual who meets the following re-

quirements with respect to a month is eligible to enroll under this part with respect to such month:

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

“(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

“(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

“(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 1998. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

1                   “(ii) LOSS OF EMPLOYMENT-BASED  
 2                   COVERAGE.—Immediately before the time  
 3                   of such separation of employment, the indi-  
 4                   vidual was covered under a group health  
 5                   plan on the basis of such employment, and,  
 6                   because of such loss, is no longer eligible  
 7                   for coverage under such plan (including  
 8                   such eligibility based on the application of  
 9                   a Federal or State COBRA continuation  
 10                  provision) as of the last day of the month  
 11                  involved.

12                  “(iii) PREVIOUS CREDITABLE COV-  
 13                  ERAGE FOR AT LEAST 1 YEAR.—As of the  
 14                  date on which the individual loses coverage  
 15                  described in clause (ii), the aggregate of  
 16                  the periods of creditable coverage (as de-  
 17                  termined under section 2701(c) of the  
 18                  Public Health Service Act) is 12 months or  
 19                  longer.

20                  “(D) EXHAUSTION OF AVAILABLE COBRA  
 21                  CONTINUATION BENEFITS.—

22                  “(i) IN GENERAL.—In the case of an  
 23                  individual described in clause (ii) for a  
 24                  month described in clause (iii)—

1                   “(I) the individual (or spouse)  
2                   elected coverage described in clause  
3                   (ii); and

4                   “(II) the individual (or spouse)  
5                   has continued such coverage for all  
6                   months described in clause (iii) in  
7                   which the individual (or spouse) is eli-  
8                   gible for such coverage.

9                   “(ii) INDIVIDUALS TO WHOM COBRA  
10                  CONTINUATION COVERAGE MADE AVAIL-  
11                  ABLE.—An individual described in this  
12                  clause is an individual—

13                   “(I) who was offered coverage  
14                   under a Federal or State COBRA  
15                   continuation provision at the time of  
16                   loss of coverage eligibility described in  
17                   subparagraph (C)(ii); or

18                   “(II) whose spouse was offered  
19                   such coverage in a manner that per-  
20                   mitted coverage of the individual at  
21                   such time.

22                   “(iii) MONTHS OF POSSIBLE COBRA  
23                  CONTINUATION COVERAGE.—A month de-  
24                  scribed in this clause is a month for which  
25                  an individual described in clause (ii) could

1           have had coverage described in such clause  
2           as of the last day of the month if the indi-  
3           vidual (or the spouse of the individual, as  
4           the case may be) had elected such coverage  
5           on a timely basis.

6           “(E) NOT ELIGIBLE FOR COVERAGE  
7           UNDER FEDERAL HEALTH INSURANCE PRO-  
8           GRAM OR GROUP HEALTH PLANS.—The individ-  
9           ual is not eligible for benefits or coverage under  
10          a Federal health insurance program or under a  
11          group health plan (whether on the basis of the  
12          individual’s employment or employment of the  
13          individual’s spouse) as of the last day of the  
14          month involved.

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

20                 “(A) AGE.—As of the last day of the  
21                 month, the individual has not attained 62 years  
22                 of age.

23                 “(B) MARRIED TO DISPLACED WORKER.—  
24                 The individual is the spouse of an individual at  
25                 the time the individual enrolls under this part

1 under paragraph (1) and loses coverage de-  
 2 scribed in paragraph (1)(C)(ii) because the in-  
 3 dividual's spouse lost such coverage.

4 “(C) MEDICARE ELIGIBILITY (BUT FOR  
 5 AGE); EXHAUSTION OF ANY COBRA CONTINU-  
 6 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-  
 7 ERAGE UNDER FEDERAL HEALTH INSURANCE  
 8 PROGRAM OR GROUP HEALTH PLAN.—The indi-  
 9 vidual meets the requirements of subparagraphs  
 10 (B), (D), and (E) of paragraph (1).

11 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY  
 12 AFFECTS CONTINUED ELIGIBILITY.—For provision  
 13 that terminates enrollment under this section in the  
 14 case of an individual who becomes eligible for cov-  
 15 erage under a group health plan or under a Federal  
 16 health insurance program, see section  
 17 1859A(d)(1)(C).

18 “(4) REENROLLMENT PERMITTED.—Nothing in  
 19 this subsection shall be construed as preventing an  
 20 individual who, after enrolling under this subsection,  
 21 terminates such enrollment from subsequently re-  
 22 enrolling under this subsection if the individual is el-  
 23 igible to enroll under this subsection at that time.”.

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

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

5           “(3) individuals whose coverage under this part  
 6           would terminate because of subsection (d)(1)(B)(ii)  
 7           are provided notice and an opportunity to continue  
 8           enrollment in accordance with section  
 9           1859E(c)(1).”;

10          (2) in subsection (b), by inserting after Not-  
 11          withstanding any other provision of law, (1) the fol-  
 12          lowing:

13          “(2) DISPLACED WORKERS AND SPOUSES.—In  
 14          the case of individuals eligible to enroll under this  
 15          part under section 1859(c), the following rules  
 16          apply:

17               “(A) INITIAL ENROLLMENT PERIOD.—If  
 18               the individual is first eligible to enroll under  
 19               such section for July 1999, the enrollment pe-  
 20               riod shall begin on May 1, 1999, and shall end  
 21               on August 31, 1999. Any such enrollment be-  
 22               fore July 1, 1999, is conditioned upon compli-  
 23               ance with the conditions of eligibility for July  
 24               1999.



1           “(B) SUBSEQUENT PERIODS.—If the indi-  
 2           vidual is eligible to enroll under such section for  
 3           a month after July 1999, the enrollment period  
 4           based on such eligibility shall begin on the first  
 5           day of the second month before the month in  
 6           which the individual first is eligible to so enroll  
 7           (or reenroll) and shall end four months later.”;  
 8           (3) in subsection (d)(1), by amending subpara-  
 9           graph (B) to read as follows:

10           “(B) TERMINATION BASED ON AGE.—  
 11           “(i) AT AGE 65.—Subject to clause  
 12           (ii), the individual attains 65 years of age.  
 13           “(ii) AT AGE 62 FOR DISPLACED  
 14           WORKERS AND SPOUSES.—In the case of  
 15           an individual enrolled under this part pur-  
 16           suant to section 1859(c), subject to sub-  
 17           section (a)(1), the individual attains 62  
 18           years of age.”;

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

21           “(C) OBTAINING ACCESS TO EMPLOYMENT-  
 22           BASED COVERAGE OR FEDERAL HEALTH INSUR-  
 23           ANCE PROGRAM FOR INDIVIDUALS UNDER 62  
 24           YEARS OF AGE.—In the case of an individual  
 25           who has not attained 62 years of age, the indi-

1           vidual is covered (or eligible for coverage) as a  
 2           participant or beneficiary under a group health  
 3           plan or under a Federal health insurance pro-  
 4           gram.”;

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

7                   “(C) AGE OR MEDICARE ELIGIBILITY.—

8                           “(i) IN GENERAL.—The termination  
 9                           of a coverage period under paragraph  
 10                          (1)(A)(iii) or (1)(B)(i) shall take effect as  
 11                          of the first day of the month in which the  
 12                          individual attains 65 years of age or be-  
 13                          comes entitled to benefits under part A or  
 14                          enrolled for benefits under part B.

15                          “(ii) DISPLACED WORKERS.—The ter-  
 16                          mination of a coverage period under para-  
 17                          graph (1)(B)(ii) shall take effect as of the  
 18                          first day of the month in which the individ-  
 19                          ual attains 62 years of age, unless the in-  
 20                          dividual has enrolled under this part pur-  
 21                          suant to section 1859(b) and section  
 22                          1859E(c)(1).”; and

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

1           “(D) ACCESS TO COVERAGE.—The termi-  
 2           nation of a coverage period under paragraph  
 3           (1)(C) shall take effect on the date on which  
 4           the individual is eligible to begin a period of  
 5           creditable coverage (as defined in section  
 6           2701(c) of the Public Health Service Act)  
 7           under a group health plan or under a Federal  
 8           health insurance program.”.

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

11           (1) in subsection (a)(1), by adding at the end  
 12          the following:

13           “(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base  
 14           monthly premium for individuals under 62  
 15           years of age, equal to  $\frac{1}{12}$  of the base annual  
 16           premium rate computed under subsection (d)(3)  
 17           for each premium area and age cohort.”; and  
 18           for each premium area and age cohort.”; and

19           (2) by adding at the end the following new sub-  
 20          section:

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

23           “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE  
 24          GROUPS.—

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

12          “(B) AGE COHORTS.—For purposes of  
 13          subparagraph (A), the Secretary shall establish  
 14          separate age cohorts in 5 year age increments  
 15          for individuals who have not attained 60 years  
 16          of age and a separate cohort for individuals who  
 17          have attained 60 years of age.

18          “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-  
 19          retary shall adjust the amount determined under  
 20          paragraph (1)(A) for each premium area (specified  
 21          under subsection (a)(3)) in the same manner and to  
 22          the same extent as the Secretary provides for adjust-  
 23          ments under subsection (b)(2).

24          “(3) BASE ANNUAL PREMIUM.—The base an-  
 25          nual premium under this subsection for months in a

1 year for individuals in an age cohort under para-  
 2 graph (1)(B) in a premium area is equal to 165 per-  
 3 cent of the average, annual per capita amount esti-  
 4 mated under paragraph (1) for the age cohort and  
 5 year, adjusted for such area under paragraph (2).

6 “(4) PRO-RATION OF PREMIUMS TO REFLECT  
 7 COVERAGE DURING A PART OF A MONTH.—If the  
 8 Secretary provides for coverage of portions of a  
 9 month under section 1859A(c)(2), the Secretary  
 10 shall pro-rate the premiums attributable to such cov-  
 11 erage under this section to reflect the portion of the  
 12 month so covered.”.

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

16 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—  
 17 “(1) PROCESS FOR CONTINUED ENROLLMENT  
 18 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF  
 19 AGE.—The Secretary shall provide a process for the  
 20 continuation of enrollment of individuals whose en-  
 21 rollment under section 1859(c) would be terminated  
 22 upon attaining 62 years of age. Under such process  
 23 such individuals shall be provided appropriate and  
 24 timely notice before the date of such termination  
 25 and of the requirement to enroll under this part pur-

1       suant to section 1859(b) in order to continue entitle-  
 2       ment to benefits under this title after attaining 62  
 3       years of age.

4               “(2) ARRANGEMENTS WITH STATES FOR DE-  
 5       TERMINATIONS RELATING TO UNEMPLOYMENT COM-  
 6       PENSATION ELIGIBILITY.—The Secretary may pro-  
 7       vide for appropriate arrangements with States for  
 8       the determination of whether individuals in the State  
 9       meet or would meet the requirements of section  
 10      1859(e)(1)(C)(i).”.

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

15      **TITLE III—COBRA PROTECTION**  
 16              **FOR EARLY RETIREES**  
 17      **Subtitle A—Amendments to the**  
 18              **Employee Retirement Income**  
 19              **Security Act of 1974**

20      **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 21                      **RETIRED WORKERS WHO LOSE RETIREE**  
 22                      **HEALTH COVERAGE.**

23      (a) ESTABLISHMENT OF NEW QUALIFYING  
 24      EVENT.—

1           (1) IN GENERAL.—Section 603 of the Employee  
 2           Retirement Income Security Act of 1974 (29 U.S.C.  
 3           1163) is amended by inserting after paragraph (6)  
 4           the following new paragraph:

5           “(7) The termination or substantial reduction  
 6           in benefits (as defined in section 607(7)) of group  
 7           health plan coverage as a result of plan changes or  
 8           termination in the case of a covered employee who  
 9           is a qualified retiree.”.

10          (2) QUALIFIED RETIREE; QUALIFIED BENE-  
 11          FICIARY; AND SUBSTANTIAL REDUCTION DE-  
 12          FINED.—Section 607 of such Act (29 U.S.C. 1167)  
 13          is amended—

14                (A) in paragraph (3)—

15                   (i) in subparagraph (A), by inserting  
 16                   “except as otherwise provided in this para-  
 17                   graph,” after “means,”; and

18                   (ii) by adding at the end the following  
 19                   new subparagraph:

20                “(D) SPECIAL RULE FOR QUALIFYING RE-  
 21                TIREES AND DEPENDENTS.—In the case of a  
 22                qualifying event described in section 603(7), the  
 23                term ‘qualified beneficiary’ means a qualified  
 24                retiree and any other individual who, on the day  
 25                before such qualifying event, is a beneficiary

1 under the plan on the basis of the individual's  
2 relationship to such qualified retiree.”; and

3 (B) by adding at the end the following new  
4 paragraphs:

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

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

10 “(B) was receiving group health coverage  
11 under the plan by reason of the retirement of  
12 the covered employee.

13 “(7) SUBSTANTIAL REDUCTION.—The term  
14 ‘substantial reduction’—

15 “(A) means, as determined under regula-  
16 tions of the Secretary and with respect to a  
17 qualified beneficiary, a reduction in the average  
18 actuarial value of benefits under the plan  
19 (through reduction or elimination of benefits,  
20 an increase in premiums, deductibles, copay-  
21 ments, and coinsurance, or any combination  
22 thereof), since the date of commencement of  
23 coverage of the beneficiary by reason of the re-  
24 tirement of the covered employee (or, if later,  
25 January 6, 1998), in an amount equal to at



1           least 50 percent of the total average actuarial  
 2           value of the benefits under the plan as of such  
 3           date (taking into account an appropriate ad-  
 4           justment to permit comparison of values over  
 5           time); and

6                   “(B) includes an increase in premiums re-  
 7           quired to an amount that exceeds the premium  
 8           level described in the fourth sentence of section  
 9           602(3).

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

13           (1) in clause (ii), by inserting “or 603(7)” after  
 14       “603(6)”;

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

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

18           (4) by redesignating clause (v) as clause (iv)  
 19       and by moving such clause to immediately follow  
 20       clause (iii); and

21           (5) by inserting after such clause (iv) the fol-  
 22       lowing new clause:

23                   “(v) SPECIAL RULE FOR CERTAIN DE-  
 24                   PENDENTS IN CASE OF TERMINATION OR  
 25                   SUBSTANTIAL REDUCTION OF RETIREE

1 HEALTH COVERAGE.—In the case of a  
 2 qualifying event described in section  
 3 603(7), in the case of a qualified bene-  
 4 ficiary described in section 607(3)(D) who  
 5 is not the qualified retiree or spouse of  
 6 such retiree, the later of—

7 “(I) the date that is 36 months  
 8 after the earlier of the date the quali-  
 9 fied retiree becomes entitled to bene-  
 10 fits under title XVIII of the Social Se-  
 11 curity Act, or the date of the death of  
 12 the qualified retiree; or

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

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

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

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

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

1                   “(B) CERTAIN RETIREES.—In the case of  
 2                   a qualifying event described in section 603(7),  
 3                   in applying the first sentence of subparagraph  
 4                   (A) and the fourth sentence of paragraph (3),  
 5                   the coverage offered that is the most prevalent  
 6                   coverage option (as determined under regula-  
 7                   tions of the Secretary) continued under the  
 8                   group health plan (or, if none, under the most  
 9                   prevalent other plan offered by the same plan  
 10                  sponsor) shall be treated as the coverage de-  
 11                  scribed in such sentence, or (at the option of  
 12                  the plan and qualified beneficiary) such other  
 13                  coverage option as may be offered and elected  
 14                  by the qualified beneficiary involved.”.

15           (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
 16   Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-  
 17   ed by adding at the end the following new sentence: “In  
 18   the case of an individual provided continuation coverage  
 19   by reason of a qualifying event described in section  
 20   603(7), any reference in subparagraph (A) of this para-  
 21   graph to ‘102 percent of the applicable premium’ is  
 22   deemed a reference to ‘125 percent of the applicable pre-  
 23   mium for employed individuals (and their dependents, if  
 24   applicable) for the coverage option referred to in para-  
 25   graph (1)(B)’.”.

1 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.  
2 1166) is amended—

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

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

6 “The notice under paragraph (4) in the case of a qualify-  
7 ing event described in section 603(7) shall be provided at  
8 least 90 days before the date of the qualifying event.”.

9 (f) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by  
11 this section (other than subsection (e)(2)) shall  
12 apply to qualifying events occurring on or after Jan-  
13 uary 6, 1998. In the case of a qualifying event oc-  
14 ccurring on or after such date and before the date of  
15 the enactment of this Act, such event shall be  
16 deemed (for purposes of such amendments) to have  
17 occurred on the date of the enactment of this Act.

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

## **Subtitle B—Amendments to the Public Health Service Act**

### **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.**

(a) ESTABLISHMENT OF NEW QUALIFYING  
EVENT.—

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

“(6) The termination or substantial reduction  
in benefits (as defined in section 2208(6)) of group  
health plan coverage as a result of plan changes or  
termination in the case of a covered employee who  
is a qualified retiree.”.

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

(A) in paragraph (3)—

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

1 (ii) by adding at the end the following  
 2 new subparagraph:

3 “(C) SPECIAL RULE FOR QUALIFYING RE-  
 4 TIREES AND DEPENDENTS.—In the case of a  
 5 qualifying event described in section 2203(6),  
 6 the term ‘qualified beneficiary’ means a quali-  
 7 fied retiree and any other individual who, on  
 8 the day before such qualifying event, is a bene-  
 9 ficiary under the plan on the basis of the indi-  
 10 vidual’s relationship to such qualified retiree.”;  
 11 and

12 (B) by adding at the end the following new  
 13 paragraphs:

14 “(5) QUALIFIED RETIREE.—The term ‘qualified  
 15 retiree’ means, with respect to a qualifying event de-  
 16 scribed in section 2203(6), a covered employee who,  
 17 at the time of the event—

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

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

22 “(6) SUBSTANTIAL REDUCTION.—The term  
 23 ‘substantial reduction’—

24 “(A) means, as determined under regula-  
 25 tions of the Secretary of Labor and with respect

1 to a qualified beneficiary, a reduction in the av-  
 2 erage actuarial value of benefits under the plan  
 3 (through reduction or elimination of benefits,  
 4 an increase in premiums, deductibles, copay-  
 5 ments, and coinsurance, or any combination  
 6 thereof), since the date of commencement of  
 7 coverage of the beneficiary by reason of the re-  
 8 tirement of the covered employee (or, if later,  
 9 January 6, 1998), in an amount equal to at  
 10 least 50 percent of the total average actuarial  
 11 value of the benefits under the plan as of such  
 12 date (taking into account an appropriate ad-  
 13 justment to permit comparison of values over  
 14 time); and

15 “(B) includes an increase in premiums re-  
 16 quired to an amount that exceeds the premium  
 17 level described in the fourth sentence of section  
 18 2202(3).

19 (b) DURATION OF COVERAGE THROUGH AGE 65.—  
 20 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-  
 21 2(2)(A)) is amended—

22 (1) by redesignating clause (iii) as clause (iv);  
 23 and  
 24 (2) by inserting after clause (ii) the following  
 25 new clause:

1                   “(iii) SPECIAL RULE FOR CERTAIN  
 2                   DEPENDENTS IN CASE OF TERMINATION  
 3                   OR SUBSTANTIAL REDUCTION OF RETIREE  
 4                   HEALTH COVERAGE.—In the case of a  
 5                   qualifying event described in section  
 6                   2203(6), in the case of a qualified bene-  
 7                   ficiary described in section 2208(3)(C) who  
 8                   is not the qualified retiree or spouse of  
 9                   such retiree, the later of—

10                   “(I) the date that is 36 months  
 11                   after the earlier of the date the quali-  
 12                   fied retiree becomes entitled to bene-  
 13                   fits under title XVIII of the Social Se-  
 14                   curity Act, or the date of the death of  
 15                   the qualified retiree; or

16                   “(II) the date that is 36 months  
 17                   after the date of the qualifying  
 18                   event.”.

19           (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
 20           OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
 21           ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-  
 22           2(1)) is amended—

23                   (1) by striking “The coverage” and inserting  
 24                   the following:



1                   “(A) IN GENERAL.—Except as provided in  
 2                   subparagraph (B), the coverage”; and  
 3                   (2) by adding at the end the following:

4                   “(B) CERTAIN RETIREES.—In the case of  
 5                   a qualifying event described in section 2203(6),  
 6                   in applying the first sentence of subparagraph  
 7                   (A) and the fourth sentence of paragraph (3),  
 8                   the coverage offered that is the most prevalent  
 9                   coverage option (as determined under regula-  
 10                  tions of the Secretary of Labor) continued  
 11                  under the group health plan (or, if none, under  
 12                  the most prevalent other plan offered by the  
 13                  same plan sponsor) shall be treated as the cov-  
 14                  erage described in such sentence, or (at the op-  
 15                  tion of the plan and qualified beneficiary) such  
 16                  other coverage option as may be offered and  
 17                  elected by the qualified beneficiary involved.”.

18               (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
 19               Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is  
 20               amended by adding at the end the following new sentence:  
 21               “In the case of an individual provided continuation cov-  
 22               erage by reason of a qualifying event described in section  
 23               2203(6), any reference in subparagraph (A) of this para-  
 24               graph to ‘102 percent of the applicable premium’ is  
 25               deemed a reference to ‘125 percent of the applicable pre-

1 mium for employed individuals (and their dependents, if  
 2 applicable) for the coverage option referred to in para-  
 3 graph (1)(B)’.’.

4 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.  
 5 300bb–6(a)) is amended—

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

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

9 “The notice under paragraph (4) in the case of a qualify-  
 10 ing event described in section 2203(6) shall be provided  
 11 at least 90 days before the date of the qualifying event.”.

12 (f) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by  
 14 this section (other than subsection (e)(2)) shall  
 15 apply to qualifying events occurring on or after Jan-  
 16 uary 6, 1998. In the case of a qualifying event oc-  
 17 ccurring on or after such date and before the date of  
 18 the enactment of this Act, such event shall be  
 19 deemed (for purposes of such amendments) to have  
 20 occurred on the date of the enactment of this Act.

21 (2) ADVANCE NOTICE OF TERMINATIONS AND  
 22 REDUCTIONS.—The amendment made by subsection  
 23 (e)(2) shall apply to qualifying events occurring  
 24 after the date of the enactment of this Act, except

1       that in no case shall notice be required under such  
2       amendment before such date.

3       **Subtitle C—Amendments to the**  
4       **Internal Revenue Code of 1986**

5       **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
6                   **RETIRED WORKERS WHO LOSE RETIREE**  
7                   **HEALTH COVERAGE.**

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

10           (1) IN GENERAL.—Section 4980B(f)(3) of the  
11       Internal Revenue Code of 1986 is amended by in-  
12       serting after subparagraph (F) the following new  
13       subparagraph:

14                   “(G) The termination or substantial reduc-  
15       tion in benefits (as defined in subsection (g)(6))  
16       of group health plan coverage as a result of  
17       plan changes or termination in the case of a  
18       covered employee who is a qualified retiree.”.

19           (2) QUALIFIED RETIREE; QUALIFIED BENE-  
20       FICIARY; AND SUBSTANTIAL REDUCTION DE-  
21       FINED.—Section 4980B(g) of such Code is amend-  
22       ed—

23                   (A) in paragraph (1)—

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 “(E) SPECIAL RULE FOR QUALIFYING RE-  
 7 TIREES AND DEPENDENTS.—In the case of a  
 8 qualifying event described in subsection  
 9 (f)(3)(G), the term ‘qualified beneficiary’ means  
 10 a qualified retiree and any other individual who,  
 11 on the day before such qualifying event, is a  
 12 beneficiary under the plan on the basis of the  
 13 individual’s relationship to such qualified re-  
 14 tiree.”; and

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

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

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

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

1           “(6) SUBSTANTIAL REDUCTION.—The term  
2           ‘substantial reduction’—

3                   “(A) means, as determined under regula-  
4                   tions of the Secretary of Labor and with respect  
5                   to a qualified beneficiary, a reduction in the av-  
6                   erage actuarial value of benefits under the plan  
7                   (through reduction or elimination of benefits,  
8                   an increase in premiums, deductibles, copay-  
9                   ments, and coinsurance, or any combination  
10                  thereof), since the date of commencement of  
11                  coverage of the beneficiary by reason of the re-  
12                  tirement of the covered employee (or, if later,  
13                  January 6, 1998), in an amount equal to at  
14                  least 50 percent of the total average actuarial  
15                  value of the benefits under the plan as of such  
16                  date (taking into account an appropriate ad-  
17                  justment to permit comparison of values over  
18                  time); and

19                   “(B) includes an increase in premiums re-  
20                   quired to an amount that exceeds the premium  
21                   level described in the fourth sentence of sub-  
22                   section (f)(2)(C).”.

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

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

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

5           (3) by redesignating subclause (IV) as sub-  
6     clause (VI);

7           (4) by redesignating subclause (V) as subclause  
8     (IV) and by moving such clause to immediately fol-  
9     low subclause (III); and

10          (5) by inserting after such subclause (IV) the  
11     following new subclause:

12                               “(V) SPECIAL RULE FOR CER-  
13                               TAIN DEPENDENTS IN CASE OF TER-  
14                               MINATION OR SUBSTANTIAL REDUC-  
15                               TION OF RETIREE HEALTH COV-  
16                               ERAGE.—In the case of a qualifying  
17                               event described in paragraph (3)(G),  
18                               in the case of a qualified beneficiary  
19                               described in subsection (g)(1)(E) who  
20                               is not the qualified retiree or spouse  
21                               of such retiree, the later of—

22                               “(a) the date that is 36  
23                               months after the earlier of the  
24                               date the qualified retiree becomes  
25                               entitled to benefits under title

1 XVIII of the Social Security Act,  
 2 or the date of the death of the  
 3 qualified retiree; or

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

7 (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
 8 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
 9 ERAGE.—Section 4980B(f)(2)(A) of such Code is amend-  
 10 ed—

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

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

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

16 “(ii) CERTAIN RETIREES.—In the  
 17 case of a qualifying event described in  
 18 paragraph (3)(G), in applying the first  
 19 sentence of clause (i) and the fourth sen-  
 20 tence of subparagraph (C), the coverage  
 21 offered that is the most prevalent coverage  
 22 option (as determined under regulations of  
 23 the Secretary of Labor) continued under  
 24 the group health plan (or, if none, under  
 25 the most prevalent other plan offered by

1           the same plan sponsor) shall be treated as  
 2           the coverage described in such sentence, or  
 3           (at the option of the plan and qualified  
 4           beneficiary) such other coverage option as  
 5           may be offered and elected by the qualified  
 6           beneficiary involved.”.

7           (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
 8   Section 4980B(f)(2)(C) of such Code is amended by add-  
 9   ing at the end the following new sentence: “In the case  
 10   of an individual provided continuation coverage by reason  
 11   of a qualifying event described in paragraph (3)(G), any  
 12   reference in clause (i) of this subparagraph to ‘102 per-  
 13   cent of the applicable premium’ is deemed a reference to  
 14   ‘125 percent of the applicable premium for employed indi-  
 15   viduals (and their dependents, if applicable) for the cov-  
 16   erage option referred to in subparagraph (A)(ii)’.”.

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

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

21           (2) by adding at the end the following:  
 22   “The notice under subparagraph (D)(i) in the case of a  
 23   qualifying event described in paragraph (3)(G) shall be  
 24   provided at least 90 days before the date of the qualifying  
 25   event.”.



1 (f) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by  
 3 this section (other than subsection (e)(2)) shall  
 4 apply to qualifying events occurring on or after Jan-  
 5 uary 6, 1998. In the case of a qualifying event oc-  
 6 ccurring on or after such date and before the date of  
 7 the enactment of this Act, such event shall be  
 8 deemed (for purposes of such amendments) to have  
 9 occurred on the date of the enactment of this Act.

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

## 16 **TITLE IV—FINANCING**

### 17 **SEC. 401. REFERENCE TO FINANCING PROVISIONS.**

18 Any increase in payments under the medicare pro-  
 19 gram under title XVIII of the Social Security Act that  
 20 results from the enactment of this Act shall be offset by  
 21 reductions in payments under such program pursuant to  
 22 the anti-fraud and anti-abuse provisions enacted as part  
 23 of the Medicare Fraud and Overpayment Act of 1998.

○