

106TH CONGRESS
1ST SESSION

H. R. 2782

To amend title XVIII of the Social Security Act to assure access of Medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. PALLONE (for himself and Mrs. ROUKEMA) 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 title XVIII of the Social Security Act to assure access of Medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

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 “Seniors Prescription Insurance Coverage Equity
6 (SPICE) Act of 1999”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. SPICE drug benefit program.

“PART D—SPICE DRUG BENEFIT PROGRAM

- “Sec. 1860A. Establishment of SPICE drug benefit program.
 “Sec. 1860B. Requirements for offering SPICE drug benefit coverage.
 “Sec. 1860C. Enrollment process for SPICE drug benefit coverage.
 “Sec. 1860D. Financial assistance to obtain SPICE prescription drug coverage
 “Sec. 1860E. SPICE Board.
 “Sec. 1860F. SPICE Trust Fund.

- Sec. 3. Conforming changes to medigap.
 Sec. 4. Provision of information on SPICE drug benefit program under health insurance information, counseling, and assistance grants.
 Sec. 5. Funding through taxes on tobacco products.

1 SEC. 2. SPICE DRUG BENEFIT PROGRAM.

2 Title XVIII of the Social Security Act (42 U.S.C.
 3 1395 et seq.) is amended by redesignating part D as part
 4 E and by inserting after part C the following new part:

5 “PART D—SPICE DRUG BENEFIT PROGRAM

6 “ESTABLISHMENT OF SPICE DRUG BENEFIT PROGRAM

7 “SEC. 1860A. (a) IN GENERAL.—Under this part,
 8 the SPICE Board (established under section 1860E) shall
 9 provide for a SPICE drug benefit program under which—

- 10 “(1) all eligible medicare beneficiaries shall be
 11 provided access to SPICE prescription drug cov-
 12 erage (meeting the conditions of section 1860B)
 13 through either enrollment in a Medicare+Choice
 14 plan, enrollment in a SPICE medicare supplemental
 15 policy, or coverage under a group health plan; and
 16 “(2) there is financial assistance provided under
 17 section 1860D for beneficiaries who voluntarily ob-

1 tain such coverage, with such assistance varying de-
2 pending upon the income of such beneficiaries.

3 “(b) VOLUNTARY NATURE OF PROGRAM FOR ENTI-
4 TIES AND BENEFICIARIES.—Nothing in this part shall be
5 construed as requiring—

6 “(1) an eligible medicare beneficiary to obtain
7 coverage under a plan or policy that provides SPICE
8 prescription drug coverage;

9 “(2) a Medicare+Choice organization to offer a
10 Medicare+Choice plan that provides SPICE pre-
11 scription drug coverage; or

12 “(3) an issuer of a medicare supplemental pol-
13 icy to issue a SPICE medicare supplemental policy.

14 “(c) PROVIDING INFORMATION TO BENE-
15 FICIARIES.—

16 “(1) IN GENERAL.—The SPICE Board shall
17 broadly disseminate information to eligible medicare
18 beneficiaries on the SPICE drug benefit program
19 under this part, including information on the sanc-
20 tions for delayed enrollment under section 1860D(e).

21 “(2) SIMILAR TO MEDICARE+CHOICE ACTIVI-
22 TIES.—Such activities shall be similar to the activi-
23 ties performed under section 1851(d) (including the
24 approval of policy marketing materials).

“(3) ARRANGEMENTS.—The SPICE Board shall, in cooperation with the Secretary, enter into such arrangements as may be appropriate to disseminate widely to eligible medicare beneficiaries information about the SPICE drug benefit program in connection with materials distributed by the Secretary to medicare beneficiaries, including in the medicare handbook under section 1804 and in materials distributed under section 1851(d).

10 “(d) ELIGIBLE MEDICARE BENEFICIARY DE-
11 FINED.—For purposes of this part, the term ‘eligible
12 medicare beneficiary’ means an individual who is entitled
13 to benefits under part A and enrolled under part B.

14 “REQUIREMENTS FOR OFFERING SPICE DRUG BENEFIT
15 COVERAGE

16 “SEC. 1860B. (a) REQUIREMENT FOR APPROVAL OF
17 NAIC MODEL REVISIONS.—

18 “(1) IN GENERAL.—

“(A) CONDITION FOR OFFERING SPICE
MEDICARE SUPPLEMENTAL POLICY.—On or
after the effective date of this provision, it is
unlawful to issue or sell a medicare supple-
mental policy (as defined in section 1882(g))
that provides coverage of outpatient prescrip-
tion drugs in a State unless—

1 “(i) the State has adopted the Na-
2 tional Association of Insurance Commis-
3 sioners revisions under section
4 1882(v)(1)(A) that have been approved by
5 the SPICE Board under this section; and

6 “(ii) the coverage is offered consistent
7 with section 1860C.

8 The penalties described in clause (ii) of section
9 1882(d)(3)(A) shall apply to whoever violates
10 this subparagraph in the same manner as they
11 apply to whoever violates such section.

12 “(B) CONDITION FOR RECEIPT OF SPICE
13 FINANCIAL ASSISTANCE.—No payment of finan-
14 cial assistance with respect to coverage of an el-
15 igible medicare beneficiary under SPICE pre-
16 scription drug coverage which is offered either
17 as a SPICE medicare supplemental policy, as
18 part of the benefits under a Medicare+Choice
19 plan, or as part of the benefits under a group
20 health plan, shall be made unless—

21 “(i) an application with respect to
22 such coverage has been approved by the
23 SPICE Board under this section; and

24 “(ii) in the case of a SPICE medicare
25 supplemental policy or a Medicare+Choice

1 plan, the coverage is offered consistent
2 with section 1860C.

3 “(2) ESTABLISHMENT OF APPLICATION PROC-
4 ESS.—

5 “(A) IN GENERAL.—The SPICE Board
6 shall establish—

7 “(i) procedures regarding the informa-
8 tion to be included in applications under
9 this section and for the time and manner
10 in which such applications should be sub-
11 mitted;

12 “(ii) conditions (consistent with this
13 part) for the approval of such applications;
14 and

15 “(iii) the period (in no case less than
16 1 year) for which approval of such an ap-
17 plication is valid.

18 “(B) DISAPPROVAL.—The SPICE Board
19 may disapprove (or revoke the approval) of such
20 an application if the Board finds that, in the
21 case of a SPICE medicare supplemental policy
22 or Medicare+Choice plan, that the entity offer-
23 ing the SPICE prescription drug coverage is
24 purposefully engaged in activities intended to
25 result in favorable selection of those eligible

1 medicare beneficiaries obtaining coverage
2 through the policy or plan.

3 “(b) SPICE PRESCRIPTION DRUG COVERAGE DE-
4 FINED.—For purposes of this title, the term ‘SPICE pre-
5 scription drug coverage’ means coverage of outpatient pre-
6 scription drugs that the SPICE Board determines meets
7 the following requirements:

8 “(1) BENEFIT LEVEL.—The benefits
9 provided—

10 “(A) are limited to outpatient prescription
11 drugs;

12 “(B) include at least the threshold benefits
13 specified under subsection (c); and

14 “(C) do not include benefits for prescrip-
15 tion drugs for which benefits are otherwise
16 available (directly or when furnished as part of,
17 or as an incident to, another item or service)
18 under part A or B.

19 “(2) ACCESSIBILITY.—The benefits are acces-
20 sible and convenient to all eligible medicare bene-
21 ficiaries who have such coverage and provide for ac-
22 cess on a timely basis to new outpatient prescription
23 drugs and they become available.

24 “(3) NO PRE-EXISTING CONDITION EXCLU-
25 SIONS.—There are no pre-existing condition exclu-

sions or similar exclusions applied with respect to the coverage.

“(4) LIMITS ON FORMULARIES.—If the coverage uses a formulary, the formulary meets the requirements of subsection (d).

“(c) THRESHOLD BENEFIT LEVEL.—

“(1) IN GENERAL.—The SPICE Board shall request the National Association of Insurance Commissioners to revise the model standards for medicare supplemental policies pursuant to section 1882(v) for the purpose of—

“(A) defining the term ‘outpatient prescription drugs’; and

“(B) specifying a threshold level of benefits for SPICE prescription drug coverage.

“(2) CONSIDERATIONS.—

“(A) DEFINITION.—In establishing a definition under paragraph (1)(A), the Board shall request that the National Association of Insurance Commissioners take into account the definition of covered outpatient drugs under section 1927(k)(2) (which includes biological products and insulin).

“(B) THRESHOLD.—In specifying the threshold level under paragraph (1)(B), the

1 Board shall request that the National Associa-
2 tion of Insurance Commissioners—

3 “(i) take into account the level of such
4 coverage (including deductibles and other
5 cost-sharing) applied under health plans
6 offered under the Federal Employees
7 Health Benefits Program (under chapter
8 89 of title 5, United States Code) and
9 under other large group health plans; and

10 “(ii) permit (if determined appro-
11 priate) optional coverage of drugs (except
12 for agents used to promote smoking ces-
13 sation) for which coverage may be excluded
14 or restricted under section 1927(d)(2).

15 “(3) CONSTRUCTION.—Nothing in this part
16 shall be construed as preventing SPICE prescription
17 drug coverage from providing benefits for outpatient
18 prescription drugs in excess of the threshold speci-
19 fied under this subsection.

20 “(d) FORMULARY REQUIREMENTS.—

21 “(1) IN GENERAL.—A formulary meets the re-
22 quirements of this subsection only if—

23 “(A) such formulary is based on the med-
24 ical needs of eligible medicare beneficiaries;

1 “(B) the entity offering the coverage has
2 in place an appeals process for any eligible
3 medicare beneficiary to receive any medically
4 necessary outpatient prescription drug that is
5 not on the formulary;

6 “(C) such procedures do not impose a sig-
7 nificant financial burden on an eligible medicare
8 beneficiary or delay the provision of medically
9 necessary outpatient prescription drugs to such
10 a beneficiary; and

11 “(D) the entity offering the coverage pro-
12 vides notification to enrollees of any change in
13 the formulary and such notification is provided
14 at least 60 days prior to such change.

15 “(2) APPEAL PROCESS.—The appeals process
16 established under paragraph (1)(B) shall provide for
17 at least a level of protection that is similar to or bet-
18 ter than the level of protection provided with respect
19 to benefits under Medicare+Choice plans under
20 part C.

21 “(e) USE OF COST CONTAINMENT MECHANISMS.—
22 Nothing in this part shall be construed as preventing an
23 entity offering SPICE prescription drug coverage from
24 using reasonable cost containment methods, such as
25 formularies, mail order services, and generic drug substi-

1 tution, consistent with the specific requirements of this
2 part and applicable law.

3 “ENROLLMENT PROCESS FOR SPICE DRUG BENEFIT
4 COVERAGE

5 “SEC. 1860C. (a) ENROLLMENT PROCESS.—The
6 SPICE Board shall establish procedures, consistent with
7 this section, through which an eligible medicare bene-
8 ficiary may voluntarily elect whether or not to enroll,
9 disenroll, and change enrollment in a SPICE medicare
10 supplemental policy or in a Medicare+Choice plan that
11 includes SPICE prescription drug coverage.

12 “(b) CONSIDERATIONS.—In establishing such proce-
13 dures, the SPICE Board shall—

14 “(1) use rules similar to the rules for enroll-
15 ment, disenrollment, and changes in enrollment in a
16 Medicare+Choice plan under section 1851 (includ-
17 ing annual open enrollment periods and guaranteed
18 issue during any enrollment period);

19 “(2) permit special enrollment periods in cases
20 in which an eligible medicare beneficiary, who is en-
21 rolled under a Medicare+Choice plan or group
22 health plan that provides SPICE prescription drug
23 coverage—

24 “(A) loses such coverage under such a
25 plan; or

1 “(B) experiences a significant adverse in-
 2 come level change (as defined by the SPICE
 3 Board) which changes the level of financial as-
 4 sistance available under section 1860D; and

5 “(3) provide for coordination with the Secretary
 6 with respect to such enrollment, disenrollment, and
 7 changes in enrollment under par C.

8 “FINANCIAL ASSISTANCE TO OBTAIN SPICE
 9 PRESCRIPTION DRUG COVERAGE

10 “SEC. 1860D. (a) IN GENERAL.—The SPICE Board
 11 shall provide financial assistance, in accordance with this
 12 section, with respect to eligible medicare beneficiaries who
 13 have SPICE prescription drug coverage through enroll-
 14 ment in a SPICE medicare supplemental policy, in a
 15 Medicare+Choice plan that includes such coverage, or in
 16 a group health plan that includes such coverage.

17 “(b) AMOUNT OF ASSISTANCE.—

18 “(1) IN GENERAL.—Subject to subsections (e)
 19 and (f) and paragraph (2), the amount of financial
 20 assistance with respect to an eligible medicare bene-
 21 ficiary is equal to the following percentage of the ap-
 22 plicable cost (as defined in subsection (g)(1)) of the
 23 SPICE prescription drug coverage :

24 “(A) 100 PERCENT IF INCOME BELOW 150
 25 PERCENT OF POVERTY.—In the case of an eligi-
 26 ble medicare beneficiary who applies for en-

hanced financial assistance under subsection (c) and whose income (as verified under such subsection) does not exceed 150 percent of the poverty line, the percentage is 100 percent.

“(B) OTHER PERCENT IF INCOME BETWEEN 150 AND 175 PERCENT OF POVERTY.—

In the case of an eligible medicare beneficiary who applies for enhanced financial assistance under subsection (c) and whose income (as verified under such subsection) is greater than 150 percent, but does not exceed 175 percent, of the poverty line, the SPICE Board shall specify the percentage consistent with the following rules:

“(i) RANGE.—The percentage may not exceed 100 percent nor be less than the percentage specified under subparagraph (C).

“(ii) SLIDING SCALE.—The percentage may not be higher for eligible medicare beneficiaries whose income is higher.

“(iii) WITHIN AVAILABLE FUNDS.—The percentage is established in a manner that is consistent with the amount of funds

1 available for financial assistance under this
2 section.

3 “(C) 25 PERCENT FOR OTHER BENE-
4 FICIARIES.—In the case of any other eligible
5 medicare beneficiary, the percentage is 25 per-
6 cent.

7 “(2) LIMITATION IN CASE OF COVERAGE PRO-
8 VIDED THROUGH A MEDICARE+CHOICE PLAN.—In
9 the case of financial assistance provided under this
10 section with respect to SPICE prescription drug cov-
11 erage provided through a Medicare+Choice plan, the
12 amount of the financial assistance may not exceed
13 the amount of the portion of the premium charged
14 for enrollment in the plan that is related to out-
15 patient prescription drugs.

16 “(c) APPLICATION FOR ENHANCED FINANCIAL AS-
17 SISTANCE.—

18 “(1) IN GENERAL.—The SPICE Board shall es-
19 tablish procedures under which an individual who
20 desires enhanced financial assistance under this sec-
21 tion may voluntarily apply for an income determina-
22 tion.

23 “(2) INCOME VERIFICATION.—

24 “(A) IN GENERAL.—Under the procedures
25 established under paragraph (1), if an indi-

vidual voluntarily applies for an income determination under this subsection, the individual is deemed to have consented to the SPICE Board seeking and using income-related information from other Government agencies in order to verify the individual's income.

“(B) RESTRICTION ON USE OF INFORMATION.—Information obtained under subparagraph (A) may be used by officers and employees of the SPICE Board only for the purposes of, and to the extent necessary in, carrying out their responsibilities under this part.

“(3) PERIODIC REDETERMINATIONS.—Such income determinations shall be valid for a period (of not less than 1 year) specified by the SPICE Board.

“(d) FORM OF ASSISTANCE.—

“(1) IN GENERAL.—Financial assistance under this section shall be provided in the form of a payment to the issuer of the SPICE medicare supplemental policy involved, the Medicare+Choice organization offering the Medicare+Choice plan involved, or the sponsor of the group health plan involved, of the amount of the subsidy. Such payment shall be in a manner and time provided for by the SPICE Board.

1 “(2) ADDITIONAL REQUIREMENT.—No financial
2 assistance shall be made available with respect to
3 SPICE prescription drug coverage provided by an
4 entity to an eligible medicare beneficiary unless the
5 entity provides assurances satisfactory to the SPICE
6 Board that the entity shall reduce the amount other-
7 wise charged the beneficiary for such coverage by an
8 amount equal to the amount of such assistance.

9 “(3) SPECIAL RULE WHERE NO OR LOW PRE-
10 MIUM CHARGED.—The SPICE Board shall establish
11 appropriate procedures to assure that eligible medi-
12 care beneficiaries who obtain SPICE prescription
13 drug coverage through enrollment in a group health
14 plan which does not impose a premium or imposes
15 a premium that is less than the amount of the finan-
16 cial assistance otherwise provided, are provided the
17 benefit of some of such financial assistance.

18 “(e) LATE ENROLLMENT PENALTY.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the SPICE Board shall establish procedures for re-
21 ducing the amount of financial assistance provided
22 under this section on behalf of an eligible medicare
23 beneficiary if the beneficiary fails to obtain and
24 maintain SPICE prescription drug coverage during
25 periods in which the beneficiary is eligible to obtain

1 such coverage. Such procedures may be similar to
2 the part B late enrollment penalty provisions under
3 section 1839(b) and shall not take into account peri-
4 ods before the first period in which financial assist-
5 ance is made available under this section.

6 “(2) EXCEPTION.—The late enrollment proce-
7 dures established pursuant to paragraph (1) shall
8 not apply to an eligible medicare beneficiary who is
9 enrolled under Medicare+Choice plan or a group
10 health plan that provides outpatient prescription
11 drug coverage and the plan terminates or ceases to
12 provide such coverage to the beneficiary, but only
13 if—

14 “(A) the beneficiary seeks to enroll under
15 a plan or policy that offers SPICE prescription
16 drug coverage at the next opportunity that is
17 available to the beneficiary after the effective
18 date of the termination of such coverage; and

19 “(B) submits evidence of the effective date
20 of the termination of such coverage.

21 “(f) ADJUSTMENT OF FINANCIAL ASSISTANCE IF IN-
22 SUFFICIENT FUNDING.—

23 “(1) LIMITATION OF ASSISTANCE TO FUNDS
24 AVAILABLE.—In no case shall the amount of finan-
25 cial assistance provided under this section exceed the

1 amount of funds available for such assistance under
2 the SPICE Trust Fund.

3 “(2) REQUIRED ADJUSTMENT.—If the SPICE
4 Board determines under section 1860E(b)(3)(C)
5 that the amount in the SPICE Trust Fund in the
6 next year will be insufficient to cover the costs of
7 providing financial assistance under this section in
8 such year—

9 “(A) the SPICE Board shall first reduce
10 the percentage specified in subsection (b)(3) to
11 such lower percentage (but not below 10 per-
12 cent) as may be required, and to adjust the per-
13 centage specified under subsection (b)(2) to re-
14 flect such reduction;

15 “(B) if such percentage reductions are not
16 sufficient to reduce the costs to comply with
17 paragraph (1), the SPICE Board shall next re-
18 duce the income thresholds (as a percentage of
19 the poverty line) under subsection (b) as may
20 be further required; and

21 “(C) if such previous reductions are still
22 not sufficient to reduce the costs to comply with
23 paragraph (1), the SPICE Board shall imme-
24 diately report to Congress and suspend the pro-

1 vision of financial assistance under this section
2 during such year.

3 “(g) DEFINITIONS.—For purposes of this section:

4 “(1) APPLICABLE COST.—The term ‘applicable
5 cost’ means, with respect to SPICE prescription
6 drug coverage provided under—

7 “(A) a SPICE medicare supplemental pol-
8 icy, is the premium charged for the policy;

9 “(B) a Medicare+Choice plan, is the actu-
10 arial value of the portion of the adjusted com-
11 munity rate for the plan that is related to pro-
12 viding such coverage, as determined by the
13 SPICE Board in consultation with the Sec-
14 retary; or

15 “(C) a group health plan, is the actuarial
16 value of the portion of the applicable premium
17 for the plan that is related to providing such
18 coverage, as determined by the SPICE Board
19 taking into account the applicable premium for
20 such plan (as defined in section 604(1) of the
21 Employee Retirement Income Security Act of
22 1974).

23 “(2) POVERTY LINE.—The term ‘poverty line’
24 means the income official poverty line (as defined by
25 the Office of Management and Budget, and revised

1 annually in accordance with section 673(2) of the
 2 Omnibus Budget Reconciliation Act of 1981) appli-
 3 cable to a family of the size involved.

4 “SPICE BOARD

5 “SEC. 1860E. (a) ESTABLISHMENT.—There is estab-
 6 lished within the Department of Health and Human Serv-
 7 ices a Seniors Prescription Insurance Coverage Equity Of-
 8 fice, which shall be—

9 “(1) outside of the Health Care Financing Ad-
 10 ministration; and

11 “(2) run by a board to be known as the SPICE
 12 Board.

13 “(b) DUTIES.—

14 “(1) IN GENERAL.—The SPICE Board shall
 15 administer the SPICE drug benefit program under
 16 this part.

17 “(2) ONGOING STUDIES.—The SPICE Board
 18 shall conduct ongoing studies of the following issues:

19 “(A) The administration of this part.

20 “(B) The provision of information about
 21 the program under the health insurance infor-
 22 mation, counseling, and assistance grants under
 23 section 4360 of the Omnibus Budget Reconcili-
 24 ation Act of 1990.

1 “(C) Ways in which drug utilization can be
2 used to provide better overall care for eligible
3 medicare beneficiaries.

4 “(D) Savings and potential savings in Fed-
5 eral health care programs which may occur, or
6 can be attributed to, eligible medicare bene-
7 ficiary access to, and utilization of, outpatient
8 prescription drugs.

9 “(E) Trends in premium increases and fac-
10 tors that contribute to changes in premiums.

11 “(F) Integration of the SPICE drug ben-
12 efit program into a reformed medicare program.

13 “(G) The ability of eligible medicare bene-
14 ficiaries to afford SPICE prescription drug cov-
15 erage.

16 “(H) The impact of the program on the
17 prescription drug benefits offered under
18 Medicare+Choice plans and group health plans.

19 “(I) The appropriateness of the levels of fi-
20 nancial assistance provided in the case of eligi-
21 ble medicare beneficiaries who obtain assistance
22 through SPICE prescription drug coverage pro-
23 vided under Medicare+Choice plans or group
24 health plans.

25 “(3) ANNUAL REPORT.—

1 “(A) IN GENERAL.—Not later than June 1
2 of each year (beginning with 2001), the SPICE
3 Board shall submit an annual report to Con-
4 gress on the program under this part.

5 “(B) INFORMATION ON STUDIES.—Such
6 report shall include a detailed statement on the
7 issues studied under paragraph (2).

8 “(C) DETAILED FINANCIAL PROJECTIONS
9 AND REQUIRED ADJUSTMENTS IN FINANCIAL
10 ASSISTANCE.—Such report shall include—

11 “(i) the report on the financial status
12 of the SPICE Trust Fund under section
13 1860F; and

14 “(ii) a statement if, based on such
15 status, a reduction in financial assistance
16 for the subsequent year is required under
17 section 1860D(f) and, if so, the manner in
18 which such reductions will be made.

19 Such report may include recommendations re-
20 garding increases in financial assistance that
21 should be made in a subsequent year, to the ex-
22 tent they may be made consistent with section
23 1860D(f)(1).

24 “(D) RECOMMENDATIONS.—Such report
25 shall include such other recommendations for

1 legislation and administrative actions as the
2 SPICE Board considers appropriate.

3 “(4) STUDY AND REPORT REGARDING EXPAN-
4 SION.—

5 “(A) STUDY.—The SPICE Board, in con-
6 sultation with the National Association of In-
7 surance Commissioners, shall conduct a study
8 on—

9 “(i) permitting a benefit package
10 under section 1882 of the Social Security
11 Act (other than the outpatient prescription
12 drug only package established under sub-
13 section (v)(1)(A) of such section) to offer
14 outpatient prescription drugs; and

15 “(ii) providing financial assistance
16 under this part on behalf of eligible medi-
17 care beneficiaries receiving coverage under
18 such a benefit package.

19 “(B) REPORT.—Not later than 1 year
20 after all of the members of the SPICE Board
21 are appointed under subsection (c), the SPICE
22 Board shall submit a detailed report to Con-
23 gress on the study conducted pursuant to sub-
24 paragraph (A), together with any recommenda-

1 tions as determined appropriate by the SPICE
2 Board.

3 “(5) RECOMMENDATIONS REGARDING GRANT
4 PROGRAM.—The SPICE Board shall provide rec-
5 ommendations and necessary information regarding
6 the SPICE drug benefit program to the Secretary in
7 order for the Secretary to provide health insurance
8 information, counseling, and assistance grants under
9 section 4360 of the Omnibus Budget Reconciliation
10 Act of 1990.

11 “(c) MEMBERSHIP OF SPICE BOARD.—

12 “(1) NUMBER AND APPOINTMENT.—

13 “(A) IN GENERAL.—The SPICE Board
14 shall be composed of 7 members appointed by
15 the President, by and with the advice and con-
16 sent of the Senate.

17 “(B) SPECIFIC REPRESENTATIVES.—In
18 making appointments under subparagraph (A),
19 the President shall ensure that the following
20 groups are represented on the SPICE Board:

21 “(i) Consumers.

22 “(ii) Private health plan insurers (in-
23 cluding insurers that offer fee-for-service
24 and managed care plans) with expertise in

1 the quality, scope, and marketing of health
2 care services.

3 “(iii) The Health Care Financing Ad-
4 ministration.

5 “(iv) State insurance commissioners.

6 “(C) SECRETARY OF HHS.—The Secretary
7 shall be a nonvoting, ex officio member of the
8 SPICE Board.

9 “(2) DEADLINE FOR INITIAL APPOINTMENT.—
10 The initial members of the SPICE Board shall be
11 appointed by not later than 6 months after the date
12 of enactment of this section.

13 “(3) TERMS.—

14 “(A) IN GENERAL.—The terms of the
15 members of the SPICE Board shall be for 6
16 years, except that of the members first
17 appointed—

18 “(i) three shall be appointed for terms
19 of 6 years;

20 “(ii) two shall be appointed for terms
21 of 4 years; and

22 “(iii) two shall be appointed for terms
23 of 2 years.

24 “(B) VACANCIES.—Any member appointed
25 to fill a vacancy occurring before the expiration

1 of the term for which the member's predecessor
2 was appointed shall be appointed only for the
3 remainder of that term. A member may serve
4 after the expiration of that member's term until
5 a successor has taken office.

6 “(4) CHAIRPERSON.—The President shall des-
7 ignate the chairperson of the SPICE Board, except
8 that the representative from the Health Care Fi-
9 nancing Administration may not be designated as
10 chairperson.

11 “(d) OPERATION OF THE BOARD.—

12 “(1) MEETINGS.—The SPICE Board shall meet
13 at the call of the chairperson or upon written re-
14 quest of a majority of its members.

15 “(2) QUORUM.—A majority of the members of
16 the SPICE Board shall constitute a quorum, but a
17 lesser number of members may hold hearings.

18 “(e) POWERS OF THE SPICE BOARD.—

19 “(1) HEARINGS.—The SPICE Board may hold
20 such hearings, sit and act at such times and places,
21 take such testimony, and receive such evidence as
22 the SPICE Board considers advisable to carry out
23 the purposes of this part.

24 “(2) INFORMATION FROM FEDERAL AGEN-
25 CIES.—Upon request of the chairperson of the

1 SPICE Board, the head of any Federal department
2 or agency shall furnish such information to the
3 SPICE Board as is necessary to carry out the func-
4 tions of the SPICE Board under this part.

5 “(3) POSTAL SERVICES.—The SPICE Board
6 may use the United States mails in the same man-
7 ner and under the same conditions as other depart-
8 ments and agencies of the Federal Government.

9 “(4) GIFTS.—The SPICE Board may accept,
10 use, and dispose of gifts or donations of services or
11 property.

12 “(f) BOARD PERSONNEL MATTERS.—

13 “(1) MEMBERS.—

14 “(A) COMPENSATION.—Each member of
15 the SPICE Board who is not an officer or em-
16 ployee of the Federal Government shall be com-
17 pensated at a rate equal to the daily equivalent
18 of the annual rate of basic pay prescribed for
19 level IV of the Executive Schedule under section
20 5315 of title 5, United States Code, for each
21 day (including travel time) during which such
22 member is engaged in the performance of the
23 duties of the SPICE Board. All members of the
24 SPICE Board who are officers or employees of
25 the United States shall serve without compensa-

tion in addition to that received for their services as officers or employees of the United States.

“(B) TRAVEL EXPENSES.—The members of the SPICE Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the SPICE Board.

“(C) REMOVAL.—The President may remove a member of the SPICE Board only for neglect of duty or malfeasance in office.

“(2) STAFF.—

“(A) IN GENERAL.—The chairperson of the SPICE Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the SPICE Board to perform its duties. The employment of an executive director shall be subject to confirmation by the SPICE Board.

1 “(B) COMPENSATION.—The chairperson of
2 the SPICE Board may fix the compensation of
3 the executive director and other personnel with-
4 out regard to the provisions of chapter 51 and
5 subchapter III of chapter 53 of title 5, United
6 States Code, relating to classification of posi-
7 tions and General Schedule pay rates, except
8 that the rate of pay for the executive director
9 and other personnel may not exceed the rate
10 payable for level V of the Executive Schedule
11 under section 5316 of such title.

12 “(C) DETAIL OF GOVERNMENT EMPLOY-
13 EES.—Any Federal Government employee may
14 be detailed to the SPICE Board without further
15 reimbursement, and such detail shall be without
16 interruption or loss of civil service status or
17 privilege.

18 “(D) PROCUREMENT OF TEMPORARY AND
19 INTERMITTENT SERVICES.—The chairperson of
20 the SPICE Board may procure temporary and
21 intermittent services under section 3109(b) of
22 title 5, United States Code, at rates for individ-
23 uals which do not exceed the daily equivalent of
24 the annual rate of basic pay prescribed for level

1 V of the Executive Schedule under section 5316
2 of such title.

3 “SPICE TRUST FUND

4 “SEC. 1860F. (a) CREATION OF TRUST FUND.—

5 There is established in the Treasury of the United States
6 a trust fund to be known as the ‘SPICE Trust Fund’,
7 consisting of such amounts as may be appropriated or
8 credited to the SPICE Trust Fund as provided in this sec-
9 tion.

10 “(b) AMOUNTS IN SPICE TRUST FUND.—

11 “(1) IN GENERAL.—The SPICE Trust Fund
12 shall consist of the following amounts:

13 “(A) Amounts deposited in, or appro-
14 priated to, the SPICE Trust Fund as provided
15 in this section.

16 “(B) Any gifts and bequests made to such
17 Trust Fund.

18 “(2) APPROPRIATION.—

19 “(A) AMOUNTS FROM TOBACCO TAX.—

20 There are appropriated to the SPICE Trust
21 Fund amounts equivalent to the net revenues
22 received in the Treasury after December 31,
23 1999, from the taxes imposed by section 5701
24 of the Internal Revenue Code of 1986 to the ex-
25 tent attributable to increases in the rates of tax
26 imposed by such section over the rates which

1 would have been imposed if the Seniors Pre-
2 scription Insurance Coverage Equity (SPICE)
3 Act of 1999 had not been enacted.

4 “(B) OTHER AMOUNTS.—There are hereby
5 authorized to be appropriated to the SPICE
6 Trust Fund amounts from the on-budget sur-
7 plus.

8 “(3) NET REVENUES.—For purposes of this
9 subsection, the term ‘net revenues’ means the
10 amount estimated by the Secretary of the Treasury
11 based on the excess of—

12 “(A) the taxes received in the Treasury as
13 described in paragraph (1), over

14 “(B) the sum of the decrease in the tax
15 imposed by chapter 1 of the Internal Revenue
16 Code of 1986 resulting from the imposition of
17 the taxes described in paragraph (2) and the
18 amount of refunds provided under subchapter A
19 of chapter 52 of such Code to the extent such
20 refunds are attributable to the revenues trans-
21 ferred to such Trust Fund under this section.

22 “(4) TRANSFER.—The amounts appropriated
23 pursuant to paragraph (2) shall be transferred by
24 the Secretary of the Treasury from time to time
25 from the general fund in the Treasury to the SPICE

1 Trust Fund. The amount to be transferred under
2 this paragraph shall be determined on the basis of
3 estimates by the Secretary of the Treasury of the
4 taxes, described in such paragraph, paid to or depos-
5 ited into the Treasury. The Secretary of the Treas-
6 ury shall make adjustments in amounts subsequently
7 transferred to the extent that prior estimates were
8 in excess of, or were less than, such taxes.

9 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
10 in the SPICE Trust Fund shall only be available for mak-
11 ing expenditures to carry out this part, including adminis-
12 trative expenses of the SPICE Board.

13 “(d) APPLICATION OF HI TRUST FUND PROVI-
14 SIONS.—The provisions of subsections (b) through (e) of
15 section 1817 shall apply to the SPICE Board, this part,
16 and the SPICE Trust Fund in the same manner as they
17 apply to the Board of Trustees (and the Secretary and
18 the Health Care Financing Administration), part A, and
19 the Federal Hospital Insurance Trust Fund, respectively,
20 except that—

21 “(1) the Board of Trustees shall be composed
22 of the SPICE Board and the Secretary of the Treas-
23 ury; and

1 “(2) the annual report shall be submitted as
 2 part of the annual report provided under section
 3 1860E(b)(3).”.

4 **SEC. 3. CONFORMING CHANGES TO MEDIGAP.**

5 Section 1882 of the Social Security Act (42 U.S.C.
 6 1395ss) is amended by adding at the end the following:

7 “(v)(1) Notwithstanding subsection (p), the benefit
 8 packages established under such subsection shall be re-
 9 vised (in the manner described in subsection (p)(1)(E))
 10 so that—

11 “(A) there is established a benefit package con-
 12 sisting of only outpatient prescription drug benefits
 13 that are consistent with SPICE prescription drug
 14 coverage (as defined in section 1860B(b)) and that
 15 are offered only through the SPICE Board and in
 16 accordance with part D;

17 “(B) such package shall permit coverage of out-
 18 patient prescription drugs that exceeds the thresh-
 19 olds established under such section;

20 “(C) no package (except the package estab-
 21 lished under subparagraph (A)) includes coverage of
 22 outpatient prescription drugs provided under part D;
 23 and

1 “(D) other benefit packages that do not include
2 prescription drug coverage may be substituted for
3 the packages eliminated under subparagraph (C).

4 In this title, a medicare supplemental policy which has the
5 benefit package described in subparagraph (A) is referred
6 to as a ‘SPICE medicare supplemental policy’. The revi-
7 sions of benefit packages under this paragraph shall not
8 effect the renewal of medicare supplemental policies under
9 this section that are in existence on the effective date of
10 such revisions, and shall be designed to avoid adverse se-
11 lection and to be affordable.

12 “(2) Notwithstanding subsection (d), nothing in this
13 section shall be construed as prohibiting or making
14 unlawful—

15 “(A) the sale or issuance of a SPICE medicare
16 supplemental policy to an individual who has a medi-
17 care supplemental policy that does not provide cov-
18 erage of outpatient prescription drugs;

19 “(B) the sale or issuance of a medicare supple-
20 mental policy that does not provide coverage of out-
21 patient prescription drugs to an individual who has
22 a SPICE medicare supplemental policy; or

23 “(C) the sale or issuance of such a SPICE
24 medicare supplemental policy to an individual who is
25 enrolled in a Medicare+Choice plan that does not

1 provide coverage of outpatient prescription drugs
2 (not including coverage required to be provided
3 under part A or B).

4 The sale or issuance of policies under the circumstances
5 described in this paragraph shall be treated as not ‘dupli-
6 cative’ under this section.

7 “(3)(A) No medicare supplemental policy of the in-
8 surer that is in effect on the effective date of the revision
9 under paragraph (1) and that has a benefit package classi-
10 fied as ‘H’, ‘I’, or ‘J’ under the standards established by
11 subsection (p)(2) shall be deemed to meet the standards
12 in subsection (c) unless the insurer—

13 “(i) provides written notice, within a 60-day pe-
14 riod specified by the revisions, to the policyholder or
15 certificate holder (at the most recent available ad-
16 dress) of the offer described in clause (ii) and of the
17 fact that, so long as they retain coverage under such
18 policy, they are unable to purchase a SPICE medi-
19 care supplemental policy; and

20 “(ii) offers the individual under the terms de-
21 scribed in subparagraph (B), during a period of at
22 least 180 days beginning on the date specified in
23 subparagraph (C), institution of coverage effective
24 as of a date specified by the revisions, a non-SPICE
25 medicare supplemental policy that the Secretary de-

1 termines is most comparable to the policy in which
2 the individual is enrolled (but for coverage of pre-
3 scription drugs).

4 “(B) The terms described under this subparagraph
5 are terms which do not—

6 “(i) deny or condition the issuance or effective-
7 ness of a medicare supplemental policy described in
8 subparagraph (A)(ii) that is offered and is available
9 for issuance to new enrollees by such issuer;

10 “(ii) discriminate in the pricing of such policy
11 because of health status, claims experience, receipt
12 of health care, or medical condition; or

13 “(iii) impose an exclusion of benefits based on
14 a pre-existing condition under such policy.

15 “(C) The date specified in this subparagraph for a
16 policy issued in a State is such date as specified by the
17 revisions (taking into account the method used under sub-
18 section (n)(4) for establishing a date under that sub-
19 section).

20 “(4) In applying this section with respect to SPICE
21 medicare supplemental policies, any reference to the ‘Sec-
22 retary’ is deemed a reference to the SPICE Board.”.

1 **SEC. 4. PROVISION OF INFORMATION ON SPICE DRUG BEN-**
 2 **EFIT PROGRAM UNDER HEALTH INSURANCE**
 3 **INFORMATION, COUNSELING, AND ASSIST-**
 4 **ANCE GRANTS.**

5 Section 4360(b)(2)(A)(ii) of the Omnibus Budget
 6 Reconciliation Act of 1990 (42 U.S.C. 1395b–
 7 4(b)(2)(A)(ii)) is amended by striking “and information”
 8 and inserting “, information regarding the SPICE drug
 9 benefit program under part D of title XVIII of the Social
 10 Security Act, and information”.

11 **SEC. 5. FUNDING THROUGH TAXES ON TOBACCO PROD-**
 12 **UCTS.**

13 (a) CIGARETTES.—Subsection (b) of section 5701 of
 14 the Internal Revenue Code of 1986 is amended—

15 (1) by striking “\$12 per thousand (\$10 per
 16 thousand on cigarettes removed during 1991 or
 17 1992);” in paragraph (1) and inserting “the applica-
 18 ble rate per thousand determined in accordance with
 19 the following table:

“In the case of cigarettes removed during:	The applicable rate is:
2000 and 2001	\$44.50
2002 and thereafter	\$47.00.”;

20 and

21 (2) by striking paragraph (2) and inserting the
 22 following:

23 “(2) LARGE CIGARETTES.—

1 “(A) IN GENERAL.—Except as provided in
 2 subparagraph (B), on cigarettes, weighing more
 3 than 3 pounds per thousand, the applicable rate
 4 per thousand determined in accordance with the
 5 following table:

“In the case of cigarettes removed during:	The applicable rate is:
2000 and 2001	\$93.45
2002 and thereafter	\$98.70.

6 “(B) EXCEPTION.—On cigarettes more
 7 than 6½ inches in length, at the rate pre-
 8 scribed for cigarettes weighing not more than 3
 9 pounds per thousand, counting each 2¾ inches,
 10 or fraction thereof, of the length of each as one
 11 cigarette.”

12 (b) CIGARS.—Subsection (a) of section 5701 of such
 13 Code is amended—

14 (1) by striking “\$1.125 cents per thousand
 15 (93.75 cents per thousand on cigars removed during
 16 1991 or 1992),” in paragraph (1) and inserting “the
 17 applicable rate per thousand determined in accord-
 18 ance with the following table:

“In the case of cigars removed during:	The applicable rate is:
2000 and 2001	\$4.173 cents
2002 and thereafter	\$4.406 cents.”;

19 and

1 (2) by striking paragraph (2) and inserting the
2 following:

3 “(2) LARGE CIGARS.—On cigars, weighing more
4 than 3 pounds per thousand, the applicable percent-
5 age of the price for which sold but not more than the
6 applicable rate per thousand determined in accord-
7 ance with the following table:

“In the case of cigars re- moved dur- ing:	The applicable percentage is:	The applicable rate is:
2000 and 2001	59.458%	\$139.90
2002 and thereafter	68.201%	\$160.47.”

8 (c) CIGARETTE PAPERS.—Subsection (c) of section
9 5701 of such Code is amended to read as follows:

10 “(c) CIGARETTE PAPERS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), on each book or set of cigarette papers
13 containing more than 25 papers, manufactured in or
14 imported into the United States, there shall be im-
15 posed a tax of the applicable rate for each 50 papers
16 or fractional part thereof as determined in accord-
17 ance with the following table:

“In the case of cigarette papers removed during:	The applicable rate is:
2000 and 2001	2.80 cents
2002 and thereafter	2.90 cents.

18 “(2) EXCEPTION.—If cigarette papers measure
19 more than 6½ inches in length, such cigarette pa-

pers shall be taxable at the rate prescribed, counting each $2\frac{3}{4}$ inches, or fraction thereof, of the length of each as one cigarette paper.”

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code is amended to read as follows:

“(d) CIGARETTE TUBES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), on cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of the applicable rate for each 50 tubes or fractional part thereof as determined in accordance with the following table:

“In the case of cigarette tubes removed during:	The applicable rate is:
2000 and 2001	5.60 cents
2002 and thereafter	5.90 cents.

“(2) EXCEPTION.—If cigarette tubes measure more than $6\frac{1}{2}$ inches in length, such cigarette tubes shall be taxable at the rate prescribed, counting each $2\frac{3}{4}$ inches, or fraction thereof, of the length of each as one cigarette tube.”

(e) SMOKELESS TOBACCO.—Paragraphs (1) and (2) of subsection (e) of section 5701 are amended to read as follows:

“(1) SNUFF.—On snuff, the applicable rate per pound determined in accordance with the following table (and a proportionate tax at the like rate on

1 all fractional parts of a pound):

	The applicable rate is:
“In the case of snuff removed during:	
2000 and 2001	\$1.335 cents
2002 and thereafter	\$1.410 cents.

2 “(2) CHEWING TOBACCO.—On chewing tobacco,
 3 the applicable rate per pound determined in accord-
 4 ance with the following table (and a proportionate
 5 tax at the like rate on all fractional parts of a
 6 pound):

	The applicable rate is:
“In the case of chewing tobacco removed during:	
2000 and 2001	44.5 cents
2002 and thereafter	47.0 cents.”

7 (f) PIPE TOBACCO.—Subsection (f) of section 5701
 8 of such Code is amended to read as follows:

9 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-
 10 tured in or imported into the United States, there shall
 11 be imposed a tax of the applicable rate per pound deter-
 12 mined in accordance with the following table (and a pro-
 13 portionate tax at the like rate on all fractional parts of
 14 a pound):

	The applicable rate is:
“In the case of pipe tobacco removed during:	
2000 and 2001	\$2.504 cents
2002 and thereafter	\$2.644 cents.”

15 (g) IMPOSITION OF EXCISE TAX ON MANUFACTURE
 16 OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

17 (1) IN GENERAL.—Section 5701 of such Code
 18 (relating to rate of tax) is amended by redesignating

1 subsection (g) as subsection (h) and by inserting
 2 after subsection (f) the following:

3 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
 4 tobacco, manufactured in or imported into the United
 5 States, there shall be imposed a tax of the applicable rate
 6 per pound determined in accordance with the following
 7 table (and a proportionate tax at the like rate on all frac-
 8 tional parts of a pound):

“In the case of roll-your-own tobacco removed during:	The applicable rate is:
2000 and 2001	\$2.504 cents
2002 and thereafter	\$2.644 cents.”

9 (2) ROLL-YOUR-OWN TOBACCO.—Section 5702
 10 of such Code (relating to definitions) is amended by
 11 adding at the end the following:

12 “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-
 13 your-own tobacco’ means any tobacco which, because of
 14 its appearance, type, packaging, or labeling, is suitable for
 15 use and likely to be offered to, or purchased by, consumers
 16 as tobacco for making cigarettes.”

17 (3) TECHNICAL AMENDMENTS.—

18 (A) Subsection (c) of section 5702 of such
 19 Code is amended by striking “and pipe to-
 20 bacco” and inserting “pipe tobacco, and roll-
 21 your-own tobacco”.

22 (B) Subsection (d) of section 5702 of such
 23 Code is amended—

1 (i) in the material preceding para-
 2 graph (1), by striking “or pipe tobacco”
 3 and inserting “pipe tobacco, or roll-your-
 4 own tobacco”, and

5 (ii) by striking paragraph (1) and in-
 6 serting the following:

7 “(1) a person who produces cigars, cigarettes,
 8 smokeless tobacco, pipe tobacco, or roll-your-own to-
 9 bacco solely for the person’s own personal consump-
 10 tion or use, and”.

11 (C) The chapter heading for chapter 52 of
 12 such Code is amended to read as follows:

13 **“CHAPTER 52—TOBACCO PRODUCTS AND**
 14 **CIGARETTE PAPERS AND TUBES”.**

15 (D) The table of chapters for subtitle E of
 16 such Code is amended by striking the item re-
 17 lating to chapter 52 and inserting the following:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

18 (h) FLOOR STOCKS TAXES AND APPLICATION OF
 19 TAXES TO POSSESSIONS.—Section 5701 of such Code, as
 20 amended by subsection (g), is amended by redesignating
 21 subsection (h) as subsection (j) and by inserting after sub-
 22 section (g) the following:

23 “(h) FLOOR STOCKS TAXES.—

24 “(1) IMPOSITION OF TAX.—On tobacco prod-
 25 ucts manufactured in or imported into the United

1 States or any possession of the United States which
2 are removed before any tax increase date, and held
3 on such date for sale by any person, there is hereby
4 imposed a tax in an amount equal to the excess of—

5 “(A) the tax which would be imposed
6 under any preceding subsection of this section
7 on the article if the article had been removed on
8 such date, over

9 “(B) the prior tax (if any) imposed under
10 such subsection on such article.

11 “(2) CREDIT AGAINST TAX.—Each person shall
12 be allowed as a credit against the taxes imposed by
13 paragraph (1) an amount equal to \$500. Such credit
14 shall not exceed the amount of taxes imposed by
15 paragraph (1) on any tax increase date, for which
16 such person is liable.

17 “(3) LIABILITY FOR TAX AND METHOD OF PAY-
18 MENT.—

19 “(A) LIABILITY FOR TAX.—A person hold-
20 ing cigarettes on any tax increase date, to
21 which any tax imposed by paragraph (1) applies
22 shall be liable for such tax.

23 “(B) METHOD OF PAYMENT.—The tax im-
24 posed by paragraph (1) shall be paid in such

1 manner as the Secretary shall prescribe by reg-
2 ulations.

3 “(C) TIME FOR PAYMENT.—The tax im-
4 posed by paragraph (1) shall be paid on or be-
5 fore the date which is 180 days after any tax
6 increase date.

7 “(4) ARTICLES IN FOREIGN TRADE ZONES.—
8 Notwithstanding the Act of June 18, 1934 (48 Stat.
9 998, 19 U.S.C. 81a) and any other provision of law,
10 any article which is located in a foreign trade zone
11 on any tax increase date, shall be subject to the tax
12 imposed by paragraph (1) if—

13 “(A) internal revenue taxes have been de-
14 termined, or customs duties liquidated, with re-
15 spect to such article before such date pursuant
16 to a request made under the 1st proviso of sec-
17 tion 3(a) of such Act, or

18 “(B) such article is held on such date
19 under the supervision of a customs officer pur-
20 suant to the 2d proviso of such section 3(a).

21 “(5) TAX INCREASE DATE.—The term ‘tax in-
22 crease date’ means January 1, 2000, and January
23 1, 2002.

1 “(6) CONTROLLED GROUPS.—Rules similar to
2 the rules of section 5061(e)(3) shall apply for pur-
3 poses of this subsection.

4 “(7) OTHER LAWS APPLICABLE.—All provisions
5 of law, including penalties, applicable with respect to
6 the taxes imposed by the preceding subsections of
7 this section shall, insofar as applicable and not in-
8 consistent with the provisions of this subsection,
9 apply to the floor stocks taxes imposed by paragraph
10 (1), to the same extent as if such taxes were im-
11 posed by such subsections. The Secretary may treat
12 any person who bore the ultimate burden of the tax
13 imposed by paragraph (1) as the person to whom a
14 credit or refund under such provisions may be al-
15 lowed or made.

16 “(i) APPLICATION OF TAXES TO U.S. POSSES-
17 SIONS.—Notwithstanding subsections (b) and (c) of sec-
18 tion 7653 and any other provision of law—

19 “(1) IN GENERAL.—On tobacco products manu-
20 factured in or imported into any possession of the
21 United States, there is hereby imposed a tax at the
22 rate equal to the excess of—

23 “(A) the rate of tax applicable under this
24 section to like articles manufactured in the
25 United States, over

1 “(B) the rate referred to in subparagraph
2 (A) which would have been in effect if the
3 amendments made by the Seniors Prescription
4 Insurance Coverage Equity (SPICE) Act of
5 1999 had not been enacted.

6 “(2) SHIPMENTS TO U.S. POSSESSIONS FROM
7 THE UNITED STATES.—Only the rates of tax which
8 would have been in effect if the amendments made
9 by the Seniors Prescription Insurance Coverage Eq-
10 uity (SPICE) Act of 1999 had not been enacted
11 shall be taken into account in determining the
12 amount of any exemption from, or credit or draw-
13 back of, any tax imposed by this section on any arti-
14 cle shipped to any possession of the United States
15 from the United States.

16 “(3) SHIPMENTS FROM U.S. POSSESSIONS TO
17 THE UNITED STATES.—The rates of tax taken into
18 account under section 7652(a) with respect to to-
19 bacco products coming into the United States from
20 any possession of the United States shall be the
21 rates of tax which would have been in effect if the
22 amendments made by the Seniors Prescription In-
23 surance Coverage Equity (SPICE) Act of 1999 had
24 not been enacted.

1 “(4) DISPOSITION OF REVENUES.—The provi-
 2 sions of section 7652(a)(3) shall not apply to any
 3 tax imposed by reason of this subsection.”

4 (i) MODIFICATIONS OF CERTAIN TOBACCO TAX PRO-
 5 VISIONS.—

6 (1) EXEMPTION FOR EXPORTED TOBACCO
 7 PRODUCTS AND CIGARETTE PAPERS AND TUBES TO
 8 APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

9 (A) Subsection (b) of section 5704 of such
 10 Code is amended by adding at the end the fol-
 11 lowing: “Tobacco products and cigarette papers
 12 and tubes may not be transferred or removed
 13 under this subsection unless such products or
 14 papers and tubes bear such marks, labels, or
 15 notices as the Secretary shall by regulations
 16 prescribe.”

17 (B) Section 5761 of such Code is amended
 18 by redesignating subsections (c) and (d) as sub-
 19 sections (d) and (e), respectively, and by insert-
 20 ing after subsection (b) the following:

21 “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE
 22 PAPERS AND TUBES FOR EXPORT.—Except as provided
 23 in subsections (b) and (d) of section 5704—

24 “(1) every person who sells, relands, or receives
 25 within the jurisdiction of the United States any to-

1 bacco products or cigarette papers or tubes which
2 have been labeled or shipped for exportation under
3 this chapter,

4 “(2) every person who sells or receives such re-
5 landed tobacco products or cigarette papers or tubes,
6 and

7 “(3) every person who aids or abets in such
8 selling, relanding, or receiving,

9 shall, in addition to the tax and any other penalty provided
10 in this title, be liable for a penalty equal to the greater
11 of \$1,000 or 5 times the amount of the tax imposed by
12 this chapter. All tobacco products and cigarette papers
13 and tubes relanded within the jurisdiction of the United
14 States, and all vessels, vehicles, and aircraft used in such
15 relanding or in removing such products, papers, and tubes
16 from the place where relanded, shall be forfeited to the
17 United States.”

18 (C) Subsection (a) of section 5761 of such
19 Code is amended by striking “subsection (b)”
20 and inserting “subsection (b) or (c)”.

21 (D) Subsection (d) of section 5761 of such
22 Code, as redesignated by subparagraph (B), is
23 amended by striking “The penalty imposed by
24 subsection (b)” and inserting “The penalties
25 imposed by subsections (b) and (c)”.

1 (E)(i) Subpart F of chapter 52 of such
 2 Code is amended by adding at the end the fol-
 3 lowing:

4 **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**
 5 **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

6 “(a) IN GENERAL.—Tobacco products and cigarette
 7 papers and tubes previously exported from the United
 8 States may be imported or brought into the United States
 9 only as provided in section 5704(d). For purposes of this
 10 section, section 5704(d), section 5761, and such other pro-
 11 visions as the Secretary may specify by regulations, ref-
 12 erences to exportation shall be treated as including a ref-
 13 erence to shipment to the Commonwealth of Puerto Rico.

14 “(b) CROSS REFERENCE.—

**“For penalty for the sale of tobacco products and
 cigarette papers and tubes in the United States
 which are labeled for export, see section 5761(c).”**

15 (ii) The table of sections for subpart F of
 16 chapter 52 of such Code is amended by adding
 17 at the end the following:

“Sec. 5754. Restriction on importation of previously exported to-
 bacco products.”

18 (2) IMPORTERS REQUIRED TO BE QUALIFIED.—

19 (A) Sections 5712, 5713(a), 5721, 5722,
 20 5762(a)(1), and 5763 (b) and (c) of such Code
 21 are each amended by inserting “or importer”
 22 after “manufacturer”.

1 (B) The heading of subsection (b) of sec-
 2 tion 5763 of such Code is amended by inserting
 3 “QUALIFIED IMPORTERS,” after “MANUFAC-
 4 TURERS,”.

5 (C) The heading for subchapter B of chap-
 6 ter 52 of such Code is amended by inserting
 7 “**and Importers**” after “**Manufactur-**
 8 **ers**”.

9 (D) The item relating to subchapter B in
 10 the table of subchapters for chapter 52 of such
 11 Code is amended by inserting “and importers”
 12 after “manufacturers”.

13 (3) BOOKS OF 25 OR FEWER CIGARETTE PA-
 14 PERS SUBJECT TO TAX.—Subsection (c) of section
 15 5701 of such Code is amended by striking “On each
 16 book or set of cigarette papers containing more than
 17 25 papers,” and inserting “On cigarette papers,”.

18 (4) STORAGE OF TOBACCO PRODUCTS.—Sub-
 19 section (k) of section 5702 of such Code is amended
 20 by inserting “under section 5704” after “internal
 21 revenue bond”.

22 (5) AUTHORITY TO PRESCRIBE MINIMUM MANU-
 23 FACTURING ACTIVITY REQUIREMENTS.—Section
 24 5712 of such Code is amended by striking “or” at
 25 the end of paragraph (1), by redesignating para-

1 graph (2) as paragraph (3), and by inserting after
2 paragraph (1) the following:

3 “(2) the activity proposed to be carried out at
4 such premises does not meet such minimum capacity
5 or activity requirements as the Secretary may pre-
6 scribe, or”.

7 (j) REPEAL OF DUPLICATIVE PROVISIONS.—Section
8 9302 of the Balanced Budget Act of 1997 (other than sub-
9 section (i)(2)) and the amendments made by such section
10 are repealed, and the Internal Revenue Code of 1986 shall
11 be administered as if such section and such amendments
12 had not been enacted.

13 (k) EFFECTIVE DATE.—The amendments and repeal
14 made by this section shall apply to articles removed (as
15 defined in section 5702(k) of the Internal Revenue Code
16 of 1986, as amended by this section) after December 31,
17 1999.

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