

106TH CONGRESS
1ST SESSION

S. 1480

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 SENATE OF THE UNITED STATES

AUGUST 4, 1999

Ms. SNOWE (for herself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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

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

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

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

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

12 “(c) PROVIDING INFORMATION TO BENE-
 13 FICIARIES.—

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

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

23 “(3) ARRANGEMENTS.—The SPICE Board
 24 shall, in cooperation with the Secretary, enter into
 25 such arrangements as may be appropriate to dis-

1 seminate widely to eligible medicare beneficiaries in-
 2 formation about the SPICE drug benefit program in
 3 connection with materials distributed by the Sec-
 4 retary to medicare beneficiaries, including in the
 5 medicare handbook under section 1804 and in mate-
 6 rials distributed under section 1851(d).

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

11 “REQUIREMENTS FOR OFFERING SPICE DRUG BENEFIT
 12 COVERAGE

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

15 “(1) IN GENERAL.—

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

23 “(i) the State has adopted the Na-
 24 tional Association of Insurance Commis-
 25 sioners revisions under section

1 1882(v)(1)(A) that have been approved by
2 the SPICE Board under this section; and

3 “(ii) the coverage is offered consistent
4 with section 1860C.

5 The penalties described in clause (ii) of section
6 1882(d)(3)(A) shall apply to whoever violates
7 this subparagraph in the same manner as they
8 apply to whoever violates such section.

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

18 “(i) an application with respect to
19 such coverage has been approved by the
20 SPICE Board under this section; and

21 “(ii) in the case of a SPICE medicare
22 supplemental policy or a Medicare+Choice
23 plan, the coverage is offered consistent
24 with section 1860C.

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

3 “(A) IN GENERAL.—The SPICE Board
4 shall establish—

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

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

13 “(iii) the period (in no case less than
14 1 year) for which approval of such an ap-
15 plication is valid.

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

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

6 “(1) BENEFIT LEVEL.—The benefits
 7 provided—

8 “(A) are limited to outpatient prescription
 9 drugs;

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

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

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

22 “(3) NO PRE-EXISTING CONDITION EXCLU-
 23 SIONS.—There are no pre-existing condition exclu-
 24 sions or similar exclusions applied with respect to
 25 the coverage.

1 “(4) LIMITS ON FORMULARIES.—If the cov-
 2 erage uses a formulary, the formulary meets the re-
 3 quirements of subsection (d).

4 “(c) THRESHOLD BENEFIT LEVEL.—

5 “(1) IN GENERAL.—The SPICE Board shall re-
 6 quest the National Association of Insurance Com-
 7 missioners to revise the model standards for medi-
 8 care supplemental policies pursuant to section
 9 1882(v) for the purpose of—

10 “(A) defining the term ‘outpatient pre-
 11 scription drugs’; and

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

14 “(2) CONSIDERATIONS.—

15 “(A) DEFINITION.—In establishing a defi-
 16 nition under paragraph (1)(A), the Board shall
 17 request that the National Association of Insur-
 18 ance Commissioners take into account the defi-
 19 nition of covered outpatient drugs under section
 20 1927(k)(2) (which includes biological products
 21 and insulin).

22 “(B) THRESHOLD.—In specifying the
 23 threshold level under paragraph (1)(B), the
 24 Board shall request that the National Associa-
 25 tion of Insurance Commissioners—

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

“(ii) permit (if determined appropriate) optional coverage of drugs (except for agents used to promote smoking cessation) for which coverage may be excluded or restricted under section 1927(d)(2).

“(3) CONSTRUCTION.—Nothing in this part shall be construed as preventing SPICE prescription drug coverage from providing benefits for outpatient prescription drugs in excess of the threshold specified under this subsection.

“(d) FORMULARY REQUIREMENTS.—

“(1) IN GENERAL.—A formulary meets the requirements of this subsection only if—

“(A) such formulary is based on the medical needs of eligible medicare beneficiaries;

“(B) the entity offering the coverage has in place an appeals process for any eligible medicare beneficiary to receive any medically

1 necessary outpatient prescription drug that is
2 not on the formulary;

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

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

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

18 “(e) USE OF COST CONTAINMENT MECHANISMS.—
19 Nothing in this part shall be construed as preventing an
20 entity offering SPICE prescription drug coverage from
21 using reasonable cost containment methods, such as
22 formularies, mail order services, and generic drug substi-
23 tution, consistent with the specific requirements of this
24 part and applicable law.

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

“(2) permit special enrollment periods in cases in which an eligible medicare beneficiary, who is enrolled under a Medicare+Choice plan or group health plan that provides SPICE prescription drug coverage—

24 “(B) experiences a significant adverse in-
25 come level change (as defined by the SPICE

1 Board) which changes the level of financial as-
 2 sistance available under section 1860D; and

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

6 “FINANCIAL ASSISTANCE TO OBTAIN SPICE
 7 PRESCRIPTION DRUG COVERAGE

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

15 “(b) AMOUNT OF ASSISTANCE.—

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

22 “(A) 100 PERCENT IF INCOME BELOW 150
 23 PERCENT OF POVERTY.—In the case of an eligi-
 24 ble medicare beneficiary who applies for en-
 25 hanced financial assistance under subsection (c)
 26 and whose income (as verified under such sub-

section) 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 available for financial assistance under this section.

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

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

14 “(c) APPLICATION FOR ENHANCED FINANCIAL AS-
 15 SISTANCE.—

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

21 “(2) INCOME VERIFICATION.—

22 “(A) IN GENERAL.—Under the procedures
 23 established under paragraph (1), if an indi-
 24 vidual voluntarily applies for an income deter-
 25 mination under this subsection, the individual is

1 deemed to have consented to the SPICE Board
 2 seeking and using income-related information
 3 from other Government agencies in order to
 4 verify the individual's income.

5 “(B) RESTRICTION ON USE OF INFORMA-
 6 TION.—Information obtained under subpara-
 7 graph (A) may be used by officers and employ-
 8 ees of the SPICE Board only for the purposes
 9 of, and to the extent necessary in, carrying out
 10 their responsibilities under this part.

11 “(3) PERIODIC REDETERMINATIONS.—Such in-
 12 come determinations shall be valid for a period (of
 13 not less than 1 year) specified by the SPICE Board.

14 “(d) FORM OF ASSISTANCE.—

15 “(1) IN GENERAL.—Financial assistance under
 16 this section shall be provided in the form of a pay-
 17 ment to the issuer of the SPICE medicare supple-
 18 mental policy involved, the Medicare+Choice organi-
 19 zation offering the Medicare+Choice plan involved,
 20 or the sponsor of the group health plan involved, of
 21 the amount of the subsidy. Such payment shall be
 22 in a manner and time provided for by the SPICE
 23 Board.

24 “(2) ADDITIONAL REQUIREMENT.—No financial
 25 assistance shall be made available with respect to

1 SPICE prescription drug coverage provided by an
 2 entity to an eligible medicare beneficiary unless the
 3 entity provides assurances satisfactory to the SPICE
 4 Board that the entity shall reduce the amount other-
 5 wise charged the beneficiary for such coverage by an
 6 amount equal to the amount of such assistance.

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

16 “(e) LATE ENROLLMENT PENALTY.—

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

1 section 1839(b) and shall not take into account peri-
 2 ods before the first period in which financial assist-
 3 ance is made available under this section.

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

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

17 “(B) submits evidence of the effective date
 18 of the termination of such coverage.

19 “(f) ADJUSTMENT OF FINANCIAL ASSISTANCE IF IN-
 20 SUFFICIENT FUNDING.—

21 “(1) LIMITATION OF ASSISTANCE TO FUNDS
 22 AVAILABLE.—In no case shall the amount of finan-
 23 cial assistance provided under this section exceed the
 24 amount of funds available for such assistance under
 25 the SPICE Trust Fund.

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

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

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

19 “(C) if such previous reductions are still
20 not sufficient to reduce the costs to comply with
21 paragraph (1), the SPICE Board shall imme-
22 diately report to Congress and suspend the pro-
23 vision of financial assistance under this section
24 during such year.

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

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

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

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

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

20 “(2) POVERTY LINE.—The term ‘poverty line’
21 means the income official poverty line (as defined by
22 the Office of Management and Budget, and revised
23 annually in accordance with section 673(2) of the
24 Omnibus Budget Reconciliation Act of 1981) appli-
25 cable to a family of the size involved.

1 “SPICE BOARD

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

6 “(1) outside of the Health Care Financing Ad-
7 ministration; and

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

10 “(b) DUTIES.—

11 “(1) IN GENERAL.—The SPICE Board shall
12 administer the SPICE drug benefit program under
13 this part.

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

16 “(A) The administration of this part.

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

22 “(C) Ways in which drug utilization can be
23 used to provide better overall care for eligible
24 medicare beneficiaries.

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

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

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

10 “(G) The ability of eligible medicare bene-
 11 ficiaries to afford SPICE prescription drug cov-
 12 erage.

13 “(H) The impact of the program on the
 14 prescription drug benefits offered under
 15 Medicare+Choice plans and group health plans.

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

22 “(3) ANNUAL REPORT.—

23 “(A) IN GENERAL.—Not later than June 1
 24 of each year (beginning with 2001), the SPICE

1 Board shall submit an annual report to Con-
2 gress on the program under this part.

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

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

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

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

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

22 “(D) RECOMMENDATIONS.—Such report
23 shall include such other recommendations for
24 legislation and administrative actions as the
25 SPICE Board considers appropriate.

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

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

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

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

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

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

9 “(c) MEMBERSHIP OF SPICE BOARD.—

10 “(1) NUMBER AND APPOINTMENT.—

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

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

19 “(i) Consumers.

20 “(ii) Private health plan insurers (in-
21 cluding insurers that offer fee-for-service
22 and managed care plans) with expertise in
23 the quality, scope, and marketing of health
24 care services.

1 “(iii) The Health Care Financing Ad-
2 ministration.

3 “(iv) State insurance commissioners.

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

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

11 “(3) TERMS.—

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

16 “(i) three shall be appointed for terms
17 of 6 years;

18 “(ii) two shall be appointed for terms
19 of 4 years; and

20 “(iii) two shall be appointed for terms
21 of 2 years.

22 “(B) VACANCIES.—Any member appointed
23 to fill a vacancy occurring before the expiration
24 of the term for which the member’s predecessor
25 was appointed shall be appointed only for the

1 remainder of that term. A member may serve
 2 after the expiration of that member's term until
 3 a successor has taken office.

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

9 “(d) OPERATION OF THE BOARD.—

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

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

16 “(e) POWERS OF THE SPICE BOARD.—

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

22 “(2) INFORMATION FROM FEDERAL AGEN-
 23 CIES.—Upon request of the chairperson of the
 24 SPICE Board, the head of any Federal department
 25 or agency shall furnish such information to the

1 SPICE Board as is necessary to carry out the func-
 2 tions of the SPICE Board under this part.

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

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

10 “(f) BOARD PERSONNEL MATTERS.—

11 “(1) MEMBERS.—

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

1 ices as officers or employees of the United
2 States.

3 “(B) TRAVEL EXPENSES.—The members
4 of the SPICE Board shall be allowed travel ex-
5 penses, including per diem in lieu of subsist-
6 ence, at rates authorized for employees of agen-
7 cies under subchapter I of chapter 57 of title 5,
8 United States Code, while away from their
9 homes or regular places of business in the per-
10 formance of services for the SPICE Board.

11 “(C) REMOVAL.—The President may re-
12 move a member of the SPICE Board only for
13 neglect of duty or malfeasance in office.

14 “(2) STAFF.—

15 “(A) IN GENERAL.—The chairperson of
16 the SPICE Board may, without regard to the
17 civil service laws and regulations, appoint and
18 terminate an executive director and such other
19 additional personnel as may be necessary to en-
20 able the SPICE Board to perform its duties.
21 The employment of an executive director shall
22 be subject to confirmation by the SPICE
23 Board.

24 “(B) COMPENSATION.—The chairperson of
25 the SPICE Board may fix the compensation of

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

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

16 “(D) PROCUREMENT OF TEMPORARY AND
17 INTERMITTENT SERVICES.—The chairperson of
18 the SPICE Board may procure temporary and
19 intermittent services under section 3109(b) of
20 title 5, United States Code, at rates for individ-
21 uals which do not exceed the daily equivalent of
22 the annual rate of basic pay prescribed for level
23 V of the Executive Schedule under section 5316
24 of such title.

1 “SPICE TRUST FUND

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

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

8 “(b) AMOUNTS IN SPICE TRUST FUND.—

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

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

14 “(B) Any gifts and bequests made to such
 15 Trust Fund.

16 “(2) APPROPRIATION.—

17 “(A) AMOUNTS FROM TOBACCO TAX.—

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

1 scription Insurance Coverage Equity (SPICE)
2 Act of 1999 had not been enacted.

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

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

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

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

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

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

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

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

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

23 “(2) the annual report shall be submitted as
 24 part of the annual report provided under section
 25 1860E(b)(3).”.

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

2 Section 1882 of the Social Security Act (42 U.S.C.
3 1395ss) is amended by adding at the end the following:

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

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

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

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

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

24 In this title, a medicare supplemental policy which has the
25 benefit package described in subparagraph (A) is referred
26 to as a ‘SPICE medicare supplemental policy’. The revi-

1 sions of benefit packages under this paragraph shall not
 2 effect the renewal of medicare supplemental policies under
 3 this section that are in existence on the effective date of
 4 such revisions, and shall be designed to avoid adverse se-
 5 lection and to be affordable.

6 “(2) Notwithstanding subsection (d), nothing in this
 7 section shall be construed as prohibiting or making
 8 unlawful—

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

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

17 “(C) the sale or issuance of such a SPICE
 18 medicare supplemental policy to an individual who is
 19 enrolled in a Medicare+Choice plan that does not
 20 provide coverage of outpatient prescription drugs
 21 (not including coverage required to be provided
 22 under part A or B).

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

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

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

14 “(ii) offers the individual under the terms de-
 15 scribed in subparagraph (B), during a period of at
 16 least 180 days beginning on the date specified in
 17 subparagraph (C), institution of coverage effective
 18 as of a date specified by the revisions, a non-SPICE
 19 medicare supplemental policy that the Secretary de-
 20 termines is most comparable to the policy in which
 21 the individual is enrolled (but for coverage of pre-
 22 scription drugs).

23 “(B) The terms described under this subparagraph
 24 are terms which do not—

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

5 “(ii) discriminate in the pricing of such policy
 6 because of health status, claims experience, receipt
 7 of health care, or medical condition; or

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

10 “(C) The date specified in this subparagraph for a
 11 policy issued in a State is such date as specified by the
 12 revisions (taking into account the method used under sub-
 13 section (n)(4) for establishing a date under that sub-
 14 section).

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

18 **SEC. 4. PROVISION OF INFORMATION ON SPICE DRUG BEN-**
 19 **EFIT PROGRAM UNDER HEALTH INSURANCE**
 20 **INFORMATION, COUNSELING, AND ASSIST-**
 21 **ANCE GRANTS.**

22 Section 4360(b)(2)(A)(ii) of the Omnibus Budget
 23 Reconciliation Act of 1990 (42 U.S.C. 1395b-
 24 4(b)(2)(A)(ii)) is amended by striking “and information”
 25 and inserting “, information regarding the SPICE drug

1 benefit program under part D of title XVIII of the Social
 2 Security Act, and information”.

3 **SEC. 5. FUNDING THROUGH TAXES ON TOBACCO PROD-**
 4 **UCTS.**

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

7 (1) by striking “\$12 per thousand (\$10 per
 8 thousand on cigarettes removed during 1991 or
 9 1992);” in paragraph (1) and inserting “the applica-
 10 ble rate per thousand determined in accordance with
 11 the following table:

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

12 and

13 (2) by striking paragraph (2) and inserting the
 14 following:

15 “(2) LARGE CIGARETTES.—

16 “(A) IN GENERAL.—Except as provided in
 17 subparagraph (B), on cigarettes, weighing more
 18 than 3 pounds per thousand, the applicable rate
 19 per thousand determined in accordance with the
 20 following table:

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

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

7 (b) CIGARS.—Subsection (a) of section 5701 of such
 8 Code is amended—

9 (1) by striking “\$1.125 cents per thousand
 10 (93.75 cents per thousand on cigars removed during
 11 1991 or 1992),” in paragraph (1) and inserting “the
 12 applicable rate per thousand determined in accord-
 13 ance with the following table:

**“In the case of cigarettes removed
 during:**

The applicable rate is:

2000 and 2001	\$4.173 cents
2002 and thereafter	\$4.406 cents.”;

14 and

15 (2) by striking paragraph (2) and inserting the
 16 following:

17 “(2) LARGE CIGARS.—On cigars, weighing more
 18 than 3 pounds per thousand, the applicable percent-
 19 age of the price for which sold but not more than the
 20 applicable rate per thousand determined in accord-
 21 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.”

1 (c) CIGARETTE PAPERS.—Subsection (c) of section
2 5701 of such Code is amended to read as follows:

3 “(c) CIGARETTE PAPERS.—

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

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

11 “(2) EXCEPTION.—If cigarette papers measure
12 more than 6½ inches in length, such cigarette pa-
13 pers shall be taxable at the rate prescribed, counting
14 each 2¾ inches, or fraction thereof, of the length of
15 each as one cigarette paper.”

16 (d) CIGARETTE TUBES.—Subsection (d) of section
17 5701 of such Code is amended to read as follows:

18 “(d) CIGARETTE TUBES.—

1 “(1) IN GENERAL.—Except as provided in para-
 2 graph (2), on cigarette tubes, manufactured in or
 3 imported into the United States, there shall be im-
 4 posed a tax of the applicable rate for each 50 tubes
 5 or fractional part thereof as determined in accord-
 6 ance with the following table:

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

7 “(2) EXCEPTION.—If cigarette tubes measure
 8 more than 6½ inches in length, such cigarette tubes
 9 shall be taxable at the rate prescribed, counting each
 10 2¾ inches, or fraction thereof, of the length of each
 11 as one cigarette tube.”

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

15 “(1) SNUFF.—On snuff, the applicable rate per
 16 pound determined in accordance with the following
 17 table (and a proportionate tax at the like rate on all
 18 fractional parts of a pound):

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

19 “(2) CHEWING TOBACCO.—On chewing tobacco,
 20 the applicable rate per pound determined in accord-
 21 ance with the following table (and a proportionate

1 tax at the like rate on all fractional parts of a
 2 pound):

**“In the case of chewing tobacco
 removed during:**

The applicable rate is:

2000 and 2001	44.5 cents
2002 and thereafter	47.0 cents.”

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

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

**“In the case of pipe tobacco
 removed during:**

The applicable rate is:

2000 and 2001	\$2.504 cents
2002 and thereafter	\$2.644 cents.”

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

13 (1) IN GENERAL.—Section 5701 of such Code
 14 (relating to rate of tax) is amended by redesignating
 15 subsection (g) as subsection (h) and by inserting
 16 after subsection (f) the following:

17 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
 18 tobacco, manufactured in or imported into the United
 19 States, there shall be imposed a tax of the applicable rate
 20 per pound determined in accordance with the following

1 table (and a proportionate tax at the like rate on all frac-
 2 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.”

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

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

11 (3) TECHNICAL AMENDMENTS.—

12 (A) Subsection (c) of section 5702 of such
 13 Code is amended by striking “and pipe to-
 14 bacco” and inserting “pipe tobacco, and roll-
 15 your-own tobacco”.

16 (B) Subsection (d) of section 5702 of such
 17 Code is amended—

18 (i) in the material preceding para-
 19 graph (1), by striking “or pipe tobacco”
 20 and inserting “pipe tobacco, or roll-your-
 21 own tobacco”, and

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

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

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

9 **“CHAPTER 52—TOBACCO PRODUCTS AND**
 10 **CIGARETTE PAPERS AND TUBES”.**

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

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

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

19 “(h) FLOOR STOCKS TAXES.—

20 “(1) IMPOSITION OF TAX.—On tobacco prod-
 21 ucts manufactured in or imported into the United
 22 States or any possession of the United States which
 23 are removed before any tax increase date, and held
 24 on such date for sale by any person, there is hereby
 25 imposed a tax in an amount equal to the excess of—

1 “(A) the tax which would be imposed
2 under any preceding subsection of this section
3 on the article if the article had been removed on
4 such date, over

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

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

13 “(3) LIABILITY FOR TAX AND METHOD OF PAY-
14 MENT.—

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

19 “(B) METHOD OF PAYMENT.—The tax im-
20 posed by paragraph (1) shall be paid in such
21 manner as the Secretary shall prescribe by reg-
22 ulations.

23 “(C) TIME FOR PAYMENT.—The tax im-
24 posed by paragraph (1) shall be paid on or be-

1 fore the date which is 180 days after any tax
 2 increase date.

3 “(4) ARTICLES IN FOREIGN TRADE ZONES.—
 4 Notwithstanding the Act of June 18, 1934 (48 Stat.
 5 998, 19 U.S.C. 81a) and any other provision of law,
 6 any article which is located in a foreign trade zone
 7 on any tax increase date, shall be subject to the tax
 8 imposed by paragraph (1) if—

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

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

17 “(5) TAX INCREASE DATE.—The term ‘tax in-
 18 crease date’ means January 1, 2000, and January
 19 1, 2002.

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

23 “(7) OTHER LAWS APPLICABLE.—All provisions
 24 of law, including penalties, applicable with respect to
 25 the taxes imposed by the preceding subsections of

1 this section shall, insofar as applicable and not in-
 2 consistent with the provisions of this subsection,
 3 apply to the floor stocks taxes imposed by paragraph
 4 (1), to the same extent as if such taxes were im-
 5 posed by such subsections. The Secretary may treat
 6 any person who bore the ultimate burden of the tax
 7 imposed by paragraph (1) as the person to whom a
 8 credit or refund under such provisions may be al-
 9 lowed or made.

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

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

17 “(A) the rate of tax applicable under this
 18 section to like articles manufactured in the
 19 United States, over

20 “(B) the rate referred to in subparagraph
 21 (A) which would have been in effect if the
 22 amendments made by the Seniors Prescription
 23 Insurance Coverage Equity (SPICE) Act of
 24 1999 had not been enacted.

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

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

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

23 (i) MODIFICATIONS OF CERTAIN TOBACCO TAX PRO-
24 VISIONS.—

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

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

12 (B) Section 5761 of such Code is amended
13 by redesignating subsections (c) and (d) as sub-
14 sections (d) and (e), respectively, and by insert-
15 ing after subsection (b) the following:

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

19 “(1) every person who sells, relands, or receives
20 within the jurisdiction of the United States any to-
21 bacco products or cigarette papers or tubes which
22 have been labeled or shipped for exportation under
23 this chapter,

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

4 “(3) every person who aids or abets in such
 5 selling, relanding, or receiving,
 6 shall, in addition to the tax and any other penalty provided
 7 in this title, be liable for a penalty equal to the greater
 8 of \$1,000 or 5 times the amount of the tax imposed by
 9 this chapter. All tobacco products and cigarette papers
 10 and tubes relanded within the jurisdiction of the United
 11 States, and all vessels, vehicles, and aircraft used in such
 12 relanding or in removing such products, papers, and tubes
 13 from the place where relanded, shall be forfeited to the
 14 United States.”

15 (C) Subsection (a) of section 5761 of such
 16 Code is amended by striking “subsection (b)”
 17 and inserting “subsection (b) or (c)”.

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

23 (E)(i) Subpart F of chapter 52 of such
 24 Code is amended by adding at the end the fol-
 25 lowing:

1 **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**
 2 **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

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

11 “(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).”**

12 (ii) The table of sections for subpart F of
 13 chapter 52 of such Code is amended by adding
 14 at the end the following:

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

15 (2) IMPORTERS REQUIRED TO BE QUALIFIED.—

16 (A) Sections 5712, 5713(a), 5721, 5722,
 17 5762(a)(1), and 5763 (b) and (c) of such Code
 18 are each amended by inserting “or importer”
 19 after “manufacturer”.

20 (B) The heading of subsection (b) of sec-
 21 tion 5763 of such Code is amended by inserting
 22 “QUALIFIED IMPORTERS,” after “MANUFAC-
 23 TURERS,”.

1 (C) The heading for subchapter B of chap-
 2 ter 52 of such Code is amended by inserting
 3 **“and Importers”** after **“Manufactur-**
 4 **ers”**.

5 (D) The item relating to subchapter B in
 6 the table of subchapters for chapter 52 of such
 7 Code is amended by inserting “and importers”
 8 after “manufacturers”.

9 (3) BOOKS OF 25 OR FEWER CIGARETTE PA-
 10 PERS SUBJECT TO TAX.—Subsection (c) of section
 11 5701 of such Code is amended by striking “On each
 12 book or set of cigarette papers containing more than
 13 25 papers,” and inserting “On cigarette papers,”.

14 (4) STORAGE OF TOBACCO PRODUCTS.—Sub-
 15 section (k) of section 5702 of such Code is amended
 16 by inserting “under section 5704” after “internal
 17 revenue bond”.

18 (5) AUTHORITY TO PRESCRIBE MINIMUM MANU-
 19 FACTURING ACTIVITY REQUIREMENTS.—Section
 20 5712 of such Code is amended by striking “or” at
 21 the end of paragraph (1), by redesignating para-
 22 graph (2) as paragraph (3), and by inserting after
 23 paragraph (1) the following:

24 “(2) the activity proposed to be carried out at
 25 such premises does not meet such minimum capacity

1 or activity requirements as the Secretary may pre-
2 scribe, or”.

3 (j) REPEAL OF DUPLICATIVE PROVISIONS.—Section
4 9302 of the Balanced Budget Act of 1997 (other than sub-
5 section (i)(2)) and the amendments made by such section
6 are repealed, and the Internal Revenue Code of 1986 shall
7 be administered as if such section and such amendments
8 had not been enacted.

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

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