

107TH CONGRESS  
1ST SESSION

# S. 623

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a 50 percent credit against income tax for payment of such premiums and of premiums for certain COBRA continuation coverage, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mr. ROCKFELLER (for himself, Mr. DASCHLE, Mr. KENNEDY, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a 50 percent credit against income tax for payment of such premiums and of premiums for certain COBRA continuation coverage, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Medicare Early Access and Tax Credit Act of 2001”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

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

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

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

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

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

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.

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

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

**TITLE III—COBRA PROTECTION FOR EARLY RETIREES**

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

Sec. 301. COBRA continuation benefits for certain retired workers who lose re-  
tiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose re-  
tiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose re-  
tiree health coverage.

**TITLE IV—50 PERCENT CREDIT AGAINST INCOME TAX FOR  
MEDICARE BUY-IN PREMIUMS AND FOR CERTAIN COBRA CON-  
TINUATION COVERAGE PREMIUMS**

Sec. 401. 50 percent income tax credit for medicare buy-in premiums and for  
certain COBRA continuation coverage premiums.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20       “(b) ENROLLMENT PERIODS.—

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

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

1 section for January 2002, the enrollment period  
2 shall begin on November 1, 2001, and shall end  
3 on February 28, 2002. Any such enrollment be-  
4 fore January 1, 2002, is conditioned upon com-  
5 pliance with the conditions of eligibility for Jan-  
6 uary 2002.

7 “(B) SUBSEQUENT PERIODS.—If the indi-  
8 vidual is eligible to enroll under such section for  
9 a month after January 2002, the enrollment pe-  
10 riod shall begin on the first day of the second  
11 month before the month in which the individual  
12 first is eligible to so enroll and shall end four  
13 months later. Any such enrollment before the  
14 first day of the third month of such enrollment  
15 period is conditioned upon compliance with the  
16 conditions of eligibility for such third month.

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

22 “(c) DATE COVERAGE BEGINS.—

23 “(1) IN GENERAL.—The period during which  
24 an individual is entitled to benefits under this part



1 shall begin as follows, but in no case earlier than  
 2 January 1, 2002:

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

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

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

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

24 “(d) TERMINATION OF COVERAGE.—

1           “(1) IN GENERAL.—An individual’s coverage  
 2           period under this part shall continue until the indi-  
 3           vidual’s enrollment has been terminated at the ear-  
 4           liest of the following:

5                   “(A) GENERAL PROVISIONS.—

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

11                          “(ii) NONPAYMENT OF PREMIUMS.—  
 12                          The individual fails to make payment of  
 13                          premiums required for enrollment under  
 14                          this part.

15                          “(iii) MEDICARE ELIGIBILITY.—The  
 16                          individual becomes entitled to benefits  
 17                          under part A or enrolled under part B  
 18                          (other than by reason of this part).

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

21           “(2) EFFECTIVE DATE OF TERMINATION.—

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

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

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

22   **“SEC. 1859B. PREMIUMS.**

23          “(a) AMOUNT OF MONTHLY PREMIUMS.—

24               “(1) BASE MONTHLY PREMIUMS.—The Sec-  
 25          retary shall, during September of each year (begin-

ning with 1998), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

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

“(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 2001), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

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

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

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

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

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

1 for the year, adjusted for such area under paragraph  
 2 (2).

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

8 “(1) ESTIMATION OF NATIONAL, PER CAPITA  
 9 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-  
 10 MENT GROUP.—The Secretary shall estimate the av-  
 11 erage, per capita annual amount that will be paid  
 12 under this part for individuals in such group during  
 13 the period of enrollment under section 1859(b). In  
 14 making such estimate for coverage beginning in a  
 15 year before 2005, the Secretary may base such esti-  
 16 mate on the average, per capita amount that would  
 17 be payable if the program had been in operation over  
 18 a previous period of at least 4 years.

19 “(2) DIFFERENCE BETWEEN ESTIMATED EX-  
 20 PENDITURES AND ESTIMATED PREMIUMS.—Based  
 21 on the characteristics of individuals in such group,  
 22 the Secretary shall estimate during the period of  
 23 coverage of the group under this part under section  
 24 1859(b) the amount by which—

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

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

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

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

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

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

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

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

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

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

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

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



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

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

10           “(1) RATE OF PAYMENT.—

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

21                   “(B) SPECIAL RULES FOR THOSE WHO  
 22           DISENROLL EARLY.—

23                   “(i) IN GENERAL.—If such an individ-  
 24           ual’s enrollment under such section is ter-  
 25           minated under clause (i) or (ii) of section

1 1859A(d)(1)(A), subject to clause (ii), the  
2 amount of the deferred premium otherwise  
3 established under this paragraph shall be  
4 pro-rated to reflect the number of months  
5 of coverage under this part under such en-  
6 rollment compared to the maximum num-  
7 ber of months of coverage that the indi-  
8 vidual would have had if the enrollment  
9 were not so terminated.

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

21 “(2) PERIOD OF PAYMENT.—The period de-  
22 scribed in this paragraph for an individual is the pe-  
23 riod beginning with the first month in which the in-  
24 dividual has attained 65 years of age and ending

1 with the month before the month in which the indi-  
 2 vidual attains 85 years of age.

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

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

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

21 “(a) ESTABLISHMENT OF TRUST FUND.—

22 “(1) IN GENERAL.—There is hereby created on  
 23 the books of the Treasury of the United States a  
 24 trust fund to be known as the ‘Medicare Early Ac-  
 25 cess Trust Fund’ (in this section referred to as the

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

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

9       “(b) INCORPORATION OF PROVISIONS.—

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

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

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

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

1                   “(C) payments may be made under section  
 2                   1841(g) to the Trust Funds under sections  
 3                   1817 and 1841 as reimbursement to such funds  
 4                   for payments they made for benefits provided  
 5                   under this part.

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

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

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

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

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

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

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

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

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

22          (b) CONFORMING AMENDMENTS TO SOCIAL SECU-  
 23          RITY ACT PROVISIONS.—

24                 (1) Section 201(i)(1) of the Social Security Act  
 25                 (42 U.S.C. 401(i)(1)) is amended by striking “or the

1 Federal Supplementary Medical Insurance Trust  
 2 Fund” and inserting “the Federal Supplementary  
 3 Medical Insurance Trust Fund, and the Medicare  
 4 Early Access Trust Fund”.

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

12 (3) Section 1820(i) of such Act (42 U.S.C.  
 13 1395i-4(i)) is amended by striking “part D” and in-  
 14 serting “part E”.

15 (4) Part C of title XVIII of such Act is  
 16 amended—

17 (A) in section 1851(a)(2)(B) (42 U.S.C.  
 18 1395w-21(a)(2)(B)), by striking “1859(b)(3)”  
 19 and inserting “1858(b)(3)”;

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

23 (C) in section 1852(a)(1) (42 U.S.C.  
 24 1395w-22(a)(1)), by striking “1859(b)(3)” and  
 25 inserting “1858(b)(3)”;

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

5 (E) in section 1853(a)(1)(A) (42 U.S.C.  
 6 1395w-23(a)(1)(A)), by striking “1859(e)(4)”  
 7 and inserting “1858(e)(4)”;

8 (F) in section 1853(a)(3)(D) (42 U.S.C.  
 9 1395w-23(a)(3)(D)), by striking “1859(e)(4)”  
 10 and inserting “1858(e)(4)”.

11 (5) Section 1853(c) of such Act (42 U.S.C.  
 12 1395w-23(c)) is amended—

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

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

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

24 (c) OTHER CONFORMING AMENDMENTS.—



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

4           (2)(A) Section 602(2)(D)(ii) of the Employee  
5       Retirement Income Security Act of 1974 (29 U.S.C.  
6       1162(2)) is amended by inserting “(not including an  
7       individual who is so entitled pursuant to enrollment  
8       under section 1859A)” after “Social Security Act”.

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

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

1 **TITLE II—ACCESS TO MEDICARE**  
 2 **BENEFITS FOR DISPLACED**  
 3 **WORKERS 55-TO-62 YEARS OF**  
 4 **AGE**

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

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

10 “(c) DISPLACED WORKERS AND SPOUSES.—

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

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

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

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

24 “(i) ELIGIBLE FOR UNEMPLOYMENT  
 25 COMPENSATION.—The individual meets the

1 requirements relating to period of covered  
2 employment and conditions of separation  
3 from employment to be eligible for unem-  
4 ployment compensation (as defined in sec-  
5 tion 85(b) of the Internal Revenue Code of  
6 1986), based on a separation from employ-  
7 ment occurring on or after July 1, 2001.  
8 The previous sentence shall not be con-  
9 strued as requiring the individual to be re-  
10 ceiving such unemployment compensation.

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

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

the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

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

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

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

“(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

“(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for January 2002, the enrollment period shall begin on November 1, 2001, and shall end on February 28, 2002. Any such enrollment before January 1, 2002, is conditioned upon compliance with the conditions of eligibility for January 2002.

“(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after January 2002, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end four months later.”;

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

“(B) TERMINATION BASED ON AGE.—

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

“(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of



1 an individual enrolled under this part pur-  
 2 suant to section 1859(c), subject to sub-  
 3 section (a)(1), the individual attains 62  
 4 years of age.”;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

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

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

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

1   **TITLE III—COBRA PROTECTION**  
 2       **FOR EARLY RETIREES**  
 3   **Subtitle A—Amendments to the**  
 4       **Employee Retirement Income**  
 5       **Security Act of 1974**

6   **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 7               **RETIRED WORKERS WHO LOSE RETIREE**  
 8               **HEALTH COVERAGE.**

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

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

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

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

24           (A) in paragraph (3)—

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

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

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

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

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

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

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

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

1           “(A) means, as determined under regula-  
 2           tions of the Secretary and with respect to a  
 3           qualified beneficiary, a reduction in the average  
 4           actuarial value of benefits under the plan  
 5           (through reduction or elimination of benefits,  
 6           an increase in premiums, deductibles, copay-  
 7           ments, and coinsurance, or any combination  
 8           thereof), since the date of commencement of  
 9           coverage of the beneficiary by reason of the re-  
 10          tirement of the covered employee (or, if later,  
 11          January 6, 2001), in an amount equal to at  
 12          least 50 percent of the total average actuarial  
 13          value of the benefits under the plan as of such  
 14          date (taking into account an appropriate ad-  
 15          justment to permit comparison of values over  
 16          time); and

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (f) EFFECTIVE DATES.—

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

uary 6, 2001. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

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

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

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

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

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

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

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

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

7 (A) in paragraph (3)—

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

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

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

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

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

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

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

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

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

“(A) means, as determined under regula-  
tions of the Secretary of Labor and with respect  
to a qualified beneficiary, a reduction in the av-  
erage actuarial value of benefits under the plan  
(through reduction or elimination of benefits,  
an increase in premiums, deductibles, copay-  
ments, and coinsurance, or any combination  
thereof), since the date of commencement of  
coverage of the beneficiary by reason of the re-  
tirement of the covered employee (or, if later,  
January 6, 2001), in an amount equal to at  
least 50 percent of the total average actuarial  
value of the benefits under the plan as of such  
date (taking into account an appropriate ad-  
justment to permit comparison of values over  
time); and

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(f) EFFECTIVE DATES.—

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

1       apply to qualifying events occurring on or after Jan-  
 2       uary 6, 2001. In the case of a qualifying event oc-  
 3       curring on or after such date and before the date  
 4       of the enactment of this Act, such event shall be  
 5       deemed (for purposes of such amendments) to have  
 6       occurred on the date of the enactment of this Act.

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

## 13       **Subtitle C—Amendments to the** 14       **Internal Revenue Code of 1986**

### 15   **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN** 16               **RETIRED WORKERS WHO LOSE RETIREE** 17               **HEALTH COVERAGE.**

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

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

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

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

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

8 (A) in paragraph (1)—

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

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

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

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

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

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

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

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

11                   “(A) means, as determined under regula-  
12       tions of the Secretary of Labor and with respect  
13       to a qualified beneficiary, a reduction in the av-  
14       erage actuarial value of benefits under the plan  
15       (through reduction or elimination of benefits,  
16       an increase in premiums, deductibles, copay-  
17       ments, and coinsurance, or any combination  
18       thereof), since the date of commencement of  
19       coverage of the beneficiary by reason of the re-  
20       tirement of the covered employee (or, if later,  
21       January 6, 2001), in an amount equal to at  
22       least 50 percent of the total average actuarial  
23       value of the benefits under the plan as of such  
24       date (taking into account an appropriate ad-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (f) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by  
12 this section (other than subsection (e)(2)) shall  
13 apply to qualifying events occurring on or after Jan-  
14 uary 6, 2001. In the case of a qualifying event oc-  
15 ccurring on or after such date and before the date of  
16 the enactment of this Act, such event shall be  
17 deemed (for purposes of such amendments) to have  
18 occurred on the date of the enactment of this Act.

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



1 **TITLE IV—50 PERCENT CREDIT**  
 2 **AGAINST INCOME TAX FOR**  
 3 **MEDICARE BUY-IN PREMIUMS**  
 4 **AND FOR CERTAIN COBRA**  
 5 **CONTINUATION COVERAGE**  
 6 **PREMIUMS**

7 **SEC. 401. 50 PERCENT INCOME TAX CREDIT FOR MEDICARE**  
 8 **BUY-IN PREMIUMS AND FOR CERTAIN COBRA**  
 9 **CONTINUATION COVERAGE PREMIUMS.**

10 (a) IN GENERAL.—Subpart A of part IV of sub-  
 11 chapter A of chapter 1 of the Internal Revenue Code of  
 12 1986 (relating to nonrefundable personal credits) is  
 13 amended by inserting after section 25A the following new  
 14 section:

15 **“SEC. 25B. MEDICARE BUY-IN PREMIUMS AND CERTAIN**  
 16 **COBRA CONTINUATION COVERAGE PRE-**  
 17 **MIUMS.**

18 “(a) IN GENERAL.—In the case of an individual,  
 19 there shall be allowed as a credit against the tax imposed  
 20 by this chapter for the taxable year an amount equal to  
 21 50 percent of the amount paid during such year as—

22 “(1) qualified continuation health coverage pre-  
 23 miums, and

24 “(2) medicare buy-in coverage premiums.

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

1           “(1) QUALIFIED CONTINUATION HEALTH COV-  
 2           ERAGE PREMIUMS.—The term ‘qualified continu-  
 3           ation health coverage premiums’ means, for any pe-  
 4           riod, premiums paid for continuation coverage (as  
 5           defined in section 4980B(f)) under a group health  
 6           plan for such period but only if failure to offer such  
 7           coverage to the taxpayer for such period would con-  
 8           stitute a failure by such health plan to meet the re-  
 9           quirements of section 4980B(f) and only if the con-  
 10          tinuation coverage is provided because of a quali-  
 11          fying event described in section 4980B(f)(3)(G).

12           “(2) MEDICARE BUY-IN COVERAGE PRE-  
 13           MIUMS.—The term ‘medicare buy-in coverage pre-  
 14           miums’ means premiums paid under part D of title  
 15           XVIII of the Social Security Act.”

16          (b) CLERICAL AMENDMENT.—The table of sections  
 17          for subpart A of part IV of subchapter A of chapter 1  
 18          of such Code is amended by inserting after the item relat-  
 19          ing to section 25A the following new item:

“Sec. 25B. Medicare buy-in premiums and certain COBRA con-  
 tinuation coverage premiums.”

20          (c) EFFECTIVE DATE.—The amendments made by  
 21          this section shall apply to taxable years beginning after  
 22          December 31, 2002.

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