

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 726

To amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net health care facilities, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 3), 1993

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

---

## A BILL

To amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net health care facilities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Health Safety  
5 Net Infrastructure Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1           (1) a small handful of urban and rural health  
2 care facilities in America today serve as an essential  
3 health safety net for many millions of individuals in  
4 underserved inner cities and rural areas;

5           (2) these safety net health care facilities bear a  
6 disproportionate share of the burden of providing  
7 care to the Nation's 35,000,000 uninsured, as well  
8 as serving as the community hospital and family  
9 doctor to millions of other low-income urban and  
10 rural residents who are covered by medicaid, medi-  
11 care, and often inadequate private insurance;

12           (3) these health care facilities are often also a  
13 community's only source of essential, specialized  
14 health services, including primary care, emergency  
15 and trauma care, burn services, high-risk pregnancy  
16 services, and neonatal intensive care;

17           (4) due to their geographic location and the  
18 lack of any other facilities or services (including phy-  
19 sicians) in many inner city and rural communities,  
20 these safety net health care facilities will continue to  
21 play an essential role in the health system even fol-  
22 lowing the enactment of national health system re-  
23 form;

1           (5) this safety net threatens to unravel due to  
2 the capital infrastructure crisis which these health  
3 care facilities face;

4           (6) the buildings and equipment in which these  
5 health care facilities rely to provide high quality  
6 medical care have been allowed to deteriorate seri-  
7 ously and have not been able to keep pace with out-  
8 patient delivery services, putting in jeopardy the de-  
9 livery of quality health services to major portions of  
10 the Nation's population;

11          (7) chronic underinvestment in these health  
12 care facilities is evidenced by the fact that the aver-  
13 age age of physical plant of urban, public hospitals  
14 is nearly 26 years, as compared to a national aver-  
15 age of only 7 years for private hospitals;

16          (8) the financial picture of rural hospitals in  
17 particular has been affected by cutbacks in Federal  
18 reimbursement payments, a decline in inpatient utili-  
19 zation, increased growth rate in uncompensated care  
20 for inpatient care and expanded services, negative  
21 margins, and rural economic problems;

22          (9) small rural hospitals find it increasingly dif-  
23 ficult to access inexpensive capital markets to main-  
24 tain and improve their infrastructure to ensure high  
25 quality health care services to citizens in rural areas;

1 (10) the average capital expenditure for urban  
 2 public hospitals is \$12,600 per bed, as compared to  
 3 a national average expenditure per bed of \$23,500;

4 (11) traditional methods of financing rebuilding  
 5 and renovation projects are either not available to  
 6 these health care facilities, or are increasingly lim-  
 7 ited due to fiscal pressures on local governments  
 8 who issue their bonds or to the high costs of issuing  
 9 revenue bonds in a bond market that is skeptical re-  
 10 garding the local appropriations made to these  
 11 health care facilities; and

12 (12) the Federal Government can help alleviate  
 13 this crisis with carefully targeted and highly lever-  
 14 aged resources for those health care facilities in the  
 15 greatest need of assistance.

16 **TITLE I—CAPITAL FINANCING**  
 17 **ASSISTANCE FOR SAFETY NET**  
 18 **HEALTH CARE FACILITIES**  
 19 **PROVIDING INDIGENT CARE**

20 **SEC. 101. ESTABLISHMENT OF CAPITAL FINANCING ASSIST-**  
 21 **ANCE PROGRAM.**

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

1 **“TITLE XXI—CAPITAL FINANC-**  
2 **ING ASSISTANCE FOR SAFETY**  
3 **NET HEALTH CARE FACILI-**  
4 **TIES**

5 **“Subtitle A—General Provisions**

6 “PAYMENTS TO HEALTH CARE FACILITIES

7 “SEC. 2101. (a) IN GENERAL.—The Secretary, with  
8 the approval of the Health Safety Net Infrastructure  
9 Trust Fund Board of Trustees described in section  
10 2104(d) (hereafter in this title referred to as the ‘Trust  
11 Fund Board’), shall make payments, from amounts in the  
12 Health Safety Net Infrastructure Trust Fund established  
13 under section 2104(a) (hereafter in this title referred to  
14 as the ‘Trust Fund’), for capital financing assistance to  
15 eligible health care facilities whose applications for assist-  
16 ance have been approved under this title.

17 “(b) GENERAL ELIGIBILITY REQUIREMENTS FOR AS-  
18 SISTANCE.—

19 “(1) ELIGIBLE HEALTH CARE FACILITIES DE-  
20 SCRIBED.—

21 “(A) IN GENERAL.—A health care facility  
22 shall be generally eligible for capital financing  
23 assistance under this title if the health care fa-  
24 cility—

1 “(i) receives an additional payment  
2 under section 1886(d)(5)(F) and is de-  
3 scribed in clause (i)(II) or clause (vii)(I) of  
4 such section, or is deemed a disproportion-  
5 ate share hospital under a State plan for  
6 medical assistance under title XIX on the  
7 basis described in section 1923(b)(1);

8 “(ii) is a hospital which meets the cri-  
9 teria for designation by the Secretary as  
10 an essential access community hospital  
11 under section 1820(i)(1) or a rural pri-  
12 mary care hospital under section  
13 1820(i)(2) (whether or not such hospital is  
14 actually designated under such section);

15 “(iii) is a Federally qualified health  
16 center (as defined in section  
17 1905(l)(2)(B));

18 “(iv) is a hospital which—

19 “(I) is a sole community pro-  
20 vider; or

21 “(II) has closed within the pre-  
22 ceding 12 months;

23 “(v) is a facility which—

24 “(I) provides service to ill or in-  
25 jured individuals prior to the trans-

1 portation of such individuals to a hos-  
2 pital or provides inpatient care to in-  
3 dividuals needing such care for a pe-  
4 riod not longer than 96 hours;

5 “(II) is located in a county (or  
6 equivalent unit of local government)  
7 with fewer than 6 residents per  
8 square mile or is located more than  
9 35 road miles from the nearest hos-  
10 pital;

11 “(III) permits a physician assist-  
12 ant or nurse practitioner to admit and  
13 treat patients under the supervision of  
14 a physician not present in such facil-  
15 ity; and

16 “(IV) has obtained a waiver from  
17 the Secretary permitting the facility  
18 to participate in the medicare pro-  
19 gram under title XVIII; or

20 “(vi) is a hospital that the Secretary  
21 otherwise determines to be an appropriate  
22 recipient of assistance under this title on  
23 the basis of the existence of a patient care  
24 operating deficit, a demonstrated inability  
25 to secure or repay financing for a qualify-

1           ing project on reasonable terms, or such  
2           other criteria as the Secretary considers  
3           appropriate.

4           “(B) DEVELOPMENT OF CRITERIA.—For  
5           purposes of subparagraph (A)(vi), with respect  
6           to rural hospitals which are at risk or critical  
7           to health care access, the Prospective Payment  
8           Review Commission, not later than January 1,  
9           1994, shall develop criteria to assist the Sec-  
10          retary in deciding if such hospitals deserve as-  
11          sistance, after considering, at a minimum, the  
12          following factors:

13           “(i) AT-RISK RURAL HOSPITALS.—In  
14           the case of rural hospitals the closure of  
15           which within the next year is imminent or  
16           the continued operation of which over a 2-  
17           to 5-year period is questionable, such fac-  
18           tors as the level of health resources avail-  
19           able in a community as measured by physi-  
20           cian supply, the population base of the  
21           area served by the hospital and utilization  
22           of services by such population as measured  
23           by service area population, and financial  
24           indicators predictive of closure.

1           “(ii) RURAL HOSPITALS CRITICAL TO  
2           HEALTH CARE ACCESS.—In the case of  
3           rural hospitals which provide access to es-  
4           sential health services within a service area  
5           where no other provider of such essential  
6           services exists, such factors as the market  
7           share of the hospital for an area or popu-  
8           lation, the number of outpatient visits, the  
9           proximity of the next closest provider of  
10          such services, and the degree to which the  
11          area population is medically underserved.

12          “(2) OWNERSHIP REQUIREMENTS.—In order to  
13          be eligible for assistance under this title, a health  
14          care facility (other than a health care facility de-  
15          scribed in clauses (ii) and (v) of paragraph (1))  
16          must—

17                 “(A) be owned or operated by a unit of  
18                 State or local government;

19                 “(B) be a quasi-public corporation, defined  
20                 as a private, nonprofit corporation or public  
21                 benefit corporation which is formally granted  
22                 one or more governmental powers by legislative  
23                 action through (or is otherwise partially funded  
24                 by) the State legislature, city or county council;

1           “(C) be a private nonprofit health care fa-  
2           cility which has contracted with, or is otherwise  
3           funded by, a governmental agency to provide  
4           health care services to low income individuals  
5           not eligible for assistance under title XVIII or  
6           title XIX of this Act, where revenue from such  
7           contracts constitute at least 10 percent of the  
8           facility’s operating revenues over the prior 3 fis-  
9           cal years; or

10           “(D) be a nonprofit small rural health care  
11           facility (as determined by the Secretary).

12           “(c) MEETING ADDITIONAL SPECIFIC CRITERIA.—  
13           Health care facilities that are generally eligible for assist-  
14           ance under this title under subsection (b) may apply for  
15           the specific programs described in this title and must meet  
16           any additional criteria for participation in such programs.

17           “(d) ASSISTANCE AVAILABLE.—Capital financing as-  
18           sistance available under this title shall include loan guar-  
19           antees, interest rate subsidies, matching loans and direct  
20           grants. Health care facilities determined to be generally  
21           eligible for assistance under this title may apply for and  
22           receive more than one type of assistance under this title.

23           “APPLICATION FOR ASSISTANCE

24           “SEC. 2102. (a) IN GENERAL.—No health care facili-  
25           ties may receive assistance for a qualifying project under  
26           this title unless the health care facility—

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

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

9           “(3) includes a description of the project, in-  
10          cluding the community in which it is located, and  
11          describes utilization and services characteristics of  
12          the project and the health care facility, and the pa-  
13          tient population that is to be served;

14          “(4) describes the extent to which the project  
15          will include the financial participation of State and  
16          local governments if assistance is granted under this  
17          title, and all other sources of financing sought for  
18          the project; and

19          “(5) establishes, to the satisfaction of the Sec-  
20          retary and the Trust Fund Board, that the project  
21          meets the additional criteria for each type of capital  
22          financing assistance for which it is applying.

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

1           “(1) whether the health care facility meets the  
2           general eligibility criteria under section 2101(b);

3           “(2) whether the health care facility meets the  
4           specific eligibility criteria of each type of assistance  
5           for which it has applied, including whether the  
6           health care facility meets any criteria for priority  
7           consideration for the type of assistance for which it  
8           has applied;

9           “(3) whether the capital project for which as-  
10          sistance is being requested is a qualifying project  
11          under this title; and

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

15          “(c) PRIORITY OF APPLICATIONS.—In addition to  
16          meeting the criteria otherwise described in this title, at  
17          the discretion of the Trust Fund Board, the Secretary  
18          shall give preference to those applications for qualifying  
19          projects that—

20                 “(1)(A) are necessary to bring existing safety  
21                 net health care facilities into compliance with ac-  
22                 creditation standards of fire and life safety, seismic,  
23                 or other related Federal, State or local regulatory  
24                 standards;

1           “(B) improve the provision of essential services  
2           such as emergency medical and trauma services,  
3           AIDS and infectious disease, perinatal, burn, pri-  
4           mary care, and other services which the Trust Fund  
5           Board may designate; or

6           “(C) provide access to otherwise unavailable es-  
7           sential health services to the indigent and other  
8           needy persons within the health care facility’s terri-  
9           torial area;

10           “(2) include specific State or local governmental  
11           or other non-Federal assurances of financial support  
12           if assistance for a qualifying project is granted  
13           under this title; and

14           “(3) are unlikely to be financed without assist-  
15           ance granted under this title.

16           “(d) SUBMISSION OF APPLICATIONS.—Applications  
17           under this title shall be submitted to the Secretary  
18           through the Trust Fund Board. If two or more health care  
19           facilities join in the project, the application shall be sub-  
20           mitted by all participating health care facilities jointly.  
21           Such applications shall set forth all of the descriptions,  
22           plans, specifications, and assurances as required by this  
23           title and contain other such information as the Trust  
24           Fund Board shall require.

1       “(e) OPPORTUNITY FOR APPEAL.—The Trust Fund  
2 Board shall afford a health care facility applying for a loan  
3 guarantee under this section an opportunity for a hearing  
4 if the guarantee is denied.

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

8               “PUBLIC SERVICE RESPONSIBILITIES

9       “SEC. 2103. (a) IN GENERAL.—Any health care fa-  
10 cility accepting capital financing assistance under this title  
11 shall agree—

12               “(1) to make the services of the facility or por-  
13 tion thereof to be constructed, acquired, or modern-  
14 ized available to all persons; and

15               “(2) to provide a significant volume of services  
16 to persons unable to pay therefore, consistent with  
17 other provisions of this Act and the amount of as-  
18 sistance received under this title.

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

23               “HEALTH SAFETY NET INFRASTRUCTURE TRUST FUND

24       “SEC. 2104. (a) CREATION OF TRUST FUND.—There  
25 is established in the Treasury of the United States a trust  
26 fund to be known as the Health Safety Net Infrastructure

1 Trust Fund, consisting of such amounts as may be trans-  
2 ferred, appropriated, or credited to such Trust Fund as  
3 provided in this title.

4 “(b) AUTHORIZATION OF APPROPRIATIONS TO  
5 TRUST FUND.—There are authorized to be appropriated  
6 to the Trust Fund such sums as may be necessary to carry  
7 out the purposes of this title.

8 “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
9 in the Trust Fund shall be available, pursuant to appro-  
10 priations Acts, only for making expenditures to carry out  
11 the purposes of this title.

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

14 “(1) IN GENERAL.—There shall be created a  
15 Health Safety Net Infrastructure Trust Fund Board  
16 of Trustees composed of the Secretary of Health and  
17 Human Services, the Secretary of the Treasury, the  
18 Assistant Secretary for Health, and the Adminis-  
19 trator of the Health Care Financing Administration  
20 (all serving in their ex officio capacities), and 5 pub-  
21 lic members who shall be appointed for 4 year terms  
22 by the President, from the following categories—

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



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

3 “(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—  
4 Not more than 5 percent of the funds annually appro-  
5 priated to the Trust Fund may be available for adminis-  
6 tration of the Trust Fund or programs under this title.

### 7 **“Subtitle B—Loan Guarantees**

8 “PROVISION OF LOAN GUARANTEES TO SAFETY NET  
9 HEALTH CARE FACILITIES

10 “SEC. 2110. (a) IN GENERAL.—The Safety Net In-  
11 frastructure Trust Fund will provide a Federal guarantee  
12 of loan repayment, including guarantees of repayment of  
13 refinancing loans, to non-Federal lenders making loans to  
14 eligible health care facilities for health care facility re-  
15 placement (either by construction or acquisition), mod-  
16 ernization and renovation projects, and capital equipment  
17 acquisition.

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

22 “ELIGIBLE LOANS

23 “SEC. 2111. (a) IN GENERAL.—Loan guarantees  
24 under this subtitle are available for loans made to eligible  
25 health care facilities for replacement facilities (either  
26 newly constructed or acquired), modernization and renova-

1 tion of existing facilities, and for capital equipment acqui-  
2 sition.

3 “(b) LOAN GUARANTEE MUST BE ESSENTIAL TO  
4 BOND FINANCING.—Eligible health care facilities must  
5 demonstrate that a Federal loan guarantee is essential to  
6 obtaining bond financing from non-Federal lenders at a  
7 reasonably affordable rate of interest.

8 “(c) ADDITIONAL ELIGIBILITY CRITERIA FOR LOAN  
9 GUARANTEES.—In order to be eligible for assistance  
10 under this subtitle, a health care facility must demonstrate  
11 that the following criteria are met:

12 “(1) The health care facility has evidence of an  
13 ability to meet debt service.

14 “(2) The assistance, when considered with other  
15 resources available to the project, is necessary and  
16 will restore, improve, or maintain the financial or  
17 physical soundness of the health care facility.

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

20 “(4) The project is being, or will be, operated  
21 and managed in accordance with a management-  
22 improvement-and-operating plan which is designed  
23 to reduce the operating costs of the project, which  
24 has been approved by the Trust Fund Board, and  
25 which includes—

1           “(A) a detailed maintenance schedule;

2           “(B) a schedule for correcting past defi-  
3           ciencies in maintenance, repairs, and replace-  
4           ments;

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

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

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

14          “(F) such other requirements as the Trust  
15          Fund Board may determine.

16          “(5) The application includes stringent provi-  
17          sions for continued State or local support of the pro-  
18          gram, both with respect to operating and financial  
19          capital.

20          “(6) The terms, conditions, maturity, security  
21          (if any), and schedule and amount of repayments  
22          with respect to the loan are sufficient to protect the  
23          financial interests of the United States and are oth-  
24          erwise reasonable and in accord with regulation, in-  
25          cluding a determination that the rate of interest

1 does not exceed such annual percentage on the prin-  
2 cipal obligation outstanding as the Trust Fund  
3 Board determines to be reasonable, taking into ac-  
4 count the range of interest rates prevailing in the  
5 private market for similar loans and the risks as-  
6 sumed by the United States.

7 “(7) The health care facility must meet such  
8 other additional criteria as the Secretary may im-  
9 pose.

10 “(e) STATE OR LOCAL PARTICIPATION.—Projects in  
11 which State or local governmental entities participate in  
12 the form of first guarantees of part or all of the total loan  
13 value shall be given a preference for loan guarantees under  
14 this subtitle.

15 “GUARANTEE ALLOTMENTS

16 “SEC. 2112. (a) IN GENERAL.—\$150,000,000 shall  
17 be annually allocated within the Trust Fund to the loan  
18 guarantee program established by this subtitle in order to  
19 create a cumulative reserve in support of loan guarantees.

20 “(b) LOAN GUARANTEES FOR RURAL HEALTH CARE  
21 FACILITIES.—At least 20 percent of the dollar value of  
22 loan guarantees made under this program during any  
23 given year shall be allocated for eligible rural health care  
24 facilities, to the extent a sufficient number of applications  
25 are made by such health care facilities.

1       “(c) GUARANTEES FOR SMALL LOANS.—At least  
2 \$200,000,000 of the annual dollar value of loan guaran-  
3 tees made under the program shall be reserved for loans  
4 of under \$50,000,000, if there are a sufficient number of  
5 applicants for loans of that size.

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

11       “TERMS AND CONDITIONS OF LOAN GUARANTEES

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

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

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

1 rogated to all of the rights of the recipients of the pay-  
2 ments.

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

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

19               “PREMIUMS FOR LOAN GUARANTEES

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

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

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

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

21       “PROCEDURES IN THE EVENT OF LOAN DEFAULT

22       “SEC. 2115. (a) IN GENERAL.—Failure of the bor-  
23 rower to make payments due under or provided by the  
24 terms of a loan accepted for insurance under this subtitle  
25 shall constitute a default.

1       “(b) ASSIGNMENT OF DEFAULTED LOANS.—If a de-  
2 fault continues for 30 days, then, upon the lender’s trans-  
3 fer to the Trust Fund Board of all its rights and interests  
4 arising under the defaulted loan or in connection with the  
5 loan transaction, the lender shall be entitled to debentures  
6 which, together with a certificate of claim, are equal in  
7 value to the amount the lender would have received if, on  
8 the date of transfer, the borrower had repaid the loan in  
9 full, together with the amount of necessary expenses in-  
10 curred by the lender in connection with the default.

11       “(c) FORECLOSURE BY LENDER.—Subject to the ap-  
12 proval of the Trust Fund Board, or as provided in regula-  
13 tions, the lender may foreclose on the property securing  
14 the defaulted loan.

15       “(d) FORECLOSURE BY TRUST FUND BOARD.—The  
16 Trust Fund Board is authorized to—

17               “(1) acquire possession of and title to any prop-  
18 erty securing a defaulted loan by voluntary convey-  
19 ance in extinguishment of the indebtedness, or

20               “(2) institute proceedings for foreclosure on the  
21 property securing any such defaulted loan and pros-  
22 ecute such proceedings to conclusion.

23       “(e) HANDLING AND DISPOSAL OF PROPERTY; SET-  
24 TLEMENT OF CLAIMS.—

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

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

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

7           “(f) REGULATIONS.—The Trust Fund Board shall  
8 propose and the Secretary shall promulgate regulations  
9 governing procedures in the event of a default on a loan  
10 accepted for insurance under this subtitle.

11           **“Subtitle C—Interest Rate**  
12                           **Subsidies**

13           “PROVISION OF INTEREST RATE SUBSIDIES

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

18           “(b) PURPOSES.—The interest subsidy program shall  
19 provide a partial Federal subsidy of debt service payment  
20 where State or local entities have demonstrated a signifi-  
21 cant commitment to financing health care facility replace-  
22 ment (either by construction or acquisition), moderniza-  
23 tion, and renovation projects by undertaking the issuance  
24 of bonds.

1 “ELIGIBLE LOANS

2 “SEC. 2122. (a) IN GENERAL.—Eligible health care  
3 facilities should have issued or plan to issue bonds for cap-  
4 ital projects or be responsible for paying debt service on  
5 general obligation or revenue bonds issued on the eligible  
6 health care facility’s behalf. To be eligible, bonds must  
7 have been issued after December 31, 1990.

8 “(b) NON-FEDERAL PARTICIPATION REQUIRE-  
9 MENT.—In order to be eligible for assistance under this  
10 subtitle, a health care facility must receive assistance from  
11 non-Federal sources in an amount not less than the  
12 amount of the assistance provided under this subtitle.

13 “ALLOTMENT OF SUBSIDIES

14 “SEC. 2123. (a) IN GENERAL.—The Trust Fund  
15 Board shall make available \$220,000,000 in interest sub-  
16 sidies annually.

17 “(b) QUALIFYING NON-FEDERAL LOANS.—Interest  
18 subsidy grants will be made in the amount of 3 percent  
19 for qualifying non-Federal loans.

20 “(c) QUALIFYING FEDERAL LOANS MADE UNDER  
21 THIS TITLE.—Interest subsidy grants in an amount of up  
22 to 5 percent will be made for qualifying Federal loans  
23 made under this title if it is determined by the Trust Fund  
24 Board that the project would not be otherwise financially  
25 feasible.

1       “(d) RESERVE FOR RURAL HEALTH CARE FACILI-  
2 TIES.—At least 20 percent of the total value of all interest  
3 subsidies awarded in any given year shall be awarded to  
4 rural health care facilities, provided that a sufficient num-  
5 ber of applications are approved.

6       “(e) LIMITATION ON AMOUNT OF SUBSIDIES AWARD-  
7 ED IN A GIVEN STATE.—The aggregate value of interest  
8 subsidies made to health care facilities in any State in a  
9 given year shall not exceed 25 percent of the total value  
10 of all interest subsidies made during that year.

11           “TERMS AND CONDITIONS FOR SUBSIDIES

12       “SEC. 2124. (a) STATE OR LOCAL PARTICIPATION.—  
13 No Federal subsidy shall be granted unless State or local  
14 participation in an amount equal to the Federal subsidy  
15 is provided.

16       “(b) ISSUANCE OF FEDERAL COMMITMENTS.—Suc-  
17 cessful applicants will receive a Federal commitment of an  
18 interest subsidy grant. Applicants will then have 12  
19 months to finalize financing arrangements before unobli-  
20 gated funds would be returned to the subsidy program  
21 pool. A commitment, when issued, shall be valid for as  
22 long as a health care facility continues to meet the eligi-  
23 bility requirements of this title.

24           “SUBSIDIES FOR LOAN REFINANCING

25       “SEC. 2125. In addition to providing interest rate  
26 subsidies for new loans, the Trust Fund Board may pro-

1 vide subsidies to assist in refinancing if the health care  
2 facility presently lacks permanent financing at an afford-  
3 able current market rate.

4 **“Subtitle D—Direct Matching**  
5 **Loans**

6 “PROVISION OF MATCHING LOANS TO HEALTH CARE  
7 FACILITIES

8 “SEC. 2131. (a) IN GENERAL.—The Secretary, with  
9 the approval of the Trust Fund Board, shall provide direct  
10 matching loans to eligible health care facilities unable oth-  
11 erwise to obtain essential financing.

12 “(b) PURPOSES.—The purpose of this subtitle is to  
13 provide eligible health care facilities with direct matching  
14 loans for essential health care facility replacement (either  
15 by construction or acquisition), modernization, and ren-  
16 ovation projects. These loans are to be primarily provided  
17 for the funding of smaller projects where the transaction  
18 costs of securing financing from other sources may be dis-  
19 proportionately onerous in relationship to the amounts fi-  
20 nanced.

21 “ELIGIBLE PROJECTS

22 “SEC. 2132. (a) IN GENERAL.—Eligible applicants  
23 may seek a project loan of up to \$50,000,000. Not more  
24 than 75 percent of the cost of the project may come from  
25 Federal sources.

1       “(b) EXCEPTION FOR FINANCIALLY DISTRESSED  
2 HEALTH CARE FACILITIES.—The Trust Fund Board  
3 shall have the discretion to waive the 25 percent match  
4 requirement for financially distressed health care facilities  
5 (as described by the Secretary).

6                               “ALLOTMENT OF LOANS

7       “SEC. 2133. (a) IN GENERAL.—The Trust Fund  
8 Board shall make available \$200,000,000 in direct match-  
9 ing loans annually. Funded projects should be divided be-  
10 tween projects designed to achieve compliance with accred-  
11 itation standards, life safety codes, and other certification  
12 standards, and those standards related to the provision  
13 of new services.

14       “(b) RESERVE FOR RURAL HEALTH CARE FACILI-  
15 TIES.—No less than 20 percent of the total value of loans  
16 made under the program shall be made to rural health  
17 care facilities, if there are a sufficient number of approved  
18 applications from such facilities.

19                               “TERMS AND CONDITIONS OF LOANS

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

23       “(b) INTEREST RATE.—The interest rate will be a  
24 market rate determined by the Trust Fund Board to be  
25 no higher than the most recent revenue bond index pub-  
26 lished by the Bond Buyer.

## 1                   “USE OF LOANS FOR REFINANCING

2           “SEC. 2135. In addition to providing loans for new  
3 projects, the Trust Fund Board may grant loans under  
4 this subtitle to refinance existing loans if the health care  
5 facility has been unable to secure permanent financing at  
6 an affordable current market rate, except that the amount  
7 of assistance provided under this subtitle during a year  
8 for refinancing existing loans may not exceed 20 percent  
9 of the total amount made available for assistance under  
10 this subtitle for the year.

## 11                   “CREATION OF REVOLVING FUND

12           “SEC. 2136. In addition to the new amounts made  
13 available each year, all loan repayments made by health  
14 care facilities shall be held in a revolving fund in the Trust  
15 Fund that may be used for additional loans.

## 16                   “LOAN DEFAULT

17           “SEC. 2137. (a) IN GENERAL.—The failure of the  
18 borrower to make payment due under or provided by the  
19 terms of a loan granted under this subtitle shall be consid-  
20 ered a default under such loan and, if such default contin-  
21 ues for a period of 30 days, the Trust Fund Board may  
22 attempt to negotiate a revised repayment schedule to avoid  
23 foreclosing on property serviced by such loan before begin-  
24 ning collection proceedings against the borrower.

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

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

6                                   “PROVISION OF GRANTS

7       “SEC. 2141. (a) IN GENERAL.—The Trust Fund  
8 Board shall make available \$400,000,000 in direct grants  
9 annually. The Secretary, with the approval of the Trust  
10 Fund Board, shall make direct grants to eligible health  
11 care facilities with urgent capital needs.

12       “(b) PURPOSES.—Direct grants shall be available to  
13 eligible health care facilities for 3 types of projects:

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

24               “(2) Emergency grants would be available for  
25 capital renovation, expansion, or replacement nec-

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

5           “(3) Planning grants would be available to eli-  
6       gible health care facilities who require pre-approval  
7       assistance to meet regulatory requirements related  
8       to management and finance in order to apply for  
9       loans, loan guarantees, and interest subsidies under  
10      this title.

11      “(c) PRIORITY TO FINANCIALLY DISTRESSED  
12      HEALTH CARE FACILITIES.—Priority for direct grants  
13      under this section would be given to financially distressed  
14      health care facilities (as described by the Secretary).

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

18           “ELIGIBLE PROJECTS

19      “SEC. 2142. (a) MATCHING GRANTS.—

20           “(1) LIMITATION ON AMOUNT.—Grants for cap-  
21      ital expenditures by eligible health care facilities will  
22      be limited to \$25,000,000.

23           “(2) MATCHING REQUIREMENT.—At least half  
24      of the projects funded in a year must receive at least  
25      50 percent of their funding from State or local  
26      sources. The remaining projects funded during the

1 year could be financed up to 90 percent with a com-  
2 bination of Federal grants and loans.

3 “(3) RESERVATION FOR RURAL HEALTH CARE  
4 FACILITIES.—No less than 20 percent of the grant  
5 funds in any given year would be reserved for rural  
6 health care facilities, provided that a sufficient num-  
7 ber of applications are approved.

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

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall take effect October 1, 1993.

18 **SEC. 102. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RE-**  
19 **LATED COSTS UNDER MEDICARE.**

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

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

24 (2) by striking the period at the end of clause

25 (iv) and inserting “, and”; and

1           (3) by adding at the end the following new  
2 clause:

3           “(v) shall provide for adjustments to take into  
4 account the extent to which capital-related costs in-  
5 curred by a hospital are costs with respect to which  
6 the hospital received financial assistance under title  
7 XXI.”.

8           (b) EFFECTIVE DATE.—The amendments made by  
9 subsection (a) shall apply to cost reporting periods begin-  
10 ning on or after October 1, 1993.

11 **SEC. 103. TAX EXEMPT STATUS OF FEDERALLY GUARAN-**  
12 **TEED STATE OR LOCAL BONDS.**

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

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

16                 (2) in clause (iii) by striking the period and in-  
17 sserting “, or”; and

18                 (3) by adding at the end thereof the following:

19                         “(iv) any guarantee by the Health  
20 Safety Net Infrastructure Trust Fund pur-  
21 suant to title XXI of the Social Security  
22 Act.”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) shall take effect on October 1, 1993.



S 726 IS—2

S 726 IS—3