

105TH CONGRESS
2D SESSION

H.R. 3470

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1998

Mr. STARK (for himself, Mr. BROWN of Ohio, Mr. GEPHARDT, Mr. RANGEL, Mr. DINGELL, Mr. BECERRA, Mr. BORSKI, Mr. BROWN of California, Mr. CARDIN, Ms. CHRISTIAN-GREEN, Mrs. CLAYTON, Mr. COYNE, Ms. DELAURO, Mr. DEUTSCH, Mr. DOOLEY of California, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. FARR of California, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GONZALEZ, Mr. GREEN, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOYER, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KLECZKA, Mr. KUCINICH, Mr. LAFALCE, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MALONEY of Connecticut, Mr. MARKEY, Mr. MATSUI, Mr. McDERMOTT, Mr. McGOVERN, Mr. MCHALE, Mr. MEEHAN, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MILLER of California, Mr. MOAKLEY, Mr. MURTHA, Mr. NADLER, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Ms. PELOSI, Mr. RAHALL, Mr. RUSH, Mr. SANDLIN, Mr. SCHUMER, Mr. SERRANO, Mr. STOKES, Mr. STUPAK, Mr. TIERNEY, Mr. TOWNS, Mr. UNDERWOOD, Mr. WAXMAN, Mr. WEYGAND, Mr. WISE, Ms. WOOLSEY, Mr. YATES, Mr. OBERSTAR, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act and the

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

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

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

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

6 (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 retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

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

TITLE IV—FINANCING

Sec. 401. Reference to financing provisions.

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

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

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

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

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

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

14 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

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

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

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

2 “(A) FEDERAL OR STATE COBRA CONTINU-
3 ATION PROVISION.—The term ‘Federal or State
4 COBRA continuation provision’ has the mean-
5 ing given the term ‘COBRA continuation provi-
6 sion’ in section 2791(d)(4) of the Public Health
7 Service Act and includes a comparable State
8 program, as determined by the Secretary.

9 “(B) FEDERAL HEALTH INSURANCE PRO-
10 GRAM DEFINED.—The term ‘Federal health in-
11 surance program’ means any of the following:

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

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

17 “(iii) FEHBP.—The Federal employ-
18 ees health benefit program under chapter
19 89 of title 5, United States Code.

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

23 “(v) ACTIVE DUTY MILITARY.—Health
24 benefits under title 10, United States

1 Code, to an individual as a member of the
2 uniformed services of the United States.

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

7 “(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65
8 YEARS OF AGE.—

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

13 “(A) AGE.—As of the last day of the
14 month, the individual has attained 62 years of
15 age, but has not attained 65 years of age.

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

20 “(C) NOT ELIGIBLE FOR COVERAGE
21 UNDER GROUP HEALTH PLANS OR FEDERAL
22 HEALTH INSURANCE PROGRAMS.—The individ-
23 ual is not eligible for benefits or coverage under
24 a Federal health insurance program (as defined
25 in subsection (a)(2)(B)) or under a group

1 health plan (other than such eligibility merely
2 through a Federal or State COBRA continu-
3 ation provision) as of the last day of the month
4 involved.

5 “(2) LIMITATION ON ELIGIBILITY IF TERMI-
6 NATED ENROLLMENT.—If an individual described in
7 paragraph (1) enrolls under this part and coverage
8 of the individual is terminated under section
9 1859A(d) (other than because of age), the individual
10 is not again eligible to enroll under this subsection
11 unless the following requirements are met:

12 “(A) NEW COVERAGE UNDER GROUP
13 HEALTH PLAN OR FEDERAL HEALTH INSUR-
14 ANCE PROGRAM.—After the date of termination
15 of coverage under such section, the individual
16 obtains coverage under a group health plan or
17 under a Federal health insurance program.

18 “(B) SUBSEQUENT LOSS OF NEW COV-
19 ERAGE.—The individual subsequently loses eli-
20 gibility for the coverage described in subpara-
21 graph (A) and exhausts any eligibility the indi-
22 vidual may subsequently have for coverage
23 under a Federal or State COBRA continuation
24 provision.

1 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
2 DOES NOT AFFECT COVERAGE.—In the case of an
3 individual who is eligible for and enrolls under this
4 part under this subsection, the individual’s continued
5 entitlement to benefits under this part shall not be
6 affected by the individual’s subsequent eligibility for
7 benefits or coverage described in paragraph (1)(C),
8 or entitlement to such benefits or coverage.

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

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

16 “(1) individuals eligible to enroll as of a month
17 are permitted to pre-enroll during a prior month
18 within an enrollment period described in subsection
19 (b); and

20 “(2) each individual seeking to enroll under sec-
21 tion 1859(b) is notified, before enrolling, of the de-
22 ferred monthly premium amount the individual will
23 be liable for under section 1859C(b) upon attaining
24 65 years of age as determined under section
25 1859B(c)(3).

1 “(b) ENROLLMENT PERIODS.—

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

5 “(A) INITIAL ENROLLMENT PERIOD.—If
6 the individual is eligible to enroll under such
7 section for July 1999, the enrollment period
8 shall begin on May 1, 1999, and shall end on
9 August 31, 1999. Any such enrollment before
10 July 1, 1999, is conditioned upon compliance
11 with the conditions of eligibility for July 1999.

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

22 “(2) AUTHORITY TO CORRECT FOR GOVERN-
23 MENT ERRORS.—The provisions of section 1837(h)
24 apply with respect to enrollment under this part in

1 the same manner as they apply to enrollment under
2 part B.

3 “(c) DATE COVERAGE BEGINS.—

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

8 “(A) In the case of an individual who en-
9 rolls (including pre-enrolls) before the month in
10 which the individual satisfies eligibility for en-
11 rollment under section 1859, the first day of
12 such month of eligibility.

13 “(B) In the case of an individual who en-
14 rolls during or after the month in which the in-
15 dividual first satisfies eligibility for enrollment
16 under such section, the first day of the follow-
17 ing month.

18 “(2) AUTHORITY TO PROVIDE FOR PARTIAL
19 MONTHS OF COVERAGE.—Under regulations, the
20 Secretary may, in the Secretary’s discretion, provide
21 for coverage periods that include portions of a
22 month in order to avoid lapses of coverage.

23 “(3) LIMITATION ON PAYMENTS.—No payments
24 may be made under this title with respect to the ex-
25 penses of an individual enrolled under this part un-

1 less such expenses were incurred by such individual
2 during a period which, with respect to the individual,
3 is a coverage period under this section.

4 “(d) TERMINATION OF COVERAGE.—

5 “(1) IN GENERAL.—An individual’s coverage
6 period under this part shall continue until the indi-
7 vidual’s enrollment has been terminated at the earli-
8 est of the following:

9 “(A) GENERAL PROVISIONS.—

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

15 “(ii) NONPAYMENT OF PREMIUMS.—
16 The individual fails to make payment of
17 premiums required for enrollment under
18 this part.

19 “(iii) MEDICARE ELIGIBILITY.—The
20 individual becomes entitled to benefits
21 under part A or enrolled under part B
22 (other than by reason of this part).

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

25 “(2) EFFECTIVE DATE OF TERMINATION.—

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

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

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

1 **“SEC. 1859B. PREMIUMS.**

2 “(a) AMOUNT OF MONTHLY PREMIUMS.—

3 “(1) BASE MONTHLY PREMIUMS.—The Sec-
4 retary shall, during September of each year (begin-
5 ning with 1998), determine the following premium
6 rates which shall apply with respect to coverage pro-
7 vided under this title for any month in the succeed-
8 ing year:

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

15 “(2) DEFERRED MONTHLY PREMIUMS FOR IN-
16 DIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-
17 retary shall, during September of each year (begin-
18 ning with 1998), determine under subsection (c) the
19 amount of deferred monthly premiums that shall
20 apply with respect to individuals who first obtain
21 coverage under this part under section 1859(b) in
22 the succeeding year.

23 “(3) ESTABLISHMENT OF PREMIUM AREAS.—
24 For purposes of this part, the term ‘premium area’
25 means such an area as the Secretary shall specify to
26 carry out this part. The Secretary from time to time

1 may change the boundaries of such premium areas.

2 The Secretary shall seek to minimize the number of
3 such areas specified under this paragraph.

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

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

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

23 “(3) BASE ANNUAL PREMIUM.—The base an-
24 nual premium under this subsection for months in a
25 year for individuals 62 years of age or older residing

1 in a premium area is equal to the average, annual
2 per capita amount estimated under paragraph (1)
3 for the year, adjusted for such area under paragraph
4 (2).

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

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

21 “(2) DIFFERENCE BETWEEN ESTIMATED EX-
22 PENDITURES AND ESTIMATED PREMIUMS.—Based
23 on the characteristics of individuals in such group,
24 the Secretary shall estimate during the period of

1 coverage of the group under this part under section
2 1859(b) the amount by which—

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

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

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

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

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

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

1 and the month in which the individual attains 65
2 years of age.

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

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

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

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

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

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

1 reference to the Trust Fund established under sec-
2 tion 1859D.

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

10 “(b) PAYMENT OF DEFERRED PREMIUM FOR INDI-
11 VIDUALS COVERED AFTER ATTAINING AGE 62.—

12 “(1) RATE OF PAYMENT.—

13 “(A) IN GENERAL.—In the case of an indi-
14 vidual who is covered under this part for a
15 month pursuant to an enrollment under section
16 1859(b), subject to subparagraph (B), the indi-
17 vidual is liable for payment of a deferred pre-
18 mium in each month during the period de-
19 scribed in paragraph (2) in an amount equal to
20 the full deferred monthly premium rate deter-
21 mined for the individual under section
22 1859B(c).

23 “(B) SPECIAL RULES FOR THOSE WHO
24 DISENROLL EARLY.—

1 “(i) IN GENERAL.—If such an individ-
2 ual’s enrollment under such section is ter-
3 minated under clause (i) or (ii) of section
4 1859A(d)(1)(A), subject to clause (ii), the
5 amount of the deferred premium otherwise
6 established under this paragraph shall be
7 pro-rated to reflect the number of months
8 of coverage under this part under such en-
9 rollment compared to the maximum num-
10 ber of months of coverage that the individ-
11 ual would have had if the enrollment were
12 not so terminated.

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

24 “(2) PERIOD OF PAYMENT.—The period de-
25 scribed in this paragraph for an individual is the pe-

1 riod beginning with the first month in which the in-
2 dividual has attained 65 years of age and ending
3 with the month before the month in which the indi-
4 vidual attains 85 years of age.

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

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

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

23 “(a) ESTABLISHMENT OF TRUST FUND.—

24 “(1) IN GENERAL.—There is hereby created on
25 the books of the Treasury of the United States a

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

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

11 “(3) TRANSFER OF SAVINGS FROM NEW FRAUD
12 AND ABUSE INITIATIVES.—

13 “(A) IN GENERAL.—There is hereby trans-
14 ferred to the Trust Fund from the Federal
15 Hospital Insurance Trust Fund and from the
16 Federal Supplementary Medical Insurance
17 Trust Fund amounts equivalent to the amounts
18 (specified under subparagraph (B)) of the re-
19 ductions in expenditures under such respective
20 trust fund as may be attributable to the enact-
21 ment of the Medicare Fraud and Overpayment
22 Act of 1998.

23 “(B) USE OF CBO ESTIMATES.—For each
24 fiscal year during the 10-fiscal-year period be-
25 ginning with fiscal year 1999, the amounts

1 under subparagraph (A) shall be the amounts
2 described in such subparagraph as determined
3 by the Congressional Budget Office at the time
4 of, and in connection with, the enactment of the
5 Medicare Early Access Act of 1998. For subse-
6 quent fiscal years, the amounts under subpara-
7 graph (A) shall be the amount determined
8 under this subparagraph for the previous fiscal
9 year increased by the same percentage as the
10 percentage increase in aggregate expenditures
11 under this title from the second previous fiscal
12 year to the previous fiscal year.

13 “(b) INCORPORATION OF PROVISIONS.—

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

20 “(2) MISCELLANEOUS REFERENCES.—In apply-
21 ing provisions of section 1841 under paragraph
22 (1)—

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

1 “(B) any reference in section 1841(h) to
2 section 1840(d) and in section 1841(i) to sec-
3 tions 1840(b)(1) and 1842(g) are deemed ref-
4 erences to comparable authority exercised under
5 this part; and

6 “(C) payments may be made under section
7 1841(g) to the Trust Funds under sections
8 1817 and 1841 as reimbursement to such funds
9 for payments they made for benefits provided
10 under this part.

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

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

19 “(b) PERIODIC GAO REPORTS.—The Comptroller
20 General of the United States shall periodically submit to
21 Congress reports on the adequacy of the financing of cov-
22 erage provided under this part. The Comptroller General
23 shall include in such report such recommendations for ad-
24 justments in such financing and coverage as the Comptrol-

1 ler General deems appropriate in order to maintain finan-
2 cial solvency of the program under this part.

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

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

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

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

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

20 “(c) NOT TREATED AS MEDICARE PROGRAM FOR
21 PURPOSES OF COBRA CONTINUATION PROVISIONS.—In
22 applying a COBRA continuation provision (as defined in
23 section 2791(d)(4) of the Public Health Service Act), any
24 reference to an entitlement to benefits under this title

1 shall not be construed to include entitlement to benefits
2 under this title pursuant to the operation of this part.”.

3 (b) CONFORMING AMENDMENTS TO SOCIAL SECUR-
4 RITY ACT PROVISIONS.—

5 (1) Section 201(i)(1) of the Social Security Act
6 (42 U.S.C. 401(i)(1)) is amended by striking “or the
7 Federal Supplementary Medical Insurance Trust
8 Fund” and inserting “the Federal Supplementary
9 Medical Insurance Trust Fund, and the Medicare
10 Early Access Trust Fund”.

11 (2) Section 201(g)(1)(A) of such Act (42
12 U.S.C. 401(g)(1)(A)) is amended by striking “and
13 the Federal Supplementary Medical Insurance Trust
14 Fund established by title XVIII” and inserting “,
15 the Federal Supplementary Medical Insurance Trust
16 Fund, and the Medicare Early Access Trust Fund
17 established by title XVIII”.

18 (3) Section 1820(i) of such Act (42 U.S.C.
19 1395i-4(i)) is amended by striking “part D” and in-
20 serting “part E”.

21 (4) Part C of title XVIII of such Act is amend-
22 ed—

23 (A) in section 1851(a)(2)(B) (42 U.S.C.
24 1395w-21(a)(2)(B)), by striking “1859(b)(3)”
25 and inserting “1858(b)(3)”;

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

4 (C) in section 1852(a)(1) (42 U.S.C.
5 1395w-22(a)(1)), by striking “1859(b)(3)” and
6 inserting “1858(b)(3)”;

7 (D) in section 1852(a)(3)(B)(ii) (42
8 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking
9 “1859(b)(2)(B)” and inserting
10 “1858(b)(2)(B)”;

11 (E) in section 1853(a)(1)(A) (42 U.S.C.
12 1395w-23(a)(1)(A)), by striking “1859(e)(4)”
13 and inserting “1858(e)(4)”;

14 (F) in section 1853(a)(3)(D) (42 U.S.C.
15 1395w-23(a)(3)(D)), by striking “1859(e)(4)”
16 and inserting “1858(e)(4)”.

17 (5) Section 1853(c) of such Act (42 U.S.C.
18 1395w-23(c)) is amended—

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

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

22 “(8) ADJUSTMENT FOR EARLY ACCESS.—In ap-
23 plying this subsection with respect to individuals en-
24 titled to benefits under part D, the Secretary shall
25 provide for an appropriate adjustment in the

1 Medicare+Choice capitation rate as may be appro-
2 priate to reflect differences between the population
3 served under such part and the population under
4 parts A and B.”.

5 (c) OTHER CONFORMING AMENDMENTS.—

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

9 (2)(A) Section 602(2)(D)(ii) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1162(2)) is amended by inserting “(not including an
12 individual who is so entitled pursuant to enrollment
13 under section 1859A)” after “Social Security Act”.

14 (B) Section 2202(2)(D)(ii) of the Public Health
15 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-
16 ed by inserting “(not including an individual who is
17 so entitled pursuant to enrollment under section
18 1859A)” after “Social Security Act”.

19 (C) Section 4980B(f)(2)(B)(i)(V) of the Inter-
20 nal Revenue Code of 1986 is amended by inserting
21 “(not including an individual who is so entitled pur-
22 suant to enrollment under section 1859A)” after
23 “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 January 1,
8 1998. The previous sentence shall not be
9 construed as requiring the individual to be
10 receiving such unemployment compensa-
11 tion.

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

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

1 described in clause (ii), the aggregate of
2 the periods of creditable coverage (as de-
3 termined under section 2701(c) of the
4 Public Health Service Act) is 12 months or
5 longer.

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

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

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

14 “(II) the individual (or spouse)
15 has continued such coverage for all
16 months described in clause (iii) in
17 which the individual (or spouse) is eli-
18 gible for such coverage.

19 “(ii) INDIVIDUALS TO WHOM COBRA
20 CONTINUATION COVERAGE MADE AVAIL-
21 ABLE.—An individual described in this
22 clause is an individual—

23 “(I) who was offered coverage
24 under a Federal or State COBRA
25 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 individ-
19 ual is not eligible for benefits or coverage under
20 a Federal health insurance program or under a
21 group health plan (whether on the basis of the
22 individual’s employment or employment of the
23 individual’s spouse) as of the last day of the
24 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

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

3 “(A) INITIAL ENROLLMENT PERIOD.—If
4 the individual is first eligible to enroll under
5 such section for July 1999, the enrollment pe-
6 riod shall begin on May 1, 1999, and shall end
7 on August 31, 1999. Any such enrollment be-
8 fore July 1, 1999, is conditioned upon compli-
9 ance with the conditions of eligibility for July
10 1999.

11 “(B) SUBSEQUENT PERIODS.—If the indi-
12 vidual is eligible to enroll under such section for
13 a month after July 1999, the enrollment period
14 based on such eligibility shall begin on the first
15 day of the second month before the month in
16 which the individual first is eligible to so enroll
17 (or reenroll) and shall end four months later.”;

18 (3) in subsection (d)(1), by amending subpara-
19 graph (B) to read as follows:

20 “(B) TERMINATION BASED ON AGE.—

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

23 “(ii) AT AGE 62 FOR DISPLACED
24 WORKERS AND SPOUSES.—In the case of
25 an individual enrolled under this part pur-

1 suant to section 1859(c), subject to sub-
2 section (a)(1), the individual attains 62
3 years of age.”;

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

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

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

17 “(C) AGE OR MEDICARE ELIGIBILITY.—
18 “(i) IN GENERAL.—The termination
19 of a coverage period under paragraph
20 (1)(A)(iii) or (1)(B)(i) shall take effect as
21 of the first day of the month in which the
22 individual attains 65 years of age or be-
23 comes entitled to benefits under part A or
24 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 individ-
5 ual attains 62 years of age, unless the in-
6 dividual 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 INDI-
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 ages and a separate cohort for individuals
2 who 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(e)(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, 1998), 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 qualify-
20 ing event described in section 603(7) shall be provided at
21 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-

1 uary 6, 1998. In the case of a qualifying event oc-
2 ccurring on or after such date and before the date of
3 the enactment of this Act, such event shall be
4 deemed (for purposes of such amendments) to have
5 occurred on the date of the enactment of this Act.

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

12 **Subtitle B—Amendments to the** 13 **Public Health Service Act**

14 **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN** 15 **RETIRED WORKERS WHO LOSE RETIREE** 16 **HEALTH COVERAGE.**

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

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

23 “(6) The termination or substantial reduction
24 in benefits (as defined in section 2208(6)) of group
25 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-

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

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

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

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

9 “(A) means, as determined under regula-
10 tions of the Secretary of Labor and with respect
11 to a qualified beneficiary, a reduction in the av-
12 erage actuarial value of benefits under the plan
13 (through reduction or elimination of benefits,
14 an increase in premiums, deductibles, copay-
15 ments, and coinsurance, or any combination
16 thereof), since the date of commencement of
17 coverage of the beneficiary by reason of the re-
18 tirement of the covered employee (or, if later,
19 January 6, 1998), in an amount equal to at
20 least 50 percent of the total average actuarial
21 value of the benefits under the plan as of such
22 date (taking into account an appropriate ad-
23 justment to permit comparison of values over
24 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-

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

4 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
5 Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is
6 amended by adding at the end the following new sentence:
7 “In the case of an individual provided continuation cov-
8 erage by reason of a qualifying event described in section
9 2203(6), any reference in subparagraph (A) of this para-
10 graph to ‘102 percent of the applicable premium’ is
11 deemed a reference to ‘125 percent of the applicable pre-
12 mium for employed individuals (and their dependents, if
13 applicable) for the coverage option referred to in para-
14 graph (1)(B)’.”.

15 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.
16 300bb–6(a)) is amended—

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

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

23 (f) EFFECTIVE DATES.—

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

1 apply to qualifying events occurring on or after Jan-
2 uary 6, 1998. In the case of a qualifying event oc-
3 ccurring on or after such date and before the date of
4 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 sserting 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 amend-
7 ed—

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, 1998), 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 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 amend-
18 ed—

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, 1998. 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—FINANCING**

2 **SEC. 401. REFERENCE TO FINANCING PROVISIONS.**

3 Any increase in payments under the medicare pro-
4 gram under title XVIII of the Social Security Act that
5 results from the enactment of this Act shall be offset by
6 reductions in payments under such program pursuant to
7 the anti-fraud and anti-abuse provisions enacted as part
8 of the Medicare Fraud and Overpayment Act of 1998.

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