

105TH CONGRESS  
2D SESSION

# S. 1789

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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17, 1998

Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to 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”.

## 1 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

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

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

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

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

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

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.

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

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

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

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

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

Subtitle B—Amendments to the Public Health Service Act

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

Subtitle C—Amendments to the Internal Revenue Code of 1986

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

TITLE IV—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.

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

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

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

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

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

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

12                   “(iii) FEHBP.—The Federal employ-  
13                   ees health benefit program under chapter  
14                   89 of title 5, United States Code.

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

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

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

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

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

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

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

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

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

1 paragraph (1) enrolls under this part and coverage  
2 of the individual is terminated under section  
3 1859A(d) (other than because of age), the individual  
4 is not again eligible to enroll under this subsection  
5 unless the following requirements are met:

6 “(A) NEW COVERAGE UNDER GROUP  
7 HEALTH PLAN OR FEDERAL HEALTH INSUR-  
8 ANCE PROGRAM.—After the date of termination  
9 of coverage under such section, the individual  
10 obtains coverage under a group health plan or  
11 under a Federal health insurance program.

12 “(B) SUBSEQUENT LOSS OF NEW COV-  
13 ERAGE.—The individual subsequently loses eli-  
14 gibility for the coverage described in subpara-  
15 graph (A) and exhausts any eligibility the indi-  
16 vidual may subsequently have for coverage  
17 under a Federal or State COBRA continuation  
18 provision.

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

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

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

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

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

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

20 “(b) ENROLLMENT PERIODS.—

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

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

1 section for July 1999, the enrollment period  
2 shall begin on May 1, 1999, and shall end on  
3 August 31, 1999. Any such enrollment before  
4 July 1, 1999, is conditioned upon compliance  
5 with the conditions of eligibility for July 1999.

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

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

21 “(c) DATE COVERAGE BEGINS.—

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

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

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

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

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

22          “(d) TERMINATION OF COVERAGE.—

23                 “(1) IN GENERAL.—An individual’s coverage  
24                 period under this part shall continue until the indi-

1 individual's enrollment has been terminated at the earli-  
2 est of the following:

3 “(A) GENERAL PROVISIONS.—

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

9 “(ii) NONPAYMENT OF PREMIUMS.—

10 The individual fails to make payment of  
11 premiums required for enrollment under  
12 this part.

13 “(iii) MEDICARE ELIGIBILITY.—The

14 individual becomes entitled to benefits  
15 under part A or enrolled under part B  
16 (other than by reason of this part).

17 “(B) TERMINATION BASED ON AGE.—The

18 individual attains 65 years of age.

19 “(2) EFFECTIVE DATE OF TERMINATION.—

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

24 “(B) NONPAYMENT OF PREMIUM.—The

25 termination of a coverage period under para-

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

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

20 **“SEC. 1859B. PREMIUMS.**

21 “(a) AMOUNT OF MONTHLY PREMIUMS.—

22 “(1) BASE MONTHLY PREMIUMS.—The Sec-  
23 retary shall, during September of each year (begin-  
24 ning with 1998), determine the following premium  
25 rates which shall apply with respect to coverage pro-

1 vided under this title for any month in the succeed-  
2 ing year:

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

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

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

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

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

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

18           “(3) BASE ANNUAL PREMIUM.—The base an-  
19 nual premium under this subsection for months in a  
20 year for individuals 62 years of age or older residing  
21 in a premium area is equal to the average, annual  
22 per capita amount estimated under paragraph (1)  
23 for the year, adjusted for such area under paragraph  
24 (2).

1       “(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS  
2 62 YEARS OF AGE OR OLDER.—The deferred premium  
3 rate for individuals with a group of individuals who obtain  
4 coverage under section 1859(b) in a year shall be com-  
5 puted by the Secretary as follows:

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

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

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

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

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

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

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

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

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

1           “(A) the estimated probabilities of survival  
2           at ages 62 through 84 for individuals enrolled  
3           during the year; and

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

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

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

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

22           “(2) PERIOD OF PAYMENT.—In the case of an  
23           individual who participates in the program estab-  
24           lished by this title, the base monthly premium shall  
25           be payable for the period commencing with the first

1 month of the individual's coverage period and ending  
2 with the month in which the individual's coverage  
3 under this title terminates.

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

6 “(1) RATE OF PAYMENT.—

7 “(A) IN GENERAL.—In the case of an indi-  
8 vidual who is covered under this part for a  
9 month pursuant to an enrollment under section  
10 1859(b), subject to subparagraph (B), the indi-  
11 vidual is liable for payment of a deferred pre-  
12 mium in each month during the period de-  
13 scribed in paragraph (2) in an amount equal to  
14 the full deferred monthly premium rate deter-  
15 mined for the individual under section  
16 1859B(c).

17 “(B) SPECIAL RULES FOR THOSE WHO  
18 DISENROLL EARLY.—

19 “(i) IN GENERAL.—If such an individ-  
20 ual's enrollment under such section is ter-  
21 minated under clause (i) or (ii) of section  
22 1859A(d)(1)(A), subject to clause (ii), the  
23 amount of the deferred premium otherwise  
24 established under this paragraph shall be  
25 pro-rated to reflect the number of months

1 of coverage under this part under such en-  
2 rollment compared to the maximum num-  
3 ber of months of coverage that the individ-  
4 ual would have had if the enrollment were  
5 not so terminated.

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

17 “(2) PERIOD OF PAYMENT.—The period de-  
18 scribed in this paragraph for an individual is the pe-  
19 riod beginning with the first month in which the in-  
20 dividual has attained 65 years of age and ending  
21 with the month before the month in which the indi-  
22 vidual attains 85 years of age.

23 “(3) COLLECTION.—In the case of an individual  
24 who is liable for a premium under this subsection,  
25 the amount of the premium shall be collected in the

1 same manner as the premium for enrollment under  
2 such part is collected under section 1840, except  
3 that any reference in such section to the Federal  
4 Supplementary Medical Insurance Trust Fund is  
5 deemed to be a reference to the Medicare Early Ac-  
6 cess Trust Fund established under section 1859D.

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

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

16 “(a) ESTABLISHMENT OF TRUST FUND.—

17 “(1) IN GENERAL.—There is hereby created on  
18 the books of the Treasury of the United States a  
19 trust fund to be known as the ‘Medicare Early Ac-  
20 cess Trust Fund’ (in this section referred to as the  
21 ‘Trust Fund’). The Trust Fund shall consist of such  
22 gifts and bequests as may be made as provided in  
23 section 201(i)(1) and such amounts as may be de-  
24 posited in, or appropriated to, such fund as provided  
25 in this title.

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

4           “(3) TRANSFER OF SAVINGS FROM NEW FRAUD  
5 AND ABUSE INITIATIVES.—

6           “(A) IN GENERAL.—There is hereby trans-  
7 ferred to the Trust Fund from the Federal  
8 Hospital Insurance Trust Fund and from the  
9 Federal Supplementary Medical Insurance  
10 Trust Fund amounts equivalent to the amounts  
11 (specified under subparagraph (B)) of the re-  
12 ductions in expenditures under such respective  
13 trust fund as may be attributable to the enact-  
14 ment of the Medicare Fraud and Overpayment  
15 Act of 1998.

16           “(B) USE OF CBO ESTIMATES.—For each  
17 fiscal year during the 10-fiscal-year period be-  
18 ginning with fiscal year 1999, the amounts  
19 under subparagraph (A) shall be the amounts  
20 described in such subparagraph as determined  
21 by the Congressional Budget Office at the time  
22 of, and in connection with, the enactment of the  
23 Medicare Early Access Act of 1998. For subse-  
24 quent fiscal years, the amounts under subpara-  
25 graph (A) shall be the amount determined

1 under this subparagraph for the previous fiscal  
2 year increased by the same percentage as the  
3 percentage increase in aggregate expenditures  
4 under this title from the second previous fiscal  
5 year to the previous fiscal year.

6 “(b) INCORPORATION OF PROVISIONS.—

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

13 “(2) MISCELLANEOUS REFERENCES.—In apply-  
14 ing provisions of section 1841 under paragraph  
15 (1)—

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

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

23 “(C) payments may be made under section  
24 1841(g) to the Trust Funds under sections  
25 1817 and 1841 as reimbursement to such funds

1           for payments they made for benefits provided  
2           under this part.

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

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

11          “(b) PERIODIC GAO REPORTS.—The Comptroller  
12 General of the United States shall periodically submit to  
13 Congress reports on the adequacy of the financing of cov-  
14 erage provided under this part. The Comptroller General  
15 shall include in such report such recommendations for ad-  
16 justments in such financing and coverage as the Comptrol-  
17 ler General deems appropriate in order to maintain finan-  
18 cial solvency of the program under this part.

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

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

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

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

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

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

18          (b) CONFORMING AMENDMENTS TO SOCIAL SECUR-  
19          ITY ACT PROVISIONS.—

20                 (1) Section 201(i)(1) of the Social Security Act  
21                 (42 U.S.C. 401(i)(1)) is amended by striking “or the  
22                 Federal Supplementary Medical Insurance Trust  
23                 Fund” and inserting “the Federal Supplementary  
24                 Medical Insurance Trust Fund, and the Medicare  
25                 Early Access Trust Fund”.

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

8           (3) Section 1820(i) of such Act (42 U.S.C.  
9 1395i-4(i)) is amended by striking “part D” and in-  
10 sserting “part E”.

11           (4) Part C of title XVIII of such Act is amend-  
12 ed—

13                 (A) in section 1851(a)(2)(B) (42 U.S.C.  
14 1395w-21(a)(2)(B)), by striking “ 1859(b)(3)”  
15 and inserting “1858(b)(3);

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

19                 (C) in section 1852(a)(1) (42 U.S.C.  
20 1395w-22(a)(1)), by striking “ 1859(b)(3)”  
21 and inserting “1858(b)(3);

22                 (D) in section 1852(a)(3)(B)(ii) (42  
23 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking  
24 “1859(b)(2)(B)” and inserting  
25 “1858(b)(2)(B)”;

1 (E) in section 1853(a)(1)(A) (42 U.S.C.  
2 1395w-23(a)(1)(A)), by striking “1859(e)(4)”  
3 and inserting “1858(e)(4)”; and

4 (F) in section 1853(a)(3)(D) (42 U.S.C.  
5 1395w-23(a)(3)(D)), by striking “1859(e)(4)”  
6 and inserting “1858(e)(4)”.

7 (5) Section 1853(c) of such Act (42 U.S.C.  
8 1395w-23(c)) is amended—

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

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

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

20 (c) OTHER CONFORMING AMENDMENTS.—

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

24 (2)(A) Section 602(2)(D)(ii) of the Employee  
25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1162(2)) is amended by inserting “(not including an  
 2 individual who is so entitled pursuant to enrollment  
 3 under section 1859A)” after “Social Security Act”.

4 (B) Section 2202(2)(D)(ii) of the Public Health  
 5 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-  
 6 ed by inserting “(not including an individual who is  
 7 so entitled pursuant to enrollment under section  
 8 1859A)” after “Social Security Act”.

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

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

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

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

23 “(c) **DISPLACED WORKERS AND SPOUSES.**—

24 “(1) **DISPLACED WORKERS.**—Subject to para-  
 25 graph (3), an individual who meets the following re-

1 requirements with respect to a month is eligible to en-  
2 roll under this part with respect to such month:

3 “(A) AGE.—As of the last day of the  
4 month, the individual has attained 55 years of  
5 age, but has not attained 62 years of age.

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

10 “(C) LOSS OF EMPLOYMENT-BASED COV-  
11 ERAGE.—

12 “(i) ELIGIBLE FOR UNEMPLOYMENT  
13 COMPENSATION.—The individual meets the  
14 requirements relating to period of covered  
15 employment and conditions of separation  
16 from employment to be eligible for unem-  
17 ployment compensation (as defined in sec-  
18 tion 85(b) of the Internal Revenue Code of  
19 1986), based on a separation from employ-  
20 ment occurring on or after January 1,  
21 1998. The previous sentence shall not be  
22 construed as requiring the individual to be  
23 receiving such unemployment compensa-  
24 tion.

1           “(ii) LOSS OF EMPLOYMENT-BASED  
2           COVERAGE.—Immediately before the time  
3           of such separation of employment, the indi-  
4           vidual was covered under a group health  
5           plan on the basis of such employment, and,  
6           because of such loss, is no longer eligible  
7           for coverage under such plan (including  
8           such eligibility based on the application of  
9           a Federal or State COBRA continuation  
10          provision) as of the last day of the month  
11          involved.

12          “(iii) PREVIOUS CREDITABLE COV-  
13          ERAGE FOR AT LEAST 1 YEAR.—As of the  
14          date on which the individual loses coverage  
15          described in clause (ii), the aggregate of  
16          the periods of creditable coverage (as de-  
17          termined under section 2701(c) of the  
18          Public Health Service Act) is 12 months or  
19          longer.

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

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

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

4           “(II) the individual (or spouse)  
5           has continued such coverage for all  
6           months described in clause (iii) in  
7           which the individual (or spouse) is eli-  
8           gible for such coverage.

9           “(ii) INDIVIDUALS TO WHOM COBRA  
10          CONTINUATION COVERAGE MADE AVAIL-  
11          ABLE.—An individual described in this  
12          clause is an individual—

13           “(I) who was offered coverage  
14           under a Federal or State COBRA  
15           continuation provision at the time of  
16           loss of coverage eligibility described in  
17           subparagraph (C)(ii); or

18           “(II) whose spouse was offered  
19           such coverage in a manner that per-  
20           mitted coverage of the individual at  
21           such time.

22           “(iii) MONTHS OF POSSIBLE COBRA  
23          CONTINUATION COVERAGE.—A month de-  
24          scribed in this clause is a month for which  
25          an individual described in clause (ii) could

1           have had coverage described in such clause  
2           as of the last day of the month if the indi-  
3           vidual (or the spouse of the individual, as  
4           the case may be) had elected such coverage  
5           on a timely basis.

6           “(E) NOT ELIGIBLE FOR COVERAGE  
7           UNDER FEDERAL HEALTH INSURANCE PRO-  
8           GRAM OR GROUP HEALTH PLANS.—The individ-  
9           ual is not eligible for benefits or coverage under  
10          a Federal health insurance program or under a  
11          group health plan (whether on the basis of the  
12          individual’s employment or employment of the  
13          individual’s spouse) as of the last day of the  
14          month involved.

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

20                 “(A) AGE.—As of the last day of the  
21                 month, the individual has not attained 62 years  
22                 of age.

23                 “(B) MARRIED TO DISPLACED WORKER.—  
24                 The individual is the spouse of an individual at  
25                 the time the individual enrolls under this part

1 under paragraph (1) and loses coverage de-  
2 scribed in paragraph (1)(C)(ii) because the in-  
3 dividual's spouse lost such coverage.

4 “(C) MEDICARE ELIGIBILITY (BUT FOR  
5 AGE); EXHAUSTION OF ANY COBRA CONTINU-  
6 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-  
7 ERAGE UNDER FEDERAL HEALTH INSURANCE  
8 PROGRAM OR GROUP HEALTH PLAN.—The indi-  
9 vidual meets the requirements of subparagraphs  
10 (B), (D), and (E) of paragraph (1).

11 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY  
12 AFFECTS CONTINUED ELIGIBILITY.—For provision  
13 that terminates enrollment under this section in the  
14 case of an individual who becomes eligible for cov-  
15 erage under a group health plan or under a Federal  
16 health insurance program, see section  
17 1859A(d)(1)(C).

18 “(4) REENROLLMENT PERMITTED.—Nothing in  
19 this subsection shall be construed as preventing an  
20 individual who, after enrolling under this subsection,  
21 terminates such enrollment from subsequently re-  
22 enrolling under this subsection if the individual is el-  
23 igible to enroll under this subsection at that time.”.

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

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

5           “(3) individuals whose coverage under this part  
6           would terminate because of subsection (d)(1)(B)(ii)  
7           are provided notice and an opportunity to continue  
8           enrollment in accordance with section  
9           1859E(c)(1).”;

10           (2) in subsection (b), by inserting after Not-  
11           withstanding any other provision of law, (1) the fol-  
12           lowing:

13           “(2) DISPLACED WORKERS AND SPOUSES.—In  
14           the case of individuals eligible to enroll under this  
15           part under section 1859(c), the following rules  
16           apply:

17           “(A) INITIAL ENROLLMENT PERIOD.—If  
18           the individual is first eligible to enroll under  
19           such section for July 1999, the enrollment pe-  
20           riod shall begin on May 1, 1999, and shall end  
21           on August 31, 1999. Any such enrollment be-  
22           fore July 1, 1999, is conditioned upon compli-  
23           ance with the conditions of eligibility for July  
24           1999.

1           “(B) SUBSEQUENT PERIODS.—If the indi-  
2           vidual is eligible to enroll under such section for  
3           a month after July 1999, the enrollment period  
4           based on such eligibility shall begin on the first  
5           day of the second month before the month in  
6           which the individual first is eligible to so enroll  
7           (or reenroll) and shall end four months later.”;  
8           (3) in subsection (d)(1), by amending subpara-  
9           graph (B) to read as follows:

10           “(B) TERMINATION BASED ON AGE.—  
11           “(i) AT AGE 65.—Subject to clause  
12           (ii), the individual attains 65 years of age.  
13           “(ii) AT AGE 62 FOR DISPLACED  
14           WORKERS AND SPOUSES.—In the case of  
15           an individual enrolled under this part pur-  
16           suant to section 1859(c), subject to sub-  
17           section (a)(1), the individual attains 62  
18           years of age.”;

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

21           “(C) OBTAINING ACCESS TO EMPLOYMENT-  
22           BASED COVERAGE OR FEDERAL HEALTH INSUR-  
23           ANCE PROGRAM FOR INDIVIDUALS UNDER 62  
24           YEARS OF AGE.—In the case of an individual  
25           who has not attained 62 years of age, the indi-

1           vidual is covered (or eligible for coverage) as a  
2           participant or beneficiary under a group health  
3           plan or under a Federal health insurance pro-  
4           gram.”;

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

7                   “(C) AGE OR MEDICARE ELIGIBILITY.—

8                           “(i) IN GENERAL.—The termination  
9                           of a coverage period under paragraph  
10                           (1)(A)(iii) or (1)(B)(i) shall take effect as  
11                           of the first day of the month in which the  
12                           individual attains 65 years of age or be-  
13                           comes entitled to benefits under part A or  
14                           enrolled for benefits under part B.

15                           “(ii) DISPLACED WORKERS.—The ter-  
16                           mination of a coverage period under para-  
17                           graph (1)(B)(ii) shall take effect as of the  
18                           first day of the month in which the individ-  
19                           ual attains 62 years of age, unless the in-  
20                           dividual has enrolled under this part pur-  
21                           suant to section 1859(b) and section  
22                           1859E(e)(1).”; and

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

1           “(D) ACCESS TO COVERAGE.—The termi-  
 2           nation of a coverage period under paragraph  
 3           (1)(C) shall take effect on the date on which  
 4           the individual is eligible to begin a period of  
 5           creditable coverage (as defined in section  
 6           2701(c) of the Public Health Service Act)  
 7           under a group health plan or under a Federal  
 8           health insurance program.”.

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

11           (1) in subsection (a)(1), by adding at the end  
 12          the following:

13           “(B) BASE MONTHLY PREMIUM FOR INDI-  
 14           VIDUALS UNDER 62 YEARS OF AGE.—A base  
 15           monthly premium for individuals under 62  
 16           years of age, equal to  $\frac{1}{12}$  of the base annual  
 17           premium rate computed under subsection (d)(3)  
 18           for each premium area and age cohort.”; and

19           (2) by adding at the end the following new sub-  
 20          section:

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

23           “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE  
 24          GROUPS.—

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

12          “(B) AGE COHORTS.—For purposes of  
13          subparagraph (A), the Secretary shall establish  
14          separate age cohorts in 5 year age increments  
15          for individuals who have not attained 60 years  
16          of age and a separate cohort for individuals who  
17          have attained 60 years of age.

18          “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-  
19          retary shall adjust the amount determined under  
20          paragraph (1)(A) for each premium area (specified  
21          under subsection (a)(3)) in the same manner and to  
22          the same extent as the Secretary provides for adjust-  
23          ments under subsection (b)(2).

24          “(3) BASE ANNUAL PREMIUM.—The base an-  
25          nual premium under this subsection for months in a

1 year for individuals in an age cohort under para-  
 2 graph (1)(B) in a premium area is equal to 165 per-  
 3 cent of the average, annual per capita amount esti-  
 4 mated under paragraph (1) for the age cohort and  
 5 year, adjusted for such area under paragraph (2).

6 “(4) PRO-RATION OF PREMIUMS TO REFLECT  
 7 COVERAGE DURING A PART OF A MONTH.—If the  
 8 Secretary provides for coverage of portions of a  
 9 month under section 1859A(c)(2), the Secretary  
 10 shall pro-rate the premiums attributable to such cov-  
 11 erage under this section to reflect the portion of the  
 12 month so covered.”.

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

16 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—  
 17 “(1) PROCESS FOR CONTINUED ENROLLMENT  
 18 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF  
 19 AGE.—The Secretary shall provide a process for the  
 20 continuation of enrollment of individuals whose en-  
 21 rollment under section 1859(c) would be terminated  
 22 upon attaining 62 years of age. Under such process  
 23 such individuals shall be provided appropriate and  
 24 timely notice before the date of such termination  
 25 and of the requirement to enroll under this part pur-

1 suant to section 1859(b) in order to continue entitle-  
 2 ment to benefits under this title after attaining 62  
 3 years of age.

4 “(2) ARRANGEMENTS WITH STATES FOR DE-  
 5 TERMINATIONS RELATING TO UNEMPLOYMENT COM-  
 6 PENSATION ELIGIBILITY.—The Secretary may pro-  
 7 vide for appropriate arrangements with States for  
 8 the determination of whether individuals in the State  
 9 meet or would meet the requirements of section  
 10 1859(e)(1)(C)(i).”“

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

15 **TITLE III—COBRA PROTECTION**  
 16 **FOR EARLY RETIREES**  
 17 **Subtitle A—Amendments to the**  
 18 **Employee Retirement Income**  
 19 **Security Act of 1974**

20 **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 21 **RETIRED WORKERS WHO LOSE RETIREE**  
 22 **HEALTH COVERAGE.**

23 (a) ESTABLISHMENT OF NEW QUALIFYING  
 24 EVENT.—

1           (1) IN GENERAL.—Section 603 of the Employee  
2 Retirement Income Security Act of 1974 (29 U.S.C.  
3 1163) is amended by inserting after paragraph (6)  
4 the following new paragraph:

5           “(7) The termination or substantial reduction  
6 in benefits (as defined in section 607(7)) of group  
7 health plan coverage as a result of plan changes or  
8 termination in the case of a covered employee who  
9 is a qualified retiree.”.

10           (2) QUALIFIED RETIREE; QUALIFIED BENE-  
11 FICIARY; AND SUBSTANTIAL REDUCTION DE-  
12 FINED.—Section 607 of such Act (29 U.S.C. 1167)  
13 is amended—

14           (A) in paragraph (3)—

15           (i) in subparagraph (A), by inserting  
16 “except as otherwise provided in this para-  
17 graph,” after “means,”; and

18           (ii) by adding at the end the following  
19 new subparagraph:

20           “(D) SPECIAL RULE FOR QUALIFYING RE-  
21 TIREES AND DEPENDENTS.—In the case of a  
22 qualifying event described in section 603(7), the  
23 term ‘qualified beneficiary’ means a qualified  
24 retiree and any other individual who, on the day  
25 before such qualifying event, is a beneficiary

1 under the plan on the basis of the individual's  
2 relationship to such qualified retiree.”; and

3 (B) by adding at the end the following new  
4 paragraphs:

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

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

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

13 “(7) SUBSTANTIAL REDUCTION.—The term  
14 ‘substantial reduction’—

15 “(A) means, as determined under regula-  
16 tions of the Secretary and with respect to a  
17 qualified beneficiary, a reduction in the average  
18 actuarial value of benefits under the plan  
19 (through reduction or elimination of benefits,  
20 an increase in premiums, deductibles, copay-  
21 ments, and coinsurance, or any combination  
22 thereof), since the date of commencement of  
23 coverage of the beneficiary by reason of the re-  
24 tirement of the covered employee (or, if later,  
25 January 6, 1998), in an amount equal to at

1 least 50 percent of the total average actuarial  
2 value of the benefits under the plan as of such  
3 date (taking into account an appropriate ad-  
4 justment to permit comparison of values over  
5 time); and

6 “(B) includes an increase in premiums re-  
7 quired to an amount that exceeds the premium  
8 level described in the fourth sentence of section  
9 602(3).

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

13 (1) in clause (ii), by inserting “or 603(7)” after  
14 “603(6)”;

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

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

18 (4) by redesignating clause (v) as clause (iv)  
19 and by moving such clause to immediately follow  
20 clause (iii); and

21 (5) by inserting after such clause (iv) the fol-  
22 lowing new clause:

23 “(v) SPECIAL RULE FOR CERTAIN DE-  
24 PENDENTS IN CASE OF TERMINATION OR  
25 SUBSTANTIAL REDUCTION OF RETIREE

1 HEALTH COVERAGE.—In the case of a  
 2 qualifying event described in section  
 3 603(7), in the case of a qualified bene-  
 4 ficiary described in section 607(3)(D) who  
 5 is not the qualified retiree or spouse of  
 6 such retiree, the later of—

7 “(I) the date that is 36 months  
 8 after the earlier of the date the quali-  
 9 fied retiree becomes entitled to bene-  
 10 fits under title XVIII of the Social Se-  
 11 curity Act, or the date of the death of  
 12 the qualified retiree; or

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

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

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

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

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

1           “(B) CERTAIN RETIREES.—In the case of  
2           a qualifying event described in section 603(7),  
3           in applying the first sentence of subparagraph  
4           (A) and the fourth sentence of paragraph (3),  
5           the coverage offered that is the most prevalent  
6           coverage option (as determined under regula-  
7           tions of the Secretary) continued under the  
8           group health plan (or, if none, under the most  
9           prevalent other plan offered by the same plan  
10          sponsor) shall be treated as the coverage de-  
11          scribed in such sentence, or (at the option of  
12          the plan and qualified beneficiary) such other  
13          coverage option as may be offered and elected  
14          by the qualified beneficiary involved.”.

15          (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
16          Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-  
17          ed by adding at the end the following new sentence: “In  
18          the case of an individual provided continuation coverage  
19          by reason of a qualifying event described in section  
20          603(7), any reference in subparagraph (A) of this para-  
21          graph to ‘102 percent of the applicable premium’ is  
22          deemed a reference to ‘125 percent of the applicable pre-  
23          mium for employed individuals (and their dependents, if  
24          applicable) for the coverage option referred to in para-  
25          graph (1)(B)’.”.

1 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.  
2 1166) is amended—

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

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

6 “The notice under paragraph (4) in the case of a qualify-  
7 ing event described in section 603(7) shall be provided at  
8 least 90 days before the date of the qualifying event.”.

9 (f) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by  
11 this section (other than subsection (e)(2)) shall  
12 apply to qualifying events occurring on or after Jan-  
13 uary 6, 1998. In the case of a qualifying event oc-  
14 ccurring on or after such date and before the date of  
15 the enactment of this Act, such event shall be  
16 deemed (for purposes of such amendments) to have  
17 occurred on the date of the enactment of this Act.

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

1       **Subtitle B—Amendments to the**  
 2               **Public Health Service Act**

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

6       (a)   ESTABLISHMENT OF NEW QUALIFYING  
 7   EVENT.—

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

12              “(6) The termination or substantial reduction  
 13      in benefits (as defined in section 2208(6)) of group  
 14      health plan coverage as a result of plan changes or  
 15      termination in the case of a covered employee who  
 16      is a qualified retiree.”.

17              (2) QUALIFIED RETIREE; QUALIFIED BENE-  
 18      FIICIARY; AND SUBSTANTIAL REDUCTION DE-  
 19      FINED.—Section 2208 of such Act (42 U.S.C.  
 20      300bb–8) is amended—

21              (A) in paragraph (3)—

22                      (i) in subparagraph (A), by inserting  
 23              “except as otherwise provided in this para-  
 24              graph,” after “means,”; and

1 (ii) by adding at the end the following  
2 new subparagraph:

3 “(C) SPECIAL RULE FOR QUALIFYING RE-  
4 TIREES AND DEPENDENTS.—In the case of a  
5 qualifying event described in section 2203(6),  
6 the term ‘qualified beneficiary’ means a quali-  
7 fied retiree and any other individual who, on  
8 the day before such qualifying event, is a bene-  
9 ficiary under the plan on the basis of the indi-  
10 vidual’s relationship to such qualified retiree.”;  
11 and

12 (B) by adding at the end the following new  
13 paragraphs:

14 “(5) QUALIFIED RETIREE.—The term ‘qualified  
15 retiree’ means, with respect to a qualifying event de-  
16 scribed in section 2203(6), a covered employee who,  
17 at the time of the event—

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

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

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

24 “(A) means, as determined under regula-  
25 tions of the Secretary of Labor and with respect

1 to a qualified beneficiary, a reduction in the av-  
2 erage actuarial value of benefits under the plan  
3 (through reduction or elimination of benefits,  
4 an increase in premiums, deductibles, copay-  
5 ments, and coinsurance, or any combination  
6 thereof), since the date of commencement of  
7 coverage of the beneficiary by reason of the re-  
8 tirement of the covered employee (or, if later,  
9 January 6, 1998), in an amount equal to at  
10 least 50 percent of the total average actuarial  
11 value of the benefits under the plan as of such  
12 date (taking into account an appropriate ad-  
13 justment to permit comparison of values over  
14 time); and

15 “(B) includes an increase in premiums re-  
16 quired to an amount that exceeds the premium  
17 level described in the fourth sentence of section  
18 2202(3).

19 (b) DURATION OF COVERAGE THROUGH AGE 65.—  
20 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-  
21 2(2)(A)) is amended—

22 (1) by redesignating clause (iii) as clause (iv);

23 and

24 (2) by inserting after clause (ii) the following  
25 new clause:

1           “(iii) SPECIAL RULE FOR CERTAIN  
2           DEPENDENTS IN CASE OF TERMINATION  
3           OR SUBSTANTIAL REDUCTION OF RETIREE  
4           HEALTH COVERAGE.—In the case of a  
5           qualifying event described in section  
6           2203(6), in the case of a qualified bene-  
7           ficiary described in section 2208(3)(C) who  
8           is not the qualified retiree or spouse of  
9           such retiree, the later of—

10                   “(I) the date that is 36 months  
11                   after the earlier of the date the quali-  
12                   fied retiree becomes entitled to bene-  
13                   fits under title XVIII of the Social Se-  
14                   curity Act, or the date of the death of  
15                   the qualified retiree; or

16                   “(II) the date that is 36 months  
17                   after the date of the qualifying  
18                   event.”.

19           (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
20           OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
21           ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-  
22           2(1)) is amended—

23                   (1) by striking “The coverage” and inserting  
24                   the following:

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the coverage”; and  
3           (2) by adding at the end the following:

4           “(B) CERTAIN RETIREES.—In the case of  
5           a qualifying event described in section 2203(6),  
6           in applying the first sentence of subparagraph  
7           (A) and the fourth sentence of paragraph (3),  
8           the coverage offered that is the most prevalent  
9           coverage option (as determined under regula-  
10          tions of the Secretary of Labor) continued  
11          under the group health plan (or, if none, under  
12          the most prevalent other plan offered by the  
13          same plan sponsor) shall be treated as the cov-  
14          erage described in such sentence, or (at the op-  
15          tion of the plan and qualified beneficiary) such  
16          other coverage option as may be offered and  
17          elected by the qualified beneficiary involved.”.

18          (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
19          Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is  
20          amended by adding at the end the following new sentence:  
21          “In the case of an individual provided continuation cov-  
22          erage by reason of a qualifying event described in section  
23          2203(6), any reference in subparagraph (A) of this para-  
24          graph to ‘102 percent of the applicable premium’ is  
25          deemed a reference to ‘125 percent of the applicable pre-

1 mium for employed individuals (and their dependents, if  
2 applicable) for the coverage option referred to in para-  
3 graph (1)(B)’.”.

4 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.  
5 300bb–6(a)) is amended—

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

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

9 “The notice under paragraph (4) in the case of a qualify-  
10 ing event described in section 2203(6) shall be provided  
11 at least 90 days before the date of the qualifying event.”.

12 (f) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by  
14 this section (other than subsection (e)(2)) shall  
15 apply to qualifying events occurring on or after Jan-  
16 uary 6, 1998. In the case of a qualifying event oc-  
17 ccurring on or after such date and before the date of  
18 the enactment of this Act, such event shall be  
19 deemed (for purposes of such amendments) to have  
20 occurred on the date of the enactment of this Act.

21 (2) ADVANCE NOTICE OF TERMINATIONS AND  
22 REDUCTIONS.—The amendment made by subsection  
23 (e)(2) shall apply to qualifying events occurring  
24 after the date of the enactment of this Act, except

1 that in no case shall notice be required under such  
 2 amendment before such date.

3 **Subtitle C—Amendments to the**  
 4 **Internal Revenue Code of 1986**

5 **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN**  
 6 **RETIRED WORKERS WHO LOSE RETIREE**  
 7 **HEALTH COVERAGE.**

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

10 (1) IN GENERAL.—Section 4980B(f)(3) of the  
 11 Internal Revenue Code of 1986 is amended by in-  
 12 serting after subparagraph (F) the following new  
 13 subparagraph:

14 “(G) The termination or substantial reduc-  
 15 tion in benefits (as defined in subsection (g)(6))  
 16 of group health plan coverage as a result of  
 17 plan changes or termination in the case of a  
 18 covered employee who is a qualified retiree.”.

19 (2) QUALIFIED RETIREE; QUALIFIED BENE-  
 20 FICIARY; AND SUBSTANTIAL REDUCTION DE-  
 21 FINED.—Section 4980B(g) of such Code is amend-  
 22 ed—

23 (A) in paragraph (1)—

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 “(E) SPECIAL RULE FOR QUALIFYING RE-  
7 TIREES AND DEPENDENTS.—In the case of a  
8 qualifying event described in subsection  
9 (f)(3)(G), the term ‘qualified beneficiary’ means  
10 a qualified retiree and any other individual who,  
11 on the day before such qualifying event, is a  
12 beneficiary under the plan on the basis of the  
13 individual’s relationship to such qualified re-  
14 tiree.”; and

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

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

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

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

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

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

19          “(B) includes an increase in premiums re-  
20          quired to an amount that exceeds the premium  
21          level described in the fourth sentence of sub-  
22          section (f)(2)(C).”.

23          (b) DURATION OF COVERAGE THROUGH AGE 65.—

24          Section 4980B(f)(2)(B)(i) of such Code is amended—

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

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

5           (3) by redesignating subclause (IV) as sub-  
6 clause (VI);

7           (4) by redesignating subclause (V) as subclause  
8 (IV) and by moving such clause to immediately fol-  
9 low subclause (III); and

10          (5) by inserting after such subclause (IV) the  
11 following new subclause:

12                                   “(V) SPECIAL RULE FOR CER-  
13                                   TAIN DEPENDENTS IN CASE OF TER-  
14                                   MINATION OR SUBSTANTIAL REDUC-  
15                                   TION OF RETIREE HEALTH COV-  
16                                   ERAGE.—In the case of a qualifying  
17                                   event described in paragraph (3)(G),  
18                                   in the case of a qualified beneficiary  
19                                   described in subsection (g)(1)(E) who  
20                                   is not the qualified retiree or spouse  
21                                   of such retiree, the later of—

22                                   “(a) the date that is 36  
23                                   months after the earlier of the  
24                                   date the qualified retiree becomes  
25                                   entitled to benefits under title

1 XVIII of the Social Security Act,  
2 or the date of the death of the  
3 qualified retiree; or

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

7 (c) TYPE OF COVERAGE IN CASE OF TERMINATION  
8 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-  
9 ERAGE.—Section 4980B(f)(2)(A) of such Code is amend-  
10 ed—

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

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

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

16 “(ii) CERTAIN RETIREES.—In the  
17 case of a qualifying event described in  
18 paragraph (3)(G), in applying the first  
19 sentence of clause (i) and the fourth sen-  
20 tence of subparagraph (C), the coverage  
21 offered that is the most prevalent coverage  
22 option (as determined under regulations of  
23 the Secretary of Labor) continued under  
24 the group health plan (or, if none, under  
25 the most prevalent other plan offered by

1 the same plan sponsor) shall be treated as  
2 the coverage described in such sentence, or  
3 (at the option of the plan and qualified  
4 beneficiary) such other coverage option as  
5 may be offered and elected by the qualified  
6 beneficiary involved.”.

7 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—  
8 Section 4980B(f)(2)(C) of such Code is amended by add-  
9 ing at the end the following new sentence: “In the case  
10 of an individual provided continuation coverage by reason  
11 of a qualifying event described in paragraph (3)(G), any  
12 reference in clause (i) of this subparagraph to ‘102 per-  
13 cent of the applicable premium’ is deemed a reference to  
14 ‘125 percent of the applicable premium for employed indi-  
15 viduals (and their dependents, if applicable) for the cov-  
16 erage option referred to in subparagraph (A)(ii)’.”.

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

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

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

22 “The notice under subparagraph (D)(i) in the case of a  
23 qualifying event described in paragraph (3)(G) shall be  
24 provided at least 90 days before the date of the qualifying  
25 event.”.

1 (f) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by  
3 this section (other than subsection (e)(2)) shall  
4 apply to qualifying events occurring on or after Jan-  
5 uary 6, 1998. In the case of a qualifying event oc-  
6 ccurring on or after such date and before the date of  
7 the enactment of this Act, such event shall be  
8 deemed (for purposes of such amendments) to have  
9 occurred on the date of the enactment of this Act.

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

## 16 **TITLE IV—FINANCING**

### 17 **SEC. 401. REFERENCE TO FINANCING PROVISIONS.**

18 Any increase in payments under the medicare pro-  
19 gram under title XVIII of the Social Security Act that  
20 results from the enactment of this Act shall be offset by  
21 reductions in payments under such program pursuant to  
22 the anti-fraud and anti-abuse provisions enacted as part  
23 of the Medicare Fraud and Overpayment Act of 1998.

○