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106TH CONGRESS
1ST SESSION

H. R. 1496

To amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1999

Mr. TALENT (for himself, Mr. DOOLEY of California, Mr. HASTERT, Mr. MORAN of Virginia, Mr. GOODLING, Mr. COSTELLO, Mr. GREENWOOD, Mr. CONDIT, Mr. EHLERS, Mr. GOODE, Mrs. KELLY, Mr. BLAGOJEVICH, Mrs. BIGGERT, and Mr. ARMEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, 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

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A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Access and Choice for Entrepreneurs Act of 1999''.

TITLE I—AFFORDABLE HEALTH COVERAGE FOR EMPLOYEES OF SMALL BUSINESSES

SEC. 101. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

''(1) whose sponsor is (or is deemed under this part to be) described in subsection (b); and

''(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include, among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries, unless, for any plan year, such coverage remains unavailable to the plan de-

1 spite good faith efforts exercised by the plan to se-
2 cure such coverage.
3 ''(b) SPONSORSHIP.—The sponsor of a group health
4 plan is described in this subsection if such sponsor—
5 ''(1) is organized and maintained in good faith,
6 with a constitution and bylaws specifically stating its
7 purpose and providing for periodic meetings on at
8 least an annual basis, as a bona fide trade associa-
9 tion, a bona fide industry association (including a
10 rural electric cooperative association or a rural tele-
11 phone cooperative association), a bona fide profes-
12 sional association, or a bona fide chamber of com-
13 merce (or similar bona fide business association, in-
14 cluding a corporation or similar organization that
15 operates on a cooperative basis (within the meaning
16 of section 1381 of the Internal Revenue Code of
17 1986)), for substantial purposes other than that of
18 obtaining or providing medical care;
19 ''(2) is established as a permanent entity which
20 receives the active support of its members and col-
21 lects from its members on a periodic basis dues or
22 payments necessary to maintain eligibility for mem-
23 bership in the sponsor; and
24 ''(3) does not condition membership, such dues
25 or payments, or coverage under the plan on the

basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that—

''(1) such certification—

1 ''(A) is administratively feasible;
2 ''(B) is not adverse to the interests of the
3 individuals covered under the plan; and
4 ''(C) is protective of the rights and benefits
5 of the individuals covered under the plan; and
6 ''(2) the applicable requirements of this part
7 are met (or, upon the date on which the plan is to
8 commence operations, will be met) with respect to
9 the plan.
10 ''(c) REQUIREMENTS APPLICABLE TO CERTIFIED
11 PLANS.—An association health plan with respect to which
12 certification under this part is in effect shall meet the ap-
13 plicable requirements of this part, effective on the date
14 of certification (or, if later, on the date on which the plan
15 is to commence operations).
16 ''(d) REQUIREMENTS FOR CONTINUED CERTIFI-
17 CATION.—The applicable authority may provide by regula-
18 tion, through negotiated rulemaking, for continued certifi-
19 cation of association health plans under this part.
20 ''(e) CLASS CERTIFICATION FOR FULLY INSURED
21 PLANS.—The applicable authority shall establish a class
22 certification procedure for association health plans under
23 which all benefits consist of health insurance coverage.
24 Under such procedure, the applicable authority shall pro-
25 vide for the granting of certification under this part to

1 the plans in each class of such association health plans
2 upon appropriate filing under such procedure in connec-
3 tion with plans in such class and payment of the pre-
4 scribed fee under section 807(a).

5 "(f) CERTIFICATION OF SELF-INSURED ASSOCIATION
6 HEALTH PLANS.—An association health plan which offers
7 one or more benefit options which do not consist of health
8 insurance coverage may be certified under this part only
9 if such plan consists of any of the following:

10 "(1) a plan which offered such coverage on the
11 date of the enactment of the Small Business Access
12 and Choice for Entrepreneurs Act of 1999,

13 "(2) a plan under which the sponsor does not
14 restrict membership to one or more trades and busi-
15 nesses or industries and whose eligible participating
16 employers represent a broad cross-section of trades
17 and businesses or industries, or

18 "(3) a plan whose eligible participating employ-
19 ers represent one or more trades or businesses, or
20 one or more industries, which have been indicated as
21 having average or above-average health insurance
22 risk or health claims experience by reason of State
23 rate filings, denials of coverage, proposed premium
24 rate levels, and other means demonstrated by such
25 plan in accordance with regulations which the Sec-

retary shall prescribe through negotiated rulemaking, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan

and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(B) LIMITATION.—

"(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

1 "(ii) LIMITED EXCEPTION FOR PRO-
2 VIDERS OF SERVICES SOLELY ON BEHALF
3 OF THE SPONSOR.—Officers or employees
4 of a sponsor which is a service provider
5 (other than a contract administrator) to
6 the plan may be members of the board if
7 they constitute not more than 25 percent
8 of the membership of the board and they
9 do not provide services to the plan other
10 than on behalf of the sponsor.
11 "(iii) TREATMENT OF PROVIDERS OF
12 MEDICAL CARE.—In the case of a sponsor
13 which is an association whose membership
14 consists primarily of providers of medical
15 care, clause (i) shall not apply in the case
16 of any service provider described in sub-
17 paragraph (A) who is a provider of medical
18 care under the plan.
19 "(C) CERTAIN PLANS EXCLUDED.—Sub-
20 paragraph (A) shall not apply to an association
21 health plan which is in existence on the date of
22 the enactment of the Small Business Access
23 and Choice for Entrepreneurs Act of 1999.
24 "(D) SOLE AUTHORITY.—The board has
25 sole authority under the plan to approve appli-

1 cations for participation in the plan and to con-
2 tract with a service provider to administer the
3 day-to-day affairs of the plan.

4 "(c) TREATMENT OF FRANCHISE NETWORKS.—In
5 the case of a group health plan which is established and
6 maintained by a franchiser for a franchise network con-
7 sisting of its franchisees—

8 "(1) the requirements of subsection (a) and sec-
9 tion 801(a)(1) shall be deemed met if such require-
10 ments would otherwise be met if the franchiser were
11 deemed to be the sponsor referred to in section
12 801(b), such network were deemed to be an associa-
13 tion described in section 801(b), and each franchisee
14 were deemed to be a member (of the association and
15 the sponsor) referred to in section 801(b); and

16 "(2) the requirements of section 804(a)(1) shall
17 be deemed met.

18 The Secretary may by regulation, through negotiated rule-
19 making, define for purposes of this subsection the terms
20 'franchiser', 'franchise network', and 'franchisee'.

21 "(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

22 "(1) IN GENERAL.—In the case of a group
23 health plan described in paragraph (2)—

24 "(A) the requirements of subsection (a)
25 and section 801(a)(1) shall be deemed met;

1 ‘‘(B) the joint board of trustees shall be
2 deemed a board of trustees with respect to
3 which the requirements of subsection (b) are
4 met; and
5 ‘‘(C) the requirements of section 804 shall
6 be deemed met.
7 ‘‘(2) REQUIREMENTS.—A group health plan is
8 described in this paragraph if—
9 ‘‘(A) the plan is a multiemployer plan; or
10 ‘‘(B) the plan is in existence on April 1,
11 1997, and would be described in section
12 3(40)(A)(i) but solely for the failure to meet
13 the requirements of section 3(40)(C)(ii).

14 **‘‘SEC. 804. PARTICIPATION AND COVERAGE REQUIRE-**
15 **MENTS.**

16 ‘‘(a) COVERED EMPLOYERS AND INDIVIDUALS.—The
17 requirements of this subsection are met with respect to
18 an association health plan if, under the terms of the
19 plan—
20 ‘‘(1) each participating employer must be—
21 ‘‘(A) a member of the sponsor,
22 ‘‘(B) the sponsor, or
23 ‘‘(C) an affiliated member of the sponsor
24 with respect to which the requirements of sub-
25 section (b) are met,

1 except that, in the case of a sponsor which is a pro-
2 fessional association or other individual-based asso-
3 ciation, if at least one of the officers, directors, or
4 employees of an employer, or at least one of the in-
5 dividuals who are partners in an employer and who
6 actively participates in the business, is a member or
7 such an affiliated member of the sponsor, partici-
8 pating employers may also include such employer;
9 and

10 ''(2) all individuals commencing coverage under
11 the plan after certification under this part must
12 be—

13 ''(A) active or retired owners (including
14 self-employed individuals), officers, directors, or
15 employees of, or partners in, participating em-
16 ployers; or

17 ''(B) the beneficiaries of individuals de-
18 scribed in subparagraph (A).

19 ''(b) COVERAGE OF PREVIOUSLY UNINSURED EM-
20 PLOYEES.—In the case of an association health plan in
21 existence on the date of the enactment of the Small Busi-
22 ness Access and Choice for Entrepreneurs Act of 1999,
23 an affiliated member of the sponsor of the plan may be
24 offered coverage under the plan as a participating em-
25 ployer only if—

"(1) the affiliated member was an affiliated member on the date of certification under this part; or

"(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

"(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

1 "(1) under the terms of the plan, all employers
2 meeting the preceding requirements of this section
3 are eligible to qualify as participating employers for
4 all geographically available coverage options, unless,
5 in the case of any such employer, participation or
6 contribution requirements of the type referred to in
7 section 2711 of the Public Health Service Act are
8 not met;

9 "(2) upon request, any employer eligible to par-
10 ticipate is furnished information regarding all cov-
11 erage options available under the plan; and

12 "(3) the applicable requirements of sections
13 701, 702, and 703 are met with respect to the plan.

14 **"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN**
15 **DOCUMENTS, CONTRIBUTION RATES, AND**
16 **BENEFIT OPTIONS.**

17 "(a) IN GENERAL.—The requirements of this section
18 are met with respect to an association health plan if the
19 following requirements are met:

20 "(1) CONTENTS OF GOVERNING INSTRU-
21 MENTS.—The instruments governing the plan in-
22 clude a written instrument, meeting the require-
23 ments of an instrument required under section
24 402(a)(1), which—

1 ''(A) provides that the board of trustees
2 serves as the named fiduciary required for plans
3 under section 402(a)(1) and serves in the ca-
4 pacity of a plan administrator (referred to in
5 section 3(16)(A));
6 ''(B) provides that the sponsor of the plan
7 is to serve as plan sponsor (referred to in sec-
8 tion 3(16)(B)); and
9 ''(C) incorporates the requirements of sec-
10 tion 806.
11 ''(2) CONTRIBUTION RATES MUST BE NON-
12 DISCRIMINATORY.—
13 ''(A) The contribution rates for any par-
14 ticipating small employer do not vary on the
15 basis of the claims experience of such employer
16 and do not vary on the basis of the type of
17 business or industry in which such employer is
18 engaged.
19 ''(B) Nothing in this title or any other pro-
20 vision of law shall be construed to preclude an
21 association health plan, or a health insurance
22 issuer offering health insurance coverage in
23 connection with an association health plan,
24 from—

1 "(i) setting contribution rates based
2 on the claims experience of the plan; or
3 "(ii) varying contribution rates for
4 small employers in a State to the extent
5 that such rates could vary using the same
6 methodology employed in such State for
7 regulating premium rates in the small
8 group market with respect to health insur-
9 ance coverage offered in connection with
10 bona fide associations (within the meaning
11 of section 2791(d)(3) of the Public Health
12 Service Act),
13 subject to the requirements of section 702(b)
14 relating to contribution rates.
15 "(3) FLOOR FOR NUMBER OF COVERED INDI-
16 VIDUALS WITH RESPECT TO CERTAIN PLANS.—If
17 any benefit option under the plan does not consist
18 of health insurance coverage, the plan has as of the
19 beginning of the plan year not fewer than 1,000 par-
20 ticipants and beneficiaries.
21 "(4) MARKETING REQUIREMENTS.—
22 "(A) IN GENERAL.—If a benefit option
23 which consists of health insurance coverage is
24 offered under the plan, State-licensed insurance
25 agents shall be used to distribute to small em-

1 ployers coverage which does not consist of
2 health insurance coverage in a manner com-
3 parable to the manner in which such agents are
4 used to distribute health insurance coverage.

5 "(B) STATE-LICENSED INSURANCE
6 AGENTS.—For purposes of subparagraph (A),
7 the term 'State-licensed insurance agents'
8 means one or more agents who are licensed in
9 a State and are subject to the laws of such
10 State relating to licensure, qualification, test-
11 ing, examination, and continuing education of
12 persons authorized to offer, sell, or solicit
13 health insurance coverage in such State.

14 "(5) REGULATORY REQUIREMENTS.—Such
15 other requirements as the applicable authority deter-
16 mines are necessary to carry out the purposes of this
17 part, which shall be prescribed by the applicable au-
18 thority by regulation through negotiated rulemaking.

19 "(b) ABILITY OF ASSOCIATION HEALTH PLANS TO
20 DESIGN BENEFIT OPTIONS.—Subject to section 514(d),
21 nothing in this part or any provision of State law (as de-
22 fined in section 514(c)(1)) shall be construed to preclude
23 an association health plan, or a health insurance issuer
24 offering health insurance coverage in connection with an
25 association health plan, from exercising its sole discretion

in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

"SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

"(1) the benefits under the plan consist solely of health insurance coverage; or

"(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

"(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

"(i) a reserve sufficient for unearned contributions;

1 “(ii) a reserve sufficient for benefit li-
2 abilities which have been incurred, which
3 have not been satisfied, and for which risk
4 of loss has not yet been transferred, and
5 for expected administrative costs with re-
6 spect to such benefit liabilities;
7 “(iii) a reserve sufficient for any other
8 obligations of the plan; and
9 “(iv) a reserve sufficient for a margin
10 of error and other fluctuations, taking into
11 account the specific circumstances of the
12 plan; and
13 “(B) establishes and maintains aggregate
14 and specific excess/stop loss insurance and sol-
15 vency indemnification, with respect to such ad-
16 ditional benefit options for which risk of loss
17 has not yet been transferred, as follows:
18 “(i) The plan shall secure aggregate
19 excess/stop loss insurance for the plan
20 with an attachment point which is not
21 greater than 125 percent of expected gross
22 annual claims. The applicable authority
23 may by regulation, through negotiated
24 rulemaking, provide for upward adjust-
25 ments in the amount of such percentage in

1 specified circumstances in which the plan
2 specifically provides for and maintains re-
3 serves in excess of the amounts required
4 under subparagraph (A).

5 ''(ii) The plan shall secure specific ex-
6 cess/stop loss insurance for the plan with
7 an attachment point which is at least equal
8 to an amount recommended by the plan's
9 qualified actuary (but not more than
10 $175,000). The applicable authority may
11 by regulation, through negotiated rule-
12 making, provide for adjustments in the
13 amount of such insurance in specified cir-
14 cumstances in which the plan specifically
15 provides for and maintains reserves in ex-
16 cess of the amounts required under sub-
17 paragraph (A).

18 ''(iii) The plan shall secure indem-
19 nification insurance for any claims which
20 the plan is unable to satisfy by reason of
21 a plan termination.

22 Any regulations prescribed by the applicable authority
23 pursuant to clause (i) or (ii) of subparagraph (B) may
24 allow for such adjustments in the required levels of excess/
25 stop loss insurance as the qualified actuary may rec-

ommend, taking into account the specific circumstances of the plan.

"(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

"(1) $500,000, or

"(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

"(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

"(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under

1 subsections (a) and (b) with respect to any plan or class
2 of plans to take into account excess/stop loss insurance
3 provided with respect to such plan or plans.

4 "(e) ALTERNATIVE MEANS OF COMPLIANCE.—The
5 applicable authority may permit an association health plan
6 described in subsection (a)(2) to substitute, for all or part
7 of the requirements of this section (except subsection
8 (a)(2)(B)(iii)), such security, guarantee, hold-harmless ar-
9 rangement, or other financial arrangement as the applica-
10 ble authority determines to be adequate to enable the plan
11 to fully meet all its financial obligations on a timely basis
12 and is otherwise no less protective of the interests of par-
13 ticipants and beneficiaries than the requirements for
14 which it is substituted. The applicable authority may take
15 into account, for purposes of this subsection, evidence pro-
16 vided by the plan or sponsor which demonstrates an as-
17 sumption of liability with respect to the plan. Such evi-
18 dence may be in the form of a contract of indemnification,
19 lien, bonding, insurance, letter of credit, recourse under
20 applicable terms of the plan in the form of assessments
21 of participating employers, security, or other financial ar-
22 rangement.

23 "(f) MEASURES TO ENSURE CONTINUED PAYMENT
24 OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

1 "(1) PAYMENTS BY CERTAIN PLANS TO ASSO-
2 CIATION HEALTH PLAN FUND.—
3 "(A) IN GENERAL.—In the case of an as-
4 sociation health plan described in subsection
5 (a)(2), the requirements of this subsection are
6 met if the plan makes payments into the Asso-
7 ciation Health Plan Fund under this subpara-
8 graph when they are due. Such payments shall
9 consist of annual payments in the amount of
10 $5,000, and, in addition to such annual pay-
11 ments, such supplemental payments as the Sec-
12 retary may determine to be necessary under
13 paragraph (2). Payments under this paragraph
14 are payable to the Fund at the time determined
15 by the Secretary. Initial payments are due in
16 advance of certification under this part. Pay-
17 ments shall continue to accrue until a plan's as-
18 sets are distributed pursuant to a termination
19 procedure.
20 "(B) PENALTIES FOR FAILURE TO MAKE
21 PAYMENTS.—If any payment is not made by a
22 plan when it is due, a late payment charge of
23 not more than 100 percent of the payment
24 which was not timely paid shall be payable by
25 the plan to the Fund.

1 "(C) CONTINUED DUTY OF THE SEC-
2 RETARY.—The Secretary shall not cease to
3 carry out the provisions of paragraph (2) on ac-
4 count of the failure of a plan to pay any pay-
5 ment when due.
6 "(2) PAYMENTS BY SECRETARY TO CONTINUE
7 EXCESS/STOP LOSS INSURANCE COVERAGE AND IN-
8 DEMNIFICATION INSURANCE COVERAGE FOR CER-
9 TAIN PLANS.—In any case in which the applicable
10 authority determines that there is, or that there is
11 reason to believe that there will be: (A) a failure to
12 take necessary corrective actions under section
13 809(a) with respect to an association health plan de-
14 scribed in subsection (a)(2); or (B) a termination of
15 such a plan under section 809(b) or 810(b)(8) (and,
16 if the applicable authority is not the Secretary, cer-
17 tifies such determination to the Secretary), the Sec-
18 retary shall determine the amounts necessary to
19 make payments to an insurer (designated by the
20 Secretary) to maintain in force excess/stop loss in-
21 surance coverage or indemnification insurance cov-
22 erage for such plan, if the Secretary determines that
23 there is a reasonable expectation that, without such
24 payments, claims would not be satisfied by reason of
25 termination of such coverage. The Secretary shall, to

1 the extent provided in advance in appropriation
2 Acts, pay such amounts so determined to the insurer
3 designated by the Secretary.
4 "(3) ASSOCIATION HEALTH PLAN FUND.—
5 "(A) IN GENERAL.—There is established
6 on the books of the Treasury a fund to be
7 known as the 'Association Health Plan Fund'.
8 The Fund shall be available for making pay-
9 ments pursuant to paragraph (2). The Fund
10 shall be credited with payments received pursu-
11 ant to paragraph (1)(A), penalties received pur-
12 suant to paragraph (1)(B); and earnings on in-
13 vestments of amounts of the Fund under sub-
14 paragraph (B).
15 "(B) INVESTMENT.—Whenever the Sec-
16 retary determines that the moneys of the fund
17 are in excess of current needs, the Secretary
18 may request the investment of such amounts as
19 the Secretary determines advisable by the Sec-
20 retary of the Treasury in obligations issued or
21 guaranteed by the United States.
22 "(g) EXCESS/STOP LOSS INSURANCE.—For pur-
23 poses of this section—
24 "(1) AGGREGATE EXCESS/STOP LOSS INSUR-
25 ANCE.—The term 'aggregate excess/stop loss insur-

1 ance' means, in connection with an association
2 health plan, a contract—
3 "(A) under which an insurer (meeting such
4 minimum standards as the applicable authority may
5 prescribe by regulation through negotiated rule-
6 making) provides for payment to the plan with re-
7 spect to aggregate claims under the plan in excess
8 of an amount or amounts specified in such contract;
9 "(B) which is guaranteed renewable; and
10 "(C) which allows for payment of premiums by
11 any third party on behalf of the insured plan.
12 "(2) SPECIFIC EXCESS/STOP LOSS INSUR-
13 ANCE.—The term 'specific excess/stop loss insur-
14 ance' means, in connection with an association
15 health plan, a contract—
16 "(A) under which an insurer (meeting such
17 minimum standards as the applicable authority
18 may prescribe by regulation through negotiated
19 rulemaking) provides for payment to the plan
20 with respect to claims under the plan in connec-
21 tion with a covered individual in excess of an
22 amount or amounts specified in such contract
23 in connection with such covered individual;
24 "(B) which is guaranteed renewable; and

1 "(C) which allows for payment of pre-
2 miums by any third party on behalf of the in-
3 sured plan.

4 "(h) INDEMNIFICATION INSURANCE.—For purposes
5 of this section, the term 'indemnification insurance'
6 means, in connection with an association health plan, a
7 contract—

8 "(1) under which an insurer (meeting such min-
9 imum standards as the applicable authority may pre-
10 scribe through negotiated rulemaking) provides for
11 payment to the plan with respect to claims under the
12 plan which the plan is unable to satisfy by reason
13 of a termination pursuant to section 809(b) (relating
14 to mandatory termination);

15 "(2) which is guaranteed renewable and
16 noncancellable for any reason (except as the applica-
17 ble authority may prescribe by regulation through
18 negotiated rulemaking); and

19 "(3) which allows for payment of premiums by
20 any third party on behalf of the insured plan.

21 "(i) RESERVES.—For purposes of this section, the
22 term 'reserves' means, in connection with an association
23 health plan, plan assets which meet the fiduciary stand-
24 ards under part 4 and such additional requirements re-

1 garding liquidity as the applicable authority may prescribe
2 through negotiated rulemaking.

3 ''(j) SOLVENCY STANDARDS WORKING GROUP.—

4 ''(1) IN GENERAL.—Within 90 days after the
5 date of the enactment of the Small Business Access
6 and Choice for Entrepreneurs Act of 1999, the ap-
7 plicable authority shall establish a Solvency Stand-
8 ards Working Group. In prescribing the initial regu-
9 lations under this section, the applicable authority
10 shall take into account the recommendations of such
11 Working Group.

12 ''(2) MEMBERSHIP.—The Working Group shall
13 consist of not more than 15 members appointed by
14 the applicable authority. The applicable authority
15 shall include among persons invited to membership
16 on the Working Group at least one of each of the
17 following:

18 ''(A) a representative of the National Asso-
19 ciation of Insurance Commissioners;

20 ''(B) a representative of the American
21 Academy of Actuaries;

22 ''(C) a representative of the State govern-
23 ments, or their interests;

24 ''(D) a representative of existing self-in-
25 sured arrangements, or their interests;

1 "(E) a representative of associations of the
2 type referred to in section 801(b)(1), or their
3 interests; and
4 "(F) a representative of multiemployer
5 plans that are group health plans, or their in-
6 terests.

7 **"SEC. 807. REQUIREMENTS FOR APPLICATION AND RE-**
8 **LATED REQUIREMENTS.**

9 "(a) FILING FEE.—Under the procedure prescribed
10 pursuant to section 802(a), an association health plan
11 shall pay to the applicable authority at the time of filing
12 an application for certification under this part a filing fee
13 in the amount of $5,000, which shall be available in the
14 case of the Secretary, to the extent provided in appropria-
15 tion Acts, for the sole purpose of administering the certifi-
16 cation procedures applicable with respect to association
17 health plans.

18 "(b) INFORMATION TO BE INCLUDED IN APPLICA-
19 TION FOR CERTIFICATION.—An application for certifi-
20 cation under this part meets the requirements of this sec-
21 tion only if it includes, in a manner and form which shall
22 be prescribed by the applicable authority through nego-
23 tiated rulemaking, at least the following information:

24 "(1) IDENTIFYING INFORMATION.—The names
25 and addresses of—

1 ''(A) the sponsor; and

2 ''(B) the members of the board of trustees
3 of the plan.

4 ''(2) STATES IN WHICH PLAN INTENDS TO DO
5 BUSINESS.—The States in which participants and
6 beneficiaries under the plan are to be located and
7 the number of them expected to be located in each
8 such State.

9 ''(3) BONDING REQUIREMENTS.—Evidence pro-
10 vided by the board of trustees that the bonding re-
11 quirements of section 412 will be met as of the date
12 of the application or (if later) commencement of op-
13 erations.

14 ''(4) PLAN DOCUMENTS.—A copy of the docu-
15 ments governing the plan (including any bylaws and
16 trust agreements), the summary plan description,
17 and other material describing the benefits that will
18 be provided to participants and beneficiaries under
19 the plan.

20 ''(5) AGREEMENTS WITH SERVICE PRO-
21 VIDERS.—A copy of any agreements between the
22 plan and contract administrators and other service
23 providers.

24 ''(6) FUNDING REPORT.—In the case of asso-
25 ciation health plans providing benefits options in ad-

1 dition to health insurance coverage, a report setting
2 forth information with respect to such additional
3 benefit options determined as of a date within the
4 120-day period ending with the date of the applica-
5 tion, including the following:

6 "(A) RESERVES.—A statement, certified
7 by the board of trustees of the plan, and a
8 statement of actuarial opinion, signed by a
9 qualified actuary, that all applicable require-
10 ments of section 806 are or will be met in ac-
11 cordance with regulations which the applicable
12 authority shall prescribe through negotiated
13 rulemaking.

14 "(B) ADEQUACY OF CONTRIBUTION
15 RATES.—A statement of actuarial opinion,
16 signed by a qualified actuary, which sets forth
17 a description of the extent to which contribution
18 rates are adequate to provide for the payment
19 of all obligations and the maintenance of re-
20 quired reserves under the plan for the 12-
21 month period beginning with such date within
22 such 120-day period, taking into account the
23 expected coverage and experience of the plan. If
24 the contribution rates are not fully adequate,
25 the statement of actuarial opinion shall indicate

1 the extent to which the rates are inadequate
2 and the changes needed to ensure adequacy.
3 "(C) CURRENT AND PROJECTED VALUE OF
4 ASSETS AND LIABILITIES.—A statement of ac-
5 tuarial opinion signed by a qualified actuary,
6 which sets forth the current value of the assets
7 and liabilities accumulated under the plan and
8 a projection of the assets, liabilities, income,
9 and expenses of the plan for the 12-month pe-
10 riod referred to in subparagraph (B). The in-
11 come statement shall identify separately the
12 plan's administrative expenses and claims.
13 "(D) COSTS OF COVERAGE TO BE
14 CHARGED AND OTHER EXPENSES.—A state-
15 ment of the costs of coverage to be charged, in-
16 cluding an itemization of amounts for adminis-
17 tration, reserves, and other expenses associated
18 with the operation of the plan.
19 "(E) OTHER INFORMATION.—Any other
20 information as may be determined by the appli-
21 cable authority, by regulation through nego-
22 tiated rulemaking, as necessary to carry out the
23 purposes of this part.
24 "(c) FILING NOTICE OF CERTIFICATION WITH
25 STATES.—A certification granted under this part to an

1 association health plan shall not be effective unless written
2 notice of such certification is filed with the applicable
3 State authority of each State in which at least 25 percent
4 of the participants and beneficiaries under the plan are
5 located. For purposes of this subsection, an individual
6 shall be considered to be located in the State in which a
7 known address of such individual is located or in which
8 such individual is employed.

9 ''(d) NOTICE OF MATERIAL CHANGES.—In the case
10 of any association health plan certified under this part,
11 descriptions of material changes in any information which
12 was required to be submitted with the application for the
13 certification under this part shall be filed in such form
14 and manner as shall be prescribed by the applicable au-
15 thority by regulation through negotiated rulemaking. The
16 applicable authority may require by regulation, through
17 negotiated rulemaking, prior notice of material changes
18 with respect to specified matters which might serve as the
19 basis for suspension or revocation of the certification.

20 ''(e) REPORTING REQUIREMENTS FOR CERTAIN AS-
21 SOCIATION HEALTH PLANS.—An association health plan
22 certified under this part which provides benefit options in
23 addition to health insurance coverage for such plan year
24 shall meet the requirements of section 103 by filing an
25 annual report under such section which shall include infor-

mation described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

1 “(2) represent such actuary’s best estimate of
2 anticipated experience under the plan.
3 The opinion by the qualified actuary shall be made with
4 respect to, and shall be made a part of, the annual report.

5 **“SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TER-**
6 **MINATION.**

7 “Except as provided in section 809(b), an association
8 health plan which is or has been certified under this part
9 may terminate (upon or at any time after cessation of ac-
10 cruals in benefit liabilities) only if the board of trustees—
11 “(1) not less than 60 days before the proposed
12 termination date, provides to the participants and
13 beneficiaries a written notice of intent to terminate
14 stating that such termination is intended and the
15 proposed termination date;
16 “(2) develops a plan for winding up the affairs
17 of the plan in connection with such termination in
18 a manner which will result in timely payment of all
19 benefits for which the plan is obligated; and
20 “(3) submits such plan in writing to the appli-
21 cable authority.
22 Actions required under this section shall be taken in such
23 form and manner as may be prescribed by the applicable
24 authority by regulation through negotiated rulemaking.

"SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such rec-

1 ommendations. The board shall thereafter report to the
2 applicable authority, in such form and frequency as the
3 applicable authority may specify to the board, regarding
4 corrective action taken by the board until the requirements
5 of section 806 are met.

6 ''(b) MANDATORY TERMINATION.—In any case in
7 which—

8 ''(1) the applicable authority has been notified
9 under subsection (a) of a failure of an association
10 health plan which is or has been certified under this
11 part and is described in section 806(a)(2) to meet
12 the requirements of section 806 and has not been
13 notified by the board of trustees of the plan that
14 corrective action has restored compliance with such
15 requirements; and

16 ''(2) the applicable authority determines that
17 there is a reasonable expectation that the plan will
18 continue to fail to meet the requirements of section
19 806,

20 the board of trustees of the plan shall, at the direction
21 of the applicable authority, terminate the plan and, in the
22 course of the termination, take such actions as the appli-
23 cable authority may require, including satisfying any
24 claims referred to in section 806(a)(2)(B)(iii) and recov-
25 ering for the plan any liability under subsection

(a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

"SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

"(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration

of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

"(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

"(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

"(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

"(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

"(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

1 "(5) to collect for the plan any amounts due the
2 plan and to recover reasonable expenses of the trust-
3 eeship;

4 "(6) to commence, prosecute, or defend on be-
5 half of the plan any suit or proceeding involving the
6 plan;

7 "(7) to issue, publish, or file such notices, state-
8 ments, and reports as may be required by the Sec-
9 retary by regulation through negotiated rulemaking
10 or required by any order of the court;

11 "(8) to terminate the plan (or provide for its
12 termination accordance with section 809(b)) and liq-
13 uidate the plan assets, to restore the plan to the re-
14 sponsibility of the sponsor, or to continue the trust-
15 eeship;

16 "(9) to provide for the enrollment of plan par-
17 ticipants and beneficiaries under appropriate cov-
18 erage options; and

19 "(10) to do such other acts as may be nec-
20 essary to comply with this title or any order of the
21 court and to protect the interests of plan partici-
22 pants and beneficiaries and providers of medical
23 care.

1 "(c) NOTICE OF APPOINTMENT.—As soon as prac-
2 ticable after the Secretary's appointment as trustee, the
3 Secretary shall give notice of such appointment to—
4 "(1) the sponsor and plan administrator;
5 "(2) each participant;
6 "(3) each participating employer; and
7 "(4) if applicable, each employee organization
8 which, for purposes of collective bargaining, rep-
9 resents plan participants.
10 "(d) ADDITIONAL DUTIES.—Except to the extent in-
11 consistent with the provisions of this title, or as may be
12 otherwise ordered by the court, the Secretary, upon ap-
13 pointment as trustee under this section, shall be subject
14 to the same duties as those of a trustee under section 704
15 of title 11, United States Code, and shall have the duties
16 of a fiduciary for purposes of this title.
17 "(e) OTHER PROCEEDINGS.—An application by the
18 Secretary under this subsection may be filed notwith-
19 standing the pendency in the same or any other court of
20 any bankruptcy, mortgage foreclosure, or equity receiver-
21 ship proceeding, or any proceeding to reorganize, conserve,
22 or liquidate such plan or its property, or any proceeding
23 to enforce a lien against property of the plan.
24 "(f) JURISDICTION OF COURT.—

"(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

"(2) VENUE.—An action under this section may be brought in the judicial district where the

1 sponsor or the plan administrator resides or does
2 business or where any asset of the plan is situated.
3 A district court in which such action is brought may
4 issue process with respect to such action in any
5 other judicial district.

6 ''(g) PERSONNEL.—In accordance with regulations
7 which shall be prescribed by the Secretary through nego-
8 tiated rulemaking, the Secretary shall appoint, retain, and
9 compensate accountants, actuaries, and other professional
10 service personnel as may be necessary in connection with
11 the Secretary's service as trustee under this section.

12 **''SEC. 811. STATE ASSESSMENT AUTHORITY.**

13 ''(a) IN GENERAL.—Notwithstanding section 514, a
14 State may impose by law a contribution tax on an associa-
15 tion health plan described in section 806(a)(2), if the plan
16 commenced operations in such State after the date of the
17 enactment of the Small Business Access and Choice for
18 Entrepreneurs Act of 1999.

19 ''(b) CONTRIBUTION TAX.—For purposes of this sec-
20 tion, the term 'contribution tax' imposed by a State on
21 an association health plan means any tax imposed by such
22 State if—

23 ''(1) such tax is computed by applying a rate to
24 the amount of premiums or contributions, with re-
25 spect to individuals covered under the plan who are

residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

1 "(1) GROUP HEALTH PLAN.—The term 'group
2 health plan' has the meaning provided in section
3 733(a)(1) (after applying subsection (b) of this sec-
4 tion).
5 "(2) MEDICAL CARE.—The term 'medical care'
6 has the meaning provided in section 733(a)(2).
7 "(3) HEALTH INSURANCE COVERAGE.—The
8 term 'health insurance coverage' has the meaning
9 provided in section 733(b)(1).
10 "(4) HEALTH INSURANCE ISSUER.—The term
11 'health insurance issuer' has the meaning provided
12 in section 733(b)(2).
13 "(5) APPLICABLE AUTHORITY.—
14 "(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term 'applicable author-
16 ity' means, in connection with an association
17 health plan—
18 "(i) the State recognized pursuant to
19 subsection (c) of section 506 as the State
20 to which authority has been delegated in
21 connection with such plan; or
22 "(ii) if there if no State referred to in
23 clause (i), the Secretary.
24 "(B) EXCEPTIONS.—

1 "(i) JOINT AUTHORITIES.—Where
2 such term appears in section 808(3), sec-
3 tion 807(e) (in the first instance), section
4 809(a) (in the second instance), section
5 809(a) (in the fourth instance), and sec-
6 tion 809(b)(1), such term means, in con-
7 nection with an association health plan, the
8 Secretary and the State referred to in sub-
9 paragraph (A)(i) (if any) in connection
10 with such plan.

11 "(ii) REGULATORY AUTHORITIES.—
12 Where such term appears in section 802(a)
13 (in the first instance), section 802(d), sec-
14 tion 802(e), section 803(d), section
15 805(a)(5), section 806(a)(2), section
16 806(b), section 806(c), section 806(d),
17 paragraphs (1)(A) and (2)(A) of section
18 806(g), section 806(h), section 806(i), sec-
19 tion 806(j), section 807(a) (in the second
20 instance), section 807(b), section 807(d),
21 section 807(e) (in the second instance),
22 section 808 (in the matter after paragraph
23 (3)), and section 809(a) (in the third in-
24 stance), such term means, in connection

1 with an association health plan, the Sec-
2 retary.
3 “(6) HEALTH STATUS-RELATED FACTOR.—The
4 term ‘health status-related factor’ has the meaning
5 provided in section 733(d)(2).
6 “(7) INDIVIDUAL MARKET.—
7 “(A) IN GENERAL.—The term ‘individual
8 market’ means the market for health insurance
9 coverage offered to individuals other than in
10 connection with a group health plan.
11 “(B) TREATMENT OF VERY SMALL
12 GROUPS.—
13 “(i) IN GENERAL.—Subject to clause
14 (ii), such term includes coverage offered in
15 connection with a group health plan that
16 has fewer than 2 participants as current
17 employees or participants described in sec-
18 tion 732(d)(3) on the first day of the plan
19 year.
20 “(ii) STATE EXCEPTION.—Clause (i)
21 shall not apply in the case of health insur-
22 ance coverage offered in a State if such
23 State regulates the coverage described in
24 such clause in the same manner and to the
25 same extent as coverage in the small group

market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the

1 Secretary may provide by regulation through nego-
2 tiated rulemaking.
3 "(11) AFFILIATED MEMBER.—The term 'affili-
4 ated member' means, in connection with a sponsor—
5 "(A) a person who is otherwise eligible to
6 be a member of the sponsor but who elects an
7 affiliated status with the sponsor,
8 "(B) in the case of a sponsor with mem-
9 bers which consist of associations, a person who
10 is a member of any such association and elects
11 an affiliated status with the sponsor, or
12 "(C) in the case of an association health
13 plan in existence on the date of the enactment
14 of the Small Business Access and Choice for
15 Entrepreneurs Act of 1999, a person eligible to
16 be a member of the sponsor or one of its mem-
17 ber associations.
18 "(12) LARGE EMPLOYER.—The term 'large em-
19 ployer' means, in connection with a group health
20 plan with respect to a plan year, an employer who
21 employed an average of at least 51 employees on
22 business days during the preceding calendar year
23 and who employs at least 2 employees on the first
24 day of the plan year.

1 "(13) SMALL EMPLOYER.—The term 'small em-
2 ployer' means, in connection with a group health
3 plan with respect to a plan year, an employer who
4 is not a large employer.
5 "(b) RULES OF CONSTRUCTION.—
6 "(1) EMPLOYERS AND EMPLOYEES.—For pur-
7 poses of determining whether a plan, fund, or pro-
8 gram is an employee welfare benefit plan which is an
9 association health plan, and for purposes of applying
10 this title in connection with such plan, fund, or pro-
11 gram so determined to be such an employee welfare
12 benefit plan—
13 "(A) in the case of a partnership, the term
14 'employer' (as defined in section (3)(5)) in-
15 cludes the partnership in relation to the part-
16 ners, and the term 'employee' (as defined in
17 section (3)(6)) includes any partner in relation
18 to the partnership; and
19 "(B) in the case of a self-employed indi-
20 vidual, the term 'employer' (as defined in sec-
21 tion 3(5)) and the term 'employee' (as defined
22 in section 3(6)) shall include such individual.
23 "(2) PLANS, FUNDS, AND PROGRAMS TREATED
24 AS EMPLOYEE WELFARE BENEFIT PLANS.—In the
25 case of any plan, fund, or program which was estab-

1 lished or is maintained for the purpose of providing
2 medical care (through the purchase of insurance or
3 otherwise) for employees (or their dependents) cov-
4 ered thereunder and which demonstrates to the Sec-
5 retary that all requirements for certification under
6 this part would be met with respect to such plan,
7 fund, or program if such plan, fund, or program
8 were a group health plan, such plan, fund, or pro-
9 gram shall be treated for purposes of this title as an
10 employee welfare benefit plan on and after the date
11 of such demonstration.''.

12 (b) CONFORMING AMENDMENTS TO PREEMPTION
13 RULES.—

14 (1) Section 514(b)(6) of such Act (29 U.S.C.
15 1144(b)(6)) is amended by adding at the end the
16 following new subparagraph:

17 ''(E) The preceding subparagraphs of this paragraph
18 do not apply with respect to any State law in the case
19 of an association health plan which is certified under part
20 8.''.

21 (2) Section 514 of such Act (29 U.S.C. 1144)
22 is amended—

23 (A) in subsection (b)(4), by striking ''Sub-
24 section (a)'' and inserting ''Subsections (a) and
25 (d)'';

1 (B) in subsection (b)(5), by striking "sub-
2 section (a)" in subparagraph (A) and inserting
3 "subsection (a) of this section and subsections
4 (a)(2)(B) and (b) of section 805", and by strik-
5 ing "subsection (a)" in subparagraph (B) and
6 inserting "subsection (a) of this section or sub-
7 section (a)(2)(B) or (b) of section 805";
8 (C) by redesignating subsection (d) as sub-
9 section (e); and
10 (D) by inserting after subsection (c) the
11 following new subsection:
12 "(d)(1) Except as provided in subsection (b)(4), the
13 provisions of this title shall supersede any and all State
14 laws insofar as they may now or hereafter preclude, or
15 have the effect of precluding, a health insurance issuer
16 from offering health insurance coverage in connection with
17 an association health plan which is certified under part
18 8.
19 "(2) Except as provided in paragraphs (4) and (5)
20 of subsection (b) of this section—
21 "(A) In any case in which health insurance cov-
22 erage of any policy type is offered under an associa-
23 tion health plan certified under part 8 to a partici-
24 pating employer operating in such State, the provi-
25 sions of this title shall supersede any and all laws

1 of such State insofar as they may preclude a health
2 insurance issuer from offering health insurance cov-
3 erage of the same policy type to other employers op-
4 erating in the State which are eligible for coverage
5 under such association health plan, whether or not
6 such other employers are participating employers in
7 such plan.

8 ''(B) In any case in which health insurance cov-
9 erage of any policy type is offered under an associa-
10 tion health plan in a State and the filing, with the
11 applicable State authority, of the policy form in con-
12 nection with such policy type is approved by such
13 State authority, the provisions of this title shall su-
14 persede any and all laws of any other State in which
15 health insurance coverage of such type is offered, in-
16 sofar as they may preclude, upon the filing in the
17 same form and manner of such policy form with the
18 applicable State authority in such other State, the
19 approval of the filing in such other State.

20 ''(3) For additional provisions relating to association
21 health plans, see subsections (a)(2)(B) and (b) of section
22 805.

23 ''(4) For purposes of this subsection, the term 'asso-
24 ciation health plan' has the meaning provided in section
25 801(a), and the terms 'health insurance coverage', 'par-

1 ticipating employer', and 'health insurance issuer' have
2 the meanings provided such terms in section 811, respec-
3 tively.''.
4 (3) Section 514(b)(6)(A) of such Act (29
5 U.S.C. 1144(b)(6)(A)) is amended—
6 (A) in clause (i)(II), by striking ''and'' at
7 the end;
8 (B) in clause (ii), by inserting ''and which
9 does not provide medical care (within the mean-
10 ing of section 733(a)(2)),'' after ''arrange-
11 ment,'', and by striking ''title.'' and inserting
12 ''title, and''; and
13 (C) by adding at the end the following new
14 clause:
15 ''(iii) subject to subparagraph (E), in the case
16 of any other employee welfare benefit plan which is
17 a multiple employer welfare arrangement and which
18 provides medical care (within the meaning of section
19 733(a)(2)), any law of any State which regulates in-
20 surance may apply.''.
21 (4) Section 514(e) of such Act (as redesignated
22 by paragraph (2)(C)) is amended—
23 (A) by striking ''Nothing'' and inserting
24 ''(1) Except as provided in paragraph (2), noth-
25 ing''; and

1 (B) by adding at the end the following new
2 paragraph:
3 "(2) Nothing in any other provision of law enacted
4 on or after the date of the enactment of the Small Busi-
5 ness Access and Choice for Entrepreneurs Act of 1999
6 shall be construed to alter, amend, modify, invalidate, im-
7 pair, or supersede any provision of this title, except by
8 specific cross-reference to the affected section.".
9 (c) PLAN SPONSOR.—Section 3(16)(B) of such Act
10 (29 U.S.C. 102(16)(B)) is amended by adding at the end
11 the following new sentence: "Such term also includes a
12 person serving as the sponsor of an association health plan
13 under part 8.".
14 (d) DISCLOSURE OF SOLVENCY PROTECTIONS RE-
15 LATED TO SELF-INSURED AND FULLY INSURED OPTIONS
16 UNDER ASSOCIATION HEALTH PLANS.—Section 102(b)
17 of such Act (29 U.S.C. 102(b)) is amended by adding at
18 the end the following: "An association health plan shall
19 include in its summary plan description, in connection
20 with each benefit option, a description of the form of sol-
21 vency or guarantee fund protection secured pursuant to
22 this Act or applicable State law, if any.".
23 (e) SAVINGS CLAUSE.—Section 731(c) of such Act is
24 amended by inserting "or part 8" after "this part".

1 (f) REPORT TO THE CONGRESS REGARDING CERTIFI-
2 CATION OF SELF-INSURED ASSOCIATION HEALTH
3 PLANS.—Not later than January 1, 2004, the Secretary
4 of Labor shall report to the Committee on Education and
5 the Workforce of the House of Representatives and the
6 Committee on Health, Education, Labor, and Pensions of
7 the Senate the effect association health plans have had,
8 if any, on reducing the number of uninsured individuals.
9 (g) CLERICAL AMENDMENT.—The table of contents
10 in section 1 of the Employee Retirement Income Security
11 Act of 1974 is amended by inserting after the item relat-
12 ing to section 734 the following new items:

"PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"Sec. 801. Association health plans.
"Sec. 802. Certification of association health plans.
"Sec. 803. Requirements relating to sponsors and boards of trustees.
"Sec. 804. Participation and coverage requirements.
"Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
"Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
"Sec. 807. Requirements for application and related requirements.
"Sec. 808. Notice requirements for voluntary termination.
"Sec. 809. Corrective actions and mandatory termination.
"Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
"Sec. 811. State assessment authority.
"Sec. 812. Definitions and rules of construction.".

13 **SEC. 102. CLARIFICATION OF TREATMENT OF SINGLE EM-**
14 **PLOYER ARRANGEMENTS.**

15 Section 3(40)(B) of the Employee Retirement Income
16 Security Act of 1974 (29 U.S.C. 1002(40)(B)) is
17 amended—

1 (1) in clause (i), by inserting ‘‘for any plan year
2 of any such plan, or any fiscal year of any such
3 other arrangement;’’ after ‘‘single employer’’, and by
4 inserting ‘‘during such year or at any time during
5 the preceding 1-year period’’ after ‘‘control group’’;
6 (2) in clause (iii)—
7 (A) by striking ‘‘common control shall not
8 be based on an interest of less than 25 percent’’
9 and inserting ‘‘an interest of greater than 25
10 percent may not be required as the minimum
11 interest necessary for common control’’; and
12 (B) by striking ‘‘similar to’’ and inserting
13 ‘‘consistent and coextensive with’’;
14 (3) by redesignating clauses (iv) and (v) as
15 clauses (v) and (vi), respectively; and
16 (4) by inserting after clause (iii) the following
17 new clause:
18 ‘‘(iv) in determining, after the application of
19 clause (i), whether benefits are provided to employ-
20 ees of two or more employers, the arrangement shall
21 be treated as having only one participating employer
22 if, after the application of clause (i), the number of
23 individuals who are employees and former employees
24 of any one participating employer and who are cov-
25 ered under the arrangement is greater than 75 per-

1 cent of the aggregate number of all individuals who
2 are employees or former employees of participating
3 employers and who are covered under the arrange-
4 ment;''.

5 **SEC. 103. CLARIFICATION OF TREATMENT OF CERTAIN**
6 **COLLECTIVELY BARGAINED ARRANGE-**
7 **MENTS.**

8 (a) IN GENERAL.—Section 3(40)(A)(i) of the Em-
9 ployee Retirement Income Security Act of 1974 (29
10 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

11 ''(i)(I) under or pursuant to one or more collec-
12 tive bargaining agreements which are reached pursu-
13 ant to collective bargaining described in section 8(d)
14 of the National Labor Relations Act (29 U.S.C.
15 158(d)) or paragraph Fourth of section 2 of the
16 Railway Labor Act (45 U.S.C. 152, paragraph
17 Fourth) or which are reached pursuant to labor-
18 management negotiations under similar provisions of
19 State public employee relations laws, and (II) in ac-
20 cordance with subparagraphs (C), (D), and (E);''.

21 (b) LIMITATIONS.—Section 3(40) of such Act (29
22 U.S.C. 1002(40)) is amended by adding at the end the
23 following new subparagraphs:

24 ''(C) For purposes of subparagraph (A)(i)(II), a plan
25 or other arrangement shall be treated as established or

1 maintained in accordance with this subparagraph only if
2 the following requirements are met:
3 ''(i) The plan or other arrangement, and the
4 employee organization or any other entity sponsoring
5 the plan or other arrangement, do not—
6 ''(I) utilize the services of any licensed in-
7 surance agent or broker for soliciting or enroll-
8 ing employers or individuals as participating
9 employers or covered individuals under the plan
10 or other arrangement; or
11 ''(II) pay any type of compensation to a
12 person, other than a full time employee of the
13 employee organization (or a member of the or-
14 ganization to the extent provided in regulations
15 prescribed by the Secretary through negotiated
16 rulemaking), that is related either to the volume
17 or number of employers or individuals solicited
18 or enrolled as participating employers or cov-
19 ered individuals under the plan or other ar-
20 rangement, or to the dollar amount or size of
21 the contributions made by participating employ-
22 ers or covered individuals to the plan or other
23 arrangement;
24 except to the extent that the services used by the
25 plan, arrangement, organization, or other entity con-

1 sist solely of preparation of documents necessary for
2 compliance with the reporting and disclosure re-
3 quirements of part 1 or administrative, investment,
4 or consulting services unrelated to solicitation or en-
5 rollment of covered individuals.

6 ''(ii) As of the end of the preceding plan year,
7 the number of covered individuals under the plan or
8 other arrangement who are neither—

9 ''(I) employed within a bargaining unit
10 covered by any of the collective bargaining
11 agreements with a participating employer (nor
12 covered on the basis of an individual's employ-
13 ment in such a bargaining unit); nor

14 ''(II) present employees (or former employ-
15 ees who were covered while employed) of the
16 sponsoring employee organization, of an em-
17 ployer who is or was a party to any of the col-
18 lective bargaining agreements, or of the plan or
19 other arrangement or a related plan or arrange-
20 ment (nor covered on the basis of such present
21 or former employment);

22 does not exceed 15 percent of the total number of
23 individuals who are covered under the plan or ar-
24 rangement and who are present or former employees
25 who are or were covered under the plan or arrange-

1 ment pursuant to a collective bargaining agreement
2 with a participating employer. The requirements of
3 the preceding provisions of this clause shall be treat-
4 ed as satisfied if, as of the end of the preceding plan
5 year, such covered individuals are comprised solely
6 of individuals who were covered individuals under
7 the plan or other arrangement as of the date of the
8 enactment of the Small Business Access and Choice
9 for Entrepreneurs Act of 1999 and, as of the end of
10 the preceding plan year, the number of such covered
11 individuals does not exceed 25 percent of the total
12 number of present and former employees enrolled
13 under the plan or other arrangement.

14 ''(iii) The employee organization or other entity
15 sponsoring the plan or other arrangement certifies
16 to the Secretary each year, in a form and manner
17 which shall be prescribed by the Secretary through
18 negotiated rulemaking that the plan or other ar-
19 rangement meets the requirements of clauses (i) and
20 (ii).

21 ''(D) For purposes of subparagraph (A)(i)(II), a plan
22 or arrangement shall be treated as established or main-
23 tained in accordance with this subparagraph only if—

1 "(i) all of the benefits provided under the plan
2 or arrangement consist of health insurance coverage;
3 or
4 "(ii)(I) the plan or arrangement is a multiem-
5 ployer plan; and
6 "(II) the requirements of clause (B) of the pro-
7 viso to clause (5) of section 302(c) of the Labor
8 Management Relations Act, 1947 (29 U.S.C.
9 186(c)) are met with respect to such plan or other
10 arrangement.
11 "(E) For purposes of subparagraph (A)(i)(II), a plan
12 or arrangement shall be treated as established or main-
13 tained in accordance with this subparagraph only if—
14 "(i) the plan or arrangement is in effect as of
15 the date of the enactment of the Small Business Ac-
16 cess and Choice for Entrepreneurs Act of 1999; or
17 "(ii) the employee organization or other entity
18 sponsoring the plan or arrangement—
19 "(I) has been in existence for at least 3
20 years; or
21 "(II) demonstrates to the satisfaction of
22 the Secretary that the requirements of subpara-
23 graphs (C) and (D) are met with respect to the
24 plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 104. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bar-

1 gaining agreements which are reached pursuant to
2 collective bargaining described in section 8(d) of the
3 National Labor Relations Act (29 U.S.C. 158(d)) or
4 paragraph Fourth of section 2 of the Railway Labor
5 Act (45 U.S.C. 152, paragraph Fourth) or which are
6 reached pursuant to labor-management negotiations
7 under similar provisions of State public employee re-
8 lations laws; or

9 ''(3) being a plan or arrangement with respect
10 to which the requirements of subparagraph (C), (D),
11 or (E) of section 3(40) are met;

12 shall, upon conviction, be imprisoned not more than 5
13 years, be fined under title 18, United States Code, or
14 both.''.

15 (b) CEASE ACTIVITIES ORDERS.—Section 502 of
16 such Act (29 U.S.C. 1132) is amended by adding at the
17 end the following new subsection:

18 ''(n)(1) Subject to paragraph (2), upon application
19 by the Secretary showing the operation, promotion, or
20 marketing of an association health plan (or similar ar-
21 rangement providing benefits consisting of medical care
22 (as defined in section 733(a)(2))) that—

23 ''(A) is not certified under part 8, is subject
24 under section 514(b)(6) to the insurance laws of any
25 State in which the plan or arrangement offers or

1 provides benefits, and is not licensed, registered, or
2 otherwise approved under the insurance laws of such
3 State; or
4 "(B) is an association health plan certified
5 under part 8 and is not operating in accordance with
6 the requirements under part 8 for such certification,
7 a district court of the United States shall enter an order
8 requiring that the plan or arrangement cease activities.
9 "(2) Paragraph (1) shall not apply in the case of an
10 association health plan or other arrangement if the plan
11 or arrangement shows that—
12 "(A) all benefits under it referred to in para-
13 graph (1) consist of health insurance coverage; and
14 "(B) with respect to each State in which the
15 plan or arrangement offers or provides benefits, the
16 plan or arrangement is operating in accordance with
17 applicable State laws that are not superseded under
18 section 514.
19 "(3) The court may grant such additional equitable
20 relief, including any relief available under this title, as it
21 deems necessary to protect the interests of the public and
22 of persons having claims for benefits against the plan.".
23 (c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—
24 Section 503 of such Act (29 U.S.C. 1133) (as amended

1 by title I) is amended by adding at the end the following
2 new subsection:

3 "(c) ASSOCIATION HEALTH PLANS.—The terms of
4 each association health plan which is or has been certified
5 under part 8 shall require the board of trustees or the
6 named fiduciary (as applicable) to ensure that the require-
7 ments of this section are met in connection with claims
8 filed under the plan.".

9 **SEC. 105. COOPERATION BETWEEN FEDERAL AND STATE**
10 **AUTHORITIES.**

11 Section 506 of the Employee Retirement Income Se-
12 curity Act of 1974 (29 U.S.C. 1136) is amended by adding
13 at the end the following new subsection:

14 "(c) RESPONSIBILITY OF STATES WITH RESPECT TO
15 ASSOCIATION HEALTH PLANS.—

16 "(1) AGREEMENTS WITH STATES.—A State
17 may enter into an agreement with the Secretary for
18 delegation to the State of some or all of—

19 "(A) the Secretary's authority under sec-
20 tions 502 and 504 to enforce the requirements
21 for certification under part 8;

22 "(B) the Secretary's authority to certify
23 association health plans under part 8 in accord-
24 ance with regulations of the Secretary applica-
25 ble to certification under part 8; or

1 "(C) any combination of the Secretary's
2 authority authorized to be delegated under sub-
3 paragraphs (A) and (B).
4 "(2) DELEGATIONS.—Any department, agency,
5 or instrumentality of a State to which authority is
6 delegated pursuant to an agreement entered into
7 under this paragraph may, if authorized under State
8 law and to the extent consistent with such agree-
9 ment, exercise the powers of the Secretary under
10 this title which relate to such authority.
11 "(3) RECOGNITION OF PRIMARY DOMICILE
12 STATE.—In entering into any agreement with a
13 State under subparagraph (A), the Secretary shall
14 ensure that, as a result of such agreement and all
15 other agreements entered into under subparagraph
16 (A), only one State will be recognized, with respect
17 to any particular association health plan, as the
18 State to which all authority has been delegated pur-
19 suant to such agreements in connection with such
20 plan. In carrying out this paragraph, the Secretary
21 shall take into account the places of residence of the
22 participants and beneficiaries under the plan and the
23 State in which the trust is maintained.".

1 **SEC. 106. EFFECTIVE DATE AND TRANSITIONAL AND**
2 **OTHER RULES.**

3 (a) EFFECTIVE DATE.—The amendments made by
4 sections 101, 104, and 105 shall take effect on January
5 1, 2001. The amendments made by sections 102 and 103
6 shall take effect on the date of the enactment of this Act.
7 The Secretary of Labor shall first issue all regulations
8 necessary to carry out the amendments made by this sub-
9 title before January 1, 2001. Such regulations shall be
10 issued through negotiated rulemaking.

11 (b) EXCEPTION.—Section 801(a)(2) of the Employee
12 Retirement Income Security Act of 1974 (added by section
13 101) does not apply in connection with an association
14 health plan (certified under part 8 of subtitle B of title
15 I of such Act) existing on the date of the enactment of
16 this Act, if no benefits provided thereunder as of the date
17 of the enactment of this Act consist of health insurance
18 coverage (as defined in section 733(b)(1) of such Act).

19 (c) TREATMENT OF CERTAIN EXISTING HEALTH
20 BENEFITS PROGRAMS.—

21 (1) IN GENERAL.—In any case in which, as of
22 the date of the enactment of this Act, an arrange-
23 ment is maintained in a State for the purpose of
24 providing benefits consisting of medical care for the
25 employees and beneficiaries of its participating em-
26 ployers, at least 200 participating employers make

1 contributions to such arrangement, such arrange-
2 ment has been in existence for at least 10 years, and
3 such arrangement is licensed under the laws of one
4 or more States to provide such benefits to its par-
5 ticipating employers, upon the filing with the appli-
6 cable authority (as defined in section 812(a)(5) of
7 the Employee Retirement Income Security Act of
8 1974 (as amended by this Act)) by the arrangement
9 of an application for certification of the arrangement
10 under part 8 of subtitle B of title I of such Act—
11 (A) such arrangement shall be deemed to
12 be a group health plan for purposes of title I
13 of such Act;
14 (B) the requirements of sections 801(a)(1)
15 and 803(a)(1) of the Employee Retirement In-
16 come Security Act of 1974 shall be deemed met
17 with respect to such arrangement;
18 (C) the requirements of section 803(b) of
19 such Act shall be deemed met, if the arrange-
20 ment is operated by a board of directors
21 which—
22 (i) is elected by the participating em-
23 ployers, with each employer having one
24 vote; and

1 (ii) has complete fiscal control over
2 the arrangement and which is responsible
3 for all operations of the arrangement;
4 (D) the requirements of section 804(a) of
5 such Act shall be deemed met with respect to
6 such arrangement; and
7 (E) the arrangement may be certified by
8 any applicable authority with respect to its op-
9 erations in any State only if it operates in such
10 State on the date of certification.
11 The provisions of this subsection shall cease to apply
12 with respect to any such arrangement at such time
13 after the date of the enactment of this Act as the
14 applicable requirements of this subsection are not
15 met with respect to such arrangement.
16 (2) DEFINITIONS.—For purposes of this sub-
17 section, the terms ''group health plan'', ''medical
18 care'', and ''participating employer'' shall have the
19 meanings provided in section 812 of the Employee
20 Retirement Income Security Act of 1974, except
21 that the reference in paragraph (7) of such section
22 to an ''association health plan'' shall be deemed a
23 reference to an arrangement referred to in this sub-
24 section.

TITLE II—DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 201. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents."

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows: "Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer."

1 **SEC. 202. EFFECTIVE DATE.**

2 The amendments made by section 201 shall apply to
3 taxable years beginning after December 31, 1998.

○