

103^D CONGRESS
1ST SESSION

H. R. 2494

To amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to establish a program of assistance for essential community providers of health care services, to establish a program to update and maintain the infrastructure requirements of safety net hospitals, and to require States to develop plans for the allocation and review of expenditures for the capital-related costs of health care services.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 1993

Mr. STARK (for himself, Mr. GIBBONS, Mr. DE LUGO, Mr. McDERMOTT, Mr. MORAN, Mr. FOGLIETTA, Mr. OWENS, Mrs. CLAYTON, Miss COLLINS of Michigan, and Mr. SCOTT) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to establish a program of assistance for essential community providers of health care services, to establish a program to update and maintain the infrastructure requirements of safety net hospitals, and to require States to develop plans for the allocation and review of expenditures for the capital-related costs of health care services.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Essential Health
3 Facilities Investment Act of 1993”.

4 **TITLE I—ESSENTIAL ACCESS**
5 **COMMUNITY HOSPITAL PRO-**
6 **GRAM**

7 **SEC. 101. REVISIONS TO CURRENT PROGRAM.**

8 (a) EXPANSION OF CURRENT PROGRAM TO ALL
9 STATES.—Section 1820(a)(1) of the Social Security Act
10 (42 U.S.C. 1395i-4(a)(1)) is amended by striking “not
11 more than 7”.

12 (b) INCREASE IN AUTHORIZATION OF APPROPRIA-
13 TIONS.—Section 1820(k) of such Act (42 U.S.C. 1395i-
14 4(k)) is amended—

15 (1) by striking “1990, 1991, and 1992” and in-
16 serting “1994 through 1998”;

17 (2) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) \$50,000,000 for grants to States under
20 subsection (a)(1) and grants to States and units of
21 local government under section 1821(a)(1); and”;
22 and

23 (3) in paragraph (2), by striking
24 “\$15,000,000” and inserting “\$40,000,000”.

25 (c) EFFECTIVE DATE.—The amendments made by
26 subsections (a) and (b) shall take effect October 1, 1994.

1 **SEC. 102. EXTENSION OF PROGRAM TO NETWORKS OF ES-**
2 **SENTIAL COMMUNITY PROVIDERS.**

3 (a) IN GENERAL.—Part A of title XVIII of the Social
4 Security Act (42 U.S.C. 1395 et seq.) is amended by add-
5 ing at the end the following new section:

6 “ASSISTANCE FOR ESSENTIAL COMMUNITY PROVIDERS

7 “SEC. 1821. (a) ESTABLISHMENT OF PROGRAM.—

8 There is hereby established a program under which the
9 Secretary—

10 “(1) shall make grants to States and units of
11 local government to carry out the activities described
12 in subsection (d)(1); and

13 “(2) shall make grants to eligible hospitals and
14 facilities (or consortia of hospitals and facilities) to
15 carry out the activities described in subsection
16 (d)(2).

17 “(b) ELIGIBILITY OF STATES AND COMMUNITIES
18 FOR GRANTS.—

19 “(1) REQUIREMENTS FOR APPLICATION.—Sub-
20 ject to paragraph (2), a State or unit of local gov-
21 ernment is eligible to receive a grant under sub-
22 section (a)(1) only if the State or unit of local gov-
23 ernment submits to the Secretary, at such time and
24 in such form as the Secretary may require, an appli-
25 cation containing such information and assurances

1 as the Secretary may require, together with assur-
2 ances that the State or unit of local government—

3 “(A) has developed, or is in the process of
4 developing, a community health plan that—

5 “(i) provides for the creation of a
6 community health network (as defined in
7 subsection (f)) in the State or locality,

8 “(ii) promotes the integration of the
9 delivery of health care services in the State
10 or locality,

11 “(iii) improves access to hospital and
12 other services (including primary care serv-
13 ices) for urban residents in the State or lo-
14 cality, and

15 “(iv) in the case of a plan of a unit
16 of local government, is approved by the
17 State;

18 “(B) has developed (or intends to develop)
19 the plan described in subparagraph (A) in con-
20 sultation with appropriate State and community
21 hospital associations, public hospitals, and pri-
22 mary care associations; and

23 “(C) has designated, or is in the process of
24 designating, nonprofit or public hospitals and
25 facilities located in the State or locality as es-

1 essential community providers within such com-
2 munity health networks (with the approval of
3 the State in the case of designations by units
4 of local government).

5 “(2) COORDINATION BETWEEN STATE AND
6 LOCAL RECIPIENTS.—A unit of local government
7 may not receive a grant under subsection (a)(1) if
8 it is located in a State receiving a grant under such
9 subsection, except that a unit of local government lo-
10 cated in an urban area (as defined in section
11 1886(d)(2)(D)) in such a State may receive such a
12 grant with the approval of the State.

13 “(c) ELIGIBILITY OF HOSPITALS, FACILITIES, AND
14 CONSORTIA FOR GRANTS.—

15 “(1) IN GENERAL.—A hospital or facility is eli-
16 gible to receive a grant under subsection (a)(2) only
17 if the hospital or facility—

18 “(A) is located in a State or locality receiv-
19 ing a grant under subsection (a)(1);

20 “(B) is designated as an essential commu-
21 nity provider by the State or unit of local gov-
22 ernment or is a member of a community health
23 network;

24 “(C) submits an application to the State or
25 unit of local government at such time and con-

1 taining such information and assurances as the
2 Secretary may require; and

3 “(D) has received certification by the State
4 or unit of local government that the receiving of
5 such grant by the hospital or facility is consist-
6 ent with the community health plan of the
7 State or unit or local government and that the
8 State or unit of local government has approved
9 the application submitted under subparagraph
10 (C).

11 “(2) TREATMENT OF CONSORTIA.—A consor-
12 tium of hospitals or facilities each of which is part
13 of the same community health network is eligible to
14 receive a grant under subsection (a)(2) if each of its
15 members would individually be eligible to receive
16 such a grant.

17 “(d) ACTIVITIES FOR WHICH GRANT MAY BE
18 USED.—

19 “(1) GRANTS TO STATES OR LOCAL GOVERN-
20 MENTS.—A State or unit of local government shall
21 use a grant received under subsection (a)(1) to carry
22 out activities relating to planning and implementing
23 its community health plan.

24 “(2) GRANTS TO HOSPITALS, FACILITIES, AND
25 CONSORTIA.—A hospital or facility shall use a grant

1 received under subsection (a)(2) to finance the costs
2 it incurs in becoming part of a community health
3 network and in serving as part of such a network,
4 including costs related to—

5 “(A) the development of primary care serv-
6 ice sites;

7 “(B) the development of integrated infor-
8 mation, billing, and reporting systems;

9 “(C) planning and needs assessments;

10 “(D) the recruitment and training and
11 health professionals and administrative staff;
12 and

13 “(E) conducting health promotion outreach
14 activities for medically underserved populations
15 in its service area.

16 “(e) DESIGNATION OF ESSENTIAL COMMUNITY PRO-
17 VIDERS.—A State or unit of local government may des-
18 ignate a hospital or facility as an essential community pro-
19 vider only if—

20 “(1) the hospital or facility is a member of (or
21 is in the process of becoming a member of) a com-
22 munity health network (as defined in subsection (f));

23 “(2) in the case of a facility other than a hos-
24 pital—

1 “(A) the facility is a Federally-qualified
2 health center (as defined in section
3 1861(aa)(4)), or

4 “(B) the facility would be a Federally-
5 qualified health center but for its failure to
6 meet the requirement described in section
7 329(f)(2)(G)(i) of the Public Health Service Act
8 or the requirement described in section
9 330(e)(3)(G)(i) of such Act (relating to the
10 composition of the facility’s governing board),
11 but only if the facility provides assurances to
12 the State or unit of local government that con-
13 sumers have significant input into the govern-
14 ance of the facility; and

15 “(3) in the case of a hospital—

16 “(A) the hospital is designated as an es-
17 sential access community hospital by the Sec-
18 retary under section 1820(i)(1),

19 “(B) the hospital is designated as a rural
20 primary care hospital by the Secretary under
21 section 1820(i)(2),

22 “(C) the hospital is described in section
23 1886(d)(5)(F)(i)(II), or

24 “(D) the hospital receives an additional
25 payment amount under section 1886(d)(5)(F)

1 based on the formula described in clause (vii)(I)
2 of such section.

3 “(f) COMMUNITY HEALTH NETWORK DEFINED.—In
4 this section, the term ‘community health network’ means
5 a public or nonprofit entity that meets the following
6 requirements:

7 “(1) The entity provides primary care services
8 and acute care services to a medically underserved
9 community (as defined in section 799(6) of the Pub-
10 lic Health Service Act) in the entity’s service area,
11 either directly through its members or through con-
12 tracts with other entities (under such limited cir-
13 cumstances as the Secretary may permit in regula-
14 tions).

15 “(2) The entity consists of —

16 “(A) at least one hospital that is located in
17 an urban area (as defined in section
18 1886(d)(2)(D)) and that has been designated
19 as an essential community provider under sub-
20 section (e);

21 “(B) at least 3 facilities (other than hos-
22 pitals) that have been designated as essential
23 community providers under subsection (e); and

1 “(C) at the election of the entity’s mem-
2 bers, any other entities that provide primary
3 care or other health care services.

4 “(3) The members of the entity have entered
5 into an agreement under which—

6 “(A) each member agrees to provide appro-
7 priate emergency and medical support services
8 to other members,

9 “(B) each member agrees to accept refer-
10 rals from other members,

11 “(C) each hospital member has arrange-
12 ments to provide staff privileges to physicians
13 providing care for other members, and

14 “(D) each member has in effect (or is in
15 the process of establishing) agreements with
16 other members to share in the member’s com-
17 munication system, including (where appro-
18 priate) the electronic sharing of patient data,
19 medical records, and billing services.

20 “(g) LIMIT ON AMOUNT OF GRANT TO HOSPITAL OR
21 FACILITY.—A grant made to a hospital or facility under
22 subsection (a)(2) may not exceed \$200,000, except that
23 the total amount of a grant awarded to a consortia of hos-
24 pitals or facilities under such subsection may not exceed
25 \$1,000,000.”.

1 (b) FUNDING FOR GRANTS TO HOSPITALS THROUGH
2 CURRENT EACH PROGRAM.—Section 1820(k) of the So-
3 cial Security Act (42 U.S.C. 1395i-4(k)) is amended—

4 (1) in the heading, by striking “APPROPRIA-
5 TIONS” and inserting “APPROPRIATIONS FOR EACH
6 PROGRAM AND ESSENTIAL COMMUNITY PROVIDER
7 PROGRAM”;

8 (2) by striking “and” at the end of paragraph
9 (1);

10 (3) by striking the period at the end of para-
11 graph (2) and inserting “; and”; and

12 (4) by adding at the end the following new
13 paragraph:

14 “(3) \$80,000,000 for grants to hospitals under
15 section 1821(a)(2).”.

16 (c) INCLUDING INTERNS AND RESIDENTS PROVIDING
17 SERVICES AT ESSENTIAL COMMUNITY PROVIDERS IN DE-
18 TERMINING PAYMENT FOR INDIRECT COSTS OF MEDICAL
19 EDUCATION.—Section 1886(d)(5)(B) of the Social Secu-
20 rity Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by add-
21 ing at the end the following new clause:

22 “(v) In determining such adjustment, the Sec-
23 retary shall count services of interns and residents
24 under a medical residency training program that is
25 conducted at a facility designated as an essential

1 community provider under section 1821, but only
2 if—

3 “(A) the hospital is designated as an es-
4 sential community provider under such section;

5 “(B) the hospital incurs all, or substan-
6 tially all, of the costs of the training program;
7 and

8 “(C) the facility is a member of a commu-
9 nity health network (as described in section
10 1821(f)) to which the hospital belongs.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect October 1, 1993.

13 **SEC. 103. STUDY OF EFFECTIVENESS OF PROGRAMS.**

14 (a) STUDY.—The Secretary of Health and Human
15 Services shall conduct a study of the effectiveness of the
16 essential access community hospital program under sec-
17 tion 1820 of the Social Security Act and the program for
18 assistance for essential community providers under section
19 1821 of such Act (as added by section 102(b)) in increas-
20 ing the access of medically underserved populations to pri-
21 mary health care and other health care services.

22 (b) REPORT.—Not later than 2 years after the date
23 of the enactment of this Act, the Secretary of Health and
24 Human Services shall submit a report to Congress on the
25 study conducted under subsection (a).

1 **TITLE II—CAPITAL FINANCING**
2 **ASSISTANCE FOR SAFETY NET**
3 **PROVIDERS**

4 **Subtitle A—Amendments of**
5 **Internal Revenue Code of 1986**

6 **SEC. 201. GROSS RECEIPTS TAX ON HOSPITALS.**

7 (a) IN GENERAL.—Subchapter A of chapter 1 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new part:

10 **“PART VII—HOSPITAL CAPITAL FINANCING**
11 **ASSISTANCE TAX**

“Sec. 59B. Imposition of tax.

12 **“SEC. 59B. IMPOSITION OF TAX.**

13 “(a) GENERAL RULE.—In addition to any other tax
14 imposed by this subtitle, there is hereby imposed a tax
15 of 0.5 percent of the hospital gross receipts of any person
16 for the taxable year.

17 “(b) HOSPITAL GROSS RECEIPTS.—For purposes of
18 this section, the term ‘hospital gross receipts’ means gross
19 receipts received or accrued during the taxable year from
20 the operation of any hospital, other than payments re-
21 ceived under a State plan for medical assistance under
22 title XIX of the Social Security Act.

23 “(c) PERSON.—The term ‘person’ includes persons
24 exempt from tax under section 501(a), the United States,

1 any State or political subdivision thereof, the District of
2 Columbia, and any agency or instrumentality of the fore-
3 going.

4 “(d) NOT TREATED AS TAX FOR CERTAIN PUR-
5 POSES.—The taxes imposed by this section shall not be
6 treated as taxes imposed by this chapter for purposes of
7 determining—

8 “(1) the amount of any credit allowable under
9 this chapter, or

10 “(2) the amount of the minimum tax imposed
11 by section 55.”

12 (b) TAXES INCLUDED IN ESTIMATED TAX.—Sub-
13 paragraph (A) of section 6655(g)(1) of such Code is
14 amended by striking “plus” at the end of clause (iii), by
15 redesignating clause (iv) as clause (v), and by inserting
16 after clause (iii) the following new clause:

17 “(iv) the tax imposed by section 59B,
18 plus”.

19 (c) CLERICAL AMENDMENT.—The table of parts for
20 subchapter A of chapter 1 of such Code is amended by
21 adding at the end thereof the following new item:

“Part VII. Hospital capital financing assistance tax.”

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 September 30, 1993.

1 “(A) IN GENERAL.—A hospital shall be
2 generally eligible for capital financing assist-
3 ance under this title if the hospital—

4 “(i) is designated as an essential ac-
5 cess community hospital by the Secretary
6 under section 1820(i)(1);

7 “(ii) is designated as a rural primary
8 care hospital by the Secretary under sec-
9 tion 1820(i)(2);

10 “(iii) is described in section
11 1886(d)(5)(F)(i)(II); or

12 “(iv) receives an additional payment
13 amount under section 1886(d)(5)(F) based
14 on the formula described in clause (vii)(I)
15 of such section.

16 “(B) OWNERSHIP REQUIREMENTS.—In
17 order to qualify for assistance under this title,
18 a hospital must—

19 “(i) be owned or operated by a unit of
20 State or local government;

21 “(ii) be a quasi-public corporation, de-
22 fined as a private, nonprofit corporation or
23 public benefit corporation which is formally
24 granted one or more governmental powers
25 by legislative action through (or is other-

1 wise partially funded by) the State legisla-
2 ture, city or county council; or

3 “(iii) be a private nonprofit hospital
4 which has contracted with, or is otherwise
5 funded by, a governmental agency to pro-
6 vide health care services to low income in-
7 dividuals not eligible for assistance under
8 title XVIII or title XIX of this Act, where
9 revenue from such contracts constitute at
10 least 10 percent of the hospital’s operating
11 revenues over the prior 3 fiscal years.

12 “(2) REQUIREMENTS FOR NON-HOSPITAL FA-
13 CILITIES.—A facility that is not a hospital shall be
14 generally eligible for capital financing assistance
15 under this title if the facility is designated as an es-
16 sential community provider under section 1821.

17 “(c) MEETING ADDITIONAL SPECIFIC CRITERIA.—
18 Hospitals and facilities that are generally eligible for as-
19 sistance under this title under subsection (b) may apply
20 for the specific programs described in this title and must
21 meet any additional criteria for participation in such pro-
22 grams.

23 “(d) ASSISTANCE AVAILABLE.—Capital financing as-
24 sistance available under this title shall include loan guar-
25 antees, interest rate subsidies, matching loans and direct

1 grants. Hospitals and facilities determined to be generally
2 eligible for assistance under this title may apply for and
3 receive more than one type of assistance under this title.

4 “APPLICATION FOR ASSISTANCE

5 “SEC. 2102. (a) IN GENERAL.—No hospital or facil-
6 ity may receive assistance for a qualifying project under
7 this title unless the hospital or facility—

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

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

16 “(3) includes a description of the project, in-
17 cluding the community in which it is located, and
18 describes utilization and services characteristics of
19 the project and the hospital or facility, and the pa-
20 tient population that is to be served;

21 “(4) provides assurances that the undertaking
22 of the project is in conformity with the State’s cap-
23 ital allocation plan established pursuant to section
24 1890;

25 “(5) describes the extent to which the project is
26 intended to include the financial participation of

1 State and local governments, and all other sources
2 of financing sought for the project; and

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

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

10 “(1) whether the hospital or facility meets the
11 general eligibility criteria under section 2101(b);

12 “(2) whether the hospital or facility meets the
13 specific eligibility criteria of each type of assistance
14 for which it has applied, including whether the hos-
15 pital or facility meets any criteria for priority con-
16 sideration for the type of assistance for which it has
17 applied;

18 “(3) whether the capital project for which as-
19 sistance is being requested is a qualifying project
20 under this title; and

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

24 “(c) PRIORITY OF APPLICATIONS.—In addition to
25 meeting the criteria otherwise described in this title, at

1 the discretion of the Trust Fund Board, the Secretary
2 shall give preference to those qualifying projects that—

3 “(1)(A) are necessary to bring safety net facili-
4 ties into compliance with accreditation standards or
5 fire and life safety, seismic, or other related Federal,
6 State or local regulatory standards;

7 “(B) improve the provision of essential services
8 such as emergency medical and trauma services,
9 AIDS and infectious disease, perinatal, burn, pri-
10 mary care, and other services which the Trust
11 Fund’s Board may designate; or

12 “(C) will result in the provision of access to es-
13 sential health services (as designated by the Board
14 of the Trust Fund) to indigent and other needy per-
15 sons within the hospital’s or facility’s service area
16 that would otherwise be unavailable;

17 “(2) include specific anticipated State or local
18 governmental or other non-Federal assurances of fi-
19 nancial support;

20 “(3) are unlikely to be financed without the as-
21 sistance provided under this title; and

22 “(4) are conducted by entities designated as es-
23 sential community providers under section 1821.

24 “(d) SUBMISSION OF APPLICATIONS.—Applications
25 under this Act shall be submitted to the Secretary through

1 the Trust Fund Board. If two or more applicants join in
2 the project, the application shall be submitted by all par-
3 ticipating hospitals and facilities jointly. Such applications
4 shall set forth all of the descriptions, plans, specifications,
5 and assurances as required by this Act and contain other
6 such information as the Trust Fund Board shall require.

7 “(e) OPPORTUNITY FOR APPEAL.—The Trust Fund
8 Board shall afford a hospital or facility applying for a loan
9 guarantee under this section an opportunity for a hearing
10 if the guarantee is denied.

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

14 “PUBLIC SERVICE RESPONSIBILITIES

15 “SEC. 2103. (a) IN GENERAL.—Any hospital or facil-
16 ity accepting capital financing assistance under this title
17 shall agree—

18 “(1) to make the services of the facility or por-
19 tion thereof to be constructed, acquired, or modern-
20 ized available to all persons the construction, acqui-
21 sition, or modernization is intended to serve (as
22 identified in the hospital’s or facility’s application
23 under this title and the State’s capital allocation
24 plan established under section 1890); and

1 “(2) to provide a significant volume of services
2 to persons unable to pay therefore, consistent with
3 other provisions of this Act.

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

8 “CAPITAL FINANCING TRUST FUND

9 “SEC. 2104. (a) CREATION OF TRUST FUND.—There
10 is established in the Treasury of the United States a trust
11 fund to be known as the Capital Financing Trust Fund,
12 consisting of such amounts as may be appropriated or
13 credited to such Trust Fund as provided in this section.

14 “(b) TRANSFERS TO TRUST FUND.—There are here-
15 by appropriated to the Trust Fund amounts equivalent to
16 the taxes received in the Treasury under section 59B of
17 the Internal Revenue Code of 1986 (relating to hospital
18 capital financing assistance tax).

19 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
20 in the Trust Fund shall be available only—

21 “(1) for making expenditures to carry out this
22 title;

23 “(2) for grants to non-hospital facilities and
24 consortia under section 1821(a)(2) for fiscal years
25 1994 through 1998, except that not more than

1 \$80,000,000 may be available for such grants for
2 any fiscal year; and

3 “(3) for providing grants to States under sec-
4 tion 1890(d) for carrying out capital allocation
5 plans.

6 “(d) BOARD OF TRUSTEES; COMPOSITION; MEET-
7 INGS; DUTIES.—

8 “(1) IN GENERAL.—There shall be created a
9 Capital Financing Trust Fund Board of Trustees
10 composed of the Secretary of Health and Human
11 Services, the Secretary of the Treasury, the Assist-
12 ant Secretary for Health, and the Administrator of
13 the Health Care Financing Administration (all serv-
14 ing in their ex officio capacities), and 5 public mem-
15 bers who shall be appointed for 4 year terms by the
16 President, from the following categories—

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

18 “(B) one chief executive officer of a hos-
19 pital or facility that meets the general eligibility
20 criteria of this title;

21 “(C) one representative of the financial
22 community; and

23 “(D) two additional public or consumer
24 representatives.

1 “(2) DUTIES.—The Board of Trustees shall
2 meet no less than quarterly and shall have the re-
3 sponsibility to approve implementing regulations, to
4 establish criteria, and to recommend and approve ex-
5 penditures by the Secretary under the programs set
6 forth in this title.

7 “(3) MANAGING TRUSTEE.—The Secretary of
8 the Treasury shall serve as the Managing Trustee of
9 the Trust Fund, and shall be responsible for the in-
10 vestment of funds. The provisions of subsections (b)
11 through (e) of section 1817 shall apply to the Trust
12 Fund and the Managing Trustee of the Trust Fund
13 in the same manner as they apply to the Federal
14 Hospital Insurance Trust Fund and the Managing
15 Trustee of that Trust Fund.

16 “ADMINISTRATION

17 “SEC. 2105. (a) IN GENERAL.—The Administrator
18 of the Health Care Financing Administration shall serve
19 as Secretary of the Board of Trustees and shall administer
20 the programs under this title.

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

1 “ASSISTANCE FOR PUERTO RICO AND OTHER
2 COMMONWEALTHS AND TERRITORIES

3 “SEC. 2106. (a) IN GENERAL.—

4 “(1) AMOUNT OF ALLOCATION.—Notwithstand-
5 ing any other provision of this title, there shall be
6 allocated from the Capital Financing Trust Fund for
7 each of the fiscal years 1994 through 1998 a total
8 of \$25,000,000 for assistance under this title for
9 hospitals and facilities located in the Commonwealth
10 of Puerto Rico, the Commonwealth of the Northern
11 Mariana Islands, Guam, the Virgin Islands, and
12 American Samoa.

13 “(2) REALLOCATION OF AMOUNTS NOT EX-
14 PENDED.—To the extent that any funds allocated
15 under paragraph (1) to hospitals and facilities de-
16 scribed in such paragraph for a year are not ex-
17 pended for assistance under this title, such funds
18 shall be made available for assistance under this title
19 during the year for hospitals and facilities not de-
20 scribed in such paragraph.

21 “(b) LIMIT ON AMOUNT AVAILABLE FOR GRANTS.—
22 Of the total amount allocated from the Capital Financing
23 Trust Fund during a year for assistance for hospitals and
24 facilities described in subsection (a), not more than 40%
25 may be used for grants under subtitle E.

1 must demonstrate that a Federal loan guarantee is essen-
2 tial to obtaining bond financing from non-Federal lenders
3 at a reasonably affordable rate of interest.

4 “(c) ADDITIONAL ELIGIBILITY CRITERIA FOR LOAN
5 GUARANTEES.—In order to qualify for assistance under
6 this subtitle, a hospital or facility must meet the following
7 criteria:

8 “(1) The hospital or facility must demonstrate
9 evidence of an ability to meet debt service.

10 “(2) The assistance, when considered with other
11 resources available to the project, is necessary and
12 will restore, maintain, or improve the financial or
13 physical soundness of the hospital or facility.

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

16 “(4) The project is being operated and man-
17 aged (or will be operated and managed) in accord-
18 ance with a management-improvement-and-operating
19 plan which is designed to reduce the operating costs
20 of the project, which has been approved by the Trust
21 Fund Board, and which includes—

22 “(A) a detailed maintenance schedule;

23 “(B) a schedule for correcting any past de-
24 ficiencies in maintenance, repairs, and replace-
25 ments;

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

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

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

10 “(F) such other requirements as the Trust
11 Fund Board may determine.

12 “(5) The application includes stringent provi-
13 sions for continued State or local support of the pro-
14 gram, both with respect to operating and financial
15 capital.

16 “(6) The terms, conditions, maturity, security
17 (if any), and schedule and amount of repayments
18 with respect to the loan are sufficient to protect the
19 financial interests of the United States and are oth-
20 erwise reasonable and in accord with regulation, in-
21 cluding a determination that the rate of interest
22 does not exceed such annual percentage on the prin-
23 cipal obligation outstanding as the Trust Fund
24 Board determines to be reasonable, taking into ac-
25 count the range of interest rates prevailing in the

1 private market for similar loans and the risks as-
2 sumed by the United States.

3 “(7) The hospital or facility must meet such
4 other additional criteria as the Secretary may im-
5 pose.

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

11 “GUARANTEE ALLOTMENTS

12 “SEC. 2112. (a) IN GENERAL.—Not more than
13 \$150,000,000 shall be annually allocated from the Trust
14 Fund for purposes of the loan guarantee program estab-
15 lished by this subtitle.

16 “(b) LOAN GUARANTEES FOR RURAL HOSPITALS
17 AND FACILITIES.—At least 10 percent of the dollar value
18 of loan guarantees made under this program during any
19 given year shall be allocated for eligible rural hospitals and
20 facilities, to the extent a sufficient number of applications
21 made by such hospitals and facilities is approved.

22 “(c) SPECIAL RULE FOR REFINANCING LOANS.—Not
23 more than 20 percent of the amount allocated each year
24 to the loan guarantee program established by this subtitle
25 may be allocated to guarantee refinancing loans during the
26 year.

1 “TERMS AND CONDITIONS OF LOAN GUARANTEES

2 “SEC. 2113. (a) IN GENERAL.—The principle
3 amount of the guaranteed loan, when added to any Fed-
4 eral grant assistance made under this title, may not exceed
5 95 percent of the total value of the project, including land.

6 “(b) GUARANTEES PROVIDED MAY NOT SUPPLANT
7 OTHER FUNDS.—Guarantees provided under this subtitle
8 Act may not be used to supplant other forms of State or
9 local support.

10 “(c) RIGHT TO RECOVER FUNDS.—The United
11 States shall be entitled to recover from any applicant the
12 amount of payments made pursuant to any loan guarantee
13 under this subtitle, unless the Trust Fund Board for good
14 cause waives its right of recovery, and, upon making any
15 such payment, the United States shall be subrogated to
16 all of the rights of the recipients of the payments with
17 respect to which the guarantee was made.

18 “(d) MODIFICATION OF TERMS.—Loan guarantees
19 made under this subtitle shall be subject to further terms
20 and conditions as the Trust Fund Board determines to
21 be necessary to assure that the purposes of this Act will
22 be achieved, and any such terms and conditions may be
23 modified by the Trust Fund Board to the extent that it
24 determines such modifications to be consistent with the
25 financial interest of the United States.

1 “(e) TERMS ARE INCONTESTABLE ABSENT FRAUD
2 OR MISREPRESENTATION.—Any loan guarantee made by
3 the Trust Fund Board pursuant to this subtitle shall be
4 incontestable in the hands of an applicant on whose behalf
5 such guarantee is made, and as to any person who makes
6 or contracts to make a loan to such applicant in reliance
7 thereon, except for fraud or misrepresentation on the part
8 of such applicant or other person.

9 “PREMIUMS FOR LOAN GUARANTEES

10 “SEC. 2114. (a) IN GENERAL.—The Trust Fund
11 Board shall determine a reasonable loan insurance pre-
12 mium which shall be charged for loan guarantees under
13 this subtitle, taking into account the availability of the re-
14 serves created under section 2112. Premium charges shall
15 be payable in cash to the Trust Fund (either in full upon
16 issuance or annually in advance). In addition to the pre-
17 mium charge herein provided for, the Trust Fund is au-
18 thorized to charge and collect such amount as it may deem
19 reasonable for the appraisal of a property or project of-
20 fered for insurance and for the inspection of such property
21 or project.

22 “(b) PAYMENT IN ADVANCE.—In the event that the
23 principal obligation of any loan accepted for insurance
24 under this subtitle is paid in full prior to the maturity
25 date, the Trust Fund Board is authorized in its discretion
26 to require the payment by the borrower of an adjusted

1 premium charge in such amount as the Board determines
2 to be equitable, but not in excess of the aggregate amount
3 of the premium charges that the hospital or facility would
4 otherwise have been required to pay if the loan had contin-
5 ued to be insured until maturity date.

6 “(c) TRUST FUND BOARD MAY WAIVE PREMIUMS.—
7 The Trust Fund Board may in its discretion partially or
8 totally waive premiums charged for loan insurance under
9 this section for financially distressed hospitals and facili-
10 ties (as described by the Secretary).

11 “PROCEDURES IN THE EVENT OF LOAN DEFAULT

12 “SEC. 2115. (a) PAYMENT OF INSURANCE AFTER
13 DEFAULT.—

14 “(1) TRANSFER OF RIGHTS AND INTERESTS.—

15 The failure of the borrower hospital or facility to
16 make payment due under or provided by the terms
17 of a loan insured under this subtitle shall be consid-
18 ered in default under such loan and, if such default
19 continues for a period of 30 days, the lender shall
20 be entitled to receive the benefits of the insurance as
21 hereinafter provided, upon assignment, transfer, and
22 delivery to the Trust Fund Board, within a period
23 and in accordance with rules and regulations to be
24 prescribed by the Trust Fund Board of—

25 “(A) all rights and interests arising under
26 the loan in default;

1 “(B) all claims of the lender against the
2 borrower or others, arising out of the loan
3 transactions;

4 “(C) all policies of title or other insurance
5 or surety bonds or other guarantees and any
6 and all claims thereunder;

7 “(D) any balance of the loan not advanced
8 to the borrower;

9 “(E) any cash or assets held by the lender,
10 or to which it is entitled, as deposits made for
11 the account of the borrower and which have not
12 been applied in reduction of the principal of the
13 loan indebtedness; and

14 “(F) all records, documents, books, papers,
15 and accounts relating to the mortgage trans-
16 action.

17 “(2) PAYMENTS BY TRUST FUND.—Upon an
18 assignment, transfer, and delivery described in para-
19 graph (1), the obligation of the borrower to pay the
20 premium charges for the loan insurance shall cease,
21 and the Trust Fund shall, subject to the cash ad-
22 justment provided for in subsection (d), issue to the
23 lender a certificate of claim as provided in sub-
24 section (b), and debentures having total face value
25 equal to the original principal face amount of the

1 loan plus such amount as the borrower may have
2 paid for taxes, special assessments, and water rates,
3 which are liens prior to the mortgage; insurance on
4 the assets; and reasonable expenses for the comple-
5 tion and preservation of the assets and any loan in-
6 surance premiums paid after default, less the sum
7 of—

8 “(A) that part of the amount of the prin-
9 cipal obligation that has been repaid by the bor-
10 rower,

11 “(B) an amount equivalent to 1 percent of
12 the unpaid amount of such principal obligation,
13 and

14 “(C) any net income received by the lender
15 from the assets.

16 “(3) OPTION TO FORECLOSE.—

17 “(A) IN GENERAL.—In the event of a de-
18 fault under the loan the lender may, at its op-
19 tion and in accordance with the regulations of,
20 and in a period of time to be determined by the
21 Trust Fund Board, proceed to foreclose on and
22 obtain possession of or otherwise acquire such
23 assets from the borrower after default, and re-
24 ceive the benefits of the insurance as herein
25 provided, upon—

1 “(i) the prompt conveyance to the
2 Trust Fund of title to the assets which
3 meets the requirements of the rules and
4 regulations of the Trust Fund Board in
5 force at the time the loan was insured and
6 which is evidenced in the manner pre-
7 scribed by such rules and regulations; and

8 “(ii) the assignment to the Trust
9 Fund of all claims of the lender against
10 the borrower or others, arising out of the
11 loan transaction or foreclosure proceedings,
12 except such claims that may have been re-
13 leased with the consent of the Trust Fund
14 Board.

15 “(B) REPEAL OF OBLIGATION TO PAY PRE-
16 MIUM.—Upon such conveyance and assignment,
17 the obligation of the borrower to pay the pre-
18 mium charges for insurance shall cease and the
19 borrower shall be entitled to receive the benefits
20 of the insurance as provided in this subsection,
21 except that in such event the 1 percent deduc-
22 tion set out above shall not apply.

23 “(b) CERTIFICATE OF CLAIM; DIVISION OF EXCESS
24 PROCEEDS.—

1 “(1) VALUE OF CERTIFICATE.—The certificate
2 of claim issued under this section shall be for an
3 amount which the Trust Fund Board determines to
4 be sufficient, when added to the face value of the de-
5 bentures issued and the cash adjustment paid to the
6 lender, to equal the amount which the lender would
7 have received if, on the date of the assignment,
8 transfer and delivery to the Trust Fund provided for
9 in subsection (a) of this section, the mortgagor had
10 extinguished the mortgage indebtedness by payment
11 in full of all obligations under the loan and a reason-
12 able amount for necessary expenses incurred by the
13 lender in connection with the default proceedings, or
14 the acquisition of the mortgaged assets otherwise,
15 and the conveyance thereof to the Trust Fund. Each
16 such certificate of claim shall provide that there
17 shall accrue to the holder of such certificate with re-
18 spect to the face amount of such certificate, an in-
19 crement at the rate of 3 percent per annum which
20 shall not be compounded.

21 “(2) TREATMENT OF EXCESS.—If the net
22 amount realized from the mortgage, and all claims
23 in connection therewith, so assigned, transferred,
24 and delivered, and from the assets covered by such
25 mortgage and all claims in connection with such as-

1 sets, after deducting all expenses incurred by the
2 Trust Fund in handling, dealing with, acquiring title
3 to, and disposing of such mortgage and assets and
4 in collecting such claims, exceeds the face value of
5 the debentures issued and the case adjustment paid
6 to the mortgagee plus all interest paid on such de-
7 bentures, such excess shall be divided as follows:

8 “(A) If such excess is greater than the
9 total amount payable under the certificate of
10 claim issued in connection with such assets, the
11 Trust Fund shall pay to the holder of such cer-
12 tificate the full amount so payable, and any ex-
13 cess remaining thereafter shall be retained by
14 the Trust Fund and credited to the loan insur-
15 ance program of the Trust Fund.

16 “(B) If such excess is equal to or less than
17 the total amount payable under such certificate
18 of claim, the Trust Fund Board shall pay to the
19 holder of such certificate the full amount of
20 such excess.

21 “(c) ACQUISITION OF ASSETS BY CONVEYANCE OR
22 FORECLOSURE.—

23 “(1) IN GENERAL.—The Trust Fund Board is
24 authorized to—

1 “(A) acquire possession of and title to any
2 assets, covered by a mortgage insured under
3 this section and assigned to it, by voluntary
4 conveyance in extinguishment of the mortgage
5 indebtedness, or

6 “(B) institute proceeding for foreclosure on
7 the assets covered by any such insured mort-
8 gage and prosecute such proceedings to conclu-
9 sion.

10 “(2) BIDDING PROCEDURES AT FORE-
11 CLOSURE.—The Trust Fund Board at any sale
12 under foreclosure may, in its discretion, for the pro-
13 tection of the Trust Fund, bid any sum up to but
14 not in excess of the total unpaid indebtedness se-
15 cured by the mortgage plus taxes, insurance, fore-
16 closure costs, fees, and other expenses, and may be-
17 come the purchaser of the assets at such sale. In de-
18 termining the amount to be bid, the Trust Fund
19 Board shall act consistently with its duties.

20 “(3) PAYMENT OF EXPENSES.—The Trust
21 Fund Board is authorized to pay from the Trust
22 Fund such sums as may be necessary to defray such
23 taxes, insurance, costs, fees, and other expenses in
24 connection with the acquisition or foreclosure of as-
25 sets under this section.

1 “(4) EXERCISE OF RIGHTS PENDING ACQUI-
2 TION.—Pending such acquisition by voluntary con-
3 veyance or by foreclosure, the Trust Fund Board is
4 authorized, with respect to any mortgage assigned to
5 it under the provisions of subsection (a), to exercise
6 all the rights of a mortgagee under such mortgage,
7 including the right to sell such a mortgage, and to
8 take such action and advance such sums as may be
9 necessary to preserve or protect the lien of such
10 mortgage.

11 “(d) HANDLING AND DISPOSAL OF ASSETS; SETTLE-
12 MENT OF CLAIMS.—

13 “(1) PAYMENT FOR CERTAIN EXPENSES.—Not-
14 withstanding any other provisions of law relating to
15 the acquisition, handling, or disposal of real and
16 other property by the United States, the Trust Fund
17 Board shall also have power, for the protection of
18 the interests of the Trust Fund, to pay out of the
19 Trust Fund all expenses or charges in connection
20 with, and to deal with, complete, reconstruct, rent,
21 renovate, modernize, insure, make contracts for the
22 management of, or establish suitable agencies for
23 the management of, or sell for cash or credit or lease
24 in its discretion, any assets acquired by it under this
25 section.

1 “(2) SETTLEMENT OF CLAIMS.—Notwithstand-
2 ing any other provision of law, the Trust Fund
3 Board shall also have the power to pursue to final
4 collection by way of compromise or otherwise all
5 claims assigned and transferred to it in connection
6 with the assignment, transfer, and delivery provided
7 for in this section, and at any time, upon default, to
8 foreclose or refrain from foreclosing on any assets
9 secured by any mortgage assigned and transferred
10 to or held by it.

11 “(3) LIMITATIONS ON AUTHORITY.—Sub-
12 sections (a) and (b) shall not be construed to apply
13 to any contract for hazard insurance, or to any pur-
14 chase or contract for services or supplies on account
15 of such assets if the amount thereof does not exceed
16 \$1,000.

17 **“Subtitle C—Interest Rate** 18 **Subsidies**

19 “PROVISION OF INTEREST RATE SUBSIDIES

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

24 “(b) PURPOSES.—The interest subsidy program shall
25 provide a partial Federal subsidy of debt service payment

1 for financing replacement (whether by construction or ac-
2 quisition), modernization, and renovation projects or cap-
3 ital equipment acquisitions by undertaking the issuance of
4 bonds.

5 “ELIGIBLE LOANS

6 “SEC. 2122. (a) IN GENERAL.—Qualifying hospitals
7 and facilities should have issued or plan to issue bonds
8 for capital projects or be responsible for paying debt serv-
9 ice on general obligation or revenue bonds issued on the
10 qualifying hospital’s or facility’s behalf. To be eligible,
11 bonds must have been issued after December 31, 1992.

12 “(b) NON-FEDERAL PARTICIPATION REQUIRE-
13 MENT.—In order to obtain assistance under this subtitle,
14 a hospital or facility must receive assistance from non-
15 Federal sources in an amount not less than the amount
16 of the assistance provided under this subtitle.

17 “ALLOTMENT OF SUBSIDIES

18 “SEC. 2123. (a) IN GENERAL.—Interest subsidy
19 grants will be made in the amount of 3 percent for qualify-
20 ing non-Federal loans.

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

1 “(c) RESERVE FOR RURAL HOSPITALS AND FACILI-
2 TIES.—At least 10 percent of the total value of all interest
3 subsidies awarded in any given year shall be awarded to
4 rural hospitals and facilities, provided that a sufficient
5 number of applications are approved.

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

11 “(e) AMOUNT ALLOCATED FROM TRUST FUND.—
12 The Trust Fund Board shall make available \$220,000,000
13 annually for interest subsidies under this subtitle.

14 “TERMS AND CONDITIONS FOR SUBSIDIES

15 “SEC. 2124. (a) STATE OR LOCAL PARTICIPATION.—
16 State or local participation in an amount equal to not less
17 than the Federal subsidy is required.

18 “(b) ISSUANCE OF FEDERAL COMMITMENTS.—Suc-
19 cessful applicants will receive a Federal commitment of in-
20 terest subsidy grant. Applicants will then have 12 months
21 to finalize financing arrangements before unobligated
22 funds would be returned to the subsidy program pool. A
23 commitment, when issued, shall be valid for as long as
24 a hospital or facility continues to meet the eligibility quali-
25 fications of this title.

1 than 75 percent of the cost of the project may come from
2 Federal sources.

3 “(b) EXCEPTION FOR FINANCIALLY DISTRESSED AP-
4 PPLICANTS.—The Trust Fund Board shall have the discre-
5 tion to waive the 25 percent match requirement for finan-
6 cially distressed hospitals and facilities (as described by
7 the Secretary).

8 “ALLOTMENT OF LOANS

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

16 “(b) RESERVE FOR RURAL HOSPITALS AND FACILI-
17 TIES.—No less than 10 percent of the total value of loans
18 made under the program shall be made to rural hospitals
19 and facilities, if there are a sufficient number of approved
20 applications from such hospitals and facilities.

21 “TERMS AND CONDITIONS OF LOANS

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

25 “(b) INTEREST RATE.—The interest rate will be a
26 market rate determined by the Trust Fund Board to be

1 the most recent applicable index for revenue bonds, based
2 on the index published by the Bond Buyer and such other
3 information as the Board finds appropriate.

4 “USE OF LOANS FOR REFINANCING

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

14 “CREATION OF REVOLVING FUND

15 “SEC. 2136. In addition to the new amounts made
16 available each year, all loan repayments made by hospitals
17 and facilities shall be held in a revolving fund that may
18 be used for additional loans.

19 “LOAN DEFAULT.

20 “SEC. 2137. (a) IN GENERAL.—The failure of the
21 borrower hospital or facility to make payment due under
22 or provided by the terms of a loan granted under this sub-
23 title shall be considered a default under such loan and,
24 if such default continues for a period of 30 days, the Trust
25 Fund Board shall have the right to begin collection pro-
26 ceedings against the borrower.

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

4 “(c) SETTLEMENT OF CLAIMS.—Notwithstanding
5 any other provision of law, the Trust Fund Board shall
6 have the power to pursue to final collection by way of com-
7 promise or otherwise all claims assigned and transferred
8 to the Trust Fund in connection with an assignment,
9 transfer, and delivery and at any time, upon default, to
10 foreclose or refrain from foreclosing on any assets secured
11 by any defaulted loan held by the Trust Fund.

12 **“Subtitle E—Grants for Urgent**
13 **Capital Needs**

14 “PROVISION OF GRANTS

15 “SEC. 2141. (a) IN GENERAL.—The Secretary, with
16 the approval of the Trust Fund Board, shall make direct
17 grants to qualified hospitals and facilities with urgent cap-
18 ital needs.

19 “(b) PURPOSES.—Direct grants shall be available to
20 eligible hospitals and facilities for 3 types of projects:

21 “(1) Emergency certification and licensure
22 grants would be available to eligible hospitals and fa-
23 cilities that are threatened with closure or loss of ac-
24 creditation or certification of a facility or of essential
25 services as a result of life or safety code violations

1 or similar facility or equipment failures. Such grants
2 would provide limited funding for repair and renova-
3 tion or capital equipment acquisition where failure to
4 fund would disrupt the provision of essential public
5 health services such as emergency care.

6 “(2) Emergency grants would be available for
7 capital renovation, expansion, or replacement
8 (whether by construction or acquisition) necessary to
9 the maintenance or expansion of essential safety and
10 health services such as obstetrics, perinatal, emer-
11 gency and trauma, primary care and preventive
12 health services.

13 “(3) Planning grants would be available to
14 qualified hospitals and facilities requiring pre-ap-
15 proval assistance related to management and finance
16 in order to apply for loans, loan guarantees, and in-
17 terest subsidies under this Act.

18 “(c) PRIORITY TO FINANCIALLY DISTRESSED PRO-
19 VIDERS.—Priority for direct grants under this section
20 would be given to financially distressed hospitals and fa-
21 cilities (as described by the Secretary).

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

1 “(e) AMOUNT ALLOCATED FROM TRUST FUND.—
2 The Trust Fund Board shall annually allocate
3 \$400,000,000 from the Trust Fund for grants under this
4 subtitle.

5 “ELIGIBLE PROJECTS

6 “SEC. 2142. (a) MATCHING GRANTS.—

7 “(1) LIMITATION ON AMOUNT.—Grants for cap-
8 ital expenditures by qualified hospitals and facilities
9 will be limited to \$25,000,000.

10 “(2) MATCHING REQUIREMENT.—At least half
11 of the projects funded in a year must receive at least
12 50 percent of their funding from State or local
13 sources. The remaining projects funded during the
14 year could be financed up to 90 percent with a com-
15 bination of Federal grants and loans.

16 “(3) RESERVATION FOR RURAL APPLICANTS.—
17 No less than 10 percent of the grant funds in any
18 given year would be reserved for rural applicants,
19 provided that a sufficient number of applications are
20 approved.

21 “(b) PLANNING GRANTS.—Applicants who can dem-
22 onstrate general qualification for the direct matching loan,
23 loan guarantee, or interest subsidy programs under this
24 title or eligibility for mortgage insurance under section
25 242 of the National Housing Act will be eligible for a
26 grant of up to \$500,000 to assist in implementation of

1 key budgetary and financial systems as well as manage-
2 ment and governance restructuring.”.

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

5 **SEC. 212. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RE-**
6 **LATED COSTS UNDER MEDICARE.**

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

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

11 (2) by striking the period at the end of clause
12 (iv) and inserting “, and”; and

13 (3) by adding at the end the following new
14 clause:

15 “(v) shall provide for adjustments to take into
16 account the extent to which capital-related costs in-
17 curred by a hospital are costs with respect to which
18 the hospital received financial assistance under title
19 XXI.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to cost reporting periods begin-
22 ning on or after October 1, 1994.

1 **SEC. 213. TAX EXEMPT STATUS OF FEDERALLY GUARAN-**
2 **TEED STATE OR LOCAL BONDS.**

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

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

6 (2) in clause (iii), by striking the period at the
7 end and inserting “, or”; and

8 (3) by adding at the end the following new
9 clause:

10 “(iv) any guarantee by the Capital Fi-
11 nancing Trust Fund pursuant to title XXI
12 of the Social Security Act.”.

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

15 **TITLE III—CAPITAL**
16 **ALLOCATION PLANS**

17 **SEC. 301. REQUIRING STATE REVIEW MECHANISMS AS A**
18 **CONDITION OF PAYMENT FOR CAPITAL-RE-**
19 **LATED COSTS UNDER MEDICARE.**

20 (a) IN GENERAL.—Section 1862(a) of the Social Se-
21 curity Act (42 U.S.C. 1395y(a)) is amended—

22 (1) by striking “or” at the end of paragraph
23 (15);

24 (2) by striking the period at the end of para-
25 graph (16) and inserting “; or”; and

1 (3) by inserting after paragraph (16) the fol-
2 lowing new paragraph:

3 “(17) with respect to expenses for capital-relat-
4 ed costs (as defined in section 1886(g)(1)(C)) in-
5 curred during a year (beginning with 1995) where—

6 “(A) such expenses are incurred in a State
7 that does not have a capital allocation plan ap-
8 proved by the Secretary under section 1890, or

9 “(B) the State notifies the Secretary that
10 such expenses were incurred in violation of the
11 State’s capital allocation plan under such sec-
12 tion.”.

13 (b) CAPITAL ALLOCATION PLANS DESCRIBED.—Title
14 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
15 is amended by inserting after section 1889 the following
16 new section:

17 “CAPITAL ALLOCATION PLANS

18 “SEC. 1890. (a) APPROVAL BY SECRETARY.—

19 “(1) IN GENERAL.—For purposes of section
20 1862(a)(17), the Secretary shall approve the capital
21 allocation plan of a State for a fiscal year if the
22 Governor of the State provides the Secretary with
23 information and assurances necessary for the Sec-
24 retary to find that the plan meets the requirements
25 of this section.

1 “(2) TERMINATION OR EXTENSION OF AP-
2 PROVAL PERMITTED.—Notwithstanding paragraph
3 (1), the Secretary may—

4 “(A) terminate the approval of a plan
5 under this section for a fiscal year if the Sec-
6 retary determines during the year that the plan
7 is not substantially in compliance with this sec-
8 tion; or

9 “(B) extend the approval of a plan under
10 this section (on a conditional basis) for an addi-
11 tional period not to exceed 12 months.

12 “(b) REQUIREMENTS.—

13 “(1) IN GENERAL.—A State’s capital allocation
14 plan meets the requirements of this section if—

15 “(A) except as provided in paragraph (2),
16 the Governor designates a single agency of the
17 State government as the State review agency
18 for the development of the plan;

19 “(B) the Governor designates a single
20 agency of the State government as the State re-
21 view agency for the enforcement of the plan;

22 “(C) all capital expenditures of health care
23 services in the State (except as provided in
24 paragraph (4)) are subject to review and ap-

1 proval under the plan (in accordance with sub-
2 section (c));

3 “(D) the State review agency determines
4 whether capital expenditures are in accordance
5 with the plan using the criteria specified in sub-
6 section (c) and notifies the Secretary if it deter-
7 mines that any capital expenditures subject to
8 the plan are not in accordance with the plan;
9 and

10 “(E) the State review agency provides the
11 Secretary with assurances that the agency is
12 enforcing the plan.

13 “(2) PERMITTING USE OF REGIONAL REVIEW
14 AGENCIES.—Notwithstanding paragraph (1)(A), a
15 Governor may designate a regional review agency to
16 develop the capital allocation plan for capital ex-
17 penditures of health care services in a geographic re-
18 gion in the State, but only if—

19 “(A) each such geographic region has a
20 population of at least 500,000;

21 “(B) if the region includes any portion of
22 a metropolitan statistical area, the region in-
23 cludes all of such metropolitan statistical area;
24 and

1 “(C) each such regional review agency in
2 the State—

3 “(i) is a nonprofit corporation or a
4 public regional planning body or single
5 unit of local government,

6 “(ii) is governed by a board a major-
7 ity of the members of which are consumers
8 or purchasers of health care services in the
9 region, and

10 “(iii) has resource allocation and plan-
11 ning in the region as its primary purpose.

12 “(3) PERMITTING USE OF MULTISTATE REVIEW
13 AGENCIES.—The Governors of 2 or more contiguous
14 States may designate a single review agency to carry
15 out the requirements of this section with respect to
16 capital expenditures of health care services in such
17 States, but only if such agency meets the require-
18 ments described in paragraph (2) for regional review
19 agencies.

20 “(4) SPECIAL TREATMENT OF SERVICES IN
21 RURAL AREAS PERMITTED.—

22 “(A) IN GENERAL.—A capital allocation
23 plan need not provide for review of expenditures
24 for services provided in rural areas in a State

1 if the State has developed a rural health plan
2 that meets the requirements of this paragraph.

3 “(B) REQUIREMENTS FOR RURAL HEALTH
4 PLAN.—A rural health plan must—

5 “(i) meet criteria developed by the
6 Secretary;

7 “(ii) have as its major focus the as-
8 surance of access to health care services by
9 low density rural populations in the State;
10 and

11 “(iii) address at least—

12 “(I) the regionalization of serv-
13 ices,

14 “(II) alternatives to traditional
15 facilities,

16 “(III) the development of new or-
17 ganizational forms, and

18 “(IV) the needs for special emer-
19 gency and other health-services-relat-
20 ed transportation needs.

21 “(c) CONTENTS OF PLAN DESCRIBED.—

22 “(1) REQUIREMENTS RELATING TO ALLOCA-
23 TION OF CAPITAL.—

24 “(A) IN GENERAL.—Each capital alloca-
25 tion plan under this subsection shall—

1 “(i) be developed consistent with cri-
2 teria developed by the Secretary;

3 “(ii) be designed to assure that the
4 needs of the State’s residents for health
5 care services are met;

6 “(iii) include occupancy targets for in-
7 patient hospital facilities;

8 “(iv) include utilization targets for
9 services subject to review under the plan;
10 and

11 “(v) provide an opportunity for formal
12 review and comment before becoming final.

13 “(B) SPECIFICS.—Each capital allocation
14 plan must—

15 “(i) assure access to hospital facilities;

16 “(ii) identify which facilities (and
17 parts of facilities) would be closed in order
18 to reach the occupancy and utilization tar-
19 gets for health care services;

20 “(iii) provide for regionalization of
21 services, where appropriate; and

22 “(iv) address—

23 “(I) the special needs and cir-
24 cumstances of hospitals receiving an
25 additional payment under section

1 1886(d)(5)(F), Federally-qualified
2 health centers, and other institutions
3 and facilities that receive special as-
4 sistance for providing services to low-
5 income individuals and other individ-
6 uals in medically underserved commu-
7 nities (as defined in section 799(6) of
8 the Public Health Service Act), and

9 “(II) the provision of trauma
10 care.

11 “(2) REQUIREMENTS RELATING TO REVIEW.—

12 “(A) IN GENERAL.—The capital allocation
13 plan shall—

14 “(i) require the review of any pro-
15 posed expenditures for capital expenditures
16 in excess of \$1,000,000 in the area covered
17 by the plan;

18 “(ii) permit the review of expenditures
19 in the area covered by the plan that are
20 not described in clause (i); and

21 “(iii) provide that a review shall take
22 into consideration at least the following
23 criteria:

24 “(I) The relationship of the pro-
25 posed capital expenditure to the plan.

1 “(II) The need that the popu-
2 lation to be served has for the pro-
3 posed services, equipment, or facility
4 provided by the capital expenditure.

5 “(III) The availability of alter-
6 native, less costly, or more effective
7 methods for providing such services.

8 “(IV) The impact of the proposed
9 expenditure on the quality of care and
10 the costs of health care services pro-
11 vided to such population.

12 “(V) The impact of the proposed
13 expenditure on the utilization of the
14 applicant’s other capital resources.

15 “(VI) The extent to which the
16 proposed services, equipment, or facil-
17 ity shall eliminate unnecessary or du-
18 plicative services.

19 “(VII) The extent to which the
20 proposed services, equipment, or facil-
21 ity will be available to all residents of
22 the area, regardless of their ability to
23 pay for the use of such services,
24 equipment, or facility.

1 “(B) SPECIAL RULES FOR DETERMINING
2 AMOUNT OF EXPENDITURES.—In determining
3 the amount of proposed expenditures for a cap-
4 ital project for purposes of subparagraph (A)(i),
5 there shall be included—

6 “(i) the cost of any studies, surveys,
7 designs, plans, working drawings, specifica-
8 tions, and other activities essential to the
9 acquisition, improvement, expansion, or re-
10 placement of the capital project with re-
11 spect to which the expenditure is made;
12 and

13 “(ii) any proposed expenditures for
14 other capital projects which are found by
15 the review agency to be fundamentally re-
16 lated to the capital project in question (in
17 accordance with criteria developed by the
18 State using guidelines established by the
19 Secretary).

20 “(C) PROCEDURAL REQUIREMENTS.—The
21 capital allocation plan shall meet requirements
22 relating to procedures for review as follows:

23 “(i) Reviews must be performed under
24 a regular schedule that provides that appli-
25 cations relating to expenditures for similar

1 capital projects will be considered at the
2 same time, and that provides an oppor-
3 tunity for additional applicants to seek ap-
4 proval for carrying out a capital project if
5 the review agency determines (based on the
6 application of an initial sponsor of such a
7 project) that an expenditure for such a
8 project would be appropriate under the
9 plan.

10 “(ii) The determinations of the review
11 must be made in public meetings.

12 “(iii) If local review agencies are es-
13 tablished under subsection (a)(2), the
14 State review agency must take the results
15 of reviews by such agencies into account.

16 “(iv) The State review agency must
17 make provision for access by the general
18 public to all applications for review and for
19 written findings of its reviews that state
20 the basis for agency determinations.

21 “(v) The State review agency must
22 hold at least one public hearing if re-
23 quested by persons directly affected by the
24 review.

1 “(vi) Any decision of the State review
2 agency to approve or not to approve a pro-
3 posed capital expenditure must be based
4 solely on the agency’s review and the
5 record created by the review.

6 “(vii) An application for a proposed
7 capital expenditure must include a time-
8 table for completing the project for which
9 the expenditure is proposed, and any ap-
10 proval of such an expenditure shall be
11 withdrawn if the State review agency finds
12 that the applicant was not making a good
13 faith effort to meet the timetable or to oth-
14 erwise meet any applicable condition for
15 approval.

16 “(viii) The allocation plan must pro-
17 vide either for an appeals mechanism (con-
18 sistent with the State’s administrative pro-
19 cedures act) or for an appeal before an en-
20 tity (other than the State review agency)
21 designated by the Governor.

22 “(d) FUNDING ASSISTANCE TO STATES.—

23 “(1) IN GENERAL.—The Secretary shall make,
24 in each fiscal year beginning with fiscal year 1994
25 from the allotment under paragraph (2) for the

1 State, a grant to each State with an approved cap-
2 ital allocation plan under this section in an amount
3 equal to 75 percent of the operating costs of carry-
4 ing out the plan in the State in the fiscal year.
5 Grants under this paragraph shall be payable from
6 the Capital Financing Trust Fund under section
7 2104.

8 “(2) AMOUNT OF ALLOTMENT.—The amount of
9 an allotment to each State is equal to the sum of—

10 “(A) the product of \$0.70 and the number
11 of individuals residing in the State who do not
12 reside in an area under the jurisdiction of a re-
13 gional review agency (as established by the
14 State under subsection (b)(2)); and

15 “(B) the product of \$1.00 and the number
16 of individuals residing in the State who reside
17 in an area under the jurisdiction of a regional
18 review agency.

19 “(e) DEFINITIONS.—In this subsection:

20 “(1) The term ‘Governor’ means the chief exec-
21 utive officer of a State, or his designee.

22 “(2) The term ‘capital expenditure’ means an
23 expenditure which—

1 “(A) under generally accepted accounting
2 principles, is not properly chargeable as an ex-
3 pense of operation and maintenance; or

4 “(B) is made to obtain by lease or com-
5 parable arrangement any facility thereof or any
6 equipment for a facility or part.

7 “(3) The term ‘rural area’ has the meaning
8 given such term in section 1886(d)(2)(D).”.

9 (c) EFFECT ON ANTITRUST LAWS.—

10 (1) IN GENERAL.—For purposes of the anti-
11 trust laws—

12 (A) the establishment by a State of a cap-
13 ital allocation plan under section 1890 of the
14 Social Security Act (as added by subsection (b))
15 shall be considered as affirmative State policy
16 with respect to individuals and entities in the
17 State providing health care services subject to
18 the plan; and

19 (B) the enforcement by a State of such a
20 plan shall be considered as active State super-
21 vision with respect to such individuals and enti-
22 ties.

23 (2) ANTITRUST LAWS DEFINED.—In paragraph
24 (1), the term “antitrust laws” has the meaning
25 given it in subsection (a) of the first sections of the

1 Clayton Act (15 U.S.C. 12(a)), except that such
2 term includes—

3 (A) section 5 of the Federal Trade Com-
4 mission Act (15 U.S.C. 45) to the extent such
5 section applies to unfair methods of competi-
6 tion; and

7 (B) any State law similar to the antitrust
8 laws.

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