

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4075

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

SEPTEMBER 12, 1996

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend 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 Fa-  
3 cilities Investment Act of 1996”.

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(l) of such Act (42 U.S.C. 1395i–  
14 4(l)) is amended—

15 (1) by striking “1990, 1991, and 1992” and in-  
16 serting “1997 through 2002”;

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, 1996.

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           sential 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 or 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 of  
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-quali-  
5 fied health center but for its failure to meet the  
6 requirement described in section 329(f)(2)(G)(i)  
7 of the Public Health Service Act or the require-  
8 ment described in section 330(e)(3)(G)(i) of  
9 such Act (relating to the composition of the fa-  
10 cility’s governing board), but only if the facility  
11 provides assurances to the State or unit of local  
12 government that consumers have significant  
13 input into the governance of the facility; and

14           “(3) in the case of a hospital—

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

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

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

23           “(D) the hospital receives an additional  
24 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 re-  
6 quirements:

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(l) of the So-  
3 cial Security Act (42 U.S.C. 1395i–4(l)) is amended—

4 (1) in the heading, by striking “Appropria-  
5 tions” and inserting “Appropriations for EACH  
6 Program and Essential Community Provider Pro-  
7 gram”;

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 “(I) the hospital is designated as an essen-  
4 tial community provider under such section;

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

8 “(III) the facility is a member of a com-  
9 munity 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, 1996.

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, 1996.



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 in 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 infections 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                 1997 through 2002, 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       Captial 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 AND ADMINISTRATIVE EX-  
22 PENSES.—Not more than 5 percent of the funds annually  
23 appropriated to the Trust Fund may be available for ad-  
24 ministration of the Trust Fund or programs under this  
25 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 1997 through 2002 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           CEEDED.—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 tial to obtaining bond financing from non-Federal lenders  
2 at a reasonably affordable rate of interest.

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

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

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

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

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

21 “(A) a detailed maintenance schedule;

22 “(B) a schedule for correcting any past de-  
23 ficiencies in maintenance, repairs, and replace-  
24 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 to 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 “(d) 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  
14 rseserves created under section 2112. Premium charges  
15 shall be payable in cash to the Trust Fund (either in full  
16 upon issuance or annually in advance). In addition to the  
17 premium charge herein provided for, the Trust Fund is  
18 authorized to charge and collect such amount as it may  
19 deem reasonable for the appraisal of a property or project  
20 offered for insurance and for the inspection of such prop-  
21 erty 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 the loan trans-  
3 actions;

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

10  
11           “(d) HANDLING AND DISPOSAL OF ASSETS; SETTLEMENT OF CLAIMS.—  
12

13           “(1) PAYMENT FOR CERTAIN EXPENSES.—Notwithstanding any other provisions of law relating to  
14 the acquisition, handling, or disposal of real and  
15 other property by the United States, the Trust Fund  
16 Board shall also have power, for the protection of  
17 the interests of the Trust Fund, to pay out of the  
18 Trust Fund all expenses or charges in connection  
19 with, and to deal with, complete, reconstruct, rent,  
20 renovate, modernize, insure, make contracts for the  
21 management of, or establish suitable agencies for  
22 the management of, or sell for cash or credit or lease  
23 in its discretion, any assets acquired by it under this  
24 section.  
25

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 Subsidies**

18                   “PROVISION OF INTEREST RATE SUBSIDIES

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

23          “(b) PURPOSES.—The interest subsidy program shall  
24          provide a partial Federal subsidy of debt service payment  
25          for financing replacement (whether by construction or ac-

1 quision), modernization, and renovation projects or cap-  
2 ital equipment acquisitions by undertaking the issuance of  
3 bonds.

4 “ELIGIBLE LOANS

5 “SEC. 2122. (a) IN GENERAL.—Qualifying hospitals  
6 and facilities should have issued or plan to issue bonds  
7 for capital projects or be responsible for paying debt serv-  
8 ice on general obligation or revenue bonds issued on the  
9 qualifying hospital’s or facility’s behalf. To be eligible,  
10 bonds must have been issued after December 31, 1996.

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

16 “ALLOTMENT OF SUBSIDIES

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

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

1           “(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                   “SUBSIDIES FOR LOAN REFINANCING

2           “SEC. 2125. In addition to providing interest rate  
3 subsidies for new loans, the Trust Fund may provide sub-  
4 sidies to assist in refinancing if the hospital or facility  
5 presently lacks permanent financing at an affordable cur-  
6 rent market rate.

7                   **“Subtitle D—Direct Matching Loans**

8                   “PROVISION OF MATCHING LOANS

9           “SEC. 2131. (a) IN GENERAL.—The Secretary, with  
10 the approval of the Trust Fund Board, shall provide direct  
11 matching loans to qualified hospitals and facilities unable  
12 otherwise to obtain essential financing.

13           “(b) PURPOSES.—The purpose of this subtitle is to  
14 provide qualifying hospitals and facilities with direct  
15 matching loans for essential replacement (whether by con-  
16 struction or acquisition), modernization, and renovation  
17 projects and capital equipment acquisitions. These loans  
18 are to be primarily provided for the funding of smaller  
19 projects where the transaction costs of securing financing  
20 from other sources may be disproportionately onerous in  
21 relationship to the amounts financed.

22                   “ELIGIBLE PROJECTS

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

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

6                                   “ALLOTMENT OF LOANS

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

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

19                                   “TERMS AND CONDITIONS OF LOANS

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

23           “(b) INTEREST RATE.—The interest rate will be a  
24 market rate determined by the Trust Fund Board to be  
25 the most recent applicable index for revenue bonds, based

1 on the index published by the Bond Buyer and such other  
2 information as the Board finds appropriate.

3 “USE OF LOANS FOR REFINANCING

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

13 “CREATION OF REVOLVING FUND

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

18 “LOAN DEFAULT

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

13                       “PROVISION OF GRANTS

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

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

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

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

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

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

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

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

24 “(e) AMOUNT ALLOCATED FROM TRUST FUND.—  
25 The Trust Fund Board shall annually allocate

1 \$400,000,000 from the Trust Fund for grants under this  
2 subtitle.

3 “ELIGIBLE PROJECTS

4 “SEC. 2142. (a) MATCHING GRANTS.—

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

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

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

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

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall take effect October 1, 1997.

3 **SEC. 212. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RE-**  
 4 **LATED COSTS UNDER MEDICARE.**

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

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

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

11 (3) by adding at the end the following new  
 12 clause:

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

18 (b) EFFECTIVE DATE.—The amendments made by  
 19 subsection (a) shall apply to cost reporting periods begin-  
 20 ning on or after October 1, 1998.

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

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

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





1 is not substantially in compliance with this sec-  
2 tion; or

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

6 “(b) REQUIREMENTS.—

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

9 “(A) except as provided in paragraph (2),  
10 the Governor designates a single agency of the  
11 State government as the State review agency  
12 for the development of the plan;

13 “(B) the Governor designates a single  
14 agency of the State government as the State re-  
15 view agency for the enforcement of the plan;

16 “(C) all capital expenditures of health care  
17 services in the State (except as provided in  
18 paragraph (4)) are subject to review and ap-  
19 proval under the plan (in accordance with sub-  
20 section (c));

21 “(D) the State review agency determines  
22 whether capital expenditures are in accordance  
23 with the plan using the criteria specified in sub-  
24 section (c) and notifies the Secretary if it deter-  
25 mines that any capital expenditures subject to

1 the plan are not in accordance with the plan;  
2 and

3 “(E) the State review agency provides the  
4 Secretary with assurances that the agency is  
5 enforcing the plan.

6 “(2) PERMITTING USE OF REGIONAL REVIEW  
7 AGENCIES.—Notwithstanding paragraph (1)(A), a  
8 Governor may designate a regional review agency to  
9 develop the capital allocation plan for capital ex-  
10 penditures of health care services in a geographic re-  
11 gion in the State, but only if—

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

14 “(B) if the region includes any portion of  
15 a metropolitan statistical area, the region in-  
16 cludes all of such metropolitan statistical area;  
17 and

18 “(C) each such regional review agency in  
19 the State—

20 “(i) is a nonprofit corporation or a  
21 public regional planning body or single  
22 unit of local government,

23 “(ii) is governed by a board a major-  
24 ity of the members of which are consumers

1 or purchasers of health care services in the  
2 region, and

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

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

13 “(4) SPECIAL TREATMENT OF SERVICES IN  
14 RURAL AREAS PERMITTED.—

15 “(A) IN GENERAL.—A capital allocation  
16 plan need not provide for review of expenditures  
17 for services provided in rural areas in a State  
18 if the State has developed a rural health plan  
19 that meets the requirements of this paragraph.

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

22 “(i) meet criteria developed by the  
23 Secretary;

24 “(ii) have as its major focus the as-  
25 surance of access to health care services by

1 low density rural populations in the State;  
2 and

3 “(iii) address at least—

4 “(I) the regionalization of serv-  
5 ices,

6 “(II) alternatives to traditional  
7 facilities,

8 “(III) the development of new or-  
9 ganizational forms, and

10 “(IV) the needs for special emer-  
11 gency and other health-services-re-  
12 lated transportation needs.

13 “(c) CONTENTS OF PLAN DESCRIBED.—

14 “(1) REQUIREMENTS RELATING TO ALLOCA-  
15 TION OF CAPITAL.—

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

18 “(i) be developed consistent with cri-  
19 teria developed by the Secretary;

20 “(ii) be designed to assure that the  
21 needs of the State’s residents for health  
22 care services are met;

23 “(iii) include occupancy targets for in-  
24 patient hospital facilities;

1           “(iv) include utilization targets for  
2 services subject to review under the plan;  
3 and

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

6           “(B) SPECIFICS.—Each capital allocation  
7 plan must—

8           “(i) assure access to hospital facilities;

9           “(ii) identify which facilities (and  
10 parts of facilities) would be closed in order  
11 to reach the occupancy and utilization tar-  
12 gets for health care services;

13           “(iii) provide for regionalization of  
14 services, where appropriate; and

15           “(iv) address—

16           “(I) the special needs and cir-  
17 cumstances of hospitals receiving an  
18 additional payment under section  
19 1886(d)(5)(F), Federally-qualified  
20 health centers, and other institutions  
21 and facilities that receive special as-  
22 sistance for providing services to low-  
23 income individuals and other individ-  
24 uals in medically underserved commu-

1 nities (as defined in section 799(6) of  
2 the Public Health Service Act), and

3 “(II) the provision of trauma  
4 care.

5 “(2) REQUIREMENTS RELATING TO REVIEW.—

6 “(A) IN GENERAL.—The capital allocation  
7 plan shall—

8 “(i) require the review of any pro-  
9 posed expenditures for capital expenditures  
10 in excess of \$1,000,000 in the area covered  
11 by the plan;

12 “(ii) permit the review of expenditures  
13 in the area covered by the plan that are  
14 not described in clause (i); and

15 “(iii) provide that a review shall take  
16 into consideration at least the following  
17 criteria:

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

20 “(II) The need that the popu-  
21 lation to be served has for the pro-  
22 posed services, equipment, or facility  
23 provided by the capital expenditure.

1           “(III) The availability of alter-  
2           native, less costly, or more effective  
3           methods for providing such services.

4           “(IV) The impact of the proposed  
5           expenditure on the quality of care and  
6           the costs of health care services pro-  
7           vided to such population.

8           “(V) The impact of the proposed  
9           expenditure on the utilization of the  
10          applicant’s other capital resources.

11          “(VI) The extent to which the  
12          proposed services, equipment, or facil-  
13          ity shall eliminate unnecessary or du-  
14          plicative services.

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

21          “(B) SPECIAL RULES FOR DETERMINING  
22          AMOUNT OF EXPENDITURES.—In determining  
23          the amount of proposed expenditures for a cap-  
24          ital project for purposes of subparagraph (A)(i),  
25          there shall be included—

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

8           “(ii) any proposed expenditures for  
9           other capital projects which are found by  
10          the review agency to be fundamentally re-  
11          lated to the capital project in question (in  
12          accordance with criteria developed by the  
13          State using guidelines established by the  
14          Secretary).

15          “(C) PROCEDURAL REQUIREMENTS.—  
16          The capital allocation plan shall meet require-  
17          ments relating to procedures for review as fol-  
18          lows:

19                 “(i) Reviews must be performed under  
20                 a regular schedule that provides that appli-  
21                 cations relating to expenditures for similar  
22                 capital projects will be considered at the  
23                 same time, and that provides an oppor-  
24                 tunity for additional applicants to seek ap-  
25                 proval for carrying out a capital project if

1 the review agency determines (based on the  
2 application of an initial sponsor of such a  
3 project) that an expenditure for such a  
4 project would be appropriate under the  
5 plan.

6 “(ii) the determinations of the review  
7 must be made in public meetings.

8 “(iii) If local review agencies are es-  
9 tablished under subsection (a)(2), the  
10 State review agency must take the results  
11 of reviews by such agencies into account.

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

17 “(v) The State review agency must  
18 hold at least one public hearing if re-  
19 quested by persons directly affected by the  
20 review.

21 “(vi) Any decision of the State review  
22 agency to approve or not to approve a pro-  
23 posed capital expenditure must be based  
24 solely on the agency’s review and the  
25 record created by the review.

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

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

17          “(d) FUNDING ASSISTANCE TO STATES.—

18                 “(1) IN GENERAL.—The Secretary shall make,  
19                 in each fiscal year beginning with fiscal year 1997  
20                 from the allotment under paragraph (2) for the  
21                 State, a grant to each State with an approved cap-  
22                 ital allocation plan under this section in an amount  
23                 equal to 75 percent of the operating costs of carry-  
24                 ing out the plan in the State in the fiscal year.  
25                 Grants under this paragraph shall be payable from

1 the Capital Financing Trust Fund under section  
2 2104.

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

5 “(A) the product of \$0.70 and the number  
6 of individuals residing in the State who do not  
7 reside in an area under the jurisdiction of a re-  
8 gional review agency (as established by the  
9 State under subsection (b)(2)); and

10 “(B) the product of \$1.00 and the number  
11 of individuals residing in the State who reside  
12 in an area under the jurisdiction of a regional  
13 review agency.

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

15 “(1) The term ‘Governor’ means the chief execu-  
16 tive officer of a State, or his designee.

17 “(2) The term ‘capital expenditure’ means an  
18 expenditure which—

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

22 “(B) is made to obtain by lease or com-  
23 parable arrangement any facility thereof or any  
24 equipment for a facility or part.

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

3 (c) EFFECT ON ANTITRUST LAWS.—

4           (1) IN GENERAL.—For purposes of the anti-  
5 trust laws—

6           (A) the establishment by a State of a cap-  
7 ital allocation plan under section 1890 of the  
8 Social Security Act (as added by subsection (b))  
9 shall be considered as affirmative State policy  
10 with respect to individuals and entities in the  
11 State providing health care services subject to  
12 the plan; and

13           (B) the enforcement by a State of such a  
14 plan shall be considered as active State super-  
15 vision with respect to such individuals and enti-  
16 ties.

17           (2) ANTITRUST LAWS DEFINED.—In paragraph  
18 (1), the term “antitrust laws” has the meaning  
19 given it in subsection (a) of the first sections of the  
20 Clayton Act (15 U.S.C. 12(a)), except that such  
21 term includes—

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

1 (B) any State law similar to the antitrust  
2 laws.

○