

106TH CONGRESS  
1ST SESSION

# H. R. 2782

To amend title XVIII of the Social Security Act to assure access of Medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. PALLONE (for himself and Mrs. ROUKEMA) 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

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## A BILL

To amend title XVIII of the Social Security Act to assure access of Medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Seniors Prescription Insurance Coverage Equity  
6 (SPICE) Act of 1999”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.  
 Sec. 2. SPICE drug benefit program.

“PART D—SPICE DRUG BENEFIT PROGRAM

- “Sec. 1860A. Establishment of SPICE drug benefit program.  
 “Sec. 1860B. Requirements for offering SPICE drug benefit coverage.  
 “Sec. 1860C. Enrollment process for SPICE drug benefit coverage.  
 “Sec. 1860D. Financial assistance to obtain SPICE prescription drug coverage  
 “Sec. 1860E. SPICE Board.  
 “Sec. 1860F. SPICE Trust Fund.

- Sec. 3. Conforming changes to medigap.  
 Sec. 4. Provision of information on SPICE drug benefit program under health insurance information, counseling, and assistance grants.  
 Sec. 5. Funding through taxes on tobacco products.

1 **SEC. 2. SPICE DRUG BENEFIT PROGRAM.**

2 Title XVIII of the Social Security Act (42 U.S.C.  
 3 1395 et seq.) is amended by redesignating part D as part  
 4 E and by inserting after part C the following new part:

5 “PART D—SPICE DRUG BENEFIT PROGRAM

6 “ESTABLISHMENT OF SPICE DRUG BENEFIT PROGRAM

7 “SEC. 1860A. (a) IN GENERAL.—Under this part,  
 8 the SPICE Board (established under section 1860E) shall  
 9 provide for a SPICE drug benefit program under which—

- 10 “(1) all eligible medicare beneficiaries shall be  
 11 provided access to SPICE prescription drug cov-  
 12 erage (meeting the conditions of section 1860B)  
 13 through either enrollment in a Medicare+Choice  
 14 plan, enrollment in a SPICE medicare supplemental  
 15 policy, or coverage under a group health plan; and  
 16 “(2) there is financial assistance provided under  
 17 section 1860D for beneficiaries who voluntarily ob-

1       tain such coverage, with such assistance varying de-  
2       pending upon the income of such beneficiaries.

3       “(b) VOLUNTARY NATURE OF PROGRAM FOR ENTI-  
4 TIES AND BENEFICIARIES.—Nothing in this part shall be  
5 construed as requiring—

6               “(1) an eligible medicare beneficiary to obtain  
7 coverage under a plan or policy that provides SPICE  
8 prescription drug coverage;

9               “(2) a Medicare+Choice organization to offer a  
10 Medicare+Choice plan that provides SPICE pre-  
11 scription drug coverage; or

12              “(3) an issuer of a medicare supplemental pol-  
13 icy to issue a SPICE medicare supplemental policy.

14       “(c) PROVIDING INFORMATION TO BENE-  
15 FICIARIES.—

16              “(1) IN GENERAL.—The SPICE Board shall  
17 broadly disseminate information to eligible medicare  
18 beneficiaries on the SPICE drug benefit program  
19 under this part, including information on the sanc-  
20 tions for delayed enrollment under section 1860D(e).

21              “(2) SIMILAR TO MEDICARE+CHOICE ACTIVI-  
22 TIES.—Such activities shall be similar to the activi-  
23 ties performed under section 1851(d) (including the  
24 approval of policy marketing materials).



1           “(i) the State has adopted the Na-  
2           tional Association of Insurance Commis-  
3           sioners revisions under section  
4           1882(v)(1)(A) that have been approved by  
5           the SPICE Board under this section; and

6           “(ii) the coverage is offered consistent  
7           with section 1860C.

8           The penalties described in clause (ii) of section  
9           1882(d)(3)(A) shall apply to whoever violates  
10          this subparagraph in the same manner as they  
11          apply to whoever violates such section.

12          “(B) CONDITION FOR RECEIPT OF SPICE  
13          FINANCIAL ASSISTANCE.—No payment of finan-  
14          cial assistance with respect to coverage of an el-  
15          igible medicare beneficiary under SPICE pre-  
16          scription drug coverage which is offered either  
17          as a SPICE medicare supplemental policy, as  
18          part of the benefits under a Medicare+Choice  
19          plan, or as part of the benefits under a group  
20          health plan, shall be made unless—

21                 “(i) an application with respect to  
22                 such coverage has been approved by the  
23                 SPICE Board under this section; and

24                 “(ii) in the case of a SPICE medicare  
25                 supplemental policy or a Medicare+Choice

1 plan, the coverage is offered consistent  
2 with section 1860C.

3 “(2) ESTABLISHMENT OF APPLICATION PROC-  
4 ESS.—

5 “(A) IN GENERAL.—The SPICE Board  
6 shall establish—

7 “(i) procedures regarding the informa-  
8 tion to be included in applications under  
9 this section and for the time and manner  
10 in which such applications should be sub-  
11 mitted;

12 “(ii) conditions (consistent with this  
13 part) for the approval of such applications;  
14 and

15 “(iii) the period (in no case less than  
16 1 year) for which approval of such an ap-  
17 plication is valid.

18 “(B) DISAPPROVAL.—The SPICE Board  
19 may disapprove (or revoke the approval) of such  
20 an application if the Board finds that, in the  
21 case of a SPICE medicare supplemental policy  
22 or Medicare+Choice plan, that the entity offer-  
23 ing the SPICE prescription drug coverage is  
24 purposefully engaged in activities intended to  
25 result in favorable selection of those eligible

1 medicare beneficiaries obtaining coverage  
2 through the policy or plan.

3 “(b) SPICE PRESCRIPTION DRUG COVERAGE DE-  
4 FINED.—For purposes of this title, the term ‘SPICE pre-  
5 scription drug coverage’ means coverage of outpatient pre-  
6 scription drugs that the SPICE Board determines meets  
7 the following requirements:

8 “(1) BENEFIT LEVEL.—The benefits  
9 provided—

10 “(A) are limited to outpatient prescription  
11 drugs;

12 “(B) include at least the threshold benefits  
13 specified under subsection (c); and

14 “(C) do not include benefits for prescrip-  
15 tion drugs for which benefits are otherwise  
16 available (directly or when furnished as part of,  
17 or as an incident to, another item or service)  
18 under part A or B.

19 “(2) ACCESSIBILITY.—The benefits are acces-  
20 sible and convenient to all eligible medicare bene-  
21 ficiaries who have such coverage and provide for ac-  
22 cess on a timely basis to new outpatient prescription  
23 drugs and they become available.

24 “(3) NO PRE-EXISTING CONDITION EXCLU-  
25 SIONS.—There are no pre-existing condition exclu-

1 sions or similar exclusions applied with respect to  
2 the coverage.

3 “(4) LIMITS ON FORMULARIES.—If the cov-  
4 erage uses a formulary, the formulary meets the re-  
5 quirements of subsection (d).

6 “(c) THRESHOLD BENEFIT LEVEL.—

7 “(1) IN GENERAL.—The SPICE Board shall re-  
8 quest the National Association of Insurance Com-  
9 missioners to revise the model standards for medi-  
10 care supplemental policies pursuant to section  
11 1882(v) for the purpose of—

12 “(A) defining the term ‘outpatient pre-  
13 scription drugs’; and

14 “(B) specifying a threshold level of benefits  
15 for SPICE prescription drug coverage.

16 “(2) CONSIDERATIONS.—

17 “(A) DEFINITION.—In establishing a defi-  
18 nition under paragraph (1)(A), the Board shall  
19 request that the National Association of Insur-  
20 ance Commissioners take into account the defi-  
21 nition of covered outpatient drugs under section  
22 1927(k)(2) (which includes biological products  
23 and insulin).

24 “(B) THRESHOLD.—In specifying the  
25 threshold level under paragraph (1)(B), the

1 Board shall request that the National Associa-  
2 tion of Insurance Commissioners—

3 “(i) take into account the level of such  
4 coverage (including deductibles and other  
5 cost-sharing) applied under health plans  
6 offered under the Federal Employees  
7 Health Benefits Program (under chapter  
8 89 of title 5, United States Code) and  
9 under other large group health plans; and

10 “(ii) permit (if determined appro-  
11 priate) optional coverage of drugs (except  
12 for agents used to promote smoking ces-  
13 sation) for which coverage may be excluded  
14 or restricted under section 1927(d)(2).

15 “(3) CONSTRUCTION.—Nothing in this part  
16 shall be construed as preventing SPICE prescription  
17 drug coverage from providing benefits for outpatient  
18 prescription drugs in excess of the threshold speci-  
19 fied under this subsection.

20 “(d) FORMULARY REQUIREMENTS.—

21 “(1) IN GENERAL.—A formulary meets the re-  
22 quirements of this subsection only if—

23 “(A) such formulary is based on the med-  
24 ical needs of eligible medicare beneficiaries;

1           “(B) the entity offering the coverage has  
2           in place an appeals process for any eligible  
3           medicare beneficiary to receive any medically  
4           necessary outpatient prescription drug that is  
5           not on the formulary;

6           “(C) such procedures do not impose a sig-  
7           nificant financial burden on an eligible medicare  
8           beneficiary or delay the provision of medically  
9           necessary outpatient prescription drugs to such  
10          a beneficiary; and

11          “(D) the entity offering the coverage pro-  
12          vides notification to enrollees of any change in  
13          the formulary and such notification is provided  
14          at least 60 days prior to such change.

15          “(2) APPEAL PROCESS.—The appeals process  
16          established under paragraph (1)(B) shall provide for  
17          at least a level of protection that is similar to or bet-  
18          ter than the level of protection provided with respect  
19          to benefits under Medicare+Choice plans under  
20          part C.

21          “(e) USE OF COST CONTAINMENT MECHANISMS.—  
22          Nothing in this part shall be construed as preventing an  
23          entity offering SPICE prescription drug coverage from  
24          using reasonable cost containment methods, such as  
25          formularies, mail order services, and generic drug substi-

1 tution, consistent with the specific requirements of this  
2 part and applicable law.

3 “ENROLLMENT PROCESS FOR SPICE DRUG BENEFIT  
4 COVERAGE

5 “SEC. 1860C. (a) ENROLLMENT PROCESS.—The  
6 SPICE Board shall establish procedures, consistent with  
7 this section, through which an eligible medicare bene-  
8 ficiary may voluntarily elect whether or not to enroll,  
9 disenroll, and change enrollment in a SPICE medicare  
10 supplemental policy or in a Medicare+Choice plan that  
11 includes SPICE prescription drug coverage.

12 “(b) CONSIDERATIONS.—In establishing such proce-  
13 dures, the SPICE Board shall—

14 “(1) use rules similar to the rules for enroll-  
15 ment, disenrollment, and changes in enrollment in a  
16 Medicare+Choice plan under section 1851 (includ-  
17 ing annual open enrollment periods and guaranteed  
18 issue during any enrollment period);

19 “(2) permit special enrollment periods in cases  
20 in which an eligible medicare beneficiary, who is en-  
21 rolled under a Medicare+Choice plan or group  
22 health plan that provides SPICE prescription drug  
23 coverage—

24 “(A) loses such coverage under such a  
25 plan; or

1           “(B) experiences a significant adverse in-  
2           come level change (as defined by the SPICE  
3           Board) which changes the level of financial as-  
4           sistance available under section 1860D; and

5           “(3) provide for coordination with the Secretary  
6           with respect to such enrollment, disenrollment, and  
7           changes in enrollment under par C.

8           “FINANCIAL ASSISTANCE TO OBTAIN SPICE  
9           PRESCRIPTION DRUG COVERAGE

10          “SEC. 1860D. (a) IN GENERAL.—The SPICE Board  
11          shall provide financial assistance, in accordance with this  
12          section, with respect to eligible medicare beneficiaries who  
13          have SPICE prescription drug coverage through enroll-  
14          ment in a SPICE medicare supplemental policy, in a  
15          Medicare+Choice plan that includes such coverage, or in  
16          a group health plan that includes such coverage.

17          “(b) AMOUNT OF ASSISTANCE.—

18                 “(1) IN GENERAL.—Subject to subsections (e)  
19                 and (f) and paragraph (2), the amount of financial  
20                 assistance with respect to an eligible medicare bene-  
21                 ficiary is equal to the following percentage of the ap-  
22                 plicable cost (as defined in subsection (g)(1)) of the  
23                 SPICE prescription drug coverage :

24                         “(A) 100 PERCENT IF INCOME BELOW 150  
25                         PERCENT OF POVERTY.—In the case of an eligi-  
26                         ble medicare beneficiary who applies for en-

1 hanced financial assistance under subsection (c)  
2 and whose income (as verified under such sub-  
3 section) does not exceed 150 percent of the pov-  
4 erty line, the percentage is 100 percent.

5 “(B) OTHER PERCENT IF INCOME BE-  
6 TWEEN 150 AND 175 PERCENT OF POVERTY.—  
7 In the case of an eligible medicare beneficiary  
8 who applies for enhanced financial assistance  
9 under subsection (c) and whose income (as  
10 verified under such subsection) is greater than  
11 150 percent, but does not exceed 175 percent,  
12 of the poverty line, the SPICE Board shall  
13 specify the percentage consistent with the fol-  
14 lowing rules:

15 “(i) RANGE.—The percentage may  
16 not exceed 100 percent nor be less than  
17 the percentage specified under subpara-  
18 graph (C).

19 “(ii) SLIDING SCALE.—The percent-  
20 age may not be higher for eligible medicare  
21 beneficiaries whose income is higher.

22 “(iii) WITHIN AVAILABLE FUNDS.—  
23 The percentage is established in a manner  
24 that is consistent with the amount of funds

1           available for financial assistance under this  
2           section.

3           “(C) 25 PERCENT FOR OTHER BENE-  
4           FICIARIES.—In the case of any other eligible  
5           medicare beneficiary, the percentage is 25 per-  
6           cent.

7           “(2) LIMITATION IN CASE OF COVERAGE PRO-  
8           VIDED THROUGH A MEDICARE+CHOICE PLAN.—In  
9           the case of financial assistance provided under this  
10          section with respect to SPICE prescription drug cov-  
11          erage provided through a Medicare+Choice plan, the  
12          amount of the financial assistance may not exceed  
13          the amount of the portion of the premium charged  
14          for enrollment in the plan that is related to out-  
15          patient prescription drugs.

16          “(c) APPLICATION FOR ENHANCED FINANCIAL AS-  
17          SISTANCE.—

18                 “(1) IN GENERAL.—The SPICE Board shall es-  
19                 tablish procedures under which an individual who  
20                 desires enhanced financial assistance under this sec-  
21                 tion may voluntarily apply for an income determina-  
22                 tion.

23                 “(2) INCOME VERIFICATION.—

24                         “(A) IN GENERAL.—Under the procedures  
25                         established under paragraph (1), if an indi-

1           vidual voluntarily applies for an income deter-  
2           mination under this subsection, the individual is  
3           deemed to have consented to the SPICE Board  
4           seeking and using income-related information  
5           from other Government agencies in order to  
6           verify the individual's income.

7           “(B) RESTRICTION ON USE OF INFORMA-  
8           TION.—Information obtained under subpara-  
9           graph (A) may be used by officers and employ-  
10          ees of the SPICE Board only for the purposes  
11          of, and to the extent necessary in, carrying out  
12          their responsibilities under this part.

13          “(3) PERIODIC REDETERMINATIONS.—Such in-  
14          come determinations shall be valid for a period (of  
15          not less than 1 year) specified by the SPICE Board.

16          “(d) FORM OF ASSISTANCE.—

17          “(1) IN GENERAL.—Financial assistance under  
18          this section shall be provided in the form of a pay-  
19          ment to the issuer of the SPICE medicare supple-  
20          mental policy involved, the Medicare+Choice organi-  
21          zation offering the Medicare+Choice plan involved,  
22          or the sponsor of the group health plan involved, of  
23          the amount of the subsidy. Such payment shall be  
24          in a manner and time provided for by the SPICE  
25          Board.

1           “(2) ADDITIONAL REQUIREMENT.—No financial  
2 assistance shall be made available with respect to  
3 SPICE prescription drug coverage provided by an  
4 entity to an eligible medicare beneficiary unless the  
5 entity provides assurances satisfactory to the SPICE  
6 Board that the entity shall reduce the amount other-  
7 wise charged the beneficiary for such coverage by an  
8 amount equal to the amount of such assistance.

9           “(3) SPECIAL RULE WHERE NO OR LOW PRE-  
10 MIUM CHARGED.—The SPICE Board shall establish  
11 appropriate procedures to assure that eligible medi-  
12 care beneficiaries who obtain SPICE prescription  
13 drug coverage through enrollment in a group health  
14 plan which does not impose a premium or imposes  
15 a premium that is less than the amount of the finan-  
16 cial assistance otherwise provided, are provided the  
17 benefit of some of such financial assistance.

18           “(e) LATE ENROLLMENT PENALTY.—

19           “(1) IN GENERAL.—Subject to paragraph (2),  
20 the SPICE Board shall establish procedures for re-  
21 ducing the amount of financial assistance provided  
22 under this section on behalf of an eligible medicare  
23 beneficiary if the beneficiary fails to obtain and  
24 maintain SPICE prescription drug coverage during  
25 periods in which the beneficiary is eligible to obtain

1 such coverage. Such procedures may be similar to  
2 the part B late enrollment penalty provisions under  
3 section 1839(b) and shall not take into account peri-  
4 ods before the first period in which financial assist-  
5 ance is made available under this section.

6 “(2) EXCEPTION.—The late enrollment proce-  
7 dures established pursuant to paragraph (1) shall  
8 not apply to an eligible medicare beneficiary who is  
9 enrolled under Medicare+Choice plan or a group  
10 health plan that provides outpatient prescription  
11 drug coverage and the plan terminates or ceases to  
12 provide such coverage to the beneficiary, but only  
13 if—

14 “(A) the beneficiary seeks to enroll under  
15 a plan or policy that offers SPICE prescription  
16 drug coverage at the next opportunity that is  
17 available to the beneficiary after the effective  
18 date of the termination of such coverage; and

19 “(B) submits evidence of the effective date  
20 of the termination of such coverage.

21 “(f) ADJUSTMENT OF FINANCIAL ASSISTANCE IF IN-  
22 SUFFICIENT FUNDING.—

23 “(1) LIMITATION OF ASSISTANCE TO FUNDS  
24 AVAILABLE.—In no case shall the amount of finan-  
25 cial assistance provided under this section exceed the

1 amount of funds available for such assistance under  
2 the SPICE Trust Fund.

3 “(2) REQUIRED ADJUSTMENT.—If the SPICE  
4 Board determines under section 1860E(b)(3)(C)  
5 that the amount in the SPICE Trust Fund in the  
6 next year will be insufficient to cover the costs of  
7 providing financial assistance under this section in  
8 such year—

9 “(A) the SPICE Board shall first reduce  
10 the percentage specified in subsection (b)(3) to  
11 such lower percentage (but not below 10 per-  
12 cent) as may be required, and to adjust the per-  
13 centage specified under subsection (b)(2) to re-  
14 flect such reduction;

15 “(B) if such percentage reductions are not  
16 sufficient to reduce the costs to comply with  
17 paragraph (1), the SPICE Board shall next re-  
18 duce the income thresholds (as a percentage of  
19 the poverty line) under subsection (b) as may  
20 be further required; and

21 “(C) if such previous reductions are still  
22 not sufficient to reduce the costs to comply with  
23 paragraph (1), the SPICE Board shall imme-  
24 diately report to Congress and suspend the pro-

1 vision of financial assistance under this section  
2 during such year.

3 “(g) DEFINITIONS.—For purposes of this section:

4 “(1) APPLICABLE COST.—The term ‘applicable  
5 cost’ means, with respect to SPICE prescription  
6 drug coverage provided under—

7 “(A) a SPICE medicare supplemental poli-  
8 cy, is the premium charged for the policy;

9 “(B) a Medicare+Choice plan, is the actu-  
10 arial value of the portion of the adjusted com-  
11 munity rate for the plan that is related to pro-  
12 viding such coverage, as determined by the  
13 SPICE Board in consultation with the Sec-  
14 retary; or

15 “(C) a group health plan, is the actuarial  
16 value of the portion of the applicable premium  
17 for the plan that is related to providing such  
18 coverage, as determined by the SPICE Board  
19 taking into account the applicable premium for  
20 such plan (as defined in section 604(1) of the  
21 Employee Retirement Income Security Act of  
22 1974).

23 “(2) POVERTY LINE.—The term ‘poverty line’  
24 means the income official poverty line (as defined by  
25 the Office of Management and Budget, and revised

1 annually in accordance with section 673(2) of the  
2 Omnibus Budget Reconciliation Act of 1981) appli-  
3 cable to a family of the size involved.

4 “SPICE BOARD

5 “SEC. 1860E. (a) ESTABLISHMENT.—There is estab-  
6 lished within the Department of Health and Human Serv-  
7 ices a Seniors Prescription Insurance Coverage Equity Of-  
8 fice, which shall be—

9 “(1) outside of the Health Care Financing Ad-  
10 ministration; and

11 “(2) run by a board to be known as the SPICE  
12 Board.

13 “(b) DUTIES.—

14 “(1) IN GENERAL.—The SPICE Board shall  
15 administer the SPICE drug benefit program under  
16 this part.

17 “(2) ONGOING STUDIES.—The SPICE Board  
18 shall conduct ongoing studies of the following issues:

19 “(A) The administration of this part.

20 “(B) The provision of information about  
21 the program under the health insurance infor-  
22 mation, counseling, and assistance grants under  
23 section 4360 of the Omnibus Budget Reconcili-  
24 ation Act of 1990.

1           “(C) Ways in which drug utilization can be  
2 used to provide better overall care for eligible  
3 medicare beneficiaries.

4           “(D) Savings and potential savings in Fed-  
5 eral health care programs which may occur, or  
6 can be attributed to, eligible medicare bene-  
7 ficiary access to, and utilization of, outpatient  
8 prescription drugs.

9           “(E) Trends in premium increases and fac-  
10 tors that contribute to changes in premiums.

11           “(F) Integration of the SPICE drug ben-  
12 efit program into a reformed medicare program.

13           “(G) The ability of eligible medicare bene-  
14 ficiaries to afford SPICE prescription drug cov-  
15 erage.

16           “(H) The impact of the program on the  
17 prescription drug benefits offered under  
18 Medicare+Choice plans and group health plans.

19           “(I) The appropriateness of the levels of fi-  
20 nancial assistance provided in the case of eligi-  
21 ble medicare beneficiaries who obtain assistance  
22 through SPICE prescription drug coverage pro-  
23 vided under Medicare+Choice plans or group  
24 health plans.

25           “(3) ANNUAL REPORT.—

1           “(A) IN GENERAL.—Not later than June 1  
2 of each year (beginning with 2001), the SPICE  
3 Board shall submit an annual report to Con-  
4 gress on the program under this part.

5           “(B) INFORMATION ON STUDIES.—Such  
6 report shall include a detailed statement on the  
7 issues studied under paragraph (2).

8           “(C) DETAILED FINANCIAL PROJECTIONS  
9 AND REQUIRED ADJUSTMENTS IN FINANCIAL  
10 ASSISTANCE.—Such report shall include—

11                   “(i) the report on the financial status  
12 of the SPICE Trust Fund under section  
13 1860F; and

14                   “(ii) a statement if, based on such  
15 status, a reduction in financial assistance  
16 for the subsequent year is required under  
17 section 1860D(f) and, if so, the manner in  
18 which such reductions will be made.

19 Such report may include recommendations re-  
20 garding increases in financial assistance that  
21 should be made in a subsequent year, to the ex-  
22 tent they may be made consistent with section  
23 1860D(f)(1).

24           “(D) RECOMMENDATIONS.—Such report  
25 shall include such other recommendations for

1           legislation and administrative actions as the  
2           SPICE Board considers appropriate.

3           “(4) STUDY AND REPORT REGARDING EXPAN-  
4           SION.—

5                   “(A) STUDY.—The SPICE Board, in con-  
6                   sultation with the National Association of In-  
7                   surance Commissioners, shall conduct a study  
8                   on—

9                           “(i) permitting a benefit package  
10                           under section 1882 of the Social Security  
11                           Act (other than the outpatient prescription  
12                           drug only package established under sub-  
13                           section (v)(1)(A) of such section) to offer  
14                           outpatient prescription drugs; and

15                           “(ii) providing financial assistance  
16                           under this part on behalf of eligible medi-  
17                           care beneficiaries receiving coverage under  
18                           such a benefit package.

19                   “(B) REPORT.—Not later than 1 year  
20                   after all of the members of the SPICE Board  
21                   are appointed under subsection (c), the SPICE  
22                   Board shall submit a detailed report to Con-  
23                   gress on the study conducted pursuant to sub-  
24                   paragraph (A), together with any recommenda-

1           tions as determined appropriate by the SPICE  
2           Board.

3           “(5) RECOMMENDATIONS REGARDING GRANT  
4           PROGRAM.—The SPICE Board shall provide rec-  
5           ommendations and necessary information regarding  
6           the SPICE drug benefit program to the Secretary in  
7           order for the Secretary to provide health insurance  
8           information, counseling, and assistance grants under  
9           section 4360 of the Omnibus Budget Reconciliation  
10          Act of 1990.

11          “(c) MEMBERSHIP OF SPICE BOARD.—

12           “(1) NUMBER AND APPOINTMENT.—

13           “(A) IN GENERAL.—The SPICE Board  
14           shall be composed of 7 members appointed by  
15           the President, by and with the advice and con-  
16           sent of the Senate.

17           “(B) SPECIFIC REPRESENTATIVES.—In  
18           making appointments under subparagraph (A),  
19           the President shall ensure that the following  
20           groups are represented on the SPICE Board:

21           “(i) Consumers.

22           “(ii) Private health plan insurers (in-  
23           cluding insurers that offer fee-for-service  
24           and managed care plans) with expertise in

1 the quality, scope, and marketing of health  
2 care services.

3 “(iii) The Health Care Financing Ad-  
4 ministration.

5 “(iv) State insurance commissioners.

6 “(C) SECRETARY OF HHS.—The Secretary  
7 shall be a nonvoting, ex officio member of the  
8 SPICE Board.

9 “(2) DEADLINE FOR INITIAL APPOINTMENT.—  
10 The initial members of the SPICE Board shall be  
11 appointed by not later than 6 months after the date  
12 of enactment of this section.

13 “(3) TERMS.—

14 “(A) IN GENERAL.—The terms of the  
15 members of the SPICE Board shall be for 6  
16 years, except that of the members first  
17 appointed—

18 “(i) three shall be appointed for terms  
19 of 6 years;

20 “(ii) two shall be appointed for terms  
21 of 4 years; and

22 “(iii) two shall be appointed for terms  
23 of 2 years.

24 “(B) VACANCIES.—Any member appointed  
25 to fill a vacancy occurring before the expiration

1 of the term for which the member's predecessor  
2 was appointed shall be appointed only for the  
3 remainder of that term. A member may serve  
4 after the expiration of that member's term until  
5 a successor has taken office.

6 “(4) CHAIRPERSON.—The President shall des-  
7 ignate the chairperson of the SPICE Board, except  
8 that the representative from the Health Care Fi-  
9 nancing Administration may not be designated as  
10 chairperson.

11 “(d) OPERATION OF THE BOARD.—

12 “(1) MEETINGS.—The SPICE Board shall meet  
13 at the call of the chairperson or upon written re-  
14 quest of a majority of its members.

15 “(2) QUORUM.—A majority of the members of  
16 the SPICE Board shall constitute a quorum, but a  
17 lesser number of members may hold hearings.

18 “(e) POWERS OF THE SPICE BOARD.—

19 “(1) HEARINGS.—The SPICE Board may hold  
20 such hearings, sit and act at such times and places,  
21 take such testimony, and receive such evidence as  
22 the SPICE Board considers advisable to carry out  
23 the purposes of this part.

24 “(2) INFORMATION FROM FEDERAL AGEN-  
25 CIES.—Upon request of the chairperson of the

1 SPICE Board, the head of any Federal department  
2 or agency shall furnish such information to the  
3 SPICE Board as is necessary to carry out the func-  
4 tions of the SPICE Board under this part.

5 “(3) POSTAL SERVICES.—The SPICE Board  
6 may use the United States mails in the same man-  
7 ner and under the same conditions as other depart-  
8 ments and agencies of the Federal Government.

9 “(4) GIFTS.—The SPICE Board may accept,  
10 use, and dispose of gifts or donations of services or  
11 property.

12 “(f) BOARD PERSONNEL MATTERS.—

13 “(1) MEMBERS.—

14 “(A) COMPENSATION.—Each member of  
15 the SPICE Board who is not an officer or em-  
16 ployee of the Federal Government shall be com-  
17 pensated at a rate equal to the daily equivalent  
18 of the annual rate of basic pay prescribed for  
19 level IV of the Executive Schedule under section  
20 5315 of title 5, United States Code, for each  
21 day (including travel time) during which such  
22 member is engaged in the performance of the  
23 duties of the SPICE Board. All members of the  
24 SPICE Board who are officers or employees of  
25 the United States shall serve without compensa-

1           tion in addition to that received for their serv-  
2           ices as officers or employees of the United  
3           States.

4           “(B) TRAVEL EXPENSES.—The members  
5           of the SPICE Board shall be allowed travel ex-  
6           penses, including per diem in lieu of subsist-  
7           ence, at rates authorized for employees of agen-  
8           cies under subchapter I of chapter 57 of title 5,  
9           United States Code, while away from their  
10          homes or regular places of business in the per-  
11          formance of services for the SPICE Board.

12          “(C) REMOVAL.—The President may re-  
13          move a member of the SPICE Board only for  
14          neglect of duty or malfeasance in office.

15          “(2) STAFF.—

16          “(A) IN GENERAL.—The chairperson of  
17          the SPICE Board may, without regard to the  
18          civil service laws and regulations, appoint and  
19          terminate an executive director and such other  
20          additional personnel as may be necessary to en-  
21          able the SPICE Board to perform its duties.  
22          The employment of an executive director shall  
23          be subject to confirmation by the SPICE  
24          Board.

1           “(B) COMPENSATION.—The chairperson of  
2           the SPICE Board may fix the compensation of  
3           the executive director and other personnel with-  
4           out regard to the provisions of chapter 51 and  
5           subchapter III of chapter 53 of title 5, United  
6           States Code, relating to classification of posi-  
7           tions and General Schedule pay rates, except  
8           that the rate of pay for the executive director  
9           and other personnel may not exceed the rate  
10          payable for level V of the Executive Schedule  
11          under section 5316 of such title.

12          “(C) DETAIL OF GOVERNMENT EMPLOY-  
13          EES.—Any Federal Government employee may  
14          be detailed to the SPICE Board without further  
15          reimbursement, and such detail shall be without  
16          interruption or loss of civil service status or  
17          privilege.

18          “(D) PROCUREMENT OF TEMPORARY AND  
19          INTERMITTENT SERVICES.—The chairperson of  
20          the SPICE Board may procure temporary and  
21          intermittent services under section 3109(b) of  
22          title 5, United States Code, at rates for individ-  
23          uals which do not exceed the daily equivalent of  
24          the annual rate of basic pay prescribed for level

1 V of the Executive Schedule under section 5316  
2 of such title.

3 “SPICE TRUST FUND

4 “SEC. 1860F. (a) CREATION OF TRUST FUND.—

5 There is established in the Treasury of the United States  
6 a trust fund to be known as the ‘SPICE Trust Fund’,  
7 consisting of such amounts as may be appropriated or  
8 credited to the SPICE Trust Fund as provided in this sec-  
9 tion.

10 “(b) AMOUNTS IN SPICE TRUST FUND.—

11 “(1) IN GENERAL.—The SPICE Trust Fund  
12 shall consist of the following amounts:

13 “(A) Amounts deposited in, or appro-  
14 priated to, the SPICE Trust Fund as provided  
15 in this section.

16 “(B) Any gifts and bequests made to such  
17 Trust Fund.

18 “(2) APPROPRIATION.—

19 “(A) AMOUNTS FROM TOBACCO TAX.—

20 There are appropriated to the SPICE Trust  
21 Fund amounts equivalent to the net revenues  
22 received in the Treasury after December 31,  
23 1999, from the taxes imposed by section 5701  
24 of the Internal Revenue Code of 1986 to the ex-  
25 tent attributable to increases in the rates of tax  
26 imposed by such section over the rates which

1 would have been imposed if the Seniors Pre-  
2 scription Insurance Coverage Equity (SPICE)  
3 Act of 1999 had not been enacted.

4 “(B) OTHER AMOUNTS.—There are hereby  
5 authorized to be appropriated to the SPICE  
6 Trust Fund amounts from the on-budget sur-  
7 plus.

8 “(3) NET REVENUES.—For purposes of this  
9 subsection, the term ‘net revenues’ means the  
10 amount estimated by the Secretary of the Treasury  
11 based on the excess of—

12 “(A) the taxes received in the Treasury as  
13 described in paragraph (1), over

14 “(B) the sum of the decrease in the tax  
15 imposed by chapter 1 of the Internal Revenue  
16 Code of 1986 resulting from the imposition of  
17 the taxes described in paragraph (2) and the  
18 amount of refunds provided under subchapter A  
19 of chapter 52 of such Code to the extent such  
20 refunds are attributable to the revenues trans-  
21 ferred to such Trust Fund under this section.

22 “(4) TRANSFER.—The amounts appropriated  
23 pursuant to paragraph (2) shall be transferred by  
24 the Secretary of the Treasury from time to time  
25 from the general fund in the Treasury to the SPICE

1 Trust Fund. The amount to be transferred under  
2 this paragraph shall be determined on the basis of  
3 estimates by the Secretary of the Treasury of the  
4 taxes, described in such paragraph, paid to or depos-  
5 ited into the Treasury. The Secretary of the Treas-  
6 ury shall make adjustments in amounts subsequently  
7 transferred to the extent that prior estimates were  
8 in excess of, or were less than, such taxes.

9 “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
10 in the SPICE Trust Fund shall only be available for mak-  
11 ing expenditures to carry out this part, including adminis-  
12 trative expenses of the SPICE Board.

13 “(d) APPLICATION OF HI TRUST FUND PROVI-  
14 SIONS.—The provisions of subsections (b) through (e) of  
15 section 1817 shall apply to the SPICE Board, this part,  
16 and the SPICE Trust Fund in the same manner as they  
17 apply to the Board of Trustees (and the Secretary and  
18 the Health Care Financing Administration), part A, and  
19 the Federal Hospital Insurance Trust Fund, respectively,  
20 except that—

21 “(1) the Board of Trustees shall be composed  
22 of the SPICE Board and the Secretary of the Treas-  
23 ury; and

1           “(2) the annual report shall be submitted as  
2           part of the annual report provided under section  
3           1860E(b)(3).”.

4 **SEC. 3. CONFORMING CHANGES TO MEDIGAP.**

5           Section 1882 of the Social Security Act (42 U.S.C.  
6 1395ss) is amended by adding at the end the following:

7           “(v)(1) Notwithstanding subsection (p), the benefit  
8           packages established under such subsection shall be re-  
9           vised (in the manner described in subsection (p)(1)(E))  
10          so that—

11           “(A) there is established a benefit package con-  
12           sisting of only outpatient prescription drug benefits  
13           that are consistent with SPICE prescription drug  
14           coverage (as defined in section 1860B(b)) and that  
15           are offered only through the SPICE Board and in  
16           accordance with part D;

17           “(B) such package shall permit coverage of out-  
18           patient prescription drugs that exceeds the thresh-  
19           olds established under such section;

20           “(C) no package (except the package estab-  
21           lished under subparagraph (A)) includes coverage of  
22           outpatient prescription drugs provided under part D;  
23           and

1           “(D) other benefit packages that do not include  
2           prescription drug coverage may be substituted for  
3           the packages eliminated under subparagraph (C).

4 In this title, a medicare supplemental policy which has the  
5 benefit package described in subparagraph (A) is referred  
6 to as a ‘SPICE medicare supplemental policy’. The revi-  
7 sions of benefit packages under this paragraph shall not  
8 effect the renewal of medicare supplemental policies under  
9 this section that are in existence on the effective date of  
10 such revisions, and shall be designed to avoid adverse se-  
11 lection and to be affordable.

12           “(2) Notwithstanding subsection (d), nothing in this  
13 section shall be construed as prohibiting or making  
14 unlawful—

15           “(A) the sale or issuance of a SPICE medicare  
16 supplemental policy to an individual who has a medi-  
17 care supplemental policy that does not provide cov-  
18 erage of outpatient prescription drugs;

19           “(B) the sale or issuance of a medicare supple-  
20 mental policy that does not provide coverage of out-  
21 patient prescription drugs to an individual who has  
22 a SPICE medicare supplemental policy; or

23           “(C) the sale or issuance of such a SPICE  
24 medicare supplemental policy to an individual who is  
25 enrolled in a Medicare+Choice plan that does not

1 provide coverage of outpatient prescription drugs  
2 (not including coverage required to be provided  
3 under part A or B).

4 The sale or issuance of policies under the circumstances  
5 described in this paragraph shall be treated as not ‘dupli-  
6 cative’ under this section.

7 “(3)(A) No medicare supplemental policy of the in-  
8 surer that is in effect on the effective date of the revision  
9 under paragraph (1) and that has a benefit package classi-  
10 fied as ‘H’, ‘I’, or ‘J’ under the standards established by  
11 subsection (p)(2) shall be deemed to meet the standards  
12 in subsection (c) unless the insurer—

13 “(i) provides written notice, within a 60-day pe-  
14 riod specified by the revisions, to the policyholder or  
15 certificate holder (at the most recent available ad-  
16 dress) of the offer described in clause (ii) and of the  
17 fact that, so long as they retain coverage under such  
18 policy, they are unable to purchase a SPICE medi-  
19 care supplemental policy; and

20 “(ii) offers the individual under the terms de-  
21 scribed in subparagraph (B), during a period of at  
22 least 180 days beginning on the date specified in  
23 subparagraph (C), institution of coverage effective  
24 as of a date specified by the revisions, a non-SPICE  
25 medicare supplemental policy that the Secretary de-

1       termines is most comparable to the policy in which  
2       the individual is enrolled (but for coverage of pre-  
3       scription drugs).

4       “(B) The terms described under this subparagraph  
5       are terms which do not—

6               “(i) deny or condition the issuance or effective-  
7               ness of a medicare supplemental policy described in  
8               subparagraph (A)(ii) that is offered and is available  
9               for issuance to new enrollees by such issuer;

10              “(ii) discriminate in the pricing of such policy  
11              because of health status, claims experience, receipt  
12              of health care, or medical condition; or

13              “(iii) impose an exclusion of benefits based on  
14              a pre-existing condition under such policy.

15       “(C) The date specified in this subparagraph for a  
16       policy issued in a State is such date as specified by the  
17       revisions (taking into account the method used under sub-  
18       section (n)(4) for establishing a date under that sub-  
19       section).

20       “(4) In applying this section with respect to SPICE  
21       medicare supplemental policies, any reference to the ‘Sec-  
22       retary’ is deemed a reference to the SPICE Board.”.

1 **SEC. 4. PROVISION OF INFORMATION ON SPICE DRUG BEN-**  
 2 **EFIT PROGRAM UNDER HEALTH INSURANCE**  
 3 **INFORMATION, COUNSELING, AND ASSIST-**  
 4 **ANCE GRANTS.**

5 Section 4360(b)(2)(A)(ii) of the Omnibus Budget  
 6 Reconciliation Act of 1990 (42 U.S.C. 1395b-  
 7 4(b)(2)(A)(ii)) is amended by striking “and information”  
 8 and inserting “, information regarding the SPICE drug  
 9 benefit program under part D of title XVIII of the Social  
 10 Security Act, and information”.

11 **SEC. 5. FUNDING THROUGH TAXES ON TOBACCO PROD-**  
 12 **UCTS.**

13 (a) CIGARETTES.—Subsection (b) of section 5701 of  
 14 the Internal Revenue Code of 1986 is amended—

15 (1) by striking “\$12 per thousand (\$10 per  
 16 thousand on cigarettes removed during 1991 or  
 17 1992);” in paragraph (1) and inserting “the applica-  
 18 ble rate per thousand determined in accordance with  
 19 the following table:

<b>“In the case of cigarettes removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$44.50
2002 and thereafter .....	\$47.00.”;

20 and

21 (2) by striking paragraph (2) and inserting the  
 22 following:

23 “(2) LARGE CIGARETTES.—

1                   “(A) IN GENERAL.—Except as provided in  
 2                   subparagraph (B), on cigarettes, weighing more  
 3                   than 3 pounds per thousand, the applicable rate  
 4                   per thousand determined in accordance with the  
 5                   following table:

<b>“In the case of cigarettes removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$93.45
2002 and thereafter .....	\$98.70.

6                   “(B) EXCEPTION.—On cigarettes more  
 7                   than 6½ inches in length, at the rate pre-  
 8                   scribed for cigarettes weighing not more than 3  
 9                   pounds per thousand, counting each 2¾ inches,  
 10                  or fraction thereof, of the length of each as one  
 11                  cigarette.”

12                  (b) CIGARS.—Subsection (a) of section 5701 of such  
 13 Code is amended—

14                  (1) by striking “\$1.125 cents per thousand  
 15                  (93.75 cents per thousand on cigars removed during  
 16                  1991 or 1992),” in paragraph (1) and inserting “the  
 17                  applicable rate per thousand determined in accord-  
 18                  ance with the following table:

<b>“In the case of cigars removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$4.173 cents
2002 and thereafter .....	\$4.406 cents.”;

19                  and

1 (2) by striking paragraph (2) and inserting the  
 2 following:

3 “(2) LARGE CIGARS.—On cigars, weighing more  
 4 than 3 pounds per thousand, the applicable percent-  
 5 age of the price for which sold but not more than the  
 6 applicable rate per thousand determined in accord-  
 7 ance with the following table:

<b>“In the case of cigars re- removed dur- ing:</b>	<b>The applicable percentage is:</b>	<b>The applicable rate is:</b>
2000 and 2001	59.458%	\$139.90
2002 and thereafter	68.201%	\$160.47.”

8 (c) CIGARETTE PAPERS.—Subsection (c) of section  
 9 5701 of such Code is amended to read as follows:

10 “(c) CIGARETTE PAPERS.—

11 “(1) IN GENERAL.—Except as provided in para-  
 12 graph (2), on each book or set of cigarette papers  
 13 containing more than 25 papers, manufactured in or  
 14 imported into the United States, there shall be im-  
 15 posed a tax of the applicable rate for each 50 papers  
 16 or fractional part thereof as determined in accord-  
 17 ance with the following table:

<b>“In the case of cigarette papers removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	2.80 cents
2002 and thereafter .....	2.90 cents.

18 “(2) EXCEPTION.—If cigarette papers measure  
 19 more than 6½ inches in length, such cigarette pa-

1       pers shall be taxable at the rate prescribed, counting  
 2       each  $2\frac{3}{4}$  inches, or fraction thereof, of the length of  
 3       each as one cigarette paper.”

4       (d) CIGARETTE TUBES.—Subsection (d) of section  
 5 5701 of such Code is amended to read as follows:

6       “(d) CIGARETTE TUBES.—

7               “(1) IN GENERAL.—Except as provided in para-  
 8       graph (2), on cigarette tubes, manufactured in or  
 9       imported into the United States, there shall be im-  
 10      posed a tax of the applicable rate for each 50 tubes  
 11      or fractional part thereof as determined in accord-  
 12      ance with the following table:

<b>“In the case of cigarette tubes re- moved during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	5.60 cents
2002 and thereafter .....	5.90 cents.

13               “(2) EXCEPTION.—If cigarette tubes measure  
 14      more than  $6\frac{1}{2}$  inches in length, such cigarette tubes  
 15      shall be taxable at the rate prescribed, counting each  
 16       $2\frac{3}{4}$  inches, or fraction thereof, of the length of each  
 17      as one cigarette tube.”

18      (e) SMOKELESS TOBACCO.—Paragraphs (1) and (2)  
 19 of subsection (e) of section 5701 are amended to read as  
 20 follows:

21               “(1) SNUFF.—On snuff, the applicable rate per  
 22      pound determined in accordance with the following  
 23      table (and a proportionate tax at the like rate on

1 all fractional parts of a pound):

<b>“In the case of snuff removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$1.335 cents
2002 and thereafter .....	\$1.410 cents.

2 “(2) CHEWING TOBACCO.—On chewing tobacco,  
 3 the applicable rate per pound determined in accord-  
 4 ance with the following table (and a proportionate  
 5 tax at the like rate on all fractional parts of a  
 6 pound):

<b>“In the case of chewing tobacco removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	44.5 cents
2002 and thereafter .....	47.0 cents.”

7 (f) PIPE TOBACCO.—Subsection (f) of section 5701  
 8 of such Code is amended to read as follows:

9 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-  
 10 tured in or imported into the United States, there shall  
 11 be imposed a tax of the applicable rate per pound deter-  
 12 mined in accordance with the following table (and a pro-  
 13 portionate tax at the like rate on all fractional parts of  
 14 a pound):

<b>“In the case of pipe tobacco removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$2.504 cents
2002 and thereafter .....	\$2.644 cents.”

15 (g) IMPOSITION OF EXCISE TAX ON MANUFACTURE  
 16 OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

17 (1) IN GENERAL.—Section 5701 of such Code  
 18 (relating to rate of tax) is amended by redesignating

1 subsection (g) as subsection (h) and by inserting  
 2 after subsection (f) the following:

3 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own  
 4 tobacco, manufactured in or imported into the United  
 5 States, there shall be imposed a tax of the applicable rate  
 6 per pound determined in accordance with the following  
 7 table (and a proportionate tax at the like rate on all frac-  
 8 tional parts of a pound):

<b>“In the case of roll-your-own tobacco removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$2.504 cents
2002 and thereafter .....	\$2.644 cents.”

9 (2) ROLL-YOUR-OWN TOBACCO.—Section 5702  
 10 of such Code (relating to definitions) is amended by  
 11 adding at the end the following:

12 “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-  
 13 your-own tobacco’ means any tobacco which, because of  
 14 its appearance, type, packaging, or labeling, is suitable for  
 15 use and likely to be offered to, or purchased by, consumers  
 16 as tobacco for making cigarettes.”

17 (3) TECHNICAL AMENDMENTS.—

18 (A) Subsection (c) of section 5702 of such  
 19 Code is amended by striking “and pipe to-  
 20 bacco” and inserting “pipe tobacco, and roll-  
 21 your-own tobacco”.

22 (B) Subsection (d) of section 5702 of such  
 23 Code is amended—

1 (i) in the material preceding para-  
 2 graph (1), by striking “or pipe tobacco”  
 3 and inserting “pipe tobacco, or roll-your-  
 4 own tobacco”, and

5 (ii) by striking paragraph (1) and in-  
 6 serting the following:

7 “(1) a person who produces cigars, cigarettes,  
 8 smokeless tobacco, pipe tobacco, or roll-your-own to-  
 9 bacco solely for the person’s own personal consump-  
 10 tion or use, and”.

11 (C) The chapter heading for chapter 52 of  
 12 such Code is amended to read as follows:

13 **“CHAPTER 52—TOBACCO PRODUCTS AND**  
 14 **CIGARETTE PAPERS AND TUBES”.**

15 (D) The table of chapters for subtitle E of  
 16 such Code is amended by striking the item re-  
 17 lating to chapter 52 and inserting the following:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

18 (h) FLOOR STOCKS TAXES AND APPLICATION OF  
 19 TAXES TO POSSESSIONS.—Section 5701 of such Code, as  
 20 amended by subsection (g), is amended by redesignating  
 21 subsection (h) as subsection (j) and by inserting after sub-  
 22 section (g) the following:

23 “(h) FLOOR STOCKS TAXES.—

24 “(1) IMPOSITION OF TAX.—On tobacco prod-  
 25 ucts manufactured in or imported into the United

1 States or any possession of the United States which  
2 are removed before any tax increase date, and held  
3 on such date for sale by any person, there is hereby  
4 imposed a tax in an amount equal to the excess of—

5 “(A) the tax which would be imposed  
6 under any preceding subsection of this section  
7 on the article if the article had been removed on  
8 such date, over

9 “(B) the prior tax (if any) imposed under  
10 such subsection on such article.

11 “(2) CREDIT AGAINST TAX.—Each person shall  
12 be allowed as a credit against the taxes imposed by  
13 paragraph (1) an amount equal to \$500. Such credit  
14 shall not exceed the amount of taxes imposed by  
15 paragraph (1) on any tax increase date, for which  
16 such person is liable.

17 “(3) LIABILITY FOR TAX AND METHOD OF PAY-  
18 MENT.—

19 “(A) LIABILITY FOR TAX.—A person hold-  
20 ing cigarettes on any tax increase date, to  
21 which any tax imposed by paragraph (1) applies  
22 shall be liable for such tax.

23 “(B) METHOD OF PAYMENT.—The tax im-  
24 posed by paragraph (1) shall be paid in such

1 manner as the Secretary shall prescribe by reg-  
2 ulations.

3 “(C) TIME FOR PAYMENT.—The tax im-  
4 posed by paragraph (1) shall be paid on or be-  
5 fore the date which is 180 days after any tax  
6 increase date.

7 “(4) ARTICLES IN FOREIGN TRADE ZONES.—  
8 Notwithstanding the Act of June 18, 1934 (48 Stat.  
9 998, 19 U.S.C. 81a) and any other provision of law,  
10 any article which is located in a foreign trade zone  
11 on any tax increase date, shall be subject to the tax  
12 imposed by paragraph (1) if—

13 “(A) internal revenue taxes have been de-  
14 termined, or customs duties liquidated, with re-  
15 spect to such article before such date pursuant  
16 to a request made under the 1st proviso of sec-  
17 tion 3(a) of such Act, or

18 “(B) such article is held on such date  
19 under the supervision of a customs officer pur-  
20 suant to the 2d proviso of such section 3(a).

21 “(5) TAX INCREASE DATE.—The term ‘tax in-  
22 crease date’ means January 1, 2000, and January  
23 1, 2002.

1           “(6) CONTROLLED GROUPS.—Rules similar to  
2           the rules of section 5061(e)(3) shall apply for pur-  
3           poses of this subsection.

4           “(7) OTHER LAWS APPLICABLE.—All provisions  
5           of law, including penalties, applicable with respect to  
6           the taxes imposed by the preceding subsections of  
7           this section shall, insofar as applicable and not in-  
8           consistent with the provisions of this subsection,  
9           apply to the floor stocks taxes imposed by paragraph  
10          (1), to the same extent as if such taxes were im-  
11          posed by such subsections. The Secretary may treat  
12          any person who bore the ultimate burden of the tax  
13          imposed by paragraph (1) as the person to whom a  
14          credit or refund under such provisions may be al-  
15          lowed or made.

16          “(i) APPLICATION OF TAXES TO U.S. POSSES-  
17          SIONS.—Notwithstanding subsections (b) and (c) of sec-  
18          tion 7653 and any other provision of law—

19                 “(1) IN GENERAL.—On tobacco products manu-  
20                 factured in or imported into any possession of the  
21                 United States, there is hereby imposed a tax at the  
22                 rate equal to the excess of—

23                         “(A) the rate of tax applicable under this  
24                         section to like articles manufactured in the  
25                         United States, over

1           “(B) the rate referred to in subparagraph  
2           (A) which would have been in effect if the  
3           amendments made by the Seniors Prescription  
4           Insurance Coverage Equity (SPICE) Act of  
5           1999 had not been enacted.

6           “(2) SHIPMENTS TO U.S. POSSESSIONS FROM  
7           THE UNITED STATES.—Only the rates of tax which  
8           would have been in effect if the amendments made  
9           by the Seniors Prescription Insurance Coverage Eq-  
10          uity (SPICE) Act of 1999 had not been enacted  
11          shall be taken into account in determining the  
12          amount of any exemption from, or credit or draw-  
13          back of, any tax imposed by this section on any arti-  
14          cle shipped to any possession of the United States  
15          from the United States.

16          “(3) SHIPMENTS FROM U.S. POSSESSIONS TO  
17          THE UNITED STATES.—The rates of tax taken into  
18          account under section 7652(a) with respect to to-  
19          bacco products coming into the United States from  
20          any possession of the United States shall be the  
21          rates of tax which would have been in effect if the  
22          amendments made by the Seniors Prescription In-  
23          surance Coverage Equity (SPICE) Act of 1999 had  
24          not been enacted.

1           “(4) DISPOSITION OF REVENUES.—The provi-  
2           sions of section 7652(a)(3) shall not apply to any  
3           tax imposed by reason of this subsection.”

4           (i) MODIFICATIONS OF CERTAIN TOBACCO TAX PRO-  
5           VISIONS.—

6           (1) EXEMPTION FOR EXPORTED TOBACCO  
7           PRODUCTS AND CIGARETTE PAPERS AND TUBES TO  
8           APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

9           (A) Subsection (b) of section 5704 of such  
10          Code is amended by adding at the end the fol-  
11          lowing: “Tobacco products and cigarette papers  
12          and tubes may not be transferred or removed  
13          under this subsection unless such products or  
14          papers and tubes bear such marks, labels, or  
15          notices as the Secretary shall by regulations  
16          prescribe.”

17          (B) Section 5761 of such Code is amended  
18          by redesignating subsections (c) and (d) as sub-  
19          sections (d) and (e), respectively, and by insert-  
20          ing after subsection (b) the following:

21          “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE  
22          PAPERS AND TUBES FOR EXPORT.—Except as provided  
23          in subsections (b) and (d) of section 5704—

24                 “(1) every person who sells, relands, or receives  
25                 within the jurisdiction of the United States any to-

1 tobacco products or cigarette papers or tubes which  
2 have been labeled or shipped for exportation under  
3 this chapter,

4 “(2) every person who sells or receives such re-  
5 landed tobacco products or cigarette papers or tubes,  
6 and

7 “(3) every person who aids or abets in such  
8 selling, relanding, or receiving,

9 shall, in addition to the tax and any other penalty provided  
10 in this title, be liable for a penalty equal to the greater  
11 of \$1,000 or 5 times the amount of the tax imposed by  
12 this chapter. All tobacco products and cigarette papers  
13 and tubes relanded within the jurisdiction of the United  
14 States, and all vessels, vehicles, and aircraft used in such  
15 relanding or in removing such products, papers, and tubes  
16 from the place where relanded, shall be forfeited to the  
17 United States.”

18 (C) Subsection (a) of section 5761 of such  
19 Code is amended by striking “subsection (b)”  
20 and inserting “subsection (b) or (c)”.

21 (D) Subsection (d) of section 5761 of such  
22 Code, as redesignated by subparagraph (B), is  
23 amended by striking “The penalty imposed by  
24 subsection (b)” and inserting “The penalties  
25 imposed by subsections (b) and (c)”.

1 (E)(i) Subpart F of chapter 52 of such  
2 Code is amended by adding at the end the fol-  
3 lowing:

4 **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**  
5 **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

6 “(a) IN GENERAL.—Tobacco products and cigarette  
7 papers and tubes previously exported from the United  
8 States may be imported or brought into the United States  
9 only as provided in section 5704(d). For purposes of this  
10 section, section 5704(d), section 5761, and such other pro-  
11 visions as the Secretary may specify by regulations, ref-  
12 erences to exportation shall be treated as including a ref-  
13 erence to shipment to the Commonwealth of Puerto Rico.

14 “(b) CROSS REFERENCE.—

**“For penalty for the sale of tobacco products and  
cigarette papers and tubes in the United States  
which are labeled for export, see section 5761(c).”**

15 (ii) The table of sections for subpart F of  
16 chapter 52 of such Code is amended by adding  
17 at the end the following:

“Sec. 5754. Restriction on importation of previously exported to-  
bacco products.”

18 (2) IMPORTERS REQUIRED TO BE QUALIFIED.—

19 (A) Sections 5712, 5713(a), 5721, 5722,  
20 5762(a)(1), and 5763 (b) and (c) of such Code  
21 are each amended by inserting “or importer”  
22 after “manufacturer”.

1 (B) The heading of subsection (b) of sec-  
2 tion 5763 of such Code is amended by inserting  
3 “QUALIFIED IMPORTERS,” after “MANUFAC-  
4 TURERS,”.

5 (C) The heading for subchapter B of chap-  
6 ter 52 of such Code is amended by inserting  
7 “**and Importers**” after “**Manufactur-**  
8 **ers**”.

9 (D) The item relating to subchapter B in  
10 the table of subchapters for chapter 52 of such  
11 Code is amended by inserting “and importers”  
12 after “manufacturers”.

13 (3) BOOKS OF 25 OR FEWER CIGARETTE PA-  
14 PERS SUBJECT TO TAX.—Subsection (e) of section  
15 5701 of such Code is amended by striking “On each  
16 book or set of cigarette papers containing more than  
17 25 papers,” and inserting “On cigarette papers,”.

18 (4) STORAGE OF TOBACCO PRODUCTS.—Sub-  
19 section (k) of section 5702 of such Code is amended  
20 by inserting “under section 5704” after “internal  
21 revenue bond”.

22 (5) AUTHORITY TO PRESCRIBE MINIMUM MANU-  
23 FACTURING ACTIVITY REQUIREMENTS.—Section  
24 5712 of such Code is amended by striking “or” at  
25 the end of paragraph (1), by redesignating para-

1 graph (2) as paragraph (3), and by inserting after  
2 paragraph (1) the following:

3 “(2) the activity proposed to be carried out at  
4 such premises does not meet such minimum capacity  
5 or activity requirements as the Secretary may pre-  
6 scribe, or”.

7 (j) REPEAL OF DUPLICATIVE PROVISIONS.—Section  
8 9302 of the Balanced Budget Act of 1997 (other than sub-  
9 section (i)(2)) and the amendments made by such section  
10 are repealed, and the Internal Revenue Code of 1986 shall  
11 be administered as if such section and such amendments  
12 had not been enacted.

13 (k) EFFECTIVE DATE.—The amendments and repeal  
14 made by this section shall apply to articles removed (as  
15 defined in section 5702(k) of the Internal Revenue Code  
16 of 1986, as amended by this section) after December 31,  
17 1999.

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