

107TH CONGRESS
1ST SESSION

S. 623

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a 50 percent credit against income tax for payment of such premiums and of premiums for certain COBRA continuation coverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mr. ROCKFELLER (for himself, Mr. DASCHLE, Mr. KENNEDY, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a 50 percent credit against income tax for payment of such premiums and of premiums for certain COBRA continuation coverage, and for other purposes.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Medicare Early Access and Tax Credit Act of 2001”.

4 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

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

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

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

“Sec. 1859. Program benefits; eligibility.

“Sec. 1859A. Enrollment process; coverage.

“Sec. 1859B. Premiums.

“Sec. 1859C. Payment of premiums.

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

“Sec. 1859E. Oversight and accountability.

“Sec. 1859F. Administration and miscellaneous.

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

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

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

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

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

Subtitle B—Amendments to the Public Health Service Act

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

Subtitle C—Amendments to the Internal Revenue Code of 1986

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

**TITLE IV—50 PERCENT CREDIT AGAINST INCOME TAX FOR
MEDICARE BUY-IN PREMIUMS AND FOR CERTAIN COBRA CON-
TINUATION COVERAGE PREMIUMS**

Sec. 401. 50 percent income tax credit for medicare buy-in premiums and for
certain COBRA continuation coverage premiums.

1 **TITLE I—ACCESS TO MEDICARE**
 2 **BENEFITS FOR INDIVIDUALS**
 3 **62-TO-65 YEARS OF AGE**

4 **SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVID-**
 5 **UALS 62-TO-65 YEARS OF AGE.**

6 (a) IN GENERAL.—Title XVIII of the Social Security
 7 Act is amended—

8 (1) by redesignating section 1859 and part D
 9 as section 1858 and part E, respectively; and

10 (2) by inserting after such section the following
 11 new part:

12 “PART D—PURCHASE OF MEDICARE BENEFITS BY
 13 CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE
 14 **“SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.**

15 “(a) ENTITLEMENT TO MEDICARE BENEFITS FOR
 16 ENROLLED INDIVIDUALS.—

17 “(1) IN GENERAL.—An individual enrolled
 18 under this part is entitled to the same benefits
 19 under this title as an individual entitled to benefits
 20 under part A and enrolled under part B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(b) ENROLLMENT PERIODS.—

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

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

1 section for January 2002, the enrollment period
2 shall begin on November 1, 2001, and shall end
3 on February 28, 2002. Any such enrollment be-
4 fore January 1, 2002, is conditioned upon com-
5 pliance with the conditions of eligibility for Jan-
6 uary 2002.

7 “(B) SUBSEQUENT PERIODS.—If the indi-
8 vidual is eligible to enroll under such section for
9 a month after January 2002, the enrollment pe-
10 riod shall begin on the first day of the second
11 month before the month in which the individual
12 first is eligible to so enroll and shall end four
13 months later. Any such enrollment before the
14 first day of the third month of such enrollment
15 period is conditioned upon compliance with the
16 conditions of eligibility for such third month.

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

22 “(c) DATE COVERAGE BEGINS.—

23 “(1) IN GENERAL.—The period during which
24 an individual is entitled to benefits under this part

1 shall begin as follows, but in no case earlier than
2 January 1, 2002:

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

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

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

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

24 “(d) TERMINATION OF COVERAGE.—

1 “(1) IN GENERAL.—An individual’s coverage
2 period under this part shall continue until the indi-
3 vidual’s enrollment has been terminated at the ear-
4 liest of the following:

5 “(A) GENERAL PROVISIONS.—

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

11 “(ii) NONPAYMENT OF PREMIUMS.—

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

15 “(iii) MEDICARE ELIGIBILITY.—The

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

19 “(B) TERMINATION BASED ON AGE.—The
20 individual attains 65 years of age.

21 “(2) EFFECTIVE DATE OF TERMINATION.—

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

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

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

22 **“SEC. 1859B. PREMIUMS.**

23 “(a) AMOUNT OF MONTHLY PREMIUMS.—

24 “(1) BASE MONTHLY PREMIUMS.—The Sec-
 25 retary shall, during September of each year (begin-

1 ning with 1998), determine the following premium
2 rates which shall apply with respect to coverage pro-
3 vided under this title for any month in the suc-
4 ceeding year:

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

11 “(2) DEFERRED MONTHLY PREMIUMS FOR IN-
12 DIVIDUALS 62 YEARS OF AGE OR OLDER.—The Sec-
13 retary shall, during September of each year (begin-
14 ning with 2001), determine under subsection (c) the
15 amount of deferred monthly premiums that shall
16 apply with respect to individuals who first obtain
17 coverage under this part under section 1859(b) in
18 the succeeding year.

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

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

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

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

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

1 for the year, adjusted for such area under paragraph
2 (2).

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

8 “(1) ESTIMATION OF NATIONAL, PER CAPITA
9 ANNUAL AVERAGE EXPENDITURES FOR ENROLL-
10 MENT GROUP.—The Secretary shall estimate the av-
11 erage, per capita annual amount that will be paid
12 under this part for individuals in such group during
13 the period of enrollment under section 1859(b). In
14 making such estimate for coverage beginning in a
15 year before 2005, the Secretary may base such esti-
16 mate on the average, per capita amount that would
17 be payable if the program had been in operation over
18 a previous period of at least 4 years.

19 “(2) DIFFERENCE BETWEEN ESTIMATED EX-
20 PENDITURES AND ESTIMATED PREMIUMS.—Based
21 on the characteristics of individuals in such group,
22 the Secretary shall estimate during the period of
23 coverage of the group under this part under section
24 1859(b) the amount by which—

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

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

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

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

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

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

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

4 “(A) the estimated probabilities of survival
5 at ages 62 through 84 for individuals enrolled
6 during the year; and

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

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

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

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

1 “(2) PERIOD OF PAYMENT.—In the case of an
2 individual who participates in the program estab-
3 lished by this title, the base monthly premium shall
4 be payable for the period commencing with the first
5 month of the individual’s coverage period and ending
6 with the month in which the individual’s coverage
7 under this title terminates.

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

10 “(1) RATE OF PAYMENT.—

11 “(A) IN GENERAL.—In the case of an indi-
12 vidual who is covered under this part for a
13 month pursuant to an enrollment under section
14 1859(b), subject to subparagraph (B), the indi-
15 vidual is liable for payment of a deferred pre-
16 mium in each month during the period de-
17 scribed in paragraph (2) in an amount equal to
18 the full deferred monthly premium rate deter-
19 mined for the individual under section
20 1859B(c).

21 “(B) SPECIAL RULES FOR THOSE WHO
22 DISENROLL EARLY.—

23 “(i) IN GENERAL.—If such an individ-
24 ual’s enrollment under such section is ter-
25 minated under clause (i) or (ii) of section

1 1859A(d)(1)(A), subject to clause (ii), the
2 amount of the deferred premium otherwise
3 established under this paragraph shall be
4 pro-rated to reflect the number of months
5 of coverage under this part under such en-
6 rollment compared to the maximum num-
7 ber of months of coverage that the indi-
8 vidual would have had if the enrollment
9 were not so terminated.

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

21 “(2) PERIOD OF PAYMENT.—The period de-
22 scribed in this paragraph for an individual is the pe-
23 riod beginning with the first month in which the in-
24 dividual has attained 65 years of age and ending

1 with the month before the month in which the indi-
2 vidual attains 85 years of age.

3 “(3) COLLECTION.—In the case of an individual
4 who is liable for a premium under this subsection,
5 the amount of the premium shall be collected in the
6 same manner as the premium for enrollment under
7 such part is collected under section 1840, except
8 that any reference in such section to the Federal
9 Supplementary Medical Insurance Trust Fund is
10 deemed to be a reference to the Medicare Early Ac-
11 cess Trust Fund established under section 1859D.

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

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

21 “(a) ESTABLISHMENT OF TRUST FUND.—

22 “(1) IN GENERAL.—There is hereby created on
23 the books of the Treasury of the United States a
24 trust fund to be known as the ‘Medicare Early Ac-
25 cess Trust Fund’ (in this section referred to as the

1 ‘Trust Fund’). The Trust Fund shall consist of such
2 gifts and bequests as may be made as provided in
3 section 201(i)(1) and such amounts as may be de-
4 posited in, or appropriated to, such fund as provided
5 in this title.

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

9 “(b) INCORPORATION OF PROVISIONS.—

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

16 “(2) MISCELLANEOUS REFERENCES.—In apply-
17 ing provisions of section 1841 under paragraph
18 (1)—

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

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

1 “(C) payments may be made under section
2 1841(g) to the Trust Funds under sections
3 1817 and 1841 as reimbursement to such funds
4 for payments they made for benefits provided
5 under this part.

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

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

14 “(b) PERIODIC GAO REPORTS.—The Comptroller
15 General of the United States shall periodically submit to
16 Congress reports on the adequacy of the financing of cov-
17 erage provided under this part. The Comptroller General
18 shall include in such report such recommendations for ad-
19 justments in such financing and coverage as the Comp-
20 troller General deems appropriate in order to maintain fi-
21 nancial solvency of the program under this part.

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

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

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

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

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

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

22 (b) CONFORMING AMENDMENTS TO SOCIAL SECUR-
23 ITY ACT PROVISIONS.—

24 (1) Section 201(i)(1) of the Social Security Act
25 (42 U.S.C. 401(i)(1)) is amended by striking “or the

1 Federal Supplementary Medical Insurance Trust
2 Fund” and inserting “the Federal Supplementary
3 Medical Insurance Trust Fund, and the Medicare
4 Early Access Trust Fund”.

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

12 (3) Section 1820(i) of such Act (42 U.S.C.
13 1395i-4(i)) is amended by striking “part D” and in-
14 serting “part E”.

15 (4) Part C of title XVIII of such Act is
16 amended—

17 (A) in section 1851(a)(2)(B) (42 U.S.C.
18 1395w-21(a)(2)(B)), by striking “1859(b)(3)”
19 and inserting “1858(b)(3)”;

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

23 (C) in section 1852(a)(1) (42 U.S.C.
24 1395w-22(a)(1)), by striking “1859(b)(3)” and
25 inserting “1858(b)(3)”;

1 (D) in section 1852(a)(3)(B)(ii) (42
2 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking
3 “1859(b)(2)(B)” and inserting
4 “1858(b)(2)(B)”;

5 (E) in section 1853(a)(1)(A) (42 U.S.C.
6 1395w-23(a)(1)(A)), by striking “1859(e)(4)”
7 and inserting “1858(e)(4)”;

8 (F) in section 1853(a)(3)(D) (42 U.S.C.
9 1395w-23(a)(3)(D)), by striking “1859(e)(4)”
10 and inserting “1858(e)(4)”.

11 (5) Section 1853(c) of such Act (42 U.S.C.
12 1395w-23(c)) is amended—

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

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

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

24 (c) OTHER CONFORMING AMENDMENTS.—

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

4 (2)(A) Section 602(2)(D)(ii) of the Employee
5 Retirement Income Security Act of 1974 (29 U.S.C.
6 1162(2)) is amended by inserting “(not including an
7 individual who is so entitled pursuant to enrollment
8 under section 1859A)” after “Social Security Act”.

9 (B) Section 2202(2)(D)(ii) of the Public Health
10 Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amend-
11 ed by inserting “(not including an individual who is
12 so entitled pursuant to enrollment under section
13 1859A)” after “Social Security Act”.

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

1 **TITLE II—ACCESS TO MEDICARE**
 2 **BENEFITS FOR DISPLACED**
 3 **WORKERS 55-TO-62 YEARS OF**
 4 **AGE**

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

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

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

11 “(1) **DISPLACED WORKERS.**—Subject to para-
 12 graph (3), an individual who meets the following re-
 13 quirements with respect to a month is eligible to en-
 14 roll under this part with respect to such month:

15 “(A) **AGE.**—As of the last day of the
 16 month, the individual has attained 55 years of
 17 age, but has not attained 62 years of age.

18 “(B) **MEDICARE ELIGIBILITY (BUT FOR**
 19 **AGE).**—The individual would be eligible for ben-
 20 efits under part A or part B for the month if
 21 the individual were 65 years of age.

22 “(C) **LOSS OF EMPLOYMENT-BASED COV-**
 23 **ERAGE.**—

24 “(i) **ELIGIBLE FOR UNEMPLOYMENT**
 25 **COMPENSATION.**—The individual meets the

1 requirements relating to period of covered
2 employment and conditions of separation
3 from employment to be eligible for unem-
4 ployment compensation (as defined in sec-
5 tion 85(b) of the Internal Revenue Code of
6 1986), based on a separation from employ-
7 ment occurring on or after July 1, 2001.
8 The previous sentence shall not be con-
9 strued as requiring the individual to be re-
10 ceiving such unemployment compensation.

11 “(ii) LOSS OF EMPLOYMENT-BASED
12 COVERAGE.—Immediately before the time
13 of such separation of employment, the indi-
14 vidual was covered under a group health
15 plan on the basis of such employment, and,
16 because of such loss, is no longer eligible
17 for coverage under such plan (including
18 such eligibility based on the application of
19 a Federal or State COBRA continuation
20 provision) as of the last day of the month
21 involved.

22 “(iii) PREVIOUS CREDITABLE COV-
23 ERAGE FOR AT LEAST 1 YEAR.—As of the
24 date on which the individual loses coverage
25 described in clause (ii), the aggregate of

1 the periods of creditable coverage (as de-
2 termined under section 2701(c) of the
3 Public Health Service Act) is 12 months or
4 longer.

5 “(D) EXHAUSTION OF AVAILABLE COBRA
6 CONTINUATION BENEFITS.—

7 “(i) IN GENERAL.—In the case of an
8 individual described in clause (ii) for a
9 month described in clause (iii)—

10 “(I) the individual (or spouse)
11 elected coverage described in clause
12 (ii); and

13 “(II) the individual (or spouse)
14 has continued such coverage for all
15 months described in clause (iii) in
16 which the individual (or spouse) is eli-
17 gible for such coverage.

18 “(ii) INDIVIDUALS TO WHOM COBRA
19 CONTINUATION COVERAGE MADE AVAIL-
20 ABLE.—An individual described in this
21 clause is an individual—

22 “(I) who was offered coverage
23 under a Federal or State COBRA
24 continuation provision at the time of

1 loss of coverage eligibility described in
2 subparagraph (C)(ii); or

3 “(II) whose spouse was offered
4 such coverage in a manner that per-
5 mitted coverage of the individual at
6 such time.

7 “(iii) MONTHS OF POSSIBLE COBRA
8 CONTINUATION COVERAGE.—A month de-
9 scribed in this clause is a month for which
10 an individual described in clause (ii) could
11 have had coverage described in such clause
12 as of the last day of the month if the indi-
13 vidual (or the spouse of the individual, as
14 the case may be) had elected such coverage
15 on a timely basis.

16 “(E) NOT ELIGIBLE FOR COVERAGE
17 UNDER FEDERAL HEALTH INSURANCE PRO-
18 GRAM OR GROUP HEALTH PLANS.—The indi-
19 vidual is not eligible for benefits or coverage
20 under a Federal health insurance program or
21 under a group health plan (whether on the
22 basis of the individual’s employment or employ-
23 ment of the individual’s spouse) as of the last
24 day of the month involved.

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

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

9 “(B) MARRIED TO DISPLACED WORKER.—
10 The individual is the spouse of an individual at
11 the time the individual enrolls under this part
12 under paragraph (1) and loses coverage de-
13 scribed in paragraph (1)(C)(ii) because the in-
14 dividual’s spouse lost such coverage.

15 “(C) MEDICARE ELIGIBILITY (BUT FOR
16 AGE); EXHAUSTION OF ANY COBRA CONTINU-
17 ATION COVERAGE; AND NOT ELIGIBLE FOR COV-
18 ERAGE UNDER FEDERAL HEALTH INSURANCE
19 PROGRAM OR GROUP HEALTH PLAN.—The indi-
20 vidual meets the requirements of subparagraphs
21 (B), (D), and (E) of paragraph (1).

22 “(3) CHANGE IN HEALTH PLAN ELIGIBILITY
23 AFFECTS CONTINUED ELIGIBILITY.—For provision
24 that terminates enrollment under this section in the
25 case of an individual who becomes eligible for cov-

1 erage under a group health plan or under a Federal
 2 health insurance program, see section
 3 1859A(d)(1)(C).

4 “(4) REENROLLMENT PERMITTED.—Nothing in
 5 this subsection shall be construed as preventing an
 6 individual who, after enrolling under this subsection,
 7 terminates such enrollment from subsequently re-
 8 enrolling under this subsection if the individual is el-
 9 igible to enroll under this subsection at that time.”.

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

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

16 “(3) individuals whose coverage under this part
 17 would terminate because of subsection (d)(1)(B)(ii)
 18 are provided notice and an opportunity to continue
 19 enrollment in accordance with section
 20 1859E(c)(1).”;

21 (2) in subsection (b), by inserting after Not-
 22 withstanding any other provision of law, (1) the fol-
 23 lowing:

24 “(2) DISPLACED WORKERS AND SPOUSES.—In
 25 the case of individuals eligible to enroll under this

1 part under section 1859(c), the following rules
2 apply:

3 “(A) INITIAL ENROLLMENT PERIOD.—If
4 the individual is first eligible to enroll under
5 such section for January 2002, the enrollment
6 period shall begin on November 1, 2001, and
7 shall end on February 28, 2002. Any such en-
8 rollment before January 1, 2002, is conditioned
9 upon compliance with the conditions of eligi-
10 bility for January 2002.

11 “(B) SUBSEQUENT PERIODS.—If the indi-
12 vidual is eligible to enroll under such section for
13 a month after January 2002, the enrollment pe-
14 riod based on such eligibility shall begin on the
15 first day of the second month before the month
16 in which the individual first is eligible to so en-
17 roll (or reenroll) and shall end four months
18 later.”;

19 (3) in subsection (d)(1), by amending subpara-
20 graph (B) to read as follows:

21 “(B) TERMINATION BASED ON AGE.—

22 “(i) AT AGE 65.—Subject to clause
23 (ii), the individual attains 65 years of age.

24 “(ii) AT AGE 62 FOR DISPLACED
25 WORKERS AND SPOUSES.—In the case of

1 an individual enrolled under this part pur-
2 suant to section 1859(c), subject to sub-
3 section (a)(1), the individual attains 62
4 years of age.”;

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

7 “(C) OBTAINING ACCESS TO EMPLOYMENT-
8 BASED COVERAGE OR FEDERAL HEALTH INSUR-
9 ANCE PROGRAM FOR INDIVIDUALS UNDER 62
10 YEARS OF AGE.—In the case of an individual
11 who has not attained 62 years of age, the indi-
12 vidual is covered (or eligible for coverage) as a
13 participant or beneficiary under a group health
14 plan or under a Federal health insurance pro-
15 gram.”;

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

18 “(C) AGE OR MEDICARE ELIGIBILITY.—
19 “(i) IN GENERAL.—The termination
20 of a coverage period under paragraph
21 (1)(A)(iii) or (1)(B)(i) shall take effect as
22 of the first day of the month in which the
23 individual attains 65 years of age or be-
24 comes entitled to benefits under part A or
25 enrolled for benefits under part B.

1 “(ii) DISPLACED WORKERS.—The ter-
 2 mination of a coverage period under para-
 3 graph (1)(B)(ii) shall take effect as of the
 4 first day of the month in which the indi-
 5 vidual attains 62 years of age, unless the
 6 individual has enrolled under this part pur-
 7 suant to section 1859(b) and section
 8 1859E(c)(1).”; and

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

11 “(D) ACCESS TO COVERAGE.—The termi-
 12 nation of a coverage period under paragraph
 13 (1)(C) shall take effect on the date on which
 14 the individual is eligible to begin a period of
 15 creditable coverage (as defined in section
 16 2701(c) of the Public Health Service Act)
 17 under a group health plan or under a Federal
 18 health insurance program.”.

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

21 (1) in subsection (a)(1), by adding at the end
 22 the following:

23 “(B) BASE MONTHLY PREMIUM FOR INDI-
 24 VIDUALS UNDER 62 YEARS OF AGE.—A base
 25 monthly premium for individuals under 62

1 years of age, equal to $\frac{1}{12}$ of the base annual
2 premium rate computed under subsection (d)(3)
3 for each premium area and age cohort.”; and
4 (2) by adding at the end the following new sub-
5 section:

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

8 “(1) NATIONAL, PER CAPITA AVERAGE FOR AGE
9 GROUPS.—

10 “(A) ESTIMATE OF AMOUNT.—The Sec-
11 retary shall estimate the average, annual per
12 capita amount that would be payable under this
13 title with respect to individuals residing in the
14 United States who meet the requirement of sec-
15 tion 1859(c)(1)(A) within each of the age co-
16 horts established under subparagraph (B) as if
17 all such individuals within such cohort were eli-
18 gible for (and enrolled) under this title during
19 the entire year (and assuming that section
20 1862(b)(2)(A)(i) did not apply).

21 “(B) AGE COHORTS.—For purposes of
22 subparagraph (A), the Secretary shall establish
23 separate age cohorts in 5 year age increments
24 for individuals who have not attained 60 years

1 of age and a separate cohort for individuals who
2 have attained 60 years of age.

3 “(2) GEOGRAPHIC ADJUSTMENT.—The Sec-
4 retary shall adjust the amount determined under
5 paragraph (1)(A) for each premium area (specified
6 under subsection (a)(3)) in the same manner and to
7 the same extent as the Secretary provides for adjust-
8 ments under subsection (b)(2).

9 “(3) BASE ANNUAL PREMIUM.—The base an-
10 nual premium under this subsection for months in a
11 year for individuals in an age cohort under para-
12 graph (1)(B) in a premium area is equal to 165 per-
13 cent of the average, annual per capita amount esti-
14 mated under paragraph (1) for the age cohort and
15 year, adjusted for such area under paragraph (2).

16 “(4) PRO-RATION OF PREMIUMS TO REFLECT
17 COVERAGE DURING A PART OF A MONTH.—If the
18 Secretary provides for coverage of portions of a
19 month under section 1859A(c)(2), the Secretary
20 shall pro-rate the premiums attributable to such cov-
21 erage under this section to reflect the portion of the
22 month so covered.”.

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

1 “(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

2 “(1) PROCESS FOR CONTINUED ENROLLMENT
3 OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF
4 AGE.—The Secretary shall provide a process for the
5 continuation of enrollment of individuals whose en-
6 rollment under section 1859(c) would be terminated
7 upon attaining 62 years of age. Under such process
8 such individuals shall be provided appropriate and
9 timely notice before the date of such termination
10 and of the requirement to enroll under this part pur-
11 suant to section 1859(b) in order to continue entitle-
12 ment to benefits under this title after attaining 62
13 years of age.

14 “(2) ARRANGEMENTS WITH STATES FOR DE-
15 TERMINATIONS RELATING TO UNEMPLOYMENT COM-
16 PENSATION ELIGIBILITY.—The Secretary may pro-
17 vide for appropriate arrangements with States for
18 the determination of whether individuals in the State
19 meet or would meet the requirements of section
20 1859(e)(1)(C)(i).”.

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

1 **TITLE III—COBRA PROTECTION**
 2 **FOR EARLY RETIREES**
 3 **Subtitle A—Amendments to the**
 4 **Employee Retirement Income**
 5 **Security Act of 1974**

6 **SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN**
 7 **RETIRED WORKERS WHO LOSE RETIREE**
 8 **HEALTH COVERAGE.**

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

11 (1) IN GENERAL.—Section 603 of the Employee
 12 Retirement Income Security Act of 1974 (29 U.S.C.
 13 1163) is amended by inserting after paragraph (6)
 14 the following new paragraph:

15 “(7) The termination or substantial reduction
 16 in benefits (as defined in section 607(7)) of group
 17 health plan coverage as a result of plan changes or
 18 termination in the case of a covered employee who
 19 is a qualified retiree.”.

20 (2) QUALIFIED RETIREE; QUALIFIED BENE-
 21 FICIARY; AND SUBSTANTIAL REDUCTION DE-
 22 FINED.—Section 607 of such Act (29 U.S.C. 1167)
 23 is amended—

24 (A) in paragraph (3)—

1 (i) in subparagraph (A), by inserting
 2 “except as otherwise provided in this para-
 3 graph,” after “means,”; and

4 (ii) by adding at the end the following
 5 new subparagraph:

6 “(D) SPECIAL RULE FOR QUALIFYING RE-
 7 TIREES AND DEPENDENTS.—In the case of a
 8 qualifying event described in section 603(7), the
 9 term ‘qualified beneficiary’ means a qualified
 10 retiree and any other individual who, on the day
 11 before such qualifying event, is a beneficiary
 12 under the plan on the basis of the individual’s
 13 relationship to such qualified retiree.”; and

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

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

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

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

24 “(7) SUBSTANTIAL REDUCTION.—The term
 25 ‘substantial reduction’—

1 “(A) means, as determined under regula-
2 tions of the Secretary and with respect to a
3 qualified beneficiary, a reduction in the average
4 actuarial value of benefits under the plan
5 (through reduction or elimination of benefits,
6 an increase in premiums, deductibles, copay-
7 ments, and coinsurance, or any combination
8 thereof), since the date of commencement of
9 coverage of the beneficiary by reason of the re-
10 tirement of the covered employee (or, if later,
11 January 6, 2001), in an amount equal to at
12 least 50 percent of the total average actuarial
13 value of the benefits under the plan as of such
14 date (taking into account an appropriate ad-
15 justment to permit comparison of values over
16 time); and

17 “(B) includes an increase in premiums re-
18 quired to an amount that exceeds the premium
19 level described in the fourth sentence of section
20 602(3).”.

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

24 (1) in clause (ii), by inserting “or 603(7)” after
25 “603(6)”;

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

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

4 (4) by redesignating clause (v) as clause (iv)
5 and by moving such clause to immediately follow
6 clause (iii); and

7 (5) by inserting after such clause (iv) the fol-
8 lowing new clause:

9 “(v) SPECIAL RULE FOR CERTAIN DE-
10 PENDENTS IN CASE OF TERMINATION OR
11 SUBSTANTIAL REDUCTION OF RETIREE
12 HEALTH COVERAGE.—In the case of a
13 qualifying event described in section
14 603(7), in the case of a qualified bene-
15 ficiary described in section 607(3)(D) who
16 is not the qualified retiree or spouse of
17 such retiree, the later of—

18 “(I) the date that is 36 months
19 after the earlier of the date the quali-
20 fied retiree becomes entitled to bene-
21 fits under title XVIII of the Social Se-
22 curity Act, or the date of the death of
23 the qualified retiree; or

1 “(II) the date that is 36 months
2 after the date of the qualifying
3 event.”.

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

8 (1) by striking “The coverage” and inserting
9 the following:

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

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

13 “(B) CERTAIN RETIREES.—In the case of
14 a qualifying event described in section 603(7),
15 in applying the first sentence of subparagraph
16 (A) and the fourth sentence of paragraph (3),
17 the coverage offered that is the most prevalent
18 coverage option (as determined under regula-
19 tions of the Secretary) continued under the
20 group health plan (or, if none, under the most
21 prevalent other plan offered by the same plan
22 sponsor) shall be treated as the coverage de-
23 scribed in such sentence, or (at the option of
24 the plan and qualified beneficiary) such other

1 coverage option as may be offered and elected
2 by the qualified beneficiary involved.”.

3 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
4 Section 602(3) of such Act (29 U.S.C. 1162(3)) is amend-
5 ed by adding at the end the following new sentence: “In
6 the case of an individual provided continuation coverage
7 by reason of a qualifying event described in section
8 603(7), any reference in subparagraph (A) of this para-
9 graph to ‘102 percent of the applicable premium’ is
10 deemed a reference to ‘125 percent of the applicable pre-
11 mium for employed individuals (and their dependents, if
12 applicable) for the coverage option referred to in para-
13 graph (1)(B)’.”.

14 (e) NOTICE.—Section 606(a) of such Act (29 U.S.C.
15 1166) is amended—

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

18 (2) by adding at the end the following:
19 “The notice under paragraph (4) in the case of a quali-
20 fying event described in section 603(7) shall be provided
21 at least 90 days before the date of the qualifying event.”.

22 (f) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 this section (other than subsection (e)(2)) shall
25 apply to qualifying events occurring on or after Jan-

1 uary 6, 2001. In the case of a qualifying event oc-
 2 ccurring on or after such date and before the date of
 3 the enactment of this Act, such event shall be
 4 deemed (for purposes of such amendments) to have
 5 occurred on the date of the enactment of this Act.

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

12 **Subtitle B—Amendments to the** 13 **Public Health Service Act**

14 **SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN** 15 **RETIRED WORKERS WHO LOSE RETIREE** 16 **HEALTH COVERAGE.**

17 (a) ESTABLISHMENT OF NEW QUALIFYING
 18 EVENT.—

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

23 “(6) The termination or substantial reduction
 24 in benefits (as defined in section 2208(6)) of group
 25 health plan coverage as a result of plan changes or

1 termination in the case of a covered employee who
2 is a qualified retiree.”.

3 (2) QUALIFIED RETIREE; QUALIFIED BENE-
4 FICIARY; AND SUBSTANTIAL REDUCTION DE-
5 FINED.—Section 2208 of such Act (42 U.S.C.
6 300bb–8) is amended—

7 (A) in paragraph (3)—

8 (i) in subparagraph (A), by inserting
9 “except as otherwise provided in this para-
10 graph,” after “means,”; and

11 (ii) by adding at the end the following
12 new subparagraph:

13 “(C) SPECIAL RULE FOR QUALIFYING RE-
14 TIREES AND DEPENDENTS.—In the case of a
15 qualifying event described in section 2203(6),
16 the term ‘qualified beneficiary’ means a quali-
17 fied retiree and any other individual who, on
18 the day before such qualifying event, is a bene-
19 ficiary under the plan on the basis of the indi-
20 vidual’s relationship to such qualified retiree.”;
21 and

22 (B) by adding at the end the following new
23 paragraphs:

24 “(5) QUALIFIED RETIREE.—The term ‘qualified
25 retiree’ means, with respect to a qualifying event de-

1 scribed in section 2203(6), a covered employee who,
2 at the time of the event—

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

4 “(B) was receiving group health coverage
5 under the plan by reason of the retirement of
6 the covered employee.

7 “(6) SUBSTANTIAL REDUCTION.—The term
8 ‘substantial reduction’—

9 “(A) means, as determined under regula-
10 tions of the Secretary of Labor and with respect
11 to a qualified beneficiary, a reduction in the av-
12 erage actuarial value of benefits under the plan
13 (through reduction or elimination of benefits,
14 an increase in premiums, deductibles, copay-
15 ments, and coinsurance, or any combination
16 thereof), since the date of commencement of
17 coverage of the beneficiary by reason of the re-
18 tirement of the covered employee (or, if later,
19 January 6, 2001), in an amount equal to at
20 least 50 percent of the total average actuarial
21 value of the benefits under the plan as of such
22 date (taking into account an appropriate ad-
23 justment to permit comparison of values over
24 time); and

1 “(B) includes an increase in premiums re-
 2 quired to an amount that exceeds the premium
 3 level described in the fourth sentence of section
 4 2202(3).”.

5 (b) DURATION OF COVERAGE THROUGH AGE 65.—
 6 Section 2202(2)(A) of such Act (42 U.S.C. 300bb-
 7 2(2)(A)) is amended—

8 (1) by redesignating clause (iii) as clause (iv);
 9 and

10 (2) by inserting after clause (ii) the following
 11 new clause:

12 “(iii) SPECIAL RULE FOR CERTAIN
 13 DEPENDENTS IN CASE OF TERMINATION
 14 OR SUBSTANTIAL REDUCTION OF RETIREE
 15 HEALTH COVERAGE.—In the case of a
 16 qualifying event described in section
 17 2203(6), in the case of a qualified bene-
 18 ficiary described in section 2208(3)(C) who
 19 is not the qualified retiree or spouse of
 20 such retiree, the later of—

21 “(I) the date that is 36 months
 22 after the earlier of the date the quali-
 23 fied retiree becomes entitled to bene-
 24 fits under title XVIII of the Social Se-

1 curity Act, or the date of the death of
2 the qualified retiree; or

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

6 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
7 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
8 ERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb-
9 2(1)) is amended—

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

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

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

15 “(B) CERTAIN RETIREES.—In the case of
16 a qualifying event described in section 2203(6),
17 in applying the first sentence of subparagraph
18 (A) and the fourth sentence of paragraph (3),
19 the coverage offered that is the most prevalent
20 coverage option (as determined under regula-
21 tions of the Secretary of Labor) continued
22 under the group health plan (or, if none, under
23 the most prevalent other plan offered by the
24 same plan sponsor) shall be treated as the cov-
25 erage described in such sentence, or (at the op-

1 tion of the plan and qualified beneficiary) such
2 other coverage option as may be offered and
3 elected by the qualified beneficiary involved.”.

4 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
5 Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is
6 amended by adding at the end the following new sentence:
7 “In the case of an individual provided continuation cov-
8 erage by reason of a qualifying event described in section
9 2203(6), any reference in subparagraph (A) of this para-
10 graph to ‘102 percent of the applicable premium’ is
11 deemed a reference to ‘125 percent of the applicable pre-
12 mium for employed individuals (and their dependents, if
13 applicable) for the coverage option referred to in para-
14 graph (1)(B)’.”.

15 (e) NOTICE.—Section 2206(a) of such Act (42 U.S.C.
16 300bb–6(a)) is amended—

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

19 (2) by adding at the end the following:
20 “The notice under paragraph (4) in the case of a quali-
21 fying event described in section 2203(6) shall be provided
22 at least 90 days before the date of the qualifying event.”.

23 (f) EFFECTIVE DATES.—

24 (1) IN GENERAL.—The amendments made by
25 this section (other than subsection (e)(2)) shall

1 apply to qualifying events occurring on or after Jan-
 2 uary 6, 2001. In the case of a qualifying event oc-
 3 ccurring on or after such date and before the date
 4 of the enactment of this Act, such event shall be
 5 deemed (for purposes of such amendments) to have
 6 occurred on the date of the enactment of this Act.

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

13 **Subtitle C—Amendments to the** 14 **Internal Revenue Code of 1986**

15 **SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN** 16 **RETIRED WORKERS WHO LOSE RETIREE** 17 **HEALTH COVERAGE.**

18 (a) ESTABLISHMENT OF NEW QUALIFYING
 19 EVENT.—

20 (1) IN GENERAL.—Section 4980B(f)(3) of the
 21 Internal Revenue Code of 1986 is amended by in-
 22 sserting after subparagraph (F) the following new
 23 subparagraph:

24 “(G) The termination or substantial reduc-
 25 tion in benefits (as defined in subsection (g)(6))

1 of group health plan coverage as a result of
2 plan changes or termination in the case of a
3 covered employee who is a qualified retiree.”.

4 (2) QUALIFIED RETIREE; QUALIFIED BENE-
5 FICIARY; AND SUBSTANTIAL REDUCTION DE-
6 FINED.—Section 4980B(g) of such Code is
7 amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by inserting
10 “except as otherwise provided in this para-
11 graph,” after “means,”; and

12 (ii) by adding at the end the following
13 new subparagraph:

14 “(E) SPECIAL RULE FOR QUALIFYING RE-
15 TIREES AND DEPENDENTS.—In the case of a
16 qualifying event described in subsection
17 (f)(3)(G), the term ‘qualified beneficiary’ means
18 a qualified retiree and any other individual who,
19 on the day before such qualifying event, is a
20 beneficiary under the plan on the basis of the
21 individual’s relationship to such qualified re-
22 tiree.”; and

23 (B) by adding at the end the following new
24 paragraphs:

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

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

6 “(B) was receiving group health coverage
7 under the plan by reason of the retirement of
8 the covered employee.

9 “(6) SUBSTANTIAL REDUCTION.—The term
10 ‘substantial reduction’—

11 “(A) means, as determined under regula-
12 tions of the Secretary of Labor and with respect
13 to a qualified beneficiary, a reduction in the av-
14 erage actuarial value of benefits under the plan
15 (through reduction or elimination of benefits,
16 an increase in premiums, deductibles, copay-
17 ments, and coinsurance, or any combination
18 thereof), since the date of commencement of
19 coverage of the beneficiary by reason of the re-
20 tirement of the covered employee (or, if later,
21 January 6, 2001), in an amount equal to at
22 least 50 percent of the total average actuarial
23 value of the benefits under the plan as of such
24 date (taking into account an appropriate ad-

1 in the case of a qualified beneficiary
 2 described in subsection (g)(1)(E) who
 3 is not the qualified retiree or spouse
 4 of such retiree, the later of—

5 “(a) the date that is 36
 6 months after the earlier of the
 7 date the qualified retiree becomes
 8 entitled to benefits under title
 9 XVIII of the Social Security Act,
 10 or the date of the death of the
 11 qualified retiree; or

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

15 (c) TYPE OF COVERAGE IN CASE OF TERMINATION
 16 OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COV-
 17 ERAGE.—Section 4980B(f)(2)(A) of such Code is
 18 amended—

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

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

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

24 “(ii) CERTAIN RETIREES.—In the
 25 case of a qualifying event described in

1 paragraph (3)(G), in applying the first
2 sentence of clause (i) and the fourth sen-
3 tence of subparagraph (C), the coverage
4 offered that is the most prevalent coverage
5 option (as determined under regulations of
6 the Secretary of Labor) continued under
7 the group health plan (or, if none, under
8 the most prevalent other plan offered by
9 the same plan sponsor) shall be treated as
10 the coverage described in such sentence, or
11 (at the option of the plan and qualified
12 beneficiary) such other coverage option as
13 may be offered and elected by the qualified
14 beneficiary involved.”.

15 (d) INCREASED LEVEL OF PREMIUMS PERMITTED.—
16 Section 4980B(f)(2)(C) of such Code is amended by add-
17 ing at the end the following new sentence: “In the case
18 of an individual provided continuation coverage by reason
19 of a qualifying event described in paragraph (3)(G), any
20 reference in clause (i) of this subparagraph to ‘102 per-
21 cent of the applicable premium’ is deemed a reference to
22 ‘125 percent of the applicable premium for employed indi-
23 viduals (and their dependents, if applicable) for the cov-
24 erage option referred to in subparagraph (A)(ii)’.”.

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

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

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

6 “The notice under subparagraph (D)(i) in the case of a
7 qualifying event described in paragraph (3)(G) shall be
8 provided at least 90 days before the date of the qualifying
9 event.”.

10 (f) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by
12 this section (other than subsection (e)(2)) shall
13 apply to qualifying events occurring on or after Jan-
14 uary 6, 2001. In the case of a qualifying event oc-
15 ccurring on or after such date and before the date of
16 the enactment of this Act, such event shall be
17 deemed (for purposes of such amendments) to have
18 occurred on the date of the enactment of this Act.

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

1 **TITLE IV—50 PERCENT CREDIT**
 2 **AGAINST INCOME TAX FOR**
 3 **MEDICARE BUY-IN PREMIUMS**
 4 **AND FOR CERTAIN COBRA**
 5 **CONTINUATION COVERAGE**
 6 **PREMIUMS**

7 **SEC. 401. 50 PERCENT INCOME TAX CREDIT FOR MEDICARE**
 8 **BUY-IN PREMIUMS AND FOR CERTAIN COBRA**
 9 **CONTINUATION COVERAGE PREMIUMS.**

10 (a) IN GENERAL.—Subpart A of part IV of sub-
 11 chapter A of chapter 1 of the Internal Revenue Code of
 12 1986 (relating to nonrefundable personal credits) is
 13 amended by inserting after section 25A the following new
 14 section:

15 **“SEC. 25B. MEDICARE BUY-IN PREMIUMS AND CERTAIN**
 16 **COBRA CONTINUATION COVERAGE PRE-**
 17 **MIUMS.**

18 “(a) IN GENERAL.—In the case of an individual,
 19 there shall be allowed as a credit against the tax imposed
 20 by this chapter for the taxable year an amount equal to
 21 50 percent of the amount paid during such year as—

22 “(1) qualified continuation health coverage pre-
 23 miums, and

24 “(2) medicare buy-in coverage premiums.

25 “(b) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED CONTINUATION HEALTH COV-
 2 ERAGE PREMIUMS.—The term ‘qualified continu-
 3 ation health coverage premiums’ means, for any pe-
 4 riod, premiums paid for continuation coverage (as
 5 defined in section 4980B(f)) under a group health
 6 plan for such period but only if failure to offer such
 7 coverage to the taxpayer for such period would con-
 8 stitute a failure by such health plan to meet the re-
 9 quirements of section 4980B(f) and only if the con-
 10 tinuation coverage is provided because of a quali-
 11 fying event described in section 4980B(f)(3)(G).

12 “(2) MEDICARE BUY-IN COVERAGE PRE-
 13 MIUMS.—The term ‘medicare buy-in coverage pre-
 14 miums’ means premiums paid under part D of title
 15 XVIII of the Social Security Act.”

16 (b) CLERICAL AMENDMENT.—The table of sections
 17 for subpart A of part IV of subchapter A of chapter 1
 18 of such Code is amended by inserting after the item relat-
 19 ing to section 25A the following new item:

“Sec. 25B. Medicare buy-in premiums and certain COBRA con-
 tinuation coverage premiums.”

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 2002.

○