

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2624

To provide for comprehensive health care and health care cost containment.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1993

Mr. PETERSON of Minnesota introduced the following bill; which was referred jointly to the Committees on Energy and Commerce, Ways and Means, Education and Labor, the Judiciary, Armed Services, and Post Office and Civil Service

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## A BILL

To provide for comprehensive health care and health care cost containment.

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 “Comprehensive Health Care and Cost Containment Act  
6 of 1993”.

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. Findings and program goals.
- Sec. 3. Definitions.

TITLE I—FEDERAL AND STATE ADMINISTRATION

Subtitle A—Federal Administration

- Sec. 101. Federal Health Board.
- Sec. 102. Federal Health Education Commission.

Subtitle B—State Administration

- Sec. 111. State Health Boards.
- Sec. 112. Health care districts and boards.
- Sec. 113. State Health Care Education Commissions.

TITLE II—HEALTH CARE SERVICES

Subtitle A—National Health Insurance Program

- Sec. 201. National standards for health insurance; requirement of enrollment.
- Sec. 202. Coverage of all necessary and appropriate health care practitioner services.
- Sec. 203. Premiums; reduction in premiums for low income individuals.
- Sec. 204. Use of standardized forms.
- Sec. 205. Payments to practitioners.

Subtitle B—Payment Amounts for Health Care Practitioner Services and for Covered District Health Care Services

PART 1—HEALTH CARE PRACTITIONER SERVICES

- Sec. 211. State-chartered practitioners associations.
- Sec. 212. Establishment of fee schedules.

PART 2—PAYMENTS FOR COVERED DISTRICT HEALTH CARE SERVICES

- Sec. 221. Establishment of annual per capita rates.
- Sec. 222. State budgets for covered district health care services.
- Sec. 223. District budgets for covered district health care services.
- Sec. 224. Payments from Federal government to States for covered district health care services.
- Sec. 225. State program budgets.

TITLE III—MALPRACTICE INSURANCE REFORM

- Sec. 301. Eligibility requirements for Federal payments for State plans.
- Sec. 302. State-chartered practitioners association assumption of responsibility for malpractice insurance coverage and payment of damages.
- Sec. 303. Prohibition against punitive damages.
- Sec. 304. Medical malpractice claim defined.

TITLE IV—PROVISIONS RELATING TO ERISA AND FEDERAL AND STATE ANTITRUST LAWS

- Sec. 401. Relation to ERISA.
- Sec. 402. Relation to Federal and State Antitrust laws.

TITLE V—HEALTH CARE EDUCATION TRUST FUND

- Sec. 501. Health Care Education Trust Fund.
- Sec. 502. Increase in taxes on cigarettes and distilled spirits.

## TITLE VI—TAX TREATMENT OF HEALTH INSURANCE PREMIUMS

Sec. 601. Deduction for health insurance premiums.

## TITLE VII—PRIVATE OPTIONS

Sec. 701. Additional insurance.

## TITLE VIII—PRESCRIPTION DRUG REVIEW BOARD

Sec. 801. Establishment of Board.

Sec. 802. Powers of Board.

Sec. 803. Functions of the Board.

Sec. 804. Sanctions and remedies.

Sec. 805. Manufacturers.

Sec. 806. Study.

## TITLE IX—TERMINATION OF PROGRAMS

Sec. 901. Termination of certain Federal health care programs.

Sec. 902. Transition.

1 **SEC. 2. FINDINGS AND PROGRAM GOALS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) RISING COSTS OF HEALTH CARE.—(A)

4 Health care spending in the United States has  
5 grown at a rate that substantially exceeds the rise  
6 in the gross national product.

7 (B) Between 1965 and 1989, national health  
8 care spending doubled, increasing from 5.9 percent  
9 to 11.6 percent of the gross national product.

10 (C) National spending on health care has been  
11 increasing at a greater rate than the general cost-  
12 of-living index and the growth in the gross national  
13 product for a number of years.

14 (D) In 1989, spending on health care was \$604  
15 billion, an amount which exceeds the proportion of

1 the gross national product spent on health care by  
2 every other industrialized nation.

3 (E) The high relative expenditure of the United  
4 States on health care diminishes American incomes,  
5 productivity, and competitiveness in global trade.

6 (F) Administrative, marketing, and liability  
7 costs are among those components of health care  
8 costs that have grown the fastest.

9 (G) Cost-shifting, the rising cost of insurance  
10 premiums, and declining coverage are leaving Ameri-  
11 cans without access (or without adequate access) to  
12 important health services.

13 (2) LIMITED ACCESS TO HEALTH CARE.—(A) A  
14 growing number of Americans are uninsured or in-  
15 adequately insured to meet their health care needs.

16 (B) All Americans have a right to at least a  
17 basic level of health care services that are continu-  
18 ously available and determined to be cost-effective.

19 (C) At least 33 million Americans currently  
20 lack access to basic health services at any point in  
21 time.

22 (D) It is estimated that during any 2-year pe-  
23 riod, approximately 25 percent of the non-elderly  
24 population of the United States has neither health  
25 insurance nor public health care coverage for some

1 period of time, and that an additional 13 percent of  
2 the population are underinsured for health care.

3 (3) NATIONAL PROBLEM.—(A) The growing  
4 costs of health care, coupled with declining access to  
5 services, represent a growing national problem.

6 (B) Despite growing expenditures on health  
7 care, health status indicators in the United States  
8 lag well behind those of other industrialized nations.

9 (C) Studies indicate that person who are unin-  
10 sured or underinsured are less likely to receive ade-  
11 quate health care services.

12 (D) Studies also find that insufficient access to  
13 health care services has a negative impact on health  
14 status and also increased health care expenditures in  
15 the longer term.

16 (E) The current system of financing health care  
17 in the United States is complex, confusing, and frus-  
18 trating to many Americans, including physicians and  
19 other providers of health care.

20 (F) National expenditures on health care can-  
21 not continue to expand faster than inflation and the  
22 rate of national economic growth without endanger-  
23 ing the domestic standard of living and international  
24 economic competitiveness.

1 (b) PROGRAM GOALS.—The goals of the program of  
2 comprehensive health care and cost containment contained  
3 in this Act are as follows:

4 (1) To provide universal access to health care  
5 services for all Americans regardless of their finan-  
6 cial and medical conditions.

7 (2) To establish the institutional and political  
8 capacity to control the escalating health care costs  
9 in the United States and to eliminate administrative  
10 waste.

11 (3) To ensure the portability of health care cov-  
12 erage to all regions of the United States.

13 (4) To build on the strengths of the Federal  
14 system, with the Federal Government contributing  
15 progressive financing while State government and  
16 units of local government supply additional funding  
17 and administer the program with the flexibility to  
18 address the specific concerns of each region.

19 (5) To utilize community care networks and  
20 local control to maximize our ability to expand ac-  
21 cess while containing costs.

22 (6) To maintain the proven advantages of the  
23 American health care delivery system, including pri-  
24 vate practice, the freedom to choose among practi-  
25 tioners, and superiority in biomedical technology.

1           (7) To encourage the effective use of preventive  
2           and primary care.

3           (8) To enhance the autonomy of practitioners  
4           by limiting the intrusiveness of government interven-  
5           tion in the actual delivery of care.

6           (9) To promote the role of competition and col-  
7           laboration among practitioners and insurers to en-  
8           courage innovation that results in higher quality and  
9           more efficient care.

10          (10) To reduce the incentives providers face to  
11          perform medically unnecessary or inappropriate serv-  
12          ices.

13          (11) To reinforce the public accountability of  
14          the health care system, permitting explicit and open  
15          deliberation about the allocation of resources to  
16          health care.

17          (12) To provide that all Americans share in the  
18          responsibility of maintaining an efficient health care  
19          system.

20 **SEC. 3. DEFINITIONS.**

21          In this Act:

22               (1) The term “approved health insurance pol-  
23               icy” means a health insurance policy which has been  
24               approved by the Federal Health Board under section  
25               201(a).

1           (2) The term “covered district health care serv-  
2           ices” means the following services:

3                   (A) Ambulance services.

4                   (B) Dialysis.

5                   (C) Hospice care.

6                   (D) Inpatient and outpatient hospital serv-  
7           ices (including such services provided for treat-  
8           ment of mental illness), including—

9                           (i) accommodation and meals at the  
10                           standard level (and preferred accommoda-  
11                           tion if medically required),

12                           (ii) nursing services,

13                           (iii) laboratory, radiological, and other  
14                           diagnostic procedures (together with nec-  
15                           essary interpretations),

16                           (iv) drugs, biologicals, and related  
17                           preparations when administered in the hos-  
18                           pital,

19                           (v) use of operating room, case room,  
20                           and anesthetic facilities, including nec-  
21                           essary equipment and supplies,

22                           (vi) medical and surgical equipment  
23                           and supplies,

24                           (vii) emergency room services,

25                           (viii) use of radiotherapy facilities,

1 (ix) use of physiotherapy facilities,  
2 (x) services of hospital-based health  
3 care practitioners (such as anesthesiol-  
4 ogists, certified registered nurse anes-  
5 thetists, pathologists, and radiologists), as  
6 specified by the Federal Health Board, and

7 (xi) services provided by other persons  
8 who receive remuneration therefore from  
9 the hospital;

10 but excluding health care practitioner services  
11 furnished on an outpatient basis and for which  
12 remuneration is not paid by the hospital.

13 (E) Inhalation services.

14 (F) Partial hospitalization or day treat-  
15 ment services for treatment of mental illness,  
16 excluding health care practitioner services fur-  
17 nished on an outpatient basis and for which re-  
18 muneration is not paid by the hospital.

19 (G) Nuclear medicine.

20 (H) Nursing care in an individual's place  
21 of residence.

22 (I) Inpatient, outpatient, and residential  
23 substance abuse treatment services.

24 (J) Home care services (other than health  
25 care practitioner services)—

1 (i) for treatment of a diagnosed medi-  
2 cal condition or rehabilitation,

3 (ii) for treatment of a long-term dis-  
4 ability, or

5 (iii) for frail individuals at risk of in-  
6 stitutionalization in the absence of such  
7 services.

8 (K) Nursing facility services, including  
9 long-term residential care.

10 (L) Respite care.

11 (3) The term “district board” refers to a  
12 Health Care District Board appointed under section  
13 202.

14 (4) The term “Federal Health Board” refers to  
15 the Federal Health Board established under section  
16 101.

17 (5) The term “Federal Health Education Com-  
18 mission” refers to the Federal Health Education  
19 Commission established under section 102.

20 (6) The term “global budget” means, with re-  
21 spect to a district for a 12-month period, a com-  
22 prehensive annual budget established by the district  
23 board for the district and setting forth, in advance  
24 of the period—

1 (A) aggregate receipts anticipated by the  
2 board from the Federal and State governments  
3 for the provision of health care services in the  
4 year, and

5 (B) aggregate expenditures for the provi-  
6 sion of such services in the period, broken down  
7 by (i) capital expenditures, and (ii) other ex-  
8 penditures.

9 (7) The term “health care practitioner” means  
10 an individual lawfully entitled under the law of the  
11 State to provide health services in the place in which  
12 the services are provided by the individual.

13 (8) The term “health care practitioner services”  
14 means medical, chiropractic, dental, mental health,  
15 and vision services provided by a health care practi-  
16 tioner, other than services described in paragraph  
17 (2)(D)(x) (except for such services furnished on an  
18 outpatient basis and for which remuneration is not  
19 paid by a hospital).

20 (9) The term “State Health Board” refers to a  
21 State Health Board established under section 111.

22 (10) The term “State-chartered practitioners  
23 association” means an organization of health care  
24 practitioners that is chartered by the State in ac-  
25 cordance with section 211.

1     **TITLE I—FEDERAL AND STATE**  
2                     **ADMINISTRATION**  
3     **Subtitle A—Federal Administration**

4     **SEC. 101. FEDERAL HEALTH BOARD.**

5             (a) ESTABLISHMENT.—

6                 (1) IN GENERAL.—There is established within  
7             the Department of Health and Human Services a  
8             Federal Health Board.

9                 (2) MEMBERSHIP; APPOINTMENT.—The Board  
10            shall consist of 5 individuals, appointed by the  
11            President by and with the advice and consent of the  
12            Senate.

13                (3) TERMS.—Members of the Board shall serve  
14            for terms of 5 years, except that the terms of the  
15            members initially appointed shall be for terms of 1,  
16            2, 3, 4, and 5 years, as specified by the President  
17            at the time of appointment.

18                (4) COMPENSATION.—Members of the Board  
19            are entitled, subject to amounts provided in advance  
20            in appropriations Acts, to compensation at the rate  
21            provided for level V of the Executive Schedule.

22                (b) DUTIES.—The Board is responsible for the fol-  
23            lowing:

24                    (1) DETERMINATION OF NATIONAL PER CAPITA  
25            SPENDING RATES.—

1 (A) COVERED DISTRICT HEALTH CARE  
2 SERVICES.—The Board shall determine, in ac-  
3 cordance with section 221(a), national per cap-  
4 ita spending rates for covered district health  
5 care services. In determining such rates, the  
6 Board shall use data provided by the State.

7 (B) PRACTITIONER SERVICES.—The Board  
8 shall determine national per capita spending  
9 rates for health care practitioner services. In  
10 determining such rates, the Board shall use  
11 data provided by the insurance companies.

12 (2) ESTABLISHMENT OF SINGLE NATIONAL IN-  
13 SURANCE PREMIUMS.—The Board shall establish a  
14 single national insurance premium for each of the  
15 following categories of enrollment:

16 (A) Individuals.

17 (B) Married couples without children and  
18 an unmarried individual with a child.

19 (C) Married couples with one child and an  
20 unmarried individual with two children.

21 (D) Married couples with two children and  
22 an unmarried individual with three or more  
23 children.

24 (E) Married couples with three or more  
25 children.

1           (3) PAYMENT.—The Board shall make Federal  
2           payments to States and insurers under this Act.

3           (4) CERTIFICATION.—The Board shall deter-  
4           mine whether States comply with the goals and  
5           guidelines for implementing provisions under this  
6           Act.

7           (5) RECIPROCITY.—The Board shall enter into  
8           reciprocity agreements with foreign countries which  
9           agree to provide health care services to United  
10          States citizens in a manner similar to the provision  
11          of services under this Act.

12          (6) REVIEW OF DUPLICATIVE PROGRAMS.—  
13          Within 1 year after the date of the enactment of this  
14          Act, the Board shall submit to Congress a report  
15          that identifies Federal health care programs (other  
16          than provided in this Act) which duplicate the serv-  
17          ices provided in this Act. The Board may include in  
18          the report such recommendations for the revision or  
19          elimination of such programs as may be appropriate.

20          (7) ANNUAL REPORT.—The Board shall submit  
21          to Congress an annual report on the status of the  
22          health care system in the United States.

23 **SEC. 102. FEDERAL HEALTH EDUCATION COMMISSION.**

24          (a) ESTABLISHMENT.—

1           (1) IN GENERAL.—There is established within  
2 the Department of Education a Federal Health Edu-  
3 cation Commission.

4           (2) MEMBERSHIP; APPOINTMENT.—The Com-  
5 mission shall consist of 5 individuals, appointed by  
6 the President by and with the advise and consent of  
7 the Senate.

8           (3) TERMS.—Members of the Board shall serve  
9 for terms of 5 years, except that the terms of the  
10 members initially appointed shall be for terms of 1,  
11 2, 3, 4, and 5 years, as specified by the President  
12 at the time of appointment.

13           (4) COMPENSATION.—Members of the Board  
14 are entitled, subject to amounts provided in advance  
15 in appropriations Acts, to compensation at the rate  
16 provided for level V of the Executive Schedule.

17           (b) DUTIES.—The Commission is responsible for the  
18 following:

19           (1) CONSUMER EDUCATION GRANTS.—The  
20 Commission shall manage the program of Federal  
21 grants to States for consumer education programs,  
22 under section 113 and title V.

23           (2) PRIMARY CARE PRACTITIONER TRAINING  
24 GRANTS.—The Commission shall manage the pro-

1       gram of Federal grants to States for primary care  
2       practitioner training, under section 113 and title V.

3           (3) ANNUAL REPORT.—The Commission shall  
4       submit to Congress an annual report on its activities  
5       under this Act.

## 6       **Subtitle B—State Administration**

### 7       **SEC. 111. STATE HEALTH BOARDS.**

8           (a) ESTABLISHMENT.—Each State shall provide for  
9       the establishment of a State Health Board that meets the  
10      requirements of this section.

11          (b) MEMBERSHIP.—

12           (1) IN GENERAL.—Each State Health Board  
13      shall—

14                  (A) include representatives of the organiza-  
15                  tions described in paragraph (2),

16                  (B) include representatives of the interests  
17                  described in paragraph (3), and

18                  (C) assure that at least 60 percent of the  
19                  membership represents the interests described  
20                  in paragraph (3).

21           (2) HEALTH PROVIDER ORGANIZATIONS.—The  
22      organizations described in this paragraph are as fol-  
23      lows:

24                  (A) The State-chartered medical associa-  
25                  tion.

1 (B) The State-chartered nurses associa-  
2 tion.

3 (C) The State-chartered chiropractic physi-  
4 cians association.

5 (D) The State-chartered mental health  
6 providers association.

7 (E) The State hospital association.

8 (F) The State nursing home association.

9 (3) NON-PROVIDER INTERESTS.—The interests  
10 described in this paragraph are the interests of—

11 (A) consumers,

12 (B) the State legislature, and

13 (C) the insurance industry.

14 (c) DUTIES.—Each State Health Board shall have re-  
15 sponsibility for the following:

16 (1) To establish health districts in the State  
17 and to appoint a district health care board for each  
18 such district, in accordance with section 112.

19 (2) To set the global budget (as defined in sec-  
20 tion 3(6)) for each health care district in the State.

21 (3) To establish fee schedules for each practi-  
22 tioner group in the State.

23 (4) To develop a long-range plan for future  
24 health care infrastructure in the State.

1 (d) SUBMISSION OF PROGRAMS.—Not later than Oc-  
2 tober 1, 1995, each State shall submit to the Board the  
3 State program in the State.

4 (e) REVIEW AND APPROVAL OF PROGRAMS.—The  
5 Board shall review programs submitted under subsection  
6 (d) and determine whether such programs meet the re-  
7 quirements for approval, not later than October 1, 1996.  
8 The Board shall not approve such a program unless it  
9 finds that the program provides, consistent with the provi-  
10 sions of this Act, for—

11 (1) adequate financing of covered district health  
12 care services, including the annual submission of the  
13 State program budget to the Board,

14 (2) adequate administration and sufficient pro-  
15 visions to ensure against fraud and abuse,

16 (3) an organized grievance procedure available  
17 to consumers through which complaints about the  
18 organization and administration of the State pro-  
19 gram may be filed, heard, and resolved, and

20 (4) the modification of State law as it relates  
21 to medical malpractice, consistent with title III.

22 (f) OPERATIONAL STATUS.—A State program in a  
23 State shall not be considered operational unless it is ap-  
24 proved and remains approved under subsection (e).

1 (g) FAILURE TO COMPLY WITH THIS ACT.—When-  
2 ever the Board, after reasonable notice and opportunity  
3 for hearing to the designated State agency finds that in  
4 the administration of the State program there is a failure  
5 to comply with any provision of this Act, the Board may—

6 (1) withhold further payments to the State  
7 under this Act, or

8 (2) place the State program, or specific portions  
9 of such program, in receivership under the jurisdic-  
10 tion of the Board,

11 until such failure has been corrected.

12 (h) JUDICIAL REVIEW.—

13 (1) IN GENERAL.—If any State is dissatisfied  
14 with the Board's action in denying approval of such  
15 State's program or finding a failure under sub-  
16 section (g) with respect to such program, such State  
17 may, within 60 days after notice of such action, file  
18 with the United States court of appeals for the cir-  
19 cuit in which such State is located a petition for re-  
20 view of that action. A copy of the petition shall be  
21 forthwith transmitted by the clerk of the court to  
22 the Board. The Board thereupon shall file in the  
23 court the record of the proceedings upon which the  
24 Board's action was based, as provided in section  
25 2112 of title 28, United States Code.

1           (2) FINDINGS OF FACT.—The findings of fact  
2           by the Board, if supported by substantial evidence,  
3           shall be conclusive; but the court, for good cause  
4           shown, may remand the case to the Board to take  
5           further evidence, and the Board may thereupon  
6           make new or modified findings of fact and may mod-  
7           ify the Board’s previous action, and shall file in the  
8           court the record of the further proceedings. Such  
9           new or modified findings of fact shall likewise be  
10          conclusive if supported by substantial evidence.

11          (3) JURISDICTION OF COURT.—Upon the filing  
12          of such petition, the court shall have jurisdiction to  
13          affirm the action of the Board or to set it aside, in  
14          whole or in part. The judgment of the court shall be  
15          subject to review by the Supreme Court of the Unit-  
16          ed States upon certiorari or certification as provided  
17          in section 1254 of title 28, United States Code.

18 **SEC. 112. HEALTH CARE DISTRICTS AND BOARDS.**

19          (a) ESTABLISHMENT OF DISTRICTS.—

20               (1) IN GENERAL.—Subject to paragraph (3),  
21               each State Health Board shall establish health care  
22               districts in the State of such number and size as  
23               such Board deems appropriate area for the effective  
24               planning, development, and delivery of covered dis-  
25               trict health care services in the State under this Act.

1           (2) STATEWIDE DISTRICT.—A State Health  
2 Board may treat the entire State as a single district  
3 in the case of a State with a population under  
4 1,000,000.

5           (3) TREATMENT OF INDIAN RESERVATIONS.—  
6 Each State Health Board shall provide the designa-  
7 tion of each Indian reservation as a separate dis-  
8 trict.

9           (b) APPOINTMENT OF BOARDS.—

10           (1) IN GENERAL.—Each State Health Board  
11 shall provide for the appointment of a Health Care  
12 District Board for each district established under  
13 subsection (a). Subject to paragraphs (2) and (3),  
14 each such board shall consist of 7 members ap-  
15 pointed by the State Board, of whom at least 3 shall  
16 represent providers of covered district health care  
17 services.

18           (2) STATEWIDE DISTRICTS.—If the State has  
19 elected to treat the entire State as a single district  
20 under subsection (a)(2), the State Health Board  
21 shall serve as the Health Care District Board for the  
22 entire State.

23           (3) INDIAN RESERVATIONS.—The Health Care  
24 District Board for an Indian reservation designated  
25 under subsection (a)(3) shall consist of 7 members

1 appointed by the Chairman of the reservation, at  
2 least 3 of whom shall represent providers of covered  
3 district health care services in the area of the res-  
4 ervation.

5 (c) RESPONSIBILITIES OF DISTRICT BOARDS.—Each  
6 Health Care District Board is responsible—

7 (1) through contracts with health care facilities  
8 and service providers, for ensuring that covered dis-  
9 trict health care services are provided to residents of  
10 the district; and

11 (2) for developing, and submitting to the State  
12 Board, a global budget for the district.

13 **SEC. 113. STATE HEALTH CARE EDUCATION COMMISSIONS.**

14 (a) IN GENERAL.—Each State Health Board shall  
15 establish a State Health Care Education Commission.

16 (b) COMPOSITION AND APPOINTMENT.—The Com-  
17 mission shall consist of 5 members, appointed by the State  
18 Health Board, of whom 2 shall be professional educators.

19 (c) DUTIES.—Each State Health Care Education  
20 Commission shall be responsible for the following activi-  
21 ties:

22 (1) Receipt of transfers from the Health Edu-  
23 cation Trust Fund.

24 (2) Providing grants to local school districts to  
25 conduct health education and preventive care pro-

1       grams, in accordance with guidelines developed by  
2       the National Health Care Education Commission.

3           (3) Providing grants to other organizations to  
4       promote health education, in accordance with guide-  
5       lines developed by the National Health Care Edu-  
6       cation Commission.

7           (4) Providing grants to individuals for training  
8       as primary care practitioners, in accordance with  
9       guidelines developed by the National Health Care  
10      Education Commission.

11           **TITLE II—HEALTH CARE**  
12                   **SERVICES**

13           **Subtitle A—National Health**  
14                   **Insurance Program**

15   **SEC. 201. NATIONAL STANDARDS FOR HEALTH INSURANCE;**  
16                   **REQUIREMENT OF ENROLLMENT.**

17           (a) **IN GENERAL.**—No health insurance policy which  
18       provides for coverage of either covered district health care  
19       services or health care practitioner services may be in ef-  
20       fect on or after January 1, 1995, unless the Federal  
21       Health Board has determined that the policy meets the  
22       requirements of sections 202 through 205.

23           (b) **ENROLLMENT REQUIREMENT.**—

1           (1) IN GENERAL.—Each legal resident of the  
2 United States shall be enrolled in an approved insur-  
3 ance policy.

4           (2) ASSIGNMENT OF UNENROLLED INDIVID-  
5 UALS.—If a State determines that an individual who  
6 is a resident of the State is not enrolled in an ap-  
7 proved health insurance policy in accordance with  
8 paragraph (1), the State shall provide for the enroll-  
9 ment of the individual in such a policy. In providing  
10 for such enrollment, the State shall assign such indi-  
11 viduals to such a policy in an appropriate random  
12 manner.

13 **SEC. 202. COVERAGE OF ALL NECESSARY AND APPRO-**  
14 **PRIATE HEALTH CARE PRACTITIONER SERV-**  
15 **ICES.**

16           (a) IN GENERAL.—Each approved health insurance  
17 policy shall cover all health care practitioner services that  
18 are necessary and appropriate for the maintenance of  
19 health or for the diagnosis or treatment of, or rehabilita-  
20 tion following, injury, disability, or disease, if furnished  
21 anywhere in the United States (or in any country with  
22 which the Federal Health Board has a reciprocity agree-  
23 ment under section 101(b)(5)).

24           (b) LIMITATION ON SERVICES COVERED.—

1           (1) IN GENERAL.—An approved health insur-  
2           ance policy shall not cover services other than serv-  
3           ices described in paragraph (1).

4           (2) REFERENCE TO ADDITIONAL INSURANCE.—  
5           For provision permitting separate insurance cov-  
6           erage for certain other health care services, see sec-  
7           tion 701.

8   **SEC. 203. PREMIUMS; REDUCTION IN PREMIUMS FOR LOW**  
9                                   **INCOME INDIVIDUALS.**

10          (a) IN GENERAL.—The premium rates that may be  
11          charged by an approved health insurance policy shall be  
12          such rates as are approved by the Federal Health Board.

13          (b) PREMIUM ASSISTANCE.—

14               (1) IN GENERAL.—In the case of an individual  
15               or family who is a legal resident of the United  
16               States who is enrolled under an approved health in-  
17               surance policy and who is determined by the issuer  
18               of the policy (in accordance with guidelines specified  
19               by the Federal Health Board) to have total adjusted  
20               gross income (as determined for purposes of the In-  
21               ternal Revenue Code of 1986 for the individual and  
22               all members of the family) below maximum income  
23               level specified under paragraph (3)—

24                       (A) the individual or family is entitled to  
25                       a percentage reduction specified under para-

1 graph (2) in the premium rates charged under  
2 subsection (a), and

3 (B) the issuer of the policy is entitled to  
4 payment by the Federal Health Board of an  
5 amount equal to the amount of such reduction.

6 (2) PERCENTAGE REDUCTION.—In the case of  
7 an individual or family the total adjusted gross in-  
8 come of whose members—

9 (A) does not exceed the Federal poverty  
10 line (applicable to a family of the size involved),  
11 the percentage reduction is 100 percent, or

12 (B) exceeds such line, the percentage re-  
13 duction is 100 percent less 10 percent for each  
14 dollar unit (specified in paragraph (4)) by  
15 which such total adjusted gross income exceeds  
16 the applicable Federal poverty line.

17 (3) MAXIMUM INCOME LEVEL.—The maximum  
18 income level specified in this subparagraph for a  
19 family is the sum of—

20 (A) the Federal poverty line, and

21 (B) 10 times the dollar unit specified in  
22 paragraph (4),  
23 applicable to a family of the size involved.

24 (4) DOLLAR UNIT.—The dollar unit specified in  
25 this paragraph is—

1 (A) for a family of four, \$1,000, and

2 (B) for a family of other size (including a  
3 family consisting only of an individual), such  
4 amount as bears the same ratio to the amount  
5 specified in subparagraph (A) as the ratio of  
6 the Federal poverty line applicable to a family  
7 of the size involves bears to the Federal poverty  
8 line applicable to a family of four.

9 The amounts determined under subparagraph (B)  
10 may be rounded by the Federal Health Board to an  
11 appropriate multiple of \$10.

12 (5) FEDERAL POVERTY LINE.—In this sub-  
13 section, the term “Federal poverty line” means the  
14 official poverty line as defined by the Office of Man-  
15 agement and Budget and revised annually in accord-  
16 ance with section 673(2) of the Omnibus Budget  
17 Reconciliation Act of 1981.

18 (c) EMPLOYER CONTRIBUTIONS.—Nothing in this  
19 section shall be construed as preventing an employer of  
20 an individual from paying some or all of the premiums  
21 for coverage of employees and family members under  
22 health insurance policies.

23 (d) SPECIAL PROVISIONS RELATING TO NATIVE  
24 AMERICANS.—In the case of an individual who is a Native  
25 American and who is an enrolled member of a Federally-

1 recognized Indian tribe or otherwise qualifies under regu-  
2 lations promulgated by the Federal Health Board (in con-  
3 sultation with the Secretary of the Interior)—

4           (1) the individual is entitled to a 100 percent  
5 reduction in the premium rates charged under sub-  
6 section (a), and

7           (2) the issuer of the policy is entitled to pay-  
8 ment by the Federal Health Board of an amount  
9 equal to the amount of such reduction.

10 A reduction and payment under this subsection for such  
11 an individual shall be instead of any reduction or payment  
12 otherwise provided under subsection (b).

13           (e) EXPANSION OF TAX DEDUCTIBILITY OF PRE-  
14 MIUMS.—For provision making payment of premiums  
15 under this section fully tax deductible, see title VI of this  
16 Act.

17 **SEC. 204. USE OF STANDARDIZED FORMS.**

18           Each approved health insurance policy shall provide  
19 for the use of such standardized claims forms as the Fed-  
20 eral Health Board specifies, after consultation with State  
21 Health Boards and other interested parties.

22 **SEC. 205. PAYMENTS TO PRACTITIONERS.**

23           (a) IN GENERAL.—Each approved health insurance  
24 policy shall provide for payment for health care practi-

1 tioner services based on the fee schedules established  
2 under part 1 of subtitle B.

3 (b) MANDATORY ASSIGNMENT.—Payment for health  
4 care practitioner services may only be made to the practi-  
5 tioner furnishing the services and only if the practitioner  
6 agrees to accept payment of such fee schedule amounts  
7 as payment in full for the services.

8 **Subtitle B—Payment Amounts for**  
9 **Health Care Practitioner Serv-**  
10 **ices and for Covered District**  
11 **Health Care Services**

12 PART 1—HEALTH CARE PRACTITIONER SERVICES

13 **SEC. 211. STATE-CHARTERED PRACTITIONERS ASSOCIA-**  
14 **TIONS.**

15 Each State shall provide for the chartering of practi-  
16 tioner associations—

17 (1) to represent licensed members of the dis-  
18 cipline in the establishment of fee schedules in the  
19 State under this part, and

20 (2) to provide medical malpractice insurance  
21 under section 302.

22 **SEC. 212. ESTABLISHMENT OF FEE SCHEDULES.**

23 (a) IN GENERAL.—Each State Health Board, in con-  
24 junction with State-chartered practitioners associations  
25 provided for under section 211, shall develop fee schedules

1 of amounts that may be paid for health care practitioner  
2 services by approved health insurance policies under sub-  
3 title A. The Board shall provide for the review and revision  
4 (if appropriate) of the structure of such schedules not less  
5 often than once every 10 years.

6 (b) BASIS.—Such schedules may take into consider-  
7 ation regional cost variations, practitioner expertise, out-  
8 come-based measures, and any other factors deemed rel-  
9 evant by the Board.

10 (c) NEGOTIATIONS.—Each State Health Board shall  
11 provide for annual negotiations with State-chartered prac-  
12 titioner associations regarding the changes in the  
13 amounts specified in fee schedules developed under this  
14 section. Such negotiations shall consider changes in the  
15 cost of living, the cost of supplies, and other elements  
16 which affect the costs of delivering health care services by  
17 the practitioners.

18 (d) SPECIAL NONPHYSICIAN PRACTITIONER PROVI-  
19 SIONS.—In the establishment of fee schedule amounts for  
20 nonphysician practitioners, in the case of health care prac-  
21 titioner services which may be provided by nonphysician  
22 practitioners and physicians, basic reimbursement rates  
23 for those same services shall be the same regardless of  
24 the type of practitioner providing such services.

1 PART 2—PAYMENTS FOR COVERED DISTRICT HEALTH  
2 CARE SERVICES

3 **SEC. 221. ESTABLISHMENT OF ANNUAL PER CAPITA RATES.**

4 (a) IN GENERAL.—The Federal Health Board, using  
5 data from State Health Boards and Health Care District  
6 Boards, shall determine an annual per capita rate for  
7 costs of covered district health care services provided by  
8 such Boards.

9 (b) DIVISION OF RATE.—The Federal Health Board  
10 shall specify the portion of the annual per capita rate  
11 under subsection (a) that is attributable to nursing facility  
12 services and the portion not attributable to such services.  
13 Such portions shall reflect the average of approved State  
14 budgets under section 222 which are attributable to the  
15 different services.

16 **SEC. 222. STATE BUDGETS FOR COVERED DISTRICT**  
17 **HEALTH CARE SERVICES.**

18 (a) DEVELOPMENT.—

19 (1) IN GENERAL.—Each State Health Board  
20 shall develop and approve a State budget for covered  
21 district health care services for all districts in the  
22 State. Such budget shall be the sum of the district  
23 budgets submitted to and approved by the Board  
24 under section 223.

1           (2) DEVELOPMENT OF SEPARATE OPERATING  
2           AND CAPITAL BUDGETS.—The State budget under  
3           this subsection may consist of separate components  
4           for operating and capital expenditures under guide-  
5           lines established by the Federal Health Board.

6           (b) PAYMENTS TO DISTRICT BOARDS.—

7           (1) IN GENERAL.—Each State Health Board  
8           shall establish procedures for payment of each dis-  
9           trict board of amounts under its approved budget in  
10          a manner that provides for an adequate cash flow to  
11          allow the timely payment of obligations for the pro-  
12          vision of covered district health care services.

13          (2) TREATMENT OF NATIVE AMERICANS.—  
14          Under guidelines established by the Federal Health  
15          Board, State Health Boards shall establish such pro-  
16          cedures as assure full payment of amounts due to  
17          Native American districts established under section  
18          112(a)(4).

19   **SEC. 223. DISTRICT BUDGETS FOR COVERED DISTRICT**  
20                           **HEALTH CARE SERVICES.**

21          (a) DEVELOPMENT AND SUBMISSION.—

22          (1) GLOBAL BUDGETS.—Each health care dis-  
23          trict board shall develop and submit to the State  
24          Health Board, in a manner and at a time consistent  
25          with guidelines developed by the appropriate State

1 Health Board, a global budget for the district that  
2 reflects the funding levels necessary to provide for  
3 adequate covered district health care services in the  
4 district for a fiscal year.

5 (2) TREATMENT OF CAPITAL.—Such a budget  
6 shall provide for separate components for operating  
7 and capital expenditures if the State has elected to  
8 provide for such separate components under its  
9 State budget under section 222.

10 (b) NEGOTIATIONS.—After the receipts of all district  
11 budgets submitted under subsection (a), each State  
12 Health Board shall provide an opportunity for district  
13 boards to negotiate over the final district budgets to be  
14 approved by the State Health Board and submitted by  
15 such Board to the Federal Health Board.

16 (c) LIMITATION ON PAYMENTS.—

17 (1) IN GENERAL.—Subject to paragraph (2),  
18 each district board shall not make total payments  
19 for covered district health care services in a fiscal  
20 year that exceed the amount of the district budget  
21 approved under subsection (b).

22 (2) EMERGENCIES.—Under guidelines estab-  
23 lished by the Federal Health Board or the State  
24 Health Board, a district board may provide in the  
25 case of unforeseen emergencies for payment of

1 amounts in excess of the amounts provided under  
2 the approved budget.

3 **SEC. 224. PAYMENTS FROM FEDERAL GOVERNMENT TO**  
4 **STATES FOR COVERED DISTRICT HEALTH**  
5 **CARE SERVICES.**

6 (a) IN GENERAL.—The Federal Health Board shall  
7 provide for payment each fiscal year to each State Health  
8 Board of an amount, on an annualized basis, equal to the  
9 sum of the following:

10 (1) 25 percent of the product of (A) the portion  
11 of the national per capita health care facilities rate  
12 not attributable to nursing facility services (deter-  
13 mined under section 221) and (B) the total number  
14 of eligible State residents (other than native Ameri-  
15 cans) in the State.

16 (2) 10 percent of the product of (A) the portion  
17 of the national per capita health care facilities rate  
18 attributable to nursing facility services (as deter-  
19 mined under section 221) and (B) the total number  
20 of eligible State residents (other than native Ameri-  
21 cans) in the State.

22 (3) Subject to subsection (b), 100 percent of  
23 the product of (A) the national per capita health  
24 care facilities rate (as determined under section 221)

1 and (B) the total number of native Americans who  
2 are eligible State residents in the State.

3 (b) TREATMENT OF NATIVE AMERICANS.—Instead of  
4 the payment amounts provided under subsection (a)(3),  
5 the Federal Health Board may pay to a State such  
6 amounts as may be required in order to provide for full  
7 payment of the amounts of the global budgets for district  
8 boards established pursuant to section 112(b)(3).

9 (c) PERIODIC PAYMENTS.—Payments under this sec-  
10 tion shall be made on a periodic base (not less often than  
11 monthly).

12 (d) PAYMENTS FOR HEALTH EDUCATION AND PRI-  
13 MARY HEALTH CARE PRACTITIONER TRAINING.—For  
14 provisions relating to payments to State Health Education  
15 Commissions for grants for health education and training  
16 of primary health care practitioners, see section 501 of  
17 this Act.

18 (e) ADDITIONAL EXPENDITURES.—Nothing in this  
19 section shall be construed as preventing a district board  
20 from providing for payments for health care services in  
21 addition to the amounts provided under this section.

22 **SEC. 225. STATE PROGRAM BUDGETS.**

23 (a) IN GENERAL.—Each State program shall estab-  
24 lish an annual fiscal year State program budget which pro-  
25 vides for—

1           (1) the total expenditures to be made under the  
2 State program in such fiscal year for covered district  
3 health care services (including administrative and  
4 associated costs), and

5           (2) the revenues to meet such expenditures.

6           (b) STATE SHARE.—

7           (1) IN GENERAL.—Each State program shall  
8 cover the State share of program costs through the  
9 use of tax revenues and other financing methods.

10          (2) ADDITIONS TO STATE SHARE.—Each State  
11 shall raise the revenues necessary to cover at least  
12 the State share of the State health budget estab-  
13 lished by the State Health Board.

14          (c) ESTABLISHMENT OF ANNUAL BUDGETS UNDER  
15 STATE PLANS.—

16          (1) SUBMISSION OF ESTIMATED PLAN EXPENDI-  
17 TURES.—Not later than 3 months before the begin-  
18 ning of each calendar year, each district board in  
19 each State shall submit to the State Health Care  
20 Board the estimated plan expenditures for the dis-  
21 trict for that year.

22          (2) STATE PLAN BUDGET.—

23           (A) IN GENERAL.—The State plan budget  
24 for a year shall be equal to the sum of the esti-  
25 mated negotiated expenditures for all district

1 boards in the State submitted under paragraph  
2 (1).

3 (B) PERMITTING RETROACTIVE ADJUST-  
4 MENT.—The State Health Care Board may  
5 make a retroactive adjustment to the State plan  
6 budget for a year under subparagraph (A) to  
7 take into account differences between the budg-  
8 et and total amount of expenditures under the  
9 State plan during the year.

## 10 **TITLE III—MALPRACTICE** 11 **INSURANCE REFORM**

### 12 **SEC. 301. ELIGIBILITY REQUIREMENTS FOR FEDERAL PAY-** 13 **MENTS FOR STATE PLANS.**

14 For purposes of section 111(e)(4), a State has en-  
15 acted and is enforcing laws, rules, or regulations relating  
16 to physician medical malpractice liability that meet the re-  
17 quirements of this title if State law meets the require-  
18 ments of sections 302 through 304.

### 19 **SEC. 302. STATE-CHARTERED PRACTITIONERS ASSOCIA-** 20 **TION ASSUMPTION OF RESPONSIBILITY FOR** 21 **MALPRACTICE INSURANCE COVERAGE AND** 22 **PAYMENT OF DAMAGES.**

23 (a) STATE-CHARTERED PRACTITIONERS ASSOCIA-  
24 TION RESPONSIBLE FOR OBTAINING INSURANCE.—With  
25 respect to each class of health care practitioners in a

1 State, the State-chartered practitioners association in the  
2 State shall provide (either directly or through contracts  
3 with insurance companies) medical malpractice insurance  
4 for each practitioner member of the association.

5 (b) STATE-CHARTERED PRACTITIONERS ASSOCIA-  
6 TION RESPONSIBLE FOR PAYING DAMAGES ARISING  
7 FROM MEDICAL MALPRACTICE CLAIMS.—Any damages  
8 assessed with respect to any medical malpractice claim  
9 filed in the State against a health care practitioner who  
10 is a member of a State-chartered practitioners association  
11 shall be assessed against the association or other entity  
12 providing the medical malpractice insurance under sub-  
13 section (a), and the individual or entity to whom the dam-  
14 ages are awarded may not collect the damages from the  
15 practitioner.

16 **SEC. 303. PROHIBITION AGAINST PUNITIVE DAMAGES.**

17 No punitive damages may be assessed with respect  
18 to any medical malpractice claim filed in the State against  
19 any provider of health care services.

20 **SEC. 304. MEDICAL MALPRACTICE CLAIM DEFINED.**

21 (a) IN GENERAL.—In this title, the term “medical  
22 malpractice claim” means (subject to subsection (b)) any  
23 claim relating to the provision of (or the failure to provide)  
24 health care services without regard to the theory of liabil-  
25 ity asserted.

1 (b) MEDICAL PRODUCT LIABILITY CLAIMS NOT IN-  
2 CLUDED.—The term “medical malpractice claim” does not  
3 include any claim in which the claimant alleges an injury  
4 arising from or relating to the use of a device (as defined  
5 in section 201(h) of the Federal Food, Drug, and Cos-  
6 metic Act) or a drug (as defined in section 201(g)(1) of  
7 such Act) that is filed against any entity that is the de-  
8 signer, manufacturer, producer, or seller of the device or  
9 drug.

10 **TITLE IV—PROVISIONS RELAT-**  
11 **ING TO ERISA AND FEDERAL**  
12 **AND STATE ANTITRUST LAWS**

13 **SEC. 401. RELATION TO ERISA.**

14 The provisions of the Employee Retirement Income  
15 Security Act are superseded to the extent inconsistent  
16 with the requirements of this Act.

17 **SEC. 402. RELATION TO FEDERAL AND STATE ANTITRUST**  
18 **LAWS.**

19 (a) IN GENERAL.—The Antitrust laws, or any State  
20 law similar to the Antitrust laws, shall not apply to any  
21 hospital, nursing home, long-term care facility, or other  
22 entity with the potential to deliver health services provided  
23 under this Act, entering or attempting to enter into con-  
24 tracts with any State, unit of local government or Board

1 or entity established by a State or unit of local government  
2 under this Act.

3 (b) ANTITRUST LAWS DEFINED.—The term “Anti-  
4 trust laws” has the meaning given such term in section  
5 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that  
6 such term includes section 5 of the Federal Trade Com-  
7 mission Act (15 U.S.C. 45), to the extent that such section  
8 applies to unfair methods of competition.

9 **TITLE V—HEALTH CARE**  
10 **EDUCATION TRUST FUND**

11 **SEC. 501. HEALTH CARE EDUCATION TRUST FUND.**

12 (a) ESTABLISHMENT.—There is hereby created on  
13 the books of the Treasury of the United States a trust  
14 fund to be known as the “Health Care Education Trust  
15 Fund” (in this section referred to as the “Fund”). The  
16 Fund shall consist of such gifts and bequests as are hereby  
17 authorized to be received and such amounts as may be  
18 deposited in, or appropriated to, such Fund as provided  
19 in this section.

20 (b) OPERATION.—The Federal Health Care Edu-  
21 cation Commission shall administer the Fund and shall  
22 provide for grants under subsection (c) from the amounts  
23 in the Fund.

24 (c) USE OF FUNDS.—

25 (1) STATE HEALTH CARE EDUCATION.—

1           (A) IN GENERAL.—The Federal Health  
2           Care Education Commission shall make annual  
3           grants to State Health Care Education Com-  
4           missions to provide for health care consumer  
5           education and health care education in a man-  
6           ner consistent with guidelines issued by the  
7           Commission.

8           (B) PER CAPITA FORMULA.—The amounts  
9           of the grants made to the States under this  
10          paragraph shall be in proportion to the popu-  
11          lation of each of the States.

12          (2) PRIMARY CARE HEALTH CARE PRACTI-  
13          TIONER TRAINING.—The Federal Health Care Edu-  
14          cation Commission shall provide for grants to States  
15          to provide for payment for primary health care prac-  
16          titioner training.

17          (3) LIMITATION.—In no case shall the total  
18          amount of grants made under this subsection in any  
19          fiscal year exceed the amount available in the Fund  
20          to make such grants in such year.

21          (d) APPROPRIATION.—There are hereby appropriated  
22          to the Fund for each fiscal year, out of any moneys in  
23          the Treasury not otherwise appropriated, amounts equiva-  
24          lent to 100 percent of the increase in taxes resulting from  
25          the amendments made by section 502. The amounts ap-

1 appropriated by the preceding sentence shall be transferred  
2 from time to time from the general fund in the Treasury  
3 to the Fund, such amounts to be determined on the basis  
4 of estimates by the Secretary of the Treasury of the addi-  
5 tional taxes, specified in the preceding sentence, paid to  
6 or deposited into the Treasury; and proper adjustments  
7 shall be made in amounts subsequently transferred to the  
8 extent prior estimates were in excess of or were less than  
9 the additional taxes specified in such sentence.

10 **SEC. 502. INCREASE IN TAXES ON CIGARETTES AND DIS-**  
11 **TILLED SPIRITS.**

12 (a) INCREASE IN TAX ON CIGARETTES.—

13 (1) RATE OF TAX.—Subsection (b) of section  
14 5701 of the Internal Revenue Code of 1986 (relating  
15 to rate of tax on cigarettes) is amended—

16 (A) by striking “\$12 per thousand (\$10  
17 per thousand on cigarettes removed during  
18 1991 or 1992)” in paragraph (1) and inserting  
19 “\$30.50 per thousand”; and

20 (B) by striking “\$25.20 per thousand (\$21  
21 per thousand on cigarettes removed during  
22 1991 or 1992)” in paragraph (2) and inserting  
23 “\$64.05 per thousand”.

1           (2) EFFECTIVE DATE.—The amendments made  
2 by this subsection shall apply with respect to articles  
3 removed after December 31, 1994.

4           (3) FLOOR STOCKS.—

5           (A) IMPOSITION OF TAX.—On cigarettes  
6 manufactured in or imported into the United  
7 States which are removed before January 1,  
8 1995, and held on such date for sale by any  
9 person, there shall be imposed the following  
10 taxes:

11           (i) SMALL CIGARETTES.—On ciga-  
12 rettes, weighing not more than 3 pounds  
13 per thousand, \$20.50 per thousand;

14           (ii) LARGE CIGARETTES.—On ciga-  
15 rettes, weighing more than 3 pounds per  
16 thousand, \$43.05 per thousand; except  
17 that, if more than 6½ inches in length,  
18 they shall be taxable at the rate prescribed  
19 for cigarettes weighing not more than 3  
20 pounds per thousand, counting each 2¾  
21 inches, or fraction thereof, of the length of  
22 each as one cigarette.

23           (B) LIABILITY FOR TAX AND METHOD OF  
24 PAYMENT.—

1 (i) LIABILITY FOR TAX.—A person  
2 holding cigarettes on January 1, 1995, to  
3 which any tax imposed by subparagraph  
4 (A) applies shall be liable for such tax.

5 (ii) METHOD OF PAYMENT.—The tax  
6 imposed by subparagraph (A) shall be  
7 treated as a tax imposed under section  
8 5701 of the Internal Revenue Code of  
9 1986 and shall be due and payable on Feb-  
10 ruary 15, 1995, in the same manner as the  
11 tax imposed under such section is payable  
12 with respect to cigarettes removed on Jan-  
13 uary 1, 1995.

14 (C) CIGARETTE.—For purposes of this  
15 paragraph, the term “cigarette” shall have the  
16 meaning given to such term by subsection (b)  
17 of section 5702 of the Internal Revenue Code of  
18 1986.

19 (D) EXCEPTION FOR RETAIL STOCKS.—  
20 The taxes imposed by subparagraph (A) shall  
21 not apply to cigarettes in retail stocks held on  
22 January 1, 1995, at the place where intended  
23 to be sold at retail.

1 (E) FOREIGN TRADE ZONES.—Notwith-  
2 standing the Act of June 18, 1934 (19 U.S.C.  
3 81a et seq.) or any other provision of law—

4 (i) cigarettes—

5 (I) on which taxes imposed by  
6 Federal law are determined, or cus-  
7 toms duties are liquidated, by a cus-  
8 toms officer pursuant to a request  
9 made under the first proviso of sec-  
10 tion 3(a) of the Act of June 18, 1934  
11 (19 U.S.C. 81c(a)) before January 1,  
12 1995, and

13 (II) which are entered into the  
14 customs territory of the United States  
15 on or after January 1, 1995, from a  
16 foreign trade zone, and

17 (ii) cigarettes which—

18 (I) are placed under the super-  
19 vision of a customs officer pursuant to  
20 the provisions of the second proviso of  
21 section 3(a) of the Act of June 18,  
22 1934 (19 U.S.C. 81c(a)) before Janu-  
23 ary 1, 1995, and

24 (II) are entered into the customs  
25 territory of the United States on or

1                   after January 1, 1995, from a foreign  
2                   trade zone,  
3                   shall be subject to the tax imposed by subpara-  
4                   graph (A) and such cigarettes shall, for pur-  
5                   poses of subparagraph (A), be treated as being  
6                   held on January 1, 1995, for sale.

7           (b) INCREASE IN TAX ON DISTILLED SPIRITS.—

8                   (1) IN GENERAL.—Section 5001(a) of the In-  
9                   ternal Revenue Code of 1986 (relating to rate of tax  
10                   on distilled spirits) is amended by striking “\$13.50”  
11                   each place it appears in paragraphs (1) and (3) and  
12                   inserting “\$50.00”.

13                   (2) TECHNICAL AMENDMENT.—Section 5010 of  
14                   such Code (relating to credit for wine and flavors  
15                   content) is amended by striking “\$13.50” each place  
16                   it appears in paragraphs (1)(A) and (2) and insert-  
17                   ing “\$50.00”.

18                   (3) FLOOR STOCKS.—

19                   (A) IMPOSITION OF TAX.—On any item  
20                   subject to tax under section 5001 of the Inter-  
21                   nal Revenue Code of 1986 that is removed be-  
22                   fore January 1, 1995, and held after such date  
23                   for sale by any person, there shall be imposed  
24                   a tax equal to \$36.50.

1 (B) LIABILITY FOR TAX AND METHOD OF  
2 PAYMENT.—

3 (i) LIABILITY FOR TAX.—A person  
4 holding an item to which any tax imposed  
5 by subparagraph (A) applies shall be liable  
6 for such tax.

7 (ii) METHOD OF PAYMENT.—The tax  
8 imposed on any item by subparagraph (A)  
9 shall be treated as a tax imposed under  
10 section 5001 of the Internal Revenue Code  
11 of 1986 and shall be due and payable on  
12 February 13, 1995, in the same manner as  
13 the tax imposed under such section is pay-  
14 able with respect to such items removed on  
15 January 1, 1995.

16 (C) EXCEPTION FOR RETAILERS.—To the  
17 extent provided in regulations prescribed by the  
18 Secretary of the Treasury or the Secretary's  
19 delegate, the tax imposed by subparagraph (A)  
20 shall not apply to items in retail stocks held  
21 after December 31, 1994, on the premises of a  
22 retail establishment where alcoholic beverages  
23 are sold for consumption on the premises only.

24 (D) TREATMENT OF ITEMS IN FOREIGN  
25 TRADE ZONES.—Notwithstanding the Act of

1 June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a),  
2 or any other provision of law, any item which  
3 is located in a foreign trade zone on January 1,  
4 1995, shall be subject to the tax imposed by  
5 subparagraph (A) and shall be treated for pur-  
6 poses of this paragraph as held on such date  
7 for sale if—

8 (i) internal revenue taxes have been  
9 determined, or customs duties liquidated,  
10 with respect to such item before such date  
11 pursuant to a request made under the first  
12 proviso of section 3(a) of such Act, or

13 (ii) such item is held on such date  
14 under the supervision of a customs officer  
15 pursuant to the second proviso of such sec-  
16 tion 3(a).

17 Under regulations prescribed by the Secretary  
18 of the Treasury or the Secretary's delegate,  
19 provisions similar to sections 5062 and 5064 of  
20 such Code shall apply to any item with respect  
21 to which tax is imposed by subparagraph (A) by  
22 reason of this subparagraph.

23 (E) OTHER LAWS APPLICABLE.—All provi-  
24 sions of law, including penalties, applicable with  
25 respect to the excise taxes imposed under sec-

1           tion 5001 of the Internal Revenue Code of 1986  
2           shall, insofar as applicable and not inconsistent  
3           with the provisions of this paragraph, apply in  
4           respect of the taxes imposed by subparagraph  
5           (A).

6           (4) EFFECTIVE DATE.—The amendments made  
7           by this subsection shall apply to items removed after  
8           December 31, 1994.

9           **TITLE VI—TAX TREATMENT OF**  
10          **HEALTH INSURANCE PREMIUMS**

11          **SEC. 601. DEDUCTION FOR HEALTH INSURANCE PRE-**  
12          **MIUMS.**

13          (a) IN GENERAL.—Subsection (a) of section 213 of  
14          the Internal Revenue Code of 1986 (relating to medical,  
15          dental, etc., expenses) is amended to read as follows:

16          “(a) ALLOWANCE OF DEDUCTION.—There shall be  
17          allowed as a deduction the following amounts, not com-  
18          pensated for by insurance or otherwise—

19                  “(1) the amount by which the amount of the  
20                  expenses paid during the taxable year (reduced by  
21                  any amount deductible under paragraph (2)) for  
22                  medical care of the taxpayer, his spouse, or a de-  
23                  pendent (as defined in section 152) exceeds 7.5 per-  
24                  cent of adjusted gross income, and

1           “(2) the amount of the expenses paid during  
2           the taxable year for insurance which constitutes  
3           medical care for the taxpayer, his spouse, and de-  
4           pendents.”

5           (b) DEDUCTION FOR INSURANCE ALLOWED WHETH-  
6           ER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—  
7           Subsection (a) of section 62 of such Code (defining ad-  
8           justed gross income) is amended by adding at the end  
9           thereof the following new paragraph:

10           “(14) EXPENSES FOR HEALTH INSURANCE.—  
11           The deduction allowed by section 213(a)(2).”.

12           (c) EFFECTIVE DATE.—The amendments made by  
13           this section shall apply to taxable years beginning after  
14           December 31, 1994.

## 15           **TITLE VII—PRIVATE OPTIONS**

### 16           **SEC. 701. ADDITIONAL INSURANCE.**

17           Nothing in this Act shall be construed as preventing  
18           individuals from obtaining insurance for services that are  
19           not covered by health care services.

## 20           **TITLE VIII—PRESCRIPTION** 21           **DRUG REVIEW BOARD**

### 22           **SEC. 801. ESTABLISHMENT OF BOARD.**

23           (a) ESTABLISHMENT.—There is established in the ex-  
24           ecutive branch the Prescription Drug Price Review Board  
25           (in this title referred to as the “Board”).

1 (b) MEMBERSHIP.—

2 (1) NUMBER AND APPOINTMENT.—The Board  
3 shall be composed of 5 members appointed by the  
4 President, by and with the advice and consent of the  
5 Senate, from among individuals—

6 (A) who are recognized experts in the  
7 fields of consumer advocacy, medicine, phar-  
8 macology, pharmacy, and prescription drug re-  
9 imbursement; and

10 (B) who have not worked in the pharma-  
11 ceutical manufacturing industry during the 3-  
12 year period ending on the date of appointment.

13 (2) INITIAL APPOINTMENTS.—Initial appoint-  
14 ments under paragraph (1) shall be made not later  
15 than 90 days after the date of the enactment of this  
16 Act.

17 (3) TERMS.—

18 (A) IN GENERAL.—Except as provided in  
19 subparagraphs (B) and (C), each member shall  
20 be appointed for a term of 5 years.

21 (B) TERMS OF INITIAL APPOINTEES.—As  
22 designated by the President at the time of ap-  
23 pointment, of the members first appointed—

24 (i) 1 member shall be appointed for a  
25 term of 1 year;

1 (ii) 1 member shall be appointed for a  
2 term of 2 years;

3 (iii) 1 member shall be appointed for  
4 a term of 3 years;

5 (iv) 1 member shall be appointed for  
6 a term of 4 years; and

7 (v) 1 member shall be appointed for a  
8 term of 5 years.

9 (C) VACANCIES.—A vacancy in the Board  
10 shall be filled in the manner in which the origi-  
11 nal appointment was made. Any member ap-  
12 pointed to fill a vacancy occurring before the  
13 expiration of the term for which the member's  
14 predecessor was appointed shall be appointed  
15 only for the remainder of that term. A member  
16 may serve after the expiration of the member's  
17 term until a successor has taken office.

18 (4) INITIAL MEETING.—The initial meeting of  
19 the Board shall be held not later than 90 days after  
20 the date on which the first appointments of the  
21 members have been completed.

22 (5) CHAIRPERSON.—The President shall des-  
23 ignate 1 member of the Board to serve as the chair-  
24 person.

25 (6) BASIC PAY.—

1           (A) IN GENERAL.—Members shall be paid  
2           at a rate not to exceed the daily equivalent of  
3           the maximum annual rate of basic pay payable  
4           under section 5376 of title 5, United States  
5           Code, for each day during which the members  
6           are engaged in the actual performance of the  
7           duties of the Board.

8           (B) TRAVEL EXPENSES.—Members shall  
9           receive travel expenses, including per diem in  
10          lieu of subsistence, in accordance with sections  
11          5702 and 5703 of title 5, United States Code.

12         (c) DIRECTOR AND STAFF.—

13           (1) DIRECTOR.—The Board shall have a direc-  
14          tor who shall be appointed by the chairperson, sub-  
15          ject to rules prescribed by the Board.

16           (2) STAFF.—The chairperson may appoint and  
17          fix the pay of such additional personnel as the chair-  
18          person considers appropriate, subject to rules pre-  
19          scribed by the Board.

20           (3) APPLICABILITY OF CERTAIN CIVIL SERVICE  
21          LAWS.—The director and staff of the Board shall be  
22          appointed subject to the provisions of title 5, United  
23          States Code, governing appointments in the competi-  
24          tive service, and shall be paid in accordance with the  
25          requirements of chapter 51 and subchapter III of

1 chapter 53 of such title relating to classification and  
2 General Schedule pay rates; except that an individ-  
3 ual so appointed may not receive pay in excess of  
4 the maximum annual rate of basic pay payable for  
5 grade GS-15 of the General Schedule.

6 **SEC. 802. POWERS OF BOARD.**

7 (a) OBTAINING OFFICIAL DATA.—The chairperson of  
8 the Board may secure directly from any Federal agency  
9 information necessary to enable the Board to carry out  
10 its duties. Upon request of the chairperson, the head of  
11 the agency shall furnish such information to the Board  
12 to the extent such information is not prohibited from dis-  
13 closure by law.

14 (b) MAILS.—The Board may use the United States  
15 mails in the same manner and under the same conditions  
16 as other Federal agencies.

17 (c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the  
18 request of the chairperson, the Administrator of General  
19 Services shall provide to the Board on a reimbursable  
20 basis the administrative support services necessary for the  
21 Board to carry out its duties.

22 (d) CONTRACT AUTHORITY.—The chairperson may  
23 contract with and compensate government and private  
24 agencies or persons for the purpose of conducting re-

1 search, surveys, and other services necessary to enable the  
2 Board to carry out its duties.

3 (e) INVESTIGATIONS.—The Board may make such in-  
4 vestigations as it considers necessary to determine whether  
5 there is or may be a violation of any regulation promul-  
6 gated under this title and may require or permit any per-  
7 son to file with it a statement in writing, under oath or  
8 otherwise as the Board shall determine, as to all the facts  
9 and circumstances concerning the matter to be inves-  
10 tigated.

11 (f) SUBPOENA POWER.—

12 (1) IN GENERAL.—The Board may issue sub-  
13 poenas requiring the attendance and testimony of  
14 witnesses and the production of any evidence relat-  
15 ing to any matter under investigation by the Board.  
16 The attendance of witnesses and the production of  
17 evidence may be required from any place within the  
18 United States at any designated place of hearing  
19 within the United States.

20 (2) FAILURE TO OBEY A SUBPOENA.—If a per-  
21 son refuses to obey a subpoena issued under para-  
22 graph (1), the Board may apply to a United States  
23 district court for an order requiring that person to  
24 appear before the Board to give testimony, produce  
25 evidence, or both, relating to the matter under inves-

1       tigation. The application may be made within the ju-  
2       dicial district where the hearing is conducted or  
3       where that person is found, resides, or transacts  
4       business. Any failure to obey the order of the court  
5       may be punished by the court as civil contempt.

6           (3) SERVICE OF SUBPOENAS.—The subpoenas  
7       of the Board shall be served in the manner provided  
8       for subpoenas issued by a United States district  
9       court under the Federal Rules of Civil Procedure for  
10      the United States district courts.

11          (4) SERVICE OF PROCESS.—All process of any  
12      court to which application is made under paragraph  
13      (2) may be served in the judicial district in which  
14      the person required to be served resides or may be  
15      found.

16 **SEC. 803. FUNCTIONS OF THE BOARD.**

17      (a) GUIDELINES.—The Board shall—

18          (1) develop and publish within 9 months of the  
19      date of the establishment of the Board the initial  
20      guidelines that the Board will use in determining  
21      whether an existing price or an increase in the price  
22      of any prescription drug is excessive,

23          (2) develop and publish within 12 months of the  
24      date of the establishment of the Board the initial  
25      guidelines that the Board will use in determining

1 whether the initial price at which a prescription drug  
2 is first sold is excessive, and

3 (3) periodically review the guidelines developed  
4 under paragraphs (1) and (2) and make appropriate  
5 revisions.

6 (b) DETERMINATIONS AND REVIEWS.—The Board  
7 shall—

8 (1) within 24 months of the date of the estab-  
9 lishment of the Board, make an initial determination  
10 of whether the price of each prescription drug ap-  
11 proved for sale on the date of the enactment of this  
12 Act is excessive,

13 (2) promptly make an initial determination of  
14 whether the price of each prescription drug first ap-  
15 proved for sale after the date of the enactment of  
16 this Act is excessive,

17 (3) review, on an ongoing basis, each increase  
18 in the price of a drug reviewed under paragraphs (1)  
19 and (2) to determine if the price increase is exces-  
20 sive, and

21 (4) consider whether determinations and re-  
22 views similar to the ones carried out under para-  
23 graphs (1), (2), and (3) should be made for non-pre-  
24 scription drugs and make such determinations and  
25 reviews if appropriate.

1 (c) FACTORS.—In making determinations under sub-  
2 section (b) as to whether the price of a prescription drug  
3 is excessive, the Board shall take into consideration—

4 (1) changes in the producer price index (pub-  
5 lished by the Bureau of Labor Statistics of the De-  
6 partment of Labor),

7 (2) changes in the prescription drug component  
8 of such producer price index,

9 (3) the price at which such drug was sold to  
10 wholesalers in the United States during the preced-  
11 ing 10 years,

12 (4) the price at which such drug was sold to  
13 wholesalers in other countries during the preceding  
14 10 years,

15 (5) the price at which other drugs in the same  
16 therapeutic class were sold to wholesalers in the  
17 United States during the preceding 10 years,

18 (6) the therapeutic potential rating of such  
19 drug by the Food and Drug Administration,

20 (7) the percentage of such drug's research and  
21 development costs paid by the United States,

22 (8) the cost of manufacturing and marketing  
23 such drug, and

24 (9) such other factors as the Board considers  
25 relevant.

1 (d) REPORTING.—The Board shall—

2 (1) promptly provide to consumers and health  
3 care providers the results of the Board’s determina-  
4 tions under subsection (b) and the method used in  
5 each such determination,

6 (2) provide information to consumers and  
7 health care providers regarding prescription drug  
8 pricing and price increases by therapeutic class and  
9 manufacturer,

10 (3) provide to consumers and health care pro-  
11 viders information regarding the Food and Drug Ad-  
12 ministration therapeutic potential rating of each pre-  
13 scription drug and the percentage of the research  
14 and development of each such drug paid by the  
15 United States,

16 (4) provide to consumers such other informa-  
17 tion as the Board determines will assist consumers  
18 in reducing their expenses for prescription drugs,

19 (5) publish an easy to understand consumer’s  
20 guide to prescription drug prices, including the in-  
21 formation described in paragraphs (1), (2), (3), and  
22 (4), within 24 months of the date of the establish-  
23 ment of the Board and update and publish such  
24 guide annually thereafter, and

1           (6) provide to the President and the Congress  
2           a report of its determinations under subsection (b)  
3           within 24 months of the date of the establishment  
4           of the Board and update and report such determina-  
5           tions annually thereafter.

6 **SEC. 804. SANCTIONS AND REMEDIES.**

7           (a) HEARINGS.—After making a determination under  
8           section 803(b) that the price of a prescription drug or an  
9           increase in the price of such a drug is excessive, the Board  
10          shall—

11           (1) notify, in writing, the manufacturer of such  
12          drug of such determination,

13           (2) fix a date on which a public hearing before  
14          the Board respecting such determination shall be  
15          held and hold such hearing,

16           (3) request from such manufacturer such addi-  
17          tional information as the Board deems necessary for  
18          such public hearing, and

19           (4) notify such manufacturer of the Board's  
20          recommendation as to the pricing of the drug at a  
21          rate which is not excessive.

22          (b) SETTLEMENT.—If, after a public hearing under  
23          subsection (a), the Board finds that the price or an in-  
24          crease in the price of a prescription drug is not excessive,  
25          the Board shall—

1 (1) notify the manufacturer of such drug of the  
2 Board's finding, and

3 (2) remove from all publications and reports of  
4 the Board after the date of such finding any state-  
5 ment that the price or increase in the price of such  
6 drug is excessive.

7 (c) PATENT REVOCATION.—If, after a public hearing  
8 under subsection (a), the Board finds that the price or  
9 an increase in the price of a prescription drug is excessive,  
10 the Board shall—

11 (1) notify the manufacturer of such drug of the  
12 Board's finding,

13 (2) notify the manufacturer of such drug of the  
14 Board's intent to revoke the patent for such drug if  
15 the drug is patented or to revoke the patent of an-  
16 other drug of such manufacturer if such drug is not  
17 patented, and

18 (3) take such action as may be necessary to re-  
19 voke a drug patent under paragraph (2) if the man-  
20 ufacturer of such drug does not reduce the price of  
21 the drug to a level that is not excessive.

22 **SEC. 805. MANUFACTURERS.**

23 Each manufacturer of a prescription drug subject to  
24 review under section 803 shall—

1           (1) provide to the Board such information as  
2           the Board may require to make the determinations  
3           under section 803, including—

4                   (A) information identifying such drug,

5                   (B) the price at which such drug is being  
6           sold or has been sold in any market,

7                   (C) the cost of manufacturing and market-  
8           ing such drug, and

9                   (D) such other information as the Board  
10          considers necessary to be provided in such form  
11          and manner and at such time as the Board pre-  
12          scribes by regulation, and

13          (2) notify the Board immediately of any in-  
14          crease in the wholesale price of any prescription  
15          drug marketed by the manufacturer.

16 **SEC. 806. STUDY.**

17          The Board shall engage the Institute of Medicine of  
18          the National Academy of Sciences to conduct a study of  
19          prescription drug research and development and pricing  
20          practices, the difficulties many Americans have in afford-  
21          ing prescription drugs, and options for making prescrip-  
22          tion drugs available to all that need them. Such study  
23          shall—

24                 (1) examine Federal incentives for research and  
25          development and determine which incentives are

1 most effective and what changes would better en-  
2 courage the development of low cost, effective drugs,

3 (2) examine the Federal regulatory process and  
4 identify ways it might be streamlined without jeop-  
5 ardizing consumer safety,

6 (3) consider whether the authority of the Food  
7 and Drug Administration should be enhanced and  
8 whether the funding for such agency should be in-  
9 creased to improve Federal regulation of drugs,

10 (4) consider steps the United States might take  
11 (including possible trade sanctions) to protect manu-  
12 facturers of drugs in the United States from product  
13 pirating and other unfair trade practices by foreign  
14 competitors,

15 (5) consider changes in the patent laws (includ-  
16 ing delaying the start of a product's 17 years patent  
17 protection until after the product has been approved  
18 under the Federal Food, Drug, and Cosmetic Act) to  
19 allow manufacturers to charge lower prices and still  
20 recoup their research and development costs,

21 (6) consider whether a Board review of non-pre-  
22 scription drug prices would have a positive effect on  
23 consumer costs of such drugs,

24 (7) consider mechanisms to assist consumers  
25 with the high cost of prescription drugs (including

1 providing reimbursement under title XVIII of the  
2 Social Security Act for prescription drugs at lower  
3 prices negotiated with manufacturers of drugs),

4 (8) examine Federal policies regarding the li-  
5 censing of drugs discovered and developed by feder-  
6 ally funded researchers and recommend actions that  
7 would allow the United States to recoup its costs or  
8 to influence the pricing of such drugs, and

9 (9) examine the effects on retail pharmacies of  
10 disparities in drug prices wherein the drug manufac-  
11 turers charge hospitals, mail order pharmacies, and  
12 health maintenance organizations significantly lower  
13 prices than those charged wholesalers for such  
14 drugs.

## 15 **TITLE IX—TERMINATION OF** 16 **PROGRAMS**

### 17 **SEC. 901. TERMINATION OF CERTAIN FEDERAL HEALTH** 18 **CARE PROGRAMS.**

19 (a) MEDICARE AND MEDICAID.—Titles XVIII and  
20 XIX of the Social Security Act are repealed.

21 (b) REPEAL OF CHAMPUS PROVISIONS.—

22 (1) AMENDMENTS TO CHAPTER 55 OF TITLE  
23 10.—Sections 1079 through 1083, 1086, and 1097  
24 through 1100 of title 10, United States Code, are  
25 repealed.

1           (2) TABLE OF SECTIONS.—The table of sections  
2           at the beginning of chapter 55 of title 10, United  
3           States Code, is amended by striking out the items  
4           relating to the sections referred to in paragraph (1).

5           (3) CONFORMING AMENDMENTS.—Chapter 55  
6           of title 10, United States Code, is amended as fol-  
7           lows:

8                   (A) DEFINITION.—Section 1072 is amend-  
9                   ed by striking out paragraph (4).

10                   (B) REIMBURSEMENT OF THE DEPART-  
11                   MENT OF VETERANS AFFAIRS.—Section  
12                   1104(b) is amended—

13                           (i) in the subsection heading, by strik-  
14                           ing out “**FROM CHAMPUS FUNDS**”;  
15                           and

16                           (ii) by striking out “from funds” and  
17                           all that follows and inserting in lieu thereof  
18                           “for medical care provided by the Depart-  
19                           ment of Veterans Affairs pursuant to such  
20                           agreement.”.

21           (c) REPEAL OF FEDERAL EMPLOYEES HEALTH  
22           BENEFITS PROGRAM.—Chapter 89 of title 5, United  
23           States Code, is repealed.

1 (d) EFFECTIVE DATE.—The repeals and amend-  
 2 ments made by this section shall take effect on October  
 3 1, 1998.

4 **SEC. 902. TRANSITION.**

5 (a) IN GENERAL.—The Federal Health Board shall  
 6 issue such regulations as are necessary to provide for a  
 7 transition to this Act from the programs repealed under  
 8 section 901.

9 (b) RELATION TO OTHER PROGRAMS.—The Federal  
 10 Health Board shall recommend to the Congress appro-  
 11 priate legislative proposals for the amendment or repeal  
 12 of any other Federal program inconsistent with, or dupli-  
 13 cative of, the principles of this Act.

○

HR 2624 IH—2

HR 2624 IH—3

HR 2624 IH—4

HR 2624 IH—5