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AMENDMENT TO H.R. 3962
OFFERED BY MR. COOPER OF TENNESSEE

In part 3 of subtitle A of title V of division A, add
at the end the following new section:

1 **SEC. 535. LIMITATION ON EXCLUSION FOR EMPLOYER-PRO-**
2 **VIDED COVERAGE FOR HEALTH CARE.**

3 (a) IN GENERAL.—Section 106 of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new subsection:

6 “(f) LIMITATION ON EXCLUSION FOR EMPLOYER-
7 PROVIDED COVERAGE FOR HEALTH CARE.—

8 “(1) IN GENERAL.—In the case of a taxpayer
9 described in paragraph (2), the amount excluded
10 from gross income by subsection (a) shall not exceed
11 the applicable amount.

12 “(2) APPLICABLE AMOUNT.—For purposes of
13 paragraph (1), the applicable amount with respect to
14 a taxpayer described in this paragraph is—

15 “(A) in the case of a taxpayer whose modi-
16 fied adjusted gross income is greater than
17 \$75,000 (\$150,000 in the case of a joint re-
18 turn) but not greater than \$125,000 (\$250,000
19 in the case of a joint return)—

1 “(i) \$8,000 in the case of self only
2 coverage, and

3 “(ii) \$21,000 in any other case, and

4 “(B) in the case of a taxpayer whose modi-
5 fied adjusted gross income is greater than
6 \$125,000 (\$250,000 in the case of a joint re-
7 turn)—

8 “(i) \$5,000 in the case of self only
9 coverage, and

10 “(ii) \$13,000 in any other case.

11 “(3) APPLICABLE PREMIUM.—For purposes of
12 this subsection, in the case of a self-insured plan,
13 the amount deemed to be paid for employer-provided
14 coverage under an accident or health plan shall be
15 the applicable premium (as defined by section
16 4980B(f)(4)).

17 “(4) MODIFIED ADJUSTED GROSS INCOME.—
18 For purposes of this subsection, the term ‘modified
19 adjusted gross income’ has the meaning given such
20 term by section 59B.

21 “(5) ADJUSTMENTS FOR INFLATION.—

22 “(A) IN GENERAL.—In the case of any
23 taxable year beginning in a calendar year after
24 2013, the dollar amounts in paragraph (2) shall
25 each be increased by an amount equal to—

1 “(i) such dollar amount, multiplied by

2 “(ii) the cost-of-living adjustment de-

3 termined under section 1(f)(3) for the cal-

4 endar year in which the taxable year be-

5 gins, by substituting ‘calendar year 2012’

6 for ‘calendar year 1992’ in subparagraph

7 (B) thereof.

8 “(B) ROUNDING.—If any amount as ad-

9 justed under subparagraph (A) is not a multiple

10 of \$100, such amount shall be rounded to the

11 nearest multiple of \$100.”

12 (b) EFFECTIVE DATE.—The amendment made by

13 this section shall apply to taxable years beginning after

14 December 31, 2012.

Insert after section 1001 the following new section:

15 **SEC. 1002. INDEPENDENT MEDICARE ADVISORY COUNCIL**

16 **TO RECOMMEND ANNUAL PAYMENT UP-**

17 **DATES AND PAYMENT REFORMS.**

18 (a) IN GENERAL.—Title XVIII of the Social Security

19 Act is amended by inserting after section 1805 the fol-

20 lowing new section:

21 “INDEPENDENT MEDICARE ADVISORY COUNCIL

22 “SEC. 1805A.

23 “(a) ESTABLISHMENT; MEMBERSHIP; ETC.—

1 “(1) ESTABLISHMENT.—There is hereby estab-
2 lished independent council to be known as the Inde-
3 pendent Medicare Advisory Council (in this section
4 refereed to as the ‘Council’).

5 “(2) MEMBERSHIP.—The Council shall be com-
6 posed of 5 members, who shall be appointed by the
7 President, by and with the advice and consent of the
8 Senate, from among individuals who are physicians
9 or have specialized expertise in medicine or health
10 care policy. Not more than 3 of the members shall
11 be members of the same political party.

12 “(3) TERM OF OFFICE.—Each member of the
13 Council shall hold office for a term of 5 years, ex-
14 cept that—

15 “(A) a member appointed to fill a vacancy
16 occurring prior to the expiration of the term for
17 which that member’s predecessor was appointed
18 shall be appointed for the remainder of such
19 term;

20 “(B) a member may continue to serve after
21 the expiration of the member’s term until a suc-
22 cessor has taken office, except that the member
23 may not continue to serve more than one year
24 after the date of that expiration; and

1 “(C) the first 5 members shall continue in
2 office for terms of 1, 2, 3, 4, and 5 years, re-
3 spectively, from the January 1 first occurring
4 after the date of the enactment of this section,
5 the term of each to be designated by the Presi-
6 dent at the time of nomination.

7 “(4) CHAIRMAN.—The President shall des-
8 ignate a member of the Council as Chairman of the
9 Council. The Chairman’s term shall be concurrent
10 with the term of the member so designated. The
11 Chairman of the Council shall be the principal exec-
12 utive officer of the Council and shall exercise all of
13 the executive and administrative functions of the
14 Council, including with respect to—

15 “(A) the appointment and supervision of
16 personnel employed under the Council (other
17 than personnel employed regularly and full time
18 in the immediate offices of members other than
19 the Chairman);

20 “(B) the distribution of business among
21 personnel appointed and supervised by the
22 Chairman and among administrative units of
23 the Council; and

24 “(C) the use and expenditure of funds.

1 In carrying out any of these functions, the Chairman
2 shall be governed by the general policies established
3 by the Council and by the decisions, findings, and
4 determinations the Council shall by law be author-
5 ized to make. The Council shall annually elect a Vice
6 Chairman to act in the absence or disability of the
7 Chairman or in case of a vacancy in the office of the
8 Chairman.

9 “(5) REMOVAL.—Any member of the Council
10 may be removed by the President for neglect of duty
11 or malfeasance in office but for no other cause.

12 “(6) QUORUM.—Three members of the Council
13 shall constitute a quorum for the exercise of the
14 Council’s powers, except that if there are only 3
15 members serving on the Council, 2 members of the
16 Council shall constitute a quorum, and if there are
17 only 2 members serving on the Council, 2 members
18 shall constitute a quorum for the 6-month period be-
19 ginning on the date of the vacancy that caused the
20 number of Council members to decline to 2.

21 “(7) VOTING ON REPORTS.—Any report of the
22 Council under subsection (c) or (d) must be ap-
23 proved by the majority of Members present.

24 “(8) SALARIES OF MEMBERS.—

1 “(A) EXECUTIVE SCHEDULE LEVEL II.—
2 Section 5313 of title 5, United States Code, is
3 amended by adding at the end the following
4 new item:

5 “‘Chairman of the Independent Medicare Advi-
6 sory Council.’.

7 “(B) EXECUTIVE SCHEDULE LEVEL III.—
8 Section 5314 of title 5, United States Code, is
9 amended by adding at the end the following
10 new item:

11 “‘Member of the Independent Medicare Advi-
12 sory Council’.

13 “(b) AUTHORITY OF THE COUNCIL TO RECOMMEND
14 ANNUAL PAYMENT UPDATES.—

15 “(1) RECOMMENDATIONS REGARDING CAL-
16 ENDAR YEAR PROVISIONS.—Not later than Decem-
17 ber 31 of each year, the Council shall transmit to
18 the President a report containing recommendations,
19 with respect to the 2nd succeeding calendar year,
20 for—

21 “(A) the update to the single conversion
22 factor applicable to payments for physicians’
23 services, instead of the update otherwise pro-
24 vided under section 1848(d);

1 “(B) the percentage adjustment applicable
2 to payments for home health services, instead of
3 the applicable home health increase percentage
4 otherwise provided under section
5 1895(b)(3)(B)(i);

6 “(C) the percentage adjustment applicable
7 to payments for durable medical equipment, in-
8 stead of the covered item update otherwise pro-
9 vided under section 1834(a)(14);

10 “(D) the percentage adjustment applicable
11 to payments for prosthetic devices and orthotics
12 and prosthetics, instead of the applicable per-
13 centage increase otherwise provided under sec-
14 tion 1834(h)(4)(A);

15 “(E) the percentage adjustment applicable
16 to payments for renal dialysis services, instead
17 of the ESRD market basket percentage in-
18 crease factor otherwise provided under section
19 1881(b)(14)(F);

20 “(F) the percentage adjustment applicable
21 to payment for covered OPD services, instead
22 of the OPD fee schedule increase factor other-
23 wise provided under section 1833(t)(3)(C)(iv);

24 “(G) the percentage adjustment applicable
25 to payments for clinical diagnostic laboratory

1 tests as defined under section 1833(h), instead
2 of the percentage increase or decrease otherwise
3 provided under section 1833(h)(2)(A);

4 “(H) the percentage adjustment applicable
5 to payments for specified items as defined in
6 section 1842(s)(2), instead of the applicable
7 percentage increase otherwise provided under
8 the first sentence of section 1842(s)(1);

9 “(I) the percentage adjustment applicable
10 to payments for ambulance services, instead of
11 the applicable percentage increase otherwise
12 provided under the section 1834(1)(3)(B); and

13 “(J) the percentage adjustment applicable
14 to the approved FTE resident amounts for pur-
15 poses of graduate medical education payments
16 as defined under section 1886(h), instead of the
17 percentage increase or decrease otherwise pro-
18 vided under section 1886(h)(2)(D)(i).

19 “(2) RECOMMENDATIONS REGARDING FISCAL
20 YEAR PROVISIONS.—Not later than October 1 of
21 each year, the Council shall transmit to the Presi-
22 dent a report containing recommendations, with re-
23 spect to the fiscal year starting October 1 of the suc-
24 ceeding year, for—

1 “(A) the percentage adjustment applicable
2 to payments for hospitals, instead of the market
3 basket update otherwise provided under section
4 1886(b)(3)(B);

5 “(B) the percentage adjustment applicable
6 to payments for skilled nursing facilities, in-
7 stead of the skilled nursing facility market bas-
8 ket update otherwise provided under section
9 1888(e)(4)(E);

10 “(C) the percentage adjustment applicable
11 to payments for inpatient rehabilitation services
12 as defined under section 1886(j), instead of the
13 increase factor otherwise provided under section
14 1886(j)(3)(C);

15 “(D) the percentage adjustment applicable
16 to payments for hospice care as defined under
17 section 1861(dd)(1), instead of the increase fac-
18 tor otherwise provided under section
19 1814(i)(1)(C)(ii); and

20 “(E) to the extent that an annual percent-
21 age increase factor applies to payments for long
22 term care hospitals as defined under section
23 1886(d)(1)(B)(iv), instead of such factor.

24 “(3) OPTION TO RECOMMEND NO CHANGE.—In
25 making recommendations under paragraph (1) or

1 (2), the Council may propose that an annual pay-
2 ment update continue to be calculated as otherwise
3 provided.

4 “(4) REPORT TO INCLUDE EXPLANATION.—The
5 Council shall explain and justify its recommenda-
6 tions in a report submitted to the President under
7 paragraph (1) or (2).

8 “(5) NO INCREASE IN AGGREGATE MEDICARE
9 EXPENDITURES.—A report of the Council under
10 paragraph (1) or (2) shall be designed in such a
11 manner that the implementation of the package of
12 recommendations contained in such report would not
13 be expected to result, over the 10-year period start-
14 ing with the following fiscal year, in an increase in
15 the aggregate level of net expenditures under the
16 Medicare program relative to the aggregate level
17 that would have occurred absent such implementa-
18 tion.

19 “(6) REVIEW BY CHIEF ACTUARY.—Not later
20 than 20 days after the date of the transmission by
21 the Council of a report under paragraph (1) or (2),
22 the Chief Actuary of the Centers for Medicare &
23 Medicaid Services shall submit a report to the Presi-
24 dent and the Secretary determining whether imple-
25 mentation of the package of recommendations in

1 such report would be expected to have the result de-
2 scribed by paragraph (5). If the Chief Actuary's re-
3 port determines that a report of the Council does
4 not satisfy that requirement, the recommendations
5 contained in that report shall be null and void, and
6 the annual payment updates covered by that report
7 shall continue to be calculated as otherwise provided.

8 “(c) AUTHORITY OF THE COUNCIL TO RECOMMEND
9 PAYMENT REFORMS.—

10 “(1) IN GENERAL.—Concurrently with its re-
11 port under subsection (b)(2), the Council may sub-
12 mit a separate report containing recommendations
13 for reforms to the program under the Medicare pro-
14 gram under this title, subject to paragraph (2).

15 “(2) EXCLUSIONS.—In exercising its authority
16 under paragraph (1), the Council may not rec-
17 ommend any changes to the following aspects of the
18 Medicare program:

19 “(A) Provisions under section 1801 prohib-
20 iting federal interference and provisions under
21 section 1802 providing for certain specified ben-
22 efiiciary protections and free choice by patients.

23 “(B) Financing and existence of the Fed-
24 eral Hospital Insurance Trust Fund and the
25 Federal Supplementary Medical Insurance

1 Trust Fund sections 1811, 1817, 1831, and
2 1841, and the appropriations to cover govern-
3 ment contributions and the contingency reserve
4 for such trust fund under section 1844.

5 “(C) The following requirements for pro-
6 viders to receive Medicare payment:

7 “(i) Conditions and limitations on
8 payment for services under section
9 1814(a).

10 “(ii) Requirements and timing of pay-
11 ment to providers of services under section
12 1815.

13 “(iii) Requirements for and assuring
14 quality of care in skilled nursing facilities
15 under subsections (b) through (d) of sec-
16 tion 1819.

17 “(iv) Conditions for coverage of reli-
18 gious nonmedical health care institutional
19 services under section 1821.

20 “(v) intermediate sanctions for pro-
21 viders or suppliers of clinical diagnostic
22 laboratory tests that no longer meet condi-
23 tions of participation under section 1846.

24 “(vi) Conditions of participation for
25 home health agencies under section 1891.

1 “(vii) Accreditation requirements for
2 independent diagnostic testing facilities
3 under section 1834(e).

4 “(viii) Consultation with States to de-
5 velop conditions of participation under sec-
6 tion 1863.

7 “(D) The following provisions for admin-
8 istering the Medicare program:

9 “(i) Section 1808.

10 “(ii) Interest rates under section
11 1833(j).

12 “(iii) Procedures for payment of
13 claims of providers of services under sec-
14 tion 1835.

15 “(iv) Required information from a re-
16 ferring physician under section 1833(q).

17 “(v) Definition of a radiologist under
18 section 1834(b)(6).

19 “(vi) Definition of a qualified profes-
20 sional under section 1834(h).

21 “(vii) The requirement that suppliers
22 have a supplier number under section
23 1834(j).

24 “(viii) Definitions of the types of pro-
25 viders and suppliers under section 1861.

1 “(ix) The use of State agencies to de-
2 termine compliance by providers with con-
3 ditions of participation under section 1864.

4 “(x) The effect of accreditation under
5 section 1865.

6 “(xi) Agreements with providers
7 under section 1866.

8 “(xii) The Practicing Physicians Advi-
9 sory Council for Technology and Innova-
10 tion under section 1868.

11 “(xiii) Determinations and appeals
12 (including local coverage determinations)
13 under section 1869.

14 “(xiv) Other administrative provisions
15 (including those concerning Medicare Ad-
16 ministrative Contractors) under sections
17 1870 through 1875.

18 “(xv) The Provider Reimbursement
19 Review Board under section 1878.

20 “(xvi) The withholding of payments
21 for certain Medicaid providers (with over-
22 payments) under section 1885.

23 “(xvii) Provider education and tech-
24 nical assistance under section 1889.

1 “(xviii) Offsets of payments to indi-
2 viduals to collect past-due obligations aris-
3 ing from breach of scholarship and loan
4 contract under section 1892.

5 “(xix) Administration of the Medicare
6 Integrity Program under section 1893.

7 “(xx) The Health Care Fraud and
8 Abuse Control Account under section
9 1817(k).

10 “(xxi) implementation and measures
11 for physician quality reporting under sec-
12 tion 1848(k).

13 “(xxii) The definition of an eligible
14 profession for physician e-prescribing
15 under section 1848(m).

16 “(xxiii) The definition of meaningful
17 user of certified EHR technology under
18 sections 1848(o) and 1886(n).

19 “(xxiv) Inpatient hospital capital pay-
20 ments under section 1886(g).

21 “(xxv) Hospital reporting of quality
22 measures under section 1886(b)(3)(viii).

23 “(xxvi) Prohibition on duplication of
24 payment under section 1833(d).

1 “(xxvii) Requirements for the submis-
2 sion of documents under section 1833(e).

3 “(xxviii) Establishment and duties of
4 the Medicare Payment Advisory Commis-
5 sion under section 1805.

6 “(xxix) Provisions relating to judicial
7 review, including those under sections
8 1847A(g), 1847B(g), and 1848(i).

9 “(E) The following Medicare Advantage
10 provisions:

11 “(i) The process and information for
12 exercising choice under subsections (c) and
13 (d) of section.

14 “(ii) Solvency and other specified
15 standards under section 1856.

16 “(F) The following Medicare Prescription
17 Drug Plan provisions under part D:

18 “(i) Flexibility of risk assumed and
19 the application of fallback plan under sec-
20 tion 1860D-3(b).

21 “(ii) Beneficiary protections under
22 sections 1860D-4(b)(2) and 1860D-
23 4(b)(3)(G)(iii).

1 “(iii) Establishment and administra-
2 tion of regional prescription drug plans
3 under section 1860D-11.

4 “(iv) Submission of bids and plan ap-
5 proval under section 1860D-11 (except for
6 non-interference in 1860D-11(i) and section
7 1860D-11(e)(6)).

8 “(v) Risk adjustment and disclosure
9 of information under subsections (e) and
10 (f) of section 1860D-15.

11 “(vi) Placement of the Medicare Pre-
12 scription Drug Account in the Federal
13 Supplementary Medical Insurance Trust
14 Fund under section 1860D-16.

15 “(vii) Application to Medicare Advan-
16 tage program and related managed care
17 programs under section 1860D-21(c), ex-
18 cept for section 1860D-21(d)(4).

19 “(viii) Application of Medicare Advan-
20 tage waiver authority under section
21 1860D-22(b).

22 “(ix) Coordination with State pharma-
23 ceutical assistance programs and other co-
24 ordination requirements under sections
25 1860D-23 and 1860D-24.

1 “(x) Definitions and miscellaneous
2 provisions under sections 1860D-41 and
3 1860D-42.

4 “(3) NO INCREASE IN AGGREGATE MEDICARE
5 EXPENDITURES.—Each report under paragraph (1)
6 shall—

7 “(A) be designed in such a manner that its
8 implementation would not be expected to result,
9 over the 10-year period starting with the fol-
10 lowing fiscal year, in any increase in the aggre-
11 gate level of net expenditures under the Medi-
12 care program relative to the aggregate level
13 that would have occurred absent such imple-
14 mentation; and

15 “(B) either—

16 “(i) improve the quality of medical
17 care received by the beneficiaries of the
18 Medicare program; or

19 “(ii) improve the efficiency of the
20 Medicare program’s operation.

21 “(4) REVIEW BY CHIEF ACTUARY.—Not later
22 than 20 days after the date of the transmission of
23 a report under paragraph (1), the Chief Actuary of
24 the Centers for Medicare & Medicaid Services shall
25 submit a report to the President and the Secretary

1 determining whether implementation of the package
2 of recommendations in such report would be ex-
3 pected to have the result described by paragraph
4 (3)(A). If the Chief Actuary's report determines that
5 the report of the Council does not satisfy that re-
6 quirement, the recommendations contained in that
7 report of the Council shall be null and void, and the
8 aspects of Medicare covered by that report shall con-
9 tinue to apply as otherwise provided.

10 “(5) IMPLEMENTATION ADVICE.—Not later
11 than 20 days after the date of the transmission of
12 a report under paragraph (1), the Secretary shall
13 submit a report to the President containing the Sec-
14 retary's advice regarding—

15 “(A) the period of time necessary to imple-
16 ment the recommendations contained in the re-
17 port, including necessary systems changes; and

18 “(B) the administrative resources needed
19 for implementation of such recommendations.

20 “(d) 5-YEAR START-UP PERIOD.—The Council may
21 not make a recommendation under subsection (b) or (c)
22 before September 15, 2014.

23 “(e) REVIEW AND APPROVAL OR DISAPPROVAL BY
24 THE PRESIDENT.—

1 “(1) IN GENERAL.—After transmittal of a re-
2 port under subsection (b) or (c), the President shall
3 transmit to the Council and to the Congress, no
4 later than the date specified in paragraph (2), a
5 message stating whether the President approves or
6 disapproves of the report and all the recommenda-
7 tions contained therein. Presidential approval of
8 some, but not all, of the recommendations included
9 in a report of the Council shall be deemed to be dis-
10 approval of that report and all the recommendations
11 contained therein. The President’s message under
12 this section shall include a copy of the Council’s re-
13 port being approved or disapproved, and either—

14 “(A) a certification of approval of the
15 Council’s recommendations contained in that
16 report; or

17 “(B) the reasons for disapproval of that
18 report.

19 “(2) TIMING.—The date specified in this para-
20 graph—

21 “(A) in the case of a report under sub-
22 section (b), is the date that is 30 days after the
23 date of transmittal of the report; and

24 “(B) in the case of a report under sub-
25 section (c), the date that is 30 days after the

1 date of submittal of the reports required under
2 paragraphs (4) and (5) of such subsection, or
3 after the expiration of the deadline for submit-
4 ting such reports.

5 “(f) REVIEW BY CONGRESS.—

6 “(1) IN GENERAL.—The Secretary may not im-
7 plement any recommendation of the Council ap-
8 proved by the President under subsection (f)—

9 “(A) until the end of the 30-day period be-
10 ginning on the date on which the President
11 transmits a report to the Congress containing a
12 certification of approval of such recommenda-
13 tion under subsection (e); or

14 “(B) if a joint resolution of Congress is en-
15 acted disapproving the report of the Council
16 containing such recommendation.

17 “(2) CALCULATION OF PERIOD.—For purposes
18 of this subsection, the days on which either House
19 of Congress is not in session because of adjournment
20 of more than 3 days to a day certain shall be ex-
21 cluded in the computation of a period.

22 “(g) AUTHORITY OF THE SECRETARY TO IMPLE-
23 MENT COUNCIL’S RECOMMENDATIONS.—

24 “(1) ANNUAL PAYMENT UPDATE RECOMMENDA-
25 TIONS.—If, under subsection (e) and subject to sub-

1 section (f), the President approves the recommenda-
2 tions submitted by the Council under subsection (b),
3 the Secretary shall promulgate such regulations as
4 may be necessary to implement those recommenda-
5 tions.

6 “(2) PAYMENT REFORM RECOMMENDATIONS.—
7 If, under subsection (e) and subject to subsection
8 (f), the President approves the recommendations
9 submitted by the Council under subsection (c), the
10 Secretary shall promulgate such regulations as may
11 be necessary to implement those recommendations,
12 notwithstanding any provisions of this Act or any
13 other provisions governing the Medicare program,
14 other than the provisions specified in subsection
15 (c)(2).

16 “(h) ANNUAL REPORT.—Not later than March 1 of
17 each year (beginning in the year 2016), the Council shall
18 submit to the Congress a report on all recommendations
19 made by the Council during the preceding 18 months, in-
20 cluding the performance of the Secretary in implementing
21 the recommendations approved by the President under
22 subsection (c).

23 “(i) LIMITATION ON JUDICIAL REVIEW.—A person
24 adversely affected by a recommendation of the Council
25 that is approved by the President under subsection (e)

1 may file a petition for review, not later than 30 days after
2 the date of certification of such approval, in the United
3 States Court of Appeals for the District of Columbia. Re-
4 view shall be limited to the question whether the Council's
5 recommendation exceeded the Council's authority under
6 subsection (b) or (c). Notwithstanding the previous sen-
7 tence, a determination by the Chief Actuary under sub-
8 sections (b)(6) and (c)(4) shall serve as conclusive evi-
9 dence that the requirements of subsections (b)(5) and
10 (c)(3)(A), respectively, have been met, and no further re-
11 view of the Council's compliance with those requirements
12 shall be available. Review under this subsection shall be
13 heard and decided expeditiously. Other than as stated in
14 this subsection, no court shall have jurisdiction to review
15 a recommendation of the Council, or the President's ap-
16 proval or disapproval of such a recommendation.

17 " (j) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Council for each
19 fiscal year such sums as may be necessary to carry out
20 its duties and functions. Sixty percent of such appropria-
21 tions shall be derived by transfer from the Federal Hos-
22 pital Insurance Trust Fund, and 40 percent of such ap-
23 propriation shall be derived by transfer from the Federal
24 Supplementary Medical Insurance Trust Fund."

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1848(d) of such Act (42 U.S.C.
2 1395w-4(d)) is amended by adding at the end the
3 following new paragraph:

4 “(10) UPDATES DETERMINED BY INDE-
5 PENDENT MEDICARE ADVISORY COUNCIL.—

6 “(A) IN GENERAL.—Notwithstanding the
7 foregoing provisions of this subsection, if, under
8 subsection (e) of section 1805A, the President
9 approves an update to the single conversion fac-
10 tor recommended by the Independent Medicare
11 Advisory Council under subsection (c) of such
12 section, then the Secretary shall replace the up-
13 date that would otherwise apply under para-
14 graph (1)(A) with the update so approved for
15 the year to which the recommendation applies.

16 “(B) NO EFFECT ON COMPUTATION OF
17 CONVERSION FACTOR FOR SUBSEQUENT
18 YEARS.—The conversion factor under this sub-
19 section shall be computed under paragraph
20 (1)(A) for each year following the year for
21 which an update under subparagraph (A) ap-
22 plies as if subparagraph (A) had never ap-
23 plied.”.

24 (2) Section 1833(h)(2)(A)(ii) of such Act (42
25 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

1 (A) by striking “and” at the end of sub-
2 clause (III);

3 (B) by striking the period at the end of
4 subclause (V) and inserting “; and”; and

5 (C) by adding at the end the following new
6 subclause:

7 “(V) if, under subsection (e) of
8 section 1805A, the President approves
9 a percentage adjustment (which may
10 be a negative percentage or zero) rec-
11 ommended by the Independent Medi-
12 care Advisory Council under sub-
13 section (d) of such section, then the
14 Secretary shall replace the annual
15 percentage adjustment in the fee
16 schedules that would otherwise apply
17 under clause (i) with the adjustment
18 so approved for the year to which the
19 recommendation applies, except that
20 the Secretary maintains discretion to
21 make such other adjustments as the
22 Secretary determines are justified by
23 technological changes.”.

24 (3) Section 1833(t)(3)(C)(iv) of such Act (42
25 U.S.C. 1395l(t)(3)(C)(iv)) is amended by adding at

1 the end the following: "If, under subsection (e) of
2 section 1805A, the President approves a percentage
3 adjustment (which may be a negative percentage or
4 zero) recommended by the Independent Medicare
5 Advisory Council under subsection (c) of such sec-
6 tion, the Secretary shall replace the OPD fee sched-
7 ule increase factor that would otherwise apply under
8 this clause with the percentage adjustment so ap-
9 proved for the year to which the recommendation
10 applies, which shall be subject to paragraph (17)."

11 (4) Section 1834 of such Act (42 U.S.C.
12 1395m) is amended—

13 (A) in subsection (a)(14)—

14 (i) in subparagraph (L), by striking
15 the at the end;

16 (ii) in subparagraph (M), by striking
17 the period at the end and inserting “;
18 and”; and

19 (iii) by adding at the end the fol-
20 lowing new subparagraph:

21 “(N) notwithstanding the foregoing provi-
22 sions of this paragraph, if under subsection (e)
23 of section 1805A the President approves a per-
24 centage adjustment (which may be a negative
25 percentage or zero) recommended by the Inde-

1 pendent Medicare Advisory Council under sub-
2 section (c) of such section for a year, such per-
3 centage adjustment so approved for the year.”;
4 and

5 (B) in subsection (h)(4)(A)—

6 (i) by striking “and” at the end of
7 clause (ix);

8 (ii) by adding “and” at the end of
9 clause (x); and

10 (iii) by adding at the end the fol-
11 lowing new clause:

12 “(xi) notwithstanding the foregoing
13 provisions of this subparagraph, if under
14 subsection (e) of section 1805A the Presi-
15 dent approves a percentage adjustment
16 (which may be a negative percentage or
17 zero) recommended by the Independent
18 Medicare Advisory Council under sub-
19 section (c) of such section for a year, the
20 percentage adjustment so approved for the
21 year.”.

22 (5) Section 1881(b)(1)(F) of such Act (42
23 U.S.C. 1395rr(b)(1)(F)) is amended—

24 (A) in clause (i), by adding at the end of
25 clause (i) the following: “Notwithstanding the

1 previous sentence, if under subsection (e) of
2 section 1805A the President approves a per-
3 centage adjustment (which may be a negative
4 percentage or zero) recommended by the Inde-
5 pendent Medicare Advisory Council under sub-
6 section (c) of such section, the Secretary shall
7 replace the adjustment that would otherwise
8 apply under this clause with the percentage ad-
9 justment so approved for the year to which the
10 recommendation applies.’”; and

11 (B) in clause (ii), by adding at the end the
12 following: “Notwithstanding the preceding pro-
13 visions of this clause, if under subsection (e) of
14 section 1805A the President approves a per-
15 centage adjustment (which may be a negative
16 percentage or zero) recommended by the Inde-
17 pendent Medicare Advisory Council under sub-
18 section (c) of such section, the Secretary shall
19 replace the adjustment that would otherwise
20 apply under this clause with the percentage ad-
21 justment so approved for the year to which the
22 recommendation applies.”.

23 (6) Section 1886 of such Act (42 U.S.C.
24 1395ww) is amended—

25 (A) in subsection (b)(3)(B)(i)—

1 (i) in subclause (XIX), by striking
2 “and”;

3 (ii) in subclause (XX), by inserting
4 “subject to subclause (XXI)” after “for
5 each subsequent fiscal year”; and

6 (iii) by inserting after subclause (XX)
7 the following new subclause:

8 “(XXI) if under subsection (e) of
9 section 1805A the President approves
10 a percentage adjustment (which may
11 be a negative percentage or zero) rec-
12 ommended by the Independent Medi-
13 care Advisory Council under sub-
14 section (c) of such section for such
15 fiscal year, the percentage adjustment
16 (which shall be subject to clause (viii))
17 so approved for the fiscal year.”; and

18 (B) in subsection (j)(3)(C), by adding at
19 the end the following: “Notwithstanding the
20 previous provisions of this subparagraph, if
21 under subsection (e) of section 1805A the
22 President approves a percentage adjustment
23 (which may be a negative percentage or zero)
24 recommended by the Independent Medicare Ad-
25 visory Council under subsection (c) of such sec-

1 tion for a year, the Secretary shall replace the
2 increase factor that would otherwise apply
3 under this subparagraph with the percentage
4 adjustment so approved for the year.”.

5 (7) Section 1888(e)(4)(E)(ii) of such Act (42
6 U.S.C. 1395yy(e)(4)(ii)) is amended—

7 (A) in subclause (III), by striking “and”;
8 and

9 (B) in subclause (IV), by inserting at the
10 end after the following: “Notwithstanding the
11 preceding sentence, if under subsection (e) of
12 section 1805A the President approves a per-
13 centage adjustment (which may be a negative
14 percentage or zero) recommended by the Inde-
15 pendent Medicare Advisory Council under sub-
16 section (c) of such section for a year, the Sec-
17 retary shall replace the skilled nursing facility
18 market basket percentage change that would
19 otherwise apply under the preceding sentence
20 with the percentage adjustment so approved for
21 the year.”.

22 (8) Section 1895(b)(3)(B)(i) of such Act (42
23 U.S.C. 1395fff(b)(3)(B)(i)) is amended—

24 (A) by striking “and” at the end of sub-
25 clause (IV);

1 (B) in subclause (V), by inserting “subject
2 to subclause (VI),” after “subsequent year” and
3 by striking the period at the end and inserting
4 “; and”; and

5 (C) by adding at the end the following new
6 subclause:

7 “(VI) if under subsection (e) of
8 section 1805A the President approves
9 a percentage adjustment (which may
10 be a negative percentage or zero) rec-
11 ommended by the Independent Medi-
12 care Advisory Council under sub-
13 section (e) of such section for a year,
14 the percentage adjustment so ap-
15 proved for the year, subject to clause
16 (v).”.

