COMMITTEE PRINT

Budget Reconciliation Legislative Recommendations for
Subtitle E Relating to Skilled Nursing Facilities

PART 3—SKILLED NURSING FACILITIES

SEC. 134301. FUNDING TO IMPROVE THE ACCURACY AND
RELIABILITY OF CERTAIN SKILLED NURSING
FACILITY DATA.

Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended—

(1) in subsection (h)(12)—

(A) in subparagraph (A), by striking “and
the data submitted under subsection (e)(6)”
and inserting “, the data submitted under sub-
section (e)(6), and, during the period beginning
with fiscal year 2024 and ending with fiscal
year 2031, the resident assessment data de-
scribed in section 1819(b)(3) and the direct
care staffing information described in section
1128I(g)”;

and

(B) in subparagraph (B)—

(i) by striking “FUNDING.—For pur-
poses” and inserting “FUNDING.—
“(i) FISCAL YEARS 2023 THROUGH
2025.—For purposes”;

and
(ii) by adding at the end the following new clause:

“(ii) Fiscal Years 2026 through 2031.—There is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $50,000,000 for the period of fiscal years 2026 through 2031 for purposes of carrying out this paragraph.”; and

(2) in subsection (e)(6)(A)—

(A) in the header, by striking “For Failure to Report”;

(B) in clause (i)—

(i) by striking “For fiscal years” and inserting the following:

“(I) Failure to report.—For fiscal years”; and

(ii) by adding at the end the following new subclause:

“(II) Reporting of Inaccurate Information.—For fiscal years during the period beginning with fiscal year 2025 and ending with fiscal year 2031, in the case of a skilled nursing facility that submits
data under this paragraph, measures under subsection (h), resident assessment data described in section 1819(b)(3), or direct care staffing information described in section 1128I(g) with respect to such fiscal year that is inaccurate (as determined by the Secretary through the validation process described in section 1888(h)(12) or otherwise), after determining the percentage described in paragraph (5)(B)(i), and after application of clauses (ii) and (iii) of paragraph (5)(B) and of subclause (I) if this clause (if applicable), the Secretary shall reduce such percentage for payment rates during such fiscal year by 2 percentage points.”.

SEC. 134302. ENSURING ACCURATE INFORMATION ON COST REPORTS.

Section 1888(f) of the Social Security Act (42 U.S.C. 1395yy(f)) is amended by adding at the end the following new paragraph:

“(5) Audit of cost reports.—There is appropriated to the Secretary, out of any monies in the
Treasury not otherwise appropriated, $250,000,000 for fiscal year 2023 to remain available until expended, for purposes of conducting an annual audit (beginning with 2022 and ending with 2031) of cost reports submitted under this title for a representative sample of skilled nursing facilities.”.

SEC. 134303. SURVEY IMPROVEMENTS.

Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended by adding at the end the following new subsection:

“(l) SURVEY IMPROVEMENTS.—

“(1) IN GENERAL.—There is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $325,000,000, for the period of fiscal years 2022 through 2031, for purposes of—

“(A) conducting reviews and identifying plans under paragraph (2); and

“(B) providing training, tools, technical assistance, and financial support in accordance with paragraph (3).

“(2) REVIEW.—The Secretary shall conduct reviews, during the period specified in paragraph (1), of (and, as appropriate, identify plans to improve) the following:
“(A) The extent to which surveys conducted under subsection (g) and the enforcement process under subsection (h) result in increased compliance with requirements under this section and subpart B of part 483 of title 42, Code of Federal Regulations, with respect to skilled nursing facilities (in this subsection referred to as ‘facilities’).

“(B) The timeliness and thoroughness of State agency verification of deficiency corrections at facilities.

“(C) The appropriateness of the scoping and substantiation of cited deficiencies at facilities.

“(D) The accuracy of the identification and appropriateness of the scoping of life safety, infection control, and emergency preparedness deficiencies at facilities.

“(E) The timeliness of State agency investigations of—

“(i) complaints at facilities; and

“(ii) reported allegations of abuse, neglect, and exploitation at facilities.

“(F) The consistency of facility reporting of substantiated complaints to law enforcement.
“(G) The ability of the State agency to sufficiently hire, train, and retain individuals who conduct surveys.

“(H) Any other area related to surveys of facilities, or the individuals conducting such surveys, determined appropriate by the Secretary.

“(3) SUPPORT.—Based on the review under paragraph (1), the Secretary shall, during the period specified in paragraph (1), provide training, tools, technical assistance, and financial support to State agencies that perform surveys of facilities for the purpose of improving the surveys conducted under subsection (g) and the enforcement process under subsection (h) with respect to the areas reviewed under paragraph (1).”.

SEC. 134304. NURSE STAFFING REQUIREMENTS.

Section 1819(d) of the Social Security Act (42 U.S.C. 1395i–3(d)) is amended—

(1) in paragraph (4)(A), by inserting “and any regulations promulgated under paragraph (5)(C)” after “section 1124”; and

(2) by adding at the end the following new paragraph:

“(5) NURSE STAFFING REQUIREMENTS.—
“(A) Funding.—There is appropriated to the Secretary, out of any monies in the Treasury not otherwise appropriated, $50,000,000 for the period of fiscal years 2022 through 2031 for purposes of carrying out this paragraph.

“(B) Study.—Not later than 3 years after the date of the enactment of this paragraph, and not less frequently than once every 5 years thereafter, the Secretary shall, out of funds appropriated under subparagraph (A), conduct a study and submit to Congress a report on the appropriateness of establishing minimum staff to resident ratios for nursing staff for skilled nursing facilities. Each such report shall include—

“(i) with respect to the first such report, recommendations regarding appropriate minimum ratios of registered nurses (and, if practicable, licensed practical nurses (or licensed vocational nurses) and certified nursing assistants) to residents at such skilled nursing facilities; and

“(ii) with respect to each subsequent such report, recommendations regarding
appropriate minimum ratios of registered nurses, licensed practical nurses (or licensed vocational nurses), and certified nursing assistants to residents at such skilled nursing facilities.

“(C) PROMULGATION OF REGULATIONS.—

“(i) IN GENERAL.—Not later than 2 years after the Secretary first submits a report under subparagraph (B), the Secretary shall, out of funds appropriated under subparagraph (A)—

“(I) specify through regulations, consistent with such report, appropriate minimum ratios (if any) of registered nurses (and, if practicable, licensed practical nurses (or licensed vocational nurses) and certified nursing assistants) to residents at skilled nursing facilities; and

“(II) except as provided in clause (ii), require such skilled nursing facilities to comply with such ratios.

“(ii) EXCEPTION.—

“(I) IN GENERAL.—The Secretary may waive the application of
clause (i)(II) with respect to a skilled
nursing facility if the Secretary finds
that—

“(aa) the facility is located
in a rural area and the supply of
skilled nursing facility services in
such area is not sufficient to
meet the needs of individuals re-
siding therein;

“(bb) the Secretary provides
notice of the waiver to the State
long-term care ombudsman (es-
ablished under section
307(a)(12) of the Older Amer-
cans Act of 1965) and the pro-
tection and advocacy system in
the State for the mentally ill; and

“(cc) the facility that is
granted such a waiver notifies
residents of the facility (or,
where appropriate, the guardians
or legal representatives of such
residents) and members of their
immediate families of the waiver.
“(II) RENEWAL.—Any waiver in effect under this clause shall be subject to annual renewal.

“(iii) UPDATE.—Not later than 2 years after the submission of each subsequent report under subparagraph (B), the Secretary shall, out of funds appropriated under subparagraph (A) and consistent with such report, update the regulations described in clause (i)(I) to reflect appropriate minimum ratios (if any) of registered nurses, licensed practical nurses (or licensed vocational nurses), and certified nursing assistants to residents at skilled nursing facilities.”.