To amend title XVIII of the Social Security Act to modify the accelerated and advance payment programs under parts A and B of the Medicare program during the COVID–19 emergency.

IN THE SENATE OF THE UNITED STATES

Mrs. Shaheen (for herself, Mr. Bennet, Ms. Smith, Ms. Cortez Masto, Ms. Hassan, Mr. Jones, Mr. Reed, Mr. Blumenthal, Mr. Heinrich, Mr. Manchin, Mr. Durbin, and Ms. Klobuchar) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to modify the accelerated and advance payment programs under parts A and B of the Medicare program during the COVID–19 emergency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medicare Accelerated and Advance Payments Improvement Act”.
SEC. 2. MODIFYING THE ACCELERATED AND ADVANCE PAYMENT PROGRAMS UNDER PARTS A AND B OF THE MEDICARE PROGRAM DURING THE COVID–19 EMERGENCY.

(a) Special Repayment Rules.—

(1) Part A.—Section 1815(f)(2)(C) of the Social Security Act (42 U.S.C. 1395g(f)(2)(C)) is amended to read as follows:

“(C) In the case of an accelerated payment made under such program on or after the date of the enactment of the CARES Act and so made during the emergency period described in section 1135(g)(1)(B)—

“(i) such payment shall be treated as if such payment were made from the General Fund of the Treasury;

“(ii) upon request of the hospital, the Secretary shall—

“(I) provide 1 year before claims are offset to recoup such payment;

“(II) provide that any such offset of a claim to recoup such payment shall not exceed 25 percent of the amount of such claim; and

“(III) allow not less than 2 years from the date of the first accelerated pay-
ment before requiring that the outstanding balance be paid in full; and

“(iii) the Secretary may waive the requirement that such payment be repaid (or recouped) if, not earlier than 2 years from the date of the first accelerated payment, the hospital submits to the Secretary a request for such waiver containing such information that demonstrates that—

“(I) requiring repayment of such payment (or recouping such payment) would constitute an extreme hardship for the hospital;

“(II) the hospital made efforts to maintain a comparable number of employees at a comparable level of pay during the such emergency period compared to the number of, and level of pay for, such employees as of the day before the beginning of such period; and

“(III) the hospital did not increase executive compensation or undertake any stock buyback, if applicable, during such emergency period.”.

(2) PART B.—
(A) CONTINUING CONDUCT OF ADVANCE PAYMENT PROGRAM.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall carry out the program described in section 421.214 of title 42, Code of Federal Regulations (or a successor regulation) for the duration of the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

(B) REPAYMENT RULES.—In carrying out such program, in the case of a payment made under such program on or after the date of the enactment of the CARES Act (Public Law 116–136) and so made during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the Secretary of Health and Human Services—

(i) shall treat such payment as if such payment were made from the General Fund of the Treasury;

(ii) upon request of the entity receiving such payment, shall—
(I) provide 1 year before claims are offset to recoup the payment;

(II) provide that any such offset of a claim to recoup such payment shall not exceed 25 percent of the amount of such claim; and

(III) allow not less than 2 years from the date of the first advance payment before requiring that the outstanding balance be paid in full; and

(iii) may waive the requirement that such payment be repaid (or recouped) if, not earlier than 2 years from the date of the first advance payment, the entity submits to the Secretary a request for such waiver containing such information that demonstrates that—

(I) requiring repayment of such payment (or recouping such payment) would constitute an extreme hardship for the entity;

(II) the entity made efforts to maintain a comparable number of employees at a comparable level of pay
during the such emergency period compared to the number of, and level of pay for, such employees as of the day before the beginning of such period; and

(III) the entity did not increase executive compensation or undertake any stock buyback, if applicable, during such emergency period.

(b) INTEREST RATES.—

(1) PART A.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended by inserting before the period at the end the following: “(or, in the case of such a determination made with respect to a payment made on or after the date of the enactment of the CARES Act and during the emergency period described in section 1135(g)(1)(B) under the program under subsection (e)(3), at a rate of 1 percent)”. 

(2) PART B.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended by inserting before the period at the end the following: “(or, in the case of such a determination made with respect to a payment made on or after the date of the enactment of the CARES Act and during the
emergency period described in section 1135(g)(1)(B)
under the program described in section 421.214 of
title 42, Code of Federal Regulations (or a successor
regulation), at a rate of 1 percent’’.

(c) Report.—

(1) Reports during COVID–19 emergency.—

Not later than 2 weeks after the date of the enact-
ment of this section, and every 2 weeks thereafter
during the emergency period described in section
1135(g)(1)(B) of the Social Security Act (42 U.S.C.
1320b–5(g)(1)(B)), the Secretary of Health and
Human Services shall submit to the Committee on
Ways and Means and the Committee on Energy and
Commerce of the House of Representatives, and the
Committee on Finance of the Senate, a report that
includes the following:

(A) The total amount of payments made
under section 1815(e)(3) of the Social Security
Act (42 U.S.C. 1395g(e)(3)) and under the pro-
gram described in section 421.214 of title 42,
Code of Federal Regulations (or a successor
regulation) during the 2-week period preceding
the date of the submission of such report.

(B) The number of entities receiving such
payments during such period.
(C) A specification of each such entity.

(2) Reports after COVID–19 emergency.—

(A) In general.—Not later than 6 months after the termination of the emergency period described in paragraph (1), and every 6 months thereafter until all specified payments (as defined in subparagraph (B)) have been recouped or repaid, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, a report that includes the following:

(i) The total amount of all specified payments that have been recouped or repaid.

(ii) The total amount of all specified payments that have been recouped or repaid.

(iii) The amount of interest that has accrued with respect to all specified payments.

(B) Specified payments.—For purposes of subparagraph (A), the term “specified payments” means all payments made under section
1815(e)(3) of the Social Security Act (42
U.S.C. 1395g(e)(3)) or under the program de-
scribed in section 421.214 of title 42, Code of
Federal Regulations (or a successor regulation)
made on or after the date of the enactment of
the CARES Act (Public Law 116–136) during
the emergency period described in such sub-
paragraph.