

Thurs 7/30  
11:38 am  
B

**AMENDMENT TO AMENDMENT IN THE NATURE OF  
A SUBSTITUTE FOR H.R. 3200  
OFFERED BY MR. SPACE OF OHIO  
(AINS-EC\_001)**

Add at the end of subtitle E of title VII of division  
B the following:

**1 SEC. [1745]. PAYMENTS TO NURSING FACILITIES.**

2 (a) IN GENERAL.—

3 (1) FEE-FOR-SERVICE PAYMENTS.—Section  
4 1902(a)(13) of the Social Security Act (42 U.S.C.  
5 1396(a)(13)), as amended by section 1721, is  
6 amended—

7 (A) by striking “and” at the end of sub-  
8 paragraph (B);

9 (B) by adding “and” at the end of sub-  
10 paragraph (C); and

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

13 “(D) for payment for nursing facility serv-  
14 ices (as defined in section 1905(f)) which—

15 “(i) subject to clause (ii), is at a rate  
16 not less than 80 percent of the payment  
17 rate applicable to skilled nursing facility

1 services (as defined in section  
2 1888(e)(2)(A) for services furnished in  
3 2010, 90 percent of such rate for services  
4 furnished in 2011, and 100 percent of  
5 such payment rate for services furnished in  
6 2012 or a subsequent year;

7 “(ii) if on the date of enactment of  
8 this subparagraph a State’s Medicaid day-  
9 weighted average rate for nursing facility  
10 services is higher than that required by  
11 clause (i), such statewide Medicaid day-  
12 weighted average rate must be maintained  
13 at the level as in effect on July 1, 2009,  
14 or the date after the date of the enactment  
15 of this paragraph upon which the State es-  
16 tablishes nursing facility rates of payment,  
17 updated, for subsequent periods, annually  
18 by an update or trending factor that is the  
19 greater of the skilled nursing facility mar-  
20 ket basket percentage specified under sec-  
21 tion 1888(e)(5)(B)) for skilled nursing fa-  
22 cilities for the year involved or a factor as  
23 specified in each State’s plan amendment,  
24 but in no case shall the payment level be  
25 less than such statewide Medicaid day-

1                   weighted average rate for nursing facilities  
2                   in effect as of July 1, 2009 (or, if later,  
3                   the date after the enactment of this Act);”.

4                   (2) UNDER MEDICAID MANAGED CARE  
5 PLANS.—Section 1932(f) of such Act (42 U.S.C.  
6 1396u-2(f)), as amended by section 1721(a)(2), is  
7 amended by inserting before the period at the end  
8 the following: “and, in the case of nursing facility  
9 services described in section 1902(a)(13)(D), con-  
10 sistent with the minimum payment rates specified in  
11 such section (regardless of the manner in which such  
12 payments are made, including in the form of capita-  
13 tion or partial capitation)”.

14                   (b) INCREASE IN PAYMENT USING 100% FMAP.—  
15 Section 1905(y) of such Act , as added by section  
16 1701(a)(2)(B) and as amended by sections 1701(c)(2) and  
17 1721(b), is amended by adding at the end the following:

18                   “(4) The portion of the payment for medical as-  
19 sistance for services described in section  
20 1902(a)(13)(D) furnished on or after January 1,  
21 2010, and before December 31, 2012, that is attrib-  
22 utable the amount by which the minimum payment  
23 rate required under such section (or, by application,  
24 section 1932(f)) exceeds the payment rate applicable  
25 to such services under the State plan as of June 16,

1 2009, and also with respect to payment for medical  
2 assistance for services described in section  
3 1902(a)(13)(D) furnished on or after January 1,  
4 2013, insofar as the amount of such payment does  
5 not exceed the payment rate established for such  
6 services under section 1888(e)(2)(A).”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to services furnished on or after  
9 January 1, 2010.

