

**AMENDMENT NO. 570**

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.**

**H. R. 1**

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

February 7, 2009

Ordered to lie on the table and to be printed

Intended to be proposed by Ms. COLLINS (for herself and Mr. NELSON of Nebraska)

Viz:

1       Strike out all after the enacting clause and insert the  
2 following:

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Recovery  
5 and Reinvestment Act of 2009”.

6 **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

DIVISION A—APPROPRIATIONS PROVISIONS

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG  
ADMINISTRATION, AND RELATED AGENCIES

TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGEN-  
CIES

TITLE III—DEPARTMENT OF DEFENSE

TITLE IV—ENERGY AND WATER DEVELOPMENT  
 TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT  
 TITLE VI—DEPARTMENT OF HOMELAND SECURITY  
 TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES  
 TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN  
 SERVICES, AND EDUCATION, AND RELATED AGEN-  
 CIES  
 TITLE IX—LEGISLATIVE BRANCH  
 TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND  
 RELATED AGENCIES  
 TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PRO-  
 GRAMS  
 TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOP-  
 MENT, AND RELATED AGENCIES  
 TITLE XIII—HEALTH INFORMATION TECHNOLOGY  
 TITLE XIV—STATE FISCAL STABILIZATION  
 TITLE XV—RECOVERY ACCOUNTABILITY AND TRANSPARENCY  
 BOARD AND RECOVERY INDEPENDENT ADVISORY  
 PANEL  
 TITLE XVI—GENERAL PROVISIONS—THIS ACT

DIVISION B—TAX, UNEMPLOYMENT, HEALTH, STATE FISCAL  
 RELIEF, AND OTHER PROVISIONS

TITLE I—TAX PROVISIONS  
 TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUG-  
 GLING FAMILIES  
 TITLE III—HEALTH INSURANCE ASSISTANCE  
 TITLE IV—HEALTH INFORMATION TECHNOLOGY  
 TITLE V—STATE FISCAL RELIEF

1 **SEC. 3. REFERENCES.**

2 Except as expressly provided otherwise, any reference  
 3 to “this Act” contained in any division of this Act shall  
 4 be treated as referring only to the provisions of that divi-  
 5 sion.

6 **DIVISION A—APPROPRIATIONS**  
 7 **PROVISIONS**

8 That the following sums are appropriated, out of any  
 9 money in the Treasury not otherwise appropriated, for the  
 10 fiscal year ending September 30, 2009, and for other pur-  
 11 poses, namely:

1 TITLE I—AGRICULTURE, RURAL DEVELOP-  
2 MENT, FOOD AND DRUG ADMINISTRATION,  
3 AND RELATED AGENCIES

4 DEPARTMENT OF AGRICULTURE

5 OFFICE OF THE SECRETARY

6 (INCLUDING TRANSFERS OF FUNDS)

7 For an additional amount for the “Office of the Sec-  
8 retary”, \$200,000,000, to remain available until Sep-  
9 tember 30, 2010: *Provided*, That the Secretary may trans-  
10 fer these funds to agencies of the Department, other than  
11 the Forest Service, for necessary replacement, moderniza-  
12 tion, or upgrades of laboratories or other facilities to im-  
13 prove workplace safety and mission-area efficiencies as  
14 deemed appropriate by the Secretary: *Provided further*,  
15 that the Secretary shall provide to the Committees on Ap-  
16 propriations of the House and Senate a plan on the alloca-  
17 tion of these funds no later than 60 days after the date  
18 of enactment of this Act.

19 OFFICE OF INSPECTOR GENERAL

20 For an additional amount for “Office of Inspector  
21 General”, \$5,000,000, to remain available until September  
22 30, 2011, for oversight and audit of programs, grants, and  
23 activities funded under this title and an additional  
24 \$17,500,000 for such purposes, to remain available until  
25 September 30, 2011.

1 COOPERATIVE STATE RESEARCH, EDUCATION AND  
2 ECONOMIC SERVICE  
3 RESEARCH AND EDUCATION ACTIVITIES

4 For an additional amount for competitive grants au-  
5 thorized at 7 U.S.C. 450(i)(b), \$50,000,000, to remain  
6 available until September 30, 2010.

7 FARM SERVICE AGENCY  
8 AGRICULTURAL CREDIT INSURANCE FUND PROGRAM  
9 ACCOUNT

10 For an additional amount for gross obligations for  
11 the principal amount of direct and guaranteed farm own-  
12 ership (7 U.S.C 1922 et seq.) and operating (7 U.S.C.  
13 1941 et seq.) loans, to be available from funds in the Agri-  
14 cultural Credit Insurance Fund Program Account, as fol-  
15 lows: farm ownership loans, \$400,000,000 of which  
16 \$100,000,000 shall be for unsubsidized guaranteed loans  
17 and \$300,000,000 shall be for direct loans; and operating  
18 loans, \$250,000,000 of which \$50,000,000 shall be for un-  
19 subsidized guaranteed loans and \$200,000,000 shall be for  
20 direct loans.

21 For an additional amount for the cost of direct and  
22 guaranteed loans, including the cost of modifying loans,  
23 as defined in section 502 of the Congressional Budget Act  
24 of 1974, to remain available until September 30, 2010,  
25 as follows: farm ownership loans, \$17,530,000 of which

1 \$330,000 shall be for unsubsidized guaranteed loans and  
2 \$17,200,000 shall be for direct loans; and operating loans,  
3 \$24,900,000 of which \$1,300,000 shall be for unsub-  
4 sidized guaranteed loans and \$23,600,000 shall be for di-  
5 rect loans.

6 Funds appropriated by this Act to the Agricultural  
7 Credit Insurance Fund Program Account for farm owner-  
8 ship, operating, and emergency direct loans and unsub-  
9 sidized guaranteed loans may be transferred among these  
10 programs: *Provided*, That the Committees on Appropria-  
11 tions of both Houses of Congress are notified at least 15  
12 days in advance of any transfer.

13 NATURAL RESOURCES CONSERVATION SERVICE

14 WATERSHED AND FLOOD PREVENTION OPERATIONS

15 For an additional amount for “Watershed and Flood  
16 Prevention Operations”, \$275,000,000, to remain avail-  
17 able until September 30, 2010.

18 WATERSHED REHABILITATION PROGRAM

19 For an additional amount for the “Watershed Reha-  
20 bilitation Program”, \$65,000,000, to remain available  
21 until September 30, 2010.

22 RURAL DEVELOPMENT SALARIES AND EXPENSES

23 For an additional amount for “Rural Development,  
24 Salaries and Expenses”, \$80,000,000, to remain available  
25 until September 30, 2010.

## 1                                   RURAL HOUSING SERVICE

## 2           RURAL HOUSING INSURANCE PROGRAM ACCOUNT

3           For an additional amount for gross obligations for  
4 the principal amount of direct and guaranteed loans as  
5 authorized by title V of the Housing Act of 1949, to be  
6 available from funds in the Rural Housing Insurance  
7 Fund Program Account, as follows: \$1,000,000,000 for  
8 section 502 direct loans; and \$10,472,000,000 for section  
9 502 unsubsidized guaranteed loans.

10          For an additional amount for the cost of direct and  
11 guaranteed loans, including the cost of modifying loans,  
12 as defined in section 502 of the Congressional Budget Act  
13 of 1974, to remain available until September 30, 2010,  
14 as follows: \$67,000,000 for section 502 direct loans; and  
15 \$133,000,000 for section 502 unsubsidized guaranteed  
16 loans.

## 17           RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

18          For an additional amount for the cost of direct loans,  
19 loan guarantees, and grants for rural community facilities  
20 programs as authorized by section 306 and described in  
21 section 381E(d)(1) of the Consolidated Farm and Rural  
22 Development Act, \$127,000,000, to remain available until  
23 September 30, 2010.

## 1           RURAL BUSINESS—COOPERATIVE SERVICE

## 2                   RURAL BUSINESS PROGRAM ACCOUNT

3           For an additional amount for the cost of guaranteed  
4 loans and grants as authorized by sections 310B(a)(2)(A)  
5 and 310B(c) of the Consolidated Farm and Rural Devel-  
6 opment Act (7 U.S.C. 1932), \$150,000,000, to remain  
7 available until September 30, 2010.

## 8                   BIOREFINERY ASSISTANCE

9           For the cost of loan guarantees and grants, as au-  
10 thorized by section 9003 of the Farm Security and Rural  
11 Investment Act of 2002 (7 U.S.C. 8103), \$200,000,000,  
12 to remain available until September 30, 2010.

## 13                   RURAL ENERGY FOR AMERICA PROGRAM

14           For an additional amount for the cost of loan guaran-  
15 tees and grants, as authorized by section 9007 of the  
16 Farm Security and Rural Investment Act of 2002 (7  
17 U.S.C. 8107), \$50,000,000, to remain available until Sep-  
18 tember 30, 2010: *Provided*, That these funds may be used  
19 by tribes, local units of government, and schools in rural  
20 areas, as defined in section 343(a) of the Consolidated  
21 Farm and Rural Development Act (7 U.S.C. 1991(a)).

## 22                   RURAL UTILITIES SERVICE

## 23                   RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

24           For an additional amount for the cost of direct loans,  
25 loan guarantees, and grants for the rural water, waste

1 water, waste disposal, and solid waste management pro-  
2 grams authorized by sections 306, 306A, 306C, 306D,  
3 and 310B and described in sections 306C(a)(2), 306D,  
4 and 381E(d)(2) of the Consolidated Farm and Rural De-  
5 velopment Act, \$1,375,000,000, to remain available until  
6 September 30, 2010.

7 DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND  
8 PROGRAM ACCOUNT

9 For an additional amount for direct loans and grants  
10 for distance learning and telemedicine services in rural  
11 areas, as authorized by 7 U.S.C. 950aaa, et seq.,  
12 \$100,000,000, to remain available until September 30,  
13 2010.

14 FOOD AND NUTRITION SERVICE  
15 CHILD NUTRITION PROGRAMS

16 For additional amount for the Richard B. Russell  
17 National School Lunch Act (42 U.S.C. 1751 et. seq.), ex-  
18 cept section 21, and the Child Nutrition Act of 1966 (42  
19 U.S.C. 1771 et. seq.), except sections 17 and 21,  
20 \$100,000,000, to remain available until September 30,  
21 2010, to carry out a grant program for National School  
22 Lunch Program equipment assistance: *Provided*, That  
23 such funds shall be provided to States administering a  
24 school lunch program through a formula based on the  
25 ratio that the total number of lunches served in the Pro-



1 gram during the second preceding fiscal year bears to the  
2 total number of such lunches served in all States in such  
3 second preceding fiscal year: *Provided further*, That of  
4 such funds, the Secretary may approve the reserve by  
5 States of up to \$20,000,000 for necessary enhancements  
6 to the State Distributing Agency's commodity ordering  
7 and management system to achieve compatibility with the  
8 Department's web-based supply chain management sys-  
9 tem: *Provided further*, That of the funds remaining, the  
10 State shall provide competitive grants to school food au-  
11 thorities based upon the need for equipment assistance in  
12 participating schools with priority given to schools in  
13 which not less than 50 percent of the students are eligible  
14 for free or reduced price meals under the Richard B. Rus-  
15 sell National School Lunch Act and priority given to  
16 schools purchasing equipment for the purpose of offering  
17 more healthful foods and meals, in accordance with stand-  
18 ards established by the Secretary.

19 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR  
20 WOMEN, INFANTS, AND CHILDREN (WIC)

21 For an additional amount for the special supple-  
22 mental nutrition program as authorized by section 17 of  
23 the Child Nutrition Act of 1966 (42 U.S.C. 1786), to re-  
24 main available until September 30, 2010, \$500,000,000,  
25 of which \$380,000,000 shall be placed in reserve to be

1 allocated as the Secretary deems necessary, notwith-  
2 standing section 17(i) of such Act, to support partici-  
3 tion should cost or participation exceed budget estimates,  
4 and of which \$120,000,000 shall be for the purposes speci-  
5 fied in section 17(h)(10)(B)(ii): *Provided*, That up to one  
6 percent of the funding provided for the purposes specified  
7 in section 17(h)(10)(B)(ii) may be reserved by the Sec-  
8 retary for Federal administrative activities in support of  
9 those purposes.

10 COMMODITY ASSISTANCE PROGRAM

11 For an additional amount for the “Commodity As-  
12 sistance Program”, to remain available until September  
13 30, 2010, \$150,000,000, which the Secretary shall use to  
14 purchase a variety of commodities as authorized by the  
15 Commodity Credit Corporation or under section 32 of the  
16 Act entitled “An Act to amend the Agricultural Adjust-  
17 ment Act, and for other purposes”, approved August 24,  
18 1935 (7 U.S.C. 612c): *Provided*, That the Secretary shall  
19 distribute the commodities to States for distribution in ac-  
20 cordance with section 214 of the Emergency Food Assist-  
21 ance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note):  
22 *Provided further*, That of the funds made available, the  
23 Secretary may use up to \$50,000,000 for costs associated  
24 with the distribution of commodities.

## 1           GENERAL PROVISIONS—THIS TITLE

2           SEC. 101. Funds appropriated by this Act and made  
3 available to the United States Department of Agriculture  
4 for broadband direct loans and loan guarantees, as author-  
5 ized under title VI of the Rural Electrification Act of 1936  
6 (7 U.S.C. 950bb) and for grants, shall be available for  
7 broadband infrastructure in any area of the United States  
8 notwithstanding title VI of the Rural Electrification Act  
9 of 1936: *Provided*, That at least 75 percent of the area  
10 served by the projects receiving funds from such grants,  
11 loans, or loan guarantees is in a rural area without suffi-  
12 cient access to high speed broadband service to facilitate  
13 rural economic development, as determined by the Sec-  
14 retary: *Provided further*, That priority for awarding funds  
15 made available under this paragraph shall be given to  
16 projects that provide service to the highest proportion of  
17 rural residents that do not have sufficient access to  
18 broadband service: *Provided further*, That priority for  
19 awarding such funds shall be given to project applications  
20 that demonstrate that, if the application is approved, all  
21 project elements will be fully funded: *Provided further*,  
22 That priority for awarding such funds shall be given to  
23 activities that can commence promptly following approval:  
24 *Provided further*, That the Department shall submit a re-  
25 port on planned spending and actual obligations describ-

1 ing the use of these funds not later than 90 days after  
2 the date of enactment of this Act, and quarterly thereafter  
3 until all funds are obligated, to the Committees on Appro-  
4 priations of the House of Representatives and the Senate.

5 SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.

6 (a) MAXIMUM BENEFIT INCREASES.—

7 (1) ECONOMIC RECOVERY 1-MONTH BEGINNING  
8 STIMULUS PAYMENT.—For the first month that be-  
9 gins not less than 25 days after the date of enact-  
10 ment of this Act, the Secretary of Agriculture (re-  
11 ferred to in this section as the “Secretary”) shall in-  
12 crease the cost of the thrifty food plan for purposes  
13 of section 8(a) of the Food and Nutrition Act of  
14 2008 (7 U.S.C. 2017(a)) by 85 percent.

15 (2) REMAINDER OF FISCAL YEAR 2009.—Begin-  
16 ning with the second month that begins not less  
17 than 25 days after the date of enactment of this  
18 Act, and for each subsequent month through the  
19 month ending September 30, 2009, the Secretary  
20 shall increase the cost of the thrifty food plan for  
21 purposes of section 8(a) of the Food and Nutrition  
22 Act of 2008 (7 U.S.C. 2017(a)) by 12 percent.

23 (3) SUBSEQUENT INCREASE FOR FISCAL YEAR  
24 2010.—Beginning on October 1, 2009, and for each  
25 subsequent month through the month ending Sep-

1       tember 30, 2010, the Secretary shall increase the  
2       cost of the thrifty food plan for purposes of section  
3       8(a) of the Food and Nutrition Act of 2008 (7  
4       U.S.C. 2017(a)) by an amount equal to 12 percent,  
5       less the percentage by which the Secretary deter-  
6       mines the thrifty food plan would otherwise be ad-  
7       justed on October 1, 2009, as required under section  
8       3(u) of that Act (7 U.S.C. 2012(u)), if the percent-  
9       age is less than 12 percent.

10           (4) SUBSEQUENT INCREASE FOR FISCAL YEAR  
11       2011.—Beginning on October 1, 2010, and for each  
12       subsequent month through the month ending Sep-  
13       tember 30, 2011, the Secretary shall increase the  
14       cost of the thrifty food plan for purposes of section  
15       8(a) of the Food and Nutrition Act of 2008 (7  
16       U.S.C. 2017(a)) by an amount equal to 12 percent,  
17       less the sum of the percentages by which the Sec-  
18       retary determines the thrifty food plan would other-  
19       wise be adjusted on October 1, 2009 and October 1,  
20       2010, as required under section 3(u) of that Act (7  
21       U.S.C. 2012(u)), if the sum of such percentages is  
22       less than 12 percent.

23           (5) TERMINATION OF EFFECTIVENESS.—Effec-  
24       tive beginning October 1, 2011, the authority pro-

1 vided by this subsection terminates and has no ef-  
2 fect.

3 (b) ADMINISTRATION.—In carrying out this section,  
4 the Secretary shall—

5 (1) consider the benefit increases described in  
6 subsection (a) to be a mass change;

7 (2) require a simple process for States to notify  
8 households of the changes in benefits;

9 (3) consider section 16(c)(3)(A) of the Food  
10 and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A))  
11 to apply to any errors in the implementation of this  
12 section, without regard to the 120-day limit de-  
13 scribed in section 16(c)(3)(A) of that Act;

14 (4) disregard the additional amount of benefits  
15 that a household receives as a result of this section  
16 in determining the amount of overissuances under  
17 section 13 of the Food and Nutrition Act of 2008  
18 (7 U.S.C. 2022) and the hours of participation in a  
19 program under section 6(d), 20, or 26 of that Act  
20 (7 U.S.C. 2015(d), 2029, 2035); and

21 (5) set the tolerance level for excluding small  
22 errors for the purposes of section 16(c) of the Food  
23 and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at  
24 \$50 for the period that the benefit increase under  
25 subsection (a) is in effect.

1 (c) ADMINISTRATIVE EXPENSES.—

2 (1) IN GENERAL.—For the costs of State ad-  
3 ministrative expenses associated with carrying out  
4 this section and administering the supplemental nu-  
5 trition assistance program established under the  
6 Food and Nutrition Act of 2008 (7 U.S.C. 2011 et  
7 seq.) (referred to in this section as the “supple-  
8 mental nutrition assistance program”) during a pe-  
9 riod of rising program caseloads, and for the ex-  
10 penses of the Secretary under paragraph (6), the  
11 Secretary shall make available \$150,000,000 for  
12 each of fiscal years 2009 and 2010, to remain avail-  
13 able through September 30, 2010.

14 (2) TIMING FOR FISCAL YEAR 2009.—Not later  
15 than 60 days after the date of enactment of this  
16 Act, the Secretary shall make available to States  
17 amounts for fiscal year 2009 under paragraph (1).

18 (3) ALLOCATION OF FUNDS.—Except as pro-  
19 vided in paragraph (6), funds described in para-  
20 graph (1) shall be made available to States that  
21 meet the requirements of paragraph (5) as grants to  
22 State agencies for each fiscal year as follows:

23 (A) 75 percent of the amounts available  
24 for each fiscal year shall be allocated to States  
25 based on the share of each State of households

1 that participate in the supplemental nutrition  
2 assistance program as reported to the Depart-  
3 ment of Agriculture for the most recent 12-  
4 month period for which data are available, ad-  
5 justed by the Secretary (in the discretion of the  
6 Secretary) for participation in disaster pro-  
7 grams under section 5(h) of the Food and Nu-  
8 trition Act of 2008 (7 U.S.C. 2014(h)); and

9 (B) 25 percent of the amounts available  
10 for each fiscal year shall be allocated to States  
11 based on the increase in the number of house-  
12 holds that participate in the supplemental nu-  
13 trition assistance program as reported to the  
14 Department of Agriculture over the most recent  
15 12-month period for which data are available,  
16 adjusted by the Secretary (in the discretion of  
17 the Secretary) for participation in disaster pro-  
18 grams under section 5(h) of the Food and Nu-  
19 trition Act of 2008 (7 U.S.C. 2014(h)).

20 (4) REDISTRIBUTION.—The Secretary shall de-  
21 termine an appropriate procedure for redistribution  
22 of amounts allocated to States that would otherwise  
23 be provided allocations under paragraph (3) for a  
24 fiscal year but that do not meet the requirements of  
25 paragraph (5).



1 (5) MAINTENANCE OF EFFORT.—

2 (A) DEFINITION OF SPECIFIED STATE AD-  
3 MINISTRATIVE COSTS.—In this paragraph:

4 (i) IN GENERAL.—The term “specified  
5 State administrative costs” includes all  
6 State administrative costs under the sup-  
7 plemental nutrition assistance program.

8 (ii) EXCLUSIONS.—The term “speci-  
9 fied State administrative costs” does not  
10 include—

11 (I) the costs of employment and  
12 training programs under section 6(d),  
13 20, or 26 of the Food and Nutrition  
14 Act of 2008 (7 U.S.C. 2015(d), 2029,  
15 2035);

16 (II) the costs of nutrition edu-  
17 cation under section 11(f) of that Act  
18 (7 U.S.C. 2020(f)); and

19 (III) any other costs the Sec-  
20 retary determines should be excluded.

21 (B) REQUIREMENT.—The Secretary shall  
22 make funds under this subsection available only  
23 to States that, as determined by the Secretary,  
24 maintain State expenditures on specified State  
25 administrative costs.

1           (6) MONITORING AND EVALUATION.—Of the  
2           amounts made available under paragraph (1), the  
3           Secretary may retain up to \$5,000,000 for the costs  
4           incurred by the Secretary in monitoring the integrity  
5           and evaluating the effects of the payments made  
6           under this section.

7           (d) FOOD DISTRIBUTION PROGRAM ON INDIAN RES-  
8           ERVATIONS.—For the costs of administrative expenses as-  
9           sociated with the food distribution program on Indian res-  
10          ervations established under section 4(b) of the Food and  
11          Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary  
12          shall make available \$5,000,000, to remain available until  
13          September 30, 2010.

14          (e) CONSOLIDATED BLOCK GRANTS FOR PUERTO  
15          RICO AND AMERICAN SAMOA.—

16                (1) FISCAL YEAR 2009.—

17                    (A) IN GENERAL.—For fiscal year 2009,  
18                    the Secretary shall increase by 12 percent the  
19                    amount available for nutrition assistance for eli-  
20                    gible households under the consolidated block  
21                    grants for the Commonwealth of Puerto Rico  
22                    and American Samoa under section 19 of the  
23                    Food and Nutrition Act of 2008 (7 U.S.C.  
24                    2028).

1 (B) AVAILABILITY OF FUNDS.—Funds  
2 made available under subparagraph (A) shall  
3 remain available through September 30, 2010.

4 (2) FISCAL YEAR 2010.—For fiscal year 2010,  
5 the Secretary shall increase the amount available for  
6 nutrition assistance for eligible households under the  
7 consolidated block grants for the Commonwealth of  
8 Puerto Rico and American Samoa under section 19  
9 of the Food and Nutrition Act of 2008 (7 U.S.C.  
10 2028) by 12 percent, less the percentage by which  
11 the Secretary determines the consolidated block  
12 grants would otherwise be adjusted on October 1,  
13 2009, as required by section 19(a)(2)(A)(ii) of that  
14 Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the percentage  
15 is less than 12 percent.

16 (3) FISCAL YEAR 2011.—For fiscal year 2011,  
17 the Secretary shall increase the amount available for  
18 nutrition assistance for eligible households under the  
19 consolidated block grants for the Commonwealth of  
20 Puerto Rico and American Samoa under section 19  
21 of the Food and Nutrition Act of 2008 (7 U.S.C.  
22 2028) by 12 percent, less the sum of the percentages  
23 by which the Secretary determines the consolidated  
24 block grants would otherwise be adjusted on October  
25 1, 2009, and October 1, 2010, as required by section

1 19(a)(2)(A)(ii) of that Act (7 U.S.C.  
2 2028(a)(2)(A)(ii)), if the sum of the percentages is  
3 less than 12 percent.

4 (f) TREATMENT OF JOBLESS WORKERS.—

5 (1) REMAINDER OF FISCAL YEAR 2009  
6 THROUGH FISCAL YEAR 2011.—Beginning with the  
7 first month that begins not less than 25 days after  
8 the date of enactment of this Act and for each sub-  
9 sequent month through September 30, 2011, eligi-  
10 bility for supplemental nutrition assistance program  
11 benefits shall not be limited under section 6(o)(2) of  
12 the Food and Nutrition Act of 2008 unless an indi-  
13 vidual does not comply with the requirements of a  
14 program offered by the State agency that meets the  
15 standards of subparagraphs (B) or (C) of that para-  
16 graph.

17 (2) FISCAL YEAR 2012 AND THEREAFTER.—Be-  
18 ginning on October 1, 2011, for the purposes of sec-  
19 tion 6(o) of the Food and Nutrition Act of 2008 (7  
20 U.S.C. 2015(o)), a State agency shall disregard any  
21 period during which an individual received benefits  
22 under the supplemental nutrition assistance program  
23 prior to October 1, 2011.

24 (g) FUNDING.—There are appropriated to the Sec-  
25 retary out of funds of the Treasury not otherwise appro-

1 priated such sums as are necessary to carry out this sec-  
2 tion.

3       SEC. 103. AGRICULTURAL DISASTER ASSISTANCE  
4 TRANSITION. (a) FEDERAL CROP INSURANCE ACT.—Sec-  
5 tion 531(g) of the Federal Crop Insurance Act (7 U.S.C.  
6 1531(g)) is amended by adding at the end the following:

7               “(7) 2008 TRANSITION ASSISTANCE.—

8                       “(A) IN GENERAL.—Eligible producers on  
9 a farm described in subparagraph (A) of para-  
10 graph (4) that failed to timely pay the appro-  
11 priate fee described in that subparagraph shall  
12 be eligible for assistance under this section in  
13 accordance with subparagraph (B) if the eligi-  
14 ble producers on the farm—

15                               “(i) pay the appropriate fee described  
16 in paragraph (4)(A) not later than 90 days  
17 after the date of enactment of this para-  
18 graph; and

19                               “(ii)(I) in the case of each insurable  
20 commodity of the eligible producers on the  
21 farm, excluding grazing land, agree to ob-  
22 tain a policy or plan of insurance under  
23 subtitle A (excluding a crop insurance pilot  
24 program under that subtitle) for the next  
25 insurance year for which crop insurance is

1 available to the eligible producers on the  
2 farm at a level of coverage equal to 70 per-  
3 cent or more of the recorded or appraised  
4 average yield indemnified at 100 percent of  
5 the expected market price, or an equivalent  
6 coverage; and

7 “(II) in the case of each noninsurable  
8 commodity of the eligible producers on the  
9 farm, agree to file the required paperwork,  
10 and pay the administrative fee by the ap-  
11 plicable State filing deadline, for the non-  
12 insured crop assistance program for the  
13 2009 crop year.

14 “(B) AMOUNT OF ASSISTANCE.—Eligible  
15 producers on a farm that meet the require-  
16 ments of subparagraph (A) shall be eligible to  
17 receive assistance under this section as if the el-  
18 igible producers on the farm—

19 “(i) in the case of each insurable com-  
20 modity of the eligible producers on the  
21 farm, had obtained a policy or plan of in-  
22 surance for the 2008 crop year at a level  
23 of coverage not to exceed 70 percent or  
24 more of the recorded or appraised average  
25 yield indemnified at 100 percent of the ex-

1           pected market price, or an equivalent cov-  
2           erage; and

3           “(ii) in the case of each noninsurable  
4           commodity of the eligible producers on the  
5           farm, had filed the required paperwork,  
6           and paid the administrative fee by the ap-  
7           plicable State filing deadline, for the non-  
8           insured crop assistance program for the  
9           2008 crop year, except that in determining  
10          yield under that program, the Secretary  
11          shall use a percentage that is 70 percent.

12          “(C) **EQUITABLE RELIEF.**—Except as pro-  
13          vided in subparagraph (D), eligible producers  
14          on a farm that met the requirements of para-  
15          graph (1) before the deadline described in para-  
16          graph (4)(A) and received, or are eligible to re-  
17          ceive, a disaster assistance payment under this  
18          section for a production loss during the 2008  
19          crop year shall be eligible to receive an addi-  
20          tional amount equal to the greater of—

21                 “(i) the amount that would have been  
22                 calculated under subparagraph (B) if the  
23                 eligible producers on the farm had paid the  
24                 appropriate fee under that subparagraph;  
25                 or

1           “(ii) the amount that would have been  
2           calculated under subparagraph (A) of sub-  
3           section (b)(3) if—

4                   “(I) in clause (i) of that subpara-  
5                   graph, ‘120 percent’ is substituted for  
6                   ‘115 percent’; and

7                   “(II) in clause (ii) of that sub-  
8                   paragraph, ‘125’ is substituted for  
9                   ‘120 percent’.

10           “(D) LIMITATION.—For amounts made  
11           available under this paragraph, the Secretary  
12           may make such adjustments as are necessary to  
13           ensure that no producer receives a payment  
14           under this paragraph for an amount in excess  
15           of the assistance received by a similarly situated  
16           producer that had purchased the same or high-  
17           er level of crop insurance prior to the date of  
18           enactment of this paragraph.

19           “(E) AUTHORITY OF THE SECRETARY.—  
20           The Secretary may provide such additional as-  
21           sistance as the Secretary considers appropriate  
22           to provide equitable treatment for eligible pro-  
23           ducers on a farm that suffered production  
24           losses in the 2008 crop year that result in



1           multiyear production losses, as determined by  
2           the Secretary.

3           “(F) LACK OF ACCESS.—Notwithstanding  
4           any other provision of this section, the Sec-  
5           retary may provide assistance under this section  
6           to eligible producers on a farm that—

7                   “(i) suffered a production loss due to  
8                   a natural cause during the 2008 crop year;  
9                   and

10                   “(ii) as determined by the Secretary—

11                           “(I)(aa) except as provided in  
12                           item (bb), lack access to a policy or  
13                           plan of insurance under subtitle A; or

14                           “(bb) do not qualify for a written  
15                           agreement because 1 or more farming  
16                           practices, which the Secretary has de-  
17                           termined are good farming practices,  
18                           of the eligible producers on the farm  
19                           differ significantly from the farming  
20                           practices used by producers of the  
21                           same crop in other regions of the  
22                           United States; and

23                           “(II) are not eligible for the non-  
24                           insured crop disaster assistance pro-  
25                           gram established by section 196 of the

1 Federal Agriculture Improvement and  
2 Reform Act of 1996 (7 U.S.C.  
3 7333).”.

4 (b) TRADE ACT OF 1974.—Section 901(g) of the  
5 Trade Act of 1974 (19 U.S.C. 2497(g)) is amended by  
6 adding at the end the following:

7 “(7) 2008 TRANSITION ASSISTANCE.—

8 “(A) IN GENERAL.—Eligible producers on  
9 a farm described in subparagraph (A) of para-  
10 graph (4) that failed to timely pay the appro-  
11 priate fee described in that subparagraph shall  
12 be eligible for assistance under this section in  
13 accordance with subparagraph (B) if the eligi-  
14 ble producers on the farm—

15 “(i) pay the appropriate fee described  
16 in paragraph (4)(A) not later than 90 days  
17 after the date of enactment of this para-  
18 graph; and

19 “(ii)(I) in the case of each insurable  
20 commodity of the eligible producers on the  
21 farm, excluding grazing land, agree to ob-  
22 tain a policy or plan of insurance under  
23 the Federal Crop Insurance Act (7 U.S.C.  
24 1501 et seq.) (excluding a crop insurance  
25 pilot program under that Act) for the next

1 insurance year for which crop insurance is  
2 available to the eligible producers on the  
3 farm at a level of coverage equal to 70 per-  
4 cent or more of the recorded or appraised  
5 average yield indemnified at 100 percent of  
6 the expected market price, or an equivalent  
7 coverage; and

8 “(II) in the case of each noninsurable  
9 commodity of the eligible producers on the  
10 farm, agree to file the required paperwork,  
11 and pay the administrative fee by the ap-  
12 plicable State filing deadline, for the non-  
13 insured crop assistance program for the  
14 2009 crop year.

15 “(B) AMOUNT OF ASSISTANCE.—Eligible  
16 producers on a farm that meet the require-  
17 ments of subparagraph (A) shall be eligible to  
18 receive assistance under this section as if the el-  
19 igible producers on the farm—

20 “(i) in the case of each insurable com-  
21 modity of the eligible producers on the  
22 farm, had obtained a policy or plan of in-  
23 surance for the 2008 crop year at a level  
24 of coverage not to exceed 70 percent or  
25 more of the recorded or appraised average

1 yield indemnified at 100 percent of the ex-  
2 pected market price, or an equivalent cov-  
3 erage; and

4 “(ii) in the case of each noninsurable  
5 commodity of the eligible producers on the  
6 farm, had filed the required paperwork,  
7 and paid the administrative fee by the ap-  
8 plicable State filing deadline, for the non-  
9 insured crop assistance program for the  
10 2008 crop year, except that in determining  
11 yield under that program, the Secretary  
12 shall use a percentage that is 70 percent.

13 “(C) **EQUITABLE RELIEF.**—Except as pro-  
14 vided in subparagraph (D), eligible producers  
15 on a farm that met the requirements of para-  
16 graph (1) before the deadline described in para-  
17 graph (4)(A) and received, or are eligible to re-  
18 ceive, a disaster assistance payment under this  
19 section for a production loss during the 2008  
20 crop year shall be eligible to receive an addi-  
21 tional amount equal to the greater of—

22 “(i) the amount that would have been  
23 calculated under subparagraph (B) if the  
24 eligible producers on the farm had paid the

1 appropriate fee under that subparagraph;  
2 or

3 “(ii) the amount that would have been  
4 calculated under subparagraph (A) of sub-  
5 section (b)(3) if—

6 “(I) in clause (i) of that subpara-  
7 graph, ‘120 percent’ is substituted for  
8 ‘115 percent’; and

9 “(II) in clause (ii) of that sub-  
10 paragraph, ‘125’ is substituted for  
11 ‘120 percent’.

12 “(D) LIMITATION.—For amounts made  
13 available under this paragraph, the Secretary  
14 may make such adjustments as are necessary to  
15 ensure that no producer receives a payment  
16 under this paragraph for an amount in excess  
17 of the assistance received by a similarly situated  
18 producer that had purchased the same or high-  
19 er level of crop insurance prior to the date of  
20 enactment of this paragraph.

21 “(E) AUTHORITY OF THE SECRETARY.—  
22 The Secretary may provide such additional as-  
23 sistance as the Secretary considers appropriate  
24 to provide equitable treatment for eligible pro-  
25 ducers on a farm that suffered production

1 losses in the 2008 crop year that result in  
2 multiyear production losses, as determined by  
3 the Secretary.

4 “(F) LACK OF ACCESS.—Notwithstanding  
5 any other provision of this section, the Sec-  
6 retary may provide assistance under this section  
7 to eligible producers on a farm that—

8 “(i) suffered a production loss due to  
9 a natural cause during the 2008 crop year;  
10 and

11 “(ii) as determined by the Secretary—

12 “(I)(aa) except as provided in  
13 item (bb), lack access to a policy or  
14 plan of insurance under subtitle A; or

15 “(bb) do not qualify for a written  
16 agreement because 1 or more farming  
17 practices, which the Secretary has de-  
18 termined are good farming practices,  
19 of the eligible producers on the farm  
20 differ significantly from the farming  
21 practices used by producers of the  
22 same crop in other regions of the  
23 United States; and

24 “(II) are not eligible for the non-  
25 insured crop disaster assistance pro-

1                   gram established by section 196 of the  
2                   Federal Agriculture Improvement and  
3                   Reform Act of 1996 (7 U.S.C.  
4                   7333).”.

5           (c) EMERGENCY LOANS.—

6               (1) IN GENERAL.—For the principal amount of  
7               direct emergency loans under section 321 of the  
8               Consolidated Farm and Rural Development Act (7  
9               U.S.C. 1961), \$200,000,000.

10              (2) DIRECT EMERGENCY LOANS.—For the cost  
11              of direct emergency loans, including the cost of  
12              modifying loans, as defined in section 502 of the  
13              Congressional Budget Act of 1974 (2 U.S.C. 661a),  
14              \$28,440,000, to remain available until September  
15              30, 2010.

16           (d) 2008 AQUACULTURE ASSISTANCE.—

17               (1) DEFINITIONS.—In this subsection:

18                   (A) ELIGIBLE AQUACULTURE PRO-  
19                   DUCER.—The term “eligible aquaculture pro-  
20                   ducer” means an aquaculture producer that  
21                   during the 2008 calendar year, as determined  
22                   by the Secretary—

23                       (i) produced an aquaculture species  
24                       for which feed costs represented a substan-

1            tial percentage of the input costs of the  
2            aquaculture operation; and

3            (ii) experienced a substantial price in-  
4            crease of feed costs above the previous 5-  
5            year average.

6            (B) SECRETARY.—The term “Secretary”  
7            means the Secretary of Agriculture.

8            (2) GRANT PROGRAM.—

9            (A) IN GENERAL.—Of the funds of the  
10            Commodity Credit Corporation, the Secretary  
11            shall use not more than \$50,000,000, to remain  
12            available until September 30, 2010, to carry out  
13            a program of grants to States to assist eligible  
14            aquaculture producers for losses associated with  
15            high feed input costs during the 2008 calendar  
16            year.

17            (B) NOTIFICATION.—Not later than 60  
18            days after the date of enactment of this Act,  
19            the Secretary shall notify the State department  
20            of agriculture (or similar entity) in each State  
21            of the availability of funds to assist eligible  
22            aquaculture producers, including such terms as  
23            determined by the Secretary to be necessary for  
24            the equitable treatment of eligible aquaculture  
25            producers.



1 (C) PROVISION OF GRANTS.—

2 (i) IN GENERAL.—The Secretary shall  
3 make grants to States under this sub-  
4 section on a pro rata basis based on the  
5 amount of aquaculture feed used in each  
6 State during the 2007 calendar year, as  
7 determined by the Secretary.

8 (ii) TIMING.—Not later than 120 days  
9 after the date of enactment of this Act, the  
10 Secretary shall make grants to States to  
11 provide assistance under this subsection.

12 (D) REQUIREMENTS.—The Secretary shall  
13 make grants under this subsection only to  
14 States that demonstrate to the satisfaction of  
15 the Secretary that the State will—

16 (i) use grant funds to assist eligible  
17 aquaculture producers;

18 (ii) provide assistance to eligible aqua-  
19 culture producers not later than 60 days  
20 after the date on which the State receives  
21 grant funds; and

22 (iii) not later than 30 days after the  
23 date on which the State provides assistance  
24 to eligible aquaculture producers, submit to  
25 the Secretary a report that describes—

1 (I) the manner in which the  
2 State provided assistance;

3 (II) the amounts of assistance  
4 provided per species of aquaculture;  
5 and

6 (III) the process by which the  
7 State determined the levels of assist-  
8 ance to eligible aquaculture producers.

9 (3) REDUCTION IN PAYMENTS.—An eligible  
10 aquaculture producer that receives assistance under  
11 this subsection shall not be eligible to receive any  
12 other assistance under the supplemental agricultural  
13 disaster assistance program established under sec-  
14 tion 531 of the Federal Crop Insurance Act (7  
15 U.S.C. 1531) and section 901 of the Trade Act of  
16 1974 (19 U.S.C. 2497) for any losses in 2008 relat-  
17 ing to the same species of aquaculture.

18 (4) REPORT TO CONGRESS.—Not later than  
19 180 days after the date of enactment of this Act, the  
20 Secretary shall submit to the appropriate committees  
21 of Congress a report that—

22 (A) describes in detail the manner in which  
23 this subsection has been carried out; and

24 (B) includes the information reported to  
25 the Secretary under paragraph (2)(D)(iii).

1 (e) ADMINISTRATION.—There is hereby appropriated  
2 \$54,000,000 to carry out this section.

3 SEC. 104. (a) Hereafter, in this section, the term  
4 “nonambulatory disabled cattle” means cattle, other than  
5 cattle that are less than 5 months old or weigh less than  
6 500 pounds, subject to inspection under section 3(b) of  
7 the Federal Meat Inspection Act (21 U.S.C. 603(b)) that  
8 cannot rise from a recumbent position or walk, including  
9 cattle with a broken appendage, severed tendon or liga-  
10 ment, nerve paralysis, fractured vertebral column, or a  
11 metabolic condition.

12 (b) Hereafter, none of the funds made available  
13 under this or any other Act may be used to pay the sala-  
14 ries or expenses of any personnel of the Food Safety and  
15 Inspection Service to pass through inspection any non-  
16 ambulatory disabled cattle for use as human food, regard-  
17 less of the reason for the nonambulatory status of the cat-  
18 tle or the time at which the cattle became nonambulatory.

19 SEC. 105. STATE AND LOCAL GOVERNMENTS. Sec-  
20 tion 1001(f)(6)(A) of the Food Security Act of 1985 (7  
21 U.S.C. 1308(f)(6)(A)) is amended by inserting “(other  
22 than the conservation reserve program established under  
23 subchapter B of chapter 1 of subtitle D of title XII of  
24 this Act)” before the period at the end.



1 that have experienced sudden and severe economic disloca-  
2 tion and job loss due to corporate restructuring.

3 BUREAU OF THE CENSUS

4 PERIODIC CENSUSES AND PROGRAMS

5 For an additional amount for “Periodic Censuses and  
6 Programs”, \$1,000,000,000, to remain available until  
7 September 30, 2010.

8 NATIONAL TELECOMMUNICATIONS AND INFORMATION

9 ADMINISTRATION

10 BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

11 For an amount for “Broadband Technology Opportu-  
12 nities Program”, \$7,000,000,000, to remain available  
13 until September 30, 2010: *Provided*, That of the funds  
14 provided under this heading, \$6,650,000,000 shall be ex-  
15 pended pursuant to section 201 of this Act, of which: not  
16 less than \$200,000,000 shall be available for competitive  
17 grants for expanding public computer center capacity, in-  
18 cluding at community colleges and public libraries; not less  
19 than \$250,000,000 shall be available for competitive  
20 grants for innovative programs to encourage sustainable  
21 adoption of broadband service; and \$10,000,000 shall be  
22 transferred to “Department of Commerce, Office of In-  
23 spector General” for the purposes of audits and oversight  
24 of funds provided under this heading and such funds shall  
25 remain available until expended: *Provided further*, That 50

1 percent of the funds provided in the previous proviso shall  
2 be used to support projects in rural communities, which  
3 in part may be transferred to the Department of Agri-  
4 culture for administration through the Rural Utilities  
5 Service if deemed necessary and appropriate by the Sec-  
6 retary of Commerce, in consultation with the Secretary of  
7 Agriculture, and only if the Committees on Appropriations  
8 of the House and the Senate are notified not less than  
9 15 days in advance of the transfer of such funds: *Provided*  
10 *further*, That of the funds provided under this heading,  
11 up to \$350,000,000 may be expended pursuant to Public  
12 Law 110–385 (47 U.S.C. 1301 note) and for the purposes  
13 of developing and maintaining a broadband inventory map  
14 pursuant to section 201 of this Act: *Provided further*, That  
15 of the funds provided under this heading, amounts deemed  
16 necessary and appropriate by the Secretary of Commerce,  
17 in consultation with the Federal Communications Com-  
18 mission (FCC), may be transferred to the FCC for the  
19 purposes of developing a national broadband plan or for  
20 carrying out any other FCC responsibilities pursuant to  
21 section 201 of this Act, and only if the Committees on  
22 Appropriations of the House and the Senate are notified  
23 not less than 15 days in advance of the transfer of such  
24 funds: *Provided further*, That not more than 3 percent of  
25 funds provided under this heading may be used for admin-

1 istrative costs, and this limitation shall apply to funds  
2 which may be transferred to the Department of Agri-  
3 culture and the FCC.

4 DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

5 For an amount for “Digital-to-Analog Converter Box  
6 Program”, \$650,000,000, for additional coupons and re-  
7 lated activities under the program implemented under sec-  
8 tion 3005 of the Digital Television Transition and Public  
9 Safety Act of 2005, to remain available until September  
10 30, 2010: *Provided*, That of the amounts provided under  
11 this heading, \$90,000,000 may be for education and out-  
12 reach, including grants to organizations for programs to  
13 educate vulnerable populations, including senior citizens,  
14 minority communities, people with disabilities, low-income  
15 individuals, and people living in rural areas, about the  
16 transition and to provide one-on-one assistance to vulner-  
17 able populations, including help with converter box instal-  
18 lation: *Provided further*, That the amounts provided in the  
19 previous proviso may be transferred to the Federal Com-  
20 munications Commission (Commission) if deemed nec-  
21 essary and appropriate by the Secretary of Commerce in  
22 consultation with the Commission, and only if the Com-  
23 mittees on Appropriations of the House and the Senate  
24 are notified not less than 5 days in advance of transfer  
25 of such funds: *Provided further*, That \$2,000,000 of funds

1 provided under this heading shall be transferred to “De-  
2 partment of Commerce, Office of Inspector General” for  
3 audits and oversight of funds provided under this heading.

4 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY  
5 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

6 For an additional amount for “Scientific and Tech-  
7 nical Research and Services”, \$168,000,000, to remain  
8 available until September 30, 2010.

9 CONSTRUCTION OF RESEARCH FACILITIES

10 For an additional amount for “Construction of Re-  
11 search Facilities”, \$307,000,000, to remain available until  
12 September 30, 2010.

13 NATIONAL OCEANIC AND ATMOSPHERIC  
14 ADMINISTRATION

15 OPERATIONS, RESEARCH, AND FACILITIES

16 For an additional amount for “Operations, Research,  
17 and Facilities”, \$377,000,000, to remain available until  
18 September 30, 2010.

19 PROCUREMENT, ACQUISITION AND CONSTRUCTION

20 For an additional amount for “Procurement, Acquisi-  
21 tion and Construction”, \$645,000,000, to remain available  
22 until September 30, 2010.



## 1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for “Office of Inspector  
3 General”, \$6,000,000, to remain available until September  
4 30, 2012.

## 5 DEPARTMENT OF JUSTICE

## 6 GENERAL ADMINISTRATION

## 7 TACTICAL LAW ENFORCEMENT WIRELESS

## 8 COMMUNICATIONS

9 For an additional amount for “Tactical Law Enforce-  
10 ment Wireless Communications”, \$100,000,000 for the  
11 costs of developing and implementing a nationwide Inte-  
12 grated Wireless network supporting Federal law enforce-  
13 ment, to remain available until September 30, 2010.

## 14 DETENTION TRUSTEE

15 For an additional amount for “Detention Trustee”,  
16 \$100,000,000, to remain available until September 30,  
17 2010.

## 18 OFFICE OF INSPECTOR GENERAL

19 For an additional amount for “Office of Inspector  
20 General”, \$2,000,000, to remain available until September  
21 30, 2011.

## 1 UNITED STATES MARSHALS SERVICE

## 2 SALARIES AND EXPENSES

3 For an additional amount for “Salaries and Ex-  
4 penses”, \$50,000,000, to remain available until September  
5 30, 2010.

## 6 CONSTRUCTION

7 For an additional amount for “Construction”,  
8 \$100,000,000, to remain available until September 30,  
9 2010.

## 10 FEDERAL BUREAU OF INVESTIGATION

## 11 SALARIES AND EXPENSES

12 For an additional amount for “Salaries and Ex-  
13 penses”, \$75,000,000, to remain available until September  
14 30, 2010.

## 15 CONSTRUCTION

16 For an additional amount for “Construction”,  
17 \$300,000,000, to remain available until September 30,  
18 2010.

## 19 FEDERAL PRISON SYSTEM

## 20 BUILDINGS AND FACILITIES

21 For an additional amount for “Federal Prison Sys-  
22 tem, Buildings and Facilities”, \$800,000,000, to remain  
23 available until September 30, 2010.

1 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES  
2 OFFICE ON VIOLENCE AGAINST WOMEN  
3 VIOLENCE AGAINST WOMEN PREVENTION AND  
4 PROSECUTION PROGRAMS

5 For an additional amount for “Violence Against  
6 Women Prevention and Prosecution Programs”,  
7 \$300,000,000 for grants to combat violence against  
8 women, as authorized by part T of the Omnibus Crime  
9 Control and Safe Streets Act of 1968 (42 U.S.C. 3711  
10 et seq.): *Provided*, That, \$50,000,000 shall be transitional  
11 housing assistance grants for victims of domestic violence,  
12 stalking or sexual assault as authorized by section 40299  
13 of the Violent Crime Control and Law Enforcement Act  
14 of 1994 (Public Law 103–322).

15 OFFICE OF JUSTICE PROGRAMS

16 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

17 For an additional amount for “State and Local Law  
18 Enforcement Assistance”, \$1,200,000,000 for the Edward  
19 Byrne Memorial Justice Assistance Grant program as au-  
20 thorized by subpart 1 of part E of title I of the Omnibus  
21 Crime Control and Safe Street Act of 1968 (“1968 Act”),  
22 (except that section 1001(c), and the special rules for  
23 Puerto Rico under section 505(g), of the 1968 Act, shall  
24 not apply for purposes of this Act), to remain available  
25 until September 30, 2010.

1 For an additional amount for “State and Local Law  
2 Enforcement Assistance”, \$300,000,000 for competitive  
3 grants to improve the functioning of the criminal justice  
4 system, to assist victims of crime (other than compensa-  
5 tion), and youth mentoring grants, to remain available  
6 until September 30, 2010.

7 For an additional amount for “State and Local Law  
8 Enforcement Assistance”, \$90,000,000, to remain avail-  
9 able until September 30, 2010, for competitive grants to  
10 provide assistance and equipment to local law enforcement  
11 along the Southern border and in High-Intensity Drug  
12 Trafficking Areas to combat criminal narcotics activity  
13 stemming from the Southern border, of which  
14 \$10,000,000 shall be transferred to “Bureau of Alcohol,  
15 Tobacco, Firearms and Explosives, Salaries and Ex-  
16 penses” for the ATF Project Gunrunner.

17 For an additional amount for “State and Local Law  
18 Enforcement Assistance”, \$300,000,000, to remain avail-  
19 able until September 30, 2010, for assistance to Indian  
20 tribes, notwithstanding Public Law 108–199, division B,  
21 title I, section 112(a)(1) (118 Stat. 62), of which—

22 (1) \$250,000,000 shall be available for grants  
23 under section 20109 of subtitle A of title II of the  
24 Violent Crime Control and Law Enforcement Act of  
25 1994 (Public Law 103–322);

1           (2) \$25,000,000 shall be available for the Trib-  
2           al Courts Initiative; and

3           (3) \$25,000,000 shall be available for tribal al-  
4           cohol and substance abuse drug reduction assistance  
5           grants.

6 For an additional amount for “State and Local Law En-  
7 forcement Assistance”, \$100,000,000, to remain available  
8 until September 30, 2010, to be distributed by the Office  
9 for Victims of Crime in accordance with section  
10 1402(d)(4) of the Victims of Crime Act of 1984 (Public  
11 Law 98–473).

12         For an additional amount for “State and Local Law  
13 Enforcement Assistance”, \$150,000,000, to remain avail-  
14 able until September 30, 2010, for assistance to law en-  
15 forcement in rural areas, to prevent and combat crime,  
16 especially drug-related crime.

17         For an additional amount for “State and Local Law  
18 Enforcement Assistance”, \$50,000,000, to remain avail-  
19 able until September 30, 2010, for Internet Crimes  
20 Against Children (ICAC) initiatives.

21           COMMUNITY ORIENTED POLICING SERVICES

22         For an additional amount for “Community Oriented  
23 Policing Services”, for grants under section 1701 of title  
24 I of the 1968 Omnibus Crime Control and Safe Streets  
25 Act (42 U.S.C. 3796dd) for hiring and rehiring of addi-

1 tional career law enforcement officers under part Q of  
2 such title, and civilian public safety personnel, notwith-  
3 standing subsection (i) of such section and notwith-  
4 standing 42 U.S.C. 3796dd-3(c), \$1,000,000,000, to re-  
5 main available until September 30, 2010.

6 SALARIES AND EXPENSES

7 For an additional amount, not elsewhere specified in  
8 this title, for management and administration and over-  
9 sight of programs within the Office on Violence Against  
10 Women, the Office of Justice Programs, and the Commu-  
11 nity Oriented Policing Services Office, \$10,000,000, to re-  
12 main available until September 30, 2010.

13 SCIENCE

14 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

15 SCIENCE

16 For an additional amount for “Science”,  
17 \$450,000,000, to remain available until September 30,  
18 2010.

19 AERONAUTICS

20 For an additional amount for “Aeronautics”,  
21 \$200,000,000, to remain available until September 30,  
22 2010.

## 1 EXPLORATION

2 For an additional amount for “Exploration”,  
3 \$450,000,000, to remain available until September 30,  
4 2010.

## 5 CROSS AGENCY SUPPORT

6 For an additional amount for “Cross Agency Sup-  
7 port”, \$200,000,000, to remain available until September  
8 30, 2010.

## 9 OFFICE OF INSPECTOR GENERAL

10 For an additional amount for “Office of Inspector  
11 General”, \$2,000,000, to remain available until September  
12 30, 2011.

## 13 NATIONAL SCIENCE FOUNDATION

## 14 RESEARCH AND RELATED ACTIVITIES

15 For an additional amount for “Research and Related  
16 Activities”, \$1,000,000,000, to remain available until Sep-  
17 tember 30, 2010.

## 18 MAJOR RESEARCH EQUIPMENT AND FACILITIES

## 19 CONSTRUCTION

20 For an additional amount for “Major Research  
21 Equipment and Facilities Construction”, \$150,000,000,  
22 to remain available until September 30, 2010.

## 1 EDUCATION AND HUMAN RESOURCES

2 For an additional amount for “Education and  
3 Human Resources”, \$50,000,000, to remain available  
4 until September 30, 2010.

## 5 OFFICE OF INSPECTOR GENERAL

6 For an additional amount for “Office of Inspector  
7 General”, \$2,000,000, to remain available until September  
8 30, 2011.

## 9 GENERAL PROVISIONS—THIS TITLE

10 SEC. 201. The Assistant Secretary of Commerce for  
11 Communications and Information (Assistant Secretary),  
12 in consultation with the Federal Communications Com-  
13 mission (Commission) (and, with respect to rural areas,  
14 the Secretary of Agriculture), shall establish a national  
15 broadband service development and expansion program in  
16 conjunction with the technology opportunities program,  
17 which shall be referred to the Broadband Technology Op-  
18 portunities Program. The Assistant Secretary shall ensure  
19 that the program complements and enhances and does not  
20 conflict with other Federal broadband initiatives and pro-  
21 grams.

22 (1) The purposes of the program are to—

23 (A) provide access to broadband service to  
24 citizens residing in unserved areas of the  
25 United States;



1 (B) provide improved access to broadband  
2 service to citizens residing in underserved areas  
3 of the United States;

4 (C) provide broadband education, aware-  
5 ness, training, access, equipment, and support  
6 to—

7 (i) schools, libraries, medical and  
8 healthcare providers, community colleges  
9 and other institutions of higher education,  
10 and other community support organiza-  
11 tions and entities to facilitate greater use  
12 of broadband service by or through these  
13 organizations;

14 (ii) organizations and agencies that  
15 provide outreach, access, equipment, and  
16 support services to facilitate greater use of  
17 broadband service by low-income, unem-  
18 ployed, aged, and otherwise vulnerable pop-  
19 ulations; and

20 (iii) job-creating strategic facilities lo-  
21 cated within a State-designated economic  
22 zone, Economic Development District des-  
23 igned by the Department of Commerce,  
24 Renewal Community or Empowerment  
25 Zone designated by the Department of

1           Housing and Urban Development, or En-  
2           terprise Community designated by the De-  
3           partment of Agriculture.

4           (D) improve access to, and use of,  
5           broadband service by public safety agencies;  
6           and

7           (E) stimulate the demand for broadband,  
8           economic growth, and job creation.

9           (2) The Assistant Secretary may consult with  
10          the chief executive officer of any State with respect  
11          to—

12           (A) the identification of areas described in  
13           subsection (1)(A) or (B) located in that State;  
14           and

15           (B) the allocation of grant funds within  
16           that State for projects in or affecting the State.

17          (3) The Assistant Secretary shall—

18           (A) establish and implement the grant pro-  
19           gram as expeditiously as practicable;

20           (B) ensure that all awards are made before  
21           the end of fiscal year 2010;

22           (C) seek such assurances as may be nec-  
23           essary or appropriate from grantees under the  
24           program that they will substantially complete  
25           projects supported by the program in accord-

1           ance with project timelines, not to exceed 2  
2           years following an award; and

3           (D) report on the status of the program to  
4           the Committees on Appropriations of the House  
5           and the Senate, the Committee on Energy and  
6           Commerce of the House, and the Committee on  
7           Commerce, Science, and Transportation of the  
8           Senate, every 90 days.

9           (4) To be eligible for a grant under the pro-  
10          gram an applicant shall—

11           (A) be a State or political subdivision  
12           thereof, a nonprofit foundation, corporation, in-  
13           stitution or association, Indian tribe, Native  
14           Hawaiian organization, or other non-govern-  
15           mental entity in partnership with a State or po-  
16           litical subdivision thereof, Indian tribe, or Na-  
17           tive Hawaiian organization if the Assistant Sec-  
18           retary determines the partnership consistent  
19           with the purposes this section;

20           (B) submit an application, at such time, in  
21           such form, and containing such information as  
22           the Assistant Secretary may require;

23           (C) provide a detailed explanation of how  
24           any amount received under the program will be  
25           used to carry out the purposes of this section

1 in an efficient and expeditious manner, includ-  
2 ing a demonstration that the project would not  
3 have been implemented during the grant period  
4 without Federal grant assistance;

5 (D) demonstrate, to the satisfaction of the  
6 Assistant Secretary, that it is capable of car-  
7 rying out the project or function to which the  
8 application relates in a competent manner in  
9 compliance with all applicable Federal, State,  
10 and local laws;

11 (E) demonstrate, to the satisfaction of the  
12 Assistant Secretary, that it will appropriate (if  
13 the applicant is a State or local government  
14 agency) or otherwise unconditionally obligate,  
15 from non-Federal sources, funds required to  
16 meet the requirements of paragraph (5);

17 (F) disclose to the Assistant Secretary the  
18 source and amount of other Federal or State  
19 funding sources from which the applicant re-  
20 ceives, or has applied for, funding for activities  
21 or projects to which the application relates; and

22 (G) provide such assurances and proce-  
23 dures as the Assistant Secretary may require to  
24 ensure that grant funds are used and accounted  
25 for in an appropriate manner.

1           (5) The Federal share of any project may not  
2 exceed 80 percent, except that the Assistant Sec-  
3 retary may increase the Federal share of a project  
4 above 80 percent if—

5           (A) the applicant petitions the Assistant  
6 Secretary for a waiver; and

7           (B) the Assistant Secretary determines  
8 that the petition demonstrates financial need.

9           (6) The Assistant Secretary may make competi-  
10 tive grants under the program to—

11           (A) acquire equipment, instrumentation,  
12 networking capability, hardware and software,  
13 digital network technology, and infrastructure  
14 for broadband services;

15           (B) construct and deploy broadband serv-  
16 ice related infrastructure;

17           (C) ensure access to broadband service by  
18 community anchor institutions;

19           (D) facilitate access to broadband service  
20 by low-income, unemployed, aged, and otherwise  
21 vulnerable populations in order to provide edu-  
22 cational and employment opportunities to mem-  
23 bers of such populations;

1           (E) construct and deploy broadband facili-  
2 ties that improve public safety broadband com-  
3 munications services; and

4           (F) undertake such other projects and ac-  
5 tivities as the Assistant Secretary finds to be  
6 consistent with the purposes for which the pro-  
7 gram is established.

8       (7) The Assistant Secretary—

9           (A) shall require any entity receiving a  
10 grant pursuant to this section to report quar-  
11 terly, in a format specified by the Assistant  
12 Secretary, on such entity's use of the assistance  
13 and progress fulfilling the objectives for which  
14 such funds were granted, and the Assistant  
15 Secretary shall make these reports available to  
16 the public;

17           (B) may establish additional reporting and  
18 information requirements for any recipient of  
19 any assistance made available pursuant to this  
20 section;

21           (C) shall establish appropriate mechanisms  
22 to ensure appropriate use and compliance with  
23 all terms of any use of funds made available  
24 pursuant to this section;

1 (D) may, in addition to other authority  
2 under applicable law, deobligate awards to  
3 grantees that demonstrate an insufficient level  
4 of performance, or wasteful or fraudulent  
5 spending, as defined in advance by the Assist-  
6 ant Secretary, and award these funds competi-  
7 tively to new or existing applicants consistent  
8 with this section; and

9 (E) shall create and maintain a fully  
10 searchable database, accessible on the Internet  
11 at no cost to the public, that contains at least  
12 the name of each entity receiving funds made  
13 available pursuant to this section, the purpose  
14 for which such entity is receiving such funds,  
15 each quarterly report submitted by the entity  
16 pursuant to this section, and such other infor-  
17 mation sufficient to allow the public to under-  
18 stand and monitor grants awarded under the  
19 program.

20 (8) Concurrent with the issuance of the Request  
21 for Proposal for grant applications pursuant to this  
22 section, the Assistant Secretary shall, in coordina-  
23 tion with the Federal Communications Commission,  
24 publish the non-discrimination and network inter-

1 connection obligations that shall be contractual con-  
2 ditions of grants awarded under this section.

3 (9) Within 1 year after the date of enactment  
4 of this Act, the Commission shall complete a rule-  
5 making to develop a national broadband plan. In de-  
6 veloping the plan, the Commission shall—

7 (A) consider the most effective and effi-  
8 cient national strategy for ensuring that all  
9 Americans have access to, and take advantage  
10 of, advanced broadband services;

11 (B) have access to data provided to other  
12 Government agencies under the Broadband  
13 Data Improvement Act (47 U.S.C. 1301 note);

14 (C) evaluate the status of deployments of  
15 broadband service, including the progress of  
16 projects supported by the grants made pursuant  
17 to this section; and

18 (D) develop recommendations for achieving  
19 the goal of nationally available broadband serv-  
20 ice for the United States and for promoting  
21 broadband adoption nationwide.

22 (10) The Assistant Secretary shall develop and  
23 maintain a comprehensive nationwide inventory map  
24 of existing broadband service capability and avail-  
25 ability in the United States that entities and depicts



1 the geographic extent to which broadband service ca-  
2 pability is deployed and available from a commercial  
3 provider or public provider throughout each State:  
4 *Provided*, That not later than 2 years after the date  
5 of the enactment of the Act, the Assistant Secretary  
6 shall make the broadband inventory map developed  
7 and maintained pursuant to this section accessible to  
8 the public.

9 SEC. 202. The Assistant Secretary of Commerce for  
10 Communications and Information may reissue any coupon  
11 issued under section 3005(a) of the Digital Television  
12 Transition and Public Safety Act of 2005 that has expired  
13 before use, and shall cancel any unredeemed coupon re-  
14 ported as lost and may issue a replacement coupon for  
15 the lost coupon.

16 TITLE III—DEPARTMENT OF DEFENSE

17 OPERATION AND MAINTENANCE

18 OPERATION AND MAINTENANCE, ARMY

19 For an additional amount for “Operation and Main-  
20 tenance, Army”, \$1,169,291,000, to remain available for  
21 obligation until September 30, 2010.

22 OPERATION AND MAINTENANCE, NAVY

23 For an additional amount for “Operation and Main-  
24 tenance, Navy”, \$571,843,000, to remain available for ob-  
25 ligation until September 30, 2010.

1 OPERATION AND MAINTENANCE, MARINE CORPS

2 For an additional amount for “Operation and Main-  
3 tenance, Marine Corps”, \$112,167,000, to remain avail-  
4 able for obligation until September 30, 2010.

5 OPERATION AND MAINTENANCE, AIR FORCE

6 For an additional amount for “Operation and Main-  
7 tenance, Air Force”, \$927,113,000, to remain available  
8 for obligation until September 30, 2010.

9 OPERATION AND MAINTENANCE, ARMY RESERVE

10 For an additional amount for “Operation and Main-  
11 tenance, Army Reserve”, \$79,543,000, to remain available  
12 for obligation until September 30, 2010.

13 OPERATION AND MAINTENANCE, NAVY RESERVE

14 For an additional amount for “Operation and Main-  
15 tenance, Navy Reserve”, \$44,586,000, to remain available  
16 for obligation until September 30, 2010.

17 OPERATION AND MAINTENANCE, MARINE CORPS

18 RESERVE

19 For an additional amount for “Operation and Main-  
20 tenance, Marine Corps Reserve”, \$32,304,000, to remain  
21 available for obligation until September 30, 2010.

22 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

23 For an additional amount for “Operation and Main-  
24 tenance, Air Force Reserve”, \$10,674,000, to remain  
25 available for obligation until September 30, 2010.



## 1 OTHER DEPARTMENT OF DEFENSE PROGRAMS

## 2 DEFENSE HEALTH PROGRAM

3 For an additional amount for “Defense Health Pro-  
4 gram”, \$250,000,000 for operation and maintenance, to  
5 remain available for obligation until September 30, 2010.

## 6 OFFICE OF THE INSPECTOR GENERAL

7 For an additional amount for “Office of the Inspector  
8 General”, \$12,000,000 for operation and maintenance, to  
9 remain available for obligation until September 30, 2011,  
10 and an additional \$3,000,000 for such purposes, to remain  
11 available until September 30, 2011.

## 12 TITLE IV—ENERGY AND WATER

## 13 DEVELOPMENT

## 14 DEPARTMENT OF DEFENSE—CIVIL

## 15 DEPARTMENT OF THE ARMY

## 16 CORPS OF ENGINEERS—CIVIL

## 17 INVESTIGATIONS

18 For an additional amount for “Investigations” for ex-  
19 penses necessary where authorized by law for the collec-  
20 tion and study of basic information pertaining to river and  
21 harbor, flood and storm damage reduction, shore protec-  
22 tion, aquatic ecosystem restoration, and related needs; for  
23 surveys and detailed studies, and plans and specifications  
24 of proposed river and harbor, flood and storm damage re-  
25 duction, shore protection, and aquatic ecosystem restora-

1 tion projects and related efforts prior to construction; for  
2 restudy of authorized projects; and for miscellaneous in-  
3 vestigations and, when authorized by law, surveys and de-  
4 tailed studies, and plans and specifications of projects  
5 prior to construction, \$25,000,000: *Provided*, That funds  
6 provided under this heading in this title shall only be used  
7 for programs, projects or activities that heretofore or here-  
8 after receive funds provided in Acts making appropriations  
9 available for Energy and Water Development: *Provided*  
10 *further*, That funds provided under this heading in this  
11 title shall be used for programs, projects or activities or  
12 elements of programs, projects or activities that can be  
13 completed within the funds made available in that account  
14 and that will not require new budget authority to com-  
15 plete: *Provided further*, That for projects that are being  
16 completed with funds appropriated in this Act that would  
17 otherwise be expired for obligation, expired funds appro-  
18 priated in this Act may be used to pay the cost of associ-  
19 ated supervision, inspection, over engineering and design  
20 on those projects and on subsequent claims, if any: *Pro-*  
21 *vided further*, That the Secretary shall have unlimited re-  
22 programming authority for these funds provided under  
23 this heading.

## CONSTRUCTION

1  
2 For an additional amount for “Construction” for ex-  
3 penses necessary for the construction of river and harbor,  
4 flood and storm damage reduction, shore protection,  
5 aquatic ecosystem restoration, and related projects au-  
6 thorized by law, \$2,000,000,000, of which such sums as  
7 are necessary to cover the Federal share of construction  
8 costs for facilities under the Dredged Material Disposal  
9 Facilities program shall be derived from the Harbor Main-  
10 tenance Trust Fund as authorized by Public Law 104–  
11 303: *Provided*, That not less than \$200,000,000 of the  
12 funds provided shall be for water-related environmental in-  
13 frastructure assistance: *Provided further*, That section 102  
14 of Public Law 109–103 (33 U.S.C. 2221) shall not apply  
15 to funds provided in this title: *Provided further*, That not-  
16 withstanding any other provision of law, no funds shall  
17 be drawn from the Inland Waterways Trust Fund, as au-  
18 thorized in Public Law 99–662: *Provided further*, That  
19 funds provided under this heading in this title shall only  
20 be used for programs, projects or activities that heretofore  
21 or hereafter receive funds provided in Acts making appro-  
22 priations available for Energy and Water Development:  
23 *Provided further*, That funds provided under this heading  
24 in this title shall be used for programs, projects or activi-  
25 ties or elements of programs, projects or activities that

1 can be completed within the funds made available in that  
2 account and that will not require new budget authority  
3 to complete: *Provided further*, That the limitation con-  
4 cerning total project costs in section 902 of the Water Re-  
5 sources Development Act of 1986, as amended (33 U.S.C.  
6 2280), shall not apply during fiscal year 2009 to any  
7 project that received funds provided in this title: *Provided*  
8 *further*, That funds appropriated under this heading may  
9 be used by the Secretary of the Army, acting through the  
10 Chief of Engineers, to undertake work authorized to be  
11 carried out in accordance with section 14 of the Flood  
12 Control Act of 1946 (33 U.S.C. 701r); section 205 of the  
13 Flood Control Act of 1948 (33 U.S.C. 701s); section 206  
14 of the Water Resources Development Act of 1996 (33  
15 U.S.C. 2330); or section 1135 of the Water Resources De-  
16 velopment Act of 1986 (33 U.S.C. 2309a), notwith-  
17 standing the program cost limitations set forth in those  
18 sections: *Provided further*, That for projects that are being  
19 completed with funds appropriated in this Act that would  
20 otherwise be expired for obligation, expired funds appro-  
21 priated in this Act may be used to pay the cost of associ-  
22 ated supervision, inspection, over engineering and design  
23 on those projects and on subsequent claims, if any: *Pro-*  
24 *vided further*, That the Secretary shall have unlimited re-

1 programming authority for these funds provided under  
2 this heading.

3 MISSISSIPPI RIVER AND TRIBUTARIES

4 For an additional amount for “Mississippi River and  
5 Tributaries” for expenses necessary for flood damage re-  
6 duction projects and related efforts as authorized by law,  
7 \$500,000,000, of which such sums as are necessary to  
8 cover the Federal share of operation and maintenance  
9 costs for inland harbors shall be derived from the Harbor  
10 Maintenance Trust Fund, pursuant to Public Law 99–  
11 662: *Provided*, That funds provided under this heading in  
12 this title shall only be used for programs, projects or ac-  
13 tivities that heretofore or hereafter receive funds provided  
14 in Acts making appropriations available for Energy and  
15 Water Development: *Provided further*, That funds pro-  
16 vided under this heading in this title shall be used for pro-  
17 grams, projects or activities or elements of programs,  
18 projects or activities that can be completed within the  
19 funds made available in that account and that will not re-  
20 quire new budget authority to complete: *Provided further*,  
21 That the limitation concerning total project costs in sec-  
22 tion 902 of the Water Resources Development Act of  
23 1986, as amended (33 U.S.C. 2280), shall not apply dur-  
24 ing fiscal year 2009 to any project that received funds pro-  
25 vided in this title: *Provided further*, That for projects that



1 are being completed with funds appropriated in this Act  
2 that would otherwise be expired for obligation, expired  
3 funds appropriated in this Act may be used to pay the  
4 cost of associated supervision, inspection, over engineering  
5 and design on those projects and on subsequent claims,  
6 if any: *Provided further*, That the Secretary shall have un-  
7 limited reprogramming authority for these funds provided  
8 under this heading.

9                                   OPERATION AND MAINTENANCE

10       For an additional amount for “Operation and Main-  
11 tenance” for expenses necessary for the operation, mainte-  
12 nance, and care of existing river and harbor, flood and  
13 storm damage reduction, aquatic ecosystem restoration,  
14 and related projects authorized by law, and for surveys  
15 and charting of northern and northwestern lakes and con-  
16 necting waters, clearing and straightening channels, and  
17 removal of obstructions to navigation, \$1,900,000,000, of  
18 which such sums as are necessary to cover the Federal  
19 share of operation and maintenance costs for coastal har-  
20 bors and channels, and inland harbors shall be derived  
21 from the Harbor Maintenance Trust Fund, pursuant to  
22 Public Law 99–662; and of which such sums as become  
23 available under section 217 of the Water Resources Devel-  
24 opment Act of 1996, Public Law 104–303, shall be used  
25 to cover the cost of operation and maintenance of the

1 dredged material disposal facilities for which fees have  
2 been collected: *Provided*, That funds provided under this  
3 heading in this title shall only be used for programs,  
4 projects or activities that heretofore or hereafter receive  
5 funds provided in Acts making appropriations available for  
6 Energy and Water Development: *Provided further*, That  
7 funds provided under this heading in this title shall be  
8 used for programs, projects or activities or elements of  
9 programs, projects or activities that can be completed  
10 within the funds made available in that account and that  
11 will not require new budget authority to complete: *Pro-*  
12 *vided further*, That \$90,000,000 of the funds provided  
13 under this heading shall be used for activities described  
14 in section 9004 of Public Law 110–114: *Provided further*,  
15 That section 9006 of Public Law 110–114 shall not apply  
16 to funds provided in this title: *Provided further*, That for  
17 projects that are being completed with funds appropriated  
18 in this Act that would otherwise be expired for obligation,  
19 expired funds appropriated in this Act may be used to pay  
20 the cost of associated supervision, inspection, over engi-  
21 neering and design on those projects and on subsequent  
22 claims, if any: *Provided further*, That the Secretary shall  
23 have unlimited reprogramming authority for these funds  
24 provided under this heading.

## 1 REGULATORY PROGRAM

2 For an additional amount for “Regulatory Program”  
3 for expenses necessary for administration of laws per-  
4 taining to regulation of navigable waters and wetlands,  
5 \$25,000,000 is provided.

## 6 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

7 For an additional amount for “Formerly Utilized  
8 Sites Remedial Action Program” for expenses necessary  
9 to clean up contamination from sites in the United States  
10 resulting from work performed as part of the Nation’s  
11 early atomic energy program, \$100,000,000: *Provided fur-*  
12 *ther*, That funds provided under this heading in this title  
13 shall be used for programs, projects or activities or ele-  
14 ments of programs, projects or activities that can be com-  
15 pleted within the funds made available in that account and  
16 that will not require new budget authority to complete:  
17 *Provided further*, That for projects that are being com-  
18 pleted with funds appropriated in this Act that would oth-  
19 erwise be expired for obligation, expired funds appro-  
20 priated in this Act may be used to pay the cost of associ-  
21 ated supervision, inspection, over engineering and design  
22 on those projects and on subsequent claims, if any: *Pro-*  
23 *vided further*, That the Secretary shall have unlimited re-  
24 programming authority for these funds provided under  
25 this heading.

## 1 FLOOD CONTROL AND COASTAL EMERGENCIES

2 For an additional amount for “Flood Control and  
3 Coastal Emergencies” for expenses necessary for pre-  
4 placement of materials and equipment, advance measures  
5 and other activities authorized by law, \$50,000,000 is pro-  
6 vided.

## 7 DEPARTMENT OF THE INTERIOR

## 8 BUREAU OF RECLAMATION

## 9 WATER AND RELATED RESOURCES

10 For an additional amount for management, develop-  
11 ment, and restoration of water and related natural re-  
12 sources and for related activities, including the operation,  
13 maintenance, and rehabilitation of reclamation and other  
14 facilities, participation in fulfilling related Federal respon-  
15 sibilities to Native Americans, and related grants to, and  
16 cooperative and other agreements with, State and local  
17 governments, federally recognized Indian tribes, and oth-  
18 ers, \$1,400,000,000; of which such amounts as may be  
19 necessary may be advanced to the Colorado River Dam  
20 Fund: *Provided*, That of the total appropriated, the  
21 amount for program activities that can be financed by the  
22 Reclamation Fund or the Bureau of Reclamation special  
23 fee account established by 16 U.S.C. 460l–6a(i) shall be  
24 derived from that Fund or account: *Provided further*, That  
25 funds contributed under 43 U.S.C. 395 are available until

1 expended for the purposes for which contributed: *Provided*  
2 *further*, That funds advanced under 43 U.S.C. 397a shall  
3 be credited to this account and are available until ex-  
4 pended for the same purposes as the sums appropriated  
5 under this heading: *Provided further*, That funds provided  
6 under this heading in this title shall only be used for pro-  
7 grams, projects or activities that heretofore or hereafter  
8 receive funds provided in Acts making appropriations  
9 available for Energy and Water Development: *Provided*  
10 *further*, That funds provided in this Act shall be used for  
11 elements of projects, programs or activities that can be  
12 completed within these funding amounts and not create  
13 budgetary obligations in future fiscal years: *Provided fur-*  
14 *ther*, That \$50,000,000 of the funds provided under this  
15 heading may be transferred to the Department of the Inte-  
16 rior for programs, projects and activities authorized by the  
17 Central Utah Project Completion Act (titles II–V of Public  
18 Law 102–575): *Provided further*, That \$50,000,000 of the  
19 funds provided under this heading may be used for pro-  
20 grams, projects, and activities authorized by the California  
21 Bay-Delta Restoration Act (Public Law 108–361): *Pro-*  
22 *vided further*, That not less than \$60,000,000 of the funds  
23 provided under this heading shall be used for rural water  
24 projects and shall be expended primarily on water intake  
25 and treatment facilities of such projects: *Provided further*,

1 That not less than \$10,000,000 of the funds provided  
2 under this heading shall be used for a bureau-wide inspec-  
3 tion of canals program in urbanized areas: *Provided fur-*  
4 *ther*, That not less than \$110,000,000 of the funds pro-  
5 vided under this heading shall be used for water reclama-  
6 tion and reuse projects (title 16 of Public Law 102-575):  
7 *Provided further*, That the costs of reimbursable activities,  
8 other than for maintenance and rehabilitation, carried out  
9 with funds provided in this Act shall be repaid pursuant  
10 to existing authorities and agreements: *Provided further*,  
11 That the costs of maintenance and rehabilitation activities  
12 carried out with funds provided in this Act shall be repaid  
13 pursuant to existing authority, except the length of repay-  
14 ment period shall be determined on needs-based criteria  
15 to be established and adopted by the Commissioner, but  
16 in no case shall the repayment period exceed 25 years:  
17 *Provided further*, That for projects that are being com-  
18 pleted with funds appropriated in this Act that would oth-  
19 erwise be expired for obligation, expired funds appro-  
20 priated in this Act may be used to pay the cost of associ-  
21 ated supervision, inspection, over engineering and design  
22 on those projects and on subsequent claims, if any: *Pro-*  
23 *vided further*, That the Secretary shall have unlimited re-  
24 programming authority for these funds provided under  
25 this heading.

1 DEPARTMENT OF ENERGY  
2 ENERGY PROGRAMS  
3 ENERGY EFFICIENCY AND RENEWABLE ENERGY  
4 For an additional amount for “Energy Efficiency and  
5 Renewable Energy”, \$14,398,000,000, for necessary ex-  
6 penses, to remain available until September 30, 2010: *Pro-*  
7 *vided*, That \$4,200,000,000 shall be available for Energy  
8 Efficiency and Conservation Block Grants for implementa-  
9 tion of programs authorized under subtitle E of title V  
10 of the Energy Independence and Security Act of 2007 (42  
11 U.S.C. 17151 et seq.), of which \$2,100,000,000 is avail-  
12 able through the formula in subtitle E: *Provided further*,  
13 That the remaining \$2,100,000,000 shall be awarded on  
14 a competitive basis only to competitive grant applicants  
15 from States in which the Governor certifies to the Sec-  
16 retary of Energy that the applicable State regulatory au-  
17 thority will implement the integrated resource planning  
18 and rate design modifications standards required to be  
19 considered under paragraphs (16) and (17) of section  
20 111(d) of the Public Utility Regulatory Policies Act of  
21 1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor  
22 will take all actions within his or her authority to ensure  
23 that the State, or the applicable units of local government  
24 that have authority to adopt building codes, will imple-  
25 ment—

1 (A) building energy codes for residential build-  
2 ings that the Secretary determines are likely to meet  
3 or exceed the 2009 International Energy Conserva-  
4 tion Code;

5 (B) building energy codes for commercial build-  
6 ings that the Secretary determines are likely to meet  
7 or exceed the ANSI/ASHRAE/IESNA Standard  
8 90.1–2007; and

9 (C) a plan for implementing and enforcing the  
10 building energy codes described in subparagraphs  
11 (A) and (B) that is likely to ensure that at least 90  
12 percent of the new and renovated residential and  
13 commercial building space will meet the standards  
14 within 8 years after the date of enactment of this  
15 Act:

16 *Provided further*, That \$2,000,000,000 shall be available  
17 for grants for the manufacturing of advanced batteries  
18 and components and the Secretary shall provide facility  
19 funding awards under this section to manufacturers of ad-  
20 vanced battery systems and vehicle batteries that are pro-  
21 duced in the United States, including advanced lithium ion  
22 batteries, hybrid electrical systems, component manufac-  
23 turers, and software designers: *Provided further*, That not-  
24 withstanding section 3304 of title 5, United States Code,  
25 and without regard to the provisions of sections 3309



1 through 3318 of such title 5, the Secretary of Energy,  
2 upon a determination that there is a severe shortage of  
3 candidates or a critical hiring need for particular posi-  
4 tions, may from within the funds provided, recruit and di-  
5 rectly appoint highly qualified individuals into the com-  
6 petitive service: *Provided further*, That such authority  
7 shall not apply to positions in the Excepted Service or the  
8 Senior Executive Service: *Provided further*, That any ac-  
9 tion authorized herein shall be consistent with the merit  
10 principles of section 2301 of such title 5, and the Depart-  
11 ment shall comply with the public notice requirements of  
12 section 3327 of such title 5.

13 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

14 For an additional amount for “Electricity Delivery  
15 and Energy Reliability”, \$4,500,000,000, for necessary  
16 expenses, to remain available until September 30, 2010:  
17 *Provided*, That \$100,000,000 shall be available for worker  
18 training activities: *Provided further*, That notwithstanding  
19 section 3304 of title 5, United States Code, and without  
20 regard to the provisions of sections 3309 through 3318  
21 of such title 5, the Secretary of Energy, upon a determina-  
22 tion that there is a severe shortage of candidates or a crit-  
23 ical hiring need for particular positions, may from within  
24 the funds provided, recruit and directly appoint highly  
25 qualified individuals into the competitive service: *Provided*

1 *further*, That such authority shall not apply to positions  
2 in the Excepted Service or the Senior Executive Service:  
3 *Provided further*, That any action authorized herein shall  
4 be consistent with the merit principles of section 2301 of  
5 such title 5, and the Department shall comply with the  
6 public notice requirements of section 3327 of such title  
7 5: *Provided*, That for the purpose of facilitating the devel-  
8 opment of regional transmission plans, the Office of Elec-  
9 tricity Delivery and Energy Reliability within the Depart-  
10 ment of Energy is provided \$80,000,000 within the avail-  
11 able funds to conduct a resource assessment and an anal-  
12 ysis of future demand and transmission requirements:  
13 *Provided further*, That the Office of Electricity Delivery  
14 and Energy Reliability will provide technical assistance to  
15 the North American Electric Reliability Corporation, the  
16 regional reliability entities, the States, and other trans-  
17 mission owners and operators for the formation of inter-  
18 connection-based transmission plans for the Eastern and  
19 Western Interconnections and ERCOT: *Provided further*,  
20 That such assistance may include modeling, support to re-  
21 gions and States for the development of coordinated State  
22 electricity policies, programs, laws, and regulations: *Pro-*  
23 *vided further*, That \$10,000,000 is provided to implement  
24 section 1305 of Public Law 110–140.

## 1       FOSSIL ENERGY RESEARCH AND DEVELOPMENT

2       For an additional amount for “Fossil Energy Re-  
3 search and Development”, \$4,600,000,000, to remain  
4 available until September 30, 2010: *Provided*, That  
5 \$2,000,000,000 is available for one or more near zero  
6 emissions powerplant(s): *Provided further*, \$1,000,000,000  
7 is available for selections under the Department’s Clean  
8 Coal Power Initiative Round III Funding Opportunity An-  
9 nouncement; notwithstanding the mandatory eligibility re-  
10 quirements of the Funding Opportunity Announcement,  
11 the Department shall consider applications that utilize pe-  
12 troleum coke for some or all of the project’s fuel input:  
13 *Provided further*, \$1,520,000,000 is available for a com-  
14 petitive solicitation pursuant to section 703 of Public Law  
15 110–140 for projects that demonstrate carbon capture  
16 from industrial sources: *Provided further*, That awards for  
17 such projects may include plant efficiency improvements  
18 for integration with carbon capture technology.

## 19       NON-DEFENSE ENVIRONMENTAL CLEANUP

20       For an additional amount for “Non-Defense Environ-  
21 mental Cleanup”, \$483,000,000, to remain available until  
22 September 30, 2010.

1           URANIUM ENRICHMENT DECONTAMINATION AND  
2                           DECOMMISSIONING FUND

3           For an additional amount for “Uranium Enrichment  
4 Decontamination and Decommissioning Fund”,  
5 \$390,000,000, to remain available until September 30,  
6 2010, of which \$70,000,000 shall be available in accord-  
7 ance with title X, subtitle A of the Energy Policy Act of  
8 1992.

9   SCIENCE

10          For an additional amount for “Science”,  
11 \$330,000,000, to remain available until September 30,  
12 2010.

13           TITLE 17—INNOVATIVE TECHNOLOGY LOAN  
14                           GUARANTEE PROGRAM

15          Subject to section 502 of the Congressional Budget  
16 Act of 1974, commitments to guarantee loans under sec-  
17 tion 1702(b)(2) of the Energy Policy Act of 2005, shall  
18 not exceed a total principal amount of \$50,000,000,000  
19 for eligible projects, to remain available until committed:  
20 *Provided*, That these amounts are in addition to any au-  
21 thority provided elsewhere in this Act and this and pre-  
22 vious fiscal years: *Provided further*, That such sums as are  
23 derived from amounts received from borrowers pursuant  
24 to section 1702(b)(2) of the Energy Policy Act of 2005  
25 under this heading in this and prior Acts, shall be collected

1 in accordance with section 502(7) of the Congressional  
2 Budget Act of 1974: *Provided further*, That the source of  
3 such payment received from borrowers is not a loan or  
4 other debt obligation that is guaranteed by the Federal  
5 Government: *Provided further*, That pursuant to section  
6 1702(b)(2) of the Energy Policy Act of 2005, no appro-  
7 priations are available to pay the subsidy cost of such  
8 guarantees: *Provided further*, That none of the loan guar-  
9 antee authority made available in this Act shall be avail-  
10 able for commitments to guarantee loans under section  
11 1702(b)(2) of the Energy Policy Act of 2005 for any  
12 projects where funds, personnel, or property (tangible or  
13 intangible) of any Federal agency, instrumentality, per-  
14 sonnel or affiliated entity are expected to be used (directly  
15 or indirectly) through acquisitions, contracts, demonstra-  
16 tions, exchanges, grants, incentives, leases, procurements,  
17 sales, other transaction authority, or other arrangements,  
18 to support the project or to obtain goods or services from  
19 the project: *Provided further*, That none of the loan guar-  
20 antee authority made available in this Act shall be avail-  
21 able under section 1702(b)(2) of the Energy Policy Act  
22 of 2005 for any project unless the Director of the Office  
23 of Management and Budget has certified in advance in  
24 writing that the loan guarantee and the project comply  
25 with the provisions under this title: *Provided further*, That

1 for an additional amount for the cost of guaranteed loans  
2 authorized by section 1702(b)(1) and section 1705 of the  
3 Energy Policy Act of 2005, \$8,500,000,000, available  
4 until expended, to pay the costs of guarantees made under  
5 this section: *Provided further*, That of the amount pro-  
6 vided for Title XVII, \$15,000,000 shall be used for admin-  
7 istrative expenses in carrying out the guaranteed loan pro-  
8 gram.

9 OFFICE OF THE INSPECTOR GENERAL

10 For necessary expenses of the Office of the Inspector  
11 General in carrying out the provisions of the Inspector  
12 General Act of 1978, as amended, \$5,000,000, to remain  
13 available until September 30, 2012, and an additional  
14 \$10,000,000 for such purposes, to remain available until  
15 September 30, 2012.

16 ATOMIC ENERGY DEFENSE ACTIVITIES

17 NATIONAL NUCLEAR SECURITY ADMINISTRATION

18 WEAPONS ACTIVITIES

19 For an additional amount for weapons activities,  
20 \$1,000,000,000, to remain available until September 30,  
21 2010.

## 1 ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

## 2 DEFENSE ENVIRONMENTAL CLEANUP

3 For an additional amount for “Defense Environ-  
4 mental Cleanup”, \$5,527,000,000, to remain available  
5 until September 30, 2010.

## 6 CONSTRUCTION, REHABILITATION, OPERATION, AND

## 7 MAINTENANCE, WESTERN AREA POWER ADMINIS-

## 8 TRATION

9 For carrying out the functions authorized by title III,  
10 section 302(a)(1)(E) of the Act of August 4, 1977 (42  
11 U.S.C. 7152), and other related activities including con-  
12 servation and renewable resources programs as author-  
13 ized, \$10,000,000, to remain available until expended:  
14 *Provided*, That the Administrator shall establish such per-  
15 sonnel staffing levels as he deems necessary to economi-  
16 cally and efficiently complete the activities pursued under  
17 the authority granted by section 402 of this Act: *Provided*  
18 *further*, That this appropriation is non-reimbursable.

## 19 GENERAL PROVISIONS—THIS TITLE

## 20 SEC. 401. BONNEVILLE POWER ADMINISTRATION

21 BORROWING AUTHORITY. For the purposes of providing

22 funds to assist in financing the construction, acquisition,

23 and replacement of the transmission system of the Bonne-

24 ville Power Administration and to implement the authority

25 of the Administrator of the Bonneville Power Administra-

1 tion under the Pacific Northwest Electric Power Planning  
 2 and Conservation Act (16 U.S.C. 839 et seq.), an addi-  
 3 tional \$3,250,000,000 in borrowing authority is made  
 4 available under the Federal Columbia River Transmission  
 5 System Act (16 U.S.C. 838 et seq.), to remain outstanding  
 6 at any time.

7       SEC. 402. WESTERN AREA POWER ADMINISTRATION  
 8 BORROWING AUTHORITY. The Hoover Power Plant Act of  
 9 1984 (Public Law 98–381) is amended by adding at the  
 10 end the following:

11                   **“TITLE III—BORROWING**  
 12                                   **AUTHORITY**

13       **“SEC. 301. WESTERN AREA POWER ADMINISTRATION BOR-**  
 14                   **ROWING AUTHORITY.**

15       “(a) DEFINITIONS.—In this section:

16               “(1) ADMINISTRATOR.—The term ‘Adminis-  
 17               trator’ means the Administrator of the Western  
 18               Area Power Administration.

19               “(2) SECRETARY.—The term ‘Secretary’ means  
 20               the Secretary of the Treasury.

21       “(b) AUTHORITY.—

22               “(1) IN GENERAL.—Notwithstanding any other  
 23               provision of law, subject to paragraphs (2) through  
 24               (5)—



1           “(A) the Western Area Power Administra-  
2           tion may borrow funds from the Treasury; and

3           “(B) the Secretary shall, without further  
4           appropriation and without fiscal year limitation,  
5           loan to the Western Area Power Administra-  
6           tion, on such terms as may be fixed by the Ad-  
7           ministrator and the Secretary, such sums (not  
8           to exceed, in the aggregate (including deferred  
9           interest), \$3,250,000,000 in outstanding repay-  
10          able balances at any one time) as, in the judg-  
11          ment of the Administrator, are from time to  
12          time required for the purpose of—

13                 “(i) constructing, financing, facili-  
14                 tating, planning, operating, maintaining,  
15                 or studying construction of new or up-  
16                 graded electric power transmission lines  
17                 and related facilities with at least one ter-  
18                 minus within the area served by the West-  
19                 ern Area Power Administration; and

20                 “(ii) delivering or facilitating the de-  
21                 livery of power generated by renewable en-  
22                 ergy resources constructed or reasonably  
23                 expected to be constructed after the date  
24                 of enactment of this section.

1           “(2) INTEREST.—The rate of interest to be  
2 charged in connection with any loan made pursuant  
3 to this subsection shall be fixed by the Secretary,  
4 taking into consideration market yields on out-  
5 standing marketable obligations of the United States  
6 of comparable maturities as of the date of the loan.

7           “(3) REFINANCING.—The Western Area Power  
8 Administration may refinance loans taken pursuant  
9 to this section within the Treasury.

10           “(4) PARTICIPATION.—The Administrator may  
11 permit other entities to participate in the financing,  
12 construction and ownership projects financed under  
13 this section.

14           “(5) CONGRESSIONAL REVIEW OF DISBURSE-  
15 MENT.—Effective upon the date of enactment of this  
16 section, the Administrator shall have the authority  
17 to have utilized \$1,750,000,000 at any one time. If  
18 the Administrator seeks to borrow funds above  
19 \$1,750,000,000, the funds will be disbursed unless  
20 there is enacted, within 90 calendar days of the first  
21 such request, a joint resolution that rescinds the re-  
22 mainder of the balance of the borrowing authority  
23 provided in this section.

24           “(c) TRANSMISSION LINE AND RELATED FACILITY  
25 PROJECTS.—

1           “(1) IN GENERAL.—For repayment purposes,  
2           each transmission line and related facility project in  
3           which the Western Area Power Administration partici-  
4           pates pursuant to this section shall be treated as  
5           separate and distinct from—

6                   “(A) each other such project; and

7                   “(B) all other Western Area Power Admin-  
8           istration power and transmission facilities.

9           “(2) PROCEEDS.—The Western Area Power  
10          Administration shall apply the proceeds from the use  
11          of the transmission capacity from an individual  
12          project under this section to the repayment of the  
13          principal and interest of the loan from the Treasury  
14          attributable to that project, after reserving such  
15          funds as the Western Area Power Administration  
16          determines are necessary—

17                   “(A) to pay for any ancillary services that  
18          are provided; and

19                   “(B) to meet the costs of operating and  
20          maintaining the new project from which the  
21          revenues are derived.

22          “(3) SOURCE OF REVENUE.—Revenue from the  
23          use of projects under this section shall be the only  
24          source of revenue for—

1           “(A) repayment of the associated loan for  
2           the project; and

3           “(B) payment of expenses for ancillary  
4           services and operation and maintenance.

5           “(4) LIMITATION ON AUTHORITY.—Nothing in  
6           this section confers on the Administrator any addi-  
7           tional authority or obligation to provide ancillary  
8           services to users of transmission facilities developed  
9           under this section.

10          “(5) TREATMENT OF CERTAIN REVENUES.—  
11          Revenue from ancillary services provided by existing  
12          Federal power systems to users of transmission  
13          projects funded pursuant to this section shall be  
14          treated as revenue to the existing power system that  
15          provided the ancillary services.

16          “(d) CERTIFICATION.—

17                 “(1) IN GENERAL.—For each project in which  
18                 the Western Area Power Administration participates  
19                 pursuant to this section, the Administrator shall cer-  
20                 tify, prior to committing funds for any such project,  
21                 that—

22                         “(A) the project is in the public interest;

23                         “(B) the project will not adversely impact  
24                         system reliability or operations, or other statu-  
25                         tory obligations; and

1           “(C) it is reasonable to expect that the  
2           proceeds from the project shall be adequate to  
3           make repayment of the loan.

4           “(2) FORGIVENESS OF BALANCES.—

5           “(A) IN GENERAL.—If, at the end of the  
6           useful life of a project, there is a remaining bal-  
7           ance owed to the Treasury under this section,  
8           the balance shall be forgiven.

9           “(B) UNCONSTRUCTED PROJECTS.—Funds  
10          expended to study projects that are considered  
11          pursuant to this section but that are not con-  
12          structed shall be forgiven.

13          “(C) NOTIFICATION.—The Administrator  
14          shall notify the Secretary of such amounts as  
15          are to be forgiven under this paragraph.

16          “(e) PUBLIC PROCESSES.—

17          “(1) POLICIES AND PRACTICES.—Prior to re-  
18          questing any loans under this section, the Adminis-  
19          trator shall use a public process to develop practices  
20          and policies that implement the authority granted by  
21          this section.

22          “(2) REQUESTS FOR INTEREST.—In the course  
23          of selecting potential projects to be funded under  
24          this section, the Administrator shall seek Requests  
25          For Interest from entities interested in identifying

1 potential projects through one or more notices pub-  
2 lished in the Federal Register.”

3 SEC. 403. TECHNICAL CORRECTIONS TO THE EN-  
4 ERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title  
5 XIII of the Energy Independence and Security Act of  
6 2007 (15 U.S.C. 17381 and following) is amended as fol-  
7 lows:

8 (1) By amending subparagraph (A) of section  
9 1304(b)(3) to read as follows:

10 “(A) IN GENERAL.—In carrying out the  
11 initiative, the Secretary shall provide financial  
12 support to smart grid demonstration projects  
13 including those in rural areas and/or areas  
14 where the majority of generation and trans-  
15 mission assets are controlled by a tax-exempt  
16 entity.”.

17 (2) By amending subparagraph (C) of section  
18 1304(b)(3) to read as follows:

19 “(C) FEDERAL SHARE OF COST OF TECH-  
20 NOLOGY INVESTMENTS.—The Secretary shall  
21 provide to an electric utility described in sub-  
22 paragraph (B) or to other parties financial as-  
23 sistance for use in paying an amount equal to  
24 not more than 50 percent of the cost of quali-  
25 fying advanced grid technology investments

1           made by the electric utility or other party to  
2           carry out a demonstration project.”.

3           (3) By inserting a new subparagraph (E) after  
4           1304(b)(3)(D) as follows:

5                         “(E) AVAILABILITY OF DATA.—The  
6                         Secretary shall establish and maintain a  
7                         smart grid information clearinghouse in a  
8                         timely manner which will make data from  
9                         smart grid demonstration projects and  
10                        other sources available to the public. As a  
11                        condition of receiving financial assistance  
12                        under this subsection, a utility or other  
13                        participant in a smart grid demonstration  
14                        project shall provide such information as  
15                        the Secretary may require to become avail-  
16                        able through the smart grid information  
17                        clearinghouse in the form and within the  
18                        timeframes as directed by the Secretary.  
19                        The Secretary shall assure that business  
20                        proprietary information and individual cus-  
21                        tomer information is not included in the  
22                        information made available through the  
23                        clearinghouse.”.

24           (4) By amending paragraph (2) of section  
25           1304(e) to read as follows:

1           “(2) to carry out subsection (b), such sums as  
2           may be necessary.”.

3           (5) By amending subsection (a) of section 1306  
4           by striking “reimbursement of one-fifth (20 per-  
5           cent)” and inserting “grants of up to one-half (50  
6           percent)”.

7           (6) By striking the last sentence of subsection  
8           (b)(9) of section 1306.

9           (7) By striking “are eligible for” in subsection  
10          (c)(1) of section 1306 and inserting “utilize”.

11          (8) By amending subsection (e) of section 1306  
12          to read as follows:

13          “(e) The Secretary shall—

14                 “(1) establish within 60 days after the enact-  
15                 ment of the American Recovery and Reinvestment  
16                 Act of 2009 procedures by which applicants can ob-  
17                 tain grants of not more than one-half of their docu-  
18                 mented costs;

19                 “(2) establish procedures to ensure that there is  
20                 no duplication or multiple payment for the same in-  
21                 vestment or costs, that the grant goes to the party  
22                 making the actual expenditures for Qualifying Smart  
23                 Grid Investments, and that the grants made have  
24                 significant effect in encouraging and facilitating the  
25                 development of a smart grid;



1           “(3) maintain public records of grants made,  
2 recipients, and qualifying Smart Grid investments  
3 which have received grants;

4           “(4) establish procedures to provide advance  
5 payment of moneys up to the full amount of the  
6 grant award; and

7           “(5) have and exercise the discretion to deny  
8 grants for investments that do not qualify in the  
9 reasonable judgment of the Secretary.”.

10       SEC. 404. TEMPORARY STIMULUS LOAN GUARANTEE  
11 PROGRAM. (a) AMENDMENT.—Title XVII of the Energy  
12 Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended  
13 by adding the following at the end:

14       **“SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOY-**  
15                       **MENT OF RENEWABLE ENERGY AND ELEC-**  
16                       **TRIC POWER TRANSMISSION PROJECTS.**

17       “(a) IN GENERAL.—Notwithstanding section 1703,  
18 the Secretary may make guarantees under this section  
19 only for commercial technology projects under subsection  
20 (b) that will reach financial close not later than September  
21 30, 2012.

22       “(b) CATEGORIES.—Projects from only the following  
23 categories shall be eligible for support under this section:

24           “(1) Renewable energy systems.

25           “(2) Electric power transmission systems.

1       “(c) AUTHORIZATION LIMIT.—There are authorized  
2 to be appropriated \$10,000,000,000 to the Secretary for  
3 fiscal years 2009 through 2012 to provide the cost of  
4 guarantees made under section.

5       “(d) SUNSET.—The authority to enter into guaran-  
6 tees under this section shall expire on September 30,  
7 2012.”.

8       (b) TABLE OF CONTENTS AMENDMENT.—The table  
9 of contents for the Energy Policy Act of 2005 is amended  
10 by inserting after the item relating to section 1704 the  
11 following new item:

“Sec. 1705. Temporary program for rapid deployment of renewable energy and  
electric power transmission projects.”.

12       SEC. 405. WEATHERIZATION PROGRAM AMEND-  
13 MENTS. (a) INCOME LEVEL.—Section 412(7) of the En-  
14 ergy Conservation and Production Act (42 U.S.C.  
15 6862(7)) is amended by striking “150 percent” both  
16 places it appears and inserting “200 percent”.

17       (b) ASSISTANCE LEVEL PER DWELLING UNIT.—Sec-  
18 tion 415(c)(1) of the Energy Conservation and Production  
19 Act (42 U.S.C. 6865(c)(1)) is amended by striking  
20 “\$2,500” and inserting “\$5,000”.

21       (c) TRAINING AND TECHNICAL ASSISTANCE.—Sec-  
22 tion 416 of the Energy Conservation and Production Act  
23 (42 U.S.C. 6866) is amended by striking “10 percent”  
24 and inserting “up to 20 percent”.

1 SEC. 406. TECHNICAL CORRECTIONS TO PUBLIC  
2 UTILITY REGULATORY POLICIES ACT OF 1978. (a) Sec-  
3 tion 111(d) of the Public Utility Regulatory Policies Act  
4 of 1978 (16 U.S.C. 2621(d)) is amended by redesignating  
5 paragraph (16) relating to consideration of smart grid in-  
6 vestments (added by section 1307(a) of Public Law 110–  
7 140) as paragraph (18) and by redesignating paragraph  
8 (17) relating to smart grid information (added by section  
9 1308(a) of Public Law 110–140) as paragraph (19).

10 (b) Subsections (b) and (d) of section 112 of the Pub-  
11 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.  
12 2622) are each amended by striking “(17) through (18)”  
13 in each place it appears and inserting “(16) through  
14 (19)”.

15 TITLE V—FINANCIAL SERVICES AND GENERAL

16 GOVERNMENT

17 DEPARTMENT OF THE TREASURY

18 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

19 FUND PROGRAM ACCOUNT

20 For an additional amount for “Community Develop-  
21 ment Financial Institutions Fund Program Account”,  
22 \$250,000,000, to remain available until September 30,  
23 2010, for qualified applicants under the fiscal year 2008  
24 and 2009 funding rounds of the Community Development  
25 Financial Institutions Program, of which up to

1 \$20,000,000 may be for financial assistance, technical as-  
2 sistance, training and outreach programs, including up to  
3 \$5,000 for subsistence expenses, designed to benefit Na-  
4 tive American, Native Hawaiian, and Alaskan Native com-  
5 munities and provided primarily through qualified commu-  
6 nity development lender organizations with experience and  
7 expertise in community development banking and lending  
8 in Indian country, Native American organizations, tribes  
9 and tribal organizations and other suitable providers and  
10 up to \$5,000,000 may be used for administrative ex-  
11 penses: *Provided*, That for purposes of the fiscal year 2008  
12 and 2009 funding rounds, the following statutory provi-  
13 sions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C.  
14 4707(d): *Provided further*, That no awardee, together with  
15 its subsidiaries and affiliates, may be awarded more than  
16 15 percent of the aggregate funds available during each  
17 of fiscal years 2008 and 2009 from the Community Devel-  
18 opment Financial Institutions Program: *Provided further*,  
19 That no later than 60 days after the date of enactment  
20 of this Act, the Department of the Treasury shall submit  
21 to the Committees on Appropriations of the House of Rep-  
22 resentatives and the Senate a detailed expenditure plan  
23 for funds provided under this heading.

1                                   DISTRICT OF COLUMBIA  
2                                   FEDERAL PAYMENTS  
3       FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA  
4                                   WATER AND SEWER AUTHORITY  
5           For a Federal payment to the District of Columbia  
6 Water and Sewer Authority, \$125,000,000, to remain  
7 available until September 30, 2010, to continue implemen-  
8 tation of the Combined Sewer Overflow Long-Term Con-  
9 trol Plan: *Provided*, That the District of Columbia Water  
10 and Sewer Authority provide a 100 percent match for this  
11 payment: *Provided further*, That no later than 60 days  
12 after the date of enactment of this Act, the District of  
13 Columbia Water and Sewer Authority shall submit to the  
14 Committees on Appropriations of the House of Represent-  
15 atives and the Senate a detailed expenditure plan for  
16 funds provided under this heading: *Provided further*, That  
17 such expenditure plan shall include a description of each  
18 specific project, how specific projects will further the ob-  
19 jectives of the Long-Term Control Plan, and all funding  
20 sources for each project.

## 1 GENERAL SERVICES ADMINISTRATION

## 2 REAL PROPERTY ACTIVITIES

## 3 FEDERAL BUILDINGS FUND

## 4 LIMITATIONS ON AVAILABILITY OF REVENUE

## 5 (INCLUDING TRANSFER OF FUNDS)

6 For an additional amount to be deposited in the Fed-  
7 eral Buildings Fund, \$5,548,000,000, to carry out the  
8 purposes of the Fund, of which not less than  
9 \$1,400,000,000 shall be available for Federal buildings  
10 and United States courthouses, not less than  
11 \$1,200,000,000 shall be available for border stations, and  
12 not less than \$2,500,000,000 shall be available for meas-  
13 ures necessary to convert GSA facilities to High-Perform-  
14 ance Green Buildings, as defined in section 401 of Public  
15 Law 110–140: *Provided*, That not to exceed \$108,000,000  
16 of the amounts provided under this heading may be ex-  
17 pended for rental of space, related to leasing of temporary  
18 space in connection with projects funded under this head-  
19 ing: *Provided further*, That not to exceed \$127,000,000  
20 of the amounts provided under this heading may be ex-  
21 pended for building operations, for the administrative  
22 costs of completing projects funded under this heading:  
23 *Provided further*, That not less than \$5,000,000,000 of the  
24 funds provided under this heading shall be obligated by  
25 September 30, 2010: *Provided further*, That the Adminis-

1 trator of General Services is authorized to initiate design,  
2 construction, repair, alteration, and other projects through  
3 existing authorities of the Administrator: *Provided further,*  
4 That the General Services Administration shall submit a  
5 detailed plan, by project, regarding the use of funds made  
6 available in this Act to the Committees on Appropriations  
7 of the House of Representatives and the Senate within 60  
8 days of enactment of this Act: *Provided further,* That of  
9 the amounts provided for converting GSA facilities to  
10 High-Performance Green Buildings, \$4,000,000 shall be  
11 transferred to and merged with “Government-Wide Pol-  
12 icy”, for carrying out the provisions of section 436 of the  
13 Energy Independence and Security Act of 2007 (Public  
14 Law 110–140), establishing an Office of Federal High-  
15 Performance Green Buildings, to remain available until  
16 September 30, 2010: *Provided further,* That within the  
17 overall amount to be deposited into the Fund,  
18 \$448,000,000 shall remain available until September 30,  
19 2011, for the development and construction of the head-  
20 quarters for the Department of Homeland Security, except  
21 that none of the preceding provisos shall apply to amounts  
22 made available under this proviso.

1 ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET  
2 PROCUREMENT

3 For capital expenditures and necessary expenses of  
4 acquiring motor vehicles with higher fuel economy, includ-  
5 ing: hybrid vehicles; neighborhood electric vehicles; electric  
6 vehicles; and commercially-available, plug-in hybrid vehi-  
7 cles, \$300,000,000, to remain available until September  
8 30, 2011.

9 OFFICE OF INSPECTOR GENERAL

10 For an additional amount for the Office of the In-  
11 spector General, to remain available until September 30,  
12 2011, \$2,000,000 and an additional \$5,000,000 for such  
13 purposes, to remain available until September 30, 2012.

14 RECOVERY ACT ACCOUNTABILITY AND  
15 TRANSPARENCY BOARD

16 For necessary expenses of the Recovery Act Account-  
17 ability and Transparency Board to carry out the provi-  
18 sions of title XV of this Act, \$7,000,000, to remain avail-  
19 able until September 30, 2010.

20 SMALL BUSINESS ADMINISTRATION

21 SALARIES AND EXPENSES

22 For an additional amount, to remain available until  
23 September 30, 2010, \$84,000,000, of which \$24,000,000  
24 is for marketing, management, and technical assistance  
25 under section 7(m) of the Small Business Act (15 U.S.C.



1 636(m)(4)) by intermediaries that make microloans under  
2 the microloan program, of which \$15,000,000 is for lender  
3 oversight activities as authorized in section 501(c) of this  
4 title, and of which \$20,000,000 is for improving, stream-  
5 lining, and automating information technology systems re-  
6 lated to lender processes and lender oversight: *Provided,*  
7 That no later than 60 days after the date of enactment  
8 of this Act, the Small Business Administration shall sub-  
9 mit to the Committees on Appropriations of the House  
10 of Representatives and the Senate a detailed expenditure  
11 plan for funds provided under the heading “Small Busi-  
12 ness Administration” in this Act.

13 OFFICE OF INSPECTOR GENERAL

14 For an additional amount for the Office of Inspector  
15 General in carrying out the provisions of the Inspector  
16 General Act of 1978, \$10,000,000, to remain available  
17 until September 30, 2011.

18 SURETY BOND GUARANTEES REVOLVING FUND

19 For additional capital for the Surety Bond Guarantees  
20 Revolving Fund, authorized by the Small Business  
21 Investment Act of 1958, \$15,000,000, to remain available  
22 until expended.

23 BUSINESS LOANS PROGRAM ACCOUNT

24 For an additional amount for the cost of direct loans,  
25 \$6,000,000, to remain available until September 30, 2010,

1 and for an additional amount for the cost of guaranteed  
2 loans, \$615,000,000, to remain available until September  
3 30, 2010: *Provided*, That of the amount for the cost of  
4 guaranteed loans, \$515,000,000 shall be for loan subsidies  
5 and loan modifications for loans to small business con-  
6 cerns authorized in section 501(a) of this title; and  
7 \$100,000,000 shall be for loan subsidies and loan modi-  
8 fications for loans to small business concerns authorized  
9 in section 501(b) of this title: *Provided further*, That such  
10 costs, including the cost of modifying such loans, shall be  
11 as defined in section 502 of the Congressional Budget Act  
12 of 1974.

13 ADMINISTRATIVE PROVISIONS—SMALL BUSINESS

14 ADMINISTRATION

15 SEC. 501. ECONOMIC STIMULUS FOR SMALL BUSI-  
16 NESS CONCERNS. (a) TEMPORARY FEE ELIMINATION FOR  
17 THE 7(a) LOAN PROGRAM.—Until September 30, 2010,  
18 and to the extent that the cost of such elimination of fees  
19 is offset by appropriations, with respect to each loan guar-  
20 anteed under section 7(a) of the Small Business Act (15  
21 U.S.C. 636(a)) for which the application is approved on  
22 or after the date of enactment of this Act, the Adminis-  
23 trator shall—

1 (1) in lieu of the fee otherwise applicable under  
2 section 7(a)(23)(A) of the Small Business Act (15  
3 U.S.C. 636(a)(23)(A)), collect no fee; and

4 (2) in lieu of the fee otherwise applicable under  
5 section 7(a)(18)(A) of the Small Business Act (15  
6 U.S.C. 636(a)(18)(A)), collect no fee.

7 (b) TEMPORARY FEE ELIMINATION FOR THE 504  
8 LOAN PROGRAM.—

9 (1) IN GENERAL.—Until September 30, 2010,  
10 and to the extent the cost of such elimination in fees  
11 is offset by appropriations, with respect to each  
12 project or loan guaranteed by the Administrator  
13 under title V of the Small Business Investment Act  
14 of 1958 (15 U.S.C. 695 et seq.) for which an appli-  
15 cation is approved or pending approval on or after  
16 the date of enactment of this Act—

17 (A) the Administrator shall, in lieu of the  
18 fee otherwise applicable under section 503(d)(2)  
19 of the Small Business Investment Act of 1958  
20 (15 U.S.C. 697(d)(2)), collect no fee;

21 (B) a development company shall, in lieu  
22 of the processing fee under section  
23 120.971(a)(1) of title 13, Code of Federal Reg-  
24 ulations (relating to fees paid by borrowers), or  
25 any successor thereto, collect no fee.

1 (2) REIMBURSEMENT FOR WAIVED FEES.—

2 (A) IN GENERAL.—To the extent that the  
3 cost of such payments is offset by appropria-  
4 tions, the Administrator shall reimburse each  
5 development company that does not collect a  
6 processing fee pursuant to paragraph (1)(B).

7 (B) AMOUNT.—The payment to a develop-  
8 ment company under subparagraph (A) shall be  
9 in an amount equal to 1.5 percent of the net  
10 debenture proceeds for which the development  
11 company does not collect a processing fee pur-  
12 suant to paragraph (1)(B).

13 (c) TEMPORARY FEE ELIMINATION OF LENDER  
14 OVERSIGHT FEES.—Until September 30, 2010, and to the  
15 extent the cost of such elimination in fees is offset by ap-  
16 propriations, the Administrator shall, in lieu of the fee  
17 otherwise applicable under section 5(b)(14) of the Small  
18 Business Act (15 U.S.C. 634(b)(14)), collect no fee.

19 (d) APPLICATION OF FEE ELIMINATIONS.—The Ad-  
20 ministrator shall eliminate fees under subsections (a), (b),  
21 and (c) until the amount provided for such purposes, as  
22 applicable, under the headings “Salaries and Expenses”  
23 and “Business Loans Program Account” under the head-  
24 ing “Small Business Administration” under this Act are  
25 expended.

1        SEC. 502. FINANCIAL ASSISTANCE PROGRAM IM-  
2 PROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Sec-  
3 tion 7(a)(3)(A) of the Small Business Act (15 U.S.C.  
4 636(a)(3)(A)) is amended by striking “\$1,500,000 (or if  
5 the gross loan amount would exceed \$2,000,000)” and in-  
6 serting “\$2,250,000 (or if the gross loan amount would  
7 exceed \$3,000,000)”.

8        (b) SMALL BUSINESS INVESTMENT COMPANIES.—

9            (1) MAXIMUM LEVERAGE.—Section 303(b) of  
10 the Small Business Investment Act of 1958 (15  
11 U.S.C. 683(b)) is amended—

12            (A) in paragraph (2), by striking subpara-  
13 graphs (A), (B), and (C) and inserting the fol-  
14 lowing:

15            “(A) IN GENERAL.—The maximum  
16 amount of outstanding leverage made available  
17 to any 1 company licensed under section 301(c)  
18 may not exceed the lesser of—

19            “(i) 300 percent of the private capital  
20 of the company; or

21            “(ii) \$150,000,000.

22            “(B) MULTIPLE LICENSES UNDER COM-  
23 MON CONTROL.—The maximum amount of out-  
24 standing leverage made available to 2 or more  
25 companies licensed under section 301(c) that

1 are commonly controlled (as determined by the  
2 Administrator) may not exceed \$225,000,000.

3 “(C) INVESTMENTS IN LOW-INCOME GEO-  
4 GRAPHIC AREAS.—

5 “(i) IN GENERAL.—The maximum  
6 amount of outstanding leverage made  
7 available to—

8 “(I) any 1 company described in  
9 clause (ii) may not exceed the lesser  
10 of—

11 “(aa) 300 percent of private  
12 capital of the company; or

13 “(bb) \$175,000,000; and

14 “(II) 2 or more companies de-  
15 scribed in clause (ii) that are com-  
16 monly controlled (as determined by  
17 the Administrator) may not exceed  
18 \$250,000,000.

19 “(ii) APPLICABILITY.—A company de-  
20 scribed in this clause is a company licensed  
21 under section 301(c) that certifies in writ-  
22 ing that not less than 50 percent of the  
23 dollar amount of investments of that com-  
24 pany shall be made in companies that are  
25 located in a low-income geographic area

1 (as that term is defined in section 351).”;

2 and

3 (B) by striking paragraph (4).

4 (2) INVESTMENTS IN SMALLER ENTER-  
5 PRISES.—Section 303(d) of the Small Business In-  
6 vestment Act of 1958 (15 U.S.C. 683(d)) is amend-  
7 ed to read as follows:

8 “(d) INVESTMENTS IN SMALLER ENTERPRISES.—  
9 The Administrator shall require each licensee, as a condi-  
10 tion of approval of an application for leverage, to certify  
11 in writing that not less than 25 percent of the aggregate  
12 dollar amount of financings of that licensee shall be pro-  
13 vided to smaller enterprises.”.

14 (3) MAXIMUM INVESTMENT IN A COMPANY.—  
15 Section 306(a) of the Small Business Investment  
16 Act of 1958 (15 U.S.C. 686(a)) is amended by strik-  
17 ing “20 per centum” and inserting “30 percent”.

18 (c) MAXIMUM 504 LOAN SIZE.—Section 502(2)(A)  
19 of the Small Business Investment Act of 1958 (15 U.S.C.  
20 696(2)(A)) is amended—

21 (1) in clause (i), by striking “\$1,500,000” and  
22 inserting “\$3,000,000”;

23 (2) in clause (ii), by striking “\$2,000,000” and  
24 inserting “\$3,500,000”; and

1           (3) in clause (iii), by striking “\$4,000,000” and  
2           inserting “\$5,500,000”.

3           SEC. 503. LOW-INTEREST REFINANCING. Section  
4           502 of the Small Business Investment Act of 1958 (15  
5           U.S.C. 696) is amended by adding at the end the fol-  
6           lowing:

7           “(7) PERMISSIBLE DEBT FINANCING.—A fi-  
8           nancing under this title may include refinancing of  
9           existing indebtedness, in an amount not to exceed 50  
10          percent of the projected cost of the project financed  
11          under this title, if—

12                   “(A) the project financed under this title  
13                   involves the expansion of a small business con-  
14                   cern;

15                   “(B) the existing indebtedness is  
16                   collateralized by fixed assets;

17                   “(C) the existing indebtedness was in-  
18                   curred for the benefit of the small business con-  
19                   cern;

20                   “(D) the proceeds of the existing indebted-  
21                   ness were used to acquire land (including a  
22                   building situated thereon), to construct or ex-  
23                   pand a building thereon, or to purchase equip-  
24                   ment;



1           “(E) the borrower has been current on all  
2           payments due on the existing indebtedness for  
3           not less than 1 year preceding the proposed  
4           date of refinancing;

5           “(F) the financing under this title will pro-  
6           vide better terms or a better rate of interest  
7           than exists on the existing indebtedness on the  
8           proposed date of refinancing;

9           “(G) the financing under this title is not  
10          being used to refinance any debt guaranteed by  
11          the Government; and

12          “(H) the financing under this title will be  
13          used only for—

14                  “(i) refinancing existing indebtedness;

15                  or

16                  “(ii) costs relating to the project fi-  
17                  nanced under this title.”.

18          SEC. 504. DEFINITIONS. Under the heading “Small  
19          Business Administration” in this title—

20                  (1) the terms “Administration” and “Adminis-  
21                  trator” mean the Small Business Administration  
22                  and the Administrator thereof, respectively;

23                  (2) the term “development company” has the  
24                  meaning given the term “development companies” in

1 section 103 of the Small Business Investment Act of  
2 1958 (15 U.S.C. 662); and

3 (3) the term “small business concern” has the  
4 same meaning as in section 3 of the Small Business  
5 Act (15 U.S.C. 632).

6 **SEC. 505. SURETY BONDS.**

7 (a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of  
8 the Small Business Investment Act of 1958 (15 U.S.C.  
9 694b(a)(1)) is amended—

10 (1) by inserting “(A)” after “(1)”;

11 (2) by striking “\$2,000,000” and inserting  
12 “\$5,000,000”; and

13 (3) by adding at the end the following:

14 “(B) The Administrator may guarantee a surety  
15 under subparagraph (A) for a total work order or contract  
16 amount that does not exceed \$10,000,000, if a contracting  
17 officer of a Federal agency certifies that such a guarantee  
18 is necessary.”.

19 (b) SIZE STANDARDS.—Section 410 of the Small  
20 Business Investment Act of 1958 (15 U.S.C. 694a) is  
21 amended by adding at the end the following:

22 “(9) Notwithstanding any other provision of  
23 law or any rule, regulation, or order of the Adminis-  
24 tration, for purposes of sections 410, 411, and 412  
25 the term ‘small business concern’ means a business

1 concern that meets the size standard for the primary  
2 industry in which such business concern, and the af-  
3 filiates of such business concern, is engaged, as de-  
4 termined by the Administrator in accordance with  
5 the North American Industry Classification Sys-  
6 tem.”.

7 (c) SUNSET.—The amendments made by this section  
8 shall remain in effect until September 30, 2010.

9 SEC. 506.—OFFICE OF INSPECTOR GENERAL. For  
10 an additional amount for “Treasury Office of Inspector  
11 General for Tax Administration”, \$7,000,000, to remain  
12 available until September 30, 2012, for oversight and  
13 audit of programs grants and activities funded under this  
14 title.

15 TITLE VI—DEPARTMENT OF HOMELAND  
16 SECURITY

17 DEPARTMENT OF HOMELAND SECURITY

18 OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

19 For an additional amount for the “Office of the  
20 Under Secretary for Management”, \$198,000,000, to re-  
21 main available until September 30, 2011, solely for plan-  
22 ning, design, and construction costs, including site secu-  
23 rity, information technology infrastructure, fixtures, and  
24 related costs to consolidate the Department of Homeland  
25 Security headquarters: *Provided*, That no later than 60

1 days after the date of enactment of this Act, the Secretary  
2 of Homeland Security, in consultation with the Adminis-  
3 trator of General Services, shall submit to the Committees  
4 on Appropriations of the Senate and the House of Rep-  
5 resentatives a plan for the expenditure of these funds.

6 OFFICE OF INSPECTOR GENERAL

7 For an additional amount for the “Office of Inspector  
8 General”, \$5,000,000, to remain available until September  
9 30, 2012, for oversight and audit of programs, grants, and  
10 projects funded under this title.

11 U.S. CUSTOMS AND BORDER PROTECTION

12 SALARIES AND EXPENSES

13 For an additional amount for “Salaries and Ex-  
14 penses”, \$198,000,000, to remain available until Sep-  
15 tember 30, 2010, of which \$100,800,000 shall be for the  
16 procurement and deployment of non-intrusive inspection  
17 systems to improve port security; and of which  
18 \$97,200,000 shall be for procurement and deployment of  
19 tactical communications equipment and radios: *Provided,*  
20 That no later than 45 days after the date of enactment  
21 of this Act, the Secretary of Homeland Security shall sub-  
22 mit to the Committees on Appropriations of the Senate  
23 and the House of Representatives a plan for expenditure  
24 of these funds.

1 BORDER SECURITY FENCING, INFRASTRUCTURE, AND  
2 TECHNOLOGY

3 For an additional amount for “Border Security Fenc-  
4 ing, Infrastructure, and Technology”, \$200,000,000, to  
5 remain available until September 30, 2010, for expedited  
6 development and deployment of border security technology  
7 on the Southwest border: *Provided*, That no later than 45  
8 days after the date of enactment of this Act, the Secretary  
9 of Homeland Security shall submit to the Committees on  
10 Appropriations of the Senate and the House of Represent-  
11 atives a plan for expenditure of these funds.

12 CONSTRUCTION

13 For an additional amount for “Construction”,  
14 \$800,000,000, to remain available until expended, solely  
15 for planning, management, design, alteration, and con-  
16 struction of U.S. Customs and Border Protection owned  
17 land border ports of entry: *Provided*, That no later than  
18 45 days after the date of enactment of this Act, the Sec-  
19 retary of Homeland Security shall submit to the Commit-  
20 tees on Appropriations of the Senate and the House of  
21 Representatives a plan for expenditure of these funds.

22 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

23 AUTOMATION MODERNIZATION

24 For an additional amount for “Automation Mod-  
25 ernization”, \$27,800,000, to remain available until Sep-

1 tember 30, 2010, for the procurement and deployment of  
2 tactical communications equipment and radios: *Provided*,  
3 That no later than 45 days after the date of enactment  
4 of this Act, the Secretary of Homeland Security shall sub-  
5 mit to the Committees on Appropriations of the Senate  
6 and the House of Representatives a plan for expenditure  
7 of these funds.

8           TRANSPORTATION SECURITY ADMINISTRATION

9                           AVIATION SECURITY

10          For an additional amount for “Aviation Security”,  
11 \$1,000,000,000, to remain available until September 30,  
12 2010, for procurement and installation of checked baggage  
13 explosives detection systems and checkpoint explosives de-  
14 tection equipment: *Provided*, That no later than 45 days  
15 after the date of enactment of this Act, the Secretary of  
16 Homeland Security shall submit to the Committees on Ap-  
17 propriations of the Senate and the House of Representa-  
18 tives a plan for the expenditure of these funds.

19                           COAST GUARD

20           ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

21          For an additional amount for “Acquisition, Construc-  
22 tion, and Improvements”, \$450,000,000, to remain avail-  
23 able until September 30, 2010, of which \$195,000,000  
24 shall be for shore facilities and aids to navigation facilities;  
25 and of which \$255,000,000 shall be for priority procure-

1 ments due to materials and labor cost increases, and to  
2 repair, renovate, assess, or improve vessels: *Provided*, That  
3 amounts made available for the activities under this head-  
4 ing shall be available for all necessary expenses related to  
5 the oversight and management of such activities: *Provided*  
6 *further*, That no later than 45 days after the date of enact-  
7 ment of this Act, the Secretary of Homeland Security shall  
8 submit to the Committees on Appropriations of the Senate  
9 and the House of Representatives a plan for the expendi-  
10 ture of these funds.

11 ALTERATION OF BRIDGES

12 For an additional amount for “Alteration of  
13 Bridges”, \$240,400,000, to remain available until Sep-  
14 tember 30, 2010, for alteration or removal of obstructive  
15 bridges, as authorized by section 6 of the Truman-Hobbs  
16 Act (33 U.S.C. 516): *Provided*, That no later than 45 days  
17 after the date of enactment of this Act, the Secretary of  
18 Homeland Security shall submit to the Committees on Ap-  
19 propriations of the Senate and the House of Representa-  
20 tives a plan for the expenditure of these funds.

21 FEDERAL EMERGENCY MANAGEMENT AGENCY

22 MANAGEMENT AND ADMINISTRATION

23 For an additional amount for “Management and Ad-  
24 ministration”, \$6,000,000 for the acquisition of commu-

1 nications response vehicles to be deployed in response to  
2 a disaster or a national security event.

3 STATE AND LOCAL PROGRAMS

4 For an additional amount for grants, \$950,000,000,  
5 to be allocated as follows:

6 (1) \$100,000,000, to remain available until  
7 September 30, 2010, for Public Transportation Se-  
8 curity Assistance, Railroad Security Assistance, and  
9 Systemwide Amtrak Security Upgrades under sec-  
10 tions 1406, 1513, and 1514 of the Implementing  
11 Recommendations of the 9/11 Commission Act of  
12 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163,  
13 and 1164).

14 (2) \$100,000,000, to remain available until  
15 September 30, 2010, for Port Security Grants in ac-  
16 cordance with 46 U.S.C. 70107, notwithstanding 46  
17 U.S.C. 70107(c).

18 (3) \$250,000,000, to remain available until  
19 September 30, 2010, for upgrading, modifying, or  
20 constructing emergency operations centers under  
21 section 614 of the Robert T. Stafford Disaster Relief  
22 and Emergency Assistance Act, notwithstanding sec-  
23 tion 614(c) of that Act or for upgrading, modifying,  
24 or constructing State and local fusion centers as de-



1        fined by section 210A(j)(1) of the Homeland Secu-  
2        rity Act of 2002 (6 U.S.C. 124h(j)(1)).

3            (4) \$500,000,000 for construction to upgrade  
4        or modify critical infrastructure, as defined in sec-  
5        tion 1016(e) of the USA PATRIOT Act of 2001 (42  
6        U.S.C. 5195c(e)), to mitigate consequences related  
7        to potential damage from all-hazards: *Provided*,  
8        That funds in this paragraph shall remain available  
9        until September 30, 2011: *Provided further*, That 5  
10       percent shall be for program administration: *Pro-*  
11       *vided further*, That no later than 60 days after the  
12       date of enactment of this Act, the Secretary of  
13       Homeland Security shall submit to the Committees  
14       on Appropriations of the Senate and the House of  
15       Representatives a plan for expenditure of these  
16       funds.

17                            FIREFIGHTER ASSISTANCE GRANTS

18        For an additional amount for competitive grants,  
19        \$500,000,000, to remain available until September 30,  
20        2010, for modifying, upgrading, or constructing State and  
21        local fire stations: *Provided*, That up to 5 percent shall  
22        be for program administration: *Provided further*, That no  
23        grant shall exceed \$15,000,000.

1 DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

2 Notwithstanding section 417(b) of the Robert T.  
3 Stafford Disaster Relief and Emergency Assistance Act,  
4 the amount of any such loan issued pursuant to this sec-  
5 tion for major disasters occurring in calendar year 2008  
6 may exceed \$5,000,000, and may be equal to not more  
7 than 50 percent of the annual operating budget of the  
8 local government in any case in which that local govern-  
9 ment has suffered a loss of 25 percent or more in tax reve-  
10 nues: *Provided*, That the cost of modifying such loans shall  
11 be as defined in section 502 of the Congressional Budget  
12 Act of 1974 (2 U.S.C. 661a).

13 EMERGENCY FOOD AND SHELTER

14 For an additional amount to carry out the emergency  
15 food and shelter program pursuant to title III of the  
16 McKinney-Vento Homeless Assistance Act (42 U.S.C.  
17 11331 et seq.), \$100,000,000: *Provided*, That total admin-  
18 istrative costs shall not exceed 3.5 percent of the total  
19 amount made available under this heading.

20 FEDERAL LAW ENFORCEMENT TRAINING CENTER

21 ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND

22 RELATED EXPENSES

23 For an additional amount for “Acquisition, Construc-  
24 tion, Improvements, and Related Expenses”, \$15,000,000,  
25 to remain available until September 30, 2010, for security

1 systems and law enforcement upgrades for all Federal  
2 Law Enforcement Training Center facilities: *Provided*,  
3 That no later than 45 days after the date of enactment  
4 of this Act, the Secretary of Homeland Security shall sub-  
5 mit to the Committees on Appropriations of the Senate  
6 and the House of Representatives a plan for the expendi-  
7 ture of these funds.

8           GENERAL PROVISIONS—THIS TITLE

9           SEC. 601. Notwithstanding any other provision of  
10 law, the President shall establish an arbitration panel  
11 under the Federal Emergency Management Agency public  
12 assistance program to expedite the recovery efforts from  
13 Hurricanes Katrina, Rita, Gustav, and Ike within the Gulf  
14 Coast Region. The arbitration panel shall have sufficient  
15 authority regarding the award or denial of disputed public  
16 assistance applications for covered hurricane damage  
17 under section 403, 406, or 407 of the Robert T. Stafford  
18 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
19 5170b, 5172, or 5173) for a project the total amount of  
20 which is more than \$500,000.

21           SEC. 602. The Administrator of the Federal Emer-  
22 gency Management Agency may not prohibit or restrict  
23 the use of funds designated under the hazard mitigation  
24 grant program for damage caused by Hurricanes Katrina  
25 and Rita if the homeowner who is an applicant for assist-

1   ance under such program commenced work otherwise eligi-  
2   ble for hazard mitigation grant program assistance under  
3   section 404 of the Robert T. Stafford Disaster Relief and  
4   Emergency Assistance Act (42 U.S.C. 5170c) without ap-  
5   proval in writing from the Administrator.

6       TITLE VII—INTERIOR, ENVIRONMENT, AND  
7                                    RELATED AGENCIES

8                   DEPARTMENT OF THE INTERIOR

9                                BUREAU OF LAND MANAGEMENT

10                                       MANAGEMENT OF LANDS AND RESOURCES

11       For an additional amount for “Management of Lands  
12   and Resources”, \$135,000,000, to remain available until  
13   September 30, 2010.

14                                       CONSTRUCTION

15       For an additional amount for “Construction”,  
16   \$180,000,000, to remain available until September 30,  
17   2010.

18                                       WILDLAND FIRE MANAGEMENT

19       For an additional amount for “Wildland Fire Man-  
20   agement”, \$15,000,000, to remain available until Sep-  
21   tember 30, 2010.

1 UNITED STATES FISH AND WILDLIFE SERVICE  
2 RESOURCE MANAGEMENT

3 For an additional amount for “Resource Manage-  
4 ment”, \$165,000,000, to remain available until September  
5 30, 2010.

6 CONSTRUCTION

7 For an additional amount for “Construction”,  
8 \$110,000,000, to remain available until September 30,  
9 2010.

10 NATIONAL PARK SERVICE

11 OPERATION OF THE NATIONAL PARK SYSTEM

12 For an additional amount for “Operation of the Na-  
13 tional Park System”, \$158,000,000, to remain available  
14 until September 30, 2010.

15 CONSTRUCTION

16 For an additional amount for “Construction”,  
17 \$589,000,000, to remain available until September 30,  
18 2010.

19 UNITED STATES GEOLOGICAL SURVEY

20 SURVEYS, INVESTIGATIONS, AND RESEARCH

21 For an additional amount for “Surveys, Investiga-  
22 tions, and Research”, \$135,000,000, to remain available  
23 until September 30, 2010.

## 1 BUREAU OF INDIAN AFFAIRS

## 2 OPERATION OF INDIAN PROGRAMS

3 For an additional amount for “Operation of Indian  
4 Programs”, \$40,000,000, to remain available until Sep-  
5 tember 30, 2010, of which \$20,000,000 shall be for the  
6 housing improvement program.

## 7 CONSTRUCTION

8 For an additional amount for “Construction”,  
9 \$522,000,000, to remain available until September 30,  
10 2010.

## 11 INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

12 For an additional amount for “Indian Guaranteed  
13 Loan Program Account”, \$10,000,000, to remain avail-  
14 able until September 30, 2010.

## 15 DEPARTMENTAL OFFICES

## 16 INSULAR AFFAIRS

## 17 ASSISTANCE TO TERRITORIES

18 For an additional amount for “Assistance to Terri-  
19 tories”, \$62,000,000, to remain available until September  
20 30, 2010.

## 21 OFFICE OF INSPECTOR GENERAL

## 22 SALARIES AND EXPENSES

23 For an additional amount for “Office of Inspector  
24 General”, \$7,600,000, to remain available until September

1 30, 2011, and an additional \$7,400,000 for such purposes,  
2 to remain available until September 30, 2011.

3 DEPARTMENT-WIDE PROGRAMS

4 CENTRAL HAZARDOUS MATERIALS FUND

5 For an additional amount for “Central Hazardous  
6 Materials Fund”, \$20,000,000, to remain available until  
7 September 30, 2010.

8 ENVIROMENTAL PROTECTION AGENCY

9 HAZARDOUS SUBSTANCE SUPERFUND

10 (INCLUDING TRANSFERS OF FUNDS)

11 For an additional amount for “Hazardous Substance  
12 Superfund”, \$600,000,000, to remain available until Sep-  
13 tember 30, 2010, as a payment from general revenues to  
14 the Hazardous Substance Superfund, to carry out reme-  
15 dial actions: *Provided*, That the Administrator may retain  
16 up to 2 percent of the funds appropriated herein for  
17 Superfund remedial actions for program oversight and  
18 support purposes, and may transfer those funds to other  
19 accounts as needed.

20 LEAKING UNDERGROUND STORAGE TANK TRUST FUND

21 PROGRAM

22 For an additional amount for “Leaking Underground  
23 Storage Tank Trust Fund Program”, \$200,000,0000, to  
24 remain available until September 30, 2010, for cleanup

1 activities: *Provided*, That none of these funds shall be sub-  
2 ject to cost share requirements.

3 STATE AND TRIBAL ASSISTANCE GRANTS

4 (INCLUDING TRANSFERS OF FUNDS)

5 For an additional amount for “State and Tribal As-  
6 sistance Grants”, \$6,400,000,000, to remain available  
7 until September 30, 2010, of which \$4,000,000,000 shall  
8 be for making capitalization grants for the Clean Water  
9 State Revolving Funds under title VI of the Federal Water  
10 Pollution Control Act, as amended; of which  
11 \$2,000,000,000 shall be for making capitalization grants  
12 for the Drinking Water State Revolving Fund under sec-  
13 tion 1452 of the Safe Drinking Water Act, as amended;  
14 of which \$100,000,000 shall be available for Brownfields  
15 remediation grants pursuant to section 104(k)(3) of the  
16 Comprehensive Environmental Response, Compensation  
17 and Liability Act of 1980, as amended; and of which  
18 \$300,000,000 shall be for Diesel Emission Reduction Act  
19 grants pursuant to title VII, subtitle G of the Energy Pol-  
20 icy Act of 2005, as amended: *Provided*, That notwith-  
21 standing the priority ranking they would otherwise receive  
22 under each program, priority for funds appropriated here-  
23 in for the Clean Water State Revolving Funds and Drink-  
24 ing Water State Revolving Funds (Revolving Funds) shall  
25 be allocated to projects that are ready to proceed to con-



1 struction within 180 days of enactment of this Act: *Pro-*  
2 *vided further*, That the Administrator of the Environ-  
3 mental Protection Agency (Administrator) may reallocate  
4 funds appropriated herein for the Revolving Funds that  
5 are not under binding commitments to proceed to con-  
6 struction within 180 days of enactment of this Act: *Pro-*  
7 *vided further*, That notwithstanding any other provision of  
8 law, financial assistance provided from funds appropriated  
9 herein for the Revolving Funds may include additional  
10 subsidization, including forgiveness of principal and nega-  
11 tive interest loans: *Provided further*, That not less than  
12 15 percent of the funds appropriated herein for the Re-  
13 volving Funds shall be designated for green infrastructure,  
14 water efficiency improvements or other environmentally  
15 innovative projects: *Provided further*, That notwith-  
16 standing the limitation on amounts specified in section  
17 518(c) of the Federal Water Pollution Control Act, up to  
18 a total of 1.5 percent of the funds appropriated herein  
19 for the Clean Water State Revolving Funds may be re-  
20 served by the Administrator for tribal grants under section  
21 518(c) of such Act: *Provided further*, That section 1452(k)  
22 of the Safe Drinking Water Act shall not apply to amounts  
23 appropriated herein for the Drinking Water State Revolv-  
24 ing Funds: *Provided further*, That the Administrator may  
25 exceed the 30 percent limitation on State grants for funds

1 appropriated herein for Diesel Emission Reduction Act  
2 grants if the Administrator determines such action will ex-  
3 pedite allocation of funds: *Provided further*, That none of  
4 the funds appropriated herein shall be subject to cost  
5 share requirements: *Provided further*, That the Adminis-  
6 trator may retain up to 0.25 percent of the funds appro-  
7 priated herein for the Clean Water State Revolving Funds  
8 and Drinking Water State Revolving Funds and up to 1.5  
9 percent of the funds appropriated herein for the Diesel  
10 Emission Reduction Act grants program for program  
11 oversight and support purposes and may transfer those  
12 funds to other accounts as needed.

13 DEPARTMENT OF AGRICULTURE

14 FOREST SERVICE

15 CAPITAL IMPROVEMENT AND MAINTENANCE

16 For an additional amount for “Capital Improvement  
17 and Maintenance”, \$650,000,000, to remain available  
18 until September 30, 2010, which shall include remediation  
19 of abandoned mine sites and support costs necessary to  
20 carry out this work.

21 WILDLAND FIRE MANAGEMENT

22 For an additional amount for “Wildland Fire Man-  
23 agement”, \$485,000,000, to remain available until Sep-  
24 tember 30, 2010, for hazardous fuels reduction and haz-  
25 ard mitigation activities in areas at high risk of cata-

1 strophic wildfire, of which \$260,000,000 is available for  
2 work on State and private lands using all the authorities  
3 available to the Forest Service: *Provided*, That of the  
4 funds provided for State and private land fuels reduction  
5 activities, up to \$50,000,000 may be used to make grants  
6 for the purpose of creating incentives for increased use  
7 of biomass from national forest lands.

8 DEPARTMENT OF HEALTH AND HUMAN  
9 SERVICES

10 INDIAN HEALTH SERVICE

11 INDIAN HEALTH SERVICES

12 For an additional amount for “Indian Health Serv-  
13 ices”, \$135,000,000, to remain available until September  
14 30, 2010, of which \$50,000,000 is for contract health  
15 services; and of which \$85,000,000 is for health informa-  
16 tion technology: *Provided*, That the amount made avail-  
17 able for health information technology activities may be  
18 used for both telehealth services development and related  
19 infrastructure requirements that are typically funded  
20 through the “Indian Health Facilities” account: *Provided*  
21 *further*, That notwithstanding any other provision of law,  
22 health information technology funds provided within this  
23 title shall be allocated at the discretion of the Director  
24 of the Indian Health Service.

## 1 INDIAN HEALTH FACILITIES

2 For an additional amount for “Indian Health Facili-  
3 ties”, \$410,000,000, to remain available until September  
4 30, 2010: *Provided*, That for the purposes of this Act,  
5 spending caps included within the annual appropriation  
6 for “Indian Health Facilities” for the purchase of medical  
7 equipment shall not apply.

## 8 SMITHSONIAN INSTITUTION

## 9 FACILITIES CAPITAL

10 For an additional amount for “Facilities Capital”,  
11 \$75,000,000, to remain available until September 30,  
12 2010.

## 13 GENERAL PROVISIONS—THIS TITLE

14 SEC. 701. (a) Within 30 days of enactment of this  
15 Act, each agency receiving funds under this title shall sub-  
16 mit a general plan for the expenditure of such funds to  
17 the House and Senate Committees on Appropriations.

18 (b) Within 90 days of enactment of this Act, each  
19 agency receiving funds under this title shall submit to the  
20 Committees a report containing detailed project level in-  
21 formation associated with the general plan submitted pur-  
22 suant to subsection (a).

23 SEC. 702. In carrying out the work for which funds  
24 in this title are being made available, the Secretary of the  
25 Interior and the Secretary of Agriculture may utilize the

1 Public Lands Corps, Youth Conservation Corps, Job  
2 Corps and other related partnerships with Federal, State,  
3 local, tribal or non-profit groups that serve young adults.

4 TITLE VIII—DEPARTMENTS OF LABOR,  
5 HEALTH AND HUMAN SERVICES, AND EDU-  
6 CATION, AND RELATED AGENCIES

7 DEPARTMENT OF LABOR

8 EMPLOYMENT AND TRAINING ADMINISTRATION

9 TRAINING AND EMPLOYMENT SERVICES

10 For an additional amount for “Training and Employ-  
11 ment Services” for activities authorized by the Workforce  
12 Investment Act of 1998 (“WIA”), \$3,250,000,000, which  
13 shall be available on the date of enactment of this Act,  
14 as follows:

15 (1) \$500,000,000 for adult employment and  
16 training activities, including supportive services and  
17 needs-related payments described in section  
18 134(e)(2) and (3) of the WIA: *Provided*, That a pri-  
19 ority use of these funds shall be services to individ-  
20 uals described in 134(d)(4)(E) of the WIA;

21 (2) \$1,200,000,000 for grants to the States for  
22 youth activities, including summer employment for  
23 youth: *Provided*, That no portion of such funds shall  
24 be reserved to carry out section 127(b)(1)(A) of the  
25 WIA: *Provided further*, That for purposes of section

1 127(b)(1)(C)(iv) of the WIA, funds available for  
2 youth activities shall be allotted as if the total  
3 amount available for youth activities in the fiscal  
4 year does not exceed \$1,000,000,000: *Provided fur-*  
5 *ther*, That, with respect to the youth activities pro-  
6 vided with such funds, section 101(13)(A) of the  
7 WIA shall be applied by substituting “age 24” for  
8 “age 21”: *Provided further*, That the work readiness  
9 performance indicator described in section  
10 136(b)(2)(A)(ii)(I) of the WIA shall be the only  
11 measure of performance used to assess the effective-  
12 ness of youth activities provided with such funds;

13 (3) \$1,000,000,000 for grants to the States for  
14 dislocated worker employment and training activi-  
15 ties;

16 (4) \$200,000,000 for national emergency  
17 grants;

18 (5) \$250,000,000 under the dislocated worker  
19 national reserve for a program of competitive grants  
20 for worker training in high growth and emerging in-  
21 dustry sectors and assistance under 132(b)(2)(A) of  
22 the WIA: *Provided*, That the Secretary of Labor  
23 shall give priority when awarding such grants to  
24 projects that prepare workers for careers in energy  
25 efficiency and renewable energy as described in sec-

1 tion 171(e)(1)(B) of the WIA and for careers in the  
2 health care sector; and

3 (6) \$100,000,000 for YouthBuild activities as  
4 described in section 173A of the WIA: *Provided,*  
5 That for program years 2008 and 2009, the  
6 YouthBuild program may serve an individual who  
7 has dropped out of high school and re-enrolled in an  
8 alternative school, if that re-enrollment is part of a  
9 sequential service strategy:

10 *Provided,* That funds made available in this  
11 paragraph shall remain available through June 30,  
12 2010: *Provided further,* That a local board may  
13 award a contract to an institution of higher edu-  
14 cation if the local board determines that it would fa-  
15 cilitate the training of multiple individuals in high-  
16 demand occupations, if such contract does not limit  
17 customer choice.

18 COMMUNITY SERVICE EMPLOYMENT FOR OLDER

19 AMERICANS

20 For an additional amount for “Community Service  
21 Employment for Older Americans” for carrying out title  
22 V of the Older Americans Act of 1965, \$120,000,000,  
23 which shall be available on the date of enactment of this  
24 Act and shall remain available through June 30, 2010:  
25 *Provided,* That funds shall be allotted within 30 days of

1 such enactment to current grantees in proportion to their  
2 allotment in program year 2008: *Provided further*, That  
3 funds made available under this heading in this Act may,  
4 in accordance with section 517(c) of the Older Americans  
5 Act of 1965, be recaptured and reobligated.

6 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT  
7 SERVICE OPERATIONS

8 For an additional amount for “State Unemployment  
9 Insurance and Employment Service Operations” for  
10 grants to States in accordance with section 6 of the Wag-  
11 ner-Peyser Act, \$400,000,000, which may be expended  
12 from the Employment Security Administration account in  
13 the Unemployment Trust Fund: *Provided*, That such  
14 funds shall be available on the date of enactment of this  
15 Act and remain available to the States through September  
16 30, 2010: *Provided further*, That \$250,000,000 of such  
17 funds shall be used by States for reemployment services  
18 for unemployment insurance claimants (including the inte-  
19 grated Employment Service and Unemployment Insurance  
20 information technology required to identify and serve the  
21 needs of such claimants): *Provided further*, That the Sec-  
22 retary of Labor shall establish planning and reporting pro-  
23 cedures necessary to provide oversight of funds used for  
24 reemployment services.



## 1 DEPARTMENTAL MANAGEMENT

## 2 OFFICE OF JOB CORPS

3 For an additional amount for “Office of Job Corps”  
4 for construction, alteration and repairs of buildings and  
5 other facilities, \$160,000,000, which shall remain avail-  
6 able through June 30, 2010: *Provided*, That the Secretary  
7 of Labor may transfer up to 15 percent of such funds to  
8 meet the operational needs of Job Corps Centers, which  
9 may include training for careers in the energy efficiency,  
10 renewable energy, and environmental protection indus-  
11 tries: *Provided further*, That not later than 90 days after  
12 the date of enactment of this Act, the Secretary shall pro-  
13 vide to the Committee on Appropriations of the House of  
14 Representatives and the Senate an operating plan describ-  
15 ing the planned uses of funds available in this paragraph.

## 16 OFFICE OF INSPECTOR GENERAL

17 For an additional amount for the “Office of Inspector  
18 General”, \$3,000,000, which shall remain available  
19 through September 30, 2011, for salaries and expenses  
20 necessary for oversight and audit of programs, grants, and  
21 projects funded in this Act and administered by the De-  
22 partment of Labor.

1 DEPARTMENT OF HEALTH AND HUMAN  
2 SERVICES

3 HEALTH RESOURCES AND SERVICES ADMINISTRATION  
4 HEALTH RESOURCES AND SERVICES

5 For an additional amount for “Health Resources and  
6 Services”, \$1,958,000,000, which shall remain available  
7 through September 30, 2010, of which \$88,000,000 shall  
8 be for necessary expenses related to leasing and renovating  
9 a headquarters building for Public Health Service agencies  
10 and other components of the Department of Health and  
11 Human Services, including renovation and fit-out costs,  
12 and of which \$1,870,000,000 shall be for grants for con-  
13 struction, renovation and equipment for health centers re-  
14 ceiving operating grants under section 330 of the Public  
15 Health Service Act, notwithstanding the limitation in sec-  
16 tion 330(e)(3).

17 CENTERS FOR DISEASE CONTROL AND PREVENTION  
18 DISEASE CONTROL, RESEARCH, AND TRAINING

19 For an additional amount for “Disease Control, Re-  
20 search, and Training” for acquisition of real property,  
21 equipment, construction, and renovation of facilities, in-  
22 cluding necessary repairs and improvements to leased lab-  
23 oratories, \$412,000,000, which shall remain available  
24 through September 30, 2010: *Provided*, That notwith-  
25 standing any other provision of law, the Centers for Dis-

1 ease Control and Prevention may award a single contract  
2 or related contracts for development and construction of  
3 facilities that collectively include the full scope of the  
4 project: *Provided further*, That the solicitation and con-  
5 tract shall contain the clause “availability of funds” found  
6 at 48 CFR 52.232–18.

7 NATIONAL INSTITUTES OF HEALTH

8 NATIONAL CENTER FOR RESEARCH RESOURCES

9 For an additional amount for “National Center for  
10 Research Resources”, \$300,000,000, which shall be avail-  
11 able through September 30, 2010, for shared instrumenta-  
12 tion and other capital research equipment.

13 OFFICE OF THE DIRECTOR

14 (INCLUDING TRANSFER OF FUNDS)

15 For an additional amount for “Office of the Direc-  
16 tor”, \$2,700,000,000, which shall be available through  
17 September 30, 2010: *Provided*, That \$1,350,000,000 shall  
18 be transferred to the Institutes and Centers of the Na-  
19 tional Institutes of Health and to the Common Fund es-  
20 tablished under section 402A(c)(1) of the Public Health  
21 Service Act in proportion to the appropriations otherwise  
22 made to such Institutes, Centers, and Common Fund for  
23 fiscal year 2009: *Provided further*, That these funds shall  
24 be used to support additional scientific research and shall  
25 be merged with and be available for the same purposes

1 as the appropriation or fund to which transferred: *Pro-*  
2 *vided further*, That this transfer authority is in addition  
3 to any other transfer authority available to the National  
4 Institutes of Health: *Provided further*, That none of these  
5 funds may be transferred to “National Institutes of  
6 Health—Buildings and Facilities”, the Center for Sci-  
7 entific Review, the Center for Information Technology, the  
8 Clinical Center, the Global Fund for HIV/AIDS, Tuber-  
9 culosis and Malaria, or the Office of the Director (except  
10 for the transfer to the Common Fund).

11       The additional amount available for ‘Office of the Di-  
12 rector’ in the previous sentence shall be increased by  
13 \$6,500,000,000: *Provided*, That a total of \$7,850,000,000  
14 shall be transferred pursuant to such sentence: *Provided*  
15 *further*, That any amounts in this sentence shall be des-  
16 igned as an emergency requirement and necessary to  
17 meet emergency needs pursuant to section 204(a) of S.  
18 Con. Res. 21 (110th Congress) and section 301(b)(2) of  
19 S. Con. Res. 70 (110th Congress), the concurrent resolu-  
20 tions on the budget for fiscal years 2008 and 2009.

21                                   BUILDINGS AND FACILITIES

22       For an additional amount for “Buildings and Facili-  
23 ties”, \$500,000,000, which shall be available through Sep-  
24 tember 30, 2010, to fund high-priority repair, construction  
25 and improvement projects for National Institutes of

1 Health facilities on the Bethesda, Maryland campus and  
2 other agency locations.

3 AGENCY FOR HEALTHCARE RESEARCH AND QUALITY  
4 HEALTHCARE RESEARCH AND QUALITY  
5 (INCLUDING TRANSFER OF FUNDS)

6 For an additional amount for “Healthcare Research  
7 and Quality” to carry out titles III and IX of the Public  
8 Health Service Act, part A of title XI of the Social Secu-  
9 rity Act, and section 1013 of the Medicare Prescription  
10 Drug, Improvement, and Modernization Act of 2003,  
11 \$700,000,000 for comparative clinical effectiveness re-  
12 search, which shall remain available through September  
13 30, 2010: *Provided*, That of the amount appropriated in  
14 this paragraph, \$400,000,000 shall be transferred to the  
15 Office of the Director of the National Institutes of Health  
16 (“Office of the Director”) to conduct or support compara-  
17 tive clinical effectiveness research under section 301 and  
18 title IV of the Public Health Service Act: *Provided further*,  
19 That funds transferred to the Office of the Director may  
20 be transferred to the Institutes and Centers of the Na-  
21 tional Institutes of Health and to the Common Fund es-  
22 tablished under section 402A(c)(1) of the Public Health  
23 Service Act: *Provided further*, That this transfer authority  
24 is in addition to any other transfer authority available to  
25 the National Institutes of Health: *Provided further*, That

1 within the amount available in this paragraph for the  
2 Agency for Healthcare Research and Quality, not more  
3 than 1 percent shall be made available for additional full-  
4 time equivalents.

5       In addition, \$400,000,000 shall be available for com-  
6 parative clinical effectiveness research to be allocated at  
7 the discretion of the Secretary of Health and Human  
8 Services (“Secretary”) and shall remain available through  
9 September 30, 2010: *Provided*, That the funding appro-  
10 priated in this paragraph shall be used to accelerate the  
11 development and dissemination of research assessing the  
12 comparative clinical effectiveness of health care treat-  
13 ments and strategies, including through efforts that: (1)  
14 conduct, support, or synthesize research that compares the  
15 clinical outcomes, effectiveness, and appropriateness of  
16 items, services, and procedures that are used to prevent,  
17 diagnose, or treat diseases, disorders, and other health  
18 conditions and (2) encourage the development and use of  
19 clinical registries, clinical data networks, and other forms  
20 of electronic health data that can be used to generate or  
21 obtain outcomes data: *Provided further*, That the Sec-  
22 retary shall enter into a contract with the Institute of  
23 Medicine, for which no more than \$1,500,000 shall be  
24 made available from funds provided in this paragraph, to  
25 produce and submit a report to the Congress and the Sec-

1 retary by not later than June 30, 2009 that includes rec-  
2 ommendations on the national priorities for comparative  
3 clinical effectiveness research to be conducted or sup-  
4 ported with the funds provided in this paragraph and that  
5 considers input from stakeholders: *Provided further*, That  
6 the Secretary shall consider any recommendations of the  
7 Federal Coordinating Council for Comparative Clinical Ef-  
8 fectiveness Research established by section 802 of this Act  
9 and any recommendations included in the Institute of  
10 Medicine report pursuant to the preceding proviso in des-  
11 ignating activities to receive funds provided in this para-  
12 graph and may make grants and contracts with appro-  
13 priate entities, which may include agencies within the De-  
14 partment of Health and Human Services and other gov-  
15 ernmental agencies, as well as private sector entities, that  
16 have demonstrated experience and capacity to achieve the  
17 goals of comparative clinical effectiveness research: *Pro-*  
18 *vided further*, That the Secretary shall publish information  
19 on grants and contracts awarded with the funds provided  
20 under this heading within a reasonable time of the obliga-  
21 tion of funds for such grants and contracts and shall dis-  
22 seminate research findings from such grants and contracts  
23 to clinicians, patients, and the general public, as appro-  
24 priate: *Provided further*, That, to the extent feasible, the  
25 Secretary shall ensure that the recipients of the funds pro-

1 vided by this paragraph offer an opportunity for public  
2 comment on the research: *Provided further*, That the Sec-  
3 retary shall provide the Committees on Appropriations of  
4 the House of Representatives and the Senate, the Com-  
5 mittee on Energy and Commerce and the Committee on  
6 Ways and Means of the House of Representatives, and the  
7 Committee on Health, Education, Labor, and Pensions  
8 and the Committee on Finance of the Senate with an an-  
9 nual report on the research conducted or supported  
10 through the funds provided under this heading.

11       ADMINISTRATION FOR CHILDREN AND FAMILIES  
12       PAYMENTS TO STATES FOR THE CHILD CARE AND  
13                   DEVELOPMENT BLOCK GRANT

14       For an additional amount for “Payments to States  
15 for the Child Care and Development Block Grant” for car-  
16 rying out the Child Care and Development Block Grant  
17 Act of 1990, \$2,000,000,000, which shall remain available  
18 through September 30, 2010: *Provided*, That funds pro-  
19 vided under this heading shall be used to supplement, not  
20 supplant State general revenue funds for child care assist-  
21 ance for low-income families: *Provided further*, That, in  
22 addition to the amounts required to be reserved by the  
23 States under section 658G of such Act, \$255,186,000  
24 shall be reserved by the States for activities authorized



1 under section 658G, of which \$93,587,000 shall be for ac-  
2 tivities that improve the quality of infant and toddler care.

3 SOCIAL SERVICES BLOCK GRANT

4 For an additional amount for “Social Services Block  
5 Grant,” \$400,000,000: *Provided*, That notwithstanding  
6 section 2003 of the Social Security Act, funds shall be al-  
7 located to States on the basis of unemployment: *Provided*  
8 *further*, That these funds shall be obligated to States with-  
9 in 60 calendar days from the date they become available  
10 for obligation.

11 CHILDREN AND FAMILIES SERVICES PROGRAMS

12 For an additional amount for “Children and Families  
13 Services Programs” for carrying out activities under the  
14 Head Start Act, \$500,000,000, which shall remain avail-  
15 able through September 30, 2010. In addition,  
16 \$550,000,000, which shall remain available through Sep-  
17 tember 30, 2010, is hereby appropriated for expansion of  
18 Early Head Start programs, as described in section 645A  
19 of such Act: *Provided*, That of the funds provided in this  
20 sentence, up to 10 percent shall be available for the provi-  
21 sion of training and technical assistance to such programs  
22 consistent with section 645A(g)(2) of such Act, and up  
23 to 3 percent shall be available for monitoring the operation  
24 of such programs consistent with section 641A of such  
25 Act.

1 For an additional amount for “Children and Families  
2 Services Programs” for carrying out activities under sec-  
3 tions 674 through 679 of the Community Services Block  
4 Grant Act, \$200,000,000, which shall remain available  
5 through September 30, 2010: *Provided*, That of the funds  
6 provided under this paragraph, no part shall be subject  
7 to paragraph (3) of section 674(b) of such Act: *Provided*  
8 *further*, That not less than 5 percent of the funds allotted  
9 to a State from the appropriation under this paragraph  
10 shall be used under section 675C(b)(1) for benefits enroll-  
11 ment coordination activities relating to the identification  
12 and enrollment of eligible individuals and families in Fed-  
13 eral, State and local benefit programs.

14 ADMINISTRATION ON AGING

15 AGING SERVICES PROGRAMS

16 For an additional amount for “Aging Services Pro-  
17 grams,” \$100,000,000, of which \$67,000,000 shall be for  
18 Congregate Nutrition Services and \$33,000,000 shall be  
19 for Home-Delivered Nutrition Services: *Provided*, That  
20 these funds shall remain available through September 30,  
21 2010.

1                                   OFFICE OF THE SECRETARY  
2   OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH  
3                                   INFORMATION TECHNOLOGY  
4                                   (INCLUDING TRANSFER OF FUNDS)

5       For an additional amount for “Office of the National  
6 Coordinator for Health Information Technology”,  
7 \$3,000,000,000, to carry out title XIII of this Act which  
8 shall be available until expended: *Provided*, That of this  
9 amount, the Secretary of Health and Human Services  
10 shall transfer \$20,000,000 to the Director of the National  
11 Institute of Standards and Technology in the Department  
12 of Commerce for continued work on advancing health care  
13 information enterprise integration through activities such  
14 as technical standards analysis and establishment of con-  
15 formance testing infrastructure so long as such activities  
16 are coordinated with the Office of the National Coordi-  
17 nator for Health Information Technology: *Provided fur-*  
18 *ther*, That funds available under this heading shall become  
19 available for obligation only upon submission of an annual  
20 operating plan by the Secretary to the Committees on Ap-  
21 propriations of the House of Representatives and the Sen-  
22 ate: *Provided further*, That the Secretary shall provide to  
23 the Committees on Appropriations of the House of Rep-  
24 resentatives and the Senate a report on the actual obliga-  
25 tions, expenditures, and unobligated balances for each

1 major set of activities not later than November 1, 2009  
2 and every 6 months thereafter as long as funding under  
3 this heading is available for obligation or expenditure.

4 OFFICE OF THE INSPECTOR GENERAL

5 For an additional amount for the Office of the In-  
6 spector General, \$4,000,000 which shall remain available  
7 until September 30, 2012, and an additional \$15,000,000  
8 for such purposes, to remain available until September 30,  
9 2012.

10 DEPARTMENT OF EDUCATION

11 EDUCATION FOR THE DISADVANTAGED

12 For an additional amount for carrying out title I of  
13 the Elementary and Secondary Education Act of 1965,  
14 \$12,400,000,000, which shall be available through Sep-  
15 tember 30, 2010: *Provided*, That \$5,500,000,000 shall be  
16 for targeted grants under section 1125, \$5,500,000,000  
17 shall be for education finance incentive grants under sec-  
18 tion 1125A, and \$1,400,000,000 shall be for school im-  
19 provement grants under section 1003(g): *Provided further*,  
20 That each local educational agency receiving funds avail-  
21 able under this paragraph for sections 1125 and 1125A  
22 shall use not less than 15 percent of such funds for activi-  
23 ties serving children who are eligible pursuant to section  
24 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K):  
25 *Provided further*, That each local educational agency re-

1 ceiving funds available under this paragraph shall be re-  
2 quired to file with the State educational agency, no later  
3 than December 1, 2009, a school-by-school listing of per-  
4 pupil educational expenditures from State and local  
5 sources during the 2008–2009 academic year.

6                   SCHOOL IMPROVEMENT PROGRAMS

7           For an additional amount for “School Improvement  
8 Programs,” \$1,070,000,000, which shall be available  
9 through September 30, 2010, for carrying out activities  
10 authorized by part D of title II of the Elementary and  
11 Secondary Education Act of 1965, and subtitle B of title  
12 VII of the McKinney-Vento Homeless Assistance Act  
13 (“McKinney-Vento”): *Provided*, That the Secretary shall  
14 allot \$70,000,000 for grants under McKinney-Vento to  
15 each State in proportion to the number of homeless stu-  
16 dents identified by the State during the 2007–2008 school  
17 year relative to the number of such children identified na-  
18 tionally during that school year: *Provided further*, That  
19 State educational agencies shall subgrant the McKinney-  
20 Vento funds to local educational agencies on a competitive  
21 basis or according to a formula based on the number of  
22 homeless students identified by the local educational agen-  
23 cies in the State: *Provided further*, That the Secretary  
24 shall distribute the McKinney-Vento funds to the States  
25 not later than 60 days after the date of the enactment

1 of this Act: *Provided further*, That each State shall  
2 subgrant the McKinney-Vento funds to local educational  
3 agencies not later than 120 days after receiving its grant  
4 from the Secretary.

5 SPECIAL EDUCATION

6 For an additional amount for “Special Education”  
7 for carrying out parts B and C of the Individuals with  
8 Disabilities Education Act (“IDEA”), \$13,500,000,000,  
9 which shall remain available through September 30, 2010:  
10 *Provided*, That if every State, as defined by section  
11 602(31) of the IDEA, reaches its maximum allocation  
12 under section 611(d)(3)(B)(iii) of the IDEA, and there  
13 are remaining funds, such funds shall be proportionally  
14 allocated to each State subject to the maximum amounts  
15 contained in section 611(a)(2) of the IDEA: *Provided fur-*  
16 *ther*, That by July 1, 2009, the Secretary of Education  
17 shall reserve the amount needed for grants under section  
18 643(e) of the IDEA, with any remaining funds to be allo-  
19 cated in accordance with section 643(c) of the IDEA: *Pro-*  
20 *vided further*, That the amount for section 611(b)(2) of  
21 the IDEA shall be equal to the lesser of the amount avail-  
22 able for that activity during fiscal year 2008, increased  
23 by the amount of inflation as specified in section  
24 619(d)(2)(B), or the percentage increase in the funds ap-  
25 propriated under section 611(i): *Provided further*, That

1 each local educational agency receiving funds available  
2 under this paragraph for part B shall use not less than  
3 15 percent for special education and related services to  
4 children described in section 619(a) of the IDEA.

5 REHABILITATION SERVICES AND DISABILITY RESEARCH

6 For an additional amount for “Rehabilitation Serv-  
7 ices and Disability Research” for providing grants to  
8 States to carry out the Vocational Rehabilitation Services  
9 program under part B of title I and parts B and C of  
10 chapter 1 and chapter 2 of title VII of the Rehabilitation  
11 Act of 1973, \$610,000,000, which shall remain available  
12 through September 30, 2010: *Provided*, That  
13 \$500,000,000 shall be available for part B of title I of  
14 the Rehabilitation Act: *Provided further*, That funds pro-  
15 vided herein shall not be considered in determining the  
16 amount required to be appropriated under section  
17 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal  
18 year: *Provided further*, That, notwithstanding section  
19 7(14)(A), the Federal share of the costs of vocational re-  
20 habilitation services provided with the funds provided  
21 herein shall be 100 percent.

22 STUDENT FINANCIAL ASSISTANCE

23 For an additional amount for “Student Financial As-  
24 sistance” to carry out subpart 1 of part A of title IV of  
25 the Higher Education Act of 1965, \$13,869,000,000: *Pro-*

1 *vided*, That such funds shall be used to increase the max-  
2 imum Pell Grant by \$281 for award year 2009–2010, to  
3 increase the maximum Pell Grant by \$400 for the award  
4 year 2010–2011, and to reduce or eliminate the Pell Grant  
5 shortfall: *Provided further*, That these funds shall remain  
6 available through September 30, 2011.

7 For an additional amount for “Student Financial As-  
8 sistance” to carry out part E of title IV of the Higher  
9 Education Act of 1965, \$61,000,000: *Provided*, That  
10 these funds shall remain available through September 30,  
11 2010.

#### 12 HIGHER EDUCATION

13 For an additional amount for “Higher Education”  
14 for carrying out activities under part A of title II of the  
15 Higher Education Act of 1965, \$50,000,000: *Provided*,  
16 That these funds shall remain available through Sep-  
17 tember 30, 2010.

#### 18 DEPARTMENTAL MANAGEMENT

##### 19 OFFICE OF THE INSPECTOR GENERAL

20 For an additional amount for the “Office of the In-  
21 spector General”, \$4,000,000, which shall remain avail-  
22 able through September 30, 2012, for salaries and ex-  
23 penses necessary for oversight and audit of programs,  
24 grants, and projects funded in this Act and administered  
25 by the Department of Education and an additional



1 \$10,000,000 for such purposes, to remain available until  
2 September 30, 2012.

3 RELATED AGENCIES

4 CORPORATION FOR NATIONAL AND

5 COMMUNITY SERVICE

6 OPERATING EXPENSES

7 (INCLUDING TRANSFER OF FUNDS)

8 For an additional amount for “Operating Expenses”  
9 to carry out the Domestic Volunteer Service Act of 1973  
10 (“1973 Act”) and the National and Community Service  
11 Act of 1990 (“1990 Act”), \$160,000,000, to remain avail-  
12 able through September 30, 2010: *Provided*, That funds  
13 made available in this paragraph may be used to provide  
14 adjustments to awards under subtitle C of title I of the  
15 1990 Act made prior to September 30, 2010 for which  
16 the Chief Executive Officer of the Corporation for Na-  
17 tional and Community Service (“CEO”) determines that  
18 a waiver of the Federal share limitation is warranted  
19 under section 2521.70 of title 45 of the Code of Federal  
20 Regulations: *Provided further*, That of the amount made  
21 available in this paragraph, not less than \$6,000,000 shall  
22 be transferred to “Salaries and Expenses” for necessary  
23 expenses relating to information technology upgrades:  
24 *Provided further*, That of the amount provided in this  
25 paragraph, \$10,000,000 shall be available for additional

1 members in the Civilian Community Corps authorized  
2 under subtitle E of title I of the 1990 Act: *Provided fur-*  
3 *ther*, That of the amount provided in this paragraph,  
4 \$1,000,000 shall be made available for a one-time supple-  
5 ment grant to State commissions on national and commu-  
6 nity service under section 126(a) of the 1990 Act without  
7 regard to the limitation on Federal share under section  
8 126(a)(2) of the 1990 Act: *Provided further*, That of the  
9 amount made available in this paragraph, not less than  
10 \$13,000,000 shall be for research activities authorized  
11 under subtitle H of title I of the 1990 Act: *Provided fur-*  
12 *ther*, That of the amount made available in this paragraph,  
13 not less than \$65,000,000 shall be for programs under  
14 title I, part A of the 1973 Act: *Provided further*, That  
15 funds provided in the previous proviso shall not be made  
16 available in connection with cost-share agreements author-  
17 ized under section 192A(g)(10) of the 1990 Act: *Provided*  
18 *further*, That of the funds available under this heading,  
19 up to 20 percent of funds allocated to grants authorized  
20 under section 124(b) of title I, subtitle C of the 1990 Act  
21 may be used to administer, reimburse, or support any na-  
22 tional service program under section 129(d)(2) of the  
23 1990 Act: *Provided further*, That, except as provided here-  
24 in and in addition to requirements identified herein, funds  
25 provided in this paragraph shall be subject to the terms

1 and conditions under which funds were appropriated in  
2 fiscal year 2008: *Provided further*, That the CEO shall  
3 provide the Committees on Appropriations of the House  
4 of Representatives and the Senate a fiscal year 2009 oper-  
5 ating plan for the funds appropriated in this paragraph  
6 prior to making any Federal obligations of such funds in  
7 fiscal year 2009, but not later than 90 days after the date  
8 of enactment of this Act, and a fiscal year 2010 operating  
9 plan for such funds prior to making any Federal obliga-  
10 tions of such funds in fiscal year 2010, but not later than  
11 November 1, 2009, that detail the allocation of resources  
12 and the increased number of members supported by the  
13 AmeriCorps programs: *Provided further*, That the CEO  
14 shall provide to the Committees on Appropriations of the  
15 House of Representatives and the Senate a report on the  
16 actual obligations, expenditures, and unobligated balances  
17 for each activity funded under this heading not later than  
18 November 1, 2009, and every 6 months thereafter as long  
19 as funding provided under this heading is available for ob-  
20 ligation or expenditure.

21 OFFICE OF THE INSPECTOR GENERAL

22 For an additional amount for the Office of the In-  
23 spector General, \$1,000,000, which shall remain available  
24 until September 30, 2011.

## 1 NATIONAL SERVICE TRUST

2 (INCLUDING TRANSFER OF FUNDS)

3 For an additional amount for “National Service  
4 Trust” established under subtitle D of title I of the Na-  
5 tional and Community Service Act of 1990 (“1990 Act”),  
6 \$40,000,000, which shall remain available until expended:  
7 *Provided*, That the Corporation for National and Commu-  
8 nity Service may transfer additional funds from the  
9 amount provided within “Operating Expenses” for grants  
10 made under subtitle C of title I of the 1990 Act to this  
11 appropriation upon determination that such transfer is  
12 necessary to support the activities of national service par-  
13 ticipants and after notice is transmitted to the Committees  
14 on Appropriations of the House of Representatives and the  
15 Senate: *Provided further*, the amount appropriated for or  
16 transferred to the National Service Trust may be invested  
17 under section 145(b) of the 1990 Act without regard to  
18 the requirement to apportion funds under 31 U.S.C.  
19 1513(b).

## 20 SOCIAL SECURITY ADMINISTRATION

21 LIMITATION ON ADMINISTRATIVE EXPENSES

22 (INCLUDING TRANSFER OF FUNDS)

23 For an additional amount for “Limitation on Admin-  
24 istrative Expenses”, \$890,000,000 shall be available as  
25 follows:

1           (1) \$750,000,000 shall remain available until  
2           expended for necessary expenses of the replacement  
3           of the National Computer Center and the informa-  
4           tion technology costs associated with such Center:  
5           *Provided*, That the Commissioner of Social Security  
6           shall notify the Committees on Appropriations of the  
7           House of Representatives and the Senate not later  
8           than 10 days prior to each public notice soliciting  
9           bids related to site selection and construction: *Pro-*  
10          *vided further*, That unobligated balances of funds  
11          not needed for this purpose may be used as de-  
12          scribed in subparagraph (2); and

13          (2) \$140,000,000 shall be available through  
14          September 30, 2010 for information technology ac-  
15          quisitions and research, which may include research  
16          and activities to facilitate the adoption of electronic  
17          medical records in disability claims and the transfer  
18          of funds to “Supplemental Security Income” to  
19          carry out activities under section 1110 of the Social  
20          Security Act: *Provided further*, That not later than  
21          10 days prior to the obligation of such funds, the  
22          Commissioner shall provide to the Committees on  
23          Appropriations of the House of Representatives and  
24          the Senate an operating plan describing the planned  
25          uses of such funds.

## 1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for the “Office of Inspector  
3 General”, \$3,000,000, which shall remain available  
4 through September 30, 2012, for salaries and expenses  
5 necessary for oversight and audit of programs, projects,  
6 and activities funded in this Act and administered by the  
7 Social Security Administration.

## 8 GENERAL PROVISIONS—THIS TITLE

9 SEC. 801. REPORT ON THE IMPACT OF PAST AND  
10 FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—  
11 Section 8104 of the U.S. Troop Readiness, Veterans’  
12 Care, Katrina Recovery, and Iraq Accountability Appro-  
13 priations Act, 2007 (Public Law 110–28; 121 Stat. 189)  
14 is amended to read as follows:

15 **“SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE**  
16 **MINIMUM WAGE INCREASES.**

17 “(a) STUDY.—Beginning on the date that is 60 days  
18 after the date of enactment of this Act, and every year  
19 thereafter until the minimum wage in the respective terri-  
20 tory is \$7.25 per hour, the Government Accountability Of-  
21 fice shall conduct a study to—

22 “(1) assess the impact of the minimum wage  
23 increases that occurred in American Samoa and the  
24 Commonwealth of the Northern Mariana Islands in  
25 2007 and 2008, as required under Public Law 110–

1 28, on the rates of employment and the living stand-  
2 ards of workers, with full consideration of the other  
3 factors that impact rates of employment and the liv-  
4 ing standards of workers such as inflation in the  
5 cost of food, energy, and other commodities; and

6 “(2) estimate the impact of any further wage  
7 increases on rates of employment and the living  
8 standards of workers in American Samoa and the  
9 Commonwealth of the Northern Mariana Islands,  
10 with full consideration of the other factors that may  
11 impact the rates of employment and the living  
12 standards of workers, including assessing how the  
13 profitability of major private sector firms may be  
14 impacted by wage increases in comparison to other  
15 factors such as energy costs and the value of tax  
16 benefits.

17 “(b) REPORT.—No earlier than March 15, 2009, and  
18 not later than April 15, 2009, the Government Account-  
19 ability Office shall transmit its first report to Congress  
20 concerning the findings of the study required under sub-  
21 section (a). The Government Accountability Office shall  
22 transmit any subsequent reports to Congress concerning  
23 the findings of a study required by subsection (a) between  
24 March 15 and April 15 of each year.

1       “(c) ECONOMIC INFORMATION.—To provide suffi-  
2 cient economic data for the conduct of the study under  
3 subsection (a)—

4               “(1) the Department of Labor shall include and  
5 separately report on American Samoa and the Com-  
6 monwealth of the Northern Mariana Islands in its  
7 household surveys and establishment surveys;

8               “(2) the Bureau of Economic Analysis of the  
9 Department of Commerce shall include and sepa-  
10 rately report on American Samoa and the Common-  
11 wealth of the Northern Mariana Islands in its gross  
12 domestic product data; and

13               “(3) the Bureau of the Census of the Depart-  
14 ment of Commerce shall include and separately re-  
15 port on American Samoa and the Commonwealth of  
16 the Northern Mariana Islands in its population esti-  
17 mates and demographic profiles from the American  
18 Community Survey,

19 with the same regularity and to the same extent as the  
20 Department or each Bureau collects and reports such data  
21 for the 50 States. In the event that the inclusion of Amer-  
22 ican Samoa and the Commonwealth of the Northern Mar-  
23 iana Islands in such surveys and data compilations re-  
24 quires time to structure and implement, the Department  
25 of Labor, the Bureau of Economic Analysis, and the Bu-



1 reau of the Census (as the case may be) shall in the in-  
2 terim annually report the best available data that can fea-  
3 sibly be secured with respect to such territories. Such in-  
4 terim reports shall describe the steps the Department or  
5 the respective Bureau will take to improve future data col-  
6 lection in the territories to achieve comparability with the  
7 data collected in the United States. The Department of  
8 Labor, the Bureau of Economic Analysis, and the Bureau  
9 of the Census, together with the Department of the Inte-  
10 rior, shall coordinate their efforts to achieve such improve-  
11 ments.”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall take effect on the date of enactment of  
14 this Act.

15 SEC. 802. FEDERAL COORDINATING COUNCIL FOR  
16 COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a)  
17 ESTABLISHMENT.—There is hereby established a Federal  
18 Coordinating Council for Comparative Clinical Effective-  
19 ness Research (in this section referred to as the “Coun-  
20 cil”).

21 (b) PURPOSE; DUTIES.—The Council shall—

22 (1) assist the offices and agencies of the Fed-  
23 eral Government, including the Departments of  
24 Health and Human Services, Veterans Affairs, and  
25 Defense, and other Federal departments or agencies,

1 to coordinate the conduct or support of comparative  
2 clinical effectiveness and related health services re-  
3 search; and

4 (2) advise the President and Congress on—

5 (A) strategies with respect to the infra-  
6 structure needs of comparative clinical effective-  
7 ness research within the Federal Government;

8 (B) appropriate organizational expendi-  
9 tures for comparative clinical effectiveness re-  
10 search by relevant Federal departments and  
11 agencies; and

12 (C) opportunities to assure optimum co-  
13 ordination of comparative clinical effectiveness  
14 and related health services research conducted  
15 or supported by relevant Federal departments  
16 and agencies, with the goal of reducing duplica-  
17 tive efforts and encouraging coordinated and  
18 complementary use of resources.

19 (c) MEMBERSHIP.—

20 (1) NUMBER AND APPOINTMENT.—The Council  
21 shall be composed of not more than 15 members, all  
22 of whom are senior Federal officers or employees  
23 with responsibility for health-related programs, ap-  
24 pointed by the President, acting through the Sec-  
25 retary of Health and Human Services (in this sec-

1 tion referred to as the “Secretary”). Members shall  
2 first be appointed to the Council not later than 30  
3 days after the date of the enactment of this Act.

4 (2) MEMBERS.—

5 (A) IN GENERAL.—The members of the  
6 Council shall include one senior officer or em-  
7 ployee from each of the following agencies:

8 (i) The Agency for Healthcare Re-  
9 search and Quality.

10 (ii) The Centers for Medicare and  
11 Medicaid Services.

12 (iii) The National Institutes of  
13 Health.

14 (iv) The Office of the National Coor-  
15 dinator for Health Information Tech-  
16 nology.

17 (v) The Food and Drug Administra-  
18 tion.

19 (vi) The Veterans Health Administra-  
20 tion within the Department of Veterans  
21 Affairs.

22 (vii) The office within the Department  
23 of Defense responsible for management of  
24 the Department of Defense Military  
25 Health Care System.

1           (B) QUALIFICATIONS.—At least half of the  
2           members of the Council shall be physicians or  
3           other experts with clinical expertise.

4           (3) CHAIRMAN; VICE CHAIRMAN.—The Sec-  
5           retary shall serve as Chairman of the Council and  
6           shall designate a member to serve as Vice Chairman.

7           (d) REPORTS.—

8           (1) INITIAL REPORT.—Not later than June 30,  
9           2009, the Council shall submit to the President and  
10          the Congress a report containing information de-  
11          scribing Federal activities on comparative clinical ef-  
12          fectiveness research and recommendations for addi-  
13          tional investments in such research conducted or  
14          supported from funds made available for allotment  
15          by the Secretary for comparative clinical effective-  
16          ness research in this Act.

17          (2) ANNUAL REPORT.—The Council shall sub-  
18          mit to the President and Congress an annual report  
19          regarding its activities and recommendations con-  
20          cerning the infrastructure needs, appropriate organi-  
21          zational expenditures and opportunities for better  
22          coordination of comparative clinical effectiveness re-  
23          search by relevant Federal departments and agen-  
24          cies.

1 (e) STAFFING; SUPPORT.—From funds made avail-  
2 able for allotment by the Secretary for comparative clinical  
3 effectiveness research in this Act, the Secretary shall make  
4 available not more than 1 percent to the Council for staff  
5 and administrative support.

6 (TRANSFER OF FUNDS)

7 SEC. 803. (a) Not more than 1 percent of the funds  
8 made available to the Department of Labor in this title  
9 may be transferred by the Secretary of Labor to “Employ-  
10 ment and Training Administration—Program Administra-  
11 tion”, “Employment Standards Administration—Salaries  
12 and Expenses”, “Occupational Safety and Health Admin-  
13 istration—Salaries and Expenses” and “Departmental  
14 Management—Salaries and Expenses” for expenses nec-  
15 essary to administer and coordinate funds made available  
16 to the Department of Labor in this title; oversee and  
17 evaluate the use of such funds; and enforce applicable laws  
18 and regulations governing worker rights and protections  
19 associated with the funds made available in this Act.

20 (b) Not later than 10 days prior to obligating any  
21 funds proposed to be transferred under subsection (a), the  
22 Secretary shall provide to the Committees on Appropria-  
23 tions of the House of Representatives and the Senate an  
24 operating plan describing the planned uses of each amount  
25 proposed to be transferred.

1 (c) Funds transferred under this section may be  
2 available for obligation through September 30, 2010.

3 SEC. 804. ELIGIBLE EMPLOYEES IN THE REC-  
4 REATIONAL MARINE INDUSTRY. Section 2(3)(F) of the  
5 Longshore and Harbor Workers' Compensation Act (33  
6 U.S.C. 902(3)(F)) is amended—

7 (1) by striking “, repair or dismantle”; and

8 (2) by striking the semicolon and inserting “, or  
9 individuals employed to repair any recreational ves-  
10 sel, or to dismantle any part of a recreational vessel  
11 in connection with the repair of such vessel;”.

12 TITLE IX—LEGISLATIVE BRANCH  
13 GOVERNMENT ACCOUNTABILITY OFFICE  
14 SALARIES AND EXPENSES

15 For an additional amount for “Salaries and Ex-  
16 penses” of the Government Accountability Office,  
17 \$20,000,000, to remain available until September 30,  
18 2010.

19 GENERAL PROVISIONS—THIS TITLE

20 SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE  
21 REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

22 (1) IN GENERAL.—The Comptroller General  
23 shall conduct bimonthly reviews and prepare reports  
24 on such reviews on the use by selected State and lo-  
25 calities of funds made available in this Act. Such re-

1       ports, along with any audits conducted by the Comp-  
2       troller General of such funds, shall be posted on the  
3       Internet and linked to the website established under  
4       this Act by the Recovery Accountability and Trans-  
5       parency Board.

6           (2) REDACTIONS.—Any portion of a report or  
7       audit under this subsection may be redacted when  
8       made publicly available, if that portion would dis-  
9       close information that is not subject to disclosure  
10      under section 552 of title 5, United States Code  
11      (commonly known as the Freedom of Information  
12      Act).

13      (b) EXAMINATION OF RECORDS.—The Comptroller  
14      General may examine any records related to obligations  
15      of funds made available in this Act.

16      SEC. 902. ACCESS OF GOVERNMENT ACCOUNT-  
17      ABILITY OFFICE. Each contract awarded using funds  
18      made available in this Act shall provide that the Comp-  
19      troller General and his representatives are authorized—

20           (1) to examine any records of the contractor or  
21      any of its subcontractors, or any State or local agen-  
22      cy administering such contract, that directly pertain  
23      to, and involve transactions relating to, the contract  
24      or subcontract; and

1           (2) to interview any current employee regarding  
2           such transactions.

3           TITLE X—MILITARY CONSTRUCTION AND  
4           VETERANS AFFAIRS, AND RELATED AGENCIES  
5                           DEPARTMENT OF DEFENSE  
6                           MILITARY CONSTRUCTION, ARMY

7           For an additional amount for “Military Construction,  
8           Army”, \$637,875,000, to remain available until Sep-  
9           tember 30, 2013, of which \$84,100,000 shall be for child  
10          development centers; \$481,000,000 shall be for warrior  
11          transition complexes; and \$42,400,000 shall be for health  
12          and dental clinics (including acquisition, construction, in-  
13          stallation, and equipment): *Provided*, That notwith-  
14          standing any other provision of law, such funds may be  
15          obligated and expended to carry out planning and design  
16          and military construction projects in the United States not  
17          otherwise authorized by law: *Provided further*, That of the  
18          funds provided under this heading, not to exceed  
19          \$30,375,000 shall be available for study, planning, design,  
20          and architect and engineer services: *Provided further*, That  
21          within 30 days of enactment of this Act the Secretary of  
22          the Army shall submit to the Committees on Appropria-  
23          tions of both Houses of Congress an expenditure plan for  
24          funds provided under this heading prior to obligation.



## 1 MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

2 For an additional amount for “Military Construction,  
3 Navy and Marine Corps”, \$990,092,000, to remain avail-  
4 able until September 30, 2013, of which \$172,820,000  
5 shall be for child development centers; \$174,304,000 shall  
6 be for barracks; \$125,000,000 shall be for health clinic  
7 replacement, and \$494,362,000 shall be for energy con-  
8 servation and alternative energy projects (including acqui-  
9 sition, construction, installation, and equipment): *Pro-*  
10 *vided*, That notwithstanding any other provision of law,  
11 such funds may be obligated and expended to carry out  
12 planning and design and military construction projects in  
13 the United States not otherwise authorized by law: *Pro-*  
14 *vided further*, That of the funds provided under this head-  
15 ing, not to exceed \$23,606,000 shall be available for study,  
16 planning, design, and architect and engineer services: *Pro-*  
17 *vided further*, That within 30 days of enactment of this  
18 Act the Secretary of the Navy shall submit to the Commit-  
19 tees on Appropriations of both Houses of Congress an ex-  
20 penditure plan for funds provided under this heading prior  
21 to obligation.

## 22 MILITARY CONSTRUCTION, AIR FORCE

23 For an additional amount for “Military Construction,  
24 Air Force”, \$871,332,000, to remain available until Sep-  
25 tember 30, 2013, of which \$80,100,000 shall be for child

1 development centers; \$612,246,000 shall be for dor-  
2 mitories; and \$138,100,000 shall be for health clinics (in-  
3 cluding acquisition, construction, installation, and equip-  
4 ment): *Provided*, That notwithstanding any other provi-  
5 sion of law, such funds may be obligated and expended  
6 to carry out planning and design and military construction  
7 projects in the United States not otherwise authorized by  
8 law: *Provided further*, That of the funds provided under  
9 this heading, not to exceed \$40,886,000 shall be available  
10 for study, planning, design, and architect and engineer  
11 services: *Provided further*, That within 30 days of enact-  
12 ment of this Act the Secretary of the Air Force shall sub-  
13 mit to the Committees on Appropriations of both Houses  
14 of Congress an expenditure plan for funds provided under  
15 this heading prior to obligation.

16           MILITARY CONSTRUCTION, DEFENSE-WIDE

17           For an additional amount for “Military Construction,  
18 Defense-Wide”, \$118,560,000 for the Energy Conserva-  
19 tion Investment Program, to remain available until Sep-  
20 tember 30, 2010: *Provided*, That notwithstanding any  
21 other provision of law, such funds may be obligated and  
22 expended to carry out planning and design and military  
23 construction projects in the United States not otherwise  
24 authorized by law: *Provided further*, That within 30 days  
25 of enactment of this Act the Secretary of Defense shall

1 submit to the Committees on Appropriations of both  
2 Houses of Congress an expenditure plan for funds pro-  
3 vided under this heading prior to obligation.

4 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

5 For an additional amount for “Military Construction,  
6 Army National Guard”, \$150,000,000 for readiness cen-  
7 ters (including construction, acquisition, expansion, reha-  
8 bilitation, and conversion), to remain available until Sep-  
9 tember 30, 2013: *Provided*, That notwithstanding any  
10 other provision of law, such funds may be obligated and  
11 expended to carry out planning and design and military  
12 construction projects in the United States not otherwise  
13 authorized by law: *Provided further*, That within 30 days  
14 of enactment of this Act the Director of the Army Na-  
15 tional Guard shall submit to the Committees on Appro-  
16 priations of both Houses of Congress an expenditure plan  
17 for funds provided under this heading prior to obligation.

18 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

19 For an additional amount for “Military Construction,  
20 Air National Guard”, \$110,000,000, to remain available  
21 until September 30, 2013: *Provided*, That notwithstanding  
22 any other provision of law, such funds may be obligated  
23 and expended to carry out planning and design and mili-  
24 tary construction projects in the United States not other-  
25 wise authorized by law: *Provided further*, That within 30

1 days of enactment of this Act the Director of the Air Na-  
2 tional Guard shall submit to the Committees on Appro-  
3 priations of both Houses of Congress an expenditure plan  
4 for funds provided under this heading prior to obligation.

5           FAMILY HOUSING CONSTRUCTION, ARMY

6           For an additional amount for “Family Housing Con-  
7 struction, Army”, \$34,570,000, to remain available until  
8 September 30, 2013: *Provided*, That notwithstanding any  
9 other provision of law, such funds may be obligated and  
10 expended to carry out planning and design and military  
11 construction projects in the United States not otherwise  
12 authorized by law: *Provided further*, That within 30 days  
13 of enactment of this Act the Secretary of the Army shall  
14 submit to the Committees on Appropriations of both  
15 Houses of Congress an expenditure plan for funds pro-  
16 vided under this heading prior to obligation.

17           FAMILY HOUSING OPERATION AND MAINTENANCE,  
18   ARMY

19           For an additional amount for “Family Housing Oper-  
20 ation and Maintenance, Army”, \$3,932,000: *Provided*,  
21 That notwithstanding any other provision of law, such  
22 funds may be obligated and expended for operation and  
23 maintenance and minor construction projects in the  
24 United States not otherwise authorized by law.

## 1 FAMILY HOUSING CONSTRUCTION, AIR FORCE

2 For an additional amount for “Family Housing Con-  
3 struction, Air Force”, \$80,100,000, to remain available  
4 until September 30, 2013: *Provided*, That notwithstanding  
5 any other provision of law, such funds may be obligated  
6 and expended to carry out planning and design and mili-  
7 tary construction projects in the United States not other-  
8 wise authorized by law: *Provided further*, That within 30  
9 days of enactment of this Act the Secretary of the Air  
10 Force shall submit to the Committees on Appropriations  
11 of both Houses of Congress an expenditure plan for funds  
12 provided under this heading prior to obligation.

13 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR  
14 FORCE

15 For an additional amount for “Family Housing Oper-  
16 ation and Maintenance, Air Force”, \$16,461,000: *Pro-*  
17 *vided*, That notwithstanding any other provision of law,  
18 such funds may be obligated and expended for operation  
19 and maintenance and minor construction projects in the  
20 United States not otherwise authorized by law.

## 21 HOMEOWNERS ASSISTANCE FUND

22 For an additional amount for “Homeowners Assist-  
23 ance Fund”, established by section 1013 of the Dem-  
24 onstration Cities and Metropolitan Development Act of

1 1966, as amended (42 U.S.C. 3374), \$410,973,000, to re-  
2 main available until expended.

3 ADMINISTRATIVE PROVISION

4 SEC. 1001. (a) TEMPORARY EXPANSION OF HOME-  
5 OWNERS ASSISTANCE PLAN TO RESPOND TO MORTGAGE  
6 FORECLOSURE AND CREDIT CRISIS. Section 1013 of the  
7 Demonstration Cities and Metropolitan Development Act  
8 of 1966 (42 U.S.C. 3374) is amended—

9 (1) in subsection (a)—

10 (A) by redesignating paragraphs (1), (2),  
11 and (3) as clauses (i), (ii), and (iii), respec-  
12 tively, and indenting such subparagraphs, as so  
13 redesignated, 6 ems from the left margin;

14 (B) by striking “Notwithstanding any  
15 other provision of law” and inserting the fol-  
16 lowing:

17 “(1) ACQUISITION OF PROPERTY AT OR NEAR  
18 MILITARY INSTALLATIONS THAT HAVE BEEN OR-  
19 DERED TO BE CLOSED.—Notwithstanding any other  
20 provision of law”;

21 (C) by striking “if he determines” and in-  
22 serting “if—

23 “(A) the Secretary determines—”;

1 (D) in clause (iii), as redesignated by sub-  
2 paragraph (A), by striking the period at the  
3 end and inserting “; or”; and

4 (E) by adding at the end the following:

5 “(B) the Secretary determines—

6 “(i) that the conditions in clauses (i)  
7 and (ii) of subparagraph (A) have been  
8 met;

9 “(ii) that the closing or realignment  
10 of the base or installation resulted from a  
11 realignment or closure carried out under  
12 the 2005 round of defense base closure  
13 and realignment under the Defense Base  
14 Closure and Realignment Act of 1990  
15 (part XXIX of Public Law 101–510; 10  
16 U.S.C. 2687 note);

17 “(iii) that the property was purchased  
18 by the owner before July 1, 2006;

19 “(iv) that the property was sold by  
20 the owner between July 1, 2006, and Sep-  
21 tember 30, 2012, or an earlier end date  
22 designated by the Secretary;

23 “(v) that the property is the primary  
24 residence of the owner; and

1                   “(vi) that the owner has not pre-  
2                   viously received benefit payments author-  
3                   ized under this subsection.

4                   “(2) HOMEOWNER ASSISTANCE FOR WOUNDED  
5                   MEMBERS OF THE ARMED FORCES, DEPARTMENT OF  
6                   DEFENSE AND UNITED STATES COAST GUARD CIVIL-  
7                   IAN EMPLOYEES, AND THEIR SPOUSES.—Notwith-  
8                   standing any other provision of law, the Secretary of  
9                   Defense is authorized to acquire title to, hold, man-  
10                  age, and dispose of, or, in lieu thereof, to reimburse  
11                  for certain losses upon private sale of, or foreclosure  
12                  against, any property improved with a one- or two-  
13                  family dwelling which was at the time of the relevant  
14                  wound, injury, or illness, the primary residence of—

15                  “(A) any member of the Armed Forces in  
16                  medical transition who—

17                          “(i) incurred a wound, injury, or ill-  
18                          ness in the line of duty during a deploy-  
19                          ment in support of the Armed Forces;

20                          “(ii) is disabled to a degree of 30 per-  
21                          cent or more as a result of such wound, in-  
22                          jury, or illness, as determined by the Sec-  
23                          retary of Defense or the Secretary of Vet-  
24                          erans Affairs; and



1           “(iii) is reassigned in furtherance of  
2           medical treatment or rehabilitation, or due  
3           to medical retirement in connection with  
4           such disability;

5           “(B) any civilian employee of the Depart-  
6           ment of Defense or the United States Coast  
7           Guard who—

8                   “(i) was wounded, injured, or became  
9                   ill in the line of duty during a forward de-  
10                  ployment in support of the Armed Forces;  
11                  and

12                   “(ii) is reassigned in furtherance of  
13                  medical treatment, rehabilitation, or due to  
14                  medical retirement resulting from the sus-  
15                  tained disability; or

16           “(C) the spouse of a member of the Armed  
17           Forces or a civilian employee of the Department  
18           of Defense or the United States Coast Guard  
19           if—

20                   “(i) the member or employee was  
21                   killed in the line of duty during a deploy-  
22                   ment in support of the Armed Forces or  
23                   died from a wound, injury, or illness in-  
24                   curred in the line of duty during such a  
25                   deployment; and

1           “(ii) the spouse relocates from such  
2           residence within 2 years after the death of  
3           such member or employee.

4           “(3) TEMPORARY HOMEOWNER ASSISTANCE  
5           FOR MEMBERS OF THE ARMED FORCES PERMA-  
6           NENTLY REASSIGNED DURING SPECIFIED MORTGAGE  
7           CRISIS.—Notwithstanding any other provision of  
8           law, the Secretary of Defense is authorized to ac-  
9           quire title to, hold, manage, and dispose of, or, in  
10          lieu thereof, to reimburse for certain losses upon pri-  
11          vate sale of, or foreclosure against, any property im-  
12          proved with a one- or two-family dwelling situated at  
13          or near a military base or installation, if the Sec-  
14          retary determines—

15                 “(A) that the owner is a member of the  
16                 Armed Forces serving on permanent assign-  
17                 ment;

18                 “(B) that the owner is permanently reas-  
19                 signed by order of the United States Govern-  
20                 ment to a duty station or home port outside a  
21                 50-mile radius of the base or installation;

22                 “(C) that the reassignment was ordered  
23                 between February 1, 2006, and September 30,  
24                 2012, or an earlier end date designated by the  
25                 Secretary;

1           “(D) that the property was purchased by  
2 the owner before July 1, 2006;

3           “(E) that the property was sold by the  
4 owner between July 1, 2006, and September  
5 30, 2012, or an earlier end date designated by  
6 the Secretary;

7           “(F) that the property is the primary resi-  
8 dence of the owner; and

9           “(G) that the owner has not previously re-  
10 ceived benefit payments authorized under this  
11 subsection.”;

12           (2) in subsection (b), by striking “this section”  
13 each place it appears and inserting “subsection  
14 (a)(1)”;

15           (3) in subsection (c)—

16           (A) by striking “Such persons” and insert-  
17 ing the following:

18           “(1) HOMEOWNER ASSISTANCE RELATED TO  
19 CLOSED MILITARY INSTALLATIONS.—

20           “(A) IN GENERAL.—Such persons”;

21           (B) by striking “set forth above shall elect  
22 either (1) to receive” and inserting the fol-  
23 lowing: “set forth in subsection (a)(1) shall  
24 elect either—

25           “(i) to receive”;

1 (C) by striking “difference between (A) 95  
2 per centum” and all that follows through “(B)  
3 the fair market value” and inserting the fol-  
4 lowing: “difference between—

5 “(I) 95 per centum of the fair  
6 market value of their property (as  
7 such value is determined by the Sec-  
8 retary of Defense) prior to public an-  
9 nouncement of intention to close all or  
10 part of the military base or installa-  
11 tion; and

12 “(II) the fair market value”;

13 (D) by striking “time of the sale, or (2) to  
14 receive” and inserting the following: “time of  
15 the sale; or

16 “(ii) to receive”;

17 (E) by striking “outstanding mortgages.  
18 The Secretary may also pay a person who elects  
19 to receive a cash payment under clause (1) of  
20 the preceding sentence an amount” and insert-  
21 ing “outstanding mortgages.

22 “(B) REIMBURSEMENT OF EXPENSES.—

23 The Secretary may also pay a person who elects  
24 to receive a cash payment under subparagraph  
25 (A) an amount”; and

1 (F) by striking “best interest of the Fed-  
2 eral Government. Cash payment” and inserting  
3 the following: “best interest of the United  
4 States.

5 “(2) HOMEOWNER ASSISTANCE FOR WOUNDED  
6 INDIVIDUALS AND THEIR SPOUSES.—

7 “(A) IN GENERAL.—Persons eligible under  
8 the criteria set forth in subsection (a)(2) may  
9 elect either—

10 “(i) to receive a cash payment as com-  
11 pensation for losses which may be or have  
12 been sustained in a private sale, in an  
13 amount not to exceed the difference be-  
14 tween—

15 “(I) 95 per centum of prior fair  
16 market value of their property (as  
17 such value is determined by the Sec-  
18 retary of Defense); and

19 “(II) the fair market value of  
20 such property (as such value is so de-  
21 termined) at the time of the wound,  
22 injury, or illness qualifying the indi-  
23 vidual for benefits under subsection  
24 (a)(2); or

1           “(ii) to receive, as purchase price for  
2           their property an amount not to exceed 90  
3           per centum of prior fair market value as  
4           such value is determined by the Secretary  
5           of Defense, or the amount of the out-  
6           standing mortgages.

7           “(B) DETERMINATION OF BENEFITS.—  
8           The Secretary may also pay a person who elects  
9           to receive a cash payment under subparagraph  
10          (A) an amount that the Secretary determines  
11          appropriate to reimburse the person for the  
12          costs incurred by the person in the sale of the  
13          property if the Secretary determines that such  
14          payment will benefit the person and is in the  
15          best interest of the United States.

16          “(3) HOMEOWNER ASSISTANCE FOR PERMA-  
17          NENTLY REASSIGNED INDIVIDUALS.—

18                 “(A) IN GENERAL.—Persons eligible under  
19                 the criteria set forth in subsection (a)(3) may  
20                 elect either—

21                         “(i) to receive a cash payment as com-  
22                         pensation for losses which may be or have  
23                         been sustained in a private sale, in an  
24                         amount not to exceed the difference be-  
25                         tween—

1           “(I) 95 per centum of prior fair  
2           market value of their property (as  
3           such value is determined by the Sec-  
4           retary of Defense); and

5           “(II) the fair market value of  
6           such property (as such value is so de-  
7           termined) at the time the person re-  
8           ceived change of permanent station  
9           orders; or

10          “(ii) to receive, as purchase price for  
11          their property an amount not to exceed 90  
12          per centum of prior fair market value as  
13          such value is determined by the Secretary  
14          of Defense, or the amount of the out-  
15          standing mortgages.

16          “(B) DETERMINATION OF BENEFITS.—  
17          The Secretary may also pay a person who elects  
18          to receive a cash payment under subparagraph  
19          (A) an amount that the Secretary determines  
20          appropriate to reimburse the person for the  
21          costs incurred by the person in the sale of the  
22          property if the Secretary determines that such  
23          payment will benefit the person and is in the  
24          best interest of the United States.

1           “(4) COMPENSATION AND LIMITATIONS RE-  
2           LATED TO FORECLOSURES AND ENCUMBRANCES.—  
3           Cash payment”;

4           (4) by striking subsection (g);

5           (5) in subsection (l), by striking “(a)(2)” and  
6           inserting “(a)(1)(A)(ii)”;

7           (6) in subsection (m), by striking “this section”  
8           and inserting “subsection (a)(1)”;

9           (7) in subsection (n)—

10           (A) in paragraph (1), by striking “this sec-  
11           tion” and inserting “subsection (a)(1)”;

12           (B) in paragraph (2), by striking “this sec-  
13           tion” and inserting “subsection (a)(1)”;

14           (8) in subsection (o)—

15           (A) in paragraph (1), by striking “this sec-  
16           tion” and inserting “subsection (a)(1)”;

17           (B) in paragraph (2), by striking “this sec-  
18           tion” and inserting “subsection (a)(1)”;

19           (C) by striking paragraph (4); and

20           (9) by adding at the end the following new sub-  
21           section:

22           “(p) DEFINITIONS.—In this section:

23           “(1) the term ‘Armed Forces’ has the meaning  
24           given the term ‘armed forces’ in section 101(a) of  
25           title 10, United States Code;



1           “(2) the term ‘civilian employee’ has the mean-  
2           ing given the term ‘employee’ in section 2105(a) of  
3           title 5, United States Code;

4           “(3) the term ‘medical transition’, in the case  
5           of a member of the Armed Forces, means a member  
6           who—

7                   “(A) is in Medical Holdover status;

8                   “(B) is in Active Duty Medical Extension  
9                   status;

10                  “(C) is in Medical Hold status;

11                  “(D) is in a status pending an evaluation  
12                  by a medical evaluation board;

13                  “(E) has a complex medical need requiring  
14                  six or more months of medical treatment; or

15                  “(F) is assigned or attached to an Army  
16                  Warrior Transition Unit, an Air Force Patient  
17                  Squadron, a Navy Patient Multidisciplinary  
18                  Care Team, or a Marine Patient Affairs Team/  
19                  Wounded Warrior Regiment; and

20           “(4) the term ‘nonappropriated fund instrumen-  
21           tality employee’ means a civilian employee who—

22                   “(A) is a citizen of the United States; and

23                   “(B) is paid from nonappropriated funds  
24                   of Army and Air Force Exchange Service, Navy  
25                   Resale and Services Support Office, Marine

1 Corps exchanges, or any other instrumentality  
 2 of the United States under the jurisdiction of  
 3 the Armed Forces which is conducted for the  
 4 comfort, pleasure, contentment, or physical or  
 5 mental improvement of members of the Armed  
 6 Forces.”.

7 (b) CLERICAL AMENDMENT.—Such section is further  
 8 amended in the section heading by inserting “and certain  
 9 property owned by members of the armed forces, depart-  
 10 ment of defense and united states coast guard civilian em-  
 11 ployees, and surviving spouses” after “ordered to be  
 12 closed”.

13 (c) AUTHORITY TO USE APPROPRIATED FUNDS.—  
 14 Notwithstanding subsection (i) of such section, amounts  
 15 appropriated or otherwise made available by this title  
 16 under the heading “Homeowners Assistance Fund” may  
 17 be used for the Homeowners Assistance Fund established  
 18 under such section.

19 DEPARTMENT OF VETERANS AFFAIRS  
 20 VETERANS HEALTH ADMINISTRATION  
 21 MEDICAL SUPPORT AND COMPLIANCE

22 For an additional amount for “Medical Support and  
 23 Compliance”, \$5,000,000, to remain available until Sep-  
 24 tember 30, 2010, to support contract administration and

1 energy initiative execution at the Veterans Health Admin-  
2 istration.

3 MEDICAL FACILITIES

4 For an additional amount for “Medical Facilities”,  
5 \$1,370,459,000, to remain available until September 30,  
6 2010, of which \$1,047,313,000 shall be for facility condi-  
7 tion assessment deficiencies and non-recurring mainte-  
8 nance at existing medical facilities; and \$323,146,000  
9 shall be for energy efficiency initiatives.

10 NATIONAL CEMETERY ADMINISTRATION

11 For an additional amount for “National Cemetery  
12 Administration”, \$64,961,000, to remain available until  
13 September 30, 2010, of which \$59,476,000 shall be for  
14 capital infrastructure and memorial and monument re-  
15 pairs; and \$5,485,000 shall be for energy efficiency initia-  
16 tives.

17 DEPARTMENTAL ADMINISTRATION

18 GENERAL OPERATING EXPENSES

19 For an additional amount for “General Operating  
20 Expenses”, \$1,125,000, to remain available until Sep-  
21 tember 30, 2010, for additional Full Time Equivalent sal-  
22 ary and expenses for major construction project adminis-  
23 tration and execution and energy initiative execution.

## 1 INFORMATION TECHNOLOGY SYSTEMS

2 For an additional amount for “Information Tech-  
3 nology Systems”, \$195,000,000, to remain available until  
4 September 30, 2010, of which \$145,000,000 shall be for  
5 the Veterans Benefits Administration’s development of  
6 paperless claims processing; and \$50,000,000 shall be for  
7 the development of systems required to implement chapter  
8 33 of title 38, United States Code.

## 9 OFFICE OF INSPECTOR GENERAL

10 For an additional amount for “Office of Inspector  
11 General”, \$4,400,000, to remain available until September  
12 30, 2011, for oversight and audit of programs, grants and  
13 projects funded under this title.

## 14 CONSTRUCTION, MAJOR PROJECTS

15 For an additional amount for “Construction, Major  
16 Projects”, \$1,105,333,000, to remain available until Sep-  
17 tember 30, 2013, which shall be for acceleration and con-  
18 struction of ongoing and planned construction, including  
19 physical security construction, of major medical facilities  
20 and National Cemeteries consistent with the Department  
21 of Veterans Affairs’ Five Year Capital Plan: *Provided*,  
22 That notwithstanding any other provision of law, such  
23 funds may be obligated and expended to carry out plan-  
24 ning and design and major medical facility construction  
25 not otherwise authorized by law: *Provided further*, That

1 within 30 days of enactment of this Act the Secretary of  
2 Veterans Affairs shall submit to the Committees on Ap-  
3 propriations of both Houses of Congress an expenditure  
4 plan for funds provided under this heading prior to obliga-  
5 tion.

6 CONSTRUCTION, MINOR PROJECTS

7 For an additional amount for “Construction, Minor  
8 Projects”, \$939,836,000, to remain available until Sep-  
9 tember 30, 2010, of which \$860,742,000 shall be for Vet-  
10 erans Health Administration minor construction;  
11 \$20,300,000 shall be for Veterans Benefits Administra-  
12 tion minor construction, including \$300,000 for energy ef-  
13 ficiency initiatives; and \$29,012,000 shall be for National  
14 Cemetery Administration minor construction.

15 GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE  
16 FACILITIES

17 For an additional amount for “Grants for Construc-  
18 tion of State Extended Care Facilities”, \$257,986,000, to  
19 remain available until September 30, 2010, for grants to  
20 assist States to acquire or construct State nursing home  
21 and domiciliary facilities and to remodel, modify, or alter  
22 existing hospital, nursing home, and domiciliary facilities  
23 in State homes, for furnishing care to veterans as author-  
24 ized by sections 8131 through 8137 of title 38, United  
25 States Code.

## ADMINISTRATIVE PROVISION

1  
2 SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO  
3 SERVED IN THE UNITED STATES ARMED FORCES IN THE  
4 FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Con-  
5 gress makes the following findings:

6 (1) The Philippine islands became a United  
7 States possession in 1898 when they were ceded  
8 from Spain following the Spanish-American War.

9 (2) During World War II, Filipinos served in a  
10 variety of units, some of which came under the di-  
11 rect control of the United States Armed Forces.

12 (3) The regular Philippine Scouts, the new  
13 Philippine Scouts, the Guerrilla Services, and more  
14 than 100,000 members of the Philippine Common-  
15 wealth Army were called into the service of the  
16 United States Armed Forces of the Far East on  
17 July 26, 1941, by an executive order of President  
18 Franklin D. Roosevelt.

19 (4) Even after hostilities had ceased, wartime  
20 service of the new Philippine Scouts continued as a  
21 matter of law until the end of 1946, and the force  
22 gradually disbanded and was disestablished in 1950.

23 (5) Filipino veterans who were granted benefits  
24 prior to the enactment of the so-called Rescissions  
25 Acts of 1946 (Public Laws 79-301 and 79-391)

1 currently receive full benefits under laws adminis-  
2 tered by the Secretary of Veterans Affairs, but  
3 under section 107 of title 38, United States Code,  
4 the service of certain other Filipino veterans is  
5 deemed not to be active service for purposes of such  
6 laws.

7 (6) These other Filipino veterans only receive  
8 certain benefits under title 38, United States Code,  
9 and, depending on where they legally reside, are paid  
10 such benefit amounts at reduced rates.

11 (7) The benefits such veterans receive include  
12 service-connected compensation benefits paid under  
13 chapter 11 of title 38, United States Code, depend-  
14 ency indemnity compensation survivor benefits paid  
15 under chapter 13 of title 38, United States Code,  
16 and burial benefits under chapters 23 and 24 of title  
17 38, United States Code, and such benefits are paid  
18 to beneficiaries at the rate of \$0.50 per dollar au-  
19 thorized, unless they lawfully reside in the United  
20 States.

21 (8) Dependents' educational assistance under  
22 chapter 35 of title 38, United States Code, is also  
23 payable for the dependents of such veterans at the  
24 rate of \$0.50 per dollar authorized, regardless of the  
25 veterans' residency.

1 (b) COMPENSATION FUND.—

2 (1) IN GENERAL.—There is in the general fund  
3 of the Treasury a fund to be known as the “Filipino  
4 Veterans Equity Compensation Fund” (in this sec-  
5 tion referred to as the “compensation fund”).

6 (2) AVAILABILITY OF FUNDS.—Subject to the  
7 availability of appropriations for such purpose,  
8 amounts in the fund shall be available to the Sec-  
9 retary of Veterans Affairs without fiscal year limita-  
10 tion to make payments to eligible persons in accord-  
11 ance with this section.

12 (c) PAYMENTS.—

13 (1) IN GENERAL.—The Secretary may make a  
14 payment from the compensation fund to an eligible  
15 person who, during the one-year period beginning on  
16 the date of the enactment of this Act, submits to the  
17 Secretary a claim for benefits under this section.  
18 The application for the claim shall contain such in-  
19 formation and evidence as the Secretary may re-  
20 quire.

21 (2) PAYMENT TO SURVIVING SPOUSE.—If an  
22 eligible person who has filed a claim for benefits  
23 under this section dies before payment is made  
24 under this section, the payment under this section



1 shall be made instead to the surviving spouse, if any,  
2 of the eligible person.

3 (d) ELIGIBLE PERSONS.—An eligible person is any  
4 person who—

5 (1) served—

6 (A) before July 1, 1946, in the organized  
7 military forces of the Government of the Com-  
8 monwealth of the Philippines, while such forces  
9 were in the service of the Armed Forces of the  
10 United States pursuant to the military order of  
11 the President dated July 26, 1941, including  
12 among such military forces organized guerrilla  
13 forces under commanders appointed, des-  
14 ignated, or subsequently recognized by the  
15 Commander in Chief, Southwest Pacific Area,  
16 or other competent authority in the Army of the  
17 United States; or

18 (B) in the Philippine Scouts under section  
19 14 of the Armed Forces Voluntary Recruitment  
20 Act of 1945 (59 Stat. 538); and

21 (2) was discharged or released from service de-  
22 scribed in paragraph (1) under conditions other than  
23 dishonorable.

24 (e) PAYMENT AMOUNTS.—Each payment under this  
25 section shall be—

1           (1) in the case of an eligible person who is not  
2           a citizen of the United States, in the amount of  
3           \$9,000; and

4           (2) in the case of an eligible person who is a  
5           citizen of the United States, in the amount of  
6           \$15,000.

7           (f) LIMITATION.—The Secretary may not make more  
8           than one payment under this section for each eligible per-  
9           son described in subsection (d).

10          (g) CLARIFICATION OF TREATMENT OF PAYMENTS  
11          UNDER CERTAIN LAWS.—Amounts paid to a person  
12          under this section—

13               (1) shall be treated for purposes of the internal  
14               revenue laws of the United States as damages for  
15               human suffering; and

16               (2) shall not be included in income or resources  
17               for purposes of determining—

18                       (A) eligibility of an individual to receive  
19                       benefits described in section 3803(c)(2)(C) of  
20                       title 31, United States Code, or the amount of  
21                       such benefits;

22                       (B) eligibility of an individual to receive  
23                       benefits under title VIII of the Social Security  
24                       Act, or the amount of such benefits; or

1 (C) eligibility of an individual for, or the  
2 amount of benefits under, any other Federal or  
3 federally assisted program.

4 (h) RELEASE.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the acceptance by an eligible person or  
7 surviving spouse, as applicable, of a payment under  
8 this section shall be final, and shall constitute a  
9 complete release of any claim against the United  
10 States by reason of any service described in sub-  
11 section (d).

12 (2) PAYMENT OF PRIOR ELIGIBILITY STA-  
13 TUS.—Nothing in this section shall prohibit a person  
14 from receiving any benefit (including health care,  
15 survivor, or burial benefits) which the person would  
16 have been eligible to receive based on laws in effect  
17 as of the day before the date of the enactment of  
18 this Act.

19 (i) RECOGNITION OF SERVICE.—The service of a per-  
20 son as described in subsection (d) is hereby recognized as  
21 active military service in the Armed Forces for purposes  
22 of, and to the extent provided in, this section.

23 (j) ADMINISTRATION.—

24 (1) The Secretary shall promptly issue applica-  
25 tion forms and instructions to ensure the prompt

1 and efficient administration of the provisions of this  
2 section.

3 (2) The Secretary shall administer the provi-  
4 sions of this section in a manner consistent with ap-  
5 plicable provisions of title 38, United States Code,  
6 and other provisions of law, and shall apply the defi-  
7 nitions in section 101 of such title in the administra-  
8 tion of such provisions, except to the extent other-  
9 wise provided in this section.

10 (k) REPORTS.—The Secretary shall include, in docu-  
11 ments submitted to Congress by the Secretary in support  
12 of the President’s budget for each fiscal year, detailed in-  
13 formation on the operation of the compensation fund, in-  
14 cluding the number of applicants, the number of eligible  
15 persons receiving benefits, the amounts paid out of the  
16 compensation fund, and the administration of the com-  
17 pensation fund for the most recent fiscal year for which  
18 such data is available.

19 (l) AUTHORIZATION OF APPROPRIATION.—There is  
20 authorized to be appropriated to the compensation fund  
21 \$198,000,000, to remain available until expended, to make  
22 payments under this section.

1                                   RELATED AGENCY  
2                   DEPARTMENT OF DEFENSE—CIVIL  
3                   CEMETERIAL EXPENSES, ARMY  
4                   SALARY AND EXPENSES

5           For an additional amount for “Cemeterial Expenses,  
6 Army”, \$60,300,000, to remain available until September  
7 30, 2010, for land development, columbarium construc-  
8 tion, and relocation of utilities at Arlington National Cem-  
9 etery.

10           TITLE XI—STATE, FOREIGN OPERATIONS, AND  
11                                   RELATED PROGRAMS

12                           DEPARTMENT OF STATE  
13                   ADMINISTRATION OF FOREIGN AFFAIRS  
14                   DIPLOMATIC AND CONSULAR PROGRAMS

15           For an additional amount for “Diplomatic and Con-  
16 sular Programs” for urgent domestic facilities require-  
17 ments, \$90,000,000, to remain available until September  
18 30, 2010, of which up to \$20,000,000 shall be available  
19 for passport facilities and systems, and up to \$65,000,000  
20 shall be available for a consolidated security training facil-  
21 ity in the United States and should be obligated in accord-  
22 ance with United States General Services Administration  
23 site selection procedures: *Provided*, That the Secretary of  
24 State shall submit to the Committees on Appropriations  
25 within 90 days of enactment of this Act a detailed spend-

1 ing plan for funds appropriated under this heading: *Pro-*  
2 *vided further*, That with respect to the funds made avail-  
3 able for passport facilities and systems, such plan shall  
4 be developed in consultation with the Department of  
5 Homeland Security and the General Services Administra-  
6 tion and shall coordinate and co-locate, to the extent fea-  
7 sible, the construction of passport agencies with other  
8 Federal facilities.

9 CAPITAL INVESTMENT FUND

10 For an additional amount for “Capital Investment  
11 Fund”, \$228,000,000, to remain available until Sep-  
12 tember 30, 2010, which shall be available for information  
13 technology security and upgrades to support mission-crit-  
14 ical operations: *Provided*, That the Secretary of State and  
15 the Administrator of the United States Agency for Inter-  
16 national Development shall coordinate information tech-  
17 nology systems, where appropriate, to increase efficiencies  
18 and eliminate redundancies, to include co-location of  
19 backup information management facilities: *Provided fur-*  
20 *ther*, That the Secretary of State shall submit to the Com-  
21 mittees on Appropriations within 90 days of enactment of  
22 this Act a detailed spending plan for funds appropriated  
23 under this heading.

## 1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for “Office of Inspector  
3 General” for oversight requirements, \$1,500,000, to re-  
4 main available until September 30, 2011.

## 5 INTERNATIONAL COMMISSIONS

6 INTERNATIONAL BOUNDARY AND WATER COMMISSION,

7 UNITED STATES AND MEXICO

8 CONSTRUCTION

9 (INCLUDING TRANSFER OF FUNDS)

10 For an additional amount for “Construction” for the  
11 water quantity program to meet immediate repair and re-  
12 habilitation requirements, \$224,000,000, to remain avail-  
13 able until September 30, 2010: *Provided*, That up to  
14 \$2,000,000 may be transferred to, and merged with, funds  
15 available under the heading “International Boundary and  
16 Water Commission, United States and Mexico—Salaries  
17 and Expenses”: *Provided*, That the Secretary of State  
18 shall submit to the Committees on Appropriations within  
19 90 days of enactment of this Act a detailed spending plan  
20 for funds appropriated under this heading.

1 UNITED STATES AGENCY FOR INTERNATIONAL  
2 DEVELOPMENT

3 FUNDS APPROPRIATED TO THE PRESIDENT

4 CAPITAL INVESTMENT FUND

5 For an additional amount for “Capital Investment  
6 Fund”, \$58,000,000, to remain available until September  
7 30, 2010, which shall be available for information tech-  
8 nology modernization programs and implementation of the  
9 Global Acquisition System: *Provided*, That the Adminis-  
10 trator of the United States Agency for International De-  
11 velopment shall submit to the Committees on Appropria-  
12 tions within 90 days of enactment of this Act a detailed  
13 spending plan for funds appropriated under this heading.

14 OPERATING EXPENSES OF THE UNITED STATES AGENCY  
15 FOR INTERNATIONAL DEVELOPMENT OFFICE OF IN-  
16 SPECTOR GENERAL

17 For an additional amount for “Operating Expenses  
18 of the United States Agency for International Develop-  
19 ment Office of Inspector General” for oversight require-  
20 ments, \$500,000, to remain available until September 30,  
21 2011.



1 TITLE XII—TRANSPORTATION AND HOUSING  
2 AND URBAN DEVELOPMENT, AND RELATED  
3 AGENCIES

4 DEPARTMENT OF TRANSPORTATION

5 OFFICE OF THE SECRETARY

6 SUPPLEMENTAL DISCRETIONARY GRANTS FOR A  
7 NATIONAL SURFACE TRANSPORTATION SYSTEM

8 For an additional amount for capital investments in  
9 surface transportation infrastructure, \$5,500,000,000, to  
10 remain available until September 30, 2011: *Provided,*  
11 That the Secretary of Transportation shall distribute  
12 funds provided under this heading as discretionary grants  
13 to be awarded to State and local governments on a com-  
14 petitive basis for projects that will have a significant im-  
15 pact on the Nation, a metropolitan area, or a region: *Pro-*  
16 *vided further,* That projects eligible for funding provided  
17 under this heading shall include, but not be limited to,  
18 highway or bridge projects eligible under title 23, United  
19 States Code, including interstate rehabilitation, improve-  
20 ments to the rural collector road system, the reconstruc-  
21 tion of overpasses and interchanges, bridge replacements,  
22 seismic retrofit projects for bridges, and road realign-  
23 ments; public transportation projects eligible under chap-  
24 ter 53 of title 49, United States Code, including invest-  
25 ments in projects participating in the New Starts or Small

1 Starts programs that will expedite the completion of those  
2 projects and their entry into revenue service; passenger  
3 and freight rail transportation projects; and port infra-  
4 structure investments, including projects that connect  
5 ports to other modes of transportation and improve the  
6 efficiency of freight movement: *Provided further*, That of  
7 the amount made available under this paragraph, the Sec-  
8 retary may use an amount not to exceed \$200,000,000  
9 for the purpose of paying the subsidy costs of projects eli-  
10 gible for federal credit assistance under chapter 6 of title  
11 23, United States Code, if the Secretary finds that such  
12 use of the funds would advance the purposes of this para-  
13 graph: *Provided further*, That in distributing funds pro-  
14 vided under this heading, the Secretary shall take such  
15 measures so as to ensure an equitable geographic distribu-  
16 tion of funds and an appropriate balance in addressing  
17 the needs of urban and rural communities: *Provided fur-*  
18 *ther*, That a grant funded under this heading shall be not  
19 less than \$20,000,000 and not greater than  
20 \$500,000,000: *Provided further*, That the Federal share  
21 of the costs for which an expenditure is made under this  
22 heading may be up to 100 percent: *Provided further*, That  
23 the Secretary shall give priority to projects that require  
24 an additional share of Federal funds in order to complete  
25 an overall financing package, and to projects that are ex-

1 pected to be completed within 3 years of enactment of this  
2 Act: *Provided further*, That the Secretary shall publish cri-  
3 teria on which to base the competition for any grants  
4 awarded under this heading not later than 75 days after  
5 enactment of this Act: *Provided further*, That the Sec-  
6 retary shall require applications for funding provided  
7 under this heading to be submitted not later than 180  
8 days after enactment of this Act, and announce all  
9 projects selected to be funded from such funds not later  
10 than 1 year after enactment of this Act: *Provided further*,  
11 That the Secretary shall require all additional applications  
12 to be submitted not later than 1 year after enactment of  
13 this Act, and announce not later than 180 days following  
14 such 1-year period all additional projects selected to be  
15 funded with funds withdrawn from States and grantees  
16 and transferred from “Supplemental Grants for Highway  
17 Investments” and “Supplemental Grants for Public Tran-  
18 sit Investment”: *Provided further*, That projects conducted  
19 using funds provided under this heading must comply with  
20 the requirements of subchapter IV of chapter 31 of title  
21 40, United States Code: *Provided further*, That the Sec-  
22 retary may retain up to \$5,000,000 of the funds provided  
23 under this heading, and may transfer portions of those  
24 funds to the Administrators of the Federal Highway Ad-  
25 ministration, the Federal Transit Administration, the

1 Federal Railroad Administration and the Maritime Ad-  
2 ministration, to fund the award and oversight of grants  
3 made under this heading.

4 FEDERAL AVIATION ADMINISTRATION  
5 SUPPLEMENTAL FUNDING FOR FACILITIES AND  
6 EQUIPMENT

7 For an additional amount for necessary investments  
8 in Federal Aviation Administration infrastructure,  
9 \$200,000,000: *Provided*, That funding provided under this  
10 heading shall be used to make improvements to power sys-  
11 tems, air route traffic control centers, air traffic control  
12 towers, terminal radar approach control facilities, and  
13 navigation and landing equipment: *Provided further*, That  
14 priority be given to such projects or activities that will be  
15 completed within 2 years of enactment of this Act: *Pro-*  
16 *vided further*, That amounts made available under this  
17 heading may be provided through grants in addition to  
18 the other instruments authorized under section 106(l)(6)  
19 of title 49, United States Code: *Provided further*, That the  
20 Federal share of the costs for which an expenditure is  
21 made under this heading shall be 100 percent: *Provided*  
22 *further*, That amounts provided under this heading may  
23 be used for expenses the agency incurs in administering  
24 this program: *Provided further*, That not more than 60  
25 days after enactment of this Act, the Administrator shall

1 establish a process for applying, reviewing and awarding  
2 grants and cooperative and other transaction agreements,  
3 including the form and content of an application, and re-  
4 quirements for the maintenance of records that are nec-  
5 essary to facilitate an effective audit of the use of the  
6 funding provided: *Provided further*, That section 50101 of  
7 title 49, United States Code, shall apply to funds provided  
8 under this heading.

9 SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT  
10 INVESTMENT

11 For an additional amount for capital expenditures  
12 authorized under sections 47102(3) and 47504(c) of title  
13 49, United States Code, and for the procurement, installa-  
14 tion and commissioning of runway incursion prevention  
15 devices and systems at airports of such title,  
16 \$1,100,000,000: *Provided*, That the Secretary of Trans-  
17 portation shall distribute funds provided under this head-  
18 ing as discretionary grants to airports, with priority given  
19 to those projects that demonstrate to his or her satisfac-  
20 tion their ability to be completed within 2 years of enact-  
21 ment of this Act, and serve to supplement and not sup-  
22 plant planned expenditures from airport-generated reve-  
23 nues or from other State and local sources on such activi-  
24 ties: *Provided further*, That the Federal share payable of  
25 the costs for which a grant is made under this heading

1 shall be 100 percent: *Provided further*, That the amount  
2 made available under this heading shall not be subject to  
3 any limitation on obligations for the Grants-in-Aid for Air-  
4 ports program set forth in any Act: *Provided further*, That  
5 section 50101 of title 49, United States Code, shall apply  
6 to funds provided under this heading: *Provided further*,  
7 That projects conducted using funds provided under this  
8 heading must comply with the requirements of subchapter  
9 IV of chapter 31 of title 40, United States Code: *Provided*  
10 *further*, That the Administrator of the Federal Aviation  
11 Administration may retain and transfer to “Federal Avia-  
12 tion Administration, Operations” up to one-quarter of 1  
13 percent of the funds provided under this heading to fund  
14 the award and oversight by the Administrator of grants  
15 made under this heading.

16 FEDERAL HIGHWAY ADMINISTRATION

17 SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

18 For an additional amount for restoration, repair, con-  
19 struction and other activities eligible under paragraph (b)  
20 of section 133 of title 23, United States Code,  
21 \$27,060,000,000: *Provided*, That funds provided under  
22 this heading shall be apportioned to States using the for-  
23 mula set forth in section 104(b)(3) of such title: *Provided*  
24 *further*, That 180 days following the date of such appor-  
25 tionment, the Secretary of Transportation shall withdraw

1 from each State an amount equal to 50 percent of the  
2 funds awarded to that grantee less the amount of funding  
3 obligated, and the Secretary shall redistribute such  
4 amounts to other States that have had no funds with-  
5 drawn under this proviso in the manner described in sec-  
6 tion 120(c) of division K of Public Law 110–161: *Provided*  
7 *further*, That 1 year following the date of such apportion-  
8 ment, the Secretary shall withdraw from each recipient of  
9 funds apportioned under this heading any unobligated  
10 funds and transfer such funds to “Supplemental Discre-  
11 tionary Grants for a National Surface Transportation Sys-  
12 tem”: *Provided further*, That at the request of a State,  
13 the Secretary of Transportation may provide an extension  
14 of such 1-year period only to the extent that he or she  
15 feels satisfied that the State has encountered extreme con-  
16 ditions that create an unworkable bidding environment or  
17 other extenuating circumstances: *Provided further*, That  
18 before granting a such an extension, the Secretary shall  
19 send a letter to the House and Senate Committees on Ap-  
20 propriations that provides a thorough justification for the  
21 extension: *Provided further*, That the provisions of sub-  
22 sections 133(d)(3) and 133(d)(4) of title 23, United  
23 States Code, shall apply to funds apportioned under this  
24 heading, except that the percentage of funds to be allo-  
25 cated to local jurisdictions shall be 40 percent and such

1 allocation, notwithstanding any other provision of law,  
2 shall be conducted in all states within the United States:  
3 *Provided further*, That funds allocated to such urbanized  
4 areas and other areas shall not be subject to the redis-  
5 tribution of amounts required 180 days following the date  
6 of apportionment of funds provided under this heading:  
7 *Provided further*, That funds apportioned under this head-  
8 ing may be used for, but not be limited to, projects that  
9 address stormwater runoff, investments in passenger and  
10 freight rail transportation, and investments in port infra-  
11 structure: *Provided further*, that each State shall use not  
12 less than 5 percent of funds apportioned to it for activities  
13 eligible under subsections 149(b) and (c) of title 23,  
14 United States Code: *Provided further*, That of the funds  
15 provided under this heading, \$60,000,000 shall be for cap-  
16 ital expenditures eligible under section 147 of title 23,  
17 United States Code: *Provided further*, That the Secretary  
18 of Transportation shall distribute such \$60,000,000 as  
19 competitive discretionary grants to States, with priority  
20 given to those projects that demonstrate to his or her sat-  
21 isfaction their ability to be completed within 2 years of  
22 enactment of this Act: *Provided further*, That of the funds  
23 provided under this heading, \$500,000,000 shall be for in-  
24 vestments in transportation at Indian reservations and  
25 Federal lands, and administered in accordance with chap-



1 ter 2 of title 23, United States Code: *Provided further*,  
2 That of the funds identified in the preceding proviso,  
3 \$320,000,000 shall be for the Indian Reservation Roads  
4 program, \$100,000,000 shall be for the Park Roads and  
5 Parkways program, \$70,000,000 shall be for the Forest  
6 Highway Program, and \$10,000,000 shall be for the Ref-  
7 uge Roads program: *Provided further*, That for invest-  
8 ments at Indian reservations and Federal lands, priority  
9 shall be given to capital investments, and to projects and  
10 activities that can be completed within 2 years of enact-  
11 ment of this Act: *Provided further*, That 1 year following  
12 the enactment of this Act, to ensure the prompt use of  
13 the \$500,000,000 provided for investments at Indian res-  
14 ervations and Federal lands, the Secretary shall have the  
15 authority to redistribute unobligated funds within the re-  
16 spective program for which the funds were appropriated:  
17 *Provided further*, That up to 4 percent of the funding pro-  
18 vided for Indian Reservation Roads may be used by the  
19 Secretary of the Interior for program management and  
20 oversight and project-related administrative expenses: *Pro-*  
21 *vided further*, That section 134(f)(3)(C)(ii)(II) of title 23,  
22 United States Code, shall not apply to funds provided  
23 under this heading: *Provided further*, That the Federal  
24 share payable on account of any project or activity carried  
25 out with funds made available under this heading shall

1 be at the option of the recipient, and may be up to 100  
2 percent of the total cost thereof: *Provided further*, That  
3 funding provided under this heading shall be in addition  
4 to any and all funds provided for fiscal years 2008 and  
5 2009 in any other Act for “Federal-aid Highways” and  
6 shall not affect the distribution of funds provided for  
7 “Federal-aid Highways” in any other Act: *Provided fur-*  
8 *ther*, That the amount made available under this heading  
9 shall not be subject to any limitation on obligations for  
10 Federal-aid highways or highway safety construction pro-  
11 grams set forth in any Act: *Provided further*, That projects  
12 conducted using funds provided under this heading must  
13 comply with the requirements of subchapter IV of chapter  
14 31 of title 40, United States Code: *Provided further*, That  
15 section 313 of title 23, United States Code, shall apply  
16 to funds provided under this heading: *Provided further*,  
17 That section 1101(b) of Public Law 109–59 shall apply  
18 to funds apportioned under this heading: *Provided further*,  
19 That for the purposes of the definition of States for this  
20 paragraph, sections 101(a)(32) of title 23, United States  
21 Code, shall apply: *Provided further*, That the Adminis-  
22 trator of the Federal Highway Administration may retain  
23 up to \$12,000,000 of the funds provided under this head-  
24 ing to carry out the function of the “Federal Highway Ad-  
25 ministration, Limitation on Administrative Expenses” and

1 to fund the oversight by the Administrator of projects and  
2 activities carried out with funds made available to the  
3 Federal Highway Administration in this Act.

4 FEDERAL RAILROAD ADMINISTRATION  
5 SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY  
6 PASSENGER RAIL SERVICE

7 For an additional amount for discretionary grants to  
8 States to pay for the cost of projects described in para-  
9 graphs (2)(A) and (2)(B) of section 24401 of title 49,  
10 United States Code, and subsection (b) of section 24105  
11 of such title, \$250,000,000: *Provided*, That to be eligible  
12 for assistance under this paragraph, the specific project  
13 must be on a Statewide Transportation Improvement Plan  
14 at the time of the application to qualify: *Provided further*,  
15 That the Secretary of Transportation shall give priority  
16 to projects that demonstrate an ability to be completed  
17 within 2 years of enactment of this Act, and to projects  
18 that improve the safety and reliability of intercity pas-  
19 senger trains: *Provided further*, That the Federal share  
20 payable of the costs for which a grant is made under this  
21 heading shall be 100 percent: *Provided further*, That  
22 projects conducted using funds provided under this head-  
23 ing must comply with the requirements of subchapter IV  
24 of chapter 31 of title 40, United States Code: *Provided*  
25 *further*, That section 24405(a) of title 49, United States

1 Code, shall apply to funds provided under this heading:  
2 *Provided further*, That the Administrator of the Federal  
3 Railroad Administration may retain and transfer to “Fed-  
4 eral Railroad Administration, Safety and Operations” up  
5 to one-quarter of 1 percent of the funds provided under  
6 this heading to fund the award and oversight by the Ad-  
7 ministrator of grants made under this heading.

8 SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL  
9 RAILROAD PASSENGER CORPORATION

10 For an additional amount for the immediate invest-  
11 ment in capital projects necessary to maintain and im-  
12 prove national intercity passenger rail service, including  
13 the rehabilitation of rolling stock, \$850,000,000: *Provided*,  
14 That funds made available under this heading shall be al-  
15 located directly to the National Railroad Passenger Cor-  
16 poration: *Provided further*, That the Board of Directors  
17 of the corporation shall take measures to ensure that pri-  
18 ority is given to capital projects that expand passenger  
19 rail capacity: *Provided further*, That the Board of Direc-  
20 tors shall take measures to ensure that projects funded  
21 under this heading shall be completed within 2 years of  
22 enactment of this Act, and shall serve to supplement and  
23 not supplant planned expenditures for such activities from  
24 other Federal, State, local and corporate sources: *Provided*  
25 *further*, That said Board of Directors shall certify to the

1 House and Senate Committees on Appropriations in writ-  
2 ing their compliance with the preceding proviso: *Provided*  
3 *further*, That section 24305(f) of title 49, United States  
4 Code, shall apply to funds provided under this heading:  
5 *Provided further*, That not more than 50 percent of the  
6 funds provided under this heading may be used for capital  
7 projects along the Northeast Corridor.

8 HIGH-SPEED RAIL CORRIDOR PROGRAM

9 To make grants for high-speed rail projects under the  
10 provisions of section 26106 of title 49, United States  
11 Code, \$2,000,000,000, to remain available until Sep-  
12 tember 30, 2011: *Provided*, That the Federal share pay-  
13 able of the costs for which a grant is made under this  
14 heading shall be 100 percent: *Provided further*, That the  
15 Administrator of the Federal Railroad Administration  
16 may retain and transfer to “Federal Railroad Administra-  
17 tion, Safety and Operations” up to one-quarter of 1 per-  
18 cent of the funds provided under this heading to fund the  
19 award and oversight by the Administrator of grants made  
20 under this paragraph.

21 FEDERAL TRANSIT ADMINISTRATION

22 SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT

23 INVESTMENT

24 For an additional amount for capital expenditures  
25 authorized under section 5302(a)(1) of title 49, United

1 States Code, \$8,400,000,000: *Provided*, That the Sec-  
2 retary of Transportation shall apportion 71 percent of the  
3 funds apportioned under this heading using the formula  
4 set forth in subsections (a) through (c) of section 5336  
5 of title 49, United States Code, 19 percent of the funds  
6 apportioned under this heading using the formula set  
7 forth in section 5340 of such title, and 10 percent of the  
8 funding apportioned under this heading using the formula  
9 set forth in subsection 5311(c) of such title: *Provided fur-*  
10 *ther*, That 180 days following the date of such apportion-  
11 ment, the Secretary shall withdraw from each grantee an  
12 amount equal to 50 percent of the funds awarded to that  
13 grantee less the amount of funding obligated, and the Sec-  
14 retary shall redistribute such amounts to other grantees  
15 that have had no funds withdrawn under this proviso uti-  
16 lizing whatever method he or she deems appropriate to en-  
17 sure that all funds provided under this paragraph shall  
18 be utilized promptly: *Provided further*, That 1 year fol-  
19 lowing the date of such apportionment, the Secretary shall  
20 withdraw from each grantee any unobligated funds and  
21 transfer such funds to “Supplemental Discretionary  
22 Grants for a National Surface Transportation System”:  
23 *Provided further*, That at the request of a grantee, the  
24 Secretary of Transportation may provide an extension of  
25 such 1-year periods if he or she feels satisfied that the

1 grantee has encountered an unworkable bidding environ-  
2 ment or other extenuating circumstances: *Provided fur-*  
3 *ther*, That before granting such an extension, the Sec-  
4 retary shall send a letter to the House and Senate Com-  
5 mittees on Appropriations that provides a thorough jus-  
6 tification for the extension: *Provided further*, That of the  
7 funds apportioned using the formula set forth in sub-  
8 section 5311(c) of title 49, United States Code, 2 percent  
9 shall be made available for section 5311(c)(1): *Provided*  
10 *further*, That of the funding provided under this heading,  
11 \$200,000,000 shall be distributed as discretionary grants  
12 to public transit agencies for capital investments that will  
13 assist in reducing the energy consumption or greenhouse  
14 gas emissions of their public transportation systems: *Pro-*  
15 *vided further*, That for such grants on energy-related in-  
16 vestments, priority shall be given to projects based on the  
17 total energy savings that are projected to result from the  
18 investment, and projected energy savings as a percentage  
19 of the total energy usage of the public transit agency: *Pro-*  
20 *vided further*, That the Federal share of the costs for  
21 which any grant is made under this heading shall be at  
22 the option of the recipient, and may be up to 100 percent:  
23 *Provided further*, That the amount made available under  
24 this heading shall not be subject to any limitation on obli-  
25 gations for transit programs set forth in any Act: *Provided*

1 *further*, That section 1101(b) of Public Law 109–59 shall  
2 apply to funds apportioned under this heading: *Provided*  
3 *further*, That the funds appropriated under this heading  
4 shall be subject to subsection 5323(j) and section 5333  
5 of title 49, United States Code as well as sections 5304  
6 and 5305 of said title, as appropriate, but shall not be  
7 comingled with funds available under the Formula and  
8 Bus Grants account: *Provided further*, That the Adminis-  
9 trator of the Federal Transit Administration may retain  
10 up to \$3,000,000 of the funds provided under this heading  
11 to carry out the function of “Federal Transit Administra-  
12 tion, Administrative Expenses” and to fund the oversight  
13 of grants made under this heading by the Administrator.

14 MARITIME ADMINISTRATION

15 SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL

16 SHIPYARDS

17 To make grants to qualified shipyards as authorized  
18 under section 3506 of Public Law 109–163 or section  
19 54101 of title 46, United States Code, \$100,000,000: *Pro-*  
20 *vided*, That the Secretary of Transportation shall institute  
21 measures to ensure that funds provided under this head-  
22 ing shall be obligated within 180 days of the date of their  
23 distribution: *Provided further*, That the Maritime Adminis-  
24 trator may retain and transfer to “Maritime Administra-  
25 tion, Operations and Training” up to 2 percent of the



1 funds provided under this heading to fund the award and  
2 oversight by the Administrator of grants made under this  
3 heading.

4 OFFICE OF INSPECTOR GENERAL

5 SALARIES AND EXPENSES

6 For an additional amount for necessary expenses of  
7 the Office of Inspector General to carry out the provisions  
8 of the Inspector General Act of 1978, as amended,  
9 \$7,750,000, to remain available until September 30, 2011,  
10 and an additional \$12,250,000 for such purposes, to re-  
11 main available until September 30, 2012: *Provided*, That  
12 the funding made available under this heading shall be  
13 used for conducting audits and investigations of projects  
14 and activities carried out with funds made available in this  
15 Act to the Department of Transportation and to the Na-  
16 tional Railroad Passenger Corporation: *Provided further*,  
17 That the Inspector General shall have all necessary au-  
18 thority, in carrying out the duties specified in the Inspec-  
19 tor General Act, as amended (5 U.S.C. App. 3), to inves-  
20 tigate allegations of fraud, including false statements to  
21 the Government (18 U.S.C. 1001), by any person or entity  
22 that is subject to regulation by the Department.

1           GENERAL PROVISION—DEPARTMENT OF  
2                                   TRANSPORTATION

3           SEC. 1201. Section 5309(g)(4)(A) of title 49, United  
4 States Code, is amended by striking “or an amount equiv-  
5 alent to the last 3 fiscal years of funding allocated under  
6 subsections (m)(1)(A) and (m)(2)(A)(ii)” and inserting  
7 “or the sum of the funds available for the next 3 fiscal  
8 years beyond the current fiscal year, assuming an annual  
9 growth of the program of 10 percent”.

10           DEPARTMENT OF HOUSING AND URBAN  
11                                   DEVELOPMENT

12           NATIVE AMERICAN HOUSING BLOCK GRANTS

13           For an additional amount for “Native American  
14 Housing Block Grants”, as authorized under title I of the  
15 Native American Housing Assistance and Self-Determina-  
16 tion Act of 1996 (“NAHASDA”) (25 U.S.C. 4111 et  
17 seq.), \$510,000,000, to remain available until September  
18 30, 2011: *Provided*, That \$255,000,000 of the amount  
19 provided under this heading shall be distributed according  
20 to the same funding formula used in fiscal year 2008: *Pro-*  
21 *vided further*, That in selecting projects to be funded, re-  
22 cipients shall give priority to projects that can award con-  
23 tracts based on bids within 180 days from the date that  
24 funds are available to recipients: *Provided further*, That  
25 the Secretary shall obligate \$255,000,000 of the amount

1 provided under this heading for competitive grants to eligi-  
2 ble entities that apply for funds authorized under  
3 NAHASDA: *Provided further*, That in awarding competi-  
4 tive funds, the Secretary shall give priority to projects that  
5 will spur construction and rehabilitation and will create  
6 employment opportunities for low-income and unemployed  
7 persons: *Provided further*, That recipients of funds under  
8 this heading shall obligate 100 percent of such funds with-  
9 in 1 year of the date of enactment of this Act, expend  
10 at least 50 percent of such funds within 2 years of the  
11 date on which funds become available to such jurisdictions  
12 for obligation, and expend 100 percent of such funds with-  
13 in 3 years of such date: *Provided further*, That if a recipi-  
14 ent fails to comply with either the 1-year obligation re-  
15 quirement or the 2-year expenditure requirement, the Sec-  
16 retary shall recapture all remaining funds awarded to the  
17 recipient and reallocate such funds to recipients that are  
18 in compliance with those requirements: *Provided further*,  
19 That if a recipient fails to comply with the 3-year expendi-  
20 ture requirement, the Secretary shall recapture the bal-  
21 ance of the funds awarded to the recipient: *Provided fur-*  
22 *ther*, That, notwithstanding any other provision of this  
23 paragraph, the Secretary may institute measures to en-  
24 sure participation in the formula and competitive alloca-  
25 tion of funds provided under this paragraph by any hous-

1 ing entity eligible to receive funding under title VIII of  
2 NAHASDA (25 U.S.C. 4221 et seq.): *Provided further*,  
3 That in administering funds provided in this heading, the  
4 Secretary may waive any provision of any statute or regu-  
5 lation that the Secretary administers in connection with  
6 the obligation by the Secretary or the use by the recipient  
7 of these funds except for requirements imposed by this  
8 heading and requirements related to fair housing, non-  
9 discrimination, labor standards, and the environment,  
10 upon a finding that such waiver is required to facilitate  
11 the timely use of such funds and would not be inconsistent  
12 with the overall purpose of the statute or regulation: *Pro-*  
13 *vided further*, That, of the funds made available under this  
14 heading, up to 1 percent shall be available for staffing,  
15 training, technical assistance, technology, monitoring, re-  
16 search and evaluation activities: *Provided further*, That  
17 any funds made available under this heading used by the  
18 Secretary for personnel expenses shall be transferred to  
19 and merged with funding provided to “Personnel Com-  
20 pensation and Benefits, Office of Public and Indian Hous-  
21 ing”: *Provided further*, That any funds made available  
22 under this heading used by the Secretary for training or  
23 other administrative expenses shall be transferred to and  
24 merged with funding provided to “Administration, Oper-  
25 ations, and Management”, for non-personnel expenses of

1 the Department of Housing and Urban Development: *Pro-*  
2 *vided further*, That any funds made available under this  
3 heading used by the Secretary for technology shall be  
4 transferred to and merged with the funding provided to  
5 “Working Capital Fund”.

6 PUBLIC HOUSING CAPITAL FUND

7 For an additional amount for the “Public Housing  
8 Capital Fund” to carry out capital and management ac-  
9 tivities for public housing agencies, as authorized under  
10 section 9 of the United States Housing Act of 1937 (42  
11 U.S.C. 1437g) (the “Act”), \$5,000,000,000, to remain  
12 available until September 30, 2011: *Provided*, That the  
13 Secretary of Housing and Urban Development shall allo-  
14 cate \$3,000,000,000 of this amount by the formula au-  
15 thorized under section 9(d)(2) of the Act, except that the  
16 Secretary may determine not to allocate funding to public  
17 housing agencies currently designated as troubled or to  
18 public housing agencies that elect not to accept such fund-  
19 ing: *Provided further*, That the Secretary shall make avail-  
20 able \$2,000,000,000 by competition for priority invest-  
21 ments, including investments that leverage private sector  
22 funding or financing for renovations and energy conserva-  
23 tion retrofit investments: *Provided further*, That public  
24 housing agencies shall prioritize capital projects that are  
25 already underway or included in the 5-year capital fund

1 plans required by the Act (42 U.S.C. 1437c-1(a)): *Pro-*  
2 *vided further*, That in allocating competitive grants under  
3 this heading, the Secretary shall give priority consider-  
4 ation to the rehabilitation of vacant rental units: *Provided*  
5 *further*, That notwithstanding any other provision of law,  
6 (1) funding provided herein may not be used for operating  
7 or rental assistance activities, and (2) any restriction of  
8 funding to replacement housing uses shall be inapplicable:  
9 *Provided further*, That notwithstanding any other provi-  
10 sion of law, the Secretary shall institute measures to en-  
11 sure that funds provided under this heading shall serve  
12 to supplement and not supplant expenditures from other  
13 Federal, State, or local sources or funds independently  
14 generated by the grantee: *Provided further*, That notwith-  
15 standing section 9(j), public housing agencies shall obli-  
16 gate 100 percent of the funds within 1 year of the date  
17 of enactment of this Act, shall expend at least 60 percent  
18 of funds within 2 years of the date on which funds become  
19 available to the agency for obligation, and shall expend  
20 100 percent of the funds within 3 years of such date: *Pro-*  
21 *vided further*, That if a public housing agency fails to com-  
22 ply with either the 1-year obligation requirement or the  
23 2-year expenditure requirement, the Secretary shall recap-  
24 ture all remaining funds awarded to the public housing  
25 agency and reallocate such funds to agencies that are in

1 compliance with those requirements: *Provided further,*  
2 That if a public housing agency fails to comply with the  
3 3-year expenditure requirement, the Secretary shall recap-  
4 ture the balance of the funds awarded to the public hous-  
5 ing agency: *Provided further,* That in administering funds  
6 provided in this heading, the Secretary may waive any pro-  
7 vision of any statute or regulation that the Secretary ad-  
8 ministers in connection with the obligation by the Sec-  
9 retary or the use by the recipient of these funds except  
10 for requirements imposed by this heading and require-  
11 ments related to conditions on use of funds for develop-  
12 ment and modernization, fair housing, non-discrimination,  
13 labor standards, and the environment, upon a finding that  
14 such waiver is required to facilitate the timely use of such  
15 funds and would not be inconsistent with the overall pur-  
16 pose of the statute or regulation: *Provided further,* That  
17 of the funds made available under this heading, up to 1  
18 percent shall be available for staffing, training, technical  
19 assistance, technology, monitoring, research and evalua-  
20 tion activities: *Provided further,* That any funds made  
21 available under this heading used by the Secretary for per-  
22 sonnel expenses shall be transferred to and merged with  
23 funding provided to “Personnel Compensation and Bene-  
24 fits, Office of Public and Indian Housing”: *Provided fur-*  
25 *ther,* That any funds made available under this heading

1 used by the Secretary for training or other administrative  
2 expenses shall be transferred to and merged with funding  
3 provided to “Administration, Operations, and Manage-  
4 ment”, for non-personnel expenses of the Department of  
5 Housing and Urban Development: *Provided further*, That  
6 any funds made available under this heading used by the  
7 Secretary for technology shall be transferred to and  
8 merged with the funding provided to “Working Capital  
9 Fund”.

10 HOME INVESTMENT PARTNERSHIPS PROGRAM

11 For an additional amount for the “HOME Invest-  
12 ment Partnerships Program” as authorized under title II  
13 of the Cranston-Gonzalez National Affordable Housing  
14 Act (the “Act”), \$250,000,000, to remain available until  
15 September 30, 2011: *Provided*, That except as specifically  
16 provided herein, funds provided under this heading shall  
17 be distributed pursuant to the formula authorized by sec-  
18 tion 217 of the Act: *Provided further*, That the Secretary  
19 may establish a minimum grant size: *Provided further*,  
20 That participating jurisdictions shall obligate 100 percent  
21 of the funds within 1 year of the date of enactment of  
22 this Act, shall expend at least 60 percent of funds within  
23 2 years of the date on which funds become available to  
24 the participating jurisdiction for obligation and shall ex-  
25 pend 100 percent of the funds within 3 years of such date:



1 *Provided further*, That if a participating jurisdiction fails  
2 to comply with either the 1-year obligation requirement  
3 or the 2-year expenditure requirement, the Secretary shall  
4 recapture all remaining funds awarded to the participating  
5 jurisdiction and reallocate such funds to participating ju-  
6 risdictions that are in compliance with those requirements:  
7 *Provided further*, That if a participating jurisdiction fails  
8 to comply with the 3-year expenditure requirement, the  
9 Secretary shall recapture the balance of the funds awarded  
10 to the participating jurisdiction: *Provided further*, That in  
11 administering funds under this heading, the Secretary  
12 may waive any provision of any statute or regulation that  
13 the Secretary administers in connection with the obliga-  
14 tion by the Secretary or the use by the recipient of these  
15 funds except for requirements imposed by this heading  
16 and requirements related to fair housing, non-discrimina-  
17 tion, labor standards and the environment, upon a finding  
18 that such waiver is required to facilitate the timely use  
19 of such funds and would not be inconsistent with the over-  
20 all purpose of the statute or regulation: *Provided further*,  
21 That the Secretary may use funds provided under this  
22 heading to provide incentives to grantees to use funding  
23 for investments in energy efficiency and green building  
24 technology: *Provided further*, That such incentives may in-  
25 clude allocation of up to 20 percent of funds made avail-

1 able under this heading other than pursuant to the for-  
2 mula authorized by section 217 of the Act: *Provided fur-*  
3 *ther*, That, of the funds made available under this heading,  
4 up to 1 percent shall be available for staffing, training,  
5 technical assistance, technology, monitoring, research and  
6 evaluation activities: *Provided further*, That any funds  
7 made available under this heading used by the Secretary  
8 for personnel expenses shall be transferred to and merged  
9 with funding provided to “Personnel Compensation and  
10 Benefits, Office of Community Planning and Develop-  
11 ment”: *Provided further*, That any funds made available  
12 under this heading used by the Secretary for training or  
13 other administrative expenses shall be transferred to and  
14 merged with funding provided to “Administration, Oper-  
15 ations, and Management”, for non-personnel expenses of  
16 the Department of Housing and Urban Development: *Pro-*  
17 *vided further*, That any funds made available under this  
18 heading used by the Secretary for technology shall be  
19 transferred to and merged with the funding provided to  
20 “Working Capital Fund”.

21 For an additional amount for capital investments in  
22 low-income housing tax credit projects, \$2,000,000,000, to  
23 remain available until September 30, 2011: *Provided*,  
24 That the funds shall be allocated to States under the  
25 HOME program under this Heading shall be made avail-

1 able to State housing finance agencies in an amount total-  
2 ing \$2,000,000,000, subject to any changes made to a  
3 State allocation for the benefit of a State by the Secretary  
4 of Housing and Urban Development for areas that have  
5 suffered from disproportionate job loss and foreclosure:  
6 *Provided further*, That the Secretary, in consultation with  
7 the States, shall determine the amount of funds each State  
8 shall have available under HOME: *Provided further*, That  
9 the State housing finance agencies (including for purposes  
10 throughout this heading any entity that is responsible for  
11 distributing low-income housing tax credits) or as appro-  
12 priate as an entity as a gap financier, shall distribute these  
13 funds competitively under this heading to housing devel-  
14 opers for projects eligible for funding (such terms includ-  
15 ing those who may have received funding) under the low-  
16 income housing tax credit program as provided under sec-  
17 tion 42 of the I.R.C. of 1986, with a review of both the  
18 decisionmaking and process for the award by the Sec-  
19 retary of Housing and Urban Development: *Provided fur-*  
20 *ther*, That funds under this heading must be awarded by  
21 State housing finance agencies within 120 days of enact-  
22 ment of the Act and obligated by the developer of the low-  
23 income housing tax credit project within one year of the  
24 date of enactment of this Act, shall expend 75 percent of  
25 the funds within two years of the date on which the funds

1 become available, and shall expend 100 percent of the  
2 funds within 3 years of such date: *Provided further*, That  
3 failure by a developer to expend funds within the param-  
4 eters required within the previous proviso shall result in  
5 a redistribution of these funds by a State housing finance  
6 agency or by the Secretary if there is a more deserving  
7 project in another jurisdiction: *Provided further*, That  
8 projects awarded tax credits within 3 years prior to the  
9 date of enactment of this Act shall be eligible for funding  
10 under this heading: *Provided further*, That as part of the  
11 review, the Secretary shall ensure equitable distribution of  
12 funds and an appropriate balance in addressing the needs  
13 of urban and rural communities with a special priority on  
14 areas that have suffered from excessive job loss and fore-  
15 closures: *Provided further*, That State housing finance  
16 agencies shall give priority to projects that require an ad-  
17 ditional share of Federal funds in order to complete an  
18 overall funding package, and to projects that are expected  
19 to be completed within 3 years of enactment: *Provided fur-*  
20 *ther*, That any assistance provided to an eligible low-in-  
21 come housing tax credit project under this heading shall  
22 be made in the same manner and be subject to the same  
23 limitations (including rent, income, and use restrictions)  
24 as an allocation of the housing credit amount allocated  
25 by the State housing finance agency under section 42 of

1 the I.R.C. of 1986, except that such assistance shall not  
2 be limited by, or otherwise affect (except as provided in  
3 subsection (h)(3)(J) of such section), the State housing  
4 finance agency applicable to such agency: *Provided further*,  
5 That the State housing finance agency shall perform asset  
6 management functions to ensure compliance with section  
7 42 of the I.R.C. of 1986, and the long term viability of  
8 buildings funded by assistance under this heading: *Pro-*  
9 *vided further*, That the term basis (as such term is defined  
10 in such section 42) of a qualified low-income housing tax  
11 credit building receiving assistance under this heading  
12 shall not be reduced by the amount of any grant described  
13 under this heading: *Provided further*, That the Secretary  
14 shall collect all information related to the award of Fed-  
15 eral funds from state housing finance agencies and estab-  
16 lish an internet site that shall identify all projects selected  
17 for an award, including the amount of the award as well  
18 as the process and all information that was used to make  
19 the award decision.

20 HOMELESSNESS PREVENTION FUND

21 For homelessness prevention activities,  
22 \$1,500,000,000, to remain available until September 30,  
23 2011: *Provided*, That funds provided under this heading  
24 shall be used for the provision of short-term or medium-  
25 term rental assistance; housing relocation and stabiliza-

1 tion services including housing search, mediation or out-  
2 reach to property owners, credit repair, security or utility  
3 deposits, utility payments, rental assistance for a final  
4 month at a location, and moving cost assistance; or other  
5 appropriate homelessness prevention activities: *Provided*  
6 *further*, That grantees receiving such assistance shall col-  
7 lect data on the use of the funds awarded and persons  
8 served with this assistance in the Homeless Management  
9 Information System (HMIS) or other comparable data-  
10 base: *Provided further*, That grantees may use up to 5 per-  
11 cent of any grant for administrative costs: *Provided fur-*  
12 *ther*, That funding made available under this heading shall  
13 be allocated to eligible grantees (as defined and designated  
14 in sections 411 and 412 of subtitle B of title IV of the  
15 McKinney-Vento Homeless Assistance Act, (the “Act”))  
16 pursuant to the formula authorized by section 413 of the  
17 Act: *Provided further*, That the Secretary may establish  
18 a minimum grant size: *Provided further*, That grantees  
19 shall expend at least 75 percent of funds within 2 years  
20 of the date that funds became available to them for obliga-  
21 tion, and 100 percent of funds within 3 years of such date,  
22 and the Secretary may recapture unexpended funds in vio-  
23 lation of the 2-year expenditure requirement and reallo-  
24 cate such funds to grantees in compliance with that re-  
25 quirement: *Provided further*, That the Secretary may

1 waive statutory or regulatory provisions (except provisions  
2 for fair housing, nondiscrimination, labor standards, and  
3 the environment) necessary to facilitate the timely expend-  
4 iture of funds: *Provided further*, That the Secretary shall  
5 publish a notice to establish such requirements as may be  
6 necessary to carry out the provisions of this section within  
7 30 days of enactment of the Act and that this notice shall  
8 take effect upon issuance: *Provided further*, That of the  
9 funds provided under this heading, up to 1.5 percent shall  
10 be available for staffing, training, technical assistance,  
11 technology, monitoring, research and evaluation activities:  
12 *Provided further*, That any funds made available under  
13 this heading used by the Secretary for personnel expense  
14 shall be transferred to and merged with funding provided  
15 to “Community Planning and Development Personnel  
16 Compensation and Benefits”: *Provided further*, That any  
17 funds made available under this heading used by the Sec-  
18 retary for training or other administrative expenses shall  
19 be transferred to and merged with funding provided to  
20 “Administration, Operations, and Management” for non-  
21 personnel expenses of the Department of Housing and  
22 Urban Development: *Provided further*, That any funding  
23 made available under this heading used by the Secretary  
24 for technology shall be transferred to and merged with the  
25 funding provided to “Working Capital Fund.”

1       ASSISTED HOUSING STABILITY AND ENERGY AND  
2                               GREEN RETROFIT INVESTMENTS

3       For assistance to owners of properties receiving  
4 project-based assistance pursuant to section 202 of the  
5 Housing Act of 1959 (12 U.S.C. 17012), section 811 of  
6 the Cranston-Gonzalez National Affordable Housing Act  
7 (42 U.S.C. 8013), or section 8 of the United States Hous-  
8 ing Act of 1937 as amended (42 U.S.C. 1437f),  
9 \$2,250,000,000, of which \$2,132,000,000 shall be for an  
10 additional amount for paragraph (1) under the heading  
11 “Project-Based Rental Assistance” in Public Law 110–  
12 161 for payments to owners for 12-month periods, and  
13 of which \$118,000,000 shall be for grants or loans for  
14 energy retrofit and green investments in such assisted  
15 housing: *Provided*, That projects funded with grants or  
16 loans provided under this heading must comply with the  
17 requirements of subchapter IV of chapter 31 of title 40,  
18 United States Code: *Provided further*, That such grants  
19 or loans shall be provided through the existing policies,  
20 procedures, contracts, and transactional infrastructure of  
21 the authorized programs administered by the Office of Af-  
22 fordable Housing Preservation of the Department of  
23 Housing and Urban Development, on such terms and con-  
24 ditions as the Secretary of Housing and Urban Develop-  
25 ment deems appropriate to ensure the maintenance and



1 preservation of the property, the continued operation and  
2 maintenance of energy efficiency technologies, and the  
3 timely expenditure of funds: *Provided further*, That the  
4 Secretary may provide incentives to owners to undertake  
5 energy or green retrofits as a part of such grant or loan  
6 terms, including, but not limited to, investment fees to  
7 cover oversight and implementation costs incurred by said  
8 owner, or to encourage job creation for low-income or very  
9 low-income individuals: *Provided further*, That the grants  
10 or loans shall include a financial assessment and physical  
11 inspection of such property: *Provided further*, That eligible  
12 owners must have at least a satisfactory management re-  
13 view rating, be in substantial compliance with applicable  
14 performance standards and legal requirements, and com-  
15 mit to an additional period of affordability determined by  
16 the Secretary, but of not fewer than 15 years: *Provided*  
17 *further*, That the Secretary shall undertake appropriate  
18 underwriting and oversight with respect to grant and loan  
19 transactions and may set aside up to 5 percent of the  
20 funds made available under this heading for grants or  
21 loans for such purpose: *Provided further*, That the Sec-  
22 retary shall take steps necessary to ensure that owners  
23 receiving funding for energy and green retrofit invest-  
24 ments under this heading shall expend such funding with-  
25 in 2 years of the date they received the funding: *Provided*

1 *further*, That the Secretary may waive or modify statutory  
2 or regulatory requirements with respect to any existing  
3 grant, loan, or insurance mechanism authorized to be used  
4 by the Secretary to enable or facilitate the accomplishment  
5 of investments supported with funds made available under  
6 this heading for grants or loans: *Provided further*, That  
7 of the funds provided under this heading, up to 1.5 per-  
8 cent shall be available for staffing, training, technical as-  
9 sistance, technology, monitoring, research and evaluation  
10 activities: *Provided further*, That funding made available  
11 under this heading and used by the Secretary for per-  
12 sonnel expenses shall be transferred to and merged with  
13 funding provided to “Housing Compensation and Bene-  
14 fits”: *Provided further*, That any funding made available  
15 under this heading used by the Secretary for training and  
16 other administrative expenses shall be transferred to and  
17 merged with funding provided to “Administration, Oper-  
18 ations and Management” for non-personnel expenses of  
19 the Department of Housing and Urban Development: *Pro-*  
20 *vided further*, That any funding made available under this  
21 heading used by the Secretary for technology shall be  
22 transferred to and merged with funding provided to  
23 “Working Capital Fund.”

1 OFFICE OF HEALTHY HOMES AND LEAD HAZARD  
2 CONTROL

3 For an additional amount for the “Lead Hazard Re-  
4 duction”, as authorized by section 1011 of the Residential  
5 Lead-Based Paint Hazard Reduction Act of 1992,  
6 \$100,000,000, to remain available until September 30,  
7 2011: *Provided*, That funds shall be awarded first to appli-  
8 cant jurisdictions which had applied under the Lead-  
9 Based Paint Hazard Control Grant Program Notice of  
10 Funding Availability for fiscal year 2008, and were found  
11 in the application review to be qualified for award, but  
12 were not awarded because of funding limitations, and that  
13 any funds which remain after reservation of funds for such  
14 grants shall be added to the amount of funds to be award-  
15 ed under the Lead-Based Paint Hazard Control Grant  
16 Program Notice of Funding Availability for fiscal year  
17 2009: *Provided further*, That each applicant jurisdiction  
18 for the Lead-Based Paint Hazard control Grant Program  
19 Notice of Funding Availability for fiscal year 2009 shall  
20 submit a detailed plan and strategy that demonstrates  
21 adequate capacity that is acceptable to the Secretary to  
22 carry out the proposed use of funds: *Provided further*,  
23 That recipients of funds under this heading shall obligate  
24 100 percent of such funds within 1 year of the date of  
25 enactment of this Act, expend at least 75 percent of such

1 funds within 2 years of the date on which funds become  
2 available to such jurisdictions for obligation, and expend  
3 100 percent of such funds within 3 years of such date:  
4 *Provided further*, That if a recipient fails to comply with  
5 either the 1-year obligation requirement or the 2-year ex-  
6 penditure requirement, the Secretary shall recapture all  
7 remaining funds awarded to the recipient and reallocate  
8 such funds to recipients that are in compliance with those  
9 requirements: *Provided further*, That if a recipient fails to  
10 comply with the 3-year expenditure requirement, the Sec-  
11 retary shall recapture the balance of the funds awarded  
12 to the recipient: *Provided further*, That in administering  
13 funds provided in this heading, the Secretary may waive  
14 any provision of any statute or regulation that the Sec-  
15 retary administers in connection with the obligation by the  
16 Secretary or the use by the recipient of these funds except  
17 for requirements imposed by this heading and require-  
18 ments related to fair housing, nondiscrimination, labor  
19 standards, and the environment, upon a finding that such  
20 waiver is required to facilitate the timely use of such funds  
21 and would not be inconsistent with the overall purpose of  
22 the statute or regulation: *Provided further*, That, of the  
23 funds made available under this heading, up to 1 percent  
24 shall be available for staffing, training, technical assist-  
25 ance, technology, monitoring, research and evaluation ac-

1 tivities: *Provided further*, That any funds made available  
2 under this heading used by the Secretary for personnel  
3 expenses shall be transferred to and merged with funding  
4 provided to “Personnel Compensation and Benefits, Office  
5 of Healthy Homes and Lead Hazard Control”: *Provided*  
6 *further*, That any funds made available under this heading  
7 used by the Secretary for training or other administrative  
8 expenses shall be transferred to and merged with funding  
9 provided to “Administration, Operations, and Manage-  
10 ment”, for non-personnel expenses of the Department of  
11 Housing and Urban Development: *Provided further*, That  
12 any funds made available under this heading used by the  
13 Secretary for technology shall be transferred to and  
14 merged with the funding provided to “Working Capital  
15 Fund”.

16 OFFICE OF INSPECTOR GENERAL

17 For an additional amount for the necessary salaries  
18 and expenses of the Office of Inspector General in car-  
19 rying out the Inspector General Act of 1978, as amended,  
20 \$2,750,000, to remain available until September 30, 2011,  
21 and an additional \$12,250,000 for such purposes, to re-  
22 main available until September 30, 2012: *Provided*, That  
23 the Inspector General shall have independent authority  
24 over all personnel issues within this office.

1                   **TITLE XIII—HEALTH**  
 2                   **INFORMATION TECHNOLOGY**

3   **SEC. 1301. SHORT TITLE.**

4           This title may be cited as the “Health Information  
 5   Technology for Economic and Clinical Health Act” or the  
 6   “HITECH Act”.

7                   **Subtitle A—Promotion of Health**  
 8                   **Information Technology**

9                   **PART I—IMPROVING HEALTH CARE QUALITY,**  
 10                   **SAFETY, AND EFFICIENCY**

11   **SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND**  
 12                   **ADOPTION.**

13           The Public Health Service Act (42 U.S.C. 201 et  
 14   seq.) is amended by adding at the end the following:

15   **“TITLE XXX—HEALTH INFORMA-**  
 16                   **TION TECHNOLOGY AND**  
 17                   **QUALITY**

18   **“SEC. 3000. DEFINITIONS.**

19           “In this title:

20                   “(1) **CERTIFIED EHR TECHNOLOGY.**—The term  
 21           ‘certified EHR technology’ means a qualified elec-  
 22           tronic health record and that is certified pursuant to  
 23           section 3001(c)(5) as meeting standards adopted  
 24           under section 3004 that are applicable to the type  
 25           of record involved (as determined by the Secretary,

1 such as an ambulatory electronic health record for  
2 office-based physicians or an inpatient hospital elec-  
3 tronic health record for hospitals).

4 “(2) ENTERPRISE INTEGRATION.—The term  
5 ‘enterprise integration’ means the electronic linkage  
6 of health care providers, health plans, the govern-  
7 ment, and other interested parties, to enable the  
8 electronic exchange and use of health information  
9 among all the components in the health care infra-  
10 structure in accordance with applicable law, and  
11 such term includes related application protocols and  
12 other related standards.

13 “(3) HEALTH CARE PROVIDER.—The term  
14 ‘health care provider’ means a hospital, skilled nurs-  
15 ing facility, nursing facility, home health entity, or  
16 other long-term care facility, health care clinic, com-  
17 munity mental health center (as defined in section  
18 1913(b)), renal dialysis facility, blood center, ambu-  
19 latory surgical center described in section 1833(i) of  
20 the Social Security Act, emergency medical services  
21 provider, Federally qualified health center, group  
22 practice (as defined in section 1877(h)(4) of the So-  
23 cial Security Act), a pharmacist, a pharmacy, a lab-  
24 oratory, a physician (as defined in section 1861(r) of  
25 the Social Security Act), a practitioner (as described

1 in section 1842(b)(18)(C) of the Social Security  
2 Act), a provider operated by, or under contract with,  
3 the Indian Health Service or by an Indian tribe (as  
4 defined in the Indian Self-Determination and Edu-  
5 cation Assistance Act), tribal organization, or urban  
6 Indian organization (as defined in section 4 of the  
7 Indian Health Care Improvement Act), a rural  
8 health clinic, a covered entity under section 340B,  
9 and any other category of facility or clinician deter-  
10 mined appropriate by the Secretary.

11 “(4) HEALTH INFORMATION.—The term ‘health  
12 information’ has the meaning given such term in  
13 section 1171(4) of the Social Security Act.

14 “(5) HEALTH INFORMATION TECHNOLOGY.—  
15 The term ‘health information technology’ includes  
16 hardware, software, integrated technologies and re-  
17 lated licenses, intellectual property, upgrades, and  
18 packaged solutions sold as services for use by health  
19 care entities for the electronic creation, maintenance,  
20 access or exchange of health information.

21 “(6) HEALTH PLAN.—The term ‘health plan’  
22 has the meaning given such term in section 1171(5)  
23 of the Social Security Act.



1           “(7) HIT POLICY COMMITTEE.—The term ‘HIT  
2 Policy Committee’ means such Committee estab-  
3 lished under section 3002(a).

4           “(8) HIT STANDARDS COMMITTEE.—The term  
5 ‘HIT Standards Committee’ means such Committee  
6 established under section 3003(a).

7           “(9) INDIVIDUALLY IDENTIFIABLE HEALTH IN-  
8 FORMATION.—The term ‘individually identifiable  
9 health information’ has the meaning given such term  
10 in section 1171(6) of the Social Security Act.

11           “(10) LABORATORY.—The term ‘laboratory’  
12 has the meaning given such term in section 353(a).

13           “(11) NATIONAL COORDINATOR.—The term  
14 ‘National Coordinator’ means the head of the Office  
15 of the National Coordinator for Health Information  
16 Technology established under section 3001(a).

17           “(12) PHARMACIST.—The term ‘pharmacist’  
18 has the meaning given such term in section 804(2)  
19 of the Federal Food, Drug, and Cosmetic Act.

20           “(13) QUALIFIED ELECTRONIC HEALTH  
21 RECORD.—The term ‘qualified electronic health  
22 record’ means an electronic record of health-related  
23 information on an individual that—

1           “(A) includes patient demographic and  
2           clinical health information, such as medical his-  
3           tory and problem lists; and

4           “(B) has the capacity—

5           “(i) to provide clinical decision sup-  
6           port;

7           “(ii) to support physician order entry;

8           “(iii) to capture and query informa-  
9           tion relevant to health care quality; and

10          “(iv) to exchange electronic health in-  
11          formation with, and integrate such infor-  
12          mation from other sources.

13          “(14) STATE.—The term ‘State’ means each of  
14          the several States, the District of Columbia, Puerto  
15          Rico, the Virgin Islands, Guam, American Samoa,  
16          and the Northern Mariana Islands.

17          **“Subtitle A—Promotion of Health**  
18                   **Information Technology**

19          **“SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR**  
20                   **HEALTH INFORMATION TECHNOLOGY.**

21          “(a) ESTABLISHMENT.—There is established within  
22          the Department of Health and Human Services an Office  
23          of the National Coordinator for Health Information Tech-  
24          nology (referred to in this section as the ‘Office’). The Of-  
25          fice shall be headed by a National Coordinator who shall

1 be appointed by the Secretary and shall report directly to  
2 the Secretary.

3 “(b) PURPOSE.—The National Coordinator shall per-  
4 form the duties under subsection (c) in a manner con-  
5 sistent with the development of a nationwide health infor-  
6 mation technology infrastructure that allows for the elec-  
7 tronic use and exchange of information and that—

8 “(1) ensures that each patient’s health informa-  
9 tion is secure and protected, in accordance with ap-  
10 plicable law;

11 “(2) improves health care quality, reduces med-  
12 ical errors, and advances the delivery of patient-cen-  
13 tered medical care;

14 “(3) reduces health care costs resulting from  
15 inefficiency, medical errors, inappropriate care, du-  
16 plicative care, and incomplete information;

17 “(4) provides appropriate information to help  
18 guide medical decisions at the time and place of  
19 care;

20 “(5) ensures the inclusion of meaningful public  
21 input in such development of such infrastructure;

22 “(6) improves the coordination of care and in-  
23 formation among hospitals, laboratories, physician  
24 offices, and other entities through an effective infra-

1 structure for the secure and authorized exchange of  
2 health care information;

3 “(7) improves public health activities and facili-  
4 tates the early identification and rapid response to  
5 public health threats and emergencies, including bio-  
6 terror events and infectious disease outbreaks;

7 “(8) facilitates health and clinical research and  
8 health care quality;

9 “(9) promotes early detection, prevention, and  
10 management of chronic diseases;

11 “(10) promotes a more effective marketplace,  
12 greater competition, greater systems analysis, in-  
13 creased consumer choice, and improved outcomes in  
14 health care services; and

15 “(11) improves efforts to reduce health dispari-  
16 ties.

17 “(c) DUTIES OF THE NATIONAL COORDINATOR.—

18 “(1) STANDARDS.—The National Coordinator  
19 shall—

20 “(A) review and determine whether to en-  
21 dorse each standard, implementation specifica-  
22 tion, and certification criterion for the elec-  
23 tronic exchange and use of health information  
24 that is recommended by the HIT Standards

1 Committee under section 3003 for purposes of  
2 adoption under section 3004;

3 “(B) make such determinations under sub-  
4 paragraph (A), and report to the Secretary  
5 such determinations, not later than 45 days  
6 after the date the recommendation is received  
7 by the Coordinator;

8 “(C) review Federal health information  
9 technology investments to ensure that Federal  
10 health information technology programs are  
11 meeting the objectives of the strategic plan pub-  
12 lished under paragraph (3); and

13 “(D) provide comments and advice regard-  
14 ing specific Federal health information tech-  
15 nology programs, at the request of the Office of  
16 Management and Budget.

17 “(2) HIT POLICY COORDINATION.—

18 “(A) IN GENERAL.—The National Coordi-  
19 nator shall coordinate health information tech-  
20 nology policy and programs of the Department  
21 with those of other relevant executive branch  
22 agencies with a goal of avoiding duplication of  
23 efforts and of helping to ensure that each agen-  
24 cy undertakes health information technology ac-  
25 tivities primarily within the areas of its greatest

1 expertise and technical capability and in a man-  
2 ner towards a coordinated national goal.

3 “(B) HIT POLICY AND STANDARDS COM-  
4 MITTEES.—The National Coordinator shall be a  
5 leading member in the establishment and oper-  
6 ations of the HIT Policy Committee and the  
7 HIT Standards Committee and shall serve as a  
8 liaison among those two Committees and the  
9 Federal Government.

10 “(3) STRATEGIC PLAN.—

11 “(A) IN GENERAL.—The National Coordi-  
12 nator shall, in consultation with other appro-  
13 priate Federal agencies (including the National  
14 Institute of Standards and Technology), update  
15 the Federal Health IT Strategic Plan (devel-  
16 oped as of June 3, 2008) to include specific ob-  
17 jectives, milestones, and metrics with respect to  
18 the following:

19 “(i) The electronic exchange and use  
20 of health information and the enterprise  
21 integration of such information.

22 “(ii) The utilization of an electronic  
23 health record for each person in the United  
24 States by 2014.

1           “(iii) The incorporation of privacy and  
2 security protections for the electronic ex-  
3 change of an individual’s individually iden-  
4 tifiable health information.

5           “(iv) Ensuring security methods to  
6 ensure appropriate authorization and elec-  
7 tronic authentication of health information  
8 and specifying technologies or methodolo-  
9 gies for rendering health information unus-  
10 able, unreadable, or indecipherable.

11           “(v) Specifying a framework for co-  
12 ordination and flow of recommendations  
13 and policies under this subtitle among the  
14 Secretary, the National Coordinator, the  
15 HIT Policy Committee, the HIT Standards  
16 Committee, and other health information  
17 exchanges and other relevant entities.

18           “(vi) Methods to foster the public un-  
19 derstanding of health information tech-  
20 nology.

21           “(vii) Strategies to enhance the use of  
22 health information technology in improving  
23 the quality of health care, reducing medical  
24 errors, reducing health disparities, improv-  
25 ing public health, increasing prevention

1           and coordination with community re-  
2           sources, and improving the continuity of  
3           care among health care settings.

4           “(viii) Specific plans for ensuring that  
5           populations with unique needs, such as  
6           children, are appropriately addressed in  
7           the technology design, as appropriate,  
8           which may include technology that  
9           automates enrollment and retention for eli-  
10          gible individuals.

11          “(B) COLLABORATION.—The strategic  
12          plan shall be updated through collaboration of  
13          public and private entities.

14          “(C) MEASURABLE OUTCOME GOALS.—  
15          The strategic plan update shall include measur-  
16          able outcome goals.

17          “(D) PUBLICATION.—The National Coor-  
18          dinator shall republish the strategic plan, in-  
19          cluding all updates.

20          “(4) WEBSITE.—The National Coordinator  
21          shall maintain and frequently update an Internet  
22          website on which there is posted information on the  
23          work, schedules, reports, recommendations, and  
24          other information to ensure transparency in pro-



1 motion of a nationwide health information tech-  
2 nology infrastructure.

3 “(5) HARMONIZATION.—The Secretary may  
4 recognize an entity or entities for the purpose of  
5 harmonizing or updating standards and implementa-  
6 tion specifications in order to achieve uniform and  
7 consistent implementation of the standards and im-  
8 plementation specifications.

9 “(6) CERTIFICATION.—

10 “(A) IN GENERAL.—The National Coordi-  
11 nator, in consultation with the Director of the  
12 National Institute of Standards and Tech-  
13 nology, shall recognize a program or programs  
14 for the voluntary certification of health infor-  
15 mation technology as being in compliance with  
16 applicable certification criteria adopted under  
17 this subtitle. Such program shall include, as ap-  
18 propriate, testing of the technology in accord-  
19 ance with section 14201(b) of the Health Infor-  
20 mation Technology for Economic and Clinical  
21 Health Act.

22 “(B) CERTIFICATION CRITERIA DE-  
23 SCRIBED.—In this title, the term ‘certification  
24 criteria’ means, with respect to standards and  
25 implementation specifications for health infor-

1 mation technology, criteria to establish that the  
2 technology meets such standards and implemen-  
3 tation specifications.

4 “(6) REPORTS AND PUBLICATIONS.—

5 “(A) REPORT ON ADDITIONAL FUNDING  
6 OR AUTHORITY NEEDED.—Not later than 12  
7 months after the date of the enactment of this  
8 title, the National Coordinator shall submit to  
9 the appropriate committees of jurisdiction of  
10 the House of Representatives and the Senate a  
11 report on any additional funding or authority  
12 the Coordinator or the HIT Policy Committee  
13 or HIT Standards Committee requires to evalu-  
14 ate and develop standards, implementation  
15 specifications, and certification criteria, or to  
16 achieve full participation of stakeholders in the  
17 adoption of a nationwide health information  
18 technology infrastructure that allows for the  
19 electronic use and exchange of health informa-  
20 tion.

21 “(B) IMPLEMENTATION REPORT.—The  
22 National Coordinator shall prepare a report  
23 that identifies lessons learned from major pub-  
24 lic and private health care systems in their im-  
25 plementation of health information technology,

1 including information on whether the tech-  
2 nologies and practices developed by such sys-  
3 tems may be applicable to and usable in whole  
4 or in part by other health care providers.

5 “(C) ASSESSMENT OF IMPACT OF HIT ON  
6 COMMUNITIES WITH HEALTH DISPARITIES AND  
7 UNINSURED, UNDERINSURED, AND MEDICALLY  
8 UNDERSERVED AREAS.—The National Coordi-  
9 nator shall assess and publish the impact of  
10 health information technology in communities  
11 with health disparities and in areas with a high  
12 proportion of individuals who are uninsured,  
13 underinsured, and medically underserved indi-  
14 viduals (including urban and rural areas) and  
15 identify practices to increase the adoption of  
16 such technology by health care providers in  
17 such communities, and the use of health infor-  
18 mation technology to reduce and better manage  
19 chronic diseases.

20 “(D) EVALUATION OF BENEFITS AND  
21 COSTS OF THE ELECTRONIC USE AND EX-  
22 CHANGE OF HEALTH INFORMATION.—The Na-  
23 tional Coordinator shall evaluate and publish  
24 evidence on the benefits and costs of the elec-  
25 tronic use and exchange of health information

1 and assess to whom these benefits and costs ac-  
2 crue.

3 (E) RESOURCE REQUIREMENTS.—The Na-  
4 tional Coordinator shall estimate and publish  
5 resources required annually to reach the goal of  
6 utilization of an electronic health record for  
7 each person in the United States by 2014, in-  
8 cluding—

9 (i) the required level of Federal fund-  
10 ing;

11 (ii) expectations for regional, State,  
12 and private investment;

13 (iii) the expected contributions by vol-  
14 unteers to activities for the utilization of  
15 such records; and

16 (iv) the resources needed to establish  
17 or expand education programs in medical  
18 and health informatics and health informa-  
19 tion management to train health care and  
20 information technology students and pro-  
21 vide a health information technology work-  
22 force sufficient to ensure the rapid and ef-  
23 fective deployment and utilization of health  
24 information technologies.

1           “(7) ASSISTANCE.—The National Coordinator  
2           may provide financial assistance to consumer advo-  
3           cacy groups and not-for-profit entities that work in  
4           the public interest for purposes of defraying the cost  
5           to such groups and entities to participate under,  
6           whether in whole or in part, the National Tech-  
7           nology Transfer Act of 1995 (15 U.S.C. 272 note).

8           “(8) GOVERNANCE FOR NATIONWIDE HEALTH  
9           INFORMATION NETWORK.—The National Coordi-  
10          nator shall establish a governance mechanism for the  
11          nationwide health information network.

12          “(d) DETAIL OF FEDERAL EMPLOYEES.—

13                 “(1) IN GENERAL.—Upon the request of the  
14                 National Coordinator, the head of any Federal agen-  
15                 cy is authorized to detail, with or without reimburse-  
16                 ment from the Office, any of the personnel of such  
17                 agency to the Office to assist it in carrying out its  
18                 duties under this section.

19                 “(2) EFFECT OF DETAIL.—Any detail of per-  
20                 sonnel under paragraph (1) shall—

21                         “(A) not interrupt or otherwise affect the  
22                         civil service status or privileges of the Federal  
23                         employee; and

1           “(B) be in addition to any other staff of  
2           the Department employed by the National Co-  
3           ordinator.

4           “(3) ACCEPTANCE OF DETAILEES.—Notwith-  
5           standing any other provision of law, the Office may  
6           accept detailed personnel from other Federal agen-  
7           cies without regard to whether the agency described  
8           under paragraph (1) is reimbursed.

9           “(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF  
10          THE NATIONAL COORDINATOR.—Not later than 12  
11          months after the date of the enactment of this title, the  
12          Secretary shall appoint a Chief Privacy Officer of the Of-  
13          fice of the National Coordinator, whose duty it shall be  
14          to advise the National Coordinator on privacy, security,  
15          and data stewardship of electronic health information and  
16          to coordinate with other Federal agencies (and similar pri-  
17          vacy officers in such agencies), with State and regional  
18          efforts, and with foreign countries with regard to the pri-  
19          vacy, security, and data stewardship of electronic individ-  
20          ually identifiable health information.

21          **“SEC. 3002. HIT POLICY COMMITTEE.**

22          “(a) ESTABLISHMENT.—There is established a HIT  
23          Policy Committee to make policy recommendations to the  
24          National Coordinator relating to the implementation of a  
25          nationwide health information technology infrastructure,

1 including implementation of the strategic plan described  
2 in section 3001(e)(3).

3 “(b) DUTIES.—

4 “(1) RECOMMENDATIONS ON HEALTH INFOR-  
5 MATION TECHNOLOGY INFRASTRUCTURE.—The HIT  
6 Policy Committee shall recommend a policy frame-  
7 work for the development and adoption of a nation-  
8 wide health information technology infrastructure  
9 that permits the electronic exchange and use of  
10 health information as is consistent with the strategic  
11 plan under section 3001(e)(3) and that includes the  
12 recommendations under paragraph (2). The Com-  
13 mittee shall update such recommendations and make  
14 new recommendations as appropriate.

15 “(2) SPECIFIC AREAS OF STANDARD DEVELOP-  
16 MENT.—

17 “(A) IN GENERAL.—The HIT Policy Com-  
18 mittee shall recommend the areas in which  
19 standards, implementation specifications, and  
20 certification criteria are needed for the elec-  
21 tronic exchange and use of health information  
22 for purposes of adoption under section 3004  
23 and shall recommend an order of priority for  
24 the development, harmonization, and recogni-  
25 tion of such standards, specifications, and cer-

1           tification criteria among the areas so rec-  
2           ommended. Such standards and implementation  
3           specifications shall include named standards,  
4           architectures, and software schemes for the au-  
5           thentication and security of individually identifi-  
6           able health information and other information  
7           as needed to ensure the reproducible develop-  
8           ment of common solutions across disparate en-  
9           tities.

10           “(B) AREAS REQUIRED FOR CONSIDER-  
11           ATION.—For purposes of subparagraph (A), the  
12           HIT Policy Committee shall make recommenda-  
13           tions for at least the following areas:

14           “(i) Technologies that protect the pri-  
15           vacy of health information and promote se-  
16           curity in a qualified electronic health  
17           record, including for the segmentation and  
18           protection from disclosure of specific and  
19           sensitive individually identifiable health in-  
20           formation with the goal of minimizing the  
21           reluctance of patients to seek care (or dis-  
22           close information about a condition) be-  
23           cause of privacy concerns, in accordance  
24           with applicable law, and for the use and



1 disclosure of limited data sets of such in-  
2 formation.

3 “(ii) A nationwide health information  
4 technology infrastructure that allows for  
5 the electronic use and accurate exchange of  
6 health information.

7 “(iii) The utilization of a certified  
8 electronic health record for each person in  
9 the United States by 2014.

10 “(iv) Technologies that as a part of a  
11 qualified electronic health record allow for  
12 an accounting of disclosures made by a  
13 covered entity (as defined for purposes of  
14 regulations promulgated under section  
15 264(e) of the Health Insurance Portability  
16 and Accountability Act of 1996) for pur-  
17 poses of treatment, payment, and health  
18 care operations (as such terms are defined  
19 for purposes of such regulations).

20 “(v) The use of certified electronic  
21 health records to improve the quality of  
22 health care, such as by promoting the co-  
23 ordination of health care and improving  
24 continuity of health care among health  
25 care providers, by reducing medical errors,

1 by improving population health, reducing  
2 chronic disease, and by advancing research  
3 and education.

4 “(vi) The use of electronic systems to  
5 ensure the comprehensive collection of pa-  
6 tient demographic data, including, at a  
7 minimum, race, ethnicity, primary lan-  
8 guage, and gender information.

9 “(vii) Technologies and design fea-  
10 tures that address the needs of children  
11 and other vulnerable populations.

12 “(C) OTHER AREAS FOR CONSIDER-  
13 ATION.—In making recommendations under  
14 subparagraph (A), the HIT Policy Committee  
15 may consider the following additional areas:

16 “(i) The appropriate uses of a nation-  
17 wide health information infrastructure, in-  
18 cluding for purposes of—

19 “(I) the collection of quality data  
20 and public reporting;

21 “(II) biosurveillance and public  
22 health;

23 “(III) medical and clinical re-  
24 search; and

25 “(IV) drug safety.

1           “(ii) Self-service technologies that fa-  
2 cilitate the use and exchange of patient in-  
3 formation and reduce wait times.

4           “(iii) Telemedicine technologies, in  
5 order to reduce travel requirements for pa-  
6 tients in remote areas.

7           “(iv) Technologies that facilitate home  
8 health care and the monitoring of patients  
9 recuperating at home.

10          “(v) Technologies that help reduce  
11 medical errors.

12          “(vi) Technologies that facilitate the  
13 continuity of care among health settings.

14          “(vii) Technologies that meet the  
15 needs of diverse populations.

16          “(viii) Methods to facilitate secure ac-  
17 cess by an individual to such individual’s  
18 protected health information.

19          “(ix) Methods, guidelines, and safe-  
20 guards to facilitate secure access to patient  
21 information by a family member, caregiver,  
22 or guardian acting on behalf of a patient  
23 due to age-related and other disability,  
24 cognitive impairment, or dementia that  
25 prevents a patient from accessing the pa-

1           tient’s individually identifiable health infor-  
2           mation.

3           “(x) Any other technology that the  
4           HIT Policy Committee finds to be among  
5           the technologies with the greatest potential  
6           to improve the quality and efficiency of  
7           health care.

8           “(3) FORUM.—The HIT Policy Committee shall  
9           serve as a forum for broad stakeholder input with  
10          specific expertise in policies relating to the matters  
11          described in paragraphs (1) and (2).

12          “(4) CONSISTENCY WITH EVALUATION CON-  
13          DUCTED UNDER MIPPA.—

14          “(A) REQUIREMENT FOR CONSISTENCY.—  
15          The HIT Policy Committee shall ensure that  
16          recommendations made under paragraph  
17          (2)(B)(vi) are consistent with the evaluation  
18          conducted under section 1809(a) of the Social  
19          Security Act.

20          “(B) SCOPE.—Nothing in subparagraph  
21          (A) shall be construed to limit the recommenda-  
22          tions under paragraph (2)(B)(vi) to the ele-  
23          ments described in section 1809(a)(3) of the  
24          Social Security Act.

1           “(C) TIMING.—The requirement under  
2           subparagraph (A) shall be applicable to the ex-  
3           tent that evaluations have been conducted  
4           under section 1809(a) of the Social Security  
5           Act, regardless of whether the report described  
6           in subsection (b) of such section has been sub-  
7           mitted.

8           “(c) MEMBERSHIP AND OPERATIONS.—

9           “(1) IN GENERAL.—The National Coordinator  
10          shall provide leadership in the establishment and op-  
11          erations of the HIT Policy Committee.

12          “(2) MEMBERSHIP.—The HIT Policy Com-  
13          mittee shall be composed of members to be ap-  
14          pointed as follows:

15               “(A) One member shall be appointed by  
16               the Secretary.

17               “(B) One member shall be appointed by  
18               the Secretary of Veterans Affairs who shall rep-  
19               resent the Department of Veterans Affairs.

20               “(C) One member shall be appointed by  
21               the Secretary of Defense who shall represent  
22               the Department of Defense.

23               “(D) One member shall be appointed by  
24               the Majority Leader of the Senate.

1           “(E) One member shall be appointed by  
2 the Minority Leader of the Senate.

3           “(F) One member shall be appointed by  
4 the Speaker of the House of Representatives.

5           “(G) One member shall be appointed by  
6 the Minority Leader of the House of Represent-  
7 atives.

8           “(H) Eleven members shall be appointed  
9 by the Comptroller General of the United  
10 States, of whom—

11                   “(i) three members shall represent pa-  
12 tients or consumers;

13                   “(ii) one member shall represent  
14 health care providers;

15                   “(iii) one member shall be from a  
16 labor organization representing health care  
17 workers;

18                   “(iv) one member shall have expertise  
19 in privacy and security;

20                   “(v) one member shall have expertise  
21 in improving the health of vulnerable popu-  
22 lations;

23                   “(vi) one member shall represent  
24 health plans or other third party payers;

1           “(vii) one member shall represent in-  
2           formation technology vendors;

3           “(viii) one member shall represent  
4           purchasers or employers; and

5           “(ix) one member shall have expertise  
6           in health care quality measurement and re-  
7           porting.

8           “(3) CHAIRPERSON AND VICE CHAIRPERSON.—  
9           The HIT Policy Committee shall designate one  
10          member to serve as the chairperson and one member  
11          to serve as the vice chairperson of the Policy Com-  
12          mittee.

13          “(4) NATIONAL COORDINATOR.—The National  
14          Coordinator shall serve as a member of the HIT  
15          Policy Committee and act as a liaison among the  
16          HIT Policy Committee, the HIT Standards Com-  
17          mittee, and the Federal Government.

18          “(5) PARTICIPATION.—The members of the  
19          HIT Policy Committee appointed under paragraph  
20          (2) shall represent a balance among various sectors  
21          of the health care system so that no single sector  
22          unduly influences the recommendations of the Policy  
23          Committee.

24          “(6) TERMS.—

1           “(A) IN GENERAL.—The terms of the  
2 members of the HIT Policy Committee shall be  
3 for 3 years, except that the Comptroller General  
4 shall designate staggered terms for the mem-  
5 bers first appointed.

6           “(B) VACANCIES.—Any member appointed  
7 to fill a vacancy in the membership of the HIT  
8 Policy Committee that occurs prior to the expi-  
9 ration of the term for which the member’s pred-  
10 ecessor was appointed shall be appointed only  
11 for the remainder of that term. A member may  
12 serve after the expiration of that member’s  
13 term until a successor has been appointed. A  
14 vacancy in the HIT Policy Committee shall be  
15 filled in the manner in which the original ap-  
16 pointment was made.

17           “(7) OUTSIDE INVOLVEMENT.—The HIT Policy  
18 Committee shall ensure an adequate opportunity for  
19 the participation of outside advisors, including indi-  
20 viduals with expertise in—

21                   “(A) health information privacy and secu-  
22 rity;

23                   “(B) improving the health of vulnerable  
24 populations;



1           “(C) health care quality and patient safety,  
2           including individuals with expertise in the meas-  
3           urement and use of health information tech-  
4           nology to capture data to improve health care  
5           quality and patient safety;

6           “(D) long-term care and aging services;

7           “(E) medical and clinical research; and

8           “(F) data exchange and developing health  
9           information technology standards and new  
10          health information technology.

11          “(8) QUORUM.—Ten members of the HIT Pol-  
12          icy Committee shall constitute a quorum for pur-  
13          poses of voting, but a lesser number of members  
14          may meet and hold hearings.

15          “(9) FAILURE OF INITIAL APPOINTMENT.—If,  
16          on the date that is 45 days after the date of enact-  
17          ment of this title, an official authorized under para-  
18          graph (2) to appoint one or more members of the  
19          HIT Policy Committee has not appointed the full  
20          number of members that such paragraph authorizes  
21          such official to appoint—

22                 “(A) the number of members that such of-  
23                 ficial is authorized to appoint shall be reduced  
24                 to the number that such official has appointed  
25                 as of that date; and

1           “(B) the number prescribed in paragraph  
2           (8) as the quorum shall be reduced to the  
3           smallest whole number that is greater than one-  
4           half of the total number of members who have  
5           been appointed as of that date.

6           “(10) CONSIDERATION.—The National Coordi-  
7           nator shall ensure that the relevant recommenda-  
8           tions and comments from the National Committee  
9           on Vital and Health Statistics are considered in the  
10          development of policies.

11          “(d) APPLICATION OF FACCA.—The Federal Advisory  
12          Committee Act (5 U.S.C. App.), other than section 14 of  
13          such Act, shall apply to the HIT Policy Committee.

14          “(e) PUBLICATION.—The Secretary shall provide for  
15          publication in the Federal Register and the posting on the  
16          Internet website of the Office of the National Coordinator  
17          for Health Information Technology of all policy rec-  
18          ommendations made by the HIT Policy Committee under  
19          this section.

20          **“SEC. 3003. HIT STANDARDS COMMITTEE.**

21          “(a) ESTABLISHMENT.—There is established a com-  
22          mittee to be known as the HIT Standards Committee to  
23          recommend to the National Coordinator standards, imple-  
24          mentation specifications, and certification criteria for the  
25          electronic exchange and use of health information for pur-

1 poses of adoption under section 3004, consistent with the  
2 implementation of the strategic plan described in section  
3 3001(c)(3) and beginning with the areas listed in section  
4 3002(b)(2)(B) in accordance with policies developed by  
5 the HIT Policy Committee.

6 “(b) DUTIES.—

7 “(1) STANDARD DEVELOPMENT.—

8 “(A) IN GENERAL.—The HIT Standards  
9 Committee shall recommend to the National  
10 Coordinator standards, implementation speci-  
11 fications, and certification criteria described in  
12 subsection (a) that have been developed, har-  
13 monized, or recognized by the HIT Standards  
14 Committee. The HIT Standards Committee  
15 shall update such recommendations and make  
16 new recommendations as appropriate, including  
17 in response to a notification sent under section  
18 3004(b)(2). Such recommendations shall be  
19 consistent with the latest recommendations  
20 made by the HIT Policy Committee.

21 “(B) PILOT TESTING OF STANDARDS AND  
22 IMPLEMENTATION SPECIFICATIONS.—In the de-  
23 velopment, harmonization, or recognition of  
24 standards and implementation specifications,  
25 the HIT Standards Committee shall, as appro-

1           appropriate, provide for the testing of such standards  
2           and specifications by the National Institute for  
3           Standards and Technology under section 14201  
4           of the Health Information Technology for Eco-  
5           nomic and Clinical Health Act.

6           “(C) CONSISTENCY.—The standards, im-  
7           plementation specifications, and certification  
8           criteria recommended under this subsection  
9           shall be consistent with the standards for infor-  
10          mation transactions and data elements adopted  
11          pursuant to section 1173 of the Social Security  
12          Act.

13          “(2) FORUM.—The HIT Standards Committee  
14          shall serve as a forum for the participation of a  
15          broad range of stakeholders to provide input on the  
16          development, harmonization, and recognition of  
17          standards, implementation specifications, and certifi-  
18          cation criteria necessary for the development and  
19          adoption of a nationwide health information tech-  
20          nology infrastructure that allows for the electronic  
21          use and exchange of health information.

22          “(3) SCHEDULE.—Not later than 90 days after  
23          the date of the enactment of this title, the HIT  
24          Standards Committee shall develop a schedule for  
25          the assessment of policy recommendations developed

1 by the HIT Policy Committee under section 3002.  
2 The HIT Standards Committee shall update such  
3 schedule annually. The Secretary shall publish such  
4 schedule in the Federal Register.

5 “(4) PUBLIC INPUT.—The HIT Standards  
6 Committee shall conduct open public meetings and  
7 develop a process to allow for public comment on the  
8 schedule described in paragraph (3) and rec-  
9 ommendations described in this subsection. Under  
10 such process comments shall be submitted in a time-  
11 ly manner after the date of publication of a rec-  
12 ommendation under this subsection.

13 “(5) CONSIDERATION.—The National Coordi-  
14 nator shall ensure that the relevant recommenda-  
15 tions and comments from the National Committee  
16 on Vital and Health Statistics are considered in the  
17 development of standards.

18 “(c) MEMBERSHIP AND OPERATIONS.—

19 “(1) IN GENERAL.—The National Coordinator  
20 shall provide leadership in the establishment and op-  
21 erations of the HIT Standards Committee.

22 “(2) MEMBERSHIP.—The membership of the  
23 HIT Standards Committee shall at least reflect pro-  
24 viders, ancillary healthcare workers, consumers, pur-  
25 chasers, health plans, technology vendors, research-

1       ers, relevant Federal agencies, and individuals with  
2       technical expertise on health care quality, privacy  
3       and security, and on the electronic exchange and use  
4       of health information.

5           “(3) BROAD PARTICIPATION.—There is broad  
6       participation in the HIT Standards Committee by a  
7       variety of public and private stakeholders, either  
8       through membership in the Committee or through  
9       another means.

10          “(4) CHAIRPERSON; VICE CHAIRPERSON.—The  
11       HIT Standards Committee may designate one mem-  
12       ber to serve as the chairperson and one member to  
13       serve as the vice chairperson.

14          “(5) DEPARTMENT MEMBERSHIP.—The Sec-  
15       retary shall be a member of the HIT Standards  
16       Committee. The National Coordinator shall act as a  
17       liaison among the HIT Standards Committee, the  
18       HIT Policy Committee, and the Federal Govern-  
19       ment.

20          “(6) BALANCE AMONG SECTORS.—In developing  
21       the procedures for conducting the activities of the  
22       HIT Standards Committee, the HIT Standards  
23       Committee shall act to ensure a balance among var-  
24       ious sectors of the health care system so that no sin-

1       gle sector unduly influences the actions of the HIT  
2       Standards Committee.

3               “(7) ASSISTANCE.—For the purposes of car-  
4       rying out this section, the Secretary may provide or  
5       ensure that financial assistance is provided by the  
6       HIT Standards Committee to defray in whole or in  
7       part any membership fees or dues charged by such  
8       Committee to those consumer advocacy groups and  
9       not for profit entities that work in the public inter-  
10      est as a part of their mission.

11      “(d) OPEN AND PUBLIC PROCESS.—In providing for  
12      the establishment of the HIT Standards Committee pur-  
13      suant to subsection (a), the Secretary shall ensure the fol-  
14      lowing:

15              “(1) CONSENSUS APPROACH; OPEN PROCESS.—  
16      The HIT Standards Committee shall use a con-  
17      sensus approach and a fair and open process to sup-  
18      port the development, harmonization, and recogni-  
19      tion of standards described in subsection (a)(1).

20              “(2) PARTICIPATION OF OUTSIDE ADVISERS.—  
21      The HIT Standards Committee shall ensure an ade-  
22      quate opportunity for the participation of outside  
23      advisors, including individuals with expertise in—

24                      “(A) health information privacy;

25                      “(B) health information security;

1           “(C) health care quality and patient safety,  
2 including individuals with expertise in utilizing  
3 health information technology to improve  
4 healthcare quality and patient safety;

5           “(D) long-term care and aging services;  
6 and

7           “(E) data exchange and developing health  
8 information technology standards and new  
9 health information technology.

10          “(3) OPEN MEETINGS.—Plenary and other reg-  
11 ularly scheduled formal meetings of the HIT Stand-  
12 ards Committee (or established subgroups thereof)  
13 shall be open to the public.

14          “(4) PUBLICATION OF MEETING NOTICES AND  
15 MATERIALS PRIOR TO MEETINGS.—The HIT Stand-  
16 ards Committee shall develop and maintain an Inter-  
17 net website on which it publishes, prior to each  
18 meeting, a meeting notice, a meeting agenda, and  
19 meeting materials.

20          “(5) OPPORTUNITY FOR PUBLIC COMMENT.—  
21 The HIT Standards Committee shall develop a proc-  
22 ess that allows for public comment during the proc-  
23 ess by which the Entity develops, harmonizes, or rec-  
24 ognizes standards and implementation specifications.



1       “(e) VOLUNTARY CONSENSUS STANDARD BODY.—  
2 The provisions of section 12(d) of the National Technology  
3 Transfer and Advancement Act of 1995 (15 U.S.C. 272  
4 note) and the Office of Management and Budget circular  
5 119 shall apply to the HIT Standards Committee.

6       “(f) PUBLICATION.—The Secretary shall provide for  
7 publication in the Federal Register and the posting on the  
8 Internet website of the Office of the National Coordinator  
9 for Health Information Technology of all recommenda-  
10 tions made by the HIT Standards Committee under this  
11 section.

12 **“SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**  
13 **COMMENDATIONS; ADOPTION OF INITIAL SET**  
14 **OF STANDARDS, IMPLEMENTATION SPECI-**  
15 **FICATIONS, AND CERTIFICATION CRITERIA.**

16       “(a) PROCESS FOR ADOPTION OF ENDORSED REC-  
17 OMMENDATIONS.—

18               “(1) REVIEW OF ENDORSED STANDARDS, IM-  
19 PLEMENTATION SPECIFICATIONS, AND CERTIFI-  
20 CATION CRITERIA.—Not later than 90 days after the  
21 date of receipt of standards, implementation speci-  
22 fications, or certification criteria endorsed under sec-  
23 tion 3001(c), the Secretary, in consultation with rep-  
24 resentatives of other relevant Federal agencies, shall  
25 jointly review such standards, implementation speci-

1       fications, or certification criteria and shall determine  
2       whether or not to propose adoption of such stand-  
3       ards, implementation specifications, or certification  
4       criteria.

5               “(2) DETERMINATION TO ADOPT STANDARDS,  
6       IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-  
7       CATION CRITERIA.—If the Secretary determines—

8                       “(A) to propose adoption of any grouping  
9                       of such standards, implementation specifica-  
10                      tions, or certification criteria, the Secretary  
11                      shall, by regulation, determine whether or not  
12                      to adopt such grouping of standards, implemen-  
13                      tation specifications, or certification criteria; or

14                      “(B) not to propose adoption of any group-  
15                      ing of standards, implementation specifications,  
16                      or certification criteria, the Secretary shall no-  
17                      tify the National Coordinator and the HIT  
18                      Standards Committee in writing of such deter-  
19                      mination and the reasons for not proposing the  
20                      adoption of such recommendation.

21               “(3) PUBLICATION.—The Secretary shall pro-  
22       vide for publication in the Federal Register of all de-  
23       terminations made by the Secretary under para-  
24       graph (1).

1       “(b) ADOPTION OF STANDARDS, IMPLEMENTATION  
2 SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

3           “(1) IN GENERAL.—Not later than December  
4 31, 2009, the Secretary shall, through the rule-  
5 making process described in section 3003, adopt an  
6 initial set of standards, implementation specifica-  
7 tions, and certification criteria for the areas required  
8 for consideration under section 3002(b)(2)(B).

9           “(2) APPLICATION OF CURRENT STANDARDS,  
10 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-  
11 CATION CRITERIA.—The standards, implementation  
12 specifications, and certification criteria adopted be-  
13 fore the date of the enactment of this title through  
14 the process existing through the Office of the Na-  
15 tional Coordinator for Health Information Tech-  
16 nology may be applied towards meeting the require-  
17 ment of paragraph (1).

18           “(3) SUBSEQUENT STANDARDS ACTIVITY.—The  
19 Secretary shall adopt additional standards, imple-  
20 mentation specifications, and certification criteria as  
21 necessary and consistent with the schedule published  
22 under section 3003(b)(2).

1 **“SEC. 3005. APPLICATION AND USE OF ADOPTED STAND-**  
2 **ARDS AND IMPLEMENTATION SPECIFICA-**  
3 **TIONS BY FEDERAL AGENCIES.**

4 “For requirements relating to the application and use  
5 by Federal agencies of the standards and implementation  
6 specifications adopted under section 3004, see section  
7 13111 of the Health Information Technology for Eco-  
8 nomic and Clinical Health Act.

9 **“SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPT-**  
10 **ED STANDARDS AND IMPLEMENTATION**  
11 **SPECIFICATIONS BY PRIVATE ENTITIES.**

12 “(a) IN GENERAL.—Except as provided under section  
13 13112 of the Health Information Technology for Eco-  
14 nomic and Clinical Health Act, any standard or implemen-  
15 tation specification adopted under section 3004 shall be  
16 voluntary with respect to private entities.

17 “(b) RULE OF CONSTRUCTION.—Nothing in this sub-  
18 title shall be construed to require that a private entity that  
19 enters into a contract with the Federal Government apply  
20 or use the standards and implementation specifications  
21 adopted under section 3004 with respect to activities not  
22 related to the contract.

23 **“SEC. 3007. FEDERAL HEALTH INFORMATION TECH-**  
24 **NOLOGY.**

25 “(a) IN GENERAL.—The National Coordinator shall  
26 support the development and routine updating of qualified

1 electronic health record technology (as defined in section  
2 3000) consistent with subsections (b) and (c) and make  
3 available such qualified electronic health record technology  
4 unless the Secretary and the HIT Policy Committee deter-  
5 mine through an assessment that the needs and demands  
6 of providers are being substantially and adequately met  
7 through the marketplace.

8       “(b) CERTIFICATION.—In making such EHR tech-  
9 nology publicly available, the National Coordinator shall  
10 ensure that the qualified EHR technology described in  
11 subsection (a) is certified under the program developed  
12 under section 3001(c)(3) to be in compliance with applica-  
13 ble standards adopted under section 3003(a).

14       “(c) AUTHORIZATION TO CHARGE A NOMINAL  
15 FEE.—The National Coordinator may impose a nominal  
16 fee for the adoption by a health care provider of the health  
17 information technology system developed or approved  
18 under subsection (a) and (b). Such fee shall take into ac-  
19 count the financial circumstances of smaller providers, low  
20 income providers, and providers located in rural or other  
21 medically underserved areas.

22       “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
23 tion shall be construed to require that a private or govern-  
24 ment entity adopt or use the technology provided under  
25 this section.

1 **SEC. 3008. TRANSITIONS.**

2       “(a) ONCHIT.—Nothing in section 3001 shall be  
3 construed as requiring the creation of a new entity to the  
4 extent that the Office of the National Coordinator for  
5 Health Information Technology established pursuant to  
6 Executive Order 13335 is consistent with the provisions  
7 of section 3001.

8       “(b) NATIONAL EHEALTH COLLABORATIVE.—Noth-  
9 ing in sections 3002 or 3003 or this subsection shall be  
10 construed as prohibiting the National eHealth Collabo-  
11 rative from modifying its charter, duties, membership, and  
12 any other structure or function required to be consistent  
13 with the requirements of a voluntary consensus standards  
14 body so as to allow the Secretary to recognize the National  
15 eHealth Collaborative as the HIT Standards Committee.

16       “(c) CONSISTENCY OF RECOMMENDATIONS.—In car-  
17 rying out section 3003(b)(1)(A), until recommendations  
18 are made by the HIT Policy Committee, recommendations  
19 of the HIT Standards Committee shall be consistent with  
20 the most recent recommendations made by such AHIC  
21 Successor, Inc.

22 **“SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY**  
23 **LAW.**

24       “(a) IN GENERAL.—With respect to the relation of  
25 this title to HIPAA privacy and security law:

1           “(1) This title may not be construed as having  
2           any effect on the authorities of the Secretary under  
3           HIPAA privacy and security law.

4           “(2) The purposes of this title include ensuring  
5           that the health information technology standards  
6           and implementation specifications adopted under  
7           section 3004 take into account the requirements of  
8           HIPAA privacy and security law.

9           “(b) DEFINITION.—For purposes of this section, the  
10          term ‘HIPAA privacy and security law’ means—

11           “(1) the provisions of part C of title XI of the  
12           Social Security Act, section 264 of the Health Insur-  
13           ance Portability and Accountability Act of 1996, and  
14           subtitle D of the Health Information Technology for  
15           Economic and Clinical Health Act; and

16           “(2) regulations under such provisions.”.

17          **SEC. 13102. TECHNICAL AMENDMENT.**

18           Section 1171(5) of the Social Security Act (42 U.S.C.  
19          1320d) is amended by striking “or C” and inserting “C,  
20          or D”.

1 **PART II—APPLICATION AND USE OF ADOPTED**  
2 **HEALTH INFORMATION TECHNOLOGY**  
3 **STANDARDS; REPORTS**

4 **SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH**  
5 **ADOPTED STANDARDS AND IMPLEMENTA-**  
6 **TION SPECIFICATIONS.**

7 (a) SPENDING ON HEALTH INFORMATION TECH-  
8 NOLOGY SYSTEMS.—As each agency (as defined in the Ex-  
9 ecutive Order issued on August 22, 2006, relating to pro-  
10 moting quality and efficient health care in Federal govern-  
11 ment administered or sponsored health care programs) im-  
12 plements, acquires, or upgrades health information tech-  
13 nology systems used for the direct exchange of individually  
14 identifiable health information between agencies and with  
15 non-Federal entities, it shall utilize, where available,  
16 health information technology systems and products that  
17 meet standards and implementation specifications adopted  
18 under section 3004(b) of the Public Health Service Act,  
19 as added by section 13101.

20 (b) FEDERAL INFORMATION COLLECTION ACTIVI-  
21 TIES.—With respect to a standard or implementation  
22 specification adopted under section 3004(b) of the Public  
23 Health Service Act, as added by section 13101, the Presi-  
24 dent shall take measures to ensure that Federal activities  
25 involving the broad collection and submission of health in-  
26 formation are consistent with such standard or implemen-



1 tation specification, respectively, within three years after  
2 the date of such adoption.

3 (c) APPLICATION OF DEFINITIONS.—The definitions  
4 contained in section 3000 of the Public Health Service  
5 Act, as added by section 13101, shall apply for purposes  
6 of this part.

7 **SEC. 13112. APPLICATION TO PRIVATE ENTITIES.**

8 Each agency (as defined in such Executive Order  
9 issued on August 22, 2006, relating to promoting quality  
10 and efficient health care in Federal government adminis-  
11 tered or sponsored health care programs) shall require in  
12 contracts or agreements with health care providers, health  
13 plans, or health insurance issuers that as each provider,  
14 plan, or issuer implements, acquires, or upgrades health  
15 information technology systems, it shall utilize, where  
16 available, health information technology systems and prod-  
17 ucts that meet standards and implementation specifica-  
18 tions adopted under section 3004(b) of the Public Health  
19 Service Act, as added by section 13101.

20 **SEC. 13113. STUDY AND REPORTS.**

21 (a) REPORT ON ADOPTION OF NATIONWIDE SYS-  
22 TEM.—Not later than 2 years after the date of the enact-  
23 ment of this Act and annually thereafter, the Secretary  
24 of Health and Human Services shall submit to the appro-

1 p r i a t e c o m m i t t e e s o f j u r i s d i c t i o n o f t h e H o u s e o f R e p -  
2 r e s e n t a t i v e s a n d t h e S e n a t e a r e p o r t t h a t —

3           (1) d e s c r i b e s t h e s p e c i f i c a c t i o n s t h a t h a v e b e e n  
4 t a k e n b y t h e F e d e r a l G o v e r n m e n t a n d p r i v a t e e n t i -  
5 t i e s t o f a c i l i t a t e t h e a d o p t i o n o f a n a t i o n w i d e s y s t e m  
6 f o r t h e e l e c t r o n i c u s e a n d e x c h a n g e o f h e a l t h i n f o r -  
7 m a t i o n ;

8           (2) d e s c r i b e s b a r r i e r s t o t h e a d o p t i o n o f s u c h a  
9 n a t i o n w i d e s y s t e m ; a n d

10           (3) c o n t a i n s r e c o m m e n d a t i o n s t o a c h i e v e f u l l  
11 i m p l e m e n t a t i o n o f s u c h a n a t i o n w i d e s y s t e m .

12           (b) R E I M B U R S E M E N T I N C E N T I V E S T U D Y A N D R E -  
13 P O R T . —

14           (1) S T U D Y . — T h e S e c r e t a r y o f H e a l t h a n d  
15 H u m a n S e r v i c e s s h a l l c a r r y o u t , o r c o n t r a c t w i t h a  
16 p r i v a t e e n t i t y t o c a r r y o u t , a s t u d y t h a t e x a m i n e s  
17 m e t h o d s t o c r e a t e e f f i c i e n t r e i m b u r s e m e n t i n c e n t i v e s  
18 f o r i m p r o v i n g h e a l t h c a r e q u a l i t y i n F e d e r a l l y q u a l i -  
19 f i e d h e a l t h c e n t e r s , r u r a l h e a l t h c l i n i c s , a n d f r e e  
20 c l i n i c s .

21           (2) R E P O R T . — N o t l a t e r t h a n 2 y e a r s a f t e r t h e  
22 d a t e o f t h e e n a c t m e n t o f t h i s A c t , t h e S e c r e t a r y o f  
23 H e a l t h a n d H u m a n S e r v i c e s s h a l l s u b m i t t o t h e a p -  
24 p r o p r i a t e c o m m i t t e e s o f j u r i s d i c t i o n o f t h e H o u s e o f

1 Representatives and the Senate a report on the  
2 study carried out under paragraph (1).

3 (c) AGING SERVICES TECHNOLOGY STUDY AND RE-  
4 PORT.—

5 (1) IN GENERAL.—The Secretary of Health and  
6 Human Services shall carry out, or contract with a  
7 private entity to carry out, a study of matters relat-  
8 ing to the potential use of new aging services tech-  
9 nology to assist seniors, individuals with disabilities,  
10 and their caregivers throughout the aging process.

11 (2) MATTERS TO BE STUDIED.—The study  
12 under paragraph (1) shall include—

13 (A) an evaluation of—

14 (i) methods for identifying current,  
15 emerging, and future health technology  
16 that can be used to meet the needs of sen-  
17 iors and individuals with disabilities and  
18 their caregivers across all aging services  
19 settings, as specified by the Secretary;

20 (ii) methods for fostering scientific in-  
21 novation with respect to aging services  
22 technology within the business and aca-  
23 demic communities; and

1 (iii) developments in aging services  
2 technology in other countries that may be  
3 applied in the United States; and

4 (B) identification of—

5 (i) barriers to innovation in aging  
6 services technology and devising strategies  
7 for removing such barriers; and

8 (ii) barriers to the adoption of aging  
9 services technology by health care pro-  
10 viders and consumers and devising strate-  
11 gies to removing such barriers.

12 (3) REPORT.—Not later than 24 months after  
13 the date of the enactment of this Act, the Secretary  
14 shall submit to the appropriate committees of juris-  
15 diction of the House of Representatives and of the  
16 Senate a report on the study carried out under para-  
17 graph (1).

18 (4) DEFINITIONS.—For purposes of this sub-  
19 section:

20 (A) AGING SERVICES TECHNOLOGY.—The  
21 term “aging services technology” means health  
22 technology that meets the health care needs of  
23 seniors, individuals with disabilities, and the  
24 caregivers of such seniors and individuals.

1 (B) SENIOR.—The term “senior” has such  
2 meaning as specified by the Secretary.

3 GENERAL PROVISIONS—HOPE FOR HOMEOWNERS

4 AMENDMENTS

5 SEC. 1211. Section 257 of the National Housing Act  
6 (12 U.S.C. 1715z–23), as amended by the Emergency  
7 Economic Stabilization Act of 2008 (Public Law 110–  
8 343), is amended—

9 (1) in subsection (e)(1)(B), by inserting after  
10 “being reset,” the following: “or has, due to a de-  
11 crease in income,”;

12 (2) in subsection (k)(2), by striking “and the  
13 mortgagor” and all that follows through the end and  
14 inserting “shall, upon any sale or disposition of the  
15 property to which the mortgage relates, be entitled  
16 to 25 percent of appreciation, up to the appraised  
17 value of the home at the time when the mortgage  
18 being refinanced under this section was originally  
19 made. The Secretary may share any amounts re-  
20 ceived under this paragraph with the holder of the  
21 eligible mortgage refinanced under this section.”;

22 (3) in subsection (i)—

23 (A) by inserting “, after weighing maxi-  
24 mization of participation with consideration for  
25 the solvency of the program,” after “Secretary  
26 shall”;

1 (B) in paragraph (1), by striking “equal to  
2 3 percent” and inserting “not more than 2 per-  
3 cent”; and

4 (C) in paragraph (2), by striking “equal to  
5 1.5 percent” and inserting “not more than 1  
6 percent”; and

7 (4) by adding at the end the following:

8 “(x) AUCTIONS.—The Board shall, if feasible, estab-  
9 lish a structure and organize procedures for an auction  
10 to refinance eligible mortgages on a wholesale or bulk  
11 basis.

12 “(y) COMPENSATION OF SERVICERS.—To provide in-  
13 centive for participation in the program under this section,  
14 each servicer of an eligible mortgage insured under this  
15 section shall be paid \$1,000 for performing services associ-  
16 ated with refinancing such mortgage, or such other  
17 amount as the Board determines is warranted. Funding  
18 for such compensation shall be provided by funds realized  
19 through the HOPE bond under subsection (w).”.

20 **Subtitle B—Testing of Health**  
21 **Information Technology**

22 **SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND**  
23 **TECHNOLOGY TESTING.**

24 (a) PILOT TESTING OF STANDARDS AND IMPLEMEN-  
25 TATION SPECIFICATIONS.—In coordination with the HIT

1 Standards Committee established under section 3003 of  
2 the Public Health Service Act, as added by section 13101,  
3 with respect to the development of standards and imple-  
4 mentation specifications under such section, the Director  
5 of the National Institute for Standards and Technology  
6 shall test such standards and implementation specifica-  
7 tions, as appropriate, in order to assure the efficient im-  
8 plementation and use of such standards and implementa-  
9 tion specifications.

10 (b) VOLUNTARY TESTING PROGRAM.—In coordina-  
11 tion with the HIT Standards Committee established under  
12 section 3003 of the Public Health Service Act, as added  
13 by section 13101, with respect to the development of  
14 standards and implementation specifications under such  
15 section, the Director of the National Institute of Stand-  
16 ards and Technology shall support the establishment of  
17 a conformance testing infrastructure, including the devel-  
18 opment of technical test beds. The development of this  
19 conformance testing infrastructure may include a program  
20 to accredit independent, non-Federal laboratories to per-  
21 form testing.

22 **SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.**

23 (a) HEALTH CARE INFORMATION ENTERPRISE INTE-  
24 GRATION RESEARCH CENTERS.—

1           (1) IN GENERAL.—The Director of the National  
2           Institute of Standards and Technology, in consulta-  
3           tion with the Director of the National Science Foun-  
4           dation and other appropriate Federal agencies, shall  
5           establish a program of assistance to institutions of  
6           higher education (or consortia thereof which may in-  
7           clude nonprofit entities and Federal Government  
8           laboratories) to establish multidisciplinary Centers  
9           for Health Care Information Enterprise Integration.

10           (2) REVIEW; COMPETITION.—Grants shall be  
11           awarded under this subsection on a merit-reviewed,  
12           competitive basis.

13           (3) PURPOSE.—The purposes of the Centers de-  
14           scribed in paragraph (1) shall be—

15                   (A) to generate innovative approaches to  
16                   health care information enterprise integration  
17                   by conducting cutting-edge, multidisciplinary  
18                   research on the systems challenges to health  
19                   care delivery; and

20                   (B) the development and use of health in-  
21                   formation technologies and other complemen-  
22                   tary fields.

23           (4) RESEARCH AREAS.—Research areas may in-  
24           clude—



1 (A) interfaces between human information  
2 and communications technology systems;

3 (B) voice-recognition systems;

4 (C) software that improves interoperability  
5 and connectivity among health information sys-  
6 tems;

7 (D) software dependability in systems crit-  
8 ical to health care delivery;

9 (E) measurement of the impact of informa-  
10 tion technologies on the quality and productivity  
11 of health care;

12 (F) health information enterprise manage-  
13 ment;

14 (G) health information technology security  
15 and integrity; and

16 (H) relevant health information technology  
17 to reduce medical errors.

18 (5) APPLICATIONS.—An institution of higher  
19 education (or a consortium thereof) seeking funding  
20 under this subsection shall submit an application to  
21 the Director of the National Institute of Standards  
22 and Technology at such time, in such manner, and  
23 containing such information as the Director may re-  
24 quire. The application shall include, at a minimum,  
25 a description of—

1 (A) the research projects that will be un-  
2 dertaken by the Center established pursuant to  
3 assistance under paragraph (1) and the respec-  
4 tive contributions of the participating entities;

5 (B) how the Center will promote active col-  
6 laboration among scientists and engineers from  
7 different disciplines, such as information tech-  
8 nology, biologic sciences, management, social  
9 sciences, and other appropriate disciplines;

10 (C) technology transfer activities to dem-  
11 onstrate and diffuse the research results, tech-  
12 nologies, and knowledge; and

13 (D) how the Center will contribute to the  
14 education and training of researchers and other  
15 professionals in fields relevant to health infor-  
16 mation enterprise integration.

17 (b) NATIONAL INFORMATION TECHNOLOGY RE-  
18 SEARCH AND DEVELOPMENT PROGRAM.—The National  
19 High-Performance Computing Program established by  
20 section 101 of the High-Performance Computing Act of  
21 1991 (15 U.S.C. 5511) may review Federal research and  
22 development programs related to the development and de-  
23 ployment of health information technology, including ac-  
24 tivities related to—

25 (1) computer infrastructure;

- 1 (2) data security;
- 2 (3) development of large-scale, distributed, reli-  
3 able computing systems;
- 4 (4) wired, wireless, and hybrid high-speed net-  
5 working;
- 6 (5) development of software and software-inten-  
7 sive systems;
- 8 (6) human-computer interaction and informa-  
9 tion management technologies; and
- 10 (7) the social and economic implications of in-  
11 formation technology.

12 **Subtitle C—Incentives for the Use**  
13 **of Health Information Technology**

14 **PART I—GRANTS AND LOANS FUNDING**

15 **SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PRO-**  
16 **GRAMS.**

17 Title XXX of the Public Health Service Act, as added  
18 by section 13101, is amended by adding at the end the  
19 following new subtitle:

1 **“Subtitle B—Incentives for the Use**  
2 **of Health Information Technology**

3 **“SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE**  
4 **HEALTH INFORMATION TECHNOLOGY INFRA-**  
5 **STRUCTURE.**

6 “(a) IN GENERAL.—The Secretary of Health and  
7 Human Services shall, using amounts appropriated under  
8 section 3018, invest in the infrastructure necessary to  
9 allow for and promote the electronic exchange and use of  
10 health information for each individual in the United States  
11 consistent with the goals outlined in the strategic plan de-  
12 veloped by the National Coordinator (and, as available)  
13 under section 3001. To the greatest extent practicable, the  
14 Secretary shall ensure that any funds so appropriated  
15 shall be used for the acquisition of health information  
16 technology that meets standards and certification criteria  
17 adopted before the date of the enactment of this title until  
18 such date as the standards are adopted under section  
19 3004. The Secretary shall invest funds through the dif-  
20 ferent agencies with expertise in such goals, such as the  
21 Office of the National Coordinator for Health Information  
22 Technology, the Health Resources and Services Adminis-  
23 tration, the Agency for Healthcare Research and Quality,  
24 the Centers of Medicare & Medicaid Services, the Centers

1 for Disease Control and Prevention, and the Indian  
2 Health Service to support the following:

3           “(1) Health information technology architecture  
4           that will support the nationwide electronic exchange  
5           and use of health information in a secure, private,  
6           and accurate manner, including connecting health  
7           information exchanges, and which may include up-  
8           dating and implementing the infrastructure nec-  
9           essary within different agencies of the Department  
10          of Health and Human Services to support the elec-  
11          tronic use and exchange of health information.

12           “(2) Development and adoption of appropriate  
13          certified electronic health records for categories of  
14          providers not eligible for support under title XVIII  
15          or XIX of the Social Security Act for the adoption  
16          of such records.

17           “(3) Training on and dissemination of informa-  
18          tion on best practices to integrate health information  
19          technology, including electronic health records, into  
20          a provider’s delivery of care, consistent with best  
21          practices learned from the Health Information Tech-  
22          nology Research Center developed under section  
23          3012, including community health centers receiving  
24          assistance under section 330 of the Public Health  
25          Service Act, covered entities under section 340B of

1 such Act, and providers participating in one or more  
2 of the programs under titles XVIII, XIX, and XXI  
3 of the Social Security Act (relating to Medicare,  
4 Medicaid, and the State Children’s Health Insurance  
5 Program).

6 “(4) Infrastructure and tools for the promotion  
7 of telemedicine, including coordination among Fed-  
8 eral agencies in the promotion of telemedicine.

9 “(5) Promotion of the interoperability of clinical  
10 data repositories or registries.

11 “(6) Promotion of technologies and best prac-  
12 tices that enhance the protection of health informa-  
13 tion by all holders of individually identifiable health  
14 information.

15 “(7) Improve and expand the use of health in-  
16 formation technology by public health departments.

17 “(8) Provide \$300,000,000 to support regional  
18 or sub-national efforts towards health information  
19 exchange.

20 “(b) COORDINATION.—The Secretary shall ensure  
21 funds under this section are used in a coordinated manner  
22 with other health information promotion activities.

23 “(c) ADDITIONAL USE OF FUNDS.—In addition to  
24 using funds as provided in subsection (a), the Secretary  
25 may use amounts appropriated under section 3018 to

1 carry out activities that are provided for under laws in  
2 effect on the date of enactment of this title.

3 **“SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**  
4 **MENTATION ASSISTANCE.**

5 “(a) HEALTH INFORMATION TECHNOLOGY EXTEN-  
6 SION PROGRAM.—To assist health care providers to adopt,  
7 implement, and effectively use certified EHR technology  
8 that allows for the electronic exchange and use of health  
9 information, the Secretary, acting through the Office of  
10 the National Coordinator, shall establish a health informa-  
11 tion technology extension program to provide health infor-  
12 mation technology assistance services to be carried out  
13 through the Department of Health and Human Services.  
14 The National Coordinator shall consult with other Federal  
15 agencies with demonstrated experience and expertise in in-  
16 formation technology services, such as the National Insti-  
17 tute of Standards and Technology, in developing and im-  
18 plementing this program.

19 “(b) HEALTH INFORMATION TECHNOLOGY RE-  
20 SEARCH CENTER.—

21 “(1) IN GENERAL.—The Secretary shall create  
22 a Health Information Technology Research Center  
23 (in this section referred to as the ‘Center’) to pro-  
24 vide technical assistance and develop or recognize  
25 best practices to support and accelerate efforts to

1 adopt, implement, and effectively utilize health infor-  
2 mation technology that allows for the electronic ex-  
3 change and use of information in compliance with  
4 standards, implementation specifications, and certifi-  
5 cation criteria adopted under section 3004(b).

6 “(2) INPUT.—The Center shall incorporate  
7 input from—

8 “(A) other Federal agencies with dem-  
9 onstrated experience and expertise in informa-  
10 tion technology services such as the National  
11 Institute of Standards and Technology;

12 “(B) users of health information tech-  
13 nology, such as providers and their support and  
14 clerical staff and others involved in the care and  
15 care coordination of patients, from the health  
16 care and health information technology indus-  
17 try; and

18 “(C) others as appropriate.

19 “(3) PURPOSES.—The purposes of the Center  
20 are to—

21 “(A) provide a forum for the exchange of  
22 knowledge and experience;

23 “(B) accelerate the transfer of lessons  
24 learned from existing public and private sector



1 initiatives, including those currently receiving  
2 Federal financial support;

3 “(C) assemble, analyze, and widely dis-  
4 seminate evidence and experience related to the  
5 adoption, implementation, and effective use of  
6 health information technology that allows for  
7 the electronic exchange and use of information  
8 including through the regional centers described  
9 in subsection (c);

10 “(D) provide technical assistance for the  
11 establishment and evaluation of regional and  
12 local health information networks to facilitate  
13 the electronic exchange of information across  
14 health care settings and improve the quality of  
15 health care;

16 “(E) provide technical assistance for the  
17 development and dissemination of solutions to  
18 barriers to the exchange of electronic health in-  
19 formation; and

20 “(F) learn about effective strategies to  
21 adopt and utilize health information technology  
22 in medically underserved communities.

23 “(c) HEALTH INFORMATION TECHNOLOGY RE-  
24 GIONAL EXTENSION CENTERS.—

1           “(1) IN GENERAL.—The Secretary shall provide  
2 assistance for the creation and support of regional  
3 centers (in this subsection referred to as ‘regional  
4 centers’) to provide technical assistance and dissemi-  
5 nate best practices and other information learned  
6 from the Center to support and accelerate efforts to  
7 adopt, implement, and effectively utilize health infor-  
8 mation technology that allows for the electronic ex-  
9 change and use of information in compliance with  
10 standards, implementation specifications, and certifi-  
11 cation criteria adopted under section 3004. Activities  
12 conducted under this subsection shall be consistent  
13 with the strategic plan developed by the National  
14 Coordinator (and, as available) under section 3001.

15           “(2) AFFILIATION.—Regional centers shall be  
16 affiliated with any United States-based nonprofit in-  
17 stitution or organization, or group thereof, that ap-  
18 plies and is awarded financial assistance under this  
19 section. Individual awards shall be decided on the  
20 basis of merit.

21           “(3) OBJECTIVE.—The objective of the regional  
22 centers is to enhance and promote the adoption of  
23 health information technology through—

24                   “(A) assistance with the implementation,  
25 effective use, upgrading, and ongoing mainte-

1 nance of health information technology, includ-  
2 ing electronic health records, to healthcare pro-  
3 viders nationwide;

4 “(B) broad participation of individuals  
5 from industry, universities, and State govern-  
6 ments;

7 “(C) active dissemination of best practices  
8 and research on the implementation, effective  
9 use, upgrading, and ongoing maintenance of  
10 health information technology, including elec-  
11 tronic health records, to health care providers  
12 in order to improve the quality of healthcare  
13 and protect the privacy and security of health  
14 information;

15 “(D) participation, to the extent prac-  
16 ticable, in health information exchanges;

17 “(E) utilization, when appropriate, of the  
18 expertise and capability that exists in federal  
19 agencies other than the Department; and

20 “(F) integration of health information  
21 technology, including electronic health records,  
22 into the initial and ongoing training of health  
23 professionals and others in the healthcare in-  
24 dustry that would be instrumental to improving  
25 the quality of healthcare through the smooth

1           and accurate electronic use and exchange of  
2           health information.

3           “(4) REGIONAL ASSISTANCE.—Each regional  
4           center shall aim to provide assistance and education  
5           to all providers in a region, but shall prioritize any  
6           direct assistance first to the following:

7                   “(A) Public or not-for-profit hospitals or  
8                   critical access hospitals.

9                   “(B) Federally qualified health centers (as  
10                  defined in section 1861(aa)(4) of the Social Se-  
11                  curity Act).

12                  “(C) Entities that are located in rural and  
13                  other areas that serve uninsured, underinsured,  
14                  and medically underserved individuals (regard-  
15                  less of whether such area is urban or rural).

16                  “(D) Individual or small group practices  
17                  (or a consortium thereof) that are primarily fo-  
18                  cused on primary care.

19           “(5) FINANCIAL SUPPORT.—The Secretary may  
20           provide financial support to any regional center cre-  
21           ated under this subsection for a period not to exceed  
22           four years. The Secretary may not provide more  
23           than 50 percent of the capital and annual operating  
24           and maintenance funds required to create and main-  
25           tain such a center, except in an instance of national

1 economic conditions which would render this cost-  
2 share requirement detrimental to the program and  
3 upon notification to Congress as to the justification  
4 to waive the cost-share requirement.

5 “(6) NOTICE OF PROGRAM DESCRIPTION AND  
6 AVAILABILITY OF FUNDS.—The Secretary shall pub-  
7 lish in the Federal Register, not later than 90 days  
8 after the date of the enactment of this Act, a draft  
9 description of the program for establishing regional  
10 centers under this subsection. Such description shall  
11 include the following:

12 “(A) A detailed explanation of the program  
13 and the programs goals.

14 “(B) Procedures to be followed by the ap-  
15 plicants.

16 “(C) Criteria for determining qualified ap-  
17 plicants.

18 “(D) Maximum support levels expected to  
19 be available to centers under the program.

20 “(7) APPLICATION REVIEW.—The Secretary  
21 shall subject each application under this subsection  
22 to merit review. In making a decision whether to ap-  
23 prove such application and provide financial support,  
24 the Secretary shall consider at a minimum the mer-

1 its of the application, including those portions of the  
2 application regarding—

3 “(A) the ability of the applicant to provide  
4 assistance under this subsection and utilization  
5 of health information technology appropriate to  
6 the needs of particular categories of health care  
7 providers;

8 “(B) the types of service to be provided to  
9 health care providers;

10 “(C) geographical diversity and extent of  
11 service area; and

12 “(D) the percentage of funding and  
13 amount of in-kind commitment from other  
14 sources.

15 “(8) BIENNIAL EVALUATION.—Each regional  
16 center which receives financial assistance under this  
17 subsection shall be evaluated biennially by an evalua-  
18 tion panel appointed by the Secretary. Each evalua-  
19 tion panel shall be composed of private experts, none  
20 of whom shall be connected with the center involved,  
21 and of Federal officials. Each evaluation panel shall  
22 measure the involved center’s performance against  
23 the objective specified in paragraph (3). The Sec-  
24 retary shall not continue to provide funding to a re-  
25 gional center unless its evaluation is overall positive.

1           “(9) CONTINUING SUPPORT.—After the second  
2           year of assistance under this subsection a regional  
3           center may receive additional support under this  
4           subsection if it has received positive evaluations and  
5           a finding by the Secretary that continuation of Fed-  
6           eral funding to the center was in the best interest  
7           of provision of health information technology exten-  
8           sion services.

9           **“SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFOR-**  
10                                   **MATION TECHNOLOGY.**

11           “(a) IN GENERAL.—The Secretary, acting through  
12           the National Coordinator, shall establish a program in ac-  
13           cordance with this section to facilitate and expand the  
14           electronic movement and use of health information among  
15           organizations according to nationally recognized stand-  
16           ards.

17           “(b) PLANNING GRANTS.—The Secretary may award  
18           a grant to a State or qualified State-designated entity (as  
19           described in subsection (d)) that submits an application  
20           to the Secretary at such time, in such manner, and con-  
21           taining such information as the Secretary may specify, for  
22           the purpose of planning activities described in subsection  
23           (b).

1       “(c) IMPLEMENTATION GRANTS.—The Secretary  
2 may award a grant to a State or qualified State designated  
3 entity that—

4           “(1) has submitted, and the Secretary has ap-  
5 proved, a plan described in subsection (c) (regardless  
6 of whether such plan was prepared using amounts  
7 awarded under paragraph (1)); and

8           “(2) submits an application at such time, in  
9 such manner, and containing such information as  
10 the Secretary may specify.

11       “(d) USE OF FUNDS.—Amounts received under a  
12 grant under subsection (a)(3) shall be used to conduct ac-  
13 tivities to facilitate and expand the electronic movement  
14 and use of health information among organizations ac-  
15 cording to nationally recognized standards through activi-  
16 ties that include—

17           “(1) enhancing broad and varied participation  
18 in the authorized and secure nationwide electronic  
19 use and exchange of health information;

20           “(2) identifying State or local resources avail-  
21 able towards a nationwide effort to promote health  
22 information technology;

23           “(3) complementing other Federal grants, pro-  
24 grams, and efforts towards the promotion of health  
25 information technology;



1           “(4) providing technical assistance for the de-  
2           velopment and dissemination of solutions to barriers  
3           to the exchange of electronic health information;

4           “(5) promoting effective strategies to adopt and  
5           utilize health information technology in medically  
6           underserved communities;

7           “(6) assisting patients in utilizing health infor-  
8           mation technology;

9           “(7) encouraging clinicians to work with Health  
10          Information Technology Regional Extension Centers  
11          as described in section 3012, to the extent they are  
12          available and valuable;

13          “(8) supporting public health agencies’ author-  
14          ized use of and access to electronic health informa-  
15          tion;

16          “(9) promoting the use of electronic health  
17          records for quality improvement including through  
18          quality measures reporting;

19          “(10) establishing and supporting health record  
20          banking models to further consumer-based consent  
21          models that promote lifetime access to qualified  
22          health records, if such activities are included in the  
23          plan described in subsection (e), and may contain  
24          smart card functionality; and

1           “(11) such other activities as the Secretary may  
2 specify.

3           “(e) PLAN.—

4           “(1) IN GENERAL.—A plan described in this  
5 subsection is a plan that describes the activities to  
6 be carried out by a State or by the qualified State-  
7 designated entity within such State to facilitate and  
8 expand the electronic movement and use of health  
9 information among organizations according to na-  
10 tionally recognized standards and implementation  
11 specifications.

12           “(2) REQUIRED ELEMENTS.—A plan described  
13 in paragraph (1) shall—

14           “(A) be pursued in the public interest;

15           “(B) be consistent with the strategic plan  
16 developed by the National Coordinator (and, as  
17 available) under section 3001;

18           “(C) include a description of the ways the  
19 State or qualified State-designated entity will  
20 carry out the activities described in subsection  
21 (b); and

22           “(D) contain such elements as the Sec-  
23 retary may require.

1       “(f) QUALIFIED STATE-DESIGNATED ENTITY.—For  
2 purposes of this section, to be a qualified State-designated  
3 entity, with respect to a State, an entity shall—

4           “(1) be designated by the State as eligible to  
5 receive awards under this section;

6           “(2) be a not-for-profit entity with broad stake-  
7 holder representation on its governing board;

8           “(3) demonstrate that one of its principal goals  
9 is to use information technology to improve health  
10 care quality and efficiency through the authorized  
11 and secure electronic exchange and use of health in-  
12 formation;

13           “(4) adopt nondiscrimination and conflict of in-  
14 terest policies that demonstrate a commitment to  
15 open, fair, and nondiscriminatory participation by  
16 stakeholders; and

17           “(5) conform to such other requirements as the  
18 Secretary may establish.

19       “(g) REQUIRED CONSULTATION.—In carrying out  
20 activities described in subsections (a)(2) and (a)(3), a  
21 State or qualified State-designated entity shall consult  
22 with and consider the recommendations of—

23           “(1) health care providers (including providers  
24 that provide services to low income and underserved  
25 populations);

1           “(2) health plans;

2           “(3) patient or consumer organizations that  
3 represent the population to be served;

4           “(4) health information technology vendors;

5           “(5) health care purchasers and employers;

6           “(6) public health agencies;

7           “(7) health professions schools, universities and  
8 colleges;

9           “(8) clinical researchers;

10          “(9) other users of health information tech-  
11 nology such as the support and clerical staff of pro-  
12 viders and others involved in the care and care co-  
13 ordination of patients; and

14          “(10) such other entities, as may be determined  
15 appropriate by the Secretary.

16          “(h) CONTINUOUS IMPROVEMENT.—The Secretary  
17 shall annually evaluate the activities conducted under this  
18 section and shall, in awarding grants under this section,  
19 implement the lessons learned from such evaluation in a  
20 manner so that awards made subsequent to each such  
21 evaluation are made in a manner that, in the determina-  
22 tion of the Secretary, will lead towards the greatest im-  
23 provement in quality of care, decrease in costs, and the  
24 most effective authorized and secure electronic exchange  
25 of health information.

1 “(i) REQUIRED MATCH.—

2 “(1) IN GENERAL.—For a fiscal year (begin-  
3 ning with fiscal year 2011), the Secretary may not  
4 make a grant under subsection (a) to a State unless  
5 the State agrees to make available non-Federal con-  
6 tributions (which may include in-kind contributions)  
7 toward the costs of a grant awarded under sub-  
8 section (a)(3) in an amount equal to—

9 “(A) for fiscal year 2011, not less than \$1  
10 for each \$10 of Federal funds provided under  
11 the grant;

12 “(B) for fiscal year 2012, not less than \$1  
13 for each \$7 of Federal funds provided under  
14 the grant; and

15 “(C) for fiscal year 2013 and each subse-  
16 quent fiscal year, not less than \$1 for each \$3  
17 of Federal funds provided under the grant.

18 “(2) AUTHORITY TO REQUIRE STATE MATCH  
19 FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For  
20 any fiscal year during the grant program under this  
21 section before fiscal year 2011, the Secretary may  
22 determine the extent to which there shall be required  
23 a non-Federal contribution from a State receiving a  
24 grant under this section.

1 **“SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN**  
2 **TRIBES FOR THE DEVELOPMENT OF LOAN**  
3 **PROGRAMS TO FACILITATE THE WIDE-**  
4 **SPREAD ADOPTION OF CERTIFIED EHR TECH-**  
5 **NOLOGY.**

6 “(a) IN GENERAL.—The National Coordinator may  
7 award competitive grants to eligible entities for the estab-  
8 lishment of programs for loans to health care providers  
9 to conduct the activities described in subsection (e).

10 “(b) ELIGIBLE ENTITY DEFINED.—For purposes of  
11 this subsection, the term ‘eligible entity’ means a State  
12 or Indian tribe (as defined in the Indian Self-Determina-  
13 tion and Education Assistance Act) that—

14 “(1) submits to the National Coordinator an  
15 application at such time, in such manner, and con-  
16 taining such information as the National Coordi-  
17 nator may require;

18 “(2) submits to the National Coordinator a  
19 strategic plan in accordance with subsection (d) and  
20 provides to the National Coordinator assurances that  
21 the entity will update such plan annually in accord-  
22 ance with such subsection;

23 “(3) provides assurances to the National Coordi-  
24 nator that the entity will establish a Loan Fund  
25 in accordance with subsection (c);

1           “(4) provides assurances to the National Coordi-  
2           nator that the entity will not provide a loan from  
3           the Loan Fund to a health care provider unless the  
4           provider agrees to—

5                   “(A) submit reports on quality measures  
6                   adopted by the Federal Government (by not  
7                   later than 90 days after the date on which such  
8                   measures are adopted), to—

9                           “(i) the Director of the Centers for  
10                           Medicare & Medicaid Services (or his or  
11                           her designee), in the case of an entity par-  
12                           ticipating in the Medicare program under  
13                           title XVIII of the Social Security Act or  
14                           the Medicaid program under title XIX of  
15                           such Act; or

16                           “(ii) the Secretary in the case of other  
17                           entities;

18                   “(B) demonstrate to the satisfaction of the  
19                   Secretary (through criteria established by the  
20                   Secretary) that any certified EHR technology  
21                   purchased, improved, or otherwise financially  
22                   supported under a loan under this section is  
23                   used to exchange health information in a man-  
24                   ner that, in accordance with law and standards  
25                   (as adopted under section 3005) applicable to

1 the exchange of information, improves the qual-  
2 ity of health care, such as promoting care co-  
3 ordination;

4 “(C) comply with such other requirements  
5 as the entity or the Secretary may require;

6 “(D) include a plan on how healthcare pro-  
7 viders involved intend to maintain and support  
8 the certified EHR technology over time; and

9 “(E) include a plan on how the healthcare  
10 providers involved intend to maintain and sup-  
11 port the certified EHR technology that would  
12 be purchased with such loan, including the type  
13 of resources expected to be involved and any  
14 such other information as the State or Indian  
15 tribe, respectively, may require; and

16 “(5) agrees to provide matching funds in ac-  
17 cordance with subsection (i).

18 “(c) ESTABLISHMENT OF FUND.—For purposes of  
19 subsection (b)(3), an eligible entity shall establish a cer-  
20 tified EHR technology loan fund (referred to in this sub-  
21 section as a ‘Loan Fund’) and comply with the other re-  
22 quirements contained in this section. A grant to an eligible  
23 entity under this section shall be deposited in the Loan  
24 Fund established by the eligible entity. No funds author-  
25 ized by other provisions of this title to be used for other



1 purposes specified in this title shall be deposited in any  
2 Loan Fund.

3 “(d) STRATEGIC PLAN.—

4 “(1) IN GENERAL.—For purposes of subsection  
5 (b)(2), a strategic plan of an eligible entity under  
6 this subsection shall identify the intended uses of  
7 amounts available to the Loan Fund of such entity.

8 “(2) CONTENTS.—A strategic plan under para-  
9 graph (1), with respect to a Loan Fund of an eligi-  
10 ble entity, shall include for a year the following:

11 “(A) A list of the projects to be assisted  
12 through the Loan Fund during such year.

13 “(B) A description of the criteria and  
14 methods established for the distribution of  
15 funds from the Loan Fund during the year.

16 “(C) A description of the financial status  
17 of the Loan Fund as of the date of submission  
18 of the plan.

19 “(D) The short-term and long-term goals  
20 of the Loan Fund.

21 “(e) USE OF FUNDS.—Amounts deposited in a Loan  
22 Fund, including loan repayments and interest earned on  
23 such amounts, shall be used only for awarding loans or  
24 loan guarantees, making reimbursements described in sub-  
25 section (g)(4)(A), or as a source of reserve and security

1 for leveraged loans, the proceeds of which are deposited  
2 in the Loan Fund established under subsection (a). Loans  
3 under this section may be used by a health care provider  
4 to—

5           “(1) facilitate the purchase of certified EHR  
6           technology;

7           “(2) enhance the utilization of certified EHR  
8           technology (which may include costs associated with  
9           upgrading health information technology so that it  
10          meets criteria necessary to be a certified EHR tech-  
11          nology);

12          “(3) train personnel in the use of such tech-  
13          nology; or

14          “(4) improve the secure electronic exchange of  
15          health information.

16          “(f) TYPES OF ASSISTANCE.—Except as otherwise  
17          limited by applicable State law, amounts deposited into a  
18          Loan Fund under this subsection may only be used for  
19          the following:

20                 “(1) To award loans that comply with the fol-  
21                 lowing:

22                         “(A) The interest rate for each loan shall  
23                         not exceed the market interest rate.

24                         “(B) The principal and interest payments  
25                         on each loan shall commence not later than 1

1           year after the date the loan was awarded, and  
2           each loan shall be fully amortized not later than  
3           10 years after the date of the loan.

4           “(C) The Loan Fund shall be credited with  
5           all payments of principal and interest on each  
6           loan awarded from the Loan Fund.

7           “(2) To guarantee, or purchase insurance for,  
8           a local obligation (all of the proceeds of which fi-  
9           nance a project eligible for assistance under this  
10          subsection) if the guarantee or purchase would im-  
11          prove credit market access or reduce the interest  
12          rate applicable to the obligation involved.

13          “(3) As a source of revenue or security for the  
14          payment of principal and interest on revenue or gen-  
15          eral obligation bonds issued by the eligible entity if  
16          the proceeds of the sale of the bonds will be depos-  
17          ited into the Loan Fund.

18          “(4) To earn interest on the amounts deposited  
19          into the Loan Fund.

20          “(5) To make reimbursements described in sub-  
21          section (g)(4)(A).

22          “(g) ADMINISTRATION OF LOAN FUNDS.—

23          “(1) COMBINED FINANCIAL ADMINISTRATION.—  
24          An eligible entity may (as a convenience and to  
25          avoid unnecessary administrative costs) combine, in

1 accordance with applicable State law, the financial  
2 administration of a Loan Fund established under  
3 this subsection with the financial administration of  
4 any other revolving fund established by the entity if  
5 otherwise not prohibited by the law under which the  
6 Loan Fund was established.

7 “(2) COST OF ADMINISTERING FUND.—Each el-  
8 igible entity may annually use not to exceed 4 per-  
9 cent of the funds provided to the entity under a  
10 grant under this subsection to pay the reasonable  
11 costs of the administration of the programs under  
12 this section, including the recovery of reasonable  
13 costs expended to establish a Loan Fund which are  
14 incurred after the date of the enactment of this title.

15 “(3) GUIDANCE AND REGULATIONS.—The Na-  
16 tional Coordinator shall publish guidance and pro-  
17 mulgate regulations as may be necessary to carry  
18 out the provisions of this section, including—

19 “(A) provisions to ensure that each eligible  
20 entity commits and expends funds allotted to  
21 the entity under this subsection as efficiently as  
22 possible in accordance with this title and appli-  
23 cable State laws; and

24 “(B) guidance to prevent waste, fraud, and  
25 abuse.

1 “(4) PRIVATE SECTOR CONTRIBUTIONS.—

2 “(A) IN GENERAL.—A Loan Fund estab-  
3 lished under this subsection may accept con-  
4 tributions from private sector entities, except  
5 that such entities may not specify the recipient  
6 or recipients of any loan issued under this sub-  
7 section. An eligible entity may agree to reim-  
8 burse a private sector entity for any contribu-  
9 tion made under this subparagraph, except that  
10 the amount of such reimbursement may not be  
11 greater than the principal amount of the con-  
12 tribution made.

13 “(B) AVAILABILITY OF INFORMATION.—  
14 An eligible entity shall make publicly available  
15 the identity of, and amount contributed by, any  
16 private sector entity under subparagraph (A)  
17 and may issue letters of commendation or make  
18 other awards (that have no financial value) to  
19 any such entity.

20 “(h) MATCHING REQUIREMENTS.—

21 “(1) IN GENERAL.—The National Coordinator  
22 may not make a grant under subsection (a) to an el-  
23 igible entity unless the entity agrees to make avail-  
24 able (directly or through donations from public or  
25 private entities) non-Federal contributions in cash to

1 the costs of carrying out the activities for which the  
2 grant is awarded in an amount equal to not less  
3 than \$1 for each \$5 of Federal funds provided under  
4 the grant.

5 “(2) DETERMINATION OF AMOUNT OF NON-  
6 FEDERAL CONTRIBUTION.—In determining the  
7 amount of non-Federal contributions that an eligible  
8 entity has provided pursuant to subparagraph (A),  
9 the National Coordinator may not include any  
10 amounts provided to the entity by the Federal Gov-  
11 ernment.

12 “(i) EFFECTIVE DATE.—The Secretary may not  
13 make an award under this section prior to January 1,  
14 2010.

15 **“SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**  
16 **FORMATION TECHNOLOGY INTO CLINICAL**  
17 **EDUCATION.**

18 “(a) IN GENERAL.—The Secretary may award grants  
19 under this section to carry out demonstration projects to  
20 develop academic curricula integrating certified EHR  
21 technology in the clinical education of health professionals.  
22 Such awards shall be made on a competitive basis and  
23 pursuant to peer review.

24 “(b) ELIGIBILITY.—To be eligible to receive a grant  
25 under subsection (a), an entity shall—

1           “(1) submit to the Secretary an application at  
2 such time, in such manner, and containing such in-  
3 formation as the Secretary may require;

4           “(2) submit to the Secretary a strategic plan  
5 for integrating certified EHR technology in the clin-  
6 ical education of health professionals to reduce med-  
7 ical errors, increase access to prevention, reduce  
8 chronic diseases, and enhance health care quality;

9           “(3) be—

10           “(A) a school of medicine, osteopathic  
11 medicine, dentistry, or pharmacy, a graduate  
12 program in behavioral or mental health, or any  
13 other graduate health professions school;

14           “(B) a graduate school of nursing or phy-  
15 sician assistant studies;

16           “(C) a consortium of two or more schools  
17 described in subparagraph (A) or (B); or

18           “(D) an institution with a graduate med-  
19 ical education program in medicine, osteopathic  
20 medicine, dentistry, pharmacy, nursing, or phy-  
21 sician assistance studies.

22           “(4) provide for the collection of data regarding  
23 the effectiveness of the demonstration project to be  
24 funded under the grant in improving the safety of  
25 patients, the efficiency of health care delivery, and

1 in increasing the likelihood that graduates of the  
2 grantee will adopt and incorporate certified EHR  
3 technology, in the delivery of health care services;  
4 and

5 “(5) provide matching funds in accordance with  
6 subsection (d).

7 “(c) USE OF FUNDS.—

8 “(1) IN GENERAL.—With respect to a grant  
9 under subsection (a), an eligible entity shall—

10 “(A) use grant funds in collaboration with  
11 2 or more disciplines; and

12 “(B) use grant funds to integrate certified  
13 EHR technology into community-based clinical  
14 education.

15 “(2) LIMITATION.—An eligible entity shall not  
16 use amounts received under a grant under sub-  
17 section (a) to purchase hardware, software, or serv-  
18 ices.

19 “(d) FINANCIAL SUPPORT.—The Secretary may not  
20 provide more than 50 percent of the costs of any activity  
21 for which assistance is provided under subsection (a), ex-  
22 cept in an instance of national economic conditions which  
23 would render the cost-share requirement under this sub-  
24 section detrimental to the program and upon notification



1 to Congress as to the justification to waive the cost-share  
2 requirement.

3 “(e) EVALUATION.—The Secretary shall take such  
4 action as may be necessary to evaluate the projects funded  
5 under this section and publish, make available, and dis-  
6 seminate the results of such evaluations on as wide a basis  
7 as is practicable.

8 “(f) REPORTS.—Not later than 1 year after the date  
9 of enactment of this title, and annually thereafter, the Sec-  
10 retary shall submit to the Committee on Health, Edu-  
11 cation, Labor, and Pensions and the Committee on Fi-  
12 nance of the Senate, and the Committee on Energy and  
13 Commerce of the House of Representatives a report  
14 that—

15 “(1) describes the specific projects established  
16 under this section; and

17 “(2) contains recommendations for Congress  
18 based on the evaluation conducted under subsection  
19 (e).

20 **“SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**  
21 **ON HEALTH CARE.**

22 “(a) IN GENERAL.—The Secretary, in consultation  
23 with the Director of the National Science Foundation,  
24 shall provide assistance to institutions of higher education  
25 (or consortia thereof) to establish or expand medical

1 health informatics education programs, including certifi-  
2 cation, undergraduate, and masters degree programs, for  
3 both health care and information technology students to  
4 ensure the rapid and effective utilization and development  
5 of health information technologies (in the United States  
6 health care infrastructure).

7 “(b) ACTIVITIES.—Activities for which assistance  
8 may be provided under subsection (a) may include the fol-  
9 lowing:

10 “(1) Developing and revising curricula in med-  
11 ical health informatics and related disciplines.

12 “(2) Recruiting and retaining students to the  
13 program involved.

14 “(3) Acquiring equipment necessary for student  
15 instruction in these programs, including the installa-  
16 tion of testbed networks for student use.

17 “(4) Establishing or enhancing bridge programs  
18 in the health informatics fields between community  
19 colleges and universities.

20 “(c) PRIORITY.—In providing assistance under sub-  
21 section (a), the Secretary shall give preference to the fol-  
22 lowing:

23 “(1) Existing education and training programs.

24 “(2) Programs designed to be completed in less  
25 than six months.

1       “(d) FINANCIAL SUPPORT.—The Secretary may not  
2 provide more than 50 percent of the costs of any activity  
3 for which assistance is provided under subsection (a), ex-  
4 cept in an instance of national economic conditions which  
5 would render the cost-share requirement under this sub-  
6 section detrimental to the program and upon notification  
7 to Congress as to the justification to waive the cost-share  
8 requirement.

9       **“SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

10       “(a) REPORTS.—The Secretary may require that an  
11 entity receiving assistance under this title shall submit to  
12 the Secretary, not later than the date that is 1 year after  
13 the date of receipt of such assistance, a report that in-  
14 cludes—

15               “(1) an analysis of the effectiveness of such ac-  
16 tivities for which the entity receives such assistance,  
17 as compared to the goals for such activities; and

18               “(2) an analysis of the impact of the project on  
19 healthcare quality and safety.

20       “(b) REQUIREMENT TO IMPROVE QUALITY OF CARE  
21 AND DECREASE IN COSTS.—The National Coordinator  
22 shall annually evaluate the activities conducted under this  
23 title and shall, in awarding grants, implement the lessons  
24 learned from such evaluation in a manner so that awards  
25 made subsequent to each such evaluation are made in a

1 manner that, in the determination of the National Coordi-  
2 nator, will result in the greatest improvement in the qual-  
3 ity and efficiency of health care.

4 **“SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.**

5 “For the purposes of carrying out this subtitle, there  
6 is authorized to be appropriated such sums as may be nec-  
7 essary for each of the fiscal years 2009 through 2013.  
8 Amounts so appropriated shall remain available until ex-  
9 pended.”.

10 **Subtitle D—Privacy**

11 **SEC. 13400. DEFINITIONS.**

12 In this subtitle, except as specified otherwise:

13 (1) BREACH.—The term “breach” means the  
14 unauthorized acquisition, access, use, or disclosure  
15 of protected health information which compromises  
16 the security, privacy, or integrity of protected health  
17 information maintained by or on behalf of a person.  
18 Such term does not include any unintentional acqui-  
19 sition, access, use, or disclosure of such information  
20 by an employee or agent of the covered entity or  
21 business associate involved if such acquisition, ac-  
22 cess, use, or disclosure, respectively, was made in  
23 good faith and within the course and scope of the  
24 employment or other contractual relationship of such  
25 employee or agent, respectively, with the covered en-

1       tity or business associate and if such information is  
2       not further acquired, accessed, used, or disclosed by  
3       such employee or agent.

4               (2) BUSINESS ASSOCIATE.—The term “business  
5       associate” has the meaning given such term in sec-  
6       tion 160.103 of title 45, Code of Federal Regula-  
7       tions.

8               (3) COVERED ENTITY.—The term “covered en-  
9       tity” has the meaning given such term in section  
10      160.103 of title 45, Code of Federal Regulations.

11              (4) DISCLOSE.—The terms “disclose” and “dis-  
12      closure” have the meaning given the term “diselo-  
13      sure” in section 160.103 of title 45, Code of Federal  
14      Regulations.

15              (5) ELECTRONIC HEALTH RECORD.—The term  
16      “electronic health record” means an electronic  
17      record of health-related information on an individual  
18      that is created, gathered, managed, and consulted by  
19      authorized health care clinicians and staff.

20              (6) HEALTH CARE OPERATIONS.—The term  
21      “health care operation” has the meaning given such  
22      term in section 164.501 of title 45, Code of Federal  
23      Regulations.

24              (7) HEALTH CARE PROVIDER.—The term  
25      “health care provider” has the meaning given such

1 term in section 160.103 of title 45, Code of Federal  
2 Regulations.

3 (8) HEALTH PLAN.—The term “health plan”  
4 has the meaning given such term in section 1171(5)  
5 of the Social Security Act.

6 (9) NATIONAL COORDINATOR.—The term “Na-  
7 tional Coordinator” means the head of the Office of  
8 the National Coordinator for Health Information  
9 Technology established under section 3001(a) of the  
10 Public Health Service Act, as added by section  
11 13101.

12 (10) PAYMENT.—The term “payment” has the  
13 meaning given such term in section 164.501 of title  
14 45, Code of Federal Regulations.

15 (11) PERSONAL HEALTH RECORD.—The term  
16 “personal health record” means an electronic record  
17 of individually identifiable health information on an  
18 individual that can be drawn from multiple sources  
19 and that is managed, shared, and controlled by or  
20 for the individual.

21 (12) PROTECTED HEALTH INFORMATION.—The  
22 term “protected health information” has the mean-  
23 ing given such term in section 160.103 of title 45,  
24 Code of Federal Regulations.

1           (13) SECRETARY.—The term “Secretary”  
2 means the Secretary of Health and Human Services.

3           (14) SECURITY.—The term “security” has the  
4 meaning given such term in section 164.304 of title  
5 45, Code of Federal Regulations.

6           (15) STATE.—The term “State” means each of  
7 the several States, the District of Columbia, Puerto  
8 Rico, the Virgin Islands, Guam, American Samoa,  
9 and the Northern Mariana Islands.

10          (16) TREATMENT.—The term “treatment” has  
11 the meaning given such term in section 164.501 of  
12 title 45, Code of Federal Regulations.

13          (17) USE.—The term “use” has the meaning  
14 given such term in section 160.103 of title 45, Code  
15 of Federal Regulations.

16          (18) VENDOR OF PERSONAL HEALTH  
17 RECORDS.—The term “vendor of personal health  
18 records” means an entity, other than a covered enti-  
19 ty (as defined in paragraph (3)), that offers or  
20 maintains a personal health record.

1 **PART I—IMPROVED PRIVACY PROVISIONS AND**  
2 **SECURITY PROVISIONS**

3 **SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND**  
4 **PENALTIES TO BUSINESS ASSOCIATES OF**  
5 **COVERED ENTITIES; ANNUAL GUIDANCE ON**  
6 **SECURITY PROVISIONS.**

7 (a) APPLICATION OF SECURITY PROVISIONS.—Sec-  
8 tions 164.308, 164.310, 164.312, and 164.316 of title 45,  
9 Code of Federal Regulations, shall apply to a business as-  
10 sociate of a covered entity in the same manner that such  
11 sections apply to the covered entity. The additional re-  
12 quirements of this title that relate to security and that  
13 are made applicable with respect to covered entities shall  
14 also be applicable to such a business associate and shall  
15 be incorporated into the business associate agreement be-  
16 tween the business associate and the covered entity.

17 (b) APPLICATION OF CIVIL AND CRIMINAL PEN-  
18 ALTIES.—In the case of a business associate that violates  
19 any security provision specified in subsection (a), sections  
20 1176 and 1177 of the Social Security Act (42 U.S.C.  
21 1320d–5, 1320d–6) shall apply to the business associate  
22 with respect to such violation in the same manner such  
23 sections apply to a covered entity that violates such secu-  
24 rity provision.

25 (c) ANNUAL GUIDANCE.—For the first year begin-  
26 ning after the date of the enactment of this Act and annu-



1 ally thereafter, the Secretary of Health and Human Serv-  
2 ices shall, in consultation with industry stakeholders, an-  
3 nually issue guidance on the most effective and appro-  
4 priate technical safeguards for use in carrying out the sec-  
5 tions referred to in subsection (a) and the security stand-  
6 ards in subpart C of part 164 of title 45, Code of Federal  
7 Regulations, as such provisions are in effect as of the date  
8 before the enactment of this Act.

9 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

10 (a) **IN GENERAL.**—A covered entity that accesses,  
11 maintains, retains, modifies, records, stores, destroys, or  
12 otherwise holds, uses, or discloses unsecured protected  
13 health information (as defined in subsection (h)(1)) shall,  
14 in the case of a breach of such information that is discov-  
15 ered by the covered entity, notify each individual whose  
16 unsecured protected health information has been, or is  
17 reasonably believed by the covered entity to have been,  
18 accessed, acquired, or disclosed as a result of such breach.

19 (b) **NOTIFICATION OF COVERED ENTITY BY BUSI-**  
20 **NESS ASSOCIATE.**—A business associate of a covered enti-  
21 ty that accesses, maintains, retains, modifies, records,  
22 stores, destroys, or otherwise holds, uses, or discloses un-  
23 secured protected health information shall, following the  
24 discovery of a breach of such information, notify the cov-  
25 ered entity of such breach. Such notice shall include the

1 identification of each individual whose unsecured protected  
2 health information has been, or is reasonably believed by  
3 the business associate to have been, accessed, acquired,  
4 or disclosed during such breach.

5 (c) BREACHES TREATED AS DISCOVERED.—For pur-  
6 poses of this section, a breach shall be treated as discov-  
7 ered by a covered entity or by a business associate as of  
8 the first day on which such breach is known to such entity  
9 or associate, respectively, (including any person, other  
10 than the individual committing the breach, that is an em-  
11 ployee, officer, or other agent of such entity or associate,  
12 respectively) or should reasonably have been known to  
13 such entity or associate (or person) to have occurred.

14 (d) TIMELINESS OF NOTIFICATION.—

15 (1) IN GENERAL.—Subject to subsection (g), all  
16 notifications required under this section shall be  
17 made without unreasonable delay and in no case  
18 later than 60 calendar days after the discovery of a  
19 breach by the covered entity involved (or business  
20 associate involved in the case of a notification re-  
21 quired under subsection (b)).

22 (2) BURDEN OF PROOF.—The covered entity in-  
23 volved (or business associate involved in the case of  
24 a notification required under subsection (b)), shall  
25 have the burden of demonstrating that all notifica-

1 tions were made as required under this part, includ-  
2 ing evidence demonstrating the necessity of any  
3 delay.

4 (e) METHODS OF NOTICE.—

5 (1) INDIVIDUAL NOTICE.—Notice required  
6 under this section to be provided to an individual,  
7 with respect to a breach, shall be provided promptly  
8 and in the following form:

9 (A) Written notification by first-class mail  
10 to the individual (or the next of kin of the indi-  
11 vidual if the individual is deceased) at the last  
12 known address of the individual or the next of  
13 kin, respectively, or, if specified as a preference  
14 by the individual, by electronic mail. The notifi-  
15 cation may be provided in one or more mailings  
16 as information is available.

17 (B) In the case in which there is insuffi-  
18 cient, or out-of-date contact information (in-  
19 cluding a phone number, email address, or any  
20 other form of appropriate communication) that  
21 precludes direct written (or, if specified by the  
22 individual under subparagraph (A), electronic)  
23 notification to the individual, a substitute form  
24 of notice shall be provided, including, in the  
25 case that there are 10 or more individuals for

1           which there is insufficient or out-of-date contact  
2           information, a conspicuous posting for a period  
3           determined by the Secretary on the home page  
4           of the Web site of the covered entity involved or  
5           notice in major print or broadcast media, in-  
6           cluding major media in geographic areas where  
7           the individuals affected by the breach likely re-  
8           side. Such a notice in media or web posting will  
9           include a toll-free phone number where an indi-  
10          vidual can learn whether or not the individual's  
11          unsecured protected health information is pos-  
12          sibly included in the breach.

13                 (C) In any case deemed by the covered en-  
14          tity involved to require urgency because of pos-  
15          sible imminent misuse of unsecured protected  
16          health information, the covered entity, in addi-  
17          tion to notice provided under subparagraph (A),  
18          may provide information to individuals by tele-  
19          phone or other means, as appropriate.

20                 (2) MEDIA NOTICE.—Notice shall be provided  
21          to prominent media outlets serving a State or juris-  
22          diction, following the discovery of a breach described  
23          in subsection (a), if the unsecured protected health  
24          information of more than 500 residents of such  
25          State or jurisdiction is, or is reasonably believed to

1 have been, accessed, acquired, or disclosed during  
2 such breach.

3 (3) NOTICE TO SECRETARY.—Notice shall be  
4 provided to the Secretary by covered entities of un-  
5 secured protected health information that has been  
6 acquired or disclosed in a breach. If the breach was  
7 with respect to 500 or more individuals than such  
8 notice must be provided immediately. If the breach  
9 was with respect to less than 500 individuals, the  
10 covered entity may maintain a log of any such  
11 breach occurring and annually submit such a log to  
12 the Secretary documenting such breaches occurring  
13 during the year involved.

14 (4) POSTING ON HHS PUBLIC WEBSITE.—The  
15 Secretary shall make available to the public on the  
16 Internet website of the Department of Health and  
17 Human Services a list that identifies each covered  
18 entity involved in a breach described in subsection  
19 (a) in which the unsecured protected health informa-  
20 tion of more than 500 individuals is acquired or dis-  
21 closed.

22 (f) CONTENT OF NOTIFICATION.—Regardless of the  
23 method by which notice is provided to individuals under  
24 this section, notice of a breach shall include, to the extent  
25 possible, the following:

1           (1) A brief description of what happened, in-  
2           cluding the date of the breach and the date of the  
3           discovery of the breach, if known.

4           (2) A description of the types of unsecured pro-  
5           tected health information that were involved in the  
6           breach (such as full name, Social Security number,  
7           date of birth, home address, account number, or dis-  
8           ability code).

9           (3) The steps individuals should take to protect  
10          themselves from potential harm resulting from the  
11          breach.

12          (4) A brief description of what the covered enti-  
13          ty involved is doing to investigate the breach, to  
14          mitigate losses, and to protect against any further  
15          breaches.

16          (5) Contact procedures for individuals to ask  
17          questions or learn additional information, which  
18          shall include a toll-free telephone number, an e-mail  
19          address, Web site, or postal address.

20          (g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW  
21          ENFORCEMENT PURPOSES.—If a law enforcement official  
22          determines that a notification, notice, or posting required  
23          under this section would impede a criminal investigation  
24          or cause damage to national security, such notification,  
25          notice, or posting shall be delayed in the same manner

1 as provided under section 164.528(a)(2) of title 45, Code  
2 of Federal Regulations, in the case of a disclosure covered  
3 under such section.

4 (h) UNSECURED PROTECTED HEALTH INFORMA-  
5 TION.—

6 (1) DEFINITION.—

7 (A) IN GENERAL.—Subject to subpara-  
8 graph (B), for purposes of this section, the  
9 term “unsecured protected health information”  
10 means protected health information that is not  
11 secured through the use of a technology or  
12 methodology specified by the Secretary in the  
13 guidance issued under paragraph (2).

14 (B) EXCEPTION IN CASE TIMELY GUID-  
15 ANCE NOT ISSUED.—In the case that the Sec-  
16 retary does not issue guidance under paragraph  
17 (2) by the date specified in such paragraph, for  
18 purposes of this section, the term “unsecured  
19 protected health information” shall mean pro-  
20 tected health information that is not secured by  
21 a technology standard that renders protected  
22 health information unusable, unreadable, or in-  
23 decipherable to unauthorized individuals and is  
24 developed or endorsed by a standards devel-

1           oping organization that is accredited by the  
2           American National Standards Institute.

3           (2) GUIDANCE.—For purposes of paragraph (1)  
4           and section 13407(f)(3), not later than the date that  
5           is 60 days after the date of the enactment of this  
6           Act, the Secretary shall, after consultation with  
7           stakeholders, issue (and annually update) guidance  
8           specifying the technologies and methodologies that  
9           render protected health information unusable,  
10          unreadable, or indecipherable to unauthorized indi-  
11          viduals.

12          (i) REPORT TO CONGRESS ON BREACHES.—

13               (1) IN GENERAL.—Not later than 12 months  
14               after the date of the enactment of this Act and an-  
15               nually thereafter, the Secretary shall prepare and  
16               submit to the Committee on Finance and the Com-  
17               mittee on Health, Education, Labor, and Pensions  
18               of the Senate and the Committee on Ways and  
19               Means and the Committee on Energy and Commerce  
20               of the House of Representatives a report containing  
21               the information described in paragraph (2) regard-  
22               ing breaches for which notice was provided to the  
23               Secretary under subsection (e)(3).



1           (2) INFORMATION.—The information described  
2           in this paragraph regarding breaches specified in  
3           paragraph (1) shall include—

4                   (A) the number and nature of such  
5           breaches; and

6                   (B) actions taken in response to such  
7           breaches.

8           (j) REGULATIONS; EFFECTIVE DATE.—To carry out  
9           this section, the Secretary of Health and Human Services  
10          shall promulgate interim final regulations by not later  
11          than the date that is 180 days after the date of the enact-  
12          ment of this title. The provisions of this section shall apply  
13          to breaches that are discovered on or after the date that  
14          is 30 days after the date of publication of such interim  
15          final regulations.

16   **SEC. 13403. EDUCATION ON HEALTH INFORMATION PRI-**  
17                                   **VACY.**

18          (a) REGIONAL OFFICE PRIVACY ADVISORS.—Not  
19          later than 6 months after the date of the enactment of  
20          this Act, the Secretary shall designate an individual in  
21          each regional office of the Department of Health and  
22          Human Services to offer guidance and education to cov-  
23          ered entities, business associates, and individuals on their  
24          rights and responsibilities related to Federal privacy and  
25          security requirements for protected health information.

1 (b) EDUCATION INITIATIVE ON USES OF HEALTH IN-  
2 FORMATION.—Not later than 12 months after the date of  
3 the enactment of this Act, the Office for Civil Rights with-  
4 in the Department of Health and Human Services shall  
5 develop and maintain a multi-faceted national education  
6 initiative to enhance public transparency regarding the  
7 uses of protected health information, including programs  
8 to educate individuals about the potential uses of their  
9 protected health information, the effects of such uses, and  
10 the rights of individuals with respect to such uses. Such  
11 programs shall be conducted in a variety of languages and  
12 present information in a clear and understandable man-  
13 ner.

14 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**  
15 **PENALTIES TO BUSINESS ASSOCIATES OF**  
16 **COVERED ENTITIES.**

17 (a) APPLICATION OF CONTRACT REQUIREMENTS.—  
18 In the case of a business associate of a covered entity that  
19 obtains or creates protected health information pursuant  
20 to a written contract (or other written arrangement) de-  
21 scribed in section 164.502(e)(2) of title 45, Code of Fed-  
22 eral Regulations, with such covered entity, the business  
23 associate may use and disclose such protected health infor-  
24 mation only if such use or disclosure, respectively, is in  
25 compliance with each applicable requirement of section

1 164.504(e) of such title. The additional requirements of  
2 this subtitle that relate to privacy and that are made ap-  
3 plicable with respect to covered entities shall also be appli-  
4 cable to such a business associate and shall be incor-  
5 porated into the business associate agreement between the  
6 business associate and the covered entity.

7 (b) APPLICATION OF KNOWLEDGE ELEMENTS ASSO-  
8 CIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of  
9 title 45, Code of Federal Regulations, shall apply to a  
10 business associate described in subsection (a), with respect  
11 to compliance with such subsection, in the same manner  
12 that such section applies to a covered entity, with respect  
13 to compliance with the standards in sections 164.502(e)  
14 and 164.504(e) of such title, except that in applying such  
15 section 164.504(e)(1)(ii) each reference to the business as-  
16 sociate, with respect to a contract, shall be treated as a  
17 reference to the covered entity involved in such contract.

18 (c) APPLICATION OF CIVIL AND CRIMINAL PEN-  
19 ALTIES.—In the case of a business associate that violates  
20 any provision of subsection (a) or (b), the provisions of  
21 sections 1176 and 1177 of the Social Security Act (42  
22 U.S.C. 1320d–5, 1320d–6) shall apply to the business as-  
23 sociate with respect to such violation in the same manner  
24 as such provisions apply to a person who violates a provi-  
25 sion of part C of title XI of such Act.

1 **SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND**  
2 **SALES OF HEALTH INFORMATION; ACCOUNT-**  
3 **ING OF CERTAIN PROTECTED HEALTH IN-**  
4 **FORMATION DISCLOSURES; ACCESS TO CER-**  
5 **TAIN INFORMATION IN ELECTRONIC FOR-**  
6 **MAT.**

7 (a) REQUESTED RESTRICTIONS ON CERTAIN DIS-  
8 CLOSURES OF HEALTH INFORMATION.—In the case that  
9 an individual requests under paragraph (a)(1)(i)(A) of  
10 section 164.522 of title 45, Code of Federal Regulations,  
11 that a covered entity restrict the disclosure of the pro-  
12 tected health information of the individual, notwith-  
13 standing paragraph (a)(1)(ii) of such section, the covered  
14 entity must comply with the requested restriction if—

15 (1) except as otherwise required by law, the dis-  
16 closure is to a health plan for purposes of carrying  
17 out payment or health care operations (and is not  
18 for purposes of carrying out treatment); and

19 (2) the protected health information pertains  
20 solely to a health care item or service for which the  
21 health care provider involved has been paid out of  
22 pocket in full.

23 (b) DISCLOSURES REQUIRED TO BE LIMITED TO  
24 THE LIMITED DATA SET OR THE MINIMUM NEC-  
25 ESSARY.—

26 (1) IN GENERAL.—

1           (A) IN GENERAL.—Subject to subpara-  
2 graph (B), a covered entity shall be treated as  
3 being in compliance with section 164.502(b)(1)  
4 of title 45, Code of Federal Regulations, with  
5 respect to the use, disclosure, or request of pro-  
6 tected health information described in such sec-  
7 tion, only if the covered entity limits such pro-  
8 tected health information, to the extent prac-  
9 ticable, to the limited data set (as defined in  
10 section 164.514(e)(2) of such title) or, if needed  
11 by such entity, to the minimum necessary to ac-  
12 complish the intended purpose of such use, dis-  
13 closure, or request, respectively.

14           (B) GUIDANCE.—Not later than 18  
15 months after the date of the enactment of this  
16 section, the Secretary shall issue guidance on  
17 what constitutes “minimum necessary” for pur-  
18 poses of subpart E of part 164 of title 45, Code  
19 of Federal Regulation. In issuing such guidance  
20 the Secretary shall take into consideration the  
21 guidance under section 13424(c) and the infor-  
22 mation necessary to improve patient outcomes  
23 and to detect, prevent, and manage chronic dis-  
24 ease.

1           (C) SUNSET.—Subparagraph (A) shall not  
2           apply on and after the effective date on which  
3           the Secretary issues the guidance under sub-  
4           paragraph (B).

5           (2) DETERMINATION OF MINIMUM NEC-  
6           CESSARY.—For purposes of paragraph (1), in the  
7           case of the disclosure of protected health informa-  
8           tion, the covered entity or business associate dis-  
9           closing such information shall determine what con-  
10          stitutes the minimum necessary to accomplish the  
11          intended purpose of such disclosure.

12          (3) APPLICATION OF EXCEPTIONS.—The excep-  
13          tions described in section 164.502(b)(2) of title 45,  
14          Code of Federal Regulations, shall apply to the re-  
15          quirement under paragraph (1) as of the effective  
16          date described in section 13423 in the same manner  
17          that such exceptions apply to section 164.502(b)(1)  
18          of such title before such date.

19          (4) RULE OF CONSTRUCTION.—Nothing in this  
20          subsection shall be construed as affecting the use,  
21          disclosure, or request of protected health information  
22          that has been de-identified.

23          (c) ACCOUNTING OF CERTAIN PROTECTED HEALTH  
24          INFORMATION DISCLOSURES REQUIRED IF COVERED EN-  
25          TITY USES ELECTRONIC HEALTH RECORD.—

1           “(1) IN GENERAL.—In applying section  
2           164.528 of title 45, Code of Federal Regulations, in  
3           the case that a covered entity uses or maintains an  
4           electronic health record with respect to protected  
5           health information—

6                   “(A) the exception under paragraph  
7                   (a)(1)(i) of such section shall not apply to dis-  
8                   closures through an electronic health record  
9                   made by such entity of such information; and

10                   “(B) an individual shall have a right to re-  
11                   ceive an accounting of disclosures described in  
12                   such paragraph of such information made by  
13                   such covered entity during only the three years  
14                   prior to the date on which the accounting is re-  
15                   quested.

16           “(2) REGULATIONS.—The Secretary shall pro-  
17           mulgate regulations on what disclosures must be in-  
18           cluded in an accounting referred to in paragraph  
19           (1)(A) and what information must be collected about  
20           each such disclosure not later than 18 months after  
21           the date on which the Secretary adopts standards on  
22           accounting for disclosure described in the section  
23           3002(b)(2)(B)(iv) of the Public Health Service Act,  
24           as added by section 13101. Such regulations shall  
25           only require such information to be collected through

1 an electronic health record in a manner that takes  
2 into account the interests of individuals in learning  
3 when their protected health information was dis-  
4 closed and to whom it was disclosed, and the useful-  
5 ness of such information to the individual, and takes  
6 into account the administrative and cost burden of  
7 accounting for such disclosures.

8 “(3) CONSTRUCTION.—Nothing in this sub-  
9 section shall be construed as—

10 “(A) requiring a covered entity to account  
11 for disclosures of protected health information  
12 that are not made by such covered entity; or

13 “(B) requiring a business associate of a  
14 covered entity to account for disclosures of pro-  
15 tected health information that are not made by  
16 such business associate.

17 “(4) REASONABLE FEE.—A covered entity may  
18 impose a reasonable fee on an individual for an ac-  
19 counting performed under paragraph (1)(B). Any  
20 such fee shall not be greater than the entity’s labor  
21 costs in responding to the request.

22 “(5) EFFECTIVE DATE.—

23 “(A) CURRENT USERS OF ELECTRONIC  
24 RECORDS.—In the case of a covered entity inso-  
25 far as it acquired an electronic health record as



1 of January 1, 2009, paragraph (1) shall apply  
2 to disclosures, with respect to protected health  
3 information, made by the covered entity from  
4 such a record on and after January 1, 2014.

5 “(B) OTHERS.—In the case of a covered  
6 entity insofar as it acquires an electronic health  
7 record after January 1, 2009, paragraph (1)  
8 shall apply to disclosures, with respect to pro-  
9 tected health information, made by the covered  
10 entity from such record on and after the later  
11 of the following:

12 “(i) January 1, 2011; or

13 “(ii) the date that it acquires an elec-  
14 tronic health record.

15 “(C) LATER DATE.—The Secretary may  
16 set an effective date that is later than the date  
17 specified under subparagraph (A) or (B) if the  
18 Secretary determines that such later date is  
19 necessary, but in no case may the date specified  
20 under—

21 “(i) subparagraph (A) be later than  
22 2018; or

23 “(ii) subparagraph (B) be later than  
24 2014.

1 (d) REVIEW OF HEALTH CARE OPERATIONS.—Not  
2 later than 18 months after the date of the enactment of  
3 this title, the Secretary shall review and evaluate the defi-  
4 nition of health care operations under section 164.501 of  
5 title 45, Code of Federal Regulations, and to the extent  
6 appropriate, eliminate by regulation activities that can  
7 reasonably and efficiently be conducted through the use  
8 of information that is de-identified (in accordance with the  
9 requirements of section 164.514(b) of such title) or that  
10 should require a valid authorization for use or disclosure.  
11 In promulgating such regulations, the Secretary shall not  
12 require that data be de-identified or require valid author-  
13 ization for use or disclosure for activities within a covered  
14 entity described in paragraph (1) of the definition of  
15 health care operations under such section 164.501. In pro-  
16 mulgating such regulations, the Secretary may choose to  
17 narrow or clarify activities that the Secretary chooses to  
18 retain in the definition of health care operations and the  
19 Secretary shall take into account the report under section  
20 13424(d). In such regulations the Secretary shall specify  
21 the date on which such regulations shall apply to dislo-  
22 sures made by a covered entity, but in no case would such  
23 date be sooner than the date that is 24 months after the  
24 date of the enactment of this section. Nothing in this sub-

1 section may be construed to supersede any provision under  
2 subsection (e) or section 13406(a).

3 (e) PROHIBITION ON SALE OF ELECTRONIC HEALTH  
4 RECORDS OR PROTECTED HEALTH INFORMATION OB-  
5 TAINED FROM ELECTRONIC HEALTH RECORDS.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), a covered entity or business associate  
8 shall not directly or indirectly receive remuneration  
9 in exchange for any protected health information of  
10 an individual unless the covered entity obtained from  
11 the individual, in accordance with section 164.508 of  
12 title 45, Code of Federal Regulations, a valid au-  
13 thorization that includes, in accordance with such  
14 section, a specification of whether the protected  
15 health information can be further exchanged for re-  
16 munerated by the entity receiving protected health  
17 information of that individual.

18 (2) EXCEPTIONS.—Paragraph (1) shall not  
19 apply in the following cases:

20 (A) The purpose of the exchange is for re-  
21 search or public health activities (as described  
22 in sections 164.501, 164.512(i), and 164.512(b)  
23 of title 45, Code of Federal Regulations).

24 (B) The purpose of the exchange is for the  
25 treatment of the individual, subject to any regu-

1           lation that the Secretary may promulgate to  
2           prevent protected health information from inap-  
3           propriate access, use, or disclosure.

4           (C) The purpose of the exchange is the  
5           health care operation specifically described in  
6           subparagraph (iv) of paragraph (6) of the defi-  
7           nition of healthcare operations in section  
8           164.501 of title 45, Code of Federal Regula-  
9           tions.

10          (D) The purpose of the exchange is for re-  
11          muneration that is provided by a covered entity  
12          to a business associate for activities involving  
13          the exchange of protected health information  
14          that the business associate undertakes on behalf  
15          of and at the specific request of the covered en-  
16          tity pursuant to a business associate agreement.

17          (E) The purpose of the exchange is to pro-  
18          vide an individual with a copy of the individ-  
19          ual's protected health information pursuant to  
20          section 164.524 of title 45, Code of Federal  
21          Regulations.

22          (F) The purpose of the exchange is other-  
23          wise determined by the Secretary in regulations  
24          to be similarly necessary and appropriate as the

1 exceptions provided in subparagraphs (A)  
2 through (E).

3 (3) REGULATIONS.—Not later than 18 months  
4 after the date of enactment of this title, the Sec-  
5 retary shall promulgate regulations to carry out this  
6 subsection. In promulgating such regulations, the  
7 Secretary—

8 (A) shall evaluate the impact of restricting  
9 the exception described in paragraph (2)(A) to  
10 require that the price charged for the purposes  
11 described in such paragraph reflects the costs  
12 of the preparation and transmittal of the data  
13 for such purpose, on research or public health  
14 activities, including those conducted by or for  
15 the use of the Food and Drug Administration;  
16 and

17 (B) may further restrict the exception de-  
18 scribed in paragraph (2)(A) to require that the  
19 price charged for the purposes described in  
20 such paragraph reflects the costs of the prepa-  
21 ration and transmittal of the data for such pur-  
22 pose, if the Secretary finds that such further  
23 restriction will not impede such research or  
24 public health activities.

1           (4) EFFECTIVE DATE.—Paragraph (1) shall  
2           apply to exchanges occurring on or after the date  
3           that is 6 months after the date of the promulgation  
4           of final regulations implementing this subsection.

5           (f) ACCESS TO CERTAIN INFORMATION IN ELEC-  
6           TRONIC FORMAT.—In applying section 164.524 of title  
7           45, Code of Federal Regulations, in the case that a cov-  
8           ered entity uses or maintains an electronic health record  
9           with respect to protected health information of an indi-  
10          vidual—

11           (1) the individual shall have a right to obtain  
12           from such covered entity a copy of such information  
13           in an electronic format; and

14           (2) notwithstanding paragraph (c)(4) of such  
15           section, any fee that the covered entity may impose  
16           for providing such individual with a copy of such in-  
17           formation (or a summary or explanation of such in-  
18           formation) if such copy (or summary or explanation)  
19           is in an electronic form shall not be greater than the  
20           entity's labor costs in responding to the request for  
21           the copy (or summary or explanation).

22   **SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART**  
23                           **OF HEALTH CARE OPERATIONS.**

24           (a) MARKETING.—

1           (1) IN GENERAL.—A communication by a cov-  
2           ered entity or business associate that is about a  
3           product or service and that encourages recipients of  
4           the communication to purchase or use the product  
5           or service shall not be considered a health care oper-  
6           ation for purposes of subpart E of part 164 of title  
7           45, Code of Federal Regulations, unless the commu-  
8           nication is made as described in subparagraph (i),  
9           (ii), or (iii) of paragraph (1) of the definition of  
10          marketing in section 164.501 of such title.

11          (2) PAYMENT FOR CERTAIN COMMUNICA-  
12          TIONS.—A communication by a covered entity or  
13          business associate that is described in subparagraph  
14          (i), (ii), or (iii) of paragraph (1) of the definition of  
15          marketing in section 164.501 of title 45, Code of  
16          Federal Regulations, shall not be considered a health  
17          care operation for purposes of subpart E of part 164  
18          of title 45, Code of Federal Regulations if the cov-  
19          ered entity receives or has received direct or indirect  
20          payment in exchange for making such communica-  
21          tion, except where—

22                 (A) such communication describes only a  
23                 health care item or service that has previously  
24                 been prescribed for or administered to the re-

1 recipient of the communication, or a family mem-  
2 ber of such recipient;

3 (B) each of the following conditions  
4 apply—

5 (i) the communication is made by the  
6 covered entity; and

7 (ii) the covered entity making such  
8 communication obtains from the recipient  
9 of the communication, in accordance with  
10 section 164.508 of title 45, Code of Fed-  
11 eral Regulations, a valid authorization (as  
12 described in paragraph (b) of such section)  
13 with respect to such communication; or

14 (C) each of the following conditions  
15 apply—

16 (i) the communication is made on be-  
17 half of the covered entity;

18 (ii) the communication is consistent  
19 with the written contract (or other written  
20 arrangement described in section  
21 164.502(e)(2) of such title) between such  
22 business associate and covered entity; and

23 (iii) the business associate making  
24 such communication, or the covered entity  
25 on behalf of which the communication is



1           made, obtains from the recipient of the  
2           communication, in accordance with section  
3           164.508 of title 45, Code of Federal Regu-  
4           lations, a valid authorization (as described  
5           in paragraph (b) of such section) with re-  
6           spect to such communication.

7           (c) EFFECTIVE DATE.—This section shall apply to  
8           contracting occurring on or after the effective date speci-  
9           fied under section 13423.

10 **SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIRE-**  
11 **MENT FOR VENDORS OF PERSONAL HEALTH**  
12 **RECORDS AND OTHER NON-HIPAA COVERED**  
13 **ENTITIES.**

14           (a) IN GENERAL.—In accordance with subsection (c),  
15           each vendor of personal health records, following the dis-  
16           covery of a breach of security of unsecured PHR identifi-  
17           able health information that is in a personal health record  
18           maintained or offered by such vendor, and each entity de-  
19           scribed in clause (ii) or (iii) of section 13424(b)(1)(A), fol-  
20           lowing the discovery of a breach of security of such infor-  
21           mation that is obtained through a product or service pro-  
22           vided by such entity, shall—

23                   (1) notify each individual who is a citizen or  
24                   resident of the United States whose unsecured PHR  
25                   identifiable health information was acquired by an

1       unauthorized person as a result of such a breach of  
2       security; and

3               (2) notify the Federal Trade Commission.

4       (b) NOTIFICATION BY THIRD PARTY SERVICE PRO-  
5 VIDERS.—A third party service provider that provides  
6 services to a vendor of personal health records or to an  
7 entity described in clause (ii) or (iii) of section  
8 13424(b)(1)(A) in connection with the offering or mainte-  
9 nance of a personal health record or a related product or  
10 service and that accesses, maintains, retains, modifies,  
11 records, stores, destroys, or otherwise holds, uses, or dis-  
12 closes unsecured PHR identifiable health information in  
13 such a record as a result of such services shall, following  
14 the discovery of a breach of security of such information,  
15 notify such vendor or entity, respectively, of such breach.  
16 Such notice shall include the identification of each indi-  
17 vidual whose unsecured PHR identifiable health informa-  
18 tion has been, or is reasonably believed to have been,  
19 accessed, acquired, or disclosed during such breach.

20       (c) APPLICATION OF REQUIREMENTS FOR TIMELI-  
21 NESS, METHOD, AND CONTENT OF NOTIFICATIONS.—  
22 Subsections (c), (d), (e), and (f) of section 13402 shall  
23 apply to a notification required under subsection (a) and  
24 a vendor of personal health records, an entity described  
25 in subsection (a) and a third party service provider de-

1 scribed in subsection (b), with respect to a breach of secu-  
2 rity under subsection (a) of unsecured PHR identifiable  
3 health information in such records maintained or offered  
4 by such vendor, in a manner specified by the Federal  
5 Trade Commission.

6 (d) NOTIFICATION OF THE SECRETARY.—Upon re-  
7 ceipt of a notification of a breach of security under sub-  
8 section (a)(2), the Federal Trade Commission shall notify  
9 the Secretary of such breach.

10 (e) ENFORCEMENT.—A violation of subsection (a) or  
11 (b) shall be treated as an unfair and deceptive act or prac-  
12 tice in violation of a regulation under section 18(a)(1)(B)  
13 of the Federal Trade Commission Act (15 U.S.C.  
14 57a(a)(1)(B)) regarding unfair or deceptive acts or prac-  
15 tices.

16 (f) DEFINITIONS.—For purposes of this section:

17 (1) BREACH OF SECURITY.—The term “breach  
18 of security” means, with respect to unsecured PHR  
19 identifiable health information of an individual in a  
20 personal health record, acquisition of such informa-  
21 tion without the authorization of the individual.

22 (2) PHR IDENTIFIABLE HEALTH INFORMA-  
23 TION.—The term “PHR identifiable health informa-  
24 tion” means individually identifiable health informa-  
25 tion, as defined in section 1171(6) of the Social Se-

1 security Act (42 U.S.C. 1320d(6)), and includes, with  
2 respect to an individual, information—

3 (A) that is provided by or on behalf of the  
4 individual; and

5 (B) that identifies the individual or with  
6 respect to which there is a reasonable basis to  
7 believe that the information can be used to  
8 identify the individual.

9 (3) UNSECURED PHR IDENTIFIABLE HEALTH  
10 INFORMATION.—

11 (A) IN GENERAL.—Subject to subpara-  
12 graph (B), the term “unsecured PHR identifi-  
13 able health information” means PHR identifi-  
14 able health information that is not protected  
15 through the use of a technology or methodology  
16 specified by the Secretary in the guidance  
17 issued under section 13402(h)(2).

18 (B) EXCEPTION IN CASE TIMELY GUID-  
19 ANCE NOT ISSUED.—In the case that the Sec-  
20 retary does not issue guidance under section  
21 13402(h)(2) by the date specified in such sec-  
22 tion, for purposes of this section, the term “un-  
23 secured PHR identifiable health information”  
24 shall mean PHR identifiable health information  
25 that is not secured by a technology standard

1           that renders protected health information unus-  
2           able, unreadable, or indecipherable to unauthor-  
3           ized individuals and that is developed or en-  
4           dorsed by a standards developing organization  
5           that is accredited by the American National  
6           Standards Institute.

7           (g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

8           (1) REGULATIONS; EFFECTIVE DATE.—To  
9           carry out this section, the Federal Trade Commis-  
10          sion shall, in accordance with section 553 of title 5,  
11          United States Code, promulgate interim final regula-  
12          tions by not later than the date that is 180 days  
13          after the date of the enactment of this section. The  
14          provisions of this section shall apply to breaches of  
15          security that are discovered on or after the date that  
16          is 30 days after the date of publication of such in-  
17          terim final regulations.

18          (2) SUNSET.—The provisions of this section  
19          shall not apply to breaches of security occurring on  
20          or after the earlier of the following the dates:

21                (A) The date on which a standard relating  
22                to requirements for entities that are not covered  
23                entities that includes requirements relating to  
24                breach notification has been promulgated by the  
25                Secretary.

1 (B) The date on which a standard relating  
2 to requirements for entities that are not covered  
3 entities that includes requirements relating to  
4 breach notification has been promulgated by the  
5 Federal Trade Commission and has taken ef-  
6 fect.

7 **SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED**  
8 **FOR CERTAIN ENTITIES.**

9 Each organization, with respect to a covered entity,  
10 that provides data transmission of protected health infor-  
11 mation to such entity (or its business associate) and that  
12 requires access on a routine basis to such protected health  
13 information, such as a Health Information Exchange Or-  
14 ganization, Regional Health Information Organization, E-  
15 prescribing Gateway, or each vendor that contracts with  
16 a covered entity to allow that covered entity to offer a per-  
17 sonal health record to patients as part of its electronic  
18 health record, is required to enter into a written contract  
19 (or other written arrangement) described in section  
20 164.502(e)(2) of title 45, Code of Federal Regulations and  
21 a written contract (or other arrangement) described in  
22 section 164.308(b) of such title, with such entity and shall  
23 be treated as a business associate of the covered entity  
24 for purposes of the provisions of this subtitle and subparts  
25 C and E of part 164 of title 45, Code of Federal Regula-

1 tions, as such provisions are in effect as of the date of  
2 enactment of this title.

3 **SEC. 13409. CLARIFICATION OF APPLICATION OF WRONG-**  
4 **FUL DISCLOSURES CRIMINAL PENALTIES.**

5 Section 1177(a) of the Social Security Act (42 U.S.C.  
6 1320d–6(a)) is amended by adding at the end the fol-  
7 lowing new sentence: “For purposes of the previous sen-  
8 tence, a person (including an employee or other individual)  
9 shall be considered to have obtained or disclosed individ-  
10 ually identifiable health information in violation of this  
11 part if the information is maintained by a covered entity  
12 (as defined in the HIPAA privacy regulation described in  
13 section 1180(b)(3)) and the individual obtained or dis-  
14 closed such information without authorization.”.

15 **SEC. 13410. IMPROVED ENFORCEMENT.**

16 (a) IN GENERAL.—Section 1176 of the Social Secu-  
17 rity Act (42 U.S.C. 1320d–5) is amended—

18 (1) in subsection (b)(1), by striking “the act  
19 constitutes an offense punishable under section  
20 1177” and inserting “a penalty has been imposed  
21 under section 1177 with respect to such act”; and

22 (2) by adding at the end the following new sub-  
23 section:

24 “(c) NONCOMPLIANCE DUE TO WILLFUL NE-  
25 GLECT.—

1           “(1) IN GENERAL.—A violation of a provision  
2 of this part due to willful neglect is a violation for  
3 which the Secretary is required to impose a penalty  
4 under subsection (a)(1).

5           “(2) REQUIRED INVESTIGATION.—For purposes  
6 of paragraph (1), the Secretary shall formally inves-  
7 tigate any complaint of a violation of a provision of  
8 this part if a preliminary investigation of the facts  
9 of the complaint indicate such a possible violation  
10 due to willful neglect.”.

11 (b) EFFECTIVE DATE; REGULATIONS.—

12           (1) The amendments made by subsection (a)  
13 shall apply to penalties imposed on or after the date  
14 that is 24 months after the date of the enactment  
15 of this title.

16           (2) Not later than 18 months after the date of  
17 the enactment of this title, the Secretary of Health  
18 and Human Services shall promulgate regulations to  
19 implement such amendments.

20 (c) DISTRIBUTION OF CERTAIN CIVIL MONETARY  
21 PENALTIES COLLECTED.—

22           (1) IN GENERAL.—Subject to the regulation  
23 promulgated pursuant to paragraph (3), any civil  
24 monetary penalty or monetary settlement collected  
25 with respect to an offense punishable under this sub-



1 title or section 1176 of the Social Security Act (42  
2 U.S.C. 1320d-5) insofar as such section relates to  
3 privacy or security shall be transferred to the Office  
4 of Civil Rights of the Department of Health and  
5 Human Services to be used for purposes of enforcing  
6 the provisions of this subtitle and subparts C and E  
7 of part 164 of title 45, Code of Federal Regulations,  
8 as such provisions are in effect as of the date of en-  
9 actment of this Act.

10 (2) GAO REPORT.—Not later than 18 months  
11 after the date of the enactment of this title, the  
12 Comptroller General shall submit to the Secretary a  
13 report including recommendations for a methodology  
14 under which an individual who is harmed by an act  
15 that constitutes an offense referred to in paragraph  
16 (1) may receive a percentage of any civil monetary  
17 penalty or monetary settlement collected with re-  
18 spect to such offense.

19 (3) ESTABLISHMENT OF METHODOLOGY TO  
20 DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO  
21 HARMED INDIVIDUALS.—Not later than 3 years  
22 after the date of the enactment of this title, the Sec-  
23 retary shall establish by regulation and based on the  
24 recommendations submitted under paragraph (2), a  
25 methodology under which an individual who is

1 harmed by an act that constitutes an offense re-  
2 ferred to in paragraph (1) may receive a percentage  
3 of any civil monetary penalty or monetary settlement  
4 collected with respect to such offense.

5 (4) APPLICATION OF METHODOLOGY.—The  
6 methodology under paragraph (3) shall be applied  
7 with respect to civil monetary penalties or monetary  
8 settlements imposed on or after the effective date of  
9 the regulation.

10 (d) TIERED INCREASE IN AMOUNT OF CIVIL MONE-  
11 TARY PENALTIES.—

12 (1) IN GENERAL.—Section 1176(a)(1) of the  
13 Social Security Act (42 U.S.C. 1320d–5(a)(1)) is  
14 amended by striking “who violates a provision of  
15 this part a penalty of not more than” and all that  
16 follows and inserting the following: “who violates a  
17 provision of this part—

18 “(A) in the case of a violation of such pro-  
19 vision in which it is established that the person  
20 did not know (and by exercising reasonable dili-  
21 gence would not have known) that such person  
22 violated such provision, a penalty for each such  
23 violation of an amount that is at least the  
24 amount described in paragraph (3)(A) but not

1 to exceed the amount described in paragraph  
2 (3)(D);

3 “(B) in the case of a violation of such pro-  
4 vision in which it is established that the viola-  
5 tion was due to reasonable cause and not to  
6 willful neglect, a penalty for each such violation  
7 of an amount that is at least the amount de-  
8 scribed in paragraph (3)(B) but not to exceed  
9 the amount described in paragraph (3)(D); and

10 “(C) in the case of a violation of such pro-  
11 vision in which it is established that the viola-  
12 tion was due to willful neglect—

13 “(i) if the violation is corrected as de-  
14 scribed in subsection (b)(3)(A), a penalty  
15 in an amount that is at least the amount  
16 described in paragraph (3)(C) but not to  
17 exceed the amount described in paragraph  
18 (3)(D); and

19 “(ii) if the violation is not corrected  
20 as described in such subsection, a penalty  
21 in an amount that is at least the amount  
22 described in paragraph (3)(D).

23 In determining the amount of a penalty under  
24 this section for a violation, the Secretary shall  
25 base such determination on the nature and ex-

1           tent of the violation and the nature and extent  
2           of the harm resulting from such violation.”.

3           (2) TIERS OF PENALTIES DESCRIBED.—Section  
4           1176(a) of such Act (42 U.S.C. 1320d–5(a)) is fur-  
5           ther amended by adding at the end the following  
6           new paragraph:

7           “(3) TIERS OF PENALTIES DESCRIBED.—For  
8           purposes of paragraph (1), with respect to a viola-  
9           tion by a person of a provision of this part—

10           “(A) the amount described in this subpara-  
11           graph is \$100 for each such violation, except  
12           that the total amount imposed on the person  
13           for all such violations of an identical require-  
14           ment or prohibition during a calendar year may  
15           not exceed \$25,000;

16           “(B) the amount described in this subpara-  
17           graph is \$1,000 for each such violation, except  
18           that the total amount imposed on the person  
19           for all such violations of an identical require-  
20           ment or prohibition during a calendar year may  
21           not exceed \$100,000;

22           “(C) the amount described in this subpara-  
23           graph is \$10,000 for each such violation, except  
24           that the total amount imposed on the person  
25           for all such violations of an identical require-

1           ment or prohibition during a calendar year may  
2           not exceed \$250,000; and

3           “(D) the amount described in this sub-  
4           paragraph is \$50,000 for each such violation,  
5           except that the total amount imposed on the  
6           person for all such violations of an identical re-  
7           quirement or prohibition during a calendar year  
8           may not exceed \$1,500,000.”.

9           (3)    CONFORMING    AMENDMENTS.—Section  
10          1176(b) of such Act (42 U.S.C. 1320d–5(b)) is  
11          amended—

12                (A) by striking paragraph (2) and redesignig-  
13                nating paragraphs (3) and (4) as paragraphs  
14                (2) and (3), respectively; and

15                (B) in paragraph (2), as so redesignated—

16                    (i) in subparagraph (A), by striking  
17                    “in subparagraph (B), a penalty may not  
18                    be imposed under subsection (a) if” and all  
19                    that follows through “the failure to comply  
20                    is corrected” and inserting “in subpara-  
21                    graph (B) or subsection (a)(1)(C), a pen-  
22                    alty may not be imposed under subsection  
23                    (a) if the failure to comply is corrected”;  
24                    and

1                   (ii) in subparagraph (B), by striking  
2                   “(A)(ii)” and inserting “(A)” each place it  
3                   appears.

4                   (4) EFFECTIVE DATE.—The amendments made  
5                   by this subsection shall apply to violations occurring  
6                   after the date of the enactment of this title.

7                   (e) ENFORCEMENT THROUGH STATE ATTORNEYS  
8 GENERAL.—

9                   (1) IN GENERAL.—Section 1176 of the Social  
10                  Security Act (42 U.S.C. 1320d–5) is amended by  
11                  adding at the end the following new subsection:

12                 “(d) ENFORCEMENT BY STATE ATTORNEYS GEN-  
13 ERAL.—

14                 “(1) CIVIL ACTION.—Except as provided in  
15                 subsection (b), in any case in which the attorney  
16                 general of a State has reason to believe that an in-  
17                 terest of one or more of the residents of that State  
18                 has been or is threatened or adversely affected by  
19                 any person who violates a provision of this part, the  
20                 attorney general of the State, as *parens patriae*, may  
21                 bring a civil action on behalf of such residents of the  
22                 State in a district court of the United States of ap-  
23                 propriate jurisdiction—

24                 “(A) to enjoin further such violation by the  
25                 defendant; or

1           “(B) to obtain damages on behalf of such  
2 residents of the State, in an amount equal to  
3 the amount determined under paragraph (2).

4           “(2) STATUTORY DAMAGES.—

5           “(A) IN GENERAL.—For purposes of para-  
6 graph (1)(B), the amount determined under  
7 this paragraph is the amount calculated by mul-  
8 tiplying the number of violations by up to \$100.  
9 For purposes of the preceding sentence, in the  
10 case of a continuing violation, the number of  
11 violations shall be determined consistent with  
12 the HIPAA privacy regulations (as defined in  
13 section 1180(b)(3)) for violations of subsection  
14 (a).

15           “(B) LIMITATION.—The total amount of  
16 damages imposed on the person for all viola-  
17 tions of an identical requirement or prohibition  
18 during a calendar year may not exceed \$25,000.

19           “(C) REDUCTION OF DAMAGES.—In as-  
20 sessing damages under subparagraph (A), the  
21 court may consider the factors the Secretary  
22 may consider in determining the amount of a  
23 civil money penalty under subsection (a) under  
24 the HIPAA privacy regulations.

1           “(3) ATTORNEY FEES.—In the case of any suc-  
2           cessful action under paragraph (1), the court, in its  
3           discretion, may award the costs of the action and  
4           reasonable attorney fees to the State.

5           “(4) NOTICE TO SECRETARY.—The State shall  
6           serve prior written notice of any action under para-  
7           graph (1) upon the Secretary and provide the Sec-  
8           retary with a copy of its complaint, except in any  
9           case in which such prior notice is not feasible, in  
10          which case the State shall serve such notice imme-  
11          diately upon instituting such action. The Secretary  
12          shall have the right—

13                   “(A) to intervene in the action;

14                   “(B) upon so intervening, to be heard on  
15                   all matters arising therein; and

16                   “(C) to file petitions for appeal.

17          “(5) CONSTRUCTION.—For purposes of bring-  
18          ing any civil action under paragraph (1), nothing in  
19          this section shall be construed to prevent an attor-  
20          ney general of a State from exercising the powers  
21          conferred on the attorney general by the laws of that  
22          State.

23          “(6) VENUE; SERVICE OF PROCESS.—

24                   “(A) VENUE.—Any action brought under  
25                   paragraph (1) may be brought in the district



1 court of the United States that meets applicable  
2 requirements relating to venue under section  
3 1391 of title 28, United States Code.

4 “(B) SERVICE OF PROCESS.—In an action  
5 brought under paragraph (1), process may be  
6 served in any district in which the defendant—

7 “(i) is an inhabitant; or

8 “(ii) maintains a physical place of  
9 business.

10 “(7) LIMITATION ON STATE ACTION WHILE  
11 FEDERAL ACTION IS PENDING.—If the Secretary has  
12 instituted an action against a person under sub-  
13 section (a) with respect to a specific violation of this  
14 part, no State attorney general may bring an action  
15 under this subsection against the person with re-  
16 spect to such violation during the pendency of that  
17 action.

18 “(8) APPLICATION OF CMP STATUTE OF LIM-  
19 TATION.—A civil action may not be instituted with  
20 respect to a violation of this part unless an action  
21 to impose a civil money penalty may be instituted  
22 under subsection (a) with respect to such violation  
23 consistent with the second sentence of section  
24 1128A(c)(1).”.

1           (2) CONFORMING AMENDMENTS.—Subsection  
2           (b) of such section, as amended by subsection (d)(3),  
3           is amended—

4                   (A) in paragraph (1), by striking “A pen-  
5                   alty may not be imposed under subsection (a)”  
6                   and inserting “No penalty may be imposed  
7                   under subsection (a) and no damages obtained  
8                   under subsection (d)”;

9                   (B) in paragraph (2)(A)—

10                   (i) after “subsection (a)(1)(C),”, by  
11                   striking “a penalty may not be imposed  
12                   under subsection (a)” and inserting “no  
13                   penalty may be imposed under subsection  
14                   (a) and no damages obtained under sub-  
15                   section (d)”;

16                   (ii) in clause (ii), by inserting “or  
17                   damages” after “the penalty”;

18                   (C) in paragraph (2)(B)(i), by striking  
19                   “The period” and inserting “With respect to  
20                   the imposition of a penalty by the Secretary  
21                   under subsection (a), the period”;

22                   (D) in paragraph (3), by inserting “and  
23                   any damages under subsection (d)” after “any  
24                   penalty under subsection (a)”.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to violations occurring  
3           after the date of the enactment of this Act.

4           (f) ALLOWING CONTINUED USE OF CORRECTIVE AC-  
5 TION.—Such section is further amended by adding at the  
6 end the following new subsection:

7           “(e) ALLOWING CONTINUED USE OF CORRECTIVE  
8 ACTION.—Nothing in this section shall be construed as  
9 preventing the Office of Civil Rights of the Department  
10 of Health and Human Services from continuing, in its dis-  
11 cretion, to use corrective action without a penalty in cases  
12 where the person did not know (and by exercising reason-  
13 able diligence would not have known) of the violation in-  
14 volved.”.

15 **SEC. 13411. AUDITS.**

16           The Secretary shall provide for periodic audits to en-  
17 sure that covered entities and business associates that are  
18 subject to the requirements of this subtitle and subparts  
19 C and E of part 164 of title 45, Code of Federal Regula-  
20 tions, as such provisions are in effect as of the date of  
21 enactment of this Act, comply with such requirements.

1 **PART II—RELATIONSHIP TO OTHER LAWS; REGU-**  
2 **LATORY REFERENCES; EFFECTIVE DATE; RE-**  
3 **PORTS**

4 **SEC. 13421. RELATIONSHIP TO OTHER LAWS.**

5 (a) APPLICATION OF HIPAA STATE PREEMPTION.—  
6 Section 1178 of the Social Security Act (42 U.S.C.  
7 1320d–7) shall apply to a provision or requirement under  
8 this subtitle in the same manner that such section applies  
9 to a provision or requirement under part C of title XI of  
10 such Act or a standard or implementation specification  
11 adopted or established under sections 1172 through 1174  
12 of such Act.

13 (b) HEALTH INSURANCE PORTABILITY AND AC-  
14 COUNTABILITY ACT.—The standards governing the pri-  
15 vacy and security of individually identifiable health infor-  
16 mation promulgated by the Secretary under sections  
17 262(a) and 264 of the Health Insurance Portability and  
18 Accountability Act of 1996 shall remain in effect to the  
19 extent that they are consistent with this subtitle. The Sec-  
20 retary shall by rule amend such Federal regulations as re-  
21 quired to make such regulations consistent with this sub-  
22 title. In carrying out the preceding sentence, the Secretary  
23 shall revise the definition of “psychotherapy notes” in sec-  
24 tion 164.501 of title 45, Code of Federal Regulations, to  
25 include test data that is related to direct responses, scores,  
26 items, forms, protocols, manuals, or other materials that

1 are part of a mental health evaluation, as determined by  
2 the mental health professional providing treatment or  
3 evaluation.

4 **SEC. 13422. REGULATORY REFERENCES.**

5 Each reference in this subtitle to a provision of the  
6 Code of Federal Regulations refers to such provision as  
7 in effect on the date of the enactment of this title (or to  
8 the most recent update of such provision).

9 **SEC. 13423. EFFECTIVE DATE.**

10 Except as otherwise specifically provided, the provi-  
11 sions of part I shall take effect on the date that is 12  
12 months after the date of the enactment of this title.

13 **SEC. 13424. STUDIES, REPORTS, GUIDANCE.**

14 (a) REPORT ON COMPLIANCE.—

15 (1) IN GENERAL.—For the first year beginning  
16 after the date of the enactment of this Act and an-  
17 nually thereafter, the Secretary shall prepare and  
18 submit to the Committee on Health, Education,  
19 Labor, and Pensions of the Senate and the Com-  
20 mittee on Ways and Means and the Committee on  
21 Energy and Commerce of the House of Representa-  
22 tives a report concerning complaints of alleged viola-  
23 tions of law, including the provisions of this subtitle  
24 as well as the provisions of subparts C and E of part  
25 164 of title 45, Code of Federal Regulations, (as

1 such provisions are in effect as of the date of enact-  
2 ment of this Act) relating to privacy and security of  
3 health information that are received by the Secretary  
4 during the year for which the report is being pre-  
5 pared. Each such report shall include, with respect  
6 to such complaints received during the year—

7 (A) the number of such complaints;

8 (B) the number of such complaints re-  
9 solved informally, a summary of the types of  
10 such complaints so resolved, and the number of  
11 covered entities that received technical assist-  
12 ance from the Secretary during such year in  
13 order to achieve compliance with such provi-  
14 sions and the types of such technical assistance  
15 provided;

16 (C) the number of such complaints that  
17 have resulted in the imposition of civil monetary  
18 penalties or have been resolved through mone-  
19 tary settlements, including the nature of the  
20 complaints involved and the amount paid in  
21 each penalty or settlement;

22 (D) the number of compliance reviews con-  
23 ducted and the outcome of each such review;

24 (E) the number of subpoenas or inquiries  
25 issued;

1 (F) the Secretary's plan for improving  
2 compliance with and enforcement of such provi-  
3 sions for the following year; and

4 (G) the number of audits performed and a  
5 summary of audit findings pursuant to section  
6 13411.

7 (2) AVAILABILITY TO PUBLIC.—Each report  
8 under paragraph (1) shall be made available to the  
9 public on the Internet website of the Department of  
10 Health and Human Services.

11 (b) STUDY AND REPORT ON APPLICATION OF PRI-  
12 VACY AND SECURITY REQUIREMENTS TO NON-HIPAA  
13 COVERED ENTITIES.—

14 (1) STUDY.—Not later than one year after the  
15 date of the enactment of this title, the Secretary, in  
16 consultation with the Federal Trade Commission,  
17 shall conduct a study, and submit a report under  
18 paragraph (2), on privacy and security requirements  
19 for entities that are not covered entities or business  
20 associates as of the date of the enactment of this  
21 title, including—

22 (A) requirements relating to security, pri-  
23 vacy, and notification in the case of a breach of  
24 security or privacy (including the applicability  
25 of an exemption to notification in the case of

1 individually identifiable health information that  
2 has been rendered unusable, unreadable, or in-  
3 decipherable through technologies or methodolo-  
4 gies recognized by appropriate professional or-  
5 ganization or standard setting bodies to provide  
6 effective security for the information) that  
7 should be applied to—

8 (i) vendors of personal health records;

9 (ii) entities that offer products or  
10 services through the website of a vendor of  
11 personal health records;

12 (iii) entities that are not covered enti-  
13 ties and that offer products or services  
14 through the websites of covered entities  
15 that offer individuals personal health  
16 records;

17 (iv) entities that are not covered enti-  
18 ties and that access information in a per-  
19 sonal health record or send information to  
20 a personal health record; and

21 (v) third party service providers used  
22 by a vendor or entity described in clause  
23 (i), (ii), (iii), or (iv) to assist in providing  
24 personal health record products or services;



1 (B) a determination of which Federal gov-  
2 ernment agency is best equipped to enforce  
3 such requirements recommended to be applied  
4 to such vendors, entities, and service providers  
5 under subparagraph (A); and

6 (C) a timeframe for implementing regula-  
7 tions based on such findings.

8 (2) REPORT.—The Secretary shall submit to  
9 the Committee on Finance, the Committee on  
10 Health, Education, Labor, and Pensions, and the  
11 Committee on Commerce of the Senate and the  
12 Committee on Ways and Means and the Committee  
13 on Energy and Commerce of the House of Rep-  
14 resentatives a report on the findings of the study  
15 under paragraph (1) and shall include in such report  
16 recommendations on the privacy and security re-  
17 quirements described in such paragraph.

18 (c) GUIDANCE ON IMPLEMENTATION SPECIFICATION  
19 TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—  
20 Not later than 12 months after the date of the enactment  
21 of this title, the Secretary shall, in consultation with stake-  
22 holders, issue guidance on how best to implement the re-  
23 quirements for the de-identification of protected health in-  
24 formation under section 164.514(b) of title 45, Code of  
25 Federal Regulations.

1 (d) GAO REPORT ON TREATMENT DISCLOSURES.—  
2 Not later than one year after the date of the enactment  
3 of this title, the Comptroller General of the United States  
4 shall submit to the Committee on Health, Education,  
5 Labor, and Pensions of the Senate and the Committee on  
6 Ways and Means and the Committee on Energy and Com-  
7 merce of the House of Representatives a report on the  
8 best practices related to the disclosure among health care  
9 providers of protected health information of an individual  
10 for purposes of treatment of such individual. Such report  
11 shall include an examination of the best practices imple-  
12 mented by States and by other entities, such as health  
13 information exchanges and regional health information or-  
14 ganizations, an examination of the extent to which such  
15 best practices are successful with respect to the quality  
16 of the resulting health care provided to the individual and  
17 with respect to the ability of the health care provider to  
18 manage such best practices, and an examination of the  
19 use of electronic informed consent for disclosing protected  
20 health information for treatment, payment, and health  
21 care operations.

22 (e) REPORT REQUIRED.—Not later than 1 year after  
23 the date of enactment of this section, the Government Ac-  
24 countability Office shall submit to Congress and the Sec-  
25 retary of Health and Human Services a report on the im-

1 pact of any of the provisions of, or amendments made by,  
 2 this division or division B that are related to the Health  
 3 Insurance Portability and Accountability Act of 1996 and  
 4 section 552a of title 5, United States Code, on health in-  
 5 surance premiums and overall health care costs.

6 **TITLE XIV—STATE FISCAL**  
 7 **STABILIZATION**

8 DEPARTMENT OF EDUCATION

9 STATE FISCAL STABILIZATION FUND

10 For necessary expenses for a State Fiscal Stabiliza-  
 11 tion Fund, \$39,000,000,000, which shall be administered  
 12 by the Department of Education, and shall be available  
 13 through September 30, 2010.

14 GENERAL PROVISIONS—THIS TITLE

15 **SEC. 1401. ALLOCATIONS.**

16 (a) **OUTLYING AREAS.**—The Secretary of Education  
 17 shall first allocate one-half of 1 percent to the outlying  
 18 areas on the basis of their respective needs, as determined  
 19 by the Secretary, for activities consistent with this title  
 20 under such terms and conditions as the Secretary may de-  
 21 termine.

22 (b) **ADMINISTRATION AND OVERSIGHT.**—The Sec-  
 23 retary may reserve up to \$25,000,000 for administration  
 24 and oversight of this title, including for program evalua-  
 25 tion.

1 (c) RESERVATION FOR ADDITIONAL PROGRAMS.—  
2 After reserving funds under subsections (a) and (b), the  
3 Secretary shall reserve \$7,500,000,000 for grants under  
4 sections 1406 and 1407.

5 (d) STATE ALLOCATIONS.—After carrying out sub-  
6 sections (a), (b), and (c), the Secretary shall allocate the  
7 remaining funds made available to carry out this title to  
8 the States as follows:

9 (1) 61 percent on the basis of their relative  
10 population of individuals aged 5 through 24.

11 (2) 39 percent on the basis of their relative  
12 total population.

13 (e) STATE GRANTS.—From funds allocated under  
14 subsection (d), the Secretary shall make grants to the  
15 Governor of each State.

16 (f) REALLOCATION.—The Governor shall return to  
17 the Secretary any funds received under subsection (e) that  
18 the Governor does not obligate within 1 year of receiving  
19 a grant, and the Secretary shall reallocate such funds to  
20 the remaining States in accordance with subsection (d).

21 **SEC. 1402. STATE USES OF FUNDS.**

22 EDUCATION FUND.—(a) IN GENERAL.—The Gov-  
23 ernor shall use the State's allocation under section 1401  
24 for the support of elementary, secondary, and postsec-

1 onduary education and, as applicable, early childhood edu-  
2 cation programs and services.

3 (b) RESTORING 2008 STATE SUPPORT FOR EDU-  
4 CATION.—

5 (1) IN GENERAL.—The Governor shall first use the  
6 funds described in subsection (a)—

7 (A) to provide the amount of funds,  
8 through the State’s principal elementary and  
9 secondary funding formula, that is needed to  
10 restore State support for elementary and sec-  
11 onduary education to the fiscal year 2008 level;  
12 and where applicable, to allow existing State  
13 formula increases for fiscal years 2009, 2010,  
14 and 2011 to be implemented and allow funding  
15 for phasing in State equity and adequacy ad-  
16 justments that were enacted prior to July 1,  
17 2008; and

18 (B) to provide the amount of funds to pub-  
19 lic institutions of higher education in the State  
20 that is needed to restore State support for post-  
21 secondary education to the fiscal year 2008  
22 level.

23 (2) SHORTFALL.—If the Governor determines that  
24 the amount of funds available under subsection (a) is in-  
25 sufficient to restore State support for education to the lev-

1 els described in subparagraphs (A) and (B) of paragraph  
2 (1), the Governor shall allocate those funds between those  
3 clauses in proportion to the relative shortfall in State sup-  
4 port for the education sectors described in those clauses.

5 (c) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPER-  
6 ATED BY LOCAL EDUCATIONAL AGENCIES.—After car-  
7 rying out subsection (b), the Governor shall use any funds  
8 remaining under subsection (a) to provide local edu-  
9 cational agencies in the State with subgrants based on  
10 their relative shares of funding under part A of title I of  
11 the Elementary and Secondary Education Act of 1965 (20  
12 U.S.C. 6311 et seq.) for the most recent year for which  
13 data are available.

14 **SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGEN-**  
15 **CIES.**

16 (1) IN GENERAL.—A local educational agency that  
17 receives funds under this title may use the funds for any  
18 activity authorized by the Elementary and Secondary Edu-  
19 cation Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”),  
20 the Individuals with Disabilities Education Act (20 U.S.C.  
21 1400 et seq.) (“IDEA”), or the Carl D. Perkins Career  
22 and Technical Education Act of 2006 (20 U.S.C. 2301  
23 et seq.) (“the Perkins Act”).

1 (b) PROHIBITION.—A local educational agency may  
2 not use funds received under this title for capital projects  
3 unless authorized by ESEA, IDEA, or the Perkins Act.

4 **SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER**  
5 **EDUCATION.**

6 (a) IN GENERAL.—A public institution of higher edu-  
7 cation that receives funds under this title shall use the  
8 funds for education and general expenditures, and in such  
9 a way as to mitigate the need to raise tuition and fees  
10 for in-State students.

11 (b) PROHIBITION.—An institution of higher edu-  
12 cation may not use funds received under this title to in-  
13 crease its endowment.

14 (c) ADDITIONAL PROHIBITION.—An institution of  
15 higher education may not use funds received under this  
16 title for construction, renovation, or facility repair.

17 **SEC. 1405. STATE APPLICATIONS.**

18 (a) IN GENERAL.—The Governor of a State desiring  
19 to receive an allocation under section 1401 shall submit  
20 an application at such time, in such manner, and con-  
21 taining such information as the Secretary may reasonably  
22 require.

23 (b) APPLICATION.—The Governor shall—

24 (1) include the assurances described in sub-  
25 section (d);

1           (2) provide baseline data that demonstrates the  
2 State's current status in each of the areas described  
3 in such assurances; and

4           (3) describe how the State intends to use its al-  
5 location.

6           (c) INCENTIVE GRANT APPLICATION.—The Governor  
7 of a State seeking a grant under section 1406 shall—

8           (1) submit an application for consideration;

9           (2) describe the status of the State's progress  
10 in each of the areas described in subsection (d);

11           (3) describe the achievement and graduation  
12 rates of public elementary and secondary school stu-  
13 dents in the State, and the strategies the State is  
14 employing to help ensure that all subgroups of stu-  
15 dents identified in 1111(b)(2) of ESEA in the State  
16 continue making progress toward meeting the  
17 State's student academic achievement standards;

18           (4) describe how the State would use its grant  
19 funding to improve student academic achievement in  
20 the State, including how it will allocate the funds to  
21 give priority to high-need schools and local edu-  
22 cational agencies; and

23           (5) include a plan for evaluating its progress in  
24 closing achievement gaps.



1 (d) ASSURANCES.—An application under subsection  
2 (b) shall include the following assurances:

3 (1) MAINTENANCE OF EFFORT.—

4 (A) ELEMENTARY AND SECONDARY EDU-  
5 CATION.—The State will, in each of fiscal years  
6 2009 and 2010, maintain State support for ele-  
7 mentary and secondary education at least at  
8 the level of such support in fiscal year 2006.

9 (B) HIGHER EDUCATION.—The State will,  
10 in each of fiscal years 2009 and 2010, maintain  
11 State support for public institutions of higher  
12 education (not including support for capital  
13 projects or for research and development) at  
14 least at the level of such support in fiscal year  
15 2006.

16 (2) ACHIEVING EQUITY IN TEACHER DISTRIBU-  
17 TION.—The State will take action, including activi-  
18 ties outlined in section 2113(c) of ESEA, to increase  
19 the number, and improve the distribution, of effec-  
20 tive teachers and principals in high-poverty schools  
21 and local educational agencies throughout the State.

22 (3) IMPROVING COLLECTION AND USE OF  
23 DATA.—The State will establish a longitudinal data  
24 system that includes the elements described in sec-

1 tion 6401(e)(2)(D) of the America COMPETES Act  
2 (20 U.S.C. 9871).

3 (4) STANDARDS AND ASSESSMENTS.—The  
4 State—

5 (A) will enhance the quality of academic  
6 assessments described in section 1111(b)(3) of  
7 ESEA (20 U.S.C. 6311(b)(3)) through activi-  
8 ties such as those described in section 6112(a)  
9 of such Act (20 U.S.C. 7301a(a));

10 (B) will comply with the requirements of  
11 paragraphs (3)(C)(ix) and (6) of section  
12 1111(b) of ESEA (20 U.S.C. 6311(b)) and sec-  
13 tion 612(a)(16) of IDEA (20 U.S.C.  
14 1412(a)(16)) related to the inclusion of children  
15 with disabilities and limited English proficient  
16 students in State assessments, the development  
17 of valid and reliable assessments for those stu-  
18 dents, and the provision of accommodations  
19 that enable their participation in State assess-  
20 ments; and

21 (C) will take steps to improve State aca-  
22 demic content standards and student academic  
23 achievement standards consistent with  
24 6401(e)(1)(A)(ii) of the America COMPETES  
25 Act.

1           (5) will ensure compliance with the require-  
2           ments of section 1116(a)(7)(C)(iv) and section  
3           1116(a)(8)(B) with respect to schools identified  
4           under such sections.

5 **SEC. 1406. STATE INCENTIVE GRANTS.**

6           (a) IN GENERAL.—From the total amount reserved  
7           under section 1401(c) that is not used for section 1407,  
8           the Secretary shall, in fiscal year 2010, make grants to  
9           States that have made significant progress in meeting the  
10          objectives of paragraphs (2), (3), (4), and (5) of section  
11          1405(d).

12          (b) BASIS FOR GRANTS.—The Secretary shall deter-  
13          mine which States receive grants under this section, and  
14          the amount of those grants, on the basis of information  
15          provided in State applications under section 1405 and  
16          such other criteria as the Secretary determines appro-  
17          priate.

18          (c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
19          CIES.—Each State receiving a grant under this section  
20          shall use at least 50 percent of the grant to provide local  
21          educational agencies in the State with subgrants based on  
22          their relative shares of funding under part A of title I of  
23          ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

24 **SEC. 1407. INNOVATION FUND.**

25          (a) IN GENERAL.—

1           (1) ELIGIBLE ENTITY.—For the purposes of  
2 this section, the term “eligible entity” means—

3                   (A) A local educational agency; or

4                   (B) a partnership between a nonprofit or-  
5 ganization and—

6                           (i) one or more local educational agen-  
7 cies;

8                           (ii) or a consortium of schools.

9           (2) PROGRAM ESTABLISHED.—From the total  
10 amount reserved under section 1401(c), the Sec-  
11 retary may reserve up to \$650,000,000 to establish  
12 an Innovation Fund, which shall consist of academic  
13 achievement awards that recognize eligible entities  
14 that meet the requirements described in subsection  
15 (b).

16           (3) BASIS FOR AWARDS.—The Secretary shall  
17 make awards to eligible entities that have made sig-  
18 nificant gains in closing the achievement gap as de-  
19 scribed in subsection (b)(1)—

20                   (A) to allow such eligible entities to expand  
21 their work and serve as models for best prac-  
22 tices;

23                   (B) to allow such eligible entities to work  
24 in partnership with the private sector and the  
25 philanthropic community; and

1 (C) to identify and document best practices  
2 that can be shared, and taken to scale based on  
3 demonstrated success.

4 (b) ELIGIBILITY.—To be eligible for such an award,  
5 an eligible entity shall—

6 (1) have significantly closed the achievement  
7 gaps between groups of students described in section  
8 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

9 (2) have exceeded the State’s annual measur-  
10 able objectives consistent with such section  
11 1111(b)(2) for 2 or more consecutive years or have  
12 demonstrated success in significantly increasing stu-  
13 dent academic achievement for all groups of stu-  
14 dents described in such section through another  
15 measure, such as measures described in section  
16 1111(e)(2) of ESEA;

17 (3) have made significant improvement in other  
18 areas, such as graduation rates or increased recruit-  
19 ment and placement of high-quality teachers and  
20 school leaders, as demonstrated with meaningful  
21 data; and

22 (4) demonstrate that they have established  
23 partnerships with the private sector, which may in-  
24 clude philanthropic organizations, and that the pri-

1 vate sector will provide matching funds in order to  
2 help bring results to scale.

3 **SEC. 1408. STATE REPORTS.**

4 A State receiving funds under this title shall submit  
5 a report to the Secretary, at such time and in such manner  
6 as the Secretary may require, that describes—

7 (1) the uses of funds provided under this title  
8 within the State;

9 (2) how the State distributed the funds it re-  
10 ceived under this title;

11 (3) the number of jobs that the Governor esti-  
12 mates were saved or created with funds the State re-  
13 ceived under this title;

14 (4) tax increases that the Governor estimates  
15 were averted because of the availability of funds  
16 from this title;

17 (5) the State's progress in reducing inequities  
18 in the distribution of teachers, in implementing a  
19 State student longitudinal data system, and in devel-  
20 oping and implementing valid and reliable assess-  
21 ments for limited English proficient students and  
22 children with disabilities;

23 (6) the tuition and fee increases for in-State  
24 students imposed by public institutions of higher  
25 education in the State during the period of avail-

1 ability of funds under this title, and a description of  
2 any actions taken by the State to limit those in-  
3 creases; and

4 (7) the extent to which public institutions of  
5 higher education maintained, increased, or decreased  
6 enrollment of in-State students, including students  
7 eligible for Pell Grants or other need-based financial  
8 assistance.

9 **SEC. 1409. EVALUATION.**

10 The Comptroller General of the United States shall  
11 conduct evaluations of the programs under sections 1406  
12 and 1407 which shall include, but not be limited to, the  
13 criteria used for the awards made, the States selected for  
14 awards, award amounts, how each State used the award  
15 received, and the impact of this funding on the progress  
16 made toward closing achievement gaps.

17 **SEC. 1410. SECRETARY'S REPORT TO CONGRESS.**

18 The Secretary shall submit a report to the Committee  
19 on Education and Labor of the House of Representatives,  
20 the Committee on Health, Education, Labor, and Pen-  
21 sions of the Senate, and the Committees on Appropria-  
22 tions of the House of Representatives and of the Senate,  
23 not less than 6 months following the submission of the  
24 State reports, that evaluates the information provided in  
25 the State reports under section 1408.

1 **SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN AS-**  
2 **SISTANCE.**

3 No recipient of funds under this title shall use such  
4 funds to provide financial assistance to students to attend  
5 private elementary or secondary schools, unless such funds  
6 are used to provide special education and related services  
7 to children with disabilities, as authorized by the Individ-  
8 uals with Disabilities Education Act (20 U.S.C. 1400 et  
9 seq.).

10 **SEC. 1412. DEFINITIONS.**

11 Except as otherwise provided in this title, as used in  
12 this title—

13 (1) the term “institution of higher education”  
14 has the meaning given such term in section 101 of  
15 the Higher Education Act of 1965 (20 U.S.C.  
16 1001);

17 (2) the term “Secretary” means the Secretary  
18 of Education;

19 (3) the term “State” means each of the 50  
20 States, the District of Columbia, and the Common-  
21 wealth of Puerto Rico; and

22 (4) any other term that is defined in section  
23 9101 of ESEA (20 U.S.C. 7801) shall have the  
24 meaning given the term in such section.



1 **SEC. 1413. REGULATORY RELIEF.**

2 (a) **WAIVER AUTHORITY.**—Subject to subsections (b)  
3 and (c), the Secretary of Education may, as applicable,  
4 waive or modify, in order to ease fiscal burdens, any re-  
5 quirement relating to the following:

6 (1) Maintenance of effort.

7 (2) The use of Federal funds to supplement,  
8 not supplant, non-Federal funds.

9 (b) **DURATION.**—A waiver under this section shall be  
10 for fiscal years 2009 and 2010.

11 (c) **LIMITATIONS.**—

12 (1) **RELATION TO IDEA.**—Nothing in this sec-  
13 tion shall be construed to permit the Secretary to  
14 waive or modify any provision of the Individuals  
15 with Disabilities Education Act (20 U.S.C. 1400 et  
16 seq.), except as described in a(1) and a(2).

17 (2) **MAINTENANCE OF EFFORT.**—If the Sec-  
18 retary grants a waiver or modification under this  
19 section waiving or modifying a requirement relating  
20 to maintenance of effort for fiscal years 2009 and  
21 2010, the level of effort required for fiscal year 2011  
22 shall not be reduced because of the waiver or modi-  
23 fication.

1 **TITLE XV—RECOVERY ACCOUNT-**  
2 **ABILITY AND TRANSPARENCY**  
3 **BOARD AND RECOVERY INDE-**  
4 **PENDENT ADVISORY PANEL**

5 **SEC. 1501. DEFINITIONS.**

6 In this title:

7 (1) AGENCY.—The term “agency” has the  
8 meaning given under section 551 of title 5, United  
9 States Code.

10 (2) BOARD.—The term “Board” means the Re-  
11 covery Accountability and Transparency Board es-  
12 tablished in section 1511.

13 (3) CHAIRPERSON.—The term “Chairperson”  
14 means the Chairperson of the Board.

15 (4) COVERED FUNDS.—The term “covered  
16 funds” means any funds that are expended or obli-  
17 gated—

18 (A) from appropriations made under this  
19 Act; and

20 (B) under any other authorities provided  
21 under this Act.

22 (5) PANEL.—The term “Panel” means the Re-  
23 covery Independent Advisory Panel established in  
24 section 1531.

1 **Subtitle A—Recovery Account-**  
2 **ability and Transparency Board**

3 **SEC. 1511. ESTABLISHMENT OF THE RECOVERY ACCOUNT-**  
4 **ABILITY AND TRANSPARENCY BOARD.**

5 There is established the Recovery Accountability and  
6 Transparency Board to coordinate and conduct oversight  
7 of covered funds to prevent fraud, waste, and abuse.

8 **SEC. 1512. COMPOSITION OF BOARD.**

9 (a) CHAIRPERSON.—

10 (1) DESIGNATION OR APPOINTMENT.—The  
11 President shall—

12 (A) designate the Deputy Director for  
13 Management of the Office of Management and  
14 Budget to serve as Chairperson of the Board;

15 (B) designate another Federal officer who  
16 was appointed by the President to a position  
17 that required the advice and consent of the  
18 Senate, to serve as Chairperson of the Board;

19 or

20 (C) appoint an individual as the Chair-  
21 person of the Board, by and with the advice  
22 and consent of the Senate.

23 (2) COMPENSATION.—

24 (A) DESIGNATION OF FEDERAL OFFI-  
25 CER.—If the President designates a Federal of-

1           ficer under paragraph (1)(A) or (B) to serve as  
2           Chairperson, that Federal officer may not re-  
3           ceive additional compensation for services per-  
4           formed as Chairperson.

5                   (B) APPOINTMENT OF NON-FEDERAL OF-  
6           FICER.—If the President appoints an individual  
7           as Chairperson under paragraph (1)(C), that  
8           individual shall be compensated at the rate of  
9           basic pay prescribed for level IV of the Execu-  
10          tive Schedule under section 5315 of title 5,  
11          United States Code.

12          (b) MEMBERS.—The members of the Board shall in-  
13          clude—

14                  (1) the Inspectors General of the Departments  
15          of Agriculture, Commerce, Education, Energy,  
16          Health and Human Services, Homeland Security,  
17          Justice, Transportation, Treasury, and the Treasury  
18          Inspector General for Tax Administration; and

19                  (2) any other Inspector General as designated  
20          by the President from any agency that expends or  
21          obligates covered funds.

22   **SEC. 1513. FUNCTIONS OF THE BOARD.**

23          (a) FUNCTIONS.—

1           (1) IN GENERAL.—The Board shall coordinate  
2           and conduct oversight of covered funds in order to  
3           prevent fraud, waste, and abuse.

4           (2) SPECIFIC FUNCTIONS.—The functions of  
5           the Board shall include—

6                   (A) reviewing whether the reporting of con-  
7                   tracts and grants using covered funds meets ap-  
8                   plicable standards and specifies the purpose of  
9                   the contract or grant and measures of perform-  
10                  ance;

11                  (B) reviewing whether competition require-  
12                  ments applicable to contracts and grants using  
13                  covered funds have been satisfied;

14                  (C) auditing and investigating covered  
15                  funds to determine whether wasteful spending,  
16                  poor contract or grant management, or other  
17                  abuses are occurring;

18                  (D) reviewing whether there are sufficient  
19                  qualified acquisition and grant personnel over-  
20                  seeing covered funds;

21                  (E) reviewing whether personnel whose du-  
22                  ties involve acquisitions or grants made with  
23                  covered funds receive adequate training; and

1 (F) reviewing whether there are appro-  
2 priate mechanisms for interagency collaboration  
3 relating to covered funds.

4 (b) REPORTS.—

5 (1) QUARTERLY REPORTS.—The Board shall  
6 submit quarterly reports to the President and Con-  
7 gress, including the Committees on Appropriations  
8 of the Senate and House of Representatives, summa-  
9 rizing the findings of the Board and the findings of  
10 inspectors general of agencies. The Board may sub-  
11 mit additional reports as appropriate.

12 (2) ANNUAL REPORTS.—The Board shall sub-  
13 mit annual reports to the President and the Com-  
14 mittees on Appropriations of the Senate and House  
15 of Representatives, consolidating applicable quarterly  
16 reports on the use of covered funds.

17 (3) PUBLIC AVAILABILITY.—

18 (A) IN GENERAL.—All reports submitted  
19 under this subsection shall be made publicly  
20 available and posted on a website established by  
21 the Board.

22 (B) REDACTIONS.—Any portion of a re-  
23 port submitted under this subsection may be re-  
24 dacted when made publicly available, if that  
25 portion would disclose information that is not

1 subject to disclosure under section 552 of title  
2 5, United States Code (commonly known as the  
3 Freedom of Information Act).

4 (c) RECOMMENDATIONS.—

5 (1) IN GENERAL.—The Board shall make rec-  
6 ommendations to agencies on measures to prevent  
7 fraud, waste, and abuse relating to covered funds.

8 (2) RESPONSIVE REPORTS.—Not later than 30  
9 days after receipt of a recommendation under para-  
10 graph (1), an agency shall submit a report to the  
11 President, the congressional committees of jurisdic-  
12 tion, including the Committees on Appropriations of  
13 the Senate and House of Representatives, and the  
14 Board on—

15 (A) whether the agency agrees or disagrees  
16 with the recommendations; and

17 (B) any actions the agency will take to im-  
18 plement the recommendations.

19 **SEC. 1514. POWERS OF THE BOARD.**

20 (a) IN GENERAL.—The Board shall conduct, super-  
21 vise, and coordinate audits and investigations by inspec-  
22 tors general of agencies relating to covered funds.

23 (b) AUDITS AND INVESTIGATIONS.—The Board  
24 may—

1           (1) conduct its own independent audits and in-  
2           vestigations relating to covered funds; and

3           (2) collaborate on audits and investigations re-  
4           lating to covered funds with any inspector general of  
5           an agency.

6           (c) AUTHORITIES.—

7           (1) AUDITS AND INVESTIGATIONS.—In con-  
8           ducting audits and investigations, the Board shall  
9           have the authorities provided under section 6 of the  
10          Inspector General Act of 1978 (5 U.S.C. App.).

11          (2) STANDARDS AND GUIDELINES.—The Board  
12          shall carry out the powers under subsections (a) and  
13          (b) in accordance with section 4(b)(1) of the Inspec-  
14          tor General Act of 1978 (5 U.S.C. App.).

15          (d) PUBLIC HEARINGS.—The Board may hold public  
16          hearings and Board personnel may conduct investigative  
17          depositions. The head of each agency shall make all offi-  
18          cers and employees of that agency available to provide tes-  
19          timony to the Board and Board personnel. The Board may  
20          issue subpoenas to compel the testimony of persons who  
21          are not Federal officers or employees. Any such subpoenas  
22          may be enforced as provided under section 6 of the Inspec-  
23          tor General Act of 1978 (5 U.S.C. App.).

24          (e) CONTRACTS.—The Board may enter into con-  
25          tracts to enable the Board to discharge its duties under



1 this subtitle, including contracts and other arrangements  
2 for audits, studies, analyses, and other services with public  
3 agencies and with private persons, and make such pay-  
4 ments as may be necessary to carry out the duties of the  
5 Board.

6 (f) TRANSFER OF FUNDS.—The Board may transfer  
7 funds appropriated to the Board for expenses to support  
8 administrative support services and audits or investiga-  
9 tions of covered funds to any office of inspector general,  
10 the Office of Management and Budget, the General Serv-  
11 ices Administration, and the Panel.

12 **SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AU-**  
13 **THORITIES.**

14 (a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

15 (1) IN GENERAL.—

16 (A) AUTHORITIES.—Subject to paragraph  
17 (2), the Board may exercise the authorities of  
18 subsections (b) through (i) of section 3161 of  
19 title 5, United States Code (without regard to  
20 subsection (a) of that section).

21 (B) APPLICATION.—For purposes of exer-  
22 cising the authorities described under subpara-  
23 graph (A), the term “Chairperson of the  
24 Board” shall be substituted for the term “head  
25 of a temporary organization”.

1           (C) CONSULTATION.—In exercising the au-  
2           thorities described under subparagraph (A), the  
3           Chairperson shall consult with members of the  
4           Board.

5           (2) EMPLOYMENT AUTHORITIES.—In exercising  
6           the employment authorities under subsection (b) of  
7           section 3161 of title 5, United States Code, as pro-  
8           vided under paragraph (1) of this subsection—

9           (A) paragraph (2) of subsection (b) of sec-  
10          tion 3161 of that title (relating to periods of  
11          appointments) shall not apply; and

12          (B) no period of appointment may exceed  
13          the date on which the Board terminates under  
14          section 1521.

15       (b) INFORMATION AND ASSISTANCE.—

16          (1) IN GENERAL.—Upon request of the Board  
17          for information or assistance from any agency or  
18          other entity of the Federal Government, the head of  
19          such entity shall, insofar as is practicable and not in  
20          contravention of any existing law, furnish such infor-  
21          mation or assistance to the Board, or an authorized  
22          designee.

23          (2) REPORT OF REFUSALS.—Whenever infor-  
24          mation or assistance requested by the Board is, in  
25          the judgment of the Board, unreasonably refused or

1 not provided, the Board shall report the cir-  
2 cumstances to the congressional committees of juris-  
3 diction, including the Committees on Appropriations  
4 of the Senate and House of Representatives, without  
5 delay.

6 (c) ADMINISTRATIVE SUPPORT.—The General Serv-  
7 ices Administration shall provide the Board with adminis-  
8 trative support services, including the provision of office  
9 space and facilities.

10 **SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.**

11 (a) INDEPENDENT AUTHORITY.—Nothing in this  
12 subtitle shall affect the independent authority of an in-  
13 spector general to determine whether to conduct an audit  
14 or investigation of covered funds.

15 (b) REQUESTS BY BOARD.—If the Board requests  
16 that an inspector general conduct or refrain from con-  
17 ducting an audit or investigation and the inspector general  
18 rejects the request in whole or in part, the inspector gen-  
19 eral shall, not later than 30 days after rejecting the re-  
20 quest, submit a report to the Board, the head of the appli-  
21 cable agency, and the congressional committees of juris-  
22 diction, including the Committees on Appropriations of the  
23 Senate and House of Representatives. The report shall  
24 state the reasons that the inspector general has rejected  
25 the request in whole or in part.

1 **SEC. 1517. COORDINATION WITH THE COMPTROLLER GEN-**  
2 **ERAL AND STATE AUDITORS.**

3 The Board shall coordinate its oversight activities  
4 with the Comptroller General of the United States and  
5 State auditor generals.

6 **SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT**  
7 **AND CONTRACTOR WHISTLEBLOWERS.**

8 (a) PROHIBITION OF REPRISALS.—An employee of  
9 any non-Federal employer receiving covered funds may not  
10 be discharged, demoted, or otherwise discriminated  
11 against as a reprisal for disclosing to the Board, an in-  
12 spector general, the Comptroller General, a member of  
13 Congress, or a the head of a Federal agency, or their rep-  
14 resentatives, information that the employee reasonably be-  
15 lieves is evidence of—

16 (1) gross mismanagement of an agency contract  
17 or grant relating to covered funds;

18 (2) a gross waste of covered funds;

19 (3) a substantial and specific danger to public  
20 health or safety; or

21 (4) a violation of law related to an agency con-  
22 tract (including the competition for or negotiation of  
23 a contract) or grant, awarded or issued relating to  
24 covered funds.

25 (b) INVESTIGATION OF COMPLAINTS.—

1           (1) IN GENERAL.—A person who believes that  
2           the person has been subjected to a reprisal prohib-  
3           ited by subsection (a) may submit a complaint to the  
4           appropriate inspector general. Unless the inspector  
5           general determines that the complaint is frivolous,  
6           the inspector general shall investigate the complaint  
7           and, upon completion of such investigation, submit  
8           a report of the findings of the investigation to the  
9           person, the person’s employer, the head of the ap-  
10          propriate agency, and the Board.

11           (2) TIME LIMITATIONS FOR ACTIONS.—

12           (A) IN GENERAL.—Except as provided  
13           under subparagraph (B), the inspector general  
14           shall make a determination that a complaint is  
15           frivolous or submit a report under paragraph  
16           (1) within 180 days after receiving the com-  
17           plaint.

18           (B) EXTENSION.—If the inspector general  
19           is unable to complete an investigation in time to  
20           submit a report within the 180-day period spec-  
21           ified under subparagraph (A) and the person  
22           submitting the complaint agrees to an extension  
23           of time, the inspector general shall submit a re-  
24           port under paragraph (1) within such additional  
25           period of time as shall be agreed upon between

1           the inspector general and the person submitting  
2           the complaint.

3           (c) REMEDY AND ENFORCEMENT AUTHORITY.—

4           (1) AGENCY ACTION.—Not later than 30 days  
5           after receiving an inspector general report under  
6           subsection (b), the head of the agency concerned  
7           shall determine whether there is sufficient basis to  
8           conclude that the non-Federal employer has sub-  
9           jected the complainant to a reprisal prohibited by  
10          subsection (a) and shall either issue an order deny-  
11          ing relief or shall take 1 or more of the following ac-  
12          tions:

13                   (A) Order the employer to take affirmative  
14                   action to abate the reprisal.

15                   (B) Order the employer to reinstate the  
16                   person to the position that the person held be-  
17                   fore the reprisal, together with the compensa-  
18                   tion (including back pay), employment benefits,  
19                   and other terms and conditions of employment  
20                   that would apply to the person in that position  
21                   if the reprisal had not been taken.

22                   (C) Order the employer to pay the com-  
23                   plainant an amount equal to the aggregate  
24                   amount of all costs and expenses (including at-  
25                   torneys' fees and expert witnesses' fees) that

1           were reasonably incurred by the complainant  
2           for, or in connection with, bringing the com-  
3           plaint regarding the reprisal, as determined by  
4           the head of the agency.

5           (2) CIVIL ACTION.—If the head of an agency  
6           issues an order denying relief under paragraph (1)  
7           or has not issued an order within 210 days after the  
8           submission of a complaint under subsection (b), or  
9           in the case of an extension of time under subsection  
10          (b)(2)(B), not later than 30 days after the expira-  
11          tion of the extension of time, and there is no show-  
12          ing that such delay is due to the bad faith of the  
13          complainant, the complainant shall be deemed to  
14          have exhausted all administrative remedies with re-  
15          spect to the complaint, and the complainant may  
16          bring a de novo action at law or equity against the  
17          employer to seek compensatory damages and other  
18          relief available under this section in the appropriate  
19          district court of the United States, which shall have  
20          jurisdiction over such an action without regard to  
21          the amount in controversy. Such an action shall, at  
22          the request of either party to the action, be tried by  
23          the court with a jury.

24          (3) EVIDENCE.—An inspector general deter-  
25          mination and an agency head order denying relief

1 under paragraph (2) shall be admissible in evidence  
2 in any de novo action at law or equity brought in ac-  
3 cordance with this subsection.

4 (4) JUDICIAL ENFORCEMENT OF ORDER.—

5 Whenever a person fails to comply with an order  
6 issued under paragraph (1), the head of the agency  
7 shall file an action for enforcement of such order in  
8 the United States district court for a district in  
9 which the reprisal was found to have occurred. In  
10 any action brought under this paragraph, the court  
11 may grant appropriate relief, including injunctive re-  
12 lief and compensatory and exemplary damages.

13 (5) JUDICIAL REVIEW.—Any person adversely  
14 affected or aggrieved by an order issued under para-  
15 graph (1) may obtain review of the order's conform-  
16 ance with this subsection, and any regulations issued  
17 to carry out this section, in the United States court  
18 of appeals for a circuit in which the reprisal is al-  
19 leged in the order to have occurred. No petition  
20 seeking such review may be filed more than 60 days  
21 after issuance of the order by the head of the agen-  
22 cy. Review shall conform to chapter 7 of title 5,  
23 United States Code.

24 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
25 tion may be construed to authorize the discharge of, demo-



1 tion of, or discrimination against an employee for a disclo-  
2 sure other than a disclosure protected by subsection (a)  
3 or to modify or derogate from a right or remedy otherwise  
4 available to the employee.

5 **SEC. 1519. BOARD WEBSITE.**

6 (a) ESTABLISHMENT.—The Board shall establish and  
7 maintain a user-friendly, public-facing website to foster  
8 greater accountability and transparency in the use of cov-  
9 ered funds.

10 (b) PURPOSE.—The website established and main-  
11 tained under subsection (a) shall be a portal or gateway  
12 to key information relating to this Act and provide connec-  
13 tions to other Government websites with related informa-  
14 tion.

15 (c) CONTENT AND FUNCTION.—In establishing the  
16 website established and maintained under subsection (a),  
17 the Board shall ensure the following:

18 (1) The website shall provide materials explain-  
19 ing what this Act means for citizens. The materials  
20 shall be easy to understand and regularly updated.

21 (2) The website shall provide accountability in-  
22 formation, including a database of findings from au-  
23 dits, inspectors general, and the Government Ac-  
24 countability Office.

1           (3) The website shall provide data on relevant  
2           economic, financial, grant, and contract information  
3           in user-friendly visual presentations to enhance pub-  
4           lic awareness of the use of covered funds.

5           (4) The website shall provide detailed data on  
6           contracts awarded by the Government that expend  
7           covered funds, including information about the com-  
8           petitiveness of the contracting process, notification  
9           of solicitations for contracts to be awarded, and in-  
10          formation about the process that was used for the  
11          award of contracts.

12          (5) The website shall include printable reports  
13          on covered funds obligated by month to each State  
14          and congressional district.

15          (6) The website shall provide a means for the  
16          public to give feedback on the performance of con-  
17          tracts that expend covered funds.

18          (7) The website shall be enhanced and updated  
19          as necessary to carry out the purposes of this sub-  
20          title.

21          (d) WAIVER.—The Board may exclude posting con-  
22          tractual or other information on the website on a case-  
23          by-case basis when necessary to protect national security.

1 **SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums  
3 as necessary to carry out this subtitle.

4 **SEC. 1521. TERMINATION OF THE BOARD.**

5 The Board shall terminate on September 30, 2012.

6 **Subtitle B—Recovery Independent**  
7 **Advisory Panel**

8 **SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT**  
9 **ADVISORY PANEL.**

10 (a) **ESTABLISHMENT.**—There is established the Re-  
11 covery Independent Advisory Panel.

12 (b) **MEMBERSHIP.**—The Panel shall be composed of  
13 5 members who shall be appointed by the President.

14 (c) **QUALIFICATIONS.**—Members shall be appointed  
15 on the basis of expertise in economics, public finance, con-  
16 tracting, accounting, or any other relevant field.

17 (d) **INITIAL MEETING.**—Not later than 30 days after  
18 the date on which all members of the Panel have been  
19 appointed, the Panel shall hold its first meeting.

20 (e) **MEETINGS.**—The Panel shall meet at the call of  
21 the Chairperson of the Panel.

22 (f) **QUORUM.**—A majority of the members of the  
23 Panel shall constitute a quorum, but a lesser number of  
24 members may hold hearings.

1 (g) CHAIRPERSON AND VICE CHAIRPERSON.—The  
2 Panel shall select a Chairperson and Vice Chairperson  
3 from among its members.

4 **SEC. 1532. DUTIES OF THE PANEL.**

5 The Panel shall make recommendations to the Board  
6 on actions the Board could take to prevent fraud, waste,  
7 and abuse relating to covered funds.

8 **SEC. 1533. POWERS OF THE PANEL.**

9 (a) HEARINGS.—The Panel may hold such hearings,  
10 sit and act at such times and places, take such testimony,  
11 and receive such evidence as the Panel considers advisable  
12 to carry out this subtitle.

13 (b) INFORMATION FROM FEDERAL AGENCIES.—The  
14 Panel may secure directly from any agency such informa-  
15 tion as the Panel considers necessary to carry out this sub-  
16 title. Upon request of the Chairperson of the Panel, the  
17 head of such agency shall furnish such information to the  
18 Panel.

19 (c) POSTAL SERVICES.—The Panel may use the  
20 United States mails in the same manner and under the  
21 same conditions as agencies of the Federal Government.

22 (d) GIFTS.—The Panel may accept, use, and dispose  
23 of gifts or donations of services or property.

1 **SEC. 1534. PANEL PERSONNEL MATTERS.**

2 (a) COMPENSATION OF MEMBERS.—Each member of  
3 the Panel who is not an officer or employee of the Federal  
4 Government shall be compensated at a rate equal to the  
5 daily equivalent of the annual rate of basic pay prescribed  
6 for level IV of the Executive Schedule under section 5315  
7 of title 5, United States Code, for each day (including  
8 travel time) during which such member is engaged in the  
9 performance of the duties of the Panel. All members of  
10 the Panel who are officers or employees of the United  
11 States shall serve without compensation in addition to that  
12 received for their services as officers or employees of the  
13 United States.

14 (b) TRAVEL EXPENSES.—The members of the Panel  
15 shall be allowed travel expenses, including per diem in lieu  
16 of subsistence, at rates authorized for employees of agen-  
17 cies under subchapter I of chapter 57 of title 5, United  
18 States Code, while away from their homes or regular  
19 places of business in the performance of services for the  
20 Panel.

21 (c) STAFF.—

22 (1) IN GENERAL.—The Chairperson of the  
23 Panel may, without regard to the civil service laws  
24 and regulations, appoint and terminate an executive  
25 director and such other additional personnel as may  
26 be necessary to enable the Panel to perform its du-

1 ties. The employment of an executive director shall  
2 be subject to confirmation by the Panel.

3 (2) COMPENSATION.—The Chairperson of the  
4 Panel may fix the compensation of the executive di-  
5 rector and other personnel without regard to chapter  
6 51 and subchapter III of chapter 53 of title 5,  
7 United States Code, relating to classification of posi-  
8 tions and General Schedule pay rates, except that  
9 the rate of pay for the executive director and other  
10 personnel may not exceed the rate payable for level  
11 V of the Executive Schedule under section 5316 of  
12 such title.

13 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

14 (A) IN GENERAL.—The executive director  
15 and any personnel of the Panel who are employ-  
16 ees shall be employees under section 2105 of  
17 title 5, United States Code, for purposes of  
18 chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B,  
19 and 90 of that title.

20 (B) MEMBERS OF PANEL.—Subparagraph

21 (A) shall not be construed to apply to members  
22 of the Panel.

23 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
24 Federal Government employee may be detailed to the  
25 Panel without reimbursement, and such detail shall be

1 without interruption or loss of civil service status or privi-  
2 lege.

3 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**  
4 **TENT SERVICES.**—The Chairperson of the Panel may pro-  
5 cure temporary and intermittent services under section  
6 3109(b) of title 5, United States Code, at rates for individ-  
7 uals which do not exceed the daily equivalent of the annual  
8 rate of basic pay prescribed for level V of the Executive  
9 Schedule under section 5316 of such title.

10 (f) **ADMINISTRATIVE SUPPORT.**—The General Serv-  
11 ices Administration shall provide the Board with adminis-  
12 trative support services, including the provision of office  
13 space and facilities.

14 **SEC. 1535. TERMINATION OF THE PANEL.**

15 The Panel shall terminate on September 30, 2012.

16 **SEC. 1536. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums  
18 as necessary to carry out this subtitle.

19 **Subtitle C—Reports of the Council**  
20 **of Economic Advisers**

21 **SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC AD-**  
22 **VISERS.**

23 (a) **IN GENERAL.**—In consultation with the Director  
24 of the Office of Management and Budget and the Sec-  
25 retary of the Treasury, the Chairperson of the Council of

1 Economic Advisers shall submit to the Committees on Ap-  
 2 propriations of the Senate and House of Representatives  
 3 quarterly reports based on the reports required under sec-  
 4 tion 1551 that detail the impact of programs funded  
 5 through covered funds on employment, estimated eco-  
 6 nomic growth, and other key economic indicators.

7 (b) SUBMISSION OF REPORTS.—

8 (1) FIRST REPORT.—The first report submitted  
 9 under subsection (a) shall be submitted not later  
 10 than 45 days after the end of the first full quarter  
 11 following the date of enactment of this Act.

12 (2) LAST REPORT.—The last report required to  
 13 be submitted under subsection (a) shall apply to the  
 14 quarter in which the Board terminates under section  
 15 1521.

## 16 **Subtitle D—Reports on Use of** 17 **Funds**

### 18 **SEC. 1551. REPORTS ON USE OF FUNDS.**

19 (a) SHORT TITLE.—This section may be cited as the  
 20 “Jobs Accountability Act”.

21 (b) DEFINITIONS.—In this section:

22 (1) AGENCY.—The term “agency” has the  
 23 meaning given under section 551 of title 5, United  
 24 States Code.

25 (2) RECIPIENT.—The term “recipient”—



1           (A) means any entity that receives recovery  
2 funds (including recovery funds received  
3 through grant, loan, or contract) other than an  
4 individual; and

5           (B) includes a State that receives recovery  
6 funds.

7           (3) RECOVERY FUNDS.—The term “recovery  
8 funds” means any funds that are made available—

9           (A) from appropriations made under this  
10 Act; and

11           (B) under any other authorities provided  
12 under this Act.

13           (c) RECIPIENT REPORTS.—Not later than 10 days  
14 after the end of each calendar quarter, each recipient that  
15 received recovery funds from an agency shall submit a re-  
16 port to that agency that contains—

17           (1) the total amount of recovery funds received  
18 from that agency;

19           (2) the amount of recovery funds received that  
20 were expended or obligated to projects or activities;  
21 and

22           (3) a detailed list of all projects or activities for  
23 which recovery funds were expended or obligated, in-  
24 cluding—

25           (A) the name of the project or activity;

1 (B) a description of the project or activity;

2 (C) an evaluation of the completion status  
3 of the project or activity; and

4 (D) an analysis of the number of jobs cre-  
5 ated and the number of jobs retained by the  
6 project or activity.

7 (d) AGENCY REPORTS.—Not later than 30 days after  
8 the end of each calendar quarter, each agency that made  
9 recovery funds available to any recipient shall make the  
10 information in reports submitted under subsection (c)  
11 publicly available by posting the information on a website.

12 (e) OTHER REPORTS.—The Congressional Budget  
13 Office and the Government Accountability Office shall  
14 comment on the information described in subsection  
15 (c)(3)(D) for any reports submitted under subsection (c).  
16 Such comments shall be due within 7 days after such re-  
17 ports are submitted.

18 TITLE XVI—GENERAL PROVISIONS—THIS ACT

19 EMERGENCY DESIGNATION

20 SEC. 1601. Each amount in this Act is designated  
21 as an emergency requirement and necessary to meet emer-  
22 gency needs pursuant to section 204(a) of S. Con. Res.  
23 21 (110th Congress) and section 301(b)(2) of S. Con. Res.  
24 70 (110th Congress), the concurrent resolutions on the  
25 budget for fiscal years 2008 and 2009.

## 1 AVAILABILITY

2 SEC. 1602. No part of any appropriation contained  
3 in this Act shall remain available for obligation beyond  
4 the current fiscal year unless expressly so provided herein.

## 5 RELATIONSHIP TO OTHER APPROPRIATIONS

6 SEC. 1603. Each amount appropriated or made avail-  
7 able in this Act is in addition to amounts otherwise appro-  
8 priated for the fiscal year involved. Enactment of this Act  
9 shall have no effect on the availability of amounts under  
10 the Continuing Appropriations Resolution, 2009 (division  
11 A of Public Law 110–329).

## 12 BUY AMERICAN

13 SEC. 1604. USE OF AMERICAN IRON, STEEL, AND  
14 MANUFACTURED GOODS. (a) None of the funds appro-  
15 priated or otherwise made available by this Act may be  
16 used for a project for the construction, alteration, mainte-  
17 nance, or repair of a public building or public work unless  
18 all of the iron, steel, and manufactured goods used in the  
19 project are produced in the United States.

20 (b) Subsection (a) shall not apply in any case in  
21 which the head of the Federal department or agency in-  
22 volved finds that—

23 (1) applying subsection (a) would be incon-  
24 sistent with the public interest;



1 piate use of taxpayer dollars. A State or local agency may  
2 not receive infrastructure investment funding from funds  
3 made available in this Act unless this certification is made.

4 ECONOMIC STABILIZATION CONTRACTING

5 SEC. 1606. REFORM OF CONTRACTING PROCEDURES

6 UNDER EESA. Section 107(b) of the Emergency Eco-  
7 nomic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is  
8 amended by inserting “and individuals with disabilities  
9 and businesses owned by individuals with disabilities (for  
10 purposes of this subsection the term ‘individual with dis-  
11 ability’ has the same meaning as the term ‘handicapped  
12 individual’ as that term is defined in section 3(f) of the  
13 Small Business Act (15 U.S.C. 632(f)),” after “(12  
14 U.S.C. 1441a(r)(4)),”.

15 SEC. 1607. FINDINGS.—

16 (1) The National Environmental Policy Act pro-  
17 tects public health, safety and environmental quality:  
18 by ensuring transparency, accountability and public  
19 involvement in federal actions and in the use of pub-  
20 lic funds;

21 (2) When President Nixon signed the National  
22 Environmental Policy Act into law on January 1,  
23 1970, he said that the Act provided the “direction”  
24 for the country to “regain a productive harmony be-  
25 tween man and nature”;

1           (3) The National Environmental Policy Act  
2           helps to provide an orderly process for considering  
3           federal actions and funding decisions and prevents  
4           litigation and delay that would otherwise be inevitable  
5           and existed prior to the establishment of the Na-  
6           tional Environmental Policy Act.

7           (a) Adequate resources within this bill must be de-  
8           voted to ensuring that applicable environmental reviews  
9           under the National Environmental Policy Act are com-  
10          pleted on an expeditious basis and that the shortest exist-  
11          ing applicable process under the National Environmental  
12          Policy Act shall be utilized.

13          (b) The President shall report to the Senate Environ-  
14          ment and Public Works Committee and the House Nat-  
15          ural Resources Committee every 90 days following the  
16          date of enactment until September 30, 2011 on the status  
17          and progress of projects and activities funded by this Act  
18          with respect to compliance with National Environmental  
19          Policy Act requirements and documentation.

20          PROHIBITION ON NO-BID CONTRACTS AND EARMARKS

21          SEC. 1608. (a) Notwithstanding any other provision  
22          of this Act, none of the funds appropriated or otherwise  
23          made available by this Act may be used to make any pay-  
24          ment in connection with a contract unless the contract is  
25          awarded using competitive procedures in accordance with  
26          the requirements of section 303 of the Federal Property

1 and Administrative Services Act of 1949 (41 U.S.C. 253),  
2 section 2304 of title 10, United States Code, and the Fed-  
3 eral Acquisition Regulation.

4 (b) Notwithstanding any other provision of this Act,  
5 none of the funds appropriated or otherwise made avail-  
6 able by this Act may be awarded by grant or cooperative  
7 agreement unless the process used to award such grant  
8 or cooperative agreement uses competitive procedures to  
9 select the grantee or award recipient.

10 SEC. 1609. LIMIT ON FUNDS.

11 None of the amounts appropriated or otherwise made  
12 available by this Act may be used for any casino or other  
13 gambling establishment, aquarium, zoo, golf course, swim-  
14 ming pool, stadium, community park, museum, theater,  
15 art center, and highway beautification project.

16 SEC. 1610. HIRING AMERICAN WORKERS IN COMPANIES  
17 RECEIVING TARP FUNDING.

18 (a) SHORT TITLE.—This section may be cited as the  
19 “Employ American Workers Act”.

20 (b) PROHIBITION.—

21 (1) IN GENERAL.—Notwithstanding any other  
22 provision of law, it shall be unlawful for any recipi-  
23 ent of funding under title I of the Emergency Eco-  
24 nomic Stabilization Act of 2008 (Public Law 110–  
25 343) or section 13 of the Federal Reserve Act (12

1 U.S.C. 342 et seq.) to hire any nonimmigrant de-  
2 scribed in section 101(a)(15)(h)(i)(b) of the Immi-  
3 gration and Nationality Act (8 U.S.C.  
4 1101(a)(15)(h)(i)(b)) unless the recipient is in com-  
5 pliance with the requirements for an H-1B depend-  
6 ent employer (as defined in section 212(n)(3) of  
7 such Act (8 U.S.C. 1182(n)(3))), except that the  
8 second sentence of section 212(n)(1)(E)(ii) of such  
9 Act shall not apply.

10 (2) DEFINED TERM.—In this subsection, the  
11 term “hire” means to permit a new employee to  
12 commence a period of employment.

13 (c) SUNSET PROVISION.—This section shall be effec-  
14 tive during the 2-year period beginning on the date of the  
15 enactment of this Act.

16 **DIVISION B—TAX, UNEMPLOY-**  
17 **MENT, HEALTH, STATE FIS-**  
18 **CAL RELIEF, AND OTHER**  
19 **PROVISIONS**  
20 **TITLE I—TAX PROVISIONS**

21 **SEC. 1000. SHORT TITLE, ETC.**

22 (a) SHORT TITLE.—This title may be cited as the  
23 “American Recovery and Reinvestment Tax Act of 2009”.

24 (b) REFERENCE.—Except as otherwise expressly pro-  
25 vided, whenever in this title an amendment or repeal is



1 expressed in terms of an amendment to, or repeal of, a  
 2 section or other provision, the reference shall be consid-  
 3 ered to be made to a section or other provision of the In-  
 4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for  
 6 this title is as follows:

#### TITLE I—TAX PROVISIONS

Sec. 1000. Short title, etc.

##### Subtitle A—Tax Relief for Individuals and Families

#### PART I—GENERAL TAX RELIEF

- Sec. 1001. Making work pay credit.
- Sec. 1002. Temporary increase in earned income tax credit.
- Sec. 1003. Temporary increase of refundable portion of child credit.
- Sec. 1004. American opportunity tax credit.
- Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010.
- Sec. 1006. Credit for certain home purchases.
- Sec. 1007. Suspension of tax on portion of unemployment compensation.
- Sec. 1008. Above-the-line deduction for interest on indebtedness with respect to the purchase of certain motor vehicles.
- Sec. 1009. Above-the-line deduction for State sales tax and excise tax on the purchase of certain motor vehicles.

#### PART II—ALTERNATIVE MINIMUM TAX RELIEF

- Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.
- Sec. 1012. Extension of increased alternative minimum tax exemption amount.

##### Subtitle B—Energy Incentives

#### PART I—RENEWABLE ENERGY INCENTIVES

- Sec. 1101. Extension of credit for electricity produced from certain renewable resources.
- Sec. 1102. Election of investment credit in lieu of production credit.
- Sec. 1103. Repeal of certain limitations on credit for renewable energy property.

#### PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

- Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds.
- Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds.

## PART III—ENERGY CONSERVATION INCENTIVES

- Sec. 1121. Extension and modification of credit for nonbusiness energy property.
- Sec. 1122. Modification of credit for residential energy efficient property.
- Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property.

## PART IV—ENERGY RESEARCH INCENTIVES

- Sec. 1131. Increased research credit for energy research.

## PART V—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

- Sec. 1141. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

## PART VI—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

- Sec. 1151. Modification of credit for qualified plug-in electric motor vehicles.

## Subtitle C—Tax Incentives for Business

## PART I—TEMPORARY INVESTMENT INCENTIVES

- Sec. 1201. Special allowance for certain property acquired during 2009.
- Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets.

## PART II—5-YEAR CARRYBACK OF OPERATING LOSSES

- Sec. 1211. 5-year carryback of operating losses.
- Sec. 1212. Exception for TARP recipients.

## PART III—INCENTIVES FOR NEW JOBS

- Sec. 1221. Incentives to hire unemployed veterans and disconnected youth.

## PART IV—CANCELLATION OF INDEBTEDNESS

- Sec. 1231. Deferral and ratable inclusion of income arising from indebtedness discharged by the repurchase of a debt instrument.

## PART V—QUALIFIED SMALL BUSINESS STOCK

- Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010.

## PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

- Sec. 1251. Increased exclusion amount for commuter transit benefits and transit passes.

## PART VII—S CORPORATIONS

- Sec. 1261. Temporary reduction in recognition period for built-in gains tax.

## PART VIII—BROADBAND INCENTIVES

- Sec. 1271. Broadband Internet access tax credit.

PART IX—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON  
CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

Sec. 1281. Clarification of regulations related to limitations on certain built-in losses following an ownership change.

Subtitle D—Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property.

Sec. 1302. Credit for investment in advanced energy facilities.

Subtitle E—Economic Recovery Tools

Sec. 1401. Recovery zone bonds.

Sec. 1402. Tribal economic development bonds.

Sec. 1403. Modifications to new markets tax credit.

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions.

Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 1503. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.

Sec. 1504. Modification to high speed intercity rail facility bonds.

PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT  
CONTRACTORS

Sec. 1511. Delay in application of withholding tax on government contractors.

PART III—TAX CREDIT BONDS FOR SCHOOLS

Sec. 1521. Qualified school construction bonds.

Sec. 1522. Extension and expansion of qualified zone academy bonds.

PART IV—BUILD AMERICA BONDS

Sec. 1531. Build America bonds.

Subtitle G—Economic Recovery Payments to Certain Individuals

Sec. 1601. Economic recovery payment to recipients of Social Security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.

Subtitle H—Trade Adjustment Assistance

Sec. 1701. Temporary extension of Trade Adjustment Assistance program.

Subtitle I—Prohibition on Collection of Certain Payments Made Under the  
Continued Dumping and Subsidy Offset Act of 2000

Sec. 1801. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000.

Sec. 1901. Application of certain labor standards to projects financed with certain tax-favored bonds.

Sec. 1902. Increase in public debt limit.

Sec. 1903. Election to accelerate the low-income housing tax credit.

1                   **Subtitle A—Tax Relief for**  
 2                   **Individuals and Families**

3                   **PART I—GENERAL TAX RELIEF**

4   **SEC. 1001. MAKING WORK PAY CREDIT.**

5           (a) IN GENERAL.—Subpart C of part IV of sub-  
 6 chapter A of chapter 1 is amended by inserting after sec-  
 7 tion 36 the following new section:

8   **“SEC. 36A. MAKING WORK PAY CREDIT.**

9           “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
 10 gible individual, there shall be allowed as a credit against  
 11 the tax imposed by this subtitle for the taxable year an  
 12 amount equal to the lesser of—

13           “(1) 6.2 percent of earned income of the tax-  
 14 payer, or

15           “(2) \$500 (\$1,000 in the case of a joint re-  
 16 turn).

17           “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
 18 GROSS INCOME.—

19           “(1) IN GENERAL.—The amount allowable as a  
 20 credit under subsection (a) (determined without re-  
 21 gard to this paragraph and subsection (c)) for the  
 22 taxable year shall be reduced (but not below zero) by

1       4 percent of so much of the taxpayer’s modified ad-  
2       justed gross income as exceeds \$70,000 (\$140,000  
3       in the case of a joint return).

4           “(2) MODIFIED ADJUSTED GROSS INCOME.—  
5       For purposes of subparagraph (A), the term ‘modi-  
6       fied adjusted gross income’ means the adjusted  
7       gross income of the taxpayer for the taxable year in-  
8       creased by any amount excluded from gross income  
9       under section 911, 931, or 933.

10       “(c) REDUCTION FOR CERTAIN OTHER PAY-  
11       MENTS.—The credit allowed under subsection (a) for any  
12       taxable year shall be reduced by the amount of any pay-  
13       ments received by the taxpayer during such taxable year  
14       under section 1601 of the American Recovery and Rein-  
15       vestment Tax Act of 2009.

16       “(d) DEFINITIONS.—For purposes of this section—

17           “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible  
18       individual’ means any individual other than—

19                   “(A) any nonresident alien individual,

20                   “(B) any individual with respect to whom  
21       a deduction under section 151 is allowable to  
22       another taxpayer for a taxable year beginning  
23       in the calendar year in which the individual’s  
24       taxable year begins, and

25                   “(C) an estate or trust.

1 Such term shall not include any individual unless the  
2 requirements of section 32(c)(1)(E) are met with re-  
3 spect to such individual.

4 “(2) EARNED INCOME.—The term ‘earned in-  
5 come’ has the meaning given such term by section  
6 32(c)(2), except that such term shall not include net  
7 earnings from self-employment which are not taken  
8 into account in computing taxable income. For pur-  
9 poses of the preceding sentence, any amount ex-  
10 cluded from gross income by reason of section 112  
11 shall be treated as earned income which is taken  
12 into account in computing taxable income for the  
13 taxable year.

14 “(e) TERMINATION.—This section shall not apply to  
15 taxable years beginning after December 31, 2010.”.

16 (b) TREATMENT OF POSSESSIONS.—

17 (1) PAYMENTS TO POSSESSIONS.—

18 (A) MIRROR CODE POSSESSION.—The Sec-  
19 retary of the Treasury shall pay to each posses-  
20 sion of the United States with a mirror code  
21 tax system amounts equal to the loss to that  
22 possession by reason of the amendments made  
23 by this section with respect to taxable years be-  
24 ginning in 2009 and 2010. Such amounts shall  
25 be determined by the Secretary of the Treasury

1 based on information provided by the govern-  
2 ment of the respective possession.

3 (B) OTHER POSSESSIONS.—The Secretary  
4 of the Treasury shall pay to each possession of  
5 the United States which does not have a mirror  
6 code tax system amounts estimated by the Sec-  
7 retary of the Treasury as being equal to the ag-  
8 gregate benefits that would have been provided  
9 to residents of such possession by reason of the  
10 amendments made by this section for taxable  
11 years beginning in 2009 and 2010 if a mirror  
12 code tax system had been in effect in such pos-  
13 session. The preceding sentence shall not apply  
14 with respect to any possession of the United  
15 States unless such possession has a plan, which  
16 has been approved by the Secretary of the  
17 Treasury, under which such possession will  
18 promptly distribute such payments to the resi-  
19 dents of such possession.

20 (2) COORDINATION WITH CREDIT ALLOWED  
21 AGAINST UNITED STATES INCOME TAXES.—No cred-  
22 it shall be allowed against United States income  
23 taxes for any taxable year under section 36A of the  
24 Internal Revenue Code of 1986 (as added by this  
25 section) to any person—

1 (A) to whom a credit is allowed against  
2 taxes imposed by the possession by reason of  
3 the amendments made by this section for such  
4 taxable year, or

5 (B) who is eligible for a payment under a  
6 plan described in paragraph (1)(B) with respect  
7 to such taxable year.

8 (3) DEFINITIONS AND SPECIAL RULES.—

9 (A) POSSESSION OF THE UNITED  
10 STATES.—For purposes of this subsection, the  
11 term “possession of the United States” includes  
12 the Commonwealth of Puerto Rico and the  
13 Commonwealth of the Northern Mariana Is-  
14 lands.

15 (B) MIRROR CODE TAX SYSTEM.—For pur-  
16 poses of this subsection, the term “mirror code  
17 tax system” means, with respect to any posses-  
18 sion of the United States, the income tax sys-  
19 tem of such possession if the income tax liabil-  
20 ity of the residents of such possession under  
21 such system is determined by reference to the  
22 income tax laws of the United States as if such  
23 possession were the United States.

24 (C) TREATMENT OF PAYMENTS.—For pur-  
25 poses of section 1324(b)(2) of title 31, United



1 States Code, the payments under this sub-  
2 section shall be treated in the same manner as  
3 a refund due from the credit allowed under sec-  
4 tion 36A of the Internal Revenue Code of 1986  
5 (as added by this section).

6 (c) REFUNDS DISREGARDED IN THE ADMINISTRA-  
7 TION OF FEDERAL PROGRAMS AND FEDERALLY AS-  
8 SISTED PROGRAMS.—Any credit or refund allowed or  
9 made to any individual by reason of section 36A of the  
10 Internal Revenue Code of 1986 (as added by this section)  
11 or by reason of subsection (b) of this section shall not be  
12 taken into account as income and shall not be taken into  
13 account as resources for the month of receipt and the fol-  
14 lowing 2 months, for purposes of determining the eligi-  
15 bility of such individual or any other individual for benefits  
16 or assistance, or the amount or extent of benefits or assist-  
17 ance, under any Federal program or under any State or  
18 local program financed in whole or in part with Federal  
19 funds.

20 (d) AUTHORITY RELATING TO CLERICAL ERRORS.—  
21 Section 6213(g)(2) is amended by striking “and” at the  
22 end of subparagraph (L)(ii), by striking the period at the  
23 end of subparagraph (M) and inserting “, and”, and by  
24 adding at the end the following new subparagraph:



1           “(3) SPECIAL RULES FOR 2009 AND 2010.—In  
2           the case of any taxable year beginning in 2009 or  
3           2010—

4                   “(A) INCREASED CREDIT PERCENTAGE  
5                   FOR 3 OR MORE QUALIFYING CHILDREN.—In  
6                   the case of a taxpayer with 3 or more qualifying  
7                   children, the credit percentage is 45 percent.

8                   “(B) REDUCTION OF MARRIAGE PEN-  
9                   ALTY.—

10                   “(i) IN GENERAL.—The dollar amount  
11                   in effect under paragraph (2)(B) shall be  
12                   \$5,000.

13                   “(ii) INFLATION ADJUSTMENT.—In  
14                   the case of any taxable year beginning in  
15                   2010, the \$5,000 amount in clause (i)  
16                   shall be increased by an amount equal to—

17                           “(I) such dollar amount, multi-  
18                           plied by

19                           “(II) the cost of living adjust-  
20                           ment determined under section 1(f)(3)  
21                           for the calendar year in which the tax-  
22                           able year begins determined by sub-  
23                           stituting ‘calendar year 2008’ for ‘cal-  
24                           endar year 1992’ in subparagraph (B)  
25                           thereof.

1                   “(iii) ROUNDING.—Subparagraph (A)  
2                   of subsection (j)(2) shall apply after taking  
3                   into account any increase under clause  
4                   (ii).”.

5           (b) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2008.

8 **SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE POR-**  
9                   **TION OF CHILD CREDIT.**

10           (a) IN GENERAL.—Paragraph (4) of section 24(d) is  
11 amended to read as follows:

12                   “(4) SPECIAL RULE FOR 2009 AND 2010.—Not-  
13                   withstanding paragraph (3), in the case of any tax-  
14                   able year beginning in 2009 or 2010, the dollar  
15                   amount in effect for such taxable year under para-  
16                   graph (1)(B)(i) shall be \$8,100.”.

17           (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2008.

20 **SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.**

21           (a) IN GENERAL.—Section 25A (relating to Hope  
22 scholarship credit) is amended by redesignating subsection  
23 (i) as subsection (j) and by inserting after subsection (h)  
24 the following new subsection:

1       “(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the  
2 case of any taxable year beginning in 2009 or 2010—

3           “(1) INCREASE IN CREDIT.—The Hope Scholar-  
4 ship Credit shall be an amount equal to the sum  
5 of—

6           “(A) 100 percent of so much of the quali-  
7 fied tuition and related expenses paid by the  
8 taxpayer during the taxable year (for education  
9 furnished to the eligible student during any  
10 academic period beginning in such taxable year)  
11 as does not exceed \$2,000, plus

12           “(B) 25 percent of such expenses so paid  
13 as exceeds \$2,000 but does not exceed \$4,000.

14           “(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF  
15 POST-SECONDARY EDUCATION.—Subparagraphs (A)  
16 and (C) of subsection (b)(2) shall be applied by sub-  
17 stituting ‘4’ for ‘2’.

18           “(3) QUALIFIED TUITION AND RELATED EX-  
19 PENSES TO INCLUDE REQUIRED COURSE MATE-  
20 RIALS.—Subsection (f)(1)(A) shall be applied by  
21 substituting ‘tuition, fees, and course materials’ for  
22 ‘tuition and fees’.

23           “(4) INCREASE IN AGI LIMITS FOR HOPE  
24 SCHOLARSHIP CREDIT.—In lieu of applying sub-  
25 section (d) with respect to the Hope Scholarship

1 Credit, such credit (determined without regard to  
2 this paragraph) shall be reduced (but not below  
3 zero) by the amount which bears the same ratio to  
4 such credit (as so determined) as—

5 “(A) the excess of—

6 “(i) the taxpayer’s modified adjusted  
7 gross income (as defined in subsection  
8 (d)(3)) for such taxable year, over

9 “(ii) \$80,000 (\$160,000 in the case of  
10 a joint return), bears to

11 “(B) \$10,000 (\$20,000 in the case of a  
12 joint return).

13 “(5) CREDIT ALLOWED AGAINST ALTERNATIVE  
14 MINIMUM TAX.—In the case of a taxable year to  
15 which section 26(a)(2) does not apply, so much of  
16 the credit allowed under subsection (a) as is attrib-  
17 utable to the Hope Scholarship Credit shall not ex-  
18 ceed the excess of—

19 “(A) the sum of the regular tax liability  
20 (as defined in section 26(b)) plus the tax im-  
21 posed by section 55, over

22 “(B) the sum of the credits allowable  
23 under this subpart (other than this subsection  
24 and sections 23, 25D, and 30D) and section 27  
25 for the taxable year.

1 Any reference in this section or section 24, 25, 26,  
2 25B, 904, or 1400C to a credit allowable under this  
3 subsection shall be treated as a reference to so much  
4 of the credit allowable under subsection (a) as is at-  
5 tributable to the Hope Scholarship Credit.

6 “(6) PORTION OF CREDIT MADE REFUND-  
7 ABLE.—30 percent of so much of the credit allowed  
8 under subsection (a) as is attributable to the Hope  
9 Scholarship Credit (determined after application of  
10 paragraph (4) and without regard to this paragraph  
11 and section 26(a)(2) or paragraph (5), as the case  
12 may be) shall be treated as a credit allowable under  
13 subpart C (and not allowed under subsection (a)).  
14 The preceding sentence shall not apply to any tax-  
15 payer for any taxable year if such taxpayer is a child  
16 to whom subsection (g) of section 1 applies for such  
17 taxable year.

18 “(7) COORDINATION WITH MIDWESTERN DIS-  
19 ASTER AREA BENEFITS.—In the case of a taxpayer  
20 with respect to whom section 702(a)(1)(B) of the  
21 Heartland Disaster Tax Relief Act of 2008 applies  
22 for any taxable year, such taxpayer may elect to  
23 waive the application of this subsection to such tax-  
24 payer for such taxable year.”.

25 (b) CONFORMING AMENDMENTS.—

1           (1) Section 24(b)(3)(B) is amended by inserting  
2           “25A(i),” after “23,”.

3           (2) Section 25(e)(1)(C)(ii) is amended by in-  
4           serting “25A(i),” after “24,”.

5           (3) Section 26(a)(1) is amended by inserting  
6           “25A(i),” after “24,”.

7           (4) Section 25B(g)(2) is amended by inserting  
8           “25A(i),” after “23,”.

9           (5) Section 904(i) is amended by inserting  
10          “25A(i),” after “24,”.

11          (6) Section 1400C(d)(2) is amended by insert-  
12          ing “25A(i),” after “24,”.

13          (7) Section 1324(b)(2) of title 31, United  
14          States Code, is amended by inserting “25A,” before  
15          “35”.

16          (c) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to taxable years beginning after  
18          December 31, 2008.

19          (d) APPLICATION OF EGTRRA SUNSET.—The  
20          amendment made by subsection (b)(1) shall be subject to  
21          title IX of the Economic Growth and Tax Relief Reconcili-  
22          ation Act of 2001 in the same manner as the provision  
23          of such Act to which such amendment relates.

24          (e) TREASURY STUDIES REGARDING EDUCATION IN-  
25          CENTIVES.—



1           (1) STUDY REGARDING COORDINATION WITH  
2 NON-TAX EDUCATIONAL INCENTIVES.—The Sec-  
3 retary of the Treasury, or the Secretary’s delegate,  
4 shall study how to coordinate the credit allowed  
5 under section 25A of the Internal Revenue Code of  
6 1986 with the Federal Pell Grant program under  
7 section 401 of the Higher Education Act of 1965.

8           (2) STUDY REGARDING IMPOSITION OF COMMU-  
9 NITY SERVICE REQUIREMENTS.—The Secretary of  
10 the Treasury, or the Secretary’s delegate, shall study  
11 the feasibility of requiring students to perform com-  
12 munity service as a condition of taking their tuition  
13 and related expenses into account under section 25A  
14 of the Internal Revenue Code of 1986.

15           (3) REPORT.—Not later than 1 year after the  
16 date of the enactment of this Act, the Secretary of  
17 the Treasury, or the Secretary’s delegate, shall re-  
18 port to Congress on the results of the studies con-  
19 ducted under this paragraph.

20 **SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT AL-**  
21 **LOWED AS A QUALIFIED HIGHER EDUCATION**  
22 **EXPENSE FOR SECTION 529 ACCOUNTS IN**  
23 **2009 AND 2010.**

24           (a) IN GENERAL.—Section 529(e)(3)(A) is amended  
25 by striking “and” at the end of clause (i), by striking the

1 period at the end of clause (ii), and by adding at the end  
2 the following:

3 “(iii) expenses paid or incurred in  
4 2009 or 2010 for the purchase of any com-  
5 puter technology or equipment (as defined  
6 in section 170(e)(6)(F)(i)) or Internet ac-  
7 cess and related services, if such tech-  
8 nology, equipment, or services are to be  
9 used by the beneficiary and the bene-  
10 ficiary’s family during any of the years the  
11 beneficiary is enrolled at an eligible edu-  
12 cational institution.

13 Clause (iii) shall not include expenses for com-  
14 puter software designed for sports, games, or  
15 hobbies unless the software is predominantly  
16 educational in nature.”.

17 (b) **EFFECTIVE DATE.**—The amendments made by  
18 this section shall apply to expenses paid or incurred after  
19 December 31, 2008.

20 **SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.**

21 (a) **ALLOWANCE OF CREDIT.**—Subpart A of part IV  
22 of subchapter A of chapter 1 is amended by inserting after  
23 section 25D the following new section:

24 **“SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.**

25 “(a) **ALLOWANCE OF CREDIT.**—

1           “(1) IN GENERAL.—In the case of an individual  
2           who is a purchaser of a principal residence during  
3           the taxable year, there shall be allowed as a credit  
4           against the tax imposed by this chapter an amount  
5           equal to 10 percent of the purchase price of the resi-  
6           dence.

7           “(2) DOLLAR LIMITATION.—The amount of the  
8           credit allowed under paragraph (1) shall not exceed  
9           \$15,000.

10           “(3) ALLOCATION OF CREDIT AMOUNT.—At the  
11           election of the taxpayer, the amount of the credit al-  
12           lowed under paragraph (1) (after application of  
13           paragraph (2)) may be equally divided among the 2  
14           taxable years beginning with the taxable year in  
15           which the purchase of the principal residence is  
16           made.

17           “(b) LIMITATIONS.—

18           “(1) DATE OF PURCHASE.—The credit allowed  
19           under subsection (a) shall be allowed only with re-  
20           spect to purchases made—

21                   “(A) after the date of the enactment of the  
22                   American Recovery and Reinvestment Tax Act  
23                   of 2009, and

24                   “(B) on or before the date that is 1 year  
25                   after such date of enactment.

1           “(2) LIMITATION BASED ON AMOUNT OF  
2 TAX.—In the case of a taxable year to which section  
3 26(a)(2) does not apply, the credit allowed under  
4 subsection (a) for any taxable year shall not exceed  
5 the excess of—

6           “(A) the sum of the regular tax liability  
7 (as defined in section 26(b)) plus the tax im-  
8 posed by section 55, over

9           “(B) the sum of the credits allowable  
10 under this subpart (other than this section) for  
11 the taxable year.

12           “(3) ONE-TIME ONLY.—

13           “(A) IN GENERAL.—If a credit is allowed  
14 under this section in the case of any individual  
15 (and such individual’s spouse, if married) with  
16 respect to the purchase of any principal resi-  
17 dence, no credit shall be allowed under this sec-  
18 tion in any taxable year with respect to the pur-  
19 chase of any other principal residence by such  
20 individual or a spouse of such individual.

21           “(B) JOINT PURCHASE.—In the case of a  
22 purchase of a principal residence by 2 or more  
23 unmarried individuals or by 2 married individ-  
24 uals filing separately, no credit shall be allowed  
25 under this section if a credit under this section

1           has been allowed to any of such individuals in  
2           any taxable year with respect to the purchase of  
3           any other principal residence.

4           “(c) PRINCIPAL RESIDENCE.—For purposes of this  
5 section, the term ‘principal residence’ has the same mean-  
6 ing as when used in section 121.

7           “(d) DENIAL OF DOUBLE BENEFIT.—No credit shall  
8 be allowed under this section for any purchase for which  
9 a credit is allowed under section 36 or section 1400C.

10          “(e) SPECIAL RULES.—

11           “(1) JOINT PURCHASE.—

12                   “(A) MARRIED INDIVIDUALS FILING SEPA-  
13 RATELY.—In the case of 2 married individuals  
14 filing separately, subsection (a) shall be applied  
15 to each such individual by substituting ‘\$7,500’  
16 for ‘\$15,000’ in subsection (a)(1).

17                   “(B) UNMARRIED INDIVIDUALS.—If 2 or  
18 more individuals who are not married purchase  
19 a principal residence, the amount of the credit  
20 allowed under subsection (a) shall be allocated  
21 among such individuals in such manner as the  
22 Secretary may prescribe, except that the total  
23 amount of the credits allowed to all such indi-  
24 viduals shall not exceed \$15,000.

1           “(2) PURCHASE.—In defining the purchase of a  
2           principal residence, rules similar to the rules of  
3           paragraphs (2) and (3) of section 1400C(e) (as in  
4           effect on the date of the enactment of this section)  
5           shall apply.

6           “(3) REPORTING REQUIREMENT.—Rules similar  
7           to the rules of section 1400C(f) (as so in effect)  
8           shall apply.

9           “(f) RECAPTURE OF CREDIT IN THE CASE OF CER-  
10          TAIN DISPOSITIONS.—

11           “(1) IN GENERAL.—In the event that a tax-  
12          payer—

13                   “(A) disposes of the principal residence  
14                   with respect to which a credit was allowed  
15                   under subsection (a), or

16                   “(B) fails to occupy such residence as the  
17                   taxpayer’s principal residence,

18          at any time within 24 months after the date on  
19          which the taxpayer purchased such residence, then  
20          the tax imposed by this chapter for the taxable year  
21          during which such disposition occurred or in which  
22          the taxpayer failed to occupy the residence as a prin-  
23          cipal residence shall be increased by the amount of  
24          such credit.

25           “(2) EXCEPTIONS.—

1           “(A) DEATH OF TAXPAYER.—Paragraph  
2           (1) shall not apply to any taxable year ending  
3           after the date of the taxpayer’s death.

4           “(B) INVOLUNTARY CONVERSION.—Para-  
5           graph (1) shall not apply in the case of a resi-  
6           dence which is compulsorily or involuntarily  
7           converted (within the meaning of section  
8           1033(a)) if the taxpayer acquires a new prin-  
9           cipal residence within the 2-year period begin-  
10          ning on the date of the disposition or cessation  
11          referred to in such paragraph. Paragraph (1)  
12          shall apply to such new principal residence dur-  
13          ing the remainder of the 24-month period de-  
14          scribed in such paragraph as if such new prin-  
15          cipal residence were the converted residence.

16          “(C) TRANSFERS BETWEEN SPOUSES OR  
17          INCIDENT TO DIVORCE.—In the case of a trans-  
18          fer of a residence to which section 1041(a) ap-  
19          plies—

20                  “(i) paragraph (1) shall not apply to  
21                  such transfer, and

22                  “(ii) in the case of taxable years end-  
23                  ing after such transfer, paragraph (1) shall  
24                  apply to the transferee in the same manner

1           as if such transferee were the transferor  
2           (and shall not apply to the transferor).

3           “(D) RELOCATION OF MEMBERS OF THE  
4           ARMED FORCES.—Paragraph (1) shall not  
5           apply in the case of a member of the Armed  
6           Forces of the United States on active duty who  
7           moves pursuant to a military order and incident  
8           to a permanent change of station.

9           “(3) JOINT RETURNS.—In the case of a credit  
10          allowed under subsection (a) with respect to a joint  
11          return, half of such credit shall be treated as having  
12          been allowed to each individual filing such return for  
13          purposes of this subsection.

14          “(4) RETURN REQUIREMENT.—If the tax im-  
15          posed by this chapter for the taxable year is in-  
16          creased under this subsection, the taxpayer shall,  
17          notwithstanding section 6012, be required to file a  
18          return with respect to the taxes imposed under this  
19          subtitle.

20          “(g) BASIS ADJUSTMENT.—For purposes of this sub-  
21          title, if a credit is allowed under this section with respect  
22          to the purchase of any residence, the basis of such resi-  
23          dence shall be reduced by the amount of the credit so al-  
24          lowed.



1       “(h) ELECTION TO TREAT PURCHASE IN PRIOR  
2 YEAR.—In the case of a purchase of a principal residence  
3 during the period described in subsection (b)(1), a tax-  
4 payer may elect to treat such purchase as made on Decem-  
5 ber 31, 2008, for purposes of this section.”.

6       (b) CLERICAL AMENDMENT.—The table of sections  
7 for subpart A of part IV of subchapter A of chapter 1  
8 is amended by inserting after the item relating to section  
9 25D the following new item:

“Sec. 25E. Credit for certain home purchases.”.

10       (c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER  
11 CREDIT.—

12           (1) IN GENERAL.—Subsection (h) of section 36  
13 is amended by striking “July 1, 2009” and inserting  
14 “the date of the enactment of the American Recov-  
15 ery and Reinvestment Tax Act of 2009”.

16           (2) ELECTION TO TREAT PURCHASE IN PRIOR  
17 YEAR.—Subsection (g) of section 36 is amended by  
18 striking “July 1, 2009” and inserting “the date of  
19 the enactment of the American Recovery and Rein-  
20 vestment Tax Act of 2009”.

21       (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to purchases after the date of the  
23 enactment of this Act.

1 **SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEM-**  
2 **PLOYMENT COMPENSATION.**

3 (a) IN GENERAL.—Section 85 of the Internal Rev-  
4 enue Code of 1986 (relating to unemployment compensa-  
5 tion) is amended by adding at the end the following new  
6 subsection:

7 “(c) SPECIAL RULE FOR 2009.—In the case of any  
8 taxable year beginning in 2009, gross income shall not in-  
9 clude so much of the unemployment compensation received  
10 by an individual as does not exceed \$2,400.”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2008.

14 **SEC. 1008. ABOVE-THE-LINE DEDUCTION FOR INTEREST ON**  
15 **INDEBTEDNESS WITH RESPECT TO THE PUR-**  
16 **CHASE OF CERTAIN MOTOR VEHICLES.**

17 (a) IN GENERAL.—Paragraph (2) of section 163(h)  
18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking “and” at the end of subpara-  
20 graph (E),

21 (2) by striking the period at the end of sub-  
22 paragraph (F) and inserting “, and”, and

23 (3) by adding at the end the following new sub-  
24 paragraph:

25 “(G) any qualified motor vehicle interest  
26 (within the meaning of paragraph (5)).”.

1 (b) QUALIFIED MOTOR VEHICLE INTEREST.—Sec-  
2 tion 163(h) of the Internal Revenue Code of 1986 is  
3 amended by adding at the end the following new para-  
4 graph:

5 “(5) QUALIFIED MOTOR VEHICLE INTEREST.—  
6 For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘qualified  
8 motor vehicle interest’ means any interest which  
9 is paid or accrued during the taxable year on  
10 any indebtedness which—

11 “(i) is incurred after November 12,  
12 2008, and before January 1, 2010, in ac-  
13 quiring any qualified motor vehicle of the  
14 taxpayer, and

15 “(ii) is secured by such qualified  
16 motor vehicle.

17 Such term also includes any indebtedness se-  
18 cured by such qualified motor vehicle resulting  
19 from the refinancing of indebtedness meeting  
20 the requirements of the preceding sentence (or  
21 this sentence); but only to the extent the  
22 amount of the indebtedness resulting from such  
23 refinancing does not exceed the amount of the  
24 refinanced indebtedness.

1           “(B) DOLLAR LIMITATION.—The aggre-  
2           gate amount of indebtedness treated as de-  
3           scribed in subparagraph (A) for any period  
4           shall not exceed \$49,500 (\$24,750 in the case  
5           of a separate return by a married individual).

6           “(C) INCOME LIMITATION.—The amount  
7           otherwise treated as interest under subpara-  
8           graph (A) for any taxable year (after the appli-  
9           cation of subparagraph (B)) shall be reduced  
10          (but not below zero) by the amount which bears  
11          the same ratio to the amount which is so treat-  
12          ed as—

13                   “(i) the excess (if any) of—

14                           “(I) the taxpayer’s modified ad-  
15                           justed gross income for such taxable  
16                           year, over

17                                   “(II) \$125,000 (\$250,000 in the  
18                                   case of a joint return), bears to

19   “(ii) \$10,000.

20          For purposes of the preceding sentence, the  
21          term ‘modified adjusted gross income’ means  
22          the adjusted gross income of the taxpayer for  
23          the taxable year increased by any amount ex-  
24          cluded from gross income under section 911,  
25          931, or 933.

1           “(D) QUALIFIED MOTOR VEHICLE.—The  
2           term ‘qualified motor vehicle’ means a pas-  
3           senger automobile (within the meaning of sec-  
4           tion 30B(h)(3)) or a light truck (within the  
5           meaning of such section)—

6                   “(i) which is acquired for use by the  
7                   taxpayer and not for resale after November  
8                   12, 2008, and before January 1, 2010,

9                   “(ii) the original use of which com-  
10                  mences with the taxpayer, and

11                  “(iii) which has a gross vehicle weight  
12                  rating of not more than 8,500 pounds.”.

13           (c) DEDUCTION ALLOWED ABOVE-THE-LINE.—Sec-  
14           tion 62(a) of the Internal Revenue Code of 1986 is amend-  
15           ed by inserting after paragraph (21) the following new  
16           paragraph:

17                   “(22) QUALIFIED MOTOR VEHICLE INTER-  
18                   EST.—The deduction allowed under section 163 by  
19                   reason of subsection (h)(2)(G) thereof.”.

20           (d) REPORTING OF QUALIFIED MOTOR VEHICLE IN-  
21           TEREST.—

22                   (1) IN GENERAL.—Subpart B of part III of  
23                   subchapter A of chapter 61 of the Internal Revenue  
24                   Code of 1986 is amended by adding at the end the  
25                   following new section:

1 **“SEC. 6050X. RETURNS RELATING TO QUALIFIED MOTOR**  
2 **VEHICLE INTEREST RECEIVED IN TRADE OR**  
3 **BUSINESS FROM INDIVIDUALS.**

4 “(a) QUALIFIED MOTOR VEHICLE INTEREST.—Any  
5 person—

6 “(1) who is engaged in a trade or business, and

7 “(2) who, in the course of such trade or busi-  
8 ness, receives from any individual interest aggre-  
9 gating \$600 or more for any calendar year on any  
10 indebtedness secured by a qualified motor vehicle (as  
11 defined in section 163(h)(5)(D)),

12 shall make the return described in subsection (b) with re-  
13 spect to each individual from whom such interest was re-  
14 ceived at such time as the Secretary may by regulations  
15 prescribe.

16 “(b) FORM AND MANNER OF RETURNS.—A return  
17 is described in this subsection if such return—

18 “(1) is in such form as the Secretary may pre-  
19 scribe,

20 “(2) contains—

21 “(A) the name and address of the indi-  
22 vidual from whom the interest described in sub-  
23 section (a)(2) was received,

24 “(B) the amount of such interest received  
25 for the calendar year, and

1           “(C) such other information as the Sec-  
2           retary may prescribe.

3           “(c) APPLICATION TO GOVERNMENTAL UNITS.—For  
4 purposes of subsection (a)—

5           “(1) TREATED AS PERSONS.—The term ‘per-  
6           son’ includes any governmental unit (and any agency  
7           or instrumentality thereof).

8           “(2) SPECIAL RULES.—In the case of a govern-  
9           mental unit or any agency or instrumentality there-  
10          of—

11           “(A) subsection (a) shall be applied with-  
12          out regard to the trade or business requirement  
13          contained therein, and

14           “(B) any return required under subsection  
15          (a) shall be made by the officer or employee ap-  
16          propriately designated for the purpose of mak-  
17          ing such return.

18          “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
19          UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
20          QUIRED.—Every person required to make a return under  
21          subsection (a) shall furnish to each individual whose name  
22          is required to be set forth in such return a written state-  
23          ment showing—

1           “(1) the name, address, and phone number of  
2           the information contact of the person required to  
3           make such return, and

4           “(2) the aggregate amount of interest described  
5           in subsection (a)(2) received by the person required  
6           to make such return from the individual to whom  
7           the statement is required to be furnished.

8           The written statement required under the preceding sen-  
9           tence shall be furnished on or before January 31 of the  
10          year following the calendar year for which the return  
11          under subsection (a) was required to be made.

12          “(e) RETURNS WHICH WOULD BE REQUIRED TO BE  
13          MADE BY 2 OR MORE PERSONS.—Except to the extent  
14          provided in regulations prescribed by the Secretary, in the  
15          case of interest received by any person on behalf of an-  
16          other person, only the person first receiving such interest  
17          shall be required to make the return under subsection  
18          (a).”.

19                 (2) AMENDMENTS RELATING TO PENALTIES.—

20                         (A) Section 6721(e)(2)(A) of such Code is  
21                         amended by striking “or 6050L” and inserting  
22                         “6050L, or 6050X”.

23                         (B) Section 6722(c)(1)(A) of such Code is  
24                         amended by striking “or 6050L(c)” and insert-  
25                         ing “6050L(c), or 6050X(d)”.



1           (C) Subparagraph (B) of section  
2           6724(d)(1) of such Code is amended by redesignig-  
3           nating clauses (xvi) through (xxii) as clauses  
4           (xvii) through (xxiii), respectively, and by in-  
5           serting after clause (xii) the following new  
6           clause:

7                   “(xvi) section 6050X (relating to re-  
8                   turns relating to qualified motor vehicle in-  
9                   terest received in trade or business from  
10                  individuals),”.

11           (D) Paragraph (2) of section 6724(d) of  
12           such Code is amended by striking the period at  
13           the end of subparagraph (DD) and inserting “,  
14           or” and by inserting after subparagraph (DD)  
15           the following new subparagraph:

16                   “(EE) section 6050X(d) (relating to re-  
17                   turns relating to qualified motor vehicle interest  
18                   received in trade or business from individ-  
19                  uals).”.

20           (3) CLERICAL AMENDMENT.—The table of sec-  
21           tions for subpart B of part III of subchapter A of  
22           chapter 61 of such Code is amended by inserting  
23           after the item relating to section 6050W the fol-  
24           lowing new item:

“Sec. 6050X. Returns relating to qualified motor vehicle interest received in  
trade or business from individuals.”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2008.

4 **SEC. 1009. ABOVE-THE-LINE DEDUCTION FOR STATE SALES**  
5 **TAX AND EXCISE TAX ON THE PURCHASE OF**  
6 **CERTAIN MOTOR VEHICLES.**

7 (a) IN GENERAL.—Subsection (a) of section 164 of  
8 the Internal Revenue Code of 1986 is amended by insert-  
9 ing after paragraph (5) the following new paragraph:

10 “(6) Qualified motor vehicle taxes.”.

11 (b) QUALIFIED MOTOR VEHICLE TAXES.—Sub-  
12 section (b) of section 164 of the Internal Revenue Code  
13 of 1986 is amended by adding at the end the following  
14 new paragraph:

15 “(6) QUALIFIED MOTOR VEHICLE TAXES.—

16 “(A) IN GENERAL.—For purposes of this  
17 section, the term ‘qualified motor vehicle taxes’  
18 means any State or local sales or excise tax im-  
19 posed on the purchase of a qualified motor vehi-  
20 cle (as defined in section 163(h)(5)(D)).

21 “(B) DOLLAR LIMITATION.—The amount  
22 taken into account under subparagraph (A) for  
23 any taxable year shall not exceed \$49,500  
24 (\$24,750 in the case of a separate return by a  
25 married individual).

1           “(C) INCOME LIMITATION.—The amount  
2 otherwise taken into account under subpara-  
3 graph (A) (after the application of subpara-  
4 graph (B)) for any taxable year shall be re-  
5 duced (but not below zero) by the amount  
6 which bears the same ratio to the amount which  
7 is so treated as—

8                   “(i) the excess (if any) of—

9                           “(I) the taxpayer’s modified ad-  
10                           justed gross income for such taxable  
11                           year, over

12                           “(II) \$125,000 (\$250,000 in the  
13                           case of a joint return), bears to

14                           “(ii) \$10,000.

15           For purposes of the preceding sentence, the  
16 term ‘modified adjusted gross income’ means  
17 the adjusted gross income of the taxpayer for  
18 the taxable year increased by any amount ex-  
19 cluded from gross income under section 911,  
20 931, or 933.

21           “(D) QUALIFIED MOTOR VEHICLE TAXES  
22 NOT INCLUDED IN COST OF ACQUIRED PROP-  
23 erty.—The last sentence of subsection (a)  
24 shall not apply to any qualified motor vehicle  
25 taxes.

1           “(E) COORDINATION WITH GENERAL  
2           SALES TAX.—This paragraph shall not apply in  
3           the case of a taxpayer who makes an election  
4           under paragraph (5) for the taxable year.”.

5           (c) CONFORMING AMENDMENTS.—Paragraph (5) of  
6           section 163(h) of the Internal Revenue Code of 1986, as  
7           added by section 1, is amended—

8           (1) by adding at the end the following new sub-  
9           paragraph:

10           “(E) EXCLUSION.—If the indebtedness de-  
11           scribed in subparagraph (A) includes the  
12           amounts of any State or local sales or excise  
13           taxes paid or accrued by the taxpayer in con-  
14           nection with the acquisition of a qualified motor  
15           vehicle, the aggregate amount of such indebted-  
16           ness taken into account under such subpara-  
17           graph shall be reduced, but not below zero, by  
18           the amount of any such taxes for which a de-  
19           duction is allowed under section 164(a) by rea-  
20           son of paragraph (6) thereof.”, and

21           (2) by inserting “, after the application of sub-  
22           paragraph (E),” after “for any period” in subpara-  
23           graph (B).

24           (d) DEDUCTION ALLOWED ABOVE-THE-LINE.—Sec-  
25           tion 62(a) of the Internal Revenue Code of 1986, as

1 amended by section 1, is amended by inserting after para-  
2 graph (22) the following new paragraph:

3 “(23) QUALIFIED MOTOR VEHICLE TAXES.—

4 The deduction allowed under section 164 by reason  
5 of subsection (a)(6) thereof.”.

6 (e) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2008.

9 **PART II—ALTERNATIVE MINIMUM TAX RELIEF**

10 **SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**

11 **LIEF FOR NONREFUNDABLE PERSONAL**

12 **CREDITS.**

13 (a) IN GENERAL.—Paragraph (2) of section 26(a)  
14 (relating to special rule for taxable years 2000 through  
15 2008) is amended—

16 (1) by striking “or 2008” and inserting “2008,  
17 or 2009”, and

18 (2) by striking “**2008**” in the heading thereof  
19 and inserting “**2009**”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2008.

1 **SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MIN-**  
2 **IMUM TAX EXEMPTION AMOUNT.**

3 (a) IN GENERAL.—Paragraph (1) of section 55(d)  
4 (relating to exemption amount) is amended—

5 (1) by striking “(\$69,950 in the case of taxable  
6 years beginning in 2008)” in subparagraph (A) and  
7 inserting “(\$70,950 in the case of taxable years be-  
8 ginning in 2009)”, and

9 (2) by striking “(\$46,200 in the case of taxable  
10 years beginning in 2008)” in subparagraph (B) and  
11 inserting “(\$46,700 in the case of taxable years be-  
12 ginning in 2009)”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2008.

16 **Subtitle B—Energy Incentives**

17 **PART I—RENEWABLE ENERGY INCENTIVES**

18 **SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**  
19 **DUCTION FROM CERTAIN RENEWABLE RE-**  
20 **SOURCES.**

21 (a) IN GENERAL.—Subsection (d) of section 45 is  
22 amended—

23 (1) by striking “2010” in paragraph (1) and in-  
24 serting “2013”,

1           (2) by striking “2011” each place it appears in  
2 paragraphs (2), (3), (4), (6), (7) and (9) and insert-  
3 ing “2014”, and

4           (3) by striking “2012” in paragraph (11)(B)  
5 and inserting “2014”.

6           (b) TECHNICAL AMENDMENT.—Paragraph (5) of  
7 section 45(d) is amended by striking “and before” and  
8 all that follows and inserting “ and before October 3,  
9 2008.”.

10          (c) EFFECTIVE DATE.—

11           (1) IN GENERAL.—The amendments made by  
12 subsection (a) shall apply to property placed in serv-  
13 ice after the date of the enactment of this Act.

14           (2) TECHNICAL AMENDMENT.—The amendment  
15 made by subsection (b) shall take effect as if in-  
16 cluded in section 102 of the Energy Improvement  
17 and Extension Act of 2008.

18 **SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF**  
19 **PRODUCTION CREDIT.**

20           (a) IN GENERAL.—Subsection (a) of section 48 is  
21 amended by adding at the end the following new para-  
22 graph:

23           “(5) ELECTION TO TREAT QUALIFIED FACILI-  
24 TIES AS ENERGY PROPERTY.—

1           “(A) IN GENERAL.—In the case of any  
2 qualified investment credit facility—

3           “(i) such facility shall be treated as  
4 energy property for purposes of this sec-  
5 tion, and

6           “(ii) the energy percentage with re-  
7 spect to such property shall be 30 percent.

8           “(B) DENIAL OF PRODUCTION CREDIT.—  
9 No credit shall be allowed under section 45 for  
10 any taxable year with respect to any qualified  
11 investment credit facility.

12           “(C) QUALIFIED INVESTMENT CREDIT FA-  
13 CILITY.—For purposes of this paragraph, the  
14 term ‘qualified investment credit facility’ means  
15 any of the following facilities if no credit has  
16 been allowed under section 45 with respect to  
17 such facility and the taxpayer makes an irrev-  
18 ovable election to have this paragraph apply to  
19 such facility:

20           “(i) WIND FACILITIES.—Any facility  
21 described in paragraph (1) of section 45(d)  
22 if such facility is placed in service in 2009,  
23 2010, 2011, or 2012.

24           “(ii) OTHER FACILITIES.—Any facility  
25 described in paragraph (2), (3), (4), (6),



1 (7), (9), or (11) of section 45(d) if such fa-  
2 cility is placed in service in 2009, 2010,  
3 2011, 2012, or 2013.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to facilities placed in service after  
6 December 31, 2008.

7 **SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT**  
8 **FOR RENEWABLE ENERGY PROPERTY.**

9 (a) REPEAL OF LIMITATION ON CREDIT FOR QUALI-  
10 FIED SMALL WIND ENERGY PROPERTY.—Paragraph (4)  
11 of section 48(c) is amended by striking subparagraph (B)  
12 and by redesignating subparagraphs (C) and (D) as sub-  
13 paragraphs (B) and (C).

14 (b) REPEAL OF LIMITATION ON PROPERTY FI-  
15 NANCED BY SUBSIDIZED ENERGY FINANCING.—

16 (1) IN GENERAL.—Section 48(a)(4) is amended  
17 by adding at the end the following new subpara-  
18 graph:

19 “(D) TERMINATION.—This paragraph  
20 shall not apply to periods after December 31,  
21 2008, under rules similar to the rules of section  
22 48(m) (as in effect on the day before the date  
23 of the enactment of the Revenue Reconciliation  
24 Act of 1990).”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 25C(e)(1) is amended by strik-  
2 ing “(8), and (9)” and inserting “and (8)”.

3 (B) Section 25D(e) is amended by striking  
4 paragraph (9).

5 (C) Section 48A(b)(2) is amended by in-  
6 serting “(without regard to subparagraph (D)  
7 thereof)” after “section 48(a)(4)”.

8 (D) Section 48B(b)(2) is amended by in-  
9 serting “(without regard to subparagraph (D)  
10 thereof)” after “section 48(a)(4)”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendment made by this section shall  
14 apply to periods after December 31, 2008, under  
15 rules similar to the rules of section 48(m) of the In-  
16 ternal Revenue Code of 1986 (as in effect on the day  
17 before the date of the enactment of the Revenue  
18 Reconciliation Act of 1990).

19 (2) CONFORMING AMENDMENTS.—The amend-  
20 ments made by subsection (b)(2) shall apply to tax-  
21 able years beginning after December 31, 2008.

1 **PART II—INCREASED ALLOCATIONS OF NEW**  
2 **CLEAN RENEWABLE ENERGY BONDS AND**  
3 **QUALIFIED ENERGY CONSERVATION BONDS**

4 **SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW**  
5 **CLEAN RENEWABLE ENERGY BONDS.**

6 Subsection (c) of section 54C is amended by adding  
7 at the end the following new paragraph:

8 “(4) **ADDITIONAL LIMITATION.**—The national  
9 new clean renewable energy bond limitation shall be  
10 increased by \$1,600,000,000. Such increase shall be  
11 allocated by the Secretary consistent with the rules  
12 of paragraphs (2) and (3).”.

13 **SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF**  
14 **QUALIFIED ENERGY CONSERVATION BONDS.**

15 (a) **IN GENERAL.**—Section 54D(d) is amended by  
16 striking “800,000,000” and inserting “\$3,200,000,000”.

17 (b) **CLARIFICATION WITH RESPECT TO GREEN COM-**  
18 **MUNITY PROGRAMS.**—Clause (ii) of section 54D(f)(1)(A)  
19 is amended by inserting “(including the use of loans,  
20 grants, or other repayment mechanisms to implement such  
21 programs)” after “green community programs”.

1 **PART III—ENERGY CONSERVATION INCENTIVES**

2 **SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR**  
3 **NONBUSINESS ENERGY PROPERTY.**

4 (a) IN GENERAL.—Section 25C is amended by strik-  
5 ing subsections (a) and (b) and inserting the following new  
6 subsections:

7 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
8 dividual, there shall be allowed as a credit against the tax  
9 imposed by this chapter for the taxable year an amount  
10 equal to 30 percent of the sum of—

11 “(1) the amount paid or incurred by the tax-  
12 payer during such taxable year for qualified energy  
13 efficiency improvements, and

14 “(2) the amount of the residential energy prop-  
15 erty expenditures paid or incurred by the taxpayer  
16 during such taxable year.

17 “(b) LIMITATION.—The aggregate amount of the  
18 credits allowed under this section for taxable years begin-  
19 ning in 2009 and 2010 with respect to any taxpayer shall  
20 not exceed \$1,500.”.

21 (b) MODIFICATIONS OF STANDARDS FOR ENERGY-  
22 EFFICIENT BUILDING PROPERTY.—

23 (1) ELECTRIC HEAT PUMPS.—Subparagraph  
24 (B) of section 25C(d)(3) is amended to read as fol-  
25 lows:

1           “(B) an electric heat pump which achieves  
2           the highest efficiency tier established by the  
3           Consortium for Energy Efficiency, as in effect  
4           on January 1, 2009.”.

5           (2) CENTRAL AIR CONDITIONERS.—Subpara-  
6           graph (C) of section 25C(d)(3) is amended by strik-  
7           ing “2006” and inserting “2009”.

8           (3) WATER HEATERS.—Subparagraph (D) of  
9           section 25C(d)(3) is amended to read as follows:

10           “(E) a natural gas, propane, or oil water  
11           heater which has either an energy factor of at  
12           least 0.82 or a thermal efficiency of at least 90  
13           percent.”.

14           (4) WOOD STOVES.—Subparagraph (E) of sec-  
15           tion 25C(d)(3) is amended by inserting “, as meas-  
16           ured using a lower heating value” after “75 per-  
17           cent”.

18           (c) MODIFICATIONS OF STANDARDS FOR OIL FUR-  
19           NACES AND HOT WATER BOILERS.—

20           (1) IN GENERAL.—Paragraph (4) of section  
21           25C(d) is amended to read as follows:

22           “(4) QUALIFIED NATURAL GAS, PROPANE, AND  
23           OIL FURNACES AND HOT WATER BOILERS.—

24           “(A) QUALIFIED NATURAL GAS FUR-  
25           NACE.—The term ‘qualified natural gas fur-

1           nace’ means any natural gas furnace which  
2           achieves an annual fuel utilization efficiency  
3           rate of not less than 95.

4           “(B) QUALIFIED NATURAL GAS HOT  
5           WATER BOILER.—The term ‘qualified natural  
6           gas hot water boiler’ means any natural gas hot  
7           water boiler which achieves an annual fuel utili-  
8           zation efficiency rate of not less than 90.

9           “(C) QUALIFIED PROPANE FURNACE.—  
10          The term ‘qualified propane furnace’ means any  
11          propane furnace which achieves an annual fuel  
12          utilization efficiency rate of not less than 95.

13          “(D) QUALIFIED PROPANE HOT WATER  
14          BOILER.—The term ‘qualified propane hot  
15          water boiler’ means any propane hot water boil-  
16          er which achieves an annual fuel utilization effi-  
17          ciency rate of not less than 90.

18          “(E) QUALIFIED OIL FURNACES.—The  
19          term ‘qualified oil furnace’ means any oil fur-  
20          nace which achieves an annual fuel utilization  
21          efficiency rate of not less than 90.

22          “(F) QUALIFIED OIL HOT WATER BOIL-  
23          ER.—The term ‘qualified oil hot water boiler’  
24          means any oil hot water boiler which achieves

1 an annual fuel utilization efficiency rate of not  
2 less than 90.”.

3 (2) CONFORMING AMENDMENT.—Clause (ii) of  
4 section 25C(d)(2)(A) is amended to read as follows:

5 “(ii) any qualified natural gas fur-  
6 nace, qualified propane furnace, qualified  
7 oil furnace, qualified natural gas hot water  
8 boiler, qualified propane hot water boiler,  
9 or qualified oil hot water boiler, or”.

10 (d) MODIFICATIONS OF STANDARDS FOR QUALIFIED  
11 ENERGY EFFICIENCY IMPROVEMENTS.—

12 (1) QUALIFICATIONS FOR EXTERIOR WINDOWS,  
13 DOORS, AND SKYLIGHTS.—Subsection (c) of section  
14 25C is amended by adding at the end the following  
15 new paragraph:

16 “(4) QUALIFICATIONS FOR EXTERIOR WIN-  
17 DOWS, DOORS, AND SKYLIGHTS.—Such term shall  
18 not include any component described in subpara-  
19 graph (B) or (C) of paragraph (2) unless such com-  
20 ponent is equal to or below a U factor of 0.30 and  
21 SHGC of 0.30.”.

22 (2) ADDITIONAL QUALIFICATION FOR INSULA-  
23 TION.—Subparagraph (A) of section 25C(e)(2) is  
24 amended by inserting “and meets the prescriptive  
25 criteria for such material or system established by

1 the 2009 International Energy Conservation Code,  
2 as such Code (including supplements) is in effect on  
3 the date of the enactment of the American Recovery  
4 and Reinvestment Tax Act of 2009” after “such  
5 dwelling unit”.

6 (e) EXTENSION.—Section 25C(g)(2) is amended by  
7 striking “December 31, 2009” and inserting “December  
8 31, 2010”.

9 (f) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), the amendments made by this section  
12 shall apply to taxable years beginning after Decem-  
13 ber 31, 2008.

14 (2) EFFICIENCY STANDARDS.—The amend-  
15 ments made by paragraphs (1), (2), and (3) of sub-  
16 section (b) and subsections (c) and (d) shall apply  
17 to property placed in service after December 31,  
18 2009.

19 **SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL**  
20 **ENERGY EFFICIENT PROPERTY.**

21 (a) REMOVAL OF CREDIT LIMITATION FOR PROP-  
22 erty PLACED IN SERVICE.—

23 (1) IN GENERAL.—Paragraph (1) of section  
24 25D(b) is amended to read as follows:



1           “(1) MAXIMUM CREDIT FOR FUEL CELLS.—In  
2 the case of any qualified fuel cell property expendi-  
3 ture, the credit allowed under subsection (a) (deter-  
4 mined without regard to subsection (c)) for any tax-  
5 able year shall not exceed \$500 with respect to each  
6 half kilowatt of capacity of the qualified fuel cell  
7 property (as defined in section 48(c)(1)) to which  
8 such expenditure relates.”.

9           (2) CONFORMING AMENDMENT.—Paragraph (4)  
10 of section 25D(e) is amended—

11           (A) by striking all that precedes subpara-  
12 graph (B) and inserting the following:

13           “(4) FUEL CELL EXPENDITURE LIMITATIONS  
14 IN CASE OF JOINT OCCUPANCY.—In the case of any  
15 dwelling unit with respect to which qualified fuel cell  
16 property expenditures are made and which is jointly  
17 occupied and used during any calendar year as a  
18 residence by two or more individuals the following  
19 rules shall apply:

20           “(A) MAXIMUM EXPENDITURES FOR FUEL  
21 CELLS.—The maximum amount of such ex-  
22 penditures which may be taken into account  
23 under subsection (a) by all such individuals  
24 with respect to such dwelling unit during such  
25 calendar year shall be \$1,667 in the case of

1 each half kilowatt of capacity of qualified fuel  
2 cell property (as defined in section 48(c)(1))  
3 with respect to which such expenditures re-  
4 late.”, and

5 (B) by striking subparagraph (C).

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2008.

9 **SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTER-**  
10 **NATIVE FUEL VEHICLE REFUELING PROP-**  
11 **ERTY.**

12 (a) IN GENERAL.—Section 30C(e) is amended by  
13 adding at the end the following new paragraph:

14 “(6) SPECIAL RULE FOR PROPERTY PLACED IN  
15 SERVICE DURING 2009 AND 2010.—In the case of  
16 property placed in service in taxable years beginning  
17 after December 31, 2008, and before January 1,  
18 2011—

19 “(A) in the case of any such property  
20 which does not relate to hydrogen—

21 “(i) subsection (a) shall be applied by  
22 substituting ‘50 percent’ for ‘30 percent’,

23 “(ii) subsection (b)(1) shall be applied  
24 by substituting ‘\$50,000’ for ‘\$30,000’,  
25 and

1                   “(iii) subsection (b)(2) shall be ap-  
2                   plied by substituting ‘\$2,000’ for ‘\$1,000’,  
3                   and

4                   “(B) in the case of any such property  
5                   which relates to hydrogen, subsection (b)(1)  
6                   shall be applied by substituting ‘\$200,000’ for  
7                   ‘\$30,000’.”.

8           (b) ENSURING CONSUMER ACCESSIBILITY TO AL-  
9   TERNATIVE FUEL VEHICLE REFUELING PROPERTY IN  
10 THE CASE OF ELECTRICITY.—Section 179(d)(3) is  
11 amended by striking subparagraph (B) and inserting the  
12 following:

13                   “(B) for the recharging of motor vehicles  
14                   propelled by electricity, but only if—

15                   “(i) the property complies with the  
16                   Society of Automotive Engineers’ connec-  
17                   tion standards,

18                   “(ii) the property provides for non-re-  
19                   strictive access for charging and for pay-  
20                   ment interoperability with other systems,  
21                   and

22                   “(iii) the property—

23                   “(I) is located on property owned  
24                   by the taxpayer, or

1                   “(II) is located on property  
2                   owned by another person, is placed in  
3                   service with the permission of such  
4                   other person, and is fully maintained  
5                   by the taxpayer.”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2008.

9 **SEC. 1124. RECOVERY PERIOD FOR DEPRECIATION OF**  
10 **SMART METERS.**

11           (a) TEMPORARY 5-YEAR RECOVERY PERIOD.—

12                   (1) IN GENERAL.—Subparagraph (B) of section  
13 168(e)(3) is amended by striking “and” at the end  
14 of clause (vi), by striking the period at the end of  
15 clause (vii) and inserting “, and”, and by adding at  
16 the end the following new clause:

17                                   “(viii) any qualified smart electric  
18                                   meter which is placed in service before  
19                                   January 1, 2011.”.

20                   (2) CONFORMING AMENDMENT.—Clause (iii) of  
21 section 168(e)(3)(D) is amended by inserting “which  
22 is placed in service after December 31, 2010” after  
23 “electric meter”.

1 (b) TECHNICAL AMENDMENTS.—Paragraphs  
2 (18)(A)(ii) and (19)(A)(ii) of section 168(i) are each  
3 amended by striking “16 years” and inserting “10 years”.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the amendments made by this section  
7 shall apply to property placed in service after the  
8 date of the enactment of this Act.

9 (2) TECHNICAL AMENDMENT.—The amend-  
10 ments made by subsection (b) shall take effect as if  
11 included in section 306 of the Energy Improvement  
12 and Extension Act of 2008.

#### 13 **PART IV—ENERGY RESEARCH INCENTIVES**

##### 14 **SEC. 1131. INCREASED RESEARCH CREDIT FOR ENERGY RE-** 15 **SEARCH.**

16 (a) IN GENERAL.—Section 41 is amended by redesis-  
17 gnating subsection (h) as subsection (i) and by inserting  
18 after subsection (g) the following new subsection:

19 “(h) ENERGY RESEARCH CREDIT.—In the case of  
20 any taxable year beginning in 2009 or 2010—

21 “(1) IN GENERAL.—The credit determined  
22 under subsection (a)(1) shall be increased by 20 per-  
23 cent of the qualified energy research expenses for  
24 the taxable year.

1           “(2) QUALIFIED ENERGY RESEARCH EX-  
2 PENSES.—For purposes of this subsection—

3           “(A) IN GENERAL.—The term ‘qualified  
4 energy research expenses’ means so much of the  
5 taxpayer’s qualified research expenses as are re-  
6 lated to the fields of fuel cells and battery tech-  
7 nology, renewable energy and renewable fuels,  
8 energy conservation technology, efficient trans-  
9 mission and distribution of electricity, and car-  
10 bon capture and sequestration.

11           “(B) COORDINATION WITH QUALIFYING  
12 ADVANCED ENERGY PROJECT CREDIT.—Such  
13 term shall not include expenditures taken into  
14 account in determining the amount of the credit  
15 under section 48 or 48C.

16           “(3) COORDINATION WITH OTHER RESEARCH  
17 CREDITS.—

18           “(A) IN GENERAL.—The amount of quali-  
19 fied energy research expenses taken into ac-  
20 count under subsection (a)(1)(A) shall not ex-  
21 ceed the base amount.

22           “(B) ALTERNATIVE SIMPLIFIED CREDIT.—  
23 For purposes of subsection (c)(5), the amount  
24 of qualified energy research expenses taken into

1 account for the taxable year for which the cred-  
2 it is being determined shall not exceed—

3 “(i) in the case of subsection  
4 (c)(5)(A), 50 percent of the average quali-  
5 fied research expenses for the 3 taxable  
6 years preceding the taxable year for which  
7 the credit is being determined, and

8 “(ii) in the case of subsection  
9 (c)(5)(B)(ii), zero.

10 “(C) BASIC RESEARCH AND ENERGY RE-  
11 SEARCH CONSORTIUM PAYMENTS.—Any amount  
12 taken into account under paragraph (1) shall  
13 not be taken into account under paragraph (2)  
14 or (3) of subsection (a).”.

15 (b) CONFORMING AMENDMENT.—Subparagraph (B)  
16 of section 41(i)(1)(B), as redesignated by subsection (a),  
17 is amended by inserting “(in the case of the increase in  
18 the credit determined under subsection (h), December 31,  
19 2010)” after “December 31, 2009”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2008.

1           **PART V—MODIFICATION OF CREDIT FOR**  
2           **CARBON DIOXIDE SEQUESTRATION**

3   **SEC. 1141. APPLICATION OF MONITORING REQUIREMENTS**  
4           **TO CARBON DIOXIDE USED AS A TERTIARY**  
5           **INJECTANT.**

6           (a) **IN GENERAL.**—Section 45Q(a)(2) is amended by  
7 striking “and” at the end of subparagraph (A), by striking  
8 the period at the end of subparagraph (B) and inserting  
9 “, and”, and by adding at the end the following new sub-  
10 paragraph:

11                   “(C) disposed of by the taxpayer in secure  
12                   geological storage.”.

13           (b) **CONFORMING AMENDMENTS.**—

14                   (1) Section 45Q(d)(2) is amended—

15                           (A) by striking “subsection (a)(1)(B)” and  
16                           inserting “paragraph (1)(B) or (2)(C) of sub-  
17                           section (a)”,

18                           (B) by striking “and unminable coal  
19                           seems” and inserting “, oil and gas reservoirs,  
20                           and unminable coal seams”, and

21                           (C) by inserting “the Secretary of Energy,  
22                           and the Secretary of the Interior,” after “Envi-  
23                           ronmental Protection Agency”.

24                   (2) Section 45Q(e) is amended by striking  
25                   “captured and disposed of or used as a tertiary



1 injectant” and inserting “taken into account in ac-  
 2 cordance with subsection (a)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to carbon dioxide captured after  
 5 the date of the enactment of this Act.

6 **PART VI—PLUG-IN ELECTRIC DRIVE MOTOR**  
 7 **VEHICLES**

8 **SEC. 1151. MODIFICATION OF CREDIT FOR QUALIFIED**  
 9 **PLUG-IN ELECTRIC MOTOR VEHICLES.**

10 (a) INCREASE IN VEHICLES ELIGIBLE FOR CRED-  
 11 IT.—Section 30D(b)(2)(B) is amended by striking  
 12 “250,000” and inserting “500,000”.

13 (b) EXCLUSION OF NEIGHBORHOOD ELECTRIC VEHI-  
 14 CLES FROM EXISTING CREDIT.—Section 30D(e)(1) is  
 15 amended to read as follows:

16 “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
 17 cle’ means a motor vehicle (as defined in section  
 18 30(c)(2)), which is treated as a motor vehicle for  
 19 purposes of title II of the Clean Air Act.”.

20 (c) CREDIT FOR CERTAIN OTHER VEHICLES.—Sec-  
 21 tion 30D is amended—

22 (1) by redesignating subsections (f) and (g) as  
 23 subsections (g) and (h), respectively, and

24 (2) by inserting after subsection (e) the fol-  
 25 lowing new subsection:

1       “(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For  
2 purposes of this section—

3           “(1) IN GENERAL.—In the case of a specified  
4 vehicle, this section shall be applied with the fol-  
5 lowing modifications:

6           “(A) For purposes of subsection (a)(1), in  
7 lieu of the applicable amount determined under  
8 subsection (a)(2), the applicable amount shall  
9 be 10 percent of so much of the cost of the  
10 specified vehicle as does not exceed \$40,000.

11           “(B) Subsection (b) shall not apply and no  
12 specified vehicle shall be taken into account  
13 under subsection (b)(2).

14           “(C) In the case of a specified vehicle  
15 which is a 2-or 3-wheeled motor vehicle, sub-  
16 section (c)(1) shall be applied by substituting  
17 ‘2.5 kilowatt hours’ for ‘4 kilowatt hours’.

18           “(D) In the case of a specified vehicle  
19 which is a low-speed motor vehicle, subsection  
20 (c)(3) shall not apply.

21           “(2) SPECIFIED VEHICLE.—For purposes of  
22 this subsection—

23           “(A) IN GENERAL.—The term ‘specified  
24 vehicle’ means—

1           “(i) any 2- or 3- wheeled motor vehi-  
2           cle, or

3           “(ii) any low-speed motor vehicle,  
4           which is placed in service after December 31,  
5           2009, and before January 1, 2012.

6           “(B) 2- OR 3-WHEELED MOTOR VEHI-  
7           CLE.—The term ‘2- or 3-wheeled motor vehicle’  
8           means any vehicle—

9           “(i) which would be described in sec-  
10          tion 30(e)(2) except that it has 2 or 3  
11          wheels,

12          “(ii) with motive power having a seat  
13          or saddle for the use of the rider and de-  
14          signed to travel on not more than 3 wheels  
15          in contact with the ground,

16          “(iii) which has an electric motor that  
17          produces in excess of 5-brake horsepower,

18          “(iv) which draws propulsion from 1  
19          or more traction batteries, and

20          “(v) which has been certified to the  
21          Department of Transportation pursuant to  
22          section 567 of title 49, Code of Federal  
23          Regulations, as conforming to all applica-  
24          ble Federal motor vehicle safety standards

1 in effect on the date of the manufacture of  
2 the vehicle.

3 “(C) LOW-SPEED MOTOR VEHICLE.—The  
4 term ‘low-speed motor vehicle’ means a motor  
5 vehicle (as defined in section 30(c)(2)) which—

6 “(i) is placed in service after Decem-  
7 ber 31, 2009, and

8 “(ii) meets the requirements of sec-  
9 tion 571.500 of title 49, Code of Federal  
10 Regulations.”.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—The amendment made by  
13 subsections (a) and (c) shall take effect on the date  
14 of the enactment of this Act.

15 (2) OTHER MODIFICATIONS.—The amendments  
16 made by subsection (b) shall apply to property  
17 placed in service after December 31, 2009, in tax-  
18 able years beginning after such date.

19 **SEC. 1152. CONVERSION KITS.**

20 (a) IN GENERAL.—Section 30B (relating to alter-  
21 native motor vehicle credit) is amended by redesignating  
22 subsections (i) and (j) as subsections (j) and (k), respec-  
23 tively, and by inserting after subsection (h) the following  
24 new subsection:

25 “(i) PLUG-IN CONVERSION CREDIT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2 (a), the plug-in conversion credit determined under  
3 this subsection with respect to any motor vehicle  
4 which is converted to a qualified plug-in electric  
5 drive motor vehicle is 10 percent of so much of the  
6 cost of the converting such vehicle as does not ex-  
7 ceed \$40,000.

8           “(2) DEFINITIONS AND SPECIAL RULES.—For  
9 purposes of this subsection—

10           “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE  
11 MOTOR VEHICLE.—The term ‘qualified plug-in  
12 electric drive motor vehicle’ means any new  
13 qualified plug-in electric drive motor vehicle (as  
14 defined in section 30D(e), determined without  
15 regard to paragraphs (4) and (6) thereof).

16           “(B) PLUG-IN TRACTION BATTERY MOD-  
17 ULE.—The term ‘plug-in traction battery mod-  
18 ule’ means an electro-chemical energy storage  
19 device which—

20           “(i) which has a traction battery ca-  
21 pacity of not less than 2.5 kilowatt hours,

22           “(ii) which is equipped with an elec-  
23 trical plug by means of which it can be en-  
24 ergized and recharged when plugged into  
25 an external source of electric power,

1           “(iii) which consists of a standardized  
2 configuration and is mass produced,

3           “(iv) which has been tested and ap-  
4 proved by the National Highway Transpor-  
5 tation Safety Administration as compliant  
6 with applicable motor vehicle and motor  
7 vehicle equipment safety standards when  
8 installed by a mechanic with standardized  
9 training in protocols established by the  
10 battery manufacturer as part of a nation-  
11 wide distribution program,

12           “(v) which complies with the require-  
13 ments of section 32918 of title 49, United  
14 States Code, and

15           “(vi) which is certified by a battery  
16 manufacturer as meeting the requirements  
17 of clauses (i) through (v).

18           “(C) CREDIT ALLOWED TO LESSOR OF  
19 BATTERY MODULE.—In the case of a plug-in  
20 traction battery module which is leased to the  
21 taxpayer, the credit allowed under this sub-  
22 section shall be allowed to the lessor of the  
23 plug-in traction battery module.

24           “(D) CREDIT ALLOWED IN ADDITION TO  
25 OTHER CREDITS.—The credit allowed under

1           this subsection shall be allowed with respect to  
2           a motor vehicle notwithstanding whether a cred-  
3           it has been allowed with respect to such motor  
4           vehicle under this section (other than this sub-  
5           section) in any preceding taxable year.

6           “(3) TERMINATION.—This subsection shall not  
7           apply to conversions made after December 31,  
8           2012.”.

9           (b) CREDIT TREATED AS PART OF ALTERNATIVE  
10          MOTOR VEHICLE CREDIT.—Section 30B(a) is amended  
11          by striking “and” at the end of paragraph (3), by striking  
12          the period at the end of paragraph (4) and inserting “,  
13          and”, and by adding at the end the following new para-  
14          graph:

15                 “(5) the plug-in conversion credit determined  
16                 under subsection (i).”.

17          (c) NO RECAPTURE FOR VEHICLES CONVERTED TO  
18          QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHI-  
19          CLES.—Paragraph (8) of section 30B(h) is amended by  
20          adding at the end the following: “, except that no benefit  
21          shall be recaptured if such property ceases to be eligible  
22          for such credit by reason of conversion to a qualified plug-  
23          in electric drive motor vehicle.”.

24          (d) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to property placed in service after

1 December 31, 2008, in taxable years beginning after such  
2 date.

3 **Subtitle C—Tax Incentives for**  
4 **Business**

5 **PART I—TEMPORARY INVESTMENT INCENTIVES**

6 **SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY**

7 **ACQUIRED DURING 2009.**

8 (a) EXTENSION OF SPECIAL ALLOWANCE.—

9 (1) IN GENERAL.—Paragraph (2) of section  
10 168(k) is amended—

11 (A) by striking “January 1, 2010” and in-  
12 serting “January 1, 2011”, and

13 (B) by striking “January 1, 2009” each  
14 place it appears and inserting “January 1,  
15 2010”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) The heading for subsection (k) of sec-  
18 tion 168 is amended by striking “JANUARY 1,  
19 2009” and inserting “JANUARY 1, 2010”.

20 (B) The heading for clause (ii) of section  
21 168(k)(2)(B) is amended by striking “PRE-JAN-  
22 UARY 1, 2009” and inserting “PRE-JANUARY 1,  
23 2010”.



1 (C) Subparagraph (B) of section 168(l)(5)  
2 is amended by striking “January 1, 2009” and  
3 inserting “January 1, 2010”.

4 (D) Subparagraph (C) of section 168(n)(2)  
5 is amended by striking “January 1, 2009” and  
6 inserting “January 1, 2010”.

7 (E) Subparagraph (B) of section  
8 1400N(d)(3) is amended by striking “January  
9 1, 2009” and inserting “January 1, 2010”.

10 (3) TECHNICAL AMENDMENT.—Subparagraph  
11 (D) of section 168(k)(4) is amended—

12 (A) by striking “and” at the end of clause  
13 (i),

14 (B) by redesignating clause (ii) as clause  
15 (iii), and

16 (C) by inserting after clause (i) the fol-  
17 lowing new clause:

18 “(ii) ‘April 1, 2008’ shall be sub-  
19 stituted for ‘January 1, 2008’ in subpara-  
20 graph (A)(iii)(I) thereof, and”.

21 (b) EXTENSION OF ELECTION TO ACCELERATE THE  
22 AMT AND RESEARCH CREDITS IN LIEU OF BONUS DE-  
23 PRECIATION.—Section 168(k)(4) (relating to election to  
24 accelerate the AMT and research credits in lieu of bonus  
25 depreciation) is amended—

1           (1) by striking “2009” and inserting “2010” in  
2           subparagraph (D)(iii) (as redesignated by subsection  
3           (a)(3)), and

4           (2) by adding at the end the following new sub-  
5           paragraph:

6                   “(H) SPECIAL RULES FOR EXTENSION  
7           PROPERTY.—

8                           “(i) TAXPAYERS PREVIOUSLY ELECT-  
9                           ING ACCELERATION.—In the case of a tax-  
10                           payer who made the election under sub-  
11                           paragraph (A) for its first taxable year  
12                           ending after March 31, 2008—

13                                   “(I) the taxpayer may elect not  
14                                   to have this paragraph apply to exten-  
15                                   sion property, but

16   “(II) if the taxpayer does not  
17   make the election under subclause (I),  
18   in applying this paragraph to the tax-  
19   payer a separate bonus depreciation  
20   amount, maximum amount, and max-  
21   imum increase amount shall be com-  
22   puted and applied to eligible qualified  
23   property which is extension property  
24   and to eligible qualified property  
25   which is not extension property.

1           “(ii) TAXPAYERS NOT PREVIOUSLY  
2 ELECTING ACCELERATION.—In the case of  
3 a taxpayer who did not make the election  
4 under subparagraph (A) for its first tax-  
5 able year ending after March 31, 2008—

6           “(I) the taxpayer may elect to  
7 have this paragraph apply to its first  
8 taxable year ending after December  
9 31, 2008, and each subsequent tax-  
10 able year, and

11           “(II) if the taxpayer makes the  
12 election under subclause (I), this  
13 paragraph shall only apply to eligible  
14 qualified property which is extension  
15 property.

16           “(iii) EXTENSION PROPERTY.—For  
17 purposes of this subparagraph, the term  
18 ‘extension property’ means property which  
19 is eligible qualified property solely by rea-  
20 son of the extension of the application of  
21 the special allowance under paragraph (1)  
22 pursuant to the amendments made by sec-  
23 tion 1201(a) of the American Recovery and  
24 Reinvestment Tax Act of 2009 (and the  
25 application of such extension to this para-

1 graph pursuant to the amendment made  
2 by section 1201(b)(1) of such Act.”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), the amendments made by this section  
6 shall apply to property placed in service after De-  
7 cember 31, 2008, in taxable years ending after such  
8 date.

9 (2) TECHNICAL AMENDMENT.—The amend-  
10 ments made by subsection (a)(3) shall apply to tax-  
11 able years ending after March 31, 2008.

12 **SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EX-**  
13 **PENSING OF CERTAIN DEPRECIABLE BUSI-**  
14 **NESS ASSETS.**

15 (a) IN GENERAL.—Paragraph (7) of section 179(b)  
16 is amended—

17 (1) by striking “2008” and inserting “2008, or  
18 2009”, and

19 (2) by striking “2008” in the heading thereof  
20 and inserting “2008, AND 2009”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2008.

1     **PART II—5-YEAR CARRYBACK OF OPERATING**  
2                                   **LOSSES**

3     **SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES.**

4           (a) IN GENERAL.—Subparagraph (H) of section  
5 172(b)(1) is amended to read as follows:

6                           “(H) CARRYBACK FOR 2008 AND 2009 NET  
7                   OPERATING LOSSES.—

8                           “(i) IN GENERAL.—In the case of an  
9                   applicable 2008 or 2009 net operating loss  
10                  with respect to which the taxpayer has  
11                  elected the application of this subpara-  
12                  graph—

13                           “(I) subparagraph (A)(i) shall be  
14                   applied by substituting any whole  
15                   number elected by the taxpayer which  
16                   is more than 2 and less than 6 for ‘2’,

17                           “(II) subparagraph (E)(ii) shall  
18                   be applied by substituting the whole  
19                   number which is one less than the  
20                   whole number substituted under sub-  
21                   clause (II) for ‘2’, and

22                           “(III) subparagraph (F) shall not  
23                   apply.

24                           “(ii) APPLICABLE 2008 OR 2009 NET  
25                   OPERATING LOSS.—For purposes of this

1           subparagraph, the term ‘applicable 2008  
2           or 2009 net operating loss’ means—

3                   “(I) the taxpayer’s net operating  
4                   loss for any taxable year ending in  
5                   2008 or 2009, or

6                   “(II) if the taxpayer elects to  
7                   have this subclause apply in lieu of  
8                   subclause (I), the taxpayer’s net oper-  
9                   ating loss for any taxable year begin-  
10                  ning in 2008 or 2009.

11                  “(iii) ELECTION.—Any election under  
12                  this subparagraph shall be made in such  
13                  manner as may be prescribed by the Sec-  
14                  retary, and shall be made by the due date  
15                  (including extension of time) for filing the  
16                  taxpayer’s return for the taxable year of  
17                  the net operating loss. Any such election,  
18                  once made, shall be irrevocable.

19                  “(iv) COORDINATION WITH ALTER-  
20                  NATIVE TAX NET OPERATING LOSS DEDUC-  
21                  TION.—In the case of a taxpayer who  
22                  elects to have clause (ii)(II) apply, section  
23                  56(d)(1)(A)(ii) shall be applied by sub-  
24                  stituting ‘ending during 2001 or 2002 or

1 beginning during 2008 or 2009’ for ‘end-  
2 ing during 2001, 2002, 2008, or 2009’.”.

3 (b) ALTERNATIVE TAX NET OPERATING LOSS DE-  
4 DUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is  
5 amended to read as follows:

6 “(I) the amount of such deduc-  
7 tion attributable to the sum of  
8 carrybacks of net operating losses  
9 from taxable years ending during  
10 2001, 2002, 2008, or 2009 and  
11 carryovers of net operating losses to  
12 such taxable years, or”.

13 (c) LOSS FROM OPERATIONS OF LIFE INSURANCE  
14 COMPANIES.—Subsection (b) of section 810 is amended  
15 by adding at the end the following new paragraph:

16 “(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

17 “(A) IN GENERAL.—In the case of an ap-  
18 plicable 2008 or 2009 loss from operations with  
19 respect to which the taxpayer has elected the  
20 application of this paragraph, paragraph (1)(A)  
21 shall be applied, at the election of the taxpayer,  
22 by substituting ‘5’ or ‘4’ for ‘3’.

23 “(B) APPLICABLE 2008 OR 2009 LOSS FROM  
24 OPERATIONS.—For purposes of this paragraph,

1 the term ‘applicable 2008 or 2009 loss from op-  
2 erations’ means—

3 “(i) the taxpayer’s loss from oper-  
4 ations for any taxable year ending in 2008  
5 or 2009, or

6 “(ii) if the taxpayer elects to have this  
7 clause apply in lieu of clause (i), the tax-  
8 payer’s loss from operations for any tax-  
9 able year beginning in 2008 or 2009.

10 “(C) ELECTION.—Any election under this  
11 paragraph shall be made in such manner as  
12 may be prescribed by the Secretary, and shall  
13 be made by the due date (including extension of  
14 time) for filing the taxpayer’s return for the  
15 taxable year of the loss from operations. Any  
16 such election, once made, shall be irrevocable.

17 “(D) COORDINATION WITH ALTERNATIVE  
18 TAX NET OPERATING LOSS DEDUCTION.—In the  
19 case of a taxpayer who elects to have subpara-  
20 graph (B)(ii) apply, section 56(d)(1)(A)(ii) shall  
21 be applied by substituting ‘ending during 2001  
22 or 2002 or beginning during 2008 or 2009’ for  
23 ‘ending during 2001, 2002, 2008, or 2009’.”.



1 (d) CONFORMING AMENDMENT.—Section 172 is  
2 amended by striking subsection (k) and by redesignating  
3 subsection (l) as subsection (k).

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the amendments made by  
7 this section shall apply to net operating losses aris-  
8 ing in taxable years ending after December 31,  
9 2007.

10 (2) ALTERNATIVE TAX NET OPERATING LOSS  
11 DEDUCTION.—The amendment made by subsection  
12 (b) shall apply to taxable years ending after 1997.

13 (3) LOSS FROM OPERATIONS OF LIFE INSUR-  
14 ANCE COMPANIES.—The amendment made by sub-  
15 section (d) shall apply to losses from operations aris-  
16 ing in taxable years ending after December 31,  
17 2007.

18 (4) TRANSITIONAL RULE.—In the case of a net  
19 operating loss (or, in the case of a life insurance  
20 company, a loss from operations) for a taxable year  
21 ending before the date of the enactment of this  
22 Act—

23 (A) any election made under section  
24 172(b)(3) or 810(b)(3) of the Internal Revenue  
25 Code of 1986 with respect to such loss may

1 (notwithstanding such section) be revoked be-  
2 fore the applicable date,

3 (B) any election made under section  
4 172(k) or 810(b)(4) of such Code with respect  
5 to such loss shall (notwithstanding such sec-  
6 tion) be treated as timely made if made before  
7 the applicable date, and

8 (C) any application under section 6411(a)  
9 of such Code with respect to such loss shall be  
10 treated as timely filed if filed before the appli-  
11 cable date.

12 For purposes of this paragraph, the term “applica-  
13 ble date” means the date which is 60 days after the  
14 date of the enactment of this Act.

15 **SEC. 1212. EXCEPTION FOR TARP RECIPIENTS.**

16 The amendments made by this part shall not apply  
17 to—

18 (1) any taxpayer if—

19 (A) the Federal Government acquires, at  
20 any time, an equity interest in the taxpayer  
21 pursuant to the Emergency Economic Stabiliza-  
22 tion Act of 2008, or

23 (B) the Federal Government acquires, at  
24 any time, any warrant (or other right) to ac-

1           quire any equity interest with respect to the  
2           taxpayer pursuant to such Act,

3           (2) the Federal National Mortgage Association  
4           and the Federal Home Loan Mortgage Corporation,  
5           and

6           (3) any taxpayer which at any time in 2008 or  
7           2009 is a member of the same affiliated group (as  
8           defined in section 1504 of the Internal Revenue  
9           Code of 1986, determined without regard to sub-  
10          section (b) thereof) as a taxpayer described in para-  
11          graph (1) or (2).

12           **PART III—INCENTIVES FOR NEW JOBS**

13          **SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS**

14                   **AND DISCONNECTED YOUTH.**

15          (a) IN GENERAL.—Subsection (d) of section 51 is  
16          amended by adding at the end the following new para-  
17          graph:

18                   “(14) CREDIT ALLOWED FOR UNEMPLOYED  
19                   VETERANS AND DISCONNECTED YOUTH HIRED IN  
20                   2009 OR 2010.—

21                           “(A) IN GENERAL.—Any unemployed vet-  
22                           eran or disconnected youth who begins work for  
23                           the employer during 2009 or 2010 shall be  
24                           treated as a member of a targeted group for  
25                           purposes of this subpart.

1           “(B) DEFINITIONS.—For purposes of this  
2 paragraph—

3           “(i) UNEMPLOYED VETERAN.—The  
4 term ‘unemployed veteran’ means any vet-  
5 eran (as defined in paragraph (3)(B), de-  
6 termined without regard to clause (ii)  
7 thereof) who is certified by the designated  
8 local agency as—

9           (I) having been discharged or re-  
10 leased from active duty in the Armed  
11 Forces during the period beginning on  
12 September 1, 2001, and ending on  
13 December 31, 2010, and

14           (II) being in receipt of unem-  
15 ployment compensation under State or  
16 Federal law for not less than 4 weeks  
17 during the 1-year period ending on  
18 the hiring date.

19           “(ii) DISCONNECTED YOUTH.—The  
20 term ‘disconnected youth’ means any indi-  
21 vidual who is certified by the designated  
22 local agency—

23           (I) as having attained age 16  
24 but not age 25 on the hiring date,

1                   “(II) as not regularly attending  
2                   any secondary, technical, or post-sec-  
3                   ondary school during the 6-month pe-  
4                   riod preceding the hiring date,

5                   “(III) as not regularly employed  
6                   during such 6-month period, and

7                   “(IV) as not readily employable  
8                   by reason of lacking a sufficient num-  
9                   ber of basic skills.”.

10           (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to individuals who begin work for  
12 the employer after December 31, 2008.

13           **PART IV—CANCELLATION OF INDEBTEDNESS**

14           **SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF IN-**  
15                                   **COME ARISING FROM INDEBTEDNESS DIS-**  
16                                   **CHARGED BY THE REPURCHASE OF A DEBT**  
17                                   **INSTRUMENT.**

18           (a) IN GENERAL.—Section 108 (relating to income  
19 from discharge of indebtedness) is amended by adding at  
20 the end the following new subsection:

21           “(i) DEFERRAL AND RATABLE INCLUSION OF IN-  
22 COME ARISING FROM INDEBTEDNESS DISCHARGED BY  
23 THE REPURCHASE OF A DEBT INSTRUMENT.—

24                   “(1) IN GENERAL.—Notwithstanding section  
25           61, income from the discharge of indebtedness in

1 connection with the repurchase of a debt instrument  
2 after December 31, 2008, and before January 1,  
3 2011, shall be includible in gross income ratably  
4 over the 8-taxable-year period beginning with—

5 “(A) in the case of a repurchase occurring  
6 in 2009, the second taxable year following the  
7 taxable year in which the repurchase occurs,  
8 and

9 “(B) in the case of a repurchase occurring  
10 in 2010, the taxable year following the taxable  
11 year in which the repurchase occurs.

12 “(2) DEBT INSTRUMENT.—For purposes of this  
13 subsection, the term ‘debt instrument’ means a  
14 bond, debenture, note, certificate, or any other in-  
15 strument or contractual arrangement constituting  
16 indebtedness (within the meaning of section  
17 1275(a)(1)).

18 “(3) REPURCHASE.—For purposes of this sub-  
19 section, the term ‘repurchase’ means, with respect to  
20 any debt instrument, a cash purchase of the debt in-  
21 strument by—

22 “(A) the debtor which issued the debt in-  
23 strument, or

24 “(B) any person related to such debtor.

1 For purposes of subparagraph (B), the determina-  
2 tion of whether a person is related to another person  
3 shall be made in the same manner as under sub-  
4 section (e)(4).

5 “(4) AUTHORITY TO PRESCRIBE REGULA-  
6 TIONS.—The Secretary may prescribe such regula-  
7 tions as may be necessary or appropriate for pur-  
8 poses of applying this subsection.”.

9 (b) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to discharges in taxable years end-  
11 ing after December 31, 2008.

12 **PART V—QUALIFIED SMALL BUSINESS STOCK**  
13 **SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED**  
14 **SMALL BUSINESS STOCK FOR 2009 AND 2010.**

15 (a) IN GENERAL.—Section 1202(a) is amended by  
16 adding at the end the following new paragraph:

17 “(3) SPECIAL RULES FOR 2009 AND 2010.—In  
18 the case of qualified small business stock acquired  
19 after the date of the enactment of this paragraph  
20 and before January 1, 2011—

21 “(A) paragraph (1) shall be applied by  
22 substituting ‘75 percent’ for ‘50 percent’, and

23 “(B) paragraph (2) shall not apply.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to stock acquired after the date  
3 of the enactment of this Act.

4 **PART VI—PARITY FOR TRANSPORTATION**  
5 **FRINGE BENEFITS**

6 **SEC. 1251. INCREASED EXCLUSION AMOUNT FOR COM-**  
7 **MUTER TRANSIT BENEFITS AND TRANSIT**  
8 **PASSES.**

9 (a) IN GENERAL.—Paragraph (2) of section 132(f)  
10 is amended by adding at the end the following flush sen-  
11 tence:

12 “In the case of any month beginning on or after the  
13 date of the enactment of this sentence and before  
14 January 1, 2011, subparagraph (A) shall be applied  
15 as if the dollar amount therein were the same as the  
16 dollar amount under subparagraph (B) (as in effect  
17 for such month).”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to months beginning on or after  
20 the date of the enactment of this section.



**PART VII—S CORPORATIONS****SEC. 1261. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.**

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

“(7) RECOGNITION PERIOD.—

“(A) IN GENERAL.—The term ‘recognition period’ means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

“(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

“(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

1           “(i) subparagraph (A) shall be applied  
2           without regard to the phrase ‘10-year’, and  
3           “(ii) subparagraph (B) shall not  
4           apply.”.

5           (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2008.

## 8           **PART VIII—BROADBAND INCENTIVES**

### 9           **SEC. 1271. BROADBAND INTERNET ACCESS TAX CREDIT.**

10          (a) IN GENERAL.—Subpart E of part IV of chapter  
11 1 of the Internal Revenue Code of 1986 (relating to rules  
12 for computing investment credit), as amended by this Act,  
13 is amended by inserting after section 48C the following  
14 new section:

### 15          **“SEC. 48D. BROADBAND INTERNET ACCESS CREDIT.**

16          “(a) GENERAL RULE.—For purposes of section 46,  
17 the broadband credit for any taxable year is the sum of—

18               “(1) the current generation broadband credit,

19               plus

20               “(2) the next generation broadband credit.

21          “(b) CURRENT GENERATION BROADBAND CREDIT;  
22 NEXT GENERATION BROADBAND CREDIT.—For purposes  
23 of this section—

24               “(1) CURRENT GENERATION BROADBAND  
25 CREDIT.—The current generation broadband credit

1 for any taxable year is equal to 10 percent (20 per-  
2 cent in the case of qualified subscribers which are  
3 unserved subscribers) of the qualified broadband ex-  
4 penditures incurred with respect to qualified equip-  
5 ment providing current generation broadband serv-  
6 ices to qualified subscribers and taken into account  
7 with respect to such taxable year.

8 “(2) NEXT GENERATION BROADBAND CRED-  
9 IT.—The next generation broadband credit for any  
10 taxable year is equal to 20 percent of the qualified  
11 broadband expenditures incurred with respect to  
12 qualified equipment providing next generation  
13 broadband services to qualified subscribers and  
14 taken into account with respect to such taxable year.

15 “(c) WHEN EXPENDITURES TAKEN INTO AC-  
16 COUNT.—For purposes of this section—

17 “(1) IN GENERAL.—Qualified broadband ex-  
18 penditures with respect to qualified equipment shall  
19 be taken into account with respect to the first tax-  
20 able year in which—

21 “(A) current generation broadband services  
22 are provided through such equipment to quali-  
23 fied subscribers, or

1           “(B) next generation broadband services  
2           are provided through such equipment to quali-  
3           fied subscribers.

4           “(2) LIMITATION.—

5           “(A) IN GENERAL.—Qualified broadband  
6           expenditures shall be taken into account under  
7           paragraph (1) only with respect to qualified  
8           equipment—

9                   “(i) the original use of which com-  
10                   mences with the taxpayer, and

11                   “(ii) which is placed in service, after  
12                   December 31, 2008, and before January 1,  
13                   2011.

14           “(B) SALE-LEASEBACKS.—For purposes of  
15           subparagraph (A), if property—

16                   “(i) is originally placed in service  
17                   after December 31, 2008, by any person,  
18                   and

19                   “(ii) sold and leased back by such per-  
20                   son within 3 months after the date such  
21                   property was originally placed in service,  
22           such property shall be treated as originally  
23           placed in service not earlier than the date on  
24           which such property is used under the leaseback  
25           referred to in clause (ii).

1       “(d) SPECIAL ALLOCATION RULES FOR CURRENT  
2 GENERATION BROADBAND SERVICES.—For purposes of  
3 determining the current generation broadband credit  
4 under subsection (a)(1) with respect to qualified equip-  
5 ment through which current generation broadband serv-  
6 ices are provided, if the qualified equipment is capable of  
7 serving both qualified subscribers and other subscribers,  
8 the qualified broadband expenditures shall be multiplied  
9 by a fraction—

10           “(1) the numerator of which is the sum of the  
11       number of potential qualified subscribers within the  
12       rural areas and the underserved areas and the  
13       unserved areas which the equipment is capable of  
14       serving with current generation broadband services,  
15       and

16           “(2) the denominator of which is the total po-  
17       tential subscriber population of the area which the  
18       equipment is capable of serving with current genera-  
19       tion broadband services.

20       “(e) DEFINITIONS.—For purposes of this section—

21           “(1) ANTENNA.—The term ‘antenna’ means  
22       any device used to transmit or receive signals  
23       through the electromagnetic spectrum, including sat-  
24       ellite equipment.

1           “(2) CABLE OPERATOR.—The term ‘cable oper-  
2           ator’ has the meaning given such term by section  
3           602(5) of the Communications Act of 1934 (47  
4           U.S.C. 522(5)).

5           “(3) COMMERCIAL MOBILE SERVICE CAR-  
6           RIER.—The term ‘commercial mobile service carrier’  
7           means any person authorized to provide commercial  
8           mobile radio service as defined in section 20.3 of  
9           title 47, Code of Federal Regulations.

10          “(4) CURRENT GENERATION BROADBAND SERV-  
11          ICE.—The term ‘current generation broadband serv-  
12          ice’ means the transmission of signals at a rate of  
13          at least 5,000,000 bits per second to the subscriber  
14          and at least 1,000,000 bits per second from the sub-  
15          scriber (at least 3,000,000 bits per second to the  
16          subscriber and at least 768,000 bits per second from  
17          the subscriber in the case of service through radio  
18          transmission of energy).

19          “(5) MULTIPLEXING OR DEMULTIPLEXING.—  
20          The term ‘multiplexing’ means the transmission of 2  
21          or more signals over a single channel, and the term  
22          ‘demultiplexing’ means the separation of 2 or more  
23          signals previously combined by compatible multi-  
24          plexing equipment.

1           “(6) NEXT GENERATION BROADBAND SERV-  
2           ICE.—The term ‘next generation broadband service’  
3           means the transmission of signals at a rate of at  
4           least 100,000,000 bits per second to the subscriber  
5           (or its equivalent when the data rate is measured be-  
6           fore being compressed for transmission) and at least  
7           20,000,000 bits per second from the subscriber (or  
8           its equivalent as so measured).

9           “(7) NONRESIDENTIAL SUBSCRIBER.—The  
10          term ‘nonresidential subscriber’ means any person  
11          who purchases broadband services which are deliv-  
12          ered to the permanent place of business of such per-  
13          son.

14          “(8) OPEN VIDEO SYSTEM OPERATOR.—The  
15          term ‘open video system operator’ means any person  
16          authorized to provide service under section 653 of  
17          the Communications Act of 1934 (47 U.S.C. 573).

18          “(9) OTHER WIRELESS CARRIER.—The term  
19          ‘other wireless carrier’ means any person (other than  
20          a telecommunications carrier, commercial mobile  
21          service carrier, cable operator, open video system op-  
22          erator, or satellite carrier) providing current genera-  
23          tion broadband services or next generation  
24          broadband service to subscribers through the radio  
25          transmission of energy.

1           “(10) PACKET SWITCHING.—The term ‘packet  
2 switching’ means controlling or routing the path of  
3 a digitized transmission signal which is assembled  
4 into packets or cells.

5           “(11) PROVIDER.—The term ‘provider’ means,  
6 with respect to any qualified equipment any—

7                   “(A) cable operator,

8                   “(B) commercial mobile service carrier,

9                   “(C) open video system operator,

10                  “(D) satellite carrier,

11                  “(E) telecommunications carrier, or

12                  “(F) other wireless carrier,

13 providing current generation broadband services or  
14 next generation broadband services to subscribers  
15 through such qualified equipment.

16           “(12) PROVISION OF SERVICES.—A provider  
17 shall be treated as providing services to 1 or more  
18 subscribers if—

19                   “(A) such a subscriber has been passed by  
20 the provider’s equipment and can be connected  
21 to such equipment for a standard connection  
22 fee,

23                   “(B) the provider is physically able to de-  
24 liver current generation broadband services or  
25 next generation broadband services, as applica-



1           ble, to such a subscriber without making more  
2           than an insignificant investment with respect to  
3           such subscriber,

4           “(C) the provider has made reasonable ef-  
5           forts to make such subscribers aware of the  
6           availability of such services,

7           “(D) such services have been purchased by  
8           1 or more such subscribers, and

9           “(E) such services are made available to  
10          such subscribers at average prices comparable  
11          to those at which the provider makes available  
12          similar services in any areas in which the pro-  
13          vider makes available such services.

14          “(13) QUALIFIED EQUIPMENT.—

15          “(A) IN GENERAL.—The term ‘qualified  
16          equipment’ means property with respect to  
17          which depreciation (or amortization in lieu of  
18          depreciation) is allowable and which provides  
19          current generation broadband services or next  
20          generation broadband services—

21                  “(i) at least a majority of the time  
22                  during periods of maximum demand to  
23                  each subscriber who is utilizing such serv-  
24                  ices, and

1           “(ii) in a manner substantially the  
2           same as such services are provided by the  
3           provider to subscribers through equipment  
4           with respect to which no credit is allowed  
5           under subsection (a)(1).

6           “(B) ONLY CERTAIN INVESTMENT TAKEN  
7           INTO ACCOUNT.—Except as provided in sub-  
8           paragraph (C) or (D), equipment shall be taken  
9           into account under subparagraph (A) only to  
10          the extent it—

11           “(i) extends from the last point of  
12           switching to the outside of the unit, build-  
13           ing, dwelling, or office owned or leased by  
14           a subscriber in the case of a telecommuni-  
15           cations carrier or broadband-over-powerline  
16           operator,

17           “(ii) extends from the customer side  
18           of the mobile telephone switching office to  
19           a transmission/receive antenna (including  
20           such antenna) owned or leased by a sub-  
21           scriber in the case of a commercial mobile  
22           service carrier,

23           “(iii) extends from the customer side  
24           of the headend to the outside of the unit,  
25           building, dwelling, or office owned or

1 leased by a subscriber in the case of a  
2 cable operator or open video system oper-  
3 ator, or

4 “(iv) extends from a transmission/re-  
5 ceive antenna (including such antenna)  
6 which transmits and receives signals to or  
7 from multiple subscribers, to a trans-  
8 mission/receive antenna (including such  
9 antenna) on the outside of the unit, build-  
10 ing, dwelling, or office owned or leased by  
11 a subscriber in the case of a satellite car-  
12 rier or other wireless carrier, unless such  
13 other wireless carrier is also a tele-  
14 communications carrier.

15 “(C) PACKET SWITCHING EQUIPMENT.—

16 Packet switching equipment, regardless of loca-  
17 tion, shall be taken into account under subpara-  
18 graph (A) only if it is deployed in connection  
19 with equipment described in subparagraph (B)  
20 and is uniquely designed to perform the func-  
21 tion of packet switching for current generation  
22 broadband services or next generation  
23 broadband services, but only if such packet  
24 switching is the last in a series of such func-  
25 tions performed in the transmission of a signal

1 to a subscriber or the first in a series of such  
2 functions performed in the transmission of a  
3 signal from a subscriber.

4 “(D) MULTIPLEXING AND  
5 DEMULTIPLEXING EQUIPMENT.—Multiplexing  
6 and demultiplexing equipment shall be taken  
7 into account under subparagraph (A) only to  
8 the extent it is deployed in connection with  
9 equipment described in subparagraph (B) and  
10 is uniquely designed to perform the function of  
11 multiplexing and demultiplexing packets or cells  
12 of data and making associated application  
13 adaptations, but only if such multiplexing or  
14 demultiplexing equipment is located between  
15 packet switching equipment described in sub-  
16 paragraph (C) and the subscriber’s premises.

17 “(14) QUALIFIED BROADBAND EXPENDI-  
18 TURE.—

19 “(A) IN GENERAL.—The term ‘qualified  
20 broadband expenditure’ means any amount—

21 “(i) chargeable to capital account with  
22 respect to the purchase and installation of  
23 qualified equipment (including any up-  
24 grades thereto) for which depreciation is  
25 allowable under section 168, and

1                   “(ii) incurred after December 31,  
2                   2008, and before January 1, 2011.

3                   “(B) CERTAIN SATELLITE EXPENDITURES  
4                   EXCLUDED.—Such term shall not include any  
5                   expenditure with respect to the launching of  
6                   any satellite equipment.

7                   “(C) LEASED EQUIPMENT.—Such term  
8                   shall include so much of the purchase price paid  
9                   by the lessor of equipment subject to a lease de-  
10                  scribed in subsection (c)(2)(B) as is attrib-  
11                  utable to expenditures incurred by the lessee  
12                  which would otherwise be described in subpara-  
13                  graph (A).

14                  “(15) QUALIFIED SUBSCRIBER.—The term  
15                  ‘qualified subscriber’ means—

16                         “(A) with respect to the provision of cur-  
17                         rent generation broadband services—

18                                 “(i) any nonresidential subscriber  
19                                 maintaining a permanent place of business  
20                                 in a rural area, an underserved area, or an  
21                                 unserved area, or

22                                 “(ii) any residential subscriber resid-  
23                                 ing in a dwelling located in a rural area,  
24                                 an underserved area, or an unserved area  
25                                 which is not a saturated market, and

1           “(B) with respect to the provision of next  
2 generation broadband services—

3           “(i) any nonresidential subscriber  
4 maintaining a permanent place of business  
5 in a rural area, an underserved area, or an  
6 unserved area , or

7           “(ii) any residential subscriber.

8           “(16) RESIDENTIAL SUBSCRIBER.—The term  
9 ‘residential subscriber’ means any individual who  
10 purchases broadband services which are delivered to  
11 such individual’s dwelling.

12           “(17) RURAL AREA.—The term ‘rural area’  
13 means any census tract which—

14           “(A) is not within 10 miles of any incor-  
15 porated or census designated place containing  
16 more than 25,000 people, and

17           “(B) is not within a county or county  
18 equivalent which has an overall population den-  
19 sity of more than 500 people per square mile of  
20 land.

21           “(18) RURAL SUBSCRIBER.—The term ‘rural  
22 subscriber’ means any residential subscriber residing  
23 in a dwelling located in a rural area or nonresiden-  
24 tial subscriber maintaining a permanent place of  
25 business located in a rural area.

1           “(19) SATELLITE CARRIER.—The term ‘sat-  
2           ellite carrier’ means any person using the facilities  
3           of a satellite or satellite service licensed by the Fed-  
4           eral Communications Commission and operating in  
5           the Fixed-Satellite Service under part 25 of title 47  
6           of the Code of Federal Regulations or the Direct  
7           Broadcast Satellite Service under part 100 of title  
8           47 of such Code to establish and operate a channel  
9           of communications for distribution of signals, and  
10          owning or leasing a capacity or service on a satellite  
11          in order to provide such point-to-multipoint distribu-  
12          tion.

13           “(20) SATURATED MARKET.—The term ‘satu-  
14          rated market’ means any census tract in which, as  
15          of the date of the enactment of this section—

16                   “(A) current generation broadband services  
17                   have been provided by a single provider to 85  
18                   percent or more of the total number of potential  
19                   residential subscribers residing in dwellings lo-  
20                   cated within such census tract, and

21                   “(B) such services can be utilized—

22                           “(i) at least a majority of the time  
23                           during periods of maximum demand by  
24                           each such subscriber who is utilizing such  
25                           services, and

1           “(ii) in a manner substantially the  
2           same as such services are provided by the  
3           provider to subscribers through equipment  
4           with respect to which no credit is allowed  
5           under subsection (a)(1).

6           “(21) SUBSCRIBER.—The term ‘subscriber’  
7           means any person who purchases current generation  
8           broadband services or next generation broadband  
9           services.

10          “(22) TELECOMMUNICATIONS CARRIER.—The  
11          term ‘telecommunications carrier’ has the meaning  
12          given such term by section 3(44) of the Communica-  
13          tions Act of 1934 (47 U.S.C. 153(44)), but—

14                 “(A) includes all members of an affiliated  
15                 group of which a telecommunications carrier is  
16                 a member, and

17                 “(B) does not include any commercial mo-  
18                 bile service carrier.

19          “(23) TOTAL POTENTIAL SUBSCRIBER POPU-  
20          LATION.—The term ‘total potential subscriber popu-  
21          lation’ means, with respect to any area and based on  
22          the most recent census data, the total number of po-  
23          tential residential subscribers residing in dwellings  
24          located in such area and potential nonresidential



1 subscribers maintaining permanent places of busi-  
2 ness located in such area.

3 “(24) UNDERSERVED AREA.—The term ‘under-  
4 served area’ means any census tract which is located  
5 in—

6 “(A) an empowerment zone or enterprise  
7 community designated under section 1391,

8 “(B) the District of Columbia Enterprise  
9 Zone established under section 1400,

10 “(C) a renewal community designated  
11 under section 1400E, or

12 “(D) a low-income community designated  
13 under section 45D.

14 “(25) UNDERSERVED SUBSCRIBER.—The term  
15 ‘underserved subscriber’ means any residential sub-  
16 scriber residing in a dwelling located in an under-  
17 served area or nonresidential subscriber maintaining  
18 a permanent place of business located in an under-  
19 served area.

20 “(26) UNSERVED AREA.—The term ‘unserved  
21 area’ means any census tract in which no current  
22 generation broadband services are provided, as cer-  
23 tified by the State in which such tract is located not  
24 later than September 30, 2009.

1           “(27) UNSERVED SUBSCRIBER.—The term  
2           ‘unserved subscriber’ means any residential sub-  
3           scriber residing in a dwelling located in an unserved  
4           area or nonresidential subscriber maintaining a per-  
5           manent place of business located in an unserved  
6           area.”.

7           (b) CREDIT TO BE PART OF INVESTMENT CREDIT.—  
8           Section 46 (relating to the amount of investment credit),  
9           as amended by this Act, is amended by striking “and”  
10          at the end of paragraph (4), by striking the period at the  
11          end of paragraph (5) and inserting “, and”, and by adding  
12          at the end the following:

13                   “(6) the broadband Internet access credit.”

14          (c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE  
15          TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relat-  
16          ing to list of exempt organizations) is amended by striking  
17          “or” at the end of clause (iii), by striking the period at  
18          the end of clause (iv) and inserting “, or”, and by adding  
19          at the end the following new clause:

20                           “(v) from the sale of property subject  
21                           to a lease described in section  
22                           48D(c)(2)(B), but only to the extent such  
23                           income does not in any year exceed an  
24                           amount equal to the credit for qualified  
25                           broadband expenditures which would be

1           determined under section 48D for such  
2           year if the mutual or cooperative telephone  
3           company was not exempt from taxation  
4           and was treated as the owner of the prop-  
5           erty subject to such lease.”.

6           (d) CONFORMING AMENDMENTS.—

7           (1) Section 49(a)(1)(C), as amended by this  
8           Act, is amended by striking “and” at the end of  
9           clause (iv), by striking the period at the end of  
10          clause (v) and inserting “, and”, and by adding after  
11          clause (v) the following new clause:

12                   “(vi) the portion of the basis of any  
13                   qualified equipment attributable to quali-  
14                   fied broadband expenditures under section  
15                   48D.”.

16          (2) The table of sections for subpart E of part  
17          IV of subchapter A of chapter 1, as amended by this  
18          Act, is amended by inserting after the item relating  
19          to section 48C the following:

“Sec. 48D. Broadband internet access credit”.

20          (e) DESIGNATION OF CENSUS TRACTS.—

21          (1) IN GENERAL.—The Secretary of the Treas-  
22          ury shall, not later than 90 days after the date of  
23          the enactment of this Act, designate and publish  
24          those census tracts meeting the criteria described in  
25          paragraphs (17), (23), (24), and (26) of section

1 48D(e) of the Internal Revenue Code of 1986 (as  
2 added by this section). In making such designations,  
3 the Secretary of the Treasury shall consult with  
4 such other departments and agencies as the Sec-  
5 retary determines appropriate.

6 (2) SATURATED MARKET.—

7 (A) IN GENERAL.—For purposes of desig-  
8 nating and publishing those census tracts meet-  
9 ing the criteria described in subsection (e)(20)  
10 of such section 48D—

11 (i) the Secretary of the Treasury shall  
12 prescribe not later than 30 days after the  
13 date of the enactment of this Act the form  
14 upon which any provider which takes the  
15 position that it meets such criteria with re-  
16 spect to any census tract shall submit a  
17 list of such census tracts (and any other  
18 information required by the Secretary) not  
19 later than 60 days after the date of the  
20 publication of such form, and

21 (ii) the Secretary of the Treasury  
22 shall publish an aggregate list of such cen-  
23 sus tracts submitted and the applicable  
24 providers not later than 30 days after the

1 last date such submissions are allowed  
2 under clause (i).

3 (B) NO SUBSEQUENT LISTS REQUIRED.—

4 The Secretary of the Treasury shall not be re-  
5 quired to publish any list of census tracts meet-  
6 ing such criteria subsequent to the list de-  
7 scribed in subparagraph (A)(ii).

8 (C) AUTHORITY TO DISREGARD FALSE

9 SUBMISSIONS.—In addition to imposing any  
10 other applicable penalties, the Secretary of the  
11 Treasury shall have the discretion to disregard  
12 any form described in subparagraph (A)(i) on  
13 which a provider knowingly submitted false in-  
14 formation.

15 (f) OTHER REGULATORY MATTERS.—

16 (1) PROHIBITION.—No Federal or State agency  
17 or instrumentality shall adopt regulations or rate-  
18 making procedures that would have the effect of  
19 eliminating or reducing any credit or portion thereof  
20 allowed under section 48D of the Internal Revenue  
21 Code of 1986 (as added by this section) or otherwise  
22 subverting the purpose of this section.

23 (2) TREASURY REGULATORY AUTHORITY.—It is  
24 the intent of Congress in providing the broadband  
25 Internet access credit under section 48D of the In-

1 ternal Revenue Code of 1986 (as added by this sec-  
2 tion) to provide incentives for the purchase, installa-  
3 tion, and connection of equipment and facilities of-  
4 fering expanded broadband access to the Internet for  
5 users in certain low income and rural areas of the  
6 United States, as well as to residential users nation-  
7 wide, in a manner that maintains competitive neu-  
8 trality among the various classes of providers of  
9 broadband services. Accordingly, the Secretary of  
10 the Treasury shall prescribe such regulations as may  
11 be necessary or appropriate to carry out the pur-  
12 poses of section 48D of such Code, including—

13 (A) regulations to determine how and when  
14 a taxpayer that incurs qualified broadband ex-  
15 penditures satisfies the requirements of section  
16 48D of such Code to provide broadband serv-  
17 ices, and

18 (B) regulations describing the information,  
19 records, and data taxpayers are required to pro-  
20 vide the Secretary to substantiate compliance  
21 with the requirements of section 48D of such  
22 Code.

23 (g) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to expenditures incurred after De-  
25 cember 31, 2008.

1 **PART IX—CLARIFICATION OF REGULATIONS RE-**  
2 **LATED TO LIMITATIONS ON CERTAIN BUILT-**  
3 **IN LOSSES FOLLOWING AN OWNERSHIP**  
4 **CHANGE**

5 **SEC. 1281. CLARIFICATION OF REGULATIONS RELATED TO**  
6 **LIMITATIONS ON CERTAIN BUILT-IN LOSSES**  
7 **FOLLOWING AN OWNERSHIP CHANGE.**

8 (a) FINDINGS.—Congress finds as follows:

9 (1) The delegation of authority to the Secretary  
10 of the Treasury under section 382(m) of the Inter-  
11 nal Revenue Code of 1986 does not authorize the  
12 Secretary to provide exemptions or special rules that  
13 are restricted to particular industries or classes of  
14 taxpayers.

15 (2) Internal Revenue Service Notice 2008–83 is  
16 inconsistent with the congressional intent in enact-  
17 ing such section 382(m).

18 (3) The legal authority to prescribe Internal  
19 Revenue Service Notice 2008–83 is doubtful.

20 (4) However, as taxpayers should generally be  
21 able to rely on guidance issued by the Secretary of  
22 the Treasury legislation is necessary to clarify the  
23 force and effect of Internal Revenue Service Notice  
24 2008–83 and restore the proper application under  
25 the Internal Revenue Code of 1986 of the limitation

1 on built-in losses following an ownership change of  
2 a bank.

3 (b) DETERMINATION OF FORCE AND EFFECT OF IN-  
4 TERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPT-  
5 ING BANKS FROM LIMITATION ON CERTAIN BUILT-IN  
6 LOSSES FOLLOWING OWNERSHIP CHANGE.—

7 (1) IN GENERAL.—Internal Revenue Service  
8 Notice 2008–83—

9 (A) shall be deemed to have the force and  
10 effect of law with respect to any ownership  
11 change (as defined in section 382(g) of the In-  
12 ternal Revenue Code of 1986) occurring on or  
13 before January 16, 2009, and

14 (B) shall have no force or effect with re-  
15 spect to any ownership change after such date.

16 (2) BINDING CONTRACTS.—Notwithstanding  
17 paragraph (1), Internal Revenue Service Notice  
18 2008–83 shall have the force and effect of law with  
19 respect to any ownership change (as so defined)  
20 which occurs after January 16, 2009, if such  
21 change—

22 (A) is pursuant to a written binding con-  
23 tract entered into on or before such date, or

24 (B) is pursuant to a written agreement en-  
25 tered into on or before such date and such



1 agreement was described on or before such date  
2 in a public announcement or in a filing with the  
3 Securities and Exchange Commission required  
4 by reason of such ownership change.

## 5 **Subtitle D—Manufacturing** 6 **Recovery Provisions**

### 7 **SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF** 8 **INDUSTRIAL DEVELOPMENT BONDS TO FA-** 9 **CILITIES MANUFACTURING INTANGIBLE** 10 **PROPERTY.**

11 (a) IN GENERAL.—Subparagraph (C) of section  
12 144(a)(12) is amended—

13 (1) by striking “For purposes of this para-  
14 graph, the term” and inserting “For purposes of  
15 this paragraph—

16 “(i) IN GENERAL.—The term”, and

17 (2) by striking the last sentence and inserting  
18 the following new clauses:

19 “(ii) CERTAIN FACILITIES IN-  
20 CLUDED.—Such term includes facilities  
21 which are directly related and ancillary to  
22 a manufacturing facility (determined with-  
23 out regard to this clause) if—

1           “(I) such facilities are located on  
2           the same site as the manufacturing  
3           facility, and

4           “(II) not more than 25 percent  
5           of the net proceeds of the issue are  
6           used to provide such facilities.

7           “(iii) SPECIAL RULES FOR BONDS  
8           ISSUED IN 2009 AND 2010.—In the case of  
9           any issue made after the date of enactment  
10          of this clause and before January 1, 2011,  
11          clause (ii) shall not apply and the net pro-  
12          ceeds from a bond shall be considered to  
13          be used to provide a manufacturing facility  
14          if such proceeds are used to provide—

15               “(I) a facility which is used in  
16               the creation or production of intan-  
17               gible property which is described in  
18               section 197(d)(1)(C)(iii), or

19               “(II) a facility which is function-  
20               ally related and subordinate to a man-  
21               ufacturing facility (determined with-  
22               out regard to this subclause) if such  
23               facility is located on the same site as  
24               the manufacturing facility.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to bonds issued after the date of  
3 the enactment of this Act.

4 **SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED EN-**  
5 **ERGY FACILITIES.**

6 (a) IN GENERAL.—Section 46 (relating to amount of  
7 credit) is amended by striking “and” at the end of para-  
8 graph (3), by striking the period at the end of paragraph  
9 (4), and by adding at the end the following new para-  
10 graph:

11 “(5) the qualifying advanced energy project  
12 credit.”.

13 (b) AMOUNT OF CREDIT.—Subpart E of part IV of  
14 subchapter A of chapter 1 (relating to rules for computing  
15 investment credit) is amended by inserting after section  
16 48B the following new section:

17 **“SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT**  
18 **CREDIT.**

19 “(a) IN GENERAL.—For purposes of section 46, the  
20 qualifying advanced energy project credit for any taxable  
21 year is an amount equal to 30 percent of the qualified  
22 investment for such taxable year with respect to any quali-  
23 fying advanced energy project of the taxpayer.

24 “(b) QUALIFIED INVESTMENT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2           (a), the qualified investment for any taxable year is  
3           the basis of eligible property placed in service by the  
4           taxpayer during such taxable year which is part of  
5           a qualifying advanced energy project—

6                   “(A)(i) the construction, reconstruction, or  
7                   erection of which is completed by the taxpayer  
8                   after October 31, 2008, or

9                   “(ii) which is acquired by the taxpayer if  
10                  the original use of such eligible property com-  
11                  mences with the taxpayer after October 31,  
12                  2008, and

13                  “(B) with respect to which depreciation (or  
14                  amortization in lieu of depreciation) is allow-  
15                  able.

16           “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-  
17           TURES RULES MADE APPLICABLE.—Rules similar to  
18           the rules of subsections (c)(4) and (d) of section 46  
19           (as in effect on the day before the enactment of the  
20           Revenue Reconciliation Act of 1990) shall apply for  
21           purposes of this section.

22           “(3) LIMITATION.—The amount which is treat-  
23           ed for all taxable years with respect to any quali-  
24           fying advanced energy project shall not exceed the

1 amount designated by the Secretary as eligible for  
2 the credit under this section.

3 “(c) DEFINITIONS.—

4 “(1) QUALIFYING ADVANCED ENERGY  
5 PROJECT.—

6 “(A) IN GENERAL.—The term ‘qualifying  
7 advanced energy project’ means a project—

8 “(i) which re-equips, expands, or es-  
9 tablishes a manufacturing facility for the  
10 production of property which is—

11 “(I) designed to be used to  
12 produce energy from the sun, wind,  
13 geothermal deposits (within the mean-  
14 ing of section 613(e)(2)), or other re-  
15 newable resources,

16 “(II) designed to manufacture  
17 fuel cells, microturbines, or an energy  
18 storage system for use with electric or  
19 hybrid-electric motor vehicles,

20 “(III) designed to manufacture  
21 electric grids to support the trans-  
22 mission of intermittent sources of re-  
23 newable energy, including storage of  
24 such energy,

1                   “(IV) designed to capture and se-  
2                   quester carbon dioxide emissions,

3                   “(V) designed to refine or blend  
4                   renewable fuels or to produce energy  
5                   conservation technologies (including  
6                   energy-conserving lighting tech-  
7                   nologies and smart grid technologies),  
8                   or

9                   “(VI) other advanced energy  
10                  property designed to reduce green-  
11                  house gas emissions as may be deter-  
12                  mined by the Secretary, and

13                  “(ii) any portion of the qualified in-  
14                  vestment of which is certified by the Sec-  
15                  retary under subsection (d) as eligible for  
16                  a credit under this section.

17                  “(B) EXCEPTION.—Such term shall not in-  
18                  clude any portion of a project for the produc-  
19                  tion of any property which is used in the refin-  
20                  ing or blending of any transportation fuel  
21                  (other than renewable fuels).

22                  “(2) ELIGIBLE PROPERTY.—The term ‘eligible  
23                  property’ means any property which is part of a  
24                  qualifying advanced energy project and is necessary

1 for the production of property described in para-  
2 graph (1)(A)(i).

3 “(d) QUALIFYING ADVANCED ENERGY PROJECT  
4 PROGRAM.—

5 “(1) ESTABLISHMENT.—

6 “(A) IN GENERAL.—Not later than 180  
7 days after the date of enactment of this section,  
8 the Secretary, in consultation with the Sec-  
9 retary of Energy, shall establish a qualifying  
10 advanced energy project program to consider  
11 and award certifications for qualified invest-  
12 ments eligible for credits under this section to  
13 qualifying advanced energy project sponsors.

14 “(B) LIMITATION.—The total amount of  
15 credits that may be allocated under the pro-  
16 gram shall not exceed \$2,000,000,000.

17 “(2) CERTIFICATION.—

18 “(A) APPLICATION PERIOD.—Each appli-  
19 cant for certification under this paragraph shall  
20 submit an application containing such informa-  
21 tion as the Secretary may require during the 3-  
22 year period beginning on the date the Secretary  
23 establishes the program under paragraph (1).

24 “(B) TIME TO MEET CRITERIA FOR CER-  
25 TIFICATION.—Each applicant for certification

1 shall have 2 years from the date of acceptance  
2 by the Secretary of the application during  
3 which to provide to the Secretary evidence that  
4 the requirements of the certification have been  
5 met.

6 “(C) PERIOD OF ISSUANCE.—An applicant  
7 which receives a certification shall have 5 years  
8 from the date of issuance of the certification in  
9 order to place the project in service and if such  
10 project is not placed in service by that time pe-  
11 riod then the certification shall no longer be  
12 valid.

13 “(3) SELECTION CRITERIA.—In determining  
14 which qualifying advanced energy projects to certify  
15 under this section, the Secretary—

16 “(A) shall take into consideration only  
17 those projects where there is a reasonable ex-  
18 pectation of commercial viability, and

19 “(B) shall take into consideration which  
20 projects—

21 “(i) will provide the greatest domestic  
22 job creation (both direct and indirect) dur-  
23 ing the credit period,

24 “(ii) will provide the greatest net im-  
25 pact in avoiding or reducing air pollutants



1 or anthropogenic emissions of greenhouse  
2 gases,

3 “(iii) have the greatest readiness for  
4 commercial employment, replication, and  
5 further commercial use in the United  
6 States,

7 “(iv) will provide the greatest benefit  
8 in terms of newness in the commercial  
9 market,

10 “(v) have the lowest levelized cost of  
11 generated or stored energy, or of measured  
12 reduction in energy consumption or green-  
13 house gas emission (based on costs of the  
14 full supply chain), and

15 “(vi) have the shortest project time  
16 from certification to completion.

17 “(4) REVIEW AND REDISTRIBUTION.—

18 “(A) REVIEW.—Not later than 6 years  
19 after the date of enactment of this section, the  
20 Secretary shall review the credits allocated  
21 under this section as of the date which is 6  
22 years after the date of enactment of this sec-  
23 tion.

1           “(B) REDISTRIBUTION.—The Secretary  
2           may reallocate credits awarded under this sec-  
3           tion if the Secretary determines that—

4                   “(i) there is an insufficient quantity  
5                   of qualifying applications for certification  
6                   pending at the time of the review, or

7                   “(ii) any certification made pursuant  
8                   to paragraph (2) has been revoked pursu-  
9                   ant to paragraph (2)(B) because the  
10                  project subject to the certification has been  
11                  delayed as a result of third party opposi-  
12                  tion or litigation to the proposed project.

13           “(C) REALLOCATION.—If the Secretary de-  
14           termines that credits under this section are  
15           available for reallocation pursuant to the re-  
16           quirements set forth in paragraph (2), the Sec-  
17           retary is authorized to conduct an additional  
18           program for applications for certification.

19           “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
20           retary shall, upon making a certification under this  
21           subsection, publicly disclose the identity of the appli-  
22           cant and the amount of the credit with respect to  
23           such applicant.

24           “(e) DENIAL OF DOUBLE BENEFIT.—A credit shall  
25           not be allowed under this section for any qualified invest-

1 ment for which a credit is allowed under section 48, 48A,  
2 or 48B.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 49(a)(1)(C) is amended by striking  
5 “and” at the end of clause (iii), by striking the pe-  
6 riod at the end of clause (iv) and inserting “, and”,  
7 and by adding after clause (iv) the following new  
8 clause:

9 “(v) the basis of any property which  
10 is part of a qualifying advanced energy  
11 project under section 48C.”.

12 (2) The table of sections for subpart E of part  
13 IV of subchapter A of chapter 1 is amended by in-  
14 serting after the item relating to section 48B the fol-  
15 lowing new item:

“48C. Qualifying advanced energy project credit.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to periods after the date of the  
18 enactment of this Act, under rules similar to the rules of  
19 section 48(m) of the Internal Revenue Code of 1986 (as  
20 in effect on the day before the date of the enactment of  
21 the Revenue Reconciliation Act of 1990).

1 **SEC. 1303. INCENTIVES FOR MANUFACTURING FACILITIES**  
2 **PRODUCING PLUG-IN ELECTRIC DRIVE**  
3 **MOTOR VEHICLES AND COMPONENTS.**

4 (a) DEDUCTION FOR MANUFACTURING FACILI-  
5 TIES.—Part VI of subchapter B of chapter 1 (relating to  
6 itemized deductions for individuals and corporations) is  
7 amended by inserting after section 179E the following new  
8 section:

9 **“SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FA-**  
10 **CILITIES PRODUCING PLUG-IN ELECTRIC**  
11 **DRIVE MOTOR VEHICLES AND COMPONENTS.**

12 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
13 elect to treat the applicable percentage of the cost of any  
14 qualified plug-in electric drive motor vehicle manufac-  
15 turing facility property as an expense which is not charge-  
16 able to a capital account. Any cost so treated shall be al-  
17 lowed as a deduction for the taxable year in which the  
18 qualified manufacturing facility property is placed in serv-  
19 ice.

20 “(b) APPLICABLE PERCENTAGE.—For purposes of  
21 subsection (a), the applicable percentage is—

22 “(1) 100 percent, in the case of qualified plug-  
23 in electric drive motor vehicle manufacturing facility  
24 property which is placed in service before January 1,  
25 2012, and

1           “(2) 50 percent, in the case of qualified plug-  
2 in electric drive motor vehicle manufacturing facility  
3 property which is placed in service after December  
4 31, 2011, and before January 1, 2015.

5           “(c) ELECTION.—

6           “(1) IN GENERAL.—An election under this sec-  
7 tion for any taxable year shall be made on the tax-  
8 payer’s return of the tax imposed by this chapter for  
9 the taxable year. Such election shall be made in such  
10 manner as the Secretary may by regulations pre-  
11 scribe.

12           “(2) ELECTION IRREVOCABLE.—Any election  
13 made under this section may not be revoked except  
14 with the consent of the Secretary.

15           “(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR  
16 VEHICLE MANUFACTURING FACILITY PROPERTY.—For  
17 purposes of this section—

18           “(1) IN GENERAL.—The term ‘qualified plug-in  
19 electric drive motor vehicle manufacturing facility  
20 property’ means any qualified property—

21           “(A) the original use of which commences  
22 with the taxpayer,

23           “(B) which is placed in service by the tax-  
24 payer after the date of the enactment of this  
25 section and before January 1, 2015, and

1           “(C) no written binding contract for the  
2 construction of which was in effect on or before  
3 the date of the enactment of this section.

4           “(2) QUALIFIED PROPERTY.—

5           “(A) IN GENERAL.—The term ‘qualified  
6 property’ means any property which is a facility  
7 or a portion of a facility used for the production  
8 of—

9                   “(i) any new qualified plug-in electric  
10 drive motor vehicle (as defined by section  
11 30D(c)), or

12                   “(ii) any eligible component.

13           “(B) ELIGIBLE COMPONENT.—The term  
14 ‘eligible component’ means any battery, any  
15 electric motor or generator, or any power con-  
16 trol unit which is designed specifically for use  
17 with a new qualified plug-in electric drive motor  
18 vehicle (as so defined).

19           “(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In  
20 the case of any qualified plug-in electric drive motor vehi-  
21 cle manufacturing facility property which is used to  
22 produce both qualified property and other property which  
23 is not qualified property, the amount of costs taken into  
24 account under subsection (a) shall be reduced by an  
25 amount equal to—

1           “(1) the total amount of such costs (determined  
2           before the application of this subsection), multiplied  
3           by

4           “(2) the percentage of property expected to be  
5           produced which is not qualified property.

6           “(f) ELECTION TO RECEIVE LOAN IN LIEU OF DE-  
7           DUCTION.—

8           “(1) IN GENERAL.—If a taxpayer elects to have  
9           this subsection apply for any taxable year—

10           “(A) subsection (a) shall not apply to any  
11           qualified plug-in electric drive motor vehicle  
12           manufacturing facility property placed in serv-  
13           ice by the taxpayer,

14           “(B) such taxpayer shall receive a loan  
15           from the Secretary in an amount and under  
16           such terms as provided in section 1303(b) of  
17           the American Recovery and Reinvestment Tax  
18           Act of 2009, and

19           “(C) in the taxable year in which such  
20           qualified loan is repaid, each of the limitations  
21           described in paragraph (2) shall be increased by  
22           the qualified plug-in electric drive motor vehicle  
23           manufacturing facility amount which is—

24                   “(i) determined under paragraph (3),  
25                   and

1                   “(ii) allocated to such limitation under  
2                   paragraph (4).

3                   “(2) LIMITATIONS TO BE INCREASED.—The  
4                   limitations described in this paragraph are—

5                   “(A) the limitation imposed by section  
6                   38(c), and

7                   “(B) the limitation imposed by section  
8                   53(c).

9                   “(3) QUALIFIED PLUG-IN ELECTRIC DRIVE  
10                  MOTOR VEHICLE MANUFACTURING FACILITY  
11                  AMOUNT.—For purposes of this paragraph—

12                  “(A) IN GENERAL.—The qualified plug-in  
13                  electric drive motor vehicle manufacturing facil-  
14                  ity amount is an amount equal to the applicable  
15                  percentage of any qualified plug-in electric drive  
16                  motor vehicle manufacturing facility which is  
17                  placed in service during the taxable year.

18                  “(B) APPLICABLE PERCENTAGE.—For  
19                  purposes of subparagraph (A), the applicable  
20                  percentage is—

21                  “(i) 35 percent, in the case of quali-  
22                  fied plug-in electric drive motor vehicle  
23                  manufacturing facility property which is  
24                  placed in service before January 1, 2012,  
25                  and



1           “(ii) 17.5 percent, in the case of  
2           qualified plug-in electric drive motor vehi-  
3           cle manufacturing facility property which  
4           is placed in service after December 31,  
5           2011, and before January 1, 2015.

6           “(C) SPECIAL RULE FOR DUAL USE PROP-  
7           PERTY.—In the case of any qualified plug-in  
8           electric drive motor vehicle manufacturing facil-  
9           ity property which is used to produce both  
10          qualified property and other property which is  
11          not qualified property, the amount of costs  
12          taken into account under subparagraph (A)  
13          shall be reduced by an amount equal to—

14                  “(i) the total amount of such costs  
15                  (determined before the application of this  
16                  subparagraph), multiplied by

17                  “(ii) the percentage of property ex-  
18                  pected to be produced which is not quali-  
19                  fied property.

20          “(4) ALLOCATION OF QUALIFIED PLUG-IN  
21          ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING  
22          FACILITY AMOUNT.—The taxpayer shall, at such  
23          time and in such manner as the Secretary may pre-  
24          scribe, specify the portion (if any) of the qualified  
25          plug-in electric drive motor vehicle manufacturing

1 facility amount for the taxable year which is to be  
2 allocated to each of the limitations described in  
3 paragraph (2) for such taxable year.

4 “(5) ELECTION.—

5 “(A) IN GENERAL.—An election under this  
6 subsection for any taxable year shall be made  
7 on the taxpayer’s return of the tax imposed by  
8 this chapter for the taxable year. Such election  
9 shall be made in such manner as the Secretary  
10 may by regulations prescribe.

11 “(B) ELECTION IRREVOCABLE.—Any elec-  
12 tion made under this subsection may not be re-  
13 voked except with the consent of the Sec-  
14 retary.”.

15 (b) LOAN PROGRAM.—

16 (1) IN GENERAL.—The Secretary of the Treas-  
17 ury (or the Secretary’s delegate) shall provide a loan  
18 to any person who is allowed a deduction under sec-  
19 tion 179F of the Internal Revenue Code and who  
20 makes an election under section 179F(f) of such  
21 Code in an amount equal to the qualified plug-in  
22 electric drive motor vehicle manufacturing facility  
23 amount (as defined in such section 179F(f)).

24 (2) TERM.—Such loan shall be in the form of  
25 a senior note issued by the taxpayer to the Secretary

1 of the Treasury, secured by the qualified plug-in  
 2 electric drive motor vehicle manufacturing facility  
 3 property (as defined in section 179F of the Internal  
 4 Revenue Code of 1986) of the taxpayer, and having  
 5 a term of 20 years and interest payable at the appli-  
 6 cable Federal rate (as determined under section  
 7 1274(d) of the Internal Revenue Code of 1986).

8 (3) APPROPRIATIONS.—There is hereby appro-  
 9 priated to the Secretary of the Treasury such sums  
 10 as may be necessary to carry out this subsection.

11 (c) CLERICAL AMENDMENT.—The table of sections  
 12 for part VI of subchapter B of chapter 1 is amended by  
 13 adding at the end the following new item:

“Sec. 179F. Election to expense manufacturing facilities producing plug-in elec-  
 tric drive motor vehicle and components.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to taxable years beginning after  
 16 the date of the enactment of this Act.

## 17 **Subtitle E—Economic Recovery** 18 **Tools**

### 19 **SEC. 1401. RECOVERY ZONE BONDS.**

20 (a) IN GENERAL.—Subchapter Y of chapter 1 is  
 21 amended by adding at the end the following new part:

#### 22 **“PART III—RECOVERY ZONE BONDS**

“Sec. 1400U–1. Allocation of recovery zone bonds.

“Sec. 1400U–2. Recovery zone economic development bonds.

“Sec. 1400U–3. Recovery zone facility bonds.

1 **“SEC. 1400U-1. ALLOCATION OF RECOVERY ZONE BONDS.**

2 “(a) ALLOCATIONS.—

3 “(1) IN GENERAL.—The Secretary shall allo-  
4 cate the national recovery zone economic develop-  
5 ment bond limitation and the national recovery zone  
6 facility bond limitation among the States—

7 “(A) by allocating 1 percent of each such  
8 limitation to each State, and

9 “(B) by allocating the remainder of each  
10 such limitation among the States in the propor-  
11 tion that each State’s 2008 State employment  
12 decline bears to the aggregate of the 2008  
13 State employment declines for all of the States.

14 “(2) 2008 STATE EMPLOYMENT DECLINE.—For  
15 purposes of this subsection, the term ‘2008 State  
16 employment decline’ means, with respect to any  
17 State, the excess (if any) of—

18 “(A) the number of individuals employed  
19 in such State determined for December 2007,  
20 over

21 “(B) the number of individuals employed  
22 in such State determined for December 2008.

23 “(3) ALLOCATIONS BY STATES.—

24 “(A) IN GENERAL.—Each State with re-  
25 spect to which an allocation is made under  
26 paragraph (1) shall reallocate such allocation

1 among the counties and large municipalities in  
2 such State in the proportion the each such  
3 county's or municipality's 2008 employment de-  
4 cline bears to the aggregate of the 2008 em-  
5 ployment declines for all the counties and mu-  
6 nicipalities in such State.

7 “(B) LARGE MUNICIPALITIES.—For pur-  
8 poses of subparagraph (A), the term ‘large mu-  
9 nicipality’ means a municipality with a popu-  
10 lation of more than 100,000.

11 “(C) DETERMINATION OF LOCAL EMPLOY-  
12 MENT DECLINES.—For purposes of this para-  
13 graph, the employment decline of any munici-  
14 pality or county shall be determined in the  
15 same manner as determining the State employ-  
16 ment decline under paragraph (2), except that  
17 in the case of a municipality any portion of  
18 which is in a county, such portion shall be  
19 treated as part of such municipality and not  
20 part of such county.

21 “(4) NATIONAL LIMITATIONS.—

22 “(A) RECOVERY ZONE ECONOMIC DEVEL-  
23 OPMENT BONDS.—There is a national recovery  
24 zone economic development bond limitation of  
25 \$5,000,000,000.

1           “(B) RECOVERY ZONE FACILITY BONDS.—

2           There is a national recovery zone facility bond  
3           limitation of \$10,000,000,000.

4           “(b) RECOVERY ZONE.—For purposes of this part,  
5 the term ‘recovery zone’ means—

6           “(1) any area designated by the issuer as hav-  
7           ing significant poverty, unemployment, rate of home  
8           foreclosures, or general distress, and

9           “(2) any area for which a designation as an em-  
10          powerment zone or renewal community is in effect.

11 **“SEC. 1400U-2. RECOVERY ZONE ECONOMIC DEVELOPMENT**  
12 **BONDS.**

13          “(a) IN GENERAL.—In the case of a recovery zone  
14 economic development bond—

15          “(1) such bond shall be treated as a qualified  
16 bond for purposes of section 6431, and

17          “(2) subsection (b) of such section shall be ap-  
18 plied by substituting ‘40 percent’ for ‘35 percent’.

19          “(b) RECOVERY ZONE ECONOMIC DEVELOPMENT  
20 BOND.—

21          “(1) IN GENERAL.—For purposes of this sec-  
22 tion, the term ‘recovery zone economic development  
23 bond’ means any build America bond (as defined in  
24 section 54AA(d)) issued before January 1, 2011, as  
25 part of issue if—

1           “(A) 100 percent of the available project  
2           proceeds (as defined in section 54A) of such  
3           issue are to be used for one or more qualified  
4           economic development purposes, and

5           “(B) the issuer designates such bond for  
6           purposes of this section.

7           “(2) LIMITATION ON AMOUNT OF BONDS DES-  
8           IGNATED.—The maximum aggregate face amount of  
9           bonds which may be designated by any issuer under  
10          paragraph (1) shall not exceed the amount of the re-  
11          covery zone economic development bond limitation  
12          allocated to such issuer under section 1400U–1.

13          “(c) QUALIFIED ECONOMIC DEVELOPMENT PUR-  
14          POSE.—For purposes of this section, the term ‘qualified  
15          economic development purpose’ means expenditures for  
16          purposes of promoting development or other economic ac-  
17          tivity in a recovery zone, including—

18                 “(1) capital expenditures paid or incurred with  
19                 respect to property located in such zone,

20                 “(2) expenditures for public infrastructure and  
21                 construction of public facilities, and

22                 “(3) expenditures for job training and edu-  
23                 cational programs.

1 **“SEC. 1400U-3. RECOVERY ZONE FACILITY BONDS.**

2 “(a) IN GENERAL.—For purposes of part IV of sub-  
3 chapter B (relating to tax exemption requirements for  
4 State and local bonds), the term ‘exempt facility bond’ in-  
5 cludes any recovery zone facility bond.

6 “(b) RECOVERY ZONE FACILITY BOND.—

7 “(1) IN GENERAL.—For purposes of this sec-  
8 tion, the term ‘recovery zone facility bond’ means  
9 any bond issued as part of an issue if—

10 “(A) 95 percent or more of the net pro-  
11 ceeds (as defined in section 150(a)(3)) of such  
12 issue are to be used for recovery zone property,

13 “(B) such bond is issued before January 1,  
14 2011, and

15 “(C) the issuer designates such bond for  
16 purposes of this section.

17 “(2) LIMITATION ON AMOUNT OF BONDS DES-  
18 IGNATED.—The maximum aggregate face amount of  
19 bonds which may be designated by any issuer under  
20 paragraph (1) shall not exceed the amount of recov-  
21 ery zone facility bond limitation allocated to such  
22 issuer under section 1400U-1.

23 “(c) RECOVERY ZONE PROPERTY.—For purposes of  
24 this section—



1           “(1) IN GENERAL.—The term ‘recovery zone  
2 property’ means any property to which section 168  
3 applies (or would apply but for section 179) if—

4           “(A) such property was acquired by the  
5 taxpayer by purchase (as defined in section  
6 179(d)(2)) after the date on which the designa-  
7 tion of the recovery zone took effect,

8           “(B) the original use of which in the recov-  
9 ery zone commences with the taxpayer, and

10           “(C) substantially all of the use of which  
11 is in the recovery zone and is in the active con-  
12 duct of a qualified business by the taxpayer in  
13 such zone.

14           “(2) QUALIFIED BUSINESS.—The term ‘quali-  
15 fied business’ means any trade or business except  
16 that—

17           “(A) the rental to others of real property  
18 located in a recovery zone shall be treated as a  
19 qualified business only if the property is not  
20 residential rental property (as defined in section  
21 168(e)(2)), and

22           “(B) such term shall not include any trade  
23 or business consisting of the operation of any  
24 facility described in section 144(c)(6)(B).

1           “(3) SPECIAL RULES FOR SUBSTANTIAL REN-  
2           OVATIONS AND SALE-LEASEBACK.—Rules similar to  
3           the rules of subsections (a)(2) and (b) of section  
4           1397D shall apply for purposes of this subsection.

5           “(d) NONAPPLICATION OF CERTAIN RULES.—Sec-  
6           tions 146 (relating to volume cap) and 147(d) (relating  
7           to acquisition of existing property not permitted) shall not  
8           apply to any recovery zone facility bond.”.

9           (b) CLERICAL AMENDMENT.—The table of parts for  
10          subchapter Y of chapter 1 of such Code is amended by  
11          adding at the end the following new item:

                                  “PART III. RECOVERY ZONE BONDS.”.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to obligations issued after the date  
14          of the enactment of this Act.

15          **SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.**

16          (a) IN GENERAL.—Section 7871 is amended by add-  
17          ing at the end the following new subsection:

18                 “(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

19                         “(1) ALLOCATION OF LIMITATION.—

20                                 “(A) IN GENERAL.—The Secretary shall  
21                                 allocate the national tribal economic develop-  
22                                 ment bond limitation among the Indian tribal  
23                                 governments in such manner as the Secretary,  
24                                 in consultation with the Secretary of the Inte-  
25                                 rior, determines appropriate.

1           “(B) NATIONAL LIMITATION.—There is a  
2           national tribal economic development bond limi-  
3           tation of \$2,000,000,000.

4           “(2) BONDS TREATED AS EXEMPT FROM  
5           TAX.—In the case of a tribal economic development  
6           bond—

7                   “(A) notwithstanding subsection (c), such  
8           bond shall be treated for purposes of this title  
9           in the same manner as if such bond were issued  
10          by a State,

11                   “(B) the Indian tribal government issuing  
12          such bond and any instrumentality of such In-  
13          dian tribal government shall be treated as a  
14          State for purposes of section 141, and

15                   “(C) section 146 shall not apply.

16           “(3) TRIBAL ECONOMIC DEVELOPMENT  
17          BOND.—

18                   “(A) IN GENERAL.—For purposes of this  
19          section, the term ‘tribal economic development  
20          bond’ means any bond issued by an Indian trib-  
21          al government—

22                           “(i) the interest on which would be ex-  
23                           empt from tax under section 103 if issued  
24                           by a State or local government, and

1           “(ii) which is designated by the In-  
2           dian tribal government as a tribal eco-  
3           nomic development bond for purposes of  
4           this subsection.

5           “(B) EXCEPTIONS.—The term tribal eco-  
6           nomic development bond shall not include any  
7           bond issued as part of an issue if any portion  
8           of the proceeds of such issue are used to fi-  
9           nance—

10           “(i) any portion of a building in which  
11           class II or class III gaming (as defined in  
12           section 4 of the Indian Gaming Regulatory  
13           Act) is conducted or housed or any other  
14           property actually used in the conduct of  
15           such gaming, or

16           “(ii) any facility located outside the  
17           Indian reservation (as defined in section  
18           168(j)(6)).

19           “(C) LIMITATION ON AMOUNT OF BONDS  
20           DESIGNATED.—The maximum aggregate face  
21           amount of bonds which may be designated by  
22           any Indian tribal government under subpara-  
23           graph (A) shall not exceed the amount of na-  
24           tional tribal economic development bond limita-

1           tion allocated to such government under para-  
2           graph (1).”.

3           (b) **STUDY.**—The Secretary of the Treasury, or the  
4 Secretary’s delegate, shall conduct a study of the effects  
5 of the amendment made by subsection (a). Not later than  
6 1 year after the date of the enactment of this Act, the  
7 Secretary of the Treasury, or the Secretary’s delegate,  
8 shall report to Congress on the results of the study con-  
9 ducted under this paragraph, including the Secretary’s  
10 recommendations regarding such amendment.

11          (c) **EFFECTIVE DATE.**—The amendment made by  
12 subsection (a) shall apply to obligations issued after the  
13 date of the enactment of this Act.

14 **SEC. 1403. MODIFICATIONS TO NEW MARKETS TAX CREDIT.**

15          (a) **INCREASE IN NATIONAL LIMITATION.**—

16           (1) **IN GENERAL.**—Section 45D(f)(1) is amend-  
17 ed—

18           (A) by striking “and” at the end of sub-  
19 paragraph (C),

20           (B) by striking “, 2007, 2008, and 2009.”  
21 in subparagraph (D), and inserting “and  
22 2007,”, and

23           (C) by adding at the end the following new  
24 subparagraphs:

25           “(E) \$5,000,000,000 for 2008, and

1 “(F) \$5,000,000,000 for 2009.”.

2 (2) SPECIAL RULE FOR ALLOCATION OF IN-  
3 CREASED 2008 LIMITATION.—The amount of the in-  
4 crease in the new markets tax credit limitation for  
5 calendar year 2008 by reason of the amendments  
6 made by subsection (a) shall be allocated in accord-  
7 ance with section 45D(f)(2) of the Internal Revenue  
8 Code of 1986 to qualified community development  
9 entities (as defined in section 45D(e) of such Code)  
10 which—

11 (A) submitted an allocation application  
12 with respect to calendar year 2008, and

13 (B)(i) did not receive an allocation for  
14 such calendar year, or

15 (ii) received an allocation for such calendar  
16 year in an amount less than the amount re-  
17 quested in the allocation application.

18 (b) ALTERNATIVE MINIMUM TAX RELIEF.—

19 (1) IN GENERAL.—Section 38(c)(4)(B) is  
20 amended by redesignating clauses (v) through (viii)  
21 as clauses (vi) through (ix), respectively, and by in-  
22 serting after clause (iv) the following new clause:

23 “(v) the credit determined under sec-  
24 tion 45D to the extent that such credit is  
25 attributable to a qualified equity invest-

1           ment which is designated as such under  
 2           section 45D(b)(1)(C) pursuant to an allo-  
 3           cation of the new markets tax credit limi-  
 4           tation for calendar year 2009.”.

5           (2) EFFECTIVE DATE.—The amendments made  
 6           by this subsection shall apply to credits determined  
 7           under section 45D of the Internal Revenue Code of  
 8           1986 in taxable years ending after the date of the  
 9           enactment of this Act, and to carrybacks of such  
 10          credits.

## 11                   **Subtitle F—Infrastructure** 12                   **Financing Tools**

### 13           **PART I—IMPROVED MARKETABILITY FOR TAX-** 14                   **EXEMPT BONDS**

#### 15           **SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-** 16                   **EXEMPT INTEREST EXPENSE OF FINANCIAL** 17                   **INSTITUTIONS.**

18           (a) IN GENERAL.—Subsection (b) of section 265 is  
 19           amended by adding at the end the following new para-  
 20           graph:

21                   “(7) DE MINIMIS EXCEPTION FOR BONDS  
 22                   ISSUED DURING 2009 OR 2010.—

23                   “(A) IN GENERAL.—In applying paragraph  
 24                   (2)(A), there shall not be taken into account

1 tax-exempt obligations issued during 2009 or  
2 2010.

3 “(B) LIMITATION.—The amount of tax-ex-  
4 empt obligations not taken into account by rea-  
5 son of subparagraph (A) shall not exceed 2 per-  
6 cent of the amount determined under para-  
7 graph (2)(B).

8 “(C) REFUNDINGS.—For purposes of this  
9 paragraph, a refunding bond (whether a current  
10 or advance refunding) shall be treated as issued  
11 on the date of the issuance of the refunded  
12 bond (or in the case of a series of refundings,  
13 the original bond).”.

14 (b) TREATMENT AS FINANCIAL INSTITUTION PREF-  
15 ERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is  
16 amended by adding at the end the following: “That por-  
17 tion of any obligation not taken into account under para-  
18 graph (2)(A) of section 265(b) by reason of paragraph (7)  
19 of such section shall be treated for purposes of this section  
20 as having been acquired on August 7, 1986.”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to obligations issued after Decem-  
23 ber 31, 2008.



1 **SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION**  
2 **TO TAX-EXEMPT INTEREST EXPENSE ALLOCA-**  
3 **TION RULES FOR FINANCIAL INSTITUTIONS.**

4 (a) IN GENERAL.—Paragraph (3) of section 265(b)  
5 (relating to exception for certain tax-exempt obligations)  
6 is amended by adding at the end the following new sub-  
7 paragraph:

8 “(G) SPECIAL RULES FOR OBLIGATIONS  
9 ISSUED DURING 2009 AND 2010.—

10 “(i) INCREASE IN LIMITATION.—In  
11 the case of obligations issued during 2009  
12 or 2010, subparagraphs (C)(i), (D)(i), and  
13 (D)(iii)(II) shall each be applied by sub-  
14 stituting ‘\$30,000,000’ for ‘\$10,000,000’.

15 “(ii) QUALIFIED 501(C)(3) BONDS  
16 TREATED AS ISSUED BY EXEMPT ORGANI-  
17 ZATION.—In the case of a qualified  
18 501(c)(3) bond (as defined in section 145)  
19 issued during 2009 or 2010, this para-  
20 graph shall be applied by treating the  
21 501(c)(3) organization for whose benefit  
22 such bond was issued as the issuer.

23 “(iii) SPECIAL RULE FOR QUALIFIED  
24 FINANCINGS.—In the case of a qualified fi-  
25 nancing issue issued during 2009 or  
26 2010—

1           “(I) subparagraph (F) shall not  
2           apply, and

3           “(II) any obligation issued as a  
4           part of such issue shall be treated as  
5           a qualified tax-exempt obligation if  
6           the requirements of this paragraph  
7           are met with respect to each qualified  
8           portion of the issue (determined by  
9           treating each qualified portion as a  
10          separate issue which is issued by the  
11          qualified borrower with respect to  
12          which such portion relates).

13          “(iv) QUALIFIED FINANCING ISSUE.—  
14          For purposes of this subparagraph, the  
15          term ‘qualified financing issue’ means any  
16          composite, pooled, or other conduit financ-  
17          ing issue the proceeds of which are used  
18          directly or indirectly to make or finance  
19          loans to 1 or more ultimate borrowers each  
20          of whom is a qualified borrower.

21          “(v) QUALIFIED PORTION.—For pur-  
22          poses of this subparagraph, the term  
23          ‘qualified portion’ means that portion of  
24          the proceeds which are used with respect  
25          to each qualified borrower under the issue.

1           “(vi) QUALIFIED BORROWER.—For  
2           purposes of this subparagraph, the term  
3           ‘qualified borrower’ means a borrower  
4           which is a State or political subdivision  
5           thereof or an organization described in sec-  
6           tion 501(c)(3) and exempt from taxation  
7           under section 501(a).”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           this section shall apply to obligations issued after Decem-  
10          ber 31, 2008.

11       **SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE**  
12                       **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**  
13                       **BONDS.**

14          (a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED  
15          DURING 2009 AND 2010 NOT TREATED AS TAX PREF-  
16          ERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is  
17          amended by adding at the end a new clause:

18                       “(vi) EXCEPTION FOR BONDS ISSUED  
19                       IN 2009 AND 2010.—For purposes of clause  
20                       (i), the term ‘private activity bond’ shall  
21                       not include any bond issued after Decem-  
22                       ber 31, 2008, and before January 1, 2011.  
23                       For purposes of the preceding sentence, a  
24                       refunding bond (whether a current or ad-  
25                       vance refunding) shall be treated as issued

1           on the date of the issuance of the refunded  
2           bond (or in the case of a series of  
3           refundings, the original bond).”.

4           (b) NO ADJUSTMENT TO ADJUSTED CURRENT  
5 EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS  
6 ISSUED DURING 2009 AND 2010.—Subparagraph (B) of  
7 section 56(g)(4) is amended by adding at the end the fol-  
8 lowing new clause:

9                           “(iv) TAX EXEMPT INTEREST ON  
10                           BONDS ISSUED IN 2009 AND 2010.—Clause  
11                           (i) shall not apply in the case of any inter-  
12                           est on a bond issued after December 31,  
13                           2008, and before January 1, 2011. For  
14                           purposes of the preceding sentence, a re-  
15                           funding bond (whether a current or ad-  
16                           vance refunding) shall be treated as issued  
17                           on the date of the issuance of the refunded  
18                           bond (or in the case of a series of  
19                           refundings, the original bond).”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to obligations issued after Decem-  
22 ber 31, 2008.

1 **SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL**  
2 **FACILITY BONDS.**

3 (a) IN GENERAL.—Paragraph (1) of section 142(i)  
4 is amended by striking “operate at speeds in excess of”  
5 and inserting “be capable of attaining a maximum speed  
6 in excess of”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to bonds issued after the date of  
9 the enactment of this Act.

10 **PART II—DELAY IN APPLICATION OF WITH-**  
11 **HOLDING TAX ON GOVERNMENT CONTRAC-**  
12 **TORS**

13 **SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX**  
14 **ON GOVERNMENT CONTRACTORS.**

15 Subsection (b) of section 511 of the Tax Increase  
16 Prevention and Reconciliation Act of 2005 is amended by  
17 striking “December 31, 2010” and inserting “December  
18 31, 2011”.

19 **PART III—TAX CREDIT BONDS FOR SCHOOLS**

20 **SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

21 (a) IN GENERAL.—Subpart I of part IV of sub-  
22 chapter A of chapter 1 is amended by adding at the end  
23 the following new section:

24 **“SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

25 **“(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—**  
26 **For purposes of this subchapter, the term ‘qualified school**

1 construction bond' means any bond issued as part of an  
2 issue if—

3           “(1) 100 percent of the available project pro-  
4 ceeds of such issue are to be used for the construc-  
5 tion, rehabilitation, or repair of a public school facil-  
6 ity or for the acquisition of land on which such a fa-  
7 cility is to be constructed with part of the proceeds  
8 of such issue,

9           “(2) the bond is issued by a State or local gov-  
10 ernment within the jurisdiction of which such school  
11 is located, and

12           “(3) the issuer designates such bond for pur-  
13 poses of this section.

14           “(b) LIMITATION ON AMOUNT OF BONDS DES-  
15 IGNATED.—The maximum aggregate face amount of  
16 bonds issued during any calendar year which may be des-  
17 ignated under subsection (a) by any issuer shall not exceed  
18 the limitation amount allocated under subsection (d) for  
19 such calendar year to such issuer.

20           “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS  
21 DESIGNATED.—There is a national qualified school con-  
22 struction bond limitation for each calendar year. Such lim-  
23 itation is—

24           “(1) \$5,000,000,000 for 2009,

25           “(2) \$5,000,000,000 for 2010, and

1           “(3) except as provided in subsection (e), zero  
2 after 2010.

3           “(d) LIMITATION ALLOCATED AMONG STATES.—

4           “(1) IN GENERAL.—The limitation applicable  
5 under subsection (c) for any calendar year shall be  
6 allocated by the Secretary among the States in pro-  
7 portion to the respective numbers of children in each  
8 State who have attained age 5 but not age 18 for  
9 the most recent fiscal year ending before such cal-  
10 endar year. The limitation amount allocated to a  
11 State under the preceding sentence shall be allocated  
12 by the State to issuers within such State.

13           “(2) MINIMUM ALLOCATIONS TO STATES.—

14           “(A) IN GENERAL.—The Secretary shall  
15 adjust the allocations under this subsection for  
16 any calendar year for each State to the extent  
17 necessary to ensure that the amount allocated  
18 to such State under this subsection for such  
19 year is not less than an amount equal to such  
20 State’s adjusted minimum percentage of the  
21 amount to be allocated under paragraph (1) for  
22 the calendar year.

23           “(B) MINIMUM PERCENTAGE.—A State’s  
24 minimum percentage for any calendar year is  
25 equal to the product of—

1 “(i) the quotient of—

2 “(I) the amount the State is eli-  
3 gible to receive under section 1124(d)  
4 of the Elementary and Secondary  
5 Education Act of 1965 (20 U.S.C.  
6 6333(d)) for the most recent fiscal  
7 year ending before such calendar year,  
8 divided by

9 “(II) the amount all States are  
10 eligible to receive under section 1124  
11 of such Act (20 U.S.C. 6333) for such  
12 fiscal year, multiplied by

13 “(ii) 100.

14 “(3) ALLOCATIONS TO CERTAIN POSSES-  
15 SIONS.—The amount to be allocated under para-  
16 graph (1) to any possession of the United States  
17 other than Puerto Rico shall be the amount which  
18 would have been allocated if all allocations under  
19 paragraph (1) were made on the basis of respective  
20 populations of individuals below the poverty line (as  
21 defined by the Office of Management and Budget).  
22 In making other allocations, the amount to be allo-  
23 cated under paragraph (1) shall be reduced by the  
24 aggregate amount allocated under this paragraph to  
25 possessions of the United States.



1           “(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In  
2           addition to the amounts otherwise allocated under  
3           this subsection, \$200,000,000 for calendar year  
4           2009, and \$200,000,000 for calendar year 2010,  
5           shall be allocated by the Secretary of the Interior for  
6           purposes of the construction, rehabilitation, and re-  
7           pair of schools funded by the Bureau of Indian Af-  
8           fairs. In the case of amounts allocated under the  
9           preceding sentence, Indian tribal governments (as  
10          defined in section 7701(a)(40)) shall be treated as  
11          qualified issuers for purposes of this subchapter.

12          “(e) CARRYOVER OF UNUSED LIMITATION.—If for  
13          any calendar year—

14                 “(1) the amount allocated under subsection (d)  
15                 to any State, exceeds

16                 “(2) the amount of bonds issued during such  
17                 year which are designated under subsection (a) pur-  
18                 suant to such allocation,

19          the limitation amount under such subsection for such  
20          State for the following calendar year shall be increased  
21          by the amount of such excess. A similar rule shall apply  
22          to the amounts allocated under subsection (d)(4).”.

23          (b) CONFORMING AMENDMENTS.—

24                 (1) Paragraph (1) of section 54A(d) is amended  
25                 by striking “or” at the end of subparagraph (C), by

1 inserting “or” at the end of subparagraph (D), and  
2 by inserting after subparagraph (D) the following  
3 new subparagraph:

4 “(E) a qualified school construction  
5 bond.”.

6 (2) Subparagraph (C) of section 54A(d)(2) is  
7 amended by striking “and” at the end of clause (iii),  
8 by striking the period at the end of clause (iv) and  
9 inserting “, and”, and by adding at the end the fol-  
10 lowing new clause:

11 “(v) in the case of a qualified school  
12 construction bond, a purpose specified in  
13 section 54F(a)(1).”.

14 (3) The table of sections for subpart I of part  
15 IV of subchapter A of chapter 1 is amended by add-  
16 ing at the end the following new item:

“Sec. 54F. Qualified school construction bonds.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to obligations issued after the date  
19 of the enactment of this Act.

20 **SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED**  
21 **ZONE ACADEMY BONDS.**

22 (a) IN GENERAL.—Section 54E(c)(1) is amended by  
23 striking “and 2009” and inserting “and \$1,400,000,000  
24 for 2009 and 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to obligations issued after Decem-  
3 ber 31, 2008.

4 **PART IV—BUILD AMERICA BONDS**

5 **SEC. 1531. BUILD AMERICA BONDS.**

6 (a) IN GENERAL.—Part IV of subchapter A of chap-  
7 ter 1 is amended by adding at the end the following new  
8 subpart:

9 **“Subpart J—Build America Bonds**

“Sec. 54AA. Build America bonds.

10 **“SEC. 54AA. BUILD AMERICA BONDS.**

11 “(a) IN GENERAL.—If a taxpayer holds a build  
12 America bond on one or more interest payment dates of  
13 the bond during any taxable year, there shall be allowed  
14 as a credit against the tax imposed by this chapter for  
15 the taxable year an amount equal to the sum of the credits  
16 determined under subsection (b) with respect to such  
17 dates.

18 “(b) AMOUNT OF CREDIT.—The amount of the credit  
19 determined under this subsection with respect to any in-  
20 terest payment date for a build America bond is 35 per-  
21 cent of the amount of interest payable by the issuer with  
22 respect to such date (40 percent in the case of an issuer  
23 described in section 148(f)(4)(D) (determined without re-  
24 gard to clauses (v), (vi), and (vii) thereof and by sub-

1 stituting ‘\$30,000,000’ for ‘\$5,000,000’ each place it ap-  
2 pears therein).

3 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

4 “(1) IN GENERAL.—The credit allowed under  
5 subsection (a) for any taxable year shall not exceed  
6 the excess of—

7 “(A) the sum of the regular tax liability  
8 (as defined in section 26(b)) plus the tax im-  
9 posed by section 55, over

10 “(B) the sum of the credits allowable  
11 under this part (other than subpart C and this  
12 subpart).

13 “(2) CARRYOVER OF UNUSED CREDIT.—If the  
14 credit allowable under subsection (a) exceeds the  
15 limitation imposed by paragraph (1) for such taxable  
16 year, such excess shall be carried to the succeeding  
17 taxable year and added to the credit allowable under  
18 subsection (a) for such taxable year (determined be-  
19 fore the application of paragraph (1) for such suc-  
20 ceeding taxable year).

21 “(d) BUILD AMERICA BOND.—

22 “(1) IN GENERAL.—For purposes of this sec-  
23 tion, the term ‘build America bond’ means any obli-  
24 gation (other than a private activity bond) if—

1           “(A) the interest on such obligation would  
2           (but for this section) be excludable from gross  
3           income under section 103,

4           “(B) such obligation is issued before Janu-  
5           ary 1, 2011, and

6           “(C) the issuer makes an irrevocable elec-  
7           tion to have this section apply.

8           “(2) APPLICABLE RULES.—For purposes of ap-  
9           plying paragraph (1)—

10           “(A) for purposes of section 149(b), a  
11           build America bond shall not be treated as fed-  
12           erally guaranteed by reason of the credit al-  
13           lowed under subsection (a) or section 6431,

14           “(B) for purposes of section 148, the yield  
15           on a build America bond shall be determined  
16           without regard to the credit allowed under sub-  
17           section (a), and

18           “(C) a bond shall not be treated as a build  
19           America bond if the issue price has more than  
20           a de minimis amount (determined under rules  
21           similar to the rules of section 1273(a)(3)) of  
22           premium over the stated principal amount of  
23           the bond.

24           “(e) INTEREST PAYMENT DATE.—For purposes of  
25           this section, the term ‘interest payment date’ means any

1 date on which the holder of record of the build America  
2 bond is entitled to a payment of interest under such bond.

3 “(f) SPECIAL RULES.—

4 “(1) INTEREST ON BUILD AMERICA BONDS IN-  
5 CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME  
6 TAX PURPOSES.—For purposes of this title, interest  
7 on any build America bond shall be includible in  
8 gross income.

9 “(2) APPLICATION OF CERTAIN RULES.—Rules  
10 similar to the rules of subsections (f), (g), (h), and  
11 (i) of section 54A shall apply for purposes of the  
12 credit allowed under subsection (a).

13 “(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED  
14 BEFORE 2011.—In the case of a qualified bond issued be-  
15 fore January 1, 2011—

16 “(1) ISSUER ALLOWED REFUNDABLE CRED-  
17 IT.—In lieu of any credit allowed under this section  
18 with respect to such bond, the issuer of such bond  
19 shall be allowed a credit as provided in section 6431.

20 “(2) QUALIFIED BOND.—For purposes of this  
21 subsection, the term ‘qualified bond’ means any  
22 build America bond issued as part of an issue if—

23 “(A) 100 percent of the available project  
24 proceeds (as defined in section 54A) of such

1 issue are to be used for capital expenditures,  
2 and

3 “(B) the issuer makes an irrevocable elec-  
4 tion to have this subsection apply.

5 “(h) REGULATIONS.—The Secretary may prescribe  
6 such regulations and other guidance as may be necessary  
7 or appropriate to carry out this section and section  
8 6431.”.

9 (b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE  
10 2011.—Subchapter B of chapter 65 is amended by adding  
11 at the end the following new section:

12 **“SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO**  
13 **ISSUER.**

14 “(a) IN GENERAL.—In the case of a qualified bond  
15 issued before January 1, 2011, the issuer of such bond  
16 shall be allowed a credit with respect to each interest pay-  
17 ment under such bond which shall be payable by the Sec-  
18 retary as provided in subsection (b).

19 “(b) PAYMENT OF CREDIT.—The Secretary shall pay  
20 (contemporaneously with each interest payment date  
21 under such bond) to the issuer of such bond (or to any  
22 person who makes such interest payments on behalf of the  
23 issuer) 35 percent of the interest payable under such bond  
24 on such date (40 percent in the case of an issuer described  
25 in section 148(f)(4)(D) (determined without regard to

1 clauses (v), (vi), and (vii) thereof and by substituting  
2 ‘\$30,000,000’ for ‘\$5,000,000’ each place it appears  
3 therein).

4 “(c) APPLICATION OF ARBITRAGE RULES.—For pur-  
5 poses of section 148, the yield on a qualified bond shall  
6 be reduced by the credit allowed under this section.

7 “(d) INTEREST PAYMENT DATE.—For purposes of  
8 this subsection, the term ‘interest payment date’ means  
9 each date on which interest is payable by the issuer under  
10 the terms of the bond.

11 “(e) QUALIFIED BOND.—For purposes of this sub-  
12 section, the term ‘qualified bond’ has the meaning given  
13 such term in section 54AA(g).”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 1324(b)(2) of title 31, United  
16 States Code, is amended by striking “or 6428” and  
17 inserting “6428, or 6431,”.

18 (2) Section 54A(c)(1)(B) is amended by strik-  
19 ing “subpart C” and inserting “subparts C and J”.

20 (3) Sections 54(c)(2), 1397E(c)(2), and  
21 1400N(l)(3)(B) are each amended by striking “and  
22 I” and inserting “, I, and J”.

23 (4) Section 6401(b)(1) is amended by striking  
24 “and I” and inserting “I, and J”.



1           (5) The table of subparts for part IV of sub-  
2           chapter A of chapter 1 is amended by adding at the  
3           end the following new item:

“Subpart J. Build America bonds.”.

4           (6) The table of section for subchapter B of  
5           chapter 65 is amended by adding at the end the fol-  
6           lowing new item:

“Sec. 6431. Credit for qualified bonds allowed to issuer.”.

7           (d) TRANSITIONAL COORDINATION WITH STATE  
8           LAW.—Except as otherwise provided by a State after the  
9           date of the enactment of this Act, the interest on any build  
10          America bond (as defined in section 54AA of the Internal  
11          Revenue Code of 1986, as added by this section) and the  
12          amount of any credit determined under such section with  
13          respect to such bond shall be treated for purposes of the  
14          income tax laws of such State as being exempt from Fed-  
15          eral income tax.

16          (e) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to obligations issued after the date  
18          of the enactment of this Act.

1       **Subtitle G—Economic Recovery**  
2       **Payments to Certain Individuals**

3       **SEC. 1601. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS**  
4                       **OF SOCIAL SECURITY, SUPPLEMENTAL SECU-**  
5                       **RITY INCOME, RAILROAD RETIREMENT BENE-**  
6                       **FITS, AND VETERANS DISABILITY COMPENSA-**  
7                       **TION OR PENSION BENEFITS.**

8       (a) **AUTHORITY TO MAKE PAYMENTS.—**

9               (1) **ELIGIBILITY.—**

10                   (A) **IN GENERAL.—**Subject to paragraph  
11                   (5)(B), the Secretary of the Treasury shall  
12                   make a \$300 payment to each individual who,  
13                   for any month during the 3-month period end-  
14                   ing with the month which ends prior to the  
15                   month that includes the date of the enactment  
16                   of this Act, is entitled to a benefit payment de-  
17                   scribed in clause (i), (ii), or (iii) of subpara-  
18                   graph (B) or is eligible for a SSI cash benefit  
19                   described in subparagraph (C).

20                   (B) **BENEFIT PAYMENT DESCRIBED.—**For  
21                   purposes of subparagraph (A):

22                           (i) **TITLE II BENEFIT.—**A benefit pay-  
23                           ment described in this clause is a monthly  
24                           insurance benefit payable (without regard  
25                           to sections 202(j)(1) and 223(b) of the So-

- 1                   cial Security Act (42 U.S.C. 402(j)(1),  
2                   423(b)) under—
- 3                   (I) section 202(a) of such Act  
4                   (42 U.S.C. 402(a));
- 5                   (II) section 202(b) of such Act  
6                   (42 U.S.C. 402(b));
- 7                   (III) section 202(c) of such Act  
8                   (42 U.S.C. 402(c));
- 9                   (IV) section 202(d)(1)(B)(ii) of  
10                  such        Act        (42        U.S.C.  
11                  402(d)(1)(B)(ii));
- 12                  (V) section 202(e) of such Act  
13                  (42 U.S.C. 402(e));
- 14                  (VI) section 202(f) of such Act  
15                  (42 U.S.C. 402(f));
- 16                  (VII) section 202(g) of such Act  
17                  (42 U.S.C. 402(g));
- 18                  (VIII) section 202(h) of such Act  
19                  (42 U.S.C. 402(h));
- 20                  (IX) section 223(a) of such Act  
21                  (42 U.S.C. 423(a));
- 22                  (X) section 227 of such Act (42  
23                  U.S.C. 427); or
- 24                  (XI) section 228 of such Act (42  
25                  U.S.C. 428).

1           (ii) RAILROAD RETIREMENT BEN-  
2           EFIT.—A benefit payment described in this  
3           clause is a monthly annuity or pension  
4           payment payable (without regard to section  
5           5(a)(ii) of the Railroad Retirement Act of  
6           1974 (45 U.S.C. 231d(a)(ii)) under—

7                   (I) section 2(a)(1) of such Act  
8                   (45 U.S.C. 231a(a)(1));

9                   (II) section 2(c) of such Act (45  
10                   U.S.C. 231a(c));

11                   (III) section 2(d)(1)(i) of such  
12                   Act (45 U.S.C. 231a(d)(1)(i));

13                   (IV) section 2(d)(1)(ii) of such  
14                   Act (45 U.S.C. 231a(d)(1)(ii));

15                   (V) section 2(d)(1)(iii)(C) of such  
16                   Act to an adult disabled child (45  
17                   U.S.C. 231a(d)(1)(iii)(C));

18                   (VI) section 2(d)(1)(iv) of such  
19                   Act (45 U.S.C. 231a(d)(1)(iv));

20                   (VII) section 2(d)(1)(v) of such  
21                   Act (45 U.S.C. 231a(d)(1)(v)); or

22                   (VIII) section 7(b)(2) of such Act  
23                   (45 U.S.C. 231f(b)(2)) with respect to  
24                   any of the benefit payments described  
25                   in clause (i) of this subparagraph.

1 (iii) VETERANS BENEFIT.—A benefit  
2 payment described in this clause is a com-  
3 pensation or pension payment payable  
4 under—

5 (I) section 1110, 1117, 1121,  
6 1131, 1141, or 1151 of title 38,  
7 United States Code;

8 (II) section 1310, 1312, 1313,  
9 1315, 1316, or 1318 of title 38,  
10 United States Code;

11 (III) section 1513, 1521, 1533,  
12 1536, 1537, 1541, 1542, or 1562 of  
13 title 38, United States Code; or

14 (IV) section 1805, 1815, or 1821  
15 of title 38, United States Code,

16 to a veteran, surviving spouse, child, or  
17 parent as described in paragraph (2), (3),  
18 (4)(A)(ii), or (5) of section 101, title 38,  
19 United States Code, who received that ben-  
20 efit during any month within the 3 month  
21 period ending with the month which ends  
22 prior to the month that includes the date  
23 of the enactment of this Act.

24 (C) SSI CASH BENEFIT DESCRIBED.—A  
25 SSI cash benefit described in this subparagraph

1 is a cash benefit payable under section 1611  
2 (other than under subsection (e)(1)(B) of such  
3 section) or 1619(a) of the Social Security Act  
4 (42 U.S.C. 1382, 1382h).

5 (2) REQUIREMENT.—A payment shall be made  
6 under paragraph (1) only to individuals who reside  
7 in 1 of the 50 States, the District of Columbia,  
8 Puerto Rico, Guam, the United States Virgin Is-  
9 lands, American Samoa, or the Northern Mariana  
10 Islands. For purposes of the preceding sentence, the  
11 determination of the individual's residence shall be  
12 based on the current address of record under a pro-  
13 gram specified in paragraph (1).

14 (3) NO DOUBLE PAYMENTS.—An individual  
15 shall be paid only 1 payment under this section, re-  
16 gardless of whether the individual is entitled to, or  
17 eligible for, more than 1 benefit or cash payment de-  
18 scribed in paragraph (1).

19 (4) LIMITATION.—A payment under this section  
20 shall not be made—

21 (A) in the case of an individual entitled to  
22 a benefit specified in paragraph (1)(B)(i) or  
23 paragraph (1)(B)(ii)(VIII) if, for the most re-  
24 cent month of such individual's entitlement in  
25 the 3-month period described in paragraph (1),

1 such individual's benefit under such paragraph  
2 was not payable by reason of subsection (x) or  
3 (y) of section 202 the Social Security Act (42  
4 U.S.C. 402) or section 1129A of such Act (42  
5 U.S.C. 1320a-8a);

6 (B) in the case of an individual entitled to  
7 a benefit specified in paragraph (1)(B)(iii) if,  
8 for the most recent month of such individual's  
9 entitlement in the 3 month period described in  
10 paragraph (1), such individual's benefit under  
11 such paragraph was not payable, or was re-  
12 duced, by reason of section 1505, 5313, or  
13 5313B of title 38, United States Code;

14 (C) in the case of an individual entitled to  
15 a benefit specified in paragraph (1)(C) if, for  
16 such most recent month, such individual's ben-  
17 efit under such paragraph was not payable by  
18 reason of subsection (e)(1)(A) or (e)(4) of sec-  
19 tion 1611 (42 U.S.C. 1382) or section 1129A  
20 of such Act (42 U.S.C. 1320a-8a); or

21 (D) in the case of any individual whose  
22 date of death occurs before the date on which  
23 the individual is certified under subsection (b)  
24 to receive a payment under this section.

25 (5) TIMING AND MANNER OF PAYMENTS.—

1           (A) IN GENERAL.—The Secretary of the  
2 Treasury shall commence making payments  
3 under this section at the earliest practicable  
4 date but in no event later than 120 days after  
5 the date of enactment of this Act. The Sec-  
6 retary of the Treasury may make any payment  
7 electronically to an individual in such manner  
8 as if such payment was a benefit payment or  
9 cash benefit to such individual under the appli-  
10 cable program described in subparagraph (B)  
11 or (C) of paragraph (1).

12           (B) DEADLINE.—No payments shall be  
13 made under this section after December 31,  
14 2010, regardless of any determinations of enti-  
15 tlement to, or eligibility for, such payments  
16 made after such date.

17           (b) IDENTIFICATION OF RECIPIENTS.—The Commis-  
18 sioner of Social Security, the Railroad Retirement Board,  
19 and the Secretary of Veterans Affairs shall certify the in-  
20 dividuals entitled to receive payments under this section  
21 and provide the Secretary of the Treasury with the infor-  
22 mation needed to disburse such payments. A certification  
23 of an individual shall be unaffected by any subsequent de-  
24 termination or redetermination of the individual's entitle-



1 ment to, or eligibility for, a benefit specified in subpara-  
2 graph (B) or (C) of subsection (a)(1).

3 (c) TREATMENT OF PAYMENTS.—

4 (1) PAYMENT TO BE DISREGARDED FOR PUR-  
5 POSES OF ALL FEDERAL AND FEDERALLY ASSISTED  
6 PROGRAMS.—A payment under subsection (a) shall  
7 not be regarded as income and shall not be regarded  
8 as a resource for the month of receipt and the fol-  
9 lowing 9 months, for purposes of determining the  
10 eligibility of the recipient (or the recipient's spouse  
11 or family) for benefits or assistance, or the amount  
12 or extent of benefits or assistance, under any Fed-  
13 eral program or under any State or local program fi-  
14 nanced in whole or in part with Federal funds.

15 (2) PAYMENT NOT CONSIDERED INCOME FOR  
16 PURPOSES OF TAXATION.—A payment under sub-  
17 section (a) shall not be considered as gross income  
18 for purposes of the Internal Revenue Code of 1986.

19 (3) PAYMENTS PROTECTED FROM ASSIGN-  
20 MENT.—The provisions of sections 207 and  
21 1631(d)(1) of the Social Security Act (42 U.S.C.  
22 407, 1383(d)(1)), section 14(a) of the Railroad Re-  
23 tirement Act of 1974 (45 U.S.C. 231m(a)), and sec-  
24 tion 5301 of title 38, United States Code, shall  
25 apply to any payment made under subsection (a) as

1 if such payment was a benefit payment or cash ben-  
2 efit to such individual under the applicable program  
3 described in subparagraph (B) or (C) of subsection  
4 (a)(1).

5 (4) PAYMENTS SUBJECT TO OFFSET.—Notwith-  
6 standing paragraph (3), for purposes of section  
7 3716 of title 31, United States Code, any payment  
8 made under this section shall not be considered a  
9 benefit payment or cash benefit made under the ap-  
10 plicable program described in subparagraph (B) or  
11 (C) of subsection (a)(1) and all amounts paid shall  
12 be subject to offset to collect delinquent debts.

13 (d) PAYMENT TO REPRESENTATIVE PAYEES AND FI-  
14 DUCIARIES.—

15 (1) IN GENERAL.—In any case in which an in-  
16 dividual who is entitled to a payment under sub-  
17 section (a) and whose benefit payment or cash ben-  
18 efit described in paragraph (1) of that subsection is  
19 paid to a representative payee or fiduciary, the pay-  
20 ment under subsection (a) shall be made to the indi-  
21 vidual's representative payee or fiduciary and the en-  
22 tire payment shall be used only for the benefit of the  
23 individual who is entitled to the payment.

24 (2) APPLICABILITY.—

1           (A) PAYMENT ON THE BASIS OF A TITLE  
2           II OR SSI BENEFIT.—Section 1129(a)(3) of the  
3           Social Security Act (42 U.S.C. 1320a–8(a)(3))  
4           shall apply to any payment made on the basis  
5           of an entitlement to a benefit specified in para-  
6           graph (1)(B)(i) or (1)(C) of subsection (a) in  
7           the same manner as such section applies to a  
8           payment under title II or XVI of such Act.

9           (B) PAYMENT ON THE BASIS OF A RAIL-  
10          ROAD RETIREMENT BENEFIT.—Section 13 of  
11          the Railroad Retirement Act (45 U.S.C. 2311)  
12          shall apply to any payment made on the basis  
13          of an entitlement to a benefit specified in para-  
14          graph (1)(B)(ii) of subsection (a) in the same  
15          manner as such section applies to a payment  
16          under such Act.

17          (C) PAYMENT ON THE BASIS OF A VET-  
18          ERANS BENEFIT.—Sections 5502, 6106, and  
19          6108 of title 38, United States Code, shall  
20          apply to any payment made on the basis of an  
21          entitlement to a benefit specified in paragraph  
22          (1)(B)(iii) of subsection (a) in the same manner  
23          as those sections apply to a payment under that  
24          title.

1           (e) APPROPRIATION.—Out of any sums in the Treas-  
2   ury of the United States not otherwise appropriated, the  
3   following sums are appropriated for the period of fiscal  
4   years 2009 and 2010 to carry out this section:

5           (1) For the Secretary of the Treasury—

6                 (A) such sums as may be necessary to  
7                 make payments under this section; and

8                 (B) \$57,000,000 for administrative costs  
9                 incurred in carrying out this section and section  
10                36A of the Internal Revenue Code of 1986 (as  
11                added by this Act).

12           (2) For the Commissioner of Social Security,  
13   \$90,000,000 for the Social Security Administration's  
14   Limitation on Administrative Expenses for costs in-  
15   curred in carrying out this section.

16           (3) For the Railroad Retirement Board,  
17   \$1,000,000 for administrative costs incurred in car-  
18   rying out this section.

19           (4) For the Secretary of Veterans Affairs,  
20   \$100,000 for the Information Systems Technology  
21   account and \$7,100,000 for the General Operating  
22   Expenses account for administrative costs incurred  
23   in carrying out this section.

1           **Subtitle H—Trade Adjustment**  
2                           **Assistance**

3   **SEC. 1701. TEMPORARY EXTENSION OF TRADE ADJUST-**  
4                           **MENT ASSISTANCE PROGRAM.**

5           (a) ASSISTANCE FOR WORKERS.—

6                 (1) IN GENERAL.—Section 245(a) of the Trade  
7           Act of 1974 (19 U.S.C. 2317(a)) is amended by  
8           striking “December 31, 2007” and inserting “De-  
9           cember 31, 2010”.

10                (2) ALTERNATIVE TRADE ADJUSTMENT ASSIST-  
11           ANCE.—Section 246(b)(1) of the Trade Act of 1974  
12           (19 U.S.C. 2318(b)(1)) is amended by striking “5  
13           years” and inserting “7 years”.

14           (b) ASSISTANCE FOR FIRMS.—Section 256(b) of the  
15           Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by  
16           striking “2007, and \$4,000,000 for the 3-month period  
17           beginning on October 1, 2007,” and inserting “December  
18           31, 2010”.

19           (c) ASSISTANCE FOR FARMERS.—Section 298(a) of  
20           the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended  
21           by striking “through 2007” and all that follows through  
22           the end period and inserting “through December 31, 2010  
23           to carry out the purposes of this chapter.”.

24           (d) EXTENSION OF TERMINATION DATES.—Section  
25           285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is

1 amended by striking “December 31, 2007” each place it  
2 appears and inserting “December 31, 2010”.

3 (e) SENSE OF THE SENATE REGARDING ADJUST-  
4 MENT ASSISTANCE FOR COMMUNITIES.—It is the sense  
5 of the Senate that title II of the Trade Act of 1974 (19  
6 U.S.C. 2271 et seq.) should be amended to assist any com-  
7 munity impacted by trade with economic adjustment  
8 through—

9 (1) the coordination of efforts by State and  
10 local governments and economic organizations;

11 (2) the coordination of Federal, State, and local  
12 resources;

13 (3) the creation of community-based develop-  
14 ment strategies; and

15 (4) the development and provision of training  
16 programs.

17 (f) EFFECTIVE DATE.—The amendments made by  
18 this section shall be effective as of January 1, 2008.

1 **Subtitle I—Prohibition on Collec-**  
2 **tion of Certain Payments Made**  
3 **Under the Continued Dumping**  
4 **and Subsidy Offset Act of 2000**

5 **SEC. 1801. PROHIBITION ON COLLECTION OF CERTAIN PAY-**  
6 **MENTS MADE UNDER THE CONTINUED DUMP-**  
7 **ING AND SUBSIDY OFFSET ACT OF 2000.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, neither the Secretary of Homeland Security  
10 nor any other person may—

11 (1) require repayment of, or attempt in any  
12 other way to recoup, any payments described in sub-  
13 section (b); or

14 (2) offset any past, current, or future distribu-  
15 tions of antidumping or countervailing duties as-  
16 sessed with respect to imports from countries that  
17 are not parties to the North American Free Trade  
18 Agreement in an attempt to recoup any payments  
19 described in subsection (b).

20 (b) PAYMENTS DESCRIBED.—Payments described in  
21 this subsection are payments of antidumping or counter-  
22 vailing duties made pursuant to the Continued Dumping  
23 and Subsidy Offset Act of 2000 (section 754 of the Tariff  
24 Act of 1930 (19 U.S.C. 1675e; repealed by subtitle F of

1 title VII of the Deficit Reduction Act of 2005 (Public Law  
2 109–171; 120 Stat. 154))) that were—

3 (1) assessed and paid on imports of goods from  
4 countries that are parties to the North American  
5 Free Trade Agreement; and

6 (2) distributed on or after January 1, 2001,  
7 and before January 1, 2006.

8 (c) PAYMENT OF FUNDS COLLECTED OR WITH-  
9 HELD.—Not later than the date that is 60 days after the  
10 date of the enactment of this Act, the Secretary of Home-  
11 land Security shall—

12 (1) refund any repayments, or any other  
13 recoupment, of payments described in subsection (b);  
14 and

15 (2) fully distribute any antidumping or counter-  
16 vailing duties that the U.S. Customs and Border  
17 Protection is withholding as an offset as described in  
18 subsection (a)(2).

19 (d) LIMITATION.—Nothing in this section shall be  
20 construed to prevent the Secretary of Homeland Security,  
21 or any other person, from requiring repayment of, or at-  
22 tempting to otherwise recoup, any payments described in  
23 subsection (b) as a result of—

24 (1) a finding of false statements or other mis-  
25 conduct by a recipient of such a payment; or



1           (2) the reliquidation of an entry with respect to  
2           which such a payment was made.

### 3           **Subtitle J—Other Provisions**

#### 4   **SEC. 1901. APPLICATION OF CERTAIN LABOR STANDARDS** 5                           **TO PROJECTS FINANCED WITH CERTAIN TAX-** 6                           **FAVORED BONDS.**

7           Subchapter IV of chapter 31 of the title 40, United  
8   States Code, shall apply to projects financed with the pro-  
9   ceeds of—

10           (1) any new clean renewable energy bond (as  
11           defined in section 54C of the Internal Revenue Code  
12           of 1986) issued after the date of the enactment of  
13           this Act,

14           (2) any qualified energy conservation bond (as  
15           defined in section 54D of the Internal Revenue Code  
16           of 1986) issued after the date of the enactment of  
17           this Act,

18           (3) any qualified zone academy bond (as de-  
19           fined in section 54E of the Internal Revenue Code  
20           of 1986) issued after the date of the enactment of  
21           this Act,

22           (4) any qualified school construction bond (as  
23           defined in section 54F of the Internal Revenue Code  
24           of 1986), and

1           (5) any recovery zone economic development  
2           bond (as defined in section 1400U-2 of the Internal  
3           Revenue Code of 1986).

4 **SEC. 1902. INCREASE IN PUBLIC DEBT LIMIT.**

5           Subsection (b) of section 3101 of title 31, United  
6 States Code, is amended by striking out the dollar limita-  
7 tion contained in such subsection and inserting  
8 “\$12,140,000,000,000”.

9 **SEC. 1903. ELECTION TO ACCELERATE THE LOW-INCOME**  
10 **HOUSING TAX CREDIT.**

11           (a) IN GENERAL.—At the election of the taxpayer,  
12 the credit determined under section 42 of the Internal  
13 Revenue Code of 1986 for the taxpayer’s first three tax-  
14 able years beginning after December 31, 2008, in which  
15 credits are allowable for any non-federally subsidized low-  
16 income housing project initially placed in service after  
17 such date—

18           (1) with respect to initial investments made  
19 pursuant to a binding agreement by such taxpayer  
20 after December 31, 2008, and before January 1,  
21 2011, and

22           (2) only from allocations of a State housing  
23 credit ceiling before 2011,  
24 shall be 200 percent of the amount which would (but for  
25 this subsection) be so allowable.

1           (b) ELIGIBILITY FOR ELECTION.—The election under  
2 subsection (a) shall take effect with respect to the first  
3 taxable year referred to in such subsection only when all  
4 rental requirements pursuant to section 42(g)(1) of the  
5 Internal Revenue Code of 1986 have been met with respect  
6 to such low-income housing project.

7           (c) REDUCTION IN AGGREGATE CREDIT TO REFLECT  
8 ACCELERATED CREDIT.—The aggregate credit allowable  
9 to any taxpayer under section 42 of the Internal Revenue  
10 Code of 1986 with respect to any investment for taxable  
11 years after the first three taxable years referred to in sub-  
12 section (a) shall be reduced on a pro rata basis by the  
13 amount of the increased credit allowable by reason of sub-  
14 section (a) with respect to such first three taxable years.  
15 The preceding sentence shall not be construed to affect  
16 whether any taxable year is part of the credit, compliance,  
17 or extended use periods under such section 42.

18           (d) ELECTION.—The election under subsection (a)  
19 shall be made at the time and in the manner prescribed  
20 by the Secretary of the Treasury or the Secretary's dele-  
21 gate, and, once made, shall be irrevocable. In the case of  
22 a partnership, such election shall be made by the partner-  
23 ship.

1 **TITLE II—ASSISTANCE FOR UN-**  
 2 **EMPLOYED WORKERS AND**  
 3 **STRUGGLING FAMILIES**

4 **SEC. 2000. SHORT TITLE; TABLE OF CONTENTS.**

5 (a) **SHORT TITLE.**—This title may be cited as the  
 6 “Assistance for Unemployed Workers and Struggling  
 7 Families Act”.

8 (b) **TABLE OF CONTENTS.**—The table of contents for  
 9 this title is as follows:

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND  
 STRUGGLING FAMILIES

Sec. 2000. Short title; table of contents.

Subtitle A—Unemployment Insurance

- Sec. 2001. Extension of emergency unemployment compensation program.
- Sec. 2002. Increase in unemployment compensation benefits.
- Sec. 2003. Unemployment compensation modernization.
- Sec. 2004. Temporary assistance for States with advances.

Subtitle B—Assistance for Vulnerable Individuals

- Sec. 2101. Emergency fund for TANF program.
- Sec. 2102. Extension of TANF supplemental grants.
- Sec. 2103. Clarification of authority of states to use tanf funds carried over  
 from prior years to provide tanf benefits and services.
- Sec. 2104. Temporary reinstatement of authority to provide Federal matching  
 payments for State spending of child support incentive pay-  
 ments.

10 **Subtitle A—Unemployment**  
 11 **Insurance**

12 **SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT**  
 13 **COMPENSATION PROGRAM.**

14 (a) **IN GENERAL.**—Section 4007 of the Supplemental  
 15 Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C.  
 16 3304 note), as amended by section 4 of the Unemployment

1 Compensation Extension Act of 2008 (Public Law 110-  
2 449; 122 Stat. 5015), is amended—

3 (1) by striking “March 31, 2009” each place it  
4 appears and inserting “December 31, 2009”;

5 (2) in the heading for subsection (b)(2), by  
6 striking “MARCH 31, 2009” and inserting “DECEM-  
7 BER 31, 2009”; and

8 (3) in subsection (b)(3), by striking “August  
9 27, 2009” and inserting “May 31, 2010”.

10 (b) FINANCING PROVISIONS.—Section 4004 of such  
11 Act is amended by adding at the end the following:

12 “(e) TRANSFER OF FUNDS.—Notwithstanding any  
13 other provision of law, the Secretary of the Treasury shall  
14 transfer from the general fund of the Treasury (from  
15 funds not otherwise appropriated)—

16 “(1) to the extended unemployment compensa-  
17 tion account (as established by section 905 of the  
18 Social Security Act) such sums as the Secretary of  
19 Labor estimates to be necessary to make payments  
20 to States under this title by reason of the amend-  
21 ments made by section 2001(a) of the Assistance for  
22 Unemployed Workers and Struggling Families Act;  
23 and

24 “(2) to the employment security administration  
25 account (as established by section 901 of the Social

1 Security Act) such sums as the Secretary of Labor  
2 estimates to be necessary for purposes of assisting  
3 States in meeting administrative costs by reason of  
4 the amendments referred to in paragraph (1).

5 There are appropriated from the general fund of the  
6 Treasury, without fiscal year limitation, the sums referred  
7 to in the preceding sentence and such sums shall not be  
8 required to be repaid.”.

9 **SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION**  
10 **BENEFITS.**

11 (a) **FEDERAL-STATE AGREEMENTS.**—Any State  
12 which desires to do so may enter into and participate in  
13 an agreement under this section with the Secretary of  
14 Labor (hereinafter in this section referred to as the “Sec-  
15 retary”). Any State which is a party to an agreement  
16 under this section may, upon providing 30 days’ written  
17 notice to the Secretary, terminate such agreement.

18 (b) **PROVISIONS OF AGREEMENT.**—

19 (1) **ADDITIONAL COMPENSATION.**—Any agree-  
20 ment under this section shall provide that the State  
21 agency of the State will make payments of regular  
22 compensation to individuals in amounts and to the  
23 extent that they would be determined if the State  
24 law of the State were applied, with respect to any  
25 week for which the individual is (disregarding this

1 section) otherwise entitled under the State law to re-  
2 ceive regular compensation, as if such State law had  
3 been modified in a manner such that the amount of  
4 regular compensation (including dependents' allow-  
5 ances) payable for any week shall be equal to the  
6 amount determined under the State law (before the  
7 application of this paragraph) plus an additional  
8 \$25.

9 (2) ALLOWABLE METHODS OF PAYMENT.—Any  
10 additional compensation provided for in accordance  
11 with paragraph (1) shall be payable either—

12 (A) as an amount which is paid at the  
13 same time and in the same manner as any reg-  
14 ular compensation otherwise payable for the  
15 week involved; or

16 (B) at the option of the State, by pay-  
17 ments which are made separately from, but on  
18 the same weekly basis as, any regular com-  
19 pensation otherwise payable.

20 (c) NONREDUCTION RULE.—An agreement under  
21 this section shall not apply (or shall cease to apply) with  
22 respect to a State upon a determination by the Secretary  
23 that the method governing the computation of regular  
24 compensation under the State law of that State has been  
25 modified in a manner such that—

1           (1) the average weekly benefit amount of reg-  
2 ular compensation which will be payable during the  
3 period of the agreement (determined disregarding  
4 any additional amounts attributable to the modifica-  
5 tion described in subsection (b)(1)) will be less than

6           (2) the average weekly benefit amount of reg-  
7 ular compensation which would otherwise have been  
8 payable during such period under the State law, as  
9 in effect on December 31, 2008.

10 (d) PAYMENTS TO STATES.—

11           (1) IN GENERAL.—

12           (A) FULL REIMBURSEMENT.—There shall  
13 be paid to each State which has entered into an  
14 agreement under this section an amount equal  
15 to 100 percent of—

16                   (i) the total amount of additional  
17 compensation (as described in subsection  
18 (b)(1)) paid to individuals by the State  
19 pursuant to such agreement; and

20                   (ii) any additional administrative ex-  
21 penses incurred by the State by reason of  
22 such agreement (as determined by the Sec-  
23 retary).

24           (B) TERMS OF PAYMENTS.—Sums payable  
25 to any State by reason of such State's having



1 an agreement under this section shall be pay-  
2 able, either in advance or by way of reimburse-  
3 ment (as determined by the Secretary), in such  
4 amounts as the Secretary estimates the State  
5 will be entitled to receive under this section for  
6 each calendar month, reduced or increased, as  
7 the case may be, by any amount by which the  
8 Secretary finds that his estimates for any prior  
9 calendar month were greater or less than the  
10 amounts which should have been paid to the  
11 State. Such estimates may be made on the  
12 basis of such statistical, sampling, or other  
13 method as may be agreed upon by the Secretary  
14 and the State agency of the State involved.

15 (2) CERTIFICATIONS.—The Secretary shall  
16 from time to time certify to the Secretary of the  
17 Treasury for payment to each State the sums pay-  
18 able to such State under this section.

19 (3) APPROPRIATION.—There are appropriated  
20 from the general fund of the Treasury, without fiscal  
21 year limitation, such sums as may be necessary for  
22 purposes of this subsection.

23 (e) APPLICABILITY.—

1           (1) IN GENERAL.—An agreement entered into  
2 under this section shall apply to weeks of unemploy-  
3 ment—

4                   (A) beginning after the date on which such  
5 agreement is entered into; and

6                   (B) ending before January 1, 2010.

7           (2) TRANSITION RULE FOR INDIVIDUALS RE-  
8 MAINING ENTITLED TO REGULAR COMPENSATION AS  
9 OF JANUARY 1, 2010.—In the case of any individual  
10 who, as of the date specified in paragraph (1)(B),  
11 has not yet exhausted all rights to regular com-  
12 pensation under the State law of a State with re-  
13 spect to a benefit year that began before such date,  
14 additional compensation (as described in subsection  
15 (b)(1)) shall continue to be payable to such indi-  
16 vidual for any week beginning on or after such date  
17 for which the individual is otherwise eligible for reg-  
18 ular compensation with respect to such benefit year.

19           (3) TERMINATION.—Notwithstanding any other  
20 provision of this subsection, no additional compensa-  
21 tion (as described in subsection (b)(1)) shall be pay-  
22 able for any week beginning after June 30, 2010.

23           (f) FRAUD AND OVERPAYMENTS.—The provisions of  
24 section 4005 of the Supplemental Appropriations Act,  
25 2008 (Public Law 110–252; 122 Stat. 2356) shall apply

1 with respect to additional compensation (as described in  
2 subsection (b)(1)) to the same extent and in the same  
3 manner as in the case of emergency unemployment com-  
4 pensation.

5 (g) APPLICATION TO OTHER UNEMPLOYMENT BENE-  
6 FITS.—

7 (1) IN GENERAL.—Each agreement under this  
8 section shall include provisions to provide that the  
9 purposes of the preceding provisions of this section  
10 shall be applied with respect to unemployment bene-  
11 fits described in subsection (i)(3) to the same extent  
12 and in the same manner as if those benefits were  
13 regular compensation.

14 (2) ELIGIBILITY AND TERMINATION RULES.—  
15 Additional compensation (as described in subsection  
16 (b)(1))—

17 (A) shall not be payable, pursuant to this  
18 subsection, with respect to any unemployment  
19 benefits described in subsection (i)(3) for any  
20 week beginning on or after the date specified in  
21 subsection (e)(1)(B), except in the case of an  
22 individual who was eligible to receive additional  
23 compensation (as so described) in connection  
24 with any regular compensation or any unem-  
25 ployment benefits described in subsection (i)(3)

1           for any period of unemployment ending before  
2           such date; and

3                   (B) shall in no event be payable for any  
4           week beginning after the date specified in sub-  
5           section (e)(3).

6           (h) DISREGARD OF ADDITIONAL COMPENSATION FOR  
7   PURPOSES OF MEDICAID AND SCHIP.—A State that en-  
8   ters into an agreement under this section shall disregard  
9   the monthly equivalent of \$25 per week for any individual  
10 who receives additional compensation under subsection  
11 (b)(1) in considering the amount of income of the indi-  
12 vidual for any purposes under the Medicaid program  
13 under title XIX of the Social Security Act and the State  
14 Children’s Health Insurance Program under title XXI of  
15 such Act.

16           (i) DEFINITIONS.—For purposes of this section—

17                   (1) the terms “compensation”, “regular com-  
18           pensation”, “benefit year”, “State”, “State agency”,  
19           “State law”, and “week” have the respective mean-  
20           ings given such terms under section 205 of the Fed-  
21           eral-State Extended Unemployment Compensation  
22           Act of 1970 (26 U.S.C. 3304 note);

23                   (2) the term “emergency unemployment com-  
24           pensation” means emergency unemployment com-  
25           pensation under title IV of the Supplemental Appro-

1        priations Act, 2008 (Public Law 110–252; 122 Stat.  
2        2353); and

3            (3) any reference to unemployment benefits de-  
4        scribed in this paragraph shall be considered to refer  
5        to—

6            (A) extended compensation (as defined by  
7        section 205 of the Federal-State Extended Un-  
8        employment Compensation Act of 1970); and

9            (B) unemployment compensation (as de-  
10       fined by section 85(b) of the Internal Revenue  
11       Code of 1986) provided under any program ad-  
12       ministered by a State under an agreement with  
13       the Secretary.

14 **SEC. 2003. UNEMPLOYMENT COMPENSATION MODERNIZA-**  
15 **TION.**

16        (a) IN GENERAL.—Section 903 of the Social Security  
17       Act (42 U.S.C. 1103) is amended by adding at the end  
18       the following:

19            “Special Transfers for Modernization

20            “(f)(1)(A) In addition to any other amounts, the Sec-  
21       retary of Labor shall provide for the making of unemploy-  
22       ment compensation modernization incentive payments  
23       (hereinafter ‘incentive payments’) to the accounts of the  
24       States in the Unemployment Trust Fund, by transfer from  
25       amounts reserved for that purpose in the Federal unem-

1 ployment account, in accordance with succeeding provi-  
2 sions of this subsection.

3 “(B) The maximum incentive payment allowable  
4 under this subsection with respect to any State shall, as  
5 determined by the Secretary of Labor, be equal to the  
6 amount obtained by multiplying \$7,000,000,000 by the  
7 same ratio as would apply under subsection (a)(2)(B) for  
8 purposes of determining such State’s share of any excess  
9 amount (as described in subsection (a)(1)) that would  
10 have been subject to transfer to State accounts, as of Oc-  
11 tober 1, 2008, under the provisions of subsection (a).

12 “(C) Of the maximum incentive payment determined  
13 under subparagraph (B) with respect to a State—

14 “(i) one-third shall be transferred to the ac-  
15 count of such State upon a certification under para-  
16 graph (4)(B) that the State law of such State meets  
17 the requirements of paragraph (2); and

18 “(ii) the remainder shall be transferred to the  
19 account of such State upon a certification under  
20 paragraph (4)(B) that the State law of such State  
21 meets the requirements of paragraph (3).

22 “(2) The State law of a State meets the requirements  
23 of this paragraph if such State law—

24 “(A) uses a base period that includes the most  
25 recently completed calendar quarter before the start

1 of the benefit year for purposes of determining eligi-  
2 bility for unemployment compensation; or

3 “(B) provides that, in the case of an individual  
4 who would not otherwise be eligible for unemploy-  
5 ment compensation under the State law because of  
6 the use of a base period that does not include the  
7 most recently completed calendar quarter before the  
8 start of the benefit year, eligibility shall be deter-  
9 mined using a base period that includes such cal-  
10 endar quarter.

11 “(3) The State law of a State meets the requirements  
12 of this paragraph if such State law includes provisions to  
13 carry out at least 2 of the following subparagraphs:

14 “(A) An individual shall not be denied regular  
15 unemployment compensation under any State law  
16 provisions relating to availability for work, active  
17 search for work, or refusal to accept work, solely be-  
18 cause such individual is seeking only part-time (and  
19 not full-time) work, except that the State law provi-  
20 sions carrying out this subparagraph may exclude an  
21 individual if a majority of the weeks of work in such  
22 individual’s base period do not include part-time  
23 work.

24 “(B) An individual shall not be disqualified  
25 from regular unemployment compensation for sepa-

1 rating from employment if that separation is for any  
2 compelling family reason. For purposes of this sub-  
3 paragraph, the term ‘compelling family reason’  
4 means the following:

5 “(i) Domestic violence, verified by such  
6 reasonable and confidential documentation as  
7 the State law may require, which causes the in-  
8 dividual reasonably to believe that such individ-  
9 ual’s continued employment would jeopardize  
10 the safety of the individual or of any member  
11 of the individual’s immediate family (as defined  
12 by the Secretary of Labor).

13 “(ii) The illness or disability of a member  
14 of the individual’s immediate family (as defined  
15 by the Secretary of Labor).

16 “(iii) The need for the individual to accom-  
17 pany such individual’s spouse—

18 “(I) to a place from which it is im-  
19 practical for such individual to commute;  
20 and

21 “(II) due to a change in location of  
22 the spouse’s employment.

23 “(C) Weekly unemployment compensation is  
24 payable under this subparagraph to any individual  
25 who is unemployed (as determined under the State



1 unemployment compensation law), has exhausted all  
2 rights to regular unemployment compensation under  
3 the State law, and is enrolled and making satisfac-  
4 tory progress in a State-approved training program  
5 or in a job training program authorized under the  
6 Workforce Investment Act of 1998. Such programs  
7 shall prepare individuals who have been separated  
8 from a declining occupation, or who have been invol-  
9 untarily and indefinitely separated from employment  
10 as a result of a permanent reduction of operations  
11 at the individual's place of employment, for entry  
12 into a high-demand occupation. The amount of un-  
13 employment compensation payable under this sub-  
14 paragraph to an individual for a week of unemploy-  
15 ment shall be equal to the individual's average week-  
16 ly benefit amount (including dependents' allowances)  
17 for the most recent benefit year, and the total  
18 amount of unemployment compensation payable  
19 under this subparagraph to any individual shall be  
20 equal to at least 26 times the individual's average  
21 weekly benefit amount (including dependents' allow-  
22 ances) for the most recent benefit year.

23           “(D) Dependents' allowances are provided, in  
24 the case of any individual who is entitled to receive  
25 regular unemployment compensation and who has

1 any dependents (as defined by State law), in an  
2 amount equal to at least \$15 per dependent per  
3 week, subject to any aggregate limitation on such al-  
4 lowances which the State law may establish (but  
5 which aggregate limitation on the total allowance for  
6 dependents paid to an individual may not be less  
7 than \$50 for each week of unemployment or 50 per-  
8 cent of the individual's weekly benefit amount for  
9 the benefit year, whichever is less).

10 “(4)(A) Any State seeking an incentive payment  
11 under this subsection shall submit an application therefor  
12 at such time, in such manner, and complete with such in-  
13 formation as the Secretary of Labor may within 60 days  
14 after the date of the enactment of this subsection prescribe  
15 (whether by regulation or otherwise), including informa-  
16 tion relating to compliance with the requirements of para-  
17 graph (2) or (3), as well as how the State intends to use  
18 the incentive payment to improve or strengthen the State's  
19 unemployment compensation program. The Secretary of  
20 Labor shall, within 30 days after receiving a complete ap-  
21 plication, notify the State agency of the State of the Sec-  
22 retary's findings with respect to the requirements of para-  
23 graph (2) or (3) (or both).

24 “(B)(i) If the Secretary of Labor finds that the State  
25 law provisions (disregarding any State law provisions

1 which are not then currently in effect as permanent law  
2 or which are subject to discontinuation) meet the require-  
3 ments of paragraph (2) or (3), as the case may be, the  
4 Secretary of Labor shall thereupon make a certification  
5 to that effect to the Secretary of the Treasury, together  
6 with a certification as to the amount of the incentive pay-  
7 ment to be transferred to the State account pursuant to  
8 that finding. The Secretary of the Treasury shall make  
9 the appropriate transfer within 7 days after receiving such  
10 certification.

11 “(ii) For purposes of clause (i), State law provisions  
12 which are to take effect within 12 months after the date  
13 of their certification under this subparagraph shall be con-  
14 sidered to be in effect as of the date of such certification.

15 “(C)(i) No certification of compliance with the re-  
16 quirements of paragraph (2) or (3) may be made with re-  
17 spect to any State whose State law is not otherwise eligible  
18 for certification under section 303 or approvable under  
19 section 3304 of the Federal Unemployment Tax Act.

20 “(ii) No certification of compliance with the require-  
21 ments of paragraph (3) may be made with respect to any  
22 State whose State law is not in compliance with the re-  
23 quirements of paragraph (2).

24 “(iii) No application under subparagraph (A) may be  
25 considered if submitted before the date of the enactment

1 of this subsection or after the latest date necessary (as  
2 specified by the Secretary of Labor) to ensure that all in-  
3 centive payments under this subsection are made before  
4 October 1, 2010. In the case of a State in which the first  
5 day of the first regularly scheduled session of the State  
6 legislature beginning after the date of enactment of this  
7 subsection begins after December 31, 2010, the preceding  
8 sentence shall be applied by substituting ‘October 1, 2011’  
9 for ‘October 1, 2010’.

10       “(5)(A) Except as provided in subparagraph (B), any  
11 amount transferred to the account of a State under this  
12 subsection may be used by such State only in the payment  
13 of cash benefits to individuals with respect to their unem-  
14 ployment (including for dependents’ allowances and for  
15 unemployment compensation under paragraph (3)(C)), ex-  
16 clusive of expenses of administration.

17       “(B) A State may, subject to the same conditions as  
18 set forth in subsection (c)(2) (excluding subparagraph (B)  
19 thereof, and deeming the reference to ‘subsections (a) and  
20 (b)’ in subparagraph (D) thereof to include this sub-  
21 section), use any amount transferred to the account of  
22 such State under this subsection for the administration  
23 of its unemployment compensation law and public employ-  
24 ment offices.

1       “(6) Out of any money in the Federal unemployment  
2 account not otherwise appropriated, the Secretary of the  
3 Treasury shall reserve \$7,000,000,000 for incentive pay-  
4 ments under this subsection. Any amount so reserved shall  
5 not be taken into account for purposes of any determina-  
6 tion under section 902, 910, or 1203 of the amount in  
7 the Federal unemployment account as of any given time.  
8 Any amount so reserved for which the Secretary of the  
9 Treasury has not received a certification under paragraph  
10 (4)(B) by the deadline described in paragraph (4)(C)(iii)  
11 shall, upon the close of fiscal year 2011, become unre-  
12 stricted as to use as part of the Federal unemployment  
13 account.

14       “(7) For purposes of this subsection, the terms ‘ben-  
15 efit year’, ‘base period’, and ‘week’ have the respective  
16 meanings given such terms under section 205 of the Fed-  
17 eral-State Extended Unemployment Compensation Act of  
18 1970 (26 U.S.C. 3304 note).

19       “Special Transfer in Fiscal Year 2009 for Administration

20       “(g)(1) In addition to any other amounts, the Sec-  
21 retary of the Treasury shall transfer from the employment  
22 security administration account to the account of each  
23 State in the Unemployment Trust Fund, within 30 days  
24 after the date of the enactment of this subsection, the

1 amount determined with respect to such State under para-  
2 graph (2).

3 “(2) The amount to be transferred under this sub-  
4 section to a State account shall (as determined by the Sec-  
5 retary of Labor and certified by such Secretary to the Sec-  
6 retary of the Treasury) be equal to the amount obtained  
7 by multiplying \$500,000,000 by the same ratio as deter-  
8 mined under subsection (f)(1)(B) with respect to such  
9 State.

10 “(3) Any amount transferred to the account of a  
11 State as a result of the enactment of this subsection may  
12 be used by the State agency of such State only in the pay-  
13 ment of expenses incurred by it for—

14 “(A) the administration of the provisions of its  
15 State law carrying out the purposes of subsection  
16 (f)(2) or any subparagraph of subsection (f)(3);

17 “(B) improved outreach to individuals who  
18 might be eligible for regular unemployment com-  
19 pensation by virtue of any provisions of the State  
20 law which are described in subparagraph (A);

21 “(C) the improvement of unemployment benefit  
22 and unemployment tax operations, including re-  
23 sponding to increased demand for unemployment  
24 compensation; and



1                   **Subtitle B—Assistance for**  
2                   **Vulnerable Individuals**

3   **SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.**

4           (a) TEMPORARY FUND.—

5               (1) IN GENERAL.—Section 403 of the Social  
6           Security Act (42 U.S.C. 603) is amended by adding  
7           at the end the following:

8           “(c) EMERGENCY FUND.—

9               “(1) ESTABLISHMENT.—There is established in  
10           the Treasury of the United States a fund which  
11           shall be known as the ‘Emergency Contingency  
12           Fund for State Temporary Assistance for Needy  
13           Families Programs’ (in this subsection referred to as  
14           the ‘Emergency Fund’).

15           “(2) DEPOSITS INTO FUND.—

16               “(A) IN GENERAL.—Out of any money in  
17           the Treasury of the United States not otherwise  
18           appropriated, there are appropriated for fiscal  
19           year 2009, \$3,000,000,000 for payment to the  
20           Emergency Fund.

21           “(B) AVAILABILITY AND USE OF FUNDS.—

22           The amounts appropriated to the Emergency  
23           Fund under subparagraph (A) shall remain  
24           available through fiscal year 2010 and shall be  
25           used to make grants to States in each of fiscal



1 years 2009 and 2010 in accordance with the re-  
2 quirements of paragraph (3).

3 “(C) LIMITATION.—In no case may the  
4 Secretary make a grant from the Emergency  
5 Fund for a fiscal year after fiscal year 2010.

6 “(3) GRANTS.—

7 “(A) GRANT RELATED TO CASELOAD IN-  
8 CREASES.—

9 “(i) IN GENERAL.—For each calendar  
10 quarter in fiscal year 2009 or 2010, the  
11 Secretary shall make a grant from the  
12 Emergency Fund to each State that—

13 “(I) requests a grant under this  
14 subparagraph for the quarter; and

15 “(II) meets the requirement of  
16 clause (ii) for the quarter.

17 “(ii) CASELOAD INCREASE REQUIRE-  
18 MENT.—A State meets the requirement of  
19 this clause for a quarter if the average  
20 monthly assistance caseload of the State  
21 for the quarter exceeds the average month-  
22 ly assistance caseload of the State for the  
23 corresponding quarter in the emergency  
24 fund base year of the State.

1           “(iii) AMOUNT OF GRANT.—Subject to  
2           paragraph (5), the amount of the grant to  
3           be made to a State under this subpara-  
4           graph for a quarter shall be 80 percent of  
5           the amount (if any) by which the total ex-  
6           penditures of the State for basic assistance  
7           (as defined by the Secretary) in the quar-  
8           ter, whether under the State program  
9           funded under this part or as qualified  
10          State expenditures, exceeds the total ex-  
11          penditures of the State for such assistance  
12          for the corresponding quarter in the emer-  
13          gency fund base year of the State.

14          “(B) GRANT RELATED TO INCREASED EX-  
15          PENDITURES FOR NON-RECURRENT SHORT  
16          TERM BENEFITS.—

17               “(i) IN GENERAL.—For each calendar  
18               quarter in fiscal year 2009 or 2010, the  
19               Secretary shall make a grant from the  
20               Emergency Fund to each State that—

21                       “(I) requests a grant under this  
22                       subparagraph for the quarter; and

23                       “(II) meets the requirement of  
24                       clause (ii) for the quarter.

1           “(ii) NON-RECURRENT SHORT TERM  
2           EXPENDITURE REQUIREMENT.—A State  
3           meets the requirement of this clause for a  
4           quarter if the total expenditures of the  
5           State for non-recurrent short term benefits  
6           in the quarter, whether under the State  
7           program funded under this part or as  
8           qualified State expenditures, exceeds the  
9           total such expenditures of the State for  
10          non-recurrent short term benefits in the  
11          corresponding quarter in the emergency  
12          fund base year of the State.

13           “(iii) AMOUNT OF GRANT.—Subject to  
14          paragraph (5), the amount of the grant to  
15          be made to a State under this subpara-  
16          graph for a quarter shall be an amount  
17          equal to 80 percent of the excess described  
18          in clause (ii).

19           “(C) GRANT RELATED TO INCREASED EX-  
20          PENDITURES FOR SUBSIDIZED EMPLOYMENT.—

21           “(i) IN GENERAL.—For each calendar  
22          quarter in fiscal year 2009 or 2010, the  
23          Secretary shall make a grant from the  
24          Emergency Fund to each State that—

1                   “(I) requests a grant under this  
2                   subparagraph for the quarter; and

3                   “(II) meets the requirement of  
4                   clause (ii) for the quarter.

5                   “(ii) SUBSIDIZED EMPLOYMENT EX-  
6                   PENDITURE REQUIREMENT.—A State  
7                   meets the requirement of this clause for a  
8                   quarter if the total expenditures of the  
9                   State for subsidized employment in the  
10                  quarter, whether under the State program  
11                  funded under this part or as qualified  
12                  State expenditures, exceeds the total of  
13                  such expenditures of the State in the cor-  
14                  responding quarter in the emergency fund  
15                  base year of the State.

16                  “(iii) AMOUNT OF GRANT.—Subject to  
17                  paragraph (5), the amount of the grant to  
18                  be made to a State under this subpara-  
19                  graph for a quarter shall be an amount  
20                  equal to 80 percent of the excess described  
21                  in clause (ii).

22                  “(4) AUTHORITY TO MAKE NECESSARY ADJUST-  
23                  MENTS TO DATA AND COLLECT NEEDED DATA.—In  
24                  determining the size of the caseload of a State and  
25                  the expenditures of a State for basic assistance, non-

1 recurrent short-term benefits, and subsidized em-  
2 ployment, during any period for which the State re-  
3 quests funds under this subsection, and during the  
4 emergency fund base year of the State, the Sec-  
5 retary may make appropriate adjustments to the  
6 data to ensure that the data reflect expenditures  
7 under the State program funded under this part and  
8 qualified State expenditures. The Secretary may de-  
9 velop a mechanism for collecting expenditure data,  
10 including procedures which allow States to make  
11 reasonable estimates, and may set deadlines for  
12 making revisions to the data.

13 “(5) LIMITATION.—The total amount payable  
14 to a single State under subsection (b) and this sub-  
15 section for a fiscal year shall not exceed 25 percent  
16 of the State family assistance grant.

17 “(6) LIMITATIONS ON USE OF FUNDS.—A State  
18 to which an amount is paid under this subsection  
19 may use the amount only as authorized by section  
20 404.

21 “(7) TIMING OF IMPLEMENTATION.—The Sec-  
22 retary shall implement this subsection as quickly as  
23 reasonably possible, pursuant to appropriate guid-  
24 ance to States.

25 “(8) DEFINITIONS.—In this subsection:

1           “(A) AVERAGE MONTHLY ASSISTANCE  
2 CASELOAD DEFINED.—The term ‘average  
3 monthly assistance caseload’ means, with re-  
4 spect to a State and a quarter, the number of  
5 families receiving assistance during the quarter  
6 under the State program funded under this  
7 part or as qualified State expenditures, subject  
8 to adjustment under paragraph (4).

9           “(B) EMERGENCY FUND BASE YEAR.—

10           “(i) IN GENERAL.—The term ‘emer-  
11 gency fund base year’ means, with respect  
12 to a State and a category described in  
13 clause (ii), whichever of fiscal year 2007 or  
14 2008 is the fiscal year in which the  
15 amount described by the category with re-  
16 spect to the State is the lesser.

17           “(ii) CATEGORIES DESCRIBED.—The  
18 categories described in this clause are the  
19 following:

20           “(I) The average monthly assist-  
21 ance caseload of the State.

22           “(II) The total expenditures of  
23 the State for non-recurrent short term  
24 benefits, whether under the State pro-

1                   gram funded under this part or as  
2                   qualified State expenditures.

3                   “(III) The total expenditures of  
4                   the State for subsidized employment,  
5                   whether under the State program  
6                   funded under this part or as qualified  
7                   State expenditures.

8                   “(C) QUALIFIED STATE EXPENDITURES.—  
9                   The term ‘qualified State expenditures’ has the  
10                  meaning given the term in section 409(a)(7).”.

11                  (2) REPEAL.—Effective October 1, 2010, sub-  
12                  section (c) of section 403 of the Social Security Act  
13                  (42 U.S.C. 603) (as added by paragraph (1)) is re-  
14                  pealed.

15                  (b) TEMPORARY MODIFICATION OF CASELOAD RE-  
16                  DUCTION CREDIT.—Section 407(b)(3)(A)(i) of such Act  
17                  (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting “(or  
18                  if the immediately preceding fiscal year is fiscal year 2008,  
19                  2009, or 2010, then, at State option, during the emer-  
20                  gency fund base year of the State with respect to the aver-  
21                  age monthly assistance caseload of the State (within the  
22                  meaning of section 403(c)(8)(B), except that, if a State  
23                  elects such option for fiscal year 2008, the emergency fund  
24                  base year of the State with respect to such caseload shall  
25                  be fiscal year 2007))” before “under the State”.

1           (c) DISREGARD FROM LIMITATION ON TOTAL PAY-  
2 MENTS TO TERRITORIES.—Section 1108(a)(2) of the So-  
3 cial Security Act (42 U.S.C. 1308(a)(2)) is amended by  
4 inserting “403(c)(3),” after “403(a)(5),”.

5           (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall take effect on the date of the enactment  
7 of this Act.

8 **SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.**

9           (a) EXTENSION THROUGH FISCAL YEAR 2010.—Sec-  
10 tion 7101(a) of the Deficit Reduction Act of 2005 (Public  
11 Law 109–171; 120 Stat. 135), as amended by section  
12 301(a) of the Medicare Improvements for Patients and  
13 Providers Act of 2008 (Public Law 110–275), is amended  
14 by striking “fiscal year 2009” and inserting “fiscal year  
15 2010”.

16           (b) CONFORMING AMENDMENT.—Section  
17 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C.  
18 603(a)(3)(H)(ii)) is amended to read as follows:

19                           “(ii) subparagraph (G) shall be ap-  
20                           plied as if ‘fiscal year 2010’ were sub-  
21                           stituted for ‘fiscal year 2001’; and”.



1 **SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO**  
2 **USE TANF FUNDS CARRIED OVER FROM**  
3 **PRIOR YEARS TO PROVIDE TANF BENEFITS**  
4 **AND SERVICES.**

5 Section 404(e) of the Social Security Act (42 U.S.C.  
6 604(e)) is amended to read as follows:

7 “(e) AUTHORITY TO CARRY OVER CERTAIN  
8 AMOUNTS FOR BENEFITS OR SERVICES OR FOR FUTURE  
9 CONTINGENCIES.—A State or tribe may use a grant made  
10 to the State or tribe under this part for any fiscal year  
11 to provide, without fiscal year limitation, any benefit or  
12 service that may be provided under the State or tribal pro-  
13 gram funded under this part.”.

14 **SEC. 2104. TEMPORARY REINSTATEMENT OF AUTHORITY**  
15 **TO PROVIDE FEDERAL MATCHING PAYMENTS**  
16 **FOR STATE SPENDING OF CHILD SUPPORT**  
17 **INCENTIVE PAYMENTS.**

18 During the period that begins on October 1, 2008,  
19 and ends on December 31, 2010, section 455(a)(1) of the  
20 Social Security Act (42 U.S.C. 655(a)(1)) shall be applied  
21 without regard to the amendment made by section  
22 7309(a) of the Deficit Reduction Act of 2005 (Public Law  
23 109–171, 120 Stat. 147).

1 **TITLE III—HEALTH INSURANCE**  
 2 **ASSISTANCE**

3 **SEC. 3000. TABLE OF CONTENTS OF TITLE.**

4 The table of contents for this title is as follows:

TITLE III—HEALTH INSURANCE ASSISTANCE

Sec. 3000. Table of contents of title.

Subtitle A—Premium Subsidies for COBRA Continuation Coverage for  
Unemployed Workers

Sec. 3001. Premium assistance for COBRA benefits.

Subtitle B—Transitional Medical Assistance (TMA)

Sec. 3101. Extension of transitional medical assistance (TMA).

Subtitle C—Extension of the Qualified Individual (QI) Program

Sec. 3201. Extension of the qualifying individual (QI) program.

Subtitle D—Other Provisions

Sec. 3301. Premiums and cost sharing protections under Medicaid, eligibility determinations under Medicaid and CHIP, and protection of certain Indian property from Medicaid estate recovery.

Sec. 3302. Rules applicable under Medicaid and CHIP to managed care entities with respect to Indian enrollees and Indian health care providers and Indian managed care entities.

Sec. 3303. Consultation on Medicaid, CHIP, and other health care programs funded under the Social Security Act involving Indian Health Programs and Urban Indian Organizations.

Sec. 3304. Application of prompt pay requirements to nursing facilities.

Sec. 3305. Period of application; sunset.

5 **Subtitle A—Premium Subsidies for**  
 6 **COBRA Continuation Coverage**  
 7 **for Unemployed Workers**

8 **SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.**

9 (a) TABLE OF CONTENTS OF SUBTITLE.—The table  
 10 of contents of this subtitle is as follows:

Sec. 3001. Premium assistance for COBRA benefits.

1 (b) PREMIUM ASSISTANCE FOR COBRA CONTINU-  
2 ATION COVERAGE FOR UNEMPLOYED WORKERS AND  
3 THEIR FAMILIES.—

4 (1) PROVISION OF PREMIUM ASSISTANCE.—

5 (A) REDUCTION OF PREMIUMS PAY-  
6 ABLE.—In the case of any premium for a  
7 month of coverage beginning after the date of  
8 the enactment of the Act for COBRA continu-  
9 ation coverage with respect to any assistance el-  
10 igible individual, such individual shall be treated  
11 for purposes of any COBRA continuation provi-  
12 sion as having paid the amount of such pre-  
13 mium if such individual pays 50 percent of the  
14 amount of such premium (as determined with-  
15 out regard to this subsection).

16 (B) PLAN ENROLLMENT OPTION.—

17 (i) IN GENERAL.—Notwithstanding  
18 the COBRA continuation provisions, an as-  
19 sistance eligible individual may, not later  
20 than 90 days after the date of notice of the  
21 plan enrollment option described in this  
22 subparagraph, elect to enroll in coverage  
23 under a plan offered by the employer in-  
24 volved, or the employee organization in-  
25 volved (including, for this purpose, a joint

1 board of trustees of a multiemployer trust  
2 affiliated with one or more multiemployer  
3 plans), that is different than coverage  
4 under the plan in which such individual  
5 was enrolled at the time the qualifying  
6 event occurred, and such coverage shall be  
7 treated as COBRA continuation coverage  
8 for purposes of the applicable COBRA con-  
9 tinuation coverage provision.

10 (ii) REQUIREMENTS.—An assistance  
11 eligible individual may elect to enroll in  
12 different coverage as described in clause (i)  
13 only if—

14 (I) the employer involved has  
15 made a determination that such em-  
16 ployer will permit assistance eligible  
17 individuals to enroll in different cov-  
18 erage as provided for this subpara-  
19 graph;

20 (II) the premium for such dif-  
21 ferent coverage does not exceed the  
22 premium for coverage in which the in-  
23 dividual was enrolled at the time the  
24 qualifying event occurred;

1 (III) the different coverage in  
2 which the individual elects to enroll is  
3 coverage that is also offered to the ac-  
4 tive employees of the employer at the  
5 time at which such election is made;  
6 and

7 (IV) the different coverage is  
8 not—

9 (aa) coverage that provides  
10 only dental, vision, counseling, or  
11 referral services (or a combina-  
12 tion of such services);

13 (bb) a health flexible spend-  
14 ing account or health reimburse-  
15 ment arrangement; or

16 (cc) coverage that provides  
17 coverage for services or treat-  
18 ments furnished in an on-site  
19 medical facility maintained by  
20 the employer and that consists  
21 primarily of first-aid services,  
22 prevention and wellness care, or  
23 similar care (or a combination of  
24 such care).

1 (C) PREMIUM REIMBURSEMENT.—For pro-  
2 visions providing the balance of such premium,  
3 see section 6432 of the Internal Revenue Code  
4 of 1986, as added by paragraph (12).

5 (2) LIMITATION OF PERIOD OF PREMIUM AS-  
6 SISTANCE.—

7 (A) IN GENERAL.—Paragraph (1)(A) shall  
8 not apply with respect to any assistance eligible  
9 individual for months of coverage beginning on  
10 or after the earlier of—

11 (i) the first date that such individual  
12 is eligible for coverage under any other  
13 group health plan (other than coverage  
14 consisting of only dental, vision, coun-  
15 seling, or referral services (or a combina-  
16 tion thereof), coverage under a health re-  
17 imbursement arrangement or a health  
18 flexible spending arrangement, or coverage  
19 of treatment that is furnished in an on-site  
20 medical facility maintained by the em-  
21 ployer and that consists primarily of first-  
22 aid services, prevention and wellness care,  
23 or similar care (or a combination thereof))  
24 or is eligible for benefits under title XVIII  
25 of the Social Security Act; or

1 (ii) the earliest of—

2 (I) the date which is 12 months  
3 after the first day of first month that  
4 paragraph (1)(A) applies with respect  
5 to such individual,

6 (II) the date following the expira-  
7 tion of the maximum period of con-  
8 tinuation coverage required under the  
9 applicable COBRA continuation cov-  
10 erage provision, or

11 (III) the date following the expi-  
12 ration of the period of continuation  
13 coverage allowed under paragraph  
14 (4)(B)(ii).

15 (B) TIMING OF ELIGIBILITY FOR ADDI-  
16 TIONAL COVERAGE.—For purposes of subpara-  
17 graph (A)(i), an individual shall not be treated  
18 as eligible for coverage under a group health  
19 plan before the first date on which such indi-  
20 vidual could be covered under such plan.

21 (C) NOTIFICATION REQUIREMENT.—An  
22 assistance eligible individual shall notify in writ-  
23 ing the group health plan with respect to which  
24 paragraph (1)(A) applies if such paragraph  
25 ceases to apply by reason of subparagraph

1 (A)(i). Such notice shall be provided to the  
2 group health plan in such time and manner as  
3 may be specified by the Secretary of Labor.

4 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For  
5 purposes of this section, the term “assistance eligible  
6 individual” means any qualified beneficiary if—

7 (A) at any time during the period that be-  
8 gins with September 1, 2008, and ends with  
9 December 31, 2009, such qualified beneficiary  
10 is eligible for COBRA continuation coverage,

11 (B) such qualified beneficiary elects such  
12 coverage, and

13 (C) the qualifying event with respect to the  
14 COBRA continuation coverage consists of the  
15 involuntary termination of the covered employ-  
16 ee’s employment and occurred during such pe-  
17 riod.

18 (4) EXTENSION OF ELECTION PERIOD AND EF-  
19 FECT ON COVERAGE.—

20 (A) IN GENERAL.—Notwithstanding sec-  
21 tion 605(a) of the Employee Retirement Income  
22 Security Act of 1974, section 4980B(f)(5)(A) of  
23 the Internal Revenue Code of 1986, section  
24 2205(a) of the Public Health Service Act, and  
25 section 8905a(c)(2) of title 5, United States



1 Code, in the case of an individual who is a  
2 qualified beneficiary described in paragraph  
3 (3)(A) as of the date of the enactment of this  
4 Act and has not made the election referred to  
5 in paragraph (3)(B) as of such date, such indi-  
6 vidual may elect the COBRA continuation cov-  
7 erage under the COBRA continuation coverage  
8 provisions containing such sections during the  
9 60-day period commencing with the date on  
10 which the notification required under paragraph  
11 (7)(C) is provided to such individual.

12 (B) COMMENCEMENT OF COVERAGE; NO  
13 REACH-BACK.—Any COBRA continuation cov-  
14 erage elected by a qualified beneficiary during  
15 an extended election period under subparagraph  
16 (A)—

17 (i) shall commence on the date of the  
18 enactment of this Act, and

19 (ii) shall not extend beyond the period  
20 of COBRA continuation coverage that  
21 would have been required under the appli-  
22 cable COBRA continuation coverage provi-  
23 sion if the coverage had been elected as re-  
24 quired under such provision.

1 (C) PREEXISTING CONDITIONS.—With re-  
2 spect to a qualified beneficiary who elects  
3 COBRA continuation coverage pursuant to sub-  
4 paragraph (A), the period—

5 (i) beginning on the date of the quali-  
6 fying event, and

7 (ii) ending with the day before the  
8 date of the enactment of this Act,

9 shall be disregarded for purposes of deter-  
10 mining the 63-day periods referred to in section  
11 701(2) of the Employee Retirement Income  
12 Security Act of 1974, section 9801(c)(2) of the  
13 Internal Revenue Code of 1986, and section  
14 2701(c)(2) of the Public Health Service Act.

15 (5) EXPEDITED REVIEW OF DENIALS OF PRE-  
16 MIUM ASSISTANCE.—In any case in which an indi-  
17 vidual requests treatment as an assistance eligible  
18 individual and is denied such treatment by the group  
19 health plan by reason of such individual's ineligi-  
20 bility for COBRA continuation coverage, the Sec-  
21 retary of Labor (or the Secretary of Health and  
22 Human services in connection with COBRA continu-  
23 ation coverage which is provided other than pursu-  
24 ant to part 6 of subtitle B of title I of the Employee  
25 Retirement Income Security Act of 1974), in con-

1 sultation with the Secretary of the Treasury, shall  
2 provide for expedited review of such denial. An indi-  
3 vidual shall be entitled to such review upon applica-  
4 tion to such Secretary in such form and manner as  
5 shall be provided by such Secretary. Such Secretary  
6 shall make a determination regarding such individ-  
7 ual's eligibility within 10 business days after receipt  
8 of such individual's application for review under this  
9 paragraph.

10 (6) DISREGARD OF SUBSIDIES FOR PURPOSES  
11 OF FEDERAL AND STATE PROGRAMS.—Notwith-  
12 standing any other provision of law, any premium  
13 reduction with respect to an assistance eligible indi-  
14 vidual under this subsection shall not be considered  
15 income or resources in determining eligibility for, or  
16 the amount of assistance or benefits provided under,  
17 any other public benefit provided under Federal law  
18 or the law of any State or political subdivision there-  
19 of.

20 (7) NOTICES TO INDIVIDUALS.—

21 (A) GENERAL NOTICE.—

22 (i) IN GENERAL.—In the case of no-  
23 tices provided under section 606(4) of the  
24 Employee Retirement Income Security Act  
25 of 1974 (29 U.S.C. 1166(4)), section

1 4980B(f)(6)(D) of the Internal Revenue  
2 Code of 1986, section 2206(4) of the Pub-  
3 lic Health Service Act (42 U.S.C. 300bb-  
4 6(4)), or section 8905a(f)(2)(A) of title 5,  
5 United States Code, with respect to indi-  
6 viduals who, during the period described in  
7 paragraph (3)(A), become entitled to elect  
8 COBRA continuation coverage, such no-  
9 tices shall include an additional notifica-  
10 tion to the recipient of—

11 (I) the availability of premium  
12 reduction with respect to such cov-  
13 erage under this subsection; and

14 (II) the option to enroll in dif-  
15 ferent coverage if an employer that  
16 permits assistance eligible individuals  
17 to elect enrollment in different cov-  
18 erage (as described in paragraph  
19 (1)(B)).

20 (ii) ALTERNATIVE NOTICE.—In the  
21 case of COBRA continuation coverage to  
22 which the notice provision under such sec-  
23 tions does not apply, the Secretary of  
24 Labor, in consultation with the Secretary  
25 of the Treasury and the Secretary of

1 Health and Human Services, shall, in co-  
2 ordination with administrators of the  
3 group health plans (or other entities) that  
4 provide or administer the COBRA continu-  
5 ation coverage involved, provide rules re-  
6 quiring the provision of such notice.

7 (iii) FORM.—The requirement of the  
8 additional notification under this subpara-  
9 graph may be met by amendment of exist-  
10 ing notice forms or by inclusion of a sepa-  
11 rate document with the notice otherwise  
12 required.

13 (B) SPECIFIC REQUIREMENTS.—Each ad-  
14 ditional notification under subparagraph (A)  
15 shall include—

16 (i) the forms necessary for estab-  
17 lishing eligibility for premium reduction  
18 under this subsection,

19 (ii) the name, address, and telephone  
20 number necessary to contact the plan ad-  
21 ministrator and any other person main-  
22 taining relevant information in connection  
23 with such premium reduction,

1 (iii) a description of the extended elec-  
2 tion period provided for in paragraph  
3 (4)(A),

4 (iv) a description of the obligation of  
5 the qualified beneficiary under paragraph  
6 (2)(C) to notify the plan providing continu-  
7 ation coverage of eligibility for subsequent  
8 coverage under another group health plan  
9 or eligibility for benefits under title XVIII  
10 of the Social Security Act and the penalty  
11 provided for failure to so notify the plan,

12 (v) a description, displayed in a  
13 prominent manner, of the qualified bene-  
14 ficiary's right to a reduced premium and  
15 any conditions on entitlement to the re-  
16 duced premium; and

17 (vi) a description of the option of the  
18 qualified beneficiary to enroll in different  
19 coverage if the employer permits such ben-  
20 eficiary to elect to enroll in such different  
21 coverage under paragraph (1)(B).

22 (C) NOTICE RELATING TO RETROACTIVE  
23 COVERAGE.—In the case of an individual de-  
24 scribed in paragraph (3)(A) who has elected  
25 COBRA continuation coverage as of the date of

1 enactment of this Act or an individual described  
2 in paragraph (4)(A), the administrator of the  
3 group health plan (or other person) involved  
4 shall provide (within 60 days after the date of  
5 enactment of this Act) for the additional notifi-  
6 cation required to be provided under subpara-  
7 graph (A).

8 (D) MODEL NOTICES.—Not later than 30  
9 days after the date of enactment of this Act,  
10 the Secretary of the Labor, in consultation with  
11 the Secretary of the Treasury and the Secretary  
12 of Health and Human Services, shall prescribe  
13 models for the additional notification required  
14 under this paragraph.

15 (8) SAFEGUARDS.—The Secretary of the Treas-  
16 ury shall provide such rules, procedures, regulations,  
17 and other guidance as may be necessary and appro-  
18 priate to prevent fraud and abuse under this sub-  
19 section.

20 (9) OUTREACH.—The Secretary of Labor, in  
21 consultation with the Secretary of the Treasury and  
22 the Secretary of Health and Human Services, shall  
23 provide outreach consisting of public education and  
24 enrollment assistance relating to premium reduction  
25 provided under this subsection. Such outreach shall

1 target employers, group health plan administrators,  
2 public assistance programs, States, insurers, and  
3 other entities as determined appropriate by such  
4 Secretaries. Such outreach shall include an initial  
5 focus on those individuals electing continuation cov-  
6 erage who are referred to in paragraph (7)(C). In-  
7 formation on such premium reduction, including en-  
8 rollment, shall also be made available on website of  
9 the Departments of Labor, Treasury, and Health  
10 and Human Services.

11 (10) DEFINITIONS.—For purposes of this sub-  
12 section—

13 (A) ADMINISTRATOR.—The term “admin-  
14 istrator” has the meaning given such term in  
15 section 3(16) of the Employee Retirement In-  
16 come Security Act of 1974

17 (B) COBRA CONTINUATION COVERAGE.—  
18 The term “COBRA continuation coverage”  
19 means continuation coverage provided pursuant  
20 to part 6 of subtitle B of title I of the Em-  
21 ployee Retirement Income Security Act of 1974  
22 (other than under section 609), title XXII of  
23 the Public Health Service Act, section 4980B of  
24 the Internal Revenue Code of 1986 (other than  
25 subsection (f)(1) of such section insofar as it



1 relates to pediatric vaccines), or section 8905a  
2 of title 5, United States Code, or under a State  
3 program that provides continuation coverage  
4 comparable to such continuation coverage. Such  
5 term does not include coverage under a health  
6 flexible spending arrangement.

7 (C) COBRA CONTINUATION PROVISION.—  
8 The term “COBRA continuation provision”  
9 means the provisions of law described in sub-  
10 paragraph (B).

11 (D) COVERED EMPLOYEE.—The term  
12 “covered employee” has the meaning given such  
13 term in section 607(2) of the Employee Retirement  
14 Income Security Act of 1974.

15 (E) QUALIFIED BENEFICIARY.—The term  
16 “qualified beneficiary” has the meaning given  
17 such term in section 607(3) of the Employee  
18 Retirement Income Security Act of 1974.

19 (F) GROUP HEALTH PLAN.—The term  
20 “group health plan” has the meaning given  
21 such term in section 607(1) of the Employee  
22 Retirement Income Security Act of 1974.

23 (G) STATE.—The term “State” includes  
24 the District of Columbia, the Commonwealth of  
25 Puerto Rico, the Virgin Islands, Guam, Amer-

1           ican Samoa, and the Commonwealth of the  
2           Northern Mariana Islands.

3           (11) REPORTS.—

4                   (A) INTERIM REPORT.—The Secretary of  
5           the Treasury shall submit an interim report to  
6           the Committee on Education and Labor, the  
7           Committee on Ways and Means, and the Com-  
8           mittee on Energy and Commerce of the House  
9           of Representatives and the Committee on  
10          Health, Education, Labor, and Pensions and  
11          the Committee on Finance of the Senate re-  
12          garding the premium reduction provided under  
13          this subsection that includes—

14                           (i) the number of individuals provided  
15                           such assistance as of the date of the re-  
16                           port; and

17                           (ii) the total amount of expenditures  
18                           incurred (with administrative expenditures  
19                           noted separately) in connection with such  
20                           assistance as of the date of the report.

21                   (B) FINAL REPORT.—As soon as prac-  
22           ticable after the last period of COBRA continu-  
23           ation coverage for which premium reduction is  
24           provided under this section, the Secretary of the  
25           Treasury shall submit a final report to each

1           Committee referred to in subparagraph (A) that  
2           includes—

3                   (i) the number of individuals provided  
4                   premium reduction under this section;

5                   (ii) the average dollar amount  
6                   (monthly and annually) of premium reduc-  
7                   tions provided to such individuals; and

8                   (iii) the total amount of expenditures  
9                   incurred (with administrative expenditures  
10                  noted separately) in connection with pre-  
11                  mium reduction under this section.

12           (12) COBRA PREMIUM ASSISTANCE.—

13                   (A) IN GENERAL.—Subchapter B of chap-  
14                   ter 65 of the Internal Revenue Code of 1986 is  
15                   amended by adding at the end the following  
16                   new section:

17   **“SEC. 6432. COBRA PREMIUM ASSISTANCE.**

18           “(a) IN GENERAL.—The person to whom premiums  
19   are payable under COBRA continuation coverage shall be  
20   reimbursed for the amount of premiums not paid by plan  
21   beneficiaries by reason of section 3001(b) of the American  
22   Recovery and Reinvestment Act of 2009. Such amount  
23   shall be treated as a credit against the requirement of such  
24   person to make deposits of payroll taxes and the liability  
25   of such person for payroll taxes. To the extent that such

1 amount exceeds the amount of such taxes, the Secretary  
2 shall pay to such person the amount of such excess. No  
3 payment may be made under this subsection to a person  
4 with respect to any assistance eligible individual until after  
5 such person has received the reduced premium from such  
6 individual required under section 3001(a)(1)(A) of such  
7 Act.

8 “(b) PAYROLL TAXES.—For purposes of this section,  
9 the term ‘payroll taxes’ means—

10 “(1) amounts required to be deducted and with-  
11 held for the payroll period under section 3401 (relat-  
12 ing to wage withholding),

13 “(2) amounts required to be deducted for the  
14 payroll period under section 3102 (relating to FICA  
15 employee taxes), and

16 “(3) amounts of the taxes imposed for the pay-  
17 roll period under section 3111 (relating to FICA em-  
18 ployer taxes).

19 “(c) TREATMENT OF CREDIT.—Except as otherwise  
20 provided by the Secretary, the credit described in sub-  
21 section (a) shall be applied as though the employer had  
22 paid to the Secretary, on the day that the qualified bene-  
23 ficiary’s premium payment is received, an amount equal  
24 to such credit.

1       “(d) TREATMENT OF PAYMENT.—For purposes of  
2 section 1324(b)(2) of title 31, United States Code, any  
3 payment under this subsection shall be treated in the same  
4 manner as a refund of the credit under section 35.

5       “(e) REPORTING.—

6           “(1) IN GENERAL.—Each person entitled to re-  
7 imbursement under subsection (a) for any period  
8 shall submit such reports as the Secretary may re-  
9 quire, including—

10           “(A) an attestation of involuntary termi-  
11 nation of employment for each covered em-  
12 ployee on the basis of whose termination entitle-  
13 ment to reimbursement is claimed under sub-  
14 section (a), and

15           “(B) a report of the amount of payroll  
16 taxes offset under subsection (a) for the report-  
17 ing period and the estimated offsets of such  
18 taxes for the subsequent reporting period in  
19 connection with reimbursements under sub-  
20 section (a).

21           “(2) TIMING OF REPORTS RELATING TO  
22 AMOUNT OF PAYROLL TAXES.—Reports required  
23 under paragraph (1)(B) shall be submitted at the  
24 same time as deposits of taxes imposed by chapters

1       21, 22, and 24 or at such time as is specified by the  
2       Secretary.

3       “(f) REGULATIONS.—The Secretary may issue such  
4 regulations or other guidance as may be necessary or ap-  
5 propriate to carry out this section, including the require-  
6 ment to report information or the establishment of other  
7 methods for verifying the correct amounts of payments  
8 and credits under this section, and the application of this  
9 section to group health plans which are multiemployer  
10 plans.”.

11               (B) SOCIAL SECURITY TRUST FUNDS HELD  
12       HARMLESS.—In determining any amount trans-  
13       ferred or appropriated to any fund under the  
14       Social Security Act, section 6432 of the Inter-  
15       nal Revenue Code of 1986 shall not be taken  
16       into account.

17               (C) CLERICAL AMENDMENT.—The table of  
18       sections for subchapter B of chapter 65 of the  
19       Internal Revenue Code of 1986 is amended by  
20       adding at the end the following new item:

“Sec. 6432. COBRA premium assistance.”.

21               (D) EFFECTIVE DATE.—The amendments  
22       made by this paragraph shall apply to pre-  
23       miums to which subsection (a)(1)(A) applies.

24               (E) SPECIAL RULE.—

1 (i) IN GENERAL.—In the case of an  
2 assistance eligible individual who pays the  
3 full premium amount required for COBRA  
4 continuation coverage for any month dur-  
5 ing the 60-day period beginning on the  
6 first day of the first month after the date  
7 of enactment of this Act, the person to  
8 whom such payment is made shall—

9 (I) make a reimbursement pay-  
10 ment to such individual for the  
11 amount of such premium paid in ex-  
12 cess of the amount required to be paid  
13 under subsection (b)(1)(A); or

14 (II) provide credit to the indi-  
15 vidual for such amount in a manner  
16 that reduces one or more subsequent  
17 premium payments that the individual  
18 is required to pay under such sub-  
19 section for the coverage involved.

20 (ii) REIMBURSING EMPLOYER.—A  
21 person to which clause (i) applies shall be  
22 reimbursed as provided for in section 6432  
23 of the Internal Revenue Code of 1986 for  
24 any payment made, or credit provided, to  
25 the employee under such clause.

1                   (iii) PAYMENT OR CREDITS.—Unless  
2                   it is reasonable to believe that the credit  
3                   for the excess payment in clause (i)(II) will  
4                   be used by the assistance eligible individual  
5                   within 180 days of the date on which the  
6                   person receives from the individual the  
7                   payment of the full premium amount, a  
8                   person to which clause (i) applies shall  
9                   make the payment required under such  
10                  clause to the individual within 60 days of  
11                  such payment of the full premium amount.  
12                  If, as of any day within the 180-day pe-  
13                  riod, it is no longer reasonable to believe  
14                  that the credit will be used during that pe-  
15                  riod, payment equal to the remainder of  
16                  the credit outstanding shall be made to the  
17                  individual within 60 days of such day.

18                  (13) PENALTY FOR FAILURE TO NOTIFY  
19                  HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR  
20                  PREMIUM ASSISTANCE.—

21                  (A) IN GENERAL.—Part I of subchapter B  
22                  of chapter 68 of the Internal Revenue Code of  
23                  1986 is amended by adding at the end the fol-  
24                  lowing new section:



1 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**  
2 **PLAN OF CESSATION OF ELIGIBILITY FOR**  
3 **COBRA PREMIUM ASSISTANCE.**

4 “(a) IN GENERAL.—Any person required to notify a  
5 group health plan under section 3001(a)(2)(C) of the  
6 American Recovery and Reinvestment Act of 2009 who  
7 fails to make such a notification at such time and in such  
8 manner as the Secretary of Labor may require shall pay  
9 a penalty of 110 percent of the premium reduction pro-  
10 vided under such section after termination of eligibility  
11 under such subsection.

12 “(b) REASONABLE CAUSE EXCEPTION.—No penalty  
13 shall be imposed under subsection (a) with respect to any  
14 failure if it is shown that such failure is due to reasonable  
15 cause and not to willful neglect.”.

16 (B) CLERICAL AMENDMENT.—The table of  
17 sections of part I of subchapter B of chapter 68  
18 of such Code is amended by adding at the end  
19 the following new item:

“Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility  
for COBRA premium assistance.”.

20 (C) EFFECTIVE DATE.—The amendments  
21 made by this paragraph shall apply to failures  
22 occurring after the date of the enactment of  
23 this Act.

24 (14) COORDINATION WITH HCTC.—

1           (A) IN GENERAL.—Subsection (g) of sec-  
2           tion 35 of the Internal Revenue Code of 1986  
3           is amended by redesignating paragraph (9) as  
4           paragraph (10) and inserting after paragraph  
5           (8) the following new paragraph:

6           “(9) COBRA PREMIUM ASSISTANCE.—In the  
7           case of an assistance eligible individual who receives  
8           premium reduction for COBRA continuation cov-  
9           erage under section 3001(a) of the American Recov-  
10          ery and Reinvestment Act of 2009 for any month  
11          during the taxable year, such individual shall not be  
12          treated as an eligible individual, a certified indi-  
13          vidual, or a qualifying family member for purposes  
14          of this section or section 7527 with respect to such  
15          month.”.

16          (B) EFFECTIVE DATE.—The amendment  
17          made by subparagraph (A) shall apply to tax-  
18          able years ending after the date of the enact-  
19          ment of this Act.

20          (15) EXCLUSION OF COBRA PREMIUM ASSIST-  
21          ANCE FROM GROSS INCOME.—

22          (A) IN GENERAL.—Part III of subchapter  
23          B of chapter 1 of the Internal Revenue Code of  
24          1986 is amended by inserting after section  
25          139B the following new section:

1 **“SEC. 139C. COBRA PREMIUM ASSISTANCE.**

2 “In the case of an assistance eligible individual (as  
3 defined in section 3001 of the American Recovery and Re-  
4 investment Act of 2009), gross income does not include  
5 any premium reduction provided under subsection (a) of  
6 such section.”.

7 (B) CLERICAL AMENDMENT.—The table of  
8 sections for part III of subchapter B of chapter  
9 1 of such Code is amended by inserting after  
10 the item relating to section 139B the following  
11 new item:

“Sec. 139C. COBRA premium assistance.”.

12 (C) EFFECTIVE DATE.—The amendments  
13 made by this paragraph shall apply to taxable  
14 years ending after the date of the enactment of  
15 this Act.

16 **Subtitle B—Transitional Medical**  
17 **Assistance (TMA)**

18 **SEC. 3101. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**  
19 **ANCE (TMA).**

20 (a) 18-MONTH EXTENSION.—

21 (1) IN GENERAL.—Sections 1902(e)(1)(B) and  
22 1925(f) of the Social Security Act (42 U.S.C.  
23 1396a(e)(1)(B), 1396r–6(f)) are each amended by  
24 striking “September 30, 2003” and inserting “De-  
25 cember 31, 2010”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall take effect on July 1, 2009.

3           (b) STATE OPTION OF INITIAL 12-MONTH ELIGI-  
4 BILITY.—Section 1925 of the Social Security Act (42  
5 U.S.C. 1396r-6) is amended—

6           (1) in subsection (a)(1), by inserting “but sub-  
7           ject to paragraph (5)” after “Notwithstanding any  
8           other provision of this title”;

9           (2) by adding at the end of subsection (a) the  
10          following:

11           “(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY  
12          PERIOD.—A State may elect to treat any reference  
13          in this subsection to a 6-month period (or 6 months)  
14          as a reference to a 12-month period (or 12 months).  
15          In the case of such an election, subsection (b) shall  
16          not apply.”; and

17           (3) in subsection (b)(1), by inserting “but sub-  
18          ject to subsection (a)(5)” after “Notwithstanding  
19          any other provision of this title”.

20          (c) REMOVAL OF REQUIREMENT FOR PREVIOUS RE-  
21 CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of  
22 such Act (42 U.S.C. 1396r-6(a)(1)), as amended by sub-  
23 section (b)(1), is further amended—

24           (1) by inserting “subparagraph (B) and” before  
25          “paragraph (5)”;

1           (2) by redesignating the matter after “RE-  
2           QUIREMENT.—” as a subparagraph (A) with the  
3           heading “IN GENERAL.—” and with the same inden-  
4           tation as subparagraph (B) (as added by paragraph  
5           (3)); and

6           (3) by adding at the end the following:

7                   “(B) STATE OPTION TO WAIVE REQUIRE-  
8                   MENT FOR 3 MONTHS BEFORE RECEIPT OF  
9                   MEDICAL ASSISTANCE.—A State may, at its op-  
10                  tion, elect also to apply subparagraph (A) in  
11                  the case of a family that was receiving such aid  
12                  for fewer than three months or that had applied  
13                  for and was eligible for such aid for fewer than  
14                  3 months during the 6 immediately preceding  
15                  months described in such subparagraph.”.

16           (d) CMS REPORT ON ENROLLMENT AND PARTICIPA-  
17           TION RATES UNDER TMA.—Section 1925 of such Act (42  
18           U.S.C. 1396r-6), as amended by this section, is further  
19           amended by adding at the end the following new sub-  
20           section:

21                   “(g) COLLECTION AND REPORTING OF PARTICIPA-  
22                   TION INFORMATION.—

23                   “(1) COLLECTION OF INFORMATION FROM  
24                   STATES.—Each State shall collect and submit to the  
25                   Secretary (and make publicly available), in a format

1 specified by the Secretary, information on average  
2 monthly enrollment and average monthly participa-  
3 tion rates for adults and children under this section  
4 and of the number and percentage of children who  
5 become ineligible for medical assistance under this  
6 section whose medical assistance is continued under  
7 another eligibility category or who are enrolled under  
8 the State's child health plan under title XXI. Such  
9 information shall be submitted at the same time and  
10 frequency in which other enrollment information  
11 under this title is submitted to the Secretary.

12 “(2) ANNUAL REPORTS TO CONGRESS.—Using  
13 the information submitted under paragraph (1), the  
14 Secretary shall submit to Congress annual reports  
15 concerning enrollment and participation rates de-  
16 scribed in such paragraph.”

17 (e) EFFECTIVE DATE.—The amendments made by  
18 subsections (b) through (d) shall take effect on July 1,  
19 2009.

20 **Subtitle C—Extension of the**  
21 **Qualified Individual (QI) Program**

22 **SEC. 3201. EXTENSION OF THE QUALIFYING INDIVIDUAL**  
23 **(QI) PROGRAM.**

24 (a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the  
25 Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is

1 amended by striking “December 2009” and inserting “De-  
2 cember 2010”.

3 (b) EXTENDING TOTAL AMOUNT AVAILABLE FOR  
4 ALLOCATION.—Section 1933(g) of such Act (42 U.S.C.  
5 1396u–3(g)) is amended—

6 (1) in paragraph (2)—

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

9 (B) in subparagraph (L), by striking the  
10 period at the end and inserting a semicolon;  
11 and

12 (C) by adding at the end the following new  
13 subparagraphs:

14 “(M) for the period that begins on Janu-  
15 ary 1, 2010, and ends on September 30, 2010,  
16 the total allocation amount is \$412,500,000;  
17 and

18 “(N) for the period that begins on October  
19 1, 2010, and ends on December 31, 2010, the  
20 total allocation amount is \$150,000,000.”; and

21 (2) in paragraph (3), in the matter preceding  
22 subparagraph (A), by striking “or (L)” and insert-  
23 ing “(L), or (N)”.

1           **Subtitle D—Other Provisions**

2   **SEC. 3301. PREMIUMS AND COST SHARING PROTECTIONS**  
3                   **UNDER MEDICAID, ELIGIBILITY DETERMINA-**  
4                   **TIONS UNDER MEDICAID AND CHIP, AND**  
5                   **PROTECTION OF CERTAIN INDIAN PROPERTY**  
6                   **FROM MEDICAID ESTATE RECOVERY.**

7           (a) PREMIUMS AND COST SHARING PROTECTION  
8 UNDER MEDICAID.—

9                   (1) IN GENERAL.—Section 1916 of the Social  
10 Security Act (42 U.S.C. 1396o) is amended—

11                           (A) in subsection (a), in the matter pre-  
12 ceding paragraph (1), by striking “and (i)” and  
13 inserting “, (i), and (j)”; and

14                           (B) by adding at the end the following new  
15 subsection:

16           “(j) NO PREMIUMS OR COST SHARING FOR INDIANS  
17 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN  
18 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER  
19 CONTRACT HEALTH SERVICES.—

20                   “(1) NO COST SHARING FOR ITEMS OR SERV-  
21 ICES FURNISHED TO INDIANS THROUGH INDIAN  
22 HEALTH PROGRAMS.—

23                           “(A) IN GENERAL.—No enrollment fee,  
24 premium, or similar charge, and no deduction,  
25 copayment, cost sharing, or similar charge shall



1 be imposed against an Indian who is furnished  
2 an item or service directly by the Indian Health  
3 Service, an Indian Tribe, Tribal Organization,  
4 or Urban Indian Organization or through refer-  
5 ral under contract health services for which  
6 payment may be made under this title.

7 “(B) NO REDUCTION IN AMOUNT OF PAY-  
8 MENT TO INDIAN HEALTH PROVIDERS.—Pay-  
9 ment due under this title to the Indian Health  
10 Service, an Indian Tribe, Tribal Organization,  
11 or Urban Indian Organization, or a health care  
12 provider through referral under contract health  
13 services for the furnishing of an item or service  
14 to an Indian who is eligible for assistance under  
15 such title, may not be reduced by the amount  
16 of any enrollment fee, premium, or similar  
17 charge, or any deduction, copayment, cost shar-  
18 ing, or similar charge that would be due from  
19 the Indian but for the operation of subpara-  
20 graph (A).

21 “(2) RULE OF CONSTRUCTION.—Nothing in  
22 this subsection shall be construed as restricting the  
23 application of any other limitations on the imposi-  
24 tion of premiums or cost sharing that may apply to

1 an individual receiving medical assistance under this  
2 title who is an Indian.”.

3 (2) CONFORMING AMENDMENT.—Section  
4 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3))  
5 is amended—

6 (A) in subparagraph (A), by adding at the  
7 end the following new clause:

8 “(vi) An Indian who is furnished an  
9 item or service directly by the Indian  
10 Health Service, an Indian Tribe, Tribal  
11 Organization or Urban Indian Organiza-  
12 tion or through referral under contract  
13 health services.”; and

14 (B) in subparagraph (B), by adding at the  
15 end the following new clause:

16 “(ix) Items and services furnished to  
17 an Indian directly by the Indian Health  
18 Service, an Indian Tribe, Tribal Organiza-  
19 tion or Urban Indian Organization or  
20 through referral under contract health  
21 services.”.

22 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-  
23 SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

1           (1) MEDICAID.—Section 1902 of the Social Se-  
2           curity Act (42 U.S.C. 1396a) is amended by adding  
3           at the end the following new subsection:

4           “(dd) Notwithstanding any other requirement of this  
5           title or any other provision of Federal or State law, a State  
6           shall disregard the following property from resources for  
7           purposes of determining the eligibility of an individual who  
8           is an Indian for medical assistance under this title:

9           “(1) Property, including real property and im-  
10          provements, that is held in trust, subject to Federal  
11          restrictions, or otherwise under the supervision of  
12          the Secretary of the Interior, located on a reserva-  
13          tion, including any federally recognized Indian  
14          Tribe’s reservation, pueblo, or colony, including  
15          former reservations in Oklahoma, Alaska Native re-  
16          gions established by the Alaska Native Claims Set-  
17          tlement Act, and Indian allotments on or near a res-  
18          ervation as designated and approved by the Bureau  
19          of Indian Affairs of the Department of the Interior.

20          “(2) For any federally recognized Tribe not de-  
21          scribed in paragraph (1), property located within the  
22          most recent boundaries of a prior Federal reserva-  
23          tion.

24          “(3) Ownership interests in rents, leases, royal-  
25          ties, or usage rights related to natural resources (in-

1 including extraction of natural resources or harvesting  
2 of timber, other plants and plant products, animals,  
3 fish, and shellfish) resulting from the exercise of fed-  
4 erally protected rights.

5 “(4) Ownership interests in or usage rights to  
6 items not covered by paragraphs (1) through (3)  
7 that have unique religious, spiritual, traditional, or  
8 cultural significance or rights that support subsist-  
9 ence or a traditional lifestyle according to applicable  
10 tribal law or custom.”.

11 (2) APPLICATION TO CHIP.—Section 2107(e)(1)  
12 of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

13 (A) by redesignating subparagraphs (B)  
14 through (E), as subparagraphs (C) through  
15 (F), respectively; and

16 (B) by inserting after subparagraph (A),  
17 the following new subparagraph:

18 “(B) Section 1902(dd) (relating to dis-  
19 regard of certain property for purposes of mak-  
20 ing eligibility determinations).”.

21 (c) CONTINUATION OF CURRENT LAW PROTECTIONS  
22 OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE  
23 RECOVERY.—Section 1917(b)(3) of the Social Security  
24 Act (42 U.S.C. 1396p(b)(3)) is amended—

25 (1) by inserting “(A)” after “(3)”; and

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

3           “(B) The standards specified by the Sec-  
4 retary under subparagraph (A) shall require  
5 that the procedures established by the State  
6 agency under subparagraph (A) exempt income,  
7 resources, and property that are exempt from  
8 the application of this subsection as of April 1,  
9 2003, under manual instructions issued to carry  
10 out this subsection (as in effect on such date)  
11 because of the Federal responsibility for Indian  
12 Tribes and Alaska Native Villages. Nothing in  
13 this subparagraph shall be construed as pre-  
14 venting the Secretary from providing additional  
15 estate recovery exemptions under this title for  
16 Indians.”.

17 **SEC. 3302. RULES APPLICABLE UNDER MEDICAID AND CHIP**  
18 **TO MANAGED CARE ENTITIES WITH RESPECT**  
19 **TO INDIAN ENROLLEES AND INDIAN HEALTH**  
20 **CARE PROVIDERS AND INDIAN MANAGED**  
21 **CARE ENTITIES.**

22           (a) IN GENERAL.—Section 1932 of the Social Secu-  
23 rity Act (42 U.S.C. 1396u–2) is amended by adding at  
24 the end the following new subsection:

1       “(h) SPECIAL RULES WITH RESPECT TO INDIAN EN-  
2 ROLLEES, INDIAN HEALTH CARE PROVIDERS, AND IN-  
3 DIAN MANAGED CARE ENTITIES.—

4               “(1) ENROLLEE OPTION TO SELECT AN INDIAN  
5 HEALTH CARE PROVIDER AS PRIMARY CARE PRO-  
6 VIDER.—In the case of a non-Indian Medicaid man-  
7 aged care entity that—

8                       “(A) has an Indian enrolled with the enti-  
9 ty; and

10                      “(B) has an Indian health care provider  
11 that is participating as a primary care provider  
12 within the network of the entity,

13 insofar as the Indian is otherwise eligible to receive  
14 services from such Indian health care provider and  
15 the Indian health care provider has the capacity to  
16 provide primary care services to such Indian, the  
17 contract with the entity under section 1903(m) or  
18 under section 1905(t)(3) shall require, as a condi-  
19 tion of receiving payment under such contract, that  
20 the Indian shall be allowed to choose such Indian  
21 health care provider as the Indian’s primary care  
22 provider under the entity.

23               “(2) ASSURANCE OF PAYMENT TO INDIAN  
24 HEALTH CARE PROVIDERS FOR PROVISION OF COV-  
25 ERED SERVICES.—Each contract with a managed

1 care entity under section 1903(m) or under section  
2 1905(t)(3) shall require any such entity, as a condi-  
3 tion of receiving payment under such contract, to  
4 satisfy the following requirements:

5 “(A) DEMONSTRATION OF ACCESS TO IN-  
6 DIAN HEALTH CARE PROVIDERS AND APPLICA-  
7 TION OF ALTERNATIVE PAYMENT ARRANGE-  
8 MENTS.—Subject to subparagraph (C), to—

9 “(i) demonstrate that the number of  
10 Indian health care providers that are par-  
11 ticipating providers with respect to such  
12 entity are sufficient to ensure timely access  
13 to covered Medicaid managed care services  
14 for those Indian enrollees who are eligible  
15 to receive services from such providers; and

16 “(ii) agree to pay Indian health care  
17 providers, whether such providers are par-  
18 ticipating or nonparticipating providers  
19 with respect to the entity, for covered Med-  
20 icaid managed care services provided to  
21 those Indian enrollees who are eligible to  
22 receive services from such providers at a  
23 rate equal to the rate negotiated between  
24 such entity and the provider involved or, if  
25 such a rate has not been negotiated, at a

1 rate that is not less than the level and  
2 amount of payment which the entity would  
3 make for the services if the services were  
4 furnished by a participating provider which  
5 is not an Indian health care provider.

6 “(B) PROMPT PAYMENT.—To agree to  
7 make prompt payment (consistent with rule for  
8 prompt payment of providers under section  
9 1932(f)) to Indian health care providers that  
10 are participating providers with respect to such  
11 entity or, in the case of an entity to which sub-  
12 paragraph (A)(ii) or (C) applies, that the entity  
13 is required to pay in accordance with that sub-  
14 paragraph.

15 “(C) APPLICATION OF SPECIAL PAYMENT  
16 REQUIREMENTS FOR FEDERALLY-QUALIFIED  
17 HEALTH CENTERS AND FOR SERVICES PRO-  
18 VIDED BY CERTAIN INDIAN HEALTH CARE PRO-  
19 VIDERS.—

20 “(i) FEDERALLY-QUALIFIED HEALTH  
21 CENTERS.—

22 “(I) MANAGED CARE ENTITY  
23 PAYMENT REQUIREMENT.—To agree  
24 to pay any Indian health care provider  
25 that is a federally-qualified health



1 center under this title but not a par-  
2 ticipating provider with respect to the  
3 entity, for the provision of covered  
4 Medicaid managed care services by  
5 such provider to an Indian enrollee of  
6 the entity at a rate equal to the  
7 amount of payment that the entity  
8 would pay a federally-qualified health  
9 center that is a participating provider  
10 with respect to the entity but is not  
11 an Indian health care provider for  
12 such services.

13 “(II) CONTINUED APPLICATION  
14 OF STATE REQUIREMENT TO MAKE  
15 SUPPLEMENTAL PAYMENT.—Nothing  
16 in subclause (I) or subparagraph (A)  
17 or (B) shall be construed as waiving  
18 the application of section 1902(bb)(5)  
19 regarding the State plan requirement  
20 to make any supplemental payment  
21 due under such section to a federally-  
22 qualified health center for services  
23 furnished by such center to an en-  
24 rollee of a managed care entity (re-  
25 gardless of whether the federally-

1 qualified health center is or is not a  
2 participating provider with the entity).

3 “(ii) PAYMENT RATE FOR SERVICES  
4 PROVIDED BY CERTAIN INDIAN HEALTH  
5 CARE PROVIDERS.—If the amount paid by  
6 a managed care entity to an Indian health  
7 care provider that is not a federally-quali-  
8 fied health center for services provided by  
9 the provider to an Indian enrollee with the  
10 managed care entity is less than the rate  
11 that applies to the provision of such serv-  
12 ices by the provider under the State plan,  
13 the plan shall provide for payment to the  
14 Indian health care provider, whether the  
15 provider is a participating or nonpartici-  
16 pating provider with respect to the entity,  
17 of the difference between such applicable  
18 rate and the amount paid by the managed  
19 care entity to the provider for such serv-  
20 ices.

21 “(D) CONSTRUCTION.—Nothing in this  
22 paragraph shall be construed as waiving the ap-  
23 plication of section 1902(a)(30)(A) (relating to  
24 application of standards to assure that pay-

1           ments are consistent with efficiency, economy,  
2           and quality of care).

3           “(3) SPECIAL RULE FOR ENROLLMENT FOR IN-  
4           DIAN MANAGED CARE ENTITIES.—Regarding the ap-  
5           plication of a Medicaid managed care program to In-  
6           dian Medicaid managed care entities, an Indian  
7           Medicaid managed care entity may restrict enroll-  
8           ment under such program to Indians and to mem-  
9           bers of specific Tribes in the same manner as Indian  
10          Health Programs may restrict the delivery of serv-  
11          ices to such Indians and tribal members.

12          “(4) DEFINITIONS.—For purposes of this sub-  
13          section:

14                 “(A) INDIAN HEALTH CARE PROVIDER.—  
15                 The term ‘Indian health care provider’ means  
16                 an Indian Health Program or an Urban Indian  
17                 Organization.

18                 “(B) INDIAN MEDICAID MANAGED CARE  
19                 ENTITY.—The term ‘Indian Medicaid managed  
20                 care entity’ means a managed care entity that  
21                 is controlled (within the meaning of the last  
22                 sentence of section 1903(m)(1)(C)) by the In-  
23                 dian Health Service, a Tribe, Tribal Organiza-  
24                 tion, or Urban Indian Organization, or a con-  
25                 sortium, which may be composed of 1 or more

1 Tribes, Tribal Organizations, or Urban Indian  
2 Organizations, and which also may include the  
3 Service.

4 “(C) NON-INDIAN MEDICAID MANAGED  
5 CARE ENTITY.—The term ‘non-Indian Medicaid  
6 managed care entity’ means a managed care en-  
7 tity that is not an Indian Medicaid managed  
8 care entity.

9 “(D) COVERED MEDICAID MANAGED CARE  
10 SERVICES.—The term ‘covered Medicaid man-  
11 aged care services’ means, with respect to an  
12 individual enrolled with a managed care entity,  
13 items and services for which benefits are avail-  
14 able with respect to the individual under the  
15 contract between the entity and the State in-  
16 volved.

17 “(E) MEDICAID MANAGED CARE PRO-  
18 GRAM.—The term ‘Medicaid managed care pro-  
19 gram’ means a program under sections  
20 1903(m), 1905(t), and 1932 and includes a  
21 managed care program operating under a waiv-  
22 er under section 1915(b) or 1115 or other-  
23 wise.”.

24 (b) APPLICATION TO CHIP.—Subject to section  
25 \_\_013(d), section 2107(e)(1) of such Act (42 U.S.C.

1 1397gg(1)) is amended by adding at the end the following  
2 new subparagraph:

3                   “(E) Subsections (a)(2)(C) and (h) of sec-  
4                   tion 1932.”.

5 **SEC. 3303. CONSULTATION ON MEDICAID, CHIP, AND**  
6                   **OTHER HEALTH CARE PROGRAMS FUNDED**  
7                   **UNDER THE SOCIAL SECURITY ACT INVOLV-**  
8                   **ING INDIAN HEALTH PROGRAMS AND URBAN**  
9                   **INDIAN ORGANIZATIONS.**

10           (a) CONSULTATION WITH TRIBAL TECHNICAL ADVI-  
11 SORY GROUP (TTAG).—The Secretary of Health and  
12 Human Services shall maintain within the Centers for  
13 Medicaid & Medicare Services (CMS) a Tribal Technical  
14 Advisory Group (TTAG), which was first established in  
15 accordance with requirements of the charter dated Sep-  
16 tember 30, 2003, and the Secretary of Health and Human  
17 Services shall include in such Group a representative of  
18 a national urban Indian health organization and a rep-  
19 resentative of the Indian Health Service. The inclusion of  
20 a representative of a national urban Indian health organi-  
21 zation in such Group shall not affect the nonapplication  
22 of the Federal Advisory Committee Act (5 U.S.C. App.)  
23 to such Group.

24           (b) SOLICITATION OF ADVICE UNDER MEDICAID AND  
25 CHIP.—

1           (1) MEDICAID STATE PLAN AMENDMENT.—  
2           Subject to subsection (d), section 1902(a) of the So-  
3           cial Security Act (42 U.S.C. 1396a(a)) is amend-  
4           ed—

5                   (A) in paragraph (70), by striking “and”  
6                   at the end;

7                   (B) in paragraph (71), by striking the pe-  
8                   riod at the end and inserting “; and”; and

9                   (C) by inserting after paragraph (71), the  
10                  following new paragraph:

11                  “(72) in the case of any State in which 1 or  
12                  more Indian Health Programs or Urban Indian Or-  
13                  ganizations furnishes health care services, provide  
14                  for a process under which the State seeks advice on  
15                  a regular, ongoing basis from designees of such In-  
16                  dian Health Programs and Urban Indian Organiza-  
17                  tions on matters relating to the application of this  
18                  title that are likely to have a direct effect on such  
19                  Indian Health Programs and Urban Indian Organi-  
20                  zations and that—

21                          “(A) shall include solicitation of advice  
22                          prior to submission of any plan amendments,  
23                          waiver requests, and proposals for demonstra-  
24                          tion projects likely to have a direct effect on In-

1           dians, Indian Health Programs, or Urban In-  
2           dian Organizations; and

3           “(B) may include appointment of an advi-  
4           sory committee and of a designee of such In-  
5           dian Health Programs and Urban Indian Orga-  
6           nizations to the medical care advisory com-  
7           mittee advising the State on its State plan  
8           under this title.”.

9           (2) APPLICATION TO CHIP.—Subject to sub-  
10          section (d), section 2107(e)(1) of such Act (42  
11          U.S.C. 1397gg(e)(1)), as amended by section  
12          3302(b)(2), is amended—

13                 (A) by redesignating subparagraphs (B)  
14                 through (E) as subparagraphs (C) through (F),  
15                 respectively; and

16                 (B) by inserting after subparagraph (A),  
17                 the following new subparagraph:

18                 “(B) Section 1902(a)(72) (relating to re-  
19                 quiring certain States to seek advice from des-  
20                 ignees of Indian Health Programs and Urban  
21                 Indian Organizations).”.

22          (c) RULE OF CONSTRUCTION.—Nothing in the  
23          amendments made by this section shall be construed as  
24          superseding existing advisory committees, working groups,  
25          guidance, or other advisory procedures established by the

1 Secretary of Health and Human Services or by any State  
2 with respect to the provision of health care to Indians.

3 (d) CONTINGENCY RULE.—If the Children’s Health  
4 Insurance Program Reauthorization Act of 2009 (in this  
5 subsection referred to as “CHIPRA”) has been enacted  
6 as of the date of enactment of this Act, the following shall  
7 apply:

8 (1) Subparagraph (I) of section 2107(e) of the  
9 Social Security Act (as redesignated by CHIPRA) is  
10 redesignated as subparagraph (K) and the subpara-  
11 graph (E) added to section 2107(e) of the Social Se-  
12 curity Act by section 3302(b) is redesignated as sub-  
13 paragraph (J).

14 (2) Subparagraphs (D) through (H) of section  
15 2107(e) of the Social Security Act (as added and re-  
16 designated by CHIPRA) are redesignated as sub-  
17 paragraphs (E) through (I), respectively and the  
18 subparagraph (B) of section 2107(e) of the Social  
19 Security Act added by subsection (b)(2) of this sec-  
20 tion is redesignated as subparagraph (D) and  
21 amended by striking “1902(a)(72)” and inserting  
22 “1902(a)(73)”.

23 (3) Section 1902(a) of the Social Security Act  
24 (as amended by CHIPRA) is amended by striking  
25 “and” at the end of paragraph (71), by striking the



1 period at the end of the paragraph (72) added by  
 2 CHIPRA and inserting “; and” and by redesignated  
 3 the paragraph (72) added to such section by sub-  
 4 section (b)(1) of this section as paragraph (73).

5 **SEC. 3304. APPLICATION OF PROMPT PAY REQUIREMENTS**  
 6 **TO NURSING FACILITIES.**

7 Section 1902(a)(37)(A) of the Social Security Act  
 8 (42 U.S.C. 1396a(a)(37)(A)) is amended by inserting “,  
 9 or by nursing facilities,” after “health facilities”

10 **SEC. 3305. PERIOD OF APPLICATION; SUNSET.**

11 This subtitle and the amendments made by this sub-  
 12 title shall be in effect only during the period that begins  
 13 on April 1, 2009, and ends on December 31, 2010. On  
 14 and after January 1, 2011, the Social Security Act shall  
 15 be applied as if this subtitle and the amendments made  
 16 by this subtitle had not been enacted.

17 **TITLE IV—HEALTH**  
 18 **INFORMATION TECHNOLOGY**

19 **SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.**

20 (a) **SHORT TITLE.**—This title may be cited as the  
 21 “Medicare and Medicaid Health Information Technology  
 22 for Economic and Clinical Health Act” or the “M-  
 23 HITECH Act”.

24 (b) **TABLE OF CONTENTS OF TITLE.**—The table of  
 25 contents for this title is as follows:

TITLE IV—HEALTH INFORMATION TECHNOLOGY

Sec. 4001. Short title; table of contents of title.

Subtitle A—Medicare Program

Sec. 4201. Incentives for eligible professionals.

Sec. 4202. Incentives for hospitals.

Sec. 4203. Premium hold harmless and implementation funding.

Sec. 4204. Non-application of phased-out indirect medical education (IME) adjustment factor for fiscal year 2009.

Sec. 4205. Study on application of EHR payment incentives for providers not receiving other incentive payments.

Sec. 4206. Study on availability of open source health information technology systems.

Subtitle B—Medicaid Funding

Sec. 4211. Medicaid provider EHR adoption and operation payments; implementation funding.

1       **Subtitle A—Medicare Program**

2       **SEC. 4201. INCENTIVES FOR ELIGIBLE PROFESSIONALS.**

3           (a) INCENTIVE PAYMENTS.—Section 1848 of the So-  
4       cial Security Act (42 U.S.C. 1395w-4) is amended by add-  
5       ing at the end the following new subsection:

6           “(o) INCENTIVES FOR ADOPTION AND MEANINGFUL  
7       USE OF CERTIFIED EHR TECHNOLOGY.—

8                   “(1) INCENTIVE PAYMENTS.—

9                           “(A) IN GENERAL.—

10                                   “(i) IN GENERAL.—Subject to clause  
11                                   (ii) and the succeeding subparagraphs of  
12                                   this paragraph, with respect to covered  
13                                   professional services furnished by an eligi-  
14                                   ble professional during a payment year (as  
15                                   defined in subparagraph (E)), if the eligi-  
16                                   ble professional is a meaningful EHR user  
17                                   (as determined under paragraph (2)) for

1 the reporting period with respect to such  
2 year, in addition to the amount otherwise  
3 paid under this part, there also shall be  
4 paid to the eligible professional (or to an  
5 employer or facility in the cases described  
6 in clause (A) of section 1842(b)(6)), from  
7 the Federal Supplementary Medical Insur-  
8 ance Trust Fund established under section  
9 1841 an amount equal to 75 percent of the  
10 Secretary's estimate (based on claims sub-  
11 mitted not later than 2 months after the  
12 end of the payment year) of the allowed  
13 charges under this part for all such cov-  
14 ered professional services furnished by the  
15 eligible professional during such year.

16 “(ii) NO INCENTIVE PAYMENTS WITH  
17 RESPECT TO YEARS AFTER 2015.—No in-  
18 centive payments may be made under this  
19 subsection with respect to a year after  
20 2015.

21 “(B) LIMITATIONS ON AMOUNTS OF IN-  
22 CENTIVE PAYMENTS.—

23 “(i) IN GENERAL.—In no case shall  
24 the amount of the incentive payment pro-  
25 vided under this paragraph for an eligible

1 professional for a payment year exceed the  
2 applicable amount specified under this sub-  
3 paragraph with respect to such eligible  
4 professional and such year.

5 “(ii) AMOUNT.—Subject to clauses  
6 (iii) through (v), the applicable amount  
7 specified in this subparagraph for an eligi-  
8 ble professional is as follows:

9 “(I) For the first payment year  
10 for such professional, \$15,000 (or, if  
11 the first payment year for such eligi-  
12 ble professional is 2011 or 2012,  
13 \$18,000).

14 “(II) For the second payment  
15 year for such professional, \$12,000.

16 “(III) For the third payment  
17 year for such professional, \$8,000.

18 “(IV) For the fourth payment  
19 year for such professional, \$4,000.

20 “(V) For the fifth payment year  
21 for such professional, \$2,000.

22 “(VI) For any succeeding pay-  
23 ment year for such professional, \$0.

24 “(iii) PHASE DOWN FOR ELIGIBLE  
25 PROFESSIONALS FIRST ADOPTING EHR IN

1           2014.—If the first payment year for an eli-  
2           gible professional is 2014, then the amount  
3           specified in this subparagraph for a pay-  
4           ment year for such professional is the  
5           same as the amount specified in clause (ii)  
6           for such payment year for an eligible pro-  
7           fessional whose first payment year is 2013.

8           “(iv) INCREASE FOR CERTAIN RURAL  
9           ELIGIBLE PROFESSIONALS.—In the case of  
10          an eligible professional who predominantly  
11          furnishes services under this part in a  
12          rural area that is designated by the Sec-  
13          retary (under section 332(a)(1)(A) of the  
14          Public Health Service Act) as a health pro-  
15          fessional shortage area, the amount that  
16          would otherwise apply for a payment year  
17          for such professional under subclauses (I)  
18          through (V) of clause (ii) shall be in-  
19          creased by 25 percent. In implementing  
20          the preceding sentence, the Secretary may,  
21          as determined appropriate, apply provi-  
22          sions of subsections (m) and (u) of section  
23          1833 in a similar manner as such provi-  
24          sions apply under such subsection.

1           “(v) NO INCENTIVE PAYMENT IF  
2           FIRST ADOPTING AFTER 2014.—If the first  
3           payment year for an eligible professional is  
4           after 2014 then the applicable amount  
5           specified in this subparagraph for such  
6           professional for such year and any subse-  
7           quent year shall be \$0.

8           “(C) NON-APPLICATION TO HOSPITAL-  
9           BASED ELIGIBLE PROFESSIONALS.—

10           “(i) IN GENERAL.—No incentive pay-  
11           ment may be made under this paragraph  
12           in the case of a hospital-based eligible pro-  
13           fessional.

14           “(ii) HOSPITAL-BASED ELIGIBLE PRO-  
15           FESSIONAL.—For purposes of clause (i),  
16           the term ‘hospital-based eligible profes-  
17           sional’ means, with respect to covered pro-  
18           fessional services furnished by an eligible  
19           professional during the reporting period for  
20           a payment year, an eligible professional,  
21           such as a pathologist, anesthesiologist, or  
22           emergency physician, who furnishes sub-  
23           stantially all of such services in a hospital  
24           setting (whether inpatient or outpatient)  
25           and through the use of the facilities and

1 equipment, including qualified electronic  
2 health records, of the hospital.

3 “(D) PAYMENT.—

4 “(i) FORM OF PAYMENT.—The pay-  
5 ment under this paragraph may be in the  
6 form of a single consolidated payment or  
7 in the form of such periodic installments  
8 as the Secretary may specify.

9 “(ii) COORDINATION OF APPLICATION  
10 OF LIMITATION FOR PROFESSIONALS IN  
11 DIFFERENT PRACTICES.—In the case of an  
12 eligible professional furnishing covered pro-  
13 fessional services in more than one practice  
14 (as specified by the Secretary), the Sec-  
15 retary shall establish rules to coordinate  
16 the incentive payments, including the ap-  
17 plication of the limitation on amounts of  
18 such incentive payments under this para-  
19 graph, among such practices.

20 “(iii) COORDINATION WITH MED-  
21 ICAID.—The Secretary shall seek, to the  
22 maximum extent practicable, to avoid du-  
23 plicative requirements from Federal and  
24 State Governments to demonstrate mean-  
25 ingful use of certified EHR technology

1 under this title and title XIX. In doing so,  
2 the Secretary may deem satisfaction of  
3 State requirements for such meaningful  
4 use for a payment year under title XIX to  
5 be sufficient to qualify as meaningful use  
6 under this subsection and subsection (a)(7)  
7 and vice versa. The Secretary may also ad-  
8 just the reporting periods under such title  
9 and such subsections in order to carry out  
10 this clause.

11 “(E) PAYMENT YEAR DEFINED.—

12 “(i) IN GENERAL.—For purposes of  
13 this subsection, the term ‘payment year’  
14 means a year beginning with 2011.

15 “(ii) FIRST, SECOND, ETC. PAYMENT  
16 YEAR.—The term ‘first payment year’  
17 means, with respect to covered professional  
18 services furnished by an eligible profes-  
19 sional, the first year for which an incentive  
20 payment is made for such services under  
21 this subsection. The terms ‘second pay-  
22 ment year’, ‘third payment year’, ‘fourth  
23 payment year’, and ‘fifth payment year’  
24 mean, with respect to covered professional  
25 services furnished by such eligible profes-



1           sional, each successive year immediately  
2           following the first payment year for such  
3           professional.

4           “(2) MEANINGFUL EHR USER.—

5           “(A) IN GENERAL.—For purposes of para-  
6           graph (1), an eligible professional shall be  
7           treated as a meaningful EHR user for a report-  
8           ing period for a payment year (or, for purposes  
9           of subsection (a)(7), for a reporting period  
10          under such subsection for a year) if each of the  
11          following requirements is met:

12           “(i) MEANINGFUL USE OF CERTIFIED  
13           EHR TECHNOLOGY.—The eligible profes-  
14           sional demonstrates to the satisfaction of  
15           the Secretary, in accordance with subpara-  
16           graph (C)(i), that during such period the  
17           professional is using certified EHR tech-  
18           nology in a meaningful manner, which  
19           shall include the use of electronic pre-  
20           scribing as determined to be appropriate  
21           by the Secretary.

22           “(ii) INFORMATION EXCHANGE.—The  
23           eligible professional demonstrates to the  
24           satisfaction of the Secretary, in accordance  
25           with subparagraph (C)(i), that during such

1 period such certified EHR technology is  
2 connected in a manner that provides, in  
3 accordance with law and standards appli-  
4 cable to the exchange of information, for  
5 the electronic exchange of health informa-  
6 tion to improve the quality of health care,  
7 such as promoting care coordination.

8 “(iii) REPORTING ON MEASURES  
9 USING EHR.—Subject to subparagraph  
10 (B)(ii) and using such certified EHR tech-  
11 nology, the eligible professional submits in-  
12 formation for such period, in a form and  
13 manner specified by the Secretary, on such  
14 clinical quality measures and such other  
15 measures as selected by the Secretary  
16 under subparagraph (B)(i).

17 The Secretary may provide for the use of alter-  
18 native means for meeting the requirements of  
19 clauses (i), (ii), and (iii) in the case of an eligi-  
20 ble professional furnishing covered professional  
21 services in a group practice (as defined by the  
22 Secretary). The Secretary shall seek to improve  
23 the use of electronic health records and health  
24 care quality over time by requiring more strin-

1           gent measures of meaningful use selected under  
2           this paragraph.

3           “(B) REPORTING ON MEASURES.—

4           “(i) SELECTION.—The Secretary shall  
5           select measures for purposes of subpara-  
6           graph (A)(iii) but only consistent with the  
7           following:

8           “(I) The Secretary shall provide  
9           preference to clinical quality measures  
10          that have been endorsed by the entity  
11          with a contract with the Secretary  
12          under section 1890(a).

13          “(II) Prior to any measure being  
14          selected under this subparagraph, the  
15          Secretary shall publish in the Federal  
16          Register such measure and provide for  
17          a period of public comment on such  
18          measure.

19          “(ii) LIMITATION.—The Secretary  
20          may not require the electronic reporting of  
21          information on clinical quality measures  
22          under subparagraph (A)(iii) unless the  
23          Secretary has the capacity to accept the in-  
24          formation electronically, which may be on  
25          a pilot basis.

1           “(iii) COORDINATION OF REPORTING  
2           OF INFORMATION.—In selecting such  
3           measures, and in establishing the form and  
4           manner for reporting measures under sub-  
5           paragraph (A)(iii), the Secretary shall seek  
6           to avoid redundant or duplicative reporting  
7           otherwise required, including reporting  
8           under subsection (k)(2)(C).

9           “(C) DEMONSTRATION OF MEANINGFUL  
10          USE OF CERTIFIED EHR TECHNOLOGY AND IN-  
11          FORMATION EXCHANGE.—

12           “(i) IN GENERAL.—A professional  
13           may satisfy the demonstration requirement  
14           of clauses (i) and (ii) of subparagraph (A)  
15           through means specified by the Secretary,  
16           which may include—

17                   “(I) an attestation;

18                   “(II) the submission of claims  
19                   with appropriate coding (such as a  
20                   code indicating that a patient encoun-  
21                   ter was documented using certified  
22                   EHR technology);

23                   “(III) a survey response;

24                   “(IV) reporting under subpara-  
25                   graph (A)(iii); and

1                   “(V) other means specified by the  
2                   Secretary.

3                   “(ii) USE OF PART D DATA.—Not-  
4                   withstanding sections 1860D–15(d)(2)(B)  
5                   and 1860D–15(f)(2), the Secretary may  
6                   use data regarding drug claims submitted  
7                   for purposes of section 1860D–15 that are  
8                   necessary for purposes of subparagraph  
9                   (A).

10                  “(3) APPLICATION.—

11                   “(A) PHYSICIAN REPORTING SYSTEM  
12                   RULES.—Paragraphs (5), (6), and (8) of sub-  
13                   section (k) shall apply for purposes of this sub-  
14                   section in the same manner as they apply for  
15                   purposes of such subsection.

16                   “(B) COORDINATION WITH OTHER PAY-  
17                   MENTS.—The provisions of this subsection shall  
18                   not be taken into account in applying the provi-  
19                   sions of subsection (m) of this section and of  
20                   section 1833(m) and any payment under such  
21                   provisions shall not be taken into account in  
22                   computing allowable charges under this sub-  
23                   section.

24                   “(C) LIMITATIONS ON REVIEW.—There  
25                   shall be no administrative or judicial review

1 under section 1869, section 1878, or otherwise  
2 of the determination of any incentive payment  
3 under this subsection and the payment adjust-  
4 ment under subsection (a)(7), including the de-  
5 termination of a meaningful EHR user under  
6 paragraph (2), a limitation under paragraph  
7 (1)(B), and the exception under subsection  
8 (a)(7)(B).

9 “(D) POSTING ON WEBSITE.—The Sec-  
10 retary shall post on the Internet website of the  
11 Centers for Medicare & Medicaid Services, in an  
12 easily understandable format, a list of the  
13 names, business addresses, and business phone  
14 numbers of the eligible professionals who are  
15 meaningful EHR users and, as determined ap-  
16 propriate by the Secretary, of group practices  
17 receiving incentive payments under paragraph  
18 (1).

19 “(4) CERTIFIED EHR TECHNOLOGY DEFINED.—  
20 For purposes of this section, the term ‘certified  
21 EHR technology’ means a qualified electronic health  
22 record (as defined in 3000(13) of the Public Health  
23 Service Act) that is certified pursuant to section  
24 3001(c)(5) of such Act as meeting standards adopt-  
25 ed under section 3004 of such Act that are applica-

1 ble to the type of record involved (as determined by  
2 the Secretary, such as an ambulatory electronic  
3 health record for office-based physicians or an inpa-  
4 tient hospital electronic health record for hospitals).

5 “(5) DEFINITIONS.—For purposes of this sub-  
6 section:

7 “(A) COVERED PROFESSIONAL SERV-  
8 ICES.—The term ‘covered professional services’  
9 has the meaning given such term in subsection  
10 (k)(3).

11 “(B) ELIGIBLE PROFESSIONAL.—The term  
12 ‘eligible professional’ means a physician, as de-  
13 fined in section 1861(r).

14 “(C) REPORTING PERIOD.—The term ‘re-  
15 porting period’ means any period (or periods),  
16 with respect to a payment year, as specified by  
17 the Secretary.”.

18 (b) INCENTIVE PAYMENT ADJUSTMENT.—Section  
19 1848(a) of the Social Security Act (42 U.S.C. 1395w-  
20 4(a)) is amended by adding at the end the following new  
21 paragraph:

22 “(7) INCENTIVES FOR MEANINGFUL USE OF  
23 CERTIFIED EHR TECHNOLOGY.—

24 “(A) ADJUSTMENT.—

1           “(i) IN GENERAL.—Subject to sub-  
2 paragraphs (B) and (D), with respect to  
3 covered professional services furnished by  
4 an eligible professional during 2015 or any  
5 subsequent payment year, if the eligible  
6 professional is not a meaningful EHR user  
7 (as determined under subsection (o)(2)) for  
8 a reporting period for the year, the fee  
9 schedule amount for such services fur-  
10 nished by such professional during the year  
11 (including the fee schedule amount for pur-  
12 poses of determining a payment based on  
13 such amount) shall be equal to the applica-  
14 ble percent of the fee schedule amount that  
15 would otherwise apply to such services  
16 under this subsection (determined after ap-  
17 plication of paragraph (3) but without re-  
18 gard to this paragraph).

19           “(ii) APPLICABLE PERCENT.—Subject  
20 to clause (iii), for purposes of clause (i),  
21 the term ‘applicable percent’ means—

22                   “(I) for 2015, 99 percent (or, in  
23 the case of an eligible professional  
24 who was subject to the application of



1 the payment adjustment under section  
2 1848(a)(5) for 2014, 98 percent);

3 “(II) for 2016, 98 percent; and

4 “(III) for 2017 and each subse-  
5 quent year, 97 percent.

6 “(iii) AUTHORITY TO DECREASE AP-  
7 PPLICABLE PERCENTAGE FOR 2018 AND  
8 SUBSEQUENT YEARS.—For 2018 and each  
9 subsequent year, if the Secretary finds that  
10 the proportion of eligible professionals who  
11 are meaningful EHR users (as determined  
12 under subsection (o)(2)) is less than 75  
13 percent, the applicable percent shall be de-  
14 creased by 1 percentage point from the ap-  
15 plicable percent in the preceding year, but  
16 in no case shall the applicable percent be  
17 less than 95 percent.

18 “(B) SIGNIFICANT HARDSHIP EXCEP-  
19 TION.—The Secretary may, on a case-by-case  
20 basis, exempt an eligible professional from the  
21 application of the payment adjustment under  
22 subparagraph (A) if the Secretary determines,  
23 subject to annual renewal, that compliance with  
24 the requirement for being a meaningful EHR  
25 user would result in a significant hardship, such

1 as in the case of an eligible professional who  
2 practices in a rural area without sufficient  
3 Internet access. In no case may an eligible pro-  
4 fessional be granted an exemption under this  
5 subparagraph for more than 5 years.

6 “(C) APPLICATION OF PHYSICIAN REPORT-  
7 ING SYSTEM RULES.—Paragraphs (5), (6), and  
8 (8) of subsection (k) shall apply for purposes of  
9 this paragraph in the same manner as they  
10 apply for purposes of such subsection.

11 “(D) NON-APPLICATION TO HOSPITAL-  
12 BASED ELIGIBLE PROFESSIONALS.—No pay-  
13 ment adjustment may be made under subpara-  
14 graph (A) in the case of hospital-based eligible  
15 professionals (as defined in subsection  
16 (o)(1)(C)(ii)).

17 “(E) DEFINITIONS.—For purposes of this  
18 paragraph:

19 “(i) COVERED PROFESSIONAL SERV-  
20 ICES.—The term ‘covered professional  
21 services’ has the meaning given such term  
22 in subsection (k)(3).

23 “(ii) ELIGIBLE PROFESSIONAL.—The  
24 term ‘eligible professional’ means a physi-  
25 cian, as defined in section 1861(r).

1                   “(iii) REPORTING PERIOD.—The term  
2                   ‘reporting period’ means, with respect to a  
3                   year, a period specified by the Secretary.”.

4           (c) APPLICATION TO CERTAIN MA-AFFILIATED ELI-  
5 GIBLE PROFESSIONALS.—Section 1853 of the Social Secu-  
6 rity Act (42 U.S.C. 1395w-23) is amended by adding at  
7 the end the following new subsection:

8           “(1) APPLICATION OF ELIGIBLE PROFESSIONAL IN-  
9 CENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOP-  
10 TION AND MEANINGFUL USE OF CERTIFIED EHR TECH-  
11 NOLOGY.—

12           “(1) IN GENERAL.—Subject to paragraphs (3)  
13 and (4), in the case of a qualifying MA organization,  
14 the provisions of sections 1848(o) and 1848(a)(7)  
15 shall apply with respect to eligible professionals de-  
16 scribed in paragraph (2) of the organization who the  
17 organization attests under paragraph (6) to be  
18 meaningful EHR users in a similar manner as they  
19 apply to eligible professionals under such sections.  
20 Incentive payments under paragraph (3) shall be  
21 made to and payment adjustments under paragraph  
22 (4) shall apply to such qualifying organizations.

23           “(2) ELIGIBLE PROFESSIONAL DESCRIBED.—  
24 With respect to a qualifying MA organization, an eli-  
25 gible professional described in this paragraph is an

1 eligible professional (as defined for purposes of sec-  
2 tion 1848(o)) who—

3 “(A)(i) is employed by the organization; or

4 “(ii)(I) is employed by, or is a partner of,  
5 an entity that through contract with the organi-  
6 zation furnishes at least 80 percent of the enti-  
7 ty’s patient care services to enrollees of such or-  
8 ganization; and

9 “(II) furnishes at least 75 percent of the  
10 professional services of the eligible professional  
11 to enrollees of the organization; and

12 “(B) furnishes, on average, at least 20  
13 hours per week of patient care services.

14 “(3) ELIGIBLE PROFESSIONAL INCENTIVE PAY-  
15 MENTS.—

16 “(A) IN GENERAL.—In applying section  
17 1848(o) under paragraph (1), instead of the ad-  
18 ditional payment amount under section  
19 1848(o)(1)(A) and subject to subparagraph  
20 (B), the Secretary may substitute an amount  
21 determined by the Secretary to the extent fea-  
22 sible and practical to be similar to the esti-  
23 mated amount in the aggregate that would be  
24 payable if payment for services furnished by

1 such professionals was payable under part B in-  
2 stead of this part.

3 “(B) AVOIDING DUPLICATION OF PAY-  
4 MENTS.—

5 “(i) IN GENERAL.—If an eligible pro-  
6 fessional described in paragraph (2) is eli-  
7 gible for the maximum incentive payment  
8 under section 1848(o)(1)(A) for the same  
9 payment period, the payment incentive  
10 shall be made only under such section and  
11 not under this subsection.

12 “(ii) METHODS.—In the case of an el-  
13 igible professional described in paragraph  
14 (2) who is eligible for an incentive payment  
15 under section 1848(o)(1)(A) but is not de-  
16 scribed in clause (i) for the same payment  
17 period, the Secretary shall develop a proc-  
18 ess—

19 “(I) to ensure that duplicate pay-  
20 ments are not made with respect to  
21 an eligible professional both under  
22 this subsection and under section  
23 1848(o)(1)(A); and

1                   “(II) to collect data from Medi-  
2                   care Advantage organizations to en-  
3                   sure against such duplicate payments.

4                   “(C) FIXED SCHEDULE FOR APPLICATION  
5                   OF LIMITATION ON INCENTIVE PAYMENTS FOR  
6                   ALL ELIGIBLE PROFESSIONALS.—In applying  
7                   section 1848(o)(1)(B)(ii) under subparagraph  
8                   (A), in accordance with rules specified by the  
9                   Secretary, a qualifying MA organization shall  
10                  specify a year (not earlier than 2011) that shall  
11                  be treated as the first payment year for all eli-  
12                  gible professionals with respect to such organi-  
13                  zation.

14                  “(D) CAP FOR ECONOMIES OF SCALE.—In  
15                  no case may an incentive payment be made  
16                  under this subsection, including under subpara-  
17                  graph (A), to a qualifying MA organization with  
18                  respect to more than 5,000 eligible profes-  
19                  sionals of the organization.

20                  “(4) PAYMENT ADJUSTMENT.—

21                  “(A) IN GENERAL.—In applying section  
22                  1848(a)(7) under paragraph (1), instead of the  
23                  payment adjustment being an applicable per-  
24                  cent of the fee schedule amount for a year  
25                  under such section, subject to subparagraph

1 (D), the payment adjustment under paragraph  
2 (1) shall be equal to the percent specified in  
3 subparagraph (B) for such year of the payment  
4 amount otherwise provided under this section  
5 for such year.

6 “(B) SPECIFIED PERCENT.—The percent  
7 specified under this subparagraph for a year is  
8 100 percent minus a number of percentage  
9 points equal to the product of—

10 “(i) a percentage equal to 100 percent  
11 reduced by the applicable percent (under  
12 section 1848(a)(7)(A)(ii)) for the year; and

13 “(ii) a percentage equal to the Sec-  
14 retary’s estimate of the proportion for the  
15 year, of the expenditures under parts A  
16 and B that are not attributable to this  
17 part, that are attributable to expenditures  
18 for physicians’ services.

19 “(C) APPLICATION OF PAYMENT ADJUST-  
20 MENT.—In the case that a qualifying MA orga-  
21 nization attests that not all eligible profes-  
22 sionals of the organization are meaningful EHR  
23 users with respect to a year, the Secretary shall  
24 apply the payment adjustment under this para-  
25 graph based on the proportion of all eligible

1 professionals of the organization that are not  
2 meaningful EHR users for such year. If the  
3 number of eligible professionals of the organiza-  
4 tion that are not meaningful EHR users for  
5 such year exceeds 5,000, such number shall be  
6 reduced to 5,000 for purposes of determining  
7 the proportion under the preceding sentence.

8 “(5) QUALIFYING MA ORGANIZATION DE-  
9 FINED.—In this subsection and subsection (m), the  
10 term ‘qualifying MA organization’ means a Medicare  
11 Advantage organization that is organized as a health  
12 maintenance organization (as defined in section  
13 2791(b)(3) of the Public Health Service Act).

14 “(6) MEANINGFUL EHR USER ATTESTATION.—  
15 For purposes of this subsection and subsection (m),  
16 a qualifying MA organization shall submit an attes-  
17 tation, in a form and manner specified by the Sec-  
18 retary which may include the submission of such at-  
19 testation as part of submission of the initial bid  
20 under section 1854(a)(1)(A)(iv), identifying—

21 “(A) whether each eligible professional de-  
22 scribed in paragraph (2), with respect to such  
23 organization is a meaningful EHR user (as de-  
24 fined in section 1848(o)(2)) for a year specified  
25 by the Secretary; and



1           “(B) whether each eligible hospital de-  
2           scribed in subsection (m)(1), with respect to  
3           such organization, is a meaningful EHR user  
4           (as defined in section 1886(n)(3)) for an appli-  
5           cable period specified by the Secretary.

6           “(7) POSTING ON WEBSITE.—The Secretary  
7           shall post on the Internet website of the Centers for  
8           Medicare & Medicaid Services, in an easily under-  
9           standable format, a list of the names, business ad-  
10          dresses, and business phone numbers of—

11           “(A) each qualifying MA organization re-  
12          ceiving an incentive payment under this sub-  
13          section for eligible professionals of the organiza-  
14          tion; and

15           “(B) the eligible professionals of such or-  
16          ganization for which such incentive payment is  
17          based.”.

18          (d) CONFORMING AMENDMENTS.—Section 1853 of  
19          the Social Security Act (42 U.S.C. 1395w–23) is amend-  
20          ed—

21           (1) in subsection (a)(1)(A), by striking “and  
22          (i)” and inserting “(i), and (l)”;

23           (2) in subsection (c)—

1 (A) in paragraph (1)(D)(i), by striking  
2 “section 1886(h)” and inserting “sections  
3 1848(o) and 1886(h)”; and

4 (B) in paragraph (6)(A), by inserting after  
5 “under part B,” the following: “excluding ex-  
6 penditures attributable to subsections (a)(7)  
7 and (o) of section 1848,”; and

8 (3) in subsection (f), by inserting “and for pay-  
9 ments under subsection (l)” after “with the organi-  
10 zation”.

11 (e) CONFORMING AMENDMENTS TO E-PRE-  
12 SCRIBING.—

13 (1) Section 1848(a)(5)(A) of the Social Security  
14 Act (42 U.S.C. 1395w-4(a)(5)(A)) is amended—

15 (A) in clause (i), by striking “or any sub-  
16 sequent year” and inserting “, 2013, or 2014”;  
17 and

18 (B) in clause (ii), by striking “and each  
19 subsequent year”.

20 (2) Section 1848(m)(2) of such Act (42 U.S.C.  
21 1395w-4(m)(2)) is amended—

22 (A) in subparagraph (A), by striking “For  
23 2009” and inserting “Subject to subparagraph  
24 (D), for 2009”; and

1 (B) by adding at the end the following new  
2 subparagraph:

3 “(D) LIMITATION WITH RESPECT TO EHR  
4 INCENTIVE PAYMENTS.—The provisions of this  
5 paragraph shall not apply to an eligible profes-  
6 sional (or, in the case of a group practice under  
7 paragraph (3)(C), to the group practice) if, for  
8 the reporting period the eligible professional (or  
9 group practice) receives an incentive payment  
10 under subsection (o)(1)(A) with respect to a  
11 certified EHR technology (as defined in sub-  
12 section (o)(4)) that has the capability of elec-  
13 tronic prescribing.”.

14 (f) PROVIDING ASSISTANCE TO ELIGIBLE PROFES-  
15 SIONALS AND CERTAIN HOSPITALS.—

16 (1) IN GENERAL.—The Secretary of Health and  
17 Human Services shall provide assistance to eligible  
18 professionals (as defined in section 1848(o)(5), as  
19 added by subsection (a)), Medicaid providers (as de-  
20 fined in section 1903(t)(2) of such Act, as added by  
21 section 4211(a)), and eligible hospitals (as defined in  
22 section 1886(n)(6)(A) of such Act, as added by sec-  
23 tion 4202(a)) located in rural or other medically un-  
24 derserved areas to successfully choose, implement,  
25 and use certified EHR technology (as defined in sec-

1       tion 1848(o)(4) of the Social Security Act, as added  
2       by section 4201(a)).

3           (2) USE OF ENTITIES WITH EXPERTISE.—To  
4       the extent practicable, the Secretary shall provide  
5       such assistance through entities that have expertise  
6       in the choice, implementation, and use of such cer-  
7       tified EHR technology.

8   **SEC. 4202. INCENTIVES FOR HOSPITALS.**

9       (a) INCENTIVE PAYMENT.—Section 1886 of the So-  
10      cial Security Act (42 U.S.C. 1395ww) is amended by add-  
11      ing at the end the following new subsection:

12       “(n) INCENTIVES FOR ADOPTION AND MEANINGFUL  
13      USE OF CERTIFIED EHR TECHNOLOGY.—

14       “(1) IN GENERAL.—Subject to the succeeding  
15      provisions of this subsection, with respect to inpa-  
16      tient hospital services furnished by an eligible hos-  
17      pital during a payment year (as defined in para-  
18      graph (2)(G)), if the eligible hospital is a meaningful  
19      EHR user (as determined under paragraph (3)) for  
20      the reporting period with respect to such year, in ad-  
21      dition to the amount otherwise paid under this sec-  
22      tion, there also shall be paid to the eligible hospital,  
23      from the Federal Hospital Insurance Trust Fund es-  
24      tablished under section 1817, an amount equal to

1 the applicable amount specified in paragraph (2)(A)  
2 for the hospital for such payment year.

3 “(2) PAYMENT AMOUNT.—

4 “(A) IN GENERAL.—Subject to the suc-  
5 ceeding subparagraphs of this paragraph, the  
6 applicable amount specified in this subpara-  
7 graph for an eligible hospital for a payment  
8 year is equal to the product of the following:

9 “(i) INITIAL AMOUNT.—The sum of—

10 “(I) the base amount specified in  
11 subparagraph (B); plus

12 “(II) the discharge related  
13 amount specified in subparagraph (C)  
14 for a 12-month period selected by the  
15 Secretary with respect to such pay-  
16 ment year.

17 “(ii) MEDICARE SHARE.—The Medi-  
18 care share as specified in subparagraph  
19 (D) for the hospital for a period selected  
20 by the Secretary with respect to such pay-  
21 ment year.

22 “(iii) TRANSITION FACTOR.—The  
23 transition factor specified in subparagraph  
24 (E) for the hospital for the payment year.

1           “(B) BASE AMOUNT.—The base amount  
2 specified in this subparagraph is \$2,000,000.

3           “(C) DISCHARGE RELATED AMOUNT.—The  
4 discharge related amount specified in this sub-  
5 paragraph for a 12-month period selected by  
6 the Secretary shall be determined as the sum of  
7 the amount, based upon total discharges (re-  
8 gardless of any source of payment) for the pe-  
9 riod, for each discharge up to the 23,000th dis-  
10 charge as follows:

11                   “(i) For the 1,150th through the  
12 9,200nd discharge, \$200.

13                   “(ii) For the 9,201st through the  
14 13,800th discharge, 50 percent of the  
15 amount specified in clause (i).

16                   “(iii) For the 13,801st through the  
17 23,000th discharge, 30 percent of the  
18 amount specified in clause (i).

19           “(D) MEDICARE SHARE.—The Medicare  
20 share specified under this subparagraph for a  
21 hospital for a period selected by the Secretary  
22 for a payment year is equal to the fraction—

23                   “(i) the numerator of which is the  
24 sum (for such period and with respect to  
25 the hospital) of—

1           “(I) the number of inpatient-bed-  
2           days (as established by the Secretary)  
3           which are attributable to individuals  
4           with respect to whom payment may be  
5           made under part A; and

6           “(II) the number of inpatient-  
7           bed-days (as so established) which are  
8           attributable to individuals who are en-  
9           rolled with a Medicare Advantage or-  
10          ganization under part C; and

11          “(ii) the denominator of which is the  
12          product of—

13                 “(I) the total number of inpa-  
14                 tient-bed-days with respect to the hos-  
15                 pital during such period; and

16                 “(II) the total amount of the hos-  
17                 pital’s charges during such period, not  
18                 including any charges that are attrib-  
19                 utable to charity care (as such term is  
20                 used for purposes of hospital cost re-  
21                 porting under this title), divided by  
22                 the total amount of the hospital’s  
23                 charges during such period.

24                 Insofar as the Secretary determines that data  
25                 are not available on charity care necessary to

1 calculate the portion of the formula specified in  
2 clause (ii)(II), the Secretary shall use data on  
3 uncompensated care and may adjust such data  
4 so as to be an appropriate proxy for charity  
5 care including a downward adjustment to elimi-  
6 nate bad debt data from uncompensated care  
7 data. In the absence of the data necessary, with  
8 respect to a hospital, for the Secretary to com-  
9 pute the amount described in clause (ii)(II), the  
10 amount under such clause shall be deemed to  
11 be 1. In the absence of data, with respect to a  
12 hospital, necessary to compute the amount de-  
13 scribed in clause (i)(II), the amount under such  
14 clause shall be deemed to be 0.

15 “(E) TRANSITION FACTOR SPECIFIED.—

16 “(i) IN GENERAL.—Subject to clause  
17 (ii), the transition factor specified in this  
18 subparagraph for an eligible hospital for a  
19 payment year is as follows:

20 “(I) For the first payment year  
21 for such hospital, 1.

22 “(II) For the second payment  
23 year for such hospital,  $\frac{3}{4}$ .

24 “(III) For the third payment  
25 year for such hospital,  $\frac{1}{2}$ .



1                   “(IV) For the fourth payment  
2                   year for such hospital,  $\frac{1}{4}$ .

3                   “(V) For any succeeding pay-  
4                   ment year for such hospital, 0.

5                   “(ii) PHASE DOWN FOR ELIGIBLE  
6                   HOSPITALS FIRST ADOPTING EHR AFTER  
7                   2013.—If the first payment year for an eli-  
8                   gible hospital is after 2013, then the tran-  
9                   sition factor specified in this subparagraph  
10                  for a payment year for such hospital is the  
11                  same as the amount specified in clause (i)  
12                  for such payment year for an eligible hos-  
13                  pital for which the first payment year is  
14                  2013. If the first payment year for an eli-  
15                  gible hospital is after 2015 then the transi-  
16                  tion factor specified in this subparagraph  
17                  for such hospital and for such year and  
18                  any subsequent year shall be 0.

19                  “(F) FORM OF PAYMENT.—The payment  
20                  under this subsection for a payment year may  
21                  be in the form of a single consolidated payment  
22                  or in the form of such periodic installments as  
23                  the Secretary may specify.

24                  “(G) PAYMENT YEAR DEFINED.—

1           “(i) IN GENERAL.—For purposes of  
2           this subsection, the term ‘payment year’  
3           means a fiscal year beginning with fiscal  
4           year 2011.

5           “(ii) FIRST, SECOND, ETC. PAYMENT  
6           YEAR.—The term ‘first payment year’  
7           means, with respect to inpatient hospital  
8           services furnished by an eligible hospital,  
9           the first fiscal year for which an incentive  
10          payment is made for such services under  
11          this subsection. The terms ‘second pay-  
12          ment year’, ‘third payment year’, and  
13          ‘fourth payment year’ mean, with respect  
14          to an eligible hospital, each successive year  
15          immediately following the first payment  
16          year for that hospital.

17          “(H) LIMITATION FOR CRITICAL ACCESS  
18          HOSPITALS.—In no case shall the total amount  
19          of payments made under this subsection to a  
20          critical access hospital for all payment years ex-  
21          ceed \$1,500,000.

22          “(3) MEANINGFUL EHR USER.—

23                 “(A) IN GENERAL.—For purposes of para-  
24                 graph (1), an eligible hospital shall be treated  
25                 as a meaningful EHR user for a reporting pe-

1           riod for a payment year (or, for purposes of  
2           subsection (b)(3)(B)(ix), for a reporting period  
3           under such subsection for a fiscal year) if each  
4           of the following requirements are met:

5                   “(i) MEANINGFUL USE OF CERTIFIED  
6                   EHR TECHNOLOGY.—The eligible hospital  
7                   demonstrates to the satisfaction of the Sec-  
8                   retary, in accordance with subparagraph  
9                   (C)(i), that during such period the hospital  
10                  is using certified EHR technology in a  
11                  meaningful manner.

12                  “(ii) INFORMATION EXCHANGE.—The  
13                  eligible hospital demonstrates to the satis-  
14                  faction of the Secretary, in accordance  
15                  with subparagraph (C)(i), that during such  
16                  period such certified EHR technology is  
17                  connected in a manner that provides, in  
18                  accordance with law and standards appli-  
19                  cable to the exchange of information, for  
20                  the electronic exchange of health informa-  
21                  tion to improve the quality of health care,  
22                  such as promoting care coordination.

23                  “(iii) REPORTING ON MEASURES  
24                  USING EHR.—Subject to subparagraph  
25                  (B)(ii) and using such certified EHR tech-

1 nology, the eligible hospital submits infor-  
2 mation for such period, in a form and  
3 manner specified by the Secretary, on such  
4 clinical quality measures and such other  
5 measures as selected by the Secretary  
6 under subparagraph (B)(i).

7 The Secretary shall seek to improve the use of  
8 electronic health records and health care quality  
9 over time by requiring more stringent measures  
10 of meaningful use selected under this para-  
11 graph.

12 “(B) REPORTING ON MEASURES.—

13 “(i) SELECTION.—The Secretary shall  
14 select measures for purposes of subpara-  
15 graph (A)(iii) but only consistent with the  
16 following:

17 “(I) The Secretary shall provide  
18 preference to clinical quality measures  
19 that have been selected for purposes  
20 of applying subsection (b)(3)(B)(viii)  
21 or that have been endorsed by the en-  
22 tity with a contract with the Secretary  
23 under section 1890(a).

24 “(II) Prior to any measure (other  
25 than a clinical quality measure that

1           has been selected for purposes of ap-  
2           plying subsection (b)(3)(B)(viii))  
3           being selected under this subpara-  
4           graph, the Secretary shall publish in  
5           the Federal Register such measure  
6           and provide for a period of public  
7           comment on such measure.

8           “(ii) LIMITATIONS.—The Secretary  
9           may not require the electronic reporting of  
10          information on clinical quality measures  
11          under subparagraph (A)(iii) unless the  
12          Secretary has the capacity to accept the in-  
13          formation electronically, which may be on  
14          a pilot basis.

15          “(iii) COORDINATION OF REPORTING  
16          OF INFORMATION.—In selecting such  
17          measures, and in establishing the form and  
18          manner for reporting measures under sub-  
19          paragraph (A)(iii), the Secretary shall seek  
20          to avoid redundant or duplicative reporting  
21          with reporting otherwise required, includ-  
22          ing reporting under subsection  
23          (b)(3)(B)(viii).

1           “(C) DEMONSTRATION OF MEANINGFUL  
2 USE OF CERTIFIED EHR TECHNOLOGY AND IN-  
3 FORMATION EXCHANGE.—

4           “(i) IN GENERAL.—A hospital may  
5 satisfy the demonstration requirement of  
6 clauses (i) and (ii) of subparagraph (A)  
7 through means specified by the Secretary,  
8 which may include—

9                   “(I) an attestation;

10                   “(II) the submission of claims  
11 with appropriate coding (such as a  
12 code indicating that inpatient care  
13 was documented using certified EHR  
14 technology);

15                   “(III) a survey response;

16                   “(IV) reporting under subpara-  
17 graph (A)(iii); and

18                   “(V) other means specified by the  
19 Secretary.

20           “(ii) USE OF PART D DATA.—Not-  
21 withstanding sections 1860D–15(d)(2)(B)  
22 and 1860D–15(f)(2), the Secretary may  
23 use data regarding drug claims submitted  
24 for purposes of section 1860D–15 that are

1           necessary for purposes of subparagraph  
2           (A).

3           “(4) APPLICATION.—

4           “(A) LIMITATIONS ON REVIEW.—There  
5           shall be no administrative or judicial review  
6           under section 1869, section 1878, or otherwise  
7           of the determination of any incentive payment  
8           under this subsection and the payment adjust-  
9           ment under subsection (b)(3)(B)(ix), including  
10          the determination of a meaningful EHR user  
11          under paragraph (3), determination of meas-  
12          ures applicable to services furnished by eligible  
13          hospitals under this subsection, and the excep-  
14          tion under subsection (b)(3)(B)(ix)(II).

15          “(B) POSTING ON WEBSITE.—The Sec-  
16          retary shall post on the Internet website of the  
17          Centers for Medicare & Medicaid Services, in an  
18          easily understandable format, a list of the  
19          names of the eligible hospitals that are mean-  
20          ingful EHR users under this subsection or sub-  
21          section (b)(3)(B)(ix) and other relevant data as  
22          determined appropriate by the Secretary. The  
23          Secretary shall ensure that a hospital has the  
24          opportunity to review the other relevant data

1           that are to be made public with respect to the  
2           hospital prior to such data being made public.

3           “(5) CERTIFIED EHR TECHNOLOGY DEFINED.—

4           The term ‘certified EHR technology’ has the mean-  
5           ing given such term in section 1848(o)(4).

6           “(6) DEFINITIONS.—For purposes of this sub-  
7           section:

8                   “(A) ELIGIBLE HOSPITAL.—The term ‘eli-  
9                   gible hospital’ means—

10                           “(i) a subsection (d) hospital; and

11                           “(ii) a critical access hospital (as de-  
12                           fined in section 1861(mm)(1)).

13                   “(B) REPORTING PERIOD.—The term ‘re-  
14                   porting period’ means any period (or periods),  
15                   with respect to a payment year, as specified by  
16                   the Secretary.”.

17           (b) INCENTIVE MARKET BASKET ADJUSTMENT.—

18                   (1) IN GENERAL.—Section 1886(b)(3)(B) of  
19                   the Social Security Act (42 U.S.C.  
20                   1395ww(b)(3)(B)) is amended—

21                           (A) in clause (viii)(I), by inserting “(or,  
22                           beginning with fiscal year 2016, by one-quar-  
23                           ter)” after “2.0 percentage points”; and

24                           (B) by adding at the end the following new  
25                           clause:



1           “(ix)(I) For purposes of clause (i) for fiscal year  
2 2015 and each subsequent fiscal year, in the case of an  
3 eligible hospital (as defined in subsection (n)(6)(A)) that  
4 is not a meaningful EHR user (as defined in subsection  
5 (n)(3)) for the reporting period for such fiscal year, three-  
6 quarters of the applicable percentage increase otherwise  
7 applicable under clause (i) for such fiscal year shall be  
8 reduced by  $33\frac{1}{3}$  percent for fiscal year 2015,  $66\frac{2}{3}$  per-  
9 cent for fiscal year 2016, and 100 percent for fiscal year  
10 2017 and each subsequent fiscal year. Such reduction  
11 shall apply only with respect to the fiscal year involved  
12 and the Secretary shall not take into account such reduc-  
13 tion in computing the applicable percentage increase under  
14 clause (i) for a subsequent fiscal year.

15           “(II) The Secretary may, on a case-by-case basis, ex-  
16 empt a subsection (d) hospital from the application of sub-  
17 clause (I) with respect to a fiscal year if the Secretary  
18 determines, subject to annual renewal, that requiring such  
19 hospital to be a meaningful EHR user during such fiscal  
20 year would result in a significant hardship, such as in the  
21 case of a hospital in a rural area without sufficient Inter-  
22 net access. In no case may a hospital be granted an ex-  
23 emption under this subclause for more than 5 years.

24           “(III) For fiscal year 2015 and each subsequent fis-  
25 cal year, a State in which hospitals are paid for services

1 under section 1814(b)(3) shall adjust the payments to  
2 each subsection (d) hospital in the State that is not a  
3 meaningful EHR user (as defined in subsection (n)(3))  
4 in a manner that is designed to result in an aggregate  
5 reduction in payments to hospitals in the State that is  
6 equivalent to the aggregate reduction that would have oc-  
7 curred if payments had been reduced to each subsection  
8 (d) hospital in the State in a manner comparable to the  
9 reduction under the previous provisions of this clause. The  
10 State shall report to the Secretary the methodology it will  
11 use to make the payment adjustment under the previous  
12 sentence.

13 “(IV) For purposes of this clause, the term ‘reporting  
14 period’ means, with respect to a fiscal year, any period  
15 (or periods), with respect to the fiscal year, as specified  
16 by the Secretary.”.

17 (2) CRITICAL ACCESS HOSPITALS.—Section  
18 1814(l) of the Social Security Act (42 U.S.C.  
19 1395f(l)) is amended—

20 (A) in subparagraph (1), by striking  
21 “paragraph (2)” and inserting “paragraphs (2)  
22 and (3)”; and

23 (B) by adding at the end the following new  
24 paragraph:

1       “(3)(A) Subject to subparagraph (B), for fiscal year  
2 2015 and each subsequent fiscal year, in the case of a  
3 critical access hospital that is not a meaningful EHR user  
4 (as defined in section 1886(n)(3)) for the reporting period  
5 for such fiscal year, paragraph (1) shall be applied by sub-  
6 stituting the applicable percent under subparagraph (C)  
7 for the percent described in such paragraph (1).

8       “(B) The Secretary may, on a case-by-case basis, ex-  
9 empt a critical access hospital from the application of sub-  
10 paragraph (A) with respect to a fiscal year if the Secretary  
11 determines, subject to annual renewal, that requiring such  
12 hospital to be a meaningful EHR user during such fiscal  
13 year would result in a significant hardship, such as in the  
14 case of a hospital in a rural area without sufficient Inter-  
15 net access. In no case may a hospital be granted an ex-  
16 emption under this subparagraph for more than 5 years.

17       “(C) The percent described in this subparagraph is—

18               “(i) for fiscal year 2015, 100.66 percent;

19               “(ii) for fiscal year 2016, 100.33 percent; and

20               “(iii) for fiscal year 2017 and each subsequent  
21 fiscal year, 100 percent.”.

22       (c) APPLICATION TO CERTAIN MA-AFFILIATED ELI-  
23 GIBLE HOSPITALS.—Section 1853 of the Social Security  
24 Act (42 U.S.C. 1395w-23), as amended by section

1 4201(c), is further amended by adding at the end the fol-  
2 lowing new subsection:

3 “(m) APPLICATION OF ELIGIBLE HOSPITAL INCEN-  
4 TIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION  
5 AND MEANINGFUL USE OF CERTIFIED EHR TECH-  
6 NOLOGY.—

7 “(1) APPLICATION.—Subject to paragraphs (3)  
8 and (4), in the case of a qualifying MA organization,  
9 the provisions of sections 1814(l)(3), 1886(n), and  
10 1886(b)(3)(B)(ix) shall apply with respect to eligible  
11 hospitals described in paragraph (2) of the organiza-  
12 tion which the organization attests under subsection  
13 (l)(6) to be meaningful EHR users in a similar man-  
14 ner as they apply to eligible hospitals under such  
15 sections. Incentive payments under paragraph (3)  
16 shall be made to and payment adjustments under  
17 paragraph (4) shall apply to such qualifying organi-  
18 zations.

19 “(2) ELIGIBLE HOSPITAL DESCRIBED.—With  
20 respect to a qualifying MA organization, an eligible  
21 hospital described in this paragraph is an eligible  
22 hospital (as defined in section 1886(n)(6)(A)) that is  
23 under common corporate governance with such orga-  
24 nization and serves individuals enrolled under an  
25 MA plan offered by such organization.

1           “(3) ELIGIBLE HOSPITAL INCENTIVE PAY-  
2           MENTS.—

3           “(A) IN GENERAL.—In applying section  
4           1886(n)(2) under paragraph (1), instead of the  
5           additional payment amount under section  
6           1886(n)(2), there shall be substituted an  
7           amount determined by the Secretary to be simi-  
8           lar to the estimated amount in the aggregate  
9           that would be payable if payment for services  
10          furnished by such hospitals was payable under  
11          part A instead of this part. In implementing the  
12          previous sentence, the Secretary—

13                 “(i) shall, insofar as data to deter-  
14                 mine the discharge related amount under  
15                 section 1886(n)(2)(C) for an eligible hos-  
16                 pital are not available to the Secretary, use  
17                 such alternative data and methodology to  
18                 estimate such discharge related amount as  
19                 the Secretary determines appropriate; and

20                 “(ii) shall, insofar as data to deter-  
21                 mine the medicare share described in sec-  
22                 tion 1886(n)(2)(D) for an eligible hospital  
23                 are not available to the Secretary, use such  
24                 alternative data and methodology to esti-  
25                 mate such share, which data and method-

1           ology may include use of the inpatient bed  
2           days (or discharges) with respect to an eli-  
3           gible hospital during the appropriate pe-  
4           riod which are attributable to both individ-  
5           uals for whom payment may be made  
6           under part A or individuals enrolled in an  
7           MA plan under a Medicare Advantage or-  
8           ganization under this part as a proportion  
9           of the total number of patient-bed-days (or  
10          discharges) with respect to such hospital  
11          during such period.

12           “(B) AVOIDING DUPLICATION OF PAY-  
13          MENTS.—

14                   “(i) IN GENERAL.—In the case of a  
15                   hospital that for a payment year is an eli-  
16                   gible hospital described in paragraph (2)  
17                   and for which at least one-third of their  
18                   discharges (or bed-days) of Medicare pa-  
19                   tients for the year are covered under part  
20                   A, payment for the payment year shall be  
21                   made only under section 1886(n) and not  
22                   under this subsection.

23                   “(ii) METHODS.—In the case of a  
24                   hospital that is an eligible hospital de-  
25                   scribed in paragraph (2) and also is eligi-

1           ble for an incentive payment under section  
2           1886(n) but is not described in clause (i)  
3           for the same payment period, the Secretary  
4           shall develop a process—

5                   “(I) to ensure that duplicate pay-  
6                   ments are not made with respect to  
7                   an eligible hospital both under this  
8                   subsection and under section 1886(n);  
9                   and

10                   “(II) to collect data from Medi-  
11                   care Advantage organizations to en-  
12                   sure against such duplicate payments.

13           “(4) PAYMENT ADJUSTMENT.—

14                   “(A) Subject to paragraph (3), in the case  
15                   of a qualifying MA organization (as defined in  
16                   section 1853(l)(5)), if, according to the attesta-  
17                   tion of the organization submitted under sub-  
18                   section (l)(6) for an applicable period, one or  
19                   more eligible hospitals (as defined in section  
20                   1886(n)(6)(A)) that are under common cor-  
21                   porate governance with such organization and  
22                   that serve individuals enrolled under a plan of-  
23                   fered by such organization are not meaningful  
24                   EHR users (as defined in section 1886(n)(3))  
25                   with respect to a period, the payment amount

1 payable under this section for such organization  
2 for such period shall be the percent specified in  
3 subparagraph (B) for such period of the pay-  
4 ment amount otherwise provided under this sec-  
5 tion for such period.

6 “(B) SPECIFIED PERCENT.—The percent  
7 specified under this subparagraph for a year is  
8 100 percent minus a number of percentage  
9 points equal to the product of—

10 “(i) the number of the percentage  
11 point reduction effected under section  
12 1886(b)(3)(B)(ix)(I) for the period; and

13 “(ii) the Medicare hospital expendi-  
14 ture proportion specified in subparagraph  
15 (C) for the year.

16 “(C) MEDICARE HOSPITAL EXPENDITURE  
17 PROPORTION.—The Medicare hospital expendi-  
18 ture proportion under this subparagraph for a  
19 year is the Secretary’s estimate of the propor-  
20 tion, of the expenditures under parts A and B  
21 that are not attributable to this part, that are  
22 attributable to expenditures for inpatient hos-  
23 pital services.

24 “(D) APPLICATION OF PAYMENT ADJUST-  
25 MENT.—In the case that a qualifying MA orga-



1           nization attests that not all eligible hospitals  
2           are meaningful EHR users with respect to an  
3           applicable period, the Secretary shall apply the  
4           payment adjustment under this paragraph  
5           based on a methodology specified by the Sec-  
6           retary, taking into account the proportion of  
7           such eligible hospitals, or discharges from such  
8           hospitals, that are not meaningful EHR users  
9           for such period.

10           “(5) POSTING ON WEBSITE.—The Secretary  
11           shall post on the Internet website of the Centers for  
12           Medicare & Medicaid Services, in an easily under-  
13           standable format—

14                   “(A) a list of the names, business address-  
15                   es, and business phone numbers of each quali-  
16                   fying MA organization receiving an incentive  
17                   payment under this subsection for eligible hos-  
18                   pitals described in paragraph (2); and

19                   “(B) a list of the names of the eligible hos-  
20                   pitals for which such incentive payment is  
21                   based.”.

22           (d) CONFORMING AMENDMENTS.—

23                   (1) Section 1814(b) of the Social Security Act  
24                   (42 U.S.C. 1395f(b)) is amended—

1 (A) in paragraph (3), in the matter pre-  
2 ceding subparagraph (A), by inserting “, sub-  
3 ject to section 1886(d)(3)(B)(ix)(III),” after  
4 “then”; and

5 (B) by adding at the end the following:  
6 “For purposes of applying paragraph (3), there  
7 shall be taken into account incentive payments,  
8 and payment adjustments under subsection  
9 (b)(3)(B)(ix) or (n) of section 1886.”.

10 (2) Section 1851(i)(1) of the Social Security  
11 Act (42 U.S.C. 1395w-21(i)(1)) is amended by  
12 striking “and 1886(h)(3)(D)” and inserting  
13 “1886(h)(3)(D), and 1853(m)”.

14 (3) Section 1853 of the Social Security Act (42  
15 U.S.C. 1395w-23), as amended by section  
16 4311(d)(1), is amended—

17 (A) in subsection (c)—

18 (i) in paragraph (1)(D)(i), by striking  
19 “1848(o)” and inserting “, 1848(o), and  
20 1886(n)”; and

21 (ii) in paragraph (6)(A), by inserting  
22 “and subsections (b)(3)(B)(ix) and (n) of  
23 section 1886” after “section 1848”; and

24 (B) in subsection (f), by inserting “and  
25 subsection (m)” after “under subsection (l)”.

1 **SEC. 4203. PREMIUM HOLD HARMLESS AND IMPLEMENTA-**  
2 **TION FUNDING.**

3 (a) PREMIUM HOLD HARMLESS.—

4 (1) IN GENERAL.—Section 1839(a)(1) of the  
5 Social Security Act (42 U.S.C. 1395r(a)(1)) is  
6 amended by adding at the end the following: “In ap-  
7 plying this paragraph there shall not be taken into  
8 account additional payments under section 1848(o)  
9 and section 1853(l)(3) and the Government con-  
10 tribution under section 1844(a)(3).”.

11 (2) PAYMENT.—Section 1844(a) of such Act  
12 (42 U.S.C. 1395w(a)) is amended—

13 (A) in paragraph (2), by striking the pe-  
14 riod at the end and inserting “; plus”; and

15 (B) by adding at the end the following new  
16 paragraph:

17 “(3) a Government contribution equal to the  
18 amount of payment incentives payable under sec-  
19 tions 1848(o) and 1853(l)(3).”.

20 (b) IMPLEMENTATION FUNDING.—In addition to  
21 funds otherwise available, out of any funds in the Treas-  
22 ury not otherwise appropriated, there are appropriated to  
23 the Secretary of Health and Human Services for the Cen-  
24 ter for Medicare & Medicaid Services Program Manage-  
25 ment Account, \$100,000,000 for each of fiscal years 2009  
26 through 2015 and \$45,000,000 for each succeeding fiscal

1 year through fiscal year 2018, which shall be available for  
2 purposes of carrying out the provisions of (and amend-  
3 ments made by) this part. Amounts appropriated under  
4 this subsection for a fiscal year shall be available until ex-  
5 pended.

6 **SEC. 4204. NON-APPLICATION OF PHASED-OUT INDIRECT**  
7 **MEDICAL EDUCATION (IME) ADJUSTMENT**  
8 **FACTOR FOR FISCAL YEAR 2009.**

9 (a) IN GENERAL.—Section 412.322 of title 42, Code  
10 of Federal Regulations, shall be applied without regard to  
11 paragraph (c) of such section, and the Secretary of Health  
12 and Human Services shall recompute payments for dis-  
13 charges occurring on or after October 1, 2008, as if such  
14 paragraph had never been in effect.

15 (b) NO EFFECT ON SUBSEQUENT YEARS.—Nothing  
16 in subsection (a) shall be construed as having any effect  
17 on the application of paragraph (d) of section 412.322 of  
18 title 42, Code of Federal Regulations.

19 **SEC. 4205. STUDY ON APPLICATION OF EHR PAYMENT IN-**  
20 **CENTIVES FOR PROVIDERS NOT RECEIVING**  
21 **OTHER INCENTIVE PAYMENTS.**

22 (a) STUDY.—

23 (1) IN GENERAL.—The Secretary of Health and  
24 Human Services shall conduct a study to determine  
25 the extent to which and manner in which payment

1 incentives (such as under title XVIII or XIX of the  
2 Social Security Act) and other funding for purposes  
3 of implementing and using certified EHR technology  
4 (as defined in section 1848(o)(4) of the Social Secu-  
5 rity Act, as added by section 4311(a)) should be  
6 made available to health care providers who are re-  
7 ceiving minimal or no payment incentives or other  
8 funding under this Act, under title XVIII or XIX of  
9 such Act, or otherwise, for such purposes.

10 (2) DETAILS OF STUDY.—Such study shall in-  
11 clude an examination of—

12 (A) the adoption rates of certified EHR  
13 technology (as so defined) by such health care  
14 providers;

15 (B) the clinical utility of such technology  
16 by such health care providers;

17 (C) whether the services furnished by such  
18 health care providers are appropriate for or  
19 would benefit from the use of such technology;

20 (D) the extent to which such health care  
21 providers work in settings that might otherwise  
22 receive an incentive payment or other funding  
23 under this Act, title XVIII or XIX of the Social  
24 Security Act, or otherwise;

1 (E) the potential costs and the potential  
2 benefits of making payment incentives and  
3 other funding available to such health care pro-  
4 viders; and

5 (F) any other issues the Secretary deems  
6 to be appropriate.

7 (b) REPORT.—Not later than June 30, 2010, the  
8 Secretary shall submit to Congress a report on the find-  
9 ings and conclusions of the study conducted under sub-  
10 section (a).

11 **SEC. 4206. STUDY ON AVAILABILITY OF OPEN SOURCE**  
12 **HEALTH INFORMATION TECHNOLOGY SYS-**  
13 **TEMS.**

14 (a) IN GENERAL.—

15 (1) STUDY.—The Secretary of Health and  
16 Human Services shall, in consultation with the  
17 Under Secretary for Health of the Veterans Health  
18 Administration, the Director of the Indian Health  
19 Service, the Secretary of Defense, the Director of  
20 the Agency for Healthcare Research and Quality,  
21 the Administrator of the Health Resources and Serv-  
22 ices Administration, and the Chairman of the Fed-  
23 eral Communications Commission, conduct a study  
24 on—

1 (A) the current availability of open source  
2 health information technology systems to Fed-  
3 eral safety net providers (including small, rural  
4 providers);

5 (B) the total cost of ownership of such sys-  
6 tems in comparison to the cost of proprietary  
7 commercial products available;

8 (C) the ability of such systems to respond  
9 to the needs of, and be applied to, various pop-  
10 ulations (including children and disabled indi-  
11 viduals); and

12 (D) the capacity of such systems to facili-  
13 tate interoperability.

14 (2) CONSIDERATIONS.—In conducting the study  
15 under paragraph (1), the Secretary of Health and  
16 Human Services shall take into account the cir-  
17 cumstances of smaller health care providers, health  
18 care providers located in rural or other medically un-  
19 derserved areas, and safety net providers that deliver  
20 a significant level of health care to uninsured indi-  
21 viduals, Medicaid beneficiaries, SCHIP beneficiaries,  
22 and other vulnerable individuals.

23 (b) REPORT.—Not later than October 1, 2010, the  
24 Secretary of Health and Human Services shall submit to  
25 Congress a report on the findings and the conclusions of

1 the study conducted under subsection (a), together with  
2 recommendations for such legislation and administrative  
3 action as the Secretary determines appropriate.

## 4 **Subtitle B—Medicaid Funding**

### 5 **SEC. 4211. MEDICAID PROVIDER EHR ADOPTION AND OPER-** 6 **ATION PAYMENTS; IMPLEMENTATION FUND-** 7 **ING.**

8 (a) IN GENERAL.—Section 1903 of the Social Secu-  
9 rity Act (42 U.S.C. 1396b) is amended—

10 (1) in subsection (a)(3)—

11 (A) by striking “and” at the end of sub-  
12 paragraph (D);

13 (B) by striking “plus” at the end of sub-  
14 paragraph (E) and inserting “and”; and

15 (C) by adding at the end the following new  
16 subparagraph:

17 “(F)(i) 100 percent of so much of the  
18 sums expended during such quarter as are at-  
19 tributable to payments for certified EHR tech-  
20 nology (and support services including mainte-  
21 nance and training that is for, or is necessary  
22 for the adoption and operation of, such tech-  
23 nology) by Medicaid providers described in sub-  
24 section (t)(1); and



1           “(ii) 90 percent of so much of the sums ex-  
2           pended during such quarter as are attributable  
3           to payments for reasonable administrative ex-  
4           penses related to the administration of pay-  
5           ments described in clause (i) if the State meets  
6           the condition described in subsection (t)(9);  
7           plus”; and

8           (2) by inserting after subsection (s) the fol-  
9           lowing new subsection:

10          “(t)(1)(A) For purposes of subsection (a)(3)(F), the  
11          payments for certified EHR technology (and support serv-  
12          ices including maintenance that is for, or is necessary for  
13          the operation of, such technology) by Medicaid providers  
14          described in this paragraph are payments made by the  
15          State in accordance with this subsection of the applicable  
16          percent of the net allowable costs of Medicaid providers  
17          (as defined in paragraph (2)) for such technology (and  
18          support services).

19          “(B) For purposes of subparagraph (A), the term  
20          ‘applicable percent’ means—

21                 “(i) in the case of a Medicaid provider de-  
22                 scribed in paragraph (2)(A), 85 percent;

23                 “(ii) in the case of a Medicaid provider de-  
24                 scribed in clause (i) or (ii) of paragraph (2)(B), 100  
25                 percent; and

1           “(iii) in the case of a Medicaid provider de-  
2           scribed in clause (iii) of paragraph (2)(B), a percent  
3           specified by the Secretary, but not less than 85 per-  
4           cent.

5           “(2) In this subsection and subsection (a)(3)(F), the  
6           term ‘Medicaid provider’ means—

7           “(A) an eligible professional (as defined in  
8           paragraph (3)(B)) who is not hospital-based and has  
9           at least 30 percent of the professional’s patient vol-  
10          ume (as estimated in accordance with standards es-  
11          tablished by the Secretary) attributable to individ-  
12          uals who are receiving medical assistance under this  
13          title; and

14          “(B)(i) a children’s hospital, (ii) an acute-care  
15          hospital that is not described in clause (i) and that  
16          has at least 10 percent of the hospital’s patient vol-  
17          ume (as estimated in accordance with standards es-  
18          tablished by the Secretary) attributable to individ-  
19          uals who are receiving medical assistance under this  
20          title, or (iii) a Federally-qualified health center or  
21          rural health clinic that has at least 30 percent of the  
22          center’s or clinic’s patient volume (as estimated in  
23          accordance with standards established by the Sec-  
24          retary) attributable to individuals who are receiving  
25          medical assistance under this title.

1 An eligible professional shall not qualify as a Medicaid  
2 provider under this subsection unless the professional has  
3 waived, in a manner specified by the Secretary, any right  
4 to payment under section 1848(o) with respect to the  
5 adoption or support of certified EHR technology by the  
6 eligible professional. In applying clauses (ii) and (iii) of  
7 subparagraph (B), the standards established by the Sec-  
8 retary for patient volume shall include individuals enrolled  
9 in a Medicaid managed care plan (under section 1903(m)  
10 or section 1932).

11 “(3) In this subsection and subsection (a)(3)(F):

12 “(A) The term ‘certified EHR technology’  
13 means a qualified electronic health record (as de-  
14 fined in 3000(13) of the Public Health Service Act)  
15 that is certified pursuant to section 3001(c)(5) of  
16 such Act as meeting standards adopted under sec-  
17 tion 3004 of such Act that are applicable to the type  
18 of record involved (as determined by the Secretary,  
19 such as an ambulatory electronic health record for  
20 office-based physicians or an inpatient hospital elec-  
21 tronic health record for hospitals).

22 “(B) The term ‘eligible professional’ means a  
23 physician as defined in paragraphs (1) and (2) of  
24 section 1861(r), and includes a nurse mid-wife and  
25 a nurse practitioner.

1           “(C) The term ‘hospital-based’ means, with re-  
2           spect to an eligible professional, a professional (such  
3           as a pathologist, anesthesiologist, or emergency phy-  
4           sician) who furnishes substantially all of the individ-  
5           ual’s professional services in a hospital setting  
6           (whether inpatient or outpatient) and through the  
7           use of the facilities and equipment, including quali-  
8           fied electronic health records, of the hospital.

9           “(4)(A) The term ‘allowable costs’ means, with re-  
10          spect to certified EHR technology of a Medicaid provider,  
11          costs of such technology (and support services including  
12          maintenance and training that is for, or is necessary for  
13          the adoption and operation of, such technology) as deter-  
14          mined by the Secretary to be reasonable.

15          “(B) The term ‘net allowable costs’ means allowable  
16          costs reduced by any payment that is made to the Med-  
17          icaid provider involved from any other source that is di-  
18          rectly attributable to payment for certified EHR tech-  
19          nology or services described in subparagraph (A).

20          “(C) In no case shall—

21                 “(i) the aggregate allowable costs under this  
22                 subsection (covering one or more years) with respect  
23                 to a Medicaid provider described in paragraph  
24                 (2)(A) for purchase and initial implementation of  
25                 certified EHR technology (and services described in

1       subparagraph (A)) exceed \$25,000 or include costs  
2       over a period of longer than 5 years;

3               “(ii) for costs not described in clause (i) relat-  
4       ing to the operation, maintenance, or use of certified  
5       EHR technology, the annual allowable costs under  
6       this subsection with respect to such a Medicaid pro-  
7       vider for costs not described in clause (i) for any  
8       year exceed \$10,000;

9               “(iii) payment described in paragraph (1) for  
10       costs described in clause (ii) be made with respect  
11       to such a Medicaid provider over a period of more  
12       than 5 years;

13               “(iv) the aggregate allowable costs under this  
14       subsection with respect to such a Medicaid provider  
15       for all costs exceed \$75,000; or

16               “(v) the allowable costs, whether for purchase  
17       and initial implementation, maintenance, or other-  
18       wise, for a Medicaid provider described in paragraph  
19       (2)(B)(iii) exceed such aggregate or annual limita-  
20       tion as the Secretary shall establish, based on an  
21       amount determined by the Secretary as being ade-  
22       quate to adopt and maintain certified EHR tech-  
23       nology, consistent with paragraph (6).

1       “(5) Payments described in paragraph (1) are not in  
2 accordance with this subsection unless the following re-  
3 quirements are met:

4           “(A) The State provides assurances satisfactory  
5 to the Secretary that amounts received under sub-  
6 section (a)(3)(F) with respect to costs of a Medicaid  
7 provider are paid directly to such provider without  
8 any deduction or rebate.

9           “(B) Such Medicaid provider is responsible for  
10 payment of the costs described in such paragraph  
11 that are not provided under this title.

12           “(C) With respect to payments to such Med-  
13 icaid provider for costs other than costs related to  
14 the initial adoption of certified EHR technology, the  
15 Medicaid provider demonstrates meaningful use of  
16 certified EHR technology through a means that is  
17 approved by the State and acceptable to the Sec-  
18 retary, and that may be based upon the methodolo-  
19 gies applied under section 1848(o) or 1886(n). In  
20 establishing such means, which may include the re-  
21 porting of clinical quality measures to the State, the  
22 State shall ensure that populations with unique  
23 needs, such as children, are appropriately addressed.

24           “(D) To the extent specified by the Secretary,  
25 the certified EHR technology is compatible with

1 State or Federal administrative management sys-  
2 tems.

3 “(6)(A) In no case shall the payments described in  
4 paragraph (1), with respect to a hospital, exceed in the  
5 aggregate the product of—

6 “(i) the overall hospital EHR amount for the  
7 hospital computed under subparagraph (B); and

8 “(ii) the Medicaid share for such hospital com-  
9 puted under subparagraph (C).

10 “(B) For purposes of this paragraph, the overall hos-  
11 pital EHR amount, with respect to a hospital, is the sum  
12 of the applicable amounts specified in section  
13 1886(n)(2)(A) for such hospital for the first 4 payment  
14 years (as estimated by the Secretary) determined as if the  
15 Medicare share specified in clause (ii) of such section were  
16 1. The Secretary shall publish in the Federal Register the  
17 overall hospital EHR amount for each hospital eligible for  
18 payments under this subsection. In computing amounts  
19 under clause (ii) for payment years after the first payment  
20 year, the Secretary shall assume that in subsequent pay-  
21 ment years discharges increase at the average annual rate  
22 of growth of the most recent three years for which dis-  
23 charge data are available.

24 “(C) The Medicaid share computed under this sub-  
25 paragraph, for a hospital for a period specified by the Sec-

1 retary, shall be calculated in the same manner as the  
2 Medicare share under section 1886(n)(2)(D) for such a  
3 hospital and period, except that there shall be substituted  
4 for the numerator under clause (i) of such section the  
5 amount that is equal to the number of inpatient-bed-days  
6 (as established by the Secretary) which are attributable  
7 to individuals who are receiving medical assistance under  
8 this title and who are not described in section  
9 1886(n)(2)(D)(i). In computing inpatient-bed-days under  
10 the previous sentence, the Secretary shall take into ac-  
11 count inpatient-bed-days attributable to inpatient-bed-  
12 days that are paid for individuals enrolled in a Medicaid  
13 managed care plan (under section 1903(m) or section  
14 1932).

15       “(7) With respect to health care providers other than  
16 hospitals, the Secretary shall establish and implement a  
17 detailed process to ensure coordination of the different  
18 programs for payment of such health care providers for  
19 adoption or use of health information technology (includ-  
20 ing certified EHR technology), as well as payments for  
21 such health care providers provided under this title or title  
22 XVIII, to assure no duplication of funding. The Secretary  
23 shall promulgate regulations to carry out the preceding  
24 sentence.



1       “(8) In carrying out paragraph (5)(C), the State and  
2 Secretary shall seek, to the maximum extent practicable,  
3 to avoid duplicative requirements from Federal and State  
4 Governments to demonstrate meaningful use of certified  
5 EHR technology under this title and title XVIII. In doing  
6 so, the Secretary may deem satisfaction of requirements  
7 for such meaningful use for a payment year under title  
8 XVIII to be sufficient to qualify as meaningful use under  
9 this subsection. The Secretary may also specify the report-  
10 ing periods under this subsection in order to carry out this  
11 paragraph.

12       “(9) In order to be provided Federal financial partici-  
13 pation under subsection (a)(3)(F)(ii), a State must dem-  
14 onstrate to the satisfaction of the Secretary, that the  
15 State—

16               “(A) is using the funds provided for the pur-  
17 poses of administering payments under this sub-  
18 section, including tracking of meaningful use by  
19 Medicaid providers;

20               “(B) is conducting adequate oversight of the  
21 program under this subsection, including routine  
22 tracking of meaningful use attestations and report-  
23 ing mechanisms; and

24               “(C) is pursuing initiatives to encourage the  
25 adoption of certified EHR technology to promote

1 health care quality and the exchange of health care  
2 information under this title, subject to applicable  
3 laws and regulations governing such exchange.

4 “(10) The Secretary shall periodically submit reports  
5 to the Committee on Energy and Commerce of the House  
6 of Representatives and the Committee on Finance of the  
7 Senate on status, progress, and oversight of payments  
8 under paragraph (1).”.

9 (b) IMPLEMENTATION FUNDING.—In addition to  
10 funds otherwise available, out of any funds in the Treas-  
11 ury not otherwise appropriated, there are appropriated to  
12 the Secretary of Health and Human Services for the Cen-  
13 ter for Medicare & Medicaid Services Program Manage-  
14 ment Account, \$40,000,000 for each of fiscal years 2009  
15 through 2015 and \$20,000,000 for each succeeding fiscal  
16 year through fiscal year 2018, which shall be available for  
17 purposes of carrying out the provisions of (and the amend-  
18 ments made by) this part. Amounts appropriated under  
19 this subsection for a fiscal year shall be available until ex-  
20 pended.

21 (c) HHS REPORT ON IMPLEMENTATION OF DE-  
22 TAILED PROCESS TO ASSURE NO DUPLICATION OF FUND-  
23 ING.—Not later than July 1, 2012, the Secretary of  
24 Health and Human Services shall submit to Congress a  
25 report on the establishment and implementation of the de-

1 tailed process under section 1903(t)(7) of the Social Secu-  
 2 rity Act, as added by subsection (a), together with rec-  
 3 ommendations for such legislation and administrative ac-  
 4 tion as the Secretary determines appropriate.

## 5 **TITLE V—STATE FISCAL RELIEF**

### 6 **SEC. 5000. PURPOSES; TABLE OF CONTENTS.**

7 (a) PURPOSES.—The purposes of this title are as fol-  
 8 lows:

9 (1) To provide fiscal relief to States in a period  
 10 of economic downturn.

11 (2) To protect and maintain State Medicaid  
 12 programs during a period of economic downturn, in-  
 13 cluding by helping to avert cuts to provider payment  
 14 rates and benefits or services, and to prevent con-  
 15 strictions of income eligibility requirements for such  
 16 programs, but not to promote increases in such re-  
 17 quirements.

18 (b) TABLE OF CONTENTS.—The table of contents for  
 19 this title is as follows:

#### TITLE V—STATE FISCAL RELIEF

- Sec. 5000. Purposes; table of contents.
- Sec. 5001. Temporary increase of Medicaid FMAP.
- Sec. 5002. Extension and update of special rule for increase of Medicaid DSH allotments for low DSH States.
- Sec. 5003. Payment of Medicare liability to States as a result of the Special Disability Workload Project.
- Sec. 5004. Funding for the Department of Health and Human Services Office of the Inspector General.
- Sec. 5005. GAO study and report regarding State needs during periods of national economic downturn.

1 **SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.**

2 (a) PERMITTING MAINTENANCE OF FMAP.—Subject  
3 to subsections (e), (f), and (g), if the FMAP determined  
4 without regard to this section for a State for—

5 (1) fiscal year 2009 is less than the FMAP as  
6 so determined for fiscal year 2008, the FMAP for  
7 the State for fiscal year 2008 shall be substituted  
8 for the State’s FMAP for fiscal year 2009, before  
9 the application of this section;

10 (2) fiscal year 2010 is less than the FMAP as  
11 so determined for fiscal year 2008 or fiscal year  
12 2009 (after the application of paragraph (1)), the  
13 greater of such FMAP for the State for fiscal year  
14 2008 or fiscal year 2009 shall be substituted for the  
15 State’s FMAP for fiscal year 2010, before the appli-  
16 cation of this section; and

17 (3) fiscal year 2011 is less than the FMAP as  
18 so determined for fiscal year 2008, fiscal year 2009  
19 (after the application of paragraph (1)), or fiscal  
20 year 2010 (after the application of paragraph (2)),  
21 the greatest of such FMAP for the State for fiscal  
22 year 2008, fiscal year 2009, or fiscal year 2010 shall  
23 be substituted for the State’s FMAP for fiscal year  
24 2011, before the application of this section, but only  
25 for the first calendar quarter in fiscal year 2011.

1 (b) GENERAL 7.6 PERCENTAGE POINT INCREASE.—  
2 Subject to subsections (e), (f), and (g), for each State for  
3 calendar quarters during the recession adjustment period  
4 (as defined in subsection (h)(2)) , the FMAP (after the  
5 application of subsection (a)) shall be increased (without  
6 regard to any limitation otherwise specified in section  
7 1905(b) of the Social Security Act) by 7.6 percentage  
8 points.

9 (c) ADDITIONAL RELIEF BASED ON INCREASE IN  
10 UNEMPLOYMENT.—

11 (1) IN GENERAL.—Subject to subsections (e),  
12 (f), and (g), if a State is a qualifying State under  
13 paragraph (2) for a calendar quarter occurring dur-  
14 ing the recession adjustment period, the FMAP for  
15 the State shall be further increased by the number  
16 of percentage points equal to the product of the  
17 State percentage applicable for the State under sec-  
18 tion 1905(b) of the Social Security Act (42 U.S.C.  
19 1396d(b)) after the application of subsections (a)  
20 and (b) and the applicable percent determined in  
21 paragraph (3) for the calendar quarter (or, if great-  
22 er, for a previous such calendar quarter, subject to  
23 paragraph (4)) .

24 (2) QUALIFYING CRITERIA.—

1 (A) IN GENERAL.—For purposes of para-  
2 graph (1), a State qualifies for additional relief  
3 under this subsection for a calendar quarter oc-  
4 ccurring during the recession adjustment period  
5 if the State is 1 of the 50 States or the District  
6 of Columbia and the State satisfies any of the  
7 following criteria for the quarter:

8 (i) An increase of at least 1.5 percent-  
9 age points, but less than 2.5 percentage  
10 points, in the average monthly unemploy-  
11 ment rate, seasonally adjusted, for the  
12 State or District, as determined by com-  
13 paring months in the most recent previous  
14 3-consecutive month period for which data  
15 are available for the State or District to  
16 the lowest average monthly unemployment  
17 rate, seasonally adjusted, for the State or  
18 District for any 3-consecutive-month pe-  
19 riod preceding that period and beginning  
20 on or after January 1, 2006 (based on the  
21 most recently available monthly publica-  
22 tions of the Bureau of Labor Statistics of  
23 the Department of Labor).

24 (ii) An increase of at least 2.5 per-  
25 centage points, but less than 3.5 percent-

1           age points, in the average monthly unem-  
2           ployment rate, seasonally adjusted, for the  
3           State or District (as so determined).

4           (iii) An increase of at least 3.5 per-  
5           centage points for the State or District, in  
6           the average monthly unemployment rate,  
7           seasonally adjusted, for the State or Dis-  
8           trict (as so determined).

9           (B) MAINTENANCE OF STATUS.—If a  
10          State qualifies for additional relief under this  
11          subsection for a calendar quarter, it shall be  
12          deemed to have qualified for such relief for each  
13          subsequent calendar quarter ending before July  
14          1, 2010.

15          (3) APPLICABLE PERCENT.—For purposes of  
16          paragraph (1), the applicable percent is—

17           (A) 2.5 percent, if the State satisfies the  
18           criteria described in paragraph (2)(A)(i) for the  
19           calendar quarter;

20           (B) 4.5 percent if the State satisfies the  
21           criteria described in paragraph (2)(A)(ii) for  
22           the calendar quarter; and

23           (C) 6.5 percent if the State satisfies the  
24           criteria described in paragraph (2)(A)(iii) for  
25           the calendar quarter.

1           (4) MAINTENANCE OF HIGHER PERCENTAGE  
2           REDUCTION FOR PERIOD AFTER LOWER PERCENT-  
3           AGE DEDUCTION WOULD OTHERWISE TAKE EF-  
4           FECT.—

5                   (A) HOLD HARMLESS PERIOD.—If the per-  
6           centage reduction applied to a State under  
7           paragraph (3) for any calendar quarter in the  
8           recession adjustment period beginning on or  
9           after January 1, 2009, and ending before July  
10          1, 2010, (determined without regard to this  
11          paragraph) is less than the percentage reduc-  
12          tion applied for the preceding quarter (as so de-  
13          termined), the higher percentage reduction shall  
14          continue in effect for each subsequent calendar  
15          quarter ending before July 1, 2010.

16                   (B) NOTICE OF DECREASE IN PERCENT-  
17          AGE REDUCTION.—The Secretary shall notify a  
18          State at least 3 months prior to applying any  
19          lower percentage reduction to the State under  
20          paragraph (3).

21           (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO  
22          TERRITORIES.—Subject to subsections (f) and (g), with  
23          respect to entire fiscal years occurring during the reces-  
24          sion adjustment period and with respect to fiscal years  
25          only a portion of which occurs during such period (and



1 in proportion to the portion of the fiscal year that occurs  
2 during such period), the amounts otherwise determined for  
3 Puerto Rico, the Virgin Islands, Guam, the Northern Mar-  
4 iana Islands, and American Samoa under subsections (f)  
5 and (g) of section 1108 of the Social Security Act (42  
6 U.S.C. 1308) shall each be increased by 15.2 percent.

7 (e) SCOPE OF APPLICATION.—The increases in the  
8 FMAP for a State under this section shall apply for pur-  
9 poses of title XIX of the Social Security Act and shall  
10 not apply with respect to—

11 (1) disproportionate share hospital payments  
12 described in section 1923 of such Act (42 U.S.C.  
13 1396r-4);

14 (2) payments under title IV of such Act (42  
15 U.S.C. 601 et seq.) (except that the increases under  
16 subsections (a) and (b) shall apply to payments  
17 under part E of title IV of such Act (42 U.S.C. 670  
18 et seq.));

19 (3) payments under title XXI of such Act (42  
20 U.S.C. 1397aa et seq.);

21 (4) any payments under title XIX of such Act  
22 that are based on the enhanced FMAP described in  
23 section 2105(b) of such Act (42 U.S.C. 1397ee(b));  
24 or

1           (5) any payments under title XIX of such Act  
2 that are attributable to expenditures for medical as-  
3 sistance provided to individuals made eligible under  
4 a State plan under title XIX of the Social Security  
5 Act (including under any waiver under such title or  
6 under section 1115 of such Act (42 U.S.C. 1315))  
7 because of income standards (expressed as a per-  
8 centage of the poverty line) for eligibility for medical  
9 assistance that are higher than the income stand-  
10 ards (as so expressed) for such eligibility as in effect  
11 on July 1, 2008.

12           (f) STATE INELIGIBILITY.—

13           (1) MAINTENANCE OF ELIGIBILITY REQUIRE-  
14 MENTS.—

15           (A) IN GENERAL.—Subject to subpara-  
16 graphs (B) and (C), a State is not eligible for  
17 an increase in its FMAP under subsection (a),  
18 (b), or (c), or an increase in a cap amount  
19 under subsection (d), if eligibility standards,  
20 methodologies, or procedures under its State  
21 plan under title XIX of the Social Security Act  
22 (including any waiver under such title or under  
23 section 1115 of such Act (42 U.S.C. 1315)) are  
24 more restrictive than the eligibility standards,  
25 methodologies, or procedures, respectively,

1 under such plan (or waiver) as in effect on July  
2 1, 2008.

3 (B) STATE REINSTATEMENT OF ELIGI-  
4 BILITY PERMITTED.—Subject to subparagraph  
5 (C), a State that has restricted eligibility stand-  
6 ards, methodologies, or procedures under its  
7 State plan under title XIX of the Social Secu-  
8 rity Act (including any waiver under such title  
9 or under section 1115 of such Act (42 U.S.C.  
10 1315)) after July 1, 2008, is no longer ineli-  
11 gible under subparagraph (A) beginning with  
12 the first calendar quarter in which the State  
13 has reinstated eligibility standards, methodolo-  
14 gies, or procedures that are no more restrictive  
15 than the eligibility standards, methodologies, or  
16 procedures, respectively, under such plan (or  
17 waiver) as in effect on July 1, 2008.

18 (C) SPECIAL RULES.—A State shall not be  
19 ineligible under subparagraph (A)—

20 (i) for the calendar quarters before  
21 July 1, 2009, on the basis of a restriction  
22 that was applied after July 1, 2008, and  
23 before the date of the enactment of this  
24 Act, if the State prior to July 1, 2009, has  
25 reinstated eligibility standards, methodolo-

1           gies, or procedures that are no more re-  
2           strictive than the eligibility standards,  
3           methodologies, or procedures, respectively,  
4           under such plan (or waiver) as in effect on  
5           July 1, 2008; or

6           (ii) on the basis of a restriction that  
7           was directed to be made under State law  
8           as of July 1, 2008, and would have been  
9           in effect as of such date, but for a delay  
10          in the request for, and approval of, a waiv-  
11          er under section 1115 of such Act with re-  
12          spect to such restriction.

13           (2) COMPLIANCE WITH PROMPT PAY REQUIRE-  
14          MENTS.—No State shall be eligible for an increased  
15          FMAP rate as provided under this section for any  
16          claim submitted by a provider subject to the terms  
17          of section 1902(a)(37)(A) of the Social Security Act  
18          (42 U.S.C. 1396a(a)(37)(A)) during any period in  
19          which that State has failed to pay claims in accord-  
20          ance with section 1902(a)(37)(A) of such Act. Each  
21          State shall report to the Secretary, no later than 30  
22          days following the 1st day of the month, its compli-  
23          ance with the requirements of section  
24          1902(a)(37)(A) of the Social Security Act as they

1       pertain to claims made for covered services during  
2       the preceding month.

3           (3) NO WAIVER AUTHORITY.—The Secretary  
4       may not waive the application of this subsection or  
5       subsection (g) under section 1115 of the Social Se-  
6       curity Act or otherwise.

7       (g) REQUIREMENTS.—

8           (1) IN GENERAL.—A State may not deposit or  
9       credit the additional Federal funds paid to the State  
10      as a result of this section to any reserve or rainy day  
11      fund maintained by the State.

12          (2) STATE REPORTS.—Each State that is paid  
13      additional Federal funds as a result of this section  
14      shall, not later than September 30, 2011, submit a  
15      report to the Secretary, in such form and such man-  
16      ner as the Secretary shall determine, regarding how  
17      the additional Federal funds were expended.

18          (3) ADDITIONAL REQUIREMENT FOR CERTAIN  
19      STATES.—In the case of a State that requires polit-  
20      ical subdivisions within the State to contribute to-  
21      ward the non-Federal share of expenditures under  
22      the State Medicaid plan required under section  
23      1902(a)(2) of the Social Security Act (42 U.S.C.  
24      1396a(a)(2)), the State is not eligible for an in-  
25      crease in its FMAP under subsection (b) or (c), or

1 an increase in a cap amount under subsection (d),  
2 if it requires that such political subdivisions pay for  
3 quarters during the recession adjustment period a  
4 greater percentage of the non-Federal share of such  
5 expenditures, or a greater percentage of the non-  
6 Federal share of payments under section 1923, than  
7 the respective percentage that would have been re-  
8 quired by the State under such plan on September  
9 30, 2008, prior to application of this section.

10 (h) DEFINITIONS.—In this section, except as other-  
11 wise provided:

12 (1) FMAP.—The term “FMAP” means the  
13 Federal medical assistance percentage, as defined in  
14 section 1905(b) of the Social Security Act (42  
15 U.S.C. 1396d(b)), as determined without regard to  
16 this section except as otherwise specified.

17 (2) POVERTY LINE.—The term “poverty line”  
18 has the meaning given such term in section 673(2)  
19 of the Community Services Block Grant Act (42  
20 U.S.C. 9902(2)), including any revision required by  
21 such section.

22 (3) RECESSION ADJUSTMENT PERIOD.—The  
23 term “recession adjustment period” means the pe-  
24 riod beginning on October 1, 2008, and ending on  
25 December 31, 2010.

1           (4) SECRETARY.—The term “Secretary” means  
2           the Secretary of Health and Human Services.

3           (5) STATE.—The term “State” has the mean-  
4           ing given such term for purposes of title XIX of the  
5           Social Security Act (42 U.S.C. 1396 et seq.).

6           (i) SUNSET.—This section shall not apply to items  
7           and services furnished after the end of the recession ad-  
8           justment period.

9   **SEC. 5002. EXTENSION AND UPDATE OF SPECIAL RULE FOR**  
10                           **INCREASE OF MEDICAID DSH ALLOTMENTS**  
11                           **FOR LOW DSH STATES.**

12           Section 1923(f)(5) of the Social Security Act (42  
13   U.S.C. 1396r-4(f)(5)) is amended—

14           (1) in subparagraph (B)—

15                   (A) in the subparagraph heading, by strik-  
16                   ing “YEAR 2004 AND SUBSEQUENT FISCAL  
17                   YEARS” and inserting “YEARS 2004 THROUGH  
18                   2008”;

19                   (B) in clause (i), by inserting “and” after  
20                   the semicolon;

21                   (C) in clause (ii), by striking “; and” and  
22                   inserting a period; and

23                   (D) by striking clause (iii); and

24           (2) by adding at the end the following subpara-  
25           graph:

1           “(C) FOR FISCAL YEAR 2009 AND SUBSE-  
2           QUENT FISCAL YEARS.—In the case of a State  
3           in which the total expenditures under the State  
4           plan (including Federal and State shares) for  
5           disproportionate share hospital adjustments  
6           under this section for fiscal year 2006, as re-  
7           ported to the Administrator of the Centers for  
8           Medicare & Medicaid Services as of August 31,  
9           2009, is greater than 0 but less than 3 percent  
10          of the State’s total amount of expenditures  
11          under the State plan for medical assistance  
12          during the fiscal year, the DSH allotment for  
13          the State with respect to—

14                 “(i) fiscal year 2009, shall be the  
15                 DSH allotment for the State for fiscal year  
16                 2008 increased by 16 percent;

17                 “(ii) fiscal year 2010, shall be the  
18                 DSH allotment for the State for fiscal year  
19                 2009 increased by 16 percent;

20                 “(iii) fiscal year 2011 for the period  
21                 ending on December 31, 2010, shall be  $\frac{1}{4}$   
22                 of the DSH allotment for the State for fis-  
23                 cal year 2010 increased by 16 percent;

24                 “(iv) fiscal year 2011 for the period  
25                 beginning on January 1, 2011, and ending



1 on September 30, 2011, shall be  $\frac{3}{4}$  of the  
2 DSH allotment that would have been de-  
3 termined under this subsection for the  
4 State for fiscal year 2011 if this subpara-  
5 graph had not been enacted;

6 “(v) fiscal year 2012, shall be the  
7 DSH allotment that would have been de-  
8 termined under this subsection for the  
9 State for fiscal year 2012 if this subpara-  
10 graph had not been enacted; and

11 “(vi) fiscal year 2013 and any subse-  
12 quent fiscal year, shall be the DSH allot-  
13 ment for the State for the previous fiscal  
14 year subject to an increase for inflation as  
15 provided in paragraph (3)(A).”.

16 **SEC. 5003. PAYMENT OF MEDICARE LIABILITY TO STATES**  
17 **AS A RESULT OF THE SPECIAL DISABILITY**  
18 **WORKLOAD PROJECT.**

19 (a) IN GENERAL.—The Secretary, in consultation  
20 with the Commissioner, shall work with each State to  
21 reach an agreement, not later than 3 months after the  
22 date of enactment of this Act, on the amount of a payment  
23 for the State related to the Medicare program liability as  
24 a result of the Special Disability Workload project, subject  
25 to the requirements of subsection (c).

1 (b) PAYMENTS.—

2 (1) DEADLINE FOR MAKING PAYMENTS.—Not  
3 later than 30 days after reaching an agreement with  
4 a State under subsection (a), the Secretary shall pay  
5 the State, from the amounts appropriated under  
6 paragraph (2), the payment agreed to for the State.

7 (2) APPROPRIATION.—Out of any money in the  
8 Treasury not otherwise appropriated, there is appro-  
9 priated \$3,000,000,000 for fiscal year 2009 for  
10 making payments to States under paragraph (1).

11 (3) LIMITATIONS.—In no case may—

12 (A) the aggregate amount of payments  
13 made by the Secretary to States under para-  
14 graph (1) exceed \$3,000,000,000; or

15 (B) any payments be provided by the Sec-  
16 retary under this section after the first day of  
17 the first month that begins 4 months after the  
18 date of enactment of this Act.

19 (c) REQUIREMENTS.—The requirements of this sub-  
20 section are the following:

21 (1) FEDERAL DATA USED TO DETERMINE  
22 AMOUNT OF PAYMENTS.—The amount of the pay-  
23 ment under subsection (a) for each State is deter-  
24 mined on the basis of the most recent Federal data  
25 available, including the use of proxies and reasonable

1 estimates as necessary, for determining expeditiously  
2 the amount of the payment that shall be made to  
3 each State that enters into an agreement under this  
4 section. The payment methodology shall consider the  
5 following factors:

6 (A) The number of SDW cases found to  
7 have been eligible for benefits under the Medi-  
8 care program and the month of the initial  
9 Medicare program eligibility for such cases.

10 (B) The applicable non-Federal share of  
11 expenditures made by a State under the Med-  
12 icaid program during the time period for SDW  
13 cases.

14 (C) Such other factors as the Secretary  
15 and the Commissioner, in consultation with the  
16 States, determine appropriate.

17 (2) CONDITIONS FOR PAYMENTS.—A State  
18 shall not receive a payment under this section unless  
19 the State—

20 (A) waives the right to file a civil action  
21 (or to be a party to any action) in any Federal  
22 or State court in which the relief sought in-  
23 cludes a payment from the United States to the  
24 State related to the Medicare liability under  
25 title XVIII of the Social Security Act (42

1 U.S.C. 1395 et seq.) as a result of the Special  
2 Disability Workload project; and

3 (B) releases the United States from any  
4 further claims for reimbursement of State ex-  
5 penditures as a result of the Special Disability  
6 Workload project.

7 (3) NO INDIVIDUAL STATE CLAIMS DATA RE-  
8 QUIRED.—No State shall be required to submit indi-  
9 vidual claims evidencing payment under the Medi-  
10 caid program as a condition for receiving a payment  
11 under this section.

12 (4) INELIGIBLE STATES.—No State that is a  
13 party to a civil action in any Federal or State court  
14 in which the relief sought includes a payment from  
15 the United States to the State related to the Medi-  
16 care liability under title XVIII of the Social Security  
17 Act (42 U.S.C. 1395 et seq.) as a result of the Spe-  
18 cial Disability Workload project shall be eligible to  
19 receive a payment under this section while such an  
20 action is pending or if such an action is resolved in  
21 favor of the State.

22 (d) DEFINITIONS.—In this section:

23 (1) COMMISSIONER.—The term “Commis-  
24 sioner” means the Commissioner of Social Security.

1           (2) MEDICAID PROGRAM.—The term “Medicaid  
2           program” means the program of medical assistance  
3           established under title XIX of the Social Security  
4           Act (42 U.S.C. 1396a et seq.) and includes medical  
5           assistance provided under any waiver of that pro-  
6           gram approved under section 1115 or 1915 of such  
7           Act (42 U.S.C. 1315, 1396n) or otherwise.

8           (3) MEDICARE PROGRAM.—The term “Medicare  
9           program” means the program established under title  
10          XVIII of the Social Security Act (42 U.S.C. 1395 et  
11          seq.).

12          (4) SECRETARY.—The term “Secretary” means  
13          the Secretary of Health and Human Services.

14          (5) SDW CASE.—The term “SDW case” means  
15          a case in the Special Disability Workload project in-  
16          volving an individual determined by the Commis-  
17          sioner to have been eligible for benefits under title  
18          II of the Social Security Act (42 U.S.C. 401 et seq.)  
19          for a period during which such benefits were not  
20          provided to the individual and who was, during all  
21          or part of such period, enrolled in a State Medicaid  
22          program.

23          (6) SPECIAL DISABILITY WORKLOAD  
24          PROJECT.—The term “Special Disability Workload  
25          project” means the project described in the 2008

1 Annual Report of the Board of Trustees of the Fed-  
2 eral Old-Age and Survivors Insurance and Federal  
3 Disability Insurance Trust Funds, H.R. Doc. No.  
4 110-104, 110th Cong. (2008).

5 (7) STATE.—The term “State” means each of  
6 the 50 States and the District of Columbia.

7 **SEC. 5004. FUNDING FOR THE DEPARTMENT OF HEALTH**  
8 **AND HUMAN SERVICES OFFICE OF THE IN-**  
9 **SPECTOR GENERAL.**

10 For purposes of ensuring the proper expenditure of  
11 Federal funds under title XIX of the Social Security Act  
12 (42 U.S.C. 1396 et seq.), there is appropriated to the Of-  
13 fice of the Inspector General of the Department of Health  
14 and Human Services, out of any money in the Treasury  
15 not otherwise appropriated and without further appropria-  
16 tion, \$31,250,000 for the recession adjustment period (as  
17 defined in section 5001(h)(3)). Amounts appropriated  
18 under this section shall remain available for expenditure  
19 until September 30, 2012, and shall be in addition to any  
20 other amounts appropriated or made available to such Of-  
21 fice for such purposes.

1 **SEC. 5005. GAO STUDY AND REPORT REGARDING STATE**  
2 **NEEDS DURING PERIODS OF NATIONAL ECO-**  
3 **NOMIC DOWNTURN.**

4 (a) **IN GENERAL.**—The Comptroller General of the  
5 United States shall study the period of national economic  
6 downturn in effect on the date of enactment of this Act,  
7 as well as previous periods of national economic downturn  
8 since 1974, for the purpose of developing recommenda-  
9 tions for addressing the needs of States during such peri-  
10 ods. As part of such analysis, the Comptroller General  
11 shall study the past and projected effects of temporary in-  
12 creases in the Federal medical assistance percentage  
13 under the Medicaid program with respect to such periods.

14 (b) **REPORT.**—Not later than April 1, 2011, the  
15 Comptroller General of the United States shall submit a  
16 report to the appropriate committees of Congress on the  
17 results of the study conducted under paragraph (1). Such  
18 report shall include the following:

19 (1) Such recommendations as the Comptroller  
20 General determines appropriate for modifying the  
21 national economic downturn assistance formula for  
22 temporary adjustment of the Federal medical assist-  
23 ance percentage under Medicaid (also referred to as  
24 a “countercyclical FMAP”) described in GAO report  
25 number GAO–07–97 to improve the effectiveness of  
26 the application of such percentage in addressing the

1 needs of States during periods of national economic  
2 downturn, including recommendations for—

3 (A) improvements to the factors that would  
4 begin and end the application of such percent-  
5 age;

6 (B) how the determination of the amount  
7 of such percentage could be adjusted to address  
8 State and regional economic variations during  
9 such periods; and

10 (C) how the determination of the amount  
11 of such percentage could be adjusted to be more  
12 responsive to actual Medicaid costs incurred by  
13 States during such periods.

14 (2) An analysis of the impact on States during  
15 such periods of—

16 (A) declines in private health benefits cov-  
17 erage;

18 (B) declines in State revenues; and

19 (C) caseload maintenance and growth  
20 under Medicaid, the State Children's Health In-  
21 surance Program, or any other publicly-funded  
22 programs to provide health benefits coverage  
23 for State residents.

24 (3) Identification of, and recommendations for  
25 addressing, the effects on States of any other spe-



1 cific economic indicators that the Comptroller Gen-  
 2 eral determines appropriate.

3 **TITLE VI—EXECUTIVE**  
 4 **COMPENSATION**

5 SUBTITLE A—OVERSIGHT

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

- Sec. 6001. Definitions.
- Sec. 6002. Executive compensation and corporate governance.
- Sec. 6003. Board Compensation Committee.
- Sec. 6004. Limitation on luxury expenditures.
- Sec. 6005. Shareholder approval of executive compensation.
- Sec. 6006. Review of prior payments to executives.

6 **SEC. 6001. DEFINITIONS.**

7 For purposes of this title, the following definitions  
 8 shall apply:

9 (1) SENIOR EXECUTIVE OFFICER.—The term  
 10 “senior executive officer” means an individual who is  
 11 1 of the top 5 most highly paid executives of a pub-  
 12 lic company, whose compensation is required to be  
 13 disclosed pursuant to the Securities Exchange Act of  
 14 1934, and any regulations issued thereunder, and  
 15 non-public company counterparts.

16 (2) GOLDEN PARACHUTE PAYMENT.—The term  
 17 “golden parachute payment” means any payment to  
 18 a senior executive officer for departure from a com-  
 19 pany for any reason, except for payments for serv-  
 20 ices performed or benefits accrued.

1           (3) TARP.—The term “TARP” means the  
2 Troubled Asset Relief Program established under  
3 the Emergency Economic Stabilization Act of 2008  
4 (Public Law 110–343, 12 U.S.C. 5201 et seq.).

5           (4) TARP RECIPIENT.—The term “TARP re-  
6 cipient” means any entity that has received or will  
7 receive financial assistance under the financial as-  
8 sistance provided under the TARP.

9           (5) SECRETARY.—The term “Secretary” means  
10 the Secretary of the Treasury.

11           (6) COMMISSION.—The term “Commission”  
12 means the Securities and Exchange Commission.

13 **SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE**  
14 **GOVERNANCE.**

15           (a) IN GENERAL.—During the period in which any  
16 obligation arising from financial assistance provided under  
17 the TARP remains outstanding, each TARP recipient  
18 shall be subject to—

19           (1) the standards established by the Secretary  
20 under this title; and

21           (2) the provisions of section 162(m)(5) of the  
22 Internal Revenue Code of 1986, as applicable.

23           (b) STANDARDS REQUIRED.—The Secretary shall re-  
24 quire each TARP recipient to meet appropriate standards  
25 for executive compensation and corporate governance.

1 (c) SPECIFIC REQUIREMENTS.—The standards es-  
2 tablished under subsection (b) shall include—

3 (1) limits on compensation that exclude incen-  
4 tives for senior executive officers of the TARP re-  
5 cipient to take unnecessary and excessive risks that  
6 threaten the value of such recipient during the pe-  
7 riod that any obligation arising from TARP assist-  
8 ance is outstanding;

9 (2) a provision for the recovery by such TARP  
10 recipient of any bonus, retention award, or incentive  
11 compensation paid to a senior executive officer and  
12 any of the next 20 most highly-compensated employ-  
13 ees of the TARP recipient based on statements of  
14 earnings, revenues, gains, or other criteria that are  
15 later found to be materially inaccurate;

16 (3) a prohibition on such TARP recipient mak-  
17 ing any golden parachute payment to a senior execu-  
18 tive officer or any of the next 5 most highly-com-  
19 pensated employees of the TARP recipient during  
20 the period that any obligation arising from TARP  
21 assistance is outstanding;

22 (4) a prohibition on such TARP recipient pay-  
23 ing or accruing any bonus, retention award, or in-  
24 centive compensation during the period that the obli-  
25 gation is outstanding to at least the 25 most highly-

1 compensated employees, or such higher number as  
2 the Secretary may determine is in the public interest  
3 with respect to any TARP recipient;

4 (5) a prohibition on any compensation plan that  
5 would encourage manipulation of the reported earn-  
6 ings of such TARP recipient to enhance the com-  
7 pensation of any of its employees; and

8 (6) a requirement for the establishment of a  
9 Board Compensation Committee that meets the re-  
10 quirements of section 6003.

11 (d) CERTIFICATION OF COMPLIANCE.—The chief ex-  
12 ecutive officer and chief financial officer (or the equiva-  
13 lents thereof) of each TARP recipient shall provide a writ-  
14 ten certification of compliance by the TARP recipient with  
15 the requirements of this title—

16 (1) in the case of a TARP recipient, the securi-  
17 ties of which are publicly traded, to the Securities  
18 and Exchange Commission, together with annual fil-  
19 ings required under the securities laws; and

20 (2) in the case of a TARP recipient that is not  
21 a publicly traded company, to the Secretary.

22 **SEC. 6003. BOARD COMPENSATION COMMITTEE.**

23 (a) ESTABLISHMENT OF BOARD REQUIRED.—Each  
24 TARP recipient shall establish a Board Compensation

1 Committee, comprised entirely of independent directors,  
2 for the purpose of reviewing employee compensation plans.

3 (b) MEETINGS.—The Board Compensation Com-  
4 mittee of each TARP recipient shall meet at least semi-  
5 annually to discuss and evaluate employee compensation  
6 plans in light of an assessment of any risk posed to the  
7 TARP recipient from such plans.

8 **SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.**

9 (a) POLICY REQUIRED.—The board of directors of  
10 any TARP recipient shall have in place a company-wide  
11 policy regarding excessive or luxury expenditures, as iden-  
12 tified by the Secretary, which may include excessive ex-  
13 penditures on—

- 14 (1) entertainment or events;  
15 (2) office and facility renovations;  
16 (3) aviation or other transportation services; or  
17 (4) other activities or events that are not rea-  
18 sonable expenditures for conferences, staff develop-  
19 ment, reasonable performance incentives, or other  
20 similar measures conducted in the normal course of  
21 the business operations of the TARP recipient.

22 **SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COM-  
23 PENSATION.**

24 (a) ANNUAL SHAREHOLDER APPROVAL OF EXECU-  
25 TIVE COMPENSATION.—Any proxy or consent or author-

1 ization for an annual or other meeting of the shareholders  
2 of any TARP recipient during the period in which any ob-  
3 ligation arising from financial assistance provided under  
4 the TARP remains outstanding shall permit a separate  
5 shareholder vote to approve the compensation of execu-  
6 tives, as disclosed pursuant to the compensation disclosure  
7 rules of the Commission (which disclosure shall include the  
8 compensation discussion and analysis, the compensation  
9 tables, and any related material).

10 (b) NONBINDING VOTE.—A shareholder vote de-  
11 scribed in subsection (a) shall not be binding on the board  
12 of directors of a TARP recipient, and may not be con-  
13 strued as overruling a decision by such board, nor to cre-  
14 ate or imply any additional fiduciary duty by such board,  
15 nor shall such vote be construed to restrict or limit the  
16 ability of shareholders to make proposals for inclusion in  
17 proxy materials related to executive compensation.

18 (c) DEADLINE FOR RULEMAKING.—Not later than 1  
19 year after the date of enactment of this Act, the Commis-  
20 sion shall issue any final rules and regulations required  
21 by this section.

22 **SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.**

23 (a) IN GENERAL.—The Secretary shall review bo-  
24 nuses, retention awards, and other compensation paid to  
25 employees of each entity receiving TARP assistance before

1 the date of enactment of this Act to determine whether  
2 any such payments were excessive, inconsistent with the  
3 purposes of this Act or the TARP, or otherwise contrary  
4 to the public interest.

5 (b) NEGOTIATIONS FOR REIMBURSEMENT.—If the  
6 Secretary makes a determination described in subsection  
7 (a), the Secretary shall seek to negotiate with the TARP  
8 recipient and the subject employee for appropriate reim-  
9 bursements to the Federal Government with respect to  
10 compensation or bonuses.

## 11 **Subtitle B—Limits on Executive** 12 **Compensation**

### 13 **SEC. 6011. SHORT TITLE.**

14 This subtitle may be cited as the “Cap Executive Of-  
15 ficer Pay Act of 2009”.

### 16 **SEC. 6012. LIMIT ON EXECUTIVE COMPENSATION.**

17 (a) IN GENERAL.—Notwithstanding any other provi-  
18 sion of law or agreement to the contrary, no person who  
19 is an officer, director, executive, or other employee of a  
20 financial institution or other entity that receives or has  
21 received funds under the Troubled Asset Relief Program  
22 (or “TARP”), established under section 101 of the Emer-  
23 gency Economic Stabilization Act of 2008, may receive an-  
24 nual compensation in excess of the amount of compensa-  
25 tion paid to the President of the United States.

1 (b) DURATION.—The limitation in subsection (a)  
2 shall be a condition of the receipt of assistance under the  
3 TARP, and of any modification to such assistance that  
4 was received on or before the date of enactment of this  
5 Act, and shall remain in effect with respect to each finan-  
6 cial institution or other entity that receives such assistance  
7 or modification for the duration of the assistance or obli-  
8 gation provided under the TARP.

9 **SEC. 6013. RULEMAKING AUTHORITY.**

10 The Secretary shall expeditiously issue such rules as  
11 are necessary to carry out this subtitle, including with re-  
12 spect to reimbursement of compensation amounts, as ap-  
13 propriate.

14 **SEC. 6014. COMPENSATION.**

15 As used in this subtitle, the term “compensation” in-  
16 cludes wages, salary, deferred compensation, retirement  
17 contributions, options, bonuses, property, and any other  
18 form of compensation or bonus that the Secretary of the  
19 Treasury determines is appropriate.

20 **Subtitle C—Excessive Bonuses**

21 **SEC. 6021. TREATMENT OF EXCESSIVE BONUSES BY TARP**  
22 **RECIPIENTS.**

23 (a) IN GENERAL.—If, before the date of enactment  
24 of this Act, the preferred stock of a financial institution  
25 was purchased by the Government using funds provided



1 under the Troubled Asset Relief Program established pur-  
2 suant to the Emergency Economic Stabilization Act of  
3 2008, then, notwithstanding any otherwise applicable re-  
4 striction on the redeemability of such preferred stock, such  
5 financial institution shall redeem an amount of such pre-  
6 ferred stock equal to the aggregate amount of all excessive  
7 bonuses paid or payable to all covered individuals.

8 (b) TIMING.—Each financial institution described in  
9 subsection (a) shall comply with the requirements of sub-  
10 section (a)—

11 (1) not later than 120 days after the date of  
12 enactment of this Act, with respect to excessive bo-  
13 nuses (or portions thereof) paid before the date of  
14 enactment of this Act; and

15 (2) not later than the day before an excessive  
16 bonus (or portion thereof) is paid, with respect to  
17 any excessive bonus (or portion thereof) paid on or  
18 after the date of enactment of this Act.

19 (c) DEFINITIONS.—As used in this section, the fol-  
20 lowing definitions shall apply:

21 (1) EXCESSIVE BONUS.—

22 (A) IN GENERAL.—The term “excessive  
23 bonus” means the portion of the applicable  
24 bonus payments made to a covered individual in  
25 excess of \$100,000.

1 (B) APPLICABLE BONUS PAYMENTS.—

2 (i) IN GENERAL.—The term “applica-  
3 ble bonus payment” means any bonus pay-  
4 ment to a covered individual—

5 (I) which is paid or payable by  
6 reason of services performed by such  
7 individual in a taxable year of the fi-  
8 nancial institution (or any member of  
9 a controlled group described in sub-  
10 paragraph (D)) ending in 2008, and

11 (II) the amount of which was  
12 first communicated to such individual  
13 during the period beginning on Janu-  
14 ary 1, 2008, and ending January 31,  
15 2009, or was based on a resolution of  
16 the board of directors of such institu-  
17 tion that was adopted before the end  
18 of such taxable year.

19 (ii) CERTAIN PAYMENTS AND CONDI-  
20 TIONS DISREGARDED.—In determining  
21 whether a bonus payment is described in  
22 clause (i)(I)—

23 (I) a bonus payment that relates  
24 to services performed in any taxable  
25 year before the taxable year described

1 in such clause and that is wholly or  
2 partially contingent on the perform-  
3 ance of services in the taxable year so  
4 described shall be disregarded, and

5 (II) any condition on a bonus  
6 payment for services performed in the  
7 taxable year so described that the em-  
8 ployee perform services in taxable  
9 years after the taxable year so de-  
10 scribed shall be disregarded.

11 (C) BONUS PAYMENT.—The term “bonus  
12 payment” means any payment which—

13 (i) is a discretionary payment to a  
14 covered individual by a financial institution  
15 (or any member of a controlled group de-  
16 scribed in subparagraph (D)) for services  
17 rendered,

18 (ii) is in addition to any amount pay-  
19 able to such individual for services per-  
20 formed by such individual at a regular  
21 hourly, daily, weekly, monthly, or similar  
22 periodic rate, and

23 (iii) is paid or payable in cash or  
24 other property other than—

1 (I) stock in such institution or  
2 member, or

3 (II) an interest in a troubled  
4 asset (within the meaning of the  
5 Emergency Economic Stabilization  
6 Act of 2008) held directly or indi-  
7 rectly by such institution or member.

8 Such term does not include payments to an em-  
9 ployee as commissions, welfare and fringe bene-  
10 fits, or expense reimbursements.

11 (D) COVERED INDIVIDUAL.—The term  
12 “covered individual” means, with respect to any  
13 financial institution, any director or officer or  
14 other employee of such financial institution or  
15 of any member of a controlled group of corpora-  
16 tions (within the meaning of section 52(a) of  
17 the Internal Revenue Code of 1986) that in-  
18 cludes such financial institution.

19 (2) FINANCIAL INSTITUTION.—The term “fi-  
20 nancial institution” has the same meaning as in sec-  
21 tion 3 of the Emergency Economic Stabilization Act  
22 of 2008 (12 U.S.C. 5252).

23 (d) EXCISE TAX ON TARP COMPANIES THAT FAIL  
24 TO REDEEM CERTAIN SECURITIES FROM UNITED  
25 STATES.—

1           (1) IN GENERAL.—Chapter 46 of the Internal  
2 Revenue Code of 1986 (relating to excise tax on  
3 golden parachute payments) is amended by adding  
4 at the end the following new section:

5 **“SEC. 4999A. FAILURE TO REDEEM CERTAIN SECURITIES**  
6 **FROM UNITED STATES.**

7           “(a) IMPOSITION OF TAX.—There is hereby imposed  
8 a tax on any financial institution which—

9           “(1) is required to redeem an amount of its  
10 preferred stock from the United States pursuant to  
11 section 1903(a) of the American Recovery and Rein-  
12 vestment Tax Act of 2009, and

13           “(2) fails to redeem all or any portion of such  
14 amount within the period prescribed for such re-  
15 demption.

16           “(b) AMOUNT OF TAX.—The amount of the tax im-  
17 posed by subsection (a) shall be equal to 35 percent of  
18 the amount which the financial institution failed to redeem  
19 within the time prescribed under 1903(b) of the American  
20 Recovery and Reinvestment Tax Act of 2009.

21           “(c) ADMINISTRATIVE PROVISIONS.—

22           “(1) IN GENERAL.—For purposes of subtitle F,  
23 any tax imposed by this section shall be treated as  
24 a tax imposed by subtitle A for the taxable year in  
25 which a deduction is allowed for any excessive bonus

1 with respect to which the redemption described in  
 2 subsection (a)(1) is required to be made.

3 “(2) EXTENSION OF TIME.—The due date for  
 4 payment of tax imposed by this section shall in no  
 5 event be earlier than the 150th day following the  
 6 date of the enactment of this section.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) The heading for chapter 46 of such  
 9 Code are amended to read as follows:

“CHAPTER 46-TAXES ON CERTAIN EXCESSIVE REMUNERATION

“Sec. 4999. Golden parachute payments.

“Sec. 4999A. Failure to redeem certain securities from United States.”.

10 (B) The item relating to chapter 46 in the  
 11 table of chapters for subtitle D of such Code is  
 12 amended to read as follows:

“Chapter 46. Taxes on excessive remuneration.”.

13 (3) EFFECTIVE DATE.—The amendments made  
 14 by this subsection shall apply to failures described in  
 15 section 4999A(a)(2) of the Internal Revenue Code of  
 16 1986 occurring after the date of the enactment of  
 17 this Act.

18 **TITLE VII—FORECLOSURE**  
 19 **PREVENTION**

TITLE VII—FORECLOSURE PREVENTION

Sec. 7001. Mandatory loan modifications.

1 **SEC. 7001. MANDATORY LOAN MODIFICATIONS.**

2 Section 109(a) of the Emergency Economic Stabiliza-  
3 tion Act of 2008 (12 U.S.C. 5219) is amended—

4 (1) by striking the last sentence;

5 (2) by striking “To the extent” and inserting  
6 the following:

7 “(1) IN GENERAL.—To the extent”; and

8 (3) by adding at the end the following:

9 “(2) LOAN MODIFICATIONS REQUIRED.—

10 “(A) IN GENERAL.—In addition to actions  
11 required under paragraph (1), the Secretary  
12 shall, not later than 15 days after the date of  
13 enactment of this paragraph, develop and im-  
14 plement a plan to facilitate loan modifications  
15 to prevent avoidable mortgage loan foreclosures.

16 “(B) FUNDING.—Of amounts made avail-  
17 able under section 115 and not otherwise obli-  
18 gated, not less than \$50,000,000,000, shall be  
19 made available to the Secretary for purposes of  
20 carrying out the mortgage loan modification  
21 plan required to be developed and implemented  
22 under this paragraph.

23 “(C) CRITERIA.—The loan modification  
24 plan required by this paragraph may incor-  
25 porate the use of—

1           “(i) loan guarantees and credit en-  
2           hancements;

3           “(ii) the reduction of loan principal  
4           amounts and interest rates;

5           “(iii) extension of mortgage loan  
6           terms; and

7           “(iv) any other similar mechanisms or  
8           combinations thereof, as determined appro-  
9           priate by the Secretary.

10          “(D) DESIGNATION AUTHORITY.—

11           “(i) FDIC.—The Secretary may des-  
12           ignate the Corporation, on a reimbursable  
13           basis, to carry out the loan modification  
14           plan developed under this paragraph.

15           “(ii) CONTRACTING AUTHORITY.—If  
16           designated under clause (i), the Corpora-  
17           tion may use its contracting authority  
18           under section 9 of the Federal Deposit In-  
19           surance Act.

20          “(E) CONSULTATION REQUIRED.—In de-  
21           veloping the loan modification plan under this  
22           paragraph, the Secretary shall consult with the  
23           Chairperson of the Board of Directors of the  
24           Corporation, the Board, and the Secretary of  
25           Housing and Urban Development.



1           “(F) REPORTS TO CONGRESS.—The Sec-  
 2           retary shall provide to the Committee on Bank-  
 3           ing, Housing, and Urban Affairs of the Senate  
 4           and the Committee on Financial Services of the  
 5           House of Representatives—

6                   “(i) upon development of the plan re-  
 7                   quired by this paragraph, a report describ-  
 8                   ing such plan; and

9                   “(ii) a monthly report on the number  
 10                  and types of loan modifications occurring  
 11                  during the reporting period, and the per-  
 12                  formance of the loan modification plan  
 13                  overall.”.

14                   **TITLE VIII—FORECLOSURE**  
 15                   **MITIGATION**

TITLE VIII—FORECLOSURE MITIGATION

Sec. 8001. Short Title.

Sec. 8002. Definitions.

Sec. 8003. Payments to eligible servicers authorized.

Sec. 8004. Authorization of appropriations.

Sec. 8005. Sunset of authority.

16   **SEC. 8001. SHORT TITLE.**

17           This title may be cited as the “Help Families Keep  
 18   Their Homes Act of 2009”.

19   **SEC. 8002. DEFINITIONS.**

20           For purposes of this title—

1           (1) the term “securitized mortgages” means  
2 residential mortgages that have been pooled by a  
3 securitization vehicle;

4           (2) the term “securitization vehicle” means a  
5 trust, corporation, partnership, limited liability enti-  
6 ty, special purpose entity, or other structure that—

7               (A) is the issuer, or is created by the  
8 issuer, of mortgage pass-through certificates,  
9 participation certificates, mortgage-backed secu-  
10 rities, or other similar securities backed by a  
11 pool of assets that includes residential mortgage  
12 loans;

13               (B) holds all of the mortgage loans which  
14 are the basis for any vehicle described in sub-  
15 paragraph (A); and

16               (C) has not issued securities that are guar-  
17 anteed by the Federal National Mortgage Asso-  
18 ciation, the Federal Home Loan Mortgage Cor-  
19 poration, or the Government National Mortgage  
20 Association;

21           (3) the term “servicer” means a servicer of  
22 securitized mortgages;

23           (4) the term “eligible servicer” means a servicer  
24 of pooled and securitized residential mortgages;

1           (5) the term “eligible mortgage” means a resi-  
2           dential mortgage, the principal amount of which did  
3           not exceed the conforming loan size limit that was  
4           in existence at the time of origination for a com-  
5           parable dwelling, as established by the Federal Na-  
6           tional Mortgage Association;

7           (6) the term “Secretary” means the Secretary  
8           of the Treasury;

9           (7) the term “effective term of the Act” means  
10          the period beginning on the effective date of this  
11          title and ending on December 31, 2011;

12          (8) the term “incentive fee” means the monthly  
13          payment to eligible servicers, as determined under  
14          section 7003; and

15          (9) the term “prepayment fee” means the pay-  
16          ment to eligible servicers, as determined under sec-  
17          tion 7003(b).

18 **SEC. 8003. PAYMENTS TO ELIGIBLE SERVICERS AUTHOR-**  
19 **IZED.**

20          (a) **AUTHORITY.**—The Secretary is authorized to  
21          make payments to eligible servicers, subject to the terms  
22          and conditions established under this title.

23          (b) **FEEES PAID TO ELIGIBLE SERVICERS.**—

24                  (1) **IN GENERAL.**—An eligible servicer may col-  
25          lect reasonable incentive fee payments, as estab-

1 lished by the Secretary, not to exceed \$2,000 per  
2 loan.

3 (2) CONSULTATION.—The fees permitted under  
4 this section shall be subject to standards established  
5 by the Secretary, in consultation with the Secretary  
6 of Housing and Urban Development and the Chair-  
7 man of the Board of Directors of the Federal De-  
8 posit Insurance Corporation, which standards  
9 shall—

10 (A) include an evaluation of whether an el-  
11 igible mortgage is affordable for the remainder  
12 of its term; and

13 (B) identify a reasonable fee to be paid to  
14 the servicer in the event that an eligible mort-  
15 gage is prepaid.

16 (3) FORM OF PAYMENT.—Fees permitted under  
17 this section may be paid in a lump sum or on a  
18 monthly basis. If paid on a monthly basis, the fee  
19 may only be remitted as long as the loan performs.

20 (c) SAFE HARBOR.—Notwithstanding any other pro-  
21 vision of law, and notwithstanding any investment con-  
22 tract between a servicer and a securitization vehicle, a  
23 servicer—

24 (1) owes any duty to maximize the net present  
25 value of the pooled mortgages in the securitization

1 vehicle to all investors and parties having a direct or  
2 indirect interest in such vehicle, and not to any indi-  
3 vidual party or group of parties; and

4 (2) shall be deemed to act in the best interests  
5 of all such investors and parties if the servicer  
6 agrees to or implements a modification, workout, or  
7 other loss mitigation plan for a residential mortgage  
8 or a class of residential mortgages that constitutes  
9 a part or all of the pooled mortgages in such  
10 securitization vehicle, if—

11 (A) default on the payment of such mort-  
12 gage has occurred or is reasonably foreseeable;

13 (B) the property securing such mortgage is  
14 occupied by the mortgagor of such mortgage or  
15 the homeowner; and

16 (C) the servicer reasonably and in good  
17 faith believes that the anticipated recovery on  
18 the principal outstanding obligation of the  
19 mortgage under the modification or workout  
20 plan exceeds, on a net present value basis, the  
21 anticipated recovery on the principal out-  
22 standing obligation of the mortgage through  
23 foreclosure;

24 (3) shall not be obligated to repurchase loans  
25 from, or otherwise make payments to, the

1 securitization vehicle on account of a modification,  
2 workout, or other loss mitigation plan that satisfies  
3 the conditions of paragraph (2); and

4 (4) if it acts in a manner consistent with the  
5 duties set forth in paragraphs (1) and (2), shall not  
6 be liable for entering into a modification or workout  
7 plan to any person—

8 (A) based on ownership by that person of  
9 a residential mortgage loan or any interest in a  
10 pool of residential mortgage loans, or in securi-  
11 ties that distribute payments out of the prin-  
12 cipal, interest, and other payments in loans in  
13 the pool;

14 (B) who is obligated pursuant to a deriva-  
15 tive instrument to make payments determined  
16 in reference to any loan or any interest referred  
17 to in subparagraph (A); or

18 (C) that insures any loan or any interest  
19 referred to in subparagraph (A) under any pro-  
20 vision of law or regulation of the United States  
21 or any State or political subdivision thereof.

22 (d) REPORTING REQUIREMENTS.—

23 (1) IN GENERAL.—Each servicer shall report  
24 regularly, not less frequently than monthly, to the

1 Secretary on the extent and scope of the loss mitiga-  
2 tion activities of the mortgage owner.

3 (2) CONTENT.—Each report required by this  
4 subsection shall include—

5 (A) the number and percent of residential  
6 mortgage loans receiving loss mitigation that  
7 have become performing loans;

8 (B) the number and percent of residential  
9 mortgage loans receiving loss mitigation that  
10 have proceeded to foreclosure;

11 (C) the total number of foreclosures initi-  
12 ated during the reporting period;

13 (D) data on loss mitigation activities, in-  
14 cluding the performance of mitigated loans,  
15 disaggregated for each form of loss mitigation,  
16 which forms may include—

17 (i) a waiver of any late payment  
18 charge, penalty interest, or any other fees  
19 or charges, or any combination thereof;

20 (ii) the establishment of a repayment  
21 plan under which the homeowner resumes  
22 regularly scheduled payments and pays ad-  
23 ditional amounts at scheduled intervals to  
24 cure the delinquency;

1           (iii) forbearance under the loan that  
2           provides for a temporary reduction in or  
3           cessation of monthly payments, followed by  
4           a reamortization of the amounts due under  
5           the loan, including arrearage, and a new  
6           schedule of repayment amounts;

7           (iv) waiver, modification, or variation  
8           of any material term of the loan, including  
9           short-term, long-term, or life-of-loan modi-  
10          fications that change the interest rate, for-  
11          give or forbear with respect to the payment  
12          of principal or interest, or extend the final  
13          maturity date of the loan;

14          (v) short refinancing of the loan con-  
15          sisting of acceptance of payment from or  
16          on behalf of the homeowner of an amount  
17          less than the amount alleged to be due and  
18          owing under the loan, including principal,  
19          interest, and fees, in full satisfaction of the  
20          obligation under such loan and as part of  
21          a refinance transaction in which the prop-  
22          erty is intended to remain the principal  
23          residence of the homeowner;



1 (vi) acquisition of the property by the  
2 owner or servicer by deed in lieu of fore-  
3 closure;

4 (vii) short sale of the principal resi-  
5 dence that is subject to the lien securing  
6 the loan;

7 (viii) assumption of the obligation of  
8 the homeowner under the loan by a third  
9 party;

10 (ix) cancellation or postponement of a  
11 foreclosure sale to allow the homeowner  
12 additional time to sell the property; or

13 (x) any other loss mitigation activity  
14 not covered; and

15 (E) such other information as the Sec-  
16 retary determines to be relevant.

17 (3) PUBLIC AVAILABILITY OF REPORTS.—After  
18 removing information that would compromise the  
19 privacy interests of mortgagors, the Secretary shall  
20 make public the reports required by this subsection  
21 and summary data.

22 **SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-  
24 retary, such sums as may be necessary to carry out this  
25 title.

1 **SEC. 8005. SUNSET OF AUTHORITY.**

2       The authority of the Secretary to provide assistance  
3 under this title shall terminate on December 31, 2011.

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