

In the Senate of the United States,

February 10, 2009.

Resolved, That the bill from the House of Representatives (H.R. 1) entitled “An Act 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.”, do pass with the following

AMENDMENT:

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

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “American Recovery and*
3 *Reinvestment Act of 2009”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *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 AGENCIES

TITLE III—DEPARTMENT OF DEFENSE

TITLE IV—ENERGY AND WATER DEVELOPMENT
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 TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS
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 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 STRUGGLING 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 DEVELOPMENT,*
2 *FOOD AND DRUG ADMINISTRATION, AND RE-*
3 *LATED 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 September*
9 *30, 2010: Provided, That the Secretary may transfer these*
10 *funds to agencies of the Department, other than the Forest*
11 *Service, for necessary replacement, modernization, or up-*
12 *grades of laboratories or other facilities to improve work-*
13 *place safety and mission-area efficiencies as deemed appro-*
14 *priate by the Secretary: Provided further, that the Secretary*
15 *shall provide to the Committees on Appropriations of the*
16 *House and Senate a plan on the allocation of these funds*
17 *no later than 60 days after the date of enactment of this*
18 *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 *shall be for direct loans; and operating loans, \$24,900,000*
2 *of which \$1,300,000 shall be for unsubsidized guaranteed*
3 *loans and \$23,600,000 shall be for direct loans.*

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

11 *NATURAL RESOURCES CONSERVATION SERVICE*

12 *WATERSHED AND FLOOD PREVENTION OPERATIONS*

13 *For an additional amount for “Watershed and Flood*
14 *Prevention Operations”, \$275,000,000, to remain available*
15 *until September 30, 2010.*

16 *WATERSHED REHABILITATION PROGRAM*

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

20 *RURAL DEVELOPMENT SALARIES AND EXPENSES*

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

1 *RURAL HOUSING SERVICE*2 *RURAL HOUSING INSURANCE PROGRAM ACCOUNT*

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

10 *For an additional amount for the cost of direct and*
11 *guaranteed loans, including the cost of modifying loans, as*
12 *defined in section 502 of the Congressional Budget Act of*
13 *1974, to remain available until September 30, 2010, as fol-*
14 *lows: \$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 sec-*
21 *tion 381E(d)(1) of the Consolidated Farm and Rural Devel-*
22 *opment Act, \$127,000,000, to remain available until Sep-*
23 *tember 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 Develop-*
6 *ment Act (7 U.S.C. 1932), \$150,000,000, to remain avail-*
7 *able until September 30, 2010.*

8 *BIOREFINERY ASSISTANCE*

9 *For the cost of loan guarantees and grants, as author-*
10 *ized by section 9003 of the Farm Security and Rural In-*
11 *vestment Act of 2002 (7 U.S.C. 8103), \$200,000,000, to re-*
12 *main 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 Farm*
16 *Security and Rural Investment Act of 2002 (7 U.S.C.*
17 *8107), \$50,000,000, to remain available until September*
18 *30, 2010: Provided, That these funds may be used by tribes,*
19 *local units of government, and schools in rural areas, as*
20 *defined in section 343(a) of the Consolidated Farm and*
21 *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, and*
3 *310B and described in sections 306C(a)(2), 306D, and*
4 *381E(d)(2) of the Consolidated Farm and Rural Develop-*
5 *ment Act, \$1,375,000,000, to remain available until Sep-*
6 *tember 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 Na-*
17 *tional School Lunch Act (42 U.S.C. 1751 et. seq.), except*
18 *section 21, and the Child Nutrition Act of 1966 (42 U.S.C.*
19 *1771 et. seq.), except sections 17 and 21, \$100,000,000, to*
20 *remain available until September 30, 2010, to carry out*
21 *a grant program for National School Lunch Program*
22 *equipment assistance: Provided, That such funds shall be*
23 *provided to States administering a school lunch program*
24 *through a formula based on the ratio that the total number*
25 *of lunches served in the Program during the second pre-*

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

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

20 *For an additional amount for the special supplemental*
21 *nutrition program as authorized by section 17 of the Child*
22 *Nutrition Act of 1966 (42 U.S.C. 1786), to remain available*
23 *until September 30, 2010, \$500,000,000, of which*
24 *\$380,000,000 shall be placed in reserve to be allocated as*
25 *the Secretary deems necessary, notwithstanding section*

1 17(i) of such Act, to support participation should cost or
2 participation exceed budget estimates, and of which
3 \$120,000,000 shall be for the purposes specified in section
4 17(h)(10)(B)(ii): Provided, That up to one percent of the
5 funding provided for the purposes specified in section
6 17(h)(10)(B)(ii) may be reserved by the Secretary for Fed-
7 eral administrative activities in support of those purposes.

8 **COMMODITY ASSISTANCE PROGRAM**

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

23 **GENERAL PROVISIONS—THIS TITLE**

24 *SEC. 101. Funds appropriated by this Act and made*
25 *available to the United States Department of Agriculture*

1 *for broadband direct loans and loan guarantees, as author-*
2 *ized under title VI of the Rural Electrification Act of 1936*
3 *(7 U.S.C. 950bb) and for grants, shall be available for*
4 *broadband infrastructure in any area of the United States*
5 *notwithstanding title VI of the Rural Electrification Act of*
6 *1936: Provided, That at least 75 percent of the area served*
7 *by the projects receiving funds from such grants, loans, or*
8 *loan guarantees is in a rural area without sufficient access*
9 *to high speed broadband service to facilitate rural economic*
10 *development, as determined by the Secretary: Provided fur-*
11 *ther, That priority for awarding funds made available*
12 *under this paragraph shall be given to projects that provide*
13 *service to the highest proportion of rural residents that do*
14 *not have sufficient access to broadband service: Provided*
15 *further, That priority for awarding such funds shall be*
16 *given to project applications that demonstrate that, if the*
17 *application is approved, all project elements will be fully*
18 *funded: Provided further, That priority for awarding such*
19 *funds shall be given to activities that can commence*
20 *promptly following approval: Provided further, That the*
21 *Department shall submit a report on planned spending and*
22 *actual obligations describing the use of these funds not later*
23 *than 90 days after the date of enactment of this Act, and*
24 *quarterly thereafter until all funds are obligated, to the*

1 *Committees on Appropriations of the House of Representa-*
2 *tives and the Senate.*

3 *SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.*

4 *(a) MAXIMUM BENEFIT INCREASES.—*

5 *(1) ECONOMIC RECOVERY 1-MONTH BEGINNING*
6 *STIMULUS PAYMENT.—For the first month that begins*
7 *not less than 25 days after the date of enactment of*
8 *this Act, the Secretary of Agriculture (referred to in*
9 *this section as the “Secretary”) shall increase the cost*
10 *of the thrifty food plan for purposes of section 8(a)*
11 *of the Food and Nutrition Act of 2008 (7 U.S.C.*
12 *2017(a)) by 85 percent.*

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

21 *(3) SUBSEQUENT INCREASE FOR FISCAL YEAR*
22 *2010.—Beginning on October 1, 2009, and for each*
23 *subsequent month through the month ending Sep-*
24 *tember 30, 2010, the Secretary shall increase the cost*
25 *of the thrifty food plan for purposes of section 8(a)*

1 *of the Food and Nutrition Act of 2008 (7 U.S.C.*
2 *2017(a)) by an amount equal to 12 percent, less the*
3 *percentage by which the Secretary determines the*
4 *thrifty food plan would otherwise be adjusted on Octo-*
5 *ber 1, 2009, as required under section 3(u) of that Act*
6 *(7 U.S.C. 2012(u)), if the percentage is less than 12*
7 *percent.*

8 (4) *SUBSEQUENT INCREASE FOR FISCAL YEAR*
9 *2011.—Beginning on October 1, 2010, and for each*
10 *subsequent month through the month ending Sep-*
11 *tember 30, 2011, the Secretary shall increase the cost*
12 *of the thrifty food plan for purposes of section 8(a)*
13 *of the Food and Nutrition Act of 2008 (7 U.S.C.*
14 *2017(a)) by an amount equal to 12 percent, less the*
15 *sum of the percentages by which the Secretary deter-*
16 *mines the thrifty food plan would otherwise be ad-*
17 *justed on October 1, 2009 and October 1, 2010, as re-*
18 *quired under section 3(u) of that Act (7 U.S.C.*
19 *2012(u)), if the sum of such percentages is less than*
20 *12 percent.*

21 (5) *TERMINATION OF EFFECTIVENESS.—Effective*
22 *beginning October 1, 2011, the authority provided by*
23 *this subsection terminates and has no effect.*

24 (b) *ADMINISTRATION.—In carrying out this section,*
25 *the Secretary shall—*

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

3 (2) *require a simple process for States to notify*
4 *households of the changes in benefits;*

5 (3) *consider section 16(c)(3)(A) of the Food and*
6 *Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A)) to*
7 *apply to any errors in the implementation of this sec-*
8 *tion, without regard to the 120-day limit described in*
9 *section 16(c)(3)(A) of that Act;*

10 (4) *disregard the additional amount of benefits*
11 *that a household receives as a result of this section in*
12 *determining the amount of overissuances under sec-*
13 *tion 13 of the Food and Nutrition Act of 2008 (7*
14 *U.S.C. 2022) and the hours of participation in a pro-*
15 *gram under section 6(d), 20, or 26 of that Act (7*
16 *U.S.C. 2015(d), 2029, 2035); and*

17 (5) *set the tolerance level for excluding small er-*
18 *rors for the purposes of section 16(c) of the Food and*
19 *Nutrition Act of 2008 (7 U.S.C. 2025(c)) at \$50 for*
20 *the period that the benefit increase under subsection*
21 *(a) is in effect.*

22 (c) *ADMINISTRATIVE EXPENSES.—*

23 (1) *IN GENERAL.—For the costs of State admin-*
24 *istrative expenses associated with carrying out this*
25 *section and administering the supplemental nutrition*

1 *assistance program established under the Food and*
2 *Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (re-*
3 *ferred to in this section as the “supplemental nutri-*
4 *tion assistance program”)* during a period of rising
5 *program caseloads, and for the expenses of the Sec-*
6 *retary under paragraph (6), the Secretary shall make*
7 *available \$150,000,000 for each of fiscal years 2009*
8 *and 2010, to remain available through September 30,*
9 *2010.*

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

14 (3) *ALLOCATION OF FUNDS.*—*Except as provided*
15 *in paragraph (6), funds described in paragraph (1)*
16 *shall be made available to States that meet the re-*
17 *quirements of paragraph (5) as grants to State agen-*
18 *cies for each fiscal year as follows:*

19 (A) *75 percent of the amounts available for*
20 *each fiscal year shall be allocated to States based*
21 *on the share of each State of households that par-*
22 *ticipate in the supplemental nutrition assistance*
23 *program as reported to the Department of Agri-*
24 *culture for the most recent 12-month period for*
25 *which data are available, adjusted by the Sec-*

1 *retary (in the discretion of the Secretary) for*
2 *participation in disaster programs under section*
3 *5(h) of the Food and Nutrition Act of 2008 (7*
4 *U.S.C. 2014(h)); and*

5 *(B) 25 percent of the amounts available for*
6 *each fiscal year shall be allocated to States based*
7 *on the increase in the number of households that*
8 *participate in the supplemental nutrition assist-*
9 *ance program as reported to the Department of*
10 *Agriculture over the most recent 12-month period*
11 *for which data are available, adjusted by the*
12 *Secretary (in the discretion of the Secretary) for*
13 *participation in disaster programs under section*
14 *5(h) of the Food and Nutrition Act of 2008 (7*
15 *U.S.C. 2014(h)).*

16 *(4) REDISTRIBUTION.—The Secretary shall de-*
17 *termine an appropriate procedure for redistribution*
18 *of amounts allocated to States that would otherwise be*
19 *provided allocations under paragraph (3) for a fiscal*
20 *year but that do not meet the requirements of para-*
21 *graph (5).*

22 *(5) MAINTENANCE OF EFFORT.—*

23 *(A) DEFINITION OF SPECIFIED STATE AD-*
24 *MINISTRATIVE COSTS.—In this paragraph:*

1 (i) *IN GENERAL.*—*The term “specified*
2 *State administrative costs” includes all*
3 *State administrative costs under the supple-*
4 *mental nutrition assistance program.*

5 (ii) *EXCLUSIONS.*—*The term “specified*
6 *State administrative costs” does not in-*
7 *clude—*

8 (I) *the costs of employment and*
9 *training programs under section 6(d),*
10 *20, or 26 of the Food and Nutrition*
11 *Act of 2008 (7 U.S.C. 2015(d), 2029,*
12 *2035);*

13 (II) *the costs of nutrition edu-*
14 *cation under section 11(f) of that Act*
15 *(7 U.S.C. 2020(f)); and*

16 (III) *any other costs the Secretary*
17 *determines should be excluded.*

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

23 (6) *MONITORING AND EVALUATION.*—*Of the*
24 *amounts made available under paragraph (1), the*
25 *Secretary may retain up to \$5,000,000 for the costs*

1 *incurred by the Secretary in monitoring the integrity*
2 *and evaluating the effects of the payments made*
3 *under this section.*

4 *(d) FOOD DISTRIBUTION PROGRAM ON INDIAN RES-*
5 *ERVATIONS.—For the costs of administrative expenses asso-*
6 *ciated with the food distribution program on Indian res-*
7 *ervations established under section 4(b) of the Food and Nu-*
8 *trition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall*
9 *make available \$5,000,000, to remain available until Sep-*
10 *tember 30, 2010.*

11 *(e) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO*
12 *AND AMERICAN SAMOA.—*

13 *(1) FISCAL YEAR 2009.—*

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

21 *(B) AVAILABILITY OF FUNDS.—Funds made*
22 *available under subparagraph (A) shall remain*
23 *available through September 30, 2010.*

24 *(2) FISCAL YEAR 2010.—For fiscal year 2010, the*
25 *Secretary shall increase the amount available for nu-*

1 *trition assistance for eligible households under the*
2 *consolidated block grants for the Commonwealth of*
3 *Puerto Rico and American Samoa under section 19*
4 *of the Food and Nutrition Act of 2008 (7 U.S.C.*
5 *2028) by 12 percent, less the percentage by which the*
6 *Secretary determines the consolidated block grants*
7 *would otherwise be adjusted on October 1, 2009, as re-*
8 *quired by section 19(a)(2)(A)(ii) of that Act (7 U.S.C.*
9 *2028(a)(2)(A)(ii)), if the percentage is less than 12*
10 *percent.*

11 (3) *FISCAL YEAR 2011.—For fiscal year 2011, the*
12 *Secretary shall increase the amount available for nu-*
13 *trition assistance for eligible households under the*
14 *consolidated block grants for the Commonwealth of*
15 *Puerto Rico and American Samoa under section 19*
16 *of the Food and Nutrition Act of 2008 (7 U.S.C.*
17 *2028) by 12 percent, less the sum of the percentages*
18 *by which the Secretary determines the consolidated*
19 *block grants would otherwise be adjusted on October*
20 *1, 2009, and October 1, 2010, as required by section*
21 *19(a)(2)(A)(ii) of that Act (7 U.S.C.*
22 *2028(a)(2)(A)(ii)), if the sum of the percentages is*
23 *less than 12 percent.*

24 (i) *TREATMENT OF JOBLESS WORKERS.—*

1 (1) *REMAINDER OF FISCAL YEAR 2009 THROUGH*
2 *FISCAL YEAR 2011.—Beginning with the first month*
3 *that begins not less than 25 days after the date of en-*
4 *actment of this Act and for each subsequent month*
5 *through September 30, 2011, eligibility for supple-*
6 *mental nutrition assistance program benefits shall not*
7 *be limited under section 6(o)(2) of the Food and Nu-*
8 *trition Act of 2008 unless an individual does not*
9 *comply with the requirements of a program offered by*
10 *the State agency that meets the standards of subpara-*
11 *graphs (B) or (C) of that paragraph.*

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

19 (g) *FUNDING.—There are appropriated to the Sec-*
20 *retary out of funds of the Treasury not otherwise appro-*
21 *priated such sums as are necessary to carry out this section.*

22 *SEC. 103. AGRICULTURAL DISASTER ASSISTANCE*
23 *TRANSITION. (a) FEDERAL CROP INSURANCE ACT.—Sec-*
24 *tion 531(g) of the Federal Crop Insurance Act (7 U.S.C.*
25 *1531(g)) is amended by adding at the end the following:*

1 “(7) 2008 TRANSITION ASSISTANCE.—

2 “(A) *IN GENERAL.*—*Eligible producers on a*
3 *farm described in subparagraph (A) of para-*
4 *graph (4) that failed to timely pay the appro-*
5 *priate fee described in that subparagraph shall*
6 *be eligible for assistance under this section in ac-*
7 *cordance with subparagraph (B) if the eligible*
8 *producers on the farm—*

9 “(i) *pay the appropriate fee described*
10 *in paragraph (4)(A) not later than 90 days*
11 *after the date of enactment of this para-*
12 *graph; and*

13 “(ii)(I) *in the case of each insurable*
14 *commodity of the eligible producers on the*
15 *farm, excluding grazing land, agree to ob-*
16 *tain a policy or plan of insurance under*
17 *subtitle A (excluding a crop insurance pilot*
18 *program under that subtitle) for the next*
19 *insurance year for which crop insurance is*
20 *available to the eligible producers on the*
21 *farm at a level of coverage equal to 70 per-*
22 *cent or more of the recorded or appraised*
23 *average yield indemnified at 100 percent of*
24 *the expected market price, or an equivalent*
25 *coverage; and*

1 “(II) in the case of each noninsurable
2 commodity of the eligible producers on the
3 farm, agree to file the required paperwork,
4 and pay the administrative fee by the ap-
5 plicable State filing deadline, for the non-
6 insured crop assistance program for the
7 2009 crop year.

8 “(B) *AMOUNT OF ASSISTANCE.*—Eligible
9 producers on a farm that meet the requirements
10 of subparagraph (A) shall be eligible to receive
11 assistance under this section as if the eligible
12 producers on the farm—

13 “(i) in the case of each insurable com-
14 modity of the eligible producers on the farm,
15 had obtained a policy or plan of insurance
16 for the 2008 crop year at a level of coverage
17 not to exceed 70 percent or more of the re-
18 corded or appraised average yield indem-
19 nified at 100 percent of the expected market
20 price, or an equivalent coverage; and

21 “(ii) in the case of each noninsurable
22 commodity of the eligible producers on the
23 farm, had filed the required paperwork, and
24 paid the administrative fee by the applica-
25 ble State filing deadline, for the noninsured

1 *crop assistance program for the 2008 crop*
2 *year, except that in determining yield*
3 *under that program, the Secretary shall use*
4 *a percentage that is 70 percent.*

5 “(C) *EQUITABLE RELIEF.—Except as pro-*
6 *vided in subparagraph (D), eligible producers on*
7 *a farm that met the requirements of paragraph*
8 *(1) before the deadline described in paragraph*
9 *(4)(A) and received, or are eligible to receive, a*
10 *disaster assistance payment under this section*
11 *for a production loss during the 2008 crop year*
12 *shall be eligible to receive an additional amount*
13 *equal to the greater of—*

14 “(i) *the amount that would have been*
15 *calculated under subparagraph (B) if the el-*
16 *igible producers on the farm had paid the*
17 *appropriate fee under that subparagraph;*
18 *or*

19 “(ii) *the amount that would have been*
20 *calculated under subparagraph (A) of sub-*
21 *section (b)(3) if—*

22 “(I) *in clause (i) of that subpara-*
23 *graph, ‘120 percent’ is substituted for*
24 *‘115 percent’; and*

1 “(II) in clause (ii) of that sub-
2 paragraph, ‘125’ is substituted for ‘120
3 percent’.

4 “(D) *LIMITATION.*—For amounts made
5 available under this paragraph, the Secretary
6 may make such adjustments as are necessary to
7 ensure that no producer receives a payment
8 under this paragraph for an amount in excess of
9 the assistance received by a similarly situated
10 producer that had purchased the same or higher
11 level of crop insurance prior to the date of enact-
12 ment of this paragraph.

13 “(E) *AUTHORITY OF THE SECRETARY.*—The
14 Secretary may provide such additional assist-
15 ance as the Secretary considers appropriate to
16 provide equitable treatment for eligible producers
17 on a farm that suffered production losses in the
18 2008 crop year that result in multiyear produc-
19 tion losses, as determined by the Secretary.

20 “(F) *LACK OF ACCESS.*—Notwithstanding
21 any other provision of this section, the Secretary
22 may provide assistance under this section to eli-
23 gible producers on a farm that—

1 “(i) suffered a production loss due to a
2 natural cause during the 2008 crop year;
3 and

4 “(ii) as determined by the Secretary—

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

8 “(bb) do not qualify for a written
9 agreement because 1 or more farming
10 practices, which the Secretary has de-
11 termined are good farming practices, of
12 the eligible producers on the farm dif-
13 fer significantly from the farming
14 practices used by producers of the same
15 crop in other regions of the United
16 States; and

17 “(II) are not eligible for the non-
18 insured crop disaster assistance pro-
19 gram established by section 196 of the
20 Federal Agriculture Improvement and
21 Reform Act of 1996 (7 U.S.C. 7333).”.

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

25 “(7) 2008 TRANSITION ASSISTANCE.—

1 “(A) *IN GENERAL.*—*Eligible producers on a*
2 *farm described in subparagraph (A) of para-*
3 *graph (4) that failed to timely pay the appro-*
4 *priate fee described in that subparagraph shall*
5 *be eligible for assistance under this section in ac-*
6 *cordance with subparagraph (B) if the eligible*
7 *producers on the farm—*

8 “(i) *pay the appropriate fee described*
9 *in paragraph (4)(A) not later than 90 days*
10 *after the date of enactment of this para-*
11 *graph; and*

12 “(ii)(I) *in the case of each insurable*
13 *commodity of the eligible producers on the*
14 *farm, excluding grazing land, agree to ob-*
15 *tain a policy or plan of insurance under the*
16 *Federal Crop Insurance Act (7 U.S.C. 1501*
17 *et seq.) (excluding a crop insurance pilot*
18 *program under that Act) for the next insur-*
19 *ance year for which crop insurance is avail-*
20 *able to the eligible producers on the farm at*
21 *a level of coverage equal to 70 percent or*
22 *more of the recorded or appraised average*
23 *yield indemnified at 100 percent of the ex-*
24 *pected market price, or an equivalent cov-*
25 *erage; and*

1 “(II) in the case of each noninsurable
2 commodity of the eligible producers on the
3 farm, agree to file the required paperwork,
4 and pay the administrative fee by the ap-
5 plicable State filing deadline, for the non-
6 insured crop assistance program for the
7 2009 crop year.

8 “(B) *AMOUNT OF ASSISTANCE.*—Eligible
9 producers on a farm that meet the requirements
10 of subparagraph (A) shall be eligible to receive
11 assistance under this section as if the eligible
12 producers on the farm—

13 “(i) in the case of each insurable com-
14 modity of the eligible producers on the farm,
15 had obtained a policy or plan of insurance
16 for the 2008 crop year at a level of coverage
17 not to exceed 70 percent or more of the re-
18 corded or appraised average yield indem-
19 nified at 100 percent of the expected market
20 price, or an equivalent coverage; and

21 “(ii) in the case of each noninsurable
22 commodity of the eligible producers on the
23 farm, had filed the required paperwork, and
24 paid the administrative fee by the applica-
25 ble State filing deadline, for the noninsured

1 *crop assistance program for the 2008 crop*
2 *year, except that in determining yield*
3 *under that program, the Secretary shall use*
4 *a percentage that is 70 percent.*

5 “(C) *EQUITABLE RELIEF.—Except as pro-*
6 *vided in subparagraph (D), eligible producers on*
7 *a farm that met the requirements of paragraph*
8 *(1) before the deadline described in paragraph*
9 *(4)(A) and received, or are eligible to receive, a*
10 *disaster assistance payment under this section*
11 *for a production loss during the 2008 crop year*
12 *shall be eligible to receive an additional amount*
13 *equal to the greater of—*

14 “(i) *the amount that would have been*
15 *calculated under subparagraph (B) if the el-*
16 *igible producers on the farm had paid the*
17 *appropriate fee under that subparagraph;*
18 *or*

19 “(ii) *the amount that would have been*
20 *calculated under subparagraph (A) of sub-*
21 *section (b)(3) if—*

22 “(I) *in clause (i) of that subpara-*
23 *graph, ‘120 percent’ is substituted for*
24 *‘115 percent’; and*

1 “(II) in clause (ii) of that sub-
2 paragraph, ‘125’ is substituted for ‘120
3 percent’.

4 “(D) *LIMITATION.*—For amounts made
5 available under this paragraph, the Secretary
6 may make such adjustments as are necessary to
7 ensure that no producer receives a payment
8 under this paragraph for an amount in excess of
9 the assistance received by a similarly situated
10 producer that had purchased the same or higher
11 level of crop insurance prior to the date of enact-
12 ment of this paragraph.

13 “(E) *AUTHORITY OF THE SECRETARY.*—The
14 Secretary may provide such additional assist-
15 ance as the Secretary considers appropriate to
16 provide equitable treatment for eligible producers
17 on a farm that suffered production losses in the
18 2008 crop year that result in multiyear produc-
19 tion losses, as determined by the Secretary.

20 “(F) *LACK OF ACCESS.*—Notwithstanding
21 any other provision of this section, the Secretary
22 may provide assistance under this section to eli-
23 gible producers on a farm that—

1 “(i) suffered a production loss due to a
2 natural cause during the 2008 crop year;
3 and

4 “(ii) as determined by the Secretary—

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

8 “(bb) do not qualify for a written
9 agreement because 1 or more farming
10 practices, which the Secretary has de-
11 termined are good farming practices, of
12 the eligible producers on the farm dif-
13 fer significantly from the farming
14 practices used by producers of the same
15 crop in other regions of the United
16 States; and

17 “(II) are not eligible for the non-
18 insured crop disaster assistance pro-
19 gram established by section 196 of the
20 Federal Agriculture Improvement and
21 Reform Act of 1996 (7 U.S.C. 7333).”.

22 (c) EMERGENCY LOANS.—

23 (1) IN GENERAL.—For the principal amount of
24 direct emergency loans under section 321 of the Con-

1 *solidated Farm and Rural Development Act (7 U.S.C.*
2 *1961), \$200,000,000.*

3 (2) *DIRECT EMERGENCY LOANS.—For the cost of*
4 *direct emergency loans, including the cost of modi-*
5 *fying loans, as defined in section 502 of the Congres-*
6 *sional Budget Act of 1974 (2 U.S.C. 661a),*
7 *\$28,440,000, to remain available until September 30,*
8 *2010.*

9 (d) *2008 AQUACULTURE ASSISTANCE.—*

10 (1) *DEFINITIONS.—In this subsection:*

11 (A) *ELIGIBLE AQUACULTURE PRODUCER.—*
12 *The term “eligible aquaculture producer” means*
13 *an aquaculture producer that during the 2008*
14 *calendar year, as determined by the Secretary—*

15 (i) *produced an aquaculture species for*
16 *which feed costs represented a substantial*
17 *percentage of the input costs of the aqua-*
18 *culture operation; and*

19 (ii) *experienced a substantial price in-*
20 *crease of feed costs above the previous 5-year*
21 *average.*

22 (B) *SECRETARY.—The term “Secretary”*
23 *means the Secretary of Agriculture.*

24 (2) *GRANT PROGRAM.—*

1 (A) *IN GENERAL.*—*Of the funds of the Com-*
2 *modity Credit Corporation, the Secretary shall*
3 *use not more than \$50,000,000, to remain avail-*
4 *able until September 30, 2010, to carry out a*
5 *program of grants to States to assist eligible*
6 *aquaculture producers for losses associated with*
7 *high feed input costs during the 2008 calendar*
8 *year.*

9 (B) *NOTIFICATION.*—*Not later than 60 days*
10 *after the date of enactment of this Act, the Sec-*
11 *retary shall notify the State department of agri-*
12 *culture (or similar entity) in each State of the*
13 *availability of funds to assist eligible aqua-*
14 *culture producers, including such terms as deter-*
15 *mined by the Secretary to be necessary for the*
16 *equitable treatment of eligible aquaculture pro-*
17 *ducers.*

18 (C) *PROVISION OF GRANTS.*—

19 (i) *IN GENERAL.*—*The Secretary shall*
20 *make grants to States under this subsection*
21 *on a pro rata basis based on the amount of*
22 *aquaculture feed used in each State during*
23 *the 2007 calendar year, as determined by*
24 *the Secretary.*

1 (ii) *TIMING.*—Not later than 120 days
2 after the date of enactment of this Act, the
3 Secretary shall make grants to States to
4 provide assistance under this subsection.

5 (D) *REQUIREMENTS.*—The Secretary shall
6 make grants under this subsection only to States
7 that demonstrate to the satisfaction of the Sec-
8 retary that the State will—

9 (i) use grant funds to assist eligible
10 aquaculture producers;

11 (ii) provide assistance to eligible aqua-
12 culture producers not later than 60 days
13 after the date on which the State receives
14 grant funds; and

15 (iii) not later than 30 days after the
16 date on which the State provides assistance
17 to eligible aquaculture producers, submit to
18 the Secretary a report that describes—

19 (I) the manner in which the State
20 provided assistance;

21 (II) the amounts of assistance
22 provided per species of aquaculture;
23 and

1 (III) *the process by which the*
2 *State determined the levels of assist-*
3 *ance to eligible aquaculture producers.*

4 (3) *REDUCTION IN PAYMENTS.—An eligible*
5 *aquaculture producer that receives assistance under*
6 *this subsection shall not be eligible to receive any*
7 *other assistance under the supplemental agricultural*
8 *disaster assistance program established under section*
9 *531 of the Federal Crop Insurance Act (7 U.S.C.*
10 *1531) and section 901 of the Trade Act of 1974 (19*
11 *U.S.C. 2497) for any losses in 2008 relating to the*
12 *same species of aquaculture.*

13 (4) *REPORT TO CONGRESS.—Not later than 180*
14 *days after the date of enactment of this Act, the Sec-*
15 *retary shall submit to the appropriate committees of*
16 *Congress a report that—*

17 (A) *describes in detail the manner in which*
18 *this subsection has been carried out; and*

19 (B) *includes the information reported to the*
20 *Secretary under paragraph (2)(D)(iii).*

21 (e) *ADMINISTRATION.—There is hereby appropriated*
22 *\$54,000,000 to carry out this section.*

23 SEC. 104. (a) *Hereafter, in this section, the term “non-*
24 *ambulatory disabled cattle” means cattle, other than cattle*
25 *that are less than 5 months old or weigh less than 500*

1 pounds, subject to inspection under section 3(b) of the Fed-
2 eral Meat Inspection Act (21 U.S.C. 603(b)) that cannot
3 rise from a recumbent position or walk, including cattle
4 with a broken appendage, severed tendon or ligament, nerve
5 paralysis, fractured vertebral column, or a metabolic condi-
6 tion.

7 (b) Hereafter, none of the funds made available under
8 this or any other Act may be used to pay the salaries or
9 expenses of any personnel of the Food Safety and Inspection
10 Service to pass through inspection any nonambulatory dis-
11 abled cattle for use as human food, regardless of the reason
12 for the nonambulatory status of the cattle or the time at
13 which the cattle became nonambulatory.

14 SEC. 105. STATE AND LOCAL GOVERNMENTS. Section
15 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C.
16 1308(f)(6)(A)) is amended by inserting “(other than the
17 conservation reserve program established under subchapter
18 B of chapter 1 of subtitle D of title XII of this Act)” before
19 the period at the end.

20 SEC. 106. Except for title I of the Food, Conservation,
21 and Energy Act of 2008 (Public Law 110–246), Commodity
22 Credit Corporation funds provided in that Act shall be
23 available for administrative expenses, including technical
24 assistance, without regard to the limitation in 15 U.S.C.
25 714i.

1 *TITLE II—COMMERCE, JUSTICE, SCIENCE, AND*
2 *RELATED AGENCIES*

3 *DEPARTMENT OF COMMERCE*

4 *BUREAU OF INDUSTRY AND SECURITY*

5 *OPERATIONS AND ADMINISTRATION*

6 *For an additional amount for “Operations and Ad-*
7 *ministration”, \$20,000,000, to remain available until Sep-*
8 *tember 30, 2010.*

9 *ECONOMIC DEVELOPMENT ADMINISTRATION*

10 *ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS*

11 *For an additional amount for “Economic Development*
12 *Assistance Programs”, \$150,000,000, to remain available*
13 *until September 30, 2010: Provided, That \$50,000,000 shall*
14 *be for economic adjustment assistance as authorized by sec-*
15 *tion 209 of the Public Works and Economic Development*
16 *Act of 1965, as amended (42 U.S.C. 3149): Provided fur-*
17 *ther, That in allocating the funds provided in the previous*
18 *proviso, the Secretary of Commerce shall give priority con-*
19 *sideration to areas of the Nation that have experienced sud-*
20 *den and severe economic dislocation and job loss due to cor-*
21 *porate restructuring.*

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BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

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

NATIONAL TELECOMMUNICATIONS AND INFORMATION

ADMINISTRATION

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

For an amount for “Broadband Technology Opportunities Program”, \$7,000,000,000, to remain available until September 30, 2010: Provided, That of the funds provided under this heading, \$6,650,000,000 shall be expended pursuant to section 201 of this Act, of which: not less than \$200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than \$250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and \$10,000,000 shall be transferred to “Department of Commerce, Office of Inspector General” for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: Provided further, That 50 percent of the funds provided in the previous proviso shall be used to support projects in rural communities, which in part may be

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

1 *DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM*

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

1 *NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY*
2 *SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES*

3 *For an additional amount for “Scientific and Tech-*
4 *nical Research and Services”, \$168,000,000, to remain*
5 *available until September 30, 2010.*

6 *CONSTRUCTION OF RESEARCH FACILITIES*

7 *For an additional amount for “Construction of Re-*
8 *search Facilities”, \$307,000,000, to remain available until*
9 *September 30, 2010.*

10 *NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION*

11 *OPERATIONS, RESEARCH, AND FACILITIES*

12 *For an additional amount for “Operations, Research,*
13 *and Facilities”, \$377,000,000, to remain available until*
14 *September 30, 2010.*

15 *PROCUREMENT, ACQUISITION AND CONSTRUCTION*

16 *For an additional amount for “Procurement, Acquisi-*
17 *tion and Construction”, \$645,000,000, to remain available*
18 *until September 30, 2010.*

19 *OFFICE OF INSPECTOR GENERAL*

20 *For an additional amount for “Office of Inspector*
21 *General”, \$6,000,000, to remain available until September*
22 *30, 2012.*

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DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For an additional amount for “Tactical Law Enforcement Wireless Communications”, \$100,000,000 for the costs of developing and implementing a nationwide Integrated Wireless network supporting Federal law enforcement, to remain available until September 30, 2010.

DETENTION TRUSTEE

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

OFFICE OF INSPECTOR GENERAL

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

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$50,000,000, to remain available until September 30, 2010.

CONSTRUCTION

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

1 *FEDERAL BUREAU OF INVESTIGATION*2 *SALARIES AND EXPENSES*

3 *For an additional amount for “Salaries and Ex-*
4 *penses”, \$75,000,000, to remain available until September*
5 *30, 2010.*

6 *CONSTRUCTION*

7 *For an additional amount for “Construction”,*
8 *\$300,000,000, to remain available until September 30,*
9 *2010.*

10 *FEDERAL PRISON SYSTEM*11 *BUILDINGS AND FACILITIES*

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

15 *STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES*16 *OFFICE ON VIOLENCE AGAINST WOMEN*17 *VIOLENCE AGAINST WOMEN PREVENTION AND*18 *PROSECUTION PROGRAMS*

19 *For an additional amount for “Violence Against*
20 *Women Prevention and Prosecution Programs”,*
21 *\$300,000,000 for grants to combat violence against women,*
22 *as authorized by part T of the Omnibus Crime Control and*
23 *Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.): Provided,*
24 *That, \$50,000,000 shall be transitional housing assistance*
25 *grants for victims of domestic violence, stalking or sexual*

1 *assault as authorized by section 40299 of the Violent Crime*
2 *Control and Law Enforcement Act of 1994 (Public Law*
3 *103–322).*

4 *OFFICE OF JUSTICE PROGRAMS*

5 *STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE*

6 *For an additional amount for “State and Local Law*
7 *Enforcement Assistance”, \$1,200,000,000 for the Edward*
8 *Byrne Memorial Justice Assistance Grant program as au-*
9 *thorized by subpart 1 of part E of title I of the Omnibus*
10 *Crime Control and Safe Street Act of 1968 (“1968 Act”),*
11 *(except that section 1001(c), and the special rules for Puerto*
12 *Rico under section 505(g), of the 1968 Act, shall not apply*
13 *for purposes of this Act), to remain available until Sep-*
14 *tember 30, 2010.*

15 *For an additional amount for “State and Local Law*
16 *Enforcement Assistance”, \$300,000,000 for competitive*
17 *grants to improve the functioning of the criminal justice*
18 *system, to assist victims of crime (other than compensa-*
19 *tion), and youth mentoring grants, to remain available*
20 *until September 30, 2010.*

21 *For an additional amount for “State and Local Law*
22 *Enforcement Assistance”, \$90,000,000, to remain available*
23 *until September 30, 2010, for competitive grants to provide*
24 *assistance and equipment to local law enforcement along*
25 *the Southern border and in High-Intensity Drug Traf-*

1 *ficking Areas to combat criminal narcotics activity stem-*
2 *ming from the Southern border, of which \$10,000,000 shall*
3 *be transferred to “Bureau of Alcohol, Tobacco, Firearms*
4 *and Explosives, Salaries and Expenses” for the ATF Project*
5 *Gunrunner.*

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

11 *(1) \$250,000,000 shall be available for grants*
12 *under section 20109 of subtitle A of title II of the Vio-*
13 *lent Crime Control and Law Enforcement Act of 1994*
14 *(Public Law 103–322);*

15 *(2) \$25,000,000 shall be available for the Tribal*
16 *Courts Initiative; and*

17 *(3) \$25,000,000 shall be available for tribal alco-*
18 *hol and substance abuse drug reduction assistance*
19 *grants.*

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

1 *For an additional amount for “State and Local Law*
2 *Enforcement Assistance”, \$150,000,000, to remain avail-*
3 *able until September 30, 2010, for assistance to law enforce-*
4 *ment in rural areas, to prevent and combat crime, espe-*
5 *cially drug-related crime.*

6 *For an additional amount for “State and Local Law*
7 *Enforcement Assistance”, \$50,000,000, to remain available*
8 *until September 30, 2010, for Internet Crimes Against Chil-*
9 *dren (ICAC) initiatives.*

10 *COMMUNITY ORIENTED POLICING SERVICES*

11 *For an additional amount for “Community Oriented*
12 *Policing Services”, for grants under section 1701 of title*
13 *I of the 1968 Omnibus Crime Control and Safe Streets Act*
14 *(42 U.S.C. 3796dd) for hiring and rehiring of additional*
15 *career law enforcement officers under part Q of such title,*
16 *and civilian public safety personnel, notwithstanding sub-*
17 *section (i) of such section and notwithstanding 42 U.S.C.*
18 *3796dd–3(c), \$1,000,000,000, to remain available until*
19 *September 30, 2010.*

20 *SALARIES AND EXPENSES*

21 *For an additional amount, not elsewhere specified in*
22 *this title, for management and administration and over-*
23 *sight of programs within the Office on Violence Against*
24 *Women, the Office of Justice Programs, and the Community*

1 *Oriented Policing Services Office, \$10,000,000, to remain*
2 *available until September 30, 2010.*

3 *SCIENCE*

4 *NATIONAL AERONAUTICS AND SPACE ADMINISTRATION*

5 *SCIENCE*

6 *For an additional amount for “Science”,*
7 *\$450,000,000, to remain available until September 30,*
8 *2010.*

9 *AERONAUTICS*

10 *For an additional amount for “Aeronautics”,*
11 *\$200,000,000, to remain available until September 30,*
12 *2010.*

13 *EXPLORATION*

14 *For an additional amount for “Exploration”,*
15 *\$450,000,000, to remain available until September 30,*
16 *2010.*

17 *CROSS AGENCY SUPPORT*

18 *For an additional amount for “Cross Agency Sup-*
19 *port”, \$200,000,000, to remain available until September*
20 *30, 2010.*

21 *OFFICE OF INSPECTOR GENERAL*

22 *For an additional amount for “Office of Inspector*
23 *General”, \$2,000,000, to remain available until September*
24 *30, 2011.*

1 *NATIONAL SCIENCE FOUNDATION*2 *RESEARCH AND RELATED ACTIVITIES*

3 *For an additional amount for “Research and Related*
4 *Activities”, \$1,000,000,000, to remain available until Sep-*
5 *tember 30, 2010.*

6 *MAJOR RESEARCH EQUIPMENT AND FACILITIES*7 *CONSTRUCTION*

8 *For an additional amount for “Major Research Equip-*
9 *ment and Facilities Construction”, \$150,000,000, to remain*
10 *available until September 30, 2010.*

11 *EDUCATION AND HUMAN RESOURCES*

12 *For an additional amount for “Education and*
13 *Human Resources”, \$50,000,000, to remain available until*
14 *September 30, 2010.*

15 *OFFICE OF INSPECTOR GENERAL*

16 *For an additional amount for “Office of Inspector*
17 *General”, \$2,000,000, to remain available until September*
18 *30, 2011.*

19 *GENERAL PROVISIONS—THIS TITLE*

20 *SEC. 201. The Assistant Secretary of Commerce for*
21 *Communications and Information (Assistant Secretary), in*
22 *consultation with the Federal Communications Commission*
23 *(Commission) (and, with respect to rural areas, the Sec-*
24 *retary of Agriculture), shall establish a national broadband*
25 *service development and expansion program in conjunction*

1 *with the technology opportunities program, which shall be*
2 *referred to the Broadband Technology Opportunities Pro-*
3 *gram. The Assistant Secretary shall ensure that the pro-*
4 *gram complements and enhances and does not conflict with*
5 *other Federal broadband initiatives and programs.*

6 (1) *The purposes of the program are to—*

7 (A) *provide access to broadband service to*
8 *citizens residing in unserved areas of the United*
9 *States;*

10 (B) *provide improved access to broadband*
11 *service to citizens residing in underserved areas*
12 *of the United States;*

13 (C) *provide broadband education, aware-*
14 *ness, training, access, equipment, and support*
15 *to—*

16 (i) *schools, libraries, medical and*
17 *healthcare providers, community colleges*
18 *and other institutions of higher education,*
19 *and other community support organizations*
20 *and entities to facilitate greater use of*
21 *broadband service by or through these orga-*
22 *nizations;*

23 (ii) *organizations and agencies that*
24 *provide outreach, access, equipment, and*
25 *support services to facilitate greater use of*

1 *broadband service by low-income, unem-*
2 *ployed, aged, and otherwise vulnerable pop-*
3 *ulations; and*

4 *(iii) job-creating strategic facilities lo-*
5 *cated within a State-designated economic*
6 *zone, Economic Development District des-*
7 *ignated by the Department of Commerce,*
8 *Renewal Community or Empowerment*
9 *Zone designated by the Department of*
10 *Housing and Urban Development, or Enter-*
11 *prise Community designated by the Depart-*
12 *ment of Agriculture.*

13 *(D) improve access to, and use of,*
14 *broadband service by public safety agencies; and*

15 *(E) stimulate the demand for broadband,*
16 *economic growth, and job creation.*

17 *(2) The Assistant Secretary may consult with the*
18 *chief executive officer of any State with respect to—*

19 *(A) the identification of areas described in*
20 *subsection (1)(A) or (B) located in that State;*
21 *and*

22 *(B) the allocation of grant funds within*
23 *that State for projects in or affecting the State.*

24 *(3) The Assistant Secretary shall—*

1 (A) establish and implement the grant pro-
2 gram as expeditiously as practicable;

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

5 (C) seek such assurances as may be nec-
6 essary or appropriate from grantees under the
7 program that they will substantially complete
8 projects supported by the program in accordance
9 with project timelines, not to exceed 2 years fol-
10 lowing an award; and

11 (D) report on the status of the program to
12 the Committees on Appropriations of the House
13 and the Senate, the Committee on Energy and
14 Commerce of the House, and the Committee on
15 Commerce, Science, and Transportation of the
16 Senate, every 90 days.

17 (4) To be eligible for a grant under the program
18 an applicant shall—

19 (A) be a State or political subdivision there-
20 of, a nonprofit foundation, corporation, institu-
21 tion or association, Indian tribe, Native Hawai-
22 ian organization, or other non-governmental en-
23 tity in partnership with a State or political sub-
24 division thereof, Indian tribe, or Native Hawai-
25 ian organization if the Assistant Secretary deter-

1 *mines the partnership consistent with the pur-*
2 *poses this section;*

3 *(B) submit an application, at such time, in*
4 *such form, and containing such information as*
5 *the Assistant Secretary may require;*

6 *(C) provide a detailed explanation of how*
7 *any amount received under the program will be*
8 *used to carry out the purposes of this section in*
9 *an efficient and expeditious manner, including a*
10 *demonstration that the project would not have*
11 *been implemented during the grant period with-*
12 *out Federal grant assistance;*

13 *(D) demonstrate, to the satisfaction of the*
14 *Assistant Secretary, that it is capable of car-*
15 *rying out the project or function to which the ap-*
16 *plication relates in a competent manner in com-*
17 *pliance with all applicable Federal, State, and*
18 *local laws;*

19 *(E) demonstrate, to the satisfaction of the*
20 *Assistant Secretary, that it will appropriate (if*
21 *the applicant is a State or local government*
22 *agency) or otherwise unconditionally obligate,*
23 *from non-Federal sources, funds required to meet*
24 *the requirements of paragraph (5);*

1 (F) disclose to the Assistant Secretary the
2 source and amount of other Federal or State
3 funding sources from which the applicant re-
4 ceives, or has applied for, funding for activities
5 or projects to which the application relates; and

6 (G) provide such assurances and procedures
7 as the Assistant Secretary may require to ensure
8 that grant funds are used and accounted for in
9 an appropriate manner.

10 (5) The Federal share of any project may not ex-
11 ceed 80 percent, except that the Assistant Secretary
12 may increase the Federal share of a project above 80
13 percent if—

14 (A) the applicant petitions the Assistant
15 Secretary for a waiver; and

16 (B) the Assistant Secretary determines that
17 the petition demonstrates financial need.

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

20 (A) acquire equipment, instrumentation,
21 networking capability, hardware and software,
22 digital network technology, and infrastructure
23 for broadband services;

24 (B) construct and deploy broadband service
25 related infrastructure;

1 (C) ensure access to broadband service by
2 community anchor institutions;

3 (D) facilitate access to broadband service by
4 low-income, unemployed, aged, and otherwise
5 vulnerable populations in order to provide edu-
6 cational and employment opportunities to mem-
7 bers of such populations;

8 (E) construct and deploy broadband facili-
9 ties that improve public safety broadband com-
10 munications services; and

11 (F) undertake such other projects and ac-
12 tivities as the Assistant Secretary finds to be
13 consistent with the purposes for which the pro-
14 gram is established.

15 (7) The Assistant Secretary—

16 (A) shall require any entity receiving a
17 grant pursuant to this section to report quar-
18 terly, in a format specified by the Assistant Sec-
19 retary, on such entity's use of the assistance and
20 progress fulfilling the objectives for which such
21 funds were granted, and the Assistant Secretary
22 shall make these reports available to the public;

23 (B) may establish additional reporting and
24 information requirements for any recipient of

1 *any assistance made available pursuant to this*
2 *section;*

3 *(C) shall establish appropriate mechanisms*
4 *to ensure appropriate use and compliance with*
5 *all terms of any use of funds made available*
6 *pursuant to this section;*

7 *(D) may, in addition to other authority*
8 *under applicable law, deobligate awards to*
9 *grantees that demonstrate an insufficient level of*
10 *performance, or wasteful or fraudulent spending,*
11 *as defined in advance by the Assistant Secretary,*
12 *and award these funds competitively to new or*
13 *existing applicants consistent with this section;*
14 *and*

15 *(E) shall create and maintain a fully*
16 *searchable database, accessible on the Internet at*
17 *no cost to the public, that contains at least the*
18 *name of each entity receiving funds made avail-*
19 *able pursuant to this section, the purpose for*
20 *which such entity is receiving such funds, each*
21 *quarterly report submitted by the entity pursu-*
22 *ant to this section, and such other information*
23 *sufficient to allow the public to understand and*
24 *monitor grants awarded under the program.*

1 (8) *Concurrent with the issuance of the Request*
2 *for Proposal for grant applications pursuant to this*
3 *section, the Assistant Secretary shall, in coordination*
4 *with the Federal Communications Commission, pub-*
5 *lish the non-discrimination and network interconnec-*
6 *tion obligations that shall be contractual conditions of*
7 *grants awarded under this section.*

8 (9) *Within 1 year after the date of enactment of*
9 *this Act, the Commission shall complete a rulemaking*
10 *to develop a national broadband plan. In developing*
11 *the plan, the Commission shall—*

12 (A) *consider the most effective and efficient*
13 *national strategy for ensuring that all Ameri-*
14 *cans have access to, and take advantage of, ad-*
15 *vanced broadband services;*

16 (B) *have access to data provided to other*
17 *Government agencies under the Broadband Data*
18 *Improvement Act (47 U.S.C. 1301 note);*

19 (C) *evaluate the status of deployments of*
20 *broadband service, including the progress of*
21 *projects supported by the grants made pursuant*
22 *to this section; and*

23 (D) *develop recommendations for achieving*
24 *the goal of nationally available broadband serv-*

1 *ice for the United States and for promoting*
2 *broadband adoption nationwide.*

3 *(10) The Assistant Secretary shall develop and*
4 *maintain a comprehensive nationwide inventory map*
5 *of existing broadband service capability and avail-*
6 *ability in the United States that entities and depicts*
7 *the geographic extent to which broadband service ca-*
8 *pability is deployed and available from a commercial*
9 *provider or public provider throughout each State:*
10 *Provided, That not later than 2 years after the date*
11 *of the enactment of the Act, the Assistant Secretary*
12 *shall make the broadband inventory map developed*
13 *and maintained pursuant to this section accessible to*
14 *the public.*

15 *SEC. 202. The Assistant Secretary of Commerce for*
16 *Communications and Information may reissue any coupon*
17 *issued under section 3005(a) of the Digital Television Tran-*
18 *sition and Public Safety Act of 2005 that has expired before*
19 *use, and shall cancel any unredeemed coupon reported as*
20 *lost and may issue a replacement coupon for the lost cou-*
21 *pon.*

1 *TITLE III—DEPARTMENT OF DEFENSE*

2 *OPERATION AND MAINTENANCE*

3 *OPERATION AND MAINTENANCE, ARMY*

4 *For an additional amount for “Operation and Mainte-*
5 *nance, Army”, \$1,169,291,000, to remain available for obli-*
6 *gation until September 30, 2010.*

7 *OPERATION AND MAINTENANCE, NAVY*

8 *For an additional amount for “Operation and Mainte-*
9 *nance, Navy”, \$571,843,000, to remain available for obliga-*
10 *tion until September 30, 2010.*

11 *OPERATION AND MAINTENANCE, MARINE CORPS*

12 *For an additional amount for “Operation and Mainte-*
13 *nance, Marine Corps”, \$112,167,000, to remain available*
14 *for obligation until September 30, 2010.*

15 *OPERATION AND MAINTENANCE, AIR FORCE*

16 *For an additional amount for “Operation and Mainte-*
17 *nance, Air Force”, \$927,113,000, to remain available for*
18 *obligation until September 30, 2010.*

19 *OPERATION AND MAINTENANCE, ARMY RESERVE*

20 *For an additional amount for “Operation and Mainte-*
21 *nance, Army Reserve”, \$79,543,000, to remain available for*
22 *obligation until September 30, 2010.*

1 *TITLE IV—ENERGY AND WATER DEVELOPMENT*2 *DEPARTMENT OF DEFENSE—CIVIL*3 *DEPARTMENT OF THE ARMY*4 *CORPS OF ENGINEERS—CIVIL*5 *INVESTIGATIONS*

6 *For an additional amount for “Investigations” for ex-*
7 *penses necessary where authorized by law for the collection*
8 *and study of basic information pertaining to river and har-*
9 *bor, flood and storm damage reduction, shore protection,*
10 *aquatic ecosystem restoration, and related needs; for surveys*
11 *and detailed studies, and plans and specifications of pro-*
12 *posed river and harbor, flood and storm damage reduction,*
13 *shore protection, and aquatic ecosystem restoration projects*
14 *and related efforts prior to construction; for restudy of au-*
15 *thorized projects; and for miscellaneous investigations and,*
16 *when authorized by law, surveys and detailed studies, and*
17 *plans and specifications of projects prior to construction,*
18 *\$25,000,000: Provided, That funds provided under this*
19 *heading in this title shall only be used for programs,*
20 *projects or activities that heretofore or hereafter receive*
21 *funds provided in Acts making appropriations available for*
22 *Energy and Water Development: Provided further, That*
23 *funds provided under this heading in this title shall be used*
24 *for programs, projects or activities or elements of programs,*
25 *projects or activities that can be completed within the funds*

1 *made available in that account and that will not require*
2 *new budget authority to complete: Provided further, That*
3 *for projects that are being completed with funds appro-*
4 *priated in this Act that would otherwise be expired for obli-*
5 *gation, expired funds appropriated in this Act may be used*
6 *to pay the cost of associated supervision, inspection, over*
7 *engineering and design on those projects and on subsequent*
8 *claims, if any: Provided further, That the Secretary shall*
9 *have unlimited reprogramming authority for these funds*
10 *provided under this heading.*

11 *CONSTRUCTION*

12 *For an additional amount for “Construction” for ex-*
13 *penses necessary for the construction of river and harbor,*
14 *flood and storm damage reduction, shore protection, aquatic*
15 *ecosystem restoration, and related projects authorized by*
16 *law, \$2,000,000,000, of which such sums as are necessary*
17 *to cover the Federal share of construction costs for facilities*
18 *under the Dredged Material Disposal Facilities program*
19 *shall be derived from the Harbor Maintenance Trust Fund*
20 *as authorized by Public Law 104–303: Provided, That not*
21 *less than \$200,000,000 of the funds provided shall be for*
22 *water-related environmental infrastructure assistance: Pro-*
23 *vided further, That section 102 of Public Law 109–103 (33*
24 *U.S.C. 2221) shall not apply to funds provided in this title:*
25 *Provided further, That notwithstanding any other provision*

1 *of law, no funds shall be drawn from the Inland Waterways*
2 *Trust Fund, as authorized in Public Law 99–662: Provided*
3 *further, That funds provided under this heading in this title*
4 *shall only be used for programs, projects or activities that*
5 *heretofore or hereafter receive funds provided in Acts mak-*
6 *ing appropriations available for Energy and Water Devel-*
7 *opment: Provided further, That funds provided under this*
8 *heading in this title shall be used for programs, projects*
9 *or activities or elements of programs, projects or activities*
10 *that can be completed within the funds made available in*
11 *that account and that will not require new budget authority*
12 *to complete: Provided further, That the limitation con-*
13 *cerning total project costs in section 902 of the Water Re-*
14 *sources Development Act of 1986, as amended (33 U.S.C.*
15 *2280), shall not apply during fiscal year 2009 to any*
16 *project that received funds provided in this title: Provided*
17 *further, That funds appropriated under this heading may*
18 *be used by the Secretary of the Army, acting through the*
19 *Chief of Engineers, to undertake work authorized to be car-*
20 *ried out in accordance with section 14 of the Flood Control*
21 *Act of 1946 (33 U.S.C. 701r); section 205 of the Flood Con-*
22 *trol Act of 1948 (33 U.S.C. 701s); section 206 of the Water*
23 *Resources Development Act of 1996 (33 U.S.C. 2330); or*
24 *section 1135 of the Water Resources Development Act of*
25 *1986 (33 U.S.C. 2309a), notwithstanding the program cost*

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

10 *MISSISSIPPI RIVER AND TRIBUTARIES*

11 *For an additional amount for “Mississippi River and*
12 *Tributaries” for expenses necessary for flood damage reduc-*
13 *tion projects and related efforts as authorized by law,*
14 *\$500,000,000, of which such sums as are necessary to cover*
15 *the Federal share of operation and maintenance costs for*
16 *inland harbors shall be derived from the Harbor Mainte-*
17 *nance Trust Fund, pursuant to Public Law 99–662: Pro-*
18 *vided, That funds provided under this heading in this title*
19 *shall only be used for programs, projects or activities that*
20 *heretofore or hereafter receive funds provided in Acts mak-*
21 *ing appropriations available for Energy and Water Devel-*
22 *opment: Provided further, That funds provided under this*
23 *heading in this title shall be used for programs, projects*
24 *or activities or elements of programs, projects or activities*
25 *that can be completed within the funds made available in*

1 *that account and that will not require new budget authority*
2 *to complete: Provided further, That the limitation con-*
3 *cerning total project costs in section 902 of the Water Re-*
4 *sources Development Act of 1986, as amended (33 U.S.C.*
5 *2280), shall not apply during fiscal year 2009 to any*
6 *project that received funds provided in this title: Provided*
7 *further, That for projects that are being completed with*
8 *funds appropriated in this Act that would otherwise be ex-*
9 *pired for obligation, expired funds appropriated in this Act*
10 *may be used to pay the cost of associated supervision, in-*
11 *spection, over engineering and design on those projects and*
12 *on subsequent claims, if any: Provided further, That the*
13 *Secretary shall have unlimited reprogramming authority*
14 *for these funds provided under this heading.*

15 *OPERATION AND MAINTENANCE*

16 *For an additional amount for “Operation and Mainte-*
17 *nance” for expenses necessary for the operation, mainte-*
18 *nance, and care of existing river and harbor, flood and*
19 *storm damage reduction, aquatic ecosystem restoration, and*
20 *related projects authorized by law, and for surveys and*
21 *charting of northern and northwestern lakes and connecting*
22 *waters, clearing and straightening channels, and removal*
23 *of obstructions to navigation, \$1,900,000,000, of which such*
24 *sums as are necessary to cover the Federal share of oper-*
25 *ation and maintenance costs for coastal harbors and chan-*

1 nels, and inland harbors shall be derived from the Harbor
2 Maintenance Trust Fund, pursuant to Public Law 99–662;
3 and of which such sums as become available under section
4 217 of the Water Resources Development Act of 1996, Public
5 Law 104–303, shall be used to cover the cost of operation
6 and maintenance of the dredged material disposal facilities
7 for which fees have been collected: Provided, That funds pro-
8 vided under this heading in this title shall only be used
9 for programs, projects or activities that heretofore or here-
10 after receive funds provided in Acts making appropriations
11 available for Energy and Water Development: Provided fur-
12 ther, That funds provided under this heading in this title
13 shall be used for programs, projects or activities or elements
14 of programs, projects or activities that can be completed
15 within the funds made available in that account and that
16 will not require new budget authority to complete: Provided
17 further, That \$90,000,000 of the funds provided under this
18 heading shall be used for activities described in section 9004
19 of Public Law 110–114: Provided further, That section 9006
20 of Public Law 110–114 shall not apply to funds provided
21 in this title: Provided further, That for projects that are
22 being completed with funds appropriated in this Act that
23 would otherwise be expired for obligation, expired funds ap-
24 propriated in this Act may be used to pay the cost of associ-
25 ated supervision, inspection, over engineering and design

1 *on those projects and on subsequent claims, if any: Provided*
2 *further, That the Secretary shall have unlimited reprogram-*
3 *ming authority for these funds provided under this heading.*

4 *REGULATORY PROGRAM*

5 *For an additional amount for “Regulatory Program”*
6 *for expenses necessary for administration of laws per-*
7 *taining to regulation of navigable waters and wetlands,*
8 *\$25,000,000 is provided.*

9 *FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM*

10 *For an additional amount for “Formerly Utilized*
11 *Sites Remedial Action Program” for expenses necessary to*
12 *clean up contamination from sites in the United States re-*
13 *sulting from work performed as part of the Nation’s early*
14 *atomic energy program, \$100,000,000: Provided further,*
15 *That funds provided under this heading in this title shall*
16 *be used for programs, projects or activities or elements of*
17 *programs, projects or activities that can be completed with-*
18 *in the funds made available in that account and that will*
19 *not require new budget authority to complete: Provided fur-*
20 *ther, That for projects that are being completed with funds*
21 *appropriated in this Act that would otherwise be expired*
22 *for obligation, expired funds appropriated in this Act may*
23 *be used to pay the cost of associated supervision, inspection,*
24 *over engineering and design on those projects and on subse-*
25 *quent claims, if any: Provided further, That the Secretary*

1 *shall have unlimited reprogramming authority for these*
2 *funds provided under this heading.*

3 *FLOOD CONTROL AND COASTAL EMERGENCIES*

4 *For an additional amount for “Flood Control and*
5 *Coastal Emergencies” for expenses necessary for pre-place-*
6 *ment of materials and equipment, advance measures and*
7 *other activities authorized by law, \$50,000,000 is provided.*

8 *DEPARTMENT OF THE INTERIOR*

9 *BUREAU OF RECLAMATION*

10 *WATER AND RELATED RESOURCES*

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

1 *under 43 U.S.C. 395 are available until expended for the*
2 *purposes for which contributed: Provided further, That*
3 *funds advanced under 43 U.S.C. 397a shall be credited to*
4 *this account and are available until expended for the same*
5 *purposes as the sums appropriated under this heading: Pro-*
6 *vided further, That funds provided under this heading in*
7 *this title shall only be used for programs, projects or activi-*
8 *ties that heretofore or hereafter receive funds provided in*
9 *Acts making appropriations available for Energy and*
10 *Water Development: Provided further, That funds provided*
11 *in this Act shall be used for elements of projects, programs*
12 *or activities that can be completed within these funding*
13 *amounts and not create budgetary obligations in future fis-*
14 *cal years: Provided further, That \$50,000,000 of the funds*
15 *provided under this heading may be transferred to the De-*
16 *partment of the Interior for programs, projects and activi-*
17 *ties authorized by the Central Utah Project Completion Act*
18 *(titles II–V of Public Law 102–575): Provided further, That*
19 *\$50,000,000 of the funds provided under this heading may*
20 *be used for programs, projects, and activities authorized by*
21 *the California Bay-Delta Restoration Act (Public Law 108–*
22 *361): Provided further, That not less than \$60,000,000 of*
23 *the funds provided under this heading shall be used for*
24 *rural water projects and shall be expended primarily on*
25 *water intake and treatment facilities of such projects: Pro-*

1 vided further, That not less than \$10,000,000 of the funds
2 provided under this heading shall be used for a bureau-wide
3 inspection of canals program in urbanized areas: Provided
4 further, 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 to
15 be established and adopted by the Commissioner, but in no
16 case shall the repayment period exceed 25 years: Provided
17 further, That for projects that are being completed with
18 funds appropriated in this Act that would otherwise be ex-
19 pired for obligation, expired funds appropriated in this Act
20 may be used to pay the cost of associated supervision, in-
21 spection, over engineering and design on those projects and
22 on subsequent claims, if any: Provided further, That the
23 Secretary shall have unlimited reprogramming authority
24 for these funds provided under 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 of*
10 *the Energy Independence and Security Act of 2007 (42*
11 *U.S.C. 17151 et seq.), of which \$2,100,000,000 is available*
12 *through the formula in subtitle E: Provided further, That*
13 *the remaining \$2,100,000,000 shall be awarded on a com-*
14 *petitive basis only to competitive grant applicants from*
15 *States in which the Governor certifies to the Secretary of*
16 *Energy that the applicable State regulatory authority will*
17 *implement the integrated resource planning and rate design*
18 *modifications standards required to be considered under*
19 *paragraphs (16) and (17) of section 111(d) of the Public*
20 *Utility Regulatory Policies Act of 1978 (16 U.S.C.*
21 *2621(d)(16) and (17)); and the Governor will take all ac-*
22 *tions within his or her authority to ensure that the State,*
23 *or the applicable units of local government that have au-*
24 *thority to adopt building codes, will implement—*

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 Conservation
4 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 90.1–
8 2007; and

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

15 *Provided further, That \$2,000,000,000 shall be available for*
16 *grants for the manufacturing of advanced batteries and*
17 *components and the Secretary shall provide facility funding*
18 *awards under this section to manufacturers of advanced*
19 *battery systems and vehicle batteries that are produced in*
20 *the United States, including advanced lithium ion batteries,*
21 *hybrid electrical systems, component manufacturers, and*
22 *software designers: Provided further, That notwithstanding*
23 *section 3304 of title 5, United States Code, and without*
24 *regard to the provisions of sections 3309 through 3318 of*
25 *such title 5, the Secretary of Energy, upon a determination*

1 *that there is a severe shortage of candidates or a critical*
2 *hiring need for particular positions, may from within the*
3 *funds provided, recruit and directly appoint highly quali-*
4 *fied individuals into the competitive service: Provided fur-*
5 *ther, That such authority shall not apply to positions in*
6 *the Excepted Service or the Senior Executive Service: Pro-*
7 *vided further, That any action authorized herein shall be*
8 *consistent with the merit principles of section 2301 of such*
9 *title 5, and the Department shall comply with the public*
10 *notice requirements of section 3327 of such title 5.*

11 *ELECTRICITY DELIVERY AND ENERGY RELIABILITY*

12 *For an additional amount for “Electricity Delivery*
13 *and Energy Reliability”, \$4,500,000,000, for necessary ex-*
14 *penses, to remain available until September 30, 2010: Pro-*
15 *vided, That \$100,000,000 shall be available for worker*
16 *training activities: Provided further, That notwithstanding*
17 *section 3304 of title 5, United States Code, and without*
18 *regard to the provisions of sections 3309 through 3318 of*
19 *such title 5, the Secretary of Energy, upon a determination*
20 *that there is a severe shortage of candidates or a critical*
21 *hiring need for particular positions, may from within the*
22 *funds provided, recruit and directly appoint highly quali-*
23 *fied individuals into the competitive service: Provided fur-*
24 *ther, That such authority shall not apply to positions in*
25 *the Excepted Service or the Senior Executive Service: Pro-*

1 vided further, That any action authorized herein shall be
2 consistent with the merit principles of section 2301 of such
3 title 5, and the Department shall comply with the public
4 notice requirements of section 3327 of such title 5: Provided,
5 That for the purpose of facilitating the development of re-
6 gional transmission plans, the Office of Electricity Delivery
7 and Energy Reliability within the Department of Energy
8 is provided \$80,000,000 within the available funds to con-
9 duct a resource assessment and an analysis of future de-
10 mand and transmission requirements: Provided further,
11 That the Office of Electricity Delivery and Energy Reli-
12 ability will provide technical assistance to the North Amer-
13 ican Electric Reliability Corporation, the regional reli-
14 ability entities, the States, and other transmission owners
15 and operators for the formation of interconnection-based
16 transmission plans for the Eastern and Western Inter-
17 connections and ERCOT: Provided further, That such as-
18 sistance may include modeling, support to regions and
19 States for the development of coordinated State electricity
20 policies, programs, laws, and regulations: Provided further,
21 That \$10,000,000 is provided to implement section 1305 of
22 Public Law 110–140.

23 *FOSSIL ENERGY RESEARCH AND DEVELOPMENT*

24 *For an additional amount for “Fossil Energy Research*
25 *and Development”, \$4,600,000,000, to remain available*

1 *until September 30, 2010: Provided, That \$2,000,000,000*
2 *is available for one or more near zero emissions power-*
3 *plant(s): Provided further, \$1,000,000,000 is available for*
4 *selections under the Department’s Clean Coal Power Initia-*
5 *tive Round III Funding Opportunity Announcement; not-*
6 *withstanding the mandatory eligibility requirements of the*
7 *Funding Opportunity Announcement, the Department shall*
8 *consider applications that utilize petroleum coke for some*
9 *or all of the project’s fuel input: Provided further,*
10 *\$1,520,000,000 is available for a competitive solicitation*
11 *pursuant to section 703 of Public Law 110–140 for projects*
12 *that demonstrate carbon capture from industrial sources:*
13 *Provided further, That awards for such projects may in-*
14 *clude plant efficiency improvements for integration with*
15 *carbon capture technology.*

16 *NON-DEFENSE ENVIRONMENTAL CLEANUP*

17 *For an additional amount for “Non-Defense Environ-*
18 *mental Cleanup”, \$483,000,000, to remain available until*
19 *September 30, 2010.*

20 *URANIUM ENRICHMENT DECONTAMINATION AND*
21 *DECOMMISSIONING FUND*

22 *For an additional amount for “Uranium Enrichment*
23 *Decontamination and Decommissioning Fund”,*
24 *\$390,000,000, to remain available until September 30,*

1 2010, of which \$70,000,000 shall be available in accordance
2 with title X, subtitle A of the Energy Policy Act of 1992.

3 *SCIENCE*

4 *For an additional amount for “Science”,*
5 *\$330,000,000, to remain available until September 30,*
6 *2010.*

7 *TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE*

8 *PROGRAM*

9 *Subject to section 502 of the Congressional Budget Act*
10 *of 1974, commitments to guarantee loans under section*
11 *1702(b)(2) of the Energy Policy Act of 2005, shall not ex-*
12 *ceed a total principal amount of \$50,000,000,000 for eligi-*
13 *ble projects, to remain available until committed: Provided,*
14 *That these amounts are in addition to any authority pro-*
15 *vided elsewhere in this Act and this and previous fiscal*
16 *years: Provided further, That such sums as are derived from*
17 *amounts received from borrowers pursuant to section*
18 *1702(b)(2) of the Energy Policy Act of 2005 under this*
19 *heading in this and prior Acts, shall be collected in accord-*
20 *ance with section 502(7) of the Congressional Budget Act*
21 *of 1974: Provided further, That the source of such payment*
22 *received from borrowers is not a loan or other debt obliga-*
23 *tion that is guaranteed by the Federal Government: Pro-*
24 *vided further, That pursuant to section 1702(b)(2) of the*
25 *Energy Policy Act of 2005, no appropriations are available*

1 *to pay the subsidy cost of such guarantees: Provided further,*
2 *That none of the loan guarantee authority made available*
3 *in this Act shall be available for commitments to guarantee*
4 *loans under section 1702(b)(2) of the Energy Policy Act of*
5 *2005 for any projects where funds, personnel, or property*
6 *(tangible or intangible) of any Federal agency, instrumen-*
7 *tality, personnel or affiliated entity are expected to be used*
8 *(directly or indirectly) through acquisitions, contracts,*
9 *demonstrations, exchanges, grants, incentives, leases, pro-*
10 *curements, sales, other transaction authority, or other ar-*
11 *rangements, to support the project or to obtain goods or*
12 *services from the project: Provided further, That none of the*
13 *loan guarantee authority made available in this Act shall*
14 *be available under section 1702(b)(2) of the Energy Policy*
15 *Act of 2005 for any project unless the Director of the Office*
16 *of Management and Budget has certified in advance in*
17 *writing that the loan guarantee and the project comply with*
18 *the provisions under this title: Provided further, That for*
19 *an additional amount for the cost of guaranteed loans au-*
20 *thorized by section 1702(b)(1) and section 1705 of the En-*
21 *ergy Policy Act of 2005, \$8,500,000,000, available until ex-*
22 *pended, to pay the costs of guarantees made under this sec-*
23 *tion: Provided further, That of the amount provided for*
24 *Title XVII, \$15,000,000 shall be used for administrative ex-*
25 *penses in carrying out the guaranteed loan program.*

1 *OFFICE OF THE INSPECTOR GENERAL*

2 *For necessary expenses of the Office of the Inspector*
3 *General in carrying out the provisions of the Inspector Gen-*
4 *eral Act of 1978, as amended, \$5,000,000, to remain avail-*
5 *able until September 30, 2012, and an additional*
6 *\$10,000,000 for such purposes, to remain available until*
7 *September 30, 2012.*

8 *ATOMIC ENERGY DEFENSE ACTIVITIES*

9 *NATIONAL NUCLEAR SECURITY ADMINISTRATION*

10 *WEAPONS ACTIVITIES*

11 *For an additional amount for weapons activities,*
12 *\$1,000,000,000, to remain available until September 30,*
13 *2010.*

14 *ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES*

15 *DEFENSE ENVIRONMENTAL CLEANUP*

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

19 *CONSTRUCTION, REHABILITATION, OPERATION, AND*

20 *MAINTENANCE, WESTERN AREA POWER ADMINISTRATION*

21 *For carrying out the functions authorized by title III,*
22 *section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C.*
23 *7152), and other related activities including conservation*
24 *and renewable resources programs as authorized,*
25 *\$10,000,000, to remain available until expended: Provided,*

1 *That the Administrator shall establish such personnel staff-*
2 *ing levels as he deems necessary to economically and effi-*
3 *ciently complete the activities pursued under the authority*
4 *granted by section 402 of this Act: Provided further, That*
5 *this appropriation is non-reimbursable.*

6 **GENERAL PROVISIONS—THIS TITLE**

7 **SEC. 401. BONNEVILLE POWER ADMINISTRATION BOR-**
8 **ROWING AUTHORITY.** *For the purposes of providing funds*
9 *to assist in financing the construction, acquisition, and re-*
10 *placement of the transmission system of the Bonneville*
11 *Power Administration and to implement the authority of*
12 *the Administrator of the Bonneville Power Administration*
13 *under the Pacific Northwest Electric Power Planning and*
14 *Conservation Act (16 U.S.C. 839 et seq.), an additional*
15 *\$3,250,000,000 in borrowing authority is made available*
16 *under the Federal Columbia River Transmission System*
17 *Act (16 U.S.C. 838 et seq.), to remain outstanding at any*
18 *time.*

19 **SEC. 402. WESTERN AREA POWER ADMINISTRATION**
20 **BORROWING AUTHORITY.** *The Hoover Power Plant Act of*
21 *1984 (Public Law 98–381) is amended by adding at the*
22 *end the following:*

1 **“TITLE III—BORROWING**
2 **AUTHORITY**

3 **“SEC. 301. WESTERN AREA POWER ADMINISTRATION BOR-**
4 **ROWING AUTHORITY.**

5 “(a) *DEFINITIONS.*—*In this section:*

6 “(1) *ADMINISTRATOR.*—*The term ‘Adminis-*
7 *trator’ means the Administrator of the Western Area*
8 *Power Administration.*

9 “(2) *SECRETARY.*—*The term ‘Secretary’ means*
10 *the Secretary of the Treasury.*

11 “(b) *AUTHORITY.*—

12 “(1) *IN GENERAL.*—*Notwithstanding any other*
13 *provision of law, subject to paragraphs (2) through*
14 *(5)—*

15 “(A) *the Western Area Power Administra-*
16 *tion may borrow funds from the Treasury; and*

17 “(B) *the Secretary shall, without further*
18 *appropriation and without fiscal year limita-*
19 *tion, loan to the Western Area Power Adminis-*
20 *tration, on such terms as may be fixed by the*
21 *Administrator and the Secretary, such sums (not*
22 *to exceed, in the aggregate (including deferred*
23 *interest), \$3,250,000,000 in outstanding repay-*
24 *able balances at any one time) as, in the judg-*

1 *ment of the Administrator, are from time to time*
2 *required for the purpose of—*

3 “(i) *constructing, financing, facili-*
4 *tating, planning, operating, maintaining,*
5 *or studying construction of new or up-*
6 *graded electric power transmission lines*
7 *and related facilities with at least one ter-*
8 *minus within the area served by the West-*
9 *ern Area Power Administration; and*

10 “(ii) *delivering or facilitating the de-*
11 *livery of power generated by renewable en-*
12 *ergy resources constructed or reasonably ex-*
13 *pected to be constructed after the date of en-*
14 *actment of this section.*

15 “(2) *INTEREST.—The rate of interest to be*
16 *charged in connection with any loan made pursuant*
17 *to this subsection shall be fixed by the Secretary, tak-*
18 *ing into consideration market yields on outstanding*
19 *marketable obligations of the United States of com-*
20 *parable maturities as of the date of the loan.*

21 “(3) *REFINANCING.—The Western Area Power*
22 *Administration may refinance loans taken pursuant*
23 *to this section within the Treasury.*

24 “(4) *PARTICIPATION.—The Administrator may*
25 *permit other entities to participate in the financing,*

1 *construction and ownership projects financed under*
2 *this section.*

3 “(5) *CONGRESSIONAL REVIEW OF DISBURSE-*
4 *MENT.—Effective upon the date of enactment of this*
5 *section, the Administrator shall have the authority to*
6 *have utilized \$1,750,000,000 at any one time. If the*
7 *Administrator seeks to borrow funds above*
8 *\$1,750,000,000, the funds will be disbursed unless*
9 *there is enacted, within 90 calendar days of the first*
10 *such request, a joint resolution that rescinds the re-*
11 *mainder of the balance of the borrowing authority*
12 *provided in this section.*

13 “(c) *TRANSMISSION LINE AND RELATED FACILITY*
14 *PROJECTS.—*

15 “(1) *IN GENERAL.—For repayment purposes,*
16 *each transmission line and related facility project in*
17 *which the Western Area Power Administration par-*
18 *ticipates pursuant to this section shall be treated as*
19 *separate and distinct from—*

20 “(A) *each other such project; and*

21 “(B) *all other Western Area Power Admin-*
22 *istration power and transmission facilities.*

23 “(2) *PROCEEDS.—The Western Area Power Ad-*
24 *ministration shall apply the proceeds from the use of*
25 *the transmission capacity from an individual project*

1 *under this section to the repayment of the principal*
2 *and interest of the loan from the Treasury attrib-*
3 *utable to that project, after reserving such funds as*
4 *the Western Area Power Administration determines*
5 *are necessary—*

6 *“(A) to pay for any ancillary services that*
7 *are provided; and*

8 *“(B) to meet the costs of operating and*
9 *maintaining the new project from which the rev-*
10 *enues are derived.*

11 *“(3) SOURCE OF REVENUE.—Revenue from the*
12 *use of projects under this section shall be the only*
13 *source of revenue for—*

14 *“(A) repayment of the associated loan for*
15 *the project; and*

16 *“(B) payment of expenses for ancillary serv-*
17 *ices and operation and maintenance.*

18 *“(4) LIMITATION ON AUTHORITY.—Nothing in*
19 *this section confers on the Administrator any addi-*
20 *tional authority or obligation to provide ancillary*
21 *services to users of transmission facilities developed*
22 *under this section.*

23 *“(5) TREATMENT OF CERTAIN REVENUES.—Rev-*
24 *enue from ancillary services provided by existing Fed-*
25 *eral power systems to users of transmission projects*

1 *funded pursuant to this section shall be treated as*
2 *revenue to the existing power system that provided the*
3 *ancillary services.*

4 “(d) *CERTIFICATION.*—

5 “(1) *IN GENERAL.*—*For each project in which*
6 *the Western Area Power Administration participates*
7 *pursuant to this section, the Administrator shall cer-*
8 *tify, prior to committing funds for any such project,*
9 *that—*

10 “(A) *the project is in the public interest;*

11 “(B) *the project will not adversely impact*
12 *system reliability or operations, or other statu-*
13 *tory obligations; and*

14 “(C) *it is reasonable to expect that the pro-*
15 *ceeds from the project shall be adequate to make*
16 *repayment of the loan.*

17 “(2) *FORGIVENESS OF BALANCES.*—

18 “(A) *IN GENERAL.*—*If, at the end of the*
19 *useful life of a project, there is a remaining bal-*
20 *ance owed to the Treasury under this section, the*
21 *balance shall be forgiven.*

22 “(B) *UNCONSTRUCTED PROJECTS.*—*Funds*
23 *expended to study projects that are considered*
24 *pursuant to this section but that are not con-*
25 *structed shall be forgiven.*

1 “(C) *NOTIFICATION.*—*The Administrator*
2 *shall notify the Secretary of such amounts as are*
3 *to be forgiven under this paragraph.*

4 “(e) *PUBLIC PROCESSES.*—

5 “(1) *POLICIES AND PRACTICES.*—*Prior to re-*
6 *questing any loans under this section, the Adminis-*
7 *trator shall use a public process to develop practices*
8 *and policies that implement the authority granted by*
9 *this section.*

10 “(2) *REQUESTS FOR INTEREST.*—*In the course of*
11 *selecting potential projects to be funded under this*
12 *section, the Administrator shall seek Requests For In-*
13 *terest from entities interested in identifying potential*
14 *projects through one or more notices published in the*
15 *Federal Register.”*

16 *SEC. 403. TECHNICAL CORRECTIONS TO THE ENERGY*
17 *INDEPENDENCE AND SECURITY ACT OF 2007. Title XIII of*
18 *the Energy Independence and Security Act of 2007 (15*
19 *U.S.C. 17381 and following) is amended as follows:*

20 (1) *By amending subparagraph (A) of section*
21 *1304(b)(3) to read as follows:*

22 “(A) *IN GENERAL.*—*In carrying out the ini-*
23 *tiative, the Secretary shall provide financial sup-*
24 *port to smart grid demonstration projects in-*
25 *cluding those in rural areas and/or areas where*

1 *the majority of generation and transmission as-*
2 *sets are controlled by a tax-exempt entity.”.*

3 *(2) By amending subparagraph (C) of section*
4 *1304(b)(3) to read as follows:*

5 *“(C) FEDERAL SHARE OF COST OF TECH-*
6 *NOLOGY INVESTMENTS.—The Secretary shall pro-*
7 *vide to an electric utility described in subpara-*
8 *graph (B) or to other parties financial assistance*
9 *for use in paying an amount equal to not more*
10 *than 50 percent of the cost of qualifying ad-*
11 *vanced grid technology investments made by the*
12 *electric utility or other party to carry out a*
13 *demonstration project.”.*

14 *(3) By inserting a new subparagraph (E) after*
15 *1304(b)(3)(D) as follows:*

16 *“(E) AVAILABILITY OF DATA.—The*
17 *Secretary shall establish and maintain a*
18 *smart grid information clearinghouse in a*
19 *timely manner which will make data from*
20 *smart grid demonstration projects and other*
21 *sources available to the public. As a condi-*
22 *tion of receiving financial assistance under*
23 *this subsection, a utility or other partici-*
24 *part in a smart grid demonstration project*
25 *shall provide such information as the Sec-*

1 *retary may require to become available*
2 *through the smart grid information clear-*
3 *inghouse in the form and within the time-*
4 *frames as directed by the Secretary. The*
5 *Secretary shall assure that business propri-*
6 *etary information and individual customer*
7 *information is not included in the informa-*
8 *tion made available through the clearing-*
9 *house.”.*

10 *(4) By amending paragraph (2) of section*
11 *1304(c) to read as follows:*

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

14 *(5) By amending subsection (a) of section 1306*
15 *by striking “reimbursement of one-fifth (20 percent)”*
16 *and inserting “grants of up to one-half (50 percent)”.*

17 *(6) By striking the last sentence of subsection*
18 *(b)(9) of section 1306.*

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

21 *(8) By amending subsection (e) of section 1306*
22 *to read as follows:*

23 *“(e) The Secretary shall—*

24 *“(1) establish within 60 days after the enactment*
25 *of the American Recovery and Reinvestment Act of*

1 2009 procedures by which applicants can obtain
2 grants of not more than one-half of their documented
3 costs;

4 “(2) establish procedures to ensure that there is
5 no duplication or multiple payment for the same in-
6 vestment or costs, that the grant goes to the party
7 making the actual expenditures for Qualifying Smart
8 Grid Investments, and that the grants made have sig-
9 nificant effect in encouraging and facilitating the de-
10 velopment of a smart grid;

11 “(3) maintain public records of grants made, re-
12 cipients, and qualifying Smart Grid investments
13 which have received grants;

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

17 “(5) have and exercise the discretion to deny
18 grants for investments that do not qualify in the rea-
19 sonable judgment of the Secretary.”.

20 *SEC. 404. TEMPORARY STIMULUS LOAN GUARANTEE*
21 *PROGRAM. (a) AMENDMENT.—Title XVII of the Energy Pol-*
22 *icy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by*
23 *adding the following at the end:*

1 **“SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOY-**
2 **MENT OF RENEWABLE ENERGY AND ELEC-**
3 **TRIC POWER TRANSMISSION PROJECTS.**

4 “(a) *IN GENERAL.*—Notwithstanding section 1703, the
5 Secretary may make guarantees under this section only for
6 commercial technology projects under subsection (b) that
7 will reach financial close not later than September 30,
8 2012.

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

11 “(1) *Renewable energy systems.*

12 “(2) *Electric power transmission systems.*

13 “(c) *AUTHORIZATION LIMIT.*—There are authorized to
14 be appropriated \$10,000,000,000 to the Secretary for fiscal
15 years 2009 through 2012 to provide the cost of guarantees
16 made under section.

17 “(d) *SUNSET.*—The authority to enter into guarantees
18 under this section shall expire on September 30, 2012.”.

19 (b) *TABLE OF CONTENTS AMENDMENT.*—The table of
20 contents for the Energy Policy Act of 2005 is amended by
21 inserting after the item relating to section 1704 the fol-
22 lowing new item:

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

23 **SEC. 405. WEATHERIZATION PROGRAM AMENDMENTS.**

24 (a) *INCOME LEVEL.*—Section 412(7) of the Energy Con-

1 *ervation and Production Act (42 U.S.C. 6862(7)) is*
2 *amended by striking “150 percent” both places it appears*
3 *and inserting “200 percent”.*

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

8 (c) *TRAINING AND TECHNICAL ASSISTANCE.—Section*
9 *416 of the Energy Conservation and Production Act (42*
10 *U.S.C. 6866) is amended by striking “10 percent” and in-*
11 *serting “up to 20 percent”.*

12 *SEC. 406. TECHNICAL CORRECTIONS TO PUBLIC UTIL-*
13 *ITY REGULATORY POLICIES ACT OF 1978. (a) Section*
14 *111(d) of the Public Utility Regulatory Policies Act of 1978*
15 *(16 U.S.C. 2621(d)) is amended by redesignating para-*
16 *graph (16) relating to consideration of smart grid invest-*
17 *ments (added by section 1307(a) of Public Law 110–140)*
18 *as paragraph (18) and by redesignating paragraph (17) re-*
19 *lating to smart grid information (added by section 1308(a)*
20 *of Public Law 110–140) as paragraph (19).*

21 (b) *Subsections (b) and (d) of section 112 of the Public*
22 *Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622)*
23 *are each amended by striking “(17) through (18)” in each*
24 *place it appears and inserting “(16) through (19)”.*

1 *TITLE V—FINANCIAL SERVICES AND GENERAL*
2 *GOVERNMENT*

3 *DEPARTMENT OF THE TREASURY*

4 *COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS*

5 *FUND PROGRAM ACCOUNT*

6 *For an additional amount for “Community Develop-*
7 *ment Financial Institutions Fund Program Account”,*
8 *\$250,000,000, to remain available until September 30,*
9 *2010, for qualified applicants under the fiscal year 2008*
10 *and 2009 funding rounds of the Community Development*
11 *Financial Institutions Program, of which up to*
12 *\$20,000,000 may be for financial assistance, technical as-*
13 *sistance, training and outreach programs, including up to*
14 *\$5,000 for subsistence expenses, designed to benefit Native*
15 *American, Native Hawaiian, and Alaskan Native commu-*
16 *nities and provided primarily through qualified commu-*
17 *nity development lender organizations with experience and*
18 *expertise in community development banking and lending*
19 *in Indian country, Native American organizations, tribes*
20 *and tribal organizations and other suitable providers and*
21 *up to \$5,000,000 may be used for administrative expenses:*
22 *Provided, That for purposes of the fiscal year 2008 and*
23 *2009 funding rounds, the following statutory provisions are*
24 *hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d):*
25 *Provided further, That no awardee, together with its sub-*

1 *sidiaries and affiliates, may be awarded more than 15 per-*
2 *cent of the aggregate funds available during each of fiscal*
3 *years 2008 and 2009 from the Community Development Fi-*
4 *nancial Institutions Program: Provided further, That no*
5 *later than 60 days after the date of enactment of this Act,*
6 *the Department of the Treasury shall submit to the Commit-*
7 *tees on Appropriations of the House of Representatives and*
8 *the Senate a detailed expenditure plan for funds provided*
9 *under this heading.*

10 *DISTRICT OF COLUMBIA*

11 *FEDERAL PAYMENTS*

12 *FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER*

13 *AND SEWER AUTHORITY*

14 *For a Federal payment to the District of Columbia*
15 *Water and Sewer Authority, \$125,000,000, to remain avail-*
16 *able until September 30, 2010, to continue implementation*
17 *of the Combined Sewer Overflow Long-Term Control Plan:*
18 *Provided, That the District of Columbia Water and Sewer*
19 *Authority provide a 100 percent match for this payment:*
20 *Provided further, That no later than 60 days after the date*
21 *of enactment of this Act, the District of Columbia Water*
22 *and Sewer Authority shall submit to the Committees on Ap-*
23 *propriations of the House of Representatives and the Senate*
24 *a detailed expenditure plan for funds provided under this*
25 *heading: Provided further, That such expenditure plan shall*

1 *include a description of each specific project, how specific*
2 *projects will further the objectives of the Long-Term Control*
3 *Plan, and all funding sources for each project.*

4 **GENERAL SERVICES ADMINISTRATION**

5 **REAL PROPERTY ACTIVITIES**

6 **FEDERAL BUILDINGS FUND**

7 **LIMITATIONS ON AVAILABILITY OF REVENUE**

8 **(INCLUDING TRANSFER OF FUNDS)**

9 *For an additional amount to be deposited in the Fed-*
10 *eral Buildings Fund, \$5,548,000,000, to carry out the pur-*
11 *poses of the Fund, of which not less than \$1,400,000,000*
12 *shall be available for Federal buildings and United States*
13 *courthouses, not less than \$1,200,000,000 shall be available*
14 *for border stations, and not less than \$2,500,000,000 shall*
15 *be available for measures necessary to convert GSA facili-*
16 *ties to High-Performance Green Buildings, as defined in*
17 *section 401 of Public Law 110–140: Provided, That not to*
18 *exceed \$108,000,000 of the amounts provided under this*
19 *heading may be expended for rental of space, related to leas-*
20 *ing of temporary space in connection with projects funded*
21 *under this heading: Provided further, That not to exceed*
22 *\$127,000,000 of the amounts provided under this heading*
23 *may be expended for building operations, for the adminis-*
24 *trative costs of completing projects funded under this head-*
25 *ing: Provided further, That not less than \$5,000,000,000 of*

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

1 *ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET*2 *PROCUREMENT*

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

9 *OFFICE OF INSPECTOR GENERAL*

10 *For an additional amount for the Office of the Inspec-*
11 *tor General, to remain available until September 30, 2011,*
12 *\$2,000,000 and an additional \$5,000,000 for such purposes,*
13 *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 provisions*
18 *of title XV of this Act, \$7,000,000, to remain available until*
19 *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 is*
24 *for marketing, management, and technical assistance under*
25 *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 of
8 this Act, the Small Business Administration shall submit
9 to the Committees on Appropriations of the House of Rep-
10 resentatives and the Senate a detailed expenditure plan for
11 funds provided under the heading “Small Business Admin-
12 istration” 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 Gen-*
16 *eral Act of 1978, \$10,000,000, to remain available until*
17 *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 Invest-*
21 *ment Act of 1958, \$15,000,000, to remain available until*
22 *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 guar-*
4 *anteed loans, \$515,000,000 shall be for loan subsidies and*
5 *loan modifications for loans to small business concerns au-*
6 *thorized in section 501(a) of this title; and \$100,000,000*
7 *shall be for loan subsidies and loan modifications for loans*
8 *to small business concerns authorized in section 501(b) of*
9 *this title: Provided further, That such costs, including the*
10 *cost of modifying such loans, shall be as defined in section*
11 *502 of the Congressional Budget Act of 1974.*

12 *ADMINISTRATIVE PROVISIONS—SMALL BUSINESS*

13 *ADMINISTRATION*

14 *SEC. 501. ECONOMIC STIMULUS FOR SMALL BUSINESS*

15 *CONCERNS. (a) TEMPORARY FEE ELIMINATION FOR THE*
16 *7(a) LOAN PROGRAM.—Until September 30, 2010, and to*
17 *the extent that the cost of such elimination of fees is offset*
18 *by appropriations, with respect to each loan guaranteed*
19 *under section 7(a) of the Small Business Act (15 U.S.C.*
20 *636(a)) for which the application is approved on or after*
21 *the date of enactment of this Act, the Administrator shall—*

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

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

4 **(b) TEMPORARY FEE ELIMINATION FOR THE 504 LOAN**
5 **PROGRAM.—**

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

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

18 (B) *a development company shall, in lieu of*
19 *the processing fee under section 120.971(a)(1) of*
20 *title 13, Code of Federal Regulations (relating to*
21 *fees paid by borrowers), or any successor thereto,*
22 *collect no fee.*

23 **(2) REIMBURSEMENT FOR WAIVED FEES.—**

24 (A) *IN GENERAL.—To the extent that the*
25 *cost of such payments is offset by appropria-*

1 *tions, the Administrator shall reimburse each de-*
2 *velopment company that does not collect a proc-*
3 *essing fee pursuant to paragraph (1)(B).*

4 *(B) AMOUNT.—The payment to a develop-*
5 *ment company under subparagraph (A) shall be*
6 *in an amount equal to 1.5 percent of the net de-*
7 *benture proceeds for which the development com-*
8 *pany does not collect a processing fee pursuant*
9 *to paragraph (1)(B).*

10 *(c) TEMPORARY FEE ELIMINATION OF LENDER OVER-*
11 *SIGHT FEES.—Until September 30, 2010, and to the extent*
12 *the cost of such elimination in fees is offset by appropria-*
13 *tions, the Administrator shall, in lieu of the fee otherwise*
14 *applicable under section 5(b)(14) of the Small Business Act*
15 *(15 U.S.C. 634(b)(14)), collect no fee.*

16 *(d) APPLICATION OF FEE ELIMINATIONS.—The Ad-*
17 *ministrator shall eliminate fees under subsections (a), (b),*
18 *and (c) until the amount provided for such purposes, as*
19 *applicable, under the headings “Salaries and Expenses”*
20 *and “Business Loans Program Account” under the heading*
21 *“Small Business Administration” under this Act are ex-*
22 *pendent.*

23 *SEC. 502. FINANCIAL ASSISTANCE PROGRAM IM-*
24 *PROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Section*
25 *7(a)(3)(A) of the Small Business Act (15 U.S.C.*

1 636(a)(3)(A) is amended by striking “\$1,500,000 (or if the
2 gross loan amount would exceed \$2,000,000)” and inserting
3 “\$2,250,000 (or if the gross loan amount would exceed
4 \$3,000,000)”.

5 (b) *SMALL BUSINESS INVESTMENT COMPANIES.*—

6 (1) *MAXIMUM LEVERAGE.*—Section 303(b) of the
7 *Small Business Investment Act of 1958 (15 U.S.C.*
8 *683(b))* is amended—

9 (A) in paragraph (2), by striking subpara-
10 graphs (A), (B), and (C) and inserting the fol-
11 lowing:

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

16 “(i) 300 percent of the private capital
17 of the company; or

18 “(ii) \$150,000,000.

19 “(B) *MULTIPLE LICENSES UNDER COMMON*
20 *CONTROL.*—The maximum amount of out-
21 standing leverage made available to 2 or more
22 companies licensed under section 301(c) that are
23 commonly controlled (as determined by the Ad-
24 ministrators) may not exceed \$225,000,000.

1 “(C) *INVESTMENTS IN LOW-INCOME GEO-*
2 *GRAPHIC AREAS.*—

3 “(i) *IN GENERAL.*—*The maximum*
4 *amount of outstanding leverage made avail-*
5 *able to—*

6 “(I) *any 1 company described in*
7 *clause (ii) may not exceed the lesser*
8 *of—*

9 “(aa) *300 percent of private*
10 *capital of the company; or*

11 “(bb) *\$175,000,000; and*

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

17 “(ii) *APPLICABILITY.*—*A company de-*
18 *scribed in this clause is a company licensed*
19 *under section 301(c) that certifies in writ-*
20 *ing that not less than 50 percent of the dol-*
21 *lar amount of investments of that company*
22 *shall be made in companies that are located*
23 *in a low-income geographic area (as that*
24 *term is defined in section 351).”; and*
25 *(B) by striking paragraph (4).*

1 (2) *INVESTMENTS IN SMALLER ENTERPRISES.*—
2 *Section 303(d) of the Small Business Investment Act*
3 *of 1958 (15 U.S.C. 683(d)) is amended to read as fol-*
4 *lows:*

5 “(d) *INVESTMENTS IN SMALLER ENTERPRISES.*—*The*
6 *Administrator shall require each licensee, as a condition of*
7 *approval of an application for leverage, to certify in writ-*
8 *ing that not less than 25 percent of the aggregate dollar*
9 *amount of financings of that licensee shall be provided to*
10 *smaller enterprises.”.*

11 (3) *MAXIMUM INVESTMENT IN A COMPANY.*—*Sec-*
12 *tion 306(a) of the Small Business Investment Act of*
13 *1958 (15 U.S.C. 686(a)) is amended by striking “20*
14 *per centum” and inserting “30 percent”.*

15 (c) *MAXIMUM 504 LOAN SIZE.*—*Section 502(2)(A) of*
16 *the Small Business Investment Act of 1958 (15 U.S.C.*
17 *696(2)(A)) is amended—*

18 (1) *in clause (i), by striking “\$1,500,000” and*
19 *inserting “\$3,000,000”;*

20 (2) *in clause (ii), by striking “\$2,000,000” and*
21 *inserting “\$3,500,000”; and*

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

1 *SEC. 503. LOW-INTEREST REFINANCING. Section 502*
2 *of the Small Business Investment Act of 1958 (15 U.S.C.*
3 *696) is amended by adding at the end the following:*

4 “(7) *PERMISSIBLE DEBT FINANCING.—A financ-*
5 *ing under this title may include refinancing of exist-*
6 *ing indebtedness, in an amount not to exceed 50 per-*
7 *cent of the projected cost of the project financed under*
8 *this title, if—*

9 “(A) *the project financed under this title in-*
10 *volves the expansion of a small business concern;*

11 “(B) *the existing indebtedness is*
12 *collateralized by fixed assets;*

13 “(C) *the existing indebtedness was incurred*
14 *for the benefit of the small business concern;*

15 “(D) *the proceeds of the existing indebted-*
16 *ness were used to acquire land (including a*
17 *building situated thereon), to construct or ex-*
18 *pend a building thereon, or to purchase equip-*
19 *ment;*

20 “(E) *the borrower has been current on all*
21 *payments due on the existing indebtedness for*
22 *not less than 1 year preceding the proposed date*
23 *of refinancing;*

24 “(F) *the financing under this title will pro-*
25 *vide better terms or a better rate of interest than*

1 *exists on the existing indebtedness on the pro-*
2 *posed date of refinancing;*

3 *“(G) the financing under this title is not*
4 *being used to refinance any debt guaranteed by*
5 *the Government; and*

6 *“(H) the financing under this title will be*
7 *used only for—*

8 *“(i) refinancing existing indebtedness;*

9 *or*

10 *“(ii) costs relating to the project fi-*
11 *nanced under this title.”.*

12 *SEC. 504. DEFINITIONS. Under the heading “Small*
13 *Business Administration” in this title—*

14 (1) *the terms “Administration” and “Adminis-*
15 *trator” mean the Small Business Administration and*
16 *the Administrator thereof, respectively;*

17 (2) *the term “development company” has the*
18 *meaning given the term “development companies” in*
19 *section 103 of the Small Business Investment Act of*
20 *1958 (15 U.S.C. 662); and*

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

1 **SEC. 505. SURETY BONDS.**

2 (a) *MAXIMUM BOND AMOUNT.*—Section 411(a)(1) of
3 the Small Business Investment Act of 1958 (15 U.S.C.
4 694b(a)(1)) is amended—

5 (1) by inserting “(A)” after “(1)”;

6 (2) by striking “\$2,000,000” and inserting
7 “\$5,000,000”; and

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

9 “(B) The Administrator may guarantee a surety under
10 subparagraph (A) for a total work order or contract amount
11 that does not exceed \$10,000,000, if a contracting officer
12 of a Federal agency certifies that such a guarantee is nec-
13 essary.”.

14 (b) *SIZE STANDARDS.*—Section 410 of the Small Busi-
15 ness Investment Act of 1958 (15 U.S.C. 694a) is amended
16 by adding at the end the following:

17 “(9) Notwithstanding any other provision of law
18 or any rule, regulation, or order of the Administra-
19 tion, for purposes of sections 410, 411, and 412 the
20 term ‘small business concern’ means a business con-
21 cern that meets the size standard for the primary in-
22 dustry in which such business concern, and the affili-
23 ates of such business concern, is engaged, as deter-
24 mined by the Administrator in accordance with the
25 North American Industry Classification System.”.

1 *after the date of enactment of this Act, the Secretary of*
2 *Homeland Security shall submit to the Committees on Ap-*
3 *propriations of the Senate and the House of Representatives*
4 *a plan for expenditure of these funds.*

5 *CONSTRUCTION*

6 *For an additional amount for “Construction”,*
7 *\$800,000,000, to remain available until expended, solely for*
8 *planning, management, design, alteration, and construc-*
9 *tion of U.S. Customs and Border Protection owned land*
10 *border ports of entry: Provided, That no later than 45 days*
11 *after the date of enactment of this Act, the Secretary of*
12 *Homeland Security shall submit to the Committees on Ap-*
13 *propriations of the Senate and the House of Representatives*
14 *a plan for expenditure of these funds.*

15 *U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT*

16 *AUTOMATION MODERNIZATION*

17 *For an additional amount for “Automation Mod-*
18 *ernization”, \$27,800,000, to remain available until Sep-*
19 *tember 30, 2010, for the procurement and deployment of*
20 *tactical communications equipment and radios: Provided,*
21 *That no later than 45 days after the date of enactment of*
22 *this Act, the Secretary of Homeland Security shall submit*
23 *to the Committees on Appropriations of the Senate and the*
24 *House of Representatives a plan for expenditure of these*
25 *funds.*

1 *TRANSPORTATION SECURITY ADMINISTRATION*2 *AVIATION SECURITY*

3 *For an additional amount for “Aviation Security”,*
4 *\$1,000,000,000, to remain available until September 30,*
5 *2010, for procurement and installation of checked baggage*
6 *explosives detection systems and checkpoint explosives detec-*
7 *tion equipment: Provided, That no later than 45 days after*
8 *the date of enactment of this Act, the Secretary of Homeland*
9 *Security shall submit to the Committees on Appropriations*
10 *of the Senate and the House of Representatives a plan for*
11 *the expenditure of these funds.*

12 *COAST GUARD*13 *ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS*

14 *For an additional amount for “Acquisition, Construc-*
15 *tion, and Improvements”, \$450,000,000, to remain avail-*
16 *able until September 30, 2010, of which \$195,000,000 shall*
17 *be for shore facilities and aids to navigation facilities; and*
18 *of which \$255,000,000 shall be for priority procurements*
19 *due to materials and labor cost increases, and to repair,*
20 *renovate, assess, or improve vessels: Provided, That amounts*
21 *made available for the activities under this heading shall*
22 *be available for all necessary expenses related to the over-*
23 *sight and management of such activities: Provided further,*
24 *That no later than 45 days after the date of enactment of*
25 *this Act, the Secretary of Homeland Security shall submit*

1 *to the Committees on Appropriations of the Senate and the*
2 *House of Representatives a plan for the expenditure of these*
3 *funds.*

4 *ALTERATION OF BRIDGES*

5 *For an additional amount for “Alteration of Bridges”,*
6 *\$240,400,000, to remain available until September 30,*
7 *2010, for alteration or removal of obstructive bridges, as*
8 *authorized by section 6 of the Truman-Hobbs Act (33*
9 *U.S.C. 516): Provided, That no later than 45 days after*
10 *the date of enactment of this Act, the Secretary of Homeland*
11 *Security shall submit to the Committees on Appropriations*
12 *of the Senate and the House of Representatives a plan for*
13 *the expenditure of these funds.*

14 *FEDERAL EMERGENCY MANAGEMENT AGENCY*

15 *MANAGEMENT AND ADMINISTRATION*

16 *For an additional amount for “Management and Ad-*
17 *ministration”, \$6,000,000 for the acquisition of commu-*
18 *nications response vehicles to be deployed in response to a*
19 *disaster or a national security event.*

20 *STATE AND LOCAL PROGRAMS*

21 *For an additional amount for grants, \$950,000,000,*
22 *to be allocated as follows:*

23 *(1) \$100,000,000, to remain available until Sep-*
24 *tember 30, 2010, for Public Transportation Security*
25 *Assistance, Railroad Security Assistance, and Sys-*

1 *temwide Amtrak Security Upgrades under sections*
2 *1406, 1513, and 1514 of the Implementing Rec-*
3 *ommendations of the 9/11 Commission Act of 2007*
4 *(Public Law 110–53; 6 U.S.C. 1135, 1163, and 1164).*

5 (2) \$100,000,000, to remain available until Sep-
6 *tember 30, 2010, for Port Security Grants in accord-*
7 *ance with 46 U.S.C. 70107, notwithstanding 46*
8 *U.S.C. 70107(c).*

9 (3) \$250,000,000, to remain available until Sep-
10 *tember 30, 2010, for upgrading, modifying, or con-*
11 *structing emergency operations centers under section*
12 *614 of the Robert T. Stafford Disaster Relief and*
13 *Emergency Assistance Act, notwithstanding section*
14 *614(c) of that Act or for upgrading, modifying, or*
15 *constructing State and local fusion centers as defined*
16 *by section 210A(j)(1) of the Homeland Security Act*
17 *of 2002 (6 U.S.C. 124h(j)(1)).*

18 (4) \$500,000,000 for construction to upgrade or
19 *modify critical infrastructure, as defined in section*
20 *1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C.*
21 *5195c(e)), to mitigate consequences related to poten-*
22 *tial damage from all-hazards: Provided, That funds*
23 *in this paragraph shall remain available until Sep-*
24 *tember 30, 2011: Provided further, That 5 percent*
25 *shall be for program administration: Provided fur-*

1 *ther, That no later than 60 days after the date of en-*
2 *actment of this Act, the Secretary of Homeland Secu-*
3 *rity shall submit to the Committees on Appropria-*
4 *tions of the Senate and the House of Representatives*
5 *a plan for expenditure of these funds.*

6 *FIREFIGHTER ASSISTANCE GRANTS*

7 *For an additional amount for competitive grants,*
8 *\$500,000,000, to remain available until September 30,*
9 *2010, for modifying, upgrading, or constructing State and*
10 *local fire stations: Provided, That up to 5 percent shall be*
11 *for program administration: Provided further, That no*
12 *grant shall exceed \$15,000,000.*

13 *DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT*

14 *Notwithstanding section 417(b) of the Robert T. Staf-*
15 *ford Disaster Relief and Emergency Assistance Act, the*
16 *amount of any such loan issued pursuant to this section*
17 *for major disasters occurring in calendar year 2008 may*
18 *exceed \$5,000,000, and may be equal to not more than 50*
19 *percent of the annual operating budget of the local govern-*
20 *ment in any case in which that local government has suf-*
21 *fered a loss of 25 percent or more in tax revenues: Provided,*
22 *That the cost of modifying such loans shall be as defined*
23 *in section 502 of the Congressional Budget Act of 1974 (2*
24 *U.S.C. 661a).*

1 *EMERGENCY FOOD AND SHELTER*

2 *For an additional amount to carry out the emergency*
3 *food and shelter program pursuant to title III of the McKin-*
4 *ney-Vento Homeless Assistance Act (42 U.S.C. 11331 et*
5 *seq.), \$100,000,000: Provided, That total administrative*
6 *costs shall not exceed 3.5 percent of the total amount made*
7 *available under this heading.*

8 *FEDERAL LAW ENFORCEMENT TRAINING CENTER*9 *ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND*10 *RELATED EXPENSES*

11 *For an additional amount for “Acquisition, Construc-*
12 *tion, Improvements, and Related Expenses”, \$15,000,000,*
13 *to remain available until September 30, 2010, for security*
14 *systems and law enforcement upgrades for all Federal Law*
15 *Enforcement Training Center facilities: Provided, That no*
16 *later than 45 days after the date of enactment of this Act,*
17 *the Secretary of Homeland Security shall submit to the*
18 *Committees on Appropriations of the Senate and the House*
19 *of Representatives a plan for the expenditure of these funds.*

20 *GENERAL PROVISIONS—THIS TITLE*

21 *SEC. 601. Notwithstanding any other provision of law,*
22 *the President shall establish an arbitration panel under the*
23 *Federal Emergency Management Agency public assistance*
24 *program to expedite the recovery efforts from Hurricanes*
25 *Katrina, Rita, Gustav, and Ike within the Gulf Coast Re-*

1 gion. The arbitration panel shall have sufficient authority
2 regarding the award or denial of disputed public assistance
3 applications for covered hurricane damage under section
4 403, 406, or 407 of the Robert T. Stafford Disaster Relief
5 and Emergency Assistance Act (42 U.S.C. 5170b, 5172, or
6 5173) for a project the total amount of which is more than
7 \$500,000.

8 SEC. 602. The Administrator of the Federal Emer-
9 gency Management Agency may not prohibit or restrict the
10 use of funds designated under the hazard mitigation grant
11 program for damage caused by Hurricanes Katrina and
12 Rita if the homeowner who is an applicant for assistance
13 under such program commenced work otherwise eligible for
14 hazard mitigation grant program assistance under section
15 404 of the Robert T. Stafford Disaster Relief and Emer-
16 gency Assistance Act (42 U.S.C. 5170c) without approval
17 in writing from the Administrator.

18 **TITLE VII—INTERIOR, ENVIRONMENT, AND**

19 **RELATED AGENCIES**

20 **DEPARTMENT OF THE INTERIOR**

21 **BUREAU OF LAND MANAGEMENT**

22 **MANAGEMENT OF LANDS AND RESOURCES**

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

1 *DEPARTMENTAL OFFICES*2 *INSULAR AFFAIRS*3 *ASSISTANCE TO TERRITORIES*

4 *For an additional amount for “Assistance to Terri-*
5 *ories”, \$62,000,000, to remain available until September*
6 *30, 2010.*

7 *OFFICE OF INSPECTOR GENERAL*8 *SALARIES AND EXPENSES*

9 *For an additional amount for “Office of Inspector*
10 *General”, \$7,600,000, to remain available until September*
11 *30, 2011, and an additional \$7,400,000 for such purposes,*
12 *to remain available until September 30, 2011.*

13 *DEPARTMENT-WIDE PROGRAMS*14 *CENTRAL HAZARDOUS MATERIALS FUND*

15 *For an additional amount for “Central Hazardous*
16 *Materials Fund”, \$20,000,000, to remain available until*
17 *September 30, 2010.*

18 *ENVIROMENTAL PROTECTION AGENCY*19 *HAZARDOUS SUBSTANCE SUPERFUND*20 *(INCLUDING TRANSFERS OF FUNDS)*

21 *For an additional amount for “Hazardous Substance*
22 *Superfund”, \$600,000,000, to remain available until Sep-*
23 *tember 30, 2010, as a payment from general revenues to*
24 *the Hazardous Substance Superfund, to carry out remedial*
25 *actions: Provided, That the Administrator may retain up*

1 *to 2 percent of the funds appropriated herein for Superfund*
2 *remedial actions for program oversight and support pur-*
3 *poses, and may transfer those funds to other accounts as*
4 *needed.*

5 *LEAKING UNDERGROUND STORAGE TANK TRUST FUND*
6 *PROGRAM*

7 *For an additional amount for “Leaking Underground*
8 *Storage Tank Trust Fund Program”, \$200,000,000, to re-*
9 *main available until September 30, 2010, for cleanup ac-*
10 *tivities: Provided, That none of these funds shall be subject*
11 *to cost share requirements.*

12 *STATE AND TRIBAL ASSISTANCE GRANTS*
13 *(INCLUDING TRANSFERS OF FUNDS)*

14 *For an additional amount for “State and Tribal As-*
15 *sistance Grants”, \$6,400,000,000, to remain available until*
16 *September 30, 2010, of which \$4,000,000,000 shall be for*
17 *making capitalization grants for the Clean Water State Re-*
18 *volving Funds under title VI of the Federal Water Pollution*
19 *Control Act, as amended; of which \$2,000,000,000 shall be*
20 *for making capitalization grants for the Drinking Water*
21 *State Revolving Fund under section 1452 of the Safe Drink-*
22 *ing Water Act, as amended; of which \$100,000,000 shall*
23 *be available for Brownfields remediation grants pursuant*
24 *to section 104(k)(3) of the Comprehensive Environmental*
25 *Response, Compensation and Liability Act of 1980, as*

1 amended; and of which \$300,000,000 shall be for Diesel
2 Emission Reduction Act grants pursuant to title VII, sub-
3 title G of the Energy Policy Act of 2005, as amended: Pro-
4 vided, That notwithstanding the priority ranking they
5 would otherwise receive under each program, priority for
6 funds appropriated herein for the Clean Water State Re-
7 volving Funds and Drinking Water State Revolving Funds
8 (Revolving Funds) shall be allocated to projects that are
9 ready to proceed to construction within 180 days of enact-
10 ment of this Act: Provided further, That the Administrator
11 of the Environmental Protection Agency (Administrator)
12 may reallocate funds appropriated herein for the Revolving
13 Funds that are not under binding commitments to proceed
14 to construction within 180 days of enactment of this Act:
15 Provided further, That notwithstanding any other provision
16 of law, financial assistance provided from funds appro-
17 priated herein for the Revolving Funds may include addi-
18 tional subsidization, including forgiveness of principal and
19 negative interest loans: Provided further, That not less than
20 15 percent of the funds appropriated herein for the Revolv-
21 ing Funds shall be designated for green infrastructure,
22 water efficiency improvements or other environmentally in-
23 novative projects: Provided further, That notwithstanding
24 the limitation on amounts specified in section 518(c) of the
25 Federal Water Pollution Control Act, up to a total of 1.5

1 *percent of the funds appropriated herein for the Clean*
2 *Water State Revolving Funds may be reserved by the Ad-*
3 *ministrator for tribal grants under section 518(c) of such*
4 *Act: Provided further, That section 1452(k) of the Safe*
5 *Drinking Water Act shall not apply to amounts appro-*
6 *priated herein for the Drinking Water State Revolving*
7 *Funds: Provided further, That the Administrator may ex-*
8 *ceed the 30 percent limitation on State grants for funds*
9 *appropriated herein for Diesel Emission Reduction Act*
10 *grants if the Administrator determines such action will ex-*
11 *pedite allocation of funds: Provided further, That none of*
12 *the funds appropriated herein shall be subject to cost share*
13 *requirements: Provided further, That the Administrator*
14 *may retain up to 0.25 percent of the funds appropriated*
15 *herein for the Clean Water State Revolving Funds and*
16 *Drinking Water State Revolving Funds and up to 1.5 per-*
17 *cent of the funds appropriated herein for the Diesel Emis-*
18 *sion Reduction Act grants program for program oversight*
19 *and support purposes and may transfer those funds to other*
20 *accounts as needed.*

21 *DEPARTMENT OF AGRICULTURE*

22 *FOREST SERVICE*

23 *CAPITAL IMPROVEMENT AND MAINTENANCE*

24 *For an additional amount for “Capital Improvement*
25 *and Maintenance”, \$650,000,000, to remain available until*

1 *September 30, 2010, which shall include remediation of*
2 *abandoned mine sites and support costs necessary to carry*
3 *out this work.*

4 *WILDLAND FIRE MANAGEMENT*

5 *For an additional amount for “Wildland Fire Man-*
6 *agement”, \$485,000,000, to remain available until Sep-*
7 *tember 30, 2010, for hazardous fuels reduction and hazard*
8 *mitigation activities in areas at high risk of catastrophic*
9 *wildfire, of which \$260,000,000 is available for work on*
10 *State and private lands using all the authorities available*
11 *to the Forest Service: Provided, That of the funds provided*
12 *for State and private land fuels reduction activities, up to*
13 *\$50,000,000 may be used to make grants for the purpose*
14 *of creating incentives for increased use of biomass from na-*
15 *tional forest lands.*

16 *DEPARTMENT OF HEALTH AND HUMAN*
17 *SERVICES*

18 *INDIAN HEALTH SERVICE*

19 *INDIAN HEALTH SERVICES*

20 *For an additional amount for “Indian Health Serv-*
21 *ices”, \$135,000,000, to remain available until September*
22 *30, 2010, of which \$50,000,000 is for contract health serv-*
23 *ices; and of which \$85,000,000 is for health information*
24 *technology: Provided, That the amount made available for*
25 *health information technology activities may be used for*

1 *both telehealth services development and related infrastruc-*
2 *ture requirements that are typically funded through the*
3 *“Indian Health Facilities” account: Provided further, That*
4 *notwithstanding any other provision of law, health infor-*
5 *mation technology funds provided within this title shall be*
6 *allocated at the discretion of the Director of the Indian*
7 *Health Service.*

8 *INDIAN HEALTH FACILITIES*

9 *For an additional amount for “Indian Health Facili-*
10 *ties”, \$410,000,000, to remain available until September*
11 *30, 2010: Provided, That for the purposes of this Act, spend-*
12 *ing caps included within the annual appropriation for “In-*
13 *dian Health Facilities” for the purchase of medical equip-*
14 *ment shall not apply.*

15 *SMITHSONIAN INSTITUTION*

16 *FACILITIES CAPITAL*

17 *For an additional amount for “Facilities Capital”,*
18 *\$75,000,000, to remain available until September 30, 2010.*

19 *GENERAL PROVISIONS—THIS TITLE*

20 *SEC. 701. (a) Within 30 days of enactment of this Act,*
21 *each agency receiving funds under this title shall submit*
22 *a general plan for the expenditure of such funds to the*
23 *House and Senate Committees on Appropriations.*

24 *(b) Within 90 days of enactment of this Act, each agen-*
25 *cy receiving funds under this title shall submit to the Com-*

1 *mittees a report containing detailed project level informa-*
2 *tion associated with the general plan submitted pursuant*
3 *to subsection (a).*

4 *SEC. 702. In carrying out the work for which funds*
5 *in this title are being made available, the Secretary of the*
6 *Interior and the Secretary of Agriculture may utilize the*
7 *Public Lands Corps, Youth Conservation Corps, Job Corps*
8 *and other related partnerships with Federal, State, local,*
9 *tribal or non-profit groups that serve young adults.*

10 *TITLE VIII—DEPARTMENTS OF LABOR, HEALTH*

11 *AND HUMAN SERVICES, AND EDUCATION,*

12 *AND RELATED AGENCIES*

13 *DEPARTMENT OF LABOR*

14 *EMPLOYMENT AND TRAINING ADMINISTRATION*

15 *TRAINING AND EMPLOYMENT SERVICES*

16 *For an additional amount for “Training and Employ-*
17 *ment Services” for activities authorized by the Workforce*
18 *Investment Act of 1998 (“WIA”), \$3,250,000,000, which*
19 *shall be available on the date of enactment of this Act, as*
20 *follows:*

21 *(1) \$500,000,000 for adult employment and*
22 *training activities, including supportive services and*
23 *needs-related payments described in section 134(e)(2)*
24 *and (3) of the WIA: Provided, That a priority use of*

1 *these funds shall be services to individuals described*
2 *in 134(d)(4)(E) of the WIA;*

3 *(2) \$1,200,000,000 for grants to the States for*
4 *youth activities, including summer employment for*
5 *youth: Provided, That no portion of such funds shall*
6 *be reserved to carry out section 127(b)(1)(A) of the*
7 *WIA: Provided further, That for purposes of section*
8 *127(b)(1)(C)(iv) of the WIA, funds available for youth*
9 *activities shall be allotted as if the total amount*
10 *available for youth activities in the fiscal year does*
11 *not exceed \$1,000,000,000: Provided further, That,*
12 *with respect to the youth activities provided with such*
13 *funds, section 101(13)(A) of the WIA shall be applied*
14 *by substituting “age 24” for “age 21”: Provided fur-*
15 *ther, That the work readiness performance indicator*
16 *described in section 136(b)(2)(A)(ii)(I) of the WIA*
17 *shall be the only measure of performance used to as-*
18 *sess the effectiveness of youth activities provided with*
19 *such funds;*

20 *(3) \$1,000,000,000 for grants to the States for*
21 *dislocated worker employment and training activities;*

22 *(4) \$200,000,000 for national emergency grants;*

23 *(5) \$250,000,000 under the dislocated worker na-*
24 *tional reserve for a program of competitive grants for*
25 *worker training in high growth and emerging indus-*

1 *try sectors and assistance under 132(b)(2)(A) of the*
2 *WIA: Provided, That the Secretary of Labor shall give*
3 *priority when awarding such grants to projects that*
4 *prepare workers for careers in energy efficiency and*
5 *renewable energy as described in section 171(e)(1)(B)*
6 *of the WIA and for careers in the health care sector;*
7 *and*

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

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

23 *COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS*

24 *For an additional amount for “Community Service*
25 *Employment for Older Americans” for carrying out title*

1 *V of the Older Americans Act of 1965, \$120,000,000, which*
2 *shall be available on the date of enactment of this Act and*
3 *shall remain available through June 30, 2010: Provided,*
4 *That funds shall be allotted within 30 days of such enact-*
5 *ment to current grantees in proportion to their allotment*
6 *in program year 2008: Provided further, That funds made*
7 *available under this heading in this Act may, in accordance*
8 *with section 517(c) of the Older Americans Act of 1965, be*
9 *recaptured and reobligated.*

10 *STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT*

11 *SERVICE OPERATIONS*

12 *For an additional amount for “State Unemployment*
13 *Insurance and Employment Service Operations” for grants*
14 *to States in accordance with section 6 of the Wagner-Peyser*
15 *Act, \$400,000,000, which may be expended from the Em-*
16 *ployment Security Administration account in the Unem-*
17 *ployment Trust Fund: Provided, That such funds shall be*
18 *available on the date of enactment of this Act and remain*
19 *available to the States through September 30, 2010: Pro-*
20 *vided further, That \$250,000,000 of such funds shall be used*
21 *by States for reemployment services for unemployment in-*
22 *surance claimants (including the integrated Employment*
23 *Service and Unemployment Insurance information tech-*
24 *nology required to identify and serve the needs of such*
25 *claimants): Provided further, That the Secretary of Labor*

1 *shall establish planning and reporting procedures necessary*
2 *to provide oversight of funds used for reemployment serv-*
3 *ices.*

4 *DEPARTMENTAL MANAGEMENT*

5 *OFFICE OF JOB CORPS*

6 *For an additional amount for “Office of Job Corps”*
7 *for construction, alteration and repairs of buildings and*
8 *other facilities, \$160,000,000, which shall remain available*
9 *through June 30, 2010: Provided, That the Secretary of*
10 *Labor may transfer up to 15 percent of such funds to meet*
11 *the operational needs of Job Corps Centers, which may in-*
12 *clude training for careers in the energy efficiency, renewable*
13 *energy, and environmental protection industries: Provided*
14 *further, That not later than 90 days after the date of enact-*
15 *ment of this Act, the Secretary shall provide to the Com-*
16 *mittee on Appropriations of the House of Representatives*
17 *and the Senate an operating plan describing the planned*
18 *uses of funds available in this paragraph.*

19 *OFFICE OF INSPECTOR GENERAL*

20 *For an additional amount for the “Office of Inspector*
21 *General”, \$3,000,000, which shall remain available through*
22 *September 30, 2011, for salaries and expenses necessary for*
23 *oversight and audit of programs, grants, and projects fund-*
24 *ed in this Act and administered by the Department of*
25 *Labor.*

1 *Control and Prevention may award a single contract or re-*
2 *lated contracts for development and construction of facili-*
3 *ties that collectively include the full scope of the project:*
4 *Provided further, That the solicitation and contract shall*
5 *contain the clause “availability of funds” found at 48 CFR*
6 *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 available*
11 *through September 30, 2010, for shared instrumentation*
12 *and other capital research equipment.*

13 *OFFICE OF THE DIRECTOR*

14 *(INCLUDING TRANSFER OF FUNDS)*

15 *For an additional amount for “Office of the Director”,*
16 *\$2,700,000,000, which shall be available through September*
17 *30, 2010: Provided, That \$1,350,000,000 shall be trans-*
18 *ferred to the Institutes and Centers of the National Insti-*
19 *tutes of Health and to the Common Fund established under*
20 *section 402A(c)(1) of the Public Health Service Act in pro-*
21 *portion to the appropriations otherwise made to such Insti-*
22 *tutes, Centers, and Common Fund for fiscal year 2009: Pro-*
23 *vided further, That these funds shall be used to support ad-*
24 *ditional scientific research and shall be merged with and*
25 *be available for the same purposes as the appropriation or*

1 *fund to which transferred: Provided further, That this*
2 *transfer authority is in addition to any other transfer au-*
3 *thority available to the National Institutes of Health: Pro-*
4 *vided further, That none of these funds may be transferred*
5 *to “National Institutes of Health—Buildings and Facili-*
6 *ties”, the Center for Scientific Review, the Center for Infor-*
7 *mation Technology, the Clinical Center, the Global Fund*
8 *for HIV/AIDS, Tuberculosis and Malaria, or the Office of*
9 *the Director (except for the transfer to the Common Fund).*

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

20 *BUILDINGS AND FACILITIES*

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

1 *facilities on the Bethesda, Maryland campus and other*
2 *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 Security*
9 *Act, and section 1013 of the Medicare Prescription Drug,*
10 *Improvement, and Modernization Act of 2003,*
11 *\$700,000,000 for comparative clinical effectiveness research,*
12 *which shall remain available through September 30, 2010:*
13 *Provided, That of the amount appropriated in this para-*
14 *graph, \$400,000,000 shall be transferred to the Office of the*
15 *Director of the National Institutes of Health (“Office of the*
16 *Director”)* *to conduct or support comparative clinical effec-*
17 *tiveness research under section 301 and title IV of the Pub-*
18 *lic Health Service Act: Provided further, That funds trans-*
19 *ferred to the Office of the Director may be transferred to*
20 *the Institutes and Centers of the National Institutes of*
21 *Health and to the Common Fund established under section*
22 *402A(c)(1) of the Public Health Service Act: Provided fur-*
23 *ther, That this transfer authority is in addition to any*
24 *other transfer authority available to the National Institutes*
25 *of Health: Provided further, That within the amount avail-*

1 *able in this paragraph for the Agency for Healthcare Re-*
2 *search and Quality, not more than 1 percent shall be made*
3 *available for additional full-time equivalents.*

4 *In addition, \$400,000,000 shall be available for com-*
5 *parative clinical effectiveness research to be allocated at the*
6 *discretion of the Secretary of Health and Human Services*
7 *(“Secretary”) and shall remain available through Sep-*
8 *tember 30, 2010: Provided, That the funding appropriated*
9 *in this paragraph shall be used to accelerate the develop-*
10 *ment and dissemination of research assessing the compara-*
11 *tive clinical effectiveness of health care treatments and*
12 *strategies, including through efforts that: (1) conduct, sup-*
13 *port, or synthesize research that compares the clinical out-*
14 *comes, effectiveness, and appropriateness of items, services,*
15 *and procedures that are used to prevent, diagnose, or treat*
16 *diseases, disorders, and other health conditions and (2) en-*
17 *courage the development and use of clinical registries, clin-*
18 *ical data networks, and other forms of electronic health data*
19 *that can be used to generate or obtain outcomes data: Pro-*
20 *vided further, That the Secretary shall enter into a contract*
21 *with the Institute of Medicine, for which no more than*
22 *\$1,500,000 shall be made available from funds provided in*
23 *this paragraph, to produce and submit a report to the Con-*
24 *gress and the Secretary by not later than June 30, 2009*
25 *that includes recommendations on the national priorities*

1 *for comparative clinical effectiveness research to be con-*
2 *ducted or supported with the funds provided in this para-*
3 *graph and that considers input from stakeholders: Provided*
4 *further, That the Secretary shall consider any recommenda-*
5 *tions of the Federal Coordinating Council for Comparative*
6 *Clinical Effectiveness Research established by section 802*
7 *of this Act and any recommendations included in the Insti-*
8 *tute of Medicine report pursuant to the preceding proviso*
9 *in designating activities to receive funds provided in this*
10 *paragraph and may make grants and contracts with appro-*
11 *priate entities, which may include agencies within the De-*
12 *partment of Health and Human Services and other govern-*
13 *mental agencies, as well as private sector entities, that have*
14 *demonstrated experience and capacity to achieve the goals*
15 *of comparative clinical effectiveness research: Provided fur-*
16 *ther, That the Secretary shall publish information on grants*
17 *and contracts awarded with the funds provided under this*
18 *heading within a reasonable time of the obligation of funds*
19 *for such grants and contracts and shall disseminate re-*
20 *search findings from such grants and contracts to clini-*
21 *cians, patients, and the general public, as appropriate: Pro-*
22 *vided further, That, to the extent feasible, the Secretary*
23 *shall ensure that the recipients of the funds provided by this*
24 *paragraph offer an opportunity for public comment on the*
25 *research: Provided further, That the Secretary shall provide*

1 *the Committees on Appropriations of the House of Rep-*
2 *resentatives and the Senate, the Committee on Energy and*
3 *Commerce and the Committee on Ways and Means of the*
4 *House of Representatives, and the Committee on Health,*
5 *Education, Labor, and Pensions and the Committee on Fi-*
6 *nance of the Senate with an annual report on the research*
7 *conducted or supported through the funds provided under*
8 *this heading.*

9 *ADMINISTRATION FOR CHILDREN AND FAMILIES*
10 *PAYMENTS TO STATES FOR THE CHILD CARE AND*
11 *DEVELOPMENT BLOCK GRANT*

12 *For an additional amount for “Payments to States for*
13 *the Child Care and Development Block Grant” for carrying*
14 *out the Child Care and Development Block Grant Act of*
15 *1990, \$2,000,000,000, which shall remain available through*
16 *September 30, 2010: Provided, That funds provided under*
17 *this heading shall be used to supplement, not supplant State*
18 *general revenue funds for child care assistance for low-in-*
19 *come families: Provided further, That, in addition to the*
20 *amounts required to be reserved by the States under section*
21 *658G of such Act, \$255,186,000 shall be reserved by the*
22 *States for activities authorized under section 658G, of which*
23 *\$93,587,000 shall be for activities that improve the quality*
24 *of infant and toddler care.*

1 *Grant Act, \$200,000,000, which shall remain available*
2 *through September 30, 2010: Provided, That of the funds*
3 *provided under this paragraph, no part shall be subject to*
4 *paragraph (3) of section 674(b) of such Act: Provided fur-*
5 *ther, That not less than 5 percent of the funds allotted to*
6 *a State from the appropriation under this paragraph shall*
7 *be used under section 675C(b)(1) for benefits enrollment co-*
8 *ordination activities relating to the identification and en-*
9 *rollment of eligible individuals and families in Federal,*
10 *State and local benefit programs.*

11 *ADMINISTRATION ON AGING*

12 *AGING SERVICES PROGRAMS*

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

18 *OFFICE OF THE SECRETARY*

19 *OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH*

20 *INFORMATION TECHNOLOGY*

21 *(INCLUDING TRANSFER OF FUNDS)*

22 *For an additional amount for “Office of the National*
23 *Coordinator for Health Information Technology”,*
24 *\$3,000,000,000, to carry out title XIII of this Act which*
25 *shall be available until expended: Provided, That of this*

1 *amount, the Secretary of Health and Human Services shall*
2 *transfer \$20,000,000 to the Director of the National Insti-*
3 *tute of Standards and Technology in the Department of*
4 *Commerce for continued work on advancing health care in-*
5 *formation enterprise integration through activities such as*
6 *technical standards analysis and establishment of conform-*
7 *ance testing infrastructure so long as such activities are co-*
8 *ordinated with the Office of the National Coordinator for*
9 *Health Information Technology: Provided further, That*
10 *funds available under this heading shall become available*
11 *for obligation only upon submission of an annual operating*
12 *plan by the Secretary to the Committees on Appropriations*
13 *of the House of Representatives and the Senate: Provided*
14 *further, That the Secretary shall provide to the Committees*
15 *on Appropriations of the House of Representatives and the*
16 *Senate a report on the actual obligations, expenditures, and*
17 *unobligated balances for each major set of activities not*
18 *later than November 1, 2009 and every 6 months thereafter*
19 *as long as funding under this heading is available for obli-*
20 *gation or expenditure.*

21 *OFFICE OF THE INSPECTOR GENERAL*

22 *For an additional amount for the Office of the Inspec-*
23 *tor General, \$4,000,000 which shall remain available until*
24 *September 30, 2012, and an additional \$15,000,000 for*

1 *such purposes, to remain available until September 30,*
2 *2012.*

3 *DEPARTMENT OF EDUCATION*

4 *EDUCATION FOR THE DISADVANTAGED*

5 *For an additional amount for carrying out title I of*
6 *the Elementary and Secondary Education Act of 1965,*
7 *\$12,400,000,000, which shall be available through Sep-*
8 *tember 30, 2010: Provided, That \$5,500,000,000 shall be for*
9 *targeted grants under section 1125, \$5,500,000,000 shall be*
10 *for education finance incentive grants under section 1125A,*
11 *and \$1,400,000,000 shall be for school improvement grants*
12 *under section 1003(g): Provided further, That each local*
13 *educational agency receiving funds available under this*
14 *paragraph for sections 1125 and 1125A shall use not less*
15 *than 15 percent of such funds for activities serving children*
16 *who are eligible pursuant to section 1115(b)(1)(A)(ii) and*
17 *programs in section 1112(b)(1)(K): Provided further, That*
18 *each local educational agency receiving funds available*
19 *under this paragraph shall be required to file with the State*
20 *educational agency, no later than December 1, 2009, a*
21 *school-by-school listing of per-pupil educational expendi-*
22 *tures from State and local sources during the 2008–2009*
23 *academic year.*

1 *SCHOOL IMPROVEMENT PROGRAMS*

2 *For an additional amount for “School Improvement*
3 *Programs,” \$1,070,000,000, which shall be available*
4 *through September 30, 2010, for carrying out activities au-*
5 *thorized by part D of title II of the Elementary and Sec-*
6 *ondary Education Act of 1965, and subtitle B of title VII*
7 *of the McKinney-Vento Homeless Assistance Act (“McKin-*
8 *ney-Vento”): Provided, That the Secretary shall allot*
9 *\$70,000,000 for grants under McKinney-Vento to each State*
10 *in proportion to the number of homeless students identified*
11 *by the State during the 2007–2008 school year relative to*
12 *the number of such children identified nationally during*
13 *that school year: Provided further, That State educational*
14 *agencies shall subgrant the McKinney-Vento funds to local*
15 *educational agencies on a competitive basis or according*
16 *to a formula based on the number of homeless students iden-*
17 *tified by the local educational agencies in the State: Pro-*
18 *vided further, That the Secretary shall distribute the*
19 *McKinney-Vento funds to the States not later than 60 days*
20 *after the date of the enactment of this Act: Provided further,*
21 *That each State shall subgrant the McKinney-Vento funds*
22 *to local educational agencies not later than 120 days after*
23 *receiving its grant from the Secretary.*

1 *REHABILITATION SERVICES AND DISABILITY RESEARCH*

2 *For an additional amount for “Rehabilitation Services*
3 *and Disability Research” for providing grants to States to*
4 *carry out the Vocational Rehabilitation Services program*
5 *under part B of title I and parts B and C of chapter 1*
6 *and chapter 2 of title VII of the Rehabilitation Act of 1973,*
7 *\$610,000,000, which shall remain available through Sep-*
8 *tember 30, 2010: Provided, That \$500,000,000 shall be*
9 *available for part B of title I of the Rehabilitation Act: Pro-*
10 *vided further, That funds provided herein shall not be con-*
11 *sidered in determining the amount required to be appro-*
12 *priated under section 100(b)(1) of the Rehabilitation Act*
13 *of 1973 in any fiscal year: Provided further, That, notwith-*
14 *standing section 7(14)(A), the Federal share of the costs of*
15 *vocational rehabilitation services provided with the funds*
16 *provided herein shall be 100 percent.*

17 *STUDENT FINANCIAL ASSISTANCE*

18 *For an additional amount for “Student Financial As-*
19 *sistance” to carry out subpart 1 of part A of title IV of*
20 *the Higher Education Act of 1965, \$13,869,000,000: Pro-*
21 *vided, That such funds shall be used to increase the max-*
22 *imum Pell Grant by \$281 for award year 2009–2010, to*
23 *increase the maximum Pell Grant by \$400 for the award*
24 *year 2010–2011, and to reduce or eliminate the Pell Grant*

1 *shortfall: Provided further, That these funds shall remain*
2 *available through September 30, 2011.*

3 *For an additional amount for “Student Financial As-*
4 *sistance” to carry out part E of title IV of the Higher Edu-*
5 *cation Act of 1965, \$61,000,000: Provided, That these funds*
6 *shall remain available through September 30, 2010.*

7 *HIGHER EDUCATION*

8 *For an additional amount for “Higher Education” for*
9 *carrying out activities under part A of title II of the Higher*
10 *Education Act of 1965, \$50,000,000: Provided, That these*
11 *funds shall remain available through September 30, 2010.*

12 *DEPARTMENTAL MANAGEMENT*

13 *OFFICE OF THE INSPECTOR GENERAL*

14 *For an additional amount for the “Office of the Inspec-*
15 *tor General”, \$4,000,000, which shall remain available*
16 *through September 30, 2012, for salaries and expenses nec-*
17 *essary for oversight and audit of programs, grants, and*
18 *projects funded in this Act and administered by the Depart-*
19 *ment of Education and an additional \$10,000,000 for such*
20 *purposes, to remain available until September 30, 2012.*

1 *RELATED AGENCIES*
2 *CORPORATION FOR NATIONAL AND COMMUNITY*
3 *SERVICE*
4 *OPERATING EXPENSES*
5 *(INCLUDING TRANSFER OF FUNDS)*

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

1 paragraph, \$1,000,000 shall be made available for a one-
2 time supplement grant to State commissions on national
3 and community service under section 126(a) of the 1990
4 Act without regard to the limitation on Federal share under
5 section 126(a)(2) of the 1990 Act: Provided further, That
6 of the amount made available in this paragraph, not less
7 than \$13,000,000 shall be for research activities authorized
8 under subtitle H of title I of the 1990 Act: Provided further,
9 That of the amount made available in this paragraph, not
10 less than \$65,000,000 shall be for programs under title I,
11 part A of the 1973 Act: Provided further, That funds pro-
12 vided in the previous proviso shall not be made available
13 in connection with cost-share agreements authorized under
14 section 192A(g)(10) of the 1990 Act: Provided further, That
15 of the funds available under this heading, up to 20 percent
16 of funds allocated to grants authorized under section 124(b)
17 of title I, subtitle C of the 1990 Act may be used to admin-
18 ister, reimburse, or support any national service program
19 under section 129(d)(2) of the 1990 Act: Provided further,
20 That, except as provided herein and in addition to require-
21 ments identified herein, funds provided in this paragraph
22 shall be subject to the terms and conditions under which
23 funds were appropriated in fiscal year 2008: Provided fur-
24 ther, That the CEO shall provide the Committees on Appro-
25 priations of the House of Representatives and the Senate

1 *a fiscal year 2009 operating plan for the funds appro-*
2 *priated in this paragraph prior to making any Federal ob-*
3 *ligations of such funds in fiscal year 2009, but not later*
4 *than 90 days after the date of enactment of this Act, and*
5 *a fiscal year 2010 operating plan for such funds prior to*
6 *making any Federal obligations of such funds in fiscal year*
7 *2010, but not later than November 1, 2009, that detail the*
8 *allocation of resources and the increased number of members*
9 *supported by the AmeriCorps programs: Provided further,*
10 *That the CEO shall provide to the Committees on Appro-*
11 *priations of the House of Representatives and the Senate*
12 *a report on the actual obligations, expenditures, and unobli-*
13 *gated balances for each activity funded under this heading*
14 *not later than November 1, 2009, and every 6 months there-*
15 *after as long as funding provided under this heading is*
16 *available for obligation or expenditure.*

17 *OFFICE OF THE INSPECTOR GENERAL*

18 *For an additional amount for the Office of the Inspec-*
19 *tor General, \$1,000,000, which shall remain available until*
20 *September 30, 2011.*

21 *NATIONAL SERVICE TRUST*

22 *(INCLUDING TRANSFER OF FUNDS)*

23 *For an additional amount for “National Service*
24 *Trust” established under subtitle D of title I of the National*
25 *and Community Service Act of 1990 (“1990 Act”),*

1 \$40,000,000, which shall remain available until expended:
2 *Provided, That the Corporation for National and Commu-*
3 *nity Service may transfer additional funds from the*
4 *amount provided within "Operating Expenses" for grants*
5 *made under subtitle C of title I of the 1990 Act to this ap-*
6 *propriation upon determination that such transfer is nec-*
7 *essary to support the activities of national service partici-*
8 *pants and after notice is transmitted to the Committees on*
9 *Appropriations of the House of Representatives and the*
10 *Senate: Provided further, the amount appropriated for or*
11 *transferred to the National Service Trust may be invested*
12 *under section 145(b) of the 1990 Act without regard to the*
13 *requirement to apportion funds under 31 U.S.C. 1513(b).*

14 **SOCIAL SECURITY ADMINISTRATION**

15 **LIMITATION ON ADMINISTRATIVE EXPENSES**

16 **(INCLUDING TRANSFER OF FUNDS)**

17 *For an additional amount for "Limitation on Admin-*
18 *istrative Expenses", \$890,000,000 shall be available as fol-*
19 *lows:*

20 (1) *\$750,000,000 shall remain available until ex-*
21 *pended for necessary expenses of the replacement of*
22 *the National Computer Center and the information*
23 *technology costs associated with such Center: Pro-*
24 *vided, That the Commissioner of Social Security shall*
25 *notify the Committees on Appropriations of the House*

1 *of Representatives and the Senate not later than 10*
2 *days prior to each public notice soliciting bids related*
3 *to site selection and construction: Provided further,*
4 *That unobligated balances of funds not needed for this*
5 *purpose may be used as described in subparagraph*
6 *(2); and*

7 *(2) \$140,000,000 shall be available through Sep-*
8 *tember 30, 2010 for information technology acquisi-*
9 *tions and research, which may include research and*
10 *activities to facilitate the adoption of electronic med-*
11 *ical records in disability claims and the transfer of*
12 *funds to “Supplemental Security Income” to carry*
13 *out activities under section 1110 of the Social Secu-*
14 *rity Act: Provided further, That not later than 10*
15 *days prior to the obligation of such funds, the Com-*
16 *missioner shall provide to the Committees on Appro-*
17 *propriations of the House of Representatives and the*
18 *Senate an operating plan describing the planned uses*
19 *of such funds.*

20 *OFFICE OF INSPECTOR GENERAL*

21 *For an additional amount for the “Office of Inspector*
22 *General”, \$3,000,000, which shall remain available through*
23 *September 30, 2012, for salaries and expenses necessary for*
24 *oversight and audit of programs, projects, and activities*

1 *funded in this Act and administered by the Social Security*
2 *Administration.*

3 **GENERAL PROVISIONS—THIS TITLE**

4 **SEC. 801. REPORT ON THE IMPACT OF PAST AND FUTURE**
5 **MINIMUM WAGE INCREASES. (a) IN GENERAL.**—Section
6 *8104 of the U.S. Troop Readiness, Veterans' Care,*
7 *Katrina Recovery, and Iraq Accountability Appropriations*
8 *Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended*
9 *to read as follows:*

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

12 *“(a) STUDY.—Beginning on the date that is 60 days*
13 *after the date of enactment of this Act, and every year there-*
14 *after until the minimum wage in the respective territory*
15 *is \$7.25 per hour, the Government Accountability Office*
16 *shall conduct a study to—*

17 *“(1) assess the impact of the minimum wage in-*
18 *creases that occurred in American Samoa and the*
19 *Commonwealth of the Northern Mariana Islands in*
20 *2007 and 2008, as required under Public Law 110–*
21 *28, on the rates of employment and the living stand-*
22 *ards of workers, with full consideration of the other*
23 *factors that impact rates of employment and the liv-*
24 *ing standards of workers such as inflation in the cost*
25 *of food, energy, and other commodities; and*

1 “(2) estimate the impact of any further wage in-
2 creases on rates of employment and the living stand-
3 ards of workers in American Samoa and the Com-
4 monwealth of the Northern Mariana Islands, with full
5 consideration of the other factors that may impact the
6 rates of employment and the living standards of
7 workers, including assessing how the profitability of
8 major private sector firms may be impacted by wage
9 increases in comparison to other factors such as en-
10 ergy costs and the value of tax benefits.

11 “(b) *REPORT.*—No earlier than March 15, 2009, and
12 not later than April 15, 2009, the Government Account-
13 ability Office shall transmit its first report to Congress con-
14 cerning the findings of the study required under subsection
15 (a). The Government Accountability Office shall transmit
16 any subsequent reports to Congress concerning the findings
17 of a study required by subsection (a) between March 15 and
18 April 15 of each year.

19 “(c) *ECONOMIC INFORMATION.*—To provide sufficient
20 economic data for the conduct of the study under subsection
21 (a)—

22 “(1) the Department of Labor shall include and
23 separately report on American Samoa and the Com-
24 monwealth of the Northern Mariana Islands in its
25 household surveys and establishment surveys;

1 “(2) the Bureau of Economic Analysis of the De-
2 partment of Commerce shall include and separately
3 report on American Samoa and the Commonwealth of
4 the Northern Mariana Islands in its gross domestic
5 product data; and

6 “(3) the Bureau of the Census of the Department
7 of Commerce shall include and separately report on
8 American Samoa and the Commonwealth of the
9 Northern Mariana Islands in its population estimates
10 and demographic profiles from the American Commu-
11 nity Survey,

12 with the same regularity and to the same extent as the De-
13 partment or each Bureau collects and reports such data for
14 the 50 States. In the event that the inclusion of American
15 Samoa and the Commonwealth of the Northern Mariana
16 Islands in such surveys and data compilations requires
17 time to structure and implement, the Department of Labor,
18 the Bureau of Economic Analysis, and the Bureau of the
19 Census (as the case may be) shall in the interim annually
20 report the best available data that can feasibly be secured
21 with respect to such territories. Such interim reports shall
22 describe the steps the Department or the respective Bureau
23 will take to improve future data collection in the territories
24 to achieve comparability with the data collected in the
25 United States. The Department of Labor, the Bureau of

1 *Economic Analysis, and the Bureau of the Census, together*
2 *with the Department of the Interior, shall coordinate their*
3 *efforts to achieve such improvements.”.*

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
5 *section shall take effect on the date of enactment of this Act.*

6 *SEC. 802. FEDERAL COORDINATING COUNCIL FOR*
7 *COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a)*
8 *ESTABLISHMENT.*—*There is hereby established a Federal*
9 *Coordinating Council for Comparative Clinical Effective-*
10 *ness Research (in this section referred to as the “Council”).*

11 (b) *PURPOSE; DUTIES.*—*The Council shall—*

12 (1) *assist the offices and agencies of the Federal*
13 *Government, including the Departments of Health*
14 *and Human Services, Veterans Affairs, and Defense,*
15 *and other Federal departments or agencies, to coordi-*
16 *nate the conduct or support of comparative clinical*
17 *effectiveness and related health services research; and*

18 (2) *advise the President and Congress on—*

19 (A) *strategies with respect to the infrastruc-*
20 *ture needs of comparative clinical effectiveness*
21 *research within the Federal Government;*

22 (B) *appropriate organizational expendi-*
23 *tures for comparative clinical effectiveness re-*
24 *search by relevant Federal departments and*
25 *agencies; and*

1 (C) *opportunities to assure optimum coordi-*
2 *nation of comparative clinical effectiveness and*
3 *related health services research conducted or sup-*
4 *ported by relevant Federal departments and*
5 *agencies, with the goal of reducing duplicative ef-*
6 *forts and encouraging coordinated and com-*
7 *plementary use of resources.*

8 (c) *MEMBERSHIP.—*

9 (1) *NUMBER AND APPOINTMENT.—The Council*
10 *shall be composed of not more than 15 members, all*
11 *of whom are senior Federal officers or employees with*
12 *responsibility for health-related programs, appointed*
13 *by the President, acting through the Secretary of*
14 *Health and Human Services (in this section referred*
15 *to as the “Secretary”). Members shall first be ap-*
16 *pointed to the Council not later than 30 days after*
17 *the date of the enactment of this Act.*

18 (2) *MEMBERS.—*

19 (A) *IN GENERAL.—The members of the*
20 *Council shall include one senior officer or em-*
21 *ployee from each of the following agencies:*

22 (i) *The Agency for Healthcare Research*
23 *and Quality.*

24 (ii) *The Centers for Medicare and Med-*
25 *icaid Services.*

1 (iii) *The National Institutes of Health.*

2 (iv) *The Office of the National Coordi-*
3 *nator for Health Information Technology.*

4 (v) *The Food and Drug Administra-*
5 *tion.*

6 (vi) *The Veterans Health Administra-*
7 *tion within the Department of Veterans Af-*
8 *airs.*

9 (vii) *The office within the Department*
10 *of Defense responsible for management of*
11 *the Department of Defense Military Health*
12 *Care System.*

13 (B) *QUALIFICATIONS.*—*At least half of the*
14 *members of the Council shall be physicians or*
15 *other experts with clinical expertise.*

16 (3) *CHAIRMAN; VICE CHAIRMAN.*—*The Secretary*
17 *shall serve as Chairman of the Council and shall des-*
18 *ignate a member to serve as Vice Chairman.*

19 (d) *REPORTS.*—

20 (1) *INITIAL REPORT.*—*Not later than June 30,*
21 *2009, the Council shall submit to the President and*
22 *the Congress a report containing information describ-*
23 *ing Federal activities on comparative clinical effec-*
24 *tiveness research and recommendations for additional*
25 *investments in such research conducted or supported*

1 *from funds made available for allotment by the Sec-*
2 *retary for comparative clinical effectiveness research*
3 *in this Act.*

4 (2) *ANNUAL REPORT.*—*The Council shall submit*
5 *to the President and Congress an annual report re-*
6 *garding its activities and recommendations con-*
7 *cerning the infrastructure needs, appropriate organi-*
8 *zational expenditures and opportunities for better co-*
9 *ordination of comparative clinical effectiveness re-*
10 *search by relevant Federal departments and agencies.*

11 (e) *STAFFING; SUPPORT.*—*From funds made available*
12 *for allotment by the Secretary for comparative clinical effec-*
13 *tiveness research in this Act, the Secretary shall make avail-*
14 *able not more than 1 percent to the Council for staff and*
15 *administrative support.*

16 (TRANSFER OF FUNDS)

17 SEC. 803. (a) *Not more than 1 percent of the funds*
18 *made available to the Department of Labor in this title may*
19 *be transferred by the Secretary of Labor to “Employment*
20 *and Training Administration—Program Administration”,*
21 *“Employment Standards Administration—Salaries and*
22 *Expenses”, “Occupational Safety and Health Administra-*
23 *tion—Salaries and Expenses” and “Departmental Manage-*
24 *ment—Salaries and Expenses” for expenses necessary to*
25 *administer and coordinate funds made available to the De-*

1 *partment of Labor in this title; oversee and evaluate the*
2 *use of such funds; and enforce applicable laws and regula-*
3 *tions governing worker rights and protections associated*
4 *with the funds made available in this Act.*

5 *(b) Not later than 10 days prior to obligating any*
6 *funds proposed to be transferred under subsection (a), the*
7 *Secretary shall provide to the Committees on Appropria-*
8 *tions of the House of Representatives and the Senate an*
9 *operating plan describing the planned uses of each amount*
10 *proposed to be transferred.*

11 *(c) Funds transferred under this section may be avail-*
12 *able for obligation through September 30, 2010.*

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

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

18 *(2) by striking the semicolon and inserting “, or*
19 *individuals employed to repair any recreational ves-*
20 *sel, or to dismantle any part of a recreational vessel*
21 *in connection with the repair of such vessel;”.*

1 *TITLE IX—LEGISLATIVE BRANCH*
2 *GOVERNMENT ACCOUNTABILITY OFFICE*
3 *SALARIES AND EXPENSES*

4 *For an additional amount for “Salaries and Ex-*
5 *penses” of the Government Accountability Office,*
6 *\$20,000,000, to remain available until September 30, 2010.*

7 *GENERAL PROVISIONS—THIS TITLE*

8 *SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE RE-*
9 *VIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—*

10 *(1) IN GENERAL.—The Comptroller General*
11 *shall conduct bimonthly reviews and prepare reports*
12 *on such reviews on the use by selected State and local-*
13 *ities of funds made available in this Act. Such re-*
14 *ports, along with any audits conducted by the Comp-*
15 *troller General of such funds, shall be posted on the*
16 *Internet and linked to the website established under*
17 *this Act by the Recovery Accountability and Trans-*
18 *parency Board.*

19 *(2) REDACTIONS.—Any portion of a report or*
20 *audit under this subsection may be redacted when*
21 *made publicly available, if that portion would dis-*
22 *close information that is not subject to disclosure*
23 *under section 552 of title 5, United States Code (com-*
24 *monly known as the Freedom of Information Act).*

1 **(b) EXAMINATION OF RECORDS.**—*The Comptroller*
2 *General may examine any records related to obligations of*
3 *funds made available in this Act.*

4 **SEC. 902. ACCESS OF GOVERNMENT ACCOUNTABILITY**
5 **OFFICE.** *Each contract awarded using funds made available*
6 *in this Act shall provide that the Comptroller General and*
7 *his representatives are authorized—*

8 *(1) to examine any records of the contractor or*
9 *any of its subcontractors, or any State or local agency*
10 *administering such contract, that directly pertain to,*
11 *and involve transactions relating to, the contract or*
12 *subcontract; and*

13 *(2) to interview any current employee regarding*
14 *such transactions.*

15 **TITLE X—MILITARY CONSTRUCTION AND**
16 **VETERANS AFFAIRS, AND RELATED AGENCIES**
17 **DEPARTMENT OF DEFENSE**
18 **MILITARY CONSTRUCTION, ARMY**

19 *For an additional amount for “Military Construction,*
20 *Army”, \$637,875,000, to remain available until September*
21 *30, 2013, of which \$84,100,000 shall be for child develop-*
22 *ment centers; \$481,000,000 shall be for warrior transition*
23 *complexes; and \$42,400,000 shall be for health and dental*
24 *clinics (including acquisition, construction, installation,*
25 *and equipment): Provided, That notwithstanding any other*

1 *provision of law, such funds may be obligated and expended*
2 *to carry out planning and design and military construction*
3 *projects in the United States not otherwise authorized by*
4 *law: Provided further, That of the funds provided under this*
5 *heading, not to exceed \$30,375,000 shall be available for*
6 *study, planning, design, and architect and engineer serv-*
7 *ices: Provided further, That within 30 days of enactment*
8 *of this Act the Secretary of the Army shall submit to the*
9 *Committees on Appropriations of both Houses of Congress*
10 *an expenditure plan for funds provided under this heading*
11 *prior to obligation.*

12 *MILITARY CONSTRUCTION, NAVY AND MARINE CORPS*

13 *For an additional amount for “Military Construction,*
14 *Navy and Marine Corps”, \$990,092,000, to remain avail-*
15 *able until September 30, 2013, of which \$172,820,000 shall*
16 *be for child development centers; \$174,304,000 shall be for*
17 *barracks; \$125,000,000 shall be for health clinic replace-*
18 *ment, and \$494,362,000 shall be for energy conservation*
19 *and alternative energy projects (including acquisition, con-*
20 *struction, installation, and equipment): Provided, That not-*
21 *withstanding any other provision of law, such funds may*
22 *be obligated and expended to carry out planning and design*
23 *and military construction projects in the United States not*
24 *otherwise authorized by law: Provided further, That of the*
25 *funds provided under this heading, not to exceed*

1 \$23,606,000 shall be available for study, planning, design,
2 and architect and engineer services: Provided further, That
3 within 30 days of enactment of this Act the Secretary of
4 the Navy shall submit to the Committees on Appropriations
5 of both Houses of Congress an expenditure plan for funds
6 provided under this heading prior to obligation.

7 *MILITARY CONSTRUCTION, AIR FORCE*

8 *For an additional amount for “Military Construction,*
9 *Air Force”, \$871,332,000, to remain available until Sep-*
10 *tember 30, 2013, of which \$80,100,000 shall be for child*
11 *development centers; \$612,246,000 shall be for dormitories;*
12 *and \$138,100,000 shall be for health clinics (including ac-*
13 *quisition, construction, installation, and equipment): Pro-*
14 *vided, That notwithstanding any other provision of law,*
15 *such funds may be obligated and expended to carry out*
16 *planning and design and military construction projects in*
17 *the United States not otherwise authorized by law: Provided*
18 *further, That of the funds provided under this heading, not*
19 *to exceed \$40,886,000 shall be available for study, planning,*
20 *design, and architect and engineer services: Provided fur-*
21 *ther, That within 30 days of enactment of this Act the Sec-*
22 *retary of the Air Force shall submit to the Committees on*
23 *Appropriations of both Houses of Congress an expenditure*
24 *plan for funds provided under this heading prior to obliga-*
25 *tion.*

1 *MILITARY CONSTRUCTION, DEFENSE-WIDE*

2 *For an additional amount for “Military Construction,*
3 *Defense-Wide”, \$118,560,000 for the Energy Conservation*
4 *Investment Program, to remain available until September*
5 *30, 2010: Provided, That notwithstanding any other provi-*
6 *sion of law, such funds may be obligated and expended to*
7 *carry out planning and design and military construction*
8 *projects in the United States not otherwise authorized by*
9 *law: Provided further, That within 30 days of enactment*
10 *of this Act the Secretary of Defense shall submit to the Com-*
11 *mittees on Appropriations of both Houses of Congress an*
12 *expenditure plan for funds provided under this heading*
13 *prior to obligation.*

14 *MILITARY CONSTRUCTION, ARMY NATIONAL GUARD*

15 *For an additional amount for “Military Construction,*
16 *Army National Guard”, \$150,000,000 for readiness centers*
17 *(including construction, acquisition, expansion, rehabilita-*
18 *tion, and conversion), to remain available until September*
19 *30, 2013: Provided, That notwithstanding any other provi-*
20 *sion of law, such funds may be obligated and expended to*
21 *carry out planning and design and military construction*
22 *projects in the United States not otherwise authorized by*
23 *law: Provided further, That within 30 days of enactment*
24 *of this Act the Director of the Army National Guard shall*
25 *submit to the Committees on Appropriations of both Houses*

1 *of Congress an expenditure plan for funds provided under*
2 *this heading prior to obligation.*

3 *MILITARY CONSTRUCTION, AIR NATIONAL GUARD*

4 *For an additional amount for “Military Construction,*
5 *Air National Guard”, \$110,000,000, to remain available*
6 *until September 30, 2013: Provided, That notwithstanding*
7 *any other provision of law, such funds may be obligated*
8 *and expended to carry out planning and design and mili-*
9 *tary construction projects in the United States not other-*
10 *wise authorized by law: Provided further, That within 30*
11 *days of enactment of this Act the Director of the Air Na-*
12 *tional Guard shall submit to the Committees on Appropria-*
13 *tions of both Houses of Congress an expenditure plan for*
14 *funds provided under this heading prior to obligation.*

15 *FAMILY HOUSING CONSTRUCTION, ARMY*

16 *For an additional amount for “Family Housing Con-*
17 *struction, Army”, \$34,570,000, to remain available until*
18 *September 30, 2013: Provided, That notwithstanding any*
19 *other provision of law, such funds may be obligated and*
20 *expended to carry out planning and design and military*
21 *construction projects in the United States not otherwise au-*
22 *thorized by law: Provided further, That within 30 days of*
23 *enactment of this Act the Secretary of the Army shall sub-*
24 *mit to the Committees on Appropriations of both Houses*

1 *of Congress an expenditure plan for funds provided under*
2 *this heading prior to obligation.*

3 *FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY*

4 *For an additional amount for “Family Housing Oper-*
5 *ation and Maintenance, Army”, \$3,932,000: Provided, That*
6 *notwithstanding any other provision of law, such funds*
7 *may be obligated and expended for operation and mainte-*
8 *nance and minor construction projects in the United States*
9 *not otherwise authorized by law.*

10 *FAMILY HOUSING CONSTRUCTION, AIR FORCE*

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

22 *FAMILY HOUSING OPERATION AND MAINTENANCE, AIR*

23 *FORCE*

24 *For an additional amount for “Family Housing Oper-*
25 *ation and Maintenance, Air Force”, \$16,461,000: Provided,*

1 *That notwithstanding any other provision of law, such*
2 *funds may be obligated and expended for operation and*
3 *maintenance and minor construction projects in the United*
4 *States not otherwise authorized by law.*

5 *HOMEOWNERS ASSISTANCE FUND*

6 *For an additional amount for “Homeowners Assist-*
7 *ance Fund”, established by section 1013 of the Demonstra-*
8 *tion Cities and Metropolitan Development Act of 1966, as*
9 *amended (42 U.S.C. 3374), \$410,973,000, to remain avail-*
10 *able until expended.*

11 *ADMINISTRATIVE PROVISION*

12 *SEC. 1001. (a) TEMPORARY EXPANSION OF HOME-*
13 *OWNERS ASSISTANCE PLAN TO RESPOND TO MORTGAGE*
14 *FORECLOSURE AND CREDIT CRISIS. Section 1013 of the*
15 *Demonstration Cities and Metropolitan Development Act of*
16 *1966 (42 U.S.C. 3374) is amended—*

17 *(1) in subsection (a)—*

18 *(A) by redesignating paragraphs (1), (2),*
19 *and (3) as clauses (i), (ii), and (iii), respec-*
20 *tively, and indenting such subparagraphs, as so*
21 *redesignated, 6 ems from the left margin;*

22 *(B) by striking “Notwithstanding any other*
23 *provision of law” and inserting the following:*

24 *“(1) ACQUISITION OF PROPERTY AT OR NEAR*
25 *MILITARY INSTALLATIONS THAT HAVE BEEN ORDERED*

1 *TO BE CLOSED.—Notwithstanding any other provi-*
2 *sion of law”;*

3 *(C) by striking “if he determines” and in-*
4 *serting “if—*

5 *“(A) the Secretary determines—”;*

6 *(D) in clause (iii), as redesignated by sub-*
7 *paragraph (A), by striking the period at the end*
8 *and inserting “; or”; and*

9 *(E) by adding at the end the following:*

10 *“(B) the Secretary determines—*

11 *“(i) that the conditions in clauses (i)*
12 *and (ii) of subparagraph (A) have been met;*

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

21 *“(iii) that the property was purchased*
22 *by the owner before July 1, 2006;*

23 *“(iv) that the property was sold by the*
24 *owner between July 1, 2006, and September*

1 30, 2012, or an earlier end date designated
2 by the Secretary;

3 “(v) that the property is the primary
4 residence of the owner; and

5 “(vi) that the owner has not previously
6 received benefit payments authorized under
7 this subsection.

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

19 “(A) *any member of the Armed Forces in*
20 *medical transition who—*

21 “(i) *incurred a wound, injury, or ill-*
22 *ness in the line of duty during a deploy-*
23 *ment in support of the Armed Forces;*

24 “(ii) *is disabled to a degree of 30 per-*
25 *cent or more as a result of such wound, in-*

1 *jury, or illness, as determined by the Sec-*
2 *retary of Defense or the Secretary of Vet-*
3 *erans Affairs; and*

4 *“(iii) is reassigned in furtherance of*
5 *medical treatment or rehabilitation, or due*
6 *to medical retirement in connection with*
7 *such disability;*

8 *“(B) any civilian employee of the Depart-*
9 *ment of Defense or the United States Coast*
10 *Guard who—*

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

15 *“(ii) is reassigned in furtherance of*
16 *medical treatment, rehabilitation, or due to*
17 *medical retirement resulting from the sus-*
18 *tained disability; or*

19 *“(C) the spouse of a member of the Armed*
20 *Forces or a civilian employee of the Department*
21 *of Defense or the United States Coast Guard if—*

22 *“(i) the member or employee was killed*
23 *in the line of duty during a deployment in*
24 *support of the Armed Forces or died from a*

1 wound, injury, or illness incurred in the
2 line of duty during such a deployment; and

3 “(ii) the spouse relocates from such res-
4 idence within 2 years after the death of such
5 member or employee.

6 “(3) *TEMPORARY HOMEOWNER ASSISTANCE FOR*
7 *MEMBERS OF THE ARMED FORCES PERMANENTLY RE-*
8 *ASSIGNED DURING SPECIFIED MORTGAGE CRISIS.—*

9 *Notwithstanding any other provision of law, the Sec-*
10 *retary of Defense is authorized to acquire title to,*
11 *hold, manage, and dispose of, or, in lieu thereof, to*
12 *reimburse for certain losses upon private sale of, or*
13 *foreclosure against, any property improved with a*
14 *one- or two-family dwelling situated at or near a*
15 *military base or installation, if the Secretary deter-*
16 *mines—*

17 “(A) *that the owner is a member of the*
18 *Armed Forces serving on permanent assignment;*

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

23 “(C) *that the reassignment was ordered be-*
24 *tween February 1, 2006, and September 30,*

1 2012, or an earlier end date designated by the
2 Secretary;

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

5 “(E) that the property was sold by the
6 owner between July 1, 2006, and September 30,
7 2012, or an earlier end date designated by the
8 Secretary;

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

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

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

17 (3) in subsection (c)—

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

20 “(1) HOMEOWNER ASSISTANCE RELATED TO
21 CLOSED MILITARY INSTALLATIONS.—

22 “(A) IN GENERAL.—Such persons”;

23 (B) by striking “set forth above shall elect
24 either (1) to receive” and inserting the following:

25 “set forth in subsection (a)(1) shall elect either—

1 “(i) to receive”;

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

6 “(I) 95 per centum of the fair
7 market value of their property (as such
8 value is determined by the Secretary of
9 Defense) prior to public announcement
10 of intention to close all or part of the
11 military base or installation; 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 the
15 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 the
20 preceding sentence an amount” and inserting
21 “outstanding mortgages.

22 “(B) REIMBURSEMENT OF EXPENSES.—The
23 Secretary may also pay a person who elects to
24 receive a cash payment under subparagraph (A)
25 an amount”; and

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

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

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

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

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

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

24 “(ii) to receive, as purchase price for
25 their property an amount not to exceed 90

1 *per centum of prior fair market value as*
2 *such value is determined by the Secretary of*
3 *Defense, or the amount of the outstanding*
4 *mortgages.*

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

14 “(3) *HOMEOWNER ASSISTANCE FOR PERMA-*
15 *NENTLY REASSIGNED INDIVIDUALS.*—

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

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

24 “(I) *95 per centum of prior fair*
25 *market value of their property (as such*

1 *value is determined by the Secretary of*
2 *Defense); and*

3 “(II) *the fair market value of such*
4 *property (as such value is so deter-*
5 *mined) at the time the person received*
6 *change of permanent station orders; or*
7 “(ii) *to receive, as purchase price for*
8 *their property an amount not to exceed 90*
9 *per centum of prior fair market value as*
10 *such value is determined by the Secretary of*
11 *Defense, or the amount of the outstanding*
12 *mortgages.*

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

22 “(4) *COMPENSATION AND LIMITATIONS RELATED*
23 *TO FORECLOSURES AND ENCUMBRANCES.—Cash pay-*
24 *ment”;*

25 (4) *by striking subsection (g);*

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

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

5 (7) in subsection (n)—

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

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

10 (8) in subsection (o)—

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

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

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

16 (9) by adding at the end the following new sub-
17 section:

18 “(p) *DEFINITIONS.—In this section:*

19 “(1) the term ‘Armed Forces’ has the meaning
20 given the term ‘armed forces’ in section 101(a) of title
21 10, United States Code;

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

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

4 “(A) is in Medical Holdover status;

5 “(B) is in Active Duty Medical Extension
6 status;

7 “(C) is in Medical Hold status;

8 “(D) is in a status pending an evaluation
9 by a medical evaluation board;

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

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

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

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

20 “(B) is paid from nonappropriated funds of
21 Army and Air Force Exchange Service, Navy
22 Resale and Services Support Office, Marine
23 Corps exchanges, or any other instrumentality of
24 the United States under the jurisdiction of the
25 Armed Forces which is conducted for the comfort,

1 *pleasure, contentment, or physical or mental im-*
2 *provement of members of the Armed Forces.”.*

3 **(b) CLERICAL AMENDMENT.**—*Such section is further*
4 *amended in the section heading by inserting “and certain*
5 *property owned by members of the armed forces, department*
6 *of defense and united states coast guard civilian employees,*
7 *and surviving spouses” after “ordered to be closed”.*

8 **(c) AUTHORITY TO USE APPROPRIATED FUNDS.**—*Not-*
9 *withstanding subsection (i) of such section, amounts appro-*
10 *priated or otherwise made available by this title under the*
11 *heading “Homeowners Assistance Fund” may be used for*
12 *the Homeowners Assistance Fund established under such*
13 *section.*

14 **DEPARTMENT OF VETERANS AFFAIRS**

15 **VETERANS HEALTH ADMINISTRATION**

16 **MEDICAL SUPPORT AND COMPLIANCE**

17 *For an additional amount for “Medical Support and*
18 *Compliance”, \$5,000,000, to remain available until Sep-*
19 *tember 30, 2010, to support contract administration and*
20 *energy initiative execution at the Veterans Health Adminis-*
21 *tration.*

22 **MEDICAL FACILITIES**

23 *For an additional amount for “Medical Facilities”,*
24 *\$1,370,459,000, to remain available until September 30,*
25 *2010, of which \$1,047,313,000 shall be for facility condition*

1 *assessment deficiencies and non-recurring maintenance at*
2 *existing medical facilities; and \$323,146,000 shall be for en-*
3 *ergy efficiency initiatives.*

4 *NATIONAL CEMETERY ADMINISTRATION*

5 *For an additional amount for “National Cemetery Ad-*
6 *ministration”, \$64,961,000, to remain available until Sep-*
7 *tember 30, 2010, of which \$59,476,000 shall be for capital*
8 *infrastructure and memorial and monument repairs; and*
9 *\$5,485,000 shall be for energy efficiency initiatives.*

10 *DEPARTMENTAL ADMINISTRATION*

11 *GENERAL OPERATING EXPENSES*

12 *For an additional amount for “General Operating Ex-*
13 *penses”, \$1,125,000, to remain available until September*
14 *30, 2010, for additional Full Time Equivalent salary and*
15 *expenses for major construction project administration and*
16 *execution and energy initiative execution.*

17 *INFORMATION TECHNOLOGY SYSTEMS*

18 *For an additional amount for “Information Tech-*
19 *nology Systems”, \$195,000,000, to remain available until*
20 *September 30, 2010, of which \$145,000,000 shall be for the*
21 *Veterans Benefits Administration’s development of*
22 *paperless claims processing; and \$50,000,000 shall be for*
23 *the development of systems required to implement chapter*
24 *33 of title 38, United States Code.*

1 *OFFICE OF INSPECTOR GENERAL*

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

6 *CONSTRUCTION, MAJOR PROJECTS*

7 *For an additional amount for “Construction, Major*
8 *Projects”, \$1,105,333,000, to remain available until Sep-*
9 *tember 30, 2013, which shall be for acceleration and con-*
10 *struction of ongoing and planned construction, including*
11 *physical security construction, of major medical facilities*
12 *and National Cemeteries consistent with the Department of*
13 *Veterans Affairs’ Five Year Capital Plan: Provided, That*
14 *notwithstanding any other provision of law, such funds*
15 *may be obligated and expended to carry out planning and*
16 *design and major medical facility construction not other-*
17 *wise authorized by law: Provided further, That within 30*
18 *days of enactment of this Act the Secretary of Veterans Af-*
19 *fairs shall submit to the Committees on Appropriations of*
20 *both Houses of Congress an expenditure plan for funds pro-*
21 *vided under this heading prior to obligation.*

22 *CONSTRUCTION, MINOR PROJECTS*

23 *For an additional amount for “Construction, Minor*
24 *Projects”, \$939,836,000, to remain available until Sep-*
25 *tember 30, 2010, of which \$860,742,000 shall be for Vet-*

1 *erans Health Administration minor construction;*
 2 *\$20,300,000 shall be for Veterans Benefits Administration*
 3 *minor construction, including \$300,000 for energy effi-*
 4 *ciency initiatives; and \$29,012,000 shall be for National*
 5 *Cemetery Administration minor construction.*

6 *GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE*
 7 *FACILITIES*

8 *For an additional amount for “Grants for Construc-*
 9 *tion of State Extended Care Facilities”, \$257,986,000, to*
 10 *remain available until September 30, 2010, for grants to*
 11 *assist States to acquire or construct State nursing home and*
 12 *domiciliary facilities and to remodel, modify, or alter exist-*
 13 *ing hospital, nursing home, and domiciliary facilities in*
 14 *State homes, for furnishing care to veterans as authorized*
 15 *by sections 8131 through 8137 of title 38, United States*
 16 *Code.*

17 *ADMINISTRATIVE PROVISION*

18 *SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO*
 19 *SERVED IN THE UNITED STATES ARMED FORCES IN THE*
 20 *FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Con-*
 21 *gress makes the following findings:*

22 *(1) The Philippine islands became a United*
 23 *States possession in 1898 when they were ceded from*
 24 *Spain following the Spanish-American War.*

1 (2) *During World War II, Filipinos served in a*
2 *variety of units, some of which came under the direct*
3 *control of the United States Armed Forces.*

4 (3) *The regular Philippine Scouts, the new Phil-*
5 *ippine Scouts, the Guerrilla Services, and more than*
6 *100,000 members of the Philippine Commonwealth*
7 *Army were called into the service of the United States*
8 *Armed Forces of the Far East on July 26, 1941, by*
9 *an executive order of President Franklin D. Roosevelt.*

10 (4) *Even after hostilities had ceased, wartime*
11 *service of the new Philippine Scouts continued as a*
12 *matter of law until the end of 1946, and the force*
13 *gradually disbanded and was disestablished in 1950.*

14 (5) *Filipino veterans who were granted benefits*
15 *prior to the enactment of the so-called Rescissions*
16 *Acts of 1946 (Public Laws 79–301 and 79–391) cur-*
17 *rently receive full benefits under laws administered by*
18 *the Secretary of Veterans Affairs, but under section*
19 *107 of title 38, United States Code, the service of cer-*
20 *tain other Filipino veterans is deemed not to be active*
21 *service for purposes of such laws.*

22 (6) *These other Filipino veterans only receive*
23 *certain benefits under title 38, United States Code,*
24 *and, depending on where they legally reside, are paid*
25 *such benefit amounts at reduced rates.*

1 (7) *The benefits such veterans receive include*
2 *service-connected compensation benefits paid under*
3 *chapter 11 of title 38, United States Code, dependency*
4 *indemnity compensation survivor benefits paid under*
5 *chapter 13 of title 38, United States Code, and burial*
6 *benefits under chapters 23 and 24 of title 38, United*
7 *States Code, and such benefits are paid to bene-*
8 *ficiaries at the rate of \$0.50 per dollar authorized,*
9 *unless they lawfully reside in the United States.*

10 (8) *Dependents' educational assistance under*
11 *chapter 35 of title 38, United States Code, is also*
12 *payable for the dependents of such veterans at the rate*
13 *of \$0.50 per dollar authorized, regardless of the vet-*
14 *erans' residency.*

15 **(b) COMPENSATION FUND.—**

16 (1) *IN GENERAL.—There is in the general fund*
17 *of the Treasury a fund to be known as the “Filipino*
18 *Veterans Equity Compensation Fund” (in this section*
19 *referred to as the “compensation fund”).*

20 (2) *AVAILABILITY OF FUNDS.—Subject to the*
21 *availability of appropriations for such purpose,*
22 *amounts in the fund shall be available to the Sec-*
23 *retary of Veterans Affairs without fiscal year limita-*
24 *tion to make payments to eligible persons in accord-*
25 *ance with this section.*

1 (c) *PAYMENTS.*—

2 (1) *IN GENERAL.*—*The Secretary may make a*
3 *payment from the compensation fund to an eligible*
4 *person who, during the one-year period beginning on*
5 *the date of the enactment of this Act, submits to the*
6 *Secretary a claim for benefits under this section. The*
7 *application for the claim shall contain such informa-*
8 *tion and evidence as the Secretary may require.*

9 (2) *PAYMENT TO SURVIVING SPOUSE.*—*If an eli-*
10 *gible person who has filed a claim for benefits under*
11 *this section dies before payment is made under this*
12 *section, the payment under this section shall be made*
13 *instead to the surviving spouse, if any, of the eligible*
14 *person.*

15 (d) *ELIGIBLE PERSONS.*—*An eligible person is any*
16 *person who—*

17 (1) *served—*

18 (A) *before July 1, 1946, in the organized*
19 *military forces of the Government of the Com-*
20 *monwealth of the Philippines, while such forces*
21 *were in the service of the Armed Forces of the*
22 *United States pursuant to the military order of*
23 *the President dated July 26, 1941, including*
24 *among such military forces organized guerrilla*
25 *forces under commanders appointed, designated,*

1 *or subsequently recognized by the Commander in*
2 *Chief, Southwest Pacific Area, or other com-*
3 *petent authority in the Army of the United*
4 *States; or*

5 *(B) in the Philippine Scouts under section*
6 *14 of the Armed Forces Voluntary Recruitment*
7 *Act of 1945 (59 Stat. 538); and*

8 *(2) was discharged or released from service de-*
9 *scribed in paragraph (1) under conditions other than*
10 *dishonorable.*

11 *(e) PAYMENT AMOUNTS.—Each payment under this*
12 *section shall be—*

13 *(1) in the case of an eligible person who is not*
14 *a citizen of the United States, in the amount of*
15 *\$9,000; and*

16 *(2) in the case of an eligible person who is a cit-*
17 *izen of the United States, in the amount of \$15,000.*

18 *(f) LIMITATION.—The Secretary may not make more*
19 *than one payment under this section for each eligible person*
20 *described in subsection (d).*

21 *(g) CLARIFICATION OF TREATMENT OF PAYMENTS*
22 *UNDER CERTAIN LAWS.—Amounts paid to a person under*
23 *this section—*

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

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

6 (A) eligibility of an individual to receive
7 benefits described in section 3803(c)(2)(C) of title
8 31, United States Code, or the amount of such
9 benefits;

10 (B) eligibility of an individual to receive
11 benefits under title VIII of the Social Security
12 Act, or the amount of such benefits; or

13 (C) eligibility of an individual for, or the
14 amount of benefits under, any other Federal or
15 federally assisted program.

16 (h) *RELEASE.*—

17 (1) *IN GENERAL.*—Except as provided in para-
18 graph (2), the acceptance by an eligible person or sur-
19 viving spouse, as applicable, of a payment under this
20 section shall be final, and shall constitute a complete
21 release of any claim against the United States by rea-
22 son of any service described in subsection (d).

23 (2) *PAYMENT OF PRIOR ELIGIBILITY STATUS.*—
24 Nothing in this section shall prohibit a person from
25 receiving any benefit (including health care, survivor,

1 *or burial benefits) which the person would have been*
2 *eligible to receive based on laws in effect as of the day*
3 *before the date of the enactment of this Act.*

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

8 *(j) ADMINISTRATION.—*

9 *(1) The Secretary shall promptly issue applica-*
10 *tion forms and instructions to ensure the prompt and*
11 *efficient administration of the provisions of this sec-*
12 *tion.*

13 *(2) The Secretary shall administer the provisions*
14 *of this section in a manner consistent with applicable*
15 *provisions of title 38, United States Code, and other*
16 *provisions of law, and shall apply the definitions in*
17 *section 101 of such title in the administration of such*
18 *provisions, except to the extent otherwise provided in*
19 *this section.*

20 *(k) REPORTS.—The Secretary shall include, in docu-*
21 *ments submitted to Congress by the Secretary in support*
22 *of the President's budget for each fiscal year, detailed infor-*
23 *mation on the operation of the compensation fund, includ-*
24 *ing the number of applicants, the number of eligible persons*
25 *receiving benefits, the amounts paid out of the compensa-*

1 *tion fund, and the administration of the compensation fund*
 2 *for the most recent fiscal year for which such data is avail-*
 3 *able.*

4 *(l) AUTHORIZATION OF APPROPRIATION.—There is au-*
 5 *thorized to be appropriated to the compensation fund*
 6 *\$198,000,000, to remain available until expended, to make*
 7 *payments under this section.*

8 *RELATED AGENCY*

9 *DEPARTMENT OF DEFENSE—CIVIL*

10 *CEMETERIAL EXPENSES, ARMY*

11 *SALARY AND EXPENSES*

12 *For an additional amount for “Cemeterial Expenses,*
 13 *Army”, \$60,300,000, to remain available until September*
 14 *30, 2010, for land development, columbarium construction,*
 15 *and relocation of utilities at Arlington National Cemetery.*

16 *TITLE XI—STATE, FOREIGN OPERATIONS, AND*

17 *RELATED PROGRAMS*

18 *DEPARTMENT OF STATE*

19 *ADMINISTRATION OF FOREIGN AFFAIRS*

20 *DIPLOMATIC AND CONSULAR PROGRAMS*

21 *For an additional amount for “Diplomatic and Con-*
 22 *sular Programs” for urgent domestic facilities require-*
 23 *ments, \$90,000,000, to remain available until September*
 24 *30, 2010, of which up to \$20,000,000 shall be available for*
 25 *passport facilities and systems, and up to \$65,000,000 shall*

1 *be available for a consolidated security training facility in*
2 *the United States and should be obligated in accordance*
3 *with United States General Services Administration site se-*
4 *lection procedures: Provided, That the Secretary of State*
5 *shall submit to the Committees on Appropriations within*
6 *90 days of enactment of this Act a detailed spending plan*
7 *for funds appropriated under this heading: Provided fur-*
8 *ther, That with respect to the funds made available for pass-*
9 *port facilities and systems, such plan shall be developed in*
10 *consultation with the Department of Homeland Security*
11 *and the General Services Administration and shall coordi-*
12 *nate and co-locate, to the extent feasible, the construction*
13 *of passport agencies with other Federal facilities.*

14 *CAPITAL INVESTMENT FUND*

15 *For an additional amount for “Capital Investment*
16 *Fund”, \$228,000,000, to remain available until September*
17 *30, 2010, which shall be available for information tech-*
18 *nology security and upgrades to support mission-critical*
19 *operations: Provided, That the Secretary of State and the*
20 *Administrator of the United States Agency for Inter-*
21 *national Development shall coordinate information tech-*
22 *nology systems, where appropriate, to increase efficiencies*
23 *and eliminate redundancies, to include co-location of*
24 *backup information management facilities: Provided fur-*
25 *ther, That the Secretary of State shall submit to the Com-*

1 *mittees on Appropriations within 90 days of enactment of*
2 *this Act a detailed spending plan for funds appropriated*
3 *under this heading.*

4 *OFFICE OF INSPECTOR GENERAL*

5 *For an additional amount for “Office of Inspector*
6 *General” for oversight requirements, \$1,500,000, to remain*
7 *available until September 30, 2011.*

8 *INTERNATIONAL COMMISSIONS*

9 *INTERNATIONAL BOUNDARY AND WATER COMMISSION,*
10 *UNITED STATES AND MEXICO*

11 *CONSTRUCTION*

12 *(INCLUDING TRANSFER OF FUNDS)*

13 *For an additional amount for “Construction” for the*
14 *water quantity program to meet immediate repair and re-*
15 *habilitation requirements, \$224,000,000, to remain avail-*
16 *able until September 30, 2010: Provided, That up to*
17 *\$2,000,000 may be transferred to, and merged with, funds*
18 *available under the heading “International Boundary and*
19 *Water Commission, United States and Mexico—Salaries*
20 *and Expenses”:* *Provided, That the Secretary of State shall*
21 *submit to the Committees on Appropriations within 90*
22 *days of enactment of this Act a detailed spending plan for*
23 *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 Devel-*
11 *opment shall submit to the Committees on Appropriations*
12 *within 90 days of enactment of this Act a detailed spending*
13 *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 of*
18 *the United States Agency for International Development*
19 *Office of Inspector General” for oversight requirements,*
20 *\$500,000, to remain available until September 30, 2011.*

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

3 *DEPARTMENT OF TRANSPORTATION*

4 *OFFICE OF THE SECRETARY*

5 *SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL*
6 *SURFACE TRANSPORTATION SYSTEM*

7 *For an additional amount for capital investments in*
8 *surface transportation infrastructure, \$5,500,000,000, to re-*
9 *main available until September 30, 2011: Provided, That*
10 *the Secretary of Transportation shall distribute funds pro-*
11 *vided under this heading as discretionary grants to be*
12 *awarded to State and local governments on a competitive*
13 *basis for projects that will have a significant impact on*
14 *the Nation, a metropolitan area, or a region: Provided fur-*
15 *ther, That projects eligible for funding provided under this*
16 *heading shall include, but not be limited to, highway or*
17 *bridge projects eligible under title 23, United States Code,*
18 *including interstate rehabilitation, improvements to the*
19 *rural collector road system, the reconstruction of overpasses*
20 *and interchanges, bridge replacements, seismic retrofit*
21 *projects for bridges, and road realignments; public trans-*
22 *portation projects eligible under chapter 53 of title 49,*
23 *United States Code, including investments in projects par-*
24 *ticipating in the New Starts or Small Starts programs that*
25 *will expedite the completion of those projects and their entry*

1 *into revenue service; passenger and freight rail transpor-*
2 *tation projects; and port infrastructure investments, includ-*
3 *ing projects that connect ports to other modes of transpor-*
4 *tation and improve the efficiency of freight movement: Pro-*
5 *vided further, That of the amount made available under this*
6 *paragraph, the Secretary may use an amount not to exceed*
7 *\$200,000,000 for the purpose of paying the subsidy costs*
8 *of projects eligible for federal credit assistance under chap-*
9 *ter 6 of title 23, United States Code, if the Secretary finds*
10 *that such use of the funds would advance the purposes of*
11 *this paragraph: Provided further, That in distributing*
12 *funds provided under this heading, the Secretary shall take*
13 *such measures so as to ensure an equitable geographic dis-*
14 *tribution of funds and an appropriate balance in address-*
15 *ing the needs of urban and rural communities: Provided*
16 *further, That a grant funded under this heading shall be*
17 *not less than \$20,000,000 and not greater than*
18 *\$500,000,000: Provided further, That the Federal share of*
19 *the costs for which an expenditure is made under this head-*
20 *ing may be up to 100 percent: Provided further, That the*
21 *Secretary shall give priority to projects that require an ad-*
22 *ditional share of Federal funds in order to complete an over-*
23 *all financing package, and to projects that are expected to*
24 *be completed within 3 years of enactment of this Act: Pro-*
25 *vided further, That the Secretary shall publish criteria on*

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

1 *FEDERAL AVIATION ADMINISTRATION*2 *SUPPLEMENTAL FUNDING FOR FACILITIES AND EQUIPMENT*

3 *For an additional amount for necessary investments*
4 *in Federal Aviation Administration infrastructure,*
5 *\$200,000,000: Provided, That funding provided under this*
6 *heading shall be used to make improvements to power sys-*
7 *tems, air route traffic control centers, air traffic control*
8 *towers, terminal radar approach control facilities, and*
9 *navigation and landing equipment: Provided further, That*
10 *priority be given to such projects or activities that will be*
11 *completed within 2 years of enactment of this Act: Provided*
12 *further, That amounts made available under this heading*
13 *may be provided through grants in addition to the other*
14 *instruments authorized under section 106(l)(6) of title 49,*
15 *United States Code: Provided further, That the Federal*
16 *share of the costs for which an expenditure is made under*
17 *this heading shall be 100 percent: Provided further, That*
18 *amounts provided under this heading may be used for ex-*
19 *penses the agency incurs in administering this program:*
20 *Provided further, That not more than 60 days after enact-*
21 *ment of this Act, the Administrator shall establish a process*
22 *for applying, reviewing and awarding grants and coopera-*
23 *tive and other transaction agreements, including the form*
24 *and content of an application, and requirements for the*
25 *maintenance of records that are necessary to facilitate an*

1 *effective audit of the use of the funding provided: Provided*
2 *further, That section 50101 of title 49, United States Code,*
3 *shall apply to funds provided under this heading.*

4 *SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT*
5 *INVESTMENT*

6 *For an additional amount for capital expenditures au-*
7 *thorized under sections 47102(3) and 47504(c) of title 49,*
8 *United States Code, and for the procurement, installation*
9 *and commissioning of runway incursion prevention devices*
10 *and systems at airports of such title, \$1,100,000,000: Pro-*
11 *vided, That the Secretary of Transportation shall distribute*
12 *funds provided under this heading as discretionary grants*
13 *to airports, with priority given to those projects that dem-*
14 *onstrate to his or her satisfaction their ability to be com-*
15 *pleted within 2 years of enactment of this Act, and serve*
16 *to supplement and not supplant planned expenditures from*
17 *airport-generated revenues or from other State and local*
18 *sources on such activities: Provided further, That the Fed-*
19 *eral share payable of the costs for which a grant is made*
20 *under this heading shall be 100 percent: Provided further,*
21 *That the amount made available under this heading shall*
22 *not be subject to any limitation on obligations for the*
23 *Grants-in-Aid for Airports program set forth in any Act:*
24 *Provided further, That section 50101 of title 49, United*
25 *States Code, shall apply to funds provided under this head-*

1 *ing: Provided further, That projects conducted using funds*
2 *provided under this heading must comply with the require-*
3 *ments of subchapter IV of chapter 31 of title 40, United*
4 *States Code: Provided further, That the Administrator of*
5 *the Federal Aviation Administration may retain and trans-*
6 *fer to “Federal Aviation Administration, Operations” up*
7 *to one-quarter of 1 percent of the funds provided under this*
8 *heading to fund the award and oversight by the Adminis-*
9 *trator of grants made under this heading.*

10 *FEDERAL HIGHWAY ADMINISTRATION*

11 *SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT*

12 *For an additional amount for restoration, repair, con-*
13 *struction and other activities eligible under paragraph (b)*
14 *of section 133 of title 23, United States Code,*
15 *\$27,060,000,000: Provided, That funds provided under this*
16 *heading shall be apportioned to States using the formula*
17 *set forth in section 104(b)(3) of such title: Provided further,*
18 *That 180 days following the date of such apportionment,*
19 *the Secretary of Transportation shall withdraw from each*
20 *State an amount equal to 50 percent of the funds awarded*
21 *to that grantee less the amount of funding obligated, and*
22 *the Secretary shall redistribute such amounts to other States*
23 *that have had no funds withdrawn under this proviso in*
24 *the manner described in section 120(c) of division K of Pub-*
25 *lic Law 110–161: Provided further, That 1 year following*

1 *the date of such apportionment, the Secretary shall with-*
2 *draw from each recipient of funds apportioned under this*
3 *heading any unobligated funds and transfer such funds to*
4 *“Supplemental Discretionary Grants for a National Sur-*
5 *face Transportation System”: Provided further, That at the*
6 *request of a State, the Secretary of Transportation may*
7 *provide an extension of such 1-year period only to the extent*
8 *that he or she feels satisfied that the State has encountered*
9 *extreme conditions that create an unworkable bidding envi-*
10 *ronment or other extenuating circumstances: Provided fur-*
11 *ther, That before granting a such an extension, the Sec-*
12 *retary shall send a letter to the House and Senate Commit-*
13 *tees on Appropriations that provides a thorough justifica-*
14 *tion for the extension: Provided further, That the provisions*
15 *of subsections 133(d)(3) and 133(d)(4) of title 23, United*
16 *States Code, shall apply to funds apportioned under this*
17 *heading, except that the percentage of funds to be allocated*
18 *to local jurisdictions shall be 40 percent and such alloca-*
19 *tion, notwithstanding any other provision of law, shall be*
20 *conducted in all states within the United States: Provided*
21 *further, That funds allocated to such urbanized areas and*
22 *other areas shall not be subject to the redistribution of*
23 *amounts required 180 days following the date of apporportion-*
24 *ment of funds provided under this heading: Provided fur-*
25 *ther, That funds apportioned under this heading may be*

1 *used for, but not be limited to, projects that address*
2 *stormwater runoff, investments in passenger and freight*
3 *rail transportation, and investments in port infrastructure:*
4 *Provided further, that each State shall use not less than*
5 *5 percent of funds apportioned to it for activities eligible*
6 *under subsections 149(b) and (c) of title 23, United States*
7 *Code: Provided further, That of the funds provided under*
8 *this heading, \$60,000,000 shall be for capital expenditures*
9 *eligible under section 147 of title 23, United States Code:*
10 *Provided further, That the Secretary of Transportation*
11 *shall distribute such \$60,000,000 as competitive discre-*
12 *tionary grants to States, with priority given to those*
13 *projects that demonstrate to his or her satisfaction their*
14 *ability to be completed within 2 years of enactment of this*
15 *Act: Provided further, That of the funds provided under this*
16 *heading, \$500,000,000 shall be for investments in transpor-*
17 *tation at Indian reservations and Federal lands, and ad-*
18 *ministered in accordance with chapter 2 of title 23, United*
19 *States Code: Provided further, That of the funds identified*
20 *in the preceding proviso, \$320,000,000 shall be for the In-*
21 *dian Reservation Roads program, \$100,000,000 shall be for*
22 *the Park Roads and Parkways program, \$70,000,000 shall*
23 *be for the Forest Highway Program, and \$10,000,000 shall*
24 *be for the Refuge Roads program: Provided further, That*
25 *for investments at Indian reservations and Federal lands,*

1 *priority shall be given to capital investments, and to*
2 *projects and activities that can be completed within 2 years*
3 *of enactment of this Act: Provided further, That 1 year fol-*
4 *lowing the enactment of this Act, to ensure the prompt use*
5 *of the \$500,000,000 provided for investments at Indian res-*
6 *ervations and Federal lands, the Secretary shall have the*
7 *authority to redistribute unobligated funds within the re-*
8 *spective program for which the funds were appropriated:*
9 *Provided further, That up to 4 percent of the funding pro-*
10 *vided for Indian Reservation Roads may be used by the*
11 *Secretary of the Interior for program management and*
12 *oversight and project-related administrative expenses: Pro-*
13 *vided further, That section 134(f)(3)(C)(ii)(II) of title 23,*
14 *United States Code, shall not apply to funds provided under*
15 *this heading: Provided further, That the Federal share pay-*
16 *able on account of any project or activity carried out with*
17 *funds made available under this heading shall be at the op-*
18 *tion of the recipient, and may be up to 100 percent of the*
19 *total cost thereof: Provided further, That funding provided*
20 *under this heading shall be in addition to any and all funds*
21 *provided for fiscal years 2008 and 2009 in any other Act*
22 *for “Federal-aid Highways” and shall not affect the dis-*
23 *tribution of funds provided for “Federal-aid Highways” in*
24 *any other Act: Provided further, That the amount made*
25 *available under this heading shall not be subject to any lim-*

1 *itation on obligations for Federal-aid highways or highway*
2 *safety construction programs set forth in any Act: Provided*
3 *further, That projects conducted using funds provided under*
4 *this heading must comply with the requirements of sub-*
5 *chapter IV of chapter 31 of title 40, United States Code:*
6 *Provided further, That section 313 of title 23, United States*
7 *Code, shall apply to funds provided under this heading:*
8 *Provided further, That section 1101(b) of Public Law 109-*
9 *59 shall apply to funds apportioned under this heading:*
10 *Provided further, That for the purposes of the definition of*
11 *States for this paragraph, sections 101(a)(32) of title 23,*
12 *United States Code, shall apply: Provided further, That the*
13 *Administrator of the Federal Highway Administration*
14 *may retain up to \$12,000,000 of the funds provided under*
15 *this heading to carry out the function of the “Federal High-*
16 *way Administration, Limitation on Administrative Ex-*
17 *penses” and to fund the oversight by the Administrator of*
18 *projects and activities carried out with funds made avail-*
19 *able to the Federal Highway Administration in this Act.*

20 *FEDERAL RAILROAD ADMINISTRATION*

21 *SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY*

22 *PASSENGER RAIL SERVICE*

23 *For an additional amount for discretionary grants to*
24 *States to pay for the cost of projects described in paragraphs*
25 *(2)(A) and (2)(B) of section 24401 of title 49, United States*

1 Code, and subsection (b) of section 24105 of such title,
2 \$250,000,000: Provided, That to be eligible for assistance
3 under this paragraph, the specific project must be on a
4 Statewide Transportation Improvement Plan at the time
5 of the application to qualify: Provided further, That the
6 Secretary of Transportation shall give priority to projects
7 that demonstrate an ability to be completed within 2 years
8 of enactment of this Act, and to projects that improve the
9 safety and reliability of intercity passenger trains: Pro-
10 vided further, That the Federal share payable of the costs
11 for which a grant is made under this heading shall be 100
12 percent: Provided further, That projects conducted using
13 funds provided under this heading must comply with the
14 requirements of subchapter IV of chapter 31 of title 40,
15 United States Code: Provided further, That section
16 24405(a) of title 49, United States Code, shall apply to
17 funds provided under this heading: Provided further, That
18 the Administrator of the Federal Railroad Administration
19 may retain and transfer to “Federal Railroad Administra-
20 tion, Safety and Operations” up to one-quarter of 1 percent
21 of the funds provided under this heading to fund the award
22 and oversight by the Administrator of grants made under
23 this heading.

1 *SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL*
2 *RAILROAD PASSENGER CORPORATION*

3 *For an additional amount for the immediate invest-*
4 *ment in capital projects necessary to maintain and improve*
5 *national intercity passenger rail service, including the re-*
6 *habilitation of rolling stock, \$850,000,000: Provided, That*
7 *funds made available under this heading shall be allocated*
8 *directly to the National Railroad Passenger Corporation:*
9 *Provided further, That the Board of Directors of the cor-*
10 *poration shall take measures to ensure that priority is given*
11 *to capital projects that expand passenger rail capacity: Pro-*
12 *vided further, That the Board of Directors shall take meas-*
13 *ures to ensure that projects funded under this heading shall*
14 *be completed within 2 years of enactment of this Act, and*
15 *shall serve to supplement and not supplant planned expend-*
16 *itures for such activities from other Federal, State, local*
17 *and corporate sources: Provided further, That said Board*
18 *of Directors shall certify to the House and Senate Commit-*
19 *tees on Appropriations in writing their compliance with*
20 *the preceding proviso: Provided further, That section*
21 *24305(f) of title 49, United States Code, shall apply to*
22 *funds provided under this heading: Provided further, That*
23 *not more than 50 percent of the funds provided under this*
24 *heading may be used for capital projects along the North-*
25 *east Corridor.*

1 *HIGH-SPEED RAIL CORRIDOR PROGRAM*

2 *To make grants for high-speed rail projects under the*
3 *provisions of section 26106 of title 49, United States Code,*
4 *\$2,000,000,000, to remain available until September 30,*
5 *2011: Provided, That the Federal share payable of the costs*
6 *for which a grant is made under this heading shall be 100*
7 *percent: Provided further, That the Administrator of the*
8 *Federal Railroad Administration may retain and transfer*
9 *to “Federal Railroad Administration, Safety and Oper-*
10 *ations” up to one-quarter of 1 percent of the funds provided*
11 *under this heading to fund the award and oversight by the*
12 *Administrator of grants made under this paragraph.*

13 *FEDERAL TRANSIT ADMINISTRATION*14 *SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT INVESTMENT*

15 *For an additional amount for capital expenditures au-*
16 *thorized under section 5302(a)(1) of title 49, United States*
17 *Code, \$8,400,000,000: Provided, That the Secretary of*
18 *Transportation shall apportion 71 percent of the funds ap-*
19 *portioned under this heading using the formula set forth*
20 *in subsections (a) through (c) of section 5336 of title 49,*
21 *United States Code, 19 percent of the funds apportioned*
22 *under this heading using the formula set forth in section*
23 *5340 of such title, and 10 percent of the funding appor-*
24 *tioned under this heading using the formula set forth in*
25 *subsection 5311(c) of such title: Provided further, That 180*

1 *days following the date of such apportionment, the Sec-*
2 *retary shall withdraw from each grantee an amount equal*
3 *to 50 percent of the funds awarded to that grantee less the*
4 *amount of funding obligated, and the Secretary shall redis-*
5 *tribute such amounts to other grantees that have had no*
6 *funds withdrawn under this proviso utilizing whatever*
7 *method he or she deems appropriate to ensure that all funds*
8 *provided under this paragraph shall be utilized promptly:*
9 *Provided further, That 1 year following the date of such*
10 *apportionment, the Secretary shall withdraw from each*
11 *grantee any unobligated funds and transfer such funds to*
12 *“Supplemental Discretionary Grants for a National Sur-*
13 *face Transportation System”:* *Provided further, That at the*
14 *request of a grantee, the Secretary of Transportation may*
15 *provide an extension of such 1-year periods if he or she feels*
16 *satisfied that the grantee has encountered an unworkable*
17 *bidding environment or other extenuating circumstances:*
18 *Provided further, That before granting such an extension,*
19 *the Secretary shall send a letter to the House and Senate*
20 *Committees on Appropriations that provides a thorough*
21 *justification for the extension:* *Provided further, That of the*
22 *funds apportioned using the formula set forth in subsection*
23 *5311(c) of title 49, United States Code, 2 percent shall be*
24 *made available for section 5311(c)(1):* *Provided further,*
25 *That of the funding provided under this heading,*

1 \$200,000,000 shall be distributed as discretionary grants to
2 public transit agencies for capital investments that will as-
3 sist in reducing the energy consumption or greenhouse gas
4 emissions of their public transportation systems: Provided
5 further, That for such grants on energy-related investments,
6 priority shall be given to projects based on the total energy
7 savings that are projected to result from the investment, and
8 projected energy savings as a percentage of the total energy
9 usage of the public transit agency: Provided further, That
10 the Federal share of the costs for which any grant is made
11 under this heading shall be at the option of the recipient,
12 and may be up to 100 percent: Provided further, That the
13 amount made available under this heading shall not be sub-
14 ject to any limitation on obligations for transit programs
15 set forth in any Act: Provided further, That section 1101(b)
16 of Public Law 109–59 shall apply to funds apportioned
17 under this heading: Provided further, That the funds appro-
18 priated under this heading shall be subject to subsection
19 5323(j) and section 5333 of title 49, United States Code
20 as well as sections 5304 and 5305 of said title, as appro-
21 priate, but shall not be comingled with funds available
22 under the Formula and Bus Grants account: Provided fur-
23 ther, That the Administrator of the Federal Transit Admin-
24 istration may retain up to \$3,000,000 of the funds provided
25 under this heading to carry out the function of “Federal

1 *Transit Administration, Administrative Expenses” and to*
2 *fund the oversight of grants made under this heading by*
3 *the Administrator.*

4 *MARITIME ADMINISTRATION*

5 *SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL*

6 *SHIPYARDS*

7 *To make grants to qualified shipyards as authorized*
8 *under section 3506 of Public Law 109–163 or section 54101*
9 *of title 46, United States Code, \$100,000,000: Provided,*
10 *That the Secretary of Transportation shall institute meas-*
11 *ures to ensure that funds provided under this heading shall*
12 *be obligated within 180 days of the date of their distribu-*
13 *tion: Provided further, That the Maritime Administrator*
14 *may retain and transfer to “Maritime Administration, Op-*
15 *erations and Training” up to 2 percent of the funds pro-*
16 *vided under this heading to fund the award and oversight*
17 *by the Administrator of grants made under this heading.*

18 *OFFICE OF INSPECTOR GENERAL*

19 *SALARIES AND EXPENSES*

20 *For an additional amount for necessary expenses of*
21 *the Office of Inspector General to carry out the provisions*
22 *of the Inspector General Act of 1978, as amended,*
23 *\$7,750,000, to remain available until September 30, 2011,*
24 *and an additional \$12,250,000 for such purposes, to remain*
25 *available until September 30, 2012: Provided, That the*

1 *funding made available under this heading shall be used*
2 *for conducting audits and investigations of projects and ac-*
3 *tivities carried out with funds made available in this Act*
4 *to the Department of Transportation and to the National*
5 *Railroad Passenger Corporation: Provided further, That the*
6 *Inspector General shall have all necessary authority, in car-*
7 *rying out the duties specified in the Inspector General Act,*
8 *as amended (5 U.S.C. App. 3), to investigate allegations*
9 *of fraud, including false statements to the Government (18*
10 *U.S.C. 1001), by any person or entity that is subject to*
11 *regulation by the Department.*

12 *GENERAL PROVISION—DEPARTMENT OF*
13 *TRANSPORTATION*

14 *SEC. 1201. Section 5309(g)(4)(A) of title 49, United*
15 *States Code, is amended by striking “or an amount equiva-*
16 *lent to the last 3 fiscal years of funding allocated under*
17 *subsections (m)(1)(A) and (m)(2)(A)(ii)” and inserting “or*
18 *the sum of the funds available for the next 3 fiscal years*
19 *beyond the current fiscal year, assuming an annual growth*
20 *of the program of 10 percent”.*

21 *DEPARTMENT OF HOUSING AND URBAN*
22 *DEVELOPMENT*

23 *NATIVE AMERICAN HOUSING BLOCK GRANTS*

24 *For an additional amount for “Native American*
25 *Housing Block Grants”, as authorized under title I of the*

1 *Native American Housing Assistance and Self-Determina-*
2 *tion Act of 1996 (“NAHASDA”) (25 U.S.C. 4111 et seq.),*
3 *\$510,000,000, to remain available until September 30,*
4 *2011: Provided, That \$255,000,000 of the amount provided*
5 *under this heading shall be distributed according to the*
6 *same funding formula used in fiscal year 2008: Provided*
7 *further, That in selecting projects to be funded, recipients*
8 *shall give priority to projects that can award contracts*
9 *based on bids within 180 days from the date that funds*
10 *are available to recipients: Provided further, That the Sec-*
11 *retary shall obligate \$255,000,000 of the amount provided*
12 *under this heading for competitive grants to eligible entities*
13 *that apply for funds authorized under NAHASDA: Pro-*
14 *vided further, That in awarding competitive funds, the Sec-*
15 *retary shall give priority to projects that will spur construc-*
16 *tion and rehabilitation and will create employment oppor-*
17 *tunities for low-income and unemployed persons: Provided*
18 *further, That recipients of funds under this heading shall*
19 *obligate 100 percent of such funds within 1 year of the date*
20 *of enactment of this Act, expend at least 50 percent of such*
21 *funds within 2 years of the date on which funds become*
22 *available to such jurisdictions for obligation, and expend*
23 *100 percent of such funds within 3 years of such date: Pro-*
24 *vided further, That if a recipient fails to comply with either*
25 *the 1-year obligation requirement or the 2-year expenditure*

1 *requirement, the Secretary shall recapture all remaining*
2 *funds awarded to the recipient and reallocate such funds*
3 *to recipients that are in compliance with those require-*
4 *ments: Provided further, That if a recipient fails to comply*
5 *with the 3-year expenditure requirement, the Secretary*
6 *shall recapture the balance of the funds awarded to the re-*
7 *ipient: Provided further, That, notwithstanding any other*
8 *provision of this paragraph, the Secretary may institute*
9 *measures to ensure participation in the formula and com-*
10 *petitive allocation of funds provided under this paragraph*
11 *by any housing entity eligible to receive funding under title*
12 *VIII of NAHASDA (25 U.S.C. 4221 et seq.): Provided fur-*
13 *ther, That in administering funds provided in this heading,*
14 *the Secretary may waive any provision of any statute or*
15 *regulation that the Secretary administers in connection*
16 *with the obligation by the Secretary or the use by the recipi-*
17 *ent of these funds except for requirements imposed by this*
18 *heading and requirements related to fair housing, non-*
19 *discrimination, labor standards, and the environment,*
20 *upon a finding that such waiver is required to facilitate*
21 *the timely use of such funds and would not be inconsistent*
22 *with the overall purpose of the statute or regulation: Pro-*
23 *vided further, That, of the funds made available under this*
24 *heading, up to 1 percent shall be available for staffing,*
25 *training, technical assistance, technology, monitoring, re-*

1 *search and evaluation activities: Provided further, That*
2 *any funds made available under this heading used by the*
3 *Secretary for personnel expenses shall be transferred to and*
4 *merged with funding provided to “Personnel Compensation*
5 *and Benefits, Office of Public and Indian Housing”:* Pro-
6 *vided further, That any funds made available under this*
7 *heading used by the Secretary for training or other admin-*
8 *istrative expenses shall be transferred to and merged with*
9 *funding provided to “Administration, Operations, and*
10 *Management”, for non-personnel expenses of the Depart-*
11 *ment of Housing and Urban Development: Provided fur-*
12 *ther, That any funds made available under this heading*
13 *used by the Secretary for technology shall be transferred to*
14 *and merged with the funding provided to “Working Capital*
15 *Fund”.*

16 *PUBLIC HOUSING CAPITAL FUND*

17 *For an additional amount for the “Public Housing*
18 *Capital Fund” to carry out capital and management ac-*
19 *tivities for public housing agencies, as authorized under sec-*
20 *tion 9 of the United States Housing Act of 1937 (42 U.S.C.*
21 *1437g) (the “Act”), \$5,000,000,000, to remain available*
22 *until September 30, 2011: Provided, That the Secretary of*
23 *Housing and Urban Development shall allocate*
24 *\$3,000,000,000 of this amount by the formula authorized*
25 *under section 9(d)(2) of the Act, except that the Secretary*

1 *may determine not to allocate funding to public housing*
2 *agencies currently designated as troubled or to public hous-*
3 *ing agencies that elect not to accept such funding: Provided*
4 *further, That the Secretary shall make available*
5 *\$2,000,000,000 by competition for priority investments, in-*
6 *cluding investments that leverage private sector funding or*
7 *financing for renovations and energy conservation retrofit*
8 *investments: Provided further, That public housing agencies*
9 *shall prioritize capital projects that are already underway*
10 *or included in the 5-year capital fund plans required by*
11 *the Act (42 U.S.C. 1437c-1(a)): Provided further, That in*
12 *allocating competitive grants under this heading, the Sec-*
13 *retary shall give priority consideration to the rehabilitation*
14 *of vacant rental units: Provided further, That notwith-*
15 *standing any other provision of law, (1) funding provided*
16 *herein may not be used for operating or rental assistance*
17 *activities, and (2) any restriction of funding to replacement*
18 *housing uses shall be inapplicable: Provided further, That*
19 *notwithstanding any other provision of law, the Secretary*
20 *shall institute measures to ensure that funds provided under*
21 *this heading shall serve to supplement and not supplant*
22 *expenditures from other Federal, State, or local sources or*
23 *funds independently generated by the grantee: Provided fur-*
24 *ther, That notwithstanding section 9(j), public housing*
25 *agencies shall obligate 100 percent of the funds within 1*

1 year of the date of enactment of this Act, shall expend at
2 least 60 percent of funds within 2 years of the date on which
3 funds become available to the agency for obligation, and
4 shall expend 100 percent of the funds within 3 years of such
5 date: Provided further, That if a public housing agency fails
6 to comply with either the 1-year obligation requirement or
7 the 2-year expenditure requirement, the Secretary shall re-
8 capture all remaining funds awarded to the public housing
9 agency and reallocate such funds to agencies that are in
10 compliance with those requirements: Provided further, That
11 if a public housing agency fails to comply with the 3-year
12 expenditure requirement, the Secretary shall recapture the
13 balance of the funds awarded to the public housing agency:
14 Provided further, That in administering funds provided in
15 this heading, the Secretary may waive any provision of any
16 statute or regulation that the Secretary administers in con-
17 nection with the obligation by the Secretary or the use by
18 the recipient of these funds except for requirements imposed
19 by this heading and requirements related to conditions on
20 use of funds for development and modernization, fair hous-
21 ing, non-discrimination, labor standards, and the environ-
22 ment, upon a finding that such waiver is required to facili-
23 tate the timely use of such funds and would not be incon-
24 sistent with the overall purpose of the statute or regulation:
25 Provided further, That of the funds made available under

1 *this heading, up to 1 percent shall be available for staffing,*
2 *training, technical assistance, technology, monitoring, re-*
3 *search and evaluation activities: Provided further, That*
4 *any funds made available under this heading used by the*
5 *Secretary for personnel expenses shall be transferred to and*
6 *merged with funding provided to “Personnel Compensation*
7 *and Benefits, Office of Public and Indian Housing”:* Pro-
8 *vided further, That any funds made available under this*
9 *heading used by the Secretary for training or other admin-*
10 *istrative expenses shall be transferred to and merged with*
11 *funding provided to “Administration, Operations, and*
12 *Management”, for non-personnel expenses of the Depart-*
13 *ment of Housing and Urban Development: Provided fur-*
14 *ther, That any funds made available under this heading*
15 *used by the Secretary for technology shall be transferred to*
16 *and merged with the funding provided to “Working Capital*
17 *Fund”.*

18 *HOME INVESTMENT PARTNERSHIPS PROGRAM*

19 *For an additional amount for the “HOME Investment*
20 *Partnerships Program” as authorized under title II of the*
21 *Cranston-Gonzalez National Affordable Housing Act (the*
22 *“Act”), \$250,000,000, to remain available until September*
23 *30, 2011: Provided, That except as specifically provided*
24 *herein, funds provided under this heading shall be distrib-*
25 *uted pursuant to the formula authorized by section 217 of*

1 *the Act: Provided further, That the Secretary may establish*
2 *a minimum grant size: Provided further, That partici-*
3 *pating jurisdictions shall obligate 100 percent of the funds*
4 *within 1 year of the date of enactment of this Act, shall*
5 *expend at least 60 percent of funds within 2 years of the*
6 *date on which funds become available to the participating*
7 *jurisdiction for obligation and shall expend 100 percent of*
8 *the funds within 3 years of such date: Provided further,*
9 *That if a participating jurisdiction fails to comply with*
10 *either the 1-year obligation requirement or the 2-year ex-*
11 *penditure requirement, the Secretary shall recapture all re-*
12 *maining funds awarded to the participating jurisdiction*
13 *and reallocate such funds to participating jurisdictions that*
14 *are in compliance with those requirements: Provided fur-*
15 *ther, That if a participating jurisdiction fails to comply*
16 *with the 3-year expenditure requirement, the Secretary*
17 *shall recapture the balance of the funds awarded to the par-*
18 *ticipating jurisdiction: Provided further, That in admin-*
19 *istering funds under this heading, the Secretary may waive*
20 *any provision of any statute or regulation that the Sec-*
21 *retary administers in connection with the obligation by the*
22 *Secretary or the use by the recipient of these funds except*
23 *for requirements imposed by this heading and requirements*
24 *related to fair housing, non-discrimination, labor standards*
25 *and the environment, upon a finding that such waiver is*

1 *required to facilitate the timely use of such funds and would*
2 *not be inconsistent with the overall purpose of the statute*
3 *or regulation: Provided further, That the Secretary may use*
4 *funds provided under this heading to provide incentives to*
5 *grantees to use funding for investments in energy efficiency*
6 *and green building technology: Provided further, That such*
7 *incentives may include allocation of up to 20 percent of*
8 *funds made available under this heading other than pursu-*
9 *ant to the formula authorized by section 217 of the Act:*
10 *Provided further, That, of the funds made available under*
11 *this heading, up to 1 percent shall be available for staffing,*
12 *training, technical assistance, technology, monitoring, re-*
13 *search and evaluation activities: Provided further, That*
14 *any funds made available under this heading used by the*
15 *Secretary for personnel expenses shall be transferred to and*
16 *merged with funding provided to “Personnel Compensation*
17 *and Benefits, Office of Community Planning and Develop-*
18 *ment”:* *Provided further, That any funds made available*
19 *under this heading used by the Secretary for training or*
20 *other administrative expenses shall be transferred to and*
21 *merged with funding provided to “Administration, Oper-*
22 *ations, and Management”, for non-personnel expenses of the*
23 *Department of Housing and Urban Development: Provided*
24 *further, That any funds made available under this heading*
25 *used by the Secretary for technology shall be transferred to*

1 *and merged with the funding provided to “Working Capital*
2 *Fund”.*

3 *For an additional amount for capital investments in*
4 *low-income housing tax credit projects, \$2,000,000,000, to*
5 *remain available until September 30, 2011: Provided, That*
6 *the funds shall be allocated to States under the HOME pro-*
7 *gram under this Heading shall be made available to State*
8 *housing finance agencies in an amount totaling*
9 *\$2,000,000,000, subject to any changes made to a State allo-*
10 *cation for the benefit of a State by the Secretary of Housing*
11 *and Urban Development for areas that have suffered from*
12 *disproportionate job loss and foreclosure: Provided further,*
13 *That the Secretary, in consultation with the States, shall*
14 *determine the amount of funds each State shall have avail-*
15 *able under HOME: Provided further, That the State hous-*
16 *ing finance agencies (including for purposes throughout this*
17 *heading any entity that is responsible for distributing low-*
18 *income housing tax credits) or as appropriate as an entity*
19 *as a gap financier, shall distribute these funds competitively*
20 *under this heading to housing developers for projects eligible*
21 *for funding (such terms including those who may have re-*
22 *ceived funding) under the low-income housing tax credit*
23 *program as provided under section 42 of the I.R.C. of 1986,*
24 *with a review of both the decisionmaking and process for*
25 *the award by the Secretary of Housing and Urban Develop-*

1 *ment: Provided further, That funds under this heading must*
2 *be awarded by State housing finance agencies within 120*
3 *days of enactment of the Act and obligated by the developer*
4 *of the low-income housing tax credit project within one year*
5 *of the date of enactment of this Act, shall expend 75 percent*
6 *of the funds within two years of the date on which the funds*
7 *become available, and shall expend 100 percent of the funds*
8 *within 3 years of such date: Provided further, That failure*
9 *by a developer to expend funds within the parameters re-*
10 *quired within the previous proviso shall result in a redis-*
11 *tribution of these funds by a State housing finance agency*
12 *or by the Secretary if there is a more deserving project in*
13 *another jurisdiction: Provided further, That projects award-*
14 *ed tax credits within 3 years prior to the date of enactment*
15 *of this Act shall be eligible for funding under this heading:*
16 *Provided further, That as part of the review, the Secretary*
17 *shall ensure equitable distribution of funds and an appro-*
18 *priate balance in addressing the needs of urban and rural*
19 *communities with a special priority on areas that have suf-*
20 *fered from excessive job loss and foreclosures: Provided fur-*
21 *ther, That State housing finance agencies shall give priority*
22 *to projects that require an additional share of Federal funds*
23 *in order to complete an overall funding package, and to*
24 *projects that are expected to be completed within 3 years*
25 *of enactment: Provided further, That any assistance pro-*

1 *vided to an eligible low-income housing tax credit project*
2 *under this heading shall be made in the same manner and*
3 *be subject to the same limitations (including rent, income,*
4 *and use restrictions) as an allocation of the housing credit*
5 *amount allocated by the State housing finance agency*
6 *under section 42 of the I.R.C. of 1986, except that such as-*
7 *sistance shall not be limited by, or otherwise affect (except*
8 *as provided in subsection (h)(3)(J) of such section), the*
9 *State housing finance agency applicable to such agency:*
10 *Provided further, That the State housing finance agency*
11 *shall perform asset management functions to ensure compli-*
12 *ance with section 42 of the I.R.C. of 1986, and the long*
13 *term viability of buildings funded by assistance under this*
14 *heading: Provided further, That the term basis (as such*
15 *term is defined in such section 42) of a qualified low-income*
16 *housing tax credit building receiving assistance under this*
17 *heading shall not be reduced by the amount of any grant*
18 *described under this heading: Provided further, That the*
19 *Secretary shall collect all information related to the award*
20 *of Federal funds from state housing finance agencies and*
21 *establish an internet site that shall identify all projects se-*
22 *lected for an award, including the amount of the award*
23 *as well as the process and all information that was used*
24 *to make the award decision.*

1 *HOMELESSNESS PREVENTION FUND*

2 *For homelessness prevention activities, \$1,500,000,000,*
3 *to remain available until September 30, 2011: Provided,*
4 *That funds provided under this heading shall be used for*
5 *the provision of short-term or medium-term rental assist-*
6 *ance; housing relocation and stabilization services includ-*
7 *ing housing search, mediation or outreach to property own-*
8 *ers, credit repair, security or utility deposits, utility pay-*
9 *ments, rental assistance for a final month at a location,*
10 *and moving cost assistance; or other appropriate homeless-*
11 *ness prevention activities: Provided further, That grantees*
12 *receiving such assistance shall collect data on the use of the*
13 *funds awarded and persons served with this assistance in*
14 *the Homeless Management Information System (HMIS) or*
15 *other comparable database: Provided further, That grantees*
16 *may use up to 5 percent of any grant for administrative*
17 *costs: Provided further, That funding made available under*
18 *this heading shall be allocated to eligible grantees (as de-*
19 *fin ed and designated in sections 411 and 412 of subtitle*
20 *B of title IV of the McKinney-Vento Homeless Assistance*
21 *Act, (the “Act”)) pursuant to the formula authorized by sec-*
22 *tion 413 of the Act: Provided further, That the Secretary*
23 *may establish a minimum grant size: Provided further,*
24 *That grantees shall expend at least 75 percent of funds with-*
25 *in 2 years of the date that funds became available to them*

1 *for obligation, and 100 percent of funds within 3 years of*
2 *such date, and the Secretary may recapture unexpended*
3 *funds in violation of the 2-year expenditure requirement*
4 *and reallocate such funds to grantees in compliance with*
5 *that requirement: Provided further, That the Secretary may*
6 *waive statutory or regulatory provisions (except provisions*
7 *for fair housing, nondiscrimination, labor standards, and*
8 *the environment) necessary to facilitate the timely expendi-*
9 *ture of funds: Provided further, That the Secretary shall*
10 *publish a notice to establish such requirements as may be*
11 *necessary to carry out the provisions of this section within*
12 *30 days of enactment of the Act and that this notice shall*
13 *take effect upon issuance: Provided further, That of the*
14 *funds provided under this heading, up to 1.5 percent shall*
15 *be available for staffing, training, technical assistance, tech-*
16 *nology, monitoring, research and evaluation activities: Pro-*
17 *vided further, That any funds made available under this*
18 *heading used by the Secretary for personnel expense shall*
19 *be transferred to and merged with funding provided to*
20 *“Community Planning and Development Personnel Com-*
21 *pensation and Benefits”:* *Provided further, That any funds*
22 *made available under this heading used by the Secretary*
23 *for training or other administrative expenses shall be trans-*
24 *ferred to and merged with funding provided to “Adminis-*
25 *tration, Operations, and Management” for non-personnel*

1 *expenses of the Department of Housing and Urban Develop-*
2 *ment: Provided further, That any funding made available*
3 *under this heading used by the Secretary for technology*
4 *shall be transferred to and merged with the funding pro-*
5 *vided to “Working Capital Fund.”*

6 *ASSISTED HOUSING STABILITY AND ENERGY AND GREEN*
7 *RETROFIT INVESTMENTS*

8 *For assistance to owners of properties receiving*
9 *project-based assistance pursuant to section 202 of the*
10 *Housing Act of 1959 (12 U.S.C. 17012), section 811 of the*
11 *Cranston-Gonzalez National Affordable Housing Act (42*
12 *U.S.C. 8013), or section 8 of the United States Housing*
13 *Act of 1937 as amended (42 U.S.C. 1437f), \$2,250,000,000,*
14 *of which \$2,132,000,000 shall be for an additional amount*
15 *for paragraph (1) under the heading “Project-Based Rental*
16 *Assistance” in Public Law 110–161 for payments to owners*
17 *for 12-month periods, and of which \$118,000,000 shall be*
18 *for grants or loans for energy retrofit and green investments*
19 *in such assisted housing: Provided, That projects funded*
20 *with grants or loans provided under this heading must com-*
21 *ply with the requirements of subchapter IV of chapter 31*
22 *of title 40, United States Code: Provided further, That such*
23 *grants or loans shall be provided through the existing poli-*
24 *cies, procedures, contracts, and transactional infrastructure*
25 *of the authorized programs administered by the Office of*

1 *Affordable Housing Preservation of the Department of*
2 *Housing and Urban Development, on such terms and condi-*
3 *tions as the Secretary of Housing and Urban Development*
4 *deems appropriate to ensure the maintenance and preserva-*
5 *tion of the property, the continued operation and mainte-*
6 *nance of energy efficiency technologies, and the timely ex-*
7 *penditure of funds: Provided further, That the Secretary*
8 *may provide incentives to owners to undertake energy or*
9 *green retrofits as a part of such grant or loan terms, includ-*
10 *ing, but not limited to, investment fees to cover oversight*
11 *and implementation costs incurred by said owner, or to en-*
12 *courage job creation for low-income or very low-income in-*
13 *dividuals: Provided further, That the grants or loans shall*
14 *include a financial assessment and physical inspection of*
15 *such property: Provided further, That eligible owners must*
16 *have at least a satisfactory management review rating, be*
17 *in substantial compliance with applicable performance*
18 *standards and legal requirements, and commit to an addi-*
19 *tional period of affordability determined by the Secretary,*
20 *but of not fewer than 15 years: Provided further, That the*
21 *Secretary shall undertake appropriate underwriting and*
22 *oversight with respect to grant and loan transactions and*
23 *may set aside up to 5 percent of the funds made available*
24 *under this heading for grants or loans for such purpose:*
25 *Provided further, That the Secretary shall take steps nec-*

1 *essary to ensure that owners receiving funding for energy*
2 *and green retrofit investments under this heading shall ex-*
3 *pend such funding within 2 years of the date they received*
4 *the funding: Provided further, That the Secretary may*
5 *waive or modify statutory or regulatory requirements with*
6 *respect to any existing grant, loan, or insurance mechanism*
7 *authorized to be used by the Secretary to enable or facilitate*
8 *the accomplishment of investments supported with funds*
9 *made available under this heading for grants or loans: Pro-*
10 *vided further, That of the funds provided under this head-*
11 *ing, up to 1.5 percent shall be available for staffing, train-*
12 *ing, technical assistance, technology, monitoring, research*
13 *and evaluation activities: Provided further, That funding*
14 *made available under this heading and used by the Sec-*
15 *retary for personnel expenses shall be transferred to and*
16 *merged with funding provided to “Housing Compensation*
17 *and Benefits”:* *Provided further, That any funding made*
18 *available under this heading used by the Secretary for*
19 *training and other administrative expenses shall be trans-*
20 *ferred to and merged with funding provided to “Adminis-*
21 *tration, Operations and Management” for non-personnel*
22 *expenses of the Department of Housing and Urban Develop-*
23 *ment: Provided further, That any funding made available*
24 *under this heading used by the Secretary for technology*

1 *shall be transferred to and merged with funding provided*
2 *to “Working Capital Fund.”*

3 *OFFICE OF HEALTHY HOMES AND LEAD HAZARD*
4 *CONTROL*

5 *For an additional amount for the “Lead Hazard Re-*
6 *duction”, as authorized by section 1011 of the Residential*
7 *Lead-Based Paint Hazard Reduction Act of 1992,*
8 *\$100,000,000, to remain available until September 30,*
9 *2011: Provided, That funds shall be awarded first to appli-*
10 *cant jurisdictions which had applied under the Lead-Based*
11 *Paint Hazard Control Grant Program Notice of Funding*
12 *Availability for fiscal year 2008, and were found in the*
13 *application review to be qualified for award, but were not*
14 *awarded because of funding limitations, and that any funds*
15 *which remain after reservation of funds for such grants*
16 *shall be added to the amount of funds to be awarded under*
17 *the Lead-Based Paint Hazard Control Grant Program No-*
18 *tice of Funding Availability for fiscal year 2009: Provided*
19 *further, That each applicant jurisdiction for the Lead-*
20 *Based Paint Hazard control Grant Program Notice of*
21 *Funding Availability for fiscal year 2009 shall submit a*
22 *detailed plan and strategy that demonstrates adequate ca-*
23 *capacity that is acceptable to the Secretary to carry out the*
24 *proposed use of funds: Provided further, That recipients of*
25 *funds under this heading shall obligate 100 percent of such*

1 funds within 1 year of the date of enactment of this Act,
2 expend at least 75 percent of such funds within 2 years
3 of the date on which funds become available to such jurisdic-
4 tions for obligation, and expend 100 percent of such funds
5 within 3 years of such date: Provided further, That if a
6 recipient fails to comply with either the 1-year obligation
7 requirement or the 2-year expenditure requirement, the Sec-
8 retary shall recapture all remaining funds awarded to the
9 recipient and reallocate such funds to recipients that are
10 in compliance with those requirements: Provided further,
11 That if a recipient fails to comply with the 3-year expendi-
12 ture requirement, the Secretary shall recapture the balance
13 of the funds awarded to the recipient: Provided further,
14 That in administering funds provided in this heading, the
15 Secretary may waive any provision of any statute or regu-
16 lation that the Secretary administers in connection with
17 the obligation by the Secretary or the use by the recipient
18 of these funds except for requirements imposed by this head-
19 ing and requirements related to fair housing, non-
20 discrimination, labor standards, and the environment,
21 upon a finding that such waiver is required to facilitate
22 the timely use of such funds and would not be inconsistent
23 with the overall purpose of the statute or regulation: Pro-
24 vided further, That, of the funds made available under this
25 heading, up to 1 percent shall be available for staffing,

1 *training, technical assistance, technology, monitoring, re-*
2 *search and evaluation activities: Provided further, That*
3 *any funds made available under this heading used by the*
4 *Secretary for personnel expenses shall be transferred to and*
5 *merged with funding provided to “Personnel Compensation*
6 *and Benefits, Office of Healthy Homes and Lead Hazard*
7 *Control”:* *Provided further, That any funds made available*
8 *under this heading used by the Secretary for training or*
9 *other administrative expenses shall be transferred to and*
10 *merged with funding provided to “Administration, Oper-*
11 *ations, and Management”, for non-personnel expenses of the*
12 *Department of Housing and Urban Development: Provided*
13 *further, That any funds made available under this heading*
14 *used by the Secretary for technology shall be transferred to*
15 *and merged with the funding provided to “Working Capital*
16 *Fund”.*

17 *OFFICE OF INSPECTOR GENERAL*

18 *For an additional amount for the necessary salaries*
19 *and expenses of the Office of Inspector General in carrying*
20 *out the Inspector General Act of 1978, as amended,*
21 *\$2,750,000, to remain available until September 30, 2011,*
22 *and an additional \$12,250,000 for such purposes, to remain*
23 *available until September 30, 2012: Provided, That the In-*
24 *pector General shall have independent authority over all*
25 *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 seq.)*
14 *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 of*
25 *record involved (as determined by the Secretary, such*

1 *as an ambulatory electronic health record for office-*
2 *based physicians or an inpatient hospital electronic*
3 *health record for hospitals).*

4 “(2) *ENTERPRISE INTEGRATION.*—*The term ‘en-*
5 *terprise integration’ means the electronic linkage of*
6 *health care providers, health plans, the government,*
7 *and other interested parties, to enable the electronic*
8 *exchange and use of health information among all the*
9 *components in the health care infrastructure in ac-*
10 *cordance with applicable law, and such term includes*
11 *related application protocols and other related stand-*
12 *ards.*

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, ambula-*
19 *tory surgical center described in section 1833(i) of the*
20 *Social Security Act, emergency medical services pro-*
21 *vider, Federally qualified health center, group prac-*
22 *tice (as defined in section 1877(h)(4) of the Social Se-*
23 *curity Act), a pharmacist, a pharmacy, a laboratory,*
24 *a physician (as defined in section 1861(r) of the So-*
25 *cial Security Act), a practitioner (as described in sec-*

1 *tion 1842(b)(18)(C) of the Social Security Act), a*
2 *provider operated by, or under contract with, the In-*
3 *dian Health Service or by an Indian tribe (as defined*
4 *in the Indian Self-Determination and Education As-*
5 *sistance Act), tribal organization, or urban Indian*
6 *organization (as defined in section 4 of the Indian*
7 *Health Care Improvement Act), a rural health clinic,*
8 *a covered entity under section 340B, and any other*
9 *category of facility or clinician determined appro-*
10 *priate by the Secretary.*

11 “(4) *HEALTH INFORMATION.*—*The term ‘health*
12 *information’ has the meaning given such term in sec-*
13 *tion 1171(4) of the Social Security Act.*

14 “(5) *HEALTH INFORMATION TECHNOLOGY.*—*The*
15 *term ‘health information technology’ includes hard-*
16 *ware, software, integrated technologies and related li-*
17 *censes, intellectual property, upgrades, and packaged*
18 *solutions sold as services for use by health care enti-*
19 *ties for the electronic creation, maintenance, access or*
20 *exchange of health information.*

21 “(6) *HEALTH PLAN.*—*The term ‘health plan’ has*
22 *the meaning given such term in section 1171(5) of the*
23 *Social Security Act.*

1 “(7) *HIT POLICY COMMITTEE*.—*The term ‘HIT*
2 *Policy Committee’ means such Committee established*
3 *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’ has*
12 *the meaning given such term in section 353(a).*

13 “(11) *NATIONAL COORDINATOR*.—*The term ‘Na-*
14 *tional Coordinator’ means the head of the Office of the*
15 *National Coordinator for Health Information Tech-*
16 *nology established under section 3001(a).*

17 “(12) *PHARMACIST*.—*The term ‘pharmacist’ has*
18 *the meaning given such term in section 804(2) of the*
19 *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 Office
25 shall be headed by a National Coordinator who shall be ap-

1 *pointed by the Secretary and shall report directly to the*
2 *Secretary.*

3 “(b) *PURPOSE.—The National Coordinator shall per-*
4 *form the duties under subsection (c) in a manner consistent*
5 *with the development of a nationwide health information*
6 *technology infrastructure that allows for the electronic use*
7 *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 inef-*
15 *iciency, medical errors, inappropriate care, duplica-*
16 *tive care, and incomplete information;*

17 “(4) *provides appropriate information to help*
18 *guide medical decisions at the time and place of care;*

19 “(5) *ensures the inclusion of meaningful public*
20 *input in such development of such infrastructure;*

21 “(6) *improves the coordination of care and infor-*
22 *mation among hospitals, laboratories, physician of-*
23 *fices, and other entities through an effective infra-*
24 *structure for the secure and authorized exchange of*
25 *health care information;*

1 “(7) *improves public health activities and facili-*
2 *tates the early identification and rapid response to*
3 *public health threats and emergencies, including bio-*
4 *terror events and infectious disease outbreaks;*

5 “(8) *facilitates health and clinical research and*
6 *health care quality;*

7 “(9) *promotes early detection, prevention, and*
8 *management of chronic diseases;*

9 “(10) *promotes a more effective marketplace,*
10 *greater competition, greater systems analysis, in-*
11 *creased consumer choice, and improved outcomes in*
12 *health care services; and*

13 “(11) *improves efforts to reduce health dispari-*
14 *ties.*

15 “(c) *DUTIES OF THE NATIONAL COORDINATOR.—*

16 “(1) *STANDARDS.—The National Coordinator*
17 *shall—*

18 “(A) *review and determine whether to en-*
19 *dorse each standard, implementation specifica-*
20 *tion, and certification criterion for the electronic*
21 *exchange and use of health information that is*
22 *recommended by the HIT Standards Committee*
23 *under section 3003 for purposes of adoption*
24 *under section 3004;*

1 “(B) make such determinations under sub-
2 paragraph (A), and report to the Secretary such
3 determinations, not later than 45 days after the
4 date the recommendation is received by the Coor-
5 dinator;

6 “(C) review Federal health information
7 technology investments to ensure that Federal
8 health information technology programs are
9 meeting the objectives of the strategic plan pub-
10 lished under paragraph (3); and

11 “(D) provide comments and advice regard-
12 ing specific Federal health information tech-
13 nology programs, at the request of the Office of
14 Management and Budget.

15 “(2) HIT POLICY COORDINATION.—

16 “(A) IN GENERAL.—The National Coordi-
17 nator shall coordinate health information tech-
18 nology policy and programs of the Department
19 with those of other relevant executive branch
20 agencies with a goal of avoiding duplication of
21 efforts and of helping to ensure that each agency
22 undertakes health information technology activi-
23 ties primarily within the areas of its greatest ex-
24 pertise and technical capability and in a man-
25 ner towards a coordinated national goal.

1 “(B) *HIT POLICY AND STANDARDS COMMIT-*
2 *TEES.*—*The National Coordinator shall be a*
3 *leading member in the establishment and oper-*
4 *ations of the HIT Policy Committee and the*
5 *HIT Standards Committee and shall serve as a*
6 *liaison among those two Committees and the*
7 *Federal Government.*

8 “(3) *STRATEGIC PLAN.*—

9 “(A) *IN GENERAL.*—*The National Coordi-*
10 *nator shall, in consultation with other appro-*
11 *priate Federal agencies (including the National*
12 *Institute of Standards and Technology), update*
13 *the Federal Health IT Strategic Plan (developed*
14 *as of June 3, 2008) to include specific objectives,*
15 *milestones, and metrics with respect to the fol-*
16 *lowing:*

17 “(i) *The electronic exchange and use of*
18 *health information and the enterprise inte-*
19 *gration of such information.*

20 “(ii) *The utilization of an electronic*
21 *health record for each person in the United*
22 *States by 2014.*

23 “(iii) *The incorporation of privacy*
24 *and security protections for the electronic*

1 *exchange of an individual's individually*
2 *identifiable health information.*

3 “(iv) *Ensuring security methods to en-*
4 *sure appropriate authorization and elec-*
5 *tronic authentication of health information*
6 *and specifying technologies or methodologies*
7 *for rendering health information unusable,*
8 *unreadable, or indecipherable.*

9 “(v) *Specifying a framework for co-*
10 *ordination and flow of recommendations*
11 *and policies under this subtitle among the*
12 *Secretary, the National Coordinator, the*
13 *HIT Policy Committee, the HIT Standards*
14 *Committee, and other health information*
15 *exchanges and other relevant entities.*

16 “(vi) *Methods to foster the public un-*
17 *derstanding of health information tech-*
18 *nology.*

19 “(vii) *Strategies to enhance the use of*
20 *health information technology in improving*
21 *the quality of health care, reducing medical*
22 *errors, reducing health disparities, improv-*
23 *ing public health, increasing prevention and*
24 *coordination with community resources,*

1 *and improving the continuity of care*
2 *among health care settings.*

3 “(viii) *Specific plans for ensuring that*
4 *populations with unique needs, such as chil-*
5 *dren, are appropriately addressed in the*
6 *technology design, as appropriate, which*
7 *may include technology that automates en-*
8 *rollment and retention for eligible individ-*
9 *uals.*

10 “(B) *COLLABORATION.*—*The strategic plan*
11 *shall be updated through collaboration of public*
12 *and private entities.*

13 “(C) *MEASURABLE OUTCOME GOALS.*—*The*
14 *strategic plan update shall include measurable*
15 *outcome goals.*

16 “(D) *PUBLICATION.*—*The National Coordi-*
17 *nator shall republish the strategic plan, includ-*
18 *ing all updates.*

19 “(4) *WEBSITE.*—*The National Coordinator shall*
20 *maintain and frequently update an Internet website*
21 *on which there is posted information on the work,*
22 *schedules, reports, recommendations, and other infor-*
23 *mation to ensure transparency in promotion of a na-*
24 *tionwide health information technology infrastruc-*
25 *ture.*

1 “(5) *HARMONIZATION.*—*The Secretary may recognize an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.*

7 “(6) *CERTIFICATION.*—

8 “(A) *IN GENERAL.*—*The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.*

20 “(B) *CERTIFICATION CRITERIA DESCRIBED.*—*In this title, the term ‘certification criteria’ means, with respect to standards and implementation specifications for health information technology, criteria to establish that the*

1 *technology meets such standards and implemen-*
2 *tation specifications.*

3 “(6) *REPORTS AND PUBLICATIONS.*—

4 “(A) *REPORT ON ADDITIONAL FUNDING OR*
5 *AUTHORITY NEEDED.*—*Not later than 12 months*
6 *after the date of the enactment of this title, the*
7 *National Coordinator shall submit to the appro-*
8 *priate committees of jurisdiction of the House of*
9 *Representatives and the Senate a report on any*
10 *additional funding or authority the Coordinator*
11 *or the HIT Policy Committee or HIT Standards*
12 *Committee requires to evaluate and develop*
13 *standards, implementation specifications, and*
14 *certification criteria, or to achieve full participa-*
15 *tion of stakeholders in the adoption of a nation-*
16 *wide health information technology infrastruc-*
17 *ture that allows for the electronic use and ex-*
18 *change of health information.*

19 “(B) *IMPLEMENTATION REPORT.*—*The Na-*
20 *tional Coordinator shall prepare a report that*
21 *identifies lessons learned from major public and*
22 *private health care systems in their implementa-*
23 *tion of health information technology, including*
24 *information on whether the technologies and*
25 *practices developed by such systems may be ap-*

1 *plicable to and usable in whole or in part by*
2 *other health care providers.*

3 *“(C) ASSESSMENT OF IMPACT OF HIT ON*
4 *COMMUNITIES WITH HEALTH DISPARITIES AND*
5 *UNINSURED, UNDERINSURED, AND MEDICALLY*
6 *UNDERSERVED AREAS.—The National Coordi-*
7 *nator shall assess and publish the impact of*
8 *health information technology in communities*
9 *with health disparities and in areas with a high*
10 *proportion of individuals who are uninsured,*
11 *underinsured, and medically underserved indi-*
12 *viduals (including urban and rural areas) and*
13 *identify practices to increase the adoption of*
14 *such technology by health care providers in such*
15 *communities, and the use of health information*
16 *technology to reduce and better manage chronic*
17 *diseases.*

18 *“(D) EVALUATION OF BENEFITS AND COSTS*
19 *OF THE ELECTRONIC USE AND EXCHANGE OF*
20 *HEALTH INFORMATION.—The National Coordi-*
21 *nator shall evaluate and publish evidence on the*
22 *benefits and costs of the electronic use and ex-*
23 *change of health information and assess to whom*
24 *these benefits and costs accrue.*

1 (E) *RESOURCE REQUIREMENTS.*—*The Na-*
2 *tional Coordinator shall estimate and publish re-*
3 *sources required annually to reach the goal of*
4 *utilization of an electronic health record for each*
5 *person in the United States by 2014, includ-*
6 *ing—*

7 (i) *the required level of Federal fund-*
8 *ing;*

9 (ii) *expectations for regional, State,*
10 *and private investment;*

11 (iii) *the expected contributions by vol-*
12 *unteers to activities for the utilization of*
13 *such records; and*

14 (iv) *the resources needed to establish or*
15 *expand education programs in medical and*
16 *health informatics and health information*
17 *management to train health care and infor-*
18 *mation technology students and provide a*
19 *health information technology workforce suf-*
20 *ficient to ensure the rapid and effective de-*
21 *ployment and utilization of health informa-*
22 *tion technologies.*

23 (7) *ASSISTANCE.*—*The National Coordinator*
24 *may provide financial assistance to consumer advo-*
25 *cacy groups and not-for-profit entities that work in*

1 *the public interest for purposes of defraying the cost*
2 *to such groups and entities to participate under,*
3 *whether in whole or in part, the National Technology*
4 *Transfer Act of 1995 (15 U.S.C. 272 note).*

5 “(8) *GOVERNANCE FOR NATIONWIDE HEALTH IN-*
6 *FORMATION NETWORK.—The National Coordinator*
7 *shall establish a governance mechanism for the na-*
8 *tionwide health information network.*

9 “(d) *DETAIL OF FEDERAL EMPLOYEES.—*

10 “(1) *IN GENERAL.—Upon the request of the Na-*
11 *tional Coordinator, the head of any Federal agency is*
12 *authorized to detail, with or without reimbursement*
13 *from the Office, any of the personnel of such agency*
14 *to the Office to assist it in carrying out its duties*
15 *under this section.*

16 “(2) *EFFECT OF DETAIL.—Any detail of per-*
17 *sonnel under paragraph (1) shall—*

18 “(A) *not interrupt or otherwise affect the*
19 *civil service status or privileges of the Federal*
20 *employee; and*

21 “(B) *be in addition to any other staff of the*
22 *Department employed by the National Coordi-*
23 *nator.*

24 “(3) *ACCEPTANCE OF DETAILEES.—Notwith-*
25 *standing any other provision of law, the Office may*

1 *accept detailed personnel from other Federal agencies*
2 *without regard to whether the agency described under*
3 *paragraph (1) is reimbursed.*

4 “(e) *CHIEF PRIVACY OFFICER OF THE OFFICE OF THE*
5 *NATIONAL COORDINATOR.*—*Not later than 12 months after*
6 *the date of the enactment of this title, the Secretary shall*
7 *appoint a Chief Privacy Officer of the Office of the National*
8 *Coordinator, whose duty it shall be to advise the National*
9 *Coordinator on privacy, security, and data stewardship of*
10 *electronic health information and to coordinate with other*
11 *Federal agencies (and similar privacy officers in such agen-*
12 *cies), with State and regional efforts, and with foreign*
13 *countries with regard to the privacy, security, and data*
14 *stewardship of electronic individually identifiable health*
15 *information.*

16 **“SEC. 3002. HIT POLICY COMMITTEE.**

17 “(a) *ESTABLISHMENT.*—*There is established a HIT*
18 *Policy Committee to make policy recommendations to the*
19 *National Coordinator relating to the implementation of a*
20 *nationwide health information technology infrastructure,*
21 *including implementation of the strategic plan described in*
22 *section 3001(c)(3).*

23 “(b) *DUTIES.*—

24 “(1) *RECOMMENDATIONS ON HEALTH INFORMA-*
25 *TION TECHNOLOGY INFRASTRUCTURE.*—*The HIT Pol-*

1 *icy Committee shall recommend a policy framework*
2 *for the development and adoption of a nationwide*
3 *health information technology infrastructure that per-*
4 *mits the electronic exchange and use of health infor-*
5 *mation as is consistent with the strategic plan under*
6 *section 3001(c)(3) and that includes the recommenda-*
7 *tions under paragraph (2). The Committee shall up-*
8 *date such recommendations and make new rec-*
9 *ommendations as appropriate.*

10 “(2) *SPECIFIC AREAS OF STANDARD DEVELOP-*
11 *MENT.—*

12 “(A) *IN GENERAL.—The HIT Policy Com-*
13 *mittee shall recommend the areas in which*
14 *standards, implementation specifications, and*
15 *certification criteria are needed for the electronic*
16 *exchange and use of health information for pur-*
17 *poses of adoption under section 3004 and shall*
18 *recommend an order of priority for the develop-*
19 *ment, harmonization, and recognition of such*
20 *standards, specifications, and certification cri-*
21 *teria among the areas so recommended. Such*
22 *standards and implementation specifications*
23 *shall include named standards, architectures,*
24 *and software schemes for the authentication and*
25 *security of individually identifiable health infor-*

1 *mation and other information as needed to en-*
2 *sure the reproducible development of common so-*
3 *lutions across disparate entities.*

4 “(B) *AREAS REQUIRED FOR CONSIDER-*
5 *ATION.—For purposes of subparagraph (A), the*
6 *HIT Policy Committee shall make recommenda-*
7 *tions for at least the following areas:*

8 “(i) *Technologies that protect the pri-*
9 *vacancy of health information and promote se-*
10 *curity in a qualified electronic health*
11 *record, including for the segmentation and*
12 *protection from disclosure of specific and*
13 *sensitive individually identifiable health in-*
14 *formation with the goal of minimizing the*
15 *reluctance of patients to seek care (or dis-*
16 *close information about a condition) be-*
17 *cause of privacy concerns, in accordance*
18 *with applicable law, and for the use and*
19 *disclosure of limited data sets of such infor-*
20 *mation.*

21 “(ii) *A nationwide health information*
22 *technology infrastructure that allows for the*
23 *electronic use and accurate exchange of*
24 *health information.*

1 “(iii) *The utilization of a certified elec-*
2 *tronic health record for each person in the*
3 *United States by 2014.*

4 “(iv) *Technologies that as a part of a*
5 *qualified electronic health record allow for*
6 *an accounting of disclosures made by a cov-*
7 *ered entity (as defined for purposes of regu-*
8 *lations promulgated under section 264(c) of*
9 *the Health Insurance Portability and Ac-*
10 *countability Act of 1996) for purposes of*
11 *treatment, payment, and health care oper-*
12 *ations (as such terms are defined for pur-*
13 *poses of such regulations).*

14 “(v) *The use of certified electronic*
15 *health records to improve the quality of*
16 *health care, such as by promoting the co-*
17 *ordination of health care and improving*
18 *continuity of health care among health care*
19 *providers, by reducing medical errors, by*
20 *improving population health, reducing*
21 *chronic disease, and by advancing research*
22 *and education.*

23 “(vi) *The use of electronic systems to*
24 *ensure the comprehensive collection of pa-*
25 *tient demographic data, including, at a*

1 *minimum, race, ethnicity, primary lan-*
2 *guage, and gender information.*

3 “(vii) *Technologies and design features*
4 *that address the needs of children and other*
5 *vulnerable populations.*

6 “(C) *OTHER AREAS FOR CONSIDERATION.—*
7 *In making recommendations under subpara-*
8 *graph (A), the HIT Policy Committee may con-*
9 *sider the following additional areas:*

10 “(i) *The appropriate uses of a nation-*
11 *wide health information infrastructure, in-*
12 *cluding for purposes of—*

13 “(I) *the collection of quality data*
14 *and public reporting;*

15 “(II) *biosurveillance and public*
16 *health;*

17 “(III) *medical and clinical re-*
18 *search; and*

19 “(IV) *drug safety.*

20 “(ii) *Self-service technologies that fa-*
21 *facilitate the use and exchange of patient in-*
22 *formation and reduce wait times.*

23 “(iii) *Telemedicine technologies, in*
24 *order to reduce travel requirements for pa-*
25 *tients in remote areas.*

1 “(iv) *Technologies that facilitate home*
2 *health care and the monitoring of patients*
3 *recuperating at home.*

4 “(v) *Technologies that help reduce med-*
5 *ical errors.*

6 “(vi) *Technologies that facilitate the*
7 *continuity of care among health settings.*

8 “(vii) *Technologies that meet the needs*
9 *of diverse populations.*

10 “(viii) *Methods to facilitate secure ac-*
11 *cess by an individual to such individual’s*
12 *protected health information.*

13 “(ix) *Methods, guidelines, and safe-*
14 *guards to facilitate secure access to patient*
15 *information by a family member, caregiver,*
16 *or guardian acting on behalf of a patient*
17 *due to age-related and other disability, cog-*
18 *nitve impairment, or dementia that pre-*
19 *vents a patient from accessing the patient’s*
20 *individually identifiable health informa-*
21 *tion.*

22 “(x) *Any other technology that the HIT*
23 *Policy Committee finds to be among the*
24 *technologies with the greatest potential to*

1 *improve the quality and efficiency of health*
2 *care.*

3 “(3) *FORUM.—The HIT Policy Committee shall*
4 *serve as a forum for broad stakeholder input with spe-*
5 *cific expertise in policies relating to the matters de-*
6 *scribed in paragraphs (1) and (2).*

7 “(4) *CONSISTENCY WITH EVALUATION CON-*
8 *DUCTED UNDER MIPPA.—*

9 “(A) *REQUIREMENT FOR CONSISTENCY.—*
10 *The HIT Policy Committee shall ensure that rec-*
11 *ommendations made under paragraph (2)(B)(vi)*
12 *are consistent with the evaluation conducted*
13 *under section 1809(a) of the Social Security Act.*

14 “(B) *SCOPE.—Nothing in subparagraph (A)*
15 *shall be construed to limit the recommendations*
16 *under paragraph (2)(B)(vi) to the elements de-*
17 *scribed in section 1809(a)(3) of the Social Secu-*
18 *rity Act.*

19 “(C) *TIMING.—The requirement under sub-*
20 *paragraph (A) shall be applicable to the extent*
21 *that evaluations have been conducted under sec-*
22 *tion 1809(a) of the Social Security Act, regard-*
23 *less of whether the report described in subsection*
24 *(b) of such section has been submitted.*

25 “(c) *MEMBERSHIP AND OPERATIONS.—*

1 “(1) *IN GENERAL.*—*The National Coordinator*
2 *shall provide leadership in the establishment and op-*
3 *erations of the HIT Policy Committee.*

4 “(2) *MEMBERSHIP.*—*The HIT Policy Committee*
5 *shall be composed of members to be appointed as fol-*
6 *lows:*

7 “(A) *One member shall be appointed by the*
8 *Secretary.*

9 “(B) *One member shall be appointed by the*
10 *Secretary of Veterans Affairs who shall represent*
11 *the Department of Veterans Affairs.*

12 “(C) *One member shall be appointed by the*
13 *Secretary of Defense who shall represent the De-*
14 *partment of Defense.*

15 “(D) *One member shall be appointed by the*
16 *Majority Leader of the Senate.*

17 “(E) *One member shall be appointed by the*
18 *Minority Leader of the Senate.*

19 “(F) *One member shall be appointed by the*
20 *Speaker of the House of Representatives.*

21 “(G) *One member shall be appointed by the*
22 *Minority Leader of the House of Representatives.*

23 “(H) *Eleven members shall be appointed by*
24 *the Comptroller General of the United States, of*
25 *whom—*

1 “(i) three members shall represent pa-
2 tients or consumers;

3 “(ii) one member shall represent health
4 care providers;

5 “(iii) one member shall be from a labor
6 organization representing health care work-
7 ers;

8 “(iv) one member shall have expertise
9 in privacy and security;

10 “(v) one member shall have expertise
11 in improving the health of vulnerable popu-
12 lations;

13 “(vi) one member shall represent health
14 plans or other third party payers;

15 “(vii) one member shall represent in-
16 formation technology vendors;

17 “(viii) one member shall represent pur-
18 chasers or employers; and

19 “(ix) one member shall have expertise
20 in health care quality measurement and re-
21 porting.

22 “(3) CHAIRPERSON AND VICE CHAIRPERSON.—
23 The HIT Policy Committee shall designate one mem-
24 ber to serve as the chairperson and one member to
25 serve as the vice chairperson of the Policy Committee.

1 “(4) *NATIONAL COORDINATOR.*—*The National*
2 *Coordinator shall serve as a member of the HIT Pol-*
3 *icy Committee and act as a liaison among the HIT*
4 *Policy Committee, the HIT Standards Committee,*
5 *and the Federal Government.*

6 “(5) *PARTICIPATION.*—*The members of the HIT*
7 *Policy Committee appointed under paragraph (2)*
8 *shall represent a balance among various sectors of the*
9 *health care system so that no single sector unduly in-*
10 *fluences the recommendations of the Policy Com-*
11 *mittee.*

12 “(6) *TERMS.*—

13 “(A) *IN GENERAL.*—*The terms of the mem-*
14 *bers of the HIT Policy Committee shall be for 3*
15 *years, except that the Comptroller General shall*
16 *designate staggered terms for the members first*
17 *appointed.*

18 “(B) *VACANCIES.*—*Any member appointed*
19 *to fill a vacancy in the membership of the HIT*
20 *Policy Committee that occurs prior to the expi-*
21 *ration of the term for which the member’s prede-*
22 *cessor was appointed shall be appointed only for*
23 *the remainder of that term. A member may serve*
24 *after the expiration of that member’s term until*
25 *a successor has been appointed. A vacancy in the*

1 *HIT Policy Committee shall be filled in the*
2 *manner in which the original appointment was*
3 *made.*

4 “(7) *OUTSIDE INVOLVEMENT.*—*The HIT Policy*
5 *Committee shall ensure an adequate opportunity for*
6 *the participation of outside advisors, including indi-*
7 *viduals with expertise in—*

8 “(A) *health information privacy and secu-*
9 *rity;*

10 “(B) *improving the health of vulnerable*
11 *populations;*

12 “(C) *health care quality and patient safety,*
13 *including individuals with expertise in the meas-*
14 *urement and use of health information tech-*
15 *nology to capture data to improve health care*
16 *quality and patient safety;*

17 “(D) *long-term care and aging services;*

18 “(E) *medical and clinical research; and*

19 “(F) *data exchange and developing health*
20 *information technology standards and new*
21 *health information technology.*

22 “(8) *QUORUM.*—*Ten members of the HIT Policy*
23 *Committee shall constitute a quorum for purposes of*
24 *voting, but a lesser number of members may meet and*
25 *hold hearings.*

1 “(9) *FAILURE OF INITIAL APPOINTMENT.*—*If, on*
2 *the date that is 45 days after the date of enactment*
3 *of this title, an official authorized under paragraph*
4 *(2) to appoint one or more members of the HIT Pol-*
5 *icy Committee has not appointed the full number of*
6 *members that such paragraph authorizes such official*
7 *to appoint—*

8 “(A) *the number of members that such offi-*
9 *cial is authorized to appoint shall be reduced to*
10 *the number that such official has appointed as of*
11 *that date; and*

12 “(B) *the number prescribed in paragraph*
13 *(8) as the quorum shall be reduced to the small-*
14 *est whole number that is greater than one-half of*
15 *the total number of members who have been ap-*
16 *pointed as of that date.*

17 “(10) *CONSIDERATION.*—*The National Coordi-*
18 *nator shall ensure that the relevant recommendations*
19 *and comments from the National Committee on Vital*
20 *and Health Statistics are considered in the develop-*
21 *ment of policies.*

22 “(d) *APPLICATION OF FACA.*—*The Federal Advisory*
23 *Committee Act (5 U.S.C. App.), other than section 14 of*
24 *such Act, shall apply to the HIT Policy Committee.*

1 “(e) *PUBLICATION.*—*The Secretary shall provide for*
2 *publication in the Federal Register and the posting on the*
3 *Internet website of the Office of the National Coordinator*
4 *for Health Information Technology of all policy rec-*
5 *ommendations made by the HIT Policy Committee under*
6 *this section.*

7 “**SEC. 3003. HIT STANDARDS COMMITTEE.**

8 “(a) *ESTABLISHMENT.*—*There is established a com-*
9 *mittee to be known as the HIT Standards Committee to*
10 *recommend to the National Coordinator standards, imple-*
11 *mentation specifications, and certification criteria for the*
12 *electronic exchange and use of health information for pur-*
13 *poses of adoption under section 3004, consistent with the*
14 *implementation of the strategic plan described in section*
15 *3001(c)(3) and beginning with the areas listed in section*
16 *3002(b)(2)(B) in accordance with policies developed by the*
17 *HIT Policy Committee.*

18 “(b) *DUTIES.*—

19 “(1) *STANDARD DEVELOPMENT.*—

20 “(A) *IN GENERAL.*—*The HIT Standards*
21 *Committee shall recommend to the National Co-*
22 *ordinator standards, implementation specifica-*
23 *tions, and certification criteria described in sub-*
24 *section (a) that have been developed, harmonized,*
25 *or recognized by the HIT Standards Committee.*

1 *The HIT Standards Committee shall update*
2 *such recommendations and make new rec-*
3 *ommendations as appropriate, including in re-*
4 *sponse to a notification sent under section*
5 *3004(b)(2). Such recommendations shall be con-*
6 *sistent with the latest recommendations made by*
7 *the HIT Policy Committee.*

8 *“(B) PILOT TESTING OF STANDARDS AND*
9 *IMPLEMENTATION SPECIFICATIONS.—In the de-*
10 *velopment, harmonization, or recognition of*
11 *standards and implementation specifications, the*
12 *HIT Standards Committee shall, as appropriate,*
13 *provide for the testing of such standards and*
14 *specifications by the National Institute for*
15 *Standards and Technology under section 14201*
16 *of the Health Information Technology for Eco-*
17 *nomics and Clinical Health Act.*

18 *“(C) CONSISTENCY.—The standards, imple-*
19 *mentation specifications, and certification cri-*
20 *teria recommended under this subsection shall be*
21 *consistent with the standards for information*
22 *transactions and data elements adopted pursu-*
23 *ant to section 1173 of the Social Security Act.*

24 *“(2) FORUM.—The HIT Standards Committee*
25 *shall serve as a forum for the participation of a broad*

1 *range of stakeholders to provide input on the develop-*
2 *ment, harmonization, and recognition of standards,*
3 *implementation specifications, and certification cri-*
4 *teria necessary for the development and adoption of*
5 *a nationwide health information technology infra-*
6 *structure that allows for the electronic use and ex-*
7 *change of health information.*

8 “(3) *SCHEDULE.*—*Not later than 90 days after*
9 *the date of the enactment of this title, the HIT Stand-*
10 *ards Committee shall develop a schedule for the assess-*
11 *ment of policy recommendations developed by the*
12 *HIT Policy Committee under section 3002. The HIT*
13 *Standards Committee shall update such schedule an-*
14 *nually. The Secretary shall publish such schedule in*
15 *the Federal Register.*

16 “(4) *PUBLIC INPUT.*—*The HIT Standards Com-*
17 *mittee shall conduct open public meetings and develop*
18 *a process to allow for public comment on the schedule*
19 *described in paragraph (3) and recommendations de-*
20 *scribed in this subsection. Under such process com-*
21 *ments shall be submitted in a timely manner after the*
22 *date of publication of a recommendation under this*
23 *subsection.*

24 “(5) *CONSIDERATION.*—*The National Coordi-*
25 *nator shall ensure that the relevant recommendations*

1 *and comments from the National Committee on Vital*
2 *and Health Statistics are considered in the develop-*
3 *ment of standards.*

4 “(c) *MEMBERSHIP AND OPERATIONS.*—

5 “(1) *IN GENERAL.*—*The National Coordinator*
6 *shall provide leadership in the establishment and op-*
7 *erations of the HIT Standards Committee.*

8 “(2) *MEMBERSHIP.*—*The membership of the HIT*
9 *Standards Committee shall at least reflect providers,*
10 *ancillary healthcare workers, consumers, purchasers,*
11 *health plans, technology vendors, researchers, relevant*
12 *Federal agencies, and individuals with technical ex-*
13 *pertise on health care quality, privacy and security,*
14 *and on the electronic exchange and use of health in-*
15 *formation.*

16 “(3) *BROAD PARTICIPATION.*—*There is broad*
17 *participation in the HIT Standards Committee by a*
18 *variety of public and private stakeholders, either*
19 *through membership in the Committee or through an-*
20 *other means.*

21 “(4) *CHAIRPERSON; VICE CHAIRPERSON.*—*The*
22 *HIT Standards Committee may designate one mem-*
23 *ber to serve as the chairperson and one member to*
24 *serve as the vice chairperson.*

1 “(5) *DEPARTMENT MEMBERSHIP.*—*The Sec-*
2 *retary shall be a member of the HIT Standards Com-*
3 *mittee. The National Coordinator shall act as a liai-*
4 *son among the HIT Standards Committee, the HIT*
5 *Policy Committee, and the Federal Government.*

6 “(6) *BALANCE AMONG SECTORS.*—*In developing*
7 *the procedures for conducting the activities of the HIT*
8 *Standards Committee, the HIT Standards Committee*
9 *shall act to ensure a balance among various sectors of*
10 *the health care system so that no single sector unduly*
11 *influences the actions of the HIT Standards Com-*
12 *mittee.*

13 “(7) *ASSISTANCE.*—*For the purposes of carrying*
14 *out this section, the Secretary may provide or ensure*
15 *that financial assistance is provided by the HIT*
16 *Standards Committee to defray in whole or in part*
17 *any membership fees or dues charged by such Com-*
18 *mittee to those consumer advocacy groups and not for*
19 *profit entities that work in the public interest as a*
20 *part of their mission.*

21 “(d) *OPEN AND PUBLIC PROCESS.*—*In providing for*
22 *the establishment of the HIT Standards Committee pursu-*
23 *ant to subsection (a), the Secretary shall ensure the fol-*
24 *lowing:*

1 “(1) *CONSENSUS APPROACH; OPEN PROCESS.*—
2 *The HIT Standards Committee shall use a consensus*
3 *approach and a fair and open process to support the*
4 *development, harmonization, and recognition of*
5 *standards described in subsection (a)(1).*

6 “(2) *PARTICIPATION OF OUTSIDE ADVISERS.*—
7 *The HIT Standards Committee shall ensure an ade-*
8 *quate opportunity for the participation of outside ad-*
9 *visors, including individuals with expertise in—*

10 “(A) *health information privacy;*

11 “(B) *health information security;*

12 “(C) *health care quality and patient safety,*
13 *including individuals with expertise in utilizing*
14 *health information technology to improve*
15 *healthcare quality and patient safety;*

16 “(D) *long-term care and aging services; and*

17 “(E) *data exchange and developing health*
18 *information technology standards and new*
19 *health information technology.*

20 “(3) *OPEN MEETINGS.*—*Plenary and other regu-*
21 *larly scheduled formal meetings of the HIT Standards*
22 *Committee (or established subgroups thereof) shall be*
23 *open to the public.*

24 “(4) *PUBLICATION OF MEETING NOTICES AND*
25 *MATERIALS PRIOR TO MEETINGS.*—*The HIT Stand-*

1 *ards Committee shall develop and maintain an Inter-*
2 *net website on which it publishes, prior to each meet-*
3 *ing, a meeting notice, a meeting agenda, and meeting*
4 *materials.*

5 *“(5) OPPORTUNITY FOR PUBLIC COMMENT.—The*
6 *HIT Standards Committee shall develop a process*
7 *that allows for public comment during the process by*
8 *which the Entity develops, harmonizes, or recognizes*
9 *standards and implementation specifications.*

10 *“(e) VOLUNTARY CONSENSUS STANDARD BODY.—The*
11 *provisions of section 12(d) of the National Technology*
12 *Transfer and Advancement Act of 1995 (15 U.S.C. 272*
13 *note) and the Office of Management and Budget circular*
14 *119 shall apply to the HIT Standards Committee.*

15 *“(f) PUBLICATION.—The Secretary shall provide for*
16 *publication in the Federal Register and the posting on the*
17 *Internet website of the Office of the National Coordinator*
18 *for Health Information Technology of all recommendations*
19 *made by the HIT Standards Committee under this section.*

20 **“SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**
21 **COMMENDATIONS; ADOPTION OF INITIAL SET**
22 **OF STANDARDS, IMPLEMENTATION SPECI-**
23 **FICATIONS, AND CERTIFICATION CRITERIA.**

24 *“(a) PROCESS FOR ADOPTION OF ENDORSED REC-*
25 *COMMENDATIONS.—*

1 “(1) *REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.*—Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

12 “(2) *DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.*—If the Secretary determines—

15 “(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

21 “(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such deter-

1 *mination and the reasons for not proposing the*
2 *adoption of such recommendation.*

3 “(3) *PUBLICATION.—The Secretary shall provide*
4 *for publication in the Federal Register of all deter-*
5 *minations made by the Secretary under paragraph*
6 *(1).*

7 “(b) *ADOPTION OF STANDARDS, IMPLEMENTATION*
8 *SPECIFICATIONS, AND CERTIFICATION CRITERIA.—*

9 “(1) *IN GENERAL.—Not later than December 31,*
10 *2009, the Secretary shall, through the rulemaking*
11 *process described in section 3003, adopt an initial set*
12 *of standards, implementation specifications, and cer-*
13 *tification criteria for the areas required for consider-*
14 *ation under section 3002(b)(2)(B).*

15 “(2) *APPLICATION OF CURRENT STANDARDS, IM-*
16 *PLEMENTATION SPECIFICATIONS, AND CERTIFICATION*
17 *CRITERIA.—The standards, implementation specifica-*
18 *tions, and certification criteria adopted before the*
19 *date of the enactment of this title through the process*
20 *existing through the Office of the National Coordi-*
21 *nator for Health Information Technology may be ap-*
22 *plied towards meeting the requirement of paragraph*
23 *(1).*

24 “(3) *SUBSEQUENT STANDARDS ACTIVITY.—The*
25 *Secretary shall adopt additional standards, imple-*

1 **“SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.**

2 “(a) *IN GENERAL.*—*The National Coordinator shall*
3 *support the development and routine updating of qualified*
4 *electronic health record technology (as defined in section*
5 *3000) consistent with subsections (b) and (c) and make*
6 *available such qualified electronic health record technology*
7 *unless the Secretary and the HIT Policy Committee deter-*
8 *mine through an assessment that the needs and demands*
9 *of providers are being substantially and adequately met*
10 *through the marketplace.*

11 “(b) *CERTIFICATION.*—*In making such EHR tech-*
12 *nology publicly available, the National Coordinator shall*
13 *ensure that the qualified EHR technology described in sub-*
14 *section (a) is certified under the program developed under*
15 *section 3001(c)(3) to be in compliance with applicable*
16 *standards adopted under section 3003(a).*

17 “(c) *AUTHORIZATION TO CHARGE A NOMINAL FEE.*—
18 *The National Coordinator may impose a nominal fee for*
19 *the adoption by a health care provider of the health infor-*
20 *mation technology system developed or approved under sub-*
21 *section (a) and (b). Such fee shall take into account the*
22 *financial circumstances of smaller providers, low income*
23 *providers, and providers located in rural or other medically*
24 *underserved areas.*

25 “(d) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
26 *tion shall be construed to require that a private or govern-*

1 *ment entity adopt or use the technology provided under this*
2 *section.*

3 **SEC. 3008. TRANSITIONS.**

4 “(a) *ONCHIT.*—*Nothing in section 3001 shall be con-*
5 *strued as requiring the creation of a new entity to the extent*
6 *that the Office of the National Coordinator for Health Infor-*
7 *mation Technology established pursuant to Executive Order*
8 *13335 is consistent with the provisions of section 3001.*

9 “(b) *NATIONAL EHEALTH COLLABORATIVE.*—*Nothing*
10 *in sections 3002 or 3003 or this subsection shall be con-*
11 *strued as prohibiting the National eHealth Collaborative*
12 *from modifying its charter, duties, membership, and any*
13 *other structure or function required to be consistent with*
14 *the requirements of a voluntary consensus standards body*
15 *so as to allow the Secretary to recognize the National*
16 *eHealth Collaborative as the HIT Standards Committee.*

17 “(c) *CONSISTENCY OF RECOMMENDATIONS.*—*In car-*
18 *rying out section 3003(b)(1)(A), until recommendations are*
19 *made by the HIT Policy Committee, recommendations of*
20 *the HIT Standards Committee shall be consistent with the*
21 *most recent recommendations made by such AHIC Suc-*
22 *cessor, Inc.*

1 **“SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY**
2 **LAW.**

3 “(a) *IN GENERAL.*—With respect to the relation of this
4 title to HIPAA privacy and security law:

5 “(1) This title may not be construed as having
6 any effect on the authorities of the Secretary under
7 HIPAA privacy and security law.

8 “(2) The purposes of this title include ensuring
9 that the health information technology standards and
10 implementation specifications adopted under section
11 3004 take into account the requirements of HIPAA
12 privacy and security law.

13 “(b) *DEFINITION.*—For purposes of this section, the
14 term ‘HIPAA privacy and security law’ means—

15 “(1) the provisions of part C of title XI of the
16 Social Security Act, section 264 of the Health Insur-
17 ance Portability and Accountability Act of 1996, and
18 subtitle D of the Health Information Technology for
19 Economic and Clinical Health Act; and

20 “(2) regulations under such provisions.”.

21 **SEC. 13102. TECHNICAL AMENDMENT.**

22 Section 1171(5) of the Social Security Act (42 U.S.C.
23 1320d) is amended by striking “or C” and inserting “C,
24 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 Exec-
9 *utive 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, health*
16 *information technology systems and products that meet*
17 *standards and implementation specifications adopted under*
18 *section 3004(b) of the Public Health Service Act, as added*
19 *by section 13101.*

20 (b) *FEDERAL INFORMATION COLLECTION ACTIVI-*
21 *TIES.*—With respect to a standard or implementation speci-
22 *fication adopted under section 3004(b) of the Public Health*
23 *Service Act, as added by section 13101, the President shall*
24 *take measures to ensure that Federal activities involving*
25 *the broad collection and submission of health information*
26 *are consistent with such standard or implementation speci-*

1 *fication, respectively, within three years after the date of*
2 *such adoption.*

3 (c) *APPLICATION OF DEFINITIONS.—The definitions*
4 *contained in section 3000 of the Public Health Service Act,*
5 *as added by section 13101, shall apply for purposes of this*
6 *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 in-*
15 *formation technology systems, it shall utilize, where avail-*
16 *able, health information technology systems and products*
17 *that meet standards and implementation specifications*
18 *adopted under section 3004(b) of the Public Health Service*
19 *Act, as added by section 13101.*

20 **SEC. 13113. STUDY AND REPORTS.**

21 (a) *REPORT ON ADOPTION OF NATIONWIDE SYSTEM.—*
22 *Not later than 2 years after the date of the enactment of*
23 *this Act and annually thereafter, the Secretary of Health*
24 *and Human Services shall submit to the appropriate com-*

1 *mittees of jurisdiction of the House of Representatives and*
2 *the Senate a report that—*

3 (1) *describes the specific actions that have been*
4 *taken by the Federal Government and private entities*
5 *to facilitate the adoption of a nationwide system for*
6 *the electronic use and exchange of health information;*

7 (2) *describes barriers to the adoption of such a*
8 *nationwide system; and*

9 (3) *contains recommendations to achieve full im-*
10 *plementation of such a nationwide system.*

11 (b) *REIMBURSEMENT INCENTIVE STUDY AND RE-*
12 *PORT.—*

13 (1) *STUDY.—The Secretary of Health and*
14 *Human Services shall carry out, or contract with a*
15 *private entity to carry out, a study that examines*
16 *methods to create efficient reimbursement incentives*
17 *for improving health care quality in Federally quali-*
18 *fied health centers, rural health clinics, and free clin-*
19 *ics.*

20 (2) *REPORT.—Not later than 2 years after the*
21 *date of the enactment of this Act, the Secretary of*
22 *Health and Human Services shall submit to the ap-*
23 *propriate committees of jurisdiction of the House of*
24 *Representatives and the Senate a report on the study*
25 *carried out under paragraph (1).*

1 (c) *AGING SERVICES TECHNOLOGY STUDY AND RE-*
2 *PORT.*—

3 (1) *IN GENERAL.*—*The Secretary of Health and*
4 *Human Services shall carry out, or contract with a*
5 *private entity to carry out, a study of matters relat-*
6 *ing to the potential use of new aging services tech-*
7 *nology to assist seniors, individuals with disabilities,*
8 *and their caregivers throughout the aging process.*

9 (2) *MATTERS TO BE STUDIED.*—*The study under*
10 *paragraph (1) shall include—*

11 (A) *an evaluation of—*

12 (i) *methods for identifying current,*
13 *emerging, and future health technology that*
14 *can be used to meet the needs of seniors and*
15 *individuals with disabilities and their care-*
16 *givers across all aging services settings, as*
17 *specified by the Secretary;*

18 (ii) *methods for fostering scientific in-*
19 *novation with respect to aging services tech-*
20 *nology within the business and academic*
21 *communities; and*

22 (iii) *developments in aging services*
23 *technology in other countries that may be*
24 *applied in the United States; and*

25 (B) *identification of—*

1 (i) *barriers to innovation in aging*
2 *services technology and devising strategies*
3 *for removing such barriers; and*

4 (ii) *barriers to the adoption of aging*
5 *services technology by health care providers*
6 *and consumers and devising strategies to re-*
7 *moving such barriers.*

8 (3) *REPORT.*—*Not later than 24 months after the*
9 *date of the enactment of this Act, the Secretary shall*
10 *submit to the appropriate committees of jurisdiction*
11 *of the House of Representatives and of the Senate a*
12 *report on the study carried out under paragraph (1).*

13 (4) *DEFINITIONS.*—*For purposes of this sub-*
14 *section:*

15 (A) *AGING SERVICES TECHNOLOGY.*—*The*
16 *term “aging services technology” means health*
17 *technology that meets the health care needs of*
18 *seniors, individuals with disabilities, and the*
19 *caregivers of such seniors and individuals.*

20 (B) *SENIOR.*—*The term “senior” has such*
21 *meaning as specified by the Secretary.*

22 *GENERAL PROVISIONS—HOPE FOR HOMEOWNERS*

23 *AMENDMENTS*

24 *SEC. 1211. Section 257 of the National Housing Act*
25 *(12 U.S.C. 1715z–23), as amended by the Emergency Eco-*

1 *conomic Stabilization Act of 2008 (Public Law 110–343), is*
2 *amended—*

3 (1) *in subsection (e)(1)(B), by inserting after*
4 *“being reset,” the following: “or has, due to a decrease*
5 *in income,”;*

6 (2) *in subsection (k)(2), by striking “and the*
7 *mortgagor” and all that follows through the end and*
8 *inserting “shall, upon any sale or disposition of the*
9 *property to which the mortgage relates, be entitled to*
10 *25 percent of appreciation, up to the appraised value*
11 *of the home at the time when the mortgage being refi-*
12 *nanced under this section was originally made. The*
13 *Secretary may share any amounts received under this*
14 *paragraph with the holder of the eligible mortgage re-*
15 *financed under this section.”;*

16 (3) *in subsection (i)—*

17 (A) *by inserting “, after weighing maxi-*
18 *mization of participation with consideration for*
19 *the solvency of the program,” after “Secretary*
20 *shall”;*

21 (B) *in paragraph (1), by striking “equal to*
22 *3 percent” and inserting “not more than 2 per-*
23 *cent”;* *and*

1 (C) in paragraph (2), by striking “equal to
2 1.5 percent” and inserting “not more than 1 per-
3 cent”; and

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

5 “(x) AUCTIONS.—The Board shall, if feasible, establish
6 a structure and organize procedures for an auction to refi-
7 nance eligible mortgages on a wholesale or bulk basis.

8 “(y) COMPENSATION OF SERVICERS.—To provide in-
9 centive for participation in the program under this section,
10 each servicer of an eligible mortgage insured under this sec-
11 tion shall be paid \$1,000 for performing services associated
12 with refinancing such mortgage, or such other amount as
13 the Board determines is warranted. Funding for such com-
14 pensation shall be provided by funds realized through the
15 HOPE bond under subsection (w).”.

16 ***Subtitle B—Testing of Health***
17 ***Information Technology***

18 **SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND**
19 **TECHNOLOGY TESTING.**

20 (a) PILOT TESTING OF STANDARDS AND IMPLEMENTA-
21 TION SPECIFICATIONS.—In coordination with the HIT
22 Standards Committee established under section 3003 of the
23 Public Health Service Act, as added by section 13101, with
24 respect to the development of standards and implementation
25 specifications under such section, the Director of the Na-

1 *tional Institute for Standards and Technology shall test*
2 *such standards and implementation specifications, as ap-*
3 *propriate, in order to assure the efficient implementation*
4 *and use of such standards and implementation specifica-*
5 *tions.*

6 (b) *VOLUNTARY TESTING PROGRAM.—In coordination*
7 *with the HIT Standards Committee established under sec-*
8 *tion 3003 of the Public Health Service Act, as added by*
9 *section 13101, with respect to the development of standards*
10 *and implementation specifications under such section, the*
11 *Director of the National Institute of Standards and Tech-*
12 *nology shall support the establishment of a conformance*
13 *testing infrastructure, including the development of tech-*
14 *nical test beds. The development of this conformance testing*
15 *infrastructure may include a program to accredit inde-*
16 *pendent, non-Federal laboratories to perform testing.*

17 **SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.**

18 (a) *HEALTH CARE INFORMATION ENTERPRISE INTE-*
19 *GRATION RESEARCH CENTERS.—*

20 (1) *IN GENERAL.—The Director of the National*
21 *Institute of Standards and Technology, in consulta-*
22 *tion with the Director of the National Science Foun-*
23 *dation and other appropriate Federal agencies, shall*
24 *establish a program of assistance to institutions of*
25 *higher education (or consortia thereof which may in-*

1 *clude nonprofit entities and Federal Government lab-*
2 *oratories) to establish multidisciplinary Centers for*
3 *Health Care Information Enterprise Integration.*

4 (2) *REVIEW; COMPETITION.—Grants shall be*
5 *awarded under this subsection on a merit-reviewed,*
6 *competitive basis.*

7 (3) *PURPOSE.—The purposes of the Centers de-*
8 *scribed in paragraph (1) shall be—*

9 (A) *to generate innovative approaches to*
10 *health care information enterprise integration by*
11 *conducting cutting-edge, multidisciplinary re-*
12 *search on the systems challenges to health care*
13 *delivery; and*

14 (B) *the development and use of health infor-*
15 *mation technologies and other complementary*
16 *fields.*

17 (4) *RESEARCH AREAS.—Research areas may in-*
18 *clude—*

19 (A) *interfaces between human information*
20 *and communications technology systems;*

21 (B) *voice-recognition systems;*

22 (C) *software that improves interoperability*
23 *and connectivity among health information sys-*
24 *tems;*

1 (D) software dependability in systems crit-
2 ical to health care delivery;

3 (E) measurement of the impact of informa-
4 tion technologies on the quality and productivity
5 of health care;

6 (F) health information enterprise manage-
7 ment;

8 (G) health information technology security
9 and integrity; and

10 (H) relevant health information technology
11 to reduce medical errors.

12 (5) *APPLICATIONS.*—An institution of higher
13 education (or a consortium thereof) seeking funding
14 under this subsection shall submit an application to
15 the Director of the National Institute of Standards
16 and Technology at such time, in such manner, and
17 containing such information as the Director may re-
18 quire. The application shall include, at a minimum,
19 a description of—

20 (A) the research projects that will be under-
21 taken by the Center established pursuant to as-
22 sistance under paragraph (1) and the respective
23 contributions of the participating entities;

24 (B) how the Center will promote active col-
25 laboration among scientists and engineers from

1 *different disciplines, such as information tech-*
2 *nology, biologic sciences, management, social*
3 *sciences, and other appropriate disciplines;*

4 (C) *technology transfer activities to dem-*
5 *onstrate and diffuse the research results, tech-*
6 *nologies, and knowledge; and*

7 (D) *how the Center will contribute to the*
8 *education and training of researchers and other*
9 *professionals in fields relevant to health informa-*
10 *tion enterprise integration.*

11 (b) *NATIONAL INFORMATION TECHNOLOGY RESEARCH*
12 *AND DEVELOPMENT PROGRAM.—The National High-Per-*
13 *formance Computing Program established by section 101 of*
14 *the High-Performance Computing Act of 1991 (15 U.S.C.*
15 *5511) may review Federal research and development pro-*
16 *grams related to the development and deployment of health*
17 *information technology, including activities related to—*

18 (1) *computer infrastructure;*

19 (2) *data security;*

20 (3) *development of large-scale, distributed, reli-*
21 *able computing systems;*

22 (4) *wired, wireless, and hybrid high-speed net-*
23 *working;*

24 (5) *development of software and software-inten-*
25 *sive systems;*

1 (6) *human-computer interaction and informa-*
2 *tion management technologies; and*

3 (7) *the social and economic implications of in-*
4 *formation technology.*

5 ***Subtitle C—Incentives for the Use of***
6 ***Health Information Technology***

7 ***PART I—GRANTS AND LOANS FUNDING***

8 ***SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PRO-***
9 ***GRAMS.***

10 *Title XXX of the Public Health Service Act, as added*
11 *by section 13101, is amended by adding at the end the fol-*
12 *lowing new subtitle:*

13 ***“Subtitle B—Incentives for the Use***
14 ***of Health Information Technology***

15 ***“SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE***
16 ***HEALTH INFORMATION TECHNOLOGY INFRA-***
17 ***STRUCTURE.***

18 *“(a) IN GENERAL.—The Secretary of Health and*
19 *Human Services shall, using amounts appropriated under*
20 *section 3018, invest in the infrastructure necessary to allow*
21 *for and promote the electronic exchange and use of health*
22 *information for each individual in the United States con-*
23 *sistent with the goals outlined in the strategic plan devel-*
24 *oped by the National Coordinator (and, as available) under*
25 *section 3001. To the greatest extent practicable, the Sec-*

1 *retary shall ensure that any funds so appropriated shall*
2 *be used for the acquisition of health information technology*
3 *that meets standards and certification criteria adopted be-*
4 *fore the date of the enactment of this title until such date*
5 *as the standards are adopted under section 3004. The Sec-*
6 *retary shall invest funds through the different agencies with*
7 *expertise in such goals, such as the Office of the National*
8 *Coordinator for Health Information Technology, the Health*
9 *Resources and Services Administration, the Agency for*
10 *Healthcare Research and Quality, the Centers of Medicare*
11 *& Medicaid Services, the Centers for Disease Control and*
12 *Prevention, and the Indian Health Service to support the*
13 *following:*

14 “(1) *Health information technology architecture*
15 *that will support the nationwide electronic exchange*
16 *and use of health information in a secure, private,*
17 *and accurate manner, including connecting health in-*
18 *formation exchanges, and which may include updat-*
19 *ing and implementing the infrastructure necessary*
20 *within different agencies of the Department of Health*
21 *and Human Services to support the electronic use*
22 *and exchange of health information.*

23 “(2) *Development and adoption of appropriate*
24 *certified electronic health records for categories of pro-*
25 *viders not eligible for support under title XVIII or*

1 *XIX of the Social Security Act for the adoption of*
2 *such records.*

3 “(3) *Training on and dissemination of informa-*
4 *tion on best practices to integrate health information*
5 *technology, including electronic health records, into a*
6 *provider’s delivery of care, consistent with best prac-*
7 *tices learned from the Health Information Technology*
8 *Research Center developed under section 3012, includ-*
9 *ing community health centers receiving assistance*
10 *under section 330 of the Public Health Service Act,*
11 *covered entities under section 340B of such Act, and*
12 *providers participating in one or more of the pro-*
13 *grams under titles XVIII, XIX, and XXI of the Social*
14 *Security Act (relating to Medicare, Medicaid, and the*
15 *State Children’s Health Insurance Program).*

16 “(4) *Infrastructure and tools for the promotion*
17 *of telemedicine, including coordination among Fed-*
18 *eral agencies in the promotion of telemedicine.*

19 “(5) *Promotion of the interoperability of clinical*
20 *data repositories or registries.*

21 “(6) *Promotion of technologies and best practices*
22 *that enhance the protection of health information by*
23 *all holders of individually identifiable health informa-*
24 *tion.*

1 “(7) *Improve and expand the use of health infor-*
2 *mation technology by public health departments.*

3 “(8) *Provide \$300,000,000 to support regional or*
4 *sub-national efforts towards health information ex-*
5 *change.*

6 “(b) *COORDINATION.—The Secretary shall ensure*
7 *funds under this section are used in a coordinated manner*
8 *with other health information promotion activities.*

9 “(c) *ADDITIONAL USE OF FUNDS.—In addition to*
10 *using funds as provided in subsection (a), the Secretary*
11 *may use amounts appropriated under section 3018 to carry*
12 *out activities that are provided for under laws in effect on*
13 *the date of enactment of this title.*

14 **“SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**
15 **MENTATION ASSISTANCE.**

16 “(a) *HEALTH INFORMATION TECHNOLOGY EXTENSION*
17 *PROGRAM.—To assist health care providers to adopt, imple-*
18 *ment, and effectively use certified EHR technology that al-*
19 *lows for the electronic exchange and use of health informa-*
20 *tion, the Secretary, acting through the Office of the National*
21 *Coordinator, shall establish a health information technology*
22 *extension program to provide health information technology*
23 *assistance services to be carried out through the Department*
24 *of Health and Human Services. The National Coordinator*
25 *shall consult with other Federal agencies with demonstrated*

1 *experience and expertise in information technology services,*
2 *such as the National Institute of Standards and Tech-*
3 *nology, in developing and implementing this program.*

4 “(b) *HEALTH INFORMATION TECHNOLOGY RESEARCH*
5 *CENTER.*—

6 “(1) *IN GENERAL.*—*The Secretary shall create a*
7 *Health Information Technology Research Center (in*
8 *this section referred to as the ‘Center’) to provide tech-*
9 *nical assistance and develop or recognize best prac-*
10 *tices to support and accelerate efforts to adopt, imple-*
11 *ment, and effectively utilize health information tech-*
12 *nology that allows for the electronic exchange and use*
13 *of information in compliance with standards, imple-*
14 *mentation specifications, and certification criteria*
15 *adopted under section 3004(b).*

16 “(2) *INPUT.*—*The Center shall incorporate input*
17 *from—*

18 “(A) *other Federal agencies with dem-*
19 *onstrated experience and expertise in informa-*
20 *tion technology services such as the National In-*
21 *stitute of Standards and Technology;*

22 “(B) *users of health information technology,*
23 *such as providers and their support and clerical*
24 *staff and others involved in the care and care co-*

1 *ordination of patients, from the health care and*
2 *health information technology industry; and*

3 *“(C) others as appropriate.*

4 *“(3) PURPOSES.—The purposes of the Center are*
5 *to—*

6 *“(A) provide a forum for the exchange of*
7 *knowledge and experience;*

8 *“(B) accelerate the transfer of lessons*
9 *learned from existing public and private sector*
10 *initiatives, including those currently receiving*
11 *Federal financial support;*

12 *“(C) assemble, analyze, and widely dissemi-*
13 *nate evidence and experience related to the adop-*
14 *tion, implementation, and effective use of health*
15 *information technology that allows for the elec-*
16 *tronic exchange and use of information includ-*
17 *ing through the regional centers described in sub-*
18 *section (c);*

19 *“(D) provide technical assistance for the es-*
20 *tablishment and evaluation of regional and local*
21 *health information networks to facilitate the elec-*
22 *tronic exchange of information across health care*
23 *settings and improve the quality of health care;*

24 *“(E) provide technical assistance for the de-*
25 *velopment and dissemination of solutions to bar-*

1 *riers to the exchange of electronic health informa-*
2 *tion; and*

3 *“(F) learn about effective strategies to adopt*
4 *and utilize health information technology in*
5 *medically underserved communities.*

6 *“(c) HEALTH INFORMATION TECHNOLOGY REGIONAL*
7 *EXTENSION CENTERS.—*

8 *“(1) IN GENERAL.—The Secretary shall provide*
9 *assistance for the creation and support of regional*
10 *centers (in this subsection referred to as ‘regional cen-*
11 *ters’) to provide technical assistance and disseminate*
12 *best practices and other information learned from the*
13 *Center to support and accelerate efforts to adopt, im-*
14 *plement, and effectively utilize health information*
15 *technology that allows for the electronic exchange and*
16 *use of information in compliance with standards, im-*
17 *plementation specifications, and certification criteria*
18 *adopted under section 3004. Activities conducted*
19 *under this subsection shall be consistent with the stra-*
20 *tegic plan developed by the National Coordinator*
21 *(and, as available) under section 3001.*

22 *“(2) AFFILIATION.—Regional centers shall be af-*
23 *filiated with any United States-based nonprofit insti-*
24 *tution or organization, or group thereof, that applies*
25 *and is awarded financial assistance under this sec-*

1 *tion. Individual awards shall be decided on the basis*
2 *of merit.*

3 “(3) *OBJECTIVE.—The objective of the regional*
4 *centers is to enhance and promote the adoption of*
5 *health information technology through—*

6 “(A) *assistance with the implementation, ef-*
7 *fective use, upgrading, and ongoing maintenance*
8 *of health information technology, including elec-*
9 *tronic health records, to healthcare providers na-*
10 *tionwide;*

11 “(B) *broad participation of individuals*
12 *from industry, universities, and State govern-*
13 *ments;*

14 “(C) *active dissemination of best practices*
15 *and research on the implementation, effective*
16 *use, upgrading, and ongoing maintenance of*
17 *health information technology, including elec-*
18 *tronic health records, to health care providers in*
19 *order to improve the quality of healthcare and*
20 *protect the privacy and security of health infor-*
21 *mation;*

22 “(D) *participation, to the extent prac-*
23 *ticable, in health information exchanges;*

1 “(E) utilization, when appropriate, of the
2 expertise and capability that exists in federal
3 agencies other than the Department; and

4 “(F) integration of health information tech-
5 nology, including electronic health records, into
6 the initial and ongoing training of health profes-
7 sionals and others in the healthcare industry
8 that would be instrumental to improving the
9 quality of healthcare through the smooth and ac-
10 curate electronic use and exchange of health in-
11 formation.

12 “(4) REGIONAL ASSISTANCE.—Each regional
13 center shall aim to provide assistance and education
14 to all providers in a region, but shall prioritize any
15 direct assistance first to the following:

16 “(A) Public or not-for-profit hospitals or
17 critical access hospitals.

18 “(B) Federally qualified health centers (as
19 defined in section 1861(aa)(4) of the Social Se-
20 curity Act).

21 “(C) Entities that are located in rural and
22 other areas that serve uninsured, underinsured,
23 and medically underserved individuals (regard-
24 less of whether such area is urban or rural).

1 “(D) *Individual or small group practices*
2 *(or a consortium thereof) that are primarily fo-*
3 *cused on primary care.*

4 “(5) *FINANCIAL SUPPORT.—The Secretary may*
5 *provide financial support to any regional center cre-*
6 *ated under this subsection for a period not to exceed*
7 *four years. The Secretary may not provide more than*
8 *50 percent of the capital and annual operating and*
9 *maintenance funds required to create and maintain*
10 *such a center, except in an instance of national eco-*
11 *nomic conditions which would render this cost-share*
12 *requirement detrimental to the program and upon no-*
13 *tification to Congress as to the justification to waive*
14 *the cost-share requirement.*

15 “(6) *NOTICE OF PROGRAM DESCRIPTION AND*
16 *AVAILABILITY OF FUNDS.—The Secretary shall pub-*
17 *lish in the Federal Register, not later than 90 days*
18 *after the date of the enactment of this Act, a draft de-*
19 *scription of the program for establishing regional cen-*
20 *ters under this subsection. Such description shall in-*
21 *clude the following:*

22 “(A) *A detailed explanation of the program*
23 *and the programs goals.*

24 “(B) *Procedures to be followed by the appli-*
25 *cants.*

1 “(C) *Criteria for determining qualified ap-*
2 *plicants.*

3 “(D) *Maximum support levels expected to be*
4 *available to centers under the program.*

5 “(7) *APPLICATION REVIEW.—The Secretary shall*
6 *subject each application under this subsection to*
7 *merit review. In making a decision whether to ap-*
8 *prove such application and provide financial support,*
9 *the Secretary shall consider at a minimum the merits*
10 *of the application, including those portions of the ap-*
11 *plication regarding—*

12 “(A) *the ability of the applicant to provide*
13 *assistance under this subsection and utilization*
14 *of health information technology appropriate to*
15 *the needs of particular categories of health care*
16 *providers;*

17 “(B) *the types of service to be provided to*
18 *health care providers;*

19 “(C) *geographical diversity and extent of*
20 *service area; and*

21 “(D) *the percentage of funding and amount*
22 *of in-kind commitment from other sources.*

23 “(8) *BIENNIAL EVALUATION.—Each regional cen-*
24 *ter which receives financial assistance under this sub-*
25 *section shall be evaluated biennially by an evaluation*

1 panel appointed by the Secretary. Each evaluation
2 panel shall be composed of private experts, none of
3 whom shall be connected with the center involved, and
4 of Federal officials. Each evaluation panel shall meas-
5 ure the involved center's performance against the ob-
6 jective specified in paragraph (3). The Secretary shall
7 not continue to provide funding to a regional center
8 unless its evaluation is overall positive.

9 “(9) CONTINUING SUPPORT.—After the second
10 year of assistance under this subsection a regional
11 center may receive additional support under this sub-
12 section if it has received positive evaluations and a
13 finding by the Secretary that continuation of Federal
14 funding to the center was in the best interest of provi-
15 sion of health information technology extension serv-
16 ices.

17 **“SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMA-**
18 **TION TECHNOLOGY.**

19 “(a) IN GENERAL.—The Secretary, acting through the
20 National Coordinator, shall establish a program in accord-
21 ance with this section to facilitate and expand the electronic
22 movement and use of health information among organiza-
23 tions according to nationally recognized standards.

24 “(b) PLANNING GRANTS.—The Secretary may award
25 a grant to a State or qualified State-designated entity (as

1 *described in subsection (d)) that submits an application to*
2 *the Secretary at such time, in such manner, and containing*
3 *such information as the Secretary may specify, for the pur-*
4 *pose of planning activities described in subsection (b).*

5 “(c) *IMPLEMENTATION GRANTS.—The Secretary may*
6 *award a grant to a State or qualified State designated enti-*
7 *ty that—*

8 “(1) *has submitted, and the Secretary has ap-*
9 *proved, a plan described in subsection (c) (regardless*
10 *of whether such plan was prepared using amounts*
11 *awarded under paragraph (1)); and*

12 “(2) *submits an application at such time, in*
13 *such manner, and containing such information as the*
14 *Secretary may specify.*

15 “(d) *USE OF FUNDS.—Amounts received under a*
16 *grant under subsection (a)(3) shall be used to conduct ac-*
17 *tivities to facilitate and expand the electronic movement*
18 *and use of health information among organizations accord-*
19 *ing to nationally recognized standards through activities*
20 *that include—*

21 “(1) *enhancing broad and varied participation*
22 *in the authorized and secure nationwide electronic use*
23 *and exchange of health information;*

1 “(2) identifying State or local resources available
2 towards a nationwide effort to promote health infor-
3 mation technology;

4 “(3) complementing other Federal grants, pro-
5 grams, and efforts towards the promotion of health
6 information technology;

7 “(4) providing technical assistance for the devel-
8 opment and dissemination of solutions to barriers to
9 the exchange of electronic health information;

10 “(5) promoting effective strategies to adopt and
11 utilize health information technology in medically un-
12 derserved communities;

13 “(6) assisting patients in utilizing health infor-
14 mation technology;

15 “(7) encouraging clinicians to work with Health
16 Information Technology Regional Extension Centers
17 as described in section 3012, to the extent they are
18 available and valuable;

19 “(8) supporting public health agencies’ author-
20 ized use of and access to electronic health information;

21 “(9) promoting the use of electronic health
22 records for quality improvement including through
23 quality measures reporting;

24 “(10) establishing and supporting health record
25 banking models to further consumer-based consent

1 *models that promote lifetime access to qualified health*
2 *records, if such activities are included in the plan de-*
3 *scribed in subsection (e), and may contain smart card*
4 *functionality; and*

5 *“(11) such other activities as the Secretary may*
6 *specify.*

7 *“(e) PLAN.—*

8 *“(1) IN GENERAL.—A plan described in this sub-*
9 *section is a plan that describes the activities to be*
10 *carried out by a State or by the qualified State-des-*
11 *ignated entity within such State to facilitate and ex-*
12 *pand the electronic movement and use of health infor-*
13 *mation among organizations according to nationally*
14 *recognized standards and implementation specifica-*
15 *tions.*

16 *“(2) REQUIRED ELEMENTS.—A plan described*
17 *in paragraph (1) shall—*

18 *“(A) be pursued in the public interest;*

19 *“(B) be consistent with the strategic plan*
20 *developed by the National Coordinator (and, as*
21 *available) under section 3001;*

22 *“(C) include a description of the ways the*
23 *State or qualified State-designated entity will*
24 *carry out the activities described in subsection*
25 *(b); and*

1 “(D) contain such elements as the Secretary
2 may require.

3 “(f) *QUALIFIED STATE-DESIGNATED ENTITY.*—For
4 purposes of this section, to be a qualified State-designated
5 entity, with respect to a State, an entity shall—

6 “(1) be designated by the State as eligible to re-
7 ceive awards under this section;

8 “(2) be a not-for-profit entity with broad stake-
9 holder representation on its governing board;

10 “(3) demonstrate that one of its principal goals
11 is to use information technology to improve health
12 care quality and efficiency through the authorized
13 and secure electronic exchange and use of health in-
14 formation;

15 “(4) adopt nondiscrimination and conflict of in-
16 terest policies that demonstrate a commitment to
17 open, fair, and nondiscriminatory participation by
18 stakeholders; and

19 “(5) conform to such other requirements as the
20 Secretary may establish.

21 “(g) *REQUIRED CONSULTATION.*—In carrying out ac-
22 tivities described in subsections (a)(2) and (a)(3), a State
23 or qualified State-designated entity shall consult with and
24 consider the recommendations of—

1 “(1) health care providers (including providers
2 that provide services to low income and underserved
3 populations);

4 “(2) health plans;

5 “(3) patient or consumer organizations that rep-
6 resent the population to be served;

7 “(4) health information technology vendors;

8 “(5) health care purchasers and employers;

9 “(6) public health agencies;

10 “(7) health professions schools, universities and
11 colleges;

12 “(8) clinical researchers;

13 “(9) other users of health information technology
14 such as the support and clerical staff of providers and
15 others involved in the care and care coordination of
16 patients; and

17 “(10) such other entities, as may be determined
18 appropriate by the Secretary.

19 “(h) *CONTINUOUS IMPROVEMENT.*—The Secretary
20 shall annually evaluate the activities conducted under this
21 section and shall, in awarding grants under this section,
22 implement the lessons learned from such evaluation in a
23 manner so that awards made subsequent to each such eval-
24 uation are made in a manner that, in the determination
25 of the Secretary, will lead towards the greatest improvement

1 *in quality of care, decrease in costs, and the most effective*
2 *authorized and secure electronic exchange of health informa-*
3 *tion.*

4 “(i) *REQUIRED MATCH.—*

5 “(1) *IN GENERAL.—For a fiscal year (beginning*
6 *with fiscal year 2011), the Secretary may not make*
7 *a grant under subsection (a) to a State unless the*
8 *State agrees to make available non-Federal contribu-*
9 *tions (which may include in-kind contributions) to-*
10 *ward the costs of a grant awarded under subsection*
11 *(a)(3) in an amount equal to—*

12 “(A) *for fiscal year 2011, not less than \$1*
13 *for each \$10 of Federal funds provided under the*
14 *grant;*

15 “(B) *for fiscal year 2012, not less than \$1*
16 *for each \$7 of Federal funds provided under the*
17 *grant; and*

18 “(C) *for fiscal year 2013 and each subse-*
19 *quent fiscal year, not less than \$1 for each \$3 of*
20 *Federal funds provided under the grant.*

21 “(2) *AUTHORITY TO REQUIRE STATE MATCH FOR*
22 *FISCAL YEARS BEFORE FISCAL YEAR 2011.—For any*
23 *fiscal year during the grant program under this sec-*
24 *tion before fiscal year 2011, the Secretary may deter-*
25 *mine the extent to which there shall be required a*

1 “(3) provides assurances to the National Coordi-
2 nator that the entity will establish a Loan Fund in
3 accordance with subsection (c);

4 “(4) provides assurances to the National Coordi-
5 nator that the entity will not provide a loan from the
6 Loan Fund to a health care provider unless the pro-
7 vider agrees to—

8 “(A) submit reports on quality measures
9 adopted by the Federal Government (by not later
10 than 90 days after the date on which such meas-
11 ures are adopted), to—

12 “(i) the Director of the Centers for
13 Medicare & Medicaid Services (or his or her
14 designee), in the case of an entity partici-
15 pating in the Medicare program under title
16 XVIII of the Social Security Act or the
17 Medicaid program under title XIX of such
18 Act; or

19 “(ii) the Secretary in the case of other
20 entities;

21 “(B) demonstrate to the satisfaction of the
22 Secretary (through criteria established by the
23 Secretary) that any certified EHR technology
24 purchased, improved, or otherwise financially
25 supported under a loan under this section is

1 *used to exchange health information in a man-*
2 *ner that, in accordance with law and standards*
3 *(as adopted under section 3005) applicable to the*
4 *exchange of information, improves the quality of*
5 *health care, such as promoting care coordination;*

6 “(C) *comply with such other requirements*
7 *as the entity or the Secretary may require;*

8 “(D) *include a plan on how healthcare pro-*
9 *viders involved intend to maintain and support*
10 *the certified EHR technology over time; and*

11 “(E) *include a plan on how the healthcare*
12 *providers involved intend to maintain and sup-*
13 *port the certified EHR technology that would be*
14 *purchased with such loan, including the type of*
15 *resources expected to be involved and any such*
16 *other information as the State or Indian tribe,*
17 *respectively, may require; and*

18 “(5) *agrees to provide matching funds in accord-*
19 *ance with subsection (i).*

20 “(c) *ESTABLISHMENT OF FUND.—For purposes of sub-*
21 *section (b)(3), an eligible entity shall establish a certified*
22 *EHR technology loan fund (referred to in this subsection*
23 *as a ‘Loan Fund’) and comply with the other requirements*
24 *contained in this section. A grant to an eligible entity under*
25 *this section shall be deposited in the Loan Fund established*

1 *by the eligible entity. No funds authorized by other provi-*
2 *sions of this title to be used for other purposes specified in*
3 *this title shall be deposited in any Loan Fund.*

4 “(d) *STRATEGIC PLAN.*—

5 “(1) *IN GENERAL.*—*For purposes of subsection*
6 *(b)(2), a strategic plan of an eligible entity under this*
7 *subsection shall identify the intended uses of amounts*
8 *available to the Loan Fund of such entity.*

9 “(2) *CONTENTS.*—*A strategic plan under para-*
10 *graph (1), with respect to a Loan Fund of an eligible*
11 *entity, shall include for a year the following:*

12 “(A) *A list of the projects to be assisted*
13 *through the Loan Fund during such year.*

14 “(B) *A description of the criteria and meth-*
15 *ods established for the distribution of funds from*
16 *the Loan Fund during the year.*

17 “(C) *A description of the financial status of*
18 *the Loan Fund as of the date of submission of*
19 *the plan.*

20 “(D) *The short-term and long-term goals of*
21 *the Loan Fund.*

22 “(e) *USE OF FUNDS.*—*Amounts deposited in a Loan*
23 *Fund, including loan repayments and interest earned on*
24 *such amounts, shall be used only for awarding loans or loan*
25 *guarantees, making reimbursements described in subsection*

1 *(g)(4)(A), or as a source of reserve and security for lever-*
2 *aged loans, the proceeds of which are deposited in the Loan*
3 *Fund established under subsection (a). Loans under this*
4 *section may be used by a health care provider 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 lim-*
17 *ited by applicable State law, amounts deposited into a*
18 *Loan Fund under this subsection may only be used for the*
19 *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, a*
8 *local obligation (all of the proceeds of which finance*
9 *a project eligible for assistance under this subsection)*
10 *if the guarantee or purchase would improve credit*
11 *market access or reduce the interest rate applicable to*
12 *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 deposited*
17 *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 avoid*
25 *unnecessary administrative costs) combine, in accord-*

1 *ance with applicable State law, the financial admin-*
2 *istration of a Loan Fund established under this sub-*
3 *section with the financial administration of any other*
4 *revolving fund established by the entity if otherwise*
5 *not prohibited by the law under which the Loan Fund*
6 *was established.*

7 “(2) *COST OF ADMINISTERING FUND.*—*Each eli-*
8 *gible entity may annually use not to exceed 4 percent*
9 *of the funds provided to the entity under a grant*
10 *under this subsection to pay the reasonable costs of*
11 *the administration of the programs under this section,*
12 *including the recovery of reasonable costs expended to*
13 *establish a Loan Fund which are incurred after the*
14 *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 out*
18 *the provisions of this section, including—*

19 “(A) *provisions to ensure that each eligible*
20 *entity commits and expends funds allotted to the*
21 *entity under this subsection as efficiently as pos-*
22 *sible in accordance with this title and applicable*
23 *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 contribu-*
4 *tions from private sector entities, except that*
5 *such entities may not specify the recipient or re-*
6 *ipients of any loan issued under this subsection.*
7 *An eligible entity may agree to reimburse a pri-*
8 *vate sector entity for any contribution made*
9 *under this subparagraph, except that the amount*
10 *of such reimbursement may not be greater than*
11 *the principal amount of the contribution made.*

12 “(B) *AVAILABILITY OF INFORMATION.*—*An*
13 *eligible entity shall make publicly available the*
14 *identity of, and amount contributed by, any pri-*
15 *vate sector entity under subparagraph (A) and*
16 *may issue letters of commendation or make other*
17 *awards (that have no financial value) to any*
18 *such entity.*

19 “(h) *MATCHING REQUIREMENTS.*—

20 “(1) *IN GENERAL.*—*The National Coordinator*
21 *may not make a grant under subsection (a) to an eli-*
22 *gible entity unless the entity agrees to make available*
23 *(directly or through donations from public or private*
24 *entities) non-Federal contributions in cash to the costs*
25 *of carrying out the activities for which the grant is*

1 *awarded in an amount equal to not less than \$1 for*
2 *each \$5 of Federal funds provided under the grant.*

3 “(2) *DETERMINATION OF AMOUNT OF NON-FED-*
4 *ERAL CONTRIBUTION.—In determining the amount of*
5 *non-Federal contributions that an eligible entity has*
6 *provided pursuant to subparagraph (A), the National*
7 *Coordinator may not include any amounts provided*
8 *to the entity by the Federal Government.*

9 “(i) *EFFECTIVE DATE.—The Secretary may not make*
10 *an award under this section prior to January 1, 2010.*

11 **“SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**
12 **FORMATION TECHNOLOGY INTO CLINICAL**
13 **EDUCATION.**

14 “(a) *IN GENERAL.—The Secretary may award grants*
15 *under this section to carry out demonstration projects to*
16 *develop academic curricula integrating certified EHR tech-*
17 *nology in the clinical education of health professionals.*
18 *Such awards shall be made on a competitive basis and pur-*
19 *suant to peer review.*

20 “(b) *ELIGIBILITY.—To be eligible to receive a grant*
21 *under subsection (a), an entity shall—*

22 “(1) *submit to the Secretary an application at*
23 *such time, in such manner, and containing such in-*
24 *formation as the Secretary may require;*

1 “(2) submit to the Secretary a strategic plan for
2 integrating certified EHR technology in the clinical
3 education of health professionals to reduce medical er-
4 rors, increase access to prevention, reduce chronic dis-
5 eases, and enhance health care quality;

6 “(3) be—

7 “(A) a school of medicine, osteopathic medi-
8 cine, dentistry, or pharmacy, a graduate pro-
9 gram in behavioral or mental health, or any
10 other graduate health professions school;

11 “(B) a graduate school of nursing or physi-
12 cian assistant studies;

13 “(C) a consortium of two or more schools
14 described in subparagraph (A) or (B); or

15 “(D) an institution with a graduate med-
16 ical education program in medicine, osteopathic
17 medicine, dentistry, pharmacy, nursing, or phy-
18 sician assistance studies.

19 “(4) provide for the collection of data regarding
20 the effectiveness of the demonstration project to be
21 funded under the grant in improving the safety of pa-
22 tients, the efficiency of health care delivery, and in
23 increasing the likelihood that graduates of the grantee
24 will adopt and incorporate certified EHR technology,
25 in the delivery of health care services; and

1 “(5) provide matching funds in accordance with
2 subsection (d).

3 “(c) *USE OF FUNDS.*—

4 “(1) *IN GENERAL.*—With respect to a grant
5 under subsection (a), an eligible entity shall—

6 “(A) use grant funds in collaboration with
7 2 or more disciplines; and

8 “(B) use grant funds to integrate certified
9 *EHR* technology into community-based clinical
10 education.

11 “(2) *LIMITATION.*—An eligible entity shall not
12 use amounts received under a grant under subsection
13 (a) to purchase hardware, software, or services.

14 “(d) *FINANCIAL SUPPORT.*—The Secretary may not
15 provide more than 50 percent of the costs of any activity
16 for which assistance is provided under subsection (a), except
17 in an instance of national economic conditions which would
18 render the cost-share requirement under this subsection det-
19 rimental to the program and upon notification to Congress
20 as to the justification to waive the cost-share requirement.

21 “(e) *EVALUATION.*—The Secretary shall take such ac-
22 tion as may be necessary to evaluate the projects funded
23 under this section and publish, make available, and dis-
24 seminate the results of such evaluations on as wide a basis
25 as is practicable.

1 “(f) *REPORTS.*—Not later than 1 year after the date
2 of enactment of this title, and annually thereafter, the Sec-
3 retary shall submit to the Committee on Health, Education,
4 Labor, and Pensions and the Committee on Finance of the
5 Senate, and the Committee on Energy and Commerce of
6 the House of Representatives a report that—

7 “(1) describes the specific projects established
8 under this section; and

9 “(2) contains recommendations for Congress
10 based on the evaluation conducted under subsection
11 (e).

12 **“SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**
13 **ON HEALTH CARE.**

14 “(a) *IN GENERAL.*—The Secretary, in consultation
15 with the Director of the National Science Foundation, shall
16 provide assistance to institutions of higher education (or
17 consortia thereof) to establish or expand medical health
18 informatics education programs, including certification,
19 undergraduate, and masters degree programs, for both
20 health care and information technology students to ensure
21 the rapid and effective utilization and development of
22 health information technologies (in the United States health
23 care infrastructure).

24 “(b) *ACTIVITIES.*—Activities for which assistance may
25 be provided under subsection (a) may include the following:

1 “(1) *Developing and revising curricula in med-*
2 *ical health informatics and related disciplines.*

3 “(2) *Recruiting and retaining students to the*
4 *program involved.*

5 “(3) *Acquiring equipment necessary for student*
6 *instruction in these programs, including the installa-*
7 *tion of testbed networks for student use.*

8 “(4) *Establishing or enhancing bridge programs*
9 *in the health informatics fields between community*
10 *colleges and universities.*

11 “(c) *PRIORITY.—In providing assistance under sub-*
12 *section (a), the Secretary shall give preference to the fol-*
13 *lowing:*

14 “(1) *Existing education and training programs.*

15 “(2) *Programs designed to be completed in less*
16 *than six months.*

17 “(d) *FINANCIAL SUPPORT.—The Secretary may not*
18 *provide more than 50 percent of the costs of any activity*
19 *for which assistance is provided under subsection (a), except*
20 *in an instance of national economic conditions which would*
21 *render the cost-share requirement under this subsection det-*
22 *rimonial to the program and upon notification to Congress*
23 *as to the justification to waive the cost-share requirement.*

1 **“SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

2 “(a) *REPORTS.*—*The Secretary may require that an*
3 *entity receiving assistance under this title shall submit to*
4 *the Secretary, not later than the date that is 1 year after*
5 *the date of receipt of such assistance, a report that in-*
6 *cludes—*

7 “(1) *an analysis of the effectiveness of such ac-*
8 *tivities for which the entity receives such assistance,*
9 *as compared to the goals for such activities; and*

10 “(2) *an analysis of the impact of the project on*
11 *healthcare quality and safety.*

12 “(b) *REQUIREMENT TO IMPROVE QUALITY OF CARE*
13 *AND DECREASE IN COSTS.*—*The National Coordinator shall*
14 *annually evaluate the activities conducted under this title*
15 *and shall, in awarding grants, implement the lessons*
16 *learned from such evaluation in a manner so that awards*
17 *made subsequent to each such evaluation are made in a*
18 *manner that, in the determination of the National Coordi-*
19 *nator, will result in the greatest improvement in the quality*
20 *and efficiency of health care.*

21 **“SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.**

22 “*For the purposes of carrying out this subtitle, there*
23 *is authorized to be appropriated such sums as may be nec-*
24 *essary for each of the fiscal years 2009 through 2013.*
25 *Amounts so appropriated shall remain available until ex-*
26 *pended.”.*

Subtitle D—Privacy

2 SEC. 13400. DEFINITIONS.

3 *In this subtitle, except as specified otherwise:*

4 (1) *BREACH.*—*The term “breach” means the un-*
5 *authorized acquisition, access, use, or disclosure of*
6 *protected health information which compromises the*
7 *security, privacy, or integrity of protected health in-*
8 *formation maintained by or on behalf of a person.*
9 *Such term does not include any unintentional acqui-*
10 *sition, access, use, or disclosure of such information*
11 *by an employee or agent of the covered entity or busi-*
12 *ness associate involved if such acquisition, access, use,*
13 *or disclosure, respectively, was made in good faith*
14 *and within the course and scope of the employment*
15 *or other contractual relationship of such employee or*
16 *agent, respectively, with the covered entity or business*
17 *associate and if such information is not further ac-*
18 *quired, accessed, used, or disclosed by such employee*
19 *or agent.*

20 (2) *BUSINESS ASSOCIATE.*—*The term “business*
21 *associate” has the meaning given such term in section*
22 *160.103 of title 45, Code of Federal Regulations.*

23 (3) *COVERED ENTITY.*—*The term “covered enti-*
24 *ty” has the meaning given such term in section*
25 *160.103 of title 45, Code of Federal Regulations.*

1 (4) *DISCLOSE*.—The terms “disclose” and “dis-

2 closure” have the meaning given the term “disclosure”

3 in section 160.103 of title 45, Code of Federal Regula-

4 tions.

5 (5) *ELECTRONIC HEALTH RECORD*.—The term

6 “electronic health record” means an electronic record

7 of health-related information on an individual that is

8 created, gathered, managed, and consulted by author-

9 ized health care clinicians and staff.

10 (6) *HEALTH CARE OPERATIONS*.—The term

11 “health care operation” has the meaning given such

12 term in section 164.501 of title 45, Code of Federal

13 Regulations.

14 (7) *HEALTH CARE PROVIDER*.—The term “health

15 care provider” has the meaning given such term in

16 section 160.103 of title 45, Code of Federal Regula-

17 tions.

18 (8) *HEALTH PLAN*.—The term “health plan” has

19 the meaning given such term in section 1171(5) of the

20 Social Security Act.

21 (9) *NATIONAL COORDINATOR*.—The term “Na-

22 tional Coordinator” means the head of the Office of

23 the National Coordinator for Health Information

24 Technology established under section 3001(a) of the

25 Public Health Service Act, as added by section 13101.

1 (10) *PAYMENT*.—The term “payment” has the
2 meaning given such term in section 164.501 of title
3 45, Code of Federal Regulations.

4 (11) *PERSONAL HEALTH RECORD*.—The term
5 “personal health record” means an electronic record of
6 individually identifiable health information on an in-
7 dividual that can be drawn from multiple sources and
8 that is managed, shared, and controlled by or for the
9 individual.

10 (12) *PROTECTED HEALTH INFORMATION*.—The
11 term “protected health information” has the meaning
12 given such term in section 160.103 of title 45, Code
13 of Federal Regulations.

14 (13) *SECRETARY*.—The term “Secretary” means
15 the Secretary of Health and Human Services.

16 (14) *SECURITY*.—The term “security” has the
17 meaning given such term in section 164.304 of title
18 45, Code of Federal Regulations.

19 (15) *STATE*.—The term “State” means each of
20 the several States, the District of Columbia, Puerto
21 Rico, the Virgin Islands, Guam, American Samoa,
22 and the Northern Mariana Islands.

23 (16) *TREATMENT*.—The term “treatment” has
24 the meaning given such term in section 164.501 of
25 title 45, Code of Federal Regulations.

1 (17) *USE.*—*The term “use” has the meaning*
2 *given such term in section 160.103 of title 45, Code*
3 *of Federal Regulations.*

4 (18) *VENDOR OF PERSONAL HEALTH*
5 *RECORDS.*—*The term “vendor of personal health*
6 *records” means an entity, other than a covered entity*
7 *(as defined in paragraph (3)), that offers or main-*
8 *tains a personal health record.*

9 ***PART I—IMPROVED PRIVACY PROVISIONS AND***
10 ***SECURITY PROVISIONS***

11 ***SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND***
12 ***PENALTIES TO BUSINESS ASSOCIATES OF***
13 ***COVERED ENTITIES; ANNUAL GUIDANCE ON***
14 ***SECURITY PROVISIONS.***

15 (a) *APPLICATION OF SECURITY PROVISIONS.*—*Sections*
16 *164.308, 164.310, 164.312, and 164.316 of title 45, Code*
17 *of Federal Regulations, shall apply to a business associate*
18 *of a covered entity in the same manner that such sections*
19 *apply to the covered entity. The additional requirements of*
20 *this title that relate to security and that are made applica-*
21 *ble with respect to covered entities shall also be applicable*
22 *to such a business associate and shall be incorporated into*
23 *the business associate agreement between the business asso-*
24 *ciate and the covered entity.*

1 **(b) APPLICATION OF CIVIL AND CRIMINAL PEN-**
2 *ALTIES.*—*In the case of a business associate that violates*
3 *any security provision specified in subsection (a), sections*
4 *1176 and 1177 of the Social Security Act (42 U.S.C.*
5 *1320d–5, 1320d–6) shall apply to the business associate*
6 *with respect to such violation in the same manner such sec-*
7 *tions apply to a covered entity that violates such security*
8 *provision.*

9 **(c) ANNUAL GUIDANCE.**—*For the first year beginning*
10 *after the date of the enactment of this Act and annually*
11 *thereafter, the Secretary of Health and Human Services*
12 *shall, in consultation with industry stakeholders, annually*
13 *issue guidance on the most effective and appropriate tech-*
14 *nical safeguards for use in carrying out the sections referred*
15 *to in subsection (a) and the security standards in subpart*
16 *C of part 164 of title 45, Code of Federal Regulations, as*
17 *such provisions are in effect as of the date before the enact-*
18 *ment of this Act.*

19 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

20 **(a) IN GENERAL.**—*A covered entity that accesses,*
21 *maintains, retains, modifies, records, stores, destroys, or*
22 *otherwise holds, uses, or discloses unsecured protected health*
23 *information (as defined in subsection (h)(1)) shall, in the*
24 *case of a breach of such information that is discovered by*
25 *the covered entity, notify each individual whose unsecured*

1 *protected health information has been, or is reasonably be-*
2 *lieved by the covered entity to have been, accessed, acquired,*
3 *or disclosed as a result of such breach.*

4 **(b) NOTIFICATION OF COVERED ENTITY BY BUSINESS**
5 **ASSOCIATE.**—*A business associate of a covered entity that*
6 *accesses, maintains, retains, modifies, records, stores, de-*
7 *stroys, or otherwise holds, uses, or discloses unsecured pro-*
8 *tected health information shall, following the discovery of*
9 *a breach of such information, notify the covered entity of*
10 *such breach. Such notice shall include the identification of*
11 *each individual whose unsecured protected health informa-*
12 *tion has been, or is reasonably believed by the business asso-*
13 *ciate to have been, accessed, acquired, or disclosed during*
14 *such breach.*

15 **(c) BREACHES TREATED AS DISCOVERED.**—*For pur-*
16 *poses of this section, a breach shall be treated as discovered*
17 *by a covered entity or by a business associate as of the first*
18 *day on which such breach is known to such entity or asso-*
19 *ciate, respectively, (including any person, other than the in-*
20 *dividual committing the breach, that is an employee, officer,*
21 *or other agent of such entity or associate, respectively) or*
22 *should reasonably have been known to such entity or asso-*
23 *ciate (or person) to have occurred.*

24 **(d) TIMELINESS OF NOTIFICATION.**—

1 (1) *IN GENERAL.*—Subject to subsection (g), all
2 notifications required under this section shall be made
3 without unreasonable delay and in no case later than
4 60 calendar days after the discovery of a breach by
5 the covered entity involved (or business associate in-
6 volved in the case of a notification required under
7 subsection (b)).

8 (2) *BURDEN OF PROOF.*—The covered entity in-
9 volved (or business associate involved in the case of a
10 notification required under subsection (b)), shall have
11 the burden of demonstrating that all notifications
12 were made as required under this part, including evi-
13 dence demonstrating the necessity of any delay.

14 (e) *METHODS OF NOTICE.*—

15 (1) *INDIVIDUAL NOTICE.*—Notice required under
16 this section to be provided to an individual, with re-
17 spect to a breach, shall be provided promptly and in
18 the following form:

19 (A) Written notification by first-class mail
20 to the individual (or the next of kin of the indi-
21 vidual if the individual is deceased) at the last
22 known address of the individual or the next of
23 kin, respectively, or, if specified as a preference
24 by the individual, by electronic mail. The notifi-

1 *cation may be provided in one or more mailings*
2 *as information is available.*

3 *(B) In the case in which there is insuffi-*
4 *cient, or out-of-date contact information (includ-*
5 *ing a phone number, email address, or any other*
6 *form of appropriate communication) that pre-*
7 *cludes direct written (or, if specified by the indi-*
8 *vidual under subparagraph (A), electronic) noti-*
9 *fication to the individual, a substitute form of*
10 *notice shall be provided, including, in the case*
11 *that there are 10 or more individuals for which*
12 *there is insufficient or out-of-date contact infor-*
13 *mation, a conspicuous posting for a period deter-*
14 *mined by the Secretary on the home page of the*
15 *Web site of the covered entity involved or notice*
16 *in major print or broadcast media, including*
17 *major media in geographic areas where the indi-*
18 *viduals affected by the breach likely reside. Such*
19 *a notice in media or web posting will include a*
20 *toll-free phone number where an individual can*
21 *learn whether or not the individual's unsecured*
22 *protected health information is possibly included*
23 *in the breach.*

24 *(C) In any case deemed by the covered enti-*
25 *ty involved to require urgency because of possible*

1 *imminent misuse of unsecured protected health*
2 *information, the covered entity, in addition to*
3 *notice provided under subparagraph (A), may*
4 *provide information to individuals by telephone*
5 *or other means, as appropriate.*

6 (2) *MEDIA NOTICE.*—*Notice shall be provided to*
7 *prominent media outlets serving a State or jurisdic-*
8 *tion, following the discovery of a breach described in*
9 *subsection (a), if the unsecured protected health infor-*
10 *mation of more than 500 residents of such State or*
11 *jurisdiction is, or is reasonably believed to have been,*
12 *accessed, acquired, or disclosed during such breach.*

13 (3) *NOTICE TO SECRETARY.*—*Notice shall be pro-*
14 *vided to the Secretary by covered entities of unsecured*
15 *protected health information that has been acquired*
16 *or disclosed in a breach. If the breach was with re-*
17 *spect to 500 or more individuals than such notice*
18 *must be provided immediately. If the breach was with*
19 *respect to less than 500 individuals, the covered entity*
20 *may maintain a log of any such breach occurring*
21 *and annually submit such a log to the Secretary doc-*
22 *umenting such breaches occurring during the year in-*
23 *volved.*

24 (4) *POSTING ON HHS PUBLIC WEBSITE.*—*The*
25 *Secretary shall make available to the public on the*

1 *Internet website of the Department of Health and*
2 *Human Services a list that identifies each covered en-*
3 *tity involved in a breach described in subsection (a)*
4 *in which the unsecured protected health information*
5 *of more than 500 individuals is acquired or disclosed.*

6 *(f) CONTENT OF NOTIFICATION.—Regardless of the*
7 *method by which notice is provided to individuals under*
8 *this section, notice of a breach shall include, to the extent*
9 *possible, the following:*

10 *(1) A brief description of what happened, includ-*
11 *ing the date of the breach and the date of the dis-*
12 *covery of the breach, if known.*

13 *(2) A description of the types of unsecured pro-*
14 *ected health information that were involved in the*
15 *breach (such as full name, Social Security number,*
16 *date of birth, home address, account number, or dis-*
17 *ability code).*

18 *(3) The steps individuals should take to protect*
19 *themselves from potential harm resulting from the*
20 *breach.*

21 *(4) A brief description of what the covered entity*
22 *involved is doing to investigate the breach, to mitigate*
23 *losses, and to protect against any further breaches.*

24 *(5) Contact procedures for individuals to ask*
25 *questions or learn additional information, which shall*

1 include a toll-free telephone number, an e-mail ad-
2 dress, Web site, or postal address.

3 (g) *DELAY OF NOTIFICATION AUTHORIZED FOR LAW*
4 *ENFORCEMENT PURPOSES.*—If a law enforcement official
5 determines that a notification, notice, or posting required
6 under this section would impede a criminal investigation
7 or cause damage to national security, such notification, no-
8 tice, or posting shall be delayed in the same manner as pro-
9 vided under section 164.528(a)(2) of title 45, Code of Fed-
10 eral Regulations, in the case of a disclosure covered under
11 such section.

12 (h) *UNSECURED PROTECTED HEALTH INFORMA-*
13 *TION.*—

14 (1) *DEFINITION.*—

15 (A) *IN GENERAL.*—Subject to subparagraph
16 (B), for purposes of this section, the term “unse-
17 cured protected health information” means pro-
18 tected health information that is not secured
19 through the use of a technology or methodology
20 specified by the Secretary in the guidance issued
21 under paragraph (2).

22 (B) *EXCEPTION IN CASE TIMELY GUIDANCE*
23 *NOT ISSUED.*—In the case that the Secretary does
24 not issue guidance under paragraph (2) by the
25 date specified in such paragraph, for purposes of

1 *this section, the term “unsecured protected health*
2 *information” shall mean protected health infor-*
3 *mation that is not secured by a technology*
4 *standard that renders protected health informa-*
5 *tion unusable, unreadable, or indecipherable to*
6 *unauthorized individuals and is developed or en-*
7 *dorsed by a standards developing organization*
8 *that is accredited by the American National*
9 *Standards Institute.*

10 (2) *GUIDANCE.—For purposes of paragraph (1)*
11 *and section 13407(f)(3), not later than the date that*
12 *is 60 days after the date of the enactment of this Act,*
13 *the Secretary shall, after consultation with stake-*
14 *holders, issue (and annually update) guidance speci-*
15 *fying the technologies and methodologies that render*
16 *protected health information unusable, unreadable, or*
17 *indecipherable to unauthorized individuals.*

18 (i) *REPORT TO CONGRESS ON BREACHES.—*

19 (1) *IN GENERAL.—Not later than 12 months*
20 *after the date of the enactment of this Act and annu-*
21 *ally thereafter, the Secretary shall prepare and sub-*
22 *mit to the Committee on Finance and the Committee*
23 *on Health, Education, Labor, and Pensions of the*
24 *Senate and the Committee on Ways and Means and*
25 *the Committee on Energy and Commerce of the House*

1 of Representatives a report containing the informa-
2 tion described in paragraph (2) regarding breaches
3 for which notice was provided to the Secretary under
4 subsection (e)(3).

5 (2) *INFORMATION.*—The information described
6 in this paragraph regarding breaches specified in
7 paragraph (1) shall include—

8 (A) the number and nature of such breaches;

9 and

10 (B) actions taken in response to such
11 breaches.

12 (j) *REGULATIONS; EFFECTIVE DATE.*—To carry out
13 this section, the Secretary of Health and Human Services
14 shall promulgate interim final regulations by not later than
15 the date that is 180 days after the date of the enactment
16 of this title. The provisions of this section shall apply to
17 breaches that are discovered on or after the date that is 30
18 days after the date of publication of such interim final regu-
19 lations.

20 **SEC. 13403. EDUCATION ON HEALTH INFORMATION PRI-**
21 **VACY.**

22 (a) *REGIONAL OFFICE PRIVACY ADVISORS.*—Not later
23 than 6 months after the date of the enactment of this Act,
24 the Secretary shall designate an individual in each regional
25 office of the Department of Health and Human Services to

1 *offer guidance and education to covered entities, business*
2 *associates, and individuals on their rights and responsibil-*
3 *ities related to Federal privacy and security requirements*
4 *for protected health information.*

5 (b) *EDUCATION INITIATIVE ON USES OF HEALTH IN-*
6 *FORMATION.—Not later than 12 months after the date of*
7 *the enactment of this Act, the Office for Civil Rights within*
8 *the Department of Health and Human Services shall de-*
9 *velop and maintain a multi-faceted national education ini-*
10 *tiative to enhance public transparency regarding the uses*
11 *of protected health information, including programs to edu-*
12 *cate individuals about the potential uses of their protected*
13 *health information, the effects of such uses, and the rights*
14 *of individuals with respect to such uses. Such programs*
15 *shall be conducted in a variety of languages and present*
16 *information in a clear and understandable manner.*

17 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**
18 **PENALTIES TO BUSINESS ASSOCIATES OF**
19 **COVERED ENTITIES.**

20 (a) *APPLICATION OF CONTRACT REQUIREMENTS.—In*
21 *the case of a business associate of a covered entity that ob-*
22 *tains or creates protected health information pursuant to*
23 *a written contract (or other written arrangement) described*
24 *in section 164.502(e)(2) of title 45, Code of Federal Regula-*
25 *tions, with such covered entity, the business associate may*

1 use and disclose such protected health information only if
2 such use or disclosure, respectively, is in compliance with
3 each applicable requirement of section 164.504(e) of such
4 title. The additional requirements of this subtitle that relate
5 to privacy and that are made applicable with respect to
6 covered entities shall also be applicable to such a business
7 associate and shall be incorporated into the business asso-
8 ciate agreement between the business associate and the cov-
9 ered entity.

10 (b) *APPLICATION OF KNOWLEDGE ELEMENTS ASSOCI-*
11 *ATED WITH CONTRACTS.*—Section 164.504(e)(1)(ii) of title
12 45, Code of Federal Regulations, shall apply to a business
13 associate described in subsection (a), with respect to compli-
14 ance with such subsection, in the same manner that such
15 section applies to a covered entity, with respect to compli-
16 ance with the standards in sections 164.502(e) and
17 164.504(e) of such title, except that in applying such section
18 164.504(e)(1)(ii) each reference to the business associate,
19 with respect to a contract, shall be treated as a reference
20 to the covered entity involved in such contract.

21 (c) *APPLICATION OF CIVIL AND CRIMINAL PEN-*
22 *ALTIES.*—In the case of a business associate that violates
23 any provision of subsection (a) or (b), the provisions of sec-
24 tions 1176 and 1177 of the Social Security Act (42 U.S.C.
25 1320d–5, 1320d–6) shall apply to the business associate

1 *with respect to such violation in the same manner as such*
2 *provisions apply to a person who violates a provision of*
3 *part C of title XI of such Act.*

4 **SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND**
5 **SALES OF HEALTH INFORMATION; ACCOUNT-**
6 **ING OF CERTAIN PROTECTED HEALTH INFOR-**
7 **MATION DISCLOSURES; ACCESS TO CERTAIN**
8 **INFORMATION IN ELECTRONIC FORMAT.**

9 *(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLO-*
10 *SURES OF HEALTH INFORMATION.—In the case that an in-*
11 *dividual requests under paragraph (a)(1)(i)(A) of section*
12 *164.522 of title 45, Code of Federal Regulations, that a cov-*
13 *ered entity restrict the disclosure of the protected health in-*
14 *formation of the individual, notwithstanding paragraph*
15 *(a)(1)(ii) of such section, the covered entity must comply*
16 *with the requested restriction if—*

17 *(1) except as otherwise required by law, the dis-*
18 *closure is to a health plan for purposes of carrying*
19 *out payment or health care operations (and is not for*
20 *purposes of carrying out treatment); and*

21 *(2) the protected health information pertains*
22 *solely to a health care item or service for which the*
23 *health care provider involved has been paid out of*
24 *pocket in full.*

1 **(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE**
2 **LIMITED DATA SET OR THE MINIMUM NECESSARY.—**

3 **(1) IN GENERAL.—**

4 **(A) IN GENERAL.—***Subject to subparagraph*
5 *(B), a covered entity shall be treated as being in*
6 *compliance with section 164.502(b)(1) of title 45,*
7 *Code of Federal Regulations, with respect to the*
8 *use, disclosure, or request of protected health in-*
9 *formation described in such section, only if the*
10 *covered entity limits such protected health infor-*
11 *mation, to the extent practicable, to the limited*
12 *data set (as defined in section 164.514(e)(2) of*
13 *such title) or, if needed by such entity, to the*
14 *minimum necessary to accomplish the intended*
15 *purpose of such use, disclosure, or request, re-*
16 *spectively.*

17 **(B) GUIDANCE.—***Not later than 18 months*
18 *after the date of the enactment of this section, the*
19 *Secretary shall issue guidance on what con-*
20 *stitutes “minimum necessary” for purposes of*
21 *subpart E of part 164 of title 45, Code of Fed-*
22 *eral Regulation. In issuing such guidance the*
23 *Secretary shall take into consideration the guid-*
24 *ance under section 13424(c) and the information*

1 *necessary to improve patient outcomes and to de-*
2 *fect, prevent, and manage chronic disease.*

3 (C) *SUNSET.*—*Subparagraph (A) shall not*
4 *apply on and after the effective date on which*
5 *the Secretary issues the guidance under subpara-*
6 *graph (B).*

7 (2) *DETERMINATION OF MINIMUM NECESSARY.*—
8 *For purposes of paragraph (1), in the case of the dis-*
9 *closure of protected health information, the covered*
10 *entity or business associate disclosing such informa-*
11 *tion shall determine what constitutes the minimum*
12 *necessary to accomplish the intended purpose of such*
13 *disclosure.*

14 (3) *APPLICATION OF EXCEPTIONS.*—*The excep-*
15 *tions described in section 164.502(b)(2) of title 45,*
16 *Code of Federal Regulations, shall apply to the re-*
17 *quirement under paragraph (1) as of the effective date*
18 *described in section 13423 in the same manner that*
19 *such exceptions apply to section 164.502(b)(1) of such*
20 *title before such date.*

21 (4) *RULE OF CONSTRUCTION.*—*Nothing in this*
22 *subsection shall be construed as affecting the use, dis-*
23 *closure, or request of protected health information*
24 *that has been de-identified.*

1 *(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH IN-*
2 *FORMATION DISCLOSURES REQUIRED IF COVERED ENTITY*
3 *USES ELECTRONIC HEALTH RECORD.—*

4 *“(1) IN GENERAL.—In applying section 164.528*
5 *of title 45, Code of Federal Regulations, in the case*
6 *that a covered entity uses or maintains an electronic*
7 *health record with respect to protected health informa-*
8 *tion—*

9 *“(A) the exception under paragraph*
10 *(a)(1)(i) of such section shall not apply to disclo-*
11 *sures through an electronic health record made*
12 *by such entity of such information; and*

13 *“(B) an individual shall have a right to re-*
14 *ceive an accounting of disclosures described in*
15 *such paragraph of such information made by*
16 *such covered entity during only the three years*
17 *prior to the date on which the accounting is re-*
18 *quested.*

19 *“(2) REGULATIONS.—The Secretary shall pro-*
20 *mulgate regulations on what disclosures must be in-*
21 *cluded in an accounting referred to in paragraph*
22 *(1)(A) and what information must be collected about*
23 *each such disclosure not later than 18 months after*
24 *the date on which the Secretary adopts standards on*
25 *accounting for disclosure described in the section*

1 3002(b)(2)(B)(iv) of the Public Health Service Act, as
2 added by section 13101. Such regulations shall only
3 require such information to be collected through an
4 electronic health record in a manner that takes into
5 account the interests of individuals in learning when
6 their protected health information was disclosed and
7 to whom it was disclosed, and the usefulness of such
8 information to the individual, and takes into account
9 the administrative and cost burden of accounting for
10 such disclosures.

11 “(3) CONSTRUCTION.—Nothing in this subsection
12 shall be construed as—

13 “(A) requiring a covered entity to account
14 for disclosures of protected health information
15 that are not made by such covered entity; or

16 “(B) requiring a business associate of a cov-
17 ered entity to account for disclosures of protected
18 health information that are not made by such
19 business associate.

20 “(4) REASONABLE FEE.—A covered entity may
21 impose a reasonable fee on an individual for an ac-
22 counting performed under paragraph (1)(B). Any
23 such fee shall not be greater than the entity’s labor
24 costs in responding to the request.

25 “(5) EFFECTIVE DATE.—

1 “(A) *CURRENT USERS OF ELECTRONIC*
2 *RECORDS.*—*In the case of a covered entity inso-*
3 *far as it acquired an electronic health record as*
4 *of January 1, 2009, paragraph (1) shall apply*
5 *to disclosures, with respect to protected health in-*
6 *formation, made by the covered entity from such*
7 *a record on and after January 1, 2014.*

8 “(B) *OTHERS.*—*In the case of a covered en-*
9 *tity insofar as it acquires an electronic health*
10 *record after January 1, 2009, paragraph (1)*
11 *shall apply to disclosures, with respect to pro-*
12 *ected health information, made by the covered*
13 *entity from such record on and after the later of*
14 *the following:*

15 “(i) *January 1, 2011; or*

16 “(ii) *the date that it acquires an elec-*
17 *tronic health record.*

18 “(C) *LATER DATE.*—*The Secretary may set*
19 *an effective date that is later than the date speci-*
20 *fied under subparagraph (A) or (B) if the Sec-*
21 *retary determines that such later date is nec-*
22 *essary, but in no case may the date specified*
23 *under—*

24 “(i) *subparagraph (A) be later than*
25 *2018; or*

1 “(i) subparagraph (B) be later than
2 2014.

3 (d) *REVIEW OF HEALTH CARE OPERATIONS.*—Not
4 later than 18 months after the date of the enactment of this
5 title, the Secretary shall review and evaluate the definition
6 of health care operations under section 164.501 of title 45,
7 Code of Federal Regulations, and to the extent appropriate,
8 eliminate by regulation activities that can reasonably and
9 efficiently be conducted through the use of information that
10 is de-identified (in accordance with the requirements of sec-
11 tion 164.514(b) of such title) or that should require a valid
12 authorization for use or disclosure. In promulgating such
13 regulations, the Secretary shall not require that data be de-
14 identified or require valid authorization for use or disclo-
15 sure for activities within a covered entity described in para-
16 graph (1) of the definition of health care operations under
17 such section 164.501. In promulgating such regulations, the
18 Secretary may choose to narrow or clarify activities that
19 the Secretary chooses to retain in the definition of health
20 care operations and the Secretary shall take into account
21 the report under section 13424(d). In such regulations the
22 Secretary shall specify the date on which such regulations
23 shall apply to disclosures made by a covered entity, but in
24 no case would such date be sooner than the date that is
25 24 months after the date of the enactment of this section.

1 *Nothing in this subsection may be construed to supersede*
2 *any provision under 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 shall*
8 *not directly or indirectly receive remuneration in ex-*
9 *change for any protected health information of an in-*
10 *dividual unless the covered entity obtained from the*
11 *individual, in accordance with section 164.508 of title*
12 *45, Code of Federal Regulations, a valid authoriza-*
13 *tion that includes, in accordance with such section, a*
14 *specification of whether the protected health informa-*
15 *tion can be further exchanged for remuneration by the*
16 *entity receiving protected health information of that*
17 *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 in*
22 *sections 164.501, 164.512(i), and 164.512(b) of*
23 *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 pre-*
2 *vent protected health information from inappro-*
3 *priate 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 defini-*
7 *tion of healthcare operations in section 164.501*
8 *of title 45, Code of Federal Regulations.*

9 *(D) The purpose of the exchange is for re-*
10 *muneration that is provided by a covered entity*
11 *to a business associate for activities involving the*
12 *exchange of protected health information that the*
13 *business associate undertakes on behalf of and at*
14 *the specific request of the covered entity pursuant*
15 *to a business associate agreement.*

16 *(E) The purpose of the exchange is to pro-*
17 *vide an individual with a copy of the individ-*
18 *ual's protected health information pursuant to*
19 *section 164.524 of title 45, Code of Federal Regu-*
20 *lations.*

21 *(F) The purpose of the exchange is otherwise*
22 *determined by the Secretary in regulations to be*
23 *similarly necessary and appropriate as the ex-*
24 *ceptions provided in subparagraphs (A) through*
25 *(E).*

1 (3) *REGULATIONS.*—*Not later than 18 months*
2 *after the date of enactment of this title, the Secretary*
3 *shall promulgate regulations to carry out this sub-*
4 *section. In promulgating such regulations, the Sec-*
5 *retary—*

6 (A) *shall evaluate the impact of restricting*
7 *the exception described in paragraph (2)(A) to*
8 *require that the price charged for the purposes*
9 *described in such paragraph reflects the costs of*
10 *the preparation and transmittal of the data for*
11 *such purpose, on research or public health activi-*
12 *ties, including those conducted by or for the use*
13 *of the Food and Drug Administration; and*

14 (B) *may further restrict the exception de-*
15 *scribed in paragraph (2)(A) to require that the*
16 *price charged for the purposes described in such*
17 *paragraph reflects the costs of the preparation*
18 *and transmittal of the data for such purpose, if*
19 *the Secretary finds that such further restriction*
20 *will not impede such research or public health*
21 *activities.*

22 (4) *EFFECTIVE DATE.*—*Paragraph (1) shall*
23 *apply to exchanges occurring on or after the date that*
24 *is 6 months after the date of the promulgation of final*
25 *regulations implementing this subsection.*

1 (f) *ACCESS TO CERTAIN INFORMATION IN ELECTRONIC*
2 *FORMAT.*—*In applying section 164.524 of title 45, Code of*
3 *Federal Regulations, in the case that a covered entity uses*
4 *or maintains an electronic health record with respect to*
5 *protected health information of an individual—*

6 (1) *the individual shall have a right to obtain*
7 *from such covered entity a copy of such information*
8 *in an electronic format; and*

9 (2) *notwithstanding paragraph (c)(4) of such*
10 *section, any fee that the covered entity may impose*
11 *for providing such individual with a copy of such in-*
12 *formation (or a summary or explanation of such in-*
13 *formation) if such copy (or summary or explanation)*
14 *is in an electronic form shall not be greater than the*
15 *entity's labor costs in responding to the request for the*
16 *copy (or summary or explanation).*

17 **SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART**
18 **OF HEALTH CARE OPERATIONS.**

19 (a) *MARKETING.*—

20 (1) *IN GENERAL.*—*A communication by a cov-*
21 *ered entity or business associate that is about a prod-*
22 *uct or service and that encourages recipients of the*
23 *communication to purchase or use the product or*
24 *service shall not be considered a health care operation*
25 *for purposes of subpart E of part 164 of title 45, Code*

1 *of Federal Regulations, unless the communication is*
2 *made as described in subparagraph (i), (ii), or (iii)*
3 *of paragraph (1) of the definition of marketing in sec-*
4 *tion 164.501 of such title.*

5 (2) *PAYMENT FOR CERTAIN COMMUNICATIONS.—*

6 *A communication by a covered entity or business as-*
7 *sociate that is described in subparagraph (i), (ii), or*
8 *(iii) of paragraph (1) of the definition of marketing*
9 *in section 164.501 of title 45, Code of Federal Regula-*
10 *tions, shall not be considered a health care operation*
11 *for purposes of subpart E of part 164 of title 45, Code*
12 *of Federal Regulations if the covered entity receives or*
13 *has received direct or indirect payment in exchange*
14 *for making such communication, except where—*

15 (A) *such communication describes only a*
16 *health care item or service that has previously*
17 *been prescribed for or administered to the recipi-*
18 *ent of the communication, or a family member*
19 *of such recipient;*

20 (B) *each of the following conditions apply—*

21 (i) *the communication is made by the*
22 *covered entity; and*

23 (ii) *the covered entity making such*
24 *communication obtains from the recipient*
25 *of the communication, in accordance with*

1 *section 164.508 of title 45, Code of Federal*
2 *Regulations, a valid authorization (as de-*
3 *scribed in paragraph (b) of such section)*
4 *with respect to such communication; or*

5 *(C) each of the following conditions apply—*

6 *(i) the communication is made on be-*
7 *half of the covered entity;*

8 *(ii) the communication is consistent*
9 *with the written contract (or other written*
10 *arrangement described in section*
11 *164.502(e)(2) of such title) between such*
12 *business associate and covered entity; and*

13 *(iii) the business associate making such*
14 *communication, or the covered entity on be-*
15 *half of which the communication is made,*
16 *obtains from the recipient of the commu-*
17 *nication, in accordance with section*
18 *164.508 of title 45, Code of Federal Regula-*
19 *tions, a valid authorization (as described in*
20 *paragraph (b) of such section) with respect*
21 *to such communication.*

22 *(c) EFFECTIVE DATE.—This section shall apply to*
23 *contracting occurring on or after the effective date specified*
24 *under section 13423.*

1 **SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIRE-**
2 **MENT FOR VENDORS OF PERSONAL HEALTH**
3 **RECORDS AND OTHER NON-HIPAA COVERED**
4 **ENTITIES.**

5 (a) *IN GENERAL.*—*In accordance with subsection (c),*
6 *each vendor of personal health records, following the dis-*
7 *covery of a breach of security of unsecured PHR identifiable*
8 *health information that is in a personal health record*
9 *maintained or offered by such vendor, and each entity de-*
10 *scribed in clause (ii) or (iii) of section 13424(b)(1)(A), fol-*
11 *lowing the discovery of a breach of security of such informa-*
12 *tion that is obtained through a product or service provided*
13 *by such entity, shall—*

14 (1) *notify each individual who is a citizen or*
15 *resident of the United States whose unsecured PHR*
16 *identifiable health information was acquired by an*
17 *unauthorized person as a result of such a breach of*
18 *security; and*

19 (2) *notify the Federal Trade Commission.*

20 (b) *NOTIFICATION BY THIRD PARTY SERVICE PRO-*
21 *VIDERS.*—*A third party service provider that provides serv-*
22 *ices to a vendor of personal health records or to an entity*
23 *described in clause (ii) or (iii) of section 13424(b)(1)(A)*
24 *in connection with the offering or maintenance of a per-*
25 *sonal health record or a related product or service and that*
26 *accesses, maintains, retains, modifies, records, stores, de-*

1 *stroys, or otherwise holds, uses, or discloses unsecured PHR*
2 *identifiable health information in such a record as a result*
3 *of such services shall, following the discovery of a breach*
4 *of security of such information, notify such vendor or enti-*
5 *ty, respectively, of such breach. Such notice shall include*
6 *the identification of each individual whose unsecured PHR*
7 *identifiable health information has been, or is reasonably*
8 *believed to have been, accessed, acquired, or disclosed during*
9 *such breach.*

10 *(c) APPLICATION OF REQUIREMENTS FOR TIMELINESS,*
11 *METHOD, AND CONTENT OF NOTIFICATIONS.—Subsections*
12 *(c), (d), (e), and (f) of section 13402 shall apply to a notifi-*
13 *cation required under subsection (a) and a vendor of per-*
14 *sonal health records, an entity described in subsection (a)*
15 *and a third party service provider described in subsection*
16 *(b), with respect to a breach of security under subsection*
17 *(a) of unsecured PHR identifiable health information in*
18 *such records maintained or offered by such vendor, in a*
19 *manner specified by the Federal Trade Commission.*

20 *(d) NOTIFICATION OF THE SECRETARY.—Upon receipt*
21 *of a notification of a breach of security under subsection*
22 *(a)(2), the Federal Trade Commission shall notify the Sec-*
23 *retary of such breach.*

24 *(e) ENFORCEMENT.—A violation of subsection (a) or*
25 *(b) shall be treated as an unfair and deceptive act or prac-*

1 *tice in violation of a regulation under section 18(a)(1)(B)*
2 *of the Federal Trade Commission Act (15 U.S.C.*
3 *57a(a)(1)(B)) regarding unfair or deceptive acts or prac-*
4 *tices.*

5 *(f) DEFINITIONS.—For purposes of this section:*

6 *(1) BREACH OF SECURITY.—The term “breach of*
7 *security” means, with respect to unsecured PHR*
8 *identifiable health information of an individual in a*
9 *personal health record, acquisition of such informa-*
10 *tion without the authorization of the individual.*

11 *(2) PHR IDENTIFIABLE HEALTH INFORMATION.—*
12 *The term “PHR identifiable health information”*
13 *means individually identifiable health information,*
14 *as defined in section 1171(6) of the Social Security*
15 *Act (42 U.S.C. 1320d(6)), and includes, with respect*
16 *to an individual, information—*

17 *(A) that is provided by or on behalf of the*
18 *individual; and*

19 *(B) that identifies the individual or with*
20 *respect to which there is a reasonable basis to be-*
21 *lieve that the information can be used to identify*
22 *the individual.*

23 *(3) UNSECURED PHR IDENTIFIABLE HEALTH IN-*
24 *FORMATION.—*

1 (A) *IN GENERAL.*—Subject to subparagraph
2 (B), the term “unsecured PHR identifiable
3 health information” means PHR identifiable
4 health information that is not protected through
5 the use of a technology or methodology specified
6 by the Secretary in the guidance issued under
7 section 13402(h)(2).

8 (B) *EXCEPTION IN CASE TIMELY GUIDANCE*
9 *NOT ISSUED.*—In the case that the Secretary does
10 not issue guidance under section 13402(h)(2) by
11 the date specified in such section, for purposes of
12 this section, the term “unsecured PHR identifi-
13 able health information” shall mean PHR iden-
14 tifiable health information that is not secured by
15 a technology standard that renders protected
16 health information unusable, unreadable, or in-
17 decipherable to unauthorized individuals and
18 that is developed or endorsed by a standards de-
19 veloping organization that is accredited by the
20 American National Standards Institute.

21 (g) *REGULATIONS; EFFECTIVE DATE; SUNSET.*—

22 (1) *REGULATIONS; EFFECTIVE DATE.*—To carry
23 out this section, the Federal Trade Commission shall,
24 in accordance with section 553 of title 5, United
25 States Code, promulgate interim final regulations by

1 *not later than the date that is 180 days after the date*
2 *of the enactment of this section. The provisions of this*
3 *section shall apply to breaches of security that are*
4 *discovered on or after the date that is 30 days after*
5 *the date of publication of such interim final regula-*
6 *tions.*

7 (2) *SUNSET.—The provisions of this section shall*
8 *not apply to breaches of security occurring on or after*
9 *the earlier of the following the dates:*

10 (A) *The date on which a standard relating*
11 *to requirements for entities that are not covered*
12 *entities that includes requirements relating to*
13 *breach notification has been promulgated by the*
14 *Secretary.*

15 (B) *The date on which a standard relating*
16 *to requirements for entities that are not covered*
17 *entities that includes requirements relating to*
18 *breach notification has been promulgated by the*
19 *Federal Trade Commission and has taken effect.*

20 **SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED**
21 **FOR CERTAIN ENTITIES.**

22 *Each organization, with respect to a covered entity,*
23 *that provides data transmission of protected health infor-*
24 *mation to such entity (or its business associate) and that*
25 *requires access on a routine basis to such protected health*

1 *information, such as a Health Information Exchange Orga-*
2 *nization, Regional Health Information Organization, E-*
3 *prescribing Gateway, or each vendor that contracts with a*
4 *covered entity to allow that covered entity to offer a per-*
5 *sonal health record to patients as part of its electronic*
6 *health record, is required to enter into a written contract*
7 *(or other written arrangement) described in section*
8 *164.502(e)(2) of title 45, Code of Federal Regulations and*
9 *a written contract (or other arrangement) described in sec-*
10 *tion 164.308(b) of such title, with such entity and shall be*
11 *treated as a business associate of the covered entity for pur-*
12 *poses of the provisions of this subtitle and subparts C and*
13 *E of part 164 of title 45, Code of Federal Regulations, as*
14 *such provisions are in effect as of the date of enactment*
15 *of this title.*

16 **SEC. 13409. CLARIFICATION OF APPLICATION OF WRONG-**
17 **FUL DISCLOSURES CRIMINAL PENALTIES.**

18 *Section 1177(a) of the Social Security Act (42 U.S.C.*
19 *1320d–6(a)) is amended by adding at the end the following*
20 *new sentence: “For purposes of the previous sentence, a per-*
21 *son (including an employee or other individual) shall be*
22 *considered to have obtained or disclosed individually identi-*
23 *fiable health information in violation of this part if the in-*
24 *formation is maintained by a covered entity (as defined in*
25 *the HIPAA privacy regulation described in section*

1 1180(b)(3)) and the individual obtained or disclosed such
2 information without authorization.”.

3 **SEC. 13410. IMPROVED ENFORCEMENT.**

4 (a) *IN GENERAL.*—Section 1176 of the Social Security
5 Act (42 U.S.C. 1320d–5) is amended—

6 (1) in subsection (b)(1), by striking “the act con-
7 stitutes an offense punishable under section 1177”
8 and inserting “a penalty has been imposed under sec-
9 tion 1177 with respect to such act”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(c) *NONCOMPLIANCE DUE TO WILLFUL NEGLIGENCE.*—

13 “(1) *IN GENERAL.*—A violation of a provision of
14 this part due to willful neglect is a violation for
15 which the Secretary is required to impose a penalty
16 under subsection (a)(1).

17 “(2) *REQUIRED INVESTIGATION.*—For purposes
18 of paragraph (1), the Secretary shall formally inves-
19 tigate any complaint of a violation of a provision of
20 this part if a preliminary investigation of the facts
21 of the complaint indicate such a possible violation
22 due to willful neglect.”.

23 (b) *EFFECTIVE DATE; REGULATIONS.*—

24 (1) The amendments made by subsection (a)
25 shall apply to penalties imposed on or after the date

1 *that is 24 months after the date of the enactment of*
2 *this title.*

3 (2) *Not later than 18 months after the date of the*
4 *enactment of this title, the Secretary of Health and*
5 *Human Services shall promulgate regulations to im-*
6 *plement such amendments.*

7 (c) *DISTRIBUTION OF CERTAIN CIVIL MONETARY PEN-*
8 *ALTIES COLLECTED.—*

9 (1) *IN GENERAL.—Subject to the regulation pro-*
10 *mulgated pursuant to paragraph (3), any civil mone-*
11 *tary penalty or monetary settlement collected with re-*
12 *spect to an offense punishable under this subtitle or*
13 *section 1176 of the Social Security Act (42 U.S.C.*
14 *1320d–5) insofar as such section relates to privacy or*
15 *security shall be transferred to the Office of Civil*
16 *Rights of the Department of Health and Human*
17 *Services to be used for purposes of enforcing the pro-*
18 *visions of this subtitle and subparts C and E of part*
19 *164 of title 45, Code of Federal Regulations, as such*
20 *provisions are in effect as of the date of enactment of*
21 *this Act.*

22 (2) *GAO REPORT.—Not later than 18 months*
23 *after the date of the enactment of this title, the Comp-*
24 *troller General shall submit to the Secretary a report*
25 *including recommendations for a methodology under*

1 *which an individual who is harmed by an act that*
2 *constitutes an offense referred to in paragraph (1)*
3 *may receive a percentage of any civil monetary pen-*
4 *alty or monetary settlement collected with respect to*
5 *such offense.*

6 (3) *ESTABLISHMENT OF METHODOLOGY TO DIS-*
7 *TRIBUTE PERCENTAGE OF CMPS COLLECTED TO*
8 *HARMED INDIVIDUALS.—Not later than 3 years after*
9 *the date of the enactment of this title, the Secretary*
10 *shall establish by regulation and based on the rec-*
11 *ommendations submitted under paragraph (2), a*
12 *methodology under which an individual who is*
13 *harmed by an act that constitutes an offense referred*
14 *to in paragraph (1) may receive a percentage of any*
15 *civil monetary penalty or monetary settlement col-*
16 *lected with respect to such offense.*

17 (4) *APPLICATION OF METHODOLOGY.—The meth-*
18 *odology under paragraph (3) shall be applied with re-*
19 *spect to civil monetary penalties or monetary settle-*
20 *ments imposed on or after the effective date of the reg-*
21 *ulation.*

22 (d) *TIERED INCREASE IN AMOUNT OF CIVIL MONE-*
23 *TARY PENALTIES.—*

24 (1) *IN GENERAL.—Section 1176(a)(1) of the So-*
25 *cial Security Act (42 U.S.C. 1320d–5(a)(1)) is*

1 *amended by striking “who violates a provision of this*
2 *part a penalty of not more than” and all that follows*
3 *and inserting the following: “who violates a provision*
4 *of this part—*

5 *“(A) in the case of a violation of such pro-*
6 *vision in which it is established that the person*
7 *did not know (and by exercising reasonable dili-*
8 *gence would not have known) that such person*
9 *violated such provision, a penalty for each such*
10 *violation of an amount that is at least the*
11 *amount described in paragraph (3)(A) but not to*
12 *exceed the amount described in paragraph*
13 *(3)(D);*

14 *“(B) in the case of a violation of such pro-*
15 *vision in which it is established that the viola-*
16 *tion was due to reasonable cause and not to will-*
17 *ful neglect, a penalty for each such violation of*
18 *an amount that is at least the amount described*
19 *in paragraph (3)(B) but not to exceed the*
20 *amount described in paragraph (3)(D); and*

21 *“(C) in the case of a violation of such provi-*
22 *sion in which it is established that the violation*
23 *was due to willful neglect—*

24 *“(i) if the violation is corrected as de-*
25 *scribed in subsection (b)(3)(A), a penalty in*

1 *an amount that is at least the amount de-*
2 *scribed in paragraph (3)(C) but not to ex-*
3 *ceed the amount described in paragraph*
4 *(3)(D); and*

5 *“(ii) if the violation is not corrected as*
6 *described in such subsection, a penalty in*
7 *an amount that is at least the amount de-*
8 *scribed in paragraph (3)(D).*

9 *In determining the amount of a penalty under*
10 *this section for a violation, the Secretary shall*
11 *base such determination on the nature and ex-*
12 *tent of the violation and the nature and extent*
13 *of the harm resulting from such violation.”.*

14 *(2) TIERS OF PENALTIES DESCRIBED.—Section*
15 *1176(a) of such Act (42 U.S.C. 1320d–5(a)) is further*
16 *amended by adding at the end the following new*
17 *paragraph:*

18 *“(3) TIERS OF PENALTIES DESCRIBED.—For*
19 *purposes of paragraph (1), with respect to a violation*
20 *by a person of a provision of this part—*

21 *“(A) the amount described in this subpara-*
22 *graph is \$100 for each such violation, except that*
23 *the total amount imposed on the person for all*
24 *such violations of an identical requirement or*

1 *prohibition during a calendar year may not ex-*
2 *ceed \$25,000;*

3 *“(B) the amount described in this subpara-*
4 *graph is \$1,000 for each such violation, except*
5 *that the total amount imposed on the person for*
6 *all such violations of an identical requirement or*
7 *prohibition during a calendar year may not ex-*
8 *ceed \$100,000;*

9 *“(C) the amount described in this subpara-*
10 *graph is \$10,000 for each such violation, except*
11 *that the total amount imposed on the person for*
12 *all such violations of an identical requirement or*
13 *prohibition during a calendar year may not ex-*
14 *ceed \$250,000; and*

15 *“(D) the amount described in this subpara-*
16 *graph is \$50,000 for each such violation, except*
17 *that the total amount imposed on the person for*
18 *all such violations of an identical requirement or*
19 *prohibition during a calendar year may not ex-*
20 *ceed \$1,500,000.”.*

21 (3) *CONFORMING AMENDMENTS.—Section*
22 *1176(b) of such Act (42 U.S.C. 1320d–5(b)) is amend-*
23 *ed—*

1 (A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs
2 (2) and (3), respectively; and

4 (B) in paragraph (2), as so redesignated—

5 (i) in subparagraph (A), by striking
6 “in subparagraph (B), a penalty may not
7 be imposed under subsection (a) if” and all
8 that follows through “the failure to comply
9 is corrected” and inserting “in subpara-
10 graph (B) or subsection (a)(1)(C), a penalty
11 may not be imposed under subsection (a) if
12 the failure to comply is corrected”; and

13 (ii) in subparagraph (B), by striking
14 “(A)(i)” and inserting “(A)” each place it
15 appears.

16 (4) *EFFECTIVE DATE.*—The amendments made
17 by this subsection shall apply to violations occurring
18 after the date of the enactment of this title.

19 (e) *ENFORCEMENT THROUGH STATE ATTORNEYS GEN-*
20 *ERAL.*—

21 (1) *IN GENERAL.*—Section 1176 of the Social Se-
22 curity Act (42 U.S.C. 1320d–5) is amended by add-
23 ing at the end the following new subsection:

24 “(d) *ENFORCEMENT BY STATE ATTORNEYS GEN-*
25 *ERAL.*—

1 “(1) *CIVIL ACTION.*—*Except as provided in sub-*
2 *section (b), in any case in which the attorney general*
3 *of a State has reason to believe that an interest of one*
4 *or more of the residents of that State has been or is*
5 *threatened or adversely affected by any person who*
6 *violates a provision of this part, the attorney general*
7 *of the State, as parens patriae, may bring a civil ac-*
8 *tion on behalf of such residents of the State in a dis-*
9 *trict court of the United States of appropriate juris-*
10 *isdiction—*

11 “(A) *to enjoin further such violation by the*
12 *defendant; or*

13 “(B) *to obtain damages on behalf of such*
14 *residents of the State, in an amount equal to the*
15 *amount determined under paragraph (2).*

16 “(2) *STATUTORY DAMAGES.*—

17 “(A) *IN GENERAL.*—*For purposes of para-*
18 *graph (1)(B), the amount determined under this*
19 *paragraph is the amount calculated by multi-*
20 *plying the number of violations by up to \$100.*
21 *For purposes of the preceding sentence, in the*
22 *case of a continuing violation, the number of vio-*
23 *lations shall be determined consistent with the*
24 *HIPAA privacy regulations (as defined in sec-*
25 *tion 1180(b)(3)) for violations of subsection (a).*

1 “(B) *LIMITATION.*—*The total amount of*
2 *damages imposed on the person for all violations*
3 *of an identical requirement or prohibition dur-*
4 *ing a calendar year may not exceed \$25,000.*

5 “(C) *REDUCTION OF DAMAGES.*—*In assess-*
6 *ing damages under subparagraph (A), the court*
7 *may consider the factors the Secretary may con-*
8 *sider in determining the amount of a civil*
9 *money penalty under subsection (a) under the*
10 *HIPAA privacy regulations.*

11 “(3) *ATTORNEY FEES.*—*In the case of any suc-*
12 *cessful action under paragraph (1), the court, in its*
13 *discretion, may award the costs of the action and rea-*
14 *sonable attorney fees to the State.*

15 “(4) *NOTICE TO SECRETARY.*—*The State shall*
16 *serve prior written notice of any action under para-*
17 *graph (1) upon the Secretary and provide the Sec-*
18 *retary with a copy of its complaint, except in any*
19 *case in which such prior notice is not feasible, in*
20 *which case the State shall serve such notice imme-*
21 *diately upon instituting such action. The Secretary*
22 *shall have the right—*

23 “(A) *to intervene in the action;*

24 “(B) *upon so intervening, to be heard on all*
25 *matters arising therein; and*

1 “(C) *to file petitions for appeal.*

2 “(5) *CONSTRUCTION.—For purposes of bringing*
3 *any civil action under paragraph (1), nothing in this*
4 *section shall be construed to prevent an attorney gen-*
5 *eral of a State from exercising the powers conferred*
6 *on the attorney general by the laws of that State.*

7 “(6) *VENUE; SERVICE OF PROCESS.—*

8 “(A) *VENUE.—Any action brought under*
9 *paragraph (1) may be brought in the district*
10 *court of the United States that meets applicable*
11 *requirements relating to venue under section*
12 *1391 of title 28, United States Code.*

13 “(B) *SERVICE OF PROCESS.—In an action*
14 *brought under paragraph (1), process may be*
15 *served in any district in which the defendant—*

16 “(i) *is an inhabitant; or*

17 “(ii) *maintains a physical place of*
18 *business.*

19 “(7) *LIMITATION ON STATE ACTION WHILE FED-*
20 *ERAL ACTION IS PENDING.—If the Secretary has insti-*
21 *tuted an action against a person under subsection (a)*
22 *with respect to a specific violation of this part, no*
23 *State attorney general may bring an action under*
24 *this subsection against the person with respect to such*
25 *violation during the pendency of that action.*

1 “(8) *APPLICATION OF CMP STATUTE OF LIMITA-*
2 *TION.—A civil action may not be instituted with re-*
3 *spect to a violation of this part unless an action to*
4 *impose a civil money penalty may be instituted*
5 *under subsection (a) with respect to such violation*
6 *consistent with the second sentence of section*
7 *1128A(c)(1).”.*

8 (2) *CONFORMING AMENDMENTS.—Subsection (b)*
9 *of such section, as amended by subsection (d)(3), is*
10 *amended—*

11 (A) *in paragraph (1), by striking “A pen-*
12 *alty may not be imposed under subsection (a)”*
13 *and inserting “No penalty may be imposed*
14 *under subsection (a) and no damages obtained*
15 *under subsection (d)”;*

16 (B) *in paragraph (2)(A)—*

17 (i) *after “subsection (a)(1)(C),”, by*
18 *striking “a penalty may not be imposed*
19 *under subsection (a)” and inserting “no*
20 *penalty may be imposed under subsection*
21 *(a) and no damages obtained under sub-*
22 *section (d)”;* and

23 (ii) *in clause (ii), by inserting “or*
24 *damages” after “the penalty”;*

1 (C) in paragraph (2)(B)(i), by striking
2 “The period” and inserting “With respect to the
3 imposition of a penalty by the Secretary under
4 subsection (a), the period”; and

5 (D) in paragraph (3), by inserting “and
6 any damages under subsection (d)” after “any
7 penalty under subsection (a)”.

8 (3) *EFFECTIVE DATE.*—The amendments made
9 by this subsection shall apply to violations occurring
10 after the date of the enactment of this Act.

11 (f) *ALLOWING CONTINUED USE OF CORRECTIVE AC-*
12 *TION.*—Such section is further amended by adding at the
13 end the following new subsection:

14 “(e) *ALLOWING CONTINUED USE OF CORRECTIVE AC-*
15 *TION.*—Nothing in this section shall be construed as pre-
16 venting the Office of Civil Rights of the Department of
17 Health and Human Services from continuing, in its discre-
18 tion, to use corrective action without a penalty in cases
19 where the person did not know (and by exercising reason-
20 able diligence would not have known) of the violation in-
21 volved.”.

22 **SEC. 13411. AUDITS.**

23 The Secretary shall provide for periodic audits to en-
24 sure that covered entities and business associates that are
25 subject to the requirements of this subtitle and subparts C

1 *and E of part 164 of title 45, Code of Federal Regulations,*
2 *as such provisions are in effect as of the date of enactment*
3 *of this Act, comply with such requirements.*

4 **PART II—RELATIONSHIP TO OTHER LAWS; REGU-**
5 **LATORY REFERENCES; EFFECTIVE DATE; RE-**
6 **PORTS**

7 **SEC. 13421. RELATIONSHIP TO OTHER LAWS.**

8 (a) *APPLICATION OF HIPAA STATE PREEMPTION.—*
9 *Section 1178 of the Social Security Act (42 U.S.C. 1320d-*
10 *7) shall apply to a provision or requirement under this sub-*
11 *title in the same manner that such section applies to a pro-*
12 *vision or requirement under part C of title XI of such Act*
13 *or a standard or implementation specification adopted or*
14 *established under sections 1172 through 1174 of such Act.*

15 (b) *HEALTH INSURANCE PORTABILITY AND ACCOUNT-*
16 *ABILITY ACT.—The standards governing the privacy and*
17 *security of individually identifiable health information pro-*
18 *mulgated by the Secretary under sections 262(a) and 264*
19 *of the Health Insurance Portability and Accountability Act*
20 *of 1996 shall remain in effect to the extent that they are*
21 *consistent with this subtitle. The Secretary shall by rule*
22 *amend such Federal regulations as required to make such*
23 *regulations consistent with this subtitle. In carrying out the*
24 *preceding sentence, the Secretary shall revise the definition*
25 *of “psychotherapy notes” in section 164.501 of title 45, Code*

1 *of Federal Regulations, to include test data that is related*
2 *to direct responses, scores, items, forms, protocols, manuals,*
3 *or other materials that are part of a mental health evalua-*
4 *tion, as determined by the mental health professional pro-*
5 *viding treatment or evaluation.*

6 **SEC. 13422. REGULATORY REFERENCES.**

7 *Each reference in this subtitle to a provision of the*
8 *Code of Federal Regulations refers to such provision as in*
9 *effect on the date of the enactment of this title (or to the*
10 *most recent update of such provision).*

11 **SEC. 13423. EFFECTIVE DATE.**

12 *Except as otherwise specifically provided, the provi-*
13 *sions of part I shall take effect on the date that is 12 months*
14 *after the date of the enactment of this title.*

15 **SEC. 13424. STUDIES, REPORTS, GUIDANCE.**

16 *(a) REPORT ON COMPLIANCE.—*

17 *(1) IN GENERAL.—For the first year beginning*
18 *after the date of the enactment of this Act and annu-*
19 *ally thereafter, the Secretary shall prepare and sub-*
20 *mit to the Committee on Health, Education, Labor,*
21 *and Pensions of the Senate and the Committee on*
22 *Ways and Means and the Committee on Energy and*
23 *Commerce of the House of Representatives a report*
24 *concerning complaints of alleged violations of law, in-*
25 *cluding the provisions of this subtitle as well as the*

1 *provisions of subparts C and E of part 164 of title*
2 *45, Code of Federal Regulations, (as such provisions*
3 *are in effect as of the date of enactment of this Act)*
4 *relating to privacy and security of health information*
5 *that are received by the Secretary during the year for*
6 *which the report is being prepared. Each such report*
7 *shall include, with respect to such complaints received*
8 *during the year—*

9 *(A) the number of such complaints;*

10 *(B) the number of such complaints resolved*
11 *informally, a summary of the types of such com-*
12 *plaints so resolved, and the number of covered*
13 *entities that received technical assistance from*
14 *the Secretary during such year in order to*
15 *achieve compliance with such provisions and the*
16 *types of such technical assistance provided;*

17 *(C) the number of such complaints that*
18 *have resulted in the imposition of civil monetary*
19 *penalties or have been resolved through monetary*
20 *settlements, including the nature of the com-*
21 *plaints involved and the amount paid in each*
22 *penalty or settlement;*

23 *(D) the number of compliance reviews con-*
24 *ducted and the outcome of each such review;*

1 (E) *the number of subpoenas or inquiries*
2 *issued;*

3 (F) *the Secretary's plan for improving com-*
4 *pliance with and enforcement of such provisions*
5 *for the following year; and*

6 (G) *the number of audits performed and a*
7 *summary of audit findings pursuant to section*
8 *13411.*

9 (2) *AVAILABILITY TO PUBLIC.—Each report*
10 *under paragraph (1) shall be made available to the*
11 *public on the Internet website of the Department of*
12 *Health and Human Services.*

13 (b) *STUDY AND REPORT ON APPLICATION OF PRIVACY*
14 *AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED*
15 *ENTITIES.—*

16 (1) *STUDY.—Not later than one year after the*
17 *date of the enactment of this title, the Secretary, in*
18 *consultation with the Federal Trade Commission,*
19 *shall conduct a study, and submit a report under*
20 *paragraph (2), on privacy and security requirements*
21 *for entities that are not covered entities or business*
22 *associates as of the date of the enactment of this title,*
23 *including—*

24 (A) *requirements relating to security, pri-*
25 *vacancy, and notification in the case of a breach of*

1 *security or privacy (including the applicability*
2 *of an exemption to notification in the case of in-*
3 *dividually identifiable health information that*
4 *has been rendered unusable, unreadable, or inde-*
5 *cipherable through technologies or methodologies*
6 *recognized by appropriate professional organiza-*
7 *tion or standard setting bodies to provide effec-*
8 *tive security for the information) that should be*
9 *applied to—*

10 *(i) vendors of personal health records;*

11 *(ii) entities that offer products or serv-*
12 *ices through the website of a vendor of per-*
13 *sonal health records;*

14 *(iii) entities that are not covered enti-*
15 *ties and that offer products or services*
16 *through the websites of covered entities that*
17 *offer individuals personal health records;*

18 *(iv) entities that are not covered enti-*
19 *ties and that access information in a per-*
20 *sonal health record or send information to*
21 *a personal health record; and*

22 *(v) third party service providers used*
23 *by a vendor or entity described in clause*
24 *(i), (ii), (iii), or (iv) to assist in providing*
25 *personal health record products or services;*

1 (B) a determination of which Federal gov-
2 ernment agency is best equipped to enforce such
3 requirements recommended to be applied to such
4 vendors, entities, and service providers under
5 subparagraph (A); and

6 (C) a timeframe for implementing regula-
7 tions based on such findings.

8 (2) *REPORT.*—The Secretary shall submit to the
9 Committee on Finance, the Committee on Health,
10 Education, Labor, and Pensions, and the Committee
11 on Commerce of the Senate and the Committee on
12 Ways and Means and the Committee on Energy and
13 Commerce of the House of Representatives a report on
14 the findings of the study under paragraph (1) and
15 shall include in such report recommendations on the
16 privacy and security requirements described in such
17 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 Fed-
25 eral Regulations.

1 (d) *GAO REPORT ON TREATMENT DISCLOSURES.*—Not
2 later than one year after the date of the enactment of this
3 title, the Comptroller General of the United States shall sub-
4 mit to the Committee on Health, Education, Labor, and
5 Pensions of the Senate and the Committee on Ways and
6 Means and the Committee on Energy and Commerce of the
7 House of Representatives a report on the best practices re-
8 lated to the disclosure among health care providers of pro-
9 tected health information of an individual for purposes of
10 treatment of such individual. Such report shall include an
11 examination of the best practices implemented by States
12 and by other entities, such as health information exchanges
13 and regional health information organizations, an exam-
14 ination of the extent to which such best practices are suc-
15 cessful with respect to the quality of the resulting health
16 care provided to the individual and with respect to the abil-
17 ity of the health care provider to manage such best prac-
18 tices, and an examination of the use of electronic informed
19 consent for disclosing protected health information for treat-
20 ment, payment, and health care operations.

21 (e) *REPORT REQUIRED.*—Not later than 1 year after
22 the date of enactment of this section, the Government Ac-
23 countability Office shall submit to Congress and the Sec-
24 retary of Health and Human Services a report on the im-
25 pact of any of the provisions of, or amendments made by,

1 *this division or division B that are related to the Health*
2 *Insurance Portability and Accountability Act of 1996 and*
3 *section 552a of title 5, United States Code, on health insur-*
4 *ance premiums and overall health care costs.*

5 **TITLE XIV—STATE FISCAL**
6 **STABILIZATION**

7 *DEPARTMENT OF EDUCATION*

8 *STATE FISCAL STABILIZATION FUND*

9 *For necessary expenses for a State Fiscal Stabilization*
10 *Fund, \$39,000,000,000, which shall be administered by the*
11 *Department of Education, and shall be available through*
12 *September 30, 2010.*

13 **GENERAL PROVISIONS—THIS TITLE**

14 **SEC. 1401. ALLOCATIONS.**

15 *(a) OUTLYING AREAS.—The Secretary of Education*
16 *shall first allocate one-half of 1 percent to the outlying areas*
17 *on the basis of their respective needs, as determined by the*
18 *Secretary, for activities consistent with this title under such*
19 *terms and conditions as the Secretary may determine.*

20 *(b) ADMINISTRATION AND OVERSIGHT.—The Secretary*
21 *may reserve up to \$25,000,000 for administration and over-*
22 *sight of this title, including for program evaluation.*

23 *(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After*
24 *reserving funds under subsections (a) and (b), the Secretary*

1 shall reserve \$7,500,000,000 for grants under sections 1406
2 and 1407.

3 (d) *STATE ALLOCATIONS.*—After carrying out sub-
4 sections (a), (b), and (c), the Secretary shall allocate the
5 remaining funds made available to carry out this title to
6 the States as follows:

7 (1) 61 percent on the basis of their relative popu-
8 lation of individuals aged 5 through 24.

9 (2) 39 percent on the basis of their relative total
10 population.

11 (e) *STATE GRANTS.*—From funds allocated under sub-
12 section (d), the Secretary shall make grants to the Governor
13 of each State.

14 (f) *REALLOCATION.*—The Governor shall return to the
15 Secretary any funds received under subsection (e) that the
16 Governor does not obligate within 1 year of receiving a
17 grant, and the Secretary shall reallocate such funds to the
18 remaining States in accordance with subsection (d).

19 **SEC. 1402. STATE USES OF FUNDS.**

20 *EDUCATION FUND.*—(a) *IN GENERAL.*—The Governor
21 shall use the State's allocation under section 1401 for the
22 support of elementary, secondary, and postsecondary edu-
23 cation and, as applicable, early childhood education pro-
24 grams and services.

1 (b) *RESTORING 2008 STATE SUPPORT FOR EDU-*
2 *CATION.—*

3 (1) *IN GENERAL.—The Governor shall first use the*
4 *funds described in subsection (a)—*

5 (A) *to provide the amount of funds, through*
6 *the State’s principal elementary and secondary*
7 *funding formula, that is needed to restore State*
8 *support for elementary and secondary education*
9 *to the fiscal year 2008 level; and where applica-*
10 *ble, to allow existing State formula increases for*
11 *fiscal years 2009, 2010, and 2011 to be imple-*
12 *mented and allow funding for phasing in State*
13 *equity and adequacy adjustments that were en-*
14 *acted prior to July 1, 2008; and*

15 (B) *to provide the amount of funds to pub-*
16 *lic institutions of higher education in the State*
17 *that is needed to restore State support for post-*
18 *secondary education to the fiscal year 2008 level.*

19 (2) *SHORTFALL.—If the Governor determines that the*
20 *amount of funds available under subsection (a) is insuffi-*
21 *cient to restore State support for education to the levels de-*
22 *scribed in subparagraphs (A) and (B) of paragraph (1),*
23 *the Governor shall allocate those funds between those clauses*
24 *in proportion to the relative shortfall in State support for*
25 *the education sectors described in those clauses.*

1 *for education and general expenditures, and in such a way*
2 *as to mitigate the need to raise tuition and fees for in-State*
3 *students.*

4 (b) *PROHIBITION.—An institution of higher education*
5 *may not use funds received under this title to increase its*
6 *endowment.*

7 (c) *ADDITIONAL PROHIBITION.—An institution of*
8 *higher education may not use funds received under this title*
9 *for construction, renovation, or facility repair.*

10 **SEC. 1405. STATE APPLICATIONS.**

11 (a) *IN GENERAL.—The Governor of a State desiring*
12 *to receive an allocation under section 1401 shall submit an*
13 *application at such time, in such manner, and containing*
14 *such information as the Secretary may reasonably require.*

15 (b) *APPLICATION.—The Governor shall—*

16 (1) *include the assurances described in subsection*

17 (d);

18 (2) *provide baseline data that demonstrates the*
19 *State’s current status in each of the areas described*
20 *in such assurances; and*

21 (3) *describe how the State intends to use its allo-*
22 *cation.*

23 (c) *INCENTIVE GRANT APPLICATION.—The Governor of*
24 *a State seeking a grant under section 1406 shall—*

25 (1) *submit an application for consideration;*

1 (2) describe the status of the State's progress in
2 each of the areas described in subsection (d);

3 (3) describe the achievement and graduation
4 rates of public elementary and secondary school stu-
5 dents in the State, and the strategies the State is em-
6 ploying to help ensure that all subgroups of students
7 identified in 1111(b)(2) of ESEA in the State con-
8 tinue making progress toward meeting the State's stu-
9 dent academic achievement standards;

10 (4) describe how the State would use its grant
11 funding to improve student academic achievement in
12 the State, including how it will allocate the funds to
13 give priority to high-need schools and local edu-
14 cational agencies; and

15 (5) include a plan for evaluating its progress in
16 closing achievement gaps.

17 (d) ASSURANCES.—An application under subsection
18 (b) shall include the following assurances:

19 (1) MAINTENANCE OF EFFORT.—

20 (A) ELEMENTARY AND SECONDARY EDU-
21 CATION.—The State will, in each of fiscal years
22 2009 and 2010, maintain State support for ele-
23 mentary and secondary education at least at the
24 level of such support in fiscal year 2006.

1 (B) *HIGHER EDUCATION.*—*The State will,*
2 *in each of fiscal years 2009 and 2010, maintain*
3 *State support for public institutions of higher*
4 *education (not including support for capital*
5 *projects or for research and development) at least*
6 *at the level of such support in fiscal year 2006.*

7 (2) *ACHIEVING EQUITY IN TEACHER DISTRIBUTION.*—*The State will take action, including activi-*
8 *ties outlined in section 2113(c) of ESEA, to increase*
9 *the number, and improve the distribution, of effective*
10 *teachers and principals in high-poverty schools and*
11 *local educational agencies throughout the State.*

12 (3) *IMPROVING COLLECTION AND USE OF*
13 *DATA.*—*The State will establish a longitudinal data*
14 *system that includes the elements described in section*
15 *6401(e)(2)(D) of the America COMPETES Act (20*
16 *U.S.C. 9871).*

17 (4) *STANDARDS AND ASSESSMENTS.*—*The*
18 *State—*

19 (A) *will enhance the quality of academic as-*
20 *essments described in section 1111(b)(3) of*
21 *ESEA (20 U.S.C. 6311(b)(3)) through activities*
22 *such as those described in section 6112(a) of such*
23 *Act (20 U.S.C. 7301a(a));*
24

1 (B) will comply with the requirements of
2 paragraphs (3)(C)(ix) and (6) of section 1111(b)
3 of ESEA (20 U.S.C. 6311(b)) and section
4 612(a)(16) of IDEA (20 U.S.C. 1412(a)(16)) re-
5 lated to the inclusion of children with disabilities
6 and limited English proficient students in State
7 assessments, the development of valid and reli-
8 able assessments for those students, and the pro-
9 vision of accommodations that enable their par-
10 ticipation in State assessments; and

11 (C) will take steps to improve State aca-
12 demic content standards and student academic
13 achievement standards consistent with
14 6401(e)(1)(A)(ii) of the America COMPETES
15 Act.

16 (5) will ensure compliance with the requirements
17 of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B)
18 with respect to schools identified under such sections.

19 **SEC. 1406. STATE INCENTIVE GRANTS.**

20 (a) *IN GENERAL.*—From the total amount reserved
21 under section 1401(c) that is not used for section 1407, the
22 Secretary shall, in fiscal year 2010, make grants to States
23 that have made significant progress in meeting the objec-
24 tives of paragraphs (2), (3), (4), and (5) of section 1405(d).

1 (b) *BASIS FOR GRANTS.*—*The Secretary shall deter-*
2 *mine which States receive grants under this section, and*
3 *the amount of those grants, on the basis of information pro-*
4 *vided in State applications under section 1405 and such*
5 *other criteria as the Secretary determines appropriate.*

6 (c) *SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.*—
7 *Each State receiving a grant under this section shall use*
8 *at least 50 percent of the grant to provide local educational*
9 *agencies in the State with subgrants based on their relative*
10 *shares of funding under part A of title I of ESEA (20*
11 *U.S.C. 6311 et seq.) for the most recent year.*

12 **SEC. 1407. INNOVATION FUND.**

13 (a) *IN GENERAL.*—

14 (1) *ELIGIBLE ENTITY.*—*For the purposes of this*
15 *section, the term “eligible entity” means—*

16 (A) *A local educational agency; or*

17 (B) *a partnership between a nonprofit orga-*
18 *nization and—*

19 (i) *one or more local educational agen-*
20 *cies;*

21 (ii) *or a consortium of schools.*

22 (2) *PROGRAM ESTABLISHED.*—*From the total*
23 *amount reserved under section 1401(c), the Secretary*
24 *may reserve up to \$650,000,000 to establish an Inno-*
25 *vation Fund, which shall consist of academic achieve-*

1 *ment awards that recognize eligible entities that meet*
2 *the requirements described in subsection (b).*

3 (3) *BASIS FOR AWARDS.—The Secretary shall*
4 *make awards to eligible entities that have made sig-*
5 *nificant gains in closing the achievement gap as de-*
6 *scribed in subsection (b)(1)—*

7 (A) *to allow such eligible entities to expand*
8 *their work and serve as models for best practices;*

9 (B) *to allow such eligible entities to work in*
10 *partnership with the private sector and the phil-*
11 *anthropic community; and*

12 (C) *to identify and document best practices*
13 *that can be shared, and taken to scale based on*
14 *demonstrated success.*

15 (b) *ELIGIBILITY.—To be eligible for such an award,*
16 *an eligible entity shall—*

17 (1) *have significantly closed the achievement*
18 *gaps between groups of students described in section*
19 *1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));*

20 (2) *have exceeded the State's annual measurable*
21 *objectives consistent with such section 1111(b)(2) for*
22 *2 or more consecutive years or have demonstrated suc-*
23 *cess in significantly increasing student academic*
24 *achievement for all groups of students described in*

1 *such section through another measure, such as meas-*
2 *ures described in section 1111(c)(2) of ESEA;*

3 *(3) have made significant improvement in other*
4 *areas, such as graduation rates or increased recruit-*
5 *ment and placement of high-quality teachers and*
6 *school leaders, as demonstrated with meaningful data;*
7 *and*

8 *(4) demonstrate that they have established part-*
9 *nerships with the private sector, which may include*
10 *philanthropic organizations, and that the private sec-*
11 *tor will provide matching funds in order to help*
12 *bring results to scale.*

13 **SEC. 1408. STATE REPORTS.**

14 *A State receiving funds under this title shall submit*
15 *a report to the Secretary, at such time and in such manner*
16 *as the Secretary may require, that describes—*

17 *(1) the uses of funds provided under this title*
18 *within the State;*

19 *(2) how the State distributed the funds it re-*
20 *ceived under this title;*

21 *(3) the number of jobs that the Governor esti-*
22 *mates were saved or created with funds the State re-*
23 *ceived under this title;*

1 (4) *tax increases that the Governor estimates*
2 *were averted because of the availability of funds from*
3 *this title;*

4 (5) *the State's progress in reducing inequities in*
5 *the distribution of teachers, in implementing a State*
6 *student longitudinal data system, and in developing*
7 *and implementing valid and reliable assessments for*
8 *limited English proficient students and children with*
9 *disabilities;*

10 (6) *the tuition and fee increases for in-State stu-*
11 *dents imposed by public institutions of higher edu-*
12 *cation in the State during the period of availability*
13 *of funds under this title, and a description of any ac-*
14 *tions taken by the State to limit those increases; and*

15 (7) *the extent to which public institutions of*
16 *higher education maintained, increased, or decreased*
17 *enrollment of in-State students, including students el-*
18 *igible for Pell Grants or other need-based financial*
19 *assistance.*

20 **SEC. 1409. EVALUATION.**

21 *The Comptroller General of the United States shall*
22 *conduct evaluations of the programs under sections 1406*
23 *and 1407 which shall include, but not be limited to, the*
24 *criteria used for the awards made, the States selected for*
25 *awards, award amounts, how each State used the award*

1 *received, and the impact of this funding on the progress*
2 *made toward closing achievement gaps.*

3 **SEC. 1410. SECRETARY'S REPORT TO CONGRESS.**

4 *The Secretary shall submit a report to the Committee*
5 *on Education and Labor of the House of Representatives,*
6 *the Committee on Health, Education, Labor, and Pensions*
7 *of the Senate, and the Committees on Appropriations of the*
8 *House of Representatives and of the Senate, not less than*
9 *6 months following the submission of the State reports, that*
10 *evaluates the information provided in the State reports*
11 *under section 1408.*

12 **SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN AS-**
13 **SISTANCE.**

14 *No recipient of funds under this title shall use such*
15 *funds to provide financial assistance to students to attend*
16 *private elementary or secondary schools, unless such funds*
17 *are used to provide special education and related services*
18 *to children with disabilities, as authorized by the Individ-*
19 *uals with Disabilities Education Act (20 U.S.C. 1400 et*
20 *seq.).*

21 **SEC. 1412. DEFINITIONS.**

22 *Except as otherwise provided in this title, as used in*
23 *this title—*

1 (1) *the term “institution of higher education”*
2 *has the meaning given such term in section 101 of the*
3 *Higher Education Act of 1965 (20 U.S.C. 1001);*

4 (2) *the term “Secretary” means the Secretary of*
5 *Education;*

6 (3) *the term “State” means each of the 50 States,*
7 *the District of Columbia, and the Commonwealth of*
8 *Puerto Rico; and*

9 (4) *any other term that is defined in section*
10 *9101 of ESEA (20 U.S.C. 7801) shall have the mean-*
11 *ing given the term in such section.*

12 **SEC. 1413. REGULATORY RELIEF.**

13 (a) *WAIVER AUTHORITY.—Subject to subsections (b)*
14 *and (c), the Secretary of Education may, as applicable,*
15 *wave or modify, in order to ease fiscal burdens, any re-*
16 *quirement relating to the following:*

17 (1) *Maintenance of effort.*

18 (2) *The use of Federal funds to supplement, not*
19 *supplant, non-Federal funds.*

20 (b) *DURATION.—A waiver under this section shall be*
21 *for fiscal years 2009 and 2010.*

22 (c) *LIMITATIONS.—*

23 (1) *RELATION TO IDEA.—Nothing in this section*
24 *shall be construed to permit the Secretary to waive or*
25 *modify any provision of the Individuals with Disabil-*

1 *ities Education Act (20 U.S.C. 1400 et seq.), except*
2 *as described in a(1) and a(2).*

3 (2) *MAINTENANCE OF EFFORT.—If the Secretary*
4 *grants a waiver or modification under this section*
5 *waiving or modifying a requirement relating to*
6 *maintenance of effort for fiscal years 2009 and 2010,*
7 *the level of effort required for fiscal year 2011 shall*
8 *not be reduced because of the waiver or modification.*

9 **TITLE XV—RECOVERY ACCOUNT-**
10 **ABILITY AND TRANSPARENCY**
11 **BOARD AND RECOVERY INDE-**
12 **PENDENT ADVISORY PANEL**

13 **SEC. 1501. DEFINITIONS.**

14 *In this title:*

15 (1) *AGENCY.—The term “agency” has the mean-*
16 *ing given under section 551 of title 5, United States*
17 *Code.*

18 (2) *BOARD.—The term “Board” means the Re-*
19 *covery Accountability and Transparency Board estab-*
20 *lished in section 1511.*

21 (3) *CHAIRPERSON.—The term “Chairperson”*
22 *means the Chairperson of the Board.*

23 (4) *COVERED FUNDS.—The term “covered funds”*
24 *means any funds that are expended or obligated—*

1 (C) *appoint an individual as the Chair-*
2 *person of the Board, by and with the advice and*
3 *consent of the Senate.*

4 (2) *COMPENSATION.—*

5 (A) *DESIGNATION OF FEDERAL OFFICER.—*

6 *If the President designates a Federal officer*
7 *under paragraph (1)(A) or (B) to serve as*
8 *Chairperson, that Federal officer may not receive*
9 *additional compensation for services performed*
10 *as Chairperson.*

11 (B) *APPOINTMENT OF NON-FEDERAL OFFI-*

12 *CER.—If the President appoints an individual*
13 *as Chairperson under paragraph (1)(C), that in-*
14 *dividual shall be compensated at the rate of basic*
15 *pay prescribed for level IV of the Executive*
16 *Schedule under section 5315 of title 5, United*
17 *States Code.*

18 (b) *MEMBERS.—The members of the Board shall in-*
19 *clude—*

20 (1) *the Inspectors General of the Departments of*
21 *Agriculture, Commerce, Education, Energy, Health*
22 *and Human Services, Homeland Security, Justice,*
23 *Transportation, Treasury, and the Treasury Inspector*
24 *General for Tax Administration; and*

1 (2) *any other Inspector General as designated by*
2 *the President from any agency that expends or obli-*
3 *gates covered funds.*

4 **SEC. 1513. FUNCTIONS OF THE BOARD.**

5 (a) *FUNCTIONS.—*

6 (1) *IN GENERAL.—The Board shall coordinate*
7 *and conduct oversight of covered funds in order to*
8 *prevent fraud, waste, and abuse.*

9 (2) *SPECIFIC FUNCTIONS.—The functions of the*
10 *Board shall include—*

11 (A) *reviewing whether the reporting of con-*
12 *tracts and grants using covered funds meets ap-*
13 *licable standards and specifies the purpose of*
14 *the contract or grant and measures of perform-*
15 *ance;*

16 (B) *reviewing whether competition require-*
17 *ments applicable to contracts and grants using*
18 *covered funds have been satisfied;*

19 (C) *auditing and investigating covered*
20 *funds to determine whether wasteful spending,*
21 *poor contract or grant management, or other*
22 *abuses are occurring;*

23 (D) *reviewing whether there are sufficient*
24 *qualified acquisition and grant personnel over-*
25 *seeing covered funds;*

1 (E) reviewing whether personnel whose du-
2 ties involve acquisitions or grants made with
3 covered funds receive adequate training; and

4 (F) reviewing whether there are appropriate
5 mechanisms for interagency collaboration relat-
6 ing to covered funds.

7 (b) *REPORTS.*—

8 (1) *QUARTERLY REPORTS.*—*The Board shall sub-*
9 *mit quarterly reports to the President and Congress,*
10 *including the Committees on Appropriations of the*
11 *Senate and House of Representatives, summarizing*
12 *the findings of the Board and the findings of inspec-*
13 *tors general of agencies. The Board may submit addi-*
14 *tional reports as appropriate.*

15 (2) *ANNUAL REPORTS.*—*The Board shall submit*
16 *annual reports to the President and the Committees*
17 *on Appropriations of the Senate and House of Rep-*
18 *resentatives, consolidating applicable quarterly re-*
19 *ports on the use of covered funds.*

20 (3) *PUBLIC AVAILABILITY.*—

21 (A) *IN GENERAL.*—*All reports submitted*
22 *under this subsection shall be made publicly*
23 *available and posted on a website established by*
24 *the Board.*

1 (B) *REDACTIONS.*—Any portion of a report
2 submitted under this subsection may be redacted
3 when made publicly available, if that portion
4 would disclose information that is not subject to
5 disclosure under section 552 of title 5, United
6 States Code (commonly known as the Freedom of
7 Information Act).

8 (c) *RECOMMENDATIONS.*—

9 (1) *IN GENERAL.*—The Board shall make rec-
10 ommendations to agencies on measures to prevent
11 fraud, waste, and abuse relating to covered funds.

12 (2) *RESPONSIVE REPORTS.*—Not later than 30
13 days after receipt of a recommendation under para-
14 graph (1), an agency shall submit a report to the
15 President, the congressional committees of jurisdic-
16 tion, including the Committees on Appropriations of
17 the Senate and House of Representatives, and the
18 Board on—

19 (A) *whether the agency agrees or disagrees*
20 *with the recommendations; and*

21 (B) *any actions the agency will take to im-*
22 *plement the recommendations.*

1 **SEC. 1514. POWERS OF THE BOARD.**

2 (a) *IN GENERAL.*—*The Board shall conduct, supervise,*
3 *and coordinate audits and investigations by inspectors gen-*
4 *eral of agencies relating to covered funds.*

5 (b) *AUDITS AND INVESTIGATIONS.*—*The Board may—*

6 (1) *conduct its own independent audits and in-*
7 *vestigations relating to covered funds; and*

8 (2) *collaborate on audits and investigations re-*
9 *lating to covered funds with any inspector general of*
10 *an agency.*

11 (c) *AUTHORITIES.*—

12 (1) *AUDITS AND INVESTIGATIONS.*—*In con-*
13 *ducting audits and investigations, the Board shall*
14 *have the authorities provided under section 6 of the*
15 *Inspector General Act of 1978 (5 U.S.C. App.).*

16 (2) *STANDARDS AND GUIDELINES.*—*The Board*
17 *shall carry out the powers under subsections (a) and*
18 *(b) in accordance with section 4(b)(1) of the Inspector*
19 *General Act of 1978 (5 U.S.C. App.).*

20 (d) *PUBLIC HEARINGS.*—*The Board may hold public*
21 *hearings and Board personnel may conduct investigative*
22 *depositions. The head of each agency shall make all officers*
23 *and employees of that agency available to provide testimony*
24 *to the Board and Board personnel. The Board may issue*
25 *subpoenas to compel the testimony of persons who are not*
26 *Federal officers or employees. Any such subpoenas may be*

1 *enforced as provided under section 6 of the Inspector Gen-*
2 *eral Act of 1978 (5 U.S.C. App.).*

3 (e) *CONTRACTS.—The Board may enter into contracts*
4 *to enable the Board to discharge its duties under this sub-*
5 *title, including contracts and other arrangements for au-*
6 *dits, studies, analyses, and other services with public agen-*
7 *cies and with private persons, and make such payments as*
8 *may be necessary to carry out the duties of the Board.*

9 (f) *TRANSFER OF FUNDS.—The Board may transfer*
10 *funds appropriated to the Board for expenses to support*
11 *administrative support services and audits or investiga-*
12 *tions of covered funds to any office of inspector general, the*
13 *Office of Management and Budget, the General Services Ad-*
14 *ministration, and the Panel.*

15 **SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AU-**
16 **THORITIES.**

17 (a) *EMPLOYMENT AND PERSONNEL AUTHORITIES.—*

18 (1) *IN GENERAL.—*

19 (A) *AUTHORITIES.—Subject to paragraph*
20 *(2), the Board may exercise the authorities of*
21 *subsections (b) through (i) of section 3161 of title*
22 *5, United States Code (without regard to sub-*
23 *section (a) of that section).*

24 (B) *APPLICATION.—For purposes of exer-*
25 *cising the authorities described under subpara-*

1 *graph (A), the term “Chairperson of the Board”*
2 *shall be substituted for the term “head of a tem-*
3 *porary organization”.*

4 (C) *CONSULTATION.*—*In exercising the au-*
5 *thorities described under subparagraph (A), the*
6 *Chairperson shall consult with members of the*
7 *Board.*

8 (2) *EMPLOYMENT AUTHORITIES.*—*In exercising*
9 *the employment authorities under subsection (b) of*
10 *section 3161 of title 5, United States Code, as pro-*
11 *vided under paragraph (1) of this subsection—*

12 (A) *paragraph (2) of subsection (b) of sec-*
13 *tion 3161 of that title (relating to periods of ap-*
14 *pointments) shall not apply; and*

15 (B) *no period of appointment may exceed*
16 *the date on which the Board terminates under*
17 *section 1521.*

18 (b) *INFORMATION AND ASSISTANCE.*—

19 (1) *IN GENERAL.*—*Upon request of the Board for*
20 *information or assistance from any agency or other*
21 *entity of the Federal Government, the head of such en-*
22 *tity shall, insofar as is practicable and not in con-*
23 *travention of any existing law, furnish such informa-*
24 *tion or assistance to the Board, or an authorized des-*
25 *ignee.*

1 (2) *REPORT OF REFUSALS.*—Whenever informa-
2 tion or assistance requested by the Board is, in the
3 judgment of the Board, unreasonably refused or not
4 provided, the Board shall report the circumstances to
5 the congressional committees of jurisdiction, including
6 the Committees on Appropriations of the Senate and
7 House of Representatives, without delay.

8 (c) *ADMINISTRATIVE SUPPORT.*—The General Services
9 Administration shall provide the Board with administra-
10 tive support services, including the provision of office space
11 and facilities.

12 **SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.**

13 (a) *INDEPENDENT AUTHORITY.*—Nothing in this sub-
14 title shall affect the independent authority of an inspector
15 general to determine whether to conduct an audit or inves-
16 tigation of covered funds.

17 (b) *REQUESTS BY BOARD.*—If the Board requests that
18 an inspector general conduct or refrain from conducting an
19 audit or investigation and the inspector general rejects the
20 request in whole or in part, the inspector general shall, not
21 later than 30 days after rejecting the request, submit a re-
22 port to the Board, the head of the applicable agency, and
23 the congressional committees of jurisdiction, including the
24 Committees on Appropriations of the Senate and House of
25 Representatives. The report shall state the reasons that the

1 *inspector general has rejected the request in whole or in*
2 *part.*

3 **SEC. 1517. COORDINATION WITH THE COMPTROLLER GEN-**
4 **ERAL AND STATE AUDITORS.**

5 *The Board shall coordinate its oversight activities with*
6 *the Comptroller General of the United States and State*
7 *auditor generals.*

8 **SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT**
9 **AND CONTRACTOR WHISTLEBLOWERS.**

10 (a) *PROHIBITION OF REPRISALS.—An employee of*
11 *any non-Federal employer receiving covered funds may not*
12 *be discharged, demoted, or otherwise discriminated against*
13 *as a reprisal for disclosing to the Board, an inspector gen-*
14 *eral, the Comptroller General, a member of Congress, or a*
15 *the head of a Federal agency, or their representatives, infor-*
16 *mation that the employee reasonably believes is evidence*
17 *of—*

18 (1) *gross mismanagement of an agency contract*
19 *or grant relating to covered funds;*

20 (2) *a gross waste of covered funds;*

21 (3) *a substantial and specific danger to public*
22 *health or safety; or*

23 (4) *a violation of law related to an agency con-*
24 *tract (including the competition for or negotiation of*

1 *a contract) or grant, awarded or issued relating to*
2 *covered funds.*

3 **(b) INVESTIGATION OF COMPLAINTS.—**

4 **(1) IN GENERAL.—***A person who believes that the*
5 *person has been subjected to a reprisal prohibited by*
6 *subsection (a) may submit a complaint to the appro-*
7 *priate inspector general. Unless the inspector general*
8 *determines that the complaint is frivolous, the inspec-*
9 *tor general shall investigate the complaint and, upon*
10 *completion of such investigation, submit a report of*
11 *the findings of the investigation to the person, the*
12 *person's employer, the head of the appropriate agency,*
13 *and the Board.*

14 **(2) TIME LIMITATIONS FOR ACTIONS.—**

15 **(A) IN GENERAL.—***Except as provided*
16 *under subparagraph (B), the inspector general*
17 *shall make a determination that a complaint is*
18 *frivolous or submit a report under paragraph (1)*
19 *within 180 days after receiving the complaint.*

20 **(B) EXTENSION.—***If the inspector general is*
21 *unable to complete an investigation in time to*
22 *submit a report within the 180-day period speci-*
23 *fied under subparagraph (A) and the person sub-*
24 *mitting the complaint agrees to an extension of*
25 *time, the inspector general shall submit a report*

1 under paragraph (1) within such additional pe-
2 riod of time as shall be agreed upon between the
3 inspector general and the person submitting the
4 complaint.

5 (c) *REMEDY AND ENFORCEMENT AUTHORITY.*—

6 (1) *AGENCY ACTION.*—Not later than 30 days
7 after receiving an inspector general report under sub-
8 section (b), the head of the agency concerned shall de-
9 termine whether there is sufficient basis to conclude
10 that the non-Federal employer has subjected the com-
11 plainant to a reprisal prohibited by subsection (a)
12 and shall either issue an order denying relief or shall
13 take 1 or more of the following actions:

14 (A) Order the employer to take affirmative
15 action to abate the reprisal.

16 (B) Order the employer to reinstate the per-
17 son to the position that the person held before the
18 reprisal, together with the compensation (includ-
19 ing back pay), employment benefits, and other
20 terms and conditions of employment that would
21 apply to the person in that position if the re-
22 prisal had not been taken.

23 (C) Order the employer to pay the com-
24 plainant an amount equal to the aggregate
25 amount of all costs and expenses (including at-

1 *torneys' fees and expert witnesses' fees) that were*
2 *reasonably incurred by the complainant for, or*
3 *in connection with, bringing the complaint re-*
4 *garding the reprisal, as determined by the head*
5 *of the agency.*

6 (2) *CIVIL ACTION.*—*If the head of an agency*
7 *issues an order denying relief under paragraph (1) or*
8 *has not issued an order within 210 days after the*
9 *submission of a complaint under subsection (b), or in*
10 *the case of an extension of time under subsection*
11 *(b)(2)(B), not later than 30 days after the expiration*
12 *of the extension of time, and there is no showing that*
13 *such delay is due to the bad faith of the complainant,*
14 *the complainant shall be deemed to have exhausted all*
15 *administrative remedies with respect to the com-*
16 *plaint, and the complainant may bring a de novo ac-*
17 *tion at law or equity against the employer to seek*
18 *compensatory damages and other relief available*
19 *under this section in the appropriate district court of*
20 *the United States, which shall have jurisdiction over*
21 *such an action without regard to the amount in con-*
22 *troversy. Such an action shall, at the request of either*
23 *party to the action, be tried by the court with a jury.*

24 (3) *EVIDENCE.*—*An inspector general determina-*
25 *tion and an agency head order denying relief under*

1 *paragraph (2) shall be admissible in evidence in any*
2 *de novo action at law or equity brought in accordance*
3 *with this subsection.*

4 (4) *JUDICIAL ENFORCEMENT OF ORDER.*—*When-*
5 *ever a person fails to comply with an order issued*
6 *under paragraph (1), the head of the agency shall file*
7 *an action for enforcement of such order in the United*
8 *States district court for a district in which the re-*
9 *prisal was found to have occurred. In any action*
10 *brought under this paragraph, the court may grant*
11 *appropriate relief, including injunctive relief and*
12 *compensatory and exemplary damages.*

13 (5) *JUDICIAL REVIEW.*—*Any person adversely af-*
14 *ected 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 seek-*
20 *ing such review may be filed more than 60 days after*
21 *issuance of the order by the head of the agency. Re-*
22 *view shall conform to chapter 7 of title 5, United*
23 *States Code.*

24 (d) *RULE OF CONSTRUCTION.*—*Nothing in this section*
25 *may be construed to authorize the discharge of, demotion*

1 *of, or discrimination against an employee for a disclosure*
2 *other than a disclosure protected by subsection (a) or to*
3 *modify or derogate from a right or remedy otherwise avail-*
4 *able 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 *ditions, inspectors general, and the Government Account-*
24 *ability 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 of*
9 *solicitations for contracts to be awarded, and infor-*
10 *mation about the process that was used for the award*
11 *of contracts.*

12 (5) *The website shall include printable reports on*
13 *covered funds obligated by month to each State and*
14 *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 subtitle.*

20 (d) *WAIVER.—The Board may exclude posting con-*
21 *tractual or other information on the website on a case-by-*
22 *case basis when necessary to protect national security.*

23 **SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.**

24 *There are authorized to be appropriated such sums as*
25 *necessary to carry out this subtitle.*

1 **SEC. 1521. TERMINATION OF THE BOARD.**

2 *The Board shall terminate on September 30, 2012.*

3 ***Subtitle B—Recovery Independent***
4 ***Advisory Panel***

5 **SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT**
6 **ADVISORY PANEL.**

7 (a) *ESTABLISHMENT.*—*There is established the Recov-*
8 *ery Independent Advisory Panel.*

9 (b) *MEMBERSHIP.*—*The Panel shall be composed of 5*
10 *members who shall be appointed by the President.*

11 (c) *QUALIFICATIONS.*—*Members shall be appointed on*
12 *the basis of expertise in economics, public finance, con-*
13 *tracting, accounting, or any other relevant field.*

14 (d) *INITIAL MEETING.*—*Not later than 30 days after*
15 *the date on which all members of the Panel have been ap-*
16 *pointed, the Panel shall hold its first meeting.*

17 (e) *MEETINGS.*—*The Panel shall meet at the call of*
18 *the Chairperson of the Panel.*

19 (f) *QUORUM.*—*A majority of the members of the Panel*
20 *shall constitute a quorum, but a lesser number of members*
21 *may hold hearings.*

22 (g) *CHAIRPERSON AND VICE CHAIRPERSON.*—*The*
23 *Panel shall select a Chairperson and Vice Chairperson from*
24 *among its members.*

1 **SEC. 1532. DUTIES OF THE PANEL.**

2 *The Panel shall make recommendations to the Board*
3 *on actions the Board could take to prevent fraud, waste,*
4 *and abuse relating to covered funds.*

5 **SEC. 1533. POWERS OF THE PANEL.**

6 (a) *HEARINGS.*—*The Panel may hold such hearings,*
7 *sit and act at such times and places, take such testimony,*
8 *and receive such evidence as the Panel considers advisable*
9 *to carry out this subtitle.*

10 (b) *INFORMATION FROM FEDERAL AGENCIES.*—*The*
11 *Panel may secure directly from any agency such informa-*
12 *tion as the Panel considers necessary to carry out this sub-*
13 *title. Upon request of the Chairperson of the Panel, the head*
14 *of such agency shall furnish such information to the Panel.*

15 (c) *POSTAL SERVICES.*—*The Panel may use the*
16 *United States mails in the same manner and under the*
17 *same conditions as agencies of the Federal Government.*

18 (d) *GIFTS.*—*The Panel may accept, use, and dispose*
19 *of gifts or donations of services or property.*

20 **SEC. 1534. PANEL PERSONNEL MATTERS.**

21 (a) *COMPENSATION OF MEMBERS.*—*Each member of*
22 *the Panel who is not an officer or employee of the Federal*
23 *Government shall be compensated at a rate equal to the*
24 *daily equivalent of the annual rate of basic pay prescribed*
25 *for level IV of the Executive Schedule under section 5315*
26 *of title 5, United States Code, for each day (including travel*

1 *time) during which such member is engaged in the perform-*
2 *ance of the duties of the Panel. All members of the Panel*
3 *who are officers or employees of the United States shall serve*
4 *without compensation in addition to that received for their*
5 *services as officers or employees of the United States.*

6 **(b) TRAVEL EXPENSES.**—*The members of the Panel*
7 *shall be allowed travel expenses, including per diem in lieu*
8 *of subsistence, at rates authorized for employees of agencies*
9 *under subchapter I of chapter 57 of title 5, United States*
10 *Code, while away from their homes or regular places of*
11 *business in the performance of services for the Panel.*

12 **(c) STAFF.**—

13 **(1) IN GENERAL.**—*The Chairperson of the Panel*
14 *may, without regard to the civil service laws and reg-*
15 *ulations, appoint and terminate an executive director*
16 *and such other additional personnel as may be nec-*
17 *essary to enable the Panel to perform its duties. The*
18 *employment of an executive director shall be subject*
19 *to confirmation by the Panel.*

20 **(2) COMPENSATION.**—*The Chairperson of the*
21 *Panel may fix the compensation of the executive di-*
22 *rector and other personnel without regard to chapter*
23 *51 and subchapter III of chapter 53 of title 5, United*
24 *States Code, relating to classification of positions and*
25 *General Schedule pay rates, except that the rate of*

1 *pay for the executive director and other personnel*
2 *may not exceed the rate payable for level V of the Ex-*
3 *ecutive Schedule under section 5316 of such title.*

4 (3) *PERSONNEL AS FEDERAL EMPLOYEES.—*

5 (A) *IN GENERAL.—The executive director*
6 *and any personnel of the Panel who are employ-*
7 *ees shall be employees under section 2105 of title*
8 *5, United States Code, for purposes of chapters*
9 *63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of*
10 *that title.*

11 (B) *MEMBERS OF PANEL.—Subparagraph*

12 (A) *shall not be construed to apply to members*
13 *of the Panel.*

14 (d) *DETAIL OF GOVERNMENT EMPLOYEES.—Any Fed-*

15 *eral Government employee may be detailed to the Panel*
16 *without reimbursement, and such detail shall be without*
17 *interruption or loss of civil service status or privilege.*

18 (e) *PROCUREMENT OF TEMPORARY AND INTERMIT-*

19 *TENT SERVICES.—The Chairperson of the Panel may pro-*
20 *cure temporary and intermittent services under section*
21 *3109(b) of title 5, United States Code, at rates for individ-*
22 *uals which do not exceed the daily equivalent of the annual*
23 *rate of basic pay prescribed for level V of the Executive*
24 *Schedule under section 5316 of such title.*

1 (f) *ADMINISTRATIVE SUPPORT.*—*The General Services*
2 *Administration shall provide the Board with administra-*
3 *tive support services, including the provision of office space*
4 *and facilities.*

5 **SEC. 1535. TERMINATION OF THE PANEL.**

6 *The Panel shall terminate on September 30, 2012.*

7 **SEC. 1536. AUTHORIZATION OF APPROPRIATIONS.**

8 *There are authorized to be appropriated such sums as*
9 *necessary to carry out this subtitle.*

10 ***Subtitle C—Reports of the Council***
11 ***of Economic Advisers***

12 **SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC ADVIS-**
13 ***ERS.***

14 (a) *IN GENERAL.*—*In consultation with the Director*
15 *of the Office of Management and Budget and the Secretary*
16 *of the Treasury, the Chairperson of the Council of Economic*
17 *Advisers shall submit to the Committees on Appropriations*
18 *of the Senate and House of Representatives quarterly re-*
19 *ports based on the reports required under section 1551 that*
20 *detail the impact of programs funded through covered funds*
21 *on employment, estimated economic growth, and other key*
22 *economic indicators.*

23 (b) *SUBMISSION OF REPORTS.*—

24 (1) *FIRST REPORT.*—*The first report submitted*
25 *under subsection (a) shall be submitted not later than*

1 *45 days after the end of the first full quarter following*
2 *the date of enactment of this Act.*

3 (2) *LAST REPORT.*—*The last report required to*
4 *be submitted under subsection (a) shall apply to the*
5 *quarter in which the Board terminates under section*
6 *1521.*

7 ***Subtitle D—Reports on Use of***
8 ***Funds***

9 ***SEC. 1551. REPORTS ON USE OF FUNDS.***

10 (a) *SHORT TITLE.*—*This section may be cited as the*
11 *“Jobs Accountability Act”.*

12 (b) *DEFINITIONS.*—*In this section:*

13 (1) *AGENCY.*—*The term “agency” has the mean-*
14 *ing given under section 551 of title 5, United States*
15 *Code.*

16 (2) *RECIPIENT.*—*The term “recipient”—*

17 (A) *means any entity that receives recovery*
18 *funds (including recovery funds received through*
19 *grant, loan, or contract) other than an indi-*
20 *vidual; and*

21 (B) *includes a State that receives recovery*
22 *funds.*

23 (3) *RECOVERY FUNDS.*—*The term “recovery*
24 *funds” means any funds that are made available—*

1 (A) from appropriations made under this
2 Act; and

3 (B) under any other authorities provided
4 under this Act.

5 (c) *RECIPIENT REPORTS.*—Not later than 10 days
6 after the end of each calendar quarter, each recipient that
7 received recovery funds from an agency shall submit a re-
8 port to that agency that contains—

9 (1) the total amount of recovery funds received
10 from that agency;

11 (2) the amount of recovery funds received that
12 were expended or obligated to projects or activities;
13 and

14 (3) a detailed list of all projects or activities for
15 which recovery funds were expended or obligated, in-
16 cluding—

17 (A) the name of the project or activity;

18 (B) a description of the project or activity;

19 (C) an evaluation of the completion status
20 of the project or activity; and

21 (D) an analysis of the number of jobs cre-
22 ated and the number of jobs retained by the
23 project or activity.

24 (d) *AGENCY REPORTS.*—Not later than 30 days after
25 the end of each calendar quarter, each agency that made

1 *recovery funds available to any recipient shall make the in-*
2 *formation in reports submitted under subsection (c) pub-*
3 *licly available by posting the information on a website.*

4 *(e) OTHER REPORTS.—The Congressional Budget Of-*
5 *fice and the Government Accountability Office shall com-*
6 *ment on the information described in subsection (c)(3)(D)*
7 *for any reports submitted under subsection (c). Such com-*
8 *ments shall be due within 7 days after such reports are sub-*
9 *mited.*

10 *TITLE XVI—GENERAL PROVISIONS—THIS ACT*

11 *EMERGENCY DESIGNATION*

12 *SEC. 1601. Each amount in this Act is designated as*
13 *an emergency requirement and necessary to meet emergency*
14 *needs pursuant to section 204(a) of S. Con. Res. 21 (110th*
15 *Congress) and section 301(b)(2) of S. Con. Res. 70 (110th*
16 *Congress), the concurrent resolutions on the budget for fiscal*
17 *years 2008 and 2009.*

18 *AVAILABILITY*

19 *SEC. 1602. No part of any appropriation contained*
20 *in this Act shall remain available for obligation beyond the*
21 *current fiscal year unless expressly so provided herein.*

22 *RELATIONSHIP TO OTHER APPROPRIATIONS*

23 *SEC. 1603. Each amount appropriated or made avail-*
24 *able in this Act is in addition to amounts otherwise appro-*
25 *priated for the fiscal year involved. Enactment of this Act*

1 *shall have no effect on the availability of amounts under*
2 *the Continuing Appropriations Resolution, 2009 (division*
3 *A of Public Law 110–329).*

4 *BUY AMERICAN*

5 *SEC. 1604. USE OF AMERICAN IRON, STEEL, AND*
6 *MANUFACTURED GOODS. (a) None of the funds appro-*
7 *riated or otherwise made available by this Act may be used*
8 *for a project for the construction, alteration, maintenance,*
9 *or repair of a public building or public work unless all of*
10 *the iron, steel, and manufactured goods used in the project*
11 *are produced in the United States.*

12 *(b) Subsection (a) shall not apply in any case in which*
13 *the head of the Federal department or agency involved finds*
14 *that—*

15 *(1) applying subsection (a) would be inconsistent*
16 *with the public interest;*

17 *(2) iron, steel, and the relevant manufactured*
18 *goods are not produced in the United States if suffi-*
19 *cient and reasonably available quantities and of a*
20 *satisfactory quality; or*

21 *(3) inclusion of iron, steel, and manufactured*
22 *goods produced in the United States will increase the*
23 *cost of the overall project by more than 25 percent.*

24 *(c) If the head of a Federal department or agency de-*
25 *termines that it is necessary to waive the application of*

1 subsection (a) based on a finding under subsection (b), the
2 head of the department or agency shall publish in the Fed-
3 eral Register a detailed written jurisdiction as to why the
4 provision is being waived.

5 (d) This section shall be applied in a manner con-
6 sistent with United States obligations under international
7 agreements.

8 CERTIFICATION

9 SEC. 1605. With respect to funds in titles I through XVI
10 of this Act made available to State, or local government
11 agencies, the Governor, mayor, or other chief executive, as
12 appropriate, shall certify that the infrastructure investment
13 has received the full review and vetting required by law and
14 that the chief executive accepts responsibility that the infra-
15 structure investment is an appropriate use of taxpayer dol-
16 lars. A State or local agency may not receive infrastructure
17 investment funding from funds made available in this Act
18 unless this certification is made.

19 ECONOMIC STABILIZATION CONTRACTING

20 SEC. 1606. REFORM OF CONTRACTING PROCEDURES
21 UNDER EESA. Section 107(b) of the Emergency Economic
22 Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended
23 by inserting “and individuals with disabilities and busi-
24 nesses owned by individuals with disabilities (for purposes
25 of this subsection the term ‘individual with disability’ has

1 *the same meaning as the term ‘handicapped individual’ as*
2 *that term is defined in section 3(f) of the Small Business*
3 *Act (15 U.S.C. 632(f)),” after “(12 U.S.C. 1441a(r)(4)),”.*

4 *SEC. 1607. FINDINGS.—*

5 *(1) The National Environmental Policy Act pro-*
6 *pects public health, safety and environmental quality:*
7 *by ensuring transparency, accountability and public*
8 *involvement in federal actions and in the use of pub-*
9 *lic funds;*

10 *(2) When President Nixon signed the National*
11 *Environmental Policy Act into law on January 1,*
12 *1970, he said that the Act provided the “direction”*
13 *for the country to “regain a productive harmony be-*
14 *tween man and nature”;*

15 *(3) The National Environmental Policy Act*
16 *helps to provide an orderly process for considering*
17 *federal actions and funding decisions and prevents li-*
18 *gation and delay that would otherwise be inevitable*
19 *and existed prior to the establishment of the National*
20 *Environmental Policy Act.*

21 *(a) Adequate resources within this bill must be devoted*
22 *to ensuring that applicable environmental reviews under*
23 *the National Environmental Policy Act are completed on*
24 *an expeditious basis and that the shortest existing applica-*

1 ble process under the National Environmental Policy Act
2 shall be utilized.

3 (b) The President shall report to the Senate Environ-
4 ment and Public Works Committee and the House Natural
5 Resources Committee every 90 days following the date of
6 enactment until September 30, 2011 on the status and
7 progress of projects and activities funded by this Act with
8 respect to compliance with National Environmental Policy
9 Act requirements and documentation.

10 *PROHIBITION ON NO-BID CONTRACTS AND EARMARKS*

11 *SEC. 1608. (a) Notwithstanding any other provision*
12 *of this Act, none of the funds appropriated or otherwise*
13 *made available by this Act may be used to make any pay-*
14 *ment in connection with a contract unless the contract is*
15 *awarded using competitive procedures in accordance with*
16 *the requirements of section 303 of the Federal Property and*
17 *Administrative Services Act of 1949 (41 U.S.C. 253), sec-*
18 *tion 2304 of title 10, United States Code, and the Federal*
19 *Acquisition Regulation.*

20 (b) Notwithstanding any other provision of this Act,
21 none of the funds appropriated or otherwise made available
22 by this Act may be awarded by grant or cooperative agree-
23 ment unless the process used to award such grant or cooper-
24 ative agreement uses competitive procedures to select the
25 grantee or award recipient.

26 *SEC. 1609. LIMIT ON FUNDS.*

1 *None of the amounts appropriated or otherwise made*
2 *available by this Act may be used for any casino or other*
3 *gambling establishment, aquarium, zoo, golf course, swim-*
4 *ming pool, stadium, community park, museum, theater, art*
5 *center, and highway beautification project.*

6 *SEC. 1610. HIRING AMERICAN WORKERS IN COMPANIES RE-*
7 *CEIVING TARP FUNDING.*

8 (a) *SHORT TITLE.—This section may be cited as the*
9 *“Employ American Workers Act”.*

10 (b) *PROHIBITION.—*

11 (1) *IN GENERAL.—Notwithstanding any other*
12 *provision of law, it shall be unlawful for any recipi-*
13 *ent of funding under title I of the Emergency Eco-*
14 *nomics Stabilization Act of 2008 (Public Law 110-*
15 *343) or section 13 of the Federal Reserve Act (12*
16 *U.S.C. 342 et seq.) to hire any nonimmigrant de-*
17 *scribed in section 101(a)(15)(h)(i)(b) of the Immigra-*
18 *tion and Nationality Act (8 U.S.C.*
19 *1101(a)(15)(h)(i)(b)) unless the recipient is in com-*
20 *pliance with the requirements for an H-1B dependent*
21 *employer (as defined in section 212(n)(3) of such Act*
22 *(8 U.S.C. 1182(n)(3))), except that the second sen-*
23 *tence of section 212(n)(1)(E)(ii) of such Act shall not*
24 *apply.*

1 (2) *DEFINED TERM.*—*In this subsection, the*
 2 *term “hire” means to permit a new employee to com-*
 3 *mence a period of employment.*

4 (c) *SUNSET PROVISION.*—*This section shall be effective*
 5 *during the 2-year period beginning on the date of the enact-*
 6 *ment of this Act.*

7 ***DIVISION B—TAX, UNEMPLOY-***
 8 ***MENT, HEALTH, STATE FIS-***
 9 ***CAL RELIEF, AND OTHER PRO-***
 10 ***VISIONS***

11 ***TITLE I—TAX PROVISIONS***

12 ***SEC. 1000. SHORT TITLE, ETC.***

13 (a) *SHORT TITLE.*—*This title may be cited as the*
 14 *“American Recovery and Reinvestment Tax Act of 2009”.*

15 (b) *REFERENCE.*—*Except as otherwise expressly pro-*
 16 *vided, whenever in this title an amendment or repeal is ex-*
 17 *pressed in terms of an amendment to, or repeal of, a section*
 18 *or other provision, the reference shall be considered to be*
 19 *made to a section or other provision of the Internal Revenue*
 20 *Code of 1986.*

21 (c) *TABLE OF CONTENTS.*—*The table of contents for*
 22 *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.*

Subtitle J—Other Provisions

- 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 subchapter*
6 *A of chapter 1 is amended by inserting after section 36 the*
7 *following new section:*

8 ***“SEC. 36A. MAKING WORK PAY CREDIT.***

9 *“(a) ALLOWANCE OF CREDIT.—In the case of an eligi-*
10 *ble 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 return).*

16 *“(b) LIMITATION BASED ON MODIFIED ADJUSTED*
17 *GROSS INCOME.—*

18 *“(1) IN GENERAL.—The amount allowable as a*
19 *credit under subsection (a) (determined without re-*
20 *gard to this paragraph and subsection (c)) for the*
21 *taxable year shall be reduced (but not below zero) by*
22 *4 percent of so much of the taxpayer’s modified ad-*
23 *justed gross income as exceeds \$70,000 (\$140,000 in*
24 *the case of a joint return).*

1 “(2) *MODIFIED ADJUSTED GROSS INCOME.*—For
2 purposes of subparagraph (A), the term ‘modified ad-
3 justed gross income’ means the adjusted gross income
4 of the taxpayer for the taxable year increased by any
5 amount excluded from gross income under section
6 911, 931, or 933.

7 “(c) *REDUCTION FOR CERTAIN OTHER PAYMENTS.*—
8 The credit allowed under subsection (a) for any taxable year
9 shall be reduced by the amount of any payments received
10 by the taxpayer during such taxable year under section
11 1601 of the American Recovery and Reinvestment Tax Act
12 of 2009.

13 “(d) *DEFINITIONS.*—For purposes of this section—

14 “(1) *ELIGIBLE INDIVIDUAL.*—The term ‘eligible
15 individual’ means any individual other than—

16 “(A) any nonresident alien individual,

17 “(B) any individual with respect to whom
18 a deduction under section 151 is allowable to an-
19 other taxpayer for a taxable year beginning in
20 the calendar year in which the individual’s tax-
21 able year begins, and

22 “(C) an estate or trust.

23 Such term shall not include any individual unless the
24 requirements of section 32(c)(1)(E) are met with re-
25 spect to such individual.

1 “(2) *EARNED INCOME.*—*The term ‘earned in-*
2 *come’ has the meaning given such term by section*
3 *32(c)(2), except that such term shall not include net*
4 *earnings from self-employment which are not taken*
5 *into account in computing taxable income. For pur-*
6 *poses of the preceding sentence, any amount excluded*
7 *from gross income by reason of section 112 shall be*
8 *treated as earned income which is taken into account*
9 *in computing taxable income for the taxable year.*

10 “(e) *TERMINATION.*—*This section shall not apply to*
11 *taxable years beginning after December 31, 2010.”.*

12 (b) *TREATMENT OF POSSESSIONS.*—

13 (1) *PAYMENTS TO POSSESSIONS.*—

14 (A) *MIRROR CODE POSSESSION.*—*The Sec-*
15 *retary of the Treasury shall pay to each posses-*
16 *sion of the United States with a mirror code tax*
17 *system amounts equal to the loss to that posses-*
18 *sion by reason of the amendments made by this*
19 *section with respect to taxable years beginning*
20 *in 2009 and 2010. Such amounts shall be deter-*
21 *mined by the Secretary of the Treasury based on*
22 *information provided by the government of the*
23 *respective possession.*

24 (B) *OTHER POSSESSIONS.*—*The Secretary*
25 *of the Treasury shall pay to each possession of*

1 *the United States which does not have a mirror*
2 *code tax system amounts estimated by the Sec-*
3 *retary of the Treasury as being equal to the ag-*
4 *gregate benefits that would have been provided to*
5 *residents of such possession by reason of the*
6 *amendments made by this section for taxable*
7 *years beginning in 2009 and 2010 if a mirror*
8 *code tax system had been in effect in such posses-*
9 *sion. The preceding sentence shall not apply with*
10 *respect to any possession of the United States*
11 *unless such possession has a plan, which has*
12 *been approved by the Secretary of the Treasury,*
13 *under which such possession will promptly dis-*
14 *tribute such payments to the residents of such*
15 *possession.*

16 (2) *COORDINATION WITH CREDIT ALLOWED*
17 *AGAINST UNITED STATES INCOME TAXES.—No credit*
18 *shall be allowed against United States income taxes*
19 *for any taxable year under section 36A of the Internal*
20 *Revenue Code of 1986 (as added by this section) to*
21 *any person—*

22 (A) *to whom a credit is allowed against*
23 *taxes imposed by the possession by reason of the*
24 *amendments made by this section for such tax-*
25 *able year, or*

1 (B) who is eligible for a payment under a
2 plan described in paragraph (1)(B) with respect
3 to such taxable year.

4 (3) DEFINITIONS AND SPECIAL RULES.—

5 (A) POSSESSION OF THE UNITED STATES.—
6 For purposes of this subsection, the term “possession
7 of the United States” includes the Commonwealth
8 of Puerto Rico and the Commonwealth of
9 the Northern Mariana Islands.

10 (B) MIRROR CODE TAX SYSTEM.—For purposes
11 of this subsection, the term “mirror code
12 tax system” means, with respect to any possession
13 of the United States, the income tax system
14 of such possession if the income tax liability of
15 the residents of such possession under such system
16 is determined by reference to the income tax
17 laws of the United States as if such possession
18 were the United States.

19 (C) TREATMENT OF PAYMENTS.—For purposes
20 of section 1324(b)(2) of title 31, United
21 States Code, the payments under this subsection
22 shall be treated in the same manner as a refund
23 due from the credit allowed under section 36A of
24 the Internal Revenue Code of 1986 (as added by
25 this section).

1 (c) *REFUNDS DISREGARDED IN THE ADMINISTRATION*
2 *OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PRO-*
3 *GRAMS.*—*Any credit or refund allowed or made to any indi-*
4 *vidual by reason of section 36A of the Internal Revenue*
5 *Code of 1986 (as added by this section) or by reason of sub-*
6 *section (b) of this section shall not be taken into account*
7 *as income and shall not be taken into account as resources*
8 *for the month of receipt and the following 2 months, for*
9 *purposes of determining the eligibility of such individual*
10 *or any other individual for benefits or assistance, or the*
11 *amount or extent of benefits or assistance, under any Fed-*
12 *eral program or under any State or local program financed*
13 *in whole or in part with Federal funds.*

14 (d) *AUTHORITY RELATING TO CLERICAL ERRORS.*—
15 *Section 6213(g)(2) is amended by striking “and” at the end*
16 *of subparagraph (L)(ii), by striking the period at the end*
17 *of subparagraph (M) and inserting “, and”, and by adding*
18 *at the end the following new subparagraph:*

19 “(N) *an omission of the reduction required*
20 *under section 36A(c) with respect to the credit*
21 *allowed under section 36A or an omission of the*
22 *correct TIN required under section 36A(d)(1).”.*

23 (e) *CONFORMING AMENDMENTS.*—

24 (1) *Section 6211(b)(4)(A) is amended by insert-*
25 *ing “36A,” after “36.”.*

1 (2) *Section 1324(b)(2) of title 31, United States*
 2 *Code, is amended by inserting “36A,” after “36,”.*

3 (3) *The table of sections for subpart C of part IV*
 4 *of subchapter A of chapter 1 is amended by inserting*
 5 *after the item relating to section 36 the following new*
 6 *item:*

“*Sec. 36A. Making work pay credit.*”.

7 (f) *EFFECTIVE DATE.—This section, and the amend-*
 8 *ments made by this section, shall apply to taxable years*
 9 *beginning after December 31, 2008.*

10 **SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX**
 11 **CREDIT.**

12 (a) *IN GENERAL.—Subsection (b) of section 32 is*
 13 *amended by adding at the end the following new paragraph:*

14 “(3) *SPECIAL RULES FOR 2009 AND 2010.—In the*
 15 *case of any taxable year beginning in 2009 or 2010—*

16 “(A) *INCREASED CREDIT PERCENTAGE FOR*
 17 *3 OR MORE QUALIFYING CHILDREN.—In the case*
 18 *of a taxpayer with 3 or more qualifying chil-*
 19 *dren, the credit percentage is 45 percent.*

20 “(B) *REDUCTION OF MARRIAGE PENALTY.—*

21 “(i) *IN GENERAL.—The dollar amount*
 22 *in effect under paragraph (2)(B) shall be*
 23 *\$5,000.*

24 “(ii) *INFLATION ADJUSTMENT.—In the*
 25 *case of any taxable year beginning in 2010,*

1 the \$5,000 amount in clause (i) shall be in-
2 creased by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost of living adjustment
6 determined under section 1(f)(3) for
7 the calendar year in which the taxable
8 year begins determined by substituting
9 ‘calendar year 2008’ for ‘calendar year
10 1992’ in subparagraph (B) thereof.

11 “(iii) *ROUNDING*.—Subparagraph (A)
12 of subsection (j)(2) shall apply after taking
13 into account any increase under clause
14 (ii).”.

15 (b) *EFFECTIVE DATE*.—The amendments made by this
16 section shall apply to taxable years beginning after Decem-
17 ber 31, 2008.

18 **SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE POR-**
19 **TION OF CHILD CREDIT.**

20 (a) *IN GENERAL*.—Paragraph (4) of section 24(d) is
21 amended to read as follows:

22 “(4) *SPECIAL RULE FOR 2009 AND 2010*.—Not-
23 withstanding paragraph (3), in the case of any tax-
24 able year beginning in 2009 or 2010, the dollar

1 *amount in effect for such taxable year under para-*
2 *graph (1)(B)(i) shall be \$8,100.”.*

3 **(b) EFFECTIVE DATE.**—*The amendments made by this*
4 *section shall apply to taxable years beginning after Decem-*
5 *ber 31, 2008.*

6 **SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.**

7 **(a) IN GENERAL.**—*Section 25A (relating to Hope*
8 *scholarship credit) is amended by redesignating subsection*
9 *(i) as subsection (j) and by inserting after subsection (h)*
10 *the following new subsection:*

11 **“(i) AMERICAN OPPORTUNITY TAX CREDIT.**—*In the*
12 *case of any taxable year beginning in 2009 or 2010—*

13 **“(1) INCREASE IN CREDIT.**—*The Hope Scholar-*
14 *ship Credit shall be an amount equal to the sum of—*

15 **“(A)** *100 percent of so much of the qualified*
16 *tuition and related expenses paid by the tax-*
17 *payer during the taxable year (for education fur-*
18 *nished to the eligible student during any aca-*
19 *ademic period beginning in such taxable year) as*
20 *does not exceed \$2,000, plus*

21 **“(B)** *25 percent of such expenses so paid as*
22 *exceeds \$2,000 but does not exceed \$4,000.*

23 **“(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF**
24 **POST-SECONDARY EDUCATION.**—*Subparagraphs (A)*

1 *and (C) of subsection (b)(2) shall be applied by sub-*
2 *stituting ‘4’ for ‘2’.*

3 “(3) *QUALIFIED TUITION AND RELATED EX-*
4 *PENSES TO INCLUDE REQUIRED COURSE MATE-*
5 *RIALS.—Subsection (f)(1)(A) shall be applied by sub-*
6 *stituting ‘tuition, fees, and course materials’ for ‘tui-*
7 *tion and fees’.*

8 “(4) *INCREASE IN AGI LIMITS FOR HOPE SCHOL-*
9 *ARSHIP CREDIT.—In lieu of applying subsection (d)*
10 *with respect to the Hope Scholarship Credit, such*
11 *credit (determined without regard to this paragraph)*
12 *shall be reduced (but not below zero) by the amount*
13 *which bears the same ratio to such credit (as so deter-*
14 *mined) as—*

15 “(A) *the excess of—*

16 “(i) *the taxpayer’s modified adjusted*
17 *gross income (as defined in subsection*
18 *(d)(3)) for such taxable year, over*

19 “(ii) *\$80,000 (\$160,000 in the case of*
20 *a joint return), bears to*

21 “(B) *\$10,000 (\$20,000 in the case of a joint*
22 *return).*

23 “(5) *CREDIT ALLOWED AGAINST ALTERNATIVE*
24 *MINIMUM TAX.—In the case of a taxable year to which*
25 *section 26(a)(2) does not apply, so much of the credit*

1 *allowed under subsection (a) as is attributable to the*
2 *Hope Scholarship Credit shall not exceed the excess*
3 *of—*

4 *“(A) the sum of the regular tax liability (as*
5 *defined in section 26(b)) plus the tax imposed by*
6 *section 55, over*

7 *“(B) the sum of the credits allowable under*
8 *this subpart (other than this subsection and sec-*
9 *tions 23, 25D, and 30D) and section 27 for the*
10 *taxable year.*

11 *Any reference in this section or section 24, 25, 26,*
12 *25B, 904, or 1400C to a credit allowable under this*
13 *subsection shall be treated as a reference to so much*
14 *of the credit allowable under subsection (a) as is at-*
15 *tributable to the Hope Scholarship Credit.*

16 *“(6) PORTION OF CREDIT MADE REFUNDABLE.—*
17 *30 percent of so much of the credit allowed under sub-*
18 *section (a) as is attributable to the Hope Scholarship*
19 *Credit (determined after application of paragraph (4)*
20 *and without regard to this paragraph and section*
21 *26(a)(2) or paragraph (5), as the case may be) shall*
22 *be treated as a credit allowable under subpart C (and*
23 *not allowed under subsection (a)). The preceding sen-*
24 *tence shall not apply to any taxpayer for any taxable*

1 *year if such taxpayer is a child to whom subsection*
2 *(g) of section 1 applies for such taxable year.*

3 “(7) *COORDINATION WITH MIDWESTERN DIS-*
4 *ASTER AREA BENEFITS.—In the case of a taxpayer*
5 *with respect to whom section 702(a)(1)(B) of the*
6 *Heartland Disaster Tax Relief Act of 2008 applies for*
7 *any taxable year, such taxpayer may elect to waive*
8 *the application of this subsection to such taxpayer for*
9 *such taxable year.”.*

10 (b) *CONFORMING AMENDMENTS.—*

11 (1) *Section 24(b)(3)(B) is amended by inserting*
12 *“25A(i),” after “23.”.*

13 (2) *Section 25(e)(1)(C)(ii) is amended by insert-*
14 *ing “25A(i),” after “24.”.*

15 (3) *Section 26(a)(1) is amended by inserting*
16 *“25A(i),” after “24.”.*

17 (4) *Section 25B(g)(2) is amended by inserting*
18 *“25A(i),” after “23.”.*

19 (5) *Section 904(i) is amended by inserting*
20 *“25A(i),” after “24.”.*

21 (6) *Section 1400C(d)(2) is amended by inserting*
22 *“25A(i),” after “24.”.*

23 (7) *Section 1324(b)(2) of title 31, United States*
24 *Code, is amended by inserting “25A,” before “35”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2008.*

4 (d) *APPLICATION OF EGTRRA SUNSET.*—*The amend-*
5 *ment made by subsection (b)(1) shall be subject to title IX*
6 *of the Economic Growth and Tax Relief Reconciliation Act*
7 *of 2001 in the same manner as the provision of such Act*
8 *to which such amendment relates.*

9 (e) *TREASURY STUDIES REGARDING EDUCATION IN-*
10 *CENTIVES.*—

11 (1) *STUDY REGARDING COORDINATION WITH*
12 *NON-TAX EDUCATIONAL INCENTIVES.*—*The Secretary*
13 *of the Treasury, or the Secretary's delegate, shall*
14 *study how to coordinate the credit allowed under sec-*
15 *tion 25A of the Internal Revenue Code of 1986 with*
16 *the Federal Pell Grant program under section 401 of*
17 *the Higher Education Act of 1965.*

18 (2) *STUDY REGARDING IMPOSITION OF COMMU-*
19 *NITY SERVICE REQUIREMENTS.*—*The Secretary of the*
20 *Treasury, or the Secretary's delegate, shall study the*
21 *feasibility of requiring students to perform commu-*
22 *nity service as a condition of taking their tuition and*
23 *related expenses into account under section 25A of the*
24 *Internal Revenue Code of 1986.*

1 (3) *REPORT.*—Not later than 1 year after the
2 date of the enactment of this Act, the Secretary of the
3 Treasury, or the Secretary’s delegate, shall report to
4 Congress on the results of the studies conducted under
5 this paragraph.

6 **SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT AL-**
7 **LOWED AS A QUALIFIED HIGHER EDUCATION**
8 **EXPENSE FOR SECTION 529 ACCOUNTS IN**
9 **2009 AND 2010.**

10 (a) *IN GENERAL.*—Section 529(e)(3)(A) is amended by
11 striking “and” at the end of clause (i), by striking the pe-
12 riod at the end of clause (ii), and by adding at the end
13 the following:

14 “(iii) expenses paid or incurred in
15 2009 or 2010 for the purchase of any com-
16 puter technology or equipment (as defined
17 in section 170(e)(6)(F)(i)) or Internet access
18 and related services, if such technology,
19 equipment, or services are to be used by the
20 beneficiary and the beneficiary’s family
21 during any of the years the beneficiary is
22 enrolled at an eligible educational institu-
23 tion.

24 Clause (iii) shall not include expenses for com-
25 puter software designed for sports, games, or hob-

1 *bies unless the software is predominantly edu-*
2 *cational in nature.”.*

3 *(b) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to expenses paid or incurred after De-*
5 *cember 31, 2008.*

6 **SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.**

7 *(a) ALLOWANCE OF CREDIT.—Subpart A of part IV*
8 *of subchapter A of chapter 1 is amended by inserting after*
9 *section 25D the following new section:*

10 **“SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.**

11 *“(a) ALLOWANCE OF CREDIT.—*

12 *“(1) IN GENERAL.—In the case of an individual*
13 *who is a purchaser of a principal residence during*
14 *the taxable year, there shall be allowed as a credit*
15 *against the tax imposed by this chapter an amount*
16 *equal to 10 percent of the purchase price of the resi-*
17 *dence.*

18 *“(2) DOLLAR LIMITATION.—The amount of the*
19 *credit allowed under paragraph (1) shall not exceed*
20 *\$15,000.*

21 *“(3) ALLOCATION OF CREDIT AMOUNT.—At the*
22 *election of the taxpayer, the amount of the credit al-*
23 *lowed under paragraph (1) (after application of*
24 *paragraph (2)) may be equally divided among the 2*

1 *taxable years beginning with the taxable year in*
2 *which the purchase of the principal residence is made.*

3 “(b) *LIMITATIONS.—*

4 “(1) *DATE OF PURCHASE.—The credit allowed*
5 *under subsection (a) shall be allowed only with re-*
6 *spect to purchases made—*

7 “(A) *after the date of the enactment of the*
8 *American Recovery and Reinvestment Tax Act of*
9 *2009, and*

10 “(B) *on or before the date that is 1 year*
11 *after such date of enactment.*

12 “(2) *LIMITATION BASED ON AMOUNT OF TAX.—*
13 *In the case of a taxable year to which section 26(a)(2)*
14 *does not apply, the credit allowed under subsection*
15 *(a) for any taxable year shall not exceed the excess*
16 *of—*

17 “(A) *the sum of the regular tax liability (as*
18 *defined in section 26(b)) plus the tax imposed by*
19 *section 55, over*

20 “(B) *the sum of the credits allowable under*
21 *this subpart (other than this section) for the tax-*
22 *able year.*

23 “(3) *ONE-TIME ONLY.—*

24 “(A) *IN GENERAL.—If a credit is allowed*
25 *under this section in the case of any individual*

1 *(and such individual's spouse, if married) with*
2 *respect to the purchase of any principal resi-*
3 *dence, no credit shall be allowed under this sec-*
4 *tion in any taxable year with respect to the pur-*
5 *chase of any other principal residence by such*
6 *individual or a spouse of such individual.*

7 “(B) *JOINT PURCHASE.*—*In the case of a*
8 *purchase of a principal residence by 2 or more*
9 *unmarried individuals or by 2 married individ-*
10 *uals filing separately, no credit shall be allowed*
11 *under this section if a credit under this section*
12 *has been allowed to any of such individuals in*
13 *any taxable year with respect to the purchase of*
14 *any other principal residence.*

15 “(c) *PRINCIPAL RESIDENCE.*—*For purposes of this sec-*
16 *tion, the term ‘principal residence’ has the same meaning*
17 *as when used in section 121.*

18 “(d) *DENIAL OF DOUBLE BENEFIT.*—*No credit shall*
19 *be allowed under this section for any purchase for which*
20 *a credit is allowed under section 36 or section 1400C.*

21 “(e) *SPECIAL RULES.*—

22 “(1) *JOINT PURCHASE.*—

23 “(A) *MARRIED INDIVIDUALS FILING SEPA-*
24 *RATELY.*—*In the case of 2 married individuals*
25 *filing separately, subsection (a) shall be applied*

1 to each such individual by substituting ‘\$7,500’
2 for ‘\$15,000’ in subsection (a)(1).

3 “(B) *UNMARRIED INDIVIDUALS.*—If 2 or
4 more individuals who are not married purchase
5 a principal residence, the amount of the credit
6 allowed under subsection (a) shall be allocated
7 among such individuals in such manner as the
8 Secretary may prescribe, except that the total
9 amount of the credits allowed to all such individ-
10 uals shall not exceed \$15,000.

11 “(2) *PURCHASE.*—In defining the purchase of a
12 principal residence, rules similar to the rules of para-
13 graphs (2) and (3) of section 1400C(e) (as in effect
14 on the date of the enactment of this section) shall
15 apply.

16 “(3) *REPORTING REQUIREMENT.*—Rules similar
17 to the rules of section 1400C(f) (as so in effect) shall
18 apply.

19 “(f) *RECAPTURE OF CREDIT IN THE CASE OF CERTAIN*
20 *DISPOSITIONS.*—

21 “(1) *IN GENERAL.*—In the event that a tax-
22 payer—

23 “(A) disposes of the principal residence with
24 respect to which a credit was allowed under sub-
25 section (a), or

1 “(B) fails to occupy such residence as the
2 taxpayer’s principal residence,
3 at any time within 24 months after the date on which
4 the taxpayer purchased such residence, then the tax
5 imposed by this chapter for the taxable year during
6 which such disposition occurred or in which the tax-
7 payer failed to occupy the residence as a principal
8 residence shall be increased by the amount of such
9 credit.

10 “(2) EXCEPTIONS.—

11 “(A) DEATH OF TAXPAYER.—Paragraph (1)
12 shall not apply to any taxable year ending after
13 the date of the taxpayer’s death.

14 “(B) INVOLUNTARY CONVERSION.—Para-
15 graph (1) shall not apply in the case of a resi-
16 dence which is compulsorily or involuntarily
17 converted (within the meaning of section
18 1033(a)) if the taxpayer acquires a new prin-
19 cipal residence within the 2-year period begin-
20 ning on the date of the disposition or cessation
21 referred to in such paragraph. Paragraph (1)
22 shall apply to such new principal residence dur-
23 ing the remainder of the 24-month period de-
24 scribed in such paragraph as if such new prin-
25 cipal residence were the converted residence.

1 “(C) *TRANSFERS BETWEEN SPOUSES OR IN-*
2 *CIDENT TO DIVORCE.*—*In the case of a transfer*
3 *of a residence to which section 1041(a) applies—*

4 “(i) *paragraph (1) shall not apply to*
5 *such transfer, and*

6 “(ii) *in the case of taxable years end-*
7 *ing after such transfer, paragraph (1) shall*
8 *apply to the transferee in the same manner*
9 *as if such transferee were the transferor*
10 *(and shall not apply to the transferor).*

11 “(D) *RELOCATION OF MEMBERS OF THE*
12 *ARMED FORCES.*—*Paragraph (1) shall not apply*
13 *in the case of a member of the Armed Forces of*
14 *the United States on active duty who moves pur-*
15 *suant to a military order and incident to a per-*
16 *manent change of station.*

17 “(3) *JOINT RETURNS.*—*In the case of a credit al-*
18 *lowed under subsection (a) with respect to a joint re-*
19 *turn, half of such credit shall be treated as having*
20 *been allowed to each individual filing such return for*
21 *purposes of this subsection.*

22 “(4) *RETURN REQUIREMENT.*—*If the tax im-*
23 *posed by this chapter for the taxable year is increased*
24 *under this subsection, the taxpayer shall, notwith-*

1 *standing section 6012, be required to file a return*
2 *with respect to the taxes imposed under this subtitle.*

3 *“(g) BASIS ADJUSTMENT.—For purposes of this sub-*
4 *title, if a credit is allowed under this section with respect*
5 *to the purchase of any residence, the basis of such residence*
6 *shall be reduced by the amount of the credit so allowed.*

7 *“(h) ELECTION TO TREAT PURCHASE IN PRIOR*
8 *YEAR.—In the case of a purchase of a principal residence*
9 *during the period described in subsection (b)(1), a taxpayer*
10 *may elect to treat such purchase as made on December 31,*
11 *2008, for purposes of this section.”.*

12 *(b) CLERICAL AMENDMENT.—The table of sections for*
13 *subpart A of part IV of subchapter A of chapter 1 is amend-*
14 *ed by inserting after the item relating to section 25D the*
15 *following new item:*

“Sec. 25E. Credit for certain home purchases.”.

16 *(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER*
17 *CREDIT.—*

18 *(1) IN GENERAL.—Subsection (h) of section 36 is*
19 *amended by striking “July 1, 2009” and inserting*
20 *“the date of the enactment of the American Recovery*
21 *and Reinvestment Tax Act of 2009”.*

22 *(2) ELECTION TO TREAT PURCHASE IN PRIOR*
23 *YEAR.—Subsection (g) of section 36 is amended by*
24 *striking “July 1, 2009” and inserting “the date of the*

1 *enactment of the American Recovery and Reinvest-*
2 *ment Tax Act of 2009”.*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to purchases after the date of the enact-*
5 *ment of this Act.*

6 **SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEM-**
7 **PLOYMENT COMPENSATION.**

8 *(a) IN GENERAL.—Section 85 of the Internal Revenue*
9 *Code of 1986 (relating to unemployment compensation) is*
10 *amended by adding at the end the following new subsection:*

11 *“(c) SPECIAL RULE FOR 2009.—In the case of any*
12 *taxable year beginning in 2009, gross income shall not in-*
13 *clude so much of the unemployment compensation received*
14 *by an individual as does not exceed \$2,400.”.*

15 *(b) EFFECTIVE DATE.—The amendment made by this*
16 *section shall apply to taxable years beginning after Decem-*
17 *ber 31, 2008.*

18 **SEC. 1008. ABOVE-THE-LINE DEDUCTION FOR INTEREST ON**
19 **INDEBTEDNESS WITH RESPECT TO THE PUR-**
20 **CHASE OF CERTAIN MOTOR VEHICLES.**

21 *(a) IN GENERAL.—Paragraph (2) of section 163(h) of*
22 *the Internal Revenue Code of 1986 is amended—*

23 *(1) by striking “and” at the end of subpara-*
24 *graph (E),*

1 (2) *by striking the period at the end of subpara-*
2 *graph (F) and inserting “, and”, and*

3 (3) *by adding at the end the following new sub-*
4 *paragraph:*

5 “(G) *any qualified motor vehicle interest*
6 *(within the meaning of paragraph (5)).”.*

7 (b) *QUALIFIED MOTOR VEHICLE INTEREST.—Section*
8 *163(h) of the Internal Revenue Code of 1986 is amended*
9 *by adding at the end the following new paragraph:*

10 “(5) *QUALIFIED MOTOR VEHICLE INTEREST.—*

11 *For purposes of this subsection—*

12 “(A) *IN GENERAL.—The term ‘qualified*
13 *motor vehicle interest’ means any interest which*
14 *is paid or accrued during the taxable year on*
15 *any indebtedness which—*

16 “(i) *is incurred after November 12,*
17 *2008, and before January 1, 2010, in ac-*
18 *quiring any qualified motor vehicle of the*
19 *taxpayer, and*

20 “(ii) *is secured by such qualified motor*
21 *vehicle.*

22 *Such term also includes any indebtedness secured*
23 *by such qualified motor vehicle resulting from*
24 *the refinancing of indebtedness meeting the re-*
25 *quirements of the preceding sentence (or this sen-*

1 *tence*); but only to the extent the amount of the
2 *indebtedness resulting from such refinancing does*
3 *not exceed the amount of the refinanced indebted-*
4 *ness.*

5 “(B) *DOLLAR LIMITATION.*—*The aggregate*
6 *amount of indebtedness treated as described in*
7 *subparagraph (A) for any period shall not exceed*
8 *\$49,500 (\$24,750 in the case of a separate return*
9 *by a married individual).*

10 “(C) *INCOME LIMITATION.*—*The amount*
11 *otherwise treated as interest under subparagraph*
12 *(A) for any taxable year (after the application of*
13 *subparagraph (B)) shall be reduced (but not*
14 *below zero) by the amount which bears the same*
15 *ratio to the amount which is so treated as—*

16 “(i) *the excess (if any) of—*

17 “(I) *the taxpayer’s modified ad-*
18 *justed gross income for such taxable*
19 *year, over*

20 “(II) *\$125,000 (\$250,000 in the*
21 *case of a joint return), bears to*

22 “(ii) *\$10,000.*

23 *For purposes of the preceding sentence, the term*
24 *‘modified adjusted gross income’ means the ad-*
25 *justed gross income of the taxpayer for the tax-*

1 *able year increased by any amount excluded*
2 *from gross income under section 911, 931, or*
3 *933.*

4 “(D) *QUALIFIED MOTOR VEHICLE.*—*The*
5 *term ‘qualified motor vehicle’ means a passenger*
6 *automobile (within the meaning of section*
7 *30B(h)(3)) or a light truck (within the meaning*
8 *of such section)—*

9 *“(i) which is acquired for use by the*
10 *taxpayer and not for resale after November*
11 *12, 2008, and before January 1, 2010,*

12 *“(ii) the original use of which com-*
13 *mences with the taxpayer, and*

14 *“(iii) which has a gross vehicle weight*
15 *rating of not more than 8,500 pounds.”.*

16 (c) *DEDUCTION ALLOWED ABOVE-THE-LINE.*—*Section*
17 *62(a) of the Internal Revenue Code of 1986 is amended by*
18 *inserting after paragraph (21) the following new para-*
19 *graph:*

20 *“(22) QUALIFIED MOTOR VEHICLE INTEREST.*—
21 *The deduction allowed under section 163 by reason of*
22 *subsection (h)(2)(G) thereof.”.*

23 (d) *REPORTING OF QUALIFIED MOTOR VEHICLE IN-*
24 *TEREST.*—

1 (1) *IN GENERAL.*—Subpart B of part III of sub-
2 chapter A of chapter 61 of the Internal Revenue Code
3 of 1986 is amended by adding at the end the fol-
4 lowing new section:

5 **“SEC. 6050X. RETURNS RELATING TO QUALIFIED MOTOR**
6 **VEHICLE INTEREST RECEIVED IN TRADE OR**
7 **BUSINESS FROM INDIVIDUALS.**

8 “(a) *QUALIFIED MOTOR VEHICLE INTEREST.*—Any
9 person—

10 “(1) *who is engaged in a trade or business, and*

11 “(2) *who, in the course of such trade or business,*
12 *receives from any individual interest aggregating*
13 *\$600 or more for any calendar year on any indebted-*
14 *ness secured by a qualified motor vehicle (as defined*
15 *in section 163(h)(5)(D)),*

16 *shall make the return described in subsection (b) with re-*
17 *spect to each individual from whom such interest was re-*
18 *ceived at such time as the Secretary may by regulations*
19 *prescribe.*

20 “(b) *FORM AND MANNER OF RETURNS.*—A return is
21 *described in this subsection if such return—*

22 “(1) *is in such form as the Secretary may pre-*
23 *scribe,*

24 “(2) *contains—*

1 “(A) *the name and address of the indi-*
2 *vidual from whom the interest described in sub-*
3 *section (a)(2) was received,*

4 “(B) *the amount of such interest received*
5 *for the calendar year, and*

6 “(C) *such other information as the Sec-*
7 *retary may prescribe.*

8 “(c) *APPLICATION TO GOVERNMENTAL UNITS.—For*
9 *purposes of subsection (a)—*

10 “(1) *TREATED AS PERSONS.—The term ‘person’*
11 *includes any governmental unit (and any agency or*
12 *instrumentality thereof).*

13 “(2) *SPECIAL RULES.—In the case of a govern-*
14 *mental unit or any agency or instrumentality there-*
15 *of—*

16 “(A) *subsection (a) shall be applied without*
17 *regard to the trade or business requirement con-*
18 *tained therein, and*

19 “(B) *any return required under subsection*
20 *(a) shall be made by the officer or employee ap-*
21 *propriately designated for the purpose of making*
22 *such return.*

23 “(d) *STATEMENTS TO BE FURNISHED TO INDIVID-*
24 *UALS WITH RESPECT TO WHOM INFORMATION IS RE-*
25 *QUIRED.—Every person required to make a return under*

1 subsection (a) shall furnish to each individual whose name
2 is required to be set forth in such return a written statement
3 showing—

4 “(1) the name, address, and phone number of the
5 information contact of the person required to make
6 such return, and

7 “(2) the aggregate amount of interest described
8 in subsection (a)(2) received by the person required to
9 make such return from the individual to whom the
10 statement is required to be furnished.

11 The written statement required under the preceding sen-
12 tence shall be furnished on or before January 31 of the year
13 following the calendar year for which the return under sub-
14 section (a) was required to be made.

15 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
16 MADE BY 2 OR MORE PERSONS.—Except to the extent pro-
17 vided in regulations prescribed by the Secretary, in the case
18 of interest received by any person on behalf of another per-
19 son, only the person first receiving such interest shall be
20 required to make the return under subsection (a).”.

21 (2) AMENDMENTS RELATING TO PENALTIES.—

22 (A) Section 6721(e)(2)(A) of such Code is
23 amended by striking “or 6050L” and inserting
24 “6050L, or 6050X”.

1 (B) Section 6722(c)(1)(A) of such Code is
2 amended by striking “or 6050L(c)” and insert-
3 ing “6050L(c), or 6050X(d)”.

4 (C) Subparagraph (B) of section 6724(d)(1)
5 of such Code is amended by redesignating clauses
6 (xvi) through (xxii) as clauses (xvii) through
7 (xxiii), respectively, and by inserting after clause
8 (xii) the following new clause:

9 “(xvi) section 6050X (relating to re-
10 turns relating to qualified motor vehicle in-
11 terest received in trade or business from in-
12 dividuals),”.

13 (D) Paragraph (2) of section 6724(d) of
14 such Code is amended by striking the period at
15 the end of subparagraph (DD) and inserting “,
16 or” and by inserting after subparagraph (DD)
17 the following new subparagraph:

18 “(EE) section 6050X(d) (relating to returns
19 relating to qualified motor vehicle interest re-
20 ceived in trade or business from individuals).”.

21 (3) CLERICAL AMENDMENT.—The table of sec-
22 tions for subpart B of part III of subchapter A of
23 chapter 61 of such Code is amended by inserting after
24 the item relating to section 6050W the following new
25 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 this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 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 the*
 8 *Internal Revenue Code of 1986 is amended by inserting*
 9 *after paragraph (5) the following new paragraph:*

10 *“(6) Qualified motor vehicle taxes.”*

11 (b) *QUALIFIED MOTOR VEHICLE TAXES.*—*Subsection*
 12 *(b) of section 164 of the Internal Revenue Code of 1986 is*
 13 *amended by adding at the end the following new paragraph:*

14 *“(6) QUALIFIED MOTOR VEHICLE TAXES.—*

15 *“(A) IN GENERAL.—For purposes of this*
 16 *section, the term ‘qualified motor vehicle taxes’*
 17 *means any State or local sales or excise tax im-*
 18 *posed on the purchase of a qualified motor vehi-*
 19 *cle (as defined in section 163(h)(5)(D)).*

20 *“(B) DOLLAR LIMITATION.—The amount*
 21 *taken into account under subparagraph (A) for*
 22 *any taxable year shall not exceed \$49,500*
 23 *(\$24,750 in the case of a separate return by a*
 24 *married individual).*

1 “(C) *INCOME LIMITATION.*—*The amount*
2 *otherwise taken into account under subpara-*
3 *graph (A) (after the application of subparagraph*
4 *(B)) for any taxable year shall be reduced (but*
5 *not below zero) by the amount which bears the*
6 *same ratio to the amount which is so treated*
7 *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 term*
16 *‘modified adjusted gross income’ means the ad-*
17 *justed gross income of the taxpayer for the tax-*
18 *able year increased by any amount excluded*
19 *from gross income under section 911, 931, or*
20 *933.*

21 “(D) *QUALIFIED MOTOR VEHICLE TAXES*
22 *NOT INCLUDED IN COST OF ACQUIRED PROP-*
23 *ERTY.*—*The last sentence of subsection (a) shall*
24 *not apply to any qualified motor vehicle taxes.*

1 “(E) COORDINATION WITH GENERAL SALES
2 TAX.—This paragraph shall not apply in the
3 case of a taxpayer who makes an election under
4 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 connec-
14 tion with the acquisition of a qualified motor ve-
15 hicle, the aggregate amount of such indebtedness
16 taken into account under such subparagraph
17 shall be reduced, but not below zero, by the
18 amount of any such taxes for which a deduction
19 is allowed under section 164(a) by reason of
20 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.—Section
25 62(a) of the Internal Revenue Code of 1986, as amended

1 *by section 1, is amended by inserting after paragraph (22)*
2 *the following new paragraph:*

3 “(23) *QUALIFIED MOTOR VEHICLE TAXES.*—*The*
4 *deduction allowed under section 164 by reason of sub-*
5 *section (a)(6) thereof.”.*

6 *(e) EFFECTIVE DATE.*—*The amendments made by this*
7 *section shall apply to taxable years beginning after Decem-*
8 *ber 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) (re-*
14 *lating to special rule for taxable years 2000 through 2008)*
15 *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 this*
21 *section shall apply to taxable years beginning after Decem-*
22 *ber 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) (re-
4 lating 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 begin-
8 ning 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 begin-
12 ning in 2009)”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to taxable years beginning after Decem-
15 ber 31, 2008.

16 **Subtitle B—Energy Incentives**

17 **PART I—RENEWABLE ENERGY INCENTIVES**

18 **SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**
19 **DUCED 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 sec-
7 tion 45(d) is amended by striking “and before” and all that
8 follows and inserting “ and before October 3, 2008.”.

9 (c) *EFFECTIVE DATE.*—

10 (1) *IN GENERAL.*—The amendments made by
11 subsection (a) shall apply to property placed in serv-
12 ice after the date of the enactment of this Act.

13 (2) *TECHNICAL AMENDMENT.*—The amendment
14 made by subsection (b) shall take effect as if included
15 in section 102 of the Energy Improvement and Exten-
16 sion Act of 2008.

17 **SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF**
18 **PRODUCTION CREDIT.**

19 (a) *IN GENERAL.*—Subsection (a) of section 48 is
20 amended by adding at the end the following new paragraph:

21 “(5) *ELECTION TO TREAT QUALIFIED FACILITIES*
22 *AS ENERGY PROPERTY.*—

23 “(A) *IN GENERAL.*—In the case of any
24 qualified investment credit facility—

1 “(i) *such facility shall be treated as en-*
2 *ergy property for purposes of this section,*
3 *and*

4 “(ii) *the energy percentage with respect*
5 *to such property shall be 30 percent.*

6 “(B) *DENIAL OF PRODUCTION CREDIT.—No*
7 *credit shall be allowed under section 45 for any*
8 *taxable year with respect to any qualified invest-*
9 *ment credit facility.*

10 “(C) *QUALIFIED INVESTMENT CREDIT FA-*
11 *CILITY.—For purposes of this paragraph, the*
12 *term ‘qualified investment credit facility’ means*
13 *any of the following facilities if no credit has*
14 *been allowed under section 45 with respect to*
15 *such facility and the taxpayer makes an irrev-*
16 *ocable election to have this paragraph apply to*
17 *such facility:*

18 “(i) *WIND FACILITIES.—Any facility*
19 *described in paragraph (1) of section 45(d)*
20 *if such facility is placed in service in 2009,*
21 *2010, 2011, or 2012.*

22 “(ii) *OTHER FACILITIES.—Any facility*
23 *described in paragraph (2), (3), (4), (6),*
24 *(7), (9), or (11) of section 45(d) if such fa-*

1 *cility is placed in service in 2009, 2010,*
2 *2011, 2012, or 2013.”.*

3 *(b) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to facilities placed in service after De-*
5 *cember 31, 2008.*

6 **SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT**
7 **FOR RENEWABLE ENERGY PROPERTY.**

8 *(a) REPEAL OF LIMITATION ON CREDIT FOR QUALI-*
9 *FIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of*
10 *section 48(c) is amended by striking subparagraph (B) and*
11 *by redesignating subparagraphs (C) and (D) as subpara-*
12 *graphs (B) and (C).*

13 *(b) REPEAL OF LIMITATION ON PROPERTY FINANCED*
14 *BY SUBSIDIZED ENERGY FINANCING.—*

15 *(1) IN GENERAL.—Section 48(a)(4) is amended*
16 *by adding at the end the following new subparagraph:*

17 *“(D) TERMINATION.—This paragraph shall*
18 *not apply to periods after December 31, 2008,*
19 *under rules similar to the rules of section 48(m)*
20 *(as in effect on the day before the date of the en-*
21 *actment of the Revenue Reconciliation Act of*
22 *1990).”.*

23 *(2) CONFORMING AMENDMENTS.—*

24 *(A) Section 25C(e)(1) is amended by strik-*
25 *ing “(8), and (9)” and inserting “and (8)”.*

1 (B) Section 25D(e) is amended by striking
2 paragraph (9).

3 (C) Section 48A(b)(2) is amended by insert-
4 ing “(without regard to subparagraph (D) there-
5 of)” after “section 48(a)(4)”.

6 (D) Section 48B(b)(2) is amended by in-
7 serting “(without regard to subparagraph (D)
8 thereof)” after “section 48(a)(4)”.

9 (c) *EFFECTIVE DATE.*—

10 (1) *IN GENERAL.*—Except as provided in para-
11 graph (2), the amendment made by this section shall
12 apply to periods after December 31, 2008, under rules
13 similar to the rules of section 48(m) of the Internal
14 Revenue Code of 1986 (as in effect on the day before
15 the date of the enactment of the Revenue Reconcili-
16 ation Act of 1990).

17 (2) *CONFORMING AMENDMENTS.*—The amend-
18 ments made by subsection (b)(2) shall apply to tax-
19 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 of*
12 *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) is*
19 *amended by inserting “(including the use of loans, grants,*
20 *or other repayment mechanisms to implement such pro-*
21 *grams)” 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 striking
5 subsections (a) and (b) and inserting the following new sub-
6 sections:

7 “(a) *ALLOWANCE OF CREDIT.*—In the case of an indi-
8 vidual, 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 cred-
18 its allowed under this section for taxable years beginning
19 in 2009 and 2010 with respect to any taxpayer shall not
20 exceed \$1,500.”.

21 (b) *MODIFICATIONS OF STANDARDS FOR ENERGY-EF-*
22 *FICIENT BUILDING PROPERTY.*—

23 (1) *ELECTRIC HEAT PUMPS.*—Subparagraph (B)
24 of section 25C(d)(3) is amended to read as follows:

25 “(B) an electric heat pump which achieves
26 the highest efficiency tier established by the Con-

1 *sortium for Energy Efficiency, as in effect on*
2 *January 1, 2009.”.*

3 (2) *CENTRAL AIR CONDITIONERS.*—Subpara-
4 *graph (C) of section 25C(d)(3) is amended by striking*
5 *“2006” and inserting “2009”.*

6 (3) *WATER HEATERS.*—Subparagraph (D) of
7 *section 25C(d)(3) is amended to read as follows:*

8 *“(E) a natural gas, propane, or oil water*
9 *heater which has either an energy factor of at*
10 *least 0.82 or a thermal efficiency of at least 90*
11 *percent.”.*

12 (4) *WOOD STOVES.*—Subparagraph (E) of sec-
13 *tion 25C(d)(3) is amended by inserting “, as meas-*
14 *ured using a lower heating value” after “75 percent”.*

15 (c) *MODIFICATIONS OF STANDARDS FOR OIL FUR-*
16 *NACES AND HOT WATER BOILERS.*—

17 (1) *IN GENERAL.*—Paragraph (4) of section
18 *25C(d) is amended to read as follows:*

19 *“(4) QUALIFIED NATURAL GAS, PROPANE, AND*
20 *OIL FURNACES AND HOT WATER BOILERS.*—

21 *“(A) QUALIFIED NATURAL GAS FURNACE.*—
22 *The term ‘qualified natural gas furnace’ means*
23 *any natural gas furnace which achieves an an-*
24 *annual fuel utilization efficiency rate of not less*
25 *than 95.*

1 “(B) *QUALIFIED NATURAL GAS HOT WATER*
2 *BOILER.*—*The term ‘qualified natural gas hot*
3 *water boiler’ means any natural gas hot water*
4 *boiler which achieves an annual fuel utilization*
5 *efficiency rate of not less than 90.*

6 “(C) *QUALIFIED PROPANE FURNACE.*—*The*
7 *term ‘qualified propane furnace’ means any pro-*
8 *pane furnace which achieves an annual fuel uti-*
9 *lization efficiency rate of not less than 95.*

10 “(D) *QUALIFIED PROPANE HOT WATER*
11 *BOILER.*—*The term ‘qualified propane hot water*
12 *boiler’ means any propane hot water boiler*
13 *which achieves an annual fuel utilization effi-*
14 *ciency rate of not less than 90.*

15 “(E) *QUALIFIED OIL FURNACES.*—*The term*
16 *‘qualified oil furnace’ means any oil furnace*
17 *which achieves an annual fuel utilization effi-*
18 *ciency rate of not less than 90.*

19 “(F) *QUALIFIED OIL HOT WATER BOILER.*—
20 *The term ‘qualified oil hot water boiler’ means*
21 *any oil hot water boiler which achieves an an-*
22 *annual fuel utilization efficiency rate of not less*
23 *than 90.”.*

24 (2) *CONFORMING AMENDMENT.*—*Clause (ii) of*
25 *section 25C(d)(2)(A) is amended to read as follows:*

1 “(ii) any qualified natural gas fur-
2 nace, qualified propane furnace, qualified
3 oil furnace, qualified natural gas hot water
4 boiler, qualified propane hot water boiler, or
5 qualified oil hot water boiler, or”.

6 (d) *MODIFICATIONS OF STANDARDS FOR QUALIFIED*
7 *ENERGY EFFICIENCY IMPROVEMENTS.*—

8 (1) *QUALIFICATIONS FOR EXTERIOR WINDOWS,*
9 *DOORS, AND SKYLIGHTS.*—*Subsection (c) of section*
10 *25C is amended by adding at the end the following*
11 *new paragraph:*

12 “(4) *QUALIFICATIONS FOR EXTERIOR WINDOWS,*
13 *DOORS, AND SKYLIGHTS.*—*Such term shall not in-*
14 *clude any component described in subparagraph (B)*
15 *or (C) of paragraph (2) unless such component is*
16 *equal to or below a U factor of 0.30 and SHGC of*
17 *0.30.”.*

18 (2) *ADDITIONAL QUALIFICATION FOR INSULA-*
19 *TION.*—*Subparagraph (A) of section 25C(c)(2) is*
20 *amended by inserting “and meets the prescriptive cri-*
21 *teria for such material or system established by the*
22 *2009 International Energy Conservation Code, as*
23 *such Code (including supplements) is in effect on the*
24 *date of the enactment of the American Recovery and*

1 *Reinvestment Tax Act of 2009*” after “such dwelling
2 *unit*”.

3 (e) *EXTENSION*.—Section 25C(g)(2) is amended by
4 striking “December 31, 2009” and inserting “December 31,
5 2010”.

6 (f) *EFFECTIVE DATES*.—

7 (1) *IN GENERAL*.—Except as provided in para-
8 graph (2), the amendments made by this section shall
9 apply to taxable years beginning after December 31,
10 2008.

11 (2) *EFFICIENCY STANDARDS*.—The amendments
12 made by paragraphs (1), (2), and (3) of subsection
13 (b) and subsections (c) and (d) shall apply to prop-
14 erty placed in service after December 31, 2009.

15 **SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL**
16 **ENERGY EFFICIENT PROPERTY.**

17 (a) *REMOVAL OF CREDIT LIMITATION FOR PROPERTY*
18 *PLACED IN SERVICE*.—

19 (1) *IN GENERAL*.—Paragraph (1) of section
20 25D(b) is amended to read as follows:

21 “(1) *MAXIMUM CREDIT FOR FUEL CELLS*.—In
22 the case of any qualified fuel cell property expendi-
23 ture, the credit allowed under subsection (a) (deter-
24 mined without regard to subsection (c)) for any tax-
25 able year shall not exceed \$500 with respect to each

1 *half kilowatt of capacity of the qualified fuel cell*
2 *property (as defined in section 48(c)(1)) to which*
3 *such expenditure relates.”.*

4 (2) *CONFORMING AMENDMENT.—Paragraph (4)*
5 *of section 25D(e) is amended—*

6 (A) *by striking all that precedes subpara-*
7 *graph (B) and inserting the following:*

8 “(4) *FUEL CELL EXPENDITURE LIMITATIONS IN*
9 *CASE OF JOINT OCCUPANCY.—In the case of any*
10 *dwelling unit with respect to which qualified fuel cell*
11 *property expenditures are made and which is jointly*
12 *occupied and used during any calendar year as a res-*
13 *idence by two or more individuals the following rules*
14 *shall apply:*

15 (A) *MAXIMUM EXPENDITURES FOR FUEL*
16 *CELLS.—The maximum amount of such expendi-*
17 *tures which may be taken into account under*
18 *subsection (a) by all such individuals with re-*
19 *spect to such dwelling unit during such calendar*
20 *year shall be \$1,667 in the case of each half kilo-*
21 *watt of capacity of qualified fuel cell property*
22 *(as defined in section 48(c)(1)) with respect to*
23 *which such expenditures relate.”, and*

24 (B) *by striking subparagraph (C).*

1 **(b) EFFECTIVE DATE.**—*The amendments made by this*
 2 *section shall apply to taxable years beginning after Decem-*
 3 *ber 31, 2008.*

4 **SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTER-**
 5 **NATIVE FUEL VEHICLE REFUELING PROP-**
 6 **ERTY.**

7 **(a) IN GENERAL.**—*Section 30C(e) is amended by add-*
 8 *ing at the end the following new paragraph:*

9 **“(6) SPECIAL RULE FOR PROPERTY PLACED IN**
 10 *SERVICE DURING 2009 AND 2010.*—*In the case of prop-*
 11 *erty placed in service in taxable years beginning after*
 12 *December 31, 2008, and before January 1, 2011—*

13 **“(A) in the case of any such property which**
 14 *does not relate to hydrogen—*

15 **“(i) subsection (a) shall be applied by**
 16 *substituting ‘50 percent’ for ‘30 percent’,*

17 **“(ii) subsection (b)(1) shall be applied**
 18 *by substituting ‘\$50,000’ for ‘\$30,000’, and*

19 **“(iii) subsection (b)(2) shall be applied**
 20 *by substituting ‘\$2,000’ for ‘\$1,000’, and*

21 **“(B) in the case of any such property which**
 22 *relates to hydrogen, subsection (b)(1) shall be ap-*
 23 *plied by substituting ‘\$200,000’ for ‘\$30,000’.”.*

24 **(b) ENSURING CONSUMER ACCESSIBILITY TO ALTER-**
 25 **NATIVE FUEL VEHICLE REFUELING PROPERTY IN THE**

1 *CASE OF ELECTRICITY.*—Section 179(d)(3) is amended by
2 striking subparagraph (B) and inserting the following:

3 “(B) for the recharging of motor vehicles
4 propelled by electricity, but only if—

5 “(i) the property complies with the So-
6 ciety of Automotive Engineers’ connection
7 standards,

8 “(ii) the property provides for non-re-
9 strictive access for charging and for pay-
10 ment interoperability with other systems,
11 and

12 “(iii) the property—

13 “(I) is located on property owned
14 by the taxpayer, or

15 “(II) is located on property owned
16 by another person, is placed in service
17 with the permission of such other per-
18 son, and is fully maintained by the
19 taxpayer.”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply to taxable years beginning after Decem-
22 ber 31, 2008.

23 **SEC. 1124. RECOVERY PERIOD FOR DEPRECIATION OF**
24 **SMART METERS.**

25 (a) *TEMPORARY 5-YEAR RECOVERY PERIOD.*—

1 (1) *IN GENERAL.*—Subparagraph (B) of section
2 168(e)(3) is amended by striking “and” at the end of
3 clause (vi), by striking the period at the end of clause
4 (vii) and inserting “, and”, and by adding at the end
5 the following new clause:

6 “(viii) any qualified smart electric
7 meter which is placed in service before Jan-
8 uary 1, 2011.”.

9 (2) *CONFORMING AMENDMENT.*—Clause (iii) of
10 section 168(e)(3)(D) is amended by inserting “which
11 is placed in service after December 31, 2010” after
12 “electric meter”.

13 (b) *TECHNICAL AMENDMENTS.*—Paragraphs
14 (18)(A)(ii) and (19)(A)(ii) of section 168(i) are each
15 amended by striking “16 years” and inserting “10 years”.

16 (c) *EFFECTIVE DATES.*—

17 (1) *IN GENERAL.*—Except as provided in para-
18 graph (2), the amendments made by this section shall
19 apply to property placed in service after the date of
20 the enactment of this Act.

21 (2) *TECHNICAL AMENDMENT.*—The amendments
22 made by subsection (b) shall take effect as if included
23 in section 306 of the *Energy Improvement and Exten-*
24 *sion Act of 2008.*

1 **PART IV—ENERGY RESEARCH INCENTIVES**

2 **SEC. 1131. INCREASED RESEARCH CREDIT FOR ENERGY RE-**
3 **SEARCH.**

4 (a) *IN GENERAL.*—Section 41 is amended by redesi-
5 gating subsection (h) as subsection (i) and by inserting
6 after subsection (g) the following new subsection:

7 “(h) *ENERGY RESEARCH CREDIT.*—In the case of any
8 taxable year beginning in 2009 or 2010—

9 “(1) *IN GENERAL.*—The credit determined under
10 subsection (a)(1) shall be increased by 20 percent of
11 the qualified energy research expenses for the taxable
12 year.

13 “(2) *QUALIFIED ENERGY RESEARCH EX-*
14 *PENSES.*—For purposes of this subsection—

15 “(A) *IN GENERAL.*—The term ‘qualified en-
16 ergy research expenses’ means so much of the
17 taxpayer’s qualified research expenses as are re-
18 lated to the fields of fuel cells and battery tech-
19 nology, renewable energy and renewable fuels,
20 energy conservation technology, efficient trans-
21 mission and distribution of electricity, and car-
22 bon capture and sequestration.

23 “(B) *COORDINATION WITH QUALIFYING AD-*
24 *VANCED ENERGY PROJECT CREDIT.*—Such term
25 shall not include expenditures taken into account

1 *in determining the amount of the credit under*
2 *section 48 or 48C.*

3 “(3) *COORDINATION WITH OTHER RESEARCH*
4 *CREDITS.—*

5 “(A) *IN GENERAL.—The amount of quali-*
6 *fied energy research expenses taken into account*
7 *under subsection (a)(1)(A) shall not exceed the*
8 *base amount.*

9 “(B) *ALTERNATIVE SIMPLIFIED CREDIT.—*
10 *For purposes of subsection (c)(5), the amount of*
11 *qualified energy research expenses taken into ac-*
12 *count for the taxable year for which the credit is*
13 *being determined shall not exceed—*

14 “(i) *in the case of subsection (c)(5)(A),*
15 *50 percent of the average qualified research*
16 *expenses for the 3 taxable years preceding*
17 *the taxable year for which the credit is*
18 *being determined, and*

19 “(ii) *in the case of subsection*
20 *(c)(5)(B)(ii), zero.*

21 “(C) *BASIC RESEARCH AND ENERGY RE-*
22 *SEARCH CONSORTIUM PAYMENTS.—Any amount*
23 *taken into account under paragraph (1) shall*
24 *not be taken into account under paragraph (2)*
25 *or (3) of subsection (a).”.*

1 **(b) CONFORMING AMENDMENT.**—Subparagraph (B) of
2 section 41(i)(1)(B), as redesignated by subsection (a), is
3 amended by inserting “(in the case of the increase in the
4 credit determined under subsection (h), December 31,
5 2010)” after “December 31, 2009”.

6 **(c) EFFECTIVE DATE.**—The amendments made by this
7 section shall apply to taxable years beginning after Decem-
8 ber 31, 2008.

9 **PART V—MODIFICATION OF CREDIT FOR CARBON**
10 **DIOXIDE SEQUESTRATION**

11 **SEC. 1141. APPLICATION OF MONITORING REQUIREMENTS**
12 **TO CARBON DIOXIDE USED AS A TERTIARY**
13 **INJECTANT.**

14 **(a) IN GENERAL.**—Section 45Q(a)(2) is amended by
15 striking “and” at the end of subparagraph (A), by striking
16 the period at the end of subparagraph (B) and inserting
17 “, and”, and by adding at the end the following new sub-
18 paragraph:

19 “(C) disposed of by the taxpayer in secure
20 geological storage.”.

21 **(b) CONFORMING AMENDMENTS.**—

22 (1) Section 45Q(d)(2) is amended—

23 (A) by striking “subsection (a)(1)(B)” and
24 inserting “paragraph (1)(B) or (2)(C) of sub-
25 section (a)”,

1 30(c)(2)), which is treated as a motor vehicle for pur-
2 poses of title II of the Clean Air Act.”.

3 (c) CREDIT FOR CERTAIN OTHER VEHICLES.—Section
4 30D is amended—

5 (1) by redesignating subsections (f) and (g) as
6 subsections (g) and (h), respectively, and

7 (2) by inserting after subsection (e) the following
8 new subsection:

9 “(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For
10 purposes of this section—

11 “(1) IN GENERAL.—In the case of a specified ve-
12 hicle, this section shall be applied with the following
13 modifications:

14 “(A) For purposes of subsection (a)(1), in
15 lieu of the applicable amount determined under
16 subsection (a)(2), the applicable amount shall be
17 10 percent of so much of the cost of the specified
18 vehicle as does not exceed \$40,000.

19 “(B) Subsection (b) shall not apply and no
20 specified vehicle shall be taken into account
21 under subsection (b)(2).

22 “(C) In the case of a specified vehicle which
23 is a 2-or 3-wheeled motor vehicle, subsection
24 (c)(1) shall be applied by substituting ‘2.5 kilo-
25 watt hours’ for ‘4 kilowatt hours’.

1 “(D) *In the case of a specified vehicle which*
2 *is a low-speed motor vehicle, subsection (c)(3)*
3 *shall not apply.*

4 “(2) *SPECIFIED VEHICLE.—For purposes of this*
5 *subsection—*

6 “(A) *IN GENERAL.—The term ‘specified ve-*
7 *hicle’ means—*

8 “(i) *any 2- or 3- wheeled motor vehicle,*
9 *or*

10 “(ii) *any low-speed motor vehicle,*
11 *which is placed in service after December 31,*
12 *2009, and before January 1, 2012.*

13 “(B) *2- OR 3-WHEELED MOTOR VEHICLE.—*
14 *The term ‘2- or 3-wheeled motor vehicle’ means*
15 *any vehicle—*

16 “(i) *which would be described in sec-*
17 *tion 30(c)(2) except that it has 2 or 3*
18 *wheels,*

19 “(ii) *with motive power having a seat*
20 *or saddle for the use of the rider and de-*
21 *signed to travel on not more than 3 wheels*
22 *in contact with the ground,*

23 “(iii) *which has an electric motor that*
24 *produces in excess of 5-brake horsepower,*

1 “(iv) which draws propulsion from 1
2 or more traction batteries, and

3 “(v) which has been certified to the De-
4 partment of Transportation pursuant to
5 section 567 of title 49, Code of Federal Reg-
6 ulations, as conforming to all applicable
7 Federal motor vehicle safety standards in
8 effect on the date of the manufacture of the
9 vehicle.

10 “(C) *LOW-SPEED MOTOR VEHICLE*.—The
11 term ‘low-speed motor vehicle’ means a motor ve-
12 hicle (as defined in section 30(c)(2)) which—

13 “(i) is placed in service after December
14 31, 2009, and

15 “(ii) meets the requirements of section
16 571.500 of title 49, Code of Federal Regula-
17 tions.”.

18 (d) *EFFECTIVE DATES*.—

19 (1) *IN GENERAL*.—The amendment made by sub-
20 sections (a) and (c) shall take effect on the date of the
21 enactment of this Act.

22 (2) *OTHER MODIFICATIONS*.—The amendments
23 made by subsection (b) shall apply to property placed
24 in service after December 31, 2009, in taxable years
25 beginning after such date.

1 **SEC. 1152. CONVERSION KITS.**

2 (a) *IN GENERAL.*—Section 30B (relating to alternative
3 motor vehicle credit) is amended by redesignating sub-
4 sections (i) and (j) as subsections (j) and (k), respectively,
5 and by inserting after subsection (h) the following new sub-
6 section:

7 “(i) *PLUG-IN CONVERSION CREDIT.*—

8 “(1) *IN GENERAL.*—For purposes of subsection
9 (a), the plug-in conversion credit determined under
10 this subsection with respect to any motor vehicle
11 which is converted to a qualified plug-in electric drive
12 motor vehicle is 10 percent of so much of the cost of
13 the converting such vehicle as does not exceed \$40,000.

14 “(2) *DEFINITIONS AND SPECIAL RULES.*—For
15 purposes of this subsection—

16 “(A) *QUALIFIED PLUG-IN ELECTRIC DRIVE*
17 *MOTOR VEHICLE.*—The term ‘qualified plug-in
18 electric drive motor vehicle’ means any new
19 qualified plug-in electric drive motor vehicle (as
20 defined in section 30D(c), determined without re-
21 gard to paragraphs (4) and (6) thereof).

22 “(B) *PLUG-IN TRACTION BATTERY MOD-*
23 *ULE.*—The term ‘plug-in traction battery mod-
24 ule’ means an electro-chemical energy storage de-
25 vice which—

1 “(i) which has a traction battery ca-
2 pacity of not less than 2.5 kilowatt hours,

3 “(ii) which is equipped with an elec-
4 trical plug by means of which it can be en-
5 ergized and recharged when plugged into an
6 external source of electric power,

7 “(iii) which consists of a standardized
8 configuration and is mass produced,

9 “(iv) which has been tested and ap-
10 proved by the National Highway Transpor-
11 tation Safety Administration as compliant
12 with applicable motor vehicle and motor ve-
13 hicle equipment safety standards when in-
14 stalled by a mechanic with standardized
15 training in protocols established by the bat-
16 tery manufacturer as part of a nationwide
17 distribution program,

18 “(v) which complies with the require-
19 ments of section 32918 of title 49, United
20 States Code, and

21 “(vi) which is certified by a battery
22 manufacturer as meeting the requirements
23 of clauses (i) through (v).

24 “(C) CREDIT ALLOWED TO LESSOR OF BAT-
25 TERY MODULE.—In the case of a plug-in traction

1 *battery module which is leased to the taxpayer,*
2 *the credit allowed under this subsection shall be*
3 *allowed to the lessor of the plug-in traction bat-*
4 *tery module.*

5 “(D) *CREDIT ALLOWED IN ADDITION TO*
6 *OTHER CREDITS.—The credit allowed under this*
7 *subsection shall be allowed with respect to a*
8 *motor vehicle notwithstanding whether a credit*
9 *has been allowed with respect to such motor vehi-*
10 *cle under this section (other than this subsection)*
11 *in any preceding taxable year.*

12 “(3) *TERMINATION.—This subsection shall not*
13 *apply to conversions made after December 31, 2012.*”.

14 “(b) *CREDIT TREATED AS PART OF ALTERNATIVE*
15 *MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by*
16 *striking “and” at the end of paragraph (3), by striking the*
17 *period at the end of paragraph (4) and inserting “, and”,*
18 *and by adding at the end the following new paragraph:*

19 “(5) *the plug-in conversion credit determined*
20 *under subsection (i).*”.

21 “(c) *NO RECAPTURE FOR VEHICLES CONVERTED TO*
22 *QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHI-*
23 *CLES.—Paragraph (8) of section 30B(h) is amended by*
24 *adding at the end the following: “, except that no benefit*
25 *shall be recaptured if such property ceases to be eligible for*

1 *such credit by reason of conversion to a qualified plug-in*
 2 *electric drive motor vehicle.”.*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to property placed in service after De-*
 5 *cember 31, 2008, in taxable years beginning after such date.*

6 ***Subtitle C—Tax Incentives for***
 7 ***Business***

8 ***PART I—TEMPORARY INVESTMENT INCENTIVES***

9 ***SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY***
 10 ***ACQUIRED DURING 2009.***

11 *(a) EXTENSION OF SPECIAL ALLOWANCE.—*

12 *(1) IN GENERAL.—Paragraph (2) of section*
 13 *168(k) is amended—*

14 *(A) by striking “January 1, 2010” and in-*
 15 *serting “January 1, 2011”, and*

16 *(B) by striking “January 1, 2009” each*
 17 *place it appears and inserting “January 1,*
 18 *2010”.*

19 *(2) CONFORMING AMENDMENTS.—*

20 *(A) The heading for subsection (k) of section*
 21 *168 is amended by striking “JANUARY 1, 2009”*
 22 *and inserting “JANUARY 1, 2010”.*

23 *(B) The heading for clause (ii) of section*
 24 *168(k)(2)(B) is amended by striking “PRE-JANU-*

1 ARY 1, 2009” and inserting “PRE-JANUARY 1,
2 2010”.

3 (C) Subparagraph (B) of section 168(l)(5)
4 is amended by striking “January 1, 2009” and
5 inserting “January 1, 2010”.

6 (D) Subparagraph (C) of section 168(n)(2)
7 is amended by striking “January 1, 2009” and
8 inserting “January 1, 2010”.

9 (E) Subparagraph (B) of section
10 1400N(d)(3) is amended by striking “January 1,
11 2009” and inserting “January 1, 2010”.

12 (3) TECHNICAL AMENDMENT.—Subparagraph
13 (D) of section 168(k)(4) is amended—

14 (A) by striking “and” at the end of clause
15 (i),

16 (B) by redesignating clause (ii) as clause
17 (iii), and

18 (C) by inserting after clause (i) the fol-
19 lowing new clause:

20 “(ii) ‘April 1, 2008’ shall be sub-
21 stituted for ‘January 1, 2008’ in subpara-
22 graph (A)(iii)(I) thereof, and”.

23 (b) EXTENSION OF ELECTION TO ACCELERATE THE
24 AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPREE-
25 CIATION.—Section 168(k)(4) (relating to election to accel-

1 *erate the AMT and research credits in lieu of bonus depre-*
 2 *ciation) is amended—*

3 *(1) by striking “2009” and inserting “2010” in*
 4 *subparagraph (D)(iii) (as redesignated by subsection*
 5 *(a)(3)), and*

6 *(2) by adding at the end the following new sub-*
 7 *paragraph:*

8 *“(H) SPECIAL RULES FOR EXTENSION*
 9 *PROPERTY.—*

10 *“(i) TAXPAYERS PREVIOUSLY ELECT-*
 11 *ING ACCELERATION.—In the case of a tax-*
 12 *payer who made the election under subpara-*
 13 *graph (A) for its first taxable year ending*
 14 *after March 31, 2008—*

15 *“(I) the taxpayer may elect not to*
 16 *have this paragraph apply to extension*
 17 *property, but*

18 *“(II) if the taxpayer does not*
 19 *make the election under subclause (I),*
 20 *in applying this paragraph to the tax-*
 21 *payer a separate bonus depreciation*
 22 *amount, maximum amount, and max-*
 23 *imum increase amount shall be com-*
 24 *puted and applied to eligible qualified*
 25 *property which is extension property*

1 *and to eligible qualified property*
2 *which is not extension property.*

3 “(ii) *TAXPAYERS NOT PREVIOUSLY*
4 *ELECTING ACCELERATION.—In the case of a*
5 *taxpayer who did not make the election*
6 *under subparagraph (A) for its first taxable*
7 *year ending after March 31, 2008—*

8 *“(I) the taxpayer may elect to*
9 *have this paragraph apply to its first*
10 *taxable year ending after December 31,*
11 *2008, and each subsequent taxable*
12 *year, and*

13 *“(II) if the taxpayer makes the*
14 *election under subclause (I), this para-*
15 *graph shall only apply to eligible*
16 *qualified property which is extension*
17 *property.*

18 “(iii) *EXTENSION PROPERTY.—For*
19 *purposes of this subparagraph, the term ‘ex-*
20 *ension property’ means property which is*
21 *eligible qualified property solely by reason*
22 *of the extension of the application of the*
23 *special allowance under paragraph (1) pur-*
24 *suant to the amendments made by section*
25 *1201(a) of the American Recovery and Re-*

1 *investment Tax Act of 2009 (and the appli-*
2 *cation of such extension to this paragraph*
3 *pursuant to the amendment made by section*
4 *1201(b)(1) of such Act).”.*

5 (c) *EFFECTIVE DATES.*—

6 (1) *IN GENERAL.*—*Except as provided in para-*
7 *graph (2), the amendments made by this section shall*
8 *apply to property placed in service after December*
9 *31, 2008, in taxable years ending after such date.*

10 (2) *TECHNICAL AMENDMENT.*—*The amendments*
11 *made by subsection (a)(3) shall apply to taxable years*
12 *ending after March 31, 2008.*

13 **SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EX-**
14 **PENSING OF CERTAIN DEPRECIABLE BUSI-**
15 **NESS ASSETS.**

16 (a) *IN GENERAL.*—*Paragraph (7) of section 179(b) is*
17 *amended—*

18 (1) *by striking “2008” and inserting “2008, or*
19 *2009”, and*

20 (2) *by striking “2008” in the heading thereof and*
21 *inserting “2008, AND 2009”.*

22 (b) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall apply to taxable years beginning after Decem-*
24 *ber 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 elect-
11 ed the application of this subparagraph—

12 “(I) subparagraph (A)(i) shall be
13 applied by substituting any whole
14 number elected by the taxpayer which
15 is more than 2 and less than 6 for ‘2’,

16 “(II) subparagraph (E)(ii) shall
17 be applied by substituting the whole
18 number which is one less than the
19 whole number substituted under sub-
20 clause (II) for ‘2’, and

21 “(III) subparagraph (F) shall not
22 apply.

23 “(ii) *APPLICABLE 2008 OR 2009 NET OP-*
24 *ERATING LOSS.*—For purposes of this sub-
25 paragraph, the term ‘applicable 2008 or
26 2009 net operating loss’ means—

1 “(I) the taxpayer’s net operating
2 loss for any taxable year ending in
3 2008 or 2009, or

4 “(II) if the taxpayer elects to have
5 this subclause apply in lieu of sub-
6 clause (I), the taxpayer’s net operating
7 loss for any taxable year beginning in
8 2008 or 2009.

9 “(iii) *ELECTION*.—Any election under
10 this subparagraph shall be made in such
11 manner as may be prescribed by the Sec-
12 retary, and shall be made by the due date
13 (including extension of time) for filing the
14 taxpayer’s return for the taxable year of the
15 net operating loss. Any such election, once
16 made, shall be irrevocable.

17 “(iv) *COORDINATION WITH ALTER-*
18 *NATIVE TAX NET OPERATING LOSS DEDUC-*
19 *TION*.—In the case of a taxpayer who elects
20 to have clause (ii)(II) apply, section
21 56(d)(1)(A)(ii) shall be applied by sub-
22 stituting ‘ending during 2001 or 2002 or
23 beginning during 2008 or 2009’ for ‘ending
24 during 2001, 2002, 2008, or 2009’.”.

1 **(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUC-**
2 **TION.**—*Subclause (I) of section 56(d)(1)(A)(ii) is amended*
3 *to read as follows:*

4 *“(I) the amount of such deduction*
5 *attributable to the sum of carrybacks of*
6 *net operating losses from taxable years*
7 *ending during 2001, 2002, 2008, or*
8 *2009 and carryovers of net operating*
9 *losses to such taxable years, or”.*

10 **(c) LOSS FROM OPERATIONS OF LIFE INSURANCE**
11 **COMPANIES.**—*Subsection (b) of section 810 is amended by*
12 *adding at the end the following new paragraph:*

13 **“(4) CARRYBACK FOR 2008 AND 2009 LOSSES.**—

14 **“(A) IN GENERAL.**—*In the case of an appli-*
15 *cable 2008 or 2009 loss from operations with re-*
16 *spect to which the taxpayer has elected the appli-*
17 *cation of this paragraph, paragraph (1)(A) shall*
18 *be applied, at the election of the taxpayer, by*
19 *substituting ‘5’ or ‘4’ for ‘3’.*

20 **“(B) APPLICABLE 2008 OR 2009 LOSS FROM**
21 **OPERATIONS.**—*For purposes of this paragraph,*
22 *the term ‘applicable 2008 or 2009 loss from oper-*
23 *ations’ means—*

1 “(i) the taxpayer’s loss from operations
2 for any taxable year ending in 2008 or
3 2009, or

4 “(ii) if the taxpayer elects to have this
5 clause apply in lieu of clause (i), the tax-
6 payer’s loss from operations for any taxable
7 year beginning in 2008 or 2009.

8 “(C) *ELECTION*.—Any election under this
9 paragraph shall be made in such manner as may
10 be prescribed by the Secretary, and shall be made
11 by the due date (including extension of time) for
12 filing the taxpayer’s return for the taxable year
13 of the loss from operations. Any such election,
14 once made, shall be irrevocable.

15 “(D) *COORDINATION WITH ALTERNATIVE*
16 *TAX NET OPERATING LOSS DEDUCTION*.—In the
17 case of a taxpayer who elects to have subpara-
18 graph (B)(ii) apply, section 56(d)(1)(A)(ii) shall
19 be applied by substituting ‘ending during 2001
20 or 2002 or beginning during 2008 or 2009’ for
21 ‘ending during 2001, 2002, 2008, or 2009’.”.

22 (d) *CONFORMING AMENDMENT*.—Section 172 is
23 amended by striking subsection (k) and by redesignating
24 subsection (l) as subsection (k).

25 (e) *EFFECTIVE DATE*.—

1 (1) *IN GENERAL.*—*Except as otherwise provided*
2 *in this subsection, the amendments made by this sec-*
3 *tion shall apply to net operating losses arising in tax-*
4 *able years ending after December 31, 2007.*

5 (2) *ALTERNATIVE TAX NET OPERATING LOSS DE-*
6 *DUCTION.*—*The amendment made by subsection (b)*
7 *shall apply to taxable years ending after 1997.*

8 (3) *LOSS FROM OPERATIONS OF LIFE INSURANCE*
9 *COMPANIES.*—*The amendment made by subsection (d)*
10 *shall apply to losses from operations arising in tax-*
11 *able years ending after December 31, 2007.*

12 (4) *TRANSITIONAL RULE.*—*In the case of a net*
13 *operating loss (or, in the case of a life insurance com-*
14 *pany, a loss from operations) for a taxable year end-*
15 *ing before the date of the enactment of this Act—*

16 (A) *any election made under section*
17 *172(b)(3) or 810(b)(3) of the Internal Revenue*
18 *Code of 1986 with respect to such loss may (not-*
19 *withstanding such section) be revoked before the*
20 *applicable date,*

21 (B) *any election made under section 172(k)*
22 *or 810(b)(4) of such Code with respect to such*
23 *loss shall (notwithstanding such section) be treat-*
24 *ed as timely made if made before the applicable*
25 *date, and*

1 (C) any application under section 6411(a)
2 of such Code with respect to such loss shall be
3 treated as timely filed if filed before the applica-
4 ble date.

5 For purposes of this paragraph, the term “applicable
6 date” means the date which is 60 days after the date
7 of the enactment of this Act.

8 **SEC. 1212. EXCEPTION FOR TARP RECIPIENTS.**

9 The amendments made by this part shall not apply
10 to—

11 (1) any taxpayer if—

12 (A) the Federal Government acquires, at
13 any time, an equity interest in the taxpayer
14 pursuant to the Emergency Economic Stabiliza-
15 tion Act of 2008, or

16 (B) the Federal Government acquires, at
17 any time, any warrant (or other right) to ac-
18 quire any equity interest with respect to the tax-
19 payer pursuant to such Act,

20 (2) the Federal National Mortgage Association
21 and the Federal Home Loan Mortgage Corporation,
22 and

23 (3) any taxpayer which at any time in 2008 or
24 2009 is a member of the same affiliated group (as de-
25 fined in section 1504 of the Internal Revenue Code of

1 1986, determined without regard to subsection (b)
2 thereof) as a taxpayer described in paragraph (1) or
3 (2).

4 **PART III—INCENTIVES FOR NEW JOBS**

5 **SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS**
6 **AND DISCONNECTED YOUTH.**

7 (a) *IN GENERAL.*—Subsection (d) of section 51 is
8 amended by adding at the end the following new paragraph:

9 “(14) *CREDIT ALLOWED FOR UNEMPLOYED VET-*
10 *ERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR*
11 *2010.*—

12 “(A) *IN GENERAL.*—Any unemployed vet-
13 eran or disconnected youth who begins work for
14 the employer during 2009 or 2010 shall be treat-
15 ed as a member of a targeted group for purposes
16 of this subpart.

17 “(B) *DEFINITIONS.*—For purposes of this
18 paragraph—

19 “(i) *UNEMPLOYED VETERAN.*—The
20 term ‘unemployed veteran’ means any vet-
21 eran (as defined in paragraph (3)(B), deter-
22 mined without regard to clause (ii) thereof)
23 who is certified by the designated local
24 agency as—

1 (I) *having been discharged or re-*
2 *leased from active duty in the Armed*
3 *Forces during the period beginning on*
4 *September 1, 2001, and ending on De-*
5 *cember 31, 2010, and*

6 “(II) *being in receipt of unem-*
7 *ployment compensation under State or*
8 *Federal law for not less than 4 weeks*
9 *during the 1-year period ending on the*
10 *hiring date.*

11 “(ii) *DISCONNECTED YOUTH.—The*
12 *term ‘disconnected youth’ means any indi-*
13 *vidual who is certified by the designated*
14 *local agency—*

15 “(I) *as having attained age 16*
16 *but not age 25 on the hiring date,*

17 “(II) *as not regularly attending*
18 *any secondary, technical, or post-sec-*
19 *ondary school during the 6-month pe-*
20 *riod preceding the hiring date,*

21 “(III) *as not regularly employed*
22 *during such 6-month period, and*

23 “(IV) *as not readily employable*
24 *by reason of lacking a sufficient num-*
25 *ber of basic skills.”.*

1 **(b) EFFECTIVE DATE.**—*The amendments made by this*
2 *section shall apply to individuals who begin work for the*
3 *employer after December 31, 2008.*

4 **PART IV—CANCELLATION OF INDEBTEDNESS**

5 **SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME**

6 **ARISING FROM INDEBTEDNESS DISCHARGED**
7 **BY THE REPURCHASE OF A DEBT INSTRU-**
8 **MENT.**

9 **(a) IN GENERAL.**—*Section 108 (relating to income*
10 *from discharge of indebtedness) is amended by adding at*
11 *the end the following new subsection:*

12 “(i) **DEFERRAL AND RATABLE INCLUSION OF INCOME**
13 **ARISING FROM INDEBTEDNESS DISCHARGED BY THE RE-**
14 **PURCHASE OF A DEBT INSTRUMENT.**—

15 “(1) **IN GENERAL.**—*Notwithstanding section 61,*
16 *income from the discharge of indebtedness in connec-*
17 *tion with the repurchase of a debt instrument after*
18 *December 31, 2008, and before January 1, 2011, shall*
19 *be includible in gross income ratably over the 8-tax-*
20 *able-year period beginning with—*

21 “(A) *in the case of a repurchase occurring*
22 *in 2009, the second taxable year following the*
23 *taxable year in which the repurchase occurs, and*

1 “(B) *in the case of a repurchase occurring*
2 *in 2010, the taxable year following the taxable*
3 *year in which the repurchase occurs.*

4 “(2) *DEBT INSTRUMENT.—For purposes of this*
5 *subsection, the term ‘debt instrument’ means a bond,*
6 *debenture, note, certificate, or any other instrument*
7 *or contractual arrangement constituting indebtedness*
8 *(within the meaning of section 1275(a)(1)).*

9 “(3) *REPURCHASE.—For purposes of this sub-*
10 *section, the term ‘repurchase’ means, with respect to*
11 *any debt instrument, a cash purchase of the debt in-*
12 *strument by—*

13 “(A) *the debtor which issued the debt in-*
14 *strument, or*

15 “(B) *any person related to such debtor.*

16 *For purposes of subparagraph (B), the determination*
17 *of whether a person is related to another person shall*
18 *be made in the same manner as under subsection*
19 *(e)(4).*

20 “(4) *AUTHORITY TO PRESCRIBE REGULATIONS.—*
21 *The Secretary may prescribe such regulations as may*
22 *be necessary or appropriate for purposes of applying*
23 *this subsection.”.*

1 **(b) EFFECTIVE DATE.**—*The amendments made by this*
2 *section shall apply to discharges in taxable years ending*
3 *after December 31, 2008.*

4 **PART V—QUALIFIED SMALL BUSINESS STOCK**
5 **SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED**
6 **SMALL BUSINESS STOCK FOR 2009 AND 2010.**

7 **(a) IN GENERAL.**—*Section 1202(a) is amended by*
8 *adding at the end the following new paragraph:*

9 **“(3) SPECIAL RULES FOR 2009 AND 2010.**—*In the*
10 *case of qualified small business stock acquired after*
11 *the date of the enactment of this paragraph and before*
12 *January 1, 2011—*

13 **“(A) paragraph (1) shall be applied by sub-**
14 **stituting ‘75 percent’ for ‘50 percent’, and**

15 **“(B) paragraph (2) shall not apply.”.**

16 **(b) EFFECTIVE DATE.**—*The amendment made by this*
17 *section shall apply to stock acquired after the date of the*
18 *enactment of this Act.*

19 **PART VI—PARITY FOR TRANSPORTATION FRINGE**
20 **BENEFITS**

21 **SEC. 1251. INCREASED EXCLUSION AMOUNT FOR COM-**
22 **MUTER TRANSIT BENEFITS AND TRANSIT**
23 **PASSES.**

24 **(a) IN GENERAL.**—*Paragraph (2) of section 132(f) is*
25 *amended by adding at the end the following flush sentence:*

1 *“In the case of any month beginning on or after the*
2 *date of the enactment of this sentence and before Jan-*
3 *uary 1, 2011, subparagraph (A) shall be applied as*
4 *if the dollar amount therein were the same as the dol-*
5 *lar amount under subparagraph (B) (as in effect for*
6 *such month).”.*

7 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
8 *section shall apply to months beginning on or after the date*
9 *of the enactment of this section.*

10 **PART VII—S CORPORATIONS**

11 **SEC. 1261. TEMPORARY REDUCTION IN RECOGNITION PE-**
12 **RIOD FOR BUILT-IN GAINS TAX.**

13 ***(a) IN GENERAL.***—*Paragraph (7) of section 1374(d)*
14 *(relating to definitions and special rules) is amended to*
15 *read as follows:*

16 ***“(7) RECOGNITION PERIOD.***—

17 ***“(A) IN GENERAL.***—*The term ‘recognition*
18 *period’ means the 10-year period beginning with*
19 *the 1st day of the 1st taxable year for which the*
20 *corporation was an S corporation.*

21 ***“(B) SPECIAL RULE FOR 2009 AND 2010.***—*In*
22 *the case of any taxable year beginning in 2009*
23 *or 2010, no tax shall be imposed on the net un-*
24 *recognized built-in gain of an S corporation if*
25 *the 7th taxable year in the recognition period*

1 *preceded such taxable year. The preceding sen-*
2 *tence shall be applied separately with respect to*
3 *any asset to which paragraph (8) applies.*

4 “(C) *SPECIAL RULE FOR DISTRIBUTIONS TO*
5 *SHAREHOLDERS.—For purposes of applying this*
6 *section to any amount includible in income by*
7 *reason of distributions to shareholders pursuant*
8 *to section 593(e)—*

9 “(i) *subparagraph (A) shall be applied*
10 *without regard to the phrase ‘10-year’, and*

11 “(ii) *subparagraph (B) shall not*
12 *apply.”.*

13 (b) *EFFECTIVE DATE.—The amendment made by this*
14 *section shall apply to taxable years beginning after Decem-*
15 *ber 31, 2008.*

16 **PART VIII—BROADBAND INCENTIVES**

17 **SEC. 1271. BROADBAND INTERNET ACCESS TAX CREDIT.**

18 (a) *IN GENERAL.—Subpart E of part IV of chapter*
19 *1 of the Internal Revenue Code of 1986 (relating to rules*
20 *for computing investment credit), as amended by this Act,*
21 *is amended by inserting after section 48C the following new*
22 *section:*

23 **“SEC. 48D. BROADBAND INTERNET ACCESS CREDIT.**

24 “(a) *GENERAL RULE.—For purposes of section 46, the*
25 *broadband credit for any taxable year is the sum of—*

1 “(1) *the current generation broadband credit,*
2 *plus*

3 “(2) *the next generation broadband credit.*

4 “(b) *CURRENT GENERATION BROADBAND CREDIT;*
5 *NEXT GENERATION BROADBAND CREDIT.—For purposes of*
6 *this section—*

7 “(1) *CURRENT GENERATION BROADBAND CRED-*
8 *IT.—The current generation broadband credit for any*
9 *taxable year is equal to 10 percent (20 percent in the*
10 *case of qualified subscribers which are unserved sub-*
11 *scribers) of the qualified broadband expenditures in-*
12 *curring with respect to qualified equipment providing*
13 *current generation broadband services to qualified*
14 *subscribers and taken into account with respect to*
15 *such taxable year.*

16 “(2) *NEXT GENERATION BROADBAND CREDIT.—*
17 *The next generation broadband credit for any taxable*
18 *year is equal to 20 percent of the qualified broadband*
19 *expenditures incurred with respect to qualified equip-*
20 *ment providing next generation broadband services to*
21 *qualified subscribers and taken into account with re-*
22 *spect to such taxable year.*

23 “(c) *WHEN EXPENDITURES TAKEN INTO ACCOUNT.—*
24 *For purposes of this section—*

1 “(1) *IN GENERAL.*—*Qualified broadband expend-*
2 *itures with respect to qualified equipment shall be*
3 *taken into account with respect to the first taxable*
4 *year in which—*

5 “(A) *current generation broadband services*
6 *are provided through such equipment to qualified*
7 *subscribers, or*

8 “(B) *next generation broadband services are*
9 *provided through such equipment to qualified*
10 *subscribers.*

11 “(2) *LIMITATION.*—

12 “(A) *IN GENERAL.*—*Qualified broadband*
13 *expenditures shall be taken into account under*
14 *paragraph (1) only with respect to qualified*
15 *equipment—*

16 “(i) *the original use of which com-*
17 *mences with the taxpayer, and*

18 “(ii) *which is placed in service, after*
19 *December 31, 2008, and before January 1,*
20 *2011.*

21 “(B) *SALE-LEASEBACKS.*—*For purposes of*
22 *subparagraph (A), if property—*

23 “(i) *is originally placed in service*
24 *after December 31, 2008, by any person,*
25 *and*

1 “(ii) sold and leased back by such per-
2 son within 3 months after the date such
3 property was originally placed in service,
4 such property shall be treated as originally
5 placed in service not earlier than the date on
6 which such property is used under the leaseback
7 referred to in clause (ii).

8 “(d) *SPECIAL ALLOCATION RULES FOR CURRENT*
9 *GENERATION BROADBAND SERVICES.*—For purposes of de-
10 termining the current generation broadband credit under
11 subsection (a)(1) with respect to qualified equipment
12 through which current generation broadband services are
13 provided, if the qualified equipment is capable of serving
14 both qualified subscribers and other subscribers, the quali-
15 fied broadband expenditures shall be multiplied by a frac-
16 tion—

17 “(1) the numerator of which is the sum of the
18 number of potential qualified subscribers within the
19 rural areas and the underserved areas and the
20 unserved areas which the equipment is capable of
21 serving with current generation broadband services,
22 and

23 “(2) the denominator of which is the total poten-
24 tial subscriber population of the area which the

1 *equipment is capable of serving with current genera-*
2 *tion broadband services.*

3 “(e) *DEFINITIONS.—For purposes of this section—*

4 “(1) *ANTENNA.—The term ‘antenna’ means any*
5 *device used to transmit or receive signals through the*
6 *electromagnetic spectrum, including satellite equip-*
7 *ment.*

8 “(2) *CABLE OPERATOR.—The term ‘cable oper-*
9 *ator’ has the meaning given such term by section*
10 *602(5) of the Communications Act of 1934 (47 U.S.C.*
11 *522(5)).*

12 “(3) *COMMERCIAL MOBILE SERVICE CARRIER.—*
13 *The term ‘commercial mobile service carrier’ means*
14 *any person authorized to provide commercial mobile*
15 *radio service as defined in section 20.3 of title 47,*
16 *Code of Federal Regulations.*

17 “(4) *CURRENT GENERATION BROADBAND SERV-*
18 *ICE.—The term ‘current generation broadband serv-*
19 *ice’ means the transmission of signals at a rate of at*
20 *least 5,000,000 bits per second to the subscriber and*
21 *at least 1,000,000 bits per second from the subscriber*
22 *(at least 3,000,000 bits per second to the subscriber*
23 *and at least 768,000 bits per second from the sub-*
24 *scriber in the case of service through radio trans-*
25 *mission of energy).*

1 “(5) *MULTIPLEXING OR DEMULTIPLEXING.*—*The*
2 *term ‘multiplexing’ means the transmission of 2 or*
3 *more signals over a single channel, and the term*
4 *‘demultiplexing’ means the separation of 2 or more*
5 *signals previously combined by compatible multi-*
6 *plexing equipment.*

7 “(6) *NEXT GENERATION BROADBAND SERVICE.*—
8 *The term ‘next generation broadband service’ means*
9 *the transmission of signals at a rate of at least*
10 *100,000,000 bits per second to the subscriber (or its*
11 *equivalent when the data rate is measured before*
12 *being compressed for transmission) and at least*
13 *20,000,000 bits per second from the subscriber (or its*
14 *equivalent as so measured).*

15 “(7) *NONRESIDENTIAL SUBSCRIBER.*—*The term*
16 *‘nonresidential subscriber’ means any person who*
17 *purchases broadband services which are delivered to*
18 *the permanent place of business of such person.*

19 “(8) *OPEN VIDEO SYSTEM OPERATOR.*—*The term*
20 *‘open video system operator’ means any person au-*
21 *thorized to provide service under section 653 of the*
22 *Communications Act of 1934 (47 U.S.C. 573).*

23 “(9) *OTHER WIRELESS CARRIER.*—*The term*
24 *‘other wireless carrier’ means any person (other than*
25 *a telecommunications carrier, commercial mobile*

1 *service carrier, cable operator, open video system op-*
2 *erator, or satellite carrier) providing current genera-*
3 *tion broadband services or next generation broadband*
4 *service to subscribers through the radio transmission*
5 *of energy.*

6 “(10) *PACKET SWITCHING.*—*The term ‘packet*
7 *switching’ means controlling or routing the path of a*
8 *digitized transmission signal which is assembled into*
9 *packets or cells.*

10 “(11) *PROVIDER.*—*The term ‘provider’ means,*
11 *with respect to any qualified equipment any—*

12 “(A) *cable operator,*

13 “(B) *commercial mobile service carrier,*

14 “(C) *open video system operator,*

15 “(D) *satellite carrier,*

16 “(E) *telecommunications carrier, or*

17 “(F) *other wireless carrier,*

18 *providing current generation broadband services or*
19 *next generation broadband services to subscribers*
20 *through such qualified equipment.*

21 “(12) *PROVISION OF SERVICES.*—*A provider*
22 *shall be treated as providing services to 1 or more*
23 *subscribers if—*

1 “(A) such a subscriber has been passed by
2 the provider’s equipment and can be connected to
3 such equipment for a standard connection fee,

4 “(B) the provider is physically able to de-
5 liver current generation broadband services or
6 next generation broadband services, as applica-
7 ble, to such a subscriber without making more
8 than an insignificant investment with respect to
9 such subscriber,

10 “(C) the provider has made reasonable ef-
11 forts to make such subscribers aware of the avail-
12 ability of such services,

13 “(D) such services have been purchased by
14 1 or more such subscribers, and

15 “(E) such services are made available to
16 such subscribers at average prices comparable to
17 those at which the provider makes available
18 similar services in any areas in which the pro-
19 vider makes available such services.

20 “(13) QUALIFIED EQUIPMENT.—

21 “(A) IN GENERAL.—The term ‘qualified
22 equipment’ means property with respect to which
23 depreciation (or amortization in lieu of depre-
24 ciation) is allowable and which provides current

1 *generation broadband services or next generation*
2 *broadband services—*

3 “(i) *at least a majority of the time*
4 *during periods of maximum demand to*
5 *each subscriber who is utilizing such serv-*
6 *ices, and*

7 “(ii) *in a manner substantially the*
8 *same as such services are provided by the*
9 *provider to subscribers through equipment*
10 *with respect to which no credit is allowed*
11 *under subsection (a)(1).*

12 “(B) *ONLY CERTAIN INVESTMENT TAKEN*
13 *INTO ACCOUNT.—Except as provided in subpara-*
14 *graph (C) or (D), equipment shall be taken into*
15 *account under subparagraph (A) only to the ex-*
16 *tent it—*

17 “(i) *extends from the last point of*
18 *switching to the outside of the unit, build-*
19 *ing, dwelling, or office owned or leased by*
20 *a subscriber in the case of a telecommuni-*
21 *cations carrier or broadband-over-powerline*
22 *operator,*

23 “(ii) *extends from the customer side of*
24 *the mobile telephone switching office to a*
25 *transmission/receive antenna (including*

1 *such antenna) owned or leased by a sub-*
2 *scriber in the case of a commercial mobile*
3 *service carrier,*

4 “(iii) extends from the customer side of
5 *the headend to the outside of the unit, build-*
6 *ing, dwelling, or office owned or leased by*
7 *a subscriber in the case of a cable operator*
8 *or open video system operator, or*

9 “(iv) extends from a transmission/re-
10 *ceive antenna (including such antenna)*
11 *which transmits and receives signals to or*
12 *from multiple subscribers, to a trans-*
13 *mission/receive antenna (including such an-*
14 *tenna) on the outside of the unit, building,*
15 *dwelling, or office owned or leased by a sub-*
16 *scriber in the case of a satellite carrier or*
17 *other wireless carrier, unless such other*
18 *wireless carrier is also a telecommuni-*
19 *cations carrier.*

20 “(C) *PACKET SWITCHING EQUIPMENT.—*
21 *Packet switching equipment, regardless of loca-*
22 *tion, shall be taken into account under subpara-*
23 *graph (A) only if it is deployed in connection*
24 *with equipment described in subparagraph (B)*
25 *and is uniquely designed to perform the function*

1 *of packet switching for current generation*
2 *broadband services or next generation broadband*
3 *services, but only if such packet switching is the*
4 *last in a series of such functions performed in*
5 *the transmission of a signal to a subscriber or*
6 *the first in a series of such functions performed*
7 *in the transmission of a signal from a sub-*
8 *scriber.*

9 *“(D) MULTIPLEXING AND DEMULTIPLEXING*
10 *EQUIPMENT.—Multiplexing and demultiplexing*
11 *equipment shall be taken into account under sub-*
12 *paragraph (A) only to the extent it is deployed*
13 *in connection with equipment described in sub-*
14 *paragraph (B) and is uniquely designed to per-*
15 *form the function of multiplexing and*
16 *demultiplexing packets or cells of data and mak-*
17 *ing associated application adaptations, but only if*
18 *such multiplexing or demultiplexing equipment*
19 *is located between packet switching equipment*
20 *described in subparagraph (C) and the sub-*
21 *scriber’s premises.*

22 *“(14) QUALIFIED BROADBAND EXPENDITURE.—*

23 *“(A) IN GENERAL.—The term ‘qualified*
24 *broadband expenditure’ means any amount—*

1 “(i) chargeable to capital account with
2 respect to the purchase and installation of
3 qualified equipment (including any up-
4 grades thereto) for which depreciation is al-
5 lowable under section 168, and

6 “(ii) incurred after December 31, 2008,
7 and before January 1, 2011.

8 “(B) CERTAIN SATELLITE EXPENDITURES
9 EXCLUDED.—Such term shall not include any
10 expenditure with respect to the launching of any
11 satellite equipment.

12 “(C) LEASED EQUIPMENT.—Such term shall
13 include so much of the purchase price paid by
14 the lessor of equipment subject to a lease de-
15 scribed in subsection (c)(2)(B) as is attributable
16 to expenditures incurred by the lessee which
17 would otherwise be described in subparagraph
18 (A).

19 “(15) QUALIFIED SUBSCRIBER.—The term
20 ‘qualified subscriber’ means—

21 “(A) with respect to the provision of current
22 generation broadband services—

23 “(i) any nonresidential subscriber
24 maintaining a permanent place of business

1 *in a rural area, an underserved area, or an*
2 *unserved area, or*

3 “(ii) *any residential subscriber resid-*
4 *ing in a dwelling located in a rural area,*
5 *an underserved area, or an unserved area*
6 *which is not a saturated market, and*

7 “(B) *with respect to the provision of next*
8 *generation broadband services—*

9 “(i) *any nonresidential subscriber*
10 *maintaining a permanent place of business*
11 *in a rural area, an underserved area, or an*
12 *unserved area , or*

13 “(ii) *any residential subscriber.*

14 “(16) *RESIDENTIAL SUBSCRIBER.—The term*
15 *‘residential subscriber’ means any individual who*
16 *purchases broadband services which are delivered to*
17 *such individual’s dwelling.*

18 “(17) *RURAL AREA.—The term ‘rural area’*
19 *means any census tract which—*

20 “(A) *is not within 10 miles of any incor-*
21 *porated or census designated place containing*
22 *more than 25,000 people, and*

23 “(B) *is not within a county or county*
24 *equivalent which has an overall population den-*

1 *sity of more than 500 people per square mile of*
2 *land.*

3 “(18) *RURAL SUBSCRIBER.*—*The term ‘rural*
4 *subscriber’ means any residential subscriber residing*
5 *in a dwelling located in a rural area or nonresiden-*
6 *tial subscriber maintaining a permanent place of*
7 *business located in a rural area.*

8 “(19) *SATELLITE CARRIER.*—*The term ‘satellite*
9 *carrier’ means any person using the facilities of a*
10 *satellite or satellite service licensed by the Federal*
11 *Communications Commission and operating in the*
12 *Fixed-Satellite Service under part 25 of title 47 of the*
13 *Code of Federal Regulations or the Direct Broadcast*
14 *Satellite Service under part 100 of title 47 of such*
15 *Code to establish and operate a channel of commu-*
16 *nications for distribution of signals, and owning or*
17 *leasing a capacity or service on a satellite in order*
18 *to provide such point-to-multipoint distribution.*

19 “(20) *SATURATED MARKET.*—*The term ‘satu-*
20 *rated market’ means any census tract in which, as of*
21 *the date of the enactment of this section—*

22 “(A) *current generation broadband services*
23 *have been provided by a single provider to 85*
24 *percent or more of the total number of potential*

1 *residential subscribers residing in dwellings lo-*
2 *cated within such census tract, and*

3 *“(B) such services can be utilized—*

4 *“(i) at least a majority of the time*
5 *during periods of maximum demand by*
6 *each such subscriber who is utilizing such*
7 *services, and*

8 *“(ii) in a manner substantially the*
9 *same as such services are provided by the*
10 *provider to subscribers through equipment*
11 *with respect to which no credit is allowed*
12 *under subsection (a)(1).*

13 *“(21) SUBSCRIBER.—The term ‘subscriber’*
14 *means any person who purchases current generation*
15 *broadband services or next generation broadband serv-*
16 *ices.*

17 *“(22) TELECOMMUNICATIONS CARRIER.—The*
18 *term ‘telecommunications carrier’ has the meaning*
19 *given such term by section 3(44) of the Communica-*
20 *tions Act of 1934 (47 U.S.C. 153(44)), but—*

21 *“(A) includes all members of an affiliated*
22 *group of which a telecommunications carrier is*
23 *a member, and*

24 *“(B) does not include any commercial mo-*
25 *bile service carrier.*

1 “(23) *TOTAL POTENTIAL SUBSCRIBER POPU-*
2 *LATION.*—*The term ‘total potential subscriber popu-*
3 *lation’ means, with respect to any area and based on*
4 *the most recent census data, the total number of po-*
5 *tential residential subscribers residing in dwellings*
6 *located in such area and potential nonresidential sub-*
7 *scribers maintaining permanent places of business lo-*
8 *cated in such area.*

9 “(24) *UNDERSERVED AREA.*—*The term ‘under-*
10 *served area’ means any census tract which is located*
11 *in—*

12 “(A) *an empowerment zone or enterprise*
13 *community designated under section 1391,*

14 “(B) *the District of Columbia Enterprise*
15 *Zone established under section 1400,*

16 “(C) *a renewal community designated*
17 *under section 1400E, or*

18 “(D) *a low-income community designated*
19 *under section 45D.*

20 “(25) *UNDERSERVED SUBSCRIBER.*—*The term*
21 *‘underserved subscriber’ means any residential sub-*
22 *scriber residing in a dwelling located in an under-*
23 *served area or nonresidential subscriber maintaining*
24 *a permanent place of business located in an under-*
25 *served area.*

1 “(26) *UNSERVED AREA*.—The term ‘unserved
2 area’ means any census tract in which no current
3 generation broadband services are provided, as cer-
4 tified by the State in which such tract is located not
5 later than September 30, 2009.

6 “(27) *UNSERVED SUBSCRIBER*.—The term
7 ‘unserved subscriber’ means any residential subscriber
8 residing in a dwelling located in an unserved area or
9 nonresidential subscriber maintaining a permanent
10 place of business located in an unserved area.”

11 (b) *CREDIT TO BE PART OF INVESTMENT CREDIT*.—
12 Section 46 (relating to the amount of investment credit),
13 as amended by this Act, is amended by striking “and” at
14 the end of paragraph (4), by striking the period at the end
15 of paragraph (5) and inserting “; and”, and by adding at
16 the end the following:

17 “(6) the broadband Internet access credit.”

18 (c) *SPECIAL RULE FOR MUTUAL OR COOPERATIVE*
19 *TELEPHONE COMPANIES*.—Section 501(c)(12)(B) (relating
20 to list of exempt organizations) is amended by striking “or”
21 at the end of clause (iii), by striking the period at the end
22 of clause (iv) and inserting “; or”, and by adding at the
23 end the following new clause:

24 “(v) from the sale of property subject to
25 a lease described in section 48D(c)(2)(B),

1 *but only to the extent such income does not*
2 *in any year exceed an amount equal to the*
3 *credit for qualified broadband expenditures*
4 *which would be determined under section*
5 *48D for such year if the mutual or coopera-*
6 *tive telephone company was not exempt*
7 *from taxation and was treated as the owner*
8 *of the property subject to such lease.”.*

9 *(d) CONFORMING AMENDMENTS.—*

10 *(1) Section 49(a)(1)(C), as amended by this Act,*
11 *is amended by striking “and” at the end of clause*
12 *(iv), by striking the period at the end of clause (v)*
13 *and inserting “, and”, and by adding after clause (v)*
14 *the following new clause:*

15 *“(vi) the portion of the basis of any*
16 *qualified equipment attributable to quali-*
17 *fied broadband expenditures under section*
18 *48D.”.*

19 *(2) The table of sections for subpart E of part IV*
20 *of subchapter A of chapter 1, as amended by this Act,*
21 *is amended by inserting after the item relating to sec-*
22 *tion 48C the following:*

“Sec. 48D. Broadband internet access credit”.

23 *(e) DESIGNATION OF CENSUS TRACTS.—*

24 *(1) IN GENERAL.—The Secretary of the Treasury*
25 *shall, not later than 90 days after the date of the en-*

1 *actment of this Act, designate and publish those cen-*
2 *sus tracts meeting the criteria described in para-*
3 *graphs (17), (23), (24), and (26) of section 48D(e) of*
4 *the Internal Revenue Code of 1986 (as added by this*
5 *section). In making such designations, the Secretary*
6 *of the Treasury shall consult with such other depart-*
7 *ments and agencies as the Secretary determines ap-*
8 *propriate.*

9 (2) *SATURATED MARKET.—*

10 (A) *IN GENERAL.—For purposes of desig-*
11 *nating and publishing those census tracts meet-*
12 *ing the criteria described in subsection (e)(20) of*
13 *such section 48D—*

14 (i) *the Secretary of the Treasury shall*
15 *prescribe not later than 30 days after the*
16 *date of the enactment of this Act the form*
17 *upon which any provider which takes the*
18 *position that it meets such criteria with re-*
19 *spect to any census tract shall submit a list*
20 *of such census tracts (and any other infor-*
21 *mation required by the Secretary) not later*
22 *than 60 days after the date of the publica-*
23 *tion of such form, and*

24 (ii) *the Secretary of the Treasury shall*
25 *publish an aggregate list of such census*

1 *tracts submitted and the applicable pro-*
2 *viders not later than 30 days after the last*
3 *date such submissions are allowed under*
4 *clause (i).*

5 *(B) NO SUBSEQUENT LISTS REQUIRED.—*
6 *The Secretary of the Treasury shall not be re-*
7 *quired to publish any list of census tracts meet-*
8 *ing such criteria subsequent to the list described*
9 *in subparagraph (A)(i).*

10 *(C) AUTHORITY TO DISREGARD FALSE SUB-*
11 *MISSIONS.—In addition to imposing any other*
12 *applicable penalties, the Secretary of the Treas-*
13 *ury shall have the discretion to disregard any*
14 *form described in subparagraph (A)(i) on which*
15 *a provider knowingly submitted false informa-*
16 *tion.*

17 *(f) OTHER REGULATORY MATTERS.—*

18 *(1) PROHIBITION.—No Federal or State agency*
19 *or instrumentality shall adopt regulations or rate-*
20 *making procedures that would have the effect of elimi-*
21 *nating or reducing any credit or portion thereof al-*
22 *lowed under section 48D of the Internal Revenue Code*
23 *of 1986 (as added by this section) or otherwise sub-*
24 *verting the purpose of this section.*

1 (2) *TREASURY REGULATORY AUTHORITY.*—*It is*
2 *the intent of Congress in providing the broadband*
3 *Internet access credit under section 48D of the Inter-*
4 *nal Revenue Code of 1986 (as added by this section)*
5 *to provide incentives for the purchase, installation,*
6 *and connection of equipment and facilities offering*
7 *expanded broadband access to the Internet for users*
8 *in certain low income and rural areas of the United*
9 *States, as well as to residential users nationwide, in*
10 *a manner that maintains competitive neutrality*
11 *among the various classes of providers of broadband*
12 *services. Accordingly, the Secretary of the Treasury*
13 *shall prescribe such regulations as may be necessary*
14 *or appropriate to carry out the purposes of section*
15 *48D of such Code, including—*

16 (A) *regulations to determine how and when*
17 *a taxpayer that incurs qualified broadband ex-*
18 *penditures satisfies the requirements of section*
19 *48D of such Code to provide broadband services,*
20 *and*

21 (B) *regulations describing the information,*
22 *records, and data taxpayers are required to pro-*
23 *vide the Secretary to substantiate compliance*
24 *with the requirements of section 48D of such*
25 *Code.*

1 (g) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to expenditures incurred after December*
3 *31, 2008.*

4 ***PART IX—CLARIFICATION OF REGULATIONS RE-***
5 ***LATED TO LIMITATIONS ON CERTAIN BUILT-***
6 ***IN LOSSES FOLLOWING AN OWNERSHIP***
7 ***CHANGE***

8 ***SEC. 1281. CLARIFICATION OF REGULATIONS RELATED TO***
9 ***LIMITATIONS ON CERTAIN BUILT-IN LOSSES***
10 ***FOLLOWING AN OWNERSHIP CHANGE.***

11 (a) *FINDINGS.*—*Congress finds as follows:*

12 (1) *The delegation of authority to the Secretary*
13 *of the Treasury under section 382(m) of the Internal*
14 *Revenue Code of 1986 does not authorize the Sec-*
15 *retary to provide exemptions or special rules that are*
16 *restricted to particular industries or classes of tax-*
17 *payers.*

18 (2) *Internal Revenue Service Notice 2008–83 is*
19 *inconsistent with the congressional intent in enacting*
20 *such section 382(m).*

21 (3) *The legal authority to prescribe Internal Rev-*
22 *enue Service Notice 2008–83 is doubtful.*

23 (4) *However, as taxpayers should generally be*
24 *able to rely on guidance issued by the Secretary of the*
25 *Treasury legislation is necessary to clarify the force*

1 *and effect of Internal Revenue Service Notice 2008–*
2 *83 and restore the proper application under the Inter-*
3 *nal Revenue Code of 1986 of the limitation on built-*
4 *in losses following an ownership change of a bank.*

5 *(b) DETERMINATION OF FORCE AND EFFECT OF IN-*
6 *TERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING*
7 *BANKS FROM LIMITATION ON CERTAIN BUILT-IN LOSSES*
8 *FOLLOWING OWNERSHIP CHANGE.—*

9 *(1) IN GENERAL.—Internal Revenue Service No-*
10 *tice 2008–83—*

11 *(A) shall be deemed to have the force and ef-*
12 *fect of law with respect to any ownership change*
13 *(as defined in section 382(g) of the Internal Rev-*
14 *enue Code of 1986) occurring on or before Janu-*
15 *ary 16, 2009, and*

16 *(B) shall have no force or effect with respect*
17 *to any ownership change after such date.*

18 *(2) BINDING CONTRACTS.—Notwithstanding*
19 *paragraph (1), Internal Revenue Service Notice*
20 *2008–83 shall have the force and effect of law with re-*
21 *spect to any ownership change (as so defined) which*
22 *occurs after January 16, 2009, if such change—*

23 *(A) is pursuant to a written binding con-*
24 *tract entered into on or before such date, or*

1 (B) is pursuant to a written agreement en-
 2 tered into on or before such date and such agree-
 3 ment was described on or before such date in a
 4 public announcement or in a filing with the Se-
 5 curities and Exchange Commission required by
 6 reason of such ownership change.

7 **Subtitle D—Manufacturing**
 8 **Recovery Provisions**

9 **SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF IN-**
 10 **DUSTRIAL DEVELOPMENT BONDS TO FACILI-**
 11 **TIES MANUFACTURING INTANGIBLE PROP-**
 12 **ERTY.**

13 (a) *IN GENERAL.*—Subparagraph (C) of section
 14 144(a)(12) is amended—

15 (1) by striking “For purposes of this paragraph,
 16 the term” and inserting “For purposes of this para-
 17 graph—

18 “(i) *IN GENERAL.*—The term”, and

19 (2) by striking the last sentence and inserting
 20 the following new clauses:

21 “(ii) *CERTAIN FACILITIES IN-*
 22 *CLUDED.*—Such term includes facilities
 23 which are directly related and ancillary to
 24 a manufacturing facility (determined with-
 25 out regard to this clause) if—

1 “(I) such facilities are located on
2 the same site as the manufacturing fa-
3 cility, and

4 “(II) not more than 25 percent of
5 the net proceeds of the issue are used to
6 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 be*
13 *used to provide a manufacturing facility if*
14 *such proceeds are used to provide—*

15 “(I) a facility which is used in
16 the creation or production of intangible
17 property which is described in section
18 197(d)(1)(C)(iii), or

19 “(II) a facility which is function-
20 ally related and subordinate to a man-
21 ufacturing facility (determined without
22 regard to this subclause) if such facil-
23 ity is located on the same site as the
24 manufacturing facility.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to bonds issued after the date of the en-*
3 *actment 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 paragraph:*

10 “(5) *the qualifying advanced energy project cred-*
11 *it.*”.

12 (b) *AMOUNT OF CREDIT.*—*Subpart E of part IV of*
13 *subchapter A of chapter 1 (relating to rules for computing*
14 *investment credit) is amended by inserting after section*
15 *48B the following new section:*

16 **“SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT**
17 **CREDIT.**

18 “(a) *IN GENERAL.*—*For purposes of section 46, the*
19 *qualifying advanced energy project credit for any taxable*
20 *year is an amount equal to 30 percent of the qualified in-*
21 *vestment for such taxable year with respect to any quali-*
22 *fying advanced energy project of the taxpayer.*

23 “(b) *QUALIFIED INVESTMENT.*—

24 “(1) *IN GENERAL.*—*For purposes of subsection*
25 *(a), the qualified investment for any taxable year is*

1 *the basis of eligible property placed in service by the*
2 *taxpayer during such taxable year which is part of*
3 *a qualifying advanced energy project—*

4 *“(A)(i) the construction, reconstruction, or*
5 *erection of which is completed by the taxpayer*
6 *after October 31, 2008, or*

7 *“(i) which is acquired by the taxpayer if*
8 *the original use of such eligible property com-*
9 *mences with the taxpayer after October 31, 2008,*
10 *and*

11 *“(B) with respect to which depreciation (or*
12 *amortization in lieu of depreciation) is allow-*
13 *able.*

14 *“(2) CERTAIN QUALIFIED PROGRESS EXPENDI-*
15 *TURES RULES MADE APPLICABLE.—Rules similar to*
16 *the rules of subsections (c)(4) and (d) of section 46 (as*
17 *in effect on the day before the enactment of the Rev-*
18 *enue Reconciliation Act of 1990) shall apply for pur-*
19 *poses of this section.*

20 *“(3) LIMITATION.—The amount which is treated*
21 *for all taxable years with respect to any qualifying*
22 *advanced energy project shall not exceed the amount*
23 *designated by the Secretary as eligible for the credit*
24 *under this section.*

25 *“(c) DEFINITIONS.—*

1 “(1) QUALIFYING ADVANCED ENERGY
2 PROJECT.—

3 “(A) IN GENERAL.—The term ‘qualifying
4 advanced energy project’ means a project—

5 “(i) which re-equips, expands, or estab-
6 lishes a manufacturing facility for the pro-
7 duction of property which is—

8 “(I) designed to be used to
9 produce energy from the sun, wind,
10 geothermal deposits (within the mean-
11 ing of section 613(e)(2)), or other re-
12 newable resources,

13 “(II) designed to manufacture fuel
14 cells, microturbines, or an energy stor-
15 age system for use with electric or hy-
16 brid-electric motor vehicles,

17 “(III) designed to manufacture
18 electric grids to support the trans-
19 mission of intermittent sources of re-
20 newable energy, including storage of
21 such energy,

22 “(IV) designed to capture and se-
23 quester carbon dioxide emissions,

24 “(V) designed to refine or blend
25 renewable fuels or to produce energy

1 *conservation technologies (including*
2 *energy-conserving lighting technologies*
3 *and smart grid technologies), or*

4 “*(VI) other advanced energy prop-*
5 *erty designed to reduce greenhouse gas*
6 *emissions as may be determined by the*
7 *Secretary, and*

8 “*(ii) any portion of the qualified in-*
9 *vestment of which is certified by the Sec-*
10 *retary under subsection (d) as eligible for a*
11 *credit under this section.*

12 “*(B) EXCEPTION.—Such term shall not in-*
13 *clude any portion of a project for the production*
14 *of any property which is used in the refining or*
15 *blending of any transportation fuel (other than*
16 *renewable fuels).*

17 “*(2) ELIGIBLE PROPERTY.—The term ‘eligible*
18 *property’ means any property which is part of a*
19 *qualifying advanced energy project and is necessary*
20 *for the production of property described in paragraph*
21 *(1)(A)(i).*

22 “*(d) QUALIFYING ADVANCED ENERGY PROJECT PRO-*
23 *GRAM.—*

24 “*(1) ESTABLISHMENT.—*

1 “(A) *IN GENERAL.*—Not later than 180
2 days after the date of enactment of this section,
3 the Secretary, in consultation with the Secretary
4 of Energy, shall establish a qualifying advanced
5 energy project program to consider and award
6 certifications for qualified investments eligible
7 for credits under this section to qualifying ad-
8 vanced energy project sponsors.

9 “(B) *LIMITATION.*—The total amount of
10 credits that may be allocated under the program
11 shall not exceed \$2,000,000,000.

12 “(2) *CERTIFICATION.*—

13 “(A) *APPLICATION PERIOD.*—Each appli-
14 cant for certification under this paragraph shall
15 submit an application containing such informa-
16 tion as the Secretary may require during the 3-
17 year period beginning on the date the Secretary
18 establishes the program under paragraph (1).

19 “(B) *TIME TO MEET CRITERIA FOR CER-*
20 *TIFICATION.*—Each applicant for certification
21 shall have 2 years from the date of acceptance by
22 the Secretary of the application during which to
23 provide to the Secretary evidence that the re-
24 quirements of the certification have been met.

1 “(C) *PERIOD OF ISSUANCE.*—An applicant
2 which receives a certification shall have 5 years
3 from the date of issuance of the certification in
4 order to place the project in service and if such
5 project is not placed in service by that time pe-
6 riod then the certification shall no longer be
7 valid.

8 “(3) *SELECTION CRITERIA.*—In determining
9 which qualifying advanced energy projects to certify
10 under this section, the Secretary—

11 “(A) shall take into consideration only those
12 projects where there is a reasonable expectation
13 of commercial viability, and

14 “(B) shall take into consideration which
15 projects—

16 “(i) will provide the greatest domestic
17 job creation (both direct and indirect) dur-
18 ing the credit period,

19 “(ii) will provide the greatest net im-
20 pact in avoiding or reducing air pollutants
21 or anthropogenic emissions of greenhouse
22 gases,

23 “(iii) have the greatest readiness for
24 commercial employment, replication, and

1 *further commercial use in the United*
2 *States,*

3 “(iv) *will provide the greatest benefit*
4 *in terms of newness in the commercial mar-*
5 *ket,*

6 “(v) *have the lowest levelized cost of*
7 *generated or stored energy, or of measured*
8 *reduction in energy consumption or green-*
9 *house gas emission (based on costs of the*
10 *full supply chain), and*

11 “(vi) *have the shortest project time*
12 *from certification to completion.*

13 “(4) *REVIEW AND REDISTRIBUTION.—*

14 “(A) *REVIEW.—Not later than 6 years after*
15 *the date of enactment of this section, the Sec-*
16 *retary shall review the credits allocated under*
17 *this section as of the date which is 6 years after*
18 *the date of enactment of this section.*

19 “(B) *REDISTRIBUTION.—The Secretary*
20 *may reallocate credits awarded under this sec-*
21 *tion if the Secretary determines that—*

22 “(i) *there is an insufficient quantity of*
23 *qualifying applications for certification*
24 *pending at the time of the review, or*

1 “(ii) any certification made pursuant
2 to paragraph (2) has been revoked pursuant
3 to paragraph (2)(B) because the project sub-
4 ject to the certification has been delayed as
5 a result of third party opposition or litiga-
6 tion to the proposed project.

7 “(C) REALLOCATION.—If the Secretary de-
8 termines that credits under this section are
9 available for reallocation pursuant to the re-
10 quirements set forth in paragraph (2), the Sec-
11 retary is authorized to conduct an additional
12 program for applications for certification.

13 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
14 retary shall, upon making a certification under this
15 subsection, publicly disclose the identity of the appli-
16 cant and the amount of the credit with respect to such
17 applicant.

18 “(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not
19 be allowed under this section for any qualified investment
20 for which a credit is allowed under section 48, 48A, or
21 48B.”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 49(a)(1)(C) is amended by striking
24 “and” at the end of clause (iii), by striking the period

1 at the end of clause (iv) and inserting “, and”, and
2 by adding after clause (iv) the following new clause:

3 “(v) the basis of any property which is
4 part of a qualifying advanced energy
5 project under section 48C.”.

6 (2) *The table of sections for subpart E of part IV*
7 *of subchapter A of chapter 1 is amended by inserting*
8 *after the item relating to section 48B the following*
9 *new item:*

 “48C. *Qualifying advanced energy project credit.*”.

10 (d) *EFFECTIVE DATE.*—*The amendments made by this*
11 *section shall apply to periods after the date of the enactment*
12 *of this Act, under rules similar to the rules of section 48(m)*
13 *of the Internal Revenue Code of 1986 (as in effect on the*
14 *day before the date of the enactment of the Revenue Rec-*
15 *onciliation Act of 1990).*

16 **SEC. 1303. INCENTIVES FOR MANUFACTURING FACILITIES**

17 **PRODUCING PLUG-IN ELECTRIC DRIVE**

18 **MOTOR VEHICLES AND COMPONENTS.**

19 (a) *DEDUCTION FOR MANUFACTURING FACILITIES.*—
20 *Part VI of subchapter B of chapter 1 (relating to itemized*
21 *deductions for individuals and corporations) is amended by*
22 *inserting after section 179E the following new section:*

1 **“SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FA-**
2 **CILITIES PRODUCING PLUG-IN ELECTRIC**
3 **DRIVE MOTOR VEHICLES AND COMPONENTS.**

4 “(a) *TREATMENT AS EXPENSES.*—A taxpayer may
5 elect to treat the applicable percentage of the cost of any
6 qualified plug-in electric drive motor vehicle manufacturing
7 facility property as an expense which is not chargeable to
8 a capital account. Any cost so treated shall be allowed as
9 a deduction for the taxable year in which the qualified man-
10 ufacturing facility property is placed in service.

11 “(b) *APPLICABLE PERCENTAGE.*—For purposes of sub-
12 section (a), the applicable percentage is—

13 “(1) 100 percent, in the case of qualified plug-
14 in electric drive motor vehicle manufacturing facility
15 property which is placed in service before January 1,
16 2012, and

17 “(2) 50 percent, in the case of qualified plug-in
18 electric drive motor vehicle manufacturing facility
19 property which is placed in service after December 31,
20 2011, and before January 1, 2015.

21 “(c) *ELECTION.*—

22 “(1) *IN GENERAL.*—An election under this sec-
23 tion for any taxable year shall be made on the tax-
24 payer’s return of the tax imposed by this chapter for
25 the taxable year. Such election shall be made in such

1 *manner as the Secretary may by regulations pre-*
2 *scribe.*

3 “(2) *ELECTION IRREVOCABLE.*—*Any election*
4 *made under this section may not be revoked except*
5 *with the consent of the Secretary.*

6 “(d) *QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR*
7 *VEHICLE MANUFACTURING FACILITY PROPERTY.*—*For*
8 *purposes of this section—*

9 “(1) *IN GENERAL.*—*The term ‘qualified plug-in*
10 *electric drive motor vehicle manufacturing facility*
11 *property’ means any qualified property—*

12 “(A) *the original use of which commences*
13 *with the taxpayer,*

14 “(B) *which is placed in service by the tax-*
15 *payer after the date of the enactment of this sec-*
16 *tion and before January 1, 2015, and*

17 “(C) *no written binding contract for the*
18 *construction of which was in effect on or before*
19 *the date of the enactment of this section.*

20 “(2) *QUALIFIED PROPERTY.*—

21 “(A) *IN GENERAL.*—*The term ‘qualified*
22 *property’ means any property which is a facility*
23 *or a portion of a facility used for the production*
24 *of—*

1 “(i) any new qualified plug-in electric
2 drive motor vehicle (as defined by section
3 30D(c)), or

4 “(ii) any eligible component.

5 “(B) *ELIGIBLE COMPONENT*.—The term ‘eli-
6 gible component’ means any battery, any electric
7 motor or generator, or any power control unit
8 which is designed specifically for use with a new
9 qualified plug-in electric drive motor vehicle (as
10 so defined).

11 “(e) *SPECIAL RULE FOR DUAL USE PROPERTY*.—In
12 the case of any qualified plug-in electric drive motor vehicle
13 manufacturing facility property which is used to produce
14 both qualified property and other property which is not
15 qualified property, the amount of costs taken into account
16 under subsection (a) shall be reduced by an amount equal
17 to—

18 “(1) the total amount of such costs (determined
19 before the application of this subsection), multiplied
20 by

21 “(2) the percentage of property expected to be
22 produced which is not qualified property.

23 “(f) *ELECTION TO RECEIVE LOAN IN LIEU OF DEDUC-*
24 *TION*.—

1 “(1) *IN GENERAL.*—*If a taxpayer elects to have*
2 *this subsection apply for any taxable year—*

3 “(A) *subsection (a) shall not apply to any*
4 *qualified plug-in electric drive motor vehicle*
5 *manufacturing facility property placed in serv-*
6 *ice by the taxpayer,*

7 “(B) *such taxpayer shall receive a loan*
8 *from the Secretary in an amount and under*
9 *such terms as provided in section 1303(b) of the*
10 *American Recovery and Reinvestment Tax Act of*
11 *2009, and*

12 “(C) *in the taxable year in which such*
13 *qualified loan is repaid, each of the limitations*
14 *described in paragraph (2) shall be increased by*
15 *the qualified plug-in electric drive motor vehicle*
16 *manufacturing facility amount which is—*

17 “(i) *determined under paragraph (3),*

18 *and*

19 “(ii) *allocated to such limitation under*
20 *paragraph (4).*

21 “(2) *LIMITATIONS TO BE INCREASED.*—*The limi-*
22 *tations described in this paragraph are—*

23 “(A) *the limitation imposed by section*
24 *38(c), and*

1 “(B) *the limitation imposed by section*
2 *53(c).*”

3 “(3) *QUALIFIED PLUG-IN ELECTRIC DRIVE*
4 *MOTOR VEHICLE MANUFACTURING FACILITY*
5 *AMOUNT.—For purposes of this paragraph—*

6 “(A) *IN GENERAL.—The qualified plug-in*
7 *electric drive motor vehicle manufacturing facil-*
8 *ity amount is an amount equal to the applicable*
9 *percentage of any qualified plug-in electric drive*
10 *motor vehicle manufacturing facility which is*
11 *placed in service during the taxable year.*”

12 “(B) *APPLICABLE PERCENTAGE.—For pur-*
13 *poses of subparagraph (A), the applicable per-*
14 *centage is—*

15 “(i) *35 percent, in the case of qualified*
16 *plug-in electric drive motor vehicle manu-*
17 *facturing facility property which is placed*
18 *in service before January 1, 2012, and*

19 “(ii) *17.5 percent, in the case of quali-*
20 *fied plug-in electric drive motor vehicle*
21 *manufacturing facility property which is*
22 *placed in service after December 31, 2011,*
23 *and before January 1, 2015.*”

24 “(C) *SPECIAL RULE FOR DUAL USE PROP-*
25 *ERTY.—In the case of any qualified plug-in elec-*

1 *tric drive motor vehicle manufacturing facility*
2 *property which is used to produce both qualified*
3 *property and other property which is not quali-*
4 *fied property, the amount of costs taken into ac-*
5 *count under subparagraph (A) shall be reduced*
6 *by an amount equal to—*

7 “(i) *the total amount of such costs (de-*
8 *termined before the application of this sub-*
9 *paragraph), multiplied by*

10 “(ii) *the percentage of property ex-*
11 *pected to be produced which is not qualified*
12 *property.*

13 “(4) *ALLOCATION OF QUALIFIED PLUG-IN ELEC-*
14 *TRIC DRIVE MOTOR VEHICLE MANUFACTURING FACIL-*
15 *ITY AMOUNT.—The taxpayer shall, at such time and*
16 *in such manner as the Secretary may prescribe, speci-*
17 *fy the portion (if any) of the qualified plug-in electric*
18 *drive motor vehicle manufacturing facility amount*
19 *for the taxable year which is to be allocated to each*
20 *of the limitations described in paragraph (2) for such*
21 *taxable year.*

22 “(5) *ELECTION.—*

23 “(A) *IN GENERAL.—An election under this*
24 *subsection for any taxable year shall be made on*
25 *the taxpayer’s return of the tax imposed by this*

1 *chapter for the taxable year. Such election shall*
2 *be made in such manner as the Secretary may*
3 *by regulations prescribe.*

4 “(B) *ELECTION IRREVOCABLE.*—*Any elec-*
5 *tion made under this subsection may not be re-*
6 *voked except with the consent of the Secretary.”.*

7 ***(b) LOAN PROGRAM.***—

8 ***(1) IN GENERAL.***—*The Secretary of the Treasury*
9 *(or the Secretary’s delegate) shall provide a loan to*
10 *any person who is allowed a deduction under section*
11 *179F of the Internal Revenue Code and who makes an*
12 *election under section 179F(f) of such Code in an*
13 *amount equal to the qualified plug-in electric drive*
14 *motor vehicle manufacturing facility amount (as de-*
15 *fined in such section 179F(f)).*

16 ***(2) TERM.***—*Such loan shall be in the form of a*
17 *senior note issued by the taxpayer to the Secretary of*
18 *the Treasury, secured by the qualified plug-in electric*
19 *drive motor vehicle manufacturing facility property*
20 *(as defined in section 179F of the Internal Revenue*
21 *Code of 1986) of the taxpayer, and having a term of*
22 *20 years and interest payable at the applicable Fed-*
23 *eral rate (as determined under section 1274(d) of the*
24 *Internal Revenue Code of 1986).*

1 “(A) by allocating 1 percent of each such
2 limitation to each State, and

3 “(B) by allocating the remainder of each
4 such limitation among the States in the propor-
5 tion that each State’s 2008 State employment de-
6 cline bears to the aggregate of the 2008 State em-
7 ployment declines for all of the States.

8 “(2) 2008 STATE EMPLOYMENT DECLINE.—For
9 purposes of this subsection, the term ‘2008 State em-
10 ployment decline’ means, with respect to any State,
11 the excess (if any) of—

12 “(A) the number of individuals employed in
13 such State determined for December 2007, over

14 “(B) the number of individuals employed in
15 such State determined for December 2008.

16 “(3) ALLOCATIONS BY STATES.—

17 “(A) IN GENERAL.—Each State with respect
18 to which an allocation is made under paragraph
19 (1) shall reallocate such allocation among the
20 counties and large municipalities in such State
21 in the proportion the each such county’s or mu-
22 nicipality’s 2008 employment decline bears to
23 the aggregate of the 2008 employment declines
24 for all the counties and municipalities in such
25 State.

1 “(B) *LARGE MUNICIPALITIES.*—For pur-
2 poses of subparagraph (A), the term ‘large mu-
3 nicipality’ means a municipality with a popu-
4 lation of more than 100,000.

5 “(C) *DETERMINATION OF LOCAL EMPLOY-*
6 *MENT DECLINES.*—For purposes of this para-
7 graph, the employment decline of any munici-
8 pality or county shall be determined in the same
9 manner as determining the State employment
10 decline under paragraph (2), except that in the
11 case of a municipality any portion of which is
12 in a county, such portion shall be treated as part
13 of such municipality and not part of such coun-
14 ty.

15 “(4) *NATIONAL LIMITATIONS.*—

16 “(A) *RECOVERY ZONE ECONOMIC DEVELOP-*
17 *MENT BONDS.*—There is a national recovery zone
18 economic development bond limitation of
19 \$5,000,000,000.

20 “(B) *RECOVERY ZONE FACILITY BONDS.*—
21 There is a national recovery zone facility bond
22 limitation of \$10,000,000,000.

23 “(b) *RECOVERY ZONE.*—For purposes of this part, the
24 term ‘recovery zone’ means—

1 “(1) any area designated by the issuer as having
2 significant poverty, unemployment, rate of home fore-
3 closures, or general distress, and

4 “(2) any area for which a designation as an em-
5 powerment zone or renewal community is in effect.

6 **“SEC. 1400U-2. RECOVERY ZONE ECONOMIC DEVELOPMENT**
7 **BONDS.**

8 “(a) *IN GENERAL.*—*In the case of a recovery zone eco-*
9 *nomie development bond—*

10 “(1) such bond shall be treated as a qualified
11 bond for purposes of section 6431, and

12 “(2) subsection (b) of such section shall be ap-
13 plied by substituting ‘40 percent’ for ‘35 percent’.

14 “(b) *RECOVERY ZONE ECONOMIC DEVELOPMENT*
15 *BOND.*—

16 “(1) *IN GENERAL.*—*For purposes of this section,*
17 *the term ‘recovery zone economic development bond’*
18 *means any build America bond (as defined in section*
19 *54AA(d)) issued before January 1, 2011, as part of*
20 *issue if—*

21 “(A) 100 percent of the available project
22 proceeds (as defined in section 54A) of such issue
23 are to be used for one or more qualified economic
24 development purposes, and

1 “(B) *the issuer designates such bond for*
2 *purposes of this section.*

3 “(2) *LIMITATION ON AMOUNT OF BONDS DES-*
4 *IGNATED.—The maximum aggregate face amount of*
5 *bonds which may be designated by any issuer under*
6 *paragraph (1) shall not exceed the amount of the re-*
7 *covery zone economic development bond limitation al-*
8 *located to such issuer under section 1400U-1.*

9 “(c) *QUALIFIED ECONOMIC DEVELOPMENT PUR-*
10 *POSE.—For purposes of this section, the term ‘qualified eco-*
11 *nomie development purpose’ means expenditures for pur-*
12 *poses of promoting development or other economic activity*
13 *in a recovery zone, including—*

14 “(1) *capital expenditures paid or incurred with*
15 *respect to property located in such zone,*

16 “(2) *expenditures for public infrastructure and*
17 *construction of public facilities, and*

18 “(3) *expenditures for job training and edu-*
19 *cational programs.*

20 **“SEC. 1400U-3. RECOVERY ZONE FACILITY BONDS.**

21 “(a) *IN GENERAL.—For purposes of part IV of sub-*
22 *chapter B (relating to tax exemption requirements for State*
23 *and local bonds), the term ‘exempt facility bond’ includes*
24 *any recovery zone facility bond.*

25 “(b) *RECOVERY ZONE FACILITY BOND.—*

1 “(1) *IN GENERAL.*—For purposes of this section,
2 the term ‘recovery zone facility bond’ means any bond
3 issued as part of an issue if—

4 “(A) 95 percent or more of the net proceeds
5 (as defined in section 150(a)(3)) of such issue
6 are to be used for recovery zone property,

7 “(B) such bond is issued before January 1,
8 2011, and

9 “(C) the issuer designates such bond for
10 purposes of this section.

11 “(2) *LIMITATION ON AMOUNT OF BONDS DES-*
12 *IGNATED.*—The maximum aggregate face amount of
13 bonds which may be designated by any issuer under
14 paragraph (1) shall not exceed the amount of recovery
15 zone facility bond limitation allocated to such issuer
16 under section 1400U-1.

17 “(c) *RECOVERY ZONE PROPERTY.*—For purposes of
18 this section—

19 “(1) *IN GENERAL.*—The term ‘recovery zone
20 property’ means any property to which section 168
21 applies (or would apply but for section 179) if—

22 “(A) such property was acquired by the tax-
23 payer by purchase (as defined in section
24 179(d)(2)) after the date on which the designa-
25 tion of the recovery zone took effect,

1 “(B) *the original use of which in the recov-*
2 *ery zone commences with the taxpayer, and*

3 “(C) *substantially all of the use of which is*
4 *in the recovery zone and is in the active conduct*
5 *of a qualified business by the taxpayer in such*
6 *zone.*

7 “(2) *QUALIFIED BUSINESS.—The term ‘qualified*
8 *business’ means any trade or business except that—*

9 “(A) *the rental to others of real property lo-*
10 *cated in a recovery zone shall be treated as a*
11 *qualified business only if the property is not res-*
12 *idential rental property (as defined in section*
13 *168(e)(2)), and*

14 “(B) *such term shall not include any trade*
15 *or business consisting of the operation of any fa-*
16 *cility described in section 144(c)(6)(B).*

17 “(3) *SPECIAL RULES FOR SUBSTANTIAL RENOVA-*
18 *TIONS AND SALE-LEASEBACK.—Rules similar to the*
19 *rules of subsections (a)(2) and (b) of section 1397D*
20 *shall apply for purposes of this subsection.*

21 “(d) *NONAPPLICATION OF CERTAIN RULES.—Sections*
22 *146 (relating to volume cap) and 147(d) (relating to acqui-*
23 *sition of existing property not permitted) shall not apply*
24 *to any recovery zone facility bond.”.*

1 (b) *CLERICAL AMENDMENT.*—*The table of parts for*
2 *subchapter Y of chapter 1 of such Code is amended by add-*
3 *ing at the end the following new item:*

 “PART III. RECOVERY ZONE BONDS.”.

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
5 *section shall apply to obligations issued after the date of*
6 *the enactment of this Act.*

7 **SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.**

8 (a) *IN GENERAL.*—*Section 7871 is amended by adding*
9 *at the end the following new subsection:*

10 “(f) *TRIBAL ECONOMIC DEVELOPMENT BONDS.*—

11 “(1) *ALLOCATION OF LIMITATION.*—

12 “(A) *IN GENERAL.*—*The Secretary shall al-*
13 *locate the national tribal economic development*
14 *bond limitation among the Indian tribal govern-*
15 *ments in such manner as the Secretary, in con-*
16 *sultation with the Secretary of the Interior, de-*
17 *termines appropriate.*

18 “(B) *NATIONAL LIMITATION.*—*There is a*
19 *national tribal economic development bond limi-*
20 *tation of \$2,000,000,000.*

21 “(2) *BONDS TREATED AS EXEMPT FROM TAX.*—

22 *In the case of a tribal economic development bond—*

23 “(A) *notwithstanding subsection (c), such*
24 *bond shall be treated for purposes of this title in*

1 *the same manner as if such bond were issued by*
2 *a State,*

3 “(B) *the Indian tribal government issuing*
4 *such bond and any instrumentality of such In-*
5 *Indian tribal government shall be treated as a*
6 *State for purposes of section 141, and*

7 “(C) *section 146 shall not apply.*

8 “(3) *TRIBAL ECONOMIC DEVELOPMENT BOND.—*

9 “(A) *IN GENERAL.—For purposes of this*
10 *section, the term ‘tribal economic development*
11 *bond’ means any bond issued by an Indian trib-*
12 *al government—*

13 “(i) *the interest on which would be ex-*
14 *empt from tax under section 103 if issued*
15 *by a State or local government, and*

16 “(ii) *which is designated by the Indian*
17 *tribal government as a tribal economic de-*
18 *velopment bond for purposes of this sub-*
19 *section.*

20 “(B) *EXCEPTIONS.—The term tribal eco-*
21 *nomical development bond shall not include any*
22 *bond issued as part of an issue if any portion*
23 *of the proceeds of such issue are used to fi-*
24 *nance—*

1 “(i) any portion of a building in
2 which class II or class III gaming (as de-
3 fined in section 4 of the Indian Gaming
4 Regulatory Act) is conducted or housed or
5 any other property actually used in the con-
6 duct of such gaming, or

7 “(ii) any facility located outside the
8 Indian reservation (as defined in section
9 168(j)(6)).

10 “(C) *LIMITATION ON AMOUNT OF BONDS*
11 *DESIGNATED.—The maximum aggregate face*
12 *amount of bonds which may be designated by*
13 *any Indian tribal government under subpara-*
14 *graph (A) shall not exceed the amount of na-*
15 *tional tribal economic development bond limita-*
16 *tion allocated to such government under para-*
17 *graph (1).”.*

18 (b) *STUDY.—The Secretary of the Treasury, or the Sec-*
19 *retary’s delegate, shall conduct a study of the effects of the*
20 *amendment made by subsection (a). Not later than 1 year*
21 *after the date of the enactment of this Act, the Secretary*
22 *of the Treasury, or the Secretary’s delegate, shall report to*
23 *Congress on the results of the study conducted under this*
24 *paragraph, including the Secretary’s recommendations re-*
25 *garding such amendment.*

1 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall apply to obligations issued after the date*
3 *of the enactment of this Act.*

4 **SEC. 1403. MODIFICATIONS TO NEW MARKETS TAX CREDIT.**

5 (a) *INCREASE IN NATIONAL LIMITATION.*—

6 (1) *IN GENERAL.*—*Section 45D(f)(1) is amend-*
7 *ed—*

8 (A) *by striking “and” at the end of sub-*
9 *paragraph (C),*

10 (B) *by striking “, 2007, 2008, and 2009.”*
11 *in subparagraph (D), and inserting “and*
12 *2007,” and*

13 (C) *by adding at the end the following new*
14 *subparagraphs:*

15 (E) *\$5,000,000,000 for 2008, and*

16 (F) *\$5,000,000,000 for 2009.”.*

17 (2) *SPECIAL RULE FOR ALLOCATION OF IN-*
18 *CREASED 2008 LIMITATION.*—*The amount of the in-*
19 *crease in the new markets tax credit limitation for*
20 *calendar year 2008 by reason of the amendments*
21 *made by subsection (a) shall be allocated in accord-*
22 *ance with section 45D(f)(2) of the Internal Revenue*
23 *Code of 1986 to qualified community development en-*
24 *tities (as defined in section 45D(c) of such Code)*
25 *which—*

1 (A) submitted an allocation application
2 with respect to calendar year 2008, and

3 (B)(i) did not receive an allocation for such
4 calendar year, or

5 (ii) received an allocation for such calendar
6 year in an amount less than the amount re-
7 quested in the allocation application.

8 (b) *ALTERNATIVE MINIMUM TAX RELIEF.*—

9 (1) *IN GENERAL.*—Section 38(c)(4)(B) is amend-
10 ed by redesignating clauses (v) through (viii) as
11 clauses (vi) through (ix), respectively, and by insert-
12 ing after clause (iv) the following new clause:

13 “(v) the credit determined under sec-
14 tion 45D to the extent that such credit is at-
15 tributable to a qualified equity investment
16 which is designated as such under section
17 45D(b)(1)(C) pursuant to an allocation of
18 the new markets tax credit limitation for
19 calendar year 2009.”.

20 (2) *EFFECTIVE DATE.*—The amendments made
21 by this subsection shall apply to credits determined
22 under section 45D of the Internal Revenue Code of
23 1986 in taxable years ending after the date of the en-
24 actment of this Act, and to carrybacks of such credits.

1 **Subtitle F—Infrastructure**
2 **Financing Tools**

3 **PART I—IMPROVED MARKETABILITY FOR TAX-**
4 **EXEMPT BONDS**

5 **SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-**
6 **EXEMPT INTEREST EXPENSE OF FINANCIAL**
7 **INSTITUTIONS.**

8 (a) *IN GENERAL.*—Subsection (b) of section 265 is
9 amended by adding at the end the following new paragraph:

10 “(7) *DE MINIMIS EXCEPTION FOR BONDS ISSUED*
11 *DURING 2009 OR 2010.*—

12 “(A) *IN GENERAL.*—In applying paragraph
13 (2)(A), there shall not be taken into account tax-
14 exempt obligations issued during 2009 or 2010.

15 “(B) *LIMITATION.*—The amount of tax-ex-
16 exempt obligations not taken into account by rea-
17 son of subparagraph (A) shall not exceed 2 per-
18 cent of the amount determined under paragraph
19 (2)(B).

20 “(C) *REFUNDINGS.*—For purposes of this
21 paragraph, a refunding bond (whether a current
22 or advance refunding) shall be treated as issued
23 on the date of the issuance of the refunded bond
24 (or in the case of a series of refundings, the
25 original bond).”.

1 **(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.**—*Clause (iv) of section 291(e)(1)(B) is*
 2 *amended by adding at the end the following: “That portion*
 3 *of any obligation not taken into account under paragraph*
 4 *(2)(A) of section 265(b) by reason of paragraph (7) of such*
 5 *section shall be treated for purposes of this section as having*
 6 *been acquired on August 7, 1986.”.*

8 **(c) EFFECTIVE DATE.**—*The amendments made by this*
 9 *section shall apply to obligations issued after December 31,*
 10 *2008.*

11 **SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO**
 12 **TAX-EXEMPT INTEREST EXPENSE ALLOCA-**
 13 **TION RULES FOR FINANCIAL INSTITUTIONS.**

14 **(a) IN GENERAL.**—*Paragraph (3) of section 265(b)*
 15 *(relating to exception for certain tax-exempt obligations) is*
 16 *amended by adding at the end the following new subpara-*
 17 *graph:*

18 **“(G) SPECIAL RULES FOR OBLIGATIONS**
 19 **ISSUED DURING 2009 AND 2010.**—

20 **“(i) INCREASE IN LIMITATION.**—*In the*
 21 *case of obligations issued during 2009 or*
 22 *2010, subparagraphs (C)(i), (D)(i), and*
 23 *(D)(iii)(II) shall each be applied by sub-*
 24 *stituting ‘\$30,000,000’ for ‘\$10,000,000’.*

1 “(ii) *QUALIFIED 501(C)(3) BONDS*
2 *TREATED AS ISSUED BY EXEMPT ORGANIZA-*
3 *TION.—In the case of a qualified 501(c)(3)*
4 *bond (as defined in section 145) issued dur-*
5 *ing 2009 or 2010, this paragraph shall be*
6 *applied by treating the 501(c)(3) organiza-*
7 *tion for whose benefit such bond was issued*
8 *as the issuer.*

9 “(iii) *SPECIAL RULE FOR QUALIFIED*
10 *FINANCINGS.—In the case of a qualified fi-*
11 *nancing issue issued during 2009 or 2010—*

12 “(I) *subparagraph (F) shall not*
13 *apply, and*

14 “(II) *any obligation issued as a*
15 *part of such issue shall be treated as a*
16 *qualified tax-exempt obligation if the*
17 *requirements of this paragraph are met*
18 *with respect to each qualified portion*
19 *of the issue (determined by treating*
20 *each qualified portion as a separate*
21 *issue which is issued by the qualified*
22 *borrower with respect to which such*
23 *portion relates).*

24 “(iv) *QUALIFIED FINANCING ISSUE.—*
25 *For purposes of this subparagraph, the term*

1 *‘qualified financing issue’ means any com-*
2 *posite, pooled, or other conduit financing*
3 *issue the proceeds of which are used directly*
4 *or indirectly to make or finance loans to 1*
5 *or more ultimate borrowers each of whom is*
6 *a qualified borrower.*

7 “(v) *QUALIFIED PORTION.*—*For pur-*
8 *poses of this subparagraph, the term ‘quali-*
9 *fied portion’ means that portion of the pro-*
10 *ceeds which are used with respect to each*
11 *qualified borrower under the issue.*

12 “(vi) *QUALIFIED BORROWER.*—*For*
13 *purposes of this subparagraph, the term*
14 *‘qualified borrower’ means a borrower*
15 *which is a State or political subdivision*
16 *thereof or an organization described in sec-*
17 *tion 501(c)(3) and exempt from taxation*
18 *under section 501(a).”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
20 *section shall apply to obligations issued after December 31,*
21 *2008.*

1 **SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE**
2 **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**
3 **BONDS.**

4 *(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED*
5 *DURING 2009 AND 2010 NOT TREATED AS TAX PREF-*
6 *ERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is*
7 *amended by adding at the end a new clause:*

8 *“(vi) EXCEPTION FOR BONDS ISSUED*
9 *IN 2009 AND 2010.—For purposes of clause*
10 *(i), the term ‘private activity bond’ shall*
11 *not include any bond issued after December*
12 *31, 2008, and before January 1, 2011. For*
13 *purposes of the preceding sentence, a re-*
14 *funding bond (whether a current or advance*
15 *refunding) shall be treated as issued on the*
16 *date of the issuance of the refunded bond (or*
17 *in the case of a series of refundings, the*
18 *original bond).”.*

19 *(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARN-*
20 *INGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DUR-*
21 *ING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4)*
22 *is amended by adding at the end the following new clause:*

23 *“(iv) TAX EXEMPT INTEREST ON*
24 *BONDS ISSUED IN 2009 AND 2010.—Clause (i)*
25 *shall not apply in the case of any interest*
26 *on a bond issued after December 31, 2008,*

1 **PART II—DELAY IN APPLICATION OF WITH-**
2 **HOLDING TAX ON GOVERNMENT CONTRAC-**
3 **TORS**

4 **SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX**
5 **ON GOVERNMENT CONTRACTORS.**

6 *Subsection (b) of section 511 of the Tax Increase Pre-*
7 *vention and Reconciliation Act of 2005 is amended by strik-*
8 *ing “December 31, 2010” and inserting “December 31,*
9 *2011”.*

10 **PART III—TAX CREDIT BONDS FOR SCHOOLS**

11 **SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

12 *(a) IN GENERAL.—Subpart I of part IV of subchapter*
13 *A of chapter 1 is amended by adding at the end the fol-*
14 *lowing new section:*

15 **“SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

16 *“(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For*
17 *purposes of this subchapter, the term ‘qualified school con-*
18 *struction bond’ means any bond issued as part of an issue*
19 *if—*

20 *“(1) 100 percent of the available project proceeds*
21 *of such issue are to be used for the construction, reha-*
22 *bilitation, or repair of a public school facility or for*
23 *the acquisition of land on which such a facility is to*
24 *be constructed with part of the proceeds of such issue,*

1 “(2) *the bond is issued by a State or local gov-*
2 *ernment within the jurisdiction of which such school*
3 *is located, and*

4 “(3) *the issuer designates such bond for purposes*
5 *of this section.*

6 “(b) *LIMITATION ON AMOUNT OF BONDS DES-*
7 *IGNATED.—The maximum aggregate face amount of bonds*
8 *issued during any calendar year which may be designated*
9 *under subsection (a) by any issuer shall not exceed the limi-*
10 *tation amount allocated under subsection (d) for such cal-*
11 *endar year to such issuer.*

12 “(c) *NATIONAL LIMITATION ON AMOUNT OF BONDS*
13 *DESIGNATED.—There is a national qualified school con-*
14 *struction bond limitation for each calendar year. Such limi-*
15 *tation is—*

16 “(1) *\$5,000,000,000 for 2009,*

17 “(2) *\$5,000,000,000 for 2010, and*

18 “(3) *except as provided in subsection (e), zero*
19 *after 2010.*

20 “(d) *LIMITATION ALLOCATED AMONG STATES.—*

21 “(1) *IN GENERAL.—The limitation applicable*
22 *under subsection (c) for any calendar year shall be al-*
23 *located by the Secretary among the States in propor-*
24 *tion to the respective numbers of children in each*
25 *State who have attained age 5 but not age 18 for the*

1 *most recent fiscal year ending before such calendar*
2 *year. The limitation amount allocated to a State*
3 *under the preceding sentence shall be allocated by the*
4 *State to issuers within such State.*

5 “(2) *MINIMUM ALLOCATIONS TO STATES.*—

6 “(A) *IN GENERAL.*—*The Secretary shall ad-*
7 *just the allocations under this subsection for any*
8 *calendar year for each State to the extent nec-*
9 *essary to ensure that the amount allocated to*
10 *such State under this subsection for such year is*
11 *not less than an amount equal to such State’s*
12 *adjusted minimum percentage of the amount to*
13 *be allocated under paragraph (1) for the cal-*
14 *endar year.*

15 “(B) *MINIMUM PERCENTAGE.*—*A State’s*
16 *minimum percentage for any calendar year is*
17 *equal to the product of—*

18 “(i) *the quotient of—*

19 “(I) *the amount the State is eligi-*
20 *ble to receive under section 1124(d) of*
21 *the Elementary and Secondary Edu-*
22 *cation Act of 1965 (20 U.S.C. 6333(d))*
23 *for the most recent fiscal year ending*
24 *before such calendar year, divided by*

1 “(II) *the amount all States are el-*
2 *igible to receive under section 1124 of*
3 *such Act (20 U.S.C. 6333) for such fis-*
4 *cal year, multiplied by*
5 “(ii) 100.

6 “(3) *ALLOCATIONS TO CERTAIN POSSESSIONS.—*
7 *The amount to be allocated under paragraph (1) to*
8 *any possession of the United States other than Puerto*
9 *Rico shall be the amount which would have been allo-*
10 *cated if all allocations under paragraph (1) were*
11 *made on the basis of respective populations of indi-*
12 *viduals below the poverty line (as defined by the Of-*
13 *fice of Management and Budget). In making other al-*
14 *locations, the amount to be allocated under paragraph*
15 *(1) shall be reduced by the aggregate amount allocated*
16 *under this paragraph to possessions of the United*
17 *States.*

18 “(4) *ALLOCATIONS FOR INDIAN SCHOOLS.—In*
19 *addition to the amounts otherwise allocated under*
20 *this subsection, \$200,000,000 for calendar year 2009,*
21 *and \$200,000,000 for calendar year 2010, shall be al-*
22 *located by the Secretary of the Interior for purposes*
23 *of the construction, rehabilitation, and repair of*
24 *schools funded by the Bureau of Indian Affairs. In the*
25 *case of amounts allocated under the preceding sen-*

1 *tence, Indian tribal governments (as defined in sec-*
2 *tion 7701(a)(40)) shall be treated as qualified issuers*
3 *for purposes of this subchapter.*

4 *“(e) CARRYOVER OF UNUSED LIMITATION.—If for any*
5 *calendar year—*

6 *“(1) the amount allocated under subsection (d) to*
7 *any State, exceeds*

8 *“(2) the amount of bonds issued during such*
9 *year which are designated under subsection (a) pur-*
10 *suant to such allocation,*

11 *the limitation amount under such subsection for such State*
12 *for the following calendar year shall be increased by the*
13 *amount of such excess. A similar rule shall apply to the*
14 *amounts allocated under subsection (d)(4).”.*

15 *(b) CONFORMING AMENDMENTS.—*

16 *(1) Paragraph (1) of section 54A(d) is amended*
17 *by striking “or” at the end of subparagraph (C), by*
18 *inserting “or” at the end of subparagraph (D), and*
19 *by inserting after subparagraph (D) the following*
20 *new subparagraph:*

21 *“(E) a qualified school construction bond,”.*

22 *(2) Subparagraph (C) of section 54A(d)(2) is*
23 *amended by striking “and” at the end of clause (iii),*
24 *by striking the period at the end of clause (iv) and*

1 inserting “, and”, and by adding at the end the fol-
2 lowing new clause:

3 “(v) in the case of a qualified school
4 construction bond, a purpose specified in
5 section 54F(a)(1).”.

6 (3) The table of sections for subpart I of part IV
7 of subchapter A of chapter 1 is amended by adding
8 at the end the following new item:

“Sec. 54F. Qualified school construction bonds.”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to obligations issued after the date of
11 the enactment of this Act.

12 **SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED**
13 **ZONE ACADEMY BONDS.**

14 (a) *IN GENERAL.*—Section 54E(c)(1) is amended by
15 striking “and 2009” and inserting “and \$1,400,000,000 for
16 2009 and 2010”.

17 (b) *EFFECTIVE DATE.*—The amendment made by this
18 section shall apply to obligations issued after December 31,
19 2008.

20 **PART IV—BUILD AMERICA BONDS**

21 **SEC. 1531. BUILD AMERICA BONDS.**

22 (a) *IN GENERAL.*—Part IV of subchapter A of chapter
23 1 is amended by adding at the end the following new sub-
24 part:

1 **“Subpart J—Build America Bonds**

“Sec. 54AA. Build America bonds.

2 **“SEC. 54AA. BUILD AMERICA BONDS.**

3 “(a) *IN GENERAL.*—If a taxpayer holds a build Amer-
4 ica bond on one or more interest payment dates of the bond
5 during any taxable year, there shall be allowed as a credit
6 against the tax imposed by this chapter for the taxable year
7 an amount equal to the sum of the credits determined under
8 subsection (b) with respect to such dates.

9 “(b) *AMOUNT OF CREDIT.*—The amount of the credit
10 determined under this subsection with respect to any inter-
11 est payment date for a build America bond is 35 percent
12 of the amount of interest payable by the issuer with respect
13 to such date (40 percent in the case of an issuer described
14 in section 148(f)(4)(D) (determined without regard to
15 clauses (v), (vi), and (vii) thereof and by substituting
16 ‘\$30,000,000’ for ‘\$5,000,000’ each place it appears there-
17 in).

18 “(c) *LIMITATION BASED ON AMOUNT OF TAX.*—

19 “(1) *IN GENERAL.*—The credit allowed under
20 subsection (a) for any taxable year shall not exceed
21 the excess of—

22 “(A) the sum of the regular tax liability (as
23 defined in section 26(b)) plus the tax imposed by
24 section 55, over

1 “(B) *the sum of the credits allowable under*
2 *this part (other than subpart C and this sub-*
3 *part).*

4 “(2) *CARRYOVER OF UNUSED CREDIT.—If the*
5 *credit allowable under subsection (a) exceeds the limi-*
6 *tation imposed by paragraph (1) for such taxable*
7 *year, such excess shall be carried to the succeeding*
8 *taxable year and added to the credit allowable under*
9 *subsection (a) for such taxable year (determined be-*
10 *fore the application of paragraph (1) for such suc-*
11 *ceeding taxable year).*

12 “(d) *BUILD AMERICA BOND.—*

13 “(1) *IN GENERAL.—For purposes of this section,*
14 *the term ‘build America bond’ means any obligation*
15 *(other than a private activity bond) if—*

16 “(A) *the interest on such obligation would*
17 *(but for this section) be excludable from gross in-*
18 *come under section 103,*

19 “(B) *such obligation is issued before Janu-*
20 *ary 1, 2011, and*

21 “(C) *the issuer makes an irrevocable elec-*
22 *tion to have this section apply.*

23 “(2) *APPLICABLE RULES.—For purposes of ap-*
24 *plying paragraph (1)—*

1 “(A) for purposes of section 149(b), a build
2 America bond shall not be treated as federally
3 guaranteed by reason of the credit allowed under
4 subsection (a) or section 6431,

5 “(B) for purposes of section 148, the yield
6 on a build America bond shall be determined
7 without regard to the credit allowed under sub-
8 section (a), and

9 “(C) a bond shall not be treated as a build
10 America bond if the issue price has more than
11 a de minimis amount (determined under rules
12 similar to the rules of section 1273(a)(3)) of pre-
13 mium over the stated principal amount of the
14 bond.

15 “(e) *INTEREST PAYMENT DATE.*—For purposes of this
16 section, the term ‘interest payment date’ means any date
17 on which the holder of record of the build America bond
18 is entitled to a payment of interest under such bond.

19 “(f) *SPECIAL RULES.*—

20 “(1) *INTEREST ON BUILD AMERICA BONDS IN-*
21 *CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME*
22 *TAX PURPOSES.*—For purposes of this title, interest
23 on any build America bond shall be includible in
24 gross income.

1 “(2) *APPLICATION OF CERTAIN RULES.*—Rules
2 *similar to the rules of subsections (f), (g), (h), and (i)*
3 *of section 54A shall apply for purposes of the credit*
4 *allowed under subsection (a).*

5 “(g) *SPECIAL RULE FOR QUALIFIED BONDS ISSUED*
6 *BEFORE 2011.*—*In the case of a qualified bond issued before*
7 *January 1, 2011—*

8 “(1) *ISSUER ALLOWED REFUNDABLE CREDIT.*—
9 *In lieu of any credit allowed under this section with*
10 *respect to such bond, the issuer of such bond shall be*
11 *allowed a credit as provided in section 6431.*

12 “(2) *QUALIFIED BOND.*—*For purposes of this*
13 *subsection, the term ‘qualified bond’ means any build*
14 *America bond issued as part of an issue if—*

15 “(A) *100 percent of the available project*
16 *proceeds (as defined in section 54A) of such issue*
17 *are to be used for capital expenditures, and*

18 “(B) *the issuer makes an irrevocable elec-*
19 *tion to have this subsection apply.*

20 “(h) *REGULATIONS.*—*The Secretary may prescribe*
21 *such regulations and other guidance as may be necessary*
22 *or appropriate to carry out this section and section 6431.”.*

23 “(b) *CREDIT FOR QUALIFIED BONDS ISSUED BEFORE*
24 *2011.*—*Subchapter B of chapter 65 is amended by adding*
25 *at the end the following new section:*

1 **“SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO**
2 **ISSUER.**

3 *“(a) IN GENERAL.—In the case of a qualified bond*
4 *issued before January 1, 2011, the issuer of such bond shall*
5 *be allowed a credit with respect to each interest payment*
6 *under such bond which shall be payable by the Secretary*
7 *as provided in subsection (b).*

8 *“(b) PAYMENT OF CREDIT.—The Secretary shall pay*
9 *(contemporaneously with each interest payment date under*
10 *such bond) to the issuer of such bond (or to any person*
11 *who makes such interest payments on behalf of the issuer)*
12 *35 percent of the interest payable under such bond on such*
13 *date (40 percent in the case of an issuer described in section*
14 *148(f)(4)(D) (determined without regard to clauses (v), (vi),*
15 *and (vii) thereof and by substituting ‘\$30,000,000’ for*
16 *‘\$5,000,000’ each place it appears therein).*

17 *“(c) APPLICATION OF ARBITRAGE RULES.—For pur-*
18 *poses of section 148, the yield on a qualified bond shall be*
19 *reduced by the credit allowed under this section.*

20 *“(d) INTEREST PAYMENT DATE.—For purposes of this*
21 *subsection, the term ‘interest payment date’ means each*
22 *date on which interest is payable by the issuer under the*
23 *terms of the bond.*

24 *“(e) QUALIFIED BOND.—For purposes of this sub-*
25 *section, the term ‘qualified bond’ has the meaning given*
26 *such term in section 54AA(g).”.*

1 (c) *CONFORMING AMENDMENTS.*—

2 (1) *Section 1324(b)(2) of title 31, United States*
3 *Code, is amended by striking “or 6428” and inserting*
4 *“6428, or 6431.”*

5 (2) *Section 54A(c)(1)(B) is amended by striking*
6 *“subpart C” and inserting “subparts C and J”.*

7 (3) *Sections 54(c)(2), 1397E(c)(2), and*
8 *1400N(l)(3)(B) are each amended by striking “and I”*
9 *and inserting “, I, and J”.*

10 (4) *Section 6401(b)(1) is amended by striking*
11 *“and I” and inserting “I, and J”.*

12 (5) *The table of subparts for part IV of sub-*
13 *chapter A of chapter 1 is amended by adding at the*
14 *end the following new item:*

“Subpart J. Build America bonds.”.

15 (6) *The table of section for subchapter B of chap-*
16 *ter 65 is amended by adding at the end the following*
17 *new item:*

“Sec. 6431. Credit for qualified bonds allowed to issuer.”.

18 (d) *TRANSITIONAL COORDINATION WITH STATE*
19 *LAW.*—*Except as otherwise provided by a State after the*
20 *date of the enactment of this Act, the interest on any build*
21 *America bond (as defined in section 54AA of the Internal*
22 *Revenue Code of 1986, as added by this section) and the*
23 *amount of any credit determined under such section with*
24 *respect to such bond shall be treated for purposes of the in-*

1 *come tax laws of such State as being exempt from Federal*
2 *income tax.*

3 (e) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to obligations issued after the date of*
5 *the enactment of this Act.*

6 ***Subtitle G—Economic Recovery***
7 ***Payments to Certain Individuals***

8 ***SEC. 1601. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS***
9 ***OF SOCIAL SECURITY, SUPPLEMENTAL SECU-***
10 ***RITY INCOME, RAILROAD RETIREMENT BENE-***
11 ***FITS, AND VETERANS DISABILITY COMPENSA-***
12 ***TION OR PENSION BENEFITS.***

13 (a) *AUTHORITY TO MAKE PAYMENTS.*—

14 (1) *ELIGIBILITY.*—

15 (A) *IN GENERAL.*—*Subject to paragraph*
16 *(5)(B), the Secretary of the Treasury shall make*
17 *a \$300 payment to each individual who, for any*
18 *month during the 3-month period ending with*
19 *the month which ends prior to the month that*
20 *includes the date of the enactment of this Act, is*
21 *entitled to a benefit payment described in clause*
22 *(i), (ii), or (iii) of subparagraph (B) or is eligi-*
23 *ble for a SSI cash benefit described in subpara-*
24 *graph (C).*

1 (B) *BENEFIT PAYMENT DESCRIBED.*—*For*
2 *purposes of subparagraph (A):*

3 (i) *TITLE II BENEFIT.*—*A benefit pay-*
4 *ment described in this clause is a monthly*
5 *insurance benefit payable (without regard*
6 *to sections 202(j)(1) and 223(b) of the So-*
7 *cial Security Act (42 U.S.C. 402(j)(1),*
8 *423(b)) under—*

9 (I) *section 202(a) of such Act (42*
10 *U.S.C. 402(a));*

11 (II) *section 202(b) of such Act (42*
12 *U.S.C. 402(b));*

13 (III) *section 202(c) of such Act*
14 *(42 U.S.C. 402(c));*

15 (IV) *section 202(d)(1)(B)(ii) of*
16 *such Act (42 U.S.C. 402(d)(1)(B)(ii));*

17 (V) *section 202(e) of such Act (42*
18 *U.S.C. 402(e));*

19 (VI) *section 202(f) of such Act (42*
20 *U.S.C. 402(f));*

21 (VII) *section 202(g) of such Act*
22 *(42 U.S.C. 402(g));*

23 (VIII) *section 202(h) of such Act*
24 *(42 U.S.C. 402(h));*

1 *(IX) section 223(a) of such Act*
2 *(42 U.S.C. 423(a));*

3 *(X) section 227 of such Act (42*
4 *U.S.C. 427); or*

5 *(XI) section 228 of such Act (42*
6 *U.S.C. 428).*

7 *(ii) RAILROAD RETIREMENT BEN-*
8 *EFIT.—A benefit payment described in this*
9 *clause is a monthly annuity or pension*
10 *payment payable (without regard to section*
11 *5(a)(ii) of the Railroad Retirement Act of*
12 *1974 (45 U.S.C. 231d(a)(ii)) under—*

13 *(I) section 2(a)(1) of such Act (45*
14 *U.S.C. 231a(a)(1));*

15 *(II) section 2(c) of such Act (45*
16 *U.S.C. 231a(c));*

17 *(III) section 2(d)(1)(i) of such Act*
18 *(45 U.S.C. 231a(d)(1)(i));*

19 *(IV) section 2(d)(1)(ii) of such Act*
20 *(45 U.S.C. 231a(d)(1)(ii));*

21 *(V) section 2(d)(1)(iii)(C) of such*
22 *Act to an adult disabled child (45*
23 *U.S.C. 231a(d)(1)(iii)(C));*

24 *(VI) section 2(d)(1)(iv) of such*
25 *Act (45 U.S.C. 231a(d)(1)(iv));*

1 (VII) section 2(d)(1)(v) of such
2 Act (45 U.S.C. 231a(d)(1)(v)); or

3 (VIII) section 7(b)(2) of such Act
4 (45 U.S.C. 231f(b)(2)) with respect to
5 any of the benefit payments described
6 in clause (i) of this subparagraph.

7 (iii) VETERANS BENEFIT.—A benefit
8 payment described in this clause is a com-
9 pensation or pension payment payable
10 under—

11 (I) section 1110, 1117, 1121,
12 1131, 1141, or 1151 of title 38, United
13 States Code;

14 (II) section 1310, 1312, 1313,
15 1315, 1316, or 1318 of title 38, United
16 States Code;

17 (III) section 1513, 1521, 1533,
18 1536, 1537, 1541, 1542, or 1562 of
19 title 38, United States Code; or

20 (IV) section 1805, 1815, or 1821
21 of title 38, United States Code,

22 to a veteran, surviving spouse, child, or
23 parent as described in paragraph (2), (3),
24 (4)(A)(ii), or (5) of section 101, title 38,
25 United States Code, who received that ben-

1 *efit during any month within the 3 month*
2 *period ending with the month which ends*
3 *prior to the month that includes the date of*
4 *the enactment of this Act.*

5 (C) *SSI CASH BENEFIT DESCRIBED.—A*
6 *SSI cash benefit described in this subparagraph*
7 *is a cash benefit payable under section 1611*
8 *(other than under subsection (e)(1)(B) of such*
9 *section) or 1619(a) of the Social Security Act*
10 *(42 U.S.C. 1382, 1382h).*

11 (2) *REQUIREMENT.—A payment shall be made*
12 *under paragraph (1) only to individuals who reside*
13 *in 1 of the 50 States, the District of Columbia, Puerto*
14 *Rico, Guam, the United States Virgin Islands, Amer-*
15 *ican Samoa, or the Northern Mariana Islands. For*
16 *purposes of the preceding sentence, the determination*
17 *of the individual's residence shall be based on the cur-*
18 *rent address of record under a program specified in*
19 *paragraph (1).*

20 (3) *NO DOUBLE PAYMENTS.—An individual shall*
21 *be paid only 1 payment under this section, regardless*
22 *of whether the individual is entitled to, or eligible for,*
23 *more than 1 benefit or cash payment described in*
24 *paragraph (1).*

1 (4) *LIMITATION.*—A payment under this section
2 shall not be made—

3 (A) in the case of an individual entitled to
4 a benefit specified in paragraph (1)(B)(i) or
5 paragraph (1)(B)(ii)(VIII) if, for the most recent
6 month of such individual's entitlement in the 3-
7 month period described in paragraph (1), such
8 individual's benefit under such paragraph was
9 not payable by reason of subsection (x) or (y) of
10 section 202 the Social Security Act (42 U.S.C.
11 402) or section 1129A of such Act (42 U.S.C.
12 1320a-8a);

13 (B) in the case of an individual entitled to
14 a benefit specified in paragraph (1)(B)(iii) if,
15 for the most recent month of such individual's
16 entitlement in the 3 month period described in
17 paragraph (1), such individual's benefit under
18 such paragraph was not payable, or was re-
19 duced, by reason of section 1505, 5313, or 5313B
20 of title 38, United States Code;

21 (C) in the case of an individual entitled to
22 a benefit specified in paragraph (1)(C) if, for
23 such most recent month, such individual's benefit
24 under such paragraph was not payable by rea-
25 son of subsection (e)(1)(A) or (e)(4) of section

1 1611 (42 U.S.C. 1382) or section 1129A of such
2 Act (42 U.S.C. 1320a-8a); or

3 (D) in the case of any individual whose
4 date of death occurs before the date on which the
5 individual is certified under subsection (b) to re-
6 ceive a payment under this section.

7 (5) *TIMING AND MANNER OF PAYMENTS.*—

8 (A) *IN GENERAL.*—The Secretary of the
9 Treasury shall commence making payments
10 under this section at the earliest practicable date
11 but in no event later than 120 days after the
12 date of enactment of this Act. The Secretary of
13 the Treasury may make any payment electroni-
14 cally to an individual in such manner as if such
15 payment was a benefit payment or cash benefit
16 to such individual under the applicable program
17 described in subparagraph (B) or (C) of para-
18 graph (1).

19 (B) *DEADLINE.*—No payments shall be
20 made under this section after December 31, 2010,
21 regardless of any determinations of entitlement
22 to, or eligibility for, such payments made after
23 such date.

24 (b) *IDENTIFICATION OF RECIPIENTS.*—The Commis-
25 sioner of Social Security, the Railroad Retirement Board,

1 *and the Secretary of Veterans Affairs shall certify the indi-*
2 *viduals entitled to receive payments under this section and*
3 *provide the Secretary of the Treasury with the information*
4 *needed to disburse such payments. A certification of an in-*
5 *dividual shall be unaffected by any subsequent determina-*
6 *tion or redetermination of the individual's entitlement to,*
7 *or eligibility for, a benefit specified in subparagraph (B)*
8 *or (C) of subsection (a)(1).*

9 *(c) TREATMENT OF PAYMENTS.—*

10 *(1) PAYMENT TO BE DISREGARDED FOR PUR-*
11 *POSES OF ALL FEDERAL AND FEDERALLY ASSISTED*
12 *PROGRAMS.—A payment under subsection (a) shall*
13 *not be regarded as income and shall not be regarded*
14 *as a resource for the month of receipt and the fol-*
15 *lowing 9 months, for purposes of determining the eli-*
16 *gibility of the recipient (or the recipient's spouse or*
17 *family) for benefits or assistance, or the amount or*
18 *extent of benefits or assistance, under any Federal*
19 *program or under any State or local program fi-*
20 *nanced in whole or in part with Federal funds.*

21 *(2) PAYMENT NOT CONSIDERED INCOME FOR*
22 *PURPOSES OF TAXATION.—A payment under sub-*
23 *section (a) shall not be considered as gross income for*
24 *purposes of the Internal Revenue Code of 1986.*

1 (3) *PAYMENTS PROTECTED FROM ASSIGNMENT.*—

2 *The provisions of sections 207 and 1631(d)(1) of the*
3 *Social Security Act (42 U.S.C. 407, 1383(d)(1)), sec-*
4 *tion 14(a) of the Railroad Retirement Act of 1974 (45*
5 *U.S.C. 231m(a)), and section 5301 of title 38, United*
6 *States Code, shall apply to any payment made under*
7 *subsection (a) as if such payment was a benefit pay-*
8 *ment or cash benefit to such individual under the ap-*
9 *plicable program described in subparagraph (B) or*
10 *(C) of subsection (a)(1).*

11 (4) *PAYMENTS SUBJECT TO OFFSET.*—*Notwith-*
12 *standing paragraph (3), for purposes of section 3716*
13 *of title 31, United States Code, any payment made*
14 *under this section shall not be considered a benefit*
15 *payment or cash benefit made under the applicable*
16 *program described in subparagraph (B) or (C) of sub-*
17 *section (a)(1) and all amounts paid shall be subject*
18 *to offset to collect delinquent debts.*

19 (d) *PAYMENT TO REPRESENTATIVE PAYEES AND FI-*
20 *DUCLARIES.*—

21 (1) *IN GENERAL.*—*In any case in which an indi-*
22 *vidual who is entitled to a payment under subsection*
23 *(a) and whose benefit payment or cash benefit de-*
24 *scribed in paragraph (1) of that subsection is paid to*
25 *a representative payee or fiduciary, the payment*

1 *under subsection (a) shall be made to the individual's*
2 *representative payee or fiduciary and the entire pay-*
3 *ment shall be used only for the benefit of the indi-*
4 *vidual who is entitled to the payment.*

5 (2) *APPLICABILITY.—*

6 (A) *PAYMENT ON THE BASIS OF A TITLE II*
7 *OR SSI BENEFIT.—Section 1129(a)(3) of the So-*
8 *cial Security Act (42 U.S.C. 1320a–8(a)(3))*
9 *shall apply to any payment made on the basis*
10 *of an entitlement to a benefit specified in para-*
11 *graph (1)(B)(i) or (1)(C) of subsection (a) in the*
12 *same manner as such section applies to a pay-*
13 *ment under title II or XVI of such Act.*

14 (B) *PAYMENT ON THE BASIS OF A RAIL-*
15 *ROAD RETIREMENT BENEFIT.—Section 13 of the*
16 *Railroad Retirement Act (45 U.S.C. 231l) shall*
17 *apply to any payment made on the basis of an*
18 *entitlement to a benefit specified in paragraph*
19 *(1)(B)(ii) of subsection (a) in the same manner*
20 *as such section applies to a payment under such*
21 *Act.*

22 (C) *PAYMENT ON THE BASIS OF A VET-*
23 *ERANS BENEFIT.—Sections 5502, 6106, and*
24 *6108 of title 38, United States Code, shall apply*
25 *to any payment made on the basis of an entitle-*

1 *ment to a benefit specified in paragraph*
2 *(1)(B)(iii) of subsection (a) in the same manner*
3 *as those sections apply to a payment under that*
4 *title.*

5 *(e) APPROPRIATION.—Out of any sums in the Treas-*
6 *ury of the United States not otherwise appropriated, the*
7 *following sums are appropriated for the period of fiscal*
8 *years 2009 and 2010 to carry out this section:*

9 *(1) For the Secretary of the Treasury—*

10 *(A) such sums as may be necessary to make*
11 *payments under this section; and*

12 *(B) \$57,000,000 for administrative costs in-*
13 *curring in carrying out this section and section*
14 *36A of the Internal Revenue Code of 1986 (as*
15 *added by this Act).*

16 *(2) For the Commissioner of Social Security,*
17 *\$90,000,000 for the Social Security Administration's*
18 *Limitation on Administrative Expenses for costs in-*
19 *curring in carrying out this section.*

20 *(3) For the Railroad Retirement Board,*
21 *\$1,000,000 for administrative costs incurred in car-*
22 *rying out this section.*

23 *(4) For the Secretary of Veterans Affairs,*
24 *\$100,000 for the Information Systems Technology ac-*
25 *count and \$7,100,000 for the General Operating Ex-*

1 *penses account for administrative costs incurred in*
2 *carrying out this section.*

3 ***Subtitle H—Trade Adjustment***
4 ***Assistance***

5 ***SEC. 1701. TEMPORARY EXTENSION OF TRADE ADJUST-***
6 ***MENT ASSISTANCE PROGRAM.***

7 *(a) ASSISTANCE FOR WORKERS.—*

8 *(1) IN GENERAL.—Section 245(a) of the Trade*
9 *Act of 1974 (19 U.S.C. 2317(a)) is amended by strik-*
10 *ing “December 31, 2007” and inserting “December*
11 *31, 2010”.*

12 *(2) ALTERNATIVE TRADE ADJUSTMENT ASSIST-*
13 *ANCE.—Section 246(b)(1) of the Trade Act of 1974*
14 *(19 U.S.C. 2318(b)(1)) is amended by striking “5*
15 *years” and inserting “7 years”.*

16 *(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the*
17 *Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by strik-*
18 *ing “2007, and \$4,000,000 for the 3-month period begin-*
19 *ning on October 1, 2007,” and inserting “December 31,*
20 *2010”.*

21 *(c) ASSISTANCE FOR FARMERS.—Section 298(a) of the*
22 *Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by*
23 *striking “through 2007” and all that follows through the*
24 *end period and inserting “through December 31, 2010 to*
25 *carry out the purposes of this chapter.”.*

1 (d) *EXTENSION OF TERMINATION DATES.*—Section
2 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is
3 amended by striking “December 31, 2007” each place it ap-
4 pears and inserting “December 31, 2010”.

5 (e) *SENSE OF THE SENATE REGARDING ADJUSTMENT*
6 *ASSISTANCE FOR COMMUNITIES.*—It is the sense of the Sen-
7 ate that title II of the Trade Act of 1974 (19 U.S.C. 2271
8 et seq.) should be amended to assist any community im-
9 pacted by trade with economic adjustment through—

10 (1) the coordination of efforts by State and local
11 governments and economic organizations;

12 (2) the coordination of Federal, State, and local
13 resources;

14 (3) the creation of community-based development
15 strategies; and

16 (4) the development and provision of training
17 programs.

18 (f) *EFFECTIVE DATE.*—The amendments made by this
19 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 nor*
10 *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 *essed with respect to imports from countries that are*
17 *not parties to the North American Free Trade Agree-*
18 *ment in an attempt to recoup any payments de-*
19 *scribed 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. 1675c; repealed by subtitle F of title*

1 *VII of the Deficit Reduction Act of 2005 (Public Law 109–*
2 *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 Free*
5 *Trade Agreement; and*

6 *(2) distributed on or after January 1, 2001, and*
7 *before January 1, 2006.*

8 *(c) PAYMENT OF FUNDS COLLECTED OR WITHHELD.—*
9 *Not later than the date that is 60 days after the date of*
10 *the enactment of this Act, the Secretary of Homeland Secu-*
11 *riety 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 Pro-*
17 *tection is withholding as an offset as described in sub-*
18 *section (a)(2).*

19 *(d) LIMITATION.—Nothing in this section shall be con-*
20 *strued to prevent the Secretary of Homeland Security, or*
21 *any other person, from requiring repayment of, or attempt-*
22 *ing to otherwise recoup, any payments described in sub-*
23 *section (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 de-*
11 *finied in section 54C of the Internal Revenue Code of*
12 *1986) issued after the date of the enactment of this*
13 *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 this*
17 *Act,*

18 (3) *any qualified zone academy bond (as defined*
19 *in section 54E of the Internal Revenue Code of 1986)*
20 *issued after the date of the enactment of this Act,*

21 (4) *any qualified school construction bond (as*
22 *defined in section 54F of the Internal Revenue Code*
23 *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 States*
6 *Code, is amended by striking out the dollar limitation con-*
7 *tained 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, the*
12 *credit determined under section 42 of the Internal Revenue*
13 *Code of 1986 for the taxpayer’s first three taxable years be-*
14 *ginning after December 31, 2008, in which credits are al-*
15 *lowable for any non-federally subsidized low-income hous-*
16 *ing project initially placed in service after such date—*

17 (1) *with respect to initial investments made pur-*
18 *suant to a binding agreement by such taxpayer after*
19 *December 31, 2008, and before January 1, 2011, and*

20 (2) *only from allocations of a State housing*
21 *credit ceiling before 2011,*

22 *shall be 200 percent of the amount which would (but for*
23 *this subsection) be so allowable.*

24 (b) *ELIGIBILITY FOR ELECTION.*—*The election under*
25 *subsection (a) shall take effect with respect to the first tax-*

1 able year referred to in such subsection only when all rental
2 requirements pursuant to section 42(g)(1) of the Internal
3 Revenue Code of 1986 have been met with respect to such
4 low-income housing project.

5 (c) *REDUCTION IN AGGREGATE CREDIT TO REFLECT*
6 *ACCELERATED CREDIT.*—The aggregate credit allowable to
7 any taxpayer under section 42 of the Internal Revenue Code
8 of 1986 with respect to any investment for taxable years
9 after the first three taxable years referred to in subsection
10 (a) shall be reduced on a pro rata basis by the amount of
11 the increased credit allowable by reason of subsection (a)
12 with respect to such first three taxable years. The preceding
13 sentence shall not be construed to affect whether any taxable
14 year is part of the credit, compliance, or extended use peri-
15 ods under such section 42.

16 (d) *ELECTION.*—The election under subsection (a)
17 shall be made at the time and in the manner prescribed
18 by the Secretary of the Treasury or the Secretary's delegate,
19 and, once made, shall be irrevocable. In the case of a part-
20 nership, such election shall be made by the partnership.

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 “As-*
 6 *istance for Unemployed Workers and Struggling Families*
 7 *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 110–449;*
2 *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 strik-*
6 *ing “MARCH 31, 2009” and inserting “DECEMBER 31,*
7 *2009”; and*

8 (3) *in subsection (b)(3), by striking “August 27,*
9 *2009” and inserting “May 31, 2010”.*

10 (b) *FINANCING PROVISIONS.—Section 4004 of such Act*
11 *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 funds*
15 *not otherwise appropriated)—*

16 “(1) *to the extended unemployment compensation*
17 *account (as established by section 905 of the Social*
18 *Security Act) such sums as the Secretary of Labor es-*
19 *timates to be necessary to make payments to States*
20 *under this title by reason of the amendments made by*
21 *section 2001(a) of the Assistance for Unemployed*
22 *Workers and Struggling Families Act; and*

23 “(2) *to the employment security administration*
24 *account (as established by section 901 of the Social*
25 *Security Act) such sums as the Secretary of Labor es-*

1 *timates to be necessary for purposes of assisting*
2 *States in meeting administrative costs by reason of*
3 *the amendments referred to in paragraph (1).*

4 *There are appropriated from the general fund of the Treas-*
5 *ury, without fiscal year limitation, the sums referred to in*
6 *the preceding sentence and such sums shall not be required*
7 *to be repaid.”.*

8 **SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION**
9 **BENEFITS.**

10 *(a) FEDERAL-STATE AGREEMENTS.—Any State which*
11 *desires to do so may enter into and participate in an agree-*
12 *ment under this section with the Secretary of Labor (herein-*
13 *after in this section referred to as the “Secretary”). Any*
14 *State which is a party to an agreement under this section*
15 *may, upon providing 30 days’ written notice to the Sec-*
16 *retary, terminate such agreement.*

17 *(b) PROVISIONS OF AGREEMENT.—*

18 *(1) ADDITIONAL COMPENSATION.—Any agree-*
19 *ment under this section shall provide that the State*
20 *agency of the State will make payments of regular*
21 *compensation to individuals in amounts and to the*
22 *extent that they would be determined if the State law*
23 *of the State were applied, with respect to any week*
24 *for which the individual is (disregarding this section)*
25 *otherwise entitled under the State law to receive reg-*

1 ular compensation, as if such State law had been
2 modified in a manner such that the amount of reg-
3 ular compensation (including dependents' allowances)
4 payable for any week shall be equal to the amount de-
5 termined under the State law (before the application
6 of this paragraph) plus an additional \$25.

7 (2) *ALLOWABLE METHODS OF PAYMENT.*—Any
8 additional compensation provided for in accordance
9 with paragraph (1) shall be payable either—

10 (A) as an amount which is paid at the
11 same time and in the same manner as any reg-
12 ular compensation otherwise payable for the
13 week involved; or

14 (B) at the option of the State, by payments
15 which are made separately from, but on the same
16 weekly basis as, any regular compensation other-
17 wise payable.

18 (c) *NONREDUCTION RULE.*—An agreement under this
19 section shall not apply (or shall cease to apply) with respect
20 to a State upon a determination by the Secretary that the
21 method governing the computation of regular compensation
22 under the State law of that State has been modified in a
23 manner such that—

24 (1) the average weekly benefit amount of regular
25 compensation which will be payable during the period

1 of the agreement (determined disregarding any addi-
2 tional amounts attributable to the modification de-
3 scribed in subsection (b)(1)) will be less than

4 (2) the average weekly benefit amount of regular
5 compensation which would otherwise have been pay-
6 able during such period under the State law, as in ef-
7 fect on December 31, 2008.

8 (d) PAYMENTS TO STATES.—

9 (1) IN GENERAL.—

10 (A) FULL REIMBURSEMENT.—There shall be
11 paid to each State which has entered into an
12 agreement under this section an amount equal to
13 100 percent of—

14 (i) the total amount of additional com-
15 pensation (as described in subsection (b)(1))
16 paid to individuals by the State pursuant
17 to such agreement; and

18 (ii) any additional administrative ex-
19 penses incurred by the State by reason of
20 such agreement (as determined by the Sec-
21 retary).

22 (B) TERMS OF PAYMENTS.—Sums payable
23 to any State by reason of such State's having an
24 agreement under this section shall be payable, ei-
25 ther in advance or by way of reimbursement (as

1 *determined by the Secretary), in such amounts*
2 *as the Secretary estimates the State will be enti-*
3 *tled to receive under this section for each cal-*
4 *endar month, reduced or increased, as the case*
5 *may be, by any amount by which the Secretary*
6 *finds that his estimates for any prior calendar*
7 *month were greater or less than the amounts*
8 *which should have been paid to the State. Such*
9 *estimates may be made on the basis of such sta-*
10 *tistical, sampling, or other method as may be*
11 *agreed upon by the Secretary and the State*
12 *agency of the State involved.*

13 (2) *CERTIFICATIONS.*—*The Secretary shall from*
14 *time to time certify to the Secretary of the Treasury*
15 *for payment to each State the sums payable to such*
16 *State under this section.*

17 (3) *APPROPRIATION.*—*There are appropriated*
18 *from the general fund of the Treasury, without fiscal*
19 *year limitation, such sums as may be necessary for*
20 *purposes of this subsection.*

21 (e) *APPLICABILITY.*—

22 (1) *IN GENERAL.*—*An agreement entered into*
23 *under this section shall apply to weeks of unemploy-*
24 *ment—*

1 (A) beginning after the date on which such
2 agreement is entered into; and

3 (B) ending before January 1, 2010.

4 (2) *TRANSITION RULE FOR INDIVIDUALS REMAIN-*
5 *ING ENTITLED TO REGULAR COMPENSATION AS OF*
6 *JANUARY 1, 2010.—In the case of any individual who,*
7 *as of the date specified in paragraph (1)(B), has not*
8 *yet exhausted all rights to regular compensation*
9 *under the State law of a State with respect to a ben-*
10 *efit year that began before such date, additional com-*
11 *penensation (as described in subsection (b)(1)) shall*
12 *continue to be payable to such individual for any*
13 *week beginning on or after such date for which the in-*
14 *dividual is otherwise eligible for regular compensation*
15 *with respect to such benefit year.*

16 (3) *TERMINATION.—Notwithstanding any other*
17 *provision of this subsection, no additional compensa-*
18 *tion (as described in subsection (b)(1)) shall be pay-*
19 *able for any week beginning after June 30, 2010.*

20 (f) *FRAUD AND OVERPAYMENTS.—The provisions of*
21 *section 4005 of the Supplemental Appropriations Act, 2008*
22 *(Public Law 110–252; 122 Stat. 2356) shall apply with re-*
23 *spect to additional compensation (as described in subsection*
24 *(b)(1)) to the same extent and in the same manner as in*
25 *the case of emergency unemployment compensation.*

1 (g) *APPLICATION TO OTHER UNEMPLOYMENT BENE-*
2 *FITS.—*

3 (1) *IN GENERAL.—Each agreement under this*
4 *section shall include provisions to provide that the*
5 *purposes of the preceding provisions of this section*
6 *shall be applied with respect to unemployment bene-*
7 *fits described in subsection (i)(3) to the same extent*
8 *and in the same manner as if those benefits were reg-*
9 *ular compensation.*

10 (2) *ELIGIBILITY AND TERMINATION RULES.—Ad-*
11 *ditional compensation (as described in subsection*
12 *(b)(1))—*

13 (A) *shall not be payable, pursuant to this*
14 *subsection, with respect to any unemployment*
15 *benefits described in subsection (i)(3) for any*
16 *week beginning on or after the date specified in*
17 *subsection (e)(1)(B), except in the case of an in-*
18 *dividual who was eligible to receive additional*
19 *compensation (as so described) in connection*
20 *with any regular compensation or any unem-*
21 *ployment benefits described in subsection (i)(3)*
22 *for any period of unemployment ending before*
23 *such date; and*

1 (B) shall in no event be payable for any
2 week beginning after the date specified in sub-
3 section (e)(3).

4 (h) *DISREGARD OF ADDITIONAL COMPENSATION FOR*
5 *PURPOSES OF MEDICAID AND SCHIP.*—A State that enters
6 into an agreement under this section shall disregard the
7 monthly equivalent of \$25 per week for any individual who
8 receives additional compensation under subsection (b)(1) in
9 considering the amount of income of the individual for any
10 purposes under the Medicaid program under title XIX of
11 the Social Security Act and the State Children’s Health In-
12 surance Program under title XXI of such Act.

13 (i) *DEFINITIONS.*—For purposes of this section—

14 (1) the terms “compensation”, “regular com-
15 pensation”, “benefit year”, “State”, “State agency”,
16 “State law”, and “week” have the respective meanings
17 given such terms under section 205 of the Federal-
18 State Extended Unemployment Compensation Act of
19 1970 (26 U.S.C. 3304 note);

20 (2) the term “emergency unemployment com-
21 pensation” means emergency unemployment com-
22 pensation under title IV of the Supplemental Appro-
23 propriations Act, 2008 (Public Law 110–252; 122 Stat.
24 2353); and

1 (3) any reference to unemployment benefits de-
2 scribed in this paragraph shall be considered to refer
3 to—

4 (A) extended compensation (as defined by
5 section 205 of the Federal-State Extended Unem-
6 ployment Compensation Act of 1970); and

7 (B) unemployment compensation (as de-
8 fined by section 85(b) of the Internal Revenue
9 Code of 1986) provided under any program ad-
10 ministered by a State under an agreement with
11 the Secretary.

12 **SEC. 2003. UNEMPLOYMENT COMPENSATION MODERNIZA-**
13 **TION.**

14 (a) *IN GENERAL.*—Section 903 of the Social Security
15 Act (42 U.S.C. 1103) is amended by adding at the end the
16 following:

17 “Special Transfers for Modernization

18 “(f)(1)(A) In addition to any other amounts, the Sec-
19 retary of Labor shall provide for the making of unemploy-
20 ment compensation modernization incentive payments
21 (hereinafter ‘incentive payments’) to the accounts of the
22 States in the Unemployment Trust Fund, by transfer from
23 amounts reserved for that purpose in the Federal unemploy-
24 ment account, in accordance with succeeding provisions of
25 this subsection.

1 “(B) *The maximum incentive payment allowable*
2 *under this subsection with respect to any State shall, as*
3 *determined by the Secretary of Labor, be equal to the*
4 *amount obtained by multiplying \$7,000,000,000 by the*
5 *same ratio as would apply under subsection (a)(2)(B) for*
6 *purposes of determining such State’s share of any excess*
7 *amount (as described in subsection (a)(1)) that would have*
8 *been subject to transfer to State accounts, as of October 1,*
9 *2008, under the provisions of subsection (a).*

10 “(C) *Of the maximum incentive payment determined*
11 *under subparagraph (B) with respect to a State—*

12 “(i) *one-third shall be transferred to the account*
13 *of such State upon a certification under paragraph*
14 *(4)(B) that the State law of such State meets the re-*
15 *quirements of paragraph (2); and*

16 “(ii) *the remainder shall be transferred to the ac-*
17 *count of such State upon a certification under para-*
18 *graph (4)(B) that the State law of such State meets*
19 *the requirements of paragraph (3).*

20 “(2) *The State law of a State meets the requirements*
21 *of this paragraph if such State law—*

22 “(A) *uses a base period that includes the most*
23 *recently completed calendar quarter before the start of*
24 *the benefit year for purposes of determining eligibility*
25 *for unemployment compensation; or*

1 “(B) provides that, in the case of an individual
2 who would not otherwise be eligible for unemployment
3 compensation under the State law because of the use
4 of a base period that does not include the most re-
5 cently completed calendar quarter before the start of
6 the benefit year, eligibility shall be determined using
7 a base period that includes such calendar quarter.

8 “(3) The State law of a State meets the requirements
9 of this paragraph if such State law includes provisions to
10 carry out at least 2 of the following subparagraphs:

11 “(A) An individual shall not be denied regular
12 unemployment compensation under any State law
13 provisions relating to availability for work, active
14 search for work, or refusal to accept work, solely be-
15 cause such individual is seeking only part-time (and
16 not full-time) work, except that the State law provi-
17 sions carrying out this subparagraph may exclude an
18 individual if a majority of the weeks of work in such
19 individual’s base period do not include part-time
20 work.

21 “(B) An individual shall not be disqualified
22 from regular unemployment compensation for sepa-
23 rating from employment if that separation is for any
24 compelling family reason. For purposes of this sub-

1 paragraph, the term ‘compelling family reason’
2 means the following:

3 “(i) Domestic violence, verified by such rea-
4 sonable and confidential documentation as the
5 State law may require, which causes the indi-
6 vidual reasonably to believe that such individ-
7 ual’s continued employment would jeopardize the
8 safety of the individual or of any member of the
9 individual’s immediate family (as defined by the
10 Secretary of Labor).

11 “(ii) The illness or disability of a member
12 of the individual’s immediate family (as defined
13 by the Secretary of Labor).

14 “(iii) The need for the individual to accom-
15 pany such individual’s spouse—

16 “(I) to a place from which it is im-
17 practical for such individual to commute;
18 and

19 “(II) due to a change in location of the
20 spouse’s employment.

21 “(C) Weekly unemployment compensation is
22 payable under this subparagraph to any individual
23 who is unemployed (as determined under the State
24 unemployment compensation law), has exhausted all
25 rights to regular unemployment compensation under

1 *the State law, and is enrolled and making satisfac-*
2 *tory progress in a State-approved training program*
3 *or in a job training program authorized under the*
4 *Workforce Investment Act of 1998. Such programs*
5 *shall prepare individuals who have been separated*
6 *from a declining occupation, or who have been invol-*
7 *untarily and indefinitely separated from employment*
8 *as a result of a permanent reduction of operations at*
9 *the individual's place of employment, for entry into*
10 *a high-demand occupation. The amount of unemploy-*
11 *ment compensation payable under this subparagraph*
12 *to an individual for a week of unemployment shall be*
13 *equal to the individual's average weekly benefit*
14 *amount (including dependents' allowances) for the*
15 *most recent benefit year, and the total amount of un-*
16 *employment compensation payable under this sub-*
17 *paragraph to any individual shall be equal to at least*
18 *26 times the individual's average weekly benefit*
19 *amount (including dependents' allowances) for the*
20 *most recent benefit year.*

21 *“(D) Dependents' allowances are provided, in the*
22 *case of any individual who is entitled to receive reg-*
23 *ular unemployment compensation and who has any*
24 *dependents (as defined by State law), in an amount*
25 *equal to at least \$15 per dependent per week, subject*

1 to any aggregate limitation on such allowances which
2 the State law may establish (but which aggregate lim-
3 itation on the total allowance for dependents paid to
4 an individual may not be less than \$50 for each week
5 of unemployment or 50 percent of the individual's
6 weekly benefit amount for the benefit year, whichever
7 is less).

8 “(4)(A) Any State seeking an incentive payment under
9 this subsection shall submit an application therefor at such
10 time, in such manner, and complete with such information
11 as the Secretary of Labor may within 60 days after the
12 date of the enactment of this subsection prescribe (whether
13 by regulation or otherwise), including information relating
14 to compliance with the requirements of paragraph (2) or
15 (3), as well as how the State intends to use the incentive
16 payment to improve or strengthen the State's unemploy-
17 ment compensation program. The Secretary of Labor shall,
18 within 30 days after receiving a complete application, no-
19 tify the State agency of the State of the Secretary's findings
20 with respect to the requirements of paragraph (2) or (3)
21 (or both).

22 “(B)(i) If the Secretary of Labor finds that the State
23 law provisions (disregarding any State law provisions
24 which are not then currently in effect as permanent law
25 or which are subject to discontinuation) meet the require-

1 *ments of paragraph (2) or (3), as the case may be, the Sec-*
2 *retary of Labor shall thereupon make a certification to that*
3 *effect to the Secretary of the Treasury, together with a cer-*
4 *tification as to the amount of the incentive payment to be*
5 *transferred to the State account pursuant to that finding.*
6 *The Secretary of the Treasury shall make the appropriate*
7 *transfer within 7 days after receiving such certification.*

8 “(ii) *For purposes of clause (i), State law provisions*
9 *which are to take effect within 12 months after the date*
10 *of their certification under this subparagraph shall be con-*
11 *sidered to be in effect as of the date of such certification.*

12 “(C)(i) *No certification of compliance with the require-*
13 *ments of paragraph (2) or (3) may be made with respect*
14 *to any State whose State law is not otherwise eligible for*
15 *certification under section 303 or approvable under section*
16 *3304 of the Federal Unemployment Tax Act.*

17 “(ii) *No certification of compliance with the require-*
18 *ments of paragraph (3) may be made with respect to any*
19 *State whose State law is not in compliance with the re-*
20 *quirements of paragraph (2).*

21 “(iii) *No application under subparagraph (A) may be*
22 *considered if submitted before the date of the enactment of*
23 *this subsection or after the latest date necessary (as specified*
24 *by the Secretary of Labor) to ensure that all incentive pay-*
25 *ments under this subsection are made before October 1,*

1 2010. In the case of a State in which the first day of the
2 first regularly scheduled session of the State legislature be-
3 ginning after the date of enactment of this subsection begins
4 after December 31, 2010, the preceding sentence shall be ap-
5 plied by substituting ‘October 1, 2011’ for ‘October 1, 2010’.

6 “(5)(A) Except as provided in subparagraph (B), any
7 amount transferred to the account of a State under this sub-
8 section may be used by such State only in the payment of
9 cash benefits to individuals with respect to their unemploy-
10 ment (including for dependents’ allowances and for unem-
11 ployment compensation under paragraph (3)(C)), exclusive
12 of expenses of administration.

13 “(B) A State may, subject to the same conditions as
14 set forth in subsection (c)(2) (excluding subparagraph (B)
15 thereof, and deeming the reference to ‘subsections (a) and
16 (b)’ in subparagraph (D) thereof to include this subsection),
17 use any amount transferred to the account of such State
18 under this subsection for the administration of its unem-
19 ployment compensation law and public employment offices.

20 “(6) Out of any money in the Federal unemployment
21 account not otherwise appropriated, the Secretary of the
22 Treasury shall reserve \$7,000,000,000 for incentive pay-
23 ments under this subsection. Any amount so reserved shall
24 not be taken into account for purposes of any determination
25 under section 902, 910, or 1203 of the amount in the Fed-

1 eral unemployment account as of any given time. Any
2 amount so reserved for which the Secretary of the Treasury
3 has not received a certification under paragraph (4)(B) by
4 the deadline described in paragraph (4)(C)(iii) shall, upon
5 the close of fiscal year 2011, become unrestricted as to use
6 as part of the Federal unemployment account.

7 “(7) For purposes of this subsection, the terms ‘benefit
8 year’, ‘base period’, and ‘week’ have the respective meanings
9 given such terms under section 205 of the Federal-State Ex-
10 tended Unemployment Compensation Act of 1970 (26
11 U.S.C. 3304 note).

12 “Special Transfer in Fiscal Year 2009 for Administration

13 “(g)(1) In addition to any other amounts, the Sec-
14 retary of the Treasury shall transfer from the employment
15 security administration account to the account of each
16 State in the Unemployment Trust Fund, within 30 days
17 after the date of the enactment of this subsection, the
18 amount determined with respect to such State under para-
19 graph (2).

20 “(2) The amount to be transferred under this sub-
21 section to a State account shall (as determined by the Sec-
22 retary of Labor and certified by such Secretary to the Sec-
23 retary of the Treasury) be equal to the amount obtained
24 by multiplying \$500,000,000 by the same ratio as deter-
25 mined under subsection (f)(1)(B) with respect to such State.

1 “(3) Any amount transferred to the account of a State
2 as a result of the enactment of this subsection may be used
3 by the State agency of such State only in the payment of
4 expenses incurred by it for—

5 “(A) the administration of the provisions of its
6 State law carrying out the purposes of subsection
7 (f)(2) or any subparagraph of subsection (f)(3);

8 “(B) improved outreach to individuals who
9 might be eligible for regular unemployment compensa-
10 tion by virtue of any provisions of the State law
11 which are described in subparagraph (A);

12 “(C) the improvement of unemployment benefit
13 and unemployment tax operations, including respond-
14 ing to increased demand for unemployment com-
15 pensation; and

16 “(D) staff-assisted reemployment services for un-
17 employment compensation claimants.”.

18 (b) *REGULATIONS.*—The Secretary of Labor may pre-
19 scribe any regulations, operating instructions, or other
20 guidance necessary to carry out the amendment made by
21 subsection (a).

1 **SEC. 2004. TEMPORARY ASSISTANCE FOR STATES WITH AD-**
2 **VANCES.**

3 *Section 1202(b) of the Social Security Act (42 U.S.C.*
4 *1322(b)) is amended by adding at the end the following new*
5 *paragraph:*

6 *“(10)(A) With respect to the period beginning on the*
7 *date of enactment of this paragraph and ending on Decem-*
8 *ber 31, 2010—*

9 *“(i) any interest payment otherwise due from a*
10 *State under this subsection during such period shall*
11 *be deemed to have been made by the State; and*

12 *“(ii) no interest shall accrue on any advance or*
13 *advances made under section 1201 to a State during*
14 *such period.*

15 *“(B) The provisions of subparagraph (A) shall have*
16 *no effect on the requirement for interest payments under*
17 *this subsection after the period described in such subpara-*
18 *graph or on the accrual of interest under this subsection*
19 *after such period.”.*

20 ***Subtitle B—Assistance for***
21 ***Vulnerable Individuals***

22 **SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.**

23 *(a) TEMPORARY FUND.—*

24 *(1) IN GENERAL.—Section 403 of the Social Se-*
25 *curity Act (42 U.S.C. 603) is amended by adding at*
26 *the end the following:*

1 “(c) *EMERGENCY FUND.*—

2 “(1) *ESTABLISHMENT.*—*There is established in*
3 *the Treasury of the United States a fund which shall*
4 *be known as the ‘Emergency Contingency Fund for*
5 *State Temporary Assistance for Needy Families Pro-*
6 *grams’ (in this subsection referred to as the ‘Emer-*
7 *gency Fund’).*

8 “(2) *DEPOSITS INTO FUND.*—

9 “(A) *IN GENERAL.*—*Out of any money in*
10 *the Treasury of the United States not otherwise*
11 *appropriated, there are appropriated for fiscal*
12 *year 2009, \$3,000,000,000 for payment to the*
13 *Emergency Fund.*

14 “(B) *AVAILABILITY AND USE OF FUNDS.*—
15 *The amounts appropriated to the Emergency*
16 *Fund under subparagraph (A) shall remain*
17 *available through fiscal year 2010 and shall be*
18 *used to make grants to States in each of fiscal*
19 *years 2009 and 2010 in accordance with the re-*
20 *quirements of paragraph (3).*

21 “(C) *LIMITATION.*—*In no case may the Sec-*
22 *retary make a grant from the Emergency Fund*
23 *for a fiscal year after fiscal year 2010.*

24 “(3) *GRANTS.*—

1 “(A) *GRANT RELATED TO CASELOAD IN-*
2 *CREASES.*—

3 “(i) *IN GENERAL.*—*For each calendar*
4 *quarter in fiscal year 2009 or 2010, the*
5 *Secretary shall make a grant from the*
6 *Emergency Fund to each State that—*

7 “(I) *requests a grant under this*
8 *subparagraph for the quarter; and*

9 “(II) *meets the requirement of*
10 *clause (ii) for the quarter.*

11 “(ii) *CASELOAD INCREASE REQUIRE-*
12 *MENT.*—*A State meets the requirement of*
13 *this clause for a quarter if the average*
14 *monthly assistance caseload of the State for*
15 *the quarter exceeds the average monthly as-*
16 *sistance caseload of the State for the cor-*
17 *responding quarter in the emergency fund*
18 *base year of the State.*

19 “(iii) *AMOUNT OF GRANT.*—*Subject to*
20 *paragraph (5), the amount of the grant to*
21 *be made to a State under this subparagraph*
22 *for a quarter shall be 80 percent of the*
23 *amount (if any) by which the total expendi-*
24 *tures of the State for basic assistance (as de-*
25 *finied by the Secretary) in the quarter,*

1 *whether under the State program funded*
2 *under this part or as qualified State ex-*
3 *penditures, exceeds the total expenditures of*
4 *the State for such assistance for the cor-*
5 *responding quarter in the emergency fund*
6 *base year of the State.*

7 “(B) *GRANT RELATED TO INCREASED EX-*
8 *PENDITURES FOR NON-RECURRENT SHORT TERM*
9 *BENEFITS.—*

10 “(i) *IN GENERAL.—For each calendar*
11 *quarter in fiscal year 2009 or 2010, the*
12 *Secretary shall make a grant from the*
13 *Emergency Fund to each State that—*

14 “(I) *requests a grant under this*
15 *subparagraph for the quarter; and*

16 “(II) *meets the requirement of*
17 *clause (i) for the quarter.*

18 “(ii) *NON-RECURRENT SHORT TERM*
19 *EXPENDITURE REQUIREMENT.—A State*
20 *meets the requirement of this clause for a*
21 *quarter if the total expenditures of the State*
22 *for non-recurrent short term benefits in the*
23 *quarter, whether under the State program*
24 *funded under this part or as qualified State*
25 *expenditures, exceeds the total such expendi-*

1 *tures of the State for non-recurrent short*
2 *term benefits in the corresponding quarter*
3 *in the emergency fund base year of the*
4 *State.*

5 *“(iii) AMOUNT OF GRANT.—Subject to*
6 *paragraph (5), the amount of the grant to*
7 *be made to a State under this subparagraph*
8 *for a quarter shall be an amount equal to*
9 *80 percent of the excess described in clause*
10 *(ii).*

11 *“(C) GRANT RELATED TO INCREASED EX-*
12 *PENDITURES FOR SUBSIDIZED EMPLOYMENT.—*

13 *“(i) IN GENERAL.—For each calendar*
14 *quarter in fiscal year 2009 or 2010, the*
15 *Secretary shall make a grant from the*
16 *Emergency Fund to each State that—*

17 *“(I) requests a grant under this*
18 *subparagraph for the quarter; and*

19 *“(II) meets the requirement of*
20 *clause (ii) for the quarter.*

21 *“(ii) SUBSIDIZED EMPLOYMENT EX-*
22 *PENDITURE REQUIREMENT.—A State meets*
23 *the requirement of this clause for a quarter*
24 *if the total expenditures of the State for sub-*
25 *sidized employment in the quarter, whether*

1 *under the State program funded under this*
2 *part or as qualified State expenditures, ex-*
3 *ceeds the total of such expenditures of the*
4 *State in the corresponding quarter in the*
5 *emergency fund base year of the State.*

6 *“(iii) AMOUNT OF GRANT.—Subject to*
7 *paragraph (5), the amount of the grant to*
8 *be made to a State under this subparagraph*
9 *for a quarter shall be an amount equal to*
10 *80 percent of the excess described in clause*
11 *(ii).*

12 *“(4) AUTHORITY TO MAKE NECESSARY ADJUST-*
13 *MENTS TO DATA AND COLLECT NEEDED DATA.—In de-*
14 *termining the size of the caseload of a State and the*
15 *expenditures of a State for basic assistance, non-re-*
16 *current short-term benefits, and subsidized employ-*
17 *ment, during any period for which the State requests*
18 *funds under this subsection, and during the emer-*
19 *gency fund base year of the State, the Secretary may*
20 *make appropriate adjustments to the data to ensure*
21 *that the data reflect expenditures under the State pro-*
22 *gram funded under this part and qualified State ex-*
23 *penditures. The Secretary may develop a mechanism*
24 *for collecting expenditure data, including procedures*

1 *which allow States to make reasonable estimates, and*
2 *may set deadlines for making revisions to the data.*

3 “(5) *LIMITATION.*—*The total amount payable to*
4 *a single State under subsection (b) and this subsection*
5 *for a fiscal year shall not exceed 25 percent of the*
6 *State family assistance grant.*

7 “(6) *LIMITATIONS ON USE OF FUNDS.*—*A State*
8 *to which an amount is paid under this subsection*
9 *may use the amount only as authorized by section*
10 *404.*

11 “(7) *TIMING OF IMPLEMENTATION.*—*The Sec-*
12 *retary shall implement this subsection as quickly as*
13 *reasonably possible, pursuant to appropriate guidance*
14 *to States.*

15 “(8) *DEFINITIONS.*—*In this subsection:*

16 “(A) *AVERAGE MONTHLY ASSISTANCE CASE-*
17 *LOAD DEFINED.*—*The term ‘average monthly as-*
18 *istance caseload’ means, with respect to a State*
19 *and a quarter, the number of families receiving*
20 *assistance during the quarter under the State*
21 *program funded under this part or as qualified*
22 *State expenditures, subject to adjustment under*
23 *paragraph (4).*

24 “(B) *EMERGENCY FUND BASE YEAR.*—

1 “(i) *IN GENERAL.*—*The term ‘emer-*
2 *gency fund base year’ means, with respect*
3 *to a State and a category described in*
4 *clause (ii), whichever of fiscal year 2007 or*
5 *2008 is the fiscal year in which the amount*
6 *described by the category with respect to the*
7 *State is the lesser.*

8 “(ii) *CATEGORIES DESCRIBED.*—*The*
9 *categories described in this clause are the*
10 *following:*

11 “(I) *The average monthly assist-*
12 *ance caseload of the State.*

13 “(II) *The total expenditures of the*
14 *State for non-recurrent short term ben-*
15 *efits, whether under the State program*
16 *funded under this part or as qualified*
17 *State expenditures.*

18 “(III) *The total expenditures of*
19 *the State for subsidized employment,*
20 *whether under the State program fund-*
21 *ed under this part or as qualified State*
22 *expenditures.*

23 “(C) *QUALIFIED STATE EXPENDITURES.*—
24 *The term ‘qualified State expenditures’ has the*
25 *meaning given the term in section 409(a)(7).”.*

1 (2) *REPEAL.*—Effective October 1, 2010, sub-
2 section (c) of section 403 of the Social Security Act
3 (42 U.S.C. 603) (as added by paragraph (1)) is re-
4 pealed.

5 (b) *TEMPORARY MODIFICATION OF CASELOAD REDUC-*
6 *TION CREDIT.*—Section 407(b)(3)(A)(i) of such Act (42
7 U.S.C. 607(b)(3)(A)(i)) is amended by inserting “(or if the
8 immediately preceding fiscal year is fiscal year 2008, 2009,
9 or 2010, then, at State option, during the emergency fund
10 base year of the State with respect to the average monthly
11 assistance caseload of the State (within the meaning of sec-
12 tion 403(c)(8)(B), except that, if a State elects such option
13 for fiscal year 2008, the emergency fund base year of the
14 State with respect to such caseload shall be fiscal year
15 2007))” before “under the State”.

16 (c) *DISREGARD FROM LIMITATION ON TOTAL PAY-*
17 *MENTS TO TERRITORIES.*—Section 1108(a)(2) of the Social
18 Security Act (42 U.S.C. 1308(a)(2)) is amended by insert-
19 ing “403(c)(3),” after “403(a)(5),”.

20 (d) *EFFECTIVE DATE.*—The amendments made by this
21 section shall take effect on the date of the enactment of this
22 Act.

23 **SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.**

24 (a) *EXTENSION THROUGH FISCAL YEAR 2010.*—Sec-
25 tion 7101(a) of the Deficit Reduction Act of 2005 (Public

1 *Law 109–171; 120 Stat. 135), as amended by section 301(a)*
2 *of the Medicare Improvements for Patients and Providers*
3 *Act of 2008 (Public Law 110–275), is amended by striking*
4 *“fiscal year 2009” and inserting “fiscal year 2010”.*

5 (b) *CONFORMING AMENDMENT.—Section*
6 *403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C.*
7 *603(a)(3)(H)(ii)) is amended to read as follows:*

8 “(i) *subparagraph (G) shall be ap-*
9 *plied as if ‘fiscal year 2010’ were sub-*
10 *stituted for ‘fiscal year 2001’; and”.*

11 **SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO**
12 **USE TANF FUNDS CARRIED OVER FROM**
13 **PRIOR YEARS TO PROVIDE TANF BENEFITS**
14 **AND SERVICES.**

15 *Section 404(e) of the Social Security Act (42 U.S.C.*
16 *604(e)) is amended to read as follows:*

17 “(e) **AUTHORITY TO CARRY OVER CERTAIN AMOUNTS**
18 **FOR BENEFITS OR SERVICES OR FOR FUTURE CONTIN-**
19 **GENCIES.—***A State or tribe may use a grant made to the*
20 *State or tribe under this part for any fiscal year to provide,*
21 *without fiscal year limitation, any benefit or service that*
22 *may be provided under the State or tribal program funded*
23 *under this part.”.*

1 **SEC. 2104. TEMPORARY REINSTATEMENT OF AUTHORITY TO**
 2 **PROVIDE FEDERAL MATCHING PAYMENTS**
 3 **FOR STATE SPENDING OF CHILD SUPPORT**
 4 **INCENTIVE PAYMENTS.**

5 *During the period that begins on October 1, 2008, and*
 6 *ends on December 31, 2010, section 455(a)(1) of the Social*
 7 *Security Act (42 U.S.C. 655(a)(1)) shall be applied without*
 8 *regard to the amendment made by section 7309(a) of the*
 9 *Deficit Reduction Act of 2005 (Public Law 109–171, 120*
 10 *Stat. 147).*

11 **TITLE III—HEALTH INSURANCE**
 12 **ASSISTANCE**

13 **SEC. 3000. TABLE OF CONTENTS OF TITLE.**

14 *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 de-
terminations under Medicaid and CHIP, and protection of cer-
tain 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 pro-
viders 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.

1 ***Subtitle A—Premium Subsidies for***
 2 ***COBRA Continuation Coverage***
 3 ***for Unemployed Workers***

4 ***SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.***

5 *(a) TABLE OF CONTENTS OF SUBTITLE.—The table of*
 6 *contents of this subtitle is as follows:*

Sec. 3001. Premium assistance for COBRA benefits.

7 *(b) PREMIUM ASSISTANCE FOR COBRA CONTINU-*
 8 *ATION COVERAGE FOR UNEMPLOYED WORKERS AND THEIR*
 9 *FAMILIES.—*

10 *(1) PROVISION OF PREMIUM ASSISTANCE.—*

11 *(A) REDUCTION OF PREMIUMS PAYABLE.—*

12 *In the case of any premium for a month of cov-*
 13 *erage beginning after the date of the enactment*
 14 *of the Act for COBRA continuation coverage*
 15 *with respect to any assistance eligible indi-*
 16 *vidual, such individual shall be treated for pur-*
 17 *poses of any COBRA continuation provision as*
 18 *having paid the amount of such premium if such*
 19 *individual pays 50 percent of the amount of such*
 20 *premium (as determined without regard to this*
 21 *subsection).*

22 *(B) PLAN ENROLLMENT OPTION.—*

1 (i) *IN GENERAL.*—*Notwithstanding the*
2 *COBRA continuation provisions, an assist-*
3 *ance eligible individual may, not later than*
4 *90 days after the date of notice of the plan*
5 *enrollment option described in this subpara-*
6 *graph, elect to enroll in coverage under a*
7 *plan offered by the employer involved, or the*
8 *employee organization involved (including,*
9 *for this purpose, a joint board of trustees of*
10 *a multiemployer trust affiliated with one or*
11 *more multiemployer plans), that is different*
12 *than coverage under the plan in which such*
13 *individual was enrolled at the time the*
14 *qualifying event occurred, and such cov-*
15 *erage shall be treated as COBRA continu-*
16 *ation coverage for purposes of the applicable*
17 *COBRA continuation coverage provision.*

18 (ii) *REQUIREMENTS.*—*An assistance*
19 *eligible individual may elect to enroll in*
20 *different coverage as described in clause (i)*
21 *only if—*

22 (I) *the employer involved has*
23 *made a determination that such em-*
24 *ployer will permit assistance eligible*
25 *individuals to enroll in different cov-*

1 *erage as provided for this subpara-*
2 *graph;*

3 *(II) the premium for such dif-*
4 *ferent coverage does not exceed the pre-*
5 *mium for coverage in which the indi-*
6 *vidual was enrolled at the time the*
7 *qualifying event occurred;*

8 *(III) the different coverage in*
9 *which the individual elects to enroll is*
10 *coverage that is also offered to the ac-*
11 *tive employees of the employer at the*
12 *time at which such election is made;*
13 *and*

14 *(IV) the different coverage is*
15 *not—*

16 *(aa) coverage that provides*
17 *only dental, vision, counseling, or*
18 *referral services (or a combination*
19 *of such services);*

20 *(bb) a health flexible spend-*
21 *ing account or health reimburse-*
22 *ment arrangement; or*

23 *(cc) coverage that provides*
24 *coverage for services or treatments*
25 *furnished in an on-site medical*

1 *facility maintained by the em-*
2 *ployer and that consists primarily*
3 *of first-aid services, prevention*
4 *and wellness care, or similar care*
5 *(or a combination of such care).*

6 (C) *PREMIUM REIMBURSEMENT.*—*For pro-*
7 *visions providing the balance of such premium,*
8 *see section 6432 of the Internal Revenue Code of*
9 *1986, as added by paragraph (12).*

10 (2) *LIMITATION OF PERIOD OF PREMIUM ASSIST-*
11 *ANCE.*—

12 (A) *IN GENERAL.*—*Paragraph (1)(A) shall*
13 *not apply with respect to any assistance eligible*
14 *individual for months of coverage beginning on*
15 *or after the earlier of—*

16 (i) *the first date that such individual*
17 *is eligible for coverage under any other*
18 *group health plan (other than coverage con-*
19 *sisting of only dental, vision, counseling, or*
20 *referral services (or a combination thereof),*
21 *coverage under a health reimbursement ar-*
22 *rangement or a health flexible spending ar-*
23 *rangement, or coverage of treatment that is*
24 *furnished in an on-site medical facility*
25 *maintained by the employer and that con-*

1 *sists primarily of first-aid services, preven-*
2 *tion and wellness care, or similar care (or*
3 *a combination thereof)) or is eligible for*
4 *benefits under title XVIII of the Social Se-*
5 *curity Act; or*

6 *(ii) the earliest of—*

7 *(I) the date which is 12 months*
8 *after the first day of first month that*
9 *paragraph (1)(A) applies with respect*
10 *to such individual,*

11 *(II) the date following the expira-*
12 *tion of the maximum period of con-*
13 *tinuation coverage required under the*
14 *applicable COBRA continuation cov-*
15 *erage provision, or*

16 *(III) the date following the expi-*
17 *ration of the period of continuation*
18 *coverage allowed under paragraph*
19 *(4)(B)(ii).*

20 *(B) TIMING OF ELIGIBILITY FOR ADDI-*
21 *TIONAL COVERAGE.—For purposes of subpara-*
22 *graph (A)(i), an individual shall not be treated*
23 *as eligible for coverage under a group health*
24 *plan before the first date on which such indi-*
25 *vidual could be covered under such plan.*

1 (C) *NOTIFICATION REQUIREMENT.*—An as-
2 sistance eligible individual shall notify in writ-
3 ing the group health plan with respect to which
4 paragraph (1)(A) applies if such paragraph
5 ceases to apply by reason of subparagraph
6 (A)(i). Such notice shall be provided to the group
7 health plan in such time and manner as may be
8 specified by the Secretary of Labor.

9 (3) *ASSISTANCE ELIGIBLE INDIVIDUAL.*—For
10 purposes of this section, the term “assistance eligible
11 individual” means any qualified beneficiary if—

12 (A) at any time during the period that be-
13 gins with September 1, 2008, and ends with De-
14 cember 31, 2009, such qualified beneficiary is el-
15 igible for COBRA continuation coverage,

16 (B) such qualified beneficiary elects such
17 coverage, and

18 (C) the qualifying event with respect to the
19 COBRA continuation coverage consists of the in-
20 voluntary termination of the covered employee’s
21 employment and occurred during such period.

22 (4) *EXTENSION OF ELECTION PERIOD AND EF-*
23 *FECTION ON COVERAGE.*—

24 (A) *IN GENERAL.*—Notwithstanding section
25 605(a) of the Employee Retirement Income Secu-

1 *rity Act of 1974, section 4980B(f)(5)(A) of the*
2 *Internal Revenue Code of 1986, section 2205(a)*
3 *of the Public Health Service Act, and section*
4 *8905a(c)(2) of title 5, United States Code, in the*
5 *case of an individual who is a qualified bene-*
6 *ficiary described in paragraph (3)(A) as of the*
7 *date of the enactment of this Act and has not*
8 *made the election referred to in paragraph*
9 *(3)(B) as of such date, such individual may elect*
10 *the COBRA continuation coverage under the*
11 *COBRA continuation coverage provisions con-*
12 *taining such sections during the 60-day period*
13 *commencing with the date on which the notifica-*
14 *tion required under paragraph (7)(C) is pro-*
15 *vided to such individual.*

16 *(B) COMMENCEMENT OF COVERAGE; NO*
17 *REACH-BACK.—Any COBRA continuation cov-*
18 *erage elected by a qualified beneficiary during*
19 *an extended election period under subparagraph*
20 *(A)—*

21 *(i) shall commence on the date of the*
22 *enactment of this Act, and*

23 *(ii) shall not extend beyond the period*
24 *of COBRA continuation coverage that*
25 *would have been required under the applica-*

1 *ble COBRA continuation coverage provision*
2 *if the coverage had been elected as required*
3 *under such provision.*

4 (C) *PREEXISTING CONDITIONS.*—*With re-*
5 *spect to a qualified beneficiary who elects*
6 *COBRA continuation coverage pursuant to sub-*
7 *paragraph (A), the period—*

8 *(i) beginning on the date of the quali-*
9 *fying event, and*

10 *(ii) ending with the day before the date*
11 *of the enactment of this Act,*

12 *shall be disregarded for purposes of determining*
13 *the 63-day periods referred to in section 701(2)*
14 *of the Employee Retirement Income Security Act*
15 *of 1974, section 9801(c)(2) of the Internal Rev-*
16 *enue Code of 1986, and section 2701(c)(2) of the*
17 *Public Health Service Act.*

18 (5) *EXPEDITED REVIEW OF DENIALS OF PRE-*
19 *MIUM ASSISTANCE.*—*In any case in which an indi-*
20 *vidual requests treatment as an assistance eligible in-*
21 *dividual and is denied such treatment by the group*
22 *health plan by reason of such individual's ineligi-*
23 *bility for COBRA continuation coverage, the Sec-*
24 *retary of Labor (or the Secretary of Health and*
25 *Human services in connection with COBRA continu-*

1 *ation coverage which is provided other than pursuant*
2 *to part 6 of subtitle B of title I of the Employee Re-*
3 *irement Income Security Act of 1974), in consulta-*
4 *tion with the Secretary of the Treasury, shall provide*
5 *for expedited review of such denial. An individual*
6 *shall be entitled to such review upon application to*
7 *such Secretary in such form and manner as shall be*
8 *provided by such Secretary. Such Secretary shall*
9 *make a determination regarding such individual's eli-*
10 *gibility within 10 business days after receipt of such*
11 *individual's application for review under this para-*
12 *graph.*

13 (6) *DISREGARD OF SUBSIDIES FOR PURPOSES OF*
14 *FEDERAL AND STATE PROGRAMS.—Notwithstanding*
15 *any other provision of law, any premium reduction*
16 *with respect to an assistance eligible individual under*
17 *this subsection shall not be considered income or re-*
18 *sources in determining eligibility for, or the amount*
19 *of assistance or benefits provided under, any other*
20 *public benefit provided under Federal law or the law*
21 *of any State or political subdivision thereof.*

22 (7) *NOTICES TO INDIVIDUALS.—*

23 (A) *GENERAL NOTICE.—*

24 (i) *IN GENERAL.—In the case of notices*
25 *provided under section 606(4) of the Em-*

1 *ployee Retirement Income Security Act of*
2 *1974 (29 U.S.C. 1166(4)), section*
3 *4980B(f)(6)(D) of the Internal Revenue*
4 *Code of 1986, section 2206(4) of the Public*
5 *Health Service Act (42 U.S.C. 300bb–6(4)),*
6 *or section 8905a(f)(2)(A) of title 5, United*
7 *States Code, with respect to individuals*
8 *who, during the period described in para-*
9 *graph (3)(A), become entitled to elect*
10 *COBRA continuation coverage, such notices*
11 *shall include an additional notification to*
12 *the recipient of—*

13 *(I) the availability of premium*
14 *reduction with respect to such coverage*
15 *under this subsection; and*

16 *(II) the option to enroll in dif-*
17 *ferent coverage if an employer that*
18 *permits assistance eligible individuals*
19 *to elect enrollment in different coverage*
20 *(as described in paragraph (1)(B)).*

21 *(ii) ALTERNATIVE NOTICE.—In the*
22 *case of COBRA continuation coverage to*
23 *which the notice provision under such sec-*
24 *tions does not apply, the Secretary of*
25 *Labor, in consultation with the Secretary of*

1 *the Treasury and the Secretary of Health*
2 *and Human Services, shall, in coordination*
3 *with administrators of the group health*
4 *plans (or other entities) that provide or ad-*
5 *minister the COBRA continuation coverage*
6 *involved, provide rules requiring the provi-*
7 *sion of such notice.*

8 *(iii) FORM.—The requirement of the*
9 *additional notification under this subpara-*
10 *graph may be met by amendment of exist-*
11 *ing notice forms or by inclusion of a sepa-*
12 *rate document with the notice otherwise re-*
13 *quired.*

14 *(B) SPECIFIC REQUIREMENTS.—Each addi-*
15 *tional notification under subparagraph (A) shall*
16 *include—*

17 *(i) the forms necessary for establishing*
18 *eligibility for premium reduction under this*
19 *subsection,*

20 *(ii) the name, address, and telephone*
21 *number necessary to contact the plan ad-*
22 *ministrator and any other person main-*
23 *taining relevant information in connection*
24 *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 bene-
20 ficiary 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, the*
10 *Secretary of the Labor, in consultation with the*
11 *Secretary of the Treasury and the Secretary of*
12 *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 con-*
21 *sultation with the Secretary of the Treasury and the*
22 *Secretary of Health and Human Services, shall pro-*
23 *vide outreach consisting of public education and en-*
24 *rollment 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 Sec-*
4 *retaries. Such outreach shall include an initial focus*
5 *on those individuals electing continuation coverage*
6 *who are referred to in paragraph (7)(C). Information*
7 *on such premium reduction, including enrollment,*
8 *shall also be made available on website of the Depart-*
9 *ments of Labor, Treasury, and Health and Human*
10 *Services.*

11 (10) *DEFINITIONS.—For purposes of this sub-*
12 *section—*

13 (A) *ADMINISTRATOR.—The term “adminis-*
14 *trator” has the meaning given such term in sec-*
15 *tion 3(16) of the Employee Retirement Income*
16 *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 Employee*
21 *Retirement Income Security Act of 1974 (other*
22 *than under section 609), title XXII of the Public*
23 *Health Service Act, section 4980B of the Internal*
24 *Revenue Code of 1986 (other than subsection*
25 *(f)(1) of such section insofar as it relates to pedi-*

1 *atric vaccines), or section 8905a of title 5,*
2 *United States Code, or under a State program*
3 *that provides continuation coverage comparable*
4 *to such continuation coverage. Such term does*
5 *not include coverage under a health flexible*
6 *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 “cov-*
12 *ered employee” has the meaning given such term*
13 *in section 607(2) of the Employee Retirement In-*
14 *come 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 Re-*
18 *irement Income Security Act of 1974.*

19 (F) *GROUP HEALTH PLAN.—The term*
20 *“group health plan” has the meaning given such*
21 *term in section 607(1) of the Employee Retire-*
22 *ment Income Security Act of 1974.*

23 (G) *STATE.—The term “State” includes the*
24 *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 the*
5 *Treasury shall submit an interim report to the*
6 *Committee on Education and Labor, the Com-*
7 *mittee on Ways and Means, and the Committee*
8 *on Energy and Commerce of the House of Rep-*
9 *resentatives and the Committee on Health, Edu-*
10 *cation, Labor, and Pensions and the Committee*
11 *on Finance of the Senate regarding the premium*
12 *reduction provided under this subsection that in-*
13 *cludes—*

14 *(i) the number of individuals provided*
15 *such assistance as of the date of the report;*
16 *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 practicable*
22 *after the last period of COBRA continuation cov-*
23 *erage for which premium reduction is provided*
24 *under this section, the Secretary of the Treasury*

1 shall submit a final report to each Committee re-
2 ferred to in subparagraph (A) that includes—

3 (i) the number of individuals provided
4 premium reduction under this section;

5 (ii) the average dollar amount (month-
6 ly and annually) of premium reductions
7 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 chapter
14 65 of the Internal Revenue Code of 1986 is
15 amended by adding at the end the following new
16 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 shall
23 be treated as a credit against the requirement of such person
24 to make deposits of payroll taxes and the liability of such
25 person for payroll taxes. To the extent that such amount

1 *exceeds the amount of such taxes, the Secretary shall pay*
2 *to such person the amount of such excess. No payment may*
3 *be made under this subsection to a person with respect to*
4 *any assistance eligible individual until after such person*
5 *has received the reduced premium from such individual re-*
6 *quired under section 3001(a)(1)(A) of such Act.*

7 “(b) *PAYROLL TAXES.*—*For purposes of this section,*
8 *the term ‘payroll taxes’ means—*

9 “(1) *amounts required to be deducted and with-*
10 *held for the payroll period under section 3401 (relat-*
11 *ing to wage withholding),*

12 “(2) *amounts required to be deducted for the*
13 *payroll period under section 3102 (relating to FICA*
14 *employee taxes), and*

15 “(3) *amounts of the taxes imposed for the payroll*
16 *period under section 3111 (relating to FICA employer*
17 *taxes).*

18 “(c) *TREATMENT OF CREDIT.*—*Except as otherwise*
19 *provided by the Secretary, the credit described in subsection*
20 *(a) shall be applied as though the employer had paid to*
21 *the Secretary, on the day that the qualified beneficiary’s*
22 *premium payment is received, an amount equal to such*
23 *credit.*

24 “(d) *TREATMENT OF PAYMENT.*—*For purposes of sec-*
25 *tion 1324(b)(2) of title 31, United States Code, any pay-*

1 *ment under this subsection shall be treated in the same*
2 *manner as a refund of the credit under section 35.*

3 “(e) *REPORTING.*—

4 “(1) *IN GENERAL.*—*Each person entitled to re-*
5 *imbursement under subsection (a) for any period*
6 *shall submit such reports as the Secretary may re-*
7 *quire, including—*

8 “(A) *an attestation of involuntary termi-*
9 *nation of employment for each covered employee*
10 *on the basis of whose termination entitlement to*
11 *reimbursement is claimed under subsection (a),*
12 *and*

13 “(B) *a report of the amount of payroll taxes*
14 *offset under subsection (a) for the reporting pe-*
15 *riod and the estimated offsets of such taxes for*
16 *the subsequent reporting period in connection*
17 *with reimbursements under subsection (a).*

18 “(2) *TIMING OF REPORTS RELATING TO AMOUNT*
19 *OF PAYROLL TAXES.*—*Reports required under para-*
20 *graph (1)(B) shall be submitted at the same time as*
21 *deposits of taxes imposed by chapters 21, 22, and 24*
22 *or at such time as is specified by the Secretary.*

23 “(f) *REGULATIONS.*—*The Secretary may issue such*
24 *regulations or other guidance as may be necessary or appro-*
25 *priate to carry out this section, including the requirement*

1 *to report information or the establishment of other methods*
2 *for verifying the correct amounts of payments and credits*
3 *under this section, and the application of this section to*
4 *group health plans which are multiemployer plans.”.*

5 (B) *SOCIAL SECURITY TRUST FUNDS HELD*
6 *HARMLESS.—In determining any amount trans-*
7 *ferred or appropriated to any fund under the So-*
8 *cial Security Act, section 6432 of the Internal*
9 *Revenue Code of 1986 shall not be taken into ac-*
10 *count.*

11 (C) *CLERICAL AMENDMENT.—The table of*
12 *sections for subchapter B of chapter 65 of the In-*
13 *ternal Revenue Code of 1986 is amended by add-*
14 *ing at the end the following new item:*

“Sec. 6432. COBRA premium assistance.”.

15 (D) *EFFECTIVE DATE.—The amendments*
16 *made by this paragraph shall apply to pre-*
17 *miums to which subsection (a)(1)(A) applies.*

18 (E) *SPECIAL RULE.—*

19 (i) *IN GENERAL.—In the case of an as-*
20 *sistance eligible individual who pays the*
21 *full premium amount required for COBRA*
22 *continuation coverage for any month during*
23 *the 60-day period beginning on the first day*
24 *of the first month after the date of enact-*

1 *ment of this Act, the person to whom such*
2 *payment is made shall—*

3 *(I) make a reimbursement pay-*
4 *ment to such individual for the*
5 *amount of such premium paid in ex-*
6 *cess of the amount required to be paid*
7 *under subsection (b)(1)(A); or*

8 *(II) provide credit to the indi-*
9 *vidual for such amount in a manner*
10 *that reduces one or more subsequent*
11 *premium payments that the individual*
12 *is required to pay under such sub-*
13 *section for the coverage involved.*

14 *(ii) REIMBURSING EMPLOYER.—A per-*
15 *son to which clause (i) applies shall be re-*
16 *imbursed as provided for in section 6432 of*
17 *the Internal Revenue Code of 1986 for any*
18 *payment made, or credit provided, to the*
19 *employee under such clause.*

20 *(iii) PAYMENT OR CREDITS.—Unless it*
21 *is reasonable to believe that the credit for*
22 *the excess payment in clause (i)(II) will be*
23 *used by the assistance eligible individual*
24 *within 180 days of the date on which the*
25 *person receives from the individual the pay-*

1 *ment of the full premium amount, a person*
2 *to which clause (i) applies shall make the*
3 *payment required under such clause to the*
4 *individual within 60 days of such payment*
5 *of the full premium amount. If, as of any*
6 *day within the 180-day period, it is no*
7 *longer reasonable to believe that the credit*
8 *will be used during that period, payment*
9 *equal to the remainder of the credit out-*
10 *standing shall be made to the individual*
11 *within 60 days of such day.*

12 (13) *PENALTY FOR FAILURE TO NOTIFY HEALTH*
13 *PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM*
14 *ASSISTANCE.—*

15 (A) *IN GENERAL.—Part I of subchapter B*
16 *of chapter 68 of the Internal Revenue Code of*
17 *1986 is amended by adding at the end the fol-*
18 *lowing new section:*

19 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
20 **PLAN OF CESSATION OF ELIGIBILITY FOR**
21 **COBRA PREMIUM ASSISTANCE.**

22 “(a) *IN GENERAL.—Any person required to notify a*
23 *group health plan under section 3001(a)(2)(C) of the Amer-*
24 *ican Recovery and Reinvestment Act of 2009 who fails to*
25 *make such a notification at such time and in such manner*

1 *as the Secretary of Labor may require shall pay a penalty*
2 *of 110 percent of the premium reduction provided under*
3 *such section after termination of eligibility under such sub-*
4 *section.*

5 “(b) *REASONABLE CAUSE EXCEPTION.*—No penalty
6 shall be imposed under subsection (a) with respect to any
7 failure if it is shown that such failure is due to reasonable
8 cause and not to willful neglect.”.

9 (B) *CLERICAL AMENDMENT.*—The table of
10 sections of part I of subchapter B of chapter 68
11 of such Code is amended by adding at the end
12 the following new item:

“Sec. 6720C. *Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.*”.

13 (C) *EFFECTIVE DATE.*—The amendments
14 made by this paragraph shall apply to failures
15 occurring after the date of the enactment of this
16 Act.

17 (14) *COORDINATION WITH HCTC.*—

18 (A) *IN GENERAL.*—Subsection (g) of section
19 35 of the Internal Revenue Code of 1986 is
20 amended by redesignating paragraph (9) as
21 paragraph (10) and inserting after paragraph
22 (8) the following new paragraph:

23 “(9) *COBRA PREMIUM ASSISTANCE.*—In the
24 case of an assistance eligible individual who receives

1 *premium reduction for COBRA continuation coverage*
2 *under section 3001(a) of the American Recovery and*
3 *Reinvestment Act of 2009 for any month during the*
4 *taxable year, such individual shall not be treated as*
5 *an eligible individual, a certified individual, or a*
6 *qualifying family member for purposes of this section*
7 *or section 7527 with respect to such month.”.*

8 (B) *EFFECTIVE DATE.*—*The amendment*
9 *made by subparagraph (A) shall apply to tax-*
10 *able years ending after the date of the enactment*
11 *of this Act.*

12 (15) *EXCLUSION OF COBRA PREMIUM ASSIST-*
13 *ANCE FROM GROSS INCOME.*—

14 (A) *IN GENERAL.*—*Part III of subchapter B*
15 *of chapter 1 of the Internal Revenue Code of*
16 *1986 is amended by inserting after section 139B*
17 *the following new section:*

18 **“SEC. 139C. COBRA PREMIUM ASSISTANCE.**

19 *“In the case of an assistance eligible individual (as*
20 *defined in section 3001 of the American Recovery and Rein-*
21 *vestment Act of 2009), gross income does not include any*
22 *premium reduction provided under subsection (a) of such*
23 *section.”.*

24 (B) *CLERICAL AMENDMENT.*—*The table of*
25 *sections for part III of subchapter B of chapter*

1 *1 of such Code is amended by inserting after the*
 2 *item relating to section 139B the following new*
 3 *item:*

“*Sec. 139C. COBRA premium assistance.*”.

4 (C) *EFFECTIVE DATE.*—*The amendments*
 5 *made by this paragraph shall apply to taxable*
 6 *years ending after the date of the enactment of*
 7 *this Act.*

8 ***Subtitle B—Transitional Medical***
 9 ***Assistance (TMA)***

10 ***SEC. 3101. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-***
 11 ***ANCE (TMA).***

12 (a) *18-MONTH EXTENSION.*—

13 (1) *IN GENERAL.*—*Sections 1902(e)(1)(B) and*
 14 *1925(f) of the Social Security Act (42 U.S.C.*
 15 *1396a(e)(1)(B), 1396r–6(f)) are each amended by*
 16 *striking “September 30, 2003” and inserting “Decem-*
 17 *ber 31, 2010”.*

18 (2) *EFFECTIVE DATE.*—*The amendments made*
 19 *by this subsection shall take effect on July 1, 2009.*

20 (b) *STATE OPTION OF INITIAL 12-MONTH ELIGI-*
 21 *BILITY.*—*Section 1925 of the Social Security Act (42 U.S.C.*
 22 *1396r–6) is amended—*

23 (1) *in subsection (a)(1), by inserting “but subject*
 24 *to paragraph (5)” after “Notwithstanding any other*
 25 *provision of this title”;*

1 (2) *by adding at the end of subsection (a) the fol-*
2 *lowing:*

3 “(5) *OPTION OF 12-MONTH INITIAL ELIGIBILITY*
4 *PERIOD.—A State may elect to treat any reference in*
5 *this subsection to a 6-month period (or 6 months) as*
6 *a reference to a 12-month period (or 12 months). In*
7 *the case of such an election, subsection (b) shall not*
8 *apply.”; and*

9 (3) *in subsection (b)(1), by inserting “but subject*
10 *to subsection (a)(5)” after “Notwithstanding any*
11 *other provision of this title”.*

12 (c) *REMOVAL OF REQUIREMENT FOR PREVIOUS RE-*
13 *CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of*
14 *such Act (42 U.S.C. 1396r–6(a)(1)), as amended by sub-*
15 *section (b)(1), is further amended—*

16 (1) *by inserting “subparagraph (B) and” before*
17 *“paragraph (5)”;*

18 (2) *by redesignating the matter after “REQUIRE-*
19 *MENT.—” as a subparagraph (A) with the heading*
20 *“IN GENERAL.—” and with the same indentation as*
21 *subparagraph (B) (as added by paragraph (3)); and*

22 (3) *by adding at the end the following:*

23 “(B) *STATE OPTION TO WAIVE REQUIRE-*
24 *MENT FOR 3 MONTHS BEFORE RECEIPT OF MED-*
25 *ICAL ASSISTANCE.—A State may, at its option,*

1 *elect also to apply subparagraph (A) in the case*
2 *of a family that was receiving such aid for fewer*
3 *than three months or that had applied for and*
4 *was eligible for such aid for fewer than 3 months*
5 *during the 6 immediately preceding months de-*
6 *scribed in such subparagraph.”.*

7 *(d) CMS REPORT ON ENROLLMENT AND PARTICIPA-*
8 *TION RATES UNDER TMA.—Section 1925 of such Act (42*
9 *U.S.C. 1396r–6), as amended by this section, is further*
10 *amended by adding at the end the following new subsection:*

11 *“(g) COLLECTION AND REPORTING OF PARTICIPATION*
12 *INFORMATION.—*

13 *“(1) COLLECTION OF INFORMATION FROM*
14 *STATES.—Each State shall collect and submit to the*
15 *Secretary (and make publicly available), in a format*
16 *specified by the Secretary, information on average*
17 *monthly enrollment and average monthly participa-*
18 *tion rates for adults and children under this section*
19 *and of the number and percentage of children who be-*
20 *come ineligible for medical assistance under this sec-*
21 *tion whose medical assistance is continued under an-*
22 *other eligibility category or who are enrolled under*
23 *the State’s child health plan under title XXI. Such*
24 *information shall be submitted at the same time and*

1 *frequency in which other enrollment information*
2 *under this title is submitted to the Secretary.*

3 “(2) *ANNUAL REPORTS TO CONGRESS.*—*Using*
4 *the information submitted under paragraph (1), the*
5 *Secretary shall submit to Congress annual reports*
6 *concerning enrollment and participation rates de-*
7 *scribed in such paragraph.”.*

8 (e) *EFFECTIVE DATE.*—*The amendments made by sub-*
9 *sections (b) through (d) shall take effect on July 1, 2009.*

10 ***Subtitle C—Extension of the***
11 ***Qualified Individual (QI) Program***

12 ***SEC. 3201. EXTENSION OF THE QUALIFYING INDIVIDUAL***
13 ***(QI) PROGRAM.***

14 (a) *EXTENSION.*—*Section 1902(a)(10)(E)(iv) of the*
15 *Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is*
16 *amended by striking “December 2009” and inserting “De-*
17 *cember 2010”.*

18 (b) *EXTENDING TOTAL AMOUNT AVAILABLE FOR AL-*
19 *LOCATION.*—*Section 1933(g) of such Act (42 U.S.C. 1396u-*
20 *3(g)) is amended—*

21 (1) *in paragraph (2)—*

22 (A) *by striking “and” at the end of sub-*
23 *paragraph (K);*

24 (B) *in subparagraph (L), by striking the*
25 *period at the end and inserting a semicolon; and*

1 (C) by adding at the end the following new
2 subparagraphs:

3 “(M) for the period that begins on January
4 1, 2010, and ends on September 30, 2010, the
5 total allocation amount is \$412,500,000; and

6 “(N) for the period that begins on October
7 1, 2010, and ends on December 31, 2010, the
8 total allocation amount is \$150,000,000.”; and

9 (2) in paragraph (3), in the matter preceding
10 subparagraph (A), by striking “or (L)” and inserting
11 “(L), or (N)”.

12 ***Subtitle D—Other Provisions***

13 ***SEC. 3301. PREMIUMS AND COST SHARING PROTECTIONS***

14 ***UNDER MEDICAID, ELIGIBILITY DETERMINA-*** 15 ***TIONS UNDER MEDICAID AND CHIP, AND PRO-*** 16 ***TECTION OF CERTAIN INDIAN PROPERTY*** 17 ***FROM MEDICAID ESTATE RECOVERY.***

18 (a) *PREMIUMS AND COST SHARING PROTECTION*
19 *UNDER MEDICAID.*—

20 (1) *IN GENERAL.*—Section 1916 of the Social Se-
21 *curity Act (42 U.S.C. 1396o) is amended—*

22 (A) in subsection (a), in the matter pre-
23 *ceding paragraph (1), by striking “and (i)” and*
24 *inserting “, (i), and (j)”;* and

1 (B) by adding at the end the following new
2 subsection:

3 “(j) NO PREMIUMS OR COST SHARING FOR INDIANS
4 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN
5 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER CON-
6 TRACT HEALTH SERVICES.—

7 “(1) NO COST SHARING FOR ITEMS OR SERVICES
8 FURNISHED TO INDIANS THROUGH INDIAN HEALTH
9 PROGRAMS.—

10 “(A) IN GENERAL.—No enrollment fee, pre-
11 mium, or similar charge, and no deduction, co-
12 payment, cost sharing, or similar charge shall be
13 imposed against an Indian who is furnished an
14 item or service directly by the Indian Health
15 Service, an Indian Tribe, Tribal Organization,
16 or Urban Indian Organization or through refer-
17 ral under contract health services for which pay-
18 ment may be made under this title.

19 “(B) NO REDUCTION IN AMOUNT OF PAY-
20 MENT TO INDIAN HEALTH PROVIDERS.—Payment
21 due under this title to the Indian Health Service,
22 an Indian Tribe, Tribal Organization, or Urban
23 Indian Organization, or a health care provider
24 through referral under contract health services
25 for the furnishing of an item or service to an In-

1 *dian who is eligible for assistance under such*
2 *title, may not be reduced by the amount of any*
3 *enrollment fee, premium, or similar charge, or*
4 *any deduction, copayment, cost sharing, or simi-*
5 *lar charge that would be due from the Indian but*
6 *for the operation of subparagraph (A).*

7 “(2) *RULE OF CONSTRUCTION.*—*Nothing in this*
8 *subsection shall be construed as restricting the appli-*
9 *cation of any other limitations on the imposition of*
10 *premiums or cost sharing that may apply to an indi-*
11 *vidual receiving medical assistance under this title*
12 *who is an Indian.”.*

13 (2) *CONFORMING AMENDMENT.*—*Section*
14 *1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3)) is*
15 *amended—*

16 (A) *in subparagraph (A), by adding at the*
17 *end the following new clause:*

18 “(vi) *An Indian who is furnished an*
19 *item or service directly by the Indian*
20 *Health Service, an Indian Tribe, Tribal Or-*
21 *ganization or Urban Indian Organization*
22 *or through referral under contract health*
23 *services.”; and*

24 (B) *in subparagraph (B), by adding at the*
25 *end the following new clause:*

1 “(ix) *Items and services furnished to*
2 *an Indian directly by the Indian Health*
3 *Service, an Indian Tribe, Tribal Organiza-*
4 *tion or Urban Indian Organization or*
5 *through referral under contract health serv-*
6 *ices.*”.

7 (b) *TREATMENT OF CERTAIN PROPERTY FROM RE-*
8 *SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.*—

9 (1) *MEDICAID.*—*Section 1902 of the Social Secu-*
10 *rity Act (42 U.S.C. 1396a) is amended by adding at*
11 *the end the following new subsection:*

12 “(dd) *Notwithstanding any other requirement of this*
13 *title or any other provision of Federal or State law, a State*
14 *shall disregard the following property from resources for*
15 *purposes of determining the eligibility of an individual who*
16 *is an Indian for medical assistance under this title:*

17 “(1) *Property, including real property and im-*
18 *provements, that is held in trust, subject to Federal*
19 *restrictions, or otherwise under the supervision of the*
20 *Secretary of the Interior, located on a reservation, in-*
21 *cluding any federally recognized Indian Tribe’s res-*
22 *ervation, pueblo, or colony, including former reserva-*
23 *tions in Oklahoma, Alaska Native regions established*
24 *by the Alaska Native Claims Settlement Act, and In-*
25 *Indian allotments on or near a reservation as des-*

1 *ignated and approved by the Bureau of Indian Af-*
2 *fairs of the Department of the Interior.*

3 *“(2) For any federally recognized Tribe not de-*
4 *scribed in paragraph (1), property located within the*
5 *most recent boundaries of a prior Federal reservation.*

6 *“(3) Ownership interests in rents, leases, royal-*
7 *ties, or usage rights related to natural resources (in-*
8 *cluding extraction of natural resources or harvesting*
9 *of timber, other plants and plant products, animals,*
10 *fish, and shellfish) resulting from the exercise of feder-*
11 *ally protected rights.*

12 *“(4) Ownership interests in or usage rights to*
13 *items not covered by paragraphs (1) through (3) that*
14 *have unique religious, spiritual, traditional, or cul-*
15 *tural significance or rights that support subsistence or*
16 *a traditional lifestyle according to applicable tribal*
17 *law or custom.”.*

18 *(2) APPLICATION TO CHIP.—Section 2107(e)(1)*
19 *of such Act (42 U.S.C. 1397gg(e)(1)) is amended—*

20 *(A) by redesignating subparagraphs (B)*
21 *through (E), as subparagraphs (C) through (F),*
22 *respectively; and*

23 *(B) by inserting after subparagraph (A),*
24 *the following new subparagraph:*

1 “(B) Section 1902(dd) (relating to dis-
2 regard of certain property for purposes of mak-
3 ing eligibility determinations).”.

4 (c) CONTINUATION OF CURRENT LAW PROTECTIONS OF
5 CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RE-
6 COVERY.—Section 1917(b)(3) of the Social Security Act (42
7 U.S.C. 1396p(b)(3)) is amended—

8 (1) by inserting “(A)” after “(3)”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) The standards specified by the Sec-
12 retary under subparagraph (A) shall require that
13 the procedures established by the State agency
14 under subparagraph (A) exempt income, re-
15 sources, and property that are exempt from the
16 application of this subsection as of April 1,
17 2003, under manual instructions issued to carry
18 out this subsection (as in effect on such date) be-
19 cause of the Federal responsibility for Indian
20 Tribes and Alaska Native Villages. Nothing in
21 this subparagraph shall be construed as pre-
22 venting the Secretary from providing additional
23 estate recovery exemptions under this title for In-
24 dians.”.

1 **SEC. 3302. RULES APPLICABLE UNDER MEDICAID AND CHIP**
2 **TO MANAGED CARE ENTITIES WITH RESPECT**
3 **TO INDIAN ENROLLEES AND INDIAN HEALTH**
4 **CARE PROVIDERS AND INDIAN MANAGED**
5 **CARE ENTITIES.**

6 (a) *IN GENERAL.*—Section 1932 of the Social Security
7 Act (42 U.S.C. 1396u–2) is amended by adding at the end
8 the following new subsection:

9 “(h) *SPECIAL RULES WITH RESPECT TO INDIAN EN-*
10 *ROLLEES, INDIAN HEALTH CARE PROVIDERS, AND INDIAN*
11 *MANAGED CARE ENTITIES.*—

12 “(1) *ENROLLEE OPTION TO SELECT AN INDIAN*
13 *HEALTH CARE PROVIDER AS PRIMARY CARE PRO-*
14 *VIDER.*—*In the case of a non-Indian Medicaid man-*
15 *aged care entity that—*

16 “(A) *has an Indian enrolled with the entity;*
17 *and*

18 “(B) *has an Indian health care provider*
19 *that is participating as a primary care provider*
20 *within the network of the entity,*

21 *insofar as the Indian is otherwise eligible to receive*
22 *services from such Indian health care provider and*
23 *the Indian health care provider has the capacity to*
24 *provide primary care services to such Indian, the con-*
25 *tract with the entity under section 1903(m) or under*
26 *section 1905(t)(3) shall require, as a condition of re-*

1 *ceiving payment under such contract, that the Indian*
2 *shall be allowed to choose such Indian health care*
3 *provider as the Indian’s primary care provider under*
4 *the entity.*

5 “(2) *ASSURANCE OF PAYMENT TO INDIAN*
6 *HEALTH CARE PROVIDERS FOR PROVISION OF COV-*
7 *ERED SERVICES.—Each contract with a managed*
8 *care entity under section 1903(m) or under section*
9 *1905(t)(3) shall require any such entity, as a condi-*
10 *tion of receiving payment under such contract, to sat-*
11 *isfy the following requirements:*

12 “(A) *DEMONSTRATION OF ACCESS TO IN-*
13 *DIAN HEALTH CARE PROVIDERS AND APPLICA-*
14 *TION OF ALTERNATIVE PAYMENT ARRANGE-*
15 *MENTS.—Subject to subparagraph (C), to—*

16 “(i) *demonstrate that the number of*
17 *Indian health care providers that are par-*
18 *ticipating providers with respect to such en-*
19 *tity are sufficient to ensure timely access to*
20 *covered Medicaid managed care services for*
21 *those Indian enrollees who are eligible to re-*
22 *ceive services from such providers; and*

23 “(ii) *agree to pay Indian health care*
24 *providers, whether such providers are par-*
25 *ticipating or nonparticipating providers*

1 *with respect to the entity, for covered Med-*
2 *icaid managed care services provided to*
3 *those Indian enrollees who are eligible to re-*
4 *ceive services from such providers at a rate*
5 *equal to the rate negotiated between such*
6 *entity and the provider involved or, if such*
7 *a rate has not been negotiated, at a rate*
8 *that is not less than the level and amount*
9 *of payment which the entity would make for*
10 *the services if the services were furnished by*
11 *a participating provider which is not an*
12 *Indian health care provider.*

13 “(B) *PROMPT PAYMENT.*—*To agree to make*
14 *prompt payment (consistent with rule for*
15 *prompt payment of providers under section*
16 *1932(f)) to Indian health care providers that are*
17 *participating providers with respect to such enti-*
18 *ty or, in the case of an entity to which subpara-*
19 *graph (A)(ii) or (C) applies, that the entity is*
20 *required to pay in accordance with that sub-*
21 *paragraph.*

22 “(C) *APPLICATION OF SPECIAL PAYMENT*
23 *REQUIREMENTS FOR FEDERALLY-QUALIFIED*
24 *HEALTH CENTERS AND FOR SERVICES PROVIDED*
25 *BY CERTAIN INDIAN HEALTH CARE PROVIDERS.*—

1 “(i) *FEDERALLY-QUALIFIED HEALTH*
2 *CENTERS.—*

3 “(I) *MANAGED CARE ENTITY PAY-*
4 *MENT REQUIREMENT.—To agree to pay*
5 *any Indian health care provider that*
6 *is a federally-qualified health center*
7 *under this title but not a participating*
8 *provider with respect to the entity, for*
9 *the provision of covered Medicaid man-*
10 *aged care services by such provider to*
11 *an Indian enrollee of the entity at a*
12 *rate equal to the amount of payment*
13 *that the entity would pay a federally-*
14 *qualified health center that is a par-*
15 *ticipating provider with respect to the*
16 *entity but is not an Indian health care*
17 *provider for such services.*

18 “(II) *CONTINUED APPLICATION OF*
19 *STATE REQUIREMENT TO MAKE SUP-*
20 *PLEMENTAL PAYMENT.—Nothing in*
21 *subclause (I) or subparagraph (A) or*
22 *(B) shall be construed as waiving the*
23 *application of section 1902(bb)(5) re-*
24 *garding the State plan requirement to*
25 *make any supplemental payment due*

1 *under such section to a federally-quali-*
2 *fied health center for services furnished*
3 *by such center to an enrollee of a man-*
4 *aged care entity (regardless of whether*
5 *the federally-qualified health center is*
6 *or is not a participating provider with*
7 *the entity).*

8 *“(ii) PAYMENT RATE FOR SERVICES*
9 *PROVIDED BY CERTAIN INDIAN HEALTH*
10 *CARE PROVIDERS.—If the amount paid by a*
11 *managed care entity to an Indian health*
12 *care provider that is not a federally-quali-*
13 *fied health center for services provided by*
14 *the provider to an Indian enrollee with the*
15 *managed care entity is less than the rate*
16 *that applies to the provision of such services*
17 *by the provider under the State plan, the*
18 *plan shall provide for payment to the In-*
19 *dian health care provider, whether the pro-*
20 *vider is a participating or nonparticipating*
21 *provider with respect to the entity, of the*
22 *difference between such applicable rate and*
23 *the amount paid by the managed care enti-*
24 *ty to the provider for such services.*

1 “(D) CONSTRUCTION.—Nothing in this
2 paragraph shall be construed as waiving the ap-
3 plication of section 1902(a)(30)(A) (relating to
4 application of standards to assure that payments
5 are consistent with efficiency, economy, and
6 quality of care).

7 “(3) SPECIAL RULE FOR ENROLLMENT FOR IN-
8 DIAN MANAGED CARE ENTITIES.—Regarding the ap-
9 plication of a Medicaid managed care program to In-
10 dian Medicaid managed care entities, an Indian
11 Medicaid managed care entity may restrict enroll-
12 ment under such program to Indians and to members
13 of specific Tribes in the same manner as Indian
14 Health Programs may restrict the delivery of services
15 to such Indians and tribal members.

16 “(4) DEFINITIONS.—For purposes of this sub-
17 section:

18 “(A) INDIAN HEALTH CARE PROVIDER.—
19 The term ‘Indian health care provider’ means an
20 Indian Health Program or an Urban Indian Or-
21 ganization.

22 “(B) INDIAN MEDICAID MANAGED CARE EN-
23 TITY.—The term ‘Indian Medicaid managed care
24 entity’ means a managed care entity that is con-
25 trolled (within the meaning of the last sentence

1 *of section 1903(m)(1)(C)) by the Indian Health*
2 *Service, a Tribe, Tribal Organization, or Urban*
3 *Indian Organization, or a consortium, which*
4 *may be composed of 1 or more Tribes, Tribal Or-*
5 *ganizations, or Urban Indian Organizations,*
6 *and which also may include the Service.*

7 “(C) *NON-INDIAN MEDICAID MANAGED CARE*
8 *ENTITY.—The term ‘non-Indian Medicaid man-*
9 *aged care entity’ means a managed care entity*
10 *that is not an Indian Medicaid managed care*
11 *entity.*

12 “(D) *COVERED MEDICAID MANAGED CARE*
13 *SERVICES.—The term ‘covered Medicaid man-*
14 *aged care services’ means, with respect to an in-*
15 *dividual enrolled with a managed care entity,*
16 *items and services for which benefits are avail-*
17 *able with respect to the individual under the con-*
18 *tract between the entity and the State involved.*

19 “(E) *MEDICAID MANAGED CARE PRO-*
20 *GRAM.—The term ‘Medicaid managed care pro-*
21 *gram’ means a program under sections 1903(m),*
22 *1905(t), and 1932 and includes a managed care*
23 *program operating under a waiver under section*
24 *1915(b) or 1115 or otherwise.”.*

1 (b) *APPLICATION TO CHIP.*—Subject to section
2 __013(d), section 2107(e)(1) of such Act (42 U.S.C.
3 1397gg(1)) is amended by adding at the end the following
4 new subparagraph:

5 “(E) Subsections (a)(2)(C) and (h) of sec-
6 tion 1932.”.

7 **SEC. 3303. CONSULTATION ON MEDICAID, CHIP, AND OTHER**
8 **HEALTH CARE PROGRAMS FUNDED UNDER**
9 **THE SOCIAL SECURITY ACT INVOLVING IN-**
10 **DIAN HEALTH PROGRAMS AND URBAN IN-**
11 **DIAN ORGANIZATIONS.**

12 (a) *CONSULTATION WITH TRIBAL TECHNICAL ADVI-*
13 *SORY GROUP (TTAG).*—The Secretary of Health and
14 Human Services shall maintain within the Centers for
15 Medicaid & Medicare Services (CMS) a Tribal Technical
16 Advisory Group (TTAG), which was first established in ac-
17 cordance with requirements of the charter dated September
18 30, 2003, and the Secretary of Health and Human Services
19 shall include in such Group a representative of a national
20 urban Indian health organization and a representative of
21 the Indian Health Service. The inclusion of a representative
22 of a national urban Indian health organization in such
23 Group shall not affect the nonapplication of the Federal Ad-
24 visory Committee Act (5 U.S.C. App.) to such Group.

1 **(b) SOLICITATION OF ADVICE UNDER MEDICAID AND**
2 **CHIP.—**

3 **(1) MEDICAID STATE PLAN AMENDMENT.—***Sub-*
4 *ject to subsection (d), section 1902(a) of the Social Se-*
5 *curity Act (42 U.S.C. 1396a(a)) is amended—*

6 **(A)** *in paragraph (70), by striking “and”*
7 *at the end;*

8 **(B)** *in paragraph (71), by striking the pe-*
9 *riod at the end and inserting “; and”; and*

10 **(C)** *by inserting after paragraph (71), the*
11 *following new paragraph:*

12 *“(72) in the case of any State in which 1 or*
13 *more Indian Health Programs or Urban Indian Or-*
14 *ganizations furnishes health care services, provide for*
15 *a process under which the State seeks advice on a reg-*
16 *ular, ongoing basis from designees of such Indian*
17 *Health Programs and Urban Indian Organizations*
18 *on matters relating to the application of this title*
19 *that are likely to have a direct effect on such Indian*
20 *Health Programs and Urban Indian Organizations*
21 *and that—*

22 *“(A) shall include solicitation of advice*
23 *prior to submission of any plan amendments,*
24 *waiver requests, and proposals for demonstration*
25 *projects likely to have a direct effect on Indians,*

1 *Indian Health Programs, or Urban Indian Or-*
2 *ganizations; and*

3 “(B) *may include appointment of an advi-*
4 *sory committee and of a designee of such Indian*
5 *Health Programs and Urban Indian Organiza-*
6 *tions to the medical care advisory committee ad-*
7 *vising the State on its State plan under this*
8 *title.”.*

9 (2) *APPLICATION TO CHIP.—Subject to subsection*
10 *(d), section 2107(e)(1) of such Act (42 U.S.C.*
11 *1397gg(e)(1)), as amended by section 3302(b)(2), is*
12 *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 amend-*
23 *ments made by this section shall be construed as super-*
24 *seding existing advisory committees, working groups, guid-*
25 *ance, or other advisory procedures established by the Sec-*

1 *retary of Health and Human Services or by any State with*
2 *respect to the provision of health care to Indians.*

3 *(d) CONTINGENCY RULE.—If the Children’s Health In-*
4 *surance Program Reauthorization Act of 2009 (in this sub-*
5 *section referred to as “CHIPRA”) has been enacted as of*
6 *the date of enactment of this Act, the following shall apply:*

7 *(1) Subparagraph (I) of section 2107(e) of the*
8 *Social Security Act (as redesignated by CHIPRA) is*
9 *redesignated as subparagraph (K) and the subpara-*
10 *graph (E) added to section 2107(e) of the Social Secu-*
11 *rity Act by section 3302(b) is redesignated as sub-*
12 *paragraph (J).*

13 *(2) Subparagraphs (D) through (H) of section*
14 *2107(e) of the Social Security Act (as added and re-*
15 *designated by CHIPRA) are redesignated as subpara-*
16 *graphs (E) through (I), respectively and the subpara-*
17 *graph (B) of section 2107(e) of the Social Security*
18 *Act added by subsection (b)(2) of this section is red-*
19 *esignated as subparagraph (D) and amended by strik-*
20 *ing “1902(a)(72)” and inserting “1902(a)(73)”.*

21 *(3) Section 1902(a) of the Social Security Act*
22 *(as amended by CHIPRA) is amended by striking*
23 *“and” at the end of paragraph (71), by striking the*
24 *period at the end of the paragraph (72) added by*
25 *CHIPRA and inserting “; and” and by redesignated*

1 *the paragraph (72) added to such section by sub-*
 2 *section (b)(1) of this section as paragraph (73).*

3 **SEC. 3304. APPLICATION OF PROMPT PAY REQUIREMENTS**
 4 **TO NURSING FACILITIES.**

5 *Section 1902(a)(37)(A) of the Social Security Act (42*
 6 *U.S.C. 1396a(a)(37)(A)) is amended by inserting “, or by*
 7 *nursing facilities,” after “health facilities”*

8 **SEC. 3305. PERIOD OF APPLICATION; SUNSET.**

9 *This subtitle and the amendments made by this sub-*
 10 *title shall be in effect only during the period that begins*
 11 *on April 1, 2009, and ends on December 31, 2010. On and*
 12 *after January 1, 2011, the Social Security Act shall be ap-*
 13 *plied as if this subtitle and the amendments made by this*
 14 *subtitle had not been enacted.*

15 **TITLE IV—HEALTH**
 16 **INFORMATION TECHNOLOGY**

17 **SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.**

18 *(a) SHORT TITLE.—This title may be cited as the*
 19 *“Medicare and Medicaid Health Information Technology*
 20 *for Economic and Clinical Health Act” or the “M-HITECH*
 21 *Act”.*

22 *(b) TABLE OF CONTENTS OF TITLE.—The table of con-*
 23 *tents 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 Social*
4 *Security Act (42 U.S.C. 1395w-4) is amended by adding*
5 *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 pro-*
13 *fessional services furnished by an eligible*
14 *professional during a payment year (as de-*
15 *defined in subparagraph (E)), if the eligible*
16 *professional is a meaningful EHR user (as*
17 *determined under paragraph (2)) for the re-*
18 *porting period with respect to such year, in*

1 *addition to the amount otherwise paid*
2 *under this part, there also shall be paid to*
3 *the eligible professional (or to an employer*
4 *or facility in the cases described in clause*
5 *(A) of section 1842(b)(6)), from the Federal*
6 *Supplementary Medical Insurance Trust*
7 *Fund established under section 1841 an*
8 *amount equal to 75 percent of the Sec-*
9 *retary's estimate (based on claims submitted*
10 *not later than 2 months after the end of the*
11 *payment year) of the allowed charges under*
12 *this part for all such covered professional*
13 *services furnished by the eligible profes-*
14 *sional during such year.*

15 “(i) *NO INCENTIVE PAYMENTS WITH*
16 *RESPECT TO YEARS AFTER 2015.—No incen-*
17 *tive payments may be made under this sub-*
18 *section with respect to a year after 2015.*

19 “(B) *LIMITATIONS ON AMOUNTS OF INCEN-*
20 *TIVE PAYMENTS.—*

21 “(i) *IN GENERAL.—In no case shall the*
22 *amount of the incentive payment provided*
23 *under this paragraph for an eligible profes-*
24 *sional for a payment year exceed the appli-*
25 *cable amount specified under this subpara-*

1 *graph with respect to such eligible profes-*
2 *sional and such year.*

3 “(ii) *AMOUNT.—Subject to clauses (iii)*
4 *through (v), the applicable amount specified*
5 *in this subparagraph for an eligible profes-*
6 *sional is as follows:*

7 “(I) *For the first payment year*
8 *for such professional, \$15,000 (or, if*
9 *the first payment year for such eligible*
10 *professional is 2011 or 2012, \$18,000).*

11 “(II) *For the second payment*
12 *year for such professional, \$12,000.*

13 “(III) *For the third payment year*
14 *for such professional, \$8,000.*

15 “(IV) *For the fourth payment*
16 *year for such professional, \$4,000.*

17 “(V) *For the fifth payment year*
18 *for such professional, \$2,000.*

19 “(VI) *For any succeeding pay-*
20 *ment year for such professional, \$0.*

21 “(iii) *PHASE DOWN FOR ELIGIBLE*
22 *PROFESSIONALS FIRST ADOPTING EHR IN*
23 *2014.—If the first payment year for an eli-*
24 *gible professional is 2014, then the amount*
25 *specified in this subparagraph for a pay-*

1 *ment year for such professional is the same*
2 *as the amount specified in clause (ii) for*
3 *such payment year for an eligible profes-*
4 *sional whose first payment year is 2013.*

5 “(i) *INCREASE FOR CERTAIN RURAL*
6 *ELIGIBLE PROFESSIONALS.—In the case of*
7 *an eligible professional who predominantly*
8 *furnishes services under this part in a rural*
9 *area that is designated by the Secretary*
10 *(under section 332(a)(1)(A) of the Public*
11 *Health Service Act) as a health professional*
12 *shortage area, the amount that would other-*
13 *wise apply for a payment year for such*
14 *professional under subclauses (I) through*
15 *(V) of clause (ii) shall be increased by 25*
16 *percent. In implementing the preceding sen-*
17 *tence, the Secretary may, as determined ap-*
18 *propriate, apply provisions of subsections*
19 *(m) and (u) of section 1833 in a similar*
20 *manner as such provisions apply under*
21 *such subsection.*

22 “(v) *NO INCENTIVE PAYMENT IF FIRST*
23 *ADOPTING AFTER 2014.—If the first pay-*
24 *ment year for an eligible professional is*
25 *after 2014 then the applicable amount spec-*

1 *ified in this subparagraph for such profes-*
2 *sional for such year and any subsequent*
3 *year shall be \$0.*

4 *“(C) NON-APPLICATION TO HOSPITAL-BASED*
5 *ELIGIBLE PROFESSIONALS.—*

6 *“(i) IN GENERAL.—No incentive pay-*
7 *ment may be made under this paragraph in*
8 *the case of a hospital-based eligible profes-*
9 *sional.*

10 *“(ii) HOSPITAL-BASED ELIGIBLE PRO-*
11 *FESSIONAL.—For purposes of clause (i), the*
12 *term ‘hospital-based eligible professional’*
13 *means, with respect to covered professional*
14 *services furnished by an eligible professional*
15 *during the reporting period for a payment*
16 *year, an eligible professional, such as a pa-*
17 *thologist, anesthesiologist, or emergency*
18 *physician, who furnishes substantially all of*
19 *such services in a hospital setting (whether*
20 *inpatient or outpatient) and through the*
21 *use of the facilities and equipment, includ-*
22 *ing qualified electronic health records, of the*
23 *hospital.*

24 *“(D) PAYMENT.—*

1 “(i) *FORM OF PAYMENT.*—*The pay-*
2 *ment under this paragraph may be in the*
3 *form of a single consolidated payment or in*
4 *the form of such periodic installments as the*
5 *Secretary may specify.*

6 “(ii) *COORDINATION OF APPLICATION*
7 *OF LIMITATION FOR PROFESSIONALS IN DIF-*
8 *FERENT PRACTICES.*—*In the case of an eli-*
9 *gible professional furnishing covered profes-*
10 *sional services in more than one practice*
11 *(as specified by the Secretary), the Sec-*
12 *retary shall establish rules to coordinate the*
13 *incentive payments, including the applica-*
14 *tion of the limitation on amounts of such*
15 *incentive payments under this paragraph,*
16 *among such practices.*

17 “(iii) *COORDINATION WITH MED-*
18 *ICAID.*—*The Secretary shall seek, to the*
19 *maximum extent practicable, to avoid du-*
20 *plicative requirements from Federal and*
21 *State Governments to demonstrate meaning-*
22 *ful use of certified EHR technology under*
23 *this title and title XIX. In doing so, the*
24 *Secretary may deem satisfaction of State*
25 *requirements for such meaningful use for a*

1 *payment year under title XIX to be suffi-*
2 *cient to qualify as meaningful use under*
3 *this subsection and subsection (a)(7) and*
4 *vice versa. The Secretary may also adjust*
5 *the reporting periods under such title and*
6 *such subsections in order to carry out this*
7 *clause.*

8 “(E) *PAYMENT YEAR DEFINED.—*

9 “(i) *IN GENERAL.—For purposes of*
10 *this subsection, the term ‘payment year’*
11 *means a year beginning with 2011.*

12 “(ii) *FIRST, SECOND, ETC. PAYMENT*
13 *YEAR.—The term ‘first payment year’*
14 *means, with respect to covered professional*
15 *services furnished by an eligible profes-*
16 *sional, the first year for which an incentive*
17 *payment is made for such services under*
18 *this subsection. The terms ‘second payment*
19 *year’, ‘third payment year’, ‘fourth pay-*
20 *ment year’, and ‘fifth payment year’ mean,*
21 *with respect to covered professional services*
22 *furnished by such eligible professional, each*
23 *successive year immediately following the*
24 *first payment year for such professional.*

25 “(2) *MEANINGFUL EHR USER.—*

1 “(A) *IN GENERAL.*—For purposes of para-
2 graph (1), an eligible professional shall be treat-
3 ed as a meaningful EHR user for a reporting
4 period for a payment year (or, for purposes of
5 subsection (a)(7), for a reporting period under
6 such subsection for a year) if each of the fol-
7 lowing requirements is met:

8 “(i) *MEANINGFUL USE OF CERTIFIED*
9 *EHR TECHNOLOGY.*—The eligible profes-
10 sional demonstrates to the satisfaction of the
11 Secretary, in accordance with subparagraph
12 (C)(i), that during such period the profes-
13 sional is using certified EHR technology in
14 a meaningful manner, which shall include
15 the use of electronic prescribing as deter-
16 mined to be appropriate by the Secretary.

17 “(ii) *INFORMATION EXCHANGE.*—The
18 eligible professional demonstrates to the sat-
19 isfaction of the Secretary, in accordance
20 with subparagraph (C)(i), that during such
21 period such certified EHR technology is
22 connected in a manner that provides, in ac-
23 cordance with law and standards applicable
24 to the exchange of information, for the elec-
25 tronic exchange of health information to im-

1 *prove the quality of health care, such as*
2 *promoting care coordination.*

3 “(iii) *REPORTING ON MEASURES USING*
4 *EHR.—Subject to subparagraph (B)(ii) and*
5 *using such certified EHR technology, the el-*
6 *igible professional submits information for*
7 *such period, in a form and manner speci-*
8 *fied by the Secretary, on such clinical qual-*
9 *ity measures and such other measures as se-*
10 *lected by the Secretary under subparagraph*
11 *(B)(i).*

12 *The Secretary may provide for the use of alter-*
13 *native means for meeting the requirements of*
14 *clauses (i), (ii), and (iii) in the case of an eligi-*
15 *ble professional furnishing covered professional*
16 *services in a group practice (as defined by the*
17 *Secretary). The Secretary shall seek to improve*
18 *the use of electronic health records and health*
19 *care quality over time by requiring more strin-*
20 *gent measures of meaningful use selected under*
21 *this paragraph.*

22 “(B) *REPORTING ON MEASURES.—*

23 “(i) *SELECTION.—The Secretary shall*
24 *select measures for purposes of subpara-*

1 *graph (A)(iii) but only consistent with the*
2 *following:*

3 *“(I) The Secretary shall provide*
4 *preference to clinical quality measures*
5 *that have been endorsed by the entity*
6 *with a contract with the Secretary*
7 *under section 1890(a).*

8 *“(II) Prior to any measure being*
9 *selected under this subparagraph, the*
10 *Secretary shall publish in the Federal*
11 *Register such measure and provide for*
12 *a period of public comment on such*
13 *measure.*

14 *“(i) LIMITATION.—The Secretary may*
15 *not require the electronic reporting of infor-*
16 *mation on clinical quality measures under*
17 *subparagraph (A)(iii) unless the Secretary*
18 *has the capacity to accept the information*
19 *electronically, which may be on a pilot*
20 *basis.*

21 *“(iii) COORDINATION OF REPORTING*
22 *OF INFORMATION.—In selecting such meas-*
23 *ures, and in establishing the form and man-*
24 *ner for reporting measures under subpara-*
25 *graph (A)(iii), the Secretary shall seek to*

1 *avoid redundant or duplicative reporting*
2 *otherwise required, including reporting*
3 *under subsection (k)(2)(C).*

4 “(C) *DEMONSTRATION OF MEANINGFUL USE*
5 *OF CERTIFIED EHR TECHNOLOGY AND INFORMA-*
6 *TION EXCHANGE.—*

7 “(i) *IN GENERAL.—A professional may*
8 *satisfy the demonstration requirement of*
9 *clauses (i) and (ii) of subparagraph (A)*
10 *through means specified by the Secretary,*
11 *which may include—*

12 “(I) *an attestation;*

13 “(II) *the submission of claims*
14 *with appropriate coding (such as a*
15 *code indicating that a patient encoun-*
16 *ter was documented using certified*
17 *EHR technology);*

18 “(III) *a survey response;*

19 “(IV) *reporting under subpara-*
20 *graph (A)(iii); and*

21 “(V) *other means specified by the*
22 *Secretary.*

23 “(ii) *USE OF PART D DATA.—Notwith-*
24 *standing sections 1860D–15(d)(2)(B) and*
25 *1860D–15(f)(2), the Secretary may use data*

1 *regarding drug claims submitted for pur-*
2 *poses of section 1860D–15 that are nec-*
3 *essary for purposes of subparagraph (A).*

4 “(3) *APPLICATION.—*

5 “(A) *PHYSICIAN REPORTING SYSTEM*
6 *RULES.—Paragraphs (5), (6), and (8) of sub-*
7 *section (k) shall apply for purposes of this sub-*
8 *section in the same manner as they apply for*
9 *purposes of such subsection.*

10 “(B) *COORDINATION WITH OTHER PAY-*
11 *MENTS.—The provisions of this subsection shall*
12 *not be taken into account in applying the provi-*
13 *sions of subsection (m) of this section and of sec-*
14 *tion 1833(m) and any payment under such pro-*
15 *visions shall not be taken into account in com-*
16 *puting allowable charges under this subsection.*

17 “(C) *LIMITATIONS ON REVIEW.—There shall*
18 *be no administrative or judicial review under*
19 *section 1869, section 1878, or otherwise of the de-*
20 *termination of any incentive payment under this*
21 *subsection and the payment adjustment under*
22 *subsection (a)(7), including the determination of*
23 *a meaningful EHR user under paragraph (2), a*
24 *limitation under paragraph (1)(B), and the ex-*
25 *ception under subsection (a)(7)(B).*

1 “(D) *POSTING ON WEBSITE.*—*The Secretary*
2 *shall post on the Internet website of the Centers*
3 *for Medicare & Medicaid Services, in an easily*
4 *understandable format, a list of the names, busi-*
5 *ness addresses, and business phone numbers of*
6 *the eligible professionals who are meaningful*
7 *EHR users and, as determined appropriate by*
8 *the Secretary, of group practices receiving incen-*
9 *tive payments under paragraph (1).*

10 “(4) *CERTIFIED EHR TECHNOLOGY DEFINED.*—
11 *For purposes of this section, the term ‘certified EHR*
12 *technology’ means a qualified electronic health record*
13 *(as defined in 3000(13) of the Public Health Service*
14 *Act) that is certified pursuant to section 3001(c)(5) of*
15 *such Act as meeting standards adopted under section*
16 *3004 of such Act that are applicable to the type of*
17 *record involved (as determined by the Secretary, such*
18 *as an ambulatory electronic health record for office-*
19 *based physicians or an inpatient hospital electronic*
20 *health record for hospitals).*

21 “(5) *DEFINITIONS.*—*For purposes of this sub-*
22 *section:*

23 “(A) *COVERED PROFESSIONAL SERVICES.*—
24 *The term ‘covered professional services’ has the*
25 *meaning given such term in subsection (k)(3).*

1 “(B) *ELIGIBLE PROFESSIONAL*.—The term
2 ‘eligible professional’ means a physician, as de-
3 fined in section 1861(r).

4 “(C) *REPORTING PERIOD*.—The term ‘re-
5 porting period’ means any period (or periods),
6 with respect to a payment year, as specified by
7 the Secretary.”.

8 (b) *INCENTIVE PAYMENT ADJUSTMENT*.—Section
9 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a))
10 is amended by adding at the end the following new para-
11 graph:

12 “(7) *INCENTIVES FOR MEANINGFUL USE OF CER-*
13 *TIFIED EHR TECHNOLOGY*.—

14 “(A) *ADJUSTMENT*.—

15 “(i) *IN GENERAL*.—Subject to subpara-
16 graphs (B) and (D), with respect to covered
17 professional services furnished by an eligible
18 professional during 2015 or any subsequent
19 payment year, if the eligible professional is
20 not a meaningful EHR user (as determined
21 under subsection (o)(2)) for a reporting pe-
22 riod for the year, the fee schedule amount
23 for such services furnished by such profes-
24 sional during the year (including the fee
25 schedule amount for purposes of deter-

1 *mining a payment based on such amount)*
2 *shall be equal to the applicable percent of*
3 *the fee schedule amount that would other-*
4 *wise apply to such services under this sub-*
5 *section (determined after application of*
6 *paragraph (3) but without regard to this*
7 *paragraph).*

8 “(ii) *APPLICABLE PERCENT.*—*Subject*
9 *to clause (iii), for purposes of clause (i), the*
10 *term ‘applicable percent’ means—*

11 *“(I) for 2015, 99 percent (or, in*
12 *the case of an eligible professional who*
13 *was subject to the application of the*
14 *payment adjustment under section*
15 *1848(a)(5) for 2014, 98 percent);*

16 *“(II) for 2016, 98 percent; and*

17 *“(III) for 2017 and each subse-*
18 *quent year, 97 percent.*

19 “(iii) *AUTHORITY TO DECREASE AP-*
20 *PLICABLE PERCENTAGE FOR 2018 AND SUB-*
21 *SEQUENT YEARS.*—*For 2018 and each sub-*
22 *sequent year, if the Secretary finds that the*
23 *proportion of eligible professionals who are*
24 *meaningful EHR users (as determined*
25 *under subsection (o)(2)) is less than 75 per-*

1 *cent, the applicable percent shall be de-*
2 *creased by 1 percentage point from the ap-*
3 *plicable percent in the preceding year, but*
4 *in no case shall the applicable percent be*
5 *less than 95 percent.*

6 “(B) *SIGNIFICANT HARDSHIP EXCEPTION.*—

7 *The Secretary may, on a case-by-case basis, ex-*
8 *empt an eligible professional from the applica-*
9 *tion of the payment adjustment under subpara-*
10 *graph (A) if the Secretary determines, subject to*
11 *annual renewal, that compliance with the re-*
12 *quirement for being a meaningful EHR user*
13 *would result in a significant hardship, such as*
14 *in the case of an eligible professional who prac-*
15 *tices in a rural area without sufficient Internet*
16 *access. In no case may an eligible professional be*
17 *granted an exemption under this subparagraph*
18 *for more than 5 years.*

19 “(C) *APPLICATION OF PHYSICIAN REPORT-*
20 *ING SYSTEM RULES.*—*Paragraphs (5), (6), and*
21 *(8) of subsection (k) shall apply for purposes of*
22 *this paragraph in the same manner as they*
23 *apply for purposes of such subsection.*

24 “(D) *NON-APPLICATION TO HOSPITAL-*
25 *BASED ELIGIBLE PROFESSIONALS.*—*No payment*

1 *adjustment may be made under subparagraph*
2 *(A) in the case of hospital-based eligible profes-*
3 *sionals (as defined in subsection (o)(1)(C)(ii)).*

4 “(E) *DEFINITIONS.*—*For purposes of this*
5 *paragraph:*

6 “(i) *COVERED PROFESSIONAL SERV-*
7 *ICES.*—*The term ‘covered professional serv-*
8 *ices’ has the meaning given such term in*
9 *subsection (k)(3).*

10 “(ii) *ELIGIBLE PROFESSIONAL.*—*The*
11 *term ‘eligible professional’ means a physi-*
12 *cian, as defined in section 1861(r).*

13 “(iii) *REPORTING PERIOD.*—*The term*
14 *‘reporting period’ means, with respect to a*
15 *year, a period specified by the Secretary.”.*

16 (c) *APPLICATION TO CERTAIN MA-AFFILIATED ELIGI-*
17 *BLE PROFESSIONALS.*—*Section 1853 of the Social Security*
18 *Act (42 U.S.C. 1395w–23) is amended by adding at the*
19 *end the following new subsection:*

20 “(l) *APPLICATION OF ELIGIBLE PROFESSIONAL INCEN-*
21 *TIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION*
22 *AND MEANINGFUL USE OF CERTIFIED EHR TECH-*
23 *NOLOGY.*—

24 “(1) *IN GENERAL.*—*Subject to paragraphs (3)*
25 *and (4), in the case of a qualifying MA organization,*

1 *the provisions of sections 1848(o) and 1848(a)(7)*
2 *shall apply with respect to eligible professionals de-*
3 *scribed in paragraph (2) of the organization who the*
4 *organization attests under paragraph (6) to be mean-*
5 *ingful EHR users in a similar manner as they apply*
6 *to eligible professionals under such sections. Incentive*
7 *payments under paragraph (3) shall be made to and*
8 *payment adjustments under paragraph (4) shall*
9 *apply to such qualifying organizations.*

10 *“(2) ELIGIBLE PROFESSIONAL DESCRIBED.—*

11 *With respect to a qualifying MA organization, an eli-*
12 *gible professional described in this paragraph is an*
13 *eligible professional (as defined for purposes of section*
14 *1848(o)) who—*

15 *“(A)(i) is employed by the organization; or*

16 *“(ii)(I) is employed by, or is a partner of,*
17 *an entity that through contract with the organi-*
18 *zation furnishes at least 80 percent of the enti-*
19 *ty’s patient care services to enrollees of such or-*
20 *ganization; and*

21 *“(II) furnishes at least 75 percent of the*
22 *professional services of the eligible professional to*
23 *enrollees of the organization; and*

24 *“(B) furnishes, on average, at least 20 hours*
25 *per week of patient care services.*

1 “(3) *ELIGIBLE PROFESSIONAL INCENTIVE PAY-*
2 *MENTS.—*

3 “(A) *IN GENERAL.—In applying section*
4 *1848(o) under paragraph (1), instead of the ad-*
5 *ditional payment amount under section*
6 *1848(o)(1)(A) and subject to subparagraph (B),*
7 *the Secretary may substitute an amount deter-*
8 *mined by the Secretary to the extent feasible and*
9 *practical to be similar to the estimated amount*
10 *in the aggregate that would be payable if pay-*
11 *ment for services furnished by such professionals*
12 *was payable under part B instead of this part.*

13 “(B) *AVOIDING DUPLICATION OF PAY-*
14 *MENTS.—*

15 “(i) *IN GENERAL.—If an eligible pro-*
16 *fessional described in paragraph (2) is eligi-*
17 *ble for the maximum incentive payment*
18 *under section 1848(o)(1)(A) for the same*
19 *payment period, the payment incentive*
20 *shall be made only under such section and*
21 *not under this subsection.*

22 “(ii) *METHODS.—In the case of an eli-*
23 *gible professional described in paragraph*
24 *(2) who is eligible for an incentive payment*
25 *under section 1848(o)(1)(A) but is not de-*

1 *scribed in clause (i) for the same payment*
2 *period, the Secretary shall develop a proc-*
3 *ess—*

4 *“(I) to ensure that duplicate pay-*
5 *ments are not made with respect to an*
6 *eligible professional both under this*
7 *subsection and under section*
8 *1848(o)(1)(A); and*

9 *“(II) to collect data from Medi-*
10 *care Advantage organizations to ensure*
11 *against such duplicate payments.*

12 *“(C) FIXED SCHEDULE FOR APPLICATION*
13 *OF LIMITATION ON INCENTIVE PAYMENTS FOR*
14 *ALL ELIGIBLE PROFESSIONALS.—In applying*
15 *section 1848(o)(1)(B)(ii) under subparagraph*
16 *(A), in accordance with rules specified by the*
17 *Secretary, a qualifying MA organization shall*
18 *specify a year (not earlier than 2011) that shall*
19 *be treated as the first payment year for all eligi-*
20 *ble professionals with respect to such organiza-*
21 *tion.*

22 *“(D) CAP FOR ECONOMIES OF SCALE.—In*
23 *no case may an incentive payment be made*
24 *under this subsection, including under subpara-*
25 *graph (A), to a qualifying MA organization with*

1 *respect to more than 5,000 eligible professionals*
2 *of the organization.*

3 “(4) *PAYMENT ADJUSTMENT.*—

4 “(A) *IN GENERAL.*—*In applying section*
5 *1848(a)(7) under paragraph (1), instead of the*
6 *payment adjustment being an applicable percent*
7 *of the fee schedule amount for a year under such*
8 *section, subject to subparagraph (D), the pay-*
9 *ment adjustment under paragraph (1) shall be*
10 *equal to the percent specified in subparagraph*
11 *(B) for such year of the payment amount other-*
12 *wise provided under this section for such year.*

13 “(B) *SPECIFIED PERCENT.*—*The percent*
14 *specified under this subparagraph for a year is*
15 *100 percent minus a number of percentage*
16 *points equal to the product of—*

17 “(i) *a percentage equal to 100 percent*
18 *reduced by the applicable percent (under*
19 *section 1848(a)(7)(A)(ii)) for the year; and*

20 “(ii) *a percentage equal to the Sec-*
21 *retary’s estimate of the proportion for the*
22 *year, of the expenditures under parts A and*
23 *B that are not attributable to this part, that*
24 *are attributable to expenditures for physi-*
25 *cians’ services.*

1 “(C) *APPLICATION OF PAYMENT ADJUST-*
2 *MENT.—In the case that a qualifying MA orga-*
3 *nization attests that not all eligible professionals*
4 *of the organization are meaningful EHR users*
5 *with respect to a year, the Secretary shall apply*
6 *the payment adjustment under this paragraph*
7 *based on the proportion of all eligible profes-*
8 *sionals of the organization that are not meaning-*
9 *ful EHR users for such year. If the number of*
10 *eligible professionals of the organization that are*
11 *not meaningful EHR users for such year exceeds*
12 *5,000, such number shall be reduced to 5,000 for*
13 *purposes of determining the proportion under the*
14 *preceding sentence.*

15 “(5) *QUALIFYING MA ORGANIZATION DEFINED.—*
16 *In this subsection and subsection (m), the term ‘quali-*
17 *fying MA organization’ means a Medicare Advantage*
18 *organization that is organized as a health mainte-*
19 *nance organization (as defined in section 2791(b)(3)*
20 *of the Public Health Service Act).*

21 “(6) *MEANINGFUL EHR USER ATTESTATION.—*
22 *For purposes of this subsection and subsection (m), a*
23 *qualifying MA organization shall submit an attesta-*
24 *tion, in a form and manner specified by the Secretary*
25 *which may include the submission of such attestation*

1 *as part of submission of the initial bid under section*
2 *1854(a)(1)(A)(iv), identifying—*

3 *“(A) whether each eligible professional de-*
4 *scribed in paragraph (2), with respect to such*
5 *organization is a meaningful EHR user (as de-*
6 *fined in section 1848(o)(2)) for a year specified*
7 *by the Secretary; and*

8 *“(B) whether each eligible hospital described*
9 *in subsection (m)(1), with respect to such organi-*
10 *zation, is a meaningful EHR user (as defined in*
11 *section 1886(n)(3)) for an applicable period*
12 *specified by the Secretary.*

13 *“(7) POSTING ON WEBSITE.—The Secretary shall*
14 *post on the Internet website of the Centers for Medi-*
15 *care & Medicaid Services, in an easily understand-*
16 *able format, a list of the names, business addresses,*
17 *and business phone numbers of—*

18 *“(A) each qualifying MA organization re-*
19 *ceiving an incentive payment under this sub-*
20 *section for eligible professionals of the organiza-*
21 *tion; and*

22 *“(B) the eligible professionals of such orga-*
23 *nization for which such incentive payment is*
24 *based.”.*

1 (d) *CONFORMING AMENDMENTS.*—Section 1853 of the
2 *Social Security Act (42 U.S.C. 1395w–23)* is amended—

3 (1) in subsection (a)(1)(A), by striking “and (i)”
4 and inserting “(i), and (l)”;

5 (2) in subsection (c)—

6 (A) in paragraph (1)(D)(i), by striking
7 “section 1886(h)” and inserting “sections
8 1848(o) and 1886(h)”;

9 (B) in paragraph (6)(A), by inserting after
10 “under part B,” the following: “excluding ex-
11 penditures attributable to subsections (a)(7) and
12 (o) of section 1848,”; and

13 (3) in subsection (f), by inserting “and for pay-
14 ments under subsection (l)” after “with the organiza-
15 tion”.

16 (e) *CONFORMING AMENDMENTS TO E-PRESCRIBING.*—

17 (1) Section 1848(a)(5)(A) of the *Social Security*
18 *Act (42 U.S.C. 1395w–4(a)(5)(A))* is amended—

19 (A) in clause (i), by striking “or any subse-
20 quent year” and inserting “, 2013, or 2014”;
21 and

22 (B) in clause (ii), by striking “and each
23 subsequent year”.

24 (2) Section 1848(m)(2) of such Act (42 U.S.C.
25 1395w–4(m)(2)) is amended—

1 (A) in subparagraph (A), by striking “For
2 2009” and inserting “Subject to subparagraph
3 (D), for 2009”; and

4 (B) by adding at the end the following new
5 subparagraph:

6 “(D) *LIMITATION WITH RESPECT TO EHR*
7 *INCENTIVE PAYMENTS.—The provisions of this*
8 *paragraph shall not apply to an eligible profes-*
9 *sional (or, in the case of a group practice under*
10 *paragraph (3)(C), to the group practice) if, for*
11 *the reporting period the eligible professional (or*
12 *group practice) receives an incentive payment*
13 *under subsection (o)(1)(A) with respect to a cer-*
14 *tified EHR technology (as defined in subsection*
15 *(o)(4)) that has the capability of electronic pre-*
16 *scribing.”.*

17 (f) *PROVIDING ASSISTANCE TO ELIGIBLE PROFES-*
18 *SIONALS AND CERTAIN HOSPITALS.—*

19 (1) *IN GENERAL.—The Secretary of Health and*
20 *Human Services shall provide assistance to eligible*
21 *professionals (as defined in section 1848(o)(5), as*
22 *added by subsection (a)), Medicaid providers (as de-*
23 *fined in section 1903(t)(2) of such Act, as added by*
24 *section 4211(a)), and eligible hospitals (as defined in*
25 *section 1886(n)(6)(A) of such Act, as added by section*

1 4202(a)) located in rural or other medically under-
2 served areas to successfully choose, implement, and
3 use certified EHR technology (as defined in section
4 1848(o)(4) of the Social Security Act, as added by
5 section 4201(a)).

6 (2) *USE OF ENTITIES WITH EXPERTISE.*—To the
7 extent practicable, the Secretary shall provide such
8 assistance through entities that have expertise in the
9 choice, implementation, and use of such certified
10 EHR technology.

11 **SEC. 4202. INCENTIVES FOR HOSPITALS.**

12 (a) *INCENTIVE PAYMENT.*—Section 1886 of the Social
13 Security Act (42 U.S.C. 1395ww) is amended by adding
14 at the end the following new subsection:

15 “(n) *INCENTIVES FOR ADOPTION AND MEANINGFUL*
16 *USE OF CERTIFIED EHR TECHNOLOGY.*—

17 “(1) *IN GENERAL.*—Subject to the succeeding
18 provisions of this subsection, with respect to inpatient
19 hospital services furnished by an eligible hospital dur-
20 ing a payment year (as defined in paragraph
21 (2)(G)), if the eligible hospital is a meaningful EHR
22 user (as determined under paragraph (3)) for the re-
23 porting period with respect to such year, in addition
24 to the amount otherwise paid under this section, there
25 also shall be paid to the eligible hospital, from the

1 *Federal Hospital Insurance Trust Fund established*
2 *under section 1817, an amount equal to the applica-*
3 *ble amount specified in paragraph (2)(A) for the hos-*
4 *pital for such payment year.*

5 “(2) *PAYMENT AMOUNT.*—

6 “(A) *IN GENERAL.*—Subject to the suc-
7 *ceeding subparagraphs of this paragraph, the ap-*
8 *plicable amount specified in this subparagraph*
9 *for an eligible hospital for a payment year is*
10 *equal to the product of the following:*

11 “(i) *INITIAL AMOUNT.*—The sum of—

12 “(I) *the base amount specified in*
13 *subparagraph (B); plus*

14 “(II) *the discharge related amount*
15 *specified in subparagraph (C) for a 12-*
16 *month period selected by the Secretary*
17 *with respect to such payment year.*

18 “(ii) *MEDICARE SHARE.*—The Medi-
19 *care share as specified in subparagraph (D)*
20 *for the hospital for a period selected by the*
21 *Secretary with respect to such payment*
22 *year.*

23 “(iii) *TRANSITION FACTOR.*—The tran-
24 *sition factor specified in subparagraph (E)*
25 *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 the*
6 *Secretary shall be determined as the sum of the*
7 *amount, based upon total discharges (regardless*
8 *of any source of payment) for the period, for*
9 *each discharge up to the 23,000th discharge as*
10 *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 for*
22 *a payment year is equal to the fraction—*

23 “(i) *the numerator of which is the sum*
24 *(for such period and with respect to the hos-*
25 *pital) 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-bed-
7 days (as so established) which are at-
8 tributable 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 the
22 total amount of the hospital’s charges
23 during such period.

24 Insofar as the Secretary determines that data are
25 not available on charity care necessary to cal-

1 *culate 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 care*
5 *including a downward adjustment to eliminate*
6 *bad debt data from uncompensated care data. In*
7 *the absence of the data necessary, with respect to*
8 *a hospital, for the Secretary to compute the*
9 *amount described in clause (ii)(II), the amount*
10 *under such clause shall be deemed to be 1. In the*
11 *absence of data, with respect to a hospital, nec-*
12 *essary to compute the amount described in clause*
13 *(i)(II), the amount under such clause shall be*
14 *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 year*
25 *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 payment
4 year for such hospital, 0.

5 “(ii) PHASE DOWN FOR ELIGIBLE HOS-
6 PITALS FIRST ADOPTING EHR AFTER 2013.—
7 If the first payment year for an eligible hos-
8 pital is after 2013, then the transition fac-
9 tor specified in this subparagraph for a
10 payment year for such hospital is the same
11 as the amount specified in clause (i) for
12 such payment year for an eligible hospital
13 for which the first payment year is 2013. If
14 the first payment year for an eligible hos-
15 pital is after 2015 then the transition factor
16 specified in this subparagraph for such hos-
17 pital and for such year and any subsequent
18 year shall be 0.

19 “(F) FORM OF PAYMENT.—The payment
20 under this subsection for a payment year may be
21 in the form of a single consolidated payment or
22 in the form of such periodic installments as the
23 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 payment
12 year’, ‘third payment year’, and ‘fourth
13 payment year’ mean, with respect to an eli-
14 gible hospital, each successive year imme-
15 diately following the first payment year for
16 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 as
25 a meaningful EHR user for a reporting period

1 *for a payment year (or, for purposes of sub-*
2 *section (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 with*
15 *subparagraph (C)(i), that during such pe-*
16 *riod such certified EHR technology is con-*
17 *nected in a manner that provides, in ac-*
18 *cordance with law and standards applicable*
19 *to the exchange of information, for the elec-*
20 *tronic exchange of health information to im-*
21 *prove the quality of health care, such as*
22 *promoting care coordination.*

23 “(iii) *REPORTING ON MEASURES USING*
24 *EHR.—Subject to subparagraph (B)(ii) and*
25 *using such certified EHR technology, the el-*

1 *igible hospital submits information for such*
2 *period, in a form and manner specified by*
3 *the Secretary, on such clinical quality*
4 *measures and such other measures as se-*
5 *lected by the Secretary under subparagraph*
6 *(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 paragraph.*

11 *“(B) REPORTING ON MEASURES.—*

12 *“(i) SELECTION.—The Secretary shall*
13 *select measures for purposes of subpara-*
14 *graph (A)(iii) but only consistent with the*
15 *following:*

16 *“(I) The Secretary shall provide*
17 *preference to clinical quality measures*
18 *that have been selected for purposes of*
19 *applying subsection (b)(3)(B)(viii) or*
20 *that have been endorsed by the entity*
21 *with a contract with the Secretary*
22 *under section 1890(a).*

23 *“(II) Prior to any measure (other*
24 *than a clinical quality measure that*
25 *has been selected for purposes of apply-*

1 *ing subsection (b)(3)(B)(viii)) being se-*
2 *lected under this subparagraph, the*
3 *Secretary shall publish in the Federal*
4 *Register such measure and provide for*
5 *a period of public comment on such*
6 *measure.*

7 “(ii) *LIMITATIONS.—The Secretary*
8 *may not require the electronic reporting of*
9 *information on clinical quality measures*
10 *under subparagraph (A)(iii) unless the Sec-*
11 *retary has the capacity to accept the infor-*
12 *mation electronically, which may be on a*
13 *pilot basis.*

14 “(iii) *COORDINATION OF REPORTING*
15 *OF INFORMATION.—In selecting such meas-*
16 *ures, and in establishing the form and man-*
17 *ner for reporting measures under subpara-*
18 *graph (A)(iii), the Secretary shall seek to*
19 *avoid redundant or duplicative reporting*
20 *with reporting otherwise required, including*
21 *reporting under subsection (b)(3)(B)(viii).*

22 “(C) *DEMONSTRATION OF MEANINGFUL USE*
23 *OF CERTIFIED EHR TECHNOLOGY AND INFORMA-*
24 *TION EXCHANGE.—*

1 “(i) *IN GENERAL.*—A hospital may
2 satisfy the demonstration requirement of
3 clauses (i) and (ii) of subparagraph (A)
4 through means specified by the Secretary,
5 which may include—

6 “(I) an attestation;

7 “(II) the submission of claims
8 with appropriate coding (such as a
9 code indicating that inpatient care
10 was documented using certified EHR
11 technology);

12 “(III) a survey response;

13 “(IV) reporting under subpara-
14 graph (A)(iii); and

15 “(V) other means specified by the
16 Secretary.

17 “(ii) *USE OF PART D DATA.*—Notwith-
18 standing sections 1860D–15(d)(2)(B) and
19 1860D–15(f)(2), the Secretary may use data
20 regarding drug claims submitted for pur-
21 poses of section 1860D–15 that are nec-
22 essary for purposes of subparagraph (A).

23 “(4) *APPLICATION.*—

24 “(A) *LIMITATIONS ON REVIEW.*—There shall
25 be no administrative or judicial review under

1 *section 1869, section 1878, or otherwise of the de-*
2 *termination of any incentive payment under this*
3 *subsection and the payment adjustment under*
4 *subsection (b)(3)(B)(ix), including the deter-*
5 *mination of a meaningful EHR user under*
6 *paragraph (3), determination of measures appli-*
7 *cable to services furnished by eligible hospitals*
8 *under this subsection, and the exception under*
9 *subsection (b)(3)(B)(ix)(II).*

10 “(B) *POSTING ON WEBSITE.*—*The Secretary*
11 *shall post on the Internet website of the Centers*
12 *for Medicare & Medicaid Services, in an easily*
13 *understandable format, a list of the names of the*
14 *eligible hospitals that are meaningful EHR users*
15 *under this subsection or subsection (b)(3)(B)(ix)*
16 *and other relevant data as determined appro-*
17 *priate by the Secretary. The Secretary shall en-*
18 *sure that a hospital has the opportunity to re-*
19 *view the other relevant data that are to be made*
20 *public with respect to the hospital prior to such*
21 *data being made public.*

22 “(5) *CERTIFIED EHR TECHNOLOGY DEFINED.*—
23 *The term ‘certified EHR technology’ has the meaning*
24 *given such term in section 1848(o)(4).*

1 “(6) *DEFINITIONS.*—*For purposes of this sub-*
2 *section:*

3 “(A) *ELIGIBLE HOSPITAL.*—*The term ‘eligi-*
4 *ble hospital’ means—*

5 “(i) *a subsection (d) hospital; and*

6 “(ii) *a critical access hospital (as de-*
7 *finied in section 1861(mm)(1)).*

8 “(B) *REPORTING PERIOD.*—*The term ‘re-*
9 *porting period’ means any period (or periods),*
10 *with respect to a payment year, as specified by*
11 *the Secretary.”.*

12 (b) *INCENTIVE MARKET BASKET ADJUSTMENT.*—

13 (1) *IN GENERAL.*—*Section 1886(b)(3)(B) of the*
14 *Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is*
15 *amended—*

16 (A) *in clause (viii)(I), by inserting “(or, be-*
17 *ginning with fiscal year 2016, by one-quarter)”*
18 *after “2.0 percentage points”; and*

19 (B) *by adding at the end the following new*
20 *clause:*

21 “(ix)(I) *For purposes of clause (i) for fiscal year 2015*
22 *and each subsequent fiscal year, in the case of an eligible*
23 *hospital (as defined in subsection (n)(6)(A)) that is not a*
24 *meaningful EHR user (as defined in subsection (n)(3)) for*
25 *the reporting period for such fiscal year, three-quarters of*

1 *the applicable percentage increase otherwise applicable*
2 *under clause (i) for such fiscal year shall be reduced by*
3 *33¹/₃ percent for fiscal year 2015, 66²/₃ percent for fiscal*
4 *year 2016, and 100 percent for fiscal year 2017 and each*
5 *subsequent fiscal year. Such reduction shall apply only with*
6 *respect to the fiscal year involved and the Secretary shall*
7 *not take into account such reduction in computing the ap-*
8 *plicable percentage increase under clause (i) for a subse-*
9 *quent fiscal year.*

10 “(II) *The Secretary may, on a case-by-case basis, ex-*
11 *empt a subsection (d) hospital from the application of sub-*
12 *clause (I) with respect to a fiscal year if the Secretary deter-*
13 *mines, subject to annual renewal, that requiring such hos-*
14 *pital to be a meaningful EHR user during such fiscal year*
15 *would result in a significant hardship, such as in the case*
16 *of a hospital in a rural area without sufficient Internet ac-*
17 *cess. In no case may a hospital be granted an exemption*
18 *under this subclause for more than 5 years.*

19 “(III) *For fiscal year 2015 and each subsequent fiscal*
20 *year, a State in which hospitals are paid for services under*
21 *section 1814(b)(3) shall adjust the payments to each sub-*
22 *section (d) hospital in the State that is not a meaningful*
23 *EHR user (as defined in subsection (n)(3)) in a manner*
24 *that is designed to result in an aggregate reduction in pay-*
25 *ments to hospitals in the State that is equivalent to the ag-*

1 *gregate reduction that would have occurred if payments had*
2 *been reduced to each subsection (d) hospital in the State*
3 *in a manner comparable to the reduction under the pre-*
4 *vious provisions of this clause. The State shall report to*
5 *the Secretary the methodology it will use to make the pay-*
6 *ment adjustment under the previous sentence.*

7 “(IV) For purposes of this clause, the term ‘reporting
8 period’ means, with respect to a fiscal year, any period (or
9 periods), with respect to the fiscal year, as specified by the
10 Secretary.”

11 (2) *CRITICAL ACCESS HOSPITALS.—Section*
12 *1814(l) of the Social Security Act (42 U.S.C.*
13 *1395f(l)) is amended—*

14 (A) *in subparagraph (1), by striking “para-*
15 *graph (2)” and inserting “paragraphs (2) and*
16 *(3)”;* and

17 (B) *by adding at the end the following new*
18 *paragraph:*

19 “(3)(A) *Subject to subparagraph (B), for fiscal year*
20 *2015 and each subsequent fiscal year, in the case of a crit-*
21 *ical access hospital that is not a meaningful EHR user (as*
22 *defined in section 1886(n)(3)) for the reporting period for*
23 *such fiscal year, paragraph (1) shall be applied by sub-*
24 *stituting the applicable percent under subparagraph (C) for*
25 *the percent described in such paragraph (1).*

1 “(B) *The Secretary may, on a case-by-case basis, ex-*
2 *empt a critical access hospital from the application of sub-*
3 *paragraph (A) with respect to a fiscal year if the Secretary*
4 *determines, subject to annual renewal, that requiring such*
5 *hospital to be a meaningful EHR user during such fiscal*
6 *year would result in a significant hardship, such as in the*
7 *case of a hospital in a rural area without sufficient Internet*
8 *access. In no case may a hospital be granted an exemption*
9 *under this subparagraph for more than 5 years.*

10 “(C) *The percent described in this subparagraph is—*
11 “(i) *for fiscal year 2015, 100.66 percent;*
12 “(ii) *for fiscal year 2016, 100.33 percent; and*
13 “(iii) *for fiscal year 2017 and each subsequent*
14 *fiscal year, 100 percent.*”.

15 (c) *APPLICATION TO CERTAIN MA-AFFILIATED ELIGI-*
16 *BLE HOSPITALS.—Section 1853 of the Social Security Act*
17 *(42 U.S.C. 1395w–23), as amended by section 4201(c), is*
18 *further amended by adding at the end the following new*
19 *subsection:*

20 “(m) *APPLICATION OF ELIGIBLE HOSPITAL INCEN-*
21 *TIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION*
22 *AND MEANINGFUL USE OF CERTIFIED EHR TECH-*
23 *NOLOGY.—*

24 “(1) *APPLICATION.—Subject to paragraphs (3)*
25 *and (4), in the case of a qualifying MA organization,*

1 *the provisions of sections 1814(l)(3), 1886(n), and*
2 *1886(b)(3)(B)(ix) shall apply with respect to eligible*
3 *hospitals described in paragraph (2) of the organiza-*
4 *tion which the organization attests under subsection*
5 *(l)(6) to be meaningful EHR users in a similar man-*
6 *ner as they apply to eligible hospitals under such sec-*
7 *tions. Incentive payments under paragraph (3) shall*
8 *be made to and payment adjustments under para-*
9 *graph (4) shall apply to such qualifying organiza-*
10 *tions.*

11 *“(2) ELIGIBLE HOSPITAL DESCRIBED.—With re-*
12 *spect to a qualifying MA organization, an eligible*
13 *hospital described in this paragraph is an eligible*
14 *hospital (as defined in section 1886(n)(6)(A)) that is*
15 *under common corporate governance with such orga-*
16 *nization and serves individuals enrolled under an MA*
17 *plan offered by such organization.*

18 *“(3) ELIGIBLE HOSPITAL INCENTIVE PAY-*
19 *MENTS.—*

20 *“(A) IN GENERAL.—In applying section*
21 *1886(n)(2) under paragraph (1), instead of the*
22 *additional payment amount under section*
23 *1886(n)(2), there shall be substituted an amount*
24 *determined by the Secretary to be similar to the*
25 *estimated amount in the aggregate that would be*

1 *payable if payment for services furnished by*
2 *such hospitals was payable under part A instead*
3 *of this part. In implementing the previous sen-*
4 *tence, the Secretary—*

5 “(i) *shall, insofar as data to determine*
6 *the discharge related amount under section*
7 *1886(n)(2)(C) for an eligible hospital are*
8 *not available to the Secretary, use such al-*
9 *ternative data and methodology to estimate*
10 *such discharge related amount as the Sec-*
11 *retary determines appropriate; and*

12 “(ii) *shall, insofar as data to deter-*
13 *mine the medicare share described in sec-*
14 *tion 1886(n)(2)(D) for an eligible hospital*
15 *are not available to the Secretary, use such*
16 *alternative data and methodology to esti-*
17 *mate such share, which data and method-*
18 *ology may include use of the inpatient bed*
19 *days (or discharges) with respect to an eli-*
20 *gible hospital during the appropriate period*
21 *which are attributable to both individuals*
22 *for whom payment may be made under*
23 *part A or individuals enrolled in an MA*
24 *plan under a Medicare Advantage organiza-*
25 *tion under this part as a proportion of the*

1 *total number of patient-bed-days (or dis-*
2 *charges) with respect to such hospital dur-*
3 *ing such period.*

4 “(B) *AVOIDING DUPLICATION OF PAY-*
5 *MENTS.—*

6 “(i) *IN GENERAL.—In the case of a*
7 *hospital that for a payment year is an eli-*
8 *gible hospital described in paragraph (2)*
9 *and for which at least one-third of their dis-*
10 *charges (or bed-days) of Medicare patients*
11 *for the year are covered under part A, pay-*
12 *ment for the payment year shall be made*
13 *only under section 1886(n) and not under*
14 *this subsection.*

15 “(ii) *METHODS.—In the case of a hos-*
16 *pital that is an eligible hospital described*
17 *in paragraph (2) and also is eligible for an*
18 *incentive payment under section 1886(n)*
19 *but is not described in clause (i) for the*
20 *same payment period, the Secretary shall*
21 *develop a process—*

22 “(I) *to ensure that duplicate pay-*
23 *ments are not made with respect to an*
24 *eligible hospital both under this sub-*
25 *section and under section 1886(n); and*

1 “(II) to collect data from Medi-
2 care Advantage organizations to ensure
3 against such duplicate payments.

4 “(4) PAYMENT ADJUSTMENT.—

5 “(A) Subject to paragraph (3), in the case
6 of a qualifying MA organization (as defined in
7 section 1853(l)(5)), if, according to the attesta-
8 tion of the organization submitted under sub-
9 section (l)(6) for an applicable period, one or
10 more eligible hospitals (as defined in section
11 1886(n)(6)(A)) that are under common corporate
12 governance with such organization and that
13 serve individuals enrolled under a plan offered
14 by such organization are not meaningful EHR
15 users (as defined in section 1886(n)(3)) with re-
16 spect to a period, the payment amount payable
17 under this section for such organization for such
18 period shall be the percent specified in subpara-
19 graph (B) for such period of the payment
20 amount otherwise provided under this section for
21 such period.

22 “(B) SPECIFIED PERCENT.—The percent
23 specified under this subparagraph for a year is
24 100 percent minus a number of percentage
25 points equal to the product of—

1 “(i) the number of the percentage point
2 reduction effected under section
3 1886(b)(3)(B)(ix)(I) for the period; and

4 “(ii) the Medicare hospital expenditure
5 proportion specified in subparagraph (C)
6 for the year.

7 “(C) *MEDICARE HOSPITAL EXPENDITURE*
8 *PROPORTION.*—The Medicare hospital expendi-
9 ture proportion under this subparagraph for a
10 year is the Secretary’s estimate of the propor-
11 tion, of the expenditures under parts A and B
12 that are not attributable to this part, that are
13 attributable to expenditures for inpatient hos-
14 pital services.

15 “(D) *APPLICATION OF PAYMENT ADJUST-*
16 *MENT.*—In the case that a qualifying MA orga-
17 nization attests that not all eligible hospitals are
18 meaningful EHR users with respect to an appli-
19 cable period, the Secretary shall apply the pay-
20 ment adjustment under this paragraph based on
21 a methodology specified by the Secretary, taking
22 into account the proportion of such eligible hos-
23 pitals, or discharges from such hospitals, that are
24 not meaningful EHR users for such period.

1 “(5) *POSTING ON WEBSITE.*—*The Secretary shall*
2 *post on the Internet website of the Centers for Medi-*
3 *care & Medicaid Services, in an easily understand-*
4 *able format—*

5 “(A) *a list of the names, business addresses,*
6 *and business phone numbers of each qualifying*
7 *MA organization receiving an incentive payment*
8 *under this subsection for eligible hospitals de-*
9 *scribed in paragraph (2); and*

10 “(B) *a list of the names of the eligible hos-*
11 *pitals for which such incentive payment is*
12 *based.”.*

13 (d) *CONFORMING AMENDMENTS.*—

14 (1) *Section 1814(b) of the Social Security Act*
15 *(42 U.S.C. 1395f(b)) is amended—*

16 (A) *in paragraph (3), in the matter pre-*
17 *ceding subparagraph (A), by inserting “, subject*
18 *to section 1886(d)(3)(B)(ix)(III),” after “then”;*
19 *and*

20 (B) *by adding at the end the following:*
21 *“For purposes of applying paragraph (3), there*
22 *shall be taken into account incentive payments,*
23 *and payment adjustments under subsection*
24 *(b)(3)(B)(ix) or (n) of section 1886.”.*

1 (2) *Section 1851(i)(1) of the Social Security Act*
 2 (42 U.S.C. 1395w–21(i)(1)) *is amended by striking*
 3 “*and 1886(h)(3)(D)*” *and inserting “1886(h)(3)(D),*
 4 *and 1853(m)”.*

5 (3) *Section 1853 of the Social Security Act (42*
 6 *U.S.C. 1395w–23), as amended by section 4311(d)(1),*
 7 *is amended—*

8 (A) *in subsection (c)—*

9 (i) *in paragraph (1)(D)(i), by striking*
 10 “*1848(o)*” *and inserting “, 1848(o), and*
 11 *1886(n)”;* *and*

12 (ii) *in paragraph (6)(A), by inserting*
 13 “*and subsections (b)(3)(B)(ix) and (n) of*
 14 *section 1886” after “section 1848”;* *and*

15 (B) *in subsection (f), by inserting “and sub-*
 16 *section (m)” after “under subsection (l)”.*

17 **SEC. 4203. PREMIUM HOLD HARMLESS AND IMPLEMENTA-**
 18 **TION FUNDING.**

19 (a) *PREMIUM HOLD HARMLESS.—*

20 (1) *IN GENERAL.—Section 1839(a)(1) of the So-*
 21 *cial Security Act (42 U.S.C. 1395r(a)(1)) is amended*
 22 *by adding at the end the following: “In applying this*
 23 *paragraph there shall not be taken into account addi-*
 24 *tional payments under section 1848(o) and section*

1 *1853(l)(3) and the Government contribution under*
2 *section 1844(a)(3).”.*

3 (2) *PAYMENT.—Section 1844(a) of such Act (42*
4 *U.S.C. 1395w(a)) is amended—*

5 (A) *in paragraph (2), by striking the period*
6 *at the end and inserting “; plus”; and*

7 (B) *by adding at the end the following new*
8 *paragraph:*

9 “(3) *a Government contribution equal to the*
10 *amount of payment incentives payable under sections*
11 *1848(o) and 1853(l)(3).”.*

12 (b) *IMPLEMENTATION FUNDING.—In addition to funds*
13 *otherwise available, out of any funds in the Treasury not*
14 *otherwise appropriated, there are appropriated to the Sec-*
15 *retary of Health and Human Services for the Center for*
16 *Medicare & Medicaid Services Program Management Ac-*
17 *count, \$100,000,000 for each of fiscal years 2009 through*
18 *2015 and \$45,000,000 for each succeeding fiscal year*
19 *through fiscal year 2018, which shall be available for pur-*
20 *poses of carrying out the provisions of (and amendments*
21 *made by) this part. Amounts appropriated under this sub-*
22 *section for a fiscal year shall be available until expended.*

1 **SEC. 4204. NON-APPLICATION OF PHASED-OUT INDIRECT**
2 **MEDICAL EDUCATION (IME) ADJUSTMENT**
3 **FACTOR FOR FISCAL YEAR 2009.**

4 (a) *IN GENERAL.*—Section 412.322 of title 42, Code
5 of Federal Regulations, shall be applied without regard to
6 paragraph (c) of such section, and the Secretary of Health
7 and Human Services shall recompute payments for dis-
8 charges occurring on or after October 1, 2008, as if such
9 paragraph had never been in effect.

10 (b) *NO EFFECT ON SUBSEQUENT YEARS.*—Nothing in
11 subsection (a) shall be construed as having any effect on
12 the application of paragraph (d) of section 412.322 of title
13 42, Code of Federal Regulations.

14 **SEC. 4205. STUDY ON APPLICATION OF EHR PAYMENT IN-**
15 **CENTIVES FOR PROVIDERS NOT RECEIVING**
16 **OTHER INCENTIVE PAYMENTS.**

17 (a) *STUDY.*—

18 (1) *IN GENERAL.*—The Secretary of Health and
19 Human Services shall conduct a study to determine
20 the extent to which and manner in which payment
21 incentives (such as under title XVIII or XIX of the
22 Social Security Act) and other funding for purposes
23 of implementing and using certified EHR technology
24 (as defined in section 1848(o)(4) of the Social Secu-
25 rity Act, as added by section 4311(a)) should be made
26 available to health care providers who are receiving

1 *minimal or no payment incentives or other funding*
2 *under this Act, under title XVIII or XIX of such Act,*
3 *or otherwise, for such purposes.*

4 (2) *DETAILS OF STUDY.—Such study shall in-*
5 *clude an examination of—*

6 (A) *the adoption rates of certified EHR*
7 *technology (as so defined) by such health care*
8 *providers;*

9 (B) *the clinical utility of such technology by*
10 *such health care providers;*

11 (C) *whether the services furnished by such*
12 *health care providers are appropriate for or*
13 *would benefit from the use of such technology;*

14 (D) *the extent to which such health care*
15 *providers work in settings that might otherwise*
16 *receive an incentive payment or other funding*
17 *under this Act, title XVIII or XIX of the Social*
18 *Security Act, or otherwise;*

19 (E) *the potential costs and the potential*
20 *benefits of making payment incentives and other*
21 *funding available to such health care providers;*
22 *and*

23 (F) *any other issues the Secretary deems to*
24 *be appropriate.*

1 **(b) REPORT.**—*Not later than June 30, 2010, the Sec-*
2 *retary shall submit to Congress a report on the findings*
3 *and conclusions of the study conducted under subsection (a).*

4 **SEC. 4206. STUDY ON AVAILABILITY OF OPEN SOURCE**
5 **HEALTH INFORMATION TECHNOLOGY SYS-**
6 **TEMS.**

7 **(a) IN GENERAL.**—

8 **(1) STUDY.**—*The Secretary of Health and*
9 *Human Services shall, in consultation with the*
10 *Under Secretary for Health of the Veterans Health*
11 *Administration, the Director of the Indian Health*
12 *Service, the Secretary of Defense, the Director of the*
13 *Agency for Healthcare Research and Quality, the Ad-*
14 *ministrator of the Health Resources and Services Ad-*
15 *ministration, and the Chairman of the Federal Com-*
16 *munications Commission, conduct a study on—*

17 **(A)** *the current availability of open source*
18 *health information technology systems to Federal*
19 *safety net providers (including small, rural pro-*
20 *viders);*

21 **(B)** *the total cost of ownership of such sys-*
22 *tems in comparison to the cost of proprietary*
23 *commercial products available;*

24 **(C)** *the ability of such systems to respond to*
25 *the needs of, and be applied to, various popu-*

1 *lations (including children and disabled individ-*
2 *uals); and*

3 *(D) the capacity of such systems to facili-*
4 *tate interoperability.*

5 *(2) CONSIDERATIONS.—In conducting the study*
6 *under paragraph (1), the Secretary of Health and*
7 *Human Services shall take into account the cir-*
8 *cumstances of smaller health care providers, health*
9 *care providers located in rural or other medically un-*
10 *derserved areas, and safety net providers that deliver*
11 *a significant level of health care to uninsured individ-*
12 *uals, Medicaid beneficiaries, SCHIP beneficiaries,*
13 *and other vulnerable individuals.*

14 *(b) REPORT.—Not later than October 1, 2010, the Sec-*
15 *retary of Health and Human Services shall submit to Con-*
16 *gress a report on the findings and the conclusions of the*
17 *study conducted under subsection (a), together with rec-*
18 *ommendations for such legislation and administrative ac-*
19 *tion as the Secretary determines appropriate.*

20 ***Subtitle B—Medicaid Funding***

21 ***SEC. 4211. MEDICAID PROVIDER EHR ADOPTION AND OPER-*** 22 ***ATION PAYMENTS; IMPLEMENTATION FUND-*** 23 ***ING.***

24 *(a) IN GENERAL.—Section 1903 of the Social Security*
25 *Act (42 U.S.C. 1396b) is amended—*

1 (1) *in subsection (a)(3)—*

2 (A) *by striking “and” at the end of sub-*
3 *paragraph (D);*

4 (B) *by striking “plus” at the end of sub-*
5 *paragraph (E) and inserting “and”; and*

6 (C) *by adding at the end the following new*
7 *subparagraph:*

8 “(F)(i) *100 percent of so much of the sums*
9 *expended during such quarter as are attributable*
10 *to payments for certified EHR technology (and*
11 *support services including maintenance and*
12 *training that is for, or is necessary for the adop-*
13 *tion and operation of, such technology) by Med-*
14 *icaid providers described in subsection (t)(1);*
15 *and*

16 “(ii) *90 percent of so much of the sums ex-*
17 *pended during such quarter as are attributable*
18 *to payments for reasonable administrative ex-*
19 *penses related to the administration of payments*
20 *described in clause (i) if the State meets the con-*
21 *dition described in subsection (t)(9); plus”; and*

22 (2) *by inserting after subsection (s) the following*
23 *new subsection:*

24 “(t)(1)(A) *For purposes of subsection (a)(3)(F), the*
25 *payments for certified EHR technology (and support serv-*

1 *ices including maintenance that is for, or is necessary for*
2 *the operation of, such technology) by Medicaid providers de-*
3 *scribed in this paragraph are payments made by the State*
4 *in accordance with this subsection of the applicable percent*
5 *of the net allowable costs of Medicaid providers (as defined*
6 *in paragraph (2)) for such technology (and support serv-*
7 *ices).*

8 “(B) For purposes of subparagraph (A), the term ‘ap-
9 *plicable percent*’ means—

10 “(i) in the case of a Medicaid provider described
11 *in paragraph (2)(A), 85 percent;*

12 “(ii) in the case of a Medicaid provider described
13 *in clause (i) or (ii) of paragraph (2)(B), 100 percent;*
14 *and*

15 “(iii) in the case of a Medicaid provider de-
16 *scribed in clause (iii) of paragraph (2)(B), a percent*
17 *specified by the Secretary, but not less than 85 per-*
18 *cent.*

19 “(2) In this subsection and subsection (a)(3)(F), the
20 *term ‘Medicaid provider’ means—*

21 “(A) an eligible professional (as defined in para-
22 *graph (3)(B)) who is not hospital-based and has at*
23 *least 30 percent of the professional’s patient volume*
24 *(as estimated in accordance with standards estab-*
25 *lished by the Secretary) attributable to individuals*

1 *who are receiving medical assistance under this title;*
2 *and*

3 *“(B)(i) a children’s hospital, (ii) an acute-care*
4 *hospital that is not described in clause (i) and that*
5 *has at least 10 percent of the hospital’s patient vol-*
6 *ume (as estimated in accordance with standards es-*
7 *tablished by the Secretary) attributable to individuals*
8 *who are receiving medical assistance under this title,*
9 *or (iii) a Federally-qualified health center or rural*
10 *health clinic that has at least 30 percent of the cen-*
11 *ter’s or clinic’s patient volume (as estimated in ac-*
12 *cordance with standards established by the Secretary)*
13 *attributable to individuals who are receiving medical*
14 *assistance under this title.*

15 *An eligible professional shall not qualify as a Medicaid pro-*
16 *vider under this subsection unless the professional has*
17 *waived, in a manner specified by the Secretary, any right*
18 *to payment under section 1848(o) with respect to the adop-*
19 *tion or support of certified EHR technology by the eligible*
20 *professional. In applying clauses (ii) and (iii) of subpara-*
21 *graph (B), the standards established by the Secretary for*
22 *patient volume shall include individuals enrolled in a Med-*
23 *icaid managed care plan (under section 1903(m) or section*
24 *1932).*

25 *“(3) In this subsection and subsection (a)(3)(F):*

1 “(A) *The term ‘certified EHR technology’ means*
2 *a qualified electronic health record (as defined in*
3 *3000(13) of the Public Health Service Act) that is cer-*
4 *tified pursuant to section 3001(c)(5) of such Act as*
5 *meeting standards adopted under section 3004 of such*
6 *Act that are applicable to the type of record involved*
7 *(as determined by the Secretary, such as an ambula-*
8 *tory electronic health record for office-based physi-*
9 *cians or an inpatient hospital electronic health record*
10 *for hospitals).*

11 “(B) *The term ‘eligible professional’ means a*
12 *physician as defined in paragraphs (1) and (2) of*
13 *section 1861(r), and includes a nurse mid-wife and a*
14 *nurse practitioner.*

15 “(C) *The term ‘hospital-based’ means, with re-*
16 *spect to an eligible professional, a professional (such*
17 *as a pathologist, anesthesiologist, or emergency physi-*
18 *cian) who furnishes substantially all of the individ-*
19 *ual’s professional services in a hospital setting*
20 *(whether inpatient or outpatient) and through the use*
21 *of the facilities and equipment, including qualified*
22 *electronic health records, of the hospital.*

23 “(4)(A) *The term ‘allowable costs’ means, with respect*
24 *to certified EHR technology of a Medicaid provider, costs*
25 *of such technology (and support services including mainte-*

1 nance and training that is for, or is necessary for the adop-
2 tion and operation of, such technology) as determined by
3 the Secretary to be reasonable.

4 “(B) The term ‘net allowable costs’ means allowable
5 costs reduced by any payment that is made to the Medicaid
6 provider involved from any other source that is directly at-
7 tributable to payment for certified EHR technology or serv-
8 ices described in subparagraph (A).

9 “(C) In no case shall—

10 “(i) the aggregate allowable costs under this sub-
11 section (covering one or more years) with respect to
12 a Medicaid provider described in paragraph (2)(A)
13 for purchase and initial implementation of certified
14 EHR technology (and services described in subpara-
15 graph (A)) exceed \$25,000 or include costs over a pe-
16 riod of longer than 5 years;

17 “(ii) for costs not described in clause (i) relating
18 to the operation, maintenance, or use of certified
19 EHR technology, the annual allowable costs under
20 this subsection with respect to such a Medicaid pro-
21 vider for costs not described in clause (i) for any year
22 exceed \$10,000;

23 “(iii) payment described in paragraph (1) for
24 costs described in clause (ii) be made with respect to

1 *such a Medicaid provider over a period of more than*
2 *5 years;*

3 *“(iv) the aggregate allowable costs under this*
4 *subsection with respect to such a Medicaid provider*
5 *for all costs exceed \$75,000; or*

6 *“(v) the allowable costs, whether for purchase*
7 *and initial implementation, maintenance, or other-*
8 *wise, for a Medicaid provider described in paragraph*
9 *(2)(B)(iii) exceed such aggregate or annual limitation*
10 *as the Secretary shall establish, based on an amount*
11 *determined by the Secretary as being adequate to*
12 *adopt and maintain certified EHR technology, con-*
13 *sistent with paragraph (6).*

14 *“(5) Payments described in paragraph (1) are not in*
15 *accordance with this subsection unless the following require-*
16 *ments are met:*

17 *“(A) The State provides assurances satisfactory*
18 *to the Secretary that amounts received under sub-*
19 *section (a)(3)(F) with respect to costs of a Medicaid*
20 *provider are paid directly to such provider without*
21 *any deduction or rebate.*

22 *“(B) Such Medicaid provider is responsible for*
23 *payment of the costs described in such paragraph that*
24 *are not provided under this title.*

1 “(C) *With respect to payments to such Medicaid*
2 *provider for costs other than costs related to the ini-*
3 *tial adoption of certified EHR technology, the Med-*
4 *icaid provider demonstrates meaningful use of cer-*
5 *tified EHR technology through a means that is ap-*
6 *proved by the State and acceptable to the Secretary,*
7 *and that may be based upon the methodologies ap-*
8 *plied under section 1848(o) or 1886(n). In estab-*
9 *lishing such means, which may include the reporting*
10 *of clinical quality measures to the State, the State*
11 *shall ensure that populations with unique needs, such*
12 *as children, are appropriately addressed.*

13 “(D) *To the extent specified by the Secretary, the*
14 *certified EHR technology is compatible with State or*
15 *Federal administrative management systems.*

16 “(6)(A) *In no case shall the payments described in*
17 *paragraph (1), with respect to a hospital, exceed in the ag-*
18 *gregate the product of—*

19 “(i) *the overall hospital EHR amount for the*
20 *hospital computed under subparagraph (B); and*

21 “(ii) *the Medicaid share for such hospital com-*
22 *puted under subparagraph (C).*

23 “(B) *For purposes of this paragraph, the overall hos-*
24 *pital EHR amount, with respect to a hospital, is the sum*
25 *of the applicable amounts specified in section 1886(n)(2)(A)*

1 *for such hospital for the first 4 payment years (as estimated*
2 *by the Secretary) determined as if the Medicare share speci-*
3 *fied in clause (ii) of such section were 1. The Secretary shall*
4 *publish in the Federal Register the overall hospital EHR*
5 *amount for each hospital eligible for payments under this*
6 *subsection. In computing amounts under clause (ii) for*
7 *payment years after the first payment year, the Secretary*
8 *shall assume that in subsequent payment years discharges*
9 *increase at the average annual rate of growth of the most*
10 *recent three years for which discharge data are available.*

11 “(C) *The Medicaid share computed under this sub-*
12 *paragraph, for a hospital for a period specified by the Sec-*
13 *retary, shall be calculated in the same manner as the Medi-*
14 *care share under section 1886(n)(2)(D) for such a hospital*
15 *and period, except that there shall be substituted for the nu-*
16 *merator under clause (i) of such section the amount that*
17 *is equal to the number of inpatient-bed-days (as established*
18 *by the Secretary) which are attributable to individuals who*
19 *are receiving medical assistance under this title and who*
20 *are not described in section 1886(n)(2)(D)(i). In computing*
21 *inpatient-bed-days under the previous sentence, the Sec-*
22 *retary shall take into account inpatient-bed-days attrib-*
23 *utable to inpatient-bed-days that are paid for individuals*
24 *enrolled in a Medicaid managed care plan (under section*
25 *1903(m) or section 1932).*

1 “(7) *With respect to health care providers other than*
2 *hospitals, the Secretary shall establish and implement a de-*
3 *tailed process to ensure coordination of the different pro-*
4 *grams for payment of such health care providers for adop-*
5 *tion or use of health information technology (including cer-*
6 *tified EHR technology), as well as payments for such health*
7 *care providers provided under this title or title XVIII, to*
8 *assure no duplication of funding. The Secretary shall pro-*
9 *mulgate regulations to carry out the preceding sentence.*

10 “(8) *In carrying out paragraph (5)(C), the State and*
11 *Secretary shall seek, to the maximum extent practicable, to*
12 *avoid duplicative requirements from Federal and State*
13 *Governments to demonstrate meaningful use of certified*
14 *EHR technology under this title and title XVIII. In doing*
15 *so, the Secretary may deem satisfaction of requirements for*
16 *such meaningful use for a payment year under title XVIII*
17 *to be sufficient to qualify as meaningful use under this sub-*
18 *section. The Secretary may also specify the reporting peri-*
19 *ods under this subsection in order to carry out this para-*
20 *graph.*

21 “(9) *In order to be provided Federal financial partici-*
22 *pation under subsection (a)(3)(F)(ii), a State must dem-*
23 *onstrate to the satisfaction of the Secretary, that the State—*

24 “(A) *is using the funds provided for the purposes*
25 *of administering payments under this subsection, in-*

1 *cluding tracking of meaningful use by Medicaid pro-*
2 *viders;*

3 *“(B) is conducting adequate oversight of the pro-*
4 *gram under this subsection, including routine track-*
5 *ing of meaningful use attestations and reporting*
6 *mechanisms; and*

7 *“(C) is pursuing initiatives to encourage the*
8 *adoption of certified EHR technology to promote*
9 *health care quality and the exchange of health care*
10 *information under this title, subject to applicable*
11 *laws and regulations governing such exchange.*

12 *“(10) The Secretary shall periodically submit reports*
13 *to the Committee on Energy and Commerce of the House*
14 *of Representatives and the Committee on Finance of the*
15 *Senate on status, progress, and oversight of payments under*
16 *paragraph (1).”.*

17 *(b) IMPLEMENTATION FUNDING.—In addition to funds*
18 *otherwise available, out of any funds in the Treasury not*
19 *otherwise appropriated, there are appropriated to the Sec-*
20 *retary of Health and Human Services for the Center for*
21 *Medicare & Medicaid Services Program Management Ac-*
22 *count, \$40,000,000 for each of fiscal years 2009 through*
23 *2015 and \$20,000,000 for each succeeding fiscal year*
24 *through fiscal year 2018, which shall be available for pur-*
25 *poses of carrying out the provisions of (and the amendments*

1 *made by) this part. Amounts appropriated under this sub-*
2 *section for a fiscal year shall be available until expended.*

3 *(c) HHS REPORT ON IMPLEMENTATION OF DETAILED*
4 *PROCESS TO ASSURE NO DUPLICATION OF FUNDING.—Not*
5 *later than July 1, 2012, the Secretary of Health and*
6 *Human Services shall submit to Congress a report on the*
7 *establishment and implementation of the detailed process*
8 *under section 1903(t)(7) of the Social Security Act, as*
9 *added by subsection (a), together with recommendations for*
10 *such legislation and administrative action as the Secretary*
11 *determines appropriate.*

12 **TITLE V—STATE FISCAL RELIEF**

13 **SEC. 5000. PURPOSES; TABLE OF CONTENTS.**

14 *(a) PURPOSES.—The purposes of this title are as fol-*
15 *lows:*

16 *(1) To provide fiscal relief to States in a period*
17 *of economic downturn.*

18 *(2) To protect and maintain State Medicaid*
19 *programs during a period of economic downturn, in-*
20 *cluding by helping to avert cuts to provider payment*
21 *rates and benefits or services, and to prevent constrict-*
22 *tions of income eligibility requirements for such pro-*
23 *grams, but not to promote increases in such require-*
24 *ments.*

1 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 2 *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.

3 ***SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.***

4 (a) *PERMITTING MAINTENANCE OF FMAP.*—*Subject to*
 5 *subsections (e), (f), and (g), if the FMAP determined with-*
 6 *out regard to this section for a State for—*

7 (1) *fiscal year 2009 is less than the FMAP as so*
 8 *determined for fiscal year 2008, the FMAP for the*
 9 *State for fiscal year 2008 shall be substituted for the*
 10 *State’s FMAP for fiscal year 2009, before the applica-*
 11 *tion of this section;*

12 (2) *fiscal year 2010 is less than the FMAP as so*
 13 *determined for fiscal year 2008 or fiscal year 2009*
 14 *(after the application of paragraph (1)), the greater*
 15 *of such FMAP for the State for fiscal year 2008 or*
 16 *fiscal year 2009 shall be substituted for the State’s*
 17 *FMAP for fiscal year 2010, before the application of*
 18 *this section; and*

19 (3) *fiscal year 2011 is less than the FMAP as so*
 20 *determined for fiscal year 2008, fiscal year 2009*

1 *(after the application of paragraph (1)), or fiscal*
2 *year 2010 (after the application of paragraph (2)),*
3 *the greatest of such FMAP for the State for fiscal year*
4 *2008, fiscal year 2009, or fiscal year 2010 shall be*
5 *substituted for the State's FMAP for fiscal year 2011,*
6 *before the application of this section, but only for the*
7 *first calendar quarter in fiscal year 2011.*

8 ***(b) GENERAL 7.6 PERCENTAGE POINT INCREASE.—***
9 *Subject to subsections (e), (f), and (g), for each State for*
10 *calendar quarters during the recession adjustment period*
11 *(as defined in subsection (h)(2)) , the FMAP (after the ap-*
12 *plication of subsection (a)) shall be increased (without re-*
13 *gard to any limitation otherwise specified in section*
14 *1905(b) of the Social Security Act) by 7.6 percentage*
15 *points.*

16 ***(c) ADDITIONAL RELIEF BASED ON INCREASE IN UN-***
17 ***EMPLOYMENT.—***

18 ***(1) IN GENERAL.—****Subject to subsections (e), (f),*
19 *and (g), if a State is a qualifying State under para-*
20 *graph (2) for a calendar quarter occurring during the*
21 *recession adjustment period, the FMAP for the State*
22 *shall be further increased by the number of percentage*
23 *points equal to the product of the State percentage*
24 *applicable for the State under section 1905(b) of the*
25 *Social Security Act (42 U.S.C. 1396d(b)) after the*

1 application of subsections (a) and (b) and the appli-
2 cable percent determined in paragraph (3) for the cal-
3 endar quarter (or, if greater, for a previous such cal-
4 endar quarter, subject to paragraph (4)) .

5 (2) QUALIFYING CRITERIA.—

6 (A) IN GENERAL.—For purposes of para-
7 graph (1), a State qualifies for additional relief
8 under this subsection for a calendar quarter oc-
9 ccurring during the recession adjustment period if
10 the State is 1 of the 50 States or the District of
11 Columbia and the State satisfies any of the fol-
12 lowing criteria for the quarter:

13 (i) An increase of at least 1.5 percent-
14 age points, but less than 2.5 percentage
15 points, in the average monthly unemploy-
16 ment rate, seasonally adjusted, for the State
17 or District, as determined by comparing
18 months in the most recent previous 3-con-
19 secutive month period for which data are
20 available for the State or District to the
21 lowest average monthly unemployment rate,
22 seasonally adjusted, for the State or District
23 for any 3-consecutive-month period pre-
24 ceding that period and beginning on or
25 after January 1, 2006 (based on the most

1 *recently available monthly publications of*
2 *the Bureau of Labor Statistics of the De-*
3 *partment of Labor).*

4 *(ii) An increase of at least 2.5 percent-*
5 *age points, but less than 3.5 percentage*
6 *points, in the average monthly unemploy-*
7 *ment rate, seasonally adjusted, for the State*
8 *or District (as so determined).*

9 *(iii) An increase of at least 3.5 per-*
10 *centage points for the State or District, in*
11 *the average monthly unemployment rate,*
12 *seasonally adjusted, for the State or District*
13 *(as so determined).*

14 *(B) MAINTENANCE OF STATUS.—If a State*
15 *qualifies for additional relief under this sub-*
16 *section for a calendar quarter, it shall be deemed*
17 *to have qualified for such relief for each subse-*
18 *quent calendar quarter ending before July 1,*
19 *2010.*

20 *(3) APPLICABLE PERCENT.—For purposes of*
21 *paragraph (1), the applicable percent is—*

22 *(A) 2.5 percent, if the State satisfies the cri-*
23 *teria described in paragraph (2)(A)(i) for the*
24 *calendar quarter;*

1 (B) 4.5 percent if the State satisfies the cri-
2 teria described in paragraph (2)(A)(ii) for the
3 calendar quarter; and

4 (C) 6.5 percent if the State satisfies the cri-
5 teria described in paragraph (2)(A)(iii) for the
6 calendar quarter.

7 (4) MAINTENANCE OF HIGHER PERCENTAGE RE-
8 DUCTION FOR PERIOD AFTER LOWER PERCENTAGE
9 DEDUCTION WOULD OTHERWISE TAKE EFFECT.—

10 (A) HOLD HARMLESS PERIOD.—If the per-
11 centage reduction applied to a State under para-
12 graph (3) for any calendar quarter in the reces-
13 sion adjustment period beginning on or after
14 January 1, 2009, and ending before July 1,
15 2010, (determined without regard to this para-
16 graph) is less than the percentage reduction ap-
17 plied for the preceding quarter (as so deter-
18 mined), the higher percentage reduction shall
19 continue in effect for each subsequent calendar
20 quarter ending before July 1, 2010.

21 (B) NOTICE OF DECREASE IN PERCENTAGE
22 REDUCTION.—The Secretary shall notify a State
23 at least 3 months prior to applying any lower
24 percentage reduction to the State under para-
25 graph (3).

1 (d) *INCREASE IN CAP ON MEDICAID PAYMENTS TO*
2 *TERRITORIES.*—Subject to subsections (f) and (g), with re-
3 spect to entire fiscal years occurring during the recession
4 adjustment period and with respect to fiscal years only a
5 portion of which occurs during such period (and in propor-
6 tion to the portion of the fiscal year that occurs during such
7 period), the amounts otherwise determined for Puerto Rico,
8 the Virgin Islands, Guam, the Northern Mariana Islands,
9 and American Samoa under subsections (f) and (g) of sec-
10 tion 1108 of the Social Security Act (42 6 U.S.C. 1308)
11 shall each be increased by 15.2 percent.

12 (e) *SCOPE OF APPLICATION.*—The increases in the
13 *FMAP* for a State under this section shall apply for pur-
14 poses of title XIX of the Social Security Act and shall not
15 apply with respect to—

16 (1) *disproportionate share hospital payments de-*
17 *scribed in section 1923 of such Act (42 U.S.C. 1396r-*
18 *4);*

19 (2) *payments under title IV of such Act (42*
20 *U.S.C. 601 et seq.) (except that the increases under*
21 *subsections (a) and (b) shall apply to payments under*
22 *part E of title IV of such Act (42 U.S.C. 670 et seq.);*

23 (3) *payments under title XXI of such Act (42*
24 *U.S.C. 1397aa et seq.);*

1 (4) any payments under title XIX of such Act
2 that are based on the enhanced FMAP described in
3 section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

4 (5) any payments under title XIX of such Act
5 that are attributable to expenditures for medical as-
6 sistance provided to individuals made eligible under
7 a State plan under title XIX of the Social Security
8 Act (including under any waiver under such title or
9 under section 1115 of such Act (42 U.S.C. 1315)) be-
10 cause of income standards (expressed as a percentage
11 of the poverty line) for eligibility for medical assist-
12 ance that are higher than the income standards (as
13 so expressed) for such eligibility as in effect on July
14 1, 2008.

15 (f) STATE INELIGIBILITY.—

16 (1) MAINTENANCE OF ELIGIBILITY REQUIRE-
17 MENTS.—

18 (A) IN GENERAL.—Subject to subpara-
19 graphs (B) and (C), a State is not eligible for
20 an increase in its FMAP under subsection (a),
21 (b), or (c), or an increase in a cap amount
22 under subsection (d), if eligibility standards,
23 methodologies, or procedures under its State plan
24 under title XIX of the Social Security Act (in-
25 cluding any waiver under such title or under

1 *section 1115 of such Act (42 U.S.C. 1315)) are*
2 *more restrictive than the eligibility standards,*
3 *methodologies, or procedures, respectively, under*
4 *such plan (or waiver) as in effect on July 1,*
5 *2008.*

6 *(B) STATE REINSTATEMENT OF ELIGIBILITY*
7 *PERMITTED.—Subject to subparagraph (C), a*
8 *State that has restricted eligibility standards,*
9 *methodologies, or procedures under its State plan*
10 *under title XIX of the Social Security Act (in-*
11 *cluding any waiver under such title or under*
12 *section 1115 of such Act (42 U.S.C. 1315)) after*
13 *July 1, 2008, is no longer ineligible under sub-*
14 *paragraph (A) beginning with the first calendar*
15 *quarter in which the State has reinstated eligi-*
16 *bility standards, methodologies, or procedures*
17 *that are no more restrictive than the eligibility*
18 *standards, methodologies, or procedures, respec-*
19 *tively, under such plan (or waiver) as in effect*
20 *on July 1, 2008.*

21 *(C) SPECIAL RULES.—A State shall not be*
22 *ineligible under subparagraph (A)—*

23 *(i) for the calendar quarters before*
24 *July 1, 2009, on the basis of a restriction*
25 *that was applied after July 1, 2008, and be-*

1 *fore the date of the enactment of this Act, if*
2 *the State prior to July 1, 2009, has rein-*
3 *stated eligibility standards, methodologies,*
4 *or procedures that are no more restrictive*
5 *than the eligibility standards, methodolo-*
6 *gies, or procedures, respectively, under such*
7 *plan (or waiver) as in effect on July 1,*
8 *2008; or*

9 *(ii) on the basis of a restriction that*
10 *was directed to be made under State law as*
11 *of July 1, 2008, and would have been in ef-*
12 *fect as of such date, but for a delay in the*
13 *request for, and approval of, a waiver under*
14 *section 1115 of such Act with respect to*
15 *such restriction.*

16 (2) *COMPLIANCE WITH PROMPT PAY REQUIRE-*
17 *MENTS.—No State shall be eligible for an increased*
18 *FMAP rate as provided under this section for any*
19 *claim submitted by a provider subject to the terms of*
20 *section 1902(a)(37)(A) of the Social Security Act (42*
21 *U.S.C. 1396a(a)(37)(A)) during any period in which*
22 *that State has failed to pay claims in accordance*
23 *with section 1902(a)(37)(A) of such Act. Each State*
24 *shall report to the Secretary, no later than 30 days*
25 *following the 1st day of the month, its compliance*

1 *with the requirements of section 1902(a)(37)(A) of the*
2 *Social Security Act as they pertain to claims made*
3 *for covered services during the preceding month.*

4 (3) *NO WAIVER AUTHORITY.—The Secretary may*
5 *not waive the application of this subsection or sub-*
6 *section (g) under section 1115 of the Social Security*
7 *Act or otherwise.*

8 (g) *REQUIREMENTS.—*

9 (1) *IN GENERAL.—A State may not deposit or*
10 *credit the additional Federal funds paid to the State*
11 *as a result of this section to any reserve or rainy day*
12 *fund maintained by the State.*

13 (2) *STATE REPORTS.—Each State that is paid*
14 *additional Federal funds as a result of this section*
15 *shall, not later than September 30, 2011, submit a re-*
16 *port to the Secretary, in such form and such manner*
17 *as the Secretary shall determine, regarding how the*
18 *additional Federal funds were expended.*

19 (3) *ADDITIONAL REQUIREMENT FOR CERTAIN*
20 *STATES.—In the case of a State that requires political*
21 *subdivisions within the State to contribute toward the*
22 *non-Federal share of expenditures under the State*
23 *Medicaid plan required under section 1902(a)(2) of*
24 *the Social Security Act (42 U.S.C. 1396a(a)(2)), the*
25 *State is not eligible for an increase in its FMAP*

1 *under subsection (b) or (c), or an increase in a cap*
2 *amount under subsection (d), if it requires that such*
3 *political subdivisions pay for quarters during the re-*
4 *cession adjustment period a greater percentage of the*
5 *non-Federal share of such expenditures, or a greater*
6 *percentage of the non-Federal share of payments*
7 *under section 1923, than the respective percentage*
8 *that would have been required by the State under*
9 *such plan on September 30, 2008, prior to applica-*
10 *tion of this section.*

11 *(h) DEFINITIONS.—In this section, except as otherwise*
12 *provided:*

13 (1) *FMAP.—The term “FMAP” means the Fed-*
14 *eral medical assistance percentage, as defined in sec-*
15 *tion 1905(b) of the Social Security Act (42 U.S.C.*
16 *1396d(b)), as determined without regard to this sec-*
17 *tion except as otherwise specified.*

18 (2) *POVERTY LINE.—The term “poverty line”*
19 *has the meaning given such term in section 673(2) of*
20 *the Community Services Block Grant Act (42 U.S.C.*
21 *9902(2)), including any revision required by such sec-*
22 *tion.*

23 (3) *RECESSION ADJUSTMENT PERIOD.—The term*
24 *“recession adjustment period” means the period be-*

1 *ginning on October 1, 2008, and ending on December*
 2 *31, 2010.*

3 (4) *SECRETARY.*—*The term “Secretary” means*
 4 *the Secretary of Health and Human Services.*

5 (5) *STATE.*—*The term “State” has the meaning*
 6 *given such term for purposes of title XIX of the Social*
 7 *Security Act (42 U.S.C. 1396 et seq.).*

8 (i) *SUNSET.*—*This section shall not apply to items and*
 9 *services furnished after the end of the recession adjustment*
 10 *period.*

11 **SEC. 5002. EXTENSION AND UPDATE OF SPECIAL RULE FOR**
 12 **INCREASE OF MEDICAID DSH ALLOTMENTS**
 13 **FOR LOW DSH STATES.**

14 *Section 1923(f)(5) of the Social Security Act (42*
 15 *U.S.C. 1396r-4(f)(5)) is amended—*

16 (1) *in subparagraph (B)—*

17 (A) *in the subparagraph heading, by strik-*
 18 *ing “YEAR 2004 AND SUBSEQUENT FISCAL*
 19 *YEARS” and inserting “YEARS 2004 THROUGH*
 20 *2008”;*

21 (B) *in clause (i), by inserting “and” after*
 22 *the semicolon;*

23 (C) *in clause (ii), by striking “; and” and*
 24 *inserting a period; and*

25 (D) *by striking clause (iii); and*

1 (2) by adding at the end the following subpara-
2 graph:

3 “(C) FOR FISCAL YEAR 2009 AND SUBSE-
4 QUENT FISCAL YEARS.—In the case of a State in
5 which the total expenditures under the State
6 plan (including Federal and State shares) for
7 disproportionate share hospital adjustments
8 under this section for fiscal year 2006, as re-
9 ported to the Administrator of the Centers for
10 Medicare & Medicaid Services as of August 31,
11 2009, is greater than 0 but less than 3 percent
12 of the State’s total amount of expenditures under
13 the State plan for medical assistance during the
14 fiscal year, the DSH allotment for the State with
15 respect to—

16 “(i) fiscal year 2009, shall be the DSH
17 allotment for the State for fiscal year 2008
18 increased by 16 percent;

19 “(ii) fiscal year 2010, shall be the
20 DSH allotment for the State for fiscal year
21 2009 increased by 16 percent;

22 “(iii) fiscal year 2011 for the period
23 ending on December 31, 2010, shall be $\frac{1}{4}$ of
24 the DSH allotment for the State for fiscal
25 year 2010 increased by 16 percent;

1 “(iv) fiscal year 2011 for the period be-
2 ginning on January 1, 2011, and ending on
3 September 30, 2011, shall be $\frac{3}{4}$ of the DSH
4 allotment that would have been determined
5 under this subsection for the State for fiscal
6 year 2011 if this subparagraph had not
7 been enacted;

8 “(v) fiscal year 2012, shall be the DSH
9 allotment that would have been determined
10 under this subsection for the State for fiscal
11 year 2012 if this subparagraph had not
12 been enacted; and

13 “(vi) fiscal year 2013 and any subse-
14 quent fiscal year, shall be the DSH allot-
15 ment for the State for the previous fiscal
16 year subject to an increase for inflation as
17 provided in paragraph (3)(A).”.

18 **SEC. 5003. PAYMENT OF MEDICARE LIABILITY TO STATES**
19 **AS A RESULT OF THE SPECIAL DISABILITY**
20 **WORKLOAD PROJECT.**

21 (a) *IN GENERAL.*—The Secretary, in consultation with
22 the Commissioner, shall work with each State to reach an
23 agreement, not later than 3 months after the date of enact-
24 ment of this Act, on the amount of a payment for the State
25 related to the Medicare program liability as a result of the

1 *Special Disability Workload project, subject to the require-*
2 *ments of subsection (c).*

3 (b) *PAYMENTS.*—

4 (1) *DEADLINE FOR MAKING PAYMENTS.*—*Not*
5 *later than 30 days after reaching an agreement with*
6 *a State under subsection (a), the Secretary shall pay*
7 *the State, from the amounts appropriated under*
8 *paragraph (2), the payment agreed to for the State.*

9 (2) *APPROPRIATION.*—*Out of any money in the*
10 *Treasury not otherwise appropriated, there is appro-*
11 *priated \$3,000,000,000 for fiscal year 2009 for mak-*
12 *ing payments to States under paragraph (1).*

13 (3) *LIMITATIONS.*—*In no case may—*

14 (A) *the aggregate amount of payments made*
15 *by the Secretary to States under paragraph (1)*
16 *exceed \$3,000,000,000; or*

17 (B) *any payments be provided by the Sec-*
18 *retary under this section after the first day of the*
19 *first month that begins 4 months after the date*
20 *of enactment of this Act.*

21 (c) *REQUIREMENTS.*—*The requirements of this sub-*
22 *section are the following:*

23 (1) *FEDERAL DATA USED TO DETERMINE*
24 *AMOUNT OF PAYMENTS.*—*The amount of the payment*
25 *under subsection (a) for each State is determined on*

1 *the basis of the most recent Federal data available,*
2 *including the use of proxies and reasonable estimates*
3 *as necessary, for determining expeditiously the*
4 *amount of the payment that shall be made to each*
5 *State that enters into an agreement under this sec-*
6 *tion. The payment methodology shall consider the fol-*
7 *lowing factors:*

8 (A) *The number of SDW cases found to*
9 *have been eligible for benefits under the Medicare*
10 *program and the month of the initial Medicare*
11 *program eligibility for such cases.*

12 (B) *The applicable non-Federal share of ex-*
13 *penditures made by a State under the Medicaid*
14 *program during the time period for SDW cases.*

15 (C) *Such other factors as the Secretary and*
16 *the Commissioner, in consultation with the*
17 *States, determine appropriate.*

18 (2) *CONDITIONS FOR PAYMENTS.—A State shall*
19 *not receive a payment under this section unless the*
20 *State—*

21 (A) *waives the right to file a civil action (or*
22 *to be a party to any action) in any Federal or*
23 *State court in which the relief sought includes a*
24 *payment from the United States to the State re-*
25 *lated to the Medicare liability under title XVIII*

1 of the Social Security Act (42 U.S.C. 1395 et
2 seq.) as a result of the Special Disability Work-
3 load project; and

4 (B) releases the United States from any fur-
5 ther claims for reimbursement of State expendi-
6 tures as a result of the Special Disability Work-
7 load project.

8 (3) *NO INDIVIDUAL STATE CLAIMS DATA RE-*
9 *QUIRED.*—No State shall be required to submit indi-
10 vidual claims evidencing payment under the Med-
11 icaid program as a condition for receiving a payment
12 under this section.

13 (4) *INELIGIBLE STATES.*—No State that is a
14 party to a civil action in any Federal or State court
15 in which the relief sought includes a payment from
16 the United States to the State related to the Medicare
17 liability under title XVIII of the Social Security Act
18 (42 U.S.C. 1395 et seq.) as a result of the Special
19 Disability Workload project shall be eligible to receive
20 a payment under this section while such an action is
21 pending or if such an action is resolved in favor of
22 the State.

23 (d) *DEFINITIONS.*—In this section:

24 (1) *COMMISSIONER.*—The term “Commissioner”
25 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 Act*
4 *(42 U.S.C. 1396a et seq.) and includes medical assist-*
5 *ance provided under any waiver of that program ap-*
6 *proved under section 1115 or 1915 of such Act (42*
7 *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 II*
18 *of the Social Security Act (42 U.S.C. 401 et seq.) for*
19 *a period during which such benefits were not provided*
20 *to the individual and who was, during all or part of*
21 *such period, enrolled in a State Medicaid program.*

22 (6) *SPECIAL DISABILITY WORKLOAD PROJECT.*—
23 *The term “Special Disability Workload project”*
24 *means the project described in the 2008 Annual Re-*
25 *port of the Board of Trustees of the Federal Old-Age*

1 *and Survivors Insurance and Federal Disability In-*
2 *urance Trust Funds, H.R. Doc. No. 110–104, 110th*
3 *Cong. (2008).*

4 (7) *STATE.*—*The term “State” means each of the*
5 *50 States and the District of Columbia.*

6 **SEC. 5004. FUNDING FOR THE DEPARTMENT OF HEALTH**
7 **AND HUMAN SERVICES OFFICE OF THE IN-**
8 **SPECTOR GENERAL.**

9 *For purposes of ensuring the proper expenditure of*
10 *Federal funds under title XIX of the Social Security Act*
11 *(42 U.S.C. 1396 et seq.), there is appropriated to the Office*
12 *of the Inspector General of the Department of Health and*
13 *Human Services, out of any money in the Treasury not*
14 *otherwise appropriated and without further appropriation,*
15 *\$31,250,000 for the recession adjustment period (as defined*
16 *in section 5001(h)(3)). Amounts appropriated under this*
17 *section shall remain available for expenditure until Sep-*
18 *tember 30, 2012, and shall be in addition to any other*
19 *amounts appropriated or made available to such Office for*
20 *such purposes.*

21 **SEC. 5005. GAO STUDY AND REPORT REGARDING STATE**
22 **NEEDS DURING PERIODS OF NATIONAL ECO-**
23 **NOMIC DOWNTURN.**

24 (a) *IN GENERAL.*—*The Comptroller General of the*
25 *United States shall study the period of national economic*

1 *downturn in effect on the date of enactment of this Act,*
2 *as well as previous periods of national economic downturn*
3 *since 1974, for the purpose of developing recommendations*
4 *for addressing the needs of States during such periods. As*
5 *part of such analysis, the Comptroller General shall study*
6 *the past and projected effects of temporary increases in the*
7 *Federal medical assistance percentage under the Medicaid*
8 *program with respect to such periods.*

9 **(b) REPORT.**—*Not later than April 1, 2011, the Comp-*
10 *troller General of the United States shall submit a report*
11 *to the appropriate committees of Congress on the results of*
12 *the study conducted under paragraph (1). Such report shall*
13 *include the following:*

14 **(1)** *Such recommendations as the Comptroller*
15 *General determines appropriate for modifying the na-*
16 *tional economic downturn assistance formula for tem-*
17 *porary adjustment of the Federal medical assistance*
18 *percentage under Medicaid (also referred to as a*
19 *“countercyclical FMAP”) described in GAO report*
20 *number GAO–07–97 to improve the effectiveness of the*
21 *application of such percentage in addressing the needs*
22 *of States during periods of national economic down-*
23 *turn, including recommendations for—*

1 (A) improvements to the factors that would
2 begin and end the application of such percent-
3 age;

4 (B) how the determination of the amount of
5 such percentage could be adjusted to address
6 State and regional economic variations during
7 such periods; and

8 (C) how the determination of the amount of
9 such percentage could be adjusted to be more re-
10 sponsive to actual Medicaid costs incurred by
11 States during such periods.

12 (2) An analysis of the impact on States during
13 such periods of—

14 (A) declines in private health benefits cov-
15 erage;

16 (B) declines in State revenues; and

17 (C) caseload maintenance and growth under
18 Medicaid, the State Children’s Health Insurance
19 Program, or any other publicly-funded programs
20 to provide health benefits coverage for State resi-
21 dents.

22 (3) Identification of, and recommendations for
23 addressing, the effects on States of any other specific
24 economic indicators that the Comptroller General de-
25 termines appropriate.

1 **TITLE VI—EXECUTIVE**
2 **COMPENSATION**

3 **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.

4 **SEC. 6001. DEFINITIONS.**

5 *For purposes of this title, the following definitions*
6 *shall apply:*

7 (1) **SENIOR EXECUTIVE OFFICER.**—*The term*
8 *“senior executive officer” means an individual who is*
9 *1 of the top 5 most highly paid executives of a public*
10 *company, whose compensation is required to be dis-*
11 *closed pursuant to the Securities Exchange Act of*
12 *1934, and any regulations issued thereunder, and*
13 *non-public company counterparts.*

14 (2) **GOLDEN PARACHUTE PAYMENT.**—*The term*
15 *“golden parachute payment” means any payment to*
16 *a senior executive officer for departure from a com-*
17 *pany for any reason, except for payments for services*
18 *performed or benefits accrued.*

19 (3) **TARP.**—*The term “TARP” means the Trou-*
20 *bled Asset Relief Program established under the*

1 *Emergency Economic Stabilization Act of 2008 (Pub-*
2 *lic Law 110–343, 12 U.S.C. 5201 et seq.).*

3 (4) *TARP RECIPIENT.*—*The term “TARP recipi-*
4 *ent” means any entity that has received or will re-*
5 *ceive financial assistance under the financial assist-*
6 *ance provided under the TARP.*

7 (5) *SECRETARY.*—*The term “Secretary” means*
8 *the Secretary of the Treasury.*

9 (6) *COMMISSION.*—*The term “Commission”*
10 *means the Securities and Exchange Commission.*

11 **SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE**
12 **GOVERNANCE.**

13 (a) *IN GENERAL.*—*During the period in which any*
14 *obligation arising from financial assistance provided under*
15 *the TARP remains outstanding, each TARP recipient shall*
16 *be subject to—*

17 (1) *the standards established by the Secretary*
18 *under this title; and*

19 (2) *the provisions of section 162(m)(5) of the In-*
20 *ternal Revenue Code of 1986, as applicable.*

21 (b) *STANDARDS REQUIRED.*—*The Secretary shall re-*
22 *quire each TARP recipient to meet appropriate standards*
23 *for executive compensation and corporate governance.*

24 (c) *SPECIFIC REQUIREMENTS.*—*The standards estab-*
25 *lished under subsection (b) shall include—*

1 (1) *limits on compensation that exclude incen-*
2 *tives for senior executive officers of the TARP recipi-*
3 *ent to take unnecessary and excessive risks that*
4 *threaten the value of such recipient during the period*
5 *that any obligation arising from TARP assistance is*
6 *outstanding;*

7 (2) *a provision for the recovery by such TARP*
8 *recipient of any bonus, retention award, or incentive*
9 *compensation paid to a senior executive officer and*
10 *any of the next 20 most highly-compensated employees*
11 *of the TARP recipient based on statements of earn-*
12 *ings, revenues, gains, or other criteria that are later*
13 *found to be materially inaccurate;*

14 (3) *a prohibition on such TARP recipient mak-*
15 *ing any golden parachute payment to a senior execu-*
16 *tive officer or any of the next 5 most highly-com-*
17 *pensated employees of the TARP recipient during the*
18 *period that any obligation arising from TARP assist-*
19 *ance is outstanding;*

20 (4) *a prohibition on such TARP recipient pay-*
21 *ing or accruing any bonus, retention award, or incen-*
22 *tive compensation during the period that the obliga-*
23 *tion is outstanding to at least the 25 most highly-*
24 *compensated employees, or such higher number as the*

1 *Secretary may determine is in the public interest*
2 *with respect to any TARP recipient;*

3 *(5) a prohibition on any compensation plan that*
4 *would encourage manipulation of the reported earn-*
5 *ings of such TARP recipient to enhance the com-*
6 *ensation of any of its employees; and*

7 *(6) a requirement for the establishment of a*
8 *Board Compensation Committee that meets the re-*
9 *quirements of section 6003.*

10 *(d) CERTIFICATION OF COMPLIANCE.—The chief execu-*
11 *tive officer and chief financial officer (or the equivalents*
12 *thereof) of each TARP recipient shall provide a written cer-*
13 *tification of compliance by the TARP recipient with the*
14 *requirements of this title—*

15 *(1) in the case of a TARP recipient, the securi-*
16 *ties of which are publicly traded, to the Securities*
17 *and Exchange Commission, together with annual fil-*
18 *ings required under the securities laws; and*

19 *(2) in the case of a TARP recipient that is not*
20 *a publicly traded company, to the Secretary.*

21 **SEC. 6003. BOARD COMPENSATION COMMITTEE.**

22 *(a) ESTABLISHMENT OF BOARD REQUIRED.—Each*
23 *TARP recipient shall establish a Board Compensation*
24 *Committee, comprised entirely of independent directors, for*
25 *the purpose of reviewing employee compensation plans.*

1 (b) *MEETINGS.*—*The Board Compensation Committee*
2 *of each TARP recipient shall meet at least semiannually*
3 *to discuss and evaluate employee compensation plans in*
4 *light of an assessment of any risk posed to the TARP recipi-*
5 *ent from such plans.*

6 **SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.**

7 (a) *POLICY REQUIRED.*—*The board of directors of any*
8 *TARP recipient shall have in place a company-wide policy*
9 *regarding excessive or luxury expenditures, as identified by*
10 *the Secretary, which may include excessive expenditures*
11 *on—*

- 12 (1) *entertainment or events;*
13 (2) *office and facility renovations;*
14 (3) *aviation or other transportation services; or*
15 (4) *other activities or events that are not reason-*
16 *able expenditures for conferences, staff development,*
17 *reasonable performance incentives, or other similar*
18 *measures conducted in the normal course of the busi-*
19 *ness operations of the TARP recipient.*

20 **SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COM-**
21 **PENSATION.**

22 (a) *ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE*
23 *COMPENSATION.*—*Any proxy or consent or authorization*
24 *for an annual or other meeting of the shareholders of any*
25 *TARP recipient during the period in which any obligation*

1 arising from financial assistance provided under the TARP
2 remains outstanding shall permit a separate shareholder
3 vote to approve the compensation of executives, as disclosed
4 pursuant to the compensation disclosure rules of the Com-
5 mission (which disclosure shall include the compensation
6 discussion and analysis, the compensation tables, and any
7 related material).

8 (b) *NONBINDING VOTE.*—A shareholder vote described
9 in subsection (a) shall not be binding on the board of direc-
10 tors of a TARP recipient, and may not be construed as over-
11 ruling a decision by such board, nor to create or imply any
12 additional fiduciary duty by such board, nor shall such vote
13 be construed to restrict or limit the ability of shareholders
14 to make proposals for inclusion in proxy materials related
15 to executive compensation.

16 (c) *DEADLINE FOR RULEMAKING.*—Not later than 1
17 year after the date of enactment of this Act, the Commission
18 shall issue any final rules and regulations required by this
19 section.

20 **SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.**

21 (a) *IN GENERAL.*—The Secretary shall review bonuses,
22 retention awards, and other compensation paid to employ-
23 ees of each entity receiving TARP assistance before the date
24 of enactment of this Act to determine whether any such pay-
25 ments were excessive, inconsistent with the purposes of this

1 *Act or the TARP, or otherwise contrary to the public inter-*
2 *est.*

3 (b) *NEGOTIATIONS FOR REIMBURSEMENT.*—*If the Sec-*
4 *retary makes a determination described in subsection (a),*
5 *the Secretary shall seek to negotiate with the TARP recipi-*
6 *ent and the subject employee for appropriate reimburse-*
7 *ments to the Federal Government with respect to compensa-*
8 *tion or bonuses.*

9 ***Subtitle B—Limits on Executive***
10 ***Compensation***

11 ***SEC. 6011. SHORT TITLE.***

12 *This subtitle may be cited as the “Cap Executive Offi-*
13 *cer Pay Act of 2009”.*

14 ***SEC. 6012. LIMIT ON EXECUTIVE COMPENSATION.***

15 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
16 *sion of law or agreement to the contrary, no person who*
17 *is an officer, director, executive, or other employee of a fi-*
18 *nancial institution or other entity that receives or has re-*
19 *ceived funds under the Troubled Asset Relief Program (or*
20 *“TARP”), established under section 101 of the Emergency*
21 *Economic Stabilization Act of 2008, may receive annual*
22 *compensation in excess of the amount of compensation paid*
23 *to the President of the United States.*

24 (b) *DURATION.*—*The limitation in subsection (a) shall*
25 *be a condition of the receipt of assistance under the TARP,*

1 *and of any modification to such assistance that was re-*
2 *ceived on or before the date of enactment of this Act, and*
3 *shall remain in effect with respect to each financial institu-*
4 *tion or other entity that receives such assistance or modi-*
5 *fication for the duration of the assistance or obligation pro-*
6 *vided under the TARP.*

7 **SEC. 6013. RULEMAKING AUTHORITY.**

8 *The Secretary shall expeditiously issue such rules as*
9 *are necessary to carry out this subtitle, including with re-*
10 *spect to reimbursement of compensation amounts, as appro-*
11 *priate.*

12 **SEC. 6014. COMPENSATION.**

13 *As used in this subtitle, the term “compensation” in-*
14 *cludes wages, salary, deferred compensation, retirement*
15 *contributions, options, bonuses, property, and any other*
16 *form of compensation or bonus that the Secretary of the*
17 *Treasury determines is appropriate.*

18 ***Subtitle C—Excessive Bonuses***

19 **SEC. 6021. TREATMENT OF EXCESSIVE BONUSES BY TARP**
20 **RECIPIENTS.**

21 *(a) IN GENERAL.—If, before the date of enactment of*
22 *this Act, the preferred stock of a financial institution was*
23 *purchased by the Government using funds provided under*
24 *the Troubled Asset Relief Program established pursuant to*
25 *the Emergency Economic Stabilization Act of 2008, then,*

1 *notwithstanding any otherwise applicable restriction on the*
2 *redeemability of such preferred stock, such financial institu-*
3 *tion shall redeem an amount of such preferred stock equal*
4 *to the aggregate amount of all excessive bonuses paid or*
5 *payable to all covered individuals.*

6 (b) *TIMING.*—*Each financial institution described in*
7 *subsection (a) shall comply with the requirements of sub-*
8 *section (a)—*

9 (1) *not later than 120 days after the date of en-*
10 *actment of this Act, with respect to excessive bonuses*
11 *(or portions thereof) paid before the date of enactment*
12 *of this Act; and*

13 (2) *not later than the day before an excessive*
14 *bonus (or portion thereof) is paid, with respect to any*
15 *excessive bonus (or portion thereof) paid on or after*
16 *the date of enactment of this Act.*

17 (c) *DEFINITIONS.*—*As used in this section, the fol-*
18 *lowing definitions shall apply:*

19 (1) *EXCESSIVE BONUS.*—

20 (A) *IN GENERAL.*—*The term “excessive*
21 *bonus” means the portion of the applicable bonus*
22 *payments made to a covered individual in excess*
23 *of \$100,000.*

24 (B) *APPLICABLE BONUS PAYMENTS.*—

1 (i) *IN GENERAL.*—*The term “applica-*
2 *ble bonus payment” means any bonus pay-*
3 *ment to a covered individual—*

4 (I) *which is paid or payable by*
5 *reason of services performed by such*
6 *individual in a taxable year of the fi-*
7 *nancial institution (or any member of*
8 *a controlled group described in sub-*
9 *paragraph (D)) ending in 2008, and*

10 (II) *the amount of which was first*
11 *communicated to such individual dur-*
12 *ing the period beginning on January*
13 *1, 2008, and ending January 31, 2009,*
14 *or was based on a resolution of the*
15 *board of directors of such institution*
16 *that was adopted before the end of such*
17 *taxable year.*

18 (ii) *CERTAIN PAYMENTS AND CONDI-*
19 *TIONS DISREGARDED.*—*In determining*
20 *whether a bonus payment is described in*
21 *clause (i)(I)—*

22 (I) *a bonus payment that relates*
23 *to services performed in any taxable*
24 *year before the taxable year described*
25 *in such clause and that is wholly or*

1 *partially contingent on the perform-*
2 *ance of services in the taxable year so*
3 *described shall be disregarded, and*

4 (II) *any condition on a bonus*
5 *payment for services performed in the*
6 *taxable year so described that the em-*
7 *ployee perform services in taxable*
8 *years after the taxable year so de-*
9 *scribed shall be disregarded.*

10 (C) *BONUS PAYMENT.—The term “bonus*
11 *payment” means any payment which—*

12 (i) *is a discretionary payment to a*
13 *covered individual by a financial institu-*
14 *tion (or any member of a controlled group*
15 *described in subparagraph (D)) for services*
16 *rendered,*

17 (ii) *is in addition to any amount pay-*
18 *able to such individual for services per-*
19 *formed by such individual at a regular*
20 *hourly, daily, weekly, monthly, or similar*
21 *periodic rate, and*

22 (iii) *is paid or payable in cash or*
23 *other property other than—*

24 (I) *stock in such institution or*
25 *member, or*

1 (II) *an interest in a troubled asset*
2 *(within the meaning of the Emergency*
3 *Economic Stabilization Act of 2008)*
4 *held directly or indirectly by such in-*
5 *stitution or member.*

6 *Such term does not include payments to an em-*
7 *ployee as commissions, welfare and fringe bene-*
8 *fits, or expense reimbursements.*

9 (D) *COVERED INDIVIDUAL.*—*The term “cov-*
10 *ered individual” means, with respect to any fi-*
11 *nancial institution, any director or officer or*
12 *other employee of such financial institution or of*
13 *any member of a controlled group of corpora-*
14 *tions (within the meaning of section 52(a) of the*
15 *Internal Revenue Code of 1986) that includes*
16 *such financial institution.*

17 (2) *FINANCIAL INSTITUTION.*—*The term “finan-*
18 *cial institution” has the same meaning as in section*
19 *3 of the Emergency Economic Stabilization Act of*
20 *2008 (12 U.S.C. 5252).*

21 (d) *EXCISE TAX ON TARP COMPANIES THAT FAIL TO*
22 *REDEEM CERTAIN SECURITIES FROM UNITED STATES.*—

23 (1) *IN GENERAL.*—*Chapter 46 of the Internal*
24 *Revenue Code of 1986 (relating to excise tax on gold-*

1 “(2) *EXTENSION OF TIME.*—*The due date for*
 2 *payment of tax imposed by this section shall in no*
 3 *event be earlier than the 150th day following the date*
 4 *of the enactment of this section.*”.

5 (2) *CONFORMING AMENDMENTS.*—

6 (A) *The heading for chapter 46 of such Code*
 7 *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.*”.

8 (B) *The item relating to chapter 46 in the*
 9 *table of chapters for subtitle D of such Code is*
 10 *amended to read as follows:*

 “*Chapter 46. Taxes on excessive remuneration.*”.

11 (3) *EFFECTIVE DATE.*—*The amendments made*
 12 *by this subsection shall apply to failures described in*
 13 *section 4999A(a)(2) of the Internal Revenue Code of*
 14 *1986 occurring after the date of the enactment of this*
 15 *Act.*

16 **TITLE VII—FORECLOSURE**
 17 **PREVENTION**

TITLE VII—FORECLOSURE PREVENTION

Sec. 7001. Mandatory loan modifications.

18 **SEC. 7001. MANDATORY LOAN MODIFICATIONS.**

19 *Section 109(a) of the Emergency Economic Stabiliza-*
 20 *tion Act of 2008 (12 U.S.C. 5219) is amended—*

1 (1) *by striking the last sentence;*

2 (2) *by striking “To the extent” and inserting the*
3 *following:*

4 “(1) *IN GENERAL.—To the extent*”; and

5 (3) *by adding at the end the following:*

6 “(2) *LOAN MODIFICATIONS REQUIRED.—*

7 “(A) *IN GENERAL.—In addition to actions*
8 *required under paragraph (1), the Secretary*
9 *shall, not later than 15 days after the date of en-*
10 *actment of this paragraph, develop and imple-*
11 *ment a plan to facilitate loan modifications to*
12 *prevent avoidable mortgage loan foreclosures.*

13 “(B) *FUNDING.—Of amounts made avail-*
14 *able under section 115 and not otherwise obli-*
15 *gated, not less than \$50,000,000,000, shall be*
16 *made available to the Secretary for purposes of*
17 *carrying out the mortgage loan modification*
18 *plan required to be developed and implemented*
19 *under this paragraph.*

20 “(C) *CRITERIA.—The loan modification*
21 *plan required by this paragraph may incor-*
22 *porate the use of—*

23 “(i) *loan guarantees and credit en-*
24 *hancements;*

1 “(ii) *the reduction of loan principal*
2 *amounts and interest rates;*

3 “(iii) *extension of mortgage loan terms;*
4 *and*

5 “(iv) *any other similar mechanisms or*
6 *combinations thereof, as determined appro-*
7 *priate by the Secretary.*

8 “(D) *DESIGNATION AUTHORITY.—*

9 “(i) *FDIC.—The Secretary may des-*
10 *ignate the Corporation, on a reimbursable*
11 *basis, to carry out the loan modification*
12 *plan developed under this paragraph.*

13 “(ii) *CONTRACTING AUTHORITY.—If*
14 *designated under clause (i), the Corporation*
15 *may use its contracting authority under*
16 *section 9 of the Federal Deposit Insurance*
17 *Act.*

18 “(E) *CONSULTATION REQUIRED.—In devel-*
19 *oping the loan modification plan under this*
20 *paragraph, the Secretary shall consult with the*
21 *Chairperson of the Board of Directors of the Cor-*
22 *poration, the Board, and the Secretary of Hous-*
23 *ing and Urban Development.*

24 “(F) *REPORTS TO CONGRESS.—The Sec-*
25 *retary shall provide to the Committee on Bank-*

1 *ing, Housing, and Urban Affairs of the Senate*
 2 *and the Committee on Financial Services of the*
 3 *House of Representatives—*

4 “(i) upon development of the plan re-
 5 quired by this paragraph, a report describ-
 6 ing such plan; and

7 “(ii) a monthly report on the number
 8 and types of loan modifications occurring
 9 during the reporting period, and the per-
 10 formance of the loan modification plan
 11 overall.”.

12 **TITLE VIII—FORECLOSURE**
 13 **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.

14 **SEC. 8001. SHORT TITLE.**

15 *This title may be cited as the “Help Families Keep*
 16 *Their Homes Act of 2009”.*

17 **SEC. 8002. DEFINITIONS.**

18 *For purposes of this title—*

19 (1) the term “*securitized mortgages*” means resi-
 20 *dential mortgages that have been pooled by a*
 21 *securitization vehicle;*

1 (2) the term “securitization vehicle” means a
2 trust, corporation, partnership, limited liability enti-
3 ty, special purpose entity, or other structure that—

4 (A) is the issuer, or is created by the issuer,
5 of mortgage pass-through certificates, participa-
6 tion certificates, mortgage-backed securities, or
7 other similar securities backed by a pool of assets
8 that includes residential mortgage loans;

9 (B) holds all of the mortgage loans which
10 are the basis for any vehicle described in sub-
11 paragraph (A); and

12 (C) has not issued securities that are guar-
13 anteed by the Federal National Mortgage Asso-
14 ciation, the Federal Home Loan Mortgage Cor-
15 poration, or the Government National Mortgage
16 Association;

17 (3) the term “servicer” means a servicer of
18 securitized mortgages;

19 (4) the term “eligible servicer” means a servicer
20 of pooled and securitized residential mortgages;

21 (5) the term “eligible mortgage” means a resi-
22 dential mortgage, the principal amount of which did
23 not exceed the conforming loan size limit that was in
24 existence at the time of origination for a comparable

1 *dwelling, as established by the Federal National Mort-*
2 *gage Association;*

3 (6) *the term “Secretary” means the Secretary of*
4 *the Treasury;*

5 (7) *the term “effective term of the Act” means the*
6 *period beginning on the effective date of this title and*
7 *ending on December 31, 2011;*

8 (8) *the term “incentive fee” means the monthly*
9 *payment to eligible servicers, as determined under*
10 *section 7003; and*

11 (9) *the term “prepayment fee” means the pay-*
12 *ment to eligible servicers, as determined under section*
13 *7003(b).*

14 **SEC. 8003. PAYMENTS TO ELIGIBLE SERVICERS AUTHOR-**
15 **IZED.**

16 (a) *AUTHORITY.—The Secretary is authorized to make*
17 *payments to eligible servicers, subject to the terms and con-*
18 *ditions established under this title.*

19 (b) *FEEES PAID TO ELIGIBLE SERVICERS.—*

20 (1) *IN GENERAL.—An eligible servicer may col-*
21 *lect reasonable incentive fee payments, as established*
22 *by the Secretary, not to exceed \$2,000 per loan.*

23 (2) *CONSULTATION.—The fees permitted under*
24 *this section shall be subject to standards established*
25 *by the Secretary, in consultation with the Secretary*

1 *of Housing and Urban Development and the Chair-*
2 *man of the Board of Directors of the Federal Deposit*
3 *Insurance Corporation, which standards shall—*

4 *(A) include an evaluation of whether an eli-*
5 *gible mortgage is affordable for the remainder of*
6 *its term; and*

7 *(B) identify a reasonable fee to be paid to*
8 *the servicer in the event that an eligible mortgage*
9 *is prepaid.*

10 *(3) FORM OF PAYMENT.—Fees permitted under*
11 *this section may be paid in a lump sum or on a*
12 *monthly basis. If paid on a monthly basis, the fee*
13 *may only be remitted as long as the loan performs.*

14 *(c) SAFE HARBOR.—Notwithstanding any other provi-*
15 *sion of law, and notwithstanding any investment contract*
16 *between a servicer and a securitization vehicle, a servicer—*

17 *(1) owes any duty to maximize the net present*
18 *value of the pooled mortgages in the securitization ve-*
19 *hicle to all investors and parties having a direct or*
20 *indirect interest in such vehicle, and not to any indi-*
21 *vidual party or group of parties; and*

22 *(2) shall be deemed to act in the best interests of*
23 *all such investors and parties if the servicer agrees to*
24 *or implements a modification, workout, or other loss*
25 *mitigation plan for a residential mortgage or a class*

1 *of residential mortgages that constitutes a part or all*
2 *of the pooled mortgages in such securitization vehicle,*
3 *if—*

4 (A) *default on the payment of such mort-*
5 *gage has occurred or is reasonably foreseeable;*

6 (B) *the property securing such mortgage is*
7 *occupied by the mortgagor of such mortgage or*
8 *the homeowner; and*

9 (C) *the servicer reasonably and in good*
10 *faith believes that the anticipated recovery on the*
11 *principal outstanding obligation of the mortgage*
12 *under the modification or workout plan exceeds,*
13 *on a net present value basis, the anticipated re-*
14 *covery on the principal outstanding obligation of*
15 *the mortgage through foreclosure;*

16 (3) *shall not be obligated to repurchase loans*
17 *from, or otherwise make payments to, the*
18 *securitization vehicle on account of a modification,*
19 *workout, or other loss mitigation plan that satisfies*
20 *the conditions of paragraph (2); and*

21 (4) *if it acts in a manner consistent with the du-*
22 *ties set forth in paragraphs (1) and (2), shall not be*
23 *liable for entering into a modification or workout*
24 *plan to any person—*

1 (A) based on ownership by that person of a
2 residential mortgage loan or any interest in a
3 pool of residential mortgage loans, or in securi-
4 ties that distribute payments out of the prin-
5 cipal, interest, and other payments in loans in
6 the pool;

7 (B) who is obligated pursuant to a deriva-
8 tive instrument to make payments determined in
9 reference to any loan or any interest referred to
10 in subparagraph (A); or

11 (C) that insures any loan or any interest
12 referred to in subparagraph (A) under any pro-
13 vision of law or regulation of the United States
14 or any State or political subdivision thereof.

15 (d) *REPORTING REQUIREMENTS.*—

16 (1) *IN GENERAL.*—Each servicer shall report reg-
17 ularly, not less frequently than monthly, to the Sec-
18 retary on the extent and scope of the loss mitigation
19 activities of the mortgage owner.

20 (2) *CONTENT.*—Each report required by this sub-
21 section shall include—

22 (A) the number and percent of residential
23 mortgage loans receiving loss mitigation that
24 have become performing loans;

1 (B) the number and percent of residential
2 mortgage loans receiving loss mitigation that
3 have proceeded to foreclosure;

4 (C) the total number of foreclosures initi-
5 ated during the reporting period;

6 (D) data on loss mitigation activities, in-
7 cluding the performance of mitigated loans,
8 disaggregated for each form of loss mitigation,
9 which forms may include—

10 (i) a waiver of any late payment
11 charge, penalty interest, or any other fees or
12 charges, or any combination thereof;

13 (ii) the establishment of a repayment
14 plan under which the homeowner resumes
15 regularly scheduled payments and pays ad-
16 ditional amounts at scheduled intervals to
17 cure the delinquency;

18 (iii) forbearance under the loan that
19 provides for a temporary reduction in or
20 cessation of monthly payments, followed by
21 a reamortization of the amounts due under
22 the loan, including arrearage, and a new
23 schedule of repayment amounts;

24 (iv) waiver, modification, or variation
25 of any material term of the loan, including

1 *short-term, long-term, or life-of-loan modi-*
2 *fications that change the interest rate, for-*
3 *give or forbear with respect to the payment*
4 *of principal or interest, or extend the final*
5 *maturity date of the loan;*

6 *(v) short refinancing of the loan con-*
7 *sisting of acceptance of payment from or on*
8 *behalf of the homeowner of an amount less*
9 *than the amount alleged to be due and*
10 *owing under the loan, including principal,*
11 *interest, and fees, in full satisfaction of the*
12 *obligation under such loan and as part of*
13 *a refinance transaction in which the prop-*
14 *erty is intended to remain the principal*
15 *residence of the homeowner;*

16 *(vi) acquisition of the property by the*
17 *owner or servicer by deed in lieu of fore-*
18 *closure;*

19 *(vii) short sale of the principal resi-*
20 *dence that is subject to the lien securing the*
21 *loan;*

22 *(viii) assumption of the obligation of*
23 *the homeowner under the loan by a third*
24 *party;*

1 *(ix) cancellation or postponement of a*
2 *foreclosure sale to allow the homeowner ad-*
3 *ditional time to sell the property; or*

4 *(x) any other loss mitigation activity*
5 *not covered; and*

6 *(E) such other information as the Secretary*
7 *determines to be relevant.*

8 *(3) PUBLIC AVAILABILITY OF REPORTS.—After*
9 *removing information that would compromise the pri-*
10 *vacancy interests of mortgagors, the Secretary shall make*
11 *public the reports required by this subsection and*
12 *summary data.*

13 **SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.**

14 *There are authorized to be appropriated to the Sec-*
15 *retary, such sums as may be necessary to carry out this*
16 *title.*

17 **SEC. 8005. SUNSET OF AUTHORITY.**

18 *The authority of the Secretary to provide assistance*
19 *under this title shall terminate on December 31, 2011.*

Attest:

Secretary.

11TH CONGRESS
1ST SESSION

H. R. 1

AMENDMENT