

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.

Mr. OBEY, from the Committee of Conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 1]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1) "making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Set all
ital1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "American Recovery
3 and 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 AGEN-
CIES

TITLE III—DEPARTMENT OF DEFENSE

TITLE IV—ENERGY AND WATER DEVELOPMENT

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN
SERVICES, AND EDUCATION, AND RELATED AGEN-
CIES

TITLE IX—LEGISLATIVE BRANCH

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND
RELATED AGENCIES

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PRO-
GRAMS

TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOP-
MENT, AND RELATED AGENCIES

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

TITLE XIV—STATE FISCAL STABILIZATION FUND

TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

TITLE XVI—GENERAL PROVISIONS—THIS ACT

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

TITLE I—TAX PROVISIONS

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUG-
GLING FAMILIES

TITLE III—HEALTH INSURANCE ASSISTANCE

TITLE IV—HEALTH INFORMATION TECHNOLOGY

TITLE V—STATE FISCAL RELIEF

6 **SEC. 3. PURPOSES AND PRINCIPLES.**

7 (a) STATEMENT OF PURPOSES.—The purposes of
8 this Act include the following:

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

TITLE I—TAX PROVISIONS

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUG-
GLING FAMILIES

TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION
TECHNOLOGY; MISCELLANEOUS MEDICARE PROVI-
SIONS

TITLE V—STATE FISCAL RELIEF

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

INSERT
1A

1 (1) To preserve and create jobs and promote
2 economic recovery.

3 (2) To assist those most impacted by the reces-
4 sion.

5 (3) To provide investments needed to increase
6 economic efficiency by spurring technological ad-
7 vances in science and health.

8 (4) To invest in transportation, environmental
9 protection, and other infrastructure that will provide
10 long-term economic benefits.

11 (5) To stabilize State and local government
12 budgets, in order to minimize and avoid reductions
13 in essential services and counterproductive state and
14 local tax increases.

15 (b) GENERAL PRINCIPLES CONCERNING USE OF
16 FUNDS.—The President and the heads of Federal depart-
17 ments and agencies shall manage and expend the funds
18 made available in this Act so as to achieve the purposes
19 specified in subsection (a), including commencing expendi-
20 tures and activities as quickly as possible consistent with
21 prudent management.

22 **SEC. 4. REFERENCES.**

23 Except as expressly provided otherwise, any reference
24 to “this Act” contained in any division of this Act shall

1 be treated as referring only to the provisions of that divi-
2 sion.

3 **SEC. 5. EMERGENCY DESIGNATIONS.**

4 (a) IN GENERAL.—Each amount in this Act is des-
5 ignated as an emergency requirement and necessary to
6 meet emergency needs pursuant to section 204(a) of S.
7 Con. Res. 21 (110th Congress) and section 301(b)(2) of
8 S. Con. Res. 70 (110th Congress), the concurrent resolu-
9 tions on the budget for fiscal years 2008 and 2009.

10 (b) PAY-AS-YOU-GO.—All applicable provisions in
11 this Act are designated as an emergency for purposes of
12 pay-as-you-go principles.

1 **DIVISION A—APPROPRIATIONS**
2 **PROVISIONS**

3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2009, and for other pur-
6 poses, namely:

7 **TITLE I—AGRICULTURE, RURAL DEVELOP-**
8 **MENT, FOOD AND DRUG ADMINISTRATION,**
9 **AND RELATED AGENCIES**

10 **DEPARTMENT OF AGRICULTURE**

11 **AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL**
12 **PAYMENTS**

13 For an additional amount for “Agriculture Buildings
14 and Facilities and Rental Payments”, \$24,000,000, for
15 necessary construction, repair, and improvement activities.

16 **OFFICE OF INSPECTOR GENERAL**

17 For an additional amount for “Office of Inspector
18 General”, \$22,500,000, to remain available until Sep-
19 tember 30, 2013, for oversight and audit of programs,
20 grants, and activities funded by this Act and administered
21 by the Department of Agriculture.

22 **AGRICULTURAL RESEARCH SERVICE**

23 **BUILDINGS AND FACILITIES**

24 For an additional amount for “Buildings and Facili-
25 ties”, \$176,000,000, for work on deferred maintenance at

1 Agricultural Research Service facilities: *Provided*, That
2 priority in the use of such funds shall be given to critical
3 deferred maintenance, to projects that can be completed,
4 and to activities that can commence promptly following
5 enactment of this Act.

6 FARM SERVICE AGENCY

7 SALARIES AND EXPENSES

8 For an additional amount for "Farm Service Agency,
9 Salaries and Expenses," \$50,000,000, for the purpose of
10 maintaining and modernizing the information technology
11 system.

12 NATURAL RESOURCES CONSERVATION SERVICE

13 WATERSHED AND FLOOD PREVENTION OPERATIONS

14 For an additional amount for "Watershed and Flood
15 Prevention Operations", \$290,000,000, of which
16 \$145,000,000 is for necessary expenses to purchase and
17 restore floodplain easements as authorized by section 403
18 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203)
19 (except that no more than \$30,000,000 of the amount pro-
20 vided for the purchase of floodplain easements may be ob-
21 ligated for projects in any one State): *Provided*, That such
22 funds shall be allocated to projects that can be fully fund-
23 ed and completed with the funds appropriated in this Act,
24 and to activities that can commence promptly following
25 enactment of this Act.

1 WATERSHED REHABILITATION PROGRAM

2 For an additional amount for “Watershed Rehabilita-
3 tion Program”, \$50,000,000: *Provided*, That such funds
4 shall be allocated to projects that can be fully funded and
5 completed with the funds appropriated in this Act, and
6 to activities that can commence promptly following enact-
7 ment of this Act.

8 RURAL HOUSING SERVICE

9 RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

10 For an additional amount for gross obligations for
11 the principal amount of direct and guaranteed loans as
12 authorized by title V of the Housing Act of 1949, to be
13 available from funds in the rural housing insurance fund,
14 as follows: \$1,000,000,000 for section 502 direct loans;
15 and \$10,472,000,000 for section 502 unsubsidized guar-
16 anteed loans.

17 For an additional amount for the cost of direct and
18 guaranteed loans, including the cost of modifying loans,
19 as defined in section 502 of the Congressional Budget Act
20 of 1974, as follows: \$67,000,000 for section 502 direct
21 loans; and \$133,000,000 for section 502 unsubsidized
22 guaranteed loans.

23 RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

24 For an additional amount for the cost of direct loans
25 and grants for rural community facilities programs as au-

1 thorized by section 306 and described in section
2 381E(d)(1) of the Consolidated Farm and Rural Develop-
3 ment Act, \$130,000,000.

4 RURAL BUSINESS—COOPERATIVE SERVICE

5 RURAL BUSINESS PROGRAM ACCOUNT

6 For an additional amount for the cost of guaranteed
7 loans and grants as authorized by sections 310B(a)(2)(A)
8 and 310B(c) of the Consolidated Farm and Rural Devel-
9 opment Act (7 U.S.C. 1932), \$150,000,000.

10 RURAL UTILITIES SERVICE

11 RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

12 For an additional amount for the cost of direct loans
13 and grants for the rural water, waste water, and waste
14 disposal programs authorized by sections 306 and 310B
15 and described in section 381E(d)(2) of the Consolidated
16 Farm and Rural Development Act, \$1,380,000,000.

17 DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND

18 PROGRAM

19 For an additional amount for the cost of broadband
20 loans and loan guarantees, as authorized by the Rural
21 Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for
22 grants (including for technical assistance),
23 \$2,500,000,000: *Provided*, That the cost of direct and
24 guaranteed loans shall be as defined in section 502 of the
25 Congressional Budget Act of 1974: *Provided further*, That,

1 notwithstanding title VI of the Rural Electrification Act
2 of 1936, this amount is available for grants, loans and
3 loan guarantees for broadband infrastructure in any area
4 of the United States: *Provided further*, That at least 75
5 percent of the area to be served by a project receiving
6 funds from such grants, loans or loan guarantees shall be
7 in a rural area without sufficient access to high speed
8 broadband service to facilitate rural economic develop-
9 ment, as determined by the Secretary of Agriculture: *Pro-*
10 *vided further*, That priority for awarding such funds shall
11 be given to project applications for broadband systems
12 that will deliver end users a choice of more than one serv-
13 ice provider: *Provided further*, That priority for awarding
14 funds made available under this paragraph shall be given
15 to projects that provide service to the highest proportion
16 of rural residents that do not have access to broadband
17 service: *Provided further*, That priority shall be given for
18 project applications from borrowers or former borrowers
19 under title II of the Rural Electrification Act of 1936 and
20 for project applications that include such borrowers or
21 former borrowers: *Provided further*, That priority for
22 awarding such funds shall be given to project applications
23 that demonstrate that, if the application is approved, all
24 project elements will be fully funded: *Provided further*,
25 That priority for awarding such funds shall be given to

1 project applications for activities that can be completed
2 if the requested funds are provided: *Provided further*, That
3 priority for awarding such funds shall be given to activities
4 that can commence promptly following approval: *Provided*
5 *further*, That no area of a project funded with amounts
6 made available under this paragraph may receive funding
7 to provide broadband service under the Broadband Tech-
8 nology Opportunities Program: *Provided further*, That the
9 Secretary shall submit a report on planned spending and
10 actual obligations describing the use of these funds not
11 later than 90 days after the date of enactment of this Act,
12 and quarterly thereafter until all funds are obligated, to
13 the Committees on Appropriations of the House of Rep-
14 resentatives and the Senate.

15 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR
16 WOMEN, INFANTS, AND CHILDREN (WIC)

17 For an additional amount for the special supple-
18 mental nutrition program as authorized by section 17 of
19 the Child Nutrition Act of 1966 (42 U.S.C. 1786),
20 \$500,000,000, of which \$400,000,000 shall be placed in
21 reserve to be allocated as the Secretary deems necessary,
22 notwithstanding section 17(i) of such Act, to support par-
23 ticipation should cost or participation exceed budget esti-
24 mates, and of which \$100,000,000 shall be for the pur-
25 poses specified in section 17(h)(10)(B)(ii): *Provided*, That

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Insert 6A

FOOD AND NUTRITION SERVICE
CHILD NUTRITION PROGRAMS

For an additional amount for the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et. seq.), except sections 17 and 21, \$100,000,000, to carry out a grant program for National School Lunch Program equipment assistance: *Provided*, That such funds shall be provided to States administering a school lunch program in a manner proportional with each States' administrative expense allocation: *Provided further*, That the States shall provide competitive grants to school food authorities based upon the need for equipment assistance in participating schools with priority given to school in which not less than 50 percent of the students are eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act.

1 up to one percent of the funding provided for the purposes
2 specified in section 17(h)(10)(B)(ii) may be reserved by
3 the Secretary for Federal administrative activities in sup-
4 port of those purposes.

5 COMMODITY ASSISTANCE PROGRAM

6 For an additional amount for the emergency food as-
7 sistance program as authorized by section 27(a) of the
8 Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and
9 section 204(a)(1) of the Emergency Food Assistance Act
10 of 1983 (7 U.S.C. 7508(a)(1)), \$150,000,000: *Provided,*
11 That of the funds made available, the Secretary may use
12 up to \$50,000,000 for costs associated with the distribu-
13 tion of commodities, of which up to \$25,000,000 shall be
14 made available in fiscal year 2009.

15 GENERAL PROVISIONS—THIS TITLE

16 SEC. 101. TEMPORARY INCREASE IN BENEFITS
17 UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE
18 PROGRAM. (a) MAXIMUM BENEFIT INCREASE.—

19 (1) IN GENERAL.—Beginning the first month
20 that begins not less than 25 days after the date of
21 enactment of this Act, the value of benefits deter-
22 mined under section 8(a) of the Food and Nutrition
23 Act of 2008 and consolidated block grants for Puer-
24 to Rico and American Samoa determined under sec-
25 tion 19(a) of such Act shall be calculated using

1 113.6 percent of the June 2008 value of the thrifty
2 food plan as specified under section 3(o) of such
3 Act.

4 (2) TERMINATION.—

5 (A) The authority provided by this sub-
6 section shall terminate after September 30,
7 2009.

8 (B) Notwithstanding subparagraph (A),
9 the Secretary of Agriculture may not reduce the
10 value of the maximum allotments, minimum al-
11 lotments or consolidated block grants for Puer-
12 to Rico and American Samoa below the level in
13 effect for fiscal year 2009 as a result of para-
14 graph (1).

15 (b) REQUIREMENTS FOR THE SECRETARY.—In car-
16 rying out this section, the Secretary shall—

17 (1) consider the benefit increases described in
18 subsection (a) to be a “mass change”;

19 (2) require a simple process for States to notify
20 households of the increase in benefits;

21 (3) consider section 16(c)(3)(A) of the Food
22 and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A))
23 to apply to any errors in the implementation of this
24 section, without regard to the 120-day limit de-
25 scribed in that section;

1 (4) disregard the additional amount of benefits
2 that a household receives as a result of this section
3 in determining the amount of overissuances under
4 section 13 of the Food and Nutrition Act of 2008
5 (7 U.S.C. 2022); and

6 (5) set the tolerance level for excluding small
7 errors for the purposes of section 16(c) of the Food
8 and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at
9 \$50 through September 30, 2009.

10 (c) ADMINISTRATIVE EXPENSES.—

11 (1) IN GENERAL.—For the costs of State ad-
12 ministrative expenses associated with carrying out
13 this section and administering the supplemental nu-
14 trition assistance program established under the
15 Food and Nutrition Act of 2008 (7 U.S.C. 2011 et
16 seq.), the Secretary shall make available
17 \$145,000,000 in fiscal year 2009 and \$150,000,000
18 in fiscal year 2010, of which \$4,500,000 is for nec-
19 essary expenses of the Food and Nutrition Service
20 for management and oversight of the program and
21 for monitoring the integrity and evaluating the ef-
22 fects of the payments made under this section.

23 (2) TIMING FOR FISCAL YEAR 2009.—Not later
24 than 60 days after the date of enactment of this

1 Act, the Secretary shall make available to States
2 amounts for fiscal year 2009 under paragraph (1).

3 (3) ALLOCATION OF FUNDS.—Except as pro-
4 vided for management and oversight, funds de-
5 scribed in paragraph (1) shall be made available as
6 grants to State agencies for each fiscal year as fol-
7 lows:

8 (A) 75 percent of the amounts available
9 for each fiscal year shall be allocated to States
10 based on the share of each State of households
11 that participate in the supplemental nutrition
12 assistance program as reported to the Depart-
13 ment of Agriculture for the most recent 12-
14 month period for which data are available, ad-
15 justed by the Secretary (as of the date of enact-
16 ment) for participation in disaster programs
17 under section 5(h) of the Food and Nutrition
18 Act of 2008 (7 U.S.C. 2014(h)); and

19 (B) 25 percent of the amounts available
20 for each fiscal year shall be allocated to States
21 based on the increase in the number of house-
22 holds that participate in the supplemental nu-
23 trition assistance program as reported to the
24 Department of Agriculture over the most recent
25 12-month period for which data are available,

1 adjusted by the Secretary (as of the date of en-
2 actment) for participation in disaster programs
3 under section 5(h) of the Food and Nutrition
4 Act of 2008 (7 U.S.C. 2014(h)).

5 (d) FOOD DISTRIBUTION PROGRAM ON INDIAN RES-
6 ERVATIONS.—For the costs relating to facility improve-
7 ments and equipment upgrades associated with the Food
8 Distribution Program on Indian Reservations, as estab-
9 lished under section 4(b) of the Food and Nutrition Act
10 of 2008 (7 U.S.C. 2013(b)), the Secretary shall make
11 available \$5,000,000: *Provided*, That administrative cost-
12 sharing requirements are not applicable to funds provided
13 in accordance with this provision.

14 (e) TREATMENT OF JOBLESS WORKERS.—

15 (1) REMAINDER OF FISCAL YEAR 2009
16 THROUGH FISCAL YEAR 2010.—Beginning with the
17 first month that begins not less than 25 days after
18 the date of enactment of this Act and for each sub-
19 sequent month through September 30, 2010, eligi-
20 bility for supplemental nutrition assistance program
21 benefits shall not be limited under section 6(o)(2) of
22 the Food and Nutrition Act of 2008 unless an indi-
23 vidual does not comply with the requirements of a
24 program offered by the State agency that meets the

1 standards of subparagraphs (B) or (C) of that para-
2 graph.

3 (2) FISCAL YEAR 2011 AND THEREAFTER.—Be-
4 ginning on October 1, 2010, for the purposes of sec-
5 tion 6(o) of the Food and Nutrition Act of 2008 (7
6 U.S.C. 2015(o)), a State agency shall disregard any
7 period during which an individual received benefits
8 under the supplemental nutrition assistance program
9 prior to October 1, 2010.

10 (f) FUNDING.—There are appropriated to the Sec-
11 retary out of funds of the Treasury not otherwise appro-
12 priated such sums as are necessary to carry out this sec-
13 tion.

14 SEC. 102. AGRICULTURAL DISASTER ASSISTANCE
15 TRANSITION. (a) FEDERAL CROP INSURANCE ACT. Sec-
16 tion 531(g) of the Federal Crop Insurance Act (7 U.S.C.
17 1531(g)) is amended by adding at the end the following:

18 “(7) 2008 TRANSITION ASSISTANCE.—

19 “(A) IN GENERAL.—Eligible producers on
20 a farm described in subparagraph (A) of para-
21 graph (4) that failed to timely pay the appro-
22 priate fee described in that subparagraph shall
23 be eligible for assistance under this section in
24 accordance with subparagraph (B) if the eligi-
25 ble producers on the farm—

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

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

18 “(II) in the case of each noninsurable
19 commodity of the eligible producers on the
20 farm, agree to file the required paperwork,
21 and pay the administrative fee by the ap-
22 plicable State filing deadline, for the non-
23 insured crop assistance program for the
24 next year for which a policy is available.

1 “(B) AMOUNT OF ASSISTANCE.—Eligible
2 producers on a farm that meet the require-
3 ments of subparagraph (A) shall be eligible to
4 receive assistance under this section as if the el-
5 igible producers on the farm—

6 “(i) in the case of each insurable com-
7 modity of the eligible producers on the
8 farm, had obtained a policy or plan of in-
9 surance for the 2008 crop year at a level
10 of coverage not to exceed 70 percent or
11 more of the recorded or appraised average
12 yield indemnified at 100 percent of the ex-
13 pected market price, or an equivalent cov-
14 erage; and

15 “(ii) in the case of each noninsurable
16 commodity of the eligible producers on the
17 farm, had filed the required paperwork,
18 and paid the administrative fee by the ap-
19 plicable State filing deadline, for the non-
20 insured crop assistance program for the
21 2008 crop year, except that in determining
22 the level of coverage, the Secretary shall
23 use 70 percent of the applicable yield.

24 “(C) EQUITABLE RELIEF.—Except as pro-
25 vided in subparagraph (D), eligible producers

1 on a farm that met the requirements of para-
2 graph (1) before the deadline described in para-
3 graph (4)(A) and are eligible to receive, a dis-
4 aster assistance payment under this section for
5 a production loss during the 2008 crop year
6 shall be eligible to receive an amount equal to
7 the greater of—

8 “(i) the amount that would have been
9 calculated under subparagraph (B) if the
10 eligible producers on the farm had paid the
11 appropriate fee under that subparagraph;
12 or

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

16 “(I) in clause (i) of that subpara-
17 graph, ‘120 percent’ is substituted for
18 ‘115 percent’; and

19 “(II) in clause (ii) of that sub-
20 paragraph, ‘125’ is substituted for
21 ‘120 percent’.

22 “(D) LIMITATION.—For amounts made
23 available under this paragraph, the Secretary
24 may make such adjustments as are necessary to
25 ensure that no producer receives a payment

1 under this paragraph for an amount in excess
2 of the assistance received by a similarly situated
3 producer that had purchased the same or high-
4 er level of crop insurance prior to the date of
5 enactment of this paragraph.

“(E) AUTHORITY OF THE SECRETARY.—

The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

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

18 “(i) suffered a production loss due to
19 a natural cause during the 2008 crop year;
20 and

21 “(ii) as determined by the Secretary—

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

1 “(bb) do not qualify for a written
2 agreement because 1 or more farming
3 practices, which the Secretary has de-
4 termined are good farming practices,
5 of the eligible producers on the farm
6 differ significantly from the farming
7 practices used by producers of the
8 same crop in other regions of the
9 United States; and

10 “(II) are not eligible for the non-
11 insured crop disaster assistance pro-
12 gram established by section 196 of the
13 Federal Agriculture Improvement and
14 Reform Act of 1996 (7 U.S.C.
15 7333).”.

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

19 “(7) 2008 TRANSITION ASSISTANCE.—

20 “(A) IN GENERAL.—Eligible producers on
21 a farm described in subparagraph (A) of para-
22 graph (4) that failed to timely pay the appro-
23 priate fee described in that subparagraph shall
24 be eligible for assistance under this section in

1 accordance with subparagraph (B) if the eligi-
2 ble producers on the farm—

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

7 “(ii)(I) in the case of each insurable
8 commodity of the eligible producers on the
9 farm, excluding grazing land, agree to ob-
10 tain a policy or plan of insurance under
11 the Federal Crop Insurance Act (7 U.S.C.
12 1501 et seq.) (excluding a crop insurance
13 pilot program under that Act) for the next
14 insurance year for which crop insurance is
15 available to the eligible producers on the
16 farm at a level of coverage equal to 70 per-
17 cent or more of the recorded or appraised
18 average yield indemnified at 100 percent of
19 the expected market price, or an equivalent
20 coverage; and

21 “(II) in the case of each noninsurable
22 commodity of the eligible producers on the
23 farm, agree to file the required paperwork,
24 and pay the administrative fee by the ap-
25 plicable State filing deadline, for the non-

1 insured crop assistance program for the
2 next year for which a policy is available.

3 “(B) AMOUNT OF ASSISTANCE.—Eligible
4 producers on a farm that meet the require-
5 ments of subparagraph (A) shall be eligible to
6 receive assistance under this section as if the el-
7 igible producers on the farm—

8 “(i) in the case of each insurable com-
9 modity of the eligible producers on the
10 farm, had obtained a policy or plan of in-
11 surance for the 2008 crop year at a level
12 of coverage not to exceed 70 percent or
13 more of the recorded or appraised average
14 yield indemnified at 100 percent of the ex-
15 pected market price, or an equivalent cov-
16 erage; and

17 “(ii) in the case of each noninsurable
18 commodity of the eligible producers on the
19 farm, had filed the required paperwork,
20 and paid the administrative fee by the ap-
21 plicable State filing deadline, for the non-
22 insured crop assistance program for the
23 2008 crop year, except that in determining
24 the level of coverage, the Secretary shall
25 use 70 percent of the applicable yield.

1 “(C) EQUITABLE RELIEF.—Except as pro-
2 vided in subparagraph (D), eligible producers
3 on a farm that met the requirements of para-
4 graph (1) before the deadline described in para-
5 graph (4)(A) and are eligible to receive, a dis-
6 aster assistance payment under this section for
7 a production loss during the 2008 crop year
8 shall be eligible to receive an amount equal to
9 the greater of—

10 “(i) the amount that would have been
11 calculated under subparagraph (B) if the
12 eligible producers on the farm had paid the
13 appropriate fee under that subparagraph;
14 or

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

18 “(I) in clause (i) of that subpara-
19 graph, ‘120 percent’ is substituted for
20 ‘115 percent’; and

21 “(II) in clause (ii) of that sub-
22 paragraph, ‘125’ is substituted for
23 ‘120 percent’.

24 “(D) LIMITATION.—For amounts made
25 available under this paragraph, the Secretary

1 may make such adjustments as are necessary to
2 ensure that no producer receives a payment
3 under this paragraph for an amount in excess
4 of the assistance received by a similarly situated
5 producer that had purchased the same or high-
6 er level of crop insurance prior to the date of
7 enactment of this paragraph.

8 “(E) AUTHORITY OF THE SECRETARY.—
9 The Secretary may provide such additional as-
10 sistance as the Secretary considers appropriate
11 to provide equitable treatment for eligible pro-
12 ducers on a farm that suffered production
13 losses in the 2008 crop year that result in
14 multiyear production losses, as determined by
15 the Secretary.

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

20 “(i) suffered a production loss due to
21 a natural cause during the 2008 crop year;
22 and

23 “(ii) as determined by the Secretary—

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

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

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

19 (c) FARM OPERATING LOANS.—

20 (1) IN GENERAL.—For the principal amount of
21 direct farm operating loans under section 311 of the
22 Consolidated Farm and Rural Development Act (7
23 U.S.C. 1941), \$173,367,000.

24 (2) DIRECT FARM OPERATING LOANS.—For the
25 cost of direct farm operating loans, including the

1 cost of modifying loans, as defined in section 502 of
2 the Congressional Budget Act of 1974 (2 U.S.C.
3 661a), \$20,440,000.

4 (d) 2008 AQUACULTURE ASSISTANCE.—

5 (1) DEFINITIONS.—In this subsection:

6 (A) ELIGIBLE AQUACULTURE PRO-
7 DUCER.—The term “eligible aquaculture pro-
8 ducer” means an aquaculture producer that
9 during the 2008 calendar year, as determined
10 by the Secretary—

11 (i) produced an aquaculture species
12 for which feed costs represented a substan-
13 tial percentage of the input costs of the
14 aquaculture operation; and

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

18 (B) SECRETARY.—The term “Secretary”
19 means the Secretary of Agriculture.

20 (2) GRANT PROGRAM.—

21 (A) IN GENERAL.—Of the funds of the
22 Commodity Credit Corporation, the Secretary
23 shall use not more than \$50,000,000, to remain
24 available until September 30, 2010, to carry out
25 a program of grants to States to assist eligible

1 aquaculture producers for losses associated with
2 high feed input costs during the 2008 calendar
3 year.

4 (B) NOTIFICATION.—Not later than 60
5 days after the date of enactment of this Act,
6 the Secretary shall notify the State department
7 of agriculture (or similar entity) in each State
8 of the availability of funds to assist eligible
9 aquaculture producers, including such terms as
10 determined by the Secretary to be necessary for
11 the equitable treatment of eligible aquaculture
12 producers.

13 (C) PROVISION OF GRANTS.—

14 (i) IN GENERAL.—The Secretary shall
15 make grants to States under this sub-
16 section on a pro rata basis based on the
17 amount of aquaculture feed used in each
18 State during the 2007 calendar year, as
19 determined by the Secretary.

20 (ii) TIMING.—Not later than 120 days
21 after the date of enactment of this Act, the
22 Secretary shall make grants to States to
23 provide assistance under this subsection.

24 (D) REQUIREMENTS.—The Secretary shall
25 make grants under this subsection only to

1 States that demonstrate to the satisfaction of
2 the Secretary that the State will—

3 (i) use grant funds to assist eligible
4 aquaculture producers;

5 (ii) provide assistance to eligible aqua-
6 culture producers not later than 60 days
7 after the date on which the State receives
8 grant funds; and

9 (iii) not later than 30 days after the
10 date on which the State provides assistance
11 to eligible aquaculture producers, submit to
12 the Secretary a report that describes—

13 (I) the manner in which the
14 State provided assistance;

15 (II) the amounts of assistance
16 provided per species of aquaculture;
17 and

18 (III) the process by which the
19 State determined the levels of assist-
20 ance to eligible aquaculture producers.

21 (3) REDUCTION IN PAYMENTS.—An eligible
22 aquaculture producer that receives assistance under
23 this subsection shall not be eligible to receive any
24 other assistance under the supplemental agricultural
25 disaster assistance program established under sec-

1 tion 531 of the Federal Crop Insurance Act (7
2 U.S.C. 1531) and section 901 of the Trade Act of
3 1974 (19 U.S.C. 2497) for any losses in 2008 relat-
4 ing to the same species of aquaculture.

5 (4) REPORT TO CONGRESS.—Not later than
6 180 days after the date of enactment of this Act, the
7 Secretary shall submit to the appropriate committees
8 of Congress a report that—

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

11 (B) includes the information reported to
12 the Secretary under paragraph (2)(D)(iii).

13 SEC. 103. For fiscal years 2009 and 2010, in the case
14 of each program established or amended by the Food,
15 Conservation, and Energy Act of 2008 (Public Law 110–
16 246), other than by title I of such Act, that is authorized
17 or required to be carried out using funds of the Com-
18 modity Credit Corporation—

19 (1) such funds shall be available for the pur-
20 pose of covering salaries and related administrative
21 expenses, including technical assistance, associated
22 with the implementation of the program, without re-
23 gard to the limitation on the total amount of allot-
24 ments and fund transfers contained in section 11 of

1 the Commodity Credit Corporation Charter Act
2 (15U.S.C. 714i); and
2
3 (2) the use of such funds for such purpose shall
4 not be considered to be a fund transfer or allotment
5 for purposes of applying the limitation on the total
6 amount of allotments and fund transfers contained
7 in such section.

8 SEC. 104. In addition to other available funds, of the
9 funds made available to the Rural Development mission
10 area in this title, not more than 3 percent of the funds
11 can be used for administrative costs to carry out loan, loan
12 guarantee and grant activities funded in this title, which
13 shall be transferred to and merged with the appropriation
14 for "Rural Development, Salaries and Expenses": *Pro-*
15 *vided*, That of this amount \$1,750,000 shall be committed
16 to agency projects associated with maintaining the compli-
17 ance, safety, and soundness of the portfolio of loans guar-
18 anteed through the section 502 guaranteed loan program.

19 SEC. 105. Of the amounts appropriated in this title
20 to the "Rural Housing Service, Rural Community Facili-
21 ties Program Account", the "Rural Business-Cooperative
22 Service, Rural Business Program Account", and the
23 "Rural Utilities Service, Rural Water and Waste Disposal
24 Program Account", at least 10 percent shall be allocated
25 for assistance in persistent poverty counties: *Provided*,

1 That for the purposes of this section, the term “persistent
2 poverty counties” means any county that has had ~~a~~ ^e 20
3 percent or more of its population living in poverty over
4 the past 30 years, as measured by the 1980, 1990, and
5 2000 decennial censuses.

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

3 DEPARTMENT OF COMMERCE

4 ECONOMIC DEVELOPMENT ADMINISTRATION

5 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

6 For an additional amount for “Economic Develop-
7 ment Assistance Programs”, \$150,000,000: *Provided*,
8 That \$50,000,000 shall be for economic adjustment assist-
9 ance as authorized by section 209 of the Public Works
10 and Economic Development Act of 1965, as amended (42
11 U.S.C. 3149): *Provided further*, That in allocating the
12 funds provided in the previous proviso, the Secretary of
13 Commerce shall give priority consideration to areas of the
14 Nation that have experienced sudden and severe economic
15 dislocation and job loss due to corporate restructuring:
16 *Provided further*, That not to exceed 2 percent of the funds
17 provided under this heading may be transferred to and
18 merged with the appropriation for “Salaries and Ex-
19 penses” for purposes of program administration and over-
20 sight: *Provided further*, That up to \$50,000,000 of the
21 funds provided under this heading may be transferred to
22 federally authorized regional economic development com-
23 missions.

1 BUREAU OF THE CENSUS

2 PERIODIC CENSUSES AND PROGRAMS

3 For an additional amount for “Periodic Censuses and
4 Programs”, \$1,000,000,000.

5 NATIONAL TELECOMMUNICATIONS AND INFORMATION

6 ADMINISTRATION

7 BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

8 For an amount for “Broadband Technology Opportu-
9 nities Program”, \$4,700,000,000: *Provided*, That of the
10 funds provided under this heading, not less than
11 \$4,350,000,000 shall be expended pursuant to division B
12 of this Act, of which: not less than \$200,000,000 shall
13 be available for competitive grants for expanding public
14 computer center capacity, including at community colleges
15 and public libraries; not less than \$250,000,000 shall be
16 available for competitive grants for innovative programs
17 to encourage sustainable adoption of broadband service;
18 and \$10,000,000 shall be transferred to “Department of
19 Commerce, Office of Inspector General” for the purposes
20 of audits and oversight of funds provided under this head-
21 ing and such funds shall remain available until expended:
22 *Provided further*, That of the funds provided under this
23 heading, up to \$350,000,000 may be expended pursuant
24 to Public Law 110–385 (47 U.S.C. 1301 note) and for
25 the purposes of developing and maintaining a broadband

1 inventory map pursuant to division B of this Act: *Provided*
2 *further*, That of the funds provided under this heading,
3 amounts deemed necessary and appropriate by the Sec-
4 retary of Commerce, in consultation with the Federal
5 Communications Commission (FCC), may be transferred
6 to the FCC for the purposes of developing a national
7 broadband plan or for carrying out any other FCC respon-
8 sibilities pursuant to division B of this Act, and only if
9 the Committees on Appropriations of the House and the
10 Senate are notified not less than 15 days in advance of
11 the transfer of such funds: *Provided further*, That not
12 more than 3 percent of funds provided under this heading
13 may be used for administrative costs, and this limitation
14 shall apply to funds which may be transferred to the FCC.

15 DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

16 For an amount for “Digital-to-Analog Converter Box
17 Program”, \$650,000,000, for additional coupons and re-
18 lated activities under the program implemented under sec-
19 tion 3005 of the Digital Television Transition and Public
20 Safety Act of 2005: *Provided*, That of the amounts pro-
21 vided under this heading, \$90,000,000 may be for edu-
22 cation and outreach, including grants to organizations for
23 programs to educate vulnerable populations, including sen-
24 ior citizens, minority communities, people with disabilities,
25 low-income individuals, and people living in rural areas,

1 about the transition and to provide one-on-one assistance
2 to vulnerable populations, including help with converter
3 box installation: *Provided further*, That the amounts pro-
4 vided in the previous proviso may be transferred to the
5 Federal Communications Commission (FCC) if deemed
6 necessary and appropriate by the Secretary of Commerce
7 in consultation with the FCC, and only if the Committees
8 on Appropriations of the House and the Senate are noti-
9 fied not less than 5 days in advance of transfer of such
10 funds.

11 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
12 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

13 For an additional amount for “Scientific and Tech-
14 nical Research and Services”, \$220,000,000.

15 CONSTRUCTION OF RESEARCH FACILITIES

16 For an additional amount for “Construction of Re-
17 search Facilities”, \$360,000,000, of which \$180,000,000
18 shall be for a competitive construction grant program for
19 research science buildings.

20 NATIONAL OCEANIC AND ATMOSPHERIC

21 ADMINISTRATION

22 OPERATIONS, RESEARCH, AND FACILITIES

23 For an additional amount for “Operations, Research,
24 and Facilities”, \$230,000,000.

1 PROCUREMENT, ACQUISITION AND CONSTRUCTION

2 For an additional amount for "Procurement, Acquisi-
3 tion and Construction", \$600,000,000.

4 OFFICE OF INSPECTOR GENERAL

5 For an additional amount for "Office of Inspector
6 General", \$6,000,000, to remain available until September
7 30, 2013.

8 DEPARTMENT OF JUSTICE

9 ~~OFFICE OF INSPECTOR GENERAL~~

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10 For an additional amount for "Office of Inspector
11 General", \$2,000,000, to remain available until September
12 30, 2013.

13 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

14 OFFICE ON VIOLENCE AGAINST WOMEN

15 VIOLENCE AGAINST WOMEN PREVENTION AND

16 PROSECUTION PROGRAMS

17 For an additional amount for "Violence Against
18 Women Prevention and Prosecution Programs",
19 \$225,000,000 for grants to combat violence against
20 women, as authorized by part T of the Omnibus Crime
21 Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg
22 et seq.): *Provided*, That, \$50,000,000 shall be for transi-
23 tional housing assistance grants for victims of domestic
24 violence, stalking or sexual assault as authorized by sec-

1 tion 40299 of the Violent Crime Control and Law Enforce-
2 ment Act of 1994 (Public Law 103-322).

3 OFFICE OF JUSTICE PROGRAMS

4 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

5 For an additional amount for "State and Local Law
6 Enforcement Assistance", \$2,000,000,000, for the Ed-
7 ward Byrne Memorial Justice Assistance Grant program
8 as authorized by subpart 1 of part E of title I of the Omni-
9 bus Crime Control and Safe Street Act of 1968 ("1968
10 Act"), (except that section 1001(c), and the special rules
11 for Puerto Rico under section 505(g), of the 1968 Act,
12 shall not apply for purposes of this Act).

13 For an additional amount for "State and Local Law
14 Enforcement Assistance", \$225,000,000, for competitive
15 grants to improve the functioning of the criminal justice
16 system, to assist victims of crime (other than compensa-
17 tion), and youth mentoring grants.

18 For an additional amount for "State and Local Law
19 Enforcement Assistance", \$40,000,000, for competitive
20 grants to provide assistance and equipment to local law
21 enforcement along the Southern border and in High-In-
22 tensity Drug Trafficking Areas to combat criminal nar-
23 cotics activity stemming from the Southern border, of
24 which \$10,000,000 shall be transferred to "Bureau of Al-

1cohol, Tobacco, Firearms and Explosives, Salaries and Ex-
2penses” for the ATF Project Gunrunner.

3For an additional amount for “State and Local Law
4Enforcement Assistance”, \$225,000,000, for assistance to
5Indian tribes, notwithstanding Public Law 108–199, divi-
6sion B, title I, section 112(a)(1) (118 Stat. 62), which
7shall be available for grants under section 20109 of sub-
8title A of title II of the Violent Crime Control and Law
9Enforcement Act of 1994 (Public Law 103–322).

10For an additional amount for “State and Local Law
11Enforcement Assistance”, \$100,000,000, to be distributed
12by the Office for Victims of Crime in accordance with sec-
13tion 1402(d)(4) of the Victims of Crime Act of 1984 (Pub-
14lic Law 98–473).

15For an additional amount for “State and Local Law
16Enforcement Assistance”, \$125,000,000, for assistance to
17law enforcement in rural States and rural areas, to pre-
18vent and combat crime, especially drug-related crime.

19For an additional amount for “State and Local Law
20Enforcement Assistance”, \$50,000,000, for Internet
21Crimes Against Children (ICAC) initiatives.

22COMMUNITY ORIENTED POLICING SERVICES

23For an additional amount for “Community Oriented
24Policing Services”, for grants under section 1701 of title
25I of the 1968 Omnibus Crime Control and Safe Streets

1 Act (42 U.S.C. 3796dd) for hiring and rehiring of addi-
2 tional career law enforcement officers under part Q of
3 such title, notwithstanding subsection (i) of such section,
4 \$1,000,000,000.

5 SALARIES AND EXPENSES

6 For an additional amount, not elsewhere specified in
7 this title, for management and administration and over-
8 sight of programs within the Office on Violence Against
9 Women, the Office of Justice Programs, and the Commu-
10 nity Oriented Policing Services Office, \$10,000,000.

11 SCIENCE

12 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

13 SCIENCE

14 For an additional amount for “Science”,
15 \$400,000,000.

16 AERONAUTICS

17 For an additional amount for “Aeronautics”,
18 \$150,000,000.

19 EXPLORATION

20 For an additional amount for “Exploration”,
21 \$400,000,000.

22 CROSS AGENCY SUPPORT

23 For an additional amount for “Cross Agency Sup-
24 port”, \$50,000,000.

1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for “Office of Inspector
3 General”, \$2,000,000, to remain available until September
4 30, 2013.

5 NATIONAL SCIENCE FOUNDATION

6 RESEARCH AND RELATED ACTIVITIES

7 For an additional amount for “Research and Related
8 Activities”, \$2,500,000,000: *Provided*, That \$300,000,000
9 shall be available solely for the Major Research Instru-
10 mentation program and \$200,000,000 shall be for activi-
11 ties authorized by title II of Public Law 100–570 for aca-
12 demic research facilities modernization.

13 EDUCATION AND HUMAN RESOURCES

14 For an additional amount for “Education and
15 Human Resources”, \$100,000,000.

16 MAJOR RESEARCH EQUIPMENT AND FACILITIES

17 CONSTRUCTION

18 For an additional amount for “Major Research
19 Equipment and Facilities Construction”, \$400,000,000.

20 OFFICE OF INSPECTOR GENERAL

21 For an additional amount for “Office of Inspector
22 General”, \$2,000,000, to remain available until September
23 30, 2013.

1 GENERAL PROVISION—THIS TITLE

2 SEC. 201. Sections 1701(g) and 1704(c) of the Omni-
3 bus Crime Control and Safe Street ~~Act of 1968~~ (42 U.S.C.
4 3796dd(g) and 3796dd-3(c)) shall not apply with respect
5 to funds appropriated in this or any other Act making ap-
6 propriations for fiscal year 2009 or 2010 for Community
7 Oriented Policing Services authorized under part Q of
8 such Act of 1968.

1 TITLE III—DEPARTMENT OF DEFENSE

2 OPERATION AND MAINTENANCE

3 OPERATION AND MAINTENANCE, ARMY

4 For an additional amount for “Operation and Main-
5 tenance, Army”, \$1,474,525,000, to remain available for
6 obligation until September 30, 2010, to improve, repair
7 and modernize Department of Defense facilities, restore
8 and modernize real property to include barracks, and in-
9 vest in the energy efficiency of Department of Defense fa-
10 cilities.

11 OPERATION AND MAINTENANCE, NAVY

12 For an additional amount for “Operation and Main-
13 tenance, Navy”, \$657,051,000, to remain available for ob-
14 ligation until September 30, 2010, to improve, repair and
15 modernize Department of Defense facilities, restore and
16 modernize real property to include barracks, and invest
17 in the energy efficiency of Department of Defense facili-
18 ties.

19 OPERATION AND MAINTENANCE, MARINE CORPS

20 For an additional amount for “Operation and Main-
21 tenance, Marine Corps”, \$113,865,000, to remain avail-
22 able for obligation until September 30, 2010, to improve,
23 repair and modernize Department of Defense facilities, re-
24 store and modernize real property to include barracks, and

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1 invest in the energy efficiency of Department of Defense
2 facilities.

3 OPERATION AND MAINTENANCE, AIR FORCE

4 For an additional amount for “Operation and Main-
5 tenance, Air Force”, \$1,095,959,000, to remain available
6 for obligation until September 30, 2010, to improve, re-
7 pair and modernize Department of Defense facilities, re-
8 store and modernize real property to include barracks, and
9 invest in the energy efficiency of Department of Defense
10 facilities.

11 OPERATION AND MAINTENANCE, ARMY RESERVE

12 For an additional amount for “Operation and Main-
13 tenance, Army Reserve”, \$98,269,000, to remain available
14 for obligation until September 30, 2010, to improve, re-
15 pair and modernize Department of Defense facilities, re-
16 store and modernize real property to include barracks, and
17 invest in the energy efficiency of Department of Defense
18 facilities.

19 OPERATION AND MAINTENANCE, NAVY RESERVE

20 For an additional amount for “Operation and Main-
21 tenance, Navy Reserve”, \$55,083,000, to remain available
22 for obligation until September 30, 2010, to improve, re-
23 pair and modernize Department of Defense facilities, re-
24 store and modernize real property to include barracks, and

1 invest in the energy efficiency of Department of Defense
2 facilities.

3 OPERATION AND MAINTENANCE, MARINE CORPS

4 RESERVE

5 For an additional amount for "Operation and Main-
6 tenance, Marine Corps Reserve", \$39,909,000, to remain
7 available for obligation until September 30, 2010, to im-
8 prove, repair and modernize Department of Defense facili-
9 ties, restore and modernize real property to include bar-
10 racks, and invest in the energy efficiency of Department
11 of Defense facilities.

12 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

13 For an additional amount for "Operation and Main-
14 tenance, Air Force Reserve", \$13,187,000, to remain
15 available for obligation until September 30, 2010, to im-
16 prove, repair and modernize Department of Defense facili-
17 ties, restore and modernize real property to include bar-
18 racks, and invest in the energy efficiency of Department
19 of Defense facilities.

20 OPERATION AND MAINTENANCE, ARMY NATIONAL

21 GUARD

22 For an additional amount for "Operation and Main-
23 tenance, Army National Guard", \$266,304,000, to remain
24 available for obligation until September 30, 2010, to im-
25 prove, repair and modernize Department of Defense facili-

1 ties, restore and modernize real property to include bar-
2 racks, and invest in the energy efficiency of Department
3 of Defense facilities.

4 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

5 For an additional amount for “Operation and Main-
6 tenance, Air National Guard”, \$25,848,000, to remain
7 available for obligation until September 30, 2010, to im-
8 prove, repair and modernize Department of Defense facili-
9 ties, restore and modernize real property to include bar-
10 racks, and invest in the energy efficiency of Department
11 of Defense facilities.

12 RESEARCH, DEVELOPMENT, TEST AND
13 EVALUATION

14 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
15 ARMY

16 For an additional amount for “Research, Develop-
17 ment, Test and Evaluation, Army”, \$75,000,000, to re-
18 main available for obligation until September 30, 2010.

19 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
20 NAVY

21 For an additional amount for “Research, Develop-
22 ment, Test and Evaluation, Navy”, \$75,000,000, to re-
23 main available for obligation until September 30, 2010.

1 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
2 AIR FORCE

3 For an additional amount for “Research, Develop-
4 ment, Test and Evaluation, Air Force”, \$75,000,000, to
5 remain available for obligation until September 30, 2010.

6 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
7 DEFENSE-WIDE

8 For an additional amount for “Research, Develop-
9 ment, Test and Evaluation, Defense-Wide”, \$75,000,000,
10 to remain available for obligation until September 30,
11 2010.

12 OTHER DEPARTMENT OF DEFENSE PROGRAMS

13 DEFENSE HEALTH PROGRAM

14 For an additional amount for “Defense Health Pro-
15 gram”, \$400,000,000 for operation and maintenance, to
16 remain available for obligation until September 30, 2010,
17 to improve, repair and modernize military medical facili-
18 ties, and invest in the energy efficiency of military medical
19 facilities.

20 OFFICE OF THE INSPECTOR GENERAL

21 For an additional amount for “Office of the Inspector
22 General”, \$15,000,000 for operation and maintenance, to
23 remain available for obligation until September 30, 2011.

XEROX

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

7 For an additional amount for “Investigations”,
8 \$25,000,000: *Provided*, That funds provided under this
9 heading in this title shall only be used for programs,
10 projects or activities that heretofore or hereafter receive
11 funds provided in Acts making appropriations available for
12 Energy and Water Development: *Provided further*, That
13 funds provided under this heading in this title shall be
14 used for programs, projects or activities or elements of
15 programs, projects or activities that can be completed
16 within the funds made available in that account and that
17 will not require new budget authority to complete: *Pro-*
18 *vided further*, That for projects that are being completed
19 with funds appropriated in this Act that would otherwise
20 be expired for obligation, expired funds appropriated in
21 this Act may be used to pay the cost of associated super-
22 vision, inspection, overhead, engineering and design on
23 those projects and on subsequent claims, if any: *Provided*
24 *further*, That the Secretary of the Army shall submit a
25 quarterly report to the Committees on Appropriations of

1 the House of Representatives and the Senate detailing the
2 allocation, obligation and expenditures of these funds, be-
3 ginning not later than 45 days after enactment of this Act:
4 *Provided further*, That the Secretary shall have unlimited
5 reprogramming authority for these funds provided under
6 this heading.

7 CONSTRUCTION

8 For an additional amount for "Construction",
9 \$2,000,000,000: *Provided*, That not less than
10 \$200,000,000 of the funds provided shall be for water-
11 related environmental infrastructure assistance: *Provided*
12 *further*, That section 102 of Public Law 109-103 (33
13 U.S.C. 2221) shall not apply to funds provided in this
14 title: *Provided further*, That notwithstanding any other
15 provision of law, funds provided in this paragraph shall
16 not be cost shared with the Inland Waterways Trust Fund
17 as authorized in Public Law 99-662: *Provided further*,
18 That funds provided under this heading in this title shall
19 only be used for programs, projects or activities that here-
20 tofore or hereafter receive funds provided in Acts making
21 appropriations available for Energy and Water Develop-
22 ment: *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 author-
2 ity 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 funds appropriated under this heading may
8 be used by the Secretary of the Army, acting through the
9 Chief of Engineers, to undertake work authorized to be
10 carried out in accordance with section 14 of the Flood
11 Control Act of 1946 (33 U.S.C. 701r); section 205 of the
12 Flood Control Act of 1948 (33 U.S.C. 701s); section 206
13 of the Water Resources Development Act of 1996 (33
14 U.S.C. 2330); or section 1135 of the Water Resources De-
15 velopment Act of 1986 (33 U.S.C. 2309a), notwith-
16 standing the program cost limitations set forth in those
17 sections: *Provided further*, That for projects that are being
18 completed with funds appropriated in this Act that would
19 otherwise be expired for obligation, expired funds appro-
20 priated in this Act may be used to pay the cost of associ-
21 ated supervision, inspection, overhead, engineering and de-
22 sign on those projects and on subsequent claims, if any:
23 *Provided further*, That the Secretary of the Army shall
24 submit a quarterly report to the Committees on Appro-
25 priations of the House of Representatives and the Senate

1 detailing the allocation, obligation and expenditures of
2 these funds, beginning not later than 45 days after enact-
3 ment of this Act: *Provided further*, That the Secretary
4 shall have unlimited reprogramming authority for these
5 funds provided under this heading.

6 MISSISSIPPI RIVER AND TRIBUTARIES

7 For an additional amount for “Mississippi River and
8 Tributaries”, \$375,000,000: *Provided*, That funds pro-
9 vided under this heading in this title shall only be used
10 for programs, projects or activities that heretofore or here-
11 after receive funds provided in Acts making appropriations
12 available for Energy and Water Development: *Provided*
13 *further*, That funds provided under this heading in this
14 title shall be used for programs, projects or activities or
15 elements of programs, projects or activities that can be
16 completed within the funds made available in that account
17 and that will not require new budget authority to com-
18 plete: *Provided further*, That the limitation concerning
19 total project costs in section 902 of the Water Resources
20 Development Act of 1986, as amended (33 U.S.C. 2280),
21 shall not apply during fiscal year 2009 to any project that
22 received funds provided in this title: *Provided further*, That
23 for projects that are being completed with funds appro-
24 priated in this Act that would otherwise be expired for
25 obligation, expired funds appropriated in this Act may be

1 used to pay the cost of associated supervision, inspection,
2 overhead engineering and design on those projects and on
3 subsequent claims, if any: *Provided further*, That the Sec-
4 retary of the Army shall submit a quarterly report to the
5 Committees on Appropriations of the House of Represent-
6 atives and the Senate detailing the allocation, obligation
7 and expenditures of these funds, beginning not later than
8 45 days after enactment of this Act: *Provided further*,
9 That the Secretary shall have unlimited reprogramming
10 authority for these funds provided under this heading.

11 OPERATION AND MAINTENANCE

12 For an additional amount for "Operation and Main-
13 tenance", \$2,075,000,000: *Provided*, That funds provided
14 under this heading in this title shall only be used for pro-
15 grams, projects or activities that heretofore or hereafter
16 receive funds provided in Acts making appropriations
17 available for Energy and Water Development: *Provided*
18 *further*, That funds provided under this heading in this
19 title shall be used for programs, projects or activities or
20 elements of programs, projects or activities that can be
21 completed within the funds made available in that account
22 and that will not require new budget authority to com-
23 plete: *Provided further*, That section 9006 of Public Law
24 110-114 shall not apply to funds provided in this title:
25 *Provided further*, That for projects that are being com-

1 pleted with funds appropriated in this Act that would oth-
2 erwise be expired for obligation, expired funds appro-
3 priated in this Act may be used to pay the cost of associ-
4 ated supervision, inspection, overhead, engineering and de-
5 sign on those projects and on subsequent claims, if any:
6 *Provided further*, That the Secretary of the Army shall
7 submit a quarterly report to the Committees on Appro-
8 priations of the House of Representatives and the Senate
9 detailing the allocation, obligation and expenditures of
10 these funds, beginning not later than 45 days after enact-
11 ment of this Act: *Provided further*, That the Secretary
12 shall have unlimited reprogramming authority for these
13 funds provided under this heading.

14 REGULATORY PROGRAM

15 For an additional amount for "Regulatory Program",
16 \$25,000,000.

17 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

18 For an additional amount for "Formerly Utilized
19 Sites Remedial Action Program", \$100,000,000: *Provided*,
20 That funds provided under this heading in this title shall
21 be used for programs, projects or activities or elements
22 of programs, projects or activities that can be completed
23 within the funds made available in that account and that
24 will not require new budget authority to complete: *Pro-*
25 *vided further*, That for projects that are being completed

1 with funds appropriated in this Act that would otherwise
2 be expired for obligation, expired funds appropriated in
3 this Act may be used to pay the cost of associated super-
4 vision, inspection, overhead, engineering and design on
5 those projects and on subsequent claims, if any: *Provided*
6 *further*, That the Secretary of the Army shall submit a
7 quarterly report to the Committees on Appropriations of
8 the House of Representatives and the Senate detailing the
9 allocation, obligation and expenditures of these funds, be-
10 ginning not later than 45 days after enactment of this Act:
11 *Provided further*, That the Secretary shall have unlimited
12 reprogramming authority for these funds provided under
13 this heading.

14 DEPARTMENT OF THE INTERIOR

15 ~~BUREAU OF RECLAMATION~~

16 WATER AND RELATED RESOURCES

17 For an additional amount for "Water and Related
18 Resources", \$1,000,000,000: *Provided*, That of the
19 amount appropriated under this heading, not less than
20 \$126,000,000 shall be used for water reclamation and
21 reuse projects authorized under title XVI of Public Law
22 102-575: *Provided further*, That funds provided in this
23 Act shall be used for elements of projects, programs or
24 activities that can be completed within these funding
25 amounts and not create budgetary obligations in future

1 fiscal years: *Provided further*, That \$50,000,000 of the
2 funds provided under this heading may be transferred to
3 the Department of the Interior for programs, projects and
4 activities authorized by the Central Utah Project Comple-
5 tion Act (titles II–V of Public Law 102–575): *Provided*
6 *further*, That \$50,000,000 of the funds provided under
7 this heading may be used for programs, projects, and ac-
8 tivities authorized by the California Bay-Delta Restoration
9 Act (Public Law 108–361): *Provided further*, That not less
10 than \$60,000,000 of the funds provided under this head-
11 ing shall be used for rural water projects and shall be ex-
12 pended primarily on water intake and treatment facilities
13 of such projects: *Provided further*, That not less than
14 \$10,000,000 of the funds provided under this heading
15 shall be used for a bureau-wide inspection of canals pro-
16 gram in urbanized areas: *Provided further*, That the costs
17 of extraordinary maintenance and replacement activities
18 carried out with funds provided in this Act shall be repaid
19 pursuant to existing authority, except the length of repay-
20 ment period shall be as determined by the Commissioner,
21 but in no case shall the repayment period exceed 50 years
22 and the repayment shall include interest, at a rate deter-
23 mined by the Secretary of the Treasury as of the begin-
24 ning of the fiscal year in which the work is commenced,
25 on the basis of average market yields on outstanding mar-

1 ketable obligations of the United States with the remain-
2 ing periods of maturity comparable to the applicable reim-
3 bursement period of the project adjusted to the nearest
4 one-eighth of 1 percent on the unamortized balance of any
5 portion of the loan: *Provided further*, That for projects
6 that are being completed with funds appropriated in this
7 Act that would otherwise be expired for obligation, expired
8 funds appropriated in this Act may be used to pay the
9 cost of associated supervision, inspection, overhead, engi-
10 neering and design on those projects and on subsequent
11 claims, if any: *Provided further*, That the Secretary of the
12 Interior shall submit a quarterly report to the Committees
13 on Appropriations of the House of Representatives and the
14 Senate detailing the allocation, obligation and expendi-
15 tures of these funds, beginning not later than 45 days
16 after enactment of this Act: *Provided further*, That the
17 Secretary shall have unlimited reprogramming authority
18 for these funds provided under this heading.

19 DEPARTMENT OF ENERGY

20 ENERGY PROGRAMS

21 ENERGY EFFICIENCY AND RENEWABLE ENERGY

22 For an additional amount for "Energy Efficiency and

23 Renewable Energy", \$16,800,000,000, ~~for necessary ex~~

 24 ~~penses~~: *Provided*, That \$3,200,000,000 shall be available

25 for Energy Efficiency and Conservation Block Grants for

1 implementation of programs authorized under subtitle E
2 of title V of the Energy Independence and Security Act
3 of 2007 (42 U.S.C. 17151 et seq.), of which
4 \$2,800,000,000 is available through the formula in sub-
5 title E: *Provided further*, That the Secretary may use the
6 most recent and accurate population data available to sat-
7 isfy the requirements of section 543(b) of the Energy
8 Independence and Security Act of 2007: *Provided further*,
9 That the remaining \$400,000,000 shall be awarded on a
10 competitive basis: *Provided further*, That \$5,000,000,000
11 shall be for the Weatherization Assistance Program under
12 part A of title IV of the Energy Conservation and Produc-
13 tion Act (42 U.S.C. 6861 et seq.): *Provided further*, That
14 \$3,400,000,000 shall be for the State Energy Program
15 authorized under part D of title III of the Energy Policy
16 and Conservation Act (42 U.S.C. 6321): *Provided further*,
17 That \$2,000,000,000 shall be available for grants for the
18 manufacturing of advanced batteries and components and
19 the Secretary shall provide facility funding awards under
20 this section to manufacturers of advanced battery systems
21 and vehicle batteries that are produced in the United
22 States, including advanced lithium ion batteries, hybrid
23 electrical systems, component manufacturers, and soft-
24 ware designers: *Provided further*, That notwithstanding
25 section 3304 of title 5, United States Code, and without

1 regard to the provisions of sections 3309 through 3318
2 of such title 5, the Secretary of Energy, upon a determina-
3 tion that there is a severe shortage of candidates or a crit-
4 ical hiring need for particular positions, may from within
5 the funds provided, recruit and directly appoint highly
6 qualified individuals into the competitive service: *Provided*
7 *further*, That such authority shall not apply to positions
8 in the Excepted Service or the Senior Executive Service:
9 *Provided further*, That any action authorized herein shall
10 be consistent with the merit principles of section 2301 of
11 such title 5, and the Department shall comply with the
12 public notice requirements of section 3327 of such title
13 5.

14 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

15 For an additional amount for "Electricity Delivery
16 and Energy Reliability," \$4,500,000,000: *Provided*, That
17 funds shall be available for expenses necessary for elec-
18 tricity delivery and energy reliability activities to mod-
19 ernize the electric grid, enhance security and reliability of
20 the energy infrastructure, energy storage research, devel-
21 opment, demonstration and deployment, and facilitate re-
22 covery from disruptions to the energy supply, and for im-
23 plementation of programs authorized under title XIII of
24 the Energy Independence and Security Act of 2007 (42
25 U.S.C. 17381 et seq.): *Provided further*, That

to include
demand
responsive
equipment,

1 \$100,000,000 shall be available for worker training activi-
2 ties: *Provided further*, That notwithstanding section 3304
3 of title 5, United States Code, and without regard to the
4 provisions of sections 3309 through 3318 of such title 5,
5 the Secretary of Energy, upon a determination that there
6 is a severe shortage of candidates or a critical hiring need
7 for particular positions, may from within the funds pro-
8 vided, recruit and directly appoint highly qualified individ-
9 uals into the competitive service: *Provided further*, That
10 such authority shall not apply to positions in the Excepted
11 Service or the Senior Executive Service: *Provided further*,
12 That any action authorized herein shall be consistent with
13 the merit principles of section 2301 of such title 5, and
14 the Department shall comply with the public notice re-
15 quirements of section 3327 of such title 5: *Provided fur-*
16 *ther*, That for the purpose of facilitating the development
17 of regional transmission plans, the Office of Electricity
18 Delivery and Energy Reliability within the Department of
19 Energy is provided \$80,000,000 within the available funds
20 to conduct a resource assessment and an analysis of future
21 demand and transmission requirements after consultation
22 with the Federal Energy Regulatory Commission: *Pro-*
23 *vided further*, That the Office of Electricity Delivery and
24 Energy Reliability in coordination with the Federal En-
25 ergy Regulatory Commission will provide technical assist-

1 ance to the North American Electric Reliability Corpora-
2 tion, the regional reliability entities, the States, and other
3 transmission owners and operators for the formation of
4 interconnection-based transmission plans for the Eastern
5 and Western Interconnections and ERCOT: *Provided fur-*
6 *ther*, That such assistance may include modeling, support
7 to regions and States for the development of coordinated
8 State electricity policies, programs, laws, and regulations:
9 *Provided further*, That \$10,000,000 is provided to imple-
10 ment section 1305 of Public Law 110–140: *Provided fur-*
11 *ther*, That the Secretary of Energy may use or transfer
12 amounts provided under this heading to carry out new au-
13 thority for transmission improvements, if such authority
14 is enacted in any subsequent Act, consistent with existing
15 fiscal management practices and procedures.....

16 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

17 For an additional amount for “Fossil Energy Re-
18 search and Development”, \$3,400,000,000.

19 NON-DEFENSE ENVIRONMENTAL CLEANUP

20 For an additional amount for “Non-Defense Environ-
21 mental Cleanup”, \$483,000,000.

22 URANIUM ENRICHMENT DECONTAMINATION AND

23 DECOMMISSIONING FUND

24 For an additional amount for “Uranium Enrichment
25 Decontamination and Decommissioning Fund”,

2 1 \$390,000,000) of which \$70,000,000 shall be available in
3 2 accordance with title X, subtitle A of the Energy Policy
4 3 Act of 1992.

4 SCIENCE

5 For an additional amount for "Science",
6 \$1,600,000,000.

7 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

8 For the Advanced Research Projects Agency—En-
9 ergy, \$400,000,000 ~~is provided~~ as authorized under sec-
10 tion 5012 of the America Competes Act (42 U.S.C.
11 16538).

12 TITLE 17—INNOVATIVE TECHNOLOGY LOAN

13 GUARANTEE PROGRAM

14 For an additional amount for the cost of guaranteed
15 loans authorized by section 1702(b)(1) and section 1705
16 of the Energy Policy Act of 2005, \$6,000,000,000, avail-
17 able until expended, to pay the costs of guarantees made
18 under this section: *Provided*, That of the amount provided
19 for title XVII, \$25,000,000 shall be used for administra-
20 tive expenses in carrying out the guaranteed loan pro-
21 gram: *Provided further*, That of the amounts provided for
22 title XVII, \$10,000,000 shall be transferred to and avail-
23 able for administrative expenses for the Advanced Tech-
24 nology Vehicles Manufacturing 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
4 General Act of 1978, as amended, \$15,000,000, to remain
5 available until September 30, 2012.

6 ENVIRONMENTAL AND OTHER DEFENSE

7 - ACTIVITIES

8 DEFENSE ENVIRONMENTAL CLEANUP

9 For an additional amount for "Defense Environ-
10 mental Cleanup," \$5,127,000,000.

11 CONSTRUCTION, REHABILITATION, OPERATION, AND
12 MAINTENANCE, WESTERN AREA POWER ADMINIS-
13 TRATION

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

1 GENERAL PROVISIONS—THIS TITLE

2 SEC. 401. BONNEVILLE POWER ADMINISTRATION
3 BORROWING AUTHORITY. For the purposes of providing
4 funds to assist in financing the construction, acquisition,
5 and replacement of the transmission system of the Bonne-
6 ville Power Administration and to implement the authority
7 of the Administrator of the Bonneville Power Administra-
8 tion under the Pacific Northwest Electric Power Planning
9 and Conservation Act (16 U.S.C. 839 et seq.), an addi-
10 tional \$3,250,000,000 in borrowing authority is made
11 available under the Federal Columbia River Transmission
12 System Act (16 U.S.C. 838 et seq.), to remain outstanding
13 at any time.

14 SEC. 402. WESTERN AREA POWER ADMINISTRATION
15 BORROWING AUTHORITY. The Hoover Power Plant Act of
16 1984 (Public Law 98-381) is amended by adding at the
17 end the following:

18 **“TITLE III—BORROWING**
19 **AUTHORITY**

20 **“SEC. 301. WESTERN AREA POWER ADMINISTRATION BOR-**
21 **ROWING AUTHORITY.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) ADMINISTRATOR.—The term ‘Adminis-
24 trator’ means the Administrator of the Western
25 Area Power Administration.

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

3 “(b) AUTHORITY.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of law, subject to paragraphs (2) through
6 (5)—

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

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

19 “(i) constructing, financing, facili-
20 tating, planning, operating, maintaining,
21 or studying construction of new or up-
22 graded electric power transmission lines
23 and related facilities with at least one ter-
24 minus within the area served by the West-
25 ern Area Power Administration; and

1 “(ii) delivering or facilitating the de-
2 livery of power generated by renewable en-
3 ergy resources constructed or reasonably
4 expected to be constructed after the date
5 of enactment of this section.

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

12 “(3) REFINANCING.—The Western Area Power
13 Administration may refinance loans taken pursuant
14 to this section within the Treasury.

15 “(4) PARTICIPATION.—The Administrator may
16 permit other entities to participate in the financing,
17 construction and ownership projects financed under
18 this section.

19 “(5) CONGRESSIONAL REVIEW OF DISBURSE-
20 MENT.—Effective upon the date of enactment of this
21 section, the Administrator shall have the authority
22 to have utilized \$1,750,000,000 at any one time. If
23 the Administrator seeks to borrow funds above
24 \$1,750,000,000, the funds will be disbursed unless
25 there is enacted, within 90 calendar days of the first

1 such request, a joint resolution that rescinds the re-
2 mainder of the balance of the borrowing authority
3 provided in this section.

4 “(c) TRANSMISSION LINE AND RELATED FACILITY
5 PROJECTS.—

6 “(1) IN GENERAL.—For repayment purposes,
7 each transmission line and related facility project in
8 which the Western Area Power Administration par-
9 ticipates pursuant to this section shall be treated as
10 separate and distinct from—

11 “(A) each other such project; and

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

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

22 “(A) to pay for any ancillary services that
23 are provided; and

1 “(B) to meet the costs of operating and
2 maintaining the new project from which the
3 revenues are derived.

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

7 “(A) repayment of the associated loan for
8 the project; and

9 “(B) payment of expenses for ancillary
10 services and operation and maintenance.

11 “(4) LIMITATION ON AUTHORITY.—Nothing in
12 this section confers on the Administrator any addi-
13 tional authority or obligation to provide ancillary
14 services to users of transmission facilities developed
15 under this section.

16 “(5) TREATMENT OF CERTAIN REVENUES.—
17 Revenue from ancillary services provided by existing
18 Federal power systems to users of transmission
19 projects funded pursuant to this section shall be
20 treated as revenue to the existing power system that
21 provided the ancillary services.

22 “(d) CERTIFICATION.—

23 “(1) IN GENERAL.—For each project in which
24 the Western Area Power Administration participates
25 pursuant to this section, the Administrator shall cer-

1 tify, prior to committing funds for any such project,
2 that—

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

4 “(B) the project will not adversely impact
5 system reliability or operations, or other statu-
6 tory obligations; and

7 “(C) it is reasonable to expect that the
8 proceeds from the project shall be adequate to
9 make repayment of the loan.

10 “(2) FORGIVENESS OF BALANCES.—

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

15 “(B) UNCONSTRUCTED PROJECTS.—Funds
16 expended to study projects that are considered
17 pursuant to this section but that are not con-
18 structed shall be forgiven.

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

22 “(e) PUBLIC PROCESSES.—

23 “(1) POLICIES AND PRACTICES.—Prior to re-
24 questing any loans under this section, the Adminis-
25 trator shall use a public process to develop practices

1 and policies that implement the authority granted by
2 this section.

3 “(2) REQUESTS FOR INTEREST.—In the course
4 of selecting potential projects to be funded under
5 this section, the Administrator shall seek Requests
6 For Interest from entities interested in identifying
7 potential projects through one or more notices pub-
8 lished in the Federal Register.”

9 SEC. 403. SET-ASIDE FOR MANAGEMENT AND OVER-
10 SIGHT. Up to 0.5 percent of each amount appropriated
11 in this title may be used for the expenses of management
12 and oversight of the programs, grants, and activities fund-
13 ed by such appropriation, and may be transferred by the
14 head of the Federal department or agency involved to any
15 other appropriate account within the department or agen-
16 cy for that purpose: *Provided*, That the Secretary will pro-
17 vide a report to the Committees on Appropriations of the
18 House of Representatives and the Senate 30 days prior
19 to the transfer: *Provided further*, That funds set aside
20 under this section shall remain available for obligation
21 until September 30, 2012.

22 SEC. 404. TECHNICAL CORRECTIONS TO THE EN-
23 ERGY INDEPENDENCE AND SECURITY ACT OF 2007. (a).
24 Section 543(a) of the Energy Independence and Security
25 Act of 2007 (42 U.S.C. 17153(a)) is amended—

1 (1) by redesignating paragraphs (2) through
2 (4) as paragraphs (3) through (5), respectively; and
3 (2) by striking paragraph (1) and inserting the
4 following:

5 “(1) 34 percent to eligible units of local govern-
6 ment—alternative 1, in accordance with subsection
7 (b);

8 “(2) 34 percent to eligible units of local govern-
9 ment—alternative 2, in accordance with subsection
10 (b);”.

11 (b) Section 543(b) of the Energy Independence and
12 Security Act of 2007 (42 U.S.C. 17153(b)) is amended
13 by striking “subsection (a)(1)” and inserting “subsection
14 (a)(1) or (2)”.

15 (c) Section 548(a)(1) of the Energy Independence
16 and Security Act of 2007 (42 U.S.C. 17158(a)(1)) is
17 amending by striking “; provided” and all that follows
18 through “541(3)(B)”.

19 SEC. 405. AMENDMENTS TO TITLE XIII OF THE EN-
20 ERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title
21 XIII of the Energy Independence and Security Act of
22 2007 (42 U.S.C. 17381 and following) is amended as fol-
23 lows:

24 (1) By amending subparagraph (A) of section
25 1304(b)(3) to read as follows:

1 “(A) IN GENERAL.—In carrying out the
2 initiative, the Secretary shall provide financial
3 support to smart grid demonstration projects in
4 urban, suburban, tribal, and rural areas, includ-
5 ing areas where electric system assets are con-
6 trolled by nonprofit entities and areas where
7 electric system assets are controlled by investor-
8 owned utilities.”.

9 (2) By amending subparagraph (C) of section
10 1304(b)(3) to read as follows:

11 “(C) FEDERAL SHARE OF COST OF TECH-
12 NOLOGY INVESTMENTS.—The Secretary shall
13 provide to an electric utility described in sub-
14 paragraph (B) or to other parties financial as-
15 sistance for use in paying an amount equal to
16 not more than 50 percent of the cost of quali-
17 fying advanced grid technology investments
18 made by the electric utility or other party to
19 carry out a demonstration project.”.

20 (3) By inserting after section 1304(b)(3)(D)
21 the following new subparagraphs:

22 “(E) AVAILABILITY OF DATA.—The Sec-
23 retary shall establish and maintain a smart grid
24 information clearinghouse in a timely manner
25 which will make data from smart grid dem-

1 onstration projects and other sources available
2 to the public. As a condition of receiving finan-
3 cial assistance under this subsection, a utility or
4 other participant in a smart grid demonstration
5 project shall provide such information as the
6 Secretary may require to become available
7 through the smart grid information clearing-
8 house in the form and within the timeframes as
9 directed by the Secretary. The Secretary shall
10 assure that business proprietary information
11 and individual customer information is not in-
12 cluded in the information made available
13 through the clearinghouse.

14 “(F) OPEN PROTOCOLS AND STAND-
15 ARDS.—The Secretary shall require as a condi-
16 tion of receiving funding under this subsection
17 that demonstration projects utilize open proto-
18 cols and standards (including Internet-based
19 protocols and standards) if available and appro-
20 priate.”.

21 (4) By amending paragraph (2) of section
22 1304(c) to read as follows:

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

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

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

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

9 (8) By amending subsection (e) of section 1306
10 to read as follows:

11 “(e) PROCEDURES AND RULES.—(1) The Secretary
12 shall, within 60 days after the enactment of the American
13 Recovery and Reinvestment Act of 2009, by means of a
14 notice of intent and subsequent solicitation of grant pro-
15 posals—

16 “(A) establish procedures by which applicants
17 can obtain grants of not more than one-half of their
18 documented costs;

19 “(B) require as a condition of receiving funding
20 under this subsection that demonstration projects
21 utilize open protocols and standards (including
22 Internet-based protocols and standards) if available
23 and appropriate;

24 “(C) establish procedures to ensure that there
25 is no duplication or multiple payment for the same

1 investment or costs, that the grant goes to the party
2 making the actual expenditures for the qualifying
3 Smart Grid investments, and that the grants made
4 have a significant effect in encouraging and facili-
5 tating the development of a smart grid;

6 “(D) establish procedures to ensure there will
7 be public records of grants made, recipients, and
8 qualifying Smart Grid investments which have re-
9 ceived grants; and

10 “(E) establish procedures to provide advance
11 payment of moneys up to the full amount of the
12 grant award.

13 “(2) The Secretary shall have discretion and exercise
14 reasonable judgment to deny grants for investments that
15 do not qualify.”.

16 SEC. 406. RENEWABLE ENERGY AND ELECTRIC
17 POWER TRANSMISSION LOAN GUARANTEE PROGRAM. (a)
18 AMENDMENT.—Title XVII of the Energy Policy Act of
19 2005 (42 U.S.C. 16511 et seq.) is amended by adding the
20 following at the end:

21 **“SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOY-**
22 **MENT OF RENEWABLE ENERGY AND ELEC-**
23 **TRIC POWER TRANSMISSION PROJECTS.**

24 “(a) IN GENERAL.—Notwithstanding section 1703,
25 the Secretary may make guarantees under this section

1 only for the following categories of projects that commence
2 construction not later than September 30, 2011:

3 “(1) Renewable energy systems, including incre-
4 mental hydropower, that generate electricity or ther-
5 mal energy, and facilities that manufacture related
6 components.

7 “(2) Electric power transmission systems, in-
8 cluding upgrading and reconditioning projects.

9 “(3) Leading edge biofuel projects that will use
10 technologies performing at the pilot or demonstra-
11 tion scale that the Secretary determines are likely to
12 become commercial technologies and will produce
13 transportation fuels that substantially reduce life-
14 cycle greenhouse gas emissions compared to other
15 transportation fuels.

16 “(b) FACTORS RELATING TO ELECTRIC POWER
17 TRANSMISSION SYSTEMS.—In determining to make guar-
18 antees to projects described in subsection (a)(2), the Sec-
19 retary may consider the following factors:

20 “(1) The viability of the project without guar-
21 antees.

22 “(2) The availability of other Federal and State
23 incentives.

24 “(3) The importance of the project in meeting
25 reliability needs.

1 “(4) The effect of the project in meeting a
2 State or region’s environment (including climate
3 change) and energy goals.

4 “(c) WAGE RATE REQUIREMENTS.—The Secretary
5 shall require that each recipient of support under this sec-
6 tion provide reasonable assurance that all laborers and
7 mechanics employed in the performance of the project for
8 which the assistance is provided, including those employed
9 by contractors or subcontractors, will be paid wages at
10 rates not less than those prevailing on similar work in the
11 locality as determined by the Secretary of Labor in accord-
12 ance with subchapter IV of chapter 31 of part A of subtitle
13 II of title 40, United States Code (commonly referred to
14 as the ‘Davis-Bacon Act’).

15 “(d) LIMITATION.—Funding under this section for
16 projects described in subsection (a)(3) shall not exceed
17 \$500,000,000.

18 “(e) SUNSET.—The authority to enter into guaran-
19 tees under this section shall expire on September 30,
20 2011.”.

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

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

1 SEC. 407. WEATHERIZATION ASSISTANCE PROGRAM

2 AMENDMENTS. (a) INCOME LEVEL.—Section 412(7) of
3 the Energy Conservation and Production Act (42 U.S.C.
4 6862(7)) is amended by striking “150 percent” both
5 places it appears and inserting “200 percent”.

6 (b) ASSISTANCE LEVEL PER DWELLING UNIT.—Sec-
7 tion 415(c)(1) of the Energy Conservation and Production
8 Act (42 U.S.C. 6865(c)(1)) is amended by striking
9 “\$2,500” and inserting “\$6,500”.

10 (c) EFFECTIVE USE OF FUNDS.—In providing funds
11 made available by this Act for the Weatherization Assist-
12 ance Program, the Secretary may encourage States to give
13 priority to using such funds for the most cost-effective ef-
14 ficiency activities, which may include insulation of attics,
15 if, in the Secretary’s view, such use of funds would in-
16 crease the effectiveness of the program.

17 (d) TRAINING AND TECHNICAL ASSISTANCE.—Sec-
18 tion 416 of the Energy Conservation and Production Act
19 (42 U.S.C. 6866) is amended by striking “10 percent”
20 and inserting “up to 20 percent”.

21 (e) ASSISTANCE FOR PREVIOUSLY WEATHERIZED
22 DWELLING UNITS.—Section 415(c)(2) of the Energy Con-
23 servation and Production Act (42 U.S.C. 6865(c)(2)) is
24 amended by striking “September 30, 1979” and inserting
25 “September 30, 1994”.

1 SEC. 408. TECHNICAL CORRECTIONS TO PUBLIC
2 UTILITY REGULATORY POLICIES ACT OF 1978. (a) Sec-
3 tion 111(d) of the Public Utility Regulatory Policies Act
4 of 1978 (16 U.S.C. 2621(d)) is amended by redesignating
5 paragraph (16) relating to consideration of smart grid in-
6 vestments (added by section 1307(a) of Public Law 110-
7 140) as paragraph (18) and by redesignating paragraph
8 (17) relating to smart grid information (added by section
9 1308(a) of Public Law 110-140) as paragraph (19).

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

15 SEC. 409. RENEWABLE ELECTRICITY TRANSMISSION
16 STUDY. In completing the 2009 National Electric Trans-
17 mission Congestion Study, the Secretary of Energy shall
18 include—

19 (1) an analysis of the significant potential
20 sources of renewable energy that are constrained in
21 accessing appropriate market areas by lack of ade-
22 quate transmission capacity;

23 (2) an analysis of the reasons for failure to de-
24 velop the adequate transmission capacity;

1 (3) recommendations for achieving adequate
2 transmission capacity;

3 (4) an analysis of the extent to which legal
4 challenges filed at the State and Federal level are
5 delaying the construction of transmission necessary
6 to access renewable energy; and

7 (5) an explanation of assumptions and projec-
8 tions made in the Study, including—

9 (A) assumptions and projections relating
10 to energy efficiency improvements in each load
11 center;

12 (B) assumptions and projections regarding
13 the location and type of projected new genera-
14 tion capacity; and

15 (C) assumptions and projections regarding
16 projected deployment of distributed generation
17 infrastructure.

18 SEC. 410. ADDITIONAL STATE ENERGY GRANTS. (a)

19 IN GENERAL.—Amounts appropriated ~~in paragraph (6)~~ *e*

20 under the heading “Department of Energy—Energy Pro-
21 grams—Energy Efficiency and Renewable Energy” in *this* title

IV ~~22 V of division A of this Act~~ shall be available to the Sec-
23 retary of Energy for making additional grants under part
24 D of title III of the Energy Policy and Conservation Act
25 (42 U.S.C. 6321 et seq.). The Secretary shall make grants

1 under this section in excess of the base allocation estab-
2 lished for a State under regulations issued pursuant to
3 the authorization provided in section 365(f) of such Act
4 only if the governor of the recipient State notifies the Sec-
5 retary of Energy in writing that the governor has obtained
6 necessary assurances that each of the following will occur:

7 (1) The applicable State regulatory authority
8 will seek to implement, in appropriate proceedings
9 for each electric and gas utility, with respect to
10 which the State regulatory authority has ratemaking
11 authority, a general policy that ensures that utility
12 financial incentives are aligned with helping their
13 customers use energy more efficiently and that pro-
14 vide timely cost recovery and a timely earnings op-
15 portunity for utilities associated with cost-effective
16 measurable and verifiable efficiency savings, in a
17 way that sustains or enhances utility customers' in-
18 centives to use energy more efficiently.

19 (2) The State, or the applicable units of local
20 government that have authority to adopt building
21 codes, will implement the following:

22 (A) A building energy code (or codes) for
23 residential buildings that meets or exceeds the
24 most recently published International Energy

1 Conservation Code, or achieves equivalent or
2 greater energy savings.

3 (B) A building energy code (or codes) for
4 commercial buildings throughout the State that
5 meets or exceeds the ANSI/ASHRAE/IESNA
6 Standard 90.1–2007, or achieves equivalent or
7 greater energy savings.

8 (C) A plan for the jurisdiction achieving
9 compliance with the building energy code or
10 codes described in subparagraphs (A) and (B)
11 within 8 years of the date of enactment of this
12 Act in at least 90 percent of new and renovated
13 residential and commercial building space. Such
14 plan shall include active training and enforce-
15 ment programs and measurement of the rate of
16 compliance each year.

17 (3) The State will to the extent practicable
18 prioritize the grants toward funding energy effi-
19 ciency and renewable energy programs, including—

20 (A) the expansion of existing energy effi-
21 ciency programs approved by the State or the
22 appropriate regulatory authority, including en-
23 ergy efficiency retrofits of buildings and indus-
24 trial facilities, that are funded—

25 (i) by the State; or

1 (ii) through rates under the oversight
2 of the applicable regulatory authority, to
3 the extent applicable;

4 (B) the expansion of existing programs,
5 approved by the State or the appropriate regu-
6 latory authority, to support renewable energy
7 projects and deployment activities, including
8 programs operated by entities which have the
9 authority and capability to manage and dis-
10 tribute grants, loans, performance incentives,
11 and other forms of financial assistance; and

12 (C) cooperation and joint activities between
13 States to advance more efficient and effective
14 use of this funding to support the priorities de-
15 scribed in this paragraph.

16 (b) STATE MATCH.—The State cost share require-
17 ment under the item relating to “Department of Energy;
18 Energy Conservation” in title II of the Department of the
19 Interior and Related Agencies Appropriations Act, 1985
20 (42 U.S.C. 6323a; 98 Stat. 1861) shall not apply to assist-
21 ance provided under this section.

22 (c) EQUIPMENT AND MATERIALS FOR ENERGY EFFI-
23 CIENCY MEASURES AND RENEWABLE ENERGY MEAS-
24 URES.—No limitation on the percentage of funding that
25 may be used for the purchase and installation of equip-

1 ment and materials for energy efficiency measures and re-
2 newable energy measures under grants provided under
3 part D of title III of the Energy Policy and Conservation
4 Act (42 U.S.C. 6321 et seq.) shall apply to assistance pro-
5 vided under this section.

(XEROX)

1 TITLE V—FINANCIAL SERVICES AND GENERAL
2 GOVERNMENT

3 DEPARTMENT OF THE TREASURY

4 TREASURY INSPECTOR GENERAL FOR TAX

5 ADMINISTRATION

6 SALARIES AND EXPENSES

7 For an additional amount for necessary expenses of
8 the Treasury Inspector General for Tax Administration in
9 carrying out the Inspector General Act of 1978,
10 \$7,000,000, to remain available until September 30, 2013,
11 for oversight and audits of the administration of the mak-
12 ing work pay tax credit and economic recovery payments
13 under the American Recovery and Reinvestment Act of
14 2009.

15 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

16 FUND PROGRAM ACCOUNT

17 For an additional amount for “Community Develop-
18 ment Financial Institutions Fund Program Account”,
19 \$100,000,000, to remain available until September 30,
20 2010, for qualified applicants under the fiscal year 2009
21 funding round of the Community Development Financial
22 Institutions Program, of which up to \$8,000,000 may be
23 for financial assistance, technical assistance, training and
24 outreach programs designed to benefit Native American,
25 Native Hawaiian, and Alaskan Native communities and

1 provided primarily through qualified community develop-
2 ment lender organizations with experience and expertise
3 in community development banking and lending in Indian
4 country, Native American organizations, tribes and tribal
5 organizations and other suitable providers and up to
6 \$2,000,000 may be used for administrative expenses: *Pro-*
7 *vided*, That for the purpose of the fiscal year 2009 funding
8 round, the following statutory provisions are hereby
9 waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d): *Pro-*
10 *vided further*, That no awardee, together with its subsidi-
11 aries and affiliates, may be awarded more than 5 percent
12 of the aggregate funds available during fiscal year 2009
13 from the Community Development Financial Institutions
14 Program: *Provided further*, That no later than 60 days
15 after the date of enactment of this Act, the Department
16 of the Treasury shall submit to the Committees on Appro-
17 priations of the House of Representatives and the Senate
18 a detailed expenditure plan for funds provided under this
19 heading.

20 INTERNAL REVENUE SERVICE

21 HEALTH INSURANCE TAX CREDIT ADMINISTRATION

22 For an additional amount to implement the health
23 insurance tax credit under the TAA Health Coverage Im-
24 provement Act of 2009, \$80,000,000, to remain available
25 until September 30, 2010.

1 GENERAL SERVICES ADMINISTRATION

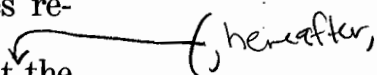
2 REAL PROPERTY ACTIVITIES

3 FEDERAL BUILDINGS FUND

4 LIMITATIONS ON AVAILABILITY OF REVENUE

5 (INCLUDING TRANSFER OF FUNDS)

6 For an additional amount to be deposited in the Fed-
7 eral Buildings Fund, \$5,550,000,000, to carry out the
8 purposes of the Fund, of which not less than
9 \$750,000,000 shall be available for Federal buildings and
10 United States courthouses, not less than \$300,000,000
11 shall be available for border stations and land ports of
12 entry, and not less than \$4,500,000,000 shall be available
13 for measures necessary to convert GSA facilities to High-
14 Performance Green Buildings, as defined in section 401
15 of Public Law 110-140: *Provided*, That not to exceed
16 \$108,000,000 of the amounts provided under this heading
17 may be expended for rental of space, related to leasing
18 of temporary space in connection with projects funded
19 under this heading: *Provided further*, That not to exceed
20 \$127,000,000 of the amounts provided under this heading
21 may be expended for building operations, for the adminis-
22 trative costs of completing projects funded under this
23 heading: *Provided further*, That not to exceed \$3,000,000
24 of the funds provided shall be for on-the-job pre-appren-
25 ticeship and apprenticeship training programs registered
26 with the Department of Labor, for the construction, re-

1 pair, and alteration of Federal buildings: *Provided further*,
2 That not less than \$5,000,000,000 of the funds provided
3 under this heading shall be obligated by September 30,
4 2010, and the remainder of the funds provided under this
5 heading shall be obligated not later than September 30,
6 2011: *Provided further*, That the Administrator of General
7 Services is authorized to initiate design, construction, re-
8 pair, alteration, and other projects through existing au-
9 thorities of the Administrator: *Provided further*, That the
10 General Services Administration shall submit a detailed
11 plan, by project, regarding the use of funds made available
12 in this Act to the Committees on Appropriations of the
13 House of Representatives and the Senate within 45 days
14 of enactment of this Act, and shall provide notification to
15 the Committees within 15 days prior to any changes re-
16 garding the use of these funds: *Provided further*, That the  *hereafter*,
17 Administrator shall report to the Committees on the obli-
18 gation of these funds on a quarterly basis beginning on
19 June 30, 2009: *Provided further*, That of the amounts pro-
20 vided, \$4,000,000 shall be transferred to and merged with
21 "Government-Wide Policy", for the Office of Federal
22 High-Performance Green Buildings as authorized in the
23 Energy Independence and Security Act of 2007 (Public
24 Law 110-140): *Provided further*, That amounts provided
25 under this heading that are savings or cannot be used for

1 the activity for which originally obligated may be
2 deobligated and, notwithstanding any other provision of
3 law, reobligated for the purposes identified in the plan re-
4 quired under this heading not less than 15 days after noti-
5 fication has been provided to the Committees on Appro-
6 priations of the House of Representatives and the Senate.

7 ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET
8 PROCUREMENT

9 For capital expenditures and necessary expenses of
10 acquiring motor vehicles with higher fuel economy, includ-
11 ing: hybrid vehicles; electric vehicles; and commercially-
12 available, plug-in hybrid vehicles, \$300,000,000, to remain
13 available until September 30, 2011: *Provided*, That none
14 of these funds may be obligated until the Administrator
15 of General Services submits to the Committees on Appro-
16 priations of the House of Representatives and the Senate,
17 within 90 days after enactment of this Act, a plan for ex-
18 penditure of the funds that details the current inventory
19 of the Federal fleet owned by the General Services Admin-
20 istration, as well as other Federal agencies, and the strat-
21 egy to expend these funds to replace a portion of the Fed-
22 eral fleet with the goal of substantially increasing energy
23 efficiency over the current status, including increasing fuel
24 efficiency and reducing emissions: *Provided further*, That ^{(, hereafter,}
25 the Administrator shall report to the Committees on the

1 obligation of these funds on a quarterly basis beginning
2 on September 30, 2009.

3 OFFICE OF INSPECTOR GENERAL

4 For an additional amount for the Office of the In-
5 spector General, to remain available until September 30,
6 2013, for oversight and audit of programs, grants, and
7 projects funded under this title, \$7,000,000.

8 RECOVERY ACT ACCOUNTABILITY AND
9 TRANSPARENCY BOARD

10 For necessary expenses of the Recovery Act Account-
11 ability and Transparency Board to carry out the provi-
12 sions of title XV of this Act, \$84,000,000, to remain avail-
13 able until September 30, 2011.

14 SMALL BUSINESS ADMINISTRATION
15 SALARIES AND EXPENSES

16 For an additional amount, to remain available until
17 September 30, 2010, \$69,000,000, of which \$24,000,000
18 is for marketing, management, and technical assistance
19 under section 7(m) of the Small Business Act (15 U.S.C.
20 636(m)(4)) by intermediaries that make microloans under
21 the microloan program, and of which \$20,000,000 is for
22 improving, streamlining, and automating information
23 technology systems related to lender processes and lender
24 oversight: *Provided*, That no later than 60 days after the
25 date of enactment of this Act, the Small Business Admin-

1 istration shall submit to the Committees on Appropria-
2 tions of the House of Representatives and the Senate a
3 detailed expenditure plan for funds provided under the
4 heading "Small Business Administration" in this Act.

5 OFFICE OF INSPECTOR GENERAL

6 For an additional amount for the Office of Inspector
7 General in carrying out the provisions of the Inspector
8 General Act of 1978, \$10,000,000, to remain available
9 until September 30, 2013, for oversight and audit of pro-
10 grams, grants, and projects funded under this title.

11 SURETY BOND GUARANTEES REVOLVING FUND

12 For additional capital for the Surety Bond Guarant-
13 tees Revolving Fund, authorized by the Small Business
14 Investment Act of 1958, \$15,000,000, to remain available
15 until expended.

16 BUSINESS LOANS PROGRAM ACCOUNT

17 For an additional amount for the cost of direct loans,
18 \$6,000,000, to remain available until September 30, 2010,
19 and for an additional amount for the cost of guaranteed
20 loans, \$630,000,000, to remain available until September
21 30, 2010: *Provided*, That of the amount for the cost of
22 guaranteed loans, \$375,000,000 shall be for reimburse-
23 ments, loan subsidies and loan modifications for loans to
24 small business concerns authorized in section 501 of this
25 title; and \$255,000,000 shall be for loan subsidies and

1 loan modifications for loans to small business concerns au-
2 thorized in section 506 of this title: *Provided further*, That
3 such costs, including the cost of modifying such loans,
4 shall be as defined in section 502 of the Congressional
5 Budget Act of 1974.

6 ADMINISTRATIVE PROVISIONS—SMALL BUSINESS

7 ADMINISTRATION

8 SEC. 501. FEE REDUCTIONS. (a) ADMINISTRATIVE
9 PROVISIONS SMALL BUSINESS ADMINISTRATION.—Until
10 September 30, 2010, and to the extent that the cost of
11 such elimination or reduction of fees is offset by appro-
12 priations, with respect to each loan guaranteed under sec-
13 tion 7(a) of the Small Business Act (15 U.S.C. 636(a))
14 and section 502 of this ~~Act~~, for which the application is (+) + 12
15 approved on or after the date of enactment of this Act,
16 the Administrator shall—

17 (1) in lieu of the fee otherwise applicable under
18 section 7(a)(23)(A) of the Small Business Act (15
19 U.S.C. 636(a)(23)(A)), collect no fee or reduce fees
20 to the maximum extent possible; and

21 (2) in lieu of the fee otherwise applicable under
22 section 7(a)(18)(A) of the Small Business Act (15
23 U.S.C. 636(a)(18)(A)), collect no fee or reduce fees
24 to the maximum extent possible.

1 (b) TEMPORARY FEE ELIMINATION FOR THE 504
2 LOAN PROGRAM.—

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

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

15 (B) a development company shall, in lieu
16 of the processing fee under section
17 120.971(a)(1) of title 13, Code of Federal Reg-
18 ulations (relating to fees paid by borrowers), or
19 any successor thereto, collect no fee.

20 (2) REIMBURSEMENT FOR WAIVED FEES.—

21 (A) IN GENERAL.—To the extent that the
22 cost of such payments is offset by appropria-
23 tions, the Administrator shall reimburse each
24 development company that does not collect a
25 processing fee pursuant to paragraph (1)(B).

1 (B) AMOUNT.—The payment to a develop-
2 ment company under subparagraph (A) shall be
3 in an amount equal to 1.5 percent of the net
4 debenture proceeds for which the development
5 company does not collect a processing fee pur-
6 suant to paragraph (1)(B).

7 (c) APPLICATION OF FEE ELIMINATIONS.—

8 (1) To the extent that amounts are made avail-
9 able to the Administrator for the purpose of fee
10 eliminations or reductions under subsections (a), the
11 Administrator shall—

12 (A) first use any amounts provided to
13 eliminate or reduce fees paid by small business
14 borrowers under clauses (i) through (iii) of
15 paragraph (18)(A), to the maximum extent pos-
16 sible; and

17 (B) then use any amounts provided to
18 eliminate or reduce fees under paragraph
19 (23)(A) paid by small business lenders with as-
20 sets less than \$1,000,000,000 as of the date of
21 enactment; and

22 (C) then use any remaining amounts ap-
23 propriated under this ~~Act~~ to reduce fees paid by
24 small business lenders other than those with as-
25 sets less than \$1,000,000,000.

(title

1 (2) The Administrator shall eliminate fees
2 under subsections (a) and (b) until the amount pro-
3 vided for such purposes, as applicable, under the
4 heading "Business Loans Program Account" under
5 the heading "Small Business Administration" under
6 this Act are expended.

7 SEC. 502. ECONOMIC STIMULUS LENDING PROGRAM
8 FOR SMALL BUSINESSES. (a) PURPOSE.—The purpose of
9 this section is to permit the Small Business Administra-
10 tion to guarantee up to 90 percent of qualifying small
11 business loans made by eligible lenders.

12 (b) DEFINITIONS.—For purposes of this section:

13 (1) The term "Administrator" means the Ad-
14 ministrator of the Small Business Administration.

15 (2) The term "qualifying small business loan"
16 means any loan to a small business concern pursu-
17 ant to section 7(a) of the Small Business Act (15
18 U.S.C. 636) or title V of the Small Business Invest-
19 ment Act of 1958 (15 U.S.C. 695 and following) ex-
20 cept for such loans made under section 7(a)(31).

21 (3) The term "small business concern" has the
22 same meaning as provided by section 3 of the Small
23 Business Act (15 U.S.C. 632).

24 (c) QUALIFIED BORROWERS.—

1 (1) ALIENS UNLAWFULLY PRESENT IN THE
2 UNITED STATES.—A loan guarantee may not be
3 made under this section for a loan made to a con-
4 cern if an individual who is an alien unlawfully
5 present in the United States—

6 (A) has an ownership interest in that con-
7 cern; or

8 (B) has an ownership interest in another
9 concern that itself has an ownership interest in
10 that concern.

11 (2) FIRMS IN VIOLATION OF IMMIGRATION
12 LAWS.—No loan guarantee may be made under this
13 section for a loan to any entity found, based on a
14 determination by the Secretary of Homeland Secu-
15 rity or the Attorney General to have engaged in a
16 pattern or practice of hiring, recruiting or referring
17 for a fee, for employment in the United States an
18 alien knowing the person is an unauthorized alien.

19 (d) CRIMINAL BACKGROUND CHECKS.—Prior to the
20 approval of any loan guarantee under this section, the Ad-
21 ministrators may verify the applicant's criminal back-
22 ground, or lack thereof, through the best available means,
23 including, if possible, use of the National Crime Informa-
24 tion Center computer system at the Federal Bureau of In-
25 vestigation.

1 (e) APPLICATION OF OTHER LAW.—Nothing in this
2 section shall be construed to exempt any activity of the
3 Administrator under this section from the Federal Credit
4 Reform Act of 1990 (title V of the Congressional Budget
5 and Impoundment Control Act of 1974; 2 U.S.C. 661 and
6 following).

7 (f) SUNSET.—Loan guarantees may not be issued
8 under this section after the date 12 months after the date
9 of enactment of this act.

10 (g) SMALL BUSINESS ACT PROVISIONS.—The provi-
11 sions of the Small Business Act applicable to loan guaran-
12 tees under section 7 of that Act and regulations promul-
13 gated thereunder as of the date of enactment of this Act
14 shall apply to loan guarantees under this section except
15 as otherwise provided in this section.

16 (h) AUTHORIZATION.—There are authorized to be ap-
17 propriated such sums as may be necessary to carry out
18 this section.

19 SEC. 503. ESTABLISHMENT OF SBA SECONDARY
20 MARKET GUARANTEE AUTHORITY. (a) PURPOSE.—The
21 purpose of this section is to provide the Administrator
22 with the authority to establish the SBA Secondary Market
23 Guarantee Authority within the SBA to provide a Federal
24 guarantee for pools of first lien 504 loans that are to be
25 sold to third-party investors.

1 (b) DEFINITIONS.—For purposes of this section:

2 (1) The term “Administrator” means the Ad-
3 ministrator of the Small Business Administration.

4 (2) The term “first lien position 504 loan”
5 means the first mortgage position, non-federally
6 guaranteed loans made by private sector lenders
7 made under title V of the Small Business Invest-
8 ment Act.

9 (c) ESTABLISHMENT OF AUTHORITY.—

10 (1) ORGANIZATION.—

11 (A) The Administrator shall establish a
12 Secondary Market Guarantee Authority within
13 the Small Business Administration.

14 (B) The Administrator shall appoint a Di-
15 rector of the Authority who shall report to the
16 Administrator.

17 (C) The Administrator is authorized to
18 hire such personnel as are necessary to operate
19 the Authority and may contract such operations
20 of the Authority as necessary to qualified third
21 party companies or individuals.

22 (D) The Administrator is authorized to
23 contract with private sector fiduciary and cus-
24 tom dial agents as necessary to operate the Au-
25 thority.

1 (2) GUARANTEE PROCESS.—

2 (A) The Administrator shall establish, by
3 rule, a process in which private sector entities
4 may apply to the Administration for a Federal
5 guarantee on pools of first lien position 504
6 loans that are to be sold to third-party inves-
7 tors.

8 (B) The Administrator is authorized to
9 contract with private sector fiduciary and cus-
10 tom dial agents as necessary to operate the Au-
11 thority.

12 (3) RESPONSIBILITIES.—

13 (A) The Administrator shall establish, by
14 rule, a process in which private sector entities
15 may apply to the SBA for a Federal guarantee
16 on pools of first lien position 504 loans that are
17 to be sold to third-party investors.

18 (B) The rule under this section shall pro-
19 vide for a process for the Administrator to con-
20 sider and make decisions regarding whether to
21 extend a Federal guarantee referred to in
22 clause (i). Such rule shall also provide that:

23 (i) The seller of the pools purchasing
24 a guarantee under this section retains not
25 less than 5 percent of the dollar amount of

1 the pools to be sold to third-party inves-
2 tors.

3 (ii) The Administrator shall charge
4 fees, upfront or annual, at a specified per-
5 centage of the loan amount that is at such
6 a rate that the cost of the program under
7 the Federal Credit Reform Act of 1990
8 (title V of the Congressional Budget and
9 Impoundment Control Act of 1974; 2
10 U.S.C. 661) shall be equal to zero.

11 (iii) The Administrator may guarantee
12 not more than \$3,000,000,000 of pools
13 under this authority.

14 (C) The Administrator shall establish doc-
15 uments, legal covenants, and other required
16 documentation to protect the interests of the
17 United States.

18 (D) The Administrator shall establish a
19 process to receive and disburse funds to entities
20 under the authority established in this section.

21 (d) LIMITATIONS.—

22 (1) The Administrator shall ensure that entities
23 purchasing a guarantee under this section are using
24 such guarantee for the purpose of selling 504 first
25 lien position pools to third-party investors.

1 (2) If the Administrator finds that any such
2 guarantee was used for a purpose other than that
3 specified in paragraph (1), the Administrator shall—

4 (A) prohibit the purchaser of the guar-
5 antee or its affiliates (within the meaning of the
6 regulations under 13 CFR 121.103) from using
7 the authority of this section in the future; and

8 (B) take any other actions the Adminis-
9 trator, in consultation with the Attorney Gen-
10 eral of the United States deems appropriate.

11 (e) OVERSIGHT.—The Administrator shall submit a
12 report to Congress not later than the third business day
13 of each month setting forth each of the following:

14 (1) The aggregate amount of guarantees ex-
15 tended under this section during the preceding
16 month.

17 (2) The aggregate amount of guarantees out-
18 standing.

19 (3) Defaults and payments on defaults made
20 under this section.

21 (4) The identity of each purchaser of a guar-
22 antee found by the Administrator to have misused
23 guarantees under this section.

24 (5) Any other information the Administrator
25 deems necessary to fully inform Congress of undue

1 risk to the United States associated with the
2 issuance of guarantees under this section.

3 (f) DURATION OF PROGRAM.—The authority of this
4 section shall terminate on the date 2 years after the date
5 of enactment of this section.

6 (g) FUNDING.—Such sums as necessary are author-
7 ized to be appropriated to carry out the provisions of this
8 section.

9 (h) BUDGET TREATMENT.—Nothing in this section
10 shall be construed to exempt any activity of the Adminis-
11 trator under this section from the Federal Credit Reform
12 Act of 1990 (title V of the Congressional Budget and Im-
13 poundment Control Act of 1974; 2 U.S.C. 661 and fol-
14 lowing).

15 (i) EMERGENCY RULEMAKING AUTHORITY.—The
16 Administrator shall issue regulations under this section
17 within 15 days after the date of enactment of this section.
18 The notice requirements of section 553(b) of title 5,
19 United States Code shall not apply to the promulgation
20 of such regulations.

21 SEC. 504. STIMULUS FOR COMMUNITY DEVELOP-
22 MENT LENDING. (a) LOW INTEREST REFINANCING
23 UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN
24 PROGRAM.—Section 502 of the Small Business Invest-

1 ment Act of 1958 (15 U.S.C. 696) is amended by adding
2 at the end the following:

3 “(7) PERMISSIBLE DEBT REFINANCING.—

4 “(A) IN GENERAL.—Any financing ap-
5 proved under this title may include a limited
6 amount of debt refinancing.

7 “(B) EXPANSIONS.—If the project involves
8 expansion of a small business concern, any
9 amount of existing indebtedness that does not
10 exceed 50 percent of the project cost of the ex-
11 pansion may be refinanced and added to the ex-
12 pansion cost, if—

13 “(i) the proceeds of the indebtedness
14 were used to acquire land, including a
15 building situated thereon, to construct a
16 building thereon, or to purchase equip-
17 ment;

18 “(ii) the existing indebtedness is
19 collateralized by fixed assets;

20 “(iii) the existing indebtedness was in-
21 curred for the benefit of the small business
22 concern;

23 “(iv) the financing under this title will
24 be used only for refinancing existing in-

1 debtedness or costs relating to the project
2 financed under this title;

3 “(v) the financing under this title will
4 provide a substantial benefit to the bor-
5 rower when prepayment penalties, financ-
6 ing fees, and other financing costs are ac-
7 counted for;

8 “(vi) the borrower has been current
9 on all payments due on the existing debt
10 for not less than 1 year preceding the date
11 of refinancing; and

12 “(vii) the financing under section 504
13 will provide better terms or rate of interest
14 than the existing indebtedness at the time
15 of refinancing.”.

16 (b) JOB CREATION GOALS.—Section 501(e)(1) and
17 section 501(e)(2) of the Small Business Investment Act
18 (15 U.S.C. 695) are each amended by striking “\$50,000”
19 and inserting “\$65,000”.

20 SEC. 505. INCREASING SMALL BUSINESS INVEST-
21 MENT. (a) SIMPLIFIED MAXIMUM LEVERAGE LIMITS.—
22 Section 303(b) of the Small Business Investment Act of
23 1958 (15 U.S.C. 683(b)) is amended as follows:

1 (1) By striking so much of paragraph (2) as
2 precedes subparagraphs (C) and (D) and inserting
3 the following:

4 “(2) MAXIMUM LEVERAGE.—

5 “(A) IN GENERAL.—The maximum
6 amount of outstanding leverage made available
7 to any one company licensed under section
8 301(c) of this Act may not exceed the lesser
9 of—

10 “(i) 300 percent of such company’s
11 private capital; or

12 “(ii) \$150,000,000.

13 “(B) MULTIPLE LICENSES UNDER COM-
14 MON CONTROL.—The maximum amount of out-
15 standing leverage made available to two or more
16 companies licensed under section 301(c) of this
17 Act that are commonly controlled (as deter-
18 mined by the Administrator) and not under
19 capital impairment may not exceed
20 \$225,000,000.”;

21 (2) By amending paragraph (2)(C) by inserting
22 “(i)” before “In calculating” and adding the fol-
23 lowing at the end thereof:

24 “(ii) The maximum amount of out-
25 standing leverage made available to—

1 “(I) any 1 company described in
2 clause (iii) may not exceed the lesser
3 of 300 percent of private capital of
4 the company, or \$175,000,000; and

5 “(II) 2 or more companies de-
6 scribed in clause (iii) that are under
7 common control (as determined by the
8 Administrator) may not exceed
9 \$250,000,000.

10 ←“(iii) A company described in
11 this clause is a company licensed
12 under section 301(c) in the first fiscal
13 year after the date of enactment of
14 this clause or any fiscal year there-
15 after that certifies in writing that not
16 less than 50 percent of the dollar
17 amount of investments of that com-
18 pany shall be made in companies that
19 are located in a low-income geographic
20 area (as that term is defined in sec-
21 tion 351).”.

22 (3) By striking paragraph (4).

23 (b) SIMPLIFIED AGGREGATE INVESTMENT LIMITA-
24 TIONS.—Section 306(a) of the Small Business Investment

1 Act of 1958 (15 U.S.C. 686(a)) is amended to read as
2 follows:

3 “(a) PERCENTAGE LIMITATION ON PRIVATE CAP-
4 ITAL.—If any small business investment company has ob-
5 tained financing from the Administrator and such financ-
6 ing remains outstanding, the aggregate amount of securi-
7 ties acquired and for which commitments may be issued
8 by such company under the provisions of this title for any
9 single enterprise shall not, without the approval of the Ad-
10 ministrator, exceed 10 percent of the sum of—

11 “(1) the private capital of such company; and

12 “(2) the total amount of leverage projected by
13 the company in the company's business plan that
14 was approved by the Administrator at the time of
15 the grant of the company's license.”.

16 (c) INVESTMENTS IN SMALLER ENTERPRISES.—Sec-
17 tion 303(d) of the Small Business Investment Act of 1958
18 (15 U.S.C. 683(d)) is amended to read as follows:

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

1 SEC. 506. BUSINESS STABILIZATION PROGRAM. (a)
2 IN GENERAL.—Subject to the availability of appropria-
3 tions, the Administrator of the Small Business Adminis-
4 tration shall carry out a program to provide loans on a
5 deferred basis to viable (as such term is determined pursu-
6 ant to regulation by the Administrator of the Small Busi-
7 ness Administration) small business concerns that have a
8 qualifying small business loan and are experiencing imme-
9 diate financial hardship.

10 (b) ELIGIBLE BORROWER.—A small business concern
11 as defined under section 3 of the Small Business Act (15
12 U.S.C. 632).

13 (c) QUALIFYING SMALL BUSINESS LOAN.—A loan
14 made to a small business concern that meets the eligibility
15 standards in section 7(a) of the Small Business Act (15
16 U.S.C. 636(a)).

17 (d) LOAN SIZE.—Loans made under this section may
18 not exceed \$35,000.

19 (e) PURPOSE.—Loans made under this program shall
20 be used to make periodic payment of principal and inter-
21 est, either in full or in part, on an existing qualifying small
22 business loan for a period of time not to exceed 6 months.

23 (f) LOAN TERMS.—Loans made under this section
24 shall:

25 (1) carry a 100 percent guaranty; and

but shall not
include loans
guaranteed
(or loan guarantee
commitments
made) by the
Administrator
prior to the
date of enactment
of this Act

guaranteed

guaranteed

1 (2) have interest fully subsidized for the period
2 of repayment.

3 (g) REPAYMENT.—Repayment for loans made under
4 this section shall—

5 (1) be amortized over a period of time not to
6 exceed 5 years; and

7 (2) not begin until 12 months after the final
8 disbursement of funds is made.

9 (h) COLLATERAL.—The Administrator of the Small
10 Business Administration may accept any available collat-
11 eral, including subordinated liens, to secure loans made
12 under this section.

13 (i) FEES.—The Administrator of the Small Business
14 Administration is prohibited from charging any processing
15 fees, origination fees, application fees, points, brokerage
16 fees, bonus points, prepayment penalties, and other fees
17 that could be charged to a loan applicant.

18 (j) SUNSET.—The Administrator of the Small Busi-
19 ness Administration shall not issue loan guarantees under
20 this section after September 30, 2010.

21 (k) EMERGENCY RULEMAKING AUTHORITY.—The
22 Administrator of the Small Business Administration shall
23 issue regulations under this section within 15 days after
24 the date of enactment of this section. The notice require-

for loans
under this
section

1 ments of section 553(b) of title 5, United States Code

2 shall not apply to the promulgation of such regulations.

INSERT B

INSERT C

INSERT 7

507
3 SEC. ~~6207~~. GAO REPORT.

60
4 (a) REPORT.—Not later than ~~30~~ days after the enact-

5 ment of this Act, the Comptroller General of the United

6 States shall report to the Congress on the actions of the ^{(authorities}

7 Administrator in implementing the ~~authority~~ established

8 in ~~sections 6201 through 6206~~ of this Act. ^{title}

^{the administrative provisions}
9 (b) INCLUDED ITEM.—The report under this section

10 shall include a summary of the activity of the Adminis-

11 trator under this ~~section~~ and an analysis of whether he

12 is accomplishing the purpose of increasing liquidity in the ^{title}

13 secondary market for Small Business Administration

14 loans.

Insert C

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

(1) by inserting “(A)” after “(1)”;

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

(3) by adding at the end the following:

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

Insert D

C

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

“(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term ‘small business concern’ means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.”.

Insert E

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

(b) Denial of Liability –

Section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694b) is amended—

(1) by striking subsection (e) and inserting the following:

“(e) Reimbursement of surety; conditions

Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of liability (in whole or in part within the discretion of the Administration) if—

- (1) the surety obtained such guarantee or agreement, or applied for such reimbursement, by fraud or material misrepresentation,
- (2) the total contract amount at the time of execution of the bond or bonds exceeds \$5,000,000,
- (3) the surety has breached a material term or condition of such guarantee agreement, or
- (4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).”

(2) by adding at the end the following:

“(k) For bonds made or executed with the prior approval of the Administration, the Administration shall not deny liability to a surety based upon material information that was provided as part of the guaranty application.”

Insert **BE**

(d) Study- The Administrator of the Small Business Administration shall conduct a study of the current funding structure of the surety bond program carried out under part B (15 U.S.C. 694a et seq.) of title IV of the Small Business Investment Act of 1958. The study shall include--

(1) an assessment of whether the program's current funding framework and program fees are inhibiting the program's growth;

(2) an assessment of whether surety companies and small business concerns could benefit from an alternative funding structure; and

(e) Report- Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of the study required under subsection (d).

Insert 7

SEC. 509. ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.

(a) **PURPOSE.**—The purpose of this section is to provide the Small Business Administration with the authority to establish a Secondary Market Lending Authority within the SBA to make loans to the systemically important SBA secondary market broker-dealers who operate the SBA secondary market.

(b) **DEFINITIONS.**—For purposes of this section:

(1) The term "Administrator" means the Administrator of the SBA.

(2) The term "SBA" means the Small Business Administration.

(3) The terms "Secondary Market Lending Authority" and "Authority" mean the office established under subsection (c).

(4) The term "SBA secondary market" means the market for the purchase and sale of loans originated, underwritten, and closed under the Small Business Act.

(5) The term "Systemically Important Secondary Market Broker-Dealers" mean those entities designated under subsection (c)(1) as vital to the continued operation of the SBA secondary market by reason of their purchase and sale of the government guaranteed portion of loans, or pools of loans, originated, underwritten, and closed under the Small Business Act.

(c) **RESPONSIBILITIES, AUTHORITIES, ORGANIZATION, AND LIMITATIONS.**—

(1) **DESIGNATION OF SYSTEMICALLY IMPORTANT SBA SECONDARY MARKET BROKER-DEALERS.**—The Administrator shall establish a process to designate, in consultation with the Board of Governors of the Federal Reserve and the Secretary of the Treasury, Systemically Important Secondary Market Broker-Dealers.

(2) **ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.**—

(A) **ORGANIZATION.**—

(i) The Administrator shall establish within the SBA an office to provide loans to Systemically Important Secondary Market Broker-dealers to be used for the purpose of financing the inventory of the government guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(ii) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(iii) The Administrator is authorized to hire such personnel as are necessary to operate the Authority.

(iv) The Administrator may contract such Authority operations as he determines necessary to qualified third-party companies or individuals.

(v) The Administrator is authorized to contract with private sector fiduciary and custodial agents as necessary to operate the Authority.

(B) LOANS.—

(i) The Administrator shall establish by rule a process under which Systemically Important SBA Secondary Market Broker-Dealers designated under paragraph (1) may apply to the Administrator for loans under this section.

(ii) The rule under clause (i) shall provide a process for the Administrator to consider and make decisions regarding whether or not to extend a loan applied for under this section. Such rule shall include provisions to assure each of the following:

(I) That loans made under this section are for the sole purpose of financing the inventory of the government guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(II) That loans made under this section are fully collateralized to the satisfaction of the Administrator.

(III) That there is no limit to the frequency in which a borrower may borrow under this section unless the Administrator determines that doing so would create an undue risk of loss to the agency or the United States.

(IV) That there is no limit on the size of a loan, subject to the discretion of the Administrator.

(iii) Interest on loans under this section shall not exceed the Federal Funds target rate as established by the Federal Reserve Board of Governors plus 25 basis points.

(iv) The rule under this section shall provide for such loan documents, legal covenants, collateral requirements and other required documentation as necessary to protect the interests of the agency, the United States, and the taxpayer.

(v) The Administrator shall establish custodial accounts to safeguard any collateral pledged to the SBA in connection with a loan under this section.

(vi) The Administrator shall establish a process to disburse and receive funds to and from borrowers under this section.

(C) LIMITATIONS ON USE OF LOAN PROCEEDS BY SYSTEMICALLY IMPORTANT SECONDARY MARKET BROKER-DEALERS.—The Administrator shall ensure that borrowers under this section are using funds provided under this section only for the purpose specified in subparagraph (B)(ii)(I). If the Administrator finds that such funds were used for any other purpose, the Administrator shall—

(i) require immediate repayment of outstanding loans;

(ii) prohibit the borrower, its affiliates, or any future corporate manifestation of the borrower from using the Authority; and

(iii) take any other actions the Administrator, in consultation with the Attorney General of the United States, deems appropriate.

(d) REPORT TO CONGRESS.—The Administrator shall submit a report to Congress not later than the third business day of each month containing a statement of each of the following:

(1) The aggregate loan amounts extended during the preceding month under this section.

(2) The aggregate loan amounts repaid under this section during the proceeding month.

(3) The aggregate loan amount outstanding under this section.

(4) The aggregate value of assets held as collateral under this section;

(5) The amount of any defaults or delinquencies on loans made under this section.

(6) The identity of any borrower found by the Administrator to misuse funds made available under this section.

(7) Any other information the Administrator deems necessary to fully inform Congress of undue risk of financial loss to the United States in connection with loans made under this section.

(e) DURATION.—The authority of this section shall remain in effect for a period of 2 years after the date of enactment of this section.

(f) FEES.—The Administrator shall charge fees, up front ^{or b.o.f.l.} or annual, at a specified percentage of the loan amount that is at such a rate that the cost of the program under the Federal Credit Reform Act of 1990 ((title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661) shall be equal to zero.

~~(g) FUNDING.—Such sums as necessary are authorized to be appropriated to carry out the provisions of this section.~~

(h) BUDGET TREATMENT.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the

Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Im poundment Control Act of 1974; 2 U.S.C. 661 and following).

(i) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall promulgate regulations under this section within ~~15~~ ³⁰ days after the date of enactment of this section. In promulgating these regulations, the Administrator the notice requirements of section 553(b) of title 5 of the United States Code shall not apply.

Xerox

1 TITLE VI—DEPARTMENT OF HOMELAND
2 SECURITY

3 ~~DEPARTMENT OF HOMELAND SECURITY~~

4 OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

5 For an additional amount for the “Office of the
6 Under Secretary for Management”, \$200,000,000 for
7 planning, design, construction costs, site security, infor-
8 mation technology infrastructure, fixtures, and related
9 costs to consolidate the Department of Homeland Security
10 headquarters: *Provided*, That no later than 60 days after
11 the date of enactment of this Act, the Secretary of Home-
12 land Security, in consultation with the Administrator of
13 General Services, shall submit to the Committees on Ap-
14 propriations of the Senate and the House of Representa-
15 tives a plan for the expenditure of these funds.

16 OFFICE OF INSPECTOR GENERAL

17 For an additional amount for the “Office of Inspector
18 General”, \$5,000,000, to remain available until September
19 30, 2012, for oversight and audit of programs, grants, and
20 projects funded under this title.

21 U.S. CUSTOMS AND BORDER PROTECTION

22 SALARIES AND EXPENSES

23 For an additional amount for “Salaries and Ex-
24 penses”, \$160,000,000, of which \$100,000,000 shall be
25 for the procurement and deployment of non-intrusive in-

1 spection systems; and of which \$60,000,000 shall be for
2 procurement and deployment of tactical communications
3 equipment and radios: *Provided*, That no later than 45
4 days after the date of enactment of this Act, the Secretary
5 of Homeland Security shall submit to the Committees on
6 Appropriations of the Senate and the House of Represent-
7 atives a plan for expenditure of these funds.

8 BORDER SECURITY FENCING, INFRASTRUCTURE, AND
9 TECHNOLOGY

10 For an additional amount for “Border Security Fenc-
11 ing, Infrastructure, and Technology”, \$100,000,000 for
12 expedited development and deployment of border security
13 technology on the Southwest border: *Provided*, That no
14 later than 45 days after the date of enactment of this Act,
15 the Secretary of Homeland Security shall submit to the
16 Committees on Appropriations of the Senate and the
17 House of Representatives a plan for expenditure of these
18 funds.

19 CONSTRUCTION

20 For an additional amount for “Construction”,
21 \$420,000,000 solely for planning, management, design, al-
22 teration, and construction of U.S. Customs and Border
23 Protection owned land border ports of entry: *Provided*,
24 That no later than 45 days after the date of enactment
25 of this Act, the Secretary of Homeland Security shall sub-

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

4 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
5 AUTOMATION MODERNIZATION

6 For an additional amount for “Automation Mod-
7 ernization”, \$20,000,000 for the procurement and deploy-
8 ment of tactical communications equipment and radios:
9 *Provided*, That no later than 45 days after the date of
10 enactment of this Act, the Secretary of Homeland Security
11 shall submit to the Committees on Appropriations of the
12 Senate and the House of Representatives a plan for ex-
13 penditure of these funds.

14 TRANSPORTATION SECURITY ADMINISTRATION
15 AVIATION SECURITY

16 For an additional amount for “Aviation Security”,
17 \$1,000,000,000 for procurement and installation of
18 checked baggage explosives detection systems and check-
19 point explosives detection equipment: *Provided*, That the
20 Assistant Secretary of Homeland Security (Transpor-
21 tation Security Administration) shall prioritize the award
22 of these funds to accelerate the installations at locations
23 with completed design plans: *Provided further*, That no
24 later than 45 days after the date of enactment of this Act,
25 the Secretary of Homeland Security shall submit to the

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

4 COAST GUARD

5 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

6 For an additional amount for “Acquisition, Construc-
7 tion, and Improvements”, \$98,000,000 for shore facilities
8 and aids to navigation facilities; for priority procurements
9 due to materials and labor cost increases; and for costs
10 to repair, renovate, assess, or improve vessels: *Provided*,
11 That no later than 45 days after the date of enactment
12 of this Act, the Secretary of Homeland Security shall sub-
13 mit to the Committees on Appropriations of the Senate
14 and the House of Representatives a plan for the expendi-
15 ture of these funds.

16 ALTERATION OF BRIDGES

17 For an additional amount for “Alteration of
18 Bridges”, \$142,000,000 for alteration or removal of ob-
19 structive bridges, as authorized by section 6 of the Tru-
20 man-Hobbs Act (33 U.S.C. 516): *Provided*, That the
21 Coast Guard shall award these funds to those bridges that
22 are ready to proceed to construction: *Provided further*,
23 That no later than 45 days after the date of enactment
24 of this Act, the Secretary of Homeland Security shall sub-
25 mit to the Committees on Appropriations of the Senate

1 and the House of Representatives a plan for the expendi-
2 ture of these funds.

3 FEDERAL EMERGENCY MANAGEMENT AGENCY

4 STATE AND LOCAL PROGRAMS

5 For an additional amount for grants, \$300,000,000,
6 to be allocated as follows:

7 (1) \$150,000,000 for Public Transportation Se-
8 curity Assistance and Railroad Security Assistance
9 under sections 1406 and 1513 of the Implementing
10 Recommendations of the 9/11 Commission Act of
11 2007 (Public Law 110-53; 6 U.S.C. 1135 and
12 1163).

13 (2) \$150,000,000 for Port Security Grants in
14 accordance with 46 U.S.C. 70107, notwithstanding
15 46 U.S.C. 70107(c).

16 FIREFIGHTER ASSISTANCE GRANTS

17 For an additional amount for competitive grants,
18 \$210,000,000 for modifying, upgrading, or constructing
19 non-Federal fire stations: *Provided*, That up to 5 percent
20 shall be for program administration: *Provided further*,
21 That no grant shall exceed \$15,000,000.

22 DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

23 Notwithstanding section 417(b) of the Robert T.
24 Stafford Disaster Relief and Emergency Assistance Act,
25 the amount of any such loan issued pursuant to this sec-

1 tion for major disasters occurring in calendar year 2008
2 may exceed \$5,000,000, and may be equal to not more
3 than 50 percent of the annual operating budget of the
4 local government in any case in which that local govern-
5 ment has suffered a loss of 25 percent or more in tax reve-
6 nues: *Provided*, That the cost of modifying such loans shall
7 be as defined in section 502 of the Congressional Budget
8 Act of 1974 (2 U.S.C. 661a).

9 EMERGENCY FOOD AND SHELTER

10 For an additional amount to carry out the emergency
11 food and shelter program pursuant to title III of the
12 McKinney-Vento Homeless Assistance Act (42 U.S.C.
13 11331 et seq.), \$100,000,000: *Provided*, That total admin-
14 istrative costs shall not exceed 3.5 percent of the total
15 amount made available under this heading.

16 GENERAL PROVISIONS—THIS TITLE

17 SEC. 601. Notwithstanding any other provision of
18 law, the President shall establish an arbitration panel
19 under the Federal Emergency Management Agency public
20 assistance program to expedite the recovery efforts from
21 Hurricanes Katrina and Rita within the Gulf Coast Re-
22 gion. The arbitration panel shall have sufficient authority
23 regarding the award or denial of disputed public assist-
24 ance applications for covered hurricane damage under sec-
25 tion 403, 406, or 407 of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C. 5170b,
2 5172, or 5173) for a project the total amount of which
3 is more than \$500,000.

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

14 SEC. 603. ~~WAIVER OF MATCHING REQUIREMENT~~ *e*

*S*15 ~~UNDER SAFER PROGRAM~~, Subparagraph (E) of section
16 34(a)(1) of the Federal Fire Prevention and Control Act
17 of 1974 (15 U.S.C. 2229a(a)(1)(E)) shall not apply with
18 respect to funds appropriated in this or any other Act
19 making appropriations for fiscal year 2009 or 2010 for
20 grants under such section 34.

21 SEC. 604. (a) REQUIREMENT.—Except as provided
22 in subsections (c) through (g), funds appropriated or oth-
23 erwise available to the Department of Homeland Security
24 may not be used for the procurement of an item described

1 in subsection (b) if the item is not grown, reprocessed,
2 reused, or produced in the United States.

3 (b) COVERED ITEMS.—An item referred to in sub-
4 section (a) is any of the following, if the item is directly
5 related to the national security interests of the United
6 States:

7 (1) An article or item of—

8 (A) clothing and the materials and compo-
9 nents thereof, other than sensors, electronics, or
10 other items added to, and not normally associ-
11 ated with, clothing (and the materials and com-
12 ponents thereof);

13 (B) tents, tarpaulins, covers, textile belts,
14 bags, protective equipment (including but not
15 limited to body armor), sleep systems, load car-
16 rying equipment (including but not limited to
17 fieldpacks), textile marine equipment, para-
18 chutes, or bandages;

19 (C) cotton and other natural fiber prod-
20 ucts, woven silk or woven silk blends, spun silk
21 yarn for cartridge cloth, synthetic fabric or
22 coated synthetic fabric (including all textile fi-
23 bers and yarns that are for use in such fabrics),
24 canvas products, or wool (whether in the form

1 of fiber or yarn or contained in fabrics, mate-
2 rials, or manufactured articles); or

3 (D) any item of individual equipment man-
4 ufactured from or containing such fibers, yarns,
5 fabrics, or materials.

6 (c) AVAILABILITY EXCEPTION.—Subsection (a) does
7 not apply to the extent that the Secretary of Homeland
8 Security determines that satisfactory quality and suffi-
9 cient quantity of any such article or item described in sub-
10 section (b)(1) grown, reprocessed, reused, or produced in
11 the United States cannot be procured as and when needed
12 at United States market prices. This section is not appli-
13 cable to covered items that are, or include, materials deter-
14 mined to be non-available in accordance with Federal Ac-
15 quisition Regulation 25.104 Nonavailable Articles.

16 (d) DE MINIMIS EXCEPTION.—Notwithstanding sub-
17 section (a), the Secretary of Homeland Security may ac-
18 cept delivery of an item covered by subsection (b) that con-
19 tains non-compliant fibers if the total value of non-compli-
20 ant fibers contained in the end item does not exceed 10
21 percent of the total purchase price of the end item.

22 (e) EXCEPTION FOR CERTAIN PROCUREMENTS OUT-
23 SIDE THE UNITED STATES.—Subsection (a) does not
24 apply to the following:

25 (1) Procurements by vessels in foreign waters.

1 (2) Emergency procurements.

2 (f) EXCEPTION FOR SMALL PURCHASES.—Sub-
3 section (a) does not apply to purchases for amounts not
4 greater than the simplified acquisition threshold referred
5 to in section 2304(g) of title 10, United States Code.

6 (g) APPLICABILITY TO CONTRACTS AND SUB-
7 CONTRACTS FOR PROCUREMENT OF COMMERCIAL
8 ITEMS.—This section is applicable to contracts and sub-
9 contracts for the procurement of commercial items not
10 withstanding section 34 of the Office of Federal Procure-
11 ment Policy Act (41 U.S.C. 430), with the exception of
12 commercial items listed under subsections (b)(1)(C) and
13 (b)(1)(D) above. For the purposes of this section, “com-
14 mercial” shall be as defined in the Federal Acquisition
15 Regulation—Part 2.

16 (h) GEOGRAPHIC COVERAGE.—In this section, the
17 term “United States” includes the possessions of the
18 United States.

19 (i) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER
20 CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—
21 In the case of any contract for the procurement of an item
22 described in subsection (b)(1), if the Secretary of Home-
23 land Security applies an exception set forth in subsection
24 (c) with respect to that contract, the Secretary shall, not
25 later than 7 days after the award of the contract, post

1 a notification that the exception has been applied on the
2 Internet site maintained by the General Services Adminis-
3 tration known as FedBizOps.gov (or any successor site).

4 (j) TRAINING DURING FISCAL YEAR 2009.—

5 (1) IN GENERAL.—The Secretary of Homeland
6 Security shall ensure that each member of the acqui-
7 sition workforce in the Department of Homeland Se-
8 curity who participates personally and substantially
9 in the acquisition of textiles on a regular basis re-
10 ceives training during fiscal year 2009 on the re-
11 quirements of this section and the regulations imple-
12 menting this section.

13 (2) INCLUSION OF INFORMATION IN NEW
14 TRAINING PROGRAMS.—The Secretary shall ensure
15 that any training program for the acquisition work-
16 force developed or implemented after the date of the
17 enactment of this Act includes comprehensive infor-
18 mation on the requirements described in paragraph
19 (1).

20 ~~(k) CONSISTENCY WITH INTERNATIONAL AGREE-~~
21 ~~MENTS.—~~

22 ~~(1) IN GENERAL.—No provision of this section~~
23 ~~shall apply to the extent it is inconsistent with~~
24 ~~United States obligations under an international~~
25 ~~agreement. To the extent that current international~~

Insert
11A

11A

(k) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.— This section shall be applied in a manner consistent with United States obligations under international agreements.

1 ~~agreements are modified or new agreements nego-~~
2 ~~tiated that are inconsistent with this provision, this~~
3 ~~section shall not apply.~~

4 (2) ~~REPORT.~~—The Secretary of Homeland Se-
5 curity shall submit a report each year to Congress
6 containing, with respect to the year covered by the
7 report—

8 (A) a list of each provision of this section
9 that did not apply during that year under para-
10 graph (1); and

11 (B) a list of each contract awarded by the
12 Department of Homeland Security during that
13 year without regard to a provision in this sec-
14 tion because that provision was made inappli-
15 cable pursuant to ~~international agreement.~~ an

16 (1) ~~EFFECTIVE DATE.~~—This section applies with re-
17 spect to contracts entered into by the Department of
18 Homeland Security 180 days after the date of the enact-
19 ment of this Act.

1 TITLE VII—INTERIOR, ENVIRONMENT, AND
2 RELATED AGENCIES

3 DEPARTMENT OF THE INTERIOR

4 BUREAU OF LAND MANAGEMENT

5 MANAGEMENT OF LANDS AND RESOURCES

6 For an additional amount for “Management of Lands
7 and Resources”, for activities on all Bureau of Land Man-
8 agement lands including maintenance, rehabilitation, and
9 restoration of facilities, property, trails and lands and for
10 remediation of abandoned mines and wells, \$125,000,000.

11 CONSTRUCTION

12 For an additional amount for “Construction”, for ac-
13 tivities on all Bureau of Land Management lands includ-
14 ing construction, reconstruction, decommissioning and re-
15 pair of roads, bridges, trails, property, and facilities and
16 for energy efficient retrofits of existing facilities,
17 \$180,000,000.

18 WILDLAND FIRE MANAGEMENT

19 For an additional amount for “Wildland Fire Man-
20 agement”, for hazardous fuels reduction, \$15,000,000.

21 UNITED STATES FISH AND WILDLIFE SERVICE

22 RESOURCE MANAGEMENT

23 For an additional amount for “Resource Manage-
24 ment”, for deferred maintenance, construction, and cap-
25 ital improvement projects on national wildlife refuges and

1 national fish hatcheries and for high priority habitat res-
2 toration projects, \$165,000,000.

3 CONSTRUCTION

4 For an additional amount for “Construction”, for
5 construction, reconstruction, and repair of roads, bridges,
6 property, and facilities and for energy efficient retrofits
7 of existing facilities, \$115,000,000.

8 NATIONAL PARK SERVICE

9 OPERATION OF THE NATIONAL PARK SYSTEM

10 For an additional amount for “Operation of the Na-
11 tional Park System”, for deferred maintenance of facilities
12 and trails and for other critical repair and rehabilitation
13 projects, \$146,000,000.

14 HISTORIC PRESERVATION FUND

15 For an additional amount for “Historic Preservation
16 Fund”, for historic preservation projects at historically
17 black colleges and universities as authorized by the His-
18 toric Preservation Fund Act of 1996 and the Omnibus
19 Parks and Public Lands Act of 1996, \$15,000,000: *Pro-*
20 *vided*, That any matching requirements otherwise required
21 for such projects are waived.

22 CONSTRUCTION

23 For an additional amount for “Construction”, for re-
24 pair and restoration of roads; construction of facilities, in-
25 cluding energy efficient retrofits of existing facilities;
26 equipment replacement; preservation and repair of histor-

1 ical resources within the National Park System; cleanup
2 of abandoned mine sites on park lands; and other critical
3 infrastructure projects, \$589,000,000.

4 UNITED STATES GEOLOGICAL SURVEY

5 SURVEYS, INVESTIGATIONS, AND RESEARCH

6 For an additional amount for “Surveys, Investiga-
7 tions, and Research”, \$140,000,000, for repair, construc-
8 tion and restoration of facilities; equipment replacement
9 and upgrades including stream gages, and seismic and vol-
10 cano monitoring systems; national map activities; and
11 other critical deferred maintenance and improvement
12 projects.

13 BUREAU OF INDIAN AFFAIRS

14 OPERATION OF INDIAN PROGRAMS

15 For an additional amount for “Operation of Indian
16 Programs”, for workforce training programs and the
17 housing improvement program, \$40,000,000.

18 CONSTRUCTION

19 For an additional amount for “Construction”, for re-
20 pair and restoration of roads; replacement school con-
21 struction; school improvements and repairs; and detention
22 center maintenance and repairs, \$450,000,000: *Provided,*
23 That section 1606 of this Act shall not apply to tribal con-
24 tracts entered into by the Bureau of Indian Affairs with
25 this appropriation.

1 INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

2 For an additional amount for “Indian Guaranteed
3 Loan Program Account”, \$10,000,000.

4 OFFICE OF INSPECTOR GENERAL

5 SALARIES AND EXPENSES

6 For an additional amount for “Office of Inspector
7 General”, \$15,000,000, to remain available until Sep-
8 tember 30, 2012.

9 ENVIROMENTAL PROTECTION AGENCY

10 OFFICE OF INSPECTOR GENERAL

11 For an additional amount for “Office of Inspector
12 General”, \$20,000,000, to remain available until Sep-
13 tember 30, 2012.

14 HAZARDOUS SUBSTANCE SUPERFUND

15 For an additional amount for “Hazardous Substance
16 Superfund”, \$600,000,000, which shall be for the Super-
17 fund Remedial program: *Provided*, That the Administrator
18 of the Environmental Protection Agency (Administrator)
19 may retain up to 3 percent of the funds appropriated here-
20 in for management and oversight purposes.

21 LEAKING UNDERGROUND STORAGE TANK TRUST FUND
22 PROGRAM

23 For an additional amount for “Leaking Underground
24 Storage Tank Trust Fund Program”, \$200,000,000,
25 which shall be for cleanup activities authorized by section

1 9003(h) of the Solid Waste Disposal Act: *Provided*, That
2 none of these funds shall be subject to cost share require-
3 ments under section 9003(h)(7)(B) of such Act: *Provided*
4 *further*, That the Administrator may retain up to 1.5 per-
5 cent of the funds appropriated herein for management and
6 oversight purposes.

7 STATE AND TRIBAL ASSISTANCE GRANTS

8 (INCLUDING TRANSFERS OF FUNDS)

9 For an additional amount for “State and Tribal As-
10 sistance Grants”, \$6,400,000,000, which shall be allocated
11 as follows:

12 (1) \$4,000,000,000 shall be for capitalization
13 grants for the Clean Water State Revolving Funds
14 under title VI of the Federal Water Pollution Con-
15 trol Act and \$2,000,000,000 shall be for capitaliza-
16 tion grants under section 1452 of the Safe Drinking
17 Water Act: *Provided*, That the Administrator may
18 retain up to 1 percent of the funds appropriated
19 herein for management and oversight purposes: *Pro-*
20 *vided further*, That funds appropriated herein shall
21 not be subject to the matching or cost share require-
22 ments of sections 602(b)(2), 602(b)(3) or 202 of the
23 Federal Water Pollution Control Act nor the match-
24 ing requirements of section 1452(e) of the Safe
25 Drinking Water Act: *Provided further*, That the Ad-

1 ministrator shall reallocate funds appropriated here-
2 in for the Clean and Drinking Water State Revolv-
3 ing Funds (Revolving Funds) where projects are not
4 under contract or construction within 12 months of
5 the date of enactment of this Act: *Provided further*,
6 That notwithstanding the priority rankings they
7 would otherwise receive under each program, priority
8 for funds appropriated herein shall be given to
9 projects on a State priority list that are ready to
10 proceed to construction within 12 months of the
11 date of enactment of this Act: *Provided further*, That
12 notwithstanding the requirements of section 603(d)
13 of the Federal Water Pollution Control Act or sec-
14 tion 1452(f) of the Safe Drinking Water Act, for the
15 funds appropriated herein, each State shall use not
16 less than 50 percent of the amount of its capitaliza-
17 tion grants to provide additional subsidization to eli-
18 gible recipients in the form of forgiveness of prin-
19 cipal, negative interest loans or grants or any com-
20 bination of these: *Provided further*, That, to the ex-
21 tent there are sufficient eligible project applications,
22 not less than 20 percent of the funds appropriated
23 herein for the Revolving Funds shall be for projects
24 to address green infrastructure, water or energy effi-
25 ciency improvements or other environmentally inno-

1 vative activities: *Provided further*, That notwith-
2 standing the limitation on amounts specified in sec-
3 tion 518(c) of the Federal Water Pollution Control
4 Act, up to 1.5 percent of the funds appropriated
5 herein for the Clean Water State Revolving Funds
6 may be reserved by the Administrator for tribal
7 grants under section 518(c) of such Act: *Provided*
8 *further*, That up to 4 percent of the funds appro-
9 priated herein for tribal set-asides under the Revolv-
10 ing Funds may be transferred to the Indian Health
11 Service to support management and oversight of
12 tribal projects: *Provided further*, That none of the
13 funds appropriated herein shall be available for the
14 purchase of land or easements as authorized by sec-
15 tion 603(c) of the Federal Water Pollution Control
16 Act or for activities authorized by section 1452(k) of
17 the Safe Drinking Water Act: *Provided further*, That
18 notwithstanding section 603(d)(2) of the Federal
19 Water Pollution Control Act and section 1452(f)(2)
20 of the Safe Drinking Water Act, funds may be used
21 to buy, refinance or restructure the debt obligations
22 of eligible recipients only where such debt was in-
23 curred on or after October 1, 2008;

24 (2) \$100,000,000 shall be to carry out
25 Brownfields projects authorized by section 104(k) of

1 the Comprehensive Environmental Response, Com-
2 pensation, and Liability Act of 1980: *Provided*, That
3 the Administrator may reserve up to 3.5 percent of
4 the funds appropriated herein for management and
5 oversight purposes: *Provided further*, That none of
6 the funds appropriated herein shall be subject to
7 cost share requirements under section
8 104(k)(9)(B)(iii) of such Act; and

9 (3) \$300,000,000 shall be for Diesel Emission
10 Reduction Act grants pursuant to title VII, subtitle
11 G of the Energy Policy Act of 2005: *Provided*, That
12 the Administrator may reserve up to 2 percent of
13 the funds appropriated herein for management and
14 oversight purposes: *Provided further*, That none of
15 the funds appropriated herein for Diesel Emission
16 Reduction Act grants shall be subject to the State
17 Grant and Loan Program Matching Incentive provi-
18 sions of section 793(c)(3) of such Act.

19 ADMINISTRATIVE PROVISION, ENVIRONMENTAL
20 PROTECTION AGENCY

21 (INCLUDING TRANSFERS OF FUNDS)

22 Funds made available to the Environmental Protec-
23 tion Agency by this Act for management and oversight
24 purposes shall remain available until September 30, 2011,

1 and may be transferred to the “Environmental Programs
2 and Management” account as needed.

3 DEPARTMENT OF AGRICULTURE

4 FOREST SERVICE

5 CAPITAL IMPROVEMENT AND MAINTENANCE

6 For an additional amount for “Capital Improvement
7 and Maintenance”, \$650,000,000, for priority road,
8 bridge and trail maintenance and decommissioning, in-
9 cluding related watershed restoration and ecosystem en-
10 hancement projects; facilities improvement, maintenance
11 and renovation; remediation of abandoned mine sites; and
12 support costs necessary to carry out this work.

13 WILDLAND FIRE MANAGEMENT

14 For an additional amount for “Wildland Fire Man-
15 agement”, \$500,000,000, of which \$250,000,000 is for
16 hazardous fuels reduction, forest health protection, reha-
17 bilitation and hazard mitigation activities on Federal lands
18 and of which \$250,000,000 is for State and private for-
19 estry activities including hazardous fuels reduction, forest
20 health and ecosystem improvement activities on State and
21 private lands using all authorities available to the Forest
22 Service: *Provided*, That up to \$50,000,000 of the total
23 funding may be used to make wood-to-energy grants to
24 promote increased utilization of biomass from Federal,
25 State and private lands: *Provided further*, That funds pro-

1 vided for activities on State and private lands shall not
2 be subject to matching or cost share requirements.

3 DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES

5 INDIAN HEALTH SERVICE

6 INDIAN HEALTH SERVICES

7 For an additional amount for “Indian Health Serv-
8 ices”, for health information technology activities,
9 \$85,000,000: *Provided*, That such funds may be used for
10 both telehealth services development and related infra-
11 structure requirements that are typically funded through
12 the “Indian Health Facilities” account: *Provided further*,
13 That notwithstanding any other provision of law, health
14 information technology funds provided within this title
15 shall be allocated at the discretion of the Director of the
16 Indian Health Service.

17 INDIAN HEALTH FACILITIES

18 For an additional amount for “Indian Health Facili-
19 ties”, for facilities construction projects, deferred mainte-
20 nance and improvement projects, the backlog of sanitation
21 projects and the purchase of equipment, \$415,000,000, of
22 which \$227,000,000 is provided within the health facilities
23 construction activity for the completion of up to two facili-
24 ties from the current priority list for which work has al-
25 ready been initiated: *Provided*, That for the purposes of

1 this Act, spending caps included within the annual appro-
2 priation for “Indian Health Facilities” for the purchase
3 of medical equipment shall not apply: *Provided further*,
4 That section 1606 of this Act shall not apply to tribal con-
5 tracts entered into by the Service with this appropriation.

6 OTHER RELATED AGENCIES

7 SMITHSONIAN INSTITUTION

8 FACILITIES CAPITAL

9 For an additional amount for “Facilities Capital”, for
10 repair and revitalization of existing facilities, \$25,000,000.

11 NATIONAL FOUNDATION ON THE ARTS AND THE

12 HUMANITIES

13 NATIONAL ENDOWMENT FOR THE ARTS

14 GRANTS AND ADMINISTRATION

15 For an additional amount for “Grants and Adminis-
16 tration”, \$50,000,000, to be distributed in direct grants
17 to fund arts projects and activities which preserve jobs in
18 the non-profit arts sector threatened by declines in philan-
19 thropic and other support during the current economic
20 downturn: *Provided*, That 40 percent of such funds shall
21 be distributed to State arts agencies and regional arts or-
22 ganizations in a manner similar to the agency’s current
23 practice and 60 percent of such funds shall be for competi-
24 tively selected arts projects and activities according to sec-
25 tions 2 and 5(c) of the National Foundation on the Arts

1 and Humanities Act of 1965 (20 U.S.C. 951, 954(c)):
2 *Provided further*, That matching requirements under sec-
3 tion 5(e) of such Act shall be waived.

4 GENERAL PROVISIONS—THIS TITLE

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

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

14 SEC. 702. In carrying out the work for which funds
15 in this title are being made available, the Secretary of the
16 Interior and the Secretary of Agriculture shall utilize,
17 where practicable, the Public Lands Corps, Youth Con-
18 servation Corps, Student Conservation Association, Job
19 Corps and other related partnerships with Federal, State,
20 local, tribal or non-profit groups that serve young adults.

21 SEC. 703. Each agency receiving funds under this
22 title may transfer up to 10 percent of the funds in any
23 account to other appropriation accounts within the agency,
24 if the head of the agency (1) determines that the transfer
25 will enhance the efficiency or effectiveness of the use of

1 the funds without changing the intended purpose; and (2)
2 notifies the Committees on Appropriations of the House
3 of Representatives and the Senate 10 days prior to the
4 transfer.

Xerox

1 TITLE VIII—DEPARTMENTS—OF LABOR,
2 HEALTH AND HUMAN SERVICES, AND EDU-
3 CATION, AND RELATED AGENCIES

4 DEPARTMENT OF LABOR

5 EMPLOYMENT AND TRAINING ADMINISTRATION

6 TRAINING AND EMPLOYMENT SERVICES

7 For an additional amount for “Training and Employ-
8 ment Services” for activities under the Workforce Invest-
9 ment Act of 1998 (“WIA”), \$3,950,000,000, which shall
10 be available for obligation on the date of enactment of this
11 Act, as follows:

12 (1) \$500,000,000 for grants to the States for
13 adult employment and training activities, including
14 supportive services and needs-related payments de-
15 scribed in section 134(e)(2) and (3) of the WIA:
16 *Provided*, That a priority use of these funds shall be
17 services to individuals described in 134(d)(4)(E) of
18 the WIA;

19 (2) \$1,200,000,000 for grants to the States for
20 youth activities, including summer employment for
21 youth: *Provided*, That no portion of such funds shall
22 be reserved to carry out section 127(b)(1)(A) of the
23 WIA: *Provided further*, That for purposes of section
24 127(b)(1)(C)(iv) of the WIA, funds available for
25 youth activities shall be allotted as if the total

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

12 (3) \$1,250,000,000 for grants to the States for
13 dislocated worker employment and training activi-
14 ties;

15 (4) \$200,000,000 for the dislocated workers as-
16 sistance national reserve;

17 (5) \$50,000,000 for YouthBuild activities: *Pro-*
18 *vided*, That for program years 2008 and 2009, the
19 YouthBuild program may serve an individual who
20 has dropped out of high school and re-enrolled in an
21 alternative school, if that re-enrollment is part of a
22 sequential service strategy; and

23 (6) \$750,000,000 for a program of competitive
24 grants for worker training and placement in high
25 growth and emerging industry sectors: *Provided*,

1 That \$500,000,000 shall be for research, labor ex-
2 change and job training projects that prepare work-
3 ers for careers in ~~the~~ energy efficiency and renew-
4 able energy as described in section 171(e)(1)(B) of
5 the WIA: *Provided further*, That in awarding grants
6 from those funds not designated in the preceding
7 proviso, the Secretary of Labor shall give priority to
8 projects that prepare workers for careers in the
9 health care sector:

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

18 COMMUNITY SERVICE EMPLOYMENT FOR OLDER

19 AMERICANS

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

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

6 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT
7 SERVICE OPERATIONS

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

1 DEPARTMENTAL MANAGEMENT

2 SALARIES AND EXPENSES

3 (INCLUDING TRANSFER OF FUNDS)

4 For an additional amount for “Departmental Man-
5 agement”, \$80,000,000, for the enforcement of worker
6 protection laws and regulations, oversight, and coordina-
7 tion activities related to the infrastructure and unemploy-
8 ment insurance investments in this Act: *Provided*, That
9 the Secretary of Labor may transfer such sums as nec-
10 essary to “Employment and Standards Administration”,
11 “Employee Benefits Security Administration”, “Occupa-
12 tional Safety and Health Administration”, and “Employ-
13 ment and Training Administration—Program Administra-
14 tion” for enforcement, oversight, and coordination activi-
15 ties: *Provided further*, That prior to obligating any funds
16 proposed to be transferred from this account, the Sec-
17 retary shall provide to the Committees on Appropriations
18 of the House of Representatives and the Senate an oper-
19 ating plan describing the planned uses of each amount
20 proposed to be transferred.

21 OFFICE OF JOB CORPS

22 For an additional amount for “Office of Job Corps”,
23 \$250,000,000, for construction, rehabilitation and acquisi-
24 tion of Job Corps Centers, which shall be available upon
25 the date of enactment of this Act and remain available

1 for obligation through June 30, 2010: *Provided*, That sec-
2 tion 1552(a) of title 31, United States Code shall not
3 apply if funds are used for a multi-year lease agreement
4 that will result in construction activities that can com-
5 mence within 120 days of enactment of this Act: *Provided*
6 *further*, That notwithstanding section 3324(a) of title 31,
7 United States Code, the funds used for an agreement
8 under the preceding proviso may be used for advance,
9 progress, and other payments: *Provided further*, That the
10 Secretary of Labor may transfer up to 15 percent of such
11 funds to meet the operational needs of such centers, which
12 may include training for careers in the energy efficiency,
13 renewable energy, and environmental protection indus-
14 tries: *Provided further*, That the Secretary shall provide
15 to the Committees on Appropriations of the House of Rep-
16 resentatives and the Senate an operating plan describing
17 the allocation of funds, and a report on the actual obliga-
18 tions, expenditures, and unobligated balances for each ac-
19 tivity funded under this heading not later than September
20 30, 2009 and quarterly thereafter as long as funding pro-
21 vided under this heading is available for obligation or ex-
22 penditure.

23 OFFICE OF INSPECTOR GENERAL

24 For an additional amount for the "Office of Inspector
25 General", \$6,000,000, which shall remain available

1 through September 30, 2012, for salaries and expenses
2 necessary for oversight and audit of programs, grants, and
3 projects funded in this Act.

4 DEPARTMENT OF HEALTH AND HUMAN
5 SERVICES

6 HEALTH RESOURCES AND SERVICES ADMINISTRATION

7 HEALTH RESOURCES AND SERVICES

8 For an additional amount for "Health Resources and
9 Services", \$2,500,000,000 which shall be used as follows:

10 (1) \$500,000,000 shall be for grants to health
11 centers authorized under section 330 of the Public
12 Health Service Act ("PHS Act");

13 (2) \$1,500,000,000 shall be available for grants
14 for construction, renovation and equipment, and for
15 the acquisition of health information technology sys-
16 tems, for health centers including health center con-
17 trolled networks receiving operating grants under
18 section 330 of the ~~Public Health Service Act~~, not-
19 withstanding the limitation in section 330(e)(3); and

20 (3) \$500,000,000 to address health professions
21 workforce shortages, of which \$75,000,000 for the
22 National Health Service Corps shall remain available
23 through September 30, 2011: *Provided*, That funds
24 may be used to provide scholarships, loan repay-
25 ment, and grants to training programs for equip-

PHS

1 ment as authorized in the PHS Act, and grants au-
2 thorized in sections 330L, 747, 767 and 768 of the
3 PHS Act: *Provided further*, That 20 percent of the
4 funds allocated to the National Health Service Corps
5 shall be used for field operations:

6 *Provided*, That up to 0.5 percent of funds provided
7 in this paragraph may used for administration of such
8 funds: *Provided further*, That the Secretary shall provide
9 to the Committees on Appropriations of the House of Rep-
10 resentatives and the Senate an operating plan detailing
11 activities to be supported and timelines for expenditure
12 prior to making any Federal obligations of funds provided
13 in this paragraph but not later than 90 days after the
14 date of enactment of this Act: *Provided further*, That the
15 Secretary shall provide to the Committees on Appropria-
16 tions of the House of Representatives and the Senate a
17 report on the actual obligations, expenditures, and unobli-
18 gated balances for each activity funded in this paragraph
19 not later than November 1, 2009 and every 6 months
20 thereafter as long as funding provided in this paragraph
21 is available for obligation or expenditure.

22 NATIONAL INSTITUTES OF HEALTH

23 NATIONAL CENTER FOR RESEARCH RESOURCES

24 For an additional amount for “National Center for
25 Research Resources”, \$1,300,000,000, of which

1 \$1,000,000,000 shall be for grants or contracts under sec-
2 tion 481A of the Public Health Service Act to construct,
3 renovate or repair existing non-Federal research facilities:
4 *Provided*, That sections 481A(c)(1)(B)(ii), paragraphs
5 (1), (3), and (4) of section 481A(e), and section 481B of
6 such Act shall not apply to the use of such funds: *Provided*
7 *further*, That the references to “20 years” in subsections
8 (c)(1)(B)(i) and (f) of section 481A of such Act are
9 deemed to be references to “10 years” for purposes of
10 using such funds: *Provided further*, That the National
11 Center for Research Resources may also use
12 \$300,000,000 to provide, under the authority of section
13 301 and title IV of such Act, shared instrumentation and
14 other capital research equipment to recipients of grants
15 and contracts under section 481A of such Act and other
16 appropriate entities: *Provided further*, That the Director
17 of the Center shall provide to the Committees on Appro-
18 priations of the House of Representatives and the Senate
19 an annual report indicating the number of institutions re-
20 ceiving awards of a grant or contract under section 481A
21 of such Act, the proposed use of the funding, the average
22 award size, a list of grant or contract recipients, and the
23 amount of each award.

1 ~~OFFICE OF THE DIRECTOR~~

2 ~~(INCLUDING TRANSFER OF FUNDS)~~

3 For an additional amount for "Office of the Direc-
4 tor", \$8,200,000,000: *Provided*, That \$7,400,000,000
5 shall be transferred to the Institutes and Centers of the
6 National Institutes of Health and to the Common Fund
7 established under section 402A(c)(1) of the Public Health
8 Service Act in proportion to the appropriations otherwise
9 made to such Institutes, Centers, and Common Fund for
10 fiscal year 2009: *Provided further*, That these funds shall
11 be used to support additional scientific research and shall
12 be merged with and be available for the same purposes
13 as the appropriation or fund to which transferred: *Pro-*
14 *vided further*, That this transfer authority is in addition
15 to any other transfer authority available to the ~~National~~
16 ~~Institutes of Health~~: *Provided further*, That none of these
17 funds may be transferred to "National Institutes of
18 Health—Buildings and Facilities", the Center for Sci-
19 entific Review, the Center for Information Technology, the
20 Clinical Center, or the Global Fund for HIV/AIDS, Tuber-
21 culosis and Malaria: *Provided further*, That the funds pro-
22 vided in this Act to the NIH shall not be subject to the
23 provisions of 15 U.S.C. 638(f)(1) and 15 U.S.C.
24 638(n)(1): *Provided further*, That \$400,000,000 may be

(NIH)

NIH

1 used to carry out section 215 of division G of Public Law
2 110-161.

3 BUILDINGS AND FACILITIES

4 For an additional amount for “Buildings and Facili-
5 ties”, \$500,000,000, to fund high-priority repair, con-
6 struction and improvement projects for National Institutes
7 of Health facilities on the Bethesda, Maryland campus
8 and other agency locations.

9 AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

10 HEALTHCARE RESEARCH AND QUALITY

11 (INCLUDING TRANSFER OF FUNDS)

12 For an additional amount for “Healthcare Research
13 and Quality” to carry out titles III and IX of the Public
14 Health Service Act, part A of title XI of the Social Secu-
15 rity Act, and section 1013 of the Medicare Prescription
16 Drug, Improvement, and Modernization Act of 2003,
17 \$700,000,000 for comparative effectiveness research: *Pro-*
18 *vided*, That of the amount appropriated in this paragraph,
19 \$400,000,000 shall be transferred to the Office of the Di-
20 rector of the National Institutes of Health (“Office of the
21 Director”) to conduct or support comparative effectiveness
22 research under section 301 and title IV of the Public
23 Health Service Act: *Provided further*, That funds trans-
24 ferred to the Office of the Director may be transferred
25 to the Institutes and Centers of the National Institutes

1 of Health and to the Common Fund established under sec-
2 tion 402A(c)(1) of the Public Health Service Act: *Provided*
3 *further*, That this transfer authority is in addition to any
4 other transfer authority available to the National Insti-
5 tutes of Health: *Provided further*, That within the amount
6 available in this paragraph for the Agency for Healthcare
7 Research and Quality, not more than 1 percent shall be
8 made available for additional full-time equivalents.

9 In addition, \$400,000,000 shall be available for com-
10 parative effectiveness research to be allocated at the dis-
11 cretion of the Secretary of Health and Human Services
12 ("Secretary"): *Provided*, That the funding appropriated in
13 this paragraph shall be used to accelerate the development
14 and dissemination of research assessing the comparative
15 effectiveness of health care treatments and strategies, ~~in~~ 

 16 ~~clinging~~ through efforts that: (1) conduct, support, or syn-
17 thesize research that compares the clinical outcomes, ef-
18 fectiveness, and appropriateness of items, services, and
19 procedures that are used to prevent, diagnose, or treat dis-
20 eases, disorders, and other health conditions; and (2) en-
21 courage the development and use of clinical registries, clin-
22 ical data networks, and other forms of electronic health
23 data that can be used to generate or obtain outcomes data:
24 *Provided further*, That the Secretary shall enter into a
25 contract with the Institute of Medicine, for which no more

1 than \$1,500,000 shall be made available from funds pro-
2 vided in this paragraph, to produce and submit a report
3 to the Congress and the Secretary by not later than June
4 30, 2009, that includes recommendations on the national
5 priorities for comparative effectiveness research to be con-
6 ducted or supported with the funds provided in this para-
7 graph and that considers input from stakeholders: *Pro-*
8 *vided further*, That the Secretary shall consider any rec-
9 ommendations of the Federal Coordinating Council for
10 Comparative Effectiveness Research established by section
11 804 of this Act and any recommendations included in the
12 Institute of Medicine report pursuant to the preceding
13 proviso in designating activities to receive funds provided
14 in this paragraph and may make grants and contracts
15 with appropriate entities, which may include agencies
16 within the Department of Health and Human Services and
17 other governmental agencies, as well as private sector enti-
18 ties, that have demonstrated experience and capacity to
19 achieve the goals of comparative effectiveness research:
20 *Provided further*, That the Secretary shall publish infor-
21 mation on grants and contracts awarded with the funds
22 provided under this heading within a reasonable time of
23 the obligation of funds for such grants and contracts and
24 shall disseminate research findings from such grants and
25 contracts to clinicians, patients, and the general public,

1 as appropriate: *Provided further*, That, to the extent fea-
2 sible, the Secretary shall ensure that the recipients of the
3 funds provided by this paragraph offer an opportunity for
4 public comment on the research: *Provided further*, That
5 research conducted with funds appropriated under this
6 paragraph shall be consistent with Departmental policies
7 relating to the inclusion of women and minorities in re-
8 search: *Provided further*, That the Secretary shall provide
9 the Committees on Appropriations of the House of Rep-
10 resentatives and the Senate, the Committee on Energy
11 and Commerce and the Committee on Ways and Means
12 of the House of Representatives, and the Committee on
13 Health, Education, Labor, and Pensions and the Com-
14 mittee on Finance of the Senate with an annual report
15 on the research conducted or supported through the funds
16 provided under this heading: *Provided further*, That the
17 Secretary, jointly with the Directors of the Agency for
18 Healthcare Research and Quality and the National Insti-
19 tutes of Health, shall provide the Committees on Appro-
20 priations of the House of Representatives and the Senate
21 a fiscal year 2009 operating plan for the funds appro-
22 priated under this heading prior to making any Federal
23 obligations of such funds in fiscal year 2009, but not later
24 than July 30, 2009, and a fiscal year 2010 operating plan
25 for such funds prior to making any Federal obligations

1 of such funds in fiscal year 2010, but not later than No-
2 vember 1, 2009, that detail the type of research being con-
3 ducted or supported, including the priority conditions ad-
4 dressed; and specify the allocation of resources within the
5 Department of Health and Human Services: *Provided fur-*
6 *ther*, That the Secretary, jointly with the Directors of the
7 Agency for Healthcare Research and Quality and the Na-
8 tional Institutes of Health, shall provide to the Commit-
9 tees on Appropriations of the House of Representatives
10 and the Senate a report on the actual obligations, expendi-
11 tures, and unobligated balances for each activity funded
12 under this heading not later than November 1, 2009, and
13 every 6 months thereafter as long as funding provided
14 under this heading is available for obligation or expendi-
15 ture.

16 ADMINISTRATION FOR CHILDREN AND FAMILIES
17 PAYMENTS TO STATES FOR THE CHILD CARE AND
18 DEVELOPMENT BLOCK GRANT

19 For an additional amount for "Payments to States
20 for the Child Care and Development Block Grant",
21 \$2,000,000,000, which shall be used to supplement, not
22 supplant State general revenue funds for child care assist-
23 ance for low-income families: *Provided*, That, in addition
24 to the amounts required to be reserved by the States under
25 section 658G of the Child Care and Development Block

1 Grant Act of 1990, \$255,186,000 shall be reserved by the
2 States for activities authorized under section 658G, of
3 which \$93,587,000 shall be for activities that improve the
4 quality of infant and toddler care.

5 CHILDREN AND FAMILIES SERVICES PROGRAMS

6 For an additional amount for "Children and Families
7 Services Programs", \$3,150,000,000, which shall be used
8 as follows:

9 (1) \$1,000,000,000 for carrying out activities
10 under the Head Start Act.

11 (2) \$1,100,000,000 for expansion of Early
12 Head Start programs, as described in section 645A
13 of the Head Start Act: *Provided*, That of the funds
14 provided in this paragraph, up to 10 percent shall
15 be available for the provision of training and tech-
16 nical assistance to such programs consistent with
17 section 645A(g)(2) of such Act, and up to 3 percent
18 shall be available for monitoring the operation of
19 such programs consistent with section 641A of such
20 Act.

21 (3) \$1,000,000,000 for carrying out activities
22 under sections 674 through 679 of the Community
23 Services Block Grant Act, of which no part shall be
24 subject to section 674(b)(3) of such Act: *Provided*,
25 That notwithstanding section 675C(a)(1) and 675(b)

(C)

1 of such Act, 1 percent of the funds made available
2 to each State from this additional amount shall be
3 used for benefits enrollment coordination activities
4 relating to the identification and enrollment of eligi-
5 ble individuals and families in Federal, State, and
6 local benefit programs: *Provided further*, That all
7 funds remaining available to a State from this addi-
8 tional amount after application of the previous pro-
9 viso shall be distributed to eligible entities as defined
10 in section 673(1) of such Act: *Provided further*, That
11 for services furnished under such Act during fiscal
12 year 2009, States may apply the last sentence of
13 section 673(2) of such Act by substituting "200 per-
14 cent" for "125 percent".

15 (4) \$50,000,000 for carrying out activities
16 under section 1110 of the Social Security Act.

17 ADMINISTRATION ON AGING

18 AGING SERVICES PROGRAMS

19 For an additional amount for "Aging Services Pro-
20 grams" under subparts 1 and 2 of part C, of title III,
21 and under title VI, of the Older Americans Act of 1965,
22 \$100,000,000, of which \$65,000,000 shall be for Con-
23 gregate Nutrition Services, \$32,000,000 shall be for
24 Home-Delivered Nutrition Services and \$3,000,000 shall
25 be for Nutrition Services for Native Americans.

(and
2010)

1 OFFICE OF THE SECRETARY

2 OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH

3 INFORMATION TECHNOLOGY

4 (INCLUDING TRANSFER OF FUNDS)

5 For an additional amount for "Office of the National
6 Coordinator for Health Information Technology",
7 \$2,000,000,000, to carry out title XIII of this Act, to re-
8 main available until expended, ~~of which \$300,000,000 is~~
9 to support regional or sub-national efforts toward health
10 information exchange: *Provided*, That of such amount, the
11 Secretary of Health and Human Services shall transfer
12 \$20,000,000 to the Director of the National Institute of
13 Standards and Technology in the Department of Com-
14 merce for continued work on advancing health care infor-
15 mation enterprise integration through activities such as
16 technical standards analysis and establishment of con-
17 formance testing infrastructure, so long as such activities
18 are coordinated with the Office of the National Coordi-
19 nator for Health Information Technology: *Provided fur-*
20 *ther*, That 0.25 percent of the funds provided in this para-
21 graph may be used for administration of such funds: *Pro-*
22 *vided further*, That funds available under this heading
23 shall become available for obligation only upon submission
24 of an annual operating plan by the Secretary to the Com-
25 mittees on Appropriations of the House of Representatives

*Provided
further,
That*

1 and the Senate: *Provided further*, That the fiscal year
2 2009 operating plan shall be provided not later than 90
3 days after enactment of this Act and that subsequent an-
4 nual operating plans shall be provided not later than No-
5 vember 1 of each year: *Provided further*, That these oper-
6 ating plans shall describe how expenditures are aligned
7 with the specific objectives, milestones, and metrics of the
8 Federal Health Information Technology Strategic Plan,
9 including any subsequent updates to the Plan; the alloca-
10 tion of resources within the Department of Health and
11 Human Services and other Federal agencies; and the iden-
12 tification of programs and activities that are supported:
13 *Provided further*, That the Secretary shall provide to the
14 Committees on Appropriations of the House of Represent-
15 atives and the Senate a report on the actual obligations,
16 expenditures, and unobligated balances for each major set
17 of activities not later than November 1, 2009, and every
18 6 months thereafter as long as funding provided under
19 this heading is available for obligation or expenditure.

20 OFFICE OF INSPECTOR GENERAL

21 For an additional amount for the "Office of Inspector
22 General", \$17,000,000 which shall remain available until
23 September 30, 2012.

1 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY
2 FUND

3 For an additional amount for "Public Health and So-
4 cial Services Emergency Fund" to improve information
5 technology security at the Department of Health and
6 Human Services, \$50,000,000.

7 PREVENTION AND WELLNESS FUND

8 (INCLUDING TRANSFER OF FUNDS)

9 For necessary expenses for a "Prevention and
10 Wellness Fund" to be administered through the Depart-
11 ment of Health and Human Services, Office of the Sec-
12 retary, \$1,000,000,000: *Provided*, That of the amount
13 provided in this paragraph, \$300,000,000 shall be trans-
14 ferred to the Centers for Disease Control and Prevention
15 ("CDC") as an additional amount to carry out the immu-
16 nization program ("section 317 immunization program")
17 authorized by section 317(a), (j), and (k)(1) of the Public
18 Health Service Act ("PHS Act"): *Provided further*, That
19 of the amount provided in this paragraph, \$650,000,000
20 shall be to carry out evidence-based clinical and commu-
21 nity-based prevention and wellness strategies authorized
22 by the PHS Act, as determined by the Secretary, that de-
23 liver specific, measurable health outcomes that address
24 chronic disease rates: *Provided further*, That funds appro-
25 priated in the preceding proviso may be transferred to

1 other appropriation accounts of the Department of Health
2 and Human Services, as determined by the Secretary to
3 be appropriate: *Provided further*, That \$50,000,000 shall
4 be transferred to the CDC for a program to reduce the
5 incidence of healthcare-associated infections: *Provided fur-*
6 *ther*, That not more than 0.5 percent of funds made avail-
7 able in this paragraph may be used for management and
8 oversight expenses in the office ~~of~~ division of the Depart-
9 ment of Health and Human Services administering the
10 funds: *Provided further*, That the Secretary shall, directly
11 or through contracts with public or private entities, pro-
12 vide for annual evaluations of programs carried out with
13 funds provided under this heading in order to determine
14 the quality and effectiveness of the programs: *Provided*
15 *further*, That the Secretary shall, not later than 1 year
16 after the date of enactment of this Act, submit to the
17 Committees on Appropriations of the House of Represent-
18 atives and the Senate, the Committee on Energy and Com-
19 merce of the House of Representatives, and the Committee
20 on Health, Education, Labor, and Pensions of the Senate,
21 a report summarizing the annual evaluations of programs
22 from the preceding proviso: *Provided further*, That the
23 Secretary shall provide to the Committees on Appropria-
24 tions of the House of Representatives and the Senate an
25 operating plan for the Prevention and Wellness Fund

insert
21a

or

Insert 21a

Provided further, That of the amount appropriated in this paragraph, \$50,000,000 shall be provided to States for an additional amount to carry out activities to implement healthcare-associated infections reduction strategies

1 prior to making any Federal obligations of funds provided
2 in this paragraph (excluding funds to carry out the section
3 317 immunization program), but not later than 90 days
4 after the date of enactment of this Act, that indicates the
5 prevention priorities to be addressed; provides measurable
6 goals for each prevention priority; details the allocation
7 of resources within the Department of Health and Human
8 Services; and identifies which programs or activities are
9 supported, including descriptions of any new programs or
10 activities: *Provided further*, That the Secretary shall pro-
11 vide to the Committees on Appropriations of the House
12 of Representatives and the Senate a report on the actual
13 obligations, expenditures, and unobligated balances for
14 each activity funded under this heading not later than No-
15 vember 1, 2009, and every 6 months thereafter as long
16 as funding provided under this heading is available for ob-
17 ligation or expenditure.

18 DEPARTMENT OF EDUCATION

19 EDUCATION FOR THE DISADVANTAGED

20 For an additional amount for "Education for the Dis-
21 advantaged" to carry out title I of the Elementary and
22 Secondary Education Act of 1965 ("ESEA"),
23 \$13,000,000,000: *Provided*, That \$5,000,000,000 shall be
24 available for targeted grants under section 1125 of the
25 ESEA: *Provided further*, That \$5,000,000,000 shall be

1 available for education finance incentive grants under sec-
2 tion 1125A of the ESEA: *Provided further*, That
3 \$3,000,000,000 shall be for school improvement grants
4 under section 1003(g) of the ESEA: *Provided further*,
5 That each local educational agency receiving funds avail-
6 able under this paragraph shall be required to file with
7 the State educational agency, no later than December 1,
8 2009, a school-by-school listing of per-pupil educational
9 expenditures from State and local sources during the
10 2008–2009 academic year: *Provided further*, That each
11 State educational agency shall report that information to
12 the Secretary of Education by March 31, 2010.

13 IMPACT AID

14 For an additional amount for “Impact Aid” to carry
15 out section 8007 of title VIII of the Elementary and Sec-
16 ondary Education Act of 1965, \$100,000,000, which shall
17 be expended pursuant to the requirements of section 805.

18 SCHOOL IMPROVEMENT PROGRAMS

19 For an additional amount for “School Improvement
20 Programs” to carry out subpart 1, part D of title II of
21 the Elementary and Secondary Education Act of 1965
22 (“ESEA”), and subtitle B of title VII of the McKinney-
23 Vento Homeless Assistance Act, \$720,000,000: *Provided*,
24 That \$650,000,000 shall be available for subpart 1, part
25 D of title II of the ESEA: *Provided further*, That the Sec-

1 retary shall allot \$70,000,000 for grants under McKinney-
2 Vento to each State in proportion to the number of home-
3 less students identified by the State during the 2007–2008
4 school year relative to the number of such children identi-
5 fied nationally during that school year: *Provided further,*
6 That State educational agencies shall subgrant the
7 McKinney-Vento funds to local educational agencies on a
8 competitive basis or according to a formula based on the
9 number of homeless students identified by the local edu-
10 cational agencies in the State: *Provided further,* That the
11 Secretary shall distribute the McKinney-Vento funds to
12 the States not later than 60 days after the date of the
13 enactment of this Act: *Provided further,* That each State
14 shall subgrant the McKinney-Vento funds to local edu-
15 cational agencies not later than 120 days after receiving
16 its grant from the Secretary.

17 INNOVATION AND IMPROVEMENT

18 For an additional amount for “Innovation and Im-
19 provement” to carry out subpart 1, part D of title V of
20 the Elementary and Secondary Education Act of 1965
21 (“ESEA”), \$200,000,000: *Provided,* That these funds
22 shall be expended as directed in the fifth, sixth, and sev-
23 enth provisos under the heading “Innovation and Improve-
24 ment” in the Department of Education Appropriations
25 Act, 2008: *Provided further,* That a portion of these funds

1 shall also be used for a rigorous national evaluation by
2 the Institute of Education Sciences, utilizing randomized
3 controlled methodology to the extent feasible, that assesses
4 the impact of performance-based teacher and principal
5 compensation systems supported by the funds provided in
6 this Act on teacher and principal recruitment and reten-
7 tion in high-need schools and subjects: *Provided further,*
8 That the Secretary may reserve up to 1 percent of the
9 amount made available under this heading for manage-
10 ment and oversight of the activities supported with those
11 funds.

12 SPECIAL EDUCATION

13 For an additional amount for “Special Education”
14 for carrying out parts B and C of the Individuals with
15 Disabilities Education Act (“IDEA”), \$12,200,000,000,
16 of which \$11,300,000,000 shall be available for section
17 611 of the IDEA: *Provided*, That if every State, as defined
18 by section 602(31) of the IDEA, reaches its maximum al-
19 location under section 611(d)(3)(B)(iii) of the IDEA, and
20 there are remaining funds, such funds shall be proportion-
21 ally allocated to each State subject to the maximum
22 amounts contained in section 611(a)(2) of the IDEA: *Pro-*
23 *vided further*, That by July 1, 2009, the Secretary of Edu-
24 cation shall reserve the amount needed for grants under
25 section 643(e) of the IDEA, with any remaining funds to

1 be allocated in accordance with section 643(c) of the
2 IDEA: *Provided further*, That the total amount for each
3 of sections 611(b)(2) and 643(b)(1) of the IDEA, under
4 this and all other Acts, for fiscal year 2009, whenever en-
5 acted, shall be equal to the amounts respectively available
6 for these activities under these sections during fiscal year
7 2008 increased by the amount of inflation as specified in
8 section 619(d)(2)(B) of the IDEA: *Provided further*, That
9 ~~section 613(a)(2)(C) of the IDEA shall not apply to funds~~
10 ~~provided in this Act for part B of the IDEA.~~ *Provided*
11 *further*, That \$400,000,000 shall be available for section
12 619 of the IDEA and \$500,000,000 shall be available for
13 part C of the IDEA.

14 REHABILITATION SERVICES AND DISABILITY RESEARCH

15 For an additional amount for "Rehabilitation Serv-
16 ices and Disability Research" for providing grants to
17 States to carry out the Vocational Rehabilitation Services
18 program under part B of title I and parts B and C of
19 chapter 1 and chapter 2 of title VII of the Rehabilitation
20 Act of 1973, \$680,000,000: *Provided*, That \$540,000,000
21 shall be available for part B of title I of the Rehabilitation
22 Act: *Provided further*, That funds provided herein shall not
23 be considered in determining the amount required to be
24 appropriated under section 100(b)(1) of the Rehabilitation
25 Act of 1973 in any fiscal year: *Provided further*, That, not-

1 withstanding section 7(14)(A), the Federal share of the
2 costs of vocational rehabilitation services provided with the
3 funds provided herein shall be 100 percent: *Provided fur-*
4 *ther*, That \$140,000,000 shall be available for parts B and
5 C of chapter 1 and chapter 2 of title VII of the Rehabilita-
6 tion Act: *Provided further*, That \$18,200,000 shall be for
7 State Grants, \$87,500,000 shall be for independent living
8 centers, and \$34,300,000 shall be for services for older
9 blind individuals.

10 STUDENT FINANCIAL ASSISTANCE

11 For an additional amount for “Student Financial As-
12 sistance” to carry out subpart 1 of part A and part C
13 of title IV of the Higher Education Act of 1965 (“HEA”),
14 \$15,840,000,000, which shall remain available through
15 September 30, 2011: *Provided*, That \$15,640,000,000
16 shall be available for subpart 1 of part A of title IV of
17 the HEA: *Provided further*, That \$200,000,000 shall be
18 available for part C of title IV of the HEA.

19 The maximum Pell Grant for which a student shall
20 be eligible during award year 2009–2010 shall be \$4,860.

21 STUDENT AID ADMINISTRATION

22 For an additional amount for “Student Aid Adminis-
23 tration” to carry out part D of title I, and subparts 1,
24 3, and 4 of part A, and parts B, C, D, and E of title
25 IV of the Higher Education Act of 1965, \$60,000,000.

1 ----- HIGHER EDUCATION -----

2 For an additional amount for “Higher Education” to
3 carry out part A of title II of the Higher Education Act
4 of 1965, \$100,000,000.

5 INSTITUTE OF EDUCATION SCIENCES

6 For an additional amount for “Institute of Education
7 Sciences” to carry out section 208 of the Educational
8 Technical Assistance Act, \$250,000,000, which may be
9 used for Statewide data systems that include postsec-
10 ondary and workforce information, of which up to
11 \$5,000,000 may be used for State data coordinators and
12 for awards to public or private organizations or agencies
13 to improve data coordination.

14 DEPARTMENTAL MANAGEMENT

15 OFFICE OF THE INSPECTOR GENERAL

16 For an additional amount for the “Office of the In-
17 spector General”, \$14,000,000, which shall remain avail-
18 able through September 30, 2012, for salaries and ex-
19 penses necessary for oversight and audit of programs,
20 grants, and projects funded in this Act.

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

5 For an additional amount for “Operating Expenses”
6 to carry out the Domestic Volunteer Service Act of 1973
7 (“1973 Act”) and the National and Community Service
8 Act of 1990 (“1990 Act”), \$160,000,000: *Provided*, That
9 \$89,000,000 of the funds made available in this paragraph
10 shall be used to make additional awards to existing
11 AmeriCorps grantees and may be used to provide adjust-
12 ments to awards under subtitle C of title I of the 1990
13 Act made prior to September 30, 2010 for which the Chief
14 Executive Officer of the Corporation for National and
15 Community Service (“CEO”) determines that a waiver of
16 the Federal share limitation is warranted under section
17 2521.70 of title 45 of the Code of Federal Regulations:
18 *Provided further*, That of the amount made available in
19 this paragraph, not less than \$6,000,000 shall be trans-
20 ferred to “Salaries and Expenses” for necessary expenses
21 relating to information technology upgrades, of which up
22 to \$800,000 may be used to administer the funds provided
23 in this paragraph: *Provided further*, That of the amount
24 provided in this paragraph, not less than \$65,000,000
25 shall be for programs under title I, part A of the 1973

1 Act: *Provided further*, That funds provided in the previous
2 proviso shall not be made available in connection with
3 cost-share agreements authorized under section
4 192A(g)(10) of the 1990 Act: *Provided further*, That of
5 the funds available under this heading, up to 20 percent
6 of funds allocated to grants authorized under section
7 124(b) of title I, subtitle C of the 1990 Act may be used
8 to administer, reimburse, or support any national service
9 program under section 129(d)(2) of the 1990 Act: *Pro-*
10 *vided further*, That, except as provided herein and in addi-
11 tion to requirements identified herein, funds provided in
12 this paragraph shall be subject to the terms and conditions
13 under which funds were appropriated in fiscal year 2008:
14 *Provided further*, That the CEO shall provide the Commit-
15 tees on Appropriations of the House of Representatives
16 and the Senate a fiscal year 2009 operating plan for the
17 funds appropriated in this paragraph prior to making any
18 Federal obligations of such funds in fiscal year 2009, but
19 not later than 90 days after the date of enactment of this
20 Act, and a fiscal year 2010 operating plan for such funds
21 prior to making any Federal obligations of such funds in
22 fiscal year 2010, but not later than November 1, 2009,
23 that detail the allocation of resources and the increased
24 number of members supported by the AmeriCorps pro-
25 grams: *Provided further*, That the CEO shall provide to

1 the Committees on Appropriations of the House of Rep-
2 resentatives and the Senate a report on the actual obliga-
3 tions, expenditures, and unobligated balances for each ac-
4 tivity funded under this heading not later than November
5 1, 2009, and every 6 months thereafter as long as funding
6 provided under this heading is available for obligation or
7 expenditure.

8 OFFICE OF INSPECTOR GENERAL

9 For an additional amount for the "Office of Inspector
10 General", \$1,000,000, which shall remain available until
11 September 30, 2012.

12 NATIONAL SERVICE TRUST

13 (INCLUDING TRANSFER OF FUNDS)

14 For an additional amount for "National Service
15 Trust" established under subtitle D of title I of the Na-
16 tional and Community Service Act of 1990 ("1990 Act"),
17 \$40,000,000, which shall remain available until expended:
18 *Provided*, That the Corporation for National and Commu-
19 nity Service may transfer additional funds from the
20 amount provided within "Operating Expenses" for grants
21 made under subtitle C of title I of the 1990 Act to this
22 appropriation upon determination that such transfer is
23 necessary to support the activities of national service par-
24 ticipants and after notice is transmitted to the Committees
25 on Appropriations of the House of Representatives and the

1 Senate: *Provided further*, That the amount appropriated
2 for or transferred to the National Service Trust may be
3 invested under section 145(b) of the 1990 Act without re-
4 gard to the requirement to apportion funds under 31
5 U.S.C. 1513(b).

6 SOCIAL SECURITY ADMINISTRATION

7 LIMITATION ON ADMINISTRATIVE EXPENSES

8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for "Limitation on Admin-
10 istrative Expenses", \$1,000,000,000 shall be available as
11 follows:

12 (1) \$500,000,000 shall remain available until
13 expended for necessary expenses of the replacement
14 of the National Computer Center and the informa-
15 tion technology costs associated with such Center:
16 *Provided*, That the Commissioner of Social Security
17 shall notify the Committees on Appropriations of the
18 House of Representatives and the Senate not later
19 than 10 days prior to each public notice soliciting
20 bids related to site selection and construction and
21 prior to the lease or purchase of such site: *Provided*
22 *further*, That the construction plan and site selection
23 for such center shall be subject to review and ap-
24 proval by the Office of Management and Budget:
25 *Provided further*, That such center shall continue to
26 be a government-operated facility; and

1 ~~(2) \$500,000,000~~ for processing disability and
2 retirement workloads, including information tech-
3 nology acquisitions and research in support of such
4 activities: *Provided*, That up to \$40,000,000 may be
5 used by the Commissioner of Social Security for
6 health information technology research and activities
7 to facilitate the adoption of electronic medical
8 records in disability claims, including the transfer of
9 funds to "Supplemental Security Income Program"
10 to carry out activities under section 1110 of the So-
11 cial Security Act.

12 OFFICE OF INSPECTOR GENERAL

13 For an additional amount for the "Office of Inspector
14 General", \$2,000,000, which shall remain available
15 through September 30, ~~2013~~, for salaries and expenses
16 necessary for oversight and audit of programs, projects,
17 and activities funded in this Act.

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18 GENERAL PROVISIONS—THIS TITLE

19 SEC. 801. (a) Up to 1 percent of the funds made
20 available to the Department of Labor in this title may be
21 used for the administration, management, and oversight
22 of the programs, grants, and activities funded by such ap-
23 propriation, including the evaluation of the use of such
24 funds.

1 ~~-----~~ (b) ~~Funds designated for these purposes~~ may be
2 available for obligation through September 30, 2010.

3 (c) Not later than 30 days after enactment of this
4 Act, the Secretary of Labor shall provide an operating
5 plan describing the proposed use of funds for the purposes
6 described in (a).

7 SEC. 802. REPORT ON THE IMPACT OF PAST AND
8 FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—
9 Section 8104 of the U.S. Troop Readiness, Veterans'
10 Care, Katrina Recovery, and Iraq Accountability Appro-
11 priations Act, 2007 (Public Law 110–28; 121 Stat. 189)
12 is amended to read as follows:

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

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

20 **“(1)** assess the impact of the minimum wage
21 increases that occurred in American Samoa and the
22 Commonwealth of the Northern Mariana Islands in
23 2007 and 2008, as required under Public Law 110–
24 28, on the rates of employment and the living stand-
25 ards of workers, with full consideration of the other

1 factors that impact rates of employment and the liv-
2 ing standards of workers such as inflation in the
3 cost of food, energy, and other commodities; and

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

15 “(b) REPORT.—No earlier than March 15, 2010, and
16 not later than April 15, 2010, the Government Account-
17 ability Office shall transmit its first report to Congress
18 concerning the findings of the study required under sub-
19 section (a). The Government Accountability Office shall
20 transmit any subsequent reports to Congress concerning
21 the findings of a study required by subsection (a) between
22 March 15 and April 15 of each year.

23 “(c) ECONOMIC INFORMATION.—To provide suffi-
24 cient economic data for the conduct of the study under
25 subsection (a) the Bureau of the Census of the Depart-

1 ment of Commerce shall include and separately report on
2 American Samoa, the Commonwealth of the Northern
3 Mariana Islands, Guam, and the Virgin Islands in its
4 County Business Patterns data with the same regularity
5 and to the same extent as each Bureau collects and re-
6 ports such data for the 50 States. In the event that the
7 inclusion of American Samoa, the Commonwealth of the
8 Northern Mariana Islands, Guam, and the Virgin Islands
9 in such surveys and data compilations requires time to
10 structure and implement, the Bureau of the Census shall
11 in the interim annually report the best available data that
12 can feasibly be secured with respect to such territories.
13 Such interim report shall describe the steps the Bureau
14 will take to improve future data collection in the territories
15 to achieve comparability with the data collected in the
16 United States. The Bureau of the Census, together with
17 the Department of the Interior, shall coordinate their ef-
18 forts to achieve such improvements.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall take effect on the date of enactment of
21 this Act.

22 SEC. 803. ELIGIBLE EMPLOYEES IN THE REC-
23 REATIONAL MARINE INDUSTRY. Section 2(3)(F) of the
24 Longshore and Harbor Workers’ Compensation Act (33
25 U.S.C. 902(3)(F)) is amended—

1 ~~(1) by striking “, repair or dismantle”; and~~
2 (2) by striking the semicolon and inserting “, or
3 individuals employed to repair any recreational ves-
4 sel, or to dismantle any part of a recreational vessel
5 in connection with the repair of such vessel;”.

6 SEC. 804. FEDERAL COORDINATING COUNCIL FOR
7 COMPARATIVE EFFECTIVENESS RESEARCH. (a) ESTAB-
8 LISHMENT.—There is hereby established a Federal Co-
9 ordinating Council for Comparative Effectiveness Re-
10 search (in this section referred to as the “Council”).

11 (b) PURPOSE.—The Council shall foster optimum co-
12 ordination of comparative effectiveness and related health
13 services research conducted or supported by relevant Fed-
14 eral departments and agencies, with the goal of reducing
15 duplicative efforts and encouraging coordinated and com-
16 plementary use of resources.

17 (c) DUTIES.—The Council shall—

18 (1) assist the offices and agencies of the Fed-
19 eral Government, including the Departments of
20 Health and Human Services, Veterans Affairs, and
21 Defense, and other Federal departments or agencies,
22 to coordinate the conduct or support of comparative
23 effectiveness and related health services research;
24 and

25 (2) advise the President and Congress on—

1 (A) strategies with respect to the infra-
2 structure needs of comparative effectiveness re-
3 search within the Federal Government; and

4 (B) ~~appropriate~~ organizational expendi-
5 tures for comparative effectiveness research by
6 relevant Federal departments and agencies.

7 (d) MEMBERSHIP.—

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

17 (2) MEMBERS.—

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

21 (i) The Agency for Healthcare Re-
22 search and Quality.

23 (ii) The Centers for Medicare and
24 Medicaid Services.

1 (iii) The National Institutes of
2 Health.

3 (iv) The Office of the National Coor-
4 dinator for Health Information Tech-
5 nology.

6 (v) The Food and Drug Administra-
7 tion.

8 (vi) The Veterans Health Administra-
9 tion within the Department of Veterans
10 Affairs.

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

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

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

21 (e) REPORTS.—

22 (1) INITIAL REPORT.—Not later than June 30,
23 2009, the Council shall submit to the President and
24 the Congress a report containing information de-
25 scribing current Federal activities on comparative ef-

1 fectiveness research and recommendations for such
2 research conducted or supported from funds made
3 available for allotment by the Secretary for compara-
4 tive effectiveness research in this Act.

5 (2) ANNUAL REPORT.—The Council shall sub-
6 mit to the President and Congress an annual report
7 regarding its activities and recommendations con-
8 cerning the infrastructure needs, ~~appropriate~~ organi-
9 zational expenditures and opportunities for better
10 coordination of comparative effectiveness research by
11 relevant Federal departments and agencies.

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

17 (g) RULES OF CONSTRUCTION.—

18 (1) COVERAGE.—Nothing in this section shall
19 be construed to permit the Council to mandate cov-
20 erage, reimbursement, or other policies for any pub-
21 lic or private payer.

22 (2) REPORTS AND RECOMMENDATIONS.—None
23 of the reports submitted under this section or rec-
24 ommendations made by the Council shall be con-

1 strued as mandates or clinical guidelines for pay-
2 ment, coverage, or treatment.

3 SEC. 805. GRANTS FOR IMPACT AID CONSTRUCTION.

4 (a) RESERVATION FOR MANAGEMENT AND OVERSIGHT.—

5 From the funds appropriated to carry out this section, the

6 Secretary may reserve up to 1 percent for management

7 and oversight of the activities carried out with those funds.

(A) IN GENERAL.—

8 (b) CONSTRUCTION PAYMENTS.—

9 (1) FORMULA GRANTS.—From 40 percent of

10 the amount not reserved under subsection (a), the

11 Secretary shall make payments in accordance with

12 section 8007(a) of the Elementary and Secondary

13 Education Act of 1965 (20 U.S.C. 7707(a)), except

14 that the amount of such payments shall be deter-

15 mined in accordance with this subparagraph.

(B)

16 (A) AMOUNT OF PAYMENTS.—The Sec-

B

17 retary shall make a payment to each local edu-

18 cational agency eligible for a payment under

19 section 8007(a) of the Elementary and Sec-

20 ondary Education Act of 1965 (20 U.S.C.

21 7707(a)) in an amount that bears the same re-

22 lationship to the funds made available under

A

23 subparagraph (A) as the number of children de-

24 termined under subparagraphs (B), (C), and

25 (D)(i) of section 8003(a)(1) of the Elementary

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36-40

1 and Secondary Education Act of 1965 (20
2 U.S.C. 7703(a)(1)(B), (C), and (D)(i)) who
3 were in average daily attendance in the local
4 educational agency for the most recent year for
5 which such information is available bears to the
6 number of such children in all the local edu-
7 cational agencies eligible for a payment under
8 section 8007(a) of the Elementary and Sec-
9 ondary Education Act of 1965 (20 U.S.C.
10 7707(a)).

11 (2) COMPETITIVE GRANTS.—From 60 percent
12 of the amount not reserved under subsection (a), the
13 Secretary—

14 (A) shall award emergency grants in ac-
15 cordance with section 8007(b) of the Elemen-
16 tary and Secondary Education Act of 1965 (20
17 U.S.C. 7707(b)) to eligible local educational
18 agencies to enable the agencies to carry out
19 emergency repairs of school facilities; and

20 (B) may award modernization grants in
21 accordance with section 8007(b) of the Elemen-
22 tary and Secondary Education Act of 1965 (20
23 U.S.C. 7707(b)) to eligible local educational
24 agencies to enable the agencies to carry out the
25 modernization of school facilities.

1 (3) PROVISIONS NOT TO APPLY.—Paragraphs
2 (2), (3), (4), (5)(A)(i), and (5)(A)(vi) of section
3 8007(b) of the Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C. 7707(b)(2), (3), (4),
5 (5)(A)(i), and (5)(A)(vi)) shall not apply to grants
6 made under ~~(b)~~(2).

paragraph

7 (4) ELIGIBILITY.—A local educational agency is
8 eligible to receive a grant under ~~(b)~~(2) if the local
9 educational agency—

paragraph

10 (A) was eligible to receive a payment under
11 section 8002 or 8003 of the Elementary and
12 Secondary Education Act of 1965 (20 U.S.C.
13 7702 and 7703) for fiscal year 2008; and

14 (B) has—

15 (i) a total taxable assessed value of
16 real property that may be taxed for school
17 purposes of less than \$100,000,000; or

18 (ii) an assessed value of real property
19 per student that may be taxed for school
20 purposes that is less than the average of
21 the assessed value of real property per stu-
22 dent that may be taxed for school purposes
23 in the State in which the local educational
24 agency is located.

1 (5) CRITERIA FOR GRANTS.—In awarding
paragraph 2 grants under ~~(b)~~(2), the Secretary shall consider the
3 following criteria:

4 (A) Whether the facility poses a health or
5 safety threat to students and school personnel,
6 including noncompliance with building codes
7 and inaccessibility for persons with disabilities,
8 or whether the existing building capacity meets
9 the needs of the current enrollment and sup-
10 ports the provision of comprehensive edu-
11 cational services to meet current standards in
12 the State in which the local educational agency
13 is located.

14 (B) The extent to which the new design
15 and proposed construction utilize energy effi-
16 cient and recyclable materials.

17 (C) The extent to which the new design
18 and proposed construction utilizes non-tradi-
19 tional or alternative building methods to expe-
20 dite construction and project completion and
21 maximize cost efficiency.

22 (D) The feasibility of project completion
23 within 24 months from award.

24 (E) The availability of other resources for
25 the proposed project.

1 SEC. 806. MANDATORY PELL GRANTS. Section
2 401(b)(9)(A) of the Higher Education Act of 1965 (20
3 U.S.C. 1070a(b)(9)(A)) is amended—

4 (1) in clause (ii), by striking “\$2,090,000,000”
5 and inserting “\$2,733,000,000”; and

6 (2) in clause (iii), by striking “\$3,030,000,000”
7 and inserting “\$3,861,000,000”.

8 SEC. 807. (a) IN GENERAL.—Notwithstanding any
9 other provision of law, and in order to begin expenditures
10 and activities under this Act as quickly as possible con-
11 sistent with prudent management, the Secretary of Edu-
12 cation may—

13 (1) award fiscal year 2009 funds to States and
14 local educational agencies on the basis of eligibility
15 determinations made for the award of fiscal year
16 2008 funds; and

17 (2) require States to make prompt allocations
18 to local educational agencies.

19 (b) INTEREST NOT TO ACCRUE.—Notwithstanding
20 sections 3335 and 6503 of title 31, United States Code,
21 or any other provision of law, the United States shall not
22 be liable to any State or other entity for any interest or
23 fee with respect to any funds under this Act that are allo-
24 cated by the Secretary of Education to the State or other

- 1 entity within 30 days of the date on which they are avail-
- 2 able for obligation.

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 \$25,000,000, to remain available until September 30,
7 2010.

8 GENERAL PROVISIONS—THIS TITLE

9 SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE
10 REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

11 (1) IN GENERAL.—The Comptroller General
12 shall conduct bimonthly reviews and prepare reports
13 on such reviews on the use by selected States and
14 localities of funds made available in this Act. Such
15 reports, along with any audits conducted by the
16 Comptroller General of such funds, shall be posted
17 on the Internet and linked to the website established
18 under this Act by the Recovery Accountability and
19 Transparency Board.

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

1 (commonly known as the Freedom of Information
2 Act).

3 (b) EXAMINATION OF RECORDS.—The Comptroller
4 General may examine any records related to obligations
5 and use by any Federal, State, or local government agency
6 of funds made available in this Act.

7 SEC. 902. ACCESS OF GOVERNMENT ACCOUNT-
8 ABILITY OFFICE. (a) ACCESS.—Each contract awarded
9 using funds made available in this Act shall provide that
10 the Comptroller General and his representatives are au-
11 thorized—

12 (1) to examine any records of the contractor or
13 any of its subcontractors, or any State or local agen-
14 cy administering such contract, that directly pertain
15 to, and involve transactions relating to, the contract
16 or subcontract; and

17 (2) to interview any officer or employee of the
18 contractor or any of its subcontractors, or of any
19 State or local government agency administering the
20 contract, regarding such transactions.

21 (b) RELATIONSHIP TO EXISTING AUTHORITY.—
22 Nothing in this section shall be interpreted to limit or re-
23 strict in any way any existing authority of the Comptroller
24 General.

1 TITLE X—MILITARY CONSTRUCTION AND
2 VETERANS AFFAIRS
3 DEPARTMENT OF DEFENSE
4 MILITARY CONSTRUCTION, ARMY

5 For an additional amount for “Military Construction,
6 Army”, \$180,000,000, to remain available until Sep-
7 tember 30, 2013: *Provided*, That notwithstanding any
8 other provision of law, such funds may be obligated and
9 expended to carry out planning and design and military
10 construction projects in the United States not otherwise
11 authorized by law: *Provided further*, That of the amount
12 provided under this heading, \$80,000,000 shall be for
13 child development centers, and \$100,000,000 shall be for
14 warrior transition complexes: *Provided further*, That not
15 later than 30 days after the date of enactment of this Act,
16 the Secretary of Defense shall submit to the Committees
17 on Appropriations of both Houses of Congress an expendi-
18 ture plan for funds provided under this heading.

19 MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

20 For an additional amount for “Military Construction,
21 Navy and Marine Corps”, \$280,000,000, to remain avail-
22 able until September 30, 2013: *Provided*, That notwith-
23 standing any other provision of law, such funds may be
24 obligated and expended to carry out planning and design
25 and military construction projects in the United States not

1 otherwise authorized by law: *Provided further*, That of the
2 amount provided under this heading, \$100,000,000 shall
3 be for troop housing, \$80,000,000 shall be for child devel-
4 opment centers, and \$100,000,000 shall be for energy con-
5 servation and alternative energy projects: *Provided further*,
6 That not later than 30 days after the date of enactment
7 of this Act, the Secretary of Defense shall submit to the
8 Committees on Appropriations of both Houses of Congress
9 an expenditure plan for funds provided under this head-
10 ing.

11 MILITARY CONSTRUCTION, AIR FORCE

12 For an additional amount for "Military Construction,
13 Air Force", \$180,000,000, to remain available until Sep-
14 tember 30, 2013: *Provided*, That notwithstanding any
15 other provision of law, such funds may be obligated and
16 expended to carry out planning and design and military
17 construction projects in the United States not otherwise
18 authorized by law: *Provided further*, That of the amount
19 provided under this heading, \$100,000,000 shall be for
20 troop housing and \$80,000,000 shall be for child develop-
21 ment centers: *Provided further*, That not later than 30
22 days after the date of enactment of this Act, the Secretary
23 of Defense shall submit to the Committees on Appropria-
24 tions of both Houses of Congress an expenditure plan for
25 funds provided under this heading.

1 MILITARY CONSTRUCTION, DEFENSE-WIDE

2 For an additional amount for "Military Construction,
3 Defense-Wide", \$1,450,000,000, to remain available until
4 September 30, 2013: *Provided*, That notwithstanding any
5 other provision of law, such funds may be obligated and
6 expended to carry out planning and design and military
7 construction projects in the United States not otherwise
8 authorized by law: *Provided further*, That of the amount
9 provided under this heading, \$1,330,000,000 shall be for
10 the construction of hospitals and \$120,000,000 shall be
11 for the Energy Conservation Investment Program: *Pro-*
12 *vided further*, That not later than 30 days after the date
13 of enactment of this Act, the Secretary of Defense shall
14 submit to the Committees on Appropriations of both
15 Houses of Congress an expenditure plan for funds pro-
16 vided under this heading.

17 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

18 For an additional amount for "Military Construction,
19 Army National Guard", \$50,000,000[^] to remain available [^]
20 until September 30, 2013: *Provided*, That notwithstanding
21 any other provision of law, such funds may be obligated
22 and expended to carry out planning and design and mili-
23 tary construction projects in the United States not other-
24 wise authorized by law: *Provided further*, That not later
25 than 30 days after the date of enactment of this Act, the

1 Secretary of Defense, in consultation with the Director of
2 the Army National Guard, shall submit to the Committees
3 on Appropriations of both Houses of Congress an expendi-
4 ture plan for funds provided under this heading.

5 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

6 For an additional amount for "Military Construction,
7 Air National Guard", \$50,000,000[^] to remain available [^]
8 until September 30, 2013: *Provided*, That notwithstanding
9 any other provision of law, such funds may be obligated
10 and expended to carry out planning and design and mili-
11 tary construction projects in the United States not other-
12 wise authorized by law: *Provided further*, That not later
13 than 30 days after the date of enactment of this Act, the
14 Secretary of Defense, in consultation with the Director of
15 the Air National Guard, shall submit to the Committees
16 on Appropriations of both Houses of Congress an expendi-
17 ture plan for funds provided under this heading.

18 FAMILY HOUSING CONSTRUCTION, ARMY

19 For an additional amount for "Family Housing Con-
20 struction, Army", \$34,507,000, to remain available until
21 September 30, 2013: *Provided*, That notwithstanding any
22 other provision of law, such funds may be obligated and
23 expended to carry out planning and design and military
24 construction projects in the United States not otherwise
25 authorized by law: *Provided further*, That within 30 days

1 of enactment of this Act, the Secretary of Defense shall
2 submit to the Committees on Appropriations of both
3 Houses of Congress an expenditure plan for funds pro-
4 vided under this heading.

5 FAMILY HOUSING OPERATION AND MAINTENANCE,

6 ARMY

7 For an additional amount for "Family Housing Oper-
8 ation and Maintenance, Army", \$3,932,000: *Provided*,
9 That notwithstanding any other provision of law, such
10 funds may be obligated and expended for maintenance and
11 repair and minor construction projects in the United
12 States not otherwise authorized by law.

13 FAMILY HOUSING CONSTRUCTION, AIR FORCE

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

1 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
2 FORCE

3 For an additional amount for "Family Housing Oper-
4 ation and Maintenance, Air Force", \$16,461,000: *Pro-*
5 *vided*, That notwithstanding any other provision of law,
6 such funds may be obligated and expended for mainte-
7 nance and repair and minor construction projects in the
8 United States not otherwise authorized by law.

9 HOMEOWNERS ASSISTANCE FUND

10 For an additional amount for "Homeowners Assist-
11 ance Fund", established by section 1013 of the Dem-
12 onstration Cities and Metropolitan Development Act of
13 1966, as amended (42 U.S.C. 3374), \$555,000,000, to re-
14 main available until expended: *Provided*, That the Sec-
15 retary of Defense shall submit quarterly reports to the
16 Committees on Appropriations of both Houses of Congress
17 on the expenditure of funds made available under this
18 heading in this or any other Act.

19 ADMINISTRATIVE PROVISION

20 SEC. 1001. (a) TEMPORARY EXPANSION OF HOME-
21 OWNERS ASSISTANCE PROGRAM TO RESPOND TO MORT-
22 GAGE FORECLOSURE AND CREDIT CRISIS. Section 1013
23 of the Demonstration Cities and Metropolitan Develop-
24 ment Act of 1966 (42 U.S.C. 3374) is amended—

25 (1) in subsection (a)—

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

5 (B) by striking "Notwithstanding any
6 other provision of law" and inserting the fol-
7 lowing:

8 "(1) ACQUISITION OF PROPERTY AT OR NEAR
9 MILITARY INSTALLATIONS THAT HAVE BEEN OR-
10 DERED TO BE CLOSED.—Notwithstanding any other
11 provision of law";

12 (C) by striking "if he determines" and in-
13 serting "if—

14 "(A) the Secretary determines—";

15 (D) in clause (iii), as redesignated by sub-
16 paragraph (A), by striking the period at the
17 end and inserting "; or"; and

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

19 "(B) the Secretary determines—

20 "(i) that the conditions in clauses (i)
21 and (ii) of subparagraph (A) have been
22 met;

23 "(ii) that the closing or realignment
24 of the base or installation resulted from a
25 realignment or closure carried out under

1 the 2005 round of defense base closure
2 and realignment under the Defense Base
3 Closure and Realignment Act of 1990
4 (part XXIX of Public Law 101-510; 10
5 U.S.C. 2687 note);

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

8 “(iv) that the property was sold by
9 the owner between July 1, 2006, and Sep-
10 tember 30, 2012, or an earlier end date
11 designated by the Secretary;

12 “(v) that the property is the primary
13 residence of the owner; and

14 “(vi) that the owner has not pre-
15 viously received benefit payments author-
16 ized under this subsection.

17 “(2) HOMEOWNER ASSISTANCE FOR WOUNDED
18 MEMBERS OF THE ARMED FORCES, DEPARTMENT OF
19 DEFENSE AND UNITED STATES COAST GUARD CIVIL-
20 IAN EMPLOYEES, AND THEIR SPOUSES.—Notwith-
21 standing any other provision of law, the Secretary of
22 Defense is authorized to acquire title to, hold, man-
23 age, and dispose of, or, in lieu thereof, to reimburse
24 for certain losses upon private sale of, or foreclosure
25 against, any property improved with a one- or two-

1 family dwelling which was at the time of the relevant
2 wound, injury, or illness, the primary residence of—

3 “(A) any member of the Armed Forces in
4 medical transition who—

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

8 “(ii) is disabled to a degree of 30 per-
9 cent or more as a result of such wound, in-
10 jury, or illness, as determined by the Sec-
11 retary of Defense; and

12 “(iii) is reassigned in furtherance of
13 medical treatment or rehabilitation, or due
14 to medical retirement in connection with
15 such disability;

16 “(B) any civilian employee of the Depart-
17 ment of Defense or the United States Coast
18 Guard who—

19 “(i) was wounded, injured, or became
20 ill in the ~~line of duty~~ during a forward de- (performance
21 ployment occurring on or after September of his or
22 11, 2001, in support of the Armed Forces; her duties
23 and

24 “(ii) is reassigned in furtherance of
25 medical treatment, rehabilitation, or due to

1 medical retirement resulting from the sus-
2 tained disability; or

3 “(C) the spouse of a member of the Armed
4 Forces or a civilian employee of the Department
5 of Defense or the United States Coast Guard
6 if—

7 “(i) the member or employee was
8 killed in the line of duty during a deploy- *or in the*
9 ment on or after September 11, 2001, in *performance*
10 support of the Armed Forces or died from *of his or her*
11 a wound, injury, or illness incurred in the *duties*
12 line of duty during such a deployment; and

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

16 “(3) TEMPORARY HOMEOWNER ASSISTANCE
17 FOR MEMBERS OF THE ARMED FORCES PERMA-
18 NENTLY REASSIGNED DURING SPECIFIED MORTGAGE
19 CRISIS.—Notwithstanding any other provision of
20 law, the Secretary of Defense is authorized to ac-
21 quire title to, hold, manage, and dispose of, or, in
22 lieu thereof, to reimburse for certain losses upon pri-
23 vate sale of, or foreclosure against, any property im-
24 proved with a one- or two-family dwelling situated at

1 or near a military base or installation, if the Sec-
2 retary determines—

3 “(A) that the owner is a member of the
4 Armed Forces serving on permanent assign-
5 ment;

6 “(B) that the owner is permanently reas-
7 signed by order of the United States Govern-
8 ment to a duty station or home port outside a
9 50-mile radius of the base or installation;

10 “(C) that the reassignment was ordered
11 between February 1, 2006, and September 30,
12 2012, or an earlier end date designated by the
13 Secretary;

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

16 “(E) that the property was sold by the
17 owner between July 1, 2006, and September
18 30, 2012, or an earlier end date designated by
19 the Secretary;

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

22 “(G) that the owner has not previously re-
23 ceived benefit payments authorized under this
24 subsection.”;

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

4 (3) in subsection (c)—

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

7 “(1) HOMEOWNER ASSISTANCE RELATED TO
8 CLOSED MILITARY INSTALLATIONS.—

9 “(A) IN GENERAL.—Such persons”;

10 (B) by striking “set forth above shall elect
11 either (1) to receive” and inserting the fol-
12 lowing: “set forth in subsection (a)(1) shall
13 elect either—

14 “(i) to receive”;

15 (C) by striking “difference between (A) 95
16 per centum” and all that follows through “(B)
17 the fair market value” and inserting the fol-
18 lowing: “difference between—

19 “(I) 95 per centum of the fair
20 market value of their property (as
21 such value is determined by the Sec-
22 retary of Defense) prior to public an-
23 nouncement of intention to close all or
24 part of the military base or installa-
25 tion; and

1 “(II) the fair market value”;

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

5 “(ii) to receive”;

6 (E) by striking “outstanding mortgages.

7 The Secretary may also pay a person who elects
8 to receive a cash payment under clause (1) of
9 the preceding sentence an amount” and insert-
10 ing “outstanding mortgages.

11 “(B) REIMBURSEMENT OF EXPENSES.—

12 The Secretary may also pay a person who elects
13 to receive a cash payment under subparagraph
14 (A) an amount”; and

15 (F) by striking “best interest of the Fed-
16 eral Government. Cash payment” and inserting
17 the following: “best interest of the United
18 States.

19 “(2) HOMEOWNER ASSISTANCE FOR WOUNDED
20 INDIVIDUALS AND THEIR SPOUSES.—

21 “(A) IN GENERAL.—Persons eligible under
22 the criteria set forth in subsection (a)(2) may
23 elect either—

24 “(i) to receive a cash payment as com-
25 pensation for losses which may be or have

1 been sustained in a private sale, in an
2 amount not to exceed the difference be-
3 tween—

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

8 “(II) the fair market value of
9 such property (as such value is deter-
10 mined by the Secretary of Defense) at
11 the time of sale; or

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

18 “(B) DETERMINATION OF BENEFITS.—

19 The Secretary may also pay a person who elects
20 to receive a cash payment under subparagraph
21 (A) an amount that the Secretary determines
22 appropriate to reimburse the person for the
23 costs incurred by the person in the sale of the
24 property if the Secretary determines that such

1 payment will benefit the person and is in the
2 best interest of the United States.

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

5 “(A) IN GENERAL.—Persons eligible under
6 the criteria set forth in subsection (a)(3) may
7 elect either—

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

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

17 “(II) the fair market value of
18 such property (as such value is deter-
19 mined by the Secretary of Defense) at
20 the time of sale; or

21 “(ii) to receive, as purchase price for
22 their property an amount not to exceed 90
23 per centum of prior fair market value as
24 such value is determined by the Secretary

1 of Defense, or the amount of the out-
2 standing mortgages.

3 “(B) DETERMINATION OF BENEFITS.—

4 The Secretary may also pay a person who elects
5 to receive a cash payment under subparagraph
6 (A) an amount that the Secretary determines
7 appropriate to reimburse the person for the
8 costs incurred by the person in the sale of the
9 property if the Secretary determines that such
10 payment will benefit the person and is in the
11 best interest of the United States.

12 “(4) COMPENSATION AND LIMITATIONS RE-
13 LATED TO FORECLOSURES AND ENCUMBRANCES.—

14 Cash payment”;

15 (4) by striking subsection (g);

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

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

20 (7) in subsection (n)—

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

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

25 (8) in subsection (o)—

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

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

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

6 (9) by adding at the end the following new sub-
7 section:

8 “(p) DEFINITIONS.—In this section:

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

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

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

18 “(A) is in Medical Holdover status;

19 “(B) is in Active Duty Medical Extension
20 status;

21 “(C) is in Medical Hold status;

22 “(D) is in a status pending an evaluation
23 by a medical evaluation board;

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

1 “(F) is assigned or attached to an Army
2 Warrior Transition Unit, an Air Force Patient
3 Squadron, a Navy Patient Multidisciplinary
4 Care Team, or a Marine Patient Affairs Team/
5 Wounded Warrior Regiment; and

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

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

9 “(B) is paid from nonappropriated funds
10 of Army and Air Force Exchange Service, Navy
11 Resale and Services Support Office, Marine
12 Corps exchanges, or any other instrumentality
13 of the United States under the jurisdiction of
14 the Armed Forces which is conducted for the
15 comfort, pleasure, contentment, or physical or
16 mental improvement of members of the Armed
17 Forces.”.

18 (b) CLERICAL AMENDMENT.—Such section is further
19 amended in the section heading by inserting “and certain
20 property owned by members of the [↑]armed [↑]forces, [↑]depart- [↑]
21 ment of [↑]defense and [↑]united [↑]states [↑]coast [↑]guard civilian em- [↑]
22 ployees, and surviving spouses” after “ordered to be
23 closed”.

24 (c) AUTHORITY TO USE APPROPRIATED FUNDS.—
25 Notwithstanding subsection (i) of such section, amounts

1 appropriated or otherwise made available by this title
2 under the heading "Homeowners Assistance Fund" may
3 be used for the Homeowners Assistance Fund established
4 under such section.

5 DEPARTMENT OF VETERANS AFFAIRS

6 VETERANS HEALTH ADMINISTRATION

7 MEDICAL FACILITIES

8 For an additional amount for "Medical Facilities" for
9 non-recurring maintenance, including energy projects,
10 ~~\$850,000,000~~, to remain available until September 30, (1,000,000,000
11 2010: *Provided*, That not later than 30 days after the date
12 of enactment of this Act, the Secretary of Veterans Affairs
13 shall submit to the Committees on Appropriations of both
14 Houses of Congress an expenditure plan for funds pro-
15 vided under this heading.

16 NATIONAL CEMETERY ADMINISTRATION

17 For an additional amount for "National Cemetery
18 Administration" for monument and memorial repairs, in-
19 cluding energy projects, \$50,000,000, to remain available
20 until September 30, 2010: *Provided*, That not later than
21 30 days after the date of enactment of this Act, the Sec-
22 retary of Veterans Affairs shall submit to the Committees
23 on Appropriations of both Houses of Congress an expendi-
24 ture plan for funds provided under this heading.

1 DEPARTMENTAL ADMINISTRATION

2 GENERAL OPERATING EXPENSES

3 For an additional amount for "General Operating
4 Expenses", \$150,000,000, to remain available until Sep-
5 tember 30, 2010, for additional expenses related to hiring
6 and training temporary surge claims processors.

7 INFORMATION TECHNOLOGY SYSTEMS

8 For an additional amount for "Information Tech-
9 nology Systems", \$50,000,000, to remain available until
10 September 30, 2010, for the Veterans Benefits Adminis-
11 tration's ~~development of paperless claims processing~~: *Pro-*
12 *vided*, That not later than 30 days after the enactment
13 of this Act, the Secretary of Veterans Affairs shall submit
14 to the Committee on Appropriations of both Houses of (s
15 Congress an expenditure plan for funds provided under
16 this heading.

17 OFFICE OF INSPECTOR GENERAL

18 For an additional amount for "Office of Inspector
19 General", \$1,000,000, to remain available until September
20 30, 2011, for oversight and audit of programs, grants and
21 projects funded under this title.

22 GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE

23 FACILITIES

24 For an additional amount for "Grants for Construc-
25 tion of State Extended Care Facilities", ~~\$100,000,000~~, to 150,000,000

1 remain available until September 30, 2010, for grants to
2 assist States to acquire or construct State nursing home
3 and domiciliary facilities and to remodel, modify, or alter
4 existing hospital, nursing home, and domiciliary facilities
5 in State homes, for furnishing care to veterans as author-
6 ized by sections 8131 through 8137 of title 38, United
7 States Code.

8 ADMINISTRATIVE PROVISION

9 SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO
10 SERVED IN THE UNITED STATES ARMED FORCES IN THE
11 FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Con-
12 gress makes the following findings:

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

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

19 (3) The regular Philippine Scouts, the new
20 Philippine Scouts, the Guerrilla Services, and more
21 than 100,000 members of the Philippine Common-
22 wealth Army were called into the service of the
23 United States Armed Forces of the Far East on
24 July 26, 1941, by an executive order of President
25 Franklin D. Roosevelt.

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

5 (5) Filipino veterans who were granted benefits
6 prior to the enactment of the so-called Rescissions
7 Acts of 1946 (Public Laws 79-301 and 79-391)
8 currently receive full benefits under laws adminis-
9 tered by the Secretary of Veterans Affairs, but
10 under section 107 of title 38, United States Code,
11 the service of certain other Filipino veterans is
12 deemed not to be active service for purposes of such
13 laws.

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

18 (7) The benefits such veterans receive include
19 service-connected compensation benefits paid under
20 chapter 11 of title 38, United States Code, depend-
21 ency indemnity compensation survivor benefits paid
22 under chapter 13 of title 38, United States Code,
23 and burial benefits under chapters 23 and 24 of title
24 38, United States Code, and such benefits are paid
25 to beneficiaries at the rate of \$0.50 per dollar au-

1 thorized, unless they lawfully reside in the United
2 States.

3 (8) Dependents' educational assistance under
4 chapter 35 of title 38, United States Code, is also
5 payable for the dependents of such veterans at the
6 rate of \$0.50 per dollar authorized, regardless of the
7 veterans' residency.

8 (b) COMPENSATION FUND.—

9 (1) IN GENERAL.—There is in the general fund
10 of the Treasury a fund to be known as the "Filipino
11 Veterans Equity Compensation Fund" (in this sec-
12 tion referred to as the "compensation fund").

13 (2) AVAILABILITY OF FUNDS.—Subject to the
14 availability of appropriations for such purpose,
15 amounts in the fund shall be available to the Sec-
16 retary of Veterans Affairs without fiscal year limita-
17 tion to make payments to eligible persons in accord-
18 ance with this section.

19 (c) PAYMENTS.—

20 (1) IN GENERAL.—The Secretary may make a
21 payment from the compensation fund to an eligible
22 person who, during the one-year period beginning on
23 the date of the enactment of this Act, submits to the
24 Secretary a claim for benefits under this section.
25 The application for the claim shall contain such in-

1 formation and evidence as the Secretary may re-
2 quire.

3 (2) PAYMENT TO SURVIVING SPOUSE.—If an
4 eligible person who has filed a claim for benefits
5 under this section dies before payment is made
6 under this section, the payment under this section
7 shall be made instead to the surviving spouse, if any,
8 of the eligible person.

9 (d) ELIGIBLE PERSONS.—An eligible person is any
10 person who—

11 (1) served—

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

1 (B) in the Philippine Scouts under section
2 14 of the Armed Forces Voluntary Recruitment
3 Act of 1945 (59 Stat. 538); and

4 (2) was discharged or released from service de-
5 scribed in paragraph (1) under conditions other than
6 dishonorable.

7 (e) PAYMENT AMOUNTS.—Each payment under this
8 section shall be—

9 (1) in the case of an eligible person who is not
10 a citizen of the United States, in the amount of
11 \$9,000; and

12 (2) in the case of an eligible person who is a
13 citizen of the United States, in the amount of
14 \$15,000.

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

18 (g) CLARIFICATION OF TREATMENT OF PAYMENTS
19 UNDER CERTAIN LAWS.—Amounts paid to a person
20 under this section—

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

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

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

5 (B) eligibility of an individual to receive
6 benefits under title VIII of the Social Security
7 Act, or the amount of such benefits; or

8 (C) eligibility of an individual for, or the
9 amount of benefits under, any other Federal or
10 federally assisted program.

11 (h) RELEASE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the acceptance by an eligible person or
14 surviving spouse, as applicable, of a payment under
15 this section shall be final, and shall constitute a
16 complete release of any claim against the United
17 States by reason of any service described in sub-
18 section (d).

19 (2) PAYMENT OF PRIOR ELIGIBILITY STA-
20 TUS.—Nothing in this section shall prohibit a person
21 from receiving any benefit (including health care,
22 survivor, or burial benefits) which the person would
23 have been eligible to receive based on laws in effect
24 as of the day before the date of the enactment of
25 this Act.

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

5 (j) ADMINISTRATION.—

6 (1) The Secretary shall promptly issue applica-
7 tion forms and instructions to ensure the prompt
8 and efficient administration of the provisions of this
9 section.

10 (2) The Secretary shall administer the provi-
11 sions of this section in a manner consistent with ap-
12 plicable provisions of title 38, United States Code,
13 and other provisions of law, and shall apply the defi-
14 nitions in section 101 of such title in the administra-
15 tion of such provisions, except to the extent other-
16 wise provided in this section.

17 (k) REPORTS.—The Secretary shall include, in docu-
18 ments submitted to Congress by the Secretary in support
19 of the President's budget for each fiscal year, detailed in-
20 formation on the operation of the compensation fund, in-
21 cluding the number of applicants, the number of eligible
22 persons receiving benefits, the amounts paid out of the
23 compensation fund, and the administration of the com-
24 pensation fund for the most recent fiscal year for which
25 such data is available.

- 1 (1) AUTHORIZATION OF APPROPRIATION.—There is
- 2 authorized to be appropriated to the compensation fund
- 3 \$198,000,000, to remain available until expended, to make
- 4 payments under this section.

1 TITLE XI—STATE, FOREIGN OPERATIONS, AND
2 RELATED PROGRAMS
3 DEPARTMENT OF STATE

4 ADMINISTRATION OF FOREIGN AFFAIRS
5 DIPLOMATIC AND CONSULAR PROGRAMS

6 For an additional amount for “Diplomatic and Con-
7 sular Programs” for urgent domestic facilities require-
8 ments for passport and training functions, \$90,000,000:
9 *Provided*, That the Secretary of State shall submit to the
10 Committees on Appropriations within 90 days of enact-
11 ment of this Act a detailed spending plan for funds appro-
12 priated under this heading: *Provided further*, That with
13 respect to the funds made available for passport agencies,
14 such plan shall be developed in consultation with the De-
15 partment of Homeland Security and the General Services
16 Administration and shall coordinate and co-locate, to the
17 extent feasible, passport agencies with other Federal facili-
18 ties.

19 CAPITAL INVESTMENT FUND
20 (INCLUDING TRANSFER OF FUNDS)

21 For an additional amount for “Capital Investment
22 Fund”, \$290,000,000, for information technology security
23 and upgrades to support mission-critical operations, of
24 which $\sqrt{\$38,000,000}$ shall be transferred to, and merged
25 with, funds made available under the heading “Capital In-

(up to

1 vestment Fund” of the United States Agency for Inter-
2 national Development: *Provided*, That the Secretary of
3 State and the Administrator of the United States Agency
4 for International Development shall coordinate informa-
5 tion technology systems, where appropriate, to increase ef-
6 ficiencies and eliminate redundancies, to include co-locat-
7 ion of backup information management facilities, and
8 shall submit to the Committees on Appropriations within
9 90 days of enactment of this Act a detailed spending plan
10 for funds appropriated under this heading.

11 OFFICE OF INSPECTOR GENERAL

12 For an additional amount for “Office of Inspector
13 General” for oversight requirements, \$2,000,000.

14 INTERNATIONAL COMMISSIONS

15 INTERNATIONAL BOUNDARY AND WATER COMMISSION,

16 UNITED STATES AND MEXICO

17 CONSTRUCTION

18 (INCLUDING TRANSFER OF FUNDS)

19 For an additional amount for “Construction” for the
20 water quantity program to meet immediate repair and re-
21 habilitation requirements, \$220,000,000: *Provided*, That
22 up to \$2,000,000 may be transferred to, and merged with,
23 funds available under the heading “International Bound-
24 ary and Water Commission, United States and Mexico—
25 Salaries and Expenses”: *Provided further*, That the Sec-
26 retary of State shall submit to the Committees on Appro-

1 priations within 90 days of enactment of this Act a de-
2 tailed spending plan for funds appropriated under this
3 heading.

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

4 DEPARTMENT OF TRANSPORTATION

5 OFFICE OF THE SECRETARY

6 SUPPLEMENTAL DISCRETIONARY GRANTS FOR A
7 NATIONAL SURFACE TRANSPORTATION SYSTEM

8 For an additional amount for capital investments in
9 surface transportation infrastructure, \$1,500,000,000, to
10 remain available through September 30, 2011: *Provided*,
11 That the Secretary of Transportation shall distribute
12 funds provided under this heading as discretionary grants
13 to be awarded to State and local governments or transit
14 agencies on a competitive basis for projects that will have
15 a significant impact on the Nation, a metropolitan area,
16 or a region: *Provided further*, That projects eligible for
17 funding provided under this heading shall include, but not
18 be limited to, highway or bridge projects eligible under
19 title 23, United States Code, including interstate rehabili-
20 tation, improvements to the rural collector road system,
21 the reconstruction of overpasses and interchanges, bridge
22 replacements, seismic retrofit projects for bridges, and
23 road realignments; public transportation projects eligible
24 under chapter 53 of title 49, United States Code, includ-
25 ing investments in projects participating in the New Starts

1 or Small Starts programs that will expedite the completion
2 of those projects and their entry into revenue service; pas-
3 senger and freight rail transportation projects; and port
4 infrastructure investments, including projects that connect
5 ports to other modes of transportation and improve the
6 efficiency of freight movement: *Provided further*, That of
7 the amount made available under this paragraph, the Sec-
8 retary may use an amount not to exceed \$200,000,000
9 for the purpose of paying the subsidy and administrative
10 costs of projects eligible for federal credit assistance under
11 chapter 6 of title 23, United States Code, if the Secretary
12 finds that such use of the funds would advance the pur-
13 poses of this paragraph: *Provided further*, That in distrib-
14 uting funds provided under this heading, the Secretary
15 shall take such measures so as to ensure an equitable geo-
16 graphic distribution of funds and an appropriate balance
17 in addressing the needs of urban and rural communities:
18 *Provided further*, That a grant funded under this heading
19 shall be not less than \$20,000,000 and not greater than
20 \$300,000,000: *Provided further*, That the Secretary may
21 waive the minimum grant size cited in the preceding pro-
22 viso for the purpose of funding significant projects in
23 smaller cities, regions, or States: *Provided further*, That
24 not more than 20 percent of the funds made available
25 under this paragraph may be awarded to projects in a sin-

1 gle State: *Provided further*, That the Federal share of the
2 costs for which an expenditure is made under this heading
3 may be up to 100 percent: *Provided further*, That the Sec-
4 retary shall give priority to projects that require a con-
5 tribution of Federal funds in order to complete an overall
6 financing package, and to projects that are expected to
7 be completed within 3 years of enactment of this Act: *Pro-*
8 *vided further*, That the Secretary shall publish criteria on
9 which to base the competition for any grants awarded
10 under this heading not later than 90 days after enactment
11 of this Act: *Provided further*, That the Secretary shall re-
12 quire applications for funding provided under this heading
13 to be submitted not later than 180 days after the publica-
14 tion of such criteria, and announce all projects selected
15 to be funded from such funds not later than 1 year after
16 enactment of this Act: *Provided further*, That projects con-
17 ducted using funds provided under this heading must com-
18 ply with the requirements of subchapter IV of chapter 31
19 of title 40, United States Code: *Provided further*, That the
20 Secretary may retain up to \$1,500,000 of the funds pro-
21 vided under this heading, and may transfer portions of
22 those funds to the Administrators of the Federal Highway
23 Administration, the Federal Transit Administration, the
24 Federal Railroad Administration and the Maritime Ad-

1 ministration, to fund the award and oversight of grants
2 made under this heading.

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

6 For an additional amount for necessary investments
7 in Federal Aviation Administration infrastructure,
8 \$200,000,000, to remain available through September 30,
9 2010: *Provided*, That funding provided under this heading
10 shall be used to make improvements to power systems, air
11 route traffic control centers, air traffic control towers, ter-
12 minal radar approach control facilities, and navigation and
13 landing equipment: *Provided further*, That priority be
14 given to such projects or activities that will be completed
15 within 2 years of enactment of this Act: *Provided further*,
16 That amounts made available under this heading may be
17 provided through grants in addition to the other instru-
18 ments authorized under section 106(l)(6) of title 49,
19 United States Code: *Provided further*, That the Federal
20 share of the costs for which an expenditure is made under
21 this heading shall be 100 percent: *Provided further*, That
22 amounts provided under this heading may be used for ex-
23 penses the agency incurs in administering this program:
24 *Provided further*, That not more than 60 days after enact-
25 ment of this Act, the Administrator shall establish a proc-

1 ess for applying, reviewing and awarding grants and coop-
2 erative and other transaction agreements, including the
3 form and content of an application, and requirements for
4 the maintenance of records that are necessary to facilitate
5 an effective audit of the use of the funding provided: *Pro-*
6 *vided further*, That section 50101 of title 49, United
7 States Code, shall apply to funds provided under this
8 heading.

9

GRANTS-IN-AID FOR AIRPORTS

10 For an additional amount for “Grants-In-Aid for Air-
11 ports”, to enable the Secretary of Transportation to make
12 grants for discretionary projects as authorized by sub-
13 chapter 1 of chapter 471 and subchapter 1 of chapter 475
14 of title 49, United States Code, and for the procurement,
15 installation and commissioning of runway incursion pre-
16 vention devices and systems at airports of such title,
17 \$1,100,000,000, to remain available through September
18 30, 2010: *Provided*, That such funds shall not be subject
19 to apportionment formulas, special apportionment cat-
20 egories, or minimum percentages under chapter 471: *Pro-*
21 *vided further*, That the Secretary shall distribute funds
22 provided under this heading as discretionary grants to air-
23 ports, with priority given to those projects that dem-
24 onstrate to his satisfaction their ability to be completed
25 within 2 years of enactment of this Act, and serve to sup-
26 plement and not supplant planned expenditures from air-

1 port-generated revenues or from other State and local
2 sources on such activities: *Provided further*, That the Sec-
3 retary shall award grants totaling not less than 50 percent
4 of the funds made available under this heading within 120
5 days of enactment of this Act, and award grants for the
6 remaining amounts not later than 1 year after enactment
7 of this Act: *Provided further*, That the Federal share pay-
8 able of the costs for which a grant is made under this
9 heading shall be 100 percent: *Provided further*, That the
10 amount made available under this heading shall not be
11 subject to any limitation on obligations for the Grants-
12 in-Aid for Airports program set forth in any Act: *Provided*
13 *further*, That the Administrator of the Federal Aviation
14 Administration may retain up to 0.2 percent of the funds
15 provided under this heading to fund the award and over-
16 sight by the Administrator of grants made under this
17 heading.

18 FEDERAL HIGHWAY ADMINISTRATION

19 HIGHWAY INFRASTRUCTURE INVESTMENT

20 For an additional amount for restoration, repair, con-
21 struction and other activities eligible under paragraph (b)
22 of section 133 of title 23, United States Code, and for
23 passenger and freight rail transportation and port infra-
24 structure projects eligible for assistance under subsection
25 601(a)(8) of such title, \$27,500,000,000, to remain avail-

1 able through September 30, 2010: *Provided*, That, after
2 making the set-asides required under this heading, 50 per-
3 cent of the funds made available under this heading shall
4 be apportioned to States using the formula set forth in
5 section 104(b)(3) of title 23, United States Code, and the
6 remaining funds shall be apportioned to States in the
7 same ratio as the obligation limitation for fiscal year 2008
8 was distributed among the States in accordance with the
9 formula specified in section 120(a)(6) of division K of
10 Public Law 110–161: *Provided further*, That funds made
11 available under this heading shall be apportioned not later
12 than 21 days after the date of enactment of this Act: *Pro-*
13 *vided further*, That in selecting projects to be carried out
14 with funds apportioned under this heading, priority shall
15 be given to projects that are projected for completion with-
16 in a 3-year time frame, and are located in economically
17 distressed areas as defined by section 301 of the Public
18 Works and Economic Development Act of 1965, as
19 amended (42 U.S.C. 3161): *Provided further*, That 120
20 days following the date of such apportionment, the Sec-
21 retary of Transportation shall withdraw from each State
22 an amount equal to 50 percent of the funds awarded to
23 that State (excluding funds suballocated within the State)
24 less the amount of funding obligated (excluding funds sub-
25 allocated within the State), and the Secretary shall redis-

1 tribute such amounts to other States that have had no
2 funds withdrawn under this proviso in the manner de-
3 scribed in section 120(c) of division K of Public Law 110-
4 161: *Provided further*, That 1 year following the date of
5 such apportionment, the Secretary shall withdraw from
6 each recipient of funds apportioned under this heading
7 any unobligated funds, and the Secretary shall redis-
8 tribute such amounts to States that have had no funds
9 withdrawn under this proviso (excluding funds suballo-
10 cated within the State) in the manner described in section
11 120(c) of division K of Public Law 110-161: *Provided fur-*
12 *ther*, That at the request of a State, the Secretary of
13 Transportation may provide an extension of such 1-year
14 period only to the extent that he feels satisfied that the
15 State has encountered extreme conditions that create an
16 unworkable bidding environment or other extenuating cir-
17 cumstances: *Provided further*, That before granting such
18 an extension, the Secretary shall send a letter to the
19 House and Senate Committees on Appropriations that
20 provides a thorough justification for the extension: *Pro-*
21 *vided further*, That 3 percent of the funds apportioned to
22 a State under this heading shall be set aside for the pur-
23 poses described in subsection 133(d)(2) of title 23, United
24 States Code (without regard to the comparison to fiscal
25 year 2005): *Provided further*, That 30 percent of the funds

1 apportioned to a State under this heading shall be suballo-
2 cated within the State in the manner and for the purposes
3 described in the first sentence of subsection 133(d)(3)(A),
4 in subsection 133(d)(3)(B), and in subsection
5 133(d)(3)(D): *Provided further*, That such suballocation
6 shall be conducted in every State ~~as defined by section~~
7 ~~101(a)(32) of title 23, United States Code:~~ *Provided fur-*
8 *ther*, That funds suballocated within a State to urbanized
9 areas and other areas shall not be subject to the redis-
10 tribution of amounts required 120 days following the date
11 of apportionment of funds provided under this heading:
12 *Provided further*, That of the funds provided under this
13 heading, \$105,000,000 shall be for the Puerto Rico high-
14 way program authorized under section 165 of title 23,
15 United States Code, and \$45,000,000 shall be for the ter-
16 ritorial highway program authorized under section 215 of
17 title 23, United States Code: *Provided further*, That of the
18 funds provided under this heading, \$60,000,000 shall be
19 for capital expenditures eligible under section 147 of title
20 23, United States Code (without regard to subsection(d)):
21 *Provided further*, That the Secretary of Transportation
22 shall distribute such \$60,000,000 as competitive discre-
23 tionary grants to States, with priority given to those
24 projects that demonstrate to his satisfaction their ability
25 to be completed within 2 years of enactment of this Act:

1 *Provided further*, That of the funds provided under this
2 heading, \$550,000,000 shall be for investments in trans-
3 portation at Indian reservations and Federal lands: *Pro-*
4 *vided further*, That of the funds identified in the preceding
5 proviso, \$310,000,000 shall be for the Indian Reservation
6 Roads program, \$170,000,000 shall be for the Park Roads
7 and Parkways program, \$60,000,000 shall be for the For-
8 est Highway Program, and \$10,000,000 shall be for the
9 Refuge Roads program: *Provided further*, That for invest-
10 ments at Indian reservations and Federal lands, priority
11 shall be given to capital investments, and to projects and
12 activities that can be completed within 2 years of enact-
13 ment of this Act: *Provided further*, That 1 year following
14 the enactment of this Act, to ensure the prompt use of
15 the \$550,000,000 provided for investments at Indian res-
16 ervations and Federal lands, the Secretary shall have the
17 authority to redistribute unobligated funds within the re-
18 spective program for which the funds were appropriated:
19 *Provided further*, That up to 4 percent of the funding pro-
20 vided for Indian Reservation Roads may be used by the
21 Secretary of the Interior for program management and
22 oversight and project-related administrative expenses: *Pro-*
23 *vided further*, That section 134(f)(3)(C)(ii)(II) of title 23,
24 United States Code, shall not apply to funds provided
25 under this heading: *Provided further*, That of the funds

1 made available under this heading, \$20,000,000 shall be
2 for highway surface transportation and technology train-
3 ing under section 140(b) of title 23, United States Code,
4 and \$20,000,000 shall be for disadvantaged business en-
5 terprises bonding assistance under section 332(e) of title
6 49, United States Code: *Provided further*, That funds
7 made available under this heading shall be administered
8 as if apportioned under chapter 1 of title 23, United
9 States Code, except for funds made available for invest-
10 ments in transportation at Indian reservations and Fed-
11 eral lands, and for the territorial highway program, which
12 shall be administered in accordance with chapter 2 of title
13 23, United States Code, and except for funds made avail-
14 able for disadvantaged business enterprises bonding as-
15 sistance, which shall be administered in accordance with
16 chapter 3 of title 49, United States Code: *Provided further*,
17 That the Federal share payable on account of any project
18 or activity carried out with funds made available under
19 this heading shall be, at the option of the recipient, up
20 to 100 percent of the total cost thereof: *Provided further*,
21 That funds made available by this Act shall not be obli-
22 gated for the purposes authorized under section 115(b)
23 of title 23, United States Code: *Provided further*, That
24 funding provided under this heading shall be in addition
25 to any and all funds provided for fiscal years 2009 and

1 2010 in any other Act for “Federal-aid Highways” and
2 shall not affect the distribution of funds provided for
3 “Federal-aid Highways” in any other Act: *Provided fur-*
4 *ther*, That the amount made available under this heading
5 shall not be subject to any limitation on obligations for
6 Federal-aid highways or highway safety construction pro-
7 grams set forth in any Act: *Provided further*, That section
8 1101(b) of Public Law 109–59 shall apply to funds appor-
9 tioned under this heading: *Provided further*, That the Ad-
10 ministrator of the Federal Highway Administration may
11 retain up to \$40,000,000 of the funds provided under this
12 heading to fund the oversight by the Administrator of
13 projects and activities carried out with funds made avail-
14 able to the Federal Highway Administration in this Act,
15 and such funds shall be available through September 30,
16 2012.

17 FEDERAL RAILROAD ADMINISTRATION
18 CAPITAL ASSISTANCE FOR HIGH SPEED RAIL CORRIDORS
19 AND INTERCITY PASSENGER RAIL SERVICE
20 For an additional amount for section 501 of Public
21 Law 110–432 and discretionary grants to States to pay
22 for the cost of projects described in paragraphs (2)(A) and
23 (2)(B) of section 24401 of title 49, United States Code,
24 subsection (b) of section 24105 of such title,
25 \$8,000,000,000, to remain available through September

1 30, 2012: *Provided*, That the Secretary of Transportation
2 shall give priority to projects that support the development
3 of intercity high speed rail service: *Provided further*, That
4 within 60 days of the enactment of this Act, the Secretary
5 shall submit to the House and Senate Committees on Ap-
6 propriations a strategic plan that describes how the Sec-
7 retary will use the funding provided under this heading
8 to improve and deploy high speed passenger rail systems:
9 *Provided further*, That within 120 days of enactment of
10 this Act, the Secretary shall issue interim guidance to ap-
11 plicants covering grant terms, conditions, and procedures
12 until final regulations are issued: *Provided further*, That
13 such interim guidance shall provide separate instructions
14 for the high speed rail corridor program, capital assistance
15 for intercity passenger rail service grants, and congestion
16 grants: *Provided further*, That the Secretary shall waive
17 the requirement that a project conducted using funds pro-
18 vided under this heading be in a State rail plan developed
19 under chapter 227 of title 49, United States Code: *Pro-*
20 *vided further*, That the Federal share payable of the costs
21 for which a grant is made under this heading shall be,
22 at the option of the recipient, up to 100 percent: *Provided*
23 *further*, That projects conducted using funds provided
24 under this heading must comply with the requirements of
25 subchapter IV of chapter 31 of title 40, United States

1 Code: *Provided further*, That section 24405 of title 49,
2 United States Code, shall apply to funds provided under
3 this heading: *Provided further*, That the Administrator of
4 the Federal Railroad Administration may retain up to one-
5 quarter of 1 percent of the funds provided under this
6 heading to fund the award and oversight by the Adminis-
7 trator of grants made under this heading, and funds re-
8 tained for said purposes shall remain available through
9 September 30, 2014.

10 CAPITAL GRANTS TO THE NATIONAL RAILROAD

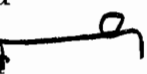
11 PASSENGER CORPORATION

12 For an additional amount for ~~Capital and Debt~~

13 ~~Service Grants to~~ the National Railroad Passenger Cor-

14 poration (Amtrak) to enable the Secretary of Transpor-

15 tation to make capital grants to Amtrak as authorized by
16 section 101(c) of the Passenger Rail Investment and Im-
17 provement Act of 2008 (Public Law 110-432),
18 \$1,300,000,000, to remain available through September
19 30, 2010, of which \$450,000,000 shall be used for capital
20 security grants: *Provided*, That priority for the use of non-
21 security funds shall be given to projects for the repair,
22 rehabilitation, or upgrade of railroad assets or infrastruc-
23 ture, and for capital projects that expand passenger rail
24 capacity including the rehabilitation of rolling stock: *Pro-*
25 *vided further*, That none of the funds under this heading
26 shall be used to subsidize the operating losses of Amtrak:

1 *Provided further*, That funds provided under this heading
2 shall be awarded not later than 30 days after the date
3 of enactment of this Act: *Provided further*, That the Sec-
4 retary shall take measures to ensure that projects funded
5 under this heading shall be completed within 2 years of
6 enactment of this Act, and shall serve to supplement and
7 not supplant planned expenditures for such activities from
8 other Federal, State, local and corporate sources: *Provided*
9 *further*, That the Secretary shall certify to the House and
10 Senate Committees on Appropriations in writing ~~that~~ 
11 compliance with the preceding proviso: *Provided further*,
12 That not more than 60 percent of the funds provided for
13 non-security activities under this heading may be used for
14 capital projects along the Northeast Corridor: *Provided*
15 *further*, That of the funding provided under this heading,
16 \$5,000,000 shall be made available for the Amtrak Office
17 of Inspector General and made available through Sep-
18 tember 30, 2013.

19 FEDERAL TRANSIT ADMINISTRATION

20 TRANSIT CAPITAL ASSISTANCE

21 For an additional amount for transit capital assist-
22 ance grants authorized under section 5302(a)(1) of title
23 49, United States Code, \$6,900,000,000, to remain avail-
24 able through September 30, 2010: *Provided*, That the Sec-
25 retary of Transportation shall provide 80 percent of the

1 funds appropriated under this heading for grants under
2 section 5307 of title 49, United States Code, and appor-
3 tion such funds in accordance with section 5336 of such
4 title (other than subsections (i)(1) and (j)): *Provided fur-*
5 *ther*, That the Secretary shall apportion 10 percent of the
6 funds appropriated under this heading in accordance with
7 section 5340 of such title: *Provided further*, That the Sec-
8 retary shall provide 10 percent of the funds appropriated
9 under this heading for grants under section 5311 of title
10 49, United States Code, and apportion such funds in ac-
11 cordance with such section: *Provided further*, That funds
12 apportioned under this heading shall be apportioned not
13 later than 21 days after the date of enactment of this Act:
14 *Provided further*, That 180 days following the date of such
15 apportionment, the Secretary shall withdraw from each
16 urbanized area or State an amount equal to 50 percent
17 of the funds apportioned to such urbanized areas or States
18 less the amount of funding obligated, and the Secretary
19 shall redistribute such amounts to other urbanized areas
20 or States that have had no funds withdrawn under this
21 proviso utilizing whatever method he deems appropriate
22 to ensure that all funds redistributed under this proviso
23 shall be utilized promptly: *Provided further*, That 1 year
24 following the date of such apportionment, the Secretary
25 shall withdraw from each urbanized area or State any un-

1 obligated funds, and the Secretary shall redistribute such
2 amounts to other urbanized areas or States that have had
3 no funds withdrawn under this proviso utilizing whatever
4 method he deems appropriate to ensure that all funds re-
5 distributed under this proviso shall be utilized promptly:
6 *Provided further*, That at the request of an urbanized area
7 or State, the Secretary of Transportation may provide an
8 extension of such 1-year period if he feels satisfied that
9 the urbanized area or State has encountered an unwork-
10 able bidding environment or other extenuating cir-
11 cumstances: *Provided further*, That before granting such
12 an extension, the Secretary shall send a letter to the
13 House and Senate Committees on Appropriations that
14 provides a thorough justification for the extension: *Pro-*
15 *vided further*, That of the funds provided for section 5311
16 of title 49, United States Code, 2.5 percent shall be made
17 available for section 5311(c)(1): *Provided further*, That of
18 the funding provided under this heading, \$100,000,000
19 shall be distributed as discretionary grants to public tran-
20 sit agencies for capital investments that will assist in re-
21 ducing the energy consumption or greenhouse gas emis-
22 sions of their public transportation systems: *Provided fur-*
23 *ther*, That for such grants on energy-related investments,
24 priority shall be given to projects based on the total energy
25 savings that are projected to result from the investment,

1 and projected energy savings as a percentage of the total
2 energy usage of the public transit agency: *Provided fur-*
3 *ther*, That applicable chapter 53 requirements shall apply
4 to funding provided under this heading, except that the
5 Federal share of the costs for which any grant is made
6 under this heading shall be, at the option of the recipient,
7 up to 100 percent: *Provided further*, That the amount
8 made available under this heading shall not be subject to
9 any limitation on obligations for transit programs set forth
10 in any Act: *Provided further*, That section 1101(b) of Pub-
11 lic Law 109–59 shall apply to funds appropriated under
12 this heading: *Provided further*, That the funds appro-
13 priated under this heading shall not be comingled with any
14 prior year funds: *Provided further*, That notwithstanding
15 any other provision of law, three-quarters of 1 percent of
16 the funds provided for grants under section 5307 and sec-
17 tion 5340, and one-half of 1 percent of the funds provided
18 for grants under section 5311, shall be available for ad-
19 ministrative expenses and program management oversight,
20 and such funds shall be available through September 30,
21 2012.

22 FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

23 For an amount for capital expenditures authorized
24 under section 5309(b)(2) of title 49, United States Code,
25 \$750,000,000, to remain available through September 30,

1 2010: *Provided*, That the Secretary of Transportation
 2 shall apportion funds under this heading pursuant to the
 3 formula set forth in section 5337 of title 49, United States
 4 Code: *Provided further*, That the funds appropriated under
 5 this heading shall not be commingled with funds available
 6 ~~under the Formula and Bus Grants account~~: *Provided fur-*
 7 *ther*, That funds made available under this heading shall
 8 be apportioned not later than 21 days after the date of
 9 enactment of this Act: ~~*Provided further*, That not less than~~
 10 ~~50 percent of the funds apportioned under this heading~~
 11 ~~shall be obligated within 150 days of their apportionment~~
 12 *Provided further*, That applicable chapter 53 requirements
 13 shall apply except that the Federal share of the costs for
 14 which a grant is made under this heading shall be, at the
 15 option of the recipient, up to 100 percent: *Provided fur-*
 16 *ther*, That the provisions of section 1101(b) of Public Law
 17 109-59 shall apply to funds made available under this
 18 heading: *Provided further*, That notwithstanding any other
 19 provision of law, up to 1 percent of the funds under this
 20 heading shall be available for administrative expenses and
 21 program management oversight and shall remain available
 22 for obligation until September 30, 2012.

23 CAPITAL INVESTMENT GRANTS

24 For an additional amount for "Capital Investment
 25 Grants", as authorized under section 5338(c)(4) of title
 26 49, United States Code, and allocated under section

any prior year

INSERT
19A

Provided further, That 180 days following the date of such apportionment, the Secretary shall withdraw from each urbanized area an amount equal to 50 percent of the funds apportioned to such urbanized area less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: *Provided further*, That 1 year following the date of such apportionment, the Secretary shall withdraw from each urbanized area any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: *Provided further*, That at the request of an urbanized area, the Secretary of Transportation may provide an extension of such 1-year period if he or she feels satisfied that the urbanized area has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further*, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension:

19A

1 5309(m)(2)(A) of such title, to enable the Secretary of
2 Transportation to make discretionary grants as authorized
3 by section 5309(d) and (e) of such title, \$750,000,000,
4 to remain available through September 30, 2010: *Pro-*
5 *vided*, That such amount shall be allocated without regard
6 to the limitation under section 5309(m)(2)(A)(i): *Provided*
7 *further*, That in selecting projects to be funded, priority
8 shall be given to projects that are currently in construction
9 or are able to obligate funds within 150 days of enactment
10 of this Act: *Provided further*, That the provisions of section
11 1101(b) of Public Law 109-59 shall apply to funds made
12 available under this heading: *Provided further*, That appli-
13 cable chapter 53 requirements shall apply, except that not-
14 withstanding any other provision of law, up to 1 percent
15 of the funds provided under this heading shall be available
16 for administrative expenses and program management
17 oversight, and shall remain available through September
18 30, 2012.

Insert
20A

19 MARITIME ADMINISTRATION
20 SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL
21 SHIPYARDS

22 To make grants to qualified shipyards as authorized
23 under section 3508 of Public Law 110-417 or section
24 54101 of title 46, United States Code, \$100,000,000, to
25 remain available through September 30, 2010: *Provided*,

Provided further, That funds appropriated under this heading shall not be commingled with any prior year funds:

20 A

1 That the Secretary of Transportation shall institute meas-
2 ures to ensure that funds provided under this heading
3 shall be obligated within 180 days of the date of their dis-
4 tribution: *Provided further*, That the Maritime Adminis-
5 trator may retain and transfer to "Maritime Administra-
6 tion, Operations and Training" up to 2 percent of the
7 funds provided under this heading to fund the award and
8 oversight by the Administrator of grants made under this
9 heading.

10 OFFICE OF INSPECTOR GENERAL

11 SALARIES AND EXPENSES

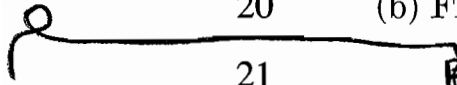
12 For an additional amount for necessary expenses of
13 the Office of Inspector General to carry out the provisions
14 of the Inspector General Act of 1978, as amended,
15 \$20,000,000, to remain available through September 30,
16 2013: *Provided*, That the funding made available under
17 this heading shall be used for conducting audits and inves-
18 tigations of projects and activities carried out with funds
19 made available in this Act to the Department of Transpor-
20 tation: *Provided further*, That the Inspector General shall
21 have all necessary authority, in carrying out the duties
22 specified in the Inspector General Act, as amended (5
23 U.S.C. App. 3), to investigate allegations of fraud, includ-
24 ing false statements to the Government (18 U.S.C. 1001),

1 by any person or entity that is subject to regulation by
2 the Department.

3 GENERAL PROVISION—DEPARTMENT OF
4 TRANSPORTATION

5 SEC. 1201. (a) MAINTENANCE OF EFFORT.—Not
6 later than 30 days after the date of enactment of this Act,
7 for each amount that is distributed to a State or agency
8 thereof from an appropriation in this Act for a covered
9 program, the Governor of the State shall certify to the
10 Secretary of Transportation that the State will maintain
11 its effort with regard to State funding for the types of
12 projects that are funded by the appropriation. As part of
13 this certification, the Governor shall submit to the Sec-
14 retary of Transportation a statement identifying the
15 amount of funds the State planned to expend from State
16 sources as of the date of enactment of this Act during
17 the period beginning on the date of enactment of this Act
18 through September 30, 2010, for the types of projects that
19 are funded by the appropriation.

20 (b) FAILURE TO MAINTAIN EFFORT.—

21  ~~(b)~~ If a State is unable to maintain the level of
22 effort certified pursuant to subsection (a), the State
23 will be prohibited by the Secretary of Transportation
24 from receiving additional limitation pursuant to the
25 redistribution of the limitation on obligations for

1 Federal-aid highway and highway safety construc-
2 tion programs that occurs after August 1 for fiscal
3 year 2011.

4 (2) The Secretary of Transportation may waive
5 the requirements under paragraph (1) if the Sec-
6 retary determines that it is impossible for the State
7 to maintain its effort because of extreme conditions
8 beyond the control of the State and that the amount
9 of the State's reduction in its level of effort is rea-
10 sonable and necessary in light of the extreme condi-
11 tions: *Provided*, That the term "extreme conditions"
12 includes, without limitations, unanticipated reduc-
13 tions in State revenues occurring after the adoption
14 of the current State budget due to national, re-
15 gional, or State economic conditions.

16 (c) PERIODIC REPORTS.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law, each grant recipient shall submit to
19 the covered agency from which they received funding
20 periodic reports on the use of the funds appropriated
21 in this Act for covered programs. Such reports shall
22 be collected and compiled by the covered agency and
23 transmitted to Congress.

24 (2) CONTENTS OF REPORTS.—For amounts re-
25 ceived under each covered program by a grant re-

Covered agencies may develop
such reports on behalf of grant
recipients to ensure the
accuracy and consistency of such reports.

1 recipient under this Act, the grant recipient shall in-
2 clude in the periodic reports information tracking-

3 (A) the amount of Federal funds appro-
4 priated, allocated, obligated, and outlayed under
5 the appropriation;

6 (B) the number of projects that have been
7 put out to bid under the appropriation and the
8 amount of Federal funds associated with such
9 projects;

10 (C) the number of projects for which con-
11 tracts have been awarded under the appropria-
12 tion and the amount of Federal funds associ-
13 ated with such contracts;

14 (D) the number of projects for which work
15 has begun under such contracts and the
16 amount of Federal funds associated with such
17 contracts;

18 (E) the number of projects for which work
19 has been completed under such contracts and
20 the amount of Federal funds associated with
21 such contracts;

22 (F) the number of direct, on-project jobs
23 created or sustained by the Federal funds pro-
24 vided for projects under the appropriation and,
25 to the extent possible, the estimated indirect

1 jobs created or sustained in the associated sup-
2 plying industries, including the number of job-
3 years created and the total increase in employ-
4 ment since the date of enactment of this Act;
5 and

6 (G) for each covered program report infor-
7 mation tracking the actual aggregate expendi-
8 tures by each grant recipient from State
9 sources for projects eligible for funding under
10 the program during the period beginning on the
11 date of enactment of this Act through Sep-
12 tember 30, 2010, as compared to the level of
13 such expenditures that were planned to occur
14 during such period as of the date of enactment
15 of this Act.

16 (3) TIMING OF REPORTS.—Each grant recipi-
17 ent shall submit the first of the periodic reports re-
18 quired under this subsection not later than 90 days
19 after the date of enactment of this Act and shall
20 submit updated reports not later than 180 days, 1
21 year, 2 years, and 3 years after such date of enact-
22 ment.

23 (d) DEFINITIONS.—In this section, the following defi-
24 nitions apply:

1 (1) COVERED AGENCY.—The term “covered
2 agency” means the Office of the Secretary of Trans-
3 portation, the Federal Aviation Administration, the
4 Federal Highway Administration, the Federal Rail-
5 road Administration, the Federal Transit Adminis-
6 tration and the Maritime Administration of the De-
7 partment of Transportation.

8 (2) COVERED PROGRAM.—The term “covered
9 program” means funds appropriated in this Act for
10 “Supplemental Discretionary Grants for a National
11 Surface Transportation System” to the Office of the
12 Secretary of Transportation, for “Supplemental
13 Funding for Facilities and Equipment” and
14 “Grants-in-Aid for Airports” to the Federal Aviation
15 Administration; for “Highway Infrastructure Invest-
16 ment” to the Federal Highway Administration; for
17 “Capital Assistance for High Speed Rail Corridors
18 and Intercity Passenger Rail Service” and “Capital
19 Grants to the National Railroad Passenger Corpora-
20 tion” to the Federal Railroad Administration; for
21 “Transit Capital Assistance”, “Fixed Guideway In-
22 frastructure Investment”, and “Capital Investment
23 Grants” to the Federal Transit Administration; and
24 “Supplemental Grants for Assistance to Small Ship-
25 yards” to the Maritime Administration.

1 (3) GRANT RECIPIENT.—The term “grant re-
2 cipient” means a State or other recipient of assist-
3 ance provided under a covered program in this Act.
4 Such term does not include a Federal department or
5 agency.

6 (e) Notwithstanding any other provision of law, sec-
7 tions 3501–3521 of title 44, United States Code, shall not
8 apply to the provisions of this section.

9 DEPARTMENT OF HOUSING AND URBAN
10 DEVELOPMENT

11 PUBLIC AND INDIAN HOUSING

12 PUBLIC HOUSING CAPITAL FUND

13 For an additional amount for the “Public Housing
14 Capital Fund” to carry out capital and management ac-
15 tivities for public housing agencies, as authorized under
16 section 9 of the United States Housing Act of 1937 (42
17 U.S.C. 1437g) (the “Act”), \$4,000,000,000, to remain
18 available until September 30, 2011: *Provided*, That the
19 Secretary of Housing and Urban Development shall dis-
20 tribute \$3,000,000,000 of this amount by the same for-
21 mula used for amounts made available in fiscal year 2008,
22 except that the Secretary may determine not to allocate
23 funding to public housing agencies currently designated
24 as troubled or to public housing agencies that elect not
25 to accept such funding: *Provided further*, That the Sec-

1 retary shall obligate funds allocated by formula within 30
2 days of enactment of this Act: *Provided further*, That the
3 Secretary shall make available \$1,000,000,000 by com-
4 petition for priority investments, including investments
5 that leverage private sector funding or financing for ren-
6 ovations and energy conservation retrofit investments:
7 *Provided further*, That the Secretary shall obligate com-
8 petitive funding by September 30, 2009: *Provided further*,
9 That public housing authorities shall give priority to cap-
10 ital projects that can award contracts based on bids within
11 120 days from the date the funds are made available to
12 the public housing authorities: *Provided further*, That pub-
13 lic housing agencies shall give priority consideration to the
14 rehabilitation of vacant rental units: *Provided further*,
15 That public housing agencies shall prioritize capital
16 projects that are already underway or included in the 5-
17 year capital fund plans required by the Act (42 U.S.C.
18 1437c-1(a)): *Provided further*, That notwithstanding any
19 other provision of law, (1) funding provided under this
20 heading may not be used for operating or rental assistance
21 activities, and (2) any restriction of funding to replace-
22 ment housing uses shall be inapplicable: *Provided further*,
23 That notwithstanding any other provision of law, the Sec-
24 retary shall institute measures to ensure that funds pro-
25 vided under this heading shall serve to supplement and

1 not supplant expenditures from other Federal, State, or
2 local sources or funds independently generated by the
3 grantee: *Provided further*, That notwithstanding section
4 9(j), public housing agencies shall obligate 100 percent of
5 the funds within 1 year of the date on which funds become
6 available to the agency for obligation, shall expend at least
7 60 percent of funds within 2 years of the date on which
8 funds become available to the agency for obligation, and
9 shall expend 100 percent of the funds within 3 years of
10 such date: *Provided further*, That if a public housing agen-
11 cy fails to comply with the 1-year obligation requirement,
12 the Secretary shall recapture all remaining unobligated
13 funds awarded to the public housing agency and reallocate
14 such funds to agencies that are in compliance with those
15 requirements: *Provided further*, That if a public housing
16 agency fails to comply with either the 2-year or the 3-
17 year expenditure requirement, the Secretary shall recap-
18 ture the balance of the funds awarded to the public hous-
19 ing agency and reallocate such funds to agencies that are
20 in compliance with those requirements: *Provided further*,
21 That in administering funds appropriated or otherwise
22 made available under this heading, the Secretary may
23 waive or specify alternative requirements for any provision
24 of any statute or regulation in connection with the obliga-
25 tion by the Secretary or the use of these funds (except

1 for requirements related to fair housing, nondiscrimina-
2 tion, labor standards, and the environment), upon a find-
3 ing that such a waiver is necessary to expedite or facilitate
4 the use of such funds: *Provided further*, That, in addition
5 to waivers authorized under the previous proviso, the Sec-
6 retary may direct that requirements relating to the pro-
7 curement of goods and services arising under state and
8 local laws and regulations shall not apply to amounts
9 made available under this heading: *Provided further*, That
10 of the funds made available under this heading, up to .5
11 percent shall be available for staffing, training, technical
12 assistance, technology, monitoring, travel, enforcement,
13 research and evaluation activities: *Provided further*, That
14 funds set aside in the previous proviso shall remain avail-
15 able until September 30, 2012: *Provided further*, That any
16 funds made available under this heading used by the Sec-
17 retary for personnel expenses related to administering
18 funding under this heading shall be transferred to “Per-
19 sonnel Compensation and Benefits, Office of Public and
20 Indian Housing” and shall retain the terms and conditions
21 of this account, including reprogramming provisions, ex-
22 cept that the period of availability set forth in the previous
23 proviso shall govern such transferred funds: *Provided fur-*
24 *ther*, That any funds made available under this heading
25 used by the Secretary for training or other administrative

1 expenses shall be transferred to “Administration, Oper-
2 ations, and Management”, for non-personnel expenses of
3 the Department of Housing and Urban Development: *Pro-*
4 *vided further*, That any funds made available under this
5 heading used by the Secretary for technology shall be
6 transferred to “Working Capital Fund”.

7 NATIVE AMERICAN HOUSING BLOCK GRANTS

8 For an additional amount for “Native American
9 Housing Block Grants”, as authorized under title I of the
10 Native American Housing Assistance and Self-Determina-
11 tion Act of 1996 (“NAHASDA”) (25 U.S.C. 4111 et
12 seq.), \$510,000,000 to remain available until September
13 30, 2011: *Provided*, That \$255,000,000 of the amount
14 provided under this heading shall be distributed according
15 to the same funding formula used in fiscal year 2008: *Pro-*
16 *vided further*, That the Secretary shall obligate funds allo-
17 cated by formula within 30 days of enactment of this Act:
18 *Provided further*, That the amounts distributed through
19 the formula shall be used for new construction, acquisi-
20 tion, rehabilitation including energy efficiency and con-
21 servation, and infrastructure development: *Provided fur-*
22 *ther*, That in selecting projects to be funded, recipients
23 shall give priority to projects for which contracts can be
24 awarded within 180 days from the date that funds are
25 available to the recipients: *Provided further*, that the Sec-

1 retary may obligate \$255,000,000 of the amount provided
2 under this heading for competitive grants to eligible enti-
3 ties that apply for funds authorized under NAHASDA:
4 *Provided further*, That the Secretary shall obligate com-
5 petitive funding by September 30, 2009: *Provided further*,
6 That in awarding competitive funds, the Secretary shall
7 give priority to projects that will spur construction and
8 rehabilitation and will create employment opportunities
9 for low-income and unemployed persons: *Provided further*,
10 That recipients of funds under this heading shall obligate
11 100 percent of such funds within 1 year of the date funds
12 are made available to a recipient, expend at least 50 per-
13 cent of such funds within 2 years of the date on which
14 funds become available to such recipients for obligation
15 and expend 100 percent of such funds within 3 years of
16 such date: *Provided further*, That if a recipient fails to
17 comply with the 2-year expenditure requirement, the Sec-
18 retary shall recapture all remaining funds awarded to the
19 recipient and reallocate such funds through the funding
20 formula to recipients that are in compliance with these
21 requirements: *Provided further*, That if a recipient fails to
22 comply with the 3-year expenditure requirement, the Sec-
23 retary shall recapture the balance of the funds originally
24 awarded to the recipient: *Provided further*, That notwith-
25 standing any other provision of law, the Secretary may

1 set aside up to 2 percent of funds made available under
2 this paragraph for a housing entity eligible to receive fund-
3 ing under title VIII of NAHASDA (25 U.S.C. 4221 et
4 seq.): *Provided further*, That in administering funds ap-
5 propriated or otherwise made available under this heading,
6 the Secretary may waive or specify alternative require-
7 ments for any provision of any statute or regulation in
8 connection with the obligation by the Secretary or the use
9 of these funds (except for requirements related to fair
10 housing, nondiscrimination, labor standards, and the envi-
11 ronment), upon a finding that such a waiver is necessary
12 to expedite or facilitate the use of such funds: *Provided*
13 *further*, That of the funds made available under this head-
14 ing, up to .5 percent shall be available for staffing, train-
15 ing, technical assistance, technology, monitoring, travel,
16 enforcement, research and evaluation activities: *Provided*
17 *further*, That funds set aside in the previous proviso shall
18 remain available until September 30, 2012: *Provided fur-*
19 *ther*, That any funds made available under this heading
20 used by the Secretary for personnel expenses related to
21 administering funding under this heading shall be trans-
22 ferred to "Personnel Compensation and Benefits, Office
23 of Public and Indian Housing" and shall retain the terms
24 and conditions of this account, including reprogramming
25 provisions, except that the period of availability set forth

1 in the previous proviso shall govern such transferred
2 funds: *Provided further*, That any funds made available
3 under this heading used by the Secretary for training or
4 other administrative expenses shall be transferred to “Ad-
5 ministration, Operations, and Management”, for non-per-
6 sonnel expenses of the Department of Housing and Urban
7 Development: *Provided further*, That any funds made
8 available under this heading used by the Secretary for
9 technology shall be transferred to “Working Capital
10 Fund”.

11 COMMUNITY PLANNING AND DEVELOPMENT

12 COMMUNITY DEVELOPMENT FUND

13 For an additional amount for “Community Develop-
14 ment Fund” \$1,000,000,000, to remain available until
15 September 30, 2010 to carry out the community develop-
16 ment block grant program under title I of the Housing
17 and Community Development Act of 1974 (42 U.S.C.
18 5301 et seq.): *Provided*, That the amount appropriated in
19 this paragraph shall be distributed pursuant to 42 U.S.C.
20 5306 to grantees that received funding in fiscal year 2008:
21 *Provided further*, That in administering the funds appro-
22 priated in this paragraph, the Secretary of Housing and
23 Urban Development shall establish requirements to expe-
24 dite the use of the funds: *Provided further*, That in select-
25 ing projects to be funded, recipients shall give priority to

1 projects that can award contracts based on bids within
2 120 days from the date the funds are made available to
3 the recipients/ *Provided further*, That in administering
4 funds appropriated or otherwise made available under this
5 heading, the Secretary may waive or specify ~~attentive~~ re- (alternative
6 quirements for any provision of any statute or regulation
7 in connection with the obligation by the Secretary or the
8 use by the recipient of these funds (except for require-
9 ments related to fair housing, nondiscrimination, labor
10 standards, and the environment), upon a finding that such
11 waiver is necessary to expedite or facilitate the timely use
12 of such funds and would not be inconsistent with the over-
13 all purpose of the statute.

14 For the provision of emergency assistance for the re-
15 development of abandoned and foreclosed homes, as au-
16 thorized under division B, title III of the Housing and
17 Economic Recovery Act of 2008 ("the Act") (Public Law
18 110-289) (42 U.S.C. 5301 note), \$2,000,000,000, to re-
19 main available until September 30, 2010: *Provided*, That
20 grantees shall expend at least 50 percent of allocated
21 funds within 2 years of the date funds become available
22 to the grantee for obligation, and 100 percent of such
23 funds within 3 years of such date: *Provided further*, That
24 unless otherwise noted herein, the provisions of the Act
25 govern the use of the additional funds made available

1 under this heading: *Provided further*, That notwith-
2 standing the provisions of sections 2301(b) and (c)(1) and
3 section 2302 of the Act, funding under this paragraph
4 shall be allocated by competitions for which eligible enti-
5 ties shall be States, units of general local government, and
6 nonprofit entities or consortia of nonprofit entities, which
7 may submit proposals in partnership with for profit enti-
8 ties: *Provided further*, That in selecting grantees, the Sec-
9 retary of Housing and Urban Development shall ensure
10 that the grantees are in areas with the greatest number
11 and percentage of foreclosures and can expend funding
12 within the period allowed under this heading: *Provided fur-*
13 *ther*, That additional award criteria for such competitions
14 shall include demonstrated grantee capacity to execute
15 projects, leveraging potential, concentration of investment
16 to achieve neighborhood stabilization, and any additional
17 factors determined by the Secretary of Housing and
18 Urban Development: *Provided further*, That the Secretary
19 may establish a minimum grant size: *Provided further*,
20 That the Secretary shall publish criteria on which to base
21 competition for any grants awarded under this heading
22 not later than 75 days after the enactment of this Act
23 and applications shall be due to HUD not later than 150
24 days after the enactment of this Act: *Provided further*,
25 That the Secretary shall obligate all funding within 1 year

1 of enactment of this Act: *Provided further*, That section
2 2301(d)(4) of the Act is repealed: *Provided further*, That
3 section 2301(c)(3)(C) of the Act is amended to read “es-
4 tablish and operate land banks for homes and residential
5 properties that have been foreclosed upon”: *Provided fur-*
6 *ther*, That funding used for section 2301(c)(3)(E) of the
7 Act shall be available only for the redevelopment of demol-
8 ished or vacant properties as housing: *Provided further*,
9 That no amounts made available from a grant under this
10 heading may be used to demolish any public housing (as
11 such term is defined in section 3 of the United States
12 Housing Act of 1937 (42 U.S.C. 1437a)): *Provided fur-*
13 *ther*, That a grantee may not use more than 10 percent
14 of its grant under this heading for demolition activities
15 under section 2301(c)(3)(C) and (D) unless the Secretary
16 determines that such use represents an appropriate re-
17 sponse to local market conditions: *Provided further*, That
18 the recipient of any grant or loan from amounts made
19 available under this heading or, after the date of enact-
20 ment under division B, title III of the Housing and Eco-
21 nomic Recovery Act of 2008, may not refuse to lease a
22 dwelling unit in housing with such loan or grant to a par-
23 ticipant under section 8 of the United States Housing Act
24 of 1937 (42 U.S.C 1437f) because of the status of the
25 prospective tenant as such a participant ~~under section 8.~~

1 ~~of the United States Housing Act of 1937 (42 U.S.C.~~
2 ~~1437f) because of the status of the prospective tenant as~~
3 ~~such a participant:~~ *Provided further,* That in addition to
4 the eligible uses in section 2301, the Secretary may also
5 use up to 10 percent of the funds provided under this
6 heading for grantees for the provision of capacity building
7 of and support for local communities receiving funding
8 under section 2301 of the Act or under this heading: *Pro-*
9 *vided further,* That in ~~administering~~ funds appropriated *(administering*
10 or otherwise made available under this section, the Sec-
11 retary may waive or specify alternative requirements for
12 any provision of any statute or regulation in connection
13 with the obligation by the Secretary or the use of funds
14 except for requirements related to fair housing, non-
15 discrimination, labor standards and the environment, upon
16 a finding that such a waiver is necessary to expedite or
17 facilitate the use of such funds: *Provided further,* That in
18 the case of any acquisition of a foreclosed upon dwelling
19 or residential real property acquired after the date of en-
20 actment with any amounts made available under this
21 heading or under division B, title III of the Housing and
22 Economic Recovery Act of 2008 (Public Law 110-289),
23 *ec)* ~~The~~ initial successor in interest in such property pursuant
24 to the foreclosure shall assume such interest subject to:
25 (1) the provision by such successor in interest of a notice

1 to vacate to any bona fide tenant at least 90 days before
2 the effective date of such notice; and (2) the rights of any
3 bona fide tenant, as of the date of such notice of fore-
4 closure: (A) under any bona fide lease entered into before
5 the notice of foreclosure to occupy the premises until the
6 end of the remaining term of the lease, except that a suc-
7 cessor in interest may terminate a lease effective on the
8 date of sale of the unit to a purchaser who will occupy
9 the unit as a primary residence, subject to the receipt by
10 the tenant of the 90-day notice under this paragraph; or
11 (B) without a lease or with a lease terminable at will under
12 State law, subject to the receipt by the tenant of the 90-
13 day notice under this paragraph, except that nothing in
14 this paragraph shall affect the requirements for termi-
15 nation of any Federal- or State-subsidized tenancy or of
16 any State or local law that provides longer time periods
17 or other additional protections for tenants: *Provided fur-*
18 *ther*, That, for purposes of this paragraph, a lease or ten-
19 ancy shall be considered bona fide only if: (1) the mort-
20 gage under the contract is not the tenant; (2) the lease
21 or tenancy was the result of an arms-length transaction;
22 and (3) the lease or tenancy requires the receipt of rent
23 that is not substantially less than fair market rent for the
24 property: *Provided further*, That the recipient of any grant
25 or loan from amounts made available under this heading

1 or, after the ~~day~~ of enactment, under division B, title ~~II~~
2 of the Housing and Economic Recovery Act of 2008 (Pub-
3 lic Law 110-289) may not refuse to lease a dwelling unit
4 in housing assisted with such loan or grant to a holder
5 of a voucher or certificate of eligibility under section 8
6 of the United States Housing Act of 1937 (42 U.S.C.
7 1437f) because of the status of the prospective tenant as
8 such a holder: *Provided further*, That in the case of any
9 qualified foreclosed housing for which funds made avail-
10 able under this heading or, after the ~~day~~ of enactment,
11 under division B, title ~~II~~ of the Housing and Economic
12 Recovery Act of 2008 (Public Law 110-289) are used and
13 in which a recipient of assistance under section 8(o) of
14 the U.S. Housing Act of 1937 resides at the time of fore-
15 closure, the initial successor in interest shall be subject
16 to the lease and to the housing assistance payments con-
17 tract for the occupied unit: *Provided further*, That
18 vacating the property prior to sale shall not constitute
19 good cause for termination of the tenancy unless the prop-
20 erty is unmarketable while occupied or unless the owner
21 or subsequent purchaser desires the unit for personal or
22 family use: *Provided further*, That if a public housing
23 agency is unable to make payments under the contract to
24 the immediate successor in interest after foreclosures, due
25 to (1) an action or inaction by the successor in interest,

(date
III(date
III

1 including the rejection of payments or the failure of the
2 successor to maintain the unit in compliance with section
3 8(o)(8) of the United States Housing Act of 1937 (42
4 U.S.C.1437f) or (2) an inability to identify the successor,
5 the agency may use funds that would have been used to
6 pay the rental amount on behalf of the family—(i) to pay
7 for utilities that are the responsibility of the owner under
8 the lease or applicable law, after taking reasonable steps
9 to notify the owner that it intends to make payments to
10 a utility provider in lieu of payments to the owner, except
11 prior notification shall not be required in any case in
12 which the unit will be or has been rendered uninhabitable
13 due to the termination or threat of termination of service,
14 in which case the public housing agency shall notify the
15 owner within a reasonable time after making such pay-
16 ment; or (ii) for the family's reasonable moving costs, in-
17 cluding security deposit costs: *Provided further*, That this
18 paragraph shall not preempt any Federal, State or local
19 law that provides more protections for tenants,

20 ~~HOME INVESTMENT PARTNERSHIPS PROGRAM~~ - *le*

21 For an additional amount for capital investments in
22 low-income housing tax credit projects, \$2,250,000,000, to
23 remain available until September 30, 2011: *Provided*,
24 That such funds shall be made available to State housing
25 credit agencies, as defined in section 42(h) of the Internal

Insert
41A

: *Provided further*, That of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: *Provided further*, That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Personnel Compensation and Benefits, Community Planning and Development" and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to "Administration, Operations, and Management", for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to "Working Capital Fund".

Insert 41A

1 Revenue Code of 1986, and shall be apportioned among
2 the States based on the percentage of HOME funds ap-
3 portioned to each State and the participating jurisdictions
4 therein for Fiscal Year 2008: *Provided further*, That the
5 housing credit agencies in each State shall distribute these
6 funds competitively under this heading and pursuant to
7 their qualified allocation plan (as defined in section 42(m)
8 of the Internal Revenue Code of 1986) to owners of
9 projects who have received or receive simultaneously an
10 award of low-income housing tax credits under section
11 42(h) of the Internal Revenue Code of 1986: *Provided fur-*
12 *ther*, That housing credit agencies in each State shall com-
13 mit not less than 75 percent of such funds within one year
14 of the date of enactment of this Act, and shall dem-
15 onstrate that the project owners shall have expended 75
16 percent of the funds made available under this heading
17 within two years of the date of enactment of this Act, and
18 shall have expended 100 percent of the funds within 3
19 years of the date of enactment of this Act: *Provided fur-*
20 *ther*, That failure by an owner to expend funds within the
21 parameters required within the previous proviso shall re-
22 sult in a redistribution of these funds by a housing credit
23 agency to a more deserving project in such State, except
24 any funds not expended after 3 years from enactment
25 shall be redistributed by the Secretary to other States that

1 have fully utilized the funds made available to them: *Pro-*
2 *vided further*, That projects awarded low income housing
3 tax credits under section 42(h) of the IRC of 1986 in fis-
4 cal years 2007, 2008, or 2009 shall be eligible for funding
5 under this heading: *Provided further*, That housing credit
6 agencies shall give priority to projects that are expected
7 to be completed within 3 years of enactment: *Provided fur-*
8 *ther*, That any assistance provided to an eligible low in-
9 come housing tax credit project under this heading shall
10 be made in the same manner and be subject to the same
11 limitations (including rent, income, and use restrictions,
12 in lieu of corresponding limitations under the HOME pro-
13 gram) as required by the state housing credit agency with
14 respect to an awards of low income housing credits under
15 section 42 of the IRC of 1986: *Provided further*, That the
16 housing credit agency shall perform asset management
17 functions, or shall contract for the performance of such
18 services, in either case, at the owner's expense, to ensure
19 compliance with section 42 of the IRC of 1986, and the
20 long term viability of buildings funded by assistance under
21 this heading: *Provided further*, That the term eligible basis
22 (as such term is defined in such section 42) of a qualified
23 low-income housing tax credit building receiving assistance
24 under this heading shall not be reduced by the amount
25 of any grant described under this heading: *Provided fur-*

1 *ther*, That the Secretary shall be given access upon reason-
2 able notice to a State housing credit agency to information
3 related to the award of Federal funds from such housing
4 credit agency pursuant to this heading and shall establish
5 an Internet site that shall identify all projects selected for
6 an award, including the amount of the award and such
7 site shall provide linkage to the housing credit agency allo-
8 cation plan which describes the process that was used to
9 make the award decision. *Provided further*, That in admin-
10 istering funds under this heading, the Secretary may
11 waive any provision of any statute or regulation that the
12 Secretary administers in connection with the obligation by
13 the Secretary or the use by the recipient of these funds
14 except for requirements imposed by this heading and re-
15 quirements related to fair housing, non-discrimination,
16 labor standards and the environment, upon a finding that
17 such waiver is required to expedite the use of such funds:
18 *Provided further*, That for purposes of environmental com-
19 pliance review, funds under this heading that are made
20 available to State housing credit agencies for distribution
21 to projects awarded low income housing tax credits shall
22 be treated as funds under the HOME program and shall
23 be subject to Section 288 of the HOME Investment Part-
24 nership Act.

~~HOMELESSNESS PREVENTION FUND~~

1 For homelessness prevention and rapid re-housing ac-
2 tivities, \$1,500,000,000, to remain available until Sep-
3 tember 30, 2011: *Provided*, That funds provided under
4 this heading shall be used for the provision of short-term
5 or medium-term rental assistance; housing relocation and
6 stabilization services including housing search, mediation
7 or outreach to property owners, credit repair, security or
8 utility deposits, utility payments, rental assistance for a
9 final month at a location, moving cost assistance, and case
10 management; or other appropriate activities for homeless-
11 ness prevention and rapid re-housing of persons who have
12 become homeless: *Provided further*, That grantees receiv-
13 ing such assistance shall collect data on the use of the
14 funds awarded and persons served with this assistance in
15 the HUD Homeless Management Information System
16 ("HMIS") or other comparable database: *Provided fur-*
17 *ther*, That grantees may use up to 5 percent of any grant
18 for administrative costs: *Provided further*, That funding
19 made available under this heading shall be allocated to eli-
20 gible grantees (as defined and designated in sections 411
21 and 412 of subtitle B of title IV of the McKinney-Vento
22 Homeless Assistance Act, (the "Act")) pursuant to the
23 formula authorized by section 413 of the Act: *Provided*
24 *further*, That the Secretary may establish a minimum

1 grant size: *Provided further*, That grantees shall expend
2 at least 60 percent of funds within 2 years of the date
3 that funds became available to them for obligation, and
4 100 percent of funds within 3 years of such date, and the
5 Secretary may recapture unexpended funds in violation of
6 the 2-year expenditure requirement and reallocate such
7 funds to grantees in compliance with that requirement:
8 *Provided further*, That the Secretary may waive statutory
9 or regulatory provisions (except provisions for fair hous-
10 ing, nondiscrimination, labor standards, and the environ-
11 ment) necessary to facilitate the timely expenditure of
12 funds: *Provided further*, That the Secretary shall publish
13 a notice to establish such requirements as may be nec-
14 essary to carry out the provisions of this section within
15 30 days of enactment of ~~the~~ Act and that this notice shall
16 take effect upon issuance: *Provided further*, That of the
17 funds provided under this heading, up to .5 percent shall
18 be available for staffing, training, technical assistance,
19 technology, monitoring, research and evaluation activities:
20 *Provided further*, That funds set aside under the previous
21 proviso shall remain available until September 30, 2012:
22 *Provided further*, That any funds made available under
23 this heading used by the Secretary for personnel expenses
24 related to administering funding under this heading shall
25 be transferred to "Community Planning and Development

(this

1 Personnel Compensation and Benefits” and shall retain
 2 the terms and conditions of this account including re-
 3 programming provisions except that the period of avail-
 4 ability set forth in the previous proviso shall govern such
 5 transferred funds: *Provided further*, That any funds made
 6 available under this heading used by the Secretary for
 7 training or other administrative expenses shall be trans-
 8 ferred to ~~and merged with funding provided to~~ “Adminis-
 9 tration, Operations, and Management” for non-personnel
 10 expenses of the Department of Housing and Urban Devel-
 11 opment: *Provided further*, That any funding made avail-
 12 able under this heading used by the Secretary for tech-
 13 nology shall be transferred to ~~and merged with the fund-~~
 14 ~~ing provided to~~ “Working Capital Fund.”

15 ~~ASSISTED HOUSING STABILITY AND ENERGY AND~~
 16 ~~GREEN RETROFIT INVESTMENTS~~

17 For assistance to owners of properties receiving
 18 project-based assistance pursuant to section 202 of the
 19 Housing Act of 1959 (12 U.S.C. 17012), section 811 of
 20 the Cranston-Gonzalez National Affordable Housing Act
 21 (42 U.S.C. 8013), or section 8 of the United States Hous-
 22 ing Act of 1937 as amended (42 U.S.C. 1437f),
 23 \$2,250,000,000, of which \$2,000,000,000 shall be for an
 24 additional amount for paragraph (1) under the heading
 25 “Project-Based Rental Assistance” in Public Law 110-

⇒ Housing Programs E (CSC)

1 161 for payments to owners for 12-month periods, and
2 of which \$250,000,000 shall be for grants or loans for
3 energy retrofit and green investments in such assisted
4 housing: *Provided*, That projects funded with grants or
5 loans provided under this heading must comply with the
6 requirements of subchapter IV of chapter 31 of title 40,
7 United States Code: *Provided further*, That such grants
8 or loans shall be provided through the policies, procedures,
9 contracts, and transactional infrastructure of the author-
10 ized programs administered by the Office of Affordable
11 Housing Preservation of the Department of Housing and
12 Urban Development, on such terms and conditions as the
13 Secretary of Housing and Urban Development deems ap-
14 propriate to ensure the maintenance and preservation of
15 the property, the continued operation and maintenance of
16 energy efficiency technologies, and the timely expenditure
17 of funds: *Provided further*, That the Secretary may provide
18 incentives to owners to undertake energy or green retrofits
19 as a part of such grant or loan terms, including, but not
20 limited to, fees to cover investment oversight and imple-
21 mentation by said owner, or to encourage job creation for
22 low-income or very low-income individuals: *Provided fur-*
23 *ther*, That the Secretary may share in a portion of future
24 property utility savings resulting from improvements made
25 by grants or loans made available under this heading: *Pro-*

1 *vided further*, That the grants or loans shall include a fi-
2 nancial assessment and physical inspection of such prop-
3 erty: *Provided further*, That eligible owners must have at
4 least a satisfactory management review rating, be in sub-
5 stantial compliance with applicable performance standards
6 and legal requirements, and commit to an additional pe-
7 riod of affordability determined by the Secretary, but of
8 not fewer than 15 years: *Provided further*, That the Sec-
9 retary shall undertake appropriate underwriting and over-
10 sight with respect to grant and loan transactions and may
11 set aside up to 5 percent of the funds made available
12 under this heading for grants or loans for such purpose:
13 *Provided further*, That the Secretary shall take steps nec-
14 essary to ensure that owners receiving funding for energy
15 and green retrofit investments under this heading shall ex-
16 pend such funding within 2 years of the date they received
17 the funding: *Provided further*, That in administering funds
18 appropriated or otherwise made available under this head-
19 ing, the Secretary may waive or specify alternative re-
20 quirements for any provision of any statute or regulation
21 in connection with the obligation by the Secretary or the
22 use of these funds (except for requirements related to fair
23 housing, nondiscrimination, labor standards, and the envi-
24 ronment), upon a finding that such a waiver is necessary
25 to expedite or facilitate the use of such funds: *Provided*

1 *further*, That of the funds provided under this heading,
2 up to 1 percent shall be available for staffing, training,
3 technical assistance, technology, monitoring, research and
4 evaluation activities: *Provided further*, That funds set
5 aside in the previous proviso shall remain available until
6 September 30, 2012: *Provided further*, That funding made
7 available under this heading and used by the Secretary
8 for personnel expenses related to administering funding
9 under this heading shall be transferred to ~~and merged~~
10 ~~with funding provided to~~ "Housing Compensation and
11 Benefits" and shall retain the terms and conditions of this
12 account including reprogramming provisos except that the
13 period of availability set forth in the previous proviso shall
14 govern such transferred funds: *Provided further*, That any
15 funding made available under this heading used by the
16 Secretary for training and other administrative expenses
17 shall be transferred to ~~and merged with funding provided~~
18 ~~to~~ "Administration, Operations and Management" for
19 non-personnel expenses of the Department of Housing and
20 Urban Development: *Provided further*, That any funding
21 made available under this heading used by the Secretary
22 for technology shall be transferred to ~~and merged with~~
23 ~~funding provided to~~ "Working Capital Fund."

for grants
and loans

Personnel

1 OFFICE OF HEALTHY HOMES AND LEAD HAZARD
2 CONTROL

3 For an additional amount for the "Lead Hazard Re-
4 duction Program", as authorized by section 1011 of the
5 Residential Lead-Based Paint Hazard Reduction Act of
6 1992, and by sections 501 and 502 of the Housing and
7 Urban Development Act of 1974, \$100,000,000, to remain
8 available until September 30, 2011: *Provided*, That for
9 purposes of environmental review, pursuant to the Na-
10 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
11 et seq.) and other provisions of law that further the pur-
12 poses of such Act, a grant under the Healthy Homes Ini-
13 tiative, Operation Lead Elimination Action Plan (LEAP),
14 or the Lead Technical Studies program under this heading
15 or under prior appropriations Acts for such purposes
16 under this heading, shall be considered to be funds for
17 a special project for purposes of section 305(e) of the Mul-
18 tifamily Housing Property Disposition Reform Act of
19 1994: *Provided further*, That funds shall be awarded first
20 to applicants which had applied under the Lead Hazard
21 Reduction Program Notices of Funding Availability for
22 fiscal year 2008, and were found in the application review
23 to be qualified for award, but were not awarded because
24 of funding limitations, and that any funds which remain
25 after reservation of funds for such grants shall be added

1 to the amount of funds to be awarded under the Lead
2 Hazard Reduction Program Notices of Funding Avail-
3 ability for fiscal year 2009: *Provided further*, That each
4 applicant for the Lead Hazard Program Notices of Fund-
5 ing Availability for fiscal year 2009 shall submit a detailed
6 plan and strategy that demonstrates adequate capacity
7 that is acceptable to the Secretary to carry out the pro-
8 posed use of funds: *Provided further*, That recipients of
9 funds under this heading shall expend at least 50 percent
10 of such funds within 2 years of the date on which funds
11 become available to such jurisdictions for obligation, and
12 expend 100 percent of such funds within 3 years of such
13 date: *Provided further*, That if a recipient fails to comply
14 with the 2-year expenditure requirement, the Secretary
15 shall recapture all remaining funds awarded to the recipi-
16 ent and reallocate such funds to recipients that are in
17 compliance with those requirements: *Provided further*,
18 That if a recipient fails to comply with the 3-year expendi-
19 ture requirement, the Secretary shall recapture the bal-
20 ance of the funds awarded to the recipient: *Provided fur-*
21 *ther*, That in administering funds appropriated or other-
22 wise made available under this heading, the Secretary may
23 waive or specify alternative requirements for any provision
24 of any statute or regulation in connection with the obliga-
25 tion by the Secretary or the use of these funds (except

1 for requirements related to fair housing, nondiscrimina-
2 tion, labor standards and the environment), upon a finding
3 that such a waiver is necessary to expedite or facilitate
4 the use of such funds: *Provided further*, That of the funds
5 made available under this heading, up to .5 percent shall
6 be available for staffing, training, technical assistance,
7 technology, monitoring, travel, enforcement, research and
8 evaluation activities: *Provided further*, That funds set
9 aside in the previous proviso shall remain available until
10 September 30, 2012: *Provided further*, That any funds
11 made available under this heading used by the Secretary
12 for personnel expenses related to administering funding
13 under this heading shall be transferred to "Personnel
14 Compensation and Benefits, Office of ~~Healthy Homes~~ and
15 ~~Lead Hazard Control~~" and shall retain the terms and con-
16 ditions of this account, including reprogramming provi-
17 sions, except that the period of availability set forth in
18 the previous proviso shall govern such transferred funds:
19 *Provided further*, That any funds made available under
20 this heading used by the Secretary for training or other
21 administrative expenses shall be transferred to "Adminis-
22 tration, Operations, and Management", for non-personnel
23 expenses of the Department of Housing and Urban Devel-
24 opment: *Provided further*, That any funds made available

Lead Hazard
Control
and Healthy
Home

1 under this heading used by the Secretary for technology
2 shall be transferred to "Working Capital Fund".

3 ~~OFFICE OF INSPECTOR GENERAL~~ — (le

4 For an additional amount for the necessary salaries
5 and expenses of the Office of Inspector General in car-
6 rying out the Inspector General Act of 1978, as amended,
7 \$15,000,000, to remain available until September 30,
8 2013: *Provided*, That the Inspector General shall have
9 independent authority over all personnel issues within this
10 office.

11 GENERAL PROVISIONS—DEPARTMENT OF
12 HOUSING AND URBAN DEVELOPMENT

13 SEC. 1202. FHA LOAN LIMITS FOR 2009. (a) LOAN
14 LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages
15 for which the mortgagee issues credit approval for the bor-
16 rower during calendar year 2009, if the dollar amount lim-
17 itation on the principal obligation of a mortgage deter-
18 mined under section 203(b)(2) of the National Housing
19 Act (12 U.S.C. 1709(b)(2)) for any size residence for any
20 area is less than such dollar amount limitation that was
21 in effect for such size residence for such area for 2008
22 pursuant to section 202 of the Economic Stimulus Act of
23 2008 (Public Law 110–185; 122 Stat. 620), notwith-
24 standing any other provision of law, the maximum dollar
25 amount limitation on the principal obligation of a mort-

] MANAGEMENT AND ADMINISTRATION [CSC

1 gage for such size residence for such area for purposes
2 of such section 203(b)(2) shall be considered (except for
3 purposes of section 255(g) of such Act (12 U.S.C. 1715z–
4 20(g))) to be such dollar amount limitation in effect for
5 such size residence for such area for 2008.

6 (b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—
7 Notwithstanding any other provision of law, if the Sec-
8 retary of Housing and Urban Development determines, for
9 any geographic area that is smaller than an area for which
10 dollar amount limitations on the principal obligation of a
11 mortgage are determined under section 203(b)(2) of the
12 National Housing Act, that a higher such maximum dollar
13 amount limitation is warranted for any particular size or
14 sizes of residences in such sub-area by higher median
15 home prices in such sub-area, the Secretary may, for mort-
16 gages for which the mortgagee issues credit approval for
17 the borrower during calendar year 2009, increase the max-
18 imum dollar amount limitation for such size or sizes of
19 residences for such sub-area that is otherwise in effect (in-
20 cluding pursuant to subsection (a) of this section), but in
21 no case to an amount that exceeds the amount specified
22 in section 202(a)(2) of the Economic Stimulus Act of
23 2008.

24 SEC. 1203. GSE CONFORMING LOAN LIMITS FOR
25 2009. (a) LOAN LIMIT FLOOR BASED ON 2008 LEV-

1 ELS.—For mortgages originated during calendar year
2 2009, if the limitation on the maximum original principal
3 obligation of a mortgage that may ^(be) purchased by the Fed-
4 eral National Mortgage Association or the Federal Home
5 Loan Mortgage Corporation determined under section
6 302(b)(2) of the Federal National Mortgage Association
7 Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2)
8 of the Federal Home Loan Mortgage Corporation Act (12
9 U.S.C. 1754(a)(2)), respectively, for any size residence for
10 any area is less than such maximum original principal ob-
11 ligation limitation that was in effect for such size residence
12 for such area for 2008 pursuant to section 201 of the Eco-
13 nomic Stimulus Act of 2008 (Public Law 110–185; 122
14 Stat. 619), notwithstanding any other provision of law, the
15 limitation on the maximum original principal obligation of
16 a mortgage for such Association and Corporation for such
17 size residence for such area shall be such maximum limita-
18 tion in effect for such size residence for such area for
19 2008.

20 (b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—
21 Notwithstanding any other provision of law, if the Direc-
22 tor of the Federal Housing Finance Agency determines,
23 for any geographic area that is smaller than an area for
24 which limitations on the maximum original principal obli-
25 gation of a mortgage are determined for the Federal Na-

1 tional Mortgage Association or the Federal Home Loan
2 Mortgage Corporation, that a higher such maximum origi-
3 nal principal obligation limitation is warranted for any
4 particular size or sizes of residences in such sub-area by
5 higher median home prices in such sub-area, the Director
6 may, for mortgages originated during 2009, increase the
7 maximum original principal obligation limitation for such
8 size or sizes of residences for such sub-area that is other-
9 wise in effect (including pursuant to subsection (a) of this
10 section) for such Association and Corporation, but in no
11 case to an amount that exceeds the amount specified in
12 the matter following the comma in section 201(a)(1)(B)
13 of the Economic Stimulus Act of 2008.

14 SEC. 1204. FHA REVERSE MORTGAGE LOAN LIMITS
15 FOR 2009. For mortgages for which the mortgagee issues
16 credit approval for the borrower during calendar year
17 2009, the second sentence of section 255(g) of the Na-
18 tional Housing Act (12 U.S.C. 1715z-20(g)) shall be con-
19 sidered to require that in no case may the benefits of in-
20 surance under such section 255 exceed 150 percent of the
21 maximum dollar amount in effect under the sixth sentence
22 of section 305(a)(2) of the Federal Home Loan Mortgage
23 Corporation Act (12 U.S.C. 1454(a)(2)).

1 **TITLE XIII—HEALTH**
2 **INFORMATION TECHNOLOGY**

3 **SEC. 13001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.**

4 (a) **SHORT TITLE.**—This title (and title IV of division
5 B) may be cited as the “Health Information Technology
6 for Economic and Clinical Health Act” or the “HITECH
7 Act”.

8 (b) **TABLE OF CONTENTS OF TITLE.**—The table of
9 contents of this title is as follows:

Sec. 13001. Short title; table of contents of title.

 Subtitle A—Promotion of Health Information Technology

 PART 1—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

Sec. 13101. ONCHIT; standards development and adoption.

 “**TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND
 QUALITY**

 “Sec. 3000. Definitions.

 “Subtitle A—Promotion of Health Information Technology

 “Sec. 3001. Office of the National Coordinator for Health Information
 Technology.

 “Sec. 3002. HIT Policy Committee.

 “Sec. 3003. HIT Standards Committee.

 “Sec. 3004. Process for adoption of endorsed recommendations; adoption
 of initial set of standards, implementation specifications,
 and certification criteria.

 “Sec. 3005. Application and use of adopted standards and implementation
 specifications by Federal agencies.

 “Sec. 3006. Voluntary application and use of adopted standards and im-
 plementation specifications by private entities.

 “Sec. 3007. Federal health information technology.

 “Sec. 3008. Transitions.

 “Sec. 3009. Miscellaneous provisions.

Sec. 13102. Technical amendment.

 PART 2—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION
 TECHNOLOGY STANDARDS; REPORTS

2

- Sec. 13111. Coordination of Federal activities with adopted standards and implementation specifications.
- Sec. 13112. Application to private entities.
- Sec. 13113. Study and reports.

Subtitle B—Testing of Health Information Technology

- Sec. 13201. National Institute for Standards and Technology testing.
- Sec. 13202. Research and development programs.

Subtitle C—Grants and Loans Funding

- Sec. 13301. Grant, loan, and demonstration programs.

“Subtitle B—Incentives for the Use of Health Information Technology

- “Sec. 3011. Immediate funding to strengthen the health information technology infrastructure.
- “Sec. 3012. Health information technology implementation assistance.
- “Sec. 3013. State grants to promote health information technology.
- “Sec. 3014. Competitive grants to States and Indian tribes for the development of loan programs to facilitate the widespread adoption of certified EHR technology.
- “Sec. 3015. Demonstration program to integrate information technology into clinical education.
- “Sec. 3016. Information technology professionals in health care.
- “Sec. 3017. General grant and loan provisions.
- “Sec. 3018. Authorization for appropriations.

Subtitle D—Privacy

- Sec. 13400. Definitions.

PART 1—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

- Sec. 13401. Application of security provisions and penalties to business associates of covered entities; annual guidance on security provisions.
- Sec. 13402. Notification in the case of breach.
- Sec. 13403. Education on health information privacy.
- Sec. 13404. Application of privacy provisions and penalties to business associates of covered entities.
- Sec. 13405. Restrictions on certain disclosures and sales of health information; accounting of certain protected health information disclosures; access to certain information in electronic format.
- Sec. 13406. Conditions on certain contacts as part of health care operations.
- Sec. 13407. Temporary breach notification requirement for vendors of personal health records and other non-HIPAA covered entities.
- Sec. 13408. Business associate contracts required for certain entities.
- Sec. 13409. Clarification of application of wrongful disclosures criminal penalties.
- Sec. 13410. Improved enforcement.
- Sec. 13411. Audits.

PART 2—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES;
EFFECTIVE DATE; REPORTS

- Sec. 13421. Relationship to other laws.
- Sec. 13422. Regulatory references.

Sec. 13423. Effective date.

Sec. 13424. Studies, reports, guidance.

1 **Subtitle A—Promotion of Health**
2 **Information Technology**

3 **PART 1—IMPROVING HEALTH CARE QUALITY,**
4 **SAFETY, AND EFFICIENCY**

5 **SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND**
6 **ADOPTION.**

7 The Public Health Service Act (42 U.S.C. 201 et
8 seq.) is amended by adding at the end the following:

9 **“TITLE XXX—HEALTH INFORMA-**
10 **TION TECHNOLOGY AND**
11 **QUALITY**

12 **“SEC. 3000. DEFINITIONS.**

13 “In this title:

14 “(1) **CERTIFIED EHR TECHNOLOGY.**—The term
15 ‘certified EHR technology’ means a qualified elec-
16 tronic health record that is certified pursuant to sec-
17 tion 3001(c)(5) as meeting standards adopted under
18 section 3004 that are applicable to the type of
19 record involved (as determined by the Secretary,
20 such as an ambulatory electronic health record for
21 office-based physicians or an inpatient hospital elec-
22 tronic health record for hospitals).

23 “(2) **ENTERPRISE INTEGRATION.**—The term
24 ‘enterprise integration’ means the electronic linkage

1 of health care providers, health plans, the govern-
2 ment, and other interested parties, to enable the
3 electronic exchange and use of health information
4 among all the components in the health care infra-
5 structure in accordance with applicable law, and
6 such term includes related application protocols and
7 other related standards.

8 “(3) HEALTH CARE PROVIDER.—The term
9 ‘health care provider’ includes a hospital, skilled
10 nursing facility, nursing facility, home health entity
11 or other long term care facility, health care clinic,
12 community mental health center (as defined in sec-
13 tion 1913(b)(1)), renal dialysis facility, blood center,
14 ambulatory surgical center described in section
15 1833(i) of the Social Security Act, emergency med-
16 ical services provider, Federally qualified health cen-
17 ter, group practice, a pharmacist, a pharmacy, a lab-
18 oratory, a physician (as defined in section 1861(r) of
19 the Social Security Act), a practitioner (as described
20 in section 1842(b)(18)(C) of the Social Security
21 Act), a provider operated by, or under contract with,
22 the Indian Health Service or by an Indian tribe (as
23 defined in the Indian Self-Determination and Edu-
24 cation Assistance Act), tribal organization, or urban
25 Indian organization (as defined in section 4 of the

1 Indian Health Care Improvement Act), a rural
2 health clinic, a covered entity under section 340B,
3 an ambulatory surgical center described in section
4 1833(i) of the Social Security Act, a therapist (as
5 defined in section 1848(k)(3)(B)(iii) of the Social
6 Security Act), and any other category of health care
7 facility, entity, practitioner, or clinician determined
8 appropriate by the Secretary.

9 “(4) HEALTH INFORMATION.—The term ‘health
10 information’ has the meaning given such term in
11 section 1171(4) of the Social Security Act.

12 “(5) HEALTH INFORMATION TECHNOLOGY.—
13 The term ‘health information technology’ means
14 hardware, software, integrated technologies or re-
15 lated licenses, intellectual property, upgrades, or
16 packaged solutions sold as services that are designed
17 for or support the use by health care entities or pa-
18 tients for the electronic creation, maintenance, ac-
19 cess, or exchange of health information

20 “(6) HEALTH PLAN.—The term ‘health plan’
21 has the meaning given such term in section 1171(5)
22 of the Social Security Act.

23 “(7) HIT POLICY COMMITTEE.—The term ‘HIT
24 Policy Committee’ means such Committee estab-
25 lished under section 3002(a).

1 “(8) HIT STANDARDS COMMITTEE.—The term
2 ‘HIT Standards Committee’ means such Committee
3 established under section 3003(a).

4 “(9) INDIVIDUALLY IDENTIFIABLE HEALTH IN-
5 FORMATION.—The term ‘individually identifiable
6 health information’ has the meaning given such term
7 in section 1171(6) of the Social Security Act.

8 “(10) LABORATORY.—The term ‘laboratory’
9 has the meaning given such term in section 353(a).

10 “(11) NATIONAL COORDINATOR.—The term
11 ‘National Coordinator’ means the head of the Office
12 of the National Coordinator for Health Information
13 Technology established under section 3001(a).

14 “(12) PHARMACIST.—The term ‘pharmacist’
15 has the meaning given such term in section 804(2)
16 of the Federal Food, Drug, and Cosmetic Act.

17 “(13) QUALIFIED ELECTRONIC HEALTH
18 RECORD.—The term ‘qualified electronic health
19 record’ means an electronic record of health-related
20 information on an individual that—

21 “(A) includes patient demographic and
22 clinical health information, such as medical his-
23 tory and problem lists; and

24 “(B) has the capacity—

1 “(i) to provide clinical decision sup-
2 port;

3 “(ii) to support physician order entry;

4 “(iii) to capture and query informa-
5 tion relevant to health care quality; and

6 “(iv) to exchange electronic health in-
7 formation with, and integrate such infor-
8 mation from other sources.

9 “(14) STATE.—The term ‘State’ means each of
10 the several States, the District of Columbia, Puerto
11 Rico, the Virgin Islands, Guam, American Samoa,
12 and the Northern Mariana Islands.

13 **“Subtitle A—Promotion of Health**
14 **Information Technology**

15 **“SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR**
16 **HEALTH INFORMATION TECHNOLOGY.**

17 “(a) ESTABLISHMENT.—There is established within
18 the Department of Health and Human Services an Office
19 of the National Coordinator for Health Information Tech-
20 nology (referred to in this section as the ‘Office’). The Of-
21 fice shall be headed by a National Coordinator who shall
22 be appointed by the Secretary and shall report directly to
23 the Secretary.

24 “(b) PURPOSE.—The National Coordinator shall per-
25 form the duties under subsection (c) in a manner con-

1 sistent with the development of a nationwide health infor-
2 mation technology infrastructure that allows for the elec-
3 tronic use and exchange of information and that—

4 “(1) ensures that each patient’s health informa-
5 tion is secure and protected, in accordance with ap-
6 plicable law;

7 “(2) improves health care quality, reduces med-
8 ical errors, reduces health disparities, and advances
9 the delivery of patient-centered medical care;

10 “(3) reduces health care costs resulting from
11 inefficiency, medical errors, inappropriate care, du-
12 plicative care, and incomplete information;

13 “(4) provides appropriate information to help
14 guide medical decisions at the time and place of
15 care;—

16 “(5) ensures the inclusion of meaningful public
17 input in such development of such infrastructure;

18 “(6) improves the coordination of care and in-
19 formation among hospitals, laboratories, physician
20 offices, and other entities through an effective infra-
21 structure for the secure and authorized exchange of
22 health care information;

23 “(7) improves public health activities and facili-
24 tates the early identification and rapid response to

1 public health threats and emergencies, including bio-
2 terror events and infectious disease outbreaks;

3 “(8) facilitates health and clinical research and
4 health care quality;

5 “(9) promotes early detection, prevention, and
6 management of chronic diseases;

7 “(10) promotes a more effective marketplace,
8 greater competition, greater systems analysis, in-
9 creased consumer choice, and improved outcomes in
10 health care services; and

11 “(11) improves efforts to reduce health dispari-
12 ties.

13 “(c) DUTIES OF THE NATIONAL COORDINATOR.—

14 “(1) STANDARDS.—The National Coordinator
15 shall—

16 “(A) review and determine whether to en-
17 dorse each standard, implementation specifica-
18 tion, and certification criterion for the elec-
19 tronic exchange and use of health information
20 that is recommended by the HIT Standards
21 Committee under section 3003 for purposes of
22 adoption under section 3004;

23 “(B) make such determinations under sub-
24 paragraph (A), and report to the Secretary
25 such determinations, not later than 45 days

1 after the date the recommendation is received
2 by the Coordinator; and

3 “(C) review Federal health information
4 technology investments to ensure that Federal
5 health information technology programs are
6 meeting the objectives of the strategic plan pub-
7 lished under paragraph (3).

8 “(2) HIT POLICY COORDINATION.—

9 “(A) IN GENERAL.—The National Coordi-
10 nator shall coordinate health information tech-
11 nology policy and programs of the Department
12 with those of other relevant executive branch
13 agencies with a goal of avoiding duplication of
14 efforts and of helping to ensure that each agen-
15 cy undertakes health information technology ac-
16 tivities primarily within the areas of its greatest
17 expertise and technical capability and in a man-
18 ner towards a coordinated national goal.

19 “(B) HIT POLICY AND STANDARDS COM-
20 MITTEES.—The National Coordinator shall be a
21 leading member in the establishment and oper-
22 ations of the HIT Policy Committee and the
23 HIT Standards Committee and shall serve as a
24 liaison among those two Committees and the
25 Federal Government.

1 “(3) STRATEGIC PLAN.—

2 “(A) IN GENERAL.—The National Coordi-
3 nator shall, in consultation with other appro-
4 priate Federal agencies (including the National
5 Institute of Standards and Technology), update
6 the Federal Health IT Strategic Plan (devel-
7 oped as of June 3, 2008) to include specific ob-
8 jectives, milestones, and metrics with respect to
9 the following:

10 “(i) The electronic exchange and use
11 of health information and the enterprise
12 integration of such information.

13 “(ii) The utilization of an electronic
14 health record for each person in the United
15 States by 2014.

16 “(iii) The incorporation of privacy and
17 security protections for the electronic ex-
18 change of an individual’s individually iden-
19 tifiable health information.

20 “(iv) Ensuring security methods to
21 ensure appropriate authorization and elec-
22 tronic authentication of health information
23 and specifying technologies or methodolo-
24 gies for rendering health information unus-
25 able, unreadable, or indecipherable.

1 “(v) Specifying a framework for co-
2 ordination and flow of recommendations
3 and policies under this subtitle among the
4 Secretary, the National Coordinator, the
5 HIT Policy Committee, the HIT Standards
6 Committee, and other health information
7 exchanges and other relevant entities.

8 “(vi) Methods to foster the public un-
9 derstanding of health information tech-
10 nology.

11 “(vii) Strategies to enhance the use of
12 health information technology in improving
13 the quality of health care, reducing medical
14 errors, reducing health disparities, improv-
15 ing public health, increasing prevention
16 and coordination with community re-
17 sources, and improving the continuity of
18 care among health care settings.

19 “(viii) Specific plans for ensuring that
20 populations with unique needs, such as
21 children, are appropriately addressed in
22 the technology design, as appropriate,
23 which may include technology that
24 automates enrollment and retention for eli-
25 gible individuals.

1 “(B) COLLABORATION.—The strategic
2 plan shall be updated through collaboration of
3 public and private entities.

4 “(C) MEASURABLE OUTCOME GOALS.—
5 The strategic plan update shall include measur-
6 able outcome goals.

7 “(D) PUBLICATION.—The National Coor-
8 dinator shall republish the strategic plan, in-
9 cluding all updates.

10 “(4) WEBSITE.—The National Coordinator
11 shall maintain and frequently update an Internet
12 website on which there is posted information on the
13 work, schedules, reports, recommendations, and
14 other information to ensure transparency in pro-
15 motion of a nationwide health information tech-
16 nology infrastructure.

17 “(5) CERTIFICATION.—

18 “(A) IN GENERAL.—The National Coordi-
19 nator, in consultation with the Director of the
20 National Institute of Standards and Tech-
21 nology, shall keep or recognize a program or
22 programs for the voluntary certification of
23 health information technology as being in com-
24 pliance with applicable certification criteria
25 adopted under this subtitle. Such program shall

1 include, as appropriate, testing of the tech-
2 nology in accordance with section 13201(b) of
3 the Health Information Technology for Eco-
4 nomic and Clinical Health Act.

5 “(B) CERTIFICATION CRITERIA DE-
6 SCRIBED.—In this title, the term ‘certification
7 criteria’ means, with respect to standards and
8 implementation specifications for health infor-
9 mation technology, criteria to establish that the
10 technology meets such standards and implemen-
11 tation specifications.

12 “(6) REPORTS AND PUBLICATIONS.—

13 “(A) REPORT ON ADDITIONAL FUNDING
14 OR AUTHORITY NEEDED.—Not later than 12
15 months after the date of the enactment of this
16 title, the National Coordinator shall submit to
17 the appropriate committees of jurisdiction of
18 the House of Representatives and the Senate a
19 report on any additional funding or authority
20 the Coordinator or the HIT Policy Committee
21 or HIT Standards Committee requires to evalu-
22 ate and develop standards, implementation
23 specifications, and certification criteria, or to
24 achieve full participation of stakeholders in the
25 adoption of a nationwide health information

1 technology infrastructure that allows for the
2 electronic use and exchange of health informa-
3 tion.

4 “(B) IMPLEMENTATION REPORT.—The
5 National Coordinator shall prepare a report
6 that identifies lessons learned from major pub-
7 lic and private health care systems in their im-
8 plementation of health information technology,
9 including information on whether the tech-
10 nologies and practices developed by such sys-
11 tems may be applicable to and usable in whole
12 or in part by other health care providers.

13 “(C) ASSESSMENT OF IMPACT OF HIT ON
14 COMMUNITIES WITH HEALTH DISPARITIES AND
15 UNINSURED, UNDERINSURED, AND MEDICALLY
16 UNDERSERVED AREAS.—The National Coordi-
17 nator shall assess and publish the impact of
18 health information technology in communities
19 with health disparities and in areas with a high
20 proportion of individuals who are uninsured,
21 underinsured, and medically underserved indi-
22 viduals (including urban and rural areas) and
23 identify practices to increase the adoption of
24 such technology by health care providers in
25 such communities, and the use of health infor-

1 mation technology to reduce and better manage
2 chronic diseases.

3 “(D) EVALUATION OF BENEFITS AND
4 COSTS OF THE ELECTRONIC USE AND EX-
5 CHANGE OF HEALTH INFORMATION.—The Na-
6 tional Coordinator shall evaluate and publish
7 evidence on the benefits and costs of the elec-
8 tronic use and exchange of health information
9 and assess to whom these benefits and costs ac-
10 crue.

11 “(E) RESOURCE REQUIREMENTS.—The
12 National Coordinator shall estimate and publish
13 resources required annually to reach the goal of
14 utilization of an electronic health record for
15 each person in the United States by 2014, in-
16 cluding—

17 “(i) the required level of Federal
18 funding;

19 “(ii) expectations for regional, State,
20 and private investment;

21 “(iii) the expected contributions by
22 volunteers to activities for the utilization of
23 such records; and

24 “(iv) the resources needed to establish
25 a health information technology workforce

1 sufficient to support this effort (including
2 education programs in medical informatics
3 and health information management).

4 “(7) ASSISTANCE.—The National Coordinator
5 may provide financial assistance to consumer advo-
6 cacy groups and not-for-profit entities that work in
7 the public interest for purposes of defraying the cost
8 to such groups and entities to participate under,
9 whether in whole or in part, the National Tech-
10 nology Transfer Act of 1995 (15 U.S.C. 272 note).

11 “(8) GOVERNANCE FOR NATIONWIDE HEALTH
12 INFORMATION NETWORK.—The National Coordi-
13 nator shall establish a governance mechanism for the
14 nationwide health information network.

15 “(d) DETAIL OF FEDERAL EMPLOYEES.—

16 “(1) IN GENERAL.—Upon the request of the
17 National Coordinator, the head of any Federal agen-
18 cy is authorized to detail, with or without reimburse-
19 ment from the Office, any of the personnel of such
20 agency to the Office to assist it in carrying out its
21 duties under this section.

22 “(2) EFFECT OF DETAIL.—Any detail of per-
23 sonnel under paragraph (1) shall—

1 “(A) not interrupt or otherwise affect the
2 civil service status or privileges of the Federal
3 employee; and

4 “(B) be in addition to any other staff of
5 the Department employed by the National Co-
6 ordinator.

7 “(3) ACCEPTANCE OF DETAILEES.—Notwith-
8 standing any other provision of law, the Office may
9 accept detailed personnel from other Federal agen-
10 cies without regard to whether the agency described
11 under paragraph (1) is reimbursed.

12 “(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF
13 THE NATIONAL COORDINATOR.—Not later than 12
14 months after the date of the enactment of this title, the
15 Secretary shall appoint a Chief Privacy Officer of the Of-
16 fice of the National Coordinator, whose duty it shall be
17 to advise the National Coordinator on privacy, security,
18 and data stewardship of electronic health information and
19 to coordinate with other Federal agencies (and similar pri-
20 vacy officers in such agencies), with State and regional
21 efforts, and with foreign countries with regard to the pri-
22 vacy, security, and data stewardship of electronic individ-
23 ually identifiable health information.

1 **"SEC. 3002. HIT POLICY COMMITTEE.**

2 “(a) ESTABLISHMENT.—There is established a HIT
3 Policy Committee to make policy recommendations to the
4 National Coordinator relating to the implementation of a
5 nationwide health information technology infrastructure,
6 including implementation of the strategic plan described
7 in section 3001(e)(3).

8 “(b) DUTIES.—

9 “(1) RECOMMENDATIONS ON HEALTH INFOR-
10 MATION TECHNOLOGY INFRASTRUCTURE.—The HIT
11 Policy Committee shall recommend a policy frame-
12 work for the development and adoption of a nation-
13 wide health information technology infrastructure
14 that permits the electronic exchange and use of
15 health information as is consistent with the strategic
16 plan under section 3001(e)(3) and that includes the
17 recommendations under paragraph (2). The Com-
18 mittee shall update such recommendations and make
19 new recommendations as appropriate.

20 “(2) SPECIFIC AREAS OF STANDARD DEVELOP-
21 MENT.—

22 “(A) IN GENERAL.—The HIT Policy Com-
23 mittee shall recommend the areas in which
24 standards, implementation specifications, and
25 certification criteria are needed for the elec-
26 tronic exchange and use of health information

1 for purposes of adoption under section 3004
2 and shall recommend an order of priority for
3 the development, harmonization, and recogni-
4 tion of such standards, specifications, and cer-
5 tification criteria among the areas so rec-
6 ommended. Such standards and implementation
7 specifications shall include named standards,
8 architectures, and software schemes for the au-
9 thentication and security of individually identifi-
10 able health information and other information
11 as needed to ensure the reproducible develop-
12 ment of common solutions across disparate en-
13 tities.

14 “(B) AREAS REQUIRED FOR CONSIDER-
15 ATION.—For purposes of subparagraph (A), the
16 HIT Policy Committee shall make recommenda-
17 tions for at least the following areas:

18 “(i) Technologies that protect the pri-
19 vacy of health information and promote se-
20 curity in a qualified electronic health
21 record, including for the segmentation and
22 protection from disclosure of specific and
23 sensitive individually identifiable health in-
24 formation with the goal of minimizing the
25 reluctance of patients to seek care (or dis-

1 close information about a condition) be-
2 cause of privacy concerns, in accordance
3 with applicable law, and for the use and
4 disclosure of limited data sets of such in-
5 formation.

6 “(ii) A nationwide health information
7 technology infrastructure that allows for
8 the electronic use and accurate exchange of
9 health information.

10 “(iii) The utilization of a certified
11 electronic health record for each person in
12 the United States by 2014.

13 “(iv) Technologies that as a part of a
14 qualified electronic health record allow for
15 an accounting of disclosures made by a
16 covered entity (as defined for purposes of
17 regulations promulgated under section
18 264(c) of the Health Insurance Portability
19 and Accountability Act of 1996) for pur-
20 poses of treatment, payment, and health
21 care operations (as such terms are defined
22 for purposes of such regulations).

23 “(v) The use of certified electronic
24 health records to improve the quality of
25 health care, such as by promoting the co-

ordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, by reducing health disparities, by reducing chronic disease, and by advancing research and education.

“(vi) Technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in the nationwide health information network or physically transported outside of the secured, physical perimeter of a health care provider, health plan, or health care clearinghouse.

“(vii) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and gender information.

“(viii) Technologies that address the needs of children and other vulnerable populations.

1 “(C) OTHER AREAS FOR CONSIDER-
2 ATION.—In making recommendations under
3 subparagraph (A), the HIT Policy Committee
4 may consider the following additional areas:

5 “(i) The appropriate uses of a nation-
6 wide health information infrastructure, in-
7 cluding for purposes of—

8 “(I) the collection of quality data
9 and public reporting;

10 “(II) biosurveillance and public
11 health;

12 “(III) medical and clinical re-
13 search; and

14 “(IV) drug safety.

15 “(ii) Self-service technologies that fa-
16 cilitate the use and exchange of patient in-
17 formation and reduce wait times.

18 “(iii) Telemedicine technologies, in
19 order to reduce travel requirements for pa-
20 tients in remote areas.

21 “(iv) Technologies that facilitate home
22 health care and the monitoring of patients
23 recuperating at home.

24 “(v) Technologies that help reduce
25 medical errors.

1 “(vi) Technologies that facilitate the
2 continuity of care among health settings.

3 “(vii) Technologies that meet the
4 needs of diverse populations.

5 “(viii) Methods to facilitate secure ac-
6 cess by an individual to such individual’s
7 protected health information.

8 “(ix) Methods, guidelines, and safe-
9 guards to facilitate secure access to patient
10 information by a family member, caregiver,
11 or guardian acting on behalf of a patient
12 due to age-related and other disability,
13 cognitive impairment, or dementia.

14 “(x) Any other technology that the
15 HIT Policy Committee finds to be among
16 the technologies with the greatest potential
17 to improve the quality and efficiency of
18 health care.

19 “(3) FORUM.—The HIT Policy Committee shall
20 serve as a forum for broad stakeholder input with
21 specific expertise in policies relating to the matters
22 described in paragraphs (1) and (2).

23 “(4) CONSISTENCY WITH EVALUATION CON-
24 DUCTED UNDER MIPPA.—

1 “(A) REQUIREMENT FOR CONSISTENCY.—

2 The HIT Policy Committee shall ensure that
3 recommendations made under paragraph
4 (2)(B)(vi) are consistent with the evaluation
5 conducted under section 1809(a) of the Social
6 Security Act.

7 “(B) SCOPE.—Nothing in subparagraph
8 (A) shall be construed to limit the recommenda-
9 tions under paragraph (2)(B)(vi) to the ele-
10 ments described in section 1809(a)(3) of the
11 Social Security Act.

12 “(C) TIMING.—The requirement under
13 subparagraph (A) shall be applicable to the ex-
14 tent that evaluations have been conducted
15 under section 1809(a) of the Social Security
16 Act, regardless of whether the report described
17 in subsection (b) of such section has been sub-
18 mitted.

19 “(c) MEMBERSHIP AND OPERATIONS.—

20 “(1) IN GENERAL.—The National Coordinator
21 shall take a leading position in the establishment
22 and operations of the HIT Policy Committee.

23 “(2) MEMBERSHIP.—The HIT Policy Com-
24 mittee shall be composed of members to be ap-
25 pointed as follows:

1 “(A) 3 members shall be appointed by the
2 Secretary, 1 of whom shall be appointed to rep-
3 resent the Department of Health and Human
4 Services and 1 of whom shall be a public health
5 official.

6 “(B) 1 member shall be appointed by the
7 majority leader of the Senate.

8 “(C) 1 member shall be appointed by the
9 minority leader of the Senate.

10 “(D) 1 member shall be appointed by the
11 Speaker of the House of Representatives.

12 “(E) 1 member shall be appointed by the
13 minority leader of the House of Representa-
14 tives.

15 “(F) Such other members as shall be ap-
16 pointed by the President as representatives of
17 other relevant Federal agencies.

18 “(G) 13 members shall be appointed by the
19 Comptroller General of the United States of
20 whom—

21 “(i) 3 members shall advocates for pa-
22 tients or consumers;

23 “(ii) 2 members shall represent health
24 care providers, one of which shall be a phy-
25 sician;

1 “(iii) 1 member shall be from a labor
2 organization representing health care
3 workers;

4 “(iv) 1 member shall have expertise in
5 health information privacy and security;

6 “(v) 1 member shall have expertise in
7 improving the health of vulnerable popu-
8 lations;

9 “(vi) 1 member shall be from the re-
10 search community;

11 “(vii) 1 member shall represent health
12 plans or other third-party payers;

13 “(viii) 1 member shall represent infor-
14 mation technology vendors;

15 “(ix) 1 member shall represent pur-
16 chasers or employers; and

17 “(x) 1 member shall have expertise in
18 health care quality measurement and re-
19 porting.

20 “(3) PARTICIPATION.—The members of the
21 HIT Policy Committee appointed under paragraph
22 (2) shall represent a balance among various sectors
23 of the health care system so that no single sector
24 unduly influences the recommendations of the Policy
25 Committee.

1 “(4) TERMS.—

2 “(A) IN GENERAL.—The terms of the
3 members of the HIT Policy Committee shall be
4 for 3 years, except that the Comptroller General
5 shall designate staggered terms for the mem-
6 bers first appointed.

7 “(B) VACANCIES.—Any member appointed
8 to fill a vacancy in the membership of the HIT
9 Policy Committee that occurs prior to the expi-
10 ration of the term for which the member’s pred-
11 ecessor was appointed shall be appointed only
12 for the remainder of that term. A member may
13 serve after the expiration of that member’s
14 term until a successor has been appointed. A
15 vacancy in the HIT Policy Committee shall be
16 filled in the manner in which the original ap-
17 pointment was made.

18 “(5) OUTSIDE INVOLVEMENT.—The HIT Policy
19 Committee shall ensure an opportunity for the par-
20 ticipation in activities of the Committee of outside
21 advisors, including individuals with expertise in the
22 development of policies for the electronic exchange
23 and use of health information, including in the areas
24 of health information privacy and security.

1 “(6) QUORUM.—A majority of the member of
2 the HIT Policy Committee shall constitute a quorum
3 for purposes of voting, but a lesser number of mem-
4 bers may meet and hold hearings.

5 “(7) FAILURE OF INITIAL APPOINTMENT.—If,
6 on the date that is 45 days after the date of enact-
7 ment of this title, an official authorized under para-
8 graph (2) to appoint one or more members of the
9 HIT Policy Committee has not appointed the full
10 number of members that such paragraph authorizes
11 such official to appoint, the Secretary is authorized
12 to appoint such members.

13 “(8) CONSIDERATION.—The National Coordi-
14 nator shall ensure that the relevant and available
15 recommendations and comments from the National
16 Committee on Vital and Health Statistics are con-
17 sidered in the development of policies.

18 “(d) APPLICATION OF FACCA.—The Federal Advisory
19 Committee Act (5 U.S.C. App.), other than section 14 of
20 such Act, shall apply to the HIT Policy Committee.

21 “(e) PUBLICATION.—The Secretary shall provide for
22 publication in the Federal Register and the posting on the
23 Internet website of the Office of the National Coordinator
24 for Health Information Technology of all policy rec-

1 ommendations made by the HIT Policy Committee under
2 this section.

3 **“SEC. 3003. HIT STANDARDS COMMITTEE.**

4 “(a) ESTABLISHMENT.—There is established a com-
5 mittee to be known as the HIT Standards Committee to
6 recommend to the National Coordinator standards, imple-
7 mentation specifications, and certification criteria for the
8 electronic exchange and use of health information for pur-
9 poses of adoption under section 3004, consistent with the
10 implementation of the strategic plan described in section
11 3001(c)(3) and beginning with the areas listed in section
12 3002(b)(2)(B) in accordance with policies developed by
13 the HIT Policy Committee.

14 “(b) DUTIES.—

15 “(1) STANDARDS DEVELOPMENT.—

16 “(A) IN GENERAL.—The HIT Standards
17 Committee shall recommend to the National
18 Coordinator standards, implementation speci-
19 fications, and certification criteria described in
20 subsection (a) that have been developed, har-
21 monized, or recognized by the HIT Standards
22 Committee. The HIT Standards Committee
23 shall update such recommendations and make
24 new recommendations as appropriate, including
25 in response to a notification sent under section

1 3004(a)(2)(B). Such recommendations shall be
2 consistent with the latest recommendations
3 made by the HIT Policy Committee.

4 “(B) HARMONIZATION.—The HIT Stand-
5 ards Committee recognize harmonized or up-
6 dated standards from an entity or entities for
7 the purpose of harmonizing or updating stand-
8 ards and implementation specifications in order
9 to achieve uniform and consistent implementa-
10 tion of the standards and implementation speci-
11 fications.

12 “(C) PILOT TESTING OF STANDARDS AND
13 IMPLEMENTATION SPECIFICATIONS.—In the de-
14 velopment, harmonization, or recognition of
15 standards and implementation specifications,
16 the HIT Standards Committee shall, as appro-
17 priate, provide for the testing of such standards
18 and specifications by the National Institute for
19 Standards and Technology under section
20 13201(a) of the Health Information Technology
21 for Economic and Clinical Health Act.

22 “(D) CONSISTENCY.—The standards, im-
23 plementation specifications, and certification
24 criteria recommended under this subsection
25 shall be consistent with the standards for infor-

1 mation transactions and data elements adopted
2 pursuant to section 1173 of the Social Security
3 Act.

4 “(2) FORUM.—The HIT Standards Committee
5 shall serve as a forum for the participation of a
6 broad range of stakeholders to provide input on the
7 development, harmonization, and recognition of
8 standards, implementation specifications, and certifi-
9 cation criteria necessary for the development and
10 adoption of a nationwide health information tech-
11 nology infrastructure that allows for the electronic
12 use and exchange of health information.

13 “(3) SCHEDULE.—Not later than 90 days after
14 the date of the enactment of this title, the HIT
15 Standards Committee shall develop a schedule for
16 the assessment of policy recommendations developed
17 by the HIT Policy Committee under section 3002.
18 The HIT Standards Committee shall update such
19 schedule annually. The Secretary shall publish such
20 schedule in the Federal Register.

21 “(4) PUBLIC INPUT.—The HIT Standards
22 Committee shall conduct open public meetings and
23 develop a process to allow for public comment on the
24 schedule described in paragraph (3) and rec-
25 ommendations described in this subsection. Under

1 such process comments shall be submitted in a time-
2 ly manner after the date of publication of a rec-
3 ommendation under this subsection.

4 “(5) CONSIDERATION.—The National Coordi-
5 nator shall ensure that the relevant and available
6 recommendations and comments from the National
7 Committee on Vital and Health Statistics are con-
8 sidered in the development of standards.

9 “(c) MEMBERSHIP AND OPERATIONS.—

10 “(1) IN GENERAL.—The National Coordinator
11 shall take a leading position in the establishment
12 and operations of the HIT Standards Committee.

13 “(2) MEMBERSHIP.—The membership of the
14 HIT Standards Committee shall at least reflect pro-
15 viders; ancillary healthcare workers, consumers, pur-
16 chasers, health plans, technology vendors, research-
17 ers, relevant Federal agencies, and individuals with
18 technical expertise on health care quality, privacy
19 and security, and on the electronic exchange and use
20 of health information.

21 “(3) PARTICIPATION.—The members of the
22 HIT Standards Committee appointed under this
23 subsection shall represent a balance among various
24 sectors of the health care system so that no single

1 sector unduly influences the recommendations of
2 such Committee.

3 “(4) OUTSIDE INVOLVEMENT.—The HIT Policy
4 Committee shall ensure an opportunity for the par-
5 ticipation in activities of the Committee of outside
6 advisors, including individuals with expertise in the
7 development of standards for the electronic exchange
8 and use of health information, including in the areas
9 of health information privacy and security.

10 “(5) BALANCE AMONG SECTORS.—In developing
11 the procedures for conducting the activities of the
12 HIT Standards Committee, the HIT Standards
13 Committee shall act to ensure a balance among var-
14 ious sectors of the health care system so that no sin-
15 gle sector unduly influences the actions of the HIT
16 Standards Committee.

17 “(6) ASSISTANCE.—For the purposes of car-
18 rying out this section, the Secretary may provide or
19 ensure that financial assistance is provided by the
20 HIT Standards Committee to defray in whole or in
21 part any membership fees or dues charged by such
22 Committee to those consumer advocacy groups and
23 not for profit entities that work in the public inter-
24 est as a part of their mission.

1 “(d) APPLICATION OF FACA.—The Federal Advisory
2 Committee Act (5 U.S.C. App.), other than section 14,
3 shall apply to the HIT Standards Committee.

4 “(e) PUBLICATION.—The Secretary shall provide for
5 publication in the Federal Register and the posting on the
6 Internet website of the Office of the National Coordinator
7 for Health Information Technology of all recommenda-
8 tions made by the HIT Standards Committee under this
9 section.

10 **“SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**
11 **OMMENDATIONS; ADOPTION OF INITIAL SET**
12 **OF STANDARDS, IMPLEMENTATION SPECI-**
13 **FICATIONS, AND CERTIFICATION CRITERIA.**

14 “(a) PROCESS FOR ADOPTION OF ENDORSED REC-
15 OMMENDATIONS.—

16 “(1) REVIEW OF ENDORSED STANDARDS, IM-
17 PLEMENTATION SPECIFICATIONS, AND CERTIFI-
18 CATION CRITERIA.—Not later than 90 days after the
19 date of receipt of standards, implementation speci-
20 fications, or certification criteria endorsed under sec-
21 tion 3001(c), the Secretary, in consultation with rep-
22 resentatives of other relevant Federal agencies, shall
23 jointly review such standards, implementation speci-
24 fications, or certification criteria and shall determine
25 whether or not to propose adoption of such stand-

1 ards, implementation specifications, or certification
2 criteria.

3 “(2) DETERMINATION TO ADOPT STANDARDS,
4 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-
5 CATION CRITERIA.—If the Secretary determines—

6 “(A) to propose adoption of any grouping
7 of such standards, implementation specifica-
8 tions, or certification criteria, the Secretary
9 shall, by regulation under section 553 of title 5,
10 United States Code, determine whether or not
11 to adopt such grouping of standards, implemen-
12 tation specifications, or certification criteria; or

13 “(B) not to propose adoption of any group-
14 ing of standards, implementation specifications,
15 or certification criteria, the Secretary shall no-
16 tify the National Coordinator and the HIT
17 Standards Committee in writing of such deter-
18 mination and the reasons for not proposing the
19 adoption of such recommendation.

20 “(3) PUBLICATION.—The Secretary shall pro-
21 vide for publication in the Federal Register of all de-
22 terminations made by the Secretary under para-
23 graph (1).

24 “(b) ADOPTION OF STANDARDS, IMPLEMENTATION
25 SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

1 “(1) IN GENERAL.—Not later than December
2 31, 2009, the Secretary shall, through the rule-
3 making process consistent with subsection (a)(2)(A),
4 adopt an initial set of standards, implementation
5 specifications, and certification criteria for the areas
6 required for consideration under section
7 3002(b)(2)(B). The rulemaking for the initial set of
8 standards, implementation specifications, and certifi-
9 cation criteria may be issued on an interim, final
10 basis.

11 “(2) APPLICATION OF CURRENT STANDARDS,
12 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-
13 CATION CRITERIA.—The standards, implementation
14 specifications, and certification criteria adopted be-
15 fore the date of the enactment of this title through
16 the process existing through the Office of the Na-
17 tional Coordinator for Health Information Tech-
18 nology may be applied towards meeting the require-
19 ment of paragraph (1).

20 “(3) SUBSEQUENT STANDARDS ACTIVITY.—The
21 Secretary shall adopt additional standards, imple-
22 mentation specifications, and certification criteria as
23 necessary and consistent with the schedule published
24 under section 3003(b)(2).

1 **"SEC. 3005. APPLICATION AND USE OF ADOPTED STAND-**
2 **ARDS AND IMPLEMENTATION SPECIFICA-**
3 **TIONS BY FEDERAL AGENCIES.**

4 "For requirements relating to the application and use
5 by Federal agencies of the standards and implementation
6 specifications adopted under section 3004, see section
7 13111 of the Health Information Technology for Eco-
8 nomic and Clinical Health Act.

9 **"SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPT-**
10 **ED STANDARDS AND IMPLEMENTATION**
11 **SPECIFICATIONS BY PRIVATE ENTITIES.**

12 "(a) IN GENERAL.—Except as provided under section
13 13112 of the HITECH Act, nothing in such Act or in
14 the amendments made by such Act shall be construed—

15 "(1) to require a private entity to adopt or com-
16 ply with a standard or implementation specification
17 adopted under section 3004; or

18 "(2) to provide a Federal agency authority,
19 other than the authority such agency may have
20 under other provisions of law, to require a private
21 entity to comply with such a standard or implemen-
22 tation specification.

23 "(b) RULE OF CONSTRUCTION.—Nothing in this sub-
24 title shall be construed to require that a private entity that
25 enters into a contract with the Federal Government apply
26 or use the standards and implementation specifications

1 adopted under section 3004 with respect to activities not
2 related to the contract.

3 **"SEC. 3007. FEDERAL HEALTH INFORMATION TECH-**
4 **NOLOGY.**

5 “(a) IN GENERAL.—The National Coordinator shall
6 support the development and routine updating of qualified
7 electronic health record technology (as defined in section
8 3000) consistent with subsections (b) and (c) and make
9 available such qualified electronic health record technology
10 unless the Secretary determines through an assessment
11 that the needs and demands of providers are being sub-
12 stantially and adequately met through the marketplace.

13 “(b) CERTIFICATION.—In making such electronic
14 health record technology publicly available, the National
15 Coordinator shall ensure that the qualified electronic
16 health record technology described in subsection (a) is cer-
17 tified under the program developed under section
18 3001(c)(3) to be in compliance with applicable standards
19 adopted under section 3003(a).

20 “(c) AUTHORIZATION TO CHARGE A NOMINAL
21 FEE.—The National Coordinator may impose a nominal
22 fee for the adoption by a health care provider of the health
23 information technology system developed or approved
24 under subsection (a) and (b). Such fee shall take into ac-
25 count the financial circumstances of smaller providers, low

1 income providers, and providers located in rural or other
2 medically underserved areas.

3 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to require that a private or govern-
5 ment entity adopt or use the technology provided under
6 this section.

7 **“SEC. 3008. TRANSITIONS.**

8 “(a) ONCHIT.—To the extent consistent with sec-
9 tion 3001, all functions, personnel, assets, liabilities, and
10 administrative actions applicable to the National Coordi-
11 nator for Health Information Technology appointed under
12 Executive Order No. 13335 or the Office of such National
13 Coordinator on the date before the date of the enactment
14 of this title shall be transferred to the National Coordi-
15 nator appointed under section 3001(a) and the Office of
16 such National Coordinator as of the date of the enactment
17 of this title.

18 “(b) NATIONAL EHEALTH COLLABORATIVE.—Noth-
19 ing in sections 3002 or 3003 or this subsection shall be
20 construed as prohibiting the AHIC Successor, Inc. doing
21 business as the National eHealth Collaborative from modi-
22 fying its charter, duties, membership, and any other struc-
23 ture or function required to be consistent with section
24 3002 and 3003 so as to allow the Secretary to recognize

1 such AHIC Successor, Inc. as the HIT Policy Committee
2 or the HIT Standards Committee.

3 “(c) CONSISTENCY OF RECOMMENDATIONS.—In car-
4 rying out section 3003(b)(1)(A), until recommendations
5 are made by the HIT Policy Committee, recommendations
6 of the HIT Standards Committee shall be consistent with
7 the most recent recommendations made by such AHIC
8 Successor, Inc.

9 “SEC. 3009. MISCELLANEOUS PROVISIONS.

10 “(a) RELATION TO HIPAA PRIVACY AND SECURITY
11 LAW.—

12 “(1) IN GENERAL.—With respect to the relation
13 of this title to HIPAA privacy and security law:

14 “(A) This title may not be construed as
15 having any effect on the authorities of the Sec-
16 retary under HIPAA privacy and security law.

17 “(B) The purposes of this title include en-
18 suring that the health information technology
19 standards and implementation specifications
20 adopted under section 3004 take into account
21 the requirements of HIPAA privacy and secu-
22 rity law.

23 “(2) DEFINITION.—For purposes of this sec-
24 tion, the term ‘HIPAA privacy and security law’
25 means—

1-----“(A) the provisions of part C of title XI of
2 the Social Security Act, section 264 of the
3 Health Insurance Portability and Accountability
4 Act of 1996, and subtitle D of title IV of the
5 Health Information Technology for Economic
6 and Clinical Health Act; and

7 “(B) regulations under such provisions.

8 “(b) FLEXIBILITY.—In administering the provisions
9 of this title, the Secretary shall have flexibility in applying
10 the definition of health care provider under section
11 3000(3), including the authority to omit certain entities
12 listed in such definition when applying such definition
13 under this title, where appropriate.”.

14 **SEC. 13102. TECHNICAL AMENDMENT.**

15 Section 1171(5) of the Social Security Act (42 U.S.C.
16 1320d) is amended by striking “or C” and inserting “C,
17 or D”.

18 **PART 2—APPLICATION AND USE OF ADOPTED**
19 **HEALTH INFORMATION TECHNOLOGY**
20 **STANDARDS; REPORTS**

21 **SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH**
22 **ADOPTED STANDARDS AND IMPLEMENTA-**
23 **TION SPECIFICATIONS.**

24 (a) **SPENDING ON HEALTH INFORMATION TECH-**
25 **NOLOGY SYSTEMS.**—As each agency (as defined by the Di-

1 rector of the Office of Management and Budget, in con-
2 sultation with the Secretary of Health and Human Serv-
3 ices) implements, acquires, or upgrades health information
4 technology systems used for the direct exchange of individ-
5 ually identifiable health information between agencies and
6 with non-Federal entities, it shall utilize, where available,
7 health information technology systems and products that
8 meet standards and implementation specifications adopted
9 under section 3004 of the Public Health Service Act, as
10 added by section 13101.

11 (b) FEDERAL INFORMATION COLLECTION ACTIVI-
12 TIES.—With respect to a standard or implementation
13 specification adopted under section 3004 of the Public
14 Health Service Act, as added by section 13101, the Presi-
15 dent shall take measures to ensure that Federal activities
16 involving the broad collection and submission of health in-
17 formation are consistent with such standard or implemen-
18 tation specification, respectively, within three years after
19 the date of such adoption.

20 (c) APPLICATION OF DEFINITIONS.—The definitions
21 contained in section 3000 of the Public Health Service
22 Act, as added by section 13101, shall apply for purposes
23 of this part.

1 **SEC. 13112. APPLICATION TO PRIVATE ENTITIES.**

2 Each agency (as defined in such Executive Order
3 issued on August 22, 2006, relating to promoting quality
4 and efficient health care in Federal government adminis-
5 tered or sponsored health care programs) shall require in
6 contracts or agreements with health care providers, health
7 plans, or health insurance issuers that as each provider,
8 plan, or issuer implements, acquires, or upgrades health
9 information technology systems, it shall utilize, where
10 available, health information technology systems and prod-
11 ucts that meet standards and implementation specifica-
12 tions adopted under section 3004 of the Public Health
13 Service Act, as added by section 13101.

14 **SEC. 13113. STUDY AND REPORTS.**

15 (a) **REPORT ON ADOPTION OF NATIONWIDE SYS-**
16 **TEM.**—Not later than 2 years after the date of the enact-
17 ment of this Act and annually thereafter, the Secretary
18 of Health and Human Services shall submit to the appro-
19 priate committees of jurisdiction of the House of Rep-
20 resentatives and the Senate a report that—

21 (1) describes the specific actions that have been
22 taken by the Federal Government and private enti-
23 ties to facilitate the adoption of a nationwide system
24 for the electronic use and exchange of health infor-
25 mation;

1 (2) describes barriers to the adoption of such a
2 nationwide system; and

3 (3) contains recommendations to achieve full
4 implementation of such a nationwide system.

5 (b) REIMBURSEMENT INCENTIVE STUDY AND RE-
6 PORT.—

7 (1) STUDY.—The Secretary of Health and
8 Human Services shall carry out, or contract with a
9 private entity to carry out, a study that examines
10 methods to create efficient reimbursement incentives
11 for improving health care quality in Federally quali-
12 fied health centers, rural health clinics, and free
13 clinics.

14 (2) REPORT.—Not later than 2 years after the
15 date of the enactment of this Act, the Secretary of
16 Health and Human Services shall submit to the ap-
17 propriate committees of jurisdiction of the House of
18 Representatives and the Senate a report on the
19 study carried out under paragraph (1).

20 (c) AGING SERVICES TECHNOLOGY STUDY AND RE-
21 PORT.—

22 (1) IN GENERAL.—The Secretary of Health and
23 Human Services shall carry out, or contract with a
24 private entity to carry out, a study of matters relat-
25 ing to the potential use of new aging services tech-

1 nology to assist seniors, individuals with disabilities,
2 and their caregivers throughout the aging process.

3 (2) MATTERS TO BE STUDIED.—The study
4 under paragraph (1) shall include—

5 (A) an evaluation of—

6 (i) methods for identifying current,
7 emerging, and future health technology
8 that can be used to meet the needs of sen-
9 iors and individuals with disabilities and
10 their caregivers across all aging services
11 settings, as specified by the Secretary;

12 (ii) methods for fostering scientific in-
13 novation with respect to aging services
14 technology within the business and aca-
15 demic communities; and

16 (iii) developments in aging services
17 technology in other countries that may be
18 applied in the United States; and

19 (B) identification of—

20 (i) barriers to innovation in aging
21 services technology and devising strategies
22 for removing such barriers; and

23 (ii) barriers to the adoption of aging
24 services technology by health care pro-

1 viders and consumers and devising strate-
2 gies to removing such barriers.

3 (3) REPORT.—Not later than 24 months after
4 the date of the enactment of this Act, the Secretary
5 shall submit to the appropriate committees of juris-
6 diction of the House of Representatives and of the
7 Senate a report on the study carried out under para-
8 graph (1).

9 (4) DEFINITIONS.—For purposes of this sub-
10 section:

11 (A) AGING SERVICES TECHNOLOGY.—The
12 term “aging services technology” means health
13 technology that meets the health care needs of
14 seniors, individuals with disabilities, and the
15 caregivers of such seniors and individuals.

16 (B) SENIOR.—The term “senior” has such
17 meaning as specified by the Secretary.

18 **Subtitle B—Testing of Health**
19 **Information Technology**

20 **SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND**
21 **TECHNOLOGY TESTING.**

22 (a) PILOT TESTING OF STANDARDS AND IMPLEMEN-
23 TATION SPECIFICATIONS.—In coordination with the HIT
24 Standards Committee established under section 3003 of
25 the Public Health Service Act, as added by section 13101,

1 with respect to the development of standards and imple-
2 mentation specifications under such section, the Director
3 of the National Institute for Standards and Technology
4 shall test such standards and implementation specifica-
5 tions, as appropriate, in order to assure the efficient im-
6 plementation and use of such standards and implementa-
7 tion specifications.

8 (b) VOLUNTARY TESTING PROGRAM.—In coordina-
9 tion with the HIT Standards Committee established under
10 section 3003 of the Public Health Service Act, as added
11 by section 13101, with respect to the development of
12 standards and implementation specifications under such
13 section, the Director of the National Institute of Stand-
14 ards and Technology shall support the establishment of
15 a conformance testing infrastructure, including the devel-
16 opment of technical test beds. The development of this
17 conformance testing infrastructure may include a program
18 to accredit independent, non-Federal laboratories to per-
19 form testing.

20 **SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.**

21 (a) HEALTH CARE INFORMATION ENTERPRISE INTE-
22 GRATION RESEARCH CENTERS.—

23 (1) IN GENERAL.—The Director of the National
24 Institute of Standards and Technology, in consulta-
25 tion with the Director of the National Science Foun-

1 dation and other appropriate Federal agencies, shall
2 establish a program of assistance to institutions of
3 higher education (or consortia thereof which may in-
4 clude nonprofit entities and Federal Government
5 laboratories) to establish multidisciplinary Centers
6 for Health Care Information Enterprise Integration.

7 (2) REVIEW; COMPETITION.—Grants shall be
8 awarded under this subsection on a merit-reviewed,
9 competitive basis.

10 (3) PURPOSE.—The purposes of the Centers de-
11 scribed in paragraph (1) shall be—

12 (A) to generate innovative approaches to
13 health care information enterprise integration
14 by conducting cutting-edge, multidisciplinary
15 research on the systems challenges to health
16 care delivery; and

17 (B) the development and use of health in-
18 formation technologies and other complemen-
19 tary fields.

20 (4) RESEARCH AREAS.—Research areas may in-
21 clude—

22 (A) interfaces between human information
23 and communications technology systems;

24 (B) voice-recognition systems;

1 (C) software that improves interoperability
2 and connectivity among health information sys-
3 tems;

4 (D) software dependability in systems crit-
5 ical to health care delivery;

6 (E) measurement of the impact of informa-
7 tion technologies on the quality and productivity
8 of health care;

9 (F) health information enterprise manage-
10 ment;

11 (G) health information technology security
12 and integrity; and

13 (H) relevant health information technology
14 to reduce medical errors.

15 (5) APPLICATIONS.—An institution of higher
16 education (or a consortium thereof) seeking funding
17 under this subsection shall submit an application to
18 the Director of the National Institute of Standards
19 and Technology at such time, in such manner, and
20 containing such information as the Director may re-
21 quire. The application shall include, at a minimum,
22 a description of—

23 (A) the research projects that will be un-
24 dertaken by the Center established pursuant to

1 assistance under paragraph (1) and the respec-
2 tive contributions of the participating entities;

3 (B) how the Center will promote active col-
4 laboration among scientists and engineers from
5 different disciplines, such as information tech-
6 nology, biologic sciences, management, social
7 sciences, and other appropriate disciplines;

8 (C) technology transfer activities to dem-
9 onstrate and diffuse the research results, tech-
10 nologies, and knowledge; and

11 (D) how the Center will contribute to the
12 education and training of researchers and other
13 professionals in fields relevant to health infor-
14 mation enterprise integration.

15 (b) NATIONAL INFORMATION TECHNOLOGY RE-
16 SEARCH AND DEVELOPMENT PROGRAM.—The National
17 High-Performance Computing Program established by
18 section 101 of the High-Performance Computing Act of
19 1991 (15 U.S.C. 5511) shall include Federal research and
20 development programs related to health information tech-
21 nology.

1 **Subtitle C—Grants and Loans**
2 **Funding**

3 **SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PRO-**
4 **GRAMS.**

5 Title XXX of the Public Health Service Act, as added
6 by section 13101, is amended by adding at the end the
7 following new subtitle:

8 **“Subtitle B—Incentives for the Use**
9 **of Health Information Technology**

10 **“SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE**
11 **HEALTH INFORMATION TECHNOLOGY INFRA-**
12 **STRUCTURE.**

13 “(a) IN GENERAL.—The Secretary shall, using
14 amounts appropriated under section 3018, invest in the
15 infrastructure necessary to allow for and promote the elec-
16 tronic exchange and use of health information for each
17 individual in the United States consistent with the goals
18 outlined in the strategic plan developed by the National
19 Coordinator (and as available) under section 3001. The
20 Secretary shall invest funds through the different agencies
21 with expertise in such goals, such as the Office of the Na-
22 tional Coordinator for Health Information Technology, the
23 Health Resources and Services Administration, the Agen-
24 cy for Healthcare Research and Quality, the Centers of
25 Medicare & Medicaid Services, the Centers for Disease

1 Control and Prevention, and the Indian Health Service to
2 support the following:

3 “(1) Health information technology architecture
4 that will support the nationwide electronic exchange
5 and use of health information in a secure, private,
6 and accurate manner, including connecting health
7 information exchanges, and which may include up-
8 dating and implementing the infrastructure nec-
9 essary within different agencies of the Department
10 of Health and Human Services to support the elec-
11 tronic use and exchange of health information.

12 “(2) Development and adoption of appropriate
13 certified electronic health records for categories of
14 health care providers not eligible for support under
15 title XVIII or XIX of the Social Security Act for the
16 adoption of such records.

17 “(3) Training on and dissemination of informa-
18 tion on best practices to integrate health information
19 technology, including electronic health records, into
20 a provider’s delivery of care, consistent with best
21 practices learned from the Health Information Tech-
22 nology Research Center developed under section
23 3012(b), including community health centers receiv-
24 ing assistance under section 330, covered entities
25 under section 340B, and providers participating in

1 one or more of the programs under titles XVIII,
2 XIX, and XXI of the Social Security Act (relating
3 to Medicare, Medicaid, and the State Children's
4 Health Insurance Program).

5 “(4) Infrastructure and tools for the promotion
6 of telemedicine, including coordination among Fed-
7 eral agencies in the promotion of telemedicine.

8 “(5) Promotion of the interoperability of clinical
9 data repositories or registries.

10 “(6) Promotion of technologies and best prac-
11 tices that enhance the protection of health informa-
12 tion by all holders of individually identifiable health
13 information.

14 “(7) Improvement and expansion of the use of
15 health information technology by public health de-
16 partments.

17 “(b) COORDINATION.—The Secretary shall ensure
18 funds under this section are used in a coordinated manner
19 with other health information promotion activities.

20 “(c) ADDITIONAL USE OF FUNDS.—In addition to
21 using funds as provided in subsection (a), the Secretary
22 may use amounts appropriated under section 3018 to
23 carry out health information technology activities that are
24 provided for under laws in effect on the date of the enact-
25 ment of this title.

1 ~~“(d) STANDARDS FOR ACQUISITION OF HEALTH IN-~~
2 ~~FORMATION TECHNOLOGY.~~—To the greatest extent prac-
3 ticable, the Secretary shall ensure that where funds are
4 expended under this section for the acquisition of health
5 information technology, such funds shall be used to ac-
6 quire health information technology that meets applicable
7 standards adopted under section 3004. Where it is not
8 practicable to expend funds on health information tech-
9 nology that meets such applicable standards, the Secretary
10 shall ensure that such health information technology
11 meets applicable standards otherwise adopted by the Sec-
12 retary.

13 **“SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**
14 **MENTATION ASSISTANCE.**

15 ~~“(a) HEALTH INFORMATION TECHNOLOGY EXTEN-~~
16 ~~SION PROGRAM.~~—To assist health care providers to adopt,
17 implement, and effectively use certified EHR technology
18 that allows for the electronic exchange and use of health
19 information, the Secretary, acting through the Office of
20 the National Coordinator, shall establish a health informa-
21 tion technology extension program to provide health infor-
22 mation technology assistance services to be carried out
23 through the Department of Health and Human Services.
24 The National Coordinator shall consult with other Federal
25 agencies with demonstrated experience and expertise in in-

1 formation technology services, such as the National Insti-
2 tute of Standards and Technology, in developing and im-
3 plementing this program.

4 “(b) HEALTH INFORMATION TECHNOLOGY RE-
5 SEARCH CENTER.—

6 “(1) IN GENERAL.—The Secretary shall create
7 a Health Information Technology Research Center
8 (in this section referred to as the ‘Center’) to pro-
9 vide technical assistance and develop or recognize
10 best practices to support and accelerate efforts to
11 adopt, implement, and effectively utilize health infor-
12 mation technology that allows for the electronic ex-
13 change and use of information in compliance with
14 standards, implementation specifications, and certifi-
15 cation criteria adopted under section 3004.

16 “(2) INPUT.—The Center shall incorporate
17 input from—

18 “(A) other Federal agencies with dem-
19 onstrated experience and expertise in informa-
20 tion technology services such as the National
21 Institute of Standards and Technology;

22 “(B) users of health information tech-
23 nology, such as providers and their support and
24 clerical staff and others involved in the care and
25 care coordination of patients, from the health

1 care and health information technology indus-
2 try; and

3 “(C) others as appropriate.

4 “(3) PURPOSES.—The purposes of the Center
5 are 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 dis-
13 seminate evidence and experience related to the
14 adoption, implementation, and effective use of
15 health information technology that allows for
16 the electronic exchange and use of information
17 including through the regional centers described
18 in subsection (c);

19 “(D) provide technical assistance for the
20 establishment and evaluation of regional and
21 local health information networks to facilitate
22 the electronic exchange of information across
23 health care settings and improve the quality of
24 health care;

1 “(E) provide technical assistance for the
2 development and dissemination of solutions to
3 barriers to the exchange of electronic health in-
4 formation; and

5 “(F) learn about effective strategies to
6 adopt and utilize health information technology
7 in medically underserved communities.

8 “(c) HEALTH INFORMATION TECHNOLOGY RE-
9 GIONAL EXTENSION CENTERS.—

10 “(1) IN GENERAL.—The Secretary shall provide
11 assistance for the creation and support of regional
12 centers (in this subsection referred to as ‘regional
13 centers’) to provide technical assistance and dissemi-
14 nate best practices and other information learned
15 from the Center to support and accelerate efforts to
16 adopt, implement, and effectively utilize health infor-
17 mation technology that allows for the electronic ex-
18 change and use of information in compliance with
19 standards, implementation specifications, and certifi-
20 cation criteria adopted under section 3004. Activities
21 conducted under this subsection shall be consistent
22 with the strategic plan developed by the National
23 Coordinator, (and, as available) under section 3001.

24 “(2) AFFILIATION.—Regional centers shall be
25 affiliated with any United States-based nonprofit in-

1 stitution or organization, or group thereof, that ap-
2 plies and is awarded financial assistance under this
3 section. Individual awards shall be decided on the
4 basis of merit.

5 “(3) OBJECTIVE.—The objective of the regional
6 centers is to enhance and promote the adoption of
7 health information technology through—

8 “(A) assistance with the implementation,
9 effective use, upgrading, and ongoing mainte-
10 nance of health information technology, includ-
11 ing electronic health records, to healthcare pro-
12 viders nationwide;

13 “(B) broad participation of individuals
14 from industry, universities, and State govern-
15 ments;

16 “(C) active dissemination of best practices
17 and research on the implementation, effective
18 use, upgrading, and ongoing maintenance of
19 health information technology, including elec-
20 tronic health records, to health care providers
21 in order to improve the quality of healthcare
22 and protect the privacy and security of health
23 information;

24 “(D) participation, to the extent prac-
25 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
5 technology, including electronic health records,
6 into the initial and ongoing training of health
7 professionals and others in the healthcare in-
8 dustry that would be instrumental to improving
9 the quality of healthcare through the smooth
10 and accurate electronic use and exchange of
11 health information.

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
8 than 50 percent of the capital and annual operating
9 and maintenance funds required to create and main-
10 tain such a center, except in an instance of national
11 economic conditions which would render this cost-
12 share requirement detrimental to the program and
13 upon notification to Congress as to the justification
14 to waive 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 title, a draft
19 description of the program for establishing regional
20 centers under this subsection. Such description shall
21 include the following:

22 “(A) A detailed explanation of the program
23 and the programs goals.

24 “(B) Procedures to be followed by the ap-
25 plicants.

1 ~~“(C) Criteria for determining qualified ap-~~
2 plicants.

3 “(D) Maximum support levels expected to
4 be available to centers under the program.

5 “(7) APPLICATION REVIEW.—The Secretary
6 shall subject each application under this subsection
7 to 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 mer-
10 its of the application, including those portions of the
11 application 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
22 amount of in-kind commitment from other
23 sources.

24 “(8) BIENNIAL EVALUATION.—Each regional
25 center which receives financial assistance under this

1 subsection shall be evaluated biennially by an evalua-
2 tion panel appointed by the Secretary. Each evalua-
3 tion panel shall be composed of private experts, none
4 of whom shall be connected with the center involved,
5 and of Federal officials. Each evaluation panel shall
6 measure the involved center's performance against
7 the objective specified in paragraph (3). The Sec-
8 retary shall not continue to provide funding to a re-
9 gional center unless its evaluation is overall positive.

10 “(9) CONTINUING SUPPORT.—After the second
11 year of assistance under this subsection, a regional
12 center may receive additional support under this
13 subsection if it has received positive evaluations and
14 a finding by the Secretary that continuation of Fed-
15 eral funding to the center was in the best interest
16 of provision of health information technology exten-
17 sion services.

18 **“SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFOR-**
19 **MATION TECHNOLOGY.**

20 “(a) IN GENERAL.—The Secretary, acting through
21 the National Coordinator, shall establish a program in ac-
22 cordance with this section to facilitate and expand the
23 electronic movement and use of health information among
24 organizations according to nationally recognized stand-
25 ards.

1 “(b) ~~PLANNING GRANTS.~~—The Secretary may award
2 a grant to a State or qualified State-designated entity (as
3 described in subsection (f)) that submits an application
4 to the Secretary at such time, in such manner, and con-
5 taining such information as the Secretary may specify, for
6 the purpose of planning activities described in subsection
7 (d).

8 “(c) IMPLEMENTATION GRANTS.—The Secretary
9 may award a grant to a State or qualified State designated
10 entity that—

11 “(1) has submitted, and the Secretary has ap-
12 proved, a plan described in subsection (e) (regardless
13 of whether such plan was prepared using amounts
14 awarded under subsection (b); and

15 “(2) submits an application at such time, in
16 such manner, and containing such information as
17 the Secretary may specify.

18 “(d) USE OF FUNDS.—Amounts received under a
19 grant under subsection (c) shall be used to conduct activi-
20 ties to facilitate and expand the electronic movement and
21 use of health information among organizations according
22 to nationally recognized standards through activities that
23 include—

1 “(1) enhancing broad and varied participation
2 in the authorized and secure nationwide electronic
3 use and exchange of health information;

4 “(2) identifying State or local resources avail-
5 able towards a nationwide effort to promote health
6 information technology;

7 “(3) complementing other Federal grants, pro-
8 grams, and efforts towards the promotion of health
9 information technology;

10 “(4) providing technical assistance for the de-
11 velopment and dissemination of solutions to barriers
12 to the exchange of electronic health information;

13 “(5) promoting effective strategies to adopt and
14 utilize health information technology in medically
15 underserved communities;

16 “(6) assisting patients in utilizing health infor-
17 mation technology;

18 “(7) encouraging clinicians to work with Health
19 Information Technology Regional Extension Centers
20 as described in section 3012, to the extent they are
21 available and valuable;

22 “(8) supporting public health agencies’ author-
23 ized use of and access to electronic health informa-
24 tion;

1 “(9) promoting the use of electronic health
2 records for quality improvement including through
3 quality measures reporting; and

4 “(10) such other activities as the Secretary may
5 specify.

6 “(e) PLAN.—

7 “(1) IN GENERAL.—A plan described in this
8 subsection is a plan that describes the activities to
9 be carried out by a State or by the qualified State-
10 designated entity within such State to facilitate and
11 expand the electronic movement and use of health
12 information among organizations according to na-
13 tionally recognized standards and implementation
14 specifications.

15 “(2) REQUIRED ELEMENTS.—A plan described
16 in paragraph (1) shall—

17 “(A) be pursued in the public interest;

18 “(B) be consistent with the strategic plan
19 developed by the National Coordinator, (and, as
20 available) under section 3001;

21 “(C) include a description of the ways the
22 State or qualified State-designated entity will
23 carry out the activities described in subsection
24 (b); and

1 ~~“(D) contain such elements as the Sec-~~
2 retary 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
7 receive 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
22 activities described in subsections (b) and (c), a State or
23 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
6 represent 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 tech-
14 nology such as the support and clerical staff of pro-
15 viders and others involved in the care and care co-
16 ordination of 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
24 evaluation are made in a manner that, in the determina-
25 tion of the Secretary, will lead towards the greatest im-

1 provement in quality of care, decrease in costs, and the
2 most effective authorized and secure electronic exchange
3 of health information.

4 “(i) REQUIRED MATCH.—

5 “(1) IN GENERAL.—For a fiscal year (begin-
6 ning with fiscal year 2011), the Secretary may not
7 make a grant under this section to a State unless
8 the State agrees to make available non-Federal con-
9 tributions (which may include in-kind contributions)
10 toward the costs of a grant awarded under sub-
11 section (c) in an amount equal to—

12 “(A) for fiscal year 2011, not less than \$1
13 for each \$10 of Federal funds provided under
14 the grant;

15 “(B) for fiscal year 2012, not less than \$1
16 for each \$7 of Federal funds provided under
17 the grant; and

18 “(C) for fiscal year 2013 and each subse-
19 quent fiscal year, not less than \$1 for each \$3
20 of Federal funds provided under the grant.

21 “(2) AUTHORITY TO REQUIRE STATE MATCH
22 FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For
23 any fiscal year during the grant program under this
24 section before fiscal year 2011, the Secretary may
25 determine the extent to which there shall be required

1 a non-Federal contribution from a State receiving a
2 grant under this section.

3 **“SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN**
4 **TRIBES FOR THE DEVELOPMENT OF LOAN**
5 **PROGRAMS TO FACILITATE THE WIDE-**
6 **SPREAD ADOPTION OF CERTIFIED EHR TECH-**
7 **NOLOGY.**

8 “(a) IN GENERAL.—The National Coordinator may
9 award competitive grants to eligible entities for the estab-
10 lishment of programs for loans to health care providers
11 to conduct the activities described in subsection (e).

12 “(b) ELIGIBLE ENTITY DEFINED.—For purposes of
13 this subsection, the term ‘eligible entity’ means a State
14 or Indian tribe (as defined in the Indian Self-Determina-
15 tion and Education Assistance Act) that—

16 “(1) submits to the National Coordinator an
17 application at such time, in such manner, and con-
18 taining such information as the National Coordi-
19 nator may require;

20 “(2) submits to the National Coordinator a
21 strategic plan in accordance with subsection (d) and
22 provides to the National Coordinator assurances that
23 the entity will update such plan annually in accord-
24 ance with such subsection;

1 “(3) provides assurances to the National Coor-
2 dinator that the entity will establish a Loan Fund
3 in accordance with subsection (c);

4 “(4) provides assurances to the National Coor-
5 dinator that the entity will not provide a loan from
6 the Loan Fund to a health care provider unless the
7 provider agrees to—

8 “(A) submit reports on quality measures
9 adopted by the Federal Government (by not
10 later than 90 days after the date on which such
11 measures are adopted), to—

12 “(i) the Administrator of the Centers
13 for Medicare & Medicaid Services (or his
14 or her designee), in the case of an entity
15 participating in the Medicare program
16 under title XVIII of the Social Security
17 Act or the Medicaid program under title
18 XIX of such 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 3004) applicable to
4 the exchange of information, improves the qual-
5 ity of health care, such as promoting care co-
6 ordination; and

7 “(C) comply with such other requirements
8 as the entity or the Secretary may require;

9 “(D) include a plan on how health care
10 providers involved intend to maintain and sup-
11 port the certified EHR technology over time;

12 “(E) include a plan on how the health care
13 providers involved intend to maintain and sup-
14 port the certified EHR technology that would
15 be purchased with such loan, including the type
16 of resources expected to be involved and any
17 such other information as the State or Indian
18 Tribe, respectively, may require; and

19 “(5) agrees to provide matching funds in ac-
20 cordance with subsection (h).

21 “(c) ESTABLISHMENT OF FUND.—For purposes of
22 subsection (b)(3), an eligible entity shall establish a cer-
23 tified EHR technology loan fund (referred to in this sub-
24 section as a ‘Loan Fund’) and comply with the other re-
25 quirements contained in this section. A grant to an eligible

1 entity under this section shall be deposited in the Loan
2 Fund established by the eligible entity. No funds author-
3 ized by other provisions of this title to be used for other
4 purposes specified in this title shall be deposited in any
5 Loan Fund.

6 “(d) STRATEGIC PLAN.—

7 “(1) IN GENERAL.—For purposes of subsection
8 (b)(2), a strategic plan of an eligible entity under
9 this subsection shall identify the intended uses of
10 amounts available to the Loan Fund of such entity.

11 “(2) CONTENTS.—A strategic plan under para-
12 graph (1), with respect to a Loan Fund of an eligi-
13 ble entity, shall include for a year the following:

14 “(A) A list of the projects to be assisted
15 through the Loan Fund during such year.

16 “(B) A description of the criteria and
17 methods established for the distribution of
18 funds from the Loan Fund during the year.

19 “(C) A description of the financial status
20 of the Loan Fund as of the date of submission
21 of the plan.

22 “(D) The short-term and long-term goals
23 of the Loan Fund.

24 “(e) USE OF FUNDS.—Amounts deposited in a Loan
25 Fund, including loan repayments and interest earned on

1 such amounts, shall be used only for awarding loans or
2 loan guarantees, making reimbursements described in sub-
3 section (g)(4)(A), or as a source of reserve and security
4 for leveraged loans, the proceeds of which are deposited
5 in the Loan Fund established under subsection (c). Loans
6 under this section may be used by a health care provider
7 to—

8 “(1) facilitate the purchase of certified EHR
9 technology;

10 “(2) enhance the utilization of certified EHR
11 technology (which may include costs associated with
12 upgrading health information technology so that it
13 meets criteria necessary to be a certified EHR tech-
14 nology);

15 “(3) train personnel in the use of such tech-
16 nology; or

17 “(4) improve the secure electronic exchange of
18 health information.

19 “(f) TYPES OF ASSISTANCE.—Except as otherwise
20 limited by applicable State law, amounts deposited into a
21 Loan Fund under this section may only be used for the
22 following:

23 “(1) To award loans that comply with the fol-
24 lowing:

1 “(A) The interest rate for each loan shall
2 not exceed the market interest rate.

3 “(B) The principal and interest payments
4 on each loan shall commence not later than 1
5 year after the date the loan was awarded, and
6 each loan shall be fully amortized not later than
7 10 years after the date of the loan.

8 “(C) The Loan Fund shall be credited with
9 all payments of principal and interest on each
10 loan awarded from the Loan Fund.

11 “(2) To guarantee, or purchase insurance for,
12 a local obligation (all of the proceeds of which fi-
13 nance a project eligible for assistance under this
14 subsection) if the guarantee or purchase would im-
15 prove credit market access or reduce the interest
16 rate applicable to the obligation involved.

17 “(3) As a source of revenue or security for the
18 payment of principal and interest on revenue or gen-
19 eral obligation bonds issued by the eligible entity if
20 the proceeds of the sale of the bonds will be depos-
21 ited into the Loan Fund.

22 “(4) To earn interest on the amounts deposited
23 into the Loan Fund.

24 “(5) To make reimbursements described in sub-
25 section (g)(4)(A).

1 “(g) ADMINISTRATION OF LOAN FUNDS.—

2 “(1) COMBINED FINANCIAL ADMINISTRATION.—

3 An eligible entity may (as a convenience and to
4 avoid unnecessary administrative costs) combine, in
5 accordance with applicable State law, the financial
6 administration of a Loan Fund established under
7 this subsection with the financial administration of
8 any other revolving fund established by the entity if
9 otherwise not prohibited by the law under which the
10 Loan Fund was established.

11 “(2) COST OF ADMINISTERING FUND.—Each el-
12 igible entity may annually use not to exceed 4 per-
13 cent of the funds provided to the entity under a
14 grant under this section to pay the reasonable costs
15 of the administration of the programs under this
16 section, including the recovery of reasonable costs
17 expended to establish a Loan Fund which are in-
18 curred after the date of the enactment of this title.

19 “(3) GUIDANCE AND REGULATIONS.—The Na-
20 tional Coordinator shall publish guidance and pro-
21 mulgate regulations as may be necessary to carry
22 out the provisions of this section, including—

23 “(A) provisions to ensure that each eligible
24 entity commits and expends funds allotted to
25 the entity under this section as efficiently as

1 possible in accordance with this title and appli-
2 cable State laws; and

3 “(B) guidance to prevent waste, fraud, and
4 abuse.

5 “(4) PRIVATE SECTOR CONTRIBUTIONS.—

6 “(A) IN GENERAL.—A Loan Fund estab-
7 lished under this section may accept contribu-
8 tions from private sector entities, except that
9 such entities may not specify the recipient or
10 recipients of any loan issued under this sub-
11 section. An eligible entity may agree to reim-
12 burse a private sector entity for any contribu-
13 tion made under this subparagraph, except that
14 the amount of such reimbursement may not be
15 greater than the principal amount of the con-
16 tribution made.

17 “(B) AVAILABILITY OF INFORMATION.—

18 An eligible entity shall make publicly available
19 the identity of, and amount contributed by, any
20 private sector entity under subparagraph (A)
21 and may issue letters of commendation or make
22 other awards (that have no financial value) to
23 any such entity.

24 “(h) MATCHING REQUIREMENTS.—

1 “(1) IN GENERAL.—The National Coordinator
2 may not make a grant under subsection (a) to an el-
3 igible entity unless the entity agrees to make avail-
4 able (directly or through donations from public or
5 private entities) non-Federal contributions in cash to
6 the costs of carrying out the activities for which the
7 grant is awarded in an amount equal to not less
8 than \$1 for each \$5 of Federal funds provided under
9 the grant.

10 “(2) DETERMINATION OF AMOUNT OF NON-
11 FEDERAL CONTRIBUTION.—In determining the
12 amount of non-Federal contributions that an eligible
13 entity has provided pursuant to subparagraph (A),
14 the National Coordinator may not include any
15 amounts provided to the entity by the Federal Gov-
16 ernment.

17 “(i) EFFECTIVE DATE.—The Secretary may not
18 make an award under this section prior to January 1,
19 2010.

20 **“SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**
21 **FORMATION TECHNOLOGY INTO CLINICAL**
22 **EDUCATION.**

23 “(a) IN GENERAL.—The Secretary may award grants
24 under this section to carry out demonstration projects to
25 develop academic curricula integrating certified EHR

1 technology in the clinical education of health professionals.
2 Such awards shall be made on a competitive basis and
3 pursuant to peer review.

4 “(b) ELIGIBILITY.—To be eligible to receive a grant
5 under subsection (a), an entity shall—

6 “(1) submit to the Secretary an application at
7 such time, in such manner, and containing such in-
8 formation as the Secretary may require;

9 “(2) submit to the Secretary a strategic plan
10 for integrating certified EHR technology in the clin-
11 ical education of health professionals to reduce med-
12 ical errors, increase access to prevention, reduce
13 chronic diseases, and enhance health care quality;

14 “(3) be—

15 “(A) a school of medicine, osteopathic
16 medicine, dentistry, or pharmacy, a graduate
17 program in behavioral or mental health, or any
18 other graduate health professions school;

19 “(B) a graduate school of nursing or phy-
20 sician assistant studies;

21 “(C) a consortium of two or more schools
22 described in subparagraph (A) or (B); or

23 “(D) an institution with a graduate med-
24 ical education program in medicine, osteopathic

1 medicine, dentistry, pharmacy, nursing, or phy-
2 sician assistance studies;

3 “(4) provide for the collection of data regarding
4 the effectiveness of the demonstration project to be
5 funded under the grant in improving the safety of
6 patients, the efficiency of health care delivery, and
7 in increasing the likelihood that graduates of the
8 grantee will adopt and incorporate certified EHR
9 technology, in the delivery of health care services;
10 and

11 “(5) provide matching funds in accordance with
12 subsection (d).

13 “(c) USE OF FUNDS.—

14 “(1) IN GENERAL.—With respect to a grant
15 under subsection (a), an eligible entity shall—

16 “(A) use grant funds in collaboration with
17 2 or more disciplines; and

18 “(B) use grant funds to integrate certified
19 EHR technology into community-based clinical
20 education.

21 “(2) LIMITATION.—An eligible entity shall not
22 use amounts received under a grant under sub-
23 section (a) to purchase hardware, software, or serv-
24 ices.

1 “(d) FINANCIAL SUPPORT.—The Secretary may not
2 provide more than 50 percent of the costs of any activity
3 for which assistance is provided under subsection (a), ex-
4 cept in an instance of national economic conditions which
5 would render the cost-share requirement under this sub-
6 section detrimental to the program and upon notification
7 to Congress as to the justification to waive the cost-share
8 requirement.

9 “(e) EVALUATION.—The Secretary shall take such
10 action as may be necessary to evaluate the projects funded
11 under this section and publish, make available, and dis-
12 seminate the results of such evaluations on as wide a basis
13 as is practicable.

14 “(f) REPORTS.—Not later than 1 year after the date
15 of enactment of this title, and annually thereafter, the Sec-
16 retary shall submit to the Committee on Health, Edu-
17 cation, Labor, and Pensions and the Committee on Fi-
18 nance of the Senate, and the Committee on Energy and
19 Commerce of the House of Representatives a report
20 that—

21 “(1) describes the specific projects established
22 under this section; and

23 “(2) contains recommendations for Congress
24 based on the evaluation conducted under subsection
25 (e).

1 **"SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**
2 **IN HEALTH CARE.**

3 “(a) IN GENERAL.—The Secretary, in consultation
4 with the Director of the National Science Foundation,
5 shall provide assistance to institutions of higher education
6 (or consortia thereof) to establish or expand medical
7 health informatics education programs, including certifi-
8 cation, undergraduate, and masters degree programs, for
9 both health care and information technology students to
10 ensure the rapid and effective utilization and development
11 of health information technologies (in the United States
12 health care infrastructure).

13 “(b) ACTIVITIES.—Activities for which assistance
14 may be provided under subsection (a) may include the fol-
15 lowing:-----

16 “(1) Developing and revising curricula in med-
17 ical health informatics and related disciplines.

18 “(2) Recruiting and retaining students to the
19 program involved.

20 “(3) Acquiring equipment necessary for student
21 instruction in these programs, including the installa-
22 tion of testbed networks for student use.

23 “(4) Establishing or enhancing bridge programs
24 in the health informatics fields between community
25 colleges and universities.

1 “(c) ~~PRIORITY.~~—In providing assistance under sub-
2 section (a), the Secretary shall give preference to the fol-
3 lowing:

4 “(1) Existing education and training programs.

5 “(2) Programs designed to be completed in less
6 than six months.

7 **“SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

8 “(a) **REPORTS.**—The Secretary may require that an
9 entity receiving assistance under this subtitle shall submit
10 to the Secretary, not later than the date that is 1 year
11 after the date of receipt of such assistance, a report that
12 includes—

13 “(1) an analysis of the effectiveness of the ac-
14 tivities for which the entity receives such assistance,
15 as compared to the goals for such activities; and

16 “(2) an analysis of the impact of the project on
17 health care quality and safety.

18 “(b) **REQUIREMENT TO IMPROVE QUALITY OF CARE**
19 **AND DECREASE IN COSTS.**—The National Coordinator
20 shall annually evaluate the activities conducted under this
21 subtitle and shall, in awarding grants, implement the les-
22 sons learned from such evaluation in a manner so that
23 awards made subsequent to each such evaluation are made
24 in a manner that, in the determination of the National

1 Coordinator, will result in the greatest improvement in the
2 quality and efficiency of health care.

3 **“SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.**

4 “For the purposes of carrying out this subtitle, there
5 is authorized to be appropriated such sums as may be nec-
6 essary for each of the fiscal years 2009 through 2013.”.

7 **Subtitle D—Privacy**

8 **SEC. 13400. DEFINITIONS.**

9 In this subtitle, except as specified otherwise:

10 (1) **BREACH.—**

11 (A) **IN GENERAL.—**The term “breach”
12 means the unauthorized acquisition, access, use,
13 or disclosure of protected health information
14 which compromises the security or privacy of
15 such information, except where an unauthorized
16 person to whom such information is disclosed
17 would not reasonably have been able to retain
18 such information.

19 (B) **EXCEPTIONS.—**The term “breach”
20 does not include—

21 (i) any unintentional acquisition, ac-
22 cess, or use of protected health information
23 by an employee or individual acting under
24 the authority of a covered entity or busi-
25 ness associate if—

1 (I) such acquisition, access, or
2 use was made in good faith and with-
3 in the course and scope of the employ-
4 ment or other professional relation-
5 ship of such employee or individual,
6 respectively, with the covered entity or
7 business associate; and

8 (II) such information is not fur-
9 ther acquired, accessed, used, or dis-
10 closed by any person; or

11 (ii) any inadvertent disclosure from an
12 individual who is otherwise authorized to
13 access protected health information at a
14 facility operated by a covered entity or
15 business associate to another similarly sit-
16 uated individual at same facility; and

17 (iii) any such information received as
18 a result of such disclosure is not further
19 acquired, accessed, used, or disclosed with-
20 out authorization by any person.

21 (2) BUSINESS ASSOCIATE.—The term “business
22 associate” has the meaning given such term in sec-
23 tion 160.103 of title 45, Code of Federal Regula-
24 tions.

1 (3) COVERED ENTITY.—The term “covered en-
2 tity” has the meaning given such term in section
3 160.103 of title 45, Code of Federal Regulations.

4 (4) DISCLOSE.—The terms “disclose” and “dis-
5 closure” have the meaning given the term “disclo-
6 sure” in section 160.103 of title 45, Code of Federal
7 Regulations.

8 (5) ELECTRONIC HEALTH RECORD.—The term
9 “electronic health record” means an electronic
10 record of health-related information on an individual
11 that is created, gathered, managed, and consulted by
12 authorized health care clinicians and staff.

13 (6) HEALTH CARE OPERATIONS.—The term
14 “health care operation” has the meaning given such
15 term in section 164.501 of title 45, Code of Federal
16 Regulations.

17 (7) HEALTH CARE PROVIDER.—The term
18 “health care provider” has the meaning given such
19 term in section 160.103 of title 45, Code of Federal
20 Regulations.

21 (8) HEALTH PLAN.—The term “health plan”
22 has the meaning given such term in section 160.103
23 of title 45, Code of Federal Regulations.

24 (9) NATIONAL COORDINATOR.—The term “Na-
25 tional Coordinator” means the head of the Office of

1 the National Coordinator for Health Information
2 Technology established under section 3001(a) of the
3 Public Health Service Act, as added by section
4 13101.

5 (10) PAYMENT.—The term “payment” has the
6 meaning given such term in section 164.501 of title
7 45, Code of Federal Regulations.

8 (11) PERSONAL HEALTH RECORD.—The term
9 “personal health record” means an electronic record
10 of PHR identifiable health information (as defined
11 in section 13407(f)(2)) on an individual that can be
12 drawn from multiple sources and that is managed,
13 shared, and controlled by or primarily for the indi-
14 vidual.

15 (12) PROTECTED HEALTH INFORMATION.—The
16 term “protected health information” has the mean-
17 ing given such term in section 160.103 of title 45,
18 Code of Federal Regulations.

19 (13) SECRETARY.—The term “Secretary”
20 means the Secretary of Health and Human Services.

21 (14) SECURITY.—The term “security” has the
22 meaning given such term in section 164.304 of title
23 45, Code of Federal Regulations.

24 (15) STATE.—The term “State” means each of
25 the several States, the District of Columbia, Puerto

1 Rico, the Virgin Islands, Guam, American Samoa,
2 and the Northern Mariana Islands.

3 (16) TREATMENT.—The term “treatment” has
4 the meaning given such term in section 164.501 of
5 title 45, Code of Federal Regulations.

6 (17) USE.—The term “use” has the meaning
7 given such term in section 160.103 of title 45, Code
8 of Federal Regulations.

9 (18) VENDOR OF PERSONAL HEALTH
10 RECORDS.—The term “vendor of personal health
11 records” means an entity, other than a covered enti-
12 ty (as defined in paragraph (3)), that offers or
13 maintains a personal health record.

14 **PART 1—IMPROVED PRIVACY PROVISIONS AND**
15 **SECURITY PROVISIONS**

16 **SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND**
17 **PENALTIES TO BUSINESS ASSOCIATES OF**
18 **COVERED ENTITIES; ANNUAL GUIDANCE ON**
19 **SECURITY PROVISIONS.**

20 (a) APPLICATION OF SECURITY PROVISIONS.—Sec-
21 tions 164.308, 164.310, 164.312, and 164.316 of title 45,
22 Code of Federal Regulations, shall apply to a business as-
23 sociate of a covered entity in the same manner that such
24 sections apply to the covered entity. The additional re-
25 quirements of this title that relate to security and that

1 are made applicable with respect to covered entities shall
2 also be applicable to such a business associate and shall
3 be incorporated into the business associate agreement be-
4 tween the business associate and the covered entity.

5 (b) APPLICATION OF CIVIL AND CRIMINAL PEN-
6 ALTIES.—In the case of a business associate that violates
7 any security provision specified in subsection (a), sections
8 1176 and 1177 of the Social Security Act (42 U.S.C.
9 1320d–5, 1320d–6) shall apply to the business associate
10 with respect to such violation in the same manner such
11 sections apply to a covered entity that violates such secu-
12 rity provision.

13 (c) ANNUAL GUIDANCE.—For the first year begin-
14 ning after the date of the enactment of this Act and annu-
15 ally thereafter, the Secretary of Health and Human Serv-
16 ices shall, after consultation with stakeholders, annually
17 issue guidance on the most effective and appropriate tech-
18 nical safeguards for use in carrying out the sections re-
19 ferred to in subsection (a) and the security standards in
20 subpart C of part 164 of title 45, Code of Federal Regula-
21 tions, including the use of standards developed under sec-
22 tion 3002(b)(2)(B)(vi) of the Public Health Service Act,
23 as added by section 13101 of this Act, as such provisions
24 are in effect as of the date before the enactment of this
25 Act.

1 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

2 (a) **IN GENERAL.**—A covered entity that accesses,
3 maintains, retains, modifies, records, stores, destroys, or
4 otherwise holds, uses, or discloses unsecured protected
5 health information (as defined in subsection (h)(1)) shall,
6 in the case of a breach of such information that is discov-
7 ered by the covered entity, notify each individual whose
8 unsecured protected health information has been, or is
9 reasonably believed by the covered entity to have been,
10 accessed, acquired, or disclosed as a result of such breach.

11 (b) **NOTIFICATION OF COVERED ENTITY BY BUSI-**
12 **NESS ASSOCIATE.**—A business associate of a covered enti-
13 ty that accesses, maintains, retains, modifies, records,
14 stores, destroys, or otherwise holds, uses, or discloses un-
15 secured protected health information shall, following the
16 discovery of a breach of such information, notify the cov-
17 ered entity of such breach. Such notice shall include the
18 identification of each individual whose unsecured protected
19 health information has been, or is reasonably believed by
20 the business associate to have been, accessed, acquired,
21 or disclosed during such breach.

22 (c) **BREACHES TREATED AS DISCOVERED.**—For pur-
23 poses of this section, a breach shall be treated as discov-
24 ered by a covered entity or by a business associate as of
25 the first day on which such breach is known to such entity
26 or associate, respectively, (including any person, other

1 than the individual committing the breach, that is an em-
2 ployee, officer, or other agent of such entity or associate,
3 respectively) or should reasonably have been known to
4 such entity or associate (or person) to have occurred.

5 (d) TIMELINESS OF NOTIFICATION.—

6 (1) IN GENERAL.—Subject to subsection (g), all
7 notifications required under this section shall be
8 made without unreasonable delay and in no case
9 later than 60 calendar days after the discovery of a
10 breach by the covered entity involved (or business
11 associate involved in the case of a notification re-
12 quired under subsection (b)).

13 (2) BURDEN OF PROOF.—The covered entity in-
14 volved (or business associate involved in the case of
15 a notification required under subsection (b)), shall
16 have the burden of demonstrating that all notifica-
17 tions were made as required under this part, includ-
18 ing evidence demonstrating the necessity of any
19 delay.

20 (e) METHODS OF NOTICE.—

21 (1) INDIVIDUAL NOTICE.—Notice required
22 under this section to be provided to an individual,
23 with respect to a breach, shall be provided promptly
24 and in the following form:

1 (A) Written notification by first-class mail
2 to the individual (or the next of kin of the indi-
3 vidual if the individual is deceased) at the last
4 known address of the individual or the next of
5 kin, respectively, or, if specified as a preference
6 by the individual, by electronic mail. The notifi-
7 cation may be provided in one or more mailings
8 as information is available.

9 (B) In the case in which there is insuffi-
10 cient, or out-of-date contact information (in-
11 cluding a phone number, email address, or any
12 other form of appropriate communication) that
13 precludes direct written (or, if specified by the
14 individual under subparagraph (A), electronic)
15 notification to the individual, a substitute form
16 of notice shall be provided, including, in the
17 case that there are 10 or more individuals for
18 which there is insufficient or out-of-date contact
19 information, a conspicuous posting for a period
20 determined by the Secretary on the home page
21 of the Web site of the covered entity involved or
22 notice in major print or broadcast media, in-
23 cluding major media in geographic areas where
24 the individuals affected by the breach likely re-
25 side. Such a notice in media or web posting will

1 include a toll-free phone number where an indi-
2 vidual can learn whether or not the individual's
3 unsecured protected health information is pos-
4 sibly included in the breach.

5 (C) In any case deemed by the covered en-
6 tity involved to require urgency because of pos-
7 sible imminent misuse of unsecured protected
8 health information, the covered entity, in addi-
9 tion to notice provided under subparagraph (A),
10 may provide information to individuals by tele-
11 phone or other means, as appropriate.

12 (2) MEDIA NOTICE.—Notice shall be provided
13 to prominent media outlets serving a State or juris-
14 diction, following the discovery of a breach described
15 in subsection (a), if the unsecured protected health
16 information of more than 500 residents of such
17 State or jurisdiction is, or is reasonably believed to
18 have been, accessed, acquired, or disclosed during
19 such breach.

20 (3) NOTICE TO SECRETARY.—Notice shall be
21 provided to the Secretary by covered entities of un-
22 secured protected health information that has been
23 acquired or disclosed in a breach. If the breach was
24 with respect to 500 or more individuals than such
25 notice must be provided immediately. If the breach

1 was with respect to less than 500 individuals, the
2 covered entity may maintain a log of any such
3 breach occurring and annually submit such a log to
4 the Secretary documenting such breaches occurring
5 during the year involved.

6 (4) POSTING ON HHS PUBLIC WEBSITE.—The
7 Secretary shall make available to the public on the
8 Internet website of the Department of Health and
9 Human Services a list that identifies each covered
10 entity involved in a breach described in subsection
11 (a) in which the unsecured protected health informa-
12 tion of more than 500 individuals is acquired or dis-
13 closed.

14 (f) CONTENT OF NOTIFICATION.—Regardless of the
15 method by which notice is provided to individuals under
16 this section, notice of a breach shall include, to the extent
17 possible, the following:

18 (1) A brief description of what happened, in-
19 cluding the date of the breach and the date of the
20 discovery of the breach, if known.

21 (2) A description of the types of unsecured pro-
22 tected health information that were involved in the
23 breach (such as full name, Social Security number,
24 date of birth, home address, account number, or dis-
25 ability code).

1 (3) The steps individuals should take to protect
2 themselves from potential harm resulting from the
3 breach.

4 (4) A brief description of what the covered enti-
5 ty involved is doing to investigate the breach, to
6 mitigate losses, and to protect against any further
7 breaches.

8 (5) Contact procedures for individuals to ask
9 questions or learn additional information, which
10 shall include a toll-free telephone number, an e-mail
11 address, Web site, or postal address.

12 (g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW
13 ENFORCEMENT PURPOSES.—If a law enforcement official
14 determines that a notification, notice, or posting required
15 under this section would impede a criminal investigation
16 or cause damage to national security, such notification,
17 notice, or posting shall be delayed in the same manner
18 as provided under section 164.528(a)(2) of title 45, Code
19 of Federal Regulations, in the case of a disclosure covered
20 under such section.

21 (h) UNSECURED PROTECTED HEALTH INFORMA-
22 TION.—

23 (1) DEFINITION.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), for purposes of this section, the

1 term “unsecured-protected health information”
2 means protected health information that is not
3 secured through the use of a technology or
4 methodology specified by the Secretary in the
5 guidance issued under paragraph (2).

6 (B) EXCEPTION IN CASE TIMELY GUID-
7 ANCE NOT ISSUED.—In the case that the Sec-
8 retary does not issue guidance under paragraph
9 (2) by the date specified in such paragraph, for
10 purposes of this section, the term “unsecured
11 protected health information” shall mean pro-
12 tected health information that is not secured by
13 a technology standard that renders protected
14 health information unusable, unreadable, or in-
15 -decipherable to unauthorized individuals and is
16 developed or endorsed by a standards devel-
17 oping organization that is accredited by the
18 American National Standards Institute.

19 (2) GUIDANCE.—For purposes of paragraph (1)
20 and section 13407(f)(3), not later than the date that
21 is 60 days after the date of the enactment of this
22 Act, the Secretary shall, after consultation with
23 stakeholders, issue (and annually update) guidance
24 specifying the technologies and methodologies that
25 render protected health information unusable,

1 unreadable, or indecipherable to unauthorized indi-
2 viduals, including the use of standards developed
3 under section 3002(b)(2)(B)(vi) of the Public Health
4 Service Act, as added by section 13101 of this Act.

5 (i) REPORT TO CONGRESS ON BREACHES.—

6 (1) IN GENERAL.—Not later than 12 months
7 after the date of the enactment of this Act and an-
8 nually thereafter, the Secretary shall prepare and
9 submit to the Committee on Finance and the Com-
10 mittee on Health, Education, Labor, and Pensions
11 of the Senate and the Committee on Ways and
12 Means and the Committee on Energy and Commerce
13 of the House of Representatives a report containing
14 the information described in paragraph (2) regard-
15 ing breaches for which notice was provided to the
16 Secretary under subsection (e)(3).

17 (2) INFORMATION.—The information described
18 in this paragraph regarding breaches specified in
19 paragraph (1) shall include—

20 (A) the number and nature of such
21 breaches; and

22 (B) actions taken in response to such
23 breaches.

24 (j) REGULATIONS; EFFECTIVE DATE.—To carry out
25 this section, the Secretary of Health and Human Services

1 shall promulgate interim final regulations by not later
2 than the date that is 180 days after the date of the enact-
3 ment of this title. The provisions of this section shall apply
4 to breaches that are discovered on or after the date that
5 is 30 days after the date of publication of such interim
6 final regulations.

7 **SEC. 13403. EDUCATION ON HEALTH INFORMATION PRI-**
8 **VACY.**

9 (a) **REGIONAL OFFICE PRIVACY ADVISORS.**—Not
10 later than 6 months after the date of the enactment of
11 this Act, the Secretary shall designate an individual in
12 each regional office of the Department of Health and
13 Human Services to offer guidance and education to cov-
14 ered entities, business associates, and individuals on their
15 rights and responsibilities related to Federal privacy and
16 security requirements for protected health information.

17 (b) **EDUCATION INITIATIVE ON USES OF HEALTH IN-**
18 **FORMATION.**—Not later than 12 months after the date of
19 the enactment of this Act, the Office for Civil Rights with-
20 in the Department of Health and Human Services shall
21 develop and maintain a multi-faceted national education
22 initiative to enhance public transparency regarding the
23 uses of protected health information, including programs
24 to educate individuals about the potential uses of their
25 protected health information, the effects of such uses, and

1 the rights of individuals with respect to such uses. Such
2 programs shall be conducted in a variety of languages and
3 present information in a clear and understandable man-
4 ner.

5 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**
6 **PENALTIES TO BUSINESS ASSOCIATES OF**
7 **COVERED ENTITIES.**

8 (a) APPLICATION OF CONTRACT REQUIREMENTS.—

9 In the case of a business associate of a covered entity that
10 obtains or creates protected health information pursuant
11 to a written contract (or other written arrangement) de-
12 scribed in section 164.502(e)(2) of title 45, Code of Fed-
13 eral Regulations, with such covered entity, the business
14 associate may use and disclose such protected health infor-
15 mation only if such use or disclosure, respectively, is in
16 compliance with each applicable requirement of section
17 164.504(e) of such title. The additional requirements of
18 this subtitle that relate to privacy and that are made ap-
19 plicable with respect to covered entities shall also be appli-
20 cable to such a business associate and shall be incor-
21 porated into the business associate agreement between the
22 business associate and the covered entity.

23 (b) APPLICATION OF KNOWLEDGE ELEMENTS ASSO-
24 CIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of
25 title 45, Code of Federal Regulations, shall apply to a

1 business associate described in subsection (a), with respect
2 to compliance with such subsection, in the same manner
3 that such section applies to a covered entity, with respect
4 to compliance with the standards in sections 164.502(e)
5 and 164.504(e) of such title, except that in applying such
6 section 164.504(e)(1)(ii) each reference to the business as-
7 sociate, with respect to a contract, shall be treated as a
8 reference to the covered entity involved in such contract.

9 (c) APPLICATION OF CIVIL AND CRIMINAL PEN-
10 ALTIES.—In the case of a business associate that violates
11 any provision of subsection (a) or (b), the provisions of
12 sections 1176 and 1177 of the Social Security Act (42
13 U.S.C. 1320d-5, 1320d-6) shall apply to the business as-
14 sociate with respect to such violation in the same manner
15 as such provisions apply to a person who violates a provi-
16 sion of part C of title XI of such Act.

17 **SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND**
18 **SALES OF HEALTH INFORMATION; ACCOUNT-**
19 **ING OF CERTAIN PROTECTED HEALTH IN-**
20 **FORMATION DISCLOSURES; ACCESS TO CER-**
21 **TAIN INFORMATION IN ELECTRONIC FOR-**
22 **MAT.**

23 (a) REQUESTED RESTRICTIONS ON CERTAIN DIS-
24 CLOSURES OF HEALTH INFORMATION.—In the case that
25 an individual requests under paragraph (a)(1)(i)(A) of

1 section 164.522 of title 45, Code of Federal Regulations,
2 that a covered entity restrict the disclosure of the pro-
3 tected health information of the individual, notwith-
4 standing paragraph (a)(1)(ii) of such section, the covered
5 entity must comply with the requested restriction if—

6 (1) except as otherwise required by law, the dis-
7 closure is to a health plan for purposes of carrying
8 out payment or health care operations (and is not
9 for purposes of carrying out treatment); and

10 (2) the protected health information pertains
11 solely to a health care item or service for which the
12 health care provider involved has been paid out of
13 pocket in full.

14 (b) DISCLOSURES REQUIRED TO BE LIMITED TO
15 THE LIMITED DATA SET OR THE MINIMUM NEC-
16 ESSARY.—

17 (1) IN GENERAL.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B), a covered entity shall be treated as
20 being in compliance with section 164.502(b)(1)
21 of title 45, Code of Federal Regulations, with
22 respect to the use, disclosure, or request of pro-
23 tected health information described in such sec-
24 tion, only if the covered entity limits such pro-
25 tected health information, to the extent prac-

1 ticable, to the limited data set (as defined in
2 section 164.514(e)(2) of such title) or, if needed
3 by such entity, to the minimum necessary to ac-
4 complish the intended purpose of such use, dis-
5 closure, or request, respectively.

6 (B) GUIDANCE.—Not later than 18
7 months after the date of the enactment of this
8 section, the Secretary shall issue guidance on
9 what constitutes “minimum necessary” for pur-
10 poses of subpart E of part 164 of title 45, Code
11 of Federal Regulation. In issuing such guidance
12 the Secretary shall take into consideration the
13 guidance under section 13424(c) and the infor-
14 mation necessary to improve patient outcomes
15 and to detect, prevent, and manage chronic dis-
16 ease.

17 (C) SUNSET.—Subparagraph (A) shall not
18 apply on and after the effective date on which
19 the Secretary issues the guidance under sub-
20 paragraph (B).

21 (2) DETERMINATION OF MINIMUM NEC-
22 ESSARY.—For purposes of paragraph (1), in the
23 case of the disclosure of protected health informa-
24 tion, the covered entity or business associate dis-
25 closing such information shall determine what con-

1 ~~stitutes the minimum necessary to accomplish the~~
2 intended purpose of such disclosure.

3 (3) APPLICATION OF EXCEPTIONS.—The excep-
4 tions described in section 164.502(b)(2) of title 45,
5 Code of Federal Regulations, shall apply to the re-
6 quirement under paragraph (1) as of the effective
7 date described in section 13423 in the same manner
8 that such exceptions apply to section 164.502(b)(1)
9 of such title before such date.

10 (4) RULE OF CONSTRUCTION.—Nothing in this
11 subsection shall be construed as affecting the use,
12 disclosure, or request of protected health information
13 that has been de-identified.

14 (c) ACCOUNTING OF CERTAIN PROTECTED HEALTH
15 INFORMATION DISCLOSURES REQUIRED IF COVERED EN-
16 TITY USES ELECTRONIC HEALTH RECORD.—

17 “(1) IN GENERAL.—In applying section
18 164.528 of title 45, Code of Federal Regulations, in
19 the case that a covered entity uses or maintains an
20 electronic health record with respect to protected
21 health information—

22 “(A) the exception under paragraph
23 (a)(1)(i) of such section shall not apply to dis-
24 closures through an electronic health record
25 made by such entity of such information; and

1 “(B) an individual shall have a right to re-
2 ceive an accounting of disclosures described in
3 such paragraph of such information made by
4 such covered entity during only the three years
5 prior to the date on which the accounting is re-
6 quested.

7 “(2) REGULATIONS.—The Secretary shall pro-
8 mulgate regulations on what information shall be
9 collected about each disclosure referred to in para-
10 graph (1), not later than 6 months after the date on
11 which the Secretary adopts standards on accounting
12 for disclosure described in the section
13 3002(b)(2)(B)(iv) of the Public Health Service Act,
14 as added by section 13101. Such regulations shall
15 only require such information to be collected through
16 an electronic health record in a manner that takes
17 into account the interests of the individuals in learn-
18 ing the circumstances under which their protected
19 health information is being disclosed and takes into
20 account the administrative burden of accounting for
21 such disclosures.

22 “(3) PROCESS.—In response to an request from
23 an individual for an accounting, a covered entity
24 shall elect to provide either an—

1 “(A) accounting, as specified under para-
2 graph (1), for disclosures of protected health in-
3 formation that are made by such covered entity
4 and by a business associate acting on behalf of
5 the covered entity; or

6 “(B) accounting, as specified under para-
7 graph (1), for disclosures that are made by
8 such covered entity and provide a list of all
9 business associates acting on behalf of the cov-
10 ered entity, including contact information for
11 such associates (such as mailing address,
12 phone, and email address).

13 A business associate included on a list under sub-
14 paragraph (B) shall provide an accounting of disclo-
15 sures (as required under paragraph (1) for a covered
16 entity) made by the business associate upon a re-
17 quest made by an individual directly to the business
18 associate for such an accounting.

19 “(4) EFFECTIVE DATE.—

20 “(A) CURRENT USERS OF ELECTRONIC
21 RECORDS.—In the case of a covered entity inso-
22 far as it acquired an electronic health record as
23 of January 1, 2009, paragraph (1) shall apply
24 to disclosures, with respect to protected health

1 information, made by the covered entity from
2 such a record on and after January 1, 2014.

3 “(B) OTHERS.—In the case of a covered
4 entity insofar as it acquires an electronic health
5 record after January 1, 2009, paragraph (1)
6 shall apply to disclosures, with respect to pro-
7 tected health information, made by the covered
8 entity from such record on and after the later
9 of the following:

10 “(i) January 1, 2011; or

11 “(ii) the date that it acquires an elec-
12 tronic health record.

13 “(C) LATER DATE.—The Secretary may
14 set an effective date that is later than the date
15 specified under subparagraph (A) or (B) if the
16 Secretary determines that such later date is
17 necessary, but in no case may the date specified
18 under—

19 “(i) subparagraph (A) be later than
20 2016; or

21 “(ii) subparagraph (B) be later than
22 2013.”

23 (d) PROHIBITION ON SALE OF ELECTRONIC HEALTH
24 RECORDS OR PROTECTED HEALTH INFORMATION.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), a covered entity or business associate
3 shall not directly or indirectly receive remuneration
4 in exchange for any protected health information of
5 an individual unless the covered entity obtained from
6 the individual, in accordance with section 164.508 of
7 title 45, Code of Federal Regulations, a valid au-
8 thorization that includes, in accordance with such
9 section, a specification of whether the protected
10 health information can be further exchanged for re-
11 muneration by the entity receiving protected health
12 information of that individual.

13 (2) EXCEPTIONS.—Paragraph (1) shall not
14 apply in the following cases:

15 (A) The purpose of the exchange is for
16 public health activities (as described in section
17 164.512(b) of title 45, Code of Federal Regula-
18 tions).

19 (B) The purpose of the exchange is for re-
20 search (as described in sections 164.501 and
21 164.512(i) of title 45, Code of Federal Regula-
22 tions) and the price charged reflects the costs
23 of preparation and transmittal of the data for
24 such purpose.

1 (C) The purpose of the exchange is for the
2 treatment of the individual, subject to any regu-
3 lation that the Secretary may promulgate to
4 prevent protected health information from inap-
5 propriate access, use, or disclosure.

6 (D) The purpose of the exchange is the
7 health care operation specifically described in
8 subparagraph (iv) of paragraph (6) of the defi-
9 nition of healthcare operations in section
10 164.501 of title 45, Code of Federal Regula-
11 tions.

12 (E) The purpose of the exchange is for re-
13 munerated that is provided by a covered entity
14 to a business associate for activities involving
15 the exchange of protected health information
16 that the business associate undertakes on behalf
17 of and at the specific request of the covered en-
18 tity pursuant to a business associate agreement.

19 (F) The purpose of the exchange is to pro-
20 vide an individual with a copy of the individ-
21 ual's protected health information pursuant to
22 section 164.524 of title 45, Code of Federal
23 Regulations.

24 (G) The purpose of the exchange is other-
25 wise determined by the Secretary in regulations

1 to be similarly necessary and appropriate as the
2 exceptions provided in subparagraphs (A)
3 through (F).

4 (3) REGULATIONS.—Not later than 18 months
5 after the date of enactment of this title, the Sec-
6 retary shall promulgate regulations to carry out this
7 subsection. In promulgating such regulations, the
8 Secretary—

9 (A) shall evaluate the impact of restricting
10 the exception described in paragraph (2)(A) to
11 require that the price charged for the purposes
12 described in such paragraph reflects the costs
13 of the preparation and transmittal of the data
14 for such purpose, on research or public health
15 activities, including those conducted by or for
16 the use of the Food and Drug Administration;
17 and

18 (B) may further restrict the exception de-
19 scribed in paragraph (2)(A) to require that the
20 price charged for the purposes described in
21 such paragraph reflects the costs of the prepa-
22 ration and transmittal of the data for such pur-
23 pose, if the Secretary finds that such further
24 restriction will not impede such research or
25 public health activities.

1 (4) ~~EFFECTIVE DATE.~~—Paragraph (1) shall
2 apply to exchanges occurring on or after the date
3 that is 6 months after the date of the promulgation
4 of final regulations implementing this subsection.

5 (e) ACCESS TO CERTAIN INFORMATION IN ELEC-
6 TRONIC FORMAT.—In applying section 164.524 of title
7 45, Code of Federal Regulations, in the case that a cov-
8 ered entity uses or maintains an electronic health record
9 with respect to protected health information of an indi-
10 vidual—

11 (1) the individual shall have a right to obtain
12 from such covered entity a copy of such information
13 in an electronic format and, if the individual choos-
14 es, to direct the covered entity to transmit such copy
15 directly to an entity or person designated by the in-
16 dividual, provided that any such choice is clear, con-
17 spicuous, and specific; and

18 (2) notwithstanding paragraph (c)(4) of such
19 section, any fee that the covered entity may impose
20 for providing such individual with a copy of such in-
21 formation (or a summary or explanation of such in-
22 formation) if such copy (or summary or explanation)
23 is in an electronic form shall not be greater than the
24 entity's labor costs in responding to the request for
25 the copy (or summary or explanation).

1 SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART
2 OF HEALTH CARE OPERATIONS.

3 (a) MARKETING.—

4 (1) IN GENERAL.—A communication by a cov-
5 ered entity or business associate that is about a
6 product or service and that encourages recipients of
7 the communication to purchase or use the product
8 or service shall not be considered a health care oper-
9 ation for purposes of subpart E of part 164 of title
10 45, Code of Federal Regulations, unless the commu-
11 nication is made as described in subparagraph (i),
12 (ii), or (iii) of paragraph (1) of the definition of
13 marketing in section 164.501 of such title.

14 (2) PAYMENT FOR CERTAIN COMMUNICA-
15 TIONS.—A communication by a covered entity or
16 business associate that is described in subparagraph
17 (i), (ii), or (iii) of paragraph (1) of the definition of
18 marketing in section 164.501 of title 45, Code of
19 Federal Regulations, shall not be considered a health
20 care operation for purposes of subpart E of part 164
21 of title 45, Code of Federal Regulations if the cov-
22 ered entity receives or has received direct or indirect
23 payment in exchange for making such communica-
24 tion, except where—

25 (A)(i) such communication describes only a
26 drug or biologic that is currently being pre-

1 scribed for the recipient of the communication;
2 and

3 (ii) any payment received by such covered
4 entity in exchange for making a communication
5 described in clause (i) is reasonable in amount;

6 (B) each of the following conditions
7 apply—

8 (i) the communication is made by the
9 covered entity; and

10 (ii) the covered entity making such
11 communication obtains from the recipient
12 of the communication, in accordance with
13 section 164.508 of title 45, Code of Fed-
14 eral Regulations, a valid authorization (as
15 described in paragraph (b) of such section)
16 with respect to such communication; or

17 (C) each of the following conditions
18 apply—

19 (i) the communication is made by a
20 business associate on behalf of the covered
21 entity; and

22 (ii) the communication is consistent
23 with the written contract (or other written
24 arrangement described in section

1 164.502(e)(2) of such title) between such
2 business associate and covered entity.

3 (3) REASONABLE IN AMOUNT DEFINED.—For
4 purposes of paragraph (2), the term “reasonable in
5 amount” shall have the meaning given such term by
6 the Secretary by regulation.

7 (4) DIRECT OR INDIRECT PAYMENT.—For pur-
8 poses of paragraph (2), the term “direct or indirect
9 payment” shall not include any payment for treat-
10 ment (as defined in section 164.501 of title 45, Code
11 of Federal Regulations) of an individual.

12 (b) OPPORTUNITY TO OPT OUT OF FUNDRAISING.—
13 The Secretary shall by rule provide that any written fund-
14 raising communication that is a healthcare operation as
15 defined under section 164.501 of title 45, Code of Federal
16 Regulations, shall, in a clear and conspicuous manner,
17 provide an opportunity for the recipient of the communica-
18 tions to elect not to receive any further such communica-
19 tion. When an individual elects not to receive any further
20 such communication, such election shall be treated as a
21 revocation of authorization under section 164.508 of title
22 45, Code of Federal Regulations.

23 (c) EFFECTIVE DATE.—This section shall apply to
24 written communications occurring on or after the effective
25 date specified 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 identifi-
8 able 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), (iii), or (iv) of section
11 13424(b)(1)(A), following the discovery of a breach of se-
12 curity of such information that is obtained through a prod-
13 uct or service provided 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
22 services to a vendor of personal health records or to an
23 entity described in clause (ii), (iii), or (iv) of section
24 13424(b)(1)(A) in connection with the offering or mainte-
25 nance of a personal health record or a related product or
26 service and that accesses, maintains, retains, modifies,

1 records, stores, destroys, or otherwise holds, uses, or dis-
2 closes unsecured PHR identifiable health information in
3 such a record as a result of such services shall, following
4 the discovery of a breach of security of such information,
5 notify such vendor or entity, respectively, of such breach.
6 Such notice shall include the identification of each indi-
7 vidual whose unsecured PHR identifiable health informa-
8 tion has been, or is reasonably believed to have been,
9 accessed, acquired, or disclosed during such breach.

10 (c) APPLICATION OF REQUIREMENTS FOR TIMELI-
11 NESS, METHOD, AND CONTENT OF NOTIFICATIONS.—

12 Subsections (c), (d), (e), and (f) of section 13402 shall
13 apply to a notification required under subsection (a) and
14 a vendor of personal health records, an entity described
15 in subsection (a) and a third party service provider de-
16 scribed in subsection (b), with respect to a breach of secu-
17 rity under subsection (a) of unsecured PHR identifiable
18 health information in such records maintained or offered
19 by such vendor, in a manner specified by the Federal
20 Trade Commission.

21 (d) NOTIFICATION OF THE SECRETARY.—Upon re-
22 ceipt of a notification of a breach of security under sub-
23 section (a)(2), the Federal Trade Commission shall notify
24 the Secretary of such breach.

1 ~~(e) ENFORCEMENT.—A violation of subsection (a) or~~
2 (b) shall be treated as an unfair and deceptive act or prac-
3 tice in violation of a regulation under section 18(a)(1)(B)
4 of the Federal Trade Commission Act (15 U.S.C.
5 57a(a)(1)(B)) regarding unfair or deceptive acts or prac-
6 tices.

7 (f) DEFINITIONS.—For purposes of this section:

8 (1) BREACH OF SECURITY.—The term “breach
9 of security” means, with respect to unsecured PHR
10 identifiable health information of an individual in a
11 personal health record, acquisition of such informa-
12 tion without the authorization of the individual.

13 (2) PHR IDENTIFIABLE HEALTH INFORMA-
14 TION.—The term “PHR identifiable health informa-
15 tion” means individually identifiable health informa-
16 tion, as defined in section 1171(6) of the Social Se-
17 curity Act (42 U.S.C. 1320d(6)), and includes, with
18 respect to an individual, information—

19 (A) that is provided by or on behalf of the
20 individual; and

21 (B) that identifies the individual or with
22 respect to which there is a reasonable basis to
23 believe that the information can be used to
24 identify the individual.

1 (3) ~~UNSECURED PHR IDENTIFIABLE HEALTH~~
2 INFORMATION.—

3 (A) IN GENERAL.—Subject to subpara-
4 graph (B), the term “unsecured PHR identifi-
5 able health information” means PHR identifi-
6 able health information that is not protected
7 through the use of a technology or methodology
8 specified by the Secretary in the guidance
9 issued under section 13402(h)(2).

10 (B) EXCEPTION IN CASE TIMELY GUID-
11 ANCE NOT ISSUED.—In the case that the Sec-
12 retary does not issue guidance under section
13 13402(h)(2) by the date specified in such sec-
14 tion, for purposes of this section, the term “un-
15 secured PHR identifiable health information”
16 shall mean PHR identifiable health information
17 that is not secured by a technology standard
18 that renders protected health information unus-
19 able, unreadable, or indecipherable to unauthor-
20 ized individuals and that is developed or en-
21 dorsed by a standards developing organization
22 that is accredited by the American National
23 Standards Institute.

24 (g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

1 ~~(1) REGULATIONS; EFFECTIVE DATE.—To~~
2 carry out this section, the Federal Trade Commis-
3 sion shall promulgate interim final regulations by
4 not later than the date that is 180 days after the
5 date of the enactment of this section. The provisions
6 of this section shall apply to breaches of security
7 that are discovered on or after the date that is 30
8 days after the date of publication of such interim
9 final regulations.

10 (2) SUNSET.—If Congress enacts new legisla-
11 tion establishing requirements for notification in the
12 case of a breach of security, that apply to entities
13 that are not covered entities or business associates,
14 the provisions of this section shall not apply to
15 breaches of security discovered on or after the effec-
16 tive date of regulations implementing such legisla-
17 tion.

18 **SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED**
19 **FOR CERTAIN ENTITIES.**

20 Each organization, with respect to a covered entity,
21 that provides data transmission of protected health infor-
22 mation to such entity (or its business associate) and that
23 requires access on a routine basis to such protected health
24 information, such as a Health Information Exchange Or-
25 ganization, Regional Health Information Organization, E-

1 prescribing Gateway, or each vendor that contracts with
2 a covered entity to allow that covered entity to offer a per-
3 sonal health record to patients as part of its electronic
4 health record, is required to enter into a written contract
5 (or other written arrangement) described in section
6 164.502(e)(2) of title 45, Code of Federal Regulations and
7 a written contract (or other arrangement) described in
8 section 164.308(b) of such title, with such entity and shall
9 be treated as a business associate of the covered entity
10 for purposes of the provisions of this subtitle and subparts
11 C and E of part 164 of title 45, Code of Federal Regula-
12 tions, as such provisions are in effect as of the date of
13 enactment of this title.

14 **SEC. 13409. CLARIFICATION OF APPLICATION OF WRONG-**
15 **FUL DISCLOSURES CRIMINAL PENALTIES.**

16 Section 1177(a) of the Social Security Act (42 U.S.C.
17 1320d-6(a)) is amended by adding at the end the fol-
18 lowing new sentence: "For purposes of the previous sen-
19 tence, a person (including an employee or other individual)
20 shall be considered to have obtained or disclosed individ-
21 ually identifiable health information in violation of this
22 part if the information is maintained by a covered entity
23 (as defined in the HIPAA privacy regulation described in
24 section 1180(b)(3)) and the individual obtained or dis-
25 closed such information without authorization."

1 **SEC. 13410. IMPROVED ENFORCEMENT.**

2 (a) IN GENERAL.—

3 (1) NONCOMPLIANCE DUE TO WILLFUL NE-
4 GLECT.—Section 1176 of the Social Security Act
5 (42 U.S.C. 1320d-5) is amended—

6 (A) in subsection (b)(1), by striking “the
7 act constitutes an offense punishable under sec-
8 tion 1177” and inserting “a penalty has been
9 imposed under section 1177 with respect to
10 such act”; and

11 (B) by adding at the end the following new
12 subsection:

13 “(c) NONCOMPLIANCE DUE TO WILLFUL NE-
14 GLECT.—

15 “(1) IN GENERAL.—A violation of a provision
16 of this part due to willful neglect is a violation for
17 which the Secretary is required to impose a penalty
18 under subsection (a)(1).

19 “(2) REQUIRED INVESTIGATION.—For purposes
20 of paragraph (1), the Secretary shall formally inves-
21 tigate any complaint of a violation of a provision of
22 this part if a preliminary investigation of the facts
23 of the complaint indicate such a possible violation
24 due to willful neglect.”.

25 (2) ENFORCEMENT UNDER SOCIAL SECURITY
26 ACT.—Any violation by a covered entity under thus

1 subtitle is subject to enforcement and penalties
2 under section 1176 and 1177 of the Social Security
3 Act.

4 (b) EFFECTIVE DATE; REGULATIONS.—

5 (1) The amendments made by subsection (a)
6 shall apply to penalties imposed on or after the date
7 that is 24 months after the date of the enactment
8 of this title.

9 (2) Not later than 18 months after the date of
10 the enactment of this title, the Secretary of Health
11 and Human Services shall promulgate regulations to
12 implement such amendments.

13 (c) DISTRIBUTION OF CERTAIN CIVIL MONETARY
14 PENALTIES COLLECTED.—

15 (1) ~~IN GENERAL.~~—Subject to the regulation
16 promulgated pursuant to paragraph (3), any civil
17 monetary penalty or monetary settlement collected
18 with respect to an offense punishable under this sub-
19 title or section 1176 of the Social Security Act (42
20 U.S.C. 1320d-5) insofar as such section relates to
21 privacy or security shall be transferred to the Office
22 for Civil Rights of the Department of Health and
23 Human Services to be used for purposes of enforcing
24 the provisions of this subtitle and subparts C and E
25 of part 164 of title 45, Code of Federal Regulations,

1 as such provisions are in effect as of the date of en-
2 actment of this Act.

3 (2) GAO REPORT.—Not later than 18 months
4 after the date of the enactment of this title, the
5 Comptroller General shall submit to the Secretary a
6 report including recommendations for a methodology
7 under which an individual who is harmed by an act
8 that constitutes an offense referred to in paragraph
9 (1) may receive a percentage of any civil monetary
10 penalty or monetary settlement collected with re-
11 spect to such offense.

12 (3) ESTABLISHMENT OF METHODOLOGY TO
13 DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO
14 HARMED INDIVIDUALS.—Not later than 3 years
15 after the date of the enactment of this title, the Sec-
16 retary shall establish by regulation and based on the
17 recommendations submitted under paragraph (2), a
18 methodology under which an individual who is
19 harmed by an act that constitutes an offense re-
20 ferred to in paragraph (1) may receive a percentage
21 of any civil monetary penalty or monetary settlement
22 collected with respect to such offense.

23 (4) APPLICATION OF METHODOLOGY.—The
24 methodology under paragraph (3) shall be applied
25 with respect to civil monetary penalties or monetary

1 settlements imposed on or after the effective date of
2 the regulation.

3 (d) TIERED INCREASE IN AMOUNT OF CIVIL MONE-
4 TARY PENALTIES.—

5 (1) IN GENERAL.—Section 1176(a)(1) of the
6 Social Security Act (42 U.S.C. 1320d-5(a)(1)) is
7 amended by striking “who violates a provision of
8 this part a penalty of not more than” and all that
9 follows and inserting the following: “who violates a
10 provision of this part—

11 “(A) in the case of a violation of such pro-
12 vision in which it is established that the person
13 did not know (and by exercising reasonable dili-
14 gence would not have known) that such person
15 violated such provision, a penalty for each such
16 violation of an amount that is at least the
17 amount described in paragraph (3)(A) but not
18 to exceed the amount described in paragraph
19 (3)(D);

20 “(B) in the case of a violation of such pro-
21 vision in which it is established that the viola-
22 tion was due to reasonable cause and not to
23 willful neglect, a penalty for each such violation
24 of an amount that is at least the amount de-

1 scribed in paragraph (3)(B) but not to exceed
2 the amount described in paragraph (3)(D); and
3 “(C) in the case of a violation of such pro-
4 vision in which it is established that the viola-
5 tion was due to willful neglect—

6 “(i) if the violation is corrected as de-
7 scribed in subsection (b)(3)(A), a penalty
8 in an amount that is at least the amount
9 described in paragraph (3)(C) but not to
10 exceed the amount described in paragraph
11 (3)(D); and

12 “(ii) if the violation is not corrected
13 as described in such subsection, a penalty
14 in an amount that is at least the amount
15 described in paragraph (3)(D).

16 In determining the amount of a penalty under
17 this section for a violation, the Secretary shall
18 base such determination on the nature and ex-
19 tent of the violation and the nature and extent
20 of the harm resulting from such violation.”.

21 (2) TIERS OF PENALTIES DESCRIBED.—Section
22 1176(a) of such Act (42 U.S.C. 1320d–5(a)) is fur-
23 ther amended by adding at the end the following
24 new paragraph:

1 ~~“(3) TIERS OF PENALTIES DESCRIBED.—~~For
2 purposes of paragraph (1), with respect to a viola-
3 tion by a person of a provision of this part—

4 “(A) the amount described in this subpara-
5 graph is \$100 for each such violation, except
6 that the total amount imposed on the person
7 for all such violations of an identical require-
8 ment or prohibition during a calendar year may
9 not exceed \$25,000;

10 “(B) the amount described in this subpara-
11 graph is \$1,000 for each such violation, except
12 that the total amount imposed on the person
13 for all such violations of an identical require-
14 ment or prohibition during a calendar year may
15 not exceed \$100,000;

16 “(C) the amount described in this subpara-
17 graph is \$10,000 for each such violation, except
18 that the total amount imposed on the person
19 for all such violations of an identical require-
20 ment or prohibition during a calendar year may
21 not exceed \$250,000; and

22 “(D) the amount described in this sub-
23 paragraph is \$50,000 for each such violation,
24 except that the total amount imposed on the
25 person for all such violations of an identical re-

1 quirement or prohibition during a calendar year
2 may not exceed \$1,500,000.”.

3 (3) CONFORMING AMENDMENTS.—Section
4 1176(b) of such Act (42 U.S.C. 1320d-5(b)) is
5 amended—

6 (A) by striking paragraph (2) and redesignig-
7 nating paragraphs (3) and (4) as paragraphs
8 (2) and (3), respectively; and

9 (B) in paragraph (2), as so redesignated—

10 (i) in subparagraph (A), by striking
11 “in subparagraph (B), a penalty may not
12 be imposed under subsection (a) if” and all
13 that follows through “the failure to comply
14 is corrected” and inserting “in subpara-
15 graph (B) or subsection (a)(1)(C), a pen-
16 alty may not be imposed under subsection
17 (a) if the failure to comply is corrected”;
18 and

19 (ii) in subparagraph (B), by striking
20 “(A)(ii)” and inserting “(A)” each place it
21 appears.

22 (4) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to violations occurring
24 after the date of the enactment of this title.

1 (e) ENFORCEMENT THROUGH STATE ATTORNEYS
2 GENERAL.—

3 (1) IN GENERAL.—Section 1176 of the Social
4 Security Act (42 U.S.C. 1320d-5) is amended by
5 adding at the end the following new subsection:

6 “(d) ENFORCEMENT BY STATE ATTORNEYS GEN-
7 ERAL.—

8 “(1) CIVIL ACTION.—Except as provided in
9 subsection (b), in any case in which the attorney
10 general of a State has reason to believe that an in-
11 terest of one or more of the residents of that State
12 has been or is threatened or adversely affected by
13 any person who violates a provision of this part, the
14 attorney general of the State, as *parens patriae*, may
15 bring a civil action on behalf of such residents of the
16 State in a district court of the United States of ap-
17 propriate jurisdiction—

18 “(A) to enjoin further such violation by the
19 defendant; or

20 “(B) to obtain damages on behalf of such
21 residents of the State, in an amount equal to
22 the amount determined under paragraph (2).

23 “(2) STATUTORY DAMAGES.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1)(B), the amount determined under

1 this paragraph is the amount calculated by mul-
2 tiplying the number of violations by up to \$100.
3 For purposes of the preceding sentence, in the
4 case of a continuing violation, the number of
5 violations shall be determined consistent with
6 the HIPAA privacy regulations (as defined in
7 section 1180(b)(3)) for violations of subsection
8 (a).

9 “(B) LIMITATION.—The total amount of
10 damages imposed on the person for all viola-
11 tions of an identical requirement or prohibition
12 during a calendar year may not exceed \$25,000.

13 “(C) REDUCTION OF DAMAGES.—In as-
14 sessing damages under subparagraph (A), the
15 court may consider the factors the Secretary
16 may consider in determining the amount of a
17 civil money penalty under subsection (a) under
18 the HIPAA privacy regulations.

19 “(3) ATTORNEY FEES.—In the case of any suc-
20 cessful action under paragraph (1), the court, in its
21 discretion, may award the costs of the action and
22 reasonable attorney fees to the State.

23 “(4) NOTICE TO SECRETARY.—The State shall
24 serve prior written notice of any action under para-
25 graph (1) upon the Secretary and provide the Sec-

1 retary with a copy of its complaint, except in any
2 case in which such prior notice is not feasible, in
3 which case the State shall serve such notice imme-
4 diately upon instituting such action. The Secretary
5 shall have the right—

6 “(A) to intervene in the action;

7 “(B) upon so intervening, to be heard on
8 all matters arising therein; and

9 “(C) to file petitions for appeal.

10 “(5) CONSTRUCTION.—For purposes of bring-
11 ing any civil action under paragraph (1), nothing in
12 this section shall be construed to prevent an attor-
13 ney general of a State from exercising the powers
14 conferred on the attorney general by the laws of that
15 State.

16 “(6) VENUE; SERVICE OF PROCESS.—

17 “(A) VENUE.—Any action brought under
18 paragraph (1) may be brought in the district
19 court of the United States that meets applicable
20 requirements relating to venue under section
21 1391 of title 28, United States Code.

22 “(B) SERVICE OF PROCESS.—In an action
23 brought under paragraph (1), process may be
24 served in any district in which the defendant—

25 “(i) is an inhabitant; or

1 ~~-----~~“(ii) maintains a physical place of
2 business.

3 “(7) LIMITATION ON STATE ACTION WHILE
4 FEDERAL ACTION IS PENDING.—If the Secretary has
5 instituted an action against a person under sub-
6 section (a) with respect to a specific violation of this
7 part, no State attorney general may bring an action
8 under this subsection against the person with re-
9 spect to such violation during the pendency of that
10 action.

11 “(8) APPLICATION OF CMP STATUTE OF LIMI-
12 TATION.—A civil action may not be instituted with
13 respect to a violation of this part unless an action
14 to impose a civil money penalty may be instituted
15 under subsection (a) with respect to such violation
16 consistent with the second sentence of section
17 1128A(c)(1).”.

18 (2) CONFORMING AMENDMENTS.—Subsection
19 (b) of such section, as amended by subsection (d)(3),
20 is amended—

21 (A) in paragraph (1), by striking “A pen-
22 alty may not be imposed under subsection (a)”
23 and inserting “No penalty may be imposed
24 under subsection (a) and no damages obtained
25 under subsection (d)”;

1 (B) in paragraph (2)(A)—

2 (i) after “subsection (a)(1)(C),”, by
3 striking “a penalty may not be imposed
4 under subsection (a)” and inserting “no
5 penalty may be imposed under subsection
6 (a) and no damages obtained under sub-
7 section (d)”; and

8 (ii) in clause (ii), by inserting “or
9 damages” after “the penalty”;

10 (C) in paragraph (2)(B)(i), by striking
11 “The period” and inserting “With respect to
12 the imposition of a penalty by the Secretary
13 under subsection (a), the period”; and

14 (D) in paragraph (3), by inserting “and
15 any damages under subsection (d)” after “any
16 penalty under subsection (a)”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to violations occurring
19 after the date of the enactment of this Act.

20 (f) ALLOWING CONTINUED USE OF CORRECTIVE AC-
21 TION.—Such section is further amended by adding at the
22 end the following new subsection:

23 “(e) ALLOWING CONTINUED USE OF CORRECTIVE
24 ACTION.—Nothing in this section shall be construed as
25 preventing the Office for Civil Rights of the Department

1 of Health and Human Services from continuing, in its dis-
2 cretion, to use corrective action without a penalty in cases
3 where the person did not know (and by exercising reason-
4 able diligence would not have known) of the violation in-
5 volved.”.

6 **SEC. 13411. AUDITS.**

7 The Secretary shall provide for periodic audits to en-
8 sure that covered entities and business associates that are
9 subject to the requirements of this subtitle and subparts
10 C and E of part 164 of title 45, Code of Federal Regula-
11 tions, as such provisions are in effect as of the date of
12 enactment of this Act, comply with such requirements.

13 **PART 2—RELATIONSHIP TO OTHER LAWS; REGU-**
14 **LATORY REFERENCES; EFFECTIVE DATE; RE-**
15 **PORTS**

16 **SEC. 13421. RELATIONSHIP TO OTHER LAWS.**

17 (a) **APPLICATION OF HIPAA STATE PREEMPTION.**—
18 Section 1178 of the Social Security Act (42 U.S.C.
19 1320d–7) shall apply to a provision or requirement under
20 this subtitle in the same manner that such section applies
21 to a provision or requirement under part C of title XI of
22 such Act or a standard or implementation specification
23 adopted or established under sections 1172 through 1174
24 of such Act.

1 (b) HEALTH INSURANCE PORTABILITY AND AC-
2 COUNTABILITY ACT.—The standards governing the pri-
3 vacy and security of individually identifiable health infor-
4 mation promulgated by the Secretary under sections
5 262(a) and 264 of the Health Insurance Portability and
6 Accountability Act of 1996 shall remain in effect to the
7 extent that they are consistent with this subtitle. The Sec-
8 retary shall by rule amend such Federal regulations as re-
9 quired to make such regulations consistent with this sub-
10 title.

11 (c) CONSTRUCTION.—Nothing in this subtitle shall
12 constitute a waiver of any privilege otherwise applicable
13 to an individual with respect to the protected health infor-
14 mation of such individual.

15 **SEC. 13422. REGULATORY REFERENCES.**

16 Each reference in this subtitle to a provision of the
17 Code of Federal Regulations refers to such provision as
18 in effect on the date of the enactment of this title (or to
19 the most recent update of such provision).

20 **SEC. 13423. EFFECTIVE DATE.**

21 Except as otherwise specifically provided, the provi-
22 sions of part I shall take effect on the date that is 12
23 months after the date of the enactment of this title.

24 **SEC. 13424. STUDIES, REPORTS, GUIDANCE.**

25 (a) REPORT ON COMPLIANCE.—

1 (1) ~~IN GENERAL.~~—For the first year beginning
2 after the date of the enactment of this Act and an-
3 nually thereafter, the Secretary shall prepare and
4 submit to the Committee on Health, Education,
5 Labor, and Pensions of the Senate and the Com-
6 mittee on Ways and Means and the Committee on
7 Energy and Commerce of the House of Representa-
8 tives a report concerning complaints of alleged viola-
9 tions of law, including the provisions of this subtitle
10 as well as the provisions of subparts C and E of part
11 164 of title 45, Code of Federal Regulations, (as
12 such provisions are in effect as of the date of enact-
13 ment of this Act) relating to privacy and security of
14 health information that are received by the Secretary
15 during the year for which the report is being pre-
16 pared. Each such report shall include, with respect
17 to such complaints received during the year—

18 (A) the number of such complaints;

19 (B) the number of such complaints re-
20 solved informally, a summary of the types of
21 such complaints so resolved, and the number of
22 covered entities that received technical assist-
23 ance from the Secretary during such year in
24 order to achieve compliance with such provi-

1 sions and the types of such technical assistance
2 provided;

3 (C) the number of such complaints that
4 have resulted in the imposition of civil monetary
5 penalties or have been resolved through mone-
6 tary settlements, including the nature of the
7 complaints involved and the amount paid in
8 each penalty or settlement;

9 (D) the number of compliance reviews con-
10 ducted and the outcome of each such review;

11 (E) the number of subpoenas or inquiries
12 issued;

13 (F) the Secretary's plan for improving
14 compliance with and enforcement of such provi-
15 sions for the following year; and

16 (G) the number of audits performed and a
17 summary of audit findings pursuant to section
18 13411.

19 (2) AVAILABILITY TO PUBLIC.—Each report
20 under paragraph (1) shall be made available to the
21 public on the Internet website of the Department of
22 Health and Human Services.

23 (b) STUDY AND REPORT ON APPLICATION OF PRI-
24 VACY AND SECURITY REQUIREMENTS TO NON-HIPAA
25 COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

20 (i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered enti-
ties and that offer products or services

1 ~~through the websites of covered entities~~
2 that offer individuals personal health
3 records;

4 (iv) entities that are not covered enti-
5 ties and that access information in a per-
6 sonal health record or send information to
7 a personal health record; and

8 (v) third party service providers used
9 by a vendor or entity described in clause
10 (i), (ii), (iii), or (iv) to assist in providing
11 personal health record products or services;

12 (B) a determination of which Federal gov-
13 ernment agency is best equipped to enforce
14 such requirements recommended to be applied
15 to such vendors, entities, and service providers
16 under subparagraph (A); and

17 (C) a timeframe for implementing regula-
18 tions based on such findings.

19 (2) REPORT.—The Secretary shall submit to
20 the Committee on Finance, the Committee on
21 Health, Education, Labor, and Pensions, and the
22 Committee on Commerce of the Senate and the
23 Committee on Ways and Means and the Committee
24 on Energy and Commerce of the House of Rep-
25 resentatives a report on the findings of the study

1 under paragraph (1) and shall include in such report
2 recommendations on the privacy and security re-
3 quirements described in such paragraph.

4 (c) GUIDANCE ON IMPLEMENTATION SPECIFICATION
5 TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—
6 Not later than 12 months after the date of the enactment
7 of this title, the Secretary shall, in consultation with stake-
8 holders, issue guidance on how best to implement the re-
9 quirements for the de-identification of protected health in-
10 formation under section 164.514(b) of title 45, Code of
11 Federal Regulations.

12 (d) GAO REPORT ON TREATMENT DISCLOSURES.—
13 Not later than one year after the date of the enactment
14 of this title, the Comptroller General of the United States
15 shall submit to the Committee on Health, Education,
16 Labor, and Pensions of the Senate and the Committee on
17 Ways and Means and the Committee on Energy and Com-
18 merce of the House of Representatives a report on the
19 best practices related to the disclosure among health care
20 providers of protected health information of an individual
21 for purposes of treatment of such individual. Such report
22 shall include an examination of the best practices imple-
23 mented by States and by other entities, such as health
24 information exchanges and regional health information or-
25 ganizations, an examination of the extent to which such

1 best practices ~~are successful with respect to the quality~~
2 of the resulting health care provided to the individual and
3 with respect to the ability of the health care provider to
4 manage such best practices, and an examination of the
5 use of electronic informed consent for disclosing protected
6 health information for treatment, payment, and health
7 care operations.

8 (e) REPORT REQUIRED.—Not later than 5 years
9 after the date of enactment of this section, the Govern-
10 ment Accountability Office shall submit to Congress and
11 the Secretary of Health and Human Services a report on
12 the impact of any of the provisions of this Act on health
13 insurance premiums, overall health care costs, adoption of
14 electronic health records by providers, and reduction in
15 medical errors and other quality improvements.

16 (f) STUDY.—The Secretary shall study the definition
17 of “psychotherapy notes” in section 164.501 of title 45,
18 Code of Federal Regulations, with regard to including test
19 data that is related to direct responses, scores, items,
20 forms, protocols, manuals, or other materials that are part
21 of a mental health evaluation, as determined by the mental
22 health professional providing treatment or evaluation in
23 such definitions and may, based on such study, issue regu-
24 lations to revise such definition.

Xerox

1 **TITLE XIV—STATE FISCAL**
2 **STABILIZATION FUND**

3 DEPARTMENT OF EDUCATION

4 STATE FISCAL STABILIZATION FUND

5 For necessary expenses for a State Fiscal Stabiliza-
6 tion Fund, \$53,600,000,000, which shall be administered
7 by the Department of Education.

8 GENERAL PROVISIONS—THIS TITLE

9 **SEC. 14001. ALLOCATIONS.**

10 (a) OUTLYING AREAS.—From the amount appro-
11 priated to carry out this title, the Secretary of Education
12 shall first allocate up to one-half of 1 percent to the out-
13 lying areas on the basis of their respective needs, as deter-
14 mined by the Secretary, in consultation with the Secretary
15 of the Interior, for activities consistent with this title
16 under such terms and conditions as the Secretary may de-
17 termine.

18 (b) ADMINISTRATION AND OVERSIGHT.—The Sec-
19 retary may, in addition, reserve up to \$14,000,000 for ad-
20 ministration and oversight of this title, including for pro-
21 gram evaluation.

22 (c) RESERVATION FOR ADDITIONAL PROGRAMS.—
23 After reserving funds under subsections (a) and (b), the
24 Secretary shall reserve \$5,000,000,000 for grants under
25 sections 14006 and 14007.

1 (d) STATE ALLOCATIONS.—After carrying out sub-
2 sections (a), (b), and (c), the Secretary shall allocate the
3 remaining funds made available to carry out this title to
4 the States as follows:

5 (1) 61 percent on the basis of their relative
6 population of individuals aged 5 through 24.

7 (2) 39 percent on the basis of their relative
8 total population.

9 (e) STATE GRANTS.—From funds allocated under
10 subsection (d), the Secretary shall make grants to the
11 Governor of each State.

12 (f) REALLOCATION.—The Governor shall return to
13 the Secretary any funds received under subsection (e) that
14 the Governor does not award as subgrants or otherwise
15 commit within two years of receiving such funds, and the
16 Secretary shall reallocate such funds to the remaining
17 States in accordance with subsection (d).

18 **SEC. 14002. STATE USES OF FUNDS.**

19 (a) EDUCATION FUND.—

20 (1) IN GENERAL.—For each fiscal year, the
21 Governor shall use ~~at least~~ 81.8 percent of the
22 State's allocation under section 14001(d) for the
23 support of elementary, secondary, and postsecondary
24 education and, as applicable, early childhood edu-
25 cation programs and services.

1 (2) RESTORING STATE SUPPORT FOR EDU-
2 CATION.—

3 (A) IN GENERAL.—The Governor shall
4 first use the funds described in paragraph (1)—

(i) to provide the amount of funds,
through the State's primary elementary
and secondary funding formulae, that is
needed—

9 (I) to restore, in each of fiscal
10 years 2009, 2010, and 2011, the level
11 of State support provided through
12 such formulae to the greater of the
13 fiscal year 2008 or fiscal year 2009
14 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

24 (ii) to provide, in each of fiscal years
25 2009, 2010, and 2011, the amount of

1 funds to public institutions of higher edu-
2 cation in the State that is needed to re-
3 store State support for such institutions
4 (excluding tuition and fees paid by stu-
5 dents) to the greater of the fiscal year
6 2008 or fiscal year 2009 level.

7 (B) SHORTFALL.—If the Governor deter-
8 mines that the amount of funds available under
9 paragraph (1) is insufficient to support, in each
10 of fiscal years 2009, 2010, and 2011, public el-
11 elementary, secondary, and higher education at
12 the levels described in clauses (i) and (ii) of
13 subparagraph (A), the Governor shall allocate
14 those funds between those clauses in proportion
15 to the relative shortfall in State support for the
16 education sectors described in those clauses.

17 (C) FISCAL YEAR.—For purposes of this
18 paragraph, the term “fiscal year” shall have the
19 meaning given such term under State law.

20 (3) SUBGRANTS TO IMPROVE BASIC PROGRAMS
21 OPERATED BY LOCAL EDUCATIONAL AGENCIES.—
22 After carrying out paragraph (2), the Governor shall
23 use any funds remaining under paragraph (1) to
24 provide local educational agencies in the State with
25 subgrants based on their relative shares of funding

1 under part A of title I of the Elementary and Sec-
2 ondary Education Act of 1965 (20 U.S.C. 6311 et
3 seq.) for the most recent year for which data are
4 available.

5 (b) OTHER GOVERNMENT SERVICES.—

6 (1) IN GENERAL.—The Governor ~~may use up to~~ ^{shall}
7 18.2 percent of the State's allocation under section
8 14001 for public safety and other government serv-
9 ices, which may include assistance for elementary
10 and secondary education and public institutions of
11 higher education, and for modernization, renovation,
12 or repair of public school facilities and ~~public~~ institu-
13 tions of higher education facilities, including mod-
14 ernization, renovation, and repairs that are con-
15 sistent with a recognized green building rating sys-
16 tem.

17 (2) AVAILABILITY TO ALL INSTITUTIONS OF
18 HIGHER EDUCATION.—A Governor shall not consider
19 the type or mission of an institution of higher edu-
20 cation, and shall consider any institution for funding
21 for modernization, renovation, and repairs within the
22 State that—

23 (A) qualifies as an institution of higher
24 education, as defined in subsection 14013(3);
25 and

1 (B) continues to be eligible to participate
2 in the programs under title IV of the Higher
3 Education Act of 1965.

4 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall allow a local educational agency to engage in
6 school modernization, renovation, or repair that is incon-
7 sistent with State law.

8 **SEC. 14003. USES OF FUNDS BY LOCAL EDUCATIONAL**
9 **AGENCIES.**

10 (a) IN GENERAL.—A local educational agency that
11 receives funds under this title may use the funds for any
12 activity authorized by the Elementary and Secondary Edu-
13 cation Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”),
14 the Individuals with Disabilities Education Act (20 U.S.C.
15 1400 et seq.) (“IDEA”), the Adult and Family Literacy
16 Act (20 U.S.C. 1400 et seq.), or the Carl D. Perkins Ca-
17 reer and Technical Education Act of 2006 (20 U.S.C. for
18 2301 et seq.) (“the Perkins Act”) or modernization, ren-
19 ovation, or repair of public school facilities and public in-
20 stitutions of higher education facilities, including mod-
21 ernization, renovation, and repairs that are consistent with
22 a recognized green building rating system.

23 (b) PROHIBITION.—A local educational agency may
24 not use funds received under this title for—

25 (1) payment of maintenance costs;

1 (2) stadiums or other facilities primarily used
2 for athletic contests or exhibitions or other events
3 for which admission is charged to the general public;

4 (3) purchase or upgrade of vehicles; or

5 (4) improvement of stand-alone facilities whose
6 purpose is not the education of children, including
7 central office administration or operations or
8 logistical support facilities.

9 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion shall allow a local educational agency to engage in
11 school modernization, renovation, or repair that is incon-
12 sistent with State law.

13 **SEC. 14004. USES OF FUNDS BY INSTITUTIONS OF HIGHER**
14 **EDUCATION.**

15 (a) IN GENERAL.—A public institution of higher edu-
16 cation that receives funds under this title shall use the
17 funds for education and general expenditures, and in such
18 a way as to mitigate the need to raise tuition and fees
19 for in-State students, or modernization, renovation, or re- for
20 pair of institution of higher education facilities that are
21 primarily used for instruction, research, or student hous-
22 ing, including modernization, renovation, and repairs that
23 are consistent with a recognized green building rating sys-
24 tem.

1 (b) PROHIBITION.—An institution of higher edu-
2 cation may not use funds received under this title to in-
3 crease its endowment.

4 (c) ADDITIONAL PROHIBITION.—No funds awarded
5 under this title may be used for—

6 (1) the maintenance of systems, equipment, or
7 facilities;

8 (2) modernization, renovation, or repair of sta-
9 diums or other facilities primarily used for athletic
10 contests or exhibitions or other events for which ad-
11 mission is charged to the general public; or

12 (3) modernization, renovation, or repair of fa-
13 cilities—

14 (A) used for sectarian instruction or reli-
15 gious worship; or

16 (B) in which a substantial portion of the
17 functions of the facilities are subsumed in a re-
18 ligious mission.

19 **SEC. 14005. STATE APPLICATIONS.**

20 (a) IN GENERAL.—The Governor of a State desiring
21 to receive an allocation under section 14001 shall submit
22 an application at such time, in such manner, and con-
23 taining such information as the Secretary may reasonably
24 require.

1 (b) APPLICATION.—In such application, the Governor
2 shall—

3 (1) include the assurances described in sub-
4 section (d);

5 (2) provide baseline data that demonstrates the
6 State's current status in each of the areas described
7 in such assurances; and

8 (3) describe how the State intends to use its al-
9 location, including whether the State will use such
10 allocation to meet maintenance of effort require-
11 ments under the ESEA and IDEA and, in such
12 cases, what amount will be used to meet such re-
13 quirements.

14 (c) INCENTIVE GRANT APPLICATION.—The Governor
15 of a State seeking a grant under section 14006 shall—

16 (1) submit an application for consideration;

17 (2) describe the status of the State's progress
18 in each of the areas described in subsection (d), and
19 the strategies the State is employing to help ensure
20 that students in the subgroups described in section
21 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C.
22 6311(b)(2)(C)(v)(II)) who have not met the State's
23 proficiency targets continue making progress toward
24 meeting the State's student academic achievement
25 standards;

1 (3) describe the achievement and graduation
2 rates (as described in section 1111(b)(2)(C)(vi) of
3 the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as
4 clarified in section 200.19(b)(1) of title 34, Code of
5 Federal Regulations) of public elementary and sec-
6 ondary school students in the State, and the strate-
7 gies the State is employing to help ensure that all
8 subgroups of students identified in section
9 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in
10 the State continue making progress toward meeting
11 the State's student academic achievement standards;

12 (4) describe how the State would use its grant
13 funding to improve student academic achievement in
14 the State, including how it will allocate the funds to
15 give priority to high-need local educational agencies;
16 and

17 (5) include a plan for evaluating the State's
18 progress in closing achievement gaps.

19 (d) ASSURANCES.—An application under subsection
20 (b) shall include the following assurances:

21 (1) MAINTENANCE OF EFFORT.—

22 (A) ELEMENTARY AND SECONDARY EDU-
23 CATION.—The State will, in each of fiscal years
24 2009, 2010, and 2011, maintain State support

1 for elementary and secondary education at least
2 at the level of such support in fiscal year 2006.

3 (B) HIGHER EDUCATION.—The State will,
4 in each of fiscal years 2009, 2010, and 2011,
5 maintain State support for public institutions of
6 higher education (not including support for cap-
7 ital projects or for research and development or
8 tuition and fees paid by students) at least at
9 the level of such support in fiscal year 2006.

10 (2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take actions to improve teach-
11 er effectiveness and comply with section
12 1111(b)(8)(C) of the ESEA (20 U.S.C.
13 6311(b)(8)(C)) in order to address inequities in the
14 distribution of highly qualified teachers between
15 high- and low-poverty schools, and to ensure that
16 low-income and minority children are not taught at
17 higher rates than other children by inexperienced,
18 unqualified, or out-of-field teachers.

19 (3) IMPROVING COLLECTION AND USE OF
20 DATA.—The State will establish a longitudinal data
21 system that includes the elements described in sec-
22 tion 6401(e)(2)(D) of the America COMPETES Act
23 (20 U.S.C. 9871).
24

1 (4) STANDARDS AND ASSESSMENTS.—The
2 State—

3 (A) will enhance the quality of the aca-
4 demic assessments it administers pursuant to
5 section 1111(b)(3) of the ESEA (20 U.S.C.
6 6311(b)(3)) through activities such as those de-
7 scribed in section 6112(a) of such Act (20
8 U.S.C. 7301a(a));

9 (B) will comply with the requirements of
10 paragraphs (3)(C)(ix) and (6) of section
11 1111(b) of the ESEA (20 U.S.C. 6311(b)) and
12 section 612(a)(16) of the IDEA (20 U.S.C.
13 1412(a)(16)) related to the inclusion of children
14 with disabilities and limited English proficient
15 students in State assessments, the development
16 of valid and reliable assessments for those stu-
17 dents, and the provision of accommodations
18 that enable their participation in State assess-
19 ments; and

20 (C) will take steps to improve State aca-
21 demic content standards and student academic
22 achievement standards consistent with section
23 6401(e)(1)(9)(A)(ii) of the America COM-
24 PETES Act.

1 (5) SUPPORTING STRUGGLING SCHOOLS.—The
2 State will ensure compliance with the requirements
3 of section 1116(a)(7)(C)(iv) and section
4 1116(a)(8)(B) of the ESEA with respect to schools
5 identified under such sections.

6 **SEC. 14006. STATE INCENTIVE GRANTS.**

7 (a) IN GENERAL.—

8 (1) RESERVATION.—From the total amount re-
9 served under section 14001(c) that is not used for
10 section 14007, the Secretary may reserve up to 1
11 percent for technical assistance to States to assist
12 them in meeting the objectives of paragraphs (2),
13 (3), (4), and (5) of section 14005(d).

14 (2) REMAINDER.—Of the remaining funds, the
15 Secretary shall, in fiscal year 2010, make grants to
16 States that have made significant progress in meet-
17 ing the objectives of paragraphs (2), (3), (4), and
18 (5) of section 14005(d).

19 (b) BASIS FOR GRANTS.—The Secretary shall deter-
20 mine which States receive grants under this section, and
21 the amount of those grants, on the basis of information
22 provided in State applications under section 14005 and
23 such other criteria as the Secretary determines appro-
24 priate, which may include a State's need for assistance

1 to help meet the objective of paragraphs (2), (3), (4), and
2 (5) of section 14005(d).

3 (c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
4 CIES.—Each State receiving a grant under this section
5 shall use at least 50 percent of the grant to provide local
6 educational agencies in the State with subgrants based on
7 their relative shares of funding under part A of title I of
8 the ESEA (20 U.S.C. 6311 et seq.) for the most recent
9 year.

10 **SEC. 14007. INNOVATION FUND.**

11 (a) IN GENERAL.—

12 (1) ELIGIBLE ENTITIES.—For the purposes of
13 this section, the term “eligible entity” means—

14 (A) a local educational agency; or

15 (B) a partnership between a nonprofit or-
16 ganization and—

17 (i) one or more local educational agen-
18 cies; or

19 (ii) a consortium of schools.

20 (2) PROGRAM ESTABLISHED.—From the total
21 amount reserved under section 14001(c), the Sec-
22 retary may reserve up to \$650,000,000 to establish
23 an Innovation Fund, which shall consist of academic
24 achievement awards that recognize eligible entities

1 that meet the requirements described in subsection
2 (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 prac-
9 tices;

10 (B) to allow such eligible entities to work
11 in partnership with the private sector and the
12 philanthropic community; and

13 (C) to identify and document best practices
14 that can be shared, and taken to scale based on
15 demonstrated success.

16 (b) ELIGIBILITY.—To be eligible for such an award,
17 an eligible entity shall—

18 (1) have significantly closed the achievement
19 gaps between groups of students described in section
20 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2));

21 (2) have exceeded the State's annual measur-
22 able objectives consistent with such section
23 1111(b)(2) for 2 or more consecutive years or have
24 demonstrated success in significantly increasing stu-
25 dent academic achievement for all groups of stu-

1 dents described in such section through another
2 measure, such as measures described in section
3 1111(c)(2) of the ESEA;

4 (3) have made significant improvement in other
5 areas, such as graduation rates or increased recruit-
6 ment and placement of high-quality teachers and
7 school leaders, as demonstrated with meaningful
8 data; and

9 (4) demonstrate that they have established
10 partnerships with the private sector, which may in-
11 clude philanthropic organizations, and that the pri-
12 vate sector will provide matching funds in order to
13 help bring results to scale.

14 (c) SPECIAL RULE.—In the case of an eligible entity
15 that includes a nonprofit organization, the eligible entity
16 shall be considered to have met the eligibility requirements
17 of paragraphs (1), (2), (3) of subsection (b) if such non-
18 profit organization has a record of meeting such require-
19 ments.

20 **SEC. 14008. STATE REPORTS.**

21 For each year of the program under this title, a State
22 receiving funds under this title shall submit a report to
23 the Secretary, at such time and in such manner as the
24 Secretary may require, that describes—

1 (1) the uses of funds provided under this title
2 within the State;

3 (2) how the State distributed the funds it re-
4 ceived under this title;

5 (3) the number of jobs that the Governor esti-
6 mates were saved or created with funds the State re-
7 ceived under this title;

8 (4) tax increases that the Governor estimates
9 were averted because of the availability of funds
10 from this title;

11 (5) the State's progress in reducing inequities
12 in the distribution of highly qualified teachers, in
13 implementing a State longitudinal data system, and
14 in developing and implementing valid and reliable
15 assessments for limited English proficient students
16 and children with disabilities;

17 (6) the tuition and fee increases for in-State
18 students imposed by public institutions of higher
19 education in the State during the period of avail-
20 ability of funds under this title, and a description of
21 any actions taken by the State to limit those in-
22 creases;

23 (7) the extent to which public institutions of
24 higher education maintained, increased, or decreased
25 enrollment of in-State students, including students

1 eligible for Pell Grants or other need-based financial
2 assistance; and

3 (8) a description of each modernization, renova-
4 tion and repair project funded, which shall include
5 the amounts awarded and project costs.

6 **SEC. 14009. EVALUATION.**

7 The Comptroller General of the United States shall
8 conduct evaluations of the programs under sections 14006
9 and 14007 which shall include, but not be limited to, the
10 criteria used for the awards made, the States selected for
11 awards, award amounts, how each State used the award
12 received, and the impact of this funding on the progress
13 made toward closing achievement gaps.

14 **SEC. 14010. SECRETARY'S REPORT TO CONGRESS.**

15 The Secretary shall submit a report to the Committee
16 on Education and Labor of the House of Representatives,
17 the Committee on Health, Education, Labor, and Pen-
18 sions of the Senate, and the Committees on Appropria-
19 tions of the House of Representatives and of the Senate,
20 not less than 6 months following the submission of State
21 reports, that evaluates the information provided in the
22 State reports under section 14008 and the information re-
23 quired by section 14005(b)(3) including State-by-State in-
24 formation.

1 **SEC. 14011. PROHIBITION ON PROVISION OF CERTAIN AS-**
2 **SISTANCE.**

3 No recipient of funds under this title shall use such
4 funds to provide financial assistance to students to attend
5 private elementary or secondary schools.

6 **SEC. 14012. FISCAL RELIEF.**

7 (a) IN GENERAL.—For the purpose of relieving fiscal
8 burdens on States and local educational agencies that have
9 experienced a precipitous decline in financial resources,
10 the Secretary of Education may waive or modify any re-
11 quirement of this title relating to maintaining fiscal effort.

12 (b) DURATION.—A waiver or modification under this
13 section shall be for any of fiscal year 2009, fiscal year
14 2010, or fiscal year 2011, as determined by the Secretary.

15 (c) CRITERIA.—The Secretary shall not grant a waiv-
16 er or modification under this section unless the Secretary
17 determines that the State or local educational agency re-
18 ceiving such waiver or modification will not provide for
19 elementary and secondary education, for the fiscal year
20 under consideration, a smaller percentage of the total rev-
21 enues available to the State or local education agency than
22 the amount provided for such purpose in the preceding
23 fiscal year.

24 (d) MAINTENANCE OF EFFORT.—Upon prior ap-
25 proval from the Secretary, a State or local educational
26 agency that receives funds under this title may treat any

(a)

1 portion of such funds that is used for elementary, sec-
2 ondary, or postsecondary education as non-Federal funds
3 for the purpose of any requirement to maintain fiscal ef-
4 fort under any other program, including part C of the In-
5 dividuals with Disabilities Education Act (20 U.S.C. 1431
6 et seq.), administered by the Secretary.

7 (e) SUBSEQUENT LEVEL OF EFFORT.—Notwith-
8 standing (d), the level of effort required by a State or local
9 educational agency for the following fiscal year shall not
10 be reduced.

11 **SEC. 14013. DEFINITIONS.**

12 Except as otherwise provided in this title, as used in
13 this title—

14 (1) the terms “elementary education” and “sec-
15 ondary education” have the meaning given such
16 terms under State law;

17 (2) the term “high-need local educational agen-
18 cy” means a local educational agency—

19 (A) that serves not fewer than 10,000 chil-
20 dren from families with incomes below the pov-
21 erty line; or

22 (B) for which not less than 20 percent of
23 the children served by the agency are from fam-
24 ilies with incomes below the poverty line;

1 (3) the term “institution of higher education”
2 has the meaning given such term in section 101 of
3 the Higher Education Act of 1965 (20 U.S.C.
4 1001);

5 (4) the term “Secretary” means the Secretary
6 of Education;

7 (5) the term “State” means each of the 50
8 States, the District of Columbia, and the Common-
9 wealth of Puerto Rico; and

10 (6) any other term used that is defined in sec-
11 tion 9101 of the ESEA (20 U.S.C. 7801) shall have
12 the meaning given the term in such section.

1 **TITLE XV—ACCOUNTABILITY**
2 **AND TRANSPARENCY**

3 **SEC. 1501. DEFINITIONS.**

4 In this title:

5 (1) AGENCY.—The term “agency” has the
6 meaning given under section 551 of title 5, United
7 States Code.

8 (2) BOARD.—The term “Board” means the Re-
9 covery Accountability and Transparency Board es-
10 tablished in section 1521.

11 (3) CHAIRPERSON.—The term “Chairperson”
12 means the Chairperson of the Board.

13 (4) COVERED FUNDS.—The term “covered
14 funds” means any funds that are expended or obli-
15 gated from appropriations made under this Act.

16 (5) PANEL.—The term “Panel” means the Re-
17 covery Independent Advisory Panel established in
18 section 1541.

19 **Subtitle A—Transparency and**
20 **Oversight Requirements**

21 **SEC. 1511. CERTIFICATIONS.**

22 With respect to covered funds made available to State
23 or local governments for infrastructure investments, the
24 Governor, mayor, or other chief executive, as appropriate,
25 shall certify that the infrastructure investment has re-

1 ceived the full review and vetting required by law and that
2 the chief executive accepts responsibility that the infra-
3 structure investment is an appropriate use of taxpayer dol-
4 lars. Such certification shall include a description of the
5 investment, the estimated total cost, and the amount of
6 covered funds to be used, and shall be posted on a website
7 and linked to the website established by section 1526. A
8 State or local agency may not receive infrastructure in-
9 vestment funding from funds made available in this Act
10 unless this certification is made and posted.

11 **SEC. 1512. REPORTS ON USE OF FUNDS.**

12 (a) **SHORT TITLE.**—This section may be cited as the
13 “Jobs Accountability Act”.

14 (b) **DEFINITIONS.**—In this section:

15 (1) **RECIPIENT.**—The term “recipient”—

16 (A) means any entity that receives recovery
17 funds directly from the Federal Government
18 (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 (2) **RECOVERY FUNDS.**—The term “recovery
24 funds” means any funds that are made available
25 from appropriations made under this Act.

1 (c) RECIPIENT REPORTS.—Not later than 10 days
2 after the end of each calendar quarter, each recipient that
3 received recovery funds from a Federal agency shall sub-
4 mit a report to that agency that contains—

5 (1) the total amount of recovery funds received
6 from that agency;

7 (2) the amount of recovery funds received that
8 were expended or obligated to projects or activities;
9 and

10 (3) a detailed list of all projects or activities for
11 which recovery funds were expended or obligated, in-
12 cluding—

13 (A) the name of the project or activity;

14 (B) a description of the project or activity;

15 (C) an evaluation of the completion status
16 of the project or activity;

17 (D) an estimate of the number of jobs cre-
18 ated and the number of jobs retained by the
19 project or activity; and

20 (E) for infrastructure investments made by
21 State and local governments, the purpose, total
22 cost, and rationale of the agency for funding
23 the infrastructure investment with funds made
24 available under this Act, and name of the per-

1 son to contact at the agency if there are con-
2 cerns with the infrastructure investment.

3 (4) Detailed information on any subcontracts or
4 subgrants awarded by the recipient to include the
5 data elements required to comply with the Federal
6 Funding Accountability and Transparency Act of
7 2006 (Public Law 109–282), allowing aggregate re-
8 porting on awards below \$25,000 or to individuals,
9 as prescribed by the Director of the Office of Man-
10 agement and Budget.

11 (d) AGENCY REPORTS.—Not later than 30 days after
12 the end of each calendar quarter, each agency that made
13 recovery funds available to any recipient shall make the
14 information in reports submitted under subsection (c)
15 publicly available by posting the information on a website.

16 (e) OTHER REPORTS.—The Congressional Budget
17 Office and the Government Accountability Office shall
18 comment on the information described in subsection
19 (c)(3)(D) for any reports submitted under subsection (c).
20 Such comments shall be due within 45 days after such
21 reports are submitted.

22 (f) COMPLIANCE.—Within 180 days of enactment, as
23 a condition of receipt of funds under this Act, Federal
24 agencies shall require any recipient of such funds to pro-
25 vide the information required under subsection (c).

1 (g) GUIDANCE.—Federal agencies, in coordination
2 with the Director of the Office of Management and Budg-
3 et, shall provide for user-friendly means for recipients of
4 covered funds to meet the requirements of this section.

5 (h) REGISTRATION.—Funding recipients required to
6 report information per subsection (c)(4) must register
7 with the Central Contractor Registration database or com-
8 plete other registration requirements as determined by the
9 Director of the Office of Management and Budget.

10 **SEC. 1513. REPORTS OF THE COUNCIL OF ECONOMIC AD-**
11 **VISERS.**

12 (a) IN GENERAL.—In consultation with the Director
13 of the Office of Management and Budget and the Sec-
14 retary of the Treasury, the Chairperson of the Council of
15 Economic Advisers shall submit quarterly reports to the
16 Committees on Appropriations of the Senate and House
17 of Representatives that detail the impact of programs
18 funded through covered funds on employment, estimated
19 economic growth, and other key economic indicators.

20 (b) SUBMISSION OF REPORTS.—

21 (1) FIRST REPORT.—The first report submitted
22 under subsection (a) shall be submitted not later
23 than 45 days after the end of the first full quarter
24 following the date of enactment of this Act.

1 (2) LAST REPORT.—The last report required to
2 be submitted under subsection (a) shall apply to the
3 quarter in which the Board terminates under section
4 1530.

5 **SEC. 1514. INSPECTOR GENERAL REVIEWS.**

6 (a) REVIEWS.—Any inspector general of a Federal
7 department or executive agency shall review, as appro-
8 priate, any concerns raised by the public about specific
9 investments using funds made available in this Act. Any
10 findings of such reviews not related to an ongoing criminal
11 proceeding shall be relayed immediately to the head of the
12 department or agency concerned. In addition, the findings
13 of such reviews, along with any audits conducted by any
14 inspector general of funds made available in this Act, shall
15 be posted on the inspector general's website and linked
16 to the website established by section 1526, except that
17 portions of reports may be redacted to the extent the por-
18 tions would disclose information that is protected from
19 public disclosure under sections 552 and 552a of title 5,
20 United States Code.

21 **SEC. 1515. ACCESS OF OFFICES OF INSPECTOR GENERAL**
22 **TO CERTAIN RECORDS AND EMPLOYEES.**

23 (a) ACCESS.—With respect to each contract or grant
24 awarded using covered funds, any representative of an ap-
25 propriate inspector general appointed under section 3 or

1 8G of the Inspector General Act of 1978 (5 U.S.C. App.),
2 is authorized—

3 (1) to examine any records of the contractor or
4 grantee, any of its subcontractors or subgrantees, or
5 any State or local agency administering such con-
6 tract, that pertain to, and involve transactions relat-
7 ing to, the contract, subcontract, grant, or subgrant;
8 and

9 (2) to interview any officer or employee of the
10 contractor, grantee, subgrantee, or agency regarding
11 such transactions.

12 (b) RELATIONSHIP TO EXISTING AUTHORITY.—
13 Nothing in this section shall be interpreted to limit or re-
14 strict in any way any existing authority of an inspector
15 general.

16 **Subtitle B—Recovery Account-**
17 **ability and Transparency Board**

18 **SEC. 1521. ESTABLISHMENT OF THE RECOVERY ACCOUNT-**
19 **ABILITY AND TRANSPARENCY BOARD.**

20 There is established the Recovery Accountability and
21 Transparency Board to coordinate and conduct oversight
22 of covered funds to prevent fraud, waste, and abuse.

23 **SEC. 1522. COMPOSITION OF BOARD.**

24 (a) CHAIRPERSON.—

1 (1) DESIGNATION OR APPOINTMENT.—The
2 President shall—

3 (A) designate the Deputy Director for
4 Management of the Office of Management and
5 Budget to serve as Chairperson of the Board;

6 (B) designate another Federal officer who
7 was appointed by the President to a position
8 that required the advice and consent of the
9 Senate, to serve as Chairperson of the Board;
10 or

11 (C) appoint an individual as the Chair-
12 person of the Board, by and with the advice
13 and consent of the Senate.

14 (2) COMPENSATION.—

15 (A) DESIGNATION OF FEDERAL OFFI-
16 CER.—If the President designates a Federal of-
17 ficer under paragraph (1)(A) or (B) to serve as
18 Chairperson, that Federal officer may not re-
19 ceive additional compensation for services per-
20 formed as Chairperson.

21 (B) APPOINTMENT OF NON-FEDERAL OF-
22 FICER.—If the President appoints an individual
23 as Chairperson under paragraph (1)(C), that
24 individual shall be compensated at the rate of
25 basic pay prescribed for level IV of the Execu-

1 tive Schedule under section 5315 of title 5,
2 United States Code.

3 (b) MEMBERS.—The members of the Board shall in-
4 clude—

5 (1) the Inspectors General of the Departments
6 of Agriculture, Commerce, Education, Energy,
7 Health and Human Services, Homeland Security,
8 Justice, Transportation, Treasury, and the Treasury
9 Inspector General for Tax Administration; and

10 (2) any other Inspector General as designated
11 by the President from any agency that expends or
12 obligates covered funds.

13 **SEC. 1523. FUNCTIONS OF THE BOARD.**

14 (a) FUNCTIONS.—

15 (1) IN GENERAL.—The Board shall coordinate
16 and conduct oversight of covered funds in order to
17 prevent fraud, waste, and abuse.

18 (2) SPECIFIC FUNCTIONS.—The functions of
19 the Board shall include—

20 (A) reviewing whether the reporting of con-
21 tracts and grants using covered funds meets ap-
22 plicable standards and specifies the purpose of
23 the contract or grant and measures of perform-
24 ance;

1 (B) reviewing whether competition require-
2 ments applicable to contracts and grants using
3 covered funds have been satisfied;

4 (C) auditing or reviewing covered funds to
5 determine whether wasteful spending, poor con-
6 tract or grant management, or other abuses are
7 occurring and referring matters it considers ap-
8 propriate for investigation to the inspector gen-
9 eral for the agency that disbursed the covered
10 funds;

11 (D) reviewing whether there are sufficient
12 qualified acquisition and grant personnel over-
13 seeing covered funds;

14 (E) reviewing whether personnel whose du-
15 ties involve acquisitions or grants made with
16 covered funds receive adequate training; and

17 (F) reviewing whether there are appro-
18 priate mechanisms for interagency collaboration
19 relating to covered funds, including coordi-
20 nating and collaborating to the extent prac-
21 ticable with the Inspectors General Council on
22 Integrity and Efficiency established by the In-
23 spector General Reform Act of 2008 (Public
24 Law 110-409).

25 (b) REPORTS.—

1 (1) FLASH AND OTHER REPORTS.—The Board
2 shall submit to the President and Congress, includ-
3 ing the Committees on Appropriations of the Senate
4 and House of Representatives, reports, to be known
5 as “flash reports”, on potential management and
6 funding problems that require immediate attention.
7 The Board also shall submit to Congress such other
8 reports as the Board considers appropriate on the
9 use and benefits of funds made available in this Act.

10 (2) QUARTERLY REPORTS.—The Board shall
11 submit quarterly reports to the President and Con-
12 gress, including the Committees on Appropriations
13 of the Senate and House of Representatives, summa-
14 rizing the findings of the Board and the findings of
15 inspectors general of agencies. The Board may sub-
16 mit additional reports as appropriate.

17 (3) ANNUAL REPORTS.—The Board shall sub-
18 mit annual reports to the President and Congress,
19 including the Committees on Appropriations of the
20 Senate and House of Representatives, consolidating
21 applicable quarterly reports on the use of covered
22 funds.

23 (4) PUBLIC AVAILABILITY.—

24 (A) IN GENERAL.—All reports submitted
25 under this subsection shall be made publicly

1 available and posted on the website established
2 by section 1526.

3 (B) REDACTIONS.—Any portion of a re-
4 port submitted under this subsection may be re-
5 dacted when made publicly available, if that
6 portion would disclose information that is not
7 subject to disclosure under sections 552 and
8 552a of title 5, United States Code.

9 (c) RECOMMENDATIONS.—

10 (1) IN GENERAL.—The Board shall make rec-
11 ommendations to agencies on measures to prevent
12 fraud, waste, and abuse relating to covered funds.

13 (2) RESPONSIVE REPORTS.—Not later than 30
14 days after receipt of a recommendation under para-
15 graph (1), an agency shall submit a report to the
16 President, the congressional committees of jurisdic-
17 tion, including the Committees on Appropriations of
18 the Senate and House of Representatives, and the
19 Board on—

20 (A) whether the agency agrees or disagrees
21 with the recommendations; and

22 (B) any actions the agency will take to im-
23 plement the recommendations.

1 **SEC. 1524. POWERS OF THE BOARD.**

2 (a) IN GENERAL.—The Board shall conduct audits
3 and reviews of spending of covered funds and coordinate
4 on such activities with the inspectors general of the rel-
5 evant agency to avoid duplication and overlap of work.

6 (b) AUDITS AND REVIEWS.—The Board may—

7 (1) conduct its own independent audits and re-
8 views relating to covered funds; and

9 (2) collaborate on audits and reviews relating to
10 covered funds with any inspector general of an agen-
11 cy.

12 (c) AUTHORITIES.—

13 (1) AUDITS AND REVIEWS.—In conducting au-
14 dits and reviews, the Board shall have the authori-
15 ties provided under section 6 of the Inspector Gen-
16 eral Act of 1978 (5 U.S.C. App.). Additionally, the
17 Board may issue subpoenas to compel the testimony
18 of persons who are not Federal officers or employees
19 and may enforce such subpoenas in the same man-
20 ner as provided for inspector general subpoenas
21 under section 6 of the Inspector General Act of
22 1978 (5 U.S.C. App.).

23 (2) STANDARDS AND GUIDELINES.—The Board
24 shall carry out the powers under subsections (a) and
25 (b) in accordance with section 4(b)(1) of the Inspec-
26 tor General Act of 1978 (5 U.S.C. App.).

1 (d) PUBLIC HEARINGS.—The Board may hold public
2 hearings and Board personnel may conduct necessary in-
3 quiries. The head of each agency shall make all officers
4 and employees of that agency available to provide testi-
5 mony to the Board and Board personnel. The Board may
6 issue subpoenas to compel the testimony of persons who
7 are not Federal officers or employees at such public hear-
8 ings. Any such subpoenas may be enforced in the same
9 manner as provided for inspector general subpoenas under
10 section 6 of the Inspector General Act of 1978 (5 U.S.C.
11 App.).

12 (e) CONTRACTS.—The Board may enter into con-
13 tracts to enable the Board to discharge its duties under
14 this subtitle, including contracts and other arrangements
15 for audits, studies, analyses, and other services with public
16 agencies and with private persons, and make such pay-
17 ments as may be necessary to carry out the duties of the
18 Board.

19 (f) TRANSFER OF FUNDS.—The Board may transfer
20 funds appropriated to the Board for expenses to support
21 administrative support services and audits, reviews, or
22 other activities related to oversight by the Board of cov-
23 ered funds to any office of inspector general, the Office
24 of Management and Budget, the General Services Admin-
25 istration, and the Panel.

1 **SEC. 1525. EMPLOYMENT, PERSONNEL, AND RELATED AU-**
2 **THORITIES.**

3 (a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

4 (1) IN GENERAL.—

5 (A) AUTHORITIES.—Subject to paragraph
6 (2), the Board may exercise the authorities of
7 subsections (b) through (i) of section 3161 of
8 title 5, United States Code (without regard to
9 subsection (a) of that section).

10 (B) APPLICATION.—For purposes of exer-
11 cising the authorities described under subpara-
12 graph (A), the term “Chairperson of the
13 Board” shall be substituted for the term “head
14 of a temporary organization”.

15 (C) CONSULTATION.—In exercising the au-
16 thorities described under subparagraph (A), the
17 Chairperson shall consult with members of the
18 Board.

19 (2) EMPLOYMENT AUTHORITIES.—In exercising
20 the employment authorities under subsection (b) of
21 section 3161 of title 5, United States Code, as pro-
22 vided under paragraph (1) of this subsection—

23 (A) paragraph (2) of subsection (b) of sec-
24 tion 3161 of that title (relating to periods of
25 appointments) shall not apply; and

1 (B) no period of appointment may exceed
2 the date on which the Board terminates under
3 section 1530.

4 (b) INFORMATION AND ASSISTANCE.—

5 (1) IN GENERAL.—Upon request of the Board
6 for information or assistance from any agency or
7 other entity of the Federal Government, the head of
8 such entity shall, insofar as is practicable and not in
9 contravention of any existing law, furnish such infor-
10 mation or assistance to the Board, or an authorized
11 designee.

12 (2) REPORT OF REFUSALS.—Whenever infor-
13 mation or assistance requested by the Board is, in
14 the judgment of the Board, unreasonably refused or
15 not provided, the Board shall report the cir-
16 cumstances to the congressional committees of juris-
17 diction, including the Committees on Appropriations
18 of the Senate and House of Representatives, without
19 delay.

20 (c) ADMINISTRATIVE SUPPORT.—The General Serv-
21 ices Administration shall provide the Board with adminis-
22 trative support services, including the provision of office
23 space and facilities.

1 **SEC. 1526. BOARD WEBSITE.**

2 (a) **ESTABLISHMENT.**—The Board shall establish and
3 maintain, no later than 30 days after enactment of this
4 Act, a user-friendly, public-facing website to foster greater
5 accountability and transparency in the use of covered
6 funds.

7 (b) **PURPOSE.**—The website established and main-
8 tained under subsection (a) shall be a portal or gateway
9 to key information relating to this Act and provide connec-
10 tions to other Government websites with related informa-
11 tion.

12 (c) **CONTENT AND FUNCTION.**—In establishing the
13 website established and maintained under subsection (a),
14 the Board shall ensure the following:

15 (1) The website shall provide materials explain-
16 ing what this Act means for citizens. The materials
17 shall be easy to understand and regularly updated.

18 (2) The website shall provide accountability in-
19 formation, including findings from audits, inspectors
20 general, and the Government Accountability Office.

21 (3) The website shall provide data on relevant
22 economic, financial, grant, and contract information
23 in user-friendly visual presentations to enhance pub-
24 lic awareness of the use of covered funds.

25 (4) The website shall provide detailed data on
26 contracts awarded by the Federal Government that

1 expend covered funds, including information about
2 the competitiveness of the contracting process, infor-
3 mation about the process that was used for the
4 award of contracts, and for contracts over \$500,000
5 a summary of the contract.

6 (5) The website shall include printable reports
7 on covered funds obligated by month to each State
8 and congressional district.

9 (6) The website shall provide a means for the
10 public to give feedback on the performance of con-
11 tracts that expend covered funds.

12 (7) The website shall include detailed informa-
13 tion on Federal Government contracts and grants
14 that expend covered funds, to include the data ele-
15 ments required to comply with the Federal Funding
16 Accountability and Transparency Act of 2006 (Pub-
17 lic Law 109–282), allowing aggregate reporting on
18 awards below \$25,000 or to individuals, as pre-
19 scribed by the Director of the Office of Management
20 and Budget.

21 (8) The website shall provide a link to estimates
22 of the jobs sustained or created by the Act.

23 (9) The website shall provide a link to informa-
24 tion about announcements of grant competitions and
25 solicitations for contracts to be awarded.

1 (10) The website shall include appropriate links
2 to other government websites with information con-
3 cerning covered funds, including Federal agency and
4 State websites.

5 (11) The website shall include a plan from each
6 Federal agency for using funds made available in
7 this Act to the agency.

8 (12) The website shall provide information on
9 Federal allocations of formula grants and awards of
10 competitive grants using covered funds.

11 (13) The website shall provide information on
12 Federal allocations of mandatory and other entitle-
13 ment programs by State, county, or other appro-
14 priate geographical unit.

15 (14) To the extent practical, the website shall
16 provide, organized by the location of the job oppor-
17 tunities involved, links to and information about how
18 to access job opportunities, including, if possible,
19 links to or information about local employment agen-
20 cies, job banks operated by State workforce agencies,
21 the Department of Labor's CareerOneStop website,
22 State, local and other public agencies receiving Fed-
23 eral funding, and private firms contracted to per-
24 form work with Federal funding, in order to direct
25 job seekers to job opportunities created by this Act.

1 (15) The website shall be enhanced and up-
2 dated as necessary to carry out the purposes of this
3 subtitle.

4 (d) WAIVER.—The Board may exclude posting con-
5 tractual or other information on the website on a case-
6 by-case basis when necessary to protect national security
7 or to protect information that is not subject to disclosure
8 under sections 552 and 552a of title 5, United States
9 Code.

10 **SEC. 1527. INDEPENDENCE OF INSPECTORS GENERAL.**

11 (a) INDEPENDENT AUTHORITY.—Nothing in this
12 subtitle shall affect the independent authority of an in-
13 specter general to determine whether to conduct an audit
14 or investigation of covered funds.

15 (b) REQUESTS BY BOARD.—If the Board requests
16 that an inspector general conduct or refrain from con-
17 ducting an audit or investigation and the inspector general
18 rejects the request in whole or in part, the inspector gen-
19 eral shall, not later than 30 days after rejecting the re-
20 quest, submit a report to the Board, the head of the appli-
21 cable agency, and the congressional committees of juris-
22 diction, including the Committees on Appropriations of the
23 Senate and House of Representatives. The report shall
24 state the reasons that the inspector general has rejected

1 the request in whole or in part. The inspector general's
2 decision shall be final.

3 **SEC. 1528. COORDINATION WITH THE COMPTROLLER GEN-**
4 **ERAL AND STATE AUDITORS.**

5 The Board shall coordinate its oversight activities
6 with the Comptroller General of the United States and
7 State auditor ~~generals~~.

8 **SEC. 1529. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums
10 as necessary to carry out this subtitle.

11 **SEC. 1530. TERMINATION OF THE BOARD.**

12 The Board shall terminate on September 30, 2013.

13 **Subtitle C—Recovery Independent**
14 **Advisory Panel**

15 **SEC. 1541. ESTABLISHMENT OF RECOVERY INDEPENDENT**
16 **ADVISORY PANEL.**

17 (a) **ESTABLISHMENT.**—There is established the Re-
18 covery Independent Advisory Panel.

19 (b) **MEMBERSHIP.**—The Panel shall be composed of
20 5 members who shall be appointed by the President.

21 (c) **QUALIFICATIONS.**—Members shall be appointed
22 on the basis of expertise in economics, public finance, con-
23 tracting, accounting, or any other relevant field.

1 (d) INITIAL MEETING.—Not later than 30 days after
2 the date on which all members of the Panel have been
3 appointed, the Panel shall hold its first meeting.

4 (e) MEETINGS.—The Panel shall meet at the call of
5 the Chairperson of the Panel.

6 (f) QUORUM.—A majority of the members of the
7 Panel shall constitute a quorum, but a lesser number of
8 members may hold hearings.

9 (g) CHAIRPERSON AND VICE CHAIRPERSON.—The
10 Panel shall select a Chairperson and Vice Chairperson
11 from among its members.

12 **SEC. 1542. DUTIES OF THE PANEL.**

13 The Panel shall make recommendations to the Board
14 on actions the Board could take to prevent fraud, waste,
15 and abuse relating to covered funds.

16 **SEC. 1543. POWERS OF THE PANEL.**

17 (a) HEARINGS.—The Panel may hold such hearings,
18 sit and act at such times and places, take such testimony,
19 and receive such evidence as the Panel considers advisable
20 to carry out this subtitle.

21 (b) INFORMATION FROM FEDERAL AGENCIES.—The
22 Panel may secure directly from any agency such informa-
23 tion as the Panel considers necessary to carry out this sub-
24 title. Upon request of the Chairperson of the Panel, the

1 head of such agency shall furnish such information to the
2 Panel.

3 (c) POSTAL SERVICES.—The Panel may use the
4 United States mails in the same manner and under the
5 same conditions as agencies of the Federal Government.

6 (d) GIFTS.—The Panel may accept, use, and dispose
7 of gifts or donations of services or property.

8 **SEC. 1544. PANEL PERSONNEL MATTERS.**

9 (a) COMPENSATION OF MEMBERS.—Each member of
10 the Panel who is not an officer or employee of the Federal
11 Government shall be compensated at a rate equal to the
12 daily equivalent of the annual rate of basic pay prescribed
13 for level IV of the Executive Schedule under section 5315
14 of title 5, United States Code, for each day (including
15 travel time) during which such member is engaged in the
16 performance of the duties of the Panel. All members of
17 the Panel who are officers or employees of the United
18 States shall serve without compensation in addition to that
19 received for their services as officers or employees of the
20 United States.

21 (b) TRAVEL EXPENSES.—The members of the Panel
22 shall be allowed travel expenses, including per diem in lieu
23 of subsistence, at rates authorized for employees of agen-
24 cies under subchapter I of chapter 57 of title 5, United
25 States Code, while away from their homes or regular

1 places of business in the performance of services for the
2 Panel.

3 (c) STAFF.—

4 (1) IN GENERAL.—The Chairperson of the
5 Panel may, without regard to the civil service laws
6 and regulations, appoint and terminate an executive
7 director and such other additional personnel as may
8 be necessary to enable the Panel to perform its du-
9 ties. The employment of an executive director shall
10 be subject to confirmation by the Panel.

11 (2) COMPENSATION.—The Chairperson of the
12 Panel may fix the compensation of the executive di-
13 rector and other personnel without regard to chapter
14 51 and subchapter III of chapter 53 of title 5,
15 United States Code, relating to classification of posi-
16 tions and General Schedule pay rates, except that
17 the rate of pay for the executive director and other
18 personnel may not exceed the rate payable for level
19 V of the Executive Schedule under section 5316 of
20 such title.

21 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

22 (A) IN GENERAL.—The executive director
23 and any personnel of the Panel who are employ-
24 ees shall be employees under section 2105 of
25 title 5, United States Code, for purposes of

1 chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B,
2 and 90 of that title.

3 (B) MEMBERS OF PANEL.—Subparagraph
4 (A) shall not be construed to apply to members
5 of the Panel.

6 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
7 Federal Government employee may be detailed to the
8 Panel without reimbursement, and such detail shall be
9 without interruption or loss of civil service status or privi-
10 lege.

11 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
12 TENT SERVICES.—The Chairperson of the Panel may pro-
13 cure temporary and intermittent services under section
14 3109(b) of title 5, United States Code, at rates for individ-
15 uals which do not exceed the daily equivalent of the annual
16 rate of basic pay prescribed for level V of the Executive
17 Schedule under section 5316 of such title.

18 (f) ADMINISTRATIVE SUPPORT.—The General Serv-
19 ices Administration shall provide the ~~Board~~ with adminis-
20 trative support services, including the provision of office
21 space and facilities.

22 **SEC. 1545. TERMINATION OF THE PANEL.**

23 The Panel shall terminate on September 30, 2013.

Panel

1 **SEC. 1546. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as necessary to carry out this subtitle.

4 **Subtitle D—Additional Account-**
5 **ability and Transparency Re-**
6 **quirements**

7 **SEC. 1551. AUTHORITY TO ESTABLISH SEPARATE FUNDING**
8 **ACCOUNTS.**

9 Although this Act provides supplemental appropria-
10 tions for programs, projects, and activities in existing
11 Treasury accounts, to facilitate tracking these funds
12 through Treasury and agency accounting systems, the
13 Secretary of the Treasury shall ensure that all funds ap-
14 propriated in this Act shall be established in separate
15 Treasury accounts, unless a waiver from this provision is
16 approved by the Director of the Office of Management and
17 Budget.

18 **SEC. 1552. SET-ASIDE FOR STATE AND LOCAL GOVERN-**
19 **MENT REPORTING AND RECORDKEEPING.**

20 Federal agencies receiving funds under this Act, may,
21 after following the notice and comment rulemaking re-
22 quirements under the Administrative Procedures Act (5
23 U.S.C. 500), reasonably adjust applicable limits on admin-
24 istrative expenditures for Federal awards to help award
25 recipients defray the costs of data collection requirements
26 initiated pursuant to this Act.

1 **SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT**
2 **AND CONTRACTOR WHISTLEBLOWERS.**

3 (a) PROHIBITION OF REPRISALS.—An employee of
4 any non-Federal employer receiving covered funds may not
5 be discharged, demoted, or otherwise discriminated
6 against as a reprisal for disclosing, including a disclosure
7 made in the ordinary course of an employee's duties, to
8 the Board, an inspector general, the Comptroller General,
9 a member of Congress, a State or Federal regulatory or
10 law enforcement agency, a person with supervisory author-
11 ity over the employee (or such other person working for
12 the employer who has the authority to investigate, dis-
13 cover, or terminate misconduct), a court or grand jury,
14 the head of a Federal agency, or their representatives in-
15 formation that the employee reasonably believes is evi-
16 dence of—

17 (1) gross mismanagement of an agency contract
18 or grant relating to covered funds;

19 (2) a gross waste of covered funds;

20 (3) a substantial and specific danger to public
21 health or safety related to the implementation or use
22 of covered funds;

23 (4) an abuse of authority related to the imple-
24 mentation or use of covered funds; or

25 (5) a violation of law, rule, or regulation related
26 to an agency contract (including the competition for

1 or negotiation of a contract) or grant, awarded or
2 issued relating to covered funds.

3 (b) INVESTIGATION OF COMPLAINTS.—

4 (1) IN GENERAL.—A person who believes that
5 the person has been subjected to a reprisal prohib-
6 ited by subsection (a) may submit a complaint re-
7 garding the reprisal to the appropriate inspector
8 general. Except as provided under paragraph (3),
9 unless the inspector general determines that the
10 complaint is frivolous, does not relate to covered
11 funds, or another Federal or State judicial or ad-
12 ministrative proceeding has previously been invoked
13 to resolve such complaint, the inspector general shall
14 investigate the complaint and, upon completion of
15 such investigation, submit a report of the findings of
16 the investigation to the person, the person's em-
17 ployer, the head of the appropriate agency, and the
18 Board.

19 (2) TIME LIMITATIONS FOR ACTIONS.—

20 (A) IN GENERAL.—Except as provided
21 under subparagraph (B), the inspector general
22 shall, not later than 180 days after receiving a
23 complaint under paragraph (1)—

24 (i) make a determination that the
25 complaint is frivolous, does not relate to

1 covered funds, or another Federal or State
2 judicial or administrative proceeding has
3 previously been invoked to resolve such
4 complaint; or

5 (ii) submit a report under paragraph
6 (1).

7 (B) EXTENSIONS.—

8 (i) VOLUNTARY EXTENSION AGREED
9 TO BETWEEN INSPECTOR GENERAL AND
10 COMPLAINANT.—If the inspector general is
11 unable to complete an investigation under
12 this section in time to submit a report
13 within the 180-day period specified under
14 subparagraph (A) and the person submit-
15 ting the complaint agrees to an extension
16 of time, the inspector general shall submit
17 a report under paragraph (1) within such
18 additional period of time as shall be agreed
19 upon between the inspector general and
20 the person submitting the complaint.

21 (ii) EXTENSION GRANTED BY INSPEC-
22 TOR GENERAL.—If the inspector general is
23 unable to complete an investigation under
24 this section in time to submit a report
25 within the 180-day period specified under

1 subparagraph (A), the inspector general
2 may extend the period for not more than
3 180 days without agreeing with the person
4 submitting the complaint to such exten-
5 sion, provided that the ~~Inspector~~ General 
6 provides a written explanation (subject to
7 the authority to exclude information under
8 paragraph (4)(C)) for the decision, which
9 shall be provided to both the person sub-
10 mitting the complaint and the non-Federal
11 employer.

12 (iii) SEMI-ANNUAL REPORT ON EX-
13 TENSIONS.—The inspector general shall in-
14 clude in semi-annual reports to Congress a
15 list of those investigations for which the in-
16 specter general received an extension.

17 (3) DISCRETION NOT TO INVESTIGATE COM-
18 PLAINTS.—

19 (A) IN GENERAL.—The inspector general
20 may decide not to conduct or continue an inves-
21 tigation under this section upon providing to
22 the person submitting the complaint and the
23 non-Federal employer a written explanation
24 (subject to the authority to exclude information
25 under paragraph (4)(C)) for such decision.

1 (B) ASSUMPTION OF RIGHTS TO CIVIL
2 REMEDY.—Upon receipt of an explanation of a
3 decision not to conduct or continue an inves-
4 tigation under subparagraph (A), the person
5 submitting a complaint shall immediately as-
6 sume the right to a civil remedy under sub-
7 section (c)(3) as if the 210-day period specified
8 under such subsection has already passed.

9 (C) SEMI-ANNUAL REPORT.—The inspector
10 general shall include in semi-annual reports to
11 Congress a list of those investigations the in-
12 spector general decided not to conduct or con-
13 tinue under this paragraph.

14 (4) ACCESS TO INVESTIGATIVE FILE OF IN-
15 SPECTOR GENERAL.—

16 (A) IN GENERAL.—The person alleging a
17 reprisal under this section shall have access to
18 the investigation file of the appropriate inspec-
19 tor general in accordance with section 552a of
20 title 5, United States Code (commonly referred
21 to as the “Privacy Act”). The investigation of
22 the inspector general shall be deemed closed for
23 purposes of disclosure under such section when
24 an employee files an appeal to an agency head
25 or a court of competent jurisdiction.

1 (B) CIVIL ACTION.—In the event the per-
2 son alleging the reprisal brings suit under sub-
3 section (c)(3), the person alleging the reprisal
4 and the non-Federal employer shall have access
5 to the investigative file of the ~~Inspector~~ General lc
6 in accordance with the Privacy Act.

7 (C) EXCEPTION.—The inspector general
8 may exclude from disclosure—

9 (i) information protected from disclo-
10 sure by a provision of law; and

11 (ii) any additional information the in-
12 spector general determines disclosure of
13 which would impede a continuing investiga-
14 tion, provided that such information is dis-
15 closed once such disclosure would no longer
16 impede such investigation, unless the in-
17 spector general determines that disclosure
18 of law enforcement techniques, procedures,
19 or information could reasonably be ex-
20 pected to risk circumvention of the law or
21 disclose the identity of a confidential
22 source.

23 (5) PRIVACY OF INFORMATION.—An inspector
24 general investigating an alleged reprisal under this
25 section may not respond to any inquiry or disclose

1 any information from or about any person alleging
2 such reprisal, except in accordance with the provi-
3 sions of section 552a of title 5, United States Code,
4 or as required by any other applicable Federal law.

5 (c) REMEDY AND ENFORCEMENT AUTHORITY.—

6 (1) BURDEN OF PROOF.—

7 (A) DISCLOSURE AS CONTRIBUTING FAC-
8 TOR IN REPRISAL.—

9 (i) IN GENERAL.—A person alleging a
10 reprisal under this section shall be deemed
11 to have affirmatively established the occur-
12 rence of the reprisal if the person dem-
13 onstrates that a disclosure described in
14 subsection (a) was a contributing factor in
15 the reprisal.

16 (ii) USE OF CIRCUMSTANTIAL EVI-
17 DENCE.—A disclosure may be dem-
18 onstrated as a contributing factor in a re-
19 prisal for purposes of this paragraph by
20 circumstantial evidence, including—

21 (I) evidence that the official un-
22 dertaking the reprisal knew of the dis-
23 closure; or

24 (II) evidence that the reprisal oc-
25 curred within a period of time after

1 the disclosure such that a reasonable
2 person could conclude that the disclo-
3 sure was a contributing factor in the
4 reprisal.

5 (B) OPPORTUNITY FOR REBUTTAL.—The
6 head of an agency may not find the occurrence
7 of a reprisal with respect to a reprisal that is
8 affirmatively established under subparagraph
9 (A) if the non-Federal employer demonstrates
10 by clear and convincing evidence that the non-
11 Federal employer would have taken the action
12 constituting the reprisal in the absence of the
13 disclosure.

14 (2) AGENCY ACTION.—Not later than 30 days
15 after receiving an inspector general report under
16 subsection (b), the head of the agency concerned
17 shall determine whether there is sufficient basis to
18 conclude that the non-Federal employer has sub-
19 jected the complainant to a reprisal prohibited by
20 subsection (a) and shall either issue an order deny-
21 ing relief in whole or in part or shall take 1 or more
22 of the following actions:

23 (A) Order the employer to take affirmative
24 action to abate the reprisal.

1 (B) Order the employer to reinstate the
2 person to the position that the person held be-
3 fore the reprisal, together with the compensa-
4 tion (including back pay), compensatory dam-
5 ages, employment benefits, and other terms and
6 conditions of employment that would apply to
7 the person in that position if the reprisal had
8 not been taken.

9 (C) Order the employer to pay the com-
10 plainant an amount equal to the aggregate
11 amount of all costs and expenses (including at-
12 torneys' fees and expert witnesses' fees) that
13 were reasonably incurred by the complainant
14 for, or in connection with, bringing the com-
15 plaint regarding the reprisal, as determined by
16 the head of the agency or a court of competent
17 jurisdiction.

18 (3) CIVIL ACTION.—If the head of an agency
19 issues an order denying relief in whole or in part
20 under paragraph (1), has not issued an order within
21 210 days after the submission of a complaint under
22 subsection (b), or in the case of an extension of time
23 under subsection (b)(2)(B)(i), within 30 days after
24 the expiration of the extension of time, or decides
25 under subsection (b)(3) not to investigate or to dis-

1 continue an investigation, and there is no showing
2 that such delay or decision is due to the bad faith
3 of the complainant, the complainant shall be deemed
4 to have exhausted all administrative remedies with
5 respect to the complaint, and the complainant may
6 bring a de novo action at law or equity against the
7 employer to seek compensatory damages and other
8 relief available under this section in the appropriate
9 district court of the United States, which shall have
10 jurisdiction over such an action without regard to
11 the amount in controversy. Such an action shall, at
12 the request of either party to the action, be tried by
13 the court with a jury.

14 (4) JUDICIAL ENFORCEMENT OF ORDER.—
15 Whenever a person fails to comply with an order
16 issued under paragraph (2), the head of the agency
17 shall file an action for enforcement of such order in
18 the United States district court for a district in
19 which the reprisal was found to have occurred. In
20 any action brought under this paragraph, the court
21 may grant appropriate relief, including injunctive re-
22 lief, compensatory and exemplary damages, and at-
23 torneys fees and costs.

24 (5) JUDICIAL REVIEW.—Any person adversely
25 affected or aggrieved by an order issued under para-

1 graph (2) may obtain review of the order's conform-
2 ance with this subsection, and any regulations issued
3 to carry out this section, in the United States court
4 of appeals for a circuit in which the reprisal is al-
5 leged in the order to have occurred. No petition
6 seeking such review may be filed more than 60 days
7 after issuance of the order by the head of the agen-
8 cy. Review shall conform to chapter 7 of title 5,
9 United States Code.

10 (d) NONENFORCEABILITY OF CERTAIN PROVISIONS
11 WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBI-
12 TRATION OF DISPUTES.—

13 (1) WAIVER OF RIGHTS AND REMEDIES.—Ex-
14 cept as provided under paragraph (3), the rights and
15 remedies provided for in this section may not be
16 waived by any agreement, policy, form, or condition
17 of employment, including by any predispute arbitra-
18 tion agreement.

19 (2) PREDISPUTE ARBITRATION AGREEMENTS.—
20 Except as provided under paragraph (3), no
21 predispute arbitration agreement shall be valid or
22 enforceable if it requires arbitration of a dispute
23 arising under this section.

24 (3) EXCEPTION FOR COLLECTIVE BARGAINING
25 AGREEMENTS.—Notwithstanding paragraphs (1)

1 and (2), an arbitration provision in a collective bar-
2 gaining agreement shall be enforceable as to dis-
3 putes arising under the collective bargaining agree-
4 ment.

5 (e) REQUIREMENT TO POST NOTICE OF RIGHTS AND
6 REMEDIES.—Any employer receiving covered funds shall
7 post notice of the rights and remedies provided under this
8 section.

9 (f) RULES OF CONSTRUCTION.—

10 (1) NO IMPLIED AUTHORITY TO RETALIATE
11 FOR NON-PROTECTED DISCLOSURES.—Nothing in
12 this section may be construed to authorize the dis-
13 charge of, demotion of, or discrimination against an
14 employee for a disclosure other than a disclosure
15 protected by subsection (a) or to modify or derogate
16 from a right or remedy otherwise available to the
17 employee.

18 (2) RELATIONSHIP TO STATE LAWS.—Nothing
19 in this section may be construed to preempt, pre-
20 clude, or limit the protections provided for public or
21 private employees under State whistleblower laws.

22 (g) DEFINITIONS.—In this Act:

23 (1) ABUSE OF AUTHORITY.—The term “abuse
24 of authority” means an arbitrary and capricious ex-
25 ercise of authority by a contracting official or em-

section

1 ployee that adversely affects the rights of any per-
2 son, or that results in personal gain or advantage to
3 the official or employee or to preferred other per-
4 sons.

5 (2) COVERED FUNDS.—The term “covered
6 funds” ~~in this section~~ means any contract, grant, or
7 other payment received by any non-Federal employer
8 if—

9 (A) the Federal Government provides any
10 portion of the money or property that is pro-
11 vided, requested, or demanded; and

12 (B) at least some of the funds are appro-
13 priated or otherwise made available by this Act.

14 (3) EMPLOYEE.—The term “employee”—

15 (A) except as provided under subparagraph

16 (B), means an individual performing services on
17 behalf of an employer; and

18 (B) does not include any Federal employee
19 or member of the uniformed services (as that
20 term is defined in section 101(a)(5) of title 10,
21 United States Code).

22 (4) NON-FEDERAL EMPLOYER.—The term
23 “non-Federal employer”—

24 (A) means any employer—

25 (i) with respect to covered funds—

(I) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, grantee, or recipient is an employer; and

Subcontractor,

(II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or

(ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and

(B) does not mean any department, agency, or other entity of the Federal Government.

(5) STATE OR LOCAL GOVERNMENT.—The term “State or local government” means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Is-

Commonwealth of the

1 lands, or any other territory or possession of
2 the United States; or

3 (B) the government of any political sub-
4 division of a government listed in subparagraph
5 (A).

6 **SEC. 1554. SPECIAL CONTRACTING PROVISIONS.**

7 To the maximum extent possible, contracts funded
8 under this Act shall be awarded as fixed-price contracts
9 through the use of competitive procedures. ~~Any~~ contract
10 awarded with such funds that is not fixed-price and not
11 awarded using competitive procedures shall be posted in
12 a special section of the website established in section 1526.

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A summary of
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1 **SEC. 1555. CONTRACTING.**

2 (a) None of the funds appropriated or otherwise made
3 available by this Act, for projects initiated after the effec-
4 tive date of this ^{act}, may be used by an executive agency
5 to enter into any Federal contract unless such contract
6 is entered into in accordance with the Federal Property
7 and Administrative Services Act (41 U.S.C. 253) or chap-
8 ter 137 of title 10, United States Code, and the Federal
9 Acquisition Regulation, unless such contract is otherwise
10 authorized by statute to be entered into without regard
11 to the above referenced statutes.

12 (b) All projects ^{the} to be conducted under the authority
13 of Indian Self-Determination and Education Assistance
14 Act, the Tribally-Controlled Schools, the Sanitation and
15 Facilities Act, the Native American Housing and Self-De-
16 termination Assistance Act, and the Buy-Indian Act shall
17 be identified by the appropriate Secretary and the appro-
18 priate Secretary shall incorporate provisions to ensure
19 that the agreement conforms with the provisions of this
20 Act regarding the timing for use of funds and trans-
21 parency, oversight, reporting, and accountability, includ-
22 ing review by the Inspectors General, the Accountability
23 and Transparency Board, and Government Accountability
24 Office, consistent with the objectives of this Act.

1 TITLE XVI—GENERAL PROVISIONS—THIS ACT

2 RELATIONSHIP TO OTHER APPROPRIATIONS

3 SEC. 1601. Each amount appropriated or made avail-
4 able in this Act is in addition to amounts otherwise appro-
5 priated for the fiscal year involved. Enactment of this Act
6 shall have no effect on the availability of amounts under
7 the Continuing Appropriations Resolution, 2009 (division
8 A of Public Law 110-329).

9 PREFERENCE FOR QUICK-START ACTIVITIES

10 SEC. 1602. In using funds made available in this Act
11 for infrastructure investment, recipients shall give pref-
12 erence to activities that can be started and completed ex-
13 peditiously, including a goal of using at least 50 percent
14 of the funds for activities that can be initiated not later
15 than 120 days after the date of the enactment of this Act.
16 Recipients shall also use grant funds in a manner that
17 maximizes job creation and economic benefit.

18 PERIOD OF AVAILABILITY

19 SEC. 1603. ~~(a)~~ All funds appropriated in this Act
20 shall remain available for obligation until September 30,
21 2010, unless expressly provided otherwise in this Act.

22 LIMIT ON FUNDS

23 SEC. 1604. None of the funds appropriated or other-
24 wise made available in this Act may be used by any State
25 or local government, or any private entity, for any casino

1 or other gambling establishment, aquarium, zoo, golf
2 course, or swimming pool.

3 BUY AMERICAN

4 SEC. 1605. USE OF AMERICAN IRON, STEEL, AND
5 MANUFACTURED GOODS. (a) None of the funds appro-
6 priated or otherwise made available by this Act may be
7 used for a project for the construction, alteration, mainte-
8 nance, or repair of a public building or public work unless
9 all of the iron, steel, and manufactured goods used in the
10 project are produced in the United States.

11 (b) Subsection (a) shall not apply in any case or cat-
12 egory of cases in which the head of the Federal depart-
13 ment or agency involved finds that—

14 (1) applying subsection (a) would be incon-
15 sistent with the public interest;

16 (2) iron, steel, and the relevant manufactured
17 goods are not produced in the United States in suffi-
18 cient and reasonably available quantities and of a
19 satisfactory quality; or

20 (3) inclusion of iron, steel, and manufactured
21 goods produced in the United States will increase
22 the cost of the overall project by more than 25 per-
23 cent.

24 (c) If the head of a Federal department or agency
25 determines that it is necessary to waive the application
26 of subsection (a) based on a finding under subsection (b),

1 the head of the department or agency shall publish in the
2 Federal Register a detailed written justification as to why
3 the provision is being waived.

4 (d) This section shall be applied in a manner con-
5 sistent with United States obligations under international
6 agreements.

7 WAGE RATE REQUIREMENTS

8 SEC. 1606. Notwithstanding any other provision of
9 law and in a manner consistent with other provisions in
10 this Act, all laborers and mechanics employed by contrac-
11 tors and subcontractors on projects funded directly by or
12 assisted in whole or in part by and through the Federal
13 Government pursuant to this Act shall be paid wages at
14 rates not less than those prevailing on projects of a char-
15 acter similar in the locality as determined by the Secretary
16 of Labor in accordance with subchapter IV of chapter 31
17 of title 40, United States Code. With respect to the labor
18 standards specified in this section, the Secretary of Labor
19 shall have the authority and functions set forth in Reorga-
20 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5
21 U.S.C. App.) and section 3145 of title 40, United States
22 Code.

23 ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE
24 OF APPROPRIATE USE OF FUNDS

25 SEC. 1607. (a) CERTIFICATION BY GOVERNOR.—Not
26 later than 45 days after the date of enactment of this Act,

1 for funds provided to any State or agency thereof, the
2 Governor of the State shall certify that: (1) the State will
3 request and use funds provided by this Act, and (2) the
4 funds will be used to create jobs and promote economic
5 growth.

6 (b) ACCEPTANCE BY STATE LEGISLATURE.—If funds
7 provided to any State in any division of this Act are not
8 accepted for use by the Governor, then acceptance by the
9 State legislature, by means of the adoption of a concurrent
10 resolution, shall be sufficient to provide funding to such
11 State.

12 (c) DISTRIBUTION.—After the adoption of a State
13 legislature's concurrent resolution, funding to the State
14 will be for distribution to local governments, councils of
15 government, public entities, and public-private entities
16 within the State either by formula or at the State's discre-
17 tion.

18 ECONOMIC STABILIZATION CONTRACTING

19 SEC. 1608. REFORM OF CONTRACTING PROCEDURES
20 UNDER EESA. Section 107(b) of the Emergency Eco-
21 nomic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is
22 amended by inserting "and individuals with disabilities
23 and businesses owned by individuals with disabilities (for
24 purposes of this subsection the term 'individual with dis-
25 ability' has the same meaning as the term 'handicapped
26 individual' as that term is defined in section 3(f) of the

1 Small Business Act (15 U.S.C. 632(f)),” after “(12
2 U.S.C. 1441a(r)(4)),”.

3 SEC. 1609. (a) FINDINGS.—

4 (1) The National Environmental Policy Act pro-
5 tects public health, safety and environmental quality:
6 by ensuring transparency, accountability and public
7 involvement in federal actions and in the use of pub-
8 lic funds;

9 (2) When President Nixon signed the National
10 Environmental Policy Act into law on January 1,
11 1970, he said that the Act provided the “direction”
12 for the country to “regain a productive harmony be-
13 tween man and nature”;

14 (3) The National Environmental Policy Act
15 helps to provide an orderly process for considering
16 federal actions and funding decisions and prevents
17 ligation and delay that would otherwise be inevitable
18 and existed prior to the establishment of the Na-
19 tional Environmental Policy Act.

20 (b) Adequate resources within this bill must be de-
21 voted to ensuring that applicable environmental reviews
22 under the National Environmental Policy Act are com-
23 pleted on an expeditious basis and that the shortest exist-
24 ing applicable process under the National Environmental
25 Policy Act shall be utilized.

1 (c) The President shall report to the Senate Environ-
2 ment and Public Works Committee and the House Nat-
3 ural Resources Committee every 90 days following the
4 date of enactment until September 30, 2011 on the status
5 and progress of projects and activities funded by this Act
6 with respect to compliance with National Environmental
7 Policy Act requirements and documentation.

8 SEC. 1610. (a) None of the funds appropriated or
9 otherwise made available by this Act, for projects initiated
10 after the effective date of this Act, may be used by an
11 executive agency to enter into any Federal contract unless
12 such contract is entered into in accordance with the Fed-
13 eral Property and Administrative Services Act (41 U.S.C.
14 253) or chapter 137 of title 10, United States Code, and
15 the Federal Acquisition Regulation, unless such contract
16 is otherwise authorized by statute to be entered into with-
17 out regard to the above referenced statutes.

the) 18 (b) All projects to be conducted under the authority
19 of Indian Self-Determination and Education Assistance
20 Act, the Tribally-Controlled Schools, the Sanitation and
21 Facilities Act, the Native American Housing and Self-De-
22 termination Assistance Act and the Buy-Indian Act shall
23 be identified by the appropriate Secretary and the appro-
24 priate Secretary shall incorporate provisions to ensure
25 that the agreement conforms with the provisions of this

(AC)

1 Act regarding the timing for use of funds and trans-
2 parency, oversight, reporting, and accountability, includ-
3 ing review by the Inspectors General, the Accountability
4 and Transparency Board, and Government Accountability
5 Office, consistent with the objectives of this Act.

6 SEC. 1611. HIRING AMERICAN WORKERS IN COMPA-
7 NIES RECEIVING TARP FUNDING. (a) SHORT TITLE.—
8 This section may be cited as the “Employ American Work-
9 ers 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 nomic 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 Immi-
18 gration 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 depend-
21 ent employer (as defined in section 212(n)(3) of
22 such Act (8 U.S.C. 1182(n)(3))), except that the
23 second sentence of section 212(n)(1)(E)(ii) of such
24 Act shall not apply.

1 (2) DEFINED TERM.—In this subsection, the
2 term “hire” means to permit a new employee to
3 commence 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
6 enactment of this Act.

7 SEC. 1612. During the current fiscal year not to exceed
8 1 percent of any appropriation made available by this
9 Act may be transferred by an agency head between such

*funded in
this Act*

10 appropriations of that department or agency: *Provided,*

11 That such appropriations shall be merged with and available
12 for the same purposes, and for the same time period,

13 as the appropriation to which transferred: *Provided further,*

shall notify

14 That the agency head ~~notifies~~ the Committees on Ap-

15 propriations of the Senate and House of Representatives

16 of the transfer 15 days in advance: *Provided further,* That

any transfer made

17 notice of the ~~transfer~~ pursuant to this authority be posted

18 on the website established by the Recovery Act Account-

such transfer

19 ability and Transparency Board 15 days following ~~notifi-~~

20 ~~cation of the Committees on Appropriations.~~ *Provided further,*

21 That the authority contained in this section is in ad-

22 dition to transfer authorities otherwise available under

23 current law?

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Provided further, That the authority provided in this section shall not apply to any appropriation that is subject to transfer provisions included elsewhere in this Act.

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