

1 **DIVISION B—TAX, UNEMPLOY-**  
2 **MENT, HEALTH, STATE FIS-**  
3 **CAL RELIEF, AND OTHER**  
4 **PROVISIONS**

5 **TITLE I—TAX PROVISIONS**

6 **SEC. 1000. SHORT TITLE, ETC.**

7 (a) **SHORT TITLE.**—This title may be cited as the  
8 “American Recovery and Reinvestment Tax Act of 2009”.

9 (b) **REFERENCE.**—Except as otherwise expressly pro-  
10 vided, whenever in this title an amendment or repeal is  
11 expressed in terms of an amendment to, or repeal of, a  
12 section or other provision, the reference shall be consid-  
13 ered to be made to a section or other provision of the In-  
14 ternal Revenue Code of 1986.

15 (c) **TABLE OF CONTENTS.**—The table of contents for  
16 this title is as follows:

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Sec. 1012. Extension of increased alternative minimum tax exemption amount.

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## PART IV—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

Sec. 1131. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

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## **Subtitle A—Tax Relief for Individuals and Families**

### **PART I—GENERAL TAX RELIEF**

#### **4 SEC. 1001. MAKING WORK PAY CREDIT.**

5 (a) IN GENERAL.—Subpart C of part IV of sub-  
6 chapter A of chapter 1 is amended by inserting after sec-  
7 tion 36 the following new section:

#### **8 “SEC. 36A. MAKING WORK PAY CREDIT.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
10 gible individual, there shall be allowed as a credit against

1 the tax imposed by this subtitle for the taxable year an  
2 amount equal to the lesser of—

3 “(1) 6.2 percent of earned income of the tax-  
4 payer, or

5 “(2) \$400 (\$800 in the case of a joint return).

6 “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
7 GROSS INCOME.—

8 “(1) IN GENERAL.—The amount allowable as a  
9 credit under subsection (a) (determined without re-  
10 gard to this paragraph and subsection (c)) for the  
11 taxable year shall be reduced (but not below zero) by  
12 2 percent of so much of the taxpayer’s modified ad-  
13 justed gross income as exceeds \$75,000 (\$150,000  
14 in the case of a joint return).

15 “(2) MODIFIED ADJUSTED GROSS INCOME.—  
16 For purposes of subparagraph (A), the term ‘modi-  
17 fied adjusted gross income’ means the adjusted  
18 gross income of the taxpayer for the taxable year in-  
19 creased by any amount excluded from gross income  
20 under section 911, 931, or 933.

21 “(c) REDUCTION FOR CERTAIN OTHER PAY-  
22 MENTS.—The credit allowed under subsection (a) for any  
23 taxable year shall be reduced by the amount of any pay-  
24 ments received by the taxpayer during such taxable year  
25 under section 2201, and any credit allowed to the taxpayer

1 under section 2202, of the American Recovery and Rein-  
2 vestment Tax Act of 2009.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
4 poses of this section—

5 “(1) ELIGIBLE INDIVIDUAL.—

6 “(A) IN GENERAL.—The term ‘eligible in-  
7 dividual’ means any individual other than—

8 “(i) any nonresident alien individual,

9 “(ii) any individual with respect to  
10 whom a deduction under section 151 is al-  
11 lowable to another taxpayer for a taxable  
12 year beginning in the calendar year in  
13 which the individual’s taxable year begins,  
14 and

15 “(iii) an estate or trust.

16 “(B) IDENTIFICATION NUMBER REQUIRE-  
17 MENT.—Such term shall not include any indi-  
18 vidual who does not include on the return of tax  
19 for the taxable year—

20 “(i) such individual’s social security  
21 account number, and

22 “(ii) in the case of a joint return, the  
23 social security account number of one of  
24 the taxpayers on such return.



1 For purposes of the preceding sentence, the so-  
2 cial security account number shall not include a  
3 TIN issued by the Internal Revenue Service.

4 “(2) EARNED INCOME.—The term ‘earned in-  
5 come’ has the meaning given such term by section  
6 32(c)(2), except that such term shall not include net  
7 earnings from self-employment which are not taken  
8 into account in computing taxable income. For pur-  
9 poses of the preceding sentence, any amount ex-  
10 cluded from gross income by reason of section 112  
11 shall be treated as earned income which is taken  
12 into account in computing taxable income for the  
13 taxable year.

14 “(e) TERMINATION.—This section shall not apply to  
15 taxable years beginning after December 31, 2010.”.

16 (b) TREATMENT OF POSSESSIONS.—

17 (1) PAYMENTS TO POSSESSIONS.—

18 (A) MIRROR CODE POSSESSION.—The Sec-  
19 retary of the Treasury shall pay to each posses-  
20 sion of the United States with a mirror code  
21 tax system amounts equal to the loss to that  
22 possession by reason of the amendments made  
23 by this section with respect to taxable years be-  
24 ginning in 2009 and 2010. Such amounts shall  
25 be determined by the Secretary of the Treasury

1 based on information provided by the govern-  
2 ment of the respective possession.

3 (B) OTHER POSSESSIONS.—The Secretary  
4 of the Treasury shall pay to each possession of  
5 the United States which does not have a mirror  
6 code tax system amounts estimated by the Sec-  
7 retary of the Treasury as being equal to the ag-  
8 gregate benefits that would have been provided  
9 to residents of such possession by reason of the  
10 amendments made by this section for taxable  
11 years beginning in 2009 and 2010 if a mirror  
12 code tax system had been in effect in such pos-  
13 session. The preceding sentence shall not apply  
14 with respect to any possession of the United  
15 States unless such possession has a plan, which  
16 has been approved by the Secretary of the  
17 Treasury, under which such possession will  
18 promptly distribute such payments to the resi-  
19 dents of such possession.

20 (2) COORDINATION WITH CREDIT ALLOWED  
21 AGAINST UNITED STATES INCOME TAXES.—No cred-  
22 it shall be allowed against United States income  
23 taxes for any taxable year under section 36A of the  
24 Internal Revenue Code of 1986 (as added by this  
25 section) to any person—

1 (A) to whom a credit is allowed against  
2 taxes imposed by the possession by reason of  
3 the amendments made by this section for such  
4 taxable year, or

5 (B) who is eligible for a payment under a  
6 plan described in paragraph (1)(B) with respect  
7 to such taxable year.

8 (3) DEFINITIONS AND SPECIAL RULES.—

9 (A) POSSESSION OF THE UNITED  
10 STATES.—For purposes of this subsection, the  
11 term “possession of the United States” includes  
12 the Commonwealth of Puerto Rico and the  
13 Commonwealth of the Northern Mariana Is-  
14 lands.

15 (B) MIRROR CODE TAX SYSTEM.—For pur-  
16 poses of this subsection, the term “mirror code  
17 tax system” means, with respect to any posses-  
18 sion of the United States, the income tax sys-  
19 tem of such possession if the income tax liabil-  
20 ity of the residents of such possession under  
21 such system is determined by reference to the  
22 income tax laws of the United States as if such  
23 possession were the United States.

24 (C) TREATMENT OF PAYMENTS.—For pur-  
25 poses of section 1324(b)(2) of title 31, United

1 States Code, the payments under this sub-  
2 section shall be treated in the same manner as  
3 a refund due from the credit allowed under sec-  
4 tion 36A of the Internal Revenue Code of 1986  
5 (as added by this section).

6 (c) REFUNDS DISREGARDED IN THE ADMINISTRA-  
7 TION OF FEDERAL PROGRAMS AND FEDERALLY AS-  
8 SISTED PROGRAMS.—Any credit or refund allowed or  
9 made to any individual by reason of section 36A of the  
10 Internal Revenue Code of 1986 (as added by this section)  
11 or by reason of subsection (b) of this section shall not be  
12 taken into account as income and shall not be taken into  
13 account as resources for the month of receipt and the fol-  
14 lowing 2 months, for purposes of determining the eligi-  
15 bility of such individual or any other individual for benefits  
16 or assistance, or the amount or extent of benefits or assist-  
17 ance, under any Federal program or under any State or  
18 local program financed in whole or in part with Federal  
19 funds.

20 (d) AUTHORITY RELATING TO CLERICAL ERRORS.—  
21 Section 6213(g)(2) is amended by striking “and” at the  
22 end of subparagraph (L)(ii), by striking the period at the  
23 end of subparagraph (M) and inserting “, and”, and by  
24 adding at the end the following new subparagraph:

1           “(N) an omission of the reduction required  
2           under section 36A(c) with respect to the credit  
3           allowed under section 36A or an omission of the  
4           correct social security account number required  
5           under section 36A(d)(1)(B).”.

6           (e) CONFORMING AMENDMENTS.—

7           (1) Section 6211(b)(4)(A) is amended by insert-  
8           ing “36A,” after “36,”.

9           (2) Section 1324(b)(2) of title 31, United  
10          States Code, is amended by inserting “36A,” after  
11          “36,”.

12          (3) The table of sections for subpart C of part  
13          IV of subchapter A of chapter 1 is amended by in-  
14          serting after the item relating to section 36 the fol-  
15          lowing new item:

          “Sec. 36A. Making work pay credit.”.

16          (f) EFFECTIVE DATE.—This section, and the amend-  
17          ments made by this section, shall apply to taxable years  
18          beginning after December 31, 2008.

19   **SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX**  
20                           **CREDIT.**

21          (a) IN GENERAL.—Subsection (b) of section 32 is  
22          amended by adding at the end the following new para-  
23          graph:

1           “(3) SPECIAL RULES FOR 2009 AND 2010.—In  
2           the case of any taxable year beginning in 2009 or  
3           2010—

4                   “(A) INCREASED CREDIT PERCENTAGE  
5                   FOR 3 OR MORE QUALIFYING CHILDREN.—In  
6                   the case of a taxpayer with 3 or more qualifying  
7                   children, the credit percentage is 45 percent.

8                   “(B) REDUCTION OF MARRIAGE PEN-  
9                   ALTY.—

10                   “(i) IN GENERAL.—The dollar amount  
11                   in effect under paragraph (2)(B) shall be  
12                   \$5,000.

13                   “(ii) INFLATION ADJUSTMENT.—In  
14                   the case of any taxable year beginning in  
15                   2010, the \$5,000 amount in clause (i)  
16                   shall be increased by an amount equal to—

17                           “(I) such dollar amount, multi-  
18                           plied by

19                                   “(II) the cost of living adjust-  
20                                   ment determined under section 1(f)(3)  
21                                   for the calendar year in which the tax-  
22                                   able year begins determined by sub-  
23                                   stituting ‘calendar year 2008’ for ‘cal-  
24                                   endar year 1992’ in subparagraph (B)  
25                                   thereof.

1                   “(iii) ROUNDING.—Subparagraph (A)  
2                   of subsection (j)(2) shall apply after taking  
3                   into account any increase under clause  
4                   (ii).”.

5           (b) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2008.

8   **SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE POR-**  
9                   **TION OF CHILD CREDIT.**

10          (a) IN GENERAL.—Paragraph (4) of section 24(d) is  
11 amended to read as follows:

12               “(4) SPECIAL RULE FOR 2009 AND 2010.—Not-  
13 withstanding paragraph (3), in the case of any tax-  
14 able year beginning in 2009 or 2010, the dollar  
15 amount in effect for such taxable year under para-  
16 graph (1)(B)(i) shall be \$3,000.”.

17          (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2008.

20   **SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.**

21          (a) IN GENERAL.—Section 25A (relating to Hope  
22 scholarship credit) is amended by redesignating subsection  
23 (i) as subsection (j) and by inserting after subsection (h)  
24 the following new subsection:

1       “(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the  
2 case of any taxable year beginning in 2009 or 2010—

3       “(1) INCREASE IN CREDIT.—The Hope Scholar-  
4 ship Credit shall be an amount equal to the sum  
5 of—

6               “(A) 100 percent of so much of the quali-  
7 fied tuition and related expenses paid by the  
8 taxpayer during the taxable year (for education  
9 furnished to the eligible student during any  
10 academic period beginning in such taxable year)  
11 as does not exceed \$2,000, plus

12               “(B) 25 percent of such expenses so paid  
13 as exceeds \$2,000 but does not exceed \$4,000.

14       “(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF  
15 POST-SECONDARY EDUCATION.—Subparagraphs (A)  
16 and (C) of subsection (b)(2) shall be applied by sub-  
17 stituting ‘4’ for ‘2’.

18       “(3) QUALIFIED TUITION AND RELATED EX-  
19 PENSES TO INCLUDE REQUIRED COURSE MATE-  
20 RIALS.—Subsection (f)(1)(A) shall be applied by  
21 substituting ‘tuition, fees, and course materials’ for  
22 ‘tuition and fees’.

23       “(4) INCREASE IN AGI LIMITS FOR HOPE  
24 SCHOLARSHIP CREDIT.—In lieu of applying sub-  
25 section (d) with respect to the Hope Scholarship



1 Credit, such credit (determined without regard to  
2 this paragraph) shall be reduced (but not below  
3 zero) by the amount which bears the same ratio to  
4 such credit (as so determined) as—

5 “(A) the excess of—

6 “(i) the taxpayer’s modified adjusted  
7 gross income (as defined in subsection  
8 (d)(3)) for such taxable year, over

9 “(ii) \$80,000 (\$160,000 in the case of  
10 a joint return), bears to

11 “(B) \$10,000 (\$20,000 in the case of a  
12 joint return).

13 “(5) CREDIT ALLOWED AGAINST ALTERNATIVE  
14 MINIMUM TAX.—In the case of a taxable year to  
15 which section 26(a)(2) does not apply, so much of  
16 the credit allowed under subsection (a) as is attrib-  
17 utable to the Hope Scholarship Credit shall not ex-  
18 ceed the excess of—

19 “(A) the sum of the regular tax liability  
20 (as defined in section 26(b)) plus the tax im-  
21 posed by section 55, over

22 “(B) the sum of the credits allowable  
23 under this subpart (other than this subsection  
24 and sections 23, 25D, and 30D) and section 27  
25 for the taxable year.

1 Any reference in this section or section 24, 25, 26,  
2 25B, 904, or 1400C to a credit allowable under this  
3 subsection shall be treated as a reference to so much  
4 of the credit allowable under subsection (a) as is at-  
5 tributable to the Hope Scholarship Credit.

6 “(6) PORTION OF CREDIT MADE REFUND-  
7 ABLE.—40 percent of so much of the credit allowed  
8 under subsection (a) as is attributable to the Hope  
9 Scholarship Credit (determined after application of  
10 paragraph (4) and without regard to this paragraph  
11 and section 26(a)(2) or paragraph (5), as the case  
12 may be) shall be treated as a credit allowable under  
13 subpart C (and not allowed under subsection (a)).  
14 The preceding sentence shall not apply to any tax-  
15 payer for any taxable year if such taxpayer is a child  
16 to whom subsection (g) of section 1 applies for such  
17 taxable year.

18 “(7) COORDINATION WITH MIDWESTERN DIS-  
19 ASTER AREA BENEFITS.—In the case of a taxpayer  
20 with respect to whom section 702(a)(1)(B) of the  
21 Heartland Disaster Tax Relief Act of 2008 applies  
22 for any taxable year, such taxpayer may elect to  
23 waive the application of this subsection to such tax-  
24 payer for such taxable year.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 24(b)(3)(B) is amended by inserting  
2 “25A(i),” after “23,”.

3 (2) Section 25(e)(1)(C)(ii) is amended by in-  
4 serting “25A(i),” after “24,”.

5 (3) Section 26(a)(1) is amended by inserting  
6 “25A(i),” after “24,”.

7 (4) Section 25B(g)(2) is amended by inserting  
8 “25A(i),” after “23,”.

9 (5) Section 904(i) is amended by inserting  
10 “25A(i),” after “24,”.

11 (6) Section 1400C(d)(2) is amended by insert-  
12 ing “25A(i),” after “24,”.

13 (7) Section 6211(b)(4)(A) is amended by insert-  
14 ing “25A by reason of subsection (i)(6) thereof,”  
15 after “24(d),”.

16 (8) Section 1324(b)(2) of title 31, United  
17 States Code, is amended by inserting “25A,” before  
18 “35”.

19 (c) TREATMENT OF POSSESSIONS.—

20 (1) PAYMENTS TO POSSESSIONS.—

21 (A) MIRROR CODE POSSESSION.—The Sec-  
22 retary of the Treasury shall pay to each posses-  
23 sion of the United States with a mirror code  
24 tax system amounts equal to the loss to that  
25 possession by reason of the application of sec-

tion 25A(i)(6) of the Internal Revenue Code of 1986 (as added by this section) with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of section 25A(i)(6) of such Code (as so added) for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

1           (2) COORDINATION WITH CREDIT ALLOWED  
2           AGAINST UNITED STATES INCOME TAXES.—Section  
3           25A(i)(6) of such Code (as added by this section)  
4           shall not apply to a bona fide resident of any posses-  
5           sion of the United States.

6           (3) DEFINITIONS AND SPECIAL RULES.—

7           (A) POSSESSION OF THE UNITED  
8           STATES.—For purposes of this subsection, the  
9           term “possession of the United States” includes  
10          the Commonwealth of Puerto Rico and the  
11          Commonwealth of the Northern Mariana Is-  
12          lands.

13          (B) MIRROR CODE TAX SYSTEM.—For pur-  
14          poses of this subsection, the term “mirror code  
15          tax system” means, with respect to any posses-  
16          sion of the United States, the income tax sys-  
17          tem of such possession if the income tax liabil-  
18          ity of the residents of such possession under  
19          such system is determined by reference to the  
20          income tax laws of the United States as if such  
21          possession were the United States.

22          (C) TREATMENT OF PAYMENTS.—For pur-  
23          poses of section 1324(b)(2) of title 31, United  
24          States Code, the payments under this sub-  
25          section shall be treated in the same manner as

1 a refund due from the credit allowed under sec-  
2 tion 25A of the Internal Revenue Code of 1986  
3 by reason of subsection (i)(6) of such section  
4 (as added by this section).

5 (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2008.

8 (e) APPLICATION OF EGTRRA SUNSET.—The  
9 amendment made by subsection (b)(1) shall be subject to  
10 title IX of the Economic Growth and Tax Relief Reconcili-  
11 ation Act of 2001 in the same manner as the provision  
12 of such Act to which such amendment relates.

13 (f) TREASURY STUDIES REGARDING EDUCATION IN-  
14 CENTIVES.—

15 (1) STUDY REGARDING COORDINATION WITH  
16 NON-TAX STUDENT FINANCIAL ASSISTANCE.—The  
17 Secretary of the Treasury and the Secretary of Edu-  
18 cation, or their delegates, shall—

19 (A) study how to coordinate the credit al-  
20 lowed under section 25A of the Internal Rev-  
21 enue Code of 1986 with the Federal Pell Grant  
22 program under section 401 of the Higher Edu-  
23 cation Act of 1965 to maximize their effective-  
24 ness at promoting college affordability, and

1 (B) examine ways to expedite the delivery  
2 of the tax credit.

3 (2) STUDY REGARDING INCLUSION OF COMMU-  
4 NITY SERVICE REQUIREMENTS.—The Secretary of  
5 the Treasury and the Secretary of Education, or  
6 their delegates, shall study the feasibility of requir-  
7 ing including community service as a condition of  
8 taking their tuition and related expenses into ac-  
9 count under section 25A of the Internal Revenue  
10 Code of 1986.

11 (3) REPORT.—Not later than 1 year after the  
12 date of the enactment of this Act, the Secretary of  
13 the Treasury, or the Secretary's delegate, shall re-  
14 port to Congress on the results of the studies con-  
15 ducted under this paragraph.

16 **SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT AL-**  
17 **LOWED AS A QUALIFIED HIGHER EDUCATION**  
18 **EXPENSE FOR SECTION 529 ACCOUNTS IN**  
19 **2009 AND 2010.**

20 (a) IN GENERAL.—Section 529(e)(3)(A) is amended  
21 by striking “and” at the end of clause (i), by striking the  
22 period at the end of clause (ii), and by adding at the end  
23 the following:

24 “(iii) expenses paid or incurred in  
25 2009 or 2010 for the purchase of any com-

1           puter technology or equipment (as defined  
2           in section 170(e)(6)(F)(i)) or Internet ac-  
3           cess and related services, if such tech-  
4           nology, equipment, or services are to be  
5           used by the beneficiary and the bene-  
6           ficiary's family during any of the years the  
7           beneficiary is enrolled at an eligible edu-  
8           cational institution.

9           Clause (iii) shall not include expenses for com-  
10          puter software designed for sports, games, or  
11          hobbies unless the software is predominantly  
12          educational in nature.”.

13       (b) EFFECTIVE DATE.—The amendments made by  
14       this section shall apply to expenses paid or incurred after  
15       December 31, 2008.

16       **SEC. 1006. EXTENSION OF AND INCREASE IN FIRST-TIME**  
17                       **HOMEBUYER CREDIT; WAIVER OF REQUIRE-**  
18                       **MENT TO REPAY.**

19       (a) EXTENSION.—

20           (1) IN GENERAL.—Section 36(h) is amended by  
21       striking “July 1, 2009” and inserting “December 1,  
22       2009”.

23           (2) CONFORMING AMENDMENT.—Section 36(g)  
24       is amended by striking “July 1, 2009” and inserting  
25       “December 1, 2009”.



1 (b) INCREASE.—

2 (1) IN GENERAL.—Section 36(b) is amended by  
3 striking “\$7,500” each place it appears and insert-  
4 ing “\$8,000”.

5 (2) CONFORMING AMENDMENT.—Section  
6 36(b)(1)(B) is amended by striking “\$3,750” and  
7 inserting “\$4,000”.

8 (c) WAIVER OF RECAPTURE.—

9 (1) IN GENERAL.—Paragraph (4) of section  
10 36(f) is amended by adding at the end the following  
11 new subparagraph:

12 “(D) WAIVER OF RECAPTURE FOR PUR-  
13 CHASES IN 2009.—In the case of any credit al-  
14 lowed with respect to the purchase of a prin-  
15 cipal residence after December 31, 2008, and  
16 before December 1, 2009—

17 “(i) paragraph (1) shall not apply,  
18 and

19 “(ii) paragraph (2) shall apply only if  
20 the disposition or cessation described in  
21 paragraph (2) with respect to such resi-  
22 dence occurs during the 36-month period  
23 beginning on the date of the purchase of  
24 such residence by the taxpayer.”.

1           (2) CONFORMING AMENDMENT.—Subsection (g)  
2       of section 36 is amended by striking “subsection  
3       (c)” and inserting “subsections (c) and (f)(4)(D)”.

4       (d) COORDINATION WITH FIRST-TIME HOMEBUYER  
5 CREDIT FOR DISTRICT OF COLUMBIA.—

6           (1) IN GENERAL.—Subsection (e) of section  
7       1400C is amended by adding at the end the fol-  
8       lowing new paragraph:

9           “(4) COORDINATION WITH NATIONAL FIRST-  
10       TIME HOMEBUYERS CREDIT.—No credit shall be al-  
11       lowed under this section to any taxpayer with re-  
12       spect to the purchase of a residence after December  
13       31, 2008, and before December 1, 2009, if a credit  
14       under section 36 is allowable to such taxpayer (or  
15       the taxpayer’s spouse) with respect to such pur-  
16       chase.”.

17          (2) CONFORMING AMENDMENT.—Section 36(d)  
18       is amended by striking paragraph (1).

19       (e) REMOVAL OF PROHIBITION ON FINANCING BY  
20 MORTGAGE REVENUE BONDS.—Section 36(d), as amend-  
21 ed by subsection (c)(2), is amended by striking paragraph  
22 (2) and by redesignating paragraphs (3) and (4) as para-  
23 graphs (1) and (2), respectively.

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to residences purchased after De-  
3 cember 31, 2008.

4 **SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEM-**  
5 **PLOYMENT COMPENSATION.**

6 (a) IN GENERAL.—Section 85 of the Internal Rev-  
7 enue Code of 1986 (relating to unemployment compensa-  
8 tion) is amended by adding at the end the following new  
9 subsection:

10 “(c) SPECIAL RULE FOR 2009.—In the case of any  
11 taxable year beginning in 2009, gross income shall not in-  
12 clude so much of the unemployment compensation received  
13 by an individual as does not exceed \$2,400.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2008.

17 **SEC. 1008. ADDITIONAL DEDUCTION FOR STATE SALES TAX**  
18 **AND EXCISE TAX ON THE PURCHASE OF CER-**  
19 **TAIN MOTOR VEHICLES.**

20 (a) IN GENERAL.—Subsection (a) of section 164 is  
21 amended by inserting after paragraph (5) the following  
22 new paragraph:

23 “(6) Qualified motor vehicle taxes.”.

1       (b) QUALIFIED MOTOR VEHICLE TAXES.—Sub-  
2 section (b) of section 164 is amended by adding at the  
3 end the following new paragraph:

4           “(6) QUALIFIED MOTOR VEHICLE TAXES.—

5               “(A) IN GENERAL.—For purposes of this  
6 section, the term ‘qualified motor vehicle taxes’  
7 means any State or local sales or excise tax im-  
8 posed on the purchase of a qualified motor vehi-  
9 cle.

10           “(B) LIMITATION BASED ON VEHICLE  
11 PRICE.—The amount of any State or local sales  
12 or excise tax imposed on the purchase of a  
13 qualified motor vehicle taken into account  
14 under subparagraph (A) shall not exceed the  
15 portion of such tax attributable to so much of  
16 the purchase price as does not exceed \$49,500.

17           “(C) INCOME LIMITATION.—The amount  
18 otherwise taken into account under subpara-  
19 graph (A) (after the application of subpara-  
20 graph (B)) for any taxable year shall be re-  
21 duced (but not below zero) by the amount  
22 which bears the same ratio to the amount which  
23 is so treated as—

24               “(i) the excess (if any) of—

1                   “(I) the taxpayer’s modified ad-  
2                   justed gross income for such taxable  
3                   year, over

4                   “(II) \$125,000 (\$250,000 in the  
5                   case of a joint return), bears to  
6                   “(ii) \$10,000.

7                   For purposes of the preceding sentence, the  
8                   term ‘modified adjusted gross income’ means  
9                   the adjusted gross income of the taxpayer for  
10                  the taxable year (determined without regard to  
11                  sections 911, 931, and 933).

12                  “(D) QUALIFIED MOTOR VEHICLE.—For  
13                  purposes of this paragraph—

14                  “(i) IN GENERAL.—The term ‘quali-  
15                  fied motor vehicle’ means—

16                  “(I) a passenger automobile or  
17                  light truck which is treated as a  
18                  motor vehicle for purposes of title II  
19                  of the Clean Air Act, the gross vehicle  
20                  weight rating of which is not more  
21                  than 8,500 pounds, and the original  
22                  use of which commences with the tax-  
23                  payer,

24                  “(II) a motorcycle the gross vehi-  
25                  cle weight rating of which is not more

1                   than 8,500 pounds and the original  
2                   use of which commences with the tax-  
3                   payer, and

4                   “(III) a motor home the original  
5                   use of which commences with the tax-  
6                   payer.

7                   “(ii) OTHER TERMS.—The terms ‘mo-  
8                   torcycle’ and ‘motor home’ have the mean-  
9                   ings given such terms under section 571.3  
10                  of title 49, Code of Federal Regulations  
11                  (as in effect on the date of the enactment  
12                  of this paragraph).

13                  “(E) QUALIFIED MOTOR VEHICLE TAXES  
14                  NOT INCLUDED IN COST OF ACQUIRED PROP-  
15                  ERTY.—The last sentence of subsection (a)  
16                  shall not apply to any qualified motor vehicle  
17                  taxes.

18                  “(F) COORDINATION WITH GENERAL  
19                  SALES TAX.—This paragraph shall not apply in  
20                  the case of a taxpayer who makes an election  
21                  under paragraph (5) for the taxable year.

22                  “(G) TERMINATION.—This paragraph  
23                  shall not apply to purchases after December 31,  
24                  2009.”.

25                  (c) DEDUCTION ALLOWED TO NONITEMIZERS.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2       63(c) is amended by striking “and” at the end of  
3       subparagraph (C), by striking the period at the end  
4       of subparagraph (D) and inserting “, and”, and by  
5       adding at the end the following new subparagraph:

6           “(E) the motor vehicle sales tax deduc-  
7       tion.”.

8           (2) DEFINITION.—Section 63(c) is amended by  
9       adding at the end the following new paragraph:

10          “(9) MOTOR VEHICLE SALES TAX DEDUC-  
11       TION.—For purposes of paragraph (1), the term  
12       ‘motor vehicle sales tax deduction’ means the  
13       amount allowable as a deduction under section  
14       164(a)(6). Such term shall not include any amount  
15       taken into account under section 62(a).”.

16          (d) TREATMENT OF DEDUCTION UNDER ALTER-  
17       NATIVE MINIMUM TAX.—The last sentence of section  
18       56(b)(1)(E) is amended by striking “section 63(c)(1)(D)”  
19       and inserting “subparagraphs (D) and (E) of section  
20       63(c)(1)”.

21          (e) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to purchases on or after the date  
23       of the enactment of this Act in taxable years ending after  
24       such date.

1     **PART II—ALTERNATIVE MINIMUM TAX RELIEF**

2     **SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**  
3                   **LIEF FOR NONREFUNDABLE PERSONAL**  
4                   **CREDITS.**

5       (a) IN GENERAL.—Paragraph (2) of section 26(a)  
6 (relating to special rule for taxable years 2000 through  
7 2008) is amended—

8           (1) by striking “or 2008” and inserting “2008,  
9 or 2009”, and

10          (2) by striking “**2008**” in the heading thereof  
11 and inserting “**2009**”.

12       (b) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 2008.

15     **SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MIN-**  
16                   **IMUM TAX EXEMPTION AMOUNT.**

17       (a) IN GENERAL.—Paragraph (1) of section 55(d)  
18 (relating to exemption amount) is amended—

19           (1) by striking “(\$69,950 in the case of taxable  
20 years beginning in 2008)” in subparagraph (A) and  
21 inserting “(\$70,950 in the case of taxable years be-  
22 ginning in 2009)”, and

23           (2) by striking “(\$46,200 in the case of taxable  
24 years beginning in 2008)” in subparagraph (B) and  
25 inserting “(\$46,700 in the case of taxable years be-  
26 ginning in 2009)”.



1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2008.

4 **Subtitle B—Energy Incentives**

5 **PART I—RENEWABLE ENERGY INCENTIVES**

6 **SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**  
7 **DUCED FROM CERTAIN RENEWABLE RE-**  
8 **SOURCES.**

9 (a) IN GENERAL.—Subsection (d) of section 45 is  
10 amended—

11 (1) by striking “2010” in paragraph (1) and in-  
12 serting “2013”,

13 (2) by striking “2011” each place it appears in  
14 paragraphs (2), (3), (4), (6), (7) and (9) and insert-  
15 ing “2014”, and

16 (3) by striking “2012” in paragraph (11)(B)  
17 and inserting “2014”.

18 (b) TECHNICAL AMENDMENT.—Paragraph (5) of  
19 section 45(d) is amended by striking “and before” and  
20 all that follows and inserting “ and before October 3,  
21 2008.”.

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by  
24 subsection (a) shall apply to property placed in serv-  
25 ice after the date of the enactment of this Act.

1           (2) TECHNICAL AMENDMENT.—The amendment  
2       made by subsection (b) shall take effect as if in-  
3       cluded in section 102 of the Energy Improvement  
4       and Extension Act of 2008.

5   **SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF**  
6                   **PRODUCTION CREDIT.**

7       (a) IN GENERAL.—Subsection (a) of section 48 is  
8       amended by adding at the end the following new para-  
9       graph:

10           “(5) ELECTION TO TREAT QUALIFIED FACILI-  
11       TIES AS ENERGY PROPERTY.—

12           “(A) IN GENERAL.—In the case of any  
13       qualified property which is part of a qualified  
14       investment credit facility—

15                   “(i) such property shall be treated as  
16       energy property for purposes of this sec-  
17       tion, and

18                   “(ii) the energy percentage with re-  
19       spect to such property shall be 30 percent.

20           “(B) DENIAL OF PRODUCTION CREDIT.—  
21       No credit shall be allowed under section 45 for  
22       any taxable year with respect to any qualified  
23       investment credit facility.

24           “(C) QUALIFIED INVESTMENT CREDIT FA-  
25       CILITY.—For purposes of this paragraph, the

1 term ‘qualified investment credit facility’ means  
2 any of the following facilities if no credit has  
3 been allowed under section 45 with respect to  
4 such facility and the taxpayer makes an irrev-  
5 ocable election to have this paragraph apply to  
6 such facility:

7 “(i) WIND FACILITIES.—Any qualified  
8 facility (within the meaning of section 45)  
9 described in paragraph (1) of section 45(d)  
10 if such facility is placed in service in 2009,  
11 2010, 2011, or 2012.

12 “(ii) OTHER FACILITIES.—Any quali-  
13 fied facility (within the meaning of section  
14 45) described in paragraph (2), (3), (4),  
15 (6), (7), (9), or (11) of section 45(d) if  
16 such facility is placed in service in 2009,  
17 2010, 2011, 2012, or 2013.

18 “(D) QUALIFIED PROPERTY.—For pur-  
19 poses of this paragraph, the term ‘qualified  
20 property’ means property—

21 “(i) which is—

22 “(I) tangible personal property,  
23 or

24 “(II) other tangible property (not  
25 including a building or its structural

1 components), but only if such prop-  
2 erty is used as an integral part of the  
3 qualified investment credit facility,  
4 and  
5 “(ii) with respect to which deprecia-  
6 tion (or amortization in lieu of deprecia-  
7 tion) is allowable.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to facilities placed in service after  
10 December 31, 2008.

11 **SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT**  
12 **FOR RENEWABLE ENERGY PROPERTY.**

13 (a) **REPEAL OF LIMITATION ON CREDIT FOR QUALI-**  
14 **FIED SMALL WIND ENERGY PROPERTY.**—Paragraph (4)  
15 of section 48(c) is amended by striking subparagraph (B)  
16 and by redesignating subparagraphs (C) and (D) as sub-  
17 paragraphs (B) and (C).

18 (b) **REPEAL OF LIMITATION ON PROPERTY FI-**  
19 **NANCED BY SUBSIDIZED ENERGY FINANCING.**—

20 (1) **IN GENERAL.**—Section 48(a)(4) is amended  
21 by adding at the end the following new subpara-  
22 graph:

23 “(D) **TERMINATION.**—This paragraph  
24 shall not apply to periods after December 31,  
25 2008, under rules similar to the rules of section

1           48(m) (as in effect on the day before the date  
2           of the enactment of the Revenue Reconciliation  
3           Act of 1990).”.

4           (2) CONFORMING AMENDMENTS.—

5                 (A) Section 25C(e)(1) is amended by strik-  
6           ing “(8), and (9)” and inserting “and (8)”.

7                 (B) Section 25D(e) is amended by striking  
8           paragraph (9).

9                 (C) Section 48A(b)(2) is amended by in-  
10          serting “(without regard to subparagraph (D)  
11          thereof)” after “section 48(a)(4)”.

12                (D) Section 48B(b)(2) is amended by in-  
13          serting “(without regard to subparagraph (D)  
14          thereof)” after “section 48(a)(4)”.

15          (c) EFFECTIVE DATE.—

16                (1) IN GENERAL.—Except as provided in para-  
17          graph (2), the amendment made by this section shall  
18          apply to periods after December 31, 2008, under  
19          rules similar to the rules of section 48(m) of the In-  
20          ternal Revenue Code of 1986 (as in effect on the day  
21          before the date of the enactment of the Revenue  
22          Reconciliation Act of 1990).

23                (2) CONFORMING AMENDMENTS.—The amend-  
24          ments made by subparagraphs (A) and (B) of sub-

1       section (b)(2) shall apply to taxable years beginning  
2       after December 31, 2008.

3       **SEC. 1104. COORDINATION WITH RENEWABLE ENERGY**  
4               **GRANTS.**

5       Section 48 is amended by adding at the end the fol-  
6       lowing new subsection:

7       “(d) COORDINATION WITH DEPARTMENT OF TREAS-  
8       URY GRANTS.—In the case of any property with respect  
9       to which the Secretary makes a grant under section 1603  
10      of the American Recovery and Reinvestment Tax Act of  
11      2009—

12           “(1) DENIAL OF PRODUCTION AND INVEST-  
13      MENT CREDITS.—No credit shall be determined  
14      under this section or section 45 with respect to such  
15      property for the taxable year in which such grant is  
16      made or any subsequent taxable year.

17           “(2) RECAPTURE OF CREDITS FOR PROGRESS  
18      EXPENDITURES MADE BEFORE GRANT.—If a credit  
19      was determined under this section with respect to  
20      such property for any taxable year ending before  
21      such grant is made—

22           “(A) the tax imposed under subtitle A on  
23      the taxpayer for the taxable year in which such  
24      grant is made shall be increased by so much of  
25      such credit as was allowed under section 38,

1 “(B) the general business carryforwards  
2 under section 39 shall be adjusted so as to re-  
3 capture the portion of such credit which was  
4 not so allowed, and

5 “(C) the amount of such grant shall be de-  
6 termined without regard to any reduction in the  
7 basis of such property by reason of such credit.

8 “(3) TREATMENT OF GRANTS.—Any such grant  
9 shall—

10 “(A) not be includible in the gross income  
11 of the taxpayer, but

12 “(B) shall be taken into account in deter-  
13 mining the basis of the property to which such  
14 grant relates, except that the basis of such  
15 property shall be reduced under section 50(c) in  
16 the same manner as a credit allowed under sub-  
17 section (a).”.

18 **PART II—INCREASED ALLOCATIONS OF NEW**  
19 **CLEAN RENEWABLE ENERGY BONDS AND**  
20 **QUALIFIED ENERGY CONSERVATION BONDS**  
21 **SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW**  
22 **CLEAN RENEWABLE ENERGY BONDS.**

23 Subsection (c) of section 54C is amended by adding  
24 at the end the following new paragraph:

1           “(4) ADDITIONAL LIMITATION.—The national  
2           new clean renewable energy bond limitation shall be  
3           increased by \$1,600,000,000. Such increase shall be  
4           allocated by the Secretary consistent with the rules  
5           of paragraphs (2) and (3).”.

6   **SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF**  
7           **QUALIFIED ENERGY CONSERVATION BONDS.**

8           (a) IN GENERAL.—Section 54D(d) is amended by  
9           striking “\$800,000,000” and inserting “\$3,200,000,000”.

10          (b) CLARIFICATION WITH RESPECT TO GREEN COM-  
11          MUNITY PROGRAMS.—

12               (1) IN GENERAL.—Clause (ii) of section  
13               54D(f)(1)(A) is amended by inserting “(including  
14               the use of loans, grants, or other repayment mecha-  
15               nisms to implement such programs)” after “green  
16               community programs”.

17               (2) SPECIAL RULES FOR BONDS FOR IMPLE-  
18               MENTING GREEN COMMUNITY PROGRAMS.—Sub-  
19               section (e) of section 54D is amended by adding at  
20               the end the following new paragraph:

21               “(4) SPECIAL RULES FOR BONDS TO IMPLE-  
22               MENT GREEN COMMUNITY PROGRAMS.—In the case  
23               of any bond issued for the purpose of providing  
24               loans, grants, or other repayment mechanisms for  
25               capital expenditures to implement green community



1 programs, such bond shall not be treated as a pri-  
2 vate activity bond for purposes of paragraph (3).”.

3 **PART III—ENERGY CONSERVATION INCENTIVES**

4 **SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR**  
5 **NONBUSINESS ENERGY PROPERTY.**

6 (a) IN GENERAL.—Section 25C is amended by strik-  
7 ing subsections (a) and (b) and inserting the following new  
8 subsections:

9 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
10 dividual, there shall be allowed as a credit against the tax  
11 imposed by this chapter for the taxable year an amount  
12 equal to 30 percent of the sum of—

13 “(1) the amount paid or incurred by the tax-  
14 payer during such taxable year for qualified energy  
15 efficiency improvements, and

16 “(2) the amount of the residential energy prop-  
17 erty expenditures paid or incurred by the taxpayer  
18 during such taxable year.

19 “(b) LIMITATION.—The aggregate amount of the  
20 credits allowed under this section for taxable years begin-  
21 ning in 2009 and 2010 with respect to any taxpayer shall  
22 not exceed \$1,500.”.

23 (b) MODIFICATIONS OF STANDARDS FOR ENERGY-  
24 EFFICIENT BUILDING PROPERTY.—

1           (1) ELECTRIC HEAT PUMPS.—Subparagraph  
2           (B) of section 25C(d)(3) is amended to read as fol-  
3           lows:

4                   “(B) an electric heat pump which achieves  
5           the highest efficiency tier established by the  
6           Consortium for Energy Efficiency, as in effect  
7           on January 1, 2009.”.

8           (2) CENTRAL AIR CONDITIONERS.—Subpara-  
9           graph (C) of section 25C(d)(3) is amended by strik-  
10          ing “2006” and inserting “2009”.

11          (3) WATER HEATERS.—Subparagraph (D) of  
12          section 25C(d)(3) is amended to read as follows:

13                   “(D) a natural gas, propane, or oil water  
14          heater which has either an energy factor of at  
15          least 0.82 or a thermal efficiency of at least 90  
16          percent.”.

17          (4) WOOD STOVES.—Subparagraph (E) of sec-  
18          tion 25C(d)(3) is amended by inserting “, as meas-  
19          ured using a lower heating value” after “75 per-  
20          cent”.

21          (c) MODIFICATIONS OF STANDARDS FOR OIL FUR-  
22          NACES AND HOT WATER BOILERS.—

23                  (1) IN GENERAL.—Paragraph (4) of section  
24          25C(d) is amended to read as follows:

1           “(4) QUALIFIED NATURAL GAS, PROPANE, AND  
2 OIL FURNACES AND HOT WATER BOILERS.—

3           “(A) QUALIFIED NATURAL GAS FUR-  
4 NACE.—The term ‘qualified natural gas fur-  
5 nace’ means any natural gas furnace which  
6 achieves an annual fuel utilization efficiency  
7 rate of not less than 95.

8           “(B) QUALIFIED NATURAL GAS HOT  
9 WATER BOILER.—The term ‘qualified natural  
10 gas hot water boiler’ means any natural gas hot  
11 water boiler which achieves an annual fuel utili-  
12 zation efficiency rate of not less than 90.

13           “(C) QUALIFIED PROPANE FURNACE.—  
14 The term ‘qualified propane furnace’ means any  
15 propane furnace which achieves an annual fuel  
16 utilization efficiency rate of not less than 95.

17           “(D) QUALIFIED PROPANE HOT WATER  
18 BOILER.—The term ‘qualified propane hot  
19 water boiler’ means any propane hot water boil-  
20 er which achieves an annual fuel utilization effi-  
21 ciency rate of not less than 90.

22           “(E) QUALIFIED OIL FURNACES.—The  
23 term ‘qualified oil furnace’ means any oil fur-  
24 nace which achieves an annual fuel utilization  
25 efficiency rate of not less than 90.

1                   “(F) QUALIFIED OIL HOT WATER BOIL-  
2                   ER.—The term ‘qualified oil hot water boiler’  
3                   means any oil hot water boiler which achieves  
4                   an annual fuel utilization efficiency rate of not  
5                   less than 90.”.

6                   (2) CONFORMING AMENDMENT.—Clause (ii) of  
7                   section 25C(d)(2)(A) is amended to read as follows:

8                   “(ii) any qualified natural gas fur-  
9                   nace, qualified propane furnace, qualified  
10                  oil furnace, qualified natural gas hot water  
11                  boiler, qualified propane hot water boiler,  
12                  or qualified oil hot water boiler, or”.

13                  (d) MODIFICATIONS OF STANDARDS FOR QUALIFIED  
14                  ENERGY EFFICIENCY IMPROVEMENTS.—

15                  (1) QUALIFICATIONS FOR EXTERIOR WINDOWS,  
16                  DOORS, AND SKYLIGHTS.—Subsection (c) of section  
17                  25C is amended by adding at the end the following  
18                  new paragraph:

19                  “(4) QUALIFICATIONS FOR EXTERIOR WIN-  
20                  DOWS, DOORS, AND SKYLIGHTS.—Such term shall  
21                  not include any component described in subpara-  
22                  graph (B) or (C) of paragraph (2) unless such com-  
23                  ponent is equal to or below a U factor of 0.30 and  
24                  SHGC of 0.30.”.

1           (2) ADDITIONAL QUALIFICATION FOR INSULA-  
2           TION.—Subparagraph (A) of section 25C(c)(2) is  
3           amended by inserting “and meets the prescriptive  
4           criteria for such material or system established by  
5           the 2009 International Energy Conservation Code,  
6           as such Code (including supplements) is in effect on  
7           the date of the enactment of the American Recovery  
8           and Reinvestment Tax Act of 2009” after “such  
9           dwelling unit”.

10          (e) EXTENSION.—Section 25C(g)(2) is amended by  
11       striking “December 31, 2009” and inserting “December  
12       31, 2010”.

13          (f) EFFECTIVE DATES.—

14               (1) IN GENERAL.—Except as provided in para-  
15               graph (2), the amendments made by this section  
16               shall apply to taxable years beginning after Decem-  
17               ber 31, 2008.

18               (2) EFFICIENCY STANDARDS.—The amend-  
19               ments made by paragraphs (1), (2), and (3) of sub-  
20               section (b) and subsections (c) and (d) shall apply  
21               to property placed in service after the date of the en-  
22               actment of this Act.

1 **SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL**  
2 **ENERGY EFFICIENT PROPERTY.**

3 (a) REMOVAL OF CREDIT LIMITATION FOR PROP-  
4 erty PLACED IN SERVICE.—

5 (1) IN GENERAL.—Paragraph (1) of section  
6 25D(b) is amended to read as follows:

7 “(1) MAXIMUM CREDIT FOR FUEL CELLS.—In  
8 the case of any qualified fuel cell property expendi-  
9 ture, the credit allowed under subsection (a) (deter-  
10 mined without regard to subsection (c)) for any tax-  
11 able year shall not exceed \$500 with respect to each  
12 half kilowatt of capacity of the qualified fuel cell  
13 property (as defined in section 48(c)(1)) to which  
14 such expenditure relates.”.

15 (2) CONFORMING AMENDMENT.—Paragraph (4)  
16 of section 25D(e) is amended—

17 (A) by striking all that precedes subpara-  
18 graph (B) and inserting the following:

19 “(4) FUEL CELL EXPENDITURE LIMITATIONS  
20 IN CASE OF JOINT OCCUPANCY.—In the case of any  
21 dwelling unit with respect to which qualified fuel cell  
22 property expenditures are made and which is jointly  
23 occupied and used during any calendar year as a  
24 residence by two or more individuals, the following  
25 rules shall apply:

1           “(A) MAXIMUM EXPENDITURES FOR FUEL  
2           CELLS.—The maximum amount of such ex-  
3           penditures which may be taken into account  
4           under subsection (a) by all such individuals  
5           with respect to such dwelling unit during such  
6           calendar year shall be \$1,667 in the case of  
7           each half kilowatt of capacity of qualified fuel  
8           cell property (as defined in section 48(c)(1))  
9           with respect to which such expenditures re-  
10          late.”, and

11                 (B) by striking subparagraph (C).

12          (b) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to taxable years beginning after  
14          December 31, 2008.

15   **SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTER-**  
16                   **NATIVE FUEL VEHICLE REFUELING PROP-**  
17                   **ERTY.**

18          (a) IN GENERAL.—Section 30C(e) is amended by  
19          adding at the end the following new paragraph:

20                 “(6) SPECIAL RULE FOR PROPERTY PLACED IN  
21                 SERVICE DURING 2009 AND 2010.—In the case of  
22                 property placed in service in taxable years beginning  
23                 after December 31, 2008, and before January 1,  
24                 2011—

1 “(A) in the case of any such property  
2 which does not relate to hydrogen—

3 “(i) subsection (a) shall be applied by  
4 substituting ‘50 percent’ for ‘30 percent’,

5 “(ii) subsection (b)(1) shall be applied  
6 by substituting ‘\$50,000’ for ‘\$30,000’,  
7 and

8 “(iii) subsection (b)(2) shall be ap-  
9 plied by substituting ‘\$2,000’ for ‘\$1,000’,  
10 and

11 “(B) in the case of any such property  
12 which relates to hydrogen, subsection (b)(1)  
13 shall be applied by substituting ‘\$200,000’ for  
14 ‘\$30,000’.”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2008.

18 **PART IV—MODIFICATION OF CREDIT FOR**  
19 **CARBON DIOXIDE SEQUESTRATION**

20 **SEC. 1131. APPLICATION OF MONITORING REQUIREMENTS**  
21 **TO CARBON DIOXIDE USED AS A TERTIARY**  
22 **INJECTANT.**

23 (a) IN GENERAL.—Section 45Q(a)(2) is amended by  
24 striking “and” at the end of subparagraph (A), by striking  
25 the period at the end of subparagraph (B) and inserting



1 “, and”, and by adding at the end the following new sub-  
2 paragraph:

3 “(C) disposed of by the taxpayer in secure  
4 geological storage.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 45Q(d)(2) is amended—

7 (A) by striking “subsection (a)(1)(B)” and  
8 inserting “paragraph (1)(B) or (2)(C) of sub-  
9 section (a)”,

10 (B) by striking “and unminable coal  
11 seems” and inserting “, oil and gas reservoirs,  
12 and unminable coal seams”, and

13 (C) by inserting “the Secretary of Energy,  
14 and the Secretary of the Interior,” after “Envi-  
15 ronmental Protection Agency”.

16 (2) Section 45Q(a)(1)(B) is amended by insert-  
17 ing “and not used by the taxpayer as described in  
18 paragraph (2)(B)” after “storage”.

19 (3) Section 45Q(e) is amended by striking  
20 “captured and disposed of or used as a tertiary  
21 injectant” and inserting “taken into account in ac-  
22 cordance with subsection (a)”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to carbon dioxide captured after  
25 the date of the enactment of this Act.

1       **PART V—PLUG-IN ELECTRIC DRIVE MOTOR**  
2                                   **VEHICLES**

3   **SEC. 1141. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC**  
4                                   **DRIVE MOTOR VEHICLES.**

5       (a) IN GENERAL.—Section 30D is amended to read  
6 as follows:

7   **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE**  
8                                   **MOTOR VEHICLES.**

9       “(a) ALLOWANCE OF CREDIT.—There shall be al-  
10 lowed as a credit against the tax imposed by this chapter  
11 for the taxable year an amount equal to the sum of the  
12 credit amounts determined under subsection (b) with re-  
13 spect to each new qualified plug-in electric drive motor ve-  
14 hicle placed in service by the taxpayer during the taxable  
15 year.

16       “(b) PER VEHICLE DOLLAR LIMITATION.—

17               “(1) IN GENERAL.—The amount determined  
18 under this subsection with respect to any new quali-  
19 fied plug-in electric drive motor vehicle is the sum  
20 of the amounts determined under paragraphs (2)  
21 and (3) with respect to such vehicle.

22               “(2) BASE AMOUNT.—The amount determined  
23 under this paragraph is \$2,500.

24               “(3) BATTERY CAPACITY.—In the case of a ve-  
25 hicle which draws propulsion energy from a battery  
26 with not less than 5 kilowatt hours of capacity, the

1 amount determined under this paragraph is \$417,  
2 plus \$417 for each kilowatt hour of capacity in ex-  
3 cess of 5 kilowatt hours. The amount determined  
4 under this paragraph shall not exceed \$5,000.

5 “(c) APPLICATION WITH OTHER CREDITS.—

6 “(1) BUSINESS CREDIT TREATED AS PART OF  
7 GENERAL BUSINESS CREDIT.—So much of the credit  
8 which would be allowed under subsection (a) for any  
9 taxable year (determined without regard to this sub-  
10 section) that is attributable to property of a char-  
11 acter subject to an allowance for depreciation shall  
12 be treated as a credit listed in section 38(b) for such  
13 taxable year (and not allowed under subsection (a)).

14 “(2) PERSONAL CREDIT.—

15 “(A) IN GENERAL.—For purposes of this  
16 title, the credit allowed under subsection (a) for  
17 any taxable year (determined after application  
18 of paragraph (1)) shall be treated as a credit  
19 allowable under subpart A for such taxable  
20 year.

21 “(B) LIMITATION BASED ON AMOUNT OF  
22 TAX.—In the case of a taxable year to which  
23 section 26(a)(2) does not apply, the credit al-  
24 lowed under subsection (a) for any taxable year

1 (determined after application of paragraph (1))  
2 shall not exceed the excess of—

3 “(i) the sum of the regular tax liabil-  
4 ity (as defined in section 26(b)) plus the  
5 tax imposed by section 55, over

6 “(ii) the sum of the credits allowable  
7 under subpart A (other than this section  
8 and sections 23 and 25D) and section 27  
9 for the taxable year.

10 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE  
11 MOTOR VEHICLE.—For purposes of this section—

12 “(1) IN GENERAL.—The term ‘new qualified  
13 plug-in electric drive motor vehicle’ means a motor  
14 vehicle—

15 “(A) the original use of which commences  
16 with the taxpayer,

17 “(B) which is acquired for use or lease by  
18 the taxpayer and not for resale,

19 “(C) which is made by a manufacturer,

20 “(D) which is treated as a motor vehicle  
21 for purposes of title II of the Clean Air Act,

22 “(E) which has a gross vehicle weight rat-  
23 ing of less than 14,000 pounds, and

1           “(F) which is propelled to a significant ex-  
2           tent by an electric motor which draws electricity  
3           from a battery which—

4                   “(i) has a capacity of not less than 4  
5           kilowatt hours, and

6                   “(ii) is capable of being recharged  
7           from an external source of electricity.

8           “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
9           cle’ means any vehicle which is manufactured pri-  
10          marily for use on public streets, roads, and highways  
11          (not including a vehicle operated exclusively on a rail  
12          or rails) and which has at least 4 wheels.

13          “(3) MANUFACTURER.—The term ‘manufac-  
14          turer’ has the meaning given such term in regula-  
15          tions prescribed by the Administrator of the Envi-  
16          ronmental Protection Agency for purposes of the ad-  
17          ministration of title II of the Clean Air Act (42  
18          U.S.C. 7521 et seq.).

19          “(4) BATTERY CAPACITY.—The term ‘capacity’  
20          means, with respect to any battery, the quantity of  
21          electricity which the battery is capable of storing, ex-  
22          pressed in kilowatt hours, as measured from a 100  
23          percent state of charge to a 0 percent state of  
24          charge.

1       “(e) LIMITATION ON NUMBER OF NEW QUALIFIED  
2 PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE  
3 FOR CREDIT.—

4           “(1) IN GENERAL.—In the case of a new quali-  
5 fied plug-in electric drive motor vehicle sold during  
6 the phaseout period, only the applicable percentage  
7 of the credit otherwise allowable under subsection  
8 (a) shall be allowed.

9           “(2) PHASEOUT PERIOD.—For purposes of this  
10 subsection, the phaseout period is the period begin-  
11 ning with the second calendar quarter following the  
12 calendar quarter which includes the first date on  
13 which the number of new qualified plug-in electric  
14 drive motor vehicles manufactured by the manufac-  
15 turer of the vehicle referred to in paragraph (1) sold  
16 for use in the United States after December 31,  
17 2009, is at least 200,000.

18           “(3) APPLICABLE PERCENTAGE.—For purposes  
19 of paragraph (1), the applicable percentage is—

20           “(A) 50 percent for the first 2 calendar  
21 quarters of the phaseout period,

22           “(B) 25 percent for the 3d and 4th cal-  
23 endar quarters of the phaseout period, and

24           “(C) 0 percent for each calendar quarter  
25 thereafter.

1           “(4) CONTROLLED GROUPS.—Rules similar to  
2           the rules of section 30B(f)(4) shall apply for pur-  
3           poses of this subsection.

4           “(f) SPECIAL RULES.—

5           “(1) BASIS REDUCTION.—For purposes of this  
6           subtitle, the basis of any property for which a credit  
7           is allowable under subsection (a) shall be reduced by  
8           the amount of such credit so allowed.

9           “(2) NO DOUBLE BENEFIT.—The amount of  
10          any deduction or other credit allowable under this  
11          chapter for a new qualified plug-in electric drive  
12          motor vehicle shall be reduced by the amount of  
13          credit allowed under subsection (a) for such vehicle.

14          “(3) PROPERTY USED BY TAX-EXEMPT ENTI-  
15          TY.—In the case of a vehicle the use of which is de-  
16          scribed in paragraph (3) or (4) of section 50(b) and  
17          which is not subject to a lease, the person who sold  
18          such vehicle to the person or entity using such vehi-  
19          cle shall be treated as the taxpayer that placed such  
20          vehicle in service, but only if such person clearly dis-  
21          closes to such person or entity in a document the  
22          amount of any credit allowable under subsection (a)  
23          with respect to such vehicle (determined without re-  
24          gard to subsection (c)).

1           “(4) PROPERTY USED OUTSIDE UNITED STATES  
2 NOT QUALIFIED.—No credit shall be allowable under  
3 subsection (a) with respect to any property referred  
4 to in section 50(b)(1).

5           “(5) RECAPTURE.—The Secretary shall, by reg-  
6 ulations, provide for recapturing the benefit of any  
7 credit allowable under subsection (a) with respect to  
8 any property which ceases to be property eligible for  
9 such credit.

10          “(6) ELECTION NOT TO TAKE CREDIT.—No  
11 credit shall be allowed under subsection (a) for any  
12 vehicle if the taxpayer elects to not have this section  
13 apply to such vehicle.

14          “(7) INTERACTION WITH AIR QUALITY AND  
15 MOTOR VEHICLE SAFETY STANDARDS.—A motor ve-  
16 hicle shall not be considered eligible for a credit  
17 under this section unless such vehicle is in compli-  
18 ance with—

19               “(A) the applicable provisions of the Clean  
20 Air Act for the applicable make and model year  
21 of the vehicle (or applicable air quality provi-  
22 sions of State law in the case of a State which  
23 has adopted such provision under a waiver  
24 under section 209(b) of the Clean Air Act), and



1 “(B) the motor vehicle safety provisions of  
2 sections 30101 through 30169 of title 49,  
3 United States Code.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 30B(d)(3)(D) is amended by strik-  
6 ing “subsection (d) thereof” and inserting “sub-  
7 section (c) thereof”.

8 (2) Section 38(b)(35) is amended by striking  
9 “30D(d)(1)” and inserting “30D(c)(1)”.

10 (3) Section 1016(a)(25) is amended by striking  
11 “section 30D(e)(4)” and inserting “section  
12 30D(f)(1)”.

13 (4) Section 6501(m) is amended by striking  
14 “section 30D(e)(9)” and inserting “section  
15 30D(e)(4)”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to vehicles acquired after Decem-  
18 ber 31, 2009.

19 **SEC. 1142. CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHI-**  
20 **CLES.**

21 (a) IN GENERAL.—Section 30 is amended to read as  
22 follows:

23 **“SEC. 30. CERTAIN PLUG-IN ELECTRIC VEHICLES.**

24 **“(a) ALLOWANCE OF CREDIT.—**There shall be al-  
25 **lowed as a credit against the tax imposed by this chapter**

1 for the taxable year an amount equal to 10 percent of the  
2 cost of any qualified plug-in electric vehicle placed in serv-  
3 ice by the taxpayer during the taxable year.

4 “(b) PER VEHICLE DOLLAR LIMITATION.—The  
5 amount of the credit allowed under subsection (a) with  
6 respect to any vehicle shall not exceed \$2,500.

7 “(c) APPLICATION WITH OTHER CREDITS.—

8 “(1) BUSINESS CREDIT TREATED AS PART OF  
9 GENERAL BUSINESS CREDIT.—So much of the credit  
10 which would be allowed under subsection (a) for any  
11 taxable year (determined without regard to this sub-  
12 section) that is attributable to property of a char-  
13 acter subject to an allowance for depreciation shall  
14 be treated as a credit listed in section 38(b) for such  
15 taxable year (and not allowed under subsection (a)).

16 “(2) PERSONAL CREDIT.—

17 “(A) IN GENERAL.—For purposes of this  
18 title, the credit allowed under subsection (a) for  
19 any taxable year (determined after application  
20 of paragraph (1)) shall be treated as a credit  
21 allowable under subpart A for such taxable  
22 year.

23 “(B) LIMITATION BASED ON AMOUNT OF  
24 TAX.—In the case of a taxable year to which  
25 section 26(a)(2) does not apply, the credit al-

1           lowed under subsection (a) for any taxable year  
2           (determined after application of paragraph (1))  
3           shall not exceed the excess of—

4                   “(i) the sum of the regular tax liabil-  
5                   ity (as defined in section 26(b)) plus the  
6                   tax imposed by section 55, over

7                   “(ii) the sum of the credits allowable  
8                   under subpart A (other than this section  
9                   and sections 23, 25D, and 30D) and sec-  
10                  tion 27 for the taxable year.

11          “(d) QUALIFIED PLUG-IN ELECTRIC VEHICLE.—For  
12          purposes of this section—

13               “(1) IN GENERAL.—The term ‘qualified plug-in  
14               electric vehicle’ means a specified vehicle—

15                   “(A) the original use of which commences  
16                   with the taxpayer,

17                   “(B) which is acquired for use or lease by  
18                   the taxpayer and not for resale,

19                   “(C) which is made by a manufacturer,

20                   “(D) which is manufactured primarily for  
21                   use on public streets, roads, and highways,

22                   “(E) which has a gross vehicle weight rat-  
23                   ing of less than 14,000 pounds, and

1           “(F) which is propelled to a significant ex-  
2           tent by an electric motor which draws electricity  
3           from a battery which—

4                   “(i) has a capacity of not less than 4  
5           kilowatt hours (2.5 kilowatt hours in the  
6           case of a vehicle with 2 or 3 wheels), and

7                   “(ii) is capable of being recharged  
8           from an external source of electricity.

9           “(2) SPECIFIED VEHICLE.—The term ‘specified  
10          vehicle’ means any vehicle which—

11                   “(A) is a low speed vehicle within the  
12          meaning of section 571.3 of title 49, Code of  
13          Federal Regulations (as in effect on the date of  
14          the enactment of the American Recovery and  
15          Reinvestment Tax Act of 2009), or

16                   “(B) has 2 or 3 wheels.

17           “(3) MANUFACTURER.—The term ‘manufac-  
18          turer’ has the meaning given such term in regula-  
19          tions prescribed by the Administrator of the Envi-  
20          ronmental Protection Agency for purposes of the ad-  
21          ministration of title II of the Clean Air Act (42  
22          U.S.C. 7521 et seq.).

23           “(4) BATTERY CAPACITY.—The term ‘capacity’  
24          means, with respect to any battery, the quantity of  
25          electricity which the battery is capable of storing, ex-

1       pressed in kilowatt hours, as measured from a 100  
2       percent state of charge to a 0 percent state of  
3       charge.

4       “(e) SPECIAL RULES.—

5               “(1) BASIS REDUCTION.—For purposes of this  
6       subtitle, the basis of any property for which a credit  
7       is allowable under subsection (a) shall be reduced by  
8       the amount of such credit so allowed.

9               “(2) NO DOUBLE BENEFIT.—The amount of  
10      any deduction or other credit allowable under this  
11      chapter for a new qualified plug-in electric drive  
12      motor vehicle shall be reduced by the amount of  
13      credit allowable under subsection (a) for such vehi-  
14      cle.

15              “(3) PROPERTY USED BY TAX-EXEMPT ENTI-  
16      TY.—In the case of a vehicle the use of which is de-  
17      scribed in paragraph (3) or (4) of section 50(b) and  
18      which is not subject to a lease, the person who sold  
19      such vehicle to the person or entity using such vehi-  
20      cle shall be treated as the taxpayer that placed such  
21      vehicle in service, but only if such person clearly dis-  
22      closes to such person or entity in a document the  
23      amount of any credit allowable under subsection (a)  
24      with respect to such vehicle (determined without re-  
25      gard to subsection (c)).

1           “(4) PROPERTY USED OUTSIDE UNITED STATES  
2       NOT QUALIFIED.—No credit shall be allowable under  
3       subsection (a) with respect to any property referred  
4       to in section 50(b)(1).

5           “(5) RECAPTURE.—The Secretary shall, by reg-  
6       ulations, provide for recapturing the benefit of any  
7       credit allowable under subsection (a) with respect to  
8       any property which ceases to be property eligible for  
9       such credit.

10          “(6) ELECTION NOT TO TAKE CREDIT.—No  
11       credit shall be allowed under subsection (a) for any  
12       vehicle if the taxpayer elects to not have this section  
13       apply to such vehicle.

14          “(f) TERMINATION.—This section shall not apply to  
15       any vehicle acquired after December 31, 2011.”.

16       (b) CONFORMING AMENDMENTS.—

17           (1)(A) Section 24(b)(3)(B) is amended by in-  
18       serting “30,” after “25D,”.

19           (B) Section 25(e)(1)(C)(ii) is amended by in-  
20       serting “30,” after “25D,”.

21           (C) Section 25B(g)(2) is amended by inserting  
22       “30,” after “25D,”.

23           (D) Section 26(a)(1) is amended by inserting  
24       “30,” after “25D,”.

1 (E) Section 904(i) is amended by striking “and  
2 25B” and inserting “25B, 30, and 30D”.

3 (F) Section 1400C(d)(2) is amended by striking  
4 “and 25D” and inserting “25D, and 30”.

5 (2) Paragraph (1) of section 30B(h) is amend-  
6 ed to read as follows:

7 “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
8 cle’ means any vehicle which is manufactured pri-  
9 marily for use on public streets, roads, and highways  
10 (not including a vehicle operated exclusively on a rail  
11 or rails) and which has at least 4 wheels.”.

12 (3) Section 30C(d)(2)(A) is amended by strik-  
13 ing “, 30,”.

14 (4)(A) Section 53(d)(1)(B) is amended by strik-  
15 ing clause (iii) and redesignating clause (iv) as  
16 clause (iii).

17 (B) Subclause (II) of section 53(d)(1)(B)(iii),  
18 as so redesignated, is amended by striking “in-  
19 creased in the manner provided in clause (iii)”.

20 (5) Section 55(c)(3) is amended by striking  
21 “30(b)(3),”.

22 (6) Section 1016(a)(25) is amended by striking  
23 “section 30(d)(1)” and inserting “section 30(e)(1)”.

24 (7) Section 6501(m) is amended by striking  
25 “section 30(d)(4)” and inserting “section 30(e)(6)”.

1           (8) The item in the table of sections for subpart  
2       B of part IV of subchapter A of chapter 1 is amend-  
3       ed to read as follows:

“Sec. 30. Certain plug-in electric vehicles.”.

4       (c) **EFFECTIVE DATE.**—The amendments made by  
5 this section shall apply to vehicles acquired after the date  
6 of the enactment of this Act.

7       (d) **TRANSITIONAL RULE.**—In the case of a vehicle  
8 acquired after the date of the enactment of this Act and  
9 before January 1, 2010, no credit shall be allowed under  
10 section 30 of the Internal Revenue Code of 1986, as added  
11 by this section, if credit is allowable under section 30D  
12 of such Code with respect to such vehicle.

13       (e) **APPLICATION OF EGTRRA SUNSET.**—The  
14 amendment made by subsection (b)(1)(A) shall be subject  
15 to title IX of the Economic Growth and Tax Relief Rec-  
16 onciliation Act of 2001 in the same manner as the provi-  
17 sion of such Act to which such amendment relates.

18 **SEC. 1143. CONVERSION KITS.**

19       (a) **IN GENERAL.**—Section 30B (relating to alter-  
20 native motor vehicle credit) is amended by redesignating  
21 subsections (i) and (j) as subsections (j) and (k), respec-  
22 tively, and by inserting after subsection (h) the following  
23 new subsection:

24       “(i) **PLUG-IN CONVERSION CREDIT.**—



1           “(1) IN GENERAL.—For purposes of subsection  
2           (a), the plug-in conversion credit determined under  
3           this subsection with respect to any motor vehicle  
4           which is converted to a qualified plug-in electric  
5           drive motor vehicle is 10 percent of so much of the  
6           cost of the converting such vehicle as does not ex-  
7           ceed \$40,000.

8           “(2) QUALIFIED PLUG-IN ELECTRIC DRIVE  
9           MOTOR VEHICLE.—For purposes of this subsection,  
10          the term ‘qualified plug-in electric drive motor vehi-  
11          cle’ means any new qualified plug-in electric drive  
12          motor vehicle (as defined in section 30D, determined  
13          without regard to whether such vehicle is made by  
14          a manufacturer or whether the original use of such  
15          vehicle commences with the taxpayer).

16          “(3) CREDIT ALLOWED IN ADDITION TO OTHER  
17          CREDITS.—The credit allowed under this subsection  
18          shall be allowed with respect to a motor vehicle not-  
19          withstanding whether a credit has been allowed with  
20          respect to such motor vehicle under this section  
21          (other than this subsection) in any preceding taxable  
22          year.

23          “(4) TERMINATION.—This subsection shall not  
24          apply to conversions made after December 31,  
25          2011.”.

1 (b) CREDIT TREATED AS PART OF ALTERNATIVE  
2 MOTOR VEHICLE CREDIT.—Section 30B(a) is amended  
3 by striking “and” at the end of paragraph (3), by striking  
4 the period at the end of paragraph (4) and inserting “,  
5 and”, and by adding at the end the following new para-  
6 graph:

7 “(5) the plug-in conversion credit determined  
8 under subsection (i).”.

9 (c) NO RECAPTURE FOR VEHICLES CONVERTED TO  
10 QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHI-  
11 CLES.—Paragraph (8) of section 30B(h) is amended by  
12 adding at the end the following: “, except that no benefit  
13 shall be recaptured if such property ceases to be eligible  
14 for such credit by reason of conversion to a qualified plug-  
15 in electric drive motor vehicle.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to property placed in service after  
18 the date of the enactment of this Act.

19 **SEC. 1144. TREATMENT OF ALTERNATIVE MOTOR VEHICLE**  
20 **CREDIT AS A PERSONAL CREDIT ALLOWED**  
21 **AGAINST AMT.**

22 (a) IN GENERAL.—Paragraph (2) of section 30B(g)  
23 is amended to read as follows:

24 “(2) PERSONAL CREDIT.—

1           “(A) IN GENERAL.—For purposes of this  
2 title, the credit allowed under subsection (a) for  
3 any taxable year (determined after application  
4 of paragraph (1)) shall be treated as a credit  
5 allowable under subpart A for such taxable  
6 year.

7           “(B) LIMITATION BASED ON AMOUNT OF  
8 TAX.—In the case of a taxable year to which  
9 section 26(a)(2) does not apply, the credit al-  
10 lowed under subsection (a) for any taxable year  
11 (determined after application of paragraph (1))  
12 shall not exceed the excess of—

13               “(i) the sum of the regular tax liabil-  
14 ity (as defined in section 26(b)) plus the  
15 tax imposed by section 55, over

16               “(ii) the sum of the credits allowable  
17 under subpart A (other than this section  
18 and sections 23, 25D, 30, and 30D) and  
19 section 27 for the taxable year.”.

20       (b) CONFORMING AMENDMENTS.—

21           (1)(A) Section 24(b)(3)(B), as amended by this  
22 Act, is amended by inserting “30B,” after “30,”.

23           (B) Section 25(e)(1)(C)(ii), as amended by this  
24 Act, is amended by inserting “30B,” after “30,”.

1 (C) Section 25B(g)(2), as amended by this Act,  
2 is amended by inserting “30B,” after “30,”.

3 (D) Section 26(a)(1), as amended by this Act,  
4 is amended by inserting “30B,” after “30,”.

5 (E) Section 904(i), as amended by this Act, is  
6 amended by inserting “30B,” after “30”.

7 (F) Section 1400C(d)(2), as amended by this  
8 Act, is amended by striking “and 30” and inserting  
9 “30, and 30B”.

10 (2) Section 30C(d)(2)(A), as amended by this  
11 Act, is amended by striking “sections 27 and 30B”  
12 and inserting “section 27”.

13 (3) Section 55(c)(3) is amended by striking  
14 “30B(g)(2),”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2008.

18 (d) APPLICATION OF EGTRRA SUNSET.—The  
19 amendment made by subsection (b)(1)(A) shall be subject  
20 to title IX of the Economic Growth and Tax Relief Rec-  
21 onciliation Act of 2001 in the same manner as the provi-  
22 sion of such Act to which such amendment relates.

1       **PART VI—PARITY FOR TRANSPORTATION**

2                   **FRINGE BENEFITS**

3   **SEC. 1151. INCREASED EXCLUSION AMOUNT FOR COM-**  
4                   **MUTER TRANSIT BENEFITS AND TRANSIT**  
5                   **PASSES.**

6       (a) IN GENERAL.—Paragraph (2) of section 132(f)  
7 is amended by adding at the end the following flush sen-  
8 tence:

9       “In the case of any month beginning on or after the  
10 date of the enactment of this sentence and before  
11 January 1, 2011, subparagraph (A) shall be applied  
12 as if the dollar amount therein were the same as the  
13 dollar amount in effect for such month under sub-  
14 paragraph (B).”.

15       (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to months beginning on or after  
17 the date of the enactment of this section.

18       **Subtitle C—Tax Incentives for**  
19                   **Business**

20   **PART I—TEMPORARY INVESTMENT INCENTIVES**

21   **SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY**  
22                   **ACQUIRED DURING 2009.**

23       (a) EXTENSION OF SPECIAL ALLOWANCE.—

24               (1) IN GENERAL.—Paragraph (2) of section  
25       168(k) is amended—

1 (A) by striking “January 1, 2010” and in-  
2 serting “January 1, 2011”, and

3 (B) by striking “January 1, 2009” each  
4 place it appears and inserting “January 1,  
5 2010”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) The heading for subsection (k) of sec-  
8 tion 168 is amended by striking “JANUARY 1,  
9 2009” and inserting “JANUARY 1, 2010”.

10 (B) The heading for clause (ii) of section  
11 168(k)(2)(B) is amended by striking “PRE-JAN-  
12 UARY 1, 2009” and inserting “PRE-JANUARY 1,  
13 2010”.

14 (C) Subparagraph (B) of section 168(l)(5)  
15 is amended by striking “January 1, 2009” and  
16 inserting “January 1, 2010”.

17 (D) Subparagraph (C) of section 168(n)(2)  
18 is amended by striking “January 1, 2009” and  
19 inserting “January 1, 2010”.

20 (E) Subparagraph (B) of section  
21 1400N(d)(3) is amended by striking “January  
22 1, 2009” and inserting “January 1, 2010”.

23 (3) TECHNICAL AMENDMENTS.—

24 (A) Subparagraph (D) of section 168(k)(4)  
25 is amended—

1 (i) by striking “and” at the end of  
2 clause (i),

3 (ii) by redesignating clause (ii) as  
4 clause (iii), and

5 (iii) by inserting after clause (i) the  
6 following new clause:

7 “(ii) ‘April 1, 2008’ shall be sub-  
8 stituted for ‘January 1, 2008’ in subpara-  
9 graph (A)(iii)(I) thereof, and”.

10 (B) Subparagraph (A) of section  
11 6211(b)(4) is amended by inserting  
12 “168(k)(4),” after “53(e),”.

13 (b) EXTENSION OF ELECTION TO ACCELERATE THE  
14 AMT AND RESEARCH CREDITS IN LIEU OF BONUS DE-  
15 PRECIATION.—

16 (1) IN GENERAL.—Section 168(k)(4) (relating  
17 to election to accelerate the AMT and research cred-  
18 its in lieu of bonus depreciation) is amended—

19 (A) by striking “2009” and inserting  
20 “2010” in subparagraph (D)(iii) (as redesign-  
21 ated by subsection (a)(3)), and

22 (B) by adding at the end the following new  
23 subparagraph:

24 “(H) SPECIAL RULES FOR EXTENSION  
25 PROPERTY.—

1           “(i) TAXPAYERS PREVIOUSLY ELECT-  
2           ING ACCELERATION.—In the case of a tax-  
3           payer who made the election under sub-  
4           paragraph (A) for its first taxable year  
5           ending after March 31, 2008—

6                   “(I) the taxpayer may elect not  
7                   to have this paragraph apply to exten-  
8                   sion property, but

9                   “(II) if the taxpayer does not  
10                  make the election under subclause (I),  
11                  in applying this paragraph to the tax-  
12                  payer a separate bonus depreciation  
13                  amount, maximum amount, and max-  
14                  imum increase amount shall be com-  
15                  puted and applied to eligible qualified  
16                  property which is extension property  
17                  and to eligible qualified property  
18                  which is not extension property.

19           “(ii) TAXPAYERS NOT PREVIOUSLY  
20           ELECTING ACCELERATION.—In the case of  
21           a taxpayer who did not make the election  
22           under subparagraph (A) for its first tax-  
23           able year ending after March 31, 2008—

24                   “(I) the taxpayer may elect to  
25                   have this paragraph apply to its first



1 taxable year ending after December  
2 31, 2008, and each subsequent tax-  
3 able year, and

4 “(II) if the taxpayer makes the  
5 election under subclause (I), this  
6 paragraph shall only apply to eligible  
7 qualified property which is extension  
8 property.

9 “(iii) EXTENSION PROPERTY.—For  
10 purposes of this subparagraph, the term  
11 ‘extension property’ means property which  
12 is eligible qualified property solely by rea-  
13 son of the extension of the application of  
14 the special allowance under paragraph (1)  
15 pursuant to the amendments made by sec-  
16 tion 1201(a) of the American Recovery and  
17 Reinvestment Tax Act of 2009 (and the  
18 application of such extension to this para-  
19 graph pursuant to the amendment made  
20 by section 1201(b)(1) of such Act).”.

21 (2) TECHNICAL AMENDMENT.—Section  
22 6211(b)(4)(A) is amended by inserting “168(k)(4),”  
23 after “53(e),”.

24 (c) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the amendments made by this section  
3           shall apply to property placed in service after De-  
4           cember 31, 2008, in taxable years ending after such  
5           date.

6           (2) TECHNICAL AMENDMENTS.—The amend-  
7           ments made by subsections (a)(3) and (b)(2) shall  
8           apply to taxable years ending after March 31, 2008.

9   **SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EX-**  
10                   **PENSING OF CERTAIN DEPRECIABLE BUSI-**  
11                   **NESS ASSETS.**

12          (a) IN GENERAL.—Paragraph (7) of section 179(b)  
13          is amended—

14               (1) by striking “2008” and inserting “2008, or  
15               2009”, and

16               (2) by striking “2008” in the heading thereof  
17               and inserting “2008, AND 2009”.

18          (b) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to taxable years beginning after  
20          December 31, 2008.

21           **PART II—SMALL BUSINESS PROVISIONS**

22   **SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES OF**  
23                   **SMALL BUSINESSES.**

24          (a) IN GENERAL.—Subparagraph (H) of section  
25          172(b)(1) is amended to read as follows:

1                   “(H) CARRYBACK FOR 2008 NET OPER-  
2                   ATING LOSSES OF SMALL BUSINESSES.—

3                   “(i) IN GENERAL.—If an eligible small  
4                   business elects the application of this sub-  
5                   paragraph with respect to an applicable  
6                   2008 net operating loss—

7                   “(I) subparagraph (A)(i) shall be  
8                   applied by substituting any whole  
9                   number elected by the taxpayer which  
10                  is more than 2 and less than 6 for ‘2’,

11                  “(II) subparagraph (E)(ii) shall  
12                  be applied by substituting the whole  
13                  number which is one less than the  
14                  whole number substituted under sub-  
15                  clause (I) for ‘2’, and

16                  “(III) subparagraph (F) shall not  
17                  apply.

18                  “(ii) APPLICABLE 2008 NET OPER-  
19                  ATING LOSS.—For purposes of this sub-  
20                  paragraph, the term ‘applicable 2008 net  
21                  operating loss’ means—

22                  “(I) the taxpayer’s net operating  
23                  loss for any taxable year ending in  
24                  2008, or

1                   “(II) if the taxpayer elects to  
2                   have this subclause apply in lieu of  
3                   subclause (I), the taxpayer’s net oper-  
4                   ating loss for any taxable year begin-  
5                   ning in 2008.

6                   “(iii) ELECTION.—Any election under  
7                   this subparagraph shall be made in such  
8                   manner as may be prescribed by the Sec-  
9                   retary, and shall be made by the due date  
10                  (including extension of time) for filing the  
11                  taxpayer’s return for the taxable year of  
12                  the net operating loss. Any such election,  
13                  once made, shall be irrevocable. Any elec-  
14                  tion under this subparagraph may be made  
15                  only with respect to 1 taxable year.

16                  “(iv) ELIGIBLE SMALL BUSINESS.—  
17                  For purposes of this subparagraph, the  
18                  term ‘eligible small business’ has the  
19                  meaning given such term by subparagraph  
20                  (F)(iii), except that in applying such sub-  
21                  paragraph, section 448(c) shall be applied  
22                  by substituting ‘\$15,000,000’ for  
23                  ‘\$5,000,000’ each place it appears.”.

1 (b) CONFORMING AMENDMENT.—Section 172 is  
2 amended by striking subsection (k) and by redesignating  
3 subsection (l) as subsection (k).

4 (c) ANTI-ABUSE RULES.—The Secretary of Treasury  
5 or the Secretary's designee shall prescribe such rules as  
6 are necessary to prevent the abuse of the purposes of the  
7 amendments made by this section, including anti-stuffing  
8 rules, anti-churning rules (including rules relating to sale-  
9 leasebacks), and rules similar to the rules under section  
10 1091 of the Internal Revenue Code of 1986 relating to  
11 losses from wash sales.

12 (d) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as otherwise pro-  
14 vided in this subsection, the amendments made by  
15 this section shall apply to net operating losses aris-  
16 ing in taxable years ending after December 31,  
17 2007.

18 (2) TRANSITIONAL RULE.—In the case of a net  
19 operating loss for a taxable year ending before the  
20 date of the enactment of this Act—

21 (A) any election made under section  
22 172(b)(3) of the Internal Revenue Code of  
23 1986 with respect to such loss may (notwith-  
24 standing such section) be revoked before the ap-  
25 plicable date,

1 (B) any election made under section  
2 172(b)(1)(H) of such Code with respect to such  
3 loss shall (notwithstanding such section) be  
4 treated as timely made if made before the appli-  
5 cable date, and

6 (C) any application under section 6411(a)  
7 of such Code with respect to such loss shall be  
8 treated as timely filed if filed before the appli-  
9 cable date.

10 For purposes of this paragraph, the term “applica-  
11 ble date” means the date which is 60 days after the  
12 date of the enactment of this Act.

13 **SEC. 1212. DECREASED REQUIRED ESTIMATED TAX PAY-**  
14 **MENTS IN 2009 FOR CERTAIN SMALL BUSI-**  
15 **NESSES.**

16 Paragraph (1) of section 6654(d) is amended by add-  
17 ing at the end the following new subparagraph:

18 “(D) SPECIAL RULE FOR 2009.—

19 “(i) IN GENERAL.—Notwithstanding  
20 subparagraph (C), in the case of any tax-  
21 able year beginning in 2009, clause (ii) of  
22 subparagraph (B) shall be applied to any  
23 qualified individual by substituting ‘90 per-  
24 cent’ for ‘100 percent’.

1                                   “(ii) QUALIFIED INDIVIDUAL.—For  
2                                   purposes of this subparagraph, the term  
3                                   ‘qualified individual’ means any individual  
4                                   if—

5                               “(I) the adjusted gross income  
6                               shown on the return of such indi-  
7                               vidual for the preceding taxable year  
8                               is less than \$500,000, and

9                               “(II) such individual certifies  
10                              that more than 50 percent of the  
11                              gross income shown on the return of  
12                              such individual for the preceding tax-  
13                              able year was income from a small  
14                              business.

15 A certification under subclause (II) shall  
16 be in such form and manner and filed at  
17 such time as the Secretary may by regula-  
18 tions prescribe.

19 “(iii) INCOME FROM A SMALL BUSI-  
20 NESS.—For purposes of clause (ii), income  
21 from a small business means, with respect  
22 to any individual, income from a trade or  
23 business the average number of employees  
24 of which was less than 500 employees for

1 the calendar year ending with or within the  
2 preceding taxable year of the individual.

3 “(iv) SEPARATE RETURNS.—In the  
4 case of a married individual (within the  
5 meaning of section 7703) who files a sepa-  
6 rate return for the taxable year for which  
7 the amount of the installment is being de-  
8 termined, clause (ii)(I) shall be applied by  
9 substituting ‘\$250,000’ for ‘\$500,000’.

10 “(v) ESTATES AND TRUSTS.—In the  
11 case of an estate or trust, adjusted gross  
12 income shall be determined as provided in  
13 section 67(e).”.

14 **PART III—INCENTIVES FOR NEW JOBS**

15 **SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS**  
16 **AND DISCONNECTED YOUTH.**

17 (a) IN GENERAL.—Subsection (d) of section 51 is  
18 amended by adding at the end the following new para-  
19 graph:

20 “(14) CREDIT ALLOWED FOR UNEMPLOYED  
21 VETERANS AND DISCONNECTED YOUTH HIRED IN  
22 2009 OR 2010.—

23 “(A) IN GENERAL.—Any unemployed vet-  
24 eran or disconnected youth who begins work for  
25 the employer during 2009 or 2010 shall be



1 treated as a member of a targeted group for  
2 purposes of this subpart.

3 “(B) DEFINITIONS.—For purposes of this  
4 paragraph—

5 “(i) UNEMPLOYED VETERAN.—The  
6 term ‘unemployed veteran’ means any vet-  
7 eran (as defined in paragraph (3)(B), de-  
8 termined without regard to clause (ii)  
9 thereof) who is certified by the designated  
10 local agency as—

11 “(I) having been discharged or  
12 released from active duty in the  
13 Armed Forces at any time during the  
14 5-year period ending on the hiring  
15 date, and

16 “(II) being in receipt of unem-  
17 ployment compensation under State or  
18 Federal law for not less than 4 weeks  
19 during the 1-year period ending on  
20 the hiring date.

21 “(ii) DISCONNECTED YOUTH.—The  
22 term ‘disconnected youth’ means any indi-  
23 vidual who is certified by the designated  
24 local agency—

1                   “(I) as having attained age 16  
2                   but not age 25 on the hiring date,

3                   “(II) as not regularly attending  
4                   any secondary, technical, or post-sec-  
5                   ondary school during the 6-month pe-  
6                   riod preceding the hiring date,

7                   “(III) as not regularly employed  
8                   during such 6-month period, and

9                   “(IV) as not readily employable  
10                  by reason of lacking a sufficient num-  
11                  ber of basic skills.”.

12           (b) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to individuals who begin work for  
14 the employer after December 31, 2008.

15                   **PART IV—RULES RELATING TO DEBT**

16                           **INSTRUMENTS**

17   **SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF IN-**  
18                   **COME ARISING FROM BUSINESS INDEBTED-**  
19                   **NESS DISCHARGED BY THE REACQUISITION**  
20                   **OF A DEBT INSTRUMENT.**

21           (a) IN GENERAL.—Section 108 (relating to income  
22 from discharge of indebtedness) is amended by adding at  
23 the end the following new subsection:

24           “(i) DEFERRAL AND RATABLE INCLUSION OF IN-  
25 COME ARISING FROM BUSINESS INDEBTEDNESS DIS-

1 CHARGED BY THE REACQUISITION OF A DEBT INSTRU-  
2 MENT.—

3 “(1) IN GENERAL.—At the election of the tax-  
4 payer, income from the discharge of indebtedness in  
5 connection with the reacquisition after December 31,  
6 2008, and before January 1, 2011, of an applicable  
7 debt instrument shall be includible in gross income  
8 ratably over the 5-taxable-year period beginning  
9 with—

10 “(A) in the case of a reacquisition occur-  
11 ring in 2009, the fifth taxable year following  
12 the taxable year in which the reacquisition oc-  
13 curs, and

14 “(B) in the case of a reacquisition occur-  
15 ring in 2010, the fourth taxable year following  
16 the taxable year in which the reacquisition oc-  
17 curs.

18 “(2) DEFERRAL OF DEDUCTION FOR ORIGINAL  
19 ISSUE DISCOUNT IN DEBT FOR DEBT EXCHANGES.—

20 “(A) IN GENERAL.—If, as part of a reac-  
21 quisition to which paragraph (1) applies, any  
22 debt instrument is issued for the applicable  
23 debt instrument being reacquired (or is treated  
24 as so issued under subsection (e)(4) and the  
25 regulations thereunder) and there is any origi-

1           nal issue discount determined under subpart A  
2           of part V of subchapter P of this chapter with  
3           respect to the debt instrument so issued—

4                   “(i) except as provided in clause (ii),  
5           no deduction otherwise allowable under  
6           this chapter shall be allowed to the issuer  
7           of such debt instrument with respect to the  
8           portion of such original issue discount  
9           which—

10                   “(I) accrues before the 1st tax-  
11           able year in the 5-taxable-year period  
12           in which income from the discharge of  
13           indebtedness attributable to the reac-  
14           quisition of the debt instrument is in-  
15           cludible under paragraph (1), and

16                   “(II) does not exceed the income  
17           from the discharge of indebtedness  
18           with respect to the debt instrument  
19           being reacquired, and

20                   “(ii) the aggregate amount of deduc-  
21           tions disallowed under clause (i) shall be  
22           allowed as a deduction ratably over the 5-  
23           taxable-year period described in clause  
24           (i)(I).

1 If the amount of the original issue discount ac-  
2 cruing before such 1st taxable year exceeds the  
3 income from the discharge of indebtedness with  
4 respect to the applicable debt instrument being  
5 reacquired, the deductions shall be disallowed in  
6 the order in which the original issue discount is  
7 accrued.

8 “(B) DEEMED DEBT FOR DEBT EX-  
9 CHANGES.—For purposes of subparagraph (A),  
10 if any debt instrument is issued by an issuer  
11 and the proceeds of such debt instrument are  
12 used directly or indirectly by the issuer to reac-  
13 quire an applicable debt instrument of the  
14 issuer, the debt instrument so issued shall be  
15 treated as issued for the debt instrument being  
16 reacquired. If only a portion of the proceeds  
17 from a debt instrument are so used, the rules  
18 of subparagraph (A) shall apply to the portion  
19 of any original issue discount on the newly  
20 issued debt instrument which is equal to the  
21 portion of the proceeds from such instrument  
22 used to reacquire the outstanding instrument.

23 “(3) APPLICABLE DEBT INSTRUMENT.—For  
24 purposes of this subsection—

1                   “(A) APPLICABLE DEBT INSTRUMENT.—

2                   The term ‘applicable debt instrument’ means  
3                   any debt instrument which was issued by—

4                   “(i) a C corporation, or

5                   “(ii) any other person in connection  
6                   with the conduct of a trade or business by  
7                   such person.

8                   “(B) DEBT INSTRUMENT.—The term ‘debt  
9                   instrument’ means a bond, debenture, note, cer-  
10                  tificate, or any other instrument or contractual  
11                  arrangement constituting indebtedness (within  
12                  the meaning of section 1275(a)(1)).

13                  “(4) REACQUISITION.—For purposes of this  
14                  subsection—

15                  “(A) IN GENERAL.—The term ‘reacquisi-  
16                  tion’ means, with respect to any applicable debt  
17                  instrument, any acquisition of the debt instru-  
18                  ment by—

19                  “(i) the debtor which issued (or is  
20                  otherwise the obligor under) the debt in-  
21                  strument, or

22                  “(ii) a related person to such debtor.

23                  “(B) ACQUISITION.—The term ‘acquisi-  
24                  tion’ shall, with respect to any applicable debt  
25                  instrument, include an acquisition of the debt

1 instrument for cash, the exchange of the debt  
2 instrument for another debt instrument (includ-  
3 ing an exchange resulting from a modification  
4 of the debt instrument), the exchange of the  
5 debt instrument for corporate stock or a part-  
6 nership interest, and the contribution of the  
7 debt instrument to capital. Such term shall also  
8 include the complete forgiveness of the indebt-  
9 edness by the holder of the debt instrument.

10 “(5) OTHER DEFINITIONS AND RULES.—For  
11 purposes of this subsection—

12 “(A) RELATED PERSON.—The determina-  
13 tion of whether a person is related to another  
14 person shall be made in the same manner as  
15 under subsection (e)(4).

16 “(B) ELECTION.—

17 “(i) IN GENERAL.—An election under  
18 this subsection with respect to any applica-  
19 ble debt instrument shall be made by in-  
20 cluding with the return of tax imposed by  
21 chapter 1 for the taxable year in which the  
22 reacquisition of the debt instrument occurs  
23 a statement which—

24 “(I) clearly identifies such instru-  
25 ment, and

1                   “(II) includes the amount of in-  
2                   come to which paragraph (1) applies  
3                   and such other information as the  
4                   Secretary may prescribe.

5                   “(ii) ELECTION IRREVOCABLE.—Such  
6                   election, once made, is irrevocable.

7                   “(iii) PASS-THRU ENTITIES.—In the  
8                   case of a partnership, S corporation, or  
9                   other pass-thru entity, the election under  
10                  this subsection shall be made by the part-  
11                  nership, the S corporation, or other entity  
12                  involved.

13                  “(C) COORDINATION WITH OTHER EXCLU-  
14                  SIONS.—If a taxpayer elects to have this sub-  
15                  section apply to an applicable debt instrument,  
16                  subparagraphs (A), (B), (C), and (D) of sub-  
17                  section (a)(1) shall not apply to the income  
18                  from the discharge of such indebtedness for the  
19                  taxable year of the election or any subsequent  
20                  taxable year.

21                  “(D) ACCELERATION OF DEFERRED  
22                  ITEMS.—

23                  “(i) IN GENERAL.—In the case of the  
24                  death of the taxpayer, the liquidation or  
25                  sale of substantially all the assets of the



1 taxpayer (including in a title 11 or similar  
2 case), the cessation of business by the tax-  
3 payer, or similar circumstances, any item  
4 of income or deduction which is deferred  
5 under this subsection (and has not pre-  
6 viously been taken into account) shall be  
7 taken into account in the taxable year in  
8 which such event occurs (or in the case of  
9 a title 11 or similar case, the day before  
10 the petition is filed).

11 “(ii) SPECIAL RULE FOR PASS-THRU  
12 ENTITIES.—The rule of clause (i) shall  
13 also apply in the case of the sale or ex-  
14 change or redemption of an interest in a  
15 partnership, S corporation, or other pass-  
16 thru entity by a partner, shareholder, or  
17 other person holding an ownership interest  
18 in such entity.

19 “(6) SPECIAL RULE FOR PARTNERSHIPS.—In  
20 the case of a partnership, any income deferred under  
21 this subsection shall be allocated to the partners in  
22 the partnership immediately before the discharge in  
23 the manner such amounts would have been included  
24 in the distributive shares of such partners under sec-  
25 tion 704 if such income were recognized at such

1       time. Any decrease in a partner's share of partner-  
2       ship liabilities as a result of such discharge shall not  
3       be taken into account for purposes of section 752 at  
4       the time of the discharge to the extent it would  
5       cause the partner to recognize gain under section  
6       731. Any decrease in partnership liabilities deferred  
7       under the preceding sentence shall be taken into ac-  
8       count by such partner at the same time, and to the  
9       extent remaining in the same amount, as income de-  
10      ferred under this subsection is recognized.

11           “(7) SECRETARIAL AUTHORITY.—The Secretary  
12      may prescribe such regulations, rules, or other guid-  
13      ance as may be necessary or appropriate for pur-  
14      poses of applying this subsection, including—

15           “(A) extending the application of the rules  
16      of paragraph (5)(D) to other circumstances  
17      where appropriate,

18           “(B) requiring reporting of the election  
19      (and such other information as the Secretary  
20      may require) on returns of tax for subsequent  
21      taxable years, and

22           “(C) rules for the application of this sub-  
23      section to partnerships, S corporations, and  
24      other pass-thru entities, including for the allo-  
25      cation of deferred deductions.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to discharges in taxable years end-  
3 ing after December 31, 2008.

4 **SEC. 1232. MODIFICATIONS OF RULES FOR ORIGINAL ISSUE**  
5 **DISCOUNT ON CERTAIN HIGH YIELD OBLIGA-**  
6 **TIONS.**

7 (a) SUSPENSION OF SPECIAL RULES.—Section  
8 163(e)(5) (relating to special rules for original issue dis-  
9 count on certain high yield obligations) is amended by re-  
10 designating subparagraph (F) as subparagraph (G) and  
11 by inserting after subparagraph (E) the following new  
12 subparagraph:

13 “(F) SUSPENSION OF APPLICATION OF  
14 PARAGRAPH.—

15 “(i) TEMPORARY SUSPENSION.—This  
16 paragraph shall not apply to any applicable  
17 high yield discount obligation issued during  
18 the period beginning on September 1,  
19 2008, and ending on December 31, 2009,  
20 in exchange (including an exchange result-  
21 ing from a modification of the debt instru-  
22 ment) for an obligation which is not an ap-  
23 plicable high yield discount obligation and  
24 the issuer (or obligor) of which is the same  
25 as the issuer (or obligor) of such applicable

1 high yield discount obligation. The pre-  
2 ceding sentence shall not apply to any obli-  
3 gation the interest on which is interest de-  
4 scribed in section 871(h)(4) (without re-  
5 gard to subparagraph (D) thereof) or to  
6 any obligation issued to a related person  
7 (within the meaning of section 108(e)(4)).

8 “(ii) SUCCESSIVE APPLICATION.—Any  
9 obligation to which clause (i) applies shall  
10 not be treated as an applicable high yield  
11 discount obligation for purposes of apply-  
12 ing this subparagraph to any other obliga-  
13 tion issued in exchange for such obligation.

14 “(iii) SECRETARIAL AUTHORITY TO  
15 SUSPEND APPLICATION.—The Secretary  
16 may apply this paragraph with respect to  
17 debt instruments issued in periods fol-  
18 lowing the period described in clause (i) if  
19 the Secretary determines that such appli-  
20 cation is appropriate in light of distressed  
21 conditions in the debt capital markets.”.

22 (b) INTEREST RATE USED IN DETERMINING HIGH  
23 YIELD OBLIGATIONS.—The last sentence of section  
24 163(i)(1) is amended—

25 (1) by inserting “(i)” after “regulation”, and

1           (2) by inserting “, or (ii) permit, on a tem-  
2           porary basis, a rate to be used with respect to any  
3           debt instrument which is higher than the applicable  
4           Federal rate if the Secretary determines that such  
5           rate is appropriate in light of distressed conditions  
6           in the debt capital markets” before the period at the  
7           end.

8           (c) EFFECTIVE DATE.—

9           (1) SUSPENSION.—The amendments made by  
10          subsection (a) shall apply to obligations issued after  
11          August 31, 2008, in taxable years ending after such  
12          date.

13          (2) INTEREST RATE AUTHORITY.—The amend-  
14          ments made by subsection (b) shall apply to obliga-  
15          tions issued after December 31, 2009, in taxable  
16          years ending after such date.

17       **PART V—QUALIFIED SMALL BUSINESS STOCK**

18       **SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED**  
19               **SMALL BUSINESS STOCK FOR 2009 AND 2010.**

20          (a) IN GENERAL.—Section 1202(a) is amended by  
21          adding at the end the following new paragraph:

22               “(3) SPECIAL RULES FOR 2009 AND 2010.—In  
23          the case of qualified small business stock acquired  
24          after the date of the enactment of this paragraph  
25          and before January 1, 2011—

1 “(A) paragraph (1) shall be applied by  
2 substituting ‘75 percent’ for ‘50 percent’, and

3 “(B) paragraph (2) shall not apply.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to stock acquired after the date  
6 of the enactment of this Act.

7 **PART VI—S CORPORATIONS**

8 **SEC. 1251. TEMPORARY REDUCTION IN RECOGNITION PE-**  
9 **RIOD FOR BUILT-IN GAINS TAX.**

10 (a) IN GENERAL.—Paragraph (7) of section 1374(d)  
11 (relating to definitions and special rules) is amended to  
12 read as follows:

13 “(7) RECOGNITION PERIOD.—

14 “(A) IN GENERAL.—The term ‘recognition  
15 period’ means the 10-year period beginning  
16 with the 1st day of the 1st taxable year for  
17 which the corporation was an S corporation.

18 “(B) SPECIAL RULE FOR 2009 AND 2010.—

19 In the case of any taxable year beginning in  
20 2009 or 2010, no tax shall be imposed on the  
21 net recognized built-in gain of an S corporation  
22 if the 7th taxable year in the recognition period  
23 preceded such taxable year. The preceding sen-  
24 tence shall be applied separately with respect to  
25 any asset to which paragraph (8) applies.

1           “(C) SPECIAL RULE FOR DISTRIBUTIONS  
2           TO SHAREHOLDERS.—For purposes of applying  
3           this section to any amount includible in income  
4           by reason of distributions to shareholders pur-  
5           suant to section 593(e)—

6                   “(i) subparagraph (A) shall be applied  
7                   without regard to the phrase ‘10-year’, and  
8                   “(ii) subparagraph (B) shall not  
9                   apply.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11          this section shall apply to taxable years beginning after  
12          December 31, 2008.

13          **PART VII—RULES RELATING TO OWNERSHIP**  
14                   **CHANGES**

15          **SEC. 1261. CLARIFICATION OF REGULATIONS RELATED TO**  
16                   **LIMITATIONS ON CERTAIN BUILT-IN LOSSES**  
17                   **FOLLOWING AN OWNERSHIP CHANGE.**

18          (a) FINDINGS.—Congress finds as follows:

19               (1) The delegation of authority to the Secretary  
20               of the Treasury under section 382(m) of the Inter-  
21               nal Revenue Code of 1986 does not authorize the  
22               Secretary to provide exemptions or special rules that  
23               are restricted to particular industries or classes of  
24               taxpayers.

1           (2) Internal Revenue Service Notice 2008–83 is  
2           inconsistent with the congressional intent in enact-  
3           ing such section 382(m).

4           (3) The legal authority to prescribe Internal  
5           Revenue Service Notice 2008–83 is doubtful.

6           (4) However, as taxpayers should generally be  
7           able to rely on guidance issued by the Secretary of  
8           the Treasury legislation is necessary to clarify the  
9           force and effect of Internal Revenue Service Notice  
10          2008–83 and restore the proper application under  
11          the Internal Revenue Code of 1986 of the limitation  
12          on built-in losses following an ownership change of  
13          a bank.

14          (b) DETERMINATION OF FORCE AND EFFECT OF IN-  
15          TERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPT-  
16          ING BANKS FROM LIMITATION ON CERTAIN BUILT-IN  
17          LOSSES FOLLOWING OWNERSHIP CHANGE.—

18               (1) IN GENERAL.—Internal Revenue Service  
19          Notice 2008–83—

20                       (A) shall be deemed to have the force and  
21                       effect of law with respect to any ownership  
22                       change (as defined in section 382(g) of the In-  
23                       ternal Revenue Code of 1986) occurring on or  
24                       before January 16, 2009, and



1 (B) shall have no force or effect with re-  
2 spect to any ownership change after such date.

3 (2) BINDING CONTRACTS.—Notwithstanding  
4 paragraph (1), Internal Revenue Service Notice  
5 2008–83 shall have the force and effect of law with  
6 respect to any ownership change (as so defined)  
7 which occurs after January 16, 2009, if such  
8 change—

9 (A) is pursuant to a written binding con-  
10 tract entered into on or before such date, or

11 (B) is pursuant to a written agreement en-  
12 tered into on or before such date and such  
13 agreement was described on or before such date  
14 in a public announcement or in a filing with the  
15 Securities and Exchange Commission required  
16 by reason of such ownership change.

17 **SEC. 1262. TREATMENT OF CERTAIN OWNERSHIP CHANGES**  
18 **FOR PURPOSES OF LIMITATIONS ON NET OP-**  
19 **ERATING LOSS CARRYFORWARDS AND CER-**  
20 **TAIN BUILT-IN LOSSES.**

21 (a) IN GENERAL.—Section 382 is amended by adding  
22 at the end the following new subsection:

23 “(n) SPECIAL RULE FOR CERTAIN OWNERSHIP  
24 CHANGES.—

1           “(1) IN GENERAL.—The limitation contained in  
2 subsection (a) shall not apply in the case of an own-  
3 ership change which is pursuant to a restructuring  
4 plan of a taxpayer which—

5           “(A) is required under a loan agreement or  
6 a commitment for a line of credit entered into  
7 with the Department of the Treasury under the  
8 Emergency Economic Stabilization Act of 2008,  
9 and

10           “(B) is intended to result in a rationaliza-  
11 tion of the costs, capitalization, and capacity  
12 with respect to the manufacturing workforce of,  
13 and suppliers to, the taxpayer and its subsidi-  
14 aries.

15           “(2) SUBSEQUENT ACQUISITIONS.—Paragraph  
16 (1) shall not apply in the case of any subsequent  
17 ownership change unless such ownership change is  
18 described in such paragraph.

19           “(3) LIMITATION BASED ON CONTROL IN COR-  
20 PORATION.—

21           “(A) IN GENERAL.—Paragraph (1) shall  
22 not apply in the case of any ownership change  
23 if, immediately after such ownership change,  
24 any person (other than a voluntary employees’  
25 beneficiary association under section 501(c)(9))

1 owns stock of the new loss corporation pos-  
2 sessing 50 percent or more of the total com-  
3 bined voting power of all classes of stock enti-  
4 tled to vote, or of the total value of the stock  
5 of such corporation.

6 “(B) TREATMENT OF RELATED PER-  
7 SONS.—

8 “(i) IN GENERAL.—Related persons  
9 shall be treated as a single person for pur-  
10 poses of this paragraph.

11 “(ii) RELATED PERSONS.—For pur-  
12 poses of clause (i), a person shall be treat-  
13 ed as related to another person if—

14 “(I) such person bears a relation-  
15 ship to such other person described in  
16 section 267(b) or 707(b), or

17 “(II) such persons are members  
18 of a group of persons acting in con-  
19 cert.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to ownership changes after the  
22 date of the enactment of this Act.

**Subtitle D—Manufacturing  
Recovery Provisions**

**SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF  
INDUSTRIAL DEVELOPMENT BONDS TO FA-  
CILITIES MANUFACTURING INTANGIBLE  
PROPERTY.**

(a) IN GENERAL.—Subparagraph (C) of section  
144(a)(12) is amended—

(1) by striking “For purposes of this para-  
graph, the term” and inserting “For purposes of  
this paragraph—

“(i) IN GENERAL.—The term”, and

(2) by striking the last sentence and inserting  
the following new clauses:

“(ii) CERTAIN FACILITIES IN-  
CLUDED.—Such term includes facilities  
which are directly related and ancillary to  
a manufacturing facility (determined with-  
out regard to this clause) if—

“(I) such facilities are located on  
the same site as the manufacturing  
facility, and

“(II) not more than 25 percent  
of the net proceeds of the issue are  
used to provide such facilities.

1                   “(iii) SPECIAL RULES FOR BONDS  
2                   ISSUED IN 2009 AND 2010.—In the case of  
3                   any issue made after the date of enactment  
4                   of this clause and before January 1, 2011,  
5                   clause (ii) shall not apply and the net pro-  
6                   ceeds from a bond shall be considered to  
7                   be used to provide a manufacturing facility  
8                   if such proceeds are used to provide—

9                   “(I) a facility which is used in  
10                  the creation or production of intan-  
11                  gible property which is described in  
12                  section 197(d)(1)(C)(iii), or

13                  “(II) a facility which is function-  
14                  ally related and subordinate to a man-  
15                  ufacturing facility (determined with-  
16                  out regard to this subclause) if such  
17                  facility is located on the same site as  
18                  the manufacturing facility.”.

19           (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to obligations issued after the date  
21 of the enactment of this Act.

22 **SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED EN-**  
23 **ERGY FACILITIES.**

24           (a) IN GENERAL.—Section 46 (relating to amount of  
25 credit) is amended by striking “and” at the end of para-

1 graph (3), by striking the period at the end of paragraph  
2 (4), and by adding at the end the following new para-  
3 graph:

4 “(5) the qualifying advanced energy project  
5 credit.”.

6 (b) AMOUNT OF CREDIT.—Subpart E of part IV of  
7 subchapter A of chapter 1 (relating to rules for computing  
8 investment credit) is amended by inserting after section  
9 48B the following new section:

10 **“SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT**  
11 **CREDIT.**

12 “(a) IN GENERAL.—For purposes of section 46, the  
13 qualifying advanced energy project credit for any taxable  
14 year is an amount equal to 30 percent of the qualified  
15 investment for such taxable year with respect to any quali-  
16 fying advanced energy project of the taxpayer.

17 “(b) QUALIFIED INVESTMENT.—

18 “(1) IN GENERAL.—For purposes of subsection  
19 (a), the qualified investment for any taxable year is  
20 the basis of eligible property placed in service by the  
21 taxpayer during such taxable year which is part of  
22 a qualifying advanced energy project.

23 “(2) CERTAIN QUALIFIED PROGRESS EXPENDI-  
24 TURES RULES MADE APPLICABLE.—Rules similar to  
25 the rules of subsections (c)(4) and (d) of section 46

1 (as in effect on the day before the enactment of the  
2 Revenue Reconciliation Act of 1990) shall apply for  
3 purposes of this section.

4 “(3) LIMITATION.—The amount which is treat-  
5 ed for all taxable years with respect to any quali-  
6 fying advanced energy project shall not exceed the  
7 amount designated by the Secretary as eligible for  
8 the credit under this section.

9 “(c) DEFINITIONS.—

10 “(1) QUALIFYING ADVANCED ENERGY  
11 PROJECT.—

12 “(A) IN GENERAL.—The term ‘qualifying  
13 advanced energy project’ means a project—

14 “(i) which re-equips, expands, or es-  
15 tablishes a manufacturing facility for the  
16 production of—

17 “(I) property designed to be used  
18 to produce energy from the sun, wind,  
19 geothermal deposits (within the mean-  
20 ing of section 613(e)(2)), or other re-  
21 newable resources,

22 “(II) fuel cells, microturbines, or  
23 an energy storage system for use with  
24 electric or hybrid-electric motor vehi-  
25 cles,

1                   “(III) electric grids to support  
2                   the transmission of intermittent  
3                   sources of renewable energy, including  
4                   storage of such energy,

5                   “(IV) property designed to cap-  
6                   ture and sequester carbon dioxide  
7                   emissions,

8                   “(V) property designed to refine  
9                   or blend renewable fuels or to produce  
10                  energy conservation technologies (in-  
11                  cluding energy-conserving lighting  
12                  technologies and smart grid tech-  
13                  nologies),

14                  “(VI) new qualified plug-in elec-  
15                  tric drive motor vehicles (as defined  
16                  by section 30D), qualified plug-in  
17                  electric vehicles (as defined by section  
18                  30(d)), or components which are de-  
19                  signed specifically for use with such  
20                  vehicles, including electric motors,  
21                  generators, and power control units,  
22                  or

23                  “(VII) other advanced energy  
24                  property designed to reduce green-



1 house gas emissions as may be deter-  
2 mined by the Secretary, and

3 “(ii) any portion of the qualified in-  
4 vestment of which is certified by the Sec-  
5 retary under subsection (d) as eligible for  
6 a credit under this section.

7 “(B) EXCEPTION.—Such term shall not in-  
8 clude any portion of a project for the produc-  
9 tion of any property which is used in the refin-  
10 ing or blending of any transportation fuel  
11 (other than renewable fuels).

12 “(2) ELIGIBLE PROPERTY.—The term ‘eligible  
13 property’ means any property—

14 “(A) which is necessary for the production  
15 of property described in paragraph (1)(A)(i),

16 “(B) which is—

17 “(i) tangible personal property, or

18 “(ii) other tangible property (not in-  
19 cluding a building or its structural compo-  
20 nents), but only if such property is used as  
21 an integral part of the qualified investment  
22 credit facility, and

23 “(C) with respect to which depreciation (or  
24 amortization in lieu of depreciation) is allow-  
25 able.

1       “(d) QUALIFYING ADVANCED ENERGY PROJECT  
2 PROGRAM.—

3           “(1) ESTABLISHMENT.—

4               “(A) IN GENERAL.—Not later than 180  
5 days after the date of enactment of this section,  
6 the Secretary, in consultation with the Sec-  
7 retary of Energy, shall establish a qualifying  
8 advanced energy project program to consider  
9 and award certifications for qualified invest-  
10 ments eligible for credits under this section to  
11 qualifying advanced energy project sponsors.

12           “(B) LIMITATION.—The total amount of  
13 credits that may be allocated under the pro-  
14 gram shall not exceed \$2,300,000,000.

15           “(2) CERTIFICATION.—

16               “(A) APPLICATION PERIOD.—Each appli-  
17 cant for certification under this paragraph shall  
18 submit an application containing such informa-  
19 tion as the Secretary may require during the 2-  
20 year period beginning on the date the Secretary  
21 establishes the program under paragraph (1).

22           “(B) TIME TO MEET CRITERIA FOR CER-  
23 TIFICATION.—Each applicant for certification  
24 shall have 1 year from the date of acceptance  
25 by the Secretary of the application during

1           which to provide to the Secretary evidence that  
2           the requirements of the certification have been  
3           met.

4           “(C) PERIOD OF ISSUANCE.—An applicant  
5           which receives a certification shall have 3 years  
6           from the date of issuance of the certification in  
7           order to place the project in service and if such  
8           project is not placed in service by that time pe-  
9           riod, then the certification shall no longer be  
10          valid.

11          “(3) SELECTION CRITERIA.—In determining  
12          which qualifying advanced energy projects to certify  
13          under this section, the Secretary—

14               “(A) shall take into consideration only  
15               those projects where there is a reasonable ex-  
16               pectation of commercial viability, and

17               “(B) shall take into consideration which  
18               projects—

19                       “(i) will provide the greatest domestic  
20                       job creation (both direct and indirect) dur-  
21                       ing the credit period,

22                       “(ii) will provide the greatest net im-  
23                       pact in avoiding or reducing air pollutants  
24                       or anthropogenic emissions of greenhouse  
25                       gases,

1                   “(iii) have the greatest potential for  
2                   technological innovation and commercial  
3                   deployment,

4                   “(iv) have the lowest levelized cost of  
5                   generated or stored energy, or of measured  
6                   reduction in energy consumption or green-  
7                   house gas emission (based on costs of the  
8                   full supply chain), and

9                   “(v) have the shortest project time  
10                  from certification to completion.

11                 “(4) REVIEW AND REDISTRIBUTION.—

12                 “(A) REVIEW.—Not later than 4 years  
13                 after the date of enactment of this section, the  
14                 Secretary shall review the credits allocated  
15                 under this section as of such date.

16                 “(B) REDISTRIBUTION.—The Secretary  
17                 may reallocate credits awarded under this sec-  
18                 tion if the Secretary determines that—

19                         “(i) there is an insufficient quantity  
20                         of qualifying applications for certification  
21                         pending at the time of the review, or

22                         “(ii) any certification made pursuant  
23                         to paragraph (2) has been revoked pursu-  
24                         ant to paragraph (2)(B) because the  
25                         project subject to the certification has been

1           delayed as a result of third party opposi-  
2           tion or litigation to the proposed project.

3           “(C) REALLOCATION.—If the Secretary de-  
4           termines that credits under this section are  
5           available for reallocation pursuant to the re-  
6           quirements set forth in paragraph (2), the Sec-  
7           retary is authorized to conduct an additional  
8           program for applications for certification.

9           “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
10          retary shall, upon making a certification under this  
11          subsection, publicly disclose the identity of the appli-  
12          cant and the amount of the credit with respect to  
13          such applicant.

14          “(e) DENIAL OF DOUBLE BENEFIT.—A credit shall  
15          not be allowed under this section for any qualified invest-  
16          ment for which a credit is allowed under section 48, 48A,  
17          or 48B.”.

18          (c) CONFORMING AMENDMENTS.—

19               (1) Section 49(a)(1)(C) is amended by striking  
20          “and” at the end of clause (iii), by striking the pe-  
21          riod at the end of clause (iv) and inserting “, and”,  
22          and by adding after clause (iv) the following new  
23          clause:

1 “(v) the basis of any property which  
2 is part of a qualifying advanced energy  
3 project under section 48C.”.

4 (2) The table of sections for subpart E of part  
5 IV of subchapter A of chapter 1 is amended by in-  
6 serting after the item relating to section 48B the fol-  
7 lowing new item:

“48C. Qualifying advanced energy project credit.”.

8 (d) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to periods after the date of the  
10 enactment of this Act, under rules similar to the rules of  
11 section 48(m) of the Internal Revenue Code of 1986 (as  
12 in effect on the day before the date of the enactment of  
13 the Revenue Reconciliation Act of 1990).

## 14 **Subtitle E—Economic Recovery** 15 **Tools**

### 16 **SEC. 1401. RECOVERY ZONE BONDS.**

17 (a) **IN GENERAL.**—Subchapter Y of chapter 1 is  
18 amended by adding at the end the following new part:

### 19 **“PART III—RECOVERY ZONE BONDS**

“Sec. 1400U–1. Allocation of recovery zone bonds.

“Sec. 1400U–2. Recovery zone economic development bonds.

“Sec. 1400U–3. Recovery zone facility bonds.

### 20 **“SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.**

21 “(a) **ALLOCATIONS.**—

22 “(1) **IN GENERAL.**—

1           “(A) GENERAL ALLOCATION.—The Sec-  
2           retary shall allocate the national recovery zone  
3           economic development bond limitation and the  
4           national recovery zone facility bond limitation  
5           among the States in the proportion that each  
6           such State’s 2008 State employment decline  
7           bears to the aggregate of the 2008 State em-  
8           ployment declines for all of the States.

9           “(B) MINIMUM ALLOCATION.—The Sec-  
10          retary shall adjust the allocations under sub-  
11          paragraph (A) for any calendar year for each  
12          State to the extent necessary to ensure that no  
13          State receives less than 0.9 percent of the na-  
14          tional recovery zone economic development bond  
15          limitation and 0.9 percent of the national recov-  
16          ery zone facility bond limitation.

17          “(2) 2008 STATE EMPLOYMENT DECLINE.—For  
18          purposes of this subsection, the term ‘2008 State  
19          employment decline’ means, with respect to any  
20          State, the excess (if any) of—

21               “(A) the number of individuals employed  
22               in such State determined for December 2007,  
23               over

24               “(B) the number of individuals employed  
25               in such State determined for December 2008.

1 “(3) ALLOCATIONS BY STATES.—

2 “(A) IN GENERAL.—Each State with re-  
3 spect to which an allocation is made under  
4 paragraph (1) shall reallocate such allocation  
5 among the counties and large municipalities in  
6 such State in the proportion to each such coun-  
7 ty’s or municipality’s 2008 employment decline  
8 bears to the aggregate of the 2008 employment  
9 declines for all the counties and municipalities  
10 in such State. A county or municipality may  
11 waive any portion of an allocation made under  
12 this subparagraph.

13 “(B) LARGE MUNICIPALITIES.—For pur-  
14 poses of subparagraph (A), the term ‘large mu-  
15 nicipality’ means a municipality with a popu-  
16 lation of more than 100,000.

17 “(C) DETERMINATION OF LOCAL EMPLOY-  
18 MENT DECLINES.—For purposes of this para-  
19 graph, the employment decline of any munici-  
20 pality or county shall be determined in the  
21 same manner as determining the State employ-  
22 ment decline under paragraph (2), except that  
23 in the case of a municipality any portion of  
24 which is in a county, such portion shall be



1           treated as part of such municipality and not  
2           part of such county.

3           “(4) NATIONAL LIMITATIONS.—

4                 “(A) RECOVERY ZONE ECONOMIC DEVEL-  
5           OPMENT BONDS.—There is a national recovery  
6           zone economic development bond limitation of  
7           \$10,000,000,000.

8                 “(B) RECOVERY ZONE FACILITY BONDS.—

9           There is a national recovery zone facility bond  
10          limitation of \$15,000,000,000.

11          “(b) RECOVERY ZONE.—For purposes of this part,  
12          the term ‘recovery zone’ means—

13                 “(1) any area designated by the issuer as hav-  
14          ing significant poverty, unemployment, rate of home  
15          foreclosures, or general distress,

16                 “(2) any area designated by the issuer as eco-  
17          nomically distressed by reason of the closure or re-  
18          alignment of a military installation pursuant to the  
19          Defense Base Closure and Realignment Act of 1990,  
20          and

21                 “(3) any area for which a designation as an em-  
22          powerment zone or renewal community is in effect.

1 **“SEC. 1400U-2. RECOVERY ZONE ECONOMIC DEVELOPMENT**  
2 **BONDS.**

3 “(a) IN GENERAL.—In the case of a recovery zone  
4 economic development bond—

5 “(1) such bond shall be treated as a qualified  
6 bond for purposes of section 6431, and

7 “(2) subsection (b) of such section shall be ap-  
8 plied by substituting ‘45 percent’ for ‘35 percent’.

9 “(b) RECOVERY ZONE ECONOMIC DEVELOPMENT  
10 BOND.—

11 “(1) IN GENERAL.—For purposes of this sec-  
12 tion, the term ‘recovery zone economic development  
13 bond’ means any build America bond (as defined in  
14 section 54AA(d)) issued before January 1, 2011, as  
15 part of issue if—

16 “(A) 100 percent of the excess of—

17 “(i) the available project proceeds (as  
18 defined in section 54A) of such issue, over

19 “(ii) the amounts in a reasonably re-  
20 quired reserve (within the meaning of sec-  
21 tion 150(a)(3)) with respect to such issue,  
22 are to be used for one or more qualified eco-  
23 nomic development purposes, and

24 “(B) the issuer designates such bond for  
25 purposes of this section.

1           “(2) LIMITATION ON AMOUNT OF BONDS DES-  
2       IGNATED.—The maximum aggregate face amount of  
3       bonds which may be designated by any issuer under  
4       paragraph (1) shall not exceed the amount of the re-  
5       covery zone economic development bond limitation  
6       allocated to such issuer under section 1400U–1.

7       “(c) QUALIFIED ECONOMIC DEVELOPMENT PUR-  
8       POSE.—For purposes of this section, the term ‘qualified  
9       economic development purpose’ means expenditures for  
10      purposes of promoting development or other economic ac-  
11      tivity in a recovery zone, including—

12           “(1) capital expenditures paid or incurred with  
13      respect to property located in such zone,

14           “(2) expenditures for public infrastructure and  
15      construction of public facilities, and

16           “(3) expenditures for job training and edu-  
17      cational programs.

18   **“SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.**

19       “(a) IN GENERAL.—For purposes of part IV of sub-  
20      chapter B (relating to tax exemption requirements for  
21      State and local bonds), the term ‘exempt facility bond’ in-  
22      cludes any recovery zone facility bond.

23       “(b) RECOVERY ZONE FACILITY BOND.—

1           “(1) IN GENERAL.—For purposes of this sec-  
2           tion, the term ‘recovery zone facility bond’ means  
3           any bond issued as part of an issue if—

4                   “(A) 95 percent or more of the net pro-  
5                   ceeds (as defined in section 150(a)(3)) of such  
6                   issue are to be used for recovery zone property,

7                   “(B) such bond is issued before January 1,  
8                   2011, and

9                   “(C) the issuer designates such bond for  
10                  purposes of this section.

11           “(2) LIMITATION ON AMOUNT OF BONDS DES-  
12           IGNATED.—The maximum aggregate face amount of  
13           bonds which may be designated by any issuer under  
14           paragraph (1) shall not exceed the amount of recov-  
15           ery zone facility bond limitation allocated to such  
16           issuer under section 1400U-1.

17           “(c) RECOVERY ZONE PROPERTY.—For purposes of  
18           this section—

19                   “(1) IN GENERAL.—The term ‘recovery zone  
20                   property’ means any property to which section 168  
21                   applies (or would apply but for section 179) if—

22                           “(A) such property was constructed, recon-  
23                           structed, renovated, or acquired by purchase (as  
24                           defined in section 179(d)(2)) by the taxpayer

1 after the date on which the designation of the  
2 recovery zone took effect,

3 “(B) the original use of which in the recov-  
4 ery zone commences with the taxpayer, and

5 “(C) substantially all of the use of which  
6 is in the recovery zone and is in the active con-  
7 duct of a qualified business by the taxpayer in  
8 such zone.

9 “(2) QUALIFIED BUSINESS.—The term ‘quali-  
10 fied business’ means any trade or business except  
11 that—

12 “(A) the rental to others of real property  
13 located in a recovery zone shall be treated as a  
14 qualified business only if the property is not  
15 residential rental property (as defined in section  
16 168(e)(2)), and

17 “(B) such term shall not include any trade  
18 or business consisting of the operation of any  
19 facility described in section 144(c)(6)(B).

20 “(3) SPECIAL RULES FOR SUBSTANTIAL REN-  
21 OVATIONS AND SALE-LEASEBACK.—Rules similar to  
22 the rules of subsections (a)(2) and (b) of section  
23 1397D shall apply for purposes of this subsection.

24 “(d) NONAPPLICATION OF CERTAIN RULES.—Sec-  
25 tions 146 (relating to volume cap) and 147(d) (relating

1 to acquisition of existing property not permitted) shall not  
2 apply to any recovery zone facility bond.”.

3 (b) CLERICAL AMENDMENT.—The table of parts for  
4 subchapter Y of chapter 1 of such Code is amended by  
5 adding at the end the following new item:

“PART III. RECOVERY ZONE BONDS.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to obligations issued after the date  
8 of the enactment of this Act.

9 **SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.**

10 (a) IN GENERAL.—Section 7871 is amended by add-  
11 ing at the end the following new subsection:

12 “(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

13 “(1) ALLOCATION OF LIMITATION.—

14 “(A) IN GENERAL.—The Secretary shall  
15 allocate the national tribal economic develop-  
16 ment bond limitation among the Indian tribal  
17 governments in such manner as the Secretary,  
18 in consultation with the Secretary of the Inte-  
19 rior, determines appropriate.

20 “(B) NATIONAL LIMITATION.—There is a  
21 national tribal economic development bond limi-  
22 tation of \$2,000,000,000.

23 “(2) BONDS TREATED AS EXEMPT FROM  
24 TAX.—In the case of a tribal economic development  
25 bond—

1           “(A) notwithstanding subsection (c), such  
2           bond shall be treated for purposes of this title  
3           in the same manner as if such bond were issued  
4           by a State,

5           “(B) the Indian tribal government issuing  
6           such bond and any instrumentality of such In-  
7           dian tribal government shall be treated as a  
8           State for purposes of section 141, and

9           “(C) section 146 shall not apply.

10          “(3)   TRIBAL    ECONOMIC    DEVELOPMENT  
11   BOND.—

12           “(A) IN GENERAL.—For purposes of this  
13           section, the term ‘tribal economic development  
14           bond’ means any bond issued by an Indian trib-  
15           al government—

16                   “(i) the interest on which would be ex-  
17                   empt from tax under section 103 if issued  
18                   by a State or local government, and

19                   “(ii) which is designated by the In-  
20                   dian tribal government as a tribal eco-  
21                   nomic development bond for purposes of  
22                   this subsection.

23           “(B) EXCEPTIONS.—Such term shall not  
24           include any bond issued as part of an issue if

1 any portion of the proceeds of such issue are  
2 used to finance—

3 “(i) any portion of a building in which  
4 class II or class III gaming (as defined in  
5 section 4 of the Indian Gaming Regulatory  
6 Act) is conducted or housed or any other  
7 property actually used in the conduct of  
8 such gaming, or

9 “(ii) any facility located outside the  
10 Indian reservation (as defined in section  
11 168(j)(6)).

12 “(C) LIMITATION ON AMOUNT OF BONDS  
13 DESIGNATED.—The maximum aggregate face  
14 amount of bonds which may be designated by  
15 any Indian tribal government under subpara-  
16 graph (A) shall not exceed the amount of na-  
17 tional tribal economic development bond limita-  
18 tion allocated to such government under para-  
19 graph (1).”.

20 (b) STUDY.—The Secretary of the Treasury, or the  
21 Secretary’s delegate, shall conduct a study of the effects  
22 of the amendment made by subsection (a). Not later than  
23 1 year after the date of the enactment of this Act, the  
24 Secretary of the Treasury, or the Secretary’s delegate,  
25 shall report to Congress on the results of the study con-



1 ducted under this paragraph, including the Secretary's  
2 recommendations regarding such amendment.

3 (c) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to obligations issued after the  
5 date of the enactment of this Act.

6 **SEC. 1403. INCREASE IN NEW MARKETS TAX CREDIT.**

7 (a) IN GENERAL.—Section 45D(f)(1) is amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (C),

10 (2) by striking “, 2007, 2008, and 2009.” in  
11 subparagraph (D), and inserting “and 2007,” and

12 (3) by adding at the end the following new sub-  
13 paragraphs:

14 “(E) \$5,000,000,000 for 2008, and

15 “(F) \$5,000,000,000 for 2009.”.

16 (b) SPECIAL RULE FOR ALLOCATION OF INCREASED  
17 2008 LIMITATION.—The amount of the increase in the  
18 new markets tax credit limitation for calendar year 2008  
19 by reason of the amendments made by subsection (a) shall  
20 be allocated in accordance with section 45D(f)(2) of the  
21 Internal Revenue Code of 1986 to qualified community de-  
22 velopment entities (as defined in section 45D(c) of such  
23 Code) which—

24 (1) submitted an allocation application with re-  
25 spect to calendar year 2008, and

1           (2)(A) did not receive an allocation for such cal-  
2       endar year, or

3           (B) received an allocation for such calendar  
4       year in an amount less than the amount requested  
5       in the allocation application.

6       **SEC. 1404. COORDINATION OF LOW-INCOME HOUSING**  
7                       **CREDIT AND LOW-INCOME HOUSING GRANTS.**

8       Subsection (i) of section 42 is amended by adding at  
9       the end the following new paragraph:

10           “(9) COORDINATION WITH LOW-INCOME HOUS-  
11       ING GRANTS.—

12           “(A) REDUCTION IN STATE HOUSING  
13       CREDIT CEILING FOR LOW-INCOME HOUSING  
14       GRANTS RECEIVED IN 2009.—For purposes of  
15       this section, the amounts described in clauses  
16       (i) through (iv) of subsection (h)(3)(C) with re-  
17       spect to any State for 2009 shall each be re-  
18       duced by so much of such amount as is taken  
19       into account in determining the amount of any  
20       grant to such State under section 1602 of the  
21       American Recovery and Reinvestment Tax Act  
22       of 2009.

23           “(B) SPECIAL RULE FOR BASIS.—Basis of  
24       a qualified low-income building shall not be re-

1           duced by the amount of any grant described in  
2           subparagraph (A).”.

3           **Subtitle F—Infrastructure**  
4           **Financing Tools**

5           **PART I—IMPROVED MARKETABILITY FOR TAX-**  
6           **EXEMPT BONDS**

7           **SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-**  
8           **EXEMPT INTEREST EXPENSE OF FINANCIAL**  
9           **INSTITUTIONS.**

10          (a) IN GENERAL.—Subsection (b) of section 265 is  
11          amended by adding at the end the following new para-  
12          graph:

13               “(7) DE MINIMIS EXCEPTION FOR BONDS  
14               ISSUED DURING 2009 OR 2010.—

15                       “(A) IN GENERAL.—In applying paragraph  
16                       (2)(A), there shall not be taken into account  
17                       tax-exempt obligations issued during 2009 or  
18                       2010.

19                       “(B) LIMITATION.—The amount of tax-ex-  
20                       empt obligations not taken into account by rea-  
21                       son of subparagraph (A) shall not exceed 2 per-  
22                       cent of the amount determined under para-  
23                       graph (2)(B).

24                       “(C) REFUNDINGS.—For purposes of this  
25                       paragraph, a refunding bond (whether a current

1 or advance refunding) shall be treated as issued  
2 on the date of the issuance of the refunded  
3 bond (or in the case of a series of refundings,  
4 the original bond).”.

5 (b) TREATMENT AS FINANCIAL INSTITUTION PREF-  
6 ERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is  
7 amended by adding at the end the following: “That por-  
8 tion of any obligation not taken into account under para-  
9 graph (2)(A) of section 265(b) by reason of paragraph (7)  
10 of such section shall be treated for purposes of this section  
11 as having been acquired on August 7, 1986.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to obligations issued after Decem-  
14 ber 31, 2008.

15 **SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION**  
16 **TO TAX-EXEMPT INTEREST EXPENSE ALLOCA-**  
17 **TION RULES FOR FINANCIAL INSTITUTIONS.**

18 (a) IN GENERAL.—Paragraph (3) of section 265(b)  
19 (relating to exception for certain tax-exempt obligations)  
20 is amended by adding at the end the following new sub-  
21 paragraph:

22 “(G) SPECIAL RULES FOR OBLIGATIONS  
23 ISSUED DURING 2009 AND 2010.—

24 “(i) INCREASE IN LIMITATION.—In  
25 the case of obligations issued during 2009

1 or 2010, subparagraphs (C)(i), (D)(i), and  
2 (D)(iii)(II) shall each be applied by sub-  
3 stituting ‘\$30,000,000’ for ‘\$10,000,000’.

4 “(ii) QUALIFIED 501(C)(3) BONDS  
5 TREATED AS ISSUED BY EXEMPT ORGANI-  
6 ZATION.—In the case of a qualified  
7 501(c)(3) bond (as defined in section 145)  
8 issued during 2009 or 2010, this para-  
9 graph shall be applied by treating the  
10 501(c)(3) organization for whose benefit  
11 such bond was issued as the issuer.

12 “(iii) SPECIAL RULE FOR QUALIFIED  
13 FINANCINGS.—In the case of a qualified fi-  
14 nancing issue issued during 2009 or  
15 2010—

16 “(I) subparagraph (F) shall not  
17 apply, and

18 “(II) any obligation issued as a  
19 part of such issue shall be treated as  
20 a qualified tax-exempt obligation if  
21 the requirements of this paragraph  
22 are met with respect to each qualified  
23 portion of the issue (determined by  
24 treating each qualified portion as a  
25 separate issue which is issued by the

1 qualified borrower with respect to  
2 which such portion relates).

3 “(iv) QUALIFIED FINANCING ISSUE.—

4 For purposes of this subparagraph, the  
5 term ‘qualified financing issue’ means any  
6 composite, pooled, or other conduit financ-  
7 ing issue the proceeds of which are used  
8 directly or indirectly to make or finance  
9 loans to 1 or more ultimate borrowers each  
10 of whom is a qualified borrower.

11 “(v) QUALIFIED PORTION.—For pur-  
12 poses of this subparagraph, the term  
13 ‘qualified portion’ means that portion of  
14 the proceeds which are used with respect  
15 to each qualified borrower under the issue.

16 “(vi) QUALIFIED BORROWER.—For  
17 purposes of this subparagraph, the term  
18 ‘qualified borrower’ means a borrower  
19 which is a State or political subdivision  
20 thereof or an organization described in sec-  
21 tion 501(c)(3) and exempt from taxation  
22 under section 501(a).”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to obligations issued after Decem-  
25 ber 31, 2008.

1 **SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE**  
2 **MINIMUM TAX LIMITATIONS ON TAX-EXEMPT**  
3 **BONDS.**

4 (a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED  
5 DURING 2009 AND 2010 NOT TREATED AS TAX PREF-  
6 ERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is  
7 amended by adding at the end a new clause:

8 “(vi) EXCEPTION FOR BONDS ISSUED  
9 IN 2009 AND 2010.—

10 “(I) IN GENERAL.—For purposes  
11 of clause (i), the term ‘private activity  
12 bond’ shall not include any bond  
13 issued after December 31, 2008, and  
14 before January 1, 2011.

15 “(II) TREATMENT OF REFUND-  
16 ING BONDS.—For purposes of sub-  
17 clause (I), a refunding bond (whether  
18 a current or advance refunding) shall  
19 be treated as issued on the date of the  
20 issuance of the refunded bond (or in  
21 the case of a series of refundings, the  
22 original bond).

23 “(III) EXCEPTION FOR CERTAIN  
24 REFUNDING BONDS.—Subclause (II)  
25 shall not apply to any refunding bond  
26 which is issued to refund any bond

1 which was issued after December 31,  
2 2003, and before January 1, 2009.”.

3 (b) NO ADJUSTMENT TO ADJUSTED CURRENT  
4 EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS  
5 ISSUED DURING 2009 AND 2010.—Subparagraph (B) of  
6 section 56(g)(4) is amended by adding at the end the fol-  
7 lowing new clause:

8 “(iv) TAX EXEMPT INTEREST ON  
9 BONDS ISSUED IN 2009 AND 2010.—

10 “(I) IN GENERAL.—Clause (i)  
11 shall not apply in the case of any in-  
12 terest on a bond issued after Decem-  
13 ber 31, 2008, and before January 1,  
14 2011.

15 “(II) TREATMENT OF REFUND-  
16 ING BONDS.—For purposes of sub-  
17 clause (I), a refunding bond (whether  
18 a current or advance refunding) shall  
19 be treated as issued on the date of the  
20 issuance of the refunded bond (or in  
21 the case of a series of refundings, the  
22 original bond).

23 “(III) EXCEPTION FOR CERTAIN  
24 REFUNDING BONDS.—Subclause (II)  
25 shall not apply to any refunding bond



1 which is issued to refund any bond  
2 which was issued after December 31,  
3 2003, and before January 1, 2009.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to obligations issued after Decem-  
6 ber 31, 2008.

7 **SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL**  
8 **FACILITY BONDS.**

9 (a) IN GENERAL.—Paragraph (1) of section 142(i)  
10 is amended by striking “operate at speeds in excess of”  
11 and inserting “be capable of attaining a maximum speed  
12 in excess of”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to obligations issued after the date  
15 of the enactment of this Act.

16 **PART II—DELAY IN APPLICATION OF WITH-**  
17 **HOLDING TAX ON GOVERNMENT CONTRAC-**  
18 **TORS**

19 **SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX**  
20 **ON GOVERNMENT CONTRACTORS.**

21 Subsection (b) of section 511 of the Tax Increase  
22 Prevention and Reconciliation Act of 2005 is amended by  
23 striking “December 31, 2010” and inserting “December  
24 31, 2011”.

1     **PART III—TAX CREDIT BONDS FOR SCHOOLS**

2     **SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

3       (a) IN GENERAL.—Subpart I of part IV of sub-  
4 chapter A of chapter 1 is amended by adding at the end  
5 the following new section:

6     **“SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

7       “(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—  
8 For purposes of this subchapter, the term ‘qualified school  
9 construction bond’ means any bond issued as part of an  
10 issue if—

11           “(1) 100 percent of the available project pro-  
12 ceeds of such issue are to be used for the construc-  
13 tion, rehabilitation, or repair of a public school facil-  
14 ity or for the acquisition of land on which such a fa-  
15 cility is to be constructed with part of the proceeds  
16 of such issue,

17           “(2) the bond is issued by a State or local gov-  
18 ernment within the jurisdiction of which such school  
19 is located, and

20           “(3) the issuer designates such bond for pur-  
21 poses of this section.

22       “(b) LIMITATION ON AMOUNT OF BONDS DES-  
23 IGNATED.—The maximum aggregate face amount of  
24 bonds issued during any calendar year which may be des-  
25 ignated under subsection (a) by any issuer shall not exceed

1 the limitation amount allocated under subsection (d) for  
2 such calendar year to such issuer.

3 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS  
4 DESIGNATED.—There is a national qualified school con-  
5 struction bond limitation for each calendar year. Such lim-  
6 itation is—

7 “(1) \$11,000,000,000 for 2009,

8 “(2) \$11,000,000,000 for 2010, and

9 “(3) except as provided in subsection (e), zero  
10 after 2010.

11 “(d) ALLOCATION OF LIMITATION.—

12 “(1) ALLOCATION AMONG STATES.—Except as  
13 provided in paragraph (2)(C), the limitation applica-  
14 ble under subsection (c) for any calendar year shall  
15 be allocated by the Secretary among the States in  
16 proportion to the respective amounts each such  
17 State is eligible to receive under section 1124 of the  
18 Elementary and Secondary Education Act of 1965  
19 (20 U.S.C. 6333) for the most recent fiscal year  
20 ending before such calendar year. The limitation  
21 amount allocated to a State under the preceding  
22 sentence shall be allocated by the State to issuers  
23 within such State.

24 “(2) 40 PERCENT OF LIMITATION ALLOCATED  
25 AMONG LARGEST SCHOOL DISTRICTS.—

1           “(A) IN GENERAL.—40 percent of the limi-  
2           tation applicable under subsection (c) for any  
3           calendar year shall be allocated under subpara-  
4           graph (B) by the Secretary among local edu-  
5           cational agencies which are large local edu-  
6           cational agencies for such year.

7           “(B)     ALLOCATION     FORMULA.—The  
8           amount to be allocated under subparagraph (A)  
9           for any calendar year shall be allocated among  
10          large local educational agencies in proportion to  
11          the respective amounts each such agency re-  
12          ceived under section 1124 of the Elementary  
13          and Secondary Education Act of 1965 (20  
14          U.S.C. 6333) for the most recent fiscal year  
15          ending before such calendar year.

16          “(C)     REDUCTION IN STATE ALLOCA-  
17          TION.—The allocation to any State under para-  
18          graph (1) shall be reduced by the aggregate  
19          amount of the allocations under this paragraph  
20          to large local educational agencies within such  
21          State.

22          “(D)     ALLOCATION OF UNUSED LIMITATION  
23          TO STATE.—The amount allocated under this  
24          paragraph to a large local educational agency  
25          for any calendar year may be reallocated by

1       such agency to the State in which such agency  
2       is located for such calendar year. Any amount  
3       reallocated to a State under the preceding sen-  
4       tence may be allocated as provided in para-  
5       graph (1).

6               “(E) LARGE LOCAL EDUCATIONAL AGEN-  
7       CY.—For purposes of this paragraph, the term  
8       ‘large local educational agency’ means, with re-  
9       spect to a calendar year, any local educational  
10      agency if such agency is—

11               “(i) among the 100 local educational  
12              agencies with the largest numbers of chil-  
13              dren aged 5 through 17 from families liv-  
14              ing below the poverty level, as determined  
15              by the Secretary using the most recent  
16              data available from the Department of  
17              Commerce that are satisfactory to the Sec-  
18              retary, or

19               “(ii) 1 of not more than 25 local edu-  
20              cational agencies (other than those de-  
21              scribed in clause (i)) that the Secretary of  
22              Education determines (based on the most  
23              recent data available satisfactory to the  
24              Secretary) are in particular need of assist-  
25              ance, based on a low level of resources for

1 school construction, a high level of enroll-  
2 ment growth, or such other factors as the  
3 Secretary deems appropriate.

4 “(3) ALLOCATIONS TO CERTAIN POSSES-  
5 SIONS.—The amount to be allocated under para-  
6 graph (1) to any possession of the United States  
7 other than Puerto Rico shall be the amount which  
8 would have been allocated if all allocations under  
9 paragraph (1) were made on the basis of respective  
10 populations of individuals below the poverty line (as  
11 defined by the Office of Management and Budget).  
12 In making other allocations, the amount to be allo-  
13 cated under paragraph (1) shall be reduced by the  
14 aggregate amount allocated under this paragraph to  
15 possessions of the United States.

16 “(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In  
17 addition to the amounts otherwise allocated under  
18 this subsection, \$200,000,000 for calendar year  
19 2009, and \$200,000,000 for calendar year 2010,  
20 shall be allocated by the Secretary of the Interior for  
21 purposes of the construction, rehabilitation, and re-  
22 pair of schools funded by the Bureau of Indian Af-  
23 fairs. In the case of amounts allocated under the  
24 preceding sentence, Indian tribal governments (as

1 defined in section 7701(a)(40)) shall be treated as  
2 qualified issuers for purposes of this subchapter.

3 “(e) CARRYOVER OF UNUSED LIMITATION.—If for  
4 any calendar year—

5 “(1) the amount allocated under subsection (d)  
6 to any State, exceeds

7 “(2) the amount of bonds issued during such  
8 year which are designated under subsection (a) pur-  
9 suant to such allocation,

10 the limitation amount under such subsection for such  
11 State for the following calendar year shall be increased  
12 by the amount of such excess. A similar rule shall apply  
13 to the amounts allocated under subsection (d)(4).”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Paragraph (1) of section 54A(d) is amended  
16 by striking “or” at the end of subparagraph (C), by  
17 inserting “or” at the end of subparagraph (D), and  
18 by inserting after subparagraph (D) the following  
19 new subparagraph:

20 “(E) a qualified school construction  
21 bond,”.

22 (2) Subparagraph (C) of section 54A(d)(2) is  
23 amended by striking “and” at the end of clause (iii),  
24 by striking the period at the end of clause (iv) and

1 inserting “, and”, and by adding at the end the fol-  
2 lowing new clause:

3 “(v) in the case of a qualified school  
4 construction bond, a purpose specified in  
5 section 54F(a)(1).”.

6 (3) The table of sections for subpart I of part  
7 IV of subchapter A of chapter 1 is amended by add-  
8 ing at the end the following new item:

“Sec. 54F. Qualified school construction bonds.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to obligations issued after the date  
11 of the enactment of this Act.

12 **SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED**  
13 **ZONE ACADEMY BONDS.**

14 (a) IN GENERAL.—Section 54E(c)(1) is amended by  
15 striking “and 2009” and inserting “and \$1,400,000,000  
16 for 2009 and 2010”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to obligations issued after Decem-  
19 ber 31, 2008.

20 **PART IV—BUILD AMERICA BONDS**

21 **SEC. 1531. BUILD AMERICA BONDS.**

22 (a) IN GENERAL.—Part IV of subchapter A of chap-  
23 ter 1 is amended by adding at the end the following new  
24 subpart:



1                   **“Subpart J—Build America Bonds**

“Sec. 54AA. Build America bonds.

2   **“SEC. 54AA. BUILD AMERICA BONDS.**

3           “(a) IN GENERAL.—If a taxpayer holds a build  
4 America bond on one or more interest payment dates of  
5 the bond during any taxable year, there shall be allowed  
6 as a credit against the tax imposed by this chapter for  
7 the taxable year an amount equal to the sum of the credits  
8 determined under subsection (b) with respect to such  
9 dates.

10          “(b) AMOUNT OF CREDIT.—The amount of the credit  
11 determined under this subsection with respect to any in-  
12 terest payment date for a build America bond is 35 per-  
13 cent of the amount of interest payable by the issuer with  
14 respect to such date .

15          “(c) LIMITATION BASED ON AMOUNT OF TAX.—

16               “(1) IN GENERAL.—The credit allowed under  
17 subsection (a) for any taxable year shall not exceed  
18 the excess of—

19                       “(A) the sum of the regular tax liability  
20                       (as defined in section 26(b)) plus the tax im-  
21                       posed by section 55, over

22                       “(B) the sum of the credits allowable  
23                       under this part (other than subpart C and this  
24                       subpart).

1           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
2           credit allowable under subsection (a) exceeds the  
3           limitation imposed by paragraph (1) for such taxable  
4           year, such excess shall be carried to the succeeding  
5           taxable year and added to the credit allowable under  
6           subsection (a) for such taxable year (determined be-  
7           fore the application of paragraph (1) for such suc-  
8           ceeding taxable year).

9           “(d) BUILD AMERICA BOND.—

10           “(1) IN GENERAL.—For purposes of this sec-  
11           tion, the term ‘build America bond’ means any obli-  
12           gation (other than a private activity bond) if—

13                   “(A) the interest on such obligation would  
14                   (but for this section) be excludable from gross  
15                   income under section 103,

16                   “(B) such obligation is issued before Janu-  
17                   ary 1, 2011, and

18                   “(C) the issuer makes an irrevocable elec-  
19                   tion to have this section apply.

20           “(2) APPLICABLE RULES.—For purposes of ap-  
21           plying paragraph (1)—

22                   “(A) for purposes of section 149(b), a  
23                   build America bond shall not be treated as fed-  
24                   erally guaranteed by reason of the credit al-  
25                   lowed under subsection (a) or section 6431,

1           “(B) for purposes of section 148, the yield  
2           on a build America bond shall be determined  
3           without regard to the credit allowed under sub-  
4           section (a), and

5           “(C) a bond shall not be treated as a build  
6           America bond if the issue price has more than  
7           a de minimis amount (determined under rules  
8           similar to the rules of section 1273(a)(3)) of  
9           premium over the stated principal amount of  
10          the bond.

11          “(e) INTEREST PAYMENT DATE.—For purposes of  
12          this section, the term ‘interest payment date’ means any  
13          date on which the holder of record of the build America  
14          bond is entitled to a payment of interest under such bond.

15          “(f) SPECIAL RULES.—

16                 “(1) INTEREST ON BUILD AMERICA BONDS IN-  
17          CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME  
18          TAX PURPOSES.—For purposes of this title, interest  
19          on any build America bond shall be includible in  
20          gross income.

21                 “(2) APPLICATION OF CERTAIN RULES.—Rules  
22          similar to the rules of subsections (f), (g), (h), and  
23          (i) of section 54A shall apply for purposes of the  
24          credit allowed under subsection (a).

1       “(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED  
2 BEFORE 2011.—In the case of a qualified bond issued be-  
3 fore January 1, 2011—

4           “(1) ISSUER ALLOWED REFUNDABLE CRED-  
5 IT.—In lieu of any credit allowed under this section  
6 with respect to such bond, the issuer of such bond  
7 shall be allowed a credit as provided in section 6431.

8           “(2) QUALIFIED BOND.—For purposes of this  
9 subsection, the term ‘qualified bond’ means any  
10 build America bond issued as part of an issue if—

11           “(A) 100 percent of the excess of—

12           “(i) the available project proceeds (as  
13 defined in section 54A) of such issue, over

14           “(ii) the amounts in a reasonably re-  
15 quired reserve (within the meaning of sec-  
16 tion 150(a)(3)) with respect to such issue,

17 are to be used for capital expenditures, and

18           “(B) the issuer makes an irrevocable elec-  
19 tion to have this subsection apply.

20       “(h) REGULATIONS.—The Secretary may prescribe  
21 such regulations and other guidance as may be necessary  
22 or appropriate to carry out this section and section  
23 6431.”.

1 (b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE  
2 2011.—Subchapter B of chapter 65 is amended by adding  
3 at the end the following new section:

4 **“SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO**  
5 **ISSUER.**

6 “(a) IN GENERAL.—In the case of a qualified bond  
7 issued before January 1, 2011, the issuer of such bond  
8 shall be allowed a credit with respect to each interest pay-  
9 ment under such bond which shall be payable by the Sec-  
10 retary as provided in subsection (b).

11 “(b) PAYMENT OF CREDIT.—The Secretary shall pay  
12 (contemporaneously with each interest payment date  
13 under such bond) to the issuer of such bond (or to any  
14 person who makes such interest payments on behalf of the  
15 issuer) 35 percent of the interest payable under such bond  
16 on such date.

17 “(c) APPLICATION OF ARBITRAGE RULES.—For pur-  
18 poses of section 148, the yield on a qualified bond shall  
19 be reduced by the credit allowed under this section.

20 “(d) INTEREST PAYMENT DATE.—For purposes of  
21 this subsection, the term ‘interest payment date’ means  
22 each date on which interest is payable by the issuer under  
23 the terms of the bond.

1       “(e) QUALIFIED BOND.—For purposes of this sub-  
2 section, the term ‘qualified bond’ has the meaning given  
3 such term in section 54AA(g).”.

4       (c) CONFORMING AMENDMENTS.—

5           (1) Section 1324(b)(2) of title 31, United  
6 States Code, is amended by striking “or 6428” and  
7 inserting “6428, or 6431,”.

8           (2) Section 54A(c)(1)(B) is amended by strik-  
9 ing “subpart C” and inserting “subparts C and J”.

10          (3) Sections 54(c)(2), 1397E(c)(2), and  
11 1400N(l)(3)(B) are each amended by striking “and  
12 I” and inserting “, I, and J”.

13          (4) Section 6211(b)(4)(A) is amended by strik-  
14 ing “and 6428” and inserting “6428, and 6431”.

15          (5) Section 6401(b)(1) is amended by striking  
16 “and I” and inserting “I, and J”.

17          (6) The table of subparts for part IV of sub-  
18 chapter A of chapter 1 is amended by adding at the  
19 end the following new item:

“SUBPART J. BUILD AMERICA BONDS.”.

20          (7) The table of section for subchapter B of  
21 chapter 65 is amended by adding at the end the fol-  
22 lowing new item:

“Sec. 6431. Credit for qualified bonds allowed to issuer.”.

23       (d) TRANSITIONAL COORDINATION WITH STATE  
24 LAW.—Except as otherwise provided by a State after the

1 date of the enactment of this Act, the interest on any build  
2 America bond (as defined in section 54AA of the Internal  
3 Revenue Code of 1986, as added by this section) and the  
4 amount of any credit determined under such section with  
5 respect to such bond shall be treated for purposes of the  
6 income tax laws of such State as being exempt from Fed-  
7 eral income tax.

8 (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to obligations issued after the date  
10 of the enactment of this Act.

11 **PART V—REGULATED INVESTMENT COMPANIES**

12 **ALLOWED TO PASS-THRU TAX CREDIT BOND**

13 **CREDITS**

14 **SEC. 1541. REGULATED INVESTMENT COMPANIES AL-**

15 **LOWED TO PASS-THRU TAX CREDIT BOND**

16 **CREDITS.**

17 (a) IN GENERAL.—Part I of subchapter M of chapter  
18 1 is amended by inserting after section 853 the following  
19 new section:

20 **“SEC. 853A. CREDITS FROM TAX CREDIT BONDS ALLOWED**

21 **TO SHAREHOLDERS.**

22 “(a) GENERAL RULE.—A regulated investment  
23 company—

1           “(1) which holds (directly or indirectly) one or  
2       more tax credit bonds on one or more applicable  
3       dates during the taxable year, and

4           “(2) which meets the requirements of section  
5       852(a) for the taxable year,

6       may elect the application of this section with respect to  
7       credits allowable to the investment company during such  
8       taxable year with respect to such bonds.

9       “(b) EFFECT OF ELECTION.—If the election provided  
10      in subsection (a) is in effect for any taxable year—

11           “(1) the regulated investment company shall  
12      not be allowed any credits to which subsection (a)  
13      applies for such taxable year,

14           “(2) the regulated investment company shall—

15               “(A) include in gross income (as interest)  
16              for such taxable year an amount equal to the  
17              amount that such investment company would  
18              have included in gross income with respect to  
19              such credits if this section did not apply, and

20               “(B) increase the amount of the dividends  
21              paid deduction for such taxable year by the  
22              amount of such income, and

23           “(3) each shareholder of such investment com-  
24      pany shall—



1           “(A) include in gross income an amount  
2           equal to such shareholder’s proportionate share  
3           of the interest income attributable to such cred-  
4           its, and

5           “(B) be allowed the shareholder’s propor-  
6           tionate share of such credits against the tax im-  
7           posed by this chapter.

8           “(c) NOTICE TO SHAREHOLDERS.—For purposes of  
9           subsection (b)(3), the shareholder’s proportionate share  
10          of—

11           “(1) credits described in subsection (a), and

12           “(2) gross income in respect of such credits,  
13          shall not exceed the amounts so designated by the regu-  
14          lated investment company in a written notice mailed to  
15          its shareholders not later than 60 days after the close of  
16          its taxable year.

17          “(d) MANNER OF MAKING ELECTION AND NOTI-  
18          FYING SHAREHOLDERS.—The election provided in sub-  
19          section (a) and the notice to shareholders required by sub-  
20          section (c) shall be made in such manner as the Secretary  
21          may prescribe.

22          “(e) DEFINITIONS AND SPECIAL RULES.—

23           “(1) DEFINITIONS.—For purposes of this  
24          subsection—

1           “(A) TAX CREDIT BOND.—The term ‘tax  
2           credit bond’ means—

3                   “(i) a qualified tax credit bond (as de-  
4                   fined in section 54A(d)),

5                   “(ii) a build America bond (as defined  
6                   in section 54AA(d)), and

7                   “(iii) any bond for which a credit is  
8                   allowable under subpart H of part IV of  
9                   subchapter A of this chapter.

10           “(B) APPLICABLE DATE.—The term ‘ap-  
11           plicable date’ means—

12                   “(i) in the case of a qualified tax  
13                   credit bond or a bond described in sub-  
14                   paragraph (A)(iii), any credit allowance  
15                   date (as defined in section 54A(e)(1)), and

16                   “(ii) in the case of a build America  
17                   bond (as defined in section 54AA(d)), any  
18                   interest payment date (as defined in sec-  
19                   tion 54AA(e)).

20           “(2) STRIPPED TAX CREDIT BONDS.—If the  
21           ownership of a tax credit bond is separated from the  
22           credit with respect to such bond, subsection (a) shall  
23           be applied by reference to the instruments evidenc-  
24           ing the entitlement to the credit rather than the tax  
25           credit bond.

1       “(f) REGULATIONS, ETC.—The Secretary shall pre-  
2 scribe such regulations or other guidance as may be nec-  
3 essary or appropriate to carry out the purposes of this  
4 section, including methods for determining a shareholder’s  
5 proportionate share of credits.”.

6       (b) CONFORMING AMENDMENTS.—

7           (1) Section 54(l) is amended by striking para-  
8 graph (4) and by redesignating paragraphs (5) and  
9 (6) as paragraphs (4) and (5), respectively.

10          (2) Section 54A(h) is amended to read as fol-  
11 lows:

12       “(h) BONDS HELD BY REAL ESTATE INVESTMENT  
13 TRUSTS.—If any qualified tax credit bond is held by a  
14 real estate investment trust, the credit determined under  
15 subsection (a) shall be allowed to beneficiaries of such  
16 trust (and any gross income included under subsection (f)  
17 with respect to such credit shall be distributed to such  
18 beneficiaries) under procedures prescribed by the Sec-  
19 retary.”.

20          (3) The table of sections for part I of sub-  
21 chapter M of chapter 1 is amended by inserting  
22 after the item relating to section 853 the following  
23 new item:

“Sec. 853A. Credits from tax credit bonds allowed to shareholders.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after the  
3 date of the enactment of this Act.

## 4 **Subtitle G—Other Provisions**

### 5 **SEC. 1601. APPLICATION OF CERTAIN LABOR STANDARDS** 6 **TO PROJECTS FINANCED WITH CERTAIN TAX-** 7 **FAVORED BONDS.**

8 Subchapter IV of chapter 31 of the title 40, United  
9 States Code, shall apply to projects financed with the pro-  
10 ceeds of—

11 (1) any new clean renewable energy bond (as  
12 defined in section 54C of the Internal Revenue Code  
13 of 1986) issued after the date of the enactment of  
14 this Act,

15 (2) any qualified energy conservation bond (as  
16 defined in section 54D of the Internal Revenue Code  
17 of 1986) issued after the date of the enactment of  
18 this Act,

19 (3) any qualified zone academy bond (as de-  
20 fined in section 54E of the Internal Revenue Code  
21 of 1986) issued after the date of the enactment of  
22 this Act,

23 (4) any qualified school construction bond (as  
24 defined in section 54F of the Internal Revenue Code  
25 of 1986), and

1           (5) any recovery zone economic development  
2       bond (as defined in section 1400U-2 of the Internal  
3       Revenue Code of 1986).

4   **SEC. 1602. GRANTS TO STATES FOR LOW-INCOME HOUSING**  
5                   **PROJECTS IN LIEU OF LOW-INCOME HOUS-**  
6                   **ING CREDIT ALLOCATIONS FOR 2009.**

7       (a) IN GENERAL.—The Secretary of the Treasury  
8       shall make a grant to the housing credit agency of each  
9       State in an amount equal to such State’s low-income hous-  
10      ing grant election amount.

11      (b) LOW-INCOME HOUSING GRANT ELECTION  
12      AMOUNT.—For purposes of this section, the term “low-  
13      income housing grant election amount” means, with re-  
14      spect to any State, such amount as the State may elect  
15      which does not exceed 85 percent of the product of—

16           (1) the sum of—

17                   (A) 100 percent of the State housing credit  
18                   ceiling for 2009 which is attributable to  
19                   amounts described in clauses (i) and (iii) of sec-  
20                   tion 42(h)(3)(C) of the Internal Revenue Code  
21                   of 1986, and

22                   (B) 40 percent of the State housing credit  
23                   ceiling for 2009 which is attributable to  
24                   amounts described in clauses (ii) and (iv) of  
25                   such section, multiplied by

1           (2) 10.

2           (c) SUBAWARDS FOR LOW-INCOME BUILDINGS.—

3           (1) IN GENERAL.—A State housing credit agen-  
4           cy receiving a grant under this section shall use such  
5           grant to make subawards to finance the construction  
6           or acquisition and rehabilitation of qualified low-in-  
7           come buildings. A subaward under this section may  
8           be made to finance a qualified low-income building  
9           with or without an allocation under section 42 of the  
10          Internal Revenue Code of 1986, except that a State  
11          housing credit agency may make subawards to fi-  
12          nance qualified low-income buildings without an allo-  
13          cation only if it makes a determination that such use  
14          will increase the total funds available to the State to  
15          build and rehabilitate affordable housing. In com-  
16          plying with such determination requirement, a State  
17          housing credit agency shall establish a process in  
18          which applicants that are allocated credits are re-  
19          quired to demonstrate good faith efforts to obtain  
20          investment commitments for such credits before the  
21          agency makes such subawards.

22          (2) SUBAWARDS SUBJECT TO SAME REQUIRE-  
23          MENTS AS LOW-INCOME HOUSING CREDIT ALLOCA-  
24          TIONS.—Any such subaward with respect to any  
25          qualified low-income building shall be made in the

1 same manner and shall be subject to the same limi-  
2 tations (including rent, income, and use restrictions  
3 on such building) as an allocation of housing credit  
4 dollar amount allocated by such State housing credit  
5 agency under section 42 of the Internal Revenue  
6 Code of 1986, except that such subawards shall not  
7 be limited by, or otherwise affect (except as provided  
8 in subsection (h)(3)(J) of such section), the State  
9 housing credit ceiling applicable to such agency.

10 (3) COMPLIANCE AND ASSET MANAGEMENT.—

11 The State housing credit agency shall perform asset  
12 management functions to ensure compliance with  
13 section 42 of the Internal Revenue Code of 1986  
14 and the long-term viability of buildings funded by  
15 any subaward under this section. The State housing  
16 credit agency may collect reasonable fees from a  
17 subaward recipient to cover expenses associated with  
18 the performance of its duties under this paragraph.  
19 The State housing credit agency may retain an  
20 agent or other private contractor to satisfy the re-  
21 quirements of this paragraph.

22 (4) RECAPTURE.—The State housing credit  
23 agency shall impose conditions or restrictions, in-  
24 cluding a requirement providing for recapture, on  
25 any subaward under this section so as to assure that

1       the building with respect to which such subaward is  
2       made remains a qualified low-income building during  
3       the compliance period. Any such recapture shall be  
4       payable to the Secretary of the Treasury for deposit  
5       in the general fund of the Treasury and may be en-  
6       forced by means of liens or such other methods as  
7       the Secretary of the Treasury determines appro-  
8       priate.

9       (d) RETURN OF UNUSED GRANT FUNDS.—Any grant  
10      funds not used to make subawards under this section be-  
11      fore January 1, 2011, shall be returned to the Secretary  
12      of the Treasury on such date. Any subawards returned  
13      to the State housing credit agency on or after such date  
14      shall be promptly returned to the Secretary of the Treas-  
15      ury. Any amounts returned to the Secretary of the Treas-  
16      ury under this subsection shall be deposited in the general  
17      fund of the Treasury.

18      (e) DEFINITIONS.—Any term used in this section  
19      which is also used in section 42 of the Internal Revenue  
20      Code of 1986 shall have the same meaning for purposes  
21      of this section as when used in such section 42. Any ref-  
22      erence in this section to the Secretary of the Treasury  
23      shall be treated as including the Secretary's delegate.



1 (f) APPROPRIATIONS.—There is hereby appropriated  
2 to the Secretary of the Treasury such sums as may be  
3 necessary to carry out this section.

4 **SEC. 1603. GRANTS FOR SPECIFIED ENERGY PROPERTY IN**  
5 **LIEU OF TAX CREDITS.**

6 (a) IN GENERAL.—Upon application, the Secretary  
7 of the Treasury shall, subject to the requirements of this  
8 section, provide a grant to each person who places in serv-  
9 ice specified energy property to reimburse such person for  
10 a portion of the expense of such property as provided in  
11 subsection (b). No grant shall be made under this section  
12 with respect to any property unless such property—

13 (1) is placed in service during 2009 or 2010, or  
14 (2) is placed in service after 2010 and before  
15 the credit termination date with respect to such  
16 property, but only if the construction of such prop-  
17 erty began during 2009 or 2010.

18 (b) GRANT AMOUNT.—

19 (1) IN GENERAL.—The amount of the grant  
20 under subsection (a) with respect to any specified  
21 energy property shall be the applicable percentage of  
22 the basis of such property.

23 (2) APPLICABLE PERCENTAGE.—For purposes  
24 of paragraph (1), the term “applicable percentage”  
25 means—

1 (A) 30 percent in the case of any property  
2 described in paragraphs (1) through (4) of sub-  
3 section (d), and

4 (B) 10 percent in the case of any other  
5 property.

6 (3) DOLLAR LIMITATIONS.—In the case of  
7 property described in paragraph (2), (6), or (7) of  
8 subsection (d), the amount of any grant under this  
9 section with respect to such property shall not ex-  
10 ceed the limitation described in section 48(c)(1)(B),  
11 48(c)(2)(B), or 48(c)(3)(B) of the Internal Revenue  
12 Code of 1986, respectively, with respect to such  
13 property.

14 (c) TIME FOR PAYMENT OF GRANT.—The Secretary  
15 of the Treasury shall make payment of any grant under  
16 subsection (a) during the 60-day period beginning on the  
17 later of—

18 (1) the date of the application for such grant,  
19 or

20 (2) the date the specified energy property for  
21 which the grant is being made is placed in service.

22 (d) SPECIFIED ENERGY PROPERTY.—For purposes  
23 of this section, the term “specified energy property”  
24 means any of the following:

1           (1) QUALIFIED FACILITIES.—Any qualified  
2     property (as defined in section 48(a)(5)(D) of the  
3     Internal Revenue Code of 1986) which is part of a  
4     qualified facility (within the meaning of section 45  
5     of such Code) described in paragraph (1), (2), (3),  
6     (4), (6), (7), (9), or (11) of section 45(d) of such  
7     Code.

8           (2) QUALIFIED FUEL CELL PROPERTY.—Any  
9     qualified fuel cell property (as defined in section  
10    48(c)(1) of such Code).

11          (3) SOLAR PROPERTY.—Any property described  
12    in clause (i) or (ii) of section 48(a)(3)(A) of such  
13    Code.

14          (4) QUALIFIED SMALL WIND ENERGY PROP-  
15    ERTY.—Any qualified small wind energy property  
16    (as defined in section 48(c)(4) of such Code).

17          (5) GEOTHERMAL PROPERTY.—Any property  
18    described in clause (iii) of section 48(a)(3)(A) of  
19    such Code.

20          (6) QUALIFIED MICROTURBINE PROPERTY.—  
21    Any qualified microturbine property (as defined in  
22    section 48(c)(2) of such Code).

23          (7) COMBINED HEAT AND POWER SYSTEM  
24    PROPERTY.—Any combined heat and power system

1 property (as defined in section 48(c)(3) of such  
2 Code).

3 (8) GEOTHERMAL HEAT PUMP PROPERTY.—

4 Any property described in clause (vii) of section  
5 48(a)(3)(A) of such Code.

6 Such term shall not include any property unless deprecia-  
7 tion (or amortization in lieu of depreciation) is allowable  
8 with respect to such property.

9 (e) CREDIT TERMINATION DATE.—For purposes of  
10 this section, the term “credit termination date” means—

11 (1) in the case of any specified energy property  
12 which is part of a facility described in paragraph (1)  
13 of section 45(d) of the Internal Revenue Code of  
14 1986, January 1, 2013,

15 (2) in the case of any specified energy property  
16 which is part of a facility described in paragraph  
17 (2), (3), (4), (6), (7), (9), or (11) of section 45(d)  
18 of such Code, January 1, 2014, and

19 (3) in the case of any specified energy property  
20 described in section 48 of such Code, January 1,  
21 2017.

22 In the case of any property which is described in para-  
23 graph (3) and also in another paragraph of this sub-  
24 section, paragraph (3) shall apply with respect to such  
25 property.

1       (f) APPLICATION OF CERTAIN RULES.—In making  
2 grants under this section, the Secretary of the Treasury  
3 shall apply rules similar to the rules of section 50 of the  
4 Internal Revenue Code of 1986. In applying such rules,  
5 if the property is disposed of, or otherwise ceases to be  
6 specified energy property, the Secretary of the Treasury  
7 shall provide for the recapture of the appropriate percent-  
8 age of the grant amount in such manner as the Secretary  
9 of the Treasury determines appropriate.

10       (g) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—  
11 The Secretary of the Treasury shall not make any grant  
12 under this section to—

13           (1) any Federal, State, or local government (or  
14 any political subdivision, agency, or instrumentality  
15 thereof),

16           (2) any organization described in section 501(c)  
17 of the Internal Revenue Code of 1986 and exempt  
18 from tax under section 501(a) of such Code,

19           (3) any entity referred to in paragraph (4) of  
20 section 54(j) of such Code, or

21           (4) any partnership or other pass-thru entity  
22 any partner (or other holder of an equity or profits  
23 interest) of which is described in paragraph (1), (2)  
24 or (3).

1       (h) DEFINITIONS.—Terms used in this section which  
2 are also used in section 45 or 48 of the Internal Revenue  
3 Code of 1986 shall have the same meaning for purposes  
4 of this section as when used in such section 45 or 48.  
5 Any reference in this section to the Secretary of the Treas-  
6 ury shall be treated as including the Secretary’s delegate.

7       (i) APPROPRIATIONS.—There is hereby appropriated  
8 to the Secretary of the Treasury such sums as may be  
9 necessary to carry out this section.

10       (j) TERMINATION.—The Secretary of the Treasury  
11 shall not make any grant to any person under this section  
12 unless the application of such person for such grant is re-  
13 ceived before October 1, 2011.

14 **SEC. 1604. INCREASE IN PUBLIC DEBT LIMIT.**

15       Subsection (b) of section 3101 of title 31, United  
16 States Code, is amended by striking out the dollar limita-  
17 tion contained in such subsection and inserting  
18 “\$12,104,000,000,000”.

1 **Subtitle H—Prohibition on Collec-**  
2 **tion of Certain Payments Made**  
3 **Under the Continued Dumping**  
4 **and Subsidy Offset Act of 2000**

5 **SEC. 1701. PROHIBITION ON COLLECTION OF CERTAIN PAY-**  
6 **MENTS MADE UNDER THE CONTINUED DUMP-**  
7 **ING AND SUBSIDY OFFSET ACT OF 2000.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, neither the Secretary of Homeland Security  
10 nor any other person may—

11 (1) require repayment of, or attempt in any  
12 other way to recoup, any payments described in sub-  
13 section (b); or

14 (2) offset any past, current, or future distribu-  
15 tions of antidumping or countervailing duties as-  
16 sessed with respect to imports from countries that  
17 are not parties to the North American Free Trade  
18 Agreement in an attempt to recoup any payments  
19 described in subsection (b).

20 (b) PAYMENTS DESCRIBED.—Payments described in  
21 this subsection are payments of antidumping or counter-  
22 vailing duties made pursuant to the Continued Dumping  
23 and Subsidy Offset Act of 2000 (section 754 of the Tariff  
24 Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of

1 title VII of the Deficit Reduction Act of 2005 (Public Law  
2 109–171; 120 Stat. 154))) that were—

3 (1) assessed and paid on imports of goods from  
4 countries that are parties to the North American  
5 Free Trade Agreement; and

6 (2) distributed on or after January 1, 2001,  
7 and before January 1, 2006.

8 (c) PAYMENT OF FUNDS COLLECTED OR WITH-  
9 HELD.—Not later than the date that is 60 days after the  
10 date of the enactment of this Act, the Secretary of Home-  
11 land Security shall—

12 (1) refund any repayments, or any other  
13 recoupment, of payments described in subsection (b);  
14 and

15 (2) fully distribute any antidumping or counter-  
16 vailing duties that the U.S. Customs and Border  
17 Protection is withholding as an offset as described in  
18 subsection (a)(2).

19 (d) LIMITATION.—Nothing in this section shall be  
20 construed to prevent the Secretary of Homeland Security,  
21 or any other person, from requiring repayment of, or at-  
22 tempting to otherwise recoup, any payments described in  
23 subsection (b) as a result of—

24 (1) a finding of false statements or other mis-  
25 conduct by a recipient of such a payment; or



1 (2) the reliquidation of an entry with respect to  
2 which such a payment was made.

3 **Subtitle I—Trade Adjustment**  
4 **Assistance**

5 **SEC. 1800. SHORT TITLE.**

6 This subtitle may be cited as the “Trade and  
7 Globalization Adjustment Assistance Act of 2009”.

8 **PART I—TRADE ADJUSTMENT ASSISTANCE FOR**  
9 **WORKERS**

10 **Subpart A—Trade Adjustment Assistance for Service**  
11 **Sector Workers**

12 **SEC. 1801. EXTENSION OF TRADE ADJUSTMENT ASSIST-**  
13 **ANCE TO SERVICE SECTOR AND PUBLIC**  
14 **AGENCY WORKERS; SHIFTS IN PRODUCTION.**

15 (a) DEFINITIONS.—Section 247 of the Trade Act of  
16 1974 (19 U.S.C. 2319) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “or appropriate subdivision  
19 of a firm”; and

20 (B) by striking “or subdivision”;

21 (2) in paragraph (2), by striking “employ-  
22 ment—” and all that follows and inserting “employ-  
23 ment, has been totally or partially separated from  
24 such employment.”;

1           (3) by inserting after paragraph (2) the fol-  
2       lowing:

3           “(3) Subject to section 222(d)(5), the term  
4       ‘firm’ means—

5           “(A) a firm, including an agricultural firm,  
6       service sector firm, or public agency; or

7           “(B) an appropriate subdivision thereof.”;

8           (4) by inserting after paragraph (6) the fol-  
9       lowing:

10          “(7) The term ‘public agency’ means a depart-  
11       ment or agency of a State or local government or of  
12       the Federal Government, or a subdivision thereof.”;

13          (5) in paragraph (11), by striking “, or in a  
14       subdivision of which,”; and

15          (6) by adding at the end the following:

16          “(18) The term ‘service sector firm’ means a  
17       firm engaged in the business of supplying services.”.

18       (b) GROUP ELIGIBILITY REQUIREMENTS.—Section  
19       222 of the Trade Act of 1974 (19 U.S.C. 2272) is  
20       amended—

21          (1) in subsection (a)(2)—

22               (A) by amending subparagraph (A)(ii) to  
23       read as follows:

1           “(ii)(I) imports of articles or services like or di-  
2           rectly competitive with articles produced or services  
3           supplied by such firm have increased;

4           “(II) imports of articles like or directly competi-  
5           tive with articles—

6           “(aa) into which one or more component  
7           parts produced by such firm are directly incor-  
8           porated, or

9           “(bb) which are produced directly using  
10          services supplied by such firm,  
11          have increased; or

12          “(III) imports of articles directly incorporating  
13          one or more component parts produced outside the  
14          United States that are like or directly competitive  
15          with imports of articles incorporating one or more  
16          component parts produced by such firm have in-  
17          creased; and”; and

18                 (B) by amending subparagraph (B) to read  
19                 as follows:

20                 “(B)(i)(I) there has been a shift by such work-  
21                 ers’ firm to a foreign country in the production of  
22                 articles or the supply of services like or directly com-  
23                 petitive with articles which are produced or services  
24                 which are supplied by such firm; or

1           “(II) such workers’ firm has acquired from a  
2           foreign country articles or services that are like or  
3           directly competitive with articles which are produced  
4           or services which are supplied by such firm; and

5           “(ii) the shift described in clause (i)(I) or the  
6           acquisition of articles or services described in clause  
7           (i)(II) contributed importantly to such workers’ sep-  
8           aration or threat of separation.”;

9           (2) by redesignating subsections (b) and (c) as  
10          subsections (c) and (d), respectively; and

11          (3) by inserting after subsection (a) the fol-  
12          lowing:

13          “(b) ADVERSELY AFFECTED WORKERS IN PUBLIC  
14          AGENCIES.—A group of workers in a public agency shall  
15          be certified by the Secretary as eligible to apply for adjust-  
16          ment assistance under this chapter pursuant to a petition  
17          filed under section 221 if the Secretary determines that—

18               “(1) a significant number or proportion of the  
19               workers in the public agency have become totally or  
20               partially separated, or are threatened to become to-  
21               tally or partially separated;

22               “(2) the public agency has acquired from a for-  
23               eign country services like or directly competitive with  
24               services which are supplied by such agency; and

1           “(3) the acquisition of services described in  
2       paragraph (2) contributed importantly to such work-  
3       ers’ separation or threat of separation.”.

4       (c) BASIS FOR SECRETARY’S DETERMINATIONS.—  
5       Section 222 of the Trade Act of 1974 (19 U.S.C. 2272),  
6       as amended, is further amended by adding at the end the  
7       following:

8       “(e) BASIS FOR SECRETARY’S DETERMINATIONS.—

9           “(1) IN GENERAL.—The Secretary shall, in de-  
10       termining whether to certify a group of workers  
11       under section 223, obtain from the workers’ firm, or  
12       a customer of the workers’ firm, information the  
13       Secretary determines to be necessary to make the  
14       certification, through questionnaires and in such  
15       other manner as the Secretary determines appro-  
16       priate.

17       “(2) ADDITIONAL INFORMATION.—The Sec-  
18       retary may seek additional information to determine  
19       whether to certify a group of workers under sub-  
20       section (a), (b), or (c)—

21           “(A) by contacting—

22               “(i) officials or employees of the work-  
23               ers’ firm;

24               “(ii) officials of customers of the  
25               workers’ firm;

1           “(iii) officials of certified or recog-  
2 nized unions or other duly authorized rep-  
3 resentatives of the group of workers; or

4           “(iv) one-stop operators or one-stop  
5 partners (as defined in section 101 of the  
6 Workforce Investment Act of 1998 (29  
7 U.S.C. 2801)); or

8           “(B) by using other available sources of in-  
9 formation.

10           “(3) VERIFICATION OF INFORMATION.—

11           “(A) CERTIFICATION.—The Secretary shall  
12 require a firm or customer to certify—

13           “(i) all information obtained under  
14 paragraph (1) from the firm or customer  
15 (as the case may be) through question-  
16 naires; and

17           “(ii) all other information obtained  
18 under paragraph (1) from the firm or cus-  
19 tomer (as the case may be) on which the  
20 Secretary relies in making a determination  
21 under section 223, unless the Secretary  
22 has a reasonable basis for determining that  
23 such information is accurate and complete  
24 without being certified.

1           “(B) USE OF SUBPOENAS.—The Secretary  
2           shall require the workers’ firm or a customer of  
3           the workers’ firm to provide information re-  
4           quested by the Secretary under paragraph (1)  
5           by subpoena pursuant to section 249 if the firm  
6           or customer (as the case may be) fails to pro-  
7           vide the information within 20 days after the  
8           date of the Secretary’s request, unless the firm  
9           or customer (as the case may be) demonstrates  
10          to the satisfaction of the Secretary that the  
11          firm or customer (as the case may be) will pro-  
12          vide the information within a reasonable period  
13          of time.

14          “(C) PROTECTION OF CONFIDENTIAL IN-  
15          FORMATION.—The Secretary may not release  
16          information obtained under paragraph (1) that  
17          the Secretary considers to be confidential busi-  
18          ness information unless the firm or customer  
19          (as the case may be) submitting the confidential  
20          business information had notice, at the time of  
21          submission, that the information would be re-  
22          leased by the Secretary, or the firm or customer  
23          (as the case may be) subsequently consents to  
24          the release of the information. Nothing in this  
25          subparagraph shall be construed to prohibit the

1 Secretary from providing such confidential busi-  
2 ness information to a court in camera or to an-  
3 other party under a protective order issued by  
4 a court.”.

5 (d) PENALTIES.—Section 244 of the Trade Act of  
6 1974 (19 U.S.C. 2316) is amended to read as follows:

7 **“SEC. 244. PENALTIES.**

8 “Any person who—

9 “(1) makes a false statement of a material fact  
10 knowing it to be false, or knowingly fails to disclose  
11 a material fact, for the purpose of obtaining or in-  
12 creasing for that person or for any other person any  
13 payment authorized to be furnished under this chap-  
14 ter or pursuant to an agreement under section 239,  
15 or

16 “(2) makes a false statement of a material fact  
17 knowing it to be false, or knowingly fails to disclose  
18 a material fact, when providing information to the  
19 Secretary during an investigation of a petition under  
20 section 221,

21 shall be imprisoned for not more than one year, or fined  
22 under title 18, United States Code, or both.”.

23 (e) CONFORMING AMENDMENTS.—

24 (1) Section 221(a) of the Trade Act of 1974  
25 (19 U.S.C. 2271(a)) is amended—



1 (A) in paragraph (1)—

2 (i) in the matter preceding subpara-  
3 graph (A)—

4 (I) by striking “Secretary” and  
5 inserting “Secretary of Labor”; and

6 (II) by striking “or subdivision”  
7 and inserting “(as defined in section  
8 247)”; and

9 (ii) in subparagraph (A), by striking  
10 “(including workers in an agricultural firm  
11 or subdivision of any agricultural firm)”;

12 (B) in paragraph (2)(A), by striking  
13 “rapid response assistance” and inserting  
14 “rapid response activities”; and

15 (C) in paragraph (3), by inserting “and on  
16 the website of the Department of Labor” after  
17 “Federal Register”.

18 (2) Section 222 of the Trade Act of 1974 (19  
19 U.S.C. 2272), as amended, is further amended—

20 (A) by striking “(including workers in any  
21 agricultural firm or subdivision of an agricul-  
22 tural firm)” each place it appears;

23 (B) in subsection (a)—

1 (i) in paragraph (1), by striking “, or  
2 an appropriate subdivision of the firm,”;  
3 and

4 (ii) in paragraph (2), by striking “or  
5 subdivision” each place it appears;

6 (C) in subsection (c) (as redesignated)—

7 (i) in paragraph (2)—

8 (I) by striking “(or subdivision)”  
9 each place it appears;

10 (II) by inserting “or service”  
11 after “the article”; and

12 (III) by striking “(c) (3)” and in-  
13 serting “(d) (3)”; and

14 (ii) in paragraph (3), by striking “(or  
15 subdivision)” each place it appears; and

16 (D) in subsection (d) (as redesignated)—

17 (i) by striking “For purposes” and in-  
18 serting “DEFINITIONS.—For purposes”;

19 (ii) in paragraph (2), by striking “, or  
20 appropriate subdivision of a firm,” each  
21 place it appears;

22 (iii) by amending paragraph (3) to  
23 read as follows:

24 “(3) DOWNSTREAM PRODUCER.—

1           “(A) IN GENERAL.—The term ‘down-  
2           stream producer’ means a firm that performs  
3           additional, value-added production processes or  
4           services directly for another firm for articles or  
5           services with respect to which a group of work-  
6           ers in such other firm has been certified under  
7           subsection (a).

8           “(B) VALUE-ADDED PRODUCTION PROC-  
9           ESSES OR SERVICES.—For purposes of subpara-  
10          graph (A), value-added production processes or  
11          services include final assembly, finishing, test-  
12          ing, packaging, or maintenance or transpor-  
13          tation services.”;

14                   (iv) in paragraph (4)—

15                           (I) by striking “(or subdivision)”;

16                           and

17                           (II) by inserting “, or services,  
18                           used in the production of articles or in  
19                           the supply of services, as the case may  
20                           be,” after “for articles”; and

21                           (v) by adding at the end the following:

22           “(5) REFERENCE TO FIRM.—For purposes of  
23          subsection (a), the term ‘firm’ does not include a  
24          public agency.”.

1           (3) Section 231(a)(2) of the Trade Act of 1974  
2           (19 U.S.C. 2291(a)(2)) is amended—

3           (A) in the matter preceding subparagraph

4           (A), by striking “or subdivision of a firm”; and

5           (B) in subparagraph (C), by striking “or  
6           subdivision”.

7   **SEC. 1802. SEPARATE BASIS FOR CERTIFICATION.**

8           Section 222 of the Trade Act of 1974 (19 U.S.C.  
9   2272), as amended, is further amended by adding at the  
10   end the following:

11          “(f) FIRMS IDENTIFIED BY THE INTERNATIONAL  
12   TRADE COMMISSION.—Notwithstanding any other provi-  
13   sion of this chapter, a group of workers covered by a peti-  
14   tion filed under section 221 shall be certified under sub-  
15   section (a) as eligible to apply for adjustment assistance  
16   under this chapter if—

17           “(1) the workers’ firm is publicly identified by  
18          name by the International Trade Commission as a  
19          member of a domestic industry in an investigation  
20          resulting in—

21           “(A) an affirmative determination of seri-  
22          ous injury or threat thereof under section  
23          202(b)(1);

1           “(B) an affirmative determination of mar-  
2           ket disruption or threat thereof under section  
3           421(b)(1); or

4           “(C) an affirmative final determination of  
5           material injury or threat thereof under section  
6           705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act  
7           of 1930 (19 U.S.C. 1671d(b)(1)(A) and  
8           1673d(b)(1)(A));

9           “(2) the petition is filed during the one-year pe-  
10          riod beginning on the date on which—

11           “(A) a summary of the report submitted to  
12           the President by the International Trade Com-  
13           mission under section 202(f)(1) with respect to  
14           the affirmative determination described in para-  
15           graph (1)(A) is published in the Federal Reg-  
16           ister under section 202(f)(3); or

17           “(B) notice of an affirmative determination  
18           described in subparagraph (B) or (C) of para-  
19           graph (1) is published in the Federal Register;  
20           and

21           “(3) the workers have become totally or par-  
22          tially separated from the workers’ firm within—

23           “(A) the one-year period described in para-  
24          graph (2); or

1           “(B) notwithstanding section 223(b), the  
2           one-year period preceding the one-year period  
3           described in paragraph (2).”.

4   **SEC. 1803. DETERMINATIONS BY SECRETARY OF LABOR.**

5           Section 223 of the Trade Act of 1974 (19 U.S.C.  
6   2273) is amended—

7           (1) in subsection (b), by striking “or appro-  
8           priate subdivision of the firm before his application”  
9           and all that follows and inserting “before the work-  
10          er’s application under section 231 occurred more  
11          than one year before the date of the petition on  
12          which such certification was granted.”;

13          (2) in subsection (c), by striking “together with  
14          his reasons” and inserting “and on the website of  
15          the Department of Labor, together with the Sec-  
16          retary’s reasons”;

17          (3) in subsection (d)—

18                 (A) by striking “or subdivision of the  
19                 firm” and all that follows through “he shall”  
20                 and inserting “, that total or partial separations  
21                 from such firm are no longer attributable to the  
22                 conditions specified in section 222, the Sec-  
23                 retary shall”; and

24                 (B) by striking “together with his reasons”  
25                 and inserting “and on the website of the De-

1           partment of Labor, together with the Sec-  
2           retary's reasons"; and

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

4           “(e) STANDARDS FOR INVESTIGATIONS AND DETER-  
5           MINATIONS.—

6           “(1) IN GENERAL.—The Secretary shall estab-  
7           lish standards, including data requirements, for in-  
8           vestigations of petitions filed under section 221 and  
9           criteria for making determinations under subsection  
10          (a).

11          “(2) CONSULTATIONS.—Not less than 90 days  
12          before issuing a final rule with respect to the stand-  
13          ards required under paragraph (1), the Secretary  
14          shall consult with the Committee on Finance of the  
15          Senate and the Committee on Ways and Means of  
16          the House of Representatives with respect to such  
17          rule.”.

18   **SEC. 1804. MONITORING AND REPORTING RELATING TO**  
19                   **SERVICE SECTOR.**

20          (a) IN GENERAL.—Section 282 of the Trade Act of  
21   1974 (19 U.S.C. 2393) is amended—

22                  (1) in the heading, by striking “**SYSTEM**” and  
23                  inserting “**AND DATA COLLECTION**”;

24                  (2) in the first sentence—

1 (A) by striking “The Secretary” and in-  
2 serting “(a) MONITORING PROGRAMS.—The  
3 Secretary”;

4 (B) by inserting “and services” after “im-  
5 ports of articles”;

6 (C) by inserting “and domestic supply of  
7 services” after “domestic production”;

8 (D) by inserting “or supplying services”  
9 after “producing articles”; and

10 (E) by inserting “, or supply of services,”  
11 after “changes in production”; and

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

13 “(b) COLLECTION OF DATA AND REPORTS ON SERV-  
14 ICE SECTOR.—

15 “(1) SECRETARY OF LABOR.—Not later than  
16 90 days after the date of the enactment of this sub-  
17 section, the Secretary of Labor shall implement a  
18 system to collect data on adversely affected workers  
19 employed in the service sector that includes the  
20 number of workers by State and industry, and by  
21 the cause of the dislocation of each worker, as iden-  
22 tified in the certification.

23 “(2) SECRETARY OF COMMERCE.—Not later  
24 than 1 year after such date of enactment, the Sec-  
25 retary of Commerce shall, in consultation with the



1 Secretary of Labor, conduct a study and submit to  
2 the Committee on Finance of the Senate and the  
3 Committee on Ways and Means of the House of  
4 Representatives a report on ways to improve the  
5 timeliness and coverage of data on trade in services,  
6 including methods to identify increased imports due  
7 to the relocation of United States firms to foreign  
8 countries, and increased imports due to United  
9 States firms acquiring services from firms in foreign  
10 countries.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 of the Trade Act of 1974 is amended by striking the item  
13 relating to section 282 and inserting the following:

“Sec. 282. Trade monitoring and data collection.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **Subpart B—Industry Notifications Following Certain**  
18 **Affirmative Determinations**

19 **SEC. 1811. NOTIFICATIONS FOLLOWING CERTAIN AFFIRMA-**  
20 **TIVE DETERMINATIONS.**

21 (a) IN GENERAL.—Section 224 of the Trade Act of  
22 1974 (19 U.S.C. 2274) is amended—

23 (1) by amending the heading to read as follows:

1 **“SEC. 224. STUDY AND NOTIFICATIONS REGARDING CER-**  
2 **TAIN AFFIRMATIVE DETERMINATIONS; IN-**  
3 **DUSTRY NOTIFICATION OF ASSISTANCE.”;**

4 (2) in subsection (a), by striking “Whenever”  
5 and inserting “STUDY OF DOMESTIC INDUSTRY.—  
6 Whenever”;

7 (3) in subsection (b)—

8 (A) by striking “The report” and inserting  
9 “REPORT BY THE SECRETARY.—The report”;  
10 and

11 (B) by inserting “and on the website of the  
12 Department of Labor” after “Federal Reg-  
13 ister”; and

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

15 “(c) NOTIFICATIONS FOLLOWING AFFIRMATIVE  
16 GLOBAL SAFEGUARD DETERMINATIONS.—Upon making  
17 an affirmative determination under section 202(b)(1), the  
18 Commission shall promptly notify the Secretary of Labor  
19 and the Secretary of Commerce and, in the case of a deter-  
20 mination with respect to an agricultural commodity, the  
21 Secretary of Agriculture, of the determination.

22 “(d) NOTIFICATIONS FOLLOWING AFFIRMATIVE BI-  
23 LATERAL OR PLURILATERAL SAFEGUARD DETERMINA-  
24 TIONS.—

25 “(1) NOTIFICATIONS OF DETERMINATIONS OF  
26 MARKET DISRUPTION.—Upon making an affirmative

1 determination under section 421(b)(1), the Commis-  
2 sion shall promptly notify the Secretary of Labor  
3 and the Secretary of Commerce and, in the case of  
4 a determination with respect to an agricultural com-  
5 modity, the Secretary of Agriculture, of the deter-  
6 mination.

7 “(2) NOTIFICATIONS REGARDING TRADE  
8 AGREEMENT SAFEGUARDS.—Upon making an af-  
9 firmative determination in a proceeding initiated  
10 under an applicable safeguard provision (other than  
11 a provision described in paragraph (3)) that is en-  
12 acted to implement a trade agreement to which the  
13 United States is a party, the Commission shall  
14 promptly notify the Secretary of Labor and the Sec-  
15 retary of Commerce and, in the case of a determina-  
16 tion with respect to an agricultural commodity, the  
17 Secretary of Agriculture, of the determination.

18 “(3) NOTIFICATIONS REGARDING TEXTILE AND  
19 APPAREL SAFEGUARDS.—Upon making an affirma-  
20 tive determination in a proceeding initiated under  
21 any safeguard provision relating to textile and ap-  
22 parel articles that is enacted to implement a trade  
23 agreement to which the United States is a party, the  
24 President shall promptly notify the Secretary of

1 Labor and the Secretary of Commerce of the deter-  
2 mination.

3 “(e) NOTIFICATIONS FOLLOWING CERTAIN AFFIRM-  
4 ATIVE DETERMINATIONS UNDER TITLE VII OF THE TAR-  
5 IFF ACT OF 1930.—Upon making an affirmative deter-  
6 mination under section 705(b)(1)(A) or 735(b)(1)(A) of  
7 the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and  
8 1673d(b)(1)(A)), the Commission shall promptly notify  
9 the Secretary of Labor and the Secretary of Commerce  
10 and, in the case of a determination with respect to an agri-  
11 cultural commodity, the Secretary of Agriculture, of the  
12 determination.

13 “(f) INDUSTRY NOTIFICATION OF ASSISTANCE.—  
14 Upon receiving a notification of a determination under  
15 subsection (c), (d), or (e) with respect to a domestic  
16 industry—

17 “(1) the Secretary of Labor shall—

18 “(A) notify the representatives of the do-  
19 mestic industry affected by the determination,  
20 firms publicly identified by name during the  
21 course of the proceeding relating to the deter-  
22 mination, and any certified or recognized union  
23 or, to the extent practicable, other duly author-  
24 ized representative of workers employed by such  
25 representatives of the domestic industry, of—

“(i) the allowances, training, employment services, and other benefits available under this chapter;

4                   “(ii) the manner in which to file a pe-  
5                   tition and apply for such benefits; and

6                   “(iii) the availability of assistance in  
7                   filing such petitions;

8                   “(B) notify the Governor of each State in  
9                   which one or more firms in the industry de-  
10                  scribed in subparagraph (A) are located of the  
11                  Commission’s determination and the identity of  
12                  the firms; and

13                   “(C) upon request, provide any assistance  
14                   that is necessary to file a petition under section  
15                   221;

16 “(2) the Secretary of Commerce shall—

“(A) notify the representatives of the domestic industry affected by the determination and any firms publicly identified by name during the course of the proceeding relating to the determination of—

22 “(i) the benefits available under chap-  
23 ter 3;

24 “(ii) the manner in which to file a pe-  
25 tition and apply for such benefits; and

1                   “(iii) the availability of assistance in  
2                   filing such petitions; and

3                   “(B) upon request, provide any assistance  
4                   that is necessary to file a petition under section  
5                   251; and

6                   “(3) in the case of an affirmative determination  
7                   based upon imports of an agricultural commodity,  
8                   the Secretary of Agriculture shall—

9                   “(A) notify representatives of the domestic  
10                  industry affected by the determination and any  
11                  agricultural commodity producers publicly iden-  
12                  tified by name during the course of the pro-  
13                  ceeding relating to the determination of—

14                  “(i) the benefits available under chap-  
15                  ter 6;

16                  “(ii) the manner in which to file a pe-  
17                  tition and apply for such benefits; and

18                  “(iii) the availability of assistance in  
19                  filing such petitions; and

20                  “(B) upon request, provide any assistance  
21                  that is necessary to file a petition under section  
22                  292.

23                  “(g) REPRESENTATIVES OF THE DOMESTIC INDUS-  
24                  TRY.—For purposes of subsection (f), the term ‘represent-

1 atives of the domestic industry' means the persons that  
2 petitioned for relief in connection with—

3 “(1) a proceeding under section 202 or 421 of  
4 this Act;

5 “(2) a proceeding under section 702(b) or  
6 732(b) of the Tariff Act of 1930 (19 U.S.C.  
7 1671d(b) and 1673d(b)); or

8 “(3) any safeguard investigation described in  
9 subsection (d)(2) or (d)(3).”.

10 (b) CLERICAL AMENDMENT.—The table of contents  
11 of the Trade Act of 1974 is amended by striking the item  
12 relating to section 224 and inserting the following:

“Sec. 224. Study and notifications regarding certain affirmative determina-  
tions; industry notification of assistance.”.

13 **SEC. 1812. NOTIFICATION TO SECRETARY OF COMMERCE.**

14 Section 225 of the Trade Act of 1974 (19 U.S.C.  
15 2275) is amended by adding at the end the following:

16 “(c) Upon issuing a certification under section 223,  
17 the Secretary shall notify the Secretary of Commerce of  
18 the identity of each firm covered by the certification.”.

19 **Subpart C—Program Benefits**

20 **SEC. 1821. QUALIFYING REQUIREMENTS FOR WORKERS.**

21 (a) IN GENERAL.—Section 231(a)(5)(A)(ii) of the  
22 Trade Act of 1974 (19 U.S.C. 2291 (a)(5)(A)(ii)) is  
23 amended—

1           (1) by striking subclauses (I) and (II) and in-  
2       serting the following:

3                   “(I) in the case of a worker whose  
4                   most recent total separation from adversely  
5                   affected employment that meets the re-  
6                   quirements of paragraphs (1) and (2) oc-  
7                   curs after the date on which the Secretary  
8                   issues a certification covering the worker,  
9                   the last day of the 26th week after such  
10                  total separation,

11                   “(II) in the case of a worker whose  
12                   most recent total separation from adversely  
13                   affected employment that meets the re-  
14                   quirements of paragraphs (1) and (2) oc-  
15                   curs before the date on which the Sec-  
16                   retary issues a certification covering the  
17                   worker, the last day of the 26th week after  
18                   the date of such certification,”;

19       (2) in subclause (III)—

20                   (A) by striking “later of the dates specified  
21                   in subclause (I) or (II)” and inserting “date  
22                   specified in subclause (I) or (II), as the case  
23                   may be”; and

24                   (B) by striking “or” at the end;



1           (3) by redesignating subclause (IV) as sub-  
2       clause (V); and

3           (4) by inserting after subclause (III) the fol-  
4       lowing:

5                       “(IV) in the case of a worker who  
6               fails to enroll by the date required by sub-  
7               clause (I), (II), or (III), as the case may  
8               be, due to the failure to provide the worker  
9               with timely information regarding the date  
10              specified in such subclause, the last day of  
11              a period determined by the Secretary, or”.

12       (b) WAIVERS OF TRAINING REQUIREMENTS.—Sec-  
13       tion 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c))  
14       is amended—

15           (1) in paragraph (1)(B)—

16                       (A) by striking “The worker possesses”  
17               and inserting the following:

18                               “(i) IN GENERAL.—The worker pos-  
19               sesses”; and

20                       (B) by adding at the end the following:

21                               “(ii) MARKETABLE SKILLS DE-  
22               FINED.—For purposes of clause (i), the  
23               term ‘marketable skills’ may include the  
24               possession of a postgraduate degree from  
25               an institution of higher education (as de-

1           fined in section 102 of the Higher Edu-  
2           cation Act of 1965 (20 U.S.C. 1002)) or  
3           an equivalent institution, or the possession  
4           of an equivalent postgraduate certification  
5           in a specialized field.”;

6           (2) in paragraph (2)(A), by striking “A waiver”  
7           and inserting “Except as provided in paragraph  
8           (3)(B), a waiver”; and

9           (3) in paragraph (3)—

10           (A) in subparagraph (A), by striking “Pur-  
11           suant to an agreement under section 239, the  
12           Secretary may authorize a” and inserting “An  
13           agreement under section 239 shall authorize a”;

14           (B) by redesignating subparagraph (B) as  
15           subparagraph (C); and

16           (C) by inserting after subparagraph (A)  
17           the following:

18           “(B) REVIEW OF WAIVERS.—An agree-  
19           ment under section 239 shall require a cooper-  
20           ating State to review each waiver issued by the  
21           State under subparagraph (A), (B), (D), (E),  
22           or (F) of paragraph (1)—

23           “(i) 3 months after the date on which  
24           the State issues the waiver; and

25           “(ii) on a monthly basis thereafter.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 231 of the Trade Act of 1974 (19  
3 U.S.C. 2291), as amended, is further amended—

4 (A) in subsection (a), in the matter pre-  
5 ceding paragraph (1), by striking “more than  
6 60 days” and all that follows through “section  
7 221” and inserting “on or after the date of  
8 such certification”; and

9 (B) in subsection (b)—

10 (i) by striking paragraph (2); and

11 (ii) in paragraph (1)—

12 (I) by striking “(1)”;

13 (II) by redesignating subpara-  
14 graphs (A) and (B) as paragraphs (1)  
15 and (2), respectively;

16 (III) by redesignating clauses (i)  
17 and (ii) as subparagraphs (A) and  
18 (B), respectively; and

19 (IV) by redesignating subclauses  
20 (I) and (II) as clauses (i) and (ii), re-  
21 spectively.

22 (2) Section 233 of the Trade Act of 1974 (19  
23 U.S.C. 2293) is amended—

24 (A) by striking subsection (b); and

1 (B) by redesignating subsections (c)  
2 through (g) as subsections (b) through (f), re-  
3 spectively.

4 **SEC. 1822. WEEKLY AMOUNTS.**

5 Section 232 of the Trade Act of 1974 (19 U.S.C.  
6 2292) is amended—

7 (1) in subsection (a)—

8 (A) by striking “subsections (b) and (c)”  
9 and inserting “subsections (b), (c), and (d)”;

10 (B) by striking “total unemployment” the  
11 first place it appears and inserting “unemploy-  
12 ment”; and

13 (C) in paragraph (2), by inserting before  
14 the period the following: “, except that in the  
15 case of an adversely affected worker who is par-  
16 ticipating in training under this chapter, such  
17 income shall not include earnings from work for  
18 such week that are equal to or less than the  
19 most recent weekly benefit amount of the unem-  
20 ployment insurance payable to the worker for a  
21 week of total unemployment preceding the  
22 worker’s first exhaustion of unemployment in-  
23 surance (as determined for purposes of section  
24 231(a)(3)(B))”; and

25 (2) by adding at the end the following:

1       “(d) ELECTION OF TRADE READJUSTMENT ALLOW-  
2 ANCE OR UNEMPLOYMENT INSURANCE.—Notwith-  
3 standing section 231(a)(3)(B), an adversely affected work-  
4 er may elect to receive a trade readjustment allowance in-  
5 stead of unemployment insurance during any week with  
6 respect to which the worker—

7           “(1) is entitled to receive unemployment insur-  
8 ance as a result of the establishment by the worker  
9 of a new benefit year under State law, based in  
10 whole or in part upon part-time or short-term em-  
11 ployment in which the worker engaged after the  
12 worker’s most recent total separation from adversely  
13 affected employment; and

14           “(2) is otherwise entitled to a trade readjust-  
15 ment allowance.”.

16 **SEC. 1823. LIMITATIONS ON TRADE READJUSTMENT AL-**  
17 **LOWANCES; ALLOWANCES FOR EXTENDED**  
18 **TRAINING AND BREAKS IN TRAINING.**

19       Section 233(a) of the Trade Act of 1974 (19 U.S.C.  
20 2293(a)) is amended—

21           (1) in paragraph (2), by inserting “under para-  
22 graph (1)” after “trade readjustment allowance”;  
23 and

24           (2) in paragraph (3)—

1 (A) in the matter preceding subparagraph

2 (A)—

3 (i) by striking “training approved for  
4 him” and inserting “a training program  
5 approved for the worker”;

6 (ii) by striking “52 additional weeks”  
7 and inserting “78 additional weeks”; and

8 (iii) by striking “52-week” and insert-  
9 ing “91-week”; and

10 (B) in the matter following subparagraph

11 (B), by striking “52-week” and inserting “91-  
12 week”.

13 **SEC. 1824. SPECIAL RULES FOR CALCULATION OF ELIGI-**  
14 **BILITY PERIOD.**

15 Section 233 of the Trade Act of 1974 (19 U.S.C.  
16 2293), as amended, is further amended by adding at the  
17 end the following:

18 “(g) SPECIAL RULE FOR CALCULATING SEPARA-  
19 TION.—Notwithstanding any other provision of this chap-  
20 ter, any period during which a judicial or administrative  
21 appeal is pending with respect to the denial by the Sec-  
22 retary of a petition under section 223 shall not be counted  
23 for purposes of calculating the period of separation under  
24 subsection (a)(2).

1       “(h) SPECIAL RULE FOR JUSTIFIABLE CAUSE.—If  
2 the Secretary determines that there is justifiable cause,  
3 the Secretary may extend the period during which trade  
4 readjustment allowances are payable to an adversely af-  
5 fected worker under paragraphs (2) and (3) of subsection  
6 (a) (but not the maximum amounts of such allowances  
7 that are payable under this section).

8       “(i) SPECIAL RULE WITH RESPECT TO MILITARY  
9 SERVICE.—

10           “(1) IN GENERAL.—Notwithstanding any other  
11 provision of this chapter, the Secretary may waive  
12 any requirement of this chapter that the Secretary  
13 determines is necessary to ensure that an adversely  
14 affected worker who is a member of a reserve com-  
15 ponent of the Armed Forces and serves a period of  
16 duty described in paragraph (2) is eligible to receive  
17 a trade readjustment allowance, training, and other  
18 benefits under this chapter in the same manner and  
19 to the same extent as if the worker had not served  
20 the period of duty.

21           “(2) PERIOD OF DUTY DESCRIBED.—An ad-  
22 versely affected worker serves a period of duty de-  
23 scribed in this paragraph if, before completing train-  
24 ing under section 236, the worker—

1           “(A) serves on active duty for a period of  
2           more than 30 days under a call or order to ac-  
3           tive duty of more than 30 days; or

4           “(B) in the case of a member of the Army  
5           National Guard of the United States or Air Na-  
6           tional Guard of the United States, performs  
7           full-time National Guard duty under section  
8           502(f) of title 32, United States Code, for 30  
9           consecutive days or more when authorized by  
10          the President or the Secretary of Defense for  
11          the purpose of responding to a national emer-  
12          gency declared by the President and supported  
13          by Federal funds.”.

14 **SEC. 1825. APPLICATION OF STATE LAWS AND REGULA-**  
15 **TIONS ON GOOD CAUSE FOR WAIVER OF TIME**  
16 **LIMITS OR LATE FILING OF CLAIMS.**

17          Section 234 of the Trade Act of 1974 (19 U.S.C.  
18 2294) is amended—

19           (1) by striking “Except where inconsistent” and  
20          inserting “(a) IN GENERAL.—Except where incon-  
21          sistent”; and

22           (2) by adding at the end the following:

23          “(b) SPECIAL RULE WITH RESPECT TO STATE LAWS  
24 AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF  
25 TIME LIMITS OR LATE FILING OF CLAIMS.—Any law,



1 regulation, policy, or practice of a cooperating State that  
2 allows for a waiver for good cause of any time limitation  
3 relating to the administration of the State unemployment  
4 insurance law shall, in the administration of the program  
5 under this chapter by the State, apply to any time limita-  
6 tion with respect to an application for a trade readjust-  
7 ment allowance or enrollment in training under this chap-  
8 ter.”.

9 **SEC. 1826. EMPLOYMENT AND CASE MANAGEMENT SERV-**  
10 **ICES.**

11 (a) IN GENERAL.—Section 235 of the Trade Act of  
12 1974 (19 U.S.C. 2295) is amended to read as follows:

13 **“SEC. 235. EMPLOYMENT AND CASE MANAGEMENT SERV-**  
14 **ICES.**

15 “The Secretary shall make available, directly or  
16 through agreements with States under section 239, to ad-  
17 versely affected workers and adversely affected incumbent  
18 workers covered by a certification under subchapter A of  
19 this chapter the following employment and case manage-  
20 ment services:

21 “(1) Comprehensive and specialized assessment  
22 of skill levels and service needs, including through—

23 “(A) diagnostic testing and use of other  
24 assessment tools; and

1                   “(B) in-depth interviewing and evaluation  
2                   to identify employment barriers and appropriate  
3                   employment goals.

4                   “(2) Development of an individual employment  
5                   plan to identify employment goals and objectives,  
6                   and appropriate training to achieve those goals and  
7                   objectives.

8                   “(3) Information on training available in local  
9                   and regional areas, information on individual coun-  
10                  seling to determine which training is suitable train-  
11                  ing, and information on how to apply for such train-  
12                  ing.

13                  “(4) Information on how to apply for financial  
14                  aid, including referring workers to educational op-  
15                  portunity centers described in section 402F of the  
16                  Higher Education Act of 1965 (20 U.S.C. 1070a-  
17                  16), where applicable, and notifying workers that the  
18                  workers may request financial aid administrators at  
19                  institutions of higher education (as defined in sec-  
20                  tion 102 of such Act (20 U.S.C. 1002)) to use the  
21                  administrators’ discretion under section 479A of  
22                  such Act (20 U.S.C. 1087tt) to use current year in-  
23                  come data, rather than preceding year income data,  
24                  for determining the amount of need of the workers

1 for Federal financial assistance under title IV of  
2 such Act (20 U.S.C. 1070 et seq.).

3 “(5) Short-term prevocational services, includ-  
4 ing development of learning skills, communications  
5 skills, interviewing skills, punctuality, personal main-  
6 tenance skills, and professional conduct to prepare  
7 individuals for employment or training.

8 “(6) Individual career counseling, including job  
9 search and placement counseling, during the period  
10 in which the individual is receiving a trade adjust-  
11 ment allowance or training under this chapter, and  
12 after receiving such training for purposes of job  
13 placement.

14 “(7) Provision of employment statistics infor-  
15 mation, including the provision of accurate informa-  
16 tion relating to local, regional, and national labor  
17 market areas, including—

18 “(A) job vacancy listings in such labor  
19 market areas;

20 “(B) information on jobs skills necessary  
21 to obtain jobs identified in job vacancy listings  
22 described in subparagraph (A);

23 “(C) information relating to local occupa-  
24 tions that are in demand and earnings potential  
25 of such occupations; and

1 “(D) skills requirements for local occupa-  
2 tions described in subparagraph (C).

3 “(8) Information relating to the availability of  
4 supportive services, including services relating to  
5 child care, transportation, dependent care, housing  
6 assistance, and need-related payments that are nec-  
7 essary to enable an individual to participate in train-  
8 ing.”.

9 (b) CLERICAL AMENDMENT.—The table of contents  
10 of the Trade Act of 1974 is amended by striking the item  
11 relating to section 235 and inserting the following:

“235. Employment and case management services.”.

12 **SEC. 1827. ADMINISTRATIVE EXPENSES AND EMPLOYMENT**  
13 **AND CASE MANAGEMENT SERVICES.**

14 (a) IN GENERAL.—Part II of subchapter B of chap-  
15 ter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295  
16 et seq.) is amended by inserting after section 235 the fol-  
17 lowing:

18 **“SEC. 235A. FUNDING FOR ADMINISTRATIVE EXPENSES**  
19 **AND EMPLOYMENT AND CASE MANAGEMENT**  
20 **SERVICES.**

21 “(a) FUNDING FOR ADMINISTRATIVE EXPENSES AND  
22 EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

23 “(1) IN GENERAL.—In addition to any funds  
24 made available to a State to carry out section 236  
25 for a fiscal year, the State shall receive for the fiscal

1       year a payment in an amount that is equal to 15  
2       percent of the amount of such funds.

3           “(2) USE OF FUNDS.—A State that receives a  
4       payment under paragraph (1) shall—

5           “(A) use not more than  $\frac{2}{3}$  of such pay-  
6       ment for the administration of the trade adjust-  
7       ment assistance for workers program under this  
8       chapter, including for—

9           “(i) processing waivers of training re-  
10       quirements under section 231;

11           “(ii) collecting, validating, and report-  
12       ing data required under this chapter; and

13           “(iii) providing reemployment trade  
14       adjustment assistance under section 246;  
15       and

16           “(B) use not less than  $\frac{1}{3}$  of such payment  
17       for employment and case management services  
18       under section 235.

19       “(b) ADDITIONAL FUNDING FOR EMPLOYMENT AND  
20       CASE MANAGEMENT SERVICES.—

21           “(1) IN GENERAL.—In addition to any funds  
22       made available to a State to carry out section 236  
23       and the payment under subsection (a)(1) for a fiscal  
24       year, the Secretary shall provide to the State for the  
25       fiscal year a payment in the amount of \$350,000.

“(2) USE OF FUNDS.—A State that receives a payment under paragraph (1) shall use such payment for the purpose of providing employment and case management services under section 235.

5           “(3) VOLUNTARY RETURN OF FUNDS.—A State  
6       that receives a payment under paragraph (1) may  
7       decline or otherwise return such payment to the Sec-  
8       retary.”.

9 (b) CLERICAL AMENDMENT.—The table of contents  
10 of the Trade Act of 1974 is amended by inserting after  
11 the item relating to section 235 the following:

“Sec. 235A. Funding for administrative expenses and employment and case management services.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**15 SEC. 1828. TRAINING FUNDING.**

(a) IN GENERAL.—Section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)) is amended to read as follows:

19       “(2)(A) The total amount of payments that may be  
20 made under paragraph (1) shall not exceed—

21 “(i) for each of the fiscal years 2009 and 2010,  
22 \$575,000,000; and

23 “(ii) for the period beginning October 1, 2010,  
24 and ending December 31, 2010, \$143,750,000.

1       “(B)(i) The Secretary shall, as soon as practicable  
2 after the beginning of each fiscal year, make an initial dis-  
3 tribution of the funds made available to carry out this sec-  
4 tion, in accordance with the requirements of subparagraph  
5 (C).

6       “(ii) The Secretary shall ensure that not less than  
7 90 percent of the funds made available to carry out this  
8 section for a fiscal year are distributed to the States by  
9 not later than July 15 of that fiscal year.

10       “(C)(i) In making the initial distribution of funds  
11 pursuant to subparagraph (B)(i) for a fiscal year, the Sec-  
12 retary shall hold in reserve 35 percent of the funds made  
13 available to carry out this section for that fiscal year for  
14 additional distributions during the remainder of the fiscal  
15 year.

16       “(ii) Subject to clause (iii), in determining how to ap-  
17 portion the initial distribution of funds pursuant to sub-  
18 paragraph (B)(i) in a fiscal year, the Secretary shall take  
19 into account, with respect to each State—

20               “(I) the trend in the number of workers covered  
21 by certifications of eligibility under this chapter dur-  
22 ing the most recent 4 consecutive calendar quarters  
23 for which data are available;

24               “(II) the trend in the number of workers par-  
25 ticipating in training under this section during the

1       most recent 4 consecutive calendar quarters for  
2       which data are available;

3           “(III) the number of workers estimated to be  
4       participating in training under this section during  
5       the fiscal year;

6           “(IV) the amount of funding estimated to be  
7       necessary to provide training approved under this  
8       section to such workers during the fiscal year; and

9           “(V) such other factors as the Secretary con-  
10      siders appropriate relating to the provision of train-  
11      ing under this section.

12          “(iii) In no case may the amount of the initial dis-  
13      tribution to a State pursuant to subparagraph (B)(i) in  
14      a fiscal year be less than 25 percent of the initial distribu-  
15      tion to the State in the preceding fiscal year.

16          “(D) The Secretary shall establish procedures for the  
17      distribution of the funds that remain available for the fis-  
18      cal year after the initial distribution required under sub-  
19      paragraph (B)(i). Such procedures may include the dis-  
20      tribution of funds pursuant to requests submitted by  
21      States in need of such funds.

22          “(E) If, during a fiscal year, the Secretary estimates  
23      that the amount of funds necessary to pay the costs of  
24      training approved under this section will exceed the dollar  
25      amount limitation specified in subparagraph (A), the Sec-



1   retary shall decide how the amount of funds made avail-  
2   able to carry out this section that have not been distrib-  
3   uted at the time of the estimate will be apportioned among  
4   the States for the remainder of the fiscal year.”.

5       (b) DETERMINATIONS REGARDING TRAINING.—Sec-  
6   tion 236(a)(9) of the Trade Act of 1974 (19 U.S.C.  
7   2296(a)(9)) is amended—

8           (1) by striking “The Secretary” and inserting  
9       “(A) Subject to subparagraph (B), the Secretary”;  
10      and

11           (2) by adding at the end the following:

12       “(B)(i) In determining under paragraph (1)(E)  
13   whether a worker is qualified to undertake and complete  
14   training, the Secretary may approve training for a period  
15   longer than the worker’s period of eligibility for trade re-  
16   adjustment allowances under part I if the worker dem-  
17   onstrates a financial ability to complete the training after  
18   the expiration of the worker’s period of eligibility for such  
19   trade readjustment allowances.

20       “(ii) In determining the reasonable cost of training  
21   under paragraph (1)(F) with respect to a worker, the Sec-  
22   retary may consider whether other public or private funds  
23   are reasonably available to the worker, except that the  
24   Secretary may not require a worker to obtain such funds

1 as a condition of approval of training under paragraph  
2 (1).”.

3 (c) REGULATIONS.—Section 236 of the Trade Act of  
4 1974 (19 U.S.C. 2296) is amended by adding at the end  
5 the following:

6 “(g) REGULATIONS WITH RESPECT TO APPORTION-  
7 MENT OF TRAINING FUNDS TO STATES.—

8 “(1) IN GENERAL.—Not later than 1 year after  
9 the date of the enactment of this subsection, the  
10 Secretary shall issue such regulations as may be nec-  
11 essary to carry out the provisions of subsection  
12 (a)(2).

13 “(2) CONSULTATIONS.—The Secretary shall  
14 consult with the Committee on Finance of the Sen-  
15 ate and the Committee on Ways and Means of the  
16 House of Representatives not less than 90 days be-  
17 fore issuing any regulation pursuant to paragraph  
18 (1).”.

19 (d) EFFECTIVE DATE.—This section and the amend-  
20 ments made by this section shall take effect upon the expi-  
21 ration of the 90-day period beginning on the date of the  
22 enactment of this Act, except that—

23 (1) subparagraph (A) of section 236(a)(2) of  
24 the Trade Act of 1974, as amended by subsection

1 (a) of this section, shall take effect on the date of  
2 the enactment of this Act; and

3 (2) subparagraphs (B), (C), and (D) of such  
4 section 236(a)(2) shall take effect on October 1,  
5 2009.

6 **SEC. 1829. PREREQUISITE EDUCATION; APPROVED TRAIN-**  
7 **ING PROGRAMS.**

8 (a) IN GENERAL.—Section 236(a)(5) of the Trade  
9 Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

10 (1) in subparagraph (A)—

11 (A) by striking “and” at the end of clause  
12 (i);

13 (B) by adding “and” at the end of clause  
14 (ii); and

15 (C) by inserting after clause (ii) the fol-  
16 lowing:

17 “(iii) apprenticeship programs registered  
18 under the Act of August 16, 1937 (commonly  
19 known as the ‘National Apprenticeship Act’; 50  
20 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.),”;

21 (2) by redesignating subparagraphs (E) and  
22 (F) as subparagraphs (F) and (G), respectively;

23 (3) by inserting after subparagraph (D) the fol-  
24 lowing:

1           “(E) any program of prerequisite education or  
2       coursework required to enroll in training that may  
3       be approved under this section,”;

4           (4) in subparagraph (F)(ii), as redesignated by  
5       paragraph (2), by striking “and” at the end;

6           (5) in subparagraph (G), as redesignated by  
7       paragraph (2), by striking the period at the end and  
8       inserting “, and”; and

9           (6) by adding at the end the following:

10          “(H) any training program or coursework at an  
11       accredited institution of higher education (described  
12       in section 102 of the Higher Education Act of 1965  
13       (20 U.S.C. 1002)), including a training program or  
14       coursework for the purpose of—

15               “(i) obtaining a degree or certification; or

16               “(ii) completing a degree or certification  
17       that the worker had previously begun at an ac-  
18       credited institution of higher education.

19       The Secretary may not limit approval of a training pro-  
20       gram under paragraph (1) to a program provided pursu-  
21       ant to title I of the Workforce Investment Act of 1998  
22       (29 U.S.C. 2801 et seq.).”.

23       (b) CONFORMING AMENDMENTS.—Section 233 of the  
24       Trade Act of 1974 (19 U.S.C. 2293) is amended—

1 (1) in subsection (a)(2), by inserting “pre-  
2 requisite education or” after “requires a program  
3 of”; and

4 (2) in subsection (f) (as redesignated by section  
5 1821(c) of this subtitle), by inserting “prerequisite  
6 education or” after “includes a program of”.

7 (c) TECHNICAL CORRECTIONS.—Section 236 of the  
8 Trade Act of 1974 (19 U.S.C. 2296) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1), in the flush text, by  
11 striking “his behalf” and inserting “the work-  
12 er’s behalf”; and

13 (B) in paragraph (3), by striking “this  
14 paragraph (1)” and inserting “paragraph (1”);  
15 and

16 (2) in subsection (b)(2), by striking “, and”  
17 and inserting a period.

18 **SEC. 1830. PRE-LAYOFF AND PART-TIME TRAINING.**

19 (a) PRE-LAYOFF TRAINING.—

20 (1) IN GENERAL.—Section 236(a) of the Trade  
21 Act of 1974 (19 U.S.C. 2296(a)) is amended—

22 (A) in paragraph (1), by inserting after  
23 “determines” the following: “, with respect to  
24 an adversely affected worker or an adversely af-  
25 fected incumbent worker,”;

1 (B) in paragraph (4)—

2 (i) in subparagraphs (A) and (B), by  
3 inserting “or an adversely affected incum-  
4 bent worker” after “an adversely affected  
5 worker” each place it appears; and

6 (ii) in subparagraph (C), by inserting  
7 “or adversely affected incumbent worker”  
8 after “adversely affected worker” each  
9 place it appears;

10 (C) in paragraph (5), in the matter pre-  
11 ceding subparagraph (A), by striking “The  
12 training programs” and inserting “Except as  
13 provided in paragraph (10), the training pro-  
14 grams”;

15 (D) in paragraph (6)(B), by inserting “or  
16 adversely affected incumbent worker” after  
17 “adversely affected worker”;

18 (E) in paragraph (7)(B), by inserting “or  
19 adversely affected incumbent worker” after  
20 “adversely affected worker”; and

21 (F) by inserting after paragraph (9) the  
22 following:

23 “(10) In the case of an adversely affected incumbent  
24 worker, the Secretary may not approve—

1           “(A) on-the-job training under paragraph  
2           (5)(A)(i); or

3           “(B) customized training under paragraph  
4           (5)(A)(ii), unless such training is for a position  
5           other than the worker’s adversely affected employ-  
6           ment.

7           “(11) If the Secretary determines that an adversely  
8           affected incumbent worker for whom the Secretary ap-  
9           proved training under this section is no longer threatened  
10          with a total or partial separation, the Secretary shall ter-  
11          minate the approval of such training.”.

12           (2) DEFINITIONS.—Section 247 of the Trade  
13          Act of 1974 (19 U.S.C. 2319), as amended, is fur-  
14          ther amended by adding at the end the following:

15           “(19) The term ‘adversely affected incumbent  
16          worker’ means a worker who—

17                   “(A) is a member of a group of workers  
18                   who have been certified as eligible to apply for  
19                   adjustment assistance under subchapter A;

20                   “(B) has not been totally or partially sepa-  
21                   rated from adversely affected employment; and

22                   “(C) the Secretary determines, on an indi-  
23                   vidual basis, is threatened with total or partial  
24                   separation.”.

1 (b) PART-TIME TRAINING.—Section 236 of the  
2 Trade Act of 1974 (19 U.S.C. 2296), as amended, is fur-  
3 ther amended by adding at the end the following:

4 “(h) PART-TIME TRAINING.—

5 “(1) IN GENERAL.—The Secretary may approve  
6 full-time or part-time training for a worker under  
7 subsection (a).

8 “(2) LIMITATION.—Notwithstanding paragraph  
9 (1), a worker participating in part-time training ap-  
10 proved under subsection (a) may not receive a trade  
11 readjustment allowance under section 231.”.

12 **SEC. 1831. ON-THE-JOB TRAINING.**

13 (a) IN GENERAL.—Section 236(c) of the Trade Act  
14 of 1974 (19 U.S.C. 2296(c)) is amended—

15 (1) by redesignating paragraphs (1) through  
16 (10) as subparagraphs (A) through (J) and moving  
17 such subparagraphs 2 ems to the right;

18 (2) by striking “(c) The Secretary shall” and  
19 all that follows through “such costs,” and inserting  
20 the following:

21 “(c) ON-THE-JOB TRAINING REQUIREMENTS.—

22 “(1) IN GENERAL.—The Secretary may approve  
23 on-the-job training for any adversely affected worker  
24 if—



1           “(A) the worker meets the requirements  
2           for training to be approved under subsection  
3           (a)(1);

4           “(B) the Secretary determines that on-the-  
5           job training—

6                 “(i) can reasonably be expected to  
7                 lead to suitable employment with the em-  
8                 ployer offering the on-the-job training;

9                 “(ii) is compatible with the skills of  
10                the worker;

11               “(iii) includes a curriculum through  
12                which the worker will gain the knowledge  
13                or skills to become proficient in the job for  
14                which the worker is being trained; and

15               “(iv) can be measured by benchmarks  
16                that indicate that the worker is gaining  
17                such knowledge or skills; and

18           “(C) the State determines that the on-the-  
19           job training program meets the requirements of  
20           clauses (iii) and (iv) of subparagraph (B).

21           “(2) MONTHLY PAYMENTS.—The Secretary  
22           shall pay the costs of on-the-job training approved  
23           under paragraph (1) in monthly installments.

24           “(3) CONTRACTS FOR ON-THE-JOB TRAINING.—

1           “(A) IN GENERAL.—The Secretary shall  
2           ensure, in entering into a contract with an em-  
3           ployer to provide on-the-job training to a work-  
4           er under this subsection, that the skill require-  
5           ments of the job for which the worker is being  
6           trained, the academic and occupational skill  
7           level of the worker, and the work experience of  
8           the worker are taken into consideration.

9           “(B) TERM OF CONTRACT.—Training  
10          under any such contract shall be limited to the  
11          period of time required for the worker receiving  
12          on-the-job training to become proficient in the  
13          job for which the worker is being trained, but  
14          may not exceed 104 weeks in any case.

15          “(4) EXCLUSION OF CERTAIN EMPLOYERS.—  
16          The Secretary shall not enter into a contract for on-  
17          the-job training with an employer that exhibits a  
18          pattern of failing to provide workers receiving on-  
19          the-job training from the employer with—

20                 “(A) continued, long-term employment as  
21                 regular employees; and

22                 “(B) wages, benefits, and working condi-  
23                 tions that are equivalent to the wages, benefits,  
24                 and working conditions provided to regular em-  
25                 ployees who have worked a similar period of

1 time and are doing the same type of work as  
2 workers receiving on-the-job training from the  
3 employer.

4 “(5) LABOR STANDARDS.—The Secretary may  
5 pay the costs of on-the-job training,”; and

6 (3) in paragraph (5), as redesignated—

7 (A) in subparagraph (I), as redesignated  
8 by paragraph (1) of this section, by striking  
9 “paragraphs (1), (2), (3), (4), (5), and (6)”  
10 and inserting “subparagraphs (A), (B), (C),  
11 (D), (E), and (F)”; and

12 (B) in subparagraph (J), as redesignated  
13 by paragraph (1) of this section, by striking  
14 “paragraph (8)” and inserting “subparagraph  
15 (H)”.

16 (b) REPEAL OF PREFERENCE FOR TRAINING ON THE  
17 JOB.—Section 236(a)(1) of the Trade Act of 1974 (19  
18 U.S.C. 2296(a)(1)) is amended by striking the last sen-  
19 tence.

20 **SEC. 1832. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE**  
21 **AND PROGRAM BENEFITS WHILE IN TRAIN-**  
22 **ING.**

23 Section 236(d) of the Trade Act of 1974 (19 U.S.C.  
24 2296(d)) is amended to read as follows:

1       “(d) ELIGIBILITY.—An adversely affected worker  
2 may not be determined to be ineligible or disqualified for  
3 unemployment insurance or program benefits under this  
4 subchapter—

5               “(1) because the worker—

6                       “(A) is enrolled in training approved under  
7 subsection (a);

8                       “(B) left work—

9                               “(i) that was not suitable employment  
10 in order to enroll in such training; or

11                               “(ii) that the worker engaged in on a  
12 temporary basis during a break in such  
13 training or a delay in the commencement  
14 of such training; or

15                       “(C) left on-the-job training not later than  
16 30 days after commencing such training be-  
17 cause the training did not meet the require-  
18 ments of subsection (c)(1)(B); or

19               “(2) because of the application to any such  
20 week in training of the provisions of State law or  
21 Federal unemployment insurance law relating to  
22 availability for work, active search for work, or re-  
23 fusal to accept work.”.

1   **SEC. 1833. JOB SEARCH AND RELOCATION ALLOWANCES.**

2           (a) **JOB SEARCH ALLOWANCES.**—Section 237 of the  
3 Trade Act of 1974 (19 U.S.C. 2297) is amended—

4           (1) in subsection (a)(2)(C)(ii), by striking “,  
5 unless the worker received a waiver under section  
6 231(c)”; and

7           (2) in subsection (b)—

8           (A) in paragraph (1), by striking “90 per-  
9 cent of the cost of” and inserting “all”; and

10           (B) in paragraph (2), by striking “\$1,250”  
11 and inserting “\$1,500”.

12           (b) **RELOCATION ALLOWANCES.**—Section 238 of the  
13 Trade Act of 1974 (19 U.S.C. 2298) is amended—

14           (1) in subsection (a)(2)(E)(ii), by striking “,  
15 unless the worker received a waiver under section  
16 231(c)”; and

17           (2) in subsection (b)—

18           (A) in paragraph (1), by striking “90 per-  
19 cent of the” and inserting “all”; and

20           (B) in paragraph (2), by striking “\$1,250”  
21 and inserting “\$1,500”.

**Subpart D—Reemployment Trade Adjustment  
Assistance Program**

**SEC. 1841. REEMPLOYMENT TRADE ADJUSTMENT ASSIST-  
ANCE PROGRAM.**

(a) IN GENERAL.—Section 246 of the Trade Act of  
1974 (19 U.S.C. 2318) is amended—

(1) by amending the heading to read as follows:  
“SEC. 246. REEMPLOYMENT TRADE ADJUSTMENT ASSIST-  
ANCE PROGRAM.”;

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “Not later than” and  
all that follows through “2002, the Sec-  
retary” and inserting “The Secretary”;  
and

(ii) by striking “an alternative trade  
adjustment assistance program for older  
workers” and inserting “a reemployment  
trade adjustment assistance program”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause  
(i), by striking “for a period not to  
exceed 2 years” and inserting “for the  
eligibility period under subparagraph

1 (A) or (B) of paragraph (4) (as the  
2 case may be)”; and

3 (II) by striking clauses (i) and  
4 (ii) and inserting the following:

5 “(i) the wages received by the worker  
6 at the time of separation; and

7 “(ii) the wages received by the worker  
8 from reemployment.”;

9 (ii) in subparagraph (B)—

10 (I) by striking “for a period not  
11 to exceed 2 years” and inserting “for  
12 the eligibility period under subpara-  
13 graph (A) or (B) of paragraph (4) (as  
14 the case may be)”; and

15 (II) by striking “, as added by  
16 section 201 of the Trade Act of  
17 2002”; and

18 (iii) by adding at the end the fol-  
19 lowing:

20 “(C) TRAINING AND OTHER SERVICES.—A  
21 worker described in paragraph (3)(B) partici-  
22 pating in the program established under para-  
23 graph (1) is eligible to receive training approved  
24 under section 236 and employment and case  
25 management services under section 235.”; and

1 (C) by striking paragraphs (3) through (5)  
2 and inserting the following:

3 “(3) ELIGIBILITY.—

4 “(A) IN GENERAL.—A group of workers  
5 certified under subchapter A as eligible for ad-  
6 justment assistance under subchapter A is eligi-  
7 ble for benefits described in paragraph (2)  
8 under the program established under paragraph  
9 (1).

10 “(B) INDIVIDUAL ELIGIBILITY.—A worker  
11 in a group of workers described in subpara-  
12 graph (A) may elect to receive benefits de-  
13 scribed in paragraph (2) under the program es-  
14 tablished under paragraph (1) if the worker—

15 “(i) is at least 50 years of age;

16 “(ii) earns not more than \$55,000  
17 each year in wages from reemployment;

18 “(iii)(I) is employed on a full-time  
19 basis as defined by the law of the State in  
20 which the worker is employed and is not  
21 enrolled in a training program approved  
22 under section 236; or

23 “(II) is employed at least 20 hours  
24 per week and is enrolled in a training pro-  
25 gram approved under section 236; and



1                   “(iv) is not employed at the firm from  
2                   which the worker was separated.

3                   “(4) ELIGIBILITY PERIOD FOR PAYMENTS.—

4                   “(A) WORKER WHO HAS NOT RECEIVED  
5                   TRADE READJUSTMENT ALLOWANCE.—In the  
6                   case of a worker described in paragraph (3)(B)  
7                   who has not received a trade readjustment al-  
8                   lowance under part I of subchapter B pursuant  
9                   to the certification described in paragraph  
10                  (3)(A), the worker may receive benefits de-  
11                  scribed in paragraph (2) for a period not to ex-  
12                  ceed 2 years beginning on the earlier of—

13                  “(i) the date on which the worker ex-  
14                  hausts all rights to unemployment insur-  
15                  ance based on the separation of the worker  
16                  from the adversely affected employment  
17                  that is the basis of the certification; or

18                  “(ii) the date on which the worker ob-  
19                  tains reemployment described in paragraph  
20                  (3)(B).

21                  “(B) WORKER WHO HAS RECEIVED TRADE  
22                  READJUSTMENT ALLOWANCE.—In the case of a  
23                  worker described in paragraph (3)(B) who has  
24                  received a trade readjustment allowance under  
25                  part I of subchapter B pursuant to the certifi-

1 cation described in paragraph (3)(A), the work-  
2 er may receive benefits described in paragraph  
3 (2) for a period of 104 weeks beginning on the  
4 date on which the worker obtains reemployment  
5 described in paragraph (3)(B), reduced by the  
6 total number of weeks for which the worker re-  
7 ceived such trade readjustment allowance.

8 “(5) TOTAL AMOUNT OF PAYMENTS.—

9 “(A) IN GENERAL.—The payments de-  
10 scribed in paragraph (2)(A) made to a worker  
11 may not exceed—

12 “(i) \$12,000 per worker during the  
13 eligibility period under paragraph (4)(A);  
14 or

15 “(ii) the amount described in subpara-  
16 graph (B) per worker during the eligibility  
17 period under paragraph (4)(B).

18 “(B) AMOUNT DESCRIBED.—The amount  
19 described in this subparagraph is the amount  
20 equal to the product of—

21 “(i) \$12,000, and

22 “(ii) the ratio of—

23 “(I) the total number of weeks in  
24 the eligibility period under paragraph  
25 (4)(B) with respect to the worker, to

1 “(II) 104 weeks.

2 “(6) CALCULATION OF AMOUNT OF PAYMENTS  
3 FOR CERTAIN WORKERS.—

4 “(A) IN GENERAL.—In the case of a work-  
5 er described in paragraph (3)(B)(iii)(II), para-  
6 graph (2)(A) shall be applied by substituting  
7 the percentage described in subparagraph (B)  
8 for ‘50 percent’.

9 “(B) PERCENTAGE DESCRIBED.—The per-  
10 centage described in this subparagraph is the  
11 percentage—

12 “(i) equal to  $\frac{1}{2}$  of the ratio of—

13 “(I) the number of weekly hours  
14 of employment of the worker referred  
15 to in paragraph (3)(B)(iii)(II), to

16 “(II) the number of weekly hours  
17 of employment of the worker at the  
18 time of separation, but

19 “(ii) in no case more than 50 percent.

20 “(7) LIMITATION ON OTHER BENEFITS.—A  
21 worker described in paragraph (3)(B) may not re-  
22 ceive a trade readjustment allowance under part I of  
23 subchapter B pursuant to the certification described  
24 in paragraph (3)(A) during any week for which the

1 worker receives a payment described in paragraph  
2 (2)(A).”; and

3 (3) in subsection (b)(2), by striking “subsection  
4 (a)(3)(B)” and inserting “subsection (a)(3)”.

5 (b) EXTENSION OF PROGRAM.—Section 246(b)(1) of  
6 the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended  
7 by striking “the date that is 5 years” and all that follows  
8 through the end period and inserting “December 31,  
9 2010.”.

10 (c) CLERICAL AMENDMENT.—The table of contents  
11 of the Trade Act of 1974 is amended by striking the item  
12 relating to section 246 and inserting the following:

“Sec. 246. Reemployment trade adjustment assistance program.”.

13 **Subpart E—Other Matters**

14 **SEC. 1851. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

15 (a) IN GENERAL.—Subchapter C of chapter 2 of title  
16 II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.) is  
17 amended by adding at the end the following:

18 **“SEC. 249A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

19 “(a) ESTABLISHMENT.—There is established in the  
20 Department of Labor an office to be known as the Office  
21 of Trade Adjustment Assistance (in this section referred  
22 to as the ‘Office’).

23 “(b) HEAD OF OFFICE.—The head of the Office shall  
24 be an administrator, who shall report directly to the Dep-  
25 uty Assistant Secretary for Employment and Training.

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1       “(c) PRINCIPAL FUNCTIONS.—The principal func-  
2 tions of the administrator of the Office shall be—

3           “(1) to oversee and implement the administra-  
4 tion of trade adjustment assistance program under  
5 this chapter; and

6           “(2) to carry out functions delegated to the  
7 Secretary of Labor under this chapter, including—

8               “(A) making determinations under section  
9 223;

10               “(B) providing information under section  
11 225 about trade adjustment assistance to work-  
12 ers and assisting such workers to prepare peti-  
13 tions or applications for program benefits;

14               “(C) providing assistance to employers of  
15 groups of workers that have filed petitions  
16 under section 221 in submitting information re-  
17 quired by the Secretary relating to the peti-  
18 tions;

19               “(D) ensuring workers covered by a certifi-  
20 cation of eligibility under subchapter A receive  
21 the employment and case management services  
22 described in section 235;

23               “(E) ensuring that States fully comply  
24 with agreements entered into under section  
25 239;

1           “(F) advocating for workers applying for  
2           benefits available under this chapter;

3           “(G) establishing and overseeing a hotline  
4           that workers, employers, and other entities may  
5           call to obtain information regarding eligibility  
6           criteria, procedural requirements, and benefits  
7           available under this chapter; and

8           “(H) carrying out such other duties with  
9           respect to this chapter as the Secretary speci-  
10          fies for purposes of this section.

11       “(d) ADMINISTRATION.—

12           “(1) DESIGNATION.—The administrator shall  
13           designate an employee of the Department of Labor  
14           with appropriate experience and expertise to carry  
15           out the duties described in paragraph (2).

16           “(2) DUTIES.—The employee designated under  
17           paragraph (1) shall—

18           “(A) receive complaints and requests for  
19           assistance related to the trade adjustment as-  
20           sistance program under this chapter;

21           “(B) resolve such complaints and requests  
22           for assistance, in coordination with other em-  
23           ployees of the Office;

1           “(C) compile basic information concerning  
2           such complaints and requests for assistance;  
3           and

4           “(D) carry out such other duties with re-  
5           spect to this chapter as the Secretary specifies  
6           for purposes of this section.”.

7           (b) CLERICAL AMENDMENT.—The table of contents  
8           of the Trade Act of 1974 is amended by inserting after  
9           the item relating to section 249 the following:

          “Sec. 249A. Office of Trade Adjustment Assistance.”.

10   **SEC. 1852. ACCOUNTABILITY OF STATE AGENCIES; COLLEC-**  
11                   **TION AND PUBLICATION OF PROGRAM DATA;**  
12                   **AGREEMENTS WITH STATES.**

13           (a) IN GENERAL.—Section 239(a) of the Trade Act  
14           of 1974 (19 U.S.C. 2311(a)) is amended—

15           (1) by amending clause (2) to read as follows:

16           “(2) in accordance with subsection (f), shall make  
17           available to adversely affected workers and adversely  
18           affected incumbent workers covered by a certifi-  
19           cation under subchapter A the employment and case  
20           management services described in section 235,”; and

21           (2) by striking “will” each place it appears and  
22           inserting “shall”.

23           (b) FORM AND MANNER OF DATA.—Section 239 of  
24           the Trade Act of 1974 (19 U.S.C. 2311) is amended—

1           (1) by redesignating subsections (c) through (g)  
2           as subsections (d) through (h), respectively; and

3           (2) by inserting after subsection (b) the fol-  
4           lowing:

5           “(c) FORM AND MANNER OF DATA.—Each agree-  
6           ment under this subchapter shall—

7           “(1) provide the Secretary with the authority to  
8           collect any data the Secretary determines necessary  
9           to meet the requirements of this chapter; and

10           “(2) specify the form and manner in which any  
11           such data requested by the Secretary shall be re-  
12           ported.”.

13           (c) STATE ACTIVITIES.—Section 239(g) of the Trade  
14           Act of 1974 (as redesignated) is amended—

15           (1) in paragraph (3), by striking “and” at the  
16           end;

17           (2) by amending paragraph (4) to read as fol-  
18           lows:

19           “(4) perform outreach to, intake of, and ori-  
20           entation for adversely affected workers and adversely  
21           affected incumbent workers covered by a certifi-  
22           cation under subchapter A with respect to assistance  
23           and benefits available under this chapter, and”; and

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



1           “(5) make employment and case management  
2       services described in section 235 available to ad-  
3       versely affected workers and adversely affected in-  
4       cumbent workers covered by a certification under  
5       subchapter A and, if funds provided to carry out this  
6       chapter are insufficient to make such services avail-  
7       able, make arrangements to make such services  
8       available through other Federal programs.”.

9       (d) REPORTING REQUIREMENT.—Section 239(h) of  
10      the Trade Act of 1974 (as redesignated) is amended by  
11      striking “1998.” and inserting “1998 (29 U.S.C. 2822(b))  
12      and a description of the State’s rapid response activities  
13      under section 221(a)(2)(A).”.

14      (e) CONTROL MEASURES.—Section 239 of the Trade  
15      Act of 1974 (19 U.S.C. 2311), as amended, is further  
16      amended by adding at the end the following:

17      “(i) CONTROL MEASURES.—

18           “(1) IN GENERAL.—The Secretary shall require  
19      each cooperating State and cooperating State agency  
20      to implement effective control measures and to effec-  
21      tively oversee the operation and administration of  
22      the trade adjustment assistance program under this  
23      chapter, including by means of monitoring the oper-  
24      ation of control measures to improve the accuracy

1 and timeliness of the data being collected and re-  
2 ported.

3 “(2) DEFINITION.—For purposes of paragraph  
4 (1), the term ‘control measures’ means measures  
5 that—

6 “(A) are internal to a system used by a  
7 State to collect data; and

8 “(B) are designed to ensure the accuracy  
9 and verifiability of such data.

10 “(j) DATA REPORTING.—

11 “(1) IN GENERAL.—Any agreement entered  
12 into under this section shall require the cooperating  
13 State or cooperating State agency to report to the  
14 Secretary on a quarterly basis comprehensive per-  
15 formance accountability data, to consist of—

16 “(A) the core indicators of performance de-  
17 scribed in paragraph (2)(A);

18 “(B) the additional indicators of perform-  
19 ance described in paragraph (2)(B), if any; and

20 “(C) a description of efforts made to im-  
21 prove outcomes for workers under the trade ad-  
22 justment assistance program.

23 “(2) CORE INDICATORS DESCRIBED.—

24 “(A) IN GENERAL.—The core indicators of  
25 performance described in this paragraph are—

1                   “(i) the percentage of workers receiv-  
2                   ing benefits under this chapter who are  
3                   employed during the second calendar quar-  
4                   ter following the calendar quarter in which  
5                   the workers cease receiving such benefits;

6                   “(ii) the percentage of such workers  
7                   who are employed in each of the third and  
8                   fourth calendar quarters following the cal-  
9                   endar quarter in which the workers cease  
10                  receiving such benefits; and

11                  “(iii) the earnings of such workers in  
12                  each of the third and fourth calendar quar-  
13                  ters following the calendar quarter in  
14                  which the workers cease receiving such  
15                  benefits.

16                  “(B) ADDITIONAL INDICATORS.—The Sec-  
17                  retary and a cooperating State or cooperating  
18                  State agency may agree upon additional indica-  
19                  tors of performance for the trade adjustment  
20                  assistance program under this chapter, as ap-  
21                  propriate.

22                  “(3) STANDARDS WITH RESPECT TO RELI-  
23                  ABILITY OF DATA.—In preparing the quarterly re-  
24                  port required by paragraph (1), each cooperating  
25                  State or cooperating State agency shall establish

1 procedures that are consistent with guidelines to be  
2 issued by the Secretary to ensure that the data re-  
3 ported are valid and reliable.”.

4 **SEC. 1853. VERIFICATION OF ELIGIBILITY FOR PROGRAM**  
5 **BENEFITS.**

6 Section 239 of the Trade Act of 1974 (19 U.S.C.  
7 2311), as amended, is further amended by adding at the  
8 end the following:

9 “(k) VERIFICATION OF ELIGIBILITY FOR PROGRAM  
10 BENEFITS.—

11 “(1) IN GENERAL.—An agreement under this  
12 subchapter shall provide that the State shall periodi-  
13 cally redetermine that a worker receiving benefits  
14 under this subchapter who is not a citizen or na-  
15 tional of the United States remains in a satisfactory  
16 immigration status. Once satisfactory immigration  
17 status has been initially verified through the immi-  
18 gration status verification system described in sec-  
19 tion 1137(d) of the Social Security Act (42 U.S.C.  
20 1320b-7(d)) for purposes of establishing a worker’s  
21 eligibility for unemployment compensation, the State  
22 shall reverify the worker’s immigration status if the  
23 documentation provided during initial verification  
24 will expire during the period in which that worker is  
25 potentially eligible to receive benefits under this sub-

1 chapter. The State shall conduct such redetermina-  
2 tion in a timely manner, utilizing the immigration  
3 status verification system described in section  
4 1137(d) of the Social Security Act (42 U.S.C.  
5 1320b-7(d)).

6 “(2) PROCEDURES.—The Secretary shall estab-  
7 lish procedures to ensure the uniform application by  
8 the States of the requirements of this subsection.”.

9 **SEC. 1854. COLLECTION OF DATA AND REPORTS; INFORMA-**  
10 **TION TO WORKERS.**

11 (a) IN GENERAL.—Subchapter C of chapter 2 of title  
12 II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.),  
13 as amended, is further amended by adding at the end the  
14 following:

15 **“SEC. 249B. COLLECTION AND PUBLICATION OF DATA AND**  
16 **REPORTS; INFORMATION TO WORKERS.**

17 “(a) IN GENERAL.—Not later than 180 days after  
18 the date of the enactment of this section, the Secretary  
19 shall implement a system to collect and report the data  
20 described in subsection (b), as well as any other informa-  
21 tion that the Secretary considers appropriate to effectively  
22 carry out this chapter.

23 “(b) DATA TO BE INCLUDED.—The system required  
24 under subsection (a) shall include collection of and report-  
25 ing on the following data for each fiscal year:

1           “(1) DATA ON PETITIONS FILED, CERTIFIED,  
2           AND DENIED.—

3           “(A) The number of petitions filed, cer-  
4           tified, and denied under this chapter.

5           “(B) The number of workers covered by  
6           petitions filed, certified, and denied.

7           “(C) The number of petitions, classified  
8           by—

9                   “(i) the basis for certification, includ-  
10                  ing increased imports, shifts in production,  
11                  and other bases of eligibility; and

12                  “(ii) congressional district of the  
13                  United States.

14           “(D) The average time for processing such  
15           petitions.

16           “(2) DATA ON BENEFITS RECEIVED.—

17           “(A) The number of workers receiving ben-  
18           efits under this chapter.

19           “(B) The number of workers receiving  
20           each type of benefit, including training, trade  
21           readjustment allowances, employment and case  
22           management services, and relocation and job  
23           search allowances, and, to the extent feasible,  
24           credits for health insurance costs under section  
25           35 of the Internal Revenue Code of 1986.

1           “(C) The average time during which such  
2 workers receive each such type of benefit.

3           “(3) DATA ON TRAINING.—

4           “(A) The number of workers enrolled in  
5 training approved under section 236, classified  
6 by major types of training, including classroom  
7 training, training through distance learning, on-  
8 the-job training, and customized training.

9           “(B) The number of workers enrolled in  
10 full-time training and part-time training.

11           “(C) The average duration of training.

12           “(D) The number of training waivers  
13 granted under section 231(c), classified by type  
14 of waiver.

15           “(E) The number of workers who complete  
16 training and the duration of such training.

17           “(F) The number of workers who do not  
18 complete training.

19           “(4) DATA ON OUTCOMES.—

20           “(A) A summary of the quarterly reports  
21 required under section 239(j).

22           “(B) The sectors in which workers are em-  
23 ployed after receiving benefits under this chap-  
24 ter.

1           “(5) DATA ON RAPID RESPONSE ACTIVITIES.—

2           Whether rapid response activities were provided with  
3           respect to each petition filed under section 221.

4           “(c) CLASSIFICATION OF DATA.—To the extent pos-  
5           sible, in collecting and reporting the data described in sub-  
6           section (b), the Secretary shall classify the data by indus-  
7           try, State, and national totals.

8           “(d) REPORT.—Not later than December 15 of each  
9           year, the Secretary shall submit to the Committee on Fi-  
10          nance of the Senate and the Committee on Ways and  
11          Means of the House of Representatives a report that  
12          includes—

13               “(1) a summary of the information collected  
14               under this section for the preceding fiscal year;

15               “(2) information on the distribution of funds to  
16               each State pursuant to section 236(a)(2); and

17               “(3) any recommendations of the Secretary  
18               with respect to changes in eligibility requirements,  
19               benefits, or training funding under this chapter  
20               based on the data collected under this section.

21           “(e) AVAILABILITY OF DATA.—

22               “(1) IN GENERAL.—The Secretary shall make  
23               available to the public, by publishing on the website  
24               of the Department of Labor and by other means, as  
25               appropriate—



1           “(A) the report required under subsection  
2           (d);

3           “(B) the data collected under this section,  
4           in a searchable format; and

5           “(C) a list of cooperating States and co-  
6           operating State agencies that failed to submit  
7           the data required by this section to the Sec-  
8           retary in a timely manner.

9           “(2) UPDATES.—The Secretary shall update  
10          the data under paragraph (1) on a quarterly basis.”.

11          (b) CLERICAL AMENDMENT.—The table of contents  
12          of the Trade Act of 1974 is amended by inserting after  
13          the item relating to section 249A the following:

          “Sec. 249B. Collection and publication of data and reports; information to  
                                          workers.”.

14          (c) EFFECTIVE DATE.—The amendments made by  
15          this section shall take effect on the date of the enactment  
16          of this Act.

17   **SEC. 1855. FRAUD AND RECOVERY OF OVERPAYMENTS.**

18          Section 243(a)(1) of the Trade Act of 1974 (19  
19   U.S.C. 2315(a)(1)) is amended—

20               (1) in the matter preceding subparagraph (A)—

21                       (A) by striking “may waive” and inserting  
22                       “shall waive”; and

23                       (B) by striking “, in accordance with  
24                       guidelines prescribed by the Secretary,”; and

1           (2) in subparagraph (B), by striking “would be  
2       contrary to equity and good conscience” and insert-  
3       ing “would cause a financial hardship for the indi-  
4       vidual (or the individual’s household, if applicable)  
5       when taking into consideration the income and re-  
6       sources reasonably available to the individual (or  
7       household) and other ordinary living expenses of the  
8       individual (or household)”.

9   **SEC. 1856. SENSE OF CONGRESS ON APPLICATION OF**  
10                   **TRADE ADJUSTMENT ASSISTANCE.**

11       (a) IN GENERAL.—Chapter 5 of title II of the Trade  
12   Act of 1974 (19 U.S.C. 2391 et seq.) is amended by add-  
13   ing at the end the following:

14   **“SEC. 288. SENSE OF CONGRESS.**

15       “It is the sense of Congress that the Secretaries of  
16   Labor, Commerce, and Agriculture should apply the provi-  
17   sions of chapter 2 (relating to adjustment assistance for  
18   workers), chapter 3 (relating to adjustment assistance for  
19   firms), chapter 4 (relating to adjustment assistance for  
20   communities), and chapter 6 (relating to adjustment as-  
21   sistance for farmers), respectively, with the utmost regard  
22   for the interests of workers, firms, communities, and farm-  
23   ers petitioning for benefits under such chapters.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 of the Trade Act of 1974 is amended by inserting after  
3 the item relating to section 287 the following:

“Sec. 288. Sense of Congress.”.

4 **SEC. 1857. CONSULTATIONS IN PROMULGATION OF REGU-**  
5 **LATIONS.**

6 Section 248 of the Trade Act of 1974 (19 U.S.C.  
7 2320) is amended—

8 (1) by striking “The Secretary shall” and in-  
9 serting the following:

10 “(a) IN GENERAL.—The Secretary shall”; and

11 (2) by adding at the end the following:

12 “(b) CONSULTATIONS.—Not later than 90 days be-  
13 fore issuing a regulation under subsection (a), the Sec-  
14 retary shall consult with the Committee on Finance of the  
15 Senate and the Committee on Ways and Means of the  
16 House of Representatives with respect to the regulation.”.

17 **SEC. 1858. TECHNICAL CORRECTIONS.**

18 (a) DETERMINATIONS BY SECRETARY OF LABOR.—  
19 Section 223(c) of the Trade Act of 1974 (19 U.S.C.  
20 2273(c)) is amended by striking “his determination” and  
21 inserting “a determination”.

22 (b) QUALIFYING REQUIREMENTS FOR WORKERS.—  
23 Section 231(a) of the Trade Act of 1974 (19 U.S.C.  
24 2291(a)) is amended—

25 (1) in paragraph (1)—

1 (A) in the matter preceding subparagraph  
2 (A), by striking “his application” and inserting  
3 “the worker’s application”; and

4 (B) in subparagraph (A), by striking “he  
5 is covered” and inserting “the worker is cov-  
6 ered”;

7 (2) in paragraph (2)—

8 (A) in subparagraph (A), by striking the  
9 period and inserting a comma; and

10 (B) in subparagraph (D), by striking “5  
11 U.S.C. 8521(a)(1)” and inserting “section  
12 8521(a)(1) of title 5, United States Code”; and  
13 (3) in paragraph (3)—

14 (A) by striking “he” each place it appears  
15 and inserting “the worker”; and

16 (B) in subparagraph (C), by striking  
17 “him” and inserting “the worker”.

18 (c) SUBPOENA POWER.—Section 249 of the Trade  
19 Act of 1974 (19 U.S.C. 2321) is amended—

20 (1) in the section heading, by striking “**SUB-**  
21 **PENA**” and inserting “**SUBPOENA**”;

22 (2) by striking “subpena” and inserting “sub-  
23 poena” each place it appears; and

24 (3) in subsection (a), by striking “him” and in-  
25 serting “the Secretary”.

1 (d) CLERICAL AMENDMENT.—The table of contents  
2 of the Trade Act of 1974 is amended by striking the item  
3 relating to section 249 and inserting the following:

“Sec. 249. Subpoena power.”.

4 **PART II—TRADE ADJUSTMENT ASSISTANCE FOR**  
5 **FIRMS**

6 **SEC. 1861. EXPANSION TO SERVICE SECTOR FIRMS.**

7 (a) IN GENERAL.—Section 251 of the Trade Act of  
8 1974 (19 U.S.C. 2341) is amended by inserting “or serv-  
9 ice sector firm” after “agricultural firm” each place it ap-  
10 pears.

11 (b) DEFINITION OF SERVICE SECTOR FIRM.—Sec-  
12 tion 261 of the Trade Act of 1974 (19 U.S.C. 2351) is  
13 amended—

14 (1) by striking “chapter,” and inserting “chap-  
15 ter.”;

16 (2) by striking “the term ‘firm’” and inserting  
17 the following:

18 “(1) FIRM.—The term ‘firm’”; and

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

20 “(2) SERVICE SECTOR FIRM.—The term ‘service  
21 sector firm’ means a firm engaged in the business  
22 of supplying services.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 251(c)(1)(C) of the Trade Act of  
25 1974 (19 U.S.C. 2341(c)(1)(C)) is amended—

1 (A) by inserting “or services” after “arti-  
2 cles” the first place it appears; and

3 (B) by inserting “or services which are  
4 supplied” after “produced”.

5 (2) Section 251(c)(2)(B)(ii) of such Act is  
6 amended to read as follows:

7 “(ii) Any firm that engages in exploration or  
8 drilling for oil or natural gas, or otherwise produces  
9 oil or natural gas, shall be considered to be pro-  
10 ducing articles directly competitive with imports of  
11 oil and with imports of natural gas.”.

12 **SEC. 1862. MODIFICATION OF REQUIREMENTS FOR CER-**  
13 **TIFICATION.**

14 Section 251(c)(1)(B) of the Trade Act of 1974 (19  
15 U.S.C. 2341(c)(1)(B)) is amended to read as follows:

16 “(B) that—

17 “(i) sales or production, or both, of the  
18 firm have decreased absolutely,

19 “(ii) sales or production, or both, of an ar-  
20 ticle or service that accounted for not less than  
21 25 percent of the total sales or production of  
22 the firm during the 12-month period preceding  
23 the most recent 12-month period for which data  
24 are available have decreased absolutely,

1           “(iii) sales or production, or both, of the  
2           firm during the most recent 12-month period  
3           for which data are available have decreased  
4           compared to—

5                   “(I) the average annual sales or pro-  
6                   duction for the firm during the 24-month  
7                   period preceding that 12-month period, or

8                   “(II) the average annual sales or pro-  
9                   duction for the firm during the 36-month  
10                  period preceding that 12-month period,  
11                  and

12                 “(iv) sales or production, or both, of an ar-  
13                 ticle or service that accounted for not less than  
14                 25 percent of the total sales or production of  
15                 the firm during the most recent 12-month pe-  
16                 riod for which data are available have decreased  
17                 compared to—

18                   “(I) the average annual sales or pro-  
19                   duction for the article or service during the  
20                   24-month period preceding that 12-month  
21                   period, or

22                   “(II) the average annual sales or pro-  
23                   duction for the article or service during the  
24                   36-month period preceding that 12-month  
25                   period, and”.

1   **SEC. 1863. BASIS FOR DETERMINATIONS.**

2       Section 251 of the Trade Act of 1974 (19 U.S.C.  
3   2341), as amended, is further amended by adding at the  
4   end the following:

5       “(e) BASIS FOR SECRETARY’S DETERMINATIONS.—  
6   For purposes of subsection (c)(1)(C), the Secretary may  
7   determine that there are increased imports of like or di-  
8   rectly competitive articles or services, if customers ac-  
9   counting for a significant percentage of the decrease in  
10   the sales or production of the firm certify to the Secretary  
11   that such customers have increased their imports of such  
12   articles or services from a foreign country, either abso-  
13   lutely or relative to their acquisition of such articles or  
14   services from suppliers located in the United States.

15       “(f) NOTIFICATION TO FIRMS OF AVAILABILITY OF  
16   BENEFITS.—Upon receiving notice from the Secretary of  
17   Labor under section 225 of the identity of a firm that  
18   is covered by a certification issued under section 223, the  
19   Secretary of Commerce shall notify the firm of the avail-  
20   ability of adjustment assistance under this chapter.”.

21   **SEC. 1864. OVERSIGHT AND ADMINISTRATION; AUTHORIZA-**  
22                   **TION OF APPROPRIATIONS.**

23       (a) IN GENERAL.—Chapter 3 of title II of the Trade  
24   Act of 1974 (19 U.S.C. 2341 et seq.) is amended—

25               (1) by striking sections 254, 255, 256, and 257;



1           (2) by redesignating sections 258, 259, 260,  
2           261, 262, 264, and 265, as sections 256, 257, 258,  
3           259, 260, 261, and 262, respectively; and

4           (3) by inserting after section 253 the following:

5   **“SEC. 254. OVERSIGHT AND ADMINISTRATION.**

6           “(a) IN GENERAL.—The Secretary shall, to such ex-  
7   tent and in such amounts as are provided in appropria-  
8   tions Acts, provide grants to intermediary organizations  
9   (referred to in section 253(b)(1)) throughout the United  
10   States pursuant to agreements with such intermediary or-  
11   ganizations. Each such agreement shall require the inter-  
12   mediary organization to provide benefits to firms certified  
13   under section 251. The Secretary shall, to the maximum  
14   extent practicable, provide by October 1, 2010, that con-  
15   tracts entered into with intermediary organizations be for  
16   a 12-month period and that all such contracts have the  
17   same beginning date and the same ending date.

18          “(b) DISTRIBUTION OF FUNDS.—

19               “(1) IN GENERAL.—Not later than 90 days  
20   after the date of the enactment of this subsection,  
21   the Secretary shall develop a methodology for the  
22   distribution of funds among the intermediary organi-  
23   zations described in subsection (a).

24               “(2) PROMPT INITIAL DISTRIBUTION.—The  
25   methodology described in paragraph (1) shall ensure

1 the prompt initial distribution of funds and establish  
2 additional criteria governing the apportionment and  
3 distribution of the remainder of such funds among  
4 the intermediary organizations.

5 “(3) CRITERIA.—The methodology described in  
6 paragraph (1) shall include criteria based on the  
7 data in the annual report on the trade adjustment  
8 assistance for firms program described in section  
9 1866 of the Trade and Globalization Adjustment As-  
10 sistance Act of 2009.

11 “(c) REQUIREMENTS FOR CONTRACTS.—An agree-  
12 ment with an intermediary organization described in sub-  
13 section (a) shall require the intermediary organization to  
14 contract for the supply of services to carry out grants  
15 under this chapter in accordance with terms and condi-  
16 tions that are consistent with guidelines established by the  
17 Secretary.

18 “(d) CONSULTATIONS.—

19 “(1) CONSULTATIONS REGARDING METHOD-  
20 OLOGY.—The Secretary shall consult with the Com-  
21 mittee on Finance of the Senate and the Committee  
22 on Ways and Means of the House of  
23 Representatives—

1           “(A) not less than 30 days before final-  
2           izing the methodology described in subsection  
3           (b); and

4           “(B) not less than 60 days before adopting  
5           any changes to such methodology.

6           “(2) CONSULTATIONS REGARDING GUIDE-  
7           LINES.—The Secretary shall consult with the Com-  
8           mittee on Finance of the Senate and the Committee  
9           on Ways and Means of the House of Representatives  
10          not less than 60 days before finalizing the guidelines  
11          described in subsection (c) or adopting any subse-  
12          quent changes to such guidelines.

13   **“SEC. 255. AUTHORIZATION OF APPROPRIATIONS.**

14          “(a) IN GENERAL.—There are authorized to be ap-  
15          propriated to the Secretary \$50,000,000 for each of the  
16          fiscal years 2009 through 2010, and \$12,501,000 for the  
17          period beginning October 1, 2010, and ending December  
18          31, 2010, to carry out the provisions of this chapter.  
19          Amounts appropriated pursuant to this subsection shall—

20                 “(1) be available to provide adjustment assist-  
21                 ance to firms that file a petition for such assistance  
22                 pursuant to this chapter on or before December 31,  
23                 2010; and

24                 “(2) otherwise remain available until expended.

1       “(b) PERSONNEL.—Of the amounts appropriated  
2 pursuant to this section for each fiscal year, \$350,000  
3 shall be available for full-time positions in the Department  
4 of Commerce to administer the provisions of this chapter.  
5 Of such funds the Secretary shall make available to the  
6 Economic Development Administration such sums as may  
7 be necessary to establish the position of Director of Ad-  
8 justment Assistance for Firms and such other full-time po-  
9 sitions as may be appropriate to administer the provisions  
10 of this chapter.”.

11       (b) RESIDUAL AUTHORITY.—The Secretary of Com-  
12 merce shall have the authority to modify, terminate, re-  
13 solve, liquidate, or take any other action with respect to  
14 a loan, guarantee, contract, or any other financial assist-  
15 ance that was extended under section 254, 255, 256, or  
16 257 of the Trade Act of 1974 (19 U.S.C. 2344, 2345,  
17 2346, and 2347), as in effect on the day before the effec-  
18 tive date set forth in section 1891.

19       (c) CONFORMING AMENDMENTS.—

20               (1) Section 256 of the Trade Act of 1974, as  
21 redesignated by subsection (a) of this section, is  
22 amended by striking subsection (d).

23               (2) Section 258 of the Trade Act of 1974, as  
24 redesignated by subsection (a) of this section, is  
25 amended—

1 (A) in the first sentence, by striking “and  
2 financial”; and

3 (B) in the last sentence—

4 (i) by striking “sections 253 and 254”  
5 and inserting “section 253”; and

6 (ii) by striking “title 28 of the United  
7 States Code” and inserting “title 28,  
8 United States Code”.

9 (d) CLERICAL AMENDMENTS.—The table of contents  
10 of the Trade Act of 1974 is amended by striking the items  
11 relating to sections 254, 255, 256, 257, 258, 259, 260,  
12 261, 262, 264, and 265, and inserting the following:

“Sec. 254. Oversight and administration.

“Sec. 255. Authorization of appropriations.

“Sec. 256. Protective provisions.

“Sec. 257. Penalties.

“Sec. 258. Civil actions.

“Sec. 259. Definitions.

“Sec. 260. Regulations.

“Sec. 261. Study by Secretary of Commerce when International Trade Commis-  
sion begins investigation; action where there is affirmative find-  
ing.

“Sec. 262. Assistance to industries.”.

13 (e) EFFECTIVE DATE.—This section and the amend-  
14 ments made by this section shall take effect upon the expi-  
15 ration of the 90-day period beginning on the date of the  
16 enactment of this Act, except that subsections (b) and (d)  
17 of section 254 of the Trade Act of 1974 (as added by sub-  
18 section (a) of this section) shall take effect on such date  
19 of enactment.

1 **SEC. 1865. INCREASED PENALTIES FOR FALSE STATE-**  
2 **MENTS.**

3 Section 257 of the Trade Act of 1974, as redesign-  
4 nated by section 1864(a), is amended to read as follows:

5 **“SEC. 257. PENALTIES.**

6 “Any person who—

7 “(1) makes a false statement of a material fact  
8 knowing it to be false, or knowingly fails to disclose  
9 a material fact, or willfully overvalues any security,  
10 for the purpose of influencing in any way a deter-  
11 mination under this chapter, or for the purpose of  
12 obtaining money, property, or anything of value  
13 under this chapter, or

14 “(2) makes a false statement of a material fact  
15 knowing it to be false, or knowingly fails to disclose  
16 a material fact, when providing information to the  
17 Secretary during an investigation of a petition under  
18 this chapter,

19 shall be imprisoned for not more than 2 years, or fined  
20 under title 18, United States Code, or both.”.

21 **SEC. 1866. ANNUAL REPORT ON TRADE ADJUSTMENT AS-**  
22 **SISTANCE FOR FIRMS.**

23 (a) IN GENERAL.—Not later than December 15,  
24 2009, and each year thereafter, the Secretary of Com-  
25 merce shall prepare a report containing data regarding the  
26 trade adjustment assistance for firms program provided

1 for in chapter 3 of title II of the Trade Act of 1974 (19  
2 U.S.C. 2341 et seq.) for the preceding fiscal year. The  
3 data shall include the following:

4 (1) The number of firms that inquired about  
5 the program.

6 (2) The number of petitions filed under section  
7 251.

8 (3) The number of petitions certified and de-  
9 nied.

10 (4) The average time for processing petitions.

11 (5) The number of petitions filed and firms cer-  
12 tified for each congressional district of the United  
13 States.

14 (6) The number of firms that received assist-  
15 ance in preparing their petitions.

16 (7) The number of firms that received assist-  
17 ance developing business recovery plans.

18 (8) The number of business recovery plans ap-  
19 proved and denied by the Secretary of Commerce.

20 (9) Sales, employment, and productivity at each  
21 firm participating in the program at the time of cer-  
22 tification.

23 (10) Sales, employment, and productivity at  
24 each firm upon completion of the program and each  
25 year for the 2-year period following completion.

1           (11) The financial assistance received by each  
2       firm participating in the program.

3           (12) The financial contribution made by each  
4       firm participating in the program.

5           (13) The types of technical assistance included  
6       in the business recovery plans of firms participating  
7       in the program.

8           (14) The number of firms leaving the program  
9       before completing the project or projects in their  
10      business recovery plans and the reason the project  
11      was not completed.

12       (b) CLASSIFICATION OF DATA.—To the extent pos-  
13      sible, in collecting and reporting the data described in sub-  
14      section (a), the Secretary shall classify the data by inter-  
15      mediary organization, State, and national totals.

16       (c) REPORT TO CONGRESS; PUBLICATION.—The Sec-  
17      retary of Commerce shall—

18           (1) submit the report described in subsection  
19      (a) to the Committee on Finance of the Senate and  
20      the Committee on Ways and Means of the House of  
21      Representatives; and

22           (2) publish the report in the Federal Register  
23      and on the website of the Department of Commerce.

24       (d) PROTECTION OF CONFIDENTIAL INFORMA-  
25      TION.—The Secretary of Commerce may not release infor-



1 mation described in subsection (a) that the Secretary con-  
2 siders to be confidential business information unless the  
3 person submitting the confidential business information  
4 had notice, at the time of submission, that such informa-  
5 tion would be released by the Secretary, or such person  
6 subsequently consents to the release of the information.  
7 Nothing in this subsection shall be construed to prohibit  
8 the Secretary from providing such confidential business in-  
9 formation to a court in camera or to another party under  
10 a protective order issued by a court.

11 **SEC. 1867. TECHNICAL CORRECTIONS.**

12 (a) IN GENERAL.—Section 251 of the Trade Act of  
13 1974 (19 U.S.C. 2341), as amended, is further  
14 amended—

15 (1) in subsection (a), by striking “he has” and  
16 inserting “the Secretary has”; and

17 (2) in subsection (d), by striking “60 days” and  
18 inserting “40 days”.

19 (b) TECHNICAL ASSISTANCE.—Section 253(a)(3) of  
20 the Trade Act of 1974 (19 U.S.C. 2343(a)(3)) is amended  
21 by striking “of a certified firm” and inserting “to a cer-  
22 tified firm”.

1 **PART III—TRADE ADJUSTMENT ASSISTANCE FOR**  
2 **COMMUNITIES**

3 **SEC. 1871. PURPOSE.**

4 The purpose of the amendments made by this part  
5 is to assist communities impacted by trade with economic  
6 adjustment through the coordination of Federal, State,  
7 and local resources, the creation of community-based de-  
8 velopment strategies, and the development and provision  
9 of programs that meet the training needs of workers cov-  
10 ered by certifications under section 223.

11 **SEC. 1872. TRADE ADJUSTMENT ASSISTANCE FOR COMMU-**  
12 **NITIES.**

13 (a) IN GENERAL.—Chapter 4 of title II of the Trade  
14 Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read  
15 as follows:

16 **“CHAPTER 4—TRADE ADJUSTMENT**  
17 **ASSISTANCE FOR COMMUNITIES**  
18 **“Subchapter A—Trade Adjustment Assistance**  
19 **for Communities**

20 **“SEC. 271. DEFINITIONS.**

21 “In this subchapter:

22 “(1) AGRICULTURAL COMMODITY PRODUCER.—

23 The term ‘agricultural commodity producer’ has the  
24 meaning given that term in section 291.

25 “(2) COMMUNITY.—The term ‘community’  
26 means a city, county, or other political subdivision of

1 a State or a consortium of political subdivisions of  
2 a State.

3 “(3) COMMUNITY IMPACTED BY TRADE.—The  
4 term ‘community impacted by trade’ means a com-  
5 munity described in section 273(b)(2).

6 “(4) ELIGIBLE COMMUNITY.—The term ‘eligible  
7 community’ means a community that the Secretary  
8 has determined under section 273(b)(1) is eligible to  
9 apply for assistance under this subchapter.

10 “(5) SECRETARY.—The term ‘Secretary’ means  
11 the Secretary of Commerce.

12 **“SEC. 272. ESTABLISHMENT OF TRADE ADJUSTMENT AS-**  
13 **SISTANCE FOR COMMUNITIES PROGRAM.**

14 “Not later than August 1, 2009, the Secretary shall  
15 establish a trade adjustment assistance for communities  
16 program at the Department of Commerce under which the  
17 Secretary shall—

18 “(1) provide technical assistance under section  
19 274 to communities impacted by trade to facilitate  
20 the economic adjustment of those communities; and

21 “(2) award grants to communities impacted by  
22 trade to carry out strategic plans developed under  
23 section 276.

24 **“SEC. 273. ELIGIBILITY; NOTIFICATION.**

25 “(a) PETITION.—

1           “(1) IN GENERAL.—A community may submit  
2           a petition to the Secretary for an affirmative deter-  
3           mination under subsection (b)(1) that the commu-  
4           nity is eligible to apply for assistance under this sub-  
5           chapter if—

6                   “(A) on or after August 1, 2009, one or  
7                   more certifications described in subsection  
8                   (b)(3) are made with respect to the community;  
9                   and

10                   “(B) the community submits the petition  
11                   not later than 180 days after the date of the  
12                   most recent certification.

13           “(2) SPECIAL RULE WITH RESPECT TO CER-  
14           TAIN COMMUNITIES.—In the case of a community  
15           with respect to which one or more certifications de-  
16           scribed in subsection (b)(3) were made on or after  
17           January 1, 2007, and before August 1, 2009, the  
18           community may submit not later than February 1,  
19           2010, a petition to the Secretary for an affirmative  
20           determination under subsection (b)(1).

21           “(b) AFFIRMATIVE DETERMINATION.—

22                   “(1) IN GENERAL.—The Secretary shall make  
23                   an affirmative determination that a community is el-  
24                   igible to apply for assistance under this subchapter

1 if the Secretary determines that the community is a  
2 community impacted by trade.

3 “(2) COMMUNITY IMPACTED BY TRADE.—A  
4 community is a community impacted by trade if—

5 “(A) one or more certifications described  
6 in paragraph (3) are made with respect to the  
7 community; and

8 “(B) the Secretary determines that the  
9 community is significantly affected by the  
10 threat to, or the loss of, jobs associated with  
11 any such certification.

12 “(3) CERTIFICATION DESCRIBED.—A certifi-  
13 cation described in this paragraph is a  
14 certification—

15 “(A) by the Secretary of Labor that a  
16 group of workers in the community is eligible to  
17 apply for assistance under section 223;

18 “(B) by the Secretary of Commerce that a  
19 firm located in the community is eligible to  
20 apply for adjustment assistance under section  
21 251; or

22 “(C) by the Secretary of Agriculture that  
23 a group of agricultural commodity producers in  
24 the community is eligible to apply for adjust-  
25 ment assistance under section 293.

1       “(e) NOTIFICATIONS.—

2               “(1) NOTIFICATION TO THE GOVERNOR.—The  
3 Governor of a State shall be notified promptly—

4               “(A) by the Secretary of Labor, upon mak-  
5 ing a determination that a group of workers in  
6 the State is eligible for assistance under section  
7 223;

8               “(B) by the Secretary of Commerce, upon  
9 making a determination that a firm in the  
10 State is eligible for assistance under section  
11 251; and

12               “(C) by the Secretary of Agriculture, upon  
13 making a determination that a group of agricul-  
14 tural commodity producers in the State is eligi-  
15 ble for assistance under section 293.

16               “(2) NOTIFICATION TO COMMUNITY.—Upon  
17 making an affirmative determination under sub-  
18 section (b)(1) that a community is eligible to apply  
19 for assistance under this subchapter, the Secretary  
20 shall promptly notify the community and the Gov-  
21 ernor of the State in which the community is  
22 located—

23               “(A) of the affirmative determination;

24               “(B) of the applicable provisions of this  
25 subchapter; and

1           “(C) of the means for obtaining assistance  
2           under this subchapter and other appropriate  
3           economic assistance that may be available to  
4           the community.

5   **“SEC. 274. TECHNICAL ASSISTANCE.**

6           “(a) IN GENERAL.—The Secretary shall provide com-  
7   prehensive technical assistance to an eligible community  
8   to assist the community to—

9           “(1) diversify and strengthen the economy in  
10   the community;

11           “(2) identify significant impediments to eco-  
12   nomic development that result from the impact of  
13   trade on the community; and

14           “(3) develop a strategic plan under section 276  
15   to address economic adjustment and workforce dis-  
16   location in the community, including unemployment  
17   among agricultural commodity producers.

18           “(b) COORDINATION OF FEDERAL RESPONSE.—The  
19   Secretary shall coordinate the Federal response to an eligi-  
20   ble community by—

21           “(1) identifying Federal, State, and local re-  
22   sources that are available to assist the community in  
23   responding to economic distress; and

24           “(2) assisting the community in accessing avail-  
25   able Federal assistance and ensuring that such as-

1       sistance is provided in a targeted, integrated man-  
2       ner.

3       “(c) INTERAGENCY COMMUNITY ASSISTANCE WORK-  
4       ING GROUP.—

5               “(1) IN GENERAL.—The Secretary shall estab-  
6       lish an interagency Community Assistance Working  
7       Group, to be chaired by the Secretary or the Sec-  
8       retary’s designee, which shall assist the Secretary  
9       with the coordination of the Federal response pursu-  
10      ant to subsection (b).

11              “(2) MEMBERSHIP.—The Working Group shall  
12      consist of representatives of any Federal department  
13      or agency with responsibility for providing economic  
14      adjustment assistance, including the Department of  
15      Agriculture, the Department of Defense, the Depart-  
16      ment of Education, the Department of Labor, the  
17      Department of Housing and Urban Development,  
18      the Department of Health and Human Services, the  
19      Small Business Administration, the Department of  
20      the Treasury, and any other Federal, State, or re-  
21      gional public department or agency the Secretary de-  
22      termines to be appropriate.

23   **“SEC. 275. GRANTS FOR ELIGIBLE COMMUNITIES.**

24              “(a) IN GENERAL.—The Secretary may award a  
25      grant under this section to an eligible community to assist



1 the community in carrying out any project or program  
2 that is included in a strategic plan developed by the com-  
3 munity under section 276.

4 “(b) APPLICATION.—

5 “(1) IN GENERAL.—An eligible community  
6 seeking to receive a grant under this section shall  
7 submit a grant application to the Secretary that  
8 contains—

9 “(A) the strategic plan developed by the  
10 community under section 276(a)(1)(A) and ap-  
11 proved by the Secretary under section  
12 276(a)(1)(B); and

13 “(B) a description of the project or pro-  
14 gram included in the strategic plan with respect  
15 to which the community seeks the grant.

16 “(2) COORDINATION AMONG GRANT PRO-  
17 GRAMS.—If an entity in an eligible community is  
18 seeking or plans to seek a Community College and  
19 Career Training Grant under section 278 or a Sec-  
20 tor Partnership Grant under section 279A while the  
21 eligible community is seeking a grant under this sec-  
22 tion, the eligible community shall include in the  
23 grant application a description of how the eligible  
24 community will integrate any projects or programs  
25 carried out using a grant under this section with any

1 projects or programs that may be carried out using  
2 such other grants.

3 “(c) LIMITATION.—An eligible community may not  
4 be awarded more than \$5,000,000 under this section.

5 “(d) COST-SHARING.—

6 “(1) FEDERAL SHARE.—The Federal share of a  
7 project or program for which a grant is awarded  
8 under this section may not exceed 95 percent of the  
9 cost of such project or program.

10 “(2) COMMUNITY SHARE.—The Secretary shall  
11 require, as a condition of awarding a grant to an eli-  
12 gible community under this section, that the eligible  
13 community contribute not less than an amount equal  
14 to 5 percent of the amount of the grant toward the  
15 cost of the project or program for which the grant  
16 is awarded.

17 “(e) GRANTS TO SMALL- AND MEDIUM-SIZED COM-  
18 MUNITIES.—The Secretary shall give priority to grant ap-  
19 plications submitted under this section by eligible commu-  
20 nities that are small- and medium-sized communities.

21 “(f) ANNUAL REPORT.—Not later than December 15  
22 in each of the calendar years 2009 through 2011, the Sec-  
23 retary shall submit to the Committee on Finance of the  
24 Senate and the Committee on Ways and Means of the  
25 House of Representatives a report—

1           “(1) describing each grant awarded under this  
2           section during the preceding fiscal year; and

3           “(2) assessing the impact on the eligible com-  
4           munity of each such grant awarded in a fiscal year  
5           before the fiscal year referred to in paragraph (1).

6   **“SEC. 276. STRATEGIC PLANS.**

7           “(a) IN GENERAL.—

8           “(1) DEVELOPMENT.—An eligible community  
9           that intends to apply for a grant under section 275  
10          shall—

11           “(A) develop a strategic plan for the com-  
12           munity’s economic adjustment to the impact of  
13           trade; and

14           “(B) submit the plan to the Secretary for  
15           evaluation and approval.

16           “(2) INVOLVEMENT OF PRIVATE AND PUBLIC  
17          ENTITIES.—

18           “(A) IN GENERAL.—To the extent prac-  
19           ticable, an eligible community shall consult with  
20           entities described in subparagraph (B) in devel-  
21           oping a strategic plan under paragraph (1).

22           “(B) ENTITIES DESCRIBED.—Entities de-  
23           scribed in this subparagraph are public and pri-  
24           vate entities within the eligible community,  
25           including—

1                   “(i) local, county, or State govern-  
2                   ment agencies serving the community;

3                   “(ii) firms, including small- and me-  
4                   dium-sized firms, within the community;

5                   “(iii) local workforce investment  
6                   boards established under section 117 of the  
7                   Workforce Investment Act of 1998 (29  
8                   U.S.C. 2832);

9                   “(iv) labor organizations, including  
10                  State labor federations and labor-manage-  
11                  ment initiatives, representing workers in  
12                  the community; and

13                  “(v) educational institutions, local  
14                  educational agencies, or other training pro-  
15                  viders serving the community.

16           “(b) CONTENTS.—The strategic plan shall, at a min-  
17           imum, contain the following:

18                  “(1) A description and analysis of the capacity  
19                  of the eligible community to achieve economic ad-  
20                  justment to the impact of trade.

21                  “(2) An analysis of the economic development  
22                  challenges and opportunities facing the community  
23                  as well as the strengths and weaknesses of the econ-  
24                  omy of the community.

1           “(3) An assessment of the commitment of the  
2           eligible community to the strategic plan over the  
3           long term and the participation and input of mem-  
4           bers of the community affected by economic disloca-  
5           tion.

6           “(4) A description of the role and the participa-  
7           tion of the entities described in subsection (a)(2)(B)  
8           in developing the strategic plan.

9           “(5) A description of the projects to be under-  
10          taken by the eligible community under the strategic  
11          plan.

12          “(6) A description of how the strategic plan  
13          and the projects to be undertaken by the eligible  
14          community will facilitate the community’s economic  
15          adjustment.

16          “(7) A description of the educational and train-  
17          ing programs available to workers in the eligible  
18          community and the future employment needs of the  
19          community.

20          “(8) An assessment of the cost of implementing  
21          the strategic plan, the timing of funding required by  
22          the eligible community to implement the strategic  
23          plan, and the method of financing to be used to im-  
24          plement the strategic plan.

1           “(9) A strategy for continuing the economic ad-  
2           justment of the eligible community after the comple-  
3           tion of the projects described in paragraph (5).

4           “(c) GRANTS TO DEVELOP STRATEGIC PLANS.—

5           “(1) IN GENERAL.—The Secretary, upon re-  
6           ceipt of an application from an eligible community,  
7           may award a grant to the community to assist the  
8           community in developing a strategic plan under sub-  
9           section (a)(1). A grant awarded under this para-  
10          graph shall not exceed 75 percent of the cost of de-  
11          veloping the strategic plan.

12          “(2) FUNDS TO BE USED.—Of the funds appro-  
13          priated pursuant to section 277(c), the Secretary  
14          may make available not more than \$25,000,000 for  
15          each of the fiscal years 2009 and 2010, and  
16          \$6,250,000 for the period beginning October 1,  
17          2010, and ending December 31, 2010, to provide  
18          grants to eligible communities under paragraph (1).

19       **“SEC. 277. GENERAL PROVISIONS.**

20          “(a) REGULATIONS.—

21          “(1) IN GENERAL.—The Secretary shall pre-  
22          scribe such regulations as are necessary to carry out  
23          the provisions of this subchapter, including—

1           “(A) establishing specific guidelines for the  
2           submission and evaluation of strategic plans  
3           under section 276;

4           “(B) establishing specific guidelines for the  
5           submission and evaluation of grant applications  
6           under section 275; and

7           “(C) administering the grant programs es-  
8           tablished under sections 275 and 276.

9           “(2) CONSULTATIONS.—The Secretary shall  
10          consult with the Committee on Finance of the Sen-  
11          ate and the Committee on Ways and Means of the  
12          House of Representatives not less than 90 days  
13          prior to promulgating any final rule or regulation  
14          pursuant to paragraph (1).

15          “(b) PERSONNEL.—The Secretary shall designate  
16          such staff as may be necessary to carry out the respon-  
17          sibilities described in this subchapter.

18          “(c) AUTHORIZATION OF APPROPRIATIONS.—

19               “(1) IN GENERAL.—There are authorized to be  
20          appropriated to the Secretary \$150,000,000 for each  
21          of the fiscal years 2009 and 2010, and \$37,500,000  
22          for the period beginning October 1, 2010, and end-  
23          ing December 31, 2010, to carry out this sub-  
24          chapter.

1           “(2) AVAILABILITY.—Amounts appropriated  
2 pursuant to this subchapter—

3           “(A) shall be available to provide adjust-  
4 ment assistance to communities that have been  
5 approved for assistance pursuant to this chap-  
6 ter on or before December 31, 2010; and

7           “(B) shall otherwise remain available until  
8 expended.

9           “(3) SUPPLEMENT NOT SUPPLANT.—Funds ap-  
10 propriated pursuant to this subchapter shall be used  
11 to supplement and not supplant other Federal,  
12 State, and local public funds expended to provide  
13 economic development assistance for communities.

14       **“Subchapter B—Community College and**  
15       **Career Training Grant Program**

16       **“SEC. 278. COMMUNITY COLLEGE AND CAREER TRAINING**  
17       **GRANT PROGRAM.**

18       “(a) GRANTS AUTHORIZED.—

19           “(1) IN GENERAL.—Beginning August 1, 2009,  
20 the Secretary may award Community College and  
21 Career Training Grants to eligible institutions for  
22 the purpose of developing, offering, or improving  
23 educational or career training programs for workers  
24 eligible for training under section 236.



1           “(2) LIMITATIONS.—An eligible institution may  
2 not be awarded—

3           “(A) more than one grant under this sec-  
4 tion; or

5           “(B) a grant under this section in excess  
6 of \$1,000,000.

7           “(b) DEFINITIONS.—In this section:

8           “(1) ELIGIBLE INSTITUTION.—The term ‘eligi-  
9 ble institution’ means an institution of higher edu-  
10 cation (as defined in section 102 of the Higher Edu-  
11 cation Act of 1965 (20 U.S.C. 1002)), but only with  
12 respect to a program offered by the institution that  
13 can be completed in not more than 2 years.

14           “(2) SECRETARY.—The term ‘Secretary’ means  
15 the Secretary of Labor.

16           “(c) GRANT PROPOSALS.—

17           “(1) IN GENERAL.—An eligible institution seek-  
18 ing to receive a grant under this section shall submit  
19 a grant proposal to the Secretary at such time, in  
20 such manner, and containing such information as  
21 the Secretary may require.

22           “(2) GUIDELINES.—Not later than June 1,  
23 2009, the Secretary shall—

24           “(A) promulgate guidelines for the submis-  
25 sion of grant proposals under this section; and

1           “(B) publish and maintain such guidelines  
2           on the website of the Department of Labor.

3           “(3) ASSISTANCE.—The Secretary shall offer  
4           assistance in preparing a grant proposal to any eligi-  
5           ble institution that requests such assistance.

6           “(4) GENERAL REQUIREMENTS FOR GRANT  
7           PROPOSALS.—

8           “(A) IN GENERAL.—A grant proposal sub-  
9           mitted to the Secretary under this section shall  
10          include a detailed description of—

11           “(i) the specific project for which the  
12           grant proposal is submitted, including the  
13           manner in which the grant will be used to  
14           develop, offer, or improve an educational  
15           or career training program that is suited  
16           to workers eligible for training under sec-  
17           tion 236;

18           “(ii) the extent to which the project  
19           for which the grant proposal is submitted  
20           will meet the educational or career training  
21           needs of workers in the community served  
22           by the eligible institution who are eligible  
23           for training under section 236;

24           “(iii) the extent to which the project  
25           for which the grant proposal is submitted

1 fits within any overall strategic plan devel-  
2 oped by an eligible community under sec-  
3 tion 276;

4 “(iv) the extent to which the project  
5 for which the grant proposal is submitted  
6 relates to any project funded by a Sector  
7 Partnership Grant awarded under section  
8 279A; and

9 “(v) any previous experience of the el-  
10 igible institution in providing educational  
11 or career training programs to workers eli-  
12 gible for training under section 236.

13 “(B) ABSENCE OF EXPERIENCE.—The ab-  
14 sence of any previous experience in providing  
15 educational or career training programs de-  
16 scribed in subparagraph (A)(v) shall not auto-  
17 matically disqualify an eligible institution from  
18 receiving a grant under this section.

19 “(5) COMMUNITY OUTREACH REQUIRED.—In  
20 order to be considered by the Secretary, a grant pro-  
21 posal submitted by an eligible institution under this  
22 section shall—

23 “(A) demonstrate that the eligible  
24 institution—

1                   “(i) reached out to employers, and  
2                   other entities described in section  
3                   276(a)(2)(B) to identify—

4                   “(I) any shortcomings in existing  
5                   educational and career training oppor-  
6                   tunities available to workers in the  
7                   community; and

8                   “(II) any future employment op-  
9                   portunities within the community and  
10                  the educational and career training  
11                  skills required for workers to meet the  
12                  future employment demand;

13                  “(ii) reached out to other similarly sit-  
14                  uated institutions in an effort to benefit  
15                  from any best practices that may be shared  
16                  with respect to providing educational or ca-  
17                  reer training programs to workers eligible  
18                  for training under section 236; and

19                  “(iii) reached out to any eligible part-  
20                  nership in the community that has sought  
21                  or received a Sector Partnership Grant  
22                  under section 279A to enhance the effec-  
23                  tiveness of each grant and avoid duplica-  
24                  tion of efforts; and

25                  “(B) include a detailed description of—

1                   “(i) the extent and outcome of the  
2                   outreach conducted under subparagraph  
3                   (A);

4                   “(ii) the extent to which the project  
5                   for which the grant proposal is submitted  
6                   will contribute to meeting any short-  
7                   comings identified under subparagraph  
8                   (A)(i)(I) or any educational or career  
9                   training needs identified under subpara-  
10                  graph (A)(i)(II); and

11                  “(iii) the extent to which employers,  
12                  including small- and medium-sized firms  
13                  within the community, have demonstrated  
14                  a commitment to employing workers who  
15                  would benefit from the project for which  
16                  the grant proposal is submitted.

17                  “(d) CRITERIA FOR AWARD OF GRANTS.—

18                  “(1) IN GENERAL.—Subject to the appropria-  
19                  tion of funds, the Secretary shall award a grant  
20                  under this section based on—

21                  “(A) a determination of the merits of the  
22                  grant proposal submitted by the eligible institu-  
23                  tion to develop, offer, or improve educational or  
24                  career training programs to be made available

1 to workers eligible for training under section  
2 236;

3 “(B) an evaluation of the likely employ-  
4 ment opportunities available to workers who  
5 complete an educational or career training pro-  
6 gram that the eligible institution proposes to  
7 develop, offer, or improve; and

8 “(C) an evaluation of prior demand for  
9 training programs by workers eligible for train-  
10 ing under section 236 in the community served  
11 by the eligible institution, as well as the avail-  
12 ability and capacity of existing training pro-  
13 grams to meet future demand for training pro-  
14 grams.

15 “(2) PRIORITY FOR CERTAIN COMMUNITIES.—  
16 In awarding grants under this section, the Secretary  
17 shall give priority to an eligible institution that  
18 serves a community that the Secretary of Commerce  
19 has determined under section 273 is eligible to apply  
20 for assistance under subchapter A within the 5-year  
21 period preceding the date on which the grant pro-  
22 posal is submitted to the Secretary under this sec-  
23 tion.

24 “(3) MATCHING REQUIREMENTS.—A grant  
25 awarded under this section may not be used to sat-

1 isfy any private matching requirement under any  
2 other provision of law.

3 “(e) ANNUAL REPORT.—Not later than December 15  
4 in each of the calendar years 2009 through 2011, the Sec-  
5 retary shall submit to the Committee on Finance of the  
6 Senate and the Committee on Ways and Means of the  
7 House of Representatives a report—

8 “(1) describing each grant awarded under this  
9 section during the preceding fiscal year; and

10 “(2) assessing the impact of each award of a  
11 grant under this section in a fiscal year preceding  
12 the fiscal year referred to in paragraph (1) on work-  
13 ers receiving training under section 236.

14 **“SEC. 279. AUTHORIZATION OF APPROPRIATIONS.**

15 “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated to the Secretary of  
17 Labor \$40,000,000 for each of the fiscal years 2009 and  
18 2010, and \$10,000,000 for the period beginning October  
19 1, 2010, and ending December 31, 2010, to fund the Com-  
20 munity College and Career Training Grant Program.  
21 Funds appropriated pursuant to this section shall remain  
22 available until expended.

23 “(b) SUPPLEMENT NOT SUPPLANT.—Funds appro-  
24 priated pursuant to this section shall be used to supple-  
25 ment and not supplant other Federal, State, and local

1 public funds expended to support community college and  
2 career training programs.

3 **“Subchapter C—Industry or Sector Partner-**  
4 **ship Grant Program for Communities Im-**  
5 **acted by Trade**

6 **“SEC. 279A. INDUSTRY OR SECTOR PARTNERSHIP GRANT**  
7 **PROGRAM FOR COMMUNITIES IMPACTED BY**  
8 **TRADE.**

9 “(a) PURPOSE.—The purpose of this subchapter is  
10 to facilitate efforts by industry or sector partnerships to  
11 strengthen and revitalize industries and create employ-  
12 ment opportunities for workers in communities impacted  
13 by trade.

14 “(b) DEFINITIONS.—In this subchapter:

15 “(1) COMMUNITY IMPACTED BY TRADE.—The  
16 term ‘community impacted by trade’ has the mean-  
17 ing given that term in section 271.

18 “(2) DISLOCATED WORKER.—The term ‘dis-  
19 located worker’ means a worker who has been totally  
20 or partially separated, or is threatened with total or  
21 partial separation, from employment in an industry  
22 or sector in a community impacted by trade.

23 “(3) ELIGIBLE PARTNERSHIP.—The term ‘eligi-  
24 ble partnership’ means a voluntary partnership com-  
25 posed of public and private persons, firms, or other



1 entities within a community impacted by trade, that  
2 shall include representatives of—

3 “(A) an industry or sector within the com-  
4 munity, including an industry association;

5 “(B) local, county, or State government;

6 “(C) multiple firms in the industry or sec-  
7 tor, including small- and medium-sized firms,  
8 within the community;

9 “(D) local workforce investment boards es-  
10 tablished under section 117 of the Workforce  
11 Investment Act of 1998 (29 U.S.C. 2832);

12 “(E) labor organizations, including State  
13 labor federations and labor-management initia-  
14 tives, representing workers in the community;  
15 and

16 “(F) educational institutions, local edu-  
17 cational agencies, or other training providers  
18 serving the community.

19 “(4) LEAD ENTITY.—The term ‘lead entity’  
20 means—

21 “(A) an entity designated by the eligible  
22 partnership to be responsible for submitting a  
23 grant proposal under subsection (e) and serving  
24 as the eligible partnership’s fiscal agent in ex-

1 pending any Sector Partnership Grant awarded  
2 under this section; or

3 “(B) a State agency designated by the  
4 Governor of the State to carry out the respon-  
5 sibilities described in subparagraph (A).

6 “(5) SECRETARY.—The term ‘Secretary’ means  
7 the Secretary of Labor.

8 “(6) TARGETED INDUSTRY OR SECTOR.—The  
9 term ‘targeted industry or sector’ means the indus-  
10 try or sector represented by an eligible partnership.

11 “(c) SECTOR PARTNERSHIP GRANTS AUTHOR-  
12 IZED.—Beginning on August 1, 2009, and subject to the  
13 appropriation of funds, the Secretary shall award Sector  
14 Partnership Grants to eligible partnerships to assist the  
15 eligible partnerships in carrying out projects, over periods  
16 of not more than 3 years, to strengthen and revitalize in-  
17 dustries and sectors and create employment opportunities  
18 for dislocated workers.

19 “(d) USE OF SECTOR PARTNERSHIP GRANTS.—An  
20 eligible partnership may use a Sector Partnership Grant  
21 to carry out any project that the Secretary determines will  
22 further the purpose of this subchapter, which may  
23 include—

24 “(1) identifying the skill needs of the targeted  
25 industry or sector and any gaps in the available sup-

1       ply of skilled workers in the community impacted by  
2       trade, and developing strategies for filling the gaps,  
3       including by—

4               “(A) developing systems to better link  
5       firms in the targeted industry or sector to avail-  
6       able skilled workers;

7               “(B) helping firms in the targeted industry  
8       or sector to obtain access to new sources of  
9       qualified job applicants;

10              “(C) retraining dislocated and incumbent  
11       workers; or

12              “(D) facilitating the training of new skilled  
13       workers by aligning the instruction provided by  
14       local suppliers of education and training serv-  
15       ices with the needs of the targeted industry or  
16       sector;

17              “(2) analyzing the skills and education levels of  
18       dislocated and incumbent workers and developing  
19       training to address skill gaps that prevent such  
20       workers from obtaining jobs in the targeted industry  
21       or sector;

22              “(3) helping firms, especially small- and me-  
23       dium-sized firms, in the targeted industry or sector  
24       increase their productivity and the productivity of  
25       their workers;

1           “(4) helping such firms retain incumbent work-  
2       ers;

3           “(5) developing learning consortia of small- and  
4       medium-sized firms in the targeted industry or sec-  
5       tor with similar training needs to enable the firms  
6       to combine their purchases of training services, and  
7       thereby lower their training costs;

8           “(6) providing information and outreach activi-  
9       ties to firms in the targeted industry or sector re-  
10      garding the activities of the eligible partnership and  
11      other local service suppliers that could assist the  
12      firms in meeting needs for skilled workers;

13          “(7) seeking, applying, and disseminating best  
14      practices learned from similarly situated commu-  
15      nities impacted by trade in the development and im-  
16      plementation of economic growth and revitalization  
17      strategies; and

18          “(8) identifying additional public and private  
19      resources to support the activities described in this  
20      subsection, which may include the option to apply  
21      for a community grant under section 275 or a Com-  
22      munity College and Career Training Grant under  
23      section 278 (subject to meeting any additional re-  
24      quirements of those sections).

25      “(e) GRANT PROPOSALS.—

1           “(1) IN GENERAL.—The lead entity of an eligi-  
2           ble partnership seeking to receive a Sector Partner-  
3           ship Grant under this section shall submit a grant  
4           proposal to the Secretary at such time, in such man-  
5           ner, and containing such information as the Sec-  
6           retary may require.

7           “(2) GENERAL REQUIREMENTS OF GRANT PRO-  
8           POSALS.—A grant proposal submitted under para-  
9           graph (1) shall, at a minimum—

10           “(A) identify the members of the eligible  
11           partnership;

12           “(B) identify the targeted industry or sec-  
13           tor for which the eligible partnership intends to  
14           carry out projects using the Sector Partnership  
15           Grant;

16           “(C) describe the goals that the eligible  
17           partnership intends to achieve to promote the  
18           targeted industry or sector;

19           “(D) describe the projects that the eligible  
20           partnership will undertake to achieve such  
21           goals;

22           “(E) demonstrate that the eligible partner-  
23           ship has the organizational capacity to carry  
24           out the projects described in subparagraph (D);

25           “(F) explain—

1 “(i) whether—

2 “(I) the community impacted by  
3 trade has sought or received a com-  
4 munity grant under section 275;

5 “(II) an eligible institution in the  
6 community has sought or received a  
7 Community College and Career Train-  
8 ing Grant under section 278; or

9 “(III) any other entity in the  
10 community has received funds pursu-  
11 ant to any other federally funded  
12 training project; and

13 “(ii) how the eligible partnership will  
14 coordinate its use of a Sector Partnership  
15 Grant with the use of such other grants or  
16 funds in order to enhance the effectiveness  
17 of each grant and any such funds and  
18 avoid duplication of efforts; and

19 “(G) include performance measures, devel-  
20 oped based on the performance measures issued  
21 by the Secretary under subsection (g)(2), and a  
22 timeline for measuring progress toward achiev-  
23 ing the goals described in subparagraph (C).

24 “(f) AWARD OF GRANTS.—

1           “(1) IN GENERAL.—Upon application by the  
2           lead entity of an eligible partnership, the Secretary  
3           may award a Sector Partnership Grant to the eligi-  
4           ble partnership to assist the partnership in carrying  
5           out any of the projects in the grant proposal that  
6           the Secretary determines will further the purposes of  
7           this subchapter.

8           “(2) LIMITATIONS.—An eligible partnership  
9           may not be awarded—

10                  “(A) more than one Sector Partnership  
11                  Grant; or

12                  “(B) a total grant award under this sub-  
13                  chapter in excess of—

14                          “(i) except as provided in clause (ii),  
15                          \$2,500,000; or

16                          “(ii) in the case of an eligible partner-  
17                          ship located within a community impacted  
18                          by trade that is not served by an institu-  
19                          tion receiving a Community College and  
20                          Career Training Grant under section 278,  
21                          \$3,000,000.

22           “(g) ADMINISTRATION BY THE SECRETARY.—

23                  “(1) TECHNICAL ASSISTANCE AND OVER-  
24                  SIGHT.—

1           “(A) IN GENERAL.—The Secretary shall  
2           provide technical assistance to, and oversight  
3           of, the lead entity of an eligible partnership in  
4           applying for and administering Sector Partner-  
5           ship Grants awarded under this section.

6           “(B) TECHNICAL ASSISTANCE.—Technical  
7           assistance provided under subparagraph (A)  
8           shall include providing conferences and such  
9           other methods of collecting and disseminating  
10          information on best practices developed by eligi-  
11          ble partnerships as the Secretary determines  
12          appropriate.

13          “(C) GRANTS OR CONTRACTS FOR TECH-  
14          NICAL ASSISTANCE.—The Secretary may award  
15          a grant or contract to one or more national or  
16          State organizations to provide technical assist-  
17          ance to foster the planning, formation, and im-  
18          plementation of eligible partnerships.

19          “(2) PERFORMANCE MEASURES.—The Sec-  
20          retary shall issue a range of performance measures,  
21          with quantifiable benchmarks, and methodologies  
22          that eligible partnerships may use to measure  
23          progress toward the goals described in subsection  
24          (e). In developing such measures, the Secretary shall  
25          consider the benefits of the eligible partnership and



1 its activities for workers, firms, industries, and com-  
2 munities.

3 “(h) REPORTS.—

4 “(1) PROGRESS REPORT.—Not later than 1  
5 year after receiving a Sector Partnership Grant, and  
6 3 years thereafter, the lead entity shall submit to  
7 the Secretary, on behalf of the eligible partnership,  
8 a report containing—

9 “(A) a detailed description of the progress  
10 made toward achieving the goals described in  
11 subsection (e)(2)(C), using the performance  
12 measures required under subsection (e)(2)(G);

13 “(B) a detailed evaluation of the impact of  
14 the grant award on workers and employers in  
15 the community impacted by trade; and

16 “(C) a detailed description of all expendi-  
17 tures of funds awarded to the eligible partner-  
18 ship under the Sector Partnership Grant ap-  
19 proved by the Secretary under this subchapter.

20 “(2) ANNUAL REPORT.—Not later than Decem-  
21 ber 15 in each of the calendar years 2009 through  
22 2011, the Secretary shall submit to the Committee  
23 on Finance of the Senate and the Committee on  
24 Ways and Means of the House of Representatives a  
25 report—

1           “(A) describing each Sector Partnership  
2           Grant awarded to an eligible partnership during  
3           the preceding fiscal year; and

4           “(B) assessing the impact of each Sector  
5           Partnership Grant awarded in a fiscal year pre-  
6           ceding the fiscal year referred to in subpara-  
7           graph (A) on workers and employers in commu-  
8           nities impacted by trade.

9   **“SEC. 279B. AUTHORIZATION OF APPROPRIATIONS.**

10       “(a) IN GENERAL.—There are authorized to be ap-  
11       propriated to the Secretary of Labor \$40,000,000 for each  
12       of the fiscal years 2009 and 2010, and \$10,000,000 for  
13       the period beginning October 1, 2010, and ending Decem-  
14       ber 31, 2010, to carry out the Sector Partnership Grant  
15       program under section 279A. Funds appropriated pursu-  
16       ant to this section shall remain available until expended.

17       “(b) SUPPLEMENT NOT SUPPLANT.—Funds appro-  
18       priated pursuant to this section shall be used to supple-  
19       ment and not supplant other Federal, State, and local  
20       public funds expended to support the economic develop-  
21       ment of local communities.

22       “(c) ADMINISTRATIVE COSTS.—The Secretary may  
23       retain not more than 5 percent of the funds appropriated  
24       pursuant to this section for each fiscal year to administer

1 the Sector Partnership Grant program under section  
2 279A.

3 **“Subchapter D—General Provisions**

4 **“SEC. 279C. RULE OF CONSTRUCTION.**

5 “Nothing in this chapter prevents a worker from re-  
6 ceiving trade adjustment assistance under chapter 2 of  
7 this title at the same time the worker is receiving assist-  
8 ance in any manner from—

9 “(1) a community receiving a community grant  
10 under subchapter A;

11 “(2) an eligible institution receiving a Commu-  
12 nity College and Career Training Grant under sub-  
13 chapter B; or

14 “(3) an eligible partnership receiving a Sector  
15 Partnership Grant under subchapter C.”.

16 **SEC. 1873. CONFORMING AMENDMENTS.**

17 (a) TABLE OF CONTENTS.—The table of contents of  
18 the Trade Act of 1974 is amended by striking the items  
19 relating to chapter 4 of title II and inserting the following:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“Subchapter A—Trade Adjustment Assistance for Communities

“Sec. 271. Definitions.

“Sec. 272. Establishment of trade adjustment assistance for communities pro-  
gram.

“Sec. 273. Eligibility; notification.

“Sec. 274. Technical assistance.

“Sec. 275. Grants for eligible communities.

“Sec. 276. Strategic plans.

“Sec. 277. General provisions.

“Subchapter B—Community College and Career Training Grant Program

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“Sec. 278. Community college and career training grant program.

“Sec. 279. Authorization of appropriations.

“Subchapter C—Industry or Sector Partnership Grant Program for  
Communities Impacted by Trade

“Sec. 279A. Industry or sector partnership grant program for communities im-  
pacted by trade.

“Sec. 279B. Authorization of appropriations.

“Subchapter D—General Provisions

“Sec. 279C. Rule of construction.”

1 (b) JUDICIAL REVIEW.—

2 (1) Section 284(a) of the Trade Act of 1974  
3 (19 U.S.C. 2395(a)) is amended—

4 (A) by inserting “or 296” after “section  
5 293”;

6 (B) by striking “or any other interested  
7 domestic party” and inserting “or authorized  
8 representative of a community”; and

9 (C) by striking “section 271” and inserting  
10 “section 273”.

11 (2) Section 1581(d) of title 28, United States  
12 Code, is amended—

13 (A) in paragraph (2), by striking “; and”  
14 and inserting a semicolon;

15 (B) in paragraph (3)—

16 (i) by striking “271” and inserting  
17 “273”; and

18 (ii) by striking the period and insert-  
19 ing “; and”; and

20 (C) by adding at the end the following:

“(4) any final determination of the Secretary of Agriculture under section 293 or 296 of the Trade Act of 1974 (19 U.S.C. 2401b) with respect to the eligibility of a group of agricultural commodity producers for adjustment assistance under such Act.”.

6 **PART IV—TRADE ADJUSTMENT ASSISTANCE FOR**  
7 **FARMERS**

## 8 SEC. 1881. DEFINITIONS.

9       Section 291 of the Trade Act of 1974 (19 U.S.C.  
10 2401) is amended—

11 (1) by amending paragraph (1) to read as fol-  
12 lows:

13                   “(1) AGRICULTURAL COMMODITY.—The term  
14                   ‘agricultural commodity’ includes—

15 “(A) any agricultural commodity (includ-  
16 ing livestock) in its raw or natural state;

17                   “(B) any class of goods within an agricul-  
18                   tural commodity; and

19 “(C) in the case of an agricultural com-  
20 modity producer described in paragraph (2)(B),  
21 wild-caught aquatic species.”;

22 (2) by amending paragraph (2) to read as fol-  
23 lows:

1           “(2) AGRICULTURAL COMMODITY PRODUCER.—

2       The term ‘agricultural commodity producer’  
3       means—

4           “(A) a person that shares in the risk of  
5       producing an agricultural commodity and that  
6       is entitled to a share of the commodity for mar-  
7       keting, including an operator, a sharecropper,  
8       or a person that owns or rents the land on  
9       which the commodity is produced; or

10          “(B) a person that reports gain or loss  
11       from the trade or business of fishing on the  
12       person’s annual Federal income tax return for  
13       the taxable year that most closely corresponds  
14       to the marketing year with respect to which a  
15       petition is filed under section 292.”; and

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

17          “(7) MARKETING YEAR.—The term ‘marketing  
18       year’ means—

19           “(A) a marketing year designated by the  
20       Secretary with respect to an agricultural com-  
21       modity; or

22           “(B) in the case of an agricultural com-  
23       modity with respect to which the Secretary does  
24       not designate a marketing year, a calendar  
25       year.”.

1 **SEC. 1882. ELIGIBILITY.**

2 (a) IN GENERAL.—Section 292 of the Trade Act of  
3 1974 (19 U.S.C. 2401a) is amended by striking sub-  
4 sections (c) through (e) and inserting the following:

5 “(c) GROUP ELIGIBILITY REQUIREMENTS.—The  
6 Secretary shall certify a group of agricultural commodity  
7 producers as eligible to apply for adjustment assistance  
8 under this chapter if the Secretary determines that—

9 “(1)(A) the national average price of the agri-  
10 cultural commodity produced by the group during  
11 the most recent marketing year for which data are  
12 available is less than 85 percent of the average of  
13 the national average price for the commodity in the  
14 3 marketing years preceding such marketing year;

15 “(B) the quantity of production of the agricul-  
16 tural commodity produced by the group during such  
17 marketing year is less than 85 percent of the aver-  
18 age of the quantity of production of the commodity  
19 produced by the group in the 3 marketing years pre-  
20 ceding such marketing year;

21 “(C) the value of production of the agricultural  
22 commodity produced by the group during such mar-  
23 keting year is less than 85 percent of the average  
24 value of production of the commodity produced by  
25 the group in the 3 marketing years preceding such  
26 marketing year; or

1           “(D) the cash receipts for the agricultural com-  
2       modity produced by the group during such mar-  
3       keting year are less than 85 percent of the average  
4       of the cash receipts for the commodity produced by  
5       the group in the 3 marketing years preceding such  
6       marketing year;

7           “(2) the volume of imports of articles like or di-  
8       rectly competitive with the agricultural commodity  
9       produced by the group in the marketing year with  
10      respect to which the group files the petition in-  
11      creased compared to the average volume of such im-  
12      ports during the 3 marketing years preceding such  
13      marketing year; and

14          “(3) the increase in such imports contributed  
15      importantly to the decrease in the national average  
16      price, quantity of production, or value of production  
17      of, or cash receipts for, the agricultural commodity,  
18      as described in paragraph (1).

19          “(d) ELIGIBILITY OF CERTAIN OTHER PRO-  
20      DUCERS.—An agricultural commodity producer or group  
21      of producers that resides outside of the State or region  
22      identified in the petition filed under subsection (a) may  
23      file a request to become a party to that petition not later  
24      than 15 days after the date the notice is published in the



1 Federal Register under subsection (a) with respect to that  
2 petition.

3 “(e) TREATMENT OF CLASSES OF GOODS WITHIN A  
4 COMMODITY.—In any case in which there are separate  
5 classes of goods within an agricultural commodity, the  
6 Secretary shall treat each class as a separate commodity  
7 in determining under subsection (c)—

8 “(1) group eligibility;

9 “(2) the national average price, quantity of pro-  
10 duction, or value of production, or cash receipts; and

11 “(3) the volume of imports.”.

12 (b) CONFORMING AMENDMENTS.—Section 293 of the  
13 Trade Act of 1974 (19 U.S.C. 2401b) is amended—

14 (1) in subsection (a), by striking “section 292  
15 (c) or (d), as the case may be,” and inserting “sec-  
16 tion 292(c)”; and

17 (2) in subsection (c), by striking “decline in  
18 price for” and inserting “decrease in the national  
19 average price, quantity of production, or value of  
20 production of, or cash receipts for,”.

21 **SEC. 1883. BENEFITS.**

22 (a) IN GENERAL.—Section 296 of the Trade Act of  
23 1974 (19 U.S.C. 2401e) is amended to read as follows:

1   **“SEC. 296. QUALIFYING REQUIREMENTS AND BENEFITS**  
2                   **FOR AGRICULTURAL COMMODITY PRO-**  
3                   **DUCERS.**

4       “(a) IN GENERAL.—

5           “(1) REQUIREMENTS.—

6               “(A) IN GENERAL.—Benefits under this  
7       chapter shall be available to an agricultural  
8       commodity producer covered by a certification  
9       under this chapter who files an application for  
10      such benefits not later than 90 days after the  
11      date on which the Secretary makes a deter-  
12      mination and issues a certification of eligibility  
13      under section 293, if the producer submits to  
14      the Secretary sufficient information to establish  
15      that—

16               “(i) the producer produced the agri-  
17      cultural commodity covered by the applica-  
18      tion filed under this subsection in the mar-  
19      keting year with respect to which the peti-  
20      tion is filed and in at least 1 of the 3 mar-  
21      keting years preceding that marketing  
22      year;

23               “(ii)(I) the quantity of the agricul-  
24      tural commodity that was produced by the  
25      producer in the marketing year with re-  
26      spect to which the petition is filed has de-

1           creased compared to the most recent mar-  
2           keting year preceding that marketing year  
3           for which data are available; or

4           “(II)(aa) the price received for the ag-  
5           ricultural commodity by the producer dur-  
6           ing the marketing year with respect to  
7           which the petition is filed has decreased  
8           compared to the average price for the com-  
9           modity received by the producer in the 3  
10          marketing years preceding that marketing  
11          year; or

12          “(bb) the county level price main-  
13          tained by the Secretary for the agricultural  
14          commodity on the date on which the peti-  
15          tion is filed has decreased compared to the  
16          average county level price for the com-  
17          modity in the 3 marketing years preceding  
18          the date on which the petition is filed; and

19          “(iii) the producer is not receiving—

20                  “(I) cash benefits under chapter  
21                  2 or 3; or

22                  “(II) benefits based on the pro-  
23                  duction of an agricultural commodity  
24                  covered by another petition filed  
25                  under this chapter.

1           “(B) SPECIAL RULE WITH RESPECT TO  
2           CROPS NOT GROWN EVERY YEAR.—For pur-  
3           poses of subparagraph (A)(ii)(II)(aa), if a peti-  
4           tion is filed with respect to an agricultural com-  
5           modity that is not produced by the producer  
6           every year, an agricultural commodity producer  
7           producing that commodity may establish the av-  
8           erage price received for the commodity by the  
9           producer in the 3 marketing years preceding  
10          the year with respect to which the petition is  
11          filed by using average price data for the 3 most  
12          recent marketing years in which the producer  
13          produced the commodity and for which data are  
14          available.

15          “(2) LIMITATIONS BASED ON ADJUSTED GROSS  
16          INCOME.—

17          “(A) IN GENERAL.—Notwithstanding any  
18          other provision of this chapter, an agricultural  
19          commodity producer shall not be eligible for as-  
20          sistance under this chapter in any year in which  
21          the average adjusted gross income (as defined  
22          in section 1001D(a) of the Food Security Act  
23          of 1985 (7 U.S.C. 1308–3a(a))) of the producer  
24          exceeds the level set forth in subparagraph (A)  
25          or (B) of section 1001D(b)(1) of the Food Se-

1           curity Act of 1985 (7 U.S.C. 1308–3a(b)(1)),  
2           whichever is applicable.

3           “(B) DEMONSTRATION OF COMPLIANCE.—  
4           An agricultural commodity producer shall pro-  
5           vide to the Secretary such information as the  
6           Secretary determines necessary to demonstrate  
7           that the producer is in compliance with the lim-  
8           itation under subparagraph (A).

9           “(C) COUNTER-CYCLICAL AND ACRE PAY-  
10          MENTS.—The total amount of payments made  
11          to an agricultural commodity producer under  
12          this chapter during any crop year may not ex-  
13          ceed the limitations on payments set forth in  
14          subsections (b)(2), (b)(3), (c)(2), and (c)(3) of  
15          section 1001 of the Food Security Act of 1985  
16          (7 U.S.C. 1308).

17       “(b) TECHNICAL ASSISTANCE.—

18           “(1) INITIAL TECHNICAL ASSISTANCE.—

19           “(A) IN GENERAL.—An agricultural com-  
20          modity producer that files an application and  
21          meets the requirements under subsection (a)(1)  
22          shall be entitled to receive initial technical as-  
23          sistance designed to improve the competitive-  
24          ness of the production and marketing of the ag-  
25          ricultural commodity with respect to which the

1 producer was certified under this chapter. Such  
2 assistance shall include information regarding—

3 “(i) improving the yield and mar-  
4 keting of that agricultural commodity; and

5 “(ii) the feasibility and desirability of  
6 substituting one or more alternative agri-  
7 cultural commodities for that agricultural  
8 commodity.

9 “(B) TRANSPORTATION AND SUBSISTENCE  
10 EXPENSES.—

11 “(i) IN GENERAL.—The Secretary  
12 may authorize supplemental assistance  
13 necessary to defray reasonable transpor-  
14 tation and subsistence expenses incurred  
15 by an agricultural commodity producer in  
16 connection with initial technical assistance  
17 under subparagraph (A) if such assistance  
18 is provided at facilities that are not within  
19 normal commuting distance of the regular  
20 place of residence of the producer.

21 “(ii) EXCEPTIONS.—The Secretary  
22 may not authorize payments to an agricul-  
23 tural commodity producer under clause  
24 (i)—

1                   “(I) for subsistence expenses that  
2                   exceed the lesser of—

3                   “(aa) the actual per diem  
4                   expenses for subsistence incurred  
5                   by the producer; or

6                   “(bb) the prevailing per  
7                   diem allowance rate authorized  
8                   under Federal travel regulations;  
9                   or

10                  “(II) for travel expenses that ex-  
11                  ceed the prevailing mileage rate au-  
12                  thorized under the Federal travel reg-  
13                  ulations.

14                  “(2) INTENSIVE TECHNICAL ASSISTANCE.—A  
15                  producer that has completed initial technical assist-  
16                  ance under paragraph (1) shall be eligible to partici-  
17                  pate in intensive technical assistance. Such assist-  
18                  ance shall consist of—

19                  “(A) a series of courses to further assist  
20                  the producer in improving the competitiveness  
21                  of the producer in producing—

22                  “(i) the agricultural commodity with  
23                  respect to which the producer was certified  
24                  under this chapter; or

1                   “(ii) another agricultural commodity;  
2                   and

3                   “(B) assistance in developing an initial  
4                   business plan based on the courses completed  
5                   under subparagraph (A).

6                   “(3) INITIAL BUSINESS PLAN.—

7                   “(A) APPROVAL BY SECRETARY.—The Sec-  
8                   retary shall approve an initial business plan de-  
9                   veloped under paragraph (2)(B) if the plan—

10                   “(i) reflects the skills gained by the  
11                   producer through the courses described in  
12                   paragraph (2)(A); and

13                   “(ii) demonstrates how the producer  
14                   will apply those skills to the circumstances  
15                   of the producer.

16                   “(B) FINANCIAL ASSISTANCE FOR IMPLE-  
17                   MENTING INITIAL BUSINESS PLAN.—Upon ap-  
18                   proval of the producer’s initial business plan by  
19                   the Secretary under subparagraph (A), a pro-  
20                   ducer shall be entitled to an amount not to ex-  
21                   ceed \$4,000 to—

22                   “(i) implement the initial business  
23                   plan; or

24                   “(ii) develop a long-term business ad-  
25                   justment plan under paragraph (4).



1           “(4) LONG-TERM BUSINESS ADJUSTMENT  
2       PLAN.—

3           “(A) IN GENERAL.—A producer that has  
4       completed intensive technical assistance under  
5       paragraph (2) and whose initial business plan  
6       has been approved under paragraph (3)(A)  
7       shall be eligible for, in addition to the amount  
8       under subparagraph (C), assistance in devel-  
9       oping a long-term business adjustment plan.

10          “(B) APPROVAL OF LONG-TERM BUSINESS  
11       ADJUSTMENT PLANS.—The Secretary shall ap-  
12       prove a long-term business adjustment plan de-  
13       veloped under subparagraph (A) if the Sec-  
14       retary determines that the plan—

15               “(i) includes steps reasonably cal-  
16               culated to materially contribute to the eco-  
17               nomic adjustment of the producer to  
18               changing market conditions;

19               “(ii) takes into consideration the in-  
20               terests of the workers employed by the pro-  
21               ducer; and

22               “(iii) demonstrates that the producer  
23               will have sufficient resources to implement  
24               the business plan.

1           “(C) PLAN IMPLEMENTATION.—Upon ap-  
2           proval of the producer’s long-term business ad-  
3           justment plan under subparagraph (B), a pro-  
4           ducer shall be entitled to an amount not to ex-  
5           ceed \$8,000 to implement the long-term busi-  
6           ness adjustment plan.

7           “(c) MAXIMUM AMOUNT OF ASSISTANCE.—An agri-  
8           cultural commodity producer may receive not more than  
9           \$12,000 under paragraphs (3) and (4) of subsection (b)  
10          in the 36-month period following certification under sec-  
11          tion 293.

12          “(d) LIMITATIONS ON OTHER ASSISTANCE.—An ag-  
13          ricultural commodity producer that receives benefits under  
14          this chapter (other than initial technical assistance under  
15          subsection (b)(1)) shall not be eligible for cash benefits  
16          under chapter 2 or 3.”.

17          (b) CLERICAL AMENDMENT.—The table of contents  
18          of the Trade Act of 1974 is amended by striking the item  
19          relating to section 296 and inserting the following:

          “Sec. 296. Qualifying requirements and benefits for agricultural commodity  
                                          producers.”.

20   **SEC. 1884. REPORT.**

21          Section 293 of the Trade Act of 1974 (19 U.S.C.  
22          2401b) is amended by adding at the end the following:

23          “(d) REPORT BY THE SECRETARY.—Not later than  
24          January 30, 2010, and annually thereafter, the Secretary

1 of Agriculture shall submit to the Committee on Finance  
2 of the Senate and the Committee on Ways and Means of  
3 the House of Representatives a report containing the fol-  
4 lowing information with respect to adjustment assistance  
5 provided under this chapter during the preceding fiscal  
6 year:

7           “(1) A list of the agricultural commodities cov-  
8           ered by a certification under this chapter.

9           “(2) The States or regions in which such com-  
10          modities are produced and the aggregate amount of  
11          such commodities produced in each such State or re-  
12          gion.

13          “(3) The total number of agricultural com-  
14          modity producers, by congressional district, receiving  
15          benefits under this chapter.

16          “(4) The total number of agricultural com-  
17          modity producers, by congressional district, receiving  
18          technical assistance under this chapter.”.

19 **SEC. 1885. FRAUD AND RECOVERY OF OVERPAYMENTS.**

20          Section 297(a)(1) of the Trade Act of 1974 (19  
21 U.S.C. 2401f(a)(1)) is amended by inserting “or has ex-  
22 pended funds received under this chapter for a purpose  
23 that was not approved by the Secretary,” after “entitled,”.

1   **SEC. 1886. DETERMINATION OF INCREASES OF IMPORTS**  
2                   **FOR CERTAIN FISHERMEN.**

3           For purposes of chapters 2 and 6 of title II of the  
4   Trade Act of 1974 (19 U.S.C. 2251 et seq.), in the case  
5   of an agricultural commodity producer that—

6           (1) is a fisherman or aquaculture producer, and

7           (2) is otherwise eligible for adjustment assist-  
8           ance under chapter 2 or 6, as the case may be,

9   the increase in imports of articles like or directly competi-  
10   tive with the agricultural commodity produced by such  
11   producer may be based on imports of wild-caught seafood,  
12   farm-raised seafood, or both.

13   **SEC. 1887. EXTENSION OF TRADE ADJUSTMENT ASSIST-**  
14                   **ANCE FOR FARMERS.**

15           Section 298(a) of the Trade Act of 1974 (19 U.S.C.  
16   2401g(a)) is amended by striking “fiscal years 2003  
17   through 2007” and all that follows through the end period  
18   and inserting “fiscal years 2009 and 2010, and  
19   \$22,500,000 for the period beginning October 1, 2010,  
20   and ending December 31, 2010, to carry out the purposes  
21   of this chapter, including administrative costs, and sala-  
22   ries and expenses of employees of the Department of Agri-  
23   culture.”.

1                   **PART V—GENERAL PROVISIONS**

2   **SEC. 1891. EFFECTIVE DATE.**

3           (a) IN GENERAL.—Except as otherwise provided in  
4 this subtitle, and subsection (b) of this section, this sub-  
5 title and the amendments made by this subtitle—

6                   (1) shall take effect upon the expiration of the  
7 90-day period beginning on the date of the enact-  
8 ment of this Act; and

9                   (2) shall apply to—

10                           (A) petitions for certification filed under  
11 chapter 2, 3, or 6 of title II of the Trade Act  
12 of 1974 on or after the effective date described  
13 in paragraph (1); and

14                           (B) petitions for assistance and proposals  
15 for grants filed under chapter 4 of title II of  
16 the Trade Act of 1974 on or after such effective  
17 date.

18           (b) CERTIFICATIONS MADE BEFORE EFFECTIVE  
19 DATE.—Notwithstanding subsection (a)—

20                   (1) a worker shall continue to receive (or be eli-  
21 gible to receive) trade adjustment assistance and  
22 other benefits under subchapter B of chapter 2 of  
23 title II of the Trade Act of 1974, as in effect on the  
24 day before the effective date described in subsection  
25 (a)(1), for any week for which the worker meets the  
26 eligibility requirements of such chapter 2 as in effect

1       on the day before such effective date, if the  
2       worker—

3               (A) is certified as eligible for trade adjust-  
4       ment assistance benefits under such chapter 2  
5       pursuant to a petition filed under section 221  
6       of the Trade Act of 1974 on or before such ef-  
7       fective date; and

8               (B) would otherwise be eligible to receive  
9       trade adjustment assistance benefits under such  
10      chapter as in effect on the day before such ef-  
11      fective date;

12      (2) a worker shall continue to receive (or be eli-  
13      gible to receive) benefits under section 246(a)(2) of  
14      the Trade Act of 1974, as in effect on the day be-  
15      fore the effective date described in subsection (a)(1),  
16      for such period for which the worker meets the eligi-  
17      bility requirements of section 246 of that Act as in  
18      effect on the day before such effective date, if the  
19      worker—

20              (A) is certified as eligible for benefits  
21      under such section 246 pursuant to a petition  
22      filed under section 221 of the Trade Act of  
23      1974 on or before such effective date; and

1 (B) would otherwise be eligible to receive  
2 benefits under such section 246(a)(2) as in ef-  
3 fect on the day before such effective date; and  
4 (3) a firm shall continue to receive (or be eligi-  
5 ble to receive) adjustment assistance under chapter  
6 3 of title II of the Trade Act of 1974, as in effect  
7 on the day before the effective date described in sub-  
8 section (a)(1), for such period for which the firm  
9 meets the eligibility requirements of such chapter 3  
10 as in effect on the day before such effective date, if  
11 the firm—

12 (A) is certified as eligible for benefits  
13 under such chapter 3 pursuant to a petition  
14 filed under section 251 of the Trade Act of  
15 1974 on or before such effective date; and

16 (B) would otherwise be eligible to receive  
17 benefits under such chapter 3 as in effect on  
18 the day before such effective date.

19 **SEC. 1892. EXTENSION OF TRADE ADJUSTMENT ASSIST-**  
20 **ANCE PROGRAMS.**

21 (a) **FOR WORKERS.**—Section 245(a) of the Trade Act  
22 of 1974 (19 U.S.C. 2317(a)) is amended by striking “De-  
23 cember 31, 2007” and inserting “December 31, 2010”.

24 (b) **TERMINATION.**—Section 285 of the Trade Act of  
25 1974 (19 U.S.C. 2271 note prec.) is amended—

1           (1) in subsection (a), by striking “December  
2   31, 2007” each place it appears and inserting “De-  
3   cember 31, 2010”; and

4           (2) by amending subsection (b) to read as fol-  
5   lows:

6   “(b) OTHER ASSISTANCE.—

7       “(1) ASSISTANCE FOR FIRMS.—

8           “(A) IN GENERAL.—Except as provided in  
9   subparagraph (B), technical assistance and  
10   grants may not be provided under chapter 3  
11   after December 31, 2010.

12          “(B) EXCEPTION.—Notwithstanding sub-  
13   paragraph (A), any technical assistance or  
14   grant approved under chapter 3 on or before  
15   December 31, 2010, may be provided—

16           “(i) to the extent funds are available  
17       pursuant to such chapter for such purpose;  
18       and

19           “(ii) to the extent the recipient of the  
20       technical assistance or grant is otherwise  
21       eligible to receive such technical assistance  
22       or grant, as the case may be.

23   “(2) FARMERS.—

24          “(A) IN GENERAL.—Except as provided in  
25   subparagraph (B), technical assistance and fi-



1           nancial assistance may not be provided under  
2           chapter 6 after December 31, 2010.

3           “(B) EXCEPTION.—Notwithstanding sub-  
4           paragraph (A), any technical or financial assist-  
5           ance approved under chapter 6 on or before De-  
6           cember 31, 2010, may be provided—

7                   “(i) to the extent funds are available  
8                   pursuant to such chapter for such purpose;  
9                   and

10                   “(ii) to the extent the recipient of the  
11                   technical or financial assistance is other-  
12                   wise eligible to receive such technical or fi-  
13                   nancial assistance, as the case may be.

14           “(3) ASSISTANCE FOR COMMUNITIES.—

15                   “(A) IN GENERAL.—Except as provided in  
16                   subparagraph (B), technical assistance and  
17                   grants may not be provided under chapter 4  
18                   after December 31, 2010.

19                   “(B) EXCEPTION.—Notwithstanding sub-  
20                   paragraph (A), any technical assistance or  
21                   grant approved under chapter 4 on or before  
22                   December 31, 2010, may be provided—

23                   “(i) to the extent funds are available  
24                   pursuant to such chapter for such purpose;  
25                   and

1                   “(ii) to the extent the recipient of the  
2                   technical assistance or grant is otherwise  
3                   eligible to receive such technical assistance  
4                   or grant, as the case may be.”.

5   **SEC. 1893. TERMINATION; RELATED PROVISIONS.**

6       (a) SUNSET.—

7           (1) IN GENERAL.—Subject to paragraph (2),  
8       the amendments made by this subtitle to chapters 2,  
9       3, 4, 5, and 6 of title II of the Trade Act of 1974  
10      (19 U.S.C. 2271 et seq.) shall not apply on or after  
11      January 1, 2011.

12          (2) EXCEPTION.—The amendments made by  
13      this subtitle to section 285 of the Trade Act of 1974  
14      shall continue to apply on and after January 1,  
15      2011, with respect to—

16           (A) workers certified as eligible for trade  
17      adjustment assistance benefits under chapter 2  
18      of title II of that Act pursuant to petitions filed  
19      under section 221 of that Act before January 1,  
20      2011;

21           (B) firms certified as eligible for technical  
22      assistance or grants under chapter 3 of title II  
23      of that Act pursuant to petitions filed under  
24      section 251 of that Act before January 1, 2011;

1 (C) recipients approved for technical as-  
2 sistance or grants under chapter 4 of title II of  
3 that Act pursuant to petitions for assistance or  
4 proposals for grants (as the case may be) filed  
5 pursuant to such chapter before January 1,  
6 2011; and

7 (D) agricultural commodity producers cer-  
8 tified as eligible for technical or financial assist-  
9 ance under chapter 6 of title II of that Act pur-  
10 suant to petitions filed under section 292 of  
11 that Act before January 1, 2011.

12 (b) APPLICATION OF PRIOR LAW.—Chapters 2, 3, 4,  
13 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C.  
14 2271 et seq.) shall be applied and administered beginning  
15 January 1, 2011, as if the amendments made by this sub-  
16 title (other than part VI) had never been enacted, except  
17 that in applying and administering such chapters—

18 (1) section 245 of that Act shall be applied and  
19 administered by substituting “2011” for “2007”;

20 (2) section 246(b) of that Act shall be applied  
21 and administered by substituting “December 31,  
22 2011” for “the date that is 5 years” and all that fol-  
23 lows through “State”;

24 (3) section 256(b) of that Act shall be applied  
25 and administered by substituting “the 1-year period

1       beginning January 1, 2011” for “each of fiscal years  
2       2003 through 2007, and \$4,000,000 for the 3-  
3       month period beginning October 1, 2007”;

4           (4) section 298(a) of that Act shall be applied  
5       and administered by substituting “the 1-year period  
6       beginning January 1, 2011” for “each of the fiscal  
7       years” and all that follows through “October 1,  
8       2007”; and

9           (5) subject to subsection (a)(2), section 285 of  
10      that Act shall be applied and administered—

11           (A) in subsection (a), by substituting  
12      “2011” for “2007” each place it appears; and

13           (B) by applying and administering sub-  
14      section (b) as if it read as follows:

15      “(b) OTHER ASSISTANCE.—

16           “(1) ASSISTANCE FOR FIRMS.—

17           “(A) IN GENERAL.—Except as provided in  
18      subparagraph (B), assistance may not be pro-  
19      vided under chapter 3 after December 31,  
20      2011.

21           “(B) EXCEPTION.—Notwithstanding sub-  
22      paragraph (A), any assistance approved under  
23      chapter 3 on or before December 31, 2011, may  
24      be provided—

1 “(i) to the extent funds are available  
2 pursuant to such chapter for such purpose;  
3 and

4 “(ii) to the extent the recipient of the  
5 assistance is otherwise eligible to receive  
6 such assistance.

7 “(2) FARMERS.—

8 “(A) IN GENERAL.—Except as provided in  
9 subparagraph (B), assistance may not be pro-  
10 vided under chapter 6 after December 31,  
11 2011.

12 “(B) EXCEPTION.—Notwithstanding sub-  
13 paragraph (A), any assistance approved under  
14 chapter 6 on or before December 31, 2011, may  
15 be provided—

16 “(i) to the extent funds are available  
17 pursuant to such chapter for such purpose;  
18 and

19 “(ii) to the extent the recipient of the  
20 assistance is otherwise eligible to receive  
21 such assistance.”.

22 **SEC. 1894. GOVERNMENT ACCOUNTABILITY OFFICE RE-**  
23 **PORT.**

24 Not later than September 30, 2012, the Comptroller  
25 General of the United States shall prepare and submit to

1 the Committee on Finance of the Senate and the Com-  
2 mittee on Ways and Means of the House of Representa-  
3 tives a comprehensive report on the operation and effec-  
4 tiveness of the amendments made by this subtitle to chap-  
5 ters 2, 3, 4, and 6 of the Trade Act of 1974.

6 **SEC. 1895. EMERGENCY DESIGNATION.**

7 Amounts appropriated pursuant to this subtitle are  
8 designated as an emergency requirement and necessary to  
9 meet emergency needs pursuant to section 204(a) of S.  
10 Con. Res. 21 (110th Congress) and section 301(b)(2) of  
11 S. Con. Res. 70 (110th Congress), the concurrent resolu-  
12 tions on the budget for fiscal years 2008 and 2009.

13 **PART VI—HEALTH COVERAGE IMPROVEMENT**

14 **SEC. 1899. SHORT TITLE.**

15 This part may be cited as the “TAA Health Coverage  
16 Improvement Act of 2009”.

17 **SEC. 1899A. IMPROVEMENT OF THE AFFORDABILITY OF**  
18 **THE CREDIT.**

19 (a) IMPROVEMENT OF AFFORDABILITY.—

20 (1) IN GENERAL.—Section 35(a) of the Internal  
21 Revenue Code of 1986 (relating to credit for health  
22 insurance costs of eligible individuals) is amended by  
23 inserting “(80 percent in the case of eligible cov-  
24 erage months beginning before January 1, 2011)”  
25 after “65 percent”.

1           (2) CONFORMING AMENDMENT.—Section  
2       7527(b) of such Code (relating to advance payment  
3       of credit for health insurance costs of eligible indi-  
4       viduals) is amended by inserting “(80 percent in the  
5       case of eligible coverage months beginning before  
6       January 1, 2011)” after “65 percent”.

7       (b) EFFECTIVE DATE.—The amendments made by  
8       this section shall apply to coverage months beginning on  
9       or after the first day of the first month beginning 60 days  
10      after the date of the enactment of this Act.

11   **SEC. 1899B. PAYMENT FOR MONTHLY PREMIUMS PAID**  
12                   **PRIOR TO COMMENCEMENT OF ADVANCE**  
13                   **PAYMENTS OF CREDIT.**

14       (a) PAYMENT FOR PREMIUMS DUE PRIOR TO COM-  
15      MENCEMENT OF ADVANCE PAYMENTS OF CREDIT.—Sec-  
16      tion 7527 of the Internal Revenue Code of 1986 (relating  
17      to advance payment of credit for health insurance costs  
18      of eligible individuals) is amended by adding at the end  
19      the following new subsection:

20       “(e) PAYMENT FOR PREMIUMS DUE PRIOR TO COM-  
21      MENCEMENT OF ADVANCE PAYMENTS.—In the case of eli-  
22      gible coverage months beginning before January 1,  
23      2011—

24           “(1) IN GENERAL.—The program established  
25      under subsection (a) shall provide that the Secretary

1 shall make 1 or more retroactive payments on behalf  
2 of a certified individual in an aggregate amount  
3 equal to 80 percent of the premiums for coverage of  
4 the taxpayer and qualifying family members under  
5 qualified health insurance for eligible coverage  
6 months (as defined in section 35(b)) occurring prior  
7 to the first month for which an advance payment is  
8 made on behalf of such individual under subsection  
9 (a).

10 “(2) REDUCTION OF PAYMENT FOR AMOUNTS  
11 RECEIVED UNDER NATIONAL EMERGENCY  
12 GRANTS.—The amount of any payment determined  
13 under paragraph (1) shall be reduced by the amount  
14 of any payment made to the taxpayer for the pur-  
15 chase of qualified health insurance under a national  
16 emergency grant pursuant to section 173(f) of the  
17 Workforce Investment Act of 1998 for a taxable  
18 year including the eligible coverage months described  
19 in paragraph (1).”

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to coverage months beginning after  
22 December 31, 2008.

23 (c) TRANSITIONAL RULE.—The Secretary of the  
24 Treasury shall not be required to make any payments  
25 under section 7527(e) of the Internal Revenue Code of



1 1986, as added by this section, until after the date that  
2 is 6 months after the date of the enactment of this Act.

3 **SEC. 1899C. TAA RECIPIENTS NOT ENROLLED IN TRAINING**  
4 **PROGRAMS ELIGIBLE FOR CREDIT.**

5 (a) IN GENERAL.—Paragraph (2) of section 35(c) of  
6 the Internal Revenue Code of 1986 (defining eligible TAA  
7 recipient) is amended to read as follows:

8 “(2) ELIGIBLE TAA RECIPIENT.—

9 “(A) IN GENERAL.—Except as provided in  
10 subparagraph (B), the term ‘eligible TAA re-  
11 cipient’ means, with respect to any month, any  
12 individual who is receiving for any day of such  
13 month a trade readjustment allowance under  
14 chapter 2 of title II of the Trade Act of 1974  
15 or who would be eligible to receive such allow-  
16 ance if section 231 of such Act were applied  
17 without regard to subsection (a)(3)(B) of such  
18 section. An individual shall continue to be treat-  
19 ed as an eligible TAA recipient during the first  
20 month that such individual would otherwise  
21 cease to be an eligible TAA recipient by reason  
22 of the preceding sentence.

23 “(B) SPECIAL RULE.—In the case of any  
24 eligible coverage month beginning after the date  
25 of the enactment of this paragraph and before

1 January 1, 2011, the term ‘eligible TAA recipi-  
2 ent’ means, with respect to any month, any in-  
3 dividual who—

4 “(i) is receiving for any day of such  
5 month a trade readjustment allowance  
6 under chapter 2 of title II of the Trade  
7 Act of 1974,

8 “(ii) would be eligible to receive such  
9 allowance except that such individual is in  
10 a break in training provided under a train-  
11 ing program approved under section 236 of  
12 such Act that exceeds the period specified  
13 in section 233(e) of such Act, but is within  
14 the period for receiving such allowances  
15 provided under section 233(a) of such Act,  
16 or

17 “(iii) is receiving unemployment com-  
18 pensation (as defined in section 85(b)) for  
19 any day of such month and who would be  
20 eligible to receive such allowance for such  
21 month if section 231 of such Act were ap-  
22 plied without regard to subsections  
23 (a)(3)(B) and (a)(5) thereof.

24 An individual shall continue to be treated as an  
25 eligible TAA recipient during the first month

1           that such individual would otherwise cease to be  
2           an eligible TAA recipient by reason of the pre-  
3           ceding sentence.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to coverage months beginning after  
6 the date of the enactment of this Act.

7 **SEC. 1899D. TAA PRE-CERTIFICATION PERIOD RULE FOR**  
8 **PURPOSES OF DETERMINING WHETHER**  
9 **THERE IS A 63-DAY LAPSE IN CREDITABLE**  
10 **COVERAGE.**

11           (a) IRC AMENDMENT.—Section 9801(c)(2) of the In-  
12 ternal Revenue Code of 1986 (relating to not counting pe-  
13 riods before significant breaks in creditable coverage) is  
14 amended by adding at the end the following new subpara-  
15 graph:

16                   “(D) TAA-ELIGIBLE INDIVIDUALS.—In the  
17 case of plan years beginning before January 1,  
18 2011—

19                           “(i) TAA PRE-CERTIFICATION PERIOD  
20 RULE.—In the case of a TAA-eligible indi-  
21 vidual, the period beginning on the date  
22 the individual has a TAA-related loss of  
23 coverage and ending on the date which is  
24 7 days after the date of the issuance by  
25 the Secretary (or by any person or entity

1 designated by the Secretary) of a qualified  
2 health insurance costs credit eligibility cer-  
3 tificate for such individual for purposes of  
4 section 7527 shall not be taken into ac-  
5 count in determining the continuous period  
6 under subparagraph (A).

7 “(ii) DEFINITIONS.—The terms ‘TAA-  
8 eligible individual’ and ‘TAA-related loss of  
9 coverage’ have the meanings given such  
10 terms in section 4980B(f)(5)(C)(iv).”.

11 (b) ERISA AMENDMENT.—Section 701(c)(2) of the  
12 Employee Retirement Income Security Act of 1974 (29  
13 U.S.C. 1181(c)(2)) is amended by adding at the end the  
14 following new subparagraph:

15 “(C) TAA-ELIGIBLE INDIVIDUALS.—In the  
16 case of plan years beginning before January 1,  
17 2011—

18 “(i) TAA PRE-CERTIFICATION PERIOD  
19 RULE.—In the case of a TAA-eligible indi-  
20 vidual, the period beginning on the date  
21 the individual has a TAA-related loss of  
22 coverage and ending on the date that is 7  
23 days after the date of the issuance by the  
24 Secretary (or by any person or entity des-  
25 ignated by the Secretary) of a qualified

1 health insurance costs credit eligibility cer-  
2 tificate for such individual for purposes of  
3 section 7527 of the Internal Revenue Code  
4 of 1986 shall not be taken into account in  
5 determining the continuous period under  
6 subparagraph (A).

7 “(ii) DEFINITIONS.—The terms ‘TAA-  
8 eligible individual’ and ‘TAA-related loss of  
9 coverage’ have the meanings given such  
10 terms in section 605(b)(4).”.

11 (c) PHSA AMENDMENT.—Section 2701(c)(2) of the  
12 Public Health Service Act (42 U.S.C. 300gg(c)(2)) is  
13 amended by adding at the end the following new subpara-  
14 graph:

15 “(C) TAA-ELIGIBLE INDIVIDUALS.—In the  
16 case of plan years beginning before January 1,  
17 2011—

18 “(i) TAA PRE-CERTIFICATION PERIOD  
19 RULE.—In the case of a TAA-eligible indi-  
20 vidual, the period beginning on the date  
21 the individual has a TAA-related loss of  
22 coverage and ending on the date that is 7  
23 days after the date of the issuance by the  
24 Secretary (or by any person or entity des-  
25 ignated by the Secretary) of a qualified

1 health insurance costs credit eligibility cer-  
2 tificate for such individual for purposes of  
3 section 7527 of the Internal Revenue Code  
4 of 1986 shall not be taken into account in  
5 determining the continuous period under  
6 subparagraph (A).

7 “(ii) DEFINITIONS.—The terms ‘TAA-  
8 eligible individual’ and ‘TAA-related loss of  
9 coverage’ have the meanings given such  
10 terms in section 2205(b)(4).”.

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to plan years beginning after the  
13 date of the enactment of this Act.

14 **SEC. 1899E. CONTINUED QUALIFICATION OF FAMILY MEM-**  
15 **BERS AFTER CERTAIN EVENTS.**

16 (a) IN GENERAL.—Subsection (g) of section 35 of  
17 such Code is amended by redesignating paragraph (9) as  
18 paragraph (10) and inserting after paragraph (8) the fol-  
19 lowing new paragraph:

20 “(9) CONTINUED QUALIFICATION OF FAMILY  
21 MEMBERS AFTER CERTAIN EVENTS.—In the case of  
22 eligible coverage months beginning before January  
23 1, 2011—

24 “(A) MEDICARE ELIGIBILITY.—In the case  
25 of any month which would be an eligible cov-

1           erage month with respect to an eligible indi-  
2           vidual but for subsection (f)(2)(A), such month  
3           shall be treated as an eligible coverage month  
4           with respect to such eligible individual solely for  
5           purposes of determining the amount of the  
6           credit under this section with respect to any  
7           qualifying family members of such individual  
8           (and any advance payment of such credit under  
9           section 7527). This subparagraph shall only  
10          apply with respect to the first 24 months after  
11          such eligible individual is first entitled to the  
12          benefits described in subsection (f)(2)(A).

13                 “(B) DIVORCE.—In the case of the final-  
14          ization of a divorce between an eligible indi-  
15          vidual and such individual’s spouse, such spouse  
16          shall be treated as an eligible individual for pur-  
17          poses of this section and section 7527 for a pe-  
18          riod of 24 months beginning with the date of  
19          such finalization, except that the only qualifying  
20          family members who may be taken into account  
21          with respect to such spouse are those individ-  
22          uals who were qualifying family members imme-  
23          diately before such finalization.

24                 “(C) DEATH.—In the case of the death of  
25          an eligible individual—

1           “(i) any spouse of such individual (de-  
2           termined at the time of such death) shall  
3           be treated as an eligible individual for pur-  
4           poses of this section and section 7527 for  
5           a period of 24 months beginning with the  
6           date of such death, except that the only  
7           qualifying family members who may be  
8           taken into account with respect to such  
9           spouse are those individuals who were  
10          qualifying family members immediately be-  
11          fore such death, and

12          “(ii) any individual who was a quali-  
13          fying family member of the decedent imme-  
14          diately before such death (or, in the case  
15          of an individual to whom paragraph (4)  
16          applies, the taxpayer to whom the deduc-  
17          tion under section 151 is allowable) shall  
18          be treated as an eligible individual for pur-  
19          poses of this section and section 7527 for  
20          a period of 24 months beginning with the  
21          date of such death, except that in deter-  
22          mining the amount of such credit only  
23          such qualifying family member may be  
24          taken into account.”.



1 (b) CONFORMING AMENDMENT.—Section 173(f) of  
2 the Workforce Investment Act of 1998 (29 U.S.C.  
3 2918(f)) is amended by adding at the end the following:

4 “(8) CONTINUED QUALIFICATION OF FAMILY  
5 MEMBERS AFTER CERTAIN EVENTS.—In the case of  
6 eligible coverage months beginning before January  
7 1, 2011—

8 “(A) MEDICARE ELIGIBILITY.—In the case  
9 of any month which would be an eligible cov-  
10 erage month with respect to an eligible indi-  
11 vidual but for paragraph (7)(B)(i), such month  
12 shall be treated as an eligible coverage month  
13 with respect to such eligible individual solely for  
14 purposes of determining the eligibility of quali-  
15 fying family members of such individual under  
16 this subsection. This subparagraph shall only  
17 apply with respect to the first 24 months after  
18 such eligible individual is first entitled to the  
19 benefits described in paragraph (7)(B)(i).

20 “(B) DIVORCE.—In the case of the final-  
21 ization of a divorce between an eligible indi-  
22 vidual and such individual’s spouse, such spouse  
23 shall be treated as an eligible individual for pur-  
24 poses of this subsection for a period of 24  
25 months beginning with the date of such final-

1           ization, except that the only qualifying family  
2           members who may be taken into account with  
3           respect to such spouse are those individuals who  
4           were qualifying family members immediately be-  
5           fore such finalization.

6           “(C) DEATH.—In the case of the death of  
7           an eligible individual—

8           “(i) any spouse of such individual (de-  
9           termined at the time of such death) shall  
10          be treated as an eligible individual for pur-  
11          poses of this subsection for a period of 24  
12          months beginning with the date of such  
13          death, except that the only qualifying fam-  
14          ily members who may be taken into ac-  
15          count with respect to such spouse are those  
16          individuals who were qualifying family  
17          members immediately before such death,  
18          and

19          “(ii) any individual who was a quali-  
20          fying family member of the decedent imme-  
21          diately before such death shall be treated  
22          as an eligible individual for purposes this  
23          subsection for a period of 24 months be-  
24          ginning with the date of such death, except  
25          that no qualifying family members may be

1 taken into account with respect to such in-  
2 dividual.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to months beginning after Decem-  
5 ber 31, 2009.

6 **SEC. 1899F. EXTENSION OF COBRA BENEFITS FOR CERTAIN**  
7 **TAA-ELIGIBLE INDIVIDUALS AND PBGC RE-**  
8 **CIPIENTS.**

9 (a) ERISA AMENDMENTS.—Section 602(2)(A) of the  
10 Employee Retirement Income Security Act of 1974 (29  
11 U.S.C. 1162(2)(A)) is amended—

12 (1) by moving clause (v) to after clause (iv) and  
13 before the flush left sentence beginning with “In the  
14 case of a qualified beneficiary”;

15 (2) by striking “In the case of a qualified bene-  
16 ficiary” and inserting the following:

17 “(vi) SPECIAL RULE FOR DIS-  
18 ABILITY.—In the case of a qualified bene-  
19 ficiary”; and

20 (3) by redesignating clauses (v) and (vi), as  
21 amended by paragraphs (1) and (2), as clauses (vii)  
22 and (viii), respectively, and by inserting after clause  
23 (iv) the following new clauses:

24 “(v) SPECIAL RULE FOR PBGC RECIPI-  
25 ENTS.—In the case of a qualifying event

1 described in section 603(2) with respect to  
2 a covered employee who (as of such quali-  
3 fying event) has a nonforfeitable right to a  
4 benefit any portion of which is to be paid  
5 by the Pension Benefit Guaranty Corpora-  
6 tion under title IV, notwithstanding clause  
7 (i) or (ii), the date of the death of the cov-  
8 ered employee, or in the case of the sur-  
9 viving spouse or dependent children of the  
10 covered employee, 24 months after the  
11 date of the death of the covered employee.  
12 The preceding sentence shall not require  
13 any period of coverage to extend beyond  
14 December 31, 2010.

15 “(vi) SPECIAL RULE FOR TAA-ELIGI-  
16 BLE INDIVIDUALS.—In the case of a quali-  
17 fying event described in section 603(2)  
18 with respect to a covered employee who is  
19 (as of the date that the period of coverage  
20 would, but for this clause or clause (vii),  
21 otherwise terminate under clause (i) or  
22 (ii)) a TAA-eligible individual (as defined  
23 in section 605(b)(4)(B)), the period of cov-  
24 erage shall not terminate by reason of  
25 clause (i) or (ii), as the case may be, be-

1 fore the later of the date specified in such  
2 clause or the date on which such individual  
3 ceases to be such a TAA-eligible individual.  
4 The preceding sentence shall not require  
5 any period of coverage to extend beyond  
6 December 31, 2010.”.

7 (b) IRC AMENDMENTS.—Clause (i) of section  
8 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is  
9 amended—

10 (1) by striking “In the case of a qualified bene-  
11 ficiary” and inserting the following:

12 “(VI) SPECIAL RULE FOR DIS-  
13 ABILITY.—In the case of a qualified  
14 beneficiary”, and

15 (2) by redesignating subclauses (V) and (VI),  
16 as amended by paragraph (1), as subclauses (VII)  
17 and (VIII), respectively, and by inserting after  
18 clause (IV) the following new subclauses:

19 “(V) SPECIAL RULE FOR PBGC  
20 RECIPIENTS.—In the case of a quali-  
21 fying event described in paragraph  
22 (3)(B) with respect to a covered em-  
23 ployee who (as of such qualifying  
24 event) has a nonforfeitable right to a  
25 benefit any portion of which is to be

1           paid by the Pension Benefit Guaranty  
2           Corporation under title IV of the Em-  
3           ployee Retirement Income Security  
4           Act of 1974, notwithstanding sub-  
5           clause (I) or (II), the date of the  
6           death of the covered employee, or in  
7           the case of the surviving spouse or de-  
8           pendent children of the covered em-  
9           ployee, 24 months after the date of  
10          the death of the covered employee.  
11          The preceding sentence shall not re-  
12          quire any period of coverage to extend  
13          beyond December 31, 2010.

14               “(VI) SPECIAL RULE FOR TAA-  
15           ELIGIBLE INDIVIDUALS.—In the case  
16           of a qualifying event described in  
17           paragraph (3)(B) with respect to a  
18           covered employee who is (as of the  
19           date that the period of coverage  
20           would, but for this subclause or sub-  
21           clause (VII), otherwise terminate  
22           under subclause (I) or (II)) a TAA-el-  
23           igible individual (as defined in para-  
24           graph (5)(C)(iv)(II)), the period of  
25           coverage shall not terminate by reason

1 of subclause (I) or (II), as the case  
2 may be, before the later of the date  
3 specified in such subclause or the date  
4 on which such individual ceases to be  
5 such a TAA-eligible individual. The  
6 preceding sentence shall not require  
7 any period of coverage to extend be-  
8 yond December 31, 2010.”.

9 (c) PHSA AMENDMENTS.—Section 2202(2)(A) of  
10 the Public Health Service Act (42 U.S.C. 300bb-2(2)(A))  
11 is amended—

12 (1) by striking “In the case of a qualified bene-  
13 ficiary” and inserting the following:

14 “(v) SPECIAL RULE FOR DIS-  
15 ABILITY.—In the case of a qualified bene-  
16 ficiary”; and

17 (2) by redesignating clauses (iv) and (v), as  
18 amended by paragraph (1), as clauses (v) and (vi),  
19 respectively, and by inserting after clause (iii) the  
20 following new clause:

21 “(iv) SPECIAL RULE FOR TAA-ELIGI-  
22 BLE INDIVIDUALS.—In the case of a quali-  
23 fying event described in section 2203(2)  
24 with respect to a covered employee who is  
25 (as of the date that the period of coverage

1 would, but for this clause or clause (v),  
2 otherwise terminate under clause (i) or  
3 (ii)) a TAA-eligible individual (as defined  
4 in section 2205(b)(4)(B)), the period of  
5 coverage shall not terminate by reason of  
6 clause (i) or (ii), as the case may be, be-  
7 fore the later of the date specified in such  
8 clause or the date on which such individual  
9 ceases to be such a TAA-eligible individual.  
10 The preceding sentence shall not require  
11 any period of coverage to extend beyond  
12 December 31, 2010.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after the date of the enactment of this Act.

17 SEC. 1899G. ADDITION OF COVERAGE THROUGH VOL-  
18 UNTARY EMPLOYEES' BENEFICIARY ASSOCIA-  
19 TIONS.

(a) IN GENERAL.—Paragraph (1) of section 35(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

23 “(K) In the case of eligible coverage  
24 months beginning before January 1, 2011, cov-  
25 erage under an employee benefit plan funded by



1 a voluntary employees' beneficiary association  
2 (as defined in section 501(c)(9)) established  
3 pursuant to an order of a bankruptcy court, or  
4 by agreement with an authorized representative,  
5 as provided in section 1114 of title 11, United  
6 States Code.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to coverage months beginning after  
9 the date of the enactment of this Act.

10 **SEC. 1899H. NOTICE REQUIREMENTS.**

11 (a) IN GENERAL.—Subsection (d) of section 7527 of  
12 the Internal Revenue Code of 1986 (relating to qualified  
13 health insurance costs credit eligibility certificate) is  
14 amended to read as follows:

15 “(d) QUALIFIED HEALTH INSURANCE COSTS ELIGI-  
16 BILITY CERTIFICATE.—

17 “(1) IN GENERAL.—For purposes of this sec-  
18 tion, the term ‘qualified health insurance costs eligi-  
19 bility certificate’ means any written statement that  
20 an individual is an eligible individual (as defined in  
21 section 35(c)) if such statement provides such infor-  
22 mation as the Secretary may require for purposes of  
23 this section and—

24 “(A) in the case of an eligible TAA recipi-  
25 ent (as defined in section 35(c)(2)) or an eligi-

1           ble alternative TAA recipient (as defined in sec-  
2           tion 35(c)(3)), is certified by the Secretary of  
3           Labor (or by any other person or entity des-  
4           ignated by the Secretary), or

5                 “(B) in the case of an eligible PBGC pen-  
6           sion recipient (as defined in section 35(c)(4)), is  
7           certified by the Pension Benefit Guaranty Cor-  
8           poration (or by any other person or entity des-  
9           ignated by the Secretary).

10           “(2) INCLUSION OF CERTAIN INFORMATION.—

11       In the case of any statement described in paragraph  
12       (1) which is issued before January 1, 2011, such  
13       statement shall not be treated as a qualified health  
14       insurance costs credit eligibility certificate unless  
15       such statement includes—

16                 “(A) the name, address, and telephone  
17       number of the State office or offices responsible  
18       for providing the individual with assistance with  
19       enrollment in qualified health insurance (as de-  
20       fined in section 35(e)),

21                 “(B) a list of the coverage options that are  
22       treated as qualified health insurance (as so de-  
23       fined) by the State in which the individual re-  
24       sides, and

1           “(C) in the case of a TAA-eligible indi-  
2           vidual (as defined in section  
3           4980B(f)(5)(C)(iv)(II)), a statement informing  
4           the individual that the individual has 63 days  
5           from the date that is 7 days after the date of  
6           the issuance of such certificate to enroll in such  
7           insurance without a lapse in creditable coverage  
8           (as defined in section 9801(c)).”.

9           (b) **EFFECTIVE DATE.**—The amendment made by  
10          this section shall apply to certificates issued after the date  
11          that is 6 months after the date of the enactment of this  
12          Act.

13       **SEC. 1899I. SURVEY AND REPORT ON ENHANCED HEALTH**  
14               **COVERAGE TAX CREDIT PROGRAM.**

15       (a) **SURVEY.**—

16           (1) **IN GENERAL.**—The Secretary of the Treas-  
17          ury shall conduct a biennial survey of eligible indi-  
18          viduals (as defined in section 35(c) of the Internal  
19          Revenue Code of 1986) relating to the health cov-  
20          erage tax credit under section 35 of the Internal  
21          Revenue Code of 1986 (hereinafter in this section  
22          referred to as the “health coverage tax credit”).

23           (2) **INFORMATION OBTAINED.**—The survey con-  
24          ducted under subsection (a) shall obtain the fol-  
25          lowing information:

1           (A) HCTC PARTICIPANTS.—In the case of  
2           eligible individuals receiving the health coverage  
3           tax credit (including individuals participating in  
4           the health coverage tax credit program under  
5           section 7527 of such Code, hereinafter in this  
6           section referred to as the “HCTC program”)—

7                   (i) demographic information of such  
8                   individuals, including income and edu-  
9                   cation levels,

10                   (ii) satisfaction of such individuals  
11                   with the enrollment process in the HCTC  
12                   program,

13                   (iii) satisfaction of such individuals  
14                   with available health coverage options  
15                   under the credit, including level of pre-  
16                   miums, benefits, deductibles, cost-sharing  
17                   requirements, and the adequacy of provider  
18                   networks, and

19                   (iv) any other information that the  
20                   Secretary determines is appropriate.

21           (B) NON-HCTC PARTICIPANTS.—In the  
22           case of eligible individuals not receiving the  
23           health coverage tax credit—

1 (i) demographic information of each  
2 individual, including income and education  
3 levels,

4 (ii) whether the individual was aware  
5 of the health coverage tax credit or the  
6 HCTC program,

7 (iii) the reasons the individual has not  
8 enrolled in the HCTC program, including  
9 whether such reasons include the burden of  
10 the process of enrollment and the afford-  
11 ability of coverage,

12 (iv) whether the individual has health  
13 insurance coverage, and, if so, the source  
14 of such coverage, and

15 (v) any other information that the  
16 Secretary determines is appropriate.

17 (3) REPORT.—Not later than December 31 of  
18 each year in which a survey is conducted under  
19 paragraph (1) (beginning in 2010), the Secretary of  
20 the Treasury shall report to the Committee on Fi-  
21 nance and the Committee on Health, Education,  
22 Labor, and Pensions of the Senate and the Com-  
23 mittee on Ways and Means, the Committee on Edu-  
24 cation and Labor, and the Committee on Energy  
25 and Commerce of the House of Representatives the

1 findings of the most recent survey conducted under  
2 paragraph (1).

3 (b) REPORT.—Not later than October 1 of each year  
4 (beginning in 2010), the Secretary of the Treasury (after  
5 consultation with the Secretary of Health and Human  
6 Services, and, in the case of the information required  
7 under paragraph (7), the Secretary of Labor) shall report  
8 to the Committee on Finance and the Committee on  
9 Health, Education, Labor, and Pensions of the Senate and  
10 the Committee on Ways and Means, the Committee on  
11 Education and Labor, and the Committee on Energy and  
12 Commerce of the House of Representatives the following  
13 information with respect to the most recent taxable year  
14 ending before such date:

15 (1) In each State and nationally—

16 (A) the total number of eligible individuals  
17 (as defined in section 35(c) of the Internal Rev-  
18 enue Code of 1986) and the number of eligible  
19 individuals receiving the health coverage tax  
20 credit,

21 (B) the total number of such eligible indi-  
22 viduals who receive an advance payment of the  
23 health coverage tax credit through the HCTC  
24 program,

1 (C) the average length of the time period  
2 of the participation of eligible individuals in the  
3 HCTC program, and

4 (D) the total number of participating eligi-  
5 ble individuals in the HCTC program who are  
6 enrolled in each category of coverage as de-  
7 scribed in section 35(e)(1) of such Code,  
8 with respect to each category of eligible individuals  
9 described in section 35(e)(1) of such Code.

10 (2) In each State and nationally, an analysis  
11 of—

12 (A) the range of monthly health insurance  
13 premiums, for self-only coverage and for family  
14 coverage, for individuals receiving the health  
15 coverage tax credit, and

16 (B) the average and median monthly  
17 health insurance premiums, for self-only cov-  
18 erage and for family coverage, for individuals  
19 receiving the health coverage tax credit,

20 with respect to each category of coverage as de-  
21 scribed in section 35(e)(1) of such Code.

22 (3) In each State and nationally, an analysis of  
23 the following information with respect to the health  
24 insurance coverage of individuals receiving the  
25 health coverage tax credit who are enrolled in cov-

1       erage described in subparagraphs (B) through (H)  
2       of section 35(e)(1) of such Code:

3               (A) Deductible amounts.

4               (B) Other out-of-pocket cost-sharing  
5       amounts.

6               (C) A description of any annual or lifetime  
7       limits on coverage or any other significant lim-  
8       its on coverage services, or benefits.

9       The information required under this paragraph shall  
10      be reported with respect to each category of coverage  
11      described in such subparagraphs.

12           (4) In each State and nationally, the gender  
13      and average age of eligible individuals (as defined in  
14      section 35(c) of such Code) who receive the health  
15      coverage tax credit, in each category of coverage de-  
16      scribed in section 35(e)(1) of such Code, with re-  
17      spect to each category of eligible individuals de-  
18      scribed in such section.

19           (5) The steps taken by the Secretary of the  
20      Treasury to increase the participation rates in the  
21      HCTC program among eligible individuals, including  
22      outreach and enrollment activities.

23           (6) The cost of administering the HCTC pro-  
24      gram by function, including the cost of subcontrac-  
25      tors, and recommendations on ways to reduce ad-



1       ministrative costs, including recommended statutory  
2       changes.

3           (7) The number of States applying for and re-  
4       ceiving national emergency grants under section  
5       173(f) of the Workforce Investment Act of 1998 (29  
6       U.S.C. 2918(f)), the activities funded by such grants  
7       on a State-by-State basis, and the time necessary for  
8       application approval of such grants.

9       **SEC. 1899J. AUTHORIZATION OF APPROPRIATIONS.**

10       There is authorized to be appropriated \$80,000,000  
11       for the period of fiscal years 2009 through 2010 to imple-  
12       ment the amendments made by, and the provisions of, sec-  
13       tions 1899 through 1899I of this part.

14       **SEC. 1899K. EXTENSION OF NATIONAL EMERGENCY**  
15               **GRANTS.**

16       (a) IN GENERAL.—Section 173(f) of the Workforce  
17       Investment Act of 1998 (29 U.S.C. 2918(f)), as amended  
18       by this Act, is amended—

19           (1) by striking paragraph (1) and inserting the  
20       following new paragraph:

21           “(1) USE OF FUNDS.—

22                   “(A) HEALTH INSURANCE COVERAGE FOR  
23       ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN  
24       QUALIFIED HEALTH INSURANCE THAT HAS  
25       GUARANTEED ISSUE AND OTHER CONSUMER

1 PROTECTIONS.—Funds made available to a  
2 State or entity under paragraph (4)(A) of sub-  
3 section (a) may be used to provide an eligible  
4 individual described in paragraph (4)(C) and  
5 such individual's qualifying family members  
6 with health insurance coverage for the 3-month  
7 period that immediately precedes the first eligi-  
8 ble coverage month (as defined in section 35(b)  
9 of the Internal Revenue Code of 1986) in which  
10 such eligible individual and such individual's  
11 qualifying family members are covered by quali-  
12 fied health insurance that meets the require-  
13 ments described in clauses (i) through (v) of  
14 section 35(e)(2)(A) of the Internal Revenue  
15 Code of 1986 (or such longer minimum period  
16 as is necessary in order for such eligible indi-  
17 vidual and such individual's qualifying family  
18 members to be covered by qualified health in-  
19 surance that meets such requirements).

20 “(B) ADDITIONAL USES.—Funds made  
21 available to a State or entity under paragraph  
22 (4)(A) of subsection (a) may be used by the  
23 State or entity for the following:

24 “(i) HEALTH INSURANCE COV-  
25 ERAGE.—To assist an eligible individual

1 and such individual's qualifying family  
2 members with enrolling in health insurance  
3 coverage and qualified health insurance or  
4 paying premiums for such coverage or in-  
5 surance.

6 “(ii) ADMINISTRATIVE EXPENSES AND  
7 START-UP EXPENSES TO ESTABLISH  
8 GROUP HEALTH PLAN COVERAGE OPTIONS  
9 FOR QUALIFIED HEALTH INSURANCE.—To  
10 pay the administrative expenses related to  
11 the enrollment of eligible individuals and  
12 such individuals' qualifying family mem-  
13 bers in health insurance coverage and  
14 qualified health insurance, including—

15 “(I) eligibility verification activi-  
16 ties;

17 “(II) the notification of eligible  
18 individuals of available health insur-  
19 ance and qualified health insurance  
20 options;

21 “(III) processing qualified health  
22 insurance costs credit eligibility cer-  
23 tificates provided for under section  
24 7527 of the Internal Revenue Code of  
25 1986;

1                   “(IV) providing assistance to eli-  
2                   gible individuals in enrolling in health  
3                   insurance coverage and qualified  
4                   health insurance;

5                   “(V) the development or installa-  
6                   tion of necessary data management  
7                   systems; and

8                   “(VI) any other expenses deter-  
9                   mined appropriate by the Secretary,  
10                  including start-up costs and on going  
11                  administrative expenses, in order for  
12                  the State to treat the coverage de-  
13                  scribed in subparagraphs (C) through  
14                  (H) of section 35(e)(1) of the Internal  
15                  Revenue Code of 1986 as qualified  
16                  health insurance under that section.

17                  “(iii) OUTREACH.—To pay for out-  
18                  reach to eligible individuals to inform such  
19                  individuals of available health insurance  
20                  and qualified health insurance options, in-  
21                  cluding outreach consisting of notice to eli-  
22                  gible individuals of such options made  
23                  available after the date of enactment of  
24                  this clause and direct assistance to help  
25                  potentially eligible individuals and such in-

1           dividual's qualifying family members qual-  
2           ify and remain eligible for the credit estab-  
3           lished under section 35 of the Internal  
4           Revenue Code of 1986 and advance pay-  
5           ment of such credit under section 7527 of  
6           such Code.

7           “(iv) BRIDGE FUNDING.—To assist  
8           potentially eligible individuals to purchase  
9           qualified health insurance coverage prior to  
10          issuance of a qualified health insurance  
11          costs credit eligibility certificate under sec-  
12          tion 7527 of the Internal Revenue Code of  
13          1986 and commencement of advance pay-  
14          ment, and receipt of expedited payment,  
15          under subsections (a) and (e), respectively,  
16          of that section.

17          “(C) RULE OF CONSTRUCTION.—The in-  
18          clusion of a permitted use under this paragraph  
19          shall not be construed as prohibiting a similar  
20          use of funds permitted under subsection (g).”;  
21          and

22          (2) by striking paragraph (2) and inserting the  
23          following new paragraph:

24          “(2) QUALIFIED HEALTH INSURANCE.—For  
25          purposes of this subsection and subsection (g), the

1 term ‘qualified health insurance’ has the meaning  
2 given that term in section 35(e) of the Internal Rev-  
3 enue Code of 1986.’’.

4 (b) FUNDING.—Section 174(c)(1) of the Workforce  
5 Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is  
6 amended—

7 (1) in the paragraph heading, by striking “AU-  
8 THORIZATION AND APPROPRIATION FOR FISCAL  
9 YEAR 2002” and inserting “APPROPRIATIONS”; and

10 (2) by striking subparagraph (A) and inserting  
11 the following new subparagraph:

12 “(A) to carry out subsection (a)(4)(A) of  
13 section 173—

14 “(i) \$10,000,000 for fiscal year 2002;

15 and

16 “(ii) \$150,000,000 for the period of  
17 fiscal years 2009 through 2010; and”.

18 **SEC. 1899L. GAO STUDY AND REPORT.**

19 (a) STUDY.—The Comptroller General of the United  
20 States shall conduct a study regarding the health insur-  
21 ance tax credit allowed under section 35 of the Internal  
22 Revenue Code of 1986.

23 (b) REPORT.—Not later than March 1, 2010, the  
24 Comptroller General shall submit a report to Congress re-

1   garding the results of the study conducted under sub-  
2   section (a). Such report shall include an analysis of—

3           (1) the administrative costs—

4                (A) of the Federal Government with re-  
5                spect to such credit and the advance payment  
6                of such credit under section 7527 of such Code,  
7                and

8                (B) of providers of qualified health insur-  
9                ance with respect to providing such insurance  
10              to eligible individuals and their qualifying fam-  
11              ily members,

12           (2) the health status and relative risk status of  
13           eligible individuals and qualifying family members  
14           covered under such insurance,

15           (3) participation in such credit and the advance  
16           payment of such credit by eligible individuals and  
17           their qualifying family members, including the rea-  
18           sons why such individuals did or did not participate  
19           and the effect of the amendments made by this part  
20           on such participation, and

21           (4) the extent to which eligible individuals and  
22           their qualifying family members—

23                (A) obtained health insurance other than  
24                qualifying health insurance, or

1                   (B) went without health insurance cov-  
2                   erage.

3           (c) ACCESS TO RECORDS.—For purposes of con-  
4     ducting the study required under this section, the Comp-  
5     troller General and any of his duly authorized representa-  
6     tives shall have access to, and the right to examine and  
7     copy, all documents, records, and other recorded  
8     information—

9           (1) within the possession or control of providers  
10          of qualified health insurance, and

11          (2) determined by the Comptroller General (or  
12          any such representative) to be relevant to the study.

13     The Comptroller General shall not disclose the identity of  
14     any provider of qualified health insurance or any eligible  
15     individual in making any information obtained under this  
16     section available to the public.

17          (d) DEFINITIONS.—Any term which is defined in sec-  
18     tion 35 of the Internal Revenue Code of 1986 shall have  
19     the same meaning when used in this section.



1 **TITLE II—ASSISTANCE FOR UN-**  
2 **EMPLOYED WORKERS AND**  
3 **STRUGGLING FAMILIES**

4 **SEC. 2000. SHORT TITLE; TABLE OF CONTENTS OF TITLE.**

5 (a) **SHORT TITLE.**—This title may be cited as the  
6 “Assistance for Unemployed Workers and Struggling  
7 Families Act”.

8 (b) **TABLE OF CONTENTS OF TITLE.**—The table of  
9 contents of this title is as follows:

**TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND  
STRUGGLING FAMILIES**

Sec. 2000. Short title; table of contents of title.

**Subtitle A—Unemployment Insurance**

- Sec. 2001. Extension of emergency unemployment compensation program.
- Sec. 2002. Increase in unemployment compensation benefits.
- Sec. 2003. Special transfers for unemployment compensation modernization.
- Sec. 2004. Temporary assistance for states with advances.
- Sec. 2005. Full Federal funding of extended unemployment compensation for a limited period.
- Sec. 2006. Temporary increase in extended unemployment benefits under the Railroad Unemployment Insurance Act.

**Subtitle B—Assistance for Vulnerable Individuals**

- Sec. 2101. Emergency fund for TANF program.
- Sec. 2102. Extension of TANF supplemental grants.
- Sec. 2103. Clarification of authority of States to use TANF funds carried over from prior years to provide TANF benefits and services.
- Sec. 2104. Temporary resumption of prior child support law.

**Subtitle C—Economic Recovery Payments to Certain Individuals**

- Sec. 2201. Economic recovery payment to recipients of social security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.
- Sec. 2202. Special credit for certain government retirees.

**Subtitle A—Unemployment  
Insurance**

**SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT  
COMPENSATION PROGRAM.**

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking “March 31, 2009” each place it appears and inserting “December 31, 2009”;

(2) in the heading for subsection (b)(2), by striking “MARCH 31, 2009” and inserting “DECEMBER 31, 2009”; and

(3) in subsection (b)(3), by striking “August 27, 2009” and inserting “May 31, 2010”.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

“(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

“(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of

1 Labor estimates to be necessary to make payments  
2 to States under this title by reason of the amend-  
3 ments made by section 2001(a) of the Assistance for  
4 Unemployed Workers and Struggling Families Act;  
5 and

6 “(2) to the employment security administration  
7 account (as established by section 901 of the Social  
8 Security Act) such sums as the Secretary of Labor  
9 estimates to be necessary for purposes of assisting  
10 States in meeting administrative costs by reason of  
11 the amendments referred to in paragraph (1).

12 There are appropriated from the general fund of the  
13 Treasury, without fiscal year limitation, the sums referred  
14 to in the preceding sentence and such sums shall not be  
15 required to be repaid.”.

16 **SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION**  
17 **BENEFITS.**

18 (a) **FEDERAL-STATE AGREEMENTS.**—Any State  
19 which desires to do so may enter into and participate in  
20 an agreement under this section with the Secretary of  
21 Labor (hereinafter in this section referred to as the “Sec-  
22 retary”). Any State which is a party to an agreement  
23 under this section may, upon providing 30 days’ written  
24 notice to the Secretary, terminate such agreement.

25 (b) **PROVISIONS OF AGREEMENT.**—

1           (1) ADDITIONAL COMPENSATION.—Any agree-  
2           ment under this section shall provide that the State  
3           agency of the State will make payments of regular  
4           compensation to individuals in amounts and to the  
5           extent that they would be determined if the State  
6           law of the State were applied, with respect to any  
7           week for which the individual is (disregarding this  
8           section) otherwise entitled under the State law to re-  
9           ceive regular compensation, as if such State law had  
10          been modified in a manner such that the amount of  
11          regular compensation (including dependents' allow-  
12          ances) payable for any week shall be equal to the  
13          amount determined under the State law (before the  
14          application of this paragraph) plus an additional  
15          \$25.

16          (2) ALLOWABLE METHODS OF PAYMENT.—Any  
17          additional compensation provided for in accordance  
18          with paragraph (1) shall be payable either—

19                (A) as an amount which is paid at the  
20                same time and in the same manner as any reg-  
21                ular compensation otherwise payable for the  
22                week involved; or

23                (B) at the option of the State, by pay-  
24                ments which are made separately from, but on

1 the same weekly basis as, any regular com-  
2 pensation otherwise payable.

(c) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

18 (d) PAYMENTS TO STATES.—

19 (1) IN GENERAL.—

(A) FULL REIMBURSEMENT.—There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of additional compensation (as described in subsection

1 (b)(1)) paid to individuals by the State  
2 pursuant to such agreement; and

3 (ii) any additional administrative ex-  
4 penses incurred by the State by reason of  
5 such agreement (as determined by the Sec-  
6 retary).

7 (B) TERMS OF PAYMENTS.—Sums payable  
8 to any State by reason of such State's having  
9 an agreement under this section shall be pay-  
10 able, either in advance or by way of reimburse-  
11 ment (as determined by the Secretary), in such  
12 amounts as the Secretary estimates the State  
13 will be entitled to receive under this section for  
14 each calendar month, reduced or increased, as  
15 the case may be, by any amount by which the  
16 Secretary finds that his estimates for any prior  
17 calendar month were greater or less than the  
18 amounts which should have been paid to the  
19 State. Such estimates may be made on the  
20 basis of such statistical, sampling, or other  
21 method as may be agreed upon by the Secretary  
22 and the State agency of the State involved.

23 (2) CERTIFICATIONS.—The Secretary shall  
24 from time to time certify to the Secretary of the

1 Treasury for payment to each State the sums pay-  
2 able to such State under this section.

3 (3) APPROPRIATION.—There are appropriated  
4 from the general fund of the Treasury, without fiscal  
5 year limitation, such sums as may be necessary for  
6 purposes of this subsection.

7 (e) APPLICABILITY.—

8 (1) IN GENERAL.—An agreement entered into  
9 under this section shall apply to weeks of  
10 unemployment—

11 (A) beginning after the date on which such  
12 agreement is entered into; and

13 (B) ending before January 1, 2010.

14 (2) TRANSITION RULE FOR INDIVIDUALS RE-  
15 MAINING ENTITLED TO REGULAR COMPENSATION AS  
16 OF JANUARY 1, 2010.—In the case of any individual  
17 who, as of the date specified in paragraph (1)(B),  
18 has not yet exhausted all rights to regular com-  
19 pensation under the State law of a State with re-  
20 spect to a benefit year that began before such date,  
21 additional compensation (as described in subsection  
22 (b)(1)) shall continue to be payable to such indi-  
23 vidual for any week beginning on or after such date  
24 for which the individual is otherwise eligible for reg-  
25 ular compensation with respect to such benefit year.

1           (3) TERMINATION.—Notwithstanding any other  
2           provision of this subsection, no additional compensa-  
3           tion (as described in subsection (b)(1)) shall be pay-  
4           able for any week beginning after June 30, 2010.

5           (f) FRAUD AND OVERPAYMENTS.—The provisions of  
6           section 4005 of the Supplemental Appropriations Act,  
7           2008 (Public Law 110–252; 122 Stat. 2356) shall apply  
8           with respect to additional compensation (as described in  
9           subsection (b)(1)) to the same extent and in the same  
10          manner as in the case of emergency unemployment com-  
11          pensation.

12          (g) APPLICATION TO OTHER UNEMPLOYMENT BENE-  
13          FITS.—

14               (1) IN GENERAL.—Each agreement under this  
15               section shall include provisions to provide that the  
16               purposes of the preceding provisions of this section  
17               shall be applied with respect to unemployment bene-  
18               fits described in subsection (i)(3) to the same extent  
19               and in the same manner as if those benefits were  
20               regular compensation.

21               (2) ELIGIBILITY AND TERMINATION RULES.—  
22               Additional compensation (as described in subsection  
23               (b)(1))—

24                       (A) shall not be payable, pursuant to this  
25                       subsection, with respect to any unemployment



1           benefits described in subsection (i)(3) for any  
2           week beginning on or after the date specified in  
3           subsection (e)(1)(B), except in the case of an  
4           individual who was eligible to receive additional  
5           compensation (as so described) in connection  
6           with any regular compensation or any unem-  
7           ployment benefits described in subsection (i)(3)  
8           for any period of unemployment ending before  
9           such date; and

10                 (B) shall in no event be payable for any  
11           week beginning after the date specified in sub-  
12           section (e)(3).

13         (h) DISREGARD OF ADDITIONAL COMPENSATION FOR  
14         PURPOSES OF MEDICAID AND SCHIP.—The monthly  
15         equivalent of any additional compensation paid under this  
16         section shall be disregarded in considering the amount of  
17         income of an individual for any purposes under title XIX  
18         and title XXI of the Social Security Act.

19         (i) DEFINITIONS.—For purposes of this section—

20                 (1) the terms “compensation”, “regular com-  
21           pensation”, “benefit year”, “State”, “State agency”,  
22           “State law”, and “week” have the respective mean-  
23           ings given such terms under section 205 of the Fed-  
24           eral-State Extended Unemployment Compensation  
25           Act of 1970 (26 U.S.C. 3304 note);

1           (2) the term “emergency unemployment com-  
2           pensation” means emergency unemployment com-  
3           pensation under title IV of the Supplemental Appro-  
4           priations Act, 2008 (Public Law 110–252; 122 Stat.  
5           2353); and

6           (3) any reference to unemployment benefits de-  
7           scribed in this paragraph shall be considered to refer  
8           to—

9                   (A) extended compensation (as defined by  
10                  section 205 of the Federal-State Extended Un-  
11                  employment Compensation Act of 1970); and

12                  (B) unemployment compensation (as de-  
13                  fined by section 85(b) of the Internal Revenue  
14                  Code of 1986) provided under any program ad-  
15                  ministered by a State under an agreement with  
16                  the Secretary.

17 **SEC. 2003. SPECIAL TRANSFERS FOR UNEMPLOYMENT**  
18 **COMPENSATION MODERNIZATION.**

19           (a) IN GENERAL.—Section 903 of the Social Security  
20           Act (42 U.S.C. 1103) is amended by adding at the end  
21           the following:

22           “Special Transfers in Fiscal Years 2009, 2010, and 2011  
23                                   for Modernization

24           “(f)(1)(A) In addition to any other amounts, the Sec-  
25           retary of Labor shall provide for the making of unemploy-

1 ment compensation modernization incentive payments  
2 (hereinafter ‘incentive payments’) to the accounts of the  
3 States in the Unemployment Trust Fund, by transfer from  
4 amounts reserved for that purpose in the Federal unem-  
5 ployment account, in accordance with succeeding provi-  
6 sions of this subsection.

7 “(B) The maximum incentive payment allowable  
8 under this subsection with respect to any State shall, as  
9 determined by the Secretary of Labor, be equal to the  
10 amount obtained by multiplying \$7,000,000,000 by the  
11 same ratio as would apply under subsection (a)(2)(B) for  
12 purposes of determining such State’s share of any excess  
13 amount (as described in subsection (a)(1)) that would  
14 have been subject to transfer to State accounts, as of Oc-  
15 tober 1, 2008, under the provisions of subsection (a).

16 “(C) Of the maximum incentive payment determined  
17 under subparagraph (B) with respect to a State—

18 “(i) one-third shall be transferred to the ac-  
19 count of such State upon a certification under para-  
20 graph (4)(B) that the State law of such State meets  
21 the requirements of paragraph (2); and

22 “(ii) the remainder shall be transferred to the  
23 account of such State upon a certification under  
24 paragraph (4)(B) that the State law of such State  
25 meets the requirements of paragraph (3).

1       “(2) The State law of a State meets the requirements  
2 of this paragraph if such State law—

3           “(A) uses a base period that includes the most  
4 recently completed calendar quarter before the start  
5 of the benefit year for purposes of determining eligi-  
6 bility for unemployment compensation; or

7           “(B) provides that, in the case of an individual  
8 who would not otherwise be eligible for unemploy-  
9 ment compensation under the State law because of  
10 the use of a base period that does not include the  
11 most recently completed calendar quarter before the  
12 start of the benefit year, eligibility shall be deter-  
13 mined using a base period that includes such cal-  
14 endar quarter.

15       “(3) The State law of a State meets the requirements  
16 of this paragraph if such State law includes provisions to  
17 carry out at least 2 of the following subparagraphs:

18           “(A) An individual shall not be denied regular  
19 unemployment compensation under any State law  
20 provisions relating to availability for work, active  
21 search for work, or refusal to accept work, solely be-  
22 cause such individual is seeking only part-time work  
23 (as defined by the Secretary of Labor), except that  
24 the State law provisions carrying out this subpara-  
25 graph may exclude an individual if a majority of the

1 weeks of work in such individual's base period do  
2 not include part-time work (as so defined).

3 “(B) An individual shall not be disqualified  
4 from regular unemployment compensation for sepa-  
5 rating from employment if that separation is for any  
6 compelling family reason. For purposes of this sub-  
7 paragraph, the term ‘compelling family reason’  
8 means the following:

9 “(i) Domestic violence, verified by such  
10 reasonable and confidential documentation as  
11 the State law may require, which causes the in-  
12 dividual reasonably to believe that such individ-  
13 ual's continued employment would jeopardize  
14 the safety of the individual or of any member  
15 of the individual's immediate family (as defined  
16 by the Secretary of Labor).

17 “(ii) The illness or disability of a member  
18 of the individual's immediate family (as those  
19 terms are defined by the Secretary of Labor).

20 “(iii) The need for the individual to accom-  
21 pany such individual's spouse—

22 “(I) to a place from which it is im-  
23 practical for such individual to commute;  
24 and

1                   “(II) due to a change in location of  
2                   the spouse’s employment.

3                   “(C)(i) Weekly unemployment compensation is  
4                   payable under this subparagraph to any individual  
5                   who is unemployed (as determined under the State  
6                   unemployment compensation law), has exhausted all  
7                   rights to regular unemployment compensation under  
8                   the State law, and is enrolled and making satisfac-  
9                   tory progress in a State-approved training program  
10                  or in a job training program authorized under the  
11                  Workforce Investment Act of 1998, except that such  
12                  compensation is not required to be paid to an indi-  
13                  vidual who is receiving similar stipends or other  
14                  training allowances for non-training costs.

15                  “(ii) Each State-approved training program or  
16                  job training program referred to in clause (i) shall  
17                  prepare individuals who have been separated from a  
18                  declining occupation, or who have been involuntarily  
19                  and indefinitely separated from employment as a re-  
20                  sult of a permanent reduction of operations at the  
21                  individual’s place of employment, for entry into a  
22                  high-demand occupation.

23                  “(iii) The amount of unemployment compensa-  
24                  tion payable under this subparagraph to an indi-

1       vidual for a week of unemployment shall be equal  
2       to—

3               “(I) the individual’s average weekly benefit  
4               amount (including dependents’ allowances) for  
5               the most recent benefit year, less

6               “(II) any deductible income, as determined  
7               under State law.

8       The total amount of unemployment compensation  
9       payable under this subparagraph to any individual  
10       shall be equal to at least 26 times the individual’s  
11       average weekly benefit amount (including depend-  
12       ents’ allowances) for the most recent benefit year.

13              “(D) Dependents’ allowances are provided, in  
14       the case of any individual who is entitled to receive  
15       regular unemployment compensation and who has  
16       any dependents (as defined by State law), in an  
17       amount equal to at least \$15 per dependent per  
18       week, subject to any aggregate limitation on such al-  
19       lowances which the State law may establish (but  
20       which aggregate limitation on the total allowance for  
21       dependents paid to an individual may not be less  
22       than \$50 for each week of unemployment or 50 per-  
23       cent of the individual’s weekly benefit amount for  
24       the benefit year, whichever is less), except that a  
25       State law may provide for a reasonable reduction in

1       the amount of any such allowance for a week of less  
2       than total unemployment.

3       “(4)(A) Any State seeking an incentive payment  
4       under this subsection shall submit an application therefor  
5       at such time, in such manner, and complete with such in-  
6       formation as the Secretary of Labor may within 60 days  
7       after the date of the enactment of this subsection prescribe  
8       (whether by regulation or otherwise), including informa-  
9       tion relating to compliance with the requirements of para-  
10      graph (2) or (3), as well as how the State intends to use  
11      the incentive payment to improve or strengthen the State’s  
12      unemployment compensation program. The Secretary of  
13      Labor shall, within 30 days after receiving a complete ap-  
14      plication, notify the State agency of the State of the Sec-  
15      retary’s findings with respect to the requirements of para-  
16      graph (2) or (3) (or both).

17      “(B)(i) If the Secretary of Labor finds that the State  
18      law provisions (disregarding any State law provisions  
19      which are not then currently in effect as permanent law  
20      or which are subject to discontinuation) meet the require-  
21      ments of paragraph (2) or (3), as the case may be, the  
22      Secretary of Labor shall thereupon make a certification  
23      to that effect to the Secretary of the Treasury, together  
24      with a certification as to the amount of the incentive pay-  
25      ment to be transferred to the State account pursuant to



1 that finding. The Secretary of the Treasury shall make  
2 the appropriate transfer within 7 days after receiving such  
3 certification.

4 “(ii) For purposes of clause (i), State law provisions  
5 which are to take effect within 12 months after the date  
6 of their certification under this subparagraph shall be con-  
7 sidered to be in effect as of the date of such certification.

8 “(C)(i) No certification of compliance with the re-  
9 quirements of paragraph (2) or (3) may be made with re-  
10 spect to any State whose State law is not otherwise eligible  
11 for certification under section 303 or approvable under  
12 section 3304 of the Federal Unemployment Tax Act.

13 “(ii) No certification of compliance with the require-  
14 ments of paragraph (3) may be made with respect to any  
15 State whose State law is not in compliance with the re-  
16 quirements of paragraph (2).

17 “(iii) No application under subparagraph (A) may be  
18 considered if submitted before the date of the enactment  
19 of this subsection or after the latest date necessary (as  
20 specified by the Secretary of Labor) to ensure that all in-  
21 centive payments under this subsection are made before  
22 October 1, 2011.

23 “(5)(A) Except as provided in subparagraph (B), any  
24 amount transferred to the account of a State under this  
25 subsection may be used by such State only in the payment

1 of cash benefits to individuals with respect to their unem-  
2 ployment (including for dependents' allowances and for  
3 unemployment compensation under paragraph (3)(C)), ex-  
4 clusive of expenses of administration.

5 “(B) A State may, subject to the same conditions as  
6 set forth in subsection (c)(2) (excluding subparagraph (B)  
7 thereof, and deeming the reference to ‘subsections (a) and  
8 (b)’ in subparagraph (D) thereof to include this sub-  
9 section), use any amount transferred to the account of  
10 such State under this subsection for the administration  
11 of its unemployment compensation law and public employ-  
12 ment offices.

13 “(6) Out of any money in the Federal unemployment  
14 account not otherwise appropriated, the Secretary of the  
15 Treasury shall reserve \$7,000,000,000 for incentive pay-  
16 ments under this subsection. Any amount so reserved shall  
17 not be taken into account for purposes of any determina-  
18 tion under section 902, 910, or 1203 of the amount in  
19 the Federal unemployment account as of any given time.  
20 Any amount so reserved for which the Secretary of the  
21 Treasury has not received a certification under paragraph  
22 (4)(B) by the deadline described in paragraph (4)(C)(iii)  
23 shall, upon the close of fiscal year 2011, become unre-  
24 stricted as to use as part of the Federal unemployment  
25 account.

1       “(7) For purposes of this subsection, the terms ‘ben-  
2   efit year’, ‘base period’, and ‘week’ have the respective  
3   meanings given such terms under section 205 of the Fed-  
4   eral-State Extended Unemployment Compensation Act of  
5   1970 (26 U.S.C. 3304 note).

6   “Special Transfer in Fiscal Year 2009 for Administration

7       “(g)(1) In addition to any other amounts, the Sec-  
8   retary of the Treasury shall transfer from the employment  
9   security administration account to the account of each  
10   State in the Unemployment Trust Fund, within 30 days  
11   after the date of the enactment of this subsection, the  
12   amount determined with respect to such State under para-  
13   graph (2).

14       “(2) The amount to be transferred under this sub-  
15   section to a State account shall (as determined by the Sec-  
16   retary of Labor and certified by such Secretary to the Sec-  
17   retary of the Treasury) be equal to the amount obtained  
18   by multiplying \$500,000,000 by the same ratio as deter-  
19   mined under subsection (f)(1)(B) with respect to such  
20   State.

21       “(3) Any amount transferred to the account of a  
22   State as a result of the enactment of this subsection may  
23   be used by the State agency of such State only in the pay-  
24   ment of expenses incurred by it for—

1           “(A) the administration of the provisions of its  
2       State law carrying out the purposes of subsection  
3       (f)(2) or any subparagraph of subsection (f)(3);

4           “(B) improved outreach to individuals who  
5       might be eligible for regular unemployment com-  
6       pensation by virtue of any provisions of the State  
7       law which are described in subparagraph (A);

8           “(C) the improvement of unemployment benefit  
9       and unemployment tax operations, including re-  
10      sponding to increased demand for unemployment  
11      compensation; and

12          “(D) staff-assisted reemployment services for  
13      unemployment compensation claimants.”.

14      (b) REGULATIONS.—The Secretary of Labor may  
15      prescribe any regulations, operating instructions, or other  
16      guidance necessary to carry out the amendment made by  
17      subsection (a).

18      **SEC. 2004. TEMPORARY ASSISTANCE FOR STATES WITH AD-**  
19                                   **VANCES.**

20      Section 1202(b) of the Social Security Act (42 U.S.C.  
21      1322(b)) is amended by adding at the end the following  
22      new paragraph:

23      “(10)(A) With respect to the period beginning on the  
24      date of enactment of this paragraph and ending on De-  
25      cember 31, 2010—

1           “(i) any interest payment otherwise due from a  
2       State under this subsection during such period shall  
3       be deemed to have been made by the State; and

4           “(ii) no interest shall accrue during such period  
5       on any advance or advances made under section  
6       1201 to a State.

7       “(B) The provisions of subparagraph (A) shall have  
8       no effect on the requirement for interest payments under  
9       this subsection after the period described in such subpara-  
10      graph or on the accrual of interest under this subsection  
11      after such period.”.

12   **SEC. 2005. FULL FEDERAL FUNDING OF EXTENDED UNEM-**  
13                   **PLOYMENT COMPENSATION FOR A LIMITED**  
14                   **PERIOD.**

15       (a) IN GENERAL.—In the case of sharable extended  
16      compensation and sharable regular compensation paid for  
17      weeks of unemployment beginning after the date of the  
18      enactment of this section and before January 1, 2010, sec-  
19      tion 204(a)(1) of the Federal-State Extended Unemploy-  
20      ment Compensation Act of 1970 (26 U.S.C. 3304 note)  
21      shall be applied by substituting “100 percent of” for “one-  
22      half of”.

23       (b) SPECIAL RULE.—At the option of a State, for  
24      any weeks of unemployment beginning after the date of  
25      the enactment of this section and before January 1, 2010,

1 an individual's eligibility period (as described in section  
2 203(c) of the Federal-State Extended Unemployment  
3 Compensation Act of 1970) shall, for purposes of any de-  
4 termination of eligibility for extended compensation under  
5 the State law of such State, be considered to include any  
6 week which begins—

7 (1) after the date as of which such individual  
8 exhausts all rights to emergency unemployment com-  
9 pensation; and

10 (2) during an extended benefit period that  
11 began on or before the date described in paragraph  
12 (1).

13 (c) LIMITED EXTENSION.—In the case of an indi-  
14 vidual who receives extended compensation with respect to  
15 1 or more weeks of unemployment beginning after the date  
16 of the enactment of this Act and before January 1, 2010,  
17 the provisions of subsections (a) and (b) shall, at the op-  
18 tion of a State, be applied by substituting “ending before  
19 June 1, 2010” for “before January 1, 2010”.

20 (d) EXTENSION OF TEMPORARY FEDERAL MATCH-  
21 ING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR  
22 STATES WITH NO WAITING WEEK.—

23 (1) IN GENERAL.—Section 5 of the Unemploy-  
24 ment Compensation Extension Act of 2008 (Public

1 Law 110–449) is amended by striking “December 8,  
2 2009” and inserting “May 30, 2010”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) shall take effect as if included in  
5 the enactment of the Unemployment Compensation  
6 Extension Act of 2008 (Public Law 110–449).

7 (e) DEFINITIONS.—For purposes of this section—

8 (1) the terms “sharable extended compensa-  
9 tion” and “sharable regular compensation” have the  
10 respective meanings given such terms under section  
11 204 of the Federal-State Extended Unemployment  
12 Compensation Act of 1970;

13 (2) the terms “extended compensation”,  
14 “State”, “State law”, and “week” have the respec-  
15 tive meanings given such terms under section 205 of  
16 the Federal-State Extended Unemployment Com-  
17 pensation Act of 1970;

18 (3) the term “emergency unemployment com-  
19 pensation” means benefits payable to individuals  
20 under title IV of the Supplemental Appropriations  
21 Act, 2008 with respect to their unemployment; and

22 (4) the term “extended benefit period” means  
23 an extended benefit period as determined in accord-  
24 ance with applicable provisions of the Federal-State

1      Extended Unemployment Compensation Act of  
2      1970.

(f) REGULATIONS.—The Secretary of Labor may pre-  
scribe any operating instructions or regulations necessary  
to carry out this section.

6 SEC. 2006. TEMPORARY INCREASE IN EXTENDED UNEM-  
7 PLOYMENT BENEFITS UNDER THE RAILROAD  
8 UNEMPLOYMENT INSURANCE ACT.

9 (a) IN GENERAL.—Section 2(c)(2) of the Railroad  
10 Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is  
11 amended by adding at the end the following:

12 “(D) TEMPORARY INCREASE IN EXTENDED  
13 UNEMPLOYMENT BENEFITS.—

14 “(i) EMPLOYEES WITH 10 OR MORE  
15 YEARS OF SERVICE.—Subject to clause  
16 (iii), in the case of an employee who has  
17 10 or more years of service (as so defined),  
18 with respect to extended unemployment  
19 benefits—

20 “(I) subparagraph (A) shall be  
21 applied by substituting ‘130 days of  
22 unemployment’ for ‘65 days of unem-  
23 ployment’; and

24 “(II) subparagraph (B) shall be  
25 applied by inserting ‘(or, in the case



1 of unemployment benefits, 13 con-  
2 secutive 14-day periods)' after '7 con-  
3 secutive 14-day periods'.

4 “(ii) EMPLOYEES WITH LESS THAN 10  
5 YEARS OF SERVICE.—Subject to clause  
6 (iii), in the case of an employee who has  
7 less than 10 years of service (as so de-  
8 fined), with respect to extended unemploy-  
9 ment benefits, this paragraph shall apply  
10 to such an employee in the same manner  
11 as this paragraph would apply to an em-  
12 ployee described in clause (i) if such clause  
13 had not been enacted.

14 “(iii) APPLICATION.—The provisions  
15 of clauses (i) and (ii) shall apply to an em-  
16 ployee who received normal benefits for  
17 days of unemployment under this Act dur-  
18 ing the period beginning July 1, 2008, and  
19 ending on June 30, 2009, except that no  
20 extended benefit period under this para-  
21 graph shall begin after December 31,  
22 2009. Notwithstanding the preceding sen-  
23 tence, no benefits shall be payable under  
24 this subparagraph and clauses (i) and (ii)  
25 shall no longer be applicable upon the ex-

1           haustion of the funds appropriated under  
2           clause (iv) for payment of benefits under  
3           this subparagraph.

4           “(iv) APPROPRIATION.—Out of any  
5           funds in the Treasury not otherwise appro-  
6           priated, there are appropriated  
7           \$20,000,000 to cover the cost of additional  
8           extended unemployment benefits provided  
9           under this subparagraph, to remain avail-  
10          able until expended.”.

11       (b) FUNDING FOR ADMINISTRATION.—Out of any  
12       funds in the Treasury not otherwise appropriated, there  
13       are appropriated to the Railroad Retirement Board  
14       \$80,000 to cover the administrative expenses associated  
15       with the payment of additional extended unemployment  
16       benefits under section 2(c)(2)(D) of the Railroad Unem-  
17       ployment Insurance Act, as added by subsection (a), to  
18       remain available until expended.

19                   **Subtitle B—Assistance for**  
20                   **Vulnerable Individuals**

21       **SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.**

22       (a) TEMPORARY FUND.—

23           (1) IN GENERAL.—Section 403 of the Social  
24       Security Act (42 U.S.C. 603) is amended by adding  
25       at the end the following:

1       “(c) EMERGENCY FUND.—

2               “(1) ESTABLISHMENT.—There is established in  
3       the Treasury of the United States a fund which  
4       shall be known as the ‘Emergency Contingency  
5       Fund for State Temporary Assistance for Needy  
6       Families Programs’ (in this subsection referred to as  
7       the ‘Emergency Fund’).

8               “(2) DEPOSITS INTO FUND.—

9               “(A) IN GENERAL.—Out of any money in  
10       the Treasury of the United States not otherwise  
11       appropriated, there are appropriated for fiscal  
12       year 2009, \$5,000,000,000 for payment to the  
13       Emergency Fund.

14               “(B) AVAILABILITY AND USE OF FUNDS.—  
15       The amounts appropriated to the Emergency  
16       Fund under subparagraph (A) shall remain  
17       available through fiscal year 2010 and shall be  
18       used to make grants to States in each of fiscal  
19       years 2009 and 2010 in accordance with the re-  
20       quirements of paragraph (3).

21               “(C) LIMITATION.—In no case may the  
22       Secretary make a grant from the Emergency  
23       Fund for a fiscal year after fiscal year 2010.

24               “(3) GRANTS.—

1                   “(A) GRANT RELATED TO CASELOAD IN-  
2 CREASES.—

3                   “(i) IN GENERAL.—For each calendar  
4 quarter in fiscal year 2009 or 2010, the  
5 Secretary shall make a grant from the  
6 Emergency Fund to each State that—

7                   “(I) requests a grant under this  
8 subparagraph for the quarter; and

9                   “(II) meets the requirement of  
10 clause (ii) for the quarter.

11                  “(ii) CASELOAD INCREASE REQUIRE-  
12 MENT.—A State meets the requirement of  
13 this clause for a quarter if the average  
14 monthly assistance caseload of the State  
15 for the quarter exceeds the average month-  
16 ly assistance caseload of the State for the  
17 corresponding quarter in the emergency  
18 fund base year of the State.

19                  “(iii) AMOUNT OF GRANT.—Subject to  
20 paragraph (5), the amount of the grant to  
21 be made to a State under this subpara-  
22 graph for a quarter shall be an amount  
23 equal to 80 percent of the amount (if any)  
24 by which the total expenditures of the  
25 State for basic assistance (as defined by

1 the Secretary) in the quarter, whether  
2 under the State program funded under this  
3 part or as qualified State expenditures, ex-  
4 ceeds the total expenditures of the State  
5 for such assistance for the corresponding  
6 quarter in the emergency fund base year of  
7 the State.

8 “(B) GRANT RELATED TO INCREASED EX-  
9 PENDITURES FOR NON-RECURRENT SHORT  
10 TERM BENEFITS.—

11 “(i) IN GENERAL.—For each calendar  
12 quarter in fiscal year 2009 or 2010, the  
13 Secretary shall make a grant from the  
14 Emergency Fund to each State that—

15 “(I) requests a grant under this  
16 subparagraph for the quarter; and

17 “(II) meets the requirement of  
18 clause (ii) for the quarter.

19 “(ii) NON-RECURRENT SHORT TERM  
20 EXPENDITURE REQUIREMENT.—A State  
21 meets the requirement of this clause for a  
22 quarter if the total expenditures of the  
23 State for non-recurrent short term benefits  
24 in the quarter, whether under the State  
25 program funded under this part or as

1 qualified State expenditures, exceeds the  
2 total expenditures of the State for non-re-  
3 current short term benefits in the cor-  
4 responding quarter in the emergency fund  
5 base year of the State.

6 “(iii) AMOUNT OF GRANT.—Subject to  
7 paragraph (5), the amount of the grant to  
8 be made to a State under this subpara-  
9 graph for a quarter shall be an amount  
10 equal to 80 percent of the excess described  
11 in clause (ii).

12 “(C) GRANT RELATED TO INCREASED EX-  
13 PENDITURES FOR SUBSIDIZED EMPLOYMENT.—

14 “(i) IN GENERAL.—For each calendar  
15 quarter in fiscal year 2009 or 2010, the  
16 Secretary shall make a grant from the  
17 Emergency Fund to each State that—

18 “(I) requests a grant under this  
19 subparagraph for the quarter; and

20 “(II) meets the requirement of  
21 clause (ii) for the quarter.

22 “(ii) SUBSIDIZED EMPLOYMENT EX-  
23 PENDITURE REQUIREMENT.—A State  
24 meets the requirement of this clause for a  
25 quarter if the total expenditures of the

1 State for subsidized employment in the  
2 quarter, whether under the State program  
3 funded under this part or as qualified  
4 State expenditures, exceeds the total such  
5 expenditures of the State in the cor-  
6 responding quarter in the emergency fund  
7 base year of the State.

8 “(iii) AMOUNT OF GRANT.—Subject to  
9 paragraph (5), the amount of the grant to  
10 be made to a State under this subpara-  
11 graph for a quarter shall be an amount  
12 equal to 80 percent of the excess described  
13 in clause (ii).

14 “(4) AUTHORITY TO MAKE NECESSARY ADJUST-  
15 MENTS TO DATA AND COLLECT NEEDED DATA.—In  
16 determining the size of the caseload of a State and  
17 the expenditures of a State for basic assistance, non-  
18 recurrent short-term benefits, and subsidized em-  
19 ployment, during any period for which the State re-  
20 quests funds under this subsection, and during the  
21 emergency fund base year of the State, the Sec-  
22 retary may make appropriate adjustments to the  
23 data, on a State-by-State basis, to ensure that the  
24 data are comparable with respect to the groups of  
25 families served and the types of aid provided. The

1 Secretary may develop a mechanism for collecting  
2 expenditure data, including procedures which allow  
3 States to make reasonable estimates, and may set  
4 deadlines for making revisions to the data.

5 “(5) LIMITATION.—The total amount payable  
6 to a single State under subsection (b) and this sub-  
7 section for fiscal years 2009 and 2010 combined  
8 shall not exceed 50 percent of the annual State fam-  
9 ily assistance grant.

10 “(6) LIMITATIONS ON USE OF FUNDS.—A State  
11 to which an amount is paid under this subsection  
12 may use the amount only as authorized by section  
13 404.

14 “(7) TIMING OF IMPLEMENTATION.—The Sec-  
15 retary shall implement this subsection as quickly as  
16 reasonably possible, pursuant to appropriate guid-  
17 ance to States.

18 “(8) APPLICATION TO INDIAN TRIBES.—This  
19 subsection shall apply to an Indian tribe with an ap-  
20 proved tribal family assistance plan under section  
21 412 in the same manner as this subsection applies  
22 to a State.

23 “(9) DEFINITIONS.—In this subsection:

24 “(A) AVERAGE MONTHLY ASSISTANCE  
25 CASELOAD DEFINED.—The term ‘average



1 monthly assistance caseload' means, with re-  
2 spect to a State and a quarter, the number of  
3 families receiving assistance during the quarter  
4 under the State program funded under this  
5 part or as qualified State expenditures, subject  
6 to adjustment under paragraph (4).

7 “(B) EMERGENCY FUND BASE YEAR.—

8 “(i) IN GENERAL.—The term ‘emer-  
9 gency fund base year’ means, with respect  
10 to a State and a category described in  
11 clause (ii), whichever of fiscal year 2007 or  
12 2008 is the fiscal year in which the  
13 amount described by the category with re-  
14 spect to the State is the lesser.

15 “(ii) CATEGORIES DESCRIBED.—The  
16 categories described in this clause are the  
17 following:

18 “(I) The average monthly assist-  
19 ance caseload of the State.

20 “(II) The total expenditures of  
21 the State for non-recurrent short term  
22 benefits, whether under the State pro-  
23 gram funded under this part or as  
24 qualified State expenditures.

1                   “(III) The total expenditures of  
2                   the State for subsidized employment,  
3                   whether under the State program  
4                   funded under this part or as qualified  
5                   State expenditures.

6                   “(C) QUALIFIED STATE EXPENDITURES.—  
7                   The term ‘qualified State expenditures’ has the  
8                   meaning given the term in section 409(a)(7).”.

9                   (2) REPEAL.—Effective October 1, 2010, sub-  
10                  section (c) of section 403 of the Social Security Act  
11                  (42 U.S.C. 603) (as added by paragraph (1)) is re-  
12                  pealed, except that paragraph (9) of such subsection  
13                  shall remain in effect until October 1, 2011, but  
14                  only with respect to section 407(b)(3)(A)(i) of such  
15                  Act.

16                  (b) TEMPORARY MODIFICATION OF CASELOAD RE-  
17                  DUCTION CREDIT.—Section 407(b)(3)(A)(i) of such Act  
18                  (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting “(or  
19                  if the immediately preceding fiscal year is fiscal year 2008,  
20                  2009, or 2010, then, at State option, during the emer-  
21                  gency fund base year of the State with respect to the aver-  
22                  age monthly assistance caseload of the State (within the  
23                  meaning of section 403(c)(9)), except that, if a State  
24                  elects such option for fiscal year 2008, the emergency fund

1 base year of the State with respect to such caseload shall  
2 be fiscal year 2007))” before “under the State”.

3 (c) DISREGARD FROM LIMITATION ON TOTAL PAY-  
4 MENTS TO TERRITORIES.—Section 1108(a)(2) of the So-  
5 cial Security Act (42 U.S.C. 1308(a)(2)) is amended by  
6 inserting “403(c)(3),” after “403(a)(5),”.

7 (d) SUNSET OF OTHER TEMPORARY PROVISIONS.—

8 (1) DISREGARD FROM LIMITATION ON TOTAL  
9 PAYMENTS TO TERRITORIES.—Effective October 1,  
10 2010, section 1108(a)(2) of the Social Security Act  
11 (42 U.S.C. 1308(a)(2)) is amended by striking  
12 “403(c)(3),” (as added by subsection (c)).

13 (2) CASELOAD REDUCTION CREDIT.—Effective  
14 October 1, 2011, section 407(b)(3)(A)(i) of such Act  
15 (42 U.S.C. 607(b)(3)(A)(i)) is amended by striking  
16 “(or if the immediately preceding fiscal year is fiscal  
17 year 2008, 2009, or 2010, then, at State option,  
18 during the emergency fund base year of the State  
19 with respect to the average monthly assistance case-  
20 load of the State (within the meaning of section  
21 403(c)(9)), except that, if a State elects such option  
22 for fiscal year 2008, the emergency fund base year  
23 of the State with respect to such caseload shall be  
24 fiscal year 2007))” (as added by subsection (b)).

1 **SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.**

2 (a) **EXTENSION THROUGH FISCAL YEAR 2010.**—Sec-  
3 tion 7101(a) of the Deficit Reduction Act of 2005 (Public  
4 Law 109–171; 120 Stat. 135), as amended by section  
5 301(a) of the Medicare Improvements for Patients and  
6 Providers Act of 2008 (Public Law 110–275), is amended  
7 by striking “fiscal year 2009” and inserting “fiscal year  
8 2010”.

9 (b) **CONFORMING AMENDMENT.**—Section  
10 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C.  
11 603(a)(3)(H)(ii)) is amended to read as follows:

12 “(ii) subparagraph (G) shall be ap-  
13 plied as if ‘fiscal year 2010’ were sub-  
14 stituted for ‘fiscal year 2001’; and”.

15 **SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO**  
16 **USE TANF FUNDS CARRIED OVER FROM**  
17 **PRIOR YEARS TO PROVIDE TANF BENEFITS**  
18 **AND SERVICES.**

19 Section 404(e) of the Social Security Act (42 U.S.C.  
20 604(e)) is amended to read as follows:

21 “(e) **AUTHORITY TO CARRY OVER CERTAIN**  
22 **AMOUNTS FOR BENEFITS OR SERVICES OR FOR FUTURE**  
23 **CONTINGENCIES.**—A State or tribe may use a grant made  
24 to the State or tribe under this part for any fiscal year  
25 to provide, without fiscal year limitation, any benefit or

1 service that may be provided under the State or tribal pro-  
2 gram funded under this part.”.

3 **SEC. 2104. TEMPORARY RESUMPTION OF PRIOR CHILD**  
4 **SUPPORT LAW.**

5 During the period that begins on October 1, 2008,  
6 and ends on September 30, 2010, section 455(a)(1) of the  
7 Social Security Act (42 U.S.C. 655(a)(1)) shall be applied  
8 and administered as if the phrase “from amounts paid to  
9 the State under section 458 or” does not appear in such  
10 section.

11 **Subtitle C—Economic Recovery**  
12 **Payments to Certain Individuals**

13 **SEC. 2201. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS**  
14 **OF SOCIAL SECURITY, SUPPLEMENTAL SECU-**  
15 **RITY INCOME, RAILROAD RETIREMENT BENE-**  
16 **FITS, AND VETERANS DISABILITY COMPENSA-**  
17 **TION OR PENSION BENEFITS.**

18 (a) AUTHORITY TO MAKE PAYMENTS.—

19 (1) ELIGIBILITY.—

20 (A) IN GENERAL.—Subject to paragraph  
21 (5)(B), the Secretary of the Treasury shall dis-  
22 burse a \$250 payment to each individual who,  
23 for any month during the 3-month period end-  
24 ing with the month which ends prior to the  
25 month that includes the date of the enactment

1 of this Act, is entitled to a benefit payment de-  
2 scribed in clause (i), (ii), or (iii) of subpara-  
3 graph (B) or is eligible for a SSI cash benefit  
4 described in subparagraph (C).

5 (B) BENEFIT PAYMENT DESCRIBED.—For  
6 purposes of subparagraph (A):

7 (i) TITLE II BENEFIT.—A benefit pay-  
8 ment described in this clause is a monthly  
9 insurance benefit payable (without regard  
10 to sections 202(j)(1) and 223(b) of the So-  
11 cial Security Act (42 U.S.C. 402(j)(1),  
12 423(b)) under—

13 (I) section 202(a) of such Act  
14 (42 U.S.C. 402(a));

15 (II) section 202(b) of such Act  
16 (42 U.S.C. 402(b));

17 (III) section 202(c) of such Act  
18 (42 U.S.C. 402(c));

19 (IV) section 202(d)(1)(B)(ii) of  
20 such Act (42 U.S.C.  
21 402(d)(1)(B)(ii));

22 (V) section 202(e) of such Act  
23 (42 U.S.C. 402(e));

24 (VI) section 202(f) of such Act  
25 (42 U.S.C. 402(f));

1 (VII) section 202(g) of such Act  
2 (42 U.S.C. 402(g));

3 (VIII) section 202(h) of such Act  
4 (42 U.S.C. 402(h));

5 (IX) section 223(a) of such Act  
6 (42 U.S.C. 423(a));

7 (X) section 227 of such Act (42  
8 U.S.C. 427); or

9 (XI) section 228 of such Act (42  
10 U.S.C. 428).

11 (ii) RAILROAD RETIREMENT BEN-  
12 EFIT.—A benefit payment described in this  
13 clause is a monthly annuity or pension  
14 payment payable (without regard to section  
15 5(a)(ii) of the Railroad Retirement Act of  
16 1974 (45 U.S.C. 231d(a)(ii))) under—

17 (I) section 2(a)(1) of such Act  
18 (45 U.S.C. 231a(a)(1));

19 (II) section 2(c) of such Act (45  
20 U.S.C. 231a(c));

21 (III) section 2(d)(1)(i) of such  
22 Act (45 U.S.C. 231a(d)(1)(i));

23 (IV) section 2(d)(1)(ii) of such  
24 Act (45 U.S.C. 231a(d)(1)(ii));

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1 (V) section 2(d)(1)(iii)(C) of such  
2 Act to an adult disabled child (45  
3 U.S.C. 231a(d)(1)(iii)(C));

4 (VI) section 2(d)(1)(iv) of such  
5 Act (45 U.S.C. 231a(d)(1)(iv));

6 (VII) section 2(d)(1)(v) of such  
7 Act (45 U.S.C. 231a(d)(1)(v)); or

8 (VIII) section 7(b)(2) of such Act  
9 (45 U.S.C. 231f(b)(2)) with respect to  
10 any of the benefit payments described  
11 in clause (i) of this subparagraph.

12 (iii) VETERANS BENEFIT.—A benefit  
13 payment described in this clause is a com-  
14 pensation or pension payment payable  
15 under—

16 (I) section 1110, 1117, 1121,  
17 1131, 1141, or 1151 of title 38,  
18 United States Code;

19 (II) section 1310, 1312, 1313,  
20 1315, 1316, or 1318 of title 38,  
21 United States Code;

22 (III) section 1513, 1521, 1533,  
23 1536, 1537, 1541, 1542, or 1562 of  
24 title 38, United States Code; or



1 (IV) section 1805, 1815, or 1821  
2 of title 38, United States Code,  
3 to a veteran, surviving spouse, child, or  
4 parent as described in paragraph (2), (3),  
5 (4)(A)(ii), or (5) of section 101, title 38,  
6 United States Code, who received that ben-  
7 efit during any month within the 3 month  
8 period ending with the month which ends  
9 prior to the month that includes the date  
10 of the enactment of this Act.

11 (C) SSI CASH BENEFIT DESCRIBED.—A  
12 SSI cash benefit described in this subparagraph  
13 is a cash benefit payable under section 1611  
14 (other than under subsection (e)(1)(B) of such  
15 section) or 1619(a) of the Social Security Act  
16 (42 U.S.C. 1382, 1382h).

17 (2) REQUIREMENT.—A payment shall be made  
18 under paragraph (1) only to individuals who reside  
19 in 1 of the 50 States, the District of Columbia,  
20 Puerto Rico, Guam, the United States Virgin Is-  
21 lands, American Samoa, or the Northern Mariana  
22 Islands. For purposes of the preceding sentence, the  
23 determination of the individual's residence shall be  
24 based on the current address of record under a pro-  
25 gram specified in paragraph (1).

1           (3) NO DOUBLE PAYMENTS.—An individual  
2 shall be paid only 1 payment under this section, re-  
3 gardless of whether the individual is entitled to, or  
4 eligible for, more than 1 benefit or cash payment de-  
5 scribed in paragraph (1).

6           (4) LIMITATION.—A payment under this section  
7 shall not be made—

8           (A) in the case of an individual entitled to  
9 a benefit specified in paragraph (1)(B)(i) or  
10 paragraph (1)(B)(ii)(VIII) if, for the most re-  
11 cent month of such individual's entitlement in  
12 the 3-month period described in paragraph (1),  
13 such individual's benefit under such paragraph  
14 was not payable by reason of subsection (x) or  
15 (y) of section 202 the Social Security Act (42  
16 U.S.C. 402) or section 1129A of such Act (42  
17 U.S.C. 1320a-8a);

18           (B) in the case of an individual entitled to  
19 a benefit specified in paragraph (1)(B)(iii) if,  
20 for the most recent month of such individual's  
21 entitlement in the 3 month period described in  
22 paragraph (1), such individual's benefit under  
23 such paragraph was not payable, or was re-  
24 duced, by reason of section 1505, 5313, or  
25 5313B of title 38, United States Code;

1 (C) in the case of an individual entitled to  
2 a benefit specified in paragraph (1)(C) if, for  
3 such most recent month, such individual's ben-  
4 efit under such paragraph was not payable by  
5 reason of subsection (e)(1)(A) or (e)(4) of sec-  
6 tion 1611 (42 U.S.C. 1382) or section 1129A  
7 of such Act (42 U.S.C. 1320a-8a); or

8 (D) in the case of any individual whose  
9 date of death occurs before the date on which  
10 the individual is certified under subsection (b)  
11 to receive a payment under this section.

12 (5) TIMING AND MANNER OF PAYMENTS.—

13 (A) IN GENERAL.—The Secretary of the  
14 Treasury shall commence disbursing payments  
15 under this section at the earliest practicable  
16 date but in no event later than 120 days after  
17 the date of enactment of this Act. The Sec-  
18 retary of the Treasury may disburse any pay-  
19 ment electronically to an individual in such  
20 manner as if such payment was a benefit pay-  
21 ment or cash benefit to such individual under  
22 the applicable program described in subpara-  
23 graph (B) or (C) of paragraph (1).

24 (B) DEADLINE.—No payments shall be  
25 disbursed under this section after December 31,

1           2010, regardless of any determinations of enti-  
2           tlement to, or eligibility for, such payments  
3           made after such date.

4           (b) IDENTIFICATION OF RECIPIENTS.—The Commis-  
5           sioner of Social Security, the Railroad Retirement Board,  
6           and the Secretary of Veterans Affairs shall certify the in-  
7           dividuals entitled to receive payments under this section  
8           and provide the Secretary of the Treasury with the infor-  
9           mation needed to disburse such payments. A certification  
10          of an individual shall be unaffected by any subsequent de-  
11          termination or redetermination of the individual's entitle-  
12          ment to, or eligibility for, a benefit specified in subpara-  
13          graph (B) or (C) of subsection (a)(1).

14          (c) TREATMENT OF PAYMENTS.—

15               (1) PAYMENT TO BE DISREGARDED FOR PUR-  
16               POSES OF ALL FEDERAL AND FEDERALLY ASSISTED  
17               PROGRAMS.—A payment under subsection (a) shall  
18               not be regarded as income and shall not be regarded  
19               as a resource for the month of receipt and the fol-  
20               lowing 9 months, for purposes of determining the  
21               eligibility of the recipient (or the recipient's spouse  
22               or family) for benefits or assistance, or the amount  
23               or extent of benefits or assistance, under any Fed-  
24               eral program or under any State or local program fi-  
25               nanced in whole or in part with Federal funds.

1           (2) PAYMENT NOT CONSIDERED INCOME FOR  
2           PURPOSES OF TAXATION.—A payment under sub-  
3           section (a) shall not be considered as gross income  
4           for purposes of the Internal Revenue Code of 1986.

5           (3) PAYMENTS PROTECTED FROM ASSIGN-  
6           MENT.—The provisions of sections 207 and  
7           1631(d)(1) of the Social Security Act (42 U.S.C.  
8           407, 1383(d)(1)), section 14(a) of the Railroad Re-  
9           tirement Act of 1974 (45 U.S.C. 231m(a)), and sec-  
10          tion 5301 of title 38, United States Code, shall  
11          apply to any payment made under subsection (a) as  
12          if such payment was a benefit payment or cash ben-  
13          efit to such individual under the applicable program  
14          described in subparagraph (B) or (C) of subsection  
15          (a)(1).

16          (4) PAYMENTS SUBJECT TO OFFSET.—Notwith-  
17          standing paragraph (3), for purposes of section  
18          3716 of title 31, United States Code, any payment  
19          made under this section shall not be considered a  
20          benefit payment or cash benefit made under the ap-  
21          plicable program described in subparagraph (B) or  
22          (C) of subsection (a)(1) and all amounts paid shall  
23          be subject to offset to collect delinquent debts.

24          (d) PAYMENT TO REPRESENTATIVE PAYEES AND FI-  
25          DUCIARIES.—

1           (1) IN GENERAL.—In any case in which an in-  
2       dividual who is entitled to a payment under sub-  
3       section (a) and whose benefit payment or cash ben-  
4       efit described in paragraph (1) of that subsection is  
5       paid to a representative payee or fiduciary, the pay-  
6       ment under subsection (a) shall be made to the indi-  
7       vidual's representative payee or fiduciary and the en-  
8       tire payment shall be used only for the benefit of the  
9       individual who is entitled to the payment.

10           (2) APPLICABILITY.—

11           (A) PAYMENT ON THE BASIS OF A TITLE  
12       II OR SSI BENEFIT.—Section 1129(a)(3) of the  
13       Social Security Act (42 U.S.C. 1320a-8(a)(3))  
14       shall apply to any payment made on the basis  
15       of an entitlement to a benefit specified in para-  
16       graph (1)(B)(i) or (1)(C) of subsection (a) in  
17       the same manner as such section applies to a  
18       payment under title II or XVI of such Act.

19           (B) PAYMENT ON THE BASIS OF A RAIL-  
20       ROAD RETIREMENT BENEFIT.—Section 13 of  
21       the Railroad Retirement Act (45 U.S.C. 2311)  
22       shall apply to any payment made on the basis  
23       of an entitlement to a benefit specified in para-  
24       graph (1)(B)(ii) of subsection (a) in the same

1 manner as such section applies to a payment  
2 under such Act.

3 (C) PAYMENT ON THE BASIS OF A VET-  
4 ERANS BENEFIT.—Sections 5502, 6106, and  
5 6108 of title 38, United States Code, shall  
6 apply to any payment made on the basis of an  
7 entitlement to a benefit specified in paragraph  
8 (1)(B)(iii) of subsection (a) in the same manner  
9 as those sections apply to a payment under that  
10 title.

11 (e) APPROPRIATION.—Out of any sums in the Treas-  
12 ury of the United States not otherwise appropriated, the  
13 following sums are appropriated for the period of fiscal  
14 years 2009 through 2011, to remain available until ex-  
15 pended, to carry out this section:

16 (1) For the Secretary of the Treasury,  
17 \$131,000,000 for administrative costs incurred in  
18 carrying out this section, section 2202, section 36A  
19 of the Internal Revenue Code of 1986 (as added by  
20 this Act), and other provisions of this Act or the  
21 amendments made by this Act relating to the Inter-  
22 nal Revenue Code of 1986.

23 (2) For the Commissioner of Social Security—

24 (A) such sums as may be necessary for  
25 payments to individuals certified by the Com-

1           missioner of Social Security as entitled to re-  
2           ceive a payment under this section; and

3                   (B) \$90,000,000 for the Social Security  
4           Administration's Limitation on Administrative  
5           Expenses for costs incurred in carrying out this  
6           section.

7           (3) For the Railroad Retirement Board—

8                   (A) such sums as may be necessary for  
9           payments to individuals certified by the Rail-  
10          road Retirement Board as entitled to receive a  
11          payment under this section; and

12                   (B) \$1,400,000 to the Railroad Retirement  
13          Board's Limitation on Administration for ad-  
14          ministrative costs incurred in carrying out this  
15          section.

16          (4)(A) For the Secretary of Veterans Affairs—

17                   (i) such sums as may be necessary for  
18           the Compensation and Pensions account,  
19           for payments to individuals certified by the  
20           Secretary of Veterans Affairs as entitled to  
21           receive a payment under this section; and

22                   (ii) \$100,000 for the Information Sys-  
23           tems Technology account and \$7,100,000  
24           for the General Operating Expenses ac-



1 count for administrative costs incurred in  
2 carrying out this section.

3 (B) The Department of Veterans Affairs Com-  
4 pensation and Pensions account shall hereinafter be  
5 available for payments authorized under subsection  
6 (a)(1)(A) to individuals entitled to a benefit payment  
7 described in subsection (a)(1)(B)(iii).

8 **SEC. 2202. SPECIAL CREDIT FOR CERTAIN GOVERNMENT**  
9 **RETIREES.**

10 (a) IN GENERAL.—In the case of an eligible indi-  
11 vidual, there shall be allowed as a credit against the tax  
12 imposed by subtitle A of the Internal Revenue Code of  
13 1986 for the first taxable year beginning in 2009 an  
14 amount equal \$250 (\$500 in the case of a joint return  
15 where both spouses are eligible individuals).

16 (b) ELIGIBLE INDIVIDUAL.—For purposes of this  
17 section—

18 (1) IN GENERAL.—The term “eligible indi-  
19 vidual” means any individual—

20 (A) who receives during the first taxable  
21 year beginning in 2009 any amount as a pen-  
22 sion or annuity for service performed in the em-  
23 ploy of the United States or any State, or any  
24 instrumentality thereof, which is not considered

1 employment for purposes of chapter 21 of the  
2 Internal Revenue Code of 1986, and

3 (B) who does not receive a payment under  
4 section 2201 during such taxable year.

5 (2) IDENTIFICATION NUMBER REQUIREMENT.—

6 Such term shall not include any individual who does  
7 not include on the return of tax for the taxable  
8 year—

9 (A) such individual's social security ac-  
10 count number, and

11 (B) in the case of a joint return, the social  
12 security account number of one of the taxpayers  
13 on such return.

14 For purposes of the preceding sentence, the social  
15 security account number shall not include a TIN (as  
16 defined in section 7701(a)(41) of the Internal Rev-  
17 enue Code of 1986) issued by the Internal Revenue  
18 Service. Any omission of a correct social security ac-  
19 count number required under this subparagraph  
20 shall be treated as a mathematical or clerical error  
21 for purposes of applying section 6213(g)(2) of such  
22 Code to such omission.

23 (c) TREATMENT OF CREDIT.—

24 (1) REFUNDABLE CREDIT.—

1 (A) IN GENERAL.—The credit allowed by  
2 subsection (a) shall be treated as allowed by  
3 subpart C of part IV of subchapter A of chap-  
4 ter 1 of the Internal Revenue Code of 1986.

5 (B) APPROPRIATIONS.—For purposes of  
6 section 1324(b)(2) of title 31, United States  
7 Code, the credit allowed by subsection (a) shall  
8 be treated in the same manner a refund from  
9 the credit allowed under section 36A of the In-  
10 ternal Revenue Code of 1986 (as added by this  
11 Act).

12 (2) DEFICIENCY RULES.—For purposes of sec-  
13 tion 6211(b)(4)(A) of the Internal Revenue Code of  
14 1986, the credit allowable by subsection (a) shall be  
15 treated in the same manner as the credit allowable  
16 under section 36A of the Internal Revenue Code of  
17 1986 (as added by this Act).

18 (d) REFUNDS DISREGARDED IN THE ADMINISTRA-  
19 TION OF FEDERAL PROGRAMS AND FEDERALLY AS-  
20 SISTED PROGRAMS.—Any credit or refund allowed or  
21 made to any individual by reason of this section shall not  
22 be taken into account as income and shall not be taken  
23 into account as resources for the month of receipt and the  
24 following 2 months, for purposes of determining the eligi-  
25 bility of such individual or any other individual for benefits

1 or assistance, or the amount or extent of benefits or assist-  
2 ance, under any Federal program or under any State or  
3 local program financed in whole or in part with Federal  
4 funds.

## 5 **TITLE III—PREMIUM ASSIST-** 6 **ANCE FOR COBRA BENEFITS**

### 7 **SEC. 3000. TABLE OF CONTENTS.**

8 The table of contents of this title is as follows:

#### TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

Sec. 3000. Table of contents.

Sec. 3001. Premium assistance for COBRA benefits.

### 9 **SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.**

10 (a) PREMIUM ASSISTANCE FOR COBRA CONTINU-  
11 ATION COVERAGE FOR INDIVIDUALS AND THEIR FAMI-  
12 LIES.—

13 (1) PROVISION OF PREMIUM ASSISTANCE.—

14 (A) REDUCTION OF PREMIUMS PAY-  
15 ABLE.—In the case of any premium for a pe-  
16 riod of coverage beginning on or after the date  
17 of the enactment of this Act for COBRA con-  
18 tinuation coverage with respect to any assist-  
19 ance eligible individual, such individual shall be  
20 treated for purposes of any COBRA continu-  
21 ation provision as having paid the amount of  
22 such premium if such individual pays (or a per-  
23 son other than such individual's employer pays

1 on behalf of such individual) 35 percent of the  
2 amount of such premium (as determined with-  
3 out regard to this subsection).

4 (B) PLAN ENROLLMENT OPTION.—

5 (i) IN GENERAL.—Notwithstanding  
6 the COBRA continuation provisions, an as-  
7 sistance eligible individual may, not later  
8 than 90 days after the date of notice of the  
9 plan enrollment option described in this  
10 subparagraph, elect to enroll in coverage  
11 under a plan offered by the employer in-  
12 volved, or the employee organization in-  
13 volved (including, for this purpose, a joint  
14 board of trustees of a multiemployer trust  
15 affiliated with one or more multiemployer  
16 plans), that is different than coverage  
17 under the plan in which such individual  
18 was enrolled at the time the qualifying  
19 event occurred, and such coverage shall be  
20 treated as COBRA continuation coverage  
21 for purposes of the applicable COBRA con-  
22 tinuation coverage provision.

23 (ii) REQUIREMENTS.—An assistance  
24 eligible individual may elect to enroll in

1 different coverage as described in clause (i)  
2 only if—

3 (I) the employer involved has  
4 made a determination that such em-  
5 ployer will permit assistance eligible  
6 individuals to enroll in different cov-  
7 erage as provided for this subpara-  
8 graph;

9 (II) the premium for such dif-  
10 ferent coverage does not exceed the  
11 premium for coverage in which the in-  
12 dividual was enrolled at the time the  
13 qualifying event occurred;

14 (III) the different coverage in  
15 which the individual elects to enroll is  
16 coverage that is also offered to the ac-  
17 tive employees of the employer at the  
18 time at which such election is made;  
19 and

20 (IV) the different coverage is  
21 not—

22 (aa) coverage that provides  
23 only dental, vision, counseling, or  
24 referral services (or a combina-  
25 tion of such services);

1 (bb) a flexible spending ar-  
2 rangement (as defined in section  
3 106(c)(2) of the Internal Rev-  
4 enue Code of 1986); or

5 (cc) coverage that provides  
6 coverage for services or treat-  
7 ments furnished in an on-site  
8 medical facility maintained by  
9 the employer and that consists  
10 primarily of first-aid services,  
11 prevention and wellness care, or  
12 similar care (or a combination of  
13 such care).

14 (C) PREMIUM REIMBURSEMENT.—For pro-  
15 visions providing the balance of such premium,  
16 see section 6432 of the Internal Revenue Code  
17 of 1986, as added by paragraph (12).

18 (2) LIMITATION OF PERIOD OF PREMIUM AS-  
19 SISTANCE.—

20 (A) IN GENERAL.—Paragraph (1)(A) shall  
21 not apply with respect to any assistance eligible  
22 individual for months of coverage beginning on  
23 or after the earlier of—

24 (i) the first date that such individual  
25 is eligible for coverage under any other

1 group health plan (other than coverage  
2 consisting of only dental, vision, coun-  
3 seling, or referral services (or a combina-  
4 tion thereof), coverage under a flexible  
5 spending arrangement (as defined in sec-  
6 tion 106(c)(2) of the Internal Revenue  
7 Code of 1986), or coverage of treatment  
8 that is furnished in an on-site medical fa-  
9 cility maintained by the employer and that  
10 consists primarily of first-aid services, pre-  
11 vention and wellness care, or similar care  
12 (or a combination thereof)) or is eligible  
13 for benefits under title XVIII of the Social  
14 Security Act, or

15 (ii) the earliest of—

16 (I) the date which is 9 months  
17 after the first day of the first month  
18 that paragraph (1)(A) applies with re-  
19 spect to such individual,

20 (II) the date following the expira-  
21 tion of the maximum period of con-  
22 tinuation coverage required under the  
23 applicable COBRA continuation cov-  
24 erage provision, or



1 (III) the date following the expi-  
2 ration of the period of continuation  
3 coverage allowed under paragraph  
4 (4)(B)(ii).

5 (B) TIMING OF ELIGIBILITY FOR ADDI-  
6 TIONAL COVERAGE.—For purposes of subpara-  
7 graph (A)(i), an individual shall not be treated  
8 as eligible for coverage under a group health  
9 plan before the first date on which such indi-  
10 vidual could be covered under such plan.

11 (C) NOTIFICATION REQUIREMENT.—An  
12 assistance eligible individual shall notify in writ-  
13 ing the group health plan with respect to which  
14 paragraph (1)(A) applies if such paragraph  
15 ceases to apply by reason of subparagraph  
16 (A)(i). Such notice shall be provided to the  
17 group health plan in such time and manner as  
18 may be specified by the Secretary of Labor.

19 (3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For  
20 purposes of this section, the term “assistance eligible  
21 individual” means any qualified beneficiary if—

22 (A) at any time during the period that be-  
23 gins with September 1, 2008, and ends with  
24 December 31, 2009, such qualified beneficiary  
25 is eligible for COBRA continuation coverage,

1 (B) such qualified beneficiary elects such  
2 coverage, and

3 (C) the qualifying event with respect to the  
4 COBRA continuation coverage consists of the  
5 involuntary termination of the covered employ-  
6 ee's employment and occurred during such pe-  
7 riod.

8 (4) EXTENSION OF ELECTION PERIOD AND EF-  
9 FECT ON COVERAGE.—

10 (A) IN GENERAL.—For purposes of apply-  
11 ing section 605(a) of the Employee Retirement  
12 Income Security Act of 1974, section  
13 4980B(f)(5)(A) of the Internal Revenue Code  
14 of 1986, section 2205(a) of the Public Health  
15 Service Act, and section 8905a(c)(2) of title 5,  
16 United States Code, in the case of an individual  
17 who does not have an election of COBRA con-  
18 tinuation coverage in effect on the date of the  
19 enactment of this Act but who would be an as-  
20 sistance eligible individual if such election were  
21 so in effect, such individual may elect the  
22 COBRA continuation coverage under the  
23 COBRA continuation coverage provisions con-  
24 taining such sections during the period begin-  
25 ning on the date of the enactment of this Act

1 and ending 60 days after the date on which the  
2 notification required under paragraph (7)(C) is  
3 provided to such individual.

4 (B) COMMENCEMENT OF COVERAGE; NO  
5 REACH-BACK.—Any COBRA continuation cov-  
6 erage elected by a qualified beneficiary during  
7 an extended election period under subparagraph  
8 (A)—

9 (i) shall commence with the first pe-  
10 riod of coverage beginning on or after the  
11 date of the enactment of this Act, and

12 (ii) shall not extend beyond the period  
13 of COBRA continuation coverage that  
14 would have been required under the appli-  
15 cable COBRA continuation coverage provi-  
16 sion if the coverage had been elected as re-  
17 quired under such provision.

18 (C) PREEXISTING CONDITIONS.—With re-  
19 spect to a qualified beneficiary who elects  
20 COBRA continuation coverage pursuant to sub-  
21 paragraph (A), the period—

22 (i) beginning on the date of the quali-  
23 fying event, and

24 (ii) ending with the beginning of the  
25 period described in subparagraph (B)(i),

1           shall be disregarded for purposes of deter-  
2           mining the 63-day periods referred to in section  
3           701(c)(2) of the Employee Retirement Income  
4           Security Act of 1974, section 9801(c)(2) of the  
5           Internal Revenue Code of 1986, and section  
6           2701(c)(2) of the Public Health Service Act.

7           (5) EXPEDITED REVIEW OF DENIALS OF PRE-  
8           MIUM ASSISTANCE.—In any case in which an indi-  
9           vidual requests treatment as an assistance eligible  
10          individual and is denied such treatment by the group  
11          health plan, the Secretary of Labor (or the Sec-  
12          retary of Health and Human Services in connection  
13          with COBRA continuation coverage which is pro-  
14          vided other than pursuant to part 6 of subtitle B of  
15          title I of the Employee Retirement Income Security  
16          Act of 1974), in consultation with the Secretary of  
17          the Treasury, shall provide for expedited review of  
18          such denial. An individual shall be entitled to such  
19          review upon application to such Secretary in such  
20          form and manner as shall be provided by such Sec-  
21          retary. Such Secretary shall make a determination  
22          regarding such individual's eligibility within 15 busi-  
23          ness days after receipt of such individual's applica-  
24          tion for review under this paragraph. Either Sec-  
25          retary's determination upon review of the denial

1       shall be de novo and shall be the final determination  
2       of such Secretary. A reviewing court shall grant def-  
3       erence to such Secretary's determination. The provi-  
4       sions of this paragraph, paragraphs (1) through (4),  
5       and paragraph (7) shall be treated as provisions of  
6       title I of the Employee Retirement Income Security  
7       Act of 1974 for purposes of part 5 of subtitle B of  
8       such title.

9               (6) DISREGARD OF SUBSIDIES FOR PURPOSES  
10       OF FEDERAL AND STATE PROGRAMS.—Notwith-  
11       standing any other provision of law, any premium  
12       reduction with respect to an assistance eligible indi-  
13       vidual under this subsection shall not be considered  
14       income or resources in determining eligibility for, or  
15       the amount of assistance or benefits provided under,  
16       any other public benefit provided under Federal law  
17       or the law of any State or political subdivision there-  
18       of.

19               (7) NOTICES TO INDIVIDUALS.—

20               (A) GENERAL NOTICE.—

21                       (i) IN GENERAL.—In the case of no-  
22       tices provided under section 606(a)(4) of  
23       the Employee Retirement Income Security  
24       Act of 1974 (29 U.S.C. 1166(4)), section  
25       4980B(f)(6)(D) of the Internal Revenue

1 Code of 1986, section 2206(4) of the Pub-  
2 lic Health Service Act (42 U.S.C. 300bb-  
3 6(4)), or section 8905a(f)(2)(A) of title 5,  
4 United States Code, with respect to indi-  
5 viduals who, during the period described in  
6 paragraph (3)(A), become entitled to elect  
7 COBRA continuation coverage, the re-  
8 quirements of such sections shall not be  
9 treated as met unless such notices include  
10 an additional notification to the recipient  
11 of—

12 (I) the availability of premium  
13 reduction with respect to such cov-  
14 erage under this subsection, and

15 (II) the option to enroll in dif-  
16 ferent coverage if the employer per-  
17 mits assistance eligible individuals to  
18 elect enrollment in different coverage  
19 (as described in paragraph (1)(B)).

20 (ii) ALTERNATIVE NOTICE.—In the  
21 case of COBRA continuation coverage to  
22 which the notice provision under such sec-  
23 tions does not apply, the Secretary of  
24 Labor, in consultation with the Secretary  
25 of the Treasury and the Secretary of

1 Health and Human Services, shall, in con-  
2 sultation with administrators of the group  
3 health plans (or other entities) that provide  
4 or administer the COBRA continuation  
5 coverage involved, provide rules requiring  
6 the provision of such notice.

7 (iii) FORM.—The requirement of the  
8 additional notification under this subpara-  
9 graph may be met by amendment of exist-  
10 ing notice forms or by inclusion of a sepa-  
11 rate document with the notice otherwise  
12 required.

13 (B) SPECIFIC REQUIREMENTS.—Each ad-  
14 ditional notification under subparagraph (A)  
15 shall include—

16 (i) the forms necessary for estab-  
17 lishing eligibility for premium reduction  
18 under this subsection,

19 (ii) the name, address, and telephone  
20 number necessary to contact the plan ad-  
21 ministrator and any other person main-  
22 taining relevant information in connection  
23 with such premium reduction,

1 (iii) a description of the extended elec-  
2 tion period provided for in paragraph  
3 (4)(A),

4 (iv) a description of the obligation of  
5 the qualified beneficiary under paragraph  
6 (2)(C) to notify the plan providing continu-  
7 ation coverage of eligibility for subsequent  
8 coverage under another group health plan  
9 or eligibility for benefits under title XVIII  
10 of the Social Security Act and the penalty  
11 provided under section 6720C of the Inter-  
12 nal Revenue Code of 1986 for failure to so  
13 notify the plan,

14 (v) a description, displayed in a  
15 prominent manner, of the qualified bene-  
16 ficiary's right to a reduced premium and  
17 any conditions on entitlement to the re-  
18 duced premium, and

19 (vi) a description of the option of the  
20 qualified beneficiary to enroll in different  
21 coverage if the employer permits such ben-  
22 eficiary to elect to enroll in such different  
23 coverage under paragraph (1)(B).

24 (C) NOTICE IN CONNECTION WITH EX-  
25 TENDED ELECTION PERIODS.—In the case of



1           any assistance eligible individual (or any indi-  
2           vidual described in paragraph (4)(A)) who be-  
3           came entitled to elect COBRA continuation cov-  
4           erage before the date of the enactment of this  
5           Act, the administrator of the group health plan  
6           (or other entity) involved shall provide (within  
7           60 days after the date of enactment of this Act)  
8           for the additional notification required to be  
9           provided under subparagraph (A) and failure to  
10          provide such notice shall be treated as a failure  
11          to meet the notice requirements under the ap-  
12          plicable COBRA continuation provision.

13                 (D) MODEL NOTICES.—Not later than 30  
14          days after the date of enactment of this Act—

15                         (i) the Secretary of the Labor, in con-  
16                         sultation with the Secretary of the Treas-  
17                         ury and the Secretary of Health and  
18                         Human Services, shall prescribe models for  
19                         the additional notification required under  
20                         this paragraph (other than the additional  
21                         notification described in clause (ii)), and

22                         (ii) in the case of any additional noti-  
23                         fication provided pursuant to subpara-  
24                         graph (A) under section 8905a(f)(2)(A) of  
25                         title 5, United States Code, the Office of

1 Personnel Management shall prescribe a  
2 model for such additional notification.

3 (8) REGULATIONS.—The Secretary of the  
4 Treasury may prescribe such regulations or other  
5 guidance as may be necessary or appropriate to  
6 carry out the provisions of this subsection, including  
7 the prevention of fraud and abuse under this sub-  
8 section, except that the Secretary of Labor and the  
9 Secretary of Health and Human Services may pre-  
10 scribe such regulations (including interim final regu-  
11 lations) or other guidance as may be necessary or  
12 appropriate to carry out the provisions of para-  
13 graphs (5), (7), and (9).

14 (9) OUTREACH.—The Secretary of Labor, in  
15 consultation with the Secretary of the Treasury and  
16 the Secretary of Health and Human Services, shall  
17 provide outreach consisting of public education and  
18 enrollment assistance relating to premium reduction  
19 provided under this subsection. Such outreach shall  
20 target employers, group health plan administrators,  
21 public assistance programs, States, insurers, and  
22 other entities as determined appropriate by such  
23 Secretaries. Such outreach shall include an initial  
24 focus on those individuals electing continuation cov-  
25 erage who are referred to in paragraph (7)(C). In-

1       formation on such premium reduction, including en-  
2       rollment, shall also be made available on websites of  
3       the Departments of Labor, Treasury, and Health  
4       and Human Services.

5           (10) DEFINITIONS.—For purposes of this  
6       section—

7           (A) ADMINISTRATOR.—The term “admin-  
8       istrator” has the meaning given such term in  
9       section 3(16)(A) of the Employee Retirement  
10      Income Security Act of 1974.

11          (B) COBRA CONTINUATION COVERAGE.—  
12      The term “COBRA continuation coverage”  
13      means continuation coverage provided pursuant  
14      to part 6 of subtitle B of title I of the Em-  
15      ployee Retirement Income Security Act of 1974  
16      (other than under section 609), title XXII of  
17      the Public Health Service Act, section 4980B of  
18      the Internal Revenue Code of 1986 (other than  
19      subsection (f)(1) of such section insofar as it  
20      relates to pediatric vaccines), or section 8905a  
21      of title 5, United States Code, or under a State  
22      program that provides comparable continuation  
23      coverage. Such term does not include coverage  
24      under a health flexible spending arrangement  
25      under a cafeteria plan within the meaning of

1 section 125 of the Internal Revenue Code of  
2 1986.

3 (C) COBRA CONTINUATION PROVISION.—  
4 The term “COBRA continuation provision”  
5 means the provisions of law described in sub-  
6 paragraph (B).

7 (D) COVERED EMPLOYEE.—The term  
8 “covered employee” has the meaning given such  
9 term in section 607(2) of the Employee Retirement  
10 Income Security Act of 1974.

11 (E) QUALIFIED BENEFICIARY.—The term  
12 “qualified beneficiary” has the meaning given  
13 such term in section 607(3) of the Employee  
14 Retirement Income Security Act of 1974.

15 (F) GROUP HEALTH PLAN.—The term  
16 “group health plan” has the meaning given  
17 such term in section 607(1) of the Employee  
18 Retirement Income Security Act of 1974.

19 (G) STATE.—The term “State” includes  
20 the District of Columbia, the Commonwealth of  
21 Puerto Rico, the Virgin Islands, Guam, Amer-  
22 ican Samoa, and the Commonwealth of the  
23 Northern Mariana Islands.

24 (H) PERIOD OF COVERAGE.—Any ref-  
25 erence in this subsection to a period of coverage

1 shall be treated as a reference to a monthly or  
2 shorter period of coverage with respect to which  
3 premiums are charged with respect to such cov-  
4 erage.

5 (11) REPORTS.—

6 (A) INTERIM REPORT.—The Secretary of  
7 the Treasury shall submit an interim report to  
8 the Committee on Education and Labor, the  
9 Committee on Ways and Means, and the Com-  
10 mittee on Energy and Commerce of the House  
11 of Representatives and the Committee on  
12 Health, Education, Labor, and Pensions and  
13 the Committee on Finance of the Senate re-  
14 garding the premium reduction provided under  
15 this subsection that includes—

16 (i) the number of individuals provided  
17 such assistance as of the date of the re-  
18 port; and

19 (ii) the total amount of expenditures  
20 incurred (with administrative expenditures  
21 noted separately) in connection with such  
22 assistance as of the date of the report.

23 (B) FINAL REPORT.—As soon as prac-  
24 ticable after the last period of COBRA continu-  
25 ation coverage for which premium reduction is

1 provided under this section, the Secretary of the  
2 Treasury shall submit a final report to each  
3 Committee referred to in subparagraph (A) that  
4 includes—

5 (i) the number of individuals provided  
6 premium reduction under this section;

7 (ii) the average dollar amount  
8 (monthly and annually) of premium reduc-  
9 tions provided to such individuals; and

10 (iii) the total amount of expenditures  
11 incurred (with administrative expenditures  
12 noted separately) in connection with pre-  
13 mium reduction under this section.

14 (12) COBRA PREMIUM ASSISTANCE.—

15 (A) IN GENERAL.—Subchapter B of chap-  
16 ter 65 of the Internal Revenue Code of 1986,  
17 as amended by this Act, is amended by adding  
18 at the end the following new section:

19 **“SEC. 6432. COBRA PREMIUM ASSISTANCE.**

20 “(a) IN GENERAL.—The person to whom premiums  
21 are payable under COBRA continuation coverage shall be  
22 reimbursed as provided in subsection (c) for the amount  
23 of premiums not paid by assistance eligible individuals by  
24 reason of section 3002(a) of the Health Insurance Assist-  
25 ance for the Unemployed Act of 2009.

1       “(b) PERSON ENTITLED TO REIMBURSEMENT.—For  
2 purposes of subsection (a), except as otherwise provided  
3 by the Secretary, the person to whom premiums are pay-  
4 able under COBRA continuation coverage shall be treated  
5 as being—

6               “(1) in the case of any group health plan which  
7 is a multiemployer plan (as defined in section 3(37)  
8 of the Employee Retirement Income Security Act of  
9 1974), the plan,

10              “(2) in the case of any group health plan not  
11 described in paragraph (1)—

12                      “(A) which is subject to the COBRA con-  
13 tinuation provisions contained in—

14                              “(i) the Internal Revenue Code of  
15 1986,

16                              “(ii) the Employee Retirement Income  
17 Security Act of 1974,

18                              “(iii) the Public Health Service Act,  
19 or

20                              “(iv) title 5, United States Code, or

21                      “(B) under which some or all of the cov-  
22 erage is not provided by insurance,  
23 the employer maintaining the plan, and

1           “(3) in the case of any group health plan not  
2           described in paragraph (1) or (2), the insurer pro-  
3           viding the coverage under the group health plan.

4           “(c) METHOD OF REIMBURSEMENT.—Except as oth-  
5           erwise provided by the Secretary—

6           “(1) TREATMENT AS PAYMENT OF PAYROLL  
7           TAXES.—Each person entitled to reimbursement  
8           under subsection (a) (and filing a claim for such re-  
9           imbursement at such time and in such manner as  
10          the Secretary may require) shall be treated for pur-  
11          poses of this title and section 1324(b)(2) of title 31,  
12          United States Code, as having paid to the Secretary,  
13          on the date that the assistance eligible individual’s  
14          premium payment is received, payroll taxes in an  
15          amount equal to the portion of such reimbursement  
16          which relates to such premium. To the extent that  
17          the amount treated as paid under the preceding sen-  
18          tence exceeds the amount of such person’s liability  
19          for such taxes, the Secretary shall credit or refund  
20          such excess in the same manner as if it were an  
21          overpayment of such taxes.

22          “(2) OVERSTATEMENTS.—Any overstatement of  
23          the reimbursement to which a person is entitled  
24          under this section (and any amount paid by the Sec-  
25          retary as a result of such overstatement) shall be



1       treated as an underpayment of payroll taxes by such  
2       person and may be assessed and collected by the  
3       Secretary in the same manner as payroll taxes.

4           “(3) REIMBURSEMENT CONTINGENT ON PAY-  
5       MENT OF REMAINING PREMIUM.—No reimbursement  
6       may be made under this section to a person with re-  
7       spect to any assistance eligible individual until after  
8       the reduced premium required under section  
9       3002(a)(1)(A) of such Act with respect to such indi-  
10      vidual has been received.

11      “(d) DEFINITIONS.—For purposes of this section—

12           “(1) PAYROLL TAXES.—The term ‘payroll  
13      taxes’ means—

14           “(A) amounts required to be deducted and  
15      withheld for the payroll period under section  
16      3402 (relating to wage withholding),

17           “(B) amounts required to be deducted for  
18      the payroll period under section 3102 (relating  
19      to FICA employee taxes), and

20           “(C) amounts of the taxes imposed for the  
21      payroll period under section 3111 (relating to  
22      FICA employer taxes).

23           “(2) PERSON.—The term ‘person’ includes any  
24      governmental entity.

1       “(e) REPORTING.—Each person entitled to reim-  
2       bursement under subsection (a) for any period shall sub-  
3       mit such reports (at such time and in such manner) as  
4       the Secretary may require, including—

5               “(1) an attestation of involuntary termination  
6       of employment for each covered employee on the  
7       basis of whose termination entitlement to reimburse-  
8       ment is claimed under subsection (a),

9               “(2) a report of the amount of payroll taxes off-  
10      set under subsection (a) for the reporting period and  
11      the estimated offsets of such taxes for the subse-  
12      quent reporting period in connection with reimburse-  
13      ments under subsection (a), and

14              “(3) a report containing the TINs of all covered  
15      employees, the amount of subsidy reimbursed with  
16      respect to each covered employee and qualified bene-  
17      ficiaries, and a designation with respect to each cov-  
18      ered employee as to whether the subsidy reimburse-  
19      ment is for coverage of 1 individual or 2 or more in-  
20      dividuals.

21      “(f) REGULATIONS.—The Secretary shall issue such  
22      regulations or other guidance as may be necessary or ap-  
23      propriate to carry out this section, including—

24              “(1) the requirement to report information or  
25      the establishment of other methods for verifying the

1 correct amounts of reimbursements under this sec-  
2 tion, and

3 “(2) the application of this section to group  
4 health plans that are multiemployer plans (as de-  
5 fined in section 3(37) of the Employee Retirement  
6 Income Security Act of 1974).”.

7 (B) SOCIAL SECURITY TRUST FUNDS HELD  
8 HARMLESS.—In determining any amount trans-  
9 ferred or appropriated to any fund under the  
10 Social Security Act, section 6432 of the Inter-  
11 nal Revenue Code of 1986 shall not be taken  
12 into account.

13 (C) CLERICAL AMENDMENT.—The table of  
14 sections for subchapter B of chapter 65 of the  
15 Internal Revenue Code of 1986 is amended by  
16 adding at the end the following new item:

“Sec. 6432. COBRA premium assistance.”.

17 (D) EFFECTIVE DATE.—The amendments  
18 made by this paragraph shall apply to pre-  
19 miums to which subsection (a)(1)(A) applies.

20 (E) SPECIAL RULE.—

21 (i) IN GENERAL.—In the case of an  
22 assistance eligible individual who pays,  
23 with respect to the first period of COBRA  
24 continuation coverage to which subsection  
25 (a)(1)(A) applies or the immediately subse-

1           quent period, the full premium amount for  
2           such coverage, the person to whom such  
3           payment is payable shall—

4                   (I) make a reimbursement pay-  
5                   ment to such individual for the  
6                   amount of such premium paid in ex-  
7                   cess of the amount required to be paid  
8                   under subsection (a)(1)(A); or

9                   (II) provide credit to the indi-  
10                  vidual for such amount in a manner  
11                  that reduces one or more subsequent  
12                  premium payments that the individual  
13                  is required to pay under such sub-  
14                  section for the coverage involved.

15               (ii) REIMBURSING EMPLOYER.—A  
16               person to which clause (i) applies shall be  
17               reimbursed as provided for in section 6432  
18               of the Internal Revenue Code of 1986 for  
19               any payment made, or credit provided, to  
20               the employee under such clause.

21               (iii) PAYMENT OR CREDITS.—Unless  
22               it is reasonable to believe that the credit  
23               for the excess payment in clause (i)(II) will  
24               be used by the assistance eligible individual  
25               within 180 days of the date on which the

1 person receives from the individual the  
2 payment of the full premium amount, a  
3 person to which clause (i) applies shall  
4 make the payment required under such  
5 clause to the individual within 60 days of  
6 such payment of the full premium amount.  
7 If, as of any day within the 180-day pe-  
8 riod, it is no longer reasonable to believe  
9 that the credit will be used during that pe-  
10 riod, payment equal to the remainder of  
11 the credit outstanding shall be made to the  
12 individual within 60 days of such day.

13 (13) PENALTY FOR FAILURE TO NOTIFY  
14 HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR  
15 PREMIUM ASSISTANCE.—

16 (A) IN GENERAL.—Part I of subchapter B  
17 of chapter 68 of the Internal Revenue Code of  
18 1986 is amended by adding at the end the fol-  
19 lowing new section:

20 **“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**  
21 **PLAN OF CESSATION OF ELIGIBILITY FOR**  
22 **COBRA PREMIUM ASSISTANCE.**

23 “(a) IN GENERAL.—Any person required to notify a  
24 group health plan under section 3002(a)(2)(C)) of the  
25 Health Insurance Assistance for the Unemployed Act of

1 2009 who fails to make such a notification at such time  
2 and in such manner as the Secretary of Labor may require  
3 shall pay a penalty of 110 percent of the premium reduc-  
4 tion provided under such section after termination of eligi-  
5 bility under such subsection.

6 “(b) REASONABLE CAUSE EXCEPTION.—No penalty  
7 shall be imposed under subsection (a) with respect to any  
8 failure if it is shown that such failure is due to reasonable  
9 cause and not to willful neglect.”.

10 (B) CLERICAL AMENDMENT.—The table of  
11 sections of part I of subchapter B of chapter 68  
12 of such Code is amended by adding at the end  
13 the following new item:

“Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility  
for COBRA premium assistance.”.

14 (C) EFFECTIVE DATE.—The amendments  
15 made by this paragraph shall apply to failures  
16 occurring after the date of the enactment of  
17 this Act.

18 (14) COORDINATION WITH HCTC.—

19 (A) IN GENERAL.—Subsection (g) of sec-  
20 tion 35 of the Internal Revenue Code of 1986  
21 is amended by redesignating paragraph (9) as  
22 paragraph (10) and inserting after paragraph  
23 (8) the following new paragraph:

1           “(9) COBRA PREMIUM ASSISTANCE.—In the  
2 case of an assistance eligible individual who receives  
3 premium reduction for COBRA continuation cov-  
4 erage under section 3002(a) of the Health Insurance  
5 Assistance for the Unemployed Act of 2009 for any  
6 month during the taxable year, such individual shall  
7 not be treated as an eligible individual, a certified  
8 individual, or a qualifying family member for pur-  
9 poses of this section or section 7527 with respect to  
10 such month.”.

11           (B) EFFECTIVE DATE.—The amendment  
12 made by subparagraph (A) shall apply to tax-  
13 able years ending after the date of the enact-  
14 ment of this Act.

15           (15) EXCLUSION OF COBRA PREMIUM ASSIST-  
16 ANCE FROM GROSS INCOME.—

17           (A) IN GENERAL.—Part III of subchapter  
18 B of chapter 1 of the Internal Revenue Code of  
19 1986 is amended by inserting after section  
20 139B the following new section:

21       **“SEC. 139C. COBRA PREMIUM ASSISTANCE.**

22       “**In the case of an assistance eligible individual (as**  
23 **defined in section 3002 of the Health Insurance Assist-**  
24 **ance for the Unemployed Act of 2009), gross income does**

1 not include any premium reduction provided under sub-  
2 section (a) of such section.”.

3 (B) CLERICAL AMENDMENT.—The table of  
4 sections for part III of subchapter B of chapter  
5 1 of such Code is amended by inserting after  
6 the item relating to section 139B the following  
7 new item:

“Sec. 139C. COBRA premium assistance.”.

8 (C) EFFECTIVE DATE.—The amendments  
9 made by this paragraph shall apply to taxable  
10 years ending after the date of the enactment of  
11 this Act.

12 (b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-  
13 INCOME INDIVIDUALS.—

14 (1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME  
15 INDIVIDUALS.—If—

16 (A) premium assistance is provided under  
17 this section with respect to any COBRA con-  
18 tinuation coverage which covers the taxpayer,  
19 the taxpayer’s spouse, or any dependent (within  
20 the meaning of section 152 of the Internal Rev-  
21 enue Code of 1986, determined without regard  
22 to subsections (b)(1), (b)(2), and (d)(1)(B)  
23 thereof) of the taxpayer during any portion of  
24 the taxable year, and



1 (B) the taxpayer's modified adjusted gross  
2 income for such taxable year exceeds \$125,000  
3 (\$250,000 in the case of a joint return),  
4 then the tax imposed by chapter 1 of such Code with  
5 respect to the taxpayer for such taxable year shall  
6 be increased by the amount of such assistance.

7 (2) PHASE-IN OF RECAPTURE.—

8 (A) IN GENERAL.—In the case of a tax-  
9 payer whose modified adjusted gross income for  
10 the taxable year does not exceed \$145,000  
11 (\$290,000 in the case of a joint return), the in-  
12 crease in the tax imposed under paragraph (1)  
13 shall not exceed the phase-in percentage of such  
14 increase (determined without regard to this  
15 paragraph).

16 (B) PHASE-IN PERCENTAGE.—For pur-  
17 poses of this subsection, the term “phase-in  
18 percentage” means the ratio (expressed as a  
19 percentage) obtained by dividing—

- 20 (i) the excess of described in subpara-  
21 graph (B) of paragraph (1), by  
22 (ii) \$20,000 (\$40,000 in the case of a  
23 joint return).

24 (3) OPTION FOR HIGH-INCOME INDIVIDUALS TO  
25 WAIVE ASSISTANCE AND AVOID RECAPTURE.—Not-

1       withstanding subsection (a)(3), an individual shall  
2       not be treated as an assistance eligible individual for  
3       purposes of this section and section 6432 of the In-  
4       ternal Revenue Code of 1986 if such individual—

5               (A) makes a permanent election (at such  
6               time and in such form and manner as the Sec-  
7               retary of the Treasury may prescribe) to waive  
8               the right to the premium assistance provided  
9               under this section, and

10              (B) notifies the entity to whom premiums  
11              are reimbursed under section 6432(a) of such  
12              Code of such election.

13              (4) MODIFIED ADJUSTED GROSS INCOME.—For  
14              purposes of this subsection, the term “modified ad-  
15              justed gross income” means the adjusted gross in-  
16              come (as defined in section 62 of the Internal Rev-  
17              enue Code of 1986) of the taxpayer for the taxable  
18              year increased by any amount excluded from gross  
19              income under section 911, 931, or 933 of such Code.

20              (5) CREDITS NOT ALLOWED AGAINST TAX,  
21              ETC.—For purposes determining regular tax liability  
22              under section 26(b) of such Code, the increase in tax  
23              under this subsection shall not be treated as a tax  
24              imposed under chapter 1 of such Code.

1           (6) REGULATIONS.—The Secretary of the  
2       Treasury shall issue such regulations or other guid-  
3       ance as are necessary or appropriate to carry out  
4       this subsection, including requirements that the enti-  
5       ty to whom premiums are reimbursed under section  
6       6432(a) of the Internal Revenue Code of 1986 re-  
7       port to the Secretary, and to each assistance eligible  
8       individual, the amount of premium assistance pro-  
9       vided under subsection (a) with respect to each such  
10      individual.

11          (7) EFFECTIVE DATE.—The provisions of this  
12      subsection shall apply to taxable years ending after  
13      the date of the enactment of this Act.

14   **TITLE IV—MEDICARE AND MED-**  
15   **ICAID HEALTH INFORMATION**  
16   **TECHNOLOGY; MISCELLA-**  
17   **NEOUS MEDICARE PROVI-**  
18   **SIONS**

19   **SEC. 4001. TABLE OF CONTENTS OF TITLE.**

20      The table of contents of this title is as follows:

**TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION**  
        **TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS**

        Sec. 4001. Table of contents of title.

**Subtitle A—Medicare Incentives**

                Sec. 4101. Incentives for eligible professionals.

                Sec. 4102. Incentives for hospitals.

                Sec. 4103. Treatment of payments and savings; implementation funding.

                Sec. 4104. Studies and reports on health information technology.

**Subtitle B—Medicaid Incentives**

Sec. 4201. Medicaid provider HIT adoption and operation payments; implementation funding.

Subtitle C—Miscellaneous Medicare Provisions

Sec. 4301. Moratoria on certain Medicare regulations.

Sec. 4302. Long-term care hospital technical corrections.

1       **Subtitle A—Medicare Incentives**

2       **SEC. 4101. INCENTIVES FOR ELIGIBLE PROFESSIONALS.**

3           (a) INCENTIVE PAYMENTS.—Section 1848 of the So-  
4       cial Security Act (42 U.S.C. 1395w-4) is amended by add-  
5       ing at the end the following new subsection:

6           “(o) INCENTIVES FOR ADOPTION AND MEANINGFUL  
7       USE OF CERTIFIED EHR TECHNOLOGY.—

8           “(1) INCENTIVE PAYMENTS.—

9           “(A) IN GENERAL.—

10           “(i) IN GENERAL.—Subject to the  
11       succeeding subparagraphs of this para-  
12       graph, with respect to covered professional  
13       services furnished by an eligible profes-  
14       sional during a payment year (as defined  
15       in subparagraph (E)), if the eligible profes-  
16       sional is a meaningful EHR user (as deter-  
17       mined under paragraph (2)) for the EHR  
18       reporting period with respect to such year,  
19       in addition to the amount otherwise paid  
20       under this part, there also shall be paid to  
21       the eligible professional (or to an employer  
22       or facility in the cases described in clause

1 (A) of section 1842(b)(6)), from the Fed-  
2 eral Supplementary Medical Insurance  
3 Trust Fund established under section 1841  
4 an amount equal to 75 percent of the Sec-  
5 retary's estimate (based on claims sub-  
6 mitted not later than 2 months after the  
7 end of the payment year) of the allowed  
8 charges under this part for all such cov-  
9 ered professional services furnished by the  
10 eligible professional during such year.

11 “(ii) NO INCENTIVE PAYMENTS WITH  
12 RESPECT TO YEARS AFTER 2016.—No in-  
13 centive payments may be made under this  
14 subsection with respect to a year after  
15 2016.

16 “(B) LIMITATIONS ON AMOUNTS OF IN-  
17 CENTIVE PAYMENTS.—

18 “(i) IN GENERAL.—In no case shall  
19 the amount of the incentive payment pro-  
20 vided under this paragraph for an eligible  
21 professional for a payment year exceed the  
22 applicable amount specified under this sub-  
23 paragraph with respect to such eligible  
24 professional and such year.

1                   “(ii) AMOUNT.—Subject to clauses  
2                   (iii) through (v), the applicable amount  
3                   specified in this subparagraph for an eligi-  
4                   ble professional is as follows:

5                   “(I) For the first payment year  
6                   for such professional, \$15,000 (or, if  
7                   the first payment year for such eligi-  
8                   ble professional is 2011 or 2012,  
9                   \$18,000).

10                  “(II) For the second payment  
11                  year for such professional, \$12,000.

12                  “(III) For the third payment  
13                  year for such professional, \$8,000.

14                  “(IV) For the fourth payment  
15                  year for such professional, \$4,000.

16                  “(V) For the fifth payment year  
17                  for such professional, \$2,000.

18                  “(VI) For any succeeding pay-  
19                  ment year for such professional, \$0.

20                  “(iii) PHASE DOWN FOR ELIGIBLE  
21                  PROFESSIONALS FIRST ADOPTING EHR  
22                  AFTER 2013.—If the first payment year for  
23                  an eligible professional is after 2013, then  
24                  the amount specified in this subparagraph  
25                  for a payment year for such professional is

1 the same as the amount specified in clause  
2 (ii) for such payment year for an eligible  
3 professional whose first payment year is  
4 2013.

5 “(iv) INCREASE FOR CERTAIN ELIGI-  
6 BLE PROFESSIONALS.—In the case of an  
7 eligible professional who predominantly  
8 furnishes services under this part in an  
9 area that is designated by the Secretary  
10 (under section 332(a)(1)(A) of the Public  
11 Health Service Act) as a health profes-  
12 sional shortage area, the amount that  
13 would otherwise apply for a payment year  
14 for such professional under subclauses (I)  
15 through (V) of clause (ii) shall be in-  
16 creased by 10 percent. In implementing  
17 the preceding sentence, the Secretary may,  
18 as determined appropriate, apply provi-  
19 sions of subsections (m) and (u) of section  
20 1833 in a similar manner as such provi-  
21 sions apply under such subsection.

22 “(v) NO INCENTIVE PAYMENT IF  
23 FIRST ADOPTING AFTER 2014.—If the first  
24 payment year for an eligible professional is  
25 after 2014 then the applicable amount

1 specified in this subparagraph for such  
2 professional for such year and any subse-  
3 quent year shall be \$0.

4 “(C) NON-APPLICATION TO HOSPITAL-  
5 BASED ELIGIBLE PROFESSIONALS.—

6 “(i) IN GENERAL.—No incentive pay-  
7 ment may be made under this paragraph  
8 in the case of a hospital-based eligible pro-  
9 fessional.

10 “(ii) HOSPITAL-BASED ELIGIBLE PRO-  
11 FESSIOAL.—For purposes of clause (i),  
12 the term ‘hospital-based eligible profes-  
13 sional’ means, with respect to covered pro-  
14 fessional services furnished by an eligible  
15 professional during the EHR reporting pe-  
16 riod for a payment year, an eligible profes-  
17 sional, such as a pathologist, anesthesiol-  
18 ogist, or emergency physician, who fur-  
19 nishes substantially all of such services in  
20 a hospital setting (whether inpatient or  
21 outpatient) and through the use of the fa-  
22 cilities and equipment, including qualified  
23 electronic health records, of the hospital.  
24 The determination of whether an eligible  
25 professional is a hospital-based eligible pro-



1           fessional shall be made on the basis of the  
2           site of service (as defined by the Secretary)  
3           and without regard to any employment or  
4           billing arrangement between the eligible  
5           professional and any other provider.

6           “(D) PAYMENT.—

7                 “(i) FORM OF PAYMENT.—The pay-  
8           ment under this paragraph may be in the  
9           form of a single consolidated payment or  
10          in the form of such periodic installments  
11          as the Secretary may specify.

12                “(ii) COORDINATION OF APPLICATION  
13          OF LIMITATION FOR PROFESSIONALS IN  
14          DIFFERENT PRACTICES.—In the case of an  
15          eligible professional furnishing covered pro-  
16          fessional services in more than one practice  
17          (as specified by the Secretary), the Sec-  
18          retary shall establish rules to coordinate  
19          the incentive payments, including the ap-  
20          plication of the limitation on amounts of  
21          such incentive payments under this para-  
22          graph, among such practices.

23                “(iii) COORDINATION WITH MED-  
24          ICAID.—The Secretary shall seek, to the  
25          maximum extent practicable, to avoid du-

1 plicative requirements from Federal and  
2 State governments to demonstrate mean-  
3 ingful use of certified EHR technology  
4 under this title and title XIX. The Sec-  
5 retary may also adjust the reporting peri-  
6 ods under such title and such subsections  
7 in order to carry out this clause.

8 “(E) PAYMENT YEAR DEFINED.—

9 “(i) IN GENERAL.—For purposes of  
10 this subsection, the term ‘payment year’  
11 means a year beginning with 2011.

12 “(ii) FIRST, SECOND, ETC. PAYMENT  
13 YEAR.—The term ‘first payment year’  
14 means, with respect to covered professional  
15 services furnished by an eligible profes-  
16 sional, the first year for which an incentive  
17 payment is made for such services under  
18 this subsection. The terms ‘second pay-  
19 ment year’, ‘third payment year’, ‘fourth  
20 payment year’, and ‘fifth payment year’  
21 mean, with respect to covered professional  
22 services furnished by such eligible profes-  
23 sional, each successive year immediately  
24 following the first payment year for such  
25 professional.

1 “(2) MEANINGFUL EHR USER.—

2 “(A) IN GENERAL.—For purposes of para-  
3 graph (1), an eligible professional shall be  
4 treated as a meaningful EHR user for an EHR  
5 reporting period for a payment year (or, for  
6 purposes of subsection (a)(7), for an EHR re-  
7 porting period under such subsection for a  
8 year) if each of the following requirements is  
9 met:

10 “(i) MEANINGFUL USE OF CERTIFIED  
11 EHR TECHNOLOGY.—The eligible profes-  
12 sional demonstrates to the satisfaction of  
13 the Secretary, in accordance with subpara-  
14 graph (C)(i), that during such period the  
15 professional is using certified EHR tech-  
16 nology in a meaningful manner, which  
17 shall include the use of electronic pre-  
18 scribing as determined to be appropriate  
19 by the Secretary.

20 “(ii) INFORMATION EXCHANGE.—The  
21 eligible professional demonstrates to the  
22 satisfaction of the Secretary, in accordance  
23 with subparagraph (C)(i), that during such  
24 period such certified EHR technology is  
25 connected in a manner that provides, in

1           accordance with law and standards appli-  
2           cable to the exchange of information, for  
3           the electronic exchange of health informa-  
4           tion to improve the quality of health care,  
5           such as promoting care coordination.

6           “(iii) REPORTING ON MEASURES  
7           USING EHR.—Subject to subparagraph  
8           (B)(ii) and using such certified EHR tech-  
9           nology, the eligible professional submits in-  
10          formation for such period, in a form and  
11          manner specified by the Secretary, on such  
12          clinical quality measures and such other  
13          measures as selected by the Secretary  
14          under subparagraph (B)(i).

15         The Secretary may provide for the use of alter-  
16         native means for meeting the requirements of  
17         clauses (i), (ii), and (iii) in the case of an eligi-  
18         ble professional furnishing covered professional  
19         services in a group practice (as defined by the  
20         Secretary). The Secretary shall seek to improve  
21         the use of electronic health records and health  
22         care quality over time by requiring more strin-  
23         gent measures of meaningful use selected under  
24         this paragraph.

25         “(B) REPORTING ON MEASURES.—

1           “(i) SELECTION.—The Secretary shall  
2 select measures for purposes of subpara-  
3 graph (A)(iii) but only consistent with the  
4 following:

5           “(I) The Secretary shall provide  
6 preference to clinical quality measures  
7 that have been endorsed by the entity  
8 with a contract with the Secretary  
9 under section 1890(a).

10           “(II) Prior to any measure being  
11 selected under this subparagraph, the  
12 Secretary shall publish in the Federal  
13 Register such measure and provide for  
14 a period of public comment on such  
15 measure.

16           “(ii) LIMITATION.—The Secretary  
17 may not require the electronic reporting of  
18 information on clinical quality measures  
19 under subparagraph (A)(iii) unless the  
20 Secretary has the capacity to accept the in-  
21 formation electronically, which may be on  
22 a pilot basis.

23           “(iii) COORDINATION OF REPORTING  
24 OF INFORMATION.—In selecting such  
25 measures, and in establishing the form and

1 manner for reporting measures under sub-  
2 paragraph (A)(iii), the Secretary shall seek  
3 to avoid redundant or duplicative reporting  
4 otherwise required, including reporting  
5 under subsection (k)(2)(C).

6 “(C) DEMONSTRATION OF MEANINGFUL  
7 USE OF CERTIFIED EHR TECHNOLOGY AND IN-  
8 FORMATION EXCHANGE.—

9 “(i) IN GENERAL.—A professional  
10 may satisfy the demonstration requirement  
11 of clauses (i) and (ii) of subparagraph (A)  
12 through means specified by the Secretary,  
13 which may include—

14 “(I) an attestation;

15 “(II) the submission of claims  
16 with appropriate coding (such as a  
17 code indicating that a patient encoun-  
18 ter was documented using certified  
19 EHR technology);

20 “(III) a survey response;

21 “(IV) reporting under subpara-  
22 graph (A)(iii); and

23 “(V) other means specified by the  
24 Secretary.

1                   “(ii) USE OF PART D DATA.—Not-  
2                   withstanding sections 1860D–15(d)(2)(B)  
3                   and 1860D–15(f)(2), the Secretary may  
4                   use data regarding drug claims submitted  
5                   for purposes of section 1860D–15 that are  
6                   necessary for purposes of subparagraph  
7                   (A).

8                   “(3) APPLICATION.—

9                   “(A) PHYSICIAN REPORTING SYSTEM  
10                  RULES.—Paragraphs (5), (6), and (8) of sub-  
11                  section (k) shall apply for purposes of this sub-  
12                  section in the same manner as they apply for  
13                  purposes of such subsection.

14                  “(B) COORDINATION WITH OTHER PAY-  
15                  MENTS.—The provisions of this subsection shall  
16                  not be taken into account in applying the provi-  
17                  sions of subsection (m) of this section and of  
18                  section 1833(m) and any payment under such  
19                  provisions shall not be taken into account in  
20                  computing allowable charges under this sub-  
21                  section.

22                  “(C) LIMITATIONS ON REVIEW.—There  
23                  shall be no administrative or judicial review  
24                  under section 1869, section 1878, or otherwise,  
25                  of—

1 “(i) the methodology and standards  
2 for determining payment amounts under  
3 this subsection and payment adjustments  
4 under subsection (a)(7)(A), including the  
5 limitation under paragraph (1)(B) and co-  
6 ordination under clauses (ii) and (iii) of  
7 paragraph (1)(D);

8 “(ii) the methodology and standards  
9 for determining a meaningful EHR user  
10 under paragraph (2), including selection of  
11 measures under paragraph (2)(B), speci-  
12 fication of the means of demonstrating  
13 meaningful EHR use under paragraph  
14 (2)(C), and the hardship exception under  
15 subsection (a)(7)(B);

16 “(iii) the methodology and standards  
17 for determining a hospital-based eligible  
18 professional under paragraph (1)(C); and

19 “(iv) the specification of reporting pe-  
20 riods under paragraph (5) and the selec-  
21 tion of the form of payment under para-  
22 graph (1)(D)(i).

23 “(D) POSTING ON WEBSITE.—The Sec-  
24 retary shall post on the Internet website of the  
25 Centers for Medicare & Medicaid Services, in an



1 easily understandable format, a list of the  
2 names, business addresses, and business phone  
3 numbers of the eligible professionals who are  
4 meaningful EHR users and, as determined ap-  
5 propriate by the Secretary, of group practices  
6 receiving incentive payments under paragraph  
7 (1).

8 “(4) CERTIFIED EHR TECHNOLOGY DEFINED.—

9 For purposes of this section, the term ‘certified  
10 EHR technology’ means a qualified electronic health  
11 record (as defined in section 3000(13) of the Public  
12 Health Service Act) that is certified pursuant to sec-  
13 tion 3001(c)(5) of such Act as meeting standards  
14 adopted under section 3004 of such Act that are ap-  
15 plicable to the type of record involved (as determined  
16 by the Secretary, such as an ambulatory electronic  
17 health record for office-based physicians or an inpa-  
18 tient hospital electronic health record for hospitals).

19 “(5) DEFINITIONS.—For purposes of this sub-  
20 section:

21 “(A) COVERED PROFESSIONAL SERV-  
22 ICES.—The term ‘covered professional services’  
23 has the meaning given such term in subsection  
24 (k)(3).

1           “(B) EHR REPORTING PERIOD.—The  
2           term ‘EHR reporting period’ means, with re-  
3           spect to a payment year, any period (or peri-  
4           ods) as specified by the Secretary.

5           “(C) ELIGIBLE PROFESSIONAL.—The term  
6           ‘eligible professional’ means a physician, as de-  
7           fined in section 1861(r).”.

8           (b) INCENTIVE PAYMENT ADJUSTMENT.—Section  
9           1848(a) of the Social Security Act (42 U.S.C. 1395w-  
10          4(a)) is amended by adding at the end the following new  
11          paragraph:

12           “(7) INCENTIVES FOR MEANINGFUL USE OF  
13          CERTIFIED EHR TECHNOLOGY.—

14           “(A) ADJUSTMENT.—

15           “(i) IN GENERAL.—Subject to sub-  
16          paragraphs (B) and (D), with respect to  
17          covered professional services furnished by  
18          an eligible professional during 2015 or any  
19          subsequent payment year, if the eligible  
20          professional is not a meaningful EHR user  
21          (as determined under subsection (o)(2)) for  
22          an EHR reporting period for the year, the  
23          fee schedule amount for such services fur-  
24          nished by such professional during the year  
25          (including the fee schedule amount for pur-

1 poses of determining a payment based on  
2 such amount) shall be equal to the applica-  
3 ble percent of the fee schedule amount that  
4 would otherwise apply to such services  
5 under this subsection (determined after ap-  
6 plication of paragraph (3) but without re-  
7 gard to this paragraph).

8 “(ii) APPLICABLE PERCENT.—Subject  
9 to clause (iii), for purposes of clause (i),  
10 the term ‘applicable percent’ means—

11 “(I) for 2015, 99 percent (or, in  
12 the case of an eligible professional  
13 who was subject to the application of  
14 the payment adjustment under section  
15 1848(a)(5) for 2014, 98 percent);

16 “(II) for 2016, 98 percent; and

17 “(III) for 2017 and each subse-  
18 quent year, 97 percent.

19 “(iii) AUTHORITY TO DECREASE AP-  
20 PPLICABLE PERCENTAGE FOR 2018 AND  
21 SUBSEQUENT YEARS.—For 2018 and each  
22 subsequent year, if the Secretary finds that  
23 the proportion of eligible professionals who  
24 are meaningful EHR users (as determined  
25 under subsection (o)(2)) is less than 75

1           percent, the applicable percent shall be de-  
2           creased by 1 percentage point from the ap-  
3           plicable percent in the preceding year, but  
4           in no case shall the applicable percent be  
5           less than 95 percent.

6           “(B) SIGNIFICANT HARDSHIP EXCEP-  
7           TION.—The Secretary may, on a case-by-case  
8           basis, exempt an eligible professional from the  
9           application of the payment adjustment under  
10          subparagraph (A) if the Secretary determines,  
11          subject to annual renewal, that compliance with  
12          the requirement for being a meaningful EHR  
13          user would result in a significant hardship, such  
14          as in the case of an eligible professional who  
15          practices in a rural area without sufficient  
16          Internet access. In no case may an eligible pro-  
17          fessional be granted an exemption under this  
18          subparagraph for more than 5 years.

19          “(C) APPLICATION OF PHYSICIAN REPORT-  
20          ING SYSTEM RULES.—Paragraphs (5), (6), and  
21          (8) of subsection (k) shall apply for purposes of  
22          this paragraph in the same manner as they  
23          apply for purposes of such subsection.

24          “(D) NON-APPLICATION TO HOSPITAL-  
25          BASED ELIGIBLE PROFESSIONALS.—No pay-

1           ment adjustment may be made under subpara-  
2           graph (A) in the case of hospital-based eligible  
3           professionals (as defined in subsection  
4           (o)(1)(C)(ii)).

5           “(E) DEFINITIONS.—For purposes of this  
6           paragraph:

7                   “(i) COVERED PROFESSIONAL SERV-  
8                   ICES.—The term ‘covered professional  
9                   services’ has the meaning given such term  
10                  in subsection (k)(3).

11                  “(ii) EHR REPORTING PERIOD.—The  
12                  term ‘EHR reporting period’ means, with  
13                  respect to a year, a period (or periods)  
14                  specified by the Secretary.

15                  “(iii) ELIGIBLE PROFESSIONAL.—The  
16                  term ‘eligible professional’ means a physi-  
17                  cian, as defined in section 1861(r).”.

18           (c) APPLICATION TO CERTAIN MA-AFFILIATED ELI-  
19           GIBLE PROFESSIONALS.—Section 1853 of the Social Secu-  
20           rity Act (42 U.S.C. 1395w-23) is amended by adding at  
21           the end the following new subsection:

22                   “(l) APPLICATION OF ELIGIBLE PROFESSIONAL IN-  
23                   CENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOP-  
24                   TION AND MEANINGFUL USE OF CERTIFIED EHR TECH-  
25                   NOLOGY.—

1           “(1) IN GENERAL.—Subject to paragraphs (3)  
2           and (4), in the case of a qualifying MA organization,  
3           the provisions of sections 1848(o) and 1848(a)(7)  
4           shall apply with respect to eligible professionals de-  
5           scribed in paragraph (2) of the organization who the  
6           organization attests under paragraph (6) to be  
7           meaningful EHR users in a similar manner as they  
8           apply to eligible professionals under such sections.  
9           Incentive payments under paragraph (3) shall be  
10          made to and payment adjustments under paragraph  
11          (4) shall apply to such qualifying organizations.

12          “(2) ELIGIBLE PROFESSIONAL DESCRIBED.—  
13          With respect to a qualifying MA organization, an eli-  
14          gible professional described in this paragraph is an  
15          eligible professional (as defined for purposes of sec-  
16          tion 1848(o)) who—

17                 “(A)(i) is employed by the organization; or

18                 “(ii)(I) is employed by, or is a partner of,  
19                 an entity that through contract with the organi-  
20                 zation furnishes at least 80 percent of the enti-  
21                 ty’s Medicare patient care services to enrollees  
22                 of such organization; and

23                 “(II) furnishes at least 80 percent of the  
24                 professional services of the eligible professional

1 covered under this title to enrollees of the orga-  
2 nization; and

3 “(B) furnishes, on average, at least 20  
4 hours per week of patient care services.

5 “(3) ELIGIBLE PROFESSIONAL INCENTIVE PAY-  
6 MENTS.—

7 “(A) IN GENERAL.—In applying section  
8 1848(o) under paragraph (1), instead of the ad-  
9 ditional payment amount under section  
10 1848(o)(1)(A) and subject to subparagraph  
11 (B), the Secretary may substitute an amount  
12 determined by the Secretary to the extent fea-  
13 sible and practical to be similar to the esti-  
14 mated amount in the aggregate that would be  
15 payable if payment for services furnished by  
16 such professionals was payable under part B in-  
17 stead of this part.

18 “(B) AVOIDING DUPLICATION OF PAY-  
19 MENTS.—

20 “(i) IN GENERAL.—In the case of an  
21 eligible professional described in paragraph  
22 (2)—

23 “(I) that is eligible for the max-  
24 imum incentive payment under section  
25 1848(o)(1)(A) for the same payment

1 period, the payment incentive shall be  
2 made only under such section and not  
3 under this subsection; and

4 “(II) that is eligible for less than  
5 such maximum incentive payment for  
6 the same payment period, the pay-  
7 ment incentive shall be made only  
8 under this subsection and not under  
9 section 1848(o)(1)(A).

10 “(ii) METHODS.—In the case of an el-  
11 igible professional described in paragraph  
12 (2) who is eligible for an incentive payment  
13 under section 1848(o)(1)(A) but is not de-  
14 scribed in clause (i) for the same payment  
15 period, the Secretary shall develop a  
16 process—

17 “(I) to ensure that duplicate pay-  
18 ments are not made with respect to  
19 an eligible professional both under  
20 this subsection and under section  
21 1848(o)(1)(A); and

22 “(II) to collect data from Medi-  
23 care Advantage organizations to en-  
24 sure against such duplicate payments.



1           “(C) FIXED SCHEDULE FOR APPLICATION  
2           OF LIMITATION ON INCENTIVE PAYMENTS FOR  
3           ALL ELIGIBLE PROFESSIONALS.—In applying  
4           section 1848(o)(1)(B)(ii) under subparagraph  
5           (A), in accordance with rules specified by the  
6           Secretary, a qualifying MA organization shall  
7           specify a year (not earlier than 2011) that shall  
8           be treated as the first payment year for all eli-  
9           gible professionals with respect to such organi-  
10          zation.

11          “(4) PAYMENT ADJUSTMENT.—

12               “(A) IN GENERAL.—In applying section  
13               1848(a)(7) under paragraph (1), instead of the  
14               payment adjustment being an applicable per-  
15               cent of the fee schedule amount for a year  
16               under such section, subject to subparagraph  
17               (D), the payment adjustment under paragraph  
18               (1) shall be equal to the percent specified in  
19               subparagraph (B) for such year of the payment  
20               amount otherwise provided under this section  
21               for such year.

22               “(B) SPECIFIED PERCENT.—The percent  
23               specified under this subparagraph for a year is  
24               100 percent minus a number of percentage  
25               points equal to the product of—

1                   “(i) the number of percentage points  
2                   by which the applicable percent (under sec-  
3                   tion 1848(a)(7)(A)(ii)) for the year is less  
4                   than 100 percent; and

5                   “(ii) the Medicare physician expendi-  
6                   ture proportion specified in subparagraph  
7                   (C) for the year.

8                   “(C) MEDICARE PHYSICIAN EXPENDITURE  
9                   PROPORTION.—The Medicare physician expend-  
10                  iture proportion under this subparagraph for a  
11                  year is the Secretary’s estimate of the propor-  
12                  tion, of the expenditures under parts A and B  
13                  that are not attributable to this part, that are  
14                  attributable to expenditures for physicians’  
15                  services.

16                  “(D) APPLICATION OF PAYMENT ADJUST-  
17                  MENT.—In the case that a qualifying MA orga-  
18                  nization attests that not all eligible profes-  
19                  sionals of the organization are meaningful EHR  
20                  users with respect to a year, the Secretary shall  
21                  apply the payment adjustment under this para-  
22                  graph based on the proportion of all such eligi-  
23                  ble professionals of the organization that are  
24                  not meaningful EHR users for such year.

1           “(5) QUALIFYING MA ORGANIZATION DE-  
2       FINED.—In this subsection and subsection (m), the  
3       term ‘qualifying MA organization’ means a Medicare  
4       Advantage organization that is organized as a health  
5       maintenance organization (as defined in section  
6       2791(b)(3) of the Public Health Service Act).

7           “(6) MEANINGFUL EHR USER ATTESTATION.—  
8       For purposes of this subsection and subsection (m),  
9       a qualifying MA organization shall submit an attes-  
10      tation, in a form and manner specified by the Sec-  
11      retary which may include the submission of such at-  
12      testation as part of submission of the initial bid  
13      under section 1854(a)(1)(A)(iv), identifying—

14           “(A) whether each eligible professional de-  
15      scribed in paragraph (2), with respect to such  
16      organization is a meaningful EHR user (as de-  
17      fined in section 1848(o)(2)) for a year specified  
18      by the Secretary; and

19           “(B) whether each eligible hospital de-  
20      scribed in subsection (m)(1), with respect to  
21      such organization, is a meaningful EHR user  
22      (as defined in section 1886(n)(3)) for an appli-  
23      cable period specified by the Secretary.

24           “(7) POSTING ON WEBSITE.—The Secretary  
25      shall post on the Internet website of the Centers for

1 Medicare & Medicaid Services, in an easily under-  
2 standable format, a list of the names, business ad-  
3 dresses, and business phone numbers of—

4 “(A) each qualifying MA organization re-  
5 ceiving an incentive payment under this sub-  
6 section for eligible professionals of the organiza-  
7 tion; and

8 “(B) the eligible professionals of such or-  
9 ganization for which such incentive payment is  
10 based.

11 “(8) LIMITATION ON REVIEW.—There shall be  
12 no administrative or judicial review under section  
13 1869, section 1878, or otherwise, of—

14 “(A) the methodology and standards for  
15 determining payment amounts and payment ad-  
16 justments under this subsection, including  
17 avoiding duplication of payments under para-  
18 graph (3)(B) and the specification of rules for  
19 the fixed schedule for application of limitation  
20 on incentive payments for all eligible profes-  
21 sionals under paragraph (3)(C);

22 “(B) the methodology and standards for  
23 determining eligible professionals under para-  
24 graph (2); and

1           “(C) the methodology and standards for  
2           determining a meaningful EHR user under sec-  
3           tion 1848(o)(2), including specification of the  
4           means of demonstrating meaningful EHR use  
5           under section 1848(o)(3)(C) and selection of  
6           measures under section 1848(o)(3)(B).”.

7           (d) STUDY AND REPORT RELATING TO MA ORGANI-  
8   ZATIONS.—

9           (1) STUDY.—The Secretary of Health and  
10          Human Services shall conduct a study on the extent  
11          to which and manner in which payment incentives  
12          and adjustments (such as under sections 1848(o)  
13          and 1848(a)(7) of the Social Security Act) could be  
14          made available to professionals, as defined in  
15          1861(r), who are not eligible for HIT incentive pay-  
16          ments under section 1848(o) and receive payments  
17          for Medicare patient services nearly-exclusively  
18          through contractual arrangements with one or more  
19          Medicare Advantage organizations, or an inter-  
20          mediary organization or organizations with contracts  
21          with Medicare Advantage organizations. Such study  
22          shall assess approaches for measuring meaningful  
23          use of qualified EHR technology among such profes-  
24          sionals and mechanisms for delivering incentives and  
25          adjustments to those professionals, including

1 through incentive payments and adjustments  
2 through Medicare Advantage organizations or inter-  
3 mediary organizations.

4 (2) REPORT.—Not later than 120 days after  
5 the date of the enactment of this Act, the Secretary  
6 of Health and Human Services shall submit to Con-  
7 gress a report on the findings and the conclusions of  
8 the study conducted under paragraph (1), together  
9 with recommendations for such legislation and ad-  
10 ministrative action as the Secretary determines ap-  
11 propriate.

12 (e) CONFORMING AMENDMENTS.—Section 1853 of  
13 the Social Security Act (42 U.S.C. 1395w–23) is  
14 amended—

15 (1) in subsection (a)(1)(A), by striking “and  
16 (i)” and inserting “(i), and (l)”;

17 (2) in subsection (c)—

18 (A) in paragraph (1)(D)(i), by striking  
19 “section 1886(h)” and inserting “sections  
20 1848(o) and 1886(h)”;

21 (B) in paragraph (6)(A), by inserting after  
22 “under part B,” the following: “excluding ex-  
23 penditures attributable to subsections (a)(7)  
24 and (o) of section 1848,”; and

1           (3) in subsection (f), by inserting “and for pay-  
2           ments under subsection (l)” after “with the organi-  
3           zation”.

4           (f) CONFORMING AMENDMENTS TO E-PRE-  
5           SCRIBING.—

6           (1) Section 1848(a)(5)(A) of the Social Security  
7           Act (42 U.S.C. 1395w-4(a)(5)(A)) is amended—

8                   (A) in clause (i), by striking “or any sub-  
9                   sequent year” and inserting “, 2013 or 2014”;  
10                  and

11                  (B) in clause (ii), by striking “and each  
12                  subsequent year”.

13           (2) Section 1848(m)(2) of such Act (42 U.S.C.  
14           1395w-4(m)(2)) is amended—

15                   (A) in subparagraph (A), by striking “For  
16                   2009” and inserting “Subject to subparagraph  
17                   (D), for 2009”; and

18                   (B) by adding at the end the following new  
19                   subparagraph:

20                           “(D) LIMITATION WITH RESPECT TO EHR  
21                           INCENTIVE PAYMENTS.—The provisions of this  
22                           paragraph shall not apply to an eligible profes-  
23                           sional (or, in the case of a group practice under  
24                           paragraph (3)(C), to the group practice) if, for  
25                           the EHR reporting period the eligible profes-

1           sional (or group practice) receives an incentive  
2           payment under subsection (o)(1)(A) with re-  
3           spect to a certified EHR technology (as defined  
4           in subsection (o)(4)) that has the capability of  
5           electronic prescribing.”.

6   **SEC. 4102. INCENTIVES FOR HOSPITALS.**

7           (a) INCENTIVE PAYMENT.—

8           (1) IN GENERAL.—Section 1886 of the Social  
9           Security Act (42 U.S.C. 1395ww) is amended by  
10          adding at the end the following new subsection:

11          “(n) INCENTIVES FOR ADOPTION AND MEANINGFUL  
12   USE OF CERTIFIED EHR TECHNOLOGY.—

13           “(1) IN GENERAL.—Subject to the succeeding  
14          provisions of this subsection, with respect to inpa-  
15          tient hospital services furnished by an eligible hos-  
16          pital during a payment year (as defined in para-  
17          graph (2)(G)), if the eligible hospital is a meaningful  
18          EHR user (as determined under paragraph (3)) for  
19          the EHR reporting period with respect to such year,  
20          in addition to the amount otherwise paid under this  
21          section, there also shall be paid to the eligible hos-  
22          pital, from the Federal Hospital Insurance Trust  
23          Fund established under section 1817, an amount  
24          equal to the applicable amount specified in para-  
25          graph (2)(A) for the hospital for such payment year.



1           “(2) PAYMENT AMOUNT.—

2                   “(A) IN GENERAL.—Subject to the suc-  
3           ceeding subparagraphs of this paragraph, the  
4           applicable amount specified in this subpara-  
5           graph for an eligible hospital for a payment  
6           year is equal to the product of the following:

7                   “(i) INITIAL AMOUNT.—The sum of—

8                           “(I) the base amount specified in  
9                   subparagraph (B); plus

10                           “(II) the discharge related  
11                   amount specified in subparagraph (C)  
12                   for a 12-month period selected by the  
13                   Secretary with respect to such pay-  
14                   ment year.

15                   “(ii) MEDICARE SHARE.—The Medi-  
16                   care share as specified in subparagraph  
17                   (D) for the eligible hospital for a period se-  
18                   lected by the Secretary with respect to  
19                   such payment year.

20                   “(iii) TRANSITION FACTOR.—The  
21                   transition factor specified in subparagraph  
22                   (E) for the eligible hospital for the pay-  
23                   ment year.

24                   “(B) BASE AMOUNT.—The base amount  
25           specified in this subparagraph is \$2,000,000.

1           “(C) DISCHARGE RELATED AMOUNT.—The  
2           discharge related amount specified in this sub-  
3           paragraph for a 12-month period selected by  
4           the Secretary shall be determined as the sum of  
5           the amount, estimated based upon total dis-  
6           charges for the eligible hospital (regardless of  
7           any source of payment) for the period, for each  
8           discharge up to the 23,000th discharge as fol-  
9           lows:

10                   “(i) For the first through 1,149th dis-  
11                   charge, \$0.

12                   “(ii) For the 1,150th through the  
13                   23,000th discharge, \$200.

14                   “(iii) For any discharge greater than  
15                   the 23,000th, \$0.

16           “(D) MEDICARE SHARE.—The Medicare  
17           share specified under this subparagraph for an  
18           eligible hospital for a period selected by the  
19           Secretary for a payment year is equal to the  
20           fraction—

21                   “(i) the numerator of which is the  
22                   sum (for such period and with respect to  
23                   the eligible hospital) of—

24                   “(I) the estimated number of in-  
25                   patient-bed-days (as established by

1 the Secretary) which are attributable  
2 to individuals with respect to whom  
3 payment may be made under part A;  
4 and

5 “(II) the estimated number of in-  
6 patient-bed-days (as so established)  
7 which are attributable to individuals  
8 who are enrolled with a Medicare Ad-  
9 vantage organization under part C;  
10 and

11 “(ii) the denominator of which is the  
12 product of—

13 “(I) the estimated total number  
14 of inpatient-bed-days with respect to  
15 the eligible hospital during such pe-  
16 riod; and

17 “(II) the estimated total amount  
18 of the eligible hospital’s charges dur-  
19 ing such period, not including any  
20 charges that are attributable to char-  
21 ity care (as such term is used for pur-  
22 poses of hospital cost reporting under  
23 this title), divided by the estimated  
24 total amount of the hospital’s charges  
25 during such period.

1           Insofar as the Secretary determines that data  
2           are not available on charity care necessary to  
3           calculate the portion of the formula specified in  
4           clause (ii)(II), the Secretary shall use data on  
5           uncompensated care and may adjust such data  
6           so as to be an appropriate proxy for charity  
7           care including a downward adjustment to elimi-  
8           nate bad debt data from uncompensated care  
9           data. In the absence of the data necessary, with  
10          respect to a hospital, for the Secretary to com-  
11          pute the amount described in clause (ii)(II), the  
12          amount under such clause shall be deemed to  
13          be 1. In the absence of data, with respect to a  
14          hospital, necessary to compute the amount de-  
15          scribed in clause (i)(II), the amount under such  
16          clause shall be deemed to be 0.

17               “(E) TRANSITION FACTOR SPECIFIED.—

18                       “(i) IN GENERAL.—Subject to clause  
19                       (ii), the transition factor specified in this  
20                       subparagraph for an eligible hospital for a  
21                       payment year is as follows:

22                               “(I) For the first payment year  
23                               for such hospital, 1.

24                               “(II) For the second payment  
25                               year for such hospital,  $\frac{3}{4}$ .

1                   “(III) For the third payment  
2                   year for such hospital,  $\frac{1}{2}$ .

3                   “(IV) For the fourth payment  
4                   year for such hospital,  $\frac{1}{4}$ .

5                   “(V) For any succeeding pay-  
6                   ment year for such hospital, 0.

7                   “(ii) PHASE DOWN FOR ELIGIBLE  
8                   HOSPITALS FIRST ADOPTING EHR AFTER  
9                   2013.—If the first payment year for an eli-  
10                  gible hospital is after 2013, then the tran-  
11                  sition factor specified in this subparagraph  
12                  for a payment year for such hospital is the  
13                  same as the amount specified in clause (i)  
14                  for such payment year for an eligible hos-  
15                  pital for which the first payment year is  
16                  2013. If the first payment year for an eli-  
17                  gible hospital is after 2015 then the transi-  
18                  tion factor specified in this subparagraph  
19                  for such hospital and for such year and  
20                  any subsequent year shall be 0.

21                  “(F) FORM OF PAYMENT.—The payment  
22                  under this subsection for a payment year may  
23                  be in the form of a single consolidated payment  
24                  or in the form of such periodic installments as  
25                  the Secretary may specify.

1 “(G) PAYMENT YEAR DEFINED.—

2 “(i) IN GENERAL.—For purposes of  
3 this subsection, the term ‘payment year’  
4 means a fiscal year beginning with fiscal  
5 year 2011.

6 “(ii) FIRST, SECOND, ETC. PAYMENT  
7 YEAR.—The term ‘first payment year’  
8 means, with respect to inpatient hospital  
9 services furnished by an eligible hospital,  
10 the first fiscal year for which an incentive  
11 payment is made for such services under  
12 this subsection. The terms ‘second pay-  
13 ment year’, ‘third payment year’, and  
14 ‘fourth payment year’ mean, with respect  
15 to an eligible hospital, each successive year  
16 immediately following the first payment  
17 year for that hospital.

18 “(3) MEANINGFUL EHR USER.—

19 “(A) IN GENERAL.—For purposes of para-  
20 graph (1), an eligible hospital shall be treated  
21 as a meaningful EHR user for an EHR report-  
22 ing period for a payment year (or, for purposes  
23 of subsection (b)(3)(B)(ix), for an EHR report-  
24 ing period under such subsection for a fiscal

1           year) if each of the following requirements are  
2           met:

3                   “(i) MEANINGFUL USE OF CERTIFIED  
4           EHR TECHNOLOGY.—The eligible hospital  
5           demonstrates to the satisfaction of the Sec-  
6           retary, in accordance with subparagraph  
7           (C)(i), that during such period the hospital  
8           is using certified EHR technology in a  
9           meaningful manner.

10                   “(ii) INFORMATION EXCHANGE.—The  
11           eligible hospital demonstrates to the satis-  
12           faction of the Secretary, in accordance  
13           with subparagraph (C)(i), that during such  
14           period such certified EHR technology is  
15           connected in a manner that provides, in  
16           accordance with law and standards appli-  
17           cable to the exchange of information, for  
18           the electronic exchange of health informa-  
19           tion to improve the quality of health care,  
20           such as promoting care coordination.

21                   “(iii) REPORTING ON MEASURES  
22           USING EHR.—Subject to subparagraph  
23           (B)(ii) and using such certified EHR tech-  
24           nology, the eligible hospital submits infor-  
25           mation for such period, in a form and

1 manner specified by the Secretary, on such  
2 clinical quality measures and such other  
3 measures as selected by the Secretary  
4 under subparagraph (B)(i).

5 The Secretary shall seek to improve the use of  
6 electronic health records and health care quality  
7 over time by requiring more stringent measures  
8 of meaningful use selected under this para-  
9 graph.

10 “(B) REPORTING ON MEASURES.—

11 “(i) SELECTION.—The Secretary shall  
12 select measures for purposes of subpara-  
13 graph (A)(iii) but only consistent with the  
14 following:

15 “(I) The Secretary shall provide  
16 preference to clinical quality measures  
17 that have been selected for purposes  
18 of applying subsection (b)(3)(B)(viii)  
19 or that have been endorsed by the en-  
20 tity with a contract with the Secretary  
21 under section 1890(a).

22 “(II) Prior to any measure (other  
23 than a clinical quality measure that  
24 has been selected for purposes of ap-  
25 plying subsection (b)(3)(B)(viii))



1           being selected under this subpara-  
2           graph, the Secretary shall publish in  
3           the Federal Register such measure  
4           and provide for a period of public  
5           comment on such measure.

6           “(ii) LIMITATIONS.—The Secretary  
7           may not require the electronic reporting of  
8           information on clinical quality measures  
9           under subparagraph (A)(iii) unless the  
10          Secretary has the capacity to accept the in-  
11          formation electronically, which may be on  
12          a pilot basis.

13          “(iii) COORDINATION OF REPORTING  
14          OF INFORMATION.—In selecting such  
15          measures, and in establishing the form and  
16          manner for reporting measures under sub-  
17          paragraph (A)(iii), the Secretary shall seek  
18          to avoid redundant or duplicative reporting  
19          with reporting otherwise required, includ-  
20          ing reporting under subsection  
21          (b)(3)(B)(viii).

22          “(C) DEMONSTRATION OF MEANINGFUL  
23          USE OF CERTIFIED EHR TECHNOLOGY AND IN-  
24          FORMATION EXCHANGE.—

1 “(i) IN GENERAL.—An eligible hos-  
2 pital may satisfy the demonstration re-  
3 quirement of clauses (i) and (ii) of sub-  
4 paragraph (A) through means specified by  
5 the Secretary, which may include—

6 “(I) an attestation;

7 “(II) the submission of claims  
8 with appropriate coding (such as a  
9 code indicating that inpatient care  
10 was documented using certified EHR  
11 technology);

12 “(III) a survey response;

13 “(IV) reporting under subpara-  
14 graph (A)(iii); and

15 “(V) other means specified by the  
16 Secretary.

17 “(ii) USE OF PART D DATA.—Not-  
18 withstanding sections 1860D–15(d)(2)(B)  
19 and 1860D–15(f)(2), the Secretary may  
20 use data regarding drug claims submitted  
21 for purposes of section 1860D–15 that are  
22 necessary for purposes of subparagraph  
23 (A).

24 “(4) APPLICATION.—

1           “(A) LIMITATIONS ON REVIEW.—There  
2           shall be no administrative or judicial review  
3           under section 1869, section 1878, or otherwise,  
4           of—

5                   “(i) the methodology and standards  
6                   for determining payment amounts under  
7                   this subsection and payment adjustments  
8                   under subsection (b)(3)(B)(ix), including  
9                   selection of periods under paragraph (2)  
10                  for determining, and making estimates or  
11                  using proxies of, discharges under para-  
12                  graph (2)(C) and inpatient-bed-days, hos-  
13                  pital charges, charity charges, and Medi-  
14                  care share under paragraph (2)(D);

15                   “(ii) the methodology and standards  
16                   for determining a meaningful EHR user  
17                   under paragraph (3), including selection of  
18                   measures under paragraph (3)(B), speci-  
19                   fication of the means of demonstrating  
20                   meaningful EHR use under paragraph  
21                   (3)(C), and the hardship exception under  
22                   subsection (b)(3)(B)(ix)(II); and

23                   “(iii) the specification of EHR report-  
24                   ing periods under paragraph (6)(B) and

1           the selection of the form of payment under  
2           paragraph (2)(F).

3           “(B) POSTING ON WEBSITE.—The Sec-  
4           retary shall post on the Internet website of the  
5           Centers for Medicare & Medicaid Services, in an  
6           easily understandable format, a list of the  
7           names of the eligible hospitals that are mean-  
8           ingful EHR users under this subsection or sub-  
9           section (b)(3)(B)(ix) (and a list of the names of  
10          critical access hospitals to which paragraph (3)  
11          or (4) of section 1814(l) applies), and other rel-  
12          evant data as determined appropriate by the  
13          Secretary. The Secretary shall ensure that an  
14          eligible hospital (or critical access hospital) has  
15          the opportunity to review the other relevant  
16          data that are to be made public with respect to  
17          the hospital (or critical access hospital) prior to  
18          such data being made public.

19          “(5) CERTIFIED EHR TECHNOLOGY DEFINED.—  
20          The term ‘certified EHR technology’ has the mean-  
21          ing given such term in section 1848(o)(4).

22          “(6) DEFINITIONS.—For purposes of this sub-  
23          section:

24                  “(A) EHR REPORTING PERIOD.—The term  
25          ‘EHR reporting period’ means, with respect to

1 a payment year, any period (or periods) as  
2 specified by the Secretary.

3 “(B) ELIGIBLE HOSPITAL.—The term ‘eli-  
4 gible hospital’ means a subsection (d) hos-  
5 pital.”.

6 (2) CRITICAL ACCESS HOSPITALS.—Section  
7 1814(l) of the Social Security Act (42 U.S.C.  
8 1395f(1)) is amended—

9 (A) in paragraph (1), by striking “para-  
10 graph (2)” and inserting “the subsequent para-  
11 graphs of this subsection”; and

12 (B) by adding at the end the following new  
13 paragraph:

14 “(3)(A) The following rules shall apply in deter-  
15 mining payment and reasonable costs under paragraph (1)  
16 for costs described in subparagraph (C) for a critical ac-  
17 cess hospital that would be a meaningful EHR user (as  
18 would be determined under paragraph (3) of section  
19 1886(n)) for an EHR reporting period for a cost reporting  
20 period beginning during a payment year if such critical  
21 access hospital was treated as an eligible hospital under  
22 such section:

23 “(i) The Secretary shall compute reasonable  
24 costs by expensing such costs in a single payment  
25 year and not depreciating such costs over a period

1 of years (and shall include as costs with respect to  
2 cost reporting periods beginning during a payment  
3 year costs from previous cost reporting periods to  
4 the extent they have not been fully depreciated as of  
5 the period involved).

6 “(ii) There shall be substituted for the Medi-  
7 care share that would otherwise be applied under  
8 paragraph (1) a percent (not to exceed 100 percent)  
9 equal to the sum of—

10 “(I) the Medicare share (as would be speci-  
11 fied under paragraph (2)(D) of section  
12 1886(n)) for such critical access hospital if such  
13 critical access hospital was treated as an eligible  
14 hospital under such section; and

15 “(II) 20 percentage points.

16 “(B) The payment under this paragraph with respect  
17 to a critical access hospital shall be paid through a prompt  
18 interim payment (subject to reconciliation) after submis-  
19 sion and review of such information (as specified by the  
20 Secretary) necessary to make such payment, including in-  
21 formation necessary to apply this paragraph. In no case  
22 may payment under this paragraph be made with respect  
23 to a cost reporting period beginning during a payment  
24 year after 2015 and in no case may a critical access hos-

1 pital receive payment under this paragraph with respect  
2 to more than 4 consecutive payment years.

3 “(C) The costs described in this subparagraph are  
4 costs for the purchase of certified EHR technology to  
5 which purchase depreciation (excluding interest) would  
6 apply if payment was made under paragraph (1) and not  
7 under this paragraph.

8 “(D) For purposes of this paragraph, paragraph (4),  
9 and paragraph (5), the terms ‘certified EHR technology’,  
10 ‘eligible hospital’, ‘EHR reporting period’, and ‘payment  
11 year’ have the meanings given such terms in sections  
12 1886(n).”.

13 (b) INCENTIVE MARKET BASKET ADJUSTMENT.—

14 (1) IN GENERAL.—Section 1886(b)(3)(B) of  
15 the Social Security Act (42 U.S.C.  
16 1395ww(b)(3)(B)) is amended—

17 (A) in clause (viii)(I), by inserting “(or,  
18 beginning with fiscal year 2015, by one-quar-  
19 ter)” after “2.0 percentage points”; and

20 (B) by adding at the end the following new  
21 clause:

22 “(ix)(I) For purposes of clause (i) for fiscal year  
23 2015 and each subsequent fiscal year, in the case of an  
24 eligible hospital (as defined in subsection (n)(6)(A)) that  
25 is not a meaningful EHR user (as defined in subsection

1 (n)(3)) for an EHR reporting period for such fiscal year,  
2 three-quarters of the applicable percentage increase other-  
3 wise applicable under clause (i) for such fiscal year shall  
4 be reduced by  $33\frac{1}{3}$  percent for fiscal year 2015,  $66\frac{2}{3}$  per-  
5 cent for fiscal year 2016, and 100 percent for fiscal year  
6 2017 and each subsequent fiscal year. Such reduction  
7 shall apply only with respect to the fiscal year involved  
8 and the Secretary shall not take into account such reduc-  
9 tion in computing the applicable percentage increase under  
10 clause (i) for a subsequent fiscal year.

11 “(II) The Secretary may, on a case-by-case basis, ex-  
12 empt a subsection (d) hospital from the application of sub-  
13 clause (I) with respect to a fiscal year if the Secretary  
14 determines, subject to annual renewal, that requiring such  
15 hospital to be a meaningful EHR user during such fiscal  
16 year would result in a significant hardship, such as in the  
17 case of a hospital in a rural area without sufficient Inter-  
18 net access. In no case may a hospital be granted an ex-  
19 emption under this subclause for more than 5 years.

20 “(III) For fiscal year 2015 and each subsequent fis-  
21 cal year, a State in which hospitals are paid for services  
22 under section 1814(b)(3) shall adjust the payments to  
23 each subsection (d) hospital in the State that is not a  
24 meaningful EHR user (as defined in subsection (n)(3))  
25 in a manner that is designed to result in an aggregate



1 reduction in payments to hospitals in the State that is  
2 equivalent to the aggregate reduction that would have oc-  
3 curred if payments had been reduced to each subsection  
4 (d) hospital in the State in a manner comparable to the  
5 reduction under the previous provisions of this clause. The  
6 State shall report to the Secretary the methodology it will  
7 use to make the payment adjustment under the previous  
8 sentence.

9 “(IV) For purposes of this clause, the term ‘EHR  
10 reporting period’ means, with respect to a fiscal year, any  
11 period (or periods) as specified by the Secretary.”.

12 (2) CRITICAL ACCESS HOSPITALS.—Section  
13 1814(l) of the Social Security Act (42 U.S.C.  
14 1395f(l)), as amended by subsection (a)(2), is fur-  
15 ther amended by adding at the end the following  
16 new paragraphs:

17 “(4)(A) Subject to subparagraph (C), for cost report-  
18 ing periods beginning in fiscal year 2015 or a subsequent  
19 fiscal year, in the case of a critical access hospital that  
20 is not a meaningful EHR user (as would be determined  
21 under paragraph (3) of section 1886(n) if such critical ac-  
22 cess hospital was treated as an eligible hospital under such  
23 section) for an EHR reporting period with respect to such  
24 fiscal year, paragraph (1) shall be applied by substituting

1 the applicable percent under subparagraph (B) for the  
2 percent described in such paragraph (1).

3 “(B) The percent described in this subparagraph is—

4 “(i) for fiscal year 2015, 100.66 percent;

5 “(ii) for fiscal year 2016, 100.33 percent; and

6 “(iii) for fiscal year 2017 and each subsequent  
7 fiscal year, 100 percent.

8 “(C) The provisions of subclause (II) of section  
9 1886(b)(3)(B)(ix) shall apply with respect to subpara-  
10 graph (A) for a critical access hospital with respect to a  
11 cost reporting period beginning in a fiscal year in the same  
12 manner as such subclause applies with respect to sub-  
13 clause (I) of such section for a subsection (d) hospital with  
14 respect to such fiscal year.

15 “(5) There shall be no administrative or judicial re-  
16 view under section 1869, section 1878, or otherwise, of—

17 “(A) the methodology and standards for deter-  
18 mining the amount of payment and reasonable cost  
19 under paragraph (3) and payment adjustments  
20 under paragraph (4), including selection of periods  
21 under section 1886(n)(2) for determining, and mak-  
22 ing estimates or using proxies of, inpatient-bed-days,  
23 hospital charges, charity charges, and Medicare  
24 share under subparagraph (D) of section  
25 1886(n)(2);

1           “(B) the methodology and standards for deter-  
2           mining a meaningful EHR user under section  
3           1886(n)(3) as would apply if the hospital was treat-  
4           ed as an eligible hospital under section 1886(n), and  
5           the hardship exception under paragraph (4)(C);

6           “(C) the specification of EHR reporting periods  
7           under section 1886(n)(6)(B) as applied under para-  
8           graphs (3) and (4); and

9           “(D) the identification of costs for purposes of  
10          paragraph (3)(C).”.

11          (c) APPLICATION TO CERTAIN MA-AFFILIATED ELI-  
12          GIBLE HOSPITALS.—Section 1853 of the Social Security  
13          Act (42 U.S.C. 1395w–23), as amended by section  
14          4101(c), is further amended by adding at the end the fol-  
15          lowing new subsection:

16          “(m) APPLICATION OF ELIGIBLE HOSPITAL INCEN-  
17          TIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION  
18          AND MEANINGFUL USE OF CERTIFIED EHR TECH-  
19          NOLOGY.—

20                 “(1) APPLICATION.—Subject to paragraphs (3)  
21                 and (4), in the case of a qualifying MA organization,  
22                 the provisions of sections 1886(n) and  
23                 1886(b)(3)(B)(ix) shall apply with respect to eligible  
24                 hospitals described in paragraph (2) of the organiza-  
25                 tion which the organization attests under subsection

1 (l)(6) to be meaningful EHR users in a similar man-  
2 ner as they apply to eligible hospitals under such  
3 sections. Incentive payments under paragraph (3)  
4 shall be made to and payment adjustments under  
5 paragraph (4) shall apply to such qualifying organi-  
6 zations.

7 “(2) ELIGIBLE HOSPITAL DESCRIBED.—With  
8 respect to a qualifying MA organization, an eligible  
9 hospital described in this paragraph is an eligible  
10 hospital (as defined in section 1886(n)(6)(A)) that is  
11 under common corporate governance with such orga-  
12 nization and serves individuals enrolled under an  
13 MA plan offered by such organization.

14 “(3) ELIGIBLE HOSPITAL INCENTIVE PAY-  
15 MENTS.—

16 “(A) IN GENERAL.—In applying section  
17 1886(n)(2) under paragraph (1), instead of the  
18 additional payment amount under section  
19 1886(n)(2), there shall be substituted an  
20 amount determined by the Secretary to be simi-  
21 lar to the estimated amount in the aggregate  
22 that would be payable if payment for services  
23 furnished by such hospitals was payable under  
24 part A instead of this part. In implementing the  
25 previous sentence, the Secretary—

1           “(i) shall, insofar as data to deter-  
2           mine the discharge related amount under  
3           section 1886(n)(2)(C) for an eligible hos-  
4           pital are not available to the Secretary, use  
5           such alternative data and methodology to  
6           estimate such discharge related amount as  
7           the Secretary determines appropriate; and

8           “(ii) shall, insofar as data to deter-  
9           mine the medicare share described in sec-  
10          tion 1886(n)(2)(D) for an eligible hospital  
11          are not available to the Secretary, use such  
12          alternative data and methodology to esti-  
13          mate such share, which data and method-  
14          ology may include use of the inpatient-bed-  
15          days (or discharges) with respect to an eli-  
16          gible hospital during the appropriate pe-  
17          riod which are attributable to both individ-  
18          uals for whom payment may be made  
19          under part A or individuals enrolled in an  
20          MA plan under a Medicare Advantage or-  
21          ganization under this part as a proportion  
22          of the estimated total number of patient-  
23          bed-days (or discharges) with respect to  
24          such hospital during such period.

1                   “(B) AVOIDING DUPLICATION OF PAY-  
2                   MENTS.—

3                   “(i) IN GENERAL.—In the case of a  
4                   hospital that for a payment year is an eli-  
5                   gible hospital described in paragraph (2)  
6                   and for which at least one-third of their  
7                   discharges (or bed-days) of Medicare pa-  
8                   tients for the year are covered under part  
9                   A, payment for the payment year shall be  
10                  made only under section 1886(n) and not  
11                  under this subsection.

12                  “(ii) METHODS.—In the case of a  
13                  hospital that is an eligible hospital de-  
14                  scribed in paragraph (2) and also is eligi-  
15                  ble for an incentive payment under section  
16                  1886(n) but is not described in clause (i)  
17                  for the same payment period, the Secretary  
18                  shall develop a process—

19                         “(I) to ensure that duplicate pay-  
20                         ments are not made with respect to  
21                         an eligible hospital both under this  
22                         subsection and under section 1886(n);  
23                         and

1                   “(II) to collect data from Medi-  
2                   care Advantage organizations to en-  
3                   sure against such duplicate payments.

4                   “(4) PAYMENT ADJUSTMENT.—

5                   “(A) Subject to paragraph (3), in the case  
6                   of a qualifying MA organization (as defined in  
7                   section 1853(l)(5)), if, according to the attesta-  
8                   tion of the organization submitted under sub-  
9                   section (l)(6) for an applicable period, one or  
10                  more eligible hospitals (as defined in section  
11                  1886(n)(6)(A)) that are under common cor-  
12                  porate governance with such organization and  
13                  that serve individuals enrolled under a plan of-  
14                  fered by such organization are not meaningful  
15                  EHR users (as defined in section 1886(n)(3))  
16                  with respect to a period, the payment amount  
17                  payable under this section for such organization  
18                  for such period shall be the percent specified in  
19                  subparagraph (B) for such period of the pay-  
20                  ment amount otherwise provided under this sec-  
21                  tion for such period.

22                  “(B) SPECIFIED PERCENT.—The percent  
23                  specified under this subparagraph for a year is  
24                  100 percent minus a number of percentage  
25                  points equal to the product of—

1           “(i) the number of the percentage  
2           point reduction effected under section  
3           1886(b)(3)(B)(ix)(I) for the period; and

4           “(ii) the Medicare hospital expendi-  
5           ture proportion specified in subparagraph  
6           (C) for the year.

7           “(C) MEDICARE HOSPITAL EXPENDITURE  
8           PROPORTION.—The Medicare hospital expendi-  
9           ture proportion under this subparagraph for a  
10          year is the Secretary’s estimate of the propor-  
11          tion, of the expenditures under parts A and B  
12          that are not attributable to this part, that are  
13          attributable to expenditures for inpatient hos-  
14          pital services.

15          “(D) APPLICATION OF PAYMENT ADJUST-  
16          MENT.—In the case that a qualifying MA orga-  
17          nization attests that not all eligible hospitals  
18          are meaningful EHR users with respect to an  
19          applicable period, the Secretary shall apply the  
20          payment adjustment under this paragraph  
21          based on a methodology specified by the Sec-  
22          retary, taking into account the proportion of  
23          such eligible hospitals, or discharges from such  
24          hospitals, that are not meaningful EHR users  
25          for such period.



1           “(5) POSTING ON WEBSITE.—The Secretary  
2       shall post on the Internet website of the Centers for  
3       Medicare & Medicaid Services, in an easily under-  
4       standable format—

5           “(A) a list of the names, business address-  
6       es, and business phone numbers of each quali-  
7       fying MA organization receiving an incentive  
8       payment under this subsection for eligible hos-  
9       pitals described in paragraph (2); and

10          “(B) a list of the names of the eligible hos-  
11       pitals for which such incentive payment is  
12       based.

13          “(6) LIMITATIONS ON REVIEW.—There shall be  
14       no administrative or judicial review under section  
15       1869, section 1878, or otherwise, of—

16          “(A) the methodology and standards for  
17       determining payment amounts and payment ad-  
18       justments under this subsection, including  
19       avoiding duplication of payments under para-  
20       graph (3)(B);

21          “(B) the methodology and standards for  
22       determining eligible hospitals under paragraph  
23       (2); and

24          “(C) the methodology and standards for  
25       determining a meaningful EHR user under sec-

1           tion 1886(n)(3), including specification of the  
2           means of demonstrating meaningful EHR use  
3           under subparagraph (C) of such section and se-  
4           lection of measures under subparagraph (B) of  
5           such section.”.

6           (d) CONFORMING AMENDMENTS.—

7           (1) Section 1814(b) of the Social Security Act  
8           (42 U.S.C. 1395f(b)) is amended—

9                   (A) in paragraph (3), in the matter pre-  
10                  ceding subparagraph (A), by inserting “, sub-  
11                  ject to section 1886(d)(3)(B)(ix)(III),” after  
12                  “then”; and

13                  (B) by adding at the end the following:  
14                  “For purposes of applying paragraph (3), there  
15                  shall be taken into account incentive payments,  
16                  and payment adjustments under subsection  
17                  (b)(3)(B)(ix) or (n) of section 1886.”.

18           (2) Section 1851(i)(1) of the Social Security  
19           Act (42 U.S.C. 1395w-21(i)(1)) is amended by  
20           striking “and 1886(h)(3)(D)” and inserting  
21           “1886(h)(3)(D), and 1853(m)”.

22           (3) Section 1853 of the Social Security Act (42  
23           U.S.C. 1395w-23), as amended by section 4101(d),  
24           is amended—

25                   (A) in subsection (c)—

1 (i) in paragraph (1)(D)(i), by striking  
2 “1848(o)” and inserting “, 1848(o), and  
3 1886(n)”; and  
4 (ii) in paragraph (6)(A), by inserting  
5 “and subsections (b)(3)(B)(ix) and (n) of  
6 section 1886” after “section 1848”; and  
7 (B) in subsection (f), by inserting “and  
8 subsection (m)” after “under subsection (l)”.

9 **SEC. 4103. TREATMENT OF PAYMENTS AND SAVINGS; IM-**  
10 **PLEMENTATION FUNDING.**

11 (a) PREMIUM HOLD HARMLESS.—

12 (1) IN GENERAL.—Section 1839(a)(1) of the  
13 Social Security Act (42 U.S.C. 1395r(a)(1)) is  
14 amended by adding at the end the following: “In ap-  
15 plying this paragraph there shall not be taken into  
16 account additional payments under section 1848(o)  
17 and section 1853(l)(3) and the Government con-  
18 tribution under section 1844(a)(3).”.

19 (2) PAYMENT.—Section 1844(a) of such Act  
20 (42 U.S.C. 1395w(a)) is amended—

21 (A) in paragraph (2), by striking the pe-  
22 riod at the end and inserting “; plus”; and

23 (B) by adding at the end the following new  
24 paragraph:

1           “(3) a Government contribution equal to the  
2           amount of payment incentives payable under sec-  
3           tions 1848(o) and 1853(l)(3).”.

4           (b) MEDICARE IMPROVEMENT FUND.—Section 1898  
5           of the Social Security Act (42 U.S.C. 1395iii), as added  
6           by section 7002(a) of the Supplemental Appropriations  
7           Act, 2008 (Public Law 110–252) and as amended by sec-  
8           tion 188(a)(2) of the Medicare Improvements for Patients  
9           and Providers Act of 2008 (Public Law 110–275; 122  
10          Stat. 2589) and by section 6 of the QI Program Supple-  
11          mental Funding Act of 2008, is amended—

12           (1) in subsection (a)—

13                   (A) by inserting “medicare” before “fee-  
14                   for-service”; and

15                   (B) by inserting before the period at the  
16                   end the following: “including, but not limited  
17                   to, an increase in the conversion factor under  
18                   section 1848(d) to address, in whole or in part,  
19                   any projected shortfall in the conversion factor  
20                   for 2014 relative to the conversion factor for  
21                   2008 and adjustments to payments for items  
22                   and services furnished by providers of services  
23                   and suppliers under such original medicare fee-  
24                   for-service program”; and

25           (2) in subsection (b)—

1 (A) in paragraph (1), by striking “during  
2 fiscal year 2014,” and all that follows and in-  
3 serting the following: “during—

4 “(A) fiscal year 2014, \$22,290,000,000;  
5 and

6 “(B) fiscal year 2020 and each subsequent  
7 fiscal year, the Secretary’s estimate, as of July  
8 1 of the fiscal year, of the aggregate reduction  
9 in expenditures under this title during the pre-  
10 ceding fiscal year directly resulting from the re-  
11 duction in payment amounts under sections  
12 1848(a)(7), 1853(l)(4), 1853(m)(4), and  
13 1886(b)(3)(B)(ix).”; and

14 (B) by adding at the end the following new  
15 paragraph:

16 “(4) NO EFFECT ON PAYMENTS IN SUBSE-  
17 QUENT YEARS.—In the case that expenditures from  
18 the Fund are applied to, or otherwise affect, a pay-  
19 ment rate for an item or service under this title for  
20 a year, the payment rate for such item or service  
21 shall be computed for a subsequent year as if such  
22 application or effect had never occurred.”.

23 (c) IMPLEMENTATION FUNDING.—In addition to  
24 funds otherwise available, out of any funds in the Treas-  
25 ury not otherwise appropriated, there are appropriated to

1 the Secretary of Health and Human Services for the Cen-  
2 ter for Medicare & Medicaid Services Program Manage-  
3 ment Account, \$100,000,000 for each of fiscal years 2009  
4 through 2015 and \$45,000,000 for fiscal year 2016, which  
5 shall be available for purposes of carrying out the provi-  
6 sions of (and amendments made by) this subtitle.  
7 Amounts appropriated under this subsection for a fiscal  
8 year shall be available until expended.

9 **SEC. 4104. STUDIES AND REPORTS ON HEALTH INFORMA-**  
10 **TION TECHNOLOGY.**

11 (a) STUDY AND REPORT ON APPLICATION OF EHR  
12 PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING  
13 OTHER INCENTIVE PAYMENTS.—

14 (1) STUDY.—

15 (A) IN GENERAL.—The Secretary of  
16 Health and Human Services shall conduct a  
17 study to determine the extent to which and  
18 manner in which payment incentives (such as  
19 under title XVIII or XIX of the Social Security  
20 Act) and other funding for purposes of imple-  
21 menting and using certified EHR technology  
22 (as defined in section 1848(o)(4) of the Social  
23 Security Act, as added by section 4101(a))  
24 should be made available to health care pro-  
25 viders who are receiving minimal or no payment

1 incentives or other funding under this Act,  
2 under title XIII of division A, under title XVIII  
3 or XIX of such Act, or otherwise, for such pur-  
4 poses.

5 (B) DETAILS OF STUDY.—Such study shall  
6 include an examination of—

7 (i) the adoption rates of certified  
8 EHR technology by such health care pro-  
9 viders;

10 (ii) the clinical utility of such tech-  
11 nology by such health care providers;

12 (iii) whether the services furnished by  
13 such health care providers are appropriate  
14 for or would benefit from the use of such  
15 technology;

16 (iv) the extent to which such health  
17 care providers work in settings that might  
18 otherwise receive an incentive payment or  
19 other funding under this Act, under title  
20 XIII of division A, under title XVIII or  
21 XIX of the Social Security Act, or other-  
22 wise;

23 (v) the potential costs and the poten-  
24 tial benefits of making payment incentives

1 and other funding available to such health  
2 care providers; and

3 (vi) any other issues the Secretary  
4 deems to be appropriate.

5 (2) REPORT.—Not later than June 30, 2010,  
6 the Secretary shall submit to Congress a report on  
7 the findings and conclusions of the study conducted  
8 under paragraph (1).

9 (b) STUDY AND REPORT ON AVAILABILITY OF OPEN  
10 SOURCE HEALTH INFORMATION TECHNOLOGY SYS-  
11 TEMS.—

12 (1) STUDY.—

13 (A) IN GENERAL.—The Secretary of  
14 Health and Human Services shall, in consulta-  
15 tion with the Under Secretary for Health of the  
16 Veterans Health Administration, the Director  
17 of the Indian Health Service, the Secretary of  
18 Defense, the Director of the Agency for  
19 Healthcare Research and Quality, the Adminis-  
20 trator of the Health Resources and Services Ad-  
21 ministration, and the Chairman of the Federal  
22 Communications Commission, conduct a study  
23 on—

24 (i) the current availability of open  
25 source health information technology sys-



1           tems to Federal safety net providers (in-  
2           cluding small, rural providers);

3           (ii) the total cost of ownership of such  
4           systems in comparison to the cost of pro-  
5           prietary commercial products available;

6           (iii) the ability of such systems to re-  
7           spond to the needs of, and be applied to,  
8           various populations (including children and  
9           disabled individuals); and

10          (iv) the capacity of such systems to  
11          facilitate interoperability.

12          (B) CONSIDERATIONS.—In conducting the  
13          study under subparagraph (A), the Secretary of  
14          Health and Human Services shall take into ac-  
15          count the circumstances of smaller health care  
16          providers, health care providers located in rural  
17          or other medically underserved areas, and safe-  
18          ty net providers that deliver a significant level  
19          of health care to uninsured individuals, Med-  
20          icaid beneficiaries, SCHIP beneficiaries, and  
21          other vulnerable individuals.

22          (2) REPORT.—Not later than October 1, 2010,  
23          the Secretary of Health and Human Services shall  
24          submit to Congress a report on the findings and the  
25          conclusions of the study conducted under paragraph

1 (1), together with recommendations for such legisla-  
2 tion and administrative action as the Secretary de-  
3 termines appropriate.

## 4 **Subtitle B—Medicaid Incentives**

### 5 **SEC. 4201. MEDICAID PROVIDER HIT ADOPTION AND OPER-** 6 **ATION PAYMENTS; IMPLEMENTATION FUND-** 7 **ING.**

8 (a) IN GENERAL.—Section 1903 of the Social Secu-  
9 rity Act (42 U.S.C. 1396b) is amended—

10 (1) in subsection (a)(3)—

11 (A) by striking “and” at the end of sub-  
12 paragraph (D);

13 (B) by striking “plus” at the end of sub-  
14 paragraph (E) and inserting “and”; and

15 (C) by adding at the end the following new  
16 subparagraph:

17 “(F)(i) 100 percent of so much of the  
18 sums expended during such quarter as are at-  
19 tributable to payments to Medicaid providers  
20 described in subsection (t)(1) to encourage the  
21 adoption and use of certified EHR technology;  
22 and

23 “(ii) 90 percent of so much of the sums ex-  
24 pended during such quarter as are attributable  
25 to payments for reasonable administrative ex-

1           penses related to the administration of pay-  
2           ments described in clause (i) if the State meets  
3           the condition described in subsection (t)(9);  
4           plus”; and

5           (2) by inserting after subsection (s) the fol-  
6           lowing new subsection:

7           “(t)(1) For purposes of subsection (a)(3)(F), the pay-  
8           ments described in this paragraph to encourage the adop-  
9           tion and use of certified EHR technology are payments  
10          made by the State in accordance with this subsection —

11          “(A) to Medicaid providers described in para-  
12          graph (2)(A) not in excess of 85 percent of net aver-  
13          age allowable costs (as defined in paragraph (3)(E))  
14          for certified EHR technology (and support services  
15          including maintenance and training that is for, or is  
16          necessary for the adoption and operation of, such  
17          technology) with respect to such providers; and

18          “(B) to Medicaid providers described in para-  
19          graph (2)(B) not in excess of the maximum amount  
20          permitted under paragraph (5) for the provider in-  
21          volved.

22          “(2) In this subsection and subsection (a)(3)(F), the  
23          term ‘Medicaid provider’ means—

24          “(A) an eligible professional (as defined in  
25          paragraph (3)(B))—

1           “(i) who is not hospital-based and has at  
2           least 30 percent of the professional’s patient  
3           volume (as estimated in accordance with a  
4           methodology established by the Secretary) at-  
5           tributable to individuals who are receiving med-  
6           ical assistance under this title;

7           “(ii) who is not described in clause (i), who  
8           is a pediatrician, who is not hospital-based, and  
9           who has at least 20 percent of the profes-  
10          sional’s patient volume (as estimated in accord-  
11          ance with a methodology established by the Sec-  
12          retary) attributable to individuals who are re-  
13          ceiving medical assistance under this title; and

14          “(iii) who practices predominantly in a  
15          Federally qualified health center or rural health  
16          clinic and has at least 30 percent of the profes-  
17          sional’s patient volume (as estimated in accord-  
18          ance with a methodology established by the Sec-  
19          retary) attributable to needy individuals (as de-  
20          fined in paragraph (3)(F)); and

21          “(B)(i) a children’s hospital, or

22          “(ii) an acute-care hospital that is not described  
23          in clause (i) and that has at least 10 percent of the  
24          hospital’s patient volume (as estimated in accord-  
25          ance with a methodology established by the Sec-

1       retary) attributable to individuals who are receiving  
2       medical assistance under this title.

3   An eligible professional shall not qualify as a Medicaid  
4   provider under this subsection unless any right to payment  
5   under sections 1848(o) and 1853(l) with respect to the  
6   eligible professional has been waived in a manner specified  
7   by the Secretary. For purposes of calculating patient vol-  
8   ume under subparagraph (A)(iii), insofar as it is related  
9   to uncompensated care, the Secretary may require the ad-  
10   justment of such uncompensated care data so that it  
11   would be an appropriate proxy for charity care, including  
12   a downward adjustment to eliminate bad debt data from  
13   uncompensated care. In applying subparagraphs (A) and  
14   (B)(ii), the methodology established by the Secretary for  
15   patient volume shall include individuals enrolled in a Med-  
16   icaid managed care plan (under section 1903(m) or sec-  
17   tion 1932).

18       “(3) In this subsection and subsection (a)(3)(F):

19       “(A) The term ‘certified EHR technology’  
20       means a qualified electronic health record (as de-  
21       fined in 3000(13) of the Public Health Service Act)  
22       that is certified pursuant to section 3001(c)(5) of  
23       such Act as meeting standards adopted under sec-  
24       tion 3004 of such Act that are applicable to the type  
25       of record involved (as determined by the Secretary,

1       such as an ambulatory electronic health record for  
2       office-based physicians or an inpatient hospital elec-  
3       tronic health record for hospitals).

4           “(B) The term ‘eligible professional’ means a—

5               “(i) physician;

6               “(ii) dentist;

7               “(iii) certified nurse mid-wife;

8               “(iv) nurse practitioner; and

9               “(v) physician assistant insofar as the as-  
10           sistant is practicing in a rural health clinic that  
11           is led by a physician assistant or is practicing  
12           in a Federally qualified health center that is so  
13           led.

14           “(C) The term ‘average allowable costs’ means,  
15       with respect to certified EHR technology of Med-  
16       icaid providers described in paragraph (2)(A) for—

17               “(i) the first year of payment with respect  
18           to such a provider, the average costs for the  
19           purchase and initial implementation or upgrade  
20           of such technology (and support services includ-  
21           ing training that is for, or is necessary for the  
22           adoption and initial operation of, such tech-  
23           nology) for such providers, as determined by  
24           the Secretary based upon studies conducted  
25           under paragraph (4)(C); and

1           “(ii) a subsequent year of payment with  
2           respect to such a provider, the average costs  
3           not described in clause (i) relating to the oper-  
4           ation, maintenance, and use of such technology  
5           for such providers, as determined by the Sec-  
6           retary based upon studies conducted under  
7           paragraph (4)(C).

8           “(D) The term ‘hospital-based’ means, with re-  
9           spect to an eligible professional, a professional (such  
10          as a pathologist, anesthesiologist, or emergency phy-  
11          sician) who furnishes substantially all of the individ-  
12          ual’s professional services in a hospital setting  
13          (whether inpatient or outpatient) and through the  
14          use of the facilities and equipment, including quali-  
15          fied electronic health records, of the hospital. The  
16          determination of whether an eligible professional is  
17          a hospital-based eligible professional shall be made  
18          on the basis of the site of service (as defined by the  
19          Secretary) and without regard to any employment or  
20          billing arrangement between the eligible professional  
21          and any other provider.

22          “(E) The term ‘net average allowable costs’  
23          means, with respect to a Medicaid provider described  
24          in paragraph (2)(A), average allowable costs reduced  
25          by any payment that is made to such Medicaid pro-

1 vider from any other source (other than under this  
2 subsection or by a State or local government) that  
3 is directly attributable to payment for certified EHR  
4 technology or support services described in subpara-  
5 graph (C).

6 “(F) The term ‘needy individual’ means, with  
7 respect to a Medicaid provider, an individual—

8 “(i) who is receiving assistance under this  
9 title;

10 “(ii) who is receiving assistance under title  
11 XXI;

12 “(iii) who is furnished uncompensated care  
13 by the provider; or

14 “(iv) for whom charges are reduced by the  
15 provider on a sliding scale basis based on an in-  
16 dividual’s ability to pay.

17 “(4)(A) With respect to a Medicaid provider de-  
18 scribed in paragraph (2)(A), subject to subparagraph (B),  
19 in no case shall—

20 “(i) the net average allowable costs under  
21 this subsection for the first year of payment  
22 (which may not be later than 2016), which is  
23 intended to cover the costs described in para-  
24 graph (3)(C)(i), exceed \$25,000 (or such lesser



1 amount as the Secretary determines based on  
2 studies conducted under subparagraph (C));

3 “(ii) the net average allowable costs under  
4 this subsection for a subsequent year of pay-  
5 ment, which is intended to cover costs described  
6 in paragraph (3)(C)(ii), exceed \$10,000; and

7 “(iii) payments be made for costs described  
8 in clause (ii) after 2021 or over a period of  
9 longer than 5 years.

10 “(B) In the case of Medicaid provider described in  
11 paragraph (2)(A)(ii), the dollar amounts specified in sub-  
12 paragraph (A) shall be  $\frac{2}{3}$  of the dollar amounts otherwise  
13 specified.

14 “(C) For the purposes of determining average allow-  
15 able costs under this subsection, the Secretary shall study  
16 the average costs to Medicaid providers described in para-  
17 graph (2)(A) of purchase and initial implementation and  
18 upgrade of certified EHR technology described in para-  
19 graph (3)(C)(i) and the average costs to such providers  
20 of operations, maintenance, and use of such technology de-  
21 scribed in paragraph (3)(C)(ii). In determining such costs  
22 for such providers, the Secretary may utilize studies of  
23 such amounts submitted by States.

1       “(5)(A) In no case shall the payments described in  
2 paragraph (1)(B) with respect to a Medicaid provider de-  
3 scribed in paragraph (2)(B) exceed—

4               “(i) in the aggregate the product of—

5                       “(I) the overall hospital EHR amount  
6 for the provider computed under subpara-  
7 graph (B); and

8                       “(II) the Medicaid share for such pro-  
9 vider computed under subparagraph (C);

10               “(ii) in any year 50 percent of the product de-  
11 scribed in clause (i); and

12               “(iii) in any 2-year period 90 percent of such  
13 product.

14       “(B) For purposes of this paragraph, the overall hos-  
15 pital EHR amount, with respect to a Medicaid provider,  
16 is the sum of the applicable amounts specified in section  
17 1886(n)(2)(A) for such provider for the first 4 payment  
18 years (as estimated by the Secretary) determined as if the  
19 Medicare share specified in clause (ii) of such section were  
20 1. The Secretary shall establish, in consultation with the  
21 State, the overall hospital EHR amount for each such  
22 Medicaid provider eligible for payments under paragraph  
23 (1)(B). For purposes of this subparagraph in computing  
24 the amounts under section 1886(n)(2)(C) for payment  
25 years after the first payment year, the Secretary shall as-

1   sume that in subsequent payment years discharges in-  
2   crease at the average annual rate of growth of the most  
3   recent 3 years for which discharge data are available per  
4   year.

5       “(C) The Medicaid share computed under this sub-  
6   paragraph, for a Medicaid provider for a period specified  
7   by the Secretary, shall be calculated in the same manner  
8   as the Medicare share under section 1886(n)(2)(D) for  
9   such a hospital and period, except that there shall be sub-  
10   stituted for the numerator under clause (i) of such section  
11   the amount that is equal to the number of inpatient-bed-  
12   days (as established by the Secretary) which are attrib-  
13   utable to individuals who are receiving medical assistance  
14   under this title and who are not described in section  
15   1886(n)(2)(D)(i). In computing inpatient-bed-days under  
16   the previous sentence, the Secretary shall take into ac-  
17   count inpatient-bed-days attributable to inpatient-bed-  
18   days that are paid for individuals enrolled in a Medicaid  
19   managed care plan (under section 1903(m) or section  
20   1932).

21       “(D) In no case may the payments described in para-  
22   graph (1)(B) with respect to a Medicaid provider de-  
23   scribed in paragraph (2)(B) be paid—

1           “(i) for any year beginning after 2016 unless  
2       the provider has been provided payment under para-  
3       graph (1)(B) for the previous year; and

4           “(ii) over a period of more than 6 years of pay-  
5       ment.

6       “(6) Payments described in paragraph (1) are not in  
7       accordance with this subsection unless the following re-  
8       quirements are met:

9           “(A)(i) The State provides assurances satisfac-  
10       tory to the Secretary that amounts received under  
11       subsection (a)(3)(F) with respect to payments to a  
12       Medicaid provider are paid, subject to clause (ii), di-  
13       rectly to such provider (or to an employer or facility  
14       to which such provider has assigned payments) with-  
15       out any deduction or rebate.

16          “(ii) Amounts described in clause (i) may also  
17       be paid to an entity promoting the adoption of cer-  
18       tified EHR technology, as designated by the State,  
19       if participation in such a payment arrangement is  
20       voluntary for the eligible professional involved and if  
21       such entity does not retain more than 5 percent of  
22       such payments for costs not related to certified  
23       EHR technology (and support services including  
24       maintenance and training) that is for, or is nec-  
25       essary for the operation of, such technology.

1           “(B) A Medicaid provider described in para-  
2           graph (2)(A) is responsible for payment of the re-  
3           maining 15 percent of the net average allowable  
4           cost.

5           “(C)(i) Subject to clause (ii), with respect to  
6           payments to a Medicaid provider—

7                   “(I) for the first year of payment to the  
8           Medicaid provider under this subsection, the  
9           Medicaid provider demonstrates that it is en-  
10          gaged in efforts to adopt, implement, or up-  
11          grade certified EHR technology; and

12                   “(II) for a year of payment, other than the  
13          first year of payment to the Medicaid provider  
14          under this subsection, the Medicaid provider  
15          demonstrates meaningful use of certified EHR  
16          technology through a means that is approved by  
17          the State and acceptable to the Secretary, and  
18          that may be based upon the methodologies ap-  
19          plied under section 1848(o) or 1886(n).

20           “(ii) In the case of a Medicaid provider who has  
21          completed adopting, implementing, or upgrading  
22          such technology prior to the first year of payment to  
23          the Medicaid provider under this subsection, clause  
24          (i)(I) shall not apply and clause (i)(II) shall apply  
25          to each year of payment to the Medicaid provider

1 under this subsection, including the first year of  
2 payment.

3 “(D) To the extent specified by the Secretary,  
4 the certified EHR technology is compatible with  
5 State or Federal administrative management sys-  
6 tems.

7 For purposes of subparagraph (B), a Medicaid provider  
8 described in paragraph (2)(A) may accept payments for  
9 the costs described in such subparagraph from a State or  
10 local government. For purposes of subparagraph (C), in  
11 establishing the means described in such subparagraph,  
12 which may include clinical quality reporting to the State,  
13 the State shall ensure that populations with unique needs,  
14 such as children, are appropriately addressed.

15 “(7) With respect to Medicaid providers described in  
16 paragraph (2)(A), the Secretary shall ensure coordination  
17 of payment with respect to such providers under sections  
18 1848(o) and 1853(l) and under this subsection to assure  
19 no duplication of funding. Such coordination shall include,  
20 to the extent practicable, a data matching process between  
21 State Medicaid agencies and the Centers for Medicare &  
22 Medicaid Services using national provider identifiers. For  
23 such purposes, the Secretary may require the submission  
24 of such data relating to payments to such Medicaid pro-  
25 viders as the Secretary may specify.

1       “(8) In carrying out paragraph (6)(C), the State and  
2 Secretary shall seek, to the maximum extent practicable,  
3 to avoid duplicative requirements from Federal and State  
4 governments to demonstrate meaningful use of certified  
5 EHR technology under this title and title XVIII. In doing  
6 so, the Secretary may deem satisfaction of requirements  
7 for such meaningful use for a payment year under title  
8 XVIII to be sufficient to qualify as meaningful use under  
9 this subsection. The Secretary may also specify the report-  
10 ing periods under this subsection in order to carry out this  
11 paragraph.

12       “(9) In order to be provided Federal financial partici-  
13 pation under subsection (a)(3)(F)(ii), a State must dem-  
14 onstrate to the satisfaction of the Secretary, that the  
15 State—

16               “(A) is using the funds provided for the pur-  
17 poses of administering payments under this sub-  
18 section, including tracking of meaningful use by  
19 Medicaid providers;

20               “(B) is conducting adequate oversight of the  
21 program under this subsection, including routine  
22 tracking of meaningful use attestations and report-  
23 ing mechanisms; and

24               “(C) is pursuing initiatives to encourage the  
25 adoption of certified EHR technology to promote

1 health care quality and the exchange of health care  
2 information under this title, subject to applicable  
3 laws and regulations governing such exchange.

4 “(10) The Secretary shall periodically submit reports  
5 to the Committee on Energy and Commerce of the House  
6 of Representatives and the Committee on Finance of the  
7 Senate on status, progress, and oversight of payments de-  
8 scribed in paragraph (1), including steps taken to carry  
9 out paragraph (7). Such reports shall also describe the  
10 extent of adoption of certified EHR technology among  
11 Medicaid providers resulting from the provisions of this  
12 subsection and any improvements in health outcomes, clin-  
13 ical quality, or efficiency resulting from such adoption.”.

14 (b) IMPLEMENTATION FUNDING.—In addition to  
15 funds otherwise available, out of any funds in the Treas-  
16 ury not otherwise appropriated, there are appropriated to  
17 the Secretary of Health and Human Services for the Cen-  
18 ters for Medicare & Medicaid Services Program Manage-  
19 ment Account, \$40,000,000 for each of fiscal years 2009  
20 through 2015 and \$20,000,000 for fiscal year 2016, which  
21 shall be available for purposes of carrying out the provi-  
22 sions of (and the amendments made by) this section.  
23 Amounts appropriated under this subsection for a fiscal  
24 year shall be available until expended.



**Subtitle C—Miscellaneous**  
**Medicare Provisions**

**SEC. 4301. MORATORIA ON CERTAIN MEDICARE REGULA-**  
**TIONS.**

(a) DELAY IN PHASE OUT OF MEDICARE HOSPICE BUDGET NEUTRALITY ADJUSTMENT FACTOR DURING FISCAL YEAR 2009.—Notwithstanding any other provision of law, including the final rule published on August 8, 2008, 73 Federal Register 46464 et seq., relating to Medicare Program; Hospice Wage Index for Fiscal Year 2009, the Secretary of Health and Human Services shall not phase out or eliminate the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009, and the Secretary shall recompute and apply the final Medicare hospice wage index for fiscal year 2009 as if there had been no reduction in the budget neutrality adjustment factor.

(b) NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.—

(1) IN GENERAL.—Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or

1 after October 1, 2008, as if such paragraph had  
2 never been in effect.

3 (2) NO EFFECT ON SUBSEQUENT YEARS.—  
4 Nothing in paragraph (1) shall be construed as hav-  
5 ing any effect on the application of paragraph (d) of  
6 section 412.322 of title 42, Code of Federal Regula-  
7 tions.

8 (c) FUNDING FOR IMPLEMENTATION.—In addition to  
9 funds otherwise available, for purposes of implementing  
10 the provisions of subsections (a) and (b), including costs  
11 incurred in reprocessing claims in carrying out such provi-  
12 sions, the Secretary of Health and Human Services shall  
13 provide for the transfer from the Federal Hospital Insur-  
14 ance Trust Fund established under section 1817 of the  
15 Social Security Act (42 U.S.C. 1395i) to the Centers for  
16 Medicare & Medicaid Services Program Management Ac-  
17 count of \$2,000,000 for fiscal year 2009.

18 **SEC. 4302. LONG-TERM CARE HOSPITAL TECHNICAL COR-**  
19 **RECTIONS.**

20 (a) PAYMENT.—Subsection (c) of section 114 of the  
21 Medicare, Medicaid, and SCHIP Extension Act of 2007  
22 (Public Law 110–173) is amended—

23 (1) in paragraph (1)—

24 (A) by amending the heading to read as  
25 follows: “DELAY IN APPLICATION OF 25 PER-

1 CENT PATIENT THRESHOLD PAYMENT ADJUST-  
2 MENT”;

3 (B) by striking “the date of the enactment  
4 of this Act” and inserting “July 1, 2007,”; and

5 (C) in subparagraph (A), by inserting “or  
6 to a long-term care hospital, or satellite facility,  
7 that as of December 29, 2007, was co-located  
8 with an entity that is a provider-based, off-cam-  
9 pus location of a subsection (d) hospital which  
10 did not provide services payable under section  
11 1886(d) of the Social Security Act at the off-  
12 campus location” after “freestanding long-term  
13 care hospitals”; and

14 (2) in paragraph (2)—

15 (A) in subparagraph (B)(ii), by inserting  
16 “or that is described in section 412.22(h)(3)(i)  
17 of such title” before the period; and

18 (B) in subparagraph (C), by striking “the  
19 date of the enactment of this Act” and insert-  
20 ing “October 1, 2007 (or July 1, 2007, in the  
21 case of a satellite facility described in section  
22 412.22(h)(3)(i) of title 42, Code of Federal  
23 Regulations)”.

24 (b) MORATORIUM.—Subsection (d)(3)(A) of such sec-  
25 tion is amended by striking “if the hospital or facility”

1 and inserting “if the hospital or facility obtained a certifi-  
2 cate of need for an increase in beds that is in a State  
3 for which such certificate of need is required and that was  
4 issued on or after April 1, 2005, and before December  
5 29, 2007, or if the hospital or facility”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall be effective and apply as if included in  
8 the enactment of the Medicare, Medicaid, and SCHIP Ex-  
9 tension Act of 2007 (Public Law 110–173).

## 10 **TITLE V—STATE FISCAL RELIEF**

### 11 **SEC. 5000. PURPOSES; TABLE OF CONTENTS.**

12 (a) PURPOSES.—The purposes of this title are as fol-  
13 lows:

14 (1) To provide fiscal relief to States in a period  
15 of economic downturn.

16 (2) To protect and maintain State Medicaid  
17 programs during a period of economic downturn, in-  
18 cluding by helping to avert cuts to provider payment  
19 rates and benefits or services, and to prevent con-  
20 strictions of income eligibility requirements for such  
21 programs, but not to promote increases in such re-  
22 quirements.

23 (b) TABLE OF CONTENTS.—The table of contents for  
24 this title is as follows:

#### TITLE V—STATE FISCAL RELIEF

Sec. 5000. Purposes; table of contents.

- Sec. 5001. Temporary increase of Medicaid FMAP.
- Sec. 5002. Temporary increase in DSH allotments during recession.
- Sec. 5003. Extension of moratoria on certain Medicaid final regulations.
- Sec. 5004. Extension of transitional medical assistance (TMA).
- Sec. 5005. Extension of the qualifying individual (QI) program.
- Sec. 5006. Protections for Indians under Medicaid and CHIP.
- Sec. 5007. Funding for oversight and implementation.
- Sec. 5008. GAO study and report regarding State needs during periods of national economic downturn.

1   **SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.**

2           (a) PERMITTING MAINTENANCE OF FMAP.—Subject  
3 to subsections (e), (f), and (g), if the FMAP determined  
4 without regard to this section for a State for—

5           (1) fiscal year 2009 is less than the FMAP as  
6 so determined for fiscal year 2008, the FMAP for  
7 the State for fiscal year 2008 shall be substituted  
8 for the State's FMAP for fiscal year 2009, before  
9 the application of this section;

10          (2) fiscal year 2010 is less than the FMAP as  
11 so determined for fiscal year 2008 or fiscal year  
12 2009 (after the application of paragraph (1)), the  
13 greater of such FMAP for the State for fiscal year  
14 2008 or fiscal year 2009 shall be substituted for the  
15 State's FMAP for fiscal year 2010, before the appli-  
16 cation of this section; and

17          (3) fiscal year 2011 is less than the FMAP as  
18 so determined for fiscal year 2008, fiscal year 2009  
19 (after the application of paragraph (1)), or fiscal  
20 year 2010 (after the application of paragraph (2)),  
21 the greatest of such FMAP for the State for fiscal

1 year 2008, fiscal year 2009, or fiscal year 2010 shall  
2 be substituted for the State's FMAP for fiscal year  
3 2011, before the application of this section, but only  
4 for the first calendar quarter in fiscal year 2011.

5 (b) GENERAL 6.2 PERCENTAGE POINT INCREASE.—

6 (1) IN GENERAL.—Subject to subsections (e),  
7 (f), and (g) and paragraph (2), for each State for  
8 calendar quarters during the recession adjustment  
9 period (as defined in subsection (h)(3)), the FMAP  
10 (after the application of subsection (a)) shall be in-  
11 creased (without regard to any limitation otherwise  
12 specified in section 1905(b) of the Social Security  
13 Act (42 U.S.C. 1396d(b))) by 6.2 percentage points.

14 (2) SPECIAL ELECTION FOR TERRITORIES.—In  
15 the case of a State that is not one of the 50 States  
16 or the District of Columbia, paragraph (1) shall only  
17 apply if the State makes a one-time election, in a  
18 form and manner specified by the Secretary and for  
19 the entire recession adjustment period, to apply the  
20 increase in FMAP under paragraph (1) and a 15  
21 percent increase under subsection (d) instead of ap-  
22 plying a 30 percent increase under subsection (d).

23 (c) ADDITIONAL RELIEF BASED ON INCREASE IN  
24 UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), if a State is a qualifying State under paragraph (2) for a calendar quarter occurring during the recession adjustment period, the FMAP for the State shall be further increased by the number of percentage points equal to the product of—

(A) the State percentage applicable for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) after the application of subsection (a) and after the application of 1/2 of the increase under subsection (b); and

(B) the applicable percent determined in paragraph (3) for the calendar quarter (or, if greater, for a previous such calendar quarter).

15 (2) QUALIFYING CRITERIA.—

(A) IN GENERAL.—For purposes of paragraph (1), a State qualifies for additional relief under this subsection for a calendar quarter occurring during the recession adjustment period if the State is 1 of the 50 States or the District of Columbia and the State satisfies any of the following criteria for the quarter:

23 (i) The State unemployment increase  
24 percentage (as defined in paragraph (4))

1 for the quarter is at least 1.5 percentage  
2 points but less than 2.5 percentage points.

3 (ii) The State unemployment increase  
4 percentage for the quarter is at least 2.5  
5 percentage points but less than 3.5 per-  
6 centage points.

7 (iii) The State unemployment increase  
8 percentage for the quarter is at least 3.5  
9 percentage points.

10 (B) MAINTENANCE OF STATUS.—If a  
11 State qualifies for additional relief under this  
12 subsection for a calendar quarter, it shall be  
13 deemed to have qualified for such relief for each  
14 subsequent calendar quarter ending before July  
15 1, 2010.

16 (3) APPLICABLE PERCENT.—

17 (A) IN GENERAL.—For purposes of para-  
18 graph (1), subject to subparagraph (B), the ap-  
19 plicable percent is—

20 (i) 5.5 percent, if the State satisfies  
21 the criteria described in paragraph  
22 (2)(A)(i) for the calendar quarter;

23 (ii) 8.5 percent if the State satisfies  
24 the criteria described in paragraph  
25 (2)(A)(ii) for the calendar quarter; and



1 (iii) 11.5 percent if the State satisfies  
2 the criteria described in paragraph  
3 (2)(A)(iii) for the calendar quarter.

4 (B) MAINTENANCE OF HIGHER APPLICA-  
5 BLE PERCENT.—

6 (i) HOLD HARMLESS PERIOD.—If the  
7 percent applied to a State under subpara-  
8 graph (A) for any calendar quarter in the  
9 recession adjustment period beginning on  
10 or after January 1, 2009, and ending be-  
11 fore July 1, 2010, (determined without re-  
12 gard to this subparagraph) is less than the  
13 percent applied for the preceding quarter  
14 (as so determined), the higher applicable  
15 percent shall continue in effect for each  
16 subsequent calendar quarter ending before  
17 July 1, 2010.

18 (ii) NOTICE OF LOWER APPLICABLE  
19 PERCENT.—The Secretary shall notify a  
20 State at least 60 days prior to applying  
21 any lower applicable percent to the State  
22 under this paragraph.

23 (4) COMPUTATION OF STATE UNEMPLOYMENT  
24 INCREASE PERCENTAGE.—

1 (A) IN GENERAL.—In this subsection, the  
2 “State unemployment increase percentage” for  
3 a State for a calendar quarter is equal to the  
4 number of percentage points (if any) by  
5 which—

6 (i) the average monthly unemployment  
7 rate for the State for months in the most  
8 recent previous 3-consecutive-month period  
9 for which data are available, subject to  
10 subparagraph (C); exceeds

11 (ii) the lowest average monthly unem-  
12 ployment rate for the State for any 3-con-  
13 secutive-month period preceding the period  
14 described in clause (i) and beginning on or  
15 after January 1, 2006.

16 (B) AVERAGE MONTHLY UNEMPLOYMENT  
17 RATE DEFINED.—In this paragraph, the term  
18 “average monthly unemployment rate” means  
19 the average of the monthly number unemployed,  
20 divided by the average of the monthly civilian  
21 labor force, seasonally adjusted, as determined  
22 based on the most recent monthly publications  
23 of the Bureau of Labor Statistics of the De-  
24 partment of Labor.

25 (C) SPECIAL RULE.—With respect to—

1 (i) the first 2 calendar quarters of the  
2 recession adjustment period, the most re-  
3 cent previous 3-consecutive-month period  
4 described in subparagraph (A)(i) shall be  
5 the 3-consecutive-month period beginning  
6 with October 2008; and

7 (ii) the last 2 calendar quarters of the  
8 recession adjustment period, the most re-  
9 cent previous 3-consecutive-month period  
10 described in such subparagraph shall be  
11 the 3-consecutive-month period beginning  
12 with December 2009, or, if it results in a  
13 higher applicable percent under paragraph  
14 (3), the 3-consecutive-month period begin-  
15 ning with January 2010.

16 (d) INCREASE IN CAP ON MEDICAID PAYMENTS TO  
17 TERRITORIES.—Subject to subsections (f) and (g), with  
18 respect to entire fiscal years occurring during the reces-  
19 sion adjustment period and with respect to fiscal years  
20 only a portion of which occurs during such period (and  
21 in proportion to the portion of the fiscal year that occurs  
22 during such period), the amounts otherwise determined for  
23 Puerto Rico, the Virgin Islands, Guam, the Northern Mar-  
24 iana Islands, and American Samoa under subsections (f)  
25 and (g) of section 1108 of the Social Security Act (42

1 6 U.S.C. 1308) shall each be increased by 30 percent (or,  
2 in the case of an election under subsection (b)(2), 15 per-  
3 cent). In the case of such an election by a territory, sub-  
4 section (a)(1) of such section shall be applied without re-  
5 gard to any increase in payment made to the territory  
6 under part E of title IV of such Act that is attributable  
7 to the increase in FMAP effected under subsection (b) for  
8 the territory.

9 (e) SCOPE OF APPLICATION.—The increases in the  
10 FMAP for a State under this section shall apply for pur-  
11 poses of title XIX of the Social Security Act and shall  
12 not apply with respect to—

13 (1) disproportionate share hospital payments  
14 described in section 1923 of such Act (42 U.S.C.  
15 1396r-4);

16 (2) payments under title IV of such Act (42  
17 U.S.C. 601 et seq.) (except that the increases under  
18 subsections (a) and (b) shall apply to payments  
19 under part E of title IV of such Act (42 U.S.C. 670  
20 et seq.) and, for purposes of the application of this  
21 section to the District of Columbia, payments under  
22 such part shall be deemed to be made on the basis  
23 of the FMAP applied with respect to such District  
24 for purposes of title XIX and as increased under  
25 subsection (b));

1           (3) payments under title XXI of such Act (42  
2       U.S.C. 1397aa et seq.);

3           (4) any payments under title XIX of such Act  
4       that are based on the enhanced FMAP described in  
5       section 2105(b) of such Act (42 U.S.C. 1397ee(b));  
6       or

7           (5) any payments under title XIX of such Act  
8       that are attributable to expenditures for medical as-  
9       sistance provided to individuals made eligible under  
10      a State plan under title XIX of the Social Security  
11      Act (including under any waiver under such title or  
12      under section 1115 of such Act (42 U.S.C. 1315))  
13      because of income standards (expressed as a per-  
14      centage of the poverty line) for eligibility for medical  
15      assistance that are higher than the income stand-  
16      ards (as so expressed) for such eligibility as in effect  
17      on July 1, 2008, (including as such standards were  
18      proposed to be in effect under a State law enacted  
19      but not effective as of such date or a State plan  
20      amendment or waiver request under title XIX of  
21      such Act that was pending approval on such date).

22      (f) STATE INELIGIBILITY; LIMITATION; SPECIAL

23   RULES.—

24           (1) MAINTENANCE OF ELIGIBILITY REQUIRE-  
25      MENTS.—

1 (A) IN GENERAL.—Subject to subpara-  
2 graphs (B) and (C), a State is not eligible for  
3 an increase in its FMAP under subsection (a),  
4 (b), or (c), or an increase in a cap amount  
5 under subsection (d), if eligibility standards,  
6 methodologies, or procedures under its State  
7 plan under title XIX of the Social Security Act  
8 (including any waiver under such title or under  
9 section 1115 of such Act (42 U.S.C. 1315)) are  
10 more restrictive than the eligibility standards,  
11 methodologies, or procedures, respectively,  
12 under such plan (or waiver) as in effect on July  
13 1, 2008.

14 (B) STATE REINSTATEMENT OF ELIGI-  
15 BILITY PERMITTED.—Subject to subparagraph  
16 (C), a State that has restricted eligibility stand-  
17 ards, methodologies, or procedures under its  
18 State plan under title XIX of the Social Secu-  
19 rity Act (including any waiver under such title  
20 or under section 1115 of such Act (42 U.S.C.  
21 1315)) after July 1, 2008, is no longer ineli-  
22 gible under subparagraph (A) beginning with  
23 the first calendar quarter in which the State  
24 has reinstated eligibility standards, methodolo-  
25 gies, or procedures that are no more restrictive

1           than the eligibility standards, methodologies, or  
2           procedures, respectively, under such plan (or  
3           waiver) as in effect on July 1, 2008.

4           (C) SPECIAL RULES.—A State shall not be  
5           ineligible under subparagraph (A)—

6                   (i) for the calendar quarters before  
7                   July 1, 2009, on the basis of a restriction  
8                   that was applied after July 1, 2008, and  
9                   before the date of the enactment of this  
10                  Act, if the State prior to July 1, 2009, has  
11                  reinstated eligibility standards, methodolo-  
12                  gies, or procedures that are no more re-  
13                  strictive than the eligibility standards,  
14                  methodologies, or procedures, respectively,  
15                  under such plan (or waiver) as in effect on  
16                  July 1, 2008; or

17                  (ii) on the basis of a restriction that  
18                  was directed to be made under State law  
19                  as in effect on July 1, 2008, and would  
20                  have been in effect as of such date, but for  
21                  a delay in the effective date of a waiver  
22                  under section 1115 of such Act with re-  
23                  spect to such restriction.

24           (2) COMPLIANCE WITH PROMPT PAY REQUIRE-  
25           MENTS.—

1 (A) APPLICATION TO PRACTITIONERS.—

2 (i) IN GENERAL.—Subject to the suc-  
3 ceeding provisions of this subparagraph, no  
4 State shall be eligible for an increased  
5 FMAP rate as provided under this section  
6 for any claim received by a State from a  
7 practitioner subject to the terms of section  
8 1902(a)(37)(A) of the Social Security Act  
9 (42 U.S.C. 1396a(a)(37)(A)) for such days  
10 during any period in which that State has  
11 failed to pay claims in accordance with  
12 such section as applied under title XIX of  
13 such Act.

14 (ii) REPORTING REQUIREMENT.—  
15 Each State shall report to the Secretary,  
16 on a quarterly basis, its compliance with  
17 the requirements of clause (i) as such re-  
18 quirements pertain to claims made for cov-  
19 ered services during each month of the  
20 preceding quarter.

21 (iii) WAIVER AUTHORITY.—The Sec-  
22 retary may waive the application of clause  
23 (i) to a State, or the reporting requirement  
24 imposed under clause (ii), during any pe-  
25 riod in which there are exigent cir-



1 cumstances, including natural disasters,  
2 that prevent the timely processing of  
3 claims or the submission of such a report.

4 (iv) APPLICATION TO CLAIMS.—

5 Clauses (i) and (ii) shall only apply to  
6 claims made for covered services after the  
7 date of enactment of this Act.

8 (B) APPLICATION TO NURSING FACILITIES  
9 AND HOSPITALS.—

10 (i) IN GENERAL.—Subject to clause  
11 (ii), the provisions of subparagraph (A)  
12 shall apply with respect to a nursing facil-  
13 ity or hospital, insofar as it is paid under  
14 title XIX of the Social Security Act on the  
15 basis of submission of claims, in the same  
16 or similar manner (but within the same  
17 timeframe) as such provisions apply to  
18 practitioners described in such subpara-  
19 graph.

20 (ii) GRACE PERIOD.—Notwithstanding  
21 clause (i), no period of ineligibility shall be  
22 imposed against a State prior to June 1,  
23 2009, on the basis of the State failing to  
24 pay a claim in accordance with such  
25 clause.

1           (3) STATE'S APPLICATION TOWARD RAINY DAY  
2 FUND.—A State is not eligible for an increase in its  
3 FMAP under subsection (b) or (c), or an increase in  
4 a cap amount under subsection (d), if any amounts  
5 attributable (directly or indirectly) to such increase  
6 are deposited or credited into any reserve or rainy  
7 day fund of the State.

8           (4) NO WAIVER AUTHORITY.—Except as pro-  
9 vided in paragraph (2)(A)(iii), the Secretary may  
10 not waive the application of this subsection or sub-  
11 section (g) under section 1115 of the Social Security  
12 Act or otherwise.

13           (5) LIMITATION OF FMAP TO 100 PERCENT.—In  
14 no case shall an increase in FMAP under this sec-  
15 tion result in an FMAP that exceeds 100 percent.

16           (6) TREATMENT OF CERTAIN EXPENDI-  
17 TURES.—With respect to expenditures described in  
18 section 2105(a)(1)(B) of the Social Security Act (42  
19 U.S.C. 1397ee(a)(1)(B)), as in effect before April 1,  
20 2009, that are made during the period beginning on  
21 October 1, 2008, and ending on March 31, 2009,  
22 any additional Federal funds that are paid to a  
23 State as a result of this section that are attributable  
24 to such expenditures shall not be counted against

1 any allotment under section 2104 of such Act (42  
2 U.S.C. 1397dd).

3 (g) REQUIREMENTS.—

4 (1) STATE REPORTS.—Each State that is paid  
5 additional Federal funds as a result of this section  
6 shall, not later than September 30, 2011, submit a  
7 report to the Secretary, in such form and such man-  
8 ner as the Secretary shall determine, regarding how  
9 the additional Federal funds were expended.

10 (2) ADDITIONAL REQUIREMENT FOR CERTAIN  
11 STATES.—In the case of a State that requires polit-  
12 ical subdivisions within the State to contribute to-  
13 ward the non-Federal share of expenditures under  
14 the State Medicaid plan required under section  
15 1902(a)(2) of the Social Security Act (42 U.S.C.  
16 1396a(a)(2)), the State is not eligible for an in-  
17 crease in its FMAP under subsection (b) or (c), or  
18 an increase in a cap amount under subsection (d),  
19 if it requires that such political subdivisions pay for  
20 quarters during the recession adjustment period a  
21 greater percentage of the non-Federal share of such  
22 expenditures, or a greater percentage of the non-  
23 Federal share of payments under section 1923, than  
24 the respective percentage that would have been re-

1       quired by the State under such plan on September  
2       30, 2008, prior to application of this section.

3       (h) DEFINITIONS.—In this section, except as other-  
4       wise provided:

5           (1) FMAP.—The term “FMAP” means the  
6       Federal medical assistance percentage, as defined in  
7       section 1905(b) of the Social Security Act (42  
8       U.S.C. 1396d(b)), as determined without regard to  
9       this section except as otherwise specified.

10          (2) POVERTY LINE.—The term “poverty line”  
11       has the meaning given such term in section 673(2)  
12       of the Community Services Block Grant Act (42  
13       U.S.C. 9902(2)), including any revision required by  
14       such section.

15          (3) RECESSION ADJUSTMENT PERIOD.—The  
16       term “recession adjustment period” means the pe-  
17       riod beginning on October 1, 2008, and ending on  
18       December 31, 2010.

19          (4) SECRETARY.—The term “Secretary” means  
20       the Secretary of Health and Human Services.

21          (5) STATE.—The term “State” has the mean-  
22       ing given such term in section 1101(a)(1) of the So-  
23       cial Security Act (42 U.S.C. 1301(a)(1)) for pur-  
24       poses of title XIX of the Social Security Act (42  
25       U.S.C. 1396 et seq.).

1 (i) SUNSET.—This section shall not apply to items  
2 and services furnished after the end of the recession ad-  
3 justment period.

4 (j) LIMITATION ON FMAP CHANGE.—The increase  
5 in FMAP effected under section 614 of the Children’s  
6 Health Insurance Program Reauthorization Act of 2009  
7 shall not apply in the computation of the enhanced FMAP  
8 under title XXI or XIX of the Social Security Act for any  
9 period (notwithstanding subsection (i)).

10 **SEC. 5002. TEMPORARY INCREASE IN DSH ALLOTMENTS**  
11 **DURING RECESSION.**

12 Section 1923(f)(3) of the Social Security Act (42  
13 U.S.C. 1396r–4(f)(3)) is amended—

14 (1) in subparagraph (A), by striking “para-  
15 graph (6)” and inserting “paragraph (6) and sub-  
16 paragraph (E)”; and

17 (2) by adding at the end the following new sub-  
18 paragraph:

19 “(E) TEMPORARY INCREASE IN ALLOT-  
20 MENTS DURING RECESSION.—

21 “(i) IN GENERAL.—Subject to clause  
22 (ii), the DSH allotment for any State—

23 “(I) for fiscal year 2009 is equal  
24 to 102.5 percent of the DSH allot-  
25 ment that would be determined under

1           this paragraph for the State for fiscal  
2           year 2009 without application of this  
3           subparagraph, notwithstanding sub-  
4           paragraphs (B) and (C);

5                 “(II) for fiscal year 2010 is equal  
6           to 102.5 percent of the DSH allot-  
7           ment for the State for fiscal year  
8           2009, as determined under subclause  
9           (I); and

10                “(III) for each succeeding fiscal  
11           year is equal to the DSH allotment  
12           for the State under this paragraph de-  
13           termined without applying subclauses  
14           (I) and (II).

15                “(ii) APPLICATION.—Clause (i) shall  
16           not apply to a State for a year in the case  
17           that the DSH allotment for such State for  
18           such year under this paragraph determined  
19           without applying clause (i) would grow  
20           higher than the DSH allotment specified  
21           under clause (i) for the State for such  
22           year.”.

1 **SEC. 5003. EXTENSION OF MORATORIA ON CERTAIN MED-**  
2 **ICAID FINAL REGULATIONS.**

3 (a) FINAL REGULATIONS RELATING TO OPTIONAL  
4 CASE MANAGEMENT SERVICES AND ALLOWABLE PRO-  
5 VIDER TAXES.—Section 7001(a)(3)(A) of the Supple-  
6 mental Appropriations Act, 2008 (Public Law 110–252)  
7 is amended by striking “April 1, 2009” and inserting  
8 “July 1, 2009”.

9 (b) FINAL REGULATION RELATING TO SCHOOL-  
10 BASED ADMINISTRATION AND SCHOOL-BASED TRANS-  
11 PORTATION.—Section 206 of the Medicare, Medicaid, and  
12 SCHIP Extension Act of 2007 (Public Law 110–173), as  
13 amended by section 7001(a)(2) of the Supplemental Ap-  
14 propriations Act, 2008 (Public Law 110–252), is amended  
15 by inserting “(July 1, 2009, in the case of the final regula-  
16 tion relating to school-based administration and school-  
17 based transportation)” after “April 1, 2009,”.

18 (c) FINAL REGULATION RELATING TO OUTPATIENT  
19 HOSPITAL FACILITY SERVICES.—Notwithstanding any  
20 other provision of law, with respect to expenditures for  
21 services furnished during the period beginning on Decem-  
22 ber 8, 2008, and ending on June 30, 2009, the Secretary  
23 of Health and Human Services shall not take any action  
24 (through promulgation of regulation, issuance of regu-  
25 latory guidance, use of Federal payment audit procedures,  
26 or other administrative action, policy, or practice, includ-

1 ing a Medical Assistance Manual transmittal or letter to  
2 State Medicaid directors) to implement the final regula-  
3 tion relating to clarification of the definition of outpatient  
4 hospital facility services under the Medicaid program pub-  
5 lished on November 7, 2008 (73 Federal Register 66187).

6 (d) SENSE OF CONGRESS.—It is the sense of Con-  
7 gress that the Secretary of Health and Human Services  
8 should not promulgate as final regulations any of the fol-  
9 lowing proposed Medicaid regulations:

10 (1) COST LIMITS FOR CERTAIN PROVIDERS.—

11 The proposed regulation published on January 18,  
12 2007, (72 Federal Register 2236) (and the pur-  
13 ported final regulation published on May 29, 2007  
14 (72 Federal Register 29748) and determined by the  
15 United States District Court for the District of Co-  
16 lumbia to have been “improperly promulgated”, *Ala-*  
17 *meda County Medical Center, et al., v. Leavitt, et al.*,  
18 Civil Action No. 08-0422, Mem. at 4 (D.D.C. May  
19 23, 2008)).

20 (2) PAYMENTS FOR GRADUATE MEDICAL EDU-  
21 CATION.—The proposed regulation published on May  
22 23, 2007 (72 Federal Register 28930).

23 (3) REHABILITATIVE SERVICES.—The proposed  
24 regulation published on August 13, 2007 (72 Fed-  
25 eral Register 45201).



1 **SEC. 5004. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**  
2 **ANCE (TMA).**

3 (a) 18-MONTH EXTENSION.—

4 (1) IN GENERAL.—Sections 1902(e)(1)(B) and  
5 1925(f) of the Social Security Act (42 U.S.C.  
6 1396a(e)(1)(B), 1396r-6(f)) are each amended by  
7 striking “September 30, 2003” and inserting “De-  
8 cember 31, 2010”.

9 (2) EFFECTIVE DATE.—The amendments made  
10 by this subsection shall take effect on July 1, 2009.

11 (b) STATE OPTION OF INITIAL 12-MONTH ELIGI-  
12 BILITY.—Section 1925 of the Social Security Act (42  
13 U.S.C. 1396r-6) is amended—

14 (1) in subsection (a)(1), by inserting “but sub-  
15 ject to paragraph (5)” after “Notwithstanding any  
16 other provision of this title”;

17 (2) by adding at the end of subsection (a) the  
18 following:

19 “(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY  
20 PERIOD.—A State may elect to treat any reference  
21 in this subsection to a 6-month period (or 6 months)  
22 as a reference to a 12-month period (or 12 months).  
23 In the case of such an election, subsection (b) shall  
24 not apply.”; and

1           (3) in subsection (b)(1), by inserting “but sub-  
2       ject to subsection (a)(5)” after “Notwithstanding  
3       any other provision of this title”.

4       (c) REMOVAL OF REQUIREMENT FOR PREVIOUS RE-  
5       CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of  
6       such Act (42 U.S.C. 1396r-6(a)(1)), as amended by sub-  
7       section (b)(1), is further amended—

8           (1) by inserting “subparagraph (B) and” before  
9       “paragraph (5)”;

10          (2) by redesignating the matter after “RE-  
11       QUIREMENT.—” as a subparagraph (A) with the  
12       heading “IN GENERAL.—” and with the same inden-  
13       tation as subparagraph (B) (as added by paragraph  
14       (3)); and

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

16               “(B) STATE OPTION TO WAIVE REQUIRE-  
17       MENT FOR 3 MONTHS BEFORE RECEIPT OF  
18       MEDICAL ASSISTANCE.—A State may, at its op-  
19       tion, elect also to apply subparagraph (A) in  
20       the case of a family that was receiving such aid  
21       for fewer than three months or that had applied  
22       for and was eligible for such aid for fewer than  
23       3 months during the 6 immediately preceding  
24       months described in such subparagraph.”.

1 (d) CMS REPORT ON ENROLLMENT AND PARTICIPA-  
2 TION RATES UNDER TMA.—Section 1925 of such Act (42  
3 U.S.C. 1396r–6), as amended by this section, is further  
4 amended by adding at the end the following new sub-  
5 section:

6 “(g) COLLECTION AND REPORTING OF PARTICIPA-  
7 TION INFORMATION.—

8 “(1) COLLECTION OF INFORMATION FROM  
9 STATES.—Each State shall collect and submit to the  
10 Secretary (and make publicly available), in a format  
11 specified by the Secretary, information on average  
12 monthly enrollment and average monthly participa-  
13 tion rates for adults and children under this section  
14 and of the number and percentage of children who  
15 become ineligible for medical assistance under this  
16 section whose medical assistance is continued under  
17 another eligibility category or who are enrolled under  
18 the State’s child health plan under title XXI. Such  
19 information shall be submitted at the same time and  
20 frequency in which other enrollment information  
21 under this title is submitted to the Secretary.

22 “(2) ANNUAL REPORTS TO CONGRESS.—Using  
23 the information submitted under paragraph (1), the  
24 Secretary shall submit to Congress annual reports

1       concerning enrollment and participation rates de-  
2       scribed in such paragraph.”.

3       (e) EFFECTIVE DATE.—The amendments made by  
4       subsections (b) through (d) shall take effect on July 1,  
5       2009.

6       **SEC. 5005. EXTENSION OF THE QUALIFYING INDIVIDUAL**  
7               **(QI) PROGRAM.**

8       (a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the  
9       Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is  
10      amended by striking “December 2009” and inserting “De-  
11      cember 2010”.

12      (b) EXTENDING TOTAL AMOUNT AVAILABLE FOR  
13      ALLOCATION.—Section 1933(g) of such Act (42 U.S.C.  
14      1396u–3(g)) is amended—

15              (1) in paragraph (2)—

16                      (A) by striking “and” at the end of sub-  
17              paragraph (K);

18                      (B) in subparagraph (L), by striking the  
19              period at the end and inserting a semicolon;  
20              and

21                      (C) by adding at the end the following new  
22              subparagraphs:

23                              “(M) for the period that begins on Janu-  
24              ary 1, 2010, and ends on September 30, 2010,

1 the total allocation amount is \$412,500,000;  
2 and

3 “(N) for the period that begins on October  
4 1, 2010, and ends on December 31, 2010, the  
5 total allocation amount is \$150,000,000.”; and  
6 (2) in paragraph (3), in the matter preceding  
7 subparagraph (A), by striking “or (L)” and insert-  
8 ing “(L), or (N)”.

9 **SEC. 5006. PROTECTIONS FOR INDIANS UNDER MEDICAID**  
10 **AND CHIP.**

11 (a) PREMIUMS AND COST SHARING PROTECTION  
12 UNDER MEDICAID.—

13 (1) IN GENERAL.—Section 1916 of the Social  
14 Security Act (42 U.S.C. 1396o) is amended—

15 (A) in subsection (a), in the matter pre-  
16 ceding paragraph (1), by striking “and (i)” and  
17 inserting “, (i), and (j)”; and

18 (B) by adding at the end the following new  
19 subsection:

20 “(j) NO PREMIUMS OR COST SHARING FOR INDIANS  
21 FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN  
22 HEALTH PROGRAMS OR THROUGH REFERRAL UNDER  
23 CONTRACT HEALTH SERVICES.—

1           “(1) NO COST SHARING FOR ITEMS OR SERV-  
2           ICES FURNISHED TO INDIANS THROUGH INDIAN  
3           HEALTH PROGRAMS.—

4           “(A) IN GENERAL.—No enrollment fee,  
5           premium, or similar charge, and no deduction,  
6           copayment, cost sharing, or similar charge shall  
7           be imposed against an Indian who is furnished  
8           an item or service directly by the Indian Health  
9           Service, an Indian Tribe, Tribal Organization,  
10          or Urban Indian Organization or through refer-  
11          ral under contract health services for which  
12          payment may be made under this title.

13          “(B) NO REDUCTION IN AMOUNT OF PAY-  
14          MENT TO INDIAN HEALTH PROVIDERS.—Pay-  
15          ment due under this title to the Indian Health  
16          Service, an Indian Tribe, Tribal Organization,  
17          or Urban Indian Organization, or a health care  
18          provider through referral under contract health  
19          services for the furnishing of an item or service  
20          to an Indian who is eligible for assistance under  
21          such title, may not be reduced by the amount  
22          of any enrollment fee, premium, or similar  
23          charge, or any deduction, copayment, cost shar-  
24          ing, or similar charge that would be due from

1 the Indian but for the operation of subpara-  
2 graph (A).

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.”.

9                   (2)       CONFORMING       AMENDMENT.—Section  
10       1916A(b)(3) of such Act (42 U.S.C. 1396o-1(b)(3))  
11       is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

“(vii) An Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.”; and

20 (B) in subparagraph (B), by adding at the  
21 end the following new clause:

“(x) Items and services furnished to  
an Indian directly by the Indian Health  
Service, an Indian Tribe, Tribal Organiza-  
tion or Urban Indian Organization or

1 through referral under contract health  
2 services.”.

3 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-  
4 SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

5 (1) MEDICAID.—Section 1902 of the Social Se-  
6 curity Act (42 U.S.C. 1396a), as amended by sec-  
7 tions 203(c) and 211(a)(1)(A)(ii) of the Children’s  
8 Health Insurance Program Reauthorization Act of  
9 2009 (Public Law 111–3), is amended by adding at  
10 the end the following new subsection:

11 “(ff) Notwithstanding any other requirement of this  
12 title or any other provision of Federal or State law, a State  
13 shall disregard the following property from resources for  
14 purposes of determining the eligibility of an individual who  
15 is an Indian for medical assistance under this title:

16 “(1) Property, including real property and im-  
17 provements, that is held in trust, subject to Federal  
18 restrictions, or otherwise under the supervision of  
19 the Secretary of the Interior, located on a reserva-  
20 tion, including any federally recognized Indian  
21 Tribe’s reservation, pueblo, or colony, including  
22 former reservations in Oklahoma, Alaska Native re-  
23 gions established by the Alaska Native Claims Set-  
24 tlement Act, and Indian allotments on or near a res-



1       ervation as designated and approved by the Bureau  
2       of Indian Affairs of the Department of the Interior.

3           “(2) For any federally recognized Tribe not de-  
4       scribed in paragraph (1), property located within the  
5       most recent boundaries of a prior Federal reserva-  
6       tion.

7           “(3) Ownership interests in rents, leases, royal-  
8       ties, or usage rights related to natural resources (in-  
9       cluding extraction of natural resources or harvesting  
10      of timber, other plants and plant products, animals,  
11      fish, and shellfish) resulting from the exercise of fed-  
12      erally protected rights.

13          “(4) Ownership interests in or usage rights to  
14      items not covered by paragraphs (1) through (3)  
15      that have unique religious, spiritual, traditional, or  
16      cultural significance or rights that support subsist-  
17      ence or a traditional lifestyle according to applicable  
18      tribal law or custom.”.

19           (2) APPLICATION TO CHIP.—Section 2107(e)(1)  
20      of such Act (42 U.S.C. 1397gg(e)(1)), as amended  
21      by sections 203(a)(2), 203(d)(2), 214(b), 501(d)(2),  
22      and 503(a)(1) of the Children’s Health Insurance  
23      Program Reauthorization Act of 2009 (Public Law  
24      111–3), is amended—

1 (A) by redesignating subparagraphs (C)  
2 through (I), as subparagraphs (D) through (J),  
3 respectively; and

4 (B) by inserting after subparagraph (B),  
5 the following new subparagraph:

6 “(C) Section 1902(ff) (relating to dis-  
7 regard of certain property for purposes of mak-  
8 ing eligibility determinations).”.

9 (c) CONTINUATION OF CURRENT LAW PROTECTIONS  
10 OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE  
11 RECOVERY.—Section 1917(b)(3) of the Social Security  
12 Act (42 U.S.C. 1396p(b)(3)) is amended—

13 (1) by inserting “(A)” after “(3)”; and

14 (2) by adding at the end the following new sub-  
15 paragraph:

16 “(B) The standards specified by the Sec-  
17 retary under subparagraph (A) shall require  
18 that the procedures established by the State  
19 agency under subparagraph (A) exempt income,  
20 resources, and property that are exempt from  
21 the application of this subsection as of April 1,  
22 2003, under manual instructions issued to carry  
23 out this subsection (as in effect on such date)  
24 because of the Federal responsibility for Indian  
25 Tribes and Alaska Native Villages. Nothing in

1           this subparagraph shall be construed as pre-  
2           venting the Secretary from providing additional  
3           estate recovery exemptions under this title for  
4           Indians.”.

5           (d) RULES APPLICABLE UNDER MEDICAID AND  
6 CHIP TO MANAGED CARE ENTITIES WITH RESPECT TO  
7 INDIAN ENROLLEES AND INDIAN HEALTH CARE PRO-  
8 VIDERS AND INDIAN MANAGED CARE ENTITIES.—

9           (1) IN GENERAL.—Section 1932 of the Social  
10          Security Act (42 U.S.C. 1396u–2) is amended by  
11          adding at the end the following new subsection:

12          “(h) SPECIAL RULES WITH RESPECT TO INDIAN EN-  
13 ROLLEES, INDIAN HEALTH CARE PROVIDERS, AND IN-  
14 DIAN MANAGED CARE ENTITIES.—

15               “(1) ENROLLEE OPTION TO SELECT AN INDIAN  
16 HEALTH CARE PROVIDER AS PRIMARY CARE PRO-  
17 VIDER.—In the case of a non-Indian Medicaid man-  
18 aged care entity that—

19                   “(A) has an Indian enrolled with the enti-  
20                   ty; and

21                   “(B) has an Indian health care provider  
22                   that is participating as a primary care provider  
23                   within the network of the entity,

24                   insofar as the Indian is otherwise eligible to receive  
25                   services from such Indian health care provider and

1 the Indian health care provider has the capacity to  
2 provide primary care services to such Indian, the  
3 contract with the entity under section 1903(m) or  
4 under section 1905(t)(3) shall require, as a condi-  
5 tion of receiving payment under such contract, that  
6 the Indian shall be allowed to choose such Indian  
7 health care provider as the Indian's primary care  
8 provider under the entity.

9 “(2) ASSURANCE OF PAYMENT TO INDIAN  
10 HEALTH CARE PROVIDERS FOR PROVISION OF COV-  
11 ERED SERVICES.—Each contract with a managed  
12 care entity under section 1903(m) or under section  
13 1905(t)(3) shall require any such entity, as a condi-  
14 tion of receiving payment under such contract, to  
15 satisfy the following requirements:

16 “(A) DEMONSTRATION OF ACCESS TO IN-  
17 DIAN HEALTH CARE PROVIDERS AND APPLICA-  
18 TION OF ALTERNATIVE PAYMENT ARRANGE-  
19 MENTS.—Subject to subparagraph (C), to—

20 “(i) demonstrate that the number of  
21 Indian health care providers that are par-  
22 ticipating providers with respect to such  
23 entity are sufficient to ensure timely access  
24 to covered Medicaid managed care services

1 for those Indian enrollees who are eligible  
2 to receive services from such providers; and

3 “(ii) agree to pay Indian health care  
4 providers, whether such providers are par-  
5 ticipating or nonparticipating providers  
6 with respect to the entity, for covered Med-  
7 icaid managed care services provided to  
8 those Indian enrollees who are eligible to  
9 receive services from such providers at a  
10 rate equal to the rate negotiated between  
11 such entity and the provider involved or, if  
12 such a rate has not been negotiated, at a  
13 rate that is not less than the level and  
14 amount of payment which the entity would  
15 make for the services if the services were  
16 furnished by a participating provider which  
17 is not an Indian health care provider.

18 The Secretary shall establish procedures for ap-  
19 plying the requirements of clause (i) in States  
20 where there are no or few Indian health pro-  
21 viders.

22 “(B) PROMPT PAYMENT.—To agree to  
23 make prompt payment (consistent with rule for  
24 prompt payment of providers under section  
25 1932(f)) to Indian health care providers that

1 are participating providers with respect to such  
2 entity or, in the case of an entity to which sub-  
3 paragraph (A)(ii) or (C) applies, that the entity  
4 is required to pay in accordance with that sub-  
5 paragraph.

6 “(C) APPLICATION OF SPECIAL PAYMENT  
7 REQUIREMENTS FOR FEDERALLY-QUALIFIED  
8 HEALTH CENTERS AND FOR SERVICES PRO-  
9 VIDED BY CERTAIN INDIAN HEALTH CARE PRO-  
10 VIDERS.—

11 “(i) FEDERALLY-QUALIFIED HEALTH  
12 CENTERS.—

13 “(I) MANAGED CARE ENTITY  
14 PAYMENT REQUIREMENT.—To agree  
15 to pay any Indian health care provider  
16 that is a federally-qualified health  
17 center under this title but not a par-  
18 ticipating provider with respect to the  
19 entity, for the provision of covered  
20 Medicaid managed care services by  
21 such provider to an Indian enrollee of  
22 the entity at a rate equal to the  
23 amount of payment that the entity  
24 would pay a federally-qualified health  
25 center that is a participating provider

1 with respect to the entity but is not  
2 an Indian health care provider for  
3 such services.

4 “(II) CONTINUED APPLICATION  
5 OF STATE REQUIREMENT TO MAKE  
6 SUPPLEMENTAL PAYMENT.—Nothing  
7 in subclause (I) or subparagraph (A)  
8 or (B) shall be construed as waiving  
9 the application of section 1902(bb)(5)  
10 regarding the State plan requirement  
11 to make any supplemental payment  
12 due under such section to a federally-  
13 qualified health center for services  
14 furnished by such center to an en-  
15 rollee of a managed care entity (re-  
16 gardless of whether the federally-  
17 qualified health center is or is not a  
18 participating provider with the entity).

19 “(ii) PAYMENT RATE FOR SERVICES  
20 PROVIDED BY CERTAIN INDIAN HEALTH  
21 CARE PROVIDERS.—If the amount paid by  
22 a managed care entity to an Indian health  
23 care provider that is not a federally-quali-  
24 fied health center for services provided by  
25 the provider to an Indian enrollee with the

1 managed care entity is less than the rate  
2 that applies to the provision of such serv-  
3 ices by the provider under the State plan,  
4 the plan shall provide for payment to the  
5 Indian health care provider, whether the  
6 provider is a participating or nonpartici-  
7 pating provider with respect to the entity,  
8 of the difference between such applicable  
9 rate and the amount paid by the managed  
10 care entity to the provider for such serv-  
11 ices.

12 “(D) CONSTRUCTION.—Nothing in this  
13 paragraph shall be construed as waiving the ap-  
14 plication of section 1902(a)(30)(A) (relating to  
15 application of standards to assure that pay-  
16 ments are consistent with efficiency, economy,  
17 and quality of care).

18 “(3) SPECIAL RULE FOR ENROLLMENT FOR IN-  
19 DIAN MANAGED CARE ENTITIES.—Regarding the ap-  
20 plication of a Medicaid managed care program to In-  
21 dian Medicaid managed care entities, an Indian  
22 Medicaid managed care entity may restrict enroll-  
23 ment under such program to Indians in the same  
24 manner as Indian Health Programs may restrict the  
25 delivery of services to Indians.



1           “(4) DEFINITIONS.—For purposes of this sub-  
2       section:

3           “(A) INDIAN HEALTH CARE PROVIDER.—  
4       The term ‘Indian health care provider’ means  
5       an Indian Health Program or an Urban Indian  
6       Organization.

7           “(B) INDIAN MEDICAID MANAGED CARE  
8       ENTITY.—The term ‘Indian Medicaid managed  
9       care entity’ means a managed care entity that  
10      is controlled (within the meaning of the last  
11      sentence of section 1903(m)(1)(C)) by the In-  
12      dian Health Service, a Tribe, Tribal Organiza-  
13      tion, or Urban Indian Organization, or a con-  
14      sortium, which may be composed of 1 or more  
15      Tribes, Tribal Organizations, or Urban Indian  
16      Organizations, and which also may include the  
17      Service.

18          “(C) NON-INDIAN MEDICAID MANAGED  
19      CARE ENTITY.—The term ‘non-Indian Medicaid  
20      managed care entity’ means a managed care en-  
21      tity that is not an Indian Medicaid managed  
22      care entity.

23          “(D) COVERED MEDICAID MANAGED CARE  
24      SERVICES.—The term ‘covered Medicaid man-  
25      aged care services’ means, with respect to an

1 individual enrolled with a managed care entity,  
2 items and services for which benefits are avail-  
3 able with respect to the individual under the  
4 contract between the entity and the State in-  
5 volved.

6 “(E) MEDICAID MANAGED CARE PRO-  
7 GRAM.—The term ‘Medicaid managed care pro-  
8 gram’ means a program under sections  
9 1903(m), 1905(t), and 1932 and includes a  
10 managed care program operating under a waiv-  
11 er under section 1915(b) or 1115 or other-  
12 wise.”.

13 (2) APPLICATION TO CHIP.—Section 2107(e)(1)  
14 of such Act (42 U.S.C. 1397gg(1)), as amended by  
15 subsection (b)(2), is amended—

16 (A) by redesignating subparagraph (J) as  
17 subparagraph (K); and

18 (B) by inserting after subparagraph (I) the  
19 following new subparagraph:

20 “(J) Subsections (a)(2)(C) and (h) of sec-  
21 tion 1932.”.

22 (e) CONSULTATION ON MEDICAID, CHIP, AND OTHER  
23 HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL  
24 SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS  
25 AND URBAN INDIAN ORGANIZATIONS.—

1           (1) CONSULTATION WITH TRIBAL TECHNICAL  
2       ADVISORY GROUP (TTAG).—The Secretary of Health  
3       and Human Services shall maintain within the Cen-  
4       ters for Medicaid & Medicare Services (CMS) a  
5       Tribal Technical Advisory Group (TTAG), which  
6       was first established in accordance with require-  
7       ments of the charter dated September 30, 2003, and  
8       the Secretary of Health and Human Services shall  
9       include in such Group a representative of a national  
10      urban Indian health organization and a representa-  
11      tive of the Indian Health Service. The inclusion of  
12      a representative of a national urban Indian health  
13      organization in such Group shall not affect the non-  
14      application of the Federal Advisory Committee Act  
15      (5 U.S.C. App.) to such Group.

16           (2) SOLICITATION OF ADVICE UNDER MEDICAID  
17      AND CHIP.—

18           (A) MEDICAID STATE PLAN AMEND-  
19      MENT.—Section 1902(a) of the Social Security  
20      Act (42 U.S.C. 1396a(a)), as amended by sec-  
21      tion 501(d)(1) of the Children's Health Insur-  
22      ance Program Reauthorization Act of 2009  
23      (Public Law 111–3), (42 U.S.C. 1396a(a)) is  
24      amended—

1 (i) in paragraph (71), by striking  
2 “and” at the end;

3 (ii) in paragraph (72), by striking the  
4 period at the end and inserting “; and”;  
5 and

6 (iii) by inserting after paragraph (72),  
7 the following new paragraph:

8 “(73) in the case of any State in which 1 or  
9 more Indian Health Programs or Urban Indian Or-  
10 ganizations furnishes health care services, provide  
11 for a process under which the State seeks advice on  
12 a regular, ongoing basis from designees of such In-  
13 dian Health Programs and Urban Indian Organiza-  
14 tions on matters relating to the application of this  
15 title that are likely to have a direct effect on such  
16 Indian Health Programs and Urban Indian Organi-  
17 zations and that—

18 “(A) shall include solicitation of advice  
19 prior to submission of any plan amendments,  
20 waiver requests, and proposals for demonstra-  
21 tion projects likely to have a direct effect on In-  
22 dians, Indian Health Programs, or Urban In-  
23 dian Organizations; and

24 “(B) may include appointment of an advi-  
25 sory committee and of a designee of such In-

1           dian Health Programs and Urban Indian Orga-  
2           nizations to the medical care advisory com-  
3           mittee advising the State on its State plan  
4           under this title.”.

5           (B) APPLICATION TO CHIP.—Section  
6           2107(e)(1) of such Act (42 U.S.C. 1397gg(1)),  
7           as amended by subsections (b)(2) and (d) (2),  
8           is amended—

9                   (i) by redesignating subparagraphs  
10           (B), (C), (D), (E), (F), (G), (H), (I), (J),  
11           and (K) as subparagraphs (D), (F), (B),  
12           (E), (G), (I), (H), (J), (K), and (L), re-  
13           spectively;

14                   (ii) by moving such subparagraphs so  
15           as to appear in alphabetical order; and

16                   (iii) by inserting after subparagraph  
17           (B) (as so redesignated and moved) the  
18           following new subparagraph:

19                   “(C) Section 1902(a)(73) (relating to re-  
20           quiring certain States to seek advice from des-  
21           ignees of Indian Health Programs and Urban  
22           Indian Organizations).”.

23           (3) RULE OF CONSTRUCTION.—Nothing in the  
24           amendments made by this subsection shall be con-  
25           strued as superseding existing advisory committees,

1 working groups, guidance, or other advisory proce-  
2 dures established by the Secretary of Health and  
3 Human Services or by any State with respect to the  
4 provision of health care to Indians.

5 (f) EFFECTIVE DATE.—The amendments made by  
6 this section shall take effect on July 1, 2009.

7 **SEC. 5007. FUNDING FOR OVERSIGHT AND IMPLEMENTA-**  
8 **TION.**

9 (a) OVERSIGHT.—For purposes of ensuring the prop-  
10 er expenditure of Federal funds under title XIX of the  
11 Social Security Act (42 U.S.C. 1396 et seq.), there is ap-  
12 propriated to the Office of the Inspector General of the  
13 Department of Health and Human Services, out of any  
14 money in the Treasury not otherwise appropriated and  
15 without further appropriation, \$31,250,000 for fiscal year  
16 2009, which shall remain available for expenditure until  
17 September 30, 2011, and shall be in addition to any other  
18 amounts appropriated or made available to such Office for  
19 such purposes.

20 (b) IMPLEMENTATION OF INCREASED FMAP.—For  
21 purposes of carrying out section 5001, there is appro-  
22 priated to the Secretary of Health and Human Services,  
23 out of any money in the Treasury not otherwise appro-  
24 priated and without further appropriation, \$5,000,000 for  
25 fiscal year 2009, which shall remain available for expendi-

1 ture until September 30, 2011, and shall be in addition  
2 to any other amounts appropriated or made available to  
3 such Secretary for such purposes.

4 **SEC. 5008. GAO STUDY AND REPORT REGARDING STATE**  
5 **NEEDS DURING PERIODS OF NATIONAL ECO-**  
6 **NOMIC DOWNTURN.**

7 (a) IN GENERAL.—The Comptroller General of the  
8 United States shall study the period of national economic  
9 downturn in effect on the date of enactment of this Act,  
10 as well as previous periods of national economic downturn  
11 since 1974, for the purpose of developing recommenda-  
12 tions for addressing the needs of States during such peri-  
13 ods. As part of such analysis, the Comptroller General  
14 shall study the past and projected effects of temporary in-  
15 creases in the Federal medical assistance percentage  
16 under the Medicaid program with respect to such periods.

17 (b) REPORT.—Not later than April 1, 2011, the  
18 Comptroller General of the United States shall submit a  
19 report to the appropriate committees of Congress on the  
20 results of the study conducted under paragraph (1). Such  
21 report shall include the following:

22 (1) Such recommendations as the Comptroller  
23 General determines appropriate for modifying the  
24 national economic downturn assistance formula for  
25 temporary adjustment of the Federal medical assist-

1       ance percentage under Medicaid (also referred to as  
2       a “countercyclical FMAP”) described in GAO report  
3       number GAO–07–97 to improve the effectiveness of  
4       the application of such percentage in addressing the  
5       needs of States during periods of national economic  
6       downturn, including recommendations for—

7               (A) improvements to the factors that would  
8       begin and end the application of such percent-  
9       age;

10              (B) how the determination of the amount  
11       of such percentage could be adjusted to address  
12       State and regional economic variations during  
13       such periods; and

14              (C) how the determination of the amount  
15       of such percentage could be adjusted to be more  
16       responsive to actual Medicaid costs incurred by  
17       States during such periods.

18       (2) An analysis of the impact on States during  
19       such periods of—

20              (A) declines in private health benefits cov-  
21       erage;

22              (B) declines in State revenues; and

23              (C) caseload maintenance and growth  
24       under Medicaid, the Children’s Health Insur-  
25       ance Program, or any other publicly-funded



1 programs to provide health benefits coverage  
2 for State residents.

3 (3) Identification of, and recommendations for  
4 addressing, the effects on States of any other spe-  
5 cific economic indicators that the Comptroller Gen-  
6 eral determines appropriate.

7 **TITLE VI—BROADBAND TECH-**  
8 **NOLOGY OPPORTUNITIES**  
9 **PROGRAM**

10 **SEC. 6000. TABLE OF CONTENTS.**

11 The table of contents of this title is as follows:

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

Sec. 6000. Table of contents.

Sec. 6001. Broadband Technology Opportunities Program.

12 **SEC. 6001. BROADBAND TECHNOLOGY OPPORTUNITIES**  
13 **PROGRAM.**

14 (a) The Assistant Secretary of Commerce for Com-  
15 munications and Information (Assistant Secretary), in  
16 consultation with the Federal Communications Commis-  
17 sion (Commission), shall establish a national broadband  
18 service development and expansion program in conjunction  
19 with the technology opportunities program, which shall be  
20 referred to as the Broadband Technology Opportunities  
21 Program. The Assistant Secretary shall ensure that the  
22 program complements and enhances and does not conflict  
23 with other Federal broadband initiatives and programs.

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

2 (1) provide access to broadband service to con-  
3 sumers residing in unserved areas of the United  
4 States;

5 (2) provide improved access to broadband serv-  
6 ice to consumers residing in underserved areas of  
7 the United States;

8 (3) provide broadband education, awareness,  
9 training, access, equipment, and support to—

10 (A) schools, libraries, medical and  
11 healthcare providers, community colleges and  
12 other institutions of higher education, and other  
13 community support organizations and entities  
14 to facilitate greater use of broadband service by  
15 or through these organizations;

16 (B) organizations and agencies that pro-  
17 vide outreach, access, equipment, and support  
18 services to facilitate greater use of broadband  
19 service by low-income, unemployed, aged, and  
20 otherwise vulnerable populations; and

21 (C) job-creating strategic facilities located  
22 within a State-designated economic zone, Eco-  
23 nomic Development District designated by the  
24 Department of Commerce, Renewal Community  
25 or Empowerment Zone designated by the De-

1           partment of Housing and Urban Development,  
2           or Enterprise Community designated by the De-  
3           partment of Agriculture;

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

6           (5) stimulate the demand for broadband, eco-  
7           nomic growth, and job creation.

8           (c) The Assistant Secretary may consult a State, the  
9           District of Columbia, or territory or possession of the  
10          United States with respect to—

11           (1) the identification of areas described in sub-  
12          section (b)(1) or (2) located in that State; and

13           (2) the allocation of grant funds within that  
14          State for projects in or affecting the State.

15          (d) The Assistant Secretary shall—

16           (1) establish and implement the grant program  
17          as expeditiously as practicable;

18           (2) ensure that all awards are made before the  
19          end of fiscal year 2010;

20           (3) seek such assurances as may be necessary  
21          or appropriate from grantees under the program  
22          that they will substantially complete projects sup-  
23          ported by the program in accordance with project  
24          timelines, not to exceed 2 years following an award;  
25          and

1           (4) report on the status of the program to the  
2       Committees on Appropriations of the House of Rep-  
3       resentatives and the Senate, the Committee on En-  
4       ergy and Commerce of the House of Representa-  
5       tives, and the Committee on Commerce, Science, and  
6       Transportation of the Senate, every 90 days.

7       (e) To be eligible for a grant under the program, an  
8       applicant shall—

9           (1)(A) be a State or political subdivision there-  
10       of, the District of Columbia, a territory or posses-  
11       sion of the United States, an Indian tribe (as de-  
12       fined in section 4 of the Indian Self-Determination  
13       and Education Assistance Act (25 U.S.C. 450(b)) or  
14       native Hawaiian organization;

15           (B) a nonprofit—

16                   (i) foundation,

17                   (ii) corporation,

18                   (iii) institution, or

19                   (iv) association; or

20           (C) any other entity, including a  
21       broadband service or infrastructure provider,  
22       that the Assistant Secretary finds by rule to be  
23       in the public interest. In establishing such rule,  
24       the Assistant Secretary shall to the extent prac-

1            ticable promote the purposes of this section in  
2            a technologically neutral manner;

3            (2) submit an application, at such time, in such  
4            form, and containing such information as the Assist-  
5            ant Secretary may require;

6            (3) provide a detailed explanation of how any  
7            amount received under the program will be used to  
8            carry out the purposes of this section in an efficient  
9            and expeditious manner, including a showing that  
10          the project would not have been implemented during  
11          the grant period without Federal grant assistance;

12          (4) demonstrate, to the satisfaction of the As-  
13          sistant Secretary, that it is capable of carrying out  
14          the project or function to which the application re-  
15          lates in a competent manner in compliance with all  
16          applicable Federal, State, and local laws;

17          (5) demonstrate, to the satisfaction of the As-  
18          sistant Secretary, that it will appropriate (if the ap-  
19          plicant is a State or local government agency) or  
20          otherwise unconditionally obligate, from non-Federal  
21          sources, funds required to meet the requirements of  
22          subsection (f);

23          (6) disclose to the Assistant Secretary the  
24          source and amount of other Federal or State fund-  
25          ing sources from which the applicant receives, or has

1 applied for, funding for activities or projects to  
2 which the application relates; and

3 (7) provide such assurances and procedures as  
4 the Assistant Secretary may require to ensure that  
5 grant funds are used and accounted for in an appro-  
6 priate manner.

7 (f) The Federal share of any project may not exceed  
8 80 percent, except that the Assistant Secretary may in-  
9 crease the Federal share of a project above 80 percent  
10 if—

11 (1) the applicant petitions the Assistant Sec-  
12 retary for a waiver; and

13 (2) the Assistant Secretary determines that the  
14 petition demonstrates financial need.

15 (g) The Assistant Secretary may make competitive  
16 grants under the program to—

17 (1) acquire equipment, instrumentation, net-  
18 working capability, hardware and software, digital  
19 network technology, and infrastructure for  
20 broadband services;

21 (2) construct and deploy broadband service re-  
22 lated infrastructure;

23 (3) ensure access to broadband service by com-  
24 munity anchor institutions;

1           (4) facilitate access to broadband service by  
2           low-income, unemployed, aged, and otherwise vulner-  
3           able populations in order to provide educational and  
4           employment opportunities to members of such popu-  
5           lations;

6           (5) construct and deploy broadband facilities  
7           that improve public safety broadband communica-  
8           tions services; and

9           (6) undertake such other projects and activities  
10          as the Assistant Secretary finds to be consistent  
11          with the purposes for which the program is estab-  
12          lished.

13          (h) The Assistant Secretary, in awarding grants  
14          under this section, shall, to the extent practical—

15               (1) award not less than 1 grant in each State;

16               (2) consider whether an application to deploy  
17          infrastructure in an area—

18                       (A) will, if approved, increase the afford-  
19                       ability of, and subscribership to, service to the  
20                       greatest population of users in the area;

21                       (B) will, if approved, provide the greatest  
22                       broadband speed possible to the greatest popu-  
23                       lation of users in the area;

24                       (C) will, if approved, enhance service for  
25                       health care delivery, education, or children to

1 the greatest population of users in the area;  
2 and

3 (D) will, if approved, not result in unjust  
4 enrichment as a result of support for non-recur-  
5 ring costs through another Federal program for  
6 service in the area; and

7 (3) consider whether the applicant is a socially  
8 and economically disadvantaged small business con-  
9 cern as defined under section 8(a) of the Small  
10 Business Act (15 U.S.C. 637).

11 (i) The Assistant Secretary—

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

19 (2) may establish additional reporting and in-  
20 formation requirements for any recipient of any as-  
21 sistance made available pursuant to this section;

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



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

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

20      (j) Concurrent with the issuance of the Request for  
21      Proposal for grant applications pursuant to this section,  
22      the Assistant Secretary shall, in coordination with the  
23      Commission, publish the non-discrimination and network  
24      interconnection obligations that shall be contractual condi-  
25      tions of grants awarded under this section, including, at

1 a minimum, adherence to the principles contained in the  
2 Commission's broadband policy statement (FCC 05-15,  
3 adopted August 5, 2005).

4 (k)(1) Not later than 1 year after the date of enact-  
5 ment of this section, the Commission shall submit to the  
6 Committee on Energy and Commerce of the House of  
7 Representatives and the Committee on Commerce,  
8 Science, and Transportation of the Senate, a report con-  
9 taining a national broadband plan.

10 (2) The national broadband plan required by  
11 this section shall seek to ensure that all people of  
12 the United States have access to broadband capa-  
13 bility and shall establish benchmarks for meeting  
14 that goal. The plan shall also include—

15 (A) an analysis of the most effective and  
16 efficient mechanisms for ensuring broadband  
17 access by all people of the United States;

18 (B) a detailed strategy for achieving af-  
19 fordability of such service and maximum utiliza-  
20 tion of broadband infrastructure and service by  
21 the public;

22 (C) an evaluation of the status of deploy-  
23 ment of broadband service, including progress  
24 of projects supported by the grants made pur-  
25 suant to this section; and

1 (D) a plan for use of broadband infrastruc-  
2 ture and services in advancing consumer wel-  
3 fare, civic participation, public safety and home-  
4 land security, community development, health  
5 care delivery, energy independence and effi-  
6 ciency, education, worker training, private sec-  
7 tor investment, entrepreneurial activity, job cre-  
8 ation and economic growth, and other national  
9 purposes.

10 (3) In developing the plan, the Commission  
11 shall have access to data provided to other Govern-  
12 ment agencies under the Broadband Data Improve-  
13 ment Act (47 U.S.C. 1301 note).

14 (1) The Assistant Secretary shall develop and main-  
15 tain a comprehensive nationwide inventory map of existing  
16 broadband service capability and availability in the United  
17 States that depicts the geographic extent to which  
18 broadband service capability is deployed and available  
19 from a commercial provider or public provider throughout  
20 each State. Not later than 2 years after the date of the  
21 enactment of this Act, the Assistant Secretary shall make  
22 the broadband inventory map developed and maintained  
23 pursuant to this section accessible by the public on a  
24 World Wide Web site of the National Telecommunications

1 and Information Administration in a form that is inter-  
2 active and searchable.

3 (m) The Assistant Secretary shall have the authority  
4 to prescribe such rules as are necessary to carry out the  
5 purposes of this section.

## 6 **TITLE VII—LIMITS ON** 7 **EXECUTIVE COMPENSATION**

### 8 **SEC. 7000. TABLE OF CONTENTS.**

9 The table of contents of this title is as follows:

#### TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

Sec. 7000. Table of contents.

Sec. 7001. Executive compensation and corporate governance.

Sec. 7002. Applicability with respect to loan modifications.

### 10 **SEC. 7001. EXECUTIVE COMPENSATION AND CORPORATE** 11 **GOVERNANCE.**

12 Section 111 of the Emergency Economic Stabilization  
13 Act of 2008 (12 U.S.C. 5221) is amended to read as fol-  
14 lows:

### 15 **“SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE** 16 **GOVERNANCE.**

17 “(a) DEFINITIONS.—For purposes of this section, the  
18 following definitions shall apply:

19 “(1) SENIOR EXECUTIVE OFFICER.—The term  
20 ‘senior executive officer’ means an individual who is  
21 1 of the top 5 most highly paid executives of a pub-  
22 lic company, whose compensation is required to be  
23 disclosed pursuant to the Securities Exchange Act of

1 1934, and any regulations issued thereunder, and  
2 non-public company counterparts.

3 “(2) GOLDEN PARACHUTE PAYMENT.—The  
4 term ‘golden parachute payment’ means any pay-  
5 ment to a senior executive officer for departure from  
6 a company for any reason, except for payments for  
7 services performed or benefits accrued.

8 “(3) TARP RECIPIENT.—The term ‘TARP re-  
9 cipient’ means any entity that has received or will  
10 receive financial assistance under the financial as-  
11 sistance provided under the TARP.

12 “(4) COMMISSION.—The term ‘Commission’  
13 means the Securities and Exchange Commission.

14 “(5) PERIOD IN WHICH OBLIGATION IS OUT-  
15 STANDING; RULE OF CONSTRUCTION.—For purposes  
16 of this section, the period in which any obligation  
17 arising from financial assistance provided under the  
18 TARP remains outstanding does not include any pe-  
19 riod during which the Federal Government only  
20 holds warrants to purchase common stock of the  
21 TARP recipient.

22 “(b) EXECUTIVE COMPENSATION AND CORPORATE  
23 GOVERNANCE.—

24 “(1) ESTABLISHMENT OF STANDARDS.—During  
25 the period in which any obligation arising from fi-

1        nancial assistance provided under the TARP re-  
2        mains outstanding, each TARP recipient shall be  
3        subject to—

4                “(A) the standards established by the Sec-  
5        retary under this section; and

6                “(B) the provisions of section 162(m)(5) of  
7        the Internal Revenue Code of 1986, as applica-  
8        ble.

9                “(2) STANDARDS REQUIRED.—The Secretary  
10       shall require each TARP recipient to meet appro-  
11       priate standards for executive compensation and cor-  
12       porate governance.

13               “(3) SPECIFIC REQUIREMENTS.—The standards  
14       established under paragraph (2) shall include the  
15       following:

16               “(A) Limits on compensation that exclude  
17       incentives for senior executive officers of the  
18       TARP recipient to take unnecessary and exces-  
19       sive risks that threaten the value of such recipi-  
20       ent during the period in which any obligation  
21       arising from financial assistance provided under  
22       the TARP remains outstanding.

23               “(B) A provision for the recovery by such  
24       TARP recipient of any bonus, retention award,  
25       or incentive compensation paid to a senior exec-

1           utive officer and any of the next 20 most high-  
2           ly-compensated employees of the TARP recipi-  
3           ent based on statements of earnings, revenues,  
4           gains, or other criteria that are later found to  
5           be materially inaccurate.

6           “(C) A prohibition on such TARP recipient  
7           making any golden parachute payment to a sen-  
8           ior executive officer or any of the next 5 most  
9           highly-compensated employees of the TARP re-  
10          cipient during the period in which any obliga-  
11          tion arising from financial assistance provided  
12          under the TARP remains outstanding.

13          “(D)(i) A prohibition on such TARP re-  
14          cipient paying or accruing any bonus, retention  
15          award, or incentive compensation during the pe-  
16          riod in which any obligation arising from finan-  
17          cial assistance provided under the TARP re-  
18          mains outstanding, except that any prohibition  
19          developed under this paragraph shall not apply  
20          to the payment of long-term restricted stock by  
21          such TARP recipient, provided that such long-  
22          term restricted stock—

23                  “(I) does not fully vest during the pe-  
24                  riod in which any obligation arising from

1 financial assistance provided to that TARP  
2 recipient remains outstanding;

3 “(II) has a value in an amount that  
4 is not greater than  $\frac{1}{3}$  of the total amount  
5 of annual compensation of the employee re-  
6 ceiving the stock; and

7 “(III) is subject to such other terms  
8 and conditions as the Secretary may deter-  
9 mine is in the public interest.

10 “(ii) The prohibition required under clause  
11 (i) shall apply as follows:

12 “(I) For any financial institution that  
13 received financial assistance provided  
14 under the TARP equal to less than  
15 \$25,000,000, the prohibition shall apply  
16 only to the most highly compensated em-  
17 ployee of the financial institution.

18 “(II) For any financial institution  
19 that received financial assistance provided  
20 under the TARP equal to at least  
21 \$25,000,000, but less than \$250,000,000,  
22 the prohibition shall apply to at least the  
23 5 most highly-compensated employees of  
24 the financial institution, or such higher  
25 number as the Secretary may determine is



1 in the public interest with respect to any  
2 TARP recipient.

3 “(III) For any financial institution  
4 that received financial assistance provided  
5 under the TARP equal to at  
6 least \$250,000,000, but less than  
7 \$500,000,000, the prohibition shall apply  
8 to the senior executive officers and at least  
9 the 10 next most highly-compensated em-  
10 ployees, or such higher number as the Sec-  
11 retary may determine is in the public inter-  
12 est with respect to any TARP recipient.

13 “(IV) For any financial institution  
14 that received financial assistance provided  
15 under the TARP equal to \$500,000,000 or  
16 more, the prohibition shall apply to the  
17 senior executive officers and at least the 20  
18 next most highly-compensated employees,  
19 or such higher number as the Secretary  
20 may determine is in the public interest  
21 with respect to any TARP recipient.

22 “(iii) The prohibition required under clause  
23 (i) shall not be construed to prohibit any bonus  
24 payment required to be paid pursuant to a writ-  
25 ten employment contract executed on or before

1 February 11, 2009, as such valid employment  
2 contracts are determined by the Secretary or  
3 the designee of the Secretary.

4 “(E) A prohibition on any compensation  
5 plan that would encourage manipulation of the  
6 reported earnings of such TARP recipient to  
7 enhance the compensation of any of its employ-  
8 ees.

9 “(F) A requirement for the establishment  
10 of a Board Compensation Committee that  
11 meets the requirements of subsection (c).

12 “(4) CERTIFICATION OF COMPLIANCE.—The  
13 chief executive officer and chief financial officer (or  
14 the equivalents thereof) of each TARP recipient  
15 shall provide a written certification of compliance by  
16 the TARP recipient with the requirements of this  
17 section—

18 “(A) in the case of a TARP recipient, the  
19 securities of which are publicly traded, to the  
20 Securities and Exchange Commission, together  
21 with annual filings required under the securities  
22 laws; and

23 “(B) in the case of a TARP recipient that  
24 is not a publicly traded company, to the Sec-  
25 retary.

1       “(c) BOARD COMPENSATION COMMITTEE.—

2               “(1) ESTABLISHMENT OF BOARD REQUIRED.—

3       Each TARP recipient shall establish a Board Com-  
4       pensation Committee, comprised entirely of inde-  
5       pendent directors, for the purpose of reviewing em-  
6       ployee compensation plans.

7               “(2) MEETINGS.—The Board Compensation  
8       Committee of each TARP recipient shall meet at  
9       least semiannually to discuss and evaluate employee  
10      compensation plans in light of an assessment of any  
11      risk posed to the TARP recipient from such plans.

12              “(3) COMPLIANCE BY NON-SEC REG-  
13      ISTRANTS.—In the case of any TARP recipient, the  
14      common or preferred stock of which is not registered  
15      pursuant to the Securities Exchange Act of 1934,  
16      and that has received \$25,000,000 or less of TARP  
17      assistance, the duties of the Board Compensation  
18      Committee under this subsection shall be carried out  
19      by the board of directors of such TARP recipient.

20              “(d) LIMITATION ON LUXURY EXPENDITURES.—The  
21      board of directors of any TARP recipient shall have in  
22      place a company-wide policy regarding excessive or luxury  
23      expenditures, as identified by the Secretary, which may  
24      include excessive expenditures on—

25              “(1) entertainment or events;

1           “(2) office and facility renovations;

2           “(3) aviation or other transportation services;

3           or

4           “(4) other activities or events that are not rea-  
5           sonable expenditures for staff development, reason-  
6           able performance incentives, or other similar meas-  
7           ures conducted in the normal course of the business  
8           operations of the TARP recipient.

9           “(e) SHAREHOLDER APPROVAL OF EXECUTIVE COM-  
10          PENSATION.—

11           “(1) ANNUAL SHAREHOLDER APPROVAL OF EX-  
12          ECUTIVE COMPENSATION.—Any proxy or consent or  
13          authorization for an annual or other meeting of the  
14          shareholders of any TARP recipient during the pe-  
15          riod in which any obligation arising from financial  
16          assistance provided under the TARP remains out-  
17          standing shall permit a separate shareholder vote to  
18          approve the compensation of executives, as disclosed  
19          pursuant to the compensation disclosure rules of the  
20          Commission (which disclosure shall include the com-  
21          pensation discussion and analysis, the compensation  
22          tables, and any related material).

23           “(2) NONBINDING VOTE.—A shareholder vote  
24          described in paragraph (1) shall not be binding on  
25          the board of directors of a TARP recipient, and may

1 not be construed as overruling a decision by such  
2 board, nor to create or imply any additional fidu-  
3 ciary duty by such board, nor shall such vote be con-  
4 strued to restrict or limit the ability of shareholders  
5 to make proposals for inclusion in proxy materials  
6 related to executive compensation.

7 “(3) DEADLINE FOR RULEMAKING.—Not later  
8 than 1 year after the date of enactment of the  
9 American Recovery and Reinvestment Act of 2009,  
10 the Commission shall issue any final rules and regu-  
11 lations required by this subsection.

12 “(f) REVIEW OF PRIOR PAYMENTS TO EXECU-  
13 TIVES.—

14 “(1) IN GENERAL.—The Secretary shall review  
15 bonuses, retention awards, and other compensation  
16 paid to the senior executive officers and the next 20  
17 most highly-compensated employees of each entity  
18 receiving TARP assistance before the date of enact-  
19 ment of the American Recovery and Reinvestment  
20 Act of 2009, to determine whether any such pay-  
21 ments were inconsistent with the purposes of this  
22 section or the TARP or were otherwise contrary to  
23 the public interest.

24 “(2) NEGOTIATIONS FOR REIMBURSEMENT.—If  
25 the Secretary makes a determination described in

1 paragraph (1), the Secretary shall seek to negotiate  
2 with the TARP recipient and the subject employee  
3 for appropriate reimbursements to the Federal Gov-  
4 ernment with respect to compensation or bonuses.

5 “(g) NO IMPEDIMENT TO WITHDRAWAL BY TARP  
6 RECIPIENTS.—Subject to consultation with the appro-  
7 priate Federal banking agency (as that term is defined  
8 in section 3 of the Federal Deposit Insurance Act), if any,  
9 the Secretary shall permit a TARP recipient to repay any  
10 assistance previously provided under the TARP to such  
11 financial institution, without regard to whether the finan-  
12 cial institution has replaced such funds from any other  
13 source or to any waiting period, and when such assistance  
14 is repaid, the Secretary shall liquidate warrants associated  
15 with such assistance at the current market price.

16 “(h) REGULATIONS.—The Secretary shall promul-  
17 gate regulations to implement this section.”.

18 **SEC. 7002. APPLICABILITY WITH RESPECT TO LOAN MODI-**  
19 **FICATIONS.**

20 Section 109(a) of the Emergency Economic Stabiliza-  
21 tion Act of 2008 (12 U.S.C. 5219(a)) is amended—

22 (1) by striking “To the extent” and inserting  
23 the following:

24 “(1) IN GENERAL.—To the extent”; and

25 (2) by adding at the end the following:

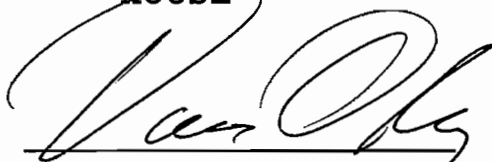
1           “(2) WAIVER OF CERTAIN PROVISIONS IN CON-  
2           NECTION WITH LOAN MODIFICATIONS.—The Sec-  
3           retary shall not be required to apply executive com-  
4           pensation restrictions under section 111, or to re-  
5           ceive warrants or debt instruments under section  
6           113, solely in connection with any loan modification  
7           under this section.”.

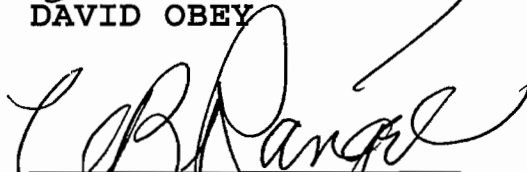
And the Senate agreed to the same.

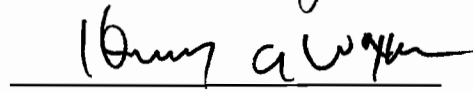
Set Roman



Managers on the part of the  
HOUSE

  
DAVID OBEY


  
CHARLES RANGEL

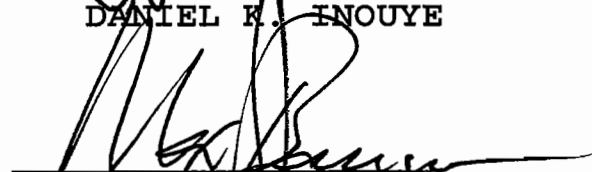
  
HENRY WAXMAN

~~JERRY LEWIS~~

~~DAVE CAMP~~

Managers on the part of the  
SENATE

  
DANIEL K. INOUE

  
MAX BAUCUS

  
HARRY REID

~~THAD COCHRAN~~

~~CHARLES GRASSLEY~~