[COMMITTEE PRINT]

NOTICE: This bill is a draft for use of the committee and its Staff only, in preparation for markup.]

Calendar No. 000

111TH CONGRESS
1stD SESSION

S. 0000

[Report No. 111–000]

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

IN THE SENATE OF THE UNITED STATES

JANUARY 00, 2009

Mr. INOUYE, from the Committee on Appropriations, reported the following original bill, which was read twice and placed on the calendar

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

1 TITLE I—AGRICULTURE, RURAL DEVELOP-
2 MENT, FOOD AND DRUG ADMINISTRATION,
3 AND RELATED AGENCIES
4 DEPARTMENT OF AGRICULTURE
5 OFFICE OF THE SECRETARY
6 (INCLUDING TRANSFERS OF FUNDS)
7 For an additional amount for the "Office of the Sec-
8 retary", $300,000,000, to remain available until Sep-
9 tember 30, 2010: *Provided,* That the Secretary may trans-
10 fer these funds to agencies of the Department, other than
11 the Forest Service, for necessary replacement, moderniza-
12 tion, or upgrades of laboratories or other facilities to im-
13 prove workplace safety and mission-area efficiencies as
14 deemed appropriate by the Secretary: *Provided further,*
15 that the Secretary shall provide to the Committees on Ap-
16 propriations of the House and Senate a plan on the alloca-
17 tion of these funds no later than 60 days after the date
18 of enactment of this Act.
19 OFFICE OF INSPECTOR GENERAL
20 For an additional amount for "Office of Inspector
21 General", $5,000,000, to remain available until Sep-
22 tember 30, 2010, for oversight and audit of programs,
23 grants, and activities funded under this title.

1 COOPERATIVE STATE RESEARCH, EDUCATION AND
2 ECONOMIC SERVICE
3 RESEARCH AND EDUCATION ACTIVITIES
4 For an additional amount for competitive grants au-
5 thorized at 7 U.S.C. 450(i)(b), $100,000,000, to remain
6 available until September 30, 2010.
7 FARM SERVICE AGENCY
8 SALARIES AND EXPENSES
9 For an additional amount for "Farm Service Agency,
10 Salaries and Expenses", $171,000,000, to remain avail-
11 able until September 30, 2010.
12 AGRICULTURAL CREDIT INSURANCE FUND PROGARM
13 ACCOUNT
14 For an additional amount for gross obligations for
15 the principal amount of direct and guaranteed farm own-
16 ership (7 U.S.C 1922 et seq.) and operating (7 U.S.C.
17 1941 et seq.) loans, to be available from funds in the Agri-
18 cultural Credit Insurance Fund Program Account, as fol-
19 lows: farm ownership loans, $400,000,000 of which
20 $100,000,000 shall be for unsubsidized guaranteed loans
21 and $300,000,000 shall be for direct loans; and operating
22 loans, $250,000,000 of which $50,000,000 shall be for un-
23 subsidized guaranteed loans and $200,000,000 shall be for
24 direct loans.
25 For an additional amount for the cost of direct and
26 guaranteed loans, including the cost of modifying loans,

as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2010, as follows: farm ownership loans, $17,530,000 of which $330,000 shall be for unsubsidized guaranteed loans and $17,200,000 shall be for direct loans; and operating loans, $24,900,000 of which $1,300,000 shall be for unsubsidized guaranteed loans and $23,600,000 shall be for direct loans.

Funds appropriated by this Act to the Agricultural Credit Insurance Fund Program Account for farm ownership, operating, and emergency direct loans and unsubsidized guaranteed loans may be transferred among these programs: *Provided,* That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", $275,000,000, to remain available until September 30, 2010.

WATERSHED REHABILITATION PROGRAM

For an additional amount for the "Watershed Rehabilitation Program", $120,000,000, to remain available until September 30, 2010.

1 RURAL DEVELOPMENT SALARIES AND EXPENSES

2 For an additional amount for "Rural Development,
3 Salaries and Expenses", $110,000,000, to remain avail-
4 able until September 30, 2010.

5 RURAL HOUSING SERVICE

6 RURAL HOUSING INSURANCE PROGRAM ACCOUNT

7 For an additional amount for gross obligations for
8 the principal amount of direct and guaranteed loans as
9 authorized by title V of the Housing Act of 1949, to be
10 available from funds in the Rural Housing Insurance
11 Fund Program Account, as follows: $1,000,000,000 for
12 section 502 direct loans; and $10,472,000,000 for section
13 502 unsubsidized guaranteed loans.

14 For an additional amount for the cost of direct and
15 guaranteed loans, including the cost of modifying loans,
16 as defined in section 502 of the Congressional Budget Act
17 of 1974, to remain available until September 30, 2010,
18 as follows: $67,000,000 for section 502 direct loans; and
19 $133,000,000 for section 502 unsubsidized guaranteed
20 loans.

21 RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

22 For an additional amount for the cost of direct loans,
23 loan guarantees, and grants for rural community facilities
24 programs as authorized by section 306 and described in
25 section 381E(d)(1) of the Consolidated Farm and Rural

1 Development Act, $127,000,000, to remain available until
2 September 30, 2010.

3 RURAL BUSINESS—COOPERATIVE SERVICE

4 RURAL BUSINESS PROGRAM ACCOUNT

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

10 BIOREFINERY ASSISTANCE

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

15 RURAL ENERGY FOR AMERICA PROGRAM

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

1 RURAL UTILITIES SERVICE

2 RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

3 For an additional amount for the cost of direct loans,
4 loan guarantees, and grants for the rural water, waste
5 water, waste disposal, and solid waste management pro-
6 grams authorized by sections 306, 306A, 306C, 306D,
7 and 310B and described in sections 306C(a)(2), 306D,
8 and 381E(d)(2) of the Consolidated Farm and Rural De-
9 velopment Act, $1,375,000,000, to remain available until
10 September 30, 2010.

11 DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND
12 PROGRAM ACCOUNT

13 For an additional amount for direct loans and grants
14 for distance learning and telemedicine services in rural
15 areas, as authorized by 7 U.S.C. 950aaa, et seq.,
16 $200,000,000, to remain available until September 30,
17 2010.

18 FOOD AND NUTRITION SERVICE

19 CHILD NUTRITION PROGRAMS

20 For additional amount for the Richard B. Russell
21 National School Lunch Act (42 U.S.C. 1751 et. seq.), ex-
22 cept section 21, and the Child Nutrition Act of 1966 (42
23 U.S.C. 1771 et. seq.), except sections 17 and 21,
24 $198,000,000, to remain available until September 30,
25 2010, to carry out a grant program for National School
26 Lunch Program equipment assistance: *Provided,* That

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

22 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR
23 WOMEN, INFANTS, AND CHILDREN (WIC)

24 For an additional amount for the special supple-
25 mental nutrition program as authorized by section 17 of
26 the Child Nutrition Act of 1966 (42 U.S.C. 1786), to re-

1 main available until September 30, 2010, $500,000,000,
2 of which $380,000,000 shall be placed in reserve to be
3 allocated as the Secretary deems necessary, notwith-
4 standing section 17(i) of such Act, to support participa-
5 tion should cost or participation exceed budget estimates,
6 and of which $120,000,000 shall be for the purposes speci-
7 fied in section 17(h)(10)(B)(ii): *Provided,* That up to one
8 percent of the funding provided for the purposes specified
9 in section 17(h)(10)(B)(ii) may be reserved by the Sec-
10 retary for Federal administrative activities in support of
11 those purposes.

12 COMMODITY ASSISTANCE PROGRAM

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

1 GENERAL PROVISIONS—THIS TITLE

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

1 ing the use of these funds not later than 90 days after
2 the date of enactment of this Act, and quarterly thereafter
3 until all funds are obligated, to the Committees on Appro-
4 priations of the House of Representatives and the Senate.
5 SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.
6 (a) MAXIMUM BENEFIT INCREASES.—
7 (1) ECONOMIC RECOVERY 1-MONTH BEGINNING
8 STIMULUS PAYMENT.—For the first month that be-
9 gins not less than 25 days after the date of enact-
10 ment of this Act, the Secretary of Agriculture (re-
11 ferred to in this section as the "Secretary") shall in-
12 crease the cost of the thrifty food plan for purposes
13 of section 8(a) of the Food and Nutrition Act of
14 2008 (7 U.S.C. 2017(a)) by 85 percent.
15 (2) REMAINDER OF FISCAL YEAR 2009.—Begin-
16 ning with the second month that begins not less
17 than 25 days after the date of enactment of this
18 Act, and for each subsequent month through the
19 month ending September 30, 2009, the Secretary
20 shall increase the cost of the thrifty food plan for
21 purposes of section 8(a) of the Food and Nutrition
22 Act of 2008 (7 U.S.C. 2017(a)) by 12 percent.
23 (3) SUBSEQUENT INCREASE FOR FISCAL YEAR
24 2010.—Beginning on October 1, 2009, and for each
25 subsequent month through the month ending Sep-

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

1 vided by this subsection terminates and has no ef-
2 fect.
3 (b) ADMINISTRATION.—In carrying out this section,
4 the Secretary shall—
5 (1) consider the benefit increases described in
6 subsection (a) to be a mass change;
7 (2) require a simple process for States to notify
8 households of the changes in benefits;
9 (3) consider section 16(c)(3)(A) of the Food
10 and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A))
11 to apply to any errors in the implementation of this
12 section, without regard to the 120-day limit de-
13 scribed in section 16(c)(3)(A) of that Act;
14 (4) disregard the additional amount of benefits
15 that a household receives as a result of this section
16 in determining the amount of overissuances under
17 section 13 of the Food and Nutrition Act of 2008
18 (7 U.S.C. 2022) and the hours of participation in a
19 program under section 6(d), 20, or 26 of that Act
20 (7 U.S.C. 2015(d), 2029, 2035); and
21 (5) set the tolerance level for excluding small
22 errors for the purposes of section 16(c) of the Food
23 and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at
24 $50 for the period that the benefit increase under
25 subsection (a) is in effect.

1 (c) ADMINISTRATIVE EXPENSES.—

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

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

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

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

1 that participate in the supplemental nutrition
2 assistance program as reported to the Depart-
3 ment of Agriculture for the most recent 12-
4 month period for which data are available, ad-
5 justed by the Secretary (in the discretion of the
6 Secretary) for participation in disaster pro-
7 grams under section 5(h) of the Food and Nu-
8 trition Act of 2008 (7 U.S.C. 2014(h)); and
9 (B) 25 percent of the amounts available
10 for each fiscal year shall be allocated to States
11 based on the increase in the number of house-
12 holds that participate in the supplemental nu-
13 trition assistance program as reported to the
14 Department of Agriculture over the most recent
15 12-month period for which data are available,
16 adjusted by the Secretary (in the discretion of
17 the Secretary) for participation in disaster pro-
18 grams under section 5(h) of the Food and Nu-
19 trition Act of 2008 (7 U.S.C. 2014(h)).
20 (4) REDISTRIBUTION.—The Secretary shall de-
21 termine an appropriate procedure for redistribution
22 of amounts allocated to States that would otherwise
23 be provided allocations under paragraph (3) for a
24 fiscal year but that do not meet the requirements of
25 paragraph (5).

1 (5) MAINTENANCE OF EFFORT.—
2 (A) DEFINITION OF SPECIFIED STATE AD-
3 MINISTRATIVE COSTS.—In this paragraph:
4 (i) IN GENERAL.—The term "specified
5 State administrative costs" includes all
6 State administrative costs under the sup-
7 plemental nutrition assistance program.
8 (ii) EXCLUSIONS.—The term "speci-
9 fied State administrative costs" does not
10 include—
11 (I) the costs of employment and
12 training programs under section 6(d),
13 20, or 26 of the Food and Nutrition
14 Act of 2008 (7 U.S.C. 2015(d), 2029,
15 2035);
16 (II) the costs of nutrition edu-
17 cation under section 11(f) of that Act
18 (7 U.S.C. 2020(f)); and
19 (III) any other costs the Sec-
20 retary determines should be excluded.
21 (B) REQUIREMENT.—The Secretary shall
22 make funds under this subsection available only
23 to States that, as determined by the Secretary,
24 maintain State expenditures on specified State
25 administrative costs.

1 (6) MONITORING AND EVALUATION.—Of the
2 amounts made available under paragraph (1), the
3 Secretary may retain up to $5,000,000 for the costs
4 incurred by the Secretary in monitoring the integrity
5 and evaluating the effects of the payments made
6 under this section.
7 (d) FOOD DISTRIBUTION PROGRAM ON INDIAN RES-
8 ERVATIONS.—For the costs of administrative expenses as-
9 sociated with the food distribution program on Indian res-
10 ervations established under section 4(b) of the Food and
11 Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary
12 shall make available $5,000,000, to remain available until
13 September 30, 2010.
14 (e) CONSOLIDATED BLOCK GRANTS FOR PUERTO
15 RICO AND AMERICAN SAMOA.—
16 (1) FISCAL YEAR 2009.—
17 (A) IN GENERAL.—For fiscal year 2009,
18 the Secretary shall increase by 12 percent the
19 amount available for nutrition assistance for eli-
20 gible households under the consolidated block
21 grants for the Commonwealth of Puerto Rico
22 and American Samoa under section 19 of the
23 Food and Nutrition Act of 2008 (7 U.S.C.
24 2028).

1 (B) AVAILABILITY OF FUNDS.—Funds
2 made available under subparagraph (A) shall
3 remain available through September 30, 2010.
4 (2) FISCAL YEAR 2010.—For fiscal year 2010,
5 the Secretary shall increase the amount available for
6 nutrition assistance for eligible households under the
7 consolidated block grants for the Commonwealth of
8 Puerto Rico and American Samoa under section 19
9 of the Food and Nutrition Act of 2008 (7 U.S.C.
10 2028) by 12 percent, less the percentage by which
11 the Secretary determines the consolidated block
12 grants would otherwise be adjusted on October 1,
13 2009, as required by section 19(a)(2)(A)(ii) of that
14 Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the percentage
15 is less than 12 percent.
16 (3) FISCAL YEAR 2011.—For fiscal year 2011,
17 the Secretary shall increase the amount available for
18 nutrition assistance for eligible households under the
19 consolidated block grants for the Commonwealth of
20 Puerto Rico and American Samoa under section 19
21 of the Food and Nutrition Act of 2008 (7 U.S.C.
22 2028) by 12 percent, less the sum of the percentages
23 by which the Secretary determines the consolidated
24 block grants would otherwise be adjusted on October
25 1, 2009, and October 1, 2010, as required by section

1 19(a)(2)(A)(ii) of that Act (7 U.S.C.
2 2028(a)(2)(A)(ii)), if the sum of the percentages is
3 less than 12 percent.
4 (f) TREATMENT OF JOBLESS WORKERS.—
5 (1) REMAINDER OF FISCAL YEAR 2009
6 THROUGH FISCAL YEAR 2011.—Beginning with the
7 first month that begins not less than 25 days after
8 the date of enactment of this Act and for each sub-
9 sequent month through September 30, 2011, eligi-
10 bility for supplemental nutrition assistance program
11 benefits shall not be limited under section 6(o)(2) of
12 the Food and Nutrition Act of 2008 unless an indi-
13 vidual does not comply with the requirements of a
14 program offered by the State agency that meets the
15 standards of subparagraphs (B) or (C) of that para-
16 graph.
17 (2) FISCAL YEAR 2012 AND THEREAFTER.—Be-
18 ginning on October 1, 2011, for the purposes of sec-
19 tion 6(o) of the Food and Nutrition Act of 2008 (7
20 U.S.C. 2015(o)), a State agency shall disregard any
21 period during which an individual received benefits
22 under the supplemental nutrition assistance program
23 prior to October 1, 2011.
24 (g) FUNDING.—There are appropriated to the Sec-
25 retary out of funds of the Treasury not otherwise appro-

1 priated such sums as are necessary to carry out this sec-
2 tion.
3 SEC. 103. AGRICULTURAL DISASTER ASSISTANCE
4 TRANSITION. (a) FEDERAL CROP INSURANCE ACT.—Sec-
5 tion 531(g) of the Federal Crop Insurance Act (7 U.S.C.
6 1531(g)) is amended by adding at the end the following:
7 "(7) 2008 TRANSITION ASSISTANCE.—
8 "(A) IN GENERAL.—Eligible producers on
9 a farm described in subparagraph (A) of para-
10 graph (4) that failed to timely pay the appro-
11 priate fee described in that subparagraph shall
12 be eligible for assistance under this section in
13 accordance with subparagraph (B) if the eligi-
14 ble producers on the farm—
15 "(i) pay the appropriate fee described
16 in paragraph (4)(A) not later than 90 days
17 after the date of enactment of this para-
18 graph; and
19 "(ii)(I) in the case of each insurable
20 commodity of the eligible producers on the
21 farm, excluding grazing land, agree to ob-
22 tain a policy or plan of insurance under
23 subtitle A (excluding a crop insurance pilot
24 program under that subtitle) for the next
25 insurance year for which crop insurance is

1 available to the eligible producers on the
2 farm at a level of coverage equal to 70 per-
3 cent or more of the recorded or appraised
4 average yield indemnified at 100 percent of
5 the expected market price, or an equivalent
6 coverage; and
7 "(II) in the case of each noninsurable
8 commodity of the eligible producers on the
9 farm, agree to file the required paperwork,
10 and pay the administrative fee by the ap-
11 plicable State filing deadline, for the non-
12 insured crop assistance program for the
13 2009 crop year.
14 "(B) AMOUNT OF ASSISTANCE.—Eligible
15 producers on a farm that meet the require-
16 ments of subparagraph (A) shall be eligible to
17 receive assistance under this section as if the el-
18 igible producers on the farm—
19 "(i) in the case of each insurable com-
20 modity of the eligible producers on the
21 farm, had obtained a policy or plan of in-
22 surance for the 2008 crop year at a level
23 of coverage not to exceed 70 percent or
24 more of the recorded or appraised average
25 yield indemnified at 100 percent of the ex-

1 pected market price, or an equivalent cov-
2 erage; and
3 "(ii) in the case of each noninsurable
4 commodity of the eligible producers on the
5 farm, had filed the required paperwork,
6 and paid the administrative fee by the ap-
7 plicable State filing deadline, for the non-
8 insured crop assistance program for the
9 2008 crop year, except that in determining
10 yield under that program, the Secretary
11 shall use a percentage that is 70 percent.
12 "(C) EQUITABLE RELIEF.—Except as pro-
13 vided in subparagraph (D), eligible producers
14 on a farm that met the requirements of para-
15 graph (1) before the deadline described in para-
16 graph (4)(A) and received, or are eligible to re-
17 ceive, a disaster assistance payment under this
18 section for a production loss during the 2008
19 crop year shall be eligible to receive an addi-
20 tional amount equal to the greater of—
21 "(i) the amount that would have been
22 calculated under subparagraph (B) if the
23 eligible producers on the farm had paid the
24 appropriate fee under that subparagraph;
25 or

1 "(ii) the amount that would have been
2 calculated under subparagraph (A) of sub-
3 section (b)(3) if—
4 "(I) in clause (i) of that subpara-
5 graph, '120 percent' is substituted for
6 '115 percent'; and
7 "(II) in clause (ii) of that sub-
8 paragraph, '125' is substituted for
9 '120 percent'.
10 "(D) LIMITATION.—For amounts made
11 available under this paragraph, the Secretary
12 may make such adjustments as are necessary to
13 ensure that no producer receives a payment
14 under this paragraph for an amount in excess
15 of the assistance received by a similarly situated
16 producer that had purchased the same or high-
17 er level of crop insurance prior to the date of
18 enactment of this paragraph.
19 "(E) AUTHORITY OF THE SECRETARY.—
20 The Secretary may provide such additional as-
21 sistance as the Secretary considers appropriate
22 to provide equitable treatment for eligible pro-
23 ducers on a farm that suffered production
24 losses in the 2008 crop year that result in

1 multiyear production losses, as determined by
2 the Secretary.
3 "(F) LACK OF ACCESS.—Notwithstanding
4 any other provision of this section, the Sec-
5 retary may provide assistance under this section
6 to eligible producers on a farm that—
7 "(i) suffered a production loss due to
8 a natural cause during the 2008 crop year;
9 and
10 "(ii) as determined by the Secretary—
11 "(I)(aa) except as provided in
12 item (bb), lack access to a policy or
13 plan of insurance under subtitle A; or
14 "(bb) do not qualify for a written
15 agreement because 1 or more farming
16 practices, which the Secretary has de-
17 termined are good farming practices,
18 of the eligible producers on the farm
19 differ significantly from the farming
20 practices used by producers of the
21 same crop in other regions of the
22 United States; and
23 "(II) are not eligible for the non-
24 insured crop disaster assistance pro-
25 gram established by section 196 of the

1 Federal Agriculture Improvement and
2 Reform Act of 1996 (7 U.S.C.
3 7333).".
4 (b) TRADE ACT OF 1974.—Section 901(g) of the
5 Trade Act of 1974 (19 U.S.C. 2497(g)) is amended by
6 adding at the end the following:
7 "(7) 2008 TRANSITION ASSISTANCE.—
8 "(A) IN GENERAL.—Eligible producers on
9 a farm described in subparagraph (A) of para-
10 graph (4) that failed to timely pay the appro-
11 priate fee described in that subparagraph shall
12 be eligible for assistance under this section in
13 accordance with subparagraph (B) if the eligi-
14 ble producers on the farm—
15 "(i) pay the appropriate fee described
16 in paragraph (4)(A) not later than 90 days
17 after the date of enactment of this para-
18 graph; and
19 "(ii)(I) in the case of each insurable
20 commodity of the eligible producers on the
21 farm, excluding grazing land, agree to ob-
22 tain a policy or plan of insurance under
23 the Federal Crop Insurance Act (7 U.S.C.
24 1501 et seq.) (excluding a crop insurance
25 pilot program under that Act) for the next

1 insurance year for which crop insurance is
2 available to the eligible producers on the
3 farm at a level of coverage equal to 70 per-
4 cent or more of the recorded or appraised
5 average yield indemnified at 100 percent of
6 the expected market price, or an equivalent
7 coverage; and
8 "(II) in the case of each noninsurable
9 commodity of the eligible producers on the
10 farm, agree to file the required paperwork,
11 and pay the administrative fee by the ap-
12 plicable State filing deadline, for the non-
13 insured crop assistance program for the
14 2009 crop year.
15 "(B) AMOUNT OF ASSISTANCE.—Eligible
16 producers on a farm that meet the require-
17 ments of subparagraph (A) shall be eligible to
18 receive assistance under this section as if the el-
19 igible producers on the farm—
20 "(i) in the case of each insurable com-
21 modity of the eligible producers on the
22 farm, had obtained a policy or plan of in-
23 surance for the 2008 crop year at a level
24 of coverage not to exceed 70 percent or
25 more of the recorded or appraised average

1 yield indemnified at 100 percent of the ex-
2 pected market price, or an equivalent cov-
3 erage; and
4 "(ii) in the case of each noninsurable
5 commodity of the eligible producers on the
6 farm, had filed the required paperwork,
7 and paid the administrative fee by the ap-
8 plicable State filing deadline, for the non-
9 insured crop assistance program for the
10 2008 crop year, except that in determining
11 yield under that program, the Secretary
12 shall use a percentage that is 70 percent.
13 "(C) EQUITABLE RELIEF.—Except as pro-
14 vided in subparagraph (D), eligible producers
15 on a farm that met the requirements of para-
16 graph (1) before the deadline described in para-
17 graph (4)(A) and received, or are eligible to re-
18 ceive, a disaster assistance payment under this
19 section for a production loss during the 2008
20 crop year shall be eligible to receive an addi-
21 tional amount equal to the greater of—
22 "(i) the amount that would have been
23 calculated under subparagraph (B) if the
24 eligible producers on the farm had paid the

1 appropriate fee under that subparagraph;
2 or
3 "(ii) the amount that would have been
4 calculated under subparagraph (A) of sub-
5 section (b)(3) if—
6 "(I) in clause (i) of that subpara-
7 graph, '120 percent' is substituted for
8 '115 percent'; and
9 "(II) in clause (ii) of that sub-
10 paragraph, '125' is substituted for
11 '120 percent'.
12 "(D) LIMITATION.—For amounts made
13 available under this paragraph, the Secretary
14 may make such adjustments as are necessary to
15 ensure that no producer receives a payment
16 under this paragraph for an amount in excess
17 of the assistance received by a similarly situated
18 producer that had purchased the same or high-
19 er level of crop insurance prior to the date of
20 enactment of this paragraph.
21 "(E) AUTHORITY OF THE SECRETARY.—
22 The Secretary may provide such additional as-
23 sistance as the Secretary considers appropriate
24 to provide equitable treatment for eligible pro-
25 ducers on a farm that suffered production

1 losses in the 2008 crop year that result in
2 multiyear production losses, as determined by
3 the Secretary.
4 "(F) LACK OF ACCESS.—Notwithstanding
5 any other provision of this section, the Sec-
6 retary may provide assistance under this section
7 to eligible producers on a farm that—
8 "(i) suffered a production loss due to
9 a natural cause during the 2008 crop year;
10 and
11 "(ii) as determined by the Secretary—
12 "(I)(aa) except as provided in
13 item (bb), lack access to a policy or
14 plan of insurance under subtitle A; or
15 "(bb) do not qualify for a written
16 agreement because 1 or more farming
17 practices, which the Secretary has de-
18 termined are good farming practices,
19 of the eligible producers on the farm
20 differ significantly from the farming
21 practices used by producers of the
22 same crop in other regions of the
23 United States; and
24 "(II) are not eligible for the non-
25 insured crop disaster assistance pro-

1 gram established by section 196 of the
2 Federal Agriculture Improvement and
3 Reform Act of 1996 (7 U.S.C.
4 7333).".
5 (c) EMERGENCY LOANS.—
6 (1) IN GENERAL.—For the principal amount of
7 direct emergency loans under section 321 of the
8 Consolidated Farm and Rural Development Act (7
9 U.S.C. 1961), $200,000,000.
10 (2) DIRECT EMERGENCY LOANS.—For the cost
11 of direct emergency loans, including the cost of
12 modifying loans, as defined in section 502 of the
13 Congressional Budget Act of 1974 (2 U.S.C. 661a),
14 $28,440,000, to remain available until September
15 30, 2010.
16 (d) 2008 AQUACULTURE ASSISTANCE.—
17 (1) DEFINITIONS.—In this subsection:
18 (A) ELIGIBLE AQUACULTURE PRO-
19 DUCER.—The term "eligible aquaculture pro-
20 ducer" means an aquaculture producer that
21 during the 2008 calendar year, as determined
22 by the Secretary—
23 (i) produced an aquaculture species
24 for which feed costs represented a substan-

1 tial percentage of the input costs of the
2 aquaculture operation; and
3 (ii) experienced a substantial price in-
4 crease of feed costs above the previous 5-
5 year average.
6 (B) SECRETARY.—The term "Secretary"
7 means the Secretary of Agriculture.
8 (2) GRANT PROGRAM.—
9 (A) IN GENERAL.—Of the funds of the
10 Commodity Credit Corporation, the Secretary
11 shall use not more than $100,000,000, to re-
12 main available until September 30, 2010, to
13 carry out a program of grants to States to as-
14 sist eligible aquaculture producers for losses as-
15 sociated with high feed input costs during the
16 2008 calendar year.
17 (B) NOTIFICATION.—Not later than 60
18 days after the date of enactment of this Act,
19 the Secretary shall notify the State department
20 of agriculture (or similar entity) in each State
21 of the availability of funds to assist eligible
22 aquaculture producers, including such terms as
23 determined by the Secretary to be necessary for
24 the equitable treatment of eligible aquaculture
25 producers.

1 (C) PROVISION OF GRANTS.—
2 (i) IN GENERAL.—The Secretary shall
3 make grants to States under this sub-
4 section on a pro rata basis based on the
5 amount of aquaculture feed used in each
6 State during the 2007 calendar year, as
7 determined by the Secretary.
8 (ii) TIMING.—Not later than 120 days
9 after the date of enactment of this Act, the
10 Secretary shall make grants to States to
11 provide assistance under this subsection.
12 (D) REQUIREMENTS.—The Secretary shall
13 make grants under this subsection only to
14 States that demonstrate to the satisfaction of
15 the Secretary that the State will—
16 (i) use grant funds to assist eligible
17 aquaculture producers;
18 (ii) provide assistance to eligible aqua-
19 culture producers not later than 60 days
20 after the date on which the State receives
21 grant funds; and
22 (iii) not later than 30 days after the
23 date on which the State provides assistance
24 to eligible aquaculture producers, submit to
25 the Secretary a report that describes—

1 (I) the manner in which the
2 State provided assistance;
3 (II) the amounts of assistance
4 provided per species of aquaculture;
5 and
6 (III) the process by which the
7 State determined the levels of assist-
8 ance to eligible aquaculture producers.
9 (3) REDUCTION IN PAYMENTS.—An eligible
10 aquaculture producer that receives assistance under
11 this subsection shall not be eligible to receive any
12 other assistance under the supplemental agricultural
13 disaster assistance program established under sec-
14 tion 531 of the Federal Crop Insurance Act (7
15 U.S.C. 1531) and section 901 of the Trade Act of
16 1974 (19 U.S.C. 2497) for any losses in 2008 relat-
17 ing to the same species of aquaculture.
18 (4) REPORT TO CONGRESS.—Not later than
19 180 days after the date of enactment of this Act, the
20 Secretary shall submit to the appropriate committees
21 of Congress a report that—
22 (A) describes in detail the manner in which
23 this subsection has been carried out; and
24 (B) includes the information reported to
25 the Secretary under paragraph (2)(D)(iii).

1 SEC. 104. (a) Hereafter, in this section, the term
2 "nonambulatory disabled cattle" means cattle, other than
3 cattle that are less than 5 months old or weigh less than
4 500 pounds, subject to inspection under section 3(b) of
5 the Federal Meat Inspection Act (21 U.S.C. 603(b)) that
6 cannot rise from a recumbent position or walk, including
7 cattle with a broken appendage, severed tendon or liga-
8 ment, nerve paralysis, fractured vertebral column, or a
9 metabolic condition.
10 (b) Hereafter, none of the funds made available
11 under this or any other Act may be used to pay the sala-
12 ries or expenses of any personnel of the Food Safety and
13 Inspection Service to pass through inspection any non-
14 ambulatory disabled cattle for use as human food, regard-
15 less of the reason for the nonambulatory status of the cat-
16 tle or the time at which the cattle became nonambulatory.
17 SEC. 105. STATE AND LOCAL GOVERNMENTS. Sec-
18 tion 1001(f)(6)(A) of the Food Security Act of 1985 (7
19 U.S.C. 1308(f)(6)(A)) is amended by inserting "(other
20 than the conservation reserve program established under
21 subchapter B of chapter 1 of subtitle D of title XII of
22 this Act)" before the period at the end.
23 SEC. 106. Except for title I of the Food, Conserva-
24 tion, and Energy Act of 2008 (Public Law 110–246),
25 Commodity Credit Corporation funds provided in that Act

1 shall be available for administrative expenses, including
2 technical assistance, without regard to the limitation in
3 15 U.S.C. 714i.

1 TITLE II—COMMERCE, JUSTICE, SCIENCE, AND
2 RELATED AGENCIES
3 DEPARTMENT OF COMMERCE
4 BUREAU OF INDUSTRY AND SECURITY
5 OPERATIONS AND ADMINISTRATION
6 For an additional amount for "Operations and Ad-
7 ministration", $20,000,000, to remain available until Sep-
8 tember 30, 2010.
9 ECONOMIC DEVELOPMENT ADMINISTRATION
10 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS
11 For an additional amount for "Economic Develop-
12 ment Assistance Programs", $150,000,000, to remain
13 available until September 30, 2010: *Provided,* That
14 $50,000,000 shall be for economic adjustment assistance
15 as authorized by section 209 of the Public Works and Eco-
16 nomic Development Act of 1965, as amended (42 U.S.C.
17 3149): *Provided further,* That in allocating the funds pro-
18 vided in the previous proviso, the Secretary of Commerce
19 shall give priority consideration to areas of the Nation
20 that have experienced sudden and severe economic disloca-
21 tion and job loss due to corporate restructuring.

1 BUREAU OF THE CENSUS

2 PERIODIC CENSUSES AND PROGRAMS

3 For an additional amount for "Periodic Censuses and
4 Programs", $1,000,000,000, to remain available until
5 September 30, 2010.

6 NATIONAL TELECOMMUNICATIONS AND INFORMATION
7 ADMINISTRATION

8 BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

9 For an amount for "Broadband Technology Opportu-
10 nities Program", $9,000,000,000, to remain available
11 until September 30, 2010: *Provided,* That of the funds
12 provided under this heading, $8,650,000,000 shall be ex-
13 pended pursuant to section 201 of this Act, of which: not
14 less than $200,000,000 shall be available for competitive
15 grants for expanding public computer center capacity, in-
16 cluding at community colleges and public libraries; not less
17 than $250,000,000 shall be available for competitive
18 grants for innovative programs to encourage sustainable
19 adoption of broadband service; and $10,000,000 shall be
20 transferred to "Department of Commerce, Office of In-
21 spector General" for the purposes of audits and oversight
22 of funds provided under this heading and such funds shall
23 remain available until expended: *Provided further,* That 50
24 percent of the funds provided in the previous proviso shall
25 be used to support projects in rural communities, which

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

1 which may be transferred to the Department of Agri-
2 culture and the FCC.

3 DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

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

1 partment of Commerce, Office of Inspector General" for
2 audits and oversight of funds provided under this heading.
3 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
4 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES
5 For an additional amount for "Scientific and Tech-
6 nical Research and Services", $218,000,000, to remain
7 available until September 30, 2010.
8 CONSTRUCTION OF RESEARCH FACILITIES
9 For an additional amount for "Construction of Re-
10 search Facilities", $357,000,000, to remain available until
11 September 30, 2010.
12 NATIONAL OCEANIC AND ATMOSPHERIC
13 ADMINISTRATION
14 OPERATIONS, RESEARCH, AND FACILITIES
15 For an additional amount for "Operations, Research,
16 and Facilities", $427,000,000, to remain available until
17 September 30, 2010.
18 PROCUREMENT, ACQUISITION AND CONSTRUCTION
19 For an additional amount for "Procurement, Acquisi-
20 tion and Construction", $795,000,000, to remain available
21 until September 30, 2010.
22 DEPARTMENTAL MANAGEMENT
23 For an additional amount for "Departmental Man-
24 agement", $34,000,000, to remain available until Sep-
25 tember 30, 2010.

1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for "Office of Inspector
3 General", $6,000,000, to remain available until September
4 30, 2010.

5 DEPARTMENT OF JUSTICE

6 GENERAL ADMINISTRATION

7 TACTICAL LAW ENFORCEMENT WIRELESS
8 COMMUNICATIONS

9 For an additional amount for "Tactical Law Enforce-
10 ment Wireless Communications", $200,000,000 for the
11 costs of developing and implementing a nationwide Inte-
12 grated Wireless network supporting Federal law enforce-
13 ment, to remain available until September 30, 2010.

14 DETENTION TRUSTEE

15 For an additional amount for "Detention Trustee",
16 $150,000,000, to remain available until September 30,
17 2010.

18 OFFICE OF INSPECTOR GENERAL

19 For an additional amount for "Office of Inspector
20 General", $2,000,000, to remain available until September
21 30, 2010.

1 UNITED STATES MARSHALS SERVICE

2 SALARIES AND EXPENSES

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

6 CONSTRUCTION

7 For an additional amount for "Construction",
8 $125,000,000, to remain available until September 30,
9 2010.

10 FEDERAL BUREAU OF INVESTIGATION

11 SALARIES AND EXPENSES

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

15 CONSTRUCTION

16 For an additional amount for "Construction",
17 $400,000,000, to remain available until September 30,
18 2010.

19 FEDERAL PRISON SYSTEM

20 BUILDINGS AND FACILITIES

21 For an additional amount for "Federal Prison Sys-
22 tem, Buildings and Facilities", $1,000,000,000, to remain
23 available until September 30, 2010.

1 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

2 OFFICE ON VIOLENCE AGAINST WOMEN

3 VIOLENCE AGAINST WOMEN PREVENTION AND

4 PROSECUTION PROGRAMS

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

15 OFFICE OF JUSTICE PROGRAMS

16 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

17 For an additional amount for "State and Local Law
18 Enforcement Assistance", $1,500,000,000 for the Edward
19 Byrne Memorial Justice Assistance Grant program as au-
20 thorized by subpart 1 of part E of title I of the Omnibus
21 Crime Control and Safe Street Act of 1968 ("1968 Act"),
22 (except that section 1001(c), and the special rules for
23 Puerto Rico under section 505(g), of the 1968 Act, shall
24 not apply for purposes of this Act), to remain available
25 until September 30, 2010.

1 For an additional amount for "State and Local Law
2 Enforcement Assistance", $440,000,000 for competitive
3 grants to improve the functioning of the criminal justice
4 system, to assist victims of crime (other than compensa-
5 tion), and youth mentoring grants, to remain available
6 until September 30, 2010.

7 For an additional amount for "State and Local Law
8 Enforcement Assistance", $100,000,000, to remain avail-
9 able until September 30, 2010, for competitive grants to
10 provide assistance and equipment to local law enforcement
11 along the Southern border and in High-Intensity Drug
12 Trafficking Areas to combat criminal narcotics activity
13 stemming from the Southern border, of which
14 $10,000,000 shall be transferred to "Bureau of Alcohol,
15 Tobacco, Firearms and Explosives, Salaries and Ex-
16 penses" for the ATF Project Gunrunner.

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

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

1 (2) $25,000,000 shall be available for the Trib-
2 al Courts Initiative; and
3 (3) $25,000,000 shall be available for tribal al-
4 cohol and substance abuse drug reduction assistance
5 grants.
6 For an additional amount for "State and Local Law
7 Enforcement Assistance", $100,000,000, to remain avail-
8 able until September 30, 2010, to be distributed by the
9 Office for Victims of Crime in accordance with section
10 1402(d)(4) of the Victims of Crime Act of 1984 (Public
11 Law 98–473).
12 For an additional amount for "State and Local Law
13 Enforcement Assistance", $150,000,000, to remain avail-
14 able until September 30, 2010, for assistance to law en-
15 forcement in rural areas, to prevent and combat crime,
16 especially drug-related crime.
17 For an additional amount for "State and Local Law
18 Enforcement Assistance", $50,000,000, to remain avail-
19 able until September 30, 2010, for Internet Crimes
20 Against Children (ICAC) initiatives.
21 COMMUNITY ORIENTED POLICING SERVICES
22 For an additional amount for "Community Oriented
23 Policing Services", for grants under section 1701 of title
24 I of the 1968 Omnibus Crime Control and Safe Streets
25 Act (42 U.S.C. 3796dd) for hiring and rehiring of addi-

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

6 SALARIES AND EXPENSES

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

13 SCIENCE

14 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

15 SCIENCE

16 For an additional amount for "Science",
17 $500,000,000, to remain available until September 30,
18 2010.

19 AERONAUTICS

20 For an additional amount for "Aeronautics",
21 $250,000,000, to remain available until September 30,
22 2010.

23 EXPLORATION

24 For an additional amount for "Exploration",
25 $500,000,000, to remain available until September 30,
26 2010.

1 CROSS AGENCY SUPPORT

2 For an additional amount for "Cross Agency Sup-
3 port", $250,000,000, to remain available until September
4 30, 2010.

5 OFFICE OF INSPECTOR GENERAL

6 For an additional amount for "Office of Inspector
7 General", $2,000,000, to remain available until September
8 30, 2010.

9 NATIONAL SCIENCE FOUNDATION

10 RESEARCH AND RELATED ACTIVITIES

11 For an additional amount for "Research and Related
12 Activities", $1,200,000,000, to remain available until Sep-
13 tember 30, 2010.

14 MAJOR RESEARCH EQUIPMENT AND FACILITIES
15 CONSTRUCTION

16 For an additional amount for "Major Research
17 Equipment and Facilities Construction", $150,000,000,
18 to remain available until September 30, 2010.

19 EDUCATION AND HUMAN RESOURCES

20 For an additional amount for "Education and
21 Human Resources", $50,000,000, to remain available
22 until September 30, 2010.

23 OFFICE OF INSPECTOR GENERAL

24 For an additional amount for "Office of Inspector
25 General", $2,000,000, to remain available until September
26 30, 2010.

1 GENERAL PROVISIONS—THIS TITLE

2 SEC. 201. The Assistant Secretary of Commerce for
3 Communications and Information (Assistant Secretary),
4 in consultation with the Federal Communications Com-
5 mission (Commission) (and, with respect to rural areas,
6 the Secretary of Agriculture), shall establish a national
7 broadband service development and expansion program in
8 conjunction with the technology opportunities program,
9 which shall be referred to the Broadband Technology Op-
10 portunities Program. The Assistant Secretary shall ensure
11 that the program compliments and enhances and does not
12 conflict with other Federal broadband initiatives and pro-
13 grams.

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

15 (A) provide access to broadband service to
16 citizens residing in unserved areas of the
17 United States;

18 (B) provide improved access to broadband
19 service to citizens residing in underserved areas
20 of the United States;

21 (C) provide broadband education, aware-
22 ness, training, access, equipment, and support
23 to—

24 (i) schools, libraries, medical and
25 healthcare providers, community colleges

1 and other institutions of higher education,
2 and other community support organiza-
3 tions and entities to facilitate greater use
4 of broadband service by these organiza-
5 tions;
6 (ii) organizations and agencies that
7 provide outreach, access, equipment, and
8 support services to facilitate greater use of
9 broadband service by low-income, unem-
10 ployed, aged, and otherwise vulnerable pop-
11 ulations; and
12 (iii) job-creating strategic facilities lo-
13 cated within a State-designated economic
14 zone, Economic Development District de-
15 signed by the Department of Commerce,
16 Renewal Community or Empowerment
17 Zone designed by the Department of Hous-
18 ing and Urban Development, or Enterprise
19 Community designed by the Department of
20 Agriculture.
21 (D) improve access to, and use of,
22 broadband service by public safety agencies;
23 and
24 (E) stimulate the demand for broadband,
25 economic growth, and job creation.

1 (2) The Assistant Secretary may consult with
2 the chief executive officer of any State with respect
3 to—
4 (A) the identification of areas described in
5 subsection (1)(A) or (B) located in that State;
6 and
7 (B) the allocation of grant funds within
8 that State for projects in or affecting the State.
9 (3) The Assistant Secretary shall—
10 (A) establish and implement the grant pro-
11 gram as expeditiously as practicable;
12 (B) ensure that all awards are made before
13 the end of fiscal year 2010; and
14 (C) seek such assurances as may be nec-
15 essary or appropriate from grantees under the
16 program that they will substantially complete
17 projects supported by the program in accord-
18 ance with project timelines, not to exceed 2
19 years following an award; and
20 (D) report on the status of the program to
21 the Committees on Appropriations of the House
22 and the Senate, the Committee on Energy and
23 Commerce of the House, and the Committee on
24 Commerce, Science, and Transportation of the
25 Senate, every 90 days.

1 (4) To be eligible for a grant under the pro-
2 gram an applicant shall—
3 (A) be a State or political subdivision
4 thereof, a nonprofit foundation, corporation, in-
5 stitution or association, or other non-govern-
6 mental entity in partnership with a State or po-
7 litical subdivision thereof provided the Assistant
8 Secretary determines the partnership consistent
9 with the purposes this section;
10 (B) submit an application, at such time, in
11 such form, and containing such information as
12 the Assistant Secretary may require;
13 (C) provide a detailed explanation of how
14 any amount received under the program will be
15 used to carry out the purposes of this section
16 in an efficient and expeditious manner, includ-
17 ing a demonstration that the project would not
18 have been implemented during the grant period
19 without Federal grant assistance;
20 (D) demonstrate, to the satisfaction of the
21 Assistant Secretary, that it is capable of car-
22 rying out the project or function to which the
23 application relates in a competent manner in
24 compliance with all applicable Federal, State,
25 and local laws;

1 (E) demonstrate, to the satisfaction of the
2 Assistant Secretary, that it will appropriate (if
3 the applicant is a State or local government
4 agency) or otherwise unconditionally obligate,
5 from non-Federal sources, funds required to
6 meet the requirements of paragraph (5);
7 (F) disclose to the Assistant Secretary the
8 source and amount of other Federal or State
9 funding sources from which the applicant re-
10 ceives, or has applied for, funding for activities
11 or projects to which the application relates; and
12 (G) provide such assurances and proce-
13 dures as the Assistant Secretary may require to
14 ensure that grant funds are used and accounted
15 for in an appropriate manner.
16 (5) The Federal share of any project may not
17 exceed 80 percent, except that the Assistant Sec-
18 retary may increase the Federal share of a project
19 above 80 percent if:
20 (A) The applicant petitions the Assistant
21 Secretary for a waiver; and
22 (B) The Assistant Secretary determines
23 that the petition demonstrates financial need.
24 (6) The Assistant Secretary may make competi-
25 tive grants under the program to—

1 (A) acquire equipment, instrumentation,
2 networking capability, hardware and software,
3 digital network technology, and infrastructure
4 for broadband services;
5 (B) construct and deploy broadband serv-
6 ice related infrastructure;
7 (C) ensure access to broadband service by
8 community anchor institutions;
9 (D) facilitate access to broadband service
10 by low-income, unemployed, aged, and otherwise
11 vulnerable populations in order to provide edu-
12 cational and employment opportunities to mem-
13 bers of such populations;
14 (E) construct and deploy broadband facili-
15 ties that improve public safety broadband com-
16 munications services; and
17 (F) undertake such other projects and ac-
18 tivities as the Assistant Secretary finds to be
19 consistent with the purposes for which the pro-
20 gram is established.
21 (7) The Assistant Secretary—
22 (A) shall require any entity receiving a
23 grant pursuant to this section to report quar-
24 terly, in a format specified by the Assistant
25 Secretary, on such entity's use of the assistance

1 and progress fulfilling the objectives for which
2 such funds were granted, and the Assistant
3 Secretary shall make these reports available to
4 the public;
5 (B) may establish additional reporting and
6 information requirements for any recipient of
7 any assistance made available pursuant to this
8 section;
9 (C) shall establish appropriate mechanisms
10 to ensure appropriate use and compliance with
11 all terms of any use of funds made available
12 pursuant to this section;
13 (D) may, in addition to other authority
14 under applicable law, deobligate awards to
15 grantees that demonstrate an insufficient level
16 of performance, or wasteful or fraudulent
17 spending, as defined in advance by the Assist-
18 ant Secretary, and award these funds competi-
19 tively to new or existing applicants consistent
20 with this section; and
21 (E) shall create and maintain a fully
22 searchable database, accessible on the Internet
23 at no cost to the public, that contains at least
24 the name of each entity receiving funds made
25 available pursuant to this section, the purpose

1 for which such entity is receiving such funds,
2 each quarterly report submitted by the entity
3 pursuant to this section, and such other infor-
4 mation sufficient to allow the public to under-
5 stand and monitor grants awarded under the
6 program.
7 (8) Concurrent with the issuance of the Request
8 for Proposal for grant applications pursuant to this
9 section, the Assistant Secretary shall, in coordina-
10 tion with the Federal Communications Commission,
11 publish the non-discrimination and network inter-
12 connection obligations that shall be contractual con-
13 ditions of grants awarded under this section.
14 (9) Within 1 year after the date of enactment
15 of this Act, the Commission shall complete a rule-
16 making to develop a national broadband plan. In de-
17 veloping the plan, the Commission shall—
18 (A) consider the most effective and effi-
19 cient national strategy for ensuring that all
20 Americans have access to, and take advantage
21 of, advanced broadband services;
22 (B) have access to data provided to other
23 government agencies under the Broadband
24 Data Improvement Act (47 U.S.C. 1301 note);

1 (C) evaluate the status of deployments of
2 broadband service, including the progress of
3 projects supported by the grants made pursuant
4 to this section; and
5 (D) develop recommendations for achieving
6 the goal of nationally available broadband serv-
7 ice for the United States and for promoting
8 broadband adoption nationwide.
9 (10) The Assistant Secretary shall develop and
10 maintain a comprehensive nationwide inventory map
11 of existing broadband service capability and avail-
12 ability in the United States that entities and depicts
13 the geographic extent to which broadband service ca-
14 pability is deployed and available from a commercial
15 provider or public provider throughout each State:
16 *Provided,* That not later than 2 years after the date
17 of the enactment of the Act, the Assistant Secretary
18 shall make the broadband inventory map developed
19 and maintained pursuant to this section accessible to
20 the public.
21 SEC. 202. The Assistant Secretary of Commerce for
22 Communications and Information may reissue any coupon
23 issued under section 3005(a) of the Digital Television
24 Transition and Public Safety Act of 2005 that has expired
25 before use, and shall cancel any unredeemed coupon re-

1 ported as lost and may issue a replacement coupon for
2 the lost coupon.

1 TITLE III—DEPARTMENT OF DEFENSE
2 OPERATION AND MAINTENANCE
3 OPERATION AND MAINTENANCE, ARMY
4 For an additional amount for "Operation and Main-
5 tenance, Army", $1,169,291,000, to remain available for
6 obligation until September 30, 2010.
7 OPERATION AND MAINTENANCE, NAVY
8 For an additional amount for "Operation and Main-
9 tenance, Navy", $571,843,000, to remain available for ob-
10 ligation until September 30, 2010.
11 OPERATION AND MAINTENANCE, MARINE CORPS
12 For an additional amount for "Operation and Main-
13 tenance, Marine Corps", $112,167,000, to remain avail-
14 able for obligation until September 30, 2010.
15 OPERATION AND MAINTENANCE, AIR FORCE
16 For an additional amount for "Operation and Main-
17 tenance, Air Force", $927,113,000, to remain available
18 for obligation until September 30, 2010.
19 OPERATION AND MAINTENANCE, ARMY RESERVE
20 For an additional amount for "Operation and Main-
21 tenance, Army Reserve", $79,543,000, to remain available
22 for obligation until September 30, 2010.

1 OPERATION AND MAINTENANCE, NAVY RESERVE

2 For an additional amount for "Operation and Main-
3 tenance, Navy Reserve", $44,586,000, to remain available
4 for obligation until September 30, 2010.

5 OPERATION AND MAINTENANCE, MARINE CORPS
6 RESERVE

7 For an additional amount for "Operation and Main-
8 tenance, Marine Corps Reserve", $32,304,000, to remain
9 available for obligation until September 30, 2010.

10 OPERATION AND MAINTENANCE, AIR FORCE RESERVE

11 For an additional amount for "Operation and Main-
12 tenance, Air Force Reserve", $10,674,000, to remain
13 available for obligation until September 30, 2010.

14 OPERATION AND MAINTENANCE, ARMY NATIONAL
15 GUARD

16 For an additional amount for "Operation and Main-
17 tenance, Army National Guard", $215,557,000, to remain
18 available for obligation until September 30, 2010.

19 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

20 For an additional amount for "Operation and Main-
21 tenance, Air National Guard", $20,922,000, to remain
22 available for obligation until September 30, 2010.

1 PROCUREMENT

2 DEFENSE PRODUCTION ACT PURCHASES

3 For an additional amount for "Defense Production
4 Act Purchases", $100,000,000, to remain available for ob-
5 ligation until September 30, 2010.

6 RESEARCH, DEVELOPMENT, TEST AND
7 EVALUATION

8 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
9 DEFENSE-WIDE

10 For an additional amount for "Research, Develop-
11 ment, Test and Evaluation, Defense-Wide",
12 $200,000,000, to remain available for obligation until Sep-
13 tember 30, 2010.

14 OTHER DEPARTMENT OF DEFENSE PROGRAMS

15 DEFENSE HEALTH PROGRAM

16 For an additional amount for "Defense Health Pro-
17 gram", $250,000,000 for operation and maintenance, to
18 remain available for obligation until September 30, 2010.

19 OFFICE OF THE INSPECTOR GENERAL

20 For an additional amount for "Office of the Inspector
21 General", $12,000,000 for operation and maintenance, to
22 remain available for obligation until September 30, 2010.

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

7 For an additional amount for "Investigations" for ex-
8 penses necessary where authorized by law for the collec-
9 tion and study of basic information pertaining to river and
10 harbor, flood and storm damage reduction, shore protec-
11 tion, aquatic ecosystem restoration, and related needs; for
12 surveys and detailed studies, and plans and specifications
13 of proposed river and harbor, flood and storm damage re-
14 duction, shore protection, and aquatic ecosystem restora-
15 tion projects and related efforts prior to construction; for
16 restudy of authorized projects; and for miscellaneous in-
17 vestigations and, when authorized by law, surveys and de-
18 tailed studies, and plans and specifications of projects
19 prior to construction, $25,000,000: *Provided,* That funds
20 provided under this heading in this title shall only be used
21 for programs, projects or activities that heretofore or here-
22 after receive funds provided in Acts making appropriations
23 available for Energy and Water Development: *Provided*
24 *further,* That funds provided under this heading in this
25 title shall be used for programs, projects or activities or

1 elements of programs, projects or activities that can be
2 completed within the funds made available in that account
3 and that will not require new budget authority to com-
4 plete: *Provided further,* That for projects that are being
5 completed with funds appropriated in this Act that would
6 otherwise be expired for obligation, expired funds appro-
7 priated in this Act may be used to pay the cost of associ-
8 ated supervision, inspection, over engineering and design
9 on those projects and on subsequent claims, if any: *Pro-*
10 *vided further,* That the Secretary shall have unlimited re-
11 programming authority for these funds provided under
12 this heading.

13 CONSTRUCTION

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

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

1 U.S.C. 2330); or section 1135 of the Water Resources De-
2 velopment Act of 1986 (33 U.S.C. 2309a), notwith-
3 standing the program cost limitations set forth in those
4 sections: *Provided further,* That for projects that are being
5 completed with funds appropriated in this Act that would
6 otherwise be expired for obligation, expired funds appro-
7 priated in this Act may be used to pay the cost of associ-
8 ated supervision, inspection, over engineering and design
9 on those projects and on subsequent claims, if any: *Pro-*
10 *vided further,* That the Secretary shall have unlimited re-
11 programming authority for these funds provided under
12 this heading.

13 MISSISSIPPI RIVER AND TRIBUTARIES

14 For an additional amount for "Mississippi River and
15 Tributaries" for expenses necessary for flood damage re-
16 duction projects and related efforts as authorized by law,
17 $500,000,000, of which such sums as are necessary to
18 cover the Federal share of operation and maintenance
19 costs for inland harbors shall be derived from the Harbor
20 Maintenance Trust Fund, pursuant to Public Law 99–
21 662: *Provided,* That funds provided under this heading in
22 this title shall only be used for programs, projects or ac-
23 tivities that heretofore or hereafter receive funds provided
24 in Acts making appropriations available for Energy and
25 Water Development: *Provided further,* That funds pro-
26 vided under this heading in this title shall be used for pro-

1 grams, projects or activities or elements of programs,
2 projects or activities that can be completed within the
3 funds made available in that account and that will not re-
4 quire new budget authority to complete: *Provided further,*
5 That the limitation concerning total project costs in sec-
6 tion 902 of the Water Resources Development Act of
7 1986, as amended (33 U.S.C. 2280), shall not apply dur-
8 ing fiscal year 2009 to any project that received funds pro-
9 vided in this title: *Provided further,* That for projects that
10 are being completed with funds appropriated in this Act
11 that would otherwise be expired for obligation, expired
12 funds appropriated in this Act may be used to pay the
13 cost of associated supervision, inspection, over engineering
14 and design on those projects and on subsequent claims,
15 if any: *Provided further,* That the Secretary shall have un-
16 limited reprogramming authority for these funds provided
17 under this heading.

18 OPERATION AND MAINTENANCE

19 For an additional amount for "Operation and Main-
20 tenance" for expenses necessary for the operation, mainte-
21 nance, and care of existing river and harbor, flood and
22 storm damage reduction, aquatic ecosystem restoration,
23 and related projects authorized by law, and for surveys
24 and charting of northern and northwestern lakes and con-
25 necting waters, clearing and straightening channels, and
26 removal of obstructions to navigation, $1,900,000,000, of

1 which such sums as are necessary to cover the Federal
2 share of operation and maintenance costs for coastal har-
3 bors and channels, and inland harbors shall be derived
4 from the Harbor Maintenance Trust Fund, pursuant to
5 Public Law 99–662; and of which such sums as become
6 available under section 217 of the Water Resources Devel-
7 opment Act of 1996, Public Law 104–303, shall be used
8 to cover the cost of operation and maintenance of the
9 dredged material disposal facilities for which fees have
10 been collected: *Provided,* That funds provided under this
11 heading in this title shall only be used for programs,
12 projects or activities that heretofore or hereafter receive
13 funds provided in Acts making appropriations available for
14 Energy and Water Development: *Provided further,* That
15 funds provided under this heading in this title shall be
16 used for programs, projects or activities or elements of
17 programs, projects or activities that can be completed
18 within the funds made available in that account and that
19 will not require new budget authority to complete: *Pro-*
20 *vided further,* That $90,000,000 of the funds provided
21 under this heading shall be used for activities described
22 in section 9004 of Public Law 110–114: *Provided further,*
23 That section 9006 of Public Law 110–114 shall not apply
24 to funds provided in this title: *Provided further,* That for
25 projects that are being completed with funds appropriated

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

8 REGULATORY PROGRAM

9 For an additional amount for "Regulatory Program"
10 for expenses necessary for administration of laws per-
11 taining to regulation of navigable waters and wetlands,
12 $25,000,000 is provided.

13 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

14 For an additional amount for "Formerly Utilized
15 Sites Remedial Action Program" for expenses necessary
16 to clean up contamination from sites in the United States
17 resulting from work performed as part of the Nation's
18 early atomic energy program, $100,000,000: *Provided fur-*
19 *ther,* That funds provided under this heading in this title
20 shall be used for programs, projects or activities or ele-
21 ments of programs, projects or activities that can be com-
22 pleted within the funds made available in that account and
23 that will not require new budget authority to complete:
24 *Provided further,* That for projects that are being com-
25 pleted with funds appropriated in this Act that would oth-
26 erwise be expired for obligation, expired funds appro-

1 priated in this Act may be used to pay the cost of associ-
2 ated supervision, inspection, over engineering and design
3 on those projects and on subsequent claims, if any: *Pro-*
4 *vided further,* That the Secretary shall have unlimited re-
5 programming authority for these funds provided under
6 this heading.

7 FLOOD CONTROL AND COASTAL EMERGENCIES

8 For an additional amount for "Flood Control and
9 Coastal Emergencies" for expenses necessary for pre-
10 placement of materials and equipment, advance measures
11 and other activities authorized by law, $50,000,000 is pro-
12 vided.

13 DEPARTMENT OF THE INTERIOR

14 BUREAU OF RECLAMATION

15 WATER AND RELATED RESOURCES

16 For an additional amount for management, develop-
17 ment, and restoration of water and related natural re-
18 sources and for related activities, including the operation,
19 maintenance, and rehabilitation of reclamation and other
20 facilities, participation in fulfilling related Federal respon-
21 sibilities to Native Americans, and related grants to, and
22 cooperative and other agreements with, State and local
23 governments, federally recognized Indian tribes, and oth-
24 ers, $1,400,000,000; of which such amounts as may be
25 necessary may be advanced to the Colorado River Dam
26 Fund: *Provided,* That of the total appropriated, the

1 amount for program activities that can be financed by the
2 Reclamation Fund or the Bureau of Reclamation special
3 fee account established by 16 U.S.C. 460l–6a(i) shall be
4 derived from that Fund or account: *Provided further,* That
5 funds contributed under 43 U.S.C. 395 are available until
6 expended for the purposes for which contributed: *Provided*
7 *further,* That funds advanced under 43 U.S.C. 397a shall
8 be credited to this account and are available until ex-
9 pended for the same purposes as the sums appropriated
10 under this heading: *Provided further,* That funds provided
11 under this heading in this title shall only be used for pro-
12 grams, projects or activities that heretofore or hereafter
13 receive funds provided in Acts making appropriations
14 available for Energy and Water Development: *Provided*
15 *further,* That funds provided in this Act shall be used for
16 elements of projects, programs or activities that can be
17 completed within these funding amounts and not create
18 budgetary obligations in future fiscal years: *Provided fur-*
19 *ther,* That $50,000,000 of the funds provided under this
20 heading may be transferred to the Department of the Inte-
21 rior for programs, projects and activities authorized by the
22 Central Utah Project Completion Act (titles II–V of Public
23 Law 102–575): *Provided further,* That $50,000,000 of the
24 funds provided under this heading may be used for pro-
25 grams, projects, and activities authorized by the California

1 Bay-Delta Restoration Act (Public Law 108–361): *Pro-*
2 *vided further,* That not less than $60,000,000 of the funds
3 provided under this heading shall be used for rural water
4 projects and shall be expended primarily on water intake
5 and treatment facilities of such projects: *Provided further,*
6 That not less than $10,000,000 of the funds provided
7 under this heading shall be used for a bureau-wide inspec-
8 tion of canals program in urbanized areas: *Provided fur-*
9 *ther,* That not less than $110,000,000 of the funds pro-
10 vided under this heading shall be used for water reclama-
11 tion and reuse projects (title 16 of Public Law 102–575):
12 *Provided further,* That the costs of reimbursable activities,
13 other than for maintenance and rehabilitation, carried out
14 with funds provided in this Act shall be repaid pursuant
15 to existing authorities and agreements: *Provided further,*
16 That the costs of maintenance and rehabilitation activities
17 carried out with funds provided in this Act shall be repaid
18 pursuant to existing authority, except the length of repay-
19 ment period shall be determined on needs-based criteria
20 to be established and adopted by the Commissioner, but
21 in no case shall the repayment period exceed 25 years:
22 *Provided further,* That for projects that are being com-
23 pleted with funds appropriated in this Act that would oth-
24 erwise be expired for obligation, expired funds appro-
25 priated in this Act may be used to pay the cost of associ-

1 ated supervision, inspection, over engineering and design
2 on those projects and on subsequent claims, if any: *Pro-*
3 *vided further,* That the Secretary shall have unlimited re-
4 programming authority for these funds provided under
5 this heading.

6 DEPARTMENT OF ENERGY

7 ENERGY PROGRAMS

8 ENERGY EFFICIENCY AND RENEWABLE ENERGY

9 For an additional amount for "Energy Efficiency and
10 Renewable Energy", $14,398,000,000, for necessary ex-
11 penses, to remain available until September 30, 2010: *Pro-*
12 *vided,* That $4,200,000,000 shall be available for Energy
13 Efficiency and Conservation Block Grants for implementa-
14 tion of programs authorized under subtitle E of title V
15 of the Energy Independence and Security Act of 2007 (42
16 U.S.C. 17151 et seq.), of which $2,100,000,000 is avail-
17 able through the formula in subtitle E: *Provided further,*
18 That the remaining $2,100,000,000 shall be awarded on
19 a competitive basis only to competitive grant applicants
20 from States in which the Governor certifies to the Sec-
21 retary of Energy that the applicable State regulatory au-
22 thority will implement the integrated resource planning
23 and rate design modifications standards required to be
24 considered under paragraphs (16) and (17) of section
25 111(d) of the Public Utility Regulatory Policies Act of

1 1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor
2 will take all actions within his or her authority to ensure
3 that the State, or the applicable units of local government
4 that have authority to adopt building codes, will imple-
5 ment—
6 (A) building energy codes for residential build-
7 ings that the Secretary determines are likely to meet
8 or exceed the 2009 International Energy Conserva-
9 tion Code;
10 (B) building energy codes for commercial build-
11 ings that the Secretary determines are likely to meet
12 or exceed the ANSI/ASHRAE/IESNA Standard
13 90.1–2007; and
14 (C) a plan for implementing and enforcing the
15 building energy codes described in subparagraphs
16 (A) and (B) that is likely to ensure that at least 90
17 percent of the new and renovated residential and
18 commercial building space will meet the standards
19 within 8 years after the date of enactment of this
20 Act:
21 *Provided further,* That $2,000,000,000 shall be available
22 for grants for the manufacturing of advanced batteries
23 and components and the Secretary shall provide facility
24 funding awards under this section to manufacturers of ad-
25 vanced battery systems and vehicle batteries that are pro-

1 duced in the United States, including advanced lithium ion
2 batteries, hybrid electrical systems, component manufac-
3 turers, and software designers: *Provided further,* That not-
4 withstanding section 3304 of title 5, United States Code,
5 and without regard to the provisions of sections 3309
6 through 3318 of such title 5, the Secretary of Energy,
7 upon a determination that there is a severe shortage of
8 candidates or a critical hiring need for particular posi-
9 tions, may from within the funds provided, recruit and di-
10 rectly appoint highly-qualified individuals into the com-
11 petitive service: *Provided further,* That such authority
12 shall not apply to positions in the Excepted Service or the
13 Senior Executive Service: *Provided further,* That any ac-
14 tion authorized herein shall be consistent with the merit
15 principles of section 2301 of such title 5, and the Depart-
16 ment shall comply with the public notice requirements of
17 section 3327 of such title 5.

18 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

19 For an additional amount for "Electricity Delivery
20 and Energy Reliability", $4,500,000,000, for necessary
21 expenses, to remain available until September 30, 2010:
22 *Provided,* That $100,000,000 shall be available for worker
23 training activities: *Provided further,* That notwithstanding
24 section 3304 of title 5, United States Code, and without
25 regard to the provisions of sections 3309 through 3318

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

13 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

14 For an additional amount for "Fossil Energy Re-
15 search and Development", $4,600,000,000, to remain
16 available until September 30, 2010: *Provided,* That
17 $2,000,000,000 is available for one or more near zero
18 emissions powerplant(s): *Provided further,* $1,000,000,000
19 is available for selections under the Department's Clean
20 Coal Power Initiative Round III Funding Opportunity An-
21 nouncement; notwithstanding the mandatory eligibility re-
22 quirements of the Funding Opportunity Announcement,
23 the Department shall consider applications that utilize pe-
24 troleum coke for some or all of the project's fuel input:
25 *Provided further,* $1,520,000,000 is available for a com-

1 petitive solicitation pursuant to section 703 of Public Law
2 110–140 for projects that demonstrate carbon capture
3 from industrial sources: *Provided further,* That awards for
4 such projects may include plant efficiency improvements
5 for integration with carbon capture technology.

6 NON-DEFENSE ENVIRONMENTAL CLEANUP

7 For an additional amount for "Non-Defense Environ-
8 mental Cleanup", $483,000,000, to remain available until
9 September 30, 2010.

10 URANIUM ENRICHMENT DECONTAMINATION AND
11 DECOMMISSIONING FUND

12 For an additional amount for "Uranium Enrichment
13 Decontamination and Decommissioning Fund",
14 $390,000,000, to remain available until September 30,
15 2010, of which $70,000,000 shall be available in accord-
16 ance with title X, subtitle A of the Energy Policy Act of
17 1992.

18 SCIENCE

19 For an additional amount for "Science",
20 $430,000,000, to remain available until September 30,
21 2010.

22 TITLE 17—INNOVATIVE TECHNOLOGY LOAN
23 GUARANTEE PROGRAM

24 For an additional amount for "Innovative Technology
25 Loan Guarantee Program", for the cost of guaranteed

1 loans authorized by section 1705 of the Energy Policy Act
2 of 2005, $10,000,000,000, to remain available until ex-
3 pended: *Provided,* That of such amount, $10,000,000 shall
4 be used for administrative expenses in carrying out the
5 guaranteed loan program, to remain available until ex-
6 pended.

7 OFFICE OF THE INSPECTOR GENERAL

8 For necessary expenses of the Office of the Inspector
9 General in carrying out the provisions of the Inspector
10 General Act of 1978, as amended, $5,000,000, to remain
11 available until expended.

12 ATOMIC ENERGY DEFENSE ACTIVITIES

13 NATIONAL NUCLEAR SECURITY ADMINISTRATION

14 WEAPONS ACTIVITIES

15 For an additional amount for weapons activities,
16 $1,000,000,000, to remain available until September 30,
17 2010.

18 ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

19 DEFENSE ENVIRONMENTAL CLEANUP

20 For an additional amount for "Defense Environ-
21 mental Cleanup", $5,527,000,000, to remain available
22 until September 30, 2010.

1 CONSTRUCTION, REHABILITATION, OPERATION, AND
2 MAINTENANCE, WESTERN AREA POWER ADMINIS-
3 TRATION

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

14 GENERAL PROVISIONS—THIS TITLE

15 SEC. 401. BONNEVILLE POWER ADMINISTRATION
16 BORROWING AUTHORITY. For the purposes of providing
17 funds to assist in financing the construction, acquisition,
18 and replacement of the transmission system of the Bonne-
19 ville Power Administration and to implement the authority
20 of the Administrator of the Bonneville Power Administra-
21 tion under the Pacific Northwest Electric Power Planning
22 and Conservation Act (16 U.S.C. 839 et seq.), an addi-
23 tional $3,250,000,000 in borrowing authority is made
24 available under the Federal Columbia River Transmission

1 System Act (16 U.S.C. 838 et seq.), to remain outstanding
2 at any time.
3 SEC. 402. WESTERN AREA POWER ADMINISTRATION
4 BORROWING AUTHORITY. The Hoover Power Plant Act of
5 1984 (Public Law 98–381) is amended by adding at the
6 end the following:

7 "TITLE III—BORROWING 8 AUTHORITY

9 "SEC. 301. WESTERN AREA POWER ADMINISTRATION BOR- 10 ROWING AUTHORITY.

11 "(a) DEFINITIONS.—In this section:
12 "(1) ADMINISTRATOR.—The term 'Adminis-
13 trator' means the Administrator of the Western
14 Area Power Administration.
15 "(2) SECRETARY.—The term 'Secretary' means
16 the Secretary of the Treasury.
17 "(b) AUTHORITY.—
18 "(1) IN GENERAL.—Notwithstanding any other
19 provision of law, subject to paragraphs (2) through
20 (5)—
21 "(A) the Western Area Power Administra-
22 tion may borrow funds from the Treasury; and
23 "(B) the Secretary shall, without further
24 appropriation and without fiscal year limitation,
25 loan to the Western Area Power Administra-

1 tion, on such terms as may be fixed by the Ad-
2 ministrator and the Secretary, such sums (not
3 to exceed, in the aggregate (including deferred
4 interest), $3,250,000,000 in outstanding repay-
5 able balances at any one time) as, in the judg-
6 ment of the Administrator, are from time to
7 time required for the purpose of—
8 "(i) constructing, financing, facili-
9 tating, planning, operating, maintaining,
10 or studying construction of new or up-
11 graded electric power transmission lines
12 and related facilities with at least one ter-
13 minus within the area served by the West-
14 ern Area Power Administration; and
15 "(ii) delivering or facilitating the de-
16 livery of power generated by renewable en-
17 ergy resources constructed or reasonably
18 expected to be constructed after the date
19 of enactment of this section.
20 "(2) INTEREST.—The rate of interest to be
21 charged in connection with any loan made pursuant
22 to this subsection shall be fixed by the Secretary,
23 taking into consideration market yields on out-
24 standing marketable obligations of the United States
25 of comparable maturities as of the date of the loan.

1 "(3) REFINANCING.—The Western Area Power
2 Administration may refinance loans taken pursuant
3 to this section within the Treasury.
4 "(4) PARTICIPATION.—The Administrator may
5 permit other entities to participate in the financing,
6 construction and ownership projects financed under
7 this section.
8 "(5) CONGRESSIONAL REVIEW OF DISBURSE-
9 MENT.—Effective upon the date of enactment of this
10 section, the Administrator shall have the authority
11 to have utilized $1,750,000,000 at any one time. If
12 the Administrator seeks to borrow funds above
13 $1,750,000,000, the funds will be disbursed unless
14 there is enacted, within 90 calendar days of the first
15 such request, a joint resolution that rescinds the re-
16 mainder of the balance of the borrowing authority
17 provided in this section.
18 "(c) TRANSMISSION LINE AND RELATED FACILITY
19 PROJECTS.—
20 "(1) IN GENERAL.—For repayment purposes,
21 each transmission line and related facility project in
22 which the Western Area Power Administration par-
23 ticipates pursuant to this section shall be treated as
24 separate and distinct from—
25 "(A) each other such project; and

1 "(B) all other Western Area Power Admin-
2 istration power and transmission facilities.
3 "(2) PROCEEDS.—The Western Area Power
4 Administration shall apply the proceeds from the use
5 of the transmission capacity from an individual
6 project under this section to the repayment of the
7 principal and interest of the loan from the Treasury
8 attributable to that project, after reserving such
9 funds as the Western Area Power Administration
10 determines are necessary—
11 "(A) to pay for any ancillary services that
12 are provided; and
13 "(B) to meet the costs of operating and
14 maintaining the new project from which the
15 revenues are derived.
16 "(3) SOURCE OF REVENUE.—Revenue from the
17 use of projects under this section shall be the only
18 source of revenue for—
19 "(A) repayment of the associated loan for
20 the project; and
21 "(B) payment of expenses for ancillary
22 services and operation and maintenance.
23 "(4) LIMITATION ON AUTHORITY.—Nothing in
24 this section confers on the Administrator any addi-
25 tional authority or obligation to provide ancillary

1 services to users of transmission facilities developed
2 under this section.
3 "(5) TREATMENT OF CERTAIN REVENUES.—
4 Revenue from ancillary services provided by existing
5 Federal power systems to users of transmission
6 projects funded pursuant to this section shall be
7 treated as revenue to the existing power system that
8 provided the ancillary services.
9 "(d) CERTIFICATION.—
10 "(1) IN GENERAL.—For each project in which
11 the Western Area Power Administration participates
12 pursuant to this section, the Administrator shall cer-
13 tify, prior to committing funds for any such project,
14 that—
15 "(A) the project is in the public interest;
16 "(B) the project will not adversely impact
17 system reliability or operations, or other statu-
18 tory obligations; and
19 "(C) it is reasonable to expect that the
20 proceeds from the project shall be adequate to
21 make repayment of the loan.
22 "(2) FORGIVENESS OF BALANCES.—
23 "(A) IN GENERAL.—If, at the end of the
24 useful life of a project, there is a remaining bal-

1 ance owed to the Treasury under this section,
2 the balance shall be forgiven.
3 "(B) UNCONSTRUCTED PROJECTS.—Funds
4 expended to study projects that are considered
5 pursuant to this section but that are not con-
6 structed shall be forgiven.
7 "(C) NOTIFICATION.—The Administrator
8 shall notify the Secretary of such amounts as
9 are to be forgiven under this paragraph.
10 "(e) PUBLIC PROCESSES.—
11 "(1) POLICIES AND PRACTICES.—Prior to re-
12 questing any loans under this section, the Adminis-
13 trator shall use a public process to develop practices
14 and policies that implement the authority granted by
15 this section.
16 "(2) REQUESTS FOR INTEREST.—In the course
17 of selecting potential projects to be funded under
18 this section, the Administrator shall seek Requests
19 For Interest from entities interested in identifying
20 potential projects through one or more notices pub-
21 lished in the Federal Register."
22 SEC. 403. TECHNICAL CORRECTIONS TO THE EN-
23 ERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title
24 XIII of the Energy Independence and Security Act of

1 2007 (15 U.S.C. 17381 and following) is amended as fol-
2 lows:
3 (1) By amending subparagraph (A) of section
4 1304(b)(3) to read as follows:
5 "(A) IN GENERAL.—In carrying out the
6 initiative, the Secretary shall provide financial
7 support to smart grid demonstration projects
8 including those in rural areas and areas where
9 the majority of generation and transmission as-
10 sets are controlled by a tax-exempt entity.".
11 (2) By amending subparagraph (C) of section
12 1304(b)(3) to read as follows:
13 "(C) FEDERAL SHARE OF COST OF TECH-
14 NOLOGY INVESTMENTS.—The Secretary shall
15 provide to an electric utility described in sub-
16 paragraph (B) or to other parties financial as-
17 sistance for use in paying an amount equal to
18 not more than 50 percent of the cost of quali-
19 fying advanced grid technology investments
20 made by the electric utility or other party to
21 carry out a demonstration project. ".
22 (3) By inserting a new subparagraph (E) after
23 1304(b)(3)(D) as follows:
24 "(E) AVAILABILITY OF DATA.—The
25 Secretary shall establish and maintain a

1 smart grid information clearinghouse in a
2 timely manner which will make data from
3 smart grid demonstration projects and
4 other sources available to the public. As a
5 condition of receiving financial assistance
6 under this subsection, a utility or other
7 participant in a smart grid demonstration
8 project shall provide such information as
9 the Secretary may require to become avail-
10 able through the smart grid information
11 clearinghouse in the form and within the
12 timeframes as directed by the Secretary.
13 The Secretary shall assure that business
14 proprietary information and individual cus-
15 tomer information is not included in the
16 information made available through the
17 clearinghouse.".
18 (4) By amending paragraph (2) of section
19 1304(c) to read as follows:
20 "(2) to carry out subsection (b), such sums as
21 may be necessary.".
22 (5) By amending subsection (a) of section 1306
23 by striking "reimbursement of one-fifth (20 per-
24 cent)" and inserting "grants of up to one-half (50
25 percent)".

1 (6) By striking the last sentence of subsection
2 (b)(9) of section 1306.
3 (7) By striking "are eligible for" in subsection
4 (c)(1) of section 1306 and inserting "utilize".
5 (8) By amending subsection (e) of section 1306
6 to read as follows:
7 "(e) The Secretary shall—
8 "(1) establish within 60 days after the enact-
9 ment of the American Recovery and Reinvestment
10 Act of 2009 procedures by which applicants can ob-
11 tain grants of not more than one-half of their docu-
12 mented costs;
13 "(2) establish procedures to ensure that there is
14 no duplication or multiple payment for the same in-
15 vestment or costs, that the grant goes to the party
16 making the actual expenditures for Qualifying Smart
17 Grid Investments, and that the grants made have
18 significant effect in encouraging and facilitating the
19 development of a smart grid;
20 "(3) maintain public records of grants made,
21 recipients, and qualifying Smart Grid investments
22 which have received grants;
23 "(4) establish procedures to provide advance
24 payment of moneys up to the full amount of the
25 grant award; and

1 "(5) have and exercise the discretion to deny
2 grants for investments that do not qualify in the
3 reasonable judgment of the Secretary.".
4 SEC. 404. TEMPORARY STIMULUS LOAN GUARANTEE
5 PROGRAM. (a) AMENDMENT.—Title XVII of the Energy
6 Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended
7 by adding the following at the end:
8 **"SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOY-**
9 **MENT OF RENEWABLE ENERGY AND ELEC-**
10 **TRIC POWER TRANSMISSION PROJECTS.**
11 "(a) IN GENERAL.—Notwithstanding section 1703,
12 the Secretary may make guarantees under this section
13 only for commercial technology projects under subsection
14 (b) that will reach financial close not later than September
15 30, 2012.
16 "(b) CATEGORIES.—Projects from only the following
17 categories shall be eligible for support under this section:
18 "(1) Renewable energy systems.
19 "(2) Electric power transmission systems.
20 "(c) AUTHORIZATION LIMIT.—There are authorized
21 to be appropriated $10,000,000,000 to the Secretary for
22 fiscal years 2009 through 2012 to provide the cost of
23 guarantees made under section.

1 "(d) SUNSET.—The authority to enter into guaran-
2 tees under this section shall expire on September 30,
3 2012.".

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

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

8 SEC. 405. WEATHERIZATION PROGRAM AMEND-
9 MENTS. (a) INCOME LEVEL.—Section 412(7) of the En-
10 ergy Conservation and Production Act (42 U.S.C.
11 6862(7)) is amended by striking "150 percent" both
12 places it appears and inserting "200 percent".

13 (b) ASSISTANCE LEVEL PER DWELLING UNIT.—Sec-
14 tion 415(c)(1) of the Energy Conservation and Production
15 Act (42 U.S.C. 6865(c)(1)) is amended by striking
16 "$2,500" and inserting "$5,000".

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

21 SEC. 406. TECHNICAL CORRECTIONS TO PUBLIC
22 UTILITY REGULATORY POLICIES ACT OF 1978. (a) Sec-
23 tion 111(d) of the Public Utility Regulatory Policies Act
24 of 1978 (16 U.S.C. 2621(d)) is amended by redesignating

1 paragraph (16) relating to consideration of smart grid in-
2 vestments (added by section 1307(a) of Public Law 110–
3 140) as paragraph (18) and by redesignating paragraph
4 (17) relating to smart grid information (added by section
5 1308(a) of Public Law 110–140) as paragraph (19).
6 (b) Subsections (b) and (d) of section 112 of the Pub-
7 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.
8 2622) are each amended by striking "(17) through (18)"
9 in each place it appears and inserting "(16) through
10 (19)".

1 TITLE V—FINANCIAL SERVICES AND GENERAL
2 GOVERNMENT
3 DEPARTMENT OF THE TREASURY
4 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
5 FUND PROGRAM ACCOUNT
6 For an additional amount for "Community Develop-
7 ment Financial Institutions Fund Program Account",
8 $250,000,000, to remain available until September 30,
9 2010, for qualified applicants under the fiscal year 2008
10 and 2009 funding rounds of the Community Development
11 Financial Institutions Program, of which up to
12 $20,000,000 may be for financial assistance, technical as-
13 sistance, training and outreach programs, including up to
14 $5,000 for subsistence expenses, designed to benefit Na-
15 tive American, Native Hawaiian, and Alaskan Native com-
16 munities and provided primarily through qualified commu-
17 nity development lender organizations with experience and
18 expertise in community development banking and lending
19 in Indian country, Native American organizations, tribes
20 and tribal organizations and other suitable providers and
21 up to $5,000,000 may be used for administrative ex-
22 penses: *Provided,* That for purposes of the fiscal year 2008
23 and 2009 funding rounds, the following statutory provi-
24 sions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C.
25 4707(d): *Provided further,* That no awardee, together with

1 its subsidiaries and affiliates, may be awarded more than
2 15 percent of the aggregate funds available during each
3 of fiscal years 2008 and 2009 from the Community Devel-
4 opment Financial Institutions Program: *Provided further,*
5 That no later than 60 days after the date of enactment
6 of this Act, the Department of the Treasury shall submit
7 to the Committees on Appropriations of the House of Rep-
8 resentatives and the Senate a detailed expenditure plan
9 for funds provided under this heading.

10 DISTRICT OF COLUMBIA

11 FEDERAL PAYMENTS

12 FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA
13 WATER AND SEWER AUTHORITY

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

1 such expenditure plan shall include a description of each
2 specific project, how specific projects will further the ob-
3 jectives of the Long-Term Control Plan, and all funding
4 sources for each project.

5 GENERAL SERVICES ADMINISTRATION

6 REAL PROPERTY ACTIVITIES

7 FEDERAL BUILDINGS FUND

8 LIMITATIONS ON AVAILABILITY OF REVENUE

9 (INCLUDING TRANSFER OF FUNDS)

10 For an additional amount to be deposited in the Fed-
11 eral Buildings Fund, $9,048,000,000, to carry out the
12 purposes of the Fund, of which not less than
13 $1,400,000,000 shall be available for Federal buildings
14 and United States courthouses, not less than
15 $1,200,000,000 shall be available for border stations, and
16 not less than $6,000,000,000 shall be available for meas-
17 ures necessary to convert GSA facilities to High-Perform-
18 ance Green Buildings, as defined in section 401 of Public
19 Law 110–140: *Provided,* That not to exceed $108,000,000
20 of the amounts provided under this heading may be ex-
21 pended for rental of space, related to leasing of temporary
22 space in connection with projects funded under this head-
23 ing: *Provided further,* That not to exceed $206,000,000
24 of the amounts provided under this heading may be ex-
25 pended for building operations, for the administrative
26 costs of completing projects funded under this heading:

1 *Provided further,* That (1) not less than $7,000,000,000
2 of the funds provided under this heading shall be obligated
3 by September 30, 2010, and (2) $1,600,000,000 shall be
4 available until September 30, 2011: *Provided further,* That
5 the Administrator of General Services is authorized to ini-
6 tiate design, construction, repair, alteration, and other
7 projects through existing authorities of the Administrator:
8 *Provided further,* That the General Services Administra-
9 tion shall submit a detailed plan, by project, regarding the
10 use of funds made available in this Act to the Committees
11 on Appropriations of the House of Representatives and the
12 Senate within 60 days of enactment of this Act: *Provided*
13 *further,* That of the amounts provided for converting GSA
14 facilities to High-Performance Green Buildings,
15 $4,000,000 shall be transferred to and merged with "Gov-
16 ernment-Wide Policy", for carrying out the provisions of
17 section 436 of the Energy Independence and Security Act
18 of 2007 (Public Law 110–140), establishing an Office of
19 Federal High-Performance Green Buildings, to remain
20 available until September 30, 2010: *Provided further,* That
21 within the overall amount to be deposited into the Fund,
22 $448,000,000 shall remain available until September 30,
23 2011, for the development and construction of the head-
24 quarters for the Department of Homeland Security, except

1 that none of the preceding provisos shall apply to amounts
2 made available under this proviso.

3 ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET
4 PROCUREMENT

5 For capital expenditures and necessary expenses of
6 acquiring motor vehicles with higher fuel economy, includ-
7 ing: hybrid vehicles; neighborhood electric vehicles; electric
8 vehicles; and commercially-available, plug-in hybrid vehi-
9 cles, $600,000,000, to remain available until September
10 30, 2011.

11 OFFICE OF INSPECTOR GENERAL

12 For an additional amount for the Office of the In-
13 spector General, to remain available until September 30,
14 2011, $2,000,000.

15 RECOVERY ACT ACCOUNTABILITY AND
16 TRANSPARENCY BOARD

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

21 SMALL BUSINESS ADMINISTRATION
22 SALARIES AND EXPENSES

23 For an additional amount, to remain available until
24 September 30, 2010, $84,000,000, of which $24,000,000
25 is for marketing, management, and technical assistance

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

14 OFFICE OF INSPECTOR GENERAL

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

19 SURETY BOND GUARANTEES REVOLVING FUND

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

1 BUSINESS LOANS PROGRAM ACCOUNT

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

16 ADMINISTRATIVE PROVISIONS—SMALL BUSINESS
17 ADMINISTRATION

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

1 or after the date of enactment of this Act, the Adminis-
2 trator shall—
3 (1) in lieu of the fee otherwise applicable under
4 section 7(a)(23)(A) of the Small Business Act (15
5 U.S.C. 636(a)(23)(A)), collect no fee; and
6 (2) in lieu of the fee otherwise applicable under
7 section 7(a)(18)(A) of the Small Business Act (15
8 U.S.C. 636(a)(18)(A)), collect no fee.
9 (b) TEMPORARY FEE ELIMINATION FOR THE 504
10 LOAN PROGRAM.—
11 (1) IN GENERAL.—Until September 30, 2010,
12 and to the extent the cost of such elimination in fees
13 is offset by appropriations, with respect to each
14 project or loan guaranteed by the Administrator
15 under title V of the Small Business Investment Act
16 of 1958 (15 U.S.C. 695 et seq.) for which an appli-
17 cation is approved or pending approval on or after
18 the date of enactment of this Act—
19 (A) the Administrator shall, in lieu of the
20 fee otherwise applicable under section 503(d)(2)
21 of the Small Business Investment Act of 1958
22 (15 U.S.C. 697(d)(2)), collect no fee;
23 (B) a development company shall, in lieu
24 of the processing fee under section
25 120.971(a)(1) of title 13, Code of Federal Reg-

1 ulations (relating to fees paid by borrowers), or
2 any successor thereto, collect no fee.
3 (2) REIMBURSEMENT FOR WAIVED FEES.—
4 (A) IN GENERAL.—To the extent that the
5 cost of such payments is offset by appropria-
6 tions, the Administrator shall reimburse each
7 development company that does not collect a
8 processing fee pursuant to paragraph (1)(B).
9 (B) AMOUNT.—The payment to a develop-
10 ment company under subparagraph (A) shall be
11 in an amount equal to 1.5 percent of the net
12 debenture proceeds for which the development
13 company does not collect a processing fee pur-
14 suant to paragraph (1)(B).
15 (c) TEMPORARY FEE ELIMINATION OF LENDER
16 OVERSIGHT FEES.—Until September 30, 2010, and to the
17 extent the cost of such elimination in fees is offset by ap-
18 propriations, the Administrator shall, in lieu of the fee
19 otherwise applicable under section 5(b)(14) of the Small
20 Business Act (15 U.S.C. 634(b)(14)), collect no fee.
21 (d) APPLICATION OF FEE ELIMINATIONS.—The Ad-
22 ministrator shall eliminate fees under subsections (a), (b),
23 and (c) until the amount provided for such purposes, as
24 applicable, under the headings "Salaries and Expenses"
25 and "Business Loans Program Account" under the head-

1 ing "Small Business Administration" under this Act are
2 expended.
3 SEC. 502. FINANCIAL ASSISTANCE PROGRAM IM-
4 PROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Sec-
5 tion 7(a)(3)(A) of the Small Business Act (15 U.S.C.
6 636(a)(3)(A)) is amended by striking "$1,500,000 (or if
7 the gross loan amount would exceed $2,000,000)" and in-
8 serting "$2,250,000 (or if the gross loan amount would
9 exceed $3,000,000)".
10 (b) SMALL BUSINESS INVESTMENT COMPANIES.—
11 (1) MAXIMUM LEVERAGE.—Section 303(b) of
12 the Small Business Investment Act of 1958 (15
13 U.S.C. 683(b)) is amended—
14 (A) in paragraph (2), by striking subpara-
15 graphs (A), (B), and (C) and inserting the fol-
16 lowing:
17 "(A) IN GENERAL.—The maximum
18 amount of outstanding leverage made available
19 to any 1 company licensed under section 301(c)
20 may not exceed the lesser of—
21 "(i) 300 percent of the private capital
22 of the company; or
23 "(ii) $150,000,000.
24 "(B) MULTIPLE LICENSES UNDER COM-
25 MON CONTROL.—The maximum amount of out-

1 standing leverage made available to 2 or more
2 companies licensed under section 301(c) that
3 are commonly controlled (as determined by the
4 Administrator) may not exceed $225,000,000.
5 "(C) INVESTMENTS IN LOW-INCOME GEO-
6 GRAPHIC AREAS.—
7 "(i) IN GENERAL.—The maximum
8 amount of outstanding leverage made
9 available to—
10 "(I) any 1 company described in
11 clause (ii) may not exceed the lesser
12 of—
13 "(aa) 300 percent of private
14 capital of the company; or
15 "(bb) $175,000,000; and
16 "(II) 2 or more companies de-
17 scribed in clause (ii) that are com-
18 monly controlled (as determined by
19 the Administrator) may not exceed
20 $250,000,000.
21 "(ii) APPLICABILITY.—A company de-
22 scribed in this clause is a company licensed
23 under section 301(c) that certifies in writ-
24 ing that not less than 50 percent of the
25 dollar amount of investments of that com-

1 pany shall be made in companies that are
2 located in a low-income geographic area
3 (as that term is defined in section 351).";
4 and
5 (B) by striking paragraph (4).
6 (2) INVESTMENTS IN SMALLER ENTER-
7 PRISES.—Section 303(d) of the Small Business In-
8 vestment Act of 1958 (15 U.S.C. 683(d)) is amend-
9 ed to read as follows:
10 "(d) INVESTMENTS IN SMALLER ENTERPRISES.—
11 The Administrator shall require each licensee, as a condi-
12 tion of approval of an application for leverage, to certify
13 in writing that not less than 25 percent of the aggregate
14 dollar amount of financings of that licensee shall be pro-
15 vided to smaller enterprises.".
16 (3) MAXIMUM INVESTMENT IN A COMPANY.—
17 Section 306(a) of the Small Business Investment
18 Act of 1958 (15 U.S.C. 686(a)) is amended by strik-
19 ing "20 per centum" and inserting "30 percent".
20 (c) MAXIMUM 504 LOAN SIZE.—Section 502(2)(A)
21 of the Small Business Investment Act of 1958 (15 U.S.C.
22 696(2)(A)) is amended—
23 (1) in clause (i), by striking "$1,500,000" and
24 inserting "$3,000,000";

1 (2) in clause (ii), by striking "$2,000,000" and
2 inserting "$3,500,000"; and
3 (3) in clause (iii), by striking "$4,000,000" and
4 inserting "$5,500,000".
5 SEC. 503. LOW-INTEREST REFINANCING. Section
6 502 of the Small Business Investment Act of 1958 (15
7 U.S.C. 696) is amended by adding at the end the fol-
8 lowing:
9 "(7) PERMISSIBLE DEBT FINANCING.—A fi-
10 nancing under this title may include refinancing of
11 existing indebtedness, in an amount not to exceed 50
12 percent of the projected cost of the project financed
13 under this title, if—
14 "(A) the project financed under this title
15 involves the expansion of a small business con-
16 cern;
17 "(B) the existing indebtedness is
18 collateralized by fixed assets;
19 "(C) the existing indebtedness was in-
20 curred for the benefit of the small business con-
21 cern;
22 "(D) the proceeds of the existing indebted-
23 ness were used to acquire land (including a
24 building situated thereon), to construct or ex-

1 pand a building thereon, or to purchase equip-
2 ment;
3 "(E) the borrower has been current on all
4 payments due on the existing indebtedness for
5 not less than 1 year preceding the proposed
6 date of refinancing;
7 "(F) the financing under this title will pro-
8 vide better terms or a better rate of interest
9 than exists on the existing indebtedness on the
10 proposed date of refinancing;
11 "(G) the financing under this title is not
12 being used to refinance any debt guaranteed by
13 the Government; and
14 "(H) the financing under this title will be
15 used only for—
16 "(i) refinancing existing indebtedness;
17 or
18 "(ii) costs relating to the project fi-
19 nanced under this title.".
20 SEC. 504. DEFINITIONS. Under the heading "Small
21 Business Administration" in this title—
22 (1) the terms "Administration" and "Adminis-
23 trator" mean the Small Business Administration
24 and the Administrator thereof, respectively;

1 (2) the term "development company" has the
2 meaning given the term "development companies" in
3 section 103 of the Small Business Investment Act of
4 1958 (15 U.S.C. 662); and
5 (3) the term "small business concern" has the
6 same meaning as in section 3 of the Small Business
7 Act (15 U.S.C. 632).

1 TITLE VI—DEPARTMENT OF HOMELAND
2 SECURITY
3 DEPARTMENT OF HOMELAND SECURITY
4 OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT
5 For an additional amount for the "Office of the
6 Under Secretary for Management", $248,000,000, to re-
7 main available until September 30, 2011, solely for plan-
8 ning, design, and construction costs, including site secu-
9 rity, information technology infrastructure, furniture, fix-
10 tures, and related costs to consolidate the Department of
11 Homeland Security headquarters: *Provided,* That no later
12 than 60 days after the date of enactment of this Act, the
13 Secretary of Homeland Security, in consultation with the
14 Administrator of General Services, shall submit to the
15 Committees on Appropriations of the Senate and the
16 House of Representatives a plan for the expenditure of
17 these funds.
18 OFFICE OF INSPECTOR GENERAL
19 For an additional amount for the "Office of Inspector
20 General", $5,000,000, to remain available until September
21 30, 2010, for oversight and audit of programs, grants, and
22 projects funded under this title.
23 U.S. CUSTOMS AND BORDER PROTECTION
24 SALARIES AND EXPENSES
25 For an additional amount for "Salaries and Ex-
26 penses", $198,000,000, to remain available until Sep-

1 tember 30, 2010, of which $100,800,000 shall be for the
2 procurement and deployment of non-intrusive inspection
3 systems to improve port security; and of which
4 $97,200,000 shall be for procurement and deployment of
5 tactical communications equipment and radios: *Provided,*
6 That no later than 45 days after the date of enactment
7 of this Act, the Secretary of Homeland Security shall sub-
8 mit to the Committees on Appropriations of the Senate
9 and the House of Representatives a plan for expenditure
10 of these funds.

11 BORDER SECURITY FENCING, INFRASTRUCTURE, AND
12 TECHNOLOGY

13 For an additional amount for "Border Security Fenc-
14 ing, Infrastructure, and Technology", $200,000,000, to
15 remain available until September 30, 2010, for expedited
16 development and deployment of border security technology
17 on the Southwest border: *Provided,* That no later than 45
18 days after the date of enactment of this Act, the Secretary
19 of Homeland Security shall submit to the Committees on
20 Appropriations of the Senate and the House of Represent-
21 atives a plan for expenditure of these funds.

22 CONSTRUCTION

23 For an additional amount for "Construction",
24 $800,000,000, to remain available until expended, solely
25 for planning, management, design, alteration, and con-
26 struction of U.S. Customs and Border Protection owned

1 land border ports of entry: *Provided,* That no later than
2 45 days after the date of enactment of this Act, the Sec-
3 retary of Homeland Security shall submit to the Commit-
4 tees on Appropriations of the Senate and the House of
5 Representatives a plan for expenditure of these funds.

6 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

7 AUTOMATION MODERNIZATION

8 For an additional amount for "Automation Mod-
9 ernization", $27,800,000, to remain available until Sep-
10 tember 30, 2010, for the procurement and deployment of
11 tactical communications equipment and radios: *Provided,*
12 That no later than 45 days after the date of enactment
13 of this Act, the Secretary of Homeland Security shall sub-
14 mit to the Committees on Appropriations of the Senate
15 and the House of Representatives a plan for expenditure
16 of these funds.

17 TRANSPORTATION SECURITY ADMINISTRATION

18 AVIATION SECURITY

19 For an additional amount for "Aviation Security",
20 $1,200,000,000, to remain available until September 30,
21 2010, for procurement and installation of checked baggage
22 explosives detection systems and checkpoint explosives de-
23 tection equipment: *Provided,* That no later than 45 days
24 after the date of enactment of this Act, the Secretary of
25 Homeland Security shall submit to the Committees on Ap-

1 propriations of the Senate and the House of Representa-
2 tives a plan for the expenditure of these funds.

3 COAST GUARD

4 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

5 For an additional amount for "Acquisition, Construc-
6 tion, and Improvements", $572,500,000, to remain avail-
7 able until September 30, 2010, of which $255,000,000
8 shall be for shortfalls in priority procurements due to ma-
9 terials and labor cost increases; of which $195,000,000
10 shall be for shore facilities and aids to navigation facilities;
11 of which $87,500,000 shall be for the design of a new
12 polar icebreaker or the renovation of an existing polar ice-
13 breaker, and major repair and maintenance of existing
14 polar icebreakers; and of which $35,000,000 shall be for
15 emergency maintenance of the Coast Guard's high endur-
16 ance cutters: *Provided,* That amounts made available for
17 the activities under this heading shall be available for all
18 necessary expenses related to the oversight and manage-
19 ment of such activities: *Provided further,* That no later
20 than 45 days after the date of enactment of this Act, the
21 Secretary of Homeland Security shall submit to the Com-
22 mittees on Appropriations of the Senate and the House
23 of Representatives a plan for the expenditure of these
24 funds.

1 ALTERATION OF BRIDGES

2 For an additional amount for "Alteration of
3 Bridges", $240,400,000, to remain available until Sep-
4 tember 30, 2010, for alteration or removal of obstructive
5 bridges, as authorized by section 6 of the Truman-Hobbs
6 Act (33 U.S.C. 516): *Provided,* That no later than 45 days
7 after the date of enactment of this Act, the Secretary of
8 Homeland Security shall submit to the Committees on Ap-
9 propriations of the Senate and the House of Representa-
10 tives a plan for the expenditure of these funds.

11 FEDERAL EMERGENCY MANAGEMENT AGENCY

12 MANAGEMENT AND ADMINISTRATION

13 For an additional amount for "Management and Ad-
14 ministration", $6,000,000 for the acquisition of commu-
15 nications response vehicles to be deployed in response to
16 a disaster or a national security event.

17 STATE AND LOCAL PROGRAMS

18 For an additional amount for grants, $950,000,000,
19 to be allocated as follows:

20 (1) $100,000,000, to remain available until
21 September 30, 2010, for Public Transportation Se-
22 curity Assistance, Railroad Security Assistance, and
23 Systemwide Amtrak Security Upgrades under sec-
24 tions 1406, 1513, and 1514 of the Implementing
25 Recommendations of the 9/11 Commission Act of

1 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163,
2 and 1164).
3 (2) $100,000,000, to remain available until
4 September 30, 2010, for Port Security Grants in ac-
5 cordance with 46 U.S.C. 70107, notwithstanding 46
6 U.S.C. 70107(c).
7 (3) $250,000,000, to remain available until
8 September 30, 2010, for upgrading, modifying, or
9 constructing emergency operations centers under
10 section 614 of the Robert T. Stafford Disaster Relief
11 and Emergency Assistance Act, notwithstanding sec-
12 tion 614(c) of that Act or for upgrading, modifying,
13 or constructing State and local fusion centers as de-
14 fined by section 210A(j)(1) of the Homeland Secu-
15 rity Act of 2002 (6 U.S.C. 124h(j)(1)).
16 (4) $500,000,000 for construction to upgrade
17 or modify critical infrastructure , as defined in sec-
18 tion 1016(e) of the USA PATRIOT Act of 2001 (42
19 U.S.C. 5195c(e)), to mitigate consequences related
20 to potential damage from all-hazards: *Provided,*
21 That funds in this paragraph shall remain available
22 until September 30, 2011: *Provided further,* That 5
23 percent shall be for program administration: *Pro-*
24 *vided further,* That no later than 60 days after the
25 date of enactment of this Act, the Secretary of

1 Homeland Security shall submit to the Committees
2 on Appropriations of the Senate and the House of
3 Representatives a plan for expenditure of these
4 funds.

5 FIREFIGHTER ASSISTANCE GRANTS

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

12 DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

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

24 EMERGENCY FOOD AND SHELTER

25 For an additional amount to carry out the emergency
26 food and shelter program pursuant to title III of the

1 McKinney-Vento Homeless Assistance Act (42 U.S.C.
2 11331 et seq.), $100,000,000: *Provided,* That total admin-
3 istrative costs shall not exceed 3.5 percent of the total
4 amount made available under this heading.

5 FEDERAL LAW ENFORCEMENT TRAINING CENTER
6 ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND
7 RELATED EXPENSES

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

18 SCIENCE AND TECHNOLOGY
19 RESEARCH, DEVELOPMENT, ACQUISITION, AND
20 OPERATIONS

21 For an additional amount for "Research, Develop-
22 ment, Acquisition, and Operations", $14,000,000, to re-
23 main available until September 30, 2010, for cyber secu-
24 rity research: *Provided,* That no later than 45 days after
25 the date of enactment of this Act, the Secretary of Home-

1 land Security shall submit to the Committees on Appro-
2 priations of the Senate and the House of Representatives
3 a plan for the expenditure of these funds.

1 TITLE VII—INTERIOR, ENVIRONMENT, AND
2 RELATED AGENCIES
3 DEPARTMENT OF THE INTERIOR
4 BUREAU OF LAND MANAGEMENT
5 MANAGEMENT OF LANDS AND RESOURCES
6 For an additional amount for "Management of Lands
7 and Resources", $135,000,000, to remain available until
8 September 30, 2010.
9 CONSTRUCTION
10 For an additional amount for "Construction",
11 $180,000,000, to remain available until September 30,
12 2010.
13 WILDLAND FIRE MANAGEMENT
14 For an additional amount for "Wildland Fire Man-
15 agement", $15,000,000, to remain available until Sep-
16 tember 30, 2010.
17 UNITED STATES FISH AND WILDLIFE SERVICE
18 RESOURCE MANAGEMENT
19 For an additional amount for "Resource Manage-
20 ment", $190,000,000, to remain available until September
21 30, 2010.
22 CONSTRUCTION
23 For an additional amount for "Construction",
24 $110,000,000, to remain available until September 30,
25 2010.

1 NATIONAL PARK SERVICE

2 OPERATION OF THE NATIONAL PARK SYSTEM

3 For an additional amount for "Operation of the Na-
4 tional Park System", $158,000,000, to remain available
5 until September 30, 2010.

6 HISTORIC PRESERVATION FUND

7 For an additional amount for "Historic Preservation
8 Fund", $55,000,000, to remain available until September
9 30, 2010.

10 CONSTRUCTION

11 For an additional amount for "Construction",
12 $589,000,000, to remain available until September 30,
13 2010.

14 UNITED STATES GEOLOGICAL SURVEY

15 SURVEYS, INVESTIGATIONS, AND RESEARCH

16 For an additional amount for "Surveys, Investiga-
17 tions, and Research", $135,000,000, to remain available
18 until September 30, 2010.

19 BUREAU OF INDIAN AFFAIRS

20 OPERATION OF INDIAN PROGRAMS

21 For an additional amount for "Operation of Indian
22 Programs", $40,000,000, to remain available until Sep-
23 tember 30, 2010, of which $20,000,000 shall be for the
24 housing improvement program.

1 CONSTRUCTION

2 For an additional amount for "Construction",
3 $522,000,000, to remain available until September 30,
4 2010.

5 INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

6 For an additional amount for "Indian Guaranteed
7 Loan Program Account", $10,000,000, to remain avail-
8 able until September 30, 2010.

9 DEPARTMENTAL OFFICES

10 INSULAR AFFAIRS

11 ASSISTANCE TO TERRITORIES

12 For an additional amount for "Assistance to Terri-
13 tories", $62,000,000, to remain available until September
14 30, 2010.

15 OFFICE OF INSPECTOR GENERAL

16 SALARIES AND EXPENSES

17 For an additional amount for "Office of Inspector
18 General", $7,600,000, to remain available until September
19 30, 2010.

20 DEPARTMENT-WIDE PROGRAMS

21 CENTRAL HAZARDOUS MATERIALS FUND

22 For an additional amount for "Central Hazardous
23 Materials Fund", $20,000,000, to remain available until
24 September 30, 2010.

1 WORKING CAPITAL FUND

2 For an additional amount for "Working Capital
3 Fund", $20,000,000, to remain available until September
4 30, 2010.

5 ENVIROMENTAL PROTECTION AGENCY

6 HAZARDOUS SUBSTANCE SUPERFUND

7 (INCLUDING TRANSFERS OF FUNDS)

8 For an additional amount for "Hazardous Substance
9 Superfund", $800,000,000, to remain available until Sep-
10 tember 30, 2010, as a payment from general revenues to
11 the Hazardous Substance Superfund, to carry out reme-
12 dial actions: *Provided,* That the Administrator may retain
13 up to 2 percent of the funds appropriated herein for
14 Superfund remedial actions for program oversight and
15 support purposes, and may transfer those funds to other
16 accounts as needed.

17 LEAKING UNDERGROUND STORAGE TANK TRUST FUND

18 PROGRAM

19 For an additional amount for "Leaking Underground
20 Storage Tank Trust Fund Program", $200,000,0000, to
21 remain available until September 30, 2010, for cleanup
22 activities: *Provided,* That none of these funds shall be sub-
23 ject to cost share requirements.

1 STATE AND TRIBAL ASSISTANCE GRANTS

2 (INCLUDING TRANSFERS OF FUNDS)

3 For an additional amount for "State and Tribal As-
4 sistance Grants", $6,400,000,000, to remain available
5 until September 30, 2010, of which $4,000,000,000 shall
6 be for making capitalization grants for the Clean Water
7 State Revolving Funds under title VI of the Federal Water
8 Pollution Control Act, as amended; of which
9 $2,000,000,000 shall be for making capitalization grants
10 for the Drinking Water State Revolving Fund under sec-
11 tion 1452 of the Safe Drinking Water Act, as amended;
12 of which $100,000,000 shall be available for Brownfields
13 remediation grants pursuant to section 104(k)(3) of the
14 Comprehensive Environmental Response, Compensation
15 and Liability Act of 1980, as amended; and of which
16 $300,000,000 shall be for Diesel Emission Reduction Act
17 grants pursuant to title VII, subtitle G of the Energy Pol-
18 icy Act of 2005, as amended: *Provided,* That notwith-
19 standing the priority ranking they would otherwise receive
20 under each program, priority for funds appropriated here-
21 in for the Clean Water State Revolving Funds and Drink-
22 ing Water State Revolving Funds (Revolving Funds) shall
23 be allocated to projects that are ready to proceed to con-
24 struction within 180 days of enactment of this Act: *Pro-*
25 *vided further,* That the Administrator of the Environ-

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

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

11 DEPARTMENT OF AGRICULTURE

12 FOREST SERVICE

13 CAPITAL IMPROVEMENT AND MAINTENANCE

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

19 WILDLAND FIRE MANAGEMENT

20 For an additional amount for "Wildland Fire Man-
21 agement", $650,000,000, to remain available until Sep-
22 tember 30, 2010, for hazardous fuels reduction and haz-
23 ard mitigation activities in areas at high risk of cata-
24 strophic wildfire, of which $350,000,000 is available for
25 work on State and private lands using all the authorities
26 available to the Forest Service: *Provided,* That of the

1 funds provided for State and private land fuels reduction
2 activities, up to $50,000,000 may be used to make grants
3 for the purpose of creating incentives for increased use
4 of biomass from national forest lands.

5 DEPARTMENT OF HEALTH AND HUMAN
6 SERVICES

7 INDIAN HEALTH SERVICE

8 INDIAN HEALTH SERVICES

9 For an additional amount for "Indian Health Serv-
10 ices", $135,000,000, to remain available until September
11 30, 2010, of which $50,000,000 is for contract health
12 services; and of which $85,000,000 is for health informa-
13 tion technology: *Provided,* That the amount made avail-
14 able for health information technology activities may be
15 used for both telehealth services development and related
16 infrastructure requirements that are typically funded
17 through the "Indian Health Facilities" account: *Provided*
18 *further,* That notwithstanding any other provision of law,
19 health information technology funds provided within this
20 title shall be allocated at the discretion of the Director
21 of the Indian Health Service.

22 INDIAN HEALTH FACILITIES

23 For an additional amount for "Indian Health Facili-
24 ties", $410,000,000, to remain available until September
25 30, 2010: *Provided,* That for the purposes of this Act,
26 spending caps included within the annual appropriation

1 for "Indian Health Facilities" for the purchase of medical
2 equipment shall not apply.

3 SMITHSONIAN INSTITUTION

4 FACILITIES CAPITAL

5 For an additional amount for "Facilities Capital",
6 $150,000,000, to remain available until September 30,
7 2010.

8 GENERAL PROVISIONS—THIS TITLE

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

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

18 SEC. 702. In carrying out the work for which funds
19 in this title are being made available, the Secretary of the
20 Interior and the Secretary of Agriculture may utilize the
21 Public Lands Corps, Youth Conservation Corps, Job
22 Corps and other related partnerships with Federal, State,
23 local, tribal or non-profit groups that serve young adults.

1 TITLE VIII—DEPARTMENTS OF LABOR,
2 HEALTH AND HUMAN SERVICES, AND EDU-
3 CATION, AND RELATED AGENCIES
4 DEPARTMENT OF LABOR
5 EMPLOYMENT AND TRAINING ADMINISTRATION
6 TRAINING AND EMPLOYMENT SERVICES
7 For an additional amount for "Training and Employ-
8 ment Services" for activities authorized by the Workforce
9 Investment Act of 1998 ("WIA"), $3,250,000,000, which
10 shall be available on the date of enactment of this Act,
11 as follows:
12 (1) $500,000,000 for adult employment and
13 training activities, including supportive services and
14 needs-related payments described in section
15 134(e)(2) and (3) of the WIA: *Provided,* That a pri-
16 ority use of these funds shall be services to individ-
17 uals described in 134(d)(4)(E) of the WIA;
18 (2) $1,200,000,000 for grants to the States for
19 youth activities, including summer employment for
20 youth: *Provided,* That no portion of such funds shall
21 be reserved to carry out section 127(b)(1)(A) of the
22 WIA: *Provided further,* That for purposes of section
23 127(b)(1)(C)(iv) of the WIA, funds available for
24 youth activities shall be allotted as if the total
25 amount available for youth activities in the fiscal

1 year does not exceed $1,000,000,000: *Provided fur-*
2 *ther,* That, with respect to the youth activities pro-
3 vided with such funds, section 101(13)(A) of the
4 WIA shall be applied by substituting "age 24" for
5 "age 21": *Provided further,* That the work readiness
6 performance indicator described in section
7 136(b)(2)(A)(ii)(I) of the WIA shall be the only
8 measure of performance used to assess the effective-
9 ness of youth activities provided with such funds;
10 (3) $1,000,000,000 for grants to the States for
11 dislocated worker employment and training activi-
12 ties;
13 (4) $200,000,000 for national emergency
14 grants;
15 (5) $250,000,000 under the dislocated worker
16 national reserve for a program of competitive grants
17 for worker training in high growth and emerging in-
18 dustry sectors and assistance under 132(b)(2)(A) of
19 the WIA: *Provided,* That the Secretary of Labor
20 shall give priority when awarding such grants to
21 projects that prepare workers for careers in energy
22 efficiency and renewable energy as described in sec-
23 tion 171(e)(1)(B) of the WIA and for careers in the
24 health care sector; and

1 (6) $100,000,000 for YouthBuild activities as
2 described in section 173A of the WIA: *Provided,*
3 That for program years 2008 and 2009, the
4 YouthBuild program may serve an individual who
5 has dropped out of high school and re-enrolled in an
6 alternative school, if that re-enrollment is part of a
7 sequential service strategy:
8 *Provided,* That funds made available in this paragraph
9 shall remain available through June 30, 2010: *Provided*
10 *further,* That a local board may award a contract to an
11 institution of higher education if the local board deter-
12 mines that it would facilitate the training of multiple indi-
13 viduals in high-demand occupations, if such contract does
14 not limit customer choice.
15 COMMUNITY SERVICE EMPLOYMENT FOR OLDER
16 AMERICANS
17 For an additional amount for "Community Service
18 Employment for Older Americans" for carrying out title
19 V of the Older Americans Act of 1965, $120,000,000,
20 which shall be available on the date of enactment of this
21 Act and shall remain available through June 30, 2010:
22 *Provided,* That funds shall be allotted within 30 days of
23 such enactment to current grantees in proportion to their
24 allotment in program year 2008: *Provided further,* That
25 funds made available under this heading in this Act may,

1 in accordance with section 517(c) of the Older Americans
2 Act of 1965, be recaptured and reobligated.

3 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT
4 SERVICE OPERATIONS

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

22 DEPARTMENTAL MANAGEMENT
23 OFFICE OF JOB CORPS

24 For an additional amount for "Office of Job Corps"
25 for construction, alteration and repairs of buildings and
26 other facilities, $160,000,000, which shall remain avail-

1 able through June 30, 2010: *Provided,* That the Secretary
2 of Labor may transfer up to 15 percent of such funds to
3 meet the operational needs of Job Corps Centers, which
4 may include training for careers in the energy efficiency
5 and renewable energy industries: *Provided further,* That
6 not later than 90 days after the date of enactment of this
7 Act, the Secretary shall provide to the Committee on Ap-
8 propriations of the House of Representatives and the Sen-
9 ate an operating plan describing the planned uses of funds
10 available in this paragraph.

11 OFFICE OF INSPECTOR GENERAL

12 For an additional amount for the "Office of Inspector
13 General", $3,000,000, which shall remain available
14 through September 30, 2010, for salaries and expenses
15 necessary for oversight and audit of programs, grants, and
16 projects funded in this Act and administered by the De-
17 partment of Labor.

18 DEPARTMENT OF HEALTH AND HUMAN
19 SERVICES

20 HEALTH RESOURCES AND SERVICES ADMINISTRATION

21 HEALTH RESOURCES AND SERVICES

22 For an additional amount for "Health Resources and
23 Services", $1,088,000,000, which shall remain available
24 through September 30, 2010, of which $88,000,000 shall
25 be for necessary expenses related to leasing and renovating
26 a headquarters building for Public Health Service agencies

1 and other components of the Department of Health and
2 Human Services, including renovation and fit-out costs,
3 and of which $1,000,000,000 shall be for grants for con-
4 struction, renovation and equipment for health centers re-
5 ceiving operating grants under section 330 of the Public
6 Health Service Act, notwithstanding the limitation in sec-
7 tion 330(e)(3).

8 CENTERS FOR DISEASE CONTROL AND PREVENTION

9 DISEASE CONTROL, RESEARCH, AND TRAINING

10 For an additional amount for "Disease Control, Re-
11 search, and Training" for acquisition of real property,
12 equipment, construction, and renovation of facilities, in-
13 cluding necessary repairs and improvements to leased lab-
14 oratories, $412,000,000, which shall remain available
15 through September 30, 2010: *Provided,* That notwith-
16 standing any other provision of law, the Centers for Dis-
17 ease Control and Prevention may award a single contract
18 or related contracts for development and construction of
19 facilities that collectively include the full scope of the
20 project: *Provided further,* That the solicitation and con-
21 tract shall contain the clause "availability of funds" found
22 at 48 CFR 52.232–18.

1 NATIONAL INSTITUTES OF HEALTH

2 NATIONAL CENTER FOR RESEARCH RESOURCES

3 For an additional amount for "National Center for
4 Research Resources", $300,000,000, which shall be avail-
5 able through September 30, 2010, for shared instrumenta-
6 tion and other capital research equipment.

7 OFFICE OF THE DIRECTOR

8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for "Office of the Direc-
10 tor", $2,700,000,000, which shall be available through
11 September 30, 2010: *Provided,* That $1,350,000,000 shall
12 be transferred to the Institutes and Centers of the Na-
13 tional Institutes of Health and to the Common Fund es-
14 tablished under section 402A(c)(1) of the Public Health
15 Service Act in proportion to the appropriations otherwise
16 made to such Institutes, Centers, and Common Fund for
17 fiscal year 2009: *Provided further,* That these funds shall
18 be used to support additional scientific research and shall
19 be merged with and be available for the same purposes
20 as the appropriation or fund to which transferred: *Pro-*
21 *vided further,* That this transfer authority is in addition
22 to any other transfer authority available to the National
23 Institutes of Health: *Provided further,* That none of these
24 funds may be transferred to "National Institutes of
25 Health—Buildings and Facilities", the Center for Sci-
26 entific Review, the Center for Information Technology, the

1 Clinical Center, the Global Fund for HIV/AIDS, Tuber-
2 culosis and Malaria, or the Office of the Director (except
3 for the transfer to the Common Fund).

4 BUILDINGS AND FACILITIES

5 For an additional amount for "Buildings and Facili-
6 ties", $500,000,000, which shall be available through Sep-
7 tember 30, 2010, to fund high-priority repair, construction
8 and improvement projects for National Institutes of
9 Health facilities on the Bethesda, Maryland campus and
10 other agency locations.

11 AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

12 HEALTHCARE RESEARCH AND QUALITY

13 (INCLUDING TRANSFER OF FUNDS)

14 For an additional amount for "Healthcare Research
15 and Quality" to carry out titles III and IX of the Public
16 Health Service Act, part A of title XI of the Social Secu-
17 rity Act, and section 1013 of the Medicare Prescription
18 Drug, Improvement, and Modernization Act of 2003,
19 $700,000,000 for comparative effectiveness research,
20 which shall remain available through September 30, 2010:
21 *Provided,* That of the amount appropriated in this para-
22 graph, $400,000,000 shall be transferred to the Office of
23 the Director of the National Institutes of Health ("Office
24 of the Director") to conduct or support comparative effec-
25 tiveness research: *Provided further,* That funds transferred
26 to the Office of the Director may be transferred to the

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

10 In addition, $400,000,000 shall be available for com-
11 parative effectiveness research to be allocated at the dis-
12 cretion of the Secretary of Health and Human Services
13 ("Secretary") and shall remain available through Sep-
14 tember 30, 2010: *Provided,* That the funding appropriated
15 in this paragraph shall be used to accelerate the develop-
16 ment and dissemination of research assessing the com-
17 parative effectiveness of health care treatments and strate-
18 gies, including through efforts that: (1) conduct, support,
19 or synthesize research that compares the clinical out-
20 comes, effectiveness, and appropriateness of items, serv-
21 ices, and procedures that are used to prevent, diagnose,
22 or treat diseases, disorders, and other health conditions
23 and (2) encourage the development and use of clinical reg-
24 istries, clinical data networks, and other forms of elec-
25 tronic health data that can be used to generate or obtain

1 outcomes data: *Provided further,* That the Secretary shall
2 enter into a contract with the Institute of Medicine, for
3 which no more than $1,500,000 shall be made available
4 from funds provided in this paragraph, to produce and
5 submit a report to the Congress and the Secretary by not
6 later than June 30, 2009 that includes recommendations
7 on the national priorities for comparative effectiveness re-
8 search to be conducted or supported with the funds pro-
9 vided in this paragraph and that considers input from
10 stakeholders: *Provided further,* That the Secretary shall
11 consider any recommendations of the Federal Coordi-
12 nating Council for Comparative Effectiveness Research es-
13 tablished by section 802 of this Act and any recommenda-
14 tions included in the Institute of Medicine report pursuant
15 to the preceding proviso in designating activities to receive
16 funds provided in this paragraph and may make grants
17 and contracts with appropriate entities, which may include
18 agencies within the Department of Health and Human
19 Services and other governmental agencies, as well as pri-
20 vate sector entities, that have demonstrated experience
21 and capacity to achieve the goals of comparative effective-
22 ness research: *Provided further,* That the Secretary shall
23 publish information on grants and contracts awarded with
24 the funds provided under this heading within a reasonable
25 time of the obligation of funds for such grants and con-

1 tracts and shall disseminate research findings from such
2 grants and contracts to clinicians, patients, and the gen-
3 eral public, as appropriate: *Provided further,* That, to the
4 extent feasible, the Secretary shall ensure that the recipi-
5 ents of the funds provided by this paragraph offer an op-
6 portunity for public comment on the research: *Provided*
7 *further,* That the Secretary shall provide the Committees
8 on Appropriations of the House of Representatives and the
9 Senate, the Committee on Energy and Commerce and the
10 Committee on Ways and Means of the House of Rep-
11 resentatives, and the Committee on Health, Education,
12 Labor, and Pensions and the Committee on Finance of
13 the Senate with an annual report on the research con-
14 ducted or supported through the funds provided under this
15 heading.

16 ADMINISTRATION FOR CHILDREN AND FAMILIES

17 PAYMENTS TO STATES FOR THE CHILD CARE AND

18 DEVELOPMENT BLOCK GRANT

19 For an additional amount for "Payments to States
20 for the Child Care and Development Block Grant" for car-
21 rying out the Child Care and Development Block Grant
22 Act of 1990, $2,000,000,000, which shall remain available
23 through September 30, 2010: *Provided,* That funds pro-
24 vided under this heading shall be used to supplement, not
25 supplant State general revenue funds for child care assist-

1 ance for low-income families: *Provided further,* That, in
2 addition to the amounts required to be reserved by the
3 States under section 658G of such Act, $255,186,000
4 shall be reserved by the States for activities authorized
5 under section 658G, of which $93,587,000 shall be for ac-
6 tivities that improve the quality of infant and toddler care.

7 SOCIAL SERVICES BLOCK GRANT

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

15 CHILDREN AND FAMILIES SERVICES PROGRAMS

16 For an additional amount for "Children and Families
17 Services Programs" for carrying out activities under the
18 Head Start Act, $1,000,000,000, which shall remain avail-
19 able through September 30, 2010. In addition,
20 $1,100,000,000, which shall remain available through
21 September 30, 2010, is hereby appropriated for expansion
22 of Early Head Start programs, as described in section
23 645A of such Act: *Provided,* That of the funds provided
24 in this sentence, up to 10 percent shall be available for
25 the provision of training and technical assistance to such
26 programs consistent with section 645A(g)(2) of such Act,

1 and up to 3 percent shall be available for monitoring the
2 operation of such programs consistent with section 641A
3 of such Act.

4 For an additional amount for "Children and Families
5 Services Programs" for carrying out activities under sec-
6 tions 674 through 679 of the Community Services Block
7 Grant Act, $200,000,000, which shall remain available
8 through September 30, 2010: *Provided,* That of the funds
9 provided under this paragraph, no part shall be subject
10 to paragraph (3) of section 674(b) of such Act.

11 ADMINISTRATION ON AGING

12 AGING SERVICES PROGRAMS

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

19 OFFICE OF THE SECRETARY

20 OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH
21 INFORMATION TECHNOLOGY

22 (INCLUDING TRANSFER OF FUNDS)

23 For an additional amount for "Office of the National
24 Coordinator for Health Information Technology",
25 $5,000,000,000, to carry out title XIII of this Act which
26 shall be available until expended: *Provided,* That of this

1 amount, the Secretary of Health and Human Services
2 shall transfer $20,000,000 to the Director of the National
3 Institute of Standards and Technology in the Department
4 of Commerce for continued work on advancing health care
5 information enterprise integration through activities such
6 as technical standards analysis and establishment of con-
7 formance testing infrastructure so long as such activities
8 are coordinated with the Office of the National Coordi-
9 nator for Health Information Technology: *Provided fur-*
10 *ther,* That funds available under this heading shall become
11 available for obligation only upon submission of an annual
12 operating plan by the Secretary to the Committees on Ap-
13 propriations of the House of Representatives and the Sen-
14 ate: *Provided further,* That the Secretary shall provide to
15 the Committees on Appropriations of the House of Rep-
16 resentatives and the Senate a report on the actual obliga-
17 tions, expenditures, and unobligated balances for each
18 major set of activities not later than November 1, 2009
19 and every 6 months thereafter as long as funding under
20 this heading is available for obligation or expenditure.

21 OFFICE OF THE INSPECTOR GENERAL

22 For an additional amount for the Office of the In-
23 spector General, $4,000,000 which shall remain available
24 until September 30, 2011.

1 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY
2 FUND
3 (INCLUDING TRANSFER OF FUNDS)
4 For an additional amount for the "Public Health and
5 Social Services Emergency Fund" to carry out a program
6 of grants, contracts, and cooperative agreements to fund
7 projects and activities to reduce the incidence or severity
8 of preventable disabilities, diseases and conditions and to
9 invest in health workforce training, $5,800,000,000, to re-
10 main available through September 30, 2011: *Provided,*
11 That the amount made available in this paragraph may
12 be transferred to another appropriation account of the De-
13 partment of Health and Human Services ("HHS"), as de-
14 termined by the Secretary of Health and Human Services
15 to be appropriate and upon notification of the Committees
16 on Appropriations of the House of Representatives and the
17 Senate, to be used for the purposes specified in this para-
18 graph, and the provisos of this paragraph shall apply to
19 any funds so transferred: *Provided further,* That of the
20 amount provided in this paragraph, not less than
21 $1,000,000,000 shall be transferred to the Centers for
22 Disease Control and Prevention ("CDC") as an additional
23 amount for screening activities related to preventable dis-
24 abilities and chronic diseases and conditions, including
25 counseling to prevent and mitigate the precursors of those
26 disorders: *Provided further,* That of the amount provided

1 in this paragraph, not less than $750,000,000 shall be
2 transferred to the CDC as an additional amount to carry
3 out the immunization program authorized by section
4 317(a), (j), and (k)(1) of the Public Health Service Act
5 ("PHS Act"): *Provided further,* That of the amount pro-
6 vided in this paragraph, not less than $600,000,000 shall
7 be transferred to the Health Resources and Services Ad-
8 ministration as an additional amount to address health
9 professions workforce shortages through scholarships, loan
10 repayment, grants to training programs for equipment
11 and activities to foster cross-state licensure agreements,
12 authorized under sections 330 through 338, 737, 738, and
13 846 of the PHS Act, of which $200,000,000 shall be avail-
14 able until expended for extending service contracts and the
15 recapture and reallocation of funds in the event that a
16 participant fails to fulfill their term of service: *Provided*
17 *further,* That of the amount provided in this paragraph,
18 $400,000,000 shall be transferred to the CDC as an addi-
19 tional amount for the Healthy Communities program,
20 which shall be used for multi-year awards: *Provided fur-*
21 *ther,* That of the amount provided under this heading, not
22 less than $400,000,000 shall be transferred to the CDC
23 for an additional amount for the screening and prevention
24 of sexually-transmitted diseases, including HIV: *Provided*
25 *further,* That of the amount provided in this paragraph,

1 not less than $75,000,000 shall be for smoking cessation
2 activities, including laboratory testing and equipment:
3 *Provided further,* That of the amount provided in this
4 paragraph, not less than $60,000,000 shall be made avail-
5 able for additional research, data collection and surveys
6 relating to prevention science and the current state of
7 health, including equipment: *Provided further,* That of the
8 amount provided in this paragraph, $40,000,000 shall be
9 transferred to the CDC for information technology im-
10 provements to vital statistics record systems, including
11 grants to State health departments for equipment: *Pro-*
12 *vided further,* That of the amount provided in this para-
13 graph, $15,000,000 shall be made available for grants to
14 States for equipment and maintenance related to newborn
15 screening: *Provided further,* That not less than 1 percent
16 of the amount provided in this paragraph shall be avail-
17 able for evaluation of the activities supported by the
18 amounts provided in this paragraph: *Provided further,*
19 That up to 1 percent of amounts made available in this
20 paragraph may be used for administrative expenses in the
21 office or division of HHS administering the funds: *Pro-*
22 *vided further,* That the transfers required by this para-
23 graph shall be completed within 30 days of enactment of
24 this Act: *Provided further,* That the Secretary shall submit
25 reports to the Committees on Appropriations of the House

1 of Representatives and the Senate detailing the following
2 information on the amounts appropriated in this para-
3 graph: (1) an operating plan detailing activities to be sup-
4 ported and timelines for expenditure, to be submitted no
5 later than 120 days after the enactment of this Act; (2)
6 15 day prior notification of any funds to be obligated prior
7 to the submission of the operating plan; (3) an obligation
8 and expenditure report to be submitted quarterly until all
9 funds are fully expended; (4) a briefing 15 days prior to
10 any new grant solicitation; (5) an evaluation plan that de-
11 tails the manner in which the Secretary intends to evalu-
12 ate the outcomes of activities supported, to be submitted
13 120 days after enactment of this Act; (6) an outcomes
14 report on all activities supported, to be submitted 1 year
15 after enactment and every 6 months thereafter until all
16 funds have been expended; and (7) a report on best prac-
17 tices to be submitted 18 months after enactment and every
18 6 months thereafter until all funds have been expended.
19 For an additional amount for the "Public Health and
20 Social Services Emergency Fund" to prepare for and re-
21 spond to an influenza pandemic, $870,000,000, for activi-
22 ties including the development and purchase of vaccine,
23 antivirals, necessary medical supplies, diagnostics, and
24 other surveillance tools which shall be available until ex-
25 pended: *Provided,* That products purchased with these

1 funds may, at the discretion of the Secretary, be deposited
2 in the Strategic National Stockpile: *Provided further,* That
3 notwithstanding section 496(b) of the Public Health Serv-
4 ice Act, funds may be used for the construction or renova-
5 tion of privately owned facilities for the production of pan-
6 demic influenza vaccines and other biologics, where the
7 Secretary finds such a contract necessary to secure suffi-
8 cient supplies of such vaccines or biologics: *Provided fur-*
9 *ther,* That funds appropriated herein may be transferred
10 to other appropriation accounts of the Department of
11 Health and Human Services, as determined by the Sec-
12 retary to be appropriate, to be used for the purposes speci-
13 fied in this sentence.

14 DEPARTMENT OF EDUCATION

15 EDUCATION FOR THE DISADVANTAGED

16 For an additional amount for carrying out title I of
17 the Elementary and Secondary Education Act of 1965,
18 $13,000,000,000, which shall be available through Sep-
19 tember 30, 2010: *Provided,* That $5,500,000,000 shall be
20 for targeted grants under section 1125, $5,500,000,000
21 shall be for education finance incentive grants under sec-
22 tion 1125A, and $2,000,000,000 shall be for school im-
23 provement grants under section 1003(g): *Provided further,*
24 That each local educational agency receiving funds avail-
25 able under this paragraph for sections 1125 and 1125A

1 shall use not less than 15 percent of such funds for activi-
2 ties serving children who are eligible pursuant to section
3 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K):
4 *Provided further*, That each local educational agency re-
5 ceiving funds available under this paragraph shall be re-
6 quired to file with the State educational agency, no later
7 than December 1, 2009, a school-by-school listing of per-
8 pupil educational expenditures from State and local
9 sources during the 2008–2009 academic year.

10 SCHOOL IMPROVEMENT PROGRAMS

11 For an additional amount for "School Improvement
12 Programs," $17,070,000,000, which shall be available
13 through September 30, 2010, for carrying out activities
14 authorized by part D of title II of the Elementary and
15 Secondary Education Act of 1965, subtitle B of title VII
16 of the McKinney-Vento Homeless Assistance Act
17 ("McKinney-Vento"), and section 804 of this Act: *Pro-*
18 *vided,* That the Secretary shall allot $70,000,000 for
19 grants under McKinney-Vento to each State in proportion
20 to the number of homeless students identified by the State
21 during the 2007–2008 school year relative to the number
22 of such children identified nationally during that school
23 year: *Provided further,* That State educational agencies
24 shall subgrant the McKinney-Vento funds to local edu-
25 cational agencies on a competitive basis or according to

1 a formula based on the number of homeless students iden-
2 tified by the local educational agencies in the State: *Pro-*
3 *vided further,* That the Secretary shall distribute the
4 McKinney-Vento funds to the States not later than 60
5 days after the date of the enactment of this Act: *Provided*
6 *further,* That each State shall subgrant the McKinney-
7 Vento funds to local educational agencies not later than
8 120 days after receiving its grant from the Secretary.

9 SPECIAL EDUCATION

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

1 able for that activity during fiscal year 2008, increased
2 by the amount of inflation as specified in section
3 619(d)(2)(B), or the percentage increase in the funds ap-
4 propriated under section 611(i): *Provided further*, That
5 each local educational agency receiving funds available
6 under this paragraph shall use not less than 15 percent
7 for special education and related services to children de-
8 scribed in section 619(a) of the IDEA.

9 REHABILITATION SERVICES AND DISABILITY RESEARCH

10 For an additional amount for "Rehabilitation Serv-
11 ices and Disability Research" for providing grants to
12 States to carry out the Vocational Rehabilitation Services
13 program under part B of title I and parts B and C of
14 chapter 1 and chapter 2 of title VII of the Rehabilitation
15 Act of 1973, $610,000,000, which shall remain available
16 through September 30, 2010: *Provided*, That
17 $500,000,000 shall be available for part B of title I of
18 the Rehabilitation Act: *Provided further*, That funds pro-
19 vided herein shall not be considered in determining the
20 amount required to be appropriated under section
21 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal
22 year: *Provided further*, That, notwithstanding section
23 7(14)(A), the Federal share of the costs of vocational re-
24 habilitation services provided with the funds provided
25 herein shall be 100 percent.

1 STUDENT FINANCIAL ASSISTANCE

2 For an additional amount for "Student Financial As-
3 sistance" to carry out subpart 1 of part A of title IV of
4 the Higher Education Act of 1965, $13,869,000,000: *Pro-*
5 *vided,* That such funds shall be used to increase the max-
6 imum Pell Grant by $281 for award year 2009–2010, to
7 increase the maximum Pell Grant by $400 for the award
8 year 2010–2011, and to reduce or eliminate the Pell Grant
9 shortfall: *Provided further,* That these funds shall remain
10 available through September 30, 2011.

11 For an additional amount for "Student Financial As-
12 sistance" to carry out part E of title IV of the Higher
13 Education Act of 1965, $61,000,000: *Provided,* That
14 these funds shall remain available through September 30,
15 2010.

16 HIGHER EDUCATION

17 For an additional amount for "Higher Education"
18 for carrying out activities under part A of title II of the
19 Higher Education Act of 1965, $100,000,000: *Provided,*
20 That these funds shall remain available through Sep-
21 tember 30, 2010.

22 HIGHER EDUCATION FACILITIES

23 For carrying out activities authorized under section
24 803 of this Act, $3,500,000,000: *Provided,* That these
25 funds shall remain available through September 30, 2010.

1 DEPARTMENTAL MANAGEMENT

2 OFFICE OF THE INSPECTOR GENERAL

3 For an additional amount for the "Office of the In-
4 spector General", $4,000,000, which shall remain avail-
5 able through September 30, 2012, for salaries and ex-
6 penses necessary for oversight and audit of programs,
7 grants, and projects funded in this Act and administered
8 by the Department of Education.

9 RELATED AGENCIES

10 CORPORATION FOR NATIONAL AND
11 COMMUNITY SERVICE

12 OPERATING EXPENSES

13 (INCLUDING TRANSFER OF FUNDS)

14 For an additional amount for "Operating Expenses"
15 to carry out the Domestic Volunteer Service Act of 1973
16 ("1973 Act") and the National and Community Service
17 Act of 1990 ("1990 Act"), $160,000,000, to remain avail-
18 able through September 30, 2010: *Provided,* That funds
19 made available in this paragraph may be used to provide
20 adjustments to awards under subtitle C of title I of the
21 1990 Act made prior to September 30, 2010 for which
22 the Chief Executive Officer of the Corporation for Na-
23 tional and Community Service ("CEO") determines that
24 a waiver of the Federal share limitation is warranted
25 under section 2521.70 of title 45 of the Code of Federal

1 Regulations: *Provided further,* That of the amount made
2 available in this paragraph, not less than $6,000,000 shall
3 be transferred to "Salaries and Expenses" for necessary
4 expenses relating to information technology upgrades:
5 *Provided further,* That of the amount provided in this
6 paragraph, $10,000,000 shall be available for additional
7 members in the Civilian Community Corps authorized
8 under subtitle E of title I of the 1990 Act: *Provided fur-*
9 *ther,* That of the amount provided in this paragraph,
10 $1,000,000 shall be made available for a one-time supple-
11 ment grant to State commissions on national and commu-
12 nity service under section 126(a) of the 1990 Act without
13 regard to the limitation on Federal share under section
14 126(a)(2) of the 1990 Act: *Provided further,* That of the
15 amount made available in this paragraph, not less than
16 $13,000,000 shall be for research activities authorized
17 under subtitle H of title I of the 1990 Act: *Provided fur-*
18 *ther,* That of the amount made available in this paragraph,
19 not less than $65,000,000 shall be for programs under
20 title I, part A of the 1973 Act: *Provided further,* That
21 funds provided in the previous proviso shall not be made
22 available in connection with cost-share agreements author-
23 ized under section 192A(g)(10) of the 1990 Act: *Provided*
24 *further*, That of the funds available under this heading,
25 up to 20 percent of funds allocated to grants authorized

1 under section 124(b) of title I, subtitle C of the 1990 Act
2 may be used to administer, reimburse, or support any na-
3 tional service program under section 129(d)(2) of the
4 1990 Act: *Provided further,* That, except as provided here-
5 in and in addition to requirements identified herein, funds
6 provided in this paragraph shall be subject to the terms
7 and conditions under which funds were appropriated in
8 fiscal year 2008: *Provided further,* That the CEO shall
9 provide the Committees on Appropriations of the House
10 of Representatives and the Senate a fiscal year 2009 oper-
11 ating plan for the funds appropriated in this paragraph
12 prior to making any Federal obligations of such funds in
13 fiscal year 2009, but not later than 90 days after the date
14 of enactment of this Act, and a fiscal year 2010 operating
15 plan for such funds prior to making any Federal obliga-
16 tions of such funds in fiscal year 2010, but not later than
17 November 1, 2009, that detail the allocation of resources
18 and the increased number of members supported by the
19 AmeriCorps programs: *Provided further,* That the CEO
20 shall provide to the Committees on Appropriations of the
21 House of Representatives and the Senate a report on the
22 actual obligations, expenditures, and unobligated balances
23 for each activity funded under this heading not later than
24 November 1, 2009, and every 6 months thereafter as long

1 as funding provided under this heading is available for ob-
2 ligation or expenditure.

3 NATIONAL SERVICE TRUST

4 (INCLUDING TRANSFER OF FUNDS)

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

1 SOCIAL SECURITY ADMINISTRATION

2 LIMITATION ON ADMINISTRATIVE EXPENSES

3 (INCLUDING TRANSFER OF FUNDS)

4 For an additional amount for "Limitation on Admin-
5 istrative Expenses", $890,000,000 shall be available as
6 follows:

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

19 (2) $140,000,000 shall be available through
20 September 30, 2010 for information technology ac-
21 quisitions and research, which may include research
22 and activities to facilitate the adoption of electronic
23 medical records in disability claims and the transfer
24 of funds to "Supplemental Security Income" to
25 carry out activities under section 1110 of the Social

1 Security Act: *Provided further,* That not later than
2 10 days prior to the obligation of such funds, the
3 Commissioner shall provide to the Committees on
4 Appropriations of the House of Representatives and
5 the Senate an operating plan describing the planned
6 uses of such funds.

7 OFFICE OF INSPECTOR GENERAL

8 For an additional amount for the "Office of Inspector
9 General", $3,000,000, which shall remain available
10 through September 30, 2012, for salaries and expenses
11 necessary for oversight and audit of programs, projects,
12 and activities funded in this Act and administered by the
13 Social Security Administration.

14 GENERAL PROVISIONS—THIS TITLE

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

21 **"SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE**
22 **MINIMUM WAGE INCREASES.**

23 "(a) STUDY.—Beginning on the date that is 60 days
24 after the date of enactment of this Act, and every year
25 thereafter until the minimum wage in the respective terri-

1 (1) assist the offices and agencies of the Fed-
2 eral Government, including the Departments of
3 Health and Human Services, Veterans Affairs, and
4 Defense, and other Federal departments or agencies,
5 to coordinate the conduct or support of comparative
6 effectiveness and related health services research;
7 and
8 (2) advise the President and Congress on—
9 (A) strategies with respect to the infra-
10 structure needs of comparative effectiveness re-
11 search within the Federal Government;
12 (B) appropriate organizational expendi-
13 tures for comparative effectiveness research by
14 relevant Federal departments and agencies; and
15 (C) opportunities to assure optimum co-
16 ordination of comparative effectiveness and re-
17 lated health services research conducted or sup-
18 ported by relevant Federal departments and
19 agencies, with the goal of reducing duplicative
20 efforts and encouraging coordinated and com-
21 plementary use of resources.
22 (c) MEMBERSHIP.—
23 (1) NUMBER AND APPOINTMENT.—The Council
24 shall be composed of not more than 15 members, all
25 of whom are senior Federal officers or employees

1 with responsibility for health-related programs, ap-
2 pointed by the President, acting through the Sec-
3 retary of Health and Human Services (in this sec-
4 tion referred to as the "Secretary"). Members shall
5 first be appointed to the Council not later than 30
6 days after the date of the enactment of this Act.
7 (2) MEMBERS.—
8 (A) IN GENERAL.—The members of the
9 Council shall include one senior officer or em-
10 ployee from each of the following agencies:
11 (i) The Agency for Healthcare Re-
12 search and Quality.
13 (ii) The Centers for Medicare and
14 Medicaid Services.
15 (iii) The National Institutes of
16 Health.
17 (iv) The Office of the National Coor-
18 dinator for Health Information Tech-
19 nology.
20 (v) The Food and Drug Administra-
21 tion.
22 (vi) The Veterans Health Administra-
23 tion within the Department of Veterans
24 Affairs.

1 (vii) The office within the Department
2 of Defense responsible for management of
3 the Department of Defense Military
4 Health Care System.
5 (B) QUALIFICATIONS.—At least half of the
6 members of the Council shall be physicians or
7 other experts with clinical expertise.
8 (3) CHAIRMAN; VICE CHAIRMAN.—The Sec-
9 retary shall serve as Chairman of the Council and
10 shall designate a member to serve as Vice Chairman.
11 (d) REPORTS.—
12 (1) INITIAL REPORT.—Not later than June 30,
13 2009, the Council shall submit to the President and
14 the Congress a report containing information de-
15 scribing Federal activities on comparative effective-
16 ness research and recommendations for additional
17 investments in such research conducted or supported
18 from funds made available for allotment by the Sec-
19 retary for comparative effectiveness research in this
20 Act.
21 (2) ANNUAL REPORT.—The Council shall sub-
22 mit to the President and Congress an annual report
23 regarding its activities and recommendations con-
24 cerning the infrastructure needs, appropriate organi-
25 zational expenditures and opportunities for better

1 coordination of comparative effectiveness research by
2 relevant Federal departments and agencies.
3 (e) STAFFING; SUPPORT.—From funds made avail-
4 able for allotment by the Secretary for comparative effec-
5 tiveness research in this Act, the Secretary shall make
6 available not more than 1 percent to the Council for staff
7 and administrative support.
8 SEC. 803. HIGHER EDUCATION MODERNIZATION,
9 RENOVATION, AND REPAIR. (a) PURPOSE.—Grants
10 awarded under this section shall be for the purpose of
11 modernizing, renovating, and repairing institution of high-
12 er education facilities that are primarily used for instruc-
13 tion and research.
14 Funds may also be used for leasing, purchasing or
15 upgrading equipment, designed to strengthen and support
16 academic and technical skill achievement.
17 (b) GRANTS TO STATE HIGHER EDUCATION AGEN-
18 CIES.—
19 (1) FORMULA.—From the amounts appro-
20 priated to carry out this section, the Secretary of
21 Education shall allocate funds to State higher edu-
22 cation agencies based on the number of students at-
23 tending institutions of higher education, with the
24 State higher education agency in each State receiv-
25 ing an amount that is in proportion to the number

1 of full-time equivalent undergraduate students at-
2 tending institutions of higher education in such
3 State for the most recent fiscal year for which there
4 are data available, relative to the total number of
5 full-time equivalent undergraduate students attend-
6 ing institutions of higher education in all States for
7 such fiscal year.

8 (2) APPLICATION.—To be eligible to receive an
9 allocation from the Secretary under paragraph (1),
10 a State higher education agency shall submit an ap-
11 plication to the Secretary at such time and in such
12 manner as the Secretary may reasonably require.

13 (3) REALLOCATION.—Amounts allocated to a
14 State higher education agency under this section
15 that are not obligated by such agency within 12
16 months of the date the agency receives such
17 amounts shall be returned to the Secretary, and the
18 Secretary shall reallocate such amounts to State
19 higher education agencies in other States on the
20 same basis as the original allocations under para-
21 graph (1).

22 (4) ADMINISTRATION AND OVERSIGHT EX-
23 PENSES.—From the amounts appropriated to carry
24 out this section, not more than $3,000,000 shall be
25 available to the Secretary for administrative and

1 oversight expenses related to carrying out this sec-
2 tion.
3 (c) USE OF GRANTS BY STATE HIGHER EDUCATION
4 AGENCIES.—
5 (1) SUBGRANTS TO INSTITUTIONS OF HIGHER
6 EDUCATION.—
7 (A) IN GENERAL.—Except as provided in
8 paragraph (2), each State higher education
9 agency receiving an allocation under subsection
10 (b)(1) shall use the amount allocated to award
11 subgrants to institutions of higher education
12 within the State to carry out projects in accord-
13 ance with subsection (d)(1).
14 (B) SUBGRANT AWARD ALLOCATION.—A
15 State higher education agency shall award sub-
16 grants to institutions of higher education under
17 this section based on the demonstrated need of
18 each institution for facility modernization, ren-
19 ovation, repair, and equipment.
20 (C) COMMUNITY COLLEGES.—Notwith-
21 standing, subparagraph (B), the percentage of
22 funds allocated to community colleges in each
23 State shall be no less than the percentage of
24 full-time equivalent students attending commu-
25 nity colleges relative to the total number of full-

1 time equivalent undergraduate students attend-
2 ing public institutions of higher education in
3 the State.
4 (D) PRIORITY CONSIDERATIONS.—In
5 awarding subgrants under this section, each
6 State higher education agency shall give pri-
7 ority consideration to institutions of higher edu-
8 cation with any of the following characteristics:
9 (i) The institution is eligible for Fed-
10 eral assistance under title III or title V of
11 the Higher Education Act of 1965.
12 (ii) The institution was impacted by a
13 major disaster or emergency declared by
14 the President (as defined in section 102(2)
15 of the Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act (42 U.S.C.
17 5122(2))), including an institution affected
18 by a Gulf hurricane disaster, as such term
19 is defined in section 824(g)(1) of the High-
20 er Education Act of 1965 (20 U.S.C.
21 11611–3(g)(1)).
22 (iii) The institution demonstrates that
23 the proposed project or projects to be car-
24 ried out with a subgrant under this section
25 will increase the energy efficiency of the in-

1 stitution's facilities and comply with the
2 LEED Green Building Rating System.
3 (2) ADMINISTRATIVE AND OVERSIGHT EX-
4 PENSES.—Of the allocation amount received under
5 subsection (b)(1), a State higher education agency
6 may reserve not more than 5 percent of such
7 amount, or $500,000, whichever is less, for adminis-
8 trative and oversight expenses related to carrying
9 out this section.
10 (d) USE OF SUBGRANTS BY INSTITUTIONS OF HIGH-
11 ER EDUCATION.—
12 (1) PERMISSIBLE USES OF FUNDS.—An institu-
13 tion of higher education receiving a subgrant under
14 this section shall use such subgrant to modernize,
15 renovate, or repair facilities of the institution that
16 are primarily used for instruction, research, or stu-
17 dent housing, which may include any of the fol-
18 lowing:
19 (A) Repair, replacement, or installation of
20 roofs, electrical wiring, plumbing systems, sew-
21 age systems, or lighting systems.
22 (B) Repair, replacement, or installation of
23 heating, ventilation, or air conditioning systems
24 (including insulation).

1 (C) Compliance with fire and safety codes,
2 including—
3 (i) professional installation of fire or
4 life safety alarms; and
5 (ii) modernizations, renovations, and
6 repairs that ensure that the institution's
7 facilities are prepared for emergencies,
8 such as improving building infrastructure
9 to accommodate security measures.
10 (D) Retrofitting necessary to increase the
11 energy efficiency of the institution's facilities.
12 (E) Renovations to the institution's facili-
13 ties necessary to comply with accessibility re-
14 quirements in the Americans with Disabilities
15 Act of 1990 (42 U.S.C. 12101 et seq.) and sec-
16 tion 504 of the Rehabilitation Act of 1973 (29
17 U.S.C. 794).
18 (F) Abatement or removal of asbestos from
19 the institution's facilities.
20 (G) Modernization, renovation, and repair
21 relating to improving science and engineering
22 laboratories, libraries, and instructional facili-
23 ties.
24 (H) Upgrading or installation of edu-
25 cational technology infrastructure.

1 (I) Installation or upgrading of renewable
2 energy generation and heating systems, includ-
3 ing solar, photovoltaic, wind, biomass (including
4 wood pellet), or geothermal systems, or compo-
5 nents of such systems.
6 (J) Other modernization, renovation, or re-
7 pair projects or purchase of equipment that are
8 primarily for instruction or research.
9 (2) PROHIBITED USES OF FUNDS.—No funds
10 awarded under this section may be used for—
11 (A) the maintenance of systems, equip-
12 ment, or facilities, including maintenance asso-
13 ciated with any permissible uses of funds de-
14 scribed in paragraph (1);
15 (B) modernization, renovation, or repair of
16 stadiums or other facilities primarily used for
17 athletic contests or exhibitions or other events
18 for which admission is charged to the general
19 public;
20 (C) modernization, renovation, or repair of
21 facilities—
22 (i) used for sectarian instruction, reli-
23 gious worship, or a school or department
24 of divinity; or

1 (ii) in which a substantial portion of
2 the functions of the facilities are subsumed
3 in a religious mission; or
4 (D) construction of new facilities.
5 (e) APPLICATION OF GEPA.—The grant program au-
6 thorized in this section is an applicable program (as that
7 term is defined in section 400 of the General Education
8 Provisions Act (20 U.S.C. 1221)) subject to section 439
9 of such Act (20 U.S.C. 1232b). The Secretary shall, not-
10 withstanding section 437 of such Act (20 U.S.C. 1232)
11 and section 553 of title 5, United States Code, establish
12 such program rules as may be necessary to implement
13 such grant program by notice in the Federal Register.
14 (f) REPORTING.—
15 (1) REPORTS BY INSTITUTIONS.—Not later
16 than September 30, 2011, each institution of higher
17 education receiving a subgrant under this section
18 shall submit to the State higher education agency
19 awarding such subgrant a report describing the
20 projects for which such subgrant was received, in-
21 cluding—
22 (A) a description of each project carried
23 out, or planned to be carried out, with such
24 subgrant, including the types of modernization,

1 renovation, and repair to be completed by each
2 such project;
3 (B) the total amount of funds received by
4 the institution under this section and the
5 amount of such funds expended, as of the date
6 of the report, on the such projects;
7 (C) the actual or planned cost of each such
8 project and any demonstrable or expected aca-
9 demic, energy, or environmental benefits result-
10 ing from such project; and
11 (D) the total number of contracts, and
12 amount of funding for such contracts, awarded
13 by the institution to carry out such projects, as
14 of the date of such report, including the num-
15 ber of contracts, and amount of funding for
16 such contracts, awarded to local, small, minor-
17 ity-owned, women-owned, and veteran-owned
18 businesses, as such terms are defined by the
19 Small Business Act.
20 (2) REPORTS BY STATES.—Not later than De-
21 cember 31, 2011, each State higher education agen-
22 cy receiving a grant under this section shall submit
23 to the Secretary a report containing a compilation of
24 all of the reports under paragraph (1) submitted to
25 the agency by institutions of higher education.

1 (3) REPORTS BY THE SECRETARY.—Not later
2 than March 31, 2012, the Secretary shall submit to
3 the Committee on Education and Labor in the
4 House of Representatives and the Committee on
5 Health, Education, Labor, and Pensions in the Sen-
6 ate and Committees on Appropriations of the House
7 of Representatives and the Senate a report on
8 grants and subgrants made under this section, in-
9 cluding the information described in paragraph (1).
10 (g) DEFINITIONS.—In this section:
11 (1) INSTITUTION OF HIGHER EDUCATION.—The
12 term "institution of higher education" has the
13 meaning given such term in section 101 of the High-
14 er Education Act of 1965.
15 (2) LEED GREEN BUILDING RATING SYS-
16 TEM.—The term "LEED Green Building Rating
17 System" means the United States Green Building
18 Council Leadership in Energy and Environmental
19 Design green building rating standard referred to as
20 the LEED Green Building Rating System.
21 (3) SECRETARY.—The term "Secretary" means
22 the Secretary of Education.
23 (4) STATE.—The term "State" has the mean-
24 ing given such term in section 103 of the Higher
25 Education Act of 1965 (20 U.S.C. 1003).

1 (5) STATE HIGHER EDUCATION AGENCY.—The
2 term "State higher education agency" has the mean-
3 ing given such term in section 103 of the Higher
4 Education Act of 1965 (20 U.S.C. 1003).
5 (6) COMMUNITY COLLEGE.—The term "Com-
6 munity College" means a public non-profit institu-
7 tion of higher education as defined in section 101(a)
8 of the Higher Education Act, whose highest degree
9 offered is predominantly the associate degree.
10 SEC. 804. GRANTS FOR SCHOOL RENOVATION, RE-
11 PAIR, AND CONSTRUCTION. (a) ALLOCATION OF FUNDS.—
12 (1) RESERVATIONS.—
13 (A) OUTLYING AREAS AND BUREAU OF IN-
14 DIAN EDUCATION.—From the funds appro-
15 priated to carry out this section, the Secretary
16 shall reserve 1 percent to provide assistance
17 under this section to the outlying areas and for
18 payments to the Secretary of the Interior to
19 provide assistance consistent with this section
20 to schools funded by the Bureau of Indian Edu-
21 cation. Funds reserved under this subparagraph
22 shall be distributed by the Secretary among the
23 outlying areas and the Secretary of the Interior
24 on the basis of relative need, as determined by

1 the Secretary, in accordance with the purposes
2 of this section.
3 (B) IMPACT AID SCHOOLS.—
4 (i) IN GENERAL.—From the funds ap-
5 propriated to carry out this section, the
6 Secretary shall reserve 2 percent to make
7 payments and award grants to local edu-
8 cational agencies under section 8007 of the
9 Elementary and Secondary Education Act
10 of 1965 (20 U.S.C. 7707).
11 (ii) CONSTRUCTION PAYMENTS AU-
12 THORIZED.—
13 (I) IN GENERAL.—From 40 per-
14 cent of the amount reserved under
15 clause (i), the Secretary shall make
16 payments in accordance with section
17 8007(a) of the Elementary and Sec-
18 ondary Education Act of 1965 (20
19 U.S.C. 7707(a)), except that the
20 amount of such payments shall be de-
21 termined in accordance with subclause
22 (II).
23 (II) AMOUNT OF PAYMENTS.—
24 The Secretary shall make a payment
25 to each local educational agency eligi-

1 ble for a payment under section
2 8007(a) of the Elementary and Sec-
3 ondary Education Act of 1965 (20
4 U.S.C. 7707(a)) in an amount that
5 bears the same relationship to the
6 funds made available under subclause
7 (I) as the number of children deter-
8 mined under subparagraphs (B), (C),
9 and (D)(i) of section 8003(a)(1) of
10 the Elementary and Secondary Edu-
11 cation Act of 1965 (20 U.S.C.
12 7703(a)(1)(B), (C), and (D)(i)) who
13 were in average daily attendance in
14 the local educational agency for the
15 most recent year for which such infor-
16 mation is available bears to the num-
17 ber of such children in all the local
18 educational agencies eligible for a pay-
19 ment under section 8007(a) of the El-
20 ementary and Secondary Education
21 Act of 1965 (20 U.S.C. 7707(a)).
22 (iii) SCHOOL FACILITY EMERGENCY
23 AND MODERNIZATION GRANTS AUTHOR-
24 IZED.—

1 (I) IN GENERAL.—From 60 per-
2 cent of the amount reserved under
3 clause (i), the Secretary—
4 (aa) shall award emergency
5 grants in accordance with section
6 8007(b) of the Elementary and
7 Secondary Education Act of
8 1965 (20 U.S.C. 7703(b)) to eli-
9 gible local educational agencies to
10 enable the agencies to carry out
11 emergency repairs of school fa-
12 cilities; and
13 (bb) may award moderniza-
14 tion grants in accordance with
15 section 8007(b) of the Elemen-
16 tary and Secondary Education
17 Act of 1965 (20 U.S.C. 7703(b))
18 to eligible local educational agen-
19 cies to enable the agencies to
20 carry out the modernization of
21 school facilities.
22 (II) PROVISIONS NOT TO
23 APPLY.—Paragraphs (2), (3), (4),
24 (5)(A)(i), and (5)(A)(vi) of section
25 8007(b) of the Elementary and Sec-

1 ondary Education Act of 1965 (20
2 U.S.C. 7703(b)(2), (3), (4), (5)(A)(i),
3 and (5)(A)(vi)) shall not apply to
4 grants made under this clause.
5 (III) ELIGIBILITY.—A local edu-
6 cational agency is eligible to receive a
7 grant under this clause if the local
8 educational agency—
9 (aa) is eligible to receive a
10 payment under section 8002 or
11 8003 of the Elementary and Sec-
12 ondary Education Act of 1965
13 (20 U.S.C. 7702 and 7703) for
14 fiscal year 2008; and
15 (bb) has—
16 (AA) a total taxable as-
17 sessed value of real property
18 that may be taxed for school
19 purposes of less than
20 $100,000,000; or
21 (BB) an assessed value
22 of real property per student
23 that may be taxed for school
24 purposes that is less than
25 the average of the assessed

1 value of real property per
2 student that may be taxed
3 for school purposes in the
4 State in which the local edu-
5 cational agency is located.
6 (IV) CRITERIA FOR GRANTS.—In
7 awarding grants under this clause, the
8 Secretary shall consider the following
9 criteria:
10 (aa) Whether the facility
11 poses a health or safety threat to
12 students and school personnel,
13 including noncompliance with
14 building codes and inaccessibility
15 for persons with disabilities, or
16 whether the existing building ca-
17 pacity meets the needs of the
18 current enrollment and supports
19 the provision of comprehensive
20 educational services to meet cur-
21 rent standards in the State in
22 which the local educational agen-
23 cy is located.
24 (bb) The extent to which the
25 new design and proposed con-

1 struction utilize energy efficient
2 and recyclable materials.
3 (cc) The extent to which the
4 new design and proposed con-
5 struction utilizes non-traditional
6 or alternative building methods
7 to expedite construction and
8 project completion and maximize
9 cost efficiency.
10 (dd) The feasibility of
11 project completion within 24
12 months from award.
13 (ee) The availability of other
14 resources for the proposed
15 project.
16 (C) ADMINISTRATION AND OVERSIGHT.—
17 The Secretary may, in addition, reserve up to
18 $5,000,000 of the amount appropriated to carry
19 out this section for administration and over-
20 sight of this section.
21 (2) ALLOCATION TO STATE EDUCATIONAL
22 AGENCIES.—
23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), after making the reserva-
25 tions described in paragraph (1), from the re-

1 mainder of the appropriated funds described in
2 paragraph (1), the Secretary shall allocate to
3 each State educational agency serving a State
4 an amount that bears the same relation to the
5 remainder as the amount the State received
6 under part A of title I of the Elementary and
7 Secondary Education Act of 1965 (20 U.S.C.
8 6311 et seq.) for fiscal year 2008 bears to the
9 amount all States received under such part for
10 fiscal year 2008.
11 (B) MINIMUM AMOUNT.—No State edu-
12 cational agency shall receive less than 0.5 per-
13 cent of the amount allocated under this para-
14 graph.
15 (3) SPECIAL RULE.—The Secretary shall make
16 and distribute the reservations and allocations de-
17 scribed in paragraphs (1) and (2) not later than 60
18 days after the date of enactment of this Act.
19 (b) WITHIN-STATE ALLOTMENTS.—
20 (1) ADMINISTRATIVE COSTS.—
21 (A) STATE EDUCATIONAL AGENCY ADMIN-
22 ISTRATION.—Except as provided in subpara-
23 graph (C), each State educational agency may
24 reserve not more than 1 percent of its allocation
25 under subsection (a)(2) or $2,000,000, which-

1 ever is less, for the purpose of administering
2 the distribution of grants under this subsection.
3 (B) REQUIRED USES.—Each State edu-
4 cational agency shall use a portion of the re-
5 served funds under subparagraph (A) to estab-
6 lish or support a State-level database of public
7 school facility inventory, condition, design, and
8 utilization.
9 (C) STATE ENTITY ADMINISTRATION.—If a
10 State educational agency transfers funds to a
11 State entity described in paragraph (3)(A)(ii),
12 the State educational agency shall transfer to
13 such entity 0.75 percent of the amount reserved
14 under subparagraph (A) for the purpose of ad-
15 ministering the distribution of grants under this
16 subsection.
17 (2) ALLOTMENTS TO THE LOCAL EDUCATIONAL
18 AGENCIES WITH THE MOST POOR CHILDREN.—
19 (A) IN GENERAL.—
20 (i) ELIGIBLE LOCAL EDUCATIONAL
21 AGENCY.—In this subparagraph, the term
22 "eligible local educational agency" means a
23 local educational agency that is 1 of the
24 100 local educational agencies in the

1 United States that serve the most students
2 who are poor children.
3 (ii) ALLOTMENT.—Not later than 60
4 days after the date a State educational
5 agency receives an allocation from the Sec-
6 retary under this section, the State edu-
7 cational agency shall allot to each eligible
8 local educational agency in the State an
9 amount determined under clause (iii) to be
10 used consistent with subsection (c) for
11 school repair, renovation, and construction.
12 (iii) DETERMINATION OF AMOUNT.—
13 An allotment under this subparagraph to
14 an eligible local educational agency shall be
15 in an amount that bears the same relation
16 to the amount allocated to the State under
17 this section and not reserved under para-
18 graph (1), as the amount of funds under
19 part A of title I of the Elementary and
20 Secondary Education Act of 1965 (20
21 U.S.C. 6311 et seq.) that the eligible local
22 educational agency received from the State
23 for the most recent fiscal year for which
24 data is available bears to the total amount
25 of such funds received by all local edu-

1 cational agencies in the State under such
2 part for the most recent fiscal year for
3 which data is available.
4 (B) NO ELIGIBILITY FOR COMPETITIVE
5 GRANTS.—No local educational agency receiving
6 funding under subparagraph (A) shall be eligi-
7 ble for funding under paragraph (3).
8 (C) PRIORITY IN FUNDING GREEN
9 PROJECTS.—A local educational agency that re-
10 ceives funding under subparagraph (A) shall
11 give priority to funding school repair, renova-
12 tion, or construction projects that are certified,
13 verified, or consistent with any applicable provi-
14 sions of—
15 (i) the LEED Green Building Rating
16 System;
17 (ii) Energy Star;
18 (iii) the CHPS Criteria;
19 (iv) Green Globes; or
20 (v) an equivalent program adopted by
21 the State or another jurisdiction with au-
22 thority over the local educational agency.
23 (3) RESERVATION FOR COMPETITIVE SCHOOL
24 RENOVATION, REPAIR, AND CONSTRUCTION GRANTS
25 TO LOCAL EDUCATIONAL AGENCIES.—

1 (A) IN GENERAL.—After making the res-
2 ervation described in paragraph (1), from the
3 remainder of the funds allocated to a State edu-
4 cational agency under this section, the State
5 educational agency shall—
6 (i) award grants to local educational
7 agencies to be used, consistent with sub-
8 section (c), for school renovation, repair,
9 and construction; or
10 (ii) if such State educational agency is
11 not responsible for the financing of edu-
12 cation facilities, transfer such funds to the
13 State entity responsible for the financing
14 of education facilities (referred to in this
15 section as the "State entity") to award
16 grants to local educational agencies to be
17 used as described in clause (i).
18 (B) COMPETITIVE GRANTS TO LOCAL EDU-
19 CATIONAL AGENCIES.—The State educational
20 agency or State entity shall carry out a pro-
21 gram awarding grants, on a competitive basis,
22 to local educational agencies for the purpose de-
23 scribed in subparagraph (A). Of the total
24 amount allocated to the State under this section
25 and not reserved under paragraph (1), the

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

1 TITLE IX—LEGISLATIVE BRANCH

2 GOVERNMENT ACCOUNTABLIITY OFFICE

3 SALARIES AND EXPENSES

4 For an additional amount for "Salaries and Ex-
5 penses" of the Government Accountability Office,
6 $20,000,000, to remain available until September 30,
7 2010.

8 GENERAL PROVISIONS—THIS TITLE

9 SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE
10 REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

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

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

1 (commonly known as the Freedom of Information
2 Act).
3 (b) EXAMINATION OF RECORDS.—The Comptroller
4 General may examine any records related to obligations
5 of funds made available in this Act.
6 SEC. 902. ACCESS OF GOVERNMENT ACCOUNT-
7 ABILITY OFFICE. Each contract awarded using funds
8 made available in this Act shall provide that the Comp-
9 troller General and his representatives are authorized—
10 (1) to examine any records of the contractor or
11 any of its subcontractors, or any State or local agen-
12 cy administering such contract, that directly pertain
13 to, and involve transactions relating to, the contract
14 or subcontract; and
15 (2) to interview any current employee regarding
16 such transactions.

1 TITLE X—MILITARY CONSTRUCTION AND
2 VETERANS AFFAIRS, AND RELATED AGENCIES
3 DEPARTMENT OF DEFENSE
4 MILITARY CONSTRUCTION, ARMY
5 For an additional amount for "Military Construction,
6 Army", $637,875,000, to remain available until Sep-
7 tember 30, 2013, of which $84,100,000 shall be for child
8 development centers; $481,000,000 shall be for warrior
9 transition complexes; and $42,400,000 shall be for health
10 and dental clinics (including acquisition, construction, in-
11 stallation, and equipment): *Provided,* That notwith-
12 standing any other provision of law, such funds may be
13 obligated and expended to carry out planning and design
14 and military construction projects in the United States not
15 otherwise authorized by law: *Provided further,* That of the
16 funds provided under this heading, not to exceed
17 $30,375,000 shall be available for study, planning, design,
18 and architect and engineer services: *Provided further,* That
19 within 30 days of enactment of this Act the Secretary of
20 the Army shall submit to the Committees on Appropria-
21 tions of both Houses of Congress an expenditure plan for
22 funds provided under this heading prior to obligation.
23 MILITARY CONSTRUCTION, NAVY AND MARINE CORPS
24 For an additional amount for "Military Construction,
25 Navy and Marine Corps", $990,092,000, to remain avail-

1 able until September 30, 2013, of which $172,820,000
2 shall be for child development centers; $299,304,000 shall
3 be for barracks; and $494,362,000 shall be for energy con-
4 servation and alternative energy projects (including acqui-
5 sition, construction, installation, and equipment): *Pro-*
6 *vided,* That notwithstanding any other provision of law,
7 such funds may be obligated and expended to carry out
8 planning and design and military construction projects in
9 the United States not otherwise authorized by law: *Pro-*
10 *vided further,* That of the funds provided under this head-
11 ing, not to exceed $23,606,000 shall be available for study,
12 planning, design, and architect and engineer services: *Pro-*
13 *vided further,* That within 30 days of enactment of this
14 Act the Secretary of the Navy shall submit to the Commit-
15 tees on Appropriations of both Houses of Congress an ex-
16 penditure plan for funds provided under this heading prior
17 to obligation.

18 MILITARY CONSTRUCTION, AIR FORCE

19 For an additional amount for "Military Construction,
20 Air Force", $871,332,000, to remain available until Sep-
21 tember 30, 2013, of which $80,100,000 shall be for child
22 development centers; $612,246,000 shall be for dor-
23 mitories; and $138,100,000 shall be for health clinics (in-
24 cluding acquisition, construction, installation, and equip-
25 ment): *Provided,* That notwithstanding any other provi-

1 sion of law, such funds may be obligated and expended
2 to carry out planning and design and military construction
3 projects in the United States not otherwise authorized by
4 law: *Provided further,* That of the funds provided under
5 this heading, not to exceed $40,886,000 shall be available
6 for study, planning, design, and architect and engineer
7 services: *Provided further,* That within 30 days of enact-
8 ment of this Act the Secretary of the Air Force shall sub-
9 mit to the Committees on Appropriations of both Houses
10 of Congress an expenditure plan for funds provided under
11 this heading prior to obligation.

12 MILITARY CONSTRUCTION, DEFENSE-WIDE

13 For an additional amount for "Military Construction,
14 Defense-Wide", $118,560,000 for the Energy Conserva-
15 tion Investment Program, to remain available until Sep-
16 tember 30, 2010: *Provided,* That notwithstanding any
17 other provision of law, such funds may be obligated and
18 expended to carry out planning and design and military
19 construction projects in the United States not otherwise
20 authorized by law: *Provided further,* That within 30 days
21 of enactment of this Act the Secretary of Defense shall
22 submit to the Committees on Appropriations of both
23 Houses of Congress an expenditure plan for funds pro-
24 vided under this heading prior to obligation.

1 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

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

15 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

16 For an additional amount for "Military Construction,
17 Air National Guard", $110,000,000, to remain available
18 until September 30, 2013: *Provided,* That notwithstanding
19 any other provision of law, such funds may be obligated
20 and expended to carry out planning and design and mili-
21 tary construction projects in the United States not other-
22 wise authorized by law: *Provided further,* That within 30
23 days of enactment of this Act the Director of the Air Na-
24 tional Guard shall submit to the Committees on Appro-

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

3 FAMILY HOUSING CONSTRUCTION, ARMY

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

15 FAMILY HOUSING OPERATION AND MAINTENANCE,
16 ARMY

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

23 FAMILY HOUSING CONSTRUCTION, AIR FORCE

24 For an additional amount for "Family Housing Con-
25 struction, Air Force", $80,100,000, to remain available

1 until September 30, 2013: *Provided,* That notwithstanding
2 any other provision of law, such funds may be obligated
3 and expended to carry out planning and design and mili-
4 tary construction projects in the United States not other-
5 wise authorized by law: *Provided further,* That within 30
6 days of enactment of this Act the Secretary of the Air
7 Force shall submit to the Committees on Appropriations
8 of both Houses of Congress an expenditure plan for funds
9 provided under this heading prior to obligation.

10 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
11 FORCE

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

18 HOMEOWNERS ASSISTANCE FUND

19 For an additional amount for "Homeowners Assist-
20 ance Fund", established by section 1013 of the Dem-
21 onstration Cities and Metropolitan Development Act of
22 1966, as amended (42 U.S.C. 3374), $410,973,000, to re-
23 main available until expended.

1 ADMINISTRATIVE PROVISION

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

7 (1) in subsection (a)—

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

12 (B) by striking "Notwithstanding any
13 other provision of law" and inserting the fol-
14 lowing:

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

19 (C) by striking "if he determines" and in-
20 serting "if—

21 "(A) the Secretary determines—";

22 (D) in clause (iii), as redesignated by sub-
23 paragraph (A), by striking the period at the
24 end and inserting "; or"; and

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

1 "(B) the Secretary determines—
2 "(i) that the conditions in clauses (i)
3 and (ii) of subparagraph (A) have been
4 met;
5 "(ii) that the closing or realignment
6 of the base or installation resulted from a
7 realignment or closure carried out under
8 the 2005 round of defense base closure
9 and realignment under the Defense Base
10 Closure and Realignment Act of 1990
11 (part XXIX of Public Law 101–510; 10
12 U.S.C. 2687 note);
13 "(iii) that the property was purchased
14 by the owner before July 1, 2006;
15 "(iv) that the property was sold by
16 the owner between July 1, 2006, and Sep-
17 tember 30, 2012, or an earlier end date
18 designated by the Secretary;
19 "(v) that the property is the primary
20 residence of the owner; and
21 "(vi) that the owner has not pre-
22 viously received benefit payments author-
23 ized under this subsection.
24 "(2) HOMEOWNER ASSISTANCE FOR WOUNDED
25 MEMBERS OF THE ARMED FORCES, DEPARTMENT OF

1 DEFENSE AND UNITED STATES COAST GUARD CIVIL-
2 IAN EMPLOYEES, AND THEIR SPOUSES.—Notwith-
3 standing any other provision of law, the Secretary of
4 Defense is authorized to acquire title to, hold, man-
5 age, and dispose of, or, in lieu thereof, to reimburse
6 for certain losses upon private sale of, or foreclosure
7 against, any property improved with a one- or two-
8 family dwelling which was at the time of the relevant
9 wound, injury, or illness, the primary residence of—
10 "(A) any member of the Armed Forces in
11 medical transition who—
12 "(i) incurred a wound, injury, or ill-
13 ness in the line of duty during a deploy-
14 ment in support of the Armed Forces;
15 "(ii) is disabled to a degree of 30 per-
16 cent or more as a result of such wound, in-
17 jury, or illness, as determined by the Sec-
18 retary of Defense or the Secretary of Vet-
19 erans Affairs; and
20 "(iii) is reassigned in furtherance of
21 medical treatment or rehabilitation, or due
22 to medical retirement in connection with
23 such disability;

1 "(B) any civilian employee of the Depart-
2 ment of Defense or the United States Coast
3 Guard who—
4 "(i) was wounded, injured, or became
5 ill in the line of duty during a forward de-
6 ployment in support of the Armed Forces;
7 and
8 "(ii) is reassigned in furtherance of
9 medical treatment, rehabilitation, or due to
10 medical retirement resulting from the sus-
11 tained disability; or
12 "(C) the spouse of a member of the Armed
13 Forces or a civilian employee of the Department
14 of Defense or the United States Coast Guard
15 if—
16 "(i) the member or employee was
17 killed in the line of duty during a deploy-
18 ment in support of the Armed Forces or
19 died from a wound, injury, or illness in-
20 curred in the line of duty during such a
21 deployment; and
22 "(ii) the spouse relocates from such
23 residence within 2 years after the death of
24 such member or employee.

1 "(3) TEMPORARY HOMEOWNER ASSISTANCE
2 FOR MEMBERS OF THE ARMED FORCES PERMA-
3 NENTLY REASSIGNED DURING SPECIFIED MORTGAGE
4 CRISIS.—Notwithstanding any other provision of
5 law, the Secretary of Defense is authorized to ac-
6 quire title to, hold, manage, and dispose of, or, in
7 lieu thereof, to reimburse for certain losses upon pri-
8 vate sale of, or foreclosure against, any property im-
9 proved with a one- or two-family dwelling situated at
10 or near a military base or installation, if the Sec-
11 retary determines—
12 "(A) that the owner is a member of the
13 Armed Forces serving on permanent assign-
14 ment;
15 "(B) that the owner is permanently reas-
16 signed by order of the United States Govern-
17 ment to a duty station or home port outside a
18 50-mile radius of the base or installation;
19 "(C) that the reassignment was ordered
20 between February 1, 2006, and September 30,
21 2012, or an earlier end date designated by the
22 Secretary;
23 "(D) that the property was purchased by
24 the owner before July 1, 2006;

1 "(E) that the property was sold by the
2 owner between July 1, 2006, and September
3 30, 2012, or an earlier end date designated by
4 the Secretary;
5 "(F) that the property is the primary resi-
6 dence of the owner; and
7 "(G) that the owner has not previously re-
8 ceived benefit payments authorized under this
9 subsection.";
10 (2) in subsection (b), by striking "this section"
11 each place it appears and inserting "subsection
12 (a)(1)";
13 (3) in subsection (c)—
14 (A) by striking "Such persons" and insert-
15 ing the following:
16 "(1) HOMEOWNER ASSISTANCE RELATED TO
17 CLOSED MILITARY INSTALLATIONS.—
18 "(A) IN GENERAL.—Such persons";
19 (B) by striking "set forth above shall elect
20 either (1) to receive" and inserting the fol-
21 lowing: "set forth in subsection (a)(1) shall
22 elect either—
23 "(i) to receive";
24 (C) by striking "difference between (A) 95
25 per centum" and all that follows through "(B)

1 the fair market value" and inserting the fol-
2 lowing: "difference between—
3 "(I) 95 per centum of the fair
4 market value of their property (as
5 such value is determined by the Sec-
6 retary of Defense) prior to public an-
7 nouncement of intention to close all or
8 part of the military base or installa-
9 tion; and
10 "(II) the fair market value";
11 (D) by striking "time of the sale, or (2) to
12 receive" and inserting the following: "time of
13 the sale; or
14 "(ii) to receive";
15 (E) by striking "outstanding mortgages.
16 The Secretary may also pay a person who elects
17 to receive a cash payment under clause (1) of
18 the preceding sentence an amount" and insert-
19 ing "outstanding mortgages.
20 "(B) REIMBURSEMENT OF EXPENSES.—
21 The Secretary may also pay a person who elects
22 to receive a cash payment under subparagraph
23 (A) an amount"; and
24 (F) by striking "best interest of the Fed-
25 eral Government. Cash payment" and inserting

1 the following: "best interest of the United
2 States.
3 "(2) HOMEOWNER ASSISTANCE FOR WOUNDED
4 INDIVIDUALS AND THEIR SPOUSES.—
5 "(A) IN GENERAL.—Persons eligible under
6 the criteria set forth in subsection (a)(2) may
7 elect either—
8 "(i) to receive a cash payment as com-
9 pensation for losses which may be or have
10 been sustained in a private sale, in an
11 amount not to exceed the difference be-
12 tween—
13 "(I) 95 per centum of prior fair
14 market value of their property (as
15 such value is determined by the Sec-
16 retary of Defense); and
17 "(II) the fair market value of
18 such property (as such value is so de-
19 termined) at the time of the wound,
20 injury, or illness qualifying the indi-
21 vidual for benefits under subsection
22 (a)(2); or
23 "(ii) to receive, as purchase price for
24 their property an amount not to exceed 90
25 per centum of prior fair market value as

1 such value is determined by the Secretary
2 of Defense, or the amount of the out-
3 standing mortgages.
4 "(B) DETERMINATION OF BENEFITS.—
5 The Secretary may also pay a person who elects
6 to receive a cash payment under subparagraph
7 (A) an amount that the Secretary determines
8 appropriate to reimburse the person for the
9 costs incurred by the person in the sale of the
10 property if the Secretary determines that such
11 payment will benefit the person and is in the
12 best interest of the United States.
13 "(3) HOMEOWNER ASSISTANCE FOR PERMA-
14 NENTLY REASSIGNED INDIVIDUALS.—
15 "(A) IN GENERAL.—Persons eligible under
16 the criteria set forth in subsection (a)(3) may
17 elect either—
18 "(i) to receive a cash payment as com-
19 pensation for losses which may be or have
20 been sustained in a private sale, in an
21 amount not to exceed the difference be-
22 tween—
23 "(I) 95 per centum of prior fair
24 market value of their property (as

1 such value is determined by the Sec-
2 retary of Defense); and
3 "(II) the fair market value of
4 such property (as such value is so de-
5 termined) at the time the person re-
6 ceived change of permanent station
7 orders; or
8 "(ii) to receive, as purchase price for
9 their property an amount not to exceed 90
10 per centum of prior fair market value as
11 such value is determined by the Secretary
12 of Defense, or the amount of the out-
13 standing mortgages.
14 "(B) DETERMINATION OF BENEFITS.—
15 The Secretary may also pay a person who elects
16 to receive a cash payment under subparagraph
17 (A) an amount that the Secretary determines
18 appropriate to reimburse the person for the
19 costs incurred by the person in the sale of the
20 property if the Secretary determines that such
21 payment will benefit the person and is in the
22 best interest of the United States.
23 "(4) COMPENSATION AND LIMITATIONS RE-
24 LATED TO FORECLOSURES AND ENCUMBRANCES.—
25 Cash payment";

1 (4) by striking subsection (g);
2 (5) in subsection (l), by striking "(a)(2)" and
3 inserting "(a)(1)(A)(ii)";
4 (6) in subsection (m), by striking "this section"
5 and inserting "subsection (a)(1)";
6 (7) in subsection (n)—
7 (A) in paragraph (1), by striking "this sec-
8 tion" and inserting "subsection (a)(1)"; and
9 (B) in paragraph (2), by striking "this sec-
10 tion" and inserting "subsection (a)(1)";
11 (8) in subsection (o)—
12 (A) in paragraph (1), by striking "this sec-
13 tion" and inserting "subsection (a)(1)";
14 (B) in paragraph (2), by striking "this sec-
15 tion" and inserting "subsection (a)(1)"; and
16 (C) by striking paragraph (4); and
17 (9) by adding at the end the following new sub-
18 section:
19 "(p) DEFINITIONS.—In this section:
20 "(1) the term 'Armed Forces' has the meaning
21 given the term 'armed forces' in section 101(a) of
22 title 10, United States Code;
23 "(2) the term 'civilian employee' has the mean-
24 ing given the term 'employee' in section 2105(a) of
25 title 5, United States Code;

1 "(3) the term 'medical transition', in the case
2 of a member of the Armed Forces, means a member
3 who—
4 "(A) is in Medical Holdover status;
5 "(B) is in Active Duty Medical Extension
6 status;
7 "(C) is in Medical Hold status;
8 "(D) is in a status pending an evaluation
9 by a medical evaluation board;
10 "(E) has a complex medical need requiring
11 six or more months of medical treatment; or
12 "(F) is assigned or attached to an Army
13 Warrior Transition Unit, an Air Force Patient
14 Squadron, a Navy Patient Multidisciplinary
15 Care Team, or a Marine Patient Affairs Team/
16 Wounded Warrior Regiment; and
17 "(4) the term 'nonappropriated fund instrumen-
18 tality employee' means a civilian employee who—
19 "(A) is a citizen of the United States; and
20 "(B) is paid from nonappropriated funds
21 of Army and Air Force Exchange Service, Navy
22 Resale and Services Support Office, Marine
23 Corps exchanges, or any other instrumentality
24 of the United States under the jurisdiction of
25 the Armed Forces which is conducted for the

1 comfort, pleasure, contentment, or physical or
2 mental improvement of members of the Armed
3 Forces.".

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

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

16 DEPARTMENT OF VETERANS AFFAIRS

17 VETERANS HEALTH ADMINISTRATION

18 MEDICAL SUPPORT AND COMPLIANCE

19 For an additional amount for "Medical Support and
20 Compliance", $5,000,000, to remain available until Sep-
21 tember 30, 2010, to support contract administration and
22 energy initiative execution at the Veterans Health Admin-
23 istration.

24 MEDICAL FACILITIES

25 For an additional amount for "Medical Facilities",
26 $1,370,459,000, to remain available until September 30,

1 2010, of which $1,047,313,000 shall be for facility condi-
2 tion assessment deficiencies and non-recurring mainte-
3 nance at existing medical facilities; and $323,146,000
4 shall be for energy efficiency initiatives.

5 NATIONAL CEMETERY ADMINISTRATION

6 For an additional amount for "National Cemetery
7 Administration", $64,961,000, to remain available until
8 September 30, 2010, of which $59,476,000 shall be for
9 capital infrastructure and memorial and monument re-
10 pairs; and $5,485,000 shall be for energy efficiency initia-
11 tives.

12 DEPARTMENTAL ADMINISTRATION

13 GENERAL OPERATING EXPENSES

14 For an additional amount for "General Operating
15 Expenses", $1,125,000, to remain available until Sep-
16 tember 30, 2010, for additional Full Time Equivalent sal-
17 ary and expenses for major construction project adminis-
18 tration and execution and energy initiative execution.

19 INFORMATION TECHNOLOGY SYSTEMS

20 For an additional amount for "Information Tech-
21 nology Systems", $195,000,000, to remain available until
22 September 30, 2010, of which $145,000,000 shall be for
23 the Veterans Benefits Administration's development of
24 paperless claims processing; and $50,000,000 shall be for
25 the development of systems required to implement chapter
26 33 of title 38, United States Code.

1 OFFICE OF INSPECTOR GENERAL

2 For an additional amount for "Office of Inspector
3 General", $4,400,000, to remain available until September
4 30, 2010, for oversight and audit of programs, grants and
5 projects funded under this title.

6 CONSTRUCTION, MAJOR PROJECTS

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

23 CONSTRUCTION, MINOR PROJECTS

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

1 erans Health Administration minor construction;
2 $20,300,000 shall be for Veterans Benefits Administra-
3 tion minor construction, including $300,000 for energy ef-
4 ficiency initiatives; and $29,012,000 shall be for National
5 Cemetery Administration minor construction.

6 GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE
7 FACILITIES

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

17 ADMINISTRATIVE PROVISION

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

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

1 (2) During World War II, Filipinos served in a
2 variety of units, some of which came under the di-
3 rect control of the United States Armed Forces.
4 (3) The regular Philippine Scouts, the new
5 Philippine Scouts, the Guerilla Services, and more
6 than 100,000 members of the Philippine Common-
7 wealth Army were called into the service of the
8 United States Armed Forces of the Far East on
9 July 26, 1941, by an executive order of President
10 Franklin D. Roosevelt.
11 (4) Even after hostilities had ceased, wartime
12 service of the new Philippine Scouts continued as a
13 matter of law until the end of 1946, and the force
14 gradually disbanded and was disestablished in 1950.
15 (5) Filipino veterans who were granted benefits
16 prior to the enactment of the so-called Rescissions
17 Acts of 1946 (Public Laws 79–301 and 79–391)
18 currently receive full benefits under laws adminis-
19 tered by the Secretary of Veterans Affairs, but
20 under section 107 of title 38, United States Code,
21 the service of certain other Filipino veterans is
22 deemed not to be active service for purposes of such
23 laws.
24 (6) These other Filipino veterans only receive
25 certain benefits under title 38, United States Code,

1 and, depending on where they legally reside, are paid
2 such benefit amounts at reduced rates.
3 (7) The benefits such veterans receive include
4 service-connected compensation benefits paid under
5 chapter 11 of title 38, United States Code, depend-
6 ency indemnity compensation survivor benefits paid
7 under chapter 13 of title 38, United States Code,
8 and burial benefits under chapters 23 and 24 of title
9 38, United States Code, and such benefits are paid
10 to beneficiaries at the rate of $0.50 per dollar au-
11 thorized, unless they lawfully reside in the United
12 States.
13 (8) Dependents' educational assistance under
14 chapter 35 of title 38, United States Code, is also
15 payable for the dependents of such veterans at the
16 rate of $0.50 per dollar authorized, regardless of the
17 veterans' residency.
18 (b) COMPENSATION FUND.—
19 (1) IN GENERAL.—There is in the general fund
20 of the Treasury a fund to be known as the "Filipino
21 Veterans Equity Compensation Fund" (in this sec-
22 tion referred to as the "compensation fund").
23 (2) AVAILABILITY OF FUNDS.—Subject to the
24 availability of appropriations for such purpose,
25 amounts in the fund shall be available to the Sec-

1 retary of Veterans Affairs without fiscal year limita-
2 tion to make payments to eligible persons in accord-
3 ance with this section.
4 (c) PAYMENTS.—
5 (1) IN GENERAL.—The Secretary may make a
6 payment from the compensation fund to an eligible
7 person who, during the one-year period beginning on
8 the date of the enactment of this Act, submits to the
9 Secretary a claim for benefits under this section.
10 The application for the claim shall contain such in-
11 formation and evidence as the Secretary may re-
12 quire.
13 (2) PAYMENT TO SURVIVING SPOUSE.—If an el-
14 igible person who has filed a claim for benefits under
15 this section dies before payment is made under this
16 section, the payment under this section shall be
17 made instead to the surviving spouse, if any, of the
18 eligible person.
19 (d) ELIGIBLE PERSONS.—An eligible person is any
20 person who—
21 (1) served—
22 (A) before July 1, 1946, in the organized
23 military forces of the Government of the Com-
24 monwealth of the Philippines, while such forces
25 were in the service of the Armed Forces of the

1 United States pursuant to the military order of
2 the President dated July 26, 1941, including
3 among such military forces organized guerrilla
4 forces under commanders appointed, des-
5 ignated, or subsequently recognized by the
6 Commander in Chief, Southwest Pacific Area,
7 or other competent authority in the Army of the
8 United States; or
9 (B) in the Philippine Scouts under section
10 14 of the Armed Forces Voluntary Recruitment
11 Act of 1945 (59 Stat. 538); and
12 (2) was discharged or released from service de-
13 scribed in paragraph (1) under conditions other than
14 dishonorable.
15 (e) PAYMENT AMOUNTS.—Each payment under this
16 section shall be—
17 (1) in the case of an eligible person who is not
18 a citizen of the United States, in the amount of
19 $9,000; and
20 (2) in the case of an eligible person who is a
21 citizen of the United States, in the amount of
22 $15,000.
23 (f) LIMITATION.—The Secretary may not make more
24 than one payment under this section for each eligible per-
25 son described in subsection (d).

1 (g) CLARIFICATION OF TREATMENT OF PAYMENTS
2 UNDER CERTAIN LAWS.—Amounts paid to a person
3 under this section—
4 (1) shall be treated for purposes of the internal
5 revenue laws of the United States as damages for
6 human suffering; and
7 (2) shall not be included in income or resources
8 for purposes of determining—
9 (A) eligibility of an individual to receive
10 benefits described in section 3803(c)(2)(C) of
11 title 31, United States Code, or the amount of
12 such benefits;
13 (B) eligibility of an individual to receive
14 benefits under title VIII of the Social Security
15 Act, or the amount of such benefits; or
16 (C) eligibility of an individual for, or the
17 amount of benefits under, any other Federal or
18 federally assisted program.
19 (h) RELEASE.—
20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the acceptance by an eligible person or
22 surviving spouse, as applicable, of a payment under
23 this section shall be final, and shall constitute a
24 complete release of any claim against the United

1 States by reason of any service described in sub-
2 section (d).
3 (2) PAYMENT OF PRIOR ELIGIBILITY STATUS.—
4 Nothing in this section shall prohibit a person from
5 receiving any benefit (including health care, survivor,
6 or burial benefits) which the person would have been
7 eligible to receive based on laws in effect as of the
8 day before the date of the enactment of this Act.
9 (i) RECOGNITION OF SERVICE.—The service of a per-
10 son as described in subsection (d) is hereby recognized as
11 active military service in the Armed Forces for purposes
12 of, and to the extent provided in, this section.
13 (j) ADMINISTRATION.—
14 (1) The Secretary shall promptly issue applica-
15 tion forms and instructions to ensure the prompt
16 and efficient administration of the provisions of this
17 section.
18 (2) The Secretary shall administer the provi-
19 sions of this section in a manner consistent with ap-
20 plicable provisions of title 38, United States Code,
21 and other provisions of law, and shall apply the defi-
22 nitions in section 101 of such title in the administra-
23 tion of such provisions, except to the extent other-
24 wise provided in this section.

1 (k) REPORTS.—The Secretary shall include, in docu-
2 ments submitted to Congress by the Secretary in support
3 of the President's budget for each fiscal year, detailed in-
4 formation on the operation of the compensation fund, in-
5 cluding the number of applicants, the number of eligible
6 persons receiving benefits, the amounts paid out of the
7 compensation fund, and the administration of the com-
8 pensation fund for the most recent fiscal year for which
9 such data is available.

10 (l) AUTHORIZATION OF APPROPRIATION.—There is
11 authorized to be appropriated to the compensation fund
12 $198,000,000, to remain available until expended, to make
13 payments under this section.

14 RELATED AGENCY

15 DEPARTMENT OF DEFENSE—CIVIL

16 CEMETERIAL EXPENSES, ARMY

17 SALARY AND EXPENSES

18 For an additional amount for "Cemeterial Expenses,
19 Army", $60,300,000, to remain available until September
20 30, 2010, for land development, columbarium construc-
21 tion, and relocation of utilities at Arlington National Cem-
22 etery.

1 TITLE XI—STATE, FOREIGN OPERATIONS, AND
2 RELATED PROGRAMS
3 DEPARTMENT OF STATE
4 ADMINISTRATION OF FOREIGN AFFAIRS
5 DIPLOMATIC AND CONSULAR PROGRAMS
6 For an additional amount for "Diplomatic and Con-
7 sular Programs" for urgent domestic facilities require-
8 ments, $180,500,000, to remain available until September
9 30, 2010, of which up to $45,000,000 shall be available
10 for passport and visa facilities and systems, and up to
11 $75,000,000 shall be available for a consolidated security
12 training facility in the United States: *Provided,* That the
13 Secretary of State shall submit to the Committees on Ap-
14 propriations within 90 days of enactment of this Act a
15 detailed spending plan for funds appropriated under this
16 heading: *Provided further,* That with respect to the funds
17 made available for passport facilities and systems, such
18 plan shall be developed in consultation with the Depart-
19 ment of Homeland Security and the General Services Ad-
20 ministration and shall coordinate and co-locate, to the ex-
21 tent feasible, the construction of passport agencies with
22 other federal facilities.
23 CAPITAL INVESTMENT FUND
24 For an additional amount for "Capital Investment
25 Fund", $524,000,000, to remain available until Sep-
26 tember 30, 2010, of which up to $120,000,000 shall be

1 available for the design and construction of a backup in-
2 formation management facility in the United States to
3 support continuity of critical mission operations and pro-
4 grams, and up to $98,527,000 shall be available to carry
5 out the Department of State's responsibilities under the
6 Comprehensive National Cybersecurity Initiative: *Pro-*
7 *vided,* That the Secretary of State and the Administrator
8 of the United States Agency for International Develop-
9 ment shall coordinate information technology systems,
10 where appropriate, to increase efficiencies and eliminate
11 redundancies, to include co-location of backup information
12 management facilities: *Provided further,* That the Sec-
13 retary of State shall submit to the Committees on Appro-
14 priations within 90 days of enactment of this Act a de-
15 tailed spending plan for funds appropriated under this
16 heading.

17 OFFICE OF INSPECTOR GENERAL

18 For an additional amount for "Office of Inspector
19 General" for oversight requirements, $2,000,000, to re-
20 main available until September 30, 2010.

1 INTERNATIONAL COMMISSIONS

2 INTERNATIONAL BOUNDARY AND WATER COMMISSION,
3 UNITED STATES AND MEXICO

4 CONSTRUCTION

5 (INCLUDING TRANSFER OF FUNDS)

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

17 UNITED STATES AGENCY FOR INTERNATIONAL
18 DEVELOPMENT

19 FUNDS APPROPRIATED TO THE PRESIDENT

20 CAPITAL INVESTMENT FUND

21 For an additional amount for "Capital Investment
22 Fund", $100,000,000, to remain available until Sep-
23 tember 30, 2010, of which $34,000,000 shall be available
24 for information technology modernization programs and of
25 which up to $35,000,000 shall be available for implemen-
26 tation of the Global Acquisition System: *Provided,* That

1 the Administrator of the United States Agency for Inter-
2 national Development shall submit to the Committees on
3 Appropriations within 90 days of enactment of this Act
4 a detailed spending plan for funds appropriated under this
5 heading.

6 OPERATING EXPENSES OF THE UNITED STATES AGENCY
7 FOR INTERNATIONAL DEVELOPMENT OFFICE OF IN-
8 SPECTOR GENERAL

9 For an additional amount for "Operating Expenses
10 of the United States Agency for International Develop-
11 ment Office of Inspector General" for oversight require-
12 ments, $500,000, to remain available until September 30,
13 2010.

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

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

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

1 the Federal Transit Administration, the Federal Railroad
2 Administration and the Maritime Administration, to fund
3 the award and oversight of grants made under this head-
4 ing.

5 FEDERAL AVIATION ADMINISTRATION

6 SUPPLEMENTAL FUNDING FOR FACILITIES AND
7 EQUIPMENT

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

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

10 SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT
11 INVESTMENT

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

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

16 FEDERAL HIGHWAY ADMINISTRATION

17 SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

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

1 from each State an amount equal to 50 percent of the
2 funds awarded to that grantee less the amount of funding
3 obligated, and the Secretary shall redistribute such
4 amounts to other States that have had no funds with-
5 drawn under this proviso in the manner described in sec-
6 tion 120(c) of division K of Public Law 110–161: *Provided*
7 *further,* That 1 year following the date of such apportion-
8 ment, the Secretary shall withdraw from each recipient of
9 funds apportioned under this heading any unobligated
10 funds and transfer such funds to "Supplemental Discre-
11 tionary Grants for a National Transportation System":
12 *Provided further,* That at the request of a State, the Sec-
13 retary of Transportation may provide an extension of such
14 1-year period only to the extent that he or she feels satis-
15 fied that the State has encountered extreme conditions
16 that create an unworkable bidding environment or other
17 extenuating circumstances: *Provided further,* That before
18 granting a such an extension, the Secretary shall send a
19 letter to the House and Senate Committees on Appropria-
20 tions that provides a thorough justification for the exten-
21 sion: *Provided further,* That the provisions of subsections
22 133(d)(3) and 133(d)(4) of title 23, United States Code,
23 shall apply to funds apportioned under this heading, ex-
24 cept that the percentage of funds to be allocated to local
25 jurisdictions shall be 40 percent and such allocation, not-

1 withstanding any other provision of law, shall be con-
2 ducted in all states within the United States: *Provided fur-*
3 *ther,* That funds allocated to such urbanized areas and
4 other areas shall not be subject to the redistribution of
5 amounts required 180 days following the date of appor-
6 tionment of funds provided under this heading: *Provided*
7 *further,* That funds apportioned under this heading may
8 be used for, but not be limited to, projects that address
9 stormwater runoff, investments in passenger and freight
10 rail transportation, and investments in port infrastruc-
11 ture: *Provided further,* that each State shall use not less
12 than 5 percent of funds apportioned to it for activities eli-
13 gible under subsections 149(b) and (c) of title 23, United
14 States Code: *Provided further,* That of the funds provided
15 under this heading, $60,000,000 shall be for capital ex-
16 penditures eligible under section 147 of title 23, United
17 States Code: *Provided further,* That the Secretary of
18 Transportation shall distribute such $60,000,000 as com-
19 petitive discretionary grants to States, with priority given
20 to those projects that demonstrate to his or her satisfac-
21 tion their ability to be completed within 2 years of enact-
22 ment of this Act: *Provided further,* That of the funds pro-
23 vided under this heading, $500,000,000 shall be for in-
24 vestments in transportation at Indian reservations and
25 Federal lands, and administered in accordance with chap-

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

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

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

1 granting such an extension, the Secretary shall send a let-
2 ter to the House and Senate Committees on Appropria-
3 tions that provides a thorough justification for the exten-
4 sion: *Provided further,* That of the funds apportioned
5 using the formula set forth in subsection 5311(c) of title
6 49, United States Code, 2 percent shall be made available
7 for section 5311(c)(1): *Provided further,* That of the fund-
8 ing provided under this heading, $200,000,000 shall be
9 distributed as discretionary grants to public transit agen-
10 cies for capital investments that will assist in reducing the
11 energy consumption or greenhouse gas emissions of their
12 public transportation systems: *Provided further,* That for
13 such grants on energy-related investments, priority shall
14 be given to projects based on the total energy savings that
15 are projected to result from the investment, and projected
16 energy savings as a percentage of the total energy usage
17 of the public transit agency: *Provided further,* That the
18 Federal share of the costs for which any grant is made
19 under this heading shall be at the option of the recipient,
20 and may be up to 100 percent: *Provided further,* That the
21 amount made available under this heading shall not be
22 subject to any limitation on obligations for transit pro-
23 grams set forth in any Act: *Provided further,* That section
24 1101(6) of Public Law 109–59 shall apply to funds appor-
25 tioned under this heading: *Provided further,* That the

1 funds appropriated under this heading shall be subject to
2 subsection 5323(j) and section 5333 of title 49, United
3 States Code as well as sections 5304 and 5305 of said
4 title, as appropriate, but shall not be comingled with funds
5 available under the Formula and Bus Grants account:
6 *Provided further,* That the Administrator of the Federal
7 Transit Administration may retain up to $3,000,000 of
8 the funds provided under this heading to carry out the
9 function of "Federal Transit Administration, Administra-
10 tive Expenses" and to fund the oversight of grants made
11 under this heading by the Administrator.

12 MARITIME ADMINISTRATION

13 SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL
14 SHIPYARDS

15 To make grants to qualified shipyards as authorized
16 under section 3506 of Public Law 109–163 or section
17 54101 of title 46, United States Code, $100,000,000: *Pro-*
18 *vided,* That the Secretary of Transportation shall institute
19 measures to ensure that funds provided under this head-
20 ing shall be obligated within 180 days of the date of their
21 distribution: *Provided further,* That the Maritime Adminis-
22 trator may retain and transfer to "Maritime Administra-
23 tion, Operations and Training" up to 2 percent of the
24 funds provided under this heading to fund the award and

1 oversight by the Administrator of grants made under this
2 heading.

3 OFFICE OF INSPECTOR GENERAL

4 SALARIES AND EXPENSES

5 For an additional amount for necessary expenses of
6 the Office of Inspector General to carry out the provisions
7 of the Inspector General Act of 1978, as amended,
8 $7,750,000, to remain available until September 30, 2011:
9 *Provided,* That the funding made available under this
10 heading shall be used for conducting audits and investiga-
11 tions of projects and activities carried out with funds made
12 available in this Act to the Department of Transportation
13 and to the National Railroad Passenger Corporation: *Pro-*
14 *vided further,* That the Inspector General shall have all
15 necessary authority, in carrying out the duties specified
16 in the Inspector General Act, as amended (5 U.S.C. App.
17 3), to investigate allegations of fraud, including false
18 statements to the government (18 U.S.C. 1001), by any
19 person or entity that is subject to regulation by the De-
20 partment.

21 GENERAL PROVISION, DEPARTMENT OF
22 TRANSPORTATION

23 SEC. 1201. Section 5309(g)(4)(A) of title 49, United
24 States Code, is amended by striking "or an amount equiv-
25 alent to the last 3 fiscal years of funding allocated under

1 subsections (m)(1)(A) and (m)(2)(A)(ii)" and inserting
2 "or the sum of the funds available for the next 3 fiscal
3 years beyond the current fiscal year, assuming an annual
4 growth of the program of 10 percent".

5 DEPARTMENT OF HOUSING AND URBAN
6 DEVELOPMENT

7 NATIVE AMERICAN HOUSING BLOCK GRANTS

8 For an additional amount for "Native American
9 Housing Block Grants", as authorized under title I of the
10 Native American Housing Assistance and Self-Determina-
11 tion Act of 1996 ("NAHASDA") (25 U.S.C. 4111 et
12 seq.), $510,000,000, to remain available until September
13 30, 2011: *Provided,* That $255,000,000 of the amount
14 provided under this heading shall be distributed according
15 to the same funding formula used in fiscal year 2008: *Pro-*
16 *vided further,* That in selecting projects to be funded, re-
17 cipients shall give priority to projects that can award con-
18 tracts based on bids within 180 days from the date that
19 funds are available to recipients: *Provided further,* That
20 the Secretary shall obligate $255,000,000 of the amount
21 provided under this heading for competitive grants to eligi-
22 ble entities that apply for funds authorized under
23 NAHASDA: *Provided further,* That in awarding competi-
24 tive funds, the Secretary shall give priority to projects that
25 will spur construction and rehabilitation and will create

1 employment opportunities for low-income and unemployed
2 persons: *Provided further,* That recipients of funds under
3 this heading shall obligate 100 percent of such funds with-
4 in 1 year of the date of enactment of this Act, expend
5 at least 50 percent of such funds within 2 years of the
6 date on which funds become available to such jurisdictions
7 for obligation, and expend 100 percent of such funds with-
8 in 3 years of such date: *Provided further,* That if a recipi-
9 ent fails to comply with either the 1-year obligation re-
10 quirement or the 2-year expenditure requirement, the Sec-
11 retary shall recapture all remaining funds awarded to the
12 recipient and reallocate such funds to recipients that are
13 in compliance with those requirements: *Provided further,*
14 That if a recipient fails to comply with the 3-year expendi-
15 ture requirement, the Secretary shall recapture the bal-
16 ance of the funds awarded to the recipient: *Provided fur-*
17 *ther,* That, notwithstanding any other provision of this
18 paragraph, the Secretary may institute measures to en-
19 sure participation in the formula and competitive alloca-
20 tion of funds provided under this paragraph by any hous-
21 ing entity eligible to receive funding under title VIII of
22 NAHASDA (25 U.S.C. 4221 et seq.): *Provided further,*
23 That in administering funds provided in this heading, the
24 Secretary may waive any provision of any statute or regu-
25 lation that the Secretary administers in connection with

1 the obligation by the Secretary or the use by the recipient
2 of these funds except for requirements imposed by this
3 heading and requirements related to fair housing, non-
4 discrimination, labor standards, and the environment,
5 upon a finding that such waiver is required to facilitate
6 the timely use of such funds and would not be inconsistent
7 with the overall purpose of the statute or regulation: *Pro-*
8 *vided further,* That, of the funds made available under this
9 heading, up to 1 percent shall be available for staffing,
10 training, technical assistance, technology, monitoring, re-
11 search and evaluation activities: *Provided further,* That
12 any funds made available under this heading used by the
13 Secretary for personnel expenses shall be transferred to
14 and merged with funding provided to "Personnel Com-
15 pensation and Benefits, Office of Public and Indian Hous-
16 ing": *Provided further,* That any funds made available
17 under this heading used by the Secretary for training or
18 other administrative expenses shall be transferred to and
19 merged with funding provided to "Administration, Oper-
20 ations, and Management", for non-personnel expenses of
21 the Department of Housing and Urban Development: *Pro-*
22 *vided further,* That any funds made available under this
23 heading used by the Secretary for technology shall be
24 transferred to and merged with the funding provided to
25 "Working Capital Fund".

1 PUBLIC HOUSING CAPITAL FUND

2 For an additional amount for the "Public Housing
3 Capital Fund" to carry out capital and management ac-
4 tivities for public housing agencies, as authorized under
5 section 9 of the United States Housing Act of 1937 (42
6 U.S.C. 1437g) (the "Act"), $5,000,000,000, to remain
7 available until September 30, 2011: *Provided,* That the
8 Secretary of Housing and Urban Development shall allo-
9 cate $3,000,000,000 of this amount by the formula au-
10 thorized under section 9(d)(2) of the Act, except that the
11 Secretary may determine not to allocate funding to public
12 housing agencies currently designated as troubled or to
13 public housing agencies that elect not to accept such fund-
14 ing: *Provided further,* That the Secretary shall make avail-
15 able $2,000,000,000 by competition for priority invest-
16 ments, including investments that leverage private sector
17 funding or financing for renovations and energy conserva-
18 tion retrofit investments: *Provided further,* That public
19 housing agencies shall prioritize capital projects that are
20 already underway or included in the 5-year capital fund
21 plans required by the Act (42 U.S.C. 1437c–1(a)): *Pro-*
22 *vided further,* That in allocating competitive grants under
23 this heading, the Secretary shall give priority consider-
24 ation to the rehabilitation of vacant rental units: *Provided*
25 *further,* That notwithstanding any other provision of law,

1 (1) funding provided herein may not be used for operating
2 or rental assistance activities, and (2) any restriction of
3 funding to replacement housing uses shall be inapplicable:
4 *Provided further,* That notwithstanding any other provi-
5 sion of law, the Secretary shall institute measures to en-
6 sure that funds provided under this heading shall serve
7 to supplement and not supplant expenditures from other
8 Federal, State, or local sources or funds independently
9 generated by the grantee: *Provided further,* That notwith-
10 standing section 9(j), public housing agencies shall obli-
11 gate 100 percent of the funds within 1 year of the date
12 of enactment of this Act, shall expend at least 60 percent
13 of funds within 2 years of the date on which funds become
14 available to the agency for obligation, and shall expend
15 100 percent of the funds within 3 years of such date: *Pro-*
16 *vided further,* That if a public housing agency fails to com-
17 ply with either the 1-year obligation requirement or the
18 2-year expenditure requirement, the Secretary shall recap-
19 ture all remaining funds awarded to the public housing
20 agency and reallocate such funds to agencies that are in
21 compliance with those requirements: *Provided further,*
22 That if a public housing agency fails to comply with the
23 3-year expenditure requirement, the Secretary shall recap-
24 ture the balance of the funds awarded to the public hous-
25 ing agency: *Provided further,* That in administering funds

1 provided in this heading, the Secretary may waive any pro-
2 vision of any statute or regulation that the Secretary ad-
3 ministers in connection with the obligation by the Sec-
4 retary or the use by the recipient of these funds except
5 for requirements imposed by this heading and require-
6 ments related to conditions on use of funds for develop-
7 ment and modernization, fair housing, non-discrimination,
8 labor standards, and the environment, upon a finding that
9 such waiver is required to facilitate the timely use of such
10 funds and would not be inconsistent with the overall pur-
11 pose of the statute or regulation: *Provided further,* That
12 of the funds made available under this heading, up to 1
13 percent shall be available for staffing, training, technical
14 assistance, technology, monitoring, research and evalua-
15 tion activities: *Provided further,* That any funds made
16 available under this heading used by the Secretary for per-
17 sonnel expenses shall be transferred to and merged with
18 funding provided to "Personnel Compensation and Bene-
19 fits, Office of Public and Indian Housing": *Provided fur-*
20 *ther,* That any funds made available under this heading
21 used by the Secretary for training or other administrative
22 expenses shall be transferred to and merged with funding
23 provided to "Administration, Operations, and Manage-
24 ment", for non-personnel expenses of the Department of
25 Housing and Urban Development: *Provided further,* That

1 any funds made available under this heading used by the
2 Secretary for technology shall be transferred to and
3 merged with the funding provided to "Working Capital
4 Fund".

5 NEIGHBORHOOD STABILIZATION PROGRAM

6 For the provision of emergency assistance for the re-
7 development of abandoned and foreclosed homes, as au-
8 thorized by title III of division B of the Housing and Eco-
9 nomic Recovery Act of 2008 (the "Act") (42 U.S.C. 5301
10 note), $2,250,000,000, to remain available until Sep-
11 tember 30, 2011: *Provided,* That funding shall be allo-
12 cated by a competition for which eligible entities shall be
13 States, units of general local government, and nonprofit
14 entities or consortia of nonprofit entities, which may sub-
15 mit proposals in partnership with for-profit entities: *Pro-*
16 *vided further,* That in selecting grantees the Secretary
17 shall ensure that the grantee can expend funding within
18 the period allowed under this heading: *Provided further,*
19 That additional award criteria for such competition shall
20 include demonstrated grantee capacity to execute projects,
21 leveraging potential, targeted impact of foreclosure pre-
22 vention, neighborhood stabilization, and any additional
23 factors determined by the Secretary of Housing and
24 Urban Development: *Provided further,* That the Secretary
25 may establish a minimum grant size: *Provided further,*

1 That the Secretary shall publish criteria on which to base
2 the competition for any grants awarded under this heading
3 not later than 75 days after the enactment of this Act
4 and applications shall be due not later than 180 days after
5 the enactment of this Act: *Provided further,* That the Sec-
6 retary shall award all funding within 1 year of enactment
7 of this Act: *Provided further,* That grantees shall expend
8 at least 75 percent of allocated funds within 2 years of
9 the date funds become available to the grantees for obliga-
10 tion and 100 percent of such funds within 3 years of such
11 date: *Provided further,* That funding used for section
12 2301(c)(3)(E) of the Act shall be available only for the
13 redevelopment of demolished or vacant properties as hous-
14 ing: *Provided further,* That in addition to the eligible uses
15 in section 2301, the Secretary may also use up to 10 per-
16 cent of the funds provided under this heading for grantees
17 for the provision of capacity building of and support for
18 local communities receiving funding under section 2301 of
19 the Act or under this heading: *Provided further,* That the
20 construction or rehabilitation of early childhood and devel-
21 opment centers serving households that qualify as low in-
22 come shall also be an eligible use of funding: *Provided fur-*
23 *ther,* That in addition to the allowable uses of revenues
24 provided in section 2301 of the Act, any revenues gen-
25 erated in the first 5 years using the funds provided under

1 this heading may be used by the State or applicable unit
2 of general local government for maintenance associated
3 with property acquisition and holding and with land bank-
4 ing activities: *Provided further,* That of the funds provided
5 under this heading, up to 1.5 percent shall be available
6 for staffing, training, technical assistance, technology,
7 monitoring, research and evaluation activities: *Provided*
8 *further,* That any funds made available under this heading
9 used by the Secretary for personnel expense shall be trans-
10 ferred to and merged with funding provided to "Commu-
11 nity Planning and Development Personnel Compensation
12 and Benefits": *Provided further,* That any funds made
13 available under this heading used by the Secretary for
14 training or other administrative expenses shall be trans-
15 ferred to and merged with funding provided to "Adminis-
16 tration, Operations, and Management" for non-personnel
17 expenses of the Department of Housing and Urban Devel-
18 opment: *Provided further,* That any funding made avail-
19 able under this heading used by the Secretary for tech-
20 nology shall be transferred to and merged with the fund-
21 ing provided to "Working Capital Fund."

22 HOME INVESTMENT PARTNERSHIPS PROGRAM

23 For an additional amount for the "HOME Invest-
24 ment Partnerships Program" as authorized under title II
25 of the Cranston-Gonzalez National Affordable Housing

1 Act (the "Act"), $2,250,000,000, to remain available until
2 September 30, 2011: *Provided,* That except as specifically
3 provided herein, funds provided under this heading shall
4 be distributed pursuant to the formula authorized by sec-
5 tion 217 of the Act: *Provided further,* That the Secretary
6 may establish a minimum grant size: *Provided further,*
7 That participating jurisdictions shall obligate 100 percent
8 of the funds within 1 year of the date of enactment of
9 this Act, shall expend at least 60 percent of funds within
10 2 years of the date on which funds become available to
11 the participating jurisdiction for obligation and shall ex-
12 pend 100 percent of the funds within 3 years of such date:
13 *Provided further,* That if a participating jurisdiction fails
14 to comply with either the 1-year obligation requirement
15 or the 2-year expenditure requirement, the Secretary shall
16 recapture all remaining funds awarded to the participating
17 jurisdiction and reallocate such funds to participating ju-
18 risdictions that are in compliance with those requirements:
19 *Provided further,* That if a participating jurisdiction fails
20 to comply with the 3-year expenditure requirement, the
21 Secretary shall recapture the balance of the funds awarded
22 to the participating jurisdiction: *Provided further,* That in
23 administering funds under this heading, the Secretary
24 may waive any provision of any statute or regulation that
25 the Secretary administers in connection with the obliga-

1 tion by the Secretary or the use by the recipient of these
2 funds except for requirements imposed by this heading
3 and requirements related to fair housing, non-discrimina-
4 tion, labor standards and the environment, upon a finding
5 that such waiver is required to facilitate the timely use
6 of such funds and would not be inconsistent with the over-
7 all purpose of the statute or regulation: *Provided further,*
8 That the Secretary may use funds provided under this
9 heading to provide incentives to grantees to use funding
10 for investments in energy efficiency and green building
11 technology: *Provided further,* That such incentives may in-
12 clude allocation of up to 20 percent of funds made avail-
13 able under this heading other than pursuant to the for-
14 mula authorized by section 217 of the Act: *Provided fur-*
15 *ther,* That, of the funds made available under this heading,
16 up to 1 percent shall be available for staffing, training,
17 technical assistance, technology, monitoring, research and
18 evaluation activities: *Provided further,* That any funds
19 made available under this heading used by the Secretary
20 for personnel expenses shall be transferred to and merged
21 with funding provided to "Personnel Compensation and
22 Benefits, Office of Community Planning and Develop-
23 ment": *Provided further,* That any funds made available
24 under this heading used by the Secretary for training or
25 other administrative expenses shall be transferred to and

1 merged with funding provided to "Administration, Oper-
2 ations, and Management", for non-personnel expenses of
3 the Department of Housing and Urban Development: *Pro-*
4 *vided further,* That any funds made available under this
5 heading used by the Secretary for technology shall be
6 transferred to and merged with the funding provided to
7 "Working Capital Fund".

8 HOMELESSNESS PREVENTION FUND

9 For homelessness prevention activities,
10 $1,500,000,000, to remain available until September 30,
11 2011: *Provided,* That funds provided under this heading
12 shall be used for the provision of short-term or medium-
13 term rental assistance; housing relocation and stabiliza-
14 tion services including housing search, mediation or out-
15 reach to property owners, credit repair, security or utility
16 deposits, utility payments, rental assistance for a final
17 month at a location, and moving cost assistance; or other
18 appropriate homelessness prevention activities: *Provided*
19 *further,* That grantees receiving such assistance shall col-
20 lect data on the use of the funds awarded and persons
21 served with this assistance in the Homeless Management
22 Information System (HMIS) or other comparable data-
23 base: *Provided further,* That grantees may use up to 5 per-
24 cent of any grant for administrative costs: *Provided fur-*
25 *ther,* That funding made available under this heading shall

1 be allocated to eligible grantees (as defined and designated
2 in sections 411 and 412 of subtitle B of title IV of the
3 McKinney-Vento Homeless Assistance Act, (the "Act"))
4 pursuant to the formula authorized by section 413 of the
5 Act: *Provided further,* That the Secretary may establish
6 a minimum grant size: *Provided further,* That grantees
7 shall expend at least 75 percent of funds within 2 years
8 of the date that funds became available to them for obliga-
9 tion, and 100 percent of funds within 3 years of such date,
10 and the Secretary may recapture unexpended funds in vio-
11 lation of the 2-year expenditure requirement and reallo-
12 cate such funds to grantees in compliance with that re-
13 quirement: *Provided further,* That the Secretary may
14 waive statutory or regulatory provisions (except provisions
15 for fair housing, nondiscrimination, labor standards, and
16 the environment) necessary to facilitate the timely expend-
17 iture of funds: *Provided further,* That the Secretary shall
18 publish a notice to establish such requirements as may be
19 necessary to carry out the provisions of this section within
20 30 days of enactment of the Act and that this notice shall
21 take effect upon issuance: *Provided further,* That of the
22 funds provided under this heading, up to 1.5 percent shall
23 be available for staffing, training, technical assistance,
24 technology, monitoring, research and evaluation activities:
25 *Provided further,* That any funds made available under

1 this heading used by the Secretary for personnel expense
2 shall be transferred to and merged with funding provided
3 to "Community Planning and Development Personnel
4 Compensation and Benefits": *Provided further,* That any
5 funds made available under this heading used by the Sec-
6 retary for training or other administrative expenses shall
7 be transferred to and merged with funding provided to
8 "Administration, Operations, and Management" for non-
9 personnel expenses of the Department of Housing and
10 Urban Development: *Provided further,* That any funding
11 made available under this heading used by the Secretary
12 for technology shall be transferred to and merged with the
13 funding provided to "Working Capital Fund."

14 ASSISTED HOUSING STABILITY AND ENERGY AND
15 GREEN RETROFIT INVESTMENTS

16 For assistance to owners of properties receiving
17 project-based assistance pursuant to section 202 of the
18 Housing Act of 1959 (12 U.S.C. 17012), section 811 of
19 the Cranston-Gonzalez National Affordable Housing Act
20 (42 U.S.C. 8013), or section 8 of the United States Hous-
21 ing Act of 1937 as amended (42 U.S.C. 1437f),
22 $3,500,000,000, of which $2,132,000,000 shall be for an
23 additional amount for paragraph (1) under the heading
24 "Project-Based Rental Assistance" in Public Law 110–
25 161 for payments to owners for 12-month periods, and

1 of which $1,368,000,000 shall be for grants or loans for
2 energy retrofit and green investments in such assisted
3 housing: *Provided,* That projects funded with grants or
4 loans provided under this heading must comply with the
5 requirements of subchapter IV of chapter 31 of title 40,
6 United States Code: *Provided further,* That such grants
7 or loans shall be provided through the existing policies,
8 procedures, contracts, and transactional infrastructure of
9 the authorized programs administered by the Office of Af-
10 fordable Housing Preservation of the Department of
11 Housing and Urban Development, on such terms and con-
12 ditions as the Secretary of Housing and Urban Develop-
13 ment deems appropriate to ensure the maintenance and
14 preservation of the property, the continued operation and
15 maintenance of energy efficiency technologies, and the
16 timely expenditure of funds: *Provided further,* That the
17 Secretary may provide incentives to owners to undertake
18 energy or green retrofits as a part of such grant or loan
19 terms, including, but not limited to, investment fees to
20 cover oversight and implementation costs incurred by said
21 owner, or to encourage job creation for low-income or very
22 low-income individuals: *Provided further,* That the grants
23 or loans shall include a financial assessment and physical
24 inspection of such property: *Provided further,* That eligible
25 owners must have at least a satisfactory management re-

1 view rating, be in substantial compliance with applicable
2 performance standards and legal requirements, and com-
3 mit to an additional period of affordability determined by
4 the Secretary, but of not fewer than 15 years: *Provided*
5 *further,* That the Secretary shall undertake appropriate
6 underwriting and oversight with respect to grant and loan
7 transactions and may set aside up to 5 percent of the
8 funds made available under this heading for grants or
9 loans for such purpose: *Provided further,* That the Sec-
10 retary shall take steps necessary to ensure that owners
11 receiving funding for energy and green retrofit invest-
12 ments under this heading shall expend such funding with-
13 in 2 years of the date they received the funding: *Provided*
14 *further,* That the Secretary may waive or modify statutory
15 or regulatory requirements with respect to any existing
16 grant, loan, or insurance mechanism authorized to be used
17 by the Secretary to enable or facilitate the accomplishment
18 of investments supported with funds made available under
19 this heading for grants or loans: *Provided further,* That
20 of the funds provided under this heading, up to 1.5 per-
21 cent shall be available for staffing, training, technical as-
22 sistance, technology, monitoring, research and evaluation
23 activities: *Provided further,* That funding made available
24 under this heading and used by the Secretary for per-
25 sonnel expenses shall be transferred to and merged with

1 funding provided to "Housing Compensation and Bene-
2 fits": *Provided further,* That any funding made available
3 under this heading used by the Secretary for training and
4 other administrative expenses shall be transferred to and
5 merged with funding provided to "Administration, Oper-
6 ations and Management" for non-personnel expenses of
7 the Department of Housing and Urban Development: *Pro-*
8 *vided further,* That any funding made available under this
9 heading used by the Secretary for technology shall be
10 transferred to and merged with funding provided to
11 "Working Capital Fund."

12 OFFICE OF HEALTHY HOMES AND LEAD HAZARD
13 CONTROL

14 For an additional amount for the "Lead Hazard Re-
15 duction", as authorized by section 1011 of the Residential
16 Lead-Based Paint Hazard Reduction Act of 1992,
17 $100,000,000, to remain available until September 30,
18 2011: *Provided,* That funds shall be awarded first to appli-
19 cant jurisdictions which had applied under the Lead-
20 Based Paint Hazard Control Grant Program Notice of
21 Funding Availability for fiscal year 2008, and were found
22 in the application review to be qualified for award, but
23 were not awarded because of funding limitations, and that
24 any funds which remain after reservation of funds for such
25 grants shall be added to the amount of funds to be award-

1 ed under the Lead-Based Paint Hazard Control Grant
2 Program Notice of Funding Availability for fiscal year
3 2009: *Provided further,* That each applicant jurisdiction
4 for the Lead-Based Paint Hazard control Grant Program
5 Notice of Funding Availability for fiscal year 2009 shall
6 submit a detailed plan and strategy that demonstrates
7 adequate capacity that is acceptable to the Secretary to
8 carry out the proposed use of funds: *Provided further,*
9 That recipients of funds under this heading shall obligate
10 100 percent of such funds within 1 year of the date of
11 enactment of this Act, expend at least 75 percent of such
12 funds within 2 years of the date on which funds become
13 available to such jurisdictions for obligation, and expend
14 100 percent of such funds within 3 years of such date:
15 *Provided further,* That if a recipient fails to comply with
16 either the 1-year obligation requirement or the 2-year ex-
17 penditure requirement, the Secretary shall recapture all
18 remaining funds awarded to the recipient and reallocate
19 such funds to recipients that are in compliance with those
20 requirements: *Provided further,* That if a recipient fails to
21 comply with the 3-year expenditure requirement, the Sec-
22 retary shall recapture the balance of the funds awarded
23 to the recipient: *Provided further,* That in administering
24 funds provided in this heading, the Secretary may waive
25 any provision of any statute or regulation that the Sec-

1 retary administers in connection with the obligation by the
2 Secretary or the use by the recipient of these funds except
3 for requirements imposed by this heading and require-
4 ments related to fair housing, nondiscrimination, labor
5 standards, and the environment, upon a finding that such
6 waiver is required to facilitate the timely use of such funds
7 and would not be inconsistent with the overall purpose of
8 the statute or regulation: *Provided further,* That, of the
9 funds made available under this heading, up to 1 percent
10 shall be available for staffing, training, technical assist-
11 ance, technology, monitoring, research and evaluation ac-
12 tivities: *Provided further,* That any funds made available
13 under this heading used by the Secretary for personnel
14 expenses shall be transferred to and merged with funding
15 provided to "Personnel Compensation and Benefits, Office
16 of Healthy Homes and Lead Hazard Control": *Provided*
17 *further,* That any funds made available under this heading
18 used by the Secretary for training or other administrative
19 expenses shall be transferred to and merged with funding
20 provided to "Administration, Operations, and Manage-
21 ment", for non-personnel expenses of the Department of
22 Housing and Urban Development: *Provided further,* That
23 any funds made available under this heading used by the
24 Secretary for technology shall be transferred to and

1 merged with the funding provided to "Working Capital
2 Fund".

3 OFFICE OF INSPECTOR GENERAL

4 For an additional amount for the necessary salaries
5 and expenses of the Office of Inspector General in car-
6 rying out the Inspector General Act of 1978, as amended,
7 $2,750,000, to remain available until September 30, 2011:
8 *Provided,* That the Inspector General shall have inde-
9 pendent authority over all personnel issues within this of-
10 fice.

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 1301. SHORT TITLE.

This title may be cited as the "Health Information Technology for Economic and Clinical Health Act" or the "HITECH Act".

Subtitle A—Promotion of Health Information Technology

PART I—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

"SEC. 3000. DEFINITIONS.

"In this title:

"(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record and that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary,

1 such as an ambulatory electronic health record for
2 office-based physicians or an inpatient hospital elec-
3 tronic health record for hospitals).
4 "(2) ENTERPRISE INTEGRATION.—The term
5 'enterprise integration' means the electronic linkage
6 of health care providers, health plans, the govern-
7 ment, and other interested parties, to enable the
8 electronic exchange and use of health information
9 among all the components in the health care infra-
10 structure in accordance with applicable law, and
11 such term includes related application protocols and
12 other related standards.
13 "(3) HEALTH CARE PROVIDER.—The term
14 'health care provider' means a hospital, skilled nurs-
15 ing facility, nursing facility, home health entity, or
16 other long-term care facility, health care clinic, Fed-
17 erally qualified health center, group practice (as de-
18 fined in section 1877(h)(4) of the Social Security
19 Act), a pharmacist, a pharmacy, a laboratory, a phy-
20 sician (as defined in section 1861(r) of the Social
21 Security Act), a practitioner (as described in section
22 1842(b)(18)(C) of the Social Security Act), a pro-
23 vider operated by, or under contract with, the Indian
24 Health Service or by an Indian tribe (as defined in
25 the Indian Self-Determination and Education Assist-

1 ance Act), tribal organization, or urban Indian orga-
2 nization (as defined in section 4 of the Indian
3 Health Care Improvement Act), a rural health clinic,
4 a covered entity under section 340B, and any other
5 category of facility or clinician determined appro-
6 priate by the Secretary.

7 "(4) HEALTH INFORMATION.—The term 'health
8 information' has the meaning given such term in
9 section 1171(4) of the Social Security Act.

10 "(5) HEALTH INFORMATION TECHNOLOGY.—
11 The term 'health information technology' means
12 hardware, software, integrated technologies and re-
13 lated licenses, intellectual property, upgrades, and
14 packaged solutions sold as services for use by health
15 care entities for the electronic creation, maintenance,
16 or exchange of health information.

17 "(6) HEALTH PLAN.—The term 'health plan'
18 has the meaning given such term in section 1171(5)
19 of the Social Security Act.

20 "(7) HIT POLICY COMMITTEE.—The term 'HIT
21 Policy Committee' means such Committee estab-
22 lished under section 3002(a).

23 "(8) HIT STANDARDS COMMITTEE.—The term
24 'HIT Standards Committee' means such Committee
25 established under section 3003(a).

1 "(9) INDIVIDUALLY IDENTIFIABLE HEALTH IN-
2 FORMATION.—The term 'individually identifiable
3 health information' has the meaning given such term
4 in section 1171(6) of the Social Security Act.
5 "(10) LABORATORY.—The term 'laboratory'
6 has the meaning given such term in section 353(a).
7 "(11) NATIONAL COORDINATOR.—The term
8 'National Coordinator' means the head of the Office
9 of the National Coordinator for Health Information
10 Technology established under section 3001(a).
11 "(12) PHARMACIST.—The term 'pharmacist'
12 has the meaning given such term in section 804(2)
13 of the Federal Food, Drug, and Cosmetic Act.
14 "(13) QUALIFIED ELECTRONIC HEALTH
15 RECORD.—The term 'qualified electronic health
16 record' means an electronic record of health-related
17 information on an individual that—
18 "(A) includes patient demographic and
19 clinical health information, such as medical his-
20 tory and problem lists; and
21 "(B) has the capacity—
22 "(i) to provide clinical decision sup-
23 port;
24 "(ii) to support physician order entry;

1 "(iii) to capture and query informa-
2 tion relevant to health care quality; and
3 "(iv) to exchange electronic health in-
4 formation with, and integrate such infor-
5 mation from other sources.
6 "(14) STATE.—The term 'State' means each of
7 the several States, the District of Columbia, Puerto
8 Rico, the Virgin Islands, Guam, American Samoa,
9 and the Northern Mariana Islands.

10 **"Subtitle A—Promotion of Health**
11 **Information Technology**

12 **"SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR**
13 **HEALTH INFORMATION TECHNOLOGY.**

14 "(a) ESTABLISHMENT.—There is established within
15 the Department of Health and Human Services an Office
16 of the National Coordinator for Health Information Tech-
17 nology (referred to in this section as the 'Office'). The Of-
18 fice shall be headed by a National Coordinator who shall
19 be appointed by the Secretary and shall report directly to
20 the Secretary.
21 "(b) PURPOSE.—The National Coordinator shall per-
22 form the duties under subsection (c) in a manner con-
23 sistent with the development of a nationwide health infor-
24 mation technology infrastructure that allows for the elec-
25 tronic use and exchange of information and that—

1 "(1) ensures that each patient's health informa-
2 tion is secure and protected, in accordance with ap-
3 plicable law;
4 "(2) improves health care quality, reduces med-
5 ical errors, and advances the delivery of patient-cen-
6 tered medical care;
7 "(3) reduces health care costs resulting from
8 inefficiency, medical errors, inappropriate care, du-
9 plicative care, and incomplete information;
10 "(4) provides appropriate information to help
11 guide medical decisions at the time and place of
12 care;
13 "(5) ensures the inclusion of meaningful public
14 input in such development of such infrastructure;
15 "(6) improves the coordination of care and in-
16 formation among hospitals, laboratories, physician
17 offices, and other entities through an effective infra-
18 structure for the secure and authorized exchange of
19 health care information;
20 "(7) improves public health activities and facili-
21 tates the early identification and rapid response to
22 public health threats and emergencies, including bio-
23 terror events and infectious disease outbreaks;
24 "(8) facilitates health and clinical research and
25 health care quality;

1 "(9) promotes early detection, prevention, and
2 management of chronic diseases;
3 "(10) promotes a more effective marketplace,
4 greater competition, greater systems analysis, in-
5 creased consumer choice, and improved outcomes in
6 health care services; and
7 "(11) improves efforts to reduce health dispari-
8 ties.
9 "(c) DUTIES OF THE NATIONAL COORDINATOR.—
10 "(1) STANDARDS.—The National Coordinator
11 shall review and determine whether to endorse each
12 standard, implementation specification, and certifi-
13 cation criterion for the electronic exchange and use
14 of health information that is recommended by the
15 HIT Standards Committee under section 3003 for
16 purposes of adoption under section 3004. The Coor-
17 dinator shall make such determination, and report to
18 the Secretary such determination, not later than 45
19 days after the date the recommendation is received
20 by the Coordinator.
21 "(2) HIT POLICY COORDINATION.—
22 "(A) IN GENERAL.—The National Coordi-
23 nator shall coordinate health information tech-
24 nology policy and programs of the Department
25 with those of other relevant executive branch

1 agencies with a goal of avoiding duplication of
2 efforts and of helping to ensure that each agen-
3 cy undertakes health information technology ac-
4 tivities primarily within the areas of its greatest
5 expertise and technical capability and in a man-
6 ner towards a coordinated national goal.
7 "(B) HIT POLICY AND STANDARDS COM-
8 MITTEES.—The National Coordinator shall be a
9 leading member in the establishment and oper-
10 ations of the HIT Policy Committee and the
11 HIT Standards Committee and shall serve as a
12 liaison among those two Committees and the
13 Federal Government.
14 "(3) STRATEGIC PLAN.—
15 "(A) IN GENERAL.—The National Coordi-
16 nator shall, in consultation with other appro-
17 priate Federal agencies (including the National
18 Institute of Standards and Technology), update
19 the Federal Health IT Strategic Plan (devel-
20 oped as of June 3, 2008) to include specific ob-
21 jectives, milestones, and metrics with respect to
22 the following:
23 "(i) The electronic exchange and use
24 of health information and the enterprise
25 integration of such information.

1 "(ii) The utilization of an electronic
2 health record for each person in the United
3 States by 2014.
4 "(iii) The incorporation of privacy and
5 security protections for the electronic ex-
6 change of an individual's individually iden-
7 tifiable health information.
8 "(iv) Ensuring security methods to
9 ensure appropriate authorization and elec-
10 tronic authentication of health information
11 and specifying technologies or methodolo-
12 gies for rendering health information unus-
13 able, unreadable, or indecipherable.
14 "(v) Specifying a framework for co-
15 ordination and flow of recommendations
16 and policies under this subtitle among the
17 Secretary, the National Coordinator, the
18 HIT Policy Committee, the HIT Standards
19 Committee, and other health information
20 exchanges and other relevant entities.
21 "(vi) Methods to foster the public un-
22 derstanding of health information tech-
23 nology.
24 "(vii) Strategies to enhance the use of
25 health information technology in improving

1 the quality of health care, reducing medical
2 errors, reducing health disparities, improv-
3 ing public health, increasing prevention
4 and coordination with community re-
5 sources, and improving the continuity of
6 care among health care settings.
7 "(viii) Specific plans for ensuring that
8 populations with unique needs, such as
9 children, are appropriately addressed in
10 the technology design, as appropriate,
11 which may include technology that
12 automates enrollment and retention for eli-
13 gible individuals.
14 "(B) COLLABORATION.—The strategic
15 plan shall be updated through collaboration of
16 public and private entities.
17 "(C) MEASURABLE OUTCOME GOALS.—
18 The strategic plan update shall include measur-
19 able outcome goals.
20 "(D) PUBLICATION.—The National Coor-
21 dinator shall republish the strategic plan, in-
22 cluding all updates.
23 "(4) WEBSITE.—The National Coordinator
24 shall maintain and frequently update an Internet
25 website on which there is posted information on the

1 work, schedules, reports, recommendations, and
2 other information to ensure transparency in pro-
3 motion of a nationwide health information tech-
4 nology infrastructure.
5 "(5) CERTIFICATION.—
6 "(A) IN GENERAL.—The National Coordi-
7 nator, in consultation with the Director of the
8 National Institute of Standards and Tech-
9 nology, shall develop a program (either directly
10 or by contract) for the voluntary certification of
11 health information technology as being in com-
12 pliance with applicable certification criteria
13 adopted under this subtitle. Such program shall
14 include testing of the technology in accordance
15 with section 14201(b) of the Health Informa-
16 tion Technology for Economic and Clinical
17 Health Act.
18 "(B) CERTIFICATION CRITERIA DE-
19 SCRIBED.—In this title, the term 'certification
20 criteria' means, with respect to standards and
21 implementation specifications for health infor-
22 mation technology, criteria to establish that the
23 technology meets such standards and implemen-
24 tation specifications.
25 "(6) REPORTS AND PUBLICATIONS.—

1 "(A) REPORT ON ADDITIONAL FUNDING
2 OR AUTHORITY NEEDED.—Not later than 12
3 months after the date of the enactment of this
4 title, the National Coordinator shall submit to
5 the appropriate committees of jurisdiction of
6 the House of Representatives and the Senate a
7 report on any additional funding or authority
8 the Coordinator or the HIT Policy Committee
9 or HIT Standards Committee requires to evalu-
10 ate and develop standards, implementation
11 specifications, and certification criteria, or to
12 achieve full participation of stakeholders in the
13 adoption of a nationwide health information
14 technology infrastructure that allows for the
15 electronic use and exchange of health informa-
16 tion.
17 "(B) IMPLEMENTATION REPORT.—The
18 National Coordinator shall prepare a report
19 that identifies lessons learned from major pub-
20 lic and private health care systems in their im-
21 plementation of health information technology,
22 including information on whether the tech-
23 nologies and practices developed by such sys-
24 tems may be applicable to and usable in whole
25 or in part by other health care providers.

1 "(C) ASSESSMENT OF IMPACT OF HIT ON
2 COMMUNITIES WITH HEALTH DISPARITIES AND
3 UNINSURED, UNDERINSURED, AND MEDICALLY
4 UNDERSERVED AREAS.—The National Coordi-
5 nator shall assess and publish the impact of
6 health information technology in communities
7 with health disparities and in areas with a high
8 proportion of individuals who are uninsured,
9 underinsured, and medically underserved indi-
10 viduals (including urban and rural areas) and
11 identify practices to increase the adoption of
12 such technology by health care providers in
13 such communities, and the use of health infor-
14 mation technology to reduce and better manage
15 chronic diseases.
16 "(D) EVALUATION OF BENEFITS AND
17 COSTS OF THE ELECTRONIC USE AND EX-
18 CHANGE OF HEALTH INFORMATION.—The Na-
19 tional Coordinator shall evaluate and publish
20 evidence on the benefits and costs of the elec-
21 tronic use and exchange of health information
22 and assess to whom these benefits and costs ac-
23 crue.
24 "(E) RESOURCE REQUIREMENTS.—The
25 National Coordinator shall estimate and publish

1 resources required annually to reach the goal of
2 utilization of an electronic health record for
3 each person in the United States by 2014, in-
4 cluding the required level of Federal funding,
5 expectations for regional, State, and private in-
6 vestment, and the expected contributions by vol-
7 unteers to activities for the utilization of such
8 records.

9 "(7) ASSISTANCE.—The National Coordinator
10 may provide financial assistance to consumer advo-
11 cacy groups and not-for-profit entities that work in
12 the public interest for purposes of defraying the cost
13 to such groups and entities to participate under,
14 whether in whole or in part, the National Tech-
15 nology Transfer Act of 1995 (15 U.S.C. 272 note).

16 "(8) GOVERNANCE FOR NATIONWIDE HEALTH
17 INFORMATION NETWORK.—The National Coordi-
18 nator shall establish a governance mechanism for the
19 nationwide health information network.

20 "(d) DETAIL OF FEDERAL EMPLOYEES.—

21 "(1) IN GENERAL.—Upon the request of the
22 National Coordinator, the head of any Federal agen-
23 cy is authorized to detail, with or without reimburse-
24 ment from the Office, any of the personnel of such

1 agency to the Office to assist it in carrying out its
2 duties under this section.
3 "(2) EFFECT OF DETAIL.—Any detail of per-
4 sonnel under paragraph (1) shall—
5 "(A) not interrupt or otherwise affect the
6 civil service status or privileges of the Federal
7 employee; and
8 "(B) be in addition to any other staff of
9 the Department employed by the National Co-
10 ordinator.
11 "(3) ACCEPTANCE OF DETAILEES.—Notwith-
12 standing any other provision of law, the Office may
13 accept detailed personnel from other Federal agen-
14 cies without regard to whether the agency described
15 under paragraph (1) is reimbursed.
16 "(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF
17 THE NATIONAL COORDINATOR.—Not later than 12
18 months after the date of the enactment of this title, the
19 Secretary shall appoint a Chief Privacy Officer of the Of-
20 fice of the National Coordinator, whose duty it shall be
21 to advise the National Coordinator on privacy, security,
22 and data stewardship of electronic health information and
23 to coordinate with other Federal agencies (and similar pri-
24 vacy officers in such agencies), with State and regional
25 efforts, and with foreign countries with regard to the pri-

1 vacy, security, and data stewardship of electronic individ-
2 ually identifiable health information.

3 **"SEC. 3002. HIT POLICY COMMITTEE.**

4 "(a) ESTABLISHMENT.—There is established a HIT
5 Policy Committee to make policy recommendations to the
6 National Coordinator relating to the implementation of a
7 nationwide health information technology infrastructure,
8 including implementation of the strategic plan described
9 in section 3001(c)(3).

10 "(b) DUTIES.—

11 "(1) RECOMMENDATIONS ON HEALTH INFOR-
12 MATION TECHNOLOGY INFRASTRUCTURE.—The HIT
13 Policy Committee shall recommend a policy frame-
14 work for the development and adoption of a nation-
15 wide health information technology infrastructure
16 that permits the electronic exchange and use of
17 health information as is consistent with the strategic
18 plan under section 3001(c)(3) and that includes the
19 recommendations under paragraph (2). The Com-
20 mittee shall update such recommendations and make
21 new recommendations as appropriate.

22 "(2) SPECIFIC AREAS OF STANDARD DEVELOP-
23 MENT.—

24 "(A) IN GENERAL.—The HIT Policy Com-
25 mittee shall recommend the areas in which

1 standards, implementation specifications, and
2 certification criteria are needed for the elec-
3 tronic exchange and use of health information
4 for purposes of adoption under section 3004
5 and shall recommend an order of priority for
6 the development, harmonization, and recogni-
7 tion of such standards, specifications, and cer-
8 tification criteria among the areas so rec-
9 ommended. Such standards and implementation
10 specifications shall include named standards,
11 architectures, and software schemes for the au-
12 thentication and security of individually identifi-
13 able health information and other information
14 as needed to ensure the reproducible develop-
15 ment of common solutions across disparate en-
16 tities.

17 "(B) AREAS REQUIRED FOR CONSIDER-
18 ATION.—For purposes of subparagraph (A), the
19 HIT Policy Committee shall make recommenda-
20 tions for at least the following areas:

21 "(i) Technologies that protect the pri-
22 vacy of health information and promote se-
23 curity in a qualified electronic health
24 record, including for the segmentation and
25 protection from disclosure of specific and

1 sensitive individually identifiable health in-
2 formation with the goal of minimizing the
3 reluctance of patients to seek care (or dis-
4 close information about a condition) be-
5 cause of privacy concerns, in accordance
6 with applicable law, and for the use and
7 disclosure of limited data sets of such in-
8 formation.
9 "(ii) A nationwide health information
10 technology infrastructure that allows for
11 the electronic use and accurate exchange of
12 health information.
13 "(iii) The utilization of a certified
14 electronic health record for each person in
15 the United States by 2014.
16 "(iv) Technologies that as a part of a
17 qualified electronic health record allow for
18 an accounting of disclosures made by a
19 covered entity (as defined for purposes of
20 regulations promulgated under section
21 264(c) of the Health Insurance Portability
22 and Accountability Act of 1996) for pur-
23 poses of treatment, payment, and health
24 care operations (as such terms are defined
25 for purposes of such regulations).

1 "(v) The use of certified electronic
2 health records to improve the quality of
3 health care, such as by promoting the co-
4 ordination of health care and improving
5 continuity of health care among health
6 care providers, by reducing medical errors,
7 by improving population health, reducing
8 chronic disease, and by advancing research
9 and education.
10 "(C) OTHER AREAS FOR CONSIDER-
11 ATION.—In making recommendations under
12 subparagraph (A), the HIT Policy Committee
13 may consider the following additional areas:
14 "(i) The appropriate uses of a nation-
15 wide health information infrastructure, in-
16 cluding for purposes of—
17 "(I) the collection of quality data
18 and public reporting;
19 "(II) biosurveillance and public
20 health;
21 "(III) medical and clinical re-
22 search; and
23 "(IV) drug safety.

1 "(ii) Self-service technologies that fa-
2 cilitate the use and exchange of patient in-
3 formation and reduce wait times.
4 "(iii) Telemedicine technologies, in
5 order to reduce travel requirements for pa-
6 tients in remote areas.
7 "(iv) Technologies that facilitate home
8 health care and the monitoring of patients
9 recuperating at home.
10 "(v) Technologies that help reduce
11 medical errors.
12 "(vi) Technologies that facilitate the
13 continuity of care among health settings.
14 "(vii) Technologies that meet the
15 needs of diverse populations.
16 "(viii) Technologies and design fea-
17 tures that address the needs of children
18 and other vulnerable populations.
19 "(ix) Any other technology that the
20 HIT Policy Committee finds to be among
21 the technologies with the greatest potential
22 to improve the quality and efficiency of
23 health care.
24 "(3) FORUM.—The HIT Policy Committee shall
25 serve as a forum for broad stakeholder input with

1 specific expertise in policies relating to the matters
2 described in paragraphs (1) and (2).
3 "(c) MEMBERSHIP AND OPERATIONS.—
4 "(1) IN GENERAL.—The National Coordinator
5 shall provide leadership in the establishment and op-
6 erations of the HIT Policy Committee.
7 "(2) MEMBERSHIP.—The membership of the
8 HIT Policy Committee shall at least reflect pro-
9 viders, ancillary healthcare workers, consumers, pur-
10 chasers, health plans, technology vendors, research-
11 ers, relevant Federal agencies, and individuals with
12 technical expertise on health care quality, privacy
13 and security, and on the electronic exchange and use
14 of health information.
15 "(3) CONSIDERATION.—The National Coordi-
16 nator shall ensure that the relevant recommenda-
17 tions and comments from the National Committee
18 on Vital and Health Statistics are considered in the
19 development of policies.
20 "(d) APPLICATION OF FACA.—The Federal Advisory
21 Committee Act (5 U.S.C. App.), other than section 14 of
22 such Act, shall apply to the HIT Policy Committee.
23 "(e) PUBLICATION.—The Secretary shall provide for
24 publication in the Federal Register and the posting on the
25 Internet website of the Office of the National Coordinator

1 for Health Information Technology of all policy rec-
2 ommendations made by the HIT Policy Committee under
3 this section.

4 **"SEC. 3003. HIT STANDARDS COMMITTEE.**

5 "(a) ESTABLISHMENT.—There is established a com-
6 mittee to be known as the HIT Standards Committee to
7 recommend to the National Coordinator standards, imple-
8 mentation specifications, and certification criteria for the
9 electronic exchange and use of health information for pur-
10 poses of adoption under section 3004, consistent with the
11 implementation of the strategic plan described in section
12 3001(c)(3) and beginning with the areas listed in section
13 3002(b)(2)(B) in accordance with policies developed by
14 the HIT Policy Committee.

15 "(b) DUTIES.—

16 "(1) STANDARD DEVELOPMENT.—

17 "(A) IN GENERAL.—The HIT Standards
18 Committee shall recommend to the National
19 Coordinator standards, implementation speci-
20 fications, and certification criteria described in
21 subsection (a) that have been developed, har-
22 monized, or recognized by the HIT Standards
23 Committee. The HIT Standards Committee
24 shall update such recommendations and make
25 new recommendations as appropriate, including

1 in response to a notification sent under section
2 3004(b)(2). Such recommendations shall be
3 consistent with the latest recommendations
4 made by the HIT Policy Committee.
5 "(B) PILOT TESTING OF STANDARDS AND
6 IMPLEMENTATION SPECIFICATIONS.—In the de-
7 velopment, harmonization, or recognition of
8 standards and implementation specifications,
9 the HIT Standards Committee shall, as appro-
10 priate, provide for the testing of such standards
11 and specifications by the National Institute for
12 Standards and Technology under section 14201
13 of the Health Information Technology for Eco-
14 nomic and Clinical Health Act.
15 "(C) CONSISTENCY.—The standards, im-
16 plementation specifications, and certification
17 criteria recommended under this subsection
18 shall be consistent with the standards for infor-
19 mation transactions and data elements adopted
20 pursuant to section 1173 of the Social Security
21 Act.
22 "(2) FORUM.—The HIT Standards Committee
23 shall serve as a forum for the participation of a
24 broad range of stakeholders to provide input on the
25 development, harmonization, and recognition of

1 standards, implementation specifications, and certifi-
2 cation criteria necessary for the development and
3 adoption of a nationwide health information tech-
4 nology infrastructure that allows for the electronic
5 use and exchange of health information.

6 "(3) SCHEDULE.—Not later than 90 days after
7 the date of the enactment of this title, the HIT
8 Standards Committee shall develop a schedule for
9 the assessment of policy recommendations developed
10 by the HIT Policy Committee under section 3002.
11 The HIT Standards Committee shall update such
12 schedule annually. The Secretary shall publish such
13 schedule in the Federal Register.

14 "(4) PUBLIC INPUT.—The HIT Standards
15 Committee shall conduct open public meetings and
16 develop a process to allow for public comment on the
17 schedule described in paragraph (3) and rec-
18 ommendations described in this subsection. Under
19 such process comments shall be submitted in a time-
20 ly manner after the date of publication of a rec-
21 ommendation under this subsection.

22 "(c) MEMBERSHIP AND OPERATIONS.—

23 "(1) IN GENERAL.—The National Coordinator
24 shall provide leadership in the establishment and op-
25 erations of the HIT Standards Committee.

1 "(2) MEMBERSHIP.—The membership of the
2 HIT Standards Committee shall at least reflect pro-
3 viders, ancillary healthcare workers, consumers, pur-
4 chasers, health plans, technology vendors, research-
5 ers, relevant Federal agencies, and individuals with
6 technical expertise on health care quality, privacy
7 and security, and on the electronic exchange and use
8 of health information.

9 "(3) CONSIDERATION.—The National Coordi-
10 nator shall ensure that the relevant recommenda-
11 tions and comments from the National Committee
12 on Vital and Health Statistics are considered in the
13 development of standards.

14 "(4) ASSISTANCE.—For the purposes of car-
15 rying out this section, the Secretary may provide or
16 ensure that financial assistance is provided by the
17 HIT Standards Committee to defray in whole or in
18 part any membership fees or dues charged by such
19 Committee to those consumer advocacy groups and
20 not for profit entities that work in the public inter-
21 est as a part of their mission.

22 "(d) APPLICATION OF FACA.—The Federal Advisory
23 Committee Act (5 U.S.C. App.), other than section 14,
24 shall apply to the HIT Standards Committee.

1 "(e) PUBLICATION.—The Secretary shall provide for
2 publication in the Federal Register and the posting on the
3 Internet website of the Office of the National Coordinator
4 for Health Information Technology of all recommenda-
5 tions made by the HIT Standards Committee under this
6 section.

7 **"SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**
8 **OMMENDATIONS; ADOPTION OF INITIAL SET**
9 **OF STANDARDS, IMPLEMENTATION SPECI-**
10 **FICATIONS, AND CERTIFICATION CRITERIA.**

11 "(a) PROCESS FOR ADOPTION OF ENDORSED REC-
12 OMMENDATIONS.—

13 "(1) REVIEW OF ENDORSED STANDARDS, IM-
14 PLEMENTATION SPECIFICATIONS, AND CERTIFI-
15 CATION CRITERIA.—Not later than 90 days after the
16 date of receipt of standards, implementation speci-
17 fications, or certification criteria endorsed under sec-
18 tion 3001(c), the Secretary, in consultation with rep-
19 resentatives of other relevant Federal agencies, shall
20 jointly review such standards, implementation speci-
21 fications, or certification criteria and shall determine
22 whether or not to propose adoption of such stand-
23 ards, implementation specifications, or certification
24 criteria.

1 "(2) DETERMINATION TO ADOPT STANDARDS,
2 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-
3 CATION CRITERIA.—If the Secretary determines—
4 "(A) to propose adoption of any grouping
5 of such standards, implementation specifica-
6 tions, or certification criteria, the Secretary
7 shall, by regulation, determine whether or not
8 to adopt such grouping of standards, implemen-
9 tation specifications, or certification criteria; or
10 "(B) not to propose adoption of any group-
11 ing of standards, implementation specifications,
12 or certification criteria, the Secretary shall no-
13 tify the National Coordinator and the HIT
14 Standards Committee in writing of such deter-
15 mination and the reasons for not proposing the
16 adoption of such recommendation.
17 "(3) PUBLICATION.—The Secretary shall pro-
18 vide for publication in the Federal Register of all de-
19 terminations made by the Secretary under para-
20 graph (1).
21 "(b) ADOPTION OF INITIAL SET OF STANDARDS, IM-
22 PLEMENTATION SPECIFICATIONS, AND CERTIFICATION
23 CRITERIA.—
24 "(1) IN GENERAL.—Not later than December
25 31, 2009, the Secretary shall, through the rule-

1 making process described in section 3003, adopt an
2 initial set of standards, implementation specifica-
3 tions, and certification criteria for the areas required
4 for consideration under section 3002(b)(2)(B).

5 "(2) APPLICATION OF CURRENT STANDARDS,
6 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-
7 CATION CRITERIA.—The standards, implementation
8 specifications, and certification criteria adopted be-
9 fore the date of the enactment of this title through
10 the process existing through the Office of the Na-
11 tional Coordinator for Health Information Tech-
12 nology may be applied towards meeting the require-
13 ment of paragraph (1).

14 **"SEC. 3005. APPLICATION AND USE OF ADOPTED STAND-**
15 **ARDS AND IMPLEMENTATION SPECIFICA-**
16 **TIONS BY FEDERAL AGENCIES.**

17 "For requirements relating to the application and use
18 by Federal agencies of the standards and implementation
19 specifications adopted under section 3004, see section
20 14111 of the Health Information Technology for Eco-
21 nomic and Clinical Health Act.

1 **"SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPT-**
2 **ED STANDARDS AND IMPLEMENTATION**
3 **SPECIFICATIONS BY PRIVATE ENTITIES.**

4 "(a) IN GENERAL.—Except as provided under section
5 14112 of the Health Information Technology for Eco-
6 nomic and Clinical Health Act, any standard or implemen-
7 tation specification adopted under section 3004 shall be
8 voluntary with respect to private entities.

9 "(b) RULE OF CONSTRUCTION.—Nothing in this sub-
10 title shall be construed to require that a private entity that
11 enters into a contract with the Federal Government apply
12 or use the standards and implementation specifications
13 adopted under section 3004 with respect to activities not
14 related to the contract.

15 **"SEC. 3007. FEDERAL HEALTH INFORMATION TECH-**
16 **NOLOGY.**

17 "(a) IN GENERAL.—The National Coordinator shall
18 support the development, routine updating and provision
19 of qualified EHR technology (as defined in section 3000)
20 consistent with subsections (b) and (c) unless the Sec-
21 retary determines that the needs and demands of pro-
22 viders are being substantially and adequately met through
23 the marketplace.

24 "(b) CERTIFICATION.—In making such EHR tech-
25 nology publicly available, the National Coordinator shall
26 ensure that the qualified EHR technology described in

1 subsection (a) is certified under the program developed
2 under section 3001(c)(3) to be in compliance with applica-
3 ble standards adopted under section 3003(a).

4 "(c) AUTHORIZATION TO CHARGE A NOMINAL
5 FEE.—The National Coordinator may impose a nominal
6 fee for the adoption by a health care provider of the health
7 information technology system developed or approved
8 under subsection (a) and (b). Such fee shall take into ac-
9 count the financial circumstances of smaller providers, low
10 income providers, and providers located in rural or other
11 medically underserved areas.

12 "(d) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to require that a private or govern-
14 ment entity adopt or use the technology provided under
15 this section.

16 **"SEC. 3008. TRANSITIONS.**

17 "(a) ONCHIT.—To the extent consistent with sec-
18 tion 3001, all functions, personnel, assets, liabilities, and
19 administrative actions applicable to the National Coordi-
20 nator for Health Information Technology appointed under
21 Executive Order 13335 or the Office of such National Co-
22 ordinator on the date before the date of the enactment
23 of this title shall be transferred to the National Coordi-
24 nator appointed under section 3001(a) and the Office of

1 such National Coordinator as of the date of the enactment
2 of this title.
3 "(b) AHIC.—
4 "(1) To the extent consistent with sections
5 3002 and 3003, all functions, personnel, assets, and
6 liabilities applicable to the AHIC Successor, Inc.
7 doing business as the National eHealth Collaborative
8 as of the day before the date of the enactment of
9 this title shall be transferred to the HIT Policy
10 Committee or the HIT Standards Committee, estab-
11 lished under section 3002(a) or 3003(a), as appro-
12 priate, as of the date of the enactment of this title.
13 "(2) In carrying out section 3003(b)(1)(A),
14 until recommendations are made by the HIT Policy
15 Committee, recommendations of the HIT Standards
16 Committee shall be consistent with the most recent
17 recommendations made by such AHIC Successor,
18 Inc.
19 "(c) RULES OF CONSTRUCTION.—
20 "(1) ONCHIT.—Nothing in section 3001 or
21 subsection (a) shall be construed as requiring the
22 creation of a new entity to the extent that the Office
23 of the National Coordinator for Health Information
24 Technology established pursuant to Executive Order

1 13335 is consistent with the provisions of section
2 3001.
3 "(2) AHIC.—Nothing in sections 3002 or 3003
4 or subsection (b) shall be construed as prohibiting
5 the AHIC Successor, Inc. doing business as the Na-
6 tional eHealth Collaborative from modifying its char-
7 ter, duties, membership, and any other structure or
8 function required to be consistent with section 3002
9 and 3003 in a manner that would permit the Sec-
10 retary to choose to recognize such AHIC Successor,
11 Inc. as the HIT Policy Committee or the HIT
12 Standards Committee.
13 **"SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY**
14 **LAW.**
15 "(a) IN GENERAL.—With respect to the relation of
16 this title to HIPAA privacy and security law:
17 "(1) This title may not be construed as having
18 any effect on the authorities of the Secretary under
19 HIPAA privacy and security law.
20 "(2) The purposes of this title include ensuring
21 that the health information technology standards
22 and implementation specifications adopted under
23 section 3004 take into account the requirements of
24 HIPAA privacy and security law.

1 "(b) DEFINITION.—For purposes of this section, the
2 term 'HIPAA privacy and security law' means—
3 "(1) the provisions of part C of title XI of the
4 Social Security Act, section 264 of the Health Insur-
5 ance Portability and Accountability Act of 1996, and
6 subtitle D of the Health Information Technology for
7 Economic and Clinical Health Act; and
8 "(2) regulations under such provisions.".

9 **SEC. 13102. TECHNICAL AMENDMENT.**

10 Section 1171(5) of the Social Security Act (42 U.S.C.
11 1320d) is amended by striking "or C" and inserting "C,
12 or D".

13 **PART II—APPLICATION AND USE OF ADOPTED**
14 **HEALTH INFORMATION TECHNOLOGY**
15 **STANDARDS; REPORTS**

16 **SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH**
17 **ADOPTED STANDARDS AND IMPLEMENTA-**
18 **TION SPECIFICATIONS.**

19 (a) SPENDING ON HEALTH INFORMATION TECH-
20 NOLOGY SYSTEMS.—As each agency (as defined in the Ex-
21 ecutive Order issued on August 22, 2006, relating to pro-
22 moting quality and efficient health care in Federal govern-
23 ment administered or sponsored health care programs) im-
24 plements, acquires, or upgrades health information tech-
25 nology systems used for the direct exchange of individually

1 identifiable health information between agencies and with
2 non-Federal entities, it shall utilize, where available,
3 health information technology systems and products that
4 meet standards and implementation specifications adopted
5 under section 3004(b) of the Public Health Service Act,
6 as added by section 13101.

7 (b) FEDERAL INFORMATION COLLECTION ACTIVI-
8 TIES.—With respect to a standard or implementation
9 specification adopted under section 3004(b) of the Public
10 Health Service Act, as added by section 13101, the Presi-
11 dent shall take measures to ensure that Federal activities
12 involving the broad collection and submission of health in-
13 formation are consistent with such standard or implemen-
14 tation specification, respectively, within three years after
15 the date of such adoption.

16 (c) APPLICATION OF DEFINITIONS.—The definitions
17 contained in section 3000 of the Public Health Service
18 Act, as added by section 13101, shall apply for purposes
19 of this part.

20 **SEC. 13112. APPLICATION TO PRIVATE ENTITIES.**

21 Each agency (as defined in such Executive Order
22 issued on August 22, 2006, relating to promoting quality
23 and efficient health care in Federal government adminis-
24 tered or sponsored health care programs) shall require in
25 contracts or agreements with health care providers, health

1 plans, or health insurance issuers that as each provider,
2 plan, or issuer implements, acquires, or upgrades health
3 information technology systems, it shall utilize, where
4 available, health information technology systems and prod-
5 ucts that meet standards and implementation specifica-
6 tions adopted under section 3004(b) of the Public Health
7 Service Act, as added by section 13101.

8 **SEC. 13113. STUDY AND REPORTS.**

9 (a) REPORT ON ADOPTION OF NATIONWIDE SYS-
10 TEM.—Not later than 2 years after the date of the enact-
11 ment of this Act and annually thereafter, the Secretary
12 of Health and Human Services shall submit to the appro-
13 priate committees of jurisdiction of the House of Rep-
14 resentatives and the Senate a report that—

15 (1) describes the specific actions that have been
16 taken by the Federal Government and private enti-
17 ties to facilitate the adoption of a nationwide system
18 for the electronic use and exchange of health infor-
19 mation;

20 (2) describes barriers to the adoption of such a
21 nationwide system; and

22 (3) contains recommendations to achieve full
23 implementation of such a nationwide system.

24 (b) REIMBURSEMENT INCENTIVE STUDY AND RE-
25 PORT.—

1 (1) STUDY.—The Secretary of Health and
2 Human Services shall carry out, or contract with a
3 private entity to carry out, a study that examines
4 methods to create efficient reimbursement incentives
5 for improving health care quality in Federally quali-
6 fied health centers, rural health clinics, and free
7 clinics.
8 (2) REPORT.—Not later than 2 years after the
9 date of the enactment of this Act, the Secretary of
10 Health and Human Services shall submit to the ap-
11 propriate committees of jurisdiction of the House of
12 Representatives and the Senate a report on the
13 study carried out under paragraph (1).
14 (c) AGING SERVICES TECHNOLOGY STUDY AND RE-
15 PORT.—
16 (1) IN GENERAL.—The Secretary of Health and
17 Human Services shall carry out, or contract with a
18 private entity to carry out, a study of matters relat-
19 ing to the potential use of new aging services tech-
20 nology to assist seniors, individuals with disabilities,
21 and their caregivers throughout the aging process.
22 (2) MATTERS TO BE STUDIED.—The study
23 under paragraph (1) shall include—
24 (A) an evaluation of—

1 Secretary shall ensure that any funds so appropriated
2 shall be used for the acquisition of health information
3 technology that meets standards and certification criteria
4 adopted before the date of the enactment of this title until
5 such date as the standards are adopted under section
6 3004. The Secretary shall invest funds through the dif-
7 ferent agencies with expertise in such goals, such as the
8 Office of the National Coordinator for Health Information
9 Technology, the Health Resources and Services Adminis-
10 tration, the Agency for Healthcare Research and Quality,
11 the Centers of Medicare & Medicaid Services, the Centers
12 for Disease Control and Prevention, and the Indian
13 Health Service to support the following:
14 "(1) Health information technology architecture
15 that will support the nationwide electronic exchange
16 and use of health information in a secure, private,
17 and accurate manner, including connecting health
18 information exchanges, and which may include up-
19 dating and implementing the infrastructure nec-
20 essary within different agencies of the Department
21 of Health and Human Services to support the elec-
22 tronic use and exchange of health information.
23 "(2) Development and adoption of appropriate
24 certified electronic health records for categories of
25 providers not eligible for support under title XVIII

1 or XIX of the Social Security Act for the adoption
2 of such records.
3 "(3) Training on and dissemination of informa-
4 tion on best practices to integrate health information
5 technology, including electronic health records, into
6 a provider's delivery of care, consistent with best
7 practices learned from the Health Information Tech-
8 nology Research Center developed under section 302,
9 including community health centers receiving assist-
10 ance under section 330 of the Public Health Service
11 Act, covered entities under section 340B of such
12 Act, and providers participating in one or more of
13 the programs under titles XVIII, XIX, and XXI of
14 the Social Security Act (relating to Medicare, Med-
15 icaid, and the State Children's Health Insurance
16 Program).
17 "(4) Infrastructure and tools for the promotion
18 of telemedicine, including coordination among Fed-
19 eral agencies in the promotion of telemedicine.
20 "(5) Promotion of the interoperability of clinical
21 data repositories or registries.
22 "(6) Promotion of technologies and best prac-
23 tices that enhance the protection of health informa-
24 tion by all holders of individually identifiable health
25 information.

1 "(7) Improve and expand the use of health in-
2 formation technology by public health departments.
3 "(8) Provide $300,000,000 to support regional
4 or sub-national efforts towards health information
5 exchange.
6 "(b) COORDINATION.—The Secretary shall ensure
7 funds under this section are used in a coordinated manner
8 with other health information promotion activities.
9 "(c) ADDITIONAL USE OF FUNDS.—In addition to
10 using funds as provided in subsection (a), the Secretary
11 may use amounts appropriated under section 3018 to
12 carry out activities that are provided for under laws in
13 effect on the date of enactment of this title.

14 **"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**
15 **MENTATION ASSISTANCE.**

16 "(a) HEALTH INFORMATION TECHNOLOGY EXTEN-
17 SION PROGRAM.—To assist health care providers to adopt,
18 implement, and effectively use certified EHR technology
19 that allows for the electronic exchange and use of health
20 information, the Secretary, acting through the Office of
21 the National Coordinator, shall establish a health informa-
22 tion technology extension program to provide health infor-
23 mation technology assistance services to be carried out
24 through the Department of Health and Human Services.
25 The National Coordinator shall consult with other Federal

1 agencies with demonstrated experience and expertise in in-
2 formation technology services, such as the National Insti-
3 tute of Standards and Technology, in developing and im-
4 plementing this program.

5 "(b) HEALTH INFORMATION TECHNOLOGY RE-
6 SEARCH CENTER.—

7 "(1) IN GENERAL.—The Secretary shall create
8 a Health Information Technology Research Center
9 (in this section referred to as the 'Center') to pro-
10 vide technical assistance and develop or recognize
11 best practices to support and accelerate efforts to
12 adopt, implement, and effectively utilize health infor-
13 mation technology that allows for the electronic ex-
14 change and use of information in compliance with
15 standards, implementation specifications, and certifi-
16 cation criteria adopted under section 3004(b).

17 "(2) INPUT.—The Center shall incorporate
18 input from—

19 "(A) other Federal agencies with dem-
20 onstrated experience and expertise in informa-
21 tion technology services such as the National
22 Institute of Standards and Technology;

23 "(B) users of health information tech-
24 nology, such as providers and their support and
25 clerical staff and others involved in the care and

1 care coordination of patients, from the health
2 care and health information technology indus-
3 try; and
4 "(C) others as appropriate.
5 "(3) PURPOSES.—The purposes of the Center
6 are to—
7 "(A) provide a forum for the exchange of
8 knowledge and experience;
9 "(B) accelerate the transfer of lessons
10 learned from existing public and private sector
11 initiatives, including those currently receiving
12 Federal financial support;
13 "(C) assemble, analyze, and widely dis-
14 seminate evidence and experience related to the
15 adoption, implementation, and effective use of
16 health information technology that allows for
17 the electronic exchange and use of information
18 including through the regional centers described
19 in subsection (c);
20 "(D) provide technical assistance for the
21 establishment and evaluation of regional and
22 local health information networks to facilitate
23 the electronic exchange of information across
24 health care settings and improve the quality of
25 health care;

1 "(E) provide technical assistance for the
2 development and dissemination of solutions to
3 barriers to the exchange of electronic health in-
4 formation; and
5 "(F) learn about effective strategies to
6 adopt and utilize health information technology
7 in medically underserved communities.
8 "(c) HEALTH INFORMATION TECHNOLOGY RE-
9 GIONAL EXTENSION CENTERS.—
10 "(1) IN GENERAL.—The Secretary shall provide
11 assistance for the creation and support of regional
12 centers (in this subsection referred to as 'regional
13 centers') to provide technical assistance and dissemi-
14 nate best practices and other information learned
15 from the Center to support and accelerate efforts to
16 adopt, implement, and effectively utilize health infor-
17 mation technology that allows for the electronic ex-
18 change and use of information in compliance with
19 standards, implementation specifications, and certifi-
20 cation criteria adopted under section 3004. Activities
21 conducted under this subsection shall be consistent
22 with the strategic plan developed by the National
23 Coordinator (and, as available) under section 3001.
24 "(2) AFFILIATION.—Regional centers shall be
25 affiliated with any US-based nonprofit institution or

1 organization, or group thereof, that applies and is
2 awarded financial assistance under this section. Indi-
3 vidual awards shall be decided on the basis of merit.
4 "(3) OBJECTIVE.—The objective of the regional
5 centers is to enhance and promote the adoption of
6 health information technology through—
7 "(A) assistance with the implementation,
8 effective use, upgrading, and ongoing mainte-
9 nance of health information technology, includ-
10 ing electronic health records, to healthcare pro-
11 viders nationwide;
12 "(B) broad participation of individuals
13 from industry, universities, and State govern-
14 ments;
15 "(C) active dissemination of best practices
16 and research on the implementation, effective
17 use, upgrading, and ongoing maintenance of
18 health information technology, including elec-
19 tronic health records, to health care providers
20 in order to improve the quality of healthcare
21 and protect the privacy and security of health
22 information;
23 "(D) participation, to the extent prac-
24 ticable, in health information exchanges;

1 "(E) utilization, when appropriate, of the
2 expertise and capability that exists in federal
3 agencies other than the Department; and
4 "(F) integration of health information
5 technology, including electronic health records,
6 into the initial and ongoing training of health
7 professionals and others in the healthcare in-
8 dustry that would be instrumental to improving
9 the quality of healthcare through the smooth
10 and accurate electronic use and exchange of
11 health information.
12 "(4) REGIONAL ASSISTANCE.—Each regional
13 center shall aim to provide assistance and education
14 to all providers in a region, but shall prioritize any
15 direct assistance first to the following:
16 "(A) Public or not-for-profit hospitals or
17 critical access hospitals.
18 "(B) Federally qualified health centers (as
19 defined in section 1861(aa)(4) of the Social Se-
20 curity Act).
21 "(C) Entities that are located in rural and
22 other areas that serve uninsured, underinsured,
23 and medically underserved individuals (regard-
24 less of whether such area is urban or rural).

1 "(D) Individual or small group practices
2 (or a consortium thereof) that are primarily fo-
3 cused on primary care.
4 "(5) FINANCIAL SUPPORT.—The Secretary may
5 provide financial support to any regional center cre-
6 ated under this subsection for a period not to exceed
7 four years. The Secretary may not provide more
8 than 50 percent of the capital and annual operating
9 and maintenance funds required to create and main-
10 tain such a center, except in an instance of national
11 economic conditions which would render this cost-
12 share requirement detrimental to the program and
13 upon notification to Congress as to the justification
14 to waive the cost-share requirement.
15 "(6) NOTICE OF PROGRAM DESCRIPTION AND
16 AVAILABILITY OF FUNDS.—The Secretary shall pub-
17 lish in the Federal Register, not later than 90 days
18 after the date of the enactment of this Act, a draft
19 description of the program for establishing regional
20 centers under this subsection. Such description shall
21 include the following:
22 "(A) A detailed explanation of the program
23 and the programs goals.
24 "(B) Procedures to be followed by the ap-
25 plicants.

1 "(C) Criteria for determining qualified ap-
2 plicants.
3 "(D) Maximum support levels expected to
4 be available to centers under the program.
5 "(7) APPLICATION REVIEW.—The Secretary
6 shall subject each application under this subsection
7 to merit review. In making a decision whether to ap-
8 prove such application and provide financial support,
9 the Secretary shall consider at a minimum the mer-
10 its of the application, including those portions of the
11 application regarding—
12 "(A) the ability of the applicant to provide
13 assistance under this subsection and utilization
14 of health information technology appropriate to
15 the needs of particular categories of health care
16 providers;
17 "(B) the types of service to be provided to
18 health care providers;
19 "(C) geographical diversity and extent of
20 service area; and
21 "(D) the percentage of funding and
22 amount of in-kind commitment from other
23 sources.
24 "(8) BIENNIAL EVALUATION.—Each regional
25 center which receives financial assistance under this

1 subsection shall be evaluated biennially by an evalua-
2 tion panel appointed by the Secretary. Each evalua-
3 tion panel shall be composed of private experts, none
4 of whom shall be connected with the center involved,
5 and of Federal officials. Each evaluation panel shall
6 measure the involved center's performance against
7 the objective specified in paragraph (3). The Sec-
8 retary shall not continue to provide funding to a re-
9 gional center unless its evaluation is overall positive.
10 "(9) CONTINUING SUPPORT.—After the second
11 year of assistance under this subsection a regional
12 center may receive additional support under this
13 subsection if it has received positive evaluations and
14 a finding by the Secretary that continuation of Fed-
15 eral funding to the center was in the best interest
16 of provision of health information technology exten-
17 sion services.

18 **"SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFOR-**
19 **MATION TECHNOLOGY.**

20 "(a) IN GENERAL.—The Secretary, acting through
21 the National Coordinator, shall establish a program in ac-
22 cordance with this section to facilitate and expand the
23 electronic movement and use of health information among
24 organizations according to nationally recognized stand-
25 ards.

1 "(b) PLANNING GRANTS.—The Secretary may award
2 a grant to a State or qualified State-designated entity (as
3 described in subsection (d)) that submits an application
4 to the Secretary at such time, in such manner, and con-
5 taining such information as the Secretary may specify, for
6 the purpose of planning activities described in subsection
7 (b).

8 "(c) IMPLEMENTATION GRANTS.—The Secretary
9 may award a grant to a State or qualified State designated
10 entity that—

11 "(1) has submitted, and the Secretary has ap-
12 proved, a plan described in subsection (c) (regardless
13 of whether such plan was prepared using amounts
14 awarded under paragraph (1)); and

15 "(2) submits an application at such time, in
16 such manner, and containing such information as
17 the Secretary may specify.

18 "(d) USE OF FUNDS.—Amounts received under a
19 grant under subsection (a)(3) shall be used to conduct ac-
20 tivities to facilitate and expand the electronic movement
21 and use of health information among organizations ac-
22 cording to nationally recognized standards through activi-
23 ties that include—

1 "(1) enhancing broad and varied participation
2 in the authorized and secure nationwide electronic
3 use and exchange of health information;
4 "(2) identifying State or local resources avail-
5 able towards a nationwide effort to promote health
6 information technology;
7 "(3) complementing other Federal grants, pro-
8 grams, and efforts towards the promotion of health
9 information technology;
10 "(4) providing technical assistance for the de-
11 velopment and dissemination of solutions to barriers
12 to the exchange of electronic health information;
13 "(5) promoting effective strategies to adopt and
14 utilize health information technology in medically
15 underserved communities;
16 "(6) assisting patients in utilizing health infor-
17 mation technology;
18 "(7) encouraging clinicians to work with Health
19 Information Technology Regional Extension Centers
20 as described in section 3012, to the extent they are
21 available and valuable;
22 "(8) supporting public health agencies' author-
23 ized use of and access to electronic health informa-
24 tion;

1 "(9) promoting the use of electronic health
2 records for quality improvement including through
3 quality measures reporting; and
4 "(10) such other activities as the Secretary may
5 specify.
6 "(e) PLAN.—
7 "(1) IN GENERAL.—A plan described in this
8 subsection is a plan that describes the activities to
9 be carried out by a State or by the qualified State-
10 designated entity within such State to facilitate and
11 expand the electronic movement and use of health
12 information among organizations according to na-
13 tionally recognized standards and implementation
14 specifications.
15 "(2) REQUIRED ELEMENTS.—A plan described
16 in paragraph (1) shall—
17 "(A) be pursued in the public interest;
18 "(B) be consistent with the strategic plan
19 developed by the National Coordinator (and, as
20 available) under section 3001;
21 "(C) include a description of the ways the
22 State or qualified State-designated entity will
23 carry out the activities described in subsection
24 (b); and

1 "(D) contain such elements as the Sec-
2 retary may require.
3 "(f) QUALIFIED STATE-DESIGNATED ENTITY.—For
4 purposes of this section, to be a qualified State-designated
5 entity, with respect to a State, an entity shall—
6 "(1) be designated by the State as eligible to
7 receive awards under this section;
8 "(2) be a not-for-profit entity with broad stake-
9 holder representation on its governing board;
10 "(3) demonstrate that one of its principal goals
11 is to use information technology to improve health
12 care quality and efficiency through the authorized
13 and secure electronic exchange and use of health in-
14 formation;
15 "(4) adopt nondiscrimination and conflict of in-
16 terest policies that demonstrate a commitment to
17 open, fair, and nondiscriminatory participation by
18 stakeholders; and
19 "(5) conform to such other requirements as the
20 Secretary may establish.
21 "(g) REQUIRED CONSULTATION.—In carrying out
22 activities described in subsections (a)(2) and (a)(3), a
23 State or qualified State-designated entity shall consult
24 with and consider the recommendations of—

1 "(1) health care providers (including providers
2 that provide services to low income and underserved
3 populations);
4 "(2) health plans;
5 "(3) patient or consumer organizations that
6 represent the population to be served;
7 "(4) health information technology vendors;
8 "(5) health care purchasers and employers;
9 "(6) public health agencies;
10 "(7) health professions schools, universities and
11 colleges;
12 "(8) clinical researchers;
13 "(9) other users of health information tech-
14 nology such as the support and clerical staff of pro-
15 viders and others involved in the care and care co-
16 ordination of patients; and
17 "(10) such other entities, as may be determined
18 appropriate by the Secretary.
19 "(h) CONTINUOUS IMPROVEMENT.—The Secretary
20 shall annually evaluate the activities conducted under this
21 section and shall, in awarding grants under this section,
22 implement the lessons learned from such evaluation in a
23 manner so that awards made subsequent to each such
24 evaluation are made in a manner that, in the determina-
25 tion of the Secretary, will lead towards the greatest im-

1 provement in quality of care, decrease in costs, and the
2 most effective authorized and secure electronic exchange
3 of health information.
4 "(i) REQUIRED MATCH.—
5 "(1) IN GENERAL.—For a fiscal year (begin-
6 ning with fiscal year 2011), the Secretary may not
7 make a grant under subsection (a) to a State unless
8 the State agrees to make available non-Federal con-
9 tributions (which may include in-kind contributions)
10 toward the costs of a grant awarded under sub-
11 section (a)(3) in an amount equal to—
12 "(A) for fiscal year 2011, not less than $1
13 for each $10 of Federal funds provided under
14 the grant;
15 "(B) for fiscal year 2012, not less than $1
16 for each $7 of Federal funds provided under
17 the grant; and
18 "(C) for fiscal year 2013 and each subse-
19 quent fiscal year, not less than $1 for each $3
20 of Federal funds provided under the grant.
21 "(2) AUTHORITY TO REQUIRE STATE MATCH
22 FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For
23 any fiscal year during the grant program under this
24 section before fiscal year 2011, the Secretary may
25 determine the extent to which there shall be required

1 a non-Federal contribution from a State receiving a
2 grant under this section.

3 **"SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN**
4 **TRIBES FOR THE DEVELOPMENT OF LOAN**
5 **PROGRAMS TO FACILITATE THE WIDE-**
6 **SPREAD ADOPTION OF CERTIFIED EHR TECH-**
7 **NOLOGY.**

8 "(a) IN GENERAL.—The National Coordinator may
9 award competitive grants to eligible entities for the estab-
10 lishment of programs for loans to health care providers
11 to conduct the activities described in subsection (e).

12 "(b) ELIGIBLE ENTITY DEFINED.—For purposes of
13 this subsection, the term 'eligible entity' means a State
14 or Indian tribe (as defined in the Indian Self-Determina-
15 tion and Education Assistance Act) that—

16 "(1) submits to the National Coordinator an
17 application at such time, in such manner, and con-
18 taining such information as the National Coordi-
19 nator may require;

20 "(2) submits to the National Coordinator a
21 strategic plan in accordance with subsection (d) and
22 provides to the National Coordinator assurances that
23 the entity will update such plan annually in accord-
24 ance with such subsection;

1 "(3) provides assurances to the National Coor-
2 dinator that the entity will establish a Loan Fund
3 in accordance with subsection (c);
4 "(4) provides assurances to the National Coor-
5 dinator that the entity will not provide a loan from
6 the Loan Fund to a health care provider unless the
7 provider agrees to—
8 "(A) submit reports on quality measures
9 adopted by the Federal Government (by not
10 later than 90 days after the date on which such
11 measures are adopted), to—
12 "(i) the Director of the Centers for
13 Medicare & Medicaid Services (or his or
14 her designee), in the case of an entity par-
15 ticipating in the Medicare program under
16 title XVIII of the Social Security Act or
17 the Medicaid program under title XIX of
18 such Act; or
19 "(ii) the Secretary in the case of other
20 entities;
21 "(B) demonstrate to the satisfaction of the
22 Secretary (through criteria established by the
23 Secretary) that any certified EHR technology
24 purchased, improved, or otherwise financially
25 supported under a loan under this section is

1 used to exchange health information in a man-
2 ner that, in accordance with law and standards
3 (as adopted under section 3005) applicable to
4 the exchange of information, improves the qual-
5 ity of health care, such as promoting care co-
6 ordination; and
7 "(C) comply with such other requirements
8 as the entity or the Secretary may require;
9 "(D) include a plan on how healthcare pro-
10 viders involved intend to maintain and support
11 the certified EHR technology over time;
12 "(E) include a plan on how the healthcare
13 providers involved intend to maintain and sup-
14 port the certified EHR technology that would
15 be purchased with such loan, including the type
16 of resources expected to be involved and any
17 such other information as the State or Indian
18 tribe, respectively, may require; and
19 "(5) agrees to provide matching funds in ac-
20 cordance with subsection (i).
21 "(c) ESTABLISHMENT OF FUND.—For purposes of
22 subsection (b)(3), an eligible entity shall establish a cer-
23 tified EHR technology loan fund (referred to in this sub-
24 section as a 'Loan Fund') and comply with the other re-
25 quirements contained in this section. A grant to an eligible

1 entity under this section shall be deposited in the Loan
2 Fund established by the eligible entity. No funds author-
3 ized by other provisions of this title to be used for other
4 purposes specified in this title shall be deposited in any
5 Loan Fund.

6 "(d) STRATEGIC PLAN.—

7 "(1) IN GENERAL.—For purposes of subsection
8 (b)(2), a strategic plan of an eligible entity under
9 this subsection shall identify the intended uses of
10 amounts available to the Loan Fund of such entity.

11 "(2) CONTENTS.—A strategic plan under para-
12 graph (1), with respect to a Loan Fund of an eligi-
13 ble entity, shall include for a year the following:

14 "(A) A list of the projects to be assisted
15 through the Loan Fund during such year.

16 "(B) A description of the criteria and
17 methods established for the distribution of
18 funds from the Loan Fund during the year.

19 "(C) A description of the financial status
20 of the Loan Fund as of the date of submission
21 of the plan.

22 "(D) The short-term and long-term goals
23 of the Loan Fund.

24 "(e) USE OF FUNDS.—Amounts deposited in a Loan
25 Fund, including loan repayments and interest earned on

1 such amounts, shall be used only for awarding loans or
2 loan guarantees, making reimbursements described in sub-
3 section (g)(4)(A), or as a source of reserve and security
4 for leveraged loans, the proceeds of which are deposited
5 in the Loan Fund established under subsection (a). Loans
6 under this section may be used by a health care provider
7 to—

8 "(1) facilitate the purchase of certified EHR
9 technology;

10 "(2) enhance the utilization of certified EHR
11 technology;

12 "(3) train personnel in the use of such tech-
13 nology; or

14 "(4) improve the secure electronic exchange of
15 health information.

16 "(f) TYPES OF ASSISTANCE.—Except as otherwise
17 limited by applicable State law, amounts deposited into a
18 Loan Fund under this subsection may only be used for
19 the following:

20 "(1) To award loans that comply with the fol-
21 lowing:

22 "(A) The interest rate for each loan shall
23 not exceed the market interest rate.

24 "(B) The principal and interest payments
25 on each loan shall commence not later than 1

1 year after the date the loan was awarded, and
2 each loan shall be fully amortized not later than
3 10 years after the date of the loan.
4 "(C) The Loan Fund shall be credited with
5 all payments of principal and interest on each
6 loan awarded from the Loan Fund.
7 "(2) To guarantee, or purchase insurance for,
8 a local obligation (all of the proceeds of which fi-
9 nance a project eligible for assistance under this
10 subsection) if the guarantee or purchase would im-
11 prove credit market access or reduce the interest
12 rate applicable to the obligation involved.
13 "(3) As a source of revenue or security for the
14 payment of principal and interest on revenue or gen-
15 eral obligation bonds issued by the eligible entity if
16 the proceeds of the sale of the bonds will be depos-
17 ited into the Loan Fund.
18 "(4) To earn interest on the amounts deposited
19 into the Loan Fund.
20 "(5) To make reimbursements described in sub-
21 section (g)(4)(A).
22 "(g) ADMINISTRATION OF LOAN FUNDS.—
23 "(1) COMBINED FINANCIAL ADMINISTRATION.—
24 An eligible entity may (as a convenience and to
25 avoid unnecessary administrative costs) combine, in

1 accordance with applicable State law, the financial
2 administration of a Loan Fund established under
3 this subsection with the financial administration of
4 any other revolving fund established by the entity if
5 otherwise not prohibited by the law under which the
6 Loan Fund was established.

7 "(2) COST OF ADMINISTERING FUND.—Each el-
8 igible entity may annually use not to exceed 4 per-
9 cent of the funds provided to the entity under a
10 grant under this subsection to pay the reasonable
11 costs of the administration of the programs under
12 this section, including the recovery of reasonable
13 costs expended to establish a Loan Fund which are
14 incurred after the date of the enactment of this title.

15 "(3) GUIDANCE AND REGULATIONS.—The Na-
16 tional Coordinator shall publish guidance and pro-
17 mulgate regulations as may be necessary to carry
18 out the provisions of this section, including—

19 "(A) provisions to ensure that each eligible
20 entity commits and expends funds allotted to
21 the entity under this subsection as efficiently as
22 possible in accordance with this title and appli-
23 cable State laws; and

24 "(B) guidance to prevent waste, fraud, and
25 abuse.

1 "(4) PRIVATE SECTOR CONTRIBUTIONS.—
2 "(A) IN GENERAL.—A Loan Fund estab-
3 lished under this subsection may accept con-
4 tributions from private sector entities, except
5 that such entities may not specify the recipient
6 or recipients of any loan issued under this sub-
7 section. An eligible entity may agree to reim-
8 burse a private sector entity for any contribu-
9 tion made under this subparagraph, except that
10 the amount of such reimbursement may not be
11 greater than the principal amount of the con-
12 tribution made.
13 "(B) AVAILABILITY OF INFORMATION.—
14 An eligible entity shall make publicly available
15 the identity of, and amount contributed by, any
16 private sector entity under subparagraph (A)
17 and may issue letters of commendation or make
18 other awards (that have no financial value) to
19 any such entity.
20 "(h) MATCHING REQUIREMENTS.—
21 "(1) IN GENERAL.—The National Coordinator
22 may not make a grant under subsection (a) to an el-
23 igible entity unless the entity agrees to make avail-
24 able (directly or through donations from public or
25 private entities) non-Federal contributions in cash to

1 the costs of carrying out the activities for which the
2 grant is awarded in an amount equal to not less
3 than $1 for each $5 of Federal funds provided under
4 the grant.

5 "(2) DETERMINATION OF AMOUNT OF NON-
6 FEDERAL CONTRIBUTION.—In determining the
7 amount of non-Federal contributions that an eligible
8 entity has provided pursuant to subparagraph (A),
9 the National Coordinator may not include any
10 amounts provided to the entity by the Federal Gov-
11 ernment.

12 "(i) EFFECTIVE DATE.—The Secretary may not
13 make an award under this section prior to January 1,
14 2010.

15 **"SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**
16 **FORMATION TECHNOLOGY INTO CLINICAL**
17 **EDUCATION.**

18 "(a) IN GENERAL.—The Secretary may award grants
19 under this section to carry out demonstration projects to
20 develop academic curricula integrating certified EHR
21 technology in the clinical education of health professionals.
22 Such awards shall be made on a competitive basis and
23 pursuant to peer review.

24 "(b) ELIGIBILITY.—To be eligible to receive a grant
25 under subsection (a), an entity shall—

1 "(1) submit to the Secretary an application at
2 such time, in such manner, and containing such in-
3 formation as the Secretary may require;
4 "(2) submit to the Secretary a strategic plan
5 for integrating certified EHR technology in the clin-
6 ical education of health professionals to reduce med-
7 ical errors, increase access to prevention, reduce
8 chronic diseases, and enhance health care quality;
9 "(3) be—
10 "(A) a school of medicine, osteopathic
11 medicine, dentistry, or pharmacy, a graduate
12 program in behavioral or mental health, or any
13 other graduate health professions school;
14 "(B) a graduate school of nursing or phy-
15 sician assistant studies;
16 "(C) a consortium of two or more schools
17 described in subparagraph (A) or (B); or
18 "(D) an institution with a graduate med-
19 ical education program in medicine, osteopathic
20 medicine, dentistry, pharmacy, nursing, or phy-
21 sician assistance studies.
22 "(4) provide for the collection of data regarding
23 the effectiveness of the demonstration project to be
24 funded under the grant in improving the safety of
25 patients, the efficiency of health care delivery, and

1 in increasing the likelihood that graduates of the
2 grantee will adopt and incorporate certified EHR
3 technology, in the delivery of health care services;
4 and
5 "(5) provide matching funds in accordance with
6 subsection (d).
7 "(c) USE OF FUNDS.—
8 "(1) IN GENERAL.—With respect to a grant
9 under subsection (a), an eligible entity shall—
10 "(A) use grant funds in collaboration with
11 2 or more disciplines; and
12 "(B) use grant funds to integrate certified
13 EHR technology into community-based clinical
14 education.
15 "(2) LIMITATION.—An eligible entity shall not
16 use amounts received under a grant under sub-
17 section (a) to purchase hardware, software, or serv-
18 ices.
19 "(d) FINANCIAL SUPPORT.—The Secretary may not
20 provide more than 50 percent of the costs of any activity
21 for which assistance is provided under subsection (a), ex-
22 cept in an instance of national economic conditions which
23 would render the cost-share requirement under this sub-
24 section detrimental to the program and upon notification

1 to Congress as to the justification to waive the cost-share
2 requirement.
3 "(e) EVALUATION.—The Secretary shall take such
4 action as may be necessary to evaluate the projects funded
5 under this section and publish, make available, and dis-
6 seminate the results of such evaluations on as wide a basis
7 as is practicable.
8 "(f) REPORTS.—Not later than 1 year after the date
9 of enactment of this title, and annually thereafter, the Sec-
10 retary shall submit to the Committee on Health, Edu-
11 cation, Labor, and Pensions and the Committee on Fi-
12 nance of the Senate, and the Committee on Energy and
13 Commerce of the House of Representatives a report
14 that—
15 "(1) describes the specific projects established
16 under this section; and
17 "(2) contains recommendations for Congress
18 based on the evaluation conducted under subsection
19 (e).
20 **"SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**
21 **ON HEALTH CARE.**
22 "(a) IN GENERAL.—The Secretary, in consultation
23 with the Director of the National Science Foundation,
24 shall provide assistance to institutions of higher education
25 (or consortia thereof) to establish or expand medical

1 health informatics education programs, including certifi-
2 cation, undergraduate, and masters degree programs, for
3 both health care and information technology students to
4 ensure the rapid and effective utilization and development
5 of health information technologies (in the United States
6 health care infrastructure).

7 "(b) ACTIVITIES.—Activities for which assistance
8 may be provided under subsection (a) may include the fol-
9 lowing:

10 "(1) Developing and revising curricula in med-
11 ical health informatics and related disciplines.

12 "(2) Recruiting and retaining students to the
13 program involved.

14 "(3) Acquiring equipment necessary for student
15 instruction in these programs, including the installa-
16 tion of testbed networks for student use.

17 "(4) Establishing or enhancing bridge programs
18 in the health informatics fields between community
19 colleges and universities.

20 "(c) PRIORITY.—In providing assistance under sub-
21 section (a), the Secretary shall give preference to the fol-
22 lowing:

23 "(1) Existing education and training programs.

24 "(2) Programs designed to be completed in less
25 than six months.

1 "(d) FINANCIAL SUPPORT.—The Secretary may not
2 provide more than 50 percent of the costs of any activity
3 for which assistance is provided under subsection (a), ex-
4 cept in an instance of national economic conditions which
5 would render the cost-share requirement under this sub-
6 section detrimental to the program and upon notification
7 to Congress as to the justification to waive the cost-share
8 requirement.

9 **"SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

10 "(a) REPORTS.—The Secretary may require that an
11 entity receiving assistance under this title shall submit to
12 the Secretary, not later than the date that is 1 year after
13 the date of receipt of such assistance, a report that in-
14 cludes—

15 "(1) an analysis of the effectiveness of such ac-
16 tivities for which the entity receives such assistance,
17 as compared to the goals for such activities; and

18 "(2) an analysis of the impact of the project on
19 healthcare quality and safety.

20 "(b) REQUIREMENT TO IMPROVE QUALITY OF CARE
21 AND DECREASE IN COSTS.—The National Coordinator
22 shall annually evaluate the activities conducted under this
23 title and shall, in awarding grants, implement the lessons
24 learned from such evaluation in a manner so that awards
25 made subsequent to each such evaluation are made in a

1 manner that, in the determination of the National Coordi-
2 nator, will result in the greatest improvement in the qual-
3 ity and efficiency of health care.

4 **"SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.**

5 "For the purposes of carrying out this subtitle, there
6 is authorized to be appropriated such sums as may be nec-
7 essary for each of the fiscal years 2009 through 2013.
8 Amounts so appropriated shall remain available until ex-
9 pended.".

10 Subtitle D—Privacy

11 **SEC. 13400. DEFINITIONS.**

12 In this subtitle, except as specified otherwise:

13 (1) BREACH.—The term "breach" means the
14 unauthorized acquisition, access, use, or disclosure
15 of protected health information which compromises
16 the security, privacy, or integrity of protected health
17 information maintained by or on behalf of a person.
18 Such term does not include any unintentional acqui-
19 sition, access, use, or disclosure of such information
20 by an employee or agent of the covered entity or
21 business associate involved if such acquisition, ac-
22 cess, use, or disclosure, respectively, was made in
23 good faith and within the course and scope of the
24 employment or other contractual relationship of such
25 employee or agent, respectively, with the covered en-

1 tity or business associate and if such information is
2 not further acquired, accessed, used, or disclosed by
3 such employee or agent.
4 (2) BUSINESS ASSOCIATE.—The term "business
5 associate" has the meaning given such term in sec-
6 tion 160.103 of title 45, Code of Federal Regula-
7 tions.
8 (3) COVERED ENTITY.—The term "covered en-
9 tity" has the meaning given such term in section
10 160.103 of title 45, Code of Federal Regulations.
11 (4) DISCLOSE.—The terms "disclose" and "dis-
12 closure" have the meaning given the term "disclo-
13 sure" in section 160.103 of title 45, Code of Federal
14 Regulations.
15 (5) ELECTRONIC HEALTH RECORD.—The term
16 "electronic health record" means an electronic
17 record of health-related information on an individual
18 that is created, gathered, managed, and consulted by
19 authorized health care clinicians and staff.
20 (6) HEALTH CARE OPERATIONS.—The term
21 "health care operation" has the meaning given such
22 term in section 164.501 of title 45, Code of Federal
23 Regulations.
24 (7) HEALTH CARE PROVIDER.—The term
25 "health care provider" has the meaning given such

1 term in section 160.103 of title 45, Code of Federal
2 Regulations.
3 (8) HEALTH PLAN.—The term "health plan"
4 has the meaning given such term in section 1171(5)
5 of the Social Security Act.
6 (9) NATIONAL COORDINATOR.—The term "Na-
7 tional Coordinator" means the head of the Office of
8 the National Coordinator for Health Information
9 Technology established under section 3001(a) of the
10 Public Health Service Act, as added by section
11 13101.
12 (10) PAYMENT.—The term "payment" has the
13 meaning given such term in section 164.501 of title
14 45, Code of Federal Regulations.
15 (11) PERSONAL HEALTH RECORD.—The term
16 "personal health record" means an electronic record
17 of individually identifiable health information on an
18 individual that can be drawn from multiple sources
19 and that is managed, shared, and controlled by or
20 for the individual.
21 (12) PROTECTED HEALTH INFORMATION.—The
22 term "protected health information" has the mean-
23 ing given such term in section 160.103 of title 45,
24 Code of Federal Regulations.

1 (13) SECRETARY.—The term "Secretary"
2 means the Secretary of Health and Human Services.
3 (14) SECURITY.—The term "security" has the
4 meaning given such term in section 164.304 of title
5 45, Code of Federal Regulations.
6 (15) STATE.—The term "State" means each of
7 the several States, the District of Columbia, Puerto
8 Rico, the Virgin Islands, Guam, American Samoa,
9 and the Northern Mariana Islands.
10 (16) TREATMENT.—The term "treatment" has
11 the meaning given such term in section 164.501 of
12 title 45, Code of Federal Regulations.
13 (17) USE.—The term "use" has the meaning
14 given such term in section 160.103 of title 45, Code
15 of Federal Regulations.
16 (18) VENDOR OF PERSONAL HEALTH
17 RECORDS.—The term "vendor of personal health
18 records" means an entity, other than a covered enti-
19 ty (as defined in paragraph (3)), that offers or
20 maintains a personal health record.

1 **PART I—IMPROVED PRIVACY PROVISIONS AND**
2 **SECURITY PROVISIONS**

3 **SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND**
4 **PENALTIES TO BUSINESS ASSOCIATES OF**
5 **COVERED ENTITIES; ANNUAL GUIDANCE ON**
6 **SECURITY PROVISIONS.**

7 (a) APPLICATION OF SECURITY PROVISIONS.—Sec-
8 tions 164.308, 164.310, 164.312, and 164.316 of title 45,
9 Code of Federal Regulations, shall apply to a business as-
10 sociate of a covered entity in the same manner that such
11 sections apply to the covered entity. The additional re-
12 quirements of this title that relate to security and that
13 are made applicable with respect to covered entities shall
14 also be applicable to such a business associate and shall
15 be incorporated into the business associate agreement be-
16 tween the business associate and the covered entity.

17 (b) APPLICATION OF CIVIL AND CRIMINAL PEN-
18 ALTIES.—In the case of a business associate that violates
19 any security provision specified in subsection (a), sections
20 1176 and 1177 of the Social Security Act (42 U.S.C.
21 1320d-5, 1320d-6) shall apply to the business associate
22 with respect to such violation in the same manner such
23 sections apply to a covered entity that violates such secu-
24 rity provision.

25 (c) ANNUAL GUIDANCE.—For the first year begin-
26 ning after the date of the enactment of this Act and annu-

1 ally thereafter, the Secretary of Health and Human Serv-
2 ices shall, in consultation with industry stakeholders, an-
3 nually issue guidance on the most effective and appro-
4 priate technical safeguards for use in carrying out the sec-
5 tions referred to in subsection (a) and the security stand-
6 ards in subpart C of part 164 of title 45, Code of Federal
7 Regulations, as such provisions are in effect as of the date
8 before the enactment of this Act.

9 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

10 (a) IN GENERAL.—A covered entity that accesses,
11 maintains, retains, modifies, records, stores, destroys, or
12 otherwise holds, uses, or discloses unsecured protected
13 health information (as defined in subsection (h)(1)) shall,
14 in the case of a breach of such information that is discov-
15 ered by the covered entity, notify each individual whose
16 unsecured protected health information has been, or is
17 reasonably believed by the covered entity to have been,
18 accessed, acquired, or disclosed as a result of such breach.

19 (b) NOTIFICATION OF COVERED ENTITY BY BUSI-
20 NESS ASSOCIATE.—A business associate of a covered enti-
21 ty that accesses, maintains, retains, modifies, records,
22 stores, destroys, or otherwise holds, uses, or discloses un-
23 secured protected health information shall, following the
24 discovery of a breach of such information, notify the cov-
25 ered entity of such breach. Such notice shall include the

1 identification of each individual whose unsecured protected
2 health information has been, or is reasonably believed by
3 the business associate to have been, accessed, acquired,
4 or disclosed during such breach.

5 (c) BREACHES TREATED AS DISCOVERED.—For pur-
6 poses of this section, a breach shall be treated as discov-
7 ered by a covered entity or by a business associate as of
8 the first day on which such breach is known to such entity
9 or associate, respectively, (including any person, other
10 than the individual committing the breach, that is an em-
11 ployee, officer, or other agent of such entity or associate,
12 respectively) or should reasonably have been known to
13 such entity or associate (or person) to have occurred.

14 (d) TIMELINESS OF NOTIFICATION.—

15 (1) IN GENERAL.—Subject to subsection (g), all
16 notifications required under this section shall be
17 made without unreasonable delay and in no case
18 later than 60 calendar days after the discovery of a
19 breach by the covered entity involved (or business
20 associate involved in the case of a notification re-
21 quired under subsection (b)).

22 (2) BURDEN OF PROOF.—The covered entity in-
23 volved (or business associate involved in the case of
24 a notification required under subsection (b)), shall
25 have the burden of demonstrating that all notifica-

1 tions were made as required under this part, includ-
2 ing evidence demonstrating the necessity of any
3 delay.
4 (e) METHODS OF NOTICE.—
5 (1) INDIVIDUAL NOTICE.—Notice required
6 under this section to be provided to an individual,
7 with respect to a breach, shall be provided promptly
8 and in the following form:
9 (A) Written notification by first-class mail
10 to the individual (or the next of kin of the indi-
11 vidual if the individual is deceased) at the last
12 known address of the individual or the next of
13 kin, respectively, or, if specified as a preference
14 by the individual, by electronic mail. The notifi-
15 cation may be provided in one or more mailings
16 as information is available.
17 (B) In the case in which there is insuffi-
18 cient, or out-of-date contact information (in-
19 cluding a phone number, email address, or any
20 other form of appropriate communication) that
21 precludes direct written (or, if specified by the
22 individual under subparagraph (A), electronic)
23 notification to the individual, a substitute form
24 of notice shall be provided, including, in the
25 case that there are 10 or more individuals for

1 which there is insufficient or out-of-date contact
2 information, a conspicuous posting for a period
3 determined by the Secretary on the home page
4 of the Web site of the covered entity involved or
5 notice in major print or broadcast media, in-
6 cluding major media in geographic areas where
7 the individuals affected by the breach likely re-
8 side. Such a notice in media or web posting will
9 include a toll-free phone number where an indi-
10 vidual can learn whether or not the individual's
11 unsecured protected health information is pos-
12 sibly included in the breach.
13 (C) In any case deemed by the covered en-
14 tity involved to require urgency because of pos-
15 sible imminent misuse of unsecured protected
16 health information, the covered entity, in addi-
17 tion to notice provided under subparagraph (A),
18 may provide information to individuals by tele-
19 phone or other means, as appropriate.
20 (2) MEDIA NOTICE.—Notice shall be provided
21 to prominent media outlets serving a State or juris-
22 diction, following the discovery of a breach described
23 in subsection (a), if the unsecured protected health
24 information of more than 500 residents of such
25 State or jurisdiction is, or is reasonably believed to

1 have been, accessed, acquired, or disclosed during
2 such breach.
3 (3) NOTICE TO SECRETARY.—Notice shall be
4 provided to the Secretary by covered entities of un-
5 secured protected health information that has been
6 acquired or disclosed in a breach. If the breach was
7 with respect to 500 or more individuals than such
8 notice must be provided immediately. If the breach
9 was with respect to less than 500 individuals, the
10 covered entity may maintain a log of any such
11 breach occurring and annually submit such a log to
12 the Secretary documenting such breaches occurring
13 during the year involved.
14 (4) POSTING ON HHS PUBLIC WEBSITE.—The
15 Secretary shall make available to the public on the
16 Internet website of the Department of Health and
17 Human Services a list that identifies each covered
18 entity involved in a breach described in subsection
19 (a) in which the unsecured protected health informa-
20 tion of more than 500 individuals is acquired or dis-
21 closed.
22 (f) CONTENT OF NOTIFICATION.—Regardless of the
23 method by which notice is provided to individuals under
24 this section, notice of a breach shall include, to the extent
25 possible, the following:

1 (1) A brief description of what happened, in-
2 cluding the date of the breach and the date of the
3 discovery of the breach, if known.
4 (2) A description of the types of unsecured pro-
5 tected health information that were involved in the
6 breach (such as full name, Social Security number,
7 date of birth, home address, account number, or dis-
8 ability code).
9 (3) The steps individuals should take to protect
10 themselves from potential harm resulting from the
11 breach.
12 (4) A brief description of what the covered enti-
13 ty involved is doing to investigate the breach, to
14 mitigate losses, and to protect against any further
15 breaches.
16 (5) Contact procedures for individuals to ask
17 questions or learn additional information, which
18 shall include a toll-free telephone number, an e-mail
19 address, Web site, or postal address.
20 (g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW
21 ENFORCEMENT PURPOSES.—If a law enforcement official
22 determines that a notification, notice, or posting required
23 under this section would impede a criminal investigation
24 or cause damage to national security, such notification,
25 notice, or posting shall be delayed in the same manner

1 as provided under section 164.528(a)(2) of title 45, Code
2 of Federal Regulations, in the case of a disclosure covered
3 under such section.

4 (h) UNSECURED PROTECTED HEALTH INFORMA-
5 TION.—

6 (1) DEFINITION.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), for purposes of this section, the
9 term "unsecured protected health information"
10 means protected health information that is not
11 secured through the use of a technology or
12 methodology specified by the Secretary in the
13 guidance issued under paragraph (2).

14 (B) EXCEPTION IN CASE TIMELY GUID-
15 ANCE NOT ISSUED.—In the case that the Sec-
16 retary does not issue guidance under paragraph
17 (2) by the date specified in such paragraph, for
18 purposes of this section, the term "unsecured
19 protected health information" shall mean pro-
20 tected health information that is not secured by
21 a technology standard that renders protected
22 health information unusable, unreadable, or in-
23 decipherable to unauthorized individuals and is
24 developed or endorsed by a standards devel-

1 oping organization that is accredited by the
2 American National Standards Institute.
3 (2) GUIDANCE.—For purposes of paragraph (1)
4 and section 13407(f)(3), not later than the date that
5 is 60 days after the date of the enactment of this
6 Act, the Secretary shall, after consultation with
7 stakeholders, issue (and annually update) guidance
8 specifying the technologies and methodologies that
9 render protected health information unusable,
10 unreadable, or indecipherable to unauthorized indi-
11 viduals.
12 (i) REPORT TO CONGRESS ON BREACHES.—
13 (1) IN GENERAL.—Not later than 12 months
14 after the date of the enactment of this Act and an-
15 nually thereafter, the Secretary shall prepare and
16 submit to the Committee on Finance and the Com-
17 mittee on Health, Education, Labor, and Pensions
18 of the Senate and the Committee on Ways and
19 Means and the Committee on Energy and Commerce
20 of the House of Representatives a report containing
21 the information described in paragraph (2) regard-
22 ing breaches for which notice was provided to the
23 Secretary under subsection (e)(3).

1 (2) INFORMATION.—The information described
2 in this paragraph regarding breaches specified in
3 paragraph (1) shall include—
4 (A) the number and nature of such
5 breaches; and
6 (B) actions taken in response to such
7 breaches.
8 (j) REGULATIONS; EFFECTIVE DATE.—To carry out
9 this section, the Secretary of Health and Human Services
10 shall promulgate interim final regulations by not later
11 than the date that is 180 days after the date of the enact-
12 ment of this title. The provisions of this section shall apply
13 to breaches that are discovered on or after the date that
14 is 30 days after the date of publication of such interim
15 final regulations.

16 **SEC. 13403. EDUCATION ON HEALTH INFORMATION PRI-**
17 **VACY.**

18 (a) REGIONAL OFFICE PRIVACY ADVISORS.—Not
19 later than 6 months after the date of the enactment of
20 this Act, the Secretary shall designate an individual in
21 each regional office of the Department of Health and
22 Human Services to offer guidance and education to cov-
23 ered entities, business associates, and individuals on their
24 rights and responsibilities related to Federal privacy and
25 security requirements for protected health information.

1 (b) EDUCATION INITIATIVE ON USES OF HEALTH IN-
2 FORMATION.—Not later than 12 months after the date of
3 the enactment of this Act, the Office for Civil Rights with-
4 in the Department of Health and Human Services shall
5 develop and maintain a multi-faceted national education
6 initiative to enhance public transparency regarding the
7 uses of protected health information, including programs
8 to educate individuals about the potential uses of their
9 protected health information, the effects of such uses, and
10 the rights of individuals with respect to such uses. Such
11 programs shall be conducted in a variety of languages and
12 present information in a clear and understandable man-
13 ner.

14 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**
15 **PENALTIES TO BUSINESS ASSOCIATES OF**
16 **COVERED ENTITIES.**

17 (a) APPLICATION OF CONTRACT REQUIREMENTS.—
18 In the case of a business associate of a covered entity that
19 obtains or creates protected health information pursuant
20 to a written contract (or other written arrangement) de-
21 scribed in section 164.502(e)(2) of title 45, Code of Fed-
22 eral Regulations, with such covered entity, the business
23 associate may use and disclose such protected health infor-
24 mation only if such use or disclosure, respectively, is in
25 compliance with each applicable requirement of section

1 164.504(e) of such title. The additional requirements of
2 this subtitle that relate to privacy and that are made ap-
3 plicable with respect to covered entities shall also be appli-
4 cable to such a business associate and shall be incor-
5 porated into the business associate agreement between the
6 business associate and the covered entity.

7 (b) APPLICATION OF KNOWLEDGE ELEMENTS ASSO-
8 CIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of
9 title 45, Code of Federal Regulations, shall apply to a
10 business associate described in subsection (a), with respect
11 to compliance with such subsection, in the same manner
12 that such section applies to a covered entity, with respect
13 to compliance with the standards in sections 164.502(e)
14 and 164.504(e) of such title, except that in applying such
15 section 164.504(e)(1)(ii) each reference to the business as-
16 sociate, with respect to a contract, shall be treated as a
17 reference to the covered entity involved in such contract.

18 (c) APPLICATION OF CIVIL AND CRIMINAL PEN-
19 ALTIES.—In the case of a business associate that violates
20 any provision of subsection (a) or (b), the provisions of
21 sections 1176 and 1177 of the Social Security Act (42
22 U.S.C. 1320d-5, 1320d-6) shall apply to the business as-
23 sociate with respect to such violation in the same manner
24 as such provisions apply to a person who violates a provi-
25 sion of part C of title XI of such Act.

1 **SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND**
2 **SALES OF HEALTH INFORMATION; ACCOUNT-**
3 **ING OF CERTAIN PROTECTED HEALTH IN-**
4 **FORMATION DISCLOSURES; ACCESS TO CER-**
5 **TAIN INFORMATION IN ELECTRONIC FOR-**
6 **MAT.**

7 (a) REQUESTED RESTRICTIONS ON CERTAIN DIS-
8 CLOSURES OF HEALTH INFORMATION.—In the case that
9 an individual requests under paragraph (a)(1)(i)(A) of
10 section 164.522 of title 45, Code of Federal Regulations,
11 that a covered entity restrict the disclosure of the pro-
12 tected health information of the individual, notwith-
13 standing paragraph (a)(1)(ii) of such section, the covered
14 entity must comply with the requested restriction if—

15 (1) except as otherwise required by law, the dis-
16 closure is to a health plan for purposes of carrying
17 out payment or health care operations (and is not
18 for purposes of carrying out treatment); and

19 (2) the protected health information pertains
20 solely to a health care item or service for which the
21 health care provider involved has been paid out of
22 pocket in full.

23 (b) DISCLOSURES REQUIRED TO BE LIMITED TO
24 THE LIMITED DATA SET OR THE MINIMUM NEC-
25 ESSARY.—

26 (1) IN GENERAL.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), a covered entity shall be treated as
3 being in compliance with section 164.502(b)(1)
4 of title 45, Code of Federal Regulations, with
5 respect to the use, disclosure, or request of pro-
6 tected health information described in such sec-
7 tion, only if the covered entity limits such pro-
8 tected health information, to the extent prac-
9 ticable, to the limited data set (as defined in
10 section 164.514(e)(2) of such title) or, if needed
11 by such entity, to the minimum necessary to ac-
12 complish the intended purpose of such use, dis-
13 closure, or request, respectively.
14 (B) GUIDANCE.—Not later than 18
15 months after the date of the enactment of this
16 section, the Secretary shall issue guidance on
17 what constitutes "minimum necessary" for pur-
18 poses of subpart E of part 164 of title 45, Code
19 of Federal Regulation. In issuing such guidance
20 the Secretary shall take into consideration the
21 guidance under section 13424(c).
22 (C) SUNSET.—Subparagraph (A) shall not
23 apply on and after the effective date on which
24 the Secretary issues the guidance under sub-
25 paragraph (B).

1 (2) DETERMINATION OF MINIMUM NEC-
2 ESSARY.—For purposes of paragraph (1), in the
3 case of the disclosure of protected health informa-
4 tion, the covered entity or business associate dis-
5 closing such information shall determine what con-
6 stitutes the minimum necessary to accomplish the
7 intended purpose of such disclosure.
8 (3) APPLICATION OF EXCEPTIONS.—The excep-
9 tions described in section 164.502(b)(2) of title 45,
10 Code of Federal Regulations, shall apply to the re-
11 quirement under paragraph (1) as of the effective
12 date described in section 13423 in the same manner
13 that such exceptions apply to section 164.502(b)(1)
14 of such title before such date.
15 (4) RULE OF CONSTRUCTION.—Nothing in this
16 subsection shall be construed as affecting the use,
17 disclosure, or request of protected health information
18 that has been de-identified.
19 (c) ACCOUNTING OF CERTAIN PROTECTED HEALTH
20 INFORMATION DISCLOSURES REQUIRED IF COVERED EN-
21 TITY USES ELECTRONIC HEALTH RECORD.—
22 (1) IN GENERAL.—In applying section 164.528
23 of title 45, Code of Federal Regulations, in the case
24 that a covered entity uses or maintains an electronic

1 health record with respect to protected health infor-
2 mation—
3 (A) the exception under paragraph
4 (a)(1)(i) of such section shall not apply to dis-
5 closures through an electronic health record
6 made by such entity of such information; and
7 (B) an individual shall have a right to re-
8 ceive an accounting of disclosures described in
9 such paragraph of such information made by
10 such covered entity during only the three years
11 prior to the date on which the accounting is re-
12 quested.
13 (2) REGULATIONS.—The Secretary shall pro-
14 mulgate regulations on what information shall be
15 collected about each disclosure referred to in para-
16 graph (1)(A) not later than 18 months after the
17 date on which the Secretary adopts standards on ac-
18 counting for disclosure described in the section
19 3002(b)(2)(B)(iv) of the Public Health Service Act,
20 as added by section 13101. Such regulations shall
21 only require such information to be collected through
22 an electronic health record in a manner that takes
23 into account the interests of individuals in learning
24 the circumstances under which their protected health
25 information is being disclosed and takes into account

1 the administrative burden of accounting for such
2 disclosures.
3 (3) CONSTRUCTION.—Nothing in this sub-
4 section shall be construed as—
5 (A) requiring a covered entity to account
6 for disclosures of protected health information
7 that are not made by such covered entity; or
8 (B) requiring a business associate of a cov-
9 ered entity to account for disclosures of pro-
10 tected health information that are not made by
11 such business associate.
12 (4) REASONABLE FEE.—A covered entity may
13 impose a reasonable fee on an individual for an ac-
14 counting performed under paragraph (1)(B). Any
15 such fee shall not be greater than the entity's labor
16 costs in responding to the request.
17 (5) EFFECTIVE DATE.—
18 (A) CURRENT USERS OF ELECTRONIC
19 RECORDS.—In the case of a covered entity inso-
20 far as it acquired an electronic health record as
21 of January 1, 2009, paragraph (1) shall apply
22 to disclosures, with respect to protected health
23 information, made by the covered entity from
24 such a record on and after January 1, 2014.

1 (B) OTHERS.—In the case of a covered en-
2 tity insofar as it acquires an electronic health
3 record after January 1, 2010, paragraph (1)
4 shall apply to disclosures, with respect to pro-
5 tected health information, made by the covered
6 entity from such record on and after the later
7 of the following:
8 (i) January 1, 2011; or
9 (ii) the date that it acquires an elec-
10 tronic health record.
11 (d) REVIEW OF HEALTH CARE OPERATIONS.—Not
12 later than 18 months after the date of the enactment of
13 this title, the Secretary shall promulgate regulations to
14 eliminate from the definition of health care operations
15 under section 164.501 of title 45, Code of Federal Regula-
16 tions, those activities that can reasonably and efficiently
17 be conducted through the use of information that is de-
18 identified (in accordance with the requirements of section
19 164.514(b) of such title) or that should require a valid
20 authorization for use or disclosure. In promulgating such
21 regulations, the Secretary may choose to narrow or clarify
22 activities that the Secretary chooses to retain in the defini-
23 tion of health care operations and the Secretary shall take
24 into account the report under section 13424(d). In such
25 regulations the Secretary shall specify the date on which

1 such regulations shall apply to disclosures made by a cov-
2 ered entity, but in no case would such date be sooner than
3 the date that is 24 months after the date of the enactment
4 of this section.

5 (e) PROHIBITION ON SALE OF ELECTRONIC HEALTH
6 RECORDS OR PROTECTED HEALTH INFORMATION OB-
7 TAINED FROM ELECTRONIC HEALTH RECORDS.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), a covered entity or business associate
10 shall not directly or indirectly receive remuneration
11 in exchange for any protected health information of
12 an individual unless the covered entity obtained from
13 the individual, in accordance with section 164.508 of
14 title 45, Code of Federal Regulations, a valid au-
15 thorization that includes, in accordance with such
16 section, a specification of whether the protected
17 health information can be further exchanged for re-
18 muneration by the entity receiving protected health
19 information of that individual.

20 (2) EXCEPTIONS.—Paragraph (1) shall not
21 apply in the following cases:

22 (A) The purpose of the exchange is for re-
23 search or public health activities (as described
24 in sections 164.501, 164.512(i), and 164.512(b)
25 of title 45, Code of Federal Regulations) and

1 the price charged reflects the costs of prepara-
2 tion and transmittal of the data for such pur-
3 pose.
4 (B) The purpose of the exchange is for the
5 treatment of the individual and the price
6 charges reflects not more than the costs of
7 preparation and transmittal of the data for
8 such purpose.
9 (C) The purpose of the exchange is the
10 health care operation specifically described in
11 subparagraph (iv) of paragraph (6) of the defi-
12 nition of healthcare operations in section
13 164.501 of title 45, Code of Federal Regula-
14 tions.
15 (D) The purpose of the exchange is for re-
16 muneration that is provided by a covered entity
17 to a business associate for activities involving
18 the exchange of protected health information
19 that the business associate undertakes on behalf
20 of and at the specific request of the covered en-
21 tity pursuant to a business associate agreement.
22 (E) The purpose of the exchange is to pro-
23 vide an individual with a copy of the individ-
24 ual's protected health information pursuant to

1 section 164.524 of title 45, Code of Federal
2 Regulations.
3 (F) The purpose of the exchange is other-
4 wise determined by the Secretary in regulations
5 to be similarly necessary and appropriate as the
6 exceptions provided in subparagraphs (A)
7 through (E).
8 (3) REGULATIONS.—The Secretary shall pro-
9 mulgate regulations to carry out this subsection, in-
10 cluding exceptions described in paragraph (2), not
11 later than 18 months after the date of the enact-
12 ment of this title.
13 (4) EFFECTIVE DATE.—Paragraph (1) shall
14 apply to exchanges occurring on or after the date
15 that is 6 months after the date of the promulgation
16 of final regulations implementing this subsection.
17 (f) ACCESS TO CERTAIN INFORMATION IN ELEC-
18 TRONIC FORMAT.—In applying section 164.524 of title
19 45, Code of Federal Regulations, in the case that a cov-
20 ered entity uses or maintains an electronic health record
21 with respect to protected health information of an indi-
22 vidual—
23 (1) the individual shall have a right to obtain
24 from such covered entity a copy of such information
25 in an electronic format; and

1 (2) notwithstanding paragraph (c)(4) of such
2 section, any fee that the covered entity may impose
3 for providing such individual with a copy of such in-
4 formation (or a summary or explanation of such in-
5 formation) if such copy (or summary or explanation)
6 is in an electronic form shall not be greater than the
7 entity's labor costs in responding to the request for
8 the copy (or summary or explanation).

9 **SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART**
10 **OF HEALTH CARE OPERATIONS.**

11 (a) MARKETING.—
12 (1) IN GENERAL.—A communication by a cov-
13 ered entity or business associate that is about a
14 product or service and that encourages recipients of
15 the communication to purchase or use the product
16 or service shall not be considered a health care oper-
17 ation for purposes of subpart E of part 164 of title
18 45, Code of Federal Regulations, unless the commu-
19 nication is made as described in subparagraph (i),
20 (ii), or (iii) of paragraph (1) of the definition of
21 marketing in section 164.501 of such title.
22 (2) PAYMENT FOR CERTAIN COMMUNICA-
23 TIONS.—A covered entity or business associate may
24 not receive direct or indirect payment in exchange
25 for making any communication described in sub-

1 paragraph (i), (ii), or (iii) of paragraph (1) of the
2 definition of marketing in section 164.501 of title
3 45, Code of Federal Regulations, except—
4 (A) a business associate of a covered entity
5 may receive payment from the covered entity
6 for making any such communication on behalf
7 of the covered entity that is consistent with the
8 written contract (or other written arrangement)
9 described in section 164.502(e)(2) of such title
10 between such business associate and covered en-
11 tity; and
12 (B) a covered entity may receive payment
13 in exchange for making any such communica-
14 tion if the entity obtains from the recipient of
15 the communication, in accordance with section
16 164.508 of title 45, Code of Federal Regula-
17 tions, a valid authorization (as described in
18 paragraph (b) of such section) with respect to
19 such communication.
20 (b) FUNDRAISING.—Fundraising for the benefit of a
21 covered entity shall not be considered a health care oper-
22 ation for purposes of section 164.501 of title 45, Code of
23 Federal Regulations.

1 (c) EFFECTIVE DATE.—This section shall apply to
2 contracting occurring on or after the effective date speci-
3 fied under section 13423.

4 **SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIRE-**
5 **MENT FOR VENDORS OF PERSONAL HEALTH**
6 **RECORDS AND OTHER NON-HIPAA COVERED**
7 **ENTITIES.**

8 (a) IN GENERAL.—In accordance with subsection (c),
9 each vendor of personal health records, following the dis-
10 covery of a breach of security of unsecured PHR identifi-
11 able health information that is in a personal health record
12 maintained or offered by such vendor, and each entity de-
13 scribed in clause (ii) or (iii) of section 13424(b)(1)(A), fol-
14 lowing the discovery of a breach of security of such infor-
15 mation that is obtained through a product or service pro-
16 vided by such entity, shall—

17 (1) notify each individual who is a citizen or
18 resident of the United States whose unsecured PHR
19 identifiable health information was acquired by an
20 unauthorized person as a result of such a breach of
21 security; and

22 (2) notify the Federal Trade Commission.

23 (b) NOTIFICATION BY THIRD PARTY SERVICE PRO-
24 VIDERS.—A third party service provider that provides
25 services to a vendor of personal health records or to an

1 entity described in clause (ii) or (iii) of section
2 13424(b)(1)(A) in connection with the offering or mainte-
3 nance of a personal health record or a related product or
4 service and that accesses, maintains, retains, modifies,
5 records, stores, destroys, or otherwise holds, uses, or dis-
6 closes unsecured PHR identifiable health information in
7 such a record as a result of such services shall, following
8 the discovery of a breach of security of such information,
9 notify such vendor or entity, respectively, of such breach.
10 Such notice shall include the identification of each indi-
11 vidual whose unsecured PHR identifiable health informa-
12 tion has been, or is reasonably believed to have been,
13 accessed, acquired, or disclosed during such breach.
14 (c) APPLICATION OF REQUIREMENTS FOR TIMELI-
15 NESS, METHOD, AND CONTENT OF NOTIFICATIONS.—
16 Subsections (c), (d), (e), and (f) of section 13402 shall
17 apply to a notification required under subsection (a) and
18 a vendor of personal health records, an entity described
19 in subsection (a) and a third party service provider de-
20 scribed in subsection (b), with respect to a breach of secu-
21 rity under subsection (a) of unsecured PHR identifiable
22 health information in such records maintained or offered
23 by such vendor, in a manner specified by the Federal
24 Trade Commission.

1 (d) NOTIFICATION OF THE SECRETARY.—Upon re-
2 ceipt of a notification of a breach of security under sub-
3 section (a)(2), the Federal Trade Commission shall notify
4 the Secretary of such breach.
5 (e) ENFORCEMENT.—A violation of subsection (a) or
6 (b) shall be treated as an unfair and deceptive act or prac-
7 tice in violation of a regulation under section 18(a)(1)(B)
8 of the Federal Trade Commission Act (15 U.S.C.
9 57*a*(a)(1)(B)) regarding unfair or deceptive acts or prac-
10 tices.
11 (f) DEFINITIONS.—For purposes of this section:
12 (1) BREACH OF SECURITY.—The term "breach
13 of security" means, with respect to unsecured PHR
14 identifiable health information of an individual in a
15 personal health record, acquisition of such informa-
16 tion without the authorization of the individual.
17 (2) PHR IDENTIFIABLE HEALTH INFORMA-
18 TION.—The term "PHR identifiable health informa-
19 tion" means individually identifiable health informa-
20 tion, as defined in section 1171(6) of the Social Se-
21 curity Act (42 U.S.C. 1320d(6)), and includes, with
22 respect to an individual, information—
23 (A) that is provided by or on behalf of the
24 individual; and

1 (B) that identifies the individual or with
2 respect to which there is a reasonable basis to
3 believe that the information can be used to
4 identify the individual.
5 (3) UNSECURED PHR IDENTIFIABLE HEALTH
6 INFORMATION.—
7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the term "unsecured PHR identifi-
9 able health information" means PHR identifi-
10 able health information that is not protected
11 through the use of a technology or methodology
12 specified by the Secretary in the guidance
13 issued under section 13402(h)(2).
14 (B) EXCEPTION IN CASE TIMELY GUID-
15 ANCE NOT ISSUED.—In the case that the Sec-
16 retary does not issue guidance under section
17 13402(h)(2) by the date specified in such sec-
18 tion, for purposes of this section, the term "un-
19 secured PHR identifiable health information"
20 shall mean PHR identifiable health information
21 that is not secured by a technology standard
22 that renders protected health information unus-
23 able, unreadable, or indecipherable to unauthor-
24 ized individuals and that is developed or en-
25 dorsed by a standards developing organization

1 that is accredited by the American National
2 Standards Institute.
3 (g) REGULATIONS; EFFECTIVE DATE; SUNSET.—
4 (1) REGULATIONS; EFFECTIVE DATE.—To
5 carry out this section, the Secretary of Health and
6 Human Services shall promulgate interim final regu-
7 lations by not later than the date that is 180 days
8 after the date of the enactment of this section. The
9 provisions of this section shall apply to breaches of
10 security that are discovered on or after the date that
11 is 30 days after the date of publication of such in-
12 terim final regulations.
13 (2) SUNSET.—The provisions of this section
14 shall not apply to breaches of security occurring on
15 or after the earlier of the following the dates:
16 (A) The date on which a standard relating
17 to requirements for entities that are not covered
18 entities that includes requirements relating to
19 breach notification has been promulgated by the
20 Secretary.
21 (B) The date on which a standard relating
22 to requirements for entities that are not covered
23 entities that includes requirements relating to
24 breach notification has been promulgated by the

1 Federal Trade Commission and has taken ef-
2 fect.

3 **SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED**
4 **FOR CERTAIN ENTITIES.**

5 Each organization, with respect to a covered entity,
6 that provides data transmission of protected health infor-
7 mation to such entity (or its business associate) and that
8 requires access on a routine basis to such protected health
9 information, such as a Health Information Exchange Or-
10 ganization, Regional Health Information Organization, E-
11 prescribing Gateway, or each vendor that contracts with
12 a covered entity to allow that covered entity to offer a per-
13 sonal health record to patients as part of its electronic
14 health record, is required to enter into a written contract
15 (or other written arrangement) described in section
16 164.502(e)(2) of title 45, Code of Federal Regulations and
17 a written contract (or other arrangement) described in
18 section 164.308(b) of such title, with such entity and shall
19 be treated as a business associate of the covered entity
20 for purposes of the provisions of this subtitle and subparts
21 C and E of part 164 of title 45, Code of Federal Regula-
22 tions, as such provisions are in effect as of the date of
23 enactment of this title.

1 **SEC. 13409. CLARIFICATION OF APPLICATION OF WRONG-**
2 **FUL DISCLOSURES CRIMINAL PENALTIES.**
3 Section 1177(a) of the Social Security Act (42 U.S.C.
4 1320d–6(a)) is amended by adding at the end the fol-
5 lowing new sentence: "For purposes of the previous sen-
6 tence, a person (including an employee or other individual)
7 shall be considered to have obtained or disclosed individ-
8 ually identifiable health information in violation of this
9 part if the information is maintained by a covered entity
10 (as defined in the HIPAA privacy regulation described in
11 section 1180(b)(3)) and the individual obtained or dis-
12 closed such information without authorization.".
13 **SEC. 13410. IMPROVED ENFORCEMENT.**
14 (a) IN GENERAL.—Section 1176 of the Social Secu-
15 rity Act (42 U.S.C. 1320d-5) is amended—
16 (1) in subsection (b)(1), by striking "the act
17 constitutes an offense punishable under section
18 1177" and inserting "a penalty has been imposed
19 under section 1177 with respect to such act"; and
20 (2) by adding at the end the following new sub-
21 section:
22 "(c) NONCOMPLIANCE DUE TO WILLFUL NE-
23 GLECT.—
24 "(1) IN GENERAL.—A violation of a provision
25 of this part due to willful neglect is a violation for

1 which the Secretary is required to impose a penalty
2 under subsection (a)(1).
3 "(2) REQUIRED INVESTIGATION.—For purposes
4 of paragraph (1), the Secretary shall formally inves-
5 tigate any complaint of a violation of a provision of
6 this part if a preliminary investigation of the facts
7 of the complaint indicate such a possible violation
8 due to willful neglect.".
9 (b) EFFECTIVE DATE; REGULATIONS.—
10 (1) The amendments made by subsection (a)
11 shall apply to penalties imposed on or after the date
12 that is 24 months after the date of the enactment
13 of this title.
14 (2) Not later than 18 months after the date of
15 the enactment of this title, the Secretary of Health
16 and Human Services shall promulgate regulations to
17 implement such amendments.
18 (c) DISTRIBUTION OF CERTAIN CIVIL MONETARY
19 PENALTIES COLLECTED.—
20 (1) IN GENERAL.—Subject to the regulation
21 promulgated pursuant to paragraph (3), any civil
22 monetary penalty or monetary settlement collected
23 with respect to an offense punishable under this sub-
24 title or section 1176 of the Social Security Act (42
25 U.S.C. 1320d-5) insofar as such section relates to

1 privacy or security shall be transferred to the Office
2 of Civil Rights of the Department of Health and
3 Human Services to be used for purposes of enforcing
4 the provisions of this subtitle and subparts C and E
5 of part 164 of title 45, Code of Federal Regulations,
6 as such provisions are in effect as of the date of en-
7 actment of this Act.

8 (2) GAO REPORT.—Not later than 18 months
9 after the date of the enactment of this title, the
10 Comptroller General shall submit to the Secretary a
11 report including recommendations for a methodology
12 under which an individual who is harmed by an act
13 that constitutes an offense referred to in paragraph
14 (1) may receive a percentage of any civil monetary
15 penalty or monetary settlement collected with re-
16 spect to such offense.

17 (3) ESTABLISHMENT OF METHODOLOGY TO
18 DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO
19 HARMED INDIVIDUALS.—Not later than 3 years
20 after the date of the enactment of this title, the Sec-
21 retary shall establish by regulation and based on the
22 recommendations submitted under paragraph (2), a
23 methodology under which an individual who is
24 harmed by an act that constitutes an offense re-
25 ferred to in paragraph (1) may receive a percentage

1 of any civil monetary penalty or monetary settlement
2 collected with respect to such offense.
3 (4) APPLICATION OF METHODOLOGY.—The
4 methodology under paragraph (3) shall be applied
5 with respect to civil monetary penalties or monetary
6 settlements imposed on or after the effective date of
7 the regulation.
8 (d) TIERED INCREASE IN AMOUNT OF CIVIL MONE-
9 TARY PENALTIES.—
10 (1) IN GENERAL.—Section 1176(a)(1) of the
11 Social Security Act (42 U.S.C. 1320d-5(a)(1)) is
12 amended by striking "who violates a provision of
13 this part a penalty of not more than" and all that
14 follows and inserting the following: "who violates a
15 provision of this part—
16 "(A) in the case of a violation of such pro-
17 vision in which it is established that the person
18 did not know (and by exercising reasonable dili-
19 gence would not have known) that such person
20 violated such provision, a penalty for each such
21 violation of an amount that is at least the
22 amount described in paragraph (3)(A) but not
23 to exceed the amount described in paragraph
24 (3)(D);

1 "(B) in the case of a violation of such pro-
2 vision in which it is established that the viola-
3 tion was due to reasonable cause and not to
4 willful neglect, a penalty for each such violation
5 of an amount that is at least the amount de-
6 scribed in paragraph (3)(B) but not to exceed
7 the amount described in paragraph (3)(D); and
8 "(C) in the case of a violation of such pro-
9 vision in which it is established that the viola-
10 tion was due to willful neglect—
11 "(i) if the violation is corrected as de-
12 scribed in subsection (b)(3)(A), a penalty
13 in an amount that is at least the amount
14 described in paragraph (3)(C) but not to
15 exceed the amount described in paragraph
16 (3)(D); and
17 "(ii) if the violation is not corrected
18 as described in such subsection, a penalty
19 in an amount that is at least the amount
20 described in paragraph (3)(D).
21 "In determining the amount of a penalty under
22 this section for a violation, the Secretary shall
23 base such determination on the nature and ex-
24 tent of the violation and the nature and extent
25 of the harm resulting from such violation.".

1 (2) TIERS OF PENALTIES DESCRIBED.—Section
2 1176(a) of such Act (42 U.S.C. 1320d-5(a)) is fur-
3 ther amended by adding at the end the following
4 new paragraph:
5 "(3) TIERS OF PENALTIES DESCRIBED.—For
6 purposes of paragraph (1), with respect to a viola-
7 tion by a person of a provision of this part—
8 "(A) the amount described in this subpara-
9 graph is $100 for each such violation, except
10 that the total amount imposed on the person
11 for all such violations of an identical require-
12 ment or prohibition during a calendar year may
13 not exceed $25,000;
14 "(B) the amount described in this subpara-
15 graph is $1,000 for each such violation, except
16 that the total amount imposed on the person
17 for all such violations of an identical require-
18 ment or prohibition during a calendar year may
19 not exceed $100,000;
20 "(C) the amount described in this subpara-
21 graph is $10,000 for each such violation, except
22 that the total amount imposed on the person
23 for all such violations of an identical require-
24 ment or prohibition during a calendar year may
25 not exceed $250,000; and

1 "(D) the amount described in this sub-
2 paragraph is $50,000 for each such violation,
3 except that the total amount imposed on the
4 person for all such violations of an identical re-
5 quirement or prohibition during a calendar year
6 may not exceed $1,500,000.".
7 (3) CONFORMING AMENDMENTS.—Section
8 1176(b) of such Act (42 U.S.C. 1320d-5(b)) is
9 amended—
10 (A) by striking paragraph (2) and redesig-
11 nating paragraphs (3) and (4) as paragraphs
12 (2) and (3), respectively; and
13 (B) in paragraph (2), as so redesignated—
14 (i) in subparagraph (A), by striking
15 "in subparagraph (B), a penalty may not
16 be imposed under subsection (a) if" and all
17 that follows through "the failure to comply
18 is corrected" and inserting "in subpara-
19 graph (B) or subsection (a)(1)(C), a pen-
20 alty may not be imposed under subsection
21 (a) if the failure to comply is corrected";
22 and
23 (ii) in subparagraph (B), by striking
24 "(A)(ii)" and inserting "(A)" each place it
25 appears.

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to violations occurring
3 after the date of the enactment of this title.
4 (e) ENFORCEMENT THROUGH STATE ATTORNEYS
5 GENERAL.—
6 (1) IN GENERAL.—Section 1176 of the Social
7 Security Act (42 U.S.C. 1320d–5) is amended by
8 adding at the end the following new subsection:
9 "(d) ENFORCEMENT BY STATE ATTORNEYS GEN-
10 ERAL.—
11 "(1) CIVIL ACTION.—Except as provided in
12 subsection (b), in any case in which the attorney
13 general of a State has reason to believe that an in-
14 terest of one or more of the residents of that State
15 has been or is threatened or adversely affected by
16 any person who violates a provision of this part, the
17 attorney general of the State, as parens patriae, may
18 bring a civil action on behalf of such residents of the
19 State in a district court of the United States of ap-
20 propriate jurisdiction—
21 "(A) to enjoin further such violation by the
22 defendant; or
23 "(B) to obtain damages on behalf of such
24 residents of the State, in an amount equal to
25 the amount determined under paragraph (2).

1 "(2) STATUTORY DAMAGES.—
2 "(A) IN GENERAL.—For purposes of para-
3 graph (1)(B), the amount determined under
4 this paragraph is the amount calculated by mul-
5 tiplying the number of violations by up to $100.
6 For purposes of the preceding sentence, in the
7 case of a continuing violation, the number of
8 violations shall be determined consistent with
9 the HIPAA privacy regulations (as defined in
10 section 1180(b)(3)) for violations of subsection
11 (a).
12 "(B) LIMITATION.—The total amount of
13 damages imposed on the person for all viola-
14 tions of an identical requirement or prohibition
15 during a calendar year may not exceed $25,000.
16 "(C) REDUCTION OF DAMAGES.—In as-
17 sessing damages under subparagraph (A), the
18 court may consider the factors the Secretary
19 may consider in determining the amount of a
20 civil money penalty under subsection (a) under
21 the HIPAA privacy regulations.
22 "(3) ATTORNEY FEES.—In the case of any suc-
23 cessful action under paragraph (1), the court, in its
24 discretion, may award the costs of the action and
25 reasonable attorney fees to the State.

1 "(4) NOTICE TO SECRETARY.—The State shall
2 serve prior written notice of any action under para-
3 graph (1) upon the Secretary and provide the Sec-
4 retary with a copy of its complaint, except in any
5 case in which such prior notice is not feasible, in
6 which case the State shall serve such notice imme-
7 diately upon instituting such action. The Secretary
8 shall have the right—
9 "(A) to intervene in the action;
10 "(B) upon so intervening, to be heard on
11 all matters arising therein; and
12 "(C) to file petitions for appeal.
13 "(5) CONSTRUCTION.—For purposes of bring-
14 ing any civil action under paragraph (1), nothing in
15 this section shall be construed to prevent an attor-
16 ney general of a State from exercising the powers
17 conferred on the attorney general by the laws of that
18 State.
19 "(6) VENUE; SERVICE OF PROCESS.—
20 "(A) VENUE.—Any action brought under
21 paragraph (1) may be brought in the district
22 court of the United States that meets applicable
23 requirements relating to venue under section
24 1391 of title 28, United States Code.

1 "(B) SERVICE OF PROCESS.—In an action
2 brought under paragraph (1), process may be
3 served in any district in which the defendant—
4 "(i) is an inhabitant; or
5 "(ii) maintains a physical place of
6 business.
7 "(7) LIMITATION ON STATE ACTION WHILE
8 FEDERAL ACTION IS PENDING.—If the Secretary has
9 instituted an action against a person under sub-
10 section (a) with respect to a specific violation of this
11 part, no State attorney general may bring an action
12 under this subsection against the person with re-
13 spect to such violation during the pendency of that
14 action.
15 "(8) APPLICATION OF CMP STATUTE OF LIMI-
16 TATION.—A civil action may not be instituted with
17 respect to a violation of this part unless an action
18 to impose a civil money penalty may be instituted
19 under subsection (a) with respect to such violation
20 consistent with the second sentence of section
21 1128A(c)(1).".
22 (2) CONFORMING AMENDMENTS.—Subsection
23 (b) of such section, as amended by subsection (d)(3),
24 is amended—

1 (A) in paragraph (1), by striking "A pen-
2 alty may not be imposed under subsection (a)"
3 and inserting "No penalty may be imposed
4 under subsection (a) and no damages obtained
5 under subsection (d)";
6 (B) in paragraph (2)(A)—
7 (i) after "subsection (a)(1)(C)", by
8 striking "a penalty may not be imposed
9 under subsection (a)" and inserting "no
10 penalty may be imposed under subsection
11 (a) and no damages obtained under sub-
12 section (d)"; and
13 (ii) in clause (ii), by inserting "or
14 damages" after "the penalty";
15 (C) in paragraph (2)(B)(i), by striking
16 "The period" and inserting "With respect to
17 the imposition of a penalty by the Secretary
18 under subsection (a), the period"; and
19 (D) in paragraph (3), by inserting "and
20 any damages under subsection (d)" after "any
21 penalty under subsection (a)".
22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to violations occurring
24 after the date of the enactment of this Act.

1 (f) ALLOWING CONTINUED USE OF CORRECTIVE AC-
2 TION.—Such section is further amended by adding at the
3 end the following new subsection:
4 "(e) ALLOWING CONTINUED USE OF CORRECTIVE
5 ACTION.—Nothing in this section shall be construed as
6 preventing the Office of Civil Rights of the Department
7 of Health and Human Services from continuing, in its dis-
8 cretion, to use corrective action without a penalty in cases
9 where the person did not know (and by exercising reason-
10 able diligence would not have known) of the violation in-
11 volved.".

12 **SEC. 13411. AUDITS.**

13 The Secretary shall provide for periodic audits to en-
14 sure that covered entities and business associates that are
15 subject to the requirements of this subtitle and subparts
16 C and E of part 164 of title 45, Code of Federal Regula-
17 tions, as such provisions are in effect as of the date of
18 enactment of this Act, comply with such requirements.

19 **PART II—RELATIONSHIP TO OTHER LAWS; REGU-**
20 **LATORY REFERENCES; EFFECTIVE DATE; RE-**
21 **PORTS**

22 **SEC. 13421. RELATIONSHIP TO OTHER LAWS.**

23 (a) APPLICATION OF HIPAA STATE PREEMPTION.—
24 Section 1178 of the Social Security Act (42 U.S.C.
25 1320d–7) shall apply to a provision or requirement under

1 this subtitle in the same manner that such section applies
2 to a provision or requirement under part C of title XI of
3 such Act or a standard or implementation specification
4 adopted or established under sections 1172 through 1174
5 of such Act.

6 (b) HEALTH INSURANCE PORTABILITY AND AC-
7 COUNTABILITY ACT.—The standards governing the pri-
8 vacy and security of individually identifiable health infor-
9 mation promulgated by the Secretary under sections
10 262(a) and 264 of the Health Insurance Portability and
11 Accountability Act of 1996 shall remain in effect to the
12 extent that they are consistent with this subtitle. The Sec-
13 retary shall by rule amend such Federal regulations as re-
14 quired to make such regulations consistent with this sub-
15 title.

16 **SEC. 13422. REGULATORY REFERENCES.**

17 Each reference in this subtitle to a provision of the
18 Code of Federal Regulations refers to such provision as
19 in effect on the date of the enactment of this title (or to
20 the most recent update of such provision).

21 **SEC. 13423. EFFECTIVE DATE.**

22 Except as otherwise specifically provided, the provi-
23 sions of part I shall take effect on the date that is 12
24 months after the date of the enactment of this title.

1 **SEC. 13424. STUDIES, REPORTS, GUIDANCE.**

2 (a) REPORT ON COMPLIANCE.—

3 (1) IN GENERAL.—For the first year beginning
4 after the date of the enactment of this Act and an-
5 nually thereafter, the Secretary shall prepare and
6 submit to the Committee on Health, Education,
7 Labor, and Pensions of the Senate and the Com-
8 mittee on Ways and Means and the Committee on
9 Energy and Commerce of the House of Representa-
10 tives a report concerning complaints of alleged viola-
11 tions of law, including the provisions of this subtitle
12 as well as the provisions of subparts C and E of part
13 164 of title 45, Code of Federal Regulations, (as
14 such provisions are in effect as of the date of enact-
15 ment of this Act) relating to privacy and security of
16 health information that are received by the Secretary
17 during the year for which the report is being pre-
18 pared. Each such report shall include, with respect
19 to such complaints received during the year—

20 (A) the number of such complaints;

21 (B) the number of such complaints re-
22 solved informally, a summary of the types of
23 such complaints so resolved, and the number of
24 covered entities that received technical assist-
25 ance from the Secretary during such year in
26 order to achieve compliance with such provi-

1 sions and the types of such technical assistance
2 provided;
3 (C) the number of such complaints that
4 have resulted in the imposition of civil monetary
5 penalties or have been resolved through mone-
6 tary settlements, including the nature of the
7 complaints involved and the amount paid in
8 each penalty or settlement;
9 (D) the number of compliance reviews con-
10 ducted and the outcome of each such review;
11 (E) the number of subpoenas or inquiries
12 issued;
13 (F) the Secretary's plan for improving
14 compliance with and enforcement of such provi-
15 sions for the following year; and
16 (G) the number of audits performed and a
17 summary of audit findings pursuant to section
18 13411.
19 (2) AVAILABILITY TO PUBLIC.—Each report
20 under paragraph (1) shall be made available to the
21 public on the Internet website of the Department of
22 Health and Human Services.
23 (b) STUDY AND REPORT ON APPLICATION OF PRI-
24 VACY AND SECURITY REQUIREMENTS TO NON-HIPAA
25 COVERED ENTITIES.—

1 (1) STUDY.—Not later than one year after the
2 date of the enactment of this title, the Secretary, in
3 consultation with the Federal Trade Commission,
4 shall conduct a study, and submit a report under
5 paragraph (2), on privacy and security requirements
6 for entities that are not covered entities or business
7 associates as of the date of the enactment of this
8 title, including—
9 (A) requirements relating to security, pri-
10 vacy, and notification in the case of a breach of
11 security or privacy (including the applicability
12 of an exemption to notification in the case of
13 individually identifiable health information that
14 has been rendered unusable, unreadable, or in-
15 decipherable through technologies or methodolo-
16 gies recognized by appropriate professional or-
17 ganization or standard setting bodies to provide
18 effective security for the information) that
19 should be applied to—
20 (i) vendors of personal health records;
21 (ii) entities that offer products or
22 services through the website of a vendor of
23 personal health records;
24 (iii) entities that are not covered enti-
25 ties and that offer products or services

1 through the websites of covered entities
2 that offer individuals personal health
3 records;
4 (iv) entities that are not covered enti-
5 ties and that access information in a per-
6 sonal health record or send information to
7 a personal health record; and
8 (v) third party service providers used
9 by a vendor or entity described in clause
10 (i), (ii), (iii), or (iv) to assist in providing
11 personal health record products or services;
12 (B) a determination of which Federal gov-
13 ernment agency is best equipped to enforce
14 such requirements recommended to be applied
15 to such vendors, entities, and service providers
16 under subparagraph (A); and
17 (C) a timeframe for implementing regula-
18 tions based on such findings.
19 (2) REPORT.—The Secretary shall submit to
20 the Committee on Finance, the Committee on
21 Health, Education, Labor, and Pensions, and the
22 Committee on Commerce of the Senate and the
23 Committee on Ways and Means and the Committee
24 on Energy and Commerce of the House of Rep-
25 resentatives a report on the findings of the study

1 under paragraph (1) and shall include in such report
2 recommendations on the privacy and security re-
3 quirements described in such paragraph.
4 (c) GUIDANCE ON IMPLEMENTATION SPECIFICATION
5 TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—
6 Not later than 12 months after the date of the enactment
7 of this title, the Secretary shall, in consultation with stake-
8 holders, issue guidance on how best to implement the re-
9 quirements for the de-identification of protected health in-
10 formation under section 164.514(b) of title 45, Code of
11 Federal Regulations.
12 (d) GAO REPORT ON TREATMENT DISCLOSURES.—
13 Not later than one year after the date of the enactment
14 of this title, the Comptroller General of the United States
15 shall submit to the Committee on Health, Education,
16 Labor, and Pensions of the Senate and the Committee on
17 Ways and Means and the Committee on Energy and Com-
18 merce of the House of Representatives a report on the
19 best practices related to the disclosure among health care
20 providers of protected health information of an individual
21 for purposes of treatment of such individual. Such report
22 shall include an examination of the best practices imple-
23 mented by States and by other entities, such as health
24 information exchanges and regional health information or-
25 ganizations, an examination of the extent to which such

1 best practices are successful with respect to the quality
2 of the resulting health care provided to the individual and
3 with respect to the ability of the health care provider to
4 manage such best practices, and an examination of the
5 use of electronic informed consent for disclosing protected
6 health information for treatment, payment, and health
7 care operations.

1 TITLE XIV—STATE FISCAL STABILIZATION
2 DEPARTMENT OF EDUCATION
3 STATE FISCAL STABILIZATION FUND
4 For necessary expenses for a State Fiscal Stabiliza-
5 tion Fund, $79,000,000,000, which shall be administered
6 by the Department of Education, and shall be available
7 through September 30, 2010.
8 GENERAL PROVISIONS—THIS TITLE
9 **SEC. 1401. ALLOCATIONS.**
10 (a) OUTLYING AREAS.—The Secretary of Education
11 shall first allocate one-half of 1 percent to the outlying
12 areas on the basis of their respective needs, as determined
13 by the Secretary, for activities consistent with this title
14 under such terms and conditions as the Secretary may de-
15 termine.
16 (b) ADMINISTRATION AND OVERSIGHT.—The Sec-
17 retary may reserve up to $25,000,000 for administration
18 and oversight of this title, including for program evalua-
19 tion.
20 (c) RESERVATION FOR ADDITIONAL PROGRAMS.—
21 After reserving funds under subsections (a) and (b), the
22 Secretary shall reserve $15,000,000,000 for grants under
23 sections 1406 and 1407.
24 (d) STATE ALLOCATIONS.—After carrying out sub-
25 sections (a), (b), and (c), the Secretary shall allocate the

1 remaining funds made available to carry out this title to
2 the States as follows:
3 (1) 61 percent on the basis of their relative
4 population of individuals aged 5 through 24.
5 (2) 39 percent on the basis of their relative
6 total population.
7 (e) STATE GRANTS.—From funds allocated under
8 subsection (d), the Secretary shall make grants to the
9 Governor of each State.
10 (f) REALLOCATION.—The Governor shall return to
11 the Secretary any funds received under subsection (e) that
12 the Governor does not obligate within 1 year of receiving
13 a grant, and the Secretary shall reallocate such funds to
14 the remaining States in accordance with subsection (d).
15 **SEC. 1402. STATE USES OF FUNDS.**
16 (a) EDUCATION FUND.—
17 (1) IN GENERAL.—The Governor shall use at
18 least 61 percent of the State's allocation under sec-
19 tion 1401 for the support of elementary, secondary,
20 and postsecondary education and, as applicable,
21 early childhood education programs and services.
22 (2) RESTORING 2008 STATE SUPPORT FOR EDU-
23 CATION.—
24 (A) IN GENERAL.—The Governor shall
25 first use the funds described in paragraph (1)—

1 (i) to provide the amount of funds,
2 through the State's principal elementary
3 and secondary funding formula, that is
4 needed to restore State support for elemen-
5 tary and secondary education to the fiscal
6 year 2008 level; and where applicable, to
7 allow existing State formula increases for
8 fiscal years 2009, 2010, and 2011 to be
9 implemented and allow funding for phasing
10 in State equity and adequacy adjustments
11 that were enacted prior to July 1, 2008;
12 and
13 (ii) to provide the amount of funds to
14 public institutions of higher education in
15 the State that is needed to restore State
16 support for postsecondary education to the
17 fiscal year 2008 level.
18 (B) SHORTFALL.—If the Governor deter-
19 mines that the amount of funds available under
20 paragraph (1) is insufficient to restore State
21 support for education to the levels described in
22 clauses (i) and (ii) of subparagraph (A), the
23 Governor shall allocate those funds between
24 those clauses in proportion to the relative short-

1 fall in State support for the education sectors
2 described in those clauses.
3 (3) SUBGRANTS TO IMPROVE BASIC PROGRAMS
4 OPERATED BY LOCAL EDUCATIONAL AGENCIES.—
5 After carrying out paragraph (2), the Governor shall
6 use any funds remaining under paragraph (1) to
7 provide local educational agencies in the State with
8 subgrants based on their relative shares of funding
9 under part A of title I of the Elementary and Sec-
10 ondary Education Act of 1965 (20 U.S.C. 6311 et
11 seq.) for the most recent year for which data are
12 available.
13 (b) OTHER GOVERNMENT SERVICES.—The Governor
14 may use up to 39 percent of the State's allocation under
15 section 1401 for public safety and other government serv-
16 ices, which may include assistance for elementary and sec-
17 ondary education and public institutions of higher edu-
18 cation.
19 **SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGEN-**
20 **CIES.**
21 (a) IN GENERAL.—A local educational agency that
22 receives funds under this title may use the funds for any
23 activity authorized by the Elementary and Secondary Edu-
24 cation Act of 1965 (20 U.S.C. 6301 et seq.) ("ESEA"),
25 the Individuals with Disabilities Education Act (20 U.S.C.

1 1400 et seq.) ("IDEA"), or the Carl D. Perkins Career
2 and Technical Education Act of 2006 (20 U.S.C. 2301
3 et seq.) ("the Perkins Act").
4 (b) PROHIBITION.—A local educational agency may
5 not use funds received under this title for capital projects
6 unless authorized by ESEA, IDEA, or the Perkins Act.
7 **SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER**
8 **EDUCATION.**
9 (a) IN GENERAL.—A public institution of higher edu-
10 cation that receives funds under this title shall use the
11 funds for education and general expenditures, and in such
12 a way as to mitigate the need to raise tuition and fees
13 for in-State students.
14 (b) PROHIBITION.—An institution of higher edu-
15 cation may not use funds received under this title to in-
16 crease its endowment.
17 (c) ADDITIONAL PROHIBITION.—An institution of
18 higher education may not use funds received under this
19 title for construction, renovation, or facility repair.
20 **SEC. 1405. STATE APPLICATIONS.**
21 (a) IN GENERAL.—The Governor of a State desiring
22 to receive an allocation under section 1401 shall submit
23 an application at such time, in such manner, and con-
24 taining such information as the Secretary may reasonably
25 require.

1 (b) APPLICATION.—The Governor shall—
2 (1) include the assurances described in sub-
3 section (d);
4 (2) provide baseline data that demonstrates the
5 State's current status in each of the areas described
6 in such assurances; and
7 (3) describe how the State intends to use its al-
8 location.
9 (c) INCENTIVE GRANT APPLICATION.—The Governor
10 of a State seeking a grant under section 1406 shall—
11 (1) submit an application for consideration;
12 (2) describe the status of the State's progress
13 in each of the areas described in subsection (d);
14 (3) describe the achievement and graduation
15 rates of public elementary and secondary school stu-
16 dents in the State, and the strategies the State is
17 employing to help ensure that all subgroups of stu-
18 dents identified in 1111(b)(2) of ESEA in the State
19 continue making progress toward meeting the
20 State's student academic achievement standards;
21 (4) describe how the State would use its grant
22 funding to improve student academic achievement in
23 the State, including how it will allocate the funds to
24 give priority to high-need schools and local edu-
25 cational agencies; and

1 (5) include a plan for evaluating its progress in
2 closing achievement gaps.
3 (d) ASSURANCES.—An application under subsection
4 (b) shall include the following assurances:
5 (1) MAINTENANCE OF EFFORT.—
6 (A) ELEMENTARY AND SECONDARY EDU-
7 CATION.—The State will, in each of fiscal years
8 2009 and 2010, maintain State support for ele-
9 mentary and secondary education at least at
10 the level of such support in fiscal year 2006.
11 (B) HIGHER EDUCATION.—The State will,
12 in each of fiscal years 2009 and 2010, maintain
13 State support for public institutions of higher
14 education (not including support for capital
15 projects or for research and development) at
16 least at the level of such support in fiscal year
17 2006.
18 (2) ACHIEVING EQUITY IN TEACHER DISTRIBU-
19 TION.—The State will take action, including activi-
20 ties outlined in section 2113(c) of ESEA, to increase
21 the number, and improve the distribution, of effec-
22 tive teachers and principals in high-poverty schools
23 and local educational agencies throughout the State.
24 (3) IMPROVING COLLECTION AND USE OF
25 DATA.—The State will establish a longitudinal data

1 system that includes the elements described in sec-
2 tion 6401(e)(2)(D) of the America COMPETES Act
3 (20 U.S.C. 9871).
4 (4) STANDARDS AND ASSESSMENTS.—The
5 State—
6 (A) will enhance the quality of academic
7 assessments described in section 1111(b)(3) of
8 ESEA (20 U.S.C. 6311(b)(3)) through activi-
9 ties such as those described in section 6112(a)
10 of such Act (20 U.S.C. 7301a(a));
11 (B) will comply with the requirements of
12 paragraphs (3)(C)(ix) and (6) of section
13 1111(b) of ESEA (20 U.S.C. 6311(b)) and sec-
14 tion 612(a)(16) of IDEA (20 U.S.C.
15 1412(a)(16)) related to the inclusion of children
16 with disabilities and limited English proficient
17 students in State assessments, the development
18 of valid and reliable assessments for those stu-
19 dents, and the provision of accommodations
20 that enable their participation in State assess-
21 ments; and
22 (C) will take steps to improve State aca-
23 demic content standards and student academic
24 achievement standards consistent with

1 6401(e)(1)(A)(ii) of the America COMPETES
2 Act.
3 (5) will ensure compliance with the require-
4 ments of section 1116(a)(7)(C)(iv) and section
5 1116(a)(8)(B) with respect to schools identified
6 under such sections.

7 **SEC. 1406. STATE INCENTIVE GRANTS.**

8 (a) IN GENERAL.—From the total amount reserved
9 under section 1401(c) that is not used for section 1407,
10 the Secretary shall, in fiscal year 2010, make grants to
11 States that have made significant progress in meeting the
12 objectives of paragraphs (2), (3), (4), and (5) of section
13 1405(d).
14 (b) BASIS FOR GRANTS.—The Secretary shall deter-
15 mine which States receive grants under this section, and
16 the amount of those grants, on the basis of information
17 provided in State applications under section 1405 and
18 such other criteria as the Secretary determines appro-
19 priate.
20 (c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
21 CIES.—Each State receiving a grant under this section
22 shall use at least 50 percent of the grant to provide local
23 educational agencies in the State with subgrants based on
24 their relative shares of funding under part A of title I of
25 ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

1 **SEC. 1407. INNOVATION FUND.**

2 (a) IN GENERAL.—

3 (1) ELIGIBLE ENTITY.—For the purposes of
4 this section, the term "eligible entity" means—

5 (A) A local educational agency; or

6 (B) a partnership between a nonprofit or-
7 ganization and—

8 (i) one or more local educational agen-
9 cies;

10 (ii) or a consortium of schools.

11 (2) PROGRAM ESTABLISHED.—From the total
12 amount reserved under section 1401(c), the Sec-
13 retary may reserve up to $650,000,000 to establish
14 an Innovation Fund, which shall consist of academic
15 achievement awards that recognize eligible entities
16 that meet the requirements described in subsection
17 (b).

18 (3) BASIS FOR AWARDS.—The Secretary shall
19 make awards to eligible entities that have made sig-
20 nificant gains in closing the achievement gap as de-
21 scribed in subsection (b)(1)—

22 (A) to allow such eligible entities to expand
23 their work and serve as models for best prac-
24 tices;

1 (B) to allow such eligible entities to work
2 in partnership with the private sector and the
3 philanthropic community; and
4 (C) to identify and document best practices
5 that can be shared, and taken to scale based on
6 demonstrated success.
7 (b) ELIGIBILITY.—To be eligible for such an award,
8 an eligible entity shall—
9 (1) have significantly closed the achievement
10 gaps between groups of students described in section
11 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));
12 (2) have exceeded the State's annual measur-
13 able objectives consistent with such section
14 1111(b)(2) for 2 or more consecutive years or have
15 demonstrated success in significantly increasing stu-
16 dent academic achievement for all groups of stu-
17 dents described in such section through another
18 measure, such as measures described in section
19 1111(c)(2) of ESEA;
20 (3) have made significant improvement in other
21 areas, such as graduation rates or increased recruit-
22 ment and placement of high-quality teachers and
23 school leaders, as demonstrated with meaningful
24 data; and

1 (4) demonstrate that they have established
2 partnerships with the private sector, which may in-
3 clude philanthropic organizations, and that the pri-
4 vate sector will provide matching funds in order to
5 help bring results to scale.

6 **SEC. 1408. STATE REPORTS.**

7 A State receiving funds under this title shall submit
8 a report to the Secretary, at such time and in such manner
9 as the Secretary may require, that describes—

10 (1) the uses of funds provided under this title
11 within the State;

12 (2) how the State distributed the funds it re-
13 ceived under this title;

14 (3) the number of jobs that the Governor esti-
15 mates were saved or created with funds the State re-
16 ceived under this title;

17 (4) tax increases that the Governor estimates
18 were averted because of the availability of funds
19 from this title;

20 (5) the State's progress in reducing inequities
21 in the distribution of teachers, in implementing a
22 State student longitudinal data system, and in devel-
23 oping and implementing valid and reliable assess-
24 ments for limited English proficient students and
25 children with disabilities;

1 (6) the tuition and fee increases for in-State
2 students imposed by public institutions of higher
3 education in the State during the period of avail-
4 ability of funds under this title, and a description of
5 any actions taken by the State to limit those in-
6 creases; and
7 (7) the extent to which public institutions of
8 higher education maintained, increased, or decreased
9 enrollment of in-State students, including students
10 eligible for Pell Grants or other need-based financial
11 assistance.

12 **SEC. 1409. EVALUATION.**

13 The Comptroller General of the United States shall
14 conduct evaluations of the programs under sections 1406
15 and 1407 which shall include, but not be limited to, the
16 criteria used for the awards made, the States selected for
17 awards, award amounts, how each State used the award
18 received, and the impact of this funding on the progress
19 made toward closing achievement gaps.

20 **SEC. 1410. SECRETARY'S REPORT TO CONGRESS.**

21 The Secretary shall submit a report to the Committee
22 on Education and Labor of the House of Representatives,
23 the Committee on Health, Education, Labor, and Pen-
24 sions of the Senate, and the Committees on Appropria-
25 tions of the House of Representatives and of the Senate,

1 not less than 6 months following the submission of the
2 State reports, that evaluates the information provided in
3 the State reports under section 1408.

4 **SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN AS-**
5 **SISTANCE.**

6 No recipient of funds under this title shall use such
7 funds to provide financial assistance to students to attend
8 private elementary or secondary schools.

9 **SEC. 1412. DEFINITIONS.**

10 Except as otherwise provided in this title, as used in
11 this title—

12 (1) the term "institution of higher education"
13 has the meaning given such term in section 101 of
14 the Higher Education Act of 1965 (20 U.S.C.
15 1001);

16 (2) the term "Secretary" means the Secretary
17 of Education;

18 (3) the term "State" means each of the 50
19 States, the District of Columbia, and the Common-
20 wealth of Puerto Rico; and

21 (4) any other term that is defined in section
22 9101 of ESEA (20 U.S.C. 7801) shall have the
23 meaning given the term in such section.

1 **SEC. 1413. REGULATORY RELIEF.**

2 (a) WAIVER AUTHORITY.—Subject to subsections (b)
3 and (c), the Secretary of Education may, as applicable,
4 waive or modify, in order to ease fiscal burdens, any re-
5 quirement relating to the following:

6 (1) Maintenance of effort.

7 (2) The use of Federal funds to supplement,
8 not supplant, non-Federal funds.

9 (b) DURATION.—A waiver under this section shall be
10 for fiscal years 2009 and 2010.

11 (c) LIMITATIONS.—

12 (1) RELATION TO IDEA.—Nothing in this sec-
13 tion shall be construed to permit the Secretary to
14 waive or modify any provision of the Individuals
15 with Disabilities Education Act (20 U.S.C. 1400 et
16 seq.), except as described in a(1) and a(2).

17 (2) MAINTENANCE OF EFFORT.—If the Sec-
18 retary grants a waiver or modification under this
19 section waiving or modifying a requirement relating
20 to maintenance of effort for fiscal years 2009 and
21 2010, the level of effort required for fiscal year 2011
22 shall not be reduced because of the waiver or modi-
23 fication.

TITLE XV—RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD AND RECOVERY INDEPENDENT ADVISORY PANEL

SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term "agency" has the meaning given under section 551 of title 5, United States Code.

(2) BOARD.—The term "Board" means the Recovery Accountability and Transparency Board established in section 1511.

(3) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Board.

(4) COVERED FUNDS.—The term "covered funds" means any funds that are expended or obligated—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(5) PANEL.—The term "Panel" means the Recovery Independent Advisory Panel established in section 1531.

Subtitle A—Recovery Accountability and Transparency Board

SEC. 1511. ESTABLISHMENT OF THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

SEC. 1512. COMPOSITION OF BOARD.

(a) CHAIRPERSON.—

(1) DESIGNATION OR APPOINTMENT.—The President shall—

(A) designate the Deputy Director for Management of the Office of Management and Budget to serve as Chairperson of the Board;

(B) designate another Federal officer who was appointed by the President to a position that required the advice and consent of the Senate, to serve as Chairperson of the Board; or

(C) appoint an individual as the Chairperson of the Board, by and with the advice and consent of the Senate.

(2) COMPENSATION.—

(A) DESIGNATION OF FEDERAL OFFICER.—If the President designates a Federal of-

1 ficer under paragraph (1)(A) or (B) to serve as
2 Chairperson, that Federal officer may not re-
3 ceive additional compensation for services per-
4 formed as Chairperson.
5 (B) APPOINTMENT OF NON-FEDERAL OF-
6 FICER.—If the President appoints an individual
7 as Chairperson under paragraph (1)(C), that
8 individual shall be compensated at the rate of
9 basic pay prescribed for level IV of the Execu-
10 tive Schedule under section 5315 of title 5,
11 United States Code.
12 (b) MEMBERS.—The members of the Board shall in-
13 clude—
14 (1) the Inspectors General of the Departments
15 of Commerce, Education, Energy, Health and
16 Human Services, Justice, and Transportation; and
17 (2) any other Inspector General as designated
18 by the President from any agency that expends or
19 obligates covered funds.
20 **SEC. 1513. FUNCTIONS OF THE BOARD.**
21 (a) FUNCTIONS.—
22 (1) IN GENERAL.—The Board shall coordinate
23 and conduct oversight of covered funds in order to
24 prevent fraud, waste, and abuse.

1 (2) SPECIFIC FUNCTIONS.—The functions of
2 the Board shall include—
3 (A) reviewing whether the reporting of con-
4 tracts and grants using covered funds meets ap-
5 plicable standards and specifies the purpose of
6 the contract or grant and measures of perform-
7 ance;
8 (B) reviewing whether competition require-
9 ments applicable to contracts and grants using
10 covered funds have been satisfied;
11 (C) auditing and investigating covered
12 funds to determine whether wasteful spending,
13 poor contract or grant management, or other
14 abuses are occurring;
15 (D) reviewing whether there are sufficient
16 qualified acquisition and grant personnel over-
17 seeing covered funds;
18 (E) reviewing whether personnel whose du-
19 ties involve acquisitions or grants made with
20 covered funds receive adequate training; and
21 (F) reviewing whether there are appro-
22 priate mechanisms for interagency collaboration
23 relating to covered funds.
24 (b) REPORTS.—

1 (1) QUARTERLY REPORTS.—The Board shall
2 submit quarterly reports to the President and Con-
3 gress, including the Committees on Appropriations
4 of the Senate and House of Representatives, summa-
5 rizing the findings of the Board and the findings of
6 inspectors general of agencies. The Board may sub-
7 mit additional reports as appropriate.
8 (2) ANNUAL REPORTS.—The Board shall sub-
9 mit annual reports to the President and the Com-
10 mittees on Appropriations of the Senate and House
11 of Representatives, consolidating applicable quarterly
12 reports on the use of covered funds.
13 (3) PUBLIC AVAILABILITY.—
14 (A) IN GENERAL.—All reports submitted
15 under this subsection shall be made publicly
16 available and posted on a website established by
17 the Board.
18 (B) REDACTIONS.—Any portion of a re-
19 port submitted under this subsection may be re-
20 dacted when made publicly available, if that
21 portion would disclose information that is not
22 subject to disclosure under section 552 of title
23 5, United States Code (commonly known as the
24 Freedom of Information Act).
25 (c) RECOMMENDATIONS.—

1 (1) IN GENERAL.—The Board shall make rec-
2 ommendations to agencies on measures to prevent
3 fraud, waste, and abuse relating to covered funds.
4 (2) RESPONSIVE REPORTS.—Not later than 30
5 days after receipt of a recommendation under para-
6 graph (1), an agency shall submit a report to the
7 President, the congressional committees of jurisdic-
8 tion, including the Committees on Appropriations of
9 the Senate and House of Representatives, and the
10 Board on—
11 (A) whether the agency agrees or disagrees
12 with the recommendations; and
13 (B) any actions the agency will take to im-
14 plement the recommendations.
15 **SEC. 1514. POWERS OF THE BOARD.**
16 (a) IN GENERAL.—The Board shall conduct, super-
17 vise, and coordinate audits and investigations by inspec-
18 tors general of agencies relating to covered funds.
19 (b) AUDITS AND INVESTIGATIONS.—The Board
20 may—
21 (1) conduct its own independent audits and in-
22 vestigations relating to covered funds; and
23 (2) collaborate on audits and investigations re-
24 lating to covered funds with any inspector general of
25 an agency.

1 (c) AUTHORITIES.—

2 (1) AUDITS AND INVESTIGATIONS.—In con-
3 ducting audits and investigations, the Board shall
4 have the authorities provided under section 6 of the
5 Inspector General Act of 1978 (5 U.S.C. App.).

6 (2) STANDARDS AND GUIDELINES.—The Board
7 shall carry out the powers under subsections (a) and
8 (b) in accordance with section 4(b)(1) of the Inspec-
9 tor General Act of 1978 (5 U.S.C. App.).

10 (d) PUBLIC HEARINGS.—The Board may hold public
11 hearings and Board personnel may conduct investigative
12 depositions. The head of each agency shall make all offi-
13 cers and employees of that agency available to provide tes-
14 timony to the Board and Board personnel. The Board may
15 issue subpoenas to compel the testimony of persons who
16 are not Federal officers or employees. Any such subpoenas
17 may be enforced as provided under section 6 of the Inspec-
18 tor General Act of 1978 (5 U.S.C. App.).

19 (e) CONTRACTS.—The Board may enter into con-
20 tracts to enable the Board to discharge its duties under
21 this subtitle, including contracts and other arrangements
22 for audits, studies, analyses, and other services with public
23 agencies and with private persons, and make such pay-
24 ments as may be necessary to carry out the duties of the
25 Board.

1 (f) TRANSFER OF FUNDS.—The Board may transfer
2 funds appropriated to the Board for expenses to support
3 administrative support services and audits or investiga-
4 tions of covered funds to any office of inspector general,
5 the Office of Management and Budget, the General Serv-
6 ices Administration, and the Panel.

7 **SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AU-**
8 **THORITIES.**

9 (a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—
10 (1) IN GENERAL.—
11 (A) AUTHORITIES.—Subject to paragraph
12 (2), the Board may exercise the authorities of
13 subsections (b) through (i) of section 3161 of
14 title 5, United States Code (without regard to
15 subsection (a) of that section).
16 (B) APPLICATION.—For purposes of exer-
17 cising the authorities described under subpara-
18 graph (A), the term "Chairperson of the
19 Board" shall be substituted for the term "head
20 of a temporary organization".
21 (C) CONSULTATION.—In exercising the au-
22 thorities described under subparagraph (A), the
23 Chairperson shall consult with members of the
24 Board.

1 (2) EMPLOYMENT AUTHORITIES.—In exercising
2 the employment authorities under subsection (b) of
3 section 3161 of title 5, United States Code, as pro-
4 vided under paragraph (1) of this subsection—
5 (A) paragraph (2) of subsection (b) of sec-
6 tion 3161 of that title (relating to periods of
7 appointments) shall not apply; and
8 (B) no period of appointment may exceed
9 the date on which the Board terminates under
10 section 1521.
11 (b) INFORMATION AND ASSISTANCE.—
12 (1) IN GENERAL.—Upon request of the Board
13 for information or assistance from any agency or
14 other entity of the Federal Government, the head of
15 such entity shall, insofar as is practicable and not in
16 contravention of any existing law, furnish such infor-
17 mation or assistance to the Board, or an authorized
18 designee.
19 (2) REPORT OF REFUSALS.—Whenever infor-
20 mation or assistance requested by the Board is, in
21 the judgment of the Board, unreasonably refused or
22 not provided, the Board shall report the cir-
23 cumstances to the congressional committees of juris-
24 diction, including the Committees on Appropriations

1 of the Senate and House of Representatives, without
2 delay.
3 (c) ADMINISTRATIVE SUPPORT.—The General Serv-
4 ices Administration shall provide the Board with adminis-
5 trative support services, including the provision of office
6 space and facilities.

7 **SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.**

8 (a) INDEPENDENT AUTHORITY.—Nothing in this
9 subtitle shall affect the independent authority of an in-
10 spector general to determine whether to conduct an audit
11 or investigation of covered funds.
12 (b) REQUESTS BY BOARD.—If the Board requests
13 that an inspector general conduct or refrain from con-
14 ducting an audit or investigation and the inspector general
15 rejects the request in whole or in part, the inspector gen-
16 eral shall, not later than 30 days after rejecting the re-
17 quest, submit a report to the Board, the head of the appli-
18 cable agency, and the congressional committees of juris-
19 diction, including the Committees on Appropriations of the
20 Senate and House of Representatives. The report shall
21 state the reasons that the inspector general has rejected
22 the request in whole or in part.

1 **SEC. 1517. COORDINATION WITH THE COMPTROLLER GEN-**
2 **ERAL AND STATE AUDITORS.**

3 The Board shall coordinate its oversight activities
4 with the Comptroller General of the United States and
5 State auditor generals.

6 **SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT**
7 **AND CONTRACTOR WHISTLEBLOWERS.**

8 (a) PROHIBITION OF REPRISALS.—An employee of
9 any non-Federal employer receiving covered funds may not
10 be discharged, demoted, or otherwise discriminated
11 against as a reprisal for disclosing to the Board, an in-
12 spector general, the Comptroller General, a member of
13 Congress, or a the head of a Federal agency, or their rep-
14 resentatives, information that the employee reasonably be-
15 lieves is evidence of—

16 (1) gross mismanagement of an agency contract
17 or grant relating to covered funds;

18 (2) a gross waste of covered funds;

19 (3) a substantial and specific danger to public
20 health or safety; or

21 (4) a violation of law related to an agency con-
22 tract (including the competition for or negotiation of
23 a contract) or grant, awarded or issued relating to
24 covered funds.

25 (b) INVESTIGATION OF COMPLAINTS.—

1 (1) IN GENERAL.—A person who believes that
2 the person has been subjected to a reprisal prohib-
3 ited by subsection (a) may submit a complaint to the
4 appropriate inspector general. Unless the inspector
5 general determines that the complaint is frivolous,
6 the inspector general shall investigate the complaint
7 and, upon completion of such investigation, submit
8 a report of the findings of the investigation to the
9 person, the person's employer, the head of the ap-
10 propriate agency, and the Board.
11 (2) TIME LIMITATIONS FOR ACTIONS.—
12 (A) IN GENERAL.—Except as provided
13 under subparagraph (B), the inspector general
14 shall make a determination that a complaint is
15 frivolous or submit a report under paragraph
16 (1) within 180 days after receiving the com-
17 plaint.
18 (B) EXTENSION.—If the inspector general
19 is unable to complete an investigation in time to
20 submit a report within the 180-day period spec-
21 ified under subparagraph (A) and the person
22 submitting the complaint agrees to an extension
23 of time, the inspector general shall submit a re-
24 port under paragraph (1) within such additional
25 period of time as shall be agreed upon between

1 the inspector general and the person submitting
2 the complaint.
3 (c) REMEDY AND ENFORCEMENT AUTHORITY.—
4 (1) AGENCY ACTION.—Not later than 30 days
5 after receiving an inspector general report under
6 subsection (b), the head of the agency concerned
7 shall determine whether there is sufficient basis to
8 conclude that the non-Federal employer has sub-
9 jected the complainant to a reprisal prohibited by
10 subsection (a) and shall either issue an order deny-
11 ing relief or shall take 1 or more of the following ac-
12 tions:
13 (A) Order the employer to take affirmative
14 action to abate the reprisal.
15 (B) Order the employer to reinstate the
16 person to the position that the person held be-
17 fore the reprisal, together with the compensa-
18 tion (including back pay), employment benefits,
19 and other terms and conditions of employment
20 that would apply to the person in that position
21 if the reprisal had not been taken.
22 (C) Order the employer to pay the com-
23 plainant an amount equal to the aggregate
24 amount of all costs and expenses (including at-
25 torneys' fees and expert witnesses' fees) that

1 were reasonably incurred by the complainant
2 for, or in connection with, bringing the com-
3 plaint regarding the reprisal, as determined by
4 the head of the agency.
5 (2) CIVIL ACTION.—If the head of an agency
6 issues an order denying relief under paragraph (1)
7 or has not issued an order within 210 days after the
8 submission of a complaint under subsection (b), or
9 in the case of an extension of time under subsection
10 (b)(2)(B), not later than 30 days after the expira-
11 tion of the extension of time, and there is no show-
12 ing that such delay is due to the bad faith of the
13 complainant, the complainant shall be deemed to
14 have exhausted all administrative remedies with re-
15 spect to the complaint, and the complainant may
16 bring a de novo action at law or equity against the
17 employer to seek compensatory damages and other
18 relief available under this section in the appropriate
19 district court of the United States, which shall have
20 jurisdiction over such an action without regard to
21 the amount in controversy. Such an action shall, at
22 the request of either party to the action, be tried by
23 the court with a jury.
24 (3) EVIDENCE.—An inspector general deter-
25 mination and an agency head order denying relief

1 under paragraph (2) shall be admissible in evidence
2 in any de novo action at law or equity brought in ac-
3 cordance with this subsection.
4 (4) JUDICIAL ENFORCEMENT OF ORDER.—
5 Whenever a person fails to comply with an order
6 issued under paragraph (1), the head of the agency
7 shall file an action for enforcement of such order in
8 the United States district court for a district in
9 which the reprisal was found to have occurred. In
10 any action brought under this paragraph, the court
11 may grant appropriate relief, including injunctive re-
12 lief and compensatory and exemplary damages.
13 (5) JUDICIAL REVIEW.—Any person adversely
14 affected or aggrieved by an order issued under para-
15 graph (1) may obtain review of the order's conform-
16 ance with this subsection, and any regulations issued
17 to carry out this section, in the United States court
18 of appeals for a circuit in which the reprisal is al-
19 leged in the order to have occurred. No petition
20 seeking such review may be filed more than 60 days
21 after issuance of the order by the head of the agen-
22 cy. Review shall conform to chapter 7 of title 5,
23 United States Code.
24 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion may be construed to authorize the discharge of, demo-

1 tion of, or discrimination against an employee for a disclo-
2 sure other than a disclosure protected by subsection (a)
3 or to modify or derogate from a right or remedy otherwise
4 available to the employee.

5 **SEC. 1519. BOARD WEBSITE.**

6 (a) ESTABLISHMENT.—The Board shall establish and
7 maintain a user-friendly, public-facing website to foster
8 greater accountability and transparency in the use of cov-
9 ered funds.

10 (b) PURPOSE.—The website established and main-
11 tained under subsection (a) shall be a portal or gateway
12 to key information relating to this Act and provide connec-
13 tions to other Government websites with related informa-
14 tion.

15 (c) CONTENT AND FUNCTION.—In establishing the
16 website established and maintained under subsection (a),
17 the Board shall ensure the following:

18 (1) The website shall provide materials explain-
19 ing what this Act means for citizens. The materials
20 shall be easy to understand and regularly updated.

21 (2) The website shall provide accountability in-
22 formation, including a database of findings from au-
23 dits, inspectors general, and the Government Ac-
24 countability Office.

1 Economic Advisers shall submit quarterly reports to the
2 Committees on Appropriations of the Senate and House
3 of Representatives that detail the estimated impact of pro-
4 grams funded through covered funds on employment, eco-
5 nomic growth, and other key economic indicators.
6 (b) SUBMISSION.—The first report under subsection
7 (a) shall be submitted not later than 15 days after the
8 end of the first full quarter following the date of enact-
9 ment of this Act. The last report required to be submitted
10 under subsection (a) shall apply to the quarter in which
11 the Board terminates under section 1521.

1 TITLE XVI—GENERAL PROVISIONS—THIS ACT

2 EMERGENCY DESIGNATION

3 SEC. 1601. Each amount in this Act is designated
4 as an emergency requirement and necessary to meet emer-
5 gency needs pursuant to section 204(a) of S. Con. Res.
6 21 (110th Congress) and section 301(b)(2) of S. Con. Res.
7 70 (110th Congress), the concurrent resolutions on the
8 budget for fiscal years 2008 and 2009.

9 AVAILABILITY

10 SEC. 1602. No part of any appropriation contained
11 in this Act shall remain available for obligation beyond
12 the current fiscal year unless expressly so provided herein.

13 RELATIONSHIP TO OTHER APPROPRIATIONS

14 SEC. 1603. Each amount appropriated or made avail-
15 able in this Act is in addition to amounts otherwise appro-
16 priated for the fiscal year involved. Enactment of this Act
17 shall have no effect on the availability of amounts under
18 the Continuing Appropriations Resolution, 2009 (division
19 A of Public Law 110–329).

20 BUY AMERICAN

21 SEC. 1604. USE OF AMERICAN IRON, STEEL, AND
22 MANUFACTURED GOODS. (a) None of the funds appro-
23 priated or otherwise made available by this Act may be
24 used for a project for the construction, alteration, mainte-
25 nance, or repair of a public building or public work unless

1 all of the iron, steel, and manufactured goods used in the
2 project are produced in the United States.
3 (b) Subsection (a) shall not apply in any case in
4 which the head of the Federal department or agency in-
5 volved finds that—
6 (1) applying subsection (a) would be incon-
7 sistent with the public interest;
8 (2) iron, steel, and the relevant manufactured
9 goods are not produced in the United States if suffi-
10 cient and reasonably available quantities and of a
11 satisfactory quality; or
12 (3) inclusion of iron, steel, and manufactured
13 goods produced in the United States will increase
14 the cost of the overall project by more than 25 per-
15 cent.
16 (c) If the head of a Federal department or agency
17 determines that it is necessary to waive the application
18 of subsection (a) based on a finding under subsection (b),
19 the head of the department or agency shall publish in the
20 Federal Register a detailed written jurisdiction as to why
21 the provision is being waived.
22 (d) In this section, the terms "public building" and
23 "public work" have the meanings given such terms in sec-
24 tion 1 of the Buy American Act (41 U.S.C. 10c) and in-
25 clude airports, bridges, canals, dams, dikes, pipelines, rail-

1 roads, multiline mass transit systems, roads, tunnels, har-
2 bors, and piers.

3 CERTIFICATION

4 SEC. 1605. With respect to funds in titles I though
5 XVI of this Act made available to State, or local govern-
6 ment agencies, the Governor, mayor, or other chief execu-
7 tive, as appropriate, shall certify that the infrastructure
8 investment has received the full review and vetting re-
9 quired by law and that the chief executive accepts respon-
10 sibility that the infrastructure investment is an appro-
11 priate use of taxpayer dollars. A State or local agency may
12 not receive infrastructure investment funding from funds
13 made available in this Act unless this certification is made.

14 This Act may be cited as the "American Recovery
15 and Reinvestment Act of 2009".

Full Committee Print

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[COMMITTEE PRINT]

Calendar No. 000

111TH CONGRESS
1ST SESSION

S. 0000

[Report No. 111–000]

A BILL

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

JANAURY 00, 2009

Read twice and placed on the calendar