Calendar No. 19

111TH CONGRESS
1ST SESSION

S. 336

[Report No. 111–3]

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 27, 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the
fiscal year ending September 30, 2009, and for other purposes, namely:

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

(including transfers of funds)

For an additional amount for the “Office of the Secretary”, $300,000,000, to remain available until September 30, 2010: Provided, That the Secretary may transfer these funds to agencies of the Department, other than the Forest Service, for necessary replacement, modernization, or upgrades of laboratories or other facilities to improve workplace safety and mission-area efficiencies as deemed appropriate by the Secretary: Provided further, that the Secretary shall provide to the Committees on Appropriations of the House and Senate a plan on the allocation of these funds no later than 60 days after the date of enactment of this Act.

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General”, $5,000,000, to remain available until September 30, 2010, for oversight and audit of programs, grants, and activities funded under this title.
COOPERATIVE STATE RESEARCH, EDUCATION AND
ECONOMIC SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for competitive grants au-
thorized at 7 U.S.C. 450(i)(b), $100,000,000, to remain
available until September 30, 2010.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for “Farm Service Agency,
Salaries and Expenses”, $171,000,000, to remain avail-
able until September 30, 2010.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM
ACCOUNT

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

For an additional amount for the cost of direct and
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.
RURAL DEVELOPMENT SALARIES AND EXPENSES

For an additional amount for “Rural Development, Salaries and Expenses”, $110,000,000, to remain available until September 30, 2010.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE PROGRAM ACCOUNT

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

For an additional amount for the cost of direct and 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: $67,000,000 for section 502 direct loans; and $133,000,000 for section 502 unsubsidized guaranteed loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

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

Rural Business—Cooperative Service

RURAL BUSINESS PROGRAM ACCOUNT

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

Biorefinery Assistance

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

Rural Energy for America Program

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

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $1,375,000,000, to remain available until September 30, 2010.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM ACCOUNT

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

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

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

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

For an additional amount for the special supple-
mental nutrition program as authorized by section 17 of
the Child Nutrition Act of 1966 (42 U.S.C. 1786), to re-
main available until September 30, 2010, $500,000,000, of which $380,000,000 shall be placed in reserve to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates, and of which $120,000,000 shall be for the purposes specified in section 17(h)(10)(B)(ii): Provided, That up to one percent of the funding provided for the purposes specified in section 17(h)(10)(B)(ii) may be reserved by the Secretary for Federal administrative activities in support of those purposes.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the “Commodity Assistance Program”, to remain available until September 30, 2010, $150,000,000, which the Secretary shall use to purchase a variety of commodities as authorized by the Commodity Credit Corporation or under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c): Provided, That the Secretary shall distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note): Provided further, That of the funds made available, the Secretary may use up to $50,000,000 for costs associated with the distribution of commodities.
GENERAL PROVISIONS—THIS TITLE

Sec. 101. Funds appropriated by this Act and made available to the United States Department of Agriculture for broadband direct loans and loan guarantees, as authorized under title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) and for grants, shall be available for broadband infrastructure in any area of the United States notwithstanding title VI of the Rural Electrification Act of 1936: Provided, That at least 75 percent of the area served by the projects receiving funds from such grants, loans, or loan guarantees is in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary: Provided further, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have sufficient access to broadband service: Provided further, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: Provided further, That priority for awarding such funds shall be given to activities that can commence promptly following approval: Provided further, That the Department shall submit a report on planned spending and actual obligations describ-
ing the use of these funds not later than 90 days after
the date of enactment of this Act, and quarterly thereafter
until all funds are obligated, to the Committees on Appro-
priations of the House of Representatives and the Senate.

SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.
(a) MAXIMUM BENEFIT INCREASES.—

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

(2) REMAINDER OF FISCAL YEAR 2009.—Begin-
ning with the second month that begins not less
than 25 days after the date of enactment of this
Act, and for each subsequent month through the
month ending September 30, 2009, the Secretary
shall increase the cost of the thrifty food plan for
purposes of section 8(a) of the Food and Nutrition

(3) SUBSEQUENT INCREASE FOR FISCAL YEAR
2010.—Beginning on October 1, 2009, and for each
subsequent month through the month ending Sep-
tember 30, 2010, the Secretary shall increase the
cost of the thrifty food plan for purposes of section
8(a) of the Food and Nutrition Act of 2008 (7
U.S.C. 2017(a)) by an amount equal to 12 percent,
less the percentage by which the Secretary deter-
mines the thrifty food plan would otherwise be ad-
justed on October 1, 2009, as required under section
3(u) of that Act (7 U.S.C. 2012(u)), if the percent-
age is less than 12 percent.

(4) Subsequent Increase for Fiscal Year
2011.—Beginning on October 1, 2010, and for each
subsequent month through the month ending Sep-
tember 30, 2011, the Secretary shall increase the
cost of the thrifty food plan for purposes of section
8(a) of the Food and Nutrition Act of 2008 (7
U.S.C. 2017(a)) by an amount equal to 12 percent,
less the sum of the percentages by which the Sec-
retary determines the thrifty food plan would other-
wise be adjusted on October 1, 2009 and October 1,
2010, as required under section 3(u) of that Act (7
U.S.C. 2012(u)), if the sum of such percentages is
less than 12 percent.

(5) Termination of Effectiveness.—Effect-
ive beginning October 1, 2011, the authority pro-
vided by this subsection terminates and has no ef-
fect.

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

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

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

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

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

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

(1) In General.—For the costs of State administrative expenses associated with carrying out this section and administering the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as the “supplemental nutrition assistance program”) during a period of rising program caseloads, and for the expenses of the Secretary under paragraph (6), the Secretary shall make available $150,000,000 for each of fiscal years 2009 and 2010, to remain available through September 30, 2010.

(2) Timing for Fiscal Year 2009.—Not later than 60 days after the date of enactment of this Act, the Secretary shall make available to States amounts for fiscal year 2009 under paragraph (1).

(3) Allocation of Funds.—Except as provided in paragraph (6), funds described in paragraph (1) shall be made available to States that meet the requirements of paragraph (5) as grants to State agencies for each fiscal year as follows:

(A) 75 percent of the amounts available for each fiscal year shall be allocated to States based on the share of each State of households
that participate in the supplemental nutrition assistance program as reported to the Department of Agriculture for the most recent 12-month period for which data are available, adjusted by the Secretary (in the discretion of the Secretary) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)); and

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

(4) REDISTRIBUTION.—The Secretary shall determine an appropriate procedure for redistribution of amounts allocated to States that would otherwise be provided allocations under paragraph (3) for a fiscal year but that do not meet the requirements of paragraph (5).
(5) MAINTENANCE OF EFFORT.—

(A) DEFINITION OF SPECIFIED STATE ADMINISTRATIVE COSTS.—In this paragraph:

(i) IN GENERAL.—The term “specified State administrative costs” includes all State administrative costs under the supplemental nutrition assistance program.

(ii) EXCLUSIONS.—The term “specified State administrative costs” does not include—

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

(II) the costs of nutrition education under section 11(f) of that Act (7 U.S.C. 2020(f)); and

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

(B) REQUIREMENT.—The Secretary shall make funds under this subsection available only to States that, as determined by the Secretary, maintain State expenditures on specified State administrative costs.
(6) Monitoring and Evaluation.—Of the amounts made available under paragraph (1), the Secretary may retain up to $5,000,000 for the costs incurred by the Secretary in monitoring the integrity and evaluating the effects of the payments made under this section.

(d) Food Distribution Program on Indian Reservations.—For the costs of administrative expenses associated with the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall make available $5,000,000, to remain available until September 30, 2010.

(e) Consolidated Block Grants for Puerto Rico and American Samoa.—

(1) Fiscal Year 2009.—

(A) In General.—For fiscal year 2009, the Secretary shall increase by 12 percent the amount available for nutrition assistance for eligible households under the consolidated block grants for the Commonwealth of Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).
(B) AVAILABILITY OF FUNDS.—Funds made available under subparagraph (A) shall remain available through September 30, 2010.

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

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

(f) TREATMENT OF JOBLESS WORKERS.—

(1) REMAINDER OF FISCAL YEAR 2009 THROUGH FISCAL YEAR 2011.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act and for each subsequent month through September 30, 2011, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(o)(2) of the Food and Nutrition Act of 2008 unless an individual does not comply with the requirements of a program offered by the State agency that meets the standards of subparagraphs (B) or (C) of that paragraph.

(2) FISCAL YEAR 2012 AND THEREAFTER.—Beginning on October 1, 2011, for the purposes of section 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)), a State agency shall disregard any period during which an individual received benefits under the supplemental nutrition assistance program prior to October 1, 2011.

(g) FUNDING.—There are appropriated to the Secretary out of funds of the Treasury not otherwise appro-
appropriated such sums as are necessary to carry out this section.

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

“(7) 2008 TRANSITION ASSISTANCE.—

“(A) IN GENERAL.—Eligible producers on a farm described in subparagraph (A) of paragraph (4) that failed to timely pay the appropriate fee described in that subparagraph shall be eligible for assistance under this section in accordance with subparagraph (B) if the eligible producers on the farm—

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

“(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle) for the next insurance year for which crop insurance is
available to the eligible producers on the
farm at a level of coverage equal to 70 per-
cent or more of the recorded or appraised
average yield indemnified at 100 percent of
the expected market price, or an equivalent
coverage; and

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

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

“(i) in the case of each insurable com-
modity of the eligible producers on the
farm, had obtained a policy or plan of in-
urance for the 2008 crop year at a level
of coverage not to exceed 70 percent or
more of the recorded or appraised average
yield indemnified at 100 percent of the ex-
pected market price, or an equivalent cov-

erage; and

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

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

“(i) the amount that would have been
calculated under subparagraph (B) if the
eligible producers on the farm had paid the
appropriate fee under that subparagraph;
or
“(ii) the amount that would have been calculated under subparagraph (A) of subsection (b)(3) if—

“(I) in clause (i) of that subparagraph, ‘120 percent’ is substituted for ‘115 percent’; and

“(II) in clause (ii) of that subparagraph, ‘125’ is substituted for ‘120 percent’.

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

“(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production losses in the 2008 crop year that result in
multiyear production losses, as determined by
the Secretary.

“(F) Lack of Access.—Notwithstanding
any other provision of this section, the Secre-
tary may provide assistance under this section
to eligible producers on a farm that—

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

“(ii) as determined by the Secretary—

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

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

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

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

“(7) 2008 TRANSITION ASSISTANCE.—

“(A) IN GENERAL.—Eligible producers on a farm described in subparagraph (A) of paragraph (4) that failed to timely pay the appropriate fee described in that subparagraph shall be eligible for assistance under this section in accordance with subparagraph (B) if the eligible producers on the farm—

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

“(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act) for the next
insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

“(II) in the case of each noninsurable commodity of the eligible producers on the farm, agree to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2009 crop year.

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

“(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average
yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

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

“(ii) the amount that would have been calculated under subparagraph (A) of subsection (b)(3) if—

“(I) in clause (i) of that subparagraph, ‘120 percent’ is substituted for ‘115 percent’; and

“(II) in clause (ii) of that subparagraph, ‘125’ is substituted for ‘120 percent’.

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

“(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production
losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

“(F) LACK OF ACCESS.—Notwithstanding any other provision of this section, the Secretary may provide assistance under this section to eligible producers on a farm that—

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

“(ii) as determined by the Secretary—

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

“(bb) do not qualify for a written agreement because 1 or more farming practices, which the Secretary has determined are good farming practices, of the eligible producers on the farm differ significantly from the farming practices used by producers of the same crop in other regions of the United States; and

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

(c) **Emergency Loans.**—

(1) **In General.**—For the principal amount of direct emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $200,000,000.

(2) **Direct Emergency Loans.**—For the cost of direct emergency loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), $28,440,000, to remain available until September 30, 2010.

(d) **2008 Aquaculture Assistance.**—

(1) **Definitions.**—In this subsection:

(A) **Eligible Aquaculture Producer.**—The term “eligible aquaculture producer” means an aquaculture producer that during the 2008 calendar year, as determined by the Secretary—

(i) produced an aquaculture species for which feed costs represented a substan-
tial percentage of the input costs of the 
aquaculture operation; and 
(ii) experienced a substantial price in-
crease of feed costs above the previous 5-
year average.

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

(2) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the 
Commodity Credit Corporation, the Secretary 
shall use not more than $100,000,000, to re-
main available until September 30, 2010, to 
carry out a program of grants to States to as-
sist eligible aquaculture producers for losses as-
associated with high feed input costs during the 
2008 calendar year.

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

(i) In General.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2007 calendar year, as determined by the Secretary.

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

(D) Requirements.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

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

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(iii) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—
(I) the manner in which the State provided assistance;

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

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

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

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

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

(B) includes the information reported to the Secretary under paragraph (2)(D)(iii).
Sec. 104. (a) Hereafter, in this section, the term "nonambulatory disabled cattle" means cattle, other than cattle that are less than 5 months old or weigh less than 500 pounds, subject to inspection under section 3(b) of the Federal Meat Inspection Act (21 U.S.C. 603(b)) that cannot rise from a recumbent position or walk, including cattle with a broken appendage, severed tendon or ligament, nerve paralysis, fractured vertebral column, or a metabolic condition.

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

Sec. 105. State and Local Governments. Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting "(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)" before the period at the end.

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

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

DEPARTMENT OF COMMERCE

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For an additional amount for “Operations and Administration”, $20,000,000, to remain available until September 30, 2010.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for “Economic Development Assistance Programs”, $150,000,000, to remain available until September 30, 2010: Provided, That $50,000,000 shall be for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149): Provided further, That in allocating the funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.
For an additional amount for “Periodic Censuses and Programs”, $1,000,000,000, to remain available until September 30, 2010.

For an amount for “Broadband Technology Opportunities Program”, $9,000,000,000, to remain available until September 30, 2010: Provided, That of the funds provided under this heading, $8,650,000,000 shall be expended pursuant to section 201 of this Act, of which: not less than $200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than $250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and $10,000,000 shall be transferred to “Department of Commerce, Office of Inspector General” for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: Provided further, That 50 percent of the funds provided in the previous proviso shall be used to support projects in rural communities, which
in part may be transferred to the Department of Agriculture for administration through the Rural Utilities Service if deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Secretary of Agriculture, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: Provided further, That of the funds provided under this heading, up to $350,000,000 may be expended pursuant to Public Law 110–385 (47 U.S.C. 1301 note) and for the purposes of developing and maintaining a broadband inventory map pursuant to section 201 of this Act: Provided further, That of the funds provided under this heading, amounts deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Federal Communications Commission (FCC), may be transferred to the FCC for the purposes of developing a national broadband plan or for carrying out any other FCC responsibilities pursuant to section 201 of this Act, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: Provided further, That not more than 3 percent of funds provided under this heading may be used for administrative costs, and this limitation shall apply to funds
which may be transferred to the Department of Agriculture and the FCC.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

For an amount for “Digital-to-Analog Converter Box Program”, $650,000,000, for additional coupons and related activities under the program implemented under section 3005 of the Digital Television Transition and Public Safety Act of 2005, to remain available until September 30, 2010: Provided, That of the amounts provided under this heading, $90,000,000 may be for education and outreach, including grants to organizations for programs to educate vulnerable populations, including senior citizens, minority communities, people with disabilities, low-income individuals, and people living in rural areas, about the transition and to provide one-on-one assistance to vulnerable populations, including help with converter box installation: Provided further, That the amounts provided in the previous proviso may be transferred to the Federal Communications Commission (Commission) if deemed necessary and appropriate by the Secretary of Commerce in consultation with the Commission, and only if the Committees on Appropriations of the House and the Senate are notified not less than 5 days in advance of transfer of such funds: Provided further, That $2,000,000 of funds provided under this heading shall be transferred to “De-
department of Commerce, Office of Inspector General” for audits and oversight of funds provided under this heading.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY
SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES
For an additional amount for “Scientific and Technical Research and Services”, $218,000,000, to remain available until September 30, 2010.

CONSTRUCTION OF RESEARCH FACILITIES
For an additional amount for “Construction of Research Facilities”, $357,000,000, to remain available until September 30, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
OPERATIONS, RESEARCH, AND FACILITIES
For an additional amount for “Operations, Research, and Facilities”, $427,000,000, to remain available until September 30, 2010.

PROCUREMENT, ACQUISITION AND CONSTRUCTION
For an additional amount for “Procurement, Acquisition and Construction”, $795,000,000, to remain available until September 30, 2010.

DEPARTMENTAL MANAGEMENT
For an additional amount for “Departmental Management”, $34,000,000, to remain available until September 30, 2010.
Office of Inspector General

For an additional amount for “Office of Inspector General”, $6,000,000, to remain available until September 30, 2010.

Department of Justice

General Administration

Tactical Law Enforcement Wireless Communications

For an additional amount for “Tactical Law Enforcement Wireless Communications”, $200,000,000 for the costs of developing and implementing a nationwide Integrated Wireless network supporting Federal law enforcement, to remain available until September 30, 2010.

Detention Trustee

For an additional amount for “Detention Trustee”, $150,000,000, to remain available until September 30, 2010.

Office of Inspector General

For an additional amount for “Office of Inspector General”, $2,000,000, to remain available until September 30, 2010.
UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

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

CONSTRUCTION

For an additional amount for “Construction”, $125,000,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, $75,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for “Construction”, $400,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for “Federal Prison System, Buildings and Facilities”, $1,000,000,000, to remain available until September 30, 2010.
STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLANCE AGAINST WOMEN PREVENTION AND
PROSECUTION PROGRAMS

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

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for “State and Local Law Enforcement Assistance”, $1,500,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 (“1968 Act”), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), to remain available until September 30, 2010.
For an additional amount for “State and Local Law Enforcement Assistance”, $440,000,000 for competitive grants to improve the functioning of the criminal justice system, to assist victims of crime (other than compensation), and youth mentoring grants, to remain available until September 30, 2010.

For an additional amount for “State and Local Law Enforcement Assistance”, $100,000,000, to remain available until September 30, 2010, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotics activity stemming from the Southern border, of which $10,000,000 shall be transferred to “Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses” for the ATF Project Gunrunner.

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

(1) $250,000,000 shall be available for grants under section 20109 of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322);
(2) $25,000,000 shall be available for the Tribal Courts Initiative; and

(3) $25,000,000 shall be available for tribal alcohol and substance abuse drug reduction assistance grants.

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

For an additional amount for “State and Local Law Enforcement Assistance”, $150,000,000, to remain available until September 30, 2010, for assistance to law enforcement in rural areas, to prevent and combat crime, especially drug-related crime.

For an additional amount for “State and Local Law Enforcement Assistance”, $50,000,000, to remain available until September 30, 2010, for Internet Crimes Against Children (ICAC) initiatives.

COMMUNITY ORIENTED POLICING SERVICES

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

For an additional amount, not elsewhere specified in this title, for management and administration and oversight of programs within the Office on Violence Against Women, the Office of Justice Programs, and the Community Oriented Policing Services Office, $10,000,000, to remain available until September 30, 2010.

Science

National Aeronautics and Space Administration

Science

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

Aeronautics

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

Exploration

For an additional amount for "Exploration", $500,000,000, to remain available until September 30, 2010.
CROSS AGENCY SUPPORT

For an additional amount for “Cross Agency Support”, $250,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General”, $2,000,000, to remain available until September 30, 2010.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for “Research and Related Activities”, $1,200,000,000, to remain available until September 30, 2010.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

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

EDUCATION AND HUMAN RESOURCES

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

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General”, $2,000,000, to remain available until September 30, 2010.
GENERAL PROVISIONS—THIS TITLE

Sec. 201. The Assistant Secretary of Commerce for Communications and Information (Assistant Secretary), in consultation with the Federal Communications Commission (Commission) (and, with respect to rural areas, the Secretary of Agriculture), shall establish a national broadband service development and expansion program in conjunction with the technology opportunities program, which shall be referred to the Broadband Technology Opportunities Program. The Assistant Secretary shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.

(1) The purposes of the program are to—

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

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

(C) provide broadband education, awareness, training, access, equipment, and support to—

(i) schools, libraries, medical and healthcare providers, community colleges
and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(ii) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(iii) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture.

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

(E) stimulate the demand for broadband, economic growth, and job creation.
(2) The Assistant Secretary may consult with the chief executive officer of any State with respect to—

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

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

(3) The Assistant Secretary shall—

(A) establish and implement the grant program as expeditiously as practicable;

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

(C) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and

(D) report on the status of the program to the Committees on Appropriations of the House and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.
(4) To be eligible for a grant under the program an applicant shall—

(A) be a State or political subdivision thereof, a nonprofit foundation, corporation, institution or association, Indian tribe, Native Hawaiian organization, or other non-governmental entity in partnership with a State or political subdivision thereof, Indian tribe, or Native Hawaiian organization if the Assistant Secretary determines the partnership consistent with the purposes this section;

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

(C) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a demonstration that the project would not have been implemented during the grant period without Federal grant assistance;

(D) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in
compliance with all applicable Federal, State, and local laws;

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

(F) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and

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

(5) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if—

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

(B) the Assistant Secretary determines that the petition demonstrates financial need.
(6) The Assistant Secretary may make competitive grants under the program to—

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

(B) construct and deploy broadband service related infrastructure;

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

(D) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;

(E) construct and deploy broadband facilities that improve public safety broadband communications services; and

(F) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

(7) The Assistant Secretary—

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

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

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

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

(E) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least
the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.

(8) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Federal Communications Commission, publish the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section.

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

(A) consider the most effective and efficient national strategy for ensuring that all Americans have access to, and take advantage of, advanced broadband services;
(B) have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note);
(C) evaluate the status of deployments of broadband service, including the progress of projects supported by the grants made pursuant to this section; and
(D) develop recommendations for achieving the goal of nationally available broadband service for the United States and for promoting broadband adoption nationwide.

(10) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that entities and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State:

Provided, That not later than 2 years after the date of the enactment of the Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible to the public.

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

TITLE III—DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

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

Operation and Maintenance, Navy

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

Operation and Maintenance, Marine Corps

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

Operation and Maintenance, Air Force

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

For an additional amount for “Operation and Maintenance, Army Reserve”, $79,543,000, to remain available for obligation until September 30, 2010.

Operation and Maintenance, Navy Reserve

For an additional amount for “Operation and Maintenance, Navy Reserve”, $44,586,000, to remain available for obligation until September 30, 2010.

Operation and Maintenance, Marine Corps Reserve

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, $32,304,000, to remain available for obligation until September 30, 2010.

Operation and Maintenance, Air Force Reserve

For an additional amount for “Operation and Maintenance, Air Force Reserve”, $10,674,000, to remain available for obligation until September 30, 2010.

Operation and Maintenance, Army National Guard

For an additional amount for “Operation and Maintenance, Army National Guard”, $215,557,000, to remain available for obligation until September 30, 2010.
For an additional amount for “Operation and Maintenance, Air National Guard”, $20,922,000, to remain available for obligation until September 30, 2010.

PROCUREMENT

DEFENSE PRODUCTION ACT PURCHASES

For an additional amount for “Defense Production Act Purchases”, $100,000,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, $200,000,000, to remain available for obligation until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, $250,000,000 for operation and maintenance, to remain available for obligation until September 30, 2010.
Office of the Inspector General

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

TITLE IV—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

Corps of Engineers—Civil

Investigations

For an additional amount for “Investigations” for expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $25,000,000: Provided, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or here-
after receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

CONSTRUCTION

For an additional amount for “Construction” for expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law, $2,000,000,000, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–
Provided, That not less than $200,000,000 of the funds provided shall be for water-related environmental infrastructure assistance: Provided further, That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this title: Provided further, That notwithstanding any other provision of law, no funds shall be drawn from the Inland Waterways Trust Fund, as authorized in Public Law 99–662: Provided further, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: Provided further, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: Provided further, That funds appropriated under this heading may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be
carried out in accordance with section 14 of the Flood
Control Act of 1946 (33 U.S.C. 701r); section 205 of the
Flood Control Act of 1948 (33 U.S.C. 701s); section 206
of the Water Resources Development Act of 1996 (33
U.S.C. 2330); or section 1135 of the Water Resources De-
velopment Act of 1986 (33 U.S.C. 2309a), notwith-
standing the program cost limitations set forth in those
sections: Provided further, That for projects that are being
completed with funds appropriated in this Act that would
otherwise be expired for obligation, expired funds appro-
priated in this Act may be used to pay the cost of associ-
ated supervision, inspection, over engineering and design
on those projects and on subsequent claims, if any: Pro-
vided further, That the Secretary shall have unlimited re-
programming authority for these funds provided under
this heading.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for “Mississippi River and
Tributaries” for expenses necessary for flood damage re-
duction projects and related efforts as authorized by law,
$500,000,000, of which such sums as are necessary to
cover the Federal share of operation and maintenance
costs for inland harbors shall be derived from the Harbor
Maintenance Trust Fund, pursuant to Public Law 99–
662: Provided, That funds provided under this heading in
this title shall only be used for programs, projects or ac-
tivities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: Provided further, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” for expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration,
and related projects authorized by law, and for surveys
and charting of northern and northwestern lakes and con-
necting waters, clearing and straightening channels, and
removal of obstructions to navigation, $1,900,000,000, of
which such sums as are necessary to cover the Federal
share of operation and maintenance costs for coastal har-
bors and channels, and inland harbors shall be derived
from the Harbor Maintenance Trust Fund, pursuant to
Public Law 99–662; and of which such sums as become
available under section 217 of the Water Resources Devel-
opment Act of 1996, Public Law 104–303, shall be used
to cover the cost of operation and maintenance of the
dredged material disposal facilities for which fees have
been collected: Provided, That funds provided under this
heading in this title shall only be used for programs,
projects or activities that heretofore or hereafter receive
funds provided in Acts making appropriations available for
Energy and Water Development: Provided further, That
funds provided under this heading in this title shall be
used for programs, projects or activities or elements of
programs, projects or activities that can be completed
within the funds made available in that account and that
will not require new budget authority to complete: Pro-
vided further, That $90,000,000 of the funds provided
under this heading shall be used for activities described
in section 9004 of Public Law 110–114: Provided further,
That section 9006 of Public Law 110–114 shall not apply to funds provided in this title: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

REGULATORY PROGRAM

For an additional amount for “Regulatory Program” for expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $25,000,000 is provided.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For an additional amount for “Formerly Utilized Sites Remedial Action Program” for expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation’s early atomic energy program, $100,000,000: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and
that will not require new budget authority to complete:

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

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies” for expenses necessary for preplacement of materials and equipment, advance measures and other activities authorized by law, $50,000,000 is provided.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local
governments, federally recognized Indian tribes, and others, $1,400,000,000; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: Provided, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided in this Act shall be used for elements of projects, programs or activities that can be completed within these funding amounts and not create budgetary obligations in future fiscal years: Provided further, That $50,000,000 of the funds provided under this heading may be transferred to the Department of the Interior for programs, projects and activities authorized by the
Central Utah Project Completion Act (titles II–V of Public Law 102–575): Provided further, That $50,000,000 of the funds provided under this heading may be used for programs, projects, and activities authorized by the California Bay-Delta Restoration Act (Public Law 108–361): Provided further, That not less than $60,000,000 of the funds provided under this heading shall be used for rural water projects and shall be expended primarily on water intake and treatment facilities of such projects: Provided further, That not less than $10,000,000 of the funds provided under this heading shall be used for a bureau-wide inspection of canals program in urbanized areas: Provided further, That not less than $110,000,000 of the funds provided under this heading shall be used for water reclamation and reuse projects (title 16 of Public Law 102–575): Provided further, That the costs of reimbursable activities, other than for maintenance and rehabilitation, carried out with funds provided in this Act shall be repaid pursuant to existing authorities and agreements: Provided further, That the costs of maintenance and rehabilitation activities carried out with funds provided in this Act shall be repaid pursuant to existing authority, except the length of repayment period shall be determined on needs-based criteria to be established and adopted by the Commissioner, but in no case shall the repayment period exceed 25 years:
Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for "Energy Efficiency and Renewable Energy", $14,398,000,000, for necessary expenses, to remain available until September 30, 2010: Provided, That $4,200,000,000 shall be available for Energy Efficiency and Conservation Block Grants for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.), of which $2,100,000,000 is available through the formula in subtitle E: Provided further, That the remaining $2,100,000,000 shall be awarded on a competitive basis only to competitive grant applicants from States in which the Governor certifies to the Secretary of Energy that the applicable State regulatory au-
authority will implement the integrated resource planning and rate design modifications standards required to be considered under paragraphs (16) and (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor will take all actions within his or her authority to ensure that the State, or the applicable units of local government that have authority to adopt building codes, will implement—

(A) building energy codes for residential buildings that the Secretary determines are likely to meet or exceed the 2009 International Energy Conservation Code;

(B) building energy codes for commercial buildings that the Secretary determines are likely to meet or exceed the ANSI/ASHRAE/IESNA Standard 90.1–2007; and

(C) a plan for implementing and enforcing the building energy codes described in subparagraphs (A) and (B) that is likely to ensure that at least 90 percent of the new and renovated residential and commercial building space will meet the standards within 8 years after the date of enactment of this Act:
Provided further, That $2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers: Provided further, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: Provided further, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: Provided further, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for “Electricity Delivery and Energy Reliability”, $4,500,000,000, for necessary
expenses, to remain available until September 30, 2010:

Provided, That $100,000,000 shall be available for worker training activities: Provided further, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: Provided further, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: Provided further, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: Provided, That for the purpose of facilitating the development of regional transmission plans, the Office of Electricity Delivery and Energy Reliability within the Department of Energy is provided $80,000,000 within the available funds to conduct a resource assessment and an analysis of future demand and transmission requirements: Provided further, That the Office of Electricity Delivery and Energy Reliability will provide technical assistance to the North American Electric Reliability Corporation, the
regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT: Provided further, That such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies, programs, laws, and regulations: Provided further, That $10,000,000 is provided to implement section 1305 of Public Law 110–140.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for “Fossil Energy Research and Development”, $4,600,000,000, to remain available until September 30, 2010: Provided, That $2,000,000,000 is available for one or more near zero emissions powerplant(s): Provided further, $1,000,000,000 is available for selections under the Department’s Clean Coal Power Initiative Round III Funding Opportunity Announcement; notwithstanding the mandatory eligibility requirements of the Funding Opportunity Announcement, the Department shall consider applications that utilize petroleum coke for some or all of the project’s fuel input: Provided further, $1,520,000,000 is available for a competitive solicitation pursuant to section 703 of Public Law 110–140 for projects that demonstrate carbon capture from industrial sources: Provided further, That awards for
such projects may include plant efficiency improvements for integration with carbon capture technology.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for “Non-Defense Environmental Cleanup”, $483,000,000, to remain available until September 30, 2010.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for “Uranium Enrichment Decontamination and Decommissioning Fund”, $390,000,000, to remain available until September 30, 2010, of which $70,000,000 shall be available in accordance with title X, subtitle A of the Energy Policy Act of 1992.

SCIENCE

For an additional amount for “Science”, $430,000,000, to remain available until September 30, 2010.

TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under section 1702(b)(2) of the Energy Policy Act of 2005, shall not exceed a total principal amount of $50,000,000,000 for eligible projects, to remain available until committed:
Provided, That these amounts are in addition to any au-
thority provided elsewhere in this Act and this and pre-
vious fiscal years: Provided further, That such sums as are
derived from amounts received from borrowers pursuant
to section 1702(b)(2) of the Energy Policy Act of 2005
under this heading in this and prior Acts, shall be collected
in accordance with section 502(7) of the Congressional
Budget Act of 1974: Provided further, That the source of
such payment received from borrowers is not a loan or
other debt obligation that is guaranteed by the Federal
Government: Provided further, That pursuant to section
1702(b)(2) of the Energy Policy Act of 2005, no appro-
priations are available to pay the subsidy cost of such
guarantees: Provided further, That none of the loan guar-
antee authority made available in this Act shall be avail-
able for commitments to guarantee loans under section
1702(b)(2) of the Energy Policy Act of 2005 for any
projects where funds, personnel, or property (tangible or
intangible) of any Federal agency, instrumentality, per-
donnel or affiliated entity are expected to be used (directly
or indirectly) through acquisitions, contracts, demonstra-
tions, exchanges, grants, incentives, leases, procurements,
sales, other transaction authority, or other arrangements,
to support the project or to obtain goods or services from
the project: Provided further, That none of the loan guar-
antee authority made available in this Act shall be available under section 1702(b)(2) of the Energy Policy Act of 2005 for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this title: Provided further, That for an additional amount for the cost of guaranteed loans authorized by section 1702(b)(1) and section 1705 of the Energy Policy Act of 2005, $9,500,000,000, available until expended, to pay the costs of guarantees made under this section: Provided further, That of the amount provided for Title XVII, $15,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program.

Office of the Inspector General

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

Atomic Energy Defense Activities

National Nuclear Security Administration

Weapons Activities

For an additional amount for weapons activities, $1,000,000,000, to remain available until September 30, 2010.
ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for “Defense Environmental Cleanup”, $5,527,000,000, to remain available until September 30, 2010.

CONSTRUCTION, REHABILITATION, OPERATION, AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, $10,000,000, to remain available until expended: Provided, That the Administrator shall establish such personnel staffing levels as he deems necessary to economically and efficiently complete the activities pursued under the authority granted by section 402 of this Act: Provided further, That this appropriation is non-reimbursable.

GENERAL PROVISIONS—THIS TITLE

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

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

“TITLE III—BORROWING AUTHORITY

“SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Western Area Power Administration.

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

“(b) AUTHORITY.—

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

(5)—
“(A) the Western Area Power Administration may borrow funds from the Treasury; and

“(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), $3,250,000,000 in outstanding repayable balances at any one time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

“(i) constructing, financing, facilitating, planning, operating, maintaining, or studying construction of new or upgraded electric power transmission lines and related facilities with at least one terminus within the area served by the Western Area Power Administration; and

“(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after the date of enactment of this section.
“(2) INTEREST.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

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

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

“(5) CONGRESSIONAL REVIEW OF DISBURSEMENT.—Effective upon the date of enactment of this section, the Administrator shall have the authority to have utilized $1,750,000,000 at any one time. If the Administrator seeks to borrow funds above $1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

“(c) TRANSMISSION LINE AND RELATED FACILITY PROJECTS.—
“(1) IN GENERAL.—For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

“(A) each other such project; and

“(B) all other Western Area Power Administration power and transmission facilities.

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

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

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

“(3) SOURCE OF REVENUE.—Revenue from the use of projects under this section shall be the only source of revenue for—
“(A) repayment of the associated loan for the project; and

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

“(4) LIMITATION ON AUTHORITY.—Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

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

“(d) CERTIFICATION.—

“(1) IN GENERAL.—For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

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

“(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and
“(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

“(2) Forgiveness of Balances.—

“(A) In general.—If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

“(B) Unconstructed Projects.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

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

“(e) Public Processes.—

“(1) Policies and practices.—Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

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

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

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

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

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

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

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

“(E) \textit{Availability of Data.}—The
Secretary shall establish and maintain a
smart grid information clearinghouse in a
timely manner which will make data from
smart grid demonstration projects and
other sources available to the public. As a
condition of receiving financial assistance
under this subsection, a utility or other
participant in a smart grid demonstration
project shall provide such information as
the Secretary may require to become avail-
able through the smart grid information
clearinghouse in the form and within the
timeframes as directed by the Secretary.
The Secretary shall assure that business
proprietary information and individual cus-
tomer information is not included in the
information made available through the
clearinghouse.”.

(4) By amending paragraph (2) of section
1304(e) to read as follows:
“(2) to carry out subsection (b), such sums as
may be necessary.”.

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

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

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

(8) By amending subsection (e) of section 1306
to read as follows:
“(e) The Secretary shall—
“(1) establish within 60 days after the enact-
ment of the American Recovery and Reinvestment
Act of 2009 procedures by which applicants can ob-
tain grants of not more than one-half of their docu-
mented costs;

“(2) establish procedures to ensure that there is
no duplication or multiple payment for the same in-
vestment or costs, that the grant goes to the party
making the actual expenditures for Qualifying Smart
Grid Investments, and that the grants made have
significant effect in encouraging and facilitating the
development of a smart grid;
“(3) maintain public records of grants made, recipients, and qualifying Smart Grid investments which have received grants;

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

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

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

“SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

“(a) In general.—Notwithstanding section 1703, the Secretary may make guarantees under this section only for commercial technology projects under subsection (b) that will reach financial close not later than September 30, 2012.

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

“(1) Renewable energy systems.

“(2) Electric power transmission systems.
“(c) Authorization Limit.—There are authorized to be appropriated $10,000,000,000 to the Secretary for fiscal years 2009 through 2012 to provide the cost of guarantees made under section.

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

(b) Table of Contents Amendment.—The table of contents for the Energy Policy Act of 2005 is amended by inserting after the item relating to section 1704 the following new item:

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

SEC. 405. Weatherization Program Amendments. (a) Income Level.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking “150 percent” both places it appears and inserting “200 percent”.

(b) Assistance Level Per Dwelling Unit.—Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended by striking “$2,500” and inserting “$5,000”.

(c) Training and Technical Assistance.—Section 416 of the Energy Conservation and Production Act (42 U.S.C. 6866) is amended by striking “10 percent” and inserting “up to 20 percent”.

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SEC. 406. TECHNICAL CORRECTIONS TO PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978. (a) Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by redesignating paragraph (16) relating to consideration of smart grid investments (added by section 1307(a) of Public Law 110–140) as paragraph (18) and by redesignating paragraph (17) relating to smart grid information (added by section 1308(a) of Public Law 110–140) as paragraph (19).

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

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

FUND PROGRAM ACCOUNT

For an additional amount for “Community Development Financial Institutions Fund Program Account”, $250,000,000, to remain available until September 30, 2010, for qualified applicants under the fiscal year 2008 and 2009 funding rounds of the Community Development Financial Institutions Program, of which up to
$20,000,000 may be for financial assistance, technical assistance, training and outreach programs, including up to $5,000 for subsistence expenses, designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers and up to $5,000,000 may be used for administrative expenses: Provided, That for purposes of the fiscal year 2008 and 2009 funding rounds, the following statutory provisions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d): Provided further, That no awardee, together with its subsidiaries and affiliates, may be awarded more than 15 percent of the aggregate funds available during each of fiscal years 2008 and 2009 from the Community Development Financial Institutions Program: Provided further, That no later than 60 days after the date of enactment of this Act, the Department of the Treasury shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under this heading.
DISTRICT OF COLUMBIA

FEDERAL PAYMENTS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $125,000,000, to remain available until September 30, 2010, to continue implementation of the Combined Sewer Overflow Long-Term Control Plan: Provided, That the District of Columbia Water and Sewer Authority provide a 100 percent match for this payment: Provided further, That no later than 60 days after the date of enactment of this Act, the District of Columbia Water and Sewer Authority shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under this heading: Provided further, That such expenditure plan shall include a description of each specific project, how specific projects will further the objectives of the Long-Term Control Plan, and all funding sources for each project.
GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $9,048,000,000, to carry out the purposes of the Fund, of which not less than $1,400,000,000 shall be available for Federal buildings and United States courthouses, not less than $1,200,000,000 shall be available for border stations, and not less than $6,000,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140: Provided, That not to exceed $108,000,000 of the amounts provided under this heading may be expended for rental of space, related to leasing of temporary space in connection with projects funded under this heading: Provided further, That not to exceed $206,000,000 of the amounts provided under this heading may be expended for building operations, for the administrative costs of completing projects funded under this heading: Provided further, That (1) not less than $7,000,000,000 of the funds provided under this heading shall be obligated by September 30, 2010, and (2) $1,600,000,000 shall be available until September 30, 2011: Provided further, That
the Administrator of General Services is authorized to initiate design, construction, repair, alteration, and other projects through existing authorities of the Administrator:

Provided further, That the General Services Administration shall submit a detailed plan, by project, regarding the use of funds made available in this Act to the Committees on Appropriations of the House of Representatives and the Senate within 60 days of enactment of this Act: Provided further, That of the amounts provided for converting GSA facilities to High-Performance Green Buildings, $4,000,000 shall be transferred to and merged with “Government-Wide Policy”, for carrying out the provisions of section 436 of the Energy Independence and Security Act of 2007 (Public Law 110–140), establishing an Office of Federal High-Performance Green Buildings, to remain available until September 30, 2010: Provided further, That within the overall amount to be deposited into the Fund, $448,000,000 shall remain available until September 30, 2011, for the development and construction of the headquarters for the Department of Homeland Security, except that none of the preceding provisos shall apply to amounts made available under this proviso.
ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of acquiring motor vehicles with higher fuel economy, including: hybrid vehicles; neighborhood electric vehicles; electric vehicles; and commercially-available, plug-in hybrid vehicles, $600,000,000, to remain available until September 30, 2011.

OFFICE OF INSPECTOR GENERAL

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

RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

For necessary expenses of the Recovery Act Accountability and Transparency Board to carry out the provisions of title XV of this Act, $7,000,000, to remain available until September 30, 2010.

SMALL BUSINESS ADMINISTRATION SALARIES AND EXPENSES

For an additional amount, to remain available until September 30, 2010, $84,000,000, of which $24,000,000 is for marketing, management, and technical assistance under section 7(m) of the Small Business Act (15 U.S.C. 636(m)(4)) by intermediaries that make microloans under
the microloan program, of which $15,000,000 is for lender oversight activities as authorized in section 501(e) of this title, and of which $20,000,000 is for improving, streamlining, and automating information technology systems related to lender processes and lender oversight: Provided, That no later than 60 days after the date of enactment of this Act, the Small Business Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under the heading “Small Business Administration” in this Act.

OFFICE OF INSPECTOR GENERAL

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

SURETY BOND GUARANTEES REVOLVING FUND

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

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $6,000,000, to remain available until September 30, 2010, and for an additional amount for the cost of guaranteed
loans, $615,000,000, to remain available until September 30, 2010: Provided, That of the amount for the cost of guaranteed loans, $515,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized in section 501(a) of this title; and $100,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized in section 501(b) of this title: Provided further, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

Administrative Provisions—Small Business Administration

Sec. 501. Economic Stimulus for Small Business Concerns. (a) Temporary Fee Elimination for the 7(a) Loan Program.—Until September 30, 2010, and to the extent that the cost of such elimination of fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

(1) in lieu of the fee otherwise applicable under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect no fee; and
(2) in lieu of the fee otherwise applicable under section 7(a)(18)(A) of the Small Business Act (15 U.S.C. 636(a)(18)(A)), collect no fee.

(b) Temporary Fee Elimination for the 504 Loan Program.—

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

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

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

(2) Reimbursement for Waived Fees.—

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

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

(c) TEMPORARY FEE ELIMINATION OF LENDER
OVERSIGHT FEES.—Until September 30, 2010, and to the
extent the cost of such elimination in fees is offset by ap-
propriations, the Administrator shall, in lieu of the fee
otherwise applicable under section 5(b)(14) of the Small

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

SEC. 502. FINANCIAL ASSISTANCE PROGRAM IMPROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Sec-
636(a)(3)(A)) is amended by striking “$1,500,000 (or if the gross loan amount would exceed $2,000,000)” and inserting “$2,250,000 (or if the gross loan amount would exceed $3,000,000)”.

(b) SMALL BUSINESS INVESTMENT COMPANIES.—

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

(A) in paragraph (2), by striking subparagraphs (A), (B), and (C) and inserting the following:

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

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

“(ii) $150,000,000.

“(B) MULTIPLE LICENSES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to 2 or more companies licensed under section 301(c) that are commonly controlled (as determined by the Administrator) may not exceed $225,000,000.
“(C) INVESTMENTS IN LOW–INCOME GEO-
GRAPHIC AREAS.—

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

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

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

“(bb) $175,000,000; and

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

“(ii) APPLICABILITY.—A company de-
scribed in this clause is a company licensed
under section 301(c) that certifies in writ-
ing that not less than 50 percent of the
dollar amount of investments of that com-
pany shall be made in companies that are
located in a low-income geographic area
(as that term is defined in section 351).”;
and
(B) by striking paragraph (4).

(2) INVESTMENTS IN SMALLER ENTERPRISES.—Section 303(d) of the Small Business Investment Act of 1958 (15 U.S.C. 683(d)) is amended to read as follows:

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

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

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

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

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

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

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

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

“(A) the project financed under this title involves the expansion of a small business concern;

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

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

“(D) the proceeds of the existing indebtedness were used to acquire land (including a building situated thereon), to construct or expand a building thereon, or to purchase equipment;

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

“(F) the financing under this title will provide better terms or a better rate of interest than exists on the existing indebtedness on the proposed date of refinancing;

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

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

“(i) refinancing existing indebtedness;

or

“(ii) costs relating to the project financed under this title.”.

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

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

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

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the “Office of the Under Secretary for Management”, $248,000,000, to remain available until September 30, 2011, solely for planning, design, and construction costs, including site security, information technology infrastructure, furniture, fixtures, and related costs to consolidate the Department of Homeland Security headquarters: Provided, That no later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of General Services, shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the “Office of Inspector General”, $5,000,000, to remain available until September 30, 2010, for oversight and audit of programs, grants, and projects funded under this title.
U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, $198,000,000, to remain available until September 30, 2010, of which $100,800,000 shall be for the procurement and deployment of non-intrusive inspection systems to improve port security; and of which $97,200,000 shall be for procurement and deployment of tactical communications equipment and radios: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for “Border Security Fencing, Infrastructure, and Technology”, $200,000,000, to remain available until September 30, 2010, for expedited development and deployment of border security technology on the Southwest border: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.
CONSTRUCTION

For an additional amount for “Construction”, $800,000,000, to remain available until expended, solely for planning, management, design, alteration, and construction of U.S. Customs and Border Protection owned land border ports of entry: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AUTOMATION MODERNIZATION

For an additional amount for “Automation Modernization”, $27,800,000, to remain available until September 30, 2010, for the procurement and deployment of tactical communications equipment and radios: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

TRANSPORTATION SECURITY ADMINISTRATION AVIATION SECURITY

For an additional amount for “Aviation Security”, $1,200,000,000, to remain available until September 30,
2010, for procurement and installation of checked baggage explosives detection systems and checkpoint explosives de-
tection equipment: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Ap-
propriations of the Senate and the House of Representa-
tives a plan for the expenditure of these funds.

Coast Guard

Acquisition, Construction, and Improvements

For an additional amount for “Acquisition, Construc-
tion, and Improvements”, $572,500,000, to remain avail-
able until September 30, 2010, of which $255,000,000 shall be for shortfalls in priority procurements due to ma-
terials and labor cost increases; of which $195,000,000 shall be for shore facilities and aids to navigation facilities;
of which $87,500,000 shall be for the design of a new polar icebreaker or the renovation of an existing polar ice-
breaker, and major repair and maintenance of existing polar icebreakers; and of which $35,000,000 shall be for emergency maintenance of the Coast Guard’s high endur-
ance cutters: Provided, That amounts made available for the activities under this heading shall be available for all necessary expenses related to the oversight and manage-
ment of such activities: Provided further, That no later than 45 days after the date of enactment of this Act, the
Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

ALTERATION OF BRIDGES

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For an additional amount for “Management and Administration”, $6,000,000 for the acquisition of communications response vehicles to be deployed in response to a disaster or a national security event.

STATE AND LOCAL PROGRAMS

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

(1) $100,000,000, to remain available until September 30, 2010, for Public Transportation Security Assistance, Railroad Security Assistance, and

(2) $100,000,000, to remain available until September 30, 2010, for Port Security Grants in accordance with 46 U.S.C. 70107, notwithstanding 46 U.S.C. 70107(c).

(3) $250,000,000, to remain available until September 30, 2010, for upgrading, modifying, or constructing emergency operations centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, notwithstanding section 614(c) of that Act or for upgrading, modifying, or constructing State and local fusion centers as defined by section 210A(j)(1) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j)(1)).

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

FIREFIGHTER ASSISTANCE GRANTS

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

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Notwithstanding section 417(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the amount of any such loan issued pursuant to this section for major disasters occurring in calendar year 2008 may exceed $5,000,000, and may be equal to not more than 50 percent of the annual operating budget of the local government in any case in which that local government has suffered a loss of 25 percent or more in tax revenues: Provided, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).
EMERGENCY FOOD AND SHELTER

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

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

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

SCIENCE AND TECHNOLOGY RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For an additional amount for “Research, Development, Acquisition, and Operations”, $14,000,000, to re-
main available until September 30, 2010, for cybersecurity research: Provided, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

GENERAL PROVISIONS—THIS TITLE

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

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

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

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

CONSTRUCTION

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

WILDLAND FIRE MANAGEMENT

For an additional amount for “Wildland Fire Management”, $15,000,000, to remain available until September 30, 2010.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management”, $190,000,000, to remain available until September 30, 2010.
CONSTRUCTION

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

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System”, $158,000,000, to remain available until September 30, 2010.

HISTORIC PRESERVATION FUND

For an additional amount for “Historic Preservation Fund”, $55,000,000, to remain available until September 30, 2010.

CONSTRUCTION

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

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, $135,000,000, to remain available until September 30, 2010.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

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

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

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT
For an additional amount for “Indian Guaranteed
Loan Program Account”, $10,000,000, to remain avail-
able until September 30, 2010.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES
For an additional amount for “Assistance to Terri-
tories”, $62,000,000, to remain available until Septem-

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES
For an additional amount for “Office of Inspector
General”, $7,600,000, to remain available until Septem-

DEPARTMENT-WIDE PROGRAMS

CENTRAL HAZARDOUS MATERIALS FUND
For an additional amount for “Central Hazardous
Materials Fund”, $20,000,000, to remain available until
September 30, 2010.
WORKING CAPITAL FUND

For an additional amount for “Working Capital Fund”, $20,000,000, to remain available until September 30, 2010.

ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “Hazardous Substance Superfund”, $800,000,000, to remain available until September 30, 2010, as a payment from general revenues to the Hazardous Substance Superfund, to carry out remedial actions: Provided, That the Administrator may retain up to 2 percent of the funds appropriated herein for Superfund remedial actions for program oversight and support purposes, and may transfer those funds to other accounts as needed.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for “Leaking Underground Storage Tank Trust Fund Program”, $200,000,000, to remain available until September 30, 2010, for cleanup activities: Provided, That none of these funds shall be subject to cost share requirements.
STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “State and Tribal Assistance Grants”, $6,400,000,000, to remain available until September 30, 2010, of which $4,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $2,000,000,000 shall be for making capitalization grants for the Drinking Water State Revolving Fund under section 1452 of the Safe Drinking Water Act, as amended; of which $100,000,000 shall be available for Brownfields remediation grants pursuant to section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; and of which $300,000,000 shall be for Diesel Emission Reduction Act grants pursuant to title VII, subtitle G of the Energy Policy Act of 2005, as amended: Provided, That notwithstanding the priority ranking they would otherwise receive under each program, priority for funds appropriated herein for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds (Revolving Funds) shall be allocated to projects that are ready to proceed to construction within 180 days of enactment of this Act: Provided further, That the Administrator of the Environ-
mental Protection Agency (Administrator) may reallocate funds appropriated herein for the Revolving Funds that are not under binding commitments to proceed to construction within 180 days of enactment of this Act: Provided further, That notwithstanding any other provision of law, financial assistance provided from funds appropriated herein for the Revolving Funds may include additional subsidization, including forgiveness of principal and negative interest loans: Provided further, That not less than 15 percent of the funds appropriated herein for the Revolving Funds shall be designated for green infrastructure, water efficiency improvements or other environmentally innovative projects: Provided further, That notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to a total of 1.5 percent of the funds appropriated herein for the Clean Water State Revolving Funds may be reserved by the Administrator for tribal grants under section 518(c) of such Act: Provided further, That section 1452(k) of the Safe Drinking Water Act shall not apply to amounts appropriated herein for the Drinking Water State Revolving Funds: Provided further, That the Administrator may exceed the 30 percent limitation on State grants for funds appropriated herein for Diesel Emission Reduction Act grants if the Administrator determines such action will ex-
pedite allocation of funds: Provided further, That none of
the funds appropriated herein shall be subject to cost
share requirements: Provided further, That the Adminis-
trator may retain up to 0.25 percent of the funds appro-
priated herein for the Clean Water State Revolving Funds
and Drinking Water State Revolving Funds and up to 1.5
percent of the funds appropriated herein for the Diesel
Emission Reduction Act grants program for program
oversight and support purposes and may transfer those
funds to other accounts as needed.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

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

WILDLAND FIRE MANAGEMENT

For an additional amount for “Wildland Fire Man-
agement”, $650,000,000, to remain available until Sep-
tember 30, 2010, for hazardous fuels reduction and haz-
ard mitigation activities in areas at high risk of cata-
strophic wildfire, of which $350,000,000 is available for
work on State and private lands using all the authorities
available to the Forest Service: Provided, That of the
funds provided for State and private land fuels reduction activities, up to $50,000,000 may be used to make grants for the purpose of creating incentives for increased use of biomass from national forest lands.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

For an additional amount for “Indian Health Services”, $135,000,000, to remain available until September 30, 2010, of which $50,000,000 is for contract health services; and of which $85,000,000 is for health information technology: Provided, That the amount made available for health information technology activities may be used for both telehealth services development and related infrastructure requirements that are typically funded through the “Indian Health Facilities” account: Provided further, That notwithstanding any other provision of law, health information technology funds provided within this title shall be allocated at the discretion of the Director of the Indian Health Service.

INDIAN HEALTH FACILITIES

For an additional amount for “Indian Health Facilities”, $410,000,000, to remain available until September 30, 2010: Provided, That for the purposes of this Act, spending caps included within the annual appropriation
for “Indian Health Facilities” for the purchase of medical equipment shall not apply.

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

For an additional amount for “Facilities Capital”, $150,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

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

(b) Within 90 days of enactment of this Act, each agency receiving funds under this title shall submit to the Committees a report containing detailed project level information associated with the general plan submitted pursuant to subsection (a).

Sec. 702. In carrying out the work for which funds in this title are being made available, the Secretary of the Interior and the Secretary of Agriculture may utilize the Public Lands Corps, Youth Conservation Corps, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.
TITLE VIII—DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
TRAINING AND EMPLOYMENT SERVICES

For an additional amount for “Training and Employment Services” for activities authorized by the Workforce Investment Act of 1998 (‘‘WIA’’), $3,250,000,000, which shall be available on the date of enactment of this Act, as follows:

(1) $500,000,000 for adult employment and training activities, including supportive services and needs-related payments described in section 134(e)(2) and (3) of the WIA: Provided, That a priority use of these funds shall be services to individuals described in 134(d)(4)(E) of the WIA;

(2) $1,200,000,000 for grants to the States for youth activities, including summer employment for youth: Provided, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: Provided further, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal
year does not exceed $1,000,000,000: Provided further, That, with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting “age 24” for “age 21”: Provided further, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of youth activities provided with such funds;

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

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

(5) $250,000,000 under the dislocated worker national reserve for a program of competitive grants for worker training in high growth and emerging industry sectors and assistance under 132(b)(2)(A) of the WIA: Provided, That the Secretary of Labor shall give priority when awarding such grants to projects that prepare workers for careers in energy efficiency and renewable energy as described in section 171(e)(1)(B) of the WIA and for careers in the health care sector; and
(6) $100,000,000 for YouthBuild activities as described in section 173A of the WIA: Provided, That for program years 2008 and 2009, the YouthBuild program may serve an individual who has dropped out of high school and re-enrolled in an alternative school, if that re-enrollment is part of a sequential service strategy: Provided, That funds made available in this paragraph shall remain available through June 30, 2010: Provided further, That a local board may award a contract to an institution of higher education if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for “Community Service Employment for Older Americans” for carrying out title V of the Older Americans Act of 1965, $120,000,000, which shall be available on the date of enactment of this Act and shall remain available through June 30, 2010: Provided, That funds shall be allotted within 30 days of such enactment to current grantees in proportion to their allotment in program year 2008: Provided further, That funds made available under this heading in this Act may,
in accordance with section 517(c) of the Older Americans Act of 1965, be recaptured and reobligated.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for “State Unemployment Insurance and Employment Service Operations” for grants to States in accordance with section 6 of the Wagner-Peyser Act, $400,000,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: Provided, That such funds shall be available on the date of enactment of this Act and remain available to the States through September 30, 2010: Provided further, That $250,000,000 of such funds shall be used by States for reemployment services for unemployment insurance claimants (including the integrated Employment Service and Unemployment Insurance information technology required to identify and serve the needs of such claimants): Provided further, That the Secretary of Labor shall establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services.

DEPARTMENTAL MANAGEMENT

OFFICE OF JOB CORPS

For an additional amount for “Office of Job Corps” for construction, alteration and repairs of buildings and other facilities, $160,000,000, which shall remain avail-
able through June 30, 2010: Provided, That the Secretary of Labor may transfer up to 15 percent of such funds to meet the operational needs of Job Corps Centers, which may include training for careers in the energy efficiency, renewable energy, and environmental protection industries: Provided further, That not later than 90 days after the date of enactment of this Act, the Secretary shall provide to the Committee on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of funds available in this paragraph.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the “Office of Inspector General”, $3,000,000, which shall remain available through September 30, 2010, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act and administered by the Department of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for “Health Resources and Services”, $1,088,000,000, which shall remain available through September 30, 2010, of which $88,000,000 shall be for necessary expenses related to leasing and renovating a headquarters building for Public Health Service agencies
and other components of the Department of Health and Human Services, including renovation and fit-out costs, and of which $1,000,000,000 shall be for grants for construction, renovation and equipment for health centers receiving operating grants under section 330 of the Public Health Service Act, notwithstanding the limitation in section 330(e)(3).

Centers for Disease Control and Prevention

Disease Control, Research, and Training

For an additional amount for “Disease Control, Research, and Training” for acquisition of real property, equipment, construction, and renovation of facilities, including necessary repairs and improvements to leased laboratories, $412,000,000, which shall remain available through September 30, 2010: Provided, That notwithstanding any other provision of law, the Centers for Disease Control and Prevention may award a single contract or related contracts for development and construction of facilities that collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause “availability of funds” found at 48 CFR 52.232–18.
NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for “National Center for Research Resources”, $300,000,000, which shall be available through September 30, 2010, for shared instrumentation and other capital research equipment.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of the Director”, $2,700,000,000, which shall be available through September 30, 2010: Provided, That $1,350,000,000 shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: Provided further, That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: Provided further, That none of these funds may be transferred to “National Institutes of Health—Buildings and Facilities”, the Center for Scientific Review, the Center for Information Technology, the
Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, $500,000,000, which shall be available through September 30, 2010, to fund high-priority repair, construction and improvement projects for National Institutes of Health facilities on the Bethesda, Maryland campus and other agency locations.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Healthcare Research and Quality” to carry out titles III and IX of the Public Health Service Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $700,000,000 for comparative clinical effectiveness research, which shall remain available through September 30, 2010: Provided, That of the amount appropriated in this paragraph, $400,000,000 shall be transferred to the Office of the Director of the National Institutes of Health (‘‘Office of the Director’’) to conduct or support comparative clinical effectiveness research under section 301 and title IV of the Public Health Service Act: Provided further,
That funds transferred to the Office of the Director may be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act: Provided further, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: Provided further, That within the amount available in this paragraph for the Agency for Healthcare Research and Quality, not more than 1 percent shall be made available for additional full-time equivalents.

In addition, $400,000,000 shall be available for comparative clinical effectiveness research to be allocated at the discretion of the Secretary of Health and Human Services ("Secretary") and shall remain available through September 30, 2010: Provided, That the funding appropriated in this paragraph shall be used to accelerate the development and dissemination of research assessing the comparative clinical effectiveness of health care treatments and strategies, including through efforts that: (1) conduct, support, or synthesize research that compares the clinical outcomes, effectiveness, and appropriateness of items, services, and procedures that are used to prevent, diagnose, or treat diseases, disorders, and other health conditions and (2) encourage the development and use of
clinical registries, clinical data networks, and other forms
of electronic health data that can be used to generate or
obtain outcomes data: Provided further, That the Sec-
retary shall enter into a contract with the Institute of
Medicine, for which no more than $1,500,000 shall be
made available from funds provided in this paragraph, to
produce and submit a report to the Congress and the Sec-
retary by not later than June 30, 2009 that includes rec-
ommendations on the national priorities for comparative
clinical effectiveness research to be conducted or sup-
ported with the funds provided in this paragraph and that
considers input from stakeholders: Provided further, That
the Secretary shall consider any recommendations of the
Federal Coordinating Council for Comparative Clinical Ef-
fectiveness Research established by section 802 of this Act
and any recommendations included in the Institute of
Medicine report pursuant to the preceding proviso in des-
ignating activities to receive funds provided in this para-
graph and may make grants and contracts with appro-
priate entities, which may include agencies within the De-
partment of Health and Human Services and other gov-
ernmental agencies, as well as private sector entities, that
have demonstrated experience and capacity to achieve the
goals of comparative clinical effectiveness research: Pro-
vided further, That the Secretary shall publish information
on grants and contracts awarded with the funds provided under this heading within a reasonable time of the obligation of funds for such grants and contracts and shall disseminate research findings from such grants and contracts to clinicians, patients, and the general public, as appropriate: Provided further, That, to the extent feasible, the Secretary shall ensure that the recipients of the funds provided by this paragraph offer an opportunity for public comment on the research: Provided further, That the Secretary shall provide the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate with an annual report on the research conducted or supported through the funds provided under this heading.

**ADMINISTRATION FOR CHILDREN AND FAMILIES**

**PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT**

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

**SOCIAL SERVICES BLOCK GRANT**

For an additional amount for “Social Services Block Grant,” $400,000,000: *Provided*, That notwithstanding section 2003 of the Social Security Act, funds shall be allocated to States on the basis of unemployment: *Provided further*, That these funds shall be obligated to States within 60 calendar days from the date they become available for obligation.

**CHILDREN AND FAMILIES SERVICES PROGRAMS**

For an additional amount for “Children and Families Services Programs” for carrying out activities under the Head Start Act, $1,000,000,000, which shall remain available through September 30, 2010. In addition, $1,100,000,000, which shall remain available through September 30, 2010, is hereby appropriated for expansion of Early Head Start programs, as described in section 645A of such Act: *Provided*, That of the funds provided in this sentence, up to 10 percent shall be available for
the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act.

For an additional amount for “Children and Families Services Programs” for carrying out activities under sections 674 through 679 of the Community Services Block Grant Act, $200,000,000, which shall remain available through September 30, 2010: Provided, That of the funds provided under this paragraph, no part shall be subject to paragraph (3) of section 674(b) of such Act: Provided further, That not less than 5 percent of the funds allotted to a State from the appropriation under this paragraph shall be used under section 675C(b)(1) for benefits enrollment coordination activities relating to the identification and enrollment of eligible individuals and families in Federal, State and local benefit programs.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for “Aging Services Programs,” $100,000,000, of which $67,000,000 shall be for Congregate Nutrition Services and $33,000,000 shall be for Home-Delivered Nutrition Services: Provided, That
these funds shall remain available through September 30, 2010.

Office of the Secretary

Office of the National Coordinator for Health Information Technology

(including transfer of funds)

For an additional amount for “Office of the National Coordinator for Health Information Technology”, $5,000,000,000, to carry out title XIII of this Act which shall be available until expended: Provided, That of this amount, the Secretary of Health and Human Services shall transfer $20,000,000 to the Director of the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care information enterprise integration through activities such as technical standards analysis and establishment of conformance testing infrastructure so long as such activities are coordinated with the Office of the National Coordinator for Health Information Technology: Provided further, That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obliga-
tions, expenditures, and unobligated balances for each major set of activities not later than November 1, 2009 and every 6 months thereafter as long as funding under this heading is available for obligation or expenditure.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000 which shall remain available until September 30, 2011.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Public Health and Social Services Emergency Fund” to carry out a program of grants, contracts, and cooperative agreements to fund projects and activities to reduce the incidence or severity of preventable disabilities, diseases and conditions and to invest in health workforce training, $5,800,000,000, to remain available through September 30, 2011: Provided, That the amount made available in this paragraph may be transferred to another appropriation account of the Department of Health and Human Services (“HHS”), as determined by the Secretary of Health and Human Services to be appropriate and upon notification of the Committees on Appropriations of the House of Representatives and the Senate, to be used for the purposes specified in this paragraph, and the provisos of this paragraph shall apply to
any funds so transferred: Provided further, That of the
amount provided in this paragraph, not less than
$1,000,000,000 shall be transferred to the Centers for
Disease Control and Prevention (‘‘CDC’’) as an additional
amount for screening activities related to preventable dis-
bilities and chronic diseases and conditions, including
counseling to prevent and mitigate the precursors of those
disorders: Provided further, That of the amount provided
in this paragraph, not less than $750,000,000 shall be
 transferred to the CDC as an additional amount to carry
out the immunization program authorized by section
317(a), (j), and (k)(1) of the Public Health Service Act
(‘‘PHS Act’’): Provided further, That of the amount pro-
vided in this paragraph, not less than $600,000,000 shall
be transferred to the Health Resources and Services Ad-
ministration as an additional amount to address health
professions workforce shortages through scholarships, loan
repayment, grants to training programs for equipment
and activities to foster cross-state licensure agreements,
authorized under sections 330 through 338, 737, 738, and
846 of the PHS Act, of which $200,000,000 shall be avail-
able until expended for extending service contracts and the
recapture and reallocation of funds in the event that a
participant fails to fulfill their term of service: Provided
further, That of the amount provided in this paragraph,
$400,000,000 shall be transferred to the CDC as an additional amount for the Healthy Communities program, which shall be used for multi-year awards: Provided further, That of the amount provided under this heading, not less than $400,000,000 shall be transferred to the CDC for an additional amount for the screening and prevention of sexually-transmitted diseases, including HIV: Provided further, That of the amount provided in this paragraph, not less than $75,000,000 shall be for smoking cessation activities, including laboratory testing and equipment: Provided further, That of the amount provided in this paragraph, not less than $60,000,000 shall be made available for additional research, data collection and surveys relating to prevention science and the current state of health, including equipment: Provided further, That of the amount provided in this paragraph, $40,000,000 shall be transferred to the CDC for information technology improvements to vital statistics record systems, including grants to State health departments for equipment: Provided further, That of the amount provided in this paragraph, $15,000,000 shall be made available for grants to States for equipment and maintenance related to newborn screening: Provided further, That not less than 1 percent of the amount provided in this paragraph shall be available for evaluation of the activities supported by the
amounts provided in this paragraph: Provided further,
That up to 1 percent of amounts made available in this
paragraph may be used for administrative expenses in the
office or division of HHS administering the funds: Pro-
vided further, That the transfers required by this para-
graph shall be completed within 30 days of enactment of
this Act: Provided further, That the Secretary shall submit
reports to the Committees on Appropriations of the House
of Representatives and the Senate detailing the following
information on the amounts appropriated in this para-
graph: (1) an operating plan detailing activities to be sup-
ported and timelines for expenditure, to be submitted no
later than 120 days after the enactment of this Act; (2)
15 day prior notification of any funds to be obligated prior
to the submission of the operating plan; (3) an obligation
and expenditure report to be submitted quarterly until all
funds are fully expended; (4) a briefing 15 days prior to
any new grant solicitation; (5) an evaluation plan that de-
tails the manner in which the Secretary intends to evalu-
ate the outcomes of activities supported, to be submitted
120 days after enactment of this Act; (6) an outcomes
report on all activities supported, to be submitted 1 year
after enactment and every 6 months thereafter until all
funds have been expended; and (7) a report on best prac-
ties to be submitted 18 months after enactment and every
6 months thereafter until all funds have been expended.

For an additional amount for the “Public Health and
Social Services Emergency Fund” to prepare for and re-
spond to an influenza pandemic, $870,000,000, for activi-
ties including the development and purchase of vaccine,
antivirals, necessary medical supplies, diagnosties, and
other surveillance tools which shall be available until ex-
pended: Provided, That products purchased with these
funds may, at the discretion of the Secretary, be deposited
in the Strategic National Stockpile: Provided further, That
notwithstanding section 496(b) of the Public Health Serv-
vice Act, funds may be used for the construction or renova-
tion of privately owned facilities for the production of pan-
demic influenza vaccines and other biologics, where the
Secretary finds such a contract necessary to secure suffi-
cient supplies of such vaccines or biologics: Provided fur-
ther, That funds appropriated herein may be transferred
to other appropriation accounts of the Department of
Health and Human Services, as determined by the Sec-
retary to be appropriate, to be used for the purposes speci-
ified in this sentence.
For an additional amount for carrying out title I of the Elementary and Secondary Education Act of 1965, $13,000,000,000, which shall be available through September 30, 2010: Provided, That $5,500,000,000 shall be for targeted grants under section 1125, $5,500,000,000 shall be for education finance incentive grants under section 1125A, and $2,000,000,000 shall be for school improvement grants under section 1003(g): Provided further, That each local educational agency receiving funds available under this paragraph for sections 1125 and 1125A shall use not less than 15 percent of such funds for activities serving children who are eligible pursuant to section 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K): Provided further, That each local educational agency receiving funds available under this paragraph shall be required to file with the State educational agency, no later than December 1, 2009, a school-by-school listing of per-pupil educational expenditures from State and local sources during the 2008–2009 academic year.

School Improvement Programs

For an additional amount for “School Improvement Programs,” $17,070,000,000, which shall be available through September 30, 2010, for carrying out activities
authorized by part D of title II of the Elementary and Secondary Education Act of 1965, subtitle B of title VII of the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"), and section 804 of this Act: Provided, That the Secretary shall allot $70,000,000 for grants under McKinney-Vento to each State in proportion to the number of homeless students identified by the State during the 2007–2008 school year relative to the number of such children identified nationally during that school year: Provided further, That State educational agencies shall subgrant the McKinney-Vento funds to local educational agencies on a competitive basis or according to a formula based on the number of homeless students identified by the local educational agencies in the State: Provided further, That the Secretary shall distribute the McKinney-Vento funds to the States not later than 60 days after the date of the enactment of this Act: Provided further, That each State shall subgrant the McKinney-Vento funds to local educational agencies not later than 120 days after receiving its grant from the Secretary.

SPECIAL EDUCATION

For an additional amount for "Special Education" for carrying out parts B and C of the Individuals with Disabilities Education Act ("IDEA"), $13,500,000,000, which shall remain available through September 30, 2010:
Provided, That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: Provided further, That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA, with any remaining funds to be allocated in accordance with section 643(e) of the IDEA: Provided further, That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2008, increased by the amount of inflation as specified in section 619(d)(2)(B), or the percentage increase in the funds appropriated under section 611(i): Provided further, That each local educational agency receiving funds available under this paragraph for part B shall use not less than 15 percent for special education and related services to children described in section 619(a) of the IDEA.

Rehabilitation Services and Disability Research

For an additional amount for “Rehabilitation Services and Disability Research” for providing grants to States to carry out the Vocational Rehabilitation Services program under part B of title I and parts B and C of
chapter 1 and chapter 2 of title VII of the Rehabilitation Act of 1973, $610,000,000, which shall remain available through September 30, 2010: Provided, That $500,000,000 shall be available for part B of title I of the Rehabilitation Act: Provided further, That funds provided herein shall not be considered in determining the amount required to be appropriated under section 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal year: Provided further, That, notwithstanding section 7(14)(A), the Federal share of the costs of vocational rehabilitation services provided with the funds provided herein shall be 100 percent.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for “Student Financial Assistance” to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965, $13,869,000,000: Provided, That such funds shall be used to increase the maximum Pell Grant by $281 for award year 2009–2010, to increase the maximum Pell Grant by $400 for the award year 2010–2011, and to reduce or eliminate the Pell Grant shortfall: Provided further, That these funds shall remain available through September 30, 2011.

For an additional amount for “Student Financial Assistance” to carry out part E of title IV of the Higher Education Act of 1965, $61,000,000: Provided, That
these funds shall remain available through September 30, 2010.

**Higher Education**

For an additional amount for “Higher Education” for carrying out activities under part A of title II of the Higher Education Act of 1965, $100,000,000: Provided, That these funds shall remain available through September 30, 2010.

**Higher Education Facilities**

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

**Departmental Management**

**Office of the Inspector General**

For an additional amount for the “Office of the Inspector General”, $4,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act and administered by the Department of Education.
For an additional amount for “Operating Expenses” to carry out the Domestic Volunteer Service Act of 1973 (“1973 Act”) and the National and Community Service Act of 1990 (“1990 Act”), $160,000,000, to remain available through September 30, 2010: Provided, That funds made available in this paragraph may be used to provide adjustments to awards under subtitle C of title I of the 1990 Act made prior to September 30, 2010 for which the Chief Executive Officer of the Corporation for National and Community Service (“CEO”) determines that a waiver of the Federal share limitation is warranted under section 2521.70 of title 45 of the Code of Federal Regulations: Provided further, That of the amount made available in this paragraph, not less than $6,000,000 shall be transferred to “Salaries and Expenses” for necessary expenses relating to information technology upgrades: Provided further, That of the amount provided in this paragraph, $10,000,000 shall be available for additional members in the Civilian Community Corps authorized under subtitle E of title I of the 1990 Act: Provided fur-
ther, That of the amount provided in this paragraph, $1,000,000 shall be made available for a one-time supplement grant to State commissions on national and community service under section 126(a) of the 1990 Act without regard to the limitation on Federal share under section 126(a)(2) of the 1990 Act: Provided further, That of the amount made available in this paragraph, not less than $13,000,000 shall be for research activities authorized under subtitle H of title I of the 1990 Act: Provided further, That of the amount made available in this paragraph, not less than $65,000,000 shall be for programs under title I, part A of the 1973 Act: Provided further, That funds provided in the previous proviso shall not be made available in connection with cost-share agreements authorized under section 192A(g)(10) of the 1990 Act: Provided further, That of the funds available under this heading, up to 20 percent of funds allocated to grants authorized under section 124(b) of title I, subtitle C of the 1990 Act may be used to administer, reimburse, or support any national service program under section 129(d)(2) of the 1990 Act: Provided further, That, except as provided herein and in addition to requirements identified herein, funds provided in this paragraph shall be subject to the terms and conditions under which funds were appropriated in fiscal year 2008: Provided further, That the CEO shall
provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated in this paragraph prior to making any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the allocation of resources and the increased number of members supported by the AmeriCorps programs: Provided further, That the CEO shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “National Service Trust” established under subtitle D of title I of the National and Community Service Act of 1990 (“1990 Act”), $40,000,000, which shall remain available until expended: Provided, That the Corporation for National and Commu-
Community Service may transfer additional funds from the amount provided within “Operating Expenses” for grants made under subtitle C of title I of the 1990 Act to this appropriation upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That the amount appropriated for or transferred to the National Service Trust may be invested under section 145(b) of the 1990 Act without regard to the requirement to apportion funds under 31 U.S.C. 1513(b).

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Limitation on Administrative Expenses”, $890,000,000 shall be available as follows:

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

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

Office of Inspector General

For an additional amount for the “Office of Inspector
General”, $3,000,000, which shall remain available
through September 30, 2012, for salaries and expenses
necessary for oversight and audit of programs, projects,
and activities funded in this Act and administered by the
Social Security Administration.
GENERAL PROVISIONS—THIS TITLE

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

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

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

“(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

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

“(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

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

“(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;
“(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

“(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of
Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.”.

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

SEC. 802. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a) ESTABLISHMENT.—There is hereby established a Federal Coordinating Council for Comparative Clinical Effectiveness Research (in this section referred to as the “Council”).

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

(1) assist the offices and agencies of the Federal Government, including the Departments of Health and Human Services, Veterans Affairs, and Defense, and other Federal departments or agencies, to coordinate the conduct or support of comparative clinical effectiveness and related health services research; and

(2) advise the President and Congress on—

(A) strategies with respect to the infrastructure needs of comparative clinical effectiveness research within the Federal Government;
appropriate organizational expenditures for comparative clinical effectiveness research by relevant Federal departments and agencies; and

(C) opportunities to assure optimum coordination of comparative clinical effectiveness and related health services research conducted or supported by relevant Federal departments and agencies, with the goal of reducing duplicative efforts and encouraging coordinated and complementary use of resources.

(c) **Membership.**—

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

(2) **Members.**—

(A) **In General.**—The members of the Council shall include one senior officer or employee from each of the following agencies:
(i) The Agency for Healthcare Research and Quality.

(ii) The Centers for Medicare and Medicaid Services.

(iii) The National Institutes of Health.

(iv) The Office of the National Coordinator for Health Information Technology.

(v) The Food and Drug Administration.

(vi) The Veterans Health Administration within the Department of Veterans Affairs.

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

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

(3) CHAIRMAN; VICE CHAIRMAN.—The Secretary shall serve as Chairman of the Council and shall designate a member to serve as Vice Chairman.

(d) REPORTS.—
(1) Initial Report.—Not later than June 30, 2009, the Council shall submit to the President and the Congress a report containing information describing Federal activities on comparative clinical effectiveness research and recommendations for additional investments in such research conducted or supported from funds made available for allotment by the Secretary for comparative clinical effectiveness research in this Act.

(2) Annual Report.—The Council shall submit to the President and Congress an annual report regarding its activities and recommendations concerning the infrastructure needs, appropriate organizational expenditures and opportunities for better coordination of comparative clinical effectiveness research by relevant Federal departments and agencies.

(e) Staffing; Support.—From funds made available for allotment by the Secretary for comparative clinical effectiveness research in this Act, the Secretary shall make available not more than 1 percent to the Council for staff and administrative support.

Sec. 803. Higher Education Modernization, Renovation, and Repair. (a) Purpose.—Grants awarded under this section shall be for the purpose of
modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction and research.

Funds may also be used for leasing, purchasing or upgrading equipment, designed to strengthen and support academic and technical skill achievement.

(b) Grants to State Higher Education Agencies.—

(1) Formula.—From the amounts appropriated to carry out this section, the Secretary of Education shall allocate funds to State higher education agencies based on the number of students attending institutions of higher education, with the State higher education agency in each State receiving an amount that is in proportion to the number of full-time equivalent undergraduate students attending institutions of higher education in such State for the most recent fiscal year for which there are data available, relative to the total number of full-time equivalent undergraduate students attending institutions of higher education in all States for such fiscal year.

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

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

(4) ADMINISTRATION AND OVERSIGHT EX-
PENSES.—From the amounts appropriated to carry
out this section, not more than $3,000,000 shall be
available to the Secretary for administrative and
oversight expenses related to carrying out this sec-
tion.

(c) USE OF GRANTS BY STATE HIGHER EDUCATION
AGENCIES.—

(1) SUBGRANTS TO INSTITUTIONS OF HIGHER
EDUCATION.—

(A) IN GENERAL.—Except as provided in
paragraph (2), each State higher education
agency receiving an allocation under subsection
(b)(1) shall use the amount allocated to award
subgrants to institutions of higher education within the State to carry out projects in accordance with subsection (d)(1).

(B) Subgrant award allocation.—A State higher education agency shall award subgrants to institutions of higher education under this section based on the demonstrated need of each institution for facility modernization, renovation, repair, and equipment.

(C) Community colleges.—Notwithstanding, subparagraph (B), the percentage of funds allocated to community colleges in each State shall be no less than the percentage of full-time equivalent students attending community colleges relative to the total number of full-time equivalent undergraduate students attending public institutions of higher education in the State.

(D) Priority considerations.—In awarding subgrants under this section, each State higher education agency shall give priority consideration to institutions of higher education with any of the following characteristics:
(i) The institution is eligible for Federal assistance under title III or title V of the Higher Education Act of 1965.

(ii) The institution was impacted by a major disaster or emergency declared by the President (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), including an institution affected by a Gulf hurricane disaster, as such term is defined in section 824(g)(1) of the Higher Education Act of 1965 (20 U.S.C. 11611–3(g)(1)).

(iii) The institution demonstrates that the proposed project or projects to be carried out with a subgrant under this section will increase the energy efficiency of the institution’s facilities and comply with the LEED Green Building Rating System.

(2) Administrative and oversight expenses.—Of the allocation amount received under subsection (b)(1), a State higher education agency may reserve not more than 5 percent of such amount, or $500,000, whichever is less, for adminis-
trative and oversight expenses related to carrying
out this section.

(d) Use of Subgrants by Institutions of Higher Education.—

(1) Permissible uses of funds.—An institution of higher education receiving a subgrant under
this section shall use such subgrant to modernize,
renovate, or repair facilities of the institution that
are primarily used for instruction, research, or stu-
dent housing, which may include any of the fol-
lowing:

(A) Repair, replacement, or installation of
roofs, electrical wiring, plumbing systems, sewage systems, or lighting systems.

(B) Repair, replacement, or installation of
heating, ventilation, or air conditioning systems
(including insulation).

(C) Compliance with fire and safety codes,
including—

(i) professional installation of fire or
life safety alarms; and

(ii) modernizations, renovations, and
repairs that ensure that the institution’s
facilities are prepared for emergencies,
such as improving building infrastructure to accommodate security measures.

(D) Retrofitting necessary to increase the energy efficiency of the institution’s facilities.


(F) Abatement or removal of asbestos from the institution’s facilities.

(G) Modernization, renovation, and repair relating to improving science and engineering laboratories, libraries, and instructional facilities.

(H) Upgrading or installation of educational technology infrastructure.

(I) Installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet), or geothermal systems, or components of such systems.
(J) Other modernization, renovation, or repair projects or purchase of equipment that are primarily for instruction or research.

(2) Prohibited uses of funds.—No funds awarded under this section may be used for—

(A) the maintenance of systems, equipment, or facilities, including maintenance associated with any permissible uses of funds described in paragraph (1);

(B) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(C) modernization, renovation, or repair of facilities—

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or

(ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission; or

(D) construction of new facilities.

(e) Application of GEPA.—The grant program authorized in this section is an applicable program (as that
term is defined in section 400 of the General Education
Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b). The Secretary shall, not-withstanding section 437 of such Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, establish such program rules as may be necessary to implement such grant program by notice in the Federal Register.

(f) Reporting.—

(1) Reports by institutions.—Not later than September 30, 2011, each institution of higher education receiving a subgrant under this section shall submit to the State higher education agency awarding such subgrant a report describing the projects for which such subgrant was received, in-cluding—

(A) a description of each project carried out, or planned to be carried out, with such subgrant, including the types of modernization, renovation, and repair to be completed by each such project;

(B) the total amount of funds received by the institution under this section and the amount of such funds expended, as of the date of the report, on the such projects;
(C) the actual or planned cost of each such project and any demonstrable or expected academic, energy, or environmental benefits resulting from such project; and

(D) the total number of contracts, and amount of funding for such contracts, awarded by the institution to carry out such projects, as of the date of such report, including the number of contracts, and amount of funding for such contracts, awarded to local, small, minority-owned, women-owned, and veteran-owned businesses, as such terms are defined by the Small Business Act.

(2) REPORTS BY STATES.—Not later than December 31, 2011, each State higher education agency receiving a grant under this section shall submit to the Secretary a report containing a compilation of all of the reports under paragraph (1) submitted to the agency by institutions of higher education.

(3) REPORTS BY THE SECRETARY.—Not later than March 31, 2012, the Secretary shall submit to the Committee on Education and Labor in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate and Committees on Appropriations of the House
of Representatives and the Senate a report on
grants and subgrants made under this section, in-
cluding the information described in paragraph (1).
(g) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The
term “institution of higher education” has the
meaning given such term in section 101 of the High-
er Education Act of 1965.

(2) LEED GREEN BUILDING RATING SYS-
tem.—The term “LEED Green Building Rating
System” means the United States Green Building
Council Leadership in Energy and Environmental
Design green building rating standard referred to as
the LEED Green Building Rating System.

(3) SECRETARY.—The term “Secretary” means
the Secretary of Education.

(4) STATE.—The term “State” has the mean-
ing given such term in section 103 of the Higher

(5) STATE HIGHER EDUCATION AGENCY.—The
term “State higher education agency” has the mean-
ing given such term in section 103 of the Higher

(6) COMMUNITY COLLEGE.—The term “Com-
munity College” means a public non-profit institu-
tion of higher education as defined in section 101(a) of the Higher Education Act, whose highest degree offered is predominantly the associate degree.

SEC. 804. GRANTS FOR SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION. (a) ALLOCATION OF FUNDS.—

(1) RESERVATIONS.—

(A) OUTLYING AREAS AND BUREAU OF INDIAN EDUCATION.—From the funds appropriated to carry out this section, the Secretary shall reserve 1 percent to provide assistance under this section to the outlying areas and for payments to the Secretary of the Interior to provide assistance consistent with this section to schools funded by the Bureau of Indian Education. Funds reserved under this subparagraph shall be distributed by the Secretary among the outlying areas and the Secretary of the Interior on the basis of relative need, as determined by the Secretary, in accordance with the purposes of this section.

(B) IMPACT AID SCHOOLS.—

(i) IN GENERAL.—From the funds appropriated to carry out this section, the Secretary shall reserve 2 percent to make payments and award grants to local edu-

(ii) Construction payments authorized.—

(I) In general.—From 40 percent of the amount reserved under clause (i), the Secretary shall make payments in accordance with section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)), except that the amount of such payments shall be determined in accordance with subclause (II).

(II) Amount of payments.—

The Secretary shall make a payment to each local educational agency eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)) in an amount that bears the same relationship to the funds made available under subclause (I) as the number of children deter-
mined under subparagraphs (B), (C), and (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)(B), (C), and (D)(i)) who were in average daily attendance in the local educational agency for the most recent year for which such information is available bears to the number of such children in all the local educational agencies eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)).

(iii) **SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.**—

(I) **IN GENERAL.**—From 60 percent of the amount reserved under clause (i), the Secretary—

(aa) shall award emergency grants in accordance with section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) to eli-
gible local educational agencies to
enable the agencies to carry out
emergency repairs of school fa-
cilities; and

(bb) may award moderniza-
tion grants in accordance with
section 8007(b) of the Element-
tary and Secondary Education
Act of 1965 (20 U.S.C. 7703(b))
to eligible local educational agen-
cies to enable the agencies to
carry out the modernization of
school facilities.

(II) PROVISIONS NOT TO
APPLY.—Paragraphs (2), (3), (4),
(5)(A)(i), and (5)(A)(vi) of section
8007(b) of the Elementary and Sec-
ondary Education Act of 1965 (20
U.S.C. 7703(b)(2), (3), (4), (5)(A)(i),
and (5)(A)(vi)) shall not apply to
grants made under this clause.

(III) ELIGIBILITY.—A local edu-
cational agency is eligible to receive a
grant under this clause if the local
educational agency—
(aa) is eligible to receive a payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702 and 7703) for fiscal year 2008; and

(bb) has—

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

(BB) an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(IV) CRITERIA FOR GRANTS.—In awarding grants under this clause, the
Secretary shall consider the following criteria:

(aa) Whether the facility poses a health or safety threat to students and school personnel, including noncompliance with building codes and inaccessibility for persons with disabilities, or whether the existing building capacity meets the needs of the current enrollment and supports the provision of comprehensive educational services to meet current standards in the State in which the local educational agency is located.

(bb) The extent to which the new design and proposed construction utilize energy efficient and recyclable materials.

(cc) The extent to which the new design and proposed construction utilizes non-traditional or alternative building methods to expedite construction and
project completion and maximize
cost efficiency.

(dd) The feasibility of
project completion within 24
months from award.

(ee) The availability of other
resources for the proposed
project.

(C) ADMINISTRATION AND OVERSIGHT.—
The Secretary may, in addition, reserve up to
$5,000,000 of the amount appropriated to carry
out this section for administration and over-
sight of this section.

(2) ALLOCATION TO STATE EDUCATIONAL
AGENCIES.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), after making the reserva-
tions described in paragraph (1), from the re-
mainder of the appropriated funds described in
paragraph (1), the Secretary shall allocate to
each State educational agency serving a State
an amount that bears the same relation to the
remainder as the amount the State received
under part A of title I of the Elementary and
Secondary Education Act of 1965 (20 U.S.C.
6311 et seq.) for fiscal year 2008 bears to the
amount all States received under such part for
fiscal year 2008.

(B) MINIMUM AMOUNT.—No State edu-
cational agency shall receive less than 0.5 per-
cent of the amount allocated under this para-
graph.

(3) SPECIAL RULE.—The Secretary shall make
and distribute the reservations and allocations de-
scribed in paragraphs (1) and (2) not later than 60
days after the date of enactment of this Act.

(b) WITHIN-STATE ALLOTMENTS.—

(1) ADMINISTRATIVE COSTS.—

(A) STATE EDUCATIONAL AGENCY ADMIN-
ISTRATION.—Except as provided in subpara-
graph (C), each State educational agency may
reserve not more than 1 percent of its allocation
under subsection (a)(2) or $2,000,000, which-
ever is less, for the purpose of administering
the distribution of grants under this subsection.

(B) REQUIRED USES.—Each State edu-
cational agency shall use a portion of the re-
erved funds under subparagraph (A) to estab-
lish or support a State-level database of public
school facility inventory, condition, design, and utilization.

(C) State entity administration.—If a State educational agency transfers funds to a State entity described in paragraph (3)(A)(ii), the State educational agency shall transfer to such entity 0.75 percent of the amount reserved under subparagraph (A) for the purpose of administering the distribution of grants under this subsection.

(2) Allotments to the local educational agencies with the most poor children.—

(A) In general.—

(i) Eligible local educational agency.—In this subparagraph, the term “eligible local educational agency” means a local educational agency that is 1 of the 100 local educational agencies in the United States that serve the most students who are poor children.

(ii) Allotment.—Not later than 60 days after the date a State educational agency receives an allocation from the Secretary under this section, the State educational agency shall allot to each eligible
local educational agency in the State an
amount determined under clause (iii) to be
used consistent with subsection (c) for
school repair, renovation, and construction.

(iii) Determination of amount.—
An allotment under this subparagraph to
an eligible local educational agency shall be
in an amount that bears the same relation
to the amount allocated to the State under
this section and not reserved under para-
graph (1), as the amount of funds under
part A of title I of the Elementary and
Secondary Education Act of 1965 (20
U.S.C. 6311 et seq.) that the eligible local
educational agency received from the State
for the most recent fiscal year for which
data is available bears to the total amount
of such funds received by all local edu-
cational agencies in the State under such
part for the most recent fiscal year for
which data is available.

(B) No eligibility for competitive
grants.—No local educational agency receiving
funding under subparagraph (A) shall be eligi-
ble for funding under paragraph (3).
(C) Priority in Funding Green Projects.—A local educational agency that receives funding under subparagraph (A) shall give priority to funding school repair, renovation, or construction projects that are certified, verified, or consistent with any applicable provisions of—

(i) the LEED Green Building Rating System;

(ii) Energy Star;

(iii) the CHPS Criteria;

(iv) Green Globes; or

(v) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(3) Reservation for Competitive School Renovation, Repair, and Construction Grants to Local Educational Agencies.—

(A) In General.—After making the reservation described in paragraph (1), from the remainder of the funds allocated to a State educational agency under this section, the State educational agency shall—

(i) award grants to local educational agencies to be used, consistent with sub-
section (c), for school renovation, repair, and construction; or

(ii) if such State educational agency is not responsible for the financing of education facilities, transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the “State entity”) to award grants to local educational agencies to be used as described in clause (i).

(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The State educational agency or State entity shall carry out a program awarding grants, on a competitive basis, to local educational agencies for the purpose described in subparagraph (A). Of the total amount allocated to the State under this section and not reserved under paragraph (1), the State educational agency or State entity, shall carry out the following:

(i) Award to high-need local educational agencies, in the aggregate, not less than an amount which bears the same relationship to such total amount as the aggregate amount such high-need local edu-
cational agencies received under part A of

title I of the Elementary and Secondary
Education Act of 1965 (20 U.S.C. 6311 et
seq.) for fiscal year 2008 bears to the ag-
ggregate amount received for such fiscal
year under such part by all local edu-
cational agencies in the State, reduced by
the total amount the State educational
agency has allotted under paragraph (2).

(ii) Award to rural local educational
agencies, in the aggregate, not less than an
amount which bears the same relationship
to such total amount as the aggregate
amount such rural local educational agen-
cies received under such part for fiscal
year 2008 bears to the aggregate amount
received for such fiscal year under such
part by all local educational agencies in the
State.

(iii) Award the remaining funds to
local educational agencies not receiving an
award under clause (i) or (ii), including
high-need local educational agencies and
rural local educational agencies that did
not receive such an award.
(C) Criteria for awarding competitive grants.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

(i) Percentage of poor children.—The percentage of poor children in a local educational agency.

(ii) Need for school renovation, repair, and construction.—The need of a local educational agency for school renovation, repair, and construction, as demonstrated by the condition of the public school facilities of the local educational agency.

(iii) Green schools.—The extent to which the local educational agency will make use of green practices that are certified, verified, or consistent with any applicable provisions of—

(I) the LEED Green Building Rating System;

(II) Energy Star;

(III) the CHPS Criteria;

(IV) Green Globes; or
(V) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(iv) Capability to implement projects expeditiously.—The capability of the local educational agency to implement school renovation, repair, or construction projects expeditiously.

(v) Fiscal capacity.—The fiscal capacity of a local educational agency to meet the needs of the local educational agency for renovation, repair, and construction of public school facilities without assistance under this section, including the ability of the local educational agency to raise funds through the use of local bonding capacity and otherwise.

(vi) Likelihood of maintaining the facility.—The likelihood that the local educational agency will maintain, in good condition, any facility whose renovation, repair, or construction is assisted under this section.
(vii) Charter school access to funding.—In the case of a local educational agency that proposes to fund a renovation, repair, or construction project for a charter school, the extent to which the school has access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

(D) Possible matching requirement.—

(i) In general.—A State educational agency or State entity may require local educational agencies to match competitive grant funds awarded under this section.

(ii) Match amount.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

(c) Rules applicable to school renovation, repair, and construction.—With respect to funds made available under this section that are used for school
renovation, repair, and construction, the following rules shall apply:

(1) **Permissible Uses of Funds.**—School renovation, repair, and construction shall be limited to 1 or more of the following:

(A) Upgrade, repair, construct, or replace existing or planned public school building systems and components to improve the quality of education and ensure the health and safety of students and staff, including—

(i) repairing, replacing, or constructing early learning facilities (including renovation of existing facilities to serve children under 5 years of age);

(ii) repairing, replacing, or installing roofs, windows, doors, electrical wiring, plumbing systems, or sewage systems;

(iii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

(iv) bringing public schools into compliance with fire and safety codes.

(B) Modifications necessary to reduce the consumption of electricity, natural gas, oil, water, coal, or land.

(D) Improve environmental conditions of school sites, including asbestos abatement or removal, and the reduction or elimination of human exposure to lead-based paint, mold, or mildew.

(E) Upgrade or install educational technology infrastructure to ensure that students have access to up-to-date educational technology.

(F) Broaden or improve the use of school buildings and grounds to the community to improve educational outcomes.

(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

(B) purchase or upgrade of vehicles;
(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(D) improvement or construction of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; or

(E) purchase of information technology hardware, including computers, monitors, or printers.

(3) SUPPLEMENT, NOT SUPPLANT.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and excluding the uses described in paragraph (1)(C), a local educational agency shall use Federal funds received under this section only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school renovation, repair, and construction.

(B) EXCEPTION.—A local educational agency that is located in a State that is under a court order to finance school facilities shall
not be subject to the requirement under sub-
paragraph (A).

(d) QUALIFIED BIDDERS; COMPETITION.—Each local
educational agency that receives funds under this section
shall ensure that, if the local educational agency carries
out renovation, repair, or construction through a contract,
any such contract process ensures the maximum number
of qualified bidders, including small, minority, and women-
owned businesses, through full and open competition.

(e) REPORTING.—

(1) LOCAL REPORTING.—Each local educational
agency receiving funds made available under this
section shall submit a report to the State edu-
cational agency, at such time as the State edu-
cational agency may require describing the use of
such funds for school renovation, repair, and con-
struction, including the following:

(A) Type and description of work com-
pleted.

(B) The source of any non-federal funds
used to complete the project.

(C) Person hours needed at various wage
levels to complete the project.

(D) Anticipated energy or natural resource
savings.
(2) **STATE REPORTING.**—Each State educational agency receiving funds made available under this section shall submit to the Secretary, not later than December 31, 2010, a report on the use of funds received under subsection (a)(2) and made available to local educational agencies for school renovation, repair, and construction.

(f) **ADMINISTRATIVE COSTS.**—Each local educational agency that receives funds under this section may reserve not more than 1 percent of the funds or $750,000, whichever amount is less, for the purpose of—

(1) administering school renovation, repair, and construction projects; and

(2) reporting under subsection (e).

(g) **REALLOCATION.**—If a State educational agency does not apply for an allocation of funds under subsection (a)(2), or does not use its entire allocation, then the Secretary may reallocate the amount of the State educational agency’s allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(2).

(h) **APPLICATION OF GEPA.**—The grant program under this section is an applicable program (as that term is defined in section 400 of the General Education Provi-

(i) DEFINITIONS.—In this section:

(1) IN GENERAL.—The terms “local educational agency”, “Secretary”, and “State educational agency” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) CHARTER SCHOOL.—The term “charter school” has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(3) CHPS CRITERIA.—The term “CHPS Criteria” means the green building rating program developed by the Collaborative for High Performance Schools.

(4) ENERGY STAR.—The term “Energy Star” means the Energy Star program of the Department of Energy and the Environmental Protection Agency.

(5) GREEN GLOBES.—The term “Green Globes” means the Green Building Initiative environmental design and rating system.

(6) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “high-need local educational agency”
has the meaning given the term in section 2102(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6602(3)(A)).


(8) OUTLYING AREA.—The term “outlying area” has the meaning given the term in section 1121(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(c)).

(9) POOR CHILDREN.—The term “poor children” refers to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

(10) RURAL LOCAL EDUCATIONAL AGENCY.—The term “rural local educational agency” means a local educational agency that the State determines is
located in a rural area using objective data and a
commonly employed definition of the term “rural”.

(11) STATE.—The term “State” means each of
the several States of the United States, the District
of Columbia, and the Commonwealth of Puerto Rico.

(TRANSFER OF FUNDS)

SEC. 805. (a) Not more than 1 percent of the funds
made available to the Department of Labor in this title
may be transferred by the Secretary of Labor to “Employ-
ment and Training Administration—Program Administra-
tion”, “Employment Standards Administration—Salaries
and Expenses”, “Occupational Safety and Health Admin-
istration—Salaries and Expenses” and “Departmental
Management—Salaries and Expenses” for expenses nec-
essary to administer and coordinate funds made available
to the Department of Labor in this title; oversee and
evaluate the use of such funds; and enforce applicable laws
and regulations governing worker rights and protections
associated with the funds made available in this Act.

(b) Not later than 10 days prior to obligating any
funds proposed to be transferred under subsection (a), the
Secretary shall provide to the Committees on Appropria-
tions of the House of Representatives and the Senate an
operating plan describing the planned uses of each amount
proposed to be transferred.
(c) Funds transferred under this section may be available for obligation through September 30, 2010.

Sec. 806. Eligible Employees in the Recreational Marine Industry. Section 2(3)(F) of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 902(3)(F)) is amended—

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

(2) by striking the semicolon and inserting “‘, or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;’”.

Title IX—Legislative Branch

Government Accountability Office

Salaries and Expenses

For an additional amount for “Salaries and Expenses” of the Government Accountability Office, $20,000,000, to remain available until September 30, 2010.

General Provisions—This Title

Sec. 901. Government Accountability Office Reviews and Reports. (a) Reviews and Reports.—

(1) In general.—The Comptroller General shall conduct bimonthly reviews and prepare reports on such reviews on the use by selected State and localities of funds made available in this Act. Such re-
ports, along with any audits conducted by the Comptroller General of such funds, shall be posted on the Internet and linked to the website established under this Act by the Recovery Accountability and Transparency Board.

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

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

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

(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
(2) to interview any current employee regarding
such transactions.

TITLE X—MILITARY CONSTRUCTION AND
VETERANS AFFAIRS, AND RELATED AGENCIES
DEPARTMENT OF DEFENSE
MILITARY CONSTRUCTION, Army

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

For an additional amount for “Military Construction, Navy and Marine Corps”, $990,092,000, to remain available until September 30, 2013, of which $172,820,000 shall be for child development centers; $174,304,000 shall be for barracks; $125,000,000 shall be for health clinic replacement, and $494,362,000 shall be for energy conservation and alternative energy projects (including acquisition, construction, installation, and equipment): Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed $23,606,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That within 30 days of enactment of this Act the Secretary of the Navy shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, $871,332,000, to remain available until September 30, 2013, of which $80,100,000 shall be for child
development centers; $612,246,000 shall be for dor-
mitories; and $138,100,000 shall be for health clinics (in-
cluding acquisition, construction, installation, and equip-
ment): Provided, That notwithstanding any other provi-
sion of law, such funds may be obligated and expended
to carry out planning and design and military construction
projects in the United States not otherwise authorized by
law: Provided further, That of the funds provided under
this heading, not to exceed $40,886,000 shall be available
for study, planning, design, and architect and engineer
services: Provided further, That within 30 days of enact-
ment of this Act the Secretary of the Air Force shall sub-
mits to the Committees on Appropriations of both Houses
of Congress an expenditure plan for funds provided under
this heading prior to obligation.

Military Construction, Defense-Wide

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

Military Construction, Army National Guard

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

Military Construction, Air National Guard

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

FAMILY HOUSING CONSTRUCTION, ARMY

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

FAMILY HOUSING OPERATION AND MAINTENANCE,

ARMY

For an additional amount for “Family Housing Oper-
ation and Maintenance, Army”, $3,932,000: Provided,
That notwithstanding any other provision of law, such
funds may be obligated and expended for operation and
maintenance and minor construction projects in the
United States not otherwise authorized by law.
FAMILY HOUSING CONSTRUCTION, AIR FORCE

For an additional amount for “Family Housing Construction, Air Force”, $80,100,000, to remain available until September 30, 2013: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: Provided further, That within 30 days of enactment of this Act the Secretary of the Air Force shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Family Housing Operation and Maintenance, Air Force”, $16,461,000: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended for operation and maintenance and minor construction projects in the United States not otherwise authorized by law.

HOMEOWNERS ASSISTANCE FUND

For an additional amount for “Homeowners Assistance Fund”, established by section 1013 of the Demonstration Cities and Metropolitan Development Act of
1966, as amended (42 U.S.C. 3374), $410,973,000, to remain available until expended.

ADMINISTRATIVE PROVISION

SEC. 1001. (a) Temporary Expansion of Homeowners Assistance Plan to Respond to Mortgage Foreclosure and Credit Crisis.—Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as clauses (i), (ii), and (iii), respectively, and indenting such subparagraphs, as so redesignated, 6 ems from the left margin;

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

“(1) Acquisition of property at or near military installations that have been ordered to be closed.—Notwithstanding any other provision of law”;

(C) by striking “if he determines” and inserting “if—

“(A) the Secretary determines—”;
(D) in clause (iii), as redesignated by subparagraph (A), by striking the period at the end and inserting “; or”; and

(E) by adding at the end the following:

“(B) the Secretary determines—

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

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

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

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

“(v) that the property is the primary residence of the owner; and
“(vi) that the owner has not previously received benefit payments authorized under this subsection.

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

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

“(i) incurred a wound, injury, or illness in the line of duty during a deployment in support of the Armed Forces;

“(ii) is disabled to a degree of 30 percent or more as a result of such wound, injury, or illness, as determined by the Secretary of Defense or the Secretary of Veterans Affairs; and
“(iii) is reassigned in furtherance of medical treatment or rehabilitation, or due to medical retirement in connection with such disability;

“(B) any civilian employee of the Department of Defense or the United States Coast Guard who—

“(i) was wounded, injured, or became ill in the line of duty during a forward deployment in support of the Armed Forces; and

“(ii) is reassigned in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the sustained disability; or

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

“(i) the member or employee was killed in the line of duty during a deployment in support of the Armed Forces or died from a wound, injury, or illness incurred in the line of duty during such a deployment; and
“(ii) the spouse relocates from such residence within 2 years after the death of such member or employee.

“(3) Temporary homeowner assistance for members of the armed forces permanently reassigned during specified mortgage crisis.—Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling situated at or near a military base or installation, if the Secretary determines—

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

“(B) that the owner is permanently reassigned by order of the United States Government to a duty station or home port outside a 50-mile radius of the base or installation;

“(C) that the reassignment was ordered between February 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;
“(D) that the property was purchased by the owner before July 1, 2006;

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

“(F) that the property is the primary residence of the owner; and

“(G) that the owner has not previously received benefit payments authorized under this subsection.”;

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

(3) in subsection (c)—

(A) by striking “Such persons” and inserting the following:

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

“(A) IN GENERAL.—Such persons”;

(B) by striking “set forth above shall elect either (1) to receive” and inserting the following: “set forth in subsection (a)(1) shall elect either—

“(i) to receive”;

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(C) by striking “difference between (A) 95 per centum” and all that follows through “(B) the fair market value” and inserting the following: “difference between—

“(I) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation; and

“(II) the fair market value”;

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

“(ii) to receive”;

(E) by striking “outstanding mortgages. The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount” and inserting “outstanding mortgages.

“(B) REIMBURSEMENT OF EXPENSES.— The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount”; and
(F) by striking “best interest of the Federal Government. Cash payment” and inserting the following: “best interest of the United States.

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

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

“(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

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

“(II) the fair market value of such property (as such value is so determined) at the time of the wound, injury, or illness qualifying the individual for benefits under subsection (a)(2); or
“(ii) to receive, as purchase price for
their property an amount not to exceed 90
per centum of prior fair market value as
such value is determined by the Secretary
of Defense, or the amount of the out-
standing mortgages.

“(B) Determination of Benefits.—
The Secretary may also pay a person who elects
to receive a cash payment under subparagraph
(A) an amount that the Secretary determines
appropriate to reimburse the person for the
costs incurred by the person in the sale of the
property if the Secretary determines that such
payment will benefit the person and is in the
best interest of the United States.

“(3) Homeowner Assistance for Perma-
nently Reassigned Individuals.—

“(A) In general.—Persons eligible under
the criteria set forth in subsection (a)(3) may
elect either—

“(i) to receive a cash payment as com-
pensation for losses which may be or have
been sustained in a private sale, in an
amount not to exceed the difference be-
tween—
“(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

“(II) the fair market value of such property (as such value is so determined) at the time the person received change of permanent station orders; or

“(ii) to receive, as purchase price for their property an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

“(B) Determination of benefits.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.
“(4) Compensation and limitations related to foreclosures and encumbrances.—

Cash payment”;

(4) by striking subsection (g);

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

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

(7) in subsection (n)—

(A) in paragraph (1), by striking “this section” and inserting “subsection (a)(1)”; and

(B) in paragraph (2), by striking “this section” and inserting “subsection (a)(1)”;

(8) in subsection (o)—

(A) in paragraph (1), by striking “this section” and inserting “subsection (a)(1)”;

(B) in paragraph (2), by striking “this section” and inserting “subsection (a)(1)”;

(C) by striking paragraph (4); and

(9) by adding at the end the following new subsection:

“(p) Definitions.—In this section:

“(1) the term ‘Armed Forces’ has the meaning given the term ‘armed forces’ in section 101(a) of title 10, United States Code;
“(2) the term ‘civilian employee’ has the meaning given the term ‘employee’ in section 2105(a) of title 5, United States Code;

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

“(A) is in Medical Holdover status;

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

“(C) is in Medical Hold status;

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

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

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

“(4) the term ‘nonappropriated fund instrumentality employee’ means a civilian employee who—

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

“(B) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine
Corps exchanges, or any other instrumentality
of the United States under the jurisdiction of
the Armed Forces which is conducted for the
comfort, pleasure, contentment, or physical or
mental improvement of members of the Armed
Forces.”.

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

(c) Authority to Use Appropriated Funds.—
Notwithstanding subsection (i) of such section, amounts
appropriated or otherwise made available by this title
under the heading “Homeowners Assistance Fund” may
be used for the Homeowners Assistance Fund established
under such section.

DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Medical Support and Compliance
For an additional amount for “Medical Support and
Compliance”, $5,000,000, to remain available until Sep-
tember 30, 2010, to support contract administration and
energy initiative execution at the Veterans Health Administration.

MEDICAL FACILITIES

For an additional amount for “Medical Facilities”, $1,370,459,000, to remain available until September 30, 2010, of which $1,047,313,000 shall be for facility condition assessment deficiencies and non-recurring maintenance at existing medical facilities; and $323,146,000 shall be for energy efficiency initiatives.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for “National Cemetery Administration”, $64,961,000, to remain available until September 30, 2010, of which $59,476,000 shall be for capital infrastructure and memorial and monument repairs; and $5,485,000 shall be for energy efficiency initiatives.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for “General Operating Expenses”, $1,125,000, to remain available until September 30, 2010, for additional Full Time Equivalent salary and expenses for major construction project administration and execution and energy initiative execution.

INFORMATION TECHNOLOGY SYSTEMS

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

OFFICE OF INSPECTOR GENERAL

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

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for “Construction, Major Projects”, $1,105,333,000, to remain available until September 30, 2013, which shall be for acceleration and construction of ongoing and planned construction, including physical security construction, of major medical facilities and National Cemeteries consistent with the Department of Veterans Affairs’ Five Year Capital Plan: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: Provided further, That within 30 days of enactment of this Act the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure
plan for funds provided under this heading prior to obliga-
tion.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for “Construction, Minor
Projects”, $939,836,000, to remain available until Sep-
tember 30, 2010, of which $860,742,000 shall be for Vet-
ers Health Administration minor construction;
$20,300,000 shall be for Veterans Benefits Administra-
tion minor construction, including $300,000 for energy ef-

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE
FACILITIES

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

ADMINISTRATIVE PROVISION

Sec. 1002. Payments to Eligible Persons who
Served in the United States Armed Forces in the
FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Con-
gress makes the following findings:

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

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

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

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

(5) Filipino veterans who were granted benefits
prior to the enactment of the so-called Rescissions
Acts of 1946 (Public Laws 79–301 and 79–391)
currently receive full benefits under laws adminis-
tered by the Secretary of Veterans Affairs, but
under section 107 of title 38, United States Code,
the service of certain other Filipino veterans is
deemed not to be active service for purposes of such
laws.

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

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

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

(b) COMPENSATION FUND.—

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

(2) **Availability of Funds.**—Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary of Veterans Affairs without fiscal year limitation to make payments to eligible persons in accordance with this section.

(e) **Payments.**—

(1) **In General.**—The Secretary may make a payment from the compensation fund to an eligible person who, during the one-year period beginning on the date of the enactment of this Act, submits to the Secretary a claim for benefits under this section. The application for the claim shall contain such information and evidence as the Secretary may require.

(2) **Payment to Surviving Spouse.**—If an eligible person who has filed a claim for benefits under this section dies before payment is made under this section, the payment under this section shall be made instead to the surviving spouse, if any, of the eligible person.

(d) **Eligible Persons.**—An eligible person is any person who—
(1) served—

(A) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

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

(2) was discharged or released from service described in paragraph (1) under conditions other than dishonorable.

(e) Payment Amounts.—Each payment under this section shall be—

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

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

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

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

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

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

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

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

(h) RELEASE.—
(1) IN GENERAL.—Except as provided in paragraph (2), the acceptance by an eligible person or surviving spouse, as applicable, of a payment under this section shall be final, and shall constitute a complete release of any claim against the United States by reason of any service described in subsection (d).

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

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

(j) ADMINISTRATION.—

(1) The Secretary shall promptly issue application forms and instructions to ensure the prompt and efficient administration of the provisions of this section.

(2) The Secretary shall administer the provisions of this section in a manner consistent with applicable provisions of title 38, United States Code,
and other provisions of law, and shall apply the defini-
tions in section 101 of such title in the administra-
tion of such provisions, except to the extent other-
wise provided in this section.

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

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

RELATED AGENCY

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARY AND EXPENSES

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

TITLE XI—STATE, FOREIGN OPERATIONS, AND
RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs” for urgent domestic facilities require-
ments, $180,500,000, to remain available until September
30, 2010, of which up to $45,000,000 shall be available
for passport and visa facilities and systems, and up to
$75,000,000 shall be available for a consolidated security
training facility in the United States: Provided, That the
Secretary of State shall submit to the Committees on Ap-
propriations within 90 days of enactment of this Act a
detailed spending plan for funds appropriated under this
heading: Provided further, That with respect to the funds
made available for passport facilities and systems, such
plan shall be developed in consultation with the Depart-
ment of Homeland Security and the General Services Ad-
ministration and shall coordinate and co-locate, to the ex-
tent feasible, the construction of passport agencies with
other Federal facilities.
CAPITAL INVESTMENT FUND

For an additional amount for “Capital Investment Fund”, $524,000,000, to remain available until September 30, 2010, of which up to $120,000,000 shall be available for the design and construction of a backup information management facility in the United States to support continuity of critical mission operations and programs, and up to $98,527,000 shall be available to carry out the Department of State’s responsibilities under the Comprehensive National Cybersecurity Initiative: Provided, That the Secretary of State and the Administrator of the United States Agency for International Development shall coordinate information technology systems, where appropriate, to increase efficiencies and eliminate redundancies, to include co-location of backup information management facilities: Provided further, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General” for oversight requirements, $2,000,000, to remain available until September 30, 2010.
INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION,

UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Construction" for the water quantity program to meet immediate repair and rehabilitation requirements, $224,000,000, to remain available until September 30, 2010: Provided, That up to $2,000,000 may be transferred to, and merged with, funds available under the heading "International Boundary and Water Commission, United States and Mexico—Salaries and Expenses": Provided, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

CAPITAL INVESTMENT FUND

For an additional amount for “Capital Investment Fund”, $100,000,000, to remain available until September 30, 2010, of which $34,000,000 shall be available for information technology modernization programs and of which up to $35,000,000 shall be available for implementation of the Global Acquisition System: Provided, That
the Administrator of the United States Agency for International Development shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General” for oversight requirements, $500,000, to remain available until September 30, 2010.

TITLE XII—TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, $5,500,000,000, to remain available until September 30, 2011: Provided, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments on a com-
petitive basis for projects that will have a significant im-
impact on the Nation, a metropolitan area, or a region: Pro-
vided further, That projects eligible for funding provided
under this heading shall include, but not be limited to,
highway or bridge projects eligible under title 23, United
States Code, including interstate rehabilitation, improve-
ments to the rural collector road system, the reconstruc-
tion of overpasses and interchanges, bridge replacements,
seismic retrofit projects for bridges, and road realign-
ments; public transportation projects eligible under chap-
ter 53 of title 49, United States Code, including invest-
ments in projects participating in the New Starts or Small
Starts programs that will expedite the completion of those
projects and their entry into revenue service; passenger
and freight rail transportation projects; and port infra-
structure investments, including projects that connect
ports to other modes of transportation and improve the
efficiency of freight movement: Provided further, That of
the amount made available under this paragraph, the Sec-
retary may use an amount not to exceed $200,000,000
for the purpose of paying the subsidy costs of projects eli-
gible for federal credit assistance under chapter 6 of title
23, United States Code, if the Secretary finds that such
use of the funds would advance the purposes of this para-
graph: Provided further, That in distributing funds pro-
vided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities: Provided further, That a grant funded under this heading shall be not less than $20,000,000 and not greater than $500,000,000: Provided further, That the Federal share of the costs for which an expenditure is made under this heading may be up to 100 percent: Provided further, That the Secretary shall give priority to projects that require an additional share of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act: Provided further, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after enactment of this Act: Provided further, That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after enactment of this Act, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: Provided further, That the Secretary shall require all additional applications to be submitted not later than 1 year after enactment of this Act, and announce not later than 180 days following
such 1-year period all additional projects selected to be
funded with funds withdrawn from States and grantees
and transferred from “Supplemental Grants for Highway
Investments” and “Supplemental Grants for Public Trans-
sit Investment”: Provided further, That projects conducted
using funds provided under this heading must comply with
the requirements of subchapter IV of chapter 31 of title
40, United States Code: Provided further, That the Sec-
retary may retain up to $5,000,000 of the funds provided
under this heading, and may transfer portions of those
funds to the Administrators of the Federal Highway Ad-
ministration, the Federal Transit Administration, the
Federal Railroad Administration and the Maritime Ad-
ministration, to fund the award and oversight of grants
made under this heading.

FEDERAL AVIATION ADMINISTRATION
SUPPLEMENTAL FUNDING FOR FACILITIES AND
EQUIPMENT
For an additional amount for necessary investments
in Federal Aviation Administration infrastructure,$200,000,000: Provided, That funding provided under this
heading shall be used to make improvements to power sys-
tems, air route traffic control centers, air traffic control
towers, terminal radar approach control facilities, and
navigation and landing equipment: Provided further, That
priority be given to such projects or activities that will be completed within 2 years of enactment of this Act: Provided further, That amounts made available under this heading may be provided through grants in addition to the other instruments authorized under section 106(l)(6) of title 49, United States Code: Provided further, That the Federal share of the costs for which an expenditure is made under this heading shall be 100 percent: Provided further, That amounts provided under this heading may be used for expenses the agency incurs in administering this program: Provided further, That not more than 60 days after enactment of this Act, the Administrator shall establish a process for applying, reviewing and awarding grants and cooperative and other transaction agreements, including the form and content of an application, and requirements for the maintenance of records that are necessary to facilitate an effective audit of the use of the funding provided: Provided further, That section 50101 of title 49, United States Code, shall apply to funds provided under this heading.

SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT INVESTMENT

For an additional amount for capital expenditures authorized under sections 47102(3) and 47504(c) of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention...
devices and systems at airports of such title,

$1,100,000,000: Provided, That the Secretary of Trans-
portation shall distribute funds provided under this head-
ing as discretionary grants to airports, with priority given
to those projects that demonstrate to his or her satisfac-
tion their ability to be completed within 2 years of enact-
ment of this Act, and serve to supplement and not sup-
plant planned expenditures from airport-generated reve-
 nues or from other State and local sources on such activi-
ties: Provided further, That the Federal share payable of
the costs for which a grant is made under this heading
shall be 100 percent: Provided further, That the amount
made available under this heading shall not be subject to
any limitation on obligations for the Grants-in-Aid for Air-
ports program set forth in any Act: Provided further, That
section 50101 of title 49, United States Code, shall apply
to funds provided under this heading: Provided further,
That projects conducted using funds provided under this
heading must comply with the requirements of subchapter
IV of chapter 31 of title 40, United States Code: Provided
further, That the Administrator of the Federal Aviation
Administration may retain and transfer to “Federal Avia-
tion Administration, Operations” up to one-quarter of 1
percent of the funds provided under this heading to fund
the award and oversight by the Administrator of grants made under this heading.

FEDERAL HIGHWAY ADMINISTRATION

SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, $27,060,000,000: Provided, That funds provided under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of such title: Provided further, That 180 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: Provided further, That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds and transfer such funds to “Supplemental Discretionary Grants for a National Surface Transportation System”: Provided further, That at the request of a State, the Secretary of Transportation may provide an extension
of such 1-year period only to the extent that he or she feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: Provided further, That before granting a such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: Provided further, That the provisions of subsections 133(d)(3) and 133(d)(4) of title 23, United States Code, shall apply to funds apportioned under this heading, except that the percentage of funds to be allocated to local jurisdictions shall be 40 percent and such allocation, notwithstanding any other provision of law, shall be conducted in all states within the United States: Provided further, That funds allocated to such urbanized areas and other areas shall not be subject to the redistribution of amounts required 180 days following the date of apportionment of funds provided under this heading: Provided further, That funds apportioned under this heading may be used for, but not be limited to, projects that address stormwater runoff, investments in passenger and freight rail transportation, and investments in port infrastructure: Provided further, that each State shall use not less than 5 percent of funds apportioned to it for activities eligible under subsections 149(b) and (c) of title 23,
1 United States Code: Provided further, That of the funds
2 provided under this heading, $60,000,000 shall be for cap-
3 ital expenditures eligible under section 147 of title 23,
4 United States Code: Provided further, That the Secretary
5 of Transportation shall distribute such $60,000,000 as
6 competitive discretionary grants to States, with priority
7 given to those projects that demonstrate to his or her sat-
8 isfaction their ability to be completed within 2 years of
9 enactment of this Act: Provided further, That of the funds
10 provided under this heading, $500,000,000 shall be for in-
11 vestments in transportation at Indian reservations and
12 Federal lands, and administered in accordance with chap-
13 ter 2 of title 23, United States Code: Provided further,
14 That of the funds identified in the preceding proviso,
15 $320,000,000 shall be for the Indian Reservation Roads
16 program, $100,000,000 shall be for the Park Roads and
17 Parkways program, $70,000,000 shall be for the Forest
18 Highway Program, and $10,000,000 shall be for the Ref-
19 uge Roads program: Provided further, That for invest-
20 ments at Indian reservations and Federal lands, priority
21 shall be given to capital investments, and to projects and
22 activities that can be completed within 2 years of enact-
23 ment of this Act: Provided further, That 1 year following
24 the enactment of this Act, to ensure the prompt use of
25 the $500,000,000 provided for investments at Indian res-

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ervations and Federal lands, the Secretary shall have the
authority to redistribute unobligated funds within the re-
spective program for which the funds were appropriated:
Provided further, That up to 4 percent of the funding pro-
vided for Indian Reservation Roads may be used by the
Secretary of the Interior for program management and
oversight and project-related administrative expenses: Pro-
vided further, That section 134(f)(3)(C)(ii)(II) of title 23,
United States Code, shall not apply to funds provided
under this heading: Provided further, That the Federal
share payable on account of any project or activity carried
out with funds made available under this heading shall
be at the option of the recipient, and may be up to 100
percent of the total cost thereof: Provided further, That
funding provided under this heading shall be in addition
to any and all funds provided for fiscal years 2008 and
2009 in any other Act for “Federal-aid Highways” and
shall not affect the distribution of funds provided for
“Federal-aid Highways” in any other Act: Provided fur-
ther, That the amount made available under this heading
shall not be subject to any limitation on obligations for
Federal-aid highways or highway safety construction pro-
grams set forth in any Act: Provided further, That projects
conducted using funds provided under this heading must
comply with the requirements of subchapter IV of chapter
31 of title 40, United States Code: Provided further, That section 313 of title 23, United States Code, shall apply to funds provided under this heading: Provided further, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: Provided further, That for the purposes of the definition of States for this paragraph, sections 101(a)(32) of title 23, United States Code, shall apply: Provided further, That the Administrator of the Federal Highway Administration may retain up to $12,000,000 of the funds provided under this heading to carry out the function of the “Federal Highway Administration, Limitation on Administrative Expenses” and to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act.

FEDERAL RAILROAD ADMINISTRATION

SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY PASSENGER RAIL SERVICE

For an additional amount for discretionary grants to States to pay for the cost of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, United States Code, and subsection (b) of section 24105 of such title, $250,000,000: Provided, That to be eligible for assistance under this paragraph, the specific project must be on a Statewide Transportation Improvement Plan
at the time of the application to qualify: *Provided further,*
1 That the Secretary of Transportation shall give priority
2 to projects that demonstrate an ability to be completed
3 within 2 years of enactment of this Act, and to projects
4 that improve the safety and reliability of intercity pas-
5 senger trains: *Provided further,* That the Federal share
6 payable of the costs for which a grant is made under this
7 heading shall be 100 percent: *Provided further,* That
8 projects conducted using funds provided under this head-
9 ing must comply with the requirements of subchapter IV
10 of chapter 31 of title 40, United States Code: *Provided
11 further,* That section 24405(a) of title 49, United States
12 Code, shall apply to funds provided under this heading:
13 *Provided further,* That the Administrator of the Federal
14 Railroad Administration may retain and transfer to “Fed-
15 eral Railroad Administration, Safety and Operations” up
16 to one-quarter of 1 percent of the funds provided under
17 this heading to fund the award and oversight by the Ad-
18 ministrator of grants made under this heading.

SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL
15 RAILROAD PASSENGER CORPORATION

For an additional amount for the immediate invest-
23 ment in capital projects necessary to maintain and im-
24 prove national intercity passenger rail service, including
25 the rehabilitation of rolling stock, $850,000,000: *Provided,
26 That funds made available under this heading shall be al-
located directly to the National Railroad Passenger Corporation: *Provided further*, That the Board of Directors of the corporation shall take measures to ensure that priority is given to capital projects that expand passenger rail capacity: *Provided further*, That the Board of Directors shall take measures to ensure that projects funded under this heading shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further*, That said Board of Directors shall certify to the House and Senate Committees on Appropriations in writing their compliance with the preceding proviso: *Provided further*, That section 24305(f) of title 49, United States Code, shall apply to funds provided under this heading: *Provided further*, That not more than 50 percent of the funds provided under this heading may be used for capital projects along the Northeast Corridor.

**HIGH-SPEED RAIL CORRIDOR PROGRAM**

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

FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT INVESTMENT

For an additional amount for capital expenditures authorized under section 5302(a)(1) of title 49, United States Code, $8,400,000,000: Provided, That the Secretary of Transportation shall apportion 71 percent of the funds apportioned under this heading using the formula set forth in subsections (a) through (c) of section 5336 of title 49, United States Code, 19 percent of the funds apportioned under this heading using the formula set forth in section 5340 of such title, and 10 percent of the funding apportioned under this heading using the formula set forth in subsection 5311(c) of such title: Provided further, That 180 days following the date of such apportionment, the Secretary shall withdraw from each grantee an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other grantees that have had no funds withdrawn under this proviso uti-
lizing whatever method he or she deems appropriate to ensure that all funds provided under this paragraph shall be utilized promptly: *Provided further,* That 1 year following the date of such apportionment, the Secretary shall withdraw from each grantee any unobligated funds and transfer such funds to “Supplemental Discretionary Grants for a National Surface Transportation System”: *Provided further,* That at the request of a grantee, the Secretary of Transportation may provide an extension of such 1-year periods if he or she feels satisfied that the grantee has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further,* That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further,* That of the funds apportioned using the formula set forth in subsection 5311(c) of title 49, United States Code, 2 percent shall be made available for section 5311(c)(1): *Provided further,* That of the funding provided under this heading, $200,000,000 shall be distributed as discretionary grants to public transit agencies for capital investments that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems: *Provided further,* That for such grants on energy-related in-
vestments, priority shall be given to projects based on the
total energy savings that are projected to result from the
investment, and projected energy savings as a percentage
of the total energy usage of the public transit agency: *Provided further*, That the Federal share of the costs for
which any grant is made under this heading shall be at
the option of the recipient, and may be up to 100 percent:
*Provided further*, That the amount made available under
this heading shall not be subject to any limitation on obli-
gations for transit programs set forth in any Act: *Provided
further*, That section 1101(b) of Public Law 109–59 shall
apply to funds apportioned under this heading: *Provided
further*, That the funds appropriated under this heading
shall be subject to subsection 5323(j) and section 5333
of title 49, United States Code as well as sections 5304
and 5305 of said title, as appropriate, but shall not be
comingled with funds available under the Formula and
Bus Grants account: *Provided further*, That the Adminis-
trator of the Federal Transit Administration may retain
up to $3,000,000 of the funds provided under this heading
to carry out the function of “Federal Transit Administra-
tion, Administrative Expenses” and to fund the oversight
of grants made under this heading by the Administrator.
MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

To make grants to qualified shipyards as authorized under section 3506 of Public Law 109–163 or section 54101 of title 46, United States Code, $100,000,000: Provided, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their distribution: Provided further, That the Maritime Administrator may retain and transfer to “Maritime Administration, Operations and Training” up to 2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $7,750,000, to remain available until September 30, 2011: Provided, That the funding made available under this heading shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Transportation
and to the National Railroad Passenger Corporation: Provided further, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the Government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department.

GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

Sec. 1201. Section 5309(g)(4)(A) of title 49, United States Code, is amended by striking “or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii)” and inserting “or the sum of the funds available for the next 3 fiscal years beyond the current fiscal year, assuming an annual growth of the program of 10 percent”.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for “Native American Housing Block Grants”, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (“NAHASDA”) (25 U.S.C. 4111 et seq.), $510,000,000, to remain available until September
Provided, That $255,000,000 of the amount provided under this heading shall be distributed according to the same funding formula used in fiscal year 2008: Provided further, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 180 days from the date that funds are available to recipients: Provided further, That the Secretary shall obligate $255,000,000 of the amount provided under this heading for competitive grants to eligible entities that apply for funds authorized under NAHASDA: Provided further, That in awarding competitive funds, the Secretary shall give priority to projects that will spur construction and rehabilitation and will create employment opportunities for low-income and unemployed persons: Provided further, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date of enactment of this Act, expend at least 50 percent of such funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years of such date: Provided further, That if a recipient fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are
in compliance with those requirements: Provided further,
That if a recipient fails to comply with the 3-year expendi-
ture requirement, the Secretary shall recapture the bal-
ance of the funds awarded to the recipient: Provided fur-
ther, That, notwithstanding any other provision of this
paragraph, the Secretary may institute measures to en-
sure participation in the formula and competitive alloca-
tion of funds provided under this paragraph by any hous-
ing entity eligible to receive funding under title VIII of
NAHASDA (25 U.S.C. 4221 et seq.): Provided further,
That in administering funds provided in this heading, the
Secretary may waive any provision of any statute or regu-
lation that the Secretary administers in connection with
the obligation by the Secretary or the use by the recipient
of these funds except for requirements imposed by this
heading and requirements related to fair housing, non-
discrimination, labor standards, and the environment,
upon a finding that such waiver is required to facilitate
the timely use of such funds and would not be inconsistent
with the overall purpose of the statute or regulation: Pro-
vided further, That, of the funds made available under this
heading, up to 1 percent shall be available for staffing,
training, technical assistance, technology, monitoring, re-
search and evaluation activities: Provided further, That
any funds made available under this heading used by the
Secretary for personnel expenses shall be transferred to and merged with funding provided to “Personnel Compensation and Benefits, Office of Public and Indian Housing”: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to “Administration, Operations, and Management”, for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to “Working Capital Fund”.

PUBLIC HOUSING CAPITAL FUND

For an additional amount for the “Public Housing Capital Fund” to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the “Act”), $5,000,000,000, to remain available until September 30, 2011: Provided, That the Secretary of Housing and Urban Development shall allocate $3,000,000,000 of this amount by the formula authorized under section 9(d)(2) of the Act, except that the Secretary may determine not to allocate funding to public housing agencies currently designated as troubled or to
public housing agencies that elect not to accept such fund-
ing: Provided further, That the Secretary shall make avail-
able $2,000,000,000 by competition for priority invest-
ments, including investments that leverage private sector
funding or financing for renovations and energy conserva-
tion retrofit investments: Provided further, That public
housing agencies shall prioritize capital projects that are
already underway or included in the 5-year capital fund
plans required by the Act (42 U.S.C. 1437c–1(a)): Pro-
vided further, That in allocating competitive grants under
this heading, the Secretary shall give priority consider-
ation to the rehabilitation of vacant rental units: Provided
further, That notwithstanding any other provision of law,
(1) funding provided herein may not be used for operating
or rental assistance activities, and (2) any restriction of
funding to replacement housing uses shall be inapplicable:
Provided further, That notwithstanding any other provi-
sion of law, the Secretary shall institute measures to en-
sure that funds provided under this heading shall serve
to supplement and not supplant expenditures from other
Federal, State, or local sources or funds independently
generated by the grantee: Provided further, That notwith-
standing section 9(j), public housing agencies shall obli-
gate 100 percent of the funds within 1 year of the date
of enactment of this Act, shall expend at least 60 percent
of funds within 2 years of the date on which funds become available to the agency for obligation, and shall expend 100 percent of the funds within 3 years of such date: Provided further, That if a public housing agency fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: Provided further, That if a public housing agency fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the public housing agency: Provided further, That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to conditions on use of funds for development and modernization, fair housing, non-discrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That of the funds made available under this heading, up to 1
percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to “Personnel Compensation and Benefits, Office of Public and Indian Housing”: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to “Administration, Operations, and Management”, for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to “Working Capital Fund”.

NEIGHBORHOOD STABILIZATION PROGRAM

For the provision of emergency assistance for the redevelopment of abandoned and foreclosed homes, as authorized by title III of division B of the Housing and Economic Recovery Act of 2008 (the “Act”) (42 U.S.C. 5301 note), $2,250,000,000, to remain available until September 30, 2011: Provided, That funding shall be allocated by a competition for which eligible entities shall be
States, units of general local government, and nonprofit entities or consortia of nonprofit entities, which may submit proposals in partnership with for-profit entities: Provided further, That in selecting grantees the Secretary shall ensure that the grantee can expend funding within the period allowed under this heading: Provided further, That additional award criteria for such competition shall include demonstrated grantee capacity to execute projects, leveraging potential, targeted impact of foreclosure prevention, neighborhood stabilization, and any additional factors determined by the Secretary of Housing and Urban Development: Provided further, That the Secretary may establish a minimum grant size: Provided further, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after the enactment of this Act and applications shall be due not later than 180 days after the enactment of this Act: Provided further, That the Secretary shall award all funding within 1 year of enactment of this Act: Provided further, That grantees shall expend at least 75 percent of allocated funds within 2 years of the date funds become available to the grantees for obligation and 100 percent of such funds within 3 years of such date: Provided further, That funding used for section 2301(c)(3)(E) of the Act shall be available only for the
redevelopment of demolished or vacant properties as hous-
ing: *Provided further,* That in addition to the eligible uses
in section 2301, the Secretary may also use up to 10 per-
cent of the funds provided under this heading for grantees
for the provision of capacity building of and support for
local communities receiving funding under section 2301 of
the Act or under this heading: *Provided further,* That the
construction or rehabilitation of early childhood and devel-
opment centers serving households that qualify as low in-
come shall also be an eligible use of funding: *Provided fur-
ther,* That in addition to the allowable uses of revenues
provided in section 2301 of the Act, any revenues gen-
erated in the first 5 years using the funds provided under
this heading may be used by the State or applicable unit
of general local government for maintenance associated
with property acquisition and holding and with land bank-
ing activities: *Provided further,* That of the funds provided
under this heading, up to 1.5 percent shall be available
for staffing, training, technical assistance, technology,
monitoring, research and evaluation activities: *Provided
further,* That any funds made available under this heading
used by the Secretary for personnel expense shall be trans-
ferred to and merged with funding provided to “Commu-
nity Planning and Development Personnel Compensation
and Benefits”: *Provided further,* That any funds made
available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to "Administration, Operations, and Management" for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to "Working Capital Fund."

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the "HOME Investment Partnerships Program" as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (the "Act"), $2,250,000,000, to remain available until September 30, 2011: Provided, That except as specifically provided herein, funds provided under this heading shall be distributed pursuant to the formula authorized by section 217 of the Act: Provided further, That the Secretary may establish a minimum grant size: Provided further, That participating jurisdictions shall obligate 100 percent of the funds within 1 year of the date of enactment of this Act, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the participating jurisdiction for obligation and shall expend 100 percent of the funds within 3 years of such date:
Provided further, That if a participating jurisdiction fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the participating jurisdiction and reallocate such funds to participating jurisdictions that are in compliance with those requirements:

Provided further, That if a participating jurisdiction fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the participating jurisdiction: Provided further, That in administering funds under this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, non-discrimination, labor standards and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That the Secretary may use funds provided under this heading to provide incentives to grantees to use funding for investments in energy efficiency and green building technology: Provided further, That such incentives may include allocation of up to 20 percent of funds made avail-
able under this heading other than pursuant to the formula authorized by section 217 of the Act: Provided further, That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to "Personnel Compensation and Benefits, Office of Community Planning and Development": Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to "Administration, Operations, and Management", for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to "Working Capital Fund".

HOMELESSNESS PREVENTION FUND

For homelessness prevention activities, $1,500,000,000, to remain available until September 30, 2011: Provided, That funds provided under this heading shall be used for the provision of short-term or medium-
term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, and moving cost assistance; or other appropriate homelessness prevention activities: Provided further, That grantees receiving such assistance shall collect data on the use of the funds awarded and persons served with this assistance in the Homeless Management Information System (HMIS) or other comparable database: Provided further, That grantees may use up to 5 percent of any grant for administrative costs: Provided further, That funding made available under this heading shall be allocated to eligible grantees (as defined and designated in sections 411 and 412 of subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, (the “Act”)) pursuant to the formula authorized by section 413 of the Act: Provided further, That the Secretary may establish a minimum grant size: Provided further, That grantees shall expend at least 75 percent of funds within 2 years of the date that funds became available to them for obligation, and 100 percent of funds within 3 years of such date, and the Secretary may recapture unexpended funds in violation of the 2-year expenditure requirement and reallocate such funds to grantees in compliance with that re-
quirement: Provided further, That the Secretary may waive statutory or regulatory provisions (except provisions for fair housing, nondiscrimination, labor standards, and the environment) necessary to facilitate the timely expenditure of funds: Provided further, That the Secretary shall publish a notice to establish such requirements as may be necessary to carry out the provisions of this section within 30 days of enactment of the Act and that this notice shall take effect upon issuance: Provided further, That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That any funds made available under this heading used by the Secretary for personnel expense shall be transferred to and merged with funding provided to “Community Planning and Development Personnel Compensation and Benefits”: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to “Administration, Operations, and Management” for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funding made available under this heading used by the Secretary
for technology shall be transferred to and merged with the
funding provided to “Working Capital Fund.”

ASSISTED HOUSING STABILITY AND ENERGY AND
GREEN RETROFIT INVESTMENTS

For assistance to owners of properties receiving
project-based assistance pursuant to section 202 of the
Housing Act of 1959 (12 U.S.C. 17012), section 811 of
the Cranston-Gonzalez National Affordable Housing Act
(42 U.S.C. 8013), or section 8 of the United States Hous-
ing Act of 1937 as amended (42 U.S.C. 1437f),
$3,500,000,000, of which $2,132,000,000 shall be for an
additional amount for paragraph (1) under the heading
“Project-Based Rental Assistance” in Public Law 110–
161 for payments to owners for 12-month periods, and
of which $1,368,000,000 shall be for grants or loans for
energy retrofit and green investments in such assisted
housing: Provided, That projects funded with grants or
loans provided under this heading must comply with the
requirements of subchapter IV of chapter 31 of title 40,
United States Code: Provided further, That such grants
or loans shall be provided through the existing policies,
procedures, contracts, and transactional infrastructure of
the authorized programs administered by the Office of Af-
fordable Housing Preservation of the Department of
Housing and Urban Development, on such terms and con-
ditions as the Secretary of Housing and Urban Development deems appropriate to ensure the maintenance and preservation of the property, the continued operation and maintenance of energy efficiency technologies, and the timely expenditure of funds: Provided further, That the Secretary may provide incentives to owners to undertake energy or green retrofits as a part of such grant or loan terms, including, but not limited to, investment fees to cover oversight and implementation costs incurred by said owner, or to encourage job creation for low-income or very low-income individuals: Provided further, That the grants or loans shall include a financial assessment and physical inspection of such property: Provided further, That eligible owners must have at least a satisfactory management review rating, be in substantial compliance with applicable performance standards and legal requirements, and commit to an additional period of affordability determined by the Secretary, but of not fewer than 15 years: Provided further, That the Secretary shall undertake appropriate underwriting and oversight with respect to grant and loan transactions and may set aside up to 5 percent of the funds made available under this heading for grants or loans for such purpose: Provided further, That the Secretary shall take steps necessary to ensure that owners receiving funding for energy and green retrofit invest-
ments under this heading shall expend such funding within 2 years of the date they received the funding: Provided further, That the Secretary may waive or modify statutory or regulatory requirements with respect to any existing grant, loan, or insurance mechanism authorized to be used by the Secretary to enable or facilitate the accomplishment of investments supported with funds made available under this heading for grants or loans: Provided further, That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That funding made available under this heading and used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to “Housing Compensation and Benefits”: Provided further, That any funding made available under this heading used by the Secretary for training and other administrative expenses shall be transferred to and merged with funding provided to “Administration, Operations and Management” for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with funding provided to “Working Capital Fund.”
For an additional amount for the “Lead Hazard Reduction”, as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $100,000,000, to remain available until September 30, 2011: Provided, That funds shall be awarded first to applicant jurisdictions which had applied under the Lead-Based Paint Hazard Control Grant Program Notice of Funding Availability for fiscal year 2008, and were found in the application review to be qualified for award, but were not awarded because of funding limitations, and that any funds which remain after reservation of funds for such grants shall be added to the amount of funds to be awarded under the Lead-Based Paint Hazard Control Grant Program Notice of Funding Availability for fiscal year 2009: Provided further, That each applicant jurisdiction for the Lead-Based Paint Hazard control Grant Program Notice of Funding Availability for fiscal year 2009 shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds: Provided further, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date of enactment of this Act, expend at least 75 percent of such
funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years of such date: 

*Provided further,* That if a recipient fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are in compliance with those requirements: *Provided further,* That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the recipient: *Provided further,* That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation ac-
Provided further, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to “Personnel Compensation and Benefits, Office of Healthy Homes and Lead Hazard Control”: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to “Administration, Operations, and Management”, for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to “Working Capital Fund”.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $2,750,000, to remain available until September 30, 2011: Provided, That the Inspector General shall have independent authority over all personnel issues within this office.
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,
such as an ambulatory electronic health record for office-based physicians or an inpatient hospital elec-
tronic health record for hospitals).

“(2) ENTERPRISE INTEGRATION.—The term ‘enterprise integration’ means the electronic linkage of health care providers, health plans, the govern-
ment, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infra-
structure in accordance with applicable law, and such term includes related application protocols and other related standards.

“(3) HEALTH CARE PROVIDER.—The term ‘health care provider’ means a hospital, skilled nurs-
ing facility, nursing facility, home health entity, or other long-term care facility, health care clinic, emergency medical services provider, Federally quali-
fied health center, group practice (as defined in sec-
tion 1877(h)(4) of the Social Security Act), a phar-
macist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a pro-
vider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in
the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, and any other category of facility or clinician determined appropriate by the Secretary.

“(4) HEALTH INFORMATION.—The term ‘health information’ has the meaning given such term in section 1171(4) of the Social Security Act.

“(5) HEALTH INFORMATION TECHNOLOGY.—The term ‘health information technology’ means hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services for use by health care entities for the electronic creation, maintenance, or exchange of health information.

“(6) HEALTH PLAN.—The term ‘health plan’ has the meaning given such term in section 1171(5) of the Social Security Act.

“(7) HIT POLICY COMMITTEE.—The term ‘HIT Policy Committee’ means such Committee established under section 3002(a).
“(8) HIT STANDARDS COMMITTEE.—The term ‘HIT Standards Committee’ means such Committee established under section 3003(a).

“(9) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ‘individually identifiable health information’ has the meaning given such term in section 1171(6) of the Social Security Act.

“(10) LABORATORY.—The term ‘laboratory’ has the meaning given such term in section 353(a).

“(11) NATIONAL COORDINATOR.—The term ‘National Coordinator’ means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

“(12) PHARMACIST.—The term ‘pharmacist’ has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

“(13) QUALIFIED ELECTRONIC HEALTH RECORD.—The term ‘qualified electronic health record’ means an electronic record of health-related information on an individual that—

“(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

“(B) has the capacity—
“(i) to provide clinical decision support;

“(ii) to support physician order entry;

“(iii) to capture and query information relevant to health care quality; and

“(iv) to exchange electronic health information with, and integrate such information from other sources.

“(14) STATE.—The term ‘State’ means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

“Subtitle A—Promotion of Health Information Technology

“SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

“(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of the National Coordinator for Health Information Technology (referred to in this section as the ‘Office’). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary and shall report directly to the Secretary.

“(b) PURPOSE.—The National Coordinator shall perform the duties under subsection (c) in a manner con-
sistent with the development of a nationwide health inform-
ation technology infrastructure that allows for the elec-
tronic use and exchange of information and that—

“(1) ensures that each patient’s health informa-
tion is secure and protected, in accordance with ap-
plicable law;

“(2) improves health care quality, reduces med-
ic errors, and advances the delivery of patient-cen-
tered medical care;

“(3) reduces health care costs resulting from in-
efficiency, medical errors, inappropriate care, du-
plicative care, and incomplete information;

“(4) provides appropriate information to help guide medical decisions at the time and place of care;

“(5) ensures the inclusion of meaningful public input in such development of such infrastructure;

“(6) improves the coordination of care and in-
formation among hospitals, laboratories, physician
offices, and other entities through an effective infra-
structure for the secure and authorized exchange of health care information;

“(7) improves public health activities and facili-
tates the early identification and rapid response to
public health threats and emergencies, including bio-
terror events and infectious disease outbreaks;

“(8) facilitates health and clinical research and
health care quality;

“(9) promotes early detection, prevention, and
management of chronic diseases;

“(10) promotes a more effective marketplace,
greater competition, greater systems analysis, in-
creased consumer choice, and improved outcomes in
health care services; and

“(11) improves efforts to reduce health dispari-
ties.

“(c) DUTIES OF THE NATIONAL COORDINATOR.—

“(1) STANDARDS.—The National Coordinator
shall review and determine whether to endorse each
standard, implementation specification, and certifi-
cation criterion for the electronic exchange and use
of health information that is recommended by the
HIT Standards Committee under section 3003 for
purposes of adoption under section 3004. The Coor-
dinator shall make such determination, and report to
the Secretary such determination, not later than 45
days after the date the recommendation is received
by the Coordinator.

“(2) HIT POLICY COORDINATION.—
“(A) IN GENERAL.—The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

“(B) HIT POLICY AND STANDARDS COMMITTEES.—The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

“(3) STRATEGIC PLAN.—

“(A) IN GENERAL.—The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific ob-
jectives, milestones, and metrics with respect to
the following:

“(i) The electronic exchange and use
of health information and the enterprise
integration of such information.

“(ii) The utilization of an electronic
health record for each person in the United
States by 2014.

“(iii) The incorporation of privacy and
security protections for the electronic ex-
change of an individual’s individually iden-
tifiable health information.

“(iv) Ensuring security methods to
ensure appropriate authorization and elec-
tronic authentication of health information
and specifying technologies or methodolo-
gies for rendering health information unus-
able, unreadable, or indecipherable.

“(v) Specifying a framework for co-
ordination and flow of recommendations
and policies under this subtitle among the
Secretary, the National Coordinator, the
HIT Policy Committee, the HIT Standards
Committee, and other health information
exchanges and other relevant entities.
“(vi) Methods to foster the public understanding of health information technology.

“(vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, increasing prevention and coordination with community resources, and improving the continuity of care among health care settings.

“(viii) Specific plans for ensuring that populations with unique needs, such as children, are appropriately addressed in the technology design, as appropriate, which may include technology that automates enrollment and retention for eligible individuals.

“(B) Collaboration.—The strategic plan shall be updated through collaboration of public and private entities.

“(C) Measurable Outcome Goals.—The strategic plan update shall include measurable outcome goals.
“(D) Publication.—The National Coordinator shall republish the strategic plan, including all updates.

“(4) Website.—The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.

“(5) Certification.—

“(A) In General.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall develop a program (either directly or by contract) for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.

“(B) Certification Criteria Described.—In this title, the term ‘certification
criteria’ means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.

“(6) REPORTS AND PUBLICATIONS.—

“(A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED.—Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

“(B) IMPLEMENTATION REPORT.—The National Coordinator shall prepare a report that identifies lessons learned from major pub-
lic and private health care systems in their im-
plementation of health information technology,
including information on whether the tech-
nologies and practices developed by such sys-
tems may be applicable to and usable in whole
or in part by other health care providers.

“(C) Assessment of Impact of HIT on
Communities with Health Disparities and
Uninsured, Underinsured, and Medically
Underserved Areas.—The National Coordi-
nator shall assess and publish the impact of
health information technology in communities
with health disparities and in areas with a high
proportion of individuals who are uninsured,
underinsured, and medically underserved indi-
viduals (including urban and rural areas) and
identify practices to increase the adoption of
such technology by health care providers in
such communities, and the use of health infor-
mation technology to reduce and better manage
chronic diseases.

“(D) Evaluation of Benefits and
Costs of the Electronic Use and Ex-
change of Health Information.—The Na-
tional Coordinator shall evaluate and publish
evidence on the benefits and costs of the elec-
tronic use and exchange of health information
and assess to whom these benefits and costs ac-
crue.

“(E) RESOURCE REQUIREMENTS.—The
National Coordinator shall estimate and publish
resources required annually to reach the goal of
utilization of an electronic health record for
each person in the United States by 2014, in-
cluding the required level of Federal funding,
expectations for regional, State, and private in-
vestment, and the expected contributions by vol-
unteers to activities for the utilization of such
records.

“(7) ASSISTANCE.—The National Coordinator
may provide financial assistance to consumer advd-
cacy groups and not-for-profit entities that work in
the public interest for purposes of defraying the cost
to such groups and entities to participate under,
whether in whole or in part, the National Tech-

“(8) GOVERNANCE FOR NATIONWIDE HEALTH
INFORMATION NETWORK.—The National Coordi-
nator shall establish a governance mechanism for the
nationwide health information network.
“(d) DETAIL OF FEDERAL EMPLOYEES.—

“(1) IN GENERAL.—Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

“(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

“(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

“(B) be in addition to any other staff of the Department employed by the National Coordinator.

“(3) ACCEPTANCE OF DETAILLEES.—Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

“(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF THE NATIONAL COORDINATOR.—Not later than 12 months after the date of the enactment of this title, the Secretary shall appoint a Chief Privacy Officer of the Office of the National Coordinator, whose duty it shall be
to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other Federal agencies (and similar privacy officers in such agencies), with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

"SEC. 3002. HIT POLICY COMMITTEE.

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

"(b) Duties.—

"(1) Recommendations on health information technology infrastructure.—The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Com-
mittee shall update such recommendations and make
new recommendations as appropriate.

“(2) Specific areas of standard development.—

“(A) In general.—The HIT Policy Com-
mittee shall recommend the areas in which
standards, implementation specifications, and
certification criteria are needed for the elec-
tronic exchange and use of health information
for purposes of adoption under section 3004
and shall recommend an order of priority for
the development, harmonization, and recogni-
tion of such standards, specifications, and cer-
tification criteria among the areas so rec-
ommended. Such standards and implementation
specifications shall include named standards,
architectures, and software schemes for the au-
thentication and security of individually identifi-
able health information and other information
as needed to ensure the reproducible develop-
ment of common solutions across disparate en-
tities.

“(B) Areas required for consideration.—For purposes of subparagraph (A), the
HIT Policy Committee shall make recommendations for at least the following areas:

“(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law, and for the use and disclosure of limited data sets of such information.

“(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.


“(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a
covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

“(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, reducing chronic disease, and by advancing research and education.

“(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

““(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

““(I) the collection of quality data and public reporting;
“(II) biosurveillance and public health;

“(III) medical and clinical research; and

“(IV) drug safety.

“(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

“(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

“(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

“(v) Technologies that help reduce medical errors.

“(vi) Technologies that facilitate the continuity of care among health settings.

“(vii) Technologies that meet the needs of diverse populations.

“(viii) Technologies and design features that address the needs of children and other vulnerable populations.

“(ix) Any other technology that the HIT Policy Committee finds to be among
the technologies with the greatest potential
to improve the quality and efficiency of
health care.

“(3) FORUM.—The HIT Policy Committee shall
serve as a forum for broad stakeholder input with
specific expertise in policies relating to the matters
described in paragraphs (1) and (2).

“(c) MEMBERSHIP AND OPERATIONS.—

“(1) IN GENERAL.—The National Coordinator
shall provide leadership in the establishment and op-
erations of the HIT Policy Committee.

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

“(3) CONSIDERATION.—The National Coordi-
nator shall ensure that the relevant recommenda-
tions and comments from the National Committee
on Vital and Health Statistics are considered in the
development of policies.
“(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

“(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

“SEC. 3003. HIT STANDARDS COMMITTEE.

“(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

“(b) DUTIES.—

“(1) STANDARD DEVELOPMENT.—

“(A) IN GENERAL.—The HIT Standards Committee shall recommend to the National Coordinator standards, implementation speci-
fications, and certification criteria described in subsection (a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 3004(b)(2). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

“(B) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 14201 of the Health Information Technology for Economic and Clinical Health Act.

“(C) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted
pursuant to section 1173 of the Social Security Act.

“(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

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

“(4) PUBLIC INPUT.—The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a time-
ly manner after the date of publication of a re-
ommendation under this subsection.

“(c) MEMBERSHIP AND OPERATIONS.—

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

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

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

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

“(d) Application of FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

“(e) Publication.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

“SEC. 3004. Process for Adoption of Endorsed Recommendations; Adoption of Initial Set of Standards, Implementation Specifications, and Certification Criteria.

“(a) Process for Adoption of Endorsed Recommendations.—

“(1) Review of Endorsed Standards, Implementation Specifications, and Certification Criteria.—Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation speci-
fications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

“(2) Determination to adopt standards, implementation specifications, and certification criteria.—If the Secretary determines—

“(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

“(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

“(3) Publication.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).
“(b) Adoption of Initial Set of Standards, Implementation Specifications, and Certification Criteria.—

“(1) In general.—Not later than December 31, 2009, the Secretary shall, through the rule-making process described in section 3003, adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

“(2) Application of current standards, implementation specifications, and certification criteria.—The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

“SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

“For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section
13111 of the Health Information Technology for Economic and Clinical Health Act.

“SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

“(a) IN GENERAL.—Except as provided under section 13112 of the Health Information Technology for Economic and Clinical Health Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

“(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

“SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

“(a) IN GENERAL.—The National Coordinator shall support the development, routine updating and provision of qualified EHR technology (as defined in section 3000) consistent with subsections (b) and (c) unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace.
“(b) Certification.—In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

“(c) Authorization to Charge a Nominal Fee.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

“(d) Rule of Construction.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

“SEC. 3008. TRANSITIONS.

“(a) ONCHIT.—To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order 13335 or the Office of such National Coordinator on the date before the date of the enactment
of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

“(b) AHIC.—

“(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

“(2) In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

“(c) RULES OF CONSTRUCTION.—

“(1) ONCHIT.—Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information
Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

“(2) AHIC.—Nothing in sections 3002 or 3003 or subsection (b) shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 in a manner that would permit the Secretary to choose to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

“SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

“(a) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

“(1) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

“(2) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.
“(b) DEFINITION.—For purposes of this section, the term ‘HIPAA privacy and security law’ means—

“(1) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of the Health Information Technology for Economic and Clinical Health Act; and

“(2) regulations under such provisions.”.

SEC. 13102. TECHNICAL AMENDMENT.

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

PART II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined in the Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually
identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004(b) of the Public Health Service Act, as added by section 13101.

(b) Federal Information Collection Activities.—With respect to a standard or implementation specification adopted under section 3004(b) of the Public Health Service Act, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

c) Application of Definitions.—The definitions contained in section 3000 of the Public Health Service Act, as added by section 13101, shall apply for purposes of this part.

SEC. 13112. APPLICATION TO PRIVATE ENTITIES.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health
plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004(b) of the Public Health Service Act, as added by section 13101.

SEC. 13113. STUDY AND REPORTS.

(a) Report on Adoption of Nationwide System.—Not later than 2 years after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that—

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

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

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

(b) Reimbursement Incentive Study and Report.—
(1) **STUDY.**—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) **AGING SERVICES TECHNOLOGY STUDY AND REPORT.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) **MATTERS TO BE STUDIED.**—The study under paragraph (1) shall include—

(A) an evaluation of—
(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the
Senate a report on the study carried out under para-
graph (1).

(4) DEFINITIONS.—For purposes of this sub-
section:

(A) AGING SERVICES TECHNOLOGY.—The
term “aging services technology” means health
technology that meets the health care needs of
seniors, individuals with disabilities, and the
caregivers of such seniors and individuals.

(B) SENIOR.—The term “senior” has such
meaning as specified by the Secretary.

Subtitle B—Testing of Health
Information Technology

SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND
TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT Standards Committee established under section 3003 of
the Public Health Service Act, as added by section 13101,
with respect to the development of standards and imple-
mentation specifications under such section, the Director
of the National Institute for Standards and Technology
shall test such standards and implementation specifica-
tions, as appropriate, in order to assure the efficient im-
plementation and use of such standards and implementation specifications.

(b) Voluntary Testing Program.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.

(a) Health Care Information Enterprise Integration Research Centers.—

(1) In general.—The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government
laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) PURPOSE.—The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS.—Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;
(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information tech-
nology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) NATIONAL INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) shall coordinate Federal research and development programs related to the development and deployment of health information technology, including activities related to—

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;
(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following new subtitle:

“Subtitle B—Incentives for the Use of Health Information Technology

“SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

“(a) IN GENERAL.—The Secretary of Health and Human Services shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and, as available) under section 3001. To the greatest extent practicable, the
Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

“(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

“(2) Development and adoption of appropriate certified electronic health records for categories of providers not eligible for support under title XVIII.
or XIX of the Social Security Act for the adoption of such records.

“(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider’s delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012, including community health centers receiving assistance under section 330 of the Public Health Service Act, covered entities under section 340B of such Act, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children’s Health Insurance Program).

“(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

“(5) Promotion of the interoperability of clinical data repositories or registries.

“(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.
“(7) Improve and expand the use of health information technology by public health departments.

“(8) Provide $300,000,000 to support regional or sub-national efforts towards health information exchange.

“(b) COORDINATION.—The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

“(c) ADDITIONAL USE OF FUNDS.—In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out activities that are provided for under laws in effect on the date of enactment of this title.

“SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

“(a) HEALTH INFORMATION TECHNOLOGY EXTENSION PROGRAM.—To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services.

The National Coordinator shall consult with other Federal
agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program.

“(b) Health Information Technology Research Center.—

“(1) In general.—The Secretary shall create a Health Information Technology Research Center (in this section referred to as the ‘Center’) to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004(b).

“(2) Input.—The Center shall incorporate input from—

“(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

“(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and
care coordination of patients, from the health
care and health information technology indus-
try; and

“(C) others as appropriate.

“(3) PURPOSES.—The purposes of the Center
are to—

“(A) provide a forum for the exchange of
knowledge and experience;

“(B) accelerate the transfer of lessons
learned from existing public and private sector
initiatives, including those currently receiving
Federal financial support;

“(C) assemble, analyze, and widely dis-
seminate evidence and experience related to the
adoption, implementation, and effective use of
health information technology that allows for
the electronic exchange and use of information
including through the regional centers described
in subsection (c);

“(D) provide technical assistance for the
establishment and evaluation of regional and
local health information networks to facilitate
the electronic exchange of information across
health care settings and improve the quality of
health care;
“(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

“(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

“(c) Health Information Technology Regional Extension Centers.—

“(1) In general.—The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as ‘regional centers’) to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator (and, as available) under section 3001.

“(2) Affiliation.—Regional centers shall be affiliated with any United States-based nonprofit in-
stitution or organization, or group thereof, that ap-
plies and is awarded financial assistance under this
section. Individual awards shall be decided on the
basis of merit.

“(3) OBJECTIVE.—The objective of the regional
centers is to enhance and promote the adoption of
health information technology through—

“(A) assistance with the implementation,
effective use, upgrading, and ongoing mainte-
nance of health information technology, includ-
ing electronic health records, to healthcare pro-
viders nationwide;

“(B) broad participation of individuals
from industry, universities, and State govern-
ments;

“(C) active dissemination of best practices
and research on the implementation, effective
use, upgrading, and ongoing maintenance of
health information technology, including elec-
tronic health records, to health care providers
in order to improve the quality of healthcare
and protect the privacy and security of health
information;

“(D) participation, to the extent prac-
ticable, in health information exchanges;
“(E) utilization, when appropriate, of the expertise and capability that exists in federal agencies other than the Department; and

“(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

“(4) REGIONAL ASSISTANCE.—Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

“(A) Public or not-for-profit hospitals or critical access hospitals.

“(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

“(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).
“(D) Individual or small group practices
(or a consortium thereof) that are primarily fo-
cused on primary care.

“(5) FINANCIAL SUPPORT.—The Secretary may
provide financial support to any regional center cre-
ated under this subsection for a period not to exceed
four years. The Secretary may not provide more
than 50 percent of the capital and annual operating
and maintenance funds required to create and main-
tain such a center, except in an instance of national
economic conditions which would render this cost-
share requirement detrimental to the program and
upon notification to Congress as to the justification
to waive the cost-share requirement.

“(6) NOTICE OF PROGRAM DESCRIPTION AND
AVAILABILITY OF FUNDS.—The Secretary shall pub-
lish in the Federal Register, not later than 90 days
after the date of the enactment of this Act, a draft
description of the program for establishing regional
centers under this subsection. Such description shall
include the following:

“(A) A detailed explanation of the program
and the programs goals.

“(B) Procedures to be followed by the ap-
plicants.
“(C) Criteria for determining qualified applicants.

“(D) Maximum support levels expected to be available to centers under the program.

“(7) Application Review.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

“(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

“(B) the types of service to be provided to health care providers;

“(C) geographical diversity and extent of service area; and

“(D) the percentage of funding and amount of in-kind commitment from other sources.

“(8) Biennial Evaluation.—Each regional center which receives financial assistance under this
subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center’s performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

“(9) CONTINUING SUPPORT.—After the second year of assistance under this subsection a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

“SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

“(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.
“(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (d)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (b).

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

“(1) has submitted, and the Secretary has approved, a plan described in subsection (c) (regardless of whether such plan was prepared using amounts awarded under paragraph (1)); and

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

“(d) USE OF FUNDS.—Amounts received under a grant under subsection (a)(3) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—
“(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

“(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

“(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

“(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

“(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

“(6) assisting patients in utilizing health information technology;

“(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and valuable;

“(8) supporting public health agencies’ authorized use of and access to electronic health information;
“(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

“(10) such other activities as the Secretary may specify.

“(e) PLAN.—

“(1) IN GENERAL.—A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

“(2) REQUIRED ELEMENTS.—A plan described in paragraph (1) shall—

“(A) be pursued in the public interest;

“(B) be consistent with the strategic plan developed by the National Coordinator (and, as available) under section 3001;

“(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and
“(D) contain such elements as the Secretary may require.

“(f) QUALIFIED STATE-DESIGNATED ENTITY.—For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall—

“(1) be designated by the State as eligible to receive awards under this section;

“(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

“(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

“(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

“(5) conform to such other requirements as the Secretary may establish.

“(g) REQUIRED CONSULTATION.—In carrying out activities described in subsections (a)(2) and (a)(3), a State or qualified State-designated entity shall consult with and consider the recommendations of—
“(1) health care providers (including providers that provide services to low income and underserved populations);
“(2) health plans;
“(3) patient or consumer organizations that represent the population to be served;
“(4) health information technology vendors;
“(5) health care purchasers and employers;
“(6) public health agencies;
“(7) health professions schools, universities and colleges;
“(8) clinical researchers;
“(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and
“(10) such other entities, as may be determined appropriate by the Secretary.

“(h) CONTINUOUS IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest im-
provement in quality of care, decrease in costs, and the
most effective authorized and secure electronic exchange
of health information.

“(i) REQUIRED MATCH.—

“(1) IN GENERAL.—For a fiscal year (begin-
ning with fiscal year 2011), the Secretary may not
make a grant under subsection (a) to a State unless
the State agrees to make available non-Federal con-
tributions (which may include in-kind contributions)
toward the costs of a grant awarded under sub-
section (a)(3) in an amount equal to—

“(A) for fiscal year 2011, not less than $1
for each $10 of Federal funds provided under
the grant;

“(B) for fiscal year 2012, not less than $1
for each $7 of Federal funds provided under
the grant; and

“(C) for fiscal year 2013 and each subse-
quent fiscal year, not less than $1 for each $3
of Federal funds provided under the grant.

“(2) AUTHORITY TO REQUIRE STATE MATCH
FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For
any fiscal year during the grant program under this
section before fiscal year 2011, the Secretary may
determine the extent to which there shall be required
a non-Federal contribution from a State receiving a
grant under this section.

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

"(a) In General.—The National Coordinator may
award competitive grants to eligible entities for the estab-
ishment of programs for loans to health care providers
to conduct the activities described in subsection (e).

"(b) Eligible Entity Defined.—For purposes of
this subsection, the term ‘eligible entity’ means a State
or Indian tribe (as defined in the Indian Self-Determi-
ation and Education Assistance Act) that—

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

"(2) submits to the National Coordinator a
strategic plan in accordance with subsection (d) and
provides to the National Coordinator assurances that
the entity will update such plan annually in accord-
ance with such subsection;
“(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund
in accordance with subsection (c);

“(4) provides assurances to the National Coordinator that the entity will not provide a loan from
the Loan Fund to a health care provider unless the provider agrees to—

“(A) submit reports on quality measures
adopted by the Federal Government (by not
later than 90 days after the date on which such
measures are adopted), to—

“(i) the Director of the Centers for
Medicare & Medicaid Services (or his or
her designee), in the case of an entity par-
ticipating in the Medicare program under
title XVIII of the Social Security Act or
the Medicaid program under title XIX of
such Act; or

“(ii) the Secretary in the case of other
entities;

“(B) demonstrate to the satisfaction of the
Secretary (through criteria established by the
Secretary) that any certified EHR technology
purchased, improved, or otherwise financially
supported under a loan under this section is
used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 3005) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination;

“(C) comply with such other requirements as the entity or the Secretary may require;

“(D) include a plan on how healthcare providers involved intend to maintain and support the certified EHR technology over time; and

“(E) include a plan on how the healthcare providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian tribe, respectively, may require; and

“(5) agrees to provide matching funds in accordance with subsection (i).

“(c) Establishment of Fund.—For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a ‘Loan Fund’) and comply with the other requirements contained in this section. A grant to an eligible
entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

“(d) STRATEGIC PLAN.—

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

“(2) CONTENTS.—A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

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

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

“(C) A description of the financial status of the Loan Fund as of the date of submission of the plan.

“(D) The short-term and long-term goals of the Loan Fund.

“(e) USE OF FUNDS.—Amounts deposited in a Loan Fund, including loan repayments and interest earned on
such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (a). Loans under this section may be used by a health care provider to—

“(1) facilitate the purchase of certified EHR technology;

“(2) enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);

“(3) train personnel in the use of such technology; or

“(4) improve the secure electronic exchange of health information.

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

“(1) To award loans that comply with the fol-
“(A) The interest rate for each loan shall not exceed the market interest rate.

“(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

“(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

“(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

“(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

“(4) To earn interest on the amounts deposited into the Loan Fund.

“(5) To make reimbursements described in subsection (g)(4)(A).
“(g) Administration of Loan Funds.—

“(1) Combined financial administration.—
An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

“(2) Cost of administering fund.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

“(3) Guidance and regulations.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

“(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this subsection as efficiently as
possible in accordance with this title and applicable State laws; and

“(B) guidance to prevent waste, fraud, and abuse.

“(4) PRIVATE SECTOR CONTRIBUTIONS.—

“(A) IN GENERAL.—A Loan Fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

“(B) AVAILABILITY OF INFORMATION.—
An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

“(h) MATCHING REQUIREMENTS.—
“(1) IN GENERAL.—The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the grant is awarded in an amount equal to not less than $1 for each $5 of Federal funds provided under the grant.

“(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

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

“SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

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

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

“(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

“(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors, increase access to prevention, reduce chronic diseases, and enhance health care quality;

“(3) be—

“(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

“(B) a graduate school of nursing or physician assistant studies;

“(C) a consortium of two or more schools described in subparagraph (A) or (B); or

“(D) an institution with a graduate medical education program in medicine, osteopathic
medicine, dentistry, pharmacy, nursing, or physician assistance studies.

“(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

“(5) provide matching funds in accordance with subsection (d).

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

“(A) use grant funds in collaboration with 2 or more disciplines; and

“(B) use grant funds to integrate certified EHR technology into community-based clinical education.

“(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.
“(d) Financial Support.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

“(e) Evaluation.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

“(f) Reports.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that—

“(1) describes the specific projects established under this section; and

“(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).
“SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS ON HEALTH CARE.

“(a) In General.—The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

“(b) Activities.—Activities for which assistance may be provided under subsection (a) may include the following:

“(1) Developing and revising curricula in medical health informatics and related disciplines.

“(2) Recruiting and retaining students to the program involved.

“(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

“(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.
“(c) PRIORITY. — In providing assistance under subsection (a), the Secretary shall give preference to the following:

“(1) Existing education and training programs.

“(2) Programs designed to be completed in less than six months.

“(d) FINANCIAL SUPPORT. — The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

“SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

“(a) REPORTS. — The Secretary may require that an entity receiving assistance under this title shall submit to the Secretary, not later than the date that is 1 year after the date of receipt of such assistance, a report that includes—

“(1) an analysis of the effectiveness of such activities for which the entity receives such assistance, as compared to the goals for such activities; and

“(2) an analysis of the impact of the project on healthcare quality and safety.
“(b) Requirement to Improve Quality of Care and Decrease in Costs.—The National Coordinator shall annually evaluate the activities conducted under this title and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

“SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

“For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.”.

Subtitle D—Privacy

SEC. 13400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) Breach.—The term “breach” means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, use, or disclosure of such information.
by an employee or agent of the covered entity or
business associate involved if such acquisition, ac-
cess, use, or disclosure, respectively, was made in
good faith and within the course and scope of the
employment or other contractual relationship of such
employee or agent, respectively, with the covered en-
tity or business associate and if such information is
not further acquired, accessed, used, or disclosed by
such employee or agent.

(2) BUSINESS ASSOCIATE.—The term “business
associate” has the meaning given such term in sec-
tion 160.103 of title 45, Code of Federal Regu-
lations.

(3) COVERED ENTITY.—The term “covered en-
tity” has the meaning given such term in section
160.103 of title 45, Code of Federal Regulations.

(4) DISCLOSE.—The terms “disclose” and “dis-
closure” have the meaning given the term “disclo-
sure” in section 160.103 of title 45, Code of Federal
Regulations.

(5) ELECTRONIC HEALTH RECORD.—The term
“electronic health record” means an electronic
record of health-related information on an individual
that is created, gathered, managed, and consulted by
authorized health care clinicians and staff.
(6) **Health care operations.**—The term “health care operation” has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) **Health care provider.**—The term “health care provider” has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) **Health plan.**—The term “health plan” has the meaning given such term in section 1171(5) of the Social Security Act.

(9) **National Coordinator.**—The term “National Coordinator” means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a) of the Public Health Service Act, as added by section 13101.

(10) **Payment.**—The term “payment” has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) **Personal health record.**—The term “personal health record” means an electronic record of individually identifiable health information on an individual that can be drawn from multiple sources.
and that is managed, shared, and controlled by or for the individual.

(12) **Protected Health Information.**—The term “protected health information” has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) **Secretary.**—The term “Secretary” means the Secretary of Health and Human Services.

(14) **Security.**—The term “security” has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) **State.**—The term “State” means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) **Treatment.**—The term “treatment” has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) **Use.**—The term “use” has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) **Vendor of Personal Health Records.**—The term “vendor of personal health records” means an entity, other than a covered enti-
PART I—IMPROVED PRIVACY PROVISIONS AND SECURITIES PROVISIONS

SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) Application of Security Provisions.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) Application of Civil and Criminal Penalties.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to the business associate with respect to such violation in the same manner such
sections apply to a covered entity that violates such security provision.

(c) **ANNUAL GUIDANCE.**—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall, in consultation with industry stakeholders, annually issue guidance on the most effective and appropriate technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date before the enactment of this Act.

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

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

(b) **NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE.**—A business associate of a covered entity that accesses, maintains, retains, modifies, records,
stores, destroys, or otherwise holds, uses, or discloses un-
secured protected health information shall, following the
discovery of a breach of such information, notify the cov-
ered entity of such breach. Such notice shall include the
identification of each individual whose unsecured protected
health information has been, or is reasonably believed by
the business associate to have been, accessed, acquired,
or disclosed during such breach.

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

(d) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—Subject to subsection (g), all
notifications required under this section shall be
made without unreasonable delay and in no case
later than 60 calendar days after the discovery of a
breach by the covered entity involved (or business
associate involved in the case of a notification re-
quired under subsection (b)).
(2) Burden of proof.—The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) Methods of Notice.—

(1) Individual notice.—Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the
individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual’s unsecured protected health information is possibly included in the breach. 

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) Media Notice.—Notice shall be provided to prominent media outlets serving a State or juris-
diction, following the discovery of a breach described
in subsection (a), if the unsecured protected health
information of more than 500 residents of such
State or jurisdiction is, or is reasonably believed to
have been, accessed, acquired, or disclosed during
such breach.

(3) NOTICE TO SECRETARY.—Notice shall be
provided to the Secretary by covered entities of un-
secured protected health information that has been
acquired or disclosed in a breach. If the breach was
with respect to 500 or more individuals than such
notice must be provided immediately. If the breach
was with respect to less than 500 individuals, the
covered entity may maintain a log of any such
breach occurring and annually submit such a log to
the Secretary documenting such breaches occurring
during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE.—The
Secretary shall make available to the public on the
Internet website of the Department of Health and
Human Services a list that identifies each covered
entity involved in a breach described in subsection
(a) in which the unsecured protected health informa-
tion of more than 500 individuals is acquired or dis-
closed.
(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official
determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) Definition.—

(A) In general.—Subject to subparagraph (B), for purposes of this section, the term “unsecured protected health information” means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) Exception in case timely guidance not issued.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term “unsecured protected health information” shall mean protected health information that is not secured by a technology standard that renders protected
health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 13407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regard-
ing breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 13403. EDUCATION ON HEALTH INFORMATION PRIVACY.

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

(b) Education Initiative on Uses of Health Information.—Not later than 12 months after the date of the enactment of this Act, the Office for Civil Rights within the Department of Health and Human Services shall develop and maintain a multi-faceted national education initiative to enhance public transparency regarding the uses of protected health information, including programs to educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. Such programs shall be conducted in a variety of languages and present information in a clear and understandable manner.

SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES.

(a) Application of Contract Requirements.—In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health infor-
mation only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) Application of Knowledge Elements Associated With Contracts.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) Application of Civil and Criminal Penalties.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to the business associate with respect to such violation in the same manner.
as such provisions apply to a person who violates a prov-

of part C of title XI of such Act.

SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND

SALES OF HEALTH INFORMATION; ACCOUNT-

ING OF CERTAIN PROTECTED HEALTH IN-

FORMATION DISCLOSURES; ACCESS TO CERT-

TAIN INFORMATION IN ELECTRONIC FOR-

MAT.

(a) Requested Restrictions on Certain Disclosures of Health Information.—In the case that

an individual requests under paragraph (a)(1)(i)(A) of

section 164.522 of title 45, Code of Federal Regulations,

that a covered entity restrict the disclosure of the pro-
tected health information of the individual, notwith-

standing paragraph (a)(1)(ii) of such section, the covered

entity must comply with the requested restriction if—

(1) except as otherwise required by law, the dis-
closure is to a health plan for purposes of carrying

out payment or health care operations (and is not

for purposes of carrying out treatment); and

(2) the protected health information pertains

solely to a health care item or service for which the

health care provider involved has been paid out of

pocket in full.
(b) Disclosures Required to Be Limited to the Limited Data Set or the Minimum Necessary.—

(1) In general.—

(A) In general.—Subject to subparagraph (B), a covered entity shall be treated as being in compliance with section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) Guidance.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue guidance on what constitutes “minimum necessary” for purposes of subpart E of part 164 of title 45, Code of Federal Regulation. In issuing such guidance the Secretary shall take into consideration the guidance under section 13424(c).
(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(e) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—
(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

(2) REGULATIONS.—The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1)(A) not later than 18 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 13101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes
into account the interests of individuals in learning
the circumstances under which their protected health
information is being disclosed and takes into account
the administrative burden of accounting for such
disclosures.

(3) CONSTRUCTION.—Nothing in this sub-
section shall be construed as—

(A) requiring a covered entity to account
for disclosures of protected health information
that are not made by such covered entity; or

(B) requiring a business associate of a cov-
ered entity to account for disclosures of pro-
tected health information that are not made by
such business associate.

(4) REASONABLE FEE.—A covered entity may
impose a reasonable fee on an individual for an ac-
counting performed under paragraph (1)(B). Any
such fee shall not be greater than the entity’s labor
costs in responding to the request.

(5) EFFECTIVE DATE.—

(A) CURRENT USERS OF ELECTRONIC
RECORDS.—In the case of a covered entity inso-
far as it acquired an electronic health record as
of January 1, 2009, paragraph (1) shall apply
to disclosures, with respect to protected health
information, made by the covered entity from such a record on and after January 1, 2014.

(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2010, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

(i) January 1, 2011; or

(ii) the date that it acquires an electronic health record.

(d) REVIEW OF HEALTH CARE OPERATIONS.—Not later than 18 months after the date of the enactment of this title, the Secretary shall promulgate regulations to eliminate from the definition of health care operations under section 164.501 of title 45, Code of Federal Regulations, those activities that can reasonably and efficiently be conducted through the use of information that is de-identified (in accordance with the requirements of section 164.514(b) of such title) or that should require a valid authorization for use or disclosure. In promulgating such regulations, the Secretary may choose to narrow or clarify activities that the Secretary chooses to retain in the definition of health care operations and the Secretary shall take
into account the report under section 13424(d). In such regulations the Secretary shall specify the date on which such regulations shall apply to disclosures made by a covered entity, but in no case would such date be sooner than the date that is 24 months after the date of the enactment of this section.

(e) **Prohibition on Sale of Electronic Health Records or Protected Health Information Obtained From Electronic Health Records.—**

(1) IN GENERAL.—Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

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

(A) The purpose of the exchange is for research or public health activities (as described
in sections 164.501, 164.512(i), and 164.512(b) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(B) The purpose of the exchange is for the treatment of the individual and the price charges reflects not more than the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.

(D) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(E) The purpose of the exchange is to provide an individual with a copy of the individ-
ual’s protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(F) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (E).

(3) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection, including exceptions described in paragraph (2), not later than 18 months after the date of the enactment of this title.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(f) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—
(1) the individual shall have a right to obtain
from such covered entity a copy of such information
in an electronic format; and

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

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

(a) Marketing.—

(1) In general.—A communication by a cov-
ered entity or business associate that is about a
product or service and that encourages recipients of
the communication to purchase or use the product
or service shall not be considered a health care oper-
ation for purposes of subpart E of part 164 of title
45, Code of Federal Regulations, unless the commu-
nication is made as described in subparagraph (i),
(ii), or (iii) of paragraph (1) of the definition of
marketing in section 164.501 of such title.
(2) Payment for certain communications.—A covered entity or business associate may not receive direct or indirect payment in exchange for making any communication described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, except—

(A) a business associate of a covered entity may receive payment from the covered entity for making any such communication on behalf of the covered entity that is consistent with the written contract (or other written arrangement) described in section 164.502(e)(2) of such title between such business associate and covered entity;

(B) a covered entity may receive payment in exchange for making any such communication if the entity obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; and

(C) where such communication describes only a health care item or service that has pre-
viously been prescribed for or administered to
the recipient of the communication, or a family
member of such recipient.

(b) FUNDRAISING.—Fundraising for the benefit of a
covered entity shall not be considered a health care oper-
ation for purposes of section 164.501 of title 45, Code of
Federal Regulations.

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

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

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

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

(2) notify the Federal Trade Commission.

(b) Notification by Third Party Service Providers.—A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii) or (iii) of section 13424(b)(1)(A) in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) Application of Requirements for Timeliness, Method, and Content of Notifications.—Subsections (c), (d), (e), and (f) of section 13402 shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described
in subsection (a) and a third party service provider de-
scribed in subsection (b), with respect to a breach of secu-
ritv under subsection (a) of unsecured PHR identifiable
health information in such records maintained or offered
by such vendor, in a manner specified by the Federal
Trade Commission.

(d) Notification of the Secretary.—Upon re-
cipt of a notification of a breach of security under sub-
section (a)(2), the Federal Trade Commission shall notify
the Secretary of such breach.

(e) Enforcement.—A violation of subsection (a) or
(b) shall be treated as an unfair and deceptive act or prac-
tice in violation of a regulation under section 18(a)(1)(B)
57a(a)(1)(B)) regarding unfair or deceptive acts or prac-
tices.

(f) Definitions.—For purposes of this section:

(1) Breach of Security.—The term “breach
of security” means, with respect to unsecured PHR
identifiable health information of an individual in a
personal health record, acquisition of such informa-
tion without the authorization of the individual.

(2) PHR Identifiable Health Information.—The term “PHR identifiable health informa-
tion, as defined in section 1171(6) of the Social Se-
curity Act (42 U.S.C. 1320d(6)), and includes, with
respect to an individual, information—

(A) that is provided by or on behalf of the
individual; and

(B) that identifies the individual or with
respect to which there is a reasonable basis to
believe that the information can be used to
identify the individual.

(3) Unsecured PHR Identifiable Health
Information.—

(A) In General.—Subject to subpara-
graph (B), the term “unsecured PHR identifi-
able health information” means PHR identifi-
able health information that is not protected
through the use of a technology or methodology
specified by the Secretary in the guidance
issued under section 13402(h)(2).

(B) Exception in Case Timely Guid-
ance Not Issued.—In the case that the Sec-
retary does not issue guidance under section
13402(h)(2) by the date specified in such sec-
tion, for purposes of this section, the term “un-
secured PHR identifiable health information”
shall mean PHR identifiable health information
that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) Regulations; Effective Date; Sunset.—

(1) Regulations; effective date.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) Sunset.—The provisions of this section shall not apply to breaches of security occurring on or after the earlier of the following the dates:

(A) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Secretary.
(B) The date on which a standard relating
to requirements for entities that are not covered
entities that includes requirements relating to
breach notification has been promulgated by the
Federal Trade Commission and has taken ef-
fect.

SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED
FOR CERTAIN ENTITIES.

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

SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: “For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.”.

SEC. 13410. IMPROVED ENFORCEMENT.

(a) In general.—Section 1176 of the Social Security Act (42 U.S.C. 1320d-5) is amended—

(1) in subsection (b)(1), by striking “the act constitutes an offense punishable under section 1177” and inserting “a penalty has been imposed under section 1177 with respect to such act”; and

(2) by adding at the end the following new subsection:

“(c) NONCOMPLIANCE DUE TO WILLFUL NEGLIGENCE.—
“(1) In general.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

“(2) Required investigation.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.”.

(b) Effective date; regulations.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) Distribution of certain civil monetary penalties collected.—

(1) In general.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this sub-
title or section 1176 of the Social Security Act (42
U.S.C. 1320d-5) insofar as such section relates to
privacy or security shall be transferred to the Office
of Civil Rights of the Department of Health and
Human Services to be used for purposes of enforcing
the provisions of this subtitle and subparts C and E
of part 164 of title 45, Code of Federal Regulations,
as such provisions are in effect as of the date of en-
actment of this Act.

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

(3) ESTABLISHMENT OF METHODOLOGY TO
DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO
HARMED INDIVIDUALS.—Not later than 3 years
after the date of the enactment of this title, the Sec-
retary shall establish by regulation and based on the
recommendations submitted under paragraph (2), a
methodology under which an individual who is
harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) Application of Methodology.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) Tiered Increase in Amount of Civil Monetary Penalties.—

(1) In General.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d-5(a)(1)) is amended by striking “who violates a provision of this part a penalty of not more than” and all that follows and inserting the following: “who violates a provision of this part—

“(A) in the case of a violation of such provision in which it is established that the person did not know (and by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not
to exceed the amount described in paragraph (3)(D);

“(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

“(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

“(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

“(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

“In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and ex-
tent of the violation and the nature and extent
of the harm resulting from such violation.”.

(2) T IERS OF PENALTIES DESCRIBED.—Section
1176(a) of such Act (42 U.S.C. 1320d-5(a)) is fur-
ther amended by adding at the end the following
new paragraph:

“(3) T IERS OF PENALTIES DESCRIBED.—For
purposes of paragraph (1), with respect to a viola-
tion by a person of a provision of this part—

“(A) the amount described in this subpara-
graph is $100 for each such violation, except
that the total amount imposed on the person
for all such violations of an identical require-
ment or prohibition during a calendar year may
not exceed $25,000;

“(B) the amount described in this subpara-
graph is $1,000 for each such violation, except
that the total amount imposed on the person
for all such violations of an identical require-
ment or prohibition during a calendar year may
not exceed $100,000;

“(C) the amount described in this subpara-
graph is $10,000 for each such violation, except
that the total amount imposed on the person
for all such violations of an identical require-
ment or prohibition during a calendar year may not exceed $250,000; and

“(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.”.

(3) **Conforming Amendments.**—Section 1176(b) of such Act (42 U.S.C. 1320d-5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking “in subparagraph (B), a penalty may not be imposed under subsection (a) if” and all that follows through “the failure to comply is corrected” and inserting “in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected”; and
(ii) in subparagraph (B), by striking “(A)(ii)” and inserting “(A)” each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

“(d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

“(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

“(A) to enjoin further such violation by the defendant; or
“(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

“(2) STATUTORY DAMAGES.—

“(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

“(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

“(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.
“(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

“(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

“(A) to intervene in the action;

“(B) upon so intervening, to be heard on all matters arising therein; and

“(C) to file petitions for appeal.

“(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

“(6) VENUE; SERVICE OF PROCESS.—

“(A) VENUE.—Any action brought under paragraph (1) may be brought in the district
court of the United States that meets applicable
requirements relating to venue under section
1391 of title 28, United States Code.

“(B) SERVICE OF PROCESS.—In an action
brought under paragraph (1), process may be
served in any district in which the defendant—

“(i) is an inhabitant; or

“(ii) maintains a physical place of
business.

“(7) LIMITATION ON STATE ACTION WHILE
FEDERAL ACTION IS PENDING.—If the Secretary has
instituted an action against a person under sub-
section (a) with respect to a specific violation of this
part, no State attorney general may bring an action
under this subsection against the person with re-
spect to such violation during the pendency of that
action.

“(8) APPLICATION OF CMP STATUTE OF LIMI-
tATION.—A civil action may not be instituted with
respect to a violation of this part unless an action
to impose a civil money penalty may be instituted
under subsection (a) with respect to such violation
consistent with the second sentence of section
1128A(c)(1).”.
(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking “A penalty may not be imposed under subsection (a)” and inserting “No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)”;

(B) in paragraph (2)(A)—

(i) after “subsection (a)(1)(C),”, by striking “a penalty may not be imposed under subsection (a)” and inserting “no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)”;

(ii) in clause (ii), by inserting “or damages” after “the penalty”;

(C) in paragraph (2)(B)(i), by striking “The period” and inserting “With respect to the imposition of a penalty by the Secretary under subsection (a), the period”; and

(D) in paragraph (3), by inserting “and any damages under subsection (d)” after “any penalty under subsection (a)”. 
(3) Effective date.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) Allowing continued use of corrective action.—Such section is further amended by adding at the end the following new subsection:

“(e) Allowing continued use of corrective action.—Nothing in this section shall be construed as preventing the Office of Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.”.

SEC. 13411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.
SEC. 13421. RELATIONSHIP TO OTHER LAWS.

(a) Application of HIPAA State Preemption.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) Health Insurance Portability and Accountability Act.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle. In carrying out the preceding sentence, the Secretary shall revise the definition of “psychotherapy notes” in section 164.501 of title 45, Code of Federal Regulations, to include test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that
are part of a mental health evaluation, as determined by
the mental health professional providing treatment or
evaluation.

SEC. 13422. REGULATORY REFERENCES.

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

SEC. 13423. EFFECTIVE DATE.

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

SEC. 13424. STUDIES, REPORTS, GUIDANCE.

(a) Report on Compliance.—

(1) In general.—For the first year beginning
after the date of the enactment of this Act and an-
ually thereafter, the Secretary shall prepare and
submit to the Committee on Health, Education,
Labor, and Pensions of the Senate and the Com-
mittee on Ways and Means and the Committee on
Energy and Commerce of the House of Representa-
tives a report concerning complaints of alleged viola-
tions of law, including the provisions of this subtitle
as well as the provisions of subparts C and E of part
164 of title 45, Code of Federal Regulations, (as
such provisions are in effect as of the date of enactment of this Act) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;
(F) the Secretary’s plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) Availability to Public.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) Study and Report on Application of Privacy and Security Requirements to Non-HIPAA Covered Entities.—

(1) Study.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of
individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;
(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.
(d) GAO Report on Treatment Disclosures.—Not later than one year after the date of the enactment of this title, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.
TITLE XIV—STATE FISCAL STABILIZATION

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $79,000,000,000, which shall be administered by the Department of Education, and shall be available through September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 1401. ALLOCATIONS.

(a) Outlying Areas.—The Secretary of Education shall first allocate one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) Administration and Oversight.—The Secretary may reserve up to $25,000,000 for administration and oversight of this title, including for program evaluation.

(c) Reservation for Additional Programs.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $15,000,000,000 for grants under sections 1406 and 1407.

(d) State Allocations.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the
remaining funds made available to carry out this title to
the States as follows:

(1) 61 percent on the basis of their relative
population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative
total population.

(e) STATE GRANTS.—From funds allocated under
subsection (d), the Secretary shall make grants to the
Governor of each State.

(f) REALLOCATION.—The Governor shall return to
the Secretary any funds received under subsection (e) that
the Governor does not obligate within 1 year of receiving
a grant, and the Secretary shall reallocate such funds to
the remaining States in accordance with subsection (d).

SEC. 1402. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—The Governor shall use at
least 61 percent of the State’s allocation under sec-
tion 1401 for the support of elementary, secondary,
and postsecondary education and, as applicable,
early childhood education programs and services.

(2) RESTORING 2008 STATE SUPPORT FOR EDU-
CATION.—

(A) IN GENERAL.—The Governor shall
first use the funds described in paragraph (1)—
(i) to provide the amount of funds, through the State’s principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the fiscal year 2008 level; and where applicable, to allow existing State formula increases for fiscal years 2009, 2010, and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments that were enacted prior to July 1, 2008; and

(ii) to provide the amount of funds to public institutions of higher education in the State that is needed to restore State support for postsecondary education to the fiscal year 2008 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to restore State support for education to the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative short-
fall in State support for the education sectors described in those clauses.

(3) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.—

After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) OTHER GOVERNMENT SERVICES.—The Governor may use up to 39 percent of the State’s allocation under section 1401 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”), the Individuals with Disabilities Education Act (20 U.S.C.
1400 et seq.) (“IDEA”), or the Carl D. Perkins Career
et seq.) (“the Perkins Act”).

(b) PROHIBITION.—A local educational agency may
not use funds received under this title for capital projects
unless authorized by ESEA, IDEA, or the Perkins Act.

SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER
EDUCATION.

(a) IN GENERAL.—A public institution of higher edu-
cation that receives funds under this title shall use the
funds for education and general expenditures, and in such
way as to mitigate the need to raise tuition and fees
for in-State students.

(b) PROHIBITION.—An institution of higher edu-
cation may not use funds received under this title to in-
crease its endowment.

(c) ADDITIONAL PROHIBITION.—An institution of
higher education may not use funds received under this
title for construction, renovation, or facility repair.

SEC. 1405. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring
to receive an allocation under section 1401 shall submit
an application at such time, in such manner, and con-
taining such information as the Secretary may reasonably
require.
(b) Application.—The Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State’s current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation.

(e) Incentive Grant Application.—The Governor of a State seeking a grant under section 1406 shall—

(1) submit an application for consideration;

(2) describe the status of the State’s progress in each of the areas described in subsection (d);

(3) describe the achievement and graduation rates of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in 1111(b)(2) of ESEA in the State continue making progress toward meeting the State’s student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need schools and local educational agencies; and
(5) include a plan for evaluating its progress in closing achievement gaps.

(d) Assurances.—An application under subsection (b) shall include the following assurances:

(1) Maintenance of effort.—

(A) Elementary and secondary education.—The State will, in each of fiscal years 2009 and 2010, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) Higher education.—The State will, in each of fiscal years 2009 and 2010, maintain State support for public institutions of higher education (not including support for capital projects or for research and development) at least at the level of such support in fiscal year 2006.

(2) Achieving equity in teacher distribution.—The State will take action, including activities outlined in section 2113(c) of ESEA, to increase the number, and improve the distribution, of effective teachers and principals in high-poverty schools and local educational agencies throughout the State.

(3) Improving collection and use of data.—The State will establish a longitudinal data
system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) Standards and Assessments.—The State—

(A) will enhance the quality of academic assessments described in section 1111(b)(3) of ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with
6401(e)(1)(A)(ii) of the America COMPETES Act.

(5) will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) with respect to schools identified under such sections.

SEC. 1406. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—From the total amount reserved under section 1401(c) that is not used for section 1407, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 1405(d).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 1405 and such other criteria as the Secretary determines appropriate.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of ESEA (20 U.S.C. 6311 et seq.) for the most recent year.
SEC. 1407. INNOVATION FUND.

(a) In General.—

(1) Eligible Entity.—For the purposes of this section, the term “eligible entity” means—

(A) a local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies;

(ii) or a consortium of schools.

(2) Program Established.—From the total amount reserved under section 1401(c), the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) Basis for Awards.—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such eligible entities to expand their work and serve as models for best practices;
(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State’s annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and
(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

SEC. 1408. STATE REPORTS.

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

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

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

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

(5) the State’s progress in reducing inequities in the distribution of teachers, in implementing a State student longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;
(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases; and

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance.

SEC. 1409. EVALUATION.

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

SEC. 1410. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate,
not less than 6 months following the submission of the
State reports, that evaluates the information provided in
the State reports under section 1408.

SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN AS-
SISTANCE.

No recipient of funds under this title shall use such
funds to provide financial assistance to students to attend
private elementary or secondary schools, unless such funds
are used to provide special education and related services
to children with disabilities, as authorized by the Individ-
uals with Disabilities Education Act (20 U.S.C. 1400 et
seq.).

SEC. 1412. DEFINITIONS.

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

(1) the term “institution of higher education”
has the meaning given such term in section 101 of
the Higher Education Act of 1965 (20 U.S.C.
1001);

(2) the term “Secretary” means the Secretary
of Education;

(3) the term “State” means each of the 50
States, the District of Columbia, and the Common-
wealth of Puerto Rico; and
(4) any other term that is defined in section 9101 of ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

SEC. 1413. REGULATORY RELIEF.

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

(1) Maintenance of effort.

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

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

(c) LIMITATIONS.—

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

(2) MAINTENANCE OF EFFORT.—If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal years 2009 and 2010, the level of effort required for fiscal year 2011
shall not be reduced because of the waiver or modification.

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 officer under paragraph (1)(A) or (B) to serve as Chairperson, that Federal officer may not receive additional compensation for services performed as Chairperson.

(B) Appointment of Non-Federal Officer.—If the President appoints an individual as Chairperson under paragraph (1)(C), that individual shall be compensated at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Members.—The members of the Board shall include—

(1) the Inspectors General of the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and

(2) any other Inspector General as designated by the President from any agency that expends or obligates covered funds.
(a) Functions.—

(1) In general.—The Board shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse.

(2) Specific functions.—The functions of the Board shall include—

(A) reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(B) reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(C) auditing and investigating covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring;

(D) reviewing whether there are sufficient qualified acquisition and grant personnel overseeing covered funds;

(E) reviewing whether personnel whose duties involve acquisitions or grants made with covered funds receive adequate training; and
(F) reviewing whether there are appropriate mechanisms for interagency collaboration relating to covered funds.

(b) Reports.—

(1) Quarterly reports.—The Board shall submit quarterly reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, summarizing the findings of the Board and the findings of inspectors general of agencies. The Board may submit additional reports as appropriate.

(2) Annual reports.—The Board shall submit annual reports to the President and the Committees on Appropriations of the Senate and House of Representatives, consolidating applicable quarterly reports on the use of covered funds.

(3) Public availability.—

(A) In general.—All reports submitted under this subsection shall be made publicly available and posted on a website established by the Board.

(B) Redactions.—Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not
subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The Board shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) RESPONSIVE REPORTS.—Not later than 30 days after receipt of a recommendation under paragraph (1), an agency shall submit a report to the President, the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, and the Board on—

(A) whether the agency agrees or disagrees with the recommendations; and

(B) any actions the agency will take to implement the recommendations.

SEC. 1514. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board shall conduct, supervise, and coordinate audits and investigations by inspectors general of agencies relating to covered funds.

(b) AUDITS AND INVESTIGATIONS.—The Board may—
(1) conduct its own independent audits and investigations relating to covered funds; and

(2) collaborate on audits and investigations relating to covered funds with any inspector general of an agency.

(c) AUTHORITIES.—

(1) AUDITS AND INVESTIGATIONS.—In conducting audits and investigations, the Board shall have the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) STANDARDS AND GUIDELINES.—The Board shall carry out the powers under subsections (a) and (b) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) PUBLIC HEARINGS.—The Board may hold public hearings and Board personnel may conduct investigative depositions. The head of each agency shall make all officers and employees of that agency available to provide testimony to the Board and Board personnel. The Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees. Any such subpoenas may be enforced as provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under
this subtitle, including contracts and other arrangements
for audits, studies, analyses, and other services with public
agencies and with private persons, and make such pay-
ments as may be necessary to carry out the duties of the
Board.

(f) Transfer of Funds.—The Board may transfer
funds appropriated to the Board for expenses to support
administrative support services and audits or investiga-
tions of covered funds to any office of inspector general,
the Office of Management and Budget, the General Serv-
ices Administration, and the Panel.

SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AU-
THORITIES.

(a) Employment and Personnel Authorities.—

(1) In general.—

(A) Authorities.—Subject to paragraph
(2), the Board may exercise the authorities of
subsections (b) through (i) of section 3161 of
title 5, United States Code (without regard to
subsection (a) of that section).

(B) Application.—For purposes of exer-
cising the authorities described under subpara-
graph (A), the term “Chairperson of the
Board” shall be substituted for the term “head
of a temporary organization”.

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(C) Consultation.—In exercising the authorities described under subparagraph (A), the Chairperson shall consult with members of the Board.

(2) Employment Authorities.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under paragraph (1) of this subsection—

(A) paragraph (2) of subsection (b) of section 3161 of that title (relating to periods of appointments) shall not apply; and

(B) no period of appointment may exceed the date on which the Board terminates under section 1521.

(b) Information and Assistance.—

(1) In general.—Upon request of the Board for information or assistance from any agency or other entity of the Federal Government, the head of such entity shall, in so far as is practicable and not in contravention of any existing law, furnish such information or assistance to the Board, or an authorized designee.

(2) Report of refusals.—Whenever information or assistance requested by the Board is, in the judgment of the Board, unreasonably refused or
not provided, the Board shall report the circumstances to the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, without delay.

(c) Administrative Support.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.

(a) Independent Authority.—Nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds.

(b) Requests by Board.—If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, not later than 30 days after rejecting the request, submit a report to the Board, the head of the applicable agency, and the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives. The report shall state the reasons that the inspector general has rejected the request in whole or in part.
SEC. 1517. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditor generals.

SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the Board, an inspector general, the Comptroller General, a member of Congress, or a the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety; or

(4) a violation of law related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—
(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the appropriate inspector general. Unless the inspector general determines that the complaint is frivolous, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person’s employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) EXTENSION.—If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between
the inspector general and the person submitting the complaint.

(c) Remedy and Enforcement Authority.—

(1) Agency Action.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys’ fees and expert witnesses’ fees) that
were reasonably incurred by the complainant
for, or in connection with, bringing the com-
plaint regarding the reprisal, as determined by
the head of the agency.

(2) CIVIL ACTION.—If the head of an agency
issues an order denying relief under paragraph (1)
or has not issued an order within 210 days after the
submission of a complaint under subsection (b), or
in the case of an extension of time under subsection
(b)(2)(B), not later than 30 days after the expira-
tion of the extension of time, and there is no show-
ing that such delay is due to the bad faith of the
complainant, the complainant shall be deemed to
have exhausted all administrative remedies with re-
spect to the complaint, and the complainant may
bring a de novo action at law or equity against the
employer to seek compensatory damages and other
relief available under this section in the appropriate
district court of the United States, which shall have
jurisdiction over such an action without regard to
the amount in controversy. Such an action shall, at
the request of either party to the action, be tried by
the court with a jury.

(3) EVIDENCE.—An inspector general deter-
mination and an agency head order denying relief
under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought in accordance with this subsection.

(4) Judicial Enforcement of Order.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(5) Judicial Review.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order’s conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

(d) Rule of Construction.—Nothing in this section may be construed to authorize the discharge of, demo-
tion of, or discrimination against an employee for a disclo-
sure other than a disclosure protected by subsection (a)
or to modify or derogate from a right or remedy otherwise
available to the employee.

SEC. 1519. BOARD WEBSITE.

(a) ESTABLISHMENT.—The Board shall establish and
maintain a user-friendly, public-facing website to foster
greater accountability and transparency in the use of cov-
ered funds.

(b) PURPOSE.—The website established and main-
tained under subsection (a) shall be a portal or gateway
to key information relating to this Act and provide connec-
tions to other Government websites with related informa-
tion.

(c) CONTENT AND FUNCTION.—In establishing the
website established and maintained under subsection (a),
the Board shall ensure the following:

(1) The website shall provide materials explain-
ning what this Act means for citizens. The materials
shall be easy to understand and regularly updated.

(2) The website shall provide accountability in-
formation, including a database of findings from au-
dits, inspectors general, and the Government Ac-
countability Office.
(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds.

(4) The website shall provide detailed data on contracts awarded by the Government that expend covered funds, including information about the competitiveness of the contracting process, notification of solicitations for contracts to be awarded, and information about the process that was used for the award of contracts.

(5) The website shall include printable reports on covered funds obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts that expend covered funds.

(7) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security.
SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

SEC. 1521. TERMINATION OF THE BOARD.

The Board shall terminate on September 30, 2012.

Subtitle B—Recovery Independent Advisory Panel

SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT ADVISORY PANEL.

(a) Establishment.—There is established the Recovery Independent Advisory Panel.

(b) Membership.—The Panel shall be composed of 5 members who shall be appointed by the President.

(c) Qualifications.—Members shall be appointed on the basis of expertise in economics, public finance, contracting, accounting, or any other relevant field.

(d) Initial Meeting.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

(e) Meetings.—The Panel shall meet at the call of the Chairperson of the Panel.

(f) Quorum.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.
(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1532. DUTIES OF THE PANEL.

The Panel shall make recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds.

SEC. 1533. POWERS OF THE PANEL.

(a) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any agency such information as the Panel considers necessary to carry out this subtitle. Upon request of the Chairperson of the Panel, the head of such agency shall furnish such information to the Panel.

(c) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as agencies of the Federal Government.

(d) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.
SEC. 1534. PANEL PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel. All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(c) Staff.—

(1) In general.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its du-
ties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be
without interruption or loss of civil service status or privilege.

(e) **Procurement of Temporary and Intermittent Services.**—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) **Administrative Support.**—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1535. **Termination of the Panel.**

The Panel shall terminate on September 30, 2012.

SEC. 1536. **Authorization of Appropriations.**

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

**Subtitle C—Reports of the Council of Economic Advisers**

SEC. 1541. **Reports of the Council of Economic Advisers.**

(a) **In General.**—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of
Economic Advisers shall submit quarterly reports to the Committees on Appropriations of the Senate and House of Representatives that detail the estimated impact of programs funded through covered funds on employment, economic growth, and other key economic indicators.

(b) Submission.—The first report under subsection (a) shall be submitted not later than 15 days after the end of the first full quarter following the date of enactment of this Act. The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1521.

TITLE XVI—GENERAL PROVISIONS—THIS ACT

EMERGENCY DESIGNATION

Sec. 1601. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AVAILABILITY

Sec. 1602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

RELATIONSHIP TO OTHER APPROPRIATIONS

Sec. 1603. Each amount appropriated or made available in this Act is in addition to amounts otherwise appro-
appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

BUY AMERICAN

SEC. 1604. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States if sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.
(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written jurisdiction as to why the provision is being waived.

(d) In this section, the terms “public building” and “public work” have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

CERTIFICATION

Sec. 1605. With respect to funds in titles I through XVI of this Act made available to State, or local government agencies, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made.

ECONOMIC STABILIZATION CONTRACTING

Sec. 1606. Reform of Contracting Procedures
nomics Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting “and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term ‘individual with dis-

ability’ has the same meaning as the term ‘handicapped individual’ as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)),” after “(12 U.S.C. 1441a(r)(4)),”.

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

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

JANUARY 27, 2009

Read twice and placed on the calendar.