

111th Congress

1st Session

H. RES. _____

Providing for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 27, 2009

Ms. Slaughter, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed.

RESOLUTION

Providing for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes. Further general debate shall be confined to the bill and amendments specified in this resolution and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived except those arising under clause 9 of rule XXI. At the conclusion of consideration of the bill for

amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Sec. 2. The chair of the Committee on Appropriations shall insert in the Congressional Record not later than February 4, 2009, such material as he may deem explanatory of appropriations measures for the fiscal year 2009.

Sec. 3. The chair of the Committee on Ways and Means may file, on behalf of the Committee, a supplemental report to accompany H.R. 598.

Providing for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

January 27, 2009. --Referred to the House Calendar and ordered to be printed

Ms. Slaughter, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. ____]

The Committee on Rules, having had under consideration House Resolution ____, by a record vote of 9 to 2, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for further consideration of H.R. 1, the "American Recovery and Reinvestment Act of 2009," under a structured rule. The resolution provides an additional one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The resolution provides that the amendment printed in part A of this report shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for purpose of further amendment and shall be considered as read. The resolution waives all points of order against provisions of the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The resolution provides that no further amendment shall be in order except those printed in part B of this report. Each further amendment may be offered only in the order printed, may be offered only by a Member designated, shall be considered as read, shall be debatable for the time specified equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for division of the question. The resolution waives all points of order against such further amendments except those arising under clause 9 of rule XXI. The resolution provides one motion to recommit with or without instructions.

The resolution provides that the chair of the Committee on Appropriations shall insert in the Congressional Record not later than February 4, 2009, such materials as he may deem explanatory of appropriations measures for fiscal year 2009. Finally, the resolution provides that the chair of the Committee on Ways and Means may file a supplemental report to accompany H.R. 598.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against provisions in the bill, the Committee is not aware of any waivers. The waiver of all points of order is prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 10

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Dreier

Summary of Motion: To report an open rule.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 11

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Dreier

Summary of Motion: To make in order en bloc and provide appropriate waivers for amendments to be separately debatable: (1) an amendment by Rep. Tiahrt, (KS), #64, which would strike the authority, and associated funding, in the bill that provides for new or significantly-expanded programs, including afterschool feeding programs for at-risk children, broadband provisions, innovative technology loan guarantee programs, small business provisions, and summer job programs. It would also suspend certain employment and income taxes, would repeal the final \$350 billion of TARP funds, and would terminate TARP purchase authority upon enactment; (2) an amendment by Rep. Simpson (ID), #67, which would prohibit any provision in the bill that provides new or increased direct spending from taking effect until Congress enacts a bill to provide the corresponding offsets; and (3) an amendment by Rep. Frelinghuysen (NJ), and Rep. Latham (IA), #66, which would take funds legislatively withheld from obligation until not earlier than fiscal year 2010 and make them available for Army Corps of Engineer construction projects (\$24.2 billion) and Department of Transportation highway infrastructure investment (\$34 billion) and capital improvement projects (\$2 billion)

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 12

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Dreier

Summary of Motion: To make in order en bloc and provide appropriate waivers for amendments to be separately debatable: (1) an amendment by Rep. Barton (TX), #127, which would eliminate the requirement that, in order to receive energy efficiency funds, governors notify the Secretary of Energy that they would seek to change state utility ratemaking policy to ensure the utility's fixed costs are covered independent of sales; and (2) an amendment by Rep. Deal (GA), #151, which would require, starting in FY2010, States to cover at least 90 percent of eligible individuals at or below 100 percent of the Federal poverty level before increasing eligibility to other individuals.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 13

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Diaz-Balart

Summary of Motion: To make in order and provide appropriate waivers for an amendment by Rep. Hastings (FL), and Rep. Diaz-Balart, Lincoln (FL), #169, which would allow the Secretary to grant a waiver of maintenance of effort requirements for the Department of Education's State Fiscal Stabilization Fund to states facing economic hardship due to natural disasters or a precipitous decline in the financial resource of the State.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 14

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Diaz-Balart

Summary of Motion: To make in order en bloc and provide appropriate waivers for amendments to be separately debatable: (1) an amendment by Rep. Buyer (IN), #44, which would provide that \$10 million in grant funding is appropriated for entities that provide job skill training for homeless women veterans and homeless veterans with children; (2) an amendment by Rep. Buyer (IN), #45, which would increase the amount of subsistence allowance to \$1,200 for veterans undergoing vocational and rehabilitation training; (3) an amendment by Rep. Buyer (IN), #46, which would appropriate \$20 million for veteran's workforce investment programs under section 168 of the Workforce Investment Act; (4) an amendment by Rep. Buyer (IN), #47, which would appropriate \$1 billion to guarantee small business loans for veterans; and (5) an amendment by Rep. McCotter (MI), #90, which would require any new infrastructure project created by funding provided in H.R. 1 to be named after a member of the United States Armed Forces who was killed in combat or an emergency response provider who was killed in the line of duty.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 15

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Diaz-Balart

Summary of Motion: To make in order and provide appropriate waivers for an amendment by Rep. Heller (NV), #2, which would strike section 1301 (regarding waiver of requirement to repay first-time homebuyer credit), would extend homebuyer credit to end of 2009, and expand the credit to cover all purchases of primary residences.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 16

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. Diaz-Balart

Summary of Motion: To make in order and provide appropriate waivers for an amendment by Rep. Brown, Corinne (FL), and Rep. Mica (FL), #118, which would negate the need for local matching funds for airport improvement projects.

Results: Defeated 3-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	YEA
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 17

Date: January 27, 2009

Measure: H.R. 1

Motion By: Dr. Foxx

Summary of Motion: To make in order en bloc and provide appropriate waivers for amendments to be separately debatable; (1) an amendment by Rep. Blunt (MO), and Rep. Rogers, Mike (MI), #34, which would amend provisions in the bill regulating the receipt of payment for making health care communications to ensure nothing in the bill will prevent a pharmacist from collecting and sharing information with their patients to reduce errors and improve their safety and stipulates that any money received for these activities is reasonable and cost based; (2) an amendment by Rep. Stearns (FL), #145, which would allow unemployed workers who are eligible for COBRA to receive premium assistance from the federal government, require the federal government to pay 65 percent of the worker's COBRA premium, and would prohibit anyone who made over \$1 million in 2008 from receiving COBRA premium assistance under this new COBRA premium assistance program; and (3) an amendment by Rep. Murphy, Tim (PA), #92, which would require that Health Information Technology purchased with funds made available by this Act be engineered and manufactured in the United States.

Results: Defeated 2-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 18

Date: January 27, 2009

Measure: H.R. 1

Motion By: Dr. Foxx

Summary of Motion: To make in order en bloc and provide appropriate waivers for amendments to be separately debatable: (1) an amendment by Rep. Flake (AZ), #128, which would indicate that Members shall not influence discretionary funding by agencies or state and local officials on behalf of campaign contributors; (2) an amendment by Rep. Flake (AZ), #129, which would prohibit funds from being used for any duck pond, museum, skate park, equestrian center, dog park, ski hill, historic home, ice rink, splash playground, or speaker system; and (3) an amendment by Rep. Flake (AZ), #130, which would strike funding in the bill for the National Foundation on the Arts and the Humanities and the National Endowment for the Arts.

Results: Defeated 2-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 19

Date: January 27, 2009

Measure: H.R. 1

Motion By: Dr. Foxx

Summary of Motion: To make in order and provide appropriate waivers for an amendment in the nature of a substitute by Rep. Garrett (NJ), #18, which would repeal the Alternative Minimum Tax on individuals, reduce individual income taxes, reduce taxes on capital assets, make rescissions in non-defense discretionary spending, and includes other provisions relating to business, individuals and higher education.

Results: Defeated 2-9

Vote by Member:

MCGOVERN	NAY
HASTINGS	NAY
MATSUI	NAY
CARDOZA	NAY
ARCURI	NAY
PERLMUTTER	NAY
PINGREE	NAY
POLIS	NAY
DREIER	YEA
DIAZ-BALART	
SESSIONS	
FOXX	YEA
SLAUGHTER	NAY

Rules Committee Record Vote No. 20

Date: January 27, 2009

Measure: H.R. 1

Motion By: Mr. McGovern

Summary of Motion: To report the rule.

Results: Adopted 9-2

Vote by Member:

MCGOVERN	YEA
HASTINGS	YEA
MATSUI	YEA
CARDOZA	YEA
ARCURI	YEA
PERLMUTTER	YEA
PINGREE	YEA
POLIS	YEA
DREIER	NAY
DIAZ-BALART	
SESSIONS	
FOXX	NAY
SLAUGHTER	YEA

SUMMARY OF AMENDMENT IN PART A TO BE CONSIDERED AS ADOPTED

The amendment (1) requires that not later than 45 days after the date of enactment, funds provided to any State or agency thereof, the Governor of the State, or the State legislature by means of a statement submitted by its leadership, shall certify that the State will request and use funds provided by this Act. Funding to the State will be for public and private entities within the State either by formula or at the State's discretion; (2) waives the local matching requirements and the salary caps for the COPS hiring program in fiscal years 2009 and 2010; (3) designates \$15 million for the Historic Preservation Fund within the National Park Service for the renovation and preservation of buildings on Historically Black Colleges and Universities campuses and waives the institutional match for projects under this provision; (4) strikes funding for the National Mall Revitalization Fund; and (5) strikes section 5004 regarding family planning.

SUMMARY OF AMENDMENT IN PART B TO BE MADE IN ORDER

- 1. Oberstar (MN):** Would amend the aviation, highway, rail, and transit priority consideration and "use-it-or-lose-it" provisions to require that 50 percent of the funds be obligated within 90 days. (10 minutes)
- 2. Markey (MA):** Would require that the Secretary require, as a condition of receiving funding under Title XIII of the Energy Independence and Security Act of 2007, that the demonstration projects utilize Internet-based or other open protocols and standards if available and appropriate, and would require that grants recipients utilize Internet-based or other open protocols and standards. (10 minutes)
- 3. Shuster (PA):** Would clarify that federal funds received by States under the bill for highway maintenance shall not be used to replace existing funds in place for transportation projects. (10 minutes)
- 4. Nadler (NY)/DeFazio (OR)/Lipinski (IL)/McMahon (NY)/Ellison (MN):** Would increase transit capital funding by \$3 billion. (10 minutes)
- 5. Neugebauer (TX):** Would strike the appropriations provisions from the bill. (10 minutes)
- 6. Waters (CA):** Would provide that job training funds may be used for broadband deployment and related activities provided in the bill. (10 minutes)
- 7. Flake (AZ):** Would strike funding for Amtrak. (10 minutes)
- 8. Kissell (NC):** Would expand the Berry Amendment Extension Act to include DHS to require the government to purchase uniforms for more than one hundred thousand uniformed employees from U.S. textile and apparel manufacturers. (10 minutes)

9. Platts (PA)/Van Hollen (MD):

Would insert the text of the Whistleblower Protection Enhancement Act (H.R. 985 in the 110th Congress) regarding protections for federal employees who report waste, fraud, and abuse.

(10 minutes)

10. Teague (NM):

Would require that the Recovery.gov website contain links and other information on how to access job information created at or by entities receiving funding under the bill; including links to local employment agencies, state, local, and other public agencies receiving recovery funds, and private firms contracted to perform work funded by the bill.

(10 minutes)

11. Camp (MI)/Cantor (VA):

Amendment in the Nature of a Substitute. Would strike everything after enacting clause and adds income tax rate deductions for bottom two income tax brackets, alternative minimum tax relief, small business deduction, bonus depreciation, small business expensing, expanded carryback of net operating losses, improved home buyer credit, unemployment benefit tax exemption, health insurance premium deduction, repeal of 3 percent withholding requirement for government contractors, extension of unemployment benefits, and a Sense of Congress against tax increases to offset outlays.

(60 minutes)

Part A

TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

AMENDMENT TO H.R. 1

Page 15, after line 7, insert the following:

1 **SEC. 1115. ADDITIONAL FUNDING DISTRIBUTION AND AS-**
2 **SURANCE OF APPROPRIATE USE OF FUNDS.**

3 (a) **CERTIFICATION BY GOVERNOR.**—Not later than
4 45 days after the date of enactment of this Act, for funds
5 provided to any State or agency thereof, the Governor of
6 the State shall certify that the State will request and use
7 funds provided by this Act.

8 (b) **ACCEPTANCE BY STATE LEGISLATURE.**—If funds
9 provided to any State in any division of this Act are not
10 accepted for use by the Governor, then acceptance by the
11 State legislature, by means of the adoption of a concurrent
12 resolution, shall be sufficient to provide funding to such
13 State.

14 (c) **DISTRIBUTION.**—After the adoption of a State
15 legislature's concurrent resolution, funding to the State
16 will be for distribution to local governments, councils of
17 government, public entities, and public-private entities
18 within the State either by formula or at the State's discre-
19 tion.

Page 53, after line 15, insert the following:

1 GENERAL PROVISIONS, THIS SUBTITLE

2 **SEC. 3201. WAIVER OF MATCHING REQUIREMENT AND SAL-**
3 **ARY LIMIT UNDER COPS PROGRAM.**

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

Page 111, after line 7, insert the following:

11 **SEC. 7005. WAIVER OF MATCHING REQUIREMENT UNDER**
12 **SAFER PROGRAM.**

13 Subparagraph (E) of section 34(a)(1) of the Federal
14 Fire Prevention and Control Act of 1974 (15 U.S.C.
15 2229a(a)(1)(E)) shall not apply with respect to funds ap-
16 propriated in this or any other Act making appropriations
17 for fiscal year 2009 or 2010 for grants under such section
18 34.

Page 113, line 1, after "System" insert the fol-
lowing:

19 : *Provided further*, That \$15,000,000 of these funds shall
20 be transferred to the "Historic Preservation Fund" for
21 historic preservation projects at historically black colleges

1 and universities as authorized by the Historic Preservation
2 Fund Act of 1996 and the Omnibus Parks and Public
3 Lands Act of 1996, except that any matching require-
4 ments otherwise required for such projects are waived

Page 113, strike lines 5 through 14.

Page 603, beginning on line 18, strike section 5004
(and redesignate the subsequent sections, and conform
the table of contents in section 5000, accordingly).

Page 615, line 6, strike “and section 5004”.

Page 615, line 9, strike “(ff)” and insert “(ee)”.

Page 620, line 1, strike “5005(b)” and insert
“5004(b)”.



Part B

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Oberstar OF Minnesota,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MR. OBERSTAR OF MINNESOTA

Page 207, line 21, strike "120 days" and insert "90 days".

Page 209, line 7, strike "120 days" and insert "90 days".

Page 210, line 9, strike "180 days" and insert "90 days".

Page 210, lines 20 and 21, strike "150 days" and insert "75 days".

Page 211, line 25, strike "180 days" and insert "90 days".

Page 214, line 2, strike "180 days" and insert "90 days".

Page 215, line 7, strike "180 days" and insert "90 days".

Page 216, line 8, strike "120 days" and insert "90 days".

Page 216, line 13, strike “120 days” and insert “90 days”.



2 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Markey OF Massachusetts
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MR. MARKEY OF MASSACHUSETTS

Page 637, lines 10 through 15, amend subparagraph

(F) to read as follows:

1 “(F) OPEN PROTOCOLS AND STAND-
2 ARDS.—The Secretary shall require as a condi-
3 tion of receiving funding under this subsection
4 that demonstration projects utilize Internet-
5 based or other open protocols and standards if
6 available and appropriate.”

Page 638, lines 12 through 14, amend paragraph

(2) to read as follows:

7 “(2) require as a condition of receiving a grant
8 under this section that grant recipients utilize Inter-
9 net-based or other open protocols and standards if
10 available and appropriate;



3 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Shuster OF Pennsylvania,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

Rev
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AMENDMENT TO H.R. 1
OFFERED BY MR. SHUSTER OF PENNSYLVANIA

Page 230, beginning on line 22, strike “the date of enactment of this Act” and insert “October 1, 2008”.

In section 12001 of division A of the bill—

(1) redesignate subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) insert after subsection (a) the following:

1 (b) FAILURE TO MAINTAIN EFFORT.—If a Governor
2 is unable to certify that Federal funds will not supplant
3 non-Federal funds pursuant to subsection (a), then the
4 Federal funds apportioned to that State under this Act
5 that will supplant non-Federal funds will be recaptured
6 by the appropriate Federal agency and redistributed to
7 States or agencies that can spend the Federal funds with-
8 out supplanting non-Federal funds.



4 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Nadler OF New York .
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

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REVISED

AMENDMENT TO H.R. 1
OFFERED BY MR. NADLER OF NEW YORK

Page 213, line 4, after the first dollar amount, insert “(increased by \$1,500,000,000)”.

Page 213, line 4, after the second dollar amount, insert “(increased by \$1,350,000,000)”.

Page 213, line 10, after the dollar amount, insert “(increased by \$150,000,000)”.

Page 216, line 2, after the dollar amount, insert “(increased by \$1,500,000,000)”.



5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Neugebauer OF Texas
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

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AMENDMENT TO H.R. 1
OFFERED BY MR. NEUGEBAUER OF TEXAS

Strike division A (and redesignate remaining provisions accordingly).



6 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Waters OF California,
OR Her DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MS. WATERS OF CALIFORNIA

Page 125, line 6, insert "(including projects funded under section 6002 of division B of this Act)" after "sectors".



7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Flake OF Arizona,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MR. FLAKE OF ARIZONA

Page 212, strike lines 9 through 24.



8 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Kissell OF North Carolina ,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

*revised
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AMENDMENT TO H.R.1
OFFERED BY MR. KISSELL OF NORTH CAROLINA

Page 111, after line 7 insert the following new section:

1 **SEC. 7005. PROCUREMENT FOR DEPARTMENT OF HOME-**
2 **LAND SECURITY.**

3 (a) **REQUIREMENT.**—Except as provided in sub-
4 sections (c) through (e), funds appropriated or otherwise
5 available to the Department of Homeland Security may
6 not be used for the procurement of an item described in
7 subsection (b) if the item is not grown, reprocessed, re-
8 used, or produced in the United States.

9 (b) **COVERED ITEMS.**—An item referred to in sub-
10 section (a) is any of the following, if the item is directly
11 related to the national security interests of the United
12 States:

13 (1) An article or item of—

14 (A) clothing and the materials and compo-
15 nents thereof, other than sensors, electronics, or
16 other items added to, and not normally associ-
17 ated with, clothing (and the materials and com-
18 ponents thereof);

19 (B) tents, tarpaulins, or covers;

1 (C) cotton and other natural fiber prod-
2 ucts, woven silk or woven silk blends, spun silk
3 yarn for cartridge cloth, synthetic fabric or
4 coated synthetic fabric (including all textile fi-
5 bers and yarns that are for use in such fab-
6 rics), canvas products, or wool (whether in the
7 form of fiber or yarn or contained in fabrics,
8 materials, or manufactured articles); or

9 (D) any item of individual equipment man-
10 ufactured from or containing such fibers, yarns,
11 fabrics, or materials.

12 (c) AVAILABILITY EXCEPTION.—Subsection (a) does
13 not apply to the extent that the Secretary of Homeland
14 Security determines that satisfactory quality and suffi-
15 cient quantity of any such article or item described in sub-
16 section (b)(1) grown, reprocessed, reused, or produced in
17 the United States cannot be procured as and when needed.

18 (d) EXCEPTION FOR CERTAIN PROCUREMENTS OUT-
19 SIDE THE UNITED STATES.—Subsection (a) does not
20 apply to the following:

- 21 (1) Procurements by vessels in foreign waters.
- 22 (2) Emergency procurements.

23 (e) EXCEPTION FOR SMALL PURCHASES.—Sub-
24 section (a) does not apply to purchases for amounts not

1 greater than the simplified acquisition threshold referred
2 to in section 2304(g) of title 10, United States Code.

3 (f) APPLICABILITY TO CONTRACTS AND SUB-
4 CONTRACTS FOR PROCUREMENT OF COMMERCIAL
5 ITEMS.—This section is applicable to contracts and sub-
6 contracts for the procurement of commercial items not-
7 withstanding section 34 of the Office of Federal Procure-
8 ment Policy Act (41 U.S.C. 430).

9 (g) GEOGRAPHIC COVERAGE.—In this section, the
10 term “United States” includes the possessions of the
11 United States.

12 (h) NOTIFICATION REQUIRED WITHIN 7 DAYS
13 AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS AP-
14 PLIED.—In the case of any contract for the procurement
15 of an item described in subsection (b)(1), if the Secretary
16 of Homeland Security applies an exception set forth in
17 subsection (c) with respect to that contract, the Secretary
18 shall, not later than 7 days after the award of the con-
19 tract, post a notification that the exception has been ap-
20 plied on the Internet site maintained by the General Serv-
21 ices Administration know as FedBizOps.gov (or any suc-
22 cessor site).

23 (i) TRAINING DURING FISCAL YEAR 2008.—

24 (1) IN GENERAL.—The Secretary of Homeland
25 Security shall ensure that each member of the acqui-

1 sition workforce in the Department of Homeland Se-
2 curity who participates personally and substantially
3 in the acquisition of textiles on a regular basis re-
4 ceives training during fiscal year 2009 on the re-
5 quirements of this section and the regulations imple-
6 menting this section.

7 (2) INCLUSION OF INFORMATION IN NEW
8 TRAINING PROGRAMS.—The Secretary shall ensure
9 that any training program for the acquisition work
10 force developed or implemented after the date of the
11 enactment of this Act includes comprehensive infor-
12 mation on the requirements described in paragraph
13 (1).

14 (j) CONSISTENCY WITH INTERNATIONAL AGREE-
15 MENTS.—

16 (1) IN GENERAL.—No provision of this section
17 shall apply to the extent the Secretary of Homeland
18 Security, in consultation with the United States
19 Trade Representative, determines that it is in incon-
20 sistent with United States obligations under an
21 international agreement.

22 (2) REPORT.—The Secretary of Homeland Se-
23 curity shall submit a report each year to Congress
24 containing, with respect to the year covered by the
25 report—

1 (A) a list of each provision of this section
2 that did not apply during that year pursuant to
3 a determination by the Secretary under para-
4 graph (1); and

5 (B) a list of each contract awarded by the
6 Department of Homeland Security during that
7 year without regard to a provision in this sec-
8 tion because that provision was made inappli-
9 cable pursuant to such a determination.

10 (k) **EFFECTIVE DATE.**—This section applies with re-
11 spect to contracts entered into by the Department of
12 Homeland Security after the date of the enactment of this
13 Act.



9 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Platts OF Pennsylvania ,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MR. PLATTS OF PENNSYLVANIA

Page 35, after line 5, insert the following:

1 **PART 4—FURTHER ACCOUNTABILITY AND**
2 **TRANSPARENCY PROVISIONS**

3 **SEC. 1261. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This part may be cited as the
5 “Whistleblower Protection Enhancement Act of 2009”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this part is as follows:

PART 4—FURTHER ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

- Sec. 1261. Short title; table of contents.
- Sec. 1262. Clarification of disclosures covered.
- Sec. 1263. Definitional amendments.
- Sec. 1264. Rebuttable presumption.
- Sec. 1265. Nondisclosure policies, forms, and agreements.
- Sec. 1266. Exclusion of agencies by the President.
- Sec. 1267. Disciplinary action.
- Sec. 1268. Government Accountability Office study on revocation of security clearances.
- Sec. 1269. Alternative recourse.
- Sec. 1270. National security whistleblower rights.
- Sec. 1271. Enhancement of contractor employee whistleblower protections.
- Sec. 1272. Prohibited personnel practices affecting the Transportation Security Administration.
- Sec. 1273. Clarification of whistleblower rights relating to scientific and other research.
- Sec. 1274. Effective date.

8 **SEC. 1262. CLARIFICATION OF DISCLOSURES COVERED.**

9 (a) **IN GENERAL.**—Section 2302(b)(8) of title 5,
10 United States Code, is amended—

11 (1) in subparagraph (A)—

1 (A) by striking “which the employee or ap-
2 plicant reasonably believes evidences” and in-
3 sserting “, without restriction as to time, place,
4 form, motive, context, forum, or prior disclosure
5 made to any person by an employee or appli-
6 cant, including a disclosure made in the ordi-
7 nary course of an employee’s duties, that the
8 employee or applicant reasonably believes is evi-
9 dence of”; and

10 (B) in clause (i), by striking “a violation”
11 and inserting “any violation”; and
12 (2) in subparagraph (B)—

13 (A) by striking “which the employee or ap-
14 plicant reasonably believes evidences” and in-
15 sserting “, without restriction as to time, place,
16 form, motive, context, forum, or prior disclosure
17 made to any person by an employee or appli-
18 cant, including a disclosure made in the ordi-
19 nary course of an employee’s duties, of informa-
20 tion that the employee or applicant reasonably
21 believes is evidence of”; and

22 (B) in clause (i), by striking “a violation”
23 and inserting “any violation (other than a viola-
24 tion of this section)”.

1 (b) PROHIBITED PERSONNEL PRACTICES UNDER
2 SECTION 2302(b)(9).—Title 5, United States Code, is
3 amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i)
4 of section 1214 and in subsections (a) and (e)(1) of sec-
5 tion 1221 by inserting “or 2302(b)(9)(B)–(D)” after “sec-
6 tion 2302(b)(8)” each place it appears.

7 **SEC. 1263. DEFINITIONAL AMENDMENTS.**

8 (a) DISCLOSURE.—Section 2302(a)(2) of title 5,
9 United States Code, is amended—

10 (1) in subparagraph (B)(ii), by striking “and”
11 at the end;

12 (2) in subparagraph (C)(iii), by striking the pe-
13 riod at the end and inserting “; and”; and

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

15 “(D) ‘disclosure’ means a formal or informal
16 communication, but does not include a communica-
17 tion concerning policy decisions that lawfully exer-
18 cise discretionary authority unless the employee or
19 applicant providing the disclosure reasonably believes
20 that the disclosure evidences—

21 “(i) any violation of any law, rule, or regu-
22 lation; or

23 “(ii) gross mismanagement, a gross waste
24 of funds, an abuse of authority, or a substantial
25 and specific danger to public health or safety.”.

1 (b) CLEAR AND CONVINCING EVIDENCE.—Sections
2 1214(b)(4)(B)(ii) and 1221(e)(2) of title 5, United States
3 Code, are amended by adding at the end the following:
4 “For purposes of the preceding sentence, ‘clear and con-
5 vincing evidence’ means evidence indicating that the mat-
6 ter to be proved is highly probable or reasonably certain.”.

7 **SEC. 1264. REBUTTABLE PRESUMPTION.**

8 Section 2302(b) of title 5, United States Code, is
9 amended by adding at the end the following: “For pur-
10 poses of paragraph (8), any presumption relating to the
11 performance of a duty by an employee who has authority
12 to take, direct others to take, recommend, or approve any
13 personnel action may be rebutted by substantial evidence.
14 For purposes of paragraph (8), a determination as to
15 whether an employee or applicant reasonably believes that
16 such employee or applicant has disclosed information that
17 evidences any violation of law, rule, regulation, gross mis-
18 management, a gross waste of funds, an abuse of author-
19 ity, or a substantial and specific danger to public health
20 or safety shall be made by determining whether a disin-
21 terested observer with knowledge of the essential facts
22 known to or readily ascertainable by the employee or appli-
23 cant could reasonably conclude that the actions of the
24 Government evidence such violations, mismanagement,
25 waste, abuse, or danger.”.

1 **SEC. 1265. NONDISCLOSURE POLICIES, FORMS, AND AGREE-**
2 **MENTS.**

3 (a) **PERSONNEL ACTION.**—Section 2302(a)(2)(A) of
4 title 5, United States Code, is amended—

5 (1) in clause (x), by striking “and” at the end;

6 (2) by redesignating clause (xi) as clause (xii);

7 and

8 (3) by inserting after clause (x) the following:

9 “(xi) the implementation or enforcement of
10 any nondisclosure policy, form, or agreement;
11 and”.

12 (b) **PROHIBITED PERSONNEL PRACTICE.**—Section
13 2302(b) of title 5, United States Code, is amended—

14 (1) in paragraph (11), by striking “or” at the
15 end;

16 (2) by redesignating paragraph (12) as para-
17 graph (14); and

18 (3) by inserting after paragraph (11) the fol-
19 lowing:

20 “(12) implement or enforce any nondisclosure
21 policy, form, or agreement, if such policy, form, or
22 agreement does not contain the following statement:

23 “These provisions are consistent with and do not su-
24 persede, conflict with, or otherwise alter the em-
25 ployee obligations, rights, or liabilities created by

26 Executive Order No. 12958; section 7211 of title 5,

1 United States Code (governing disclosures to Con-
2 gress); section 1034 of title 10, United States Code
3 (governing disclosures to Congress by members of
4 the military); section 2302(b)(8) of title 5, United
5 States Code (governing disclosures of illegality,
6 waste, fraud, abuse, or public health or safety
7 threats); the Intelligence Identities Protection Act of
8 1982 (50 U.S.C. 421 and following) (governing dis-
9 closures that could expose confidential Government
10 agents); and the statutes which protect against dis-
11 closures that could compromise national security, in-
12 cluding sections 641, 793, 794, 798, and 952 of title
13 18, United States Code, and section 4(b) of the Sub-
14 versive Activities Control Act of 1950 (50 U.S.C.
15 783(b)). The definitions, requirements, obligations,
16 rights, sanctions, and liabilities created by such Ex-
17 ecutive order and such statutory provisions are in-
18 corporated into this agreement and are controlling.’;

19 “(13) conduct, or cause to be conducted, an in-
20 vestigation, other than any ministerial or nondis-
21 cretionary factfinding activities necessary for the
22 agency to perform its mission, of an employee or ap-
23 plicant for employment because of any activity pro-
24 tected under this section; or”.

1 **SEC. 1266. EXCLUSION OF AGENCIES BY THE PRESIDENT.**

2 Section 2302(a)(2)(C) of title 5, United States Code,
3 is amended by striking clause (ii) and inserting the fol-
4 lowing:

5 “(ii)(I) the Federal Bureau of Investiga-
6 tion, the Central Intelligence Agency, the De-
7 fense Intelligence Agency, the National
8 Geospatial-Intelligence Agency, or the National
9 Security Agency; or

10 “(II) as determined by the President, any
11 Executive agency or unit thereof the principal
12 function of which is the conduct of foreign in-
13 telligence or counterintelligence activities, if the
14 determination (as that determination relates to
15 a personnel action) is made before that per-
16 sonnel action; or”.

17 **SEC. 1267. DISCIPLINARY ACTION.**

18 Section 1215(a)(3) of title 5, United States Code, is
19 amended to read as follows:

20 “(3)(A) A final order of the Board may impose—

21 “(i) disciplinary action consisting of removal,
22 reduction in grade, debarment from Federal employ-
23 ment for a period not to exceed 5 years, suspension,
24 or reprimand;

25 “(ii) an assessment of a civil penalty not to ex-
26 ceed \$1,000; or

1 “(iii) any combination of disciplinary actions
2 described under clause (i) and an assessment de-
3 scribed under clause (ii).

4 “(B) In any case in which the Board finds that an
5 employee has committed a prohibited personnel practice
6 under paragraph (8) or (9) of section 2302(b), the Board
7 shall impose disciplinary action if the Board finds that the
8 activity protected under such paragraph (8) or (9) (as the
9 case may be) was the primary motivating factor, unless
10 that employee demonstrates, by a preponderance of the
11 evidence, that the employee would have taken, failed to
12 take, or threatened to take or fail to take the same per-
13 sonnel action, in the absence of such protected activity.”.

14 **SEC. 1268. GOVERNMENT ACCOUNTABILITY OFFICE STUDY**
15 **ON REVOCATION OF SECURITY CLEARANCES.**

16 (a) **REQUIREMENT.**—The Comptroller General shall
17 conduct a study of security clearance revocations, taking
18 effect after 1996, with respect to personnel that filed
19 claims under chapter 12 of title 5, United States Code,
20 in connection therewith. The study shall consist of an ex-
21 amination of the number of such clearances revoked, the
22 number restored, and the relationship, if any, between the
23 resolution of claims filed under such chapter and the res-
24 toration of such clearances.

1 (b) REPORT.—Not later than 270 days after the date
2 of the enactment of this Act, the Comptroller General shall
3 submit to the Committee on Oversight and Government
4 Reform of the House of Representatives and the Com-
5 mittee on Homeland Security and Governmental Affairs
6 of the Senate a report on the results of the study required
7 by subsection (a).

8 **SEC. 1269. ALTERNATIVE RECOURSE.**

9 (a) IN GENERAL.—Section 1221 of title 5, United
10 States Code, is amended by adding at the end the fol-
11 lowing:

12 “(k)(1) If, in the case of an employee, former em-
13 ployee, or applicant for employment who seeks corrective
14 action (or on behalf of whom corrective action is sought)
15 from the Merit Systems Protection Board based on an al-
16 leged prohibited personnel practice described in section
17 2302(b)(8) or 2302(b)(9)(B)–(D), no final order or deci-
18 sion is issued by the Board within 180 days after the date
19 on which a request for such corrective action has been duly
20 submitted (or, in the event that a final order or decision
21 is issued by the Board, whether within that 180-day period
22 or thereafter, then, within 90 days after such final order
23 or decision is issued, and so long as such employee, former
24 employee, or applicant has not filed a petition for judicial
25 review of such order or decision under subsection (h))—

1 “(A) such employee, former employee, or appli-
2 cant may, after providing written notice to the
3 Board, bring an action at law or equity for de novo
4 review in the appropriate United States district
5 court, which shall have jurisdiction over such action
6 without regard to the amount in controversy, and
7 which action shall, at the request of either party to
8 such action, be tried by the court with a jury; and

9 “(B) in any such action, the court—

10 “(i) shall apply the standards set forth in
11 subsection (e); and

12 “(ii) may award any relief which the court
13 considers appropriate, including any relief de-
14 scribed in subsection (g).

15 An appeal from a final decision of a district court in an
16 action under this paragraph may, at the election of the
17 appellant, be taken to the Court of Appeals for the Federal
18 Circuit (which shall have jurisdiction of such appeal), in
19 lieu of the United States court of appeals for the circuit
20 embracing the district in which the action was brought.

21 “(2) For purposes of this subsection, the term ‘appro-
22 priate United States district court’, as used with respect
23 to an alleged prohibited personnel practice, means the
24 United States district court for the district in which the
25 prohibited personnel practice is alleged to have been com-

1 mitted, the judicial district in which the employment
2 records relevant to such practice are maintained and ad-
3 ministered, or the judicial district in which resides the em-
4 ployee, former employee, or applicant for employment al-
5 legedly affected by such practice.

6 “(3) This subsection applies with respect to any ap-
7 peal, petition, or other request for corrective action duly
8 submitted to the Board, whether pursuant to section
9 1214(b)(2), the preceding provisions of this section, sec-
10 tion 7513(d), or any otherwise applicable provisions of
11 law, rule, or regulation.”

12 (b) REVIEW OF MSPB DECISIONS.—Section 7703(b)
13 of such title 5 is amended—

14 (1) in the first sentence of paragraph (1), by
15 striking “the United States Court of Appeals for the
16 Federal Circuit” and inserting “the appropriate
17 United States court of appeals”; and

18 (2) by adding at the end the following:

19 “(3) For purposes of the first sentence of paragraph
20 (1), the term ‘appropriate United States court of appeals’
21 means the United States Court of Appeals for the Federal
22 Circuit, except that in the case of a prohibited personnel
23 practice described in section 2302(b)(8) or
24 2302(b)(9)(B)–(D) (other than a case that, disregarding
25 this paragraph, would otherwise be subject to paragraph

1 (2)), such term means the United States Court of Appeals
2 for the Federal Circuit and any United States court of
3 appeals having jurisdiction over appeals from any United
4 States district court which, under section 1221(k)(2),
5 would be an appropriate United States district court for
6 purposes of such prohibited personnel practice.”.

7 (c) COMPENSATORY DAMAGES.—Section
8 1221(g)(1)(A)(ii) of such title 5 is amended by striking
9 all after “travel expenses,” and inserting “any other rea-
10 sonable and foreseeable consequential damages, and com-
11 pensatory damages (including attorney’s fees, interest,
12 reasonable expert witness fees, and costs).”.

13 (d) CONFORMING AMENDMENTS.—

14 (1) Section 1221(h) of such title 5 is amended
15 by adding at the end the following:

16 “(3) Judicial review under this subsection shall not
17 be available with respect to any decision or order as to
18 which the employee, former employee, or applicant has
19 filed a petition for judicial review under subsection (k).”.

20 (2) Section 7703(c) of such title 5 is amended
21 by striking “court.” and inserting “court, and in the
22 case of a prohibited personnel practice described in
23 section 2302(b)(8) or 2302(b)(9)(B)–(D) brought
24 under any provision of law, rule, or regulation de-
25 scribed in section 1221(k)(3), the employee or appli-

1 cant shall have the right to de novo review in accord-
2 ance with section 1221(k).”.

3 **SEC. 1270. NATIONAL SECURITY WHISTLEBLOWER RIGHTS.**

4 (a) IN GENERAL.—Chapter 23 of title 5, United
5 States Code, is amended by inserting after section 2303
6 the following:

7 **“§ 2303a. National security whistleblower rights**

8 “(a) PROHIBITION OF REPRISALS.—

9 “(1) IN GENERAL.—In addition to any rights
10 provided in section 2303 of this title, title VII of
11 Public Law 105–272, or any other provision of law,
12 an employee or former employee in a covered agency
13 may not be discharged, demoted, or otherwise dis-
14 criminated against (including by denying, sus-
15 pending, or revoking a security clearance, or by oth-
16 erwise restricting access to classified or sensitive in-
17 formation) as a reprisal for making a disclosure de-
18 scribed in paragraph (2).

19 “(2) DISCLOSURES DESCRIBED.—A disclosure
20 described in this paragraph is any disclosure of cov-
21 ered information which is made—

22 “(A) by an employee or former employee in
23 a covered agency (without restriction as to time,
24 place, form, motive, context, or prior disclosure
25 made to any person by an employee or former

1 employee, including a disclosure made in the
2 course of an employee's duties); and

3 "(B) to an authorized Member of Con-
4 gress, an authorized official of an Executive
5 agency, or the Inspector General of the covered
6 agency in which such employee or former em-
7 ployee is or was employed.

8 "(b) INVESTIGATION OF COMPLAINTS.—An employee
9 or former employee in a covered agency who believes that
10 such employee or former employee has been subjected to
11 a reprisal prohibited by subsection (a) may submit a com-
12 plaint to the Inspector General and the head of the cov-
13 ered agency. The Inspector General shall investigate the
14 complaint and, unless the Inspector General determines
15 that the complaint is frivolous, submit a report of the find-
16 ings of the investigation within 120 days to the employee
17 or former employee (as the case may be) and to the head
18 of the covered agency.

19 "(c) REMEDY.—

20 "(1) Within 180 days of the filing of the com-
21 plaint, the head of the covered agency shall, taking
22 into consideration the report of the Inspector Gen-
23 eral under subsection (b) (if any), determine whether
24 the employee or former employee has been subjected
25 to a reprisal prohibited by subsection (a), and shall

1 either issue an order denying relief or shall imple-
2 ment corrective action to return the employee or
3 former employee, as nearly as possible, to the posi-
4 tion he would have held had the reprisal not oc-
5 curred, including voiding any directive or order de-
6 nyng, suspending, or revoking a security clearance
7 or otherwise restricting access to classified or sen-
8 sitive information that constituted a reprisal, as well
9 as providing back pay and related benefits, medical
10 costs incurred, travel expenses, any other reasonable
11 and foreseeable consequential damages, and compen-
12 satory damages (including attorney's fees, interest,
13 reasonable expert witness fees, and costs). If the
14 head of the covered agency issues an order denying
15 relief, he shall issue a report to the employee or
16 former employee detailing the reasons for the denial.

17 “(2)(A) If the head of the covered agency, in
18 the process of implementing corrective action under
19 paragraph (1), voids a directive or order denying,
20 suspending, or revoking a security clearance or oth-
21 erwise restricting access to classified or sensitive in-
22 formation that constituted a reprisal, the head of the
23 covered agency may re-initiate procedures to issue a
24 directive or order denying, suspending, or revoking
25 a security clearance or otherwise restricting access

1 to classified or sensitive information only if those re-
2 initiated procedures are based exclusively on national
3 security concerns and are unrelated to the actions
4 constituting the original reprisal.

5 “(B) In any case in which the head of a covered
6 agency re-initiates procedures under subparagraph
7 (A), the head of the covered agency shall issue an
8 unclassified report to its Inspector General and to
9 authorized Members of Congress (with a classified
10 annex, if necessary), detailing the circumstances of
11 the agency’s re-initiated procedures and describing
12 the manner in which those procedures are based ex-
13 clusively on national security concerns and are unre-
14 lated to the actions constituting the original reprisal.
15 The head of the covered agency shall also provide
16 periodic updates to the Inspector General and au-
17 thorized Members of Congress detailing any signifi-
18 cant actions taken as a result of those procedures,
19 and shall respond promptly to inquiries from author-
20 ized Members of Congress regarding the status of
21 those procedures.

22 “(3) If the head of the covered agency has not
23 made a determination under paragraph (1) within
24 180 days of the filing of the complaint (or he has
25 issued an order denying relief, in whole or in part,

1 whether within that 180-day period or thereafter,
2 then, within 90 days after such order is issued), the
3 employee or former employee may bring an action at
4 law or equity for de novo review to seek any correc-
5 tive action described in paragraph (1) in the appro-
6 priate United States district court (as defined by
7 section 1221(k)(2)), which shall have jurisdiction
8 over such action without regard to the amount in
9 controversy. An appeal from a final decision of a dis-
10 trict court in an action under this paragraph may,
11 at the election of the appellant, be taken to the
12 Court of Appeals for the Federal Circuit (which
13 shall have jurisdiction of such appeal), in lieu of the
14 United States court of appeals for the circuit em-
15 bracing the district in which the action was brought.

16 “(4) An employee or former employee adversely
17 affected or aggrieved by an order issued under para-
18 graph (1), or who seeks review of any corrective ac-
19 tion determined under paragraph (1), may obtain ju-
20 dicial review of such order or determination in the
21 United States Court of Appeals for the Federal Cir-
22 cuit or any United States court of appeals having ju-
23 risdiction over appeals from any United States dis-
24 trict court which, under section 1221(k)(2), would
25 be an appropriate United States district court. No

1 petition seeking such review may be filed more than
2 60 days after issuance of the order or the deter-
3 mination to implement corrective action by the head
4 of the agency. Review shall conform to chapter 7.

5 “(5)(A) If, in any action for damages or relief
6 under paragraph (3) or (4), an Executive agency
7 moves to withhold information from discovery based
8 on a claim that disclosure would be inimical to na-
9 tional security by asserting the privilege commonly
10 referred to as the ‘state secrets privilege’, and if the
11 assertion of such privilege prevents the employee or
12 former employee from establishing an element in
13 support of the employee’s or former employee’s
14 claim, the court shall resolve the disputed issue of
15 fact or law in favor of the employee or former em-
16 ployee, provided that an Inspector General investiga-
17 tion under subsection (b) has resulted in substantial
18 confirmation of that element, or those elements, of
19 the employee’s or former employee’s claim.

20 “(B) In any case in which an Executive agency
21 asserts the privilege commonly referred to as the
22 ‘state secrets privilege’, whether or not an Inspector
23 General has conducted an investigation under sub-
24 section (b), the head of that agency shall, at the
25 same time it asserts the privilege, issue a report to

1 authorized Members of Congress, accompanied by a
2 classified annex if necessary, describing the reasons
3 for the assertion, explaining why the court hearing
4 the matter does not have the ability to maintain the
5 protection of classified information related to the as-
6 ssertion, detailing the steps the agency has taken to
7 arrive at a mutually agreeable settlement with the
8 employee or former employee, setting forth the date
9 on which the classified information at issue will be
10 declassified, and providing all relevant information
11 about the underlying substantive matter.

12 “(d) APPLICABILITY TO NON-COVERED AGENCIES.—

13 An employee or former employee in an Executive agency
14 (or element or unit thereof) that is not a covered agency
15 shall, for purposes of any disclosure of covered information
16 (as described in subsection (a)(2)) which consists in whole
17 or in part of classified or sensitive information, be entitled
18 to the same protections, rights, and remedies under this
19 section as if that Executive agency (or element or unit
20 thereof) were a covered agency.

21 “(e) CONSTRUCTION.—Nothing in this section may
22 be construed—

23 “(1) to authorize the discharge of, demotion of,
24 or discrimination against an employee or former em-
25 ployee for a disclosure other than a disclosure pro-

1 tected by subsection (a) or (d) of this section or to
2 modify or derogate from a right or remedy otherwise
3 available to an employee or former employee; or

4 “(2) to preempt, modify, limit, or derogate any
5 rights or remedies available to an employee or
6 former employee under any other provision of law,
7 rule, or regulation (including the Lloyd-La Follette
8 Act).

9 No court or administrative agency may require the ex-
10 haustion of any right or remedy under this section as a
11 condition for pursuing any other right or remedy otherwise
12 available to an employee or former employee under any
13 other provision of law, rule, or regulation (as referred to
14 in paragraph (2)).

15 “(f) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘covered information’, as used
17 with respect to an employee or former employee,
18 means any information (including classified or sen-
19 sitive information) which the employee or former
20 employee reasonably believes evidences—

21 “(A) any violation of any law, rule, or reg-
22 ulation; or

23 “(B) gross mismanagement, a gross waste
24 of funds, an abuse of authority, or a substantial
25 and specific danger to public health or safety;

1 “(2) the term ‘covered agency’ means—

2 “(A) the Federal Bureau of Investigation,
3 the Office of the Director of National Intel-
4 ligence, the Central Intelligence Agency, the
5 Defense Intelligence Agency, the National
6 Geospatial-Intelligence Agency, the National Se-
7 curity Agency, and the National Reconnaissance
8 Office; and

9 “(B) any other Executive agency, or ele-
10 ment or unit thereof, determined by the Presi-
11 dent under section 2302(a)(2)(C)(ii)(II) to have
12 as its principal function the conduct of foreign
13 intelligence or counterintelligence activities;

14 “(3) the term ‘authorized Member of Congress’
15 means—

16 “(A) with respect to covered information
17 about sources and methods of the Central Intel-
18 ligence Agency, the Director of National Intel-
19 ligence, and the National Intelligence Program
20 (as defined in section 3(6) of the National Se-
21 curity Act of 1947), a member of the House
22 Permanent Select Committee on Intelligence,
23 the Senate Select Committee on Intelligence, or
24 any other committees of the House of Rep-

1 representatives or Senate to which this type of in-
2 formation is customarily provided;

3 “(B) with respect to special access pro-
4 grams specified in section 119 of title 10, an
5 appropriate member of the Congressional de-
6 fense committees (as defined in such section);
7 and

8 “(C) with respect to other covered informa-
9 tion, a member of the House Permanent Select
10 Committee on Intelligence, the Senate Select
11 Committee on Intelligence, the House Com-
12 mittee on Oversight and Government Reform,
13 the Senate Committee on Homeland Security
14 and Governmental Affairs, or any other com-
15 mittees of the House of Representatives or the
16 Senate that have oversight over the program
17 which the covered information concerns; and

18 “(4) the term ‘authorized official of an Execu-
19 tive agency’ shall have such meaning as the Office
20 of Personnel Management shall by regulation pre-
21 scribe, except that such term shall, with respect to
22 any employee or former employee in an agency, in-
23 clude the head, the general counsel, and the ombuds-
24 man of such agency.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 23 of title 5, United States Code, is amended
3 by inserting after the item relating to section 2303 the
4 following:

“2303a. National security whistleblower rights.”

5 **SEC. 1271. ENHANCEMENT OF CONTRACTOR EMPLOYEE**
6 **WHISTLEBLOWER PROTECTIONS.**

7 (a) CIVILIAN AGENCY CONTRACTS.—Section 315(c)
8 of the Federal Property and Administrative Services Act
9 of 1949 (41 U.S.C. 265(c)) is amended—

10 (1) in paragraph (1), by striking “If the head”
11 and all that follows through “actions:” and inserting
12 the following: “Not later than 180 days after sub-
13 mission of a complaint under subsection (b), the
14 head of the executive agency concerned shall deter-
15 mine whether the contractor concerned has subjected
16 the complainant to a reprisal prohibited by sub-
17 section (a) and shall either issue an order denying
18 relief or shall take one or more of the following ac-
19 tions:”; and

20 (2) by redesignating paragraph (3) as para-
21 graph (4) and adding after paragraph (2) the fol-
22 lowing new paragraph (3):

23 “(3) If the head of an executive agency has not issued
24 an order within 180 days after the submission of a com-
25 plaint under subsection (b) and there is no showing that

1 such delay is due to the bad faith of the complainant, the
2 complainant shall be deemed to have exhausted his admin-
3 istrative remedies with respect to the complaint, and the
4 complainant may bring an action at law or equity for de
5 novo review to seek compensatory damages and other re-
6 lief available under this section in the appropriate district
7 court of the United States, which shall have jurisdiction
8 over such an action without regard to the amount in con-
9 troversy, and which action shall, at the request of either
10 party to such action, be tried by the court with a jury.”.

11 (b) ARMED SERVICES CONTRACTS.—Section 2409(c)
12 of title 10, United States Code, is amended—

13 (1) in paragraph (1), by striking “If the head”
14 and all that follows through “actions:” and inserting
15 the following: “Not later than 180 days after sub-
16 mission of a complaint under subsection (b), the
17 head of the agency concerned shall determine wheth-
18 er the contractor concerned has subjected the com-
19 plainant to a reprisal prohibited by subsection (a)
20 and shall either issue an order denying relief or shall
21 take one or more of the following actions:”; and

22 (2) by redesignating paragraph (3) as para-
23 graph (4) and adding after paragraph (2) the fol-
24 lowing new paragraph (3):

1 “(3) If the head of an agency has not issued an order
2 within 180 days after the submission of a complaint under
3 subsection (b) and there is no showing that such delay
4 is due to the bad faith of the complainant, the complainant
5 shall be deemed to have exhausted his administrative rem-
6 edies with respect to the complaint, and the complainant
7 may bring an action at law or equity for de novo review
8 to seek compensatory damages and other relief available
9 under this section in the appropriate district court of the
10 United States, which shall have jurisdiction over such an
11 action without regard to the amount in controversy, and
12 which action shall, at the request of either party to such
13 action, be tried by the court with a jury.”.

14 **SEC. 1272. PROHIBITED PERSONNEL PRACTICES AFFECT-**
15 **ING THE TRANSPORTATION SECURITY AD-**
16 **MINISTRATION.**

17 (a) **IN GENERAL.**—Chapter 23 of title 5, United
18 States Code, is amended—

19 (1) by redesignating sections 2304 and 2305 as
20 sections 2305 and 2306, respectively; and

21 (2) by inserting after section 2303a (as inserted
22 by section 1270) the following:

1 **“§ 2304. Prohibited personnel practices affecting the**
2 **Transportation Security Administration**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
4 vision of law, any individual holding or applying for a posi-
5 tion within the Transportation Security Administration
6 shall be covered by—

7 “(1) the provisions of section 2302(b)(1), (8),
8 and (9);

9 “(2) any provision of law implementing section
10 2302(b)(1), (8), or (9) by providing any right or
11 remedy available to an employee or applicant for em-
12 ployment in the civil service; and

13 “(3) any rule or regulation prescribed under
14 any provision of law referred to in paragraph (1) or
15 (2).

16 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to affect any rights, apart from
18 those described in subsection (a), to which an individual
19 described in subsection (a) might otherwise be entitled
20 under law.

21 “(c) EFFECTIVE DATE.—This section shall take ef-
22 fect as of the date of the enactment of this section.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 23 of title 5, United States Code, is amended
25 by striking the items relating to sections 2304 and 2305,
26 respectively, and by inserting the following:

“2304. Prohibited personnel practices affecting the Transportation Security Administration.

“2305. Responsibility of the Government Accountability Office.

“2306. Coordination with certain other provisions of law.”.

1 **SEC. 1273. CLARIFICATION OF WHISTLEBLOWER RIGHTS**
2 **RELATING TO SCIENTIFIC AND OTHER RE-**
3 **SEARCH.**

4 (a) IN GENERAL.—Section 2302 of title 5, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(f) As used in section 2302(b)(8), the term ‘abuse
8 of authority’ includes—

9 “(1) any action that compromises the validity
10 or accuracy of federally funded research or analysis;

11 “(2) the dissemination of false or misleading
12 scientific, medical, or technical information;

13 “(3) any action that restricts or prevents an
14 employee or any person performing federally funded
15 research or analysis from publishing in peer-reviewed
16 journals or other scientific publications or making
17 oral presentations at professional society meetings or
18 other meetings of their peers; and

19 “(4) any action that discriminates for or
20 against any employee or applicant for employment
21 on the basis of religion, as defined by section
22 1273(b) of the Whistleblower Protection Enhance-
23 ment Act of 2009.”.

1 (b) DEFINITION.—As used in section 2302(f)(3) of
2 title 5, United States Code (as amended by subsection
3 (a)), the term “on the basis of religion” means—

4 (1) prohibiting personal religious expression by
5 Federal employees to the greatest extent possible,
6 consistent with requirements of law and interests in
7 workplace efficiency;

8 (2) requiring religious participation or non-par-
9 ticipation as a condition of employment, or permit-
10 ting religious harassment;

11 (3) failing to accommodate employees’ exercise
12 of their religion;

13 (4) failing to treat all employees with the same
14 respect and consideration, regardless of their religion
15 (or lack thereof);

16 (5) restricting personal religious expression by
17 employees in the Federal workplace except where the
18 employee’s interest in the expression is outweighed
19 by the government’s interest in the efficient provi-
20 sion of public services or where the expression in-
21 trudes upon the legitimate rights of other employees
22 or creates the appearance, to a reasonable observer,
23 of an official endorsement of religion;

24 (6) regulating employees’ personal religious ex-
25 pression on the basis of its content or viewpoint, or

1 suppressing employees' private religious speech in
2 the workplace while leaving unregulated other pri-
3 vate employee speech that has a comparable effect
4 on the efficiency of the workplace, including ideolog-
5 ical speech on politics and other topics;

6 (7) failing to exercise their authority in an
7 evenhanded and restrained manner, and with regard
8 for the fact that Americans are used to expressions
9 of disagreement on controversial subjects, including
10 religious ones;

11 (8) failing to permit an employee to engage in
12 private religious expression in personal work areas
13 not regularly open to the public to the same extent
14 that they may engage in nonreligious private expres-
15 sion, subject to reasonable content- and viewpoint-
16 neutral standards and restrictions;

17 (9) failing to permit an employee to engage in
18 religious expression with fellow employees, to the
19 same extent that they may engage in comparable
20 nonreligious private expression, subject to reasonable
21 and content-neutral standards and restrictions;

22 (10) failing to permit an employee to engage in
23 religious expression directed at fellow employees, and
24 may even attempt to persuade fellow employees of
25 the correctness of their religious views, to the same

1 extent as those employees may engage in comparable
2 speech not involving religion;

3 (11) inhibiting an employee from urging a col-
4 league to participate or not to participate in reli-
5 gious activities to the same extent that, consistent
6 with concerns of workplace efficiency, they may urge
7 their colleagues to engage in or refrain from other
8 personal endeavors, except that the employee must
9 refrain from such expression when a fellow employee
10 asks that it stop or otherwise demonstrates that it
11 is unwelcome;

12 (12) failing to prohibit expression that is part
13 of a larger pattern of verbal attacks on fellow em-
14 ployees (or a specific employee) not sharing the faith
15 of the speaker;

16 (13) preventing an employee from—

17 (A) wearing personal religious jewelry ab-
18 sent special circumstances (such as safety con-
19 cerns) that might require a ban on all similar
20 nonreligious jewelry; or

21 (B) displaying religious art and literature
22 in their personal work areas to the same extent
23 that they may display other art and literature,
24 so long as the viewing public would reasonably
25 understand the religious expression to be that

1 of the employee acting in her personal capacity,
2 and not that of the government itself;

3 (14) prohibiting an employee from using their
4 private time to discuss religion with willing cowork-
5 ers in public spaces to the same extent as they may
6 discuss other subjects, so long as the public would
7 reasonably understand the religious expression to be
8 that of the employees acting in their personal capaci-
9 ties;

10 (15) discriminating against an employee on the
11 basis of their religion, religious beliefs, or views con-
12 cerning their religion by promoting, refusing to pro-
13 mote, hiring, refusing to hire, or otherwise favoring
14 or disfavoring, an employee or potential employee
15 because of his or her religion, religious beliefs, or
16 views concerning religion, or by explicitly or implic-
17 itly, insisting that the employee participate in reli-
18 gious activities as a condition of continued employ-
19 ment, promotion, salary increases, preferred job as-
20 signments, or any other incidents of employment or
21 insisting that an employee refrain from participating
22 in religious activities outside the workplace except
23 pursuant to otherwise legal, neutral restrictions that
24 apply to employees' off-duty conduct and expression

1 in general (such as restrictions on political activities
2 prohibited by the Hatch Act);

3 (16) prohibiting a supervisor's religious expres-
4 sion where it is not coercive and is understood to be
5 his or her personal view, in the same way and to the
6 same extent as other constitutionally valued speech;

7 (17) permitting a hostile environment, or reli-
8 gious harassment, in the form of religiously discrimi-
9 natory intimidation, or pervasive or severe religious
10 ridicule or insult, whether by supervisors or fellow
11 workers, as determined by its frequency or repet-
12 itiveness, and severity;

13 (18) failing to accommodate an employee's exer-
14 cise of their religion unless such accommodation
15 would impose an undue hardship on the conduct of
16 the agency's operations, based on real rather than
17 speculative or hypothetical cost and without
18 disfavoring other, nonreligious accommodations; and

19 (19) in those cases where an agency's work rule
20 imposes a substantial burden on a particular em-
21 ployee's exercise of religion, failing to grant the em-
22 ployee an exemption from that rule, absent a com-
23 pelling interest in denying the exemption and where
24 there is no less restrictive means of furthering that
25 interest.

1 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to create any new right, benefit,
3 or trust responsibility, substantive or procedural, enforce-
4 able at law or equity by a party against the United States,
5 its agencies, its officers, or any person.

6 **SEC. 1274. EFFECTIVE DATE.**

7 This part shall take effect 30 days after the date of
8 the enactment of this Act, except as provided in the
9 amendment made by section 1272(a)(2).



10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Teague OF New Mexico,
OR H is DESIGNEE, DEBATABLE FOR 10 MINUTES.

AMENDMENT TO H.R. 1
OFFERED BY MR. TEAGUE OF NEW MEXICO

At the end of section 1226 (page 25, after line 21),
insert the following:

- 1 (8) The website shall provide, by location, links
- 2 to and information on how to access job opportuni-
- 3 ties created at or by entities receiving funding under
- 4 this Act, including, if possible, links to or informa-
- 5 tion about local employment agencies; state, local
- 6 and other public agencies receiving funding; and pri-
- 7 vate firms contracted to perform work funded by
- 8 this Act



11 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
Camp OF Michigan
OR H is DESIGNEE, DEBATABLE FOR 60 MINUTES.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1
OFFERED BY MR. CAMP OF MICHIGAN AND MR.
CANTOR OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE, ETC.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Economic Recovery Act of 2009”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
5 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—TAX PROVISIONS

Sec. 100. References.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

Sec. 101. 10 percent rate bracket for individuals reduced to 5 percent for 2009 and 2010.

Sec. 102. 15 percent rate bracket for individuals reduced to 10 percent for 2009 and 2010.

Subtitle B—Alternative Minimum Tax Relief For Individuals

Sec. 111. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 112. Increase in alternative minimum tax exemption amounts for 2009 and 2010.

Subtitle C—First-Time Homebuyer Credit

Sec. 121. Extension and modification of first-time homebuyer credit.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

- Sec. 131. Special allowance for certain property acquired during 2009.
- Sec. 132. Temporary increase in limitations on expensing of certain depreciable business assets.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

- Sec. 136. 5-year carryback of operating losses.
- Sec. 137. Exception for TARP recipients.

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

- Sec. 141. Deduction for qualified small business income.

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

- Sec. 146. Repeal of withholding tax on government contractors.

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

- Sec. 151. Above-the-line deduction for qualified health insurance costs of individuals.

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income

- Sec. 161. Temporary exclusion of unemployment compensation from gross income.

Subtitle G—No Impact on Social Security Trust Funds

- Sec. 171. No impact on social security trust funds.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS

- Sec. 200. Short title.
- Sec. 201. Extension of emergency unemployment compensation program.
- Sec. 202. Additional eligibility requirements for emergency unemployment compensation.
- Sec. 203. Special transfers.

TITLE III—NO TAX INCREASES TO PAY FOR SPENDING

- Sec. 301. No Tax Increases to Pay for Spending.

1 **TITLE I—TAX PROVISIONS**

2 **SEC. 100. REFERENCES.**

3 Except as otherwise expressly provided, whenever in
4 this title an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **Subtitle A—Reduction in Indi-**
4 **vidual Tax Rates For 2009 and**
5 **2010**

6 **SEC. 101. 10 PERCENT RATE BRACKET FOR INDIVIDUALS**
7 **REDUCED TO 5 PERCENT FOR 2009 AND 2010.**

8 (a) **IN GENERAL.**—Clause (i) of section 1(i)(1)(A) is
9 amended by inserting “(5 percent in the case of any tax-
10 able year beginning in 2009 or 2010)” after “10 percent”.

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

14 **SEC. 102. 15 PERCENT RATE BRACKET FOR INDIVIDUALS**
15 **REDUCED TO 10 PERCENT FOR 2009 AND 2010.**

16 (a) **IN GENERAL.**—Subsection (i) of section 1 is
17 amended by redesignating paragraph (3) as paragraph (4)
18 and by inserting after paragraph (2) the following new
19 paragraph:

20 “(3) **REDUCTION IN 15 PERCENT RATE FOR**
21 **2009 AND 2010.**—In the case of any taxable year be-
22 **ginning in 2009 or 2010, ‘10 percent’ shall be sub-**
23 **stituted for ‘15 percent’ in the tables under sub-**
24 **sections (a), (b), (c), (d), and (e). The preceding**

1 sentence shall be applied after application of para-
2 graph (1).”.

3 (c) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2008.

6 **Subtitle B—Alternative Minimum**
7 **Tax Relief For Individuals**

8 **SEC. 111. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
9 **LIEF FOR NONREFUNDABLE PERSONAL**
10 **CREDITS.**

11 (a) **IN GENERAL.**—Paragraph (2) of section 26(a)
12 (relating to special rule for taxable years 2000 through
13 2008) is amended—

14 (1) by striking “or 2008” and inserting “2008,
15 2009, or 2010”, and

16 (2) by striking “2008” in the heading thereof
17 and inserting “2010”.

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

21 **SEC. 112. INCREASE IN ALTERNATIVE MINIMUM TAX EX-**
22 **EMPTION AMOUNTS FOR 2009 AND 2010.**

23 (a) **IN GENERAL.**—Paragraph (1) of section 55(d)
24 (relating to exemption amount) is amended—

1 (1) by striking “(\$69,950 in the case of taxable
2 years beginning in 2008)” in subparagraph (A) and
3 inserting “(\$55,000 in the case of taxable years be-
4 ginning in 2009 or 2010)”, and

5 (2) by striking “(\$46,200 in the case of taxable
6 years beginning in 2008)” in subparagraph (B) and
7 inserting “(\$38,750 in the case of taxable years be-
8 ginning in 2009 or 2010)”.

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

12 **Subtitle C—First-Time Homebuyer** 13 **Credit**

14 **SEC. 121. EXTENSION AND MODIFICATION OF FIRST-TIME** 15 **HOMEBUYER CREDIT.**

16 (a) EXTENSION OF CREDIT.—Subsection (i) of sec-
17 tion 36 (as redesignated by subsection (d)) is amended
18 by striking “July 1, 2009” and inserting “January 1,
19 2010”.

20 (b) REPEAL OF FIRST-TIME HOMEBUYER REQUIRE-
21 MENT.—

22 (1) IN GENERAL.—Subsection (a) of section 36
23 is amended by striking “an individual who is a first-
24 time homebuyer of a principal residence” and insert-

1 ing “an individual who purchases a principal resi-
2 dence”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 36(b)(1)(A) is amended by in-
5 serting “with respect to any taxpayer for any
6 taxable year” after “subsection (a)”.

7 (B) Section 36(c) is amended by striking
8 paragraph (1) and by redesignating paragraphs
9 (2) through (5) as paragraphs (1) through (4),
10 respectively.

11 (C) The heading of section 36 (and the
12 item relating to such section in the table of sec-
13 tions for subpart C of part IV of subchapter A
14 of chapter 1) are amended by striking “**FIRST-**
15 **TIME HOMEBUYER**” and inserting “**HOME-**
16 **BUYER**”.

17 (c) REPEAL OF RECAPTURE RULES.—

18 (1) IN GENERAL.—Paragraph (4) of section
19 36(f) is amended by adding at the end the following
20 new subparagraph:

21 “(D) WAIVER OF RECAPTURE FOR PUR-
22 CHASES IN 2009.—In the case of any credit al-
23 lowed with respect to the purchase of a prin-
24 cipal residence after December 31, 2008—

1 “(i) paragraph (1) shall not apply,

2 and

3 “(ii) paragraph (2) shall apply only if

4 the disposition or cessation described in

5 paragraph (2) with respect to such resi-

6 dence occurs during the 36-month period

7 beginning on the date of the purchase of

8 such residence by the taxpayer.”

9 (2) CONFORMING AMENDMENT.—Subsection (g)

10 of section 36 is amended by striking “subsection

11 (c)” and inserting “subsections (c) and (f)(4)(D)”.

12 (d) DOWNPAYMENT REQUIREMENT.—Section 36 is

13 amended by redesignating subsection (h) as subsection (i)

14 and by inserting after subsection (g) the following new

15 subsection:

16 “(h) DOWNPAYMENT REQUIREMENT.—No credit

17 shall be allowed under subsection (a) to any taxpayer with

18 respect to the purchase of any residence unless such tax-

19 payer makes a downpayment of not less 5 percent of the

20 purchase price of such residence. For purposes of the pre-

21 ceding sentence, an amount shall not be treated as a

22 downpayment if such amount is repayable by the taxpayer

23 to any other person.”

24 (e) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to residences purchased after December
4 31, 2008.

5 (2) DOWNPAYMENT REQUIREMENT.—The
6 amendment made by subsection (d) shall apply to
7 residences purchased after the date of the enactment
8 of this Act.

9 **Subtitle D—Tax Incentives For** 10 **Business**

11 **PART 1—TEMPORARY INVESTMENT INCENTIVES**

12 **SEC. 131. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY** 13 **ACQUIRED DURING 2009.**

14 (a) IN GENERAL.—Paragraph (2) of section 168(k)
15 is amended—

16 (1) by striking “January 1, 2010” and insert-
17 ing “January 1, 2011”, and

18 (2) by striking “January 1, 2009” each place
19 it appears and inserting “January 1, 2010”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) The heading for subsection (k) of section
22 168 is amended by striking “JANUARY 1, 2009” and
23 inserting “JANUARY 1, 2010”.

1 (2) The heading for clause (ii) of section
2 168(k)(2)(B) is amended by striking “PRE-JANUARY
3 1, 2009” and inserting “PRE-JANUARY 1, 2010”.

4 (3) Subparagraph (D) of section 168(k)(4) is
5 amended—

6 (A) by striking “and” at the end of clause

7 (i),

8 (B) by redesignating clause (ii) as clause

9 (v), and

10 (C) by inserting after clause (i) the fol-

11 lowing new clauses:

12 “(ii) ‘April 1, 2008’ shall be sub-
13 stituted for ‘January 1, 2008’ in subpara-
14 graph (A)(iii)(I) thereof,

15 “(iii) ‘January 1, 2009’ shall be sub-
16 stituted for ‘January 1, 2010’ each place it
17 appears,

18 “(iv) ‘January 1, 2010’ shall be sub-
19 stituted for ‘January 1, 2011’ in subpara-
20 graph (A)(iv) thereof, and”.

21 (4) Subparagraph (B) of section 168(l)(5) is
22 amended by striking “January 1, 2009” and insert-
23 ing “January 1, 2010”.

1 (5) Subparagraph (B) of section 1400N(d)(3)
2 is amended by striking “January 1, 2009” and in-
3 serting “January 1, 2010”.

4 (c) EFFECTIVE DATES.—

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

10 (2) TECHNICAL AMENDMENT.—Section
11 168(k)(4)(D)(ii) of the Internal Revenue Code of
12 1986, as added by subsection (b)(3)(C), shall apply
13 to taxable years ending after March 31, 2008.

14 **SEC. 132. TEMPORARY INCREASE IN LIMITATIONS ON EX-**
15 **PENSING OF CERTAIN DEPRECIABLE BUSI-**
16 **NESS ASSETS.**

17 (a) IN GENERAL.—Paragraph (7) of section 179(b)
18 is amended—

19 (1) by striking “2008” and inserting “2008, or
20 2009”, and

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

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

1 subparagraph, the term ‘applicable 2008
2 or 2009 net operating loss’ means—

3 “(I) the taxpayer’s net operating
4 loss for any taxable year ending in
5 2008 or 2009, or

6 “(II) if the taxpayer elects to
7 have this subclause apply in lieu of
8 subclause (I), the taxpayer’s net oper-
9 ating loss for any taxable year begin-
10 ning in 2008 or 2009.

11 “(iii) ELECTION.—Any election under
12 this subparagraph shall be made in such
13 manner as may be prescribed by the Sec-
14 retary, and shall be made by the due date
15 (including extension of time) for filing the
16 taxpayer’s return for the taxable year of
17 the net operating loss. Any such election,
18 once made, shall be irrevocable.

19 “(iv) COORDINATION WITH ALTER-
20 NATIVE TAX NET OPERATING LOSS DEDUC-
21 TION.—In the case of a taxpayer who
22 elects to have clause (ii)(II) apply, section
23 56(d)(1)(A)(ii) shall be applied by sub-
24 stituting ‘ending during 2001 or 2002 or

1 beginning during 2008 or 2009' for 'end-
2 ing during 2001, 2002, 2008, or 2009'.".

3 (b) ALTERNATIVE TAX NET OPERATING LOSS DE-
4 DUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is
5 amended to read as follows:

6 “(I) the amount of such deduc-
7 tion attributable to the sum of
8 carrybacks of net operating losses
9 from taxable years ending during
10 2001, 2002, 2008, or 2009 and
11 carryovers of net operating losses to
12 such taxable years, or”.

13 (c) LOSS FROM OPERATIONS OF LIFE INSURANCE
14 COMPANIES.—Subsection (b) of section 810 is amended
15 by adding at the end the following new paragraph:

16 “(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

17 “(A) IN GENERAL.—In the case of an ap-
18 plicable 2008 or 2009 loss from operations with
19 respect to which the taxpayer has elected the
20 application of this paragraph, paragraph (1)(A)
21 shall be applied, at the election of the taxpayer,
22 by substituting ‘5’ or ‘4’ for ‘3’.

23 “(B) APPLICABLE 2008 OR 2009 LOSS FROM
24 OPERATIONS.—For purposes of this paragraph,

1 the term ‘applicable 2008 or 2009 loss from op-
2 erations’ means—

3 “(i) the taxpayer’s loss from oper-
4 ations for any taxable year ending in 2008
5 or 2009, or

6 “(ii) if the taxpayer elects to have this
7 clause apply in lieu of clause (i), the tax-
8 payer’s loss from operations for any tax-
9 able year beginning in 2008 or 2009.

10 “(C) ELECTION.—Any election under this
11 paragraph shall be made in such manner as
12 may be prescribed by the Secretary, and shall
13 be made by the due date (including extension of
14 time) for filing the taxpayer’s return for the
15 taxable year of the loss from operations. Any
16 such election, once made, shall be irrevocable.

17 “(D) COORDINATION WITH ALTERNATIVE
18 TAX NET OPERATING LOSS DEDUCTION.—In the
19 case of a taxpayer who elects to have subpara-
20 graph (B)(ii) apply, section 56(d)(1)(A)(ii) shall
21 be applied by substituting ‘ending during 2001
22 or 2002 or beginning during 2008 or 2009’ for
23 ‘ending during 2001, 2002, 2008, or 2009.’”

24 (d) CONFORMING AMENDMENT.—Section 172 is
25 amended by striking subsection (k).

1 (e) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to net operating losses aris-
5 ing in taxable years ending after December 31,
6 2007.

7 (2) ALTERNATIVE TAX NET OPERATING LOSS
8 DEDUCTION.—The amendment made by subsection
9 (b) shall apply to taxable years ending after 1997.

10 (3) LOSS FROM OPERATIONS OF LIFE INSUR-
11 ANCE COMPANIES.—The amendment made by sub-
12 section (d) shall apply to losses from operations aris-
13 ing in taxable years ending after December 31,
14 2007.

15 (4) TRANSITIONAL RULE.—In the case of a net
16 operating loss (or, in the case of a life insurance
17 company, a loss from operations) for a taxable year
18 ending before the date of the enactment of this
19 Act—

20 (A) any election made under section
21 172(b)(3) or 810(b)(3) of the Internal Revenue
22 Code of 1986 with respect to such loss may
23 (notwithstanding such section) be revoked be-
24 fore the applicable date,

1 (B) any election made under section
2 172(b)(1)(H) or 810(b)(4) of such Code with
3 respect to such loss shall (notwithstanding such
4 section) be treated as timely made if made be-
5 fore the applicable date, and

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

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

13 **SEC. 137. EXCEPTION FOR TARP RECIPIENTS.**

14 The amendments made by this part shall not apply
15 to—

16 (1) any taxpayer if—

17 (A) the Federal Government acquires, at
18 any time, an equity interest in the taxpayer
19 pursuant to the Emergency Economic Stabiliza-
20 tion Act of 2008, or

21 (B) the Federal Government acquires, at
22 any time, any warrant (or other right) to ac-
23 quire any equity interest with respect to the
24 taxpayer pursuant to such Act,

1 (2) the Federal National Mortgage Association
2 and the Federal Home Loan Mortgage Corporation,
3 and

4 (3) any taxpayer which at any time in 2008 or
5 2009 is a member of the same affiliated group (as
6 defined in section 1504 of the Internal Revenue
7 Code of 1986, determined without regard to sub-
8 section (b) thereof) as a taxpayer described in para-
9 graph (1) or (2).

10 **PART 3—DEDUCTION FOR QUALIFIED SMALL**
11 **BUSINESS INCOME**

12 **SEC. 141. DEDUCTION FOR QUALIFIED SMALL BUSINESS IN-**
13 **COME.**

14 (a) **IN GENERAL.**—Paragraph (1) of section 199(a)
15 is amended to read as follows:

16 “(1) **IN GENERAL.**—There shall be allowed as a
17 deduction an amount equal to the sum of—

18 “(A) 9 percent of the lesser of—

19 “(i) the qualified production activities
20 income of the taxpayer for the taxable
21 year, or

22 “(ii) taxable income (determined with-
23 out regard to this section) for the taxable
24 year, and

1 “(B) in the case of a qualified small busi-
2 ness for a taxable year beginning in 2009 or
3 2010, 20 percent of the lesser of—

4 “(i) the qualified small business in-
5 come of the taxpayer for the taxable year,
6 or

7 “(ii) taxable income (determined with-
8 out regard to this section) for the taxable
9 year.”.

10 (b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL
11 BUSINESS INCOME.—Section 199 is amended by adding
12 at the end the following new subsection:

13 “(e) QUALIFIED SMALL BUSINESS; QUALIFIED
14 SMALL BUSINESS INCOME.—

15 “(1) QUALIFIED SMALL BUSINESS.—

16 “(A) IN GENERAL.—For purposes of this
17 section, the term ‘qualified small business’
18 means any taxpayer for any taxable year if the
19 annual average number of employees employed
20 by such taxpayer during such taxable year was
21 500 or fewer.

22 “(B) AGGREGATION RULE.—For purposes
23 of subparagraph (A), any person treated as a
24 single employer under subsection (a) or (b) of
25 section 52 (applied without regard to section

1 1563(b)) or subsection (m) or (o) of section
2 414 shall be treated as 1 taxpayer for purposes
3 of this subsection.

4 “(C) SPECIAL RULE.—If a taxpayer is
5 treated as a qualified small business for any
6 taxable year, the taxpayer shall not fail to be
7 treated as a qualified small business for any
8 subsequent taxable year solely because the num-
9 ber of employees employed by such taxpayer
10 during such subsequent taxable year exceeds
11 500. The preceding sentence shall cease to
12 apply to such taxpayer in the first taxable year
13 in which there is an ownership change (as de-
14 fined by section 382(g) in respect of a corpora-
15 tion, or by applying principles analogous to
16 such ownership change in the case of a tax-
17 payer that is a partnership) with respect to the
18 stock (or partnership interests) of the taxpayer.

19 “(2) QUALIFIED SMALL BUSINESS INCOME.—

20 “(A) IN GENERAL.—For purposes of this
21 section, the term ‘qualified small business in-
22 come’ means the excess of—

23 “(i) the income of the qualified small
24 business which—

1 “(I) is attributable to the actual
2 conduct of a trade or business,

3 “(II) is income from sources
4 within the United States (within the
5 meaning of section 861), and

6 “(III) is not passive income (as
7 defined in section 904(d)(2)(B)), over

8 “(ii) the sum of—

9 “(I) the cost of goods sold that
10 are allocable to such income, and

11 “(II) other expenses, losses, or
12 deductions (other than the deduction
13 allowed under this section), which are
14 properly allocable to such income.

15 “(B) EXCEPTIONS.—The following shall
16 not be treated as income of a qualified small
17 business for purposes of subparagraph (A):

18 “(i) Any income which is attributable
19 to any property described in section
20 1400N(p)(3).

21 “(ii) Any income which is attributable
22 to the ownership or management of any
23 professional sports team.

1 “(iii) Any income which is attributable
2 to a trade or business described in sub-
3 paragraph (B) of section 1202(e)(3).

4 “(iv) Any income which is attributable
5 to any property with respect to which
6 records are required to be maintained
7 under section 2257 of title 18, United
8 States Code.

9 “(C) ALLOCATION RULES, ETC.—Rules
10 similar to the rules of paragraphs (2), (3),
11 (4)(D), and (7) of subsection (c) shall apply for
12 purposes of this paragraph.

13 “(3) SPECIAL RULES.—Except as otherwise
14 provided by the Secretary, rules similar to the rules
15 of subsection (d) shall apply for purposes of this
16 subsection.”.

17 (c) CONFORMING AMENDMENT.—Section 199(a)(2)
18 is amended by striking “paragraph (1)” and inserting
19 “paragraph (1)(A)”.

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

1 **PART 4—REPEAL OF WITHHOLDING TAX ON**
2 **GOVERNMENT CONTRACTORS**

3 **SEC. 146. REPEAL OF WITHHOLDING TAX ON GOVERNMENT**
4 **CONTRACTORS.**

5 Section 3402 is amended by striking subsection (t).

6 **Subtitle E—Deduction For Quali-**
7 **fied Health Insurance Costs of**
8 **Individuals**

9 **SEC. 151. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
10 **HEALTH INSURANCE COSTS OF INDIVIDUALS.**

11 (a) **IN GENERAL.**—Part VII of subchapter B of chap-
12 ter 1 of the Internal Revenue Code of 1986 (relating to
13 additional itemized deductions) is amended by redesignig-
14 nating section 224 as section 225 and by inserting after
15 section 223 the following new section:

16 **“SEC. 224. COSTS OF QUALIFIED HEALTH INSURANCE.**

17 “(a) **IN GENERAL.**—In the case of an individual,
18 there shall be allowed as a deduction an amount equal to
19 the amount paid during the taxable year for coverage for
20 the taxpayer, his spouse, and dependents under qualified
21 health insurance.

22 “(b) **QUALIFIED HEALTH INSURANCE.**—For pur-
23 poses of this section, the term ‘qualified health insurance’
24 means insurance which constitutes medical care; except
25 that such term shall not include any insurance if substan-

1 tially all of its coverage is of excepted benefits described
2 in section 9832(c).

3 “(c) SPECIAL RULES.—

4 “(1) COORDINATION WITH MEDICAL DEDUC-
5 TION, ETC.—Any amount paid by a taxpayer for in-
6 surance to which subsection (a) applies shall not be
7 taken into account in computing the amount allow-
8 able to the taxpayer as a deduction under section
9 162(l) or 213(a). Any amount taken into account in
10 determining the credit allowed under section 35 shall
11 not be taken into account for purposes of this sec-
12 tion.

13 “(2) DEDUCTION NOT ALLOWED FOR SELF-EM-
14 PLOYMENT TAX PURPOSES.—The deduction allow-
15 able by reason of this section shall not be taken into
16 account in determining an individual’s net earnings
17 from self-employment (within the meaning of section
18 1402(a)) for purposes of chapter 2.”

19 (b) DEDUCTION ALLOWED IN COMPUTING AD-
20 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
21 such Code is amended by inserting before the last sentence
22 the following new paragraph:

23 “(22) COSTS OF QUALIFIED HEALTH INSUR-
24 ANCE.—The deduction allowed by section 224.”

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for part VII of subchapter B of chapter 1 of such Code
3 is amended by redesignating the item relating to section
4 224 as an item relating to section 225 and inserting before
5 such item the following new item:

“Sec. 224. Costs of qualified health insurance.”

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

9 **Subtitle F—Temporary Exclusion**
10 **of Unemployment Compensation**
11 **From Gross Income**

12 **SEC. 161. TEMPORARY EXCLUSION OF UNEMPLOYMENT**
13 **COMPENSATION FROM GROSS INCOME.**

14 (a) IN GENERAL.—Section 85 is amended by adding
15 at the end the following new subsection:

16 “(c) EXCLUSION OF AMOUNTS RECEIVED IN 2008
17 AND 2009.—Subsection (a) shall not apply to any unem-
18 ployment compensation received in 2008 or 2009.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to amounts received after De-
21 cember 31, 2007.

1 **Subtitle G—No Impact on Social**
2 **Security Trust Funds**

3 **SEC. 171. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.**

4 (a) **ESTIMATE BY SECRETARY OF THE TREASURY.—**

5 The Secretary of the Treasury shall annually estimate the
6 impact that the enactment of this Act has on the income
7 and balances of the trust funds established under section
8 201 or 1817 of the Social Security Act (42 U.S.C. 401,
9 1395i).

10 (b) **TRANSFER OF FUNDS.—**If, under subsection (a),

11 the Secretary of the Treasury estimates that the enact-
12 ment of this Act has a negative impact on the income and
13 balances of the trust funds established under section 201
14 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i),
15 the Secretary shall transfer, not less frequently than quar-
16 terly, from the general revenues of the Federal Govern-
17 ment an amount sufficient so as to ensure that the income
18 and balances of such trust funds are not reduced as a re-
19 sult of the enactment of this Act.

20 **TITLE II—ASSISTANCE FOR**
21 **UNEMPLOYED WORKERS**

22 **SEC. 200. SHORT TITLE.**

23 This title may be cited as the “Assistance for Unem-
24 ployed Workers Act”.

1 **SEC. 201. EXTENSION OF EMERGENCY UNEMPLOYMENT**
2 **COMPENSATION PROGRAM.**

3 (a) **IN GENERAL.**—Section 4007 of the Supplemental
4 Appropriations Act, 2008 (Public Law 110–252; 26
5 U.S.C. 3304 note), as amended by section 4 of the Unem-
6 ployment Compensation Extension Act of 2008 (Public
7 Law 110–449; 122 Stat. 5015), is amended—

8 (1) by striking “March 31, 2009” each place it
9 appears and inserting “December 31, 2009”;

10 (2) in the heading for subsection (b)(2), by
11 striking “MARCH 31, 2009” and inserting “DECEM-
12 BER 31, 2009”; and

13 (3) in subsection (b)(3), by striking “August
14 27, 2009” and inserting “May 31, 2010”.

15 (b) **FINANCING PROVISIONS.**—Section 4004 of such
16 Act is amended by adding at the end the following:

17 “(e) **TRANSFER OF FUNDS.**—Notwithstanding any
18 other provision of law, the Secretary of the Treasury shall
19 transfer from the general fund of the Treasury (from
20 funds not otherwise appropriated)—

21 “(1) to the extended unemployment compensa-
22 tion account (as established by section 905 of the
23 Social Security Act) such sums as the Secretary of
24 Labor estimates to be necessary to make payments
25 to States under this title by reason of the amend-

1 ments made by section 201(a) of the Assistance for
2 Unemployed Workers Act; and

3 “(2) to the employment security administration
4 account (as established by section 901 of the Social
5 Security Act) such sums as the Secretary of Labor
6 estimates to be necessary for purposes of assisting
7 States in meeting administrative costs by reason of
8 the amendments referred to in paragraph (1).

9 There are appropriated from the general fund of the
10 Treasury, without fiscal year limitation, the sums referred
11 to in the preceding sentence and such sums shall not be
12 required to be repaid.”

13 **SEC. 202. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR**
14 **EMERGENCY UNEMPLOYMENT COMPENSA-**
15 **TION.**

16 Section 4001 of the Supplemental Appropriations
17 Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note)
18 is amended by adding at the end the following:

19 “Additional Eligibility Requirements

20 “(g)(1) IN GENERAL.—A State shall require as a
21 condition of eligibility for emergency unemployment com-
22 pensation under this Act for any week—

23 “(A) in the case of any individual described in
24 paragraph (2), that such individual—

1 “(i) have a secondary school diploma or its
2 recognized equivalent; or

3 “(ii) be making satisfactory progress in a
4 program that leads to a secondary school di-
5 ploma or its recognized equivalent; and

6 “(B) in the case of any individual described in
7 paragraph (3), that such individual participate in re-
8 employment services or in similar services (or, if
9 such services were ongoing as of when such indi-
10 vidual most recently exhausted regular compensation
11 before seeking emergency unemployment compensa-
12 tion, that such individual continue to participate in
13 such services), unless the State agency charged with
14 the administration of the State law determines
15 that—

16 “(i) such individual has completed such
17 services as of a date subsequent to the com-
18 mencement of emergency unemployment com-
19 pensation; or

20 “(ii) there is justifiable cause for such indi-
21 vidual’s failure to participate in such services.

22 “(2) INDIVIDUALS TO WHOM PARAGRAPH (1)(A) AP-
23 PLIES.—The requirements of paragraph (1)(A) shall apply
24 in the case of any individual who was under age 30 at
25 the time of filing an initial claim for the regular compensa-

1 tion that such individual most recently exhausted before
2 seeking emergency unemployment compensation.

3 “(3) INDIVIDUALS TO WHOM PARAGRAPH (1)(B) AP-
4 PLIES.—The requirements of paragraph (1)(B) shall
5 apply in the case of any individual who, as of the time
6 of filing an initial claim for the regular compensation that
7 such individual most recently exhausted before seeking
8 emergency unemployment compensation, was identified
9 under the State profiling system (described in section
10 303(j) of the Social Security Act) as being a claimant
11 who—

12 “(A) was likely to exhaust regular compensa-
13 tion; and

14 “(B) would need job search assistance services
15 to make a successful transition to new employment.

16 “(4) EFFECTIVE DATE.—This subsection shall apply
17 in the case of any individual filing an initial application
18 for emergency unemployment compensation after the end
19 of the 3-month period beginning on the date of the enact-
20 ment of this subsection.”.

21 **SEC. 203. SPECIAL TRANSFERS.**

22 (a) IN GENERAL.—Section 903 of the Social Security
23 Act (42 U.S.C. 1103) is amended by adding at the end
24 the following:

1 “Special Transfer in Fiscal Year 2009 for Benefits

2 “(f)(1) In addition to any other amounts, the Sec-
3 retary of the Treasury shall transfer from the Federal un-
4 employment account to the account of each State in the
5 Unemployment Trust Fund, within 30 days after the date
6 of the enactment of this subsection, the amount deter-
7 mined with respect to such State under paragraph (2).

8 “(2) The amount to be transferred under this sub-
9 section to a State account shall (as determined by the Sec-
10 retary of Labor and certified by such Secretary to the Sec-
11 retary of the Treasury) be equal to the amount obtained
12 by multiplying \$7,000,000,000 by the same ratio as would
13 apply under subsection (a)(2)(B) for purposes of deter-
14 mining such State’s share of any excess amount (as de-
15 scribed in subsection (a)(1)) that would have been subject
16 to transfer to State accounts, as of October 1, 2008, under
17 the provisions of subsection (a).

18 “(3) Any amount transferred to the account of a
19 State as a result of the enactment of this subsection may
20 be used by the State agency of such State only in the pay-
21 ment of cash benefits to individuals with respect to their
22 unemployment, exclusive of expenses of administration.

23 “Special Transfer in Fiscal Year 2009 for Administration

24 “(g)(1) In addition to any other amounts, the Sec-
25 retary of the Treasury shall transfer from the employment

1 security administration account to the account of each
2 State in the Unemployment Trust Fund, within 30 days
3 after the date of the enactment of this subsection, the
4 amount determined with respect to such State under para-
5 graph (2).

6 “(2) The amount to be transferred under this sub-
7 section to a State account shall (as determined by the Sec-
8 retary of Labor and certified by such Secretary to the Sec-
9 retary of the Treasury) be equal to the amount obtained
10 by multiplying \$500,000,000 by the same ratio as deter-
11 mined under subsection (f)(2) with respect to such State.

12 “(3) Any amount transferred to the account of a
13 State as a result of the enactment of this subsection may
14 be used by the State agency of such State only in the pay-
15 ment of expenses incurred by it for—

16 “(A) the improvement of unemployment benefit
17 and unemployment tax operations, including re-
18 sponding to increased demand for unemployment
19 compensation; and

20 “(B) staff-assisted reemployment services for
21 unemployment compensation claimants.”

22 (b) REGULATIONS.—The Secretary of Labor may
23 prescribe any regulations, operating instructions, or other
24 guidance necessary to carry out the amendment made by
25 subsection (a).

1 **TITLE III—NO TAX INCREASES**
2 **TO PAY FOR SPENDING**

3 **SEC. 301. NO TAX INCREASES TO PAY FOR SPENDING.**

4 (a) **FINDINGS.**—The Congress finds that—

5 (1) according to the economic forecast released
6 by the non-partisan Congressional Budget Office on
7 January 7, 2009, unemployment in the United
8 States is expected to be above the level estimated for
9 calendar year 2008 until the year 2015, and

10 (2) raising taxes on families and employers dur-
11 ing times of high unemployment delays economic re-
12 covery and the creation of new jobs.

13 (b) **DECLARATION OF POLICY.**—It is the policy of the
14 United States that—

15 (1) outlays from the Treasury of the United
16 States that occur as a result of any provision of this
17 Act shall not be offset through the enactment of new
18 legislation that results in increases in revenues to
19 the Treasury of the United States, but, if such out-
20 lays are offset, such offsets shall be through the en-
21 actment of legislation that results in a reduction in
22 other outlays, and

23 (2) the effective rate of tax imposed on individ-
24 uals or businesses shall not be increased, whether by
25 operation of a provision of existing law or the enact-

1 ment of new legislation, during any year in which
2 unemployment is projected to exceed the level of un-
3 employment for calendar year 2008.

