

HR 598

To provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

Congress: 111 (2009–2011, Ended)

Chamber: House

Policy Area: Economics and Public Finance

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Sponsor

Name: Rep. Rangel, Charles B. [D-NY-15]

Party: Democratic • **State:** NY • **Chamber:** House

Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Rep. McDermott, Jim [D-WA-7]	D · WA		Jan 16, 2009
Rep. Stark, Fortney Pete [D-CA-13]	D · CA		Jan 16, 2009

Committee Activity

Committee	Chamber	Activity	Date
Education and Workforce Committee	House	Discharged From	Jan 27, 2009
Energy and Commerce Committee	House	Referred to	Jan 20, 2009
Financial Services Committee	House	Discharged From	Jan 27, 2009
Science, Space, and Technology Committee	House	Discharged From	Jan 27, 2009
Ways and Means Committee	House	Reported By	Jan 28, 2009

Subjects & Policy Tags

Policy Area:

Economics and Public Finance

Related Bills

Bill	Relationship	Last Action
111 HR 1	Related bill	Feb 17, 2009: Became Public Law No: 111-5.
111 HR 861	Related bill	Feb 4, 2009: Referred to House Budget
111 S 350	Related bill	Jan 30, 2009: Star Print ordered on the bill.
111 HR 629	Related bill	Jan 27, 2009: Placed on the Union Calendar, Calendar No. 3.

Title I: Tax Provisions - American Recovery and Reinvestment Tax Act of 2009 - Subtitle A: Making Work Pay - (Sec. 1001) Amends the Internal Revenue Code to allow individual taxpayers a refundable tax credit for the lesser of 6.2% of earned income or \$500 (\$1,000 for married couples filing jointly). Reduces the amount of such credit for taxpayers with adjusted gross income exceeding \$75,000 (\$150,000 for married couples filing jointly). Disqualifies nonresident aliens, dependents, and estates and trusts. Terminates the credit after 2010.

Sets forth rules for the payment of credit amounts to residents of U.S. possessions in 2009 and 2010 (i.e., the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands).

Disregards tax refunds attributable to this credit for purposes of determining eligibility for federal assistance programs.

Subtitle B: Additional Tax Relief for Families with Children - (Sec. 1101) Increases to 45% the rate of the earned income tax credit in 2009 or 2010 for taxpayers with three or more qualifying children. Increases the threshold amount for the phase-out of such credit for married couples filing jointly.

(Sec. 1102) Increases in 2009 and 2010 the refundable portion of the child tax credit.

Subtitle C: American Opportunity Tax Credit - (Sec. 1201) - Increases in 2009 and 2010 the Hope Scholarship tax credit for tuition and related expenses and makes a portion of such credit refundable. Allows such credit to offset alternative minimum tax liability.

Directs the Secretary of the Treasury to study and report to Congress on: (1) how to coordinate the Hope Scholarship tax credit with the Pell Grant program; and (2) the feasibility of requiring students to perform community service as a condition of taking a tax credit for tuition and related expenses.

Subtitle D: Housing Incentives - (Sec. 1301) Waives the repayment requirement of the first-time homebuyer tax credit for purchases of a principal residence after December 31, 2008, and before July 1, 2009.

(Sec. 1302) Adjusts the state low-income housing credit volume limit in 2009 by grants amounts received under this Act.

Subtitle E: Tax Incentives for Business - Part I: Temporary Investment Incentives - (Sec. 1401) - Extends for one year the 50% bonus depreciation allowance for specified types of depreciable property.

(Sec. 1402) Extends through 2009 the increased expensing allowance (\$125,000) for depreciable business assets.

Part II: 5-Year Carryback of Operating Losses - (Sec. 1411) Extends from two to five years the carryback period for net operating losses incurred in 2009 or 2010. Disqualifies for such extension: (1) taxpayers receiving assistance from the Troubled Asset Relief Program (TARP); (2) the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac); and (3) taxpayers that are members of the same affiliated group of entities in 2008 or 2009.

Part III: Incentives for New Jobs - (Sec. 1421) Allows a work opportunity tax credit for unemployed veterans and disconnected youth (certain youth who are not regularly employed or attending school) hired in 2009 or 2010.

Part IV: Clarification of Regulations Related to Limitations on Certain Built-In Losses Following an Ownership Change - (Sec. 1431) Limits the applicability of Treasury Notice 2008-83 (suspending restrictions on the offset of net

operating losses and unrealized built-in losses against the taxable income of certain corporate entities that acquire or merge with other entities) to periods prior to January 16, 2009.

Subtitle F: Fiscal Relief for State and Local Governments - Part I: Improved Marketability for Tax-Exempt Bonds - (Sec. 1501) - Disregards in 2009 and 2010 limits applicable to the tax deduction for the tax-exempt bond interest expense of financial institutions for bonds comprising less than 2% of the adjusted basis of the total assets of such institutions.

(Sec. 1502) Increases the allocation limits for small issuers of tax-exempt private activity bonds in 2009 and 2010.

(Sec. 1503) Exempts in 2009 and 2010 interest on tax-exempt private activity bonds as a tax preference item for purposes of the alternative minimum tax.

Part II: Tax Credit Bonds for Schools - (Sec. 1511) Allows a new tax credit for investment in bonds for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land for such facility (qualified school construction bonds) . Sets forth limitations on the amount of such bonds in 2009 and 2010.

(Sec. 1512) Extends through 2010 and increases the issuance authority for qualified zone academy bonds.

Part III: Taxable Bond Option for Governmental Bonds - (Sec. 1521) Allows state or local governments an election in 2009 or 2010 to receive a direct federal subsidy equal to the subsidy from the tax credit for investment in state and local bonds.

Part IV: Recovery Zone Bonds - (Sec. 1531) Allows a new tax credit for investment in economic recovery zone bonds issued in 2009 or 2010.

(Sec. 1532) Allows Indian tribal governments to issue tribal economic development bonds. Imposes a national limitation of \$2 billion on such bonds. Requires the Secretary of the Treasury to study and report to Congress on the effects of tribal economic development bonds.

Part V: Repeal of Withholding Tax on Government Contractors - (Sec. 1541) Repeals the requirement that federal, state, and local governmental entities withhold 3% of payments to contractors who provide goods and services to such entities.

Subtitle G: Energy Incentives - Part I: Renewable Energy Incentives - (Sec. 1601) Extends the tax credit for producing electricity from renewable sources through 2012 for wind facilities and through 2013 for other facilities (e.g., biomass, solar and geothermal, trash, and hydropower generating facilities).

(Sec. 1602) Allows an energy tax credit for renewable energy facilities placed in service in 2009 or 2010 in lieu of the tax credit for producing electricity from renewable resources.

(Sec. 1603) Repeals limitations on: (1) the energy tax credit for qualified small wind energy property; and (2) property financed by subsidized energy financing.

Part II: Increased Allocations of New Clean Renewable Energy Bonds and Qualified Energy Conservation Bonds - (Sec. 1611) Increases the national limitation for new clean renewable energy bonds.

(Sec. 1612) Increases the limitation for qualified energy conservation bonds. Expands such bond program to include loans and grants to implement green community programs.

Part III: Energy Conservation Incentives - (Sec. 1621) Extends through 2010 the tax credit for nonbusiness energy efficiency improvements. Increases to \$1,500 the limit for such credit in 2009 and 2010.

(Sec. 1622) Removes limitations on the tax credit for residential energy efficient property for solar water, wind, and geothermal heat pump property expenditures.

(Sec. 1623) Increases in 2009 and 2010 the tax credit for residential and commercial alternative fuel vehicle refueling property expenditures.

Part IV: Energy Research Incentives - (Sec. 1631) Increases in 2009 and 2010 the tax credit for increasing research activities for qualified energy research expenses.

Subtitle H: Other Provisions - Part I: Application of Certain Labor Standards to Projects Financed with Certain Tax-Favored Bonds - (Sec. 1701) Applies federal wage rate requirements for public buildings and works to projects financed with the proceeds of clean renewable energy bonds, energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, and recovery zone economic development bonds.

Part II: Grants to Provide Financing for Low-Income Housing - (Sec. 1711) Directs the Secretary of the Treasury to make grants in 2009 to state housing credit agencies equal to a specified allocation of the low-income housing tax credit.

Part III: Grants for Specified Energy Property in Lieu of Tax Credits - (Sec. 1721) Directs the Secretary of Energy to make grants to persons who place in service in 2009 and 2010 certain energy property that is eligible for the tax credit for producing electricity from renewable resources (e.g., wind, biomass, or solar energy facilities) or for the energy tax credit (e.g., fuel cell, geothermal, or microturbine property).

Part IV: Study of Economic, Employment, and Related Effects of this Act - (Sec. 1731) Requires the Comptroller General to submit a report to the House Committee on Ways and Means on the most recent national information on the economic, employment, and other effects of this Act.

Title II: Assistance for Unemployed Workers and Struggling Families - Assistance for Unemployed Workers and Struggling Families Act - **Subtitle A: Unemployment Insurance** - (Sec. 2001) Amends the Supplemental Appropriations Act, 2008, as amended by the Unemployment Compensation Extension Act of 2008, to extend the Emergency Unemployment Compensation (EUC) program through December 31, 2009.

Prohibits a Tier-2 augmentation to an individual's emergency unemployment compensation account (EUCA) after December 31, 2009, if the EUCA is exhausted after such date.

Extends the period of emergency unemployment compensation through May 31, 2010.

Requires the Secretary of the Treasury to transfer unappropriated funds from the general fund of the Treasury to the extended unemployment compensation account and the employment security administration account in such sums as the Secretary of Labor estimates for payments to states for the extended EUC program and the costs of program administration.

Appropriates such funds, without fiscal year limitation and repayment requirements.

(Sec. 2002) Authorizes a state to enter into an agreement with the Secretary of Labor providing for additional unemployment compensation, including an additional \$25 per week.

Prescribes optional state payment methods.

Requires federal payments to states that have entered into such agreements to cover 100% of such payments to individuals and any associated additional state administrative expenses.

Appropriates from the general fund of the Treasury, without fiscal year limitation, funds necessary for such additional unemployment compensation payments.

Limits the coverage of such federal-state agreements to weeks of unemployment ending before January 1, 2010. Prohibits additional compensation payments to individuals still entitled to it as of January 1, 2010, for any week beginning after June 30, 2010.

Applies to such additional unemployment compensation payments the requirements of the Supplemental Appropriations Act, 2008 for handling fraud and EUC overpayments.

(Sec. 2003) Amends the Social Security Act (SSA) to require the Secretary of Labor to provide for unemployment compensation modernization incentive payments in FY2009-FY2011 to state accounts in the Unemployment Trust Fund, by transfer from amounts reserved in the federal unemployment account.

Sets forth a formula for determining, and state unemployment compensation law requirements governing eligibility for, such incentive payments.

Requires the Secretary of the Treasury, in addition to any other amounts, to transfer in FY2009 from the employment security administration account to each state account in the Fund an amount determined according to a specified formula for: (1) administration of the state law carrying out the purposes for which the state receives a modernization incentive payment; (2) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of state law; (3) the improvement of unemployment benefit and unemployment tax operations; and (4) staff-assisted reemployment services for unemployment compensation claimants.

Subtitle B: Assistance for Vulnerable Individuals - (Sec. 2101) Amends part A of title IV (Temporary Assistance to Needy Families) (TANF) of the SSA to establish in the Treasury an Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs (Emergency Fund). Makes appropriations to such Fund.

Directs the Secretary of Health and Human Services to make a grant from the Emergency Fund to each requesting state for any quarter of FY2009-FY2010 if the state's average monthly assistance caseload for the quarter exceeds its average monthly assistance caseload for the corresponding quarter in the state's emergency fund base year. Requires the amount of any such grant to be 80% of the excess of total state expenditures for basic assistance over total state expenditures for such assistance for the corresponding quarter in the state's emergency fund base year.

Requires a grant from the Emergency Fund to each requesting state for any quarter of FY2009-FY2010 if the state's total expenditures for non-recurrent short term benefits in the quarter exceeds its total such expenditures in the corresponding quarter in the state's emergency fund base year. Requires the amount of any such grant to be 80% of such excess.

Requires a grant from the Emergency Fund to each requesting state for any quarter of FY2009-FY2010 if the state's total expenditures for subsidized employment in the quarter exceeds its total such expenditures in the corresponding quarter in the state's emergency fund base year. Requires the amount of any such grant to be 80% of such excess.

Limits total amount payable to a single state for a fiscal year from the Contingency Fund for State Welfare Programs and

from the Emergency Fund to 25% percent of the state family assistance grant.

Revises the pro rata reduction of the state participation rate for mandatory work activities due to caseload reductions not required by federal law and not resulting from changes in state eligibility criteria. Changes the factor in the formula for such a reduction relating to the average monthly number of families receiving assistance during the immediately preceding fiscal year. Replaces the immediately preceding fiscal year as the year in the formula, if such year happens to be either FY2009 or FY2010, with the state's emergency fund base year.

(Sec. 2102) Directs the Commissioner of Social Security to make a one-time emergency payment during calendar 2009 to each individual entitled to a cash benefit under SSA title XVI (Supplemental Security Income) (SSI) whose entitlement ceased during a specified two-month period solely because the individual's income (and the income of the spouse, if any) exceeded the applicable income limit. Prescribes a formula for determining the amount of such payment.

(Sec. 2103) Suspends for FY2008-FY2010 the prohibition against payments to states with respect to their plans for child and spousal support collection under SSA title IV part D (Child Support and Establishment of Paternity) on account of amounts expended by a state from support collection performance incentive payments received from the Secretary of Health and Human Services (thus allowing such additional payments during such period).

Title III: Health Insurance Assistance for the Unemployed - Health Insurance Assistance for the Unemployed Act of 2009 - (Sec. 3002) Treats an individual as having paid the amount of the premium for any COBRA coverage (health insurance continuation benefits under the Consolidated Omnibus Budget Reconciliation Act) if such individual pays 35% of the amount of such premium.

Sets forth: (1) eligibility periods for such premium assistance; (2) eligibility requirements; and (3) procedures for expedited review of any denial of assistance.

Requires notices of eligibility for COBRA coverage to include notice of availability of premium reduction. Sets forth notification requirements.

Directs the Secretary of the Treasury to provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this title.

Directs the Secretary of Labor to provide public education and enrollment assistance relating to premium reduction.

Sets forth reporting requirements.

Amends the Internal Revenue Code to provide for reimbursement to an entity of premiums not paid by plan beneficiaries by treating such amounts as a credit against the requirement of such entity to make deposits of payroll taxes. Directs the Secretary of the Treasury to pay to such entity the amount of premiums not paid by plan beneficiaries if it exceeds the amount of such taxes. Sets forth reporting requirements for such entities.

Establishes a penalty for a person's failure, if so required, to notify a group health plan that he or she is no longer eligible for a premium reduction. Prohibits a penalty from being imposed for any such failure that is due to reasonable cause and not to willful neglect.

Provides that gross income does not include any premium reduction provided for under this title.

Amends the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code, and the Public Health

Service Act to allow COBRA coverage to continue past required termination dates for an employee who has attained age 55 or has completed 10 or more years of service.

(Sec. 3003) Amends title XIX (Medicaid) of the SSA to allow states to provide Medicaid coverage to certain unemployed individuals and their families, including: (1) individuals who are receiving unemployment compensations benefits; (2) individuals who have exhausted such unemployment compensation benefits; (3) individuals who are involuntarily unemployed and were involuntarily separated from employment between specified dates and whose family gross income does not exceed a specified percentage of the income official poverty line; (4) individuals who are involuntarily unemployed and were involuntarily separated from employment between specified dates and who are members of households participating in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008. Makes the federal medical assistance percentage (FMAP) 100% for items and services furnished to individuals eligible based on this section.

Title IV: Health Information Technology - Health Information Technology for Economic and Clinical Health Act or the HITECH Act - Subtitle A: Promotion of Health Information Technology - Part I: Improving Health Care Quality, Safety, and Efficiency - (Sec. 4101) Amends the Public Health Service Act to establish within the Department of Health and Human Services (HHS) an Office of the National Coordinator for Health Information Technology to: (1) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee; (2) coordinate health information technology policy and programs of HHS with other relevant executive branch agencies; (3) maintain and update the Federal Health IT Strategic Plan; (4) maintain and update an Internet website with information to ensure transparency in the promotion of a nationwide health information technology infrastructure; and (5) develop a program for the voluntary certification of health information technology as being in compliance with applicable certification criteria.

Requires the National Coordinator to: (1) report to Congress on any additional funding or authority required to evaluate and develop standards, implementation specifications, and certification criteria or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information; (2) prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology; (3) assess and publish the impact of health information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved and identify practices to increase the adoption of such technology by health care providers in such communities; (4) evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue; and (5) estimate and publish resources required annually to reach the goal of utilization of an electronic health record (EHR) for each person in the United States by 2014.

Authorizes the National Coordinator to provide financial assistance to defray the costs to consumer advocacy groups and not-for-profit entities that work in the public interest of participating under the National Technology Transfer Act of 1995.

Requires the National Coordinator to establish a governance mechanism for the nationwide health information network.

Provides for the detail of federal employees to the Office.

Directs the Secretary of HHS (the Secretary in this title) to appoint a Chief Privacy Officer of the Office of the National Coordinator to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other federal agencies, state and regional efforts, and foreign countries with regard to the privacy,

security, and data stewardship of electronic individually identifiable health information.

Establishes a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure. Requires such Committee to: (1) recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure; (2) recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information; and (3) recommend an order or priority for the development, harmonization, and recognition of such standards, specifications, and criteria.

Establishes the HIT Standards Committee to: (1) recommend to the National Coordinator for adoption standards, implementation specifications, and certification criteria for the electronic exchange and use of health information; and (2) provide for testing of such standards and specifications by the National Institute for Standards and Technology (NIST).

Requires the Secretary to review and determine whether to adopt such standards, specifications, and criteria. Provides that any standard or implementation specification adopted shall be voluntary with respect to private entities.

Directs the National Coordinator to support the development, routine updating, and provision of qualified EHR technology unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace. Authorizes the National Coordinator to impose a nominal fee for the adoption by a health care provider of the health information technology system developed and certified.

Transfers functions, personnel, assets, and liabilities of: (1) the National Coordinator for Health Information Technology appointed under a Executive Order No. 13335 to the National Coordinator appointed under this Act; and (2) the National eHealth Collaborative to the HIT Policy Committee or the HIT Standards Committee.

Provides that this title has no effect on the authorities of the Secretary under Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security laws.

Authorizes appropriations to the Office of the National Coordinator for Health Information Technology.

(Sec. 4102) Amends title XI (General Provisions, Peer Review, and Administrative Simplification) of the SSA to make a technical change to the definition of "health plan."

Part II: Application and Use of Adopted Health Information Technology Standards; Reports - (Sec. 4111) Requires each federal agency, as it implements, acquires, or upgrades health information technology systems, to utilize systems and products that meet adopted standards and implementation specifications.

Directs the President to take measures to ensure that federal activities involving the broad collection and submission of health information are consistent with standards or implementation specifications within three years of adoption.

(Sec. 4112) Directs each agency to require in contracts or agreements that health care providers, health plans, or health insurance issuers, as they implement, acquire, or upgrade health information technology systems, utilize systems and products that meet standards and implementation specifications.

(Sec. 4113) Requires the Secretary to report to the appropriate congressional committees on: (1) actions taken by federal and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information; (2) barriers to the adoption of such a system; and (3) recommendations to achieve full implementation of a such a system.

Provides for studies and reports to Congress on: (1) methods to create efficient reimbursement incentives for improving health care quality in federally qualified health centers, rural health clinics, and free clinics; and (2) the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

Subtitle B: Testing of Health Information Technology - (Sec. 4201) Requires the Director of National Institute for Standards and Technology (NIST) to: (1) test standards and implementation specifications developed under this Act to ensure their efficient implementation and use; and (2) support the establishment of a conformance testing infrastructure that may include a program to accredit independent, nonfederal laboratories to perform testing.

(Sec. 4202) Requires the Director of NIST to establish a program of assistance to institutions of higher education to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

Directs the National High-Performance Computing Program to coordinate federal research and development programs related to the development and deployment of health information technology, including activities related to: (1) computer infrastructure; (2) data security; and (3) development of large-scale, distributed, reliable computing systems.

Subtitle C: Incentives for the Use of Health Information Technology - Part I: Grants and Loans Funding - (Sec. 4301) Requires the Secretary to: (1) invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator; and (2) ensure that funds are used for the acquisition of health information technology that meets adopted standards and certification criteria. Directs the Secretary to invest funds through different agencies with expertise in such goals to support: (1) health information technology architecture that will support the nationwide electronic exchange and use of health information; (2) development and adoption of appropriate certified EHRs; (3) training on best practices to integrate health information technology; and (4) infrastructure and tools for the promotion of telemedicine.

Directs the Secretary, acting through the Office of the National Coordinator, to establish a health information technology extension program to provide health information technology assistance services.

Requires the Secretary to: (1) create a Health information Technology Research Center to provide technical assistance and develop or recognize best practices to support health information technology; and (2) provide assistance for the creation of regional centers to provide technical assistance and information to support health information technology. Authorizes the Secretary to provide financial support to any such regional center.

Requires the Secretary, acting through the National Coordinator, to establish a program to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards. Allows the Secretary to award planning and implementation matching grants to a state or qualified state-designated entity.

Authorizes the National Coordinator to award grants to states or Indian tribes for the establishment of programs for loans to health care providers to support certified EHR technology.

Authorizes the Secretary to award matching grants to carry out demonstration projects to develop academic curricula integrating qualified health information technology in the clinical education of health professionals.

Directs the Secretary to provide assistance to institutions of higher education to establish or expand medical health

informatics education programs for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies.

Requires the National Coordinator to annually evaluate activities under this subtitle and implement the lessons learned.

Authorizes appropriations for FY2009-FY2013.

Part II: Medicare Program - (Sec. 4311) Amends title XVIII (Medicare) of the SSA to establish specified incentive payments for certain eligible physicians who adopt and use certified EHR technology meaningfully beginning in FY2011.

Reduces Medicare payments for any eligible professional who is not a meaningful EHR user beginning in 2016, except in certain circumstances where compliance with meaningful EHR requirements would result in a significant hardship.

Applies such payment incentives for certain Medicare+Choice (MedicareAdvantage) organizations for adoption and meaningful use of such technology.

(Sec. 4312) Establishes incentive payments for certain eligible hospitals that adopt and meaningfully use certified EHR technology beginning in FY2011.

Reduces the market basket update for any eligible hospital that has not adopted a certified system beginning in 2016, except in certain circumstances where compliance with meaningful EHR requirements would result in a significant hardship.

(Sec. 4313) Prohibits taking payment incentives made by this Act into account for computation of monthly Medicare premiums for individuals.

Makes the Medicare Improvement Fund available for increases in the conversion factor in the formula for determining the payment for physicians' services.

Makes appropriations for FY2009-FY2019 to the Secretary for the Center for Medicare & Medicaid Services Program Management Account for implementation of this part.

(Sec. 4314) Instructs the Secretary to study and report to Congress on the extent to which and manner in which payment incentives and other funding for implementing and using certified EHR technology should be made to health care providers receiving minimal or no payment incentives or other funding under this Act, under SSA title XVIII (Medicare) or XIX (Medicaid), or otherwise, for such purposes.

Part III: Medicaid Funding - (Sec. 4321) Amends SSA title XIX (Medicaid) to establish incentive payments to encourage the adoption and use by Medicaid providers of certified EHR technology that are certified as meeting certain standards. Places limitations on such payments and on the allowable purchase and maintenance costs of such records on which such payments are based.

Makes fully reimbursable by the federal government any state spending for payments to providers for adoption and operation of certified EHR technology.

Makes 90% of the state costs in administering the program also reimbursable by the federal government.

Makes appropriations for FY2009-FY2019 to the Secretary for the Center for Medicare & Medicaid Services Program Management Account for implementation of this part.

Subtitle D: Privacy - Part I: Improved Privacy Provisions and Security Provisions - (Sec. 4401) Applies regulations establishing safeguards for the protection of electronic protected health information to business associates of a covered entity.

Applies to business associates penalties for failure to comply with requirements regarding protection of health information.

Requires the Secretary, annually, to issue guidance on the most effective and appropriate technical safeguards and security standards for use in protecting health information.

(Sec. 4402) Requires an entity that handles unsecured protected health information to notify each individual of any security breach of such information. Applies such requirements to business associates of such entities. Sets forth requirements for notifications, including requirements concerning timeliness, method, and content. Requires notice to the Secretary of breaches, including immediate notice of breaches involving 500 or more individuals.

Requires the Secretary to annually report to Congress on breaches of protected health information.

(Sec. 4403) Requires the Secretary to designate an individual in each HHS regional office to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to federal privacy and security requirements for protected health information.

Directs the Office for Civil Rights within HHS to develop and maintain a national education initiative to enhance public transparency regarding the uses of protected health information.

(Sec. 4404) Treats business associates in the same manner as covered entities for purposes of the protection of health information.

(Sec. 4405) Requires a covered entity to comply with an individual's request to restrict the disclosure of protected health information if: (1) the disclosure is to a health plan for purposes of carrying out payment or health care operations; and (2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

Requires covered entities to limit the use, disclosure, or request of protected health information to the limited data set or the minimum necessary to accomplish the intended purpose.

Gives individuals a right to an accounting of the disclosures of their EHRs, including disclosures to carry out treatment, payment, and health care operations.

Directs the Secretary to promulgate regulations to eliminate from the definition of health care operations those activities that can reasonably and efficiently be conducted through the use of information that is de-identified or that should require a valid authorization for use or disclosure.

Prohibits the sale of any protected health information of an individual unless the covered entity obtained from the individual a valid authorization that includes a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving the individual's information. Sets forth exceptions, including for information used for: (1) research or public health activities; (2) treatment of the individual; or (3) health care operations.

Gives individuals the right to obtain their electronic medical records in an electronic format.

(Sec. 4406) Prohibits a covered entity or business associate from receiving direct or indirect payment in exchange for certain types of communication without a valid authorization from the recipient of such information.

(Sec. 4407) Sets forth requirements for notification of individuals and the Federal Trade Commission (FTC) following the discovery of a breach of security of identifiable health information in a personal health record. Deems a violation of such requirements an unfair and deceptive act or practice in violation of the Federal Trade Commission Act.

(Sec. 4408) Requires organizations that provide data transmission of protected health information and that require routine access to such information to enter into written contracts and to be treated as a business associate. Applies such requirement to vendors that allow a covered entity to offer a personal health record to patients as part of its EHR.

(Sec. 4409) Amends title XI (General Provisions, Peer Review, and Administrative Simplification) of the SSA to consider a person (including an employee or other individual) to have obtained or disclosed individually identifiable health information in violation of HIPAA if the information is maintained by a covered entity and the individual obtained or disclosed such information without authorization.

(Sec. 4410) Requires the Secretary to: (1) impose a penalty for violations of HIPAA privacy provisions due to willful neglect; and (2) formally investigate any complaint of a violation if a preliminary investigation indicates a possible violation due to willful neglect.

Directs the Comptroller General to submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by a HIPAA violation may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense. Directs the Secretary to establish such a methodology.

Sets forth varying financial penalties for HIPAA violations based on culpability.

Provides for enforcement of HIPAA provisions by state attorneys general through civil action. Sets forth damages for such a suit. Requires prior written notice of any such action to the Secretary.

(Sec. 4411) Requires the Secretary to provide for periodic audits to ensure that covered entities and business associates are complying with privacy requirements.

Part II: Relationship to Other Laws; Regulatory References; Effective Date; Reports - (Sec. 4421) Applies HIPAA preemption of state law provisions to this Act. Provides that the standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under HIPAA remain in effect to the extent they are consistent with this Act.

(Sec. 4424) Requires the Secretary to annually prepare a report concerning complaints of alleged violations of health information provisions that are received by the Secretary.

Directs the Secretary to submit to Congress recommendations to: (1) identify requirements relating to security, privacy, and notification in the case of a breach of security or privacy that should be applied to various entities, including vendors of personal health records; and (2) determine which federal agency is best equipped to enforce such requirements.

Requires the Secretary to issue guidance on how best to implement the requirements for the de-identification of protected health information.

Directs the Comptroller General to report to Congress on the best practices related to the disclosure among health care

providers of protected health information of an individual for purposes of treatment.

Subtitle E: Miscellaneous Medicare Provisions - (Sec. 4501) Prohibits the Secretary from phasing out or eliminating the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009. Requires the Secretary to recompute and apply the final index for FY2009 as if there had been no reduction in the budget neutrality adjustment factor.

Provides for non-application of the phased-out indirect medical education (IME) adjustment factor for FY2009.

Directs the Secretary to transfer certain funds to the Centers for Medicare & Medicaid Services Program Management Account for FY 2009 to implement these requirements.

(Sec. 4502) Makes technical corrections to the Medicare, Medicaid, and SCHIP Extension Act of 2007 with respect to long-term care hospitals.

Actions Timeline

- **Jan 28, 2009:** Supplemental report filed by the Committee on Ways and Means, H. Rept. 111-8, Part II.
- **Jan 27, 2009:** Reported (Amended) by the Committee on Ways and Means. H. Rept. 111-8, Part I.
- **Jan 27, 2009:** Committee on Energy and Commerce discharged.
- **Jan 27, 2009:** Committee on Science and Technology discharged.
- **Jan 27, 2009:** Committee on Education and Labor discharged.
- **Jan 27, 2009:** Committee on Financial Services discharged.
- **Jan 27, 2009:** Placed on the Union Calendar, Calendar No. 2.
- **Jan 22, 2009:** Committee Consideration and Mark-up Session Held.
- **Jan 22, 2009:** Ordered to be Reported (Amended) by Voice Vote.
- **Jan 20, 2009:** Referred to the Subcommittee on Health.
- **Jan 16, 2009:** Introduced in House
- **Jan 16, 2009:** Referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Science and Technology, Education and Labor, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- **Jan 16, 2009:** Referred to House Ways and Means
- **Jan 16, 2009:** Referred to House Energy and Commerce
- **Jan 16, 2009:** Referred to House Science and Technology
- **Jan 16, 2009:** Referred to House Education and Labor
- **Jan 16, 2009:** Referred to House Financial Services